LaTourette	Olver	Shuler
Lee (CA)	Ortiz	Sires
Levin	Pallone	Skelton
LoBiondo	Pascrell	Slaughter
Loebsack	Pastor (AZ)	Smith (NJ)
Lofgren, Zoe	Payne	Smith (WA)
Lowey	Perlmutter	Snyder
Luján	Peters	Space
Lynch	Peterson	Speier
Maffei	Pingree (ME)	Spratt
Maloney	Polis (CO)	Stark
Markey (MA)	Pomeroy	Stupak
Marshall	Price (NC)	Sutton
Massa	Quigley	Tauscher
Matsui	Rahall	Teague
McCarthy (NY)	Rangel	Thompson (CA)
McCollum	Reichert	Thompson (MS)
McDermott	Reyes	Tierney
McGovern	Richardson	Titus
McHugh	Rodriguez	Tonko
McIntyre	Ros-Lehtinen	Towns
McMahon	Ross	Tsongas
McNerney	Rothman (NJ)	Turner
Meek (FL)	Roybal-Allard	Van Hollen
Meeks (NY)	Ruppersberger	Velázquez
Michaud	Rush	Visclosky
Miller (MI)	Ryan (OH)	Walden
Miller (NC)	Salazar	Walz
Miller, George	Sánchez, Linda T.	Wasserman Schultz
Mollohan	Sanchez, Loretta	Waters
Moore (KS)	Sarbanes	Watson
Moore (WI)	Schakowsky	Watt
Moran (VA)	Schauer	Waxman
Murphy (CT)	Schiff	Weiner
Murphy (NY)	Schrader	Welch
Murphy, Patrick	Schwartz	Wexler
Murphy, Tim	Scott (GA)	Wilson (OH)
Murtha	Scott (VA)	Woolsey
Nadler (NY)	Serrano	Wu
Napolitano	Sestak	Yarmuth
Neal (MA)	Shea-Porter	Young (AK)
Oberstar	Sherman	
Obey		

NAYS—173

Aderholt	Fallin	McCaul
Akin	Fleming	McClintock
Alexander	Forbes	McCotter
Austria	Fortenberry	McHenry
Bachmann	Foxx	McKeon
Bachus	Franks (AZ)	McMorris Rodgers
Barrett (SC)	Frelinghuysen	Mica
Bartlett	Gallegly	Miller (FL)
Barton (TX)	Garrett (NJ)	Miller, Gary
Biggert	Gerlach	Minnick
Bilbray	Gingrey (GA)	Mitchell
Bilirakis	Gohmert	Moran (KS)
Bishop (UT)	Goodlatte	Myrick
Blackburn	Granger	Neugebauer
Blunt	Graves	Nunes
Boehner	Guthrie	Nye
Bonner	Hall (TX)	Olson
Bono Mack	Harper	Paul
Boozman	Hastings (WA)	Paulsen
Boustany	Hensarling	Pence
Brady (TX)	Herger	Perriello
Bright	Hill	Petri
Broun (GA)	Hoekstra	Pitts
Brown (SC)	Hunter	Platts
Brown-Waite, Ginny	Inglis	Poe (TX)
Buchanan	Issa	Posey
Burgess	Jenkins	Price (GA)
Burton (IN)	Johnson (IL)	Putnam
Buyer	Johnson, Sam	Radanovich
Calvert	Jones	Rehberg
Camp	Jordan (OH)	Roe (TN)
Campbell	King (IA)	Rogers (AL)
Cantor	King (NY)	Rogers (KY)
Capito	Kingston	Rogers (MI)
Carter	Kline (MN)	Rohrabacher
Cassidy	Kratovil	Rooney
Castle	Lamborn	Roskam
Chaffetz	Latham	Royce
Childers	Latta	Ryan (WI)
Coble	Lee (NY)	Scalise
Coffman (CO)	Lewis (CA)	Schmidt
Conaway	Linder	Schock
Crenshaw	Lipinski	Sensenbrenner
Culberson	Lucas	Sessions
Davis (KY)	Luetkemeyer	Shadegg
Deal (GA)	Lummis	Shimkus
Dent	Lungren, Daniel E.	Shuster
Diaz-Balart, L.	Mack	Simpson
Diaz-Balart, M.	Manzullo	Smith (NE)
Donnelly (IN)	Marchant	Smith (TX)
Dreier	Markey (CO)	Souder
Duncan	Matheson	Stearns
Emerson	McCarthy (CA)	Tanner
Taylor	Tiberi	Wilson (SC)
Terry	Upton	Wittman
Thompson (PA)	Wamp	Wolf
Thornberry	Westmoreland	Young (FL)
Tiahrt	Whitfield	

NOT VOTING—6

Flake	Kennedy	Melancon
Hastings (FL)	Lewis (GA)	Sullivan

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1243

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1245

AMERICAN CLEAN ENERGY AND SECURITY ACT OF 2009

Mr. WAXMAN. Madam Speaker, pursuant to H. Res. 587, I call up the bill (H.R. 2454) to create clean-energy jobs, achieve energy independence, reduce global warming pollution and transition to a clean-energy economy, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 587, in lieu of the amendment recommended by the Committee on Energy and Commerce printed in the bill, the amendment in the nature of a substitute consisting of the text of H.R. 2998, modified by the amendment printed in part A of House Report 111–185 is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 2998

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Clean Energy and Security Act of 2009''.

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

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) STATE.—The term ''State'' has the meaning given that term in section 302 of the Clean Air Act.

SEC. 3. INTERNATIONAL PARTICIPATION.

The Administrator, in consultation with the Department of State and the United States Trade Representative, shall annually prepare and certify a report to the Congress regarding whether China and India have adopted greenhouse gas emissions standards at least as strict as those standards required under this Act. If the Administrator determines that China and India have not adopted greenhouse gas emissions standards at least as stringent as those set forth in this Act, the Administrator shall notify each Member of Congress of his determination, and shall release his determination to the media.

TITLE I—CLEAN ENERGY

Subtitle A—Combined Efficiency and Renewable Electricity Standard

SEC. 101. COMBINED EFFICIENCY AND RENEWABLE ELECTRICITY STANDARD.

(a) IN GENERAL.—Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by adding at the end the following:

''SEC. 610. COMBINED EFFICIENCY AND RENEWABLE ELECTRICITY STANDARD.

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

''(1) CHP SAVINGS.—The term 'CHP savings' means—

''(A) CHP system savings from a combined heat and power system that commences operation after the date of enactment of this section; and

''(B) the increase in CHP system savings from, at any time after the date of the enactment of this section, upgrading, replacing, expanding, or increasing the utilization of a combined heat and power system that commenced operation on or before the date of enactment of this section.

''(2) CHP SYSTEM SAVINGS.—The term 'CHP system savings' means the increment of electric output of a combined heat and power system that is attributable to the higher efficiency of the combined system (as compared to the efficiency of separate production of the electric and thermal outputs).

''(3) COMBINED HEAT AND POWER SYSTEM.—The term 'combined heat and power system' means a system that uses the same energy source both for the generation of electrical or mechanical power and the production of steam or another form of useful thermal energy, provided that—

''(A) the system meets such requirements relating to efficiency and other operating characteristics as the Commission may promulgate by regulation; and

''(B) the net sales of electricity by the facility to customers not consuming the thermal output from that facility will not exceed 50 percent of total annual electric generation by the facility.

''(4) CUSTOMER FACILITY SAVINGS.—The term 'customer facility savings' means a reduction in end-use electricity consumption (including recycled energy savings) at a facility of an end-use consumer of electricity served by a retail electric supplier, as compared to—

''(A) in the case of a new facility, consumption at a reference facility of average efficiency;

''(B) in the case of an existing facility, consumption at such facility during a base period, except as provided in subparagraphs (C) and (D);

''(C) in the case of new equipment that replaces existing equipment with remaining useful life, the projected consumption of the existing equipment for the remaining useful life of such equipment, and thereafter, consumption of new equipment of average efficiency of the same equipment type; and

''(D) in the case of new equipment that replaces existing equipment at the end of the useful life of the existing equipment, consumption by new equipment of average efficiency of the same equipment type.

''(5) DISTRIBUTED RENEWABLE GENERATION FACILITY.—The term 'distributed renewable generation facility' means a facility that—

''(A) generates renewable electricity;

''(B) primarily serves 1 or more electricity consumers at or near the facility site; and

''(C) is no greater than—

''(i) 2 megawatts in capacity; or

''(ii) 4 megawatts in capacity, in the case of a facility that is placed in service after the date of enactment of this section and generates electricity from a renewable energy resource other than by means of combustion.

''(6) ELECTRICITY SAVINGS.—The term 'electricity savings' means reductions in electricity consumption, relative to business-as-usual projections, achieved through measures implemented after the date of enactment of this section, limited to—

''(A) customer facility savings of electricity, adjusted to reflect any associated increase in fuel consumption at the facility;

''(B) reductions in distribution system losses of electricity achieved by a retail electricity distributor, as compared to losses attributable to new or replacement distribution system equipment of average efficiency;

''(C) CHP savings; and

''(D) fuel cell savings.

''(7) CENTRAL PROCUREMENT STATE.—The term 'central procurement State' means a State that, as of January 1, 2009, had adopted and implemented a legally enforceable mandate that, in lieu of requiring utilities to submit credits or certificates issued based on generation of electricity from (or to purchase or generate electricity from) resources defined by the State as renewable, requires retail electric suppliers to collect payments from electricity ratepayers within the State that are used for central procurement, by a State agency or a public benefit corporation established pursuant to State law, of credits or certificates issued based on generation of electricity from resources defined by the State as renewable.

''(8) FEDERAL RENEWABLE ELECTRICITY CREDIT.—The term 'Federal renewable electricity credit' means a credit, representing one megawatt hour of renewable electricity, issued pursuant to subsection (e).

''(9) FUEL CELL.—The term 'fuel cell' means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

''(10) FUEL CELL SAVINGS.—The term 'fuel cell savings' means the electricity saved by a fuel cell that is installed after the date of enactment of this section, or by upgrading a fuel cell that commenced operation on or before the date of enactment of this section, as a result of the greater efficiency with which the fuel cell transforms fuel into electricity as compared with sources of electricity delivered through the grid, provided that—

''(A) the fuel cell meets such requirements relating to efficiency and other operating characteristics as the Commission may promulgate by regulation; and

''(B) the net sales of electricity from the fuel cell to customers not consuming the thermal output from the fuel cell, if any, do not exceed 50 percent of the total annual electricity generation by the fuel cell.

''(12) OTHER QUALIFYING ENERGY RESOURCE.—The term 'other qualifying energy resource' means any of the following:

''(A) Landfill gas.

''(B) Wastewater treatment gas.

''(C) Coal mine methane used to generate electricity at or near the mine mouth.

''(D) Qualified waste-to-energy.

''(13) QUALIFIED HYDROPOWER.—The term 'qualified hydropower' means—

''(A) energy produced from increased efficiency achieved, or additions of capacity made, on or after January 1, 1988, at a hydroelectric facility that was placed in service before that date and does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions; or

''(B) energy produced from generating capacity added to a dam on or after January 1, 1988, provided that the Commission certifies that—

''(i) the dam was placed in service before the date of the enactment of this section and was operated for flood control, navigation, or water supply purposes and was not producing hydroelectric power prior to the addition of such capacity;

''(ii) the hydroelectric project installed on the dam is licensed (or is exempt from licensing) by the Commission and is in compliance with the terms and conditions of the license or exemption, and with other applicable legal requirements for the protection of environmental quality, including applicable fish passage requirements; and

''(iii) the hydroelectric project installed on the dam is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license or exemption requirements that require changes in water surface elevation for the purpose of improving the environmental quality of the affected waterway.

''(14) QUALIFIED WASTE-TO-ENERGY.—The term 'qualified waste-to-energy' means energy from the combustion of municipal solid waste or construction, demolition, or disaster debris, or from the gasification or pyrolization of such waste or debris and the combustion of the resulting gas at the same facility, provided that—

''(A) such term shall include only the energy derived from the non-fossil biogenic portion of such waste or debris;

''(B) the Commission determines, with the concurrence of the Administrator of the Environmental Protection Agency, that the total lifecycle greenhouse gas emissions attributable to the generation of electricity from such waste or debris are lower than those attributable to the likely alternative method of disposing of such waste or debris; and

''(C) the owner or operator of the facility generating electricity from such energy provides to the Commission, on an annual basis—

''(i) a certification that the facility is in compliance with all applicable State, tribal, and Federal environmental permits;

''(ii) in the case of a facility that commenced operation before the date of enactment of this section, a certification that the facility meets emissions standards promulgated under sections 112 or 129 of the Clean Air Act (42 U.S.C. 7412 or 7429) that apply as of the date of enactment of this section to new facilities within the relevant source category; and

''(iii) in the case of the combustion, pyrolization, or gasification of municipal solid waste, a certification that each local government unit from which such waste originates operates, participates in the operation of, contracts for, or otherwise provides for, recycling services for its residents.

''(15) RECYCLED ENERGY SAVINGS.—The term 'recycled energy savings' means a reduction in electricity consumption that results from a modification of an industrial or commercial system that commenced operation before the date of enactment of this section, in order to recapture electrical, mechanical, or thermal energy that would otherwise be wasted.

''(16) RENEWABLE BIOMASS.—The term 'renewable biomass' means any of the following:

''(A) Materials, pre-commercial thinnings, or removed invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), including those that are byproducts of preventive treatments (such as trees, wood, brush, thinnings, chips, and slash), that are removed as part of a federally recognized timber sale, or that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health, and that are—

''(i) not from components of the National Wilderness Preservation System, Wilderness Study Areas, Inventoried Roadless Areas, old growth stands, late-successional stands (except for dead, severely damaged, or badly infested trees), components of the National Landscape Conservation System, National Monuments, National Conservation Areas, Designated Primitive Areas, or Wild and Scenic Rivers corridors;

''(ii) harvested in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

''(iii) harvested in accordance with Federal and State law, and applicable land management plans.

''(B) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(i) renewable plant material, including—

''(I) feed grains;

''(II) other agricultural commodities;

''(III) other plants and trees; and

''(IV) algae; and

''(ii) waste material, including—

''(I) crop residue;

''(II) other vegetative waste material (including wood waste and wood residues);

''(III) animal waste and byproducts (including fats, oils, greases, and manure);

''(IV) construction waste; and

''(V) food waste and yard waste.

''(C) Residues and byproducts from wood, pulp, or paper products facilities.''.

''(17) RENEWABLE ELECTRICITY.—The term 'renewable electricity' means electricity generated (including by means of a fuel cell) from a renewable energy resource or other qualifying energy resources.

''(18) RENEWABLE ENERGY RESOURCE.—The term 'renewable energy resource' means each of the following:

''(A) Wind energy.

''(B) Solar energy.

''(C) Geothermal energy.

''(D) Renewable biomass.

''(E) Biogas derived exclusively from renewable biomass.

''(F) Biofuels derived exclusively from renewable biomass.

''(G) Qualified hydropower.

''(H) Marine and hydrokinetic renewable energy, as that term is defined in section 632 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17211).

''(19) RETAIL ELECTRIC SUPPLIER.—

''(A) IN GENERAL.—The term 'retail electric supplier' means, for any given year, an electric utility that sold not less than 4,000,000 megawatt hours of electric energy to electric consumers for purposes other than resale during the preceding calendar year.

''(B) INCLUSIONS AND LIMITATIONS.—For purposes of determining whether an electric utility qualifies as a retail electric supplier under subparagraph (A)—

''(i) the sales of any affiliate of an electric utility to electric consumers, other than sales to the affiliate's lessees or tenants, for purposes other than resale shall be considered to be sales of such electric utility; and

''(ii) sales by any electric utility to an affiliate, lessee, or tenant of such electric utility shall not be treated as sales to electric consumers.

''(C) AFFILIATE.—For purposes of this paragraph, the term 'affiliate' when used in relation to a person, means another person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, such person, as determined under regulations promulgated by the Commission.

''(20) RETAIL ELECTRIC SUPPLIER'S BASE AMOUNT.—The term 'retail electric supplier's base amount' means the total amount of electric energy sold by the retail electric supplier, expressed in megawatt hours, to electric customers for purposes other than resale during the relevant calendar year, excluding—

''(A) electricity generated by a hydroelectric facility that is not qualified hydropower;

''(B) electricity generated by a nuclear generating unit placed in service after the date of enactment of this section; and

''(C) the proportion of electricity generated by a fossil-fueled generating unit that is equal to the proportion of greenhouse gases produced by such unit that are captured and geologically sequestered.

''(21) RETIRE AND RETIREMENT.—The terms 'retire' and 'retirement' with respect to a Federal renewable electricity credit, means to disqualify such credit for any subsequent use under this section, regardless of whether the use is a sale, transfer, exchange, or submission in satisfaction of a compliance obligation.

