

111TH CONGRESS  
1ST SESSION

# S. 1733

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

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2009

Mr. KERRY (for himself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

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

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

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

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

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

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

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

Sec. 101. Structure of Act.

TITLE I—GREENHOUSE GAS REDUCTION PROGRAMS

Subtitle A—Clean Transportation

Sec. 111. Emission standards.

“PART B—MOBILE SOURCES

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

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

“PART C—TRANSPORTATION EMISSIONS

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

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

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

Sec. 114. SmartWay transportation efficiency program.

“Sec. 822. SmartWay transportation efficiency program.

Subtitle B—Carbon Capture and Sequestration

Sec. 121. National strategy.

Sec. 122. Regulations for geological sequestration sites.

“Sec. 813. Geological storage sites.

Sec. 123. Studies and reports.

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

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

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

Subtitle C—Nuclear and Advanced Technologies

Sec. 131. Findings and policy.

Sec. 132. Nuclear worker training.

Sec. 133. Nuclear safety and waste management programs.

Subtitle D—Water Efficiency

Sec. 141. WaterSense.

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

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

Subtitle E—Miscellaneous

Sec. 151. Office of Consumer Advocacy.

Sec. 152. Clean technology business competition grant program.

Sec. 153. Product carbon disclosure program.

Sec. 154. State recycling programs.

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

Sec. 156. Economic Development Climate Change Fund.

“Sec. 219. Economic Development Climate Change Fund.

Sec. 157. Study of risk-based programs addressing vulnerable areas.

Subtitle F—Energy Efficiency and Renewable Energy

Sec. 161. Renewable energy.

Sec. 162. Advanced biofuels.

Sec. 163. Energy efficiency in building codes.

Sec. 164. Retrofit for energy and environmental performance.

Subtitle G—Emission Reductions From Public Transportation Vehicles

Sec. 171. Short title.

Sec. 172. State fuel economy regulation for taxicabs.

Sec. 173. State regulation of motor vehicle emissions for taxicabs.

Subtitle H—Clean Energy and Natural Gas

Sec. 181. Clean Energy and Accelerated Emission Reduction Program.

Sec. 182. Advanced natural gas technologies.

TITLE II—RESEARCH

Subtitle A—Energy Research

Sec. 201. Advanced energy research.

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

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

TITLE III—TRANSITION AND ADAPTATION

Subtitle A—Green Jobs and Worker Transition

PART 1—GREEN JOBS

Sec. 301. Clean energy curriculum development grants.

Sec. 302. Development of Information and Resources clearinghouse for vocational education and job training in renewable energy sectors.

Sec. 303. Green construction careers demonstration project.

PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

Sec. 311. Petitions, eligibility requirements, and determinations.

Sec. 312. Program benefits.

Sec. 313. General provisions.

Subtitle B—International Climate Change Programs

Sec. 321. Strategic Interagency Board on International Climate Investment.

Sec. 322. Emission reductions from reduced deforestation.

“PART E—SUPPLEMENTAL EMISSION REDUCTIONS

“Sec. 751. Definitions.

“Sec. 752. Purposes.

“Sec. 753. Emission reductions from reduced deforestation.

Sec. 323. International Clean Energy Deployment Program.

- Sec. 324. International climate change adaptation and global security program.
- Sec. 325. Evaluation and reports.
- Sec. 326. Report on climate actions of major economies.

Subtitle C—Adapting to Climate Change

PART 1—DOMESTIC ADAPTATION

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- Sec. 341. National Climate Change Adaptation Program.
- Sec. 342. Climate services.

SUBPART B—PUBLIC HEALTH AND CLIMATE CHANGE

- Sec. 351. Sense of Congress on public health and climate change.
- Sec. 352. Relationship to other laws.
- Sec. 353. National strategic action plan.
- Sec. 354. Advisory board.
- Sec. 355. Reports.
- Sec. 356. Definitions.

SUBPART C—CLIMATE CHANGE SAFEGUARDS FOR NATURAL RESOURCES  
CONSERVATION

- Sec. 361. Purposes.
- Sec. 362. Natural resources climate change adaptation policy.
- Sec. 363. Definitions.
- Sec. 364. Council on Environmental Quality.
- Sec. 365. Natural Resources Climate Change Adaptation Panel.
- Sec. 366. Natural Resources Climate Change Adaptation Strategy.
- Sec. 367. Natural resources adaptation science and information.
- Sec. 368. Federal natural resource agency adaptation plans.
- Sec. 369. State natural resources adaptation plans.
- Sec. 370. Natural Resources Climate Change Adaptation Account.
- Sec. 371. National Fish and Wildlife Habitat and Corridors Information Program.
- Sec. 372. Additional provisions regarding Indian tribes.

SUBPART D—ADDITIONAL CLIMATE CHANGE ADAPTATION PROGRAMS

- Sec. 381. Water system mitigation and adaption partnerships.
- Sec. 382. Flood control, protection, prevention, and response.
- Sec. 383. Wildfire.
- Sec. 384. Coastal and Great Lakes State adaptation program.

DIVISION B—POLLUTION REDUCTION AND INVESTMENT

TITLE I—REDUCING GLOBAL WARMING POLLUTION

Subtitle A—Reducing Global Warming Pollution

- Sec. 101. Reducing global warming pollution.

“TITLE VII—GLOBAL WARMING POLLUTION REDUCTION AND  
INVESTMENT PROGRAM

“PART A—GLOBAL WARMING POLLUTION REDUCTION GOALS AND TARGETS

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

“PART B—DESIGNATION AND REGISTRATION OF GREENHOUSE GASES

- “Sec. 711. Designation of greenhouse gases.
- “Sec. 712. Carbon dioxide equivalent value of greenhouse gases.
- “Sec. 713. Greenhouse gas registry.
- “Sec. 714. Perfluorocarbon regulation.

“PART C—PROGRAM RULES

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

“PART D—OFFSETS

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

Subtitle B—Disposition of Allowances

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

“PART H—DISPOSITION OF ALLOWANCES

- “Sec. 771. Allocation of emission allowances.
- “Sec. 772. Electricity consumers.
- “Sec. 773. Natural gas consumers.
- “Sec. 774. Home heating oil and propane consumers.

- “Sec. 775. Domestic fuel production.
- “Sec. 776. Consumer protection.
- “Sec. 777. Exchange for State-issued allowances.
- “Sec. 778. Auction procedures.
- “Sec. 779. Auctioning allowances for other entities.
- “Sec. 780. Commercial deployment of carbon capture and sequestration technologies.
- “Sec. 781. Oversight of allocations.
- “Sec. 782. Early action recognition.
- “Sec. 783. Establishment of Deficit Reduction Fund.

#### Subtitle C—Additional Greenhouse Gas Standards

- Sec. 121. Greenhouse gas standards.

#### “TITLE VIII—ADDITIONAL GREENHOUSE GAS STANDARDS

- “Sec. 801. Definitions.

#### “PART A—STATIONARY SOURCE STANDARDS

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

#### “PART E—BLACK CARBON

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

#### “PART F—MISCELLANEOUS

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

#### Subtitle D—Carbon Market Assurance

- Sec. 131. Carbon market assurance.

#### Subtitle E—Ensuring Real Reductions in Industrial Emissions

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

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

- “Sec. 761. Purposes.
- “Sec. 762. Definitions.
- “Sec. 763. Eligible industrial sectors.
- “Sec. 764. Distribution of emission allowance rebates.
- “Sec. 765. International trade.

#### TITLE II—PROGRAM ALLOCATIONS

- Sec. 201. Investment in clean vehicle technology.

Sec. 202. State and local investment in energy efficiency and renewable energy.  
 Sec. 203. Energy efficiency in building codes.  
 Sec. 204. Building retrofit program.  
 Sec. 205. Energy Innovation Hubs.  
 Sec. 206. ARPA-E research.  
 Sec. 207. International clean energy deployment program.  
 Sec. 208. International climate change adaptation and global security.  
 Sec. 209. Energy efficiency and renewable energy worker training.  
 Sec. 210. Worker transition.  
 Sec. 211. State programs for greenhouse gas reduction and climate adaptation.  
 Sec. 212. Climate Change Health Protection and Promotion Fund.  
 Sec. 213. Climate change safeguards for natural resources conservation.  
 Sec. 214. Nuclear worker training.  
 Sec. 215. Supplemental agriculture, renewable energy, and forestry.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

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

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

14 (3) efficiency in the energy sector also rep-  
 15 resents a critical avenue to reduce energy consump-  
 16 tion and carbon pollution, and those benefits can be  
 17 captured while generating additional savings for con-  
 18 sumers;

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

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

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

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

20          (8) those jobs are distributed throughout the  
21          United States, and the highest clean energy economy  
22          employment growth rates in the last 10 years were  
23          in the States of Idaho, Nebraska, South Dakota, Or-  
24          egon, and New Mexico;



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

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

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

12                   (A) increased outbreaks from waterborne  
13 diseases;

14                   (B) more droughts;

15                   (C) diminished agricultural production;

16                   (D) severe storms and floods;

17                   (E) heat waves;

18                   (F) wildfires; and

19                   (G) a substantial rise in sea levels, due in  
20 part to—

21                           (i) melting mountain glaciers;

22                           (ii) shrinking sea ice; and

23                           (iii) thawing permafrost;

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

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

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

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

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

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

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

5 **SEC. 3. ECONOMY-WIDE EMISSION REDUCTION GOALS.**

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

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

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

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

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

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

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

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

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

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

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

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

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

1           (2) The program for nuclear worker training  
2 under section 132 of this division and 214 of divi-  
3 sion B.

4           (3) State recycling programs under section 154  
5 of this division and section 211 of division B.

6           (4) The supplemental agriculture and forestry  
7 greenhouse gas reduction and renewable energy pro-  
8 gram under section 155 of this division and section  
9 215 of division B.

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

13          (6) The program for retrofit for energy and en-  
14 vironmental performance under section 164 of this  
15 division and section 204 of division B.

16          (7) The program for worker transition under  
17 part 2 of subtitle A of title III of this division and  
18 section 210 of division B.

19          (8) The program for public health and climate  
20 change under subpart B of part 1 of subtitle C of  
21 title III of this division and section 212 of division  
22 B.

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

1 of part 1 of subtitle C of title III of this division and  
2 section 213 of division B.

3 (10) The program for emission reductions from  
4 reduced deforestation under section 753 of the Clean  
5 Air Act (as added by section 322 of this division)  
6 and section 771(d) of the Clean Air Act (as added  
7 by section 111 of division B).

8 (11) The International Clean Energy Deploy-  
9 ment Program under section 323 of this division and  
10 section 207 of division B.

11 (12) The international climate change adapta-  
12 tion and global security program under 324 of this  
13 division and section 208 of division B.

14 (13) The program for water system mitigation  
15 and adaptation partnerships under section 381 of  
16 this division and section 211 of division B.

17 (14) The program for flood control, protection,  
18 prevention, and response under section 382 of this  
19 division and section 211 of division B.

20 (15) The program for wildfire under section  
21 383 of this division and section 211 of division B.

22 (16) The Coastal and Great Lakes State Adap-  
23 tation Program under section 384 of this division  
24 and section 211 of division B.

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

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

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

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

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

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

20 (6) The program for domestic fuel production,  
21 including petroleum refiners and small business re-  
22 finers, under section 775 of the Clean Air Act (as  
23 added by section 111 of division B).

24 (7) The program for climate change consumer  
25 refunds and low- and moderate-income consumers

1 pursuant to section 776 of the Clean Air Act (as  
2 added by section 111 of division B), including—

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

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

7 (8) The program for commercial deployment of  
8 carbon capture and storage technology under section  
9 780 of the Clean Air Act (as added by section 111  
10 of division B).

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

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

16 (11) The program for State and local invest-  
17 ment in energy efficiency and renewable energy  
18 under section 202 of division B.

19 (12) The program for Energy Innovation Hubs  
20 pursuant to section 205 of division B.

21 (13) The program for ARPA-E research pursu-  
22 ant to section 206 of division B.

23 (14) The program for energy efficiency and re-  
24 newable energy worker training under section 209 of  
25 division B.



1           (15) The State programs for greenhouse gas re-  
2           duction and climate adaptation pursuant to section  
3           211 of division B.

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

6           (1) The SmartWay Transportation Efficiency  
7           Program under section 822 of the Clean Air Act (as  
8           added by section 114 of this division).

9           (2) The carbon capture and sequestration dem-  
10          onstration and early deployment program under sec-  
11          tion 125 of this division.

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

14          (4) Water efficiency programs under subtitle D  
15          of title I of this division.

16          (5) The Office of Consumer Advocacy under  
17          section 151 of this division.

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

20          (7) The product carbon disclosure program  
21          under section 153 of this division.

22          (8) The Economic Development Climate  
23          Change Fund under section 219 of the Public Works  
24          and Economic Development Act of 1965 (as added  
25          by section 156 of this division).

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

3           (10) The program for advanced biofuels under  
4 section 162 of this division.

5           (11) The program for emission reductions from  
6 public transportation vehicles under subtitle G of  
7 title I of this division.

8           (12) The Clean Energy and Accelerated Emis-  
9 sion Reduction Program under section 181 of this  
10 division.

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

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

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

18          (16) The program for clean energy curriculum  
19 development grants under section 301 of this divi-  
20 sion.

21          (17) The program for Development of Informa-  
22 tion and Resources clearinghouse for vocational edu-  
23 cation and job training in renewable energy sectors  
24 under section 302 of this division.

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

3           **TITLE I—GREENHOUSE GAS**  
4           **REDUCTION PROGRAMS**  
5           **Subtitle A—Clean Transportation**

6           **SEC. 111. EMISSION STANDARDS.**

7           Title VIII of the Clean Air Act (as added by section  
8           121 of division B) is amended by adding at the end the  
9           following:

10                           **“PART B—MOBILE SOURCES**

11           **“SEC. 821. GREENHOUSE GAS EMISSION STANDARDS FOR**  
12                           **MOBILE SOURCES.**

13           “(a) NEW MOTOR VEHICLES AND NEW MOTOR VE-  
14           HICLE ENGINES.—(1) Pursuant to section 202(a)(1), by  
15           December 31, 2010, the Administrator shall promulgate  
16           standards applicable to emissions of greenhouse gases  
17           from new heavy-duty motor vehicles or new heavy-duty  
18           motor vehicle engines, excluding such motor vehicles cov-  
19           ered by the Tier II standards (as established by the Ad-  
20           ministrator as of the date of the enactment of this sec-  
21           tion). The Administrator may revise these standards from  
22           time to time.

23           “(2) Regulations issued under section 202(a)(1) ap-  
24           plicable to emissions of greenhouse gases from new heavy-  
25           duty motor vehicles or new heavy-duty motor vehicle en-

1 gines, excluding such motor vehicles covered by the Tier  
2 II standards (as established by the Administrator as of  
3 the date of the enactment of this section), shall contain  
4 standards that reflect the greatest degree of emissions re-  
5 duction achievable through the application of technology  
6 which the Administrator determines will be available for  
7 the model year to which such standards apply, giving ap-  
8 propriate consideration to cost, energy, and safety factors  
9 associated with the application of such technology. Any  
10 such regulations shall take effect after such period as the  
11 Administrator finds necessary to permit the development  
12 and application of the requisite technology, and, at a min-  
13 imum, shall apply for a period no less than 3 model years  
14 beginning no earlier than the model year commencing 4  
15 years after such regulations are promulgated.

16       “(3) Regulations issued under section 202(a)(1) ap-  
17 plicable to emissions of greenhouse gases from new heavy-  
18 duty motor vehicles or new heavy-duty motor vehicle en-  
19 gines, excluding such motor vehicles covered by the Tier  
20 II standards (as established by the Administrator as of  
21 the date of the enactment of this section), shall supersede  
22 and satisfy any and all of the rulemaking and compliance  
23 requirements of section 32902(k) of title 49, United  
24 States Code.

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

7       “(b) NONROAD VEHICLES AND ENGINES.—(1) Pur-  
8 suant to section 213(a)(4) and (5), the Administrator  
9 shall identify those classes or categories of new nonroad  
10 vehicles or engines, or combinations of such classes or cat-  
11 egories, that, in the judgment of the Administrator, both  
12 contribute significantly to the total emissions of green-  
13 house gases from nonroad engines and vehicles, and pro-  
14 vide the greatest potential for significant and cost-effective  
15 reductions in emissions of greenhouse gases. The Adminis-  
16 trator shall promulgate standards applicable to emissions  
17 of greenhouse gases from these new nonroad engines or  
18 vehicles by December 31, 2012. The Administrator shall  
19 also promulgate standards applicable to emissions of  
20 greenhouse gases for such other classes and categories of  
21 new nonroad vehicles and engines as the Administrator de-  
22 termines appropriate and in the timeframe the Adminis-  
23 trator determines appropriate. The Administrator shall  
24 base such determination, among other factors, on the rel-  
25 ative contribution of greenhouse gas emissions, and the

1 costs for achieving reductions, from such classes or cat-  
2 egories of new nonroad engines and vehicles. The Adminis-  
3 trator may revise these standards from time to time.

4       “(2) Standards under section 213(a)(4) and (5) ap-  
5 plicable to emissions of greenhouse gases from those class-  
6 es or categories of new nonroad engines or vehicles identi-  
7 fied in the first sentence of paragraph (1) of this sub-  
8 section, shall achieve the greatest degree of emissions re-  
9 duction achievable based on the application of technology  
10 which the Administrator determines will be available at  
11 the time such standards take effect, taking into consider-  
12 ation cost, energy, and safety factors associated with the  
13 application of such technology. Any such regulations shall  
14 take effect at the earliest possible date after such period  
15 as the Administrator finds necessary to permit the devel-  
16 opment and application of the requisite technology, giving  
17 appropriate consideration to the cost of compliance within  
18 such period, the applicable compliance dates for other  
19 standards, and other appropriate factors, including the pe-  
20 riod of time appropriate for the transfer of applicable tech-  
21 nology from other applications, including motor vehicles,  
22 and the period of time in which previously promulgated  
23 regulations have been in effect.

24       “(3) For purposes of this section and standards  
25 under section 213(a)(4) or (5) applicable to emissions of

1 greenhouse gases, the term ‘nonroad engines and vehicles’  
2 shall include non-internal combustion engines and the ve-  
3 hicles these engines power (such as electric engines and  
4 electric vehicles), for those non-internal combustion en-  
5 gines and vehicles which would be in the same category  
6 and have the same uses as nonroad engines and vehicles  
7 that are powered by internal combustion engines.

8       “(c) AVERAGING, BANKING, AND TRADING OF EMIS-  
9 SIONS CREDITS.—In establishing standards applicable to  
10 emissions of greenhouse gases pursuant to this section and  
11 sections 202(a), 213(a)(4) and (5), and 231(a), the Ad-  
12 ministrator may establish provisions for averaging, bank-  
13 ing, and trading of greenhouse gas emissions credits with-  
14 in or across classes or categories of motor vehicles and  
15 motor vehicle engines, nonroad vehicles and engines (in-  
16 cluding marine vessels), and aircraft and aircraft engines,  
17 to the extent the Administrator determines appropriate  
18 and considering the factors appropriate in setting stand-  
19 ards under those sections. Such provisions may include  
20 reasonable and appropriate provisions concerning genera-  
21 tion, banking, trading, duration, and use of credits.

22       “(d) REPORTS.—The Administrator shall, from time  
23 to time, submit a report to Congress that projects the  
24 amount of greenhouse gas emissions from the transpor-  
25 tation sector, including transportation fuels, for the years

1 2030 and 2050, based on the standards adopted under  
2 this section.

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

6 **SEC. 112. GREENHOUSE GAS EMISSION REDUCTIONS**  
7 **THROUGH TRANSPORTATION EFFICIENCY.**

8 (a) ENVIRONMENTAL PROTECTION AGENCY.—Title  
9 VIII of the Clean Air Act (as amended by section 111  
10 of this division) is amended by adding at the end the fol-  
11 lowing:

12 **“PART C—TRANSPORTATION EMISSIONS**  
13 **“SEC. 831. GREENHOUSE GAS EMISSION REDUCTIONS**  
14 **THROUGH TRANSPORTATION EFFICIENCY.**

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

19 “(1) national transportation-related greenhouse  
20 gas emission reduction goals that are commensurate  
21 with the emission reduction goals established under  
22 the Clean Energy Jobs and American Power Act  
23 and amendments made by that Act;

24 “(2) standardized emission models and related  
25 methods, to be used by States, metropolitan plan-



1       ning organizations, and air quality agencies to ad-  
2       dress emission reduction goals, including—

3               “(A) the development of surface transpor-  
4               tation-related greenhouse gas emission reduc-  
5               tion targets pursuant to sections 134 and 135  
6               of title 23, and sections 5303 and 5304 of title  
7               49, United States Code;

8               “(B) the assessment of projected surface  
9               transportation-related greenhouse gas emissions  
10              from transportation strategies;

11              “(C) the assessment of projected surface  
12              transportation-related greenhouse gas emissions  
13              from State and regional transportation plans;

14              “(D) the establishment of surface trans-  
15              portation-related greenhouse gas emission base-  
16              lines at a national, State, and regional level;  
17              and

18              “(E) the measurement and assessment of  
19              actual surface transportation-related emissions  
20              to assess progress toward achievement of emis-  
21              sion targets at the State and regional level;

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

24              “(4) publication and distribution of successful  
25              strategies employed by States, metropolitan planning

1 organizations, and other entities to reduce transpor-  
2 tation-related greenhouse gas emissions.

3 “(b) ROLE OF DEPARTMENT OF TRANSPOR-  
4 TATION.—The Secretary, in consultation with the Admin-  
5 istrator, shall promulgate, and update from time to time,  
6 regulations—

7 “(1) to improve the ability of transportation  
8 planning models and tools, including travel demand  
9 models, to address greenhouse gas emissions;

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

13 “(3) to update transportation planning require-  
14 ments and approval of transportation plans as nec-  
15 essary to carry out this section.

16 “(c) CONSULTATION AND MODELS.—In promul-  
17 gating the regulations, the Administrator and the Sec-  
18 retary—

19 “(1) shall consult with States, metropolitan  
20 planning organizations, and air quality agencies;

21 “(2) may use existing models and methodolo-  
22 gies if the models and methodologies are widely con-  
23 sidered to reflect the best practicable modeling or  
24 methodological approach for assessing actual and  
25 projected transportation-related greenhouse gas

1 emissions from transportation plans and projects;  
2 and

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

7 “(d) TIMING.—The Administrator and the Secretary  
8 shall—

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

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

15 “(e) ASSESSMENT.—

16 “(1) IN GENERAL.—At least every 6 years after  
17 promulgating final regulations under subsections (a)  
18 and (b), the Administrator and the Secretary shall  
19 jointly assess current and projected progress in re-  
20 ducing national transportation-related greenhouse  
21 gas emissions.

22 “(2) REQUIREMENTS.—The assessment shall  
23 examine the contributions to emission reductions at-  
24 tributable to—

25 “(A) improvements in vehicle efficiency;

1           “(B) greenhouse gas performance of trans-  
2           portation fuels;

3           “(C) reductions in vehicle miles traveled;

4           “(D) changes in consumer demand and use  
5           of transportation management systems; and

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

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

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

12           “(B) based on those results, whether tech-  
13           nical or other updates to regulations required  
14           under this section and sections 134 and 135 of  
15           title 23, and sections 5303 and 5304 of title 49,  
16           United States Code, are necessary.”.

17           (b) METROPOLITAN PLANNING ORGANIZATIONS.—

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

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

21           (i) by striking “minimizing” and in-  
22           serting “reducing”; and

23           (ii) by inserting “, reliance on oil, im-  
24           pacts on the environment, transportation-

1 related greenhouse gas emissions,” after  
2 “consumption”;

3 (B) in subsection (h)(1)(E)—

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

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

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

14 (C) in subsection (i)—

15 (i) in paragraph (4)(A)—

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

18 (II) by inserting “transportation,  
19 public transportation, air quality, and  
20 housing, and shall consult, as appro-  
21 priate, with State and local agencies  
22 responsible for” after “responsible  
23 for” and

24 (III) by inserting “public  
25 health,” after “conservation,”; and

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

9 (D) in subsection (k), by adding at the end  
10 the following:

11 “(6) TRANSPORTATION GREENHOUSE GAS RE-  
12 DUCION EFFORTS.—

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

20 “(B) ELIGIBLE ORGANIZATIONS.—

21 “(i) MPOS WITHIN TMAS.—All provi-  
22 sions and requirements of this section, in-  
23 cluding the requirements of the transpor-  
24 tation greenhouse gas reduction efforts,  
25 shall apply to metropolitan planning orga-

1 nizations that also serve as transportation  
2 management areas.

3 “(ii) OTHER MPOS.—A metropolitan  
4 planning organization that does not serve  
5 as a transportation management area—

6 “(I) may develop transportation  
7 greenhouse gas emission reduction  
8 targets and strategies to meet those  
9 targets; and

10 “(II) if those targets and strate-  
11 gies are developed, shall be subject to  
12 all applicable provisions and require-  
13 ments of this section and the Clean  
14 Energy Jobs and American Power  
15 Act, including requirements of the  
16 transportation greenhouse gas reduc-  
17 tion efforts.

18 “(C) ESTABLISHMENT OF TARGETS AND  
19 CRITERIA.—

20 “(i) IN GENERAL.—Not later than 2  
21 years after the promulgation of the final  
22 regulations required under section 831 of  
23 the Clean Air Act, each metropolitan plan-  
24 ning organization that also serves as a  
25 transportation management area shall de-

1           develop surface transportation-related green-  
2           house gas emission reduction targets, as  
3           well as strategies to meet those targets, in  
4           consultation with State air agencies as  
5           part of the metropolitan transportation  
6           planning process under this section.

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

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

24          “(iv) REQUIREMENTS FOR TARGETS  
25          AND STRATEGIES.—The targets and strat-



1 egies developed under this subparagraph  
2 shall, at a minimum—

3 “(I) be based on the emission  
4 and travel demand models and related  
5 methodologies established in the final  
6 regulations required under section  
7 831 of the Clean Air Act;

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

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

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

19 “(V) be selected through scenario  
20 analysis, and include, pursuant to the  
21 requirements of the transportation  
22 planning process under this section,  
23 transportation investment and man-  
24 agement strategies that reduce green-  
25 house gas emissions from the trans-

1                   portation sector over the life of the  
2                   plan, such as—

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

8                   “(bb) efforts to increase  
9                   walking, bicycling, and other  
10                  forms of nonmotorized transpor-  
11                  tation;

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

18                  “(dd) travel demand man-  
19                  agement programs (including  
20                  carpool, vanpool, or car-share  
21                  projects), transportation pricing  
22                  measures, parking policies, and  
23                  programs to promote telecom-  
24                  muting, flexible work schedules,  
25                  and satellite work centers;

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

10           “(ff) intercity passenger rail  
11           improvements;

12           “(gg) intercity bus improve-  
13           ments;

14           “(hh) freight rail improve-  
15           ments;

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

21           “(jj) public facilities for sup-  
22           plying electricity to electric or  
23           plug-in hybrid-electric vehicles; or

24           “(kk) any other effort that  
25           demonstrates progress in reduc-

1                   ing transportation-related green-  
2                   house gas emissions in each met-  
3                   ropolitan planning organization  
4                   under this subsection.

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

8                   “(i) the Secretary and the Adminis-  
9                   trator shall review the plan; and

10                   “(ii) the Secretary shall approve a  
11                   plan developed by a metropolitan planning  
12                   organization pursuant to subparagraph (C)  
13                   if—

14                   “(I) the Secretary finds that a  
15                   metropolitan planning organization  
16                   has developed, submitted, and pub-  
17                   lished the plan of the metropolitan  
18                   planning organization pursuant to this  
19                   section;

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

1                   “(III) the development of the  
2                   plan complies with the minimum re-  
3                   quirements established under clauses  
4                   (iii) and (iv) of subparagraph (C).

5                   “(E) CERTIFICATION.—Failure to comply  
6                   with the requirements under subparagraph (C)  
7                   shall not impact certification standards under  
8                   paragraph (5).

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

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

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

25                         “(B) may include features such as—

1           “(i) the involvement of the general  
2 public, key stakeholders, and elected offi-  
3 cials on a broad scale;

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

9           “(iii) the use of continuing efforts and  
10 ongoing processes; and

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

12           “(i) identification of the driving forces  
13 behind planning decisions and outcomes;

14           “(ii) determination of patterns of  
15 interaction;

16           “(iii) creation of scenarios for discus-  
17 sion purposes;

18           “(iv) analysis of implications;

19           “(v) evaluation of scenarios; and

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

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

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

24           (i) by striking “minimizing” and in-  
25 serting “reducing”; and

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

5 (B) in subsection (h)(1)(E)—

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

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

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

16 (C) in subsection (i)—

17 (i) in paragraph (4)(A)—

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

20 (II) by inserting “transportation,  
21 public transportation, air quality, and  
22 housing, and shall consult, as appro-  
23 priate, with State and local agencies  
24 responsible for” after “responsible  
25 for”; and

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

11 (D) in subsection (k), by adding at the end  
12 the following:

13 “(6) TRANSPORTATION GREENHOUSE GAS RE-  
14 DUCION EFFORTS.—

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

22 “(B) ELIGIBLE ORGANIZATIONS.—

23 “(i) IN GENERAL.—The requirements  
24 of the transportation greenhouse gas re-  
25 duction efforts shall apply only to metro-



1           politan planning organizations within a  
2           transportation management area.

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

7                   “(I) may develop transportation  
8                   greenhouse gas emission reduction  
9                   targets and strategies to meet those  
10                  targets; and

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

17           “(C) ESTABLISHMENT OF TARGETS AND  
18           CRITERIA.—

19                   “(i) IN GENERAL.—Not later than 2  
20                   years after the promulgation of the final  
21                   regulations required under section 831 of  
22                   the Clean Air Act, each metropolitan plan-  
23                   ning organization shall develop surface  
24                   transportation-related greenhouse gas  
25                   emission reduction targets, as well as

1 strategies to meet those targets, in con-  
2 sultation with State air agencies as part of  
3 the metropolitan transportation planning  
4 process under this section.

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

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

22 “(iv) REQUIREMENTS FOR TARGETS  
23 AND STRATEGIES.—The targets and strat-  
24 egies developed under this subparagraph  
25 shall, at a minimum—

1           “(I) be based on the emission  
2 models and related methodologies es-  
3 tablished in the final regulations re-  
4 quired under section 831 of the Clean  
5 Air Act;

6           “(II) inventory all sources of sur-  
7 face transportation-related greenhouse  
8 gas emissions;

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

13           “(IV) be integrated and con-  
14 sistent with regional transportation  
15 plans and transportation improvement  
16 programs; and

17           “(V) be selected through scenario  
18 analysis (as defined in section 134(k)  
19 of title 23), and include, pursuant to  
20 the requirements of the transportation  
21 planning process under this section,  
22 transportation investment and man-  
23 agement strategies that reduce green-  
24 house gas emissions from the trans-

1                   portation sector over the life of the  
2                   plan, such as—

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

8                   “(bb) efforts to increase  
9                   walking, bicycling, and other  
10                  forms of nonmotorized transpor-  
11                  tation;

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

18                  “(dd) travel demand man-  
19                  agement programs (including  
20                  carpool, vanpool, or car-share  
21                  projects), transportation pricing  
22                  measures, parking policies, and  
23                  programs to promote telecom-  
24                  muting, flexible work schedules,  
25                  and satellite work centers;

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

10           “(ff) intercity passenger rail  
11           improvements;

12           “(gg) intercity bus improve-  
13           ments;

14           “(hh) freight rail improve-  
15           ments;

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

21           “(jj) public facilities for sup-  
22           plying electricity to electric or  
23           plug-in hybrid-electric vehicles; or

24           “(kk) any other effort that  
25           demonstrates progress in reduc-

1 ing transportation-related green-  
2 house gas emissions in each met-  
3 ropolitan planning organization  
4 under this subsection.

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

8 “(i) the Secretary and the Adminis-  
9 trator shall review the plan; and

10 “(ii) the Secretary shall approve a  
11 plan developed by a metropolitan planning  
12 organization pursuant to subparagraph (C)  
13 if—

14 “(I) the Secretary finds that a  
15 metropolitan planning organization  
16 has developed, submitted, and pub-  
17 lished the plan of the metropolitan  
18 planning organization pursuant to this  
19 section;

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

1                   “(III) the development of the  
2                   plan complies with the minimum re-  
3                   quirements established under clauses  
4                   (iii) and (iv) of subparagraph (C).

5                   “(E) CERTIFICATION.—Failure to comply  
6                   with the requirements under subparagraph (C)  
7                   shall not impact certification standards under  
8                   paragraph (5).

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

14                  (c) STATES.—

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

17                         (A) in subsection (d)(1)(E)—

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

23                                 (ii) by inserting “and public health”  
24                                 after “quality of life”; and

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

4 (B) in subsection (f)—

5 (i) in paragraph (2)(D)(i)—

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

9 (II) by inserting “State and local  
10 agencies responsible for transpor-  
11 tation, public transportation, air qual-  
12 ity, and housing and in consultation  
13 with” before “State, tribal”; and

14 (III) by inserting “public  
15 health,” after “conservation,”;

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

23 (iii) by adding at the end the fol-  
24 lowing:



1           “(9) TRANSPORTATION GREENHOUSE GAS RE-  
2           DUCTION EFFORTS.—

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

9           “(B) ESTABLISHMENT OF TARGETS AND  
10          CRITERIA.—

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

21          “(ii) MINIMUM REQUIREMENTS.—  
22          Each transportation plan developed by a  
23          State under clause (i) shall, within the  
24          plan, demonstrate progress in stabilizing  
25          and reducing transportation-related green-

1 house gas emissions in the State so as to  
2 contribute to the achievement of national  
3 targets pursuant to section 831(a)(1) of  
4 the Clean Air Act.

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

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

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

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

21 “(IV) be integrated and con-  
22 sistent with statewide transportation  
23 plans and statewide transportation  
24 improvement programs; and

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

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

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

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

- 1           “(dd) travel demand man-  
2           agement programs (including  
3           carpool, vanpool, or car-share  
4           projects), transportation pricing  
5           measures, parking policies, and  
6           programs to promote telecom-  
7           muting, flexible work schedules,  
8           and satellite work centers;
- 9           “(ee) surface transportation  
10          system operation improvements,  
11          including intelligent transpor-  
12          tation systems or other oper-  
13          ational improvements to reduce  
14          congestion and improve system  
15          management;
- 16          “(ff) intercity passenger rail  
17          improvements;
- 18          “(gg) intercity bus improve-  
19          ments;
- 20          “(hh) freight rail improve-  
21          ments;
- 22          “(ii) use of materials or  
23          equipment associated with the  
24          construction or maintenance of

1 transportation projects that re-  
2 duce greenhouse gas emissions;

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

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

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

14 “(i) in coordination with—

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

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

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

23 “(D) ENFORCEMENT.—Not later than 180  
24 days after the date of submission of a plan  
25 under this section—

1 “(i) the Secretary and the Adminis-  
2 trator shall review the plan; and

3 “(ii) the Secretary shall approve a  
4 plan developed by a State pursuant to sub-  
5 paragraph (B) if—

6 “(I) the Secretary finds that a  
7 State has developed, submitted, and  
8 published the plan pursuant to this  
9 section;

10 “(II) the Secretary, in consulta-  
11 tion with the Administrator, deter-  
12 mines that the plan is likely to achieve  
13 the targets established by the State  
14 under this subsection; and

15 “(III) the development of the  
16 plan complies with the minimum re-  
17 quirements established under clauses  
18 (ii) and (iii) of subparagraph (B).

19 “(E) PLANNING FINDING.—Failure to  
20 comply with the requirements under subpara-  
21 graph (B) shall not impact the planning finding  
22 under subsection (g)(7).”.

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

25 (A) in subsection (d)(1)(E)—

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

6 (ii) by inserting “and public health”  
7 after “quality of life”; and

8 (iii) by inserting “, including housing  
9 and land use patterns” after “development  
10 patterns”; and

11 (B) in subsection (f)—

12 (i) in paragraph (2)(D)(i)—

13 (I) by striking “, as appropriate,  
14 in consultation” and inserting “in co-  
15 operation”;

16 (II) by inserting “State and local  
17 agencies responsible for transpor-  
18 tation, public transportation, air qual-  
19 ity, and housing and in consultation  
20 with” before “State, tribal”; and

21 (III) by inserting “public  
22 health,” after “conservation,”;

23 (ii) in paragraph (3)(B)(iii), by insert-  
24 ing “and through the website of the State,  
25 including emission reduction targets and

1 strategies developed under paragraph (9)  
2 and an analysis of the anticipated effects  
3 of the targets and strategies” after “World  
4 Wide Web”; and

5 (iii) by adding at the end the fol-  
6 lowing:

7 “(9) TRANSPORTATION GREENHOUSE GAS RE-  
8 Duction EFFORTS.—

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

15 “(B) ESTABLISHMENT OF TARGETS AND  
16 CRITERIA.—

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



1 the transportation planning process under  
2 this section.

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

12 “(iii) REQUIREMENTS FOR TARGETS  
13 AND STRATEGIES.—The targets and strat-  
14 egies developed under this subparagraph  
15 shall, at a minimum—

16 “(I) be based on the emission  
17 models and related methodologies es-  
18 tablished in the final regulations re-  
19 quired under section 831 of the Clean  
20 Air Act;

21 “(II) inventory all sources of sur-  
22 face transportation-related greenhouse  
23 gas emissions;

24 “(III) apply to those modes of  
25 surface transportation that are ad-

1 dressed in the planning process under  
2 this section;

3 “(IV) be integrated and con-  
4 sistent with statewide transportation  
5 plans and statewide transportation  
6 improvement programs; and

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

17 “(aa) efforts to increase  
18 public transportation ridership,  
19 including through service im-  
20 provements, capacity expansions,  
21 and access enhancement;

22 “(bb) efforts to increase  
23 walking, bicycling, and other  
24 forms of nonmotorized transpor-  
25 tation;

1           “(cc) implementation of zon-  
2           ing and other land use regula-  
3           tions and plans to support infill,  
4           transit-oriented development, re-  
5           development, or mixed use devel-  
6           opment;

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

15          “(ee) surface transportation  
16          system operation improvements,  
17          including intelligent transpor-  
18          tation systems or other oper-  
19          ational improvements to reduce  
20          congestion and improve system  
21          management;

22          “(ff) intercity passenger rail  
23          improvements;

24          “(gg) intercity bus improve-  
25          ments;

1           “(hh) freight rail improve-  
2           ments;

3           “(ii) use of materials or  
4           equipment associated with the  
5           construction or maintenance of  
6           transportation projects that re-  
7           duce greenhouse gas emissions;

8           “(jj) public facilities for sup-  
9           plying electricity to electric or  
10          plug-in hybrid-electric vehicles; or

11          “(kk) any other effort that  
12          demonstrates progress in reduc-  
13          ing transportation-related green-  
14          house gas emissions.

15               “(C) COORDINATION AND CONSULTATION  
16          WITH PUBLIC AGENCIES.—Transportation  
17          greenhouse gas targets and plans pursuant to  
18          this section shall be developed—

19               “(i) in coordination with—

20               “(I) all metropolitan planning or-  
21               ganizations covered by this section  
22               within the State; and

23               “(II) transportation and air qual-  
24               ity agencies within the State; and

1           “(ii) in consultation with representa-  
2           tives of State and local housing, economic  
3           development, and land use agencies.

4           “(D) ENFORCEMENT.—Not later than 180  
5           days after the date of submission of a plan  
6           under this section—

7           “(i) the Secretary and the Adminis-  
8           trator shall review the plan; and

9           “(ii) the Secretary shall approve a  
10          plan developed by a State pursuant to sub-  
11          paragraph (B) if—

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

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

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

1           “(E) PLANNING FINDING.—Failure to  
2           comply with the requirements under subpara-  
3           graph (B) shall not impact the planning finding  
4           under subsection (g)(7).”.

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

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

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

13           (2) provides or transfers authority over land  
14 use to any other entity.

15 **SEC. 113. TRANSPORTATION GREENHOUSE GAS EMISSION**  
16 **REDUCTION PROGRAM GRANTS.**

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

20 **“SEC. 832. TRANSPORTATION GREENHOUSE GAS EMISSION**  
21 **REDUCTION PROGRAM GRANTS.**

22           “(a) IN GENERAL.—The Secretary of Transportation  
23 (referred to in this section as the ‘Secretary’) shall provide  
24 grants to States and metropolitan planning organizations

1 to carry out the purposes of this section for each fiscal  
2 year—

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

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

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

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

12 “(b) PLANNING GRANTS.—

13 “(1) IN GENERAL.—Subject to paragraph (2),  
14 the Secretary shall allocate not more than 5 percent  
15 of the funds available to carry out this section for  
16 a fiscal year for metropolitan planning organizations  
17 to develop and update transportation plans, includ-  
18 ing targets and strategies for greenhouse gas emission  
19 reduction under—

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

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

24 “(2) ELIGIBLE ORGANIZATIONS.—The Sec-  
25 retary shall distribute the funds available in (1) to

1 metropolitan planning organizations (as defined in  
2 section 134(k)(7) of title 23, United States Code) in  
3 the proportion that—

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

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

8 “(c) PERFORMANCE GRANTS.—

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

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

19 “(A) the quantity of total greenhouse gas  
20 emissions to be reduced as a result of imple-  
21 mentation of a plan, within a covered area, as  
22 determined by methods established under sec-  
23 tion 831(a);

24 “(B) the quantity of total greenhouse gas  
25 emissions to be reduced per capita as a result



1 of implementation of a plan, within the covered  
2 area, as determined by methods established  
3 under section 831(a);

4 “(C) the cost-effectiveness of reducing  
5 greenhouse gas emissions during the life of the  
6 plan;

7 “(D) progress toward achieving emission  
8 reductions target established under—

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

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

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

18 “(F) plans that increase transportation op-  
19 tions and mobility, particularly for low-income  
20 individuals, minorities, the elderly, households  
21 without motor vehicles, cost-burdened house-  
22 holds, and the disabled; and

23 “(G) other factors, including innovative ap-  
24 proaches, minimization of costs, and consider-  
25 ation of economic development, revenue genera-

1           tion, consumer fuel cost-savings, and other eco-  
2           nomic, environmental and health benefits, as  
3           the Secretary determines to be appropriate.

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

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

12          “(f) COMPLIANCE WITH APPLICABLE LAWS.—

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

17           “(A) subchapter IV of chapter 31 of title  
18 40, United States Code; and

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

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

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

1           “(A) have the discretion to designate the  
2           specific modal requirements that shall apply to  
3           a project; and

4           “(B) be guided by the predominant modal  
5           characteristics of the project in the event that  
6           a project has cross-modal application.

7           “(g) ADDITIONAL REQUIREMENTS.—

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

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

14                  “(B) to provide benefits equal to the bene-  
15          fits established under section 5333(b) of title  
16          49, United States Code.

17          “(2) WAGES AND BENEFITS.—Laborers and  
18          mechanics employed on projects funded with  
19          amounts made available under this section shall be  
20          paid wages and benefits not less than those deter-  
21          mined by the Secretary of Labor under subchapter  
22          IV of chapter 31 of title 40, United States Code, to  
23          be prevailing in the same locality.

24          “(h) MISCELLANEOUS.—

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

6           “(2) LIMITATIONS.—The Administrator may  
7 not approve any transportation plan for a project  
8 that would be inconsistent with existing design, pro-  
9 curement, and construction guidelines established by  
10 the Department of Transportation.

11           “(3) SUBGRANTEES.—With the approval of the  
12 Secretary, recipients of funding under this section  
13 may enter into agreements providing for the transfer  
14 of funds to noneligible public entities (such as local  
15 governments, air quality agencies, zoning commis-  
16 sions, special districts and transit agencies) that  
17 have statutory responsibility or authority for actions  
18 necessary to implement the strategies pursuant to—

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

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

1 **SEC. 114. SMARTWAY TRANSPORTATION EFFICIENCY PRO-**  
2 **GRAM.**

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

6 **“SEC. 822. SMARTWAY TRANSPORTATION EFFICIENCY PRO-**  
7 **GRAM.**

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

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

18 “(1) Development of measurement protocols to  
19 evaluate the energy consumption and greenhouse gas  
20 impacts from technologies and strategies in the mo-  
21 bile source sector, including those for passenger  
22 transport and goods movement.

23 “(2) Development of qualifying thresholds for  
24 certifying, verifying, or designating energy-efficient,  
25 low-greenhouse gas SmartWay technologies and

1 strategies for each mode of passenger transportation  
2 and goods movement.

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

7 “(4) Promotion of the availability of, and en-  
8 couragement of the adoption of, SmartWay certified  
9 or verified technologies and strategies, and publica-  
10 tion of the availability of financial incentives, such  
11 as assistance from loan programs and other Federal  
12 and State incentives.

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

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

23 “(2) Publication of a comprehensive energy and  
24 greenhouse gas performance index of freight modes  
25 (including rail, trucking, marine, and other modes of

1 transporting goods) and individual freight companies  
2 so that shippers can choose to deliver their goods  
3 more efficiently.

4 “(3) Development of tools for—

5 “(A) carriers to calculate their energy and  
6 greenhouse gas performance; and

7 “(B) shippers to calculate the energy and  
8 greenhouse gas impacts of moving their prod-  
9 ucts and to evaluate the relative impacts from  
10 transporting their goods by different modes and  
11 corporate carriers.

12 “(4) Provision of recognition opportunities for  
13 participating shipper and carrier companies dem-  
14 onstrating advanced practices and achieving superior  
15 levels of greenhouse gas performance.

16 “(d) IMPROVING FREIGHT GREENHOUSE GAS PER-  
17 FORMANCE DATABASES.—The Administrator shall, in co-  
18 ordination with the Secretary of Commerce and other ap-  
19 propriate agencies, define and collect data on the physical  
20 and operational characteristics of the Nation’s truck popu-  
21 lation, with special emphasis on data related to energy ef-  
22 ficiency and greenhouse gas performance to inform the  
23 performance index published under subsection (c)(2) of  
24 this section, and other means of goods transport as nec-

1 essary, at least every 5 years as part of the economic cen-  
2 sus required under title 13, United States Code.

3 “(e) ESTABLISHMENT OF FINANCING PROGRAM.—

4 The Administrator shall establish a SmartWay Financing  
5 Program to competitively award funding to eligible entities  
6 identified by the Administrator in accordance with the  
7 program requirements in subsection (g).

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

10 “(1) use funds awarded by the Administrator to  
11 provide flexible loan and/or lease terms that increase  
12 approval rates or lower the costs of loans and/or  
13 leases in accordance with guidance developed by the  
14 Administrator;

15 “(2) make such loans and/or leases available to  
16 public and private entities for the purpose of adopt-  
17 ing low-greenhouse gas technologies or strategies for  
18 the mobile source sector that are designated by the  
19 Administrator; and

20 “(3) use funds provided by the Administrator  
21 for electrification of freight transportation systems  
22 in major national goods movement corridors, giving  
23 priority to electrification of transportation systems  
24 in areas that are gateways for high volumes of inter-  
25 national and national freight transport and require



1 substantial criteria pollutant emission reductions in  
2 order to attain national ambient air quality stand-  
3 ards.

4 “(g) PROGRAM REQUIREMENTS.—The Administrator  
5 shall determine program design elements and require-  
6 ments, including—

7 “(1) the type of financial mechanism with  
8 which to award funding, in the form of grants and/  
9 or contracts;

10 “(2) the designation of eligible entities to re-  
11 ceive funding, such as State, tribal, and local gov-  
12 ernments, regional organizations comprised of gov-  
13 ernmental units, nonprofit organizations, or for-prof-  
14 it companies;

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

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

20 “(B) ability to promote the loan or lease  
21 program and associated technologies and strate-  
22 gies to the target audience; and

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

1           “(A) actual cost-effectiveness and green-  
2           house gas savings from the loan or lease pro-  
3           gram based on a methodology designated by the  
4           Administrator;

5           “(B) the total number of applications and  
6           number of approved applications; and

7           “(C) terms granted to loan and lease re-  
8           cipients compared to prevailing market prac-  
9           tices and/or rates.

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

## 13           **Subtitle B—Carbon Capture and** 14           **Sequestration**

### 15          **SEC. 121. NATIONAL STRATEGY.**

16          (a) IN GENERAL.—Not later than 1 year after the  
17          date of enactment of this Act, the Administrator, in con-  
18          sultation with the Secretary of Energy, the Secretary of  
19          the Interior, and the heads of such other relevant Federal  
20          agencies as the President may designate, shall submit to  
21          Congress a report establishing a unified and comprehen-  
22          sive strategy to address the key legal, regulatory, and  
23          other barriers to the commercial-scale deployment of car-  
24          bon capture and storage.

1 (b) BARRIERS.—The report under this section  
2 shall—

3 (1) identify the regulatory, legal, and other  
4 gaps and barriers that—

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

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

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

10 (2) identify regulatory implementation chal-  
11 lenges, including challenges relating to approval of  
12 State and tribal programs and delegation of author-  
13 ity for permitting; and

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

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

21 **SEC. 122. REGULATIONS FOR GEOLOGICAL SEQUESTRA-**  
22 **TION SITES.**

23 (a) COORDINATED CERTIFICATION AND PERMITTING  
24 PROCESS.—Part A of title VIII of the Clean Air Act (as

1 amended by section 124 of this division) is amended by  
2 adding at the end the following:

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

4 “(a) COORDINATED PROCESS.—

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

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

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

21 “(B) to the maximum extent practicable,  
22 reduce the burden on certified entities and im-  
23 plementing authorities.

24 “(b) REGULATIONS.—Not later than 2 years after  
25 the date of enactment of this title, the Administrator shall

1 promulgate regulations to protect human health and the  
2 environment by minimizing the risk of escape to the at-  
3 mosphere of carbon dioxide injected for purposes of geo-  
4 logical storage.

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

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

9 “(2) requirements for—

10 “(A) monitoring, recordkeeping, and re-  
11 porting for emissions associated with injection  
12 into, and escape from, geological storage sites,  
13 taking into account any requirements or proto-  
14 cols developed under section 713;

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

17 “(C) the sharing of data among States, In-  
18 dian tribes, and the Environmental Protection  
19 Agency; and

20 “(D) other elements or safeguards nec-  
21 essary to achieve the purpose described in sub-  
22 section (b).

23 “(d) REPORT.—

24 “(1) IN GENERAL.—Not later than 2 years  
25 after the date of promulgation of regulations pursu-

1 ant to subsection (b), and not less frequently than  
2 once every 3 years thereafter, the Administrator  
3 shall submit to the Committee on Energy and Com-  
4 merce of the House of Representatives and the Com-  
5 mittee on Environment and Public Works of the  
6 Senate a report describing geological storage in the  
7 United States, and, to the extent relevant, other  
8 countries in North America.

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

11 “(A) data regarding injection, emissions to  
12 the atmosphere, if any, and performance of ac-  
13 tive and closed geological storage sites, includ-  
14 ing those at which enhanced hydrocarbon recov-  
15 ery operations occur;

16 “(B) an evaluation of the performance of  
17 relevant Federal environmental regulations and  
18 programs in ensuring environmentally protec-  
19 tive geological storage practices;

20 “(C) recommendations on how those pro-  
21 grams and regulations should be improved or  
22 made more effective; and

23 “(D) other relevant information.”.

1 (b) SAFE DRINKING WATER ACT STANDARDS.—Sec-  
2 tion 1421 of the Safe Drinking Water Act (42 U.S.C.  
3 300h) is amended by adding at the end the following:

4 “(e) CARBON DIOXIDE GEOLOGICAL STORAGE  
5 WELLS.—

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

11 “(2) FINANCIAL RESPONSIBILITY.—

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

18 “(B) REGULATIONS.—Financial responsi-  
19 bility may be established for carbon dioxide geo-  
20 logical wells in accordance with regulations pro-  
21 mulgated by the Administrator by any 1, or any  
22 combination, of the following:

23 “(i) Insurance.

24 “(ii) Guarantee.

25 “(iii) Trust.

- 1 “(iv) Standby trust.  
 2 “(v) Surety bond.  
 3 “(vi) Letter of credit.  
 4 “(vii) Qualification as a self-insurer.  
 5 “(viii) Any other method satisfactory  
 6 to the Administrator.”.

7 **SEC. 123. STUDIES AND REPORTS.**

8 (a) STUDY OF LEGAL FRAMEWORK FOR GEOLOGICAL  
 9 STORAGE SITES.—

10 (1) ESTABLISHMENT OF TASK FORCE.—

11 (A) IN GENERAL.—As soon as practicable,  
 12 but not later than 180 days after the date of  
 13 enactment of this Act, the Administrator shall  
 14 establish a task force, to be composed of an  
 15 equal number of—

16 (i) subject matter experts;

17 (ii) nongovernmental organizations  
 18 with expertise regarding environmental pol-  
 19 icy;

20 (iii) academic experts with expertise in  
 21 environmental law;

22 (iv) State and tribal officials with en-  
 23 vironmental expertise;

24 (v) representatives of State and tribal  
 25 attorneys general;



1 (vi) representatives of the Environ-  
2 mental Protection Agency, the Department  
3 of the Interior, the Department of Energy,  
4 the Department of Transportation, and  
5 other relevant Federal agencies; and

6 (vii) members of the private sector.

7 (B) STUDY.—The task force established  
8 under subparagraph (A) shall conduct a study  
9 of—

10 (i) existing Federal environmental  
11 statutes, State environmental statutes, and  
12 State common law that apply to geological  
13 storage sites for carbon dioxide, including  
14 the ability of those laws to serve as risk  
15 management tools;

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

22 (iii) the statutory framework, environ-  
23 mental health and safety considerations,  
24 implementation issues, and financial impli-  
25 cations of potential models for Federal,

1 State, or private sector assumption of li-  
2 abilities and financial responsibilities with  
3 respect to closed geological storage sites;

4 (iv) private sector mechanisms, includ-  
5 ing insurance and bonding, that may be  
6 available to manage environmental, health,  
7 and safety risks from closed geological  
8 storage sites; and

9 (v) the subsurface mineral rights,  
10 water rights, and property rights issues as-  
11 sociated with geological storage of carbon  
12 dioxide, including issues specific to Federal  
13 land.

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

20 (b) ENVIRONMENTAL STATUTES.—

21 (1) STUDY.—The Administrator shall conduct a  
22 study of the means by which, and under what cir-  
23 cumstances, the environmental statutes for which  
24 the Environmental Protection Agency has responsi-

1 bility would apply to carbon dioxide injection and ge-  
 2 ological storage activities.

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

7 **SEC. 124. PERFORMANCE STANDARDS FOR COAL-FUELED**  
 8 **POWER PLANTS.**

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

12 **“SEC. 812. PERFORMANCE STANDARDS FOR NEW COAL-**  
 13 **FIRED POWER PLANTS.**

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

15 “(1) COVERED EGU.—The term ‘covered EGU’  
 16 means a utility unit that is required to have a per-  
 17 mit under section 503(a) and is authorized under  
 18 State or Federal law to derive at least 30 percent of  
 19 its annual heat input from coal, petroleum coke, or  
 20 any combination of these fuels.

21 “(2) INITIALLY PERMITTED.—The term ‘ini-  
 22 tially permitted’ means that the owner or operator  
 23 has received a preconstruction approval or permit  
 24 under this Act, for the covered EGU as a new (not  
 25 a modified) source, but administrative review or ap-

1       peal of such approval or permit has not been ex-  
2       hausted. A subsequent modification of any such ap-  
3       proval or permits, ongoing administrative or court  
4       review, appeals, or challenges, or the existence or  
5       tolling of any time to pursue further review, appeals,  
6       or challenges shall not affect the date on which a  
7       covered EGU is considered to be initially permitted  
8       under this paragraph.

9       “(b) STANDARDS.—(1) A covered EGU that is ini-  
10      tially permitted on or after January 1, 2020, shall achieve  
11      an emission limit that is a 65 percent reduction in emis-  
12      sions of the carbon dioxide produced by the unit, as  
13      measured on an annual basis, or meet such more stringent  
14      standard as the Administrator may establish pursuant to  
15      subsection (c).

16      “(2) A covered EGU that is initially permitted after  
17      January 1, 2009, and before January 1, 2020, shall, by  
18      the applicable compliance date established under this  
19      paragraph, achieve an emission limit that is a 50 percent  
20      reduction in emissions of the carbon dioxide produced by  
21      the unit, as measured on an annual basis. Compliance  
22      with the requirement set forth in this paragraph shall be  
23      required by the earliest of the following:

24              “(A) Four years after the date the Adminis-  
25      trator has published pursuant to subsection (d) a re-

1 port that there are in commercial operation in the  
2 United States electric generating units or other sta-  
3 tionary sources equipped with carbon capture and  
4 sequestration technology that, in the aggregate—

5 “(i) have a total of at least 4 gigawatts of  
6 nameplate generating capacity of which—

7 “(I) at least 3 gigawatts must be elec-  
8 tric generating units; and

9 “(II) up to 1 gigawatt may be indus-  
10 trial applications, for which capture and  
11 sequestration of 3,000,000 tons of carbon  
12 dioxide per year on an aggregate  
13 annualized basis shall be considered equiv-  
14 alent to 1 gigawatt;

15 “(ii) include at least 2 electric generating  
16 units, each with a nameplate generating capac-  
17 ity of 250 megawatts or greater, that capture,  
18 inject, and sequester carbon dioxide into geo-  
19 logic formations other than oil and gas fields;  
20 and

21 “(iii) are capturing and sequestering in the  
22 aggregate at least 12,000,000 tons of carbon  
23 dioxide per year, calculated on an aggregate  
24 annualized basis.

25 “(B) January 1, 2025.

1       “(3) If the deadline for compliance with paragraph  
2 (2) is January 1, 2025, the Administrator may extend the  
3 deadline for compliance by a covered EGU by up to 18  
4 months if the Administrator makes a determination, based  
5 on a showing by the owner or operator of the unit, that  
6 it will be technically infeasible for the unit to meet the  
7 standard by the deadline. The owner or operator must  
8 submit a request for such an extension by no later than  
9 January 1, 2022, and the Administrator shall provide for  
10 public notice and comment on the extension request.

11       “(c) REVIEW AND REVISION OF STANDARDS.—Not  
12 later than 2025 and at 5-year intervals thereafter, the Ad-  
13 ministrator shall review the standards for new covered  
14 EGUs under this section and shall, by rule, reduce the  
15 maximum carbon dioxide emission rate for new covered  
16 EGUs to a rate which reflects the degree of emission limi-  
17 tation achievable through the application of the best sys-  
18 tem of emission reduction which (taking into account the  
19 cost of achieving such reduction and any nonair quality  
20 health and environmental impact and energy require-  
21 ments) the Administrator determines has been adequately  
22 demonstrated.

23       “(d) REPORTS.—Not later than 18 months after the  
24 date of enactment of this title and semiannually there-  
25 after, the Administrator shall publish a report on the

1 nameplate capacity of units (determined pursuant to sub-  
 2 section (b)(2)(A)) in commercial operation in the United  
 3 States equipped with carbon capture and sequestration  
 4 technology, including the information described in sub-  
 5 section (b)(2)(A) (including the cumulative generating ca-  
 6 pacity to which carbon capture and sequestration retrofit  
 7 projects meeting the criteria described in section  
 8 775(b)(1)(A)(ii) and (b)(1)(A)(iv)(II) has been applied  
 9 and the quantities of carbon dioxide captured and seques-  
 10 tered by such projects).

11 “(e) REGULATIONS.—Not later than 2 years after the  
 12 date of enactment of this title, the Administrator shall  
 13 promulgate regulations to carry out the requirements of  
 14 this section.”.

15 **SEC. 125. CARBON CAPTURE AND SEQUESTRATION DEM-**  
 16 **ONSTRATION AND EARLY DEPLOYMENT PRO-**  
 17 **GRAM.**

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

19 (1) SECRETARY.—The term “Secretary” means  
 20 the Secretary of Energy.

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

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

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

7           (5) FOSSIL FUEL.—The term “fossil fuel”  
8 means coal, petroleum, natural gas or any derivative  
9 of coal, petroleum, or natural gas.

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

13          (7) QUALIFIED INDUSTRY ORGANIZATION.—The  
14 term “qualified industry organization” means the  
15 Edison Electric Institute, the American Public  
16 Power Association, the National Rural Electric Co-  
17 operative Association, a successor organization of  
18 such organizations, or a group of owners or opera-  
19 tors of distribution utilities delivering fossil fuel-  
20 based electricity who collectively represent at least  
21 20 percent of the volume of fossil fuel-based elec-  
22 tricity delivered by distribution utilities to consumers  
23 in the United States.

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



1 (b) CARBON STORAGE RESEARCH CORPORATION.—

2 (1) ESTABLISHMENT.—

3 (A) REFERENDUM.—Qualified industry or-  
4 ganizations may conduct, at their own expense,  
5 a referendum among the owners or operators of  
6 distribution utilities delivering fossil fuel-based  
7 electricity for the creation of a Carbon Storage  
8 Research Corporation. Such referendum shall  
9 be conducted by an independent auditing firm  
10 agreed to by the qualified industry organiza-  
11 tions. Voting rights in such referendum shall be  
12 based on the quantity of fossil fuel-based elec-  
13 tricity delivered to consumers in the previous  
14 calendar year or other representative period as  
15 determined by the Secretary pursuant to sub-  
16 section (f). Upon approval of those persons rep-  
17 resenting two-thirds of the total quantity of fos-  
18 sil fuel-based electricity delivered to retail con-  
19 sumers, the Corporation shall be established un-  
20 less opposed by the State regulatory authorities  
21 pursuant to subparagraph (B). All distribution  
22 utilities voting in the referendum shall certify to  
23 the independent auditing firm the quantity of  
24 fossil fuel-based electricity represented by their  
25 vote.

1 (B) STATE REGULATORY AUTHORITIES.—

2 Upon its own motion or the petition of a quali-  
3 fied industry organization, each State regu-  
4 latory authority shall consider its support or op-  
5 position to the creation of the Corporation  
6 under subparagraph (A). State regulatory au-  
7 thorities may notify the independent auditing  
8 firm referred to in subparagraph (A) of their  
9 views on the creation of the Corporation within  
10 180 days after the date of enactment of this  
11 Act. If 40 percent or more of the State regu-  
12 latory authorities submit to the independent au-  
13 diting firm written notices of opposition, the  
14 Corporation shall not be established notwith-  
15 standing the approval of the qualified industry  
16 organizations as provided in subparagraph (A).

17 (2) TERMINATION.—The Corporation shall be

18 authorized to collect assessments and conduct oper-  
19 ations pursuant to this section for a 10-year period  
20 from the date 6 months after the date of enactment  
21 of this Act. After such 10-year period, the Corpora-  
22 tion is no longer authorized to collect assessments  
23 and shall be dissolved on the date 15 years after  
24 such date of enactment, unless the period is ex-  
25 tended by an Act of Congress.

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

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

- 19                   (i) Investor-owned utilities.  
20                   (ii) Utilities owned by a State agency,  
21                   a municipality, and an Indian tribe.  
22                   (iii) Rural electric cooperatives.  
23                   (iv) Fossil fuel producers.  
24                   (v) Nonprofit environmental organiza-  
25                   tions.

1 (vi) Independent generators or whole-  
2 sale power providers.

3 (vii) Consumer groups.

4 (viii) The National Energy Tech-  
5 nology laboratory of the Department of  
6 Energy.

7 (ix) The Environmental Protection  
8 Agency.

9 (B) NONVOTING MEMBERS.—The Board  
10 shall also include as additional nonvoting Mem-  
11 bers the Secretary of Energy or his designee  
12 and 2 representatives of State regulatory au-  
13 thorities as defined in section 3 of the Public  
14 Utility Regulatory Policies Act of 1978 (16  
15 U.S.C. 2602), each designated by the National  
16 Association of State Regulatory Utility Com-  
17 missioners from States that are not within the  
18 same transmission interconnection.

19 (4) COMPENSATION.—Corporation Board mem-  
20 bers shall receive no compensation for their services,  
21 nor shall Corporation Board members be reimbursed  
22 for expenses relating to their service.

23 (5) TERMS.—Corporation Board members shall  
24 serve terms of 4 years and may serve not more than  
25 2 full consecutive terms. Members filling unexpired

1 terms may serve not more than a total of 8 consecu-  
2 tive years. Former members of the Corporation  
3 Board may be reappointed to the Corporation Board  
4 if they have not been members for a period of 2  
5 years. Initial appointments to the Corporation Board  
6 shall be for terms of 1, 2, 3, and 4 years, staggered  
7 to provide for the selection of 3 members each year.

8 (6) STATUS OF CORPORATION.—The Corpora-  
9 tion shall not be considered to be an agency, depart-  
10 ment, or instrumentality of the United States, and  
11 no officer or director or employee of the Corporation  
12 shall be considered to be an officer or employee of  
13 the United States Government, for purposes of title  
14 5 or title 31 of the United States Code, or for any  
15 other purpose, and no funds of the Corporation shall  
16 be treated as public money for purposes of chapter  
17 33 of title 31, United States Code, or for any other  
18 purpose.

19 (c) FUNCTIONS AND ADMINISTRATION OF THE COR-  
20 PORATION.—

21 (1) IN GENERAL.—The Corporation shall estab-  
22 lish and administer a program to accelerate the com-  
23 mercial availability of carbon dioxide capture and  
24 storage technologies and methods, including tech-  
25 nologies which capture and store, or capture and

1 convert, carbon dioxide. Under such program com-  
2 petitively awarded grants, contracts, and financial  
3 assistance shall be provided and entered into with el-  
4 igible entities. Except as provided in paragraph (8),  
5 the Corporation shall use all funds derived from as-  
6 sessments under subsection (d) to issue grants and  
7 contracts to eligible entities.

8 (2) PURPOSE.—The purposes of the grants,  
9 contracts, and assistance under this subsection shall  
10 be to support commercial-scale demonstrations of  
11 carbon capture or storage technology projects capa-  
12 ble of advancing the technologies to commercial  
13 readiness. Such projects should encompass a range  
14 of different coal and other fossil fuel varieties, be  
15 geographically diverse, involve diverse storage media,  
16 and employ capture or storage, or capture and con-  
17 version, technologies potentially suitable either for  
18 new or for retrofit applications. The Corporation  
19 shall seek, to the extent feasible, to support at least  
20 5 commercial-scale demonstration projects inte-  
21 grating carbon capture and sequestration or conver-  
22 sion technologies.

23 (3) ELIGIBLE ENTITIES.—Entities eligible for  
24 grants, contracts or assistance under this subsection  
25 may include distribution utilities, electric utilities

1 and other private entities, academic institutions, na-  
2 tional laboratories, Federal research agencies, State  
3 and tribal research agencies, nonprofit organizations,  
4 or consortiums of 2 or more entities. Pilot-scale and  
5 similar small-scale projects are not eligible for sup-  
6 port by the Corporation. Owners or developers of  
7 projects supported by the Corporation shall, where  
8 appropriate, share in the costs of such projects.  
9 Projects supported by the Corporation shall meet the  
10 eligibility criteria of section 780(b) of the Clean Air  
11 Act.

12 (4) GRANTS FOR EARLY MOVERS.—Fifty per-  
13 cent of the funds raised under this section shall be  
14 provided in the form of grants to electric utilities  
15 that had, prior to the award of any grant under this  
16 section, committed resources to deploy a large scale  
17 electricity generation unit with integrated carbon  
18 capture and sequestration or conversion applied to a  
19 substantial portion of the unit’s carbon dioxide emis-  
20 sions. Grant funds shall be provided to defray costs  
21 incurred by such electricity utilities for at least 5  
22 such electricity generation units.

23 (5) ADMINISTRATION.—The members of the  
24 Board of Directors of the Corporation shall elect a  
25 Chairman and other officers as necessary, may es-

1        establish committees and subcommittees of the Cor-  
2        poration, and shall adopt rules and bylaws for the  
3        conduct of business and the implementation of this  
4        section. The Board shall appoint an Executive Di-  
5        rector and professional support staff who may be  
6        employees of the Electric Power Research Institute  
7        (EPRI). After consultation with the Technical Advi-  
8        sory Committee established under subsection (j), the  
9        Secretary, and the Director of the National Energy  
10       Technology Laboratory to obtain advice and rec-  
11       ommendations on plans, programs, and project selec-  
12       tion criteria, the Board shall establish priorities for  
13       grants, contracts, and assistance; publish requests  
14       for proposals for grants, contracts, and assistance;  
15       and award grants, contracts, and assistance competi-  
16       tively, on the basis of merit, after the establishment  
17       of procedures that provide for scientific peer review  
18       by the Technical Advisory Committee. The Board  
19       shall give preference to applications that reflect the  
20       best overall value and prospect for achieving the  
21       purposes of the section, such as those which dem-  
22       onstrate an integrated approach for capture and  
23       storage or capture and conversion technologies. The  
24       Board members shall not participate in making



1 grants or awards to entities with whom they are af-  
2 filiated.

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

13 (7) INTELLECTUAL PROPERTY.—The Board  
14 shall establish policies regarding the ownership of in-  
15 tellectual property developed as a result of Corpora-  
16 tion grants and other forms of technology support.  
17 Such policies shall encourage individual ingenuity  
18 and invention.

19 (8) ADMINISTRATIVE EXPENSES.—Up to 5 per-  
20 cent of the funds collected in any fiscal year under  
21 subsection (d) may be used for the administrative  
22 expenses of operating the Corporation (not including  
23 costs incurred in the determination and collection of  
24 the assessments pursuant to subsection (d)).

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

21           (10) RECORDS; AUDITS.—The Corporation shall  
22 keep minutes, books, and records that clearly reflect  
23 all of the acts and transactions of the Corporation  
24 and make public such information. The books of the  
25 Corporation shall be audited by a certified public ac-

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

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

1 made available to and readily accessible by the pub-  
2 lic.

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

17 (d) ASSESSMENTS.—

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

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

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

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

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

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

12           (e) ERCOT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 the power sold by each individual distribution  
2 utility.

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

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

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

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

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

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

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

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

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

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

5 (i) RECOVERY OF COSTS.—

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

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

19 (j) TECHNICAL ADVISORY COMMITTEE.—

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

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

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

10               (3) CHAIRPERSON AND VICE CHAIRPERSON.—

11       The Board shall designate one member of the Tech-  
12       nical Advisory Committee to serve as Chairperson of  
13       the Committee and one to serve as Vice Chairperson  
14       of the Committee.

15               (4) COMPENSATION.—The Board shall provide

16       compensation to members of the Technical Advisory  
17       Committee for travel and other incidental expenses  
18       and such other compensation as the Board deter-  
19       mines to be necessary.

20               (5) PURPOSE.—The Technical Advisory Com-

21       mittee shall provide independent assessments and  
22       technical evaluations, as well as make non-binding  
23       recommendations to the Board, concerning Corpora-  
24       tion activities, including but not limited to the fol-  
25       lowing:

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

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

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

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

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

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

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

11 (a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (A) electrical craft certification;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) CONDUCT OF PROGRAM.—

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

- 1 (i) build a fundamental scientific basis  
2 to understand, predict, and measure  
3 changes in materials, systems, structures,  
4 equipment, and components as the mate-  
5 rials, systems, structures, equipment, and  
6 components age through continued oper-  
7 ations in long-term service environments;
- 8 (ii) develop new safety analysis tools  
9 and methods to enhance the performance  
10 and safety of nuclear power plants;
- 11 (iii) develop advanced online moni-  
12 toring, control, and diagnostics tech-  
13 nologies to prevent equipment failures and  
14 improve the safety of nuclear power plants;
- 15 (iv) establish a technical basis for ad-  
16 vanced fuel designs (including silicon car-  
17 bide fuel cladding) to increase the safety  
18 margins of nuclear power plants; and
- 19 (v) examine issues, including—
- 20 (I) issues relating to material  
21 degradation, plant aging, and tech-  
22 nology upgrades; and
- 23 (II) any other issue that would  
24 impact decisions to extend the lifespan  
25 of nuclear power plants.

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

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

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

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

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

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

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

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

## 7 **Subtitle D—Water Efficiency**

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

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

13 (1) to reduce water use;

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

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

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

24 (b) DUTIES.—The Administrator shall—

25 (1) establish—

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

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

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

9 (A) reducing water use; and

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

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

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

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

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

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



1           corrective action in any case in which misuse of  
2           the label is identified; and

3           (D) carrying out such other measures as  
4           the Administrator determines to be appropriate;

5           (5) regularly review and, if appropriate, update  
6           WaterSense criteria for categories of products, build-  
7           ings, landscapes, facilities, processes, and services,  
8           at least once every 4 years;

9           (6) to the maximum extent practicable, regu-  
10          larly estimate and make available to the public the  
11          production and relative market shares of, and the  
12          savings of water, energy, and capital costs of water,  
13          wastewater, and stormwater infrastructure attrib-  
14          utable to the use of WaterSense-labeled products,  
15          buildings, landscapes, facilities, processes, and serv-  
16          ices, at least annually;

17          (7) solicit comments from interested parties and  
18          the public prior to establishing or revising a  
19          WaterSense category, specification, installation cri-  
20          terion, or other criterion (or prior to effective dates  
21          for any such category, specification, installation cri-  
22          terion, or other criterion);

23          (8) provide reasonable notice to interested par-  
24          ties and the public of any changes (including effec-  
25          tive dates), on the adoption of a new or revised cat-

1 category, specification, installation criterion, or other  
2 criterion, along with—

3 (A) an explanation of the changes; and

4 (B) as appropriate, responses to comments  
5 submitted by interested parties and the public;

6 (9) provide appropriate lead time (as deter-  
7 mined by the Administrator) prior to the applicable  
8 effective date for a new or significant revision to a  
9 category, specification, installation criterion, or other  
10 criterion, taking into account the timing require-  
11 ments of the manufacturing, marketing, training,  
12 and distribution process for the specific product,  
13 building and landscape, or service category ad-  
14 dressed;

15 (10) identify and, if appropriate, implement  
16 other voluntary approaches in commercial, institu-  
17 tional, residential, industrial, and municipal sectors  
18 to encourage recycling and reuse technologies to im-  
19 prove water efficiency or lower water use; and

20 (11) where appropriate, apply the WaterSense  
21 label to water-using products that are labeled by the  
22 Energy Star program implemented by the Adminis-  
23 trator and the Secretary of Energy.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this sec-  
3 tion—

4 (1) \$7,500,000 for fiscal year 2010;

5 (2) \$10,000,000 for fiscal year 2011;

6 (3) \$20,000,000 for fiscal year 2012;

7 (4) \$50,000,000 for fiscal year 2013; and

8 (5) for each subsequent fiscal year, the applica-  
9 ble amount during the preceding fiscal year, as ad-  
10 justed to reflect changes for the 12-month period  
11 ending the preceding November 30 in the Consumer  
12 Price Index for All Urban Consumers published by  
13 the Bureau of Labor Statistics of the Department of  
14 Labor.

15 **SEC. 142. FEDERAL PROCUREMENT OF WATER-EFFICIENT**  
16 **PRODUCTS.**

17 (a) DEFINITIONS.—In this section:

18 (1) AGENCY.—The term “Agency” has the  
19 meaning given the term in section 7902(a) of title  
20 5, United States Code.

21 (2) FEMP-DESIGNATED PRODUCT.—The term  
22 “FEMP-designated product” means a product that  
23 is designated under the Federal Energy Manage-  
24 ment Program of the Department of Energy as

1 being among the highest 25 percent of equivalent  
2 products for efficiency.

3 (3) PRODUCT, BUILDING, LANDSCAPE, FACIL-  
4 ITY, PROCESS, AND SERVICE.—The terms “product”,  
5 “building”, “landscape”, “facility”, “process”, and  
6 “service” do not include—

7 (A) any water-using product, building,  
8 landscape, facility, process, or service designed  
9 or procured for combat or combat-related mis-  
10 sions; or

11 (B) any product, building, landscape, facil-  
12 ity, process, or service already covered by the  
13 Federal procurement regulations established  
14 under section 553 of the National Energy Con-  
15 servation Policy Act (42 U.S.C. 8259b).

16 (4) WATERSENSE PRODUCT, BUILDING, LAND-  
17 SCAPE, FACILITY, PROCESS, OR SERVICE.—The term  
18 “WaterSense product, building, landscape, facility,  
19 process, or service” means a product, building, land-  
20 scape, facility, process, or service that is labeled for  
21 water efficiency under the WaterSense program.

22 (5) WATERSENSE PROGRAM.—The term  
23 “WaterSense program” means the program estab-  
24 lished by section 141.

1 (b) PROCUREMENT OF WATER-EFFICIENT PROD-  
2 UCTS.—

3 (1) REQUIREMENT.—

4 (A) IN GENERAL.—To meet the require-  
5 ments of an agency for a water-using product,  
6 building, landscape, facility, process, or service,  
7 the head of an Agency shall, except as provided  
8 in paragraph (2), procure—

9 (i) a WaterSense product, building,  
10 landscape, facility, process, or service; or

11 (ii) a FEMP-designated product.

12 (B) SENSE OF CONGRESS REGARDING IN-  
13 STALLATION PREFERENCES.—It is the sense of  
14 Congress that a WaterSense irrigation system  
15 should, to the maximum extent practicable, be  
16 installed and audited by a WaterSense-certified  
17 irrigation professional to ensure optimal per-  
18 formance.

19 (2) EXCEPTIONS.—The head of an Agency shall  
20 not be required to procure a WaterSense product,  
21 building, landscape, facility, process, or service or  
22 FEMP-designated product under paragraph (1) if  
23 the head of the Agency finds in writing that—

24 (A) a WaterSense product, building, land-  
25 scape, facility, process, or service or FEMP-des-

1           ignated product is not cost-effective over the life  
2           of the product, building, landscape, facility,  
3           process, or service, taking energy, water, and  
4           wastewater service cost savings into account; or

5           (B) no WaterSense product, building, land-  
6           scape, facility, process, or service or FEMP-des-  
7           ignated product is reasonably available that  
8           meets the functional requirements of the Agen-  
9           cy.

10       (3) PROCUREMENT PLANNING.—

11           (A) IN GENERAL.—The head of an Agency  
12           shall incorporate criteria used for evaluating  
13           WaterSense products, buildings, landscapes, fa-  
14           cilities, processes, and services and FEMP-des-  
15           ignated products into—

16           (i) the specifications for all procure-  
17           ments involving water-using products,  
18           buildings, landscapes, facilities, processes,  
19           and systems, including guide specifications,  
20           project specifications, and construction,  
21           renovation, and services contracts that in-  
22           clude provision of water-using products,  
23           buildings, landscapes, facilities, processes,  
24           and systems; and

1 (ii) the factors for the evaluation of  
2 offers received for the procurement.

3 (B) LISTING OF WATER-EFFICIENT PROD-  
4 UCTS IN FEDERAL CATALOGS.—WaterSense  
5 products, buildings, landscapes, facilities, proc-  
6 esses, and systems and FEMP-designated prod-  
7 ucts shall be clearly identified and prominently  
8 displayed in any inventory or listing of products  
9 by the General Services Administration or the  
10 Defense Logistics Agency.

11 (C) ADDITIONAL MEASURES.—The head of  
12 an Agency shall consider, to the maximum ex-  
13 tent practicable, additional measures for reduc-  
14 ing Agency water use, including water reuse  
15 technologies, leak detection and repair, and use  
16 of waterless products that perform similar func-  
17 tions to existing water-using products.

18 (c) RETROFIT PROGRAMS.—The head of each Agen-  
19 cy, working in coordination with the Administrator and  
20 the heads of such other Agencies as the President may  
21 designate, shall develop standards and implementation  
22 procedures for a building water efficiency retrofit pro-  
23 gram, which shall include the following elements:

24 (1) EVALUATION OF PRODUCTS AND SYS-  
25 TEMS.—Not later than 270 days after the date of

1 enactment of this Act, each Agency shall evaluate  
2 water-consuming products and systems in buildings  
3 operated by such Agency and identify opportunities  
4 for retrofit and replacement of such products and  
5 systems with high-efficiency equipment, such as  
6 zero-water-consumption equipment, high-efficiency  
7 toilets, high-efficiency shower heads, and high-effi-  
8 ciency faucets, and other products that are certified  
9 as Watersense products or FEMP-designated prod-  
10 ucts.

11 (2) RETROFIT PLAN.—Not later than 360 days  
12 after the date of enactment of this Act, each Agency  
13 shall, in coordination with other appropriate Agen-  
14 cies and officials, prepare a water efficiency retrofit  
15 plan that shall, to the maximum extent practicable,  
16 maximize retrofitting of water-consuming products  
17 and systems and replacement with high-efficiency  
18 equipment described in paragraph (1).

19 (d) GUIDELINES.—Not later than 180 days after the  
20 date of enactment of this Act, the Administrator, working  
21 in coordination with the Secretary of Energy and the  
22 heads of such other Agencies as the President may des-  
23 ignate, shall issue guidelines to carry out this section.



1 **SEC. 143. STATE RESIDENTIAL WATER EFFICIENCY AND**  
2 **CONSERVATION INCENTIVES PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) ELIGIBLE ENTITY.—The term “eligible enti-  
5 ty” means a State government, local or county gov-  
6 ernment, tribal government, wastewater or sewerage  
7 utility, municipal water authority, energy utility,  
8 water utility, or nonprofit organization that meets  
9 the requirements of subsection (b).

10 (2) INCENTIVE PROGRAM.—The term “incentive  
11 program” means a program for administering finan-  
12 cial incentives for consumer purchase and installa-  
13 tion of water-efficient products, buildings (including  
14 New Water-Efficient Homes), landscapes, processes,  
15 or services described in subsection (b)(1).

16 (3) RESIDENTIAL WATER-EFFICIENT PRODUCT,  
17 BUILDING, LANDSCAPE, PROCESS, OR SERVICE.—

18 (A) IN GENERAL.—The term “residential  
19 water-efficient product, building, landscape,  
20 process, or service” means a product, building,  
21 landscape, process, or service for a residence or  
22 its landscape that is rated for water efficiency  
23 and performance—

24 (i) by the WaterSense program; or

25 (ii) if a WaterSense specification does  
26 not exist, by the Energy Star program or

1 an incentive program approved by the Ad-  
2 ministrator.

3 (B) INCLUSIONS.—The term “residential  
4 water-efficient product, building, landscape,  
5 process, or service” includes—

6 (i) faucets;

7 (ii) irrigation technologies and serv-  
8 ices;

9 (iii) point-of-use water treatment de-  
10 vices;

11 (iv) reuse and recycling technologies;

12 (v) toilets;

13 (vi) clothes washers;

14 (vii) dishwashers;

15 (viii) showerheads;

16 (ix) xeriscaping and other landscape  
17 conversions that replace irrigated turf; and

18 (x) New Water Efficient Homes cer-  
19 tified by the WaterSense program.

20 (4) WATERSENSE PROGRAM.—The term  
21 “WaterSense program” means the program estab-  
22 lished by section 141.

23 (b) ELIGIBLE ENTITIES.—An entity shall be eligible  
24 to receive an allocation under subsection (c) if the entity—

1           (1) establishes (or has established) an incentive  
2 program to provide financial incentives to residential  
3 consumers for the purchase of residential water-effi-  
4 cient products, buildings, landscapes, processes, or  
5 services;

6           (2) submits an application for the allocation at  
7 such time, in such form, and containing such infor-  
8 mation as the Administrator may require; and

9           (3) provides assurances satisfactory to the Ad-  
10 ministrator that the entity will use the allocation to  
11 supplement, but not supplant, funds made available  
12 to carry out the incentive program.

13       (c) AMOUNT OF ALLOCATIONS.—For each fiscal year,  
14 the Administrator shall determine the amount to allocate  
15 to each eligible entity to carry out subsection (d), taking  
16 into consideration—

17           (1) the population served by the eligible entity  
18 during the most recent calendar year for which data  
19 are available;

20           (2) the targeted population of the incentive pro-  
21 gram of the eligible entity, such as general house-  
22 holds, low-income households, or first-time home-  
23 owners, and the probable effectiveness of the incen-  
24 tive program for that population;

1           (3) for existing programs, the effectiveness of  
2           the program in encouraging the adoption of water-  
3           efficient products, buildings, landscapes, facilities,  
4           processes, and services;

5           (4) any allocation to the eligible entity for a  
6           preceding fiscal year that remains unused; and

7           (5) the per capita water demand of the popu-  
8           lation served by the eligible entity during the most  
9           recent calendar year for which data are available  
10          and the accessibility of water supplies to such entity.

11          (d) USE OF ALLOCATED FUNDS.—Funds allocated to  
12          an eligible entity under subsection (c) may be used to pay  
13          up to 50 percent of the cost of establishing and carrying  
14          out an incentive program.

15          (e) FIXTURE RECYCLING.—Eligible entities are en-  
16          couraged to promote or implement fixture recycling pro-  
17          grams to manage the disposal of older fixtures replaced  
18          due to the incentive program under this section.

19          (f) ISSUANCE OF INCENTIVES.—

20                 (1) IN GENERAL.—Financial incentives may be  
21                 provided to residential consumers that meet the re-  
22                 quirements of the applicable incentive program.

23                 (2) MANNER OF ISSUANCE.—An eligible entity  
24                 may—

1 (A) issue all financial incentives directly to  
2 residential consumers; or

3 (B) with approval of the Administrator,  
4 delegate all or part of financial incentive admin-  
5 istration to other organizations, including local  
6 governments, municipal water authorities, water  
7 utilities, and non-profit organizations.

8 (3) AMOUNT.—The amount of a financial in-  
9 centive shall be determined by the eligible entity,  
10 taking into consideration—

11 (A) the amount of any Federal or State in-  
12 centive available for the purchase of the resi-  
13 dential water-efficient product or service;

14 (B) the amount necessary to change con-  
15 sumer behavior to purchase water-efficient  
16 products and services; and

17 (C) the consumer expenditures for onsite  
18 preparation, assembly, and original installation  
19 of the product.

20 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated to the Administrator to  
22 carry out this section—

23 (1) \$100,000,000 for fiscal year 2010;

24 (2) \$150,000,000 for fiscal year 2011;

25 (3) \$200,000,000 for fiscal year 2012;

- 1 (4) \$150,000,000 for fiscal year 2013;
- 2 (5) \$100,000,000 for fiscal year 2014; and
- 3 (6) for each subsequent fiscal year, the applica-
- 4 ble amount during the preceding fiscal year, as ad-
- 5 justed to reflect changes for the 12-month period
- 6 ending the preceding November 30 in the Consumer
- 7 Price Index for All Urban Consumers published by
- 8 the Bureau of Labor Statistics of the Department of
- 9 Labor.

## 10 **Subtitle E—Miscellaneous**

### 11 **SEC. 151. OFFICE OF CONSUMER ADVOCACY.**

#### 12 (a) OFFICE.—

13 (1) ESTABLISHMENT.—There is established an

14 Office of Consumer Advocacy to serve as an advo-

15 cate for the public interest.

16 (2) DIRECTOR.—The Office shall be headed by

17 a Director to be appointed by the President, who is

18 admitted to the Federal Bar, with experience in pub-

19 lic utility proceedings, and by and with the advice

20 and consent of the Senate.

21 (3) DUTIES.—The Office may—

22 (A) represent, and appeal on behalf of, en-

23 ergy customers on matters concerning rates or

24 service of public utilities and natural gas com-

1           panies under the jurisdiction of the Commis-  
2           sion—

3                   (i) at hearings of the Commission;

4                   (ii) in judicial proceedings in the  
5           courts of the United States; and

6                   (iii) at hearings or proceedings of  
7           other Federal regulatory agencies and com-  
8           missions;

9           (B) monitor and review energy customer  
10          complaints and grievances on matters con-  
11          cerning rates or service of public utilities and  
12          natural gas companies under the jurisdiction of  
13          the Commission;

14          (C) investigate independently, or within the  
15          context of formal proceedings, the services pro-  
16          vided by, the rates charged by, and the valu-  
17          ation of the properties of, public utilities and  
18          natural gas companies under the jurisdiction of  
19          the Commission;

20          (D) develop means, such as public dissemi-  
21          nation of information, consultative services, and  
22          technical assistance, to ensure, to the maximum  
23          extent practicable, that the interests of energy  
24          consumers are adequately represented in the

1 course of any hearing or proceeding described  
2 in subparagraph (A);

3 (E) collect data concerning rates or service  
4 of public utilities and natural gas companies  
5 under the jurisdiction of the Commission; and

6 (F) prepare and issue reports and rec-  
7 ommendations.

8 (4) COMPENSATION AND POWERS.—The Direc-  
9 tor may—

10 (A) employ and fix the compensation of  
11 such staff personnel as is deemed necessary;  
12 and

13 (B) procure temporary and intermittent  
14 services as needed.

15 (5) ACCESS TO INFORMATION.—Each depart-  
16 ment, agency, and instrumentality of the Federal  
17 Government is authorized and directed to furnish to  
18 the Director such reports and other information as  
19 he deems necessary to carry out his functions under  
20 this section.

21 (b) CONSUMER ADVOCACY ADVISORY COMMITTEE.—

22 (1) ESTABLISHMENT.—The Director shall es-  
23 tablish an advisory committee to be known as Con-  
24 sumer Advocacy Advisory Committee (in this section  
25 referred to as the “Advisory Committee”) to review



1 rates, services, and disputes and to make rec-  
2 ommendations to the Director.

3 (2) COMPOSITION.—The Director shall appoint  
4 5 members to the Advisory Committee including—

5 (A) 2 individuals representing State Utility  
6 Consumer Advocates; and

7 (B) 1 individual, from a nongovernmental  
8 organization, representing consumers.

9 (3) MEETINGS.—The Advisory Committee shall  
10 meet at such frequency as may be required to carry  
11 out its duties.

12 (4) REPORTS.—The Director shall provide for  
13 publication of recommendations of the Advisory  
14 Committee on the public website established for the  
15 Office.

16 (5) DURATION.—Notwithstanding any other  
17 provision of law, the Advisory Committee shall con-  
18 tinue in operation during the period in which the Of-  
19 fice exists.

20 (6) APPLICATION OF FACA.—Except as other-  
21 wise specifically provided, the Advisory Committee  
22 shall be subject to the Federal Advisory Committee  
23 Act.

24 (c) DEFINITIONS.—In this section:

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

3           (2) ENERGY CUSTOMER.—The term “energy  
4 customer” means a residential customer or a small  
5 commercial customer that receives products or serv-  
6 ices from a public utility or natural gas company  
7 under the jurisdiction of the Commission.

8           (3) NATURAL GAS COMPANY.—The term “nat-  
9 ural gas company” has the meaning given the term  
10 in section 2 of the Natural Gas Act (15 U.S.C.  
11 717a).

12           (4) OFFICE.—The term “Office” means the Of-  
13 fice of Consumer Advocacy established by subsection  
14 (a)(1).

15           (5) PUBLIC UTILITY.—The term “public util-  
16 ity” has the meaning given the term in section  
17 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

18           (6) SMALL COMMERCIAL CUSTOMER.—The term  
19 “small commercial customer” means a commercial  
20 customer that has a peak demand of not more than  
21 1,000 kilowatts per hour.

22           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized such sums as necessary to carry out this  
24 section.

1 (e) SAVINGS CLAUSE.—Nothing in this section af-  
2 fects the rights or obligations of State Utility Consumer  
3 Advocates.

4 **SEC. 152. CLEAN TECHNOLOGY BUSINESS COMPETITION**  
5 **GRANT PROGRAM.**

6 (a) IN GENERAL.—The Administrator may provide  
7 grants to organizations to conduct business competitions  
8 that provide incentives, training, and mentorship to entre-  
9 preneurs and early stage start-up companies throughout  
10 the United States to meet high-priority economic, environ-  
11 mental, and energy goals in areas including air quality,  
12 energy efficiency and renewable energy, transportation,  
13 water quality and conservation, green buildings, and waste  
14 management.

15 (b) PURPOSES.—

16 (1) IN GENERAL.—The competitions described  
17 in subsection (a) shall have the purposes of—

18 (A) accelerating the development and de-  
19 ployment of clean technology businesses and  
20 green jobs;

21 (B) stimulating green economic develop-  
22 ment;

23 (C) providing business training and men-  
24 toring to early stage clean technology compa-  
25 nies; and

1 (D) strengthening the competitiveness of  
2 United States clean technology industry in  
3 world trade markets.

4 (2) PRIORITY.—Priority shall be given to busi-  
5 ness competitions that—

6 (A) are led by the private sector;

7 (B) encourage regional and interregional  
8 cooperation; and

9 (C) can demonstrate market-driven prac-  
10 tices and the creation of cost-effective green  
11 jobs through an annual publication of competi-  
12 tion activities and directory of companies.

13 (c) ELIGIBILITY.—

14 (1) IN GENERAL.—To be eligible for a grant  
15 under this section, an organization shall be any  
16 sponsored entity of an organization described in sub-  
17 paragraph (A) that is operated as a nonprofit entity.

18 (2) PRIORITY.—In making grants under this  
19 section, the Administrator shall give priority to orga-  
20 nizations that can demonstrate broad funding sup-  
21 port from private and other non-Federal funding  
22 sources to leverage Federal investment.

23 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
24 authorized to be appropriated to carry out this section  
25 \$20,000,000.

1 **SEC. 153. PRODUCT CARBON DISCLOSURE PROGRAM.**

2 (a) EPA STUDY.—The Administrator shall conduct  
3 a study to determine the feasibility of establishing a na-  
4 tional program for measuring, reporting, publicly dis-  
5 closing, and labeling products or materials sold in the  
6 United States for their carbon content, and shall, not later  
7 than 18 months after the date of enactment of this Act,  
8 transmit a report to Congress which shall include the fol-  
9 lowing:

10 (1) A determination of whether a national prod-  
11 uct carbon disclosure program and labeling program  
12 would be effective in achieving the intended goals of  
13 achieving greenhouse gas reductions and an exam-  
14 ination of existing programs globally and their  
15 strengths and weaknesses.

16 (2) Criteria for identifying and prioritizing sec-  
17 tors and products and processes that should be cov-  
18 ered in such program or programs.

19 (3) An identification of products, processes, or  
20 sectors whose inclusion could have a substantial car-  
21 bon impact (prioritizing industrial products such as  
22 iron and steel, aluminum, cement, chemicals, and  
23 paper products, and also including food, beverage,  
24 hygiene, cleaning, household cleaners, construction,  
25 metals, clothing, semiconductor, and consumer elec-  
26 tronics).

1           (4) Suggested methodology and protocols for  
2           measuring the carbon content of the products across  
3           the entire carbon lifecycle of such products for use  
4           in a carbon disclosure program and labeling pro-  
5           gram.

6           (5) A review of existing greenhouse gas product  
7           accounting standards, methodologies, and practices  
8           including the Greenhouse Gas Protocol, ISO 14040/  
9           44, ISO 14067, and Publically Available Specifica-  
10          tion 2050, and including a review of the strengths  
11          and weaknesses of each.

12          (6) A survey of secondary databases including  
13          the Manufacturing Energy Consumption Survey, an  
14          evaluation of the quality of data for use in a product  
15          carbon disclosure program and product carbon label-  
16          ing program, an identification of gaps in the data  
17          relative to the potential purposes of a national prod-  
18          uct carbon disclosure program and product carbon  
19          labeling program, and development of recommenda-  
20          tions for addressing these data gaps.

21          (7) An assessment of the utility of comparing  
22          products and the appropriateness of product carbon  
23          standards.

24          (8) An evaluation of the information needed on  
25          a label for clear and accurate communication, in-

1 including what pieces of quantitative and qualitative  
2 information need to be disclosed.

3 (9) An evaluation of the appropriate boundaries  
4 of the carbon lifecycle analysis for different sectors  
5 and products.

6 (10) An analysis of whether default values  
7 should be developed for products whose producer  
8 does not participate in the program or does not have  
9 data to support a disclosure or label and a deter-  
10 mination of the best ways to develop such default  
11 values.

12 (11) A recommendation of certification and  
13 verification options necessary to assure the quality  
14 of the information and avoid greenwashing or the  
15 use of insubstantial or meaningless environmental  
16 claims to promote a product.

17 (12) An assessment of options for educating  
18 consumers about product carbon content and the  
19 product carbon disclosure program and product car-  
20 bon labeling program.

21 (13) An analysis of the costs and timelines as-  
22 sociated with establishing a national product carbon  
23 disclosure program and product carbon labeling pro-  
24 gram, including options for a phased approach.  
25 Costs should include those for businesses associated

1 with the measurement of carbon footprints and  
2 those associated with creating a product carbon label  
3 and managing and operating a product carbon label-  
4 ing program, and options for minimizing these costs.

5 (14) An evaluation of incentives (such as finan-  
6 cial incentives, brand reputation, and brand loyalty)  
7 to determine whether reductions in emissions can be  
8 accelerated through encouraging more efficient man-  
9 ufacturing or by encouraging preferences for lower-  
10 emissions products to substitute for higher-emissions  
11 products whose level of performance is no better.

12 (b) DEVELOPMENT OF NATIONAL CARBON DISCLO-  
13 SURE PROGRAM.—Upon conclusion of the study, and not  
14 later than 3 years after the date of enactment of this Act,  
15 the Administrator shall establish a national product car-  
16 bon disclosure program, participation in which shall be  
17 voluntary, and which may involve a product carbon label  
18 with broad applicability to the wholesale and consumer  
19 markets to enable and encourage knowledge about carbon  
20 content by producers and consumers and to inform efforts  
21 to reduce energy consumption (carbon dioxide equivalent  
22 emissions) nationwide. In developing such a program, the  
23 Administrator shall—

24 (1) consider the results of the study conducted  
25 under subsection (a);



1           (2) consider existing and planned programs and  
2 proposals and measurement standards (including the  
3 Publicly Available Specification 2050, standards to  
4 be developed by the World Resource Institute/World  
5 Business Council for Sustainable Development, the  
6 International Standards Organization, and the bill  
7 AB19 pending in the California legislature as of the  
8 date of enactment of this Act);

9           (3) consider the compatibility of a national  
10 product carbon disclosure program with existing pro-  
11 grams;

12           (4) utilize incentives and other means to spur  
13 the adoption of product carbon disclosure and prod-  
14 uct carbon labeling;

15           (5) develop protocols and parameters for a  
16 product carbon disclosure program, including a  
17 methodology and formula for assessing, verifying,  
18 and potentially labeling a product's greenhouse gas  
19 content, and for data quality requirements to allow  
20 for product comparison;

21           (6) create a means to—

22                   (A) document best practices;

23                   (B) ensure clarity and consistency;

24                   (C) work with suppliers, manufacturers,  
25 and retailers to encourage participation;

1 (D) ensure that protocols are consistent  
2 and comparable across like products; and

3 (E) evaluate the effectiveness of the pro-  
4 gram;

5 (7) make publicly available information on  
6 product carbon content to ensure transparency;

7 (8) provide for public outreach, including a con-  
8 sumer education program to increase awareness;

9 (9) develop training and education programs to  
10 help businesses learn how to measure and commu-  
11 nicate their carbon footprint and easy tools and tem-  
12 plates for businesses to use to reduce cost and time  
13 to measure their products' carbon lifecycle;

14 (10) consult with the Secretary of Energy, the  
15 Secretary of Commerce, the Federal Trade Commis-  
16 sion, and other Federal agencies, as necessary;

17 (11) gather input from stakeholders through  
18 consultations, public workshops, or hearings with  
19 representatives of consumer product manufacturers,  
20 consumer groups, and environmental groups;

21 (12) utilize systems for verification and product  
22 certification that will ensure that claims manufactur-  
23 ers make about their products are valid;

24 (13) create a process for reviewing the accuracy  
25 of product carbon label information and protecting

1 the product carbon label in the case of a change in  
2 the product's energy source, supply chain, ingredi-  
3 ents, or other factors, and specify the frequency to  
4 which data should be updated; and

5 (14) develop a standardized, easily understand-  
6 able carbon label, if appropriate, and create a proc-  
7 ess for responding to inaccuracies and misuses of  
8 such a label.

9 (c) REPORT TO CONGRESS.—Not later than 5 years  
10 after the program is established pursuant to subsection  
11 (b), the Administrator shall report to Congress on the ef-  
12 fectiveness and impact of the program, the level of vol-  
13 untary participation, and any recommendations for addi-  
14 tional measures.

15 (d) DEFINITIONS.—In this section:

16 (1) The term “carbon content” means the  
17 quantity of greenhouse gas emissions and the warm-  
18 ing impact of those emissions on the atmosphere ex-  
19 pressed in carbon dioxide equivalent associated with  
20 a product's value chain.

21 (2) The term “carbon footprint” means the  
22 level of greenhouse gas emissions produced by a par-  
23 ticular activity, service, or entity.

24 (3) The term “carbon lifecycle” means the  
25 greenhouse gas emissions that are released as part

1 of the processes of creating, producing, processing,  
2 manufacturing, modifying, transporting, distrib-  
3 uting, storing, using, recycling, or disposing of goods  
4 and services.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to the Administrator—

7 (1) to carry out the study required by sub-  
8 section (a), \$5,000,000; and

9 (2) to carry out the program required under  
10 subsection (b), \$25,000,000 for each of fiscal years  
11 2010 through 2025.

12 **SEC. 154. STATE RECYCLING PROGRAMS.**

13 (a) ESTABLISHMENT.—The Administrator shall es-  
14 tablish a State Recycling Program governing the use of  
15 funds by States in accordance with this Act.

16 (b) USE OF FUNDING.—

17 (1) IN GENERAL.—States receiving funding to  
18 carry out this section shall use the proceeds to carry  
19 out recycling programs in accordance with this sec-  
20 tion.

21 (2) COUNTY AND MUNICIPAL PROGRAMS.—Not  
22 less than  $\frac{1}{4}$  of the funding made available to a State  
23 to carry out this section shall be distributed by the  
24 State to county and municipal recycling programs as  
25 described in subsection (c)(1), to be used exclusively

1 to support recycling purposes and associated source  
2 reduction purposes, including to provide incentives—

3 (A) for recycling-related technology that—

4 (i) reduces or avoids greenhouse gas  
5 emissions;

6 (ii) increases collection rates; and

7 (iii) improves the quality of recyclable  
8 material that is separated from solid  
9 waste;

10 (B) for energy-efficiency projects for trans-  
11 portation fleets and recycling equipment used to  
12 collect and sort recyclable material separated  
13 from solid waste;

14 (C) for recycling program-related expenses,  
15 including—

16 (i) education and job training;

17 (ii) development and implementation  
18 of variable rate (commonly referred to as  
19 “pay-as-you-throw”) recycling programs  
20 and anaerobic digestion programs;

21 (iii) promotion of public space recy-  
22 cling programs;

23 (iv) approaches for assuring compli-  
24 ance with recycling requirements; and

1 (v) development or implementation of  
2 best practices for municipal solid waste re-  
3 duction programs; and

4 (D) to ensure that recyclable material is  
5 not sent for disposal or incineration during flue-  
6 tuating markets.

7 (3) RECYCLING FACILITIES.—Not less than  $\frac{1}{4}$   
8 of the funding made available to a State to carry out  
9 this section shall be distributed by the State to eligi-  
10 ble recycling facilities as described in subsection  
11 (c)(2) to be used exclusively to support the recycling  
12 purposes and associated source reduction purposes  
13 of the facilities, including to provide—

14 (A) incentives for the demonstration or de-  
15 ployment of recycling-related technology and  
16 equipment that reduce or avoid greenhouse gas  
17 emissions;

18 (B) incentives to facilities that increase the  
19 quantity and quality of recyclable material that  
20 is recycled versus sent for disposal or inciner-  
21 ation;

22 (C) funding for research, management,  
23 and removal of impediments to recycling, in-  
24 cluding—

25 (i) radioactive material; and

1 (ii) devices or materials that contain  
2 polychlorinated biphenyls, mercury, or  
3 chlorofluorocarbons;

4 (D) funding for research on, and develop-  
5 ment and deployment of, new technologies to  
6 more efficiently and effectively recycle items  
7 such as automobile shredder residue, cathode  
8 ray tubes, plastics, and tires; and

9 (E) incentives to recycle materials identi-  
10 fied by the Administrator that are not being re-  
11 cycled at a recycling facility.

12 (4) MANUFACTURING FACILITIES.—Not less  
13 than  $\frac{1}{4}$  of the funding made available to a State to  
14 carry out this section shall be distributed by the  
15 State to eligible manufacturing facilities as described  
16 in subsection (c)(3) to be used exclusively to support  
17 recycling purposes, including to provide incentives  
18 for the demonstration or deployment of—

19 (A) manufacturing-related technology and  
20 equipment that would increase the use of recy-  
21 clable material and avoid or reduce greenhouse  
22 gas emissions;

23 (B) radiation detection equipment and the  
24 costs associated with recovery of detected radi-  
25 ated recyclable material;

1 (C) technologies that will detect and sepa-  
2 rate contaminants, including mercury-, lead-,  
3 and cadmium-containing devices;

4 (D) strategies and technologies to remove  
5 impediments to recovering recyclable material;  
6 and

7 (E) strategies and technologies to improve  
8 the energy efficiency of technology and equip-  
9 ment used to manufacture recyclable material.

10 (c) ELIGIBILITY REQUIREMENTS.—

11 (1) COUNTY AND MUNICIPALITY PROGRAMS.—  
12 Funds provided under subsection (b)(2) shall be pro-  
13 vided on a competitive basis to county and municipal  
14 recycling programs that—

15 (A) have within the solid waste manage-  
16 ment plans of the programs a recycling man-  
17 agement plan that includes an education out-  
18 reach program for the individuals and entities  
19 served by the program constituency that high-  
20 lights the lifecycle benefits of recycling; and

21 (B) collect at least 5 recyclable materials,  
22 such as—

23 (i) ferrous and nonferrous metal;

24 (ii) aluminum;

25 (iii) plastic;



- 1 (iv) tires and rubber;
- 2 (v) household electronic equipment;
- 3 (vi) glass;
- 4 (vii) scrap food;
- 5 (viii) recoverable fiber or paper; and
- 6 (ix) textiles;

7 (C) demonstrate, not later than 3 years  
8 after the date of receipt of funds under this  
9 subtitle, reasonable progress toward achieving—

10 (i) a collection rate goal of at least 30  
11 percent of the total recyclable materials  
12 available from the solid waste stream in  
13 the requesting State, county, or municipal  
14 program; or

15 (ii) a 10-percent increase of collected  
16 recyclable materials compared to the total  
17 solid waste stream in the requesting State,  
18 county, or municipal program; and

19 (D)(i) own, operate, or contract to oper-  
20 ate—

21 (I) a curbside recyclables collection  
22 program;

23 (II) a redemption center or drop-off  
24 facility for recyclables; and

25 (III) a materials recovery facility; and

1           (ii) have in place a quality, environmental,  
2 health, and safety management system (such as  
3 that of the International Standards Organiza-  
4 tion or an equivalent) that includes goals to re-  
5 duce the operational carbon baselines of the  
6 programs.

7           (2) RECYCLING FACILITY.—Funds provided  
8 under subsection (b)(3) shall be provided on a com-  
9 petitive basis to a recycling facility that—

10           (A) processes recyclable material into com-  
11 mercial specification-grade commodities for use  
12 as raw material feed stock at recovery facilities,  
13 including for use as—

14           (i) a replacement or substitute for a  
15 virgin raw material; or

16           (ii) a replacement or substitute for a  
17 product made, in whole or in part, from a  
18 virgin raw material;

19           (B) has a verifiable carbon baseline; and

20           (C) has an environmental, health and safe-  
21 ty, and quality management system (such as  
22 that of the International Standards Organiza-  
23 tion or an equivalent) that includes goals to re-  
24 duce the operational carbon baseline of the re-  
25 cycling facility per unit of material processed.

1           (3) MANUFACTURING FACILITY.—Funds pro-  
2           vided under subsection (b)(4) shall be provided on a  
3           competitive basis to a manufacturing facility that—

4                   (A) can report on a verifiable carbon base-  
5                   line that is consistent with applicable reporting  
6                   requirements; and

7                   (B) has an environmental, health and safe-  
8                   ty, and quality management system (such as  
9                   that of the International Standards Organiza-  
10                  tion or an equivalent) that includes goals to re-  
11                  duce the operational carbon baseline of the  
12                  manufacturing facility per unit of material  
13                  processed.

14          (d) REPORTING.—Each State that distributes funds  
15          under this section shall submit to the Administrator, in  
16          accordance with such requirements as the Administrator  
17          may prescribe, a report that includes—

18                  (1) a list of entities receiving funding under  
19                  this section, including entities receiving such funding  
20                  from units of local government pursuant to sub-  
21                  section (b)(2);

22                  (2) the amount of funding received by each  
23                  such recipient;

24                  (3) the specific purposes for which the funding  
25                  was conveyed to each such recipient; and

1           (4) documentation of the quantity of net recy-  
2           clable material that was collected and processed and  
3           greenhouse gas emissions that were reduced or  
4           avoided accordingly, through use of the funding,  
5           based on a lifecycle calculation developed by the Ad-  
6           ministrator.

7           (e) METHODOLOGY AND DECISIONMAKING.—The Ad-  
8           ministrator, as appropriate—

9           (1) shall develop and periodically update  
10          lifecycle methods to quantify the relationship be-  
11          tween waste management decisions, including recy-  
12          cling and waste reduction, greenhouse gas reduc-  
13          tions, and energy use reductions, for purposes that  
14          include—

15                (A) helping to support decisions under  
16                Federal, State, and municipal recycling and  
17                waste management programs, including—

18                   (i) estimating greenhouse gas and en-  
19                   ergy benefits of increasing collection or  
20                   adding new materials to recycling pro-  
21                   grams;

22                   (ii) comparing the benefits of recy-  
23                   cling and waste reduction to other green-  
24                   house gas and energy use reduction strate-  
25                   gies;

1 (iii) optimizing waste management  
 2 strategies to maximize greenhouse gas re-  
 3 ductions and energy use reductions; and

4 (iv) public education; and

5 (B) designing products to optimize waste  
 6 reduction and recycling opportunities and use of  
 7 recycled materials in the manufacturing proc-  
 8 ess;

9 (2) may collect data to support the development  
 10 of the methods described in paragraph (1); and

11 (3) to improve national consistency, shall, in  
 12 consultation with appropriate State and local rep-  
 13 resentatives and municipal recycling programs, iden-  
 14 tify best practices to promote improvement in, and  
 15 support State efforts in improving, municipal recy-  
 16 cling and resource recovery programs.

17 **SEC. 155. SUPPLEMENTAL AGRICULTURE AND FORESTRY**

18 **GREENHOUSE GAS REDUCTION AND RENEW-**

19 **ABLE ENERGY PROGRAM.**

20 (a) AGRICULTURAL GREENHOUSE GAS REDUC-  
 21 TIONS.—

22 (1) ESTABLISHMENT.—

23 (A) IN GENERAL.—The Secretary of Agri-  
 24 culture (referred to in this section as the “Sec-  
 25 retary”), in coordination with the Secretary of

1 the Interior, shall establish a Greenhouse Gas  
2 Reduction Incentives Program (referred to in  
3 this section as the “program”) to provide finan-  
4 cial assistance to owners and operators of agri-  
5 cultural land (including land on which specialty  
6 crops are produced and private or public land  
7 used for grazing) and forest land for projects  
8 and activities that measurably increase carbon  
9 sequestration or reduce greenhouse gas emis-  
10 sions.

11 (B) SHARED AUTHORITY.—The Secretary  
12 shall delegate to the Secretary of the Interior  
13 the authority to carry out projects on land  
14 under the jurisdiction of or operated by the De-  
15 partment of the Interior.

16 (2) PRIORITY.—In carrying out the program,  
17 the Secretary shall give priority to projects or activi-  
18 ties that—

19 (A) reduce greenhouse gas emissions or in-  
20 crease sequestration of greenhouse gases, and  
21 achieve significant other environmental benefits,  
22 such as the improvements of water or air qual-  
23 ity or natural resources; and

24 (B) reduce greenhouse gas emissions or se-  
25 quester carbon in agricultural and forestry op-

1           erations where there are limited recognized op-  
2           portunities to achieve such emission reductions  
3           or sequestration.

4           (3) ELIGIBLE PROJECTS AND ACTIVITIES.—Eli-  
5           gible projects and payments shall include those  
6           that—

7                   (A) reflect the comparable amount that the  
8                   owners or operators would receive in the offset  
9                   market if not for compliance with environ-  
10                  mental laws that preclude the owners and oper-  
11                  ators from being eligible for receiving an offset  
12                  credit under a Federal law enacted for the pur-  
13                  pose of regulating greenhouse gas emissions;

14                  (B) provide greenhouse gas emission bene-  
15                  fits, but do not receive an offset credit or qual-  
16                  ify for an early action allowance under a Fed-  
17                  eral law enacted for the purpose of regulating  
18                  greenhouse gas emissions, including projects  
19                  and activities that provide an opportunity to  
20                  demonstrate and test new or uncertain methods  
21                  to reduce or sequester emissions;

22                  (C) reward early adopters, including pro-  
23                  ducers that practice no-till agriculture, and en-  
24                  sure that individuals and entities that took ac-  
25                  tion prior to the implementation of a Federal

1 law enacted for the purpose of regulating green-  
2 house gas emissions are not placed at a com-  
3 petitive disadvantage, including giving special  
4 consideration to owners or operators located in  
5 jurisdictions with more stringent environmental  
6 laws (including regulations), compliance with  
7 which precludes the owners or operators from  
8 participating such an offset market;

9 (D) provide incentives for supplemental  
10 greenhouse gas emission reductions on private  
11 forest land of the United States;

12 (E) prevent any conversion of land, includ-  
13 ing native grassland, native prairie, rangeland,  
14 cropland, or forested land, that would increase  
15 greenhouse gas emissions or a loss of carbon se-  
16 questration; or

17 (F) support action on Federal, State, or  
18 tribal land.

19 (4) REQUIREMENTS.—Financial incentives and  
20 support provided by the Secretary for a project or  
21 activity under this section shall, to the maximum ex-  
22 tent practicable—

23 (A) be directly proportional to the quantity  
24 and duration of greenhouse gas emissions re-  
25 duced or carbon sequestered (except with re-



1           spect to projects and activities that provide ad-  
2           aptation benefits); and

3           (B) complement and leverage existing con-  
4           servation, forestry, and energy program expend-  
5           itures to provide measurable emission reduction  
6           and sequestration benefits that otherwise may  
7           not take place or continue to exist.

8           (5) ELIGIBILITY.—An owner or operator shall  
9           not be prohibited from participating in the program  
10          established under this section due to participation of  
11          the owner or operator in other Federal or State con-  
12          servation or agricultural assistance programs.

13          (6) FORMS OF ASSISTANCE.—The Secretary  
14          may use any of the following to provide assistance  
15          under this section:

16                (A) Conservation easements.

17                (B) Carbon sequestration and mitigation  
18                contracts between the owner or operator and  
19                the Secretary for the performance of projects or  
20                activities that reduce greenhouse gas emissions  
21                or sequester carbon.

22                (C) Financial incentives through timber  
23                harvest contracts.

24                (D) Financial incentives through grazing  
25                contracts.

1 (E) Grants.

2 (F) Such other forms of assistance as the  
3 Secretary determines to be appropriate.

4 (7) REVERSALS.—The Secretary shall specify  
5 methods to address intentional or unintentional re-  
6 versal of carbon sequestration or greenhouse gas  
7 emission reductions that occur during the term of a  
8 contract or easement under this section.

9 (8) ACCOUNTING SYSTEMS.—In carrying out  
10 this section, the Secretary shall develop and imple-  
11 ment—

12 (A) a national accounting system for car-  
13 bon stocks, sequestration, and greenhouse gas  
14 emissions that may be used to assess progress  
15 in implementing this section at a national level;  
16 and

17 (B) credible reporting and accounting sys-  
18 tems to ensure that incentives provided under  
19 this section are achieving stated objectives.

20 (9) PROGRAM MEASUREMENT, MONITORING,  
21 AND VERIFICATION.—The Secretary, in consultation  
22 with the Administrator—

23 (A) shall establish and implement protocols  
24 that provide reasonable monitoring and  
25 verification of compliance with terms associated

1 with assistance provided under this section, in-  
2 cluding field sampling of actual performance, to  
3 develop annual estimates of emission reductions  
4 achieved under the program;

5 (B) shall report annually the total number  
6 of tons of carbon dioxide sequestered or the  
7 total number of tons of emissions avoided  
8 through incentives provided under this section;  
9 and

10 (C) not later than 2 years after the date  
11 of enactment of this Act, and at least every 18  
12 months thereafter, submit to Congress and  
13 make available to the public on the website of  
14 the Department of Agriculture a report that in-  
15 cludes—

16 (i) an estimate of annual and cumu-  
17 lative reductions generated through the  
18 program under this section, determined  
19 using standardized measures (including  
20 economic efficiency); and

21 (ii) a summary of any changes to the  
22 program, in accordance with this section,  
23 that will be made as a result of program  
24 measurement, monitoring, and verification  
25 conducted under this section.

1 (b) RESEARCH PROGRAM.—The Secretary shall es-  
2 tablish by rule a program to conduct research to develop  
3 additional projects and activities for crops to find addi-  
4 tional techniques and methods to reduce greenhouse gas  
5 emissions or sequester greenhouse gases that may or may  
6 not meet criteria for a Federal law enacted for the purpose  
7 of regulating greenhouse gas emissions.

8 **SEC. 156. ECONOMIC DEVELOPMENT CLIMATE CHANGE**  
9 **FUND.**

10 (a) IN GENERAL.—Title II of the Public Works and  
11 Economic Development Act of 1965 (42 U.S.C. 3141 et  
12 seq.) is amended by adding at the end the following:

13 **“SEC. 219. ECONOMIC DEVELOPMENT CLIMATE CHANGE**  
14 **FUND.**

15 “(a) IN GENERAL.—On the application of an eligible  
16 recipient, the Secretary may provide technical assistance,  
17 make grants, enter into contracts, or otherwise provide  
18 amounts for projects—

19 “(1) to promote energy efficiency to enhance  
20 economic competitiveness;

21 “(2) to increase the use of renewable energy re-  
22 sources to support sustainable economic development  
23 and job growth;

1           “(3) to support the development of conventional  
2 energy resources to produce alternative transpor-  
3 tation fuels, electricity and heat;

4           “(4) to develop energy efficient or environ-  
5 mentally sustainable infrastructure;

6           “(5) to promote environmentally sustainable  
7 economic development practices and models;

8           “(6) to support development of energy effi-  
9 ciency and alternative energy development plans,  
10 studies or analysis, including enhancement of new  
11 and existing Comprehensive Economic Development  
12 Strategies funded under this Act; and

13           “(7) to supplement other Federal grants, loans,  
14 or loan guarantees for purposes described in para-  
15 graphs (1) through (6).

16           “(b) FEDERAL SHARE.—The Federal share of the  
17 cost of any project carried out under this section shall not  
18 exceed 80 percent, except that the Federal share of a Fed-  
19 eral grant, loan, or loan guarantee provided under sub-  
20 section (a)(7) may be 100 percent.

21           “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
22 is authorized to be appropriated to carry out this section  
23 \$50,000,000 for each of fiscal years 2009 through 2013,  
24 to remain available until expended.”.

1 (b) CONFORMING AMENDMENT.—The table of con-  
2 tents contained in section 1(b) of the Public Works and  
3 Economic Development Act of 1965 (42 U.S.C. 3141 et  
4 seq.) is amended by inserting after the item relating to  
5 section 218 the following:

“Sec. 219. Economic Development Climate Change Fund.”.

6 **SEC. 157. STUDY OF RISK-BASED PROGRAMS ADDRESSING**  
7 **VULNERABLE AREAS.**

8 (a) IN GENERAL.—The Administrator, or the heads  
9 of such other Federal agencies as the President may des-  
10 ignate, shall conduct a study and, not later than 2 years  
11 after the date of enactment of this Act, submit to Con-  
12 gress a report regarding risk-based policies and programs  
13 addressing vulnerable areas.

14 (b) REQUIREMENTS.—The report shall

15 (1) review and assess Federal predisaster miti-  
16 gation, emergency response, and flood insurance  
17 policies and programs that affect areas vulnerable to  
18 the impacts of climate change;

19 (2) describe strategies for better addressing  
20 such vulnerabilities and provide implementation rec-  
21 ommendations;

22 (3) assess whether the policies and programs  
23 described in paragraph (1) support the State re-  
24 sponse and adaptation goals and objectives identified  
25 under this Act;

1 (4) identify, and make recommendations to re-  
2 solve, inconsistencies in Federal policies and pro-  
3 grams in effect as of the date of enactment of this  
4 Act that address areas vulnerable to climate change;  
5 and

6 (5) identify annual cost savings to the Federal  
7 Government associated with the implementation of  
8 the strategies and recommendations contained in the  
9 report.

## 10 **Subtitle F—Energy Efficiency and** 11 **Renewable Energy**

### 12 **SEC. 161. RENEWABLE ENERGY.**

13 (a) DEFINITIONS.—In this section:

14 (1) RENEWABLE ENERGY.—The term “renew-  
15 able energy” means electric energy generated from  
16 solar, wind, biomass, landfill gas, ocean (including  
17 tidal, wave, current, and thermal), geothermal, mu-  
18 nicipal solid waste, or new hydroelectric generation  
19 capacity achieved from increased efficiency or addi-  
20 tions of new capacity at an existing hydroelectric  
21 project.

22 (2) RENEWABLE PORTFOLIO STANDARD.—The  
23 term “renewable portfolio standard” means a  
24 State statute that requires electricity providers to

1 obtain a minimum percentage of their power from  
2 renewable energy resources by a certain date.

3 (b) GRANTS.—The Administrator, in consultation  
4 with the Secretaries of Energy, Interior, and Agriculture,  
5 may provide grants for projects to increase the quantity  
6 of energy a State uses from renewable sources under State  
7 renewable portfolio standard laws.

8 (c) ELIGIBILITY.—The Administrator shall review for  
9 approval projects applications that are—

10 (1) submitted by State and local governments,  
11 Indian tribes, public utilities, regional energy co-  
12 operatives, or individual energy producers from  
13 states with a binding Renewable Portfolio Standard;  
14 or

15 (2) submitted by State and local governments,  
16 Indian tribes, public utilities, or regional energy co-  
17 operatives from States with nonbinding goals for  
18 adoption of renewable energy requirements.

19 (d) PRIORITY.—The Administrator shall give priority  
20 to project applications that are—

21 (1) submitted by States with a binding renew-  
22 able portfolio standard;

23 (2) cost-effective in achieving greater renewable  
24 energy production in each State.

25 (e) CERTIFICATION.—



1           (1) IN GENERAL.—The Administrator shall no-  
2           tify in writing the Governor of each eligible State as  
3           described in section (c) at the time at which the Ad-  
4           ministrator begins review of a project application re-  
5           ceived from an eligible entity within the State.

6           (2) CERTIFICATION.—The Governor shall cer-  
7           tify in writing within 30 days of receipt of the Ad-  
8           ministrator’s notification described in subsection (1)  
9           that the project application—

10                   (A) will assist the State in reaching renew-  
11                   able portfolio standard targets under applicable  
12                   state laws; and

13                   (B) has secured non-Federal funding  
14                   sources that, in conjunction with the requested  
15                   grant amount, will be sufficient to complete the  
16                   renewable energy project.

17           (f) RULEMAKING.—

18           (1) IN GENERAL.—Not later than 90 days after  
19           the date of enactment of this Act, the Administrator  
20           shall initiate rulemaking procedures necessary to im-  
21           plement this section.

22           (2) FINAL RULES; ACCEPTANCE OF APPLICA-  
23           TIONS.—Not later than 90 days after the close of  
24           the public comment period relating to the rule-

1 making described in paragraph (1), the Adminis-  
2 trator shall—

3 (A) promulgate final regulations to carry  
4 out this section; and

5 (B) begin accepting project applications for  
6 review.

7 (g) REPORTING.—Not later than 180 days after the  
8 date of enactment of this Act, and every 180 days there-  
9 after, the Administrator shall submit to the Committee on  
10 Energy and Commerce of the House of Representatives  
11 and the Committee on Environment and Public Works of  
12 the Senate a report specifying, with respect to the pro-  
13 gram under this section—

14 (1) the project applications received;

15 (2) the project applications approved;

16 (3) the amount of funding allocated per project;

17 and

18 (4) the cumulative benefits of the grant pro-  
19 gram.

20 (h) GRANT AMOUNT.—A grant provided under this  
21 section may be in an amount that does not exceed 50 per-  
22 cent of the total cost of the renewable energy project to  
23 be funded by the grant.

1 (i) AUTHORIZATION.—There are authorized to be ap-  
2 propriated such sums as are necessary to carry out this  
3 section.

4 **SEC. 162. ADVANCED BIOFUELS.**

5 (a) DEFINITIONS.—In this section:

6 (1) ADVANCED BIOFUEL.—The term “advanced  
7 biofuel” shall have such meaning as is given the  
8 term by the Administrator in regulations promul-  
9 gated under subsection (c).

10 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
11 ty” means an individual, corporate entity, unit of  
12 State or local government, Indian tribe, farm cooper-  
13 ative, institution of higher learning, rural electric co-  
14 operative, or public utility.

15 (b) GRANTS.—The Administrator, in consultation  
16 with the Secretary of Agriculture and the Secretary of En-  
17 ergy, may provide grants to support research and develop-  
18 ment of advanced biofuels.

19 (c) REGULATIONS.—

20 (1) IN GENERAL.—Not later than 18 months  
21 after the date of enactment of this Act, the Adminis-  
22 trator shall promulgate regulations to carry out this  
23 section (including a definition of the term “advanced  
24 biofuel” for the purpose of providing assistance  
25 under this section).

1           (2) REQUIREMENTS.—The regulations promul-  
2 gated under paragraph (1) shall—

3           (A) provide that the Administrator shall  
4 make grants available to eligible entities to sup-  
5 port—

6           (i) research regarding the production  
7 of advanced biofuels;

8           (ii) the development of new advanced  
9 biofuel production and capacity-building  
10 technologies;

11           (iii) the development and construction  
12 of commercial-scale advanced biofuel pro-  
13 duction facilities; and

14           (iv) the expanded production of ad-  
15 vanced biofuels;

16           (B) provide that, to receive a grant under  
17 this section, an eligible entity shall submit to  
18 the Administrator—

19           (i) a project proposal with detailed  
20 project information, as determined by the  
21 Administrator; and

22           (ii) such records as the Administrator  
23 may require as evidence of the production  
24 of advanced biofuels or the importance and

1 necessity of advanced biofuels research and  
2 new technologies; and

3 (C) include appropriate cost-sharing re-  
4 quirements developed by the Administrator for  
5 grant awards for authorized uses of funds  
6 under this section.

7 (3) PRIORITY.—The Administrator shall give  
8 priority to eligible entities based on—

9 (A) technical and economic feasibility of a  
10 project proposal;

11 (B) cost-effectiveness of a project proposal;

12 (C) the use of innovative technologies in a  
13 project proposal;

14 (D) the availability of non-Federal re-  
15 sources, including private resources, to fund the  
16 project proposal; and

17 (E) whether the project proposed can be  
18 replicated.

19 **SEC. 163. ENERGY EFFICIENCY IN BUILDING CODES.**

20 (a) ENERGY EFFICIENCY TARGETS.—

21 (1) RULEMAKING TO ESTABLISH TARGETS.—

22 The Administrator, or such other agency head or  
23 heads as may be designated by the President, in  
24 consultation with the Director of the National Insti-  
25 tute of Standards and Technology, shall promulgate

1 regulations establishing building code energy effi-  
2 ciency targets for the national average percentage  
3 improvement of buildings' energy performance. Such  
4 regulations shall establish a national building code  
5 energy efficiency target for residential buildings and  
6 commercial buildings when built to a code meeting  
7 the target, beginning not later than January 1, 2014  
8 and applicable each calendar year through December  
9 31, 2030.

10 (b) NATIONAL ENERGY EFFICIENCY BUILDING  
11 CODES.—

12 (1) RULEMAKING TO ESTABLISH NATIONAL  
13 CODES.—The Administrator, or such other agency  
14 head or heads as may be designated by the Presi-  
15 dent, shall promulgate regulations establishing na-  
16 tional energy efficiency building codes for residential  
17 and commercial buildings. Such regulations shall be  
18 sufficient to meet the national building code energy  
19 efficiency targets established under subsection (a) in  
20 the most cost-effective manner, and may include pro-  
21 visions for State adoption of the national building  
22 code standards and certification of State programs

23 (c) ANNUAL REPORTS.—The Administrator, or such  
24 other agency head or heads as may be designated by the

1 President, shall annually submit to Congress, and publish  
2 in the Federal Register, a report on—

3 (1) the status of national energy efficiency  
4 building codes;

5 (2) the status of energy efficiency building code  
6 adoption and compliance in the States;

7 (3) the implementation of and compliance with  
8 regulations promulgated under this section;

9 (4) the status of Federal and State enforcement  
10 of building codes; and

11 (5) impacts of action under this section, and  
12 potential impacts of further action, on lifetime en-  
13 ergy use by buildings, including resulting energy and  
14 cost savings.

15 **SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL**  
16 **PERFORMANCE.**

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

18 (1) ASSISTED HOUSING.—The term “assisted  
19 housing” means those properties receiving project-  
20 based assistance pursuant to section 202 of the  
21 Housing Act of 1959 (12 U.S.C. 1701q), section  
22 811 of the Cranston-Gonzalez National Affordable  
23 Housing Act (42 U.S.C. 8013), section 8 of the  
24 United States Housing Act of 1937 (42 U.S.C.  
25 1437f), or similar programs.

1           (2) NONRESIDENTIAL BUILDING.—The term  
2           “nonresidential building” means a building with a  
3           primary use or purpose other than residential hous-  
4           ing, including any building used for commercial of-  
5           fices, schools, academic and other public and private  
6           institutions, nonprofit organizations including faith-  
7           based organizations, hospitals, hotels, and other non-  
8           residential purposes. Such buildings shall include  
9           mixed-use properties used for both residential and  
10          nonresidential purposes in which more than half of  
11          building floor space is nonresidential.

12          (3) PERFORMANCE-BASED BUILDING RETROFIT  
13          PROGRAM.—The term “performance-based building  
14          retrofit program” means a program that determines  
15          building energy efficiency success based on actual  
16          measured savings after a retrofit is complete, as evi-  
17          denced by energy invoices or evaluation protocols.

18          (4) PRESCRIPTIVE BUILDING RETROFIT PRO-  
19          GRAM.—The term “prescriptive building retrofit pro-  
20          gram” means a program that projects building ret-  
21          rofit energy efficiency success based on the known  
22          effectiveness of measures prescribed to be included  
23          in a retrofit.

24          (5) PUBLIC HOUSING.—The term “public hous-  
25          ing” means properties receiving assistance under



1 section 9 of the United States Housing Act of 1937  
2 (42 U.S.C. 1437g).

3 (6) RECOMMISSIONING;  
4 RETROCOMMISSIONING.—The terms “recommission-  
5 ing” and “retrocommissioning” have the meaning  
6 given those terms in section 543(f)(1) of the Na-  
7 tional Energy Conservation Policy Act (42 U.S.C.  
8 8253(f)(1)).

9 (7) RESIDENTIAL BUILDING.—The term “resi-  
10 dential building” means a building whose primary  
11 use is residential. Such buildings shall include sin-  
12 gle-family homes (both attached and detached),  
13 owner-occupied units in larger buildings with their  
14 own dedicated space-conditioning systems, apart-  
15 ment buildings, multi-unit condominium buildings,  
16 public housing, assisted housing, and buildings used  
17 for both residential and nonresidential purposes in  
18 which more than half of building floor space is resi-  
19 dential.

20 (8) STATE ENERGY PROGRAM.—The term  
21 “State Energy Program” means the program under  
22 part D of title III of the Energy Policy and Con-  
23 servation Act (42 U.S.C. 6321 et seq.).

24 (b) ESTABLISHMENT.—The Administrator shall de-  
25 velop and implement, in consultation with the Secretary

1 of Energy, standards for a national energy and environ-  
2 mental building retrofit policy for single-family and multi-  
3 family residences. The Administrator shall develop and  
4 implement, in consultation with the Secretary of Energy  
5 and the Director of Commercial High-Performance Green  
6 Buildings, standards for a national energy and environ-  
7 mental building retrofit policy for nonresidential buildings.  
8 The programs to implement the residential and nonresi-  
9 dential policies based on the standards developed under  
10 this section shall together be known as the Retrofit for  
11 Energy and Environmental Performance (REEP) pro-  
12 gram.

13 (c) PURPOSE.—The purpose of the REEP program  
14 is to facilitate the retrofitting of existing buildings across  
15 the United States to achieve maximum cost-effective en-  
16 ergy efficiency improvements and significant improve-  
17 ments in water use and other environmental attributes.

18 (d) FEDERAL ADMINISTRATION.—

19 (1) EXISTING PROGRAMS.—In creating and op-  
20 erating the REEP program—

21 (A) the Administrator shall make appro-  
22 priate use of existing programs, including the  
23 Energy Star program and in particular the En-  
24 vironmental Protection Agency Energy Star for  
25 Buildings program; and

1 (B) the Administrator shall consult with  
2 the Secretary of Energy regarding appropriate  
3 use of existing programs, including delegating  
4 authority to the Director of Commercial High-  
5 Performance Green Buildings appointed under  
6 section 421 of the Energy Independence and  
7 Security Act of 2007 (42 U.S.C. 17081).

8 (2) CONSULTATION AND COORDINATION.—The  
9 Administrator shall consult with and coordinate with  
10 the and the Secretary of Energy and the Secretary  
11 of Housing and Urban Development in carrying out  
12 the REEP program with regard to retrofitting of  
13 public housing and assisted housing. As a result of  
14 such consultation, the Administrator shall establish  
15 standards to ensure that retrofits of public housing  
16 and assisted housing funded pursuant to this section  
17 are cost-effective, including opportunities to address  
18 the potential co-performance of repair and replace-  
19 ment needs that may be supported with other forms  
20 of Federal assistance. Owners of public housing or  
21 assisted housing receiving funding through the  
22 REEP program shall agree to continue to provide  
23 affordable housing consistent with the provisions of  
24 the authorizing legislation governing each program  
25 for an additional period commensurate with the

1 funding received, as determined in accordance with  
2 guidelines established by the Secretary of Housing  
3 and Urban Development.

4 (3) ASSISTANCE.—The Administrator shall pro-  
5 vide consultation and assistance to State and local  
6 agencies for the establishment of revolving loan  
7 funds, loan guarantees, or other forms of financial  
8 assistance under this section.

9 (e) STATE AND LOCAL ADMINISTRATION.—

10 (1) DESIGNATION AND DELEGATION.—A State  
11 may designate one or more agencies or entities, in-  
12 cluding those regulated by the State, to carry out  
13 the purposes of this section, but shall designate one  
14 entity or individual as the principal point of contact  
15 for the Administrator regarding the REEP Pro-  
16 gram. The designated State agency, agencies, or en-  
17 tities may delegate performance of appropriate ele-  
18 ments of the REEP program, upon their request  
19 and subject to State law, to counties, municipalities,  
20 appropriate public agencies, and other divisions of  
21 local government, as well as to entities regulated by  
22 the State. In making any such designation or delega-  
23 tion, a State shall give priority to entities that ad-  
24 minister existing comprehensive retrofit programs,  
25 including those under the supervision of State utility

1 regulators. States shall maintain responsibility for  
2 meeting the standards and requirements of the  
3 REEP program. In any State that elects not to ad-  
4 minister the REEP program, a unit of local govern-  
5 ment may propose to do so within its jurisdiction,  
6 and if the Administrator finds that such local gov-  
7 ernment is capable of administering the program,  
8 the Administrator may provide assistance to that  
9 local government, prorated according to the popu-  
10 lation of the local jurisdiction relative to the popu-  
11 lation of the State, for purposes of the REEP pro-  
12 gram.

13 (2) EMPLOYMENT.—States and local govern-  
14 ment entities may administer a REEP program in  
15 a manner that authorizes public or regulated inves-  
16 tor-owned utilities, building auditors and inspectors,  
17 contractors, nonprofit organizations, for-profit com-  
18 panies, and other entities to perform audits and ret-  
19 rofit services under this section. A State may pro-  
20 vide incentives for retrofits without direct participa-  
21 tion by the State or its agents, so long as the result-  
22 ing savings are measured and verified. A State or  
23 local administrator of a REEP program shall seek  
24 to ensure that sufficient qualified entities are avail-  
25 able to support retrofit activities so that building

1 owners have a competitive choice among qualified  
2 auditors, raters, contractors, and providers of serv-  
3 ices related to retrofits. Nothing in this section is in-  
4 tended to deny the right of a building owner to  
5 choose the specific providers of retrofit services to  
6 engage for a retrofit project in that owner's building.

7 (3) EQUAL INCENTIVES FOR EQUAL IMPROVE-  
8 MENT.—In general, the States should strive to offer  
9 the same levels of incentives for retrofits that meet  
10 the same efficiency improvement goals, regardless of  
11 whether the State, its agency or entity, or the build-  
12 ing owner has conducted the retrofit achieving the  
13 improvement, provided the improvement is measured  
14 and verified.

15 (f) ELEMENTS OF REEP PROGRAM.—The Adminis-  
16 trator, in consultation with the Secretary of Energy, shall  
17 establish goals, guidelines, practices, and standards for ac-  
18 complishing the purpose stated in subsection (c), and shall  
19 annually review and, as appropriate, revise such goals,  
20 guidelines, practices, and standards. The program under  
21 this section shall include the following:

22 (1) Residential Energy Services Network  
23 (RESNET) or Building Performance Institute  
24 (BPI) analyst certification of residential building en-  
25 ergy and environment auditors, inspectors, and rat-

1       ers, or an equivalent certification system as deter-  
2       mined by the Administrator.

3           (2) BPI certification or licensing by States of  
4       residential building energy and environmental ret-  
5       rofit contractors, or an equivalent certification or li-  
6       censing system as determined by the Administrator.

7           (3) Provision of BPI, RESNET, or other ap-  
8       propriate information on equipment and procedures,  
9       as determined by the Administrator, that contractors  
10      can use to test the energy and environmental effi-  
11      ciency of buildings effectively (such as infrared pho-  
12      tography and pressurized testing, and tests for water  
13      use and indoor air quality).

14          (4) Provision of clear and effective materials to  
15      describe the testing and retrofit processes for typical  
16      buildings.

17          (5) Guidelines for offering and managing pre-  
18      scriptive building retrofit programs and perform-  
19      ance-based building retrofit programs for residential  
20      and nonresidential buildings.

21          (6) Guidelines for applying recommissioning  
22      and retrocommissioning principles to improve a  
23      building's operations and maintenance procedures.

24          (7) A requirement that building retrofits con-  
25      ducted pursuant to a REEP program utilize, espe-

1 cially in all air-conditioned buildings, roofing mate-  
2 rials with high solar energy reflectance, unless inap-  
3 propriate due to green roof management, solar en-  
4 ergy production, or for other reasons identified by  
5 the Administrator, in order to reduce energy con-  
6 sumption within the building, increase the albedo of  
7 the building's roof, and decrease the heat island ef-  
8 fect in the area of the building, without reduction of  
9 otherwise applicable ceiling insulation standards.

10 (8) Determination of energy savings in a per-  
11 formance-based building retrofit program through—

12 (A) for residential buildings, comparison of  
13 before and after retrofit scores on the Home  
14 Energy Rating System (HERS) Index, where  
15 the final score is produced by an objective third  
16 party;

17 (B) for nonresidential buildings, Environ-  
18 mental Protection Agency Portfolio Manager  
19 benchmarks; or

20 (C) for either residential or nonresidential  
21 buildings, use of an Administrator-approved  
22 simulation program by a contractor with the  
23 appropriate certification, subject to appropriate  
24 software standards and verification of at least



1           15 percent of all work done, or such other per-  
2           centage as the Administrator may determine.

3           (9) Guidelines for utilizing the Energy Star  
4 Portfolio Manager, the Home Energy Rating System  
5 (HERS) rating system, Home Performance with En-  
6 ergy Star program approvals, and any other tools  
7 associated with the retrofit program.

8           (10) Requirements and guidelines for post-ret-  
9 rofit inspection and confirmation of work and energy  
10 savings.

11          (11) Detailed descriptions of funding options  
12 for the benefit of State and local governments, along  
13 with model forms, accounting aids, agreements, and  
14 guides to best practices.

15          (12) Guidance on opportunities for—

16               (A) rating or certifying retrofitted build-  
17 ings as Energy Star buildings, or as green  
18 buildings under a recognized green building rat-  
19 ing system;

20               (B) assigning Home Energy Rating Sys-  
21 tem (HERS) or similar ratings; and

22               (C) completing any applicable building per-  
23 formance labels.

1           (13) Sample materials for publicizing the pro-  
2           gram to building owners, including public service an-  
3           nouncements and advertisements.

4           (14) Processes for tracking the numbers and lo-  
5           cations of buildings retrofitted under the REEP pro-  
6           gram, with information on projected and actual sav-  
7           ings of energy and its value over time.

8           (g) REQUIREMENTS.—As a condition of receiving as-  
9           sistance for the REEP program pursuant to this Act, a  
10          State or qualifying local government shall—

11           (1) adopt the standards for training, certifi-  
12           cation of contractors, certification of buildings, and  
13           post-retrofit inspection as developed by the Adminis-  
14           trator for residential and nonresidential buildings,  
15           respectively, except as necessary to match local con-  
16           ditions, needs, efficiency opportunities, or other local  
17           factors, or to accord with State laws or regulations,  
18           and then only after the Administrator approves such  
19           a variance;

20           (2) establish fiscal controls and accounting pro-  
21           cedures (which conform to generally accepted gov-  
22           ernment accounting principles) sufficient to ensure  
23           proper accounting during appropriate accounting pe-  
24           riods for payments received and disbursements, and  
25           for fund balances;

1           (3) agree to make 10 percent of assistance re-  
2           ceived to carry out this section available on a pref-  
3           erential basis for retrofit projects proposed for pub-  
4           lic housing and assisted housing, provided that—

5                   (A) none of such funds shall be used for  
6                   demolition of such housing;

7                   (B) such retrofits not shall not be used to  
8                   justify any increase in rents charged to resi-  
9                   dents of such housing; and

10                  (C) owners of such housing shall agree to  
11                  continue to provide affordable housing con-  
12                  sistent with the provisions of the authorizing  
13                  legislation governing each program for an addi-  
14                  tional period commensurate with the funding  
15                  received; and

16           (4) the Administrator shall conduct or require  
17           each State to have such independent financial audits  
18           of REEP-related funding as the Administrator con-  
19           siders necessary or appropriate to carry out the pur-  
20           poses of this section.

21           (h) OPTIONS TO SUPPORT REEP PROGRAM.—The  
22           assistance provided under this section shall support the  
23           implementation through State REEP programs of alter-  
24           nate means of creating incentives for, or reducing financial

1 barriers to, improved energy and environmental perform-  
2 ance in buildings, consistent with this section, including—

3           (1) implementing prescriptive building retrofit  
4 programs and performance-based building retrofit  
5 programs;

6           (2) providing credit enhancement, interest rate  
7 subsidies, loan guarantees, or other credit support;

8           (3) providing initial capital for public revolving  
9 fund financing of retrofits;

10           (4) providing funds to support utility-operated  
11 retrofit programs with repayments over time  
12 through utility rates, calibrated to create net positive  
13 cash flow to the building owner, and transferable  
14 from one building owner to the next with the build-  
15 ing's utility services;

16           (5) providing funds to local government pro-  
17 grams to provide REEP services and financial as-  
18 sistance; and

19           (6) other means proposed by State and local  
20 agencies, subject to the approval of the Adminis-  
21 trator.

22 (i) SUPPORT FOR PROGRAM.—

23           (1) INITIAL AWARD LIMITS.—Except as pro-  
24 vided in paragraph (2), State and local REEP pro-  
25 grams may make per-building direct expenditures

1 for retrofit improvements, or their equivalent in indi-  
2 rect or other forms of financial support, from funds  
3 made available to carry out this section, in amounts  
4 not to exceed the following amounts per unit:

5 (A) RESIDENTIAL BUILDING PROGRAM.—

6 (i) AWARDS.—For residential build-  
7 ings—

8 (I) support for a free or low-cost  
9 detailed building energy audit that  
10 prescribes measures sufficient to  
11 achieve at least a 20 percent reduc-  
12 tion in energy use, by providing an in-  
13 centive equal to the documented cost  
14 of such audit, but not more than  
15 \$200, in addition to any earned by  
16 achieving a 20 percent or greater effi-  
17 ciency improvement;

18 (II) a total of \$1,000 for a com-  
19 bination of measures, prescribed in an  
20 audit conducted under subclause (I),  
21 designed to reduce energy consump-  
22 tion by more than 10 percent, and  
23 \$2,000 for a combination of measures  
24 prescribed in such an audit, designed

1 to reduce energy consumption by more  
2 than 20 percent;

3 (III) \$3,000 for demonstrated  
4 savings of 20 percent, pursuant to a  
5 performance-based building retrofit  
6 program; and

7 (IV) \$1,000 for each additional 5  
8 percentage points of energy savings  
9 achieved beyond savings for which  
10 funding is provided under subclause  
11 (II) or (III).

12 Funding shall not be provided under  
13 clauses (II) and (III) for the same energy  
14 savings.

15 (ii) MAXIMUM PERCENTAGE.—Awards  
16 under clause (i) shall not exceed 50 per-  
17 cent of retrofit costs for each building. For  
18 buildings with multiple residential units,  
19 awards under clause (i) shall not be great-  
20 er than 50 percent of the total cost of ret-  
21 rofitting the building, prorated among indi-  
22 vidual residential units on the basis of rel-  
23 ative costs of the retrofit. In the case of  
24 public housing and assisted housing, the  
25 50 percent contribution matching the con-

1           tribution from REEP program funds may  
2           come from any other source, including  
3           other Federal funds.

4           (iii)   ADDITIONAL   AWARDS.—Addi-  
5           tional awards may be provided for pur-  
6           poses of increasing energy efficiency, for  
7           buildings achieving at least 20 percent en-  
8           ergy savings using funding provided under  
9           clause (i), in the form of grants of not  
10          more than \$600 for measures projected or  
11          measured (using an appropriate method  
12          approved by the Administrator) to achieve  
13          at least 35 percent potable water savings  
14          through equipment or systems with an es-  
15          timated service life of not less than 7  
16          years, and not more than an additional  
17          \$20 may be provided for each additional  
18          one percent of such savings, up to a max-  
19          imum total grant of \$1,200.

20          (B)   NONRESIDENTIAL   BUILDING   PRO-  
21          GRAM.—

22               (i)   AWARDS.—For   nonresidential  
23               buildings—

24                       (I) support for a free or low-cost  
25                       detailed building energy audit that

1 prescribes, as part of a energy-reduc-  
2 ing measures sufficient to achieve at  
3 least a 20 percent reduction in energy  
4 use, by providing an incentive equal to  
5 the documented cost of such audit,  
6 but not more than \$500, in addition  
7 to any award earned by achieving a  
8 20 percent or greater efficiency im-  
9 provement;

10 (II) \$0.15 per square foot of ret-  
11 rofit area for demonstrated energy use  
12 reductions from 20 percent to 30 per-  
13 cent;

14 (III) \$0.75 per square foot for  
15 demonstrated energy use reductions  
16 from 30 percent to 40 percent;

17 (IV) \$1.60 per square foot for  
18 demonstrated energy use reductions  
19 from 40 percent to 50 percent; and

20 (V) \$2.50 per square foot for  
21 demonstrated energy use reductions  
22 exceeding 50 percent.

23 (ii) MAXIMUM PERCENTAGE.—

24 Amounts provided under subclauses (II)  
25 through (V) of clause (i) combined shall



1 not exceed 50 percent of the total retrofit  
2 cost of a building. In nonresidential build-  
3 ings with multiple units, such awards shall  
4 be prorated among individual units on the  
5 basis of relative costs of the retrofit.

6 (iii) ADDITIONAL AWARDS.—Addi-  
7 tional awards may be provided, for build-  
8 ings achieving at least 20 percent energy  
9 savings using funding provided under  
10 clause (i), as follows:

11 (I) WATER.—For purposes of in-  
12 creasing energy efficiency, grants may  
13 be made for whole building potable  
14 water use reduction (using an appro-  
15 priate method approved by the Ad-  
16 ministrator) for up to 50 percent of  
17 the total retrofit cost, including  
18 amounts up to—

19 (aa) \$24.00 per thousand  
20 gallons per year of potable water  
21 savings of 40 percent or more;

22 (bb) \$27.00 per thousand  
23 gallons per year of potable water  
24 savings of 50 percent or more;  
25 and

1 (cc) \$30.00 per thousand  
2 gallons per year of potable water  
3 savings of 60 percent or more.

4 (II) ENVIRONMENTAL IMPROVE-  
5 MENTS.—Additional awards of up to  
6 \$1,000 may be granted for the inclu-  
7 sion of other environmental attributes  
8 that the Administrator, in consulta-  
9 tion with the Secretary, identifies as  
10 contributing to energy efficiency. Such  
11 attributes may include, but are not  
12 limited to waste diversion and the use  
13 of environmentally preferable mate-  
14 rials (including salvaged, renewable,  
15 or recycled materials, and materials  
16 with no or low-VOC content). The Ad-  
17 ministrator may recommend that  
18 States develop such standards as are  
19 necessary to account for local or re-  
20 gional conditions that may affect the  
21 feasibility or availability of identified  
22 resources and attributes.

23 (iv) INDOOR AIR QUALITY MINIMUM.—  
24 Nonresidential buildings receiving incen-  
25 tives under this section must satisfy at a

1 minimum the most recent version of  
2 ASHRAE Standard 62.1 for ventilation, or  
3 the equivalent as determined by the Ad-  
4 ministrator. A State may issue a waiver  
5 from this requirement to a building project  
6 on a showing that such compliance is in-  
7 feasible due to the physical constraints of  
8 the building's existing ventilation system,  
9 or such other limitations as may be speci-  
10 fied by the Administrator.

11 (C) DISASTER DAMAGED BUILDINGS.—Any  
12 source of funds, including Federal funds pro-  
13 vided through the Robert T. Stafford Disaster  
14 Relief and Emergency Assistance Act, shall  
15 qualify as the building owner's 50 percent con-  
16 tribution, in order to match the contribution of  
17 REEP funds, so long as the REEP funds are  
18 only used to improve the energy efficiency of  
19 the buildings being reconstructed. In addition,  
20 the appropriate Federal agencies providing as-  
21 sistance to building owners through the Robert  
22 T. Stafford Disaster Relief and Emergency As-  
23 sistance Act shall make information available,  
24 following a disaster, to building owners rebuild-  
25 ing disaster damaged buildings with assistance

1 from the Act, that REEP funds may be used  
2 for energy efficiency improvements.

3 (D) HISTORIC BUILDINGS.—Notwith-  
4 standing subparagraphs (A) and (B), a building  
5 in or eligible for the National Register of His-  
6 toric Places shall be eligible for awards under  
7 this paragraph in amounts up to 120 percent of  
8 the amounts set forth in subparagraphs (A) and  
9 (B).

10 (E) SUPPLEMENTAL SUPPORT.—State and  
11 local governments may supplement the per-  
12 building expenditures under this paragraph  
13 with funding from other sources.

14 (2) ADJUSTMENT.—The Administrator may ad-  
15 just the specific dollar amounts provided under para-  
16 graph (1) in years subsequent to the second year  
17 after the date of enactment of this Act, and every  
18 2 years thereafter, as the Administrator determines  
19 necessary to achieve optimum cost-effectiveness and  
20 to maximize incentives to achieve energy efficiency  
21 within the total building award amounts provided in  
22 that paragraph, and shall publish and hold constant  
23 such revised limits for at least 2 years.

24 (j) REPORT TO CONGRESS.—The Administrator shall  
25 conduct an annual assessment of the achievements of the

1 REEP program in each State, shall prepare an annual re-  
2 port of such achievements and any recommendations for  
3 program modifications, and shall provide such report to  
4 Congress at the end of each fiscal year during which fund-  
5 ing or other resources were made available to the States  
6 for the REEP Program.

7 **Subtitle G—Emission Reductions**  
8 **From Public Transportation Ve-**  
9 **hicles**

10 **SEC. 171. SHORT TITLE.**

11 This subtitle may be cited as the “Green Taxis Act  
12 of 2009”.

13 **SEC. 172. STATE FUEL ECONOMY REGULATION FOR TAXI-**  
14 **CABS.**

15 Section 32919 of title 49, United States Code, is  
16 amended by adding at the end the following new sub-  
17 section:

18 “(d) TAXICABS.—Notwithstanding subsection (a), a  
19 State or political subdivision of a State may prescribe re-  
20 quirements for fuel economy for taxicabs and other auto-  
21 mobiles if such requirements are at least as stringent as  
22 applicable Federal requirements and if such taxicabs and  
23 other automobiles—

1           “(1) are automobiles that are capable of trans-  
2           porting not more than 10 individuals, including the  
3           driver;

4           “(2) are commercially available or are designed  
5           and manufactured pursuant to a contract with such  
6           State or political subdivision of such State;

7           “(3) are operated for hire pursuant to an oper-  
8           ating or regulatory license, permit, or other author-  
9           ization issued by such State or political subdivision  
10          of such State;

11          “(4) provide local transportation for a fare de-  
12          termined on the basis of the time or distance trav-  
13          eled or a combination of time and distance traveled;  
14          and

15          “(5) do not exclusively provide transportation to  
16          and from airports.”.

17 **SEC. 173. STATE REGULATION OF MOTOR VEHICLE EMIS-**  
18 **SIONS FOR TAXICABS.**

19          Section 209 of the Clean Air Act (42 U.S.C. 7543)  
20 is amended by adding at the end the following new sub-  
21 section:

22          “(f) TAXICABS.—(1) Notwithstanding subsection (a),  
23 a State or political subdivision thereof may adopt and en-  
24 force standards for the control of emissions from new  
25 motor vehicles that are taxicabs and other vehicles if such

1 standards will be, in the aggregate, at least as protective  
2 of public health and welfare as applicable Federal stand-  
3 ards and if such taxicabs and other vehicles—

4           “(A) are passenger motor vehicles that are  
5           capable of transporting not more than 10 indi-  
6           viduals, including the driver;

7           “(B) are commercially available or are de-  
8           signed and manufactured pursuant to a con-  
9           tract with such State or political subdivision  
10          thereof;

11          “(C) are operated for hire pursuant to an  
12          operating or regulatory license, permit, or other  
13          authorization issued by such State or political  
14          subdivision thereof;

15          “(D) provide local transportation for a fare  
16          determined on the basis of the time or distance  
17          traveled or a combination of time and distance  
18          traveled; and

19          “(E) do not exclusively provide transpor-  
20          tation to and from airports.

21          “(2) If each standard of a State or political subdivi-  
22          sion thereof is at least as stringent as the comparable ap-  
23          plicable Federal standard, such standard of such State or  
24          political subdivision thereof shall be deemed at least as

1 protective of health and welfare as such Federal standards  
2 for purposes of this subsection.”.

3 **Subtitle H—Clean Energy and**  
4 **Natural Gas**

5 **SEC. 181. CLEAN ENERGY AND ACCELERATED EMISSION**  
6 **REDUCTION PROGRAM.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—The Administrator shall es-  
9 tablish a program to promote dispatchable power  
10 generation projects that can accelerate the reduction  
11 of power sector carbon dioxide and other greenhouse  
12 gas emissions.

13 (2) USE OF FUNDS.—Funds provided under  
14 this section shall be used by the Administrator to  
15 make incentive payments to owners or operators of  
16 eligible projects.

17 (b) REGULATIONS.—Not later than 90 days after the  
18 date of enactment of this Act, the Administrator shall pro-  
19 mulgate regulations providing for incentives, pursuant to  
20 the requirements of this section.

21 (c) GOAL.—Not later than 3 years after the date of  
22 enactment of this Act, the Administrator shall provide in-  
23 centives for eligible projects that generate 300,000  
24 gigawatt-hours of electricity per year.



1 (d) CRITERIA FOR ELIGIBLE PROJECTS.—To be eli-  
2 gible for funding under this section a project must—

3 (1) reduce emissions below the 2007 average  
4 greenhouse gas emissions per megawatt-hour of the  
5 United States electric power sector by the quantity  
6 specified in subsection (f); and

7 (2) not receive an investment or production  
8 credit in—

9 (A) the year in which the project is placed  
10 in service; or

11 (B) calendar year 2009, notwithstanding  
12 the year in which the project was placed in  
13 service.

14 (e) PRIORITY.—The Administrator shall give priority  
15 to eligible projects from the following categories:

16 (1) Power generation projects designed to inte-  
17 grate intermittent renewable power into the bulk-  
18 power system.

19 (2) Energy storage projects used to support re-  
20 newable energy.

21 (3) Power generation projects with carbon cap-  
22 ture and sequestration that are not eligible for other  
23 assistance under this Act.

1 (4) Projects that achieve the greatest reduction  
 2 in greenhouse gas emissions per dollar of incentive  
 3 payment.

4 (f) EMISSION REDUCTION CRITERIA.—For the pur-  
 5 poses of subsection (d), the applicable emission reduction  
 6 quantity shall be determined in accordance with the fol-  
 7 lowing table:

Calendar years	Percentage below 2007 average green- house gas emissions per MWh of United States electric power sector
2010 through 2020 .....	25 percent
2021 through 2025 .....	40 percent
2026 through 2030 .....	65 percent

8 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
 9 are authorized to be appropriated to the Administrator  
 10 such sums as are necessary to carry out this section for  
 11 each of fiscal years 2010 through 2030.

12 **SEC. 182. ADVANCED NATURAL GAS TECHNOLOGIES.**

13 (a) DEFINITIONS.—In this section:

14 (1) CORPORATION.—

15 (A) IN GENERAL.—The term “corpora-  
 16 tion” means any corporation, joint-stock com-  
 17 pany, partnership, limited liability company, as-  
 18 sociation, business trust, or other organized  
 19 group of persons, regardless of incorporation.

20 (B) EXCLUSION.—The term “corporation”  
 21 does not include a municipality.

22 (2) ELIGIBLE ENTITY.—

1 (A) IN GENERAL.—The term “eligible enti-  
2 ty” means an entity that is eligible to receive a  
3 grant under subsection (b).

4 (B) INCLUSIONS.—The term “eligible enti-  
5 ty” includes a corporation, an eligible research  
6 entity, an industry entity, a municipality, a mu-  
7 nicipal natural gas distribution system, and a  
8 natural gas distribution company.

9 (3) ELIGIBLE RESEARCH ENTITY.—

10 (A) IN GENERAL.—The term “eligible re-  
11 search entity” means an entity that is experi-  
12 enced in planning, conducting, and imple-  
13 menting natural gas research, development,  
14 demonstration, and deployment projects.

15 (B) INCLUSIONS.—The term “eligible re-  
16 search entity” includes a research institution  
17 and an institution of higher education.

18 (4) INDUSTRY ENTITY.—

19 (A) IN GENERAL.—The term “industry en-  
20 tity” means the persons and municipalities col-  
21 lectively engaged in the delivery of natural gas  
22 for consumption in the United States (such as  
23 natural gas distribution companies and munic-  
24 ipal natural gas distribution systems).

1 (B) EXCLUSION.—The term “industry en-  
2 tity” does not include any natural gas cus-  
3 tomer.

4 (5) MUNICIPALITY.—The term “municipality”  
5 means a city, county, or other political subdivision or  
6 agency of a State.

7 (6) MUNICIPAL NATURAL GAS DISTRIBUTION  
8 SYSTEM.—The term “municipal natural gas distribu-  
9 tion system” means a municipality engaged in the  
10 business of delivering natural gas for consumption to  
11 residential, commercial, industrial, and other natural  
12 gas customers.

13 (7) NATURAL GAS.—

14 (A) IN GENERAL.—The term “natural  
15 gas” means a mixture of hydrocarbon and non-  
16 hydrocarbon gases, primarily methane, that  
17 have been produced from geological formations  
18 or by any other means.

19 (B) INCLUSION.—The term “natural gas”  
20 includes renewable biogas.

21 (8) NATURAL GAS DISTRIBUTION COMPANY.—  
22 The term “natural gas distribution company” means  
23 a person engaged in the business of distributing nat-  
24 ural gas for consumption to residential, commercial,  
25 industrial, or other natural gas customers.

1 (b) GRANT PROGRAMS.—

2 (1) NATURAL GAS ELECTRICITY GENERATION  
3 GRANTS.—The Administrator, in consultation with  
4 Secretary of Energy, may provide to eligible entities  
5 research and development grants to support the de-  
6 ployment of low greenhouse-gas-emitting end-use  
7 technologies, including carbon capture and seques-  
8 tration technologies, for natural gas electricity gen-  
9 eration.

10 (2) NATURAL GAS RESIDENTIAL AND COMMER-  
11 CIAL TECHNOLOGY GRANTS.—The Administrator  
12 shall establish a program to provide to eligible enti-  
13 ties grants to advance the commercial demonstration  
14 or early development of low greenhouse-gas-emitting  
15 end-use technologies fueled by natural gas, including  
16 carbon capture and storage, for residential and com-  
17 mercial purposes, through research, development,  
18 demonstration, and deployment of those tech-  
19 nologies.

20 (c) REPORTING.—Not later than 180 days after the  
21 date of enactment of this Act, and every 180 days there-  
22 after, the Secretary of Energy shall submit to the Com-  
23 mittee on Energy and Commerce of the House of Rep-  
24 resentatives and the Senate Committees on Energy and  
25 Natural Resources and Environment and Public Works of

1 the Senate a report that describes the status and results  
2 of activities carried out under subsection (b).

3 (d) AUTHORIZATION.—There are authorized to be ap-  
4 propriated such sums as are necessary to carry out this  
5 section.

## 6 **TITLE II—RESEARCH**

### 7 **Subtitle A—Energy Research**

#### 8 **SEC. 201. ADVANCED ENERGY RESEARCH.**

9 (a) IN GENERAL.—The Administrator shall establish  
10 a program to provide grants for advanced energy research.

11 (b) DISTRIBUTION.—The Administrator shall dis-  
12 tribute grants on a competitive basis to institutions of  
13 higher education, companies, research foundations, trade  
14 and industry research collaborations, or consortia of such  
15 entities, or other appropriate research and development  
16 entities.

17 (c) SELECTION OF PROPOSALS.—In selecting pro-  
18 posals for funding under this section, the Administrator  
19 shall prioritize applications that—

20 (1) enhance the economic and energy security  
21 of the United States through the development of en-  
22 ergy technologies that result in—

23 (A) reductions of imports of energy from  
24 foreign sources;

1 (B) reductions of energy-related emissions,  
2 including greenhouse gases; and

3 (C) improvements in the energy efficiency  
4 of all economic sectors; and

5 (2) ensure that the United States maintains a  
6 technological lead in developing and deploying ad-  
7 vanced energy technologies.

8 (d) RESPONSIBILITIES.—The Administrator shall be  
9 responsible for assessing the success of programs and ter-  
10 minating programs carried out under this section that are  
11 not achieving the goals of the programs.

12 (e) ASSISTANCE.—Assistance provided under this  
13 section shall be used to supplement, and not to supplant,  
14 any other Federal resources available to carry out activi-  
15 ties described in this section.

16 (f) AUTHORIZATION.—There are authorized to be ap-  
17 propriated such sums as are necessary to carry out this  
18 section.

19 **Subtitle B—Drinking Water Adap-**  
20 **tation, Technology, Education,**  
21 **and Research**

22 **SEC. 211. EFFECTS OF CLIMATE CHANGE ON DRINKING**  
23 **WATER UTILITIES.**

24 (a) FINDINGS.—Congress finds that—

1           (1) the consensus among climate scientists is  
2           overwhelming that climate change is occurring more  
3           rapidly than can be attributed to natural causes, and  
4           that significant impacts to the water supply are al-  
5           ready occurring;

6           (2) among the first and most critical of those  
7           impacts will be change to patterns of precipitation  
8           around the world, which will affect water availability  
9           for the most basic drinking water and domestic  
10          water needs of populations in many areas of the  
11          United States;

12          (3) drinking water utilities throughout the  
13          United States, as well as those in Europe, Australia,  
14          and Asia, are concerned that extended changes in  
15          precipitation will lead to extended droughts;

16          (4) supplying water is highly energy-intensive  
17          and will become more so as climate change forces  
18          more utilities to turn to alternative supplies;

19          (5) energy production consumes a significant  
20          percentage of the fresh water resources of the  
21          United States;

22          (6) since 2003, the drinking water industry of  
23          the United States has sponsored, through a non-  
24          profit water research foundation, various studies to



1 assess the impacts of climate change on drinking  
2 water supplies;

3 (7) those studies demonstrate the need for a  
4 comprehensive program of research into the full  
5 range of impacts on drinking water utilities, includ-  
6 ing impacts on water supplies, facilities, and cus-  
7 tomers;

8 (8) that nonprofit water research foundation is  
9 also coordinating internationally with other drinking  
10 water utilities on shared research projects and has  
11 hosted international workshops with counterpart Eu-  
12 ropean and Asian water research organizations to  
13 develop a unified research agenda for applied re-  
14 search on adaptive strategies to address climate  
15 change impacts;

16 (9) research data in existence as of the date of  
17 enactment of this Act—

18 (A) summarize the best available scientific  
19 evidence on climate change;

20 (B) identify the implications of climate  
21 change for the water cycle and the availability  
22 and quality of water resources; and

23 (C) provide general guidance on planning  
24 and adaptation strategies for water utilities;  
25 and

1           (10) given uncertainties about specific climate  
2           changes in particular areas, drinking water utilities  
3           need to prepare for a wider range of likely possibili-  
4           ties in managing and delivery of water.

5           (b) IN GENERAL.—The Administrator, in cooperation  
6           with the Secretary of Commerce, the Secretary of Energy,  
7           and the Secretary of the Interior, shall establish and pro-  
8           vide funding for a program of directed and applied re-  
9           search, to be conducted through a nonprofit drinking  
10          water research foundation and sponsored by water utili-  
11          ties, to assist the utilities in adapting to the effects of cli-  
12          mate change.

13          (c) RESEARCH AREAS.—The research conducted in  
14          accordance with subsection (b) shall include research  
15          into—

16                (1) water quality impacts and solutions, includ-  
17                ing research—

18                    (A) to address probable impacts on raw  
19                    water quality resulting from—

20                            (i) erosion and turbidity from extreme  
21                            precipitation events;

22                            (ii) watershed vegetation changes; and

23                            (iii) increasing ranges of pathogens,  
24                            algae, and nuisance organisms resulting  
25                            from warmer temperatures; and

1 (B) on mitigating increasing damage to  
2 watersheds and water quality by evaluating ex-  
3 treme events, such as wildfires and hurricanes,  
4 to learn and develop management approaches to  
5 mitigate—

6 (i) permanent watershed damage;

7 (ii) quality and yield impacts on  
8 source waters; and

9 (iii) increased costs of water treat-  
10 ment;

11 (2) impacts on groundwater supplies from car-  
12 bon sequestration, including research to evaluate po-  
13 tential water quality consequences of carbon seques-  
14 tration in various regional aquifers, soil conditions,  
15 and mineral deposits;

16 (3) water quantity impacts and solutions, in-  
17 cluding research—

18 (A) to evaluate climate change impacts on  
19 water resources throughout hydrological basins  
20 of the United States;

21 (B) to improve the accuracy and resolution  
22 of climate change models at a regional level;

23 (C) to identify and explore options for in-  
24 creasing conjunctive use of aboveground and  
25 underground storage of water; and

1 (D) to optimize operation of existing and  
2 new reservoirs in diminished and erratic periods  
3 of precipitation and runoff;

4 (4) infrastructure impacts and solutions for  
5 water treatment and wastewater treatment facilities  
6 and underground pipelines, including research—

7 (A) to evaluate and mitigate the impacts of  
8 sea level rise on—

9 (i) near-shore facilities;

10 (ii) soil drying and subsidence;

11 (iii) reduced flows in water and waste-  
12 water pipelines; and

13 (iv) extreme flows in wastewater sys-  
14 tems; and

15 (B) on ways of increasing the resilience of  
16 existing infrastructure, planning cost-effective  
17 responses to adapt to climate change, and de-  
18 veloping new design standards for future infra-  
19 structure that include the use of energy con-  
20 servation measures and renewable energy in  
21 new construction to the maximum extent prac-  
22 ticable;

23 (5) desalination, water reuse, and alternative  
24 supply technologies, including research—

1 (A) to improve and optimize existing mem-  
2 brane technologies, and to identify and develop  
3 breakthrough technologies, to enable the use of  
4 seawater, brackish groundwater, treated waste-  
5 water, and other impaired sources;

6 (B) into new sources of water through  
7 more cost-effective water treatment practices in  
8 recycling and desalination; and

9 (C) to improve technologies for use in—

10 (i) managing and minimizing the vol-  
11 ume of desalination and reuse concentrate  
12 streams; and

13 (ii) minimizing the environmental im-  
14 pacts of seawater intake at desalination fa-  
15 cilities;

16 (6) energy efficiency and greenhouse gas mini-  
17 mization, including research—

18 (A) on optimizing the energy efficiency of  
19 water supply and wastewater operations and  
20 improving water efficiency in energy production  
21 and management; and

22 (B) to identify and develop renewable, car-  
23 bon-neutral energy options for the water supply  
24 and wastewater industry;

1           (7) regional and hydrological basin cooperative  
2 water management solutions, including research  
3 into—

4           (A) institutional mechanisms for greater  
5 regional cooperation and use of water ex-  
6 changes, banking, and transfers; and

7           (B) the economic benefits of sharing risks  
8 of shortage across wider areas;

9           (8) utility management, decision support sys-  
10 tems, and water management models, including re-  
11 search—

12           (A) into improved decision support systems  
13 and modeling tools for use by water utility  
14 managers to assist with increased water supply  
15 uncertainty and adaptation strategies posed by  
16 climate change;

17           (B) to provide financial tools, including  
18 new rate structures, to manage financial re-  
19 sources and investments, because increased con-  
20 servation practices may diminish revenue and  
21 increase investments in infrastructure; and

22           (C) to develop improved systems and mod-  
23 els for use in evaluating—

1 (i) successful alternative methods for  
2 conservation and demand management;  
3 and

4 (ii) climate change impacts on  
5 groundwater resources;

6 (9) reducing greenhouse gas emissions and im-  
7 proving energy demand management, including re-  
8 search to improve energy efficiency in water collec-  
9 tion, production, transmission, treatment, distribu-  
10 tion, and disposal to provide more sustainability and  
11 means to assist drinking water utilities in reducing  
12 the production of greenhouse gas emissions in the  
13 collection, production, transmission, treatment, dis-  
14 tribution, and disposal of drinking water;

15 (10) water conservation and demand manage-  
16 ment, including research—

17 (A) to develop strategic approaches to  
18 water demand management that offer the low-  
19 est-cost, noninfrastructural options to serve  
20 growing populations or manage declining sup-  
21 plies, primarily through—

22 (i) efficiencies in water use and re-  
23 allocation of the saved water;

24 (ii) demand management tools;

25 (iii) economic incentives; and

- 1 (iv) water-saving technologies; and
- 2 (B) into efficiencies in water management
- 3 through integrated water resource management
- 4 that incorporates—
- 5 (i) supply-side and demand-side proc-
- 6 esses;
- 7 (ii) continuous adaptive management;
- 8 and
- 9 (iii) the inclusion of stakeholders in
- 10 decisionmaking processes; and
- 11 (11) communications, education, and public ac-
- 12 ceptance, including research—
- 13 (A) into improved strategies and ap-
- 14 proaches for communicating with customers, de-
- 15 cisionmakers, and other stakeholders about the
- 16 implications of climate change on water supply
- 17 and water management;
- 18 (B) to develop effective communication ap-
- 19 proaches—
- 20 (i) to gain public acceptance of alter-
- 21 native water supplies and new policies and
- 22 practices, including conservation and de-
- 23 mand management; and
- 24 (ii) to gain public recognition and ac-
- 25 ceptance of increased costs; and



1 (C) to create and maintain a clearinghouse  
2 of climate change information for water utili-  
3 ties, academic researchers, stakeholders, gov-  
4 ernment agencies, and research organizations.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to carry out this section  
7 \$25,000,000 for each of fiscal years 2010 through 2020.

8 **TITLE III—TRANSITION AND**  
9 **ADAPTATION**

10 **Subtitle A—Green Jobs and Worker**  
11 **Transition**

12 **PART 1—GREEN JOBS**

13 **SEC. 301. CLEAN ENERGY CURRICULUM DEVELOPMENT**  
14 **GRANTS.**

15 (a) AUTHORIZATION.—The Secretary of Education is  
16 authorized to award grants, on a competitive basis, to eli-  
17 gible partnerships to develop programs of study (con-  
18 taining the information described in section 122(c)(1)(A)  
19 of the Carl D. Perkins Career and Technical Education  
20 Act of 2006 (20 U.S.C. 2342)), that are focused on emerg-  
21 ing careers and jobs in the fields of clean energy, renew-  
22 able energy, energy efficiency, climate change mitigation,  
23 and climate change adaptation. The Secretary of Edu-  
24 cation shall consult with the Secretary of Labor and the

1 Secretary of Energy prior to the issuance of a solicitation  
2 for grant applications.

3 (b) ELIGIBLE PARTNERSHIPS.—For purposes of this  
4 section, an eligible partnership shall include—

5 (1) at least 1 local educational agency eligible  
6 for funding under section 131 of the Carl D. Per-  
7 kins Career and Technical Education Act of 2006  
8 (20 U.S.C. 2351) or an area career and technical  
9 education school or education service agency de-  
10 scribed in such section;

11 (2) at least 1 postsecondary institution eligible  
12 for funding under section 132 of such Act (20  
13 U.S.C. 2352); and

14 (3) representatives of the community including  
15 business, labor organizations, and industry that have  
16 experience in fields as described in subsection (a).

17 (c) APPLICATION.—An eligible partnership seeking a  
18 grant under this section shall submit an application to the  
19 Secretary at such time and in such manner as the Sec-  
20 retary may require. Applications shall include—

21 (1) a description of the eligible partners and  
22 partnership, the roles and responsibilities of each  
23 partner, and a demonstration of each partner's ca-  
24 pacity to support the program;

1           (2) a description of the career area or areas  
2           within the fields as described in subsection (a) to be  
3           developed, the reason for the choice, and evidence of  
4           the labor market need to prepare students in that  
5           area;

6           (3) a description of the new or existing program  
7           of study and both secondary and postsecondary com-  
8           ponents;

9           (4) a description of the students to be served by  
10          the new program of study;

11          (5) a description of how the program of study  
12          funded by the grant will be replicable and dissemi-  
13          nated to schools outside of the partnership, including  
14          urban and rural areas;

15          (6) a description of applied learning that will be  
16          incorporated into the program of study and how it  
17          will incorporate or reinforce academic learning;

18          (7) a description of how the program of study  
19          will be delivered;

20          (8) a description of how the program will pro-  
21          vide accessibility to students, especially economically  
22          disadvantaged, low performing, and urban and rural  
23          students;

24          (9) a description of how the program will ad-  
25          dress placement of students in nontraditional fields

1 as described in section 3(20) of the Carl D. Perkins  
2 Career and Technical Education Act of 2006 (20  
3 U.S.C. 2302(20)); and

4 (10) a description of how the applicant proposes  
5 to consult or has consulted with a labor organiza-  
6 tion, labor management partnership, apprenticeship  
7 program, or joint apprenticeship and training pro-  
8 gram that provides education and training in the  
9 field of study for which the applicant proposes to de-  
10 velop a curriculum.

11 (d) PRIORITY.—The Secretary shall give priority to  
12 applications that—

13 (1) use online learning or other innovative  
14 means to deliver the program of study to students,  
15 educators, and instructors outside of the partner-  
16 ship; and

17 (2) focus on low performing students and spe-  
18 cial populations as defined in section 3(29) of the  
19 Carl D. Perkins Career and Technical Education  
20 Act of 2006 (20 U.S.C. 2302(29)).

21 (e) PEER REVIEW.—The Secretary shall convene a  
22 peer review process to review applications for grants under  
23 this section and to make recommendations regarding the  
24 selection of grantees. Members of the peer review com-  
25 mittee shall include—

1           (1) educators who have experience imple-  
2           menting curricula with comparable purposes; and

3           (2) business and industry experts in fields as  
4           described in subsection (a).

5           (f) USES OF FUNDS.—Grants awarded under this  
6           section shall be used for the development, implementation,  
7           and dissemination of programs of study (as described in  
8           section 122(c)(1)(A) of the Carl D. Perkins Career and  
9           Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in  
10          career areas related to clean energy, renewable energy, en-  
11          ergy efficiency, climate change mitigation, and climate  
12          change adaptation.

13   **SEC. 302. DEVELOPMENT OF INFORMATION AND RE-**  
14                   **SOURCES CLEARINGHOUSE FOR VOCA-**  
15                   **TIONAL EDUCATION AND JOB TRAINING IN**  
16                   **RENEWABLE ENERGY SECTORS.**

17          (a) DEVELOPMENT OF CLEARINGHOUSE.—Not later  
18          than 18 months after the date of enactment of this Act,  
19          the Secretary of Labor, in collaboration with the Secretary  
20          of Energy and the Secretary of Education, shall develop  
21          an internet based information and resources clearinghouse  
22          to aid career and technical education and job training pro-  
23          grams for the renewable energy sectors. In establishing  
24          the clearinghouse, the Secretary shall—

1           (1) collect and provide information that ad-  
2           dresses the consequences of rapid changes in tech-  
3           nology and regional disparities for renewable energy  
4           training programs and provides best practices for  
5           training and education in light of such changes and  
6           disparities;

7           (2) place an emphasis on facilitating collabora-  
8           tion between the renewable energy industry and job  
9           training programs and on identifying industry and  
10          technological trends and best practices, to better  
11          help job training programs maintain quality and rel-  
12          evance; and

13          (3) place an emphasis on assisting programs  
14          that cater to high-demand middle-skill, trades, man-  
15          ufacturing, contracting, and consulting careers.

16          (b) SOLICITATION AND CONSULTATION.—In devel-  
17          oping the clearinghouse pursuant to subsection (a), the  
18          Secretary shall solicit information and expertise from busi-  
19          nesses and organizations in the renewable energy sector  
20          and from institutions of higher education, career and tech-  
21          nical schools, and community colleges that provide train-  
22          ing in the renewable energy sectors. The Secretary shall  
23          solicit a comprehensive peer review of the clearinghouse  
24          by such entities not less than once every 2 years. Nothing

1 in this subsection should be interpreted to require the di-  
2 vulgence of proprietary or competitive information.

3 (c) CONTENTS OF CLEARINGHOUSE.—

4 (1) SEPARATE SECTION FOR EACH RENEWABLE  
5 ENERGY SECTOR.—The clearinghouse shall contain  
6 separate sections developed for each of the following  
7 renewable energy sectors:

8 (A) Solar energy systems.

9 (B) Wind energy systems.

10 (C) Energy transmission systems.

11 (D) Geothermal systems of energy and  
12 heating.

13 (E) Energy efficiency technical training.

14 (2) ADDITIONAL REQUIREMENTS.—In addition  
15 to the information required in subsection (a), each  
16 section of the clearinghouse shall include information  
17 on basic environmental science and processes needed  
18 to understand renewable energy systems, Federal  
19 government and industry resources, and points of  
20 contact to aid institutions in the development of  
21 placement programs for apprenticeships and post  
22 graduation opportunities, and information and tips  
23 about a green workplace, energy efficiency, and rel-  
24 evant environmental topics and information on avail-  
25 able industry recognized certifications in each area.

1 (d) DISSEMINATION.—The clearinghouse shall be  
2 made available via the Internet to the general public. No-  
3 tice of the completed clearinghouse and any major revi-  
4 sions thereto shall also be provided—

5 (1) to each Member of Congress; and

6 (2) on the websites of the Departments of Edu-  
7 cation, Energy, and Labor.

8 (e) REVISION.—The Secretary of Labor shall revise  
9 and update the clearinghouse on a regular basis to ensure  
10 its relevance.

11 **SEC. 303. GREEN CONSTRUCTION CAREERS DEMONSTRA-**  
12 **TION PROJECT.**

13 (a) ESTABLISHMENT AND AUTHORITY.—The Sec-  
14 retary of Labor, in consultation with the Secretary of En-  
15 ergy, shall, not later than 180 days after the enactment  
16 of this Act, establish a Green Construction Careers dem-  
17 onstration project by rules, regulations, and guidance in  
18 accordance with the provisions of this section. The purpose  
19 of the demonstration project shall be to promote middle  
20 class careers and quality employment practices in the  
21 green construction sector among targeted workers and to  
22 advance efficiency and performance on construction  
23 projects related to this Act. In order to advance these pur-  
24 poses, the Secretary shall identify projects, including resi-  
25 dential retrofitting projects, funded directly by or assisted



1 in whole or in part by or through the Federal Government  
2 pursuant to this Act or by any other entity established  
3 in accordance with this Act, to which all of the following  
4 shall apply.

5 (b) REQUIREMENTS.—The Secretaries may establish  
6 such terms and conditions for the demonstration projects  
7 as the Secretaries determine are necessary to meet the  
8 purposes of subsection (a), including establishing min-  
9 imum proportions of hours to be worked by targeted work-  
10 ers on such projects. The Secretaries may require the con-  
11 tractors and subcontractors performing construction serv-  
12 ices on the project to comply with the terms and conditions  
13 as a condition of receiving funding or assistance from the  
14 Federal Government under this Act.

15 (c) EVALUATION.—The Secretaries shall evaluate the  
16 demonstration projects against the purposes of this section  
17 at the end of 3 years from initiation of the demonstration  
18 project. If the Secretaries determine that the demonstra-  
19 tion projects have been successful, the Secretaries may  
20 identify further projects to which of the provisions of this  
21 section shall apply.

22 (d) GAO REPORT.—The Comptroller General shall  
23 prepare and submit a report to the Committee on Health,  
24 Education, Labor, and Pensions and the Committee on  
25 Energy and Natural Resources of the Senate and the

1 Committee on Education and Labor and the Committee  
2 on Energy and Commerce of the House of Representatives  
3 not later than 5 years after the date of enactment of this  
4 Act, which shall advise the committees of the results of  
5 the demonstration projects and make appropriate rec-  
6 ommendations.

7 (e) DEFINITION AND DESIGNATION OF TARGETED  
8 WORKERS.—As used in this section, the term “targeted  
9 worker” means an individual who resides in the same  
10 labor market area (as defined in section 101(18) of the  
11 Workforce Investment Act of 1998 (29 U.S.C. 2801(18)))  
12 as the project and who—

13 (1) is a member of a targeted group, within the  
14 meaning of section 51 of the Internal Revenue Code  
15 of 1986, other than an individual described in sub-  
16 section (d)(1)(C) of such section;

17 (2)(A) resides in a census tract in which not  
18 less than 20 percent of the households have incomes  
19 below the Federal poverty guidelines; or

20 (B) is a member of a family that received a  
21 total family income that, during the 2-year period  
22 prior to employment on the project or admission to  
23 the pre-apprenticeship program, did not exceed 200  
24 percent of the Federal poverty guidelines (exclusive  
25 of unemployment compensation, child support pay-

1       ments, payments described in section 101(25)(A) of  
2       the Workforce Investment Act (29 U.S.C.  
3       2801(25)(A)), and old-age and survivors insurance  
4       benefits received under section 202 of the Social Se-  
5       curity Act (42 U.S.C. 402); or

6           (3) is a displaced homemaker, as such term is  
7       defined in section 3(10) of the Carl D. Perkins Ca-  
8       reer and Technical Education Act of 2006 (20  
9       U.S.C. 2302(10)).

10       (f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A  
11       qualified pre-apprenticeship program is a pre-apprentice-  
12       ship program that has demonstrated an ability to recruit,  
13       train, and prepare for admission to apprenticeship pro-  
14       grams individuals who are targeted workers.

15       (g) QUALIFIED APPRENTICESHIP AND OTHER  
16       TRAINING PROGRAMS.—

17           (1) PARTICIPATION BY EACH CONTRACTOR RE-  
18       QUIRED.—Each contractor and subcontractor that  
19       seeks to provide construction services on projects  
20       identified by the Secretaries pursuant to subsection  
21       (a) shall submit adequate assurances with its bid or  
22       proposal that it participates in a qualified appren-  
23       ticeship or other training program, with a written  
24       arrangement with a qualified pre-apprenticeship pro-  
25       gram, for each craft or trade classification of worker

1 that it intends to employ to perform work on the  
2 project.

3 (2) DEFINITION OF QUALIFIED APPRENTICE  
4 SHIP OR OTHER TRAINING PROGRAM.—

5 (A) IN GENERAL.—For purposes of this  
6 section, the term “qualified apprenticeship or  
7 other training program” means an apprentice-  
8 ship or other training program that qualifies as  
9 an employee welfare benefit plan, as defined in  
10 section 3(1) of the Employee Retirement In-  
11 come Security Act of 1974 (29 U.S.C.  
12 1002(1)).

13 (B) CERTIFICATION OF OTHER PROGRAMS  
14 IN CERTAIN LOCALITIES.—In the event that the  
15 Secretary of Labor certifies that a qualified ap-  
16 prenticeship or other training program (as de-  
17 fined in subparagraph (A)) for a craft or trade  
18 classification of workers that a prospective con-  
19 tractor or subcontractor intends to employ, is  
20 not operated in the locality where the project  
21 will be performed, an apprenticeship or other  
22 training program that is not an employee wel-  
23 fare benefit plan (as defined in such section)  
24 may be certified by the Secretary as a qualified  
25 apprenticeship or other training program pro-

1           vided it is registered with the Office of Appren-  
 2           ticeship of the Department of Labor, or a State  
 3           apprenticeship agency recognized by the Office  
 4           of Apprenticeship for Federal purposes.

5           (h) **FACILITATING COMPLIANCE.**—The Secretary  
 6 may require Federal contracting agencies, recipients of  
 7 Federal assistance, and any other entity established in ac-  
 8 cordance with this Act to require contractors to enter into  
 9 an agreement in a manner comparable with the standards  
 10 set forth in sections 3 and 4 of Executive Order 13502  
 11 in order to achieve the purposes of this section, including  
 12 any requirements established by subsection (b).

13           (i) **LIMITATION.**—The requirements of this section  
 14 shall not apply to any project funded under this Act in  
 15 American Samoa, Guam, the Commonwealth of the North-  
 16 ern Mariana Islands, the Commonwealth of Puerto Rico,  
 17 or the United States Virgin Islands, unless participation  
 18 is requested by the governor of such territories within 1  
 19 year of the promulgation of rules under this Act.

20                   **PART 2—CLIMATE CHANGE WORKER**

21                           **ADJUSTMENT ASSISTANCE**

22           **SEC. 311. PETITIONS, ELIGIBILITY REQUIREMENTS, AND**  
 23                           **DETERMINATIONS.**

24           (a) **PETITIONS.**—

1           (1) FILING.—A petition for certification of eli-  
2           gibility to apply for adjustment assistance for a  
3           group of workers under this part may be filed by  
4           any of the following:

5                   (A) The group of workers.

6                   (B) The certified or recognized union or  
7           other duly authorized representative of such  
8           workers.

9                   (C) Employers of such workers, one-stop  
10          operators or one-stop partners (as defined in  
11          section 101 of the Workforce Investment Act of  
12          1998 (29 U.S.C. 2801)), including State em-  
13          ployment security agencies, or the State dis-  
14          located worker unit established under title I of  
15          such Act, on behalf of such workers.

16          The petition shall be filed simultaneously with the  
17          Secretary of Labor and with the Governor of the  
18          State in which such workers' employment site is lo-  
19          cated.

20           (2) ACTION BY GOVERNORS.—Upon receipt of a  
21          petition filed under paragraph (1), the Governor  
22          shall—

23                   (A) ensure that rapid response activities  
24                  and appropriate core and intensive services (as  
25                  described in section 134 of the Workforce In-

1 vestment Act of 1998 (29 U.S.C. 2864)) au-  
2 thorized under other Federal laws are made  
3 available to the workers covered by the petition  
4 to the extent authorized under such laws; and

5 (B) assist the Secretary in the review of  
6 the petition by verifying such information and  
7 providing such other assistance as the Secretary  
8 may request.

9 (3) ACTION BY THE SECRETARY.—Upon receipt  
10 of the petition, the Secretary shall promptly publish  
11 notice in the Federal Register and on the website of  
12 the Department of Labor that the Secretary has re-  
13 ceived the petition and initiated an investigation.

14 (4) HEARINGS.—If the petitioner, or any other  
15 person found by the Secretary to have a substantial  
16 interest in the proceedings, submits not later than  
17 10 days after the date of the Secretary's publication  
18 under paragraph (3) a request for a hearing, the  
19 Secretary shall provide for a public hearing and af-  
20 ford such interested persons an opportunity to be  
21 present, to produce evidence, and to be heard.

22 (b) ELIGIBILITY.—

23 (1) IN GENERAL.—A group of workers shall be  
24 certified by the Secretary as eligible to apply for ad-

1       justment assistance under this part pursuant to a  
2       petition filed under subsection (a) if—

3               (A) the group of workers is employed in—

4                       (i) energy producing and transforming  
5                       industries;

6                       (ii) industries dependent upon energy  
7                       industries;

8                       (iii) energy-intensive manufacturing  
9                       industries;

10                      (iv) consumer goods manufacturing;

11                      or

12                      (v) other industries whose employment  
13                      the Secretary determines has been ad-  
14                      versely affected by any requirement of title  
15                      VII of the Clean Air Act;

16               (B) the Secretary determines that a sig-  
17               nificant number or proportion of the workers in  
18               such workers' employment site have become to-  
19               tally or partially separated, or are threatened to  
20               become totally or partially separated from em-  
21               ployment; and

22               (C) the sales, production, or delivery of  
23               goods or services have decreased as a result of  
24               any requirement of title VII of the Clean Air  
25               Act, including—



1 (i) the shift from reliance upon fossil  
2 fuels to other sources of energy, including  
3 renewable energy, that results in the clos-  
4 ing of a facility or layoff of employees at  
5 a facility that mines, produces, processes,  
6 or utilizes fossil fuels to generate elec-  
7 tricity;

8 (ii) a substantial increase in the cost  
9 of energy required for a manufacturing fa-  
10 cility to produce items whose prices are  
11 competitive in the marketplace, to the ex-  
12 tent the cost is not offset by assistance  
13 provided to the facility pursuant to title  
14 VII of the Clean Air Act; or

15 (iii) other documented occurrences  
16 that the Secretary determines are indica-  
17 tors of an adverse impact on an industry  
18 described in subparagraph (A) as a result  
19 of any requirement of title VII of the  
20 Clean Air Act.

21 (2) WORKERS IN PUBLIC AGENCIES.—A group  
22 of workers in a public agency shall be certified by  
23 the Secretary as eligible to apply for climate change  
24 adjustment assistance pursuant to a petition filed if  
25 the Secretary determines that a significant number

1 or proportion of the workers in the public agency  
2 have become totally or partially separated from em-  
3 ployment, or are threatened to become totally or  
4 partially separated as a result of any requirement of  
5 title VII of the Clean Air Act.

6 (3) ADVERSELY AFFECTED SERVICE WORK-  
7 ERS.—A group of workers shall be certified as eligi-  
8 ble to apply for climate change adjustment assist-  
9 ance pursuant to a petition filed if the Secretary de-  
10 termines that—

11 (A) a significant number or proportion of  
12 the service workers at an employment site  
13 where a group of workers has been certified by  
14 the Secretary as eligible to apply for adjustment  
15 assistance under this part pursuant to para-  
16 graph (1) have become totally or partially sepa-  
17 rated from employment, or are threatened to  
18 become totally or partially separated; and

19 (B) a loss of business in the firm providing  
20 service workers to an employment site is di-  
21 rectly attributable to one or more of the docu-  
22 mented occurrences listed in paragraph (1)(C).

23 (c) AUTHORITY TO INVESTIGATE AND COLLECT IN-  
24 FORMATION.—

1           (1) IN GENERAL.—The Secretary shall, in de-  
2           termining whether to certify a group of workers  
3           under subsection (d), obtain information the Sec-  
4           retary determines to be necessary to make the cer-  
5           tification, through questionnaires and in such other  
6           manner as the Secretary determines appropriate  
7           from—

8                     (A) the workers' employer;

9                     (B) officials of certified or recognized  
10           unions or other duly authorized representatives  
11           of the group of workers; or

12                    (C) one-stop operators or one-stop partners  
13           (as defined in section 101 of the Workforce In-  
14           vestment Act of 1998 (29 U.S.C. 2801)).

15           (2) VERIFICATION OF INFORMATION.—The Sec-  
16           retary shall require an employer, union, or one-stop  
17           operator or partner to certify all information ob-  
18           tained under paragraph (1) from the employer,  
19           union, or one-stop operator or partner (as the case  
20           may be) on which the Secretary relies in making a  
21           determination under subsection (d), unless the Sec-  
22           retary has a reasonable basis for determining that  
23           such information is accurate and complete without  
24           being certified.

1           (3) PROTECTION OF CONFIDENTIAL INFORMA-  
2           TION.—The Secretary may not release information  
3           obtained under paragraph (1) that the Secretary  
4           considers to be confidential business information un-  
5           less the employer submitting the confidential busi-  
6           ness information had notice, at the time of submis-  
7           sion, that the information would be released by the  
8           Secretary, or the employer subsequently consents to  
9           the release of the information. Nothing in this para-  
10          graph shall be construed to prohibit the Secretary  
11          from providing such confidential business informa-  
12          tion to a court in camera or to another party under  
13          a protective order issued by a court.

14          (d) DETERMINATION BY THE SECRETARY OF  
15          LABOR.—

16               (1) IN GENERAL.—As soon as possible after the  
17               date on which a petition is filed under subsection  
18               (a), but in any event not later than 40 days after  
19               that date, the Secretary, in consultation with the  
20               Secretary of Energy and the Administrator, as nec-  
21               essary, shall determine whether the petitioning  
22               group meets the requirements of subsection (b) and  
23               shall issue a certification of eligibility to apply for  
24               assistance under this part covering workers in any  
25               group which meets such requirements. Each certifi-

1 cation shall specify the date on which the total or  
2 partial separation began or threatened to begin.  
3 Upon reaching a determination on a petition, the  
4 Secretary shall promptly publish a summary of the  
5 determination in the Federal Register and on the  
6 website of the Department of Labor, together with  
7 the Secretary's reasons for making such determina-  
8 tion.

9 (2) ONE-YEAR LIMITATION.—A certification  
10 under this section shall not apply to any worker  
11 whose last total or partial separation from the em-  
12 ployment site before the worker's application under  
13 section 312(a) occurred more than 1 year before the  
14 date of the petition on which such certification was  
15 granted.

16 (3) REVOCATION OF CERTIFICATION.—When-  
17 ever the Secretary determines, with respect to any  
18 certification of eligibility of the workers of an em-  
19 ployment site, that total or partial separations from  
20 such site are no longer a result of the factors speci-  
21 fied in subsection (b)(1), the Secretary shall termi-  
22 nate such certification and promptly have notice of  
23 such termination published in the Federal Register  
24 and on the website of the Department of Labor, to-  
25 gether with the Secretary's reasons for making such

1 determination. Such termination shall apply only  
2 with respect to total or partial separations occurring  
3 after the termination date specified by the Secretary.

4 (e) INDUSTRY NOTIFICATION OF ASSISTANCE.—

5 Upon receiving a notification of a determination under  
6 subsection (d) with respect to a domestic industry the Sec-  
7 retary of Labor shall notify the representatives of the do-  
8 mestic industry affected by the determination, employers  
9 publicly identified by name during the course of the pro-  
10 ceeding relating to the determination, and any certified  
11 or recognized union or, to the extent practicable, other  
12 duly authorized representative of workers employed by  
13 such representatives of the domestic industry, of—

14 (1) the adjustment assistance, training, and  
15 other benefits available under this part;

16 (2) the manner in which to file a petition and  
17 apply for such benefits;

18 (3) the availability of assistance in filing such  
19 petitions;

20 (4) notify the Governor of each State in which  
21 one or more employers in such industry are located  
22 of the Secretary's determination and the identity of  
23 the employers; and

24 (5) upon request, provide any assistance that is  
25 necessary to file a petition under subsection (a).

1 (f) BENEFIT INFORMATION TO WORKERS, PRO-  
2 VIDERS OF TRAINING.—

3 (1) IN GENERAL.—The Secretary shall provide  
4 full information to workers about the adjustment as-  
5 sistance, training, and other benefits available under  
6 this part and about the petition and application pro-  
7 cedures, and the appropriate filing dates, for such  
8 assistance, training and services. The Secretary shall  
9 provide whatever assistance is necessary to enable  
10 groups of workers to prepare petitions or applica-  
11 tions for program benefits. The Secretary shall make  
12 every effort to insure that cooperating State agen-  
13 cies fully comply with the agreements entered into  
14 under section 312(a) and shall periodically review  
15 such compliance. The Secretary shall inform the  
16 State Board for Vocational Education or equivalent  
17 agency, the one-stop operators or one-stop partners  
18 (as defined in section 101 of the Workforce Invest-  
19 ment Act of 1998 (29 U.S.C. 2801)), and other pub-  
20 lic or private agencies, institutions, and employers,  
21 as appropriate, of each certification issued under  
22 subsection (d) and of projections, if available, of the  
23 needs for training under as a result of such certifi-  
24 cation.

1           (2) NOTICE BY MAIL.—The Secretary shall pro-  
2           vide written notice through the mail of the benefits  
3           available under this part to each worker whom the  
4           Secretary has reason to believe is covered by a cer-  
5           tification made under subsection (d)—

6                   (A) at the time such certification is made,  
7                   if the worker was partially or totally separated  
8                   from the adversely affected employment before  
9                   such certification; or

10                   (B) at the time of the total or partial sepa-  
11                   ration of the worker from the adversely affected  
12                   employment, if subparagraph (A) does not  
13                   apply.

14           (3) NEWSPAPERS; WEBSITE.—The Secretary  
15           shall publish notice of the benefits available under  
16           this part to workers covered by each certification  
17           made under subsection (d) in newspapers of general  
18           circulation in the areas in which such workers reside  
19           and shall make such information available on the  
20           website of the Department of Labor.

21 **SEC. 312. PROGRAM BENEFITS.**

22           (a) CLIMATE CHANGE ADJUSTMENT ASSISTANCE.—

23                   (1) ELIGIBILITY.—Payment of climate change  
24                   adjustment assistance shall be made to an adversely  
25                   affected worker covered by a certification under sec-



1       tion 311(b) who files an application for such assist-  
2       ance for any week of unemployment which begins on  
3       or after the date of such certification, if the fol-  
4       lowing conditions are met:

5               (A) Such worker's total or partial separa-  
6       tion before the worker's application under this  
7       part occurred—

8               (i) on or after the date, as specified in  
9       the certification under which the worker is  
10      covered, on which total or partial separa-  
11      tion began or threatened to begin in the  
12      adversely affected employment;

13              (ii) before the expiration of the 2-year  
14      period beginning on the date on which the  
15      determination under section 311(d) was  
16      made; and

17              (iii) before the termination date, if  
18      any, determined pursuant to section  
19      311(d)(3).

20              (B) Such worker had, in the 52-week pe-  
21      riod ending with the week in which such total  
22      or partial separation occurred, at least 26  
23      weeks of full-time employment or 1,040 hours  
24      of part time employment in adversely affected  
25      employment, or, if data with respect to weeks of

1 employment are not available, equivalent  
2 amounts of employment computed under regu-  
3 lations prescribed by the Secretary. For the  
4 purposes of this paragraph, any week in which  
5 such worker—

6 (i) is on employer-authorized leave for  
7 purposes of vacation, sickness, injury, ma-  
8 ternity, or inactive duty or active duty  
9 military service for training;

10 (ii) does not work because of a dis-  
11 ability that is compensable under a work-  
12 men's compensation law or plan of a State  
13 or the United States;

14 (iii) had his employment interrupted  
15 in order to serve as a full-time representa-  
16 tive of a labor organization in such firm; or

17 (iv) is on call-up for purposes of active  
18 duty in a reserve status in the Armed  
19 Forces of the United States, provided such  
20 active duty is "Federal service" as defined  
21 in section 8521(a)(1) of title 5, United  
22 States Code,

23 shall be treated as a week of employment.

1           (C) Such worker is enrolled in a training  
2           program approved by the Secretary under sub-  
3           section (b)(2).

4           (2) INELIGIBILITY FOR CERTAIN OTHER BENE-  
5           FITS.—An adversely affected worker receiving a pay-  
6           ment under this section shall be ineligible to receive  
7           any other form of unemployment insurance for the  
8           period in which such worker is receiving climate  
9           change adjustment assistance under this section.

10          (3) REVOCATION.—If—

11           (A) the Secretary determines that—

12           (i) the adversely affected worker—

13           (I) has failed to begin participa-  
14           tion in the training program the en-  
15           rollment in which meets the require-  
16           ment of paragraph (1)(C); or

17           (II) has ceased to participate in  
18           such training program before com-  
19           pleting such training program; and

20           (ii) there is no justifiable cause for  
21           such failure or cessation; or

22           (B) the certification made with respect to  
23           such worker under section 311(d) is revoked  
24           under paragraph (3) of such section,

1 no adjustment assistance may be paid to the ad-  
2 versely affected worker under this part for the week  
3 in which such failure, cessation, or revocation oc-  
4 curred, or any succeeding week, until the adversely  
5 affected worker begins or resumes participation in a  
6 training program approved by the Secretary under  
7 subsection (b)(2).

8 (4) WAIVERS OF TRAINING REQUIREMENTS.—

9 The Secretary may issue a written statement to an  
10 adversely affected worker waiving the requirement to  
11 be enrolled in training described in subsection (b)(2)  
12 if the Secretary determines that it is not feasible or  
13 appropriate for the worker, because of 1 or more of  
14 the following reasons:

15 (A) RECALL.—The worker has been noti-  
16 fied that the worker will be recalled by the em-  
17 ployer from which the separation occurred.