''(22) THIRD-PARTY EFFICIENCY PROVIDER.—The term 'third-party efficiency provider' means any retailer, building owner, energy service company, financial institution or other commercial, industrial or nonprofit entity that is capable of providing electricity savings in accordance with the requirements of this section.

''(23) TOTAL ANNUAL ELECTRICITY SAVINGS.—The term 'total annual electricity savings' means electricity savings during a specified calendar year from measures implemented since the date of the enactment of this section, taking into account verified measure lifetimes or verified annual savings attrition

rates, as determined in accordance with such regulations as the Commission may promulgate and measured in megawatt hours.

''(b) ANNUAL COMPLIANCE OBLIGATION.—

''(1) IN GENERAL.—For each of calendar years 2012 through 2039, not later than March 31 of the following calendar year, each retail electric supplier shall submit to the Commission an amount of Federal renewable electricity credits and demonstrated total annual electricity savings that, in the aggregate, is equal to such retail electric supplier's annual combined target as set forth in subsection (d), except as otherwise provided in subsection (h).

''(2) DEMONSTRATION OF SAVINGS.—For purposes of this subsection, submission of demonstrated total annual electricity savings means submission of a report that demonstrates, in accordance with the requirements of subsection (f), the total annual electricity savings achieved by the retail electric supplier within the relevant compliance year.

''(3) RENEWABLE ELECTRICITY CREDITS PORTION.—Except as provided in paragraph (4), each retail electric supplier must submit Federal renewable electricity credits equal to at least three quarters of the retail electric supplier's annual combined target.

''(4) STATE PETITION.—

''(A) IN GENERAL.—Upon written request from the Governor of any State (including, for purposes of this paragraph, the Mayor of the District of Columbia), the Commission shall increase, to not more than two fifths, the proportion of the annual combined targets of retail electric suppliers located within such State that may be met through submission of demonstrated total annual electricity savings, provided that such increase shall be effective only with regard to the portion of a retail electric supplier's annual combined target that is attributable to electricity sales within such State.

''(B) CONTENTS.—A Governor's request under this paragraph shall include an explanation of the Governor's rationale for determining, after consultation with the relevant State regulatory authority and other retail electricity ratemaking authorities within the State, to make such request. The request shall specify the maximum proportion of annual combined targets (not more than two fifths) that can be met through demonstrated total annual electricity savings, and the period for which such proportion shall be effective.

''(C) REVISION.—The Governor of any State may, after consultation with the relevant State regulatory authority and other retail electricity ratemaking authorities within the State, submit a written request for revocation or revision of a previous request submitted under this paragraph. The Commission shall grant such request, provided that—

''(i) any revocation or revision shall not apply to the combined annual target for any year that is any earlier than 2 calendar years after the calendar year in which such request is submitted, so as to provide retail electric suppliers with adequate notice of such change; and

''(ii) any revision shall meet the requirements of subparagraph (A).

''(c) ESTABLISHMENT OF PROGRAM.—Not later than 1 year after the date of enactment of this section, the Commission shall promulgate regulations to implement and enforce the requirements of this section. In promulgating such regulations, the Commission shall, to the extent practicable—

''(1) preserve the integrity, and incorporate best practices, of existing State and tribal renewable electricity and energy efficiency programs;

''(2) rely upon existing and emerging State, tribal, or regional tracking systems that issue and track non-Federal renewable electricity credits; and

''(3) cooperate with the States and Indian tribes to facilitate coordination between State, tribal, and Federal renewable electricity and energy efficiency programs and to minimize administrative burdens and costs to retail electric suppliers.

''(d) ANNUAL COMPLIANCE REQUIREMENT.—

''(1) ANNUAL COMBINED TARGETS.—For each of calendar years 2012 through 2039, a retail electric supplier's annual combined target shall be the product of—

''(A) the required annual percentage for such year, as set forth in paragraph (2); and

''(B) the retail electric supplier's base amount for such year.

''(2) REQUIRED ANNUAL PERCENTAGE.—For each of calendar years 2012 through 2039, the required annual percentage shall be as follows:

"Calendar year	Required annual percentage
2012	6.0
2013	6.0
2014	9.5
2015	9.5
2016	13.0
2017	13.0
2018	16.5
2019	16.5
2020	20.0
2021 through 2039	20.0

''(e) FEDERAL RENEWABLE ELECTRICITY CREDITS.—

''(1) IN GENERAL.—The regulations promulgated under this section shall include provisions governing the issuance, tracking, and verification of Federal renewable electricity credits. Except as provided in paragraphs (2), (3), and (4) of this subsection, the Commission shall issue to each generator of renewable electricity, 1 Federal renewable electricity credit for each megawatt hour of renewable electricity generated by such generator after December 31, 2011. The Commission shall assign a unique serial number to each Federal renewable electricity credit.

''(2) GENERATION FROM CERTAIN STATE RENEWABLE ELECTRICITY PROGRAMS.—''(A) Except as provided in subparagraph (B), where renewable electricity is generated with the support of payments from a retail electric supplier pursuant to a State renewable electricity program (whether through State alternative compliance payments or through payments to a State renewable electricity procurement fund or entity), the Commission shall issue Federal renewable electricity credits to such retail electric supplier for the proportion of the relevant renewable electricity generation that is attributable to the retail electric supplier's payments, as determined pursuant to regulations issued by the Commission. For any remaining portion of the relevant renewable electricity generation, the Commission shall issue Federal renewable electricity credits to the generator, as provided in paragraph (1), except that in no event shall more than 1 Federal renewable electricity credit be issued for the same megawatt hour of electricity. In determining how Federal renewable electricity credits will be apportioned among retail electric suppliers and generators in such circumstances, the Commission shall consider information and guidance furnished by the relevant State or States.

''(B) In the case of a central procurement State that pursuant to subsection (g) has assumed responsibility for compliance with the requirements of subsection (b), the Commission shall issue directly to the State Federal renewable electricity credits for any renewable electricity for which the State, pursuant to a mandate described in subsection (a)(7), has centrally procured credits or certificates issued based on generation of such renewable electricity.

''(3) CERTAIN POWER SALES CONTRACTS.—Except as otherwise provided in paragraph (2), when a generator has sold renewable electricity to a retail electric supplier under a contract for power from a facility placed in service before the date of enactment of this section, and the contract does not provide for the determination of ownership of the Federal renewable electricity credits associated with such generation, the Commission shall issue such Federal renewable electricity credits to the retail electric supplier for the duration of the contract.

''(4) CREDIT MULTIPLIER FOR DISTRIBUTED RENEWABLE GENERATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall issue 3 Federal renewable electricity credits for each megawatt hour of renewable electricity generated by a distributed renewable generation facility.

''(B) ADJUSTMENT.—Except as provided in subparagraph (C), not later than January 1, 2014, and not less frequently than every 4 years thereafter, the Commission shall review the effect of this paragraph and shall, as necessary, reduce the number of Federal renewable electricity credits per megawatt hour issued under this paragraph for any given energy source or technology, but not below 1, to ensure that such number is no higher than the Commission determines is necessary to make distributed renewable generation facilities using such source or technology cost competitive with other sources of renewable electricity generation.

''(C) FACILITIES PLACED IN SERVICE AFTER ENACTMENT.—For any distributed renewable generation facility placed in service after the date of enactment of this section, subparagraph (B) shall not apply for the first 10 years after the date on which the facility is placed in service. For each year during such 10-year period, the Commission shall issue to the facility the same number of Federal renewable electricity credits per megawatt hour as are issued to that facility in the year in which such facility is placed in service. After such 10-year period, the Commission shall issue Federal renewable electricity credits to the facility in accordance with the current multiplier as determined pursuant to subparagraph (B).

''(5) CREDITS BASED ON QUALIFIED HYDROPOWER.—For purposes of this subsection, the number of Federal renewable electricity credits issued for qualified hydropower shall be calculated—

''(A) based solely on the increase in average annual generation directly resulting from the efficiency improvements or capacity additions described in subsection (a)(13)(A); and

''(B) using the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility, as certified by the Commission.

''(6) GENERATION FROM QUALIFIED WASTE-TO-ENERGY.—In the case of electricity generated from the combustion of any municipal solid waste or construction, demolition, or disaster debris that is included in the definition of renewable biomass, or from the gasification or pyrolization of such waste or debris and the combustion of the resulting gas at the same facility, the Commission shall issue Federal renewable electricity credits only for electricity generated from qualified waste-to-energy.

''(7) GENERATION FROM MIXED RENEWABLE AND NONRENEWABLE RESOURCES.—If electricity is generated using both a renewable energy resource or other qualifying energy

resource and an energy source that is not a renewable energy resource or other qualifying energy resource (as, for example, in the case of co-firing of renewable biomass and fossil fuel), the Commission shall issue Federal renewable electricity credits based on the proportion of the electricity that is attributable to the renewable energy resource or other qualifying energy resource.

''(8) PROHIBITION AGAINST DOUBLE-COUNTING.—Except as provided in paragraph (4) of this subsection, the Commission shall ensure that no more than 1 Federal renewable electricity credit will be issued for any megawatt hour of renewable electricity and that no Federal renewable electricity credit will be used more than once for compliance with this section.

''(9) TRADING.—The lawful holder of a Federal renewable electricity credit may sell, exchange, transfer, submit for compliance in accordance with subsection (b), or submit such credit for retirement by the Commission.

''(10) BANKING.—A Federal renewable electricity credit may be submitted in satisfaction of the compliance obligation set forth in subsection (b) for the compliance year in which the credit was issued or for any of the 3 immediately subsequent compliance years. The Commission shall retire any Federal renewable electricity credit that has not been retired by April 2 of the calendar year that is 3 years after the calendar year in which the credit was issued.

''(11) RETIREMENT.—The Commission shall retire a Federal renewable electricity credit immediately upon submission by the lawful holder of such credit, whether in satisfaction of a compliance obligation under subsection (b) or on some other basis.

''(f) ELECTRICITY SAVINGS.—

''(1) STANDARDS FOR MEASUREMENT OF SAVINGS.—As part of the regulations promulgated under this section, the Commission shall prescribe standards and protocols for defining and measuring electricity savings and total annual electricity savings that can be counted towards the compliance obligation set forth in subsection (b). Such protocols and standards shall, at minimum—

''(A) specify the types of energy efficiency and energy conservation measures that can be counted;

''(B) require that energy consumption estimates for customer facilities or portions of facilities in the applicable base and current years be adjusted, as appropriate, to account for changes in weather, level of production, and building area;

''(C) account for the useful life of measures;

''(D) include deemed savings values for specific, commonly used measures;

''(E) allow for savings from a program to be estimated based on extrapolation from a representative sample of participating customers;

''(F) include procedures for counting CHP savings, recycled energy savings, and fuel cell savings;

''(G) include procedures for documenting measurable and verifiable electricity savings achieved as a result of market transformation efforts;

''(H) include procedures for counting electricity savings achieved by solar water heating and solar light pipe technology that has the capability to provide measurable data on the amount of megawatt-hours displaced;

''(I) avoid double-counting of savings used for compliance with this section, including savings that are transferred pursuant to paragraph (3);

''(J) ensure that, except as provided in subparagraph (L), the retail electric supplier claiming the savings played a significant role in achieving the savings (including through the activities of a designated agent of the supplier or through the purchase of transferred savings);

''(K) include savings from programs administered by a retail electric supplier (or a retail electricity distributor that is not a retail electric supplier) that are funded by State, Federal, or other sources;

''(L) in any State in which the State regulatory authority has designated 1 or more entities to administer electric ratepayer-funded efficiency programs approved by such State regulatory authority, provide that electricity savings achieved through such programs shall be distributed equitably among retail electric suppliers in accordance with the direction of the relevant State regulatory authority; and

''(M) exclude savings achieved as a result of compliance with mandatory appliance and equipment efficiency standards or building codes.

''(2) STANDARDS FOR THIRD-PARTY VERIFICATION OF SAVINGS.—The regulations promulgated under this section shall establish procedures and standards requiring third-party verification of all reported electricity savings, including requirements for accreditation of third-party verifiers to ensure that such verifiers are professionally qualified and have no conflicts of interest.

''(3) TRANSFERS OF SAVINGS.—

''(A) BILATERAL CONTRACTS FOR SAVINGS TRANSFERS.—Subject to the limitations of this paragraph, a retail electric supplier may use electricity savings transferred, pursuant to a bilateral contract, from another retail electric supplier, an owner of an electric distribution facility that is not a retail electric supplier, a State, or a third-party efficiency provider to meet the applicable compliance obligation under subsection (b).

''(B) REQUIREMENTS.—Electricity savings transferred and used for compliance pursuant to this paragraph shall be—

''(i) measured and verified in accordance with the procedures specified under this subsection;

''(ii) reported in accordance with paragraph (4) of this subsection; and

''(iii) achieved within the same State as is served by the retail electric supplier.

''(C) REGULATORY APPROVAL.—Nothing in this paragraph shall limit or affect the authority of a State regulatory authority to require a retail electric supplier that is regulated by such authority to obtain such authority's authorization or approval of a contract for transfer of savings under this paragraph.

''(4) REPORTING SAVINGS.—

''(A) REQUIREMENTS.—The regulations promulgated under this section shall establish requirements governing the submission of reports to demonstrate, in accordance with the protocols and standards for measurement and third-party verification established under this subsection, the total annual electricity savings achieved by a retail electric supplier within the relevant year.

''(B) REVIEW AND APPROVAL.—The Commission shall review each report submitted to the Commission by a retail electric supplier and shall exclude any electricity savings that have not been adequately demonstrated in accordance with the requirements of this subsection.

''(5) STATE ADMINISTRATION.—

''(A) DELEGATION OF AUTHORITY.—Upon receipt of an application from the Governor of a State (including, for purposes of this subsection, the Mayor of the District of Columbia), the Commission may delegate to the State the authority to review and verify reported electricity savings for purposes of determining demonstrated total annual electricity savings that may be counted towards a retail electric supplier's compliance obligation under subsection (b). The Commission shall make a substantive determination approving or disapproving a State application under this subparagraph, after notice and comment, within 180 days of receipt of a complete application.

''(B) ALTERNATIVE MEASUREMENT AND VERIFICATION PROCEDURES AND STANDARDS.—As part of an application submitted under subparagraph (A), a State may request to use alternative measurement and verification procedures and standards to those specified in paragraphs (1) and (2), provided the State demonstrates that such alternative procedures and standards provide a level of accuracy of measurement and verification at least equivalent to the Federal procedures and standards promulgated under paragraphs (1) and (2).

''(C) REVIEW OF STATE IMPLEMENTATION.—The Commission shall, not less frequently than once every 4 years, review each State's implementation of delegated authority under this paragraph to ensure conformance with the requirements of this section. The Commission may, at any time, revoke the delegation of authority under this section upon a finding that the State is not implementing its delegated responsibilities in conformity with this paragraph. As a condition of maintaining its delegated authority under this paragraph, the Commission may require a State to submit a revised application under subparagraph (A) if the Commission has—

''(i) promulgated new or substantially revised measurement and verification procedures and standards under this subsection; or

''(ii) otherwise substantially revised the program established under this section.

''(g) ALTERNATIVE COMPLIANCE PAYMENTS.—

''(1) IN GENERAL.—A retail electric supplier '', or a central procurement State that, pursuant to subsection (g), has assumed responsibility for compliance with the requirements of subsection (b),'' may satisfy the requirements of subsection (b) in whole or in part by submitting in accordance with this subsection, in lieu of each Federal renewable electricity credit or megawatt hour of demonstrated total annual electricity savings that would otherwise be due, a payment equal to $25, adjusted for inflation on January 1 of each year following calendar year 2009, in accordance with such regulations as the Commission may promulgate.

''(2) PAYMENT TO STATE FUNDS.—Except as otherwise provided in this paragraph and paragraph (4), payments made under this subsection shall be made directly to the State or States in which the retail electric supplier is located, in proportion to the portion of the retail electric supplier's base amount that is sold within each relevant State, provided that such payments are deposited directly into a fund in the State treasury established for this purpose and that the State uses such funds in accordance with paragraphs (3) and (5) and with paragraph (4) where applicable. If the Commission determines at any time that a State is in substantial noncompliance with paragraph (3) or (5), or with paragraph (4) where applicable, the Commission shall direct that any future alternative compliance payments that would otherwise be paid to such State under this subsection shall instead be paid to the Commission and deposited in the United States Treasury.

''(3) STATE USE OF FUNDS.—As a condition of continued receipt of alternative compliance payments pursuant to this subsection, a State shall use such payments exclusively for the purposes of—

''(A) deploying technologies that generate electricity from renewable energy resources; or

''(B) implementing cost-effective energy efficiency programs to achieve electricity savings.