18 (B) MARKETABLE SKILLS.—

19 (i) IN GENERAL.—The worker pos-  
20 sesses marketable skills for suitable em-  
21 ployment (as determined pursuant to an  
22 assessment of the worker, which may in-  
23 clude the profiling system under section  
24 303(j) of the Social Security Act (42  
25 U.S.C. 503(j)), carried out in accordance

1 with guidelines issued by the Secretary)  
2 and there is a reasonable expectation of  
3 employment at equivalent wages in the  
4 foreseeable future.

5 (ii) MARKETABLE SKILLS DEFINED.—

6 For purposes of clause (i), the term “mar-  
7 ketable skills” may include the possession  
8 of a postgraduate degree from an institu-  
9 tion of higher education (as defined in sec-  
10 tion 102 of the Higher Education Act of  
11 1965 (20 U.S.C. 1002)) or an equivalent  
12 institution, or the possession of an equiva-  
13 lent postgraduate certification in a special-  
14 ized field.

15 (C) RETIREMENT.—The worker is within 2  
16 years of meeting all requirements for entitle-  
17 ment to either—

18 (i) old-age insurance benefits under  
19 title II of the Social Security Act (42  
20 U.S.C. 401 et seq.) (except for application  
21 therefor); or

22 (ii) a private pension sponsored by an  
23 employer or labor organization.

24 (D) HEALTH.—The worker is unable to  
25 participate in training due to the health of the

1 worker, except that a waiver under this sub-  
2 paragraph shall not be construed to exempt a  
3 worker from requirements relating to the avail-  
4 ability for work, active search for work, or re-  
5 fusal to accept work under Federal or State un-  
6 employment compensation laws.

7 (E) ENROLLMENT UNAVAILABLE.—The  
8 first available enrollment date for the training  
9 of the worker is within 60 days after the date  
10 of the determination made under this para-  
11 graph, or, if later, there are extenuating cir-  
12 cumstances for the delay in enrollment, as de-  
13 termined pursuant to guidelines issued by the  
14 Secretary.

15 (F) TRAINING NOT AVAILABLE.—Training  
16 described in subsection (b)(2) is not reasonably  
17 available to the worker from either govern-  
18 mental agencies or private sources (which may  
19 include area career and technical education  
20 schools, as defined in section 3 of the Carl D.  
21 Perkins Career and Technical Education Act of  
22 2006 (20 U.S.C. 2302), and employers), no  
23 training that is suitable for the worker is avail-  
24 able at a reasonable cost, or no training funds  
25 are available.

1           (5) WEEKLY AMOUNTS.—The climate change  
2 adjustment assistance payable to an adversely af-  
3 fected worker for a week of unemployment shall be  
4 an amount equal to 70 percent of the average weekly  
5 wage of such worker, but in no case shall such  
6 amount exceed the average weekly wage for all work-  
7 ers in the State where the adversely affected worker  
8 resides.

9           (6) MAXIMUM DURATION OF BENEFITS.—An el-  
10 igible worker may receive a climate change adjust-  
11 ment assistance under this subsection for a period of  
12 not longer than 156 weeks.

13       (b) EMPLOYMENT SERVICES AND TRAINING.—

14           (1) INFORMATION AND EMPLOYMENT SERV-  
15 ICES.—The Secretary shall make available, directly  
16 or through agreements with the States under section  
17 313(a) to adversely affected workers covered by a  
18 certification under section 311(a) the following in-  
19 formation and employment services:

20                   (A) Comprehensive and specialized assess-  
21 ment of skill levels and service needs, including  
22 through—

23                           (i) diagnostic testing and use of other  
24 assessment tools; and

1 (ii) in-depth interviewing and evalua-  
2 tion to identify employment barriers and  
3 appropriate employment goals.

4 (B) Development of an individual employ-  
5 ment plan to identify employment goals and ob-  
6 jectives, and appropriate training to achieve  
7 those goals and objectives.

8 (C) Information on training available in  
9 local and regional areas, information on indi-  
10 vidual counseling to determine which training is  
11 suitable training, and information on how to  
12 apply for such training.

13 (D) Information on training programs and  
14 other services provided by a State pursuant to  
15 title I of the Workforce Investment Act of 1998  
16 (29 U.S.C. 2801 et seq.) and available in local  
17 and regional areas, information on individual  
18 counseling to determine which training is suit-  
19 able training, and information on how to apply  
20 for such training.

21 (E) Information on how to apply for finan-  
22 cial aid, including referring workers to edu-  
23 cational opportunity centers described in section  
24 402F of the Higher Education Act of 1965 (20  
25 U.S.C. 1070a-16), where applicable, and noti-



1           fying workers that the workers may request fi-  
2           nancial aid administrators at institutions of  
3           higher education (as defined in section 102 of  
4           such Act (20 U.S.C. 1002)) to use the adminis-  
5           trators' discretion under section 479A of such  
6           Act (20 U.S.C. 1087tt) to use current year in-  
7           come data, rather than preceding year income  
8           data, for determining the amount of need of the  
9           workers for Federal financial assistance under  
10          title IV of such Act (20 U.S.C. 1070 et seq.).

11           (F) Short-term prevocational services, in-  
12          cluding development of learning skills, commu-  
13          nications skills, interviewing skills, punctuality,  
14          personal maintenance skills, and professional  
15          conduct to prepare individuals for employment  
16          or training.

17           (G) Individual career counseling, including  
18          job search and placement counseling, during the  
19          period in which the individual is receiving cli-  
20          mate change adjustment assistance or training  
21          under this part, and after receiving such train-  
22          ing for purposes of job placement.

23           (H) Provision of employment statistics in-  
24          formation, including the provision of accurate

1 information relating to local, regional, and na-  
2 tional labor market areas, including—

3 (i) job vacancy listings in such labor  
4 market areas;

5 (ii) information on jobs skills nec-  
6 essary to obtain jobs identified in job va-  
7 cancy listings described in subparagraph  
8 (A);

9 (iii) information relating to local occu-  
10 pations that are in demand and earnings  
11 potential of such occupations; and

12 (iv) skills requirements for local occu-  
13 pations described in subparagraph (C).

14 (I) Information relating to the availability  
15 of supportive services, including services relat-  
16 ing to child care, transportation, dependent  
17 care, housing assistance, and need-related pay-  
18 ments that are necessary to enable an indi-  
19 vidual to participate in training.

20 (2) TRAINING.—

21 (A) APPROVAL OF AND PAYMENT FOR  
22 TRAINING.—If the Secretary determines, with  
23 respect to an adversely affected worker that—

24 (i) there is no suitable employment  
25 (which may include technical and profes-

1           sional employment) available for an ad-  
2           versely affected worker;

3           (ii) the worker would benefit from ap-  
4           propriate training;

5           (iii) there is a reasonable expectation  
6           of employment following completion of  
7           such training;

8           (iv) training approved by the Sec-  
9           retary is reasonably available to the worker  
10          from either governmental agencies or pri-  
11          vate sources (including area career and  
12          technical education schools, as defined in  
13          section 3 of the Carl D. Perkins Career  
14          and Technical Education Act of 2006 (20  
15          U.S.C. 2302), and employers);

16          (v) the worker is qualified to under-  
17          take and complete such training; and

18          (vi) such training is suitable for the  
19          worker and available at a reasonable cost,  
20          the Secretary shall approve such training for  
21          the worker. Upon such approval, the worker  
22          shall be entitled to have payment of the costs  
23          of such training (subject to the limitations im-  
24          posed by this section) paid on the worker's be-

1 half by the Secretary directly or through a  
2 voucher system.

3 (B) DISTRIBUTION.—The Secretary shall  
4 establish procedures for the distribution of the  
5 funds to States to carry out the training pro-  
6 grams approved under this paragraph, and shall  
7 make an initial distribution of the funds made  
8 available as soon as practicable after the begin-  
9 ning of each fiscal year.

10 (C) ADDITIONAL RULES REGARDING AP-  
11 PROVAL OF AND PAYMENT FOR TRAINING.—

12 (i) For purposes of applying subpara-  
13 graph (A)(iii), a reasonable expectation of  
14 employment does not require that employ-  
15 ment opportunities for a worker be avail-  
16 able, or offered, immediately upon the  
17 completion of training approved under  
18 such subparagraph.

19 (ii) If the costs of training an ad-  
20 versely affected worker are paid by the  
21 Secretary under subparagraph (A), no  
22 other payment for such costs may be made  
23 under any other provision of Federal law.  
24 No payment may be made under subpara-  
25 graph (A) of the costs of training an ad-

1                   versely affected worker or an adversely af-  
2                   fected incumbent worker if such costs—

3                   (I) have already been paid under  
4                   any other provision of Federal law; or

5                   (II) are reimbursable under any  
6                   other provision of Federal law and a  
7                   portion of such costs have already  
8                   been paid under such other provision  
9                   of Federal law.

10                  The provisions of this clause shall not  
11                  apply to, or take into account, any funds  
12                  provided under any other provision of Fed-  
13                  eral law which are used for any purpose  
14                  other than the direct payment of the costs  
15                  incurred in training a particular adversely  
16                  affected worker, even if such use has the  
17                  effect of indirectly paying or reducing any  
18                  portion of the costs involved in training the  
19                  adversely affected worker.

20                  (D) TRAINING PROGRAMS.—The training  
21                  programs that may be approved under subpara-  
22                  graph (A) include—

23                   (i) employer-based training, includ-  
24                   ing—

- 1 (I) on-the-job training if ap-  
2 proved by the Secretary under sub-  
3 section (c); and
- 4 (II) joint labor-management ap-  
5 prenticeship programs;
- 6 (ii) any training program provided by  
7 a State pursuant to title I of the Work-  
8 force Investment Act of 1998 (29 U.S.C.  
9 2801 et seq.);
- 10 (iii) any programs in career and tech-  
11 nical education described in section 3(5) of  
12 the Carl D. Perkins Career and Technical  
13 Education Act of 2006 (20 U.S.C.  
14 2302(5));
- 15 (iv) any program of remedial edu-  
16 cation;
- 17 (v) any program of prerequisite edu-  
18 cation or coursework required to enroll in  
19 training that may be approved under this  
20 paragraph;
- 21 (vi) any training program for which  
22 all, or any portion, of the costs of training  
23 the worker are paid—
- 24 (I) under any Federal or State  
25 program other than this part; or

1 (II) from any source other than  
2 this part;

3 (vii) any training program or  
4 coursework at an accredited institution of  
5 higher education (described in section 102  
6 of the Higher Education Act of 1965 (20  
7 U.S.C. 1002)), including a training pro-  
8 gram or coursework for the purpose of—

9 (I) obtaining a degree or certifi-  
10 cation; or

11 (II) completing a degree or cer-  
12 tification that the worker had pre-  
13 viously begun at an accredited institu-  
14 tion of higher education; and

15 (viii) any other training program ap-  
16 proved by the Secretary.

17 (3) SUPPLEMENTAL ASSISTANCE.—The Sec-  
18 retary may, as appropriate, authorize supplemental  
19 assistance that is necessary to defray reasonable  
20 transportation and subsistence expenses for separate  
21 maintenance in a case in which training for a worker  
22 is provided in a facility that is not within commuting  
23 distance of the regular place of residence of the  
24 worker.

25 (c) ON-THE-JOB TRAINING REQUIREMENTS.—

1           (1) IN GENERAL.—The Secretary may approve  
2 on-the-job training for any adversely affected worker  
3 if—

4           (A) the Secretary determines that on-the-  
5 job training—

6           (i) can reasonably be expected to lead  
7 to suitable employment with the employer  
8 offering the on-the-job training;

9           (ii) is compatible with the skills of the  
10 worker;

11           (iii) includes a curriculum through  
12 which the worker will gain the knowledge  
13 or skills to become proficient in the job for  
14 which the worker is being trained; and

15           (iv) can be measured by benchmarks  
16 that indicate that the worker is gaining  
17 such knowledge or skills; and

18           (B) the State determines that the on-the-  
19 job training program meets the requirements of  
20 clauses (iii) and (iv) of subparagraph (A).

21           (2) MONTHLY PAYMENTS.—The Secretary shall  
22 pay the costs of on-the-job training approved under  
23 paragraph (1) in monthly installments.

24           (3) CONTRACTS FOR ON-THE-JOB TRAINING.—



1           (A) IN GENERAL.—The Secretary shall en-  
2           sure, in entering into a contract with an em-  
3           ployer to provide on-the-job training to a work-  
4           er under this subsection, that the skill require-  
5           ments of the job for which the worker is being  
6           trained, the academic and occupational skill  
7           level of the worker, and the work experience of  
8           the worker are taken into consideration.

9           (B) TERM OF CONTRACT.—Training under  
10          any such contract shall be limited to the period  
11          of time required for the worker receiving on-  
12          the-job training to become proficient in the job  
13          for which the worker is being trained, but may  
14          not exceed 156 weeks in any case.

15          (4) EXCLUSION OF CERTAIN EMPLOYERS.—The  
16          Secretary shall not enter into a contract for on-the-  
17          job training with an employer that exhibits a pattern  
18          of failing to provide workers receiving on-the-job  
19          training from the employer with—

20                 (A) continued, long-term employment as  
21                 regular employees; and

22                 (B) wages, benefits, and working condi-  
23                 tions that are equivalent to the wages, benefits,  
24                 and working conditions provided to regular em-  
25                 ployees who have worked a similar period of

1 time and are doing the same type of work as  
2 workers receiving on-the-job training from the  
3 employer.

4 (d) ADMINISTRATIVE AND EMPLOYMENT SERVICES  
5 FUNDING.—

6 (1) ADMINISTRATIVE FUNDING.—In addition to  
7 any funds made available to a State to carry out this  
8 section for a fiscal year, the State shall receive for  
9 the fiscal year a payment in an amount that is equal  
10 to 15 percent of the amount of such funds and  
11 shall—

12 (A) use not more than  $\frac{2}{3}$  of such payment  
13 for the administration of the climate change ad-  
14 justment assistance for workers program under  
15 this part, including for—

16 (i) processing waivers of training re-  
17 quirements under subsection (a)(4); and

18 (ii) collecting, validating, and report-  
19 ing data required under this part; and

20 (B) use not less than  $\frac{1}{3}$  of such payment  
21 for information and employment services under  
22 subsection (b)(1).

23 (2) EMPLOYMENT SERVICES FUNDING.—

24 (A) IN GENERAL.—In addition to any  
25 funds made available to a State to carry out

1 subsection (b)(2) and the payment under para-  
2 graph (1) for a fiscal year, the Secretary shall  
3 provide to the State for the fiscal year a reason-  
4 able payment for the purpose of providing em-  
5 ployment and services under subsection (b)(1).

6 (B) VOLUNTARY RETURN OF FUNDS.—A  
7 State that receives a payment under subpara-  
8 graph (A) may decline or otherwise return such  
9 payment to the Secretary.

10 (e) JOB SEARCH ASSISTANCE.—The Secretary of  
11 Labor may provide adversely affected workers one-time  
12 job search assistance in accordance with regulations pre-  
13 scribed by the Secretary. Any job search assistance pro-  
14 vided shall be available only under the following cir-  
15 cumstances and conditions:

16 (1) The worker is no longer eligible for the cli-  
17 mate change adjustment assistance under subsection  
18 (a) and has completed the training program required  
19 by subsection (b)(1)(E).

20 (2) The Secretary determines that the worker  
21 cannot reasonably be expected to secure suitable em-  
22 ployment in the commuting area in which the worker  
23 resides.

24 (3) Assistance granted shall provide reimburse-  
25 ment to the worker of all necessary job search ex-

1       penses as prescribed by the Secretary in regulations.  
2       Such reimbursement under this subsection may not  
3       exceed \$1,500 for any worker.

4       (f) RELOCATION ASSISTANCE AUTHORIZED.—

5           (1) IN GENERAL.—Any adversely affected work-  
6       er covered by a certification issued under section  
7       311 may file an application for relocation assistance  
8       with the Secretary, and the Secretary may grant the  
9       relocation assistance, subject to the terms and condi-  
10      tions of this subsection.

11          (2) CONDITIONS FOR GRANTING ASSISTANCE.—  
12      Relocation assistance may be granted if all of the  
13      following terms and conditions are met:

14           (A) ASSIST AN ADVERSELY AFFECTED  
15      WORKER.—The relocation assistance will assist  
16      an adversely affected worker in relocating with-  
17      in the United States.

18           (B) LOCAL EMPLOYMENT NOT AVAIL-  
19      ABLE.—The Secretary determines that the  
20      worker cannot reasonably be expected to secure  
21      suitable employment in the commuting area in  
22      which the worker resides.

23           (C) TOTAL SEPARATION.—The worker is  
24      totally separated from employment at the time  
25      relocation commences.

1 (D) SUITABLE EMPLOYMENT OBTAINED.—

2 The worker—

3 (i) has obtained suitable employment  
4 affording a reasonable expectation of long-  
5 term duration in the area in which the  
6 worker wishes to relocate; or

7 (ii) has obtained a bona fide offer of  
8 such employment.

9 (E) APPLICATION.—The worker filed an  
10 application with the Secretary at such time and  
11 in such manner as the Secretary shall specify  
12 by regulation.

13 (3) AMOUNT OF ASSISTANCE.—Relocation as-  
14 sistance granted to a worker under paragraph (1)  
15 includes—

16 (A) all reasonable and necessary expenses  
17 (including, subsistence and transportation ex-  
18 penses at levels not exceeding amounts pre-  
19 scribed by the Secretary in regulations) in-  
20 curred in transporting the worker, the worker's  
21 family, and household effects; and

22 (B) a lump sum equivalent to 3 times the  
23 worker's average weekly wage, up to a max-  
24 imum payment of \$1,500.

1           (4) LIMITATIONS.—Relocation assistance may  
2 not be granted to a worker unless—

3           (A) the relocation occurs within 182 days  
4 after the filing of the application for relocation  
5 assistance; or

6           (B) the relocation occurs within 182 days  
7 after the conclusion of training, if the worker  
8 entered a training program approved by the  
9 Secretary under subsection (b)(2).

10       (g) HEALTH INSURANCE CONTINUATION.—Not later  
11 than 1 year after the date of enactment of this Act, the  
12 Secretary of Labor shall prescribe regulations to provide,  
13 for the period in which an adversely affected worker is  
14 participating in a training program described in sub-  
15 section (b)(2), 80 percent of the monthly premium of any  
16 health insurance coverage that an adversely affected work-  
17 er was receiving from such worker’s employer prior to the  
18 separation from employment described in section 311(b),  
19 to be paid to any health care insurance plan designated  
20 by the adversely affected worker receiving assistance  
21 under this section.

22 **SEC. 313. GENERAL PROVISIONS.**

23       (a) AGREEMENTS WITH STATES.—

24           (1) IN GENERAL.—The Secretary is authorized  
25 on behalf of the United States to enter into an

1 agreement with any State, or with any State agency  
2 (referred to in this section as “cooperating States”  
3 and “cooperating State agencies” respectively).  
4 Under such an agreement, the cooperating State or  
5 cooperating State agency—

6 (A) as agent of the United States, shall re-  
7 ceive applications for, and shall provide, pay-  
8 ments on the basis provided in this part;

9 (B) in accordance with paragraph (6),  
10 shall make available to adversely affected work-  
11 ers covered by a certification under section  
12 311(d) the employment services described in  
13 section 312(b)(1);

14 (C) shall make any certifications required  
15 under section 311(d); and

16 (D) shall otherwise cooperate with the Sec-  
17 retary and with other State and Federal agen-  
18 cies in providing payments and services under  
19 this part.

20 Each agreement under this section shall provide the  
21 terms and conditions upon which the agreement may  
22 be amended, suspended, or terminated.

23 (2) FORM AND MANNER OF DATA.—Each  
24 agreement under this section shall—

1           (A) provide the Secretary with the author-  
2           ity to collect any data the Secretary determines  
3           necessary to meet the requirements of this part;  
4           and

5           (B) specify the form and manner in which  
6           any such data requested by the Secretary shall  
7           be reported.

8           (3) RELATIONSHIP TO UNEMPLOYMENT INSUR-  
9           ANCE.—Each agreement under this section shall  
10          provide that an adversely affected worker receiving  
11          climate change adjustment assistance under this  
12          part shall not be eligible for unemployment insur-  
13          ance otherwise payable to such worker under the  
14          laws of the State.

15          (4) REVIEW.—A determination by a cooper-  
16          ating State agency with respect to entitlement to  
17          program benefits under an agreement is subject to  
18          review in the same manner and to the same extent  
19          as determinations under the applicable State law  
20          and only in that manner and to that extent.

21          (5) COORDINATION.—Any agreement entered  
22          into under this section shall provide for the coordi-  
23          nation of the administration of the provisions for  
24          employment services, training, and supplemental as-  
25          sistance under section 312 and under title I of the



1 Workforce Investment Act of 1998 (29 U.S.C. 2801  
2 et seq.) upon such terms and conditions as are es-  
3 tablished by the Secretary in consultation with the  
4 States and set forth in such agreement. Any agency  
5 of the State jointly administering such provisions  
6 under such agreement shall be considered to be a co-  
7 operating State agency for purposes of this part.

8 (6) RESPONSIBILITIES OF COOPERATING AGEN-  
9 CIES.—Each cooperating State agency shall, in car-  
10 rying out paragraph (1)(B)—

11 (A) advise each worker who applies for un-  
12 employment insurance of the benefits under this  
13 part and the procedures and deadlines for ap-  
14 plying for such benefits;

15 (B) facilitate the early filing of petitions  
16 under section 311(a) for any workers that the  
17 agency considers are likely to be eligible for  
18 benefits under this part;

19 (C) advise each adversely affected worker  
20 to apply for training under section 312(b) be-  
21 fore, or at the same time, the worker applies for  
22 climate change adjustment assistance under  
23 section 312(a);

24 (D) perform outreach to, intake of, and  
25 orientation for adversely affected workers and

1 adversely affected incumbent workers covered  
2 by a certification under section 312(a) with re-  
3 spect to assistance and benefits available under  
4 this part;

5 (E) make employment services described in  
6 section 312(b)(1) available to adversely affected  
7 workers and adversely affected incumbent work-  
8 ers covered by a certification under section  
9 311(d) and, if funds provided to carry out this  
10 part are insufficient to make such services  
11 available, make arrangements to make such  
12 services available through other Federal pro-  
13 grams; and

14 (F) provide the benefits and reemployment  
15 services under this part in a manner that is  
16 necessary for the proper and efficient adminis-  
17 tration of this part, including the use of state  
18 agency personnel employed in accordance with a  
19 merit system of personnel administration stand-  
20 ards, including—

21 (i) making determinations of eligibility  
22 for, and payment of, climate change read-  
23 justment assistance and health care benefit  
24 replacement amounts;

1           (ii) developing recommendations re-  
2           garding payments as a bridge to retire-  
3           ment and lump sum payments to pension  
4           plans in accordance with this subsection;  
5           and

6           (iii) the provision of reemployment  
7           services to eligible workers, including refer-  
8           ral to training services.

9           (7) SUBMISSION OF CERTAIN INFORMATION.—

10          In order to promote the coordination of workforce  
11          investment activities in each State with activities  
12          carried out under this part, any agreement entered  
13          into under this section shall provide that the State  
14          shall submit to the Secretary, in such form as the  
15          Secretary may require, the description and informa-  
16          tion described in paragraphs (8) and (14) of section  
17          112(b) of the Workforce Investment Act of 1998 (29  
18          U.S.C. 2822(b)) and a description of the State's  
19          rapid response activities under section 134(a)(2)(A)  
20          of that Act (29 U.S.C. 2864(a)(2)(A)).

21          (8) CONTROL MEASURES.—

22               (A) IN GENERAL.—The Secretary shall re-  
23               quire each cooperating State and cooperating  
24               State agency to implement effective control  
25               measures and to effectively oversee the oper-

1           ation and administration of the climate change  
2           adjustment assistance program under this part,  
3           including by means of monitoring the operation  
4           of control measures to improve the accuracy  
5           and timeliness of the data being collected and  
6           reported.

7           (B) DEFINITION.—For purposes of sub-  
8           paragraph (A), the term “control measures”  
9           means measures that—

10                   (i) are internal to a system used by a  
11                   State to collect data; and

12                   (ii) are designed to ensure the accu-  
13                   racy and verifiability of such data.

14           (9) DATA REPORTING.—

15           (A) IN GENERAL.—Any agreement entered  
16           into under this section shall require the cooper-  
17           ating State or cooperating State agency to re-  
18           port to the Secretary on a quarterly basis com-  
19           prehensive performance accountability data, to  
20           consist of—

21                   (i) the core indicators of performance  
22                   described in subparagraph (B)(i);

23                   (ii) the additional indicators of per-  
24                   formance described in subparagraph  
25                   (B)(ii), if any; and

1 (iii) a description of efforts made to  
2 improve outcomes for workers under the  
3 climate change adjustment assistance pro-  
4 gram.

5 (B) CORE INDICATORS DESCRIBED.—

6 (i) IN GENERAL.—The core indicators  
7 of performance described in this subpara-  
8 graph are—

9 (I) the percentage of workers re-  
10 ceiving benefits under this part who  
11 are employed during the second cal-  
12 endar quarter following the calendar  
13 quarter in which the workers cease re-  
14 ceiving such benefits;

15 (II) the percentage of such work-  
16 ers who are employed in each of the  
17 third and fourth calendar quarters fol-  
18 lowing the calendar quarter in which  
19 the workers cease receiving such bene-  
20 fits; and

21 (III) the earnings of such work-  
22 ers in each of the third and fourth  
23 calendar quarters following the cal-  
24 endar quarter in which the workers  
25 cease receiving such benefits.

1 (ii) ADDITIONAL INDICATORS.—The  
2 Secretary and a cooperating State or co-  
3 operating State agency may agree upon  
4 additional indicators of performance for  
5 the climate change adjustment assistance  
6 program under this part, as appropriate.

7 (C) STANDARDS WITH RESPECT TO RELI-  
8 ABILITY OF DATA.—In preparing the quarterly  
9 report required by subparagraph (A), each co-  
10 operating State or cooperating State agency  
11 shall establish procedures that are consistent  
12 with guidelines to be issued by the Secretary to  
13 ensure that the data reported are valid and reli-  
14 able.

15 (10) VERIFICATION OF ELIGIBILITY FOR PRO-  
16 GRAM BENEFITS.—

17 (A) IN GENERAL.—An agreement under  
18 this section shall provide that the State shall  
19 periodically redetermine that a worker receiving  
20 benefits under this part who is not a citizen or  
21 national of the United States remains in a sat-  
22 isfactory immigration status. Once satisfactory  
23 immigration status has been initially verified  
24 through the immigration status verification sys-  
25 tem described in section 1137(d) of the Social

1 Security Act (42 U.S.C. 1320b-7(d)) for pur-  
2 poses of establishing a worker's eligibility for  
3 unemployment compensation, the State shall  
4 reverify the worker's immigration status if the  
5 documentation provided during initial  
6 verification will expire during the period in  
7 which that worker is potentially eligible to re-  
8 ceive benefits under this part. The State shall  
9 conduct such redetermination in a timely man-  
10 ner, utilizing the immigration status verification  
11 system described in section 1137(d) of the So-  
12 cial Security Act (42 U.S.C. 1320b-7(d)).

13 (B) PROCEDURES.—The Secretary shall  
14 establish procedures to ensure the uniform ap-  
15 plication by the States of the requirements of  
16 this paragraph.

17 (b) ADMINISTRATION ABSENT STATE AGREE-  
18 MENT.—

19 (1) In any State where there is no agreement  
20 in force between a State or its agency under sub-  
21 section (a), the Secretary shall promulgate regula-  
22 tions for the performance of all necessary functions  
23 under section 312, including provision for a fair  
24 hearing for any worker whose application for pay-  
25 ments is denied.

1           (2) A final determination under paragraph (1)  
2           with respect to entitlement to program benefits  
3           under section 312 is subject to review by the courts  
4           in the same manner and to the same extent as is  
5           provided by section 205(g) of the Social Security Act  
6           (42 U.S.C. 405(g)).

7           (c) PROHIBITION ON CONTRACTING WITH PRIVATE  
8 ENTITIES.—Neither the Secretary nor a State may con-  
9 tract with any private for-profit or nonprofit entity for the  
10 administration of the climate change adjustment assist-  
11 ance program under this part.

12          (d) PAYMENT TO THE STATES.—

13           (1) IN GENERAL.—The Secretary shall from  
14           time to time certify to the Secretary of the Treasury  
15           for payment to each cooperating State the sums nec-  
16           essary to enable such State as agent of the United  
17           States to make payments provided for by this part.

18           (2) RESTRICTION.—All money paid a State  
19           under this subsection shall be used solely for the  
20           purposes for which it is paid; and money so paid  
21           which is not used for such purposes shall be re-  
22           turned, at the time specified in the agreement under  
23           this section, to the Secretary of the Treasury.

24           (3) BONDS.—Any agreement under this section  
25           may require any officer or employee of the State cer-



1 tifying payments or disbursing funds under the  
2 agreement or otherwise participating in the perform-  
3 ance of the agreement, to give a surety bond to the  
4 United States in such amount as the Secretary may  
5 deem necessary, and may provide for the payment of  
6 the cost of such bond from funds for carrying out  
7 the purposes of this part.

8 (e) LABOR STANDARDS.—

9 (1) PROHIBITION ON DISPLACEMENT.—An indi-  
10 vidual in an apprenticeship program or on-the-job  
11 training program under this part shall not displace  
12 (including a partial displacement, such as a reduc-  
13 tion in the hours of non-overtime work, wages, or  
14 employment benefits) any employed employee.

15 (2) PROHIBITION ON IMPAIRMENT OF CON-  
16 TRACTS.—An apprenticeship program or on-the-job  
17 raining program under this Act shall not impair an  
18 existing contract for services or collective bargaining  
19 agreement, and no such activity that would be incon-  
20 sistent with the terms of a collective bargaining  
21 agreement shall be undertaken without the written  
22 concurrence of the labor organization and employer  
23 concerned.

24 (3) ADDITIONAL STANDARDS.—The Secretary,  
25 or a State acting under an agreement described in

1 subsection (a) may pay the costs of on-the-job train-  
2 ing, notwithstanding any other provision of this sec-  
3 tion, only if—

4 (A) in the case of training which would be  
5 inconsistent with the terms of a collective bar-  
6 gaining agreement, the written concurrence of  
7 the labor organization concerned has been ob-  
8 tained;

9 (B) the job for which such adversely af-  
10 fected worker is being trained is not being cre-  
11 ated in a promotional line that will infringe in  
12 any way upon the promotional opportunities of  
13 currently employed individuals;

14 (C) such training is not for the same occu-  
15 pation from which the worker was separated  
16 and with respect to which such worker's group  
17 was certified pursuant to section 311(d);

18 (D) the employer is provided reimburse-  
19 ment of not more than 50 percent of the wage  
20 rate of the participant, for the cost of providing  
21 the training and additional supervision related  
22 to the training; and

23 (E) the employer has not received payment  
24 under with respect to any other on-the-job  
25 training provided by such employer which failed

1 to meet the requirements of subparagraphs (A)  
2 through (D).

3 (f) DEFINITIONS.—As used in this part the following  
4 definitions apply:

5 (1) The term “adversely affected employment”  
6 means employment at an employment site, if work-  
7 ers at such site are eligible to apply for adjustment  
8 assistance under this part.

9 (2) The term “adversely affected worker”  
10 means an individual who has been totally or partially  
11 separated from employment and is eligible to apply  
12 for adjustment assistance under this part.

13 (3) The term “average weekly wage” means  $\frac{1}{13}$   
14 of the total wages paid to an individual in the quar-  
15 ter in which the individual’s total wages were highest  
16 among the first 4 of the last 5 completed calendar  
17 quarters immediately before the quarter in which oc-  
18 curs the week with respect to which the computation  
19 is made. Such week shall be the week in which total  
20 separation occurred, or, in cases where partial sepa-  
21 ration is claimed, an appropriate week, as defined in  
22 regulations prescribed by the Secretary.

23 (4) The term “average weekly hours” means  
24 the average hours worked by the individual (exclud-  
25 ing overtime) in the employment from which he has

1       been or claims to have been separated in the 52  
2       weeks (excluding weeks during which the individual  
3       was sick or on vacation) preceding the week speci-  
4       fied in the last sentence of paragraph (4).

5           (5) The term “benefit period” means, with re-  
6       spect to an individual—

7           (A) the benefit year and any ensuing pe-  
8       riod, as determined under applicable State law,  
9       during which the individual is eligible for reg-  
10      ular compensation, additional compensation, or  
11      extended compensation; or

12          (B) the equivalent to such a benefit year  
13      or ensuing period provided for under the appli-  
14      cable Federal unemployment insurance law.

15          (6) The term “consumer goods manufacturing”  
16      means the electrical equipment, appliance, and com-  
17      ponent manufacturing industry and transportation  
18      equipment manufacturing.

19          (7) The term “employment site” means a single  
20      facility or site of employment.

21          (8) The term “energy-intensive manufacturing  
22      industries” means all industrial sectors, entities, or  
23      groups of entities that meet the energy or green-  
24      house gas intensity criteria in section 763(b)(2)(A)

1 of the Clean Air Act based on the most recent data  
2 available.

3 (9) The term “energy producing and trans-  
4 forming industries” means the coal mining industry,  
5 oil and gas extraction, electricity power generation,  
6 transmission and distribution, and natural gas dis-  
7 tribution.

8 (10) The term “on-the-job training” means  
9 training provided by an employer to an individual  
10 who is employed by the employer.

11 (11) The terms “partial separation” and “par-  
12 tially separated” refer, with respect to an individual  
13 who has not been totally separated, that such indi-  
14 vidual has had—

15 (A) his or her hours of work reduced to 80  
16 percent or less of his average weekly hours in  
17 adversely affected employment; and

18 (B) his or her wages reduced to 80 percent  
19 or less of his average weekly wage in such ad-  
20 versely affected employment.

21 (12) The term “public agency” means a depart-  
22 ment or agency of a State or political subdivision of  
23 a State or of the Federal Government.

24 (13) The term “Secretary” means the Secretary  
25 of Labor.

1           (14) The term “service workers” means work-  
2           ers supplying support or auxiliary services to an em-  
3           ployment site.

4           (15) The term “State” includes the District of  
5           Columbia and the Commonwealth of Puerto Rico;  
6           and the term “United States” when used in the geo-  
7           graphical sense includes such Commonwealth.

8           (16) The term “State agency” means the agen-  
9           cy of the State which administers the State law.

10          (17) The term “State law” means the unem-  
11          ployment insurance law of the State approved by the  
12          Secretary of Labor under section 3304 of the Inter-  
13          nal Revenue Code of 1986.

14          (18) The terms “total separation” and “totally  
15          separated” refer to the layoff or severance of an in-  
16          dividual from employment with an employer in which  
17          adversely affected employment exists.

18          (19) The term “unemployment insurance”  
19          means the unemployment compensation payable to  
20          an individual under any State law or Federal unem-  
21          ployment compensation law, including chapter 85 of  
22          title 5, United States Code, and the Railroad Unem-  
23          ployment Insurance Act (45 U.S.C. 351 et seq.).  
24          The terms “regular compensation”, “additional com-  
25          pensation”, and “extended compensation” have the

1 same respective meanings that are given them in  
2 section 205(2), (3), and (4) of the Federal-State Ex-  
3 tended Unemployment Compensation Act of 1970  
4 (26 U.S.C. 3304 note; Public Law 91–373).

5 (20) The term “week” means a week as defined  
6 in the applicable State law.

7 (21) The term “week of unemployment” means  
8 a week of total, part-total, or partial unemployment  
9 as determined under the applicable State law or  
10 Federal unemployment insurance law.

11 (g) SPECIAL RULE WITH RESPECT TO MILITARY  
12 SERVICE.—

13 (1) IN GENERAL.—Notwithstanding any other  
14 provision of this part, the Secretary may waive any  
15 requirement of this part that the Secretary deter-  
16 mines is necessary to ensure that an adversely af-  
17 fected worker who is a member of a reserve compo-  
18 nent of the Armed Forces and serves a period of  
19 duty described in paragraph (2) is eligible to receive  
20 climate change adjustment assistance, training, and  
21 other benefits under this part in the same manner  
22 and to the same extent as if the worker had not  
23 served the period of duty.

24 (2) PERIOD OF DUTY DESCRIBED.—An ad-  
25 versely affected worker serves a period of duty de-

1 scribed in this paragraph if, before completing train-  
2 ing under this part, the worker—

3 (A) serves on active duty for a period of  
4 more than 30 days under a call or order to ac-  
5 tive duty of more than 30 days; or

6 (B) in the case of a member of the Army  
7 National Guard of the United States or Air Na-  
8 tional Guard of the United States, performs  
9 full-time National Guard duty under section  
10 502(f) of title 32, United States Code, for 30  
11 consecutive days or more when authorized by  
12 the President or the Secretary of Defense for  
13 the purpose of responding to a national emer-  
14 gency declared by the President and supported  
15 by Federal funds.

16 (h) FRAUD AND RECOVERY OF OVERPAYMENTS.—

17 (1) RECOVERY OF PAYMENTS TO WHICH AN IN-  
18 DIVIDUAL WAS NOT ENTITLED.—If the Secretary or  
19 a court of competent jurisdiction determines that  
20 any person has received any payment under this  
21 part to which the individual was not entitled, such  
22 individual shall be liable to repay such amount to  
23 the Secretary, as the case may be, except that the  
24 Secretary shall waive such repayment if such agency  
25 or the Secretary determines that—



1 (A) the payment was made without fault  
2 on the part of such individual; and

3 (B) requiring such repayment would cause  
4 a financial hardship for the individual (or the  
5 individual's household, if applicable) when tak-  
6 ing into consideration the income and resources  
7 reasonably available to the individual (or house-  
8 hold) and other ordinary living expenses of the  
9 individual (or household).

10 (2) MEANS OF RECOVERY.—Unless an overpay-  
11 ment is otherwise recovered, or waived under para-  
12 graph (1), the Secretary shall recover the overpay-  
13 ment by deductions from any sums payable to such  
14 person under this part, under any Federal unem-  
15 ployment compensation law or other Federal law ad-  
16 ministered by the Secretary which provides for the  
17 payment of assistance with respect to unemploy-  
18 ment. Any amount recovered under this section shall  
19 be returned to the Treasury of the United States.

20 (3) PENALTIES FOR FRAUD.—Any person  
21 who—

22 (A) makes a false statement of a material  
23 fact knowing it to be false, or knowingly fails  
24 to disclose a material fact, for the purpose of  
25 obtaining or increasing for that person or for

1           any other person any payment authorized to be  
2           furnished under this part; or

3                   (B) makes a false statement of a material  
4           fact knowing it to be false, or knowingly fails  
5           to disclose a material fact, when providing in-  
6           formation to the Secretary during an investiga-  
7           tion of a petition under section 311(c);

8 shall be imprisoned for not more than one year, or fined  
9 under title 18, United States Code, or both, and be ineli-  
10 gible for any further payments under this part.

11       (i) REGULATIONS.—The Secretary shall prescribe  
12 such regulations as may be necessary to carry out the pro-  
13 visions of this part.

14       (j) STUDY ON OLDER WORKERS.—The Secretary  
15 shall conduct a study examine the circumstances of older  
16 adversely affected workers and the ability of such workers  
17 to access their retirement benefits. The Secretary shall  
18 transmit a report to Congress not later than 2 years after  
19 the date of enactment of this Act on the findings of the  
20 study and the Secretary's recommendations on how to en-  
21 sure that adversely affected workers within 2 years of re-  
22 tirement are able to access their retirement benefits.

1     **Subtitle B—International Climate**  
2                     **Change Programs**

3     **SEC. 321. STRATEGIC INTERAGENCY BOARD ON INTER-**  
4                     **NATIONAL CLIMATE INVESTMENT.**

5             (a) ESTABLISHMENT.—

6                 (1) IN GENERAL.—Not later than 90 days after  
7             the date of the enactment of this Act, the President  
8             shall establish the “Strategic Interagency Board on  
9             International Climate Investment” (referred to in  
10            this subtitle as the “Board”).

11            (2) COMPOSITION.—The Board shall be com-  
12            posed of—

13                         (A) the Secretary of State;

14                         (B) the Administrator of United States  
15             Agency for International Development;

16                         (C) the Secretary of Energy;

17                         (D) the Secretary of the Treasury;

18                         (E) the Secretary of Commerce;

19                         (F) the Secretary of Agriculture;

20                         (G) the Administrator; and

21                         (H) such other relevant officials as the  
22             President may designate.

23             (b) DUTIES.—The duties of the Board shall include  
24     assessing, monitoring, and evaluating the progress and  
25     contributions of relevant departments and agencies of the

1 Federal Government in supporting financing for inter-  
2 national climate change activities.

3 **SEC. 322. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
4 **ESTATION.**

5 Title VII of the Clean Air Act (as amended by section  
6 101 of division B) is amended by adding at the end the  
7 following:

8 **“PART E—SUPPLEMENTAL EMISSION**  
9 **REDUCTIONS**

10 **“SEC. 751. DEFINITIONS.**

11 “In this part:

12 “(1) ADMINISTRATOR.—The term ‘Adminis-  
13 trator’ means the Administrator of the United  
14 States Agency for International Development.

15 “(2) DEFORESTATION.—The term ‘deforest-  
16 ation’ means a change in land use from a forest to  
17 any other land use.

18 “(3) DEGRADATION.—The term ‘degradation’,  
19 with respect to a forest, is any reduction in the car-  
20 bon stock of a forest due to the impact of human  
21 land-use activities.

22 “(4) EMISSION REDUCTIONS.—The term ‘emis-  
23 sion reductions’ means greenhouse gas emission re-  
24 ductions achieved from reduced or avoided deforest-  
25 ation under this title.

1           “(5) LEAKAGE PREVENTION ACTIVITIES.—The  
2           term ‘leakage prevention activities’ means activities  
3           in developing countries that are directed at pre-  
4           serving existing forest carbon stocks, including for-  
5           ested wetlands and peatlands, that might, absent  
6           such activities, be lost through leakage.

7   **“SEC. 752. PURPOSES.**

8           “The purposes of this part are to provide United  
9           States assistance to developing countries—

10           “(1) to develop, implement and improve nation-  
11           ally appropriate greenhouse gas mitigation policies  
12           and actions that reduce deforestation and forest deg-  
13           radation or conserve or restore forest ecosystems, in  
14           a measurable, reportable, and verifiable manner; and

15           “(2) in a manner that is consistent with and  
16           enhances the implementation of complementary  
17           United States policies that support the good govern-  
18           ance of forests, biodiversity conservation, and envi-  
19           ronmentally sustainable development, while taking  
20           local communities, most vulnerable populations and  
21           communities, particularly forest-dependent commu-  
22           nities and indigenous peoples into consideration.

1 **“SEC. 753. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
2 **ESTATION.**

3 “(a) IN GENERAL.—Not later than 2 years after the  
4 date of the enactment of this part, the Administrator, in  
5 consultation with the Administrator of the Environmental  
6 Protection Agency, the Secretary of Agriculture, and the  
7 head of any other appropriate agency, shall establish a  
8 program to provide assistance to reduce greenhouse gas  
9 emissions from deforestation in developing countries, in  
10 accordance with this title.

11 “(b) OBJECTIVES.—The objectives of the program es-  
12 tablished under this section shall be—

13 “(1) to reduce greenhouse gas emissions from  
14 deforestation in developing countries by at least  
15 720,000,000 tons of carbon dioxide equivalent in  
16 2020, and a cumulative quantity of at least  
17 6,000,000,000 tons of carbon dioxide equivalent by  
18 December 31, 2025, with additional reductions in  
19 subsequent years;

20 “(2) to assist developing countries in preparing  
21 to participate in international markets for inter-  
22 national offset credits for reduced emissions from  
23 deforestation; and

24 “(3) to preserve existing forest carbon stocks in  
25 countries where such forest carbon may be vulner-  
26 able to international leakage.”.

1 **SEC. 323. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**  
2 **PROGRAM.**

3 (a) PURPOSES.—The purposes of this section are—

4 (1) to assist developing countries in activities  
5 that reduce, sequester, or avoid greenhouse gas  
6 emissions;

7 (2) to encourage those countries to shift toward  
8 low-carbon development, and promote a successful  
9 global agreement under the United Nations Frame-  
10 work Convention on Climate Change, done at New  
11 York on May 9, 1992 (or a successor agreement)  
12 (referred to in this subtitle as the “Convention”);  
13 and

14 (3) to promote robust compliance with and en-  
15 forcement of existing international legal require-  
16 ments for the protection of intellectual property  
17 rights.

18 (b) ESTABLISHMENT OF INTERNATIONAL CLEAN EN-  
19 ERGY DEPLOYMENT PROGRAM.—

20 (1) ESTABLISHMENT.—The Secretary of State,  
21 in consultation with an interagency group designated  
22 by the President, shall establish an International  
23 Clean Energy Deployment Program in accordance  
24 with this section.

25 (2) DISTRIBUTION OF ASSISTANCE.—The Sec-  
26 retary of State, or the head of such other Federal

1 agency as the President may designate, shall direct  
2 the distribution of funding to carry out the Clean  
3 Energy Technology Program—

4 (A) in the form of bilateral assistance;

5 (B) to multilateral funds or international  
6 institutions pursuant to the Convention or an  
7 agreement negotiated under the Convention; or

8 (C) through a combination of the mecha-  
9 nisms identified under subparagraphs (A) and  
10 (B).

11 (c) DETERMINATION OF QUALIFYING ACTIVITIES.—

12 Assistance under this subtitle may be provided only to  
13 qualifying entities for clean technology activities (includ-  
14 ing building relevant technical and institutional capacity)  
15 that contribute to substantial, measurable, reportable, and  
16 verifiable reductions, sequestration, or avoidance of green-  
17 house gas emissions.

18 **SEC. 324. INTERNATIONAL CLIMATE CHANGE ADAPTATION**

19 **AND GLOBAL SECURITY PROGRAM.**

20 (a) PURPOSES.—The purposes of this section are—

21 (1) to provide assistance to the most vulnerable  
22 developing countries, particularly to the most vulner-  
23 able communities and populations in those countries;  
24 and



1           (2) to support the development and implemen-  
2           tation of climate change adaptation programs in a  
3           way that protects and promotes interests of the  
4           United States, to the extent those interests may be  
5           advanced by minimizing, averting, or increasing re-  
6           silience to climate change impacts.

7           (b) INTERNATIONAL CLIMATE CHANGE ADAPTATION  
8           AND GLOBAL SECURITY PROGRAM.—

9           (1) ESTABLISHMENT.—The Secretary of State,  
10          in consultation with the Administrator of the United  
11          States Agency for International Development, the  
12          Secretary of the Treasury, and the Administrator,  
13          shall establish an International Climate Change Ad-  
14          aptation and Global Security Program in accordance  
15          with this section.

16          (2) DISTRIBUTION OF ASSISTANCE.—The Sec-  
17          retary of State, or the head of such other Federal  
18          agency as the President may designate, after con-  
19          sultation with the Secretary of the Treasury, the Ad-  
20          ministrator of the United States Agency for Inter-  
21          national Development, and the Administrator, shall  
22          direct the distribution of funding to carry out the  
23          International Climate Change Adaptation and Global  
24          Security Program—

25                 (A) in the form of bilateral assistance;

1 (B) to multilateral funds or international  
2 institutions pursuant to the Convention or an  
3 agreement negotiated under the Convention; or

4 (C) through a combination of the mecha-  
5 nisms identified under subparagraphs (A) and  
6 (B).

7 **SEC. 325. EVALUATION AND REPORTS.**

8 (a) **MONITORING, EVALUATION, AND ENFORCE-**  
9 **MENT.**—The Board shall establish and implement a sys-  
10 tem to monitor and evaluate the effectiveness and effi-  
11 ciency of assistance provided under this subtitle by includ-  
12 ing evaluation criteria, such as performance indicators.

13 (b) **REPORTS AND REVIEW.**—

14 (1) **ANNUAL REPORT.**—Not later than 1 year  
15 after the date of enactment of this Act, and annually  
16 thereafter, the Board shall submit to the appropriate  
17 committees of Congress a report that describes—

18 (A) the steps Federal agencies have taken,  
19 and the progress made, toward accomplishing  
20 the objectives of this section; and

21 (B) the ramifications of any potentially de-  
22 stabilizing impacts climate change may have on  
23 the interests of the United States.

24 (2) **REVIEWS.**—Not later than 3 years after the  
25 date of enactment of this Act, and triennially there-

1 after, the Board, in cooperation with the National  
2 Academy of Sciences and other appropriate research  
3 and development institutions, shall—

4 (A) review the global needs and opportuni-  
5 ties for climate change investment in developing  
6 countries; and

7 (B) submit to Congress a report that de-  
8 scribes the findings of the review.

9 **SEC. 326. REPORT ON CLIMATE ACTIONS OF MAJOR**  
10 **ECONOMIES.**

11 (a) IN GENERAL.—The Secretary of State, in co-  
12 operation with the Board, shall prepare an interagency re-  
13 port on climate change and energy policy of the 5 coun-  
14 tries that, of the countries that are not members of the  
15 Organisation for Economic Co-Operation and Develop-  
16 ment, emit the greatest annual quantity of greenhouse  
17 gases.

18 (b) PURPOSES.—The purposes of the report shall  
19 be—

20 (1) to provide to Congress and the public of the  
21 United States—

22 (A) a better understanding of the actions  
23 the countries described in subsection (a) are  
24 taking to reduce greenhouse gas emissions; and

1 (B) an assessment of the climate change  
2 and energy policy commitments and actions of  
3 those countries; and

4 (2) to identify the means by which the United  
5 States can assist those countries in achieving such  
6 a reduction.

7 (c) SUBMISSION TO CONGRESS.—Not later than 15  
8 months after the date of enactment of this Act, the Sec-  
9 retary of State shall submit to the appropriate committees  
10 of Congress the report prepared under this section.

## 11 **Subtitle C—Adapting to Climate** 12 **Change**

### 13 **PART 1—DOMESTIC ADAPTATION**

#### 14 **Subpart A—National Climate Change Adaptation** 15 **Program**

#### 16 **SEC. 341. NATIONAL CLIMATE CHANGE ADAPTATION PRO-** 17 **GRAM.**

18 The President shall establish within the United  
19 States Global Change Research Program a National Cli-  
20 mate Change Adaptation Program for the purpose of in-  
21 creasing the overall effectiveness of Federal climate  
22 change adaptation efforts.

#### 23 **SEC. 342. CLIMATE SERVICES.**

24 The Secretary of Commerce, acting through the Ad-  
25 ministrator of the National Oceanic and Atmospheric Ad-

1   ministration (NOAA), shall establish within NOAA a Na-  
2   tional Climate Service to develop climate information,  
3   data, forecasts, and warnings at national and regional  
4   scales, and to distribute information related to climate im-  
5   pacts to State, local, and tribal governments and the pub-  
6   lic to facilitate the development and implementation of  
7   strategies to reduce society’s vulnerability to climate varia-  
8   bility and change.

9       **Subpart B—Public Health and Climate Change**

10   **SEC. 351. SENSE OF CONGRESS ON PUBLIC HEALTH AND**  
11                           **CLIMATE CHANGE.**

12       It is the sense of the Congress that the Federal Gov-  
13   ernment, in cooperation with international, State, tribal,  
14   and local governments, Indian tribes, concerned public and  
15   private organizations, and citizens, should use all prac-  
16   ticable means and measures—

17           (1) to assist the efforts of public health and  
18   health care professionals, first responders, States,  
19   Indian tribes, municipalities, and local communities  
20   to incorporate measures to prepare health systems to  
21   respond to the impacts of climate change;

22           (2) to ensure—

23                   (A) that the Nation’s health professionals  
24           have sufficient information to prepare for and

1           respond to the adverse health impacts of cli-  
2           mate change;

3           (B) the utility and value of scientific re-  
4           search in advancing understanding of—

5           (i) the health impacts of climate  
6           change; and

7           (ii) strategies to prepare for and re-  
8           spond to the health impacts of climate  
9           change;

10          (C) the identification of communities vul-  
11          nerable to the health effects of climate change  
12          and the development of strategic response plans  
13          to be carried out by health professionals for  
14          those communities;

15          (D) the improvement of health status and  
16          health equity through efforts to prepare for and  
17          respond to climate change; and

18          (E) the inclusion of health policy in the de-  
19          velopment of climate change responses;

20          (3) to encourage further research, interdiscipli-  
21          nary partnership, and collaboration among stake-  
22          holders in order to—

23                 (A) understand and monitor the health im-  
24                 pacts of climate change; and

1 (B) improve public health knowledge and  
2 response strategies to climate change;

3 (4) to enhance preparedness activities, and pub-  
4 lic health infrastructure, relating to climate change  
5 and health;

6 (5) to encourage each and every American to  
7 learn about the impacts of climate change on health;  
8 and

9 (6) to assist the efforts of developing nations to  
10 incorporate measures to prepare health systems to  
11 respond to the impacts of climate change.

12 **SEC. 352. RELATIONSHIP TO OTHER LAWS.**

13 Nothing in this subpart in any manner limits the au-  
14 thority provided to or responsibility conferred on any Fed-  
15 eral department or agency by any provision of any law  
16 (including regulations) or authorizes any violation of any  
17 provision of any law (including regulations), including any  
18 health, energy, environmental, transportation, or any  
19 other law or regulation.

20 **SEC. 353. NATIONAL STRATEGIC ACTION PLAN.**

21 (a) REQUIREMENT.—

22 (1) IN GENERAL.—The Secretary of Health and  
23 Human Services, within 2 years after the date of the  
24 enactment of this Act, on the basis of the best avail-  
25 able science, and in consultation pursuant to para-

1 graph (2), shall publish a strategic action plan to as-  
2 sist health professionals in preparing for and re-  
3 sponding to the impacts of climate change on public  
4 health in the United States and other nations, par-  
5 ticularly developing nations.

6 (2) CONSULTATION.—In developing or making  
7 any revision to the national strategic action plan, the  
8 Secretary shall—

9 (A) consult with the Director of the Cen-  
10 ters for Disease Control and Prevention, the  
11 Administrator of the Environmental Protection  
12 Agency, the Director of the National Institutes  
13 of Health, the Director of the Indian Health  
14 Service, the Secretary of Energy, other appro-  
15 priate Federal agencies, Indian tribes, State  
16 and local governments, public health organiza-  
17 tions, scientists, and other interested stake-  
18 holders; and

19 (B) provide opportunity for public input.

20 (b) CONTENTS.—

21 (1) IN GENERAL.—The Secretary shall assist  
22 health professionals in preparing for and responding  
23 effectively and efficiently to the health effects of cli-  
24 mate change through measures including—



1 (A) developing, improving, integrating, and  
2 maintaining domestic and international disease  
3 surveillance systems and monitoring capacity to  
4 respond to health-related effects of climate  
5 change, including on topics addressing—

6 (i) water, food, and vector borne infec-  
7 tious diseases and climate change;

8 (ii) pulmonary effects, including re-  
9 sponses to aeroallergens;

10 (iii) cardiovascular effects, including  
11 impacts of temperature extremes;

12 (iv) air pollution health effects, includ-  
13 ing heightened sensitivity to air pollution;

14 (v) hazardous algal blooms;

15 (vi) mental and behavioral health im-  
16 pacts of climate change;

17 (vii) the health of refugees, displaced  
18 persons, and vulnerable communities;

19 (viii) the implications for communities  
20 vulnerable to health effects of climate  
21 change, as well as strategies for responding  
22 to climate change within these commu-  
23 nities; and

1 (ix) local and community-based health  
2 interventions for climate-related health im-  
3 pacts;

4 (B) creating tools for predicting and moni-  
5 toring the public health effects of climate  
6 change on the international, national, regional,  
7 State, tribal, and local levels, and providing  
8 technical support to assist in their implementa-  
9 tion;

10 (C) developing public health communica-  
11 tions strategies and interventions for extreme  
12 weather events and disaster response situations;

13 (D) identifying and prioritizing commu-  
14 nities and populations vulnerable to the health  
15 effects of climate change, and determining ac-  
16 tions and communication strategies that should  
17 be taken to inform and protect these commu-  
18 nities and populations from the health effects of  
19 climate change;

20 (E) developing health communication, pub-  
21 lic education, and outreach programs aimed at  
22 public health and health care professionals, as  
23 well as the general public, to promote prepared-  
24 ness and response strategies relating to climate  
25 change and public health, including the identi-

- 1           fication of greenhouse gas reduction behaviors  
2           that are health-promoting; and
- 3           (F) developing academic and regional cen-  
4           ters of excellence devoted to—
- 5                 (i) researching relationships between  
6                 climate change and health;
- 7                 (ii) expanding and training the public  
8                 health workforce to strengthen the capacity  
9                 of such workforce to respond to and pre-  
10                pare for the health effects of climate  
11                change;
- 12                (iii) creating and supporting academic  
13                fellowships focusing on the health effects  
14                of climate change; and
- 15                (iv) training senior health ministry of-  
16                ficials from developing nations to strength-  
17                en the capacity of such nations to—
- 18                         (I) prepare for and respond to  
19                         the health effects of climate change;  
20                         and
- 21                         (II) build an international net-  
22                         work of public health professionals  
23                         with the necessary climate change  
24                         knowledge base;

1 (G) using techniques, including health im-  
2 pact assessments, to assess various climate  
3 change public health preparedness and response  
4 strategies on international, national, State, re-  
5 gional, tribal, and local levels, and make rec-  
6 ommendations as to those strategies that best  
7 protect the public health;

8 (H)(i) assisting in the development, imple-  
9 mentation, and support of State, regional, trib-  
10 al, and local preparedness, communication, and  
11 response plans (including with respect to the  
12 health departments of such entities) to antici-  
13 pate and reduce the health threats of climate  
14 change; and

15 (ii) pursuing collaborative efforts to de-  
16 velop, integrate, and implement such plans;

17 (I) creating a program to advance research  
18 as it relates to the effects of climate change on  
19 public health across Federal agencies, including  
20 research to—

21 (i) identify and assess climate change  
22 health effects preparedness and response  
23 strategies;

24 (ii) prioritize critical public health in-  
25 frastructure projects related to potential

1 climate change impacts that affect public  
2 health; and

3 (iii) coordinate preparedness for cli-  
4 mate change health impacts, including the  
5 development of modeling and forecasting  
6 tools;

7 (J) providing technical assistance for the  
8 development, implementation, and support of  
9 preparedness and response plans to anticipate  
10 and reduce the health threats of climate change  
11 in developing nations; and

12 (K) carrying out other activities deter-  
13 mined appropriate by the Secretary to plan for  
14 and respond to the impacts of climate change  
15 on public health.

16 (c) REVISION.—The Secretary shall revise the na-  
17 tional strategic action plan not later than July 1, 2014,  
18 and every 4 years thereafter, to reflect new information  
19 collected pursuant to implementation of the national stra-  
20 tegic action plan and otherwise, including information  
21 on—

22 (1) the status of critical environmental health  
23 parameters and related human health impacts;

24 (2) the impacts of climate change on public  
25 health; and

1           (3) advances in the development of strategies  
2           for preparing for and responding to the impacts of  
3           climate change on public health.

4           (d) IMPLEMENTATION.—

5           (1) IMPLEMENTATION THROUGH HHS.—The  
6           Secretary shall exercise the Secretary’s authority  
7           under this subpart and other provisions of Federal  
8           law to achieve the goals and measures of the na-  
9           tional strategic action plan.

10          (2) OTHER PUBLIC HEALTH PROGRAMS AND  
11          INITIATIVES.—The Secretary and Federal officials of  
12          other relevant Federal agencies shall administer  
13          public health programs and initiatives authorized by  
14          provisions of law other than this subpart, subject to  
15          the requirements of such statutes, in a manner de-  
16          signed to achieve the goals of the national strategic  
17          action plan.

18          (3) SPECIFIC ACTIVITIES.—In furtherance of  
19          the national strategic action plan, the Secretary  
20          shall—

21                 (A) conduct scientific research to assist  
22                 health professionals in preparing for and re-  
23                 sponding to the impacts of climate change on  
24                 public health; and

25                 (B) provide funding for—

1 (i) research on the health effects of  
2 climate change; and

3 (ii) preparedness planning on the  
4 international, national, State, tribal, re-  
5 gional, and local levels to respond to or re-  
6 duce the burden of health effects of climate  
7 change; and

8 (C) carry out other activities determined  
9 appropriate by the Secretary to prepare for and  
10 respond to the impacts of climate change on  
11 public health.

12 **SEC. 354. ADVISORY BOARD.**

13 (a) ESTABLISHMENT.—The Secretary shall establish  
14 a permanent science advisory board comprised of not less  
15 than 10 and not more than 20 members.

16 (b) APPOINTMENT OF MEMBERS.—The Secretary  
17 shall appoint the members of the science advisory board  
18 from among individuals—

19 (1) who have expertise in public health and  
20 human services, climate change, and other relevant  
21 disciplines; and

22 (2) at least  $\frac{1}{2}$  of whom are recommended by  
23 the President of the National Academy of Sciences.

24 (c) FUNCTIONS.—The science advisory board shall—

1           (1) provide scientific and technical advice and  
2           recommendations to the Secretary on the domestic  
3           and international impacts of climate change on pub-  
4           lic health, populations and regions particularly vul-  
5           nerable to the effects of climate change, and strate-  
6           gies and mechanisms to prepare for and respond to  
7           the impacts of climate change on public health; and

8           (2) advise the Secretary regarding the best  
9           science available for purposes of issuing the national  
10          strategic action plan.

11 **SEC. 355. REPORTS.**

12          (a) NEEDS ASSESSMENT.—

13           (1) IN GENERAL.—The Secretary shall seek to  
14           enter into, by not later than 6 months after the date  
15           of the enactment of this Act, an agreement with the  
16           National Research Council and the Institute of Med-  
17           icine to complete a report that—

18                   (A) assesses the needs for health profes-  
19                   sionals to prepare for and respond to climate  
20                   change impacts on public health; and

21                   (B) recommends programs to meet those  
22                   needs.

23           (2) SUBMISSION.—The agreement under para-  
24           graph (1) shall require the completed report to be  
25           submitted to the Congress and the Secretary and



1 made publicly available not later than 1 year after  
2 the date of the agreement.

3 (b) CLIMATE CHANGE HEALTH PROTECTION AND  
4 PROMOTION REPORTS.—

5 (1) IN GENERAL.—The Secretary, in consulta-  
6 tion with the advisory board established under sec-  
7 tion 354, shall ensure the issuance of reports to aid  
8 health professionals in preparing for and responding  
9 to the adverse health effects of climate change  
10 that—

11 (A) review scientific developments on  
12 health impacts of climate change; and

13 (B) recommend changes to the national  
14 strategic action plan.

15 (2) SUBMISSION.—The Secretary shall submit  
16 the reports required by paragraph (1) to the Con-  
17 gress and make such reports publicly available not  
18 later than July 1, 2013, and every 4 years there-  
19 after.

20 **SEC. 356. DEFINITIONS.**

21 In this subpart:

22 (1) HEALTH IMPACT ASSESSMENT.—The term  
23 “health impact assessment” means a combination of  
24 procedures, methods, and tools by which a policy,  
25 program, or project may be judged as to its potential

1 effects on the health of a population, and the dis-  
2 tribution of those effects within the population.

3 (2) NATIONAL STRATEGIC ACTION PLAN.—The  
4 term “national strategic action plan” means the  
5 plan issued and revised under section 353.

6 (3) SECRETARY.—Unless otherwise specified,  
7 the term “Secretary” means the Secretary of Health  
8 and Human Services.

9 **Subpart C—Climate Change Safeguards for Natural**  
10 **Resources Conservation**

11 **SEC. 361. PURPOSES.**

12 The purposes of this subpart are—

13 (1) to establish an integrated Federal program  
14 that responds to ongoing and expected impacts of  
15 climate change, including, where applicable, ocean  
16 acidification, drought, flooding, and wildfire, by pro-  
17 tecting, restoring, and conserving the natural re-  
18 sources of the United States; and

19 (2) to provide financial support and incentives  
20 for programs, strategies, and activities that respond  
21 to threats of climate change, including, where appli-  
22 cable, ocean acidification, drought, flooding, and  
23 wildfire, by protecting, restoring, and conserving the  
24 natural resources of the United States.

1 **SEC. 362. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
2 **TATION POLICY.**

3 It is the policy of the Federal Government, in co-  
4 operation with State and local governments, Indian tribes,  
5 and other interested stakeholders, to use all practicable  
6 means to protect, restore, and conserve natural resources  
7 so that natural resources become more resilient, adapt to,  
8 and withstand the ongoing and expected impacts of cli-  
9 mate change, including, where applicable, ocean acidifica-  
10 tion, drought, flooding, and wildfire.

11 **SEC. 363. DEFINITIONS.**

12 In this subpart:

13 (1) ACCOUNT.—The term “Account” means the  
14 Natural Resources Climate Change Adaption Ac-  
15 count established by section 370(a).

16 (2) ADMINISTRATORS.—The term “Administra-  
17 tors” means—

18 (A) the Administrator of the National Oce-  
19 anic and Atmospheric Administration; and

20 (B) the Director of the United States Geo-  
21 logical Survey.

22 (3) BOARD.—The term “Board” means the  
23 Science Advisory Board established by section  
24 367(f)(1).

1           (4) CENTER.—The term “Center” means the  
2 National Climate Change and Wildlife Science Cen-  
3 ter described by section 367(e)(1).

4           (5) COASTAL STATE.—The term “coastal  
5 State” has the meaning given the term “coastal  
6 state” in section 304 of the Coastal Zone Manage-  
7 ment Act of 1972 (16 U.S.C. 1453).

8           (6) CORRIDORS.—The term “corridors” means  
9 areas that—

10           (A) provide connectivity, over different  
11 time scales, of habitats or potential habitats;  
12 and

13           (B) facilitate terrestrial, marine, estuarine,  
14 and freshwater fish, wildlife, or plant movement  
15 necessary for migration, gene flow, or dispersal,  
16 or to respond to the ongoing and expected im-  
17 pacts of climate change, including, where appli-  
18 cable, ocean acidification, drought, flooding,  
19 and wildfire.

20           (7) ECOLOGICAL PROCESSES.—The term “eco-  
21 logical processes” means biological, chemical, or  
22 physical interaction between the biotic and abiotic  
23 components of an ecosystem, including—

24           (A) nutrient cycling;

25           (B) pollination;

- 1 (C) predator-prey relationships;
- 2 (D) soil formation;
- 3 (E) gene flow;
- 4 (F) disease epizootiology;
- 5 (G) larval dispersal and settlement;
- 6 (H) hydrological cycling;
- 7 (I) decomposition; and
- 8 (J) disturbance regimes, such as fire and  
9 flooding.

10 (8) HABITAT.—The term “habitat” means the  
11 physical, chemical, and biological properties that  
12 fish, wildlife, or plants use for growth, reproduction,  
13 survival, food, water, or cover (whether on land, in  
14 water, or in an area or region).

15 (9) INDIAN TRIBE.—The term “Indian tribe”  
16 has the meaning given the term in section 4 of the  
17 Indian Self-Determination and Education Assistance  
18 Act (25 U.S.C. 450b).

19 (10) NATURAL RESOURCES.—The term “nat-  
20 ural resources” means land, wildlife, fish, air, water,  
21 estuaries, plants, habitats, and ecosystems of the  
22 United States.

23 (11) NATURAL RESOURCES ADAPTATION.—The  
24 term “natural resources adaptation” means the pro-  
25 tection, restoration, and conservation of natural re-

1 sources so that natural resources become more resil-  
2 ient, adapt to, and withstand the ongoing and ex-  
3 pected impacts of climate change, including, where  
4 applicable, ocean acidification, drought, flooding,  
5 and wildfire.

6 (12) PANEL.—The term “Panel” means the  
7 Natural Resources Climate Change Adaptation  
8 Panel established under section 365(a).

9 (13) RESILIENCE; RESILIENT.—The terms “re-  
10 silience” and “resilient” mean—

11 (A) the ability to resist or recover from  
12 disturbance; and

13 (B) the ability to preserve diversity, pro-  
14 ductivity, and sustainability.

15 (14) STATE.—The term “State” means—

16 (A) a State of the United States;

17 (B) the District of Columbia;

18 (C) American Samoa;

19 (D) Guam;

20 (E) the Commonwealth of the Northern  
21 Mariana Islands;

22 (F) the Commonwealth of Puerto Rico;

23 and

24 (G) the United States Virgin Islands.

1           (15) STRATEGY.—The term “Strategy” means  
2           the Natural Resources Climate Change Adaptation  
3           Strategy developed under section 366(a).

4 **SEC. 364. COUNCIL ON ENVIRONMENTAL QUALITY.**

5           The Chair of the Council on Environmental Quality  
6 shall—

7           (1) advise the President on implementing and  
8           developing—

9                   (A) the Strategy; and

10                   (B) the Federal natural resource agency  
11           adaptation plans required by section 368;

12           (2) serve as the Chair of the Panel established  
13           under section 365; and

14           (3) coordinate Federal agency strategies, plans,  
15           programs, and activities relating to protecting, re-  
16           storing, and maintaining natural resources so that  
17           natural resources become more resilient, adapt to,  
18           and withstand the ongoing and expected impacts of  
19           climate change.

20 **SEC. 365. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
21 **TATION PANEL.**

22           (a) ESTABLISHMENT.—Not later than 90 days after  
23 the date of enactment of this Act, the President shall es-  
24 tablish a Natural Resources Climate Change Adaptation  
25 Panel.

1 (b) DUTIES.—The Panel shall serve as a forum for  
2 interagency consultation on, and the coordination of, the  
3 development and implementation of the Strategy.

4 (c) MEMBERSHIP.—The Panel shall be composed  
5 of—

6 (1) the Administrator of the National Oceanic  
7 and Atmospheric Administration (or a designee);

8 (2) the Chief of the Forest Service (or a des-  
9 igned);

10 (3) the Director of the National Park Service  
11 (or a designee);

12 (4) the Director of the United States Fish and  
13 Wildlife Service (or a designee);

14 (5) the Director of the Bureau of Land Man-  
15 agement (or a designee);

16 (6) the Director of the United States Geological  
17 Survey (or a designee);

18 (7) the Commissioner of Reclamation (or a des-  
19 igned);

20 (8) the Director of the Bureau of Indian Affairs  
21 (or a designee);

22 (9) the Administrator of the Environmental  
23 Protection Agency (or a designee);

24 (10) the Chief of Engineers (or a designee);



1           (11) the Chair of the Council on Environmental  
2           Quality (or a designee);

3           (12) the Administrator of the Federal Emer-  
4           gency Management Agency (or a designee); and

5           (13) the heads of such other Federal agencies  
6           or departments with jurisdiction over natural re-  
7           sources of the United States, as determined by the  
8           President.

9           (d) CHAIRPERSON.—The Chair of the Council on En-  
10          vironmental Quality shall serve as the Chairperson of the  
11          Panel.

12          **SEC. 366. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
13          **TATION STRATEGY.**

14          (a) IN GENERAL.—Not later than 1 year after the  
15          date of enactment of this Act, the Panel shall develop a  
16          Natural Resources Climate Change Adaptation Strategy—

17                 (1) to protect, restore, and conserve natural re-  
18                 sources so that natural resources become more resil-  
19                 ient, adapt to, and withstand the ongoing and ex-  
20                 pected impacts of climate change; and

21                 (2) to identify opportunities to mitigate the on-  
22                 going and expected impacts of climate change.

23          (b) DEVELOPMENT.—In developing and revising the  
24          Strategy, the Panel shall—

1           (1) base the strategy on the best available  
2 science;

3           (2) develop the strategy in close cooperation  
4 with States and Indian tribes;

5           (3) coordinate with other Federal agencies, as  
6 appropriate;

7           (4) consult with local governments, conservation  
8 organizations, scientists, and other interested stake-  
9 holders; and

10          (5) provide public notice and opportunity for  
11 comment.

12          (c) REVISION.—After the Panel adopts the initial  
13 Strategy, the Panel shall review and revise the Strategy  
14 every 5 years to incorporate—

15           (1) new information regarding the ongoing and  
16 expected impacts of climate change on natural re-  
17 sources; and

18           (2) new advances in the development of strate-  
19 gies that make natural resources more resilient or  
20 able to adapt to the ongoing and expected impacts  
21 of climate change.

22          (d) CONTENTS.—The Strategy shall—

23           (1) assess the vulnerability of natural resources  
24 to climate change, including short-term, medium-

1 term, long-term, cumulative, and synergistic im-  
2 pacts;

3 (2) describe current research, observation, and  
4 monitoring activities at the Federal, State, tribal,  
5 and local level related to the ongoing and expected  
6 impacts of climate change on natural resources;

7 (3) identify and prioritize research and data  
8 needs;

9 (4) identify natural resources likely to have the  
10 greatest need for protection, restoration, and con-  
11 servation due to the ongoing and expanding impacts  
12 of climate change;

13 (5) include specific protocols for integrating  
14 natural resources adaptation strategies and activities  
15 into the conservation and management of natural re-  
16 sources by Federal departments and agencies to en-  
17 sure consistency across agency jurisdictions;

18 (6) include specific actions that Federal depart-  
19 ments and agencies shall take to protect, conserve,  
20 and restore natural resources to become more resil-  
21 ient, adapt to, and withstand the ongoing and ex-  
22 pected impacts of climate change, including a  
23 timeline to implement those actions;

24 (7) include specific mechanisms for ensuring  
25 communication and coordination—

1 (A) among Federal departments and agen-  
2 cies; and

3 (B) between Federal departments and  
4 agencies and State natural resource agencies,  
5 United States territories, Indian tribes, private  
6 landowners, conservation organizations, and  
7 other countries that share jurisdiction over nat-  
8 ural resources with the United States;

9 (8) include specific actions to develop and im-  
10 plement consistent natural resources inventory and  
11 monitoring protocols through interagency coordina-  
12 tion and collaboration; and

13 (9) include procedures for guiding the develop-  
14 ment of detailed agency- and department-specific ad-  
15 aptation plans required under section 368.

16 (e) IMPLEMENTATION.—Consistent with other laws  
17 and Federal trust responsibilities concerning Indian land,  
18 each Federal department or agency represented on the  
19 Panel shall integrate the elements of the Strategy that re-  
20 late to conservation, restoration, and management of nat-  
21 ural resources into agency plans, environmental reviews,  
22 programs, and activities.

1 **SEC. 367. NATURAL RESOURCES ADAPTATION SCIENCE**  
2 **AND INFORMATION.**

3 (a) COORDINATION.—Not later than 90 days after  
4 the date of enactment of this Act, the Administrators shall  
5 establish coordinated procedures for developing and pro-  
6 viding science and information necessary to address the  
7 ongoing and expected impacts of climate change on nat-  
8 ural resources.

9 (b) OVERSIGHT.—The National Climate Change and  
10 Wildlife Science Center established under subsection (e)  
11 and the National Climate Service of the National Oceanic  
12 and Atmospheric Administration shall oversee develop-  
13 ment of the procedures.

14 (c) FUNCTIONS.—The Administrators shall—

15 (1) ensure that the procedures required under  
16 subsection (a) avoid duplication; and

17 (2) ensure that the National Oceanic and At-  
18 mospheric Administration and the United States Ge-  
19 ological Survey—

20 (A) provide technical assistance to Federal  
21 departments and agencies, State and local gov-  
22 ernments, Indian tribes, and interested private  
23 landowners that are pursuing the goals of ad-  
24 dressing the ongoing and expected impacts of  
25 climate change on natural resources;

1           (B) conduct and sponsor research to de-  
2           velop strategies that increase the ability of nat-  
3           ural resources to become more resilient, adapt  
4           to, and withstand the ongoing and expected im-  
5           pacts of climate change;

6           (C) provide Federal departments and agen-  
7           cies, State and local governments, Indian tribes,  
8           and interested private landowners with research  
9           products, decision and monitoring tools, and in-  
10          formation to develop strategies that increase  
11          the ability of natural resources to become more  
12          resilient, adapt to, and withstand the ongoing  
13          and expected impacts of climate change; and

14          (D) assist Federal departments and agen-  
15          cies in the development of adaptation plans re-  
16          quired by section 368.

17          (d) SURVEY.—Not later than 1 year after the date  
18          of enactment of this Act, and every 5 years thereafter,  
19          the Secretary of Commerce and the Secretary of the Inte-  
20          rior shall conduct a climate change impact survey that—

21               (1) identifies natural resources considered likely  
22               to be adversely affected by climate change;

23               (2) includes baseline monitoring and ongoing  
24               trend analysis;

1           (3) with input from stakeholders, identifies and  
2           prioritizes necessary monitoring and research that is  
3           most relevant to the needs of natural resource man-  
4           agers to address the ongoing and expected impacts  
5           of climate change and to promote resilience; and

6           (4) identifies the decision tools necessary to de-  
7           velop strategies that increase the ability of natural  
8           resources to become more resilient, adapt to, and  
9           withstand the ongoing and expected impacts of cli-  
10          mate change.

11          (e) NATIONAL CLIMATE CHANGE AND WILDLIFE  
12          SCIENCE CENTER.—

13           (1) ESTABLISHMENT.—The Secretary of the In-  
14           terior shall establish the National Climate Change  
15           and Wildlife Science Center within the United States  
16           Geological Survey.

17           (2) FUNCTIONS.—In collaboration with Federal  
18           and State natural resources agencies and depart-  
19           ments, Indian tribes, universities, and other partner  
20           organizations, the Center shall—

21                   (A) assess and synthesize current physical  
22                   and biological knowledge;

23                   (B) prioritize scientific gaps in such knowl-  
24                   edge in order to forecast the ecological impacts  
25                   of climate change, including, where applicable,

1 ocean acidification, drought, flooding, and wild-  
2 fire on fish and wildlife at the ecosystem, habi-  
3 tat, community, population, and species levels;

4 (C) develop and improve tools to identify,  
5 evaluate, and link scientific approaches and  
6 models that forecast the impacts of climate  
7 change, including, where applicable, ocean acidi-  
8 fication, drought, flooding, and wildfire on fish,  
9 wildlife, plants, and associated habitats, includ-  
10 ing—

11 (i) monitoring;

12 (ii) predictive models;

13 (iii) vulnerability analyses;

14 (iv) risk assessments; and

15 (v) decision support systems that help  
16 managers make informed decisions;

17 (D) develop and evaluate tools to adapt-  
18 ively manage and monitor the effects of climate  
19 change (including tools for the collection of  
20 data) on fish and wildlife on the national, re-  
21 gional, and local level; and

22 (E) develop capacities for sharing stand-  
23 ardized data and the synthesis of the data de-  
24 scribed in subparagraph (D).

25 (f) SCIENCE ADVISORY BOARD.—



1           (1) ESTABLISHMENT.—Not later than 180 days  
2 after the date of enactment of this Act, the Sec-  
3 retary of Commerce and the Secretary of the Inte-  
4 rior shall establish and appoint the members of the  
5 Science Advisory Board.

6           (2) MEMBERSHIP.—The Board shall be com-  
7 prised of not fewer than 10 and not more than 20  
8 members—

9           (A) who have expertise in fish, wildlife,  
10 plant, aquatic, and coastal and marine biology,  
11 ecology, climate change, including, where appli-  
12 cable, ocean acidification, drought, flooding,  
13 and wildfire, and other relevant scientific dis-  
14 ciplines;

15           (B) who represent a balanced membership  
16 among Federal, State, tribal, and local rep-  
17 resentatives, universities, and conservation or-  
18 ganizations; and

19           (C) at least  $\frac{1}{2}$  of whom are recommended  
20 by the President of the National Academy of  
21 Sciences.

22           (3) DUTIES.—The Board shall—

23           (A) advise the Secretary of Commerce and  
24 the Secretary of the Interior on the state of the  
25 science regarding—

- 1 (i) the ongoing and expected impacts  
2 of climate change, including, where appli-  
3 cable, ocean acidification, drought, flood-  
4 ing, and wildfire on natural resources; and
- 5 (ii) scientific strategies and mecha-  
6 nisms for protecting, restoring, and con-  
7 serving natural resources so natural re-  
8 sources become more resilient, adapt to,  
9 and withstand the ongoing and expected  
10 impacts of climate change, including,  
11 where applicable, ocean acidification,  
12 drought, flooding, and wildfire; and
- 13 (B) identify and recommend priorities for  
14 ongoing research needs on the issues described  
15 in subparagraph (A).
- 16 (4) COLLABORATION.—The Board shall collabo-  
17 rate with climate change and ecosystem research en-  
18 tities in other Federal agencies and departments.
- 19 (5) AVAILABILITY TO PUBLIC.—The advice and  
20 recommendations of the Board shall be made avail-  
21 able to the public.

1 **SEC. 368. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-**  
2 **TION PLANS.**

3 (a) DEVELOPMENT.—Not later than 1 year after the  
4 date of development of the Strategy, each department or  
5 agency with representation on the Panel shall—

6 (1) complete an adaptation plan for that de-  
7 partment or agency that—

8 (A) implements the Strategy and is con-  
9 sistent with the natural resources climate  
10 change adaptation policy required by section  
11 362;

12 (B) details the ongoing and expanding ac-  
13 tions of the department or agency, and any  
14 changes in decisionmaking processes necessary  
15 to increase the ability of resources under the ju-  
16 risdiction of the department or agency and, to  
17 the maximum extent practicable, resources  
18 under the jurisdiction of other departments and  
19 agencies that may be significantly affected by  
20 decisions of the department or agency, to be-  
21 come more resilient, adapt to, and withstand  
22 the ongoing and expected impacts of climate  
23 change, including, where applicable, ocean acidi-  
24 fication, drought, flooding, and wildfire; and

25 (C) includes a timeline for implementation;

1           (2) provide opportunities for public review and  
2           comment on the adaptation plan, and in the case of  
3           a plan by the Bureau of Indian Affairs, review by  
4           Indian tribes; and

5           (3) submit the plan to the President for ap-  
6           proval.

7           (b) REVIEW BY PRESIDENT AND SUBMISSION TO  
8           CONGRESS.—

9           (1) REVIEW BY PRESIDENT.—The President  
10          shall—

11           (A) approve an adaptation plan submitted  
12           under subsection (a)(3) if the plan meets the  
13           requirements of subsection (c) and is consistent  
14           with the Strategy; and

15           (B) decide whether to approve the plan  
16           within 60 days of submission.

17          (2) DISAPPROVAL.—If the President dis-  
18          approves an adaptation plan, the President shall di-  
19          rect the department or agency to submit a revised  
20          plan within 60 days of that disapproval.

21          (3) SUBMISSION TO CONGRESS.—Not later than  
22          30 days after the date of approval of an adaptation  
23          plan by the President, the department or agency  
24          shall submit the plan to—

1 (A) the Committee on Natural Resources  
2 of the House of Representatives;

3 (B) the Committee on Energy and Natural  
4 Resources of the Senate;

5 (C) the Committee on Environment and  
6 Public Works of the Senate; and

7 (D) any other committees of the House of  
8 Representatives or the Senate with principal ju-  
9 risdiction over the department or agency.

10 (c) REQUIREMENTS.—Each adaptation plan shall—

11 (1) establish programs for assessing the ongo-  
12 ing and expected impacts of climate change, includ-  
13 ing, where applicable, ocean acidification, drought,  
14 flooding, and wildfire on natural resources under the  
15 jurisdiction of the department or agency preparing  
16 the plan, including—

17 (A) assessment of cumulative and syner-  
18 gistic effects; and

19 (B) programs that identify and monitor  
20 natural resources likely to be adversely affected  
21 and that have need for conservation;

22 (2) identify and prioritize—

23 (A) the strategies of the department or  
24 agency preparing the plan;

1           (B) the specific conservation actions that  
2 address the ongoing and expected impacts of  
3 climate change, including, where applicable,  
4 ocean acidification, drought, flooding, and wild-  
5 fire on natural resources under jurisdiction of  
6 the department or agency preparing the plan;

7           (C) strategies to protect, restore, and con-  
8 serve such resources to become more resilient,  
9 adapt to, and better withstand those impacts,  
10 including—

11                 (i) protection, restoration, and con-  
12 servation of terrestrial, marine, estuarine,  
13 and freshwater habitats and ecosystems;

14                 (ii) establishment of terrestrial, ma-  
15 rine, estuarine, and freshwater habitat  
16 linkages and corridors;

17                 (iii) restoration and conservation of  
18 ecological processes;

19                 (iv) protection of a broad diversity of  
20 native species of fish, wildlife, and plant  
21 populations across the ranges of those spe-  
22 cies; and

23                 (v) protection of fish, wildlife, and  
24 plant health, recognizing that climate can

1           alter the distribution and ecology of  
2           parasites, pathogens, and vectors;

3           (3) describe how the department or agency  
4 will—

5           (A) integrate the strategies and conserva-  
6           tion activities into plans, programs, activities,  
7           and actions of the department or agency relat-  
8           ing to the conservation and management of nat-  
9           ural resources; and

10           (B) establish new plans, programs, activi-  
11           ties, and actions, if necessary;

12           (4) establish methods—

13           (A) to assess the effectiveness of strategies  
14           and conservation actions the department or  
15           agency takes to protect, restore, and conserve  
16           natural resources so natural resources become  
17           more resilient, adapt to, and withstand the on-  
18           going and expected impacts of climate change;  
19           and

20           (B) to update those strategies and actions  
21           to respond to new information and changing  
22           conditions;

23           (5) describe current and proposed mechanisms  
24           to enhance cooperation and coordination of natural  
25           resources adaptation efforts with other Federal

1 agencies, State and local governments, Indian tribes,  
2 and nongovernmental stakeholders;

3 (6) include written guidance to resource man-  
4 agers that—

5 (A) explains how managers are expected to  
6 address the ongoing and expected effects of cli-  
7 mate change, including, where applicable, ocean  
8 acidification, drought, flooding, and wildfire;

9 (B) identifies how managers shall obtain  
10 any necessary site-specific information; and

11 (C) reflects best practices shared among  
12 relevant agencies, but recognizes the unique  
13 missions, objectives, and responsibilities of each  
14 agency;

15 (7) identify and assess data and information  
16 gaps necessary to develop natural resources adapta-  
17 tion plans and strategies; and

18 (8) consider strategies that engage youth and  
19 young adults (including youth and young adults  
20 working in full-time or part-time youth service or  
21 conservation corps programs) to provide the youth  
22 and young adults with opportunities for meaningful  
23 conservation and community service and to encour-  
24 age opportunities for employment in the private sec-  
25 tor through partnerships with employers.



1 (d) IMPLEMENTATION.—

2 (1) IN GENERAL.—Upon approval by the Presi-  
3 dent, each department or agency with representation  
4 on the Panel shall, consistent with existing author-  
5 ity, implement the adaptation plan of the depart-  
6 ment or agency through existing and new plans,  
7 policies, programs, activities, and actions.

8 (2) CONSIDERATION OF IMPACTS.—

9 (A) IN GENERAL.—To the maximum ex-  
10 tent practicable and consistent with existing au-  
11 thority, natural resource management decisions  
12 made by the department or agency shall—

13 (i) consider the ongoing and expected  
14 impacts of climate change, including,  
15 where applicable, ocean acidification,  
16 drought, flooding, and wildfire on natural  
17 resources; and

18 (ii) choose alternatives that will avoid  
19 and minimize those impacts and promote  
20 resilience.

21 (B) GUIDANCE.—The Council on Environ-  
22 mental Quality shall provide guidance for Fed-  
23 eral departments and agencies considering those  
24 impacts and choosing alternatives that will

1           avoid and minimize those impacts and promote  
2           resilience.

3           (e) REVISION AND REVIEW.—Not less than every 5  
4 years, each department or agency shall review and revise  
5 the adaptation plan of the department or agency to incor-  
6 porate the best available science, and other information,  
7 regarding the ongoing and expected impacts of climate  
8 change on natural resources.

9   **SEC. 369. STATE NATURAL RESOURCES ADAPTATION**  
10                           **PLANS.**

11           (a) REQUIREMENT.—In order to be eligible for funds  
12 under section 370, not later than 1 year after the develop-  
13 ment of the Strategy, each State shall prepare a State nat-  
14 ural resources adaptation plan detailing current and fu-  
15 ture efforts of the State to address the ongoing and ex-  
16 pected impacts of climate change on natural resources and  
17 coastal areas within the jurisdiction of the State.

18           (b) REVIEW OR APPROVAL.—

19                   (1) IN GENERAL.—The Secretary of the Inte-  
20 rior and, as applicable, the Secretary of Commerce  
21 shall review each State adaptation plan, and approve  
22 the plan if the plan—

23                           (A) meets the requirements of subsection

24                           (c); and

25                           (B) is consistent with the Strategy.

1           (2) APPROVAL OR DISAPPROVAL.—The Sec-  
2           retary of the Interior and, as applicable, the Sec-  
3           retary of Commerce shall approve or disapprove the  
4           plan by written notice not later than 180 days after  
5           the date of submission of the plan (or a revised  
6           plan).

7           (3) RESUBMISSION.—Not later than 90 days  
8           after the date of resubmission of an adaptation plan  
9           that has been disapproved under paragraph (2), the  
10          Secretary of the Interior and, as applicable, the Sec-  
11          retary of Commerce, shall approve or disapprove the  
12          plan by written notice.

13          (c) CONTENTS.—A State natural resources adapta-  
14          tion plan shall—

15               (1) include strategies for addressing the ongoing  
16               and expected impacts of climate change, including,  
17               where applicable, ocean acidification, drought,  
18               flooding, and wildfire on terrestrial, marine, estua-  
19               rine, and freshwater fish, wildlife, plants, habitats,  
20               ecosystems, wildlife health, and ecological processes  
21               that—

22                       (A) describe the ongoing and expected im-  
23                       pacts of climate change, including, where appli-  
24                       cable, ocean acidification, drought, flooding,  
25                       and wildfire on the diversity and health of fish,

1 wildlife and plant populations, habitats, eco-  
2 systems, and associated ecological processes;

3 (B) establish programs for monitoring the  
4 ongoing and expected impacts of climate  
5 change, including, where applicable, ocean acidi-  
6 fication, drought, flooding, and wildfire on fish,  
7 wildlife, and plant populations, habitats, eco-  
8 systems, and associated ecological processes;

9 (C) describe and prioritize proposed con-  
10 servation actions that increase the ability of  
11 fish, wildlife, plant populations, habitats, eco-  
12 systems, and associated ecological processes to  
13 become more resilient, adapt to, and better  
14 withstand those impacts;

15 (D) consider strategies that engage youth  
16 and young adults (including youth and young  
17 adults working in full-time or part-time youth  
18 service or conservation corps programs) to pro-  
19 vide the youth and young adults with opportu-  
20 nities for meaningful conservation and commu-  
21 nity service and to encourage opportunities for  
22 employment in the private sector through part-  
23 nerships with employers;

1 (E) integrate protection and restoration of  
2 resource resilience into agency decision making  
3 and specific conservation actions;

4 (F) include a time frame for implementing  
5 conservation actions for fish, wildlife, and plant  
6 populations, habitats, ecosystems, and associ-  
7 ated ecological processes;

8 (G) establish methods—

9 (i) for assessing the effectiveness of  
10 strategies and conservation actions taken  
11 to increase the ability of fish, wildlife, and  
12 plant populations, habitats, ecosystems,  
13 and associated ecological processes to be-  
14 come more resilient, adapt to, and better  
15 withstand the ongoing and expected im-  
16 pacts of climate changes, including, where  
17 applicable, ocean acidification, drought,  
18 flooding, and wildfire; and

19 (ii) for updating strategies and ac-  
20 tions to respond appropriately to new in-  
21 formation or changing conditions;

22 (H) are incorporated into a revision of the  
23 State wildlife action plan (also known as the  
24 State comprehensive wildlife strategy) that has  
25 been—

1 (i) submitted to the United States  
2 Fish and Wildlife Service; and

3 (ii) approved, or is pending approval,  
4 by the United States Fish and Wildlife  
5 Service; and

6 (I) are developed—

7 (i) with the participation of the State  
8 fish and wildlife agency, the State coastal  
9 agency, the State agency responsible for  
10 administration of Land and Water Con-  
11 servation Fund grants, the State Forest  
12 Legacy program coordinator, and other  
13 State agencies considered appropriate by  
14 the Governor of the State;

15 (ii) in coordination with the Secretary  
16 of the Interior, and where applicable, the  
17 Secretary of Commerce; and

18 (iii) in coordination with other States  
19 that share jurisdiction over natural re-  
20 sources with the State; and

21 (2) in the case of a coastal State, include strat-  
22 egies for addressing the ongoing and expected im-  
23 pacts of climate change, including, where applicable,  
24 ocean acidification, drought, flooding, and wildfire  
25 on a coastal zone that—

1 (A) identify natural resources likely to be  
2 impacted by climate change, and describe the  
3 impacts;

4 (B) identify and prioritize continuing re-  
5 search and data collection needed to address  
6 the impacts, including—

7 (i) acquisition of high-resolution  
8 coastal elevation and nearshore bathymetry  
9 data;

10 (ii) historic shoreline position maps,  
11 erosion rates, and inventories of shoreline  
12 features and structures;

13 (iii) measures and models of relative  
14 rates of sea level rise or lake level changes,  
15 including effects on flooding, storm surge,  
16 inundation, and coastal geological proc-  
17 esses;

18 (iv) measures and models of habitat  
19 loss, including projected losses of coastal  
20 wetlands and potentials for inland migra-  
21 tion of natural shoreline habitats;

22 (v) measures and models of ocean and  
23 coastal species and ecosystem migrations,  
24 and changes in species population dynam-  
25 ics;

- 1 (vi) changes in storm frequency, in-  
2 tensity, or rainfall patterns;
- 3 (vii) measures and models of saltwater  
4 intrusion into coastal rivers and aquifers;
- 5 (viii) changes in chemical or physical  
6 characteristics of marine and estuarine  
7 systems, including the presence, extent,  
8 and timing of hypoxic and anoxic condi-  
9 tions;
- 10 (ix) measures and models of increased  
11 harmful algal blooms; and
- 12 (x) measures and models of the  
13 spread of invasive species;
- 14 (C) identify and prioritize adaptation strat-  
15 egies to protect, restore, and conserve natural  
16 resources to enable natural resources to become  
17 more resilient, adapt to, and withstand the on-  
18 going and expected impacts of climate change,  
19 including, where applicable, ocean acidification,  
20 drought, flooding, and wildfire, including—
- 21 (i) protection, maintenance, and res-  
22 toration of ecologically important coastal  
23 lands, coastal and ocean ecosystems, and  
24 species biodiversity and the establishment



- 1 of habitat buffer zones, migration cor-  
2 ridors, and climate refugia; and
- 3 (ii) improved planning, siting policies,  
4 hazard mitigation strategies, and State  
5 property insurance programs;
- 6 (D) establish programs—
- 7 (i) for the long-term monitoring of the  
8 ongoing and expected impacts of climate  
9 change, including, where applicable, ocean  
10 acidification, drought, flooding, and wild-  
11 fire on the ocean and coastal zone; and
- 12 (ii) assess and adjust, when necessary,  
13 the adaptive management strategies;
- 14 (E) establish performance measures that—
- 15 (i) assess the effectiveness of adapta-  
16 tion strategies intended to improve resil-  
17 ience and the ability of natural resources  
18 to adapt to and withstand the ongoing and  
19 expected impacts of climate change, includ-  
20 ing, where applicable, ocean acidification,  
21 drought, flooding, and wildfire;
- 22 (ii) assess the effectiveness of adapta-  
23 tion strategies intended to minimize those  
24 impacts on the coastal zone; and

1 (iii) update the strategies to respond  
2 to new information or changing conditions;  
3 and

4 (F) are developed—

5 (i) with the participation of the State  
6 coastal agency and other appropriate State  
7 agencies; and

8 (ii) in coordination with the Secretary  
9 of Commerce and other appropriate Fed-  
10 eral agencies.

11 (d) PUBLIC INPUT.—In developing the adaptation  
12 plan, a State shall provide for solicitation and consider-  
13 ation of public input and independent scientific input.

14 (e) COORDINATION WITH OTHER PLANS.—The State  
15 adaptation plan shall review research and information  
16 and, where appropriate, integrate the goals and measures  
17 set forth in other natural resources conservation strate-  
18 gies, including—

19 (1) the National Fish Habitat Action Plan;

20 (2) plans under the North American Wetlands  
21 Conservation Act (16 U.S.C. 4401 et seq.);

22 (3) the Federal, State, and local partnership  
23 known as “Partners in Flight”;

1           (4) federally approved coastal zone management  
2 plans under the Coastal Zone Management Act of  
3 1972 (16 U.S.C. 1451 et seq.);

4           (5) federally approved regional fishery manage-  
5 ment plans and habitat conservation activities  
6 under the Magnuson-Stevens Fishery Conservation  
7 and Management Act (16 U.S.C. 1801 et seq.);

8           (6) the National Coral Reef Action Plan;

9           (7) recovery plans for threatened species and  
10 endangered species under section 4(f) of the Endan-  
11 gered Species Act of 1973 (16 U.S.C. 1533(f));

12           (8) habitat conservation plans under section 10  
13 of that Act (16 U.S.C. 1539);

14           (9) other Federal, State, and tribal plans for  
15 imperiled species;

16           (10) State or tribal hazard mitigation plans;

17           (11) State or tribal water management plans;

18           (12) State property insurance programs; and

19           (13) other State-based strategies that com-  
20 prehensively implement adaptation activities to re-  
21 mediate the ongoing and expected effects of climate  
22 change, including, where applicable, ocean acidifica-  
23 tion, drought, flooding, and wildfire, on terrestrial,  
24 marine, and freshwater fish, wildlife, plants, and  
25 other natural resources.

1 (f) UPDATING.—Each State plan shall be updated at  
2 least every 5 years.

3 (g) FUNDING.—

4 (1) IN GENERAL.—Funds allocated to States  
5 under section 370 shall be used only for activities  
6 consistent with a State natural resources adaptation  
7 plan approved by the Secretary of the Interior and,  
8 as appropriate, the Secretary of Commerce.

9 (2) FUNDING PRIOR TO THE APPROVAL OF A  
10 STATE PLAN.—Until the earlier of the date that is  
11 3 years after the date of enactment of this Act or  
12 the date on which a State adaptation plan is ap-  
13 proved, a State shall be eligible to receive funding  
14 under section 370 for adaptation activities that  
15 are—

16 (A) consistent with the comprehensive  
17 wildlife strategy of the State and, where appro-  
18 priate, other natural resources conservation  
19 strategies; and

20 (B) in accordance with a work plan devel-  
21 oped in coordination with—

22 (i) the Secretary of the Interior; and

23 (ii) the Secretary of Commerce.

24 (3) COASTAL STATE.—In developing a work  
25 plan under paragraph (2)(B), a coastal State shall

1 coordinate with the Secretary of Commerce only for  
2 those portions of the strategy relating to activities  
3 affecting the coastal zone.

4 (4) PENDING APPROVAL.—During the period  
5 for which approval by the applicable Secretary is  
6 pending, the State may continue to receive funds  
7 under section 370 pursuant to the work plan de-  
8 scribed in paragraph (2)(B).

9 **SEC. 370. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
10 **TATION ACCOUNT.**

11 (a) DISTRIBUTION OF AMOUNTS.—

12 (1) STATES.—Of the amounts made available  
13 for each fiscal year to carry out this subpart, 38.5  
14 percent shall be provided to States to carry out nat-  
15 ural resources adaptation activities in accordance  
16 with adaptation plans approved under section 369,  
17 and shall be distributed as follows:

18 (A) 32.5 percent shall be available to State  
19 wildlife agencies in accordance with the appor-  
20 tionment formula established under the second  
21 subsection (c) (relating to the apportionment of  
22 the Wildlife Conservation and Restoration Ac-  
23 count) of section 4 of the Pittman-Robertson  
24 Wildlife Restoration Act (16 U.S.C. 669c); and

1           (B) 6 percent shall be available to State  
2 coastal agencies pursuant to the formula estab-  
3 lished by the Secretary of Commerce under sec-  
4 tion 306(c) of the Coastal Management Act of  
5 1972 (16 U.S.C. 1455(c)).

6           (2) NATURAL RESOURCE ADAPTATION.—Of the  
7 amounts made available for each fiscal year to carry  
8 out this subpart—

9           (A) 17 percent shall be allocated to the  
10 Secretary of the Interior for use in funding—

11           (i) natural resources adaptation activi-  
12 ties carried out—

13           (I) under endangered species, mi-  
14 gratory species, and other fish and  
15 wildlife programs administered by the  
16 National Park Service, the United  
17 States Fish and Wildlife Service, the  
18 Bureau of Indian Affairs, and the Bu-  
19 reau of Land Management;

20           (II) on wildlife refuges, National  
21 Park Service land, and other public  
22 land under the jurisdiction of the  
23 United States Fish and Wildlife Serv-  
24 ice, the Bureau of Land Management,

1 the Bureau of Indian Affairs, or the  
2 National Park Service; and

3 (III) within Federal water man-  
4 aged by the Bureau of Reclamation  
5 and the National Park Service; and

6 (ii) the implementation of the Na-  
7 tional Fish and Wildlife Habitat and Cor-  
8 ridors Information Program required by  
9 section 371;

10 (B) 5 percent shall be allocated to the Sec-  
11 retary of the Interior for natural resources ad-  
12 aptation activities carried out under cooperative  
13 grant programs, including—

14 (i) the cooperative endangered species  
15 conservation fund authorized under section  
16 6 of the Endangered Species Act of 1973  
17 (16 U.S.C. 1535);

18 (ii) programs under the North Amer-  
19 ican Wetlands Conservation Act (16  
20 U.S.C. 4401 et seq.);

21 (iii) the Neotropical Migratory Bird  
22 Conservation Fund established by section  
23 9(a) of the Neotropical Migratory Bird  
24 Conservation Act (16 U.S.C. 6108(a));

1 (iv) the Coastal Program of the  
2 United States Fish and Wildlife Service;

3 (v) the National Fish Habitat Action  
4 Plan;

5 (vi) the Partners for Fish and Wildlife  
6 Program;

7 (vii) the Landowner Incentive Pro-  
8 gram;

9 (viii) the Wildlife Without Borders  
10 Program of the United States Fish and  
11 Wildlife Service; and

12 (ix) the Migratory Species Program  
13 and Park Flight Migratory Bird Program  
14 of the National Park Service; and

15 (C) 3 percent shall be allocated to the Sec-  
16 retary of the Interior to provide financial assist-  
17 ance to Indian tribes to carry out natural re-  
18 sources adaptation activities through the Tribal  
19 Wildlife Grants Program of the United States  
20 Fish and Wildlife Service.

21 (3) LAND AND WATER CONSERVATION.—

22 (A) DEPOSITS.—

23 (i) IN GENERAL.—Of the amounts  
24 made available for each fiscal year to carry  
25 out this subpart, 12 percent shall be de-



1           posited in the Land and Water Conserva-  
2           tion Fund established under section 2 of  
3           the Land and Water Conservation Fund  
4           Act of 1965 (16 U.S.C. 460l-5).

5           (ii) USE OF DEPOSITS.—Deposits in  
6           the Land and Water Conservation Fund  
7           under this paragraph shall—

8                   (I) be supplemental to authoriza-  
9                   tions provided under section 3 of the  
10                  Land and Water Conservation Fund  
11                  Act of 1965 (16 U.S.C. 460l-6),  
12                  which shall remain available for non-  
13                  adaptation needs; and

14                   (II) be available to carry out this  
15                   subpart without further appropriation  
16                   or fiscal year limitation.

17           (B) DISTRIBUTION OF AMOUNTS.—Of the  
18           amounts deposited under this paragraph in the  
19           Land and Water Conservation Fund—

20                   (i) for the purposes of carrying out  
21                   the natural resources adaptation activities  
22                   through the acquisition of land and inter-  
23                   ests in land under section 6 of the Land  
24                   and Water Conservation Fund Act of 1965  
25                   (16 U.S.C. 460l-8),  $\frac{1}{6}$  shall be allocated

1 to the Secretary of the Interior and made  
2 available on a competitive basis—

3 (I) to States, in accordance with  
4 the natural resources adaptation plans  
5 of States, and to Indian tribes;

6 (II) notwithstanding section 5 of  
7 that Act (16 U.S.C. 460~~l~~-7); and

8 (III) in addition to any funds  
9 provided pursuant to annual appro-  
10 priations Acts, the Energy Policy Act  
11 of 2005 (42 U.S.C. 15801 et seq.), or  
12 any other authorization for non-  
13 adaptation needs;

14 (ii)  $\frac{1}{3}$  shall be allocated to the Sec-  
15 retary of the Interior to carry out natural  
16 resources adaptation activities through the  
17 acquisition of lands and interests in land  
18 under section 7 of the Land and Water  
19 Conservation Fund Act of 1965 (16 U.S.C.  
20 460~~l~~-9);

21 (iii)  $\frac{1}{6}$  shall be allocated to the Sec-  
22 retary of Agriculture and made available to  
23 the States and Indian tribes to carry out  
24 natural resources adaptation activities  
25 through the acquisition of land and inter-

1           ests in land under section 7 of the Cooper-  
2           ative Forestry Assistance Act of 1978 (16  
3           U.S.C. 2103c); and

4           (iv)  $\frac{1}{3}$  shall be allocated to the Sec-  
5           retary of Agriculture to carry out natural  
6           resources adaptation activities through the  
7           acquisition of land and interests in land  
8           under section 7 of the Land and Water  
9           Conservation Fund Act of 1965 (16 U.S.C.  
10          460l-9).

11          (C) EXPENDITURE OF FUNDS.—In allo-  
12          cating funds under subparagraph (B), the Sec-  
13          retary of the Interior and the Secretary of Agri-  
14          culture shall take into consideration factors in-  
15          cluding—

16               (i) the availability of non-Federal con-  
17               tributions from State, local, or private  
18               sources;

19               (ii) opportunities to protect fish and  
20               wildlife corridors or otherwise to link or  
21               consolidate fragmented habitats;

22               (iii) opportunities to reduce the risk of  
23               catastrophic wildfires, drought, extreme  
24               flooding, or other climate-related events

1           that are harmful to fish and wildlife and  
2           people; and

3                   (iv) the potential for conservation of  
4           species or habitat types at serious risk due  
5           to climate change, including, where appli-  
6           cable, ocean acidification, drought, flood-  
7           ing, and wildfire, or other stressors.

8           (4) NATIONAL FOREST AND GRASSLAND ADAP-  
9           TATION.—Of the amounts made available for each  
10          fiscal year to carry out this subpart, 5 percent shall  
11          be allocated to the Forest Service, through the Sec-  
12          retary of Agriculture—

13                   (A) to fund natural resources adaptation  
14          activities carried out in national forests and na-  
15          tional grasslands under the jurisdiction of the  
16          Forest Service; and

17                   (B) to carry out natural resource adapta-  
18          tion activities on State and private forest land  
19          carried out under the Cooperative Forestry As-  
20          sistance Act of 1978 (16 U.S.C. 2101 et seq.).

21          (5) COASTAL AND MARINE SYSTEM ADAPTA-  
22          TION.—Of the amounts made available for each fis-  
23          cal year to carry out this subpart, 7 percent shall be  
24          allocated to the Secretary of Commerce to fund nat-  
25          ural resources adaptation activities that protect,

1 maintain, and restore coastal, estuarine, and marine  
2 resources, habitats, and ecosystems, including such  
3 activities carried out under—

4 (A) the coastal and estuarine land con-  
5 servation program administered by the National  
6 Oceanic and Atmospheric Administration;

7 (B) the community-based restoration pro-  
8 gram for fishery and coastal habitats estab-  
9 lished under section 117 of the Magnuson-Ste-  
10 vens Fishery Conservation and Management  
11 Reauthorization Act of 2006 (16 U.S.C.  
12 1891a);

13 (C) the Coastal Zone Management Act of  
14 1972 (16 U.S.C. 1451 et seq.) that are specifi-  
15 cally designed to strengthen the ability of coast-  
16 al, estuarine, and marine resources, habitats,  
17 and ecosystems to adapt to and withstand the  
18 ongoing and expected impacts of climate  
19 change, including, where applicable, ocean acidi-  
20 fication, drought, flooding, and wildfire;

21 (D) the Open Rivers Initiative;

22 (E) the Magnuson-Stevens Fishery Con-  
23 servation and Management Act (16 U.S.C.  
24 1801 et seq.);

1 (F) the Marine Mammal Protection Act of  
2 1972 (16 U.S.C. 1361 et seq.);

3 (G) the Endangered Species Act of 1973  
4 (16 U.S.C. 1531 et seq.);

5 (H) the Marine Protection, Research, and  
6 Sanctuaries Act of 1972 (33 U.S.C. 1401 et  
7 seq.);

8 (I) the Coral Reef Conservation Act of  
9 2000 (16 U.S.C. 6401 et seq.); and

10 (J) the Estuary Restoration Act of 2000  
11 (33 U.S.C. 2901 et seq.).

12 (6) ESTUARINE AND FRESHWATER ECOSYSTEM  
13 ADAPTATION.—Of the amounts made available for  
14 each fiscal year to carry out this subpart, 7.5 per-  
15 cent shall be allocated to the Administrator of the  
16 Environmental Protection Agency and 5 percent  
17 shall be available to the Secretary of the Army for  
18 use by the Corps of Engineers for use in natural re-  
19 sources adaptation activities restoring and pro-  
20 tecting—

21 (A) large-scale freshwater aquatic eco-  
22 systems, such as the Everglades, the Great  
23 Lakes, Flathead Lake, the Missouri River, the  
24 Mississippi River, the Colorado River, the Sac-  
25 ramento-San Joaquin Rivers, the Ohio River,

1 the Columbia-Snake River System, the Apa-  
2 lachicola, Chattahoochee, and Flint River Sys-  
3 tem, the Connecticut River, and the Yellowstone  
4 River;

5 (B) large-scale estuarine ecosystems, such  
6 as Chesapeake Bay, Long Island Sound, Puget  
7 Sound, the Mississippi River Delta, the San  
8 Francisco Bay Delta, Narragansett Bay, and  
9 Albemarle-Pamlico Sound;

10 (C) freshwater and estuarine ecosystems,  
11 watersheds, and basins identified and  
12 prioritized by the Administrator of the Environ-  
13 mental Protection Agency or the Corps of Engi-  
14 neers, working in cooperation with other Fed-  
15 eral agencies, States, tribal governments, local  
16 governments, scientists, and other conservation  
17 partners; and

18 (D)(i) habitats and ecosystems through es-  
19 tuary habitat restoration projects authorized by  
20 the Estuary Restoration Act of 2000 (33  
21 U.S.C. 2901 et seq.);

22 (ii) project modifications for improvement  
23 of the environment;

24 (iii) aquatic restoration and protection  
25 projects authorized by section 206 of the Water

1 Resources Development Act of 1996 (33 U.S.C.  
2 2330); and

3 (iv) other appropriate programs and activi-  
4 ties.

5 (b) USE OF FUNDS BY FEDERAL DEPARTMENTS AND  
6 AGENCIES.—Funds allocated to Federal departments and  
7 agencies under this section shall only be used for natural  
8 resources adaptation activities consistent with an adapta-  
9 tion plan approved under section 368.

10 (c) STATE COST-SHARING.—Notwithstanding any  
11 other provision of law, a State that receives a grant under  
12 this section shall use funds from non-Federal sources to  
13 pay 10 percent of the costs of each activity carried out  
14 under the grant.

15 **SEC. 371. NATIONAL FISH AND WILDLIFE HABITAT AND**  
16 **CORRIDORS INFORMATION PROGRAM.**

17 (a) DEFINITIONS.—In this section:

18 (1) GEOSPATIAL INTEROPERABILITY FRAME-  
19 WORK.—The term “Geospatial Interoperability  
20 Framework” means the strategy used by the Na-  
21 tional Biological Information Infrastructure (based  
22 on accepted standards, specifications, and protocols  
23 adopted through the International Standards Orga-  
24 nization, the Open Geospatial Consortium, and the  
25 Federal Geographic Data Committee) to manage, ar-



1 chive, integrate, analyze, and make geospatial and  
2 biological data and metadata accessible.

3 (2) PROGRAM.—The term “Program” means  
4 the National Fish and Wildlife Habitat and Cor-  
5 ridors Information Program established under sub-  
6 section (b).

7 (3) SECRETARY.—The term “Secretary” means  
8 the Secretary of the Interior.

9 (4) SYSTEM.—The term “System” means the  
10 Habitat and Corridors Information System estab-  
11 lished under subsection (d)(1).

12 (b) ESTABLISHMENT.—Not later than 180 days after  
13 the date of enactment of this Act, the Secretary, in co-  
14 operation with the States and Indian tribes, shall establish  
15 a National Fish and Wildlife Habitat and Corridors Infor-  
16 mation Program.

17 (c) PURPOSE.—The purposes of the Program are—

18 (1) to support States and Indian tribes in devel-  
19 oping geographical information system databases of  
20 fish and wildlife habitats and corridors that—

21 (A) inform planning and development deci-  
22 sions within each State;

23 (B) enable each State to model climate im-  
24 pacts and adaptation; and

1 (C) provide geographically specific en-  
2 hancements of State wildlife action plans;

3 (2) to ensure the collaborative development of a  
4 comprehensive national geographic information sys-  
5 tem database of maps, models, data, surveys, infor-  
6 mational products, and other geospatial information  
7 regarding fish and wildlife habitat and corridors  
8 that—

9 (A) is based on consistent protocols for  
10 sampling and mapping across landscapes;

11 (B) takes into account regional differences;

12 and

13 (C) uses—

14 (i) existing and planned State- and  
15 tribal-based geographical information sys-  
16 tem databases; and

17 (ii) existing databases, analytical  
18 tools, metadata activities, and other infor-  
19 mation products available through the Na-  
20 tional Biological Information Infrastruc-  
21 ture maintained by the Secretary and non-  
22 governmental organizations; and

23 (3) to facilitate the use of those databases by  
24 Federal, State, local, and tribal decisionmakers to  
25 incorporate qualitative information on fish and wild-

1 life habitats and corridors at the earliest practicable  
2 stage for use in—

3 (A) prioritizing and targeting natural re-  
4 sources adaptation strategies and activities;

5 (B) avoiding, minimizing, and mitigating  
6 the impacts on fish and wildlife habitat and cor-  
7 ridors when locating energy development, water,  
8 transmission, transportation, and other land  
9 use projects;

10 (C) assessing the impacts of existing devel-  
11 opment on habitats and corridors; and

12 (D) developing management strategies that  
13 enhance the ability of fish, wildlife, and plant  
14 species to migrate or respond to shifting habi-  
15 tats within existing habitats and corridors.

16 (d) HABITAT AND CORRIDORS INFORMATION SYS-  
17 TEM.—

18 (1) IN GENERAL.—The Secretary, in coopera-  
19 tion with States and Indian tribes, shall establish a  
20 Habitat and Corridors Information System.

21 (2) CONTENTS.—The System shall—

22 (A) include maps, data, and descriptions of  
23 fish and wildlife habitat and corridors that—

24 (i) have been developed by Federal  
25 agencies, State wildlife agencies, and nat-

- 1            ural heritage programs, Indian tribes, local  
2            governments, nongovernmental organiza-  
3            tions, and industry; and
- 4            (ii) meet accepted geospatial inter-  
5            operability framework data and metadata  
6            protocols and standards;
- 7            (B) include maps and descriptions of pro-  
8            jected shifts in habitats and corridors of fish  
9            and wildlife species in response to climate  
10           change;
- 11           (C) ensure data quality;
- 12           (D) at scales useful to decisionmakers,  
13           make data, models, and analyses included in  
14           the System available—
- 15           (i) to prioritize and target natural re-  
16           sources adaptation strategies and activi-  
17           ties;
- 18           (ii) to assess the impacts of existing  
19           development on habitats and corridors;
- 20           (iii) to assess the impacts of proposed  
21           energy development, water, transmission,  
22           transportation, and other land use projects  
23           and to avoid, minimize, or mitigate those  
24           impacts on habitats and corridors; and

1 (iv) to develop management strategies  
2 that enhance the ability of fish, wildlife,  
3 and plant species to migrate or respond to  
4 shifting habitats within existing habitats  
5 and corridors;

6 (E) update maps and other information as  
7 landscapes, habitats, corridors, and wildlife pop-  
8 ulations change, or as new information becomes  
9 available;

10 (F) encourage development of collaborative  
11 plans by Federal and State agencies and Indian  
12 tribes that monitor and evaluate the ability of  
13 the System to meet the needs of decision-  
14 makers;

15 (G) identify gaps in habitat and corridor  
16 information, mapping, and research needed to  
17 fully assess current data and metadata;

18 (H) prioritize research and future data col-  
19 lection activities for use in updating the System  
20 and provide support for those activities;

21 (I) include mechanisms to support collabo-  
22 rative research, mapping, and planning of habi-  
23 tats and corridors by Federal and State agen-  
24 cies, Indian tribes, and other interested stake-  
25 holders;

1           (J) incorporate biological and geospatial  
2 data on species and corridors found in energy  
3 development and transmission plans, including  
4 renewable energy initiatives, transportation, and  
5 other land use plans;

6           (K) identify, prioritize, and describe key  
7 parcels of non-Federal land that—

8                 (i) are located within units of the Na-  
9 tional Park System, National Wildlife Ref-  
10 uge System, National Forest System, or  
11 National Grassland System; and

12                 (ii) are critical to maintenance of  
13 wildlife habitat and migration corridors;  
14 and

15           (L) be based on the best scientific informa-  
16 tion available.

17         (e) FINANCIAL AND OTHER SUPPORT.—The Sec-  
18 retary may provide support to the States and Indian  
19 tribes, including financial and technical assistance, for ac-  
20 tivities that support the development and implementation  
21 of the System.

22         (f) COORDINATION.—In cooperation with States and  
23 Indian tribes, the Secretary shall recommend how the in-  
24 formation in the System may be incorporated into relevant

1 State and Federal plans that affect fish and wildlife, in-  
2 cluding—

3 (1) land management plans;

4 (2) the State Comprehensive Wildlife Conserva-  
5 tion Strategies; and

6 (3) appropriate tribal conservation plans.

7 (g) PURPOSE OF INCORPORATION.—The Secretary  
8 shall make the recommendations required by subsection  
9 (f) to ensure that relevant State and Federal plans that  
10 affect fish and wildlife—

11 (1) prevent unnecessary habitat fragmentation  
12 and disruption of corridors;

13 (2) promote the landscape connectivity nec-  
14 essary to allow wildlife to move as necessary to meet  
15 biological needs, adjust to shifts in habitat, and  
16 adapt to climate change; and

17 (3) minimize the impacts of energy, develop-  
18 ment, water, transportation, and transmission  
19 projects and other activities expected to impact habi-  
20 tat and corridors.

21 **SEC. 372. ADDITIONAL PROVISIONS REGARDING INDIAN**  
22 **TRIBES.**

23 (a) FEDERAL TRUST RESPONSIBILITY.—Nothing in  
24 this subpart amends, alters, or gives priority over the Fed-  
25 eral trust responsibility to any Indian tribe.

1 (b) EXEMPTION FROM FOIA.—If a Federal depart-  
 2 ment or agency receives any information relating to sacred  
 3 sites or cultural activities identified by an Indian tribe as  
 4 confidential, such information shall be exempt from disclo-  
 5 sure under section 552 of title 5, United States Code  
 6 (commonly referred to as the Freedom of Information  
 7 Act).

8 (c) APPLICATION OF OTHER LAW.—The Secretary of  
 9 the Interior may apply the provisions of the Indian Self-  
 10 Determination and Education Assistance Act (25 U.S.C.  
 11 450 et seq.) in the implementation of this subpart.

12 **Subpart D—Additional Climate Change Adaptation**  
 13 **Programs**

14 **SEC. 381. WATER SYSTEM MITIGATION AND ADAPTION**  
 15 **PARTNERSHIPS.**

16 (a) DEFINITIONS.—In this section:

17 (1) OWNER OR OPERATOR.—

18 (A) IN GENERAL.—The term “owner or  
 19 operator” means a person (including a regional,  
 20 local, municipal, or private entity) that owns or  
 21 operates a water system.

22 (B) INCLUSION.—The term “owner or op-  
 23 erator” includes—



1 (i) a non-Federal entity that has oper-  
2 ational responsibilities for a federally or  
3 State owned water system; and

4 (ii) an entity formed pursuant to any  
5 State's joint exercise of powers statutes  
6 that includes one or more of the entities in  
7 paragraph (A).

8 (2) WATER SYSTEM.—The term “water sys-  
9 tem” means—

10 (A) a community water system (as defined  
11 in section 1401 of the Safe Drinking Water Act  
12 (42 U.S.C. 300f));

13 (B) a treatment works (as defined in sec-  
14 tion 212 of the Federal Water Pollution Control  
15 Act (33 U.S.C. 1292)), including a municipal  
16 separate storm sewer system;

17 (C) a decentralized wastewater treatment  
18 system for domestic sewage;

19 (D) a groundwater storage and replenish-  
20 ment system; or

21 (E) a system for transport and delivery of  
22 water for irrigation or conservation.

23 (b) ESTABLISHMENT.—The Administrator shall es-  
24 tablish a water system mitigation and adaptation partner-

1 ship program to provide funds to States for water system  
2 adaptation projects.

3 (c) GRANTS.—Beginning in fiscal year 2010, each  
4 State receiving funds pursuant to this section shall make  
5 grants to owners or operators of water systems to address  
6 any ongoing or forecasted (based on the best available re-  
7 search and data) climate-related impact on the water qual-  
8 ity, water supply or reliability of a region of the United  
9 States, for the purposes of mitigating or adapting to the  
10 impacts of climate change.

11 (d) ELIGIBLE USES.—The funds made available to  
12 each State pursuant to this section shall be used exclu-  
13 sively to assist in the planning, design, construction, im-  
14 plementation, or operation or maintenance of any program  
15 or project to respond or increase the resilience of a water  
16 system to climate change by—

17 (1) conserving water or enhancing water use ef-  
18 ficiency, including through the use of water metering  
19 and electronic sensing and control systems to meas-  
20 ure the effectiveness of a water efficiency program;

21 (2) modifying or relocating existing water sys-  
22 tem infrastructure made or projected to be signifi-  
23 cantly impaired by climate change impacts;

24 (3) preserving or improving water quality, in-  
25 cluding through measures to manage, reduce, treat,

1 or reuse municipal stormwater, wastewater, or  
2 drinking water;

3 (4) investigating, designing, or constructing  
4 groundwater remediation, recycled water, or desali-  
5 nation facilities or systems to serve existing commu-  
6 nities;

7 (5) enhancing water management by increasing  
8 watershed preservation and protection, such as  
9 through the use of natural or engineered green in-  
10 frastructure in the management, conveyance, or  
11 treatment of water, wastewater, or stormwater;

12 (6) enhancing energy efficiency or the use and  
13 generation of renewable energy in the management,  
14 conveyance, or treatment of water, wastewater, or  
15 stormwater;

16 (7) supporting the adoption and use of ad-  
17 vanced water treatment, water supply management  
18 (such as reservoir reoperation and water banking),  
19 or water demand management technologies, projects,  
20 or processes (such as water reuse and recycling,  
21 adaptive conservation pricing, and groundwater  
22 banking) that maintain or increase water supply or  
23 improve water quality;

24 (8) modifying or replacing existing systems or  
25 constructing new systems for existing communities

1 or land currently in agricultural production to im-  
2 prove water supply, reliability, storage, or convey-  
3 ance in a manner that—

4 (A) promotes conservation or improves the  
5 efficiency of utilization of available water sup-  
6 plies; and

7 (B) does not further exacerbate stresses on  
8 ecosystems or cause redirected impacts by de-  
9 grading water quality or increasing net green-  
10 house gas emissions;

11 (9) supporting practices and projects, such as  
12 improved irrigation systems, water banking and  
13 other forms of water transactions, groundwater re-  
14 charge, stormwater capture, groundwater conjunc-  
15 tive use, and reuse or recycling of drainage water,  
16 to improve water quality or promote more efficient  
17 water use on land currently in agricultural produc-  
18 tion; or

19 (10) conducting and completing studies or as-  
20 sessments to project how climate change may impact  
21 the future operations and sustainability of water sys-  
22 tems.

23 (e) APPLICATION.—To be eligible to receive a grant  
24 from the State under this section, the owner or operator

1 of a water system shall submit to the State an application  
2 that—

3 (1) includes a proposal of the program, strat-  
4 egy, or infrastructure improvement to be planned,  
5 designed, constructed, implemented, or maintained  
6 by the water system;

7 (2) cites the best available research or data that  
8 demonstrate—

9 (A) the risk to the water resources or in-  
10 frastructure of the water system as a result of  
11 ongoing or forecasted changes to the  
12 hydrological system brought about by factors  
13 arising from climate change, including rising  
14 sea levels and changes in precipitation levels;  
15 and

16 (B) how the proposed program, strategy,  
17 or infrastructure improvement would perform  
18 under the anticipated climate conditions; and

19 (3) explains how the proposed program, strat-  
20 egy, or infrastructure improvement is expected to  
21 enhance the resiliency of the water system, including  
22 source water protection for community water sys-  
23 tems, to these risks or reduce the direct or indirect  
24 greenhouse gas emissions of the water system.

25 (f) COMPETITIVE PROCESS.—

1           (1) IN GENERAL.—Each calendar year, each  
2 State shall conduct a competitive process to select  
3 and fund applications under this section.

4           (2) PRIORITY REQUIREMENTS AND  
5 WEIGHTING.—In carrying out the process, the  
6 States shall—

7           (A) prioritize funding of applications that  
8 are submitted by the owners or operators of  
9 water systems that are, based on the best avail-  
10 able research and data, at the greatest and  
11 most immediate risk of facing significant cli-  
12 mate-related negative impacts on water quality  
13 or quantity; and

14           (B) in selecting among the priority applica-  
15 tions determined under subparagraph (A), en-  
16 sure that, to the maximum extent practicable,  
17 the final list of applications funded for each  
18 year includes a substantial number meeting one  
19 or more of each of the following goals—

20           (i) promote more efficient water use,  
21 water conservation, water reuse, or recy-  
22 cling;

23           (ii) use decentralized, low-impact de-  
24 velopment technologies and nonstructural  
25 approaches, including practices that use,

1 enhance, or mimic the natural hydrological  
2 cycle or protect natural flows;

3 (iii) reduce stormwater runoff by pro-  
4 tecting or enhancing natural ecosystem  
5 functions;

6 (iv) modify, upgrade, enhance, or re-  
7 place existing water system infrastructure  
8 in response to ongoing or forecasted cli-  
9 mate-related impacts;

10 (v) promote the sustainability and re-  
11 liability of water supplies used for agricul-  
12 tural purposes;

13 (vi) improve water quality or quantity  
14 for agricultural and municipal uses, includ-  
15 ing through salinity reduction; and

16 (vii) provide multiple benefits, includ-  
17 ing to water supply enhancement or de-  
18 mand reduction, water quality protection  
19 or improvement, increased flood protection,  
20 and ecosystem protection or improvement;  
21 and

22 (C) provide for solicitation and consider-  
23 ation of public input in the development of cri-  
24 teria used in evaluating applications.

25 (g) COST-SHARING.—

1           (1) FEDERAL SHARE.—The share of the cost of  
2 any program, strategy, or infrastructure improve-  
3 ment that is the subject of a grant awarded by a  
4 State to the owner or operator of a water system  
5 under subsection (c) paid through funds distributed  
6 under this section shall not exceed 50 percent of the  
7 cost of the program, strategy, and infrastructure im-  
8 provement.

9           (2) CALCULATION OF NON-FEDERAL SHARE.—  
10 In calculating the non-Federal share of the cost of  
11 a program, strategy, or infrastructure improvement  
12 proposed by a water system through an application  
13 submitted by the water system under subsection (e),  
14 the State shall—

15           (A) include the value of any in-kind serv-  
16 ices that are integral to the completion of the  
17 program, strategy, or infrastructure improve-  
18 ment, including reasonable administrative and  
19 overhead costs; and

20           (B) not include any other amount that the  
21 water system receives from a Federal agency.

22 (h) LABOR STANDARDS.—

23           (1) IN GENERAL.—Other than with respect to  
24 employees of State and local agencies, or other pub-  
25 lic entities, all laborers and mechanics employed on



1 infrastructure improvements funded directly by or  
2 assisted in whole or in part by this section shall be  
3 paid wages at rates not less than those prevailing for  
4 the same type of work on similar construction in the  
5 immediate locality, as determined by the Secretary  
6 of Labor in accordance with subchapter IV of chap-  
7 ter 31 of part A of subtitle II of title 40, United  
8 States Code.

9 (2) **AUTHORITY AND FUNCTIONS.**—With re-  
10 spect to the labor standards in this subsection, the  
11 Secretary of Labor shall have the authority and  
12 functions set forth in Reorganization Plan Num-  
13 bered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.)  
14 and section 3145 of title 40, United States Code.

15 **SEC. 382. FLOOD CONTROL, PROTECTION, PREVENTION,**  
16 **AND RESPONSE.**

17 (a) **ESTABLISHMENT.**—The Administrator shall es-  
18 tablish a Flood Control, Protection, Prevention and Re-  
19 sponse Program to provide funds to States for flood con-  
20 trol, protection, prevention and response projects.

21 (b) **ELIGIBLE USES.**—

22 (1) **IN GENERAL.**—States receiving funding  
23 pursuant to this section may use such funding on  
24 flood control, protection, prevention and response  
25 programs and projects addressing the projected im-

1       pacts of climate change in accordance with this sec-  
2       tion.

3           (2) OBJECTIVES.—Such projects and activities  
4       shall seek to mitigate or adapt to the destructive im-  
5       pacts of climate related increases in the duration,  
6       frequency, or magnitude of rainfall or runoff, includ-  
7       ing snowmelt runoff, as well as hurricanes, including  
8       projects and programs that—

9           (A) reduce flood damage, risk, and vulner-  
10       ability;

11          (B) identify, maintain and restore eco-  
12       systems and natural barriers integral to flood  
13       control, protection, prevention and response;

14          (C) update the available data, technologies,  
15       and scientific knowledge used in estimating,  
16       identifying and mitigating flood hazards;

17          (D) highlight, update and remediate  
18       vulnerabilities in emergency response;

19          (E) incorporate risk analysis and a risk-re-  
20       duction approach to flood-related investments;

21          (F) incorporate and identify changes in  
22       risk due to processes such as land loss, subsid-  
23       ence, sea-level rise, reduced natural buffers,  
24       urban development and infrastructure aging;  
25       and

1 (G) identify and incorporate innovative ap-  
2 proaches to land use management, water re-  
3 source planning, and ecosystem restoration.

4 (3) PRIORITY.—Priority in projects to reduce  
5 flood events shall be given to those projects that di-  
6 rectly assist local governments and communities in  
7 flood control, protection, prevention and response ac-  
8 tivities.

9 **SEC. 383. WILDFIRE.**

10 (a) FINDINGS.—Congress finds that—

11 (1) since 1980, wildfires in the United States  
12 have burned almost twice as many acres per year on  
13 average than the average burned acreage during the  
14 period beginning on January 1, 1920, and ending on  
15 December 31, 1979;

16 (2) the wildfire season in the western United  
17 States has increased by an average of 78 days dur-  
18 ing the 30-year period preceding the date of enact-  
19 ment of this Act;

20 (3) researchers predict that the area subject to  
21 wildfire damage will increase during the 21st cen-  
22 tury by up to 118 percent as a result of climate  
23 change;

1           (4) of the annual budget of the Forest Service,  
2           the Forest Service used for wildfire suppression ac-  
3           tivities—

4                   (A) 13 percent in 1991; and

5                   (B) 45 percent in 2007; and

6           (5) 1 percent of the largest escaped fires—

7                   (A) burn 95 percent of all burned acres;

8                   and

9                   (B) consume 85 percent of all wildfire

10                  fighting costs.

11           (b) PURPOSE.—The purpose of this section is to au-  
12           thorize a program to reduce the risk of wildfires in fire-  
13           ready communities.

14           (c) DEFINITIONS.—In this section:

15                   (1) FIRE-READY COMMUNITY.—The term “fire-  
16           ready community” means a community that—

17                           (A) is located within a priority area identi-  
18                           fied pursuant to subsection (d);

19                           (B) has a cooperative fire agreement that  
20                           articulates the roles and responsibilities for  
21                           Federal, State and local government entities in  
22                           local wildfire suppression and protection;

23                           (C) has local codes that require fire-resist-  
24                           ant home design and building materials;

1 (D) has a community wildfire protection  
2 plan (as defined in section 101 of the Healthy  
3 Forests Restoration Act of 2003 (16 U.S.C.  
4 6502)); and

5 (E) is engaged in a successful collaborative  
6 process that includes multiple interested per-  
7 sons representing diverse interests and is trans-  
8 parent and nonexclusive, such as a resource ad-  
9 visory committee established under section 205  
10 of the Secure Rural Schools and Community  
11 Self-Determination Act of 2000 (Public Law  
12 106–393; 16 U.S.C. 500 note).

13 (2) SECRETARIES.—The term “Secretaries”  
14 means the Secretary of Agriculture and the Sec-  
15 retary of the Interior.

16 (d) FIRE RISK MAPPING.—As soon as is practicable  
17 after the date of the enactment of this Act, the Secretaries  
18 shall develop regional maps of communities most at risk  
19 of wildfire and in need of hazardous fuel treatment and  
20 maintenance. The maps shall identify priority areas for  
21 hazardous fuels reduction projects, including—

22 (1) at-risk communities in fire-prone areas of  
23 the wildland-urban interface (as defined in section  
24 101 of the Healthy Forests Restoration Act of 2003  
25 (16 U.S.C. 6502));

1           (2) watersheds and municipal drinking water  
2 sources;

3           (3) emergency evacuation corridors;

4           (4) electricity transmission corridors;

5           (5) low-capacity or low-income communities;

6 and

7           (6) communities in fire-prone areas due to the  
8 impact of pest infestation on forest resources.

9           (e) LOCAL WILDLAND FIREFIGHTING CAPABILITY  
10 GRANTS.—

11           (1) GRANTS AVAILABLE.—The Secretaries may  
12 provide cost-share grants to fire-ready communities  
13 to assist such communities in carrying out activities  
14 authorized by paragraph (2).

15           (2) ELIGIBLE ACTIVITIES.—Grant funds may  
16 be used for the following:

17           (A) Education programs to raise aware-  
18 ness of homeowners and citizens about wildland  
19 fire protection practices, including FireWise or  
20 similar programs.

21           (B) Training programs for local fire-  
22 fighters on wildland firefighting techniques and  
23 approaches.

24           (C) Equipment acquisition to facilitate  
25 wildland fire preparedness.

1 (D) Implementation of a community wild-  
2 fire protection plan.

3 (E) Forest restoration that accomplishes  
4 fuels reduction.

5 (f) WILDLAND FIRE COST-SHARE AGREEMENTS.—

6 In developing any wildland fire cost-share agreement with  
7 a State Forester or equivalent official, the Secretaries  
8 shall, to the maximum extent practicable, encourage the  
9 State and local communities involved to become fire-ready  
10 communities.

11 **SEC. 384. COASTAL AND GREAT LAKES STATE ADAPTATION**  
12 **PROGRAM.**

13 (a) FINDINGS.—According to the National Ocean Ec-  
14 onomics Program, coastal and Great Lakes States account  
15 for 81.4 percent of the population of the United States  
16 and generate 83 percent of the economic output of the  
17 United States.

18 (b) DEFINITIONS.—In this section:

19 (1) COASTAL STATE.—The term “coastal  
20 State” has the meaning given the term “coastal  
21 state” in section 304 of the Coastal Zone Manage-  
22 ment Act of 1972 (16 U.S.C. 1453).

23 (2) COASTAL WATERSHED.—The term “coastal  
24 watershed” means a geographical area drained into  
25 or contributing water to an estuarine area, an ocean,

1 or a Great Lake, all or a portion of which is within  
2 the coastal zone (as defined in section 304 of the  
3 Coastal Zone Management Act of 1972 (16 U.S.C.  
4 1453)).

5 (3) SHORELINE MILES.—The term “shoreline  
6 miles”, with respect to a coastal State, means the  
7 mileage of tidal shoreline or Great Lake shoreline of  
8 the coastal State, based on the most recently avail-  
9 able data from or accepted by the National Ocean  
10 Service of the National Oceanic and Atmospheric  
11 Administration.

12 (c) DISTRIBUTION.—

13 (1) IN GENERAL.—The Administrator shall dis-  
14 tribute, in accordance with this section, funding for  
15 coastal State economic protection under subsection.

16 (2) ALLOCATION.—The funding available for al-  
17 location under subsection (b) for a calendar year  
18 shall be distributed among coastal States, as follows:

19 (A) 25 percent based on the proportion  
20 that—

21 (i) the number of shoreline miles of a  
22 coastal State; bears to

23 (ii) the total number of shoreline  
24 miles of all coastal States.



1 (B) 25 percent based on the proportion  
2 that—

3 (i) the population of a coastal State;  
4 bears to  
5 (ii) the total population of all coastal  
6 States.

7 (C) 50 percent divided equally among all  
8 coastal States.

9 (d) USE OF FUNDING.—

10 (1) IN GENERAL.—During any calendar year, a  
11 coastal State receiving funding under this section  
12 may use the funding only for projects and activities  
13 to plan for and address the impacts of climate  
14 change in the coastal watershed, including—

15 (A) to address the impacts of climate  
16 change with respect to—

17 (i) accelerated sea level rise and lake  
18 level changes;

19 (ii) shoreline erosion;

20 (iii) increased storm frequency or in-  
21 tensity;

22 (iv) changes in rainfall or other pre-  
23 cipitation; and

24 (v) related flooding;

1 (B) to identify and develop plans to pro-  
2 tect, or, as necessary or applicable, to relocate  
3 public facilities and infrastructure, coastal re-  
4 sources of national significance, public energy  
5 facilities, or other public water uses located in  
6 the coastal watershed that are affected by cli-  
7 mate change, including strategies that use nat-  
8 ural resources, such as natural buffer zones,  
9 natural shorelines, and habitat protection or  
10 restoration;

11 (C) to research and collect data using, or  
12 on matters such as—

- 13 (i) historical shoreline position maps;  
14 (ii) historical shoreline erosion rates;  
15 (iii) inventories of shoreline features  
16 and conditions;  
17 (iv) acquisition of high-resolution to-  
18 pography and bathymetry;  
19 (v) sea level rise inundation models;  
20 (vi) storm surge sea level rise linked  
21 inundation models;  
22 (vii) shoreline change modeling based  
23 on sea level rise projections;  
24 (viii) sea level rise vulnerability anal-  
25 yses and socioeconomic studies; and

1                   (ix) environmental and habitat  
2 changes associated with sea level rise; and  
3 (D) to respond to—

4                   (i) changes in chemical characteristics  
5 (including ocean acidification) and physical  
6 characteristics (including thermal strati-  
7 fication) of marine systems;

8                   (ii) saltwater intrusion into ground-  
9 water aquifers;

10                  (iii) increased harmful algae blooms;

11                  (iv) spread of invasive species;

12                  (v) coastal habitat loss;

13                  (vi) species migrations; and

14                  (vii) marine, estuarine, and freshwater  
15 ecosystem changes associated with climate  
16 change.

17                  (2) EXECUTION.—Priority to plan and carry  
18 out projects and activities under this subsection shall  
19 be given to State coastal agencies, as determined in  
20 accordance with State law.

21                  (3) COORDINATION.—In carrying out this sub-  
22 section, a coastal State shall coordinate with other  
23 statewide climate change efforts in order to avoid  
24 duplication of such efforts.

1 (e) REPORT.—Not later than 1 year after the date  
 2 on which a State receives funds under this section, and  
 3 biennially thereafter until such time as the funding is fully  
 4 expended, the State shall submit to the Administrator, or  
 5 the heads of such other Federal agencies as the President  
 6 may designate, a report that—

7 (1) provides a full accounting for the State’s  
 8 use of funding distributed under this section, includ-  
 9 ing a description of the projects and activities fund-  
 10 ed; and

11 (2) may be independent or included within any  
 12 report required for any State programs for green-  
 13 house gas reduction and climate adaptation.

14 **DIVISION B—POLLUTION**  
 15 **REDUCTION AND INVESTMENT**  
 16 **TITLE I—REDUCING GLOBAL**  
 17 **WARMING POLLUTION**  
 18 **Subtitle A—Reducing Global**  
 19 **Warming Pollution**

20 **SEC. 101. REDUCING GLOBAL WARMING POLLUTION.**

21 The Clean Air Act is amended by adding after title  
 22 VI (42 U.S.C. 7671 et seq.) the following:

1 **“TITLE VII—GLOBAL WARMING**  
2 **POLLUTION REDUCTION AND**  
3 **INVESTMENT PROGRAM**

4 **“PART A—GLOBAL WARMING POLLUTION**  
5 **REDUCTION GOALS AND TARGETS**

6 **“SEC. 701. FINDINGS.**

7 “Congress finds that—

8 “(1) global warming poses a significant threat  
9 to the national security, economy, public health and  
10 welfare, and environment of the United States, as  
11 well as of other countries;

12 “(2) reviews of scientific studies, including by  
13 the Intergovernmental Panel on Climate Change and  
14 the National Academy of Sciences, demonstrate that  
15 global warming is the result of the combined anthro-  
16 pogenic greenhouse gas emissions from numerous  
17 sources of all types and sizes;

18 “(3) each increment of emission, when com-  
19 bined with other emissions, causes or contributes  
20 materially to the acceleration and extent of global  
21 warming and its adverse effects for the lifetime of  
22 such gas in the atmosphere;

23 “(4) accordingly, controlling emissions in small  
24 as well as large quantities is essential to prevent,

1 slow the pace of, reduce the threats from, and miti-  
2 gate global warming and its adverse effects;

3 “(5) because they induce global warming,  
4 greenhouse gas emissions cause or contribute to in-  
5 juries to persons in the United States, including—

6 “(A) adverse health effects, such as disease  
7 and loss of life;

8 “(B) displacement of human populations;

9 “(C) damage to property and other inter-  
10 ests relating to ocean levels, acidification, and  
11 ice changes;

12 “(D) severe weather and seasonal changes;

13 “(E) disruption, costs, and losses to busi-  
14 ness, trade, employment, farms, subsistence,  
15 aesthetic enjoyment of the environment, recre-  
16 ation, culture, and tourism;

17 “(F) damage to plants, forests, lands, and  
18 waters;

19 “(G) harm to wildlife and habitat;

20 “(H) scarcity of water and the decreased  
21 abundance of other natural resources;

22 “(I) worsening of tropospheric air pollu-  
23 tion;

24 “(J) substantial threats of similar damage;

25 and

1                   “(K) other harm;

2                   “(6) the fact that many of those effects and  
3 risks of future effects of global warming are widely  
4 shared does not minimize the adverse effects indi-  
5 vidual persons have suffered, will suffer, and are at  
6 risk of suffering because of global warming;

7                   “(7) the fact that some of the adverse and po-  
8 tentially catastrophic effects of global warming are  
9 at risk of occurring and not a certainty does not ne-  
10 gate the harm persons suffer from actions that in-  
11 crease the likelihood, extent, and severity of such fu-  
12 ture impacts;

13                   “(8) countries of the world look to the United  
14 States for leadership in addressing the threat of and  
15 harm from global warming;

16                   “(9) full implementation of this title is critical  
17 to engage other countries in an international effort  
18 to mitigate the threat of and harm from global  
19 warming; and

20                   “(10) global warming and its adverse effects  
21 are occurring and are likely to continue and increase  
22 in magnitude, and to do so at a greater and more  
23 harmful rate, unless the this title is fully imple-  
24 mented and enforced in an expeditious manner.

1 **“SEC. 702. ECONOMY-WIDE REDUCTION GOALS.**

2 “The goals of this title, and the Clean Energy Jobs  
3 and American Power Act (and the amendments made by  
4 that Act), are to reduce steadily the quantity of United  
5 States greenhouse gas emissions such that—

6 “(1) in 2012, the quantity of United States  
7 greenhouse gas emissions does not exceed 97 percent  
8 of the quantity of United States greenhouse gas  
9 emissions in 2005;

10 “(2) in 2020, the quantity of United States  
11 greenhouse gas emissions does not exceed 80 percent  
12 of the quantity of United States greenhouse gas  
13 emissions in 2005;

14 “(3) in 2030, the quantity of United States  
15 greenhouse gas emissions does not exceed 58 percent  
16 of the quantity of United States greenhouse gas  
17 emissions in 2005; and

18 “(4) in 2050, the quantity of United States  
19 greenhouse gas emissions does not exceed 17 percent  
20 of the quantity of United States greenhouse gas  
21 emissions in 2005.

22 **“SEC. 703. REDUCTION TARGETS FOR SPECIFIED SOURCES.**

23 “(a) IN GENERAL.—The regulations issued under  
24 section 721 shall limit and reduce annually the greenhouse  
25 gas emissions of capped sources each calendar year begin-  
26 ning in 2012 such that—



1           “(1) in 2012, the quantity of greenhouse gas  
2           emissions from capped sources does not exceed 97  
3           percent of the quantity of greenhouse gas emissions  
4           from such sources in 2005;

5           “(2) in 2020, the quantity of greenhouse gas  
6           emissions from capped sources does not exceed 80  
7           percent of the quantity of greenhouse gas emissions  
8           from such sources in 2005;

9           “(3) in 2030, the quantity of greenhouse gas  
10          emissions from capped sources does not exceed 58  
11          percent of the quantity of greenhouse gas emissions  
12          from such sources in 2005; and

13          “(4) in 2050, the quantity of greenhouse gas  
14          emissions from capped sources does not exceed 17  
15          percent of the quantity of greenhouse gas emissions  
16          from such sources in 2005.

17          “(b) DEFINITION OF GREENHOUSE GAS EMISSIONS  
18 FROM SUCH SOURCES IN 2005.—For purposes of this sec-  
19 tion, the term ‘greenhouse gas emissions from such  
20 sources in 2005’ means emissions to which section 722  
21 would have applied if the requirements of this title for the  
22 specified year had been in effect for 2005.

23 **“SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.**

24          “For the purposes of decreasing the likelihood of cat-  
25 astrophic climate change, preserving tropical forests,

1 building capacity to generate offset credits, and facili-  
2 tating international action on global warming, the Admin-  
3 istrator shall set aside a percentage specified in section  
4 771(d) of the quantity of emission allowances established  
5 under section 721(a) for each year, to be used to achieve  
6 a reduction of greenhouse gas emissions from deforest-  
7 ation in developing countries in accordance with part E.  
8 In 2020, activities supported under part E shall provide  
9 greenhouse gas reductions in an amount equal to an addi-  
10 tional 10 percentage points of reductions from United  
11 States greenhouse gas emissions in 2005. The Adminis-  
12 trator shall distribute these allowances with respect to ac-  
13 tivities in countries that enter into and implement agree-  
14 ments or arrangements relating to reduced deforestation  
15 as described in section 753(a)(2).

16 **“SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.**

17       “(a) IN GENERAL.—The Administrator shall, in con-  
18 sultation with appropriate Federal agencies, submit to  
19 Congress a report not later than July 1, 2013, and every  
20 4 years thereafter, that includes—

21               “(1) an analysis of key findings based on up-  
22 to-date scientific information and data relevant to  
23 global climate change;

24               “(2) an analysis of capabilities to monitor and  
25 verify greenhouse gas reductions on a worldwide

1 basis, including for the United States, as required  
2 under the Clean Energy Jobs and American Power  
3 Act (and the amendments made by that Act); and

4 “(3) an analysis of the status of worldwide  
5 greenhouse gas reduction efforts, including imple-  
6 mentation of the Clean Energy Jobs and American  
7 Power Act and other policies, both domestic and  
8 international, for reducing greenhouse gas emissions,  
9 preventing dangerous atmospheric concentrations of  
10 greenhouse gases, preventing significant irreversible  
11 consequences of climate change, and reducing vul-  
12 nerability to the impacts of climate change.

13 “(b) EXCEPTION.—Subsection (a)(3) shall not apply  
14 to the first report submitted under subsection (a).

15 “(c) LATEST SCIENTIFIC INFORMATION.—The anal-  
16 ysis required under subsection (a)(1) shall—

17 “(1) address existing scientific information and  
18 reports, considering, to the greatest extent possible,  
19 the most recent assessment report of the Intergov-  
20 ernmental Panel on Climate Change, reports by the  
21 United States Global Change Research Program, the  
22 Natural Resources Climate Change Adaptation  
23 Panel established under section 365 of the Clean  
24 Energy Jobs and American Power Act, and Federal

1 agencies, and the European Union’s global tempera-  
2 ture data assessment;

3 “(2) review trends and projections for—

4 “(A) global and country-specific annual  
5 emissions of greenhouse gases, and cumulative  
6 greenhouse gas emissions produced between  
7 1850 and the present, including—

8 “(i) global cumulative emissions of an-  
9 thropogenic greenhouse gases;

10 “(ii) global annual emissions of an-  
11 thropogenic greenhouse gases; and

12 “(iii) by country, annual total, annual  
13 per capita, and cumulative anthropogenic  
14 emissions of greenhouse gases for the top  
15 50 emitting nations;

16 “(B) significant changes, both globally and  
17 by region, in annual net non-anthropogenic  
18 greenhouse gas emissions from natural sources,  
19 including permafrost, forests, or oceans;

20 “(C) global atmospheric concentrations of  
21 greenhouse gases, expressed in annual con-  
22 centration units as well as carbon dioxide  
23 equivalents based on 100-year global warming  
24 potentials;

1           “(D) major climate forcing factors, such as  
2 aerosols;

3           “(E) global average temperature, expressed  
4 as seasonal and annual averages in land, ocean,  
5 and land-plus-ocean averages; and

6           “(F) sea level rise;

7           “(3) assess the current and potential impacts of  
8 global climate change on—

9           “(A) human populations, including impacts  
10 on public health, economic livelihoods, subsist-  
11 ence, tribal culture, human infrastructure, and  
12 displacement or permanent relocation due to  
13 flooding, severe weather, extended drought, ero-  
14 sion, or other ecosystem changes;

15           “(B) freshwater systems, including water  
16 resources for human consumption and agri-  
17 culture and natural and managed ecosystems,  
18 flood and drought risks, and relative humidity;

19           “(C) the carbon cycle, including impacts  
20 related to the thawing of permafrost, the fre-  
21 quency and intensity of wildfire, and terrestrial  
22 and ocean carbon sinks;

23           “(D) ecosystems and animal and plant  
24 populations, including impacts on species abun-  
25 dance, phenology, and distribution;

1           “(E) oceans and ocean ecosystems, includ-  
2           ing effects on sea level, ocean acidity, ocean  
3           temperatures, coral reefs, ocean circulation,  
4           fisheries, and other indicators of ocean eco-  
5           system health;

6           “(F) the cryosphere, including effects on  
7           ice sheet mass balance, mountain glacier mass  
8           balance, and sea-ice extent and volume;

9           “(G) changes in the intensity, frequency,  
10          or distribution of severe weather events, includ-  
11          ing precipitation, tropical cyclones, tornadoes,  
12          and severe heat waves;

13          “(H) agriculture and forest systems; and

14          “(I) any other indicators the Administrator  
15          deems appropriate;

16          “(4) summarize any significant socioeconomic  
17          impacts of climate change in the United States, in-  
18          cluding the territories of the United States, drawing  
19          on work by Federal agencies and the academic lit-  
20          erature, including impacts on—

21                  “(A) public health;

22                  “(B) economic livelihoods, subsistence, and  
23          tribal culture;

1           “(C) displacement or permanent relocation  
2           due to flooding, severe weather, extended  
3           drought, or other ecosystem changes;

4           “(D) human infrastructure, including  
5           coastal infrastructure vulnerability to extreme  
6           events and sea level rise, river floodplain infra-  
7           structure, and sewer and water management  
8           systems;

9           “(E) agriculture and forests, including ef-  
10          fects on potential growing season, distribution,  
11          and yield;

12          “(F) water resources for human consump-  
13          tion, agriculture and natural and managed eco-  
14          systems, flood and drought risks, and relative  
15          humidity;

16          “(G) energy supply and use; and

17          “(H) transportation;

18          “(5) in assessing risks and impacts, use a risk  
19          management framework, including both qualitative  
20          and quantitative measures, to assess the observed  
21          and projected impacts of current and future climate  
22          change, accounting for—

23                 “(A) both monetized and non-monetized  
24                 losses;

1           “(B) potential nonlinear, abrupt, or essen-  
2           tially irreversible changes in the climate system;

3           “(C) potential nonlinear increases in the  
4           cost of impacts;

5           “(D) potential low-probability, high impact  
6           events; and

7           “(E) whether impacts are transitory or es-  
8           sentially permanent; and

9           “(6) based on the findings of the Administrator  
10          under this section, as well as assessments produced  
11          by the Intergovernmental Panel on Climate Change,  
12          the United States Global Change Research program,  
13          and other relevant scientific entities—

14           “(A) describe increased risks to natural  
15           systems and society that would result from an  
16           increase in global average temperature 3.6 de-  
17           grees Fahrenheit (2 degrees Celsius) above the  
18           pre-industrial average or an increase in atmos-  
19           pheric greenhouse gas concentrations above 450  
20           parts per million carbon dioxide equivalent; and

21           “(B) identify and assess—

22           “(i) significant residual risks not  
23           avoided by the thresholds described in sub-  
24           paragraph (A);



1                   “(ii) alternative thresholds or targets  
2                   that may more effectively limit the risks  
3                   identified pursuant to clause (i); and

4                   “(iii) thresholds above those described  
5                   in subparagraph (A) which significantly in-  
6                   crease the risk of certain impacts or render  
7                   them essentially permanent.

8           “(d) STATUS OF MONITORING AND VERIFICATION  
9 CAPABILITIES TO EVALUATE GREENHOUSE GAS REDUC-  
10 TION EFFORTS.—The analysis required under subsection  
11 (a)(2) shall evaluate the capabilities of the monitoring, re-  
12 porting, and verification systems used to quantify progress  
13 in achieving reductions in greenhouse gas emissions both  
14 globally and in the United States (as described in section  
15 702), including—

16                   “(1) quantification of emissions and emission  
17                   reductions by entities participating in the pollution  
18                   reduction and investment program under this title;

19                   “(2) quantification of emissions and emission  
20                   reductions by entities participating in the offset pro-  
21                   gram under this title;

22                   “(3) quantification of emission and emission re-  
23                   ductions by entities regulated by performance stand-  
24                   ards;

1           “(4) quantification of aggregate net emissions  
2 and emission reductions by the United States; and

3           “(5) quantification of global changes in net  
4 emissions and in sources and sinks of greenhouse  
5 gases.

6           “(e) STATUS OF GREENHOUSE GAS REDUCTION EF-  
7 FORTS.—The analysis required under subsection (a)(3)  
8 shall address—

9           “(1) whether the programs under the Clean En-  
10 ergy Jobs and American Power Act (and the amend-  
11 ments made by that Act) and other Federal statutes  
12 are resulting in sufficient United States greenhouse  
13 gas emission reductions to meet the emissions reduc-  
14 tion goals described in section 702, taking into ac-  
15 count the use of offsets; and

16           “(2) whether United States actions, taking into  
17 account international actions, commitments, and  
18 trends, and considering the range of plausible emis-  
19 sions scenarios, are sufficient to avoid—

20           “(A) atmospheric greenhouse gas con-  
21 centrations above 450 parts per million carbon  
22 dioxide equivalent;

23           “(B) global average surface temperature  
24 3.6 degrees Fahrenheit (2 degrees Celsius)  
25 above the pre-industrial average, or such other

1 temperature thresholds as the Administrator  
2 deems appropriate; and

3 “(C) other temperature or greenhouse gas  
4 thresholds identified pursuant to subsection  
5 (c)(6)(B).

6 “(f) RECOMMENDATIONS.—

7 “(1) LATEST SCIENTIFIC INFORMATION.—  
8 Based on the analysis described in subsection (a)(1),  
9 each report under subsection (a) shall identify ac-  
10 tions that could be taken to—

11 “(A) improve the characterization of  
12 changes in the earth-climate system and im-  
13 pacts of global climate change;

14 “(B) better inform decision making and  
15 actions related to global climate change;

16 “(C) mitigate risks to natural and social  
17 systems; and

18 “(D) design policies to better account for  
19 climate risks.

20 “(2) MONITORING, REPORTING AND  
21 VERIFICATION.—Based on the analysis described in  
22 subsection (a)(2), each report under subsection (a)  
23 shall identify key gaps in measurement, reporting,  
24 and verification capabilities and make recommenda-

1 tions to improve the accuracy and reliability of those  
2 capabilities.

3 “(3) STATUS OF GREENHOUSE GAS REDUCTION  
4 EFFORTS.—Based on the analysis described in sub-  
5 section (a)(3), taking into account international ac-  
6 tions, commitments, and trends, and considering the  
7 range of plausible emissions scenarios, each report  
8 under subsection (a) shall identify—

9 “(A) the quantity of additional reductions  
10 required to meet the emissions reduction goals  
11 in section 702;

12 “(B) the quantity of additional reductions  
13 in global greenhouse gas emissions needed to  
14 avoid the concentration and temperature  
15 thresholds identified in subsection (e); and

16 “(C) possible strategies and approaches for  
17 achieving additional reductions.

18 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to carry out this section  
20 such sums as may be necessary.

21 **“SEC. 706. NATIONAL ACADEMY REVIEW.**

22 “(a) IN GENERAL.—Not later than 1 year after the  
23 date of enactment of this title, the Administrator shall  
24 offer to enter into a contract with the National Academy  
25 of Sciences (in this section referred to as the ‘Academy’)

1 under which the Academy shall, not later than July 1,  
2 2014, and every 4 years thereafter, submit to Congress  
3 and the Administrator a report that includes—

4           “(1) a review of the most recent report and rec-  
5 ommendations issued under section 705; and

6           “(2) an analysis of technologies to achieve re-  
7 ductions in greenhouse gas emissions.

8           “(b) FAILURE TO ISSUE A REPORT.—In the event  
9 that the Administrator has not issued all or part of the  
10 most recent report required under section 705, the Acad-  
11 emy shall conduct its own review and analysis of the re-  
12 quired information.

13           “(c) TECHNOLOGICAL INFORMATION.—The analysis  
14 required under subsection (a)(2) shall—

15           “(1) review existing technological information  
16 and reports, including the most recent reports by the  
17 Department of Energy, the United States Global  
18 Change Research Program, the Intergovernmental  
19 Panel on Climate Change, and the International En-  
20 ergy Agency and any other relevant information on  
21 technologies or practices that reduce or limit green-  
22 house gas emissions;

23           “(2) include the participation of technical ex-  
24 perts from relevant private industry sectors;

1           “(3) review the current and future projected de-  
2           ployment of technologies and practices in the United  
3           States that reduce or limit greenhouse gas emis-  
4           sions, including—

5                   “(A) technologies for capture and seques-  
6                   tration of greenhouse gases;

7                   “(B) technologies to improve energy effi-  
8                   ciency;

9                   “(C) low- or zero-greenhouse gas emitting  
10                  energy technologies;

11                  “(D) low- or zero-greenhouse gas emitting  
12                  fuels;

13                  “(E) biological sequestration practices and  
14                  technologies; and

15                  “(F) any other technologies the Academy  
16                  deems relevant; and

17           “(4) review and compare the emissions reduc-  
18           tion potential, commercial viability, market penetra-  
19           tion, investment trends, and deployment of the tech-  
20           nologies described in paragraph (3), including—

21                   “(A) the need for additional research and  
22                   development, including publicly funded research  
23                   and development;

24                   “(B) the extent of commercial deployment,  
25                   including, where appropriate, a comparison to

1 the cost and level of deployment of conventional  
2 fossil fuel-fired energy technologies and devices;  
3 and

4 “(C) an evaluation of any substantial tech-  
5 nological, legal, or market-based barriers to  
6 commercial deployment.

7 “(d) RECOMMENDATIONS.—

8 “(1) LATEST SCIENTIFIC INFORMATION.—  
9 Based on the review described in subsection (a)(1),  
10 the Academy shall identify actions that could be  
11 taken to—

12 “(A) improve the characterization of  
13 changes in the earth-climate system and im-  
14 pacts of global climate change;

15 “(B) better inform decision making and  
16 actions related to global climate change;

17 “(C) mitigate risks to natural and social  
18 systems;

19 “(D) design policies to better account for  
20 climate risks; and

21 “(E) improve the accuracy and reliability  
22 of capabilities to monitor, report, and verify  
23 greenhouse gas emissions reduction efforts.

1           “(2) TECHNOLOGICAL INFORMATION.—Based  
2 on the analysis described in subsection (a)(2), the  
3 Academy shall identify—

4           “(A) additional emission reductions that  
5 may be possible as a result of technologies de-  
6 scribed in the analysis;

7           “(B) barriers to the deployment of such  
8 technologies; and

9           “(C) actions that could be taken to speed  
10 deployment of such technologies.

11           “(3) STATUS OF GREENHOUSE GAS REDUCTION  
12 EFFORTS.—Based on the review described in sub-  
13 section (a)(1), the Academy shall identify—

14           “(A) the quantity of additional reductions  
15 required to meet the emissions reduction goals  
16 described in section 702; and

17           “(B) the quantity of additional reductions  
18 in global greenhouse gas emissions needed to  
19 avoid the concentration and temperature  
20 thresholds described in section 705(c)(6)(A) or  
21 identified pursuant to section 705(c)(6)(B).

22           “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated to carry out this section  
24 such sums as may be necessary.



1 **“SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDA-**  
2 **TIONS.**

3 “Not later than July 1, 2015, and every 4 years  
4 thereafter—

5 “(1) the President shall direct relevant Federal  
6 agencies to use existing statutory authority to take  
7 appropriate actions identified in the reports sub-  
8 mitted under sections 705 and 706 and to address  
9 any shortfalls identified in such reports; and

10 “(2) in the event that the National Academy of  
11 Sciences has concluded, in the most recent report  
12 submitted under section 706, that the United States  
13 will not achieve the necessary domestic greenhouse  
14 gas emission reductions, or that global actions will  
15 not maintain safe global average surface tempera-  
16 ture and atmospheric greenhouse gas concentration  
17 thresholds, the President shall submit to Congress a  
18 plan identifying domestic and international actions  
19 that will achieve necessary additional greenhouse gas  
20 reductions, including any recommendations for legis-  
21 lative action.

22 **“PART B—DESIGNATION AND REGISTRATION OF**  
23 **GREENHOUSE GASES**

24 **“SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

25 “(a) GREENHOUSE GASES.—For purposes of this  
26 title, the following are greenhouse gases:

1           “(1) Carbon dioxide.

2           “(2) Methane.

3           “(3) Nitrous oxide.

4           “(4) Sulfur hexafluoride.

5           “(5) Hydrofluorocarbons from a chemical man-  
6           ufacturing process at an industrial stationary  
7           source.

8           “(6) Any perfluorocarbon, except as otherwise  
9           provided in section 714.

10          “(7) Nitrogen trifluoride.

11          “(8) Any other anthropogenic gas designated as  
12          a greenhouse gas by the Administrator under this  
13          section.

14          “(b) DETERMINATION ON ADMINISTRATOR’S INITIA-  
15          TIVE.—The Administrator shall, by rule—

16               “(1) determine whether 1 metric ton of another  
17               anthropogenic gas makes the same or greater con-  
18               tribution to global warming over 100 years as 1 met-  
19               ric ton of carbon dioxide;

20               “(2) determine the carbon dioxide equivalent  
21               value for each gas with respect to which the Admin-  
22               istrator makes an affirmative determination under  
23               paragraph (1);

24               “(3) for each gas with respect to which the Ad-  
25               ministrator makes an affirmative determination

1 under paragraph (1) and that is used as a substitute  
2 for a class I or class II substance under title VI, de-  
3 termine the extent to which to regulate that gas  
4 under section 619 and specify appropriate compli-  
5 ance obligations under section 619;

6 “(4) designate as a greenhouse gas for purposes  
7 of this title each gas for which the Administrator  
8 makes an affirmative determination under para-  
9 graph (1), to the extent that it is not regulated  
10 under section 619; and

11 “(5) specify the appropriate compliance obliga-  
12 tions under this title for each gas designated as a  
13 greenhouse gas under paragraph (4).

14 “(c) PETITIONS TO DESIGNATE A GREENHOUSE  
15 GAS.—

16 “(1) IN GENERAL.—Any person may petition  
17 the Administrator to designate as a greenhouse gas  
18 any anthropogenic gas 1 metric ton of which makes  
19 the same or greater contribution to global warming  
20 over 100 years as 1 metric ton of carbon dioxide.

21 “(2) CONTENTS OF PETITION.—The petitioner  
22 shall provide sufficient data, as specified by rule by  
23 the Administrator, to demonstrate that the gas is  
24 likely to be a greenhouse gas and is likely to be pro-  
25 duced, imported, used, or emitted in the United

1 States. To the extent practicable, the petitioner shall  
2 also identify producers, importers, distributors,  
3 users, and emitters of the gas in the United States.

4 “(3) REVIEW AND ACTION BY THE ADMINIS-  
5 TRATOR.—Not later than 90 days after receipt of a  
6 petition under paragraph (2), the Administrator  
7 shall determine whether the petition is complete and  
8 notify the petitioner and the public of the decision.

9 “(4) ADDITIONAL INFORMATION.—The Admin-  
10 istrator may require producers, importers, distribu-  
11 tors, users, or emitters of the gas to provide infor-  
12 mation on the contribution of the gas to global  
13 warming over 100 years compared to carbon dioxide.

14 “(5) TREATMENT OF PETITION.—For any sub-  
15 stance used as a substitute for a class I or class II  
16 substance under title VI, the Administrator may  
17 elect to treat a petition under this subsection as a  
18 petition to list the substance as a class II, group II  
19 substance under section 619, and may require the  
20 petition to be amended to address listing criteria  
21 promulgated under that section.

22 “(6) DETERMINATION.—Not later than 2 years  
23 after receipt of a complete petition, the Adminis-  
24 trator shall, after notice and an opportunity for com-  
25 ment—

1           “(A) issue and publish in the Federal Reg-  
2           ister—

3                   “(i) a determination that 1 metric ton  
4                   of the gas does not make a contribution to  
5                   global warming over 100 years that is  
6                   equal to or greater than that made by 1  
7                   metric ton of carbon dioxide; and

8                   “(ii) an explanation of the decision; or

9           “(B) determine that 1 metric ton of the  
10           gas makes a contribution to global warming  
11           over 100 years that is equal to or greater than  
12           that made by 1 metric ton of carbon dioxide,  
13           and take the actions described in subsection (b)  
14           with respect to such gas.

15           “(7) GROUNDS FOR DENIAL.—The Adminis-  
16           trator may not deny a petition under this subsection  
17           solely on the basis of inadequate Environmental Pro-  
18           tection Agency resources or time for review.

19           “(d) SCIENCE ADVISORY BOARD CONSULTATION.—

20                   “(1) CONSULTATION.—The Administrator  
21                   shall—

22                   “(A) give notice to the Science Advisory  
23                   Board prior to making a determination under  
24                   subsection (b)(1), (c)(6), or (e)(2)(B);

1           “(B) consider the written recommendations  
2 of the Science Advisory Board under paragraph  
3 (2) regarding the determination; and

4           “(C) consult with the Science Advisory  
5 Board regarding such determination, including  
6 consultation subsequent to receipt of such writ-  
7 ten recommendations.

8           “(2) FORMULATION OF RECOMMENDATIONS.—  
9 Upon receipt of notice under paragraph (1)(A) re-  
10 garding a pending determination under subsection  
11 (b)(1), (c)(6), or (e)(2)(B), the Science Advisory  
12 Board shall—

13           “(A) formulate recommendations regarding  
14 such determination, subject to a peer review  
15 process; and

16           “(B) submit such recommendations in  
17 writing to the Administrator.

18           “(e) MANUFACTURING AND EMISSION NOTICES.—

19           “(1) NOTICE REQUIREMENT.—

20           “(A) IN GENERAL.—Except as otherwise  
21 provided in section 714, effective 24 months  
22 after the date of enactment of this title, no per-  
23 son may manufacture or introduce into inter-  
24 state commerce a fluorinated gas, or emit a sig-  
25 nificant quantity, as determined by the Admin-

1           istrator, of any fluorinated gas that is gen-  
2           erated as a byproduct during the production or  
3           use of another fluorinated gas, unless—

4                   “(i) the gas is designated as a green-  
5                   house gas under this section or is an  
6                   ozone-depleting substance listed as a class  
7                   I or class II substance under title VI;

8                   “(ii) the Administrator has deter-  
9                   mined that 1 metric ton of such gas does  
10                  not make a contribution to global warming  
11                  that is equal to or greater than that made  
12                  by 1 metric ton of carbon dioxide; or

13                  “(iii) the person manufacturing or im-  
14                  porting the gas for distribution into inter-  
15                  state commerce, or emitting the gas, has  
16                  submitted to the Administrator, at least 90  
17                  days before the start of such manufacture,  
18                  introduction into commerce, or emission, a  
19                  notice of such person’s manufacture, intro-  
20                  duction into commerce, or emission of such  
21                  gas, and the Administrator has not deter-  
22                  mined that notice or a substantially similar  
23                  notice is incomplete.

24                  “(B) ALTERNATIVE COMPLIANCE.—For a  
25                  gas that is a substitute for a class I or class II

1 substance under title VI and either has been  
2 listed as acceptable for use under section 612  
3 or is currently subject to evaluation under sec-  
4 tion 612, the Administrator may accept the no-  
5 tice and information provided pursuant to that  
6 section as fulfilling the obligation under clause  
7 (iii) of subparagraph (A).

8 “(2) REVIEW AND ACTION BY THE ADMINIS-  
9 TRATOR.—

10 “(A) COMPLETENESS.—Not later than 90  
11 days after receipt of notice under paragraph  
12 (1)(A)(iii) or (B), the Administrator shall deter-  
13 mine whether the notice is complete.

14 “(B) DETERMINATION.—If the Adminis-  
15 trator determines that the notice is complete,  
16 the Administrator shall, after notice and an op-  
17 portunity for comment, not later than 12  
18 months after receipt of the notice—

19 “(i) issue and publish in the Federal  
20 Register a determination that 1 metric ton  
21 of the gas does not make a contribution to  
22 global warming over 100 years that is  
23 equal to or greater than that made by 1  
24 metric ton of carbon dioxide and an expla-  
25 nation of the decision; or



1                   “(ii) determine that 1 metric ton of  
2                   the gas makes a contribution to global  
3                   warming over 100 years that is equal to or  
4                   greater than that made by 1 metric ton of  
5                   carbon dioxide, and take the actions de-  
6                   scribed in subsection (b) with respect to  
7                   such gas.

8                   “(f) REGULATIONS.—Not later than one year after  
9                   the date of enactment of this title, the Administrator shall  
10                  promulgate regulations to carry out this section. Such reg-  
11                  ulations shall include—

12                   “(1) requirements for the contents of a petition  
13                   submitted under subsection (c);

14                   “(2) requirements for the contents of a notice  
15                   required under subsection (e); and

16                   “(3) methods and standards for evaluating the  
17                   carbon dioxide equivalent value of a gas.

18                  “(g) GASES REGULATED UNDER TITLE VI.—The  
19                  Administrator shall not designate a gas as a greenhouse  
20                  gas under this section to the extent that the gas is regu-  
21                  lated under title VI.

22                  “(h) SAVINGS CLAUSE.—Nothing in this section shall  
23                  be interpreted to relieve any person from complying with  
24                  the requirements of section 612.

1 **“SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF**  
 2 **GREENHOUSE GASES.**

3 “(a) MEASURE OF QUANTITY OF GREENHOUSE  
 4 GASES.—Any provision of this title or title VIII that refers  
 5 to a quantity or percentage of a quantity of greenhouse  
 6 gases shall mean the quantity or percentage of the green-  
 7 house gases expressed in carbon dioxide equivalents.

8 “(b) INITIAL VALUE.—Except as provided by the Ad-  
 9 ministrator under this section or section 711—

10 “(1) the carbon dioxide equivalent value of  
 11 greenhouse gases for purposes of this Act shall be as  
 12 follows:

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
 GREENHOUSE GASES**

<b>Greenhouse gas (1 metric ton)</b>	<b>Carbon dioxide equivalent (metric tons)</b>
Carbon dioxide	1
Methane	25
Nitrous oxide	298
HFC-23	14,800
HFC-125	3,500
HFC-134a	1,430
HFC-143a	4,470
HFC-152a	124
HFC-227ea	3,220
HFC-236fa	9,810
HFC-4310mcc	1,640
CF <sub>4</sub>	7,390

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
GREENHOUSE GASES—Continued**

<b>Greenhouse gas (1 metric ton)</b>	<b>Carbon dioxide equivalent (metric tons)</b>
C <sub>2</sub> F <sub>6</sub>	12,200
C <sub>4</sub> F <sub>10</sub>	8,860
C <sub>6</sub> F <sub>14</sub>	9,300
SF <sub>6</sub>	22,800
NF <sub>3</sub>	17,200

1           ; and

2           “(2) the carbon dioxide equivalent value for  
3           purposes of this Act for any greenhouse gas not list-  
4           ed in the table under paragraph (1) shall be the  
5           100-year Global Warming Potentials provided in the  
6           Intergovernmental Panel on Climate Change Fourth  
7           Assessment Report.

8           “(c) PERIODIC REVIEW.—

9           “(1) Not later than February 1, 2017, and (ex-  
10          cept as provided in paragraph (3)) not less than  
11          every 5 years thereafter, the Administrator shall—

12           “(A) review and, if appropriate, revise the  
13          carbon dioxide equivalent values established  
14          under this section or section 711(b)(2), based  
15          on a determination of the number of metric  
16          tons of carbon dioxide that makes the same  
17          contribution to global warming over 100 years  
18          as 1 metric ton of each greenhouse gas; and

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

3           “(2) A revised determination published in the  
4           Federal Register under paragraph (1)(B) shall take  
5           effect for greenhouse gas emissions starting on Jan-  
6           uary 1 of the first calendar year starting at least 9  
7           months after the date on which the revised deter-  
8           mination was published.

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

20          “(d) METHODOLOGY.—In setting carbon dioxide  
21          equivalent values, for purposes of this section or section  
22          711, the Administrator shall take into account publica-  
23          tions by the Intergovernmental Panel on Climate Change  
24          or a successor organization under the auspices of the

1 United Nations Environmental Programme and the World  
2 Meteorological Organization.

3 **“SEC. 713. GREENHOUSE GAS REGISTRY.**

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

5 “(1) CLIMATE REGISTRY.—The term ‘Climate  
6 Registry’ means the greenhouse gas emissions reg-  
7 istry jointly established and managed by more than  
8 40 States and Indian tribes in 2007 to collect high-  
9 quality greenhouse gas emission data from facilities,  
10 corporations, and other organizations to support var-  
11 ious greenhouse gas emission reporting and reduc-  
12 tion policies for the member States and Indian  
13 tribes.

14 “(2) REPORTING ENTITY.—The term ‘reporting  
15 entity’ means—

16 “(A) a covered entity;

17 “(B) an entity that—

18 “(i) would be a covered entity if it had  
19 emitted, produced, imported, manufac-  
20 tured, or delivered in 2008 or any subse-  
21 quent year more than the applicable  
22 threshold level in the definition of covered  
23 entity in paragraph (13) of section 700;  
24 and

1           “(ii) has emitted, produced, imported,  
2           manufactured, or delivered in 2008 or any  
3           subsequent year more than the applicable  
4           threshold level in the definition of covered  
5           entity in paragraph (13) of section 700,  
6           provided that the figure of 25,000 tons of  
7           carbon dioxide equivalent is read instead  
8           as 10,000 tons of carbon dioxide equivalent  
9           and the figure of 460,000,000 cubic feet is  
10          read instead as 184,000,000 cubic feet;

11          “(C) any other entity that emits a green-  
12          house gas, or produces, imports, manufactures,  
13          or delivers material whose use results or may  
14          result in greenhouse gas emissions if the Ad-  
15          ministrator determines that reporting under  
16          this section by such entity will help achieve the  
17          purposes of this title or title VIII;

18          “(D) any vehicle fleet with emissions of  
19          more than 25,000 tons of carbon dioxide equiv-  
20          alent on an annual basis, if the Administrator  
21          determines that the inclusion of such fleet will  
22          help achieve the purposes of this title or title  
23          VIII; or

24          “(E) any entity that delivers electricity to  
25          an energy-intensive facility in an industrial sec-

1           tor that meets the energy or greenhouse gas in-  
2           tensity criteria in section 764(b)(3)(B)(i).

3           “(b) REGULATIONS.—

4           “(1) IN GENERAL.—Not later than 6 months  
5           after the date of enactment of this title, the Admin-  
6           istrator shall issue regulations establishing a Federal  
7           greenhouse gas registry. Such regulations shall—

8           “(A) require reporting entities to submit to  
9           the Administrator data on—

10           “(i) greenhouse gas emissions in the  
11           United States;

12           “(ii) the production and manufacture  
13           in the United States, importation into the  
14           United States, and, at the discretion of the  
15           Administrator, exportation from the  
16           United States, of fuels and industrial gases  
17           the uses of which result or may result in  
18           greenhouse gas emissions;

19           “(iii) deliveries in the United States of  
20           natural gas, and any other gas meeting the  
21           specifications for commingling with natural  
22           gas for purposes of delivery, the combus-  
23           tion of which result or may result in green-  
24           house gas emissions; and

1                   “(iv) the capture and sequestration of  
2                   greenhouse gases;

3                   “(B) require covered entities and, where  
4                   appropriate, other reporting entities to submit  
5                   to the Administrator data sufficient to ensure  
6                   compliance with or implementation of the re-  
7                   quirements of this title;

8                   “(C) require reporting of electricity deliv-  
9                   ered to industrial sources in energy-intensive in-  
10                  dustries;

11                  “(D) ensure the completeness, consistency,  
12                  transparency, accuracy, precision, and reliability  
13                  of such data;

14                  “(E) take into account the best practices  
15                  from the most recent Federal, State, tribal, and  
16                  international protocols for the measurement, ac-  
17                  counting, reporting, and verification of green-  
18                  house gas emissions, including protocols from  
19                  the Climate Registry and other mandatory  
20                  State or multistate authorized programs;

21                  “(F) take into account the latest scientific  
22                  research;

23                  “(G) require that, for covered entities with  
24                  respect to greenhouse gases to which section  
25                  722 applies, and, to the extent determined to be



1 appropriate by the Administrator, for covered  
2 entities with respect to other greenhouse gases  
3 and for other reporting entities, submitted data  
4 are based on—

5 “(i) continuous monitoring systems  
6 for fuel flow or emissions, such as contin-  
7 uous emission monitoring systems;

8 “(ii) alternative systems that are dem-  
9 onstrated as providing data with the same  
10 precision, reliability, accessibility, and  
11 timeliness, or, to the extent the Adminis-  
12 trator determines is appropriate for report-  
13 ing small amounts of emissions, the same  
14 precision, reliability, and accessibility and  
15 similar timeliness, as data provided by con-  
16 tinuous monitoring systems for fuel flow or  
17 emissions; or

18 “(iii) alternative methodologies that  
19 are demonstrated to provide data with pre-  
20 cision, reliability, accessibility, and timeli-  
21 ness, or, to the extent the Administrator  
22 determines is appropriate for reporting  
23 small amounts of emissions, precision, reli-  
24 ability, and accessibility, as similar as is  
25 technically feasible to that of data gen-

1 erally provided by continuous monitoring  
2 systems for fuel flow or emissions, if the  
3 Administrator determines that, with re-  
4 spect to a reporting entity, there is no con-  
5 tinuous monitoring system or alternative  
6 system described in clause (i) or (ii) that  
7 is technically feasible;

8 “(H) require that the Administrator, in de-  
9 termining the extent to which the requirement  
10 to use systems or methodologies in accordance  
11 with subparagraph (G) is appropriate for re-  
12 porting entities other than covered entities or  
13 for greenhouse gases to which section 722 does  
14 not apply, consider the cost of using such sys-  
15 tems and methodologies, and of using other sys-  
16 tems and methodologies that are available and  
17 suitable, for quantifying the emissions involved  
18 in light of the purposes of this title, including  
19 the goal of collecting consistent entity-wide  
20 data;

21 “(I) include methods for minimizing double  
22 reporting and avoiding irreconcilable double re-  
23 porting of greenhouse gas emissions;

24 “(J) establish measurement protocols for  
25 carbon capture and sequestration systems, tak-

1 ing into consideration the regulations promul-  
2 gated under section 813;

3 “(K) require that reporting entities provide  
4 the data required under this paragraph in re-  
5 ports submitted electronically to the Adminis-  
6 trator, in such form and containing such infor-  
7 mation as may be required by the Adminis-  
8 trator;

9 “(L) include requirements for keeping  
10 records supporting or related to, and protocols  
11 for auditing, submitted data;

12 “(M) establish consistent policies for calcu-  
13 lating carbon content and greenhouse gas emis-  
14 sions for each type of fossil fuel with respect to  
15 which reporting is required;

16 “(N) subsequent to implementation of poli-  
17 cies developed under subparagraph (M), provide  
18 for immediate dissemination, to States, Indian  
19 tribes, and on the Internet, of all data reported  
20 under this section as soon as practicable after  
21 electronic audit by the Administrator and any  
22 resulting correction of data, except that data  
23 shall not be disseminated under this subpara-  
24 graph if—

1           “(i) its nondissemination is vital to  
2 the national security of the United States,  
3 as determined by the President; or

4           “(ii) it is confidential business infor-  
5 mation that cannot be derived from infor-  
6 mation that is otherwise publicly available  
7 and that would cause significant calculable  
8 competitive harm if published, except  
9 that—

10           “(I) data relating to greenhouse  
11 gas emissions, including any upstream  
12 or verification data from reporting en-  
13 tities, shall not be considered to be  
14 confidential business information; and

15           “(II) data that is confidential  
16 business information shall be provided  
17 to a State or Indian tribe within  
18 whose jurisdiction the reporting entity  
19 is located, if the Administrator deter-  
20 mines that such State or Indian tribe  
21 has in effect protections for confiden-  
22 tial business information that are  
23 equivalent to protections applicable to  
24 the Federal Government;

1           “(O) prescribe methods by which the Ad-  
2           ministrators shall, in cases in which satisfactory  
3           data are not submitted to the Administrator for  
4           any period of time, estimate emission, produc-  
5           tion, importation, manufacture, or delivery lev-  
6           els—

7                   “(i) for covered entities with respect  
8                   to greenhouse gas emissions, production,  
9                   importation, manufacture, or delivery regu-  
10                  lated under this title to ensure that emis-  
11                  sions, production, importation, manufac-  
12                  ture, or deliveries are not underreported,  
13                  and to create a strong incentive for meet-  
14                  ing data monitoring and reporting require-  
15                  ments—

16                   “(I) with a conservative estimate  
17                   of the highest emission, production,  
18                   importation, manufacture, or delivery  
19                   levels that may have occurred during  
20                   the period for which data are missing;  
21                   or

22                   “(II) to the extent the Adminis-  
23                   trator considers appropriate, with an  
24                   estimate of such levels assuming the  
25                   unit is emitting, producing, importing,

1 manufacturing, or delivering at a  
2 maximum potential level during the  
3 period, in order to ensure that such  
4 levels are not underreported and to  
5 create a strong incentive for meeting  
6 data monitoring and reporting re-  
7 quirements; and

8 “(ii) for covered entities with respect  
9 to greenhouse gas emissions to which sec-  
10 tion 722 does not apply and for other re-  
11 porting entities, with a reasonable estimate  
12 of the emission, production, importation,  
13 manufacture, or delivery levels that may  
14 have occurred during the period for which  
15 data are missing;

16 “(P) require the designation of a des-  
17 ignated representative for each reporting entity;

18 “(Q) require an appropriate certification,  
19 by the designated representative for the report-  
20 ing entity, of accurate and complete accounting  
21 of greenhouse gas emissions, as determined by  
22 the Administrator; and

23 “(R) include requirements for other data  
24 necessary for accurate and complete accounting  
25 of greenhouse gas emissions, as determined by

1 the Administrator, including data for quality  
2 assurance of monitoring systems, monitors and  
3 other measurement devices, and other data  
4 needed to verify reported emissions, production,  
5 importation, manufacture, or delivery.

6 “(2) TIMING.—

7 “(A) CALENDAR YEARS 2007 THROUGH  
8 2010.—For a base period of calendar years  
9 2007 through 2010, each reporting entity shall  
10 submit annual data required under this section  
11 to the Administrator not later than March 31,  
12 2011. The Administrator may waive or modify  
13 reporting requirements for calendar years 2007  
14 through 2010 for categories of reporting enti-  
15 ties to the extent that the Administrator deter-  
16 mines that the reporting entities did not keep  
17 data or records necessary to meet reporting re-  
18 quirements. The Administrator may, in addition  
19 to or in lieu of such requirements, collect infor-  
20 mation on energy consumption and production.

21 “(B) SUBSEQUENT CALENDAR YEARS.—

22 For calendar year 2011 and each subsequent  
23 calendar year, each reporting entity shall sub-  
24 mit quarterly data required under this section  
25 to the Administrator not later than 60 days

1 after the end of the applicable quarter, except  
2 when the data is already being reported to the  
3 Administrator on an earlier timeframe for an-  
4 other program.

5 “(3) WAIVER OF REPORTING REQUIREMENTS.—  
6 The Administrator may waive reporting require-  
7 ments under this section for specific entities to the  
8 extent that the Administrator determines that suffi-  
9 cient and equally or more reliable verified and timely  
10 data are available to the Administrator and the pub-  
11 lic on the Internet under other mandatory statutory  
12 requirements.

13 “(4) ALTERNATIVE THRESHOLD.—The Admin-  
14 istrator may, by rule, establish applicability thresh-  
15 olds for reporting under this section using alter-  
16 native metrics and levels, provided that such metrics  
17 and levels are easier to administer and cover the  
18 same size and type of sources as the threshold de-  
19 fined in this section.

20 “(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—  
21 In developing the regulations issued under subsection (b),  
22 the Administrator shall take into account the work done  
23 by the Climate Registry and other mandatory State or  
24 multistate programs. Such regulations shall include an ex-  
25 planation of any major differences in approach between



1 the system established under the regulations and such reg-  
2 istries and programs.

3 **“SEC. 714. PERFLUOROCARBON REGULATION.**

4 “(a) DEFINITIONS.—In this section:

5 “(1) CONSUMPTION.—The term ‘consumption’  
6 means, with respect to perfluorocarbon, the quantity  
7 of that substance produced in the United States,  
8 plus the quantity imported, minus the quantity ex-  
9 ported.

10 “(2) PRODUCE; PRODUCED; PRODUCTION.—

11 “(A) IN GENERAL.—The terms ‘produce’,  
12 ‘produced’, and ‘production’ mean the manufac-  
13 ture of perfluorocarbon, or the emission of  
14 perfluorocarbon from other industrial sources.

15 “(B) EXCLUSIONS.—The terms ‘produce’,  
16 ‘produced’, and ‘production’ do not include—

17 “(i) the manufacture of  
18 perfluorocarbon that is used and entirely  
19 consumed (except for trace quantities) in  
20 the manufacture of other chemicals or  
21 products;

22 “(ii) the reuse or recycling of  
23 perfluorocarbon; or

1                   “(iii) the emission of perfluorocarbon  
2                   from use in production processes, such as  
3                   electronics manufacturing.

4                   “(C) OFFSET CREDIT.—The term ‘offset  
5                   credit’ means reduction of perfluorocarbon  
6                   emissions by destruction or conversionary use of  
7                   perfluorocarbons during production processes,  
8                   such as electronics manufacturing.

9                   “(b) DETERMINATION BY ADMINISTRATOR.—As soon  
10                  as practicable after the date of enactment of this section,  
11                  the Administrator shall determine, based on such criteria  
12                  as the Administrator determines to be appropriate, wheth-  
13                  er emissions from the production and consumption of  
14                  perfluorocarbon should be regulated in accordance with—

15                         “(1) this section; or

16                         “(2) the other applicable provisions of this title.

17                  “(c) EFFECT OF DETERMINATION.—On a determina-  
18                  tion by the Administrator under subsection (a)(1) that  
19                  perfluorocarbon emissions described in subsection (b)  
20                  should be regulated in accordance with this section—

21                         “(1) emissions from the production of  
22                         perfluorocarbon shall be subject to the best available  
23                         control technology (as defined in section 169) for  
24                         each greenhouse gas designated in section 711 at fa-

1 cilities emitting 25,000 metric tons of carbon dioxide  
2 equivalent perfluorocarbon emissions or more; and

3 “(2) the consumption of perfluorocarbon shall  
4 be phased down in accordance with this section.

5 “(d) USE AND CONSUMPTION.—

6 “(1) PHASE-DOWNS.—

7 “(A) CONSUMPTION.—

8 “(i) IN GENERAL.—With respect to  
9 perfluorocarbon, not later than 18 months  
10 after the date of enactment of this section,  
11 the Administrator shall promulgate regula-  
12 tions phasing down, in accordance with  
13 this section—

14 “(I) the consumption of  
15 perfluorocarbon in the United States;  
16 and

17 “(II) the importation into the  
18 United States of products containing  
19 any perfluorocarbon.

20 “(ii) PROHIBITION.—Effective begin-  
21 ning on January 1, 2014, it shall be un-  
22 lawful for any person to produce any per-  
23 fluorocarbon, import any perfluorocarbon,  
24 or import any product containing  
25 perfluorocarbon, unless the person holds 1

1 consumption allowance or 1 offset credit  
2 for each carbon dioxide equivalent ton of  
3 the perfluorocarbon destroyed.

4 “(iii) RETIRED ALLOWANCES.—Any  
5 person who exports a perfluorocarbon for  
6 which a use allowance was retired may re-  
7 ceive a refund of that allowance from the  
8 Administrator after the date of export.

9 “(B) INTEGRITY OF LIMITS.—To maintain  
10 the integrity of the perfluorocarbon limits under  
11 this paragraph, the Administrator may limit, by  
12 regulation, the percentage of the compliance ob-  
13 ligation of any person that may be met through  
14 the consumption of offset credits or banked al-  
15 lowances.

16 “(C) COUNTING OF VIOLATIONS.—Each  
17 consumption allowance or offset credit not held  
18 as required by this subsection shall be a sepa-  
19 rate violation of this section.

20 “(2) SCHEDULE.—Pursuant to the regulations  
21 promulgated under paragraph (1)(A), the number of  
22 perfluorocarbon consumption allowances available for  
23 distribution for each calendar year beginning in cal-  
24 endar year 2014 shall be established by the Adminis-  
25 trator.

1 “(3) BASELINE.—

2 “(A) IN GENERAL.—Not later than 1 year  
3 after the date of enactment of this section, the  
4 Administrator shall promulgate regulations to  
5 establish the baseline for purposes of paragraph  
6 (2).

7 “(B) CALCULATION.—The baseline shall  
8 be—

9 “(i) the sum, expressed in metric tons  
10 of carbon dioxide equivalents, of—

11 “(I) the average of the annual  
12 consumption of all perfluorocarbon in  
13 each of calendar years 2004, 2005,  
14 and 2006; and

15 “(II) the annual average quantity  
16 of all perfluorocarbon contained in im-  
17 ported products during the period of  
18 calendar years 2004, 2005, and 2006;  
19 or

20 “(ii) such alternative quantity of car-  
21 bon dioxide equivalents that, as determined  
22 by the Administrator, more accurately re-  
23 flects the average annual quantity of  
24 perfluorocarbon consumed in and imported  
25 into the United States (including in prod-

1                   ucts), as based on information compiled by  
2                   the Administrator.

3                   “(4) DISTRIBUTION OF ALLOWANCES.—The  
4 Administrator shall determine an allocation, and  
5 procedures for the distribution, transfer, and ex-  
6 change of allowances for the consumption of  
7 perfluorocarbon under this section, including a de-  
8 termination of whether allowances may be auctioned,  
9 sold, or allocated and distributed at no cost, trans-  
10 ferred, or exchanged for domestic or international  
11 consumption, in accordance with such criteria as the  
12 Administrator considers to be appropriate.

13                   “(e) IMPLEMENTATION.—To the maximum extent  
14 practicable, the Administrator shall implement this section  
15 in accordance with the procedures described in section  
16 619.

17                   “(f) DEADLINES FOR COMPLIANCE.—The Adminis-  
18 trator shall promulgate regulations for perfluorocarbon in  
19 accordance with this section by not later than October 31,  
20 2013.

21                   **“PART C—PROGRAM RULES**

22                   **“SEC. 721. EMISSION ALLOWANCES.**

23                   “(a) IN GENERAL.—The Administrator shall estab-  
24 lish a separate quantity of emission allowances for each

1 calendar year starting in 2012, in the amounts prescribed  
2 under subsection (e).

3 “(b) IDENTIFICATION NUMBERS.—The Adminis-  
4 trator shall assign to each emission allowance established  
5 under subsection (a) a unique identification number that  
6 includes the vintage year for that emission allowance.

7 “(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

8 “(1) IN GENERAL.—An allowance established  
9 by the Administrator under this title does not con-  
10 stitute a property right.

11 “(2) TERMINATION OR LIMITATION.—Nothing  
12 in this Act or any other provision of law shall be  
13 construed to limit or alter the authority of the  
14 United States, including the Administrator acting  
15 pursuant to statutory authority, to terminate or  
16 limit allowances, offset credits, or term offset cred-  
17 its.

18 “(3) OTHER PROVISIONS UNAFFECTED.—Ex-  
19 cept as otherwise specified in this Act, nothing in  
20 this Act relating to allowances, offset credits, or  
21 term offset credits established or issued under this  
22 title shall affect the application of any other provi-  
23 sion of law to a covered entity, or the responsibility  
24 for a covered entity to comply with any such provi-  
25 sion of law.

1       “(d) SAVINGS PROVISION.—Nothing in this part shall  
 2 be construed as requiring a change of any kind in any  
 3 State law regulating electric utility rates and charges, or  
 4 as affecting any State law regarding such State regula-  
 5 tion, or as limiting State regulation (including any  
 6 prudence review) under such a State law. Nothing in this  
 7 part shall be construed as modifying the Federal Power  
 8 Act (16 U.S.C. 791a et seq.) or as affecting the authority  
 9 of the Federal Energy Regulatory Commission under that  
 10 Act. Nothing in this part shall be construed to interfere  
 11 with or impair any program for competitive bidding for  
 12 power supply in a State in which such program is estab-  
 13 lished.

14       “(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

15               “(1) IN GENERAL.—Except as provided in para-  
 16 graph (2), the number of emission allowances estab-  
 17 lished by the Administrator under subsection (a) for  
 18 each calendar year shall be as provided in the fol-  
 19 lowing table:

<b>“Calendar Year</b>	<b>Emissions Allow- ances (MtCO<sub>2</sub>e)</b>
2012 .....	4,627
2013 .....	4,544
2014 .....	5,099
2015 .....	5,003
2016 .....	5,482
2017 .....	5,261
2018 .....	5,132
2019 .....	5,002
2020 .....	4,873
2021 .....	4,739
2022 .....	4,605
2023 .....	4,471



2024 .....	4,337
2025 .....	4,203
2026 .....	4,069
2027 .....	3,935
2028 .....	3,801
2029 .....	3,667
2030 .....	3,533
2031 .....	3,408
2032 .....	3,283
2033 .....	3,158
2034 .....	3,033
2035 .....	2,908
2036 .....	2,784
2037 .....	2,659
2038 .....	2,534
2039 .....	2,409
2040 .....	2,284
2041 .....	2,159
2042 .....	2,034
2043 .....	1,910
2044 .....	1,785
2045 .....	1,660
2046 .....	1,535
2047 .....	1,410
2048 .....	1,285
2049 .....	1,160
2050 .....	1,035

1           “(2) REVISION.—

2                   “(A) IN GENERAL.—The Administrator  
3           may adjust, in accordance with subparagraph  
4           (B), the number of emission allowances estab-  
5           lished pursuant to paragraph (1) if, after notice  
6           and an opportunity for public comment, the Ad-  
7           ministrator determines that—

8                           “(i) United States greenhouse gas  
9                           emissions in 2005 were other than 7,206  
10                          million metric tons carbon dioxide equiva-  
11                          lent;

12                           “(ii) if the requirements of this title  
13                          for 2012 had been in effect in 2005, sec-

1           tion 722 would have required emission al-  
2           lowances to be held for other than 66.2  
3           percent of United States greenhouse gas  
4           emissions in 2005;

5           “(iii) if the requirements of this title  
6           for 2014 had been in effect in 2005, sec-  
7           tion 722 would have required emission al-  
8           lowances to be held for other than 75.7  
9           percent of United States greenhouse gas  
10          emissions in 2005; or

11          “(iv) if the requirements of this title  
12          for 2016 had been in effect in 2005, sec-  
13          tion 722 would have required emission al-  
14          lowances to be held for other than 84.5  
15          percent United States greenhouse gas  
16          emissions in 2005.

17          “(B) ADJUSTMENT FORMULA.—

18          “(i) IN GENERAL.—If the Adminis-  
19          trator adjusts under this paragraph the  
20          number of emission allowances established  
21          pursuant to paragraph (1), the number of  
22          emission allowances the Administrator es-  
23          tablishes for any given calendar year shall  
24          equal the product of—

1           “(I) United States greenhouse  
2 gas emissions in 2005, expressed in  
3 tons of carbon dioxide equivalent;

4           “(II) the percent of United  
5 States greenhouse gas emissions in  
6 2005, expressed in tons of carbon di-  
7 oxide equivalent, that would have been  
8 subject to section 722 if the require-  
9 ments of this title for the given cal-  
10 endar year had been in effect in 2005;  
11 and

12           “(III) the percentage set forth  
13 for that calendar year in section  
14 703(a), or determined under clause  
15 (ii) of this subparagraph.

16           “(ii) TARGETS.—In applying the por-  
17 tion of the formula in clause (i)(III) of this  
18 subparagraph, for calendar years for which  
19 a percentage is not listed in section 703(a),  
20 the Administrator shall use a uniform an-  
21 nual decline in the amount of emissions be-  
22 tween the years that are specified.

23           “(iii) CARBON DIOXIDE EQUIVALENT  
24 VALUE.—If the Administrator adjusts  
25 under this paragraph the number of emis-

1           sion allowances established pursuant to  
2           paragraph (1), the Administrator shall use  
3           the carbon dioxide equivalent values estab-  
4           lished pursuant to section 712.

5           “(iv) LIMITATION ON ADJUSTMENT  
6           TIMING.—Once a calendar year has start-  
7           ed, the Administrator may not adjust the  
8           number of emission allowances to be estab-  
9           lished for that calendar year.

10          “(C) LIMITATION ON ADJUSTMENT AU-  
11          THORITY.—The Administrator may adjust  
12          under this paragraph the number of emission  
13          allowances to be established pursuant to para-  
14          graph (1) only once.

15          “(f) COMPENSATORY ALLOWANCE.—

16          “(1) IN GENERAL.—The regulations promul-  
17          gated under subsection (h) shall provide for the es-  
18          tablishment and distribution of compensatory allow-  
19          ances for—

20                  “(A) the destruction, in 2012 or later, of  
21                  fluorinated gases that are greenhouse gases if—

22                          “(i) allowances or offset credits were  
23                          retired for their production or importation;  
24                          and

1                   “(ii) such gases are not required to be  
2                   destroyed under any other provision of law;

3                   “(B) the nonemissive use, in 2012 or later,  
4                   of petroleum-based or coal-based liquid or gas-  
5                   eous fuel, petroleum coke, natural gas liquid, or  
6                   natural gas as a feedstock, if allowances or off-  
7                   set credits were retired for the greenhouse  
8                   gases that would have been emitted from their  
9                   combustion; and

10                   “(C) the conversionary use, in 2012 or  
11                   later, of fluorinated gases in a manufacturing  
12                   process, including semiconductor research or  
13                   manufacturing, if allowances or offset credits  
14                   were retired for the production or importation  
15                   of such gas.

16                   “(2) ESTABLISHMENT AND DISTRIBUTION.—

17                   “(A) IN GENERAL.—Not later than 90  
18                   days after the end of each calendar year, the  
19                   Administrator shall establish and distribute to  
20                   the entity taking the actions described in sub-  
21                   paragraph (A), (B), or (C) of paragraph (1) a  
22                   quantity of compensatory allowances equivalent  
23                   to the number of tons of carbon dioxide equiva-  
24                   lent of avoided emissions achieved through such  
25                   actions. In establishing the quantity of compen-

1           satory allowances, the Administrator shall take  
2           into account the carbon dioxide equivalent value  
3           of any greenhouse gas resulting from such ac-  
4           tion.

5           “(B) SOURCE OF ALLOWANCES.—Compen-  
6           satory allowances established under this sub-  
7           section shall not be emission allowances estab-  
8           lished under subsection (a).

9           “(C) IDENTIFICATION NUMBERS.—The  
10          Administrator shall assign to each compen-  
11          satory allowance established under subpara-  
12          graph (A) a unique identification number.

13          “(3) DEFINITIONS.—For purposes of this sub-  
14          section—

15                 “(A) the term ‘destruction’ means the con-  
16                 version of a greenhouse gas by thermal, chem-  
17                 ical, or other means to another gas or set of  
18                 gases with little or no carbon dioxide equivalent  
19                 value;

20                 “(B) the term ‘nonemissive use’ means the  
21                 use of fossil fuel as a feedstock in an industrial  
22                 or manufacturing process to the extent that  
23                 greenhouse gases are not emitted from such  
24                 process, and to the extent that the products of

1 such process are not intended for use as, or to  
2 be contained in, a fuel; and

3 “(C) the term ‘conversionary use’ means  
4 the conversion during research or manufac-  
5 turing of a fluorinated gas into another green-  
6 house gas or set of gases with a lower carbon  
7 dioxide equivalent value.

8 “(4) FEEDSTOCK EMISSIONS STUDY.—

9 “(A) The Administrator may conduct a  
10 study to determine the extent to which petro-  
11 leum-based or coal-based liquid or gaseous fuel,  
12 petroleum coke, natural gas liquid, or natural  
13 gas are used as feedstocks in manufacturing  
14 processes to produce products and the green-  
15 house gas emissions resulting from such uses.

16 “(B) If as a result of such a study, the Ad-  
17 ministrator determines that the use of such  
18 products by noncovered sources results in sub-  
19 stantial emissions of greenhouse gases or their  
20 precursors and that such emissions have not  
21 been adequately addressed under other require-  
22 ments of this Act, the Administrator may, after  
23 notice and comment rulemaking, promulgate a  
24 regulation reducing compensatory allowances

1 commensurately if doing so will not result in  
2 leakage.