''(4) CENTRAL PROCUREMENT STATES.—

''(A) IN GENERAL.—A central procurement State that, pursuant to subsection (g), has assumed responsibility for compliance with the requirements of subsection (b) shall deposit any alternative compliance payments under this subsection in a unique fund in the State treasury created and used solely for this purpose.

''(B) REQUIREMENTS.—As a precondition of making alternative compliance payments under this subsection, a central procurement State shall certify to the Commission, in accordance with such requirements as the Commission may prescribe, that—

''(i) making such payments is the lowest cost alternative to meet the requirements of subsection (b); and

''(ii) moneys used by the State to make such payments are in addition to any spending that the State, and any separate entity charged with administering the State central procurement requirement identified under subsection (a)(7), otherwise collectively would direct to the purposes identified in paragraph (3).

''(C) USES.—A central procurement State that makes alternative compliance payments under this subsection shall certify to the Commission that, in using such payments in accordance with paragraph (3), it has, to the extent practicable, maximized the level of deployment of renewable electricity generation (measured in megawatt hours) and electricity savings per dollar that are achieved through such expenditures.

''(5) REPORTING.—As a condition of continued receipt of alternative compliance payments pursuant to this subsection, a State shall, within 12 months of receipt of any such payments and at 12-month intervals thereafter until such payments are expended, provide a report to the Commission, in accordance with such regulations as the Commission may prescribe, giving a full accounting of the use of such payments, including a detailed description of the activities funded thereby and demonstrating compliance with the requirements of this subsection.

''(g) CENTRAL PROCUREMENT STATES.—

''(1) IN GENERAL.—A central procurement State may, upon submission of a written request by the Governor of such State to the Commission, assume responsibility for compliance with the requirements of subsection (b) on behalf of retail electric suppliers located in such State, exclusively with regard to the portion of such retail electric suppliers' base amount that is sold within the State.

''(2) DEMONSTRATION OF ELECTRICITY SAVINGS.—If a central procurement State opts to meet any part of the requirements of subsection (b) based on the achievement of demonstrated total annual electricity savings, regardless of whether such State has received delegated authority pursuant to subsection (f)(5), such State shall submit such demonstrated total annual electricity savings to the Commission through an annual report in accordance with requirements prescribed by the Commission by regulation, which shall be of equivalent stringency to those applicable to retail electric suppliers under subsection (f).

''(3) NONCOMPLIANCE.—If a central procurement State that pursuant to this subsection has assumed responsibility for compliance with the requirements of subsection (b), fails to satisfy the requirements of subsection (b) or (h) for any year, the State's assumption of responsibility under this subsection shall be discontinued immediately, and retail electric suppliers located in such State henceforth shall be directly subject to the requirements of this section.

''(h) INFORMATION COLLECTION.—The Commission may require any retail electric supplier, renewable electricity generator, or such other entities as the Commission deems appropriate, to provide any information the Commission determines appropriate to carry out this section. Failure to submit such information or submission of false or misleading information under this subsection shall be a violation of this section.

''(i) ENFORCEMENT AND JUDICIAL REVIEW.—

''(1) FAILURE TO SUBMIT CREDITS OR DEMONSTRATE SAVINGS.—If any person '', other than any central procurement State that pursuant to subsection (g) has assumed responsibility for compliance with the requirements of subsection (b),'' fails to comply with the requirements of subsection (b) or (h), such person shall be liable to pay to the Commission a civil penalty equal to the product of—

''(A) double the alternative compliance payment calculated under subsection (h)(1), and

''(B) the aggregate quantity of Federal renewable electricity credits, total annual electricity savings, or equivalent alternative compliance payments that the person failed to submit in violation of the requirements of subsections (b) and (h).

''(2) ENFORCEMENT.—The Commission shall assess a civil penalty under paragraph (1) in accordance with the procedures described in section 31(d) of the Federal Power Act (16 U.S.C. 823b(d)).

''(3) VIOLATION OF REQUIREMENT OF REGULATIONS OR ORDERS.—Any person '', other than any central procurement State that pursuant to subsection (g) has assumed responsibility for compliance with the requirements of subsection (b),''. who violates, or fails or refuses to comply with, any requirement of a regulation promulgated or order issued under this section shall be subject to a civil penalty under section 316A(b) of the Federal Power Act (16 U.S.C. 825o–1). Such penalty shall be assessed by the Commission in the same manner as in the case of a violation referred to in section 316A(b) of such Act.

''(j) JUDICIAL REVIEW.—Any person aggrieved by a final action taken by the Commission under this section, other than the assessment of a civil penalty under subsection (j), may use the procedures for review described in section 313 of the Federal Power Act (16 U.S.C. 825l). For purposes of this paragraph, references to an order in section 313 of such Act shall be deemed to refer also to all other final actions of the Commission under this section other than the assessment of a civil penalty under subsection (i).

''(k) SAVINGS PROVISIONS.—Nothing in this section shall—

''(1) diminish or qualify any authority of a State, a political subdivision of a State, or an Indian tribe to—

''(A) adopt or enforce any law or regulation respecting renewable electricity or energy efficiency, including any law or regulation establishing requirements more stringent than those established by this section, provided that no such law or regulation may relieve any person of any requirement otherwise applicable under this section; or

''(B) regulate the acquisition and disposition of Federal renewable electricity credits by retail electric suppliers within the jurisdiction of such State, political subdivision, or Indian tribe, including the authority to require such retail electric supplier to acquire and submit to the Secretary for retirement Federal renewable electricity credits in excess of those submitted under this section; or

''(2) affect the application of, or the responsibility for compliance with, any other provision of law or regulation, including environmental and licensing requirements.

''(l) SUNSET.—This section expires on December 31, 2040.''.

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by inserting after the item relating to section 609 the following:

''Sec. 610. Combined efficiency and renewable electricity standard.''.

SEC. 102. CLARIFYING STATE AUTHORITY TO ADOPT RENEWABLE ENERGY INCENTIVES.

Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end thereof:

''(o) CLARIFICATION OF STATE AUTHORITY TO ADOPT RENEWABLE ENERGY INCENTIVES.—Notwithstanding any other provision of this Act or the Federal Power Act, a State legislature or regulatory authority may set the rates for a sale of electric energy by a facility generating electric energy from renewable energy sources pursuant to a State-approved production incentive program under which the facility voluntarily sells electric energy. For purposes of this subsection, 'State-approved production incentive program' means a requirement imposed pursuant to State law, or by a State regulatory authority acting within its authority under State law, that an electric utility purchase renewable energy (as defined in section 609 of this Act) at a specified rate.''.

SEC. 103. FEDERAL RENEWABLE ENERGY PURCHASES.

(a) REQUIREMENT.—For each of calendar years 2012 through 2039, the President shall ensure that, of the total amount of electricity Federal agencies consume in the United States during each calendar year, the following percentage shall be renewable electricity:

Calendar year	Required annual percentage
2012	6.0
2013	6.0
2014	9.5
2015	9.5
2016	13.0
2017	13.0
2018	16.5
2019	16.5
2020	20.0
2021 through 2039	20.0

(b) DEFINITIONS.—For purposes of this section:

(1) RENEWABLE ELECTRICITY.—The term ''renewable electricity'' shall have the meaning given in section 610 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following).

(2) RENEWABLE ENERGY RESOURCE.—The term ''renewable energy resource'' shall have the meaning given in section 610 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following).

(c) MODIFICATION OF REQUIREMENT.—If the President determines that the Federal Government cannot feasibly meet the requirement established in subsection (a) in a specific calendar year, the President may, by written order, reduce such requirement for such calendar year to a percentage the President determines the Federal Government can feasibly meet.

(d) REPORTS.—Not later than April 1, 2013, and each year thereafter, the Secretary of Energy shall provide a report to Congress on the percentage of each Federal agency's electricity consumption in the United States that was renewable electricity in the previous calendar year.

(e) CONTRACTS FOR RENEWABLE ENERGY.—(1) Notwithstanding section 501(b)(1)(B) of title 40, United States Code, a contract for the acquisition of electricity generated from a renewable energy resource for the Federal Government may be made for a period of not more than 20 years.

(2) Not later than 90 days after the date of enactment of this subsection, the Secretary of Energy, through the Federal Energy Management Program, shall publish a standardized renewable energy purchase agreement, setting forth commercial terms and conditions, that Federal agencies may use to acquire electricity generated from a renewable energy resource.

(3) The Secretary of Energy shall provide technical assistance to assist Federal agencies in implementing this subsection.

Subtitle B—Carbon Capture and Sequestration

SEC. 111. NATIONAL STRATEGY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, the Secretary of the Interior, and the heads of such other relevant Federal agencies as the President may designate, shall submit to Congress a report setting forth a unified and comprehensive strategy to address the key legal, regulatory and other barriers to the commercial-scale deployment of carbon capture and sequestration.

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

(1) identify those regulatory, legal, and other gaps and barriers that could be addressed by a Federal agency using existing statutory authority, those, if any, that require Federal legislation, and those that would be best addressed at the State, tribal, or regional level;

(2) identify regulatory implementation challenges, including those related to approval of State and tribal programs and delegation of authority for permitting; and

(3) recommend rulemakings, Federal legislation, or other actions that should be taken to further evaluate and address such barriers.

SEC. 112. REGULATIONS FOR GEOLOGIC SEQUESTRATION SITES.

(a) COORDINATED CERTIFICATION AND PERMITTING PROCESS.—Title VIII of the Clean Air Act, as added by section 331 of this Act, is amended by adding after section 812 (as added by section 116 of this Act) the following:

''SEC. 813. GEOLOGIC SEQUESTRATION SITES.

''(a) COORDINATED PROCESS.—The Administrator shall establish a coordinated approach to certifying and permitting geologic sequestration, taking into consideration all relevant statutory authorities. In establishing such approach, the Administrator shall—

''(1) take into account, and reduce redundancy with, the requirements of section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h), as amended by section 112(b) of the American Clean Energy and Security Act of 2009, including the rulemaking for geologic sequestration wells described at 73 Fed. Reg. 43491–541 (July 25, 2008); and

''(2) to the extent practicable, reduce the burden on certified entities and implementing authorities.

''(b) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations to protect human health and the environment by minimizing the risk of escape to the atmosphere of carbon dioxide injected for purposes of geologic sequestration.

''(c) REQUIREMENTS.—The regulations under subsection (b) shall include—

''(1) a process to obtain certification for geologic sequestration under this section; and

''(2) requirements for—

''(A) monitoring, record keeping, and reporting for emissions associated with injection into, and escape from, geologic sequestration sites, taking into account any requirements or protocols developed under section 713;

''(B) public participation in the certification process that maximizes transparency;

''(C) the sharing of data between States, Indian tribes, and the Environmental Protection Agency; and

''(D) other elements or safeguards necessary to achieve the purpose set forth in subsection (b).

''(d) REPORT.—Not later than 2 years after the promulgation of regulations under subsection (b), and at 3-year intervals thereafter, the Administrator shall deliver to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on geologic sequestration in the United States, and, to the extent relevant, other countries in North America. Such report shall include—

''(1) data regarding injection, emissions to the atmosphere, if any, and performance of active and closed geologic sequestration sites, including those where enhanced hydrocarbon recovery operations occur;

''(2) an evaluation of the performance of relevant Federal environmental regulations and programs in ensuring environmentally protective geologic sequestration practices;

''(3) recommendations on how such programs and regulations should be improved or made more effective; and

''(4) other relevant information.''.

(b) SAFE DRINKING WATER ACT STANDARDS.—Section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h) is amended by inserting after subsection (d) the following:

''(e) CARBON DIOXIDE GEOLOGIC SEQUESTRATION WELLS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations under subsection (a) for carbon dioxide geologic sequestration wells.

''(2) FINANCIAL RESPONSIBILITY.—The regulations referred to in paragraph (1) shall include requirements for maintaining evidence of financial responsibility, including financial responsibility for emergency and remedial response, well plugging, site closure, and post-injection site care. Financial responsibility may be established for carbon dioxide geologic sequestration wells in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, trust, standby trust, surety bond, letter of credit, qualification as a self-insurer, or any other method satisfactory to the Administrator.''.

SEC. 113. STUDIES AND REPORTS.

(a) STUDY OF LEGAL FRAMEWORK FOR GEOLOGIC SEQUESTRATION SITES.—

(1) ESTABLISHMENT OF TASK FORCE.—As soon as practicable, but not later than 6 months after the date of enactment of this Act, the Administrator shall establish a task force to be composed of an equal number of subject matter experts, nongovernmental organizations with expertise in environmental policy, academic experts with expertise in environmental law, State and tribal officials with environmental expertise, representatives of State and tribal Attorneys General, representatives from the Environmental Protection Agency, the Department of the Interior, the Department of Energy, the Department of Transportation, and other relevant Federal agencies, and members of the private sector, to conduct a study of—

(A) existing Federal environmental statutes, State environmental statutes, and State common law that apply to geologic sequestration sites for carbon dioxide, including the ability of such laws to serve as risk management tools;

(B) the existing statutory framework, including Federal and State laws, that apply to harm and damage to the environment or public health at closed sites where carbon dioxide injection has been used for enhanced hydrocarbon recovery;

(C) the statutory framework, environmental health and safety considerations, implementation issues, and financial implications of potential models for Federal, State, or private sector assumption of liabilities and financial responsibilities with respect to closed geologic sequestration sites;

(D) private sector mechanisms, including insurance and bonding, that may be available to manage environmental, health and safety risk from closed geologic sequestration sites; and

(E) the subsurface mineral rights, water rights, or property rights issues associated with geologic sequestration of carbon dioxide, including issues specific to Federal lands.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the task force established under paragraph (1) shall submit to Congress a report describing the results of the study conducted under that paragraph including any consensus recommendations of the task force.

(b) ENVIRONMENTAL STATUTES.—

(1) STUDY.—The Administrator shall conduct a study examining how, and under what circumstances, the environmental statutes for which the Environmental Protection Agency has responsibility would apply to carbon dioxide injection and geologic sequestration activities.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results of the study conducted under paragraph (1).

SEC. 114. CARBON CAPTURE AND SEQUESTRATION DEMONSTRATION AND EARLY DEPLOYMENT PROGRAM.

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

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) DISTRIBUTION UTILITY.—The term ''distribution utility'' means an entity that distributes electricity directly to retail consumers under a legal, regulatory, or contractual obligation to do so.

(3) ELECTRIC UTILITY.—The term ''electric utility'' has the meaning provided by section 3(22) of the Federal Power Act (16 U.S.C. 796(22)).

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

(5) FOSSIL FUEL.—The term ''fossil fuel'' means coal, petroleum, natural gas or any derivative of coal, petroleum, or natural gas.

(6) CORPORATION.—The term ''Corporation'' means the Carbon Storage Research Corporation established in accordance with this section.

(7) QUALIFIED INDUSTRY ORGANIZATION.—The term ''qualified industry organization'' means the Edison Electric Institute, the American Public Power Association, the National Rural Electric Cooperative Association, a successor organization of such organizations, or a group of owners or operators of distribution utilities delivering fossil fuel-based electricity who collectively represent at least 20 percent of the volume of fossil

fuel-based electricity delivered by distribution utilities to consumers in the United States.

(8) RETAIL CONSUMER.—The term ''retail consumer'' means an end-user of electricity.

(b) CARBON STORAGE RESEARCH CORPORATION.—

(1) ESTABLISHMENT.—

(A) REFERENDUM.—Qualified industry organizations may conduct, at their own expense, a referendum among the owners or operators of distribution utilities delivering fossil fuel-based electricity for the creation of a Carbon Storage Research Corporation. Such referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations. Voting rights in such referendum shall be based on the quantity of fossil fuel-based electricity delivered to consumers in the previous calendar year or other representative period as determined by the Secretary pursuant to subsection (f). Upon approval of those persons representing two-thirds of the total quantity of fossil fuel-based electricity delivered to retail consumers, the Corporation shall be established unless opposed by the State regulatory authorities pursuant to subparagraph (B). All distribution utilities voting in the referendum shall certify to the independent auditing firm the quantity of fossil fuel-based electricity represented by their vote.

(B) STATE REGULATORY AUTHORITIES.—Upon its own motion or the petition of a qualified industry organization, each State regulatory authority shall consider its support or opposition to the creation of the Corporation under subparagraph (A). State regulatory authorities may notify the independent auditing firm referred to in subparagraph (A) of their views on the creation of the Corporation within 180 days after the date of enactment of this Act. If 40 percent or more of the State regulatory authorities submit to the independent auditing firm written notices of opposition, the Corporation shall not be established notwithstanding the approval of the qualified industry organizations as provided in subparagraph (A).