3 “(g) FLUORINATED GASES ASSESSMENT.—

4 “(1) IN GENERAL.—Not later than March 31,  
5 2014, the Administrator shall conduct an assess-  
6 ment of the regulation of non-hydrofluorocarbon  
7 fluorinated gases under this title (excluding  
8 perfluorocarbon) to determine whether the most ap-  
9 propriate point of regulation of those gases is at—

10 “(A) the gas manufacturer or importer  
11 level; or

12 “(B) the downstream source of the emis-  
13 sions.

14 “(2) MODIFICATION OF DEFINITION.—If the  
15 Administrator determines, based on consideration of  
16 environmental effectiveness, cost-effectiveness, ad-  
17 ministrative feasibility, extent of coverage of emis-  
18 sions, and competitiveness considerations, that emis-  
19 sions of non-hydrofluorocarbon fluorinated gases (ex-  
20 cluding perfluorocarbons) can best be regulated by  
21 designating downstream emission sources as covered  
22 entities with compliance obligations under section  
23 722, the Administrator shall—

24 “(A) after providing notice and an oppor-  
25 tunity for comment, modify the definition of the



1 term ‘covered entity’ with respect to fluorinated  
2 gases (other than hydrofluorocarbons and  
3 perfluorocarbons) accordingly; and

4 “(B) establish such requirements as are  
5 necessary to ensure compliance by the covered  
6 entities with the requirements of this title.

7 “(h) REGULATIONS.—Not later than 24 months after  
8 the date of enactment of this title, the Administrator shall  
9 promulgate regulations to carry out the provisions of this  
10 title.

11 **“SEC. 722. PROHIBITION OF EXCESS EMISSIONS.**

12 “(a) PROHIBITION.—Except as provided in sub-  
13 section (c), effective January 1, 2012, each covered entity  
14 is prohibited from emitting greenhouse gases, and having  
15 attributable greenhouse gas emissions, in combination, in  
16 excess of its allowable emissions level. A covered entity’s  
17 allowable emissions level for each calendar year is the  
18 number of emission allowances (or credits or other allow-  
19 ances as provided in subsection (d)) it holds as of 12:01  
20 a.m. on April 1 (or a later date established by the Admin-  
21 istrator under subsection (j)) of the following calendar  
22 year.

23 “(b) METHODS OF DEMONSTRATING COMPLIANCE.—  
24 Except as otherwise provided in this section, the owner  
25 or operator of a covered entity shall not be considered to

1 be in compliance with the prohibition in subsection (a) un-  
2 less, as of 12:01 a.m. on April 1 (or a later date estab-  
3 lished by the Administrator under subsection (j)) of each  
4 calendar year starting in 2013, the owner or operator  
5 holds a quantity of emission allowances (or credits or other  
6 allowances as provided in subsection (d)) at least as great  
7 as the quantity calculated as follows:

8           “(1) ELECTRICITY SOURCES.—For a covered  
9           entity described in section 700(13)(A), 1 emission  
10          allowance for each ton of carbon dioxide equivalent  
11          of greenhouse gas that such covered entity emitted  
12          in the previous calendar year, excluding emissions  
13          resulting from the combustion of—

14                 “(A) petroleum-based or coal-based liquid  
15                 fuel;

16                 “(B) natural gas liquid;

17                 “(C) renewable biomass or gas derived  
18                 from renewable biomass; or

19                 “(D) petroleum coke.

20           “(2) FUEL PRODUCERS AND IMPORTERS.—For  
21          a covered entity described in section 700(13)(B), 1  
22          emission allowance for each ton of carbon dioxide  
23          equivalent of greenhouse gas that would be emitted  
24          from the combustion of any petroleum-based or coal-  
25          based liquid fuel, petroleum coke, or natural gas liq-

1 uid, produced or imported by such covered entity  
2 during the previous calendar year for sale or dis-  
3 tribution in interstate commerce, assuming no cap-  
4 ture and sequestration of any greenhouse gas emis-  
5 sions.

6 “(3) INDUSTRIAL GAS PRODUCERS AND IM-  
7 PORTERS.—For a covered entity described in section  
8 700(13)(C), 1 emission allowance for each ton of  
9 carbon dioxide equivalent of fossil fuel-based carbon  
10 dioxide, nitrous oxide, or any other fluorinated gas  
11 that is a greenhouse gas (except for nitrogen  
12 trifluoride), or any combination thereof, produced or  
13 imported by such covered entity during the previous  
14 calendar year for sale or distribution in interstate  
15 commerce or released as fugitive emissions in the  
16 production of fluorinated gas.

17 “(4) NITROGEN TRIFLUORIDE SOURCES.—For  
18 a covered entity described in section 700(13)(D), 1  
19 emission allowance for each ton of carbon dioxide  
20 equivalent of nitrogen trifluoride that such covered  
21 entity emitted in the previous calendar year.

22 “(5) GEOLOGICAL SEQUESTRATION SITES.—For  
23 a covered entity described in section 700(13)(E), 1  
24 emission allowance for each ton of carbon dioxide

1 equivalent of greenhouse gas that such covered enti-  
2 ty emitted in the previous calendar year.

3 “(6) INDUSTRIAL STATIONARY SOURCES.—For  
4 a covered entity described in section 700(13)(F),  
5 (G), or (H), 1 emission allowance for each ton of  
6 carbon dioxide equivalent of greenhouse gas that  
7 such covered entity emitted in the previous calendar  
8 year, excluding emissions resulting from—

9 “(A) the combustion of petroleum-based or  
10 coal-based liquid fuel;

11 “(B) the combustion of natural gas liquid;

12 “(C) the combustion of renewable biomass  
13 or gas derived from renewable biomass;

14 “(D) the combustion of petroleum coke; or

15 “(E) the use of any fluorinated gas that is  
16 a greenhouse gas purchased for use at that cov-  
17 ered entity, except for nitrogen trifluoride.

18 “(7) INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-  
19 TION DEVICES.—For a covered entity described in  
20 section 700(13)(I), 1 emission allowance for each  
21 ton of carbon dioxide equivalent of greenhouse gas  
22 that the devices emitted in the previous calendar  
23 year, excluding emissions resulting from the combus-  
24 tion of—

1           “(A) petroleum-based or coal-based liquid  
2 fuel;

3           “(B) natural gas liquid;

4           “(C) renewable biomass or gas derived  
5 from renewable biomass; or

6           “(D) petroleum coke.

7           “(8) NATURAL GAS LOCAL DISTRIBUTION COM-  
8 PANIES.—For a covered entity described in section  
9 700(13)(J), 1 emission allowance for each ton of  
10 carbon dioxide equivalent of greenhouse gas that  
11 would be emitted from the combustion of the natural  
12 gas, and any other gas meeting the specifications for  
13 commingling with natural gas for purposes of deliv-  
14 ery, that such entity delivered during the previous  
15 calendar year to customers that are not covered enti-  
16 ties, assuming no capture and sequestration of that  
17 greenhouse gas.

18           “(9) R&D FACILITIES.—

19           “(A) IN GENERAL.—For a qualified R&D  
20 facility that emitted 25,000 tons per year or  
21 more carbon dioxide equivalent in the previous  
22 calendar year, 1 emission allowance for each  
23 ton of carbon dioxide equivalent of greenhouse  
24 gas that such facility emitted in the previous  
25 calendar year.

1           “(B) TREATMENT.—A qualified R&D facil-  
2           ity shall be treated as a separate covered entity  
3           solely for purposes of applying the requirements  
4           of this subsection.

5           “(10) ALGAE-BASED FUELS.—Where carbon di-  
6           oxide (or another greenhouse gas) is used as an  
7           input in the production of algae-based fuels, the Ad-  
8           ministrator shall ensure that allowances are required  
9           to be held either for the carbon dioxide used to grow  
10          the algae or for the carbon dioxide emitted from  
11          combustion of the fuel produced from such algae,  
12          but not for both.

13          “(11) FUGITIVE EMISSIONS.—The greenhouse  
14          gas emissions to which paragraphs (1), (4), (6), and  
15          (7) apply shall not include fugitive emissions of  
16          greenhouse gas, except to the extent the Adminis-  
17          trator determines that data on the carbon dioxide  
18          equivalent value of greenhouse gas in the fugitive  
19          emissions can be provided with sufficient precision,  
20          reliability, accessibility, and timeliness to ensure the  
21          integrity of emission allowances, the allowance track-  
22          ing system, and the limits on emissions.

23          “(12) EXPORT EXEMPTION.—This section shall  
24          not apply to any petroleum-based or coal-based liq-  
25          uid fuel, petroleum coke, natural gas liquid, fossil

1 fuel-based carbon dioxide, nitrous oxide, or  
2 fluorinated gas that is exported for sale or use.

3 “(13) NATURAL GAS LIQUIDS.—Notwith-  
4 standing subsection (a), if the owner or operator of  
5 a covered entity described in section 700(13)(B)  
6 that produces natural gas liquids does not take own-  
7 ership of the liquids, and is not responsible for the  
8 distribution or use of the liquids in commerce, the  
9 owner of the liquids shall be responsible for compli-  
10 ance with this section, section 723, and other rel-  
11 evant sections of this title with respect to such liq-  
12 uids. In the regulations promulgated under section  
13 721, the Administrator shall include such provisions  
14 with respect to such liquids as the Administrator de-  
15 termines are appropriate to determine and ensure  
16 compliance, and to penalize noncompliance. In such  
17 a case, the owner of the covered entity shall provide  
18 to the Administrator, in a manner to be determined  
19 by the Administrator, information regarding the  
20 quantity and ownership of liquids produced at the  
21 covered entity.

22 “(14) APPLICATION OF MULTIPLE PARA-  
23 GRAPHS.—For a covered entity to which more than  
24 1 of paragraphs (1) through (8) apply, all applicable  
25 paragraphs shall apply, except that not more than 1

1 emission allowance shall be required for the same  
2 emission.

3 “(c) PHASE-IN OF PROHIBITION.—

4 “(1) INDUSTRIAL STATIONARY SOURCES.—The  
5 prohibition under subsection (a) shall first apply to  
6 a covered entity described in section 700(13)(D),  
7 (F), (G), (H), or (I), with respect to emissions oc-  
8 ccurring during calendar year 2014.

9 “(2) NATURAL GAS LOCAL DISTRIBUTION COM-  
10 PANIES.—The prohibition under subsection (a) shall  
11 first apply to a covered entity described in section  
12 700(13)(J) with respect to deliveries occurring dur-  
13 ing calendar year 2016.

14 “(d) ADDITIONAL METHODS.—In addition to using  
15 the method of compliance described in subsection (b), a  
16 covered entity may do the following:

17 “(1) OFFSET CREDITS.—

18 “(A) CREDITS.—

19 “(i) IN GENERAL.—Covered entities  
20 collectively may, in accordance with this  
21 paragraph, use offset credits to dem-  
22 onstrate compliance for up to a maximum  
23 of 2,000,000,000 tons of greenhouse gas  
24 emissions annually.



1           “(ii) DEMONSTRATION OF COMPLI-  
2 ANCE.—In any calendar year, a covered  
3 entity may demonstrate compliance by  
4 holding 1 domestic offset credit or 1.25  
5 international offset credits in lieu of an  
6 emission allowance, except as provided in  
7 subparagraph (D), up to a total number of  
8 offset credits described in subparagraph  
9 (B).

10           “(B) APPLICABLE PERCENTAGE.—

11           “(i) IN GENERAL.—The total number  
12 of offset credits referred to in subpara-  
13 graph (A)(ii) for a covered entity for a  
14 given calendar year shall be determined  
15 by—

16           “(I) dividing—

17           “(aa) the tons of carbon di-  
18 oxide equivalent of greenhouse  
19 gas emissions of the covered enti-  
20 ty (except for the types of emis-  
21 sions excluded under subpara-  
22 graphs (A) through (D) of sub-  
23 section (b)(1), subparagraphs (A)  
24 through (E) of subsection (b)(6),  
25 and subparagraphs (A) through

1 (D) of subsection (b)(7)) and at-  
2 tributable greenhouse gas emis-  
3 sions for the year before the pre-  
4 ceding calendar year; by

5 “(bb) the sum of the tons of  
6 carbon dioxide equivalent of  
7 greenhouse gas emissions of all  
8 covered entities (except for the  
9 types of emissions excluded under  
10 subparagraphs (A) through (D)  
11 of subsection (b)(1), subpara-  
12 graphs (A) through (E) of sub-  
13 section (b)(6), and subpara-  
14 graphs (A) through (D) of sub-  
15 section (b)(7)) and attributable  
16 greenhouse gas emissions for the  
17 year before the preceding cal-  
18 endar year; and

19 “(II) multiplying the quotient ob-  
20 tained under subclause (I) by  
21 2,000,000,000.

22 “(ii) APPLICABILITY.—Clause (i) shall  
23 apply to a covered entity (including a cov-  
24 ered entity that commenced operation dur-  
25 ing the preceding calendar year) even if

1 the covered entity had no greenhouse gas  
2 emissions or attributable greenhouse gas  
3 emissions described in that clause.

4 “(iii) OFFSET CREDITS.—Not more  
5 than  $\frac{3}{4}$  of the applicable percentage under  
6 this paragraph may be used by holding do-  
7 mestic offset credits, and not more than  $\frac{1}{4}$   
8 of the applicable percentage under this  
9 paragraph may be used by holding inter-  
10 national offset credits, except as provided  
11 in subparagraph (C).

12 “(C) MODIFIED PERCENTAGES.—If the  
13 Administrator determines that domestic offset  
14 credits available for use in demonstrating com-  
15 pliance in any calendar year at domestic offset  
16 prices generally equal to or less than allowance  
17 prices, are likely to offset less than 900,000,000  
18 tons of greenhouse gas emissions (measured in  
19 tons of carbon dioxide equivalents), the Admin-  
20 istrator shall increase the percent of emissions  
21 that can be offset through the use of inter-  
22 national offset credits (and decrease the percent  
23 of emissions that can be allowed through the  
24 use of domestic offset credits by the same  
25 amount) to reflect the amount that

1 1,500,000,000 exceeds the number of domestic  
2 offset credits the Administrator determines is  
3 available for that year, up to a maximum of  
4 750,000,000 tons of greenhouse gas emissions.

5 “(D) INTERNATIONAL OFFSET CREDITS.—  
6 Notwithstanding subparagraph (A), to dem-  
7 onstrate compliance prior to calendar year  
8 2018, a covered entity may use 1 international  
9 offset credit in lieu of an emission allowance up  
10 to the amount permitted under this paragraph.

11 “(E) PRESIDENT’S RECOMMENDATION.—  
12 The President may make a recommendation to  
13 Congress as to whether the number  
14 2,000,000,000 specified in subparagraphs (A)  
15 and (B) should be increased or decreased.

16 “(2) TERM OFFSET CREDITS.—

17 “(A) IN GENERAL.—Covered entities may,  
18 in accordance with this paragraph, use non-ex-  
19 pired term offset credits instead of domestic  
20 offset credits for purposes of temporarily dem-  
21 onstrating compliance with this section.

22 “(B) AMOUNT.—The combined quantity of  
23 term offset credits and domestic offset credits  
24 used by a covered entity to demonstrate compli-  
25 ance for its emissions or attributable green-

1 house gas emissions in any given year shall not  
2 exceed the quantity of domestic offset credits  
3 that a covered entity is entitled to use for that  
4 year to demonstrate compliance in accordance  
5 with paragraph (1).

6 “(C) EXPIRATION.—A term offset credit  
7 shall expire in the year after its term ends. The  
8 term of a term offset credit shall be calculated  
9 by adding to the year of issuance the number  
10 of years equal to the length of the crediting pe-  
11 riod for the practice or project for which the  
12 term offset credit was issued, but in no case  
13 shall be later than the date 5 years from the  
14 date of issuance.

15 “(D) DEMONSTRATING COMPLIANCE UPON  
16 EXPIRATION OF TERM OFFSET CREDIT.—With  
17 respect to the emissions for which a covered en-  
18 tity is using term offset credits to demonstrate  
19 compliance temporarily with this section, the  
20 owner or operator of a covered entity shall not  
21 be considered to be in compliance with the pro-  
22 hibition in subsection (a) unless, as of 12:01  
23 a.m. on April 1 (or a later date established by  
24 the Administrator under subsection (j)) of the

1 calendar year in which a term offset credit expires,  
2 the owner or operator holds—

3 “(i) for purposes of finally demonstrating compliance,  
4 an allowance or a domestic offset credit; or  
5

6 “(ii) for purposes of temporarily demonstrating compliance,  
7 a non-expired term offset credit.  
8

9 “(E) INAPPLICABILITY OF PERCENTAGE  
10 LIMITATIONS.—Domestic offset credits used for  
11 purposes of finally demonstrating compliance  
12 under this subparagraph shall not be subject to  
13 the percentage limitations in subparagraph (B).

14 “(F) FINANCIAL ASSURANCE.—A covered  
15 entity may not use a term offset credit to demonstrate  
16 compliance temporarily unless it simultaneously provides  
17 to the Administrator financial assurance that, at the end  
18 of the term offset credit’s crediting term, the covered  
19 entity will have sufficient resources to obtain the  
20 quantity of allowances or credits necessary to demonstrate  
21 final compliance. The Administrator shall issue regulations  
22 establishing requirements for such financial assurance, which  
23 shall take into account the increased risk asso-  
24  
25

1           ciated with longer crediting terms. These regu-  
2           lations shall take into account the total number  
3           of tons of carbon dioxide equivalent of green-  
4           house gas emissions for which a covered entity  
5           is demonstrating compliance temporarily, and  
6           may set a limit on this amount. In the event  
7           that a covered entity that used term offset cred-  
8           its to demonstrate compliance temporarily fails  
9           to meet the requirements of subparagraph (D)  
10          at the end of the term offset credits' crediting  
11          term, if the financial assurance mechanism fails  
12          to provide to the Administrator the number of  
13          allowances or offset credits for which the cred-  
14          iting term has expired, then the Administrator  
15          shall retire that number of allowances with the  
16          vintage year 2 years after the year in which the  
17          term offset credit expires in the same amount.  
18          Allowances so retired shall not be counted as  
19          emission allowances established for that cal-  
20          endar year under section 721(a).

21           “(3)   INTERNATIONAL   EMISSION   ALLOW-  
22          ANCES.—To demonstrate compliance, a covered enti-  
23          ty may hold an international emission allowance in  
24          lieu of an emission allowance, except as modified  
25          under section 728(d).

1           “(4) COMPENSATORY ALLOWANCES.—To dem-  
2           onstrate compliance, a covered entity may hold a  
3           compensatory allowance obtained under section  
4           721(f) in lieu of an emission allowance.

5           “(e) RETIREMENT OF ALLOWANCES AND CREDITS.—  
6           As soon as practicable after a deadline established for cov-  
7           ered entities to demonstrate compliance with this title, the  
8           Administrator shall retire the quantity of allowances or  
9           credits required to be held under this title.

10          “(f) ALTERNATIVE METRICS.—For categories of cov-  
11          ered entities described in subparagraph (B), (C), (D), (G),  
12          (H), or (I) of section 700(13), the Administrator may, by  
13          rule, establish an applicability threshold for inclusion  
14          under those subparagraphs using an alternative metric  
15          and level, provided that such metric and level are easier  
16          to administer and cover the same size and type of sources  
17          as the threshold defined in such subparagraphs.

18          “(g) THRESHOLD REVIEW.—For each category of  
19          covered entities described in subparagraph (B), (C), (D),  
20          (G), (H), or (I) of section 700(13), the Administrator  
21          shall, in 2020 and once every 8 years thereafter, review  
22          the carbon dioxide equivalent emission thresholds that are  
23          used to define covered entities. After consideration of—

24                  “(1) emissions from covered entities in each  
25                  such category, and from other entities of the same



1 type that emit less than the threshold amount for  
2 the category (including emission sources that com-  
3 mence operation after the date of enactment of this  
4 title that are not covered entities); and

5 “(2) whether greater greenhouse gas emission  
6 reductions can be cost-effectively achieved by low-  
7 ering the applicable threshold,

8 the Administrator may by rule lower such threshold to not  
9 less than 10,000 tons of carbon dioxide equivalent emis-  
10 sions. In determining the cost effectiveness of potential re-  
11 ductions from lowering the threshold for covered entities,  
12 the Administrator shall consider alternative regulatory  
13 greenhouse gas programs, including setting standards  
14 under other titles of this Act.

15 “(h) DESIGNATED REPRESENTATIVES.—The regula-  
16 tions promulgated under section 721(h) shall require that  
17 each covered entity, and each entity holding allowances or  
18 credits or receiving allowances or credits from the Admin-  
19 istrator under this title, select a designated representative.

20 “(i) EDUCATION AND OUTREACH.—

21 “(1) IN GENERAL.—The Administrator shall es-  
22 tablish and carry out a program of education and  
23 outreach to assist covered entities, especially entities  
24 having little experience with environmental regu-  
25 latory requirements similar or comparable to those

1 under this title, in preparing to meet the compliance  
2 obligations of this title. Such program shall include  
3 education with respect to using markets to effec-  
4 tively achieve such compliance.

5 “(2) FAILURE TO RECEIVE INFORMATION.—A  
6 failure to receive information or assistance under  
7 this subsection may not be used as a defense against  
8 an allegation of any violation of this title.

9 “(j) ADJUSTMENT OF DEADLINE.—The Adminis-  
10 trator may, by rule, establish a deadline for demonstrating  
11 compliance, for a calendar year, later than the date pro-  
12 vided in subsection (a), as necessary to ensure the avail-  
13 ability of emissions data, but in no event shall the deadline  
14 be later than June 1.

15 “(k) NOTICE REQUIREMENT FOR COVERED ENTI-  
16 TIES RECEIVING NATURAL GAS FROM NATURAL GAS  
17 LOCAL DISTRIBUTION COMPANIES.—The owner or oper-  
18 ator of a covered entity that takes delivery of natural gas  
19 from a natural gas local distribution company shall, not  
20 later than September 1 of each calendar year, notify such  
21 natural gas local distribution company in writing that  
22 such entity will qualify as a covered entity under this title  
23 for that calendar year.

24 “(l) COMPLIANCE OBLIGATION.—For purposes of  
25 this title, the year of a compliance obligation is the year

1 in which compliance is determined, not the year in which  
2 the greenhouse gas emissions occur or the covered entity  
3 has attributable greenhouse gas emissions.

4 **“SEC. 723. PENALTY FOR NONCOMPLIANCE.**

5       “(a) ENFORCEMENT.—A violation of any prohibition  
6 of, requirement of, or regulation promulgated pursuant to  
7 this title shall be a violation of this Act. It shall be a viola-  
8 tion of this Act for a covered entity to emit greenhouse  
9 gases, and have attributable greenhouse gas emissions, in  
10 combination, in excess of its allowable emissions level as  
11 provided in section 722(a). Each ton of carbon dioxide  
12 equivalent for which a covered entity fails to demonstrate  
13 compliance under section 722(b) shall be a separate viola-  
14 tion. In the event that a covered entity fails to dem-  
15 onstrate compliance at the expiration of a term of offset  
16 credits crediting term as required by section 722(d)(2)(D),  
17 the year of the violation shall be the year in which the  
18 term offset credit expires.

19       “(b) EXCESS EMISSIONS PENALTY.—

20               “(1) IN GENERAL.—The owner or operator of  
21 any covered entity that fails for any year to comply,  
22 on the deadline described in section 722(a) or (j),  
23 shall be liable for payment to the Administrator of  
24 an excess emissions penalty in the amount described  
25 in paragraph (2).

1           “(2) AMOUNT.—The amount of an excess emis-  
2           sions penalty required to be paid under paragraph  
3           (1) shall be equal to the product obtained by multi-  
4           plying—

5                   “(A) the tons of carbon dioxide equivalent  
6                   of greenhouse gas emissions or attributable  
7                   greenhouse gas emissions for which the owner  
8                   or operator of a covered entity failed to comply  
9                   under section 722(b) on the deadline; by

10                   “(B) twice the fair market value of emis-  
11                   sion allowances established for emissions occur-  
12                   ring in the calendar year for which the emission  
13                   allowances were due.

14           “(3) TIMING.—An excess emissions penalty re-  
15           quired under this subsection shall be immediately  
16           due and payable to the Administrator, without de-  
17           mand, in accordance with regulations promulgated  
18           by the Administrator, which shall be issued not later  
19           than 2 years after the date of enactment of this  
20           title.

21           “(4) NO EFFECT ON LIABILITY.—An excess  
22           emissions penalty due and payable by the owners or  
23           operators of a covered entity under this subsection  
24           shall not diminish the liability of the owners or oper-  
25           ators for any fine, penalty, or assessment against

1 the owners or operators for the same violation under  
2 any other provision of this Act or any other law.

3 “(c) **EXCESS EMISSIONS ALLOWANCES.**—The owner  
4 or operator of a covered entity that fails for any year to  
5 comply on the deadline described in section 722(a) or (j)  
6 shall be liable to offset the covered entity’s excess com-  
7 bination of greenhouse gases emitted and attributable  
8 greenhouse gas emissions by an equal quantity of emission  
9 allowances during the following calendar year, or such  
10 longer period as the Administrator may prescribe. During  
11 the year in which the covered entity failed to comply, or  
12 any year thereafter, the Administrator may deduct the  
13 emission allowances required under this subsection to off-  
14 set the covered entity’s excess actual or attributable emis-  
15 sions.

16 **“SEC. 724. TRADING.**

17 “(a) **PERMITTED TRANSACTIONS.**—Except as other-  
18 wise provided in this title, the lawful holder of an emission  
19 allowance, compensatory allowance, or offset credit may,  
20 without restriction, sell, exchange, transfer, hold for com-  
21 pliance in accordance with section 722, or request that the  
22 Administrator retire the emission allowance, compensatory  
23 allowance, or offset credit.

24 “(b) **NO RESTRICTION ON TRANSACTIONS.**—The  
25 privilege of purchasing, holding, selling, exchanging,

1 transferring, and requesting retirement of emission allow-  
2 ances, compensatory allowances, or offset credits shall not  
3 be restricted to the owners and operators of covered enti-  
4 ties, except as otherwise provided in this title.

5       “(c) EFFECTIVENESS OF ALLOWANCE TRANS-  
6 FERS.—No transfer of an allowance or offset credit shall  
7 be effective for purposes of this title until a certification  
8 of the transfer, signed by the designated representative of  
9 the transferor, is received and recorded by the Adminis-  
10 trator in accordance with regulations promulgated under  
11 section 721(h).

12       “(d) ALLOWANCE TRACKING SYSTEM.—The regula-  
13 tions promulgated under section 721(h) shall include a  
14 system for issuing, recording, holding, and tracking allow-  
15 ances, offset credits, and term offset credits that shall  
16 specify all necessary procedures and requirements for an  
17 orderly and competitive functioning of the allowance and  
18 offset credit markets. Such regulations shall provide for  
19 appropriate publication of the information in the system  
20 on the Internet.

21 **“SEC. 725. BANKING AND BORROWING.**

22       “(a) BANKING.—An emission allowance may be used  
23 to comply with section 722 or 723 for emissions in—

24               “(1) the vintage year for the allowance; or

1           “(2) any calendar year subsequent to the vin-  
2           tage year for the allowance.

3           “(b) EXPIRATION.—

4           “(1) REGULATIONS.—The Administrator may  
5           establish by regulation criteria and procedures for  
6           determining whether, and for implementing a deter-  
7           mination that, the expiration of an allowance, credit,  
8           or term offset credit established or issued by the Ad-  
9           ministrator under this title, or expiration of the abil-  
10          ity to use an international emission allowance to  
11          comply with section 722, is necessary to ensure the  
12          authenticity and integrity of allowances, credits, or  
13          term offset credits or the allowance tracking system.

14          “(2) GENERAL RULE.—An allowance, credit, or  
15          term offset credit established or issued by the Ad-  
16          ministrator under this title shall not expire unless—

17                  “(A) it is retired by the Administrator as  
18                  required under this title; or

19                  “(B) it is determined to expire or to have  
20                  expired by a specific date by the Administrator  
21                  in accordance with regulations promulgated  
22                  under paragraph (1).

23          “(3) INTERNATIONAL EMISSION ALLOW-  
24          ANCES.—The ability to use an international emission

1 allowance to comply with section 722 shall not ex-  
2 pire unless—

3 “(A) the allowance is retired by the Ad-  
4 ministrator as required by this title; or

5 “(B) the ability to use such allowance to  
6 meet such compliance obligation requirements is  
7 determined to expire or to have expired by a  
8 specific date by the Administrator in accord-  
9 ance with regulations promulgated under para-  
10 graph (1).

11 “(c) BORROWING FUTURE VINTAGE YEAR ALLOW-  
12 ANCES.—

13 “(1) BORROWING WITHOUT INTEREST.—In ad-  
14 dition to the uses described in subsection (a), an  
15 emission allowance may be used to comply with sec-  
16 tion 722(a) or 723 for emissions, production, impor-  
17 tation, manufacture, or deliveries in the calendar  
18 year immediately preceding the vintage year for the  
19 allowance.

20 “(2) BORROWING WITH INTEREST.—

21 “(A) IN GENERAL.—A covered entity may  
22 demonstrate compliance under subsection (b) in  
23 a specific calendar year for up to 15 percent of  
24 its emissions by holding emission allowances



1 with a vintage year 1 to 5 years later than that  
2 calendar year.

3 “(B) LIMITATIONS.—An emission allow-  
4 ance borrowed pursuant to this paragraph shall  
5 be an emission allowance that is established by  
6 the Administrator for a specific future calendar  
7 year under section 721(a) and that is held by  
8 the borrower.

9 “(C) PREPAYMENT OF INTEREST.—For  
10 each emission allowance that an owner or oper-  
11 ator of a covered entity borrows pursuant to  
12 this paragraph, such owner or operator shall, at  
13 the time it borrows the allowance, hold for re-  
14 tirement by the Administrator a quantity of  
15 emission allowances that is equal to the product  
16 obtained by multiplying—

17 “(i) 0.08; by

18 “(ii) the number of years between the  
19 calendar year in which the allowance is  
20 being used to satisfy a compliance obliga-  
21 tion and the vintage year of the allowance.

22 **“SEC. 726. MARKET STABILITY RESERVE.**

23 “(a) MARKET STABILITY RESERVE AUCTIONS.—

24 “(1) IN GENERAL.—Once each quarter of each  
25 calendar year for which allowances are established

1 under section 721(a), the Administrator shall auc-  
2 tion market stability reserve allowances.

3 “(2) RESTRICTION TO COVERED ENTITIES.—In  
4 each auction conducted under paragraph (1), only  
5 covered entities that the Administrator expects will  
6 be required to comply with section 722 in the fol-  
7 lowing calendar year shall be eligible to make pur-  
8 chases.

9 “(b) POOL OF EMISSION ALLOWANCES FOR MARKET  
10 STABILITY RESERVE AUCTIONS.—

11 “(1) FILLING THE MARKET STABILITY RE-  
12 SERVE INITIALLY.—

13 “(A) IN GENERAL.—The Administrator  
14 shall, not later than 2 years after the date of  
15 enactment of this title, establish a market sta-  
16 bility reserve account, and shall place in that  
17 account an amount of emission allowances es-  
18 tablished under section 721(a).

19 “(B) EFFECT ON OTHER PROVISIONS.—  
20 Any provision in this title (except for subpara-  
21 graph (B) of this paragraph) that refers to a  
22 quantity or percentage of the emission allow-  
23 ances established for a calendar year under sec-  
24 tion 721(a) shall be considered to refer to the  
25 amount of emission allowances as determined

1           pursuant to section 721(e), less any emission  
2           allowances established for that year that are  
3           placed in the market stability reserve account  
4           under this paragraph.

5           “(2) SUPPLEMENTING THE MARKET STABILITY  
6           RESERVE.—The Administrator shall also—

7                   “(A) at the end of each calendar year,  
8                   transfer to the market stability reserve account  
9                   each emission allowance that was offered for  
10                   sale but not sold at any auction conducted  
11                   under section 778; and

12                   “(B) transfer emission allowances estab-  
13                   lished under subsection (g) from auction pro-  
14                   ceeds, and deposit them into the market sta-  
15                   bility reserve, to the extent necessary to main-  
16                   tain the reserve at its original size.

17           “(c) MINIMUM MARKET STABILITY RESERVE AUC-  
18           TION PRICE.—

19                   “(1) IN GENERAL.—At each market stability re-  
20                   serve auction, the Administrator shall offer emission  
21                   allowances for sale beginning at a minimum price  
22                   per emission allowance, which shall be known as the  
23                   ‘minimum market stability reserve auction price’.

24                   “(2) INITIAL MINIMUM MARKET STABILITY RE-  
25                   SERVE AUCTION PRICES.—The minimum market

1 stability reserve auction price shall be \$28 (in con-  
2 stant 2005 dollars) for the market stability reserve  
3 auctions held in 2012. For the market stability re-  
4 serve auctions held in 2013 through 2017, the min-  
5 imum market stability reserve auction price shall be  
6 the market stability reserve auction price for the  
7 previous year increased by 5 percent plus the rate of  
8 inflation (as measured by the Consumer Price Index  
9 for All Urban Consumers).

10 “(3) MINIMUM MARKET STABILITY RESERVE  
11 AUCTION PRICE IN SUBSEQUENT YEARS.—For each  
12 market stability reserve auction held in 2018 and  
13 each year thereafter, the minimum market stability  
14 reserve auction price shall be the market stability re-  
15 serve auction price for the previous year increased  
16 by 7 percent, plus the rate of inflation (as measured  
17 by the Consumer Price Index for All Urban Con-  
18 sumers).

19 “(d) QUANTITY OF EMISSION ALLOWANCES RE-  
20 LEASED FROM THE MARKET STABILITY RESERVE.—

21 “(1) INITIAL LIMITS.—Subject to paragraph  
22 (4), for each of calendar years 2012 through 2016,  
23 the annual limit on the number of emission allow-  
24 ances from the market stability reserve account that  
25 may be auctioned is an amount equal to 15 percent

1 of the emission allowances established for that cal-  
2 endar year under section 721(a). This limit does not  
3 apply to offset credits sold on consignment pursuant  
4 to subsection (h).

5 “(2) LIMITS IN SUBSEQUENT YEARS.—Subject  
6 to paragraph (4), for calendar year 2017 and each  
7 year thereafter, the annual limit on the number of  
8 emission allowances from the market stability re-  
9 serve account that may be auctioned is an amount  
10 equal to 25 percent of the emission allowances estab-  
11 lished for that calendar year under section 721(a).  
12 This limit does not apply to offset credits sold on  
13 consignment pursuant to subsection (h).

14 “(3) ALLOCATION OF LIMITATION.—One-fourth  
15 of each year’s annual market stability reserve auc-  
16 tion limit under this subsection shall be made avail-  
17 able for auction in each quarter. Any allowances  
18 from the market stability reserve account that are  
19 made available for sale in a quarterly auction and  
20 not sold shall be rolled over and added to the quan-  
21 tity available for sale in the following quarter, except  
22 that allowances not sold at auction in the fourth  
23 quarter of a year shall not be rolled over to the fol-  
24 lowing calendar year’s auctions, but shall be re-  
25 turned to the market stability reserve account.

1           “(4) AUTHORITY TO ADJUST LIMITATION.—The  
2 Administrator may adjust the limits in paragraphs  
3 (1) or (2) if the Administrator determines an adjust-  
4 ment is required to prevent disruptively high prices  
5 or to preserve the integrity of the market stability  
6 reserve.

7           “(e) PURCHASE LIMIT.—

8           “(1) IN GENERAL.—Except as provided in para-  
9 graph (2) or (3), the annual number of emission al-  
10 lowances that a covered entity may purchase at the  
11 market stability reserve auctions in each calendar  
12 year shall not exceed 20 percent of the covered enti-  
13 ty’s emissions during the most recent year for which  
14 allowances or credits were retired under section 722.

15           “(2) 2012 LIMIT.—For calendar year 2012, the  
16 maximum aggregate number of emission allowances  
17 that a covered entity may purchase from that year’s  
18 market stability reserve auctions shall be 20 percent  
19 of the covered entity’s greenhouse gas emissions that  
20 the covered entity reported to the registry estab-  
21 lished under section 713 for 2011 and that would be  
22 subject to section 722(a) if occurring in later cal-  
23 endar years.

24           “(3) NEW ENTRANTS.—The Administrator  
25 shall, by regulation, establish a separate purchase

1 limit applicable to entities that expect to become a  
2 covered entity in the year of the auction, permitting  
3 them to purchase emission allowances at the market  
4 stability reserve auctions in their first calendar year  
5 of operation in an amount of at least 20 percent of  
6 their expected combined emissions and attributable  
7 greenhouse gas emissions for that year.

8 “(f) DELEGATION OR CONTRACT.—Pursuant to regu-  
9 lations under this section, the Administrator may, by dele-  
10 gation or contract, provide for the conduct of market sta-  
11 bility reserve auctions under the Administrator’s super-  
12 vision by other departments or agencies of the Federal  
13 Government or by nongovernmental agencies, groups, or  
14 organizations.

15 “(g) USE OF AUCTION PROCEEDS.—

16 “(1) DEPOSIT IN MARKET STABILITY RESERVE  
17 FUND.—The proceeds from market stability reserve  
18 auctions shall be placed in the Market Stability Re-  
19 serve Fund established by subsection (j), and shall  
20 be available without further appropriation or fiscal  
21 year limitation for the purposes described in this  
22 subsection.

23 “(2) OFFSET CREDITS.—The Administrator  
24 shall use the proceeds from each market stability re-  
25 serve auction to purchase offset credits, including

1 domestic offset credits and international offset cred-  
2 its issued for reduced deforestation activities pursu-  
3 ant to section 753. The Administrator shall retire  
4 those offset credits and establish a number of emis-  
5 sion allowances equal to the number of international  
6 offset credits so retired. Emission allowances estab-  
7 lished under this paragraph shall be in addition to  
8 those established under section 721(a).

9 “(3) EMISSION ALLOWANCES.—The Adminis-  
10 trator shall deposit emission allowances established  
11 under paragraph (2) in the market stability reserve,  
12 except that, with respect to any such emission allow-  
13 ances in excess of the amount necessary to fill the  
14 market stability reserve to its original size, the Ad-  
15 ministrator shall—

16 “(A) except as provided in subparagraph  
17 (B), assign a vintage year to the emission al-  
18 lowance, which shall be no earlier than the year  
19 in which the allowance is established under  
20 paragraph (2) and shall treat such allowances  
21 as ones that are not designated for distribution  
22 or auction; and

23 “(B) to the extent any such allowances  
24 cannot be assigned a vintage year because of



1           the limitation in paragraph (4), retire the allow-  
2           ances.

3           “(4) LIMITATION.—In no case may the Admin-  
4           istrator assign under paragraph (3)(A) more emis-  
5           sion allowances to a vintage year than the number  
6           of emission allowances from that vintage year that  
7           were placed in the market stability reserve account  
8           under subsection (b)(1).

9           “(h) AVAILABILITY OF OFFSET CREDITS FOR AUC-  
10          TION.—

11           “(1) IN GENERAL.—The regulations promul-  
12           gated under section 721(h) shall allow any entity  
13           holding offset credits to request that the Adminis-  
14           trator include such offset credits in an upcoming  
15           market stability reserve auction. The regulations  
16           shall provide that—

17           “(A) upon sale of such offset credits, the  
18           Administrator shall retire those offset credits,  
19           and establish and provide to the purchasers a  
20           number of emission allowances equal to the  
21           number of offset credits so retired, which allow-  
22           ances shall be in addition to those established  
23           under section 721(a); and

24           “(B) for offset credits sold pursuant to  
25           this subsection, the proceeds for the entity that

1           offered the offset credits for sale shall be the  
2           lesser of—

3                   “(i) the average daily closing price for  
4                   offset credits sold on registered exchanges  
5                   (or if such price is unavailable, the average  
6                   price as determined by the Administrator)  
7                   during the six months prior to the market  
8                   stability reserve auction at which they were  
9                   auctioned, with the remaining funds col-  
10                  lected upon the sale of the offset credits  
11                  deposited in the Treasury; and

12                   “(ii) the amount received for the off-  
13                  set credits at the auction.

14                  “(2) PROCEEDS.—For offset credits sold pursu-  
15                  ant to this subsection, notwithstanding section 3302  
16                  of title 31, United States Code, or any other provi-  
17                  sion of law, within 90 days of receipt, the United  
18                  States shall transfer the proceeds from the auction,  
19                  as defined in paragraph (1)(D), to the entity that  
20                  offered the offset credits for sale. No funds trans-  
21                  ferred from a purchaser to a seller of offset credits  
22                  under this paragraph shall be held by any officer or  
23                  employee of the United States or treated for any  
24                  purpose as public monies.

1           “(3) PRICING.—When the Administrator acts  
2           under this subsection as the agent of an entity in  
3           possession of offset credits, the Administrator is not  
4           obligated to obtain the highest price possible for the  
5           offset credits, and instead shall auction such offset  
6           credits in the same manner and pursuant to the  
7           same rules (except as modified in paragraph (1)) as  
8           set forth for auctioning market stability reserve al-  
9           lowances. Entities requesting that such offset credits  
10          be offered for sale at a market stability reserve auc-  
11          tion may not set a minimum reserve price for their  
12          offset credits that is different than the minimum  
13          market stability reserve auction price set pursuant  
14          to subsection (c).

15          “(i) INITIAL REGULATIONS.—Not later than 24  
16          months after the date of enactment of this title, the Ad-  
17          ministrator shall promulgate regulations, in consultation  
18          with other appropriate agencies, governing the auction of  
19          allowances under this section. Such regulations shall in-  
20          clude the following requirements:

21                 “(1) FREQUENCY; FIRST AUCTION.—Auctions  
22                 shall be held four times per year at regular intervals,  
23                 with the first auction to be held no later than March  
24                 31, 2012.

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

3           “(3) PARTICIPATION; FINANCIAL ASSURANCE.—  
4 Auctions shall be open to any covered entity eligible  
5 to purchase emission allowances at the auction  
6 under subsection (a)(2), except that the Adminis-  
7 trator may establish financial assurance require-  
8 ments to ensure that auction participants can and  
9 will perform on their bids.

10           “(4) DISCLOSURE OF BENEFICIAL OWNER-  
11 SHIP.—Each bidder in an auction shall be required  
12 to disclose the person or entity sponsoring or bene-  
13 fitting from the bidder’s participation in the auction  
14 if such person or entity is, in whole or in part, other  
15 than the bidder.

16           “(5) PURCHASE LIMITS.—No person may, di-  
17 rectly or in concert with another participant, pur-  
18 chase more than 20 percent of the allowances of-  
19 fered for sale at any quarterly auction.

20           “(6) PUBLICATION OF INFORMATION.—After  
21 the auction, the Administrator shall, in a timely  
22 fashion, publish the identities of winning bidders,  
23 the quantity of allowances obtained by each winning  
24 bidder, and the auction clearing price.

1           “(7) OTHER REQUIREMENTS.—The Adminis-  
2           trator may include in the regulations such other re-  
3           quirements or provisions as the Administrator, in  
4           consultation with other agencies as appropriate, con-  
5           siders appropriate to promote effective, efficient,  
6           transparent, and fair administration of auctions  
7           under this section.

8           “(j) MARKET STABILITY RESERVE FUND.—There  
9           are established in the Treasury of the United States a  
10          fund to be known as the ‘Market Stability Reserve Fund’.

11          “(k) REVISION OF REGULATIONS.—The Adminis-  
12          trator may, at any time, in consultation with other agen-  
13          cies as appropriate, revise the initial regulations promul-  
14          gated under subsection (i). Such revised regulations need  
15          not meet the requirements identified in subsection (i) if  
16          the Administrator determines that an alternative auction  
17          design would be more effective, taking into account factors  
18          including costs of administration, transparency, fairness,  
19          and risks of collusion or manipulation. In determining  
20          whether and how to revise the initial regulations under  
21          this subsection, the Administrator shall not consider maxi-  
22          mization of revenues to the Federal Government.

23          **“SEC. 727. PERMITS.**

24          “(a) PERMIT PROGRAM.—For stationary sources  
25          subject to title V of this Act, that are covered entities,

1 the provisions of this title shall be implemented by permits  
2 issued to such covered entities (and enforced) in accord-  
3 ance with the provisions of title V, as modified by this  
4 title. Any such permit issued by the Administrator, or by  
5 a State with an approved permit program, shall require  
6 the owner or operator of a covered entity to hold emission  
7 allowances or offset credits at least equal to the total an-  
8 nual amount of carbon dioxide equivalents for its com-  
9 bined emissions and attributable greenhouse gas emissions  
10 to which section 722 applies. No such permit shall be  
11 issued that is inconsistent with the requirements of this  
12 title, and title V as applicable. Nothing in this section re-  
13 garding compliance plans or in title V shall be construed  
14 as affecting allowances or offset credits. Submission of a  
15 statement by the owner or operator, or the designated rep-  
16 resentative of the owners and operators, of a covered enti-  
17 ty that the owners and operators will hold emission allow-  
18 ances or offset credits for the entity's combined emissions  
19 and attributable greenhouse gas emissions to which sec-  
20 tion 722 applies shall be deemed to meet the proposed and  
21 approved planning requirements of title V. Recordation by  
22 the Administrator of transfers of emission allowances shall  
23 amend automatically all applicable proposed or approved  
24 permit applications, compliance plans, and permits.

1           “(b) MULTIPLE OWNERS.—No permit shall be issued  
2 under this section and no allowances or offset credits shall  
3 be disbursed under this title to a covered entity or any  
4 other person until the designated representative of the  
5 owners or operators has filed a certificate of representa-  
6 tion with regard to matters under this title, including the  
7 holding and distribution of emission allowances and the  
8 proceeds of transactions involving emission allowances.  
9 Where there are multiple holders of a legal or equitable  
10 title to, or a leasehold interest in, such a covered entity  
11 or other entity or where a utility or industrial customer  
12 purchases power under a long-term power purchase con-  
13 tract from an independent power production facility that  
14 is a covered entity, the certificate shall state—

15           “(1) that emission allowances and the proceeds  
16 of transactions involving emission allowances will be  
17 deemed to be held or distributed in proportion to  
18 each holder’s legal, equitable, leasehold, or contrac-  
19 tual reservation or entitlement; or

20           “(2) if such multiple holders have expressly pro-  
21 vided for a different distribution of emission allow-  
22 ances by contract, that emission allowances and the  
23 proceeds of transactions involving emission allow-  
24 ances will be deemed to be held or distributed in ac-  
25 cordance with the contract.

1 A passive lessor, or a person who has an equitable interest  
2 through such lessor, whose rental payments are not based,  
3 either directly or indirectly, upon the revenues or income  
4 from the covered entity or other entity shall not be deemed  
5 to be a holder of a legal, equitable, leasehold, or contrac-  
6 tual interest for the purpose of holding or distributing  
7 emission allowances as provided in this subsection, during  
8 either the term of such leasehold or thereafter, unless ex-  
9 pressly provided for in the leasehold agreement. Except  
10 as otherwise provided in this subsection, where all legal  
11 or equitable title to or interest in a covered entity, or other  
12 entity, is held by a single person, the certificate shall state  
13 that all emission allowances received by the entity are  
14 deemed to be held for that person.

15       “(c) PROHIBITION.—It shall be unlawful for any per-  
16 son to operate any stationary source subject to the re-  
17 quirements of this section except in compliance with the  
18 terms and requirements of a permit issued by the Admin-  
19 istrator or a State with an approved permit program in  
20 accordance with this section. For purposes of this sub-  
21 section, compliance, as provided in section 504(f), with a  
22 permit issued under title V which complies with this title  
23 for covered entities shall be deemed compliance with this  
24 subsection as well as section 502(a).



1       “(d) RELIABILITY.—Nothing in this section or title  
2 V shall be construed as requiring termination of oper-  
3 ations of a stationary source that is a covered entity for  
4 failure to have an approved permit, or compliance plan,  
5 that is consistent with the requirements in the second and  
6 fifth sentences of subsection (a) concerning the holding  
7 of emission allowances, compensatory allowances, inter-  
8 national emission allowances, or offset allowances, except  
9 that any such covered entity may be subject to the applica-  
10 ble enforcement provision of section 113.

11       “(e) REGULATIONS.—The Administrator shall pro-  
12 mulgate regulations to implement this section. To provide  
13 for permits required under this section, each State in  
14 which one or more stationary sources and that are covered  
15 entities are located shall submit, in accordance with this  
16 section and title V, revised permit programs for approval.

17 **“SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.**

18       “(a) QUALIFYING PROGRAMS.—The Administrator,  
19 in consultation with the Secretary of State, may by rule  
20 designate an international climate change program as a  
21 qualifying international program if—

22               “(1) the program is run by a national or supra-  
23 national foreign government, and imposes a manda-  
24 tory absolute tonnage limit on greenhouse gas emis-  
25 sions from 1 or more foreign countries, or from 1 or

1 more economic sectors in such a country or coun-  
2 tries; and

3 “(2) the program is at least as stringent as the  
4 program established by this title, including provi-  
5 sions to ensure at least comparable monitoring, com-  
6 pliance, enforcement, quality of offsets, and restric-  
7 tions on the use of offsets.

8 “(b) DISQUALIFIED ALLOWANCES.—An international  
9 emission allowance may not be held under section  
10 722(d)(3) if it is in the nature of an offset instrument  
11 or allowance awarded based on the achievement of green-  
12 house gas emission reductions or avoidance, or greenhouse  
13 gas sequestration, that are not subject to the mandatory  
14 absolute tonnage limits referred to in subsection (a)(1).

15 “(c) RETIREMENT.—

16 “(1) ENTITY CERTIFICATION.—The owner or  
17 operator of an entity that holds an international  
18 emission allowance under section 722(d)(3) shall  
19 certify to the Administrator that such international  
20 emission allowance has not previously been used to  
21 comply with any foreign, international, or domestic  
22 greenhouse gas regulatory program.

23 “(2) RETIREMENT.—

24 “(A) FOREIGN AND INTERNATIONAL REG-  
25 ULATORY ENTITIES.—The Administrator, in

1           consultation with the Secretary of State, shall  
2           seek, by whatever means appropriate, including  
3           agreements and technical cooperation on allow-  
4           ance tracking, to ensure that any relevant for-  
5           eign, international, and domestic regulatory en-  
6           tities—

7                   “(i) are notified of the use, for pur-  
8                   poses of compliance with this title, of any  
9                   international emission allowance; and

10                   “(ii) provide for the disqualification of  
11                   such international emission allowance for  
12                   any subsequent use under the relevant for-  
13                   eign, international, or domestic greenhouse  
14                   gas regulatory program, regardless of  
15                   whether such use is a sale, exchange, or  
16                   submission to satisfy a compliance obliga-  
17                   tion.

18                   “(B) DISQUALIFICATION FROM FURTHER  
19                   USE.—The Administrator shall ensure that,  
20                   once an international emission allowance has  
21                   been disqualified or otherwise used for purposes  
22                   of compliance with this title, such allowance  
23                   shall be disqualified from any further use under  
24                   this title.



1 and such second term may follow directly after a first  
2 term.

3 “(c) ACTIVITIES.—The Advisory Board established  
4 pursuant to subsection (a) shall—

5 “(1) provide recommendations, not later than  
6 90 days after the Advisory Board’s establishment  
7 and periodically thereafter, to the President regard-  
8 ing offset project types that should be considered for  
9 eligibility under section 733, taking into consider-  
10 ation relevant scientific and other issues, including—

11 “(A) the availability of a representative  
12 data set for use in developing the activity base-  
13 line;

14 “(B) the potential for accurate quantifica-  
15 tion of greenhouse gas reduction, avoidance, or  
16 sequestration for an offset project type;

17 “(C) the potential level of scientific and  
18 measurement uncertainty associated with an  
19 offset project type;

20 “(D) any beneficial or adverse environ-  
21 mental, public health, welfare, social, economic,  
22 or energy effects associated with an offset  
23 project type;

1           “(E) the extent to which, as of the date of  
2           submission of the report, the project or activity  
3           types within each category—

4                   “(i) are required by law (including a  
5                   regulation); or

6                   “(ii) represent business-as-usual (ab-  
7                   sent funding from offset credits) practices  
8                   for a relevant land area, industry sector, or  
9                   forest, soil or facility type;

10           “(2) make available to the President its advice  
11           and comments on offset methodologies that should  
12           be considered under regulations promulgated pursu-  
13           ant to subsection (a) and (b) of section 734, includ-  
14           ing methodologies to address the issues of  
15           additionality, activity baselines, measurement, leak-  
16           age, uncertainty, permanence, and environmental in-  
17           tegrity;

18           “(3) make available to the President, and other  
19           relevant Federal agencies, its advice and comments  
20           regarding scientific, technical, and methodological  
21           issues specific to the issuance of international offset  
22           credits under section 744;

23           “(4) make available to the President, and other  
24           relevant Federal agencies, its advice and comments  
25           regarding scientific, technical, and methodological

1 issues associated with the implementation of this  
2 part;

3 “(5) make available to the President its advice  
4 and comments on areas in which further knowledge  
5 is required to appraise the adequacy of existing, re-  
6 vised, or proposed methodologies for use under this  
7 part, and describe the research efforts necessary to  
8 provide the required information; and

9 “(6) make available to the President its advice  
10 and comments on other ways to improve or safe-  
11 guard the environmental integrity of programs es-  
12 tablished under this part.

13 “(d) SCIENTIFIC REVIEW OF OFFSET AND DEFOR-  
14 ESTATION REDUCTION PROGRAMS.—Not later than Janu-  
15 ary 1, 2017, and at five-year intervals thereafter, the Ad-  
16 visory Board shall submit to the President and make avail-  
17 able to the public an analysis of relevant scientific and  
18 technical information related to this part. The Advisory  
19 Board shall review approved and potential methodologies,  
20 scientific studies, offset project monitoring, offset project  
21 verification reports, and audits related to this part, and  
22 evaluate the net emissions effects of implemented offset  
23 projects. The Advisory Board shall recommend changes to  
24 offset methodologies, protocols, or project types, or to the  
25 overall offset program under this part, to ensure that off-

1 set credits issued by the President do not compromise the  
2 integrity of the annual emission reductions established  
3 under section 703, and to avoid or minimize adverse ef-  
4 fects to human health or the environment.

5 **“SEC. 732. ESTABLISHMENT OF OFFSETS PROGRAM.**

6       “(a) REGULATIONS.—Not later than 2 years after  
7 the date of enactment of this title, the President, in con-  
8 sultation with appropriate Federal agencies and taking  
9 into consideration the recommendations of the Advisory  
10 Board, shall promulgate regulations establishing a pro-  
11 gram for the issuance of offset credits in accordance with  
12 the requirements of this part. The President shall periodi-  
13 cally revise these regulations as necessary to meet the re-  
14 quirements of this part.

15       “(b) REQUIREMENTS.—The regulations described in  
16 subsection (a) shall—

17               “(1) authorize the issuance of offset credits  
18 with respect to qualifying offset projects that result  
19 in reductions or avoidance of greenhouse gas emis-  
20 sions, or sequestration of greenhouse gases;

21               “(2) ensure that such offset credits represent  
22 verifiable and additional greenhouse gas emission re-  
23 ductions or avoidance, or increases in sequestration;



1           “(3) ensure that offset credits issued for se-  
2           questration offset projects are only issued for green-  
3           house gas reductions that are permanent;

4           “(4) provide for the implementation of the re-  
5           quirements of this part;

6           “(5) include as reductions in greenhouse gases  
7           reductions achieved through the destruction of meth-  
8           ane and its conversion to carbon dioxide, and reduc-  
9           tions achieved through destruction of chlorofluoro-  
10          carbons or other ozone depleting substances, if per-  
11          mitted by the President under section 619(b)(9) and  
12          subject to the conditions specified in section  
13          619(b)(9), based on the carbon dioxide equivalent  
14          value of the substance destroyed; and

15          “(6) establish a process to accept and respond  
16          to comments from third parties regarding programs  
17          established under this part in a timely manner.

18          “(c) COORDINATION TO MINIMIZE NEGATIVE EF-  
19          FECTS.—In promulgating and implementing regulations  
20          under this part, the President shall act (including by re-  
21          jecting projects, if necessary) to avoid or minimize, to the  
22          maximum extent practicable, adverse effects on human  
23          health or the environment resulting from the implementa-  
24          tion of offset projects under this part.

1       “(d) OFFSET REGISTRY.—The President shall estab-  
2 lish within the allowance tracking system established  
3 under section 724(d) an Offset Registry for qualifying off-  
4 set projects and offset credits issued with respect thereto  
5 under this part.

6       “(e) LEGAL STATUS OF OFFSET CREDIT.—An offset  
7 credit does not constitute a property right.

8       “(f) FEES.—The President shall assess fees payable  
9 by offset project developers in an amount necessary to  
10 cover the administrative costs and the enforcement costs  
11 to the Environmental Protection Agency and the Depart-  
12 ment of Justice of carrying out the activities under this  
13 part. Amounts collected for such fees shall be available  
14 to the President and the Attorney General for carrying  
15 out the activities under this part to the extent provided  
16 in advance in appropriations Acts.

17 **“SEC. 733. ELIGIBLE PROJECT TYPES.**

18       “(a) LIST OF ELIGIBLE PROJECT TYPES.—

19               “(1) IN GENERAL.—As part of the regulations  
20 promulgated under section 732(a), the President  
21 shall establish, and may periodically revise, a list of  
22 types of projects eligible to generate offset credits,  
23 including international offset credits, under this  
24 part.

1           “(2) ADVISORY BOARD RECOMMENDATIONS.—  
2           In determining the eligibility of project types, the  
3           President shall take into consideration the rec-  
4           ommendations of the Advisory Board. If a list estab-  
5           lished under this section differs from the rec-  
6           ommendations of the Advisory Board, the regula-  
7           tions promulgated under section 732(a) shall include  
8           a justification for the discrepancy.

9           “(3) INITIAL DETERMINATION.—The President  
10          shall establish the initial eligibility list under para-  
11          graph (1) not later than one year after the date of  
12          enactment of this title for which there are well devel-  
13          oped methodologies that the President determines  
14          would meet the criteria of section 734.

15          “(4) PROJECT TYPES TO BE CONSIDERED FOR  
16          INITIAL LIST.—In determining the initial list, the  
17          President shall give priority to consideration of off-  
18          set project types that are recommended by the Advi-  
19          sory Board and for which there are well developed  
20          methodologies that the President determines would  
21          meet the criteria of section 734, and shall con-  
22          sider—

23                   “(A) methane collection and combustion  
24                   projects at active underground coal mines;

1           “(B) methane collection and combustion  
2 projects at landfills;

3           “(C) capture of venting, flaring, and fugi-  
4 tive emissions from oil and natural gas systems;

5           “(D) nonlandfill methane collection, com-  
6 bustion and avoidance projects involving organic  
7 waste streams that would have otherwise emit-  
8 ted methane in the atmosphere, including ma-  
9 nure management and biogas capture and com-  
10 bustion;

11           “(E) projects involving afforestation or re-  
12 forestation of acreage not forested as of Janu-  
13 ary 1, 2009;

14           “(F) forest management resulting in an in-  
15 crease in forest carbon stores, including har-  
16 vested wood products;

17           “(G) agricultural, grassland, and range-  
18 land sequestration and management practices,  
19 including—

20               “(i) altered tillage practices, including  
21 avoided abandonment of such practices;

22               “(ii) winter cover cropping, contin-  
23 uous cropping, and other means to in-  
24 crease biomass returned to soil in lieu of  
25 planting followed by fallowing;

- 1           “(iii) reduction of nitrogen fertilizer  
2           use or increase in nitrogen use efficiency;
- 3           “(iv) reduction in the frequency and  
4           duration of flooding of rice paddies;
- 5           “(v) reduction in carbon emissions  
6           from organic soils;
- 7           “(vi) reduction in greenhouse gas  
8           emissions from manure and effluent;
- 9           “(vii) reduction in greenhouse gas  
10          emissions due to changes in animal man-  
11          agement practices, including dietary modi-  
12          fications;
- 13          “(viii) planting and cultivation of per-  
14          manent tree crops;
- 15          “(ix) greenhouse gas emission reduc-  
16          tions from improvements and upgrades to  
17          mobile or stationary equipment (including  
18          engines);
- 19          “(x) practices to reduce and eliminate  
20          soil tillage;
- 21          “(xi) reductions in greenhouse gas  
22          emissions through restoration of wetlands,  
23          forestland, and grassland; and

1                   “(xii) sequestration of greenhouse  
2                   gases through management of tree crops;  
3                   and

4                   “(H) changes in carbon stocks attributed  
5                   to land use change and forestry activities, in-  
6                   cluding—

7                   “(i) management of peatland or wet-  
8                   land;

9                   “(ii) conservation of grassland and  
10                  forested land;

11                  “(iii) improved forest management,  
12                  including accounting for carbon stored in  
13                  wood products;

14                  “(iv) reduced deforestation or avoided  
15                  forest conversion;

16                  “(v) urban tree-planting and mainte-  
17                  nance;

18                  “(vi) agroforestry; and

19                  “(vii) adaptation of plant traits or  
20                  new technologies that increase sequestra-  
21                  tion by forests.

22                  “(5) METHODOLOGIES.—In issuing methodolo-  
23                  gies pursuant to section 734, the President shall  
24                  give priority to methodologies for offset types in-  
25                  cluded on the initial eligibility list.

1 “(b) MODIFICATION OF LIST.—The President—

2 “(1) shall add additional project types to the  
3 list not later than 2 years after the date of enact-  
4 ment of this title;

5 “(2) may at any time, by rule, add a project  
6 type to the list established under subsection (a) if  
7 the President, in consultation with appropriate Fed-  
8 eral agencies and taking into consideration the rec-  
9 ommendations of the Advisory Board, determines  
10 that the project type can generate additional reduc-  
11 tions or avoidance of greenhouse gas emissions, or  
12 sequestration of greenhouse gases, subject to the re-  
13 quirements of this part;

14 “(3) may at any time, by rule, determine that  
15 a project type on the list does not meet the require-  
16 ments of this part, and remove a project type from  
17 the list established under subsection (a), in consulta-  
18 tion with appropriate Federal agencies and taking  
19 into consideration any recommendations of the Advi-  
20 sory Board; and

21 “(4) shall consider adding to or removing from  
22 the list established under subsection (a), at a min-  
23 imum, project types proposed to the President—

24 “(A) by petition pursuant to subsection  
25 (c); or

1 “(B) by the Advisory Board.

2 “(c) PETITION PROCESS.—Any person may petition  
3 the President to modify the list established under sub-  
4 section (a) by adding or removing a project type pursuant  
5 to subsection (b). Any such petition shall include a show-  
6 ing by the petitioner that there is adequate data to estab-  
7 lish that the project type does or does not meet the re-  
8 quirements of this part. Not later than 12 months after  
9 receipt of such a petition, the President shall either grant  
10 or deny the petition and publish a written explanation of  
11 the reasons for the President’s decision. The President  
12 may not deny a petition under this subsection on the basis  
13 of inadequate Environmental Protection Agency resources  
14 or time for review.

15 **“SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS.**

16 “(a) METHODOLOGIES.—As part of the regulations  
17 promulgated under section 732(a), the President shall es-  
18 tablish, for each type of offset project listed as eligible  
19 under section 733, the following:

20 “(1) ADDITIONALITY.—A standardized method-  
21 ology for determining the additionality of greenhouse  
22 gas emission reductions or avoidance, or greenhouse  
23 gas sequestration, achieved by an offset project of  
24 that type. Such methodology shall ensure, at a min-  
25 imum, that any greenhouse gas emission reduction



1 or avoidance, or any greenhouse gas sequestration, is  
2 considered additional only to the extent that it re-  
3 sults from activities that—

4 “(A) are not required by or undertaken to  
5 comply with any law, including any regulation  
6 or consent order;

7 “(B) were not commenced prior to Janu-  
8 ary 1, 2009, except in the case of—

9 “(i) offset project activities that com-  
10 menced after January 1, 2001, and were  
11 registered as of the date of enactment of  
12 this title under an offset program with re-  
13 spect to which the President has made an  
14 affirmative determination under section  
15 740(a)(2); or

16 “(ii) activities that are readily revers-  
17 ible, with respect to which the President  
18 may set an alternative earlier date under  
19 this subparagraph that is not earlier than  
20 January 1, 2001, where the President de-  
21 termines that setting such an alternative  
22 date may produce an environmental benefit  
23 by removing an incentive to cease and then  
24 reinstate activities that began prior to  
25 January 1, 2009;

1           “(C) are not receiving support under sec-  
2           tion 323 of division A, or section 207 of divi-  
3           sion B, of the Clean Energy Jobs and American  
4           Power Act; and

5           “(D) exceed the activity baseline estab-  
6           lished under paragraph (2).

7           “(2) ACTIVITY BASELINES.—A standardized  
8           methodology for establishing activity baselines for  
9           offset projects of that type. The President shall set  
10          activity baselines to reflect a conservative estimate of  
11          business-as-usual performance or practices for the  
12          relevant type of activity such that the baseline pro-  
13          vides an adequate margin of safety to ensure the en-  
14          vironmental integrity of offsets calculated in ref-  
15          erence to such baseline.

16          “(3) QUANTIFICATION METHODS.—A standard-  
17          ized methodology for determining the extent to  
18          which greenhouse gas emission reductions or avoid-  
19          ance, or greenhouse gas sequestration, achieved by  
20          an offset project of that type exceed a relevant activ-  
21          ity baseline, including protocols for monitoring and  
22          accounting for uncertainty.

23          “(4) LEAKAGE.—A standardized methodology  
24          for accounting for and mitigating potential leakage,

1 if any, from an offset project of that type, taking  
2 uncertainty into account.

3 “(b) ACCOUNTING FOR REVERSALS.—

4 “(1) IN GENERAL.—As part of the regulations  
5 promulgated under section 732(a), for each type of  
6 sequestration project listed under section 733, the  
7 President shall establish requirements to account for  
8 and address reversals, including—

9 “(A) a requirement to report any reversal  
10 with respect to an offset project for which offset  
11 credits have been issued under this part;

12 “(B) provisions to require emission allow-  
13 ances to be held in amounts to fully compensate  
14 for greenhouse gas emissions attributable to re-  
15 versals, and to assign responsibility for holding  
16 such emission allowances;

17 “(C) provisions to discourage repeated in-  
18 tentional reversals by offset project developers,  
19 including but not limited to the assessment of  
20 administrative fees, temporary suspension, or  
21 disqualification of an offset project developer  
22 from the program; and

23 “(D) any other provisions the President  
24 determines necessary to account for and ad-  
25 dress reversals.

1           “(2) MECHANISMS.—The President shall pre-  
2       scribe mechanisms to ensure that any sequestration  
3       with respect to which an offset credit is issued under  
4       this part results in a permanent net increase in se-  
5       questration, and that full account is taken of any ac-  
6       tual or potential reversal of such sequestration, with  
7       an adequate margin of safety. The President shall  
8       prescribe at least one of the following mechanisms to  
9       meet the requirements of this paragraph:

10           “(A) An offsets reserve, pursuant to para-  
11       graph (3).

12           “(B) Insurance that provides for purchase  
13       and provision to the President for retirement of  
14       an amount of offset credits or emission allow-  
15       ances equal in number to the tons of carbon di-  
16       oxide equivalents of greenhouse gas emissions  
17       released due to reversal.

18           “(C) Another mechanism that the Presi-  
19       dent determines satisfies the requirements of  
20       this part.

21       “(3) OFFSETS RESERVE.—

22           “(A) IN GENERAL.—An offsets reserve re-  
23       ferred to in paragraph (2)(A) is a program  
24       under which, before issuance of offset credits  
25       under this part, the President shall subtract

1 and reserve from the quantity to be issued a  
2 quantity of offset credits based on the risk of  
3 reversal. The President shall—

4 “(i) hold these reserved offset credits  
5 in the offsets reserve; and

6 “(ii) register the holding of the re-  
7 served offset credits in the Offset Registry  
8 established under section 732(d).

9 “(B) PROJECT REVERSAL.—

10 “(i) IN GENERAL.—If a reversal has  
11 occurred with respect an offset project for  
12 which offset credits are reserved under this  
13 paragraph, the President shall remove off-  
14 set credits or emission allowances from the  
15 offsets reserve and cancel them to fully ac-  
16 count for the tons of carbon dioxide equiv-  
17 alent that are no longer sequestered.

18 “(ii) INTENTIONAL REVERSALS.—If  
19 the President determines that a reversal  
20 was intentional, the offset project developer  
21 for the relevant offset project shall place  
22 into the offsets reserve a quantity of offset  
23 credits, or combination of offset credits  
24 and emission allowances, equal in number  
25 to the number of reserve offset credits that

1 were canceled due to the reversal pursuant  
2 to clause (i).

3 “(iii) UNINTENTIONAL REVERSALS.—

4 If the President determines that a reversal  
5 was unintentional, the offset project devel-  
6 oper for the relevant offset project shall  
7 place into the offsets reserve a quantity of  
8 offset credits, or combination of offset  
9 credits and emission allowances, equal in  
10 number to half the number of offset credits  
11 that were reserved for that offset project,  
12 or half the number of reserve offset credits  
13 that were canceled due to the reversal pur-  
14 suant to clause (i), whichever is less.

15 “(iv) PETITION.—Any person may pe-  
16 tition the President for a determination

17 that an offsets reversal has occurred. Any  
18 such petition shall include a showing by  
19 the petitioner that there is adequate data  
20 or other evidence to support the petition.  
21 Not later than 90 days after the date of  
22 receipt of the petition, the President shall  
23 take final action determining either that  
24 the reversal has occurred or that the rever-  
25 sal has not occurred. Such determination

1           shall be accompanied by a statement of the  
2           basis for the determination.

3           “(C) USE OF RESERVED OFFSET CRED-  
4           ITS.—Offset credits placed into the offsets re-  
5           serve under this paragraph may not be used to  
6           comply with section 722.

7           “(4) TERM OFFSET CREDITS.—

8           “(A) APPLICABILITY.—With respect to a  
9           practice listed under section 733 that seques-  
10          ters greenhouse gases and has a crediting pe-  
11          riod of not more than 5 years, the President  
12          may address reversals pursuant to this para-  
13          graph in lieu of permanently accounting for re-  
14          versals pursuant to paragraphs (1) and (2).

15          “(B) ACCOUNTING FOR REVERSALS.—For  
16          such practices or projects implementing the  
17          practices described in subparagraph (A), the  
18          President shall require only reversals that occur  
19          during the crediting period to be accounted for  
20          and addressed pursuant to paragraphs (1) and  
21          (2).

22          “(C) CREDITS ISSUED.—For practices or  
23          projects regulated pursuant to subparagraph  
24          (B), the Secretary shall issue under section 737  
25          a term offset credit, in lieu of an offset credit,

1           for each ton of carbon dioxide equivalent that  
2           has been sequestered.

3           “(c) CREDITING PERIODS.—

4           “(1) IN GENERAL.—As part of the regulations  
5           promulgated under section 732(a), for each offset  
6           project type, the President shall specify a crediting  
7           period, and establish provisions for petitions for new  
8           crediting periods, in accordance with this subsection.

9           “(2) DURATION.—

10           “(A) IN GENERAL.—The crediting period  
11           shall be not less than 5 and not greater than  
12           10 years for any project type other than those  
13           involving sequestration or term offsets.

14           “(B) FORESTRY PROJECTS.—The crediting  
15           period for a forestry offset project shall not ex-  
16           ceed 20 years.

17           “(C) TERM OFFSET CREDITS.—The cred-  
18           iting period for a term offset credit issued shall  
19           not exceed 5 years.

20           “(3) ELIGIBILITY.—An offset project shall be  
21           eligible to generate offset credits under this part  
22           only during the project’s crediting period. During  
23           such crediting period, the project shall remain eligi-  
24           ble to generate offset credits, subject to the meth-  
25           odologies and project type eligibility list that applied



1 as of the date of project approval under section 735,  
2 except as provided in paragraph (4).

3 “(4) PETITION FOR NEW CREDITING PERIOD.—

4 An offset project developer may petition for a new  
5 crediting period to commence after termination of a  
6 crediting period, subject to the methodologies and  
7 project type eligibility list in effect at the time when  
8 such petition is submitted. A petition may not be  
9 submitted under this paragraph more than 18  
10 months before the end of the pending crediting pe-  
11 riod. The President may grant such petition after  
12 public notice and opportunity for comment. The  
13 President may limit the number of new crediting pe-  
14 riods available for projects of particular project  
15 types.

16 “(d) ENVIRONMENTAL INTEGRITY.—In establishing  
17 the requirements under this section, the President shall  
18 apply conservative assumptions or methods to maximize  
19 the certainty that the environmental integrity of the green-  
20 house gas limitations established under section 703 is not  
21 compromised.

22 “(e) PRE-EXISTING METHODOLOGIES.—In promul-  
23 gating requirements under this section, the President shall  
24 give due consideration to methodologies for offset projects  
25 existing as of the date of enactment of this title.

1       “(f) ADDED PROJECT TYPES.—The President shall  
2 establish methodologies described in subsection (a), and,  
3 as applicable, requirements and mechanisms for reversals  
4 as described in subsection (b), for any project type that  
5 is added to the list pursuant to section 733.

6       **“SEC. 735. APPROVAL OF OFFSET PROJECTS.**

7       “(a) APPROVAL PETITION.—An offset project devel-  
8 oper shall submit an offset project approval petition signed  
9 by a responsible official (who shall certify the accuracy of  
10 the information submitted) and providing such informa-  
11 tion as the President requires to determine whether the  
12 offset project is eligible for issuance of offset credits under  
13 rules promulgated pursuant to this part.

14       “(b) TIMING.—An approval petition shall be sub-  
15 mitted to the President under subsection (a) not later than  
16 the time at which an offset project’s first verification re-  
17 port is submitted under section 736.

18       “(c) APPROVAL PETITION REQUIREMENTS.—As part  
19 of the regulations promulgated under section 732, the  
20 President shall include provisions for, and shall specify,  
21 the required components of an offset project approval peti-  
22 tion required under subsection (a), which shall include—

23               “(1) designation of an offset project developer;

1           “(2) designation of a party who is authorized to  
2           provide access to the appropriate officials or an au-  
3           thorized representative to the offset project; and

4           “(3) any other information that the President  
5           considers to be necessary to achieve the purposes of  
6           this part.

7           “(d) APPROVAL AND NOTIFICATION.—Not later than  
8           90 days after receiving a complete approval petition under  
9           subsection (a), the President shall make the approval peti-  
10          tion publicly available on the internet, approve or deny the  
11          petition in writing, and, if the petition is denied, make  
12          the President’s decision publicly available on the internet.  
13          After an offset project is approved, the offset project de-  
14          veloper shall not be required to resubmit an approval peti-  
15          tion during the offset project’s crediting period, except as  
16          provided in section 734(c)(4).

17          “(e) APPEAL.—The President shall establish proce-  
18          dures for appeal and review of determinations made under  
19          subsection (d).

20          “(f) VOLUNTARY PREAPPROVAL REVIEW.—The  
21          President may establish a voluntary preapproval review  
22          procedure, to allow an offset project developer to request  
23          the President to conduct a preliminary eligibility review  
24          for an offset project. Findings of such reviews shall not

1 be binding upon the President. The voluntary preapproval  
2 review procedure—

3 “(1) shall require the offset project developer to  
4 submit such basic project information as the Presi-  
5 dent requires to provide a meaningful review; and

6 “(2) shall require a response from the President  
7 not later than 6 weeks after receiving a request for  
8 review under this subsection.

9 **“SEC. 736. VERIFICATION OF OFFSET PROJECTS.**

10 “(a) IN GENERAL.—As part of the regulations pro-  
11 mulgated under section 732(a), the President shall estab-  
12 lish requirements, including protocols, for verification of  
13 the quantity of greenhouse gas emission reductions or  
14 avoidance, or sequestration of greenhouse gases, resulting  
15 from an offset project. The regulations shall require that  
16 an offset project developer shall submit a report, prepared  
17 by a third-party verifier accredited under subsection (d),  
18 providing such information as the President requires to  
19 determine the quantity of greenhouse gas emission reduc-  
20 tions or avoidance, or sequestration of greenhouse gas, re-  
21 sulting from the offset project.

22 “(b) SCHEDULE.—The President shall prescribe a  
23 schedule for the submission of verification reports under  
24 subsection (a).

1       “(c) VERIFICATION REPORT REQUIREMENTS.—The  
2 President shall specify the required components of a  
3 verification report required under subsection (a), which  
4 shall include—

5           “(1) the name and contact information for a  
6 designated representative for the offset project devel-  
7 oper;

8           “(2) the quantity of greenhouse gas reduced,  
9 avoided, or sequestered;

10          “(3) the methodologies applicable to the project  
11 pursuant to section 734;

12          “(4) a certification that the project meets the  
13 applicable requirements;

14          “(5) a certification establishing that the conflict  
15 of interest requirements in the regulations promul-  
16 gated under subsection (d)(1) have been complied  
17 with; and

18          “(6) any other information that the President  
19 considers to be necessary to achieve the purposes of  
20 this part.

21       “(d) VERIFIER ACCREDITATION.—

22           “(1) IN GENERAL.—As part of the regulations  
23 promulgated under section 732(a), the President  
24 shall establish a process and requirements for peri-  
25 odic accreditation of third-party verifiers to ensure

1 that such verifiers are professionally qualified and  
2 have no conflicts of interest with offset project devel-  
3 opers.

4 “(2) STANDARDS.—

5 “(A) AMERICAN NATIONAL STANDARDS IN-  
6 STITUTE ACCREDITATION.—The President may  
7 accredit, or accept for purposes of accreditation  
8 under this subsection, verifiers accredited under  
9 the American National Standards Institute  
10 (ANSI) accreditation program in accordance  
11 with ISO 14065. The President shall accredit,  
12 or accept for accreditation, verifiers under this  
13 subparagraph only if the President finds that  
14 the American National Standards Institute ac-  
15 creditation program provides sufficient assur-  
16 ance that the requirements of this part will be  
17 met.

18 “(B) EPA ACCREDITATION.—As part of  
19 the regulations promulgated under section  
20 732(a), the President may establish accredita-  
21 tion standards for verifiers under this sub-  
22 section, and may establish related training and  
23 testing programs and requirements.

24 “(3) PUBLIC ACCESSIBILITY.—Each verifier  
25 meeting the requirements for accreditation in ac-

1 cordance with this subsection shall be listed in a  
2 publicly accessible database, which shall be main-  
3 tained and updated by the President.

4 “(4) REVOCATION.—The regulations concerning  
5 accreditation of third-party verifiers required under  
6 paragraph (1) shall establish a process for the Presi-  
7 dent to revoke the accreditation of any third-party  
8 verifier that the President finds fails to maintain  
9 professional qualifications or to avoid a conflict of  
10 interest, or for other good cause.

11 **“SEC. 737. ISSUANCE OF OFFSET CREDITS.**

12 “(a) DETERMINATION AND NOTIFICATION.—Not  
13 later than 90 days after receiving a complete verification  
14 report under section 736, the President shall—

15 “(1) make the report publicly available on the  
16 Internet;

17 “(2) make a determination of the quantity of  
18 greenhouse gas emissions reduced or avoided, or  
19 greenhouse gases sequestered, resulting from an off-  
20 set project approved under section 735; and

21 “(3) notify the offset project developer in writ-  
22 ing of such determination and make such determina-  
23 tion publicly available on the Internet.

24 “(b) ISSUANCE OF OFFSET CREDITS.—The Presi-  
25 dent shall issue one offset credit to an offset project devel-

1 oper for each ton of carbon dioxide equivalent that the  
2 President has determined has been reduced, avoided, or  
3 sequestered during the period covered by a verification re-  
4 port submitted in accordance with section 736, only if—

5           “(1) the President has approved the offset  
6 project pursuant to section 735; and

7           “(2) the relevant emissions reduction, avoid-  
8 ance, or sequestration has—

9                   “(A) already occurred, during the offset  
10 project’s crediting period; and

11                   “(B) occurred after January 1, 2009.

12           “(c) APPEAL.—The President shall establish proce-  
13 dures for appeal and review of determinations made under  
14 subsection (a).

15           “(d) TIMING.—Offset credits meeting the criteria es-  
16 tablished in subsection (b) shall be issued not later than  
17 2 weeks following the verification determination made by  
18 the President under subsection (a).

19           “(e) REGISTRATION.—The President shall assign a  
20 unique serial number to and register each offset credit to  
21 be issued in the Offset Registry established under section  
22 732(d).

23 **“SEC. 738. AUDITS.**

24           “(a) IN GENERAL.—The President shall, on an ongo-  
25 ing basis, conduct random audits of offset projects and



1 offset credits. The President shall conduct audits of the  
2 practices of third-party verifiers. In each year, the Presi-  
3 dent shall conduct audits, at minimum, for a representa-  
4 tive sample of project types and geographic areas.

5       “(b) DELEGATION.—The President may delegate to  
6 a State or tribal government the responsibility for con-  
7 ducting audits under this section if the President finds  
8 that the program proposed by the State or tribal govern-  
9 ment provides assurances equivalent to those provided by  
10 the auditing program of the President, and that the integ-  
11 rity of the offset program under this part will be main-  
12 tained. Nothing in this subsection shall prevent the Presi-  
13 dent from conducting any audit the President considers  
14 necessary and appropriate.

15       “(c) AUDIT REQUIREMENTS.—As part of the regula-  
16 tions promulgated under section 732(a), the appropriate  
17 officials shall establish requirements and protocols for an  
18 auditing program, whether undertaken by the appropriate  
19 officials or an authorized representative, concerning  
20 project developers, third-party verifiers, and various com-  
21 ponents of the offsets program. Such regulations shall in-  
22 clude—

23               “(1) the components of the offset project, which  
24 shall be evaluated against the offset approval peti-  
25 tion and the verification report;

1           “(2) the minimum experience or training of the  
2           auditors;

3           “(3) the form in which reports shall be com-  
4           pleted;

5           “(4) requirements for delegating auditing func-  
6           tions to States or tribal governments, including re-  
7           quiring periodic reports from State or tribal govern-  
8           ments on their auditing activities and findings; and

9           “(5) any other information that the appropriate  
10          officials considers to be necessary to achieve the pur-  
11          pose of the Act.

12       **“SEC. 739. PROGRAM REVIEW AND REVISION.**

13          ““At least once every 5 years, the President shall re-  
14          view and, based on new or updated information and taking  
15          into consideration the recommendations of the Advisory  
16          Board, update and revise—

17               “(1) the list of eligible project types established  
18               under section 733;

19               “(2) the methodologies established, including  
20               specific activity baselines, under section 734(a);

21               “(3) the reversal requirements and mechanisms  
22               established or prescribed under section 734(b);

23               “(4) measures to improve the accountability of  
24               the offsets program; and

1           “(5) any other requirements established under  
2           this part to ensure the environmental integrity and  
3           effective operation of this part.

4   **“SEC. 740. EARLY OFFSET SUPPLY.**

5           “(a) PROJECTS REGISTERED UNDER OTHER GOV-  
6   ERNMENT-RECOGNIZED PROGRAMS.—Except as provided  
7   in subsection (b) or (c), after public notice and oppor-  
8   tunity for comment, the President shall issue one offset  
9   credit for each ton of carbon dioxide equivalent emissions  
10 reduced, avoided, or sequestered—

11           “(1) under an offset project that was started  
12           after January 1, 2001;

13           “(2) for which a credit was issued under any  
14           regulatory or voluntary greenhouse gas emission off-  
15           set program that the President determines—

16                   “(A) was established under State or tribal  
17                   law or regulation prior to January 1, 2009, or  
18                   has been approved by the President pursuant to  
19                   subsection (e);

20                   “(B) has developed offset project type  
21                   standards, methodologies, and protocols  
22                   through a public consultation process or a peer  
23                   review process;

24                   “(C) has made available to the public  
25                   standards, methodologies, and protocols that re-

1           quire that credited emission reductions, avoid-  
2           ance, or sequestration are permanent, addi-  
3           tional, verifiable, and enforceable;

4           “(D) requires that all emission reductions,  
5           avoidance, or sequestration be verified by a  
6           State regulatory agency or an accredited third-  
7           party independent verification body;

8           “(E) requires that all credits issued are  
9           registered in a publicly accessible registry, with  
10          individual serial numbers assigned for each ton  
11          of carbon dioxide equivalent emission reduc-  
12          tions, avoidance, or sequestration; and

13          “(F) ensures that no credits are issued for  
14          activities for which the entity administering the  
15          program, or a program administrator or rep-  
16          resentative, has funded, solicited, or served as a  
17          fund administrator for the development of, the  
18          project or activity that caused the emission re-  
19          duction, avoidance, or sequestration; and

20          “(3) for which the credit described in para-  
21          graph (2) is transferred to the President.

22          “(b) INELIGIBLE CREDITS.—Subsection (a) shall not  
23          apply to offset credits that have expired or have been re-  
24          tired, canceled, or used for compliance under a program  
25          established under State or tribal law or regulation.

1       “(c) LIMITATION.—Notwithstanding subsection  
2 (a)(1), offset credits shall be issued under this section—

3               “(1) only for reductions or avoidance of green-  
4 house gas emissions, or sequestration of greenhouse  
5 gases, that occur after January 1, 2009; and

6               “(2) only until the date that is 3 years after the  
7 date of enactment of this title, or the date that regu-  
8 lations promulgated under section 732(a) take ef-  
9 fect, whichever occurs sooner.

10       “(d) RETIREMENT OF CREDITS.—The President  
11 shall seek to ensure that offset credits described in sub-  
12 section (a)(2) are retired for purposes of use under a pro-  
13 gram described in subsection (b).

14       “(e) OTHER PROGRAMS.—

15               “(1) IN GENERAL.—Offset programs that ei-  
16 ther—

17                       “(A) were not established under State or  
18 tribal law; or

19                       “(B) were not established prior to January  
20 1, 2009;

21 but that otherwise meet all of the criteria of sub-  
22 section (a)(2) may apply to the President to be ap-  
23 proved under this subsection as an eligible program  
24 for early offset credits under this section.

1           “(2) APPROVAL.—The President shall approve  
2           any such program that the President determines has  
3           criteria and methodologies of at least equal strin-  
4           gency to the criteria and methodologies of the pro-  
5           grams established under State or tribal law that the  
6           President determines meet the criteria of subsection  
7           (a)(2). The President may approve types of offsets  
8           under any such program that are subject to criteria  
9           and methodologies of at least equal stringency to the  
10          criteria and methodologies for such types of offsets  
11          applied under the programs established under State  
12          or tribal law that the President determines meet the  
13          criteria of subsection (a)(2). The President shall  
14          make a determination on any application received  
15          under this subsection by not later than 180 days  
16          from the date of receipt of the application.

17 **“SEC. 741. ENVIRONMENTAL CONSIDERATIONS.**

18          “If the President lists forestry or other relevant land  
19          management-related offset projects as eligible offset  
20          project types under section 733, the President, in con-  
21          sultation with appropriate Federal agencies, shall promul-  
22          gate regulations to establish criteria for such offset  
23          projects—

24                 “(1) to ensure that native species are given pri-  
25                 mary consideration in such projects;

1           “(2) to enhance biological diversity in such  
2 projects;

3           “(3) to prohibit the use of federally designated  
4 or State-designated noxious weeds;

5           “(4) to prohibit the use of a species listed by  
6 a regional or State invasive plant authority within  
7 the applicable region or State;

8           “(5) in the case of forestry offset projects, in  
9 accordance with widely accepted, environmentally  
10 sustainable forestry practices;

11           “(6) to ensure that the offset project area was  
12 not converted from native ecosystems, such as a for-  
13 est, grassland, scrubland or wetland, to generate off-  
14 sets, unless such conversion took place at least 10  
15 years prior to the date of enactment of this title or  
16 before January 1, 2009, whichever date is earlier;  
17 and

18           “(7) to the maximum extent practicable, ensure  
19 that the use of offset credits would be eligible to sat-  
20 isfy emission reduction commitments made by the  
21 United States in multilateral agreements, such as  
22 the United Nations Framework Convention on Cli-  
23 mate Change, done at New York on May 9, 1992 (or  
24 any successor agreement).

1 **“SEC. 742. TRADING.**

2 “Section 724 shall apply to the trading of offset cred-  
3 its.

4 **“SEC. 743. OFFICE OF OFFSETS INTEGRITY.**

5 “(a) **ESTABLISHMENT.**—There is established within  
6 the Office of the Assistant Attorney General of the Envi-  
7 ronment and Natural Resources Division in the Depart-  
8 ment of Justice a Carbon Offsets Integrity Unit, to be  
9 headed by a Special Counsel (hereinafter referred to as  
10 the ‘Special Counsel’). The Carbon Offsets Integrity Unit  
11 and the Special Counsel shall be responsible to and shall  
12 report directly to the Assistant Attorney General of the  
13 Environment and Natural Resources Division.

14 “(b) **APPOINTMENT.**—The Special Counsel shall be  
15 appointed by the President, by and with the advice and  
16 consent of the Senate.

17 “(c) **RESPONSIBILITIES.**—The Special Counsel  
18 shall—

19 “(1) supervise and coordinate investigations  
20 and civil enforcement within the Department of Jus-  
21 tice of the carbon offsets program under this part;

22 “(2) ensure that Federal law relating to civil  
23 enforcement of the carbon offsets program is used to  
24 the fullest extent authorized; and



1           “(3) ensure that adequate resources are made  
2           available for the investigation and enforcement of  
3           civil violations of the carbon offsets program.

4           “(d) COMPENSATION.—The Special Counsel shall be  
5           paid at the basic pay payable for level V of the Executive  
6           Schedule under section 5316 of title 5, United States  
7           Code.

8           “(e) ASSIGNMENT OF PERSONNEL.—There shall be  
9           assigned to the Carbon Offsets Integrity Unit such per-  
10          sonnel as the Attorney General determines to be necessary  
11          to provide an appropriate level of enforcement activity in  
12          the area of carbon offsets.

13          **“SEC. 744. INTERNATIONAL OFFSET CREDITS.**

14          “(a) IN GENERAL.—The Administrator, in consulta-  
15          tion with the Secretary of State and the Administrator  
16          of the United States Agency for International Develop-  
17          ment, may issue, in accordance with this section, inter-  
18          national offset credits based on activities that reduce or  
19          avoid greenhouse gas emissions, or increase sequestration  
20          of greenhouse gases, in a developing country. Such credits  
21          may be issued for projects pursuant to the requirements  
22          of this part or as provided in subsection (c), (d), or (e).

23          “(b) ISSUANCE.—

24                  “(1) REGULATIONS.—Not later than 2 years  
25          after the date of enactment of this title, the Admin-

1       istrator, in consultation with the Secretary of State,  
2       the Administrator of the United States Agency for  
3       International Development, and any other appro-  
4       priate Federal agency, and taking into consideration  
5       the recommendations of the Advisory Board, shall  
6       promulgate regulations for implementing this sec-  
7       tion, taking into consideration specific factors rel-  
8       evant to the determination of eligible international  
9       offset project types and the implementation of inter-  
10      national methodologies for each offset type ap-  
11      proved. Except as otherwise provided in this section,  
12      the issuance of international offset credits under this  
13      section shall be subject to the requirements of this  
14      part.

15           “(2) REQUIREMENTS FOR INTERNATIONAL  
16      OFFSET CREDITS.—The Administrator may issue  
17      international offset credits only if—

18           “(A) the United States is a party to a bi-  
19      lateral or multilateral agreement or arrange-  
20      ment that includes the country in which the  
21      project or measure achieving the relevant green-  
22      house gas emission reduction or avoidance, or  
23      greenhouse gas sequestration, has occurred;

24           “(B) such country is a developing country;  
25      and

1 “(C) such agreement or arrangement—

2 “(i) ensures that all of the require-  
3 ments of this part apply to the issuance of  
4 international offset credits under this sec-  
5 tion;

6 “(ii) provides for the appropriate dis-  
7 tribution of international offset credits  
8 issued; and

9 “(iii) provides that the offset project  
10 developer be eligible to receive service of  
11 process in the United States for the pur-  
12 pose of all civil and regulatory actions in  
13 Federal courts, if such service is made in  
14 accordance with the Federal rules for serv-  
15 ice of process in the States in which the  
16 case or regulatory action is brought.

17 “(3) SUPPLEMENTAL INTERNATIONAL OFFSET  
18 CATEGORIES.—

19 “(A) IN GENERAL.—In order to ensure a  
20 sufficient supply of international offsets and to  
21 reduce the cost of compliance with this title, the  
22 Administrator may establish categories of inter-  
23 national offsets in addition to those described in  
24 subsections (c), (d), and (e), if—

1           “(i) for 2 consecutive years, the auc-  
2           tion price for allowances reaches the mar-  
3           ket stability reserve auction price under  
4           section 726(c); and

5           “(ii) the Administrator determines  
6           that the total amount of international off-  
7           sets held by covered entities for each of the  
8           2 years referred to in clause (i) does not  
9           exceed the limit on international offsets es-  
10          tablished under section 722(d)(3).

11          “(B) SUPPLEMENTAL CATEGORIES.—

12           “(i) IN GENERAL.—Any supplemental  
13           categories of international offsets estab-  
14           lished pursuant to subparagraph (A)  
15           shall—

16                   “(I) satisfy all applicable provi-  
17                   sions of this part, including subsection  
18                   (b)(2) of this section and sections 733  
19                   and 734; and

20                   “(II) meet the criteria described  
21                   in clause (ii).

22           “(ii) CRITERIA.—The criteria referred  
23           to in clause (i)(II) are that—

24                   “(I) the country in which the ac-  
25                   tivities in the offset category would

1 take place has developed and is imple-  
2 menting a low carbon development  
3 plan that includes provisions for the  
4 activities described in the offset cat-  
5 egory;

6 “(II) the activities in the offset  
7 category are not activities included  
8 under subsection (c), (d) or (e); and

9 “(III) the activities in the offset  
10 category satisfy specific criteria rel-  
11 evant to methodologies and institu-  
12 tional and technical capacities associ-  
13 ated with developing country contexts  
14 to ensure adequate treatment of leak-  
15 age, additionality, and permanence.

16 “(c) SECTOR-BASED CREDITS.—

17 “(1) IN GENERAL.—In order to minimize the  
18 potential for leakage and to encourage countries to  
19 take nationally appropriate mitigation actions to re-  
20 duce or avoid greenhouse gas emissions, or sequester  
21 greenhouse gases, the Administrator, in consultation  
22 with the Secretary of State and the Administrator of  
23 the United States Agency for International Develop-  
24 ment, shall—

1           “(A) identify sectors, or combinations of  
2 sectors, within specific countries with respect to  
3 which the issuance of international offset cred-  
4 its on a sectoral basis is appropriate; and

5           “(B) issue international offset credits for  
6 such sectors only on a sectoral basis.

7           “(2) IDENTIFICATION OF SECTORS.—

8           “(A) GENERAL RULE.—For purposes of  
9 paragraph (1)(A), a sectoral basis shall be ap-  
10 propriate for activities—

11           “(i) in countries that have compara-  
12 tively high greenhouse gas emissions, or  
13 comparatively greater levels of economic  
14 development; and

15           “(ii) that, if located in the United  
16 States, would be within a sector subject to  
17 the compliance obligation under section  
18 722.

19           “(B) FACTORS.—In determining the sec-  
20 tors and countries for which international offset  
21 credits should be awarded only on a sectoral  
22 basis, the Administrator, in consultation with  
23 the Secretary of State and the Administrator of  
24 the United States Agency for International De-  
25 velopment, shall consider the following factors:

1           “(i) The country’s gross domestic  
2 product.

3           “(ii) The country’s total greenhouse  
4 gas emissions.

5           “(iii) Whether the comparable sector  
6 of the United States economy is covered by  
7 the compliance obligation under section  
8 722.

9           “(iv) The heterogeneity or homo-  
10 geneity of sources within the relevant sec-  
11 tor.

12           “(v) Whether the relevant sector pro-  
13 vides products or services that are sold in  
14 internationally competitive markets.

15           “(vi) The risk of leakage if inter-  
16 national offset credits were issued on a  
17 project-level basis, instead of on a sectoral  
18 basis, for activities within the relevant sec-  
19 tor.

20           “(vii) The capability of accurately  
21 measuring, monitoring, reporting, and  
22 verifying the performance of sources across  
23 the relevant sector.

24           “(viii) Such other factors as the Ad-  
25 ministrator, in consultation with the Sec-

1           retary of State and the Administrator of  
2           the United States Agency for International  
3           Development, determines are appropriate  
4           to—

5                   “(I) ensure the integrity of the  
6                   United States greenhouse gas emis-  
7                   sions limitations established under  
8                   section 703; and

9                   “(II) encourage countries to take  
10                  nationally appropriate mitigation ac-  
11                  tions to reduce or avoid greenhouse  
12                  gas emissions, or sequester green-  
13                  house gases.

14                  “(ix) The issuance of offsets for ac-  
15                  tivities that are—

16                   “(I) in addition to nationally ap-  
17                   propriate mitigation actions taken by  
18                   developing countries pursuant to the  
19                   low-carbon development plans of the  
20                   countries; and

21                   “(II) on a sectoral basis.

22                  “(3) SECTORAL BASIS.—

23                   “(A) DEFINITION.—In this subsection, the  
24                   term ‘sectoral basis’ means the issuance of  
25                   international offset credits only for the quantity



1 of sector-wide reductions or avoidance of green-  
2 house gas emissions, or sector-wide increases in  
3 sequestration of greenhouse gases, achieved  
4 across the relevant sector or sectors of the econ-  
5 omy relative to a baseline level of emissions es-  
6 tablished in an agreement or arrangement de-  
7 scribed in subsection (b)(2)(A) for the sector.

8 “(B) BASELINE.—The baseline for a sec-  
9 tor shall—

10 “(i) be established at levels of green-  
11 house gas emissions lower than would  
12 occur under a business-as-usual scenario,  
13 taking into account relevant domestic or  
14 international policies or incentives to re-  
15 duce greenhouse gas emissions;

16 “(ii) be used to determine  
17 additionality and performance;

18 “(iii) account for all significant  
19 sources of emissions from a sector;

20 “(iv) be adjusted over time to reflect  
21 changing circumstances;

22 “(v) be developed taking into consid-  
23 eration such factors as—

24 “(I) any established emissions  
25 performance level for the sector;

1                   “(II) the current performance of  
2                   the sector in the country;

3                   “(III) expected future trends of  
4                   the sector in the country; and

5                   “(IV) historical data and other  
6                   factors to ensure additionality; and

7                   “(vi) be designed to produce signifi-  
8                   cant deviations from business-as-usual  
9                   emissions, consistent with nationally appro-  
10                  priate mitigation commitments or actions,  
11                  in a way that equitably contributes to  
12                  meeting thresholds identified in section  
13                  705(e)(2).

14                  “(d) CREDITS ISSUED BY AN INTERNATIONAL  
15                  BODY.—

16                  “(1) IN GENERAL.—The Administrator, in con-  
17                  sultation with the Secretary of State, may issue  
18                  international offset credits in exchange for instru-  
19                  ments in the nature of offset credits that are issued  
20                  by an international body established pursuant to the  
21                  United Nations Framework Convention on Climate  
22                  Change, to a protocol to such Convention, or to a  
23                  treaty that succeeds such Convention. The Adminis-  
24                  trator may issue international offset credits under  
25                  this subsection only if, in addition to the require-

1       ments of subsection (b), the Administrator has de-  
2       termined that the international body that issued the  
3       instruments has implemented substantive and proce-  
4       dural requirements for the relevant project type that  
5       provide equal or greater assurance of the integrity of  
6       such instruments as is provided by the requirements  
7       of this part. Beginning on January 1, 2016, the Ad-  
8       ministrator shall issue no offset credit pursuant to  
9       this subsection if the activity generating the green-  
10      house gas emission reductions or avoidance, or  
11      greenhouse gas sequestration, occurs in a country  
12      and sector identified by the Administrator under  
13      subsection (c), unless the offset credit issued by the  
14      international body is consistent with section 744(c).

15           “(2) RETIREMENT.—The Administrator, in  
16      consultation with the Secretary of State, shall seek,  
17      by whatever means appropriate, including agree-  
18      ments, arrangements, or technical cooperation with  
19      the international issuing body described in para-  
20      graph (1), to ensure that such body—

21                   “(A) is notified of the Administrator’s  
22      issuance, under this subsection, of an inter-  
23      national offset credit in exchange for an instru-  
24      ment issued by such international body; and

1           “(B) provides, to the extent feasible, for  
2           the disqualification of the instrument issued by  
3           such international body for subsequent use  
4           under any relevant foreign or international  
5           greenhouse gas regulatory program, regardless  
6           of whether such use is a sale, exchange, or sub-  
7           mission to satisfy a compliance obligation.