(2) TERMINATION.—The Corporation shall be authorized to collect assessments and conduct operations pursuant to this section for a 10-year period from the date 6 months after the date of enactment of this Act. After such 10-year period, the Corporation is no longer authorized to collect assessments and shall be dissolved on the date 15 years after such date of enactment, unless the period is extended by an Act of Congress.

(3) GOVERNANCE.—The Corporation shall operate as a division or affiliate of the Electric Power Research Institute (referred to in this section as ''EPRI'') and be managed by a Board of not more than 15 voting members responsible for its operations, including compliance with this section. EPRI, in consultation with the Edison Electric Institute, the American Public Power Association and the National Rural Electric Cooperative Association shall appoint the Board members under clauses (i), (ii), and (iii) of subparagraph (A) from among candidates recommended by those organizations. At least a majority of the Board members appointed by EPRI shall be representatives of distribution utilities subject to assessments under subsection (d).

(A) MEMBERS.—The Board shall include at least one representative of each of the following:

(i) Investor-owned utilities.

(ii) Utilities owned by a State agency, a municipality, and an Indian tribe.

(iii) Rural electric cooperatives.

(iv) Fossil fuel producers.

(v) Nonprofit environmental organizations.

(vi) Independent generators or wholesale power providers.

(vii) Consumer groups.

(B) NONVOTING MEMBERS.—The Board shall also include as additional nonvoting Members the Secretary of Energy or his designee and 2 representatives of State regulatory authorities as defined in section 3(17) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(17)), each designated by the National Association of State Regulatory Utility Commissioners from States that are not within the same transmission interconnection.

(4) COMPENSATION.—Corporation Board members shall receive no compensation for their services, nor shall Corporation Board members be reimbursed for expenses relating to their service.

(5) TERMS.—Corporation Board members shall serve terms of 4 years and may serve not more than 2 full consecutive terms. Members filling unexpired terms may serve not more than a total of 8 consecutive years. Former members of the Corporation Board may be reappointed to the Corporation Board if they have not been members for a period of 2 years. Initial appointments to the Corporation Board shall be for terms of 1, 2, 3, and 4 years, staggered to provide for the selection of 3 members each year.

(6) STATUS OF CORPORATION.—The Corporation shall not be considered to be an agency, department, or instrumentality of the United States, and no officer or director or employee of the Corporation shall be considered to be an officer or employee of the United States Government, for purposes of title 5 or title 31 of the United States Code, or for any other purpose, and no funds of the Corporation shall be treated as public money for purposes of chapter 33 of title 31, United States Code, or for any other purpose.

(c) FUNCTIONS AND ADMINISTRATION OF THE CORPORATION.—

(1) IN GENERAL.—The Corporation shall establish and administer a program to accelerate the commercial availability of carbon dioxide capture and storage technologies and methods, including technologies which capture and store, or capture and convert, carbon dioxide. Under such program competitively awarded grants, contracts, and financial assistance shall be provided and entered into with eligible entities. Except as provided in paragraph (8), the Corporation shall use all funds derived from assessments under subsection (d) to issue grants and contracts to eligible entities.

(2) PURPOSE.—The purposes of the grants, contracts, and assistance under this subsection shall be to support commercial-scale demonstrations of carbon capture or storage technology projects capable of advancing the technologies to commercial readiness. Such projects should encompass a range of different coal and other fossil fuel varieties, be geographically diverse, involve diverse storage media, and employ capture or storage, or capture and conversion, technologies potentially suitable either for new or for retrofit applications. The Corporation shall seek, to the extent feasible, to support at least 5 commercial-scale demonstration projects integrating carbon capture and sequestration or conversion technologies.

(3) ELIGIBLE ENTITIES.—Entities eligible for grants, contracts or assistance under this subsection may include distribution utilities, electric utilities and other private entities, academic institutions, national laboratories, Federal research agencies, State and tribal research agencies, nonprofit organizations, or consortiums of 2 or more entities. Pilot-scale and similar small-scale projects are not eligible for support by the Corporation. Owners or developers of projects supported by the Corporation shall, where appropriate, share in the costs of such projects.

(4) GRANTS FOR EARLY MOVERS.—Fifty percent of the funds raised under this section shall be provided in the form of grants to electric utilities that had, prior to the award of any grant under this section, committed resources to deploy a large scale electricity generation unit with integrated carbon capture and sequestration or conversion applied to a substantial portion of the unit's carbon dioxide emissions. Grant funds shall be provided to defray costs incurred by such electricity utilities for at least 5 such electricity generation units.

(5) ADMINISTRATION.—The members of the Board of Directors of the Corporation shall elect a Chairman and other officers as necessary, may establish committees and subcommittees of the Corporation, and shall adopt rules and bylaws for the conduct of business and the implementation of this section. The Board shall appoint an Executive Director and professional support staff who may be employees of the Electric Power Research Institute (EPRI). After consultation with the Technical Advisory Committee established under subsection (j), the Secretary, and the Director of the National Energy Technology Laboratory to obtain advice and recommendations on plans, programs, and project selection criteria, the Board shall establish priorities for grants, contracts, and assistance; publish requests for proposals for grants, contracts, and assistance; and award grants, contracts, and assistance competitively, on the basis of merit, after the establishment of procedures that provide for scientific peer review by the Technical Advisory Committee. The Board shall give preference to applications that reflect the best overall value and prospect for achieving the purposes of the section, such as those which demonstrate an integrated approach for capture and storage or capture and conversion technologies. The Board members shall not participate in making grants or awards to entities with whom they are affiliated.

(6) USES OF GRANTS, CONTRACTS, AND ASSISTANCE.—A grant, contract, or other assistance provided under this subsection may be used to purchase carbon dioxide when needed to conduct tests of carbon dioxide storage sites, in the case of established projects that are storing carbon dioxide emissions, or for other purposes consistent with the purposes of this section. The Corporation shall make publicly available at no cost information learned as a result of projects which it supports financially.

(7) INTELLECTUAL PROPERTY.—The Board shall establish policies regarding the ownership of intellectual property developed as a result of Corporation grants and other forms of technology support. Such policies shall encourage individual ingenuity and invention.

(8) ADMINISTRATIVE EXPENSES.—Up to 5 percent of the funds collected in any fiscal year under subsection (d) may be used for the administrative expenses of operating the Corporation (not including costs incurred in the determination and collection of the assessments pursuant to subsection (d)).

(9) PROGRAMS AND BUDGET.—Before August 1 each year, the Corporation, after consulting with the Technical Advisory Committee and the Secretary and the Director of the Department's National Energy Technology Laboratory and other interested parties to obtain advice and recommendations, shall publish for public review and comment its proposed plans, programs, project selection criteria, and projects to be funded by the Corporation for the next calendar year. The Corporation shall also publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover such costs. The Secretary may

recommend programs and activities the Secretary considers appropriate. The Corporation shall include in the first publication it issues under this paragraph a strategic plan or roadmap for the achievement of the purposes of the Corporation, as set forth in paragraph (2).

(10) RECORDS; AUDITS.—The Corporation shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the Corporation and make public such information. The books of the Corporation shall be audited by a certified public accountant at least once each fiscal year and at such other times as the Corporation may designate. Copies of each audit shall be provided to the Congress, all Corporation board members, all qualified industry organizations, each State regulatory authority and, upon request, to other members of the industry. If the audit determines that the Corporation's practices fail to meet generally accepted accounting principles the assessment collection authority of the Corporation under subsection (d) shall be suspended until a certified public accountant renders a subsequent opinion that the failure has been corrected. The Corporation shall make its books and records available for review by the Secretary or the Comptroller General of the United States.

(11) PUBLIC ACCESS.—The Corporation Board's meetings shall be open to the public and shall occur after at least 30 days advance public notice. Meetings of the Board of Directors may be closed to the public where the agenda of such meetings includes only confidential matters pertaining to project selection, the award of grants or contracts, personnel matters, or the receipt of legal advice. The minutes of all meetings of the Corporation shall be made available to and readily accessible by the public.

(12) ANNUAL REPORT.—Each year the Corporation shall prepare and make publicly available a report which includes an identification and description of all programs and projects undertaken by the Corporation during the previous year. The report shall also detail the allocation or planned allocation of Corporation resources for each such program and project. The Corporation shall provide its annual report to the Congress, the Secretary, each State regulatory authority, and upon request to the public. The Secretary shall, not less than 60 days after receiving such report, provide to the President and Congress a report assessing the progress of the Corporation in meeting the objectives of this section.

(d) ASSESSMENTS.—

(1) AMOUNT.—(A) In all calendar years following its establishment, the Corporation shall collect an assessment on distribution utilities for all fossil fuel-based electricity delivered directly to retail consumers (as determined under subsection (f)). The assessments shall reflect the relative carbon dioxide emission rates of different fossil fuel-based electricity, and initially shall be not less than the following amounts for coal, natural gas, and oil:

Fuel type	Rate of assessment per kilowatt hour
Coal	$0.00043
Natural Gas	$0.00022
Oil	$0.00032.

(B) The Corporation is authorized to adjust the assessments on fossil fuel-based electricity to reflect changes in the expected quantities of such electricity from different fuel types, such that the assessments generate not less than $1.0 billion and not more than $1.1 billion annually. The Corporation is authorized to supplement assessments through additional financial commitments.

(2) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Corporation may invest funds collected through assessments under this subsection, and any other funds received by the Corporation, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(3) REVERSION OF UNUSED FUNDS.—If the Corporation does not disburse, dedicate or assign 75 percent or more of the available proceeds of the assessed fees in any calendar year 7 or more years following its establishment, due to an absence of qualified projects or similar circumstances, it shall reimburse the remaining undedicated or unassigned balance of such fees, less administrative and other expenses authorized by this section, to the distribution utilities upon which such fees were assessed, in proportion to their collected assessments.

(e) ERCOT.—

(1) ASSESSMENT, COLLECTION, AND REMITTANCE.—(A) Notwithstanding any other provision of this section, within ERCOT, the assessment provided for in subsection (d) shall be—

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

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

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

(B) The assessment amounts referred to in subparagraph (A) shall be—

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

(ii) take into account the number of renewable energy credits retired by the load-serving entities represented by a qualified scheduling entity within the prior calendar year.

(2) ADMINISTRATION EXPENSES.—Up to 1 percent of the funds collected in any fiscal year by ERCOT under the provisions of this subsection may be used for the administrative expenses incurred in the determination, collection and remittance of the assessments to the Corporation.

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

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

(A) The term ''ERCOT'' means the Electric Reliability Council of Texas.

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

(C) The term ''qualified scheduling entities'' has the meaning adopted by ERCOT Protocols and in effect on the date of enactment of this Act.

(D) The term ''renewable energy credit'' has the meaning as promulgated and adopted by the Public Utility Commission of Texas pursuant to section 39.904(b) of the Public Utility Regulatory Act of 1999, and in effect on the date of enactment of this Act.

(f) DETERMINATION OF FOSSIL FUEL-BASED ELECTRICITY DELIVERIES.—

(1) FINDINGS.—The Congress finds that:

(A) The assessments under subsection (d) are to be collected based on the amount of fossil fuel-based electricity delivered by each distribution utility.

(B) Since many distribution utilities purchase all or part of their retail consumer's electricity needs from other entities, it may not be practical to determine the precise fuel mix for the power sold by each individual distribution utility.

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

(2) DOE PROPOSED RULE.—The Secretary, acting in close consultation with the Energy Information Administration, shall issue for notice and comment a proposed rule to determine the level of fossil fuel electricity delivered to retail customers by each distribution utility in the United States during the most recent calendar year or other period determined to be most appropriate. Such proposed rule shall balance the need to be efficient, reasonably precise, and timely, taking into account the nature and cost of data currently available and the nature of markets and regulation in effect in various regions of the country. Different methodologies may be applied in different regions if appropriate to obtain the best balance of such factors.

(3) FINAL RULE.—Within 6 months after the date of enactment of this Act, and after opportunity for comment, the Secretary shall issue a final rule under this subsection for determining the level and type of fossil fuel-based electricity delivered to retail customers by each distribution utility in the United States during the appropriate period. In issuing such rule, the Secretary may consider opportunities and costs to develop new data sources in the future and issue recommendations for the Energy Information Administration or other entities to collect such data. After notice and opportunity for comment the Secretary may, by rule, subsequently update and modify the methodology for making such determinations.

(4) ANNUAL DETERMINATIONS.—Pursuant to the final rule issued under paragraph (3), the Secretary shall make annual determinations of the amounts and types for each such utility and publish such determinations in the Federal Register. Such determinations shall be used to conduct the referendum under subsection (b) and by the Corporation in applying any assessment under this subsection.

(5) REHEARING AND JUDICIAL REVIEW.—The owner or operator of any distribution utility that believes that the Secretary has misapplied the methodology in the final rule in determining the amount and types of fossil fuel electricity delivered by such distribution utility may seek rehearing of such determination within 30 days of publication of the determination in the Federal Register. The Secretary shall decide such rehearing petitions within 30 days. The Secretary's determinations following rehearing shall be final and subject to judicial review in the United States Court of Appeals for the District of Columbia.

(g) COMPLIANCE WITH CORPORATION ASSESSMENTS.—The Corporation may bring an action in the appropriate court of the United States to compel compliance with an assessment levied by the Corporation under this section. A successful action for compliance under this subsection may also require payment by the defendant of the costs incurred by the Corporation in bringing such action.

(h) MIDCOURSE REVIEW.—Not later than 5 years following establishment of the Corporation, the Comptroller General of the United States shall prepare an analysis, and report to Congress, assessing the Corporation's activities, including project selection and methods of disbursement of assessed fees, impacts on the prospects for commercialization of carbon capture and storage technologies, adequacy of funding, and administration of funds. The report shall also make such recommendations as may be appropriate in each of these areas. The Corporation shall reimburse the Government Accountability Office for the costs associated with performing this midcourse review.

(i) RECOVERY OF COSTS.—

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

(2) RATEPAYER REBATES.—Regulatory authorities that approve cost recovery pursuant to paragraph (1) may order rebates to ratepayers to the extent that distribution utilities are reimbursed undedicated or unassigned balances pursuant to subsection (d)(3).

(j) TECHNICAL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an advisory committee, to be known as the ''Technical Advisory Committee''.

(2) MEMBERSHIP.—The Technical Advisory Committee shall be comprised of not less than 7 members appointed by the Board from among academic institutions, national laboratories, independent research institutions, and other qualified institutions. No member of the Committee shall be affiliated with EPRI or with any organization having members serving on the Board. At least one member of the Committee shall be appointed from among officers or employees of the Department of Energy recommended to the Board by the Secretary of Energy.

(3) CHAIRPERSON AND VICE CHAIRPERSON.—The Board shall designate one member of the Technical Advisory Committee to serve as Chairperson of the Committee and one to serve as Vice Chairperson of the Committee.

(4) COMPENSATION.—The Board shall provide compensation to members of the Technical Advisory Committee for travel and other incidental expenses and such other compensation as the Board determines to be necessary.

(5) PURPOSE.—The Technical Advisory Committee shall provide independent assessments and technical evaluations, as well as make non-binding recommendations to the Board, concerning Corporation activities, including but not limited to the following:

(A) Reviewing and evaluating the Corporation's plans and budgets described in subsection (c)(9), as well as any other appropriate areas, which could include approaches to prioritizing technologies, appropriateness of engineering techniques, monitoring and verification technologies for storage, geological site selection, and cost control measures.

(B) Making annual non-binding recommendations to the Board concerning any of the matters referred to in subparagraph (A), as well as what types of investments, scientific research, or engineering practices would best further the goals of the Corporation.

(6) PUBLIC AVAILABILITY.—All reports, evaluations, and other materials of the Technical Advisory Committee shall be made available to the public by the Board, without charge, at time of receipt by the Board.

(k) LOBBYING RESTRICTIONS.—No funds collected by the Corporation shall be used in any manner for influencing legislation or elections, except that the Corporation may recommend to the Secretary and the Congress changes in this section or other statutes that would further the purposes of this section.

(l) DAVIS-BACON COMPLIANCE.—The Corporation shall ensure that entities receiving grants, contracts, or other financial support from the Corporation for the project activities authorized by this section are in compliance with the Davis-Bacon Act (40 U.S.C. 276a–276a–5).

SEC. 115. COMMERCIAL DEPLOYMENT OF CARBON CAPTURE AND SEQUESTRATION TECHNOLOGIES.

Part H of title VII of the Clean Air Act (as added by section 321 of this Act) is amended by adding the following new section after section 785:

''SEC. 786. COMMERCIAL DEPLOYMENT OF CARBON CAPTURE AND SEQUESTRATION TECHNOLOGIES.

''(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations providing for the distribution of emission allowances allocated pursuant to section 782(f), pursuant to the requirements of this section, to support the commercial deployment of carbon capture and sequestration technologies in both electric power generation and industrial operations.

''(b) ELIGIBILITY CRITERIA.—For an owner or operator of a project to be eligible to receive emission allowances under this section, the project must—

''(1) implement carbon capture and sequestration technology—

''(A) at an electric generating unit that—

''(i) has a nameplate capacity of 200 megawatts or more;

''(ii) in the case of a retrofit application, applies the carbon capture and sequestration technology to the flue gas from at least 200 megawatts of the total nameplate generating capacity of the unit, provided that clause (i) shall apply without exception;

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

''(iv) upon implementation of capture and sequestration technology, will achieve an emission limit that is at least a 50 percent reduction in emissions of the carbon dioxide produced by—

''(I) the unit, measured on an annual basis, determined in accordance with section 812(b)(2); or

''(II) in the case of retrofit applications under clause (ii), the treated portion of flue gas from the unit, measured on an annual basis, determined in accordance with section 812(b)(2); or

''(B) at an industrial source that—

''(i) absent carbon capture and sequestration, would emit greater than 50,000 tons per year of carbon dioxide;

''(ii) upon implementation, will achieve an emission limit that is at least a 50 percent reduction in emissions of the carbon dioxide produced by the emission point, measured on an annual basis, determined in accordance with section 812(b)(2); and

''(iii) does not produce a liquid transportation fuel from a solid fossil-based feedstock;

''(2) geologically sequester carbon dioxide at a site that meets all applicable permitting and certification requirements for geologic sequestration, or, pursuant to such requirements as the Administrator may prescribe by regulation, convert captured carbon dioxide to a stable form that will safely and permanently sequester such carbon dioxide;

''(3) meet all other applicable State, tribal, and Federal permitting requirements; and

''(4) be located in the United States.

''(c) PHASE I DISTRIBUTION TO ELECTRIC GENERATING UNITS.—

''(1) APPLICATION.—This subsection shall apply only to projects at the first 6 gigawatts of electric generating units, measured in cumulative generating capacity of such units, that receive allowances under this section.

''(2) DISTRIBUTION.—The Administrator shall distribute emission allowances allocated under section 782(f) to the owner or operator of each eligible project at an electric generating unit in a quantity equal to the quotient obtained by dividing—

''(A) the product obtained by multiplying—

''(i) the number of metric tons of carbon dioxide emissions avoided through capture and sequestration of emissions by the project, as determined pursuant to such methodology as the Administrator shall prescribe by regulation; and

''(ii) a bonus allowance value, pursuant to paragraph (3); by

''(B) the average fair market value of an emission allowance during the preceding year.

''(3) BONUS ALLOWANCE VALUES.—

''(A) For a generating unit achieving the capture and sequestration of 85 percent or more of the carbon dioxide that otherwise would be emitted by such unit, the bonus allowance value shall be $90 per ton.

''(B) The Administrator shall by regulation establish a bonus allowance value for each rate of lower capture and sequestration achieved by a generating unit, from a minimum of $50 per ton for a 50 percent rate and varying directly with increasing rates of capture and sequestration up to $90 per ton for an 85 percent rate.

''(C) For a generating unit that achieves the capture and sequestration of at least 50 percent of the carbon dioxide that otherwise would be emitted by such unit by not later than January 1, 2017, the otherwise applicable bonus allowance value under this paragraph shall be increased by $10, provided that the owner of such unit notifies the Administrator by not later than January 1, 2012, of its intent to achieve such rate of capture and sequestration.

''(D) For a carbon capture and sequestration project sequestering in a geological formation for purposes of enhanced hydrocarbon recovery, the Administrator shall, by regulation, reduce the applicable bonus allowance value under this paragraph to reflect the lower net cost of the project when compared to sequestration into geological formations solely for purposes of sequestration.

''(E) The Administrator shall annually adjust for inflation the bonus allowance values established under this paragraph.

''(d) PHASE II DISTRIBUTION TO ELECTRIC GENERATING UNITS.—

''(1) APPLICATION.—This subsection shall apply only to the distribution of emission allowances for carbon capture and sequestration projects at electric generating units after the capacity threshold identified in subsection (c)(1) is reached.

''(2) REGULATIONS.—Not later than 2 years prior to the date on which the capacity threshold identified in subsection (c)(1) is projected to be reached, the Administrator shall promulgate regulations to govern the distribution of emission allowances to the owners or operators of eligible projects under this subsection.

''(3) REVERSE AUCTIONS.—

''(A) IN GENERAL.—Except as provided in paragraph (4), the regulations promulgated under paragraph (2) shall provide for the distribution of emission allowances to the owners or operators of eligible projects under this subsection through reverse auctions, which shall be held no less frequently than

once each calendar year. The Administrator may establish a separate auction for each of no more than 5 different project categories, defined on the basis of coal type, capture technology, geological formation type, new unit versus retrofit application, such other factors as the Administrator may prescribe, or any combination thereof. The Administrator may establish appropriate minimum rates of capture and sequestration in implementing this paragraph.

''(B) AUCTION PROCESS.—At each reverse auction—

''(i) the Administrator shall solicit bids from eligible projects;

''(ii) eligible projects participating in the auction shall submit a bid including the desired level of carbon dioxide sequestration incentive per ton and the estimated quantity of carbon dioxide that the project will permanently sequester over 10 years; and

''(iii) the Administrator shall select bids, within each auction, for the sequestration amount submitted, beginning with the eligible project submitting the bid for the lowest level of sequestration incentive on a per ton basis and meeting such other requirements as the Administrator may specify, until the amount of funds available for the reverse auction is committed.

''(C) FORM OF DISTRIBUTION.—The Administrator shall distribute emission allowances to the owners or operators of eligible projects selected through a reverse auction under this paragraph pursuant to a formula equivalent to that described in subsection (c)(2), except that the bonus allowance value that is bid by the entity shall be substituted for the bonus allowance values set forth in subsection (c)(3).

''(4) ALTERNATIVE DISTRIBUTION METHOD.—

''(A) IN GENERAL.—If the Administrator determines that reverse auctions would not provide for efficient and cost-effective commercial deployment of carbon capture and sequestration technologies, the Administrator may instead, through regulations promulgated under paragraph (2) or (5), prescribe a schedule for the award of bonus allowances to the owners or operators of eligible projects under this subsection, in accordance with the requirements of this paragraph.

''(B) MULTIPLE TRANCHES.—The Administrator shall divide emission allowances available for distribution to the owners or operators of eligible projects into a series of tranches, each supporting the deployment of a specified quantity of cumulative electric generating capacity utilizing carbon capture and sequestration technology, each of which shall not be greater than 6 gigawatts.

''(C) METHOD OF DISTRIBUTION.—The Administrator shall distribute emission allowances within each tranche, on a first-come, first-served basis—

''(i) based on the date of full-scale operation of capture and sequestration technology; and

''(ii) pursuant to a formula, similar to that set forth in subsection (c)(2) (except that the Administrator shall prescribe bonus allowance values different than those set forth in subsection (c)(3)), establishing the number of allowances to be distributed per ton of carbon dioxide sequestered by the project.

''(D) REQUIREMENTS.—For each tranche established pursuant to subparagraph (B), the Administrator shall establish a schedule for distributing emission allowances that—

''(i) is based on a sliding scale that provides higher bonus allowance values for projects achieving higher rates of capture and sequestration;

''(ii) for each capture and sequestration rate, establishes a bonus allowance value that is lower than that established for such rate in the previous tranche (or, in the case of the first tranche, than that established for such rate under subsection (c)(3)); and

''(iii) may establish different bonus allowance levels for no more than 5 different project categories, defined by coal type, capture technology, geological formation type, new unit versus retrofit application, such other factors as the Administrator may prescribe, or any combination thereof.

''(E) CRITERIA FOR ESTABLISHING BONUS ALLOWANCE VALUES.—In setting bonus allowance values under this paragraph, the Administrator shall seek to cover no more than the reasonable incremental capital and operating costs of a project that are attributable to implementation of carbon capture, transportation, and sequestration technologies, taking into account—

''(i) the reduced cost of compliance with section 722 of this Act;

''(ii) the reduced cost associated with sequestering in a geological formation for purposes of enhanced hydrocarbon recovery when compared to sequestration into geological formations solely for purposes of sequestration;

''(iii) the relevant factors defining the project category; and

''(iv) such other factors as the Administrator determines are appropriate.

''(5) REVISION OF REGULATIONS.—The Administrator shall review, and as appropriate revise, the applicable regulations under this subsection no less frequently than every 8 years.

''(e) LIMITS FOR CERTAIN ELECTRIC GENERATING UNITS.—

''(1) DEFINITIONS.—For purposes of this subsection, the terms 'covered EGU' and 'initially permitted' shall have the meaning given those terms in section 812 of this Act.

''(2) COVERED EGUS INITIALLY PERMITTED FROM 2009 THROUGH 2014.—For a covered EGU that is initially permitted on or after January 1, 2009, and before January 1, 2015, the Administrator shall reduce the quantity of emission allowances that the owner or operator of such covered EGU would otherwise be eligible to receive under this section as follows:

''(A) In the case of a unit commencing operation on or before January 1, 2019, if the date in clause (ii)(I) is earlier than the date in clause (ii)(II), by the product of—

''(i) 20 percent; and

''(ii) the number of years, if any, that have elapsed between—

''(I) the earlier of January 1, 2020, or the date that is 5 years after the commencement of operation of such covered EGU; and

''(II) the first year that such covered EGU achieves (and thereafter maintains) an emission limit that is at least a 50 percent reduction in emissions of the carbon dioxide produced by the unit, measured on an annual basis, as determined in accordance with section 812(b)(2).

''(B) In the case of a unit commencing operation after January 1, 2019, by the product of—

''(i) 20 percent; and

''(ii) the number of years between—

''(I) the commencement of operation of such covered EGU; and

''(II) the first year that such covered EGU achieves (and thereafter maintains) an emission limit that is at least a 50 percent reduction in emissions of the carbon dioxide produced by the unit, measured on an annual basis, as determined in accordance with section 812(b)(2).

''(3) COVERED EGUS INITIALLY PERMITTED FROM 2015 THROUGH 2019.—The owner or operator of a covered EGU that is initially permitted on or after January 1, 2015, and before January 1, 2020, shall be ineligible to receive emission allowances pursuant to this section if such unit, upon commencement of operations (and thereafter), does not achieve and maintain an emission limit that is at least a 50 percent reduction in emissions of the carbon dioxide produced by the unit, measured on an annual basis, as determined in accordance with section 812(b)(2).

''(f) INDUSTRIAL SOURCES.—

''(1) ALLOWANCES.—The Administrator may distribute not more than 15 percent of the allowances allocated under section 782(f) for any vintage year to the owners or operators of eligible industrial sources to support the commercial-scale deployment of carbon capture and sequestration technologies at such sources.

''(2) DISTRIBUTION.—The Administrator shall, by regulation, prescribe requirements for the distribution of emission allowances to the owners or operators of industrial sources under this subsection, based on a bonus allowance formula that awards allowances to qualifying projects on the basis of tons of carbon dioxide captured and permanently sequestered. The Administrator may provide for the distribution of emission allowances pursuant to—

''(A) a reverse auction method, similar to that described under subsection (d)(3), including the use of separate auctions for different project categories; or

''(B) an incentive schedule, similar to that described under subsection (d)(4), which shall ensure that incentives are set so as to satisfy the requirement described in subsection (d)(4)(E).

''(3) REVISION OF REGULATIONS.—The Administrator shall review, and as appropriate revise, the applicable regulations under this subsection no less frequently than every 8 years.

''(g) LIMITATIONS.—Allowances may be distributed under this section only for tons of carbon dioxide emissions that have already been captured and sequestered. A qualifying project may receive annual emission allowances under this section only for the first 10 years of operation. No greater than 72 gigawatts of total cumulative generating capacity (including industrial applications, measured by such equivalent metric as the Administrator may designate) may receive emission allowances under this section. Upon reaching the limit described in the preceding sentence, any emission allowances that are allocated for carbon capture and sequestration deployment under section 782(f) and are not yet obligated under this section shall be treated as allowances not designated for distribution for purposes of section 782(r).

''(h) EXHAUSTION OF ACCOUNT AND ANNUAL ROLL-OVER OF SURPLUS ALLOWANCES.—

''(1) In distributing emission allowances under this section, the Administrator shall ensure that qualifying projects receiving allowances receive distributions for 10 years.

''(2) If the Administrator determines that the emission allowances allocated under section 782(f) with a vintage year that matches the year of distribution will be exhausted once the estimated full 10-year distributions will be provided to current eligible participants, the Administrator shall provide to new eligible projects allowances from vintage years after the year of the distribution.

''(i) RETROFIT APPLICATIONS.—(1) In calculating bonus allowance values for retrofit applications eligible under subsection (b)(1)(A)(ii) and (iv)(II), the Administrator shall apply the required capture rates with respect to the treated portion of flue gas from the unit.

''(2) No additional projects shall be eligible for allowances under subsection (b)(1)(A)(ii) and (iv)(II) as of such time as the Administrator reports, pursuant to section 812(d), that carbon capture and sequestration retrofit projects at electric generating units that are eligible for allowances under this

section have been applied, in the aggregate, to the flue gas generated by 1 gigawatt of total cumulative generating capacity. ''The limitation in the preceding sentence shall not apply to projects that meet the eligibility criteria in subsection (b)(1)(A)(iv)(I).'' after ''generating capacity.''.

''(j) DAVIS-BACON COMPLIANCE.—All laborers and mechanics employed on projects funded directly by or assisted in whole or in part by this section through the use of emission allowances shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV, chapter 31, part A of subtitle II of title 40, United States Code. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.''.

SEC. 116. PERFORMANCE STANDARDS FOR COAL-FUELED POWER PLANTS.

(a) IN GENERAL.—Title VIII of the Clean Air Act (as added by section 331 of this Act) is amended by adding the following new section after section 811:

''SEC. 812. PERFORMANCE STANDARDS FOR NEW COAL-FIRED POWER PLANTS.

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

''(1) COVERED EGU.—The term 'covered EGU' means a utility unit that is required to have a permit under section 503(a) and is authorized under state or federal law to derive at least 30 percent of its annual heat input from coal, petroleum coke, or any combination of these fuels.

''(2) INITIALLY PERMITTED.—The term 'initially permitted' means that the owner or operator has received a Clean Air Act preconstruction approval or permit, for the covered EGU as a new (not a modified) source, but administrative review or appeal of such approval or permit has not been exhausted. A subsequent modification of any such approval or permits, ongoing administrative or court review, appeals, or challenges, or the existence or tolling of any time to pursue further review, appeals, or challenges shall not affect the date on which a covered EGU is considered to be initially permitted under this paragraph.

''(b) STANDARDS.—(1) A covered EGU that is initially permitted on or after January 1, 2020, shall achieve an emission limit that is a 65 percent reduction in emissions of the carbon dioxide produced by the unit, as measured on an annual basis, or meet such more stringent standard as the Administrator may establish pursuant to subsection (c).

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

''(A) Four years after the date the Administrator has published pursuant to subsection (d) a report that there are in commercial operation in the United States electric generating units or other stationary sources equipped with carbon capture and sequestration technology that, in the aggregate—

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

''(I) at least 3 gigawatts must be electric generating units; and

''(II) up to 1 gigawatt may be industrial applications, for which capture and sequestration of 3 million tons of carbon dioxide per year on an aggregate annualized basis shall be considered equivalent to 1 gigawatt;

''(ii) include at least 2 electric generating units, each with a nameplate generating capacity of 250 megawatts or greater, that capture, inject, and sequester carbon dioxide into geologic formations other than oil and gas fields; and

''(iii) are capturing and sequestering in the aggregate at least 12 million tons of carbon dioxide per year, calculated on an aggregate annualized basis.

''(B) January 1, 2025.

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

''(c) REVIEW AND REVISION OF STANDARDS.—Not later than 2025 and at 5-year intervals thereafter, the Administrator shall review the standards for new covered EGUs under this section and shall, by rule, reduce the maximum carbon dioxide emission rate for new covered EGUs to a rate which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.

''(d) REPORTS.—Not later than the date 18 months after the date of enactment of this title and semiannually thereafter, the Administrator shall publish a report on the nameplate capacity of units (determined pursuant to subsection (b)(2)(A)) in commercial operation in the United States equipped with carbon capture and sequestration technology, including the information described in subsection (b)(2)(A) (including the cumulative generating capacity to which carbon capture and sequestration retrofit projects meeting the criteria described in section 786(b)(1)(A)(ii) and (b)(1)(A)(iv)(II) has been applied and the quantities of carbon dioxide captured and sequestered by such projects).

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

Subtitle C—Clean Transportation

SEC. 121. ELECTRIC VEHICLE INFRASTRUCTURE.