8           “(e) OFFSETS FROM REDUCED DEFORESTATION.—

9           “(1) REQUIREMENTS.—The Administrator, in  
10          accordance with the regulations promulgated under  
11          subsection (b)(1) and an agreement or arrangement  
12          described in subsection (b)(2)(A), shall issue inter-  
13          national offset credits for greenhouse gas emission  
14          reductions achieved through activities to reduce de-  
15          forestation only if, in addition to the requirements of  
16          subsection (b)—

17               “(A) the activity occurs in—

18                       “(i) a country listed by the Adminis-  
19                       trator pursuant to paragraph (2);

20                       “(ii) a State or province listed by the  
21                       Administrator pursuant to paragraph (5);

22                       or

23                       “(iii) a country listed by the Adminis-  
24                       trator pursuant to paragraph (6);

1           “(B) except as provided in paragraph (5)  
2           or (6), the quantity of the international offset  
3           credits is determined by comparing the national  
4           emissions from deforestation relative to a na-  
5           tional deforestation baseline for that country es-  
6           tablished, in accordance with an agreement or  
7           arrangement described in subsection (b)(2)(A),  
8           pursuant to paragraph (4);

9           “(C) the reduction in emissions from de-  
10          forestation has occurred before the issuance of  
11          the international offset credit and, taking into  
12          consideration relevant international standards,  
13          has been demonstrated using ground-based in-  
14          ventories, remote sensing technology, and other  
15          methodologies to ensure that all relevant carbon  
16          stocks are accounted;

17          “(D) the Administrator has made appro-  
18          priate adjustments, such as discounting for any  
19          additional uncertainty, to account for cir-  
20          cumstances specific to the country, including its  
21          technical capacity described in paragraph  
22          (2)(A);

23          “(E) the Administrator has determined  
24          that the country within which the activity oc-  
25          curs has in place a publicly available strategic

1 plan that includes the criteria listed in para-  
2 graph (2)(C);

3 “(F) the activity is designed, carried out,  
4 and managed—

5 “(i) in accordance with forest manage-  
6 ment practices that—

7 “(I) improve the livelihoods of  
8 forest communities;

9 “(II) maintain the natural bio-  
10 diversity, resilience, and carbon stor-  
11 age capacity of forests; and

12 “(III) do not adversely impact  
13 the permanence of forest carbon  
14 stocks or emission reductions;

15 “(ii) to promote or restore native for-  
16 est species and ecosystems where prac-  
17 ticable, and to avoid the introduction of  
18 invasive nonnative species;

19 “(iii) in a manner that gives due re-  
20 gard to the rights and interests of local  
21 communities, indigenous peoples, forest-de-  
22 pendent communities, and vulnerable social  
23 groups;

24 “(iv) with consultations with, and full  
25 participation of, local communities, indige-

1           nous peoples, and forest-dependent com-  
2           munities, in affected areas, as partners  
3           and primary stakeholders, prior to and  
4           during the design, planning, implementa-  
5           tion, and monitoring and evaluation of ac-  
6           tivities;

7           “(v) with transparent and equitable  
8           sharing of profits and benefits derived  
9           from offset credits with local communities,  
10          indigenous peoples, and forest-dependent  
11          communities;

12          “(vi) with full transparency, third-  
13          party independent oversight, and public  
14          dissemination of related financial and con-  
15          tractual arrangements, and

16          “(vii) so that the social and environ-  
17          mental impacts of these activities are mon-  
18          itored and reported in sufficient detail to  
19          allow appropriate officials to determine  
20          compliance with the requirements of this  
21          section;

22          “(G) the reduction otherwise satisfies and  
23          is consistent with any relevant requirements es-  
24          tablished by an agreement reached under the  
25          auspices of the United Nations Framework

1 Convention on Climate Change, done at New  
2 York on May 9, 1992; and

3 “(H) in the case that offsets are deter-  
4 mined by comparing the national emissions  
5 from deforestation relative to a national, state-  
6 level, or province-level deforestation baseline as  
7 provided in paragraph (4) or (5)—

8 “(i) a list of activities to reduce defor-  
9 estation is provided to the Administrator  
10 and made publicly available;

11 “(ii) the social and environmental im-  
12 pacts of these activities are monitored and  
13 reported in sufficient detail to allow the  
14 Administrator to determine compliance  
15 with the requirements of this section; and

16 “(iii) the distribution of revenues for  
17 activities to reduce deforestation is trans-  
18 parent, subject to independent third-party  
19 oversight, and publicly disseminated.

20 “(2) ELIGIBLE COUNTRIES.—The Adminis-  
21 trator, in consultation with the Secretary of State  
22 and the Administrator of the United States Agency  
23 for International Development, and in accordance  
24 with an agreement or arrangement described in sub-  
25 section (b)(2)(A), shall establish, and periodically re-



1 view and update, a list of the developing countries  
2 that have the capacity to participate in deforestation  
3 reduction activities at a national level, including—

4 “(A) the technical capacity to monitor,  
5 measure, report, and verify forest carbon fluxes  
6 for all significant sources of greenhouse gas  
7 emissions from deforestation with an acceptable  
8 level of uncertainty, as determined taking into  
9 account relevant internationally accepted meth-  
10 odologies, such as those established by the  
11 Intergovernmental Panel on Climate Change;

12 “(B) the institutional capacity to reduce  
13 emissions from deforestation, including strong  
14 forest governance and mechanisms to ensure  
15 transparency and third-party independent over-  
16 sight of offset activities and revenues, and the  
17 transparent and equitable distribution of offset  
18 revenues for local actions; and

19 “(C) a land use or forest sector strategic  
20 plan that—

21 “(i) assesses national and local drivers  
22 of deforestation and forest degradation and  
23 identifies reforms to national policies need-  
24 ed to address them;

- 1           “(ii) estimates the country’s emissions  
2           from deforestation and forest degradation;
- 3           “(iii) identifies improvements in and a  
4           timeline for data collection, monitoring,  
5           and institutional capacity necessary to im-  
6           plement an effective national deforestation  
7           reduction program that meets the criteria  
8           set forth in this section (including a na-  
9           tional deforestation baseline);
- 10          “(iv) establishes a timeline for imple-  
11          menting the program and transitioning  
12          forest-based economies to low-emissions de-  
13          velopment pathways with respect to emis-  
14          sions from forest and land use activities;
- 15          “(v) includes a national policy for con-  
16          sultations with, and full participation of,  
17          all stakeholders, especially indigenous and  
18          forest-dependent communities, in its de-  
19          sign, planning, and implementation of ac-  
20          tivities, whether at the national or local  
21          level, to reduce deforestation in the country  
22          (including a national process for address-  
23          ing grievances if stakeholders have been  
24          caused social, environmental, or economic  
25          harm);

1           “(vi) provides for the distribution of  
2           revenues for activities to reduce deforest-  
3           ation transparently and publicly, subject to  
4           independent third-party oversight; and

5           “(vii) includes a national platform or  
6           a type of registry for information relating  
7           to deforestation and degradation policy and  
8           program implementation processes, includ-  
9           ing a mechanism for the monitoring and  
10          reporting of the social and environmental  
11          impacts of those activities.

12          “(3) PROTECTION OF INTERESTS.—With re-  
13          spect to an agreement or arrangement described in  
14          subsection (b)(2)(A) with a country that addresses  
15          international offset credits under this subsection, the  
16          Administrator, in consultation with the Secretary of  
17          State and the Administrator of the United States  
18          Agency for International Development, shall under-  
19          take due diligence to ensure the establishment and  
20          enforcement by such country of legal regimes, proc-  
21          esses, standards, and safeguards that—

22               “(A) give due regard to the rights and in-  
23               terests of local communities, indigenous peoples,  
24               forest-dependent communities, and vulnerable  
25               social groups;

1           “(B) promote consultations with, and full  
2 participation of, forest-dependent communities  
3 and indigenous peoples in affected areas, as  
4 partners and primary stakeholders, prior to and  
5 during the design, planning, implementation,  
6 and monitoring and evaluation of activities; and

7           “(C) encourage transparent and equitable  
8 sharing of profits and benefits derived from  
9 international offset credits with local commu-  
10 nities, indigenous peoples, and forest-dependent  
11 communities.

12           “(4) NATIONAL DEFORESTATION BASELINE.—A  
13 national deforestation baseline established under this  
14 subsection shall—

15           “(A) be national in scope;

16           “(B) be consistent with nationally appro-  
17 priate mitigation commitments or actions with  
18 respect to deforestation, taking into consider-  
19 ation the average annual historical deforestation  
20 rates of the country during a period of at least  
21 5 years, the applicable drivers of deforestation,  
22 and other factors to ensure that only reductions  
23 that are in addition to such commitments or ac-  
24 tions will generate offsets;

1           “(C) establish a trajectory that would re-  
2           sult in zero net deforestation by not later than  
3           20 years after the national deforestation base-  
4           line has been established, including a spatially  
5           explicit land use plan that identifies intact and  
6           primary forest areas and managed forest areas  
7           that are to remain while the country is reaching  
8           the zero net deforestation trajectory;

9           “(D) be adjusted over time to take account  
10          of changing national circumstances;

11          “(E) be designed to account for all signifi-  
12          cant sources of greenhouse gas emissions from  
13          deforestation in the country; and

14          “(F) be consistent with the national defor-  
15          estation baseline, if any, established for such  
16          country under section 753.

17          “(5) STATE-LEVEL OR PROVINCE-LEVEL AC-  
18          TIVITIES.—

19          “(A) ELIGIBLE STATES OR PROVINCES.—  
20          The Administrator, in consultation with the  
21          Secretary of State and the Administrator of the  
22          United States Agency for International Devel-  
23          opment, shall establish, and periodically review  
24          and update, a list of States or provinces in de-  
25          veloping countries where—

1           “(i) the developing country is not in-  
2           cluded on the list of countries established  
3           pursuant to paragraph (6)(A);

4           “(ii) the State or province is under-  
5           taking deforestation reduction activities;

6           “(iii) the State or province has the ca-  
7           pacity to engage in deforestation reduction  
8           activities at the State or province level, in-  
9           cluding—

10           “(I) the technical capacity to  
11           monitor and measure forest carbon  
12           fluxes for all significant sources of  
13           greenhouse gas emissions from defor-  
14           estation with an acceptable amount of  
15           uncertainty, including a spatially ex-  
16           plicit land use plan that identifies in-  
17           tact and primary forest areas and  
18           managed forest areas that are to re-  
19           main while the country is reaching the  
20           zero net deforestation trajectory; and

21           “(II) the institutional capacity to  
22           reduce emissions from deforestation,  
23           including strong forest governance  
24           and mechanisms to deliver forest con-  
25           servation resources for local actions;

1           “(iv) the State or province meets the  
2           eligibility criteria in paragraphs (2) and  
3           (3) for the geographic area under its juris-  
4           diction; and

5           “(v) the country—

6           “(I) demonstrates that efforts  
7           are underway to transition to a na-  
8           tional program within 5 years; or

9           “(II) in the determination of the  
10          Administrator, is making a good-faith  
11          effort to develop a land use or forest  
12          sector strategic national plan or pro-  
13          gram that meets the criteria described  
14          in paragraph (2)(C).

15          “(B) ACTIVITIES.—The Administrator may  
16          issue international offset credits for greenhouse  
17          gas emission reductions achieved through activi-  
18          ties to reduce deforestation at a State or pro-  
19          vincial level that meet the requirements of this  
20          section. Such credits shall be determined by  
21          comparing the emissions from deforestation  
22          within that State or province relative to the  
23          State or province deforestation baseline for that  
24          State or province established, in accordance  
25          with an agreement or arrangement described in

1 subsection (b)(2)(A), pursuant to subparagraph  
2 (C) of this paragraph.

3 “(C) STATE-LEVEL OR PROVINCE-LEVEL  
4 DEFORESTATION BASELINE.—A State-level or  
5 province-level deforestation baseline shall—

6 “(i) be consistent with any existing  
7 nationally appropriate mitigation commit-  
8 ments or actions for the country in which  
9 the activity is occurring, so that only re-  
10 ductions that are in addition to those com-  
11 mitments or actions will generate offsets;

12 “(ii) be developed taking into consid-  
13 eration the average annual historical defor-  
14 estation rates of the State or province dur-  
15 ing a period of at least 5 years, relevant  
16 drivers of deforestation, and other factors  
17 to ensure additionality;

18 “(iii) establish a trajectory that would  
19 result in zero net deforestation by not later  
20 than 20 years after the State-level or prov-  
21 ince-level deforestation baseline has been  
22 established; and

23 “(iv) be designed to account for all  
24 significant sources of greenhouse gas emis-  
25 sions from deforestation in the State or



1 province and adjusted to fully account for  
2 emissions leakage outside the State or  
3 province through monitoring of major for-  
4 ested areas in the host country and other  
5 areas of the host country susceptible to  
6 leakage.

7 “(D) PHASE-OUT.—Beginning 5 years  
8 after the first calendar year for which a covered  
9 entity must demonstrate compliance with sec-  
10 tion 722(a), the Administrator shall issue no  
11 further international offset credits for eligible  
12 State-level or province-level activities to reduce  
13 deforestation pursuant to this paragraph.

14 “(6) PROJECTS AND PROGRAMS TO REDUCE  
15 DEFORESTATION.—

16 “(A) ELIGIBLE COUNTRIES.—The Admin-  
17 istrator, in consultation with the Secretary of  
18 State and the Administrator of the United  
19 States Agency for International Development,  
20 shall establish, and periodically review and up-  
21 date, a list of developing countries that—

22 “(i) the Administrator determines,  
23 based on recent, credible, and reliable  
24 emissions data, account for less than 1  
25 percent of global greenhouse gas emissions

1 and less than 3 percent of global forest-  
2 sector and land use change greenhouse gas  
3 emissions;

4 “(ii) have, or in the determination of  
5 the Administrator are making a good faith  
6 effort to develop, a land use or forest sec-  
7 tor strategic plan that meets the criteria  
8 described in paragraph (2)(C); and

9 “(iii) has made, or in the determina-  
10 tion of the Administrator, is making, a  
11 good-faith effort to develop, through the  
12 implementation of activities under this sec-  
13 tion, a monitoring program for major for-  
14 ested areas in a host country and other  
15 areas in a host country susceptible to leak-  
16 age, including a spatially explicit land use  
17 plan that identifies intact and primary for-  
18 est areas and managed forest areas that  
19 are to remain while country is reaching the  
20 zero net deforestation trajectory.

21 “(B) ACTIVITIES.—The Administrator may  
22 issue international offset credits for greenhouse  
23 gas emission reductions achieved through  
24 project or program level activities to reduce de-  
25 forestation in countries listed under subpara-

1 graph (A) that meet the requirements of this  
2 section. The quantity of international offset  
3 credits shall be determined by comparing the  
4 project-level or program-level emissions from  
5 deforestation to a deforestation baseline for  
6 such project or program established pursuant to  
7 subparagraph (C).

8 “(C) PROJECT-LEVEL OR PROGRAM-LEVEL  
9 BASELINE.—A project-level or program-level de-  
10 forestation baseline shall—

11 “(i) be consistent with any existing  
12 nationally appropriate mitigation commit-  
13 ments or actions for the country in which  
14 the project or program is occurring, so  
15 that only reductions that are in addition to  
16 such commitments or actions will generate  
17 offsets;

18 “(ii) be developed taking into consid-  
19 eration the average annual historical defor-  
20 estation rates in the project or program  
21 boundary during a period of at least 5  
22 years, applicable drivers of deforestation,  
23 and other factors to ensure additionality;

24 “(iii) be designed to account for all  
25 significant sources of greenhouse gas emis-

1 sions from deforestation in the project or  
2 program boundary; and

3 “(iv) be adjusted to fully account for  
4 emissions leakage outside the project or  
5 program boundary, including—

6 “(I) estimation through moni-  
7 toring of major forested areas in a  
8 host country and other areas in a host  
9 country susceptible to leakage, pursu-  
10 ant to section 744(e)(5); and

11 “(II) a spatially explicit land use  
12 plan that identifies intact and primary  
13 forest areas and managed forest areas  
14 that are to remain while country is  
15 reaching the zero net deforestation  
16 trajectory.

17 “(D) PHASE-OUT.—

18 “(i) IN GENERAL.—Beginning on the  
19 date that is 8 years after the first calendar  
20 year for which a covered entity must dem-  
21 onstrate compliance with section 722(a),  
22 the Administrator shall issue no further  
23 international offset credits for project-level  
24 or program-level activities as described in

1 this paragraph, except as provided in  
2 clause (ii).

3 “(ii) EXTENSION.—The Administrator  
4 may extend the phase out deadline for the  
5 issuance of international offset credits  
6 under this section by up to 5 years with re-  
7 spect to eligible activities taking place in a  
8 least developed country, which is a foreign  
9 country that the United Nations has iden-  
10 tified as among the least developed of de-  
11 veloping countries at the time that the Ad-  
12 ministrator determines to provide an exten-  
13 sion, provided that the Administrator, in  
14 consultation with the Secretary of State  
15 and the Administrator of the United States  
16 Agency for International Development, de-  
17 termines the country—

18 “(I) lacks sufficient capacity to  
19 adopt and implement effective pro-  
20 grams to achieve reductions in defor-  
21 estation measured against national  
22 baselines;

23 “(II) is receiving support under  
24 part E to develop such capacity; and

1                   “(III) has developed and is work-  
2                   ing to implement a credible national  
3                   strategy or plan to reduce deforest-  
4                   ation.

5                   “(7) EXPANSION OF SCOPE.—In implementing  
6                   this subsection, the Administrator, taking into con-  
7                   sideration the recommendations of the Advisory  
8                   Board, may—

9                   “(A) expand credible activities to include  
10                  forest degradation; and

11                  “(B) include soil carbon losses associated  
12                  with forested wetlands or peatlands.

13                  “(f) MODIFICATION OF REQUIREMENTS.—In promul-  
14                  gating regulations under subsection (b)(1) with respect to  
15                  the issuance of international offset credits under sub-  
16                  section (c), (d), or (e), the Administrator, in consultation  
17                  with the Secretary of State and the Administrator of the  
18                  United States Agency for International Development, may  
19                  modify or omit a requirement of this part (excluding the  
20                  requirements of this section) if the Administrator deter-  
21                  mines that the application of that requirement to such  
22                  subsection is not feasible or would result in the creation  
23                  of offset credits that would not be eligible to satisfy emis-  
24                  sions reduction commitments made by the United States  
25                  pursuant to the United Nations Framework Convention

1 on Climate Change, done at New York on May 9, 1992  
2 (or any successor agreement). In modifying or omitting  
3 such a requirement on the basis of infeasibility, the Ad-  
4 ministrator, in consultation with the Secretary of State  
5 and the Administrator of the United States Agency for  
6 International Development, shall ensure, with an adequate  
7 margin of safety, the integrity of international offset cred-  
8 its issued under this section and of the greenhouse gas  
9 emissions limitations established pursuant to section 703.

10       “(g) AVOIDING DOUBLE COUNTING.—The Adminis-  
11 trator, in consultation with the Secretary of State, shall  
12 seek, by whatever means appropriate, including agree-  
13 ments, arrangements, or technical cooperation, to ensure  
14 that activities on the basis of which international offset  
15 credits are issued under this section are not used for com-  
16 pliance with an obligation to reduce or avoid greenhouse  
17 gas emissions, or increase greenhouse gas sequestration,  
18 under a foreign or international regulatory system. In ad-  
19 dition, no international offset credits shall be issued for  
20 emission reductions from activities with respect to which  
21 emission allowances were allocated under section 771(d)  
22 for distribution under part E.

23       “(h) LIMITATION.—The Administrator shall not issue  
24 international offset credits generated by projects based on  
25 the destruction of hydrofluorocarbons.”.

1 **SEC. 102. DEFINITIONS.**

2 Title VII of the Clean Air Act (as added by section  
3 101 of this division) is amended by inserting before part  
4 A the following:

5 **“SEC. 700. DEFINITIONS.**

6 “In this title:

7 “(1) **ADDITIONAL.**—The term ‘additional’,  
8 when used with respect to reductions or avoidance of  
9 greenhouse gas emissions, or to sequestration of  
10 greenhouse gases, means reductions, avoidance, or  
11 sequestration that result in a lower level of net  
12 greenhouse gas emissions or atmospheric concentra-  
13 tions than would occur in the absence of an offset  
14 credit.

15 “(2) **ADDITIONALITY.**—The term ‘additionality’  
16 means the extent to which reductions or avoidance  
17 of greenhouse gas emissions, or sequestration of  
18 greenhouse gases, are additional.

19 “(3) **ADVISORY BOARD.**—The term ‘Advisory  
20 Board’ means the Offsets Integrity Advisory Board  
21 established under section 731.

22 “(4) **AFFILIATED.**—The term ‘affiliated’—

23 “(A) when used in relation to an entity,  
24 means owned or controlled by, or under com-  
25 mon ownership or control with, another entity,  
26 as determined by the Administrator; and



1           “(B) when used in relation to a natural  
2           gas local distribution company, means owned or  
3           controlled by, or under common ownership or  
4           control with, another natural gas local distribu-  
5           tion company, as determined by the Adminis-  
6           trator.

7           “(5) ALLOWANCE.—The term ‘allowance’  
8           means a limited authorization to emit, or have at-  
9           tributable greenhouse gas emissions in an amount  
10          of, 1 ton of carbon dioxide equivalent of a green-  
11          house gas in accordance with this title; it includes an  
12          emission allowance, a compensatory allowance, or an  
13          international emission allowance.

14          “(6) ATTRIBUTABLE GREENHOUSE GAS EMIS-  
15          SIONS.—The term ‘attributable greenhouse gas emis-  
16          sions’ means—

17                 “(A) for a covered entity that is a fuel pro-  
18                 ducer or importer described in paragraph  
19                 (13)(B), greenhouse gases that would be emit-  
20                 ted from the combustion of any petroleum-  
21                 based or coal-based liquid fuel, petroleum coke,  
22                 or natural gas liquid, produced or imported by  
23                 that covered entity for sale or distribution in  
24                 interstate commerce, assuming no capture and  
25                 sequestration of any greenhouse gas emissions;

1           “(B) for a covered entity that is an indus-  
2           trial gas producer or importer described in  
3           paragraph (13)(C), the tons of carbon dioxide  
4           equivalent of fossil fuel-based carbon dioxide,  
5           nitrous oxide, any fluorinated gas, other than  
6           nitrogen trifluoride, that is a greenhouse gas, or  
7           any combination thereof—

8                   “(i) produced or imported by such  
9                   covered entity during the previous calendar  
10                  year for sale or distribution in interstate  
11                  commerce; or

12                  “(ii) released as fugitive emissions in  
13                  the production of fluorinated gas; and

14           “(C) for a natural gas local distribution  
15           company described in paragraph (13)(J), green-  
16           house gases that would be emitted from the  
17           combustion of the natural gas, and any other  
18           gas meeting the specifications for commingling  
19           with natural gas for purposes of delivery, that  
20           such entity delivered during the previous cal-  
21           endar year to customers that are not covered  
22           entities, assuming no capture and sequestration  
23           of that greenhouse gas.

24           “(7) BIOLOGICAL SEQUESTRATION; BIO-  
25           LOGICALLY SEQUESTERED.—The terms ‘biological

1 sequestration’ and ‘biologically sequestered’ mean  
2 the removal of greenhouse gases from the atmos-  
3 phere by terrestrial biological means, such as by  
4 growing plants, and the storage of those greenhouse  
5 gases in plants or soils.

6 “(8) CAPPED EMISSIONS.—The term ‘capped  
7 emissions’ means greenhouse gas emissions to which  
8 section 722 applies, including emissions from the  
9 combustion of natural gas, petroleum-based or coal-  
10 based liquid fuel, petroleum coke, or natural gas liq-  
11 uid to which section 722(b)(2) or (8) applies.

12 “(9) CAPPED SOURCE.—The term ‘capped  
13 source’ means a source that directly emits capped  
14 emissions.

15 “(10) CARBON DIOXIDE EQUIVALENT.—The  
16 term ‘carbon dioxide equivalent’ means the unit of  
17 measure, expressed in metric tons, of greenhouse  
18 gases as provided under section 711 or 712.

19 “(11) CARBON STOCK.—The term ‘carbon  
20 stock’ means the quantity of carbon contained in a  
21 biological reservoir or system which has the capacity  
22 to accumulate or release carbon.

23 “(12) COMPENSATORY ALLOWANCE.—The term  
24 ‘compensatory allowance’ means an allowance issued  
25 under section 721(f).

1           “(13) COVERED ENTITY.—The term ‘covered  
2 entity’ means each of the following:

3           “(A) Any electricity source.

4           “(B)(i) Any stationary source that pro-  
5 duces petroleum-based or coal-based liquid fuel,  
6 petroleum coke, or natural gas liquid, the com-  
7 bustion of which would emit 25,000 or more  
8 tons of carbon dioxide equivalent, as determined  
9 by the Administrator.

10          “(ii) Any entity that (or any group of 2 or  
11 more affiliated entities that, in the aggregate)  
12 imports petroleum-based or coal-based liquid  
13 fuel, petroleum coke, or natural gas liquid, the  
14 combustion of which would emit 25,000 or more  
15 tons of carbon dioxide equivalent, as determined  
16 by the Administrator.

17          “(C) Any stationary source that produces,  
18 and any entity that (or any group of two or  
19 more affiliated entities that, in the aggregate)  
20 imports, for sale or distribution in interstate  
21 commerce, in bulk, or in products designated by  
22 the Administrator, in 2008 or any subsequent  
23 year more than 25,000 tons of carbon dioxide  
24 equivalent of—

25           “(i) fossil fuel-based carbon dioxide;

1                   “(ii) nitrous oxide;

2                   “(iii) except as otherwise provided in  
3 section 714, perfluorocarbons;

4                   “(iv) sulfur hexafluoride;

5                   “(v) any other fluorinated gas, except  
6 for nitrogen trifluoride, that is a green-  
7 house gas, as designated by the Adminis-  
8 trator under section 711(b) or (c); or

9                   “(vi) any combination of greenhouse  
10 gases described in clauses (i) through (v).

11                   “(D) Any stationary source that has emit-  
12 ted 25,000 or more tons of carbon dioxide  
13 equivalent of nitrogen trifluoride in 2008 or any  
14 subsequent year.

15                   “(E) Any geologic sequestration site.

16                   “(F) Any stationary source in the following  
17 industrial sectors:

18                   “(i) Adipic acid production.

19                   “(ii) Primary aluminum production.

20                   “(iii) Ammonia manufacturing.

21                   “(iv) Cement production, excluding  
22 grinding-only operations.

23                   “(v) Hydrochlorofluorocarbon produc-  
24 tion.

25                   “(vi) Lime manufacturing.

1 “(vii) Nitric acid production.

2 “(viii) Petroleum refining.

3 “(ix) Phosphoric acid production.

4 “(x) Silicon carbide production.

5 “(xi) Soda ash production.

6 “(xii) Titanium dioxide production.

7 “(xiii) Coal-based liquid or gaseous  
8 fuel production.

9 “(G) Any stationary source in the chemical  
10 or petrochemical sector that, in 2008 or any  
11 subsequent year—

12 “(i) produces acrylonitrile, carbon  
13 black, ethylene, ethylene dichloride, ethyl-  
14 ene oxide, or methanol; or

15 “(ii) produces a chemical or petro-  
16 chemical product if producing that product  
17 results in annual combustion plus process  
18 emissions of 25,000 or more tons of carbon  
19 dioxide equivalent.

20 “(H) Any stationary source that—

21 “(i) is in one of the following indus-  
22 trial sectors: ethanol production; ferroalloy  
23 production; fluorinated gas production;  
24 food processing; glass production; hydrogen  
25 production; metal ore production or other

1 processing; iron and steel production; lead  
2 production; pulp and paper manufacturing;  
3 and zinc production; and

4 “(ii) has emitted 25,000 or more tons  
5 of carbon dioxide equivalent in 2008 or  
6 any subsequent year.

7 “(I) Any fossil fuel-fired combustion device  
8 (such as a boiler) or grouping of such devices  
9 that—

10 “(i) is all or part of an industrial  
11 source not specified in subparagraph (D),  
12 (F), (G), or (H); and

13 “(ii) has emitted 25,000 or more tons  
14 of carbon dioxide equivalent in 2008 or  
15 any subsequent year.

16 “(J) Any natural gas local distribution  
17 company that (or any group of 2 or more affili-  
18 ated natural gas local distribution companies  
19 that, in the aggregate) in 2008 or any subse-  
20 quent year, delivers 460,000,000 cubic feet or  
21 more of natural gas to customers that are not  
22 covered entities.

23 “(14) CREDITING PERIOD.—The term ‘crediting  
24 period’ means the period with respect to which an

1 offset project is eligible to earn offset credits under  
2 part D, as determined under section 734(c).

3 “(15) DESIGNATED REPRESENTATIVE.—The  
4 term ‘designated representative’ means, with respect  
5 to a covered entity, a reporting entity, an offset  
6 project developer, or any other entity receiving or  
7 holding allowances or offset credits under this title,  
8 an individual authorized, through a certificate of  
9 representation submitted to the Administrator by  
10 the owners and operators or similar entity official, to  
11 represent the owners and operators or similar entity  
12 official in all matters pertaining to this title (includ-  
13 ing the holding, transfer, or disposition of allowances  
14 or offset credits), and to make all submissions to the  
15 Administrator under this title.

16 “(16) DEVELOPING COUNTRY.—The term ‘de-  
17 veloping country’ means a country eligible to receive  
18 official development assistance according to the in-  
19 come guidelines of the Development Assistance Com-  
20 mittee of the Organization for Economic Coopera-  
21 tion and Development.

22 “(17) DOMESTIC OFFSET CREDIT.—

23 “(A) IN GENERAL.—The term ‘domestic  
24 offset credit’ means an offset credit issued



1           under part D, other than an international offset  
2           credit.

3           “(B) EXCLUSION.—The term ‘domestic  
4           offset credit’ does not include a term offset  
5           credit.

6           “(18) ELECTRICITY SOURCE.—The term ‘elec-  
7           tricity source’ means a stationary source that in-  
8           cludes one or more utility units.

9           “(19) EMISSION.—The term ‘emission’ means  
10          the release of a greenhouse gas into the ambient air.  
11          Such term does not include gases that are captured  
12          and sequestered, except to the extent that they are  
13          later released into the atmosphere, in which case  
14          compliance must be demonstrated pursuant to sec-  
15          tion 722(b)(5).

16          “(20) EMISSION ALLOWANCE.—The term ‘emis-  
17          sion allowance’ means an allowance established  
18          under section 721(a) or 726(g)(2).

19          “(21) FAIR MARKET VALUE.—The term ‘fair  
20          market value’ means the average daily closing price  
21          on registered exchanges or, if such a price is un-  
22          available, the average price as determined by the Ad-  
23          ministrator, during a specified time period, of an  
24          emission allowance.

1           “(22) FEDERAL LAND.—The term ‘Federal  
2 land’ means land that is owned by the United  
3 States, other than land held in trust for an Indian  
4 or Indian tribe.

5           “(23) FOSSIL FUEL.—The term ‘fossil fuel’  
6 means natural gas, petroleum, or coal, or any form  
7 of solid, liquid, or gaseous fuel derived from such  
8 material, including consumer products that are de-  
9 rived from such materials and are combusted.

10           “(24) FOSSIL FUEL-FIRED.—The term ‘fossil  
11 fuel-fired’ means powered by combustion of fossil  
12 fuel, alone or in combination with any other fuel, re-  
13 gardless of the percentage of fossil fuel consumed.

14           “(25) FUGITIVE EMISSIONS.—The term ‘fugi-  
15 tive emissions’ means emissions from leaks, valves,  
16 joints, or other small openings in pipes, ducts, or  
17 other equipment, or from vents.

18           “(26) GEOLOGIC SEQUESTRATION; GEOLOGI-  
19 CALLY SEQUESTERED.—The terms ‘geologic seques-  
20 tration’ and ‘geologically sequestered’ mean the se-  
21 questration of greenhouse gases in subsurface geo-  
22 logic formations for purposes of permanent storage.

23           “(27) GEOLOGIC SEQUESTRATION SITE.—The  
24 term ‘geologic sequestration site’ means a site where  
25 carbon dioxide is geologically sequestered.

1           “(28) GREENHOUSE GAS.—The term ‘green-  
2 house gas’ means any gas described in section  
3 711(a) or designated under section 711(b), (c), or  
4 (e), except to the extent that it is regulated under  
5 title VI.

6           “(29) HIGH CONSERVATION PRIORITY LAND.—  
7 The term ‘high conservation priority land’ means  
8 land that is not Federal land and is—

9                   “(A) globally or State ranked as critically  
10 imperiled or imperiled under a State Natural  
11 Heritage Program; or

12                   “(B) old-growth or late-successional forest,  
13 as identified by the office of the State Forester  
14 or relevant State agency with regulatory juris-  
15 diction over forestry activities.

16           “(30) HOLD.—The term ‘hold’ means, with re-  
17 spect to an allowance, offset credit, or term offset  
18 credit, to have in the appropriate account in the al-  
19 lowance tracking system, or submit to the Adminis-  
20 trator for recording in such account.

21           “(31) INDUSTRIAL SOURCE.—The term ‘indus-  
22 trial source’ means any stationary source that—

23                   “(A) is not an electricity source; and

24                   “(B) is in—

1           “(i) the manufacturing sector (as de-  
2           fined in North American Industrial Classi-  
3           fication System codes 31, 32, and 33); or

4           “(ii) the natural gas processing or  
5           natural gas pipeline transportation sector  
6           (as defined in North American Industrial  
7           Classification System codes 211112 or  
8           486210).

9           “(32) INTERNATIONAL EMISSION ALLOW-  
10          ANCE.—The term ‘international emission allowance’  
11          means a tradable authorization to emit 1 ton of car-  
12          bon dioxide equivalent of greenhouse gas that is  
13          issued by a national or supranational foreign govern-  
14          ment pursuant to a qualifying international program  
15          designated by the Administrator pursuant to section  
16          728(a).

17          “(33) INTERNATIONAL OFFSET CREDIT.—The  
18          term ‘international offset credit’ means an offset  
19          credit issued by the Administrator under section  
20          744.

21          “(34) LEAKAGE.—The term ‘leakage’ means a  
22          significant increase in greenhouse gas emissions, or  
23          significant decrease in sequestration, which is caused  
24          by an offset project and occurs outside the bound-  
25          aries of the offset project.

1           “(35) MARKET STABILITY RESERVE ALLOW-  
2 ANCE.—The term ‘market stability reserve allow-  
3 ance’ means an emission allowance reserved for,  
4 transferred to, or deposited in the market stability  
5 reserve, or established, under section 726.

6           “(36) MINERAL SEQUESTRATION.—The term  
7 ‘mineral sequestration’ means sequestration of car-  
8 bon dioxide from the atmosphere by capturing car-  
9 bon dioxide into a permanent mineral, such as the  
10 aqueous precipitation of carbonate minerals that re-  
11 sults in the storage of carbon dioxide in a mineral  
12 form.

13           “(37) NATURAL GAS LIQUID.—The term ‘nat-  
14 ural gas liquid’ means ethane, butane, isobutane,  
15 natural gasoline, and propane which is ready for  
16 commercial sale or use.

17           “(38) NATURAL GAS LOCAL DISTRIBUTION  
18 COMPANY.—The term ‘natural gas local distribution  
19 company’ has the meaning given the term ‘local dis-  
20 tribution company’ in section 2(17) of the Natural  
21 Gas Policy Act of 1978 (15 U.S.C. 3301(17)).

22           “(39) OFFSET CREDIT.—

23                   “(A) IN GENERAL.—The term ‘offset cred-  
24 it’ means an offset credit issued under part D.

1           “(B) EXCLUSION.—The term ‘offset credit’  
2           does not include a term offset credit.

3           “(40) OFFSET PROJECT.—The term ‘offset  
4           project’ means a project or activity that reduces or  
5           avoids greenhouse gas emissions, or sequesters  
6           greenhouse gases, and for which offset credits are or  
7           may be issued under part D.

8           “(41) OFFSET PROJECT DEVELOPER.—The  
9           term ‘offset project developer’ means the individual  
10          or entity designated as the offset project developer  
11          in an offset project approval petition under section  
12          735(c)(1).

13          “(42) QUALIFIED R&D FACILITY.—The term  
14          ‘qualified R&D facility’ means a facility that con-  
15          ducts research and development, that was in oper-  
16          ation as of the date of enactment of this title, and  
17          that is part of a covered entity subject to paragraphs  
18          (1) through (8) of section 722(b).

19          “(43) PETROLEUM.—The term ‘petroleum’ in-  
20          cludes crude oil, tar sands, oil shale, and heavy oils.

21          “(44) REPEATED INTENTIONAL REVERSALS.—  
22          The term ‘repeated intentional reversals’ means at  
23          least 3 intentional reversals, as determined by the  
24          Administrator or a court under section  
25          734(b)(3)(B)(ii).

1           “(45) RESEARCH AND DEVELOPMENT.—The  
2 term ‘research and development’ means activities—

3           “(A) that are conducted in process units or  
4 at laboratory bench-scale settings;

5           “(B) whose purpose is to conduct research  
6 and development for new processes, tech-  
7 nologies, or products that contribute to lower  
8 greenhouse gas emissions; and

9           “(C) that do not manufacture products for  
10 sale.

11           “(46) RENEWABLE BIOMASS.—The term ‘re-  
12 newable biomass’ means any of the following:

13           “(A) Plant material, including waste mate-  
14 rial, harvested or collected from actively man-  
15 aged agricultural land that was in cultivation,  
16 cleared, or fallow and nonforested on January  
17 1, 2009.

18           “(B) Plant material, including waste mate-  
19 rial, harvested or collected from pastureland  
20 that was nonforested on January 1, 2009.

21           “(C) Nonhazardous vegetative matter de-  
22 rived from waste, including separated yard  
23 waste, landscape right-of-way trimmings, con-  
24 struction and demolition debris, or food waste  
25 (but not municipal solid waste, recyclable waste

1 paper, painted, treated or pressurized wood, or  
2 wood contaminated with plastic or metals).

3 “(D) Animal waste or animal byproducts,  
4 including products of animal waste digesters.

5 “(E) Algae.

6 “(F) Trees, brush, slash, residues, or any  
7 other vegetative matter removed from within  
8 600 feet of any building, campground, or route  
9 designated for evacuation by a public official  
10 with responsibility for emergency preparedness,  
11 or from within 300 feet of a paved road, electric  
12 transmission line, utility tower, or water supply  
13 line.

14 “(G) Residues from or byproducts of  
15 milled logs.

16 “(H) Any of the following removed from  
17 forested land that is not Federal and is not  
18 high conservation priority land:

19 “(i) Trees, brush, slash, residues,  
20 interplanted energy crops, or any other  
21 vegetative matter removed from an actively  
22 managed tree plantation established—

23 “(I) prior to January 1, 2009; or



1                   “(II) on land that, as of January  
2                   1, 2009, was cultivated or fallow and  
3                   non-forested.

4                   “(ii) Trees, logging residue, thinnings,  
5                   cull trees, pulpwood, and brush removed  
6                   from naturally regenerated forests or other  
7                   non-plantation forests, including for the  
8                   purposes of hazardous fuel reduction or  
9                   preventative treatment for reducing or con-  
10                  taining insect or disease infestation.

11                  “(iii) Logging residue, thinnings, cull  
12                  trees, pulpwood, brush, and species that  
13                  are non-native and noxious, from stands  
14                  that were planted and managed after Jan-  
15                  uary 1, 2009, to restore or maintain native  
16                  forest types.

17                  “(iv) Dead or severely damaged trees  
18                  removed within 5 years of fire, blowdown,  
19                  or other natural disaster, and badly in-  
20                  fested trees.

21                  “(I) Materials, pre-commercial thinnings,  
22                  or removed invasive species from National For-  
23                  est System land and public lands (as defined in  
24                  section 103 of the Federal Land Policy and  
25                  Management Act of 1976 (43 U.S.C. 1702)),

1 including those that are byproducts of preven-  
2 tive treatments (such as trees, wood, brush,  
3 thinnings, chips, and slash), that are removed  
4 as part of a federally recognized timber sale, or  
5 that are removed to reduce hazardous fuels, to  
6 reduce or contain disease or insect infestation,  
7 or to restore ecosystem health, and that are—

8 “(i) not from components of the Na-  
9 tional Wilderness Preservation System,  
10 Wilderness Study Areas, Inventoried  
11 Roadless Areas, old growth or mature for-  
12 est stands, components of the National  
13 Landscape Conservation System, National  
14 Monuments, National Conservation Areas,  
15 Designated Primitive Areas; or Wild and  
16 Scenic Rivers corridors;

17 “(ii) harvested in environmentally sus-  
18 tainable quantities, as determined by the  
19 appropriate Federal land manager; and

20 “(iii) are harvested in accordance with  
21 Federal and State law, and applicable land  
22 management plans.

23 “(47) RETIRE.—The term ‘retire’, with respect  
24 to an allowance, offset credit, or term offset credit  
25 established or issued under this title, means to dis-

1 qualify such allowance or offset credit for any subse-  
2 quent use under this title, regardless of whether the  
3 use is a sale, exchange, or submission of the allow-  
4 ance, offset credit, or term offset credit to satisfy a  
5 compliance obligation.

6 “(48) REVERSAL.—The term ‘reversal’ means  
7 an intentional or unintentional loss of sequestered  
8 greenhouse gases to the atmosphere.

9 “(49) SEQUESTERED AND SEQUESTRATION.—  
10 The terms ‘sequestered’ and ‘sequestration’ mean  
11 the separation, isolation, or removal of greenhouse  
12 gases from the atmosphere, as determined by the  
13 Administrator. The terms include biological, geo-  
14 logic, and mineral sequestration, but do not include  
15 ocean fertilization techniques.

16 “(50) STATIONARY SOURCE.—The term ‘sta-  
17 tionary source’ means any integrated operation com-  
18 prising any plant, building, structure, or stationary  
19 equipment, including support buildings and equip-  
20 ment, that is located within one or more contiguous  
21 or adjacent properties, is under common control of  
22 the same person or persons, and emits or may emit  
23 a greenhouse gas.

24 “(51) TON.—The term ‘ton’ means a metric  
25 ton.

1           “(52) UNCAPPED EMISSIONS.—The term ‘un-  
2 capped emissions’ means emissions of greenhouse  
3 gases emitted after December 31, 2011, that are not  
4 capped emissions.

5           “(53) UNITED STATES GREENHOUSE GAS EMIS-  
6 SIONS.—The term ‘United States greenhouse gas  
7 emissions’ means the total quantity of annual green-  
8 house gas emissions from the United States, as cal-  
9 culated by the Administrator and reported to the  
10 United Nations Framework Convention on Climate  
11 Change Secretariat.

12           “(54) UTILITY UNIT.—The term ‘utility unit’  
13 means a combustion device that, on January 1,  
14 2009, or any date thereafter, is fossil fuel-fired and  
15 serves a generator that produces electricity for sale,  
16 unless such combustion device, during the 12-month  
17 period starting the later of January 1, 2009, or the  
18 commencement of commercial operation and each  
19 calendar year starting after such later date—

20           “(A) is part of an integrated cycle system  
21 that cogenerates steam and electricity during  
22 normal operation and that supplies one-third or  
23 less of its potential electric output capacity and  
24 25 MW or less of electrical output for sale; or

1           “(B) combusts materials of which more  
2           than 95 percent is municipal solid waste on a  
3           heat input basis.

4           “(55) VINTAGE YEAR.—The term ‘vintage year’  
5           means the calendar year for which an emission al-  
6           lowance is established under section 721(a) or which  
7           is assigned to an emission allowance under section  
8           726(g)(3)(A), except that the vintage year for a  
9           market stability reserve allowance shall be the year  
10          in which such allowance is purchased at auction.”.

11 **SEC. 103. OFFSET REPORTING REQUIREMENTS.**

12          Section 114 of Clean Air Act (42 U.S.C. 7414) is  
13          amended by adding at the end the following:

14          “(e) RECORDKEEPING FOR CARBON OFFSETS PRO-  
15          GRAM.—For the purpose of implementing the carbon off-  
16          sets program set forth in subtitle D of title VII, the Ad-  
17          ministrators shall require any person who is an offset  
18          project developer, and may require any person who is a  
19          third-party verifier, to establish and maintain records, for  
20          a period of not less than the crediting period under section  
21          734(e) plus 5 years, relating to—

22                 “(1) any offset project approval petition sub-  
23                 mitted to the appropriate officials under section 735;

24                 “(2) any reversals which occur with respect to  
25                 an offset project;

1           “(3) any verification reports; and

2           “(4) any other aspect of the offset project that  
3 the appropriate officials determines is appropriate.”.

4           **Subtitle B—Disposition of**  
5           **Allowances**

6 **SEC. 111. DISPOSITION OF ALLOWANCES FOR GLOBAL**  
7           **WARMING POLLUTION REDUCTION PRO-**  
8           **GRAM.**

9           Title VII of the Clean Air Act (as amended by section  
10 141 of this division) is amended by adding at the end the  
11 following:

12           **“PART H—DISPOSITION OF ALLOWANCES**

13 **“SEC. 771. ALLOCATION OF EMISSION ALLOWANCES.**

14           “(a) ALLOCATION.—The Administrator shall allocate  
15 emission allowances for the following purposes:

16           “(1) The program for electricity consumers pur-  
17 suant to section 772.

18           “(2) The program for natural gas consumers  
19 pursuant to section 773.

20           “(3) The program for home heating oil and pro-  
21 pane consumers pursuant to section 774.

22           “(4) The program for domestic fuel production,  
23 including petroleum refiners and small business re-  
24 finers, under section 775.

1           “(5) The program to ensure real reductions in  
2 industrial emissions under part F.

3           “(6) The program for commercial deployment  
4 of carbon capture and sequestration technologies  
5 under section 780.

6           “(7) The program for early action recognition  
7 pursuant to section 782.

8           “(8) The program for State and local invest-  
9 ment in energy efficiency and renewable energy  
10 under section 202 of division B of the Clean Energy  
11 Jobs and American Power Act.

12           “(9) The program for energy efficiency in build-  
13 ing codes under section 163 of division A, and sec-  
14 tion 203 of division B, of the Clean Energy Jobs  
15 and American Power Act.

16           “(10) The program for retrofit for energy and  
17 environmental performance under section 164 of di-  
18 vision A, and 204 of division B, of the Clean Energy  
19 Jobs and American Power Act.

20           “(11) The program for Energy Innovation  
21 Hubs pursuant to section 205 of division B of the  
22 Clean Energy Jobs and American Power Act.

23           “(12) The program for ARPA–E research pur-  
24 suant to section 206 of division B of the Clean En-  
25 ergy Jobs and American Power Act.

1           “(13) The International Clean Energy Deploy-  
2           ment Program under section 323 of division A, and  
3           section 207 of division B, of the Clean Energy Jobs  
4           and American Power Act.

5           “(14) The international climate change adapta-  
6           tion and global security program under section 324  
7           of division A, and section 208 of division B, of the  
8           Clean Energy Jobs and American Power Act.

9           “(b) AUCTIONS.—The Administrator shall auction,  
10          pursuant to section 778, emission allowances for the fol-  
11          lowing purposes:

12           “(1) The Market Stability Reserve Fund under  
13          section 726.

14           “(2) The program for climate change consumer  
15          refunds and low- and moderate-income consumers  
16          pursuant to section 776, including—

17           “(A) consumer rebates under section  
18          776(a); and

19           “(B) energy refunds under section 776(b).

20           “(3) The program for investment in clean vehi-  
21          cle technology under section 201 of division B of the  
22          Clean Energy Jobs and American Power Act.

23           “(4) The program for State and local invest-  
24          ment in energy efficiency and renewable energy



1 under section 202 of division B of the Clean Energy  
2 Jobs and American Power Act.

3 “(5) The program for energy efficiency and re-  
4 newable energy worker training under section 209 of  
5 division B of the Clean Energy Jobs and American  
6 Power Act.

7 “(6) The program for worker transition under  
8 part 2 of subtitle A of title III of division A, and  
9 section 210 of division B, of the Clean Energy Jobs  
10 and American Power Act.

11 “(7) The State programs for greenhouse gas re-  
12 duction and climate adaptation pursuant to section  
13 211 of division B of the Clean Energy Jobs and  
14 American Power Act.

15 “(8) The program for public health and climate  
16 change under subpart B of part 1 of subtitle C of  
17 title III of division A, and section 212 of division B,  
18 of the Clean Energy Jobs and American Power Act.

19 “(9) The program for climate change safe-  
20 guards for natural resources conservation under sub-  
21 part C of part 1 of subtitle C of title III of division  
22 A, and section 213 of division B, of the Clean En-  
23 ergy Jobs and American Power Act.

1           “(10) Nuclear worker training under section  
2           132 of division A, and section 214 of division B, of  
3           the Clean Energy Jobs and American Power Act.

4           “(11) The supplemental agriculture and for-  
5           estry greenhouse gas reduction and renewable en-  
6           ergy program under section 155 of division A, and  
7           section 215 of division B, of the Clean Energy Jobs  
8           and American Power Act.

9           “(c) DEFICIT REDUCTION.—

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

11                   “(A) auction, pursuant to section 778,  
12                   emission allowances for deficit reduction in the  
13                   amounts described in paragraph (2); and

14                   “(B) deposit those proceeds immediately  
15                   on receipt in the Deficit Reduction Fund estab-  
16                   lished by section 783.

17           “(2) AMOUNTS.—For vintage years 2012  
18           through 2050, 25.0 percent of emission allowances  
19           established for each year under section 721(a) shall  
20           be auctioned and the proceeds deposited pursuant to  
21           paragraph (1) to ensure that this title does not con-  
22           tribute to the deficit for that particular calendar  
23           year.

24           “(d) SUPPLEMENTAL REDUCTIONS.—

1           “(1) IN GENERAL.—The Administrator shall al-  
2 locate allowances for each vintage year to achieve  
3 supplemental reductions pursuant to section 753.

4           “(2) ADJUSTMENT.—The Administrator shall  
5 modify the allowances allocated under paragraph (1)  
6 as necessary to ensure the achievement of the an-  
7 nual supplemental emissions reduction objective for  
8 2020 set forth in section 704.

9 **“SEC. 772. ELECTRICITY CONSUMERS.**

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

11           “(1) CHP SAVINGS.—The term ‘CHP savings’  
12 means—

13                   “(A) CHP system savings from a combined  
14 heat and power system that commences oper-  
15 ation after the date of enactment of this sec-  
16 tion; and

17                   “(B) the increase in CHP system savings  
18 from, at any time after the date of the enact-  
19 ment of this section, upgrading, replacing, ex-  
20 panding, or increasing the utilization of a com-  
21 bined heat and power system that commenced  
22 operation on or before the date of enactment of  
23 this section.

24           “(2) CHP SYSTEM SAVINGS.—The term ‘CHP  
25 system savings’ means the increment of electric out-

1 put of a combined heat and power system that is at-  
2 tributable to the higher efficiency of the combined  
3 system (as compared to the efficiency of separate  
4 production of the electric and thermal outputs).

5 “(3) COAL-FUELED UNIT.—The term ‘coal-  
6 fueled unit’ means a utility unit that derives at least  
7 85 percent of its heat input from coal, petroleum  
8 coke, or any combination of those 2 fuels.

9 “(4) COST-EFFECTIVE.—The term ‘cost-effec-  
10 tive’, with respect to an energy efficiency program,  
11 means that the program meets the total resource  
12 cost test, which requires that the net present value  
13 of economic benefits over the life of the program, in-  
14 cluding avoided supply and delivery costs and de-  
15 ferred or avoided investments, is greater than the  
16 net present value of the economic costs over the life  
17 of the program, including program costs and incre-  
18 mental costs borne by the energy consumer.

19 “(5) ELECTRICITY LOCAL DISTRIBUTION COM-  
20 PANY.—The term ‘electricity local distribution com-  
21 pany’ means an electric utility—

22 “(A) that has a legal, regulatory, or con-  
23 tractual obligation to deliver electricity directly  
24 to retail consumers in the United States, re-  
25 gardless of whether that entity or another enti-

1           ty sells the electricity as a commodity to those  
2           retail consumers; and

3           “(B) the retail rates of which, except in  
4           the case of an electric cooperative, are regulated  
5           or set by—

6                   “(i) a State regulatory authority;

7                   “(ii) a State or political subdivision  
8                   thereof (or an agency or instrumentality  
9                   of, or corporation wholly owned by, either  
10                  of the foregoing); or

11                  “(iii) an Indian tribe pursuant to trib-  
12                  al law.

13           “(6) ELECTRICITY SAVINGS.—The term ‘elec-  
14           tricity savings’ means reductions in electricity con-  
15           sumption, relative to business-as-usual projections,  
16           achieved through measures implemented after the  
17           date of enactment of this section, limited to—

18                   “(A) customer facility savings of elec-  
19                   tricity, adjusted to reflect any associated in-  
20                   crease in fuel consumption at the facility;

21                   “(B) reductions in distribution system  
22                   losses of electricity achieved by a retail elec-  
23                   tricity distributor, as compared to losses attrib-  
24                   utable to new or replacement distribution sys-  
25                   tem equipment of average efficiency;

1                   “(C) CHP savings; and

2                   “(D) fuel cell savings.

3                   “(7) FUEL CELL.—The term ‘fuel cell’ means a  
4 device that directly converts the chemical energy of  
5 a fuel and an oxidant into electricity by electro-  
6 chemical processes occurring at separate electrodes  
7 in the device.

8                   “(8) FUEL CELL SAVINGS.—The term ‘fuel cell  
9 savings’ means the electricity saved by a fuel cell  
10 that is installed after the date of enactment of this  
11 section, or by upgrading a fuel cell that commenced  
12 operation on or before the date of enactment of this  
13 section, as a result of the greater efficiency with  
14 which the fuel cell transforms fuel into electricity as  
15 compared with sources of electricity delivered  
16 through the grid, provided that—

17                   “(A) the fuel cell meets such requirements  
18 relating to efficiency and other operating char-  
19 acteristics as the Federal Energy Regulatory  
20 Commission may promulgate by regulation; and

21                   “(B) the net sales of electricity from the  
22 fuel cell to customers not consuming the ther-  
23 mal output from the fuel cell, if any, do not ex-  
24 ceed 50 percent of the total annual electricity  
25 generation by the fuel cell.

1           “(9) INDEPENDENT POWER PRODUCTION FA-  
2           CILITY.—The term ‘independent power production  
3           facility’ means a facility—

4                   “(A) that is used for the generation of  
5                   electric energy, at least 80 percent of which is  
6                   sold at wholesale; and

7                   “(B) the sales of the output of which are  
8                   not subject to retail rate regulation or setting  
9                   of retail rates by—

10                           “(i) a State regulatory authority;

11                           “(ii) a State or political subdivision  
12                           thereof (or an agency or instrumentality  
13                           of, or corporation wholly owned by, either  
14                           of the foregoing);

15                           “(iii) an electric cooperative; or

16                           “(iv) an Indian tribe pursuant to trib-  
17                           al law.

18           “(10) LONG-TERM CONTRACT GENERATOR.—  
19           The term ‘long-term contract generator’ means a  
20           qualifying small power production facility, a quali-  
21           fying cogeneration facility ), an independent power  
22           production facility, or a facility for the production of  
23           electric energy for sale to others that is owned and  
24           operated by an electric cooperative that is—

25                   “(A) a covered entity; and

1           “(B) as of the date of enactment of this  
2 title—

3           “(i) a facility with 1 or more sales or  
4 tolling agreements executed before March  
5 1, 2007, that govern the facility’s elec-  
6 tricity sales and provide for sales at a price  
7 (whether a fixed price or a price formula)  
8 for electricity that does not allow for recov-  
9 ery of the costs of compliance with the lim-  
10 itation on greenhouse gas emissions under  
11 this title, provided that such agreements  
12 are not between entities that are affiliates  
13 of one another; or

14           “(ii) a facility consisting of 1 or more  
15 cogeneration units that makes useful ther-  
16 mal energy available to an industrial or  
17 commercial process with 1 or more sales  
18 agreements executed before March 1,  
19 2007, that govern the facility’s useful ther-  
20 mal energy sales and provide for sales at  
21 a price (whether a fixed price or price for-  
22 mula) for useful thermal energy that does  
23 not allow for recovery of the costs of com-  
24 pliance with the limitation on greenhouse  
25 gas emissions under this title, provided



1           that such agreements are not between enti-  
2           ties that are affiliates of one another.

3           “(11) MERCHANT COAL UNIT.—The term ‘mer-  
4           chant coal unit’ means a coal-fueled unit that—

5                   “(A) is or is part of a covered entity;

6                   “(B) is not owned by a Federal, State, or  
7           regional agency or power authority; and

8                   “(C) generates electricity solely for sale to  
9           others, provided that all or a portion of such  
10          sales are made by a separate legal entity that—

11                   “(i) has a full or partial ownership or  
12          leasehold interest in the unit, as certified  
13          in accordance with such requirements as  
14          the Administrator shall prescribe; and

15                   “(ii) is not subject to retail rate regu-  
16          lation or setting of retail rates by—

17                           “(I) a State regulatory authority;

18                           “(II) a State or political subdivi-  
19          sion thereof (or an agency or instru-  
20          mentality of, or corporation wholly  
21          owned by, either of the foregoing);

22                           “(III) an electric cooperative; or

23                           “(IV) an Indian tribe pursuant  
24          to tribal law.

1           “(12) MERCHANT COAL UNIT SALES.—The  
2 term ‘merchant coal unit sales’ means sales to oth-  
3 ers of electricity generated by a merchant coal unit  
4 that are made by the owner or leaseholder described  
5 in paragraph (11)(C).

6           “(13) NEW COAL-FUELED UNIT.—The term  
7 ‘new coal-fueled unit’ means a coal-fueled unit that  
8 commenced operation on or after January 1, 2009  
9 and before January 1, 2013.

10           “(14) NEW MERCHANT COAL UNIT.—The term  
11 ‘new merchant coal unit’ means a merchant coal  
12 unit—

13           “(A) that commenced operation on or after  
14 January 1, 2009 and before January 1, 2013;  
15 and

16           “(B) the actual, on-site construction of  
17 which commenced prior to January 1, 2009.

18           “(15) QUALIFIED HYDROPOWER.—The term  
19 ‘qualified hydropower’ means—

20           “(A) energy produced from increased effi-  
21 ciency achieved, or additions of capacity made,  
22 on or after January 1, 1988, at a hydroelectric  
23 facility that was placed in service before that  
24 date and does not include additional energy  
25 generated as a result of operational changes not

1 directly associated with efficiency improvements  
2 or capacity additions; or

3 “(B) energy produced from generating ca-  
4 pacity added to a dam on or after January 1,  
5 1988, provided that the Federal Energy Regu-  
6 latory Commission certifies that—

7 “(i) the dam was placed in service be-  
8 fore the date of the enactment of this sec-  
9 tion and was operated for flood control,  
10 navigation, or water supply purposes and  
11 was not producing hydroelectric power  
12 prior to the addition of such capacity;

13 “(ii) the hydroelectric project installed  
14 on the dam is licensed (or is exempt from  
15 licensing) by the Federal Energy Regu-  
16 latory Commission and is in compliance  
17 with the terms and conditions of the li-  
18 cense or exemption, and with other appli-  
19 cable legal requirements for the protection  
20 of environmental quality, including applica-  
21 ble fish passage requirements; and

22 “(iii) the hydroelectric project in-  
23 stalled on the dam is operated so that the  
24 water surface elevation at any given loca-  
25 tion and time that would have occurred in

1 the absence of the hydroelectric project is  
2 maintained, subject to any license or ex-  
3 emption requirements that require changes  
4 in water surface elevation for the purpose  
5 of improving the environmental quality of  
6 the affected waterway.

7 “(16) QUALIFYING SMALL POWER PRODUCTION  
8 FACILITY; QUALIFYING COGENERATION FACILITY.—  
9 The terms ‘qualifying small power production facil-  
10 ity’ and ‘qualifying cogeneration facility’ have the  
11 meanings given those terms in section 3(17)(C) and  
12 3(18)(B) of the Federal Power Act (16 U.S.C.  
13 796(17)(C) and 796(18)(B)).

14 “(17) RENEWABLE ENERGY RESOURCE.—The  
15 term ‘renewable energy resource’ means each of the  
16 following:

17 “(A) Wind energy.

18 “(B) Solar energy.

19 “(C) Geothermal energy.

20 “(D) Renewable biomass.

21 “(E) Biogas derived exclusively from re-  
22 newable biomass.

23 “(F) Biofuels derived exclusively from re-  
24 newable biomass.

25 “(G) Qualified hydropower.

1           “(H) Marine and hydrokinetic renewable  
2           energy, as that term is defined in section 632  
3           of the Energy Independence and Security Act  
4           of 2007 (42 U.S.C. 17211).

5           “(18) SMALL LDC.—The term ‘small LDC’  
6           means, for any given year, an electricity local dis-  
7           tribution company that delivered less than 4,000,000  
8           megawatt hours of electric energy directly to retail  
9           consumers in the preceding year.

10          “(19) STATE REGULATORY AUTHORITY.—The  
11          term ‘State regulatory authority’ has the meaning  
12          given that term in section 3(17) of the Public Utility  
13          Regulatory Policies Act of 1978 (16 U.S.C.  
14          2602(17)).

15          “(20) USEFUL THERMAL ENERGY.—The term  
16          ‘useful thermal energy’ has the meaning given that  
17          term in section 371(7) of the Energy Policy and  
18          Conservation Act (42 U.S.C. 6341(7)).

19          “(b) ELECTRICITY LOCAL DISTRIBUTION COMPA-  
20          NIES.—

21          “(1) DISTRIBUTION OF ALLOWANCES.—The  
22          Administrator shall distribute to electricity local dis-  
23          tribution companies for the benefit of retail rate-  
24          payers the quantity of emission allowances allocated  
25          for the following vintage year pursuant to section

1 771(a)(1). Notwithstanding the preceding sentence,  
2 the Administrator shall withhold from distribution  
3 under this subsection a quantity of emission allow-  
4 ances equal to the lesser of 14.3 percent of the  
5 quantity of emission allowances allocated under sec-  
6 tion 771(a)(1) for the relevant vintage year, or 105  
7 percent of the emission allowances for the relevant  
8 vintage year that the Administrator anticipates will  
9 be distributed to merchant coal units and to long-  
10 term contract generators, respectively, under sub-  
11 sections (c) and (d). If not required by subsections  
12 (c) and (d) to distribute all of these reserved allow-  
13 ances, the Administrator shall distribute any remain-  
14 ing emission allowances to electricity local distribu-  
15 tion companies in accordance with this subsection.

16 “(2) DISTRIBUTION BASED ON EMISSIONS.—

17 “(A) IN GENERAL.—For each vintage year,  
18 50 percent of the emission allowances available  
19 for distribution under paragraph (1), after re-  
20 serving allowances for distribution under sub-  
21 sections (c) and (d), shall be distributed by the  
22 Administrator among individual electricity local  
23 distribution companies ratably based on the an-  
24 nual average carbon dioxide emissions attrib-  
25 utable to generation of electricity delivered at

1 retail by each such company during the base  
2 period determined under subparagraph (B).

3 “(B) BASE PERIOD.—

4 “(i) VINTAGE YEARS 2012 AND 2013.—

5 For vintage years 2012 and 2013, an elec-  
6 tricity local distribution company’s base  
7 period shall be—

8 “(I) calendar years 2006 through

9 2008; or

10 “(II) any 3 consecutive calendar

11 years between 1999 and 2008, inclu-  
12 sive, that such company selects, pro-  
13 vided that the company timely informs  
14 the Administrator of such selection.

15 “(ii) VINTAGE YEARS 2014 AND

16 THEREAFTER.—For vintage years 2014  
17 and thereafter, the base period shall be—

18 “(I) the base period selected

19 under clause (i); or

20 “(II) calendar year 2012, in the

21 case of an electricity local distribution  
22 company that owns, co-owns, or pur-  
23 chases through a power purchase  
24 agreement (whether directly or  
25 through a cooperative arrangement) a

1 substantial portion of the electricity  
2 generated by a new coal-fueled unit,  
3 provided that such company timely in-  
4 forms the Administrator of its election  
5 to use 2012 as its base period.

6 “(C) DETERMINATION OF EMISSIONS.—

7 “(i) DETERMINATION FOR 1999–  
8 2008.—As part of the regulations promul-  
9 gated pursuant to subsection (g), the Ad-  
10 ministrator, after consultation with the  
11 Energy Information Administration, shall  
12 determine the average amount of carbon  
13 dioxide emissions attributable to genera-  
14 tion of electricity delivered at retail by  
15 each electricity local distribution company  
16 for each of the years 1999 through 2008,  
17 taking into account entities’ electricity gen-  
18 eration, electricity purchases, and elec-  
19 tricity sales. In the case of any electricity  
20 local distribution company that owns, co-  
21 owns, or purchases through a power pur-  
22 chase agreement (whether directly or  
23 through a cooperative arrangement) a sub-  
24 stantial portion of the electricity generated  
25 by, a coal-fueled unit that commenced op-



1           eration after January 1, 2006, and before  
2           December 31, 2008, the Administrator  
3           shall adjust the emissions attributable to  
4           such company's retail deliveries in calendar  
5           years 2006 through 2008 to reflect the  
6           emissions that would have occurred if the  
7           relevant unit were in operation during the  
8           entirety of such 3-year period.

9           “(ii) ADJUSTMENTS FOR NEW COAL-  
10          FUELED UNITS.—

11                   “(I) VINTAGE YEARS 2012 AND  
12                   2013.—For purposes of emission al-  
13                   lowance distributions for vintage years  
14                   2012 and 2013, in the case of any  
15                   electricity local distribution company  
16                   that owns, co-owns, or purchases  
17                   through a power purchase agreement  
18                   (whether directly or through a cooper-  
19                   ative arrangement) a substantial por-  
20                   tion of the electricity generated by, a  
21                   new coal-fueled unit, the Adminis-  
22                   trator shall adjust the emissions at-  
23                   tributable to such company's retail de-  
24                   liveries in the applicable base period  
25                   to reflect the emissions that would

1 have occurred if the new coal-fueled  
2 unit were in operation during such pe-  
3 riod.

4 “(II) VINTAGE YEAR 2014 AND  
5 THEREAFTER.—Not later than nec-  
6 essary for use in making emission al-  
7 lowance distributions under this sub-  
8 section for vintage year 2014, the Ad-  
9 ministrator shall, for any electricity  
10 local distribution company that owns,  
11 co-owns, or purchases through a  
12 power purchase agreement (whether  
13 directly or through a cooperative ar-  
14 rangement) a substantial portion of  
15 the electricity generated by a new  
16 coal-fueled unit and has selected cal-  
17 endar year 2012 as its base period  
18 pursuant to subparagraph (B)(ii)(II),  
19 determine the amount of carbon diox-  
20 ide emissions attributable to genera-  
21 tion of electricity delivered at retail by  
22 such company in calendar year 2012.  
23 If the relevant new coal-fueled unit  
24 was not yet operational by January 1,  
25 2012, the Administrator shall adjust

1           such determination to reflect the  
2           emissions that would have occurred if  
3           such unit were in operation for all of  
4           calendar year 2012.

5           “(iii) REQUIREMENTS.—Determina-  
6           tions under this paragraph shall be as pre-  
7           cise as practicable, taking into account the  
8           nature of data currently available and the  
9           nature of markets and regulation in effect  
10          in various regions of the country. The fol-  
11          lowing requirements shall apply to such de-  
12          terminations:

13                 “(I) The Administrator shall de-  
14                 termine the amount of fossil fuel-  
15                 based electricity delivered at retail by  
16                 each electricity local distribution com-  
17                 pany, and shall use appropriate emis-  
18                 sion factors to calculate carbon diox-  
19                 ide emissions associated with the gen-  
20                 eration of such electricity.

21                 “(II) Where it is not practical to  
22                 determine the precise fuel mix for the  
23                 electricity delivered at retail by an in-  
24                 dividual electricity local distribution  
25                 company, the Administrator may use

1 the best available data, including aver-  
2 age data on a regional basis with ref-  
3 erence to Regional Transmission Or-  
4 ganizations or regional entities (as  
5 that term is defined in section  
6 215(a)(7) of the Federal Power Act  
7 (16 U.S.C. 824o(a)(7)), to estimate  
8 fuel mix and emissions. Different  
9 methodologies may be applied in dif-  
10 ferent regions if appropriate to obtain  
11 the most accurate estimate.

12 “(3) DISTRIBUTION BASED ON DELIVERIES.—

13 “(A) INITIAL FORMULA.—Except as pro-  
14 vided in subparagraph (B), for each vintage  
15 year, the Administrator shall distribute 50 per-  
16 cent of the emission allowances available for  
17 distribution under paragraph (1), after reserv-  
18 ing allowances for distribution under sub-  
19 sections (c) and (d), among individual elec-  
20 tricity local distribution companies ratably  
21 based on each electricity local distribution com-  
22 pany’s annual average retail electricity deliv-  
23 eries for calendar years 2006 through 2008, un-  
24 less the owner or operator of the company se-  
25 lects 3 other consecutive years between 1999

1 and 2008, inclusive, and timely notifies the Ad-  
2 ministrator of its selection.

3 “(B) UPDATING.—Prior to distributing  
4 2015 vintage year emission allowances under  
5 this paragraph and at 3-year intervals there-  
6 after, the Administrator shall update the dis-  
7 tribution formula under this paragraph to re-  
8 flect changes in each electricity local distribu-  
9 tion company’s service territory since the most  
10 recent formula was established. For each suc-  
11 cessive 3-year period, the Administrator shall  
12 distribute allowances ratably among individual  
13 electricity local distribution companies based on  
14 the product of—

15 “(i) each electricity local distribution  
16 company’s average annual deliveries per  
17 customer during calendar years 2006  
18 through 2008, or during the 3 alternative  
19 consecutive years selected by such company  
20 under subparagraph (A); and

21 “(ii) the number of customers of such  
22 electricity local distribution company in the  
23 most recent year in which the formula is  
24 updated under this subparagraph.

1           “(4) PROHIBITION AGAINST EXCESS DISTRIBUTIONS.—The regulations promulgated under subsection (g) shall ensure that, notwithstanding paragraphs (2) and (3), no electricity local distribution company shall receive a greater quantity of allowances under this subsection than is necessary to offset any increased electricity costs to such company’s retail ratepayers, including increased costs attributable to purchased power costs, due to enactment of this title. Any emission allowances withheld from distribution to an electricity local distribution company pursuant to this paragraph shall be distributed among all remaining electricity local distribution companies ratably based on emissions pursuant to paragraph (2).

16           “(5) USE OF ALLOWANCES.—

17           “(A) RATEPAYER BENEFIT.—Emission allowances distributed to an electricity local distribution company under this subsection shall be used exclusively for the benefit of retail ratepayers of such electricity local distribution company and may not be used to support electricity sales or deliveries to entities or persons other than such ratepayers.

1           “(B) RATEPAYER CLASSES.—In using  
2 emission allowances distributed under this sub-  
3 section for the benefit of ratepayers, an elec-  
4 tricity local distribution company shall ensure  
5 that ratepayer benefits are distributed—

6           “(i) among ratepayer classes ratably  
7 based on electricity deliveries to each class;  
8 and

9           “(ii) equitably among individual rate-  
10 payers within each ratepayer class, includ-  
11 ing entities that receive emission allow-  
12 ances pursuant to part F.

13           “(C) LIMITATION.—In general, an elec-  
14 tricity local distribution company shall not use  
15 the value of emission allowances distributed  
16 under this subsection to provide to any rate-  
17 payer a rebate that is based solely on the quan-  
18 tity of electricity delivered to such ratepayer.  
19 To the extent an electricity local distribution  
20 company uses the value of emission allowances  
21 distributed under this subsection to provide re-  
22 bates, it shall, to the maximum extent prac-  
23 ticable, provide such rebates with regard to the  
24 fixed portion of ratepayers’ bills or as a fixed  
25 credit or rebate on electricity bills.

1           “(D) RESIDENTIAL AND INDUSTRIAL  
2 RATEPAYERS.—Notwithstanding subparagraph  
3 (C), if compliance with the requirements of this  
4 title results (or would otherwise result) in an  
5 increase in electricity costs for residential or in-  
6 dustrial retail ratepayers of any given electricity  
7 local distribution company (including entities  
8 that receive emission allowances pursuant to  
9 part F), such electricity local distribution com-  
10 pany—

11           “(i) shall pass through to residential  
12 retail ratepayers as a class their ratable  
13 share (based on deliveries to each rate-  
14 payer class) of the value of the emission al-  
15 lowances that reduce electricity cost im-  
16 pacts on such ratepayers; and

17           “(ii) shall pass through to industrial  
18 ratepayers as a class their ratable share  
19 (based on deliveries to each ratepayer  
20 class) of the value of the emission allow-  
21 ances that reduce electricity cost impacts  
22 on such ratepayers. The electricity local  
23 distribution company may do so based on  
24 the quantity of electricity delivered to indi-  
25 vidual industrial retail ratepayers.



1           “(E) GUIDELINES.—As part of the regula-  
2 tions promulgated under subsection (g), the Ad-  
3 ministrator shall, after consultation with State  
4 regulatory authorities, prescribe guidelines for  
5 the implementation of the requirements of this  
6 paragraph. Such guidelines shall include—

7           “(i) requirements to ensure that resi-  
8 dential and industrial retail ratepayers (in-  
9 cluding entities that receive emission allow-  
10 ances under part F) receive their ratable  
11 share of the value of the allowances dis-  
12 tributed to each electricity local distribu-  
13 tion company pursuant to this subsection;  
14 and

15           “(ii) requirements for measurement,  
16 verification, reporting, and approval of  
17 methods used to assure the use of allow-  
18 ance values to benefit retail ratepayers.

19           “(6) REGULATORY PROCEEDINGS.—

20           “(A) REQUIREMENT.—No electricity local  
21 distribution company shall be eligible to receive  
22 emission allowances under this subsection or  
23 subsection (e) unless the State regulatory au-  
24 thority with authority over such company’s re-  
25 tail rates, or the entity with authority to regu-

1 late or set retail electricity rates of an elec-  
2 tricity local distribution company not regulated  
3 by a State regulatory authority, has—

4 “(i) after public notice and an oppor-  
5 tunity for comment, promulgated a regula-  
6 tion or completed a rate proceeding (or the  
7 equivalent, in the case of a ratemaking en-  
8 tity other than a State regulatory author-  
9 ity) that provides for the full implementa-  
10 tion of the requirements of paragraph (5)  
11 of this subsection and the requirements of  
12 subsection (e); and

13 “(ii) made available to the Adminis-  
14 trator and the public a report describing,  
15 in adequate detail, the manner in which  
16 the requirements of paragraph (5) and the  
17 requirements of subsection (e) will be im-  
18 plemented.

19 “(B) UPDATING.—The Administrator shall  
20 require, as a condition of continued receipt of  
21 emission allowances under this subsection by an  
22 electricity local distribution company, that a  
23 new regulation be promulgated or rate pro-  
24 ceeding be completed, after public notice and an  
25 opportunity for comment, and a new report be

1 made available to the Administrator and the  
2 public, pursuant to subparagraph (A), not less  
3 frequently than every 5 years.

4 “(7) PLANS AND REPORTING.—

5 “(A) REGULATIONS.—As part of the regu-  
6 lations promulgated under subsection (g), the  
7 Administrator shall prescribe requirements gov-  
8 erning plans and reports to be submitted in ac-  
9 cordance with this paragraph.

10 “(B) PLANS.—Not later than April 30 of  
11 2011 and every 5 years thereafter through  
12 2026, each electricity local distribution com-  
13 pany shall submit to the Administrator a plan,  
14 approved by the State regulatory authority or  
15 other entity charged with regulating tor setting  
16 the retail rates of such company, describing  
17 such company’s plans for the disposition of the  
18 value of emission allowances to be received pur-  
19 suant to this subsection and subsection (e), in  
20 accordance with the requirements of this sub-  
21 section and subsection (e). Such plan shall in-  
22 clude a description of the manner in which the  
23 company will provide to industrial retail rate-  
24 payers (including entities that receive emission

1 allowances under part F) their ratable share of  
2 the value of such allowances.

3 “(C) REPORTS.—Not later than June 30,  
4 2013, and each calendar year thereafter  
5 through 2031, each electricity local distribution  
6 company shall submit a report to the Adminis-  
7 trator, and to the relevant State regulatory au-  
8 thority or other entity charged with regulating  
9 or setting the retail electricity rates of such  
10 company, describing the disposition of the value  
11 of any emission allowances received by such  
12 company in the prior calendar year pursuant to  
13 this subsection and subsection (e), including—

14 “(i) a description of sales, transfer,  
15 exchange, or use by the company for com-  
16 pliance with obligations under this title, of  
17 any such emission allowances;

18 “(ii) the monetary value received by  
19 the company, whether in money or in some  
20 other form, from the sale, transfer, or ex-  
21 change of any such emission allowances;

22 “(iii) the manner in which the com-  
23 pany’s disposition of any such emission al-  
24 lowances complies with the requirements of  
25 this subsection and of subsection (e), in-

1 cluding each of the requirements of para-  
2 graph (5) of this subsection, including the  
3 requirement that industrial retail rate-  
4 payers (including entities that receive  
5 emission allowances under part F) receive  
6 their ratable share of the value of such al-  
7 lowances; and

8 “(iv) such other information as the  
9 Administrator may require pursuant to  
10 subparagraph (A).

11 “(D) PUBLICATION.—The Administrator  
12 shall make available to the public all plans and  
13 reports submitted under this subsection, includ-  
14 ing by publishing such plans and reports on the  
15 Internet.

16 “(8) ADMINISTRATOR AUDIT REPORTS.—

17 “(A) IN GENERAL.—Each year, the Ad-  
18 ministrator shall audit a representative sample  
19 of electricity local distribution companies to en-  
20 sure that emission allowances distributed under  
21 this subsection have been used exclusively for  
22 the benefit of retail ratepayers and that such  
23 companies are complying with the requirements  
24 of this subsection and of subsection (e), includ-  
25 ing the requirement that residential and indus-

1 trial retail ratepayers (including entities that  
2 receive emission allowances under part F) re-  
3 ceive their ratable share of the value of such al-  
4 lowances. The Administrator shall assess the  
5 degree to which electric local distribution com-  
6 panies have maintained a marginal electric  
7 price signal while protecting consumers on total  
8 cost using the value of emissions allowances. In  
9 selecting companies for audit, the Adminis-  
10 trator shall take into account any credible evi-  
11 dence of noncompliance with such requirements.  
12 The Administrator shall make available to the  
13 public a report describing the results of each  
14 such audit, including by publishing such report  
15 on the Internet.

16 “(B) GAO AUDIT REPORT.—Not later  
17 than April 30, 2015, and every 3 years there-  
18 after through 2026, the Comptroller General of  
19 the United States, incorporating results from  
20 the Administrators’ audit report and other rel-  
21 evant information including distribution com-  
22 pany reports, shall conduct an in-depth evalua-  
23 tion and make available to the public a report  
24 on the investments made pursuant to paragraph  
25 (5). Said report shall be made available to the

1 State regulatory authority, or the entity with  
2 authority to regulate or set retail electricity  
3 rates in the case of an electricity distribution  
4 company that is not regulated by a State regu-  
5 latory authority, and shall include a description  
6 of how the distribution companies in the audit  
7 meet or fail to meet the requirement of para-  
8 graph (5), including for investments made in  
9 cost-effective end-use energy efficiency pro-  
10 grams, the lifetime and annual energy saving  
11 benefits, and capacity benefits of said pro-  
12 grams.

13 “(C) ADMINISTRATOR COST CONTAINMENT  
14 REPORT.—Not later than April 30, 2015 and  
15 every 3 years thereafter through 2026, the Ad-  
16 ministrator shall transmit a report to Congress  
17 containing an evaluation of the disposition of  
18 the value of emission allowances received pursu-  
19 ant to this subsection and subsection (e) and  
20 recommendations of ways to more effectively di-  
21 rect the value of allowances to reduce costs for  
22 consumers, contain the overall costs of the  
23 greenhouse gas emissions reduction program,  
24 and meet the pollution reduction targets of the  
25 Act. The Administrator shall make available to

1           the public such report, including by publishing  
2           such report on the Internet.

3           “(9) ENFORCEMENT.—A violation of any re-  
4           quirement of this subsection or of subsection (e), ir-  
5           respective of approval by a State regulatory author-  
6           ity, shall be a violation of this Act. Each emission  
7           allowance the value of which is used in violation of  
8           the requirements of this subsection or of subsection  
9           (e) shall be a separate violation.

10          “(c) MERCHANT COAL UNITS.—

11           “(1) QUALIFYING EMISSIONS.—The qualifying  
12           emissions for a merchant coal unit for a given cal-  
13           endar year shall be the product of the number of  
14           megawatt hours of merchant coal unit sales gen-  
15           erated by such unit in such calendar year and the  
16           average carbon dioxide emissions per megawatt hour  
17           generated by such unit during the base period under  
18           paragraph (2), provided that the number of mega-  
19           watt hours in a given calendar year for purposes of  
20           such calculation shall be reduced in proportion to  
21           the portion of such unit’s carbon dioxide emissions  
22           that are either—

23                   “(A) captured and sequestered in such cal-  
24                   endar year; or



1           “(B) attributable to the combustion or gas-  
2           fication of biomass, to the extent that the  
3           owner or operator of the unit is not required to  
4           hold emission allowances for such emissions.

5           “(2) BASE PERIOD.—For purposes of this sub-  
6           section, the base period for a merchant coal unit  
7           shall be—

8                   “(A) calendar years 2006 through 2008; or

9                   “(B) in the case of a new merchant coal  
10           unit—

11                   “(i) the first full calendar year of op-  
12                   eration of such unit, if such unit com-  
13                   mences operation before January 1, 2012;

14                   “(ii) calendar year 2012, if such unit  
15                   commences operation on or after January  
16                   1, 2012, and before October 1, 2012; or

17                   “(iii) calendar year 2013, if such unit  
18                   commences operation on or after October  
19                   1, 2012, and before January 1, 2013.

20           “(3) PHASE-DOWN SCHEDULE.—The Adminis-  
21           trator shall identify an annual phase-down factor,  
22           applicable to distributions to merchant coal units for  
23           each of vintage years 2012 through 2029, that cor-  
24           responds to the overall decline in the amount of  
25           emission allowances allocated to the electricity sector

1 in such years pursuant to section 771(a)(1). Such  
2 factor shall—

3 “(A) for vintage year 2012, be equal to  
4 1.0;

5 “(B) for each of vintage years 2013  
6 through 2029, correspond to the quotient of—

7 “(i) the quantity of emission allow-  
8 ances allocated under section 771(a)(1) for  
9 such vintage year; divided by

10 “(ii) the quantity of emission allow-  
11 ances allocated under section 771(a)(1) for  
12 vintage year 2012.

13 “(4) DISTRIBUTION OF EMISSION ALLOW-  
14 ANCES.—Not later than March 1 of 2013 and each  
15 calendar year through 2030, the Administrator shall  
16 distribute emission allowances of the preceding vin-  
17 tage year to the owner or operator of each merchant  
18 coal unit described in subsection (a)(11)(C) in an  
19 amount equal to the product of—

20 “(A) 0.5;

21 “(B) the qualifying emissions for such  
22 merchant coal unit for the preceding year, as  
23 determined under paragraph (1); and

1           “(C) the phase-down factor for the pre-  
2           ceding calendar year, as identified under para-  
3           graph (3).

4           “(5) ADJUSTMENT.—

5           “(A) STUDY.—Not later than July 1,  
6           2014, the Administrator, in consultation with  
7           the Federal Energy Regulatory Commission,  
8           shall complete a study to determine whether the  
9           allocation formula under paragraph (3) is re-  
10          sulting in, or is likely to result in, windfall prof-  
11          its to merchant coal generators or substantially  
12          disparate treatment of merchant coal genera-  
13          tors operating in different markets or regions.

14          “(B) REGULATION.—If the Administrator,  
15          in consultation with the Federal Energy Regu-  
16          latory Commission, makes an affirmative find-  
17          ing of windfall profits or disparate treatment  
18          under subparagraph (A), the Administrator  
19          shall, not later than 18 months after the com-  
20          pletion of the study described in subparagraph  
21          (A), promulgate regulations providing for the  
22          adjustment of the allocation formula under  
23          paragraph (3) to mitigate, to the extent prac-  
24          ticable, such windfall profits, if any, and such  
25          disparate treatment, if any.

1           “(6) LIMITATION ON ALLOWANCES.—Notwith-  
2 standing paragraph (4) or (5), for each vintage year  
3 the Administrator shall distribute under this sub-  
4 section no more than 10 percent of the total quan-  
5 tity of emission allowances available for such vintage  
6 year for distribution to the electricity sector under  
7 section 771(a)(1). If the quantity of emission allow-  
8 ances that would otherwise be distributed pursuant  
9 to paragraph (4) or (5) for any vintage year would  
10 exceed such limit, the Administrator shall distribute  
11 10 percent of the total emission allowances available  
12 for distribution under section 771(a)(1) for such vin-  
13 tage year ratably among merchant coal generators  
14 based on the applicable formula under paragraph (4)  
15 or (5).

16           “(7) ELIGIBILITY.—The owner or operator of a  
17 merchant coal unit shall not be eligible to receive  
18 emission allowances under this subsection for any  
19 vintage year for which such owner or operator has  
20 elected to receive emission allowances for the same  
21 unit under subsection (d).

22           “(d) LONG-TERM CONTRACT GENERATORS.—

23           “(1) DISTRIBUTION.—Not later than March 1,  
24 2013, and each calendar year through 2030, the Ad-  
25 ministrator shall distribute to the owner or operator

1 of each long-term contract generator a quantity of  
2 emission allowances of the preceding vintage year  
3 that is equal to the sum of—

4 “(A) the number of tons of carbon dioxide  
5 emitted as a result of a qualifying electricity  
6 sales agreement referred to in subsection  
7 (a)(10)(B)(i); and

8 “(B) the incremental number of tons of  
9 carbon dioxide emitted solely as a result of a  
10 qualifying thermal sales agreement referred to  
11 in subsection (a)(10)(B)(ii), provided that in no  
12 event shall the Administrator distribute more  
13 than 1 emission allowance for the same ton of  
14 emissions.

15 “(2) LIMITATION ON ALLOWANCES.—Notwith-  
16 standing paragraph (1), for each vintage year the  
17 Administrator shall distribute under this subsection  
18 no more than 4.3 percent of the total quantity of  
19 emission allowances available for such vintage year  
20 for distribution to the electricity sector under section  
21 771(a)(1). If the quantity of emission allowances  
22 that would otherwise be distributed pursuant to  
23 paragraph (1) for any vintage year would exceed  
24 such limit, the Administrator shall distribute 4.3  
25 percent of the total emission allowances available for

1 distribution under section 771(a)(1) for such vintage  
2 year ratably among long-term contract generators  
3 based on paragraph (1).

4 “(3) ELIGIBILITY.—

5 “(A) FACILITY ELIGIBILITY.—The owner  
6 or operator of a facility shall cease to be eligible  
7 to receive emission allowances under this sub-  
8 section upon the earliest date on which the fa-  
9 cility no longer meets each and every element of  
10 the definition of a long-term contract generator  
11 under subsection (a)(10).

12 “(B) CONTRACT ELIGIBILITY.—The owner  
13 or operator of a facility shall cease to be eligible  
14 to receive emission allowances under this sub-  
15 section based on an electricity or thermal sales  
16 agreement referred to in subsection (a)(10)(B)  
17 upon the earliest date that such agreement—

18 “(i) expires;

19 “(ii) is terminated; or

20 “(iii) is amended in any way that  
21 changes the location of the facility, the  
22 price (whether a fixed price or price for-  
23 mula) for electricity or thermal energy sold  
24 under such agreement, the quantity of  
25 electricity or thermal energy sold under the

1           agreement, or the expiration or termi-  
2           nation date of the agreement.

3           “(4) DEMONSTRATION OF ELIGIBILITY.—To be  
4           eligible to receive allowance distributions under this  
5           subsection, the owner or operator of a long-term  
6           contract generator shall submit each of the following  
7           in writing to the Administrator within 180 days  
8           after the date of enactment of this title, and not  
9           later than September 30 of each vintage year for  
10          which such generator wishes to receive emission al-  
11          lowances:

12                 “(A) A certificate of representation de-  
13                 scribed in section 700(15).

14                 “(B) An identification of each owner and  
15                 each operator of the facility.

16                 “(C) An identification of the units at the  
17                 facility and the location of the facility.

18                 “(D) A written certification by the des-  
19                 ignated representative that the facility meets all  
20                 the requirements of the definition of a long-  
21                 term contract generator.

22                 “(E) The expiration date of each quali-  
23                 fying electricity or thermal sales agreement re-  
24                 ferred to in subsection (a)(10)(B).

1           “(F) A copy of each qualifying electricity  
2           or thermal sales agreement referred to in sub-  
3           section (a)(10)(B).

4           “(5) NOTIFICATION.—Not later than 30 days  
5           after, in accordance with paragraph (3), a facility or  
6           an agreement ceases to meet the eligibility require-  
7           ments for distribution of emission allowances pursu-  
8           ant to this subsection, the designated representative  
9           of such facility shall notify the Administrator in  
10          writing when, and on what basis, such facility or  
11          agreement ceased to meet such requirements.

12          “(e) SMALL LDCs.—

13                 “(1) DISTRIBUTION.—The Administrator shall,  
14                 in accordance with this subsection, distribute emis-  
15                 sion allowances allocated pursuant to section  
16                 771(a)(1) for the following vintage year. Such allow-  
17                 ances shall be distributed ratably among small  
18                 LDCs based on historic emissions in accordance with  
19                 the same measure of such emissions applied to each  
20                 such small LDC for the relevant vintage year under  
21                 subsection (b)(2) of this section.

22                 “(2) USES.—A small LDC receiving allowances  
23                 under this section shall use such allowances exclu-  
24                 sively for the following purposes:



1           “(A) Cost-effective programs to achieve  
2           electricity savings, provided that such savings  
3           shall not be transferred or used for compliance  
4           with any renewable electricity standard estab-  
5           lished under the Public Utility Regulatory Poli-  
6           cies Act of 1978 (16 U.S.C. 2601 et seq.).

7           “(B) Deployment of technologies to gen-  
8           erate electricity from renewable energy re-  
9           sources, provided that any Federal renewable  
10          electricity credits issued based on generation  
11          supported under this section shall be submitted  
12          to the Federal Energy Regulatory Commission  
13          for voluntary retirement and shall not be used  
14          for compliance with the Public Utility Regu-  
15          latory Policies Act of 1978 (16 U.S.C. 2601 et  
16          seq.).

17          “(C) Assistance programs to reduce elec-  
18          tricity costs for low-income residential rate-  
19          payers of such small LDC, provided that such  
20          assistance is made available equitably to all res-  
21          idential ratepayers below a certain income level,  
22          which shall not be higher than 200 percent of  
23          the poverty line (as that term is defined in sec-  
24          tion 673(2) of the Community Services Block  
25          Grant Act (42 U.S.C. 9902(2)).

1           “(3) REQUIREMENTS.—As part of the regula-  
2 tions promulgated under subsection (g), the Admin-  
3 istrator shall prescribe—

4           “(A) after consultation with the Federal  
5 Energy Regulatory Commission, requirements  
6 to ensure that programs and projects under  
7 paragraph (2)(A) and (B) are consistent with  
8 the standards established by, and effectively  
9 supplement electricity savings and generation of  
10 electricity from renewable energy resources  
11 achieved by, the Combined Efficiency and Re-  
12 newable Electricity Standard established by  
13 law;

14           “(B) eligibility criteria and guidelines for  
15 consumer assistance programs for low-income  
16 residential ratepayers under paragraph (2)(C);  
17 and

18           “(C) such other requirements as the Ad-  
19 ministrator determines appropriate to ensure  
20 compliance with the requirements of this sub-  
21 section.

22           “(4) REPORTING.—Reports submitted under  
23 subsection (b)(7) shall include, in accordance with  
24 such requirements as the Administrator may pre-  
25 scribe—

1           “(A) a description of any facilities de-  
2           ployed under paragraph (2)(A), the quantity of  
3           resulting electricity generation from renewable  
4           energy resources;

5           “(B) an assessment demonstrating the  
6           cost-effectiveness of, and electricity savings  
7           achieved by, programs supported under para-  
8           graph (2)(B); and

9           “(C) a description of assistance provided to  
10          low-income retail ratepayers under paragraph  
11          (2)(C).

12         “(f) CERTAIN COGENERATION FACILITIES.—

13                 “(1) ELIGIBLE COGENERATION FACILITIES.—  
14         For purposes of this subsection, an ‘eligible cogen-  
15         eration facility’ is a facility that—

16                 “(A) is a qualifying co-generation facility  
17                 (as that term is defined in section 3(18)(B) of  
18                 the Federal Power Act (16 U.S.C. 796(18)(B));

19                 “(B) derives 80 percent or more of its heat  
20                 input from coal, petroleum coke, or any com-  
21                 bination of these 2 fuels;

22                 “(C) has a nameplate capacity of 100  
23                 megawatts or greater;

24                 “(D) was in operation as of January 1,  
25                 2009, and remains in operation as of the date

1 of any distribution of emission allowances under  
2 this subsection;

3 “(E) in calendar years 2006 through 2008  
4 sold, and as of the date of any distribution of  
5 emission allowances under this section sells,  
6 steam or electricity directly and solely to mul-  
7 tiple, separately owned industrial or commercial  
8 facilities co-located at the same site with the co-  
9 generation facility; and

10 “(F) is not eligible to receive allowances  
11 under any other subsection of this section or  
12 under part F of this title.

13 “(2) DISTRIBUTION.—The Administrator shall  
14 distribute the emission allowances allocated pursuant  
15 to section 771(a)(1) to owners or operators of eligi-  
16 ble cogeneration facilities ratably based on the car-  
17 bon dioxide emissions of each such facility in cal-  
18 endar years 2006 through 2008. The Adminis-  
19 trator—

20 “(A) shall not, in any year, distribute  
21 emission allowances under this subsection to the  
22 owner or operator of any eligible cogeneration  
23 facility in excess of the amount necessary to  
24 offset such facility’s cost of compliance with the  
25 requirements of this title in that year; and

1           “(B) may distribute such allowances over a  
2           period of years if annual distributions under  
3           this subsection would otherwise exceed the limi-  
4           tation in subparagraph (A), provided that in no  
5           event shall distributions be made under this  
6           subsection after calendar year 2025.

7           “(3) REQUIREMENTS.—The Administrator  
8           shall, by regulation, establish requirements to ensure  
9           that the value of any emission allowances distributed  
10          pursuant to this subsection are passed through, on  
11          an equitable basis, to the facilities to which the rel-  
12          evant cogeneration facility provides electricity or  
13          steam deliveries, including any facility owned or op-  
14          erated by the owner or operator of the cogeneration  
15          facility.

16          “(g) REGULATIONS.—Not later than 2 years after  
17          the date of enactment of this title, the Administrator, in  
18          consultation with the Federal Energy Regulatory Commis-  
19          sion, shall promulgate regulations to implement the re-  
20          quirements of this section.

21          **“SEC. 773. NATURAL GAS CONSUMERS.**

22          “(a) DEFINITION.—For purposes of this section, the  
23          term ‘cost-effective’, with respect to an energy efficiency  
24          program, means that the program meets the Total Re-  
25          source Cost Test, which requires that the net present

1 value of economic benefits over the life of the program,  
2 including avoided supply and delivery costs and deferred  
3 or avoided investments, is greater than the net present  
4 value of the economic costs over the life of the program,  
5 including program costs and incremental costs borne by  
6 the energy consumer.

7 “(b) ALLOCATION.—Not later than June 30, 2015,  
8 and each calendar year thereafter through 2028, the Ad-  
9 ministrator shall distribute to natural gas local distribu-  
10 tion companies for the benefit of retail ratepayers the  
11 quantity of emission allowances allocated for the following  
12 vintage year pursuant to section 771(a)(2). Such allow-  
13 ances shall be distributed among local natural gas dis-  
14 tribution companies based on the following formula:

15 “(1) INITIAL FORMULA.—Except as provided in  
16 paragraph (2), for each vintage year, the Adminis-  
17 trator shall distribute emission allowances among  
18 natural gas local distribution companies on a pro  
19 rata basis based on each such company’s annual av-  
20 erage retail natural gas deliveries for 2006 through  
21 2008, unless the owner or operator of the company  
22 selects 3 other consecutive years between 1999 and  
23 2008, inclusive, and timely notifies the Adminis-  
24 trator of its selection.

1           “(2) UPDATING.—Prior to distributing 2019  
2 vintage emission allowances and at 3-year intervals  
3 thereafter, the Administrator shall update the dis-  
4 tribution formula under this subsection to reflect  
5 changes in each natural gas local distribution com-  
6 pany’s service territory since the most recent for-  
7 mula was established. For each successive 3-year pe-  
8 riod, the Administrator shall distribute allowances  
9 on a pro rata basis among natural gas local distribu-  
10 tion companies based on the product of—

11           “(A) each natural gas local distribution  
12 company’s average annual natural gas deliveries  
13 per customer during calendar years 2006  
14 through 2008, or during the 3 alternative con-  
15 secutive years selected by such company under  
16 paragraph (1); and

17           “(B) the number of customers of such nat-  
18 ural gas local distribution company in the most  
19 recent year in which the formula is updated  
20 under this paragraph.

21           “(c) USE OF ALLOWANCES.—

22           “(1) RATEPAYER BENEFIT.—Emission allow-  
23 ances distributed to a natural gas local distribution  
24 company under this section shall be used exclusively  
25 for the benefit of retail ratepayers of such natural

1 gas local distribution company and may not be used  
2 to support natural gas sales or deliveries to entities  
3 or persons other than such ratepayers.

4 “(2) RATEPAYER CLASSES.—In using emission  
5 allowances distributed under this section for the ben-  
6 efit of ratepayers, a natural gas local distribution  
7 company shall ensure that ratepayer benefits are  
8 distributed—

9 “(A) among ratepayer classes on a pro  
10 rata basis based on natural gas deliveries to  
11 each class; and

12 “(B) equitably among individual ratepayers  
13 within each ratepayer class.

14 “(3) LIMITATION.—A natural gas local dis-  
15 tribution company shall not use the value of emis-  
16 sion allowances distributed under this section to pro-  
17 vide to any ratepayer a rebate that is based solely  
18 on the quantity of natural gas delivered to such  
19 ratepayer. To the extent a natural gas local distribu-  
20 tion company uses the value of emission allowances  
21 distributed under this section to provide rebates, it  
22 shall, to the maximum extent practicable, provide  
23 such rebates with regard to the fixed portion of rate-  
24 payers’ bills or as a fixed creditor rebate on natural  
25 gas bills.



1           “(4) ENERGY EFFICIENCY PROGRAMS.—The  
2 value of no less than one-third of the emission allow-  
3 ances distributed to natural gas local distribution  
4 companies pursuant to this section in any calendar  
5 year shall be used for cost-effective energy efficiency  
6 programs for natural gas consumers. Such programs  
7 must be authorized and overseen by the State regu-  
8 latory authority, or by the entity with regulatory au-  
9 thority over retail natural gas rates in the case of  
10 a natural gas local distribution company that is not  
11 regulated by a State regulatory authority.

12           “(5) GUIDELINES.—As part of the regulations  
13 promulgated under subsection (h), the Administrator  
14 shall prescribe specific guidelines for the implemen-  
15 tation of the requirements of this subsection.

16           “(d) REGULATORY PROCEEDINGS.—

17           “(1) REQUIREMENT.—No natural gas local dis-  
18 tribution company shall be eligible to receive emis-  
19 sion allowances under this section unless the State  
20 regulatory authority with authority over such com-  
21 pany, or the entity with authority to regulate retail  
22 rates of a natural gas local distribution company not  
23 regulated by a State regulatory authority, has—

24           “(A) promulgated a regulation or com-  
25 pleted a rate proceeding (or the equivalent, in

1 the case of a ratemaking entity other than a  
2 State regulatory authority) that provides for  
3 the full implementation of the requirements of  
4 subsection (c); and

5 “(B) made available to the Administrator  
6 and the public a report describing, in adequate  
7 detail, the manner in which the requirements of  
8 subsection (c) will be implemented.

9 “(2) UPDATING.—The Administrator shall re-  
10 quire, as a condition of continued receipt of emission  
11 allowances under this section, that a new regulation  
12 be promulgated or rate proceeding be completed, and  
13 a new report be made available to the Administrator  
14 and the public, pursuant to paragraph (1), not less  
15 frequently than every 5 years.

16 “(e) PLANS AND REPORTING.—

17 “(1) REGULATIONS.—As part of the regulations  
18 promulgated under subsection (h), the Administrator  
19 shall prescribe requirements governing plans and re-  
20 ports to be submitted in accordance with this sub-  
21 section.

22 “(2) PLANS.—Not later than April 30, 2015,  
23 and every 5 years thereafter through 2025, each  
24 natural gas local distribution company shall submit  
25 to the Administrator a plan, approved by the State

1 regulatory authority or other entity charged with  
2 regulating the retail rates of such company, describ-  
3 ing such company's plans for the disposition of the  
4 value of emission allowances to be received pursuant  
5 to this section, in accordance with the requirements  
6 of this section.