(a) AMENDMENT OF PURPA.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(20) PLUG-IN ELECTRIC DRIVE VEHICLE INFRASTRUCTURE.—

''(A) UTILITY PLAN FOR INFRASTRUCTURE.—Each electric utility shall develop a plan to support the use of plug-in electric drive vehicles, including heavy-duty hybrid electric vehicles. The plan may provide for deployment of electrical charging stations in public or private locations, including street parking, parking garages, parking lots, homes, gas stations, and highway rest stops. Any such plan may also include—

''(i) battery exchange, fast charging infrastructure and other services;

''(ii) triggers for infrastructure deployment based upon market penetration of plug-in electric drive vehicles; and

''(iii) such other elements as the State determines necessary to support plug-in electric drive vehicles.

Each plan under this paragraph shall provide for the deployment of the charging infrastructure or other infrastructure necessary to adequately support the use of plug-in electric drive vehicles.

''(B) SUPPORT REQUIREMENTS.—Each State regulatory authority (in the case of each electric utility for which it has ratemaking authority) and each utility (in the case of a nonregulated utility) shall—

''(i) require that charging infrastructure deployed is interoperable with products of all auto manufacturers to the extent possible; and

''(ii) consider adopting minimum requirements for deployment of electrical charging infrastructure and other appropriate requirements necessary to support the use of plug-in electric drive vehicles.

''(C) COST RECOVERY.—Each State regulatory authority (in the case of each electric utility for which it has ratemaking authority) and each utility (in the case of a nonregulated utility) shall consider whether, and to what extent, to allow cost recovery for plans and implementation of plans.

''(D) SMART GRID INTEGRATION.—The State regulatory authority (in the case of each electric utility for which it has ratemaking authority) and each utility (in the case of a nonregulated utility) shall, in accordance with regulations issued by the Federal Energy Regulatory Commission pursuant to section 1305(d) of the Energy Independence and Security Act of 2007—

''(i) establish any appropriate protocols and standards for integrating plug-in electric drive vehicles into an electrical distribution system, including Smart Grid systems and devices as described in title XIII of the Energy Independence and Security Act of 2007;

''(ii) include, to the extent feasible, the ability for each plug-in electric drive vehicle to be identified individually and to be associated with its owner's electric utility account, regardless of the location that the vehicle is plugged in, for purposes of appropriate billing for any electricity required to charge the vehicle's batteries as well as any crediting for electricity provided to the electric utility from the vehicle's batteries; and

''(iii) review the determination made in response to section 1252 of the Energy Policy Act of 2005 in light of this section, including whether time-of-use pricing should be employed to enable the use of plug-in electric drive vehicles to contribute to meeting peakload and ancillary service power needs.''.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding the following at the end thereof:

''(7)(A) Not later than 3 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (20) of section 111(d).

''(B) Not later than 4 years after the date of enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (20) of section 111(d).''.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of

1978 (16 U.S.C. 2622(c)) is amended by adding the following at the end: ''In the case of the standards established by paragraph (20) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph.''.

(3) PRIOR STATE ACTIONS.—Section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) is amended by striking ''(19)'' and inserting ''(20)'' before ''of section 111(d)''.

SEC. 122. LARGE-SCALE VEHICLE ELECTRIFICATION PROGRAM.

(a) DEPLOYMENT PROGRAM.—The Secretary of Energy shall establish a program to deploy and integrate plug-in electric drive vehicles into the electricity grid in multiple regions. In carrying out the program, the Secretary may provide financial assistance described under subsection (d), consistent with the goals under subsection (b). The Secretary shall select regions based upon applications for assistance received pursuant to subsection (c).

(b) GOALS.—The goals of the program established pursuant to subsection (a) shall be—

(1) to demonstrate the viability of a vehicle-based transportation system that is not overly dependent on petroleum as a fuel and contributes to lower carbon emissions than a system based on conventional vehicles;

(2) to facilitate the integration of advanced vehicle technologies into electricity distribution areas to improve system performance and reliability;

(3) to demonstrate the potential benefits of coordinated investments in vehicle electrification on personal mobility and a regional grid;

(4) to demonstrate protocols and standards that facilitate vehicle integration into the grid; and

(5) to investigate differences in each region and regulatory environment regarding best practices in implementing vehicle electrification.

(c) APPLICATIONS.—Any State, Indian tribe, or local government (or group of State, Indian tribe, or local governments) may apply to the Secretary of Energy for financial assistance in furthering the regional deployment and integration into the electricity grid of plug-in electric drive vehicles. Such applications may be jointly sponsored by electric utilities, automobile manufacturers, technology providers, car sharing companies or organizations, or other persons or entities.

(d) USE OF FUNDS.—Pursuant to applications received under subsection (c), the Secretary may make financial assistance available to any applicant or joint sponsor of the application to be used for any of the following:

(1) Assisting persons located in the regional deployment area, including fleet owners, in the purchase of new plug-in electric drive vehicles by offsetting in whole or in part the incremental cost of such vehicles above the cost of comparable conventionally fueled vehicles.

(2) Supporting the use of plug-in electric drive vehicles by funding projects for the deployment of any of the following:

(A) Electrical charging infrastructure for plug-in electric drive vehicles, including battery exchange, fast charging infrastructure, and other services, in public or private locations, including street parking, parking garages, parking lots, homes, gas stations, and highway rest stops.

(B) Smart Grid equipment and infrastructure, as described in title XIII of the Energy Independence and Security Act of 2007, to facilitate the charging and integration of plug-in electric drive vehicles.

(3) Such other projects as the Secretary determines appropriate to support the large-scale deployment of plug-in electric drive vehicles in regional deployment areas.

(e) PROGRAM REQUIREMENTS.—The Secretary, in consultation with the Administrator and the Secretary of Transportation, shall determine design elements and requirements of the program established pursuant to subsection (a), including—

(1) the type of financial mechanism with which to provide financial assistance;

(2) criteria for evaluating applications submitted under subsection (c), including the anticipated ability to promote deployment and market penetration of vehicles that are less dependent on petroleum as a fuel source; and

(3) reporting requirements for entities that receive financial assistance under this section, including a comprehensive set of performance data characterizing the results of the deployment program.

(f) INFORMATION CLEARINGHOUSE.—The Secretary shall, as part of the program established pursuant to subsection (a), collect and make available to the public information regarding the cost, performance, and other technical data regarding the deployment and integration of plug-in electric drive vehicles.

(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

SEC. 123. PLUG-IN ELECTRIC DRIVE VEHICLE MANUFACTURING.

(a) VEHICLE MANUFACTURING ASSISTANCE PROGRAM.—The Secretary of Energy shall establish a program to provide financial assistance to automobile manufacturers to facilitate the manufacture of plug-in electric drive vehicles, as defined in section 131(a)(5) of the Energy Independence and Security Act of 2007, that are developed and produced in the United States.

(b) FINANCIAL ASSISTANCE.—The Secretary of Energy may provide financial assistance to an automobile manufacturer under the program established pursuant to ''subsection (a) for the reconstruction or retooling of facilities for the manufacture of plug-in electric drive vehicles or batteries for such vehicles that are developed and produced in the United States.''.

(c) COORDINATION WITH REGIONAL DEPLOYMENT.—The Secretary may provide financial assistance under subsection (b) in conjunction with the award of financial assistance under the large scale vehicle electrification program established pursuant to section 122 of this Act.

(d) PROGRAM REQUIREMENTS.—The Secretary shall determine design elements and requirements of the program established pursuant to subsection (a), including—

(1) the type of financial mechanism with which to provide financial assistance;

(2) criteria, in addition to the criteria described under subsection (e), for evaluating applications for financial assistance; and

(3) reporting requirements for automobile manufacturers that receive financial assistance under this section.

(e) CRITERIA.—In selecting recipients of financial assistance from among applicant automobile manufacturers, the Secretary shall give preference to proposals that—

(1) are most likely to be successful; and

(2) are located in local markets that have the greatest need for the facility.

(f) REPORTS.—The Secretary shall annually submit to Congress a report on the program established pursuant to this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 124. INVESTMENT IN CLEAN VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED TECHNOLOGY VEHICLES AND QUALIFYING COMPONENTS.—The terms ''advanced technology vehicles'' and ''qualifying components'' shall have the definition of such terms in section 136 of the Energy Independence and Security Act of 2007, except that for purposes of this section, the average base year as described in such section 136(a)(1)(C) shall be the following:

(A) In each of the years 2012 through 2016, model year 2009.

(B) In 2017, the Administrator shall, notwithstanding such section 136(a)(1)(C), determine an appropriate baseline based on technological and economic feasibility.

(2) PLUG-IN ELECTRIC DRIVE VEHICLE.—The term ''plug-in electric drive vehicle'' shall have the definition of such term in section 131 of the Energy Independence and Security Act of 2007.

(b) DISTRIBUTION OF ALLOWANCES.—The Administrator shall, in accordance with this section, distribute emission allowances allocated pursuant to section 782(i) of the Clean Air Act not later than September 30 of 2012 and each calendar year thereafter through 2025.

(c) PLUG-IN ELECTRIC DRIVE VEHICLE MANUFACTURING AND DEPLOYMENT.—

(1) IN GENERAL.—The Administrator shall, at the direction of the Secretary of Energy, provide emission allowances allocated pursuant to section 782(i) to applicants, joint sponsors and automobile manufacturers pursuant to sections 122 and 123 of this Act.

(2) ANNUAL AMOUNT.—In each of the years 2012 through 2017, one-quarter of the portion of the emission allowances allocated pursuant to section 782(i) of the Clean Air Act shall be available to carry out paragraph (1) such that—

(A) one-eighth of the portion shall be available to carry out section 122; and,

(B) one-eighth of the portion shall be available to carry out section 123.

(3) PREFERENCE.—In directing the provision of emission allowances under this subsection to carry out section 122, the Secretary shall give preference to applications under section 122(c) that are jointly sponsored by one or more automobile manufacturers.

(4) MULTI-YEAR COMMITMENTS.—The Administrator shall commit to providing emission allowances to an applicant, joint sponsor, or automobile manufacturer for up to five consecutive years if—

(A) an application under section 122 or 123 of this Act requests a multi-year commitment;

(B) such application meets the criteria for support established by the Secretary of Energy under sections 122 or 123 of this Act;

(C) the Administrator confirms to the Secretary that emission allowances will be available for a multi-year commitment;

(D) the Secretary of Energy determines that a multi-year commitment for such application will advance the goals of section 122 or 123; and

(E) the Secretary of Energy directs the Administrator to make a multi-year commitment.

(5) INSUFFICIENT APPLICATIONS.—If, in any year, emission allowances available under paragraph (2) cannot be provided because of insufficient numbers of submitted applications that meet the criteria for support established by the Secretary of Energy under sections 122 or 123 of this Act, the remaining emission allowances shall be distributed according to subsection (d).

(d) ADVANCED TECHNOLOGY VEHICLES.—

(1) IN GENERAL.—The Administrator shall, at the direction of the Secretary of Energy, provide any emission allowances allocated pursuant to section 782(i) of the Clean Air Act that are not provided under subsection

(c) to automobile manufacturers and component suppliers to pay not more than 30 percent of the cost of—

(A) reequipping, expanding, or establishing a manufacturing facility in the United States to produce—

(i) qualifying advanced technology vehicles; or

(ii) qualifying components; and

(B) engineering integration performed in the United States of qualifying vehicles and qualifying components.

(2) PREFERENCE.—In directing the provision of emission allowances under this subsection during the years 2012 through 2017, the Secretary shall give preference to applications for projects that save the maximum number of gallons of fuel.

SEC. 125. ADVANCED TECHNOLOGY VEHICLE MANUFACTURING INCENTIVE LOANS.

Section 136(d)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(d)(1)) is amended by striking ''$25,000,000,000'' and inserting ''$50,000,000,000''.

SEC. 126. DEFINITION OF RENEWABLE BIOMASS.

Section 211(o)(1)(I) of the Clean Air Act (42 U.S.C. 7545(o)(1)(I)) is amended to read as follows:

''(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means any of the following:

''(i) Materials, pre-commercial thinnings, or removed invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), including those that are byproducts of preventive treatments (such as trees, wood, brush, thinnings, chips, and slash), that are removed as part of a federally recognized timber sale, or that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health, and that are—

''(I) not from components of the National Wilderness Preservation System, Wilderness Study Areas, Inventoried Roadless Areas, old growth stands, late-successional stands (except for dead, severely damaged, or badly infested trees), components of the National Landscape Conservation System, National Monuments, National Conservation Areas, Designated Primitive Areas, or Wild and Scenic Rivers corridors;

''(II) harvested in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

''(III) harvested in accordance with Federal and State law, and applicable land management plans.

''(ii) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(I) renewable plant material, including—

''(aa) feed grains;

''(bb) other agricultural commodities;

''(cc) other plants and trees; and

''(dd) algae; and

''(II) waste material, including—

''(aa) crop residue;

''(bb) other vegetative waste material (including wood waste and wood residues);

''(cc) animal waste and byproducts (including fats, oils, greases, and manure);

''(dd) construction waste;

''(ee) food waste and yard waste; and

''(ff) the non-fossil biogenic portion of municipal solid waste and construction, demolition, and disaster debris.

''(iii) Residues and byproducts from wood, pulp, or paper products facilities.''.

(c) REDUCTION.—The last sentence of section 211(o)(7)(D) of the Clean Air Act (42 U.S.C. 7545(o)(7)(D)) is amended to read as follows: ''For any calendar year in which the Administrator makes such a reduction, the Administrator shall also reduce the applicable volume of renewable fuel and advanced biofuels requirement established under paragraph (2)(B) by the same volume.''.

SEC. 127. OPEN FUEL STANDARD.

(a) FINDINGS.—The Congress finds that—

(1) the status of oil as a strategic commodity, which derives from its domination of the transportation sector, presents a clear and present danger to the United States;

(2) in a prior era, when salt was a strategic commodity, salt mines conferred national power and wars were fought over the control of such mines;

(3) technology, in the form of electricity and refrigeration, decisively ended salt's monopoly of meat preservation and greatly reduced its strategic importance;

(4) fuel competition and consumer choice would similarly serve to end oil's monopoly in the transportation sector and strip oil of its strategic status;

(5) the current closed fuel market has allowed a cartel of petroleum exporting countries to inflate fuel prices, effectively imposing a harmful tax on the economy of the United States;

(6) much of the inflated petroleum revenues the oil cartel earns at the expense of the people of the United States are used for purposes antithetical to the interests of the United States and its allies;

(7) alcohol fuels, including ethanol and methanol, could potentially provide significant supplies of additional fuels that could be produced in the United States and in many other countries in the Western Hemisphere that are friendly to the United States;

(8) alcohol fuels can only play a major role in securing the energy independence of the United States if a substantial portion of vehicles in the United States are capable of operating on such fuels;

(9) it is not in the best interest of United States consumers or the United States Government to be constrained to depend solely upon petroleum resources for vehicle fuels if alcohol fuels are potentially available;

(10) existing technology, in the form of flexible fuel vehicles, allows internal combustion engine cars and trucks to be produced at little or no additional cost, which are capable of operating on conventional gasoline, alcohol fuels, or any combination of such fuels, as availability or cost advantage dictates, providing a platform on which fuels can compete;

(11) the necessary distribution system for such alcohol fuels will not be developed in the United States until a substantial fraction of the vehicles in the United States are capable of operating on such fuels;

(12) the establishment of such a vehicle fleet and distribution system would provide a large market that would mobilize private resources to substantially advance the technology and expand the production of alcohol fuels in the United States and abroad;

(13) the United States has an urgent national security interest to develop alcohol fuels technology, production, and distribution systems as rapidly as possible;

(14) new cars sold in the United States that are equipped with an internal combustion engine should allow for fuel competition by being flexible fuel vehicles, and new diesel cars should be capable of operating on biodiesel; and

(15) such an open fuel standard would help to protect the United States economy from high and volatile oil prices and from the threats caused by global instability, terrorism, and natural disaster.

(b) OPEN FUEL STANDARD FOR TRANSPORTATION.—(1) Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

''§ 32920. Open fuel standard for transportation

''(a) DEFINITIONS.—In this section:

''(1) E85.—The term 'E85' means a fuel mixture containing 85 percent ethanol and 15 percent gasoline by volume.

''(2) FLEXIBLE FUEL AUTOMOBILE.—The term 'flexible fuel automobile' means an automobile that has been warranted by its manufacturer to operate on gasoline, E85, and M85.

''(3) FUEL CHOICE-ENABLING AUTOMOBILE.—The term 'fuel choice-enabling automobile' means—

''(A) a flexible fuel automobile; or

''(B) an automobile that has been warranted by its manufacturer to operate on biodiesel.

''(4) LIGHT-DUTY AUTOMOBILE.—The term 'light-duty automobile' means—

''(A) a passenger automobile; or

''(B) a non-passenger automobile.

''(5) LIGHT-DUTY AUTOMOBILE MANUFACTURER'S ANNUAL COVERED INVENTORY.—The term 'light-duty automobile manufacturer's annual covered inventory' means the number of light-duty automobiles powered by an internal combustion engine that a manufacturer, during a given calendar year, manufactures in the United States or imports from outside of the United States for sale in the United States.

''(6) M85.—The term 'M85' means a fuel mixture containing 85 percent methanol and 15 percent gasoline by volume.

''(b) OPEN FUEL STANDARD FOR TRANSPORTATION.—

''(1) IN GENERAL.—The Secretary may promulgate regulations to require each light-duty automobile manufacturer's annual covered inventory to be comprised of a minimum percentage of fuel-choice enabling automobiles, with sufficient lead time, if the Secretary, in coordination with the Secretary of Energy and the Administrator of the Environmental Protection Agency, determines such requirement is a cost-effective way to achieve the Nation's energy independence and environmental objectives. The cost-effective determination shall consider the future availability of both alternative fuel supply and infrastructure to deliver the alternative fuel to the fuel-choice enabling vehicles.

''(2) TEMPORARY EXEMPTION FROM REQUIREMENTS.—

''(A) APPLICATION.—A manufacturer may request an exemption from the requirement described in paragraph (1) by submitting an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require by regulation. Each such application shall specify the models, lines, and types of automobiles affected.

''(B) EVALUATION.—After evaluating an application received from a manufacturer, the Secretary may at any time, under such terms and conditions, and to such extent as the Secretary considers appropriate, temporarily exempt, or renew the exemption of, a light-duty automobile from the requirement described in paragraph (1) if the Secretary determines that unavoidable events not under the control of the manufacturer prevent the manufacturer of such automobile from meeting its required production volume of fuel choice-enabling automobiles, including—

''(i) a disruption in the supply of any component required for compliance with the regulations;

''(ii) a disruption in the use and installation by the manufacturer of such component; or

''(iii) application to plug-in electric drive vehicles causing such vehicles to fail to meet State air quality requirements.

''(C) CONSOLIDATION.—The Secretary may consolidate applications received from multiple manufacturers under subparagraph (A) if they are of a similar nature.

''(D) CONDITIONS.—Any exemption granted under subparagraph (B) shall be conditioned upon the manufacturer's commitment to recall the exempted automobiles for installation of the omitted components within a reasonable time proposed by the manufacturer and approved by the Secretary after such components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements.

''(E) NOTICE.—The Secretary shall publish in the Federal Register—

''(i) notice of each application received from a manufacturer;

''(ii) notice of each decision to grant or deny a temporary exemption; and

''(iii) the reasons for granting or denying such exemptions.''.

(2) The table of contents in chapter 329 of such title is amended by adding at the end the following:

''32920. Open fuel standard for transportation.''.

SEC. 128. DIESEL EMISSIONS REDUCTION.

Subtitle G of title VII of the Energy Policy Act of 2005 (42 U.S.C. 16131 et seq.) is amended—

(1) in the matter preceding clause (i) in section 791(3)(B), by inserting ''in any State'' after ''nonprofit organization or institution'';

(2) in section 791(9), by striking ''The term 'State' includes the District of Columbia.'' and inserting ''The term 'State' includes the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.'':

(3) in section 793(c)—

(A) in paragraph (2)(A), by striking ''51 States'' and inserting ''56 States'';

(B) in paragraph (2)(A), by striking ''1.96 percent'' and inserting ''1.785 percent'';

(C) in paragraph (2)(B), by striking ''51 States'' and inserting ''56 States''; and

(D) in paragraph (2)(B), by amending clause (ii) to read as follows:

''(ii) the amount of funds remaining after each State described in paragraph (1) receives the 1.785-percent allocation under this paragraph.''; and

(4) in section 797, by striking ''2011'' and inserting ''2016''.

SEC. 129. LOAN GUARANTEES FOR PROJECTS TO CONSTRUCT RENEWABLE FUEL PIPELINES.

(a) DEFINITIONS.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is amended by adding at the end the following:

''(6) RENEWABLE FUEL.—The term 'renewable fuel' has the meaning given the term in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), except that the term shall include all ethanol and biodiesel.

''(7) RENEWABLE FUEL PIPELINE.—The term 'renewable fuel pipeline' means a common carrier pipeline for transporting renewable fuel.''.

(b) RENEWABLE FUEL PIPELINE ELIGIBILITY.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513) is amended by adding at the end the following:

''(11) Renewable fuel pipelines.''.

SEC. 130. FLEET VEHICLES.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended as follows:

(1) By adding the following new paragraph at the end of subsection (a):

''(6) REPOWERED OR CONVERTED ALTERNATIVE FUELED VEHICLES.—As used in this paragraph, the term 'repowered or converted alternative fueled vehicle' includes light-, medium- or heavy-duty motor vehicles that have been modified with an EPA or CARB compliant engine or vehicle or aftermarket system so that the vehicle or engine is capable of operating on an alternative fuel.''.

(2) By adding the following new paragraph at the end of subsection (b):

''(3) Repowered or converted vehicles. Not later than January 1, 2010, the Secretary shall allocate credits to fleets that repower or convert an existing vehicle so that it is capable of operating on an alternative fuel. In the case of any medium- or heavy-duty vehicle that is repowered or converted so that it is capable of operating on an alternative fuel, the Secretary shall allocate additional credits for such vehicles if he determines that such vehicles displace more petroleum than light duty alternative fueled vehicles. Such rules shall also include a requirement that such vehicles remain in the fleet for a period of no less than 2 years in order to continue to qualify for credit. The Secretary also shall extend the flexibility afforded in this paragraph to Federal fleets subject to the purchase provisions contained in section 303 of this Act.''.

SEC. 130A. REPORT ON NATURAL GAS VEHICLE EMISSIONS REDUCTIONS.

Within 360 days after the date of enactment of this Act, the Administrator, in consultation with the Secretaries of Energy and Transportation, and the Administrator of the General Services Administration, and after an examination of available scientific studies or analysis, shall submit to the Congress a report on—

(1) the contribution that light and heavy duty natural gas vehicles, by category and State, have made during the last decade to the reduction of greenhouse gases and criteria pollutants under the Clean Air Act, and the reduced consumption of petroleum-based fuels;

(2) the contribution that light and heavy duty natural gas vehicles are expected to make from 2010 to 2020 in reducing greenhouse gas and criteria pollutants under the Clean Air Act based, among other things, on additional Federal incentives for the manufacture and deployment of natural gas vehicles provided in this Act, and other Federal legislation; and

(3) additional Federal measures, including legislation, that could, if implemented, maximize the potential for natural gas used in both stationary and mobile sources to contribute to the reduction of greenhouse gases and criteria pollutants under the Clean Air Act.

Subtitle D—State Energy and Environment Development Accounts

SEC. 131. ESTABLISHMENT OF SEED ACCOUNTS.

(a) DEFINITIONS.—In this section:

(1) SEED ACCOUNT.—The term ''SEED Account'' means a State Energy and Environment Development Account established pursuant to this section.

(2) STATE ENERGY OFFICE.—The term ''State Energy Office'' means a State entity eligible for grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(b) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program under which a State, through its State Energy Office or other State agency designated by the State, may operate a State Energy and Environment Development Account.

(c) PURPOSE.—The purpose of each SEED Account is to serve as a common State-level repository for managing and accounting for emission allowances provided to States designated for renewable energy and energy efficiency purposes.

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

(1) to ensure that each State operates its SEED Account and any subaccounts thereof efficiently and in accordance with this Act and applicable State and Federal laws;

(2) to prevent waste, fraud, and abuse;

(3) to indicate the emission allowances that may be deposited in a State's SEED Account pending distribution or use;

(4) to indicate the programs and objectives authorized by Federal law for which emission allowances in a SEED Account may be distributed or used;

(5) to identify the forms of financial assistance and incentives that States may provide through distribution or use of SEED Accounts; and

(6) to prescribe the form and content of reports that the States are required to submit under this section on the use of SEED Accounts.

(e) OPERATION.—

(1) DEPOSITS.—

(A) IN GENERAL.—In the allowance tracking system established pursuant to section 724(d) of the Clean Air Act, the Administrator shall establish a SEED Account for each State and place in it the allowances allocated pursuant to section 782(g) of the Clean Air Act to be distributed to States pursuant to sections 132 and 201 of this Act.

(B) FINANCIAL ACCOUNT.—A State may create a financial account associated with its SEED Account to deposit, retain, and manage any proceeds of any sale of any allowance provided pursuant to this Act pending expenditure or disbursement of those proceeds for purposes permitted under this section. The funds in such an account shall not be commingled with other funds not derived from the sale of allowances provided to the State; however, loans made by the State from such funds pursuant to paragraph (2)(C)(i) may be repaid into such a financial account, including any interest charged.

(2) WITHDRAWALS.—

(A) IN GENERAL.—All allowances distributed pursuant to sections 132 and 201, including the proceeds of any sale of such allowances, shall support renewable energy and energy efficiency programs authorized or approved by the Federal Government.

(B) DEDICATED ALLOWANCES.—Allowances distributed pursuant to sections 132 and 201 that are required by law to be used for specific purposes for a specified period shall be used according to those requirements during that period.

(C) UNDEDICATED ALLOWANCES.—To the extent that allowances distributed pursuant to sections 132 and 201 are not required by law to be used for specific purposes for a specified period as described in subparagraph (B), such allowances or the proceeds of their sale may be used for any of the following purposes:

(i) LOANS.—Loans of allowances, or the proceeds from the sale of allowances, may be provided, interest on commercial loans may be subsidized at an interest rate as low as zero, and other credit support may be provided to support programs authorized to use SEED Account allowance value or any other renewable energy or energy efficiency purpose authorized or approved by the Federal Government.

(ii) GRANTS.—Grants of allowances or the proceeds of their sale may be provided to support programs authorized to use SEED

Account allowance value or any other renewable energy or energy efficiency purpose authorized or approved by the Federal Government.

(iii) OTHER FORMS OF SUPPORT.—Allowances or the proceeds of the sale of allowances may be provided for other forms of support for programs authorized to use SEED Account allowance value or any other renewable energy or energy efficiency purpose authorized or approved by the Federal Government.

(iv) ADMINISTRATIVE COSTS.—Except to the extent provided in Federal law authorizing or allocating allowances deposited in a SEED Account, not more than 5 percent of the allowance value in a SEED Account in any year may be used to cover administrative expenses of the SEED Account.

(D) SUBACCOUNTS.—A State may request that the Administrator establish accounts for local governments that request such subaccounts to hold allowances distributed to local governments for renewable energy or energy efficiency programs authorized or approved by the Federal Government.

(E) INTENDED USE PLANS.—

(i) IN GENERAL.—After providing for public review and comment, each State administering a SEED Account shall annually prepare a plan that identifies the intended uses of the allowances or proceeds from the sale of allowances in its SEED Account.

(ii) CONTENTS.—An intended use plan shall include—

(I) a list of the projects or programs for which withdrawals from the SEED Account are intended in the next fiscal year that begins after the date of the plan, including a description of each project;

(II) the relationship of each of the projects or programs to an identified Federal purpose authorized by this Act, or any other Federal statute;

(III) the expected terms of use of allowance value to provide assistance;

(IV) the criteria and methods established for the distribution of allowances or allowance value;

(V) a description of the equivalent financial value and status of the SEED Account; and

(VI) a statement of the mid-term and long-term goals of the State for use of its SEED Account.

(3) ACCOUNTABILITY AND TRANSPARENCY.—

(A) CONTROLS AND PROCEDURES.—Any State that has a SEED Account shall establish fiscal controls and recordkeeping and accounting procedures for the SEED Account sufficient to ensure proper accounting during appropriate accounting periods for distributions into the SEED Account, transfers from the SEED Account, and SEED Account balances, including any related financial accounts. Such controls and procedures shall conform to generally accepted government accounting principles. Any State that has a SEED Account shall retain records for a period of at least 5 years.

(B) AUDITS.—Any State that has a SEED Account shall have an annual audit conducted of the SEED Account by an independent public accountant in accordance with generally accepted auditing standards, and shall transmit the results of that audit to the Administrator.

(C) STATE REPORT.—Each State administering a SEED Account shall make publicly available and submit to the Administrator a report every 2 years on its activities related to its SEED Account.

(D) PUBLIC INFORMATION.—Any—

(i) controls and procedures established under subparagraph (A); and

(ii) information obtained through audits conducted under subparagraph (B), except to the extent that it would be protected from disclosure, if it were information held by the Federal Government, under section 552(b) of title 5, United States Code,

shall be made publicly available.

(E) OTHER PROTECTIONS.—The Administrator shall require such additional procedures and protections as are necessary to ensure that any State that has a SEED Account will operate the SEED Account in an accountable and transparent manner.

(f) REQUIREMENTS FOR ELIGIBILITY.—A State's eligibility to receive allowances in its SEED Account shall depend on that State's compliance with the requirements of this Act (and the amendments made by this Act).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as may be necessary for SEED Account operations.

SEC. 132. SUPPORT OF STATE RENEWABLE ENERGY AND ENERGY EFFICIENCY PROGRAMS.

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

(1) ALLOWANCE.—The term ''allowance'' means an emission allowance established under section 721 of the Clean Air Act (as added by section 311 of this Act).

(2) COST-EFFECTIVE.—The term ''cost-effective'', with respect to an energy efficiency program, means that the program meets the Total Resource Cost Test, which requires that the net present value of economic benefits over the life of the program or measure, including avoided supply and delivery costs and deferred or avoided investments, is greater than the net present value of the economic costs over the life of the program, including program costs and incremental costs borne by the energy consumer.

(3) RENEWABLE ENERGY RESOURCE.—The term ''renewable energy resource'' shall have the meaning given that term in section 610 of the Public Utility Regulatory Policies Act of 1978 (as added by section 101 of this Act).

(4) VINTAGE YEAR.—The term ''vintage year'' shall the meaning given that term in section 700 of the Clean Air Act (as added by section 311 of this Act).

(b) DISTRIBUTION AMONG STATES.—Not later than September 30 of each calendar year from 2011 through 2049, the Administrator shall, in accordance with this section, distribute allowances allocated pursuant to section 782(g)(1) of the Clean Air Act (as added by section 311 of this Act) for the following vintage year. The Administrator shall distribute 0.5 percent of such allowances pursuant to section 133 of this Act. The Administrator shall distribute the remaining allowances to States for renewable energy and energy efficiency programs to be deposited in and administered through the State Energy and Environment Development (SEED) Accounts established pursuant to section 131. The Administrator shall distribute allowances among the States under this section each year in accordance with the following formula:

(1) One third of the allowances shall be divided equally among the States.

(2) One third of the allowances shall be distributed ratably among the States based on the population of each State, as contained in the most recent reliable census data available from the Bureau of the Census, Department of Commerce, for all States at the time the Administrator calculates the formula for distribution.

(3) One third of the allowances shall be distributed ratably among the States on the basis of the energy consumption of each State as contained in the most recent State Energy Data Report available from the Energy Information Administration (or such alternative reliable source as the Administrator may designate).

(c) USES.—The allowances distributed to each State pursuant to this section shall be used exclusively in accordance with the following requirements:

(1) Not less than 12.5 percent shall be distributed by the State to units of local government within such State to be used exclusively to support the energy efficiency and renewable energy purposes listed in paragraphs (2) and (3).

(2) Not less than 20 percent shall be used exclusively for the following energy efficiency purposes, provided that not less than 1 percent shall be used for the purpose described in subparagraph (D) and not less than 5.5 percent shall be used for the purpose described in subparagraph (E):

(A) Implementation and enforcement of building codes adopted in compliance with section 201.

(B) Implementation of the energy efficient manufactured homes program established pursuant to section 203.

(C) Implementation of the building energy performance labeling program established pursuant to section 204.

(D) Low-income community energy efficiency programs that are consistent with the grant program established under section 264 of this Act.

(E) Implementation of the Retrofit for Energy and Environmental Performance (REEP) program established pursuant to section 202.

(3) Not less than 20 percent shall be used exclusively for capital grants, tax credits, production incentives, loans, loan guarantees, forgivable loans, direct provision of allowances, and interest rate buy-downs for—

(A) re-equipping, expanding, or establishing a manufacturing facility that receives certification from the Secretary of Energy pursuant to section 1302 of the American Recovery and Reinvestment Act of 2009 for the production of—

(i) property designed to be used to produce energy from renewable energy sources; and

(ii) electricity storage systems;

(B) deployment of technologies to generate electricity from renewable energy sources; and

(C) deployment of facilities or equipment, such as solar panels, to generate electricity or thermal energy from renewable energy resources in and on buildings in an urban environment.