7 “(3) REPORTS.—Not later than June 30, 2017,  
8 and each calendar year thereafter through 2031,  
9 each natural gas local distribution company shall  
10 submit a report to the Administrator, approved by  
11 the relevant State regulatory authority or other enti-  
12 ty charged with regulating the retail natural gas  
13 rates of such company, describing the disposition of  
14 the value of any emission allowances received by  
15 such company in the prior calendar year pursuant to  
16 this subsection, including—

17 “(A) a description of sales, transfer, ex-  
18 change, or use by the company for compliance  
19 with obligations under this title, of any such  
20 emission allowances;

21 “(B) the monetary value received by the  
22 company, whether in money or in some other  
23 form, from the sale, transfer, or exchange of  
24 emission allowances received by the company  
25 under this section;

1           “(C) the manner in which the company’s  
2           disposition of emission allowances received  
3           under this subsection complies with the require-  
4           ments of this section, including each of the re-  
5           quirements of subsection (c);

6           “(D) the cost-effectiveness of, and energy  
7           savings achieved by, energy efficiency programs  
8           supported through such emission allowances;  
9           and

10           “(E) such other information as the Admin-  
11           istrator may require pursuant to paragraph (1).

12           “(4) PUBLICATION.—The Administrator shall  
13           make available to the public all plans and reports  
14           submitted by natural gas local distribution compa-  
15           nies under this subsection, including by publishing  
16           such plans and reports on the Internet.

17           “(f) AUDITING.—

18           “(1) ADMINISTRATOR AUDIT REPORT.—Each  
19           year, the Administrator shall audit a significant rep-  
20           resentative sample of natural gas local distribution  
21           companies to ensure that emission allowances dis-  
22           tributed under this section have been used exclu-  
23           sively for the benefit of retail ratepayers and that  
24           such companies are complying with the requirements  
25           of this section. In selecting companies for audit, the

1 Administrator shall take into account any credible  
2 evidence of noncompliance with such requirements.  
3 The Administrator shall make available to the public  
4 a report describing the results of each such audit,  
5 including by publishing such report on the Internet.

6 “(2) GAO AUDIT REPORT.—Not later April 30,  
7 2015 and every 3 years thereafter through April 30,  
8 2026, the Comptroller General of the United States,  
9 incorporating results from the Administrators’ audit  
10 report and other relevant information including dis-  
11 tribution company reports, shall conduct an in-depth  
12 evaluation and make available to the public a report  
13 on the investments made pursuant to subsection (c).  
14 Said report shall be made available to the State reg-  
15 ulatory authority, or the entity with authority to  
16 regulate or set retail natural gas rates in the case  
17 of a natural gas distribution company that is not  
18 regulated by a State regulatory authority, and shall  
19 include a description how the distribution companies  
20 in the audit meet or fail to meet the requirement of  
21 subsection (c), including for investments made in  
22 cost-effective end-use energy efficiency programs, the  
23 lifetime and annual energy saving benefits, and ca-  
24 pacity benefits of said programs.

1           “(3) ADMINISTRATOR COST CONTAINMENT RE-  
2           PORT.—Not later April 30, 2015, and every 3 years  
3           thereafter through April 30, 2026, the Adminis-  
4           trator shall transmit a report to Congress containing  
5           an evaluation of the disposition of the value of emis-  
6           sion allowances received pursuant to this subsection  
7           and recommendations of ways to more effectively di-  
8           rect the value of allowances to reduce costs for con-  
9           sumers, contain the overall costs of the greenhouse  
10          gas emissions reduction program, and meet the pol-  
11          lution reduction targets of the Act. The Adminis-  
12          trator shall make available to the public such report,  
13          including by publishing such report on the Internet.

14          “(g) ENFORCEMENT.—A violation of any require-  
15          ment of this section, irrespective of approval by a State  
16          regulatory authority, shall be a violation of this Act. Each  
17          emission allowance the value of which is used in violation  
18          of the requirements of this section shall be a separate vio-  
19          lation.

20          “(h) REGULATIONS.—Not later than January 1,  
21          2014, the Administrator, in consultation with the Federal  
22          Energy Regulatory Commission, shall promulgate regula-  
23          tions to implement the requirements of this section.

24          **“SEC. 774. HOME HEATING OIL AND PROPANE CONSUMERS.**

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

1           “(1) CARBON CONTENT.—The term ‘carbon  
2           content’ means the amount of carbon dioxide that  
3           would be emitted as a result of the combustion of a  
4           fuel.

5           “(2) COST-EFFECTIVE.—The term ‘cost-effec-  
6           tive’ has the meaning given that term in section  
7           773(a).

8           “(b) ALLOCATION.—The Administrator shall dis-  
9           tribute among the States, in accordance with this section,  
10          the quantity of emission allowances allocated pursuant to  
11          section 771(a)(3). The Administrator shall distribute a  
12          percentage of such allowances determined by the Adminis-  
13          trator, after consultation with the Secretary of the Inte-  
14          rior, pursuant to subsection (f).

15          “(c) DISTRIBUTION AMONG STATES.—The Adminis-  
16          trator shall distribute emission allowances among the  
17          States under this section each year on a pro rata basis  
18          based on the ratio of—

19                 “(1) the carbon content of home heating oil and  
20                 propane sold to consumers within each State in the  
21                 preceding year for residential or commercial uses; to

22                 “(2) the carbon content of home heating oil and  
23                 propane sold to consumers within the United States  
24                 in the preceding year for residential or commercial  
25                 uses.

1 “(d) USE OF ALLOWANCES.—

2 “(1) IN GENERAL.—States shall use emission  
3 allowances distributed under this section exclusively  
4 for the benefit of consumers of home heating oil or  
5 propane for residential or commercial purposes.  
6 Such proceeds shall be used exclusively for—

7 “(A) cost-effective energy efficiency pro-  
8 grams for consumers that use home heating oil  
9 or propane for residential or commercial pur-  
10 poses; or

11 “(B) rebates or other direct financial as-  
12 sistance programs for consumers of home heat-  
13 ing oil or propane used for residential or com-  
14 mercial purposes.

15 “(2) ADMINISTRATION AND DELIVERY MECHA-  
16 NISMS.—In administering programs supported by  
17 this section, States shall—

18 “(A) use no less than 50 percent of the  
19 value of emission allowances received under this  
20 section for cost-effective energy efficiency pro-  
21 grams to reduce consumers’ overall fuel costs;

22 “(B) to the extent practicable, deliver con-  
23 sumer support under this section through exist-  
24 ing energy efficiency and consumer energy as-  
25 sistance programs or delivery mechanisms, in-



1 including, where appropriate, programs or mecha-  
2 nisms administered by parties other than the  
3 State; and

4 “(C) seek to coordinate the administration  
5 and delivery of energy efficiency and consumer  
6 energy assistance programs supported under  
7 this section, with one another and with existing  
8 programs for various fuel types, so as to deliver  
9 comprehensive, fuel-blind, coordinated programs  
10 to consumers.

11 “(e) REPORTING.—Each State receiving emission al-  
12 lowances under this section shall submit to the Adminis-  
13 trator, within 12 months of each receipt of such allow-  
14 ances, a report, in accordance with such requirements as  
15 the Administrator may prescribe, that—

16 “(1) describes the State’s use of emission allow-  
17 ances distributed under this section, including a de-  
18 scription of the energy efficiency and consumer as-  
19 sistance programs supported with such allowances;

20 “(2) demonstrates the cost-effectiveness of, and  
21 the energy savings achieved by, energy efficiency  
22 programs supported under this section; and

23 “(3) includes a report prepared by an inde-  
24 pendent third party, in accordance with such regula-  
25 tions as the Administrator may promulgate, evalu-

1       ating the performance of the energy efficiency and  
2       consumer assistance programs supported under this  
3       section.

4       “(f) ENFORCEMENT.—If the Administrator deter-  
5       mines that a State is not in compliance with this section,  
6       the Administrator may withhold a portion of the emission  
7       allowances, the quantity of which is equal to up to twice  
8       the quantity of the allowances that the State failed to use  
9       in accordance with the requirements of this section, that  
10      such State would otherwise be eligible to receive under this  
11      section in later years. Allowances withheld pursuant to  
12      this subsection shall be distributed among the remaining  
13      States on a pro rata basis in accordance with the formula  
14      in subsection (c).

15      **“SEC. 775. DOMESTIC FUEL PRODUCTION.**

16      “(a) PURPOSE.—The purpose of this section is to  
17      provide emission allowance rebates to petroleum refineries  
18      in the United States in a manner that promotes energy  
19      efficiency and a reduction in greenhouse gas emissions at  
20      such facilities.

21      “(b) DEFINITIONS.—In this section:

22              “(1) EMISSIONS.—The term ‘emissions’ in-  
23              cludes direct emissions from fuel combustion, proc-  
24              ess emissions, and indirect emissions from the gen-  
25              eration of electricity, steam, and hydrogen used to

1 produce the output of a petroleum refinery or the  
2 petroleum refinery sector.

3 “(2) PETROLEUM REFINERY.—The term ‘petro-  
4 leum refinery’ means a facility classified under code  
5 324110 of the North American Industrial Classifica-  
6 tion System of 2002.

7 “(3) SMALL BUSINESS REFINER.—The term  
8 ‘small business refiner’ means a refiner that meets  
9 the applicable Federal refinery capacity and em-  
10 ployee limitations criteria described in section  
11 45H(c)(1) of the Internal Revenue Code of 1986 (as  
12 in effect on the date of enactment of this section and  
13 without regard to section 45H(d)). Eligibility of a  
14 small business refiner under this paragraph shall not  
15 be recalculated or disallowed on account of (i) its  
16 merger with another small business refiner or refin-  
17 ers after December 31, 2002, or (ii) its acquisition  
18 of another small business refiner (or refinery of such  
19 refiner) after December 31, 2002.

20 “(c) IN GENERAL.—The Administrator shall dis-  
21 tribute allowances pursuant to this section to owners and  
22 operators of petroleum refineries, including small business  
23 refiners, in the United States.

24 “(d) DISTRIBUTION SCHEDULE.—The Administrator  
25 shall distribute emission allowances pursuant to the regu-

1 lations issued under subsection (e) for each vintage year  
2 no later than October 31 of the preceding calendar year.

3       “(e) REGULATIONS.—Not later than 3 years after the  
4 date of enactment of this title, the Administrator, in con-  
5 sultation with the Administrator of the Energy Informa-  
6 tion Administration, shall promulgate regulations that es-  
7 tablish a formula for distributing emission allowances con-  
8 sistent with the purpose of this section. In establishing  
9 such formula, the Administrator shall consider the relative  
10 complexity of refinery processes and appropriate mecha-  
11 nisms to take energy efficiency and greenhouse gas reduc-  
12 tions into account. If a petroleum refinery’s electricity pro-  
13 vider received a free allocation of emission allowances pur-  
14 suant to section 771(a)(1), the Administrator shall take  
15 this free allocation into account when establishing such  
16 formula to avoid rebates to a petroleum refinery for costs  
17 that the Administrator determines were not incurred by  
18 the petroleum refinery because the allowances were freely  
19 allocated to the petroleum refinery’s electricity provider  
20 and used for the benefit of the petroleum refinery. This  
21 formula shall apply separately to the distribution of allow-  
22 ances allocated pursuant to section 771(a)(4), including  
23 for petroleum refiners and small business refiners.

24 **“SEC. 776. CONSUMER PROTECTION.**

25       “(a) CONSUMER REBATES.—

1           “(1) ESTABLISHMENT OF FUND.—There is es-  
2           tablished in the Treasury a separate account, to be  
3           known as the ‘Consumer Rebate Fund’).

4           “(2) AVAILABILITY OF AMOUNTS.—All amounts  
5           deposited in the Consumer Rebate Fund shall be  
6           available without further appropriation or fiscal year  
7           limitation.

8           “(3) DISTRIBUTION OF AMOUNTS.—Beginning  
9           in 2026, for each year after deposits are made in the  
10          Consumer Rebate Fund pursuant to section  
11          771(b)(2)(A), the President shall use the funds in  
12          accordance with Federal statutory authority to pro-  
13          vide relief to consumers and others affected by the  
14          enactment of the Clean Energy Jobs and American  
15          Power Act (and amendments made by that Act).

16          “(b) ENERGY REFUND PROGRAM.—

17                 “(1) ESTABLISHMENT OF FUND.—There is es-  
18                 tablished in the Treasury a separate account, to be  
19                 known as the ‘Energy Refund Account’).

20                 “(2) AVAILABILITY OF AMOUNTS.—All amounts  
21                 deposited in the Energy Refund Account shall be  
22                 available without further appropriation or fiscal year  
23                 limitation.

24                 “(3) DISTRIBUTION OF AMOUNTS.—For each  
25                 year after deposits are made to the Energy Refund

1 Account pursuant to section 771(b)(2)(B), the  
2 President shall use the funds in accordance with  
3 Federal statutory authority to offset energy cost im-  
4 pacts on low- and moderate-income households.

5 **“SEC. 777. EXCHANGE FOR STATE-ISSUED ALLOWANCES.**

6 “(a) IN GENERAL.—Not later than 1 year after the  
7 date of enactment of this title, the Administrator shall  
8 issue regulations allowing any person in the United States  
9 to exchange greenhouse gas emission allowances issued be-  
10 fore the later of December 31, 2011, or the date that is  
11 9 months after the first auction under section 778, by the  
12 State of California or for the Regional Greenhouse Gas  
13 Initiative, or the Western Climate Initiative (in this sec-  
14 tion referred to as ‘State allowances’) for emission allow-  
15 ances established by the Administrator under section  
16 721(a).

17 “(b) REGULATIONS.—Regulations issued under sub-  
18 section (a) shall—

19 “(1) provide that a person exchanging State al-  
20 lowances under this section receive emission allow-  
21 ances established under section 721(a) in the  
22 amount that is sufficient to compensate for the cost  
23 of obtaining and holding such State allowances;

24 “(2) establish a deadline by which persons must  
25 exchange the State allowances;

1           “(3) provide that the Federal emission allow-  
2           ances disbursed pursuant to this section shall be de-  
3           ducted from the allowances to be auctioned pursuant  
4           to section 771(b); and

5           “(4) require that, once exchanged, the credit or  
6           other instrument be retired for purposes of use  
7           under the program by or for which it was originally  
8           issued.

9           “(c) COST OF OBTAINING STATE ALLOWANCE.—For  
10          purposes of this section, the cost of obtaining a State al-  
11          lowance shall be the average auction price, for emission  
12          allowances issued in the year in which the State allowance  
13          was issued, under the program under which the State al-  
14          lowance was issued.

15        **“SEC. 778. AUCTION PROCEDURES.**

16           “(a) IN GENERAL.—To the extent that auctions of  
17          emission allowances by the Administrator are authorized  
18          by this part, such auctions shall be carried out pursuant  
19          to this section and the regulations established hereunder.

20           “(b) INITIAL REGULATIONS.—Not later than 12  
21          months after the date of enactment of this title, the Ad-  
22          ministrator, in consultation with other agencies, as appro-  
23          priate, shall promulgate regulations governing the auction  
24          of allowances under this section. Such regulations shall in-  
25          clude the following requirements:

1           “(1) FREQUENCY; FIRST AUCTION.—Auctions  
2 shall be held four times per year at regular intervals,  
3 with the first auction to be held no later than March  
4 31, 2011.

5           “(2) AUCTION SCHEDULE; CURRENT AND FU-  
6 TURE VINTAGES.—The Administrator shall, at each  
7 quarterly auction under this section, offer for sale  
8 both a portion of the allowances with the same vin-  
9 tage year as the year in which the auction is being  
10 conducted and a portion of the allowances with vin-  
11 tage years from future years. The preceding sen-  
12 tence shall not apply to auctions held before 2012,  
13 during which period, by necessity, the Administrator  
14 shall auction only allowances with a vintage year  
15 that is later than the year in which the auction is  
16 held. Beginning with the first auction and at each  
17 quarterly auction held thereafter, the Administrator  
18 may offer for sale allowances with vintage years of  
19 up to 4 years after the year in which the auction is  
20 being conducted.

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

23           “(4) PARTICIPATION; FINANCIAL ASSURANCE.—  
24 Auctions shall be open to any person, except that  
25 the Administrator may establish financial assurance



1 requirements to ensure that auction participants can  
2 and will perform on their bids.

3 “(5) DISCLOSURE OF BENEFICIAL OWNER-  
4 SHIP.—Each bidder in the auction shall be required  
5 to disclose the person or entity sponsoring or bene-  
6 fitting from the bidder’s participation in the auction  
7 if such person or entity is, in whole or in part, other  
8 than the bidder.

9 “(6) PURCHASE LIMITS.—No person may, di-  
10 rectly or in concert with another participant, pur-  
11 chase more than 5 percent of the allowances offered  
12 for sale at any quarterly auction.

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

18 “(8) OTHER REQUIREMENTS.—The Adminis-  
19 trator may include in the regulations such other re-  
20 quirements or provisions as the Administrator, in  
21 consultation with other agencies, as appropriate,  
22 considers appropriate to promote effective, efficient,  
23 transparent, and fair administration of auctions  
24 under this section.

1           “(c) REVISION OF REGULATIONS.—The Adminis-  
2 trator may, in consultation with other agencies, as appro-  
3 priate, at any time, revise the initial regulations promul-  
4 gated under subsection (b) by promulgating new regula-  
5 tions. Such revised regulations need not meet the require-  
6 ments identified in subsection (b) if the Administrator de-  
7 termines that an alternative auction design would be more  
8 effective, taking into account factors including costs of ad-  
9 ministration, transparency, fairness, and risks of collusion  
10 or manipulation. In determining whether and how to re-  
11 vise the initial regulations under this subsection, the Ad-  
12 ministrator shall not consider maximization of revenues to  
13 the Federal Government.

14           “(d) RESERVE AUCTION PRICE.—The minimum re-  
15 serve auction price shall be \$10 (in constant 2005 dollars)  
16 for auctions occurring in 2012. The minimum reserve  
17 price for auctions occurring in years after 2012 shall be  
18 the minimum reserve auction price for the previous year  
19 increased by 5 percent plus the rate of inflation (as meas-  
20 ured by the Consumer Price Index for all urban con-  
21 sumers).

22           “(e) DELEGATION OR CONTRACT.—Pursuant to reg-  
23 ulations under this section, the Administrator may by del-  
24 egation or contract provide for the conduct of auctions  
25 under the Administrator’s supervision by other depart-

1 ments or agencies of the Federal Government or by non-  
2 governmental agencies, groups, or organizations.

3 “(f) SMALL BUSINESS REFINER RESERVE.—The Ad-  
4 ministrator shall, in accordance with this subsection, issue  
5 regulations setting aside a specified number of allowances,  
6 as determined by the Administrator, that small business  
7 refiners may purchase at the average auction price and  
8 may use to demonstrate compliance pursuant to section  
9 722. These regulations shall provide the following:

10 “(1) ALLOWED PURCHASES.—From January 1  
11 of the calendar year that matches the vintage year  
12 for which allowances have been placed in the reserve,  
13 through January 14 of the following year, small  
14 business refiners (as defined in section 775(b)) may  
15 purchase allowances from this reserve at the price  
16 determined pursuant to paragraph (2).

17 “(2) PRICE.—The price for allowances pur-  
18 chased from this reserve shall be the average auction  
19 price for allowances of the same vintage year pur-  
20 chased at auctions conducted pursuant to this sec-  
21 tion during the 12 months preceding the purchase of  
22 the allowances.

23 “(3) USE OF ALLOWANCES.—Allowances pur-  
24 chased from this reserve shall only be used by the  
25 purchaser to demonstrate compliance pursuant to

1 section 722 for attributable greenhouse gas emis-  
2 sions in the calendar year that matches the vintage  
3 year of the purchased allowance. Allowances pur-  
4 chased from this reserve may not be banked, traded  
5 or borrowed.

6 “(4) LIMITATIONS ON PURCHASE AMOUNT.—  
7 The Administrator, by regulation adopted after pub-  
8 lic notice and an opportunity for comment, shall es-  
9 tablish procedures to distribute the ability to pur-  
10 chase allowances from the reserve fairly among all  
11 small business refiners interested in purchasing al-  
12 lowances from this reserve so as to address the po-  
13 tential that requests to purchase allowances exceed  
14 the number of allowances available in the reserve.  
15 This regulation may place limits on the number of  
16 allowances a small business refiner may purchase  
17 from the reserve.

18 “(5) UNSOLD ALLOWANCES.—Vintage year al-  
19 lowances not sold from the reserve on or before Jan-  
20 uary 15 of the calendar year following the vintage  
21 year shall be sold at an auction conducted pursuant  
22 to this section no later than March 31 of the cal-  
23 endar year following the vintage year. If significantly  
24 more allowances are being placed in the reserve than  
25 are being purchased from the reserve several years

1 in a row, the Administrator may adjust either the  
2 percent of allowances placed in the reserve or the  
3 date by which allowances may be purchased from the  
4 reserve.

5 **“SEC. 779. AUCTIONING ALLOWANCES FOR OTHER ENTI-**  
6 **TIES.**

7 “(a) CONSIGNMENT.—Any entity holding emission al-  
8 lowances or compensatory allowances may request that the  
9 Administrator auction, pursuant to section 778, the allow-  
10 ances on consignment.

11 “(b) PRICING.—When the Administrator acts under  
12 this section as the agent of an entity in possession of emis-  
13 sion allowances, the Administrator is not obligated to ob-  
14 tain the highest price possible for the emission allowances,  
15 and instead shall auction consignment allowances in the  
16 same manner and pursuant to the same rules as auctions  
17 of other allowances under section 778. The Administrator  
18 may permit the entity offering the allowance for sale to  
19 condition the sale of its allowances pursuant to this section  
20 on a minimum reserve price that is different than the re-  
21 serve auction price set pursuant to section 778(d).

22 “(c) PROCEEDS.—For emission allowances and com-  
23 pensatory allowances auctioned pursuant to this section,  
24 notwithstanding section 3302 of title 31, United States  
25 Code, or any other provision of law, within 90 days of re-

1 ceipt, the United States shall transfer the proceeds from  
 2 the auction to the entity which held the allowances auc-  
 3 tioned. No funds transferred from a purchaser to a seller  
 4 of emission allowances or compensatory allowances under  
 5 this subsection shall be held by any officer or employee  
 6 of the United States or treated for any purpose as public  
 7 monies.

8 “(d) REGULATIONS.—The Administrator shall issue  
 9 regulations within 24 months after the date of enactment  
 10 of this title to implement this section.

11 **“SEC. 780. COMMERCIAL DEPLOYMENT OF CARBON CAP-  
 12 TURE AND SEQUESTRATION TECHNOLOGIES.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) CARBON CAPTURE AND STORAGE.—The  
 15 term ‘carbon capture and sequestration’ shall—

16 “(A) have such term as Administrator  
 17 shall determine by regulation; and

18 “(B) include—

19 “(i) geological sequestration; and

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

23 “(2) QUALIFYING ELECTRIC GENERATING  
 24 UNIT.—The term ‘qualifying electric generating unit’  
 25 means an electric utility unit that—

1           “(A) derives at least 50 percent of the an-  
2           nual fuel input of the unit from—

3                   “(i) coal or waste coal;

4                   “(ii) petroleum coke; or

5                   “(iii) any combination of those 2  
6           fuels; and

7           “(B)(i) has a nameplate capacity of 200  
8           megawatts or more; or

9                   “(ii) in the case of retrofit applications, the  
10           carbon capture and sequestration technology is  
11           applied to the flue gas or fuel gas stream from  
12           at least 200 megawatts of the total nameplate  
13           generating capacity of the unit.

14           “(3) QUALIFYING INDUSTRIAL SOURCE.—The  
15           term ‘qualifying industrial source’ means a source  
16           that—

17                   “(A) is not a qualifying electric generating  
18           unit;

19                   “(B) absent carbon capture and sequestra-  
20           tion, would emit greater than 50,000 tons per  
21           year of carbon dioxide; and

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

24           “(4) TREATED GENERATING CAPACITY.—

1           “(A) IN GENERAL.—The term ‘treated  
2           generating capacity’ means the portion of the  
3           total generating capacity of an electric gener-  
4           ating unit (or industrial source, measured by  
5           such method as the Administrator may des-  
6           ignate to be equivalent to the calculation under  
7           subparagraph (B)) for which the flue gas or  
8           fuel gas is treated by the carbon capture and  
9           sequestration technology.

10           “(B) CALCULATION.—In determining the  
11           treated portion of flue gas or fuel gas of an  
12           electric generating unit under subparagraph  
13           (A), the Administrator shall multiply the name-  
14           plate capacity of the unit by the ratio that—

15                   “(i) the mass of flue gas or fuel gas  
16                   that is treated by the carbon capture and  
17                   sequestration technology; bears to

18                   “(ii) the total mass of the flue gas or  
19                   fuel gas that is produced when the unit is  
20                   operating at maximum capacity.

21           “(b) REGULATIONS.—Not later than 2 years after  
22           the date of enactment of this title, the Administrator shall  
23           promulgate regulations providing for the distribution of  
24           emission allowances allocated under section 771(a)(6),  
25           pursuant to the requirements of this section, to support



1 the commercial deployment of carbon capture and seques-  
2 tration technologies in electric power generation and in-  
3 dustrial operations.

4 “(c) ELIGIBILITY CRITERIA AND METHOD OF DIS-  
5 TRIBUTION.—

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

9 “(A) implement carbon capture and se-  
10 questration technology—

11 “(i) at a qualifying electric generating  
12 unit that, upon implementation of the car-  
13 bon capture and sequestration technology,  
14 will achieve an emission limitation that is  
15 at least a 50-percent reduction in emis-  
16 sions of the carbon dioxide produced by—

17 “(I) the unit, measured on an  
18 annual basis, as determined by the  
19 Administrator; or

20 “(II) in the case of retrofit appli-  
21 cations described in subsection  
22 (a)(2)(B)(ii), the treated portion of  
23 flue gas from the unit, measured on  
24 an annual basis, as determined by the  
25 Administrator; or

1           “(ii) at a qualifying industrial source  
2           that, upon implementation, will achieve an  
3           emission limitation that is at least a 50-  
4           percent reduction in emissions of the car-  
5           bon dioxide produced by the emission  
6           point, measured on an annual basis, as de-  
7           termined by the Administrator;

8           “(B)(i) geologically sequester carbon diox-  
9           ide at a site that meets all applicable permitting  
10          and certification requirements for geological se-  
11          questration; or

12          “(ii) pursuant to such requirements as the  
13          Administrator may prescribe by regulation, con-  
14          vert captured carbon dioxide to a stable form  
15          that will safely and permanently sequester the  
16          carbon dioxide;

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

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

20          “(2) METHOD OF DISTRIBUTION.—

21          “(A) PERIOD.—The Administrator shall  
22          distribute emission allowances allocated under  
23          section 771(a)(6) to eligible projects for each of  
24          the first 10 calendar years for which each eligi-  
25          ble project is in commercial operation.

1                   “(B) BONUS ALLOWANCE FORMULA FOR  
2                   ELECTRIC GENERATING UNITS.—

3                   “(i) PHASE I DISTRIBUTION.—For  
4                   each project that is certified under sub-  
5                   section (h), the quantity of emission allow-  
6                   ances that the Administrator shall dis-  
7                   tribute for a calendar year to the owner or  
8                   operator of the eligible project shall be  
9                   equal to the quotient obtained by divid-  
10                  ing—

11                   “(I) the product obtained by mul-  
12                  tiplying—

13                   “(aa) the number of metric  
14                   tons of carbon dioxide emissions  
15                   avoided through capture and se-  
16                   questration of emissions by the  
17                   project for a particular year, as  
18                   determined pursuant to such  
19                   methodology as the Adminis-  
20                   trator shall prescribe by regula-  
21                   tion; and

22                   “(bb) a bonus allowance  
23                   value that is assigned to the  
24                   project under subsection (d)(2);  
25                   by

1                   “(II) the average fair market  
2                   value of an emission allowance during  
3                   the calendar year preceding the year  
4                   during which the project captured and  
5                   sequestered the carbon dioxide emis-  
6                   sions.

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

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

17                   “(II) if the Administrator decides  
18                   not to distribute allowances through a  
19                   reverse auction, an alternate distribu-  
20                   tion method established by regulation  
21                   under subsection (e)(4).

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

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

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

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

12           “(1) APPLICABILITY.—

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

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

24           “(2) BONUS ALLOWANCE VALUES.—

25           “(A) FIRST TRANCHE.—

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

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

15           “(iii) BONUS ALLOWANCE VALUE.—  
16 The Administrator shall establish, by regu-  
17 lation, a bonus allowance value for each  
18 rate of capture and sequestration achieved  
19 by an eligible project—

20                   “(I) beginning at a minimum of  
21 \$50 per ton for a 50-percent rate; and

22                   “(II) varying in direct proportion  
23 with increasing rates of capture and  
24 sequestration up to \$96 per ton for an  
25 90-percent rate.

1 “(B) SECOND TRANCHE.—

2 “(i) IN GENERAL.—The second  
3 tranche shall include the second 10  
4 gigawatts of treated generating capacity  
5 undertaken at qualifying electric gener-  
6 ating units that receive emission allow-  
7 ances under this section.

8 “(ii) CERTAIN UNITS.—For an eligible  
9 project achieving the capture and seques-  
10 tration of 90 percent or more of the carbon  
11 dioxide that otherwise would be emitted by  
12 the eligible project, the bonus allowance  
13 value shall be \$85 per ton of carbon diox-  
14 ide emissions avoided through the use of  
15 capture and sequestration.

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

21 “(I) beginning at a minimum of  
22 \$50 per ton for a 50-percent rate; and

23 “(II) varying in direct proportion  
24 with increasing rates of capture and

1                   sequestration up to \$85 per ton for a  
2                   90-percent rate.

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

16                  “(D) REDUCTION.—

17                  “(i) IN GENERAL.—For a carbon cap-  
18                  ture and sequestration project sequestering  
19                  in a geological formation for purposes of  
20                  enhanced hydrocarbon recovery, the Ad-  
21                  ministrator, by regulation, shall reduce the  
22                  applicable bonus allowance value under  
23                  this paragraph to reflect the lower net cost  
24                  of the project, as compared to sequestra-



1           tion into geological formations solely for  
2           purposes of sequestration.

3           “(ii) ASSESSMENT OF NET COST.—

4           For the purpose of this subparagraph, an  
5           assessment of net cost of a project shall  
6           account for the cost of the injection of car-  
7           bon dioxide, or other method of enhanced  
8           hydrocarbon recovery, that would have oth-  
9           erwise been undertaken in the absence of  
10          the carbon capture and sequestration  
11          project under consideration.

12          “(E) ADJUSTMENTS.—The Administrator  
13          shall annually adjust for monetary inflation the  
14          bonus allowance values established under this  
15          paragraph.

16          “(F) MEASUREMENT.—The Administrator  
17          shall measure the tranches and capture levels  
18          for assigning the bonus allowance values under  
19          this subsection based on the treated generating  
20          capacity of the qualifying electric generating  
21          units and qualifying industrial sources that re-  
22          ceive emission allowances under this subsection.

23          “(G) AVERAGE FAIR MARKET VALUE.—

24          “(i) IN GENERAL.—The Administrator  
25          and the Secretary of Energy may jointly

1 determine that the average fair market  
2 value for emission allowances or the bonus  
3 allowances have been too low or too high to  
4 achieve efficient and cost-effective commer-  
5 cial deployment of carbon capture and se-  
6 questration technology in a given calendar  
7 year.

8 “(ii) ACTION ON DETERMINATION.—

9 On making a determination under clause  
10 (i), the Administrator may—

11 “(I) promulgate regulations to  
12 adjust the bonus allowance value  
13 under this paragraph; or

14 “(II) distribute an appropriate  
15 quantity of emission allowances allo-  
16 cated under section 771(a)(6) from  
17 any future vintage year.

18 “(e) PHASE II DISTRIBUTION TO ELECTRIC GENER-  
19 ATING UNITS.—

20 “(1) APPLICATION.—This subsection shall  
21 apply only to the distribution of emission allowances  
22 for carbon capture and sequestration projects under-  
23 taken at qualifying electric generating units and  
24 qualifying industrial sources after the treated gener-

1 ating capacity threshold identified under subsection  
2 (d)(1) is reached.

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

10 “(3) REVERSE AUCTIONS.—

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

19 “(B) REQUIREMENTS.—

20 “(i) PROJECTS AT INDUSTRIAL  
21 SOURCES.—The Administrator shall annu-  
22 ally establish a reverse auction for projects  
23 at industrial sources, which may not par-  
24 ticipate in other auctions.

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

5                   “(I) coal type;

6                   “(II) capture technology;

7                   “(III) geological formation type;

8                   “(IV) new unit versus retrofit ap-  
9           plication;

10                  “(V) such other factors as the  
11           Administrator may prescribe; or

12                  “(VI) any combination of the fac-  
13           tors described in subclauses (I)  
14           through (V).

15           “(iii) EFFICIENT DISTRIBUTION.—  
16           The Administrator shall establish proce-  
17           dures for the auction of emission allow-  
18           ances under this subparagraph to ensure  
19           that the establishment of separate auctions  
20           for different project categories will not un-  
21           duly impede the efficient and expeditious  
22           distribution of emission allowances to eligi-  
23           ble projects under this subsection.

24           “(iv) MINIMUM RATES.—The Admin-  
25           istrator may establish appropriate min-

1           imum rates of capture and sequestration  
2           for the treated generating capacity of a  
3           project in implementing this subparagraph.

4           “(C) AUCTION PROCESS.—At each reverse  
5           auction under this paragraph—

6                   “(i) the Administrator shall solicit  
7                   bids from eligible projects;

8                   “(ii) owners or operators of eligible  
9                   projects participating in the auction shall  
10                  submit a bid, including the desired level of  
11                  carbon dioxide sequestration incentive per  
12                  ton and the estimated quantity of carbon  
13                  dioxide that the project will permanently  
14                  sequester during a 10-year period; and

15                  “(iii) the Administrator shall select  
16                  bids within each auction for the sequestra-  
17                  tion quantity submitted, beginning with  
18                  the eligible project for which the bid is  
19                  submitted for the lowest level of sequestra-  
20                  tion incentive on a per-ton basis and meet-  
21                  ing such other requirements as the Admin-  
22                  istrator may specify, until the amounts  
23                  available for the reverse auction are com-  
24                  mitted.

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

11          “(4) ALTERNATIVE DISTRIBUTION METHOD.—

12                 “(A) IN GENERAL.—If the Administrator  
13                 determines that a reverse auction will not result  
14                 in efficient and cost-effective commercial de-  
15                 ployment of carbon capture and sequestration  
16                 technologies, the Administrator, pursuant to  
17                 regulations under paragraph (2) or (5), shall  
18                 prescribe a schedule for the provision of bonus  
19                 allowances to the owners or operators of eligible  
20                 projects under this subsection, in accordance  
21                 with the requirements of this paragraph.

22                 “(B) MULTIPLE TRANCHES.—The Admin-  
23                 istrator shall divide emission allowances avail-  
24                 able for distribution to the owners or operators

1 of eligible projects into a series of tranches,  
2 each of which—

3 “(i) shall support the deployment of a  
4 specified quantity of cumulative electric  
5 generating capacity using carbon capture  
6 and sequestration technology; and

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

9 “(C) METHOD OF DISTRIBUTION.—The  
10 Administrator shall distribute emission allow-  
11 ances within each tranche, on a first-come,  
12 first-served basis—

13 “(i) based on the date of full-scale op-  
14 eration of capture and sequestration tech-  
15 nology; and

16 “(ii) pursuant to a formula that—

17 “(I) is similar to the formula  
18 contained in subsection (c)(2)(C), ex-  
19 cept that the Administrator may pre-  
20 scribe bonus allowance values dif-  
21 ferent than those described in sub-  
22 section (c)(2) based on the criteria es-  
23 tablished under subparagraph (E);  
24 and

1                   “(II) establishes the number of  
2                   emission allowances to be distributed  
3                   per ton of carbon dioxide sequestered  
4                   by the project.

5                   “(D) REQUIREMENTS.—For each tranche  
6                   established pursuant to subparagraph (B), the  
7                   Administrator shall establish a schedule for dis-  
8                   tributing emission allowances that—

9                   “(i) is based on a sliding scale that  
10                  provides higher bonus allowance values for  
11                  projects achieving higher rates of capture  
12                  and sequestration for the treated genera-  
13                  tion capacity at the unit;

14                  “(ii) for each capture and sequestra-  
15                  tion rate, establishes a bonus allowance  
16                  value that is lower than that established  
17                  for the applicable rate for the previous  
18                  tranche (or, in the case of the first  
19                  tranche, than that established for the ap-  
20                  plicable rate under subsection (d)(2)); and

21                  “(iii) may establish different bonus al-  
22                  lowance levels for not more than 5 dif-  
23                  ferent project categories, as defined based  
24                  on—

25                                   “(I) coal type;



1                   “(II) capture and transportation  
2                   technology;

3                   “(III) geological formation type;

4                   “(IV) new unit versus retrofit ap-  
5                   plication;

6                   “(V) such other factors as the  
7                   Administrator may prescribe; or

8                   “(VI) any combination of the fac-  
9                   tors described in subclauses (I)  
10                  through (V).

11                  “(E) CRITERIA FOR ESTABLISHING BONUS  
12                  ALLOWANCE VALUES.—In establishing bonus al-  
13                  lowance values under this paragraph, the Ad-  
14                  ministrator shall seek to cover not more than  
15                  the reasonable incremental capital and oper-  
16                  ating costs of a project that are attributable to  
17                  implementation of carbon capture, transpor-  
18                  tation, and sequestration technologies, taking  
19                  into account—

20                         “(i) the reduced cost of compliance  
21                         with section 722;

22                         “(ii) the reduced cost associated with  
23                         sequestering in a geological formation for  
24                         purposes of enhanced hydrocarbon recov-  
25                         ery, as compared to sequestration into geo-

1                   logical formations solely for purposes of se-  
2                   questration;

3                   “(iii) the relevant factors defining the  
4                   project category; and

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

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

11                  “(f) LIMITS FOR CERTAIN ELECTRIC GENERATING  
12                  UNITS.—

13                  “(1) DEFINITIONS.—In this subsection, the  
14                  terms ‘covered EGU’ and ‘initially permitted’ have  
15                  the meanings given those terms in section 812.

16                  “(2) COVERED EGUS INITIALLY PERMITTED  
17                  FROM 2009 THROUGH 2014.—For a covered EGU  
18                  that is initially permitted during the period begin-  
19                  ning on January 1, 2009, and ending on December  
20                  31, 2014, the Administrator shall reduce the quan-  
21                  tity of emission allowances that the owner or oper-  
22                  ator of the covered EGU would otherwise be eligible  
23                  to receive under this section as follows:

24                  “(A) In the case of a covered EGU com-  
25                  mencing operation on or before January 1,

1           2019, if the date in clause (ii)(I) is earlier than  
2           the date in clause (ii)(II), by the product ob-  
3           tained by multiplying—

4                   “(i) 20 percent; and

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

7                           “(I) the earlier of—

8                                   “(aa) January 1, 2020; and

9                                   “(bb) the date that is 5  
10           years after the commencement of  
11           operation of the covered EGU;  
12           and

13                           “(II) the first year that the cov-  
14           ered EGU achieves (and thereafter  
15           maintains) an emission limitation that  
16           is at least a 50-percent reduction in  
17           emissions of carbon dioxide produced  
18           by the unit, measured on an annual  
19           basis, as determined in accordance  
20           with section 812(b)(2).

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

24                   “(i) 20 percent; and

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

3                   “(I) the commencement of oper-  
4                   ation of the covered EGU; and

5                   “(II) the first year that the cov-  
6                   ered EGU achieves (and thereafter  
7                   maintains) an emission limitation that  
8                   is at least a 50-percent reduction in  
9                   emissions of carbon dioxide produced  
10                  by the unit, measured on an annual  
11                  basis, as determined in accordance  
12                  with section 812(b)(2).

13                  “(3) COVERED EGUS INITIALLY PERMITTED  
14                  FROM 2015 THROUGH 2019.—The owner or operator  
15                  of a covered EGU that is initially permitted during  
16                  the period beginning on January 1, 2015, and end-  
17                  ing on December 31, 2019, shall be ineligible to re-  
18                  ceive emission allowances under this section if the  
19                  covered EGU, on commencement of operations (and  
20                  thereafter), does not achieve and maintain an emis-  
21                  sion limitation that is at least a 50-percent reduction  
22                  in emissions of carbon dioxide produced by the cov-  
23                  ered EGU, measured on an annual basis, as deter-  
24                  mined in accordance with section 812(b)(2).

25                  “(g) INDUSTRIAL SOURCES.—

1           “(1) EMISSION ALLOWANCES.—The Adminis-  
2           trator—

3                   “(A) may distribute not more than 15 per-  
4                   cent of the emission allowances allocated under  
5                   section 771(a)(6) for any vintage year to the  
6                   owners or operators of eligible industrial  
7                   sources to support the commercial-scale deploy-  
8                   ment of carbon capture and sequestration tech-  
9                   nologies at those sources; and

10                   “(B) notwithstanding any other provision  
11                   of law—

12                           “(i) may distribute to eligible indus-  
13                           trial sources not more than 15 percent of  
14                           the emission allowances allocated under  
15                           section 771(a)(6) for any vintage year in  
16                           the second tranche of phase I; but

17                           “(ii) may not distribute those allow-  
18                           ances for any vintage year in the first  
19                           tranche of phase I.

20           “(2) DISTRIBUTION.—

21                   “(A) IN GENERAL.—The Administrator  
22                   shall prescribe, by regulation, requirements for  
23                   the distribution of emission allowances to the  
24                   owners or operators of industrial sources under  
25                   this subsection, based on a bonus allowance for-

1           mula that awards emission allowances to quali-  
2           fying projects on the basis of tons of carbon di-  
3           oxide captured and permanently sequestered.

4           “(B) METHOD.—The Administrator may  
5           provide for the distribution of emission allow-  
6           ances pursuant to—

7                   “(i) a reverse auction method similar  
8                   to the method described in subsection  
9                   (e)(3), including the use of separate auc-  
10                  tions for different project categories; or

11                   “(ii) an incentive schedule similar to  
12                   the schedule described in subsection (e)(4),  
13                   which shall ensure that incentives are es-  
14                   tablished so as to satisfy the requirement  
15                   described in subsection (e)(4)(E).

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

20           “(h) CERTIFICATION AND DISTRIBUTION.—

21                   “(1) CERTIFICATION.—

22                           “(A) REQUEST.—

23                                   “(i) PHASE I; ALTERNATIVE DIS-  
24                                   TRIBUTION METHOD.—In the case of a  
25                                   qualifying project that is eligible to receive

1 allowances under phase I or under sub-  
2 section (e)(4), the owner or operator of the  
3 planned project may request from the Ad-  
4 ministrator a certification that the project  
5 is eligible to receive emission allowances  
6 under this section.

7 “(ii) REVERSE AUCTIONS.—In the  
8 case of a qualifying project that wins a re-  
9 verse auction under subsection (e) or (g),  
10 within a reasonably brief period following  
11 completion of the auction (as specified by  
12 the Administrator), the owner or operator  
13 of the qualifying project shall request from  
14 the Administrator a certification that the  
15 project is eligible to receive emission allow-  
16 ances under this section.

17 “(iii) ELIGIBLE PROJECTS.—Eligible  
18 projects in phase I and phase II may re-  
19 ceive certification under this paragraph.

20 “(iv) ISSUANCE.—The Administrator  
21 shall issue a certification described in this  
22 subparagraph if the owner or operator  
23 demonstrates a commitment to construct  
24 and operate a project that satisfies—

1                   “(I) the eligibility criteria of sub-  
2                   section (c); and

3                   “(II) the requirements of this  
4                   subsection.

5                   “(B) DOCUMENTATION.—The Adminis-  
6                   trator shall prescribe, by regulation, the docu-  
7                   mentation necessary for making a determina-  
8                   tion of project eligibility for the certification  
9                   under subparagraph (A), including—

10                   “(i) technical information regarding  
11                   the capture and sequestration technology,  
12                   coal type, geological formation type (if ap-  
13                   plicable), and other relevant design fea-  
14                   tures of the project;

15                   “(ii) the annual reductions in carbon  
16                   dioxide emissions that the capture and se-  
17                   questration technology is projected to  
18                   achieve during each of the first 10 years of  
19                   the project’s commercial operation; and

20                   “(iii) a demonstration that the owner  
21                   or operator is committed to both con-  
22                   structing and operating the planned  
23                   project on a timeline marked by reasonable  
24                   capture and sequestration milestones,



1 through the completion of 1 of the actions  
2 specified in subparagraph (C)(iii).

3 “(C) COMMITMENT.—

4 “(i) IN GENERAL.—Subject to clause  
5 (ii), the completion of any 1 of the quali-  
6 fying actions specified under clause (iii)  
7 shall constitute a commitment to construct  
8 and operate a planned carbon capture and  
9 sequestration project.

10 “(ii) CONDITION.—In the case of a  
11 qualifying action specified in subclause (I)  
12 or (II) of clause (iii), the completion of  
13 such an action may be subject to a condi-  
14 tion that the Administrator will issue a  
15 certification under this paragraph for the  
16 distribution of emission allowances to the  
17 project.

18 “(iii) QUALIFYING ACTIONS.—Quali-  
19 fying actions under this subparagraph  
20 shall include—

21 “(I) the execution of—

22 “(aa) a commitment by  
23 lenders or other appropriate enti-  
24 ties to finance the project, which  
25 may be subject to customary

1 closing conditions that are associ-  
2 ated with the execution of the  
3 commitment; and

4 “(bb) a commitment by the  
5 owner or operator of the project  
6 to execute a surety bond in suffi-  
7 cient amounts by not later than 2  
8 years after the date on which the  
9 Administrator issues the certifi-  
10 cation for the project; or

11 “(II) an authorization by a State  
12 regulatory authority to allow recovery,  
13 from the retail customers of such elec-  
14 tric utility, of the costs of the project  
15 by a State-regulated electric utility  
16 that plans to construct the project.

17 “(D) FAILURE TO REQUEST CERTIFI-  
18 CATION.—

19 “(i) IN GENERAL.—An owner or oper-  
20 ator may elect not to request a certifi-  
21 cation on the eligibility of a planned  
22 project under subparagraph (A) prior to  
23 the commercial operation of the project.

24 “(ii) DETERMINATION BY ADMINIS-  
25 TRATOR.—If an owner or operator elects

1 not to request a certification under clause  
2 (i), the Administrator shall make a deter-  
3 mination regarding whether the project  
4 satisfies the eligibility requirements of sub-  
5 section (c) at the time that the Adminis-  
6 trator makes a determination regarding  
7 the annual distribution of emission allow-  
8 ances under paragraph (3)(A).

9 “(2) RESERVATION OF EMISSION ALLOW-  
10 ANCES.—

11 “(A) AMOUNT.—

12 “(i) IN GENERAL.—For each project  
13 that receives a certification of eligibility  
14 under paragraph (1), the Administrator  
15 shall reserve on a first-come, first-served  
16 basis a portion of the emission allowances  
17 that are allocated for the deployment of  
18 carbon capture and sequestration tech-  
19 nology under section 771(a)(6).

20 “(ii) DETERMINATION.—The reserva-  
21 tion of emission allowances for a particular  
22 eligible project under this paragraph shall  
23 be equal to the number of emission allow-  
24 ances that the project is entitled to receive  
25 under the applicable distribution method

1 under this section upon commercial oper-  
2 ation of the carbon capture and sequestra-  
3 tion technology, as determined by the Ad-  
4 ministrator based on—

5 “(I) the applicable bonus allow-  
6 ance value;

7 “(II) the number of tons of car-  
8 bon dioxide emissions projected to be  
9 captured and sequestered each cal-  
10 endar year under paragraph  
11 (1)(B)(i)(II); and

12 “(III) a discount rate to account  
13 for the monetary inflation that may  
14 be expected to occur during each of  
15 the relevant 10 calendar years, as de-  
16 termined by the Administrator.

17 “(B) TERMINATION OF RESERVATION.—

18 “(i) IN GENERAL.—A reservation of  
19 emission allowances for a particular project  
20 under subparagraph (A) shall terminate if  
21 the owner or operator fails to achieve rea-  
22 sonable milestones for commencing con-  
23 struction or commercial operation of the  
24 project, as specified under paragraph  
25 (1)(B)(i)(III).

1                   “(ii) REDUCED QUANTITY OF CARBON  
2                   DIOXIDE CAPTURED AND SEQUESTERED.—  
3                   If the quantity of carbon dioxide captured  
4                   and sequestered by a project on average  
5                   over 3 consecutive vintage years is less  
6                   than the quantity estimated for those vin-  
7                   tage years under subparagraph (A), the  
8                   reservation of emission allowances for the  
9                   project under subparagraph (A) shall be  
10                  reduced in future years by the difference  
11                  between—

12                               “(I) the quantity of carbon diox-  
13                               ide captured and sequestered on aver-  
14                               age over the applicable 3 consecutive  
15                               years; and

16                               “(II) the quantity estimated  
17                               under subparagraph (A) for the appli-  
18                               cable years.

19                               “(iii) AVAILABILITY.—The Adminis-  
20                               trator shall immediately make available to  
21                               other eligible projects emission allowances  
22                               for which the Administrator has termi-  
23                               nated an emission allowance reservation  
24                               for a particular project under this subpara-  
25                               graph.

1 “(3) DISTRIBUTION PROCESS.—

2 “(A) ANNUAL DISTRIBUTION.—The Ad-  
3 ministrator shall distribute the emission allow-  
4 ances to eligible projects on an annual basis.

5 “(B) BASIS.—The annual distribution of  
6 emission allowances shall be based on the total  
7 tons of carbon dioxide that the project annually  
8 captures and sequesters during each of the first  
9 10 years of commercial operation, in accordance  
10 with subsection (c)(2).

11 “(C) TOTAL DISTRIBUTION AMOUNT.—The  
12 total amount of emission allowances distributed  
13 to an eligible project for each of the first 10  
14 years of commercial operation may be greater  
15 than, or less than, the quantity of emissions al-  
16 lowances that the Administrator has reserved  
17 for the eligible project under paragraph (2).

18 “(D) REPORTS.—

19 “(i) IN GENERAL.—Except as pro-  
20 vided in subparagraph (B), the Adminis-  
21 trator shall make each annual distribution  
22 of emission allowances by not later than 90  
23 days after the date on which the owner or  
24 operator of a project submits to the Ad-  
25 ministrator a report regarding the carbon

1           dioxide emissions captured and sequestered  
2           for a particular year by the project.

3           “(ii) REQUIREMENT.—A report under  
4           subclause (I) shall be verified in accord-  
5           ance with regulations to be promulgated by  
6           the Administrator.

7           “(i) LIMITATIONS.—

8           “(1) IN GENERAL.—Emission allowances shall  
9           be distributed under this section only for tons of car-  
10          bon dioxide emissions that have already been cap-  
11          tured and sequestered.

12          “(2) PERIOD.—A qualifying project may receive  
13          annual emission allowances under this section only  
14          for the first 10 years of operation.

15          “(3) CAPACITY.—

16          “(A) IN GENERAL.—Approximately 72  
17          gigawatts of total cumulative treated generating  
18          capacity may receive emission allowances under  
19          this section.

20          “(B) ALLOWANCE SURPLUS.—On reaching  
21          the cumulative capacity described in subpara-  
22          graph (A), any emission allowances that are al-  
23          located for carbon capture and sequestration  
24          deployment under section 771(a)(6) and are not  
25          yet obligated under this section shall be treated

1 as emission allowances not designated for dis-  
2 tribution for purposes of section 771(b)(2).

3 “(j) EXHAUSTION OF ACCOUNT AND ANNUAL ROLL-  
4 OVER OF SURPLUS EMISSION ALLOWANCES.—

5 “(1) IN GENERAL.—In distributing emission al-  
6 lowances under this section, the Administrator shall  
7 ensure that eligible projects receive distributions of  
8 emission allowances for the first 10 years of com-  
9 mercial operation.

10 “(2) DIFFERENT VINTAGE YEARS.—

11 “(A) DETERMINATION.—If the Adminis-  
12 trator determines that the emission allowances  
13 allocated under section 771(a)(6) with a vintage  
14 year that matches the year of distribution will  
15 be exhausted once the estimated full 10-year  
16 distributions will be provided to current eligible  
17 participants, the Administrator shall provide to  
18 new eligible projects emission allowances from  
19 vintage years after the year of the distribution.

20 “(B) DIVERSITY FACTORS.—If the Admin-  
21 istrator provides allowances to new eligible  
22 projects under subparagraph (A), the Adminis-  
23 trator shall promulgate regulations to prioritize  
24 new eligible projects that are distinguished from  
25 prior recipients of allowances by 1 or more of



1 the following diversity factors (without regard  
2 to order):

3 “(i) Location in a coal-producing re-  
4 gion that provides a majority of coal to the  
5 project.

6 “(ii) Coal type, including waste coal.

7 “(iii) Capture and transportation  
8 technologies.

9 “(iv) Geological formations.

10 “(v) New units and retrofit applica-  
11 tions.

12 “(k) ALLOCATION OF ALLOWANCES FOR DEPLOY-  
13 MENT OF CARBON CAPTURE AND SEQUESTRATION TECH-  
14 NOLOGY.—

15 “(1) ANNUAL ALLOCATION.—The Adminis-  
16 trator shall allocate emission allowances for the de-  
17 ployment of carbon capture and sequestration tech-  
18 nology in accordance with this section in the fol-  
19 lowing quantities:

20 “(A) For each of vintage years 2014  
21 through 2017, 1.75 percent of the emission al-  
22 lowances established for each year under section  
23 721(a).

1           “(B) For each of vintage years 2018 and  
2           2019, 4.75 percent of the emission allowances  
3           established for each year under section 721(a).

4           “(C) For each of vintage years 2020  
5           through 2050, 5 percent of the emission allow-  
6           ances established for each year under section  
7           721(a).

8           “(2) CARRYOVER.—If the Administrator has  
9           not distributed all of the allowances allocated pursu-  
10          ant to this subsection for a given vintage year by the  
11          end of that year, the Administrator shall—

12           “(A) auction those emission allowances in  
13           accordance with section 778 by not later than  
14           March 31 of the year following that vintage  
15           year; and

16           “(B) increase the allocation under this  
17           subsection for the vintage year after the vintage  
18           year for which emission allowances were  
19           undisbursed by the quantity of undisbursed  
20           emission allowances, but only to the extent that  
21           allowances for that later year are to be auc-  
22           tioned.

23          “(1) DAVIS-BACON COMPLIANCE.—

24           “(1) IN GENERAL.—All laborers and mechanics  
25           employed on projects funded directly by or assisted

1 in whole or in part by this section through the use  
2 of emission allowances shall be paid wages at rates  
3 not less than those prevailing on projects of a char-  
4 acter similar in the locality as determined by the  
5 Secretary of Labor in accordance with subchapter  
6 IV of chapter 31 of title 40, United States Code.

7 “(2) **AUTHORITY.**—With respect to the labor  
8 standards specified in this subsection, the Secretary  
9 of Labor shall have the authority and functions set  
10 forth in Reorganization Plan Numbered 14 of 1950  
11 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of  
12 title 40, United States Code.

13 **“SEC. 781. OVERSIGHT OF ALLOCATIONS.**

14 “(a) **IN GENERAL.**—Not later than January 1, 2014,  
15 and every 2 years thereafter, the Comptroller General of  
16 the United States shall carry out a review of programs  
17 administered by the Federal Government that distribute  
18 emission allowances or funds from any Federal auction of  
19 allowances.

20 “(b) **CONTENTS.**—Each such report shall include a  
21 comprehensive evaluation of the administration and effec-  
22 tiveness of each program, including—

23 “(1) the efficiency, transparency, and sound-  
24 ness of the administration of each program;

1           “(2) the performance of activities receiving as-  
2           sistance under each program;

3           “(3) the cost-effectiveness of each program in  
4           achieving the stated purposes of the program; and

5           “(4) recommendations, if any, for regulatory or  
6           administrative changes to each program to improve  
7           its effectiveness.

8           “(c) FOCUS.—In evaluating program performance,  
9           each review under this section review shall address the ef-  
10          fectiveness of such programs in—

11           “(1) creating and preserving jobs;

12           “(2) ensuring a manageable transition for  
13          working families and workers;

14           “(3) reducing the emissions, or enhancing se-  
15          questration, of greenhouse gases;

16           “(4) developing clean technologies; and

17           “(5) building resilience to the impacts of cli-  
18          mate change.

19          **“SEC. 782. EARLY ACTION RECOGNITION.**

20           “(a) IN GENERAL.—Emission allowances allocated  
21          pursuant to section 771(a)(7) shall be distributed by the  
22          Administrator in accordance with this section. Not later  
23          than 1 year after the date of enactment of this title, the  
24          Administrator shall issue regulations allowing—

1           “(1) any person in the United States to ex-  
2           change instruments in the nature of offset credits  
3           issued before January 1, 2009, by a State, local, or  
4           voluntary offset program with respect to which the  
5           Administrator has made an affirmative determina-  
6           tion under section 740(a)(2), for emission allowances  
7           established by the Administrator under section  
8           721(a); and

9           “(2) the Administrator to provide compensation  
10          in the form of emission allowances to entities, in-  
11          cluding units of local government, that do not meet  
12          the criteria of paragraph (1) and meet the criteria  
13          of this paragraph for documented early reductions or  
14          avoidance of greenhouse gas emissions or greenhouse  
15          gases sequestered before January 1, 2009, from  
16          projects or process improvements begun before Jan-  
17          uary 1, 2009, where—

18                 “(A) the entity publicly stated greenhouse  
19                 gas reduction goals and publicly reported  
20                 against those goals;

21                 “(B) the entity demonstrated entity-wide  
22                 net greenhouse gas reductions; and

23                 “(C) the entity demonstrates the actual  
24                 projects or process improvements undertaken to  
25                 make reductions and documents the reductions

1 (such as through documentation of engineering  
2 projects).

3 “(b) REGULATIONS.—Regulations issued under sub-  
4 section (a) shall—

5 “(1) provide that a person exchanging credits  
6 under subsection (a)(1) receive emission allowances  
7 established under section 721(a) in an amount for  
8 which the monetary value is equivalent to the aver-  
9 age monetary value of the credits during the period  
10 from January 1, 2006, to January 1, 2009, as ad-  
11 justed for inflation to reflect current dollar values at  
12 the time of the exchange;

13 “(2) provide that a person receiving compensa-  
14 tion for documented early action under subsection  
15 (a)(2) shall receive emission allowances established  
16 under section 721(a) in an amount that is approxi-  
17 mately equivalent in value to the carbon dioxide  
18 equivalent per ton value received by entities in ex-  
19 change for credits under paragraph (1) (as adjusted  
20 for inflation to reflect current dollar values at the  
21 time of the exchange), as determined by the Admin-  
22 istrator;

23 “(3) provide that only reductions or avoidance  
24 of greenhouse gas emissions, or sequestration of  
25 greenhouse gases, achieved by activities in the

1 United States between January 1, 2001, and Janu-  
2 ary 1, 2009, may be compensated under this section,  
3 and only credits issued for such activities may be ex-  
4 changed under this section;

5 “(4) provide that only credits that have not  
6 been retired or otherwise used to meet a voluntary  
7 or mandatory commitment, and have not expired,  
8 may be exchanged under subsection (a)(1);

9 “(5) require that, once exchanged, the credit be  
10 retired for purposes of use under the program by or  
11 for which it was originally issued; and

12 “(6) establish a deadline by which persons must  
13 exchange the credits or request compensation for  
14 early action under this section.

15 “(c) PARTICIPATION.—Participation in an exchange  
16 of credits for allowances or compensation for early action  
17 authorized by this section shall not preclude any person  
18 from participation in an offset credit program established  
19 under part D.

20 “(d) DISTRIBUTION.—Of the emission allowances  
21 distributed under this section, a quantity equal to 0.75  
22 percent of vintage year 2012 emission allowances estab-  
23 lished under section 721(a) shall be distributed pursuant  
24 to subsection (a)(1), and a quantity equal to 0.25 percent  
25 of vintage year 2012 emission allowances established

1 under section 721(a) shall be distributed pursuant to sub-  
 2 section (a)(2).

3 **“SEC. 783. ESTABLISHMENT OF DEFICIT REDUCTION FUND.**

4 “(a) DEFICIT REDUCTION FUND.—There is estab-  
 5 lished in the Treasury of the United States a fund, to be  
 6 known as the ‘Deficit Reduction Fund’.

7 “(b) DISBURSEMENTS.—No disbursement shall be  
 8 made from the Deficit Reduction Fund except pursuant  
 9 to an appropriation Act.”.

10 **Subtitle C—Additional Greenhouse**  
 11 **Gas Standards**

12 **SEC. 121. GREENHOUSE GAS STANDARDS.**

13 The Clean Air Act (42 U.S.C. 7401 et seq.), as  
 14 amended by subtitles A and B of this title, is further  
 15 amended by adding the following new title after title VII:

16 **“TITLE VIII—ADDITIONAL**  
 17 **GREENHOUSE GAS STANDARDS**

18 **“SEC. 801. DEFINITIONS.**

19 “For purposes of this title, terms that are defined  
 20 in title VII, except for the term ‘stationary source’, shall  
 21 have the meanings given those terms in title VII.

22 **“PART A—STATIONARY SOURCE STANDARDS**

23 **“SEC. 811. STANDARDS OF PERFORMANCE.**

24 “(a) DEFINITION OF UNCAPPED GREENHOUSE GAS  
 25 EMISSIONS.—In this section, the term ‘uncapped green-



1 house gas emissions’ means those greenhouse gas emis-  
2 sions to which section 722 does not apply.

3 “(b) STANDARDS.—Before January 1, 2020, the Ad-  
4 ministrator shall not promulgate new source performance  
5 standards for greenhouse gases under section 111 that are  
6 applicable to any stationary source that—

7 “(1) emits uncapped greenhouse gas emissions;  
8 and

9 “(2) qualifies as an eligible offset project pursu-  
10 ant to section 733 that is eligible to receive an offset  
11 credit pursuant to section 737.”.

12 **SEC. 122. HFC REGULATION.**

13 (a) IN GENERAL.—Title VI of the Clean Air Act (42  
14 U.S.C. 7671 et seq.) (relating to stratospheric ozone pro-  
15 tection) is amended by adding at the end the following:

16 **“SEC. 619. HYDROFLUOROCARBONS (HFCS).**

17 “(a) TREATMENT AS CLASS II, GROUP II SUB-  
18 STANCES.—Except as otherwise provided in this section,  
19 hydrofluorocarbons shall be treated as class II substances  
20 for purposes of applying the provisions of this title. The  
21 Administrator shall establish two groups of class II sub-  
22 stances. Class II, group I substances shall include all  
23 hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-  
24 tion 602(b). Class II, group II substances shall include  
25 each of the following:

- 1           “(1) Hydrofluorocarbon-23 (HFC-23).
  - 2           “(2) Hydrofluorocarbon-32 (HFC-32).
  - 3           “(3) Hydrofluorocarbon-41 (HFC-41).
  - 4           “(4) Hydrofluorocarbon-125 (HFC-125).
  - 5           “(5) Hydrofluorocarbon-134 (HFC-134).
  - 6           “(6) Hydrofluorocarbon-134a (HFC-134a).
  - 7           “(7) Hydrofluorocarbon-143 (HFC-143).
  - 8           “(8) Hydrofluorocarbon-143a (HFC-143a).
  - 9           “(9) Hydrofluorocarbon-152 (HFC-152).
  - 10          “(10) Hydrofluorocarbon-152a (HFC-152a).
  - 11          “(11) Hydrofluorocarbon-227ea (HFC-227ea).
  - 12          “(12) Hydrofluorocarbon-236cb (HFC-236cb).
  - 13          “(13) Hydrofluorocarbon-236ea (HFC-236ea).
  - 14          “(14) Hydrofluorocarbon-236fa (HFC-236fa).
  - 15          “(15) Hydrofluorocarbon-245ca (HFC-245ca).
  - 16          “(16) Hydrofluorocarbon-245fa (HFC-245fa).
  - 17          “(17)     Hydrofluorocarbon-365mfc     (HFC-  
18          365mfc).
  - 19          “(18) Hydrofluorocarbon-43-10mee (HFC-43-  
20          10mee).
  - 21          “(19) Hydrofluoroolefin-1234yf (HFO-1234yf).
  - 22          “(20) Hydrofluoroolefin-1234ze (HFO-1234ze).
- 23 Not later than 6 months after the date of enactment of  
24 this title, the Administrator shall publish an initial list of  
25 class II, group II substances, which shall include the sub-

1 stances listed in this subsection. The Administrator may  
2 add to the list of class II, group II substances any other  
3 substance used as a substitute for a class I or II substance  
4 if the Administrator determines that 1 metric ton of the  
5 substance makes the same or greater contribution to glob-  
6 al warming over 100 years as 1 metric ton of carbon diox-  
7 ide. Within 24 months after the date of enactment of this  
8 section, the Administrator shall amend the regulations  
9 under this title (including the regulations referred to in  
10 sections 603, 608, 609, 610, 611, 612, and 613) to apply  
11 to class II, group II substances.

12       “(b) CONSUMPTION AND PRODUCTION OF CLASS II,  
13 GROUP II SUBSTANCES.—

14               “(1) IN GENERAL.—

15                       “(A) CONSUMPTION PHASE DOWN.—In the  
16 case of class II, group II substances, in lieu of  
17 applying section 605 and the regulations there-  
18 under, the Administrator shall promulgate reg-  
19 ulations phasing down the consumption of class  
20 II, group II substances in the United States,  
21 and the importation of products containing any  
22 class II, group II substance, in accordance with  
23 this subsection within 18 months after the date  
24 of enactment of this section. Effective January  
25 1, 2012, it shall be unlawful for any person to

1 produce any class II, group II substance, im-  
2 port any class II, group II substance, or import  
3 any product containing any class II, group II  
4 substance without holding one consumption al-  
5 lowance or one destruction offset credit for each  
6 carbon dioxide equivalent ton of the class II,  
7 group II substance. Any person who exports a  
8 class II, group II substance for which a con-  
9 sumption allowance was retired may receive a  
10 refund of that allowance from the Adminis-  
11 trator following the export.

12 “(B) PRODUCTION.—If the United States  
13 becomes a party or otherwise adheres to a mul-  
14 tilateral agreement, including any amendment  
15 to the Montreal Protocol on Substances That  
16 Deplete the Ozone Layer, that restricts the pro-  
17 duction of class II, group II substances, the Ad-  
18 ministrator shall promulgate regulations estab-  
19 lishing a baseline for the production of class II,  
20 group II substances in the United States and  
21 phasing down the production of class II, group  
22 II substances in the United States, in accord-  
23 ance with such multilateral agreement and sub-  
24 ject to the same exceptions and other provisions  
25 as are applicable to the phase down of con-

1           sumption of class II, group II substances under  
2           this section (except that the Administrator shall  
3           not require a person who obtains production al-  
4           lowances from the Administrator to make pay-  
5           ment for such allowances if the person is mak-  
6           ing payment for a corresponding quantity of  
7           consumption allowances of the same vintage  
8           year). Upon the effective date of such regula-  
9           tions, it shall be unlawful for any person to  
10          produce any class II, group II substance with-  
11          out holding one consumption allowance and one  
12          production allowance, or one destruction offset  
13          credit, for each carbon dioxide equivalent ton of  
14          the class II, group II substance.

15                 “(C) INTEGRITY OF LIMITS.—To maintain  
16                 the integrity of the class II, group II limits, the  
17                 Administrator may, through rulemaking, limit  
18                 the percentage of each person’s compliance obli-  
19                 gation that may be met through the use of de-  
20                 struction offset credits or banked allowances.

21                 “(D) COUNTING OF VIOLATIONS.—Each  
22                 consumption allowance, production allowance,  
23                 or destruction offset credit not held as required  
24                 by this section shall be a separate violation of  
25                 this section.

1           “(2) SCHEDULE.—Pursuant to the regulations  
 2           promulgated pursuant to paragraph (1)(A), the  
 3           number of class II, group II consumption allowances  
 4           established by the Administrator for each calendar  
 5           year beginning in 2012 shall be the following per-  
 6           centage of the baseline, as established by the Admin-  
 7           istrator pursuant to paragraph (3):

“Calendar Year	Percent of Baseline
2012	90
2013	87.5
2014	85
2015	82.5
2016	80
2017	77.5
2018	75
2019	71
2020	67
2021	63
2022	59
2023	54
2024	50
2025	46
2026	42
2027	38
2028	34
2029	30
2030	25

“Calendar Year	Percent of Baseline
2031	21
2032	17
after 2032	15

1           “(3) BASELINE.—(A) Within 12 months after  
2           the date of enactment of this section, the Adminis-  
3           trator shall promulgate regulations to establish the  
4           baseline for purposes of paragraph (2). The baseline  
5           shall be the sum, expressed in metric tons of carbon  
6           dioxide equivalents, of—

7                   “(i) the annual average consumption of all  
8                   class II substances in calendar years 2004,  
9                   2005, and 2006; plus

10                   “(ii) the annual average quantity of all  
11                   class II substances contained in imported prod-  
12                   ucts in calendar years 2004, 2005, and 2006.

13           “(B) Notwithstanding subparagraph (A), if the  
14           Administrator determines that the baseline is higher  
15           than 370 million metric tons of carbon dioxide  
16           equivalents, then the Administrator shall establish  
17           the baseline at 370 million metric tons of carbon di-  
18           oxide equivalents.

19           “(C) Notwithstanding subparagraph (A), if the  
20           Administrator determines that the baseline is lower  
21           than 280 million metric tons of carbon dioxide

1 equivalents, then the Administrator shall establish  
 2 the baseline at 280 million metric tons of carbon di-  
 3 oxide equivalents.

4 “(4) DISTRIBUTION OF ALLOWANCES.—

5 “(A) IN GENERAL.—Pursuant to the regu-  
 6 lations promulgated under paragraph (1)(A),  
 7 for each calendar year beginning in 2012, the  
 8 Administrator shall sell consumption allowances  
 9 in accordance with this paragraph.

10 “(B) ESTABLISHMENT OF POOLS.—The  
 11 Administrator shall establish two allowance  
 12 pools. Eighty percent of the consumption allow-  
 13 ances available for a calendar year shall be  
 14 placed in the producer-importer pool, and 20  
 15 percent of the consumption allowances available  
 16 for a calendar year shall be placed in the sec-  
 17 ondary pool.

18 “(C) PRODUCER-IMPORTER POOL.—

19 “(i) AUCTION.—(I) For each calendar  
 20 year, the Administrator shall offer for sale  
 21 at auction the following percentage of the  
 22 consumption allowances in the producer-  
 23 importer pool:

“Calendar Year	Percent Available for Auction
2012	10



“Calendar Year	Percent Available for Auction
2013	20
2014	30
2015	40
2016	50
2017	60
2018	70
2019	80
2020 and thereafter	90

1                   “(II) Any person who produced or im-  
2                   ported any class II substance during cal-  
3                   endar year 2004, 2005, or 2006 may par-  
4                   ticipate in the auction. No other persons  
5                   may participate in the auction unless per-  
6                   mitted to do so pursuant to subclause  
7                   (III).

8                   “(III) Not later than 3 years after the  
9                   date of the initial auction and from time to  
10                  time thereafter, the Administrator shall de-  
11                  termine through rulemaking whether any  
12                  persons who did not produce or import a  
13                  class II substance during calendar year  
14                  2004, 2005, or 2006 will be permitted to  
15                  participate in future auctions. The Admin-  
16                  istrator shall base this determination on  
17                  the duration, consistency, and scale of such

1 person's purchases of consumption allow-  
2 ances in the secondary pool under subpara-  
3 graph (D)(ii)(III), as well as economic or  
4 technical hardship and other factors  
5 deemed relevant by the Administrator.

6 “(IV) The Administrator shall set a  
7 minimum bid per consumption allowance of  
8 the following:

9 “(aa) For vintage year 2012,  
10 \$1.00.

11 “(bb) For vintage year 2013,  
12 \$1.20.

13 “(cc) For vintage year 2014,  
14 \$1.40.

15 “(dd) For vintage year 2015,  
16 \$1.60.

17 “(ee) For vintage year 2016,  
18 \$1.80.

19 “(ff) For vintage year 2017,  
20 \$2.00.

21 “(gg) For vintage year 2018 and  
22 thereafter, \$2.00 adjusted for infla-  
23 tion after vintage year 2017 based  
24 upon the producer price index as pub-

1                   lished by the Department of Com-  
2                   merce.

3                   “(ii) NON-AUCTION SALE.—(I) For  
4                   each calendar year, as soon as practicable  
5                   after auction, the Administrator shall offer  
6                   for sale the remaining consumption allow-  
7                   ances in the producer-importer pool at the  
8                   following prices:

9                                 “(aa) A fee of \$1.00 per vintage  
10                                year 2012 allowance.

11                               “(bb) A fee of \$1.20 per vintage  
12                                year 2013 allowance.

13                               “(cc) A fee of \$1.40 per vintage  
14                                year 2014 allowance.

15                               “(dd) For each vintage year  
16                                2015 allowance, a fee equal to the av-  
17                                erage of \$1.10 and the auction clear-  
18                                ing price for vintage year 2014 allow-  
19                                ances.

20                               “(ee) For each vintage year 2016  
21                                allowance, a fee equal to the average  
22                                of \$1.30 and the auction clearing  
23                                price for vintage year 2015 allow-  
24                                ances.

1                   “(ff) For each vintage year 2017  
2 allowance, a fee equal to the average  
3 of \$1.40 and the auction clearing  
4 price for vintage year 2016 allow-  
5 ances.

6                   “(gg) For each allowance of vin-  
7 tage year 2018 and subsequent vin-  
8 tage years, a fee equal to the auction  
9 clearing price for that vintage year.

10                  “(II) The Administrator shall offer to  
11 sell the remaining consumption allowances  
12 in the producer-importer pool to producers  
13 of class II, group II substances and im-  
14 porters of class II, group II substances in  
15 proportion to their relative allocation  
16 share.

17                  “(III) Such allocation share for such  
18 sale shall be determined by the Adminis-  
19 trator using such producer’s or importer’s  
20 annual average data on class II substances  
21 from calendar years 2004, 2005, and  
22 2006, on a carbon dioxide equivalent basis,  
23 and—

24                   “(aa) shall be based on a pro-  
25 ducer’s production, plus importation,

1 plus acquisitions and purchases from  
2 persons who produced class II sub-  
3 stances in the United States during  
4 calendar year 2004, 2005, or 2006,  
5 less exportation, less transfers and  
6 sales to persons who produced class II  
7 substances in the United States dur-  
8 ing calendar year 2004, 2005, or  
9 2006; and

10 “(bb) for an importer of class II  
11 substances that did not produce in the  
12 United States any class II substance  
13 during calendar years 2004, 2005,  
14 and 2006, shall be based on the im-  
15 porter’s importation less exportation.

16 For purposes of item (aa), the Adminis-  
17 trator shall account for 100 percent of  
18 class II, group II substances and 60 per-  
19 cent of class II, group I substances. For  
20 purposes of item (bb), the Administrator  
21 shall account for 100 percent of class II,  
22 group II substances and 100 percent of  
23 class II, group I substances.

24 “(IV) Any consumption allowances  
25 made available for nonauction sale to a

1 specific producer or importer of class II,  
2 group II substances but not purchased by  
3 the specific producer or importer shall be  
4 made available for sale to any producer or  
5 importer of class II substances during cal-  
6 endar year 2004, 2005, or 2006. If de-  
7 mand for such consumption allowances ex-  
8 ceeds supply of such consumption allow-  
9 ances, the Administrator shall develop and  
10 utilize criteria for the sale of such con-  
11 sumption allowances that may include pro  
12 rata shares, historic production and impor-  
13 tation, economic or technical hardship, or  
14 other factors deemed relevant by the Ad-  
15 ministrator. If the supply of such con-  
16 sumption allowances exceeds demand, the  
17 Administrator may offer such consumption  
18 allowances for sale in the secondary pool as  
19 set forth in subparagraph (D).

20 “(D) SECONDARY POOL.—(i) For each cal-  
21 endar year, as soon as practicable after the auc-  
22 tion required in subparagraph (C), the Adminis-  
23 trator shall offer for sale the consumption al-  
24 lowances in the secondary pool at the prices  
25 listed in subparagraph (C)(ii).

1           “(ii) The Administrator shall accept appli-  
2 cations for purchase of secondary pool con-  
3 sumption allowances from—

4                   “(I) importers of products containing  
5 class II, group II substances;

6                   “(II) persons who purchased any class  
7 II, group II substance directly from a pro-  
8 ducer or importer of class II, group II sub-  
9 stances for use in a product containing a  
10 class II, group II substance, a manufac-  
11 turing process, or a reclamation process;

12                   “(III) persons who did not produce or  
13 import a class II substance during cal-  
14 endar year 2004, 2005, or 2006, but who  
15 the Administrator determines have subse-  
16 quently taken significant steps to produce  
17 or import a substantial quantity of any  
18 class II, group II substance; and

19                   “(IV) persons who produced or im-  
20 ported any class II substance during cal-  
21 endar year 2004, 2005, or 2006.

22           “(iii) If the supply of consumption allow-  
23 ances in the secondary pool equals or exceeds  
24 the demand for consumption allowances in the  
25 secondary pool as presented in the applications

1 for purchase, the Administrator shall sell the  
2 consumption allowances in the secondary pool  
3 to the applicants in the amounts requested in  
4 the applications for purchase. Any consumption  
5 allowances in the secondary pool not purchased  
6 in a calendar year may be rolled over and added  
7 to the quantity available in the secondary pool  
8 in the following year.

9 “(iv) If the demand for consumption allow-  
10 ances in the secondary pool as presented in the  
11 applications for purchase exceeds the supply of  
12 consumption allowances in the secondary pool,  
13 the Administrator shall sell the consumption al-  
14 lowances as follows:

15 “(I) The Administrator shall first sell  
16 the consumption allowances in the sec-  
17 ondary pool to any importers of products  
18 containing class II, group II substances in  
19 the amounts requested in their applications  
20 for purchase. If the demand for such con-  
21 sumption allowances exceeds supply of  
22 such consumption allowances, the Adminis-  
23 trator shall develop and utilize criteria for  
24 the sale of such consumption allowances  
25 among importers of products containing



1 class II, group II substances that may in-  
2 clude pro rata shares, historic importation,  
3 economic or technical hardship, or other  
4 factors deemed relevant by the Adminis-  
5 trator.

6 “(II) The Administrator shall next  
7 sell any remaining consumption allowances  
8 to persons identified in subclauses (II) and  
9 (III) of clause (ii) in the amounts re-  
10 quested in their applications for purchase.  
11 If the demand for such consumption allow-  
12 ances exceeds remaining supply of such  
13 consumption allowances, the Administrator  
14 shall develop and utilize criteria for the  
15 sale of such consumption allowances  
16 among subclauses (II) and (III) applicants  
17 that may include pro rata shares, historic  
18 use, economic or technical hardship, or  
19 other factors deemed relevant by the Ad-  
20 ministrator.

21 “(III) The Administrator shall then  
22 sell any remaining consumption allowances  
23 to persons who produced or imported any  
24 class II substance during calendar year  
25 2004, 2005, or 2006 in the amounts re-

1            requested in their applications for purchase.  
2            If demand for such consumption allow-  
3            ances exceeds remaining supply of such  
4            consumption allowances, the Administrator  
5            shall develop and utilize criteria for the  
6            sale of such consumption allowances that  
7            may include pro rata shares, historic pro-  
8            duction and importation, economic or tech-  
9            nical hardship, or other factors deemed rel-  
10          evant by the Administrator.

11            “(IV) Each person who purchases  
12            consumption allowances in a non-auction  
13            sale under this subparagraph shall be re-  
14            quired to disclose the person or entity  
15            sponsoring or benefitting from the pur-  
16            chases if such person or entity is, in whole  
17            or in part, other than the purchaser or the  
18            purchaser’s employer.

19            “(E) DISCRETION TO WITHHOLD ALLOW-  
20            ANCES.—Nothing in this paragraph prevents  
21            the Administrator from exercising discretion to  
22            withhold and retire consumption allowances  
23            that would otherwise be available for auction or  
24            nonauction sale. Not later than 18 months after  
25            the date of enactment of this section, the Ad-

1            administrator shall promulgate regulations estab-  
2            lishing criteria for withholding and retiring con-  
3            sumption allowances.

4            “(5) BANKING.—A consumption allowance or  
5            destruction offset credit may be used to meet the  
6            compliance obligation requirements of paragraph (1)  
7            in—

8                    “(A) the vintage year for the allowance or  
9                    destruction offset credit; or

10                   “(B) any calendar year subsequent to the  
11                   vintage year for the allowance or destruction  
12                   offset credit.

13            “(6) AUCTIONS.—

14                   “(A) INITIAL REGULATIONS.—Not later  
15                   than 18 months after the date of enactment of  
16                   this section, the Administrator shall promulgate  
17                   regulations governing the auction of allowances  
18                   under this section. Such regulations shall in-  
19                   clude the following requirements:

20                            “(i) FREQUENCY; FIRST AUCTION.—  
21                            Auctions shall be held one time per year at  
22                            regular intervals, with the first auction to  
23                            be held no later than October 31, 2011.

1           “(ii) AUCTION FORMAT.—Auctions  
2 shall follow a single-round, sealed-bid, uni-  
3 form price format.

4           “(iii) FINANCIAL ASSURANCE.—The  
5 Administrator may establish financial as-  
6 surance requirements to ensure that auc-  
7 tion participants can and will perform on  
8 their bids.

9           “(iv) DISCLOSURE OF BENEFICIAL  
10 OWNERSHIP.—Each bidder in the auction  
11 shall be required to disclose the person or  
12 entity sponsoring or benefitting from the  
13 bidder’s participation in the auction if such  
14 person or entity is, in whole or in part,  
15 other than the bidder.

16           “(v) PUBLICATION OF INFORMA-  
17 TION.—After the auction, the Adminis-  
18 trator shall, in a timely fashion, publish  
19 the number of bidders, number of winning  
20 bidders, the quantity of allowances sold,  
21 and the auction clearing price.

22           “(vi) BIDDING LIMITS IN 2012.—In  
23 the vintage year 2012 auction, no auction  
24 participant may, directly or in concert with  
25 another participant, bid for or purchase

1 more allowances offered for sale at the  
2 auction than the greater of—

3 “(I) the number of allowances  
4 which, when added to the number of  
5 allowances available for purchase by  
6 the participant in the producer-im-  
7 porter pool non-auction sale, would  
8 equal the participant’s annual average  
9 consumption of class II, group II sub-  
10 stances in calendar years 2004, 2005,  
11 and 2006; or

12 “(II) the number of allowances  
13 equal to the product of—

14 “(aa) 1.20 multiplied by the  
15 participant’s allocation share of  
16 the producer-importer pool non-  
17 auction sale as determined under  
18 paragraph (4)(C)(ii); and

19 “(bb) the number of vintage  
20 year 2012 allowances offered at  
21 auction.

22 “(vii) BIDDING LIMITS IN 2013.—In  
23 the vintage year 2013 auction, no auction  
24 participant may, directly or in concert with  
25 another participant, bid for or purchase

1 more allowances offered for sale at the  
2 auction than the product of—

3 “(I) 1.15 multiplied by the ratio  
4 of the total number of vintage year  
5 2012 allowances purchased by the  
6 participant from the auction and from  
7 the producer-importer pool non-auc-  
8 tion sale to the total number of vin-  
9 tage year 2012 allowances in the pro-  
10 ducer-importer pool; and

11 “(II) the number of vintage year  
12 2013 allowances offered at auction.

13 “(viii) BIDDING LIMITS IN SUBSE-  
14 QUENT YEARS.—In the auctions for vin-  
15 tage year 2014 and subsequent vintage  
16 years, no auction participant may, directly  
17 or in concert with another participant, bid  
18 for or purchase more allowances offered  
19 for sale at the auction than the product  
20 of—

21 “(I) 1.15 multiplied by the ratio  
22 of the highest number of allowances  
23 required to be held by the participant  
24 in any of the three prior vintage years  
25 to meet its compliance obligation

1                   under paragraph (1) to the total num-  
2                   ber of allowances in the producer-im-  
3                   porter pool for such vintage year; and

4                   “(II) the number of allowances  
5                   offered at auction for that vintage  
6                   year.

7                   “(ix) OTHER REQUIREMENTS.—The  
8                   Administrator may include in the regula-  
9                   tions such other requirements or provisions  
10                  as the Administrator considers necessary  
11                  to promote effective, efficient, transparent,  
12                  and fair administration of auctions under  
13                  this section.

14                  “(B) REVISION OF REGULATIONS.—The  
15                  Administrator may, at any time, revise the ini-  
16                  tial regulations promulgated under subpara-  
17                  graph (A) based on the Administrator’s experi-  
18                  ence in administering allowance auctions by  
19                  promulgating new regulations. Such revised reg-  
20                  ulations need not meet the requirements identi-  
21                  fied in subparagraph (A) if the Administrator  
22                  determines that an alternative auction design  
23                  would be more effective, taking into account  
24                  factors including costs of administration, trans-  
25                  parency, fairness, and risks of collusion or ma-

1           nipulation. In determining whether and how to  
2           revise the initial regulations under this para-  
3           graph, the Administrator shall not consider  
4           maximization of revenues to the Federal Gov-  
5           ernment.

6           “(C) DELEGATION OR CONTRACT.—Pursu-  
7           ant to regulations under this section, the Ad-  
8           ministrators may, by delegation or contract, pro-  
9           vide for the conduct of auctions under the Ad-  
10          ministrators’s supervision by other departments  
11          or agencies of the Federal Government or by  
12          nongovernmental agencies, groups, or organiza-  
13          tions.

14          “(7) PAYMENTS FOR ALLOWANCES.—

15          “(A) INITIAL REGULATIONS.—Not later  
16          than 18 months after the date of enactment of  
17          this section, the Administrator shall promulgate  
18          regulations governing the payment for allow-  
19          ances purchased in auction and non-auction  
20          sales under this section. Such regulations shall  
21          include the requirement that, in the event that  
22          full payment for purchased allowances is not  
23          made on the date of purchase, equal payments  
24          shall be made one time per calendar quarter



1 with all payments for allowances of a vintage  
2 year made by the end of that vintage year.

3 “(B) REVISION OF REGULATIONS.—The  
4 Administrator may, at any time, revise the ini-  
5 tial regulations promulgated under subpara-  
6 graph (A) based on the Administrator’s experi-  
7 ence in administering collection of payments by  
8 promulgating new regulations. Such revised reg-  
9 ulations need not meet the requirements identi-  
10 fied in subparagraph (A) if the Administrator  
11 determines that an alternative payment struc-  
12 ture or frequency would be more effective, tak-  
13 ing into account factors including cost of ad-  
14 ministration, transparency, and fairness. In de-  
15 termining whether and how to revise the initial  
16 regulations under this paragraph, the Adminis-  
17 trator shall not consider maximization of reve-  
18 nues to the Federal Government.

19 “(C) PENALTIES FOR NON-PAYMENT.—  
20 Failure to pay for purchased allowances in ac-  
21 cordance with the regulations promulgated pur-  
22 suant to this paragraph shall be a violation of  
23 the requirements of subsection (b). Section  
24 113(c)(3) shall apply in the case of any person  
25 who knowingly fails to pay for purchased allow-

1           ances in accordance with the regulations pro-  
2           mulgated pursuant to this paragraph.

3           “(8) IMPORTED PRODUCTS.—If the United  
4           States becomes a party or otherwise adheres to a  
5           multilateral agreement, including any amendment to  
6           the Montreal Protocol on Substances That Deplete  
7           the Ozone Layer, which restricts the production or  
8           consumption of class II, group II substances—

9                   “(A) as of the date on which such agree-  
10                  ment or amendment enters into force, it shall  
11                  no longer be unlawful for any person to import  
12                  from a party to such agreement or amendment  
13                  any product containing any class II, group II  
14                  substance whose production or consumption is  
15                  regulated by such agreement or amendment  
16                  without holding one consumption allowance or  
17                  one destruction offset credit for each carbon di-  
18                  oxide equivalent ton of the class II, group II  
19                  substance;

20                  “(B) the Administrator shall promulgate  
21                  regulations within 12 months of the date the  
22                  United States becomes a party or otherwise ad-  
23                  heres to such agreement or amendment, or the  
24                  date on which such agreement or amendment  
25                  enters into force, whichever is later, to establish

1 a new baseline for purposes of paragraph (2),  
2 which new baseline shall be the original baseline  
3 less the carbon dioxide equivalent of the annual  
4 average quantity of any class II substances reg-  
5 ulated by such agreement or amendment con-  
6 tained in products imported from parties to  
7 such agreement or amendment in calendar  
8 years 2004, 2005, and 2006;

9 “(C) as of the date on which such agree-  
10 ment or amendment enters into force, no per-  
11 son importing any product containing any class  
12 II, group II substance may, directly or in con-  
13 cert with another person, purchase any con-  
14 sumption allowances for sale by the Adminis-  
15 trator for the importation of products from a  
16 party to such agreement or amendment that  
17 contain any class II, group II substance re-  
18 stricted by such agreement or amendment; and

19 “(D) the Administrator may adjust the  
20 two allowance pools established in paragraph  
21 (4) such that up to 90 percent of the consump-  
22 tion allowances available for a calendar year are  
23 placed in the producer-importer pool with the  
24 remaining consumption allowances placed in the  
25 secondary pool.

1 “(9) OFFSETS.—

2 “(A) CHLOROFLUOROCARBON DESTRUC-  
3 TION.—Within 18 months after the date of en-  
4 actment of this section, the Administrator shall  
5 promulgate regulations to provide for the  
6 issuance of offset credits for the destruction, in  
7 the calendar year 2012 or later, of  
8 chlorofluorocarbons in the United States. The  
9 Administrator shall establish and distribute to  
10 the destroying entity a quantity of destruction  
11 offset credits equal to 0.8 times the number of  
12 metric tons of carbon dioxide equivalents of re-  
13 duction achieved through the destruction. No  
14 destruction offset credits shall be established  
15 for the destruction of a class II, group II sub-  
16 stance.

17 “(B) DEFINITION.—For purposes of this  
18 paragraph, the term ‘destruction’ means the  
19 conversion of a substance by thermal, chemical,  
20 or other means to another substance with little  
21 or no carbon dioxide equivalent value and no  
22 ozone depletion potential.

23 “(C) REGULATIONS.—The regulations pro-  
24 mulgated under this paragraph shall include  
25 standards and protocols for project eligibility,

1 certification of destroyers, monitoring, tracking,  
2 destruction efficiency, quantification of project  
3 and baseline emissions and carbon dioxide  
4 equivalent value, and verification. The Adminis-  
5 trator shall ensure that destruction offset cred-  
6 its represent real and verifiable destruction of  
7 chlorofluorocarbons or other class I or class II,  
8 group I, substances authorized under subpara-  
9 graph (D).

10 “(D) OTHER SUBSTANCES.—The Adminis-  
11 trator may promulgate regulations to add to the  
12 list of class I and class II, group I, substances  
13 that may be destroyed for destruction offset  
14 credits, taking into account a candidate sub-  
15 stance’s carbon dioxide equivalent value, ozone  
16 depletion potential, prevalence in banks in the  
17 United States, and emission rates, as well as  
18 the need for additional cost containment under  
19 the class II, group II limits and the integrity of  
20 the class II, group II limits. The Administrator  
21 shall not add a class I or class II, group I sub-  
22 stance to the list if the consumption of the sub-  
23 stance has not been completely phased-out  
24 internationally (except for essential use exemp-

1 tions or other similar exemptions) pursuant to  
2 the Montreal Protocol.

3 “(E) EXTENSION OF OFFSETS.—(i) At any  
4 time after the Administrator promulgates regu-  
5 lations pursuant to subparagraph (A), the Ad-  
6 ministrator may, pursuant to the requirements  
7 of part D of title VII and based on the carbon  
8 dioxide equivalent value of the substance de-  
9 stroyed, add the types of destruction projects  
10 authorized to receive destruction offset credits  
11 under this paragraph to the list of types of  
12 projects eligible for offset credits under section  
13 733. If such projects are added to the list under  
14 section 733, the issuance of offset credits for  
15 such projects under part D of title VII shall be  
16 governed by the requirements of such part D,  
17 while the issuance of offset credits for such  
18 projects under this paragraph shall be governed  
19 by the requirements of this paragraph. Nothing  
20 in this paragraph shall affect the issuance of  
21 offset credits under section 740.

22 “(ii) The Administrator shall not make the  
23 addition under clause (i) unless the Adminis-  
24 trator finds that insufficient destruction is oc-  
25 ccurring or is projected to occur under this para-

1 graph and that the addition would increase de-  
2 struction.

3 “(iii) In no event shall more than one de-  
4 struction offset credit be issued under title VII  
5 and this section for the destruction of the same  
6 quantity of a substance.

7 “(10) LEGAL STATUS OF ALLOWANCES AND  
8 CREDITS.—None of the following constitutes a prop-  
9 erty right:

10 “(A) A production or consumption allow-  
11 ance.

12 “(B) A destruction offset credit.

13 “(c) DEADLINES FOR COMPLIANCE.—Notwith-  
14 standing the deadlines specified for class II substances in  
15 sections 608, 609, 610, 612, and 613 that occur prior to  
16 January 1, 2009, the deadline for promulgating regula-  
17 tions under those sections for class II, group II substances  
18 shall be January 1, 2012.

19 “(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwith-  
20 standing any phase down of production and consumption  
21 required by this section, to the extent consistent with any  
22 applicable multilateral agreement to which the United  
23 States is a party or otherwise adheres, the Administrator  
24 shall consider providing exceptions for essential uses under

1 paragraph (1) and may provide exceptions for essential  
2 uses under paragraph (2), as follows:

3           “(1) MEDICAL DEVICES.—If the Administrator  
4 makes the determination under this subsection that  
5 a medical device is eligible for an exception, after no-  
6 tice and opportunity for public comment, and in con-  
7 sultation with the Commissioner of Food and Drugs,  
8 the Administrator shall provide an exception for the  
9 production and consumption of class II, group II  
10 substances solely for use in medical devices, such as  
11 metered dose inhalers.

12           “(2) AVIATION AND SPACE VEHICLE SAFETY.—  
13 The Administrator, after notice and opportunity for  
14 public comment, may authorize the production and  
15 consumption of limited quantities of class II, group  
16 II substances solely for the purposes of aviation or  
17 space vehicle safety if either the Administrator of  
18 the Federal Aviation Administration or the Adminis-  
19 trator of the National Aeronautics and Space Ad-  
20 ministration, in consultation with the Administrator,  
21 determines that no safe and effective substitute has  
22 been developed and that such authorization is nec-  
23 essary for aviation or space flight safety purposes.

24           “(e) DEVELOPING COUNTRIES.—Notwithstanding  
25 any phase down of production required by this section, the



1 Administrator, after notice and opportunity for public  
2 comment, may authorize the production of limited quan-  
3 tities of class II, group II substances in excess of the  
4 amounts otherwise allowable under this section solely for  
5 export to, and use in, developing countries. Any produc-  
6 tion authorized under this subsection shall be solely for  
7 purposes of satisfying the basic domestic needs of such  
8 countries as provided in applicable international agree-  
9 ments, if any, to which the United States is a party or  
10 otherwise adheres.

11 “(f) NATIONAL SECURITY; FIRE SUPPRESSION,  
12 ETC.—The provisions of subsection (f) and paragraphs (1)  
13 and (2) of subsection (g) of section 604 shall apply to any  
14 consumption and production phase down of class II, group  
15 II substances in the same manner and to the same extent,  
16 consistent with any applicable international agreement to  
17 which the United States is a party or otherwise adheres,  
18 as such provisions apply to the substances specified in  
19 such subsection.

20 “(g) ACCELERATED SCHEDULE.—In lieu of section  
21 606, the provisions of paragraphs (1), (2), and (3) of this  
22 subsection shall apply in the case of class II, group II sub-  
23 stances.

24 “(1) IN GENERAL.—The Administrator shall  
25 promulgate initial regulations not later than 18

1 months after the date of enactment of this section,  
2 and revised regulations any time thereafter, which  
3 establish a schedule for phasing down the consump-  
4 tion (and, if the condition in subsection (b)(1)(B) is  
5 met, the production) of class II, group II substances  
6 that is more stringent than the schedule set forth in  
7 this section if, based on the availability of sub-  
8 stitutes, the Administrator determines that such  
9 more stringent schedule is practicable, taking into  
10 account technological achievability, safety, and other  
11 factors the Administrator deems relevant, or if the  
12 Montreal Protocol, or any applicable international  
13 agreement to which the United States is a party or  
14 otherwise adheres, is modified or established to in-  
15 clude a schedule or other requirements to control or  
16 reduce production, consumption, or use of any class  
17 II, group II substance more rapidly than the appli-  
18 cable schedule under this section.

19 “(2) PETITION.—Any person may submit a pe-  
20 tition to promulgate regulations under this sub-  
21 section in the same manner and subject to the same  
22 procedures as are provided in section 606(b).

23 “(3) INCONSISTENCY.—If the Administrator de-  
24 termines that the provisions of this section regarding  
25 banking, allowance rollover, or destruction offset

1 credits create a significant potential for inconsis-  
2 ency with the requirements of any applicable inter-  
3 national agreement to which the United States is a  
4 party or otherwise adheres, the Administrator may  
5 promulgate regulations restricting the availability of  
6 banking, allowance rollover, or destruction offset  
7 credits to the extent necessary to avoid such incon-  
8 sistency.

9 “(h) EXCHANGE.—Section 607 shall not apply in the  
10 case of class II, group II substances. Production and con-  
11 sumption allowances for class II, group II substances may  
12 be freely exchanged or sold but may not be converted into  
13 allowances for class II, group I substances.

14 “(i) LABELING.—(1) In applying section 611 to prod-  
15 ucts containing or manufactured with class II, group II  
16 substances, in lieu of the words ‘destroying ozone in the  
17 upper atmosphere’ on labels required under section 611  
18 there shall be substituted the words ‘contributing to global  
19 warming’.

20 “(2) The Administrator may, through rulemaking,  
21 exempt from the requirements of section 611 products  
22 containing or manufactured with class II, group II sub-  
23 stances determined to have little or no carbon dioxide  
24 equivalent value compared to other substances used in  
25 similar products.

1           “(j) NONESSENTIAL PRODUCTS.—For the purposes  
2 of section 610, class II, group II substances shall be regu-  
3 lated under section 610(b), except that in applying section  
4 610(b) the word ‘hydrofluorocarbon’ shall be substituted  
5 for the word ‘chlorofluorocarbon’ and the term ‘class II,  
6 group II’ shall be substituted for the term ‘class I’. Class  
7 II, group II substances shall not be subject to the provi-  
8 sions of section 610(d).

9           “(k) INTERNATIONAL TRANSFERS.—In the case of  
10 class II, group II substances, in lieu of section 616, this  
11 subsection shall apply. To the extent consistent with any  
12 applicable international agreement to which the United  
13 States is a party or otherwise adheres, including any  
14 amendment to the Montreal Protocol, the United States  
15 may engage in transfers with other parties to such agree-  
16 ment or amendment under the following conditions:

17           “(1) The United States may transfer produc-  
18 tion allowances to another party to such agreement  
19 or amendment if, at the time of the transfer, the  
20 Administrator establishes revised production limits  
21 for the United States accounting for the transfer in  
22 accordance with regulations promulgated pursuant  
23 to this subsection.

24           “(2) The United States may acquire production  
25 allowances from another party to such agreement or

1 amendment if, at the time of the transfer, the Ad-  
2 ministrator finds that the other party has revised its  
3 domestic production limits in the same manner as  
4 provided with respect to transfers by the United  
5 States in the regulations promulgated pursuant to  
6 this subsection.

7 “(1) RELATIONSHIP TO OTHER LAWS.—

8 “(1) STATE LAWS.—For purposes of section  
9 116, the requirements of this section for class II,  
10 group II substances shall be treated as requirements  
11 for the control and abatement of air pollution.

12 “(2) MULTILATERAL AGREEMENTS.—Section  
13 614 shall apply to the provisions of this section con-  
14 cerning class II, group II substances, except that for  
15 the words ‘Montreal Protocol’ there shall be sub-  
16 stituted the words ‘Montreal Protocol, or any appli-  
17 cable multilateral agreement to which the United  
18 States is a party or otherwise adheres that restricts  
19 the production or consumption of class II, group II  
20 substances,’ and for the words ‘Article 4 of the Mon-  
21 treal Protocol’ there shall be substituted ‘any provi-  
22 sion of such multilateral agreement regarding trade  
23 with non-parties’.

24 “(3) FEDERAL FACILITIES.—For purposes of  
25 section 118, the requirements of this section for

1 class II, group II substances and corresponding  
2 State, interstate, and local requirements, administra-  
3 tive authority, and process and sanctions shall be  
4 treated as requirements for the control and abate-  
5 ment of air pollution within the meaning of section  
6 118.

7 “(m) CARBON DIOXIDE EQUIVALENT VALUE.—(1)  
8 In lieu of section 602(e), the provisions of this subsection  
9 shall apply in the case of class II, group II substances.  
10 Simultaneously with establishing the list of class II, group  
11 II substances, and simultaneously with any addition to  
12 that list, the Administrator shall publish the carbon diox-  
13 ide equivalent value of each listed class II, group II sub-  
14 stance, based on a determination of the number of metric  
15 tons of carbon dioxide that makes the same contribution  
16 to global warming over 100 years as 1 metric ton of each  
17 class II, group II substance.

18 “(2) Not later than February 1, 2017, and not less  
19 than every 5 years thereafter, the Administrator shall—

20 “(A) review, and if appropriate, revise the car-  
21 bon dioxide equivalent values established for class II,  
22 group II substances based on a determination of the  
23 number of metric tons of carbon dioxide that makes  
24 the same contributions to global warming over 100

1 years as 1 metric ton of each class II, group II sub-  
2 stance; and

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

5 “(3) A revised determination published in the Federal  
6 Register under paragraph (2)(B) shall take effect for pro-  
7 duction of class II, group II substances, consumption of  
8 class II, group II substances, and importation of products  
9 containing class II, group II substances starting on Janu-  
10 ary 1 of the first calendar year starting at least 9 months  
11 after the date on which the revised determination was pub-  
12 lished.

13 “(4) The Administrator may decrease the frequency  
14 of review and revision under paragraph (2) if the Adminis-  
15 trator determines that such decrease is appropriate in  
16 order to synchronize such review and revisions with any  
17 similar review process carried out pursuant to the United  
18 Nations Framework Convention on Climate Change, an  
19 agreement negotiated under that convention, The Vienna  
20 Convention for the Protection of the Ozone Layer, or an  
21 agreement negotiated under that convention, except that  
22 in no event shall the Administrator carry out such review  
23 and revision any less frequently than every 10 years.

24 “(n) REPORTING REQUIREMENTS.—In lieu of sub-  
25 sections (b) and (c) of section 603, paragraphs (1) and

1 (2) of this subsection shall apply in the case of class II,  
2 group II substances:

3           “(1) IN GENERAL.—On a quarterly basis, or  
4           such other basis (not less than annually) as deter-  
5           mined by the Administrator, each person who pro-  
6           duced, imported, or exported a class II, group II  
7           substance, or who imported a product containing a  
8           class II, group II substance, shall file a report with  
9           the Administrator setting forth the carbon dioxide  
10          equivalent amount of the substance that such person  
11          produced, imported, or exported, as well as the  
12          amount that was contained in products imported by  
13          that person, during the preceding reporting period.  
14          Each such report shall be signed and attested by a  
15          responsible officer. If all other reporting is complete,  
16          no such report shall be required from a person after  
17          April 1 of the calendar year after such person per-  
18          manently ceases production, importation, and expor-  
19          tation of the substance, as well as importation of  
20          products containing the substance, and so notifies  
21          the Administrator in writing. If the United States  
22          becomes a party or otherwise adheres to a multilat-  
23          eral agreement, including any amendment to the  
24          Montreal Protocol on Substances That Deplete the  
25          Ozone Layer, that restricts the production or con-



1       sumption of class II, group II substances, then, if all  
2       other reporting is complete, no such report shall be  
3       required from a person with respect to importation  
4       from parties to such agreement or amendment of  
5       products containing any class II, group II substance  
6       restricted by such agreement or amendment, after  
7       April 1 of the calendar year following the year dur-  
8       ing which such agreement or amendment enters into  
9       force.

10           “(2) BASELINE REPORTS FOR CLASS II, GROUP  
11       II SUBSTANCES.—

12           “(A) IN GENERAL.—Unless such informa-  
13       tion has been previously reported to the Admin-  
14       istrator, on the date on which the first report  
15       under paragraph (1) of this subsection is re-  
16       quired to be filed, each person who produced,  
17       imported, or exported a class II, group II sub-  
18       stance, or who imported a product containing a  
19       class II substance, (other than a substance  
20       added to the list of class II, group II substances  
21       after the publication of the initial list of such  
22       substances under this section), shall file a re-  
23       port with the Administrator setting forth the  
24       amount of such substance that such person pro-  
25       duced, imported, exported, or that was con-

1           tained in products imported by that person,  
2           during each of calendar years 2004, 2005, and  
3           2006.

4           “(B) PRODUCERS.—In reporting under  
5           subparagraph (A), each person who produced in  
6           the United States a class II substance during  
7           calendar year 2004, 2005, or 2006 shall—

8                   “(i) report all acquisitions or pur-  
9                   chases of class II substances during each  
10                  of calendar years 2004, 2005, and 2006  
11                  from all other persons who produced in the  
12                  United States a class II substance during  
13                  calendar year 2004, 2005, or 2006, and  
14                  supply evidence of such acquisitions and  
15                  purchases as deemed necessary by the Ad-  
16                  ministrator; and

17                  “(ii) report all transfers or sales of  
18                  class II substances during each of calendar  
19                  years 2004, 2005, and 2006 to all other  
20                  persons who produced in the United States  
21                  a class II substance during calendar year  
22                  2004, 2005, or 2006, and supply evidence  
23                  of such transfers and sales as deemed nec-  
24                  essary by the Administrator.

1           “(C) ADDED SUBSTANCES.—In the case of  
2           a substance added to the list of class II, group  
3           II substances after publication of the initial list  
4           of such substances under this section, each per-  
5           son who produced, imported, exported, or im-  
6           ported products containing such substance in  
7           calendar year 2004, 2005, or 2006 shall file a  
8           report with the Administrator within 180 days  
9           after the date on which such substance is added  
10          to the list, setting forth the amount of the sub-  
11          stance that such person produced, imported,  
12          and exported, as well as the amount that was  
13          contained in products imported by that person,  
14          in calendar years 2004, 2005, and 2006.

15          “(o) STRATOSPHERIC OZONE AND CLIMATE PROTEC-  
16          TION FUND.—

17                 “(1) IN GENERAL.—There is established in the  
18          Treasury of the United States a Stratospheric Ozone  
19          and Climate Protection Fund.

20                 “(2) DEPOSITS.—The Administrator shall de-  
21          posit all proceeds from the auction and non-auction  
22          sale of allowances under this section into the Strato-  
23          spheric Ozone and Climate Protection Fund.

24                 “(3) USE.—Amounts deposited into the Strato-  
25          spheric Ozone and Climate Protection Fund shall be

1 available, subject to appropriations, exclusively for  
2 the following purposes:

3 “(A) RECOVERY, RECYCLING, AND REC-  
4 LAMATION.—The Administrator may utilize  
5 funds to establish a program to incentivize the  
6 recovery, recycling, and reclamation of any  
7 Class II substances in order to reduce emissions  
8 of such substances.

9 “(B) MULTILATERAL FUND.—If the  
10 United States becomes a party or otherwise ad-  
11 heres to a multilateral agreement, including any  
12 amendment to the Montreal Protocol on Sub-  
13 stances That Deplete the Ozone Layer, which  
14 restricts the production or consumption of class  
15 II, group II substances, the Administrator may  
16 utilize funds to meet any related contribution  
17 obligation of the United States to the Multilat-  
18 eral Fund for the Implementation of the Mon-  
19 treal Protocol or similar multilateral fund es-  
20 tablished under such multilateral agreement.

21 “(C) LOW GLOBAL WARMING PRODUCT  
22 TRANSITION ASSISTANCE PROGRAM.—

23 “(i) IN GENERAL.—The Adminis-  
24 trator, in consultation with the Secretary  
25 of Energy, may utilize funds in fiscal years

1 2012 through 2022 to establish a program  
2 to provide financial assistance to manufac-  
3 turers of products containing class II,  
4 group II substances to facilitate the transi-  
5 tion to products that contain or utilize al-  
6 ternative substances with no or low carbon  
7 dioxide equivalent value and no ozone de-  
8 pletion potential.

9 “(ii) DEFINITION.—In this subpara-  
10 graph, the term ‘products’ means refrig-  
11 erators, freezers, dehumidifiers, air condi-  
12 tioners, foam insulation, technical aerosols,  
13 fire protection systems, and semiconduc-  
14 tors.

15 “(iii) FINANCIAL ASSISTANCE.—The  
16 Administrator may provide financial assist-  
17 ance to manufacturers pursuant to clause  
18 (i) for—

19 “(I) the design and configuration  
20 of new products that use alternative  
21 substances with no or low carbon di-  
22 oxide equivalent value and no ozone  
23 depletion potential; and

24 “(II) the redesign and retooling  
25 of facilities for the manufacture of

1 products in the United States that use  
2 alternative substances with no or low  
3 carbon dioxide equivalent value and  
4 no ozone depletion potential.

5 “(iv) REPORTS.—For any fiscal year  
6 during which the Administrator provides  
7 financial assistance pursuant to this sub-  
8 paragraph, the Administrator shall submit  
9 a report to the Congress within 3 months  
10 of the end of such fiscal year detailing the  
11 amounts, recipients, specific purposes, and  
12 results of the financial assistance pro-  
13 vided.”.

14 (b) TABLE OF CONTENTS.—The table of contents of  
15 title VI of the Clean Air Act (42 U.S.C. 7671 et seq.)  
16 is amended by adding the following new item at the end  
17 thereof:

“Sec. 619. Hydrofluorocarbons (HFCs).”.

18 (c) FIRE SUPPRESSION AGENTS.—Section 605(a) of  
19 the Clean Air Act (42 U.S.C. 7671(a)) is amended—

20 (1) by striking “or” at the end of paragraph

21 (2);

22 (2) by striking the period at the end of para-  
23 graph (3) and inserting “; or”; and

24 (3) by adding the following new paragraph after  
25 paragraph (3):

1           “(4) is listed as acceptable for use as a fire sup-  
2           pression agent for nonresidential applications in ac-  
3           cordance with section 612(e).”.

4           (d) MOTOR VEHICLE AIR CONDITIONERS.—

5           (1) Section 609(e) of the Clean Air Act (42  
6           U.S.C. 7671h(e)) is amended by inserting “, group  
7           I” after each reference to “class II” in the text and  
8           heading.

9           (2) Section 609 of the Clean Air Act (42 U.S.C.  
10          7671h) is amended by adding the following new sub-  
11          section after subsection (e):

12          “(f) CLASS II, GROUP II SUBSTANCES.—

13                 “(1) REPAIR.—The Administrator may promul-  
14                 gate regulations establishing requirements for repair  
15                 of motor vehicle air conditioners prior to adding a  
16                 class II, group II substance.

17                 “(2) SMALL CONTAINERS.—(A) The Adminis-  
18                 trator may promulgate regulations establishing serv-  
19                 icing practices and procedures for recovery of class  
20                 II, group II substances from containers which con-  
21                 tain less than 20 pounds of such class II, group II  
22                 substances.

23                 “(B) Not later than 18 months after enactment  
24                 of this subsection, the Administrator shall either  
25                 promulgate regulations requiring that containers

1 which contain less than 20 pounds of a class II,  
2 group II substance be equipped with a device or  
3 technology that limits refrigerant emissions and  
4 leaks from the container and limits refrigerant emis-  
5 sions and leaks during the transfer of refrigerant  
6 from the container to the motor vehicle air condi-  
7 tioner or issue a determination that such require-  
8 ments are not necessary or appropriate.

9 “(C) Not later than 18 months after enactment  
10 of this subsection, the Administrator shall promul-  
11 gate regulations establishing requirements for con-  
12 sumer education materials on best practices associ-  
13 ated with the use of containers which contain less  
14 than 20 pounds of a class II, group II substance and  
15 prohibiting the sale or distribution, or offer for sale  
16 or distribution, of any class II, group II substance  
17 in any container which contains less than 20 pounds  
18 of such class II, group II substance, unless con-  
19 sumer education materials consistent with such re-  
20 quirements are displayed and available at point-of-  
21 sale locations, provided to the consumer, or included  
22 in or on the packaging of the container which con-  
23 tain less than 20 pounds of a class II, group II sub-  
24 stance.



1           “(D) The Administrator may, through rule-  
2           making, extend the requirements established under  
3           this paragraph to containers which contain 30  
4           pounds or less of a class II, group II substance if  
5           the Administrator determines that such action would  
6           produce significant environmental benefits.

7           “(3) RESTRICTION OF SALES.—Effective Janu-  
8           ary 1, 2014, no person may sell or distribute or offer  
9           to sell or distribute or otherwise introduce into inter-  
10          state commerce any motor vehicle air conditioner re-  
11          frigerant in any size container unless the substance  
12          has been found acceptable for use in a motor vehicle  
13          air conditioner under section 612.”.

14          (e) SAFE ALTERNATIVES POLICY.—Section 612(e) of  
15          the Clean Air Act (42 U.S.C. 7671k(e)) is amended by  
16          inserting “or class II” after each reference to “class I”.

17          **SEC. 123. BLACK CARBON.**

18          (a) STUDY OF BLACK CARBON EMISSIONS.—

19                  (1) DEFINITION OF BLACK CARBON.—In this  
20                  subsection, the term “black carbon” means any  
21                  light-absorbing graphitic (or elemental) particle pro-  
22                  duced by incomplete combustion.

23                  (2) STUDY.—The Administrator, in consulta-  
24                  tion with the Secretary of Energy, the Secretary of  
25                  State, and the heads of the National Oceanic and

1 Atmospheric Administration, the National Aero-  
2 nautics and Space Administration, the United States  
3 Agency for International Development, the National  
4 Institutes of Health, the Centers for Disease Control  
5 and Prevention, National Institute of Standards and  
6 Technology, and other relevant Federal departments  
7 and agencies and representatives of appropriate in-  
8 dustry and environmental groups, shall conduct a 4-  
9 phase study of black carbon emissions, the phases of  
10 which shall be the following:

11 (A) PHASE I—UNIVERSAL DEFINITION.—

12 The Administrator shall conduct phase I of the  
13 study under this subsection to carry out meas-  
14 ures to establish for the scientific community  
15 standard definitions of the terms—

16 (i) black carbon; and

17 (ii) organic carbon.

18 (B) PHASE II—SOURCES AND TECH-

19 NOLOGIES.—The Administrator shall conduct  
20 phase II of the study under this subsection to  
21 summarize the available scientific and technical  
22 information concerning—

23 (i) the identification of the major

24 sources of black carbon emissions in the

25 United States and throughout the world;

1 (ii) an estimate of—

2 (I) the quantity of current and  
3 projected future black carbon emis-  
4 sions from those sources; and

5 (II) the net climate effects of the  
6 emissions;

7 (iii) the most recent scientific data  
8 relevant to the public health- and climate-  
9 related impacts of black carbon emissions  
10 and associated emissions of organic car-  
11 bon, nitrogen oxides, and sulfur oxides  
12 from the sources identified under clause  
13 (i);

14 (iv) the most effective control strate-  
15 gies for additional domestic and inter-  
16 national reductions in black carbon emis-  
17 sions, taking into consideration lifecycle  
18 analysis, cost-effectiveness, and the net cli-  
19 mate impact of technologies, operations,  
20 and strategies, such as—

21 (I) diesel particulate filters on ex-  
22 isting diesel on- and off-road engines;  
23 and

24 (II) particulate emission reduc-  
25 tion measures for marine vessels;

1 (v) carbon dioxide equivalency factors,  
2 global/regional modeling, or other metrics  
3 to compare the global warming and other  
4 climate effects of black carbon emissions  
5 with carbon dioxide and other greenhouse  
6 gas emissions; and

7 (vi) the health benefits associated with  
8 additional black carbon emission reduc-  
9 tions.

10 (C) PHASE III—INTERNATIONAL FUND-  
11 ING.—The Administrator shall conduct phase  
12 III of the study under this subsection—

13 (i) to summarize the amount, type,  
14 and direction of all actual and potential fi-  
15 nancial, technical, and related assistance  
16 provided by the United States to foreign  
17 countries to reduce, mitigate, or otherwise  
18 abate—

19 (I) black carbon emissions; and

20 (II) any health, environmental,  
21 and economic impacts associated with  
22 those emissions; and

23 (ii) to identify opportunities, including  
24 action under existing authority, to achieve  
25 significant black carbon emission reduc-

1           tions in foreign countries through the pro-  
2           vision of technical assistance or other ap-  
3           proaches.

4           (D) PHASE IV—RESEARCH AND DEVELOP-  
5           MENT OPPORTUNITIES.—The Administrator  
6           shall conduct phase IV of the study under this  
7           subsection for the purpose of providing to Con-  
8           gress recommendations regarding—

9                   (i) areas of focus for additional re-  
10                  search for cost-effective technologies, oper-  
11                  ations, and strategies with the highest po-  
12                  tential to reduce black carbon emissions  
13                  and protect public health in the United  
14                  States and internationally; and

15                   (ii) actions that the Federal Govern-  
16                  ment could take to encourage or require  
17                  additional black carbon emission reduc-  
18                  tions.

19           (3) REPORTS.—The Administrator shall submit  
20           to Congress—

21                   (A) by not later than 180 days after the  
22                  date of enactment of this Act, a report describ-  
23                  ing the results of phases I and II of the study  
24                  under subparagraphs (A) and (B) of paragraph  
25                  (2);

1 (B) by not later than 270 days after the  
 2 date of enactment of this Act, a report describ-  
 3 ing the results of phase III of the study under  
 4 paragraph (2)(C); and

5 (C) by not later than 1 year after the date  
 6 of enactment of this Act, a report describing  
 7 the recommendations developed for phase IV of  
 8 the study under paragraph (2)(D).

9 (4) AUTHORIZATION OF APPROPRIATIONS.—  
 10 There are authorized to be appropriated such sums  
 11 as are necessary to carry out this subsection.

12 (b) BLACK CARBON MITIGATION.—Title VIII of the  
 13 Clean Air Act (as amended by section 113 of division A)  
 14 is amended by adding at the end the following:

15 **“PART E—BLACK CARBON**

16 **“SEC. 851. BLACK CARBON.**

17 **“(a) DOMESTIC BLACK CARBON MITIGATION.—**

18 **“(1) IN GENERAL.—**Taking into consideration  
 19 the public health and environmental impacts of black  
 20 carbon emissions, including the effects on global and  
 21 regional warming, the Arctic, and other snow and  
 22 ice-covered surfaces, the Administrator shall—

23 **“(A) not later than 2 years after the date**  
 24 **of enactment of this part, propose—**

1           “(i) regulations applicable to emis-  
2           sions of black carbon under the existing  
3           authorities of this Act; or

4           “(ii) a finding that existing regula-  
5           tions promulgated pursuant to this Act  
6           adequately regulate black carbon emis-  
7           sions, which finding may be based on a  
8           finding that existing regulations, in the  
9           judgment of the Administrator—

10           “(I) address those sources that  
11           both contribute significantly to the  
12           total emissions of black carbon and  
13           provide the greatest potential for sig-  
14           nificant and cost-effective reductions  
15           in emissions of black carbon, under  
16           the existing authorities; and

17           “(II) reflect the greatest degree  
18           of emission reduction achievable  
19           through application of technology that  
20           will be available for such sources, giv-  
21           ing appropriate consideration to cost,  
22           energy, and safety factors associated  
23           with the application of such tech-  
24           nology; and

1           “(B) not later than 3 years after the date  
2           of enactment of this part, promulgate final reg-  
3           ulations under the existing authorities of this  
4           Act or finalize the proposed finding.

5           “(2) APPLICABILITY OF REGULATIONS.—Regu-  
6           lations promulgated under paragraph (1) shall not  
7           apply to specific types, classes, categories, or other  
8           suitable groupings of emission sources that the Ad-  
9           ministrator finds are subject to adequate regulation.

10          “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
11         are authorized to be appropriated such sums as are nec-  
12         essary to carry out this section.”.

13         **SEC. 124. STATES.**

14         Section 116 of the Clean Air Act (42 U.S.C. 7416)  
15         is amended by adding the following at the end thereof:  
16         “For the purposes of this section, the phrases ‘standard  
17         or limitation respecting emissions of air pollutants’ and  
18         ‘requirements respecting control or abatement of air pollu-  
19         tion’ shall include any provision to: limit greenhouse gas  
20         emissions, require surrender to the State or a political  
21         subdivision thereof of emission allowances or offset credits  
22         established or issued under this Act, and require the use  
23         of such allowances or credits as a means of demonstrating  
24         compliance with requirements established by a State or  
25         political subdivision thereof.”.



1 **SEC. 125. STATE PROGRAMS.**

2 Title VIII of the Clean Air Act (as amended by sec-  
3 tion 123(b)) is amended by adding at the end the fol-  
4 lowing:

5 **“PART F—MISCELLANEOUS**

6 **“SEC. 861. STATE PROGRAMS.**

7 “(a) IN GENERAL.—Notwithstanding section 116, if  
8 a Federal auction is conducted, by the deadline of March  
9 31, 2011, as established in section 778, no State or polit-  
10 ical subdivision thereof shall implement or enforce a com-  
11 prehensive greenhouse gas emission limitation program  
12 that covers any capped emissions emitted during the years  
13 2012 through 2017.

14 “(b) DEADLINE.—Notwithstanding section 116, in  
15 the event the March 31, 2011 auction is delayed, no State  
16 or political subdivision thereof shall enforce a comprehen-  
17 sive greenhouse gas emission limitation program that cov-  
18 ers any capped emissions emitted during the period that  
19 is at least 9 months from the first auction as set out in  
20 section 778, through 2017.

21 “(c) DEFINITION OF COMPREHENSIVE GREENHOUSE  
22 GAS EMISSION LIMITATION PROGRAM.—For purposes of  
23 this section, the term ‘comprehensive greenhouse gas  
24 emission limitation program’ means a system of green-  
25 house gas regulation under which a State or political sub-  
26 division issues a limited number of tradable instruments

1 in the nature of emission allowances and requires that  
2 sources within its jurisdiction surrender such tradeable in-  
3 struments for each unit of greenhouse gases emitted dur-  
4 ing a compliance period. For purposes of this section, a  
5 ‘comprehensive greenhouse gas emission limitation pro-  
6 gram’ does not include a target or limit on greenhouse  
7 gas emissions adopted by a State or political subdivision  
8 that is implemented other than through the issuance and  
9 surrender of a limited number of tradable instruments in  
10 the nature of emission allowances, nor does it include any  
11 other standard, limit, regulation, or program to reduce  
12 greenhouse gas emissions that is not implemented through  
13 the issuance and surrender of a limited number of  
14 tradeable instruments in the nature of emission allow-  
15 ances. For purposes of this section, the term ‘comprehen-  
16 sive greenhouse gas emission limitation program’ does not  
17 include, among other things, fleet-wide motor vehicle emis-  
18 sion requirements that allow greater emissions with in-  
19 creased vehicle production, or requirements that fuels, or  
20 other products, meet an average pollution emission rate  
21 or lifecycle greenhouse gas standard.

22 **“SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CON-**  
23 **TROL PROGRAMS.**

24 “The Administrator is authorized to make grants to  
25 air pollution control agencies pursuant to section 105 for

1 purposes of assisting in the implementation of programs  
2 to address global warming established under the Clean  
3 Energy Jobs and American Power Act.”.

4 **SEC. 126. ENFORCEMENT.**

5 (a) REMAND.—Section 307(b) of the Clean Air Act  
6 (42 U.S.C. 7607(b)) is amended by adding the following  
7 new paragraph at the end thereof:

8 “(3) If the court determines that any action of  
9 the Administrator is arbitrary, capricious, or other-  
10 wise unlawful, the court may remand such action,  
11 without vacatur, if vacatur would impair or delay  
12 protection of the environment or public health or  
13 otherwise undermine the timely achievement of the  
14 purposes of this Act.

15 “(4) If the court determines that any action of  
16 the Administrator is arbitrary, capricious, or other-  
17 wise unlawful, and remands the matter to the Ad-  
18 ministrator, the Administrator shall complete final  
19 action on remand within an expeditious time period  
20 not longer than the time originally allowed for the  
21 action or 1 year, whichever is less, unless the court  
22 on motion determines that a shorter or longer period  
23 is necessary, appropriate, and consistent with the  
24 purposes of this Act. The court of appeals shall have

1 jurisdiction to enforce a deadline for action on re-  
2 mand under this paragraph.”.

3 (b) PETITION FOR RECONSIDERATION.—Section  
4 307(d)(7)(B) of the Clean Air Act (42 U.S.C.  
5 7607(d)(7)(B)) is amended as follows:

6 (1) By inserting after the second sentence “If  
7 a petition for reconsideration is filed, the Adminis-  
8 trator shall take final action on such petition, in-  
9 cluding promulgation of final action either revising  
10 or determining not to revise the action for which re-  
11 consideration is sought, within 150 days after the  
12 petition is received by the Administrator or the peti-  
13 tion shall be deemed denied for the purpose of judi-  
14 cial review.”.

15 (2) By amending the third sentence to read as  
16 follows: “Such person may seek judicial review of  
17 such denial, or of any other final action, by the Ad-  
18 ministrator, in response to a petition for reconsider-  
19 ation, in the United States court of appeals for the  
20 appropriate circuit (as provided in subsection (b)).”.

21 (c) PETITION FOR REVIEW.—Section 307(b)(1) of  
22 the Clean Air Act (42 U.S.C. 7607(b)(1)) is amended by  
23 inserting after the second sentence the following: “Any  
24 person may file a petition for review of action by the Ad-  
25 ministrator as provided in this subsection.”.

1 **SEC. 127. CONFORMING AMENDMENTS.**

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

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

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

10 (3) In paragraph (2) of subsection (b), by strik-  
11 ing “or title VI” and inserting “title VI, title VII,  
12 or title VIII”.

13 (4) In subsection (c)—

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

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

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

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

1 (b) RETENTION OF STATE AUTHORITY.—Section  
2 116 of the Clean Air Act (42 U.S.C. 7416) is amended  
3 as follows:

4 (1) By striking “and 233” and inserting “233”.

5 (2) By striking “of moving sources)” and in-  
6 sserting “of moving sources), and 861 (preempting  
7 certain State greenhouse gas programs for a limited  
8 time)”.

9 (c) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
10 tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is  
11 amended by striking “section 112,” and all that follows  
12 through “(ii)” and inserting the following: “section 112,  
13 or any regulation of greenhouse gas emissions under title  
14 VII or VIII, (ii)”.

15 (d) ENFORCEMENT.—Subsection (f) of section 304 of  
16 the Clean Air Act (42 U.S.C. 7604(f)) is amended as fol-  
17 lows:

18 (1) By striking “; or” at the end of paragraph

19 (3) thereof and inserting a comma.

20 (2) By striking the period at the end of para-  
21 graph (4) thereof and inserting “, or”.

22 (3) By adding the following after paragraph (4)  
23 thereof:

24 “(5) any requirement of title VII or VIII.”.

1 (e) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL  
2 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.  
3 7607) is amended as follows:

4 (1) In subsection (a), by striking “, or section  
5 306” and inserting “section 306, or title VII or  
6 VIII”.

7 (2) In subsection (b)(1)—

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

10 (B) by striking “section 120,” in the first  
11 sentence and inserting “section 120, any final  
12 action under title VII or VIII,”.

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

15 “(S) the promulgation or revision of any  
16 regulation under title VII or VIII,”.

17 (f) TECHNICAL AMENDMENT.—Title IV of the Clean  
18 Air Act (relating to noise pollution) (42 U.S.C. 7641 et  
19 seq.)—

20 (1) is amended by redesignating sections 401  
21 through 403 as sections 901 through 903, respec-  
22 tively; and

23 (2) is redesignated as title IX and moved to ap-  
24 pear at the end of that Act.

**1 SEC. 128. DAVIS-BACON COMPLIANCE.**

2 (a) IN GENERAL.—Notwithstanding any other provi-  
3 sion of law and in a manner consistent with other provi-  
4 sions in this Act, to receive emission allowances or funding  
5 under this Act, or the amendments made by this Act, the  
6 recipient shall provide reasonable assurances that all la-  
7 borers and mechanics employed by contractors and sub-  
8 contractors on projects funded directly by or assisted in  
9 whole or in part by and through the Federal Government  
10 pursuant to this Act, or the amendments made by this  
11 Act, or by any entity established in accordance with this  
12 Act, or the amendments made by this Act, including the  
13 Carbon Storage Research Corporation, will be paid wages  
14 at rates not less than those prevailing on projects of a  
15 character similar in the locality as determined by the Sec-  
16 retary of Labor in accordance with subchapter IV of chap-  
17 ter 31 of title 40, United States Code (commonly known  
18 as the “Davis-Bacon Act”). With respect to the labor  
19 standards specified in this section, the Secretary of Labor  
20 shall have the authority and functions set forth in Reorga-  
21 nization Plan Numbered 14 of 1950 (64 Stat. 1267; 5  
22 U.S.C. App.) and section 3145 of title 40, United States  
23 Code.

24 (b) EXEMPTION.—Neither subsection (a) nor the re-  
25 quirements of subchapter IV of chapter 31 of title 40,



1 United States Code, shall apply to retrofitting of the fol-  
2 lowing:

3 (1) Single family homes (both attached and de-  
4 tached) under section 164 of division A.

5 (2) Owner-occupied residential units in larger  
6 buildings that have their own dedicated space-condi-  
7 tioning systems under section 164 of division A.

8 (3) Residential buildings (as defined in section  
9 164(a) of division A) if designed for residential use  
10 by less than 4 families.

11 (4) Nonresidential buildings (as defined in sec-  
12 tion 164(a) of division A) if the net interior space  
13 of such nonresidential building is less than 6,500  
14 square feet.

## 15 **Subtitle D—Carbon Market** 16 **Assurance**

### 17 **SEC. 131. CARBON MARKET ASSURANCE.**

18 It is the sense of the Senate that there shall be a  
19 single, integrated carbon market oversight program—

20 (1) to provide for effective and comprehensive  
21 market oversight and enforcement;

22 (2) to lower systemic risk and protect con-  
23 sumers;

24 (3) to ensure market liquidity and allowance  
25 availability;

1           (4) to enhance the price discovery function of  
2 such markets, ensuring that the price for emission  
3 allowances and offset credits reflects the marginal  
4 cost of abatement;

5           (5) to prevent excessive speculation that con-  
6 tributes to price volatility, including the establish-  
7 ment of robust aggregate position limits and margin  
8 requirements;

9           (6) to ensure that market mechanisms and as-  
10 sociated oversight support the environmental integ-  
11 rity of the program established under title VII of the  
12 Clean Air Act (as added by section 101 of this divi-  
13 sion);

14           (7) to establish provisions for market trans-  
15 parency that provide authority, resources, and infor-  
16 mation needed to prevent fraud and manipulation in  
17 such markets;

18           (8) to establish standards for trading as, and  
19 operation of, trading facilities;

20           (9) to ensure a well-functioning, well-regulated  
21 market, including a futures market, designed to  
22 manage risk and facilitate investment in emission re-  
23 ductions;

24           (10) to establish clear, professional standards  
25 for dealers, traders, and other market participants;

1 (11) to provide for appropriate criminal and  
2 civil penalties; and

3 (12) to prevent any excessive leverage by mar-  
4 ket participants that creates risk to the economy.

5 **Subtitle E—Ensuring Real**  
6 **Reductions in Industrial Emissions**

7 **SEC. 141. ENSURING REAL REDUCTIONS IN INDUSTRIAL**  
8 **EMISSIONS.**

9 Title VII of the Clean Air Act (as amended by section  
10 322 of division A) is amended by adding at the end the  
11 following:

12 **“PART F—ENSURING REAL REDUCTIONS IN**  
13 **INDUSTRIAL EMISSIONS**

14 **“SEC. 761. PURPOSES.**

15 “The purposes of this part are—

16 “(1) to promote a strong global effort to signifi-  
17 cantly reduce greenhouse gas emissions, and,  
18 through this global effort, stabilize greenhouse gas  
19 concentrations in the atmosphere at a level that will  
20 prevent dangerous anthropogenic interference with  
21 the climate system;

22 “(2) to prevent an increase in greenhouse gas  
23 emissions in countries other than the United States  
24 as a result of direct and indirect compliance costs in-  
25 curred under this title;

1           “(3) to provide a rebate to the owners and op-  
2           erators of entities in domestic eligible industrial sec-  
3           tors for their greenhouse gas emission costs incurred  
4           under this title, but not for costs associated with  
5           other related or unrelated market dynamics;

6           “(4) to design such rebates in a way that will  
7           prevent carbon leakage while also rewarding innova-  
8           tion and facility-level investments in energy effi-  
9           ciency performance improvements; and

10           “(5) to eliminate or reduce distribution of emis-  
11           sion allowances under this part when such distribu-  
12           tion is no longer necessary to prevent carbon leakage  
13           from eligible industrial sectors.

14   **“SEC. 762. DEFINITIONS.**

15           “In this part:

16           “(1) CARBON LEAKAGE.—The term ‘carbon  
17           leakage’ means any substantial increase (as deter-  
18           mined by the Administrator) in greenhouse gas  
19           emissions by industrial entities located in other  
20           countries if such increase is caused by an incre-  
21           mental cost of production increase in the United  
22           States resulting from the implementation of this  
23           title.

24           “(2) ELIGIBLE INDUSTRIAL SECTOR.—The  
25           term ‘eligible industrial sector’ means an industrial

1 sector determined by the Administrator under sec-  
2 tion 763(b) to be eligible to receive emission allow-  
3 ance rebates under this part.

4 “(3) INDUSTRIAL SECTOR.—The term ‘indus-  
5 trial sector’ means any sector that is in the manu-  
6 facturing sector (as defined in NAICS codes 31, 32,  
7 and 33) or that beneficiates or otherwise processes  
8 (including agglomeration) metal ores, including iron  
9 and copper ores, soda ash, or phosphate. The extrac-  
10 tion of metal ores, soda ash, or phosphate shall not  
11 be considered to be an industrial sector.

12 “(4) NAICS.—The term ‘NAICS’ means the  
13 North American Industrial Classification System of  
14 2002.

15 “(5) OUTPUT.—The term ‘output’ means the  
16 total tonnage or other standard unit of production  
17 (as determined by the Administrator) produced by  
18 an entity in an industrial sector. The output of the  
19 cement sector is hydraulic cement, and not clinker.

20 **“SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.**

21 “(a) LIST.—

22 “(1) INITIAL LIST.—Not later than June 30,  
23 2011, the Administrator shall publish in the Federal  
24 Register a list of eligible industrial sectors pursuant  
25 to subsection (b). Such list shall include the amount

1 of the emission allowance rebate per unit of produc-  
2 tion that shall be provided to entities in each eligible  
3 industrial sector in the following two calendar years  
4 pursuant to section 764.

5 “(2) SUBSEQUENT LISTS.—Not later than Feb-  
6 ruary 1, 2013, and every 4 years thereafter, the Ad-  
7 ministrator shall publish in the Federal Register an  
8 updated version of the list published under para-  
9 graph (1).

10 “(b) ELIGIBLE INDUSTRIAL SECTORS.—

11 “(1) IN GENERAL.—Not later than June 30,  
12 2011, the Administrator shall promulgate a rule des-  
13 ignating, based on the criteria under paragraph (2),  
14 the industrial sectors eligible for emission allowance  
15 rebates under this part.

16 “(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL  
17 SECTORS.—

18 “(A) ELIGIBILITY CRITERIA.—

19 “(i) IN GENERAL.—An owner or oper-  
20 ator of an entity shall be eligible to receive  
21 emission allowance rebates under this part  
22 if such entity is in an industrial sector that  
23 is included in a six-digit classification of  
24 the NAICS that meets the criteria in both

1 clauses (ii) and (iii), or the criteria in  
2 clause (iv).

3 “(ii) ENERGY OR GREENHOUSE GAS  
4 INTENSITY.—As determined by the Admin-  
5 istrator, the industrial sector had—

6 “(I) an energy intensity of at  
7 least 5 percent, calculated by dividing  
8 the cost of purchased electricity and  
9 fuel costs of the sector by the value of  
10 the shipments of the sector, based on  
11 data described in subparagraph (D);  
12 or

13 “(II) a greenhouse gas intensity  
14 of at least 5 percent, calculated by di-  
15 viding—

16 “(aa) the number 20 multi-  
17 plied by the number of tons of  
18 carbon dioxide equivalent green-  
19 house gas emissions (including  
20 direct emissions from fuel com-  
21 bustion, process emissions, and  
22 indirect emissions from the gen-  
23 eration of electricity used to  
24 produce the output of the sector)

1 of the sector based on data de-  
2 scribed in subparagraph (D); by

3 “(bb) the value of the ship-  
4 ments of the sector, based on  
5 data described in subparagraph  
6 (D).

7 “(iii) TRADE INTENSITY.—As deter-  
8 mined by the Administrator, the industrial  
9 sector had a trade intensity of at least 15  
10 percent, calculated by dividing the value of  
11 the total imports and exports of such sec-  
12 tor by the value of the shipments plus the  
13 value of imports of such sector, based on  
14 data described in subparagraph (D).

15 “(iv) VERY HIGH ENERGY OR GREEN-  
16 HOUSE GAS INTENSITY.—As determined by  
17 the Administrator, the industrial sector  
18 had an energy or greenhouse gas intensity,  
19 as calculated under clause (ii)(I) or (II), of  
20 at least 20 percent.

21 “(B) METAL AND PHOSPHATE PRODUC-  
22 TION CLASSIFIED UNDER MORE THAN ONE  
23 NAICS CODE.—For purposes of this section, the  
24 Administrator shall—



1           “(i) aggregate data for the  
2           beneficiation or other processing (including  
3           agglomeration) of metal ores, including  
4           iron and copper ores, soda ash, or phos-  
5           phate with subsequent steps in the process  
6           of metal and phosphate manufacturing, re-  
7           gardless of the NAICS code under which  
8           such activity is classified; and

9           “(ii) aggregate data for the manufac-  
10          turing of steel with the manufacturing of  
11          steel pipe and tube made from purchased  
12          steel in a nonintegrated process.

13          “(C) EXCLUSION.—The petroleum refining  
14          sector shall not be an eligible industrial sector.

15          “(D) DATA SOURCES.—

16                 “(i) ELECTRICITY AND FUEL COSTS,  
17                 VALUE OF SHIPMENTS.—The Adminis-  
18                 trator shall determine electricity and fuel  
19                 costs and the value of shipments under  
20                 this subsection from data from the United  
21                 States Census Annual Survey of Manufac-  
22                 turers. The Administrator shall take the  
23                 average of data from as many of the years  
24                 of 2004, 2005, and 2006 for which such  
25                 data are available. If such data are un-

1 available, the Administrator shall make a  
2 determination based upon 2002 or 2006  
3 data from the most detailed industrial clas-  
4 sification level of Energy Information  
5 Agency's Manufacturing Energy Consump-  
6 tion Survey (using 2006 data if it is avail-  
7 able) and the 2002 or 2007 Economic Cen-  
8 sus of the United States (using 2007 data  
9 if it is available). If data from the Manu-  
10 facturing Energy Consumption Survey or  
11 Economic Census are unavailable for any  
12 sector at the six-digit classification level in  
13 the NAICS, then the Administrator may  
14 extrapolate the information necessary to  
15 determine the eligibility of a sector under  
16 this paragraph from available Manufac-  
17 turing Energy Consumption Survey or  
18 Economic Census data pertaining to a  
19 broader industrial category classified in the  
20 NAICS. If data relating to the  
21 beneficiation or other processing (including  
22 agglomeration) of metal ores, including  
23 iron and copper ores, soda ash, or phos-  
24 phate are not available from the specified  
25 data sources, the Administrator shall use

1 the best available Federal or State govern-  
2 ment data and may use, to the extent nec-  
3 essary, representative data submitted by  
4 entities that perform such beneficiation or  
5 other processing (including agglomeration),  
6 in making a determination. Fuel cost data  
7 shall not include the cost of fuel used as  
8 feedstock by an industrial sector.

9 “(ii) IMPORTS AND EXPORTS.—The  
10 Administrator shall base the value of im-  
11 ports and exports under this subsection on  
12 United States International Trade Com-  
13 mission data. The Administrator shall take  
14 the average of data from as many of the  
15 years of 2004, 2005, and 2006 for which  
16 such data are available. If data from the  
17 United States International Trade Com-  
18 mission are unavailable for any sector at  
19 the six-digit classification level in the  
20 NAICS, then the Administrator may ex-  
21 trapolate the information necessary to de-  
22 termine the eligibility of a sector under  
23 this paragraph from available United  
24 States International Trade Commission

1 data pertaining to a broader industrial cat-  
2 egory classified in the NAICS.

3 “(iii) PERCENTAGES.—The Adminis-  
4 trator shall round the energy intensity,  
5 greenhouse gas intensity, and trade inten-  
6 sity percentages under subparagraph (A)  
7 to the nearest whole number.

8 “(iv) GREENHOUSE GAS EMISSION  
9 CALCULATIONS.—When calculating the  
10 tons of carbon dioxide equivalent green-  
11 house gas emissions for each sector under  
12 subparagraph (A)(ii)(II)(aa), the Adminis-  
13 trator—

14 “(I) shall use the best available  
15 data from as many of the years 2004,  
16 2005, and 2006 for which such data  
17 is available; and

18 “(II) may, to the extent nec-  
19 essary with respect to a sector, use  
20 economic and engineering models and  
21 the best available information on tech-  
22 nology performance levels for such  
23 sector.

24 “(3) ADMINISTRATIVE DETERMINATION OF AD-  
25 DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

1           “(A) UPDATED TRADE INTENSITY DATA.—

2           The Administrator shall designate as eligible to  
3           receive emission allowance rebates under this  
4           part an industrial sector that—

5                   “(i) met the energy or greenhouse gas  
6                   intensity criteria in paragraph (2)(A)(ii) as  
7                   of the date of promulgation of the rule  
8                   under paragraph (1); and

9                   “(ii) meets the trade intensity criteria  
10                  in paragraph (2)(A)(iii), using data from  
11                  any year after 2006.

12           “(B) INDIVIDUAL SHOWING PETITION.—

13                   “(i) PETITION.—In addition to des-  
14                   ignation under paragraph (2) or subpara-  
15                   graph (A) of this paragraph, the owner or  
16                   operator of an entity in an industrial sec-  
17                   tor may petition the Administrator to des-  
18                   ignate as eligible industrial sectors under  
19                   this part an entity or a group of entities  
20                   that—

21                           “(I) represent a subsector of a  
22                           six-digit section of the NAICS code;  
23                           and

24                           “(II) meet the eligibility criteria  
25                           in both clauses (ii) and (iii) of para-

1 graph (2)(A), or the eligibility criteria  
2 in clause (iv) of paragraph (2)(A).

3 “(ii) DATA.—In making a determina-  
4 tion under this subparagraph, the Admin-  
5 istrator shall consider data submitted by  
6 the petitioner that is specific to the entity,  
7 data solicited by the Administrator from  
8 other entities in the subsector, if such  
9 other entities exist, and data specified in  
10 paragraph (2)(D).

11 “(iii) BASIS OF SUBSECTOR DETER-  
12 MINATION.—The Administrator shall de-  
13 termine an entity or group of entities to be  
14 a subsector of a six-digit section of the  
15 NAICS code based only upon the products  
16 manufactured and not the industrial proc-  
17 ess by which the products are manufac-  
18 tured, except that the Administrator may  
19 determine an entity or group of entities  
20 that manufacture a product from primarily  
21 virgin material to be a separate subsector  
22 from another entity or group of entities  
23 that manufacture the same product pri-  
24 marily from recycled material.

1                   “(iv) USE OF MOST RECENT DATA.—

2                   In determining whether to designate a sec-  
3                   tor or subsector as an eligible industrial  
4                   sector under this subparagraph, the Ad-  
5                   ministrator shall use the most recent data  
6                   available from the sources described in  
7                   paragraph (2)(D), rather than the data  
8                   from the years specified in paragraph  
9                   (2)(D), to determine the trade intensity of  
10                  such sector or subsector, but only for de-  
11                  termining such trade intensity.

12                  “(v) FINAL ACTION.—The Adminis-  
13                  trator shall take final action on such peti-  
14                  tion no later than 6 months after the peti-  
15                  tion is received by the Administrator.

16 **“SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE RE-**  
17 **BATES.**

18                  “(a) DISTRIBUTION SCHEDULE.—

19                  “(1) IN GENERAL.—For each vintage year, the  
20                  Administrator shall distribute pursuant to this sec-  
21                  tion emission allowances made available under sec-  
22                  tion 771(a)(5), no later than October 31 of the pre-  
23                  ceding calendar year. The Administrator shall make  
24                  such annual distributions to the owners and opera-  
25                  tors of each entity in an eligible industrial sector in

1 the amount of emission allowances calculated under  
2 subsection (b), except that—

3 “(A) for vintage years 2012 and 2013, the  
4 distribution for a covered entity shall be pursu-  
5 ant to the entity’s indirect carbon factor as cal-  
6 culated under subsection (b)(3);

7 “(B) for vintage year 2026 and thereafter,  
8 the distribution shall be pursuant to the  
9 amount calculated under subsection (b) multi-  
10 plied by, for a sector—

11 “(i) 90 percent for vintage year 2026;

12 “(ii) 80 percent for vintage year  
13 2027;

14 “(iii) 70 percent for vintage year  
15 2028;

16 “(iv) 60 percent for vintage year  
17 2029;

18 “(v) 50 percent for vintage year 2030;

19 “(vi) 40 percent for vintage year  
20 2031;

21 “(vii) 30 percent for vintage year  
22 2032;

23 “(viii) 20 percent for vintage year  
24 2033;



1                   “(ix) 10 percent for vintage year  
2                   2034; and

3                   “(x) 0 percent for vintage year 2035  
4                   and thereafter.

5                   “(2) NEWLY ELIGIBLE SECTORS.—In addition  
6                   to receiving a distribution of emission allowances  
7                   under this section in the first distribution occurring  
8                   after an industrial sector is designated as eligible  
9                   under section 763(b)(3), the owner or operator of an  
10                  entity in that eligible industrial sector may receive a  
11                  prorated share of any emission allowances made  
12                  available for distribution under this section that  
13                  were not distributed for the year in which the peti-  
14                  tion for eligibility was granted under section  
15                  763(b)(3)(A).

16                  “(3) CESSATION OF QUALIFYING ACTIVITIES.—  
17                  If, as determined by the Administrator, a facility is  
18                  no longer in an eligible industrial sector designated  
19                  under section 763—

20                         “(A) the Administrator shall not distribute  
21                         emission allowances to the owner or operator of  
22                         such facility under this section; and

23                         “(B) the owner or operator of such facility  
24                         shall return to the Administrator all allowances  
25                         that have been distributed to it for future vin-

1           tage years and a pro-rated amount of allow-  
2           ances distributed to the facility under this sec-  
3           tion for the vintage year in which the facility  
4           ceases to be in an eligible industrial sector des-  
5           ignated under section 763.

6           “(b) CALCULATION OF DIRECT AND INDIRECT CAR-  
7   BON FACTORS.—

8           “(1) IN GENERAL.—

9                   “(A) COVERED ENTITIES.—Except as pro-  
10                  vided in subsection (a), for covered entities that  
11                  are in eligible industrial sectors, the amount of  
12                  emission allowance rebates shall be based on  
13                  the sum of the covered entity’s direct and indi-  
14                  rect carbon factors.

15                  “(B) OTHER ELIGIBLE ENTITIES.—For  
16                  entities that are in eligible industrial sectors  
17                  but are not covered entities, the amount of  
18                  emission allowance rebates shall be based on  
19                  the entity’s indirect carbon factor.

20                  “(C) NEW ENTITIES.—Not later than 2  
21                  years after the date of enactment of this title,  
22                  the Administrator shall issue regulations gov-  
23                  erning the distribution of emission allowance re-  
24                  bates for the first and second years of operation

1 of a new entity in an eligible industrial sector.

2 These regulations shall provide for—

3 “(i) the distribution of emission allow-  
4 ance rebates to such entities based on com-  
5 parable entities in the same sector; and

6 “(ii) an adjustment in the third and  
7 fourth years of operation to reconcile the  
8 total amount of emission allowance rebates  
9 received during the first and second years  
10 of operation to the amount the entity  
11 would have received during the first and  
12 second years of operation had the appro-  
13 priate data been available.

14 “(2) DIRECT CARBON FACTOR.—The direct car-  
15 bon factor for a covered entity for a vintage year is  
16 the product of—

17 “(A) the average annual output of the cov-  
18 ered entity for the 2 years preceding the year  
19 of the distribution; and

20 “(B) the most recent calculation of the av-  
21 erage direct greenhouse gas emissions (ex-  
22 pressed in tons of carbon dioxide equivalent)  
23 per unit of output for all covered entities in the  
24 sector, as determined by the Administrator  
25 under paragraph (4).

1 “(3) INDIRECT CARBON FACTOR.—

2 “(A) IN GENERAL.—The indirect carbon  
3 factor for an entity for a vintage year is the  
4 product obtained by multiplying the average an-  
5 nual output of the entity for the 2 years pre-  
6 ceding the year of the distribution by both the  
7 electricity emissions intensity factor determined  
8 pursuant to subparagraph (B) and the elec-  
9 tricity efficiency factor determined pursuant to  
10 subparagraph (C) for the year concerned.

11 “(B) ELECTRICITY EMISSIONS INTENSITY  
12 FACTOR.—

13 “(i) IN GENERAL.—Each person sell-  
14 ing electricity to the owner or operator of  
15 an entity in any sector designated as an el-  
16 igible industrial sector under section  
17 763(b) shall provide the owner or operator  
18 of the entity and the Administrator, on an  
19 annual basis, the electricity emissions in-  
20 tensity factor for the entity. The electricity  
21 emissions intensity factor for the entity,  
22 expressed in tons of carbon dioxide equiva-  
23 lents per kilowatt hour, is determined by  
24 dividing—

1                   “(I) the annual sum of the hour-  
2                   ly product of—

3                   “(aa) the electricity pur-  
4                   chased by the entity from that  
5                   person in each hour (expressed in  
6                   kilowatt hours); multiplied by

7                   “(bb) the marginal or  
8                   weighted average tons of carbon  
9                   dioxide equivalent per kilowatt  
10                  hour that are reflected in the  
11                  electricity charges to the entity,  
12                  as determined by the entity’s re-  
13                  tail rate arrangements; by

14                  “(II) the total kilowatt hours of  
15                  electricity purchased by the entity  
16                  from that person during that year.

17                  “(ii) USE OF OTHER DATA TO DETER-  
18                  MINE FACTOR.—Where it is not possible to  
19                  determine the precise electricity emissions  
20                  intensity factor for an entity using the  
21                  methodology in clause (i), the person sell-  
22                  ing electricity shall use the monthly aver-  
23                  age data reported by the Energy Informa-  
24                  tion Administration or collected and re-  
25                  ported by the Administrator for the utility

1 serving the entity to determine the elec-  
2 tricity emissions intensity factor.

3 “(C) ELECTRICITY EFFICIENCY FACTOR.—

4 The electricity efficiency factor is the average  
5 amount of electricity (in kilowatt hours) used  
6 per unit of output for all entities in the relevant  
7 sector, as determined by the Administrator  
8 based on the best available data, including data  
9 provided under paragraph (6).

10 “(D) INDIRECT CARBON FACTOR REDUC-

11 TION.—If an electricity provider received a free  
12 allocation of emission allowances pursuant to  
13 section 771(a)(1), the Administrator shall ad-  
14 just the indirect carbon factor to avoid rebates  
15 to the eligible entity for costs that the Adminis-  
16 trator determines were not incurred by the eli-  
17 gible entity because the allowances were freely  
18 allocated to the eligible entity’s electricity pro-  
19 vider and used for the benefit of industrial con-  
20 sumers.

21 “(4) GREENHOUSE GAS INTENSITY CALCULA-

22 TIONS.—The Administrator shall calculate the aver-  
23 age direct greenhouse gas emissions (expressed in  
24 tons of carbon dioxide equivalent) per unit of output  
25 and the electricity efficiency factor for all covered

1 entities in each eligible industrial sector every 4  
2 years, using an average of the four most recent  
3 years of the best available data. For purposes of the  
4 lists required to be published no later than February  
5 1, 2013, the Administrator shall use the best avail-  
6 able data for the maximum number of years, up to  
7 4 years, for which data are available.

8 “(5) ENSURING EFFICIENCY IMPROVEMENTS.—

9 When making greenhouse gas calculations, the Ad-  
10 ministrator shall—

11 “(A) limit the average direct greenhouse  
12 gas emissions per unit of output, calculated  
13 under paragraph (4), for any eligible industrial  
14 sector to an amount that is not greater than it  
15 was in any previous calculation under this sub-  
16 section;

17 “(B) limit the electricity emissions inten-  
18 sity factor, calculated under paragraph (3)(B)  
19 and resulting from a change in electricity sup-  
20 ply, for any entity to an amount that is not  
21 greater than it was during any previous year;  
22 and

23 “(C) limit the electricity efficiency factor,  
24 calculated under paragraph (3)(C), for any eli-  
25 gible industrial sector to an amount that is not

1 greater than it was in any previous calculation  
2 under this subsection.

3 “(6) DATA SOURCES.—For the purposes of this  
4 subsection—

5 “(A) the Administrator shall use data from  
6 the greenhouse gas registry established under  
7 section 713, where it is available; and

8 “(B) each owner or operator of an entity  
9 in an eligible industrial sector and each depart-  
10 ment, agency, and instrumentality of the  
11 United States shall provide the Administrator  
12 with such information as the Administrator  
13 finds necessary to determine the direct carbon  
14 factor and the indirect carbon factor for each  
15 entity subject to this section.

16 “(c) TOTAL MAXIMUM DISTRIBUTION.—Notwith-  
17 standing subsections (a) and (b), the Administrator shall  
18 not distribute more allowances for any vintage year pursu-  
19 ant to this section than are allocated for use under this  
20 part pursuant to section 765 for that vintage year. For  
21 any vintage year for which the total emission allowance  
22 rebates calculated pursuant to this section exceed the  
23 number of allowances allocated pursuant to section 765,  
24 the Administrator shall reduce each entity’s distribution  
25 on a pro rata basis so that the total distribution under



1 this section equals the number of allowances allocated  
2 under section 765.

3 “(d) IRON AND STEEL SECTOR.—For purposes of  
4 this section, the Administrator shall consider as in dif-  
5 ferent industrial sectors—

6 “(1) entities using integrated iron and  
7 steelmaking technologies (including coke ovens, blast  
8 furnaces, and other iron-making technologies); and

9 “(2) entities using electric arc furnace tech-  
10 nologies.

11 “(e) METAL, SODA ASH, OR PHOSPHATE PRODUC-  
12 TION CLASSIFIED UNDER MORE THAN ONE NAICS  
13 CODE.—For purposes of this section, the Administrator  
14 shall not aggregate data for the beneficiation or other  
15 processing (including agglomeration) of metal ores, soda  
16 ash, or phosphate with subsequent steps in the process  
17 of metal, soda ash, or phosphate manufacturing. The Ad-  
18 ministrator shall consider the beneficiation or other proc-  
19 essing (including agglomeration) of metal ores, soda ash,  
20 or phosphate to be in separate industrial sectors from the  
21 metal, soda ash, or phosphate manufacturing sectors. In-  
22 dustrial sectors that beneficiate or otherwise process (in-  
23 cluding agglomeration) metal ores, soda ash, or phosphate  
24 shall not receive emission allowance rebates under this sec-

1 tion related to the activity of extracting metal ores, soda  
2 ash, or phosphate.

3 “(f) COMBINED HEAT AND POWER.—For purposes  
4 of this section, and to achieve the purpose set forth in  
5 section 761(4), (the Administrator may consider entities to  
6 be in different industrial sectors or otherwise take into ac-  
7 count the differences among entities in the same industrial  
8 sector, based upon the extent to which such entities use  
9 combined heat and power technologies.

10 **“SEC. 765. INTERNATIONAL TRADE.**

11 “It is the sense of the Senate that this Act will con-  
12 tain a trade title that will include a border measure that  
13 is consistent with our international obligations and de-  
14 signed to work in conjunction with provisions that allocate  
15 allowances to energy-intensive and trade-exposed indus-  
16 tries.”.

17 **TITLE II—PROGRAM**  
18 **ALLOCATIONS**

19 **SEC. 201. INVESTMENT IN CLEAN VEHICLE TECHNOLOGY.**

20 (a) ESTABLISHMENT OF FUND.—There is estab-  
21 lished in the Treasury a separate account, which shall be  
22 known as the “Clean Vehicle Technology Fund”.

23 (b) AUCTION PROCEEDS.—The Administrator shall  
24 deposit the proceeds of the auction conducted pursuant

1 to section 771(b)(3) of the Clean Air Act in the Clean  
2 Vehicle Technology Fund.

3 (c) AVAILABILITY OF AMOUNTS.—Of the amounts  
4 deposited in the Clean Vehicle Technology Fund—

5 (1) 80 percent shall be available to the Sec-  
6 retary of Energy to support—

7 (A) the development and demonstration of  
8 a national transportation low-emissions energy  
9 plan; and

10 (B) the use of plug-in electric drive vehi-  
11 cles, including medium- and heavy-duty motor  
12 vehicles (including transit vehicles) and other  
13 advanced technology vehicles (as defined in sec-  
14 tions 131 and 136 of the Energy Independence  
15 and Security Act of 2007 (42 U.S.C. 17011,  
16 17013)) that are developed and produced in the  
17 United States; and

18 (2) 20 percent of the amounts shall be available  
19 to the Administrator for use in providing grants au-  
20 thorized under subtitle G of title VII of the Energy  
21 Policy Act of 2005 (42 U.S.C. 16131 et seq.).

22 (d) PILOT PROGRAM.—

23 (1) IN GENERAL.—Of the amounts deposited in  
24 accordance with (c)(1), the Secretary of Energy  
25 shall use not more than 5 percent to develop a na-

1 tional transportation low-emissions energy plan that  
2 shall—

3 (A) project the near- and long-term need  
4 for and location of electric drive vehicle refuel-  
5 ing infrastructure at strategic locations across  
6 all major national highways, roads, and cor-  
7 ridors;

8 (B) identify infrastructure and standard-  
9 ization needs for electricity providers, infra-  
10 structure providers, vehicle manufacturers, and  
11 electricity purchasers;

12 (C) establish an aspirational goal of  
13 achieving strategic deployment of electric vehi-  
14 cle infrastructure by 2020;

15 (D) be developed by the Secretary with the  
16 involvement of all relevant stakeholders; and

17 (E) prioritize the development of—

18 (i) standardized public charge access  
19 ports with wireless or smart card billing  
20 capability; and

21 (ii) level I and level II charge port  
22 systems (that charge an electric vehicle  
23 over a period of 8 to 14 hours and 4 to 8  
24 hours, respectively) that will meet the en-

1           energy requirements of the majority of plug-  
2           in hybrid and battery electric vehicles;

3           (F) examine the feasibility of level III  
4           charge port systems that can charge an electric  
5           vehicle over a period of 10 to 20 minutes; and

6           (G) focus on infrastructure that provides  
7           consumers with the lowest cost while providing  
8           convenient charge system access.

9           (2)   ELECTRIC   DRIVE   DEMONSTRATION  
10          PROJECTS.—

11           (A) IN GENERAL.—The Secretary shall es-  
12           tablish pilot projects to demonstrate electric  
13           drive vehicles and infrastructure.

14           (B)   REQUIREMENTS.—The   Secretary  
15           shall—

16           (i) establish the pilot projects de-  
17           scribed in subparagraph (A) after publica-  
18           tion of the plan developed under paragraph  
19           (1);

20           (ii) use the plan to determine which  
21           regions of the United States are most  
22           ready to demonstrate electric vehicle infra-  
23           structure;

1 (iii) carry out the pilot projects under  
2 this paragraph in different regions of the  
3 United States; and

4 (iv) ensure that—

5 (I) at least 1 pilot project is car-  
6 ried out in a rural region of the  
7 United States; and

8 (II) at least 1 pilot project is fo-  
9 cused on freight issues.

10 (3) FINANCIAL RESOURCES.—In carrying out  
11 the pilot projects under paragraph (2), the Secretary  
12 shall coordinate the use of appropriate financial in-  
13 centives, grant programs, and other Federal finan-  
14 cial resources to ensure that electric infrastructure  
15 delivery entities are able to participate in the pilot  
16 projects.

17 (4) LEEP COORDINATOR.—The Secretary may  
18 designate 1 full-time position within the Department  
19 of Transportation, to be known as the “LEEP coor-  
20 dinator”, with responsibility to oversee—

21 (A) the development of the plan under  
22 paragraph (1); and

23 (B) the implementation of the pilot  
24 projects under paragraph (2).

1 **SEC. 202. STATE AND LOCAL INVESTMENT IN ENERGY EFFI-**  
2 **CIENCY AND RENEWABLE ENERGY.**

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

4 (1) ALLOWANCE.—The term “allowance”  
5 means an emission allowance established under sec-  
6 tion 721 of the Clean Air Act.

7 (2) INDIAN TRIBE.—The term “Indian tribe”  
8 has the meaning given the term in section 4 of the  
9 Indian Self-Determination and Education Assistance  
10 Act (25 U.S.C. 450b).

11 (3) VINTAGE YEAR.—The term “vintage year”  
12 has the meaning given the term in section 700 of the  
13 Clean Air Act.

14 (b) DISTRIBUTION AMONG INDIAN TRIBES, STATES,  
15 LOCAL GOVERNMENTS, METROPOLITAN PLANNING ORGA-  
16 NIZATIONS AND RENEWABLE ELECTRICITY GENERA-  
17 TIONS.—The Administrator shall, in accordance with this  
18 section, distribute allowances allocated pursuant to section  
19 771(a)(8) of the Clean Air Act for the following vintage  
20 year. The Administrator, after consultation with the Sec-  
21 retary of the Interior, shall distribute not less than 1 per-  
22 cent of such allowances to Indian tribes. The Adminis-  
23 trator, after consultation with the Secretary of Energy  
24 and the with the assistance of the Secretary of Transpor-  
25 tation, shall distribute the remaining allowances among  
26 the States, local governments, metropolitan planning orga-

1 nizations, and renewable electricity generations under this  
2 section each year in accordance with the following for-  
3 mula:

4 (1) 62.5 percent of the allowances shall be pro-  
5 vided to the States, of which—

6 (A) 30 percent shall be divided equally  
7 among the States;

8 (B) 30 percent shall be distributed on a  
9 pro rata basis among the States based on the  
10 population of each State, as contained in the  
11 most recent reliable census data available from  
12 the Bureau of the Census for all States at the  
13 time at which the Administrator calculates the  
14 formula for distribution;

15 (C) 30 percent shall be distributed on a  
16 pro rata basis among the States on the basis of  
17 the energy consumption of each State, as con-  
18 tained in the most recent State Energy Data  
19 Report available from the Energy Information  
20 Administration (or such alternative reliable  
21 source as the Administrator may designate);  
22 and

23 (D) 10 percentage shall be provided to the  
24 States based on an energy-efficiency formula



1 developed by the Administrator, which formula  
2 shall be—

3 (i) based on—

4 (I) weather-adjusted criteria; and

5 (II) performance-based metrics

6 that measure each State's success at

7 decreasing energy consumption or in-

8 creasing energy efficiency—

9 (aa) on a per capita basis in

10 the residential sector; and

11 (bb) on an energy consump-

12 tion per square-foot basis in the

13 commercial sector; and

14 (ii) updated every 3 years.

15 (2) 25 percent of the allowances shall be pro-

16 vided to local governments for energy conservation

17 and efficiency grants.

18 (3) 10 percent of the allowances shall be re-

19 served by the Secretary of Transportation for grants

20 to States and metropolitan planning organizations

21 for greenhouse gas reduction programs in the trans-

22 portation sector.

23 (4) 2.5 percent of the allowances shall be pro-

24 vided to renewable energy generating companies with

25 a capacity of 20 megawatts or greater exclusively for

1 the generation of renewable energy. The Adminis-  
2 trator, in consultation with the Secretary of Energy,  
3 shall award allocations to renewable energy genera-  
4 tion companies based on the number of megawatt-  
5 hours the company generates and the technology  
6 used. The Administrator shall promulgate such regu-  
7 lations as are appropriate to carry out this para-  
8 graph.

9 (c) USES.—The allowances distributed to each State,  
10 local government, and metropolitan planning organization  
11 pursuant to this section shall be used exclusively in accord-  
12 ance with the following requirements:

13 (1) ALLOCATION TO STATES.—Allowances allo-  
14 cated to the States under subsection (b)(1) shall be  
15 for the following purposes and be used in accordance  
16 with the following conditions:

17 (A) PURPOSES.—

18 (i) ENERGY EFFICIENCY PRO-  
19 GRAMS.—Not less than 35 percent shall be  
20 used exclusively for—

21 (I) implementation and enforce-  
22 ment of building codes;

23 (II) implementation of the en-  
24 ergy-efficient manufactured homes  
25 program;

1 (III) implementation of building  
2 energy performance labeling; and

3 (IV) low-income community en-  
4 ergy efficiency programs.

5 (ii) RENEWABLE ENERGY PRO-  
6 GRAMS.—Renewable energy programs for  
7 capital grants, production incentives, loans,  
8 loan guarantees, forgivable loans, direct  
9 provision of allowances, and interest rate  
10 buy-downs for—

11 (I) re-equipping, expanding, or  
12 establishing a manufacturing facility  
13 that receives certification from the  
14 Secretary of Energy pursuant to sec-  
15 tion 48C of the Internal Revenue  
16 Code of 1986 for the production of—

17 (aa) property designed to be  
18 used to produce energy from re-  
19 newable energy sources; and

20 (bb) electricity storage sys-  
21 tems;

22 (II) deployment of technologies to  
23 generate electricity from renewable  
24 energy sources; and

1 (III) deployment of facilities or  
2 equipment, such as solar panels, to  
3 generate electricity or thermal energy  
4 from renewable energy resources in  
5 and on buildings in an urban environ-  
6 ment.

7 (iii) IMPROVEMENT IN ELECTRICITY  
8 TRANSMISSION.—Improvement in elec-  
9 tricity transmission for 1 or more of the  
10 following purposes:

11 (I) State implementation of elec-  
12 tricity transmission planning and  
13 siting activities that facilitate renew-  
14 able energy development, including fa-  
15 cilitation of landowner negotiations  
16 for transmission of right-of-way leas-  
17 ing or other contractual arrange-  
18 ments.

19 (II) Grants to nonprofit organi-  
20 zations that facilitate negotiations for  
21 transmission right-of-way leasing or  
22 other contractual agreements between  
23 landowners and developers.

24 (III) State or regional studies of  
25 renewable energy zones and resources

1 with insufficient transmission capac-  
2 ity, including geographical identifica-  
3 tion of potential renewable energy  
4 sites, environmental reviews, and land  
5 use or coastal zone constraints.

6 (IV) Grants to support land-  
7 owner associations' and other non-  
8 profit organizations' participation in  
9 State and Federal siting processes, in-  
10 cluding such associations' studies of  
11 renewable energy feasibility and bene-  
12 fits and associated data collection.

13 (V) Grants to landowners or  
14 landowner associations or nonprofit  
15 organizations for mitigation of im-  
16 pacts on property or ecosystems due  
17 to transmission projects that are part  
18 of an interconnection-wide plan fo-  
19 cused on facilitating renewable energy  
20 development.

21 (VI) Training for State regu-  
22 latory authority staff and local  
23 workforces relating to renewable en-  
24 ergy generation resources and storage,

1 smart grid, or new transmission tech-  
2 nologies.

3 (VII) Grants to transmission pro-  
4 viders for transmission improvements  
5 (including smart grid investments)  
6 that benefit consumers.

7 (VIII) Grants to transmission  
8 providers for security upgrades to the  
9 transmission system and authorized  
10 uses under title XIII of the Energy  
11 Independence and Security Act of  
12 2007 (42 U.S.C. 17381 et seq.).

13 (IX) Grants to develop energy  
14 storage, reliability, or distributed re-  
15 newable generation projects.

16 (iv) END-USE CONSUMERS.—Cost-ef-  
17 fective energy efficiency programs for end-  
18 use consumers of electricity, natural gas,  
19 home heating oil, or propane, including,  
20 where appropriate, programs or mecha-  
21 nisms administered by local governments  
22 and entities other than the State.

23 (v) RETROFITS AND HOUSING INVEST-  
24 MENTS.—Energy retrofits and green in-  
25 vestments in subsidized housing based on

1 standards to ensure that investments are  
2 cost-effective, taking into account reduc-  
3 tions in future use of energy and other  
4 utilities, and the extent to which such ret-  
5 rofits and investments address repair and  
6 replacement needs that may otherwise need  
7 to be addressed with other forms of assist-  
8 ance. As a condition of such funding, the  
9 recipient shall commit to an additional pe-  
10 riod of affordability of not fewer than 15  
11 years, covering all units for which such  
12 grants and loans are used.

13 (vi) THERMAL ENERGY EFFI-  
14 CIENCY.—Not less than 2 percent shall be  
15 used for thermal energy efficiency projects  
16 that provide district thermal energy  
17 through a network of pipes from 1 or more  
18 central plants to at least 2 or more build-  
19 ings, combined heat and power that pro-  
20 duces electricity and thermal energy with a  
21 minimum 60 percent overall efficiency on a  
22 lower-heating value basis, or recoverable  
23 waste energy (including mechanical, ther-  
24 mal, or electrical energy) that, if not for  
25 recovery, would be wasted and may be re-

1 covered or generated through modification  
2 of an existing facility or addition of a new  
3 facility. Allocations may be used for plan-  
4 ning, engineering, and feasibility studies as  
5 well as project construction and develop-  
6 ment. Such projects shall—

7 (I) reduce or avoid greenhouse  
8 gas emissions; and

9 (II)(aa) produce thermal energy  
10 from renewable energy resources or  
11 natural cooling sources;

12 (bb) capture and productively use  
13 thermal energy from an electric gen-  
14 eration facility;

15 (cc) integrate new electricity gen-  
16 eration into an existing district energy  
17 system;

18 (dd) capture and productively  
19 uses surplus thermal energy from an  
20 industrial or municipal process (such  
21 as wastewater treatment); or

22 (ee) distribute and transfer to  
23 buildings the thermal energy from the  
24 energy sources described in items (aa)  
25 through (dd).



1 (vii) SMART GRID DEVELOPMENT.—  
2 Enabling the development of a Smart Grid  
3 (as described in section 1301 of the En-  
4 ergy Independence and Security Act of  
5 2007 (42 U.S.C. 17381)) for State, local  
6 government, and other public buildings and  
7 facilities, including integration of renew-  
8 able energy resources and distributed gen-  
9 eration, demand response, demand-side  
10 management, and systems analysis.

11 (B) CONDITIONS.—

12 (i) IN GENERAL.—The States shall  
13 prioritize expansion of existing energy effi-  
14 ciency programs approved and overseen by  
15 the State or the appropriate State regu-  
16 latory authority.

17 (ii) SUPPLEMENTATION.—The States  
18 shall demonstrate that such allowances  
19 have been used to supplement, and not to  
20 supplant, existing and otherwise available  
21 State, local, and ratepayer funding for  
22 such purpose.

23 (2) ENERGY CONSERVATION AND EFFI-  
24 CIENCY.—Allowances allocated to local governments  
25 under subsection (b)(2) shall be used exclusively for

1 energy conservation and efficiency purposes specified  
2 under section 543 of the Energy Independence and  
3 Security Act of 2007 (42 U.S.C. 17153).

4 (3) STATE AND MPO GRANTS.—Allocation to  
5 the Secretary of Transportation for grants to States  
6 and metropolitan planning organizations under sub-  
7 section (b)(3) shall be used exclusively for the  
8 Transportation Greenhouse Gas Reduction program  
9 in accordance with sections 831 and 832 of the  
10 Clean Air Act.

11 (d) REPORTING.—Each Indian tribe, State, local gov-  
12 ernment, metropolitan planning organization, and renew-  
13 able electricity generating company directly receiving al-  
14 lowances or allowance value under this section shall sub-  
15 mit to the Administrator a report that contains a list of  
16 entities receiving allowances or allowance value under this  
17 section.

18 (e) ENFORCEMENT.—If the Administrator deter-  
19 mines that an Indian tribe, State, local government, met-  
20 ropolitan planning organization, or renewable electricity  
21 generation company is not in compliance with this section,  
22 the Administrator may withhold up to twice the number  
23 of allowances or allowance value that the Indian tribe,  
24 State, local government, metropolitan planning organiza-  
25 tion, or renewable electricity generation company failed to

1 use in accordance with the requirements of this section,  
2 that such Indian tribe, State, local government, metropoli-  
3 tan planning organization, or renewable electricity genera-  
4 tion companies would otherwise be eligible to receive under  
5 this section in later years. Allowances withheld pursuant  
6 to this subsection shall be distributed among the remain-  
7 ing Indian tribes, States, local governments, metropolitan  
8 planning organizations, and renewable electricity genera-  
9 tion companies in accordance with subsection (b).

10 **SEC. 203. ENERGY EFFICIENCY IN BUILDING CODES.**

11 The Administrator shall distribute emission allow-  
12 ances allocated for the following vintage year pursuant to  
13 section 771(a)(9) of the Clean Air Act among the States  
14 in accordance with the formula described in section 202  
15 of this division exclusively for the purpose of section 163  
16 of division A.

17 **SEC. 204. BUILDING RETROFIT PROGRAM.**

18 The Administrator shall distribute emission allow-  
19 ances allocated for the following vintage year pursuant to  
20 section 771(a)(10) of the Clean Air Act among the States  
21 in accordance with the formula described in section 202  
22 of this division exclusively for the purpose of section 164  
23 of division A.

1 **SEC. 205. ENERGY INNOVATION HUBS.**

2 (a) PURPOSE.—The Secretary shall carry out a pro-  
3 gram in accordance with this section to establish Energy  
4 Innovation Hubs to enhance the economic, environmental,  
5 and energy security of the United States by promoting  
6 commercial application of clean, indigenous energy alter-  
7 natives to oil and other fossil fuels, reducing greenhouse  
8 gas emissions, and ensuring that the United States main-  
9 tains a technological lead in the development and commer-  
10 cial application of state-of-the-art energy technologies.

11 (b) DISTRIBUTION OF ALLOWANCES TO ENERGY IN-  
12 NOVATION HUBS.—The Secretary shall, in accordance  
13 with the requirements of this section, distribute to eligible  
14 consortia allowances allocated for the following vintage  
15 year under section 772(a)(11) of the Clean Air Act.

16 **SEC. 206. ARPA-E RESEARCH.**

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

18 (1) ALLOWANCE.—The term “allowance”  
19 means an emission allowance established under sec-  
20 tion 721 of the Clean Air Act.

21 (2) DIRECTOR.—The term “Director” means  
22 Director of the Advanced Research Projects Agency–  
23 Energy.

24 (b) DISTRIBUTION OF ALLOWANCES.—The Director,  
25 in accordance with this section, shall distribute allowances  
26 allocated for the following vintage year under section

1 771(a)(12) of the Clean Air Act. Such allowances shall  
2 be distributed on a competitive basis to institutions of  
3 higher education, companies, research foundations, trade  
4 and industry research collaborations, or consortia of such  
5 entities, or other appropriate research and development  
6 entities to achieve the goals of the Advanced Research  
7 Projects Agency-Energy (as described in section 5012(c)  
8 of the America COMPETES Act (42 U.S.C. 16538(c)))  
9 through targeted acceleration of—

10 (1) novel early-stage energy research with possible  
11 technology applications;

12 (2) development of techniques, processes, and  
13 technologies, and related testing and evaluation;

14 (3) development of manufacturing processes for  
15 technologies; and

16 (4) demonstration and coordination with non-  
17 governmental entities for commercial applications of  
18 technologies and research applications.

19 (c) SUPPLEMENT NOT SUPPLANT.—Assistance pro-  
20 vided under this section shall be used to supplement, and  
21 not to supplant, any other Federal resources available to  
22 carry out activities described in this section.

1 **SEC. 207. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**  
2 **PROGRAM.**

3 The Secretary of State shall distribute emission al-  
4 lowances allocated for the following vintage year pursuant  
5 to section 771(a)(13) of the Clean Air Act exclusively for  
6 the purpose of section 323 of division A.

7 **SEC. 208. INTERNATIONAL CLIMATE CHANGE ADAPTATION**  
8 **AND GLOBAL SECURITY.**

9 The Secretary of State shall distribute emission al-  
10 lowances allocated for the following vintage year pursuant  
11 to section 771(a)(14) of the Clean Air Act exclusively for  
12 the purpose of section 324 of division A.

13 **SEC. 209. ENERGY EFFICIENCY AND RENEWABLE ENERGY**  
14 **WORKER TRAINING.**

15 (a) ESTABLISHMENT OF FUND.—There is estab-  
16 lished in the Treasury a separate account, to be known  
17 as the “Energy Efficiency and Renewable Energy Worker  
18 Training Fund”.

19 (b) AUCTION PROCEEDS.—The Administrator shall  
20 deposit the proceeds of the auction conducted pursuant  
21 to section 771(b)(5) of the Clean Air Act in the Energy  
22 Efficiency and Renewable Energy Worker Training Fund.

23 (c) AVAILABILITY OF AMOUNTS.—The Secretary of  
24 Energy shall use the amounts deposited in the Energy Ef-  
25 ficiency and Renewable Energy Worker Training Fund  
26 under subsection (b) to carry out section 171(e)(8) of the

1 Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8))  
2 without further appropriation or fiscal year limitation.

3 **SEC. 210. WORKER TRANSITION.**

4 (a) ESTABLISHMENT OF FUND.—There is estab-  
5 lished in the Treasury a separate account, to be known  
6 as the “Worker Transition Fund”.

7 (b) AUCTION PROCEEDS.—The Administrator shall  
8 deposit the proceeds of the auction conducted pursuant  
9 to section 771(b)(6) of the Clean Air Act in the Worker  
10 Transition Fund.

11 (c) AVAILABILITY OF AMOUNTS.—The amounts de-  
12 posited in the Worker Transition Fund shall be used to  
13 carry out part 2 of subtitle A of title III of division A.

14 **SEC. 211. STATE PROGRAMS FOR GREENHOUSE GAS RE-**  
15 **DUCTION AND CLIMATE ADAPTATION.**

16 (a) DEFINITIONS.—In this section:

17 (1) ALASKA NATIVE VILLAGE.—The term  
18 “Alaska Native village” means a federally recognized  
19 Indian tribe located in the State of Alaska and listed  
20 in the Bureau of Indian Affairs publication entitled  
21 “Indian Entities Recognized and Eligible to Receive  
22 Services from the United States Bureau of Indian  
23 Affairs” (74 Fed. Reg. 40218 (Aug. 11, 2009)).

1           (2) ALLOWANCE.—The term “allowance”  
2 means an emission allowance established under sec-  
3 tion 721 of the Clean Air Act.

4           (3) INDIAN TRIBE.—The term “Indian tribe”  
5 has the meaning given the term in section 4 of the  
6 Indian Self-Determination and Education Assistance  
7 Act (25 U.S.C. 450b).

8           (4) SCCR ACCOUNT.—The term “SCCR Ac-  
9 count” means a State Climate Change Response Ac-  
10 count established under subsection (d)(5).

11           (5) VINTAGE YEAR.—The term “vintage year”  
12 has the meaning given that term in section 700 of  
13 the Clean Air Act.

14 (b) REGULATIONS; COORDINATION.—

15           (1) REGULATIONS.—Not later than 2 years  
16 after the date of enactment of this Act, the Adminis-  
17 trator, or the heads of such Federal agencies as the  
18 President may designate, shall promulgate regula-  
19 tions to implement this section.

20           (2) COORDINATION.—If the President des-  
21 ignates more than 1 Federal agency to implement  
22 this section, the President shall require such agen-  
23 cies to establish a memorandum of understanding  
24 providing for coordination of rulemaking and other



1 implementing activities, in accordance with this sec-  
2 tion.

3 (c) STATE CLIMATE CHANGE RESPONSE AND TRANS-  
4 PORTATION FUND.—

5 (1) ESTABLISHMENT OF FUND.—There is es-  
6 tablished in the Treasury a separate account, to be  
7 known as the “State Climate Change Response and  
8 Transportation Fund”.

9 (2) AUCTION PROCEEDS DEPOSITED TO  
10 FUND.—The Administrator shall deposit the pro-  
11 ceeds of the auction conducted pursuant to section  
12 771(b)(7) of the Clean Air Act in the State Climate  
13 Change Response and Transportation Fund.

14 (3) AVAILABILITY OF AMOUNTS.—All amounts  
15 deposited in the State Climate Change Response and  
16 Transportation Fund shall be available, without fur-  
17 ther appropriation or fiscal year limitation, to carry  
18 out this section.

19 (d) DISTRIBUTION OF ALLOWANCE PROCEEDS.—

20 (1) IN GENERAL.—The Administrator shall dis-  
21 tribute, in accordance with this section, proceeds of  
22 the auction of allowances allocated for the following  
23 vintage year that have been deposited in the State  
24 Climate Change Response and Transportation Fund  
25 pursuant to subsection (c)(2).

1           (2) RESERVATION AND ALLOCATION.—The Ad-  
2           ministrators shall—

3                   (A) reserve 10 percent of the proceeds of  
4                   such allowances described in paragraph (1) for  
5                   distribution among coastal and Great Lakes  
6                   States in accordance with subsection (f);

7                   (B) after consultation with the Secretary  
8                   of the Interior, reserve at least 1 percent of the  
9                   proceeds of those allowances for distribution to  
10                  Indian tribes in accordance with subsection (e);  
11                  and

12                  (C) distribute the remaining proceeds of  
13                  those allowances to fund State and local govern-  
14                  ment programs for greenhouse gas reduction  
15                  and climate adaptation, with such remaining  
16                  proceeds divided equally between—

17                          (i) funding of transportation grant  
18                          programs under subsection (g); and

19                          (ii) funding of other programs admin-  
20                          istered by the States, with the proceeds to  
21                          be deposited in and administered through  
22                          the State Climate Change Response Ac-  
23                          counts established pursuant to paragraph  
24                          (5).

1           (3) FORMULA FOR DISTRIBUTION.—The Ad-  
2           ministrators shall distribute the proceeds to be allo-  
3           cated pursuant to paragraph (2)(C)(ii) ratably  
4           among the States based on the product obtained by  
5           multiplying—

6                   (A) the population of a State; and

7                   (B) the allocation factor for the State de-  
8           termined under paragraph (4).

9           (4) STATE ALLOCATION FACTORS.—

10                   (A) IN GENERAL.—Except as provided in  
11           subparagraph (B), the allocation factor for a  
12           State shall be the quotient obtained by divid-  
13           ing—

14                   (i) the per capita income of all indi-  
15           viduals in the United States; by

16                   (ii) the per capita income of all indi-  
17           viduals in the State.

18                   (B) LIMITATION.—

19                   (i) MAXIMUM.—If the allocation fac-  
20           tor for a State as calculated under sub-  
21           paragraph (A) would exceed 1.2, the allo-  
22           cation factor for such State shall be 1.2.

23                   (ii) MINIMUM.—If the allocation fac-  
24           tor for a State as calculated under sub-  
25           paragraph (A) would be less than 0.8, the

1 allocation factor for such State shall be  
2 0.8.

3 (C) PER CAPITA INCOME.—For purposes  
4 of this paragraph, per capita income shall be—

5 (i) determined at 2-year intervals; and

6 (ii) subject to subparagraph (D),  
7 equal to the average of the annual per cap-  
8 ita incomes for the most recent period of  
9 3 consecutive years for which satisfactory  
10 data are available from the Department of  
11 Commerce at the time such determination  
12 is made.

13 (D) REVENUE DIRECTLY RESULTING FROM  
14 A PRESIDENTIALLY DECLARED MAJOR DIS-  
15 ASTER.—

16 (i) IN GENERAL.—For purposes of  
17 this paragraph, per capita income from 1  
18 or more of the sources described in clause  
19 (ii) shall be reduced or excluded if the Sec-  
20 retary of Commerce—

21 (I) (in consultation with the Ad-  
22 ministrator and the heads of the de-  
23 partments or agencies involved) deter-  
24 mines that the income accrues to per-  
25 sons as the result of a major disaster

1 designated by the President under the  
2 Robert T. Stafford Disaster Relief  
3 and Emergency Assistance Act (42  
4 U.S.C. 5121 et seq.); and

5 (II) finds that the inclusion of 1  
6 or more of the income sources, in  
7 whole or in part, results in a transi-  
8 tory, rather than a sustainable, in-  
9 crease in a State's per capita income  
10 level relative to the national average.

11 (ii) SOURCES OF INCOME.—The  
12 sources of income referred to in clause (i)  
13 are the following:

14 (I) Property and casualty insur-  
15 ance (including homeowners and rent-  
16 ers insurance).

17 (II) The National Flood Insur-  
18 ance Program of the Federal Emer-  
19 gency Management Agency.

20 (III) The Individual and Family  
21 Grants Program of the Federal Emer-  
22 gency Management Agency.

23 (IV) The Disaster Housing Pro-  
24 gram of the Federal Emergency Man-  
25 agement Agency.

1 (V) The Community Develop-  
2 ment Block Grant Program of the De-  
3 partment of Housing and Urban De-  
4 velopment.

5 (VI) The Disaster Unemployment  
6 Assistance Program of the Depart-  
7 ment of Labor.

8 (VII) Any other source deter-  
9 mined appropriate by the Adminis-  
10 trator.

11 (5) STATE CLIMATE CHANGE RESPONSE AC-  
12 COUNTS.—Each State shall establish a State Cli-  
13 mate Change Response Account, to be administered  
14 pursuant to State law, to receive and distribute the  
15 amounts provided under paragraph (2)(C)(ii). State  
16 regulations and implementing procedures relating to  
17 such accounts shall require compliance with the pro-  
18 visions of this section and all other applicable provi-  
19 sions of Federal law.

20 (e) DISTRIBUTION TO INDIAN TRIBES.—

21 (1) IN GENERAL.—The Administrator, or the  
22 heads of such Federal agencies as the President may  
23 designate, shall promulgate regulations establishing  
24 a program to distribute allowance proceeds to Indian  
25 tribes, in accordance with the requirements of this

1 section, of which not less than 18 percent shall be  
2 allocated to Alaska Native Villages for each year.

3 (2) USE OF PROCEEDS.—Allowance proceeds  
4 distributed to Indian tribes shall be used exclu-  
5 sively—

6 (A) in accordance with subsection (h); and

7 (B) in compliance with any approved tribal  
8 climate change response plan.

9 (f) DISTRIBUTION TO COASTAL AND GREAT LAKES  
10 STATES.—The Administrator, or the heads of such other  
11 Federal agencies as the President may designate, shall dis-  
12 tribute proceeds of emission allowances for coastal State  
13 economic protection each fiscal year, in accordance with  
14 section 384 of division A.

15 (g) DISTRIBUTION OF TRANSPORTATION GRANTS.—

16 (1) DISTRIBUTION OF TRANSPORTATION  
17 GRANTS.—

18 (A) IN GENERAL.—The Secretary of  
19 Transportation, in consultation with the Admin-  
20 istrator, shall distribute the amounts allocated  
21 for transportation grants each fiscal year in ac-  
22 cordance with subsection (d)(2)(C)(i) as grants  
23 to public transportation agencies (including des-  
24 igned recipients (as defined in section  
25 5307(a) and section 5340 of title 49, United

1 States Code)) and recipients and sub-recipients  
2 (as defined in section 5311(a) of title 49,  
3 United States Code).

4 (B) FORMULA.—In providing grants under  
5 this subsection, the Secretary shall distribute—

6 (i) 80 percent of the funds in accord-  
7 ance with the formula and conditions gov-  
8 erning grants under section 5307 of title  
9 49, United States Code;

10 (ii) 10 percent of the funds in accord-  
11 ance with the formula and conditions gov-  
12 erning grants under section 5311 of title  
13 49, United States Code; and

14 (iii) 10 percent of the funds in accord-  
15 ance with the formula and conditions gov-  
16 erning grants under section 5340 of title  
17 49, United States Code.

18 (h) USES OF ALLOWANCE PROCEEDS DEPOSITED TO  
19 SCCR ACCOUNTS.—

20 (1) IN GENERAL.—States shall use allowance  
21 proceeds deposited to SCCR Accounts under sub-  
22 section (d)(2)(C)(ii) exclusively for the development  
23 and implementation of projects, programs, or meas-  
24 ures as described in this section to address climate  
25 change by reducing emissions of greenhouse gases or



1 by building resilience to the impacts of climate  
2 change, including impacts such as—

3 (A) extreme weather events, such as flood-  
4 ing and tropical cyclones;

5 (B) more frequent heavy precipitation  
6 events;

7 (C) water scarcity and adverse impacts on  
8 water quality;

9 (D) stronger and longer heat waves;

10 (E) more frequent and severe droughts;

11 (F) rises in sea level;

12 (G) ecosystem disruption;

13 (H) increased wildfire risk;

14 (I) increased air pollution;

15 (J) effects on public health;

16 (K) impaired transportation systems and  
17 infrastructure; and

18 (L) reduced productivity of agricultural or  
19 ranching operations.

20 (2) REQUIREMENTS.—The allowance proceeds  
21 received by each SCCR Account for each fiscal year  
22 shall be used by the State exclusively to fund the fol-  
23 lowing categories of activities, in compliance with the  
24 provisions of approved State climate change re-  
25 sponse plans:

1 (A) Grants to fund water system mitiga-  
2 tion and adaptation partnerships in accordance  
3 with section 381 of division A.

4 (B) Flood control, protection, prevention  
5 and response programs and projects in accord-  
6 ance with section 382 of division A.

7 (C) Programs or projects implemented by  
8 State agencies as owners or operators of water  
9 systems to address any ongoing or forecasted  
10 climate-related impact on water quality, water  
11 supply or reliability, for 1 or more of the pur-  
12 poses listed in section 381(d) of division A.

13 (D) Programs or projects to reduce green-  
14 house gas emissions through recycling or for in-  
15 creasing recycling rates in accordance with sec-  
16 tion 154 of division A.

17 (E) Programs and projects addressing ad-  
18 verse impacts of climate change affecting agri-  
19 culture or ranching activities.

20 (F) Programs or projects addressing air  
21 pollution or air quality impacts caused or exac-  
22 erbated by climate change.

23 (G) Programs or projects to reduce green-  
24 house gas emissions that result in a decrease in  
25 emissions of other air pollutants.

1           (3) DISTRIBUTION FOR LOCAL GOVERN-  
2           MENTS.—Not less than 12.5 percent of the proceeds  
3           deposited to SCCR Accounts shall be distributed by  
4           each State to units of local government within such  
5           State, to be used exclusively to support the cat-  
6           egories of climate change response efforts listed in  
7           paragraph (2).

8           (4) VULNERABLE POPULATIONS.—In deploying  
9           allowance proceeds under this section, States and  
10          units of local government shall ensure that programs  
11          and projects are funded responding to impacts af-  
12          fecting socially and economically vulnerable popu-  
13          lations, including—

14                (A) persons of low-income (as defined in  
15                title I of the Housing and Community Develop-  
16                ment Act of 1974, (42 U.S.C. 5301 et seq.));

17                (B) members of socially disadvantaged  
18                groups (as defined in section 2501(e)(2) of the  
19                Food, Agriculture, Conservation, and Trade Act  
20                of 1990 (7 U.S.C. 2279(e)(2)));

21                (C) individuals over 65 years of age and  
22                under 5 years of age; and

23                (D) individuals with disabilities.

24          (5) INTENT OF CONGRESS.—It is the intent of  
25          the Congress that allowances distributed to carry

1 out this section should be used to supplement, and  
2 not replace, existing sources of funding used to ad-  
3 dress and build resilience to the impacts of climate  
4 change.

5 (i) STATE AND TRIBAL CLIMATE CHANGE RESPONSE  
6 PLANS.—

7 (1) IN GENERAL.—The regulations promulgated  
8 pursuant to subsection (b) shall include require-  
9 ments for submission and approval of State and  
10 tribal climate change response plans under this sec-  
11 tion. Beginning with vintage year 2012, distribution  
12 of allowance proceeds to a State pursuant to this  
13 section shall be contingent on approval of a State  
14 climate change response plan for such State that  
15 meets the requirements of such regulations.

16 (2) REQUIREMENTS.—Regulations promulgated  
17 under this section shall require, at minimum, that  
18 State climate change response plans—

19 (A) assess and prioritize the vulnerability  
20 of a State to a broad range of impacts of cli-  
21 mate change, based on the best available  
22 science;

23 (B) identify and prioritize specific cost-ef-  
24 fective projects, programs, and measures to  
25 mitigate and build resilience to current and pre-

1 dicted impacts of climate change, including  
2 projects, programs, and measures within each  
3 of the categories of activities listed in sub-  
4 section (h)(2);

5 (C) include an assessment of potential for  
6 carbon reduction through changes to land man-  
7 agement policies (including enhancement or  
8 protection of forest carbon sinks);

9 (D) ensure that the State fully considers  
10 and undertakes, to the maximum extent prac-  
11 ticable, initiatives that—

12 (i) protect or enhance natural eco-  
13 system functions, including protection,  
14 maintenance, or restoration of natural in-  
15 frastructure such as wetlands, reefs, and  
16 barrier islands to buffer communities from  
17 floodwaters or storms, watershed protec-  
18 tion to maintain water quality and ground-  
19 water recharge, or floodplain restoration to  
20 improve natural flood control capacity;

21 (ii) where appropriate, use non-  
22 structural approaches, including practices  
23 that use, enhance, or mimic the natural  
24 hydrologic cycle processes of infiltration,  
25 evapotranspiration, and use; or

1 (iii) where appropriate, protect for-  
2 ested land via scientifically based ecological  
3 restoration practices, including by reducing  
4 fuel loads, restoring forest diversity, and  
5 conducting research on pest mitigation;

6 (E) give consideration to impacts affecting  
7 socially and economically vulnerable popu-  
8 lations, including—

9 (i) persons of low-income (as defined  
10 in title I of the Housing and Community  
11 Development Act of 1974 (42 U.S.C. sec.  
12 5301 et seq.));

13 (ii) members of socially disadvantaged  
14 groups (as defined in section 2501(e)(2) of  
15 the Food, Agriculture, Conservation, and  
16 Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

17 (iii) persons over 65 years of age and  
18 under 5 years of age; and

19 (iv) persons with disabilities;

20 (F) use pre-disaster mitigation, emergency  
21 response, and public insurance programs to  
22 mitigate the impacts of climate change;

23 (G) be consistent with Federal conserva-  
24 tion and environmental laws and, to the max-

1           imum extent practicable, avoid environmental  
2           degradation; and

3           (H) be revised and resubmitted for ap-  
4           proval not less frequently than every 5 years.

5           (3) TRIBAL CLIMATE CHANGE RESPONSE  
6           PLANS.—Requirements for tribal climate change re-  
7           sponse plans should include the requirements listed  
8           in subparagraphs (A) through (H) of paragraph (2),  
9           as appropriate, but may vary from those of State cli-  
10          mate change response plans to the extent necessary  
11          to account for the special circumstances of Indian  
12          tribes.

13          (4) COORDINATION WITH PRIOR PLANNING EF-  
14          FORTS.—In implementing this subsection, the Ad-  
15          ministrator, or the heads of such Federal agencies  
16          as the President may designate, shall—

17                (A) draw upon lessons learned and best  
18                practices from pre-existing State and tribal cli-  
19                mate change response planning efforts;

20                (B) seek to avoid duplication of such ef-  
21                forts; and

22                (C) ensure that the plans developed under  
23                this section are developed in coordination with  
24                State natural resources adaptation plans devel-  
25                oped under section 369 of division A.

1 (j) REPORTING.—Not later than 1 year after each  
2 date of receipt of allowance proceeds under this section,  
3 and biennially thereafter until the value of any allowance  
4 proceeds received under this section has been fully ex-  
5 pended, each State or Indian tribe receiving allowance pro-  
6 ceeds under this section shall submit to the Administrator,  
7 or the heads of such Federal agencies as the President  
8 may designate, a report that—

9 (1) provides a full accounting for the use by the  
10 State or Indian tribe of allowance proceeds distrib-  
11 uted under this section, including a description of  
12 the projects, programs, or measures supported using  
13 such proceeds;

14 (2) includes a report prepared by an inde-  
15 pendent third party, in accordance with such regula-  
16 tions as are promulgated by the Administrator or  
17 the heads of such other Federal agencies as the  
18 President may designate, evaluating the performance  
19 of the projects, programs, or measures supported  
20 under this section; and

21 (3) identifies any use by the State or Indian  
22 tribe of allowance proceeds distributed under this  
23 section for the reduction of flood and storm damage  
24 and the effects of climate change on water and flood  
25 protection infrastructure.



1           (k) AUDITING.—The Administrator, or the heads of  
2 such Federal agencies as the President may designate,  
3 shall have authority to conduct such audits or other review  
4 of States implementation of and compliance with this sec-  
5 tion as such Federal officials may in their discretion deter-  
6 mine to be necessary or appropriate.

7           (l) ENFORCEMENT.—If the Administrator, or the  
8 heads of such Federal agencies as the President may des-  
9 ignate, determine that a State or Indian tribe is not in  
10 compliance with this section, the Administrator or such  
11 other agency head may withhold a quantity of the allow-  
12 ance proceeds equal to up to twice the quantity of allow-  
13 ance proceeds that the State or Indian tribe failed to use  
14 in accordance with the requirements of this section, that  
15 such State or Indian tribe would otherwise be eligible to  
16 receive under this section in 1 or more later years. Allow-  
17 ance proceeds withheld pursuant to this subsection shall  
18 be distributed among the remaining States or Indian  
19 tribes ratably in accordance with—

20                 (1) the formula under subsection (d), in the  
21 case of allowances withheld from a State; or

22                 (2) in accordance with subsection (e), in the  
23 case of allowance proceeds withheld from an Indian  
24 tribe.

1 **SEC. 212. CLIMATE CHANGE HEALTH PROTECTION AND**  
2 **PROMOTION FUND.**

3 (a) ESTABLISHMENT OF FUND.—There is estab-  
4 lished in the Treasury a separate account, to be known  
5 as the “Climate Change Health Protection and Promotion  
6 Fund”.

7 (b) AUCTION PROCEEDS.—The Administrator shall  
8 deposit the proceeds of the auction pursuant to section  
9 771(b)(8) of the Clean Air Act in the Climate Change  
10 Health Protection and Promotion Fund.

11 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
12 ited in the Climate Change Health Protection and Pro-  
13 motion Fund shall be available to the Secretary of Health  
14 and Human Services to carry out subpart B of subtitle  
15 C of title III of division A, without further appropriation  
16 or fiscal year limitation.

17 (d) DISTRIBUTION OF FUNDS BY HHS.—In carrying  
18 out subpart B of subtitle C of title III of division A, the  
19 Secretary of Health and Human Services may make funds  
20 deposited in the Climate Change Health Protection and  
21 Promotion Fund available to—

22 (1) other departments, agencies, and offices of  
23 the Federal Government;

24 (2) foreign, State, tribal, and local govern-  
25 ments; and

1           (3) such other entities as the Secretary deter-  
2           mines to be appropriate.

3           (e) SUPPLEMENT, NOT REPLACE.—It is the intent  
4 of Congress that funds made available to carry out sub-  
5 part B of subtitle C of title III of division A should be  
6 used to supplement, and not replace, existing sources of  
7 funding for public health.

8 **SEC. 213. CLIMATE CHANGE SAFEGUARDS FOR NATURAL**  
9 **RESOURCES CONSERVATION.**

10          (a) ESTABLISHMENT OF FUND.—There is estab-  
11 lished in the Treasury a separate account, to be known  
12 as the “Natural Resources Climate Change Adaptation  
13 Account”.

14          (b) AUCTION PROCEEDS.—The Administrator shall  
15 deposit the proceeds of the auction conducted pursuant  
16 to section 771(b)(9) of the Clean Air Act in the Natural  
17 Resources Climate Change Adaptation Account.

18          (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
19 ited in the Natural Resources Climate Change Adaptation  
20 Account shall be available without further appropriation  
21 or fiscal year limitation solely for the purposes of section  
22 370 of division A.

1 **SEC. 214. NUCLEAR WORKER TRAINING.**

2 (a) ESTABLISHMENT OF FUND.—There is estab-  
3 lished in the Treasury a separate account, to be known  
4 as the “Nuclear Worker Training Fund”.

5 (b) AUCTION PROCEEDS.—The Administrator shall  
6 deposit the proceeds of the auction conducted pursuant  
7 to section 771(b)(10) of the Clean Air Act in the Nuclear  
8 Worker Training Fund.

9 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
10 ited in the Nuclear Worker Training Fund shall be avail-  
11 able without further appropriation or fiscal year limitation  
12 solely for the purpose of carrying out section 132 of divi-  
13 sion A.

14 **SEC. 215. SUPPLEMENTAL AGRICULTURE, RENEWABLE EN-  
15 ERGY, AND FORESTRY.**

16 (a) ESTABLISHMENT OF FUND.—There is estab-  
17 lished in the Treasury a separate account, to be known  
18 as the “Supplemental Agriculture, Renewable Energy, and  
19 Forestry Fund”.

20 (b) AUCTION PROCEEDS.—The Administrator shall  
21 deposit the proceeds of the auction conducted pursuant  
22 to section 771(b)(11) of the Clean Air Act in the Supple-  
23 mental Agriculture, Renewable Energy, and Forestry  
24 Fund.

25 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
26 ited in the Supplemental Agriculture, Renewable Energy,

1 and Forestry Fund shall be available without further ap-  
2 propriation or fiscal year limitation solely for the purpose  
3 of carrying out section 155 of division A.

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