(4) The remaining 47.5 percent shall be used exclusively for any of the following purposes:

(A) Energy efficiency purposes described in paragraph (2).

(B) Renewable energy purposes described in paragraph (3)(B) and (C).

(C) Cost-effective energy efficiency programs for end-use consumers of electricity, natural gas, home heating oil, or propane, including, where appropriate, programs or mechanisms administered by local governments and entities other than the State.

(D) Enabling the development of a Smart Grid (as described in section 1301 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381)) for State, local government, and other public buildings and facilities, including integration of renewable energy resources and distributed generation, demand response, demand side management, and systems analysis.

(E) Providing the non-Federal share of support for surface transportation capital projects under—

(i) sections 5307, 5308, 5309, 5310, 5311 and 5319 of title 49, United States Code; and

(ii) sections 142, 146, and 149 of title 23, United States Code,

provided that not more than 10 percent of allowances distributed to each State pursuant to this section shall be used for such purpose.

(5) For any allowances used for the purpose described in paragraph (4)(C), the State shall—

(A) prioritize expansion of existing energy efficiency programs approved and overseen by the State or the appropriate State regulatory authority; and

(B) demonstrate that such allowances have been used to supplement, and not to supplant, existing and otherwise available State, local, and ratepayer funding for such purpose.

(d) REPORTING.—Each State receiving allowances under this section shall include in its biennial reports required under section 131, in accordance with such requirements as the Administrator may prescribe

(1) a list of entities receiving allowances or allowance value under this section, including entities receiving such allowances or allowance value from units of local government pursuant to subsection (c)(1);

(2) the amount and nature of allowances or allowance value received by each such recipient;

(3) the specific purposes for which such allowances or allowance value was conveyed to each such recipient;

(4) documentation of the amount of energy savings, emission reductions, renewable energy deployment, and new or retooled manufacturing capacity resulting from the use of such allowances or allowance value; and

(5) for any energy efficiency program supported under subsection (c)(4)(C)—

(A) an assessment demonstrating the cost-effectiveness of such program; and

(B) a demonstration that the requirements set forth in subsection (c)(5) have been satisfied.

(e) ENFORCEMENT.—If the Administrator determines that a State is not in compliance with this section, the Administrator may withhold up to twice the number of allowances that the State failed to use in accordance with the requirements of this section, that such State would otherwise be eligible to receive under this section in later years. Allowances withheld pursuant to this subsection shall be distributed among the remaining States in accordance with the requirements of subsection (b).

SEC. 133. SUPPORT OF INDIAN RENEWABLE ENERGY AND ENERGY EFFICIENCY PROGRAMS.

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

(1) ALLOWANCE; COST-EFFECTIVE; RENEWABLE ENERGY RESOURCE.—The terms ''allowance'', ''cost-effective'', and ''renewable energy resource'' have the meaning given those terms in section 132 of this Act.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator and the Secretary of the Interior, promulgate regulations establishing a program to distribute allowances to Indian tribes on a competitive basis for the following purposes:

(1) ENERGY EFFICIENCY.—Cost-effective energy efficiency programs for end-use consumers of electricity, natural gas, home heating oil, or propane.

(2) RENEWABLE ENERGY.—Deployment of technologies to generate electricity from renewable energy resources.

(c) REQUIREMENTS.—The regulations promulgated pursuant to subsection (b) shall prescribe design elements and requirements of the program established under this section, including—

(1) objective criteria for evaluating proposals submitted by Indian tribes, and for selecting projects and programs to receive support, under this section;

(2) reporting requirements for Indian tribes that receive allowances under this section; and

(3) other appropriate elements and requirements.

(d) DISTRIBUTION.—The Administrator shall, at the direction of the Secretary, distribute to Indian tribes allowances that are set aside, pursuant to section 132, for use under this section.

Subtitle E—Smart Grid Advancement

SEC. 141. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''applicable baseline'' means the average of the highest three annual peak demands a load-serving entity has experienced during the 5 years immediately prior to the date of enactment of this Act.

(2) The term ''Commission'' means Federal Energy Regulatory Commission.

(3) The term ''load-serving entity'' means an entity that provides electricity directly to retail consumers with the responsibility to assure power quality and reliability, including such entities that are investor-owned, publicly owned, owned by rural electric cooperatives, or other entities.

(4) The term ''peak demand'' means the highest point of electricity demand, net of any distributed electricity generation or storage from sources on the load-serving entity's customers' premises, during any hour on the system of a load serving entity during a calendar year, expressed in Megawatts (MW), or more than one such high point as a function of seasonal demand changes.

(5) The term ''peak demand reduction'' means the reduction in annual peak demand as compared to a previous baseline year or period, expressed in Megawatts (MW), whether accomplished by—

(A) diminishing the end-use requirements for electricity;

(B) use of locally stored energy or generated electricity to meet those requirements from distributed resources on the load-serving entity's customers' premises and without use of high-voltage transmission; or

(C) energy savings from efficient operation of the distribution grid resulting from the use of a Smart Grid.

(6) The term ''peak demand reduction plan'' means a plan developed by or for a load-serving entity that it will implement to meet its peak demand reduction goals.

(7) The term ''peak period'' means the time period on the system of a load-serving entity relative to peak demand that may warrant special measures or electricity resources to maintain system reliability while meeting peak demand.

(8) The term ''Secretary'' means the Secretary of Energy.

(9) The term ''Smart Grid'' has the meaning provided by section 1301 of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381).

SEC. 142. ASSESSMENT OF SMART GRID COST EFFECTIVENESS IN PRODUCTS.

(a) ASSESSMENT.—Within one year after the date of enactment of this Act, the Secretary and the Administrator shall each assess the potential for cost-effective integration of Smart Grid technologies and capabilities in all products that are reviewed by the Department of Energy and the Environmental Protection Agency, respectively, for potential designation as Energy Star products.

(b) ANALYSIS.—(1) Within 2 years after the date of enactment of this Act, the Secretary and the Administrator shall each prepare an analysis of the potential energy savings, greenhouse gas emission reductions, and electricity cost savings that could accrue for each of the products identified by the assessment in subsection (a) in the following optimal circumstances:

(A) The products possessed Smart Grid capability and interoperability that is tested and proven reliable.

(B) The products were utilized in an electricity utility service area which had Smart Grid capability and offered customers rate or program incentives to use the products.

(C) The utility's rates reflected national average costs, including average peak and valley seasonal and daily electricity costs.

(D) Consumers using such products took full advantage of such capability.

(E) The utility avoided incremental investments and rate increases related to such savings.

(2) The analysis under paragraph (1) shall be considered the ''best case'' Smart Grid analysis. On the basis of such an analysis for each product, the Secretary and the Administrator shall determine whether the installation of Smart Grid capability for such a product would be cost effective. For purposes of this paragraph, the term ''cost effective'' means that the cumulative savings from using the product under the best case Smart Grid circumstances for a period of one-half of the product's expected useful life will be greater than the incremental cost of the Smart Grid features included in the product.

(3) To the extent that including Smart Grid capability in any products analyzed under paragraph (2) is found to be cost effective in the best case, the Secretary and the Administrator shall, not later than 3 years after the date of enactment of this Act take each of the following actions:

(A) Inform the manufacturer of such product of such finding of cost effectiveness.

(B) Assess the potential contributions the development and use of products with Smart Grid technologies bring to reducing peak demand and promoting grid stability.

(C) Assess the potential national energy savings and electricity cost savings that could be realized if Smart Grid potential were installed in the relevant products reviewed by the Energy Star program.

(D) Assess and identify options for providing consumers information on products with Smart Grid capabilities, including the necessary conditions for cost-effective savings.

(E) Submit a report to Congress summarizing the results of the assessment for each class of products, and presenting the potential energy and greenhouse gas savings that could result if Smart Grid capability were installed and utilized on such products.

SEC. 143. INCLUSIONS OF SMART GRID CAPABILITY ON APPLIANCE ENERGY GUIDE LABELS.

Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end:

''(J)(i) Not later than 1 year after the date of enactment of this subparagraph, the Federal Trade Commission shall initiate a rulemaking to consider making a special note in a prominent manner on any ENERGY GUIDE label for any product actually including Smart Grid capability that—

''(I) Smart Grid capability is a feature of that product;

''(II) the use and value of that feature depended on the Smart Grid capability of the utility system in which the product was installed and the active utilization of that feature by the customer; and

''(III) on a utility system with Smart Grid capability, the use of the product's Smart Grid capability could reduce the customer's cost of the product's annual operation by an

estimated dollar amount range representing the result of incremental energy and electricity cost savings that would result from the customer taking full advantage of such Smart Grid capability.

''(ii) Not later than 3 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).''.

SEC. 144. SMART GRID PEAK DEMAND REDUCTION GOALS.

(a) GOALS.—Not later than one year after the date of enactment of this section, each load-serving entity, or, at the option of the State, each State with respect to load-serving entities that the State regulates, shall determine and publish peak demand reduction goals for any load-serving entities that have an applicable baseline in excess of 250 megawatts.

(b) BASELINES.—(1) The Commission, in consultation with the Secretary and the Administrator, shall develop and publish, after an opportunity for public comment, but not later than 180 days after enactment of this section, a methodology to provide for adjustments or normalization to a load-serving entity's applicable baseline over time to reflect changes in the number of customers served, weather conditions, general economic conditions, and any other appropriate factors external to peak demand management, as determined by the Commission.

(2) The Commission shall support load-serving entities (including any load-serving entities with an applicable baseline of less than 250 megawatts that volunteer to participate in achieving the purposes of this section) in determining their applicable baselines, and in developing their peak demand reduction goals.

(3) The Secretary, in consultation with the Commission, the Administrator, and the North American Electric Reliability Corporation, shall develop a system and rules for measurement and verification of demand reductions.

(c) PEAK DEMAND REDUCTION GOALS.—(1) Peak demand reduction goals may be established for an individual load-serving entity, or, at the determination of a State, tribal, or regional entity, by that State, tribal, or regional entity for a larger region that shares a common system peak demand and for which peak demand reduction measures would offer regional benefit.

(2) A State or regional entity establishing peak demand reduction goals shall cooperate, as necessary and appropriate, with the Commission, the Secretary, State regulatory commissions, State energy offices, the North American Electric Reliability Corporation, and other relevant authorities.

(3) In determining the applicable peak demand reduction goals—

(A) States and other jurisdictional entities may utilize the results of the 2009 National Demand Response Potential Assessment, as authorized by section 571 of the National Energy Conservation Policy Act (42 U.S.C. 8279); and

(B) the relative economics of peak demand reduction and generation required to meet peak demand shall be evaluated in a neutral and objective manner.

(4) The applicable peak demand reduction goals shall provide that—

(A) load-serving entities will reduce or mitigate peak demand by a minimum percentage amount from the applicable baseline to a lower peak demand during calendar year 2012;

(B) load-serving entities will reduce or mitigate peak demand by a minimum percentage greater amount from the applicable baseline to a lower peak demand during calendar year 2015; and

(C) the minimum percentage reductions established as peak demand reduction goals shall be the maximum reductions that are realistically achievable with an aggressive effort to deploy Smart Grid and peak demand reduction technologies and methods, including but not limited to those listed in subsection (d).

(d) PLAN.—Each load-serving entity shall prepare a peak demand reduction plan that demonstrates its ability to meet each applicable goal by any or a combination of the following options:

(1) Direct reduction in megawatts of peak demand through—

(A) energy efficiency measures (including efficient transmission wire technologies which significantly reduce line loss compared to traditional wire technology) with reliable and continued application during peak demand periods; or

(B) use of a Smart Grid.

(2) Demonstration that an amount of megawatts equal to a stated portion of the applicable goal is contractually committed to be available for peak reduction through one or more of the following:

(A) Megawatts enrolled in demand response programs.

(B) Megawatts subject to the ability of a load-serving entity to call on demand response programs, smart appliances, smart electricity or energy storage devices, distributed generation resources on the entity's customers' premises, or other measures directly capable of actively, controllably, reliably, and dynamically reducing peak demand (''dynamic peak management control'').

(C) Megawatts available from distributed dynamic electricity or energy storage under agreement with the owner of that storage.

(D) Megawatts committed from dispatchable distributed generation demonstrated to be reliable under peak period conditions and in compliance with air quality regulations.

(E) Megawatts available from smart appliances and equipment with Smart Grid capability available for direct control by the utility through agreement with the customer owning the appliances or equipment or with a third party pursuant to such agreements.

(F) Megawatts from a demonstrated and assured minimum of distributed solar electric generation capacity in instances where peak period and peak demand conditions are directly related to solar radiation and accompanying heat.

(3) If any of the methods listed in subparagraph (C), (D), or (E) of paragraph (2) are relied upon to meet its peak demand reduction goals, the load-serving entity must demonstrate this capability by operating a test during the applicable calendar year.

(4) Nothing in this section shall require the publication in peak demand reduction goals or in any peak demand reduction plan of any information that is confidential for competitive or other reasons or that identifies individual customers.

(e) EXISTING AUTHORITY AND REQUIREMENTS.—Nothing in this section diminishes or supersedes any authority of a State or political subdivision of a State to adopt or enforce any law or regulation respecting peak demand management, demand response, distributed energy storage, use of distributed generation, or the regulation of load-serving entities. The Commission, in consultation with States and Indian tribes having such peak management, demand response and distributed energy storage programs, shall to the maximum extent practicable, facilitate coordination between the Federal program and such State and tribal programs.

(f) RELIEF.—The Commission may, for good cause, grant relief to load-serving entities from the requirements of this section.

(g) OTHER LAWS.—Except as provided in subsections (e) and (f), no law or regulation shall relieve any person of any requirement otherwise applicable under this section.

(h) COMPLIANCE.—(1) The Commission shall within one year after the date of enactment of this Act establish a public website where the Commission will provide information and data demonstrating compliance by States, Indian tribes regional entities, and load-serving entities with this section, including the success of load-serving entities in meeting applicable peak demand reduction goals.

(2) The Commission shall, by April 1 of each year beginning in 2012, provide a report to Congress on compliance with this section and success in meeting applicable peak demand reduction goals and, as appropriate, shall make recommendations as to how to increase peak demand reduction efforts.

(3) The Commission shall note in each such report any State, political subdivision of a State, or load-serving entity that has failed to comply with this section, or is not a part of any region or group of load-serving entities serving a region that has complied with this section.

(4) The Commission shall have and exercise the authority to take reasonable steps to modify the process of establishing peak demand reduction goals and to accept adjustments to them as appropriate when sought by load-serving entities.

(i) ASSISTANCE AND FUNDING.—

(1) ASSISTANCE TO STATES AND TRIBES.—Any costs incurred by States for activities undertaken pursuant to this section shall be supported by the use of emission allowances allocated to the States' SEED Accounts or to the tribes pursuant to section 132 of this Act. To the extent that a State provides allowances to local governments within the State to implement this program, that shall be deemed a distribution of such allowances to units of local government pursuant to subsection (c)(1) of that section.

(2) FUNDING.—There are authorized to be appropriated such sums as may be necessary to the Commission, the Secretary, and the Administrator to carry out the provisions of this section.

SEC. 145. REAUTHORIZATION OF ENERGY EFFICIENCY PUBLIC INFORMATION PROGRAM TO INCLUDE SMART GRID INFORMATION.

(a) IN GENERAL.—Section 134 of the Energy Policy Act of 2005 (42 U.S.C. 15832) is amended as follows:

(1) By amending the section heading to read as follows: ''**ENERGY EFFICIENCY AND SMART GRID PUBLIC INFORMATION INITIATIVE**''.

(2) In paragraph (1) of subsection (a) by striking ''reduce energy consumption during the 4-year period beginning on the date of enactment of this Act'' and inserting ''increase energy efficiency and to adopt Smart Grid technology and practices''.

(3) In paragraph (2) of subsection (a) by striking ''benefits to consumers of reducing'' and inserting ''economic and environmental benefits to consumers and the United States of optimizing''.

(4) In subsection (a) by inserting at the beginning of paragraph (3) ''the effect of energy efficiency and Smart Grid capability in reducing energy and electricity prices throughout the economy, together with''.

(5) In subsection (a)(4) by redesignating subparagraph (D) as (E), by striking ''and'' at the end of subparagraph (C), and by inserting after subparagraph (C) the following:

''(D) purchasing and utilizing equipment that includes Smart Grid features and capability; and''.

(6) In subsection (c), by striking ''Not later than July 1, 2009,'' and inserting, ''For each year when appropriations pursuant to the authorization in this section exceed $10,000,000,''.

(7) In subsection (d) by striking ''2010'' and inserting ''2020''.

(8) In subsection (e) by striking ''2010'' and inserting ''2020''.

(b) TABLE OF CONTENTS.—The item relating to section 134 in the table of contents for the Energy Policy Act of 2005 (42 U.S.C. 15801 and following) is amended to read as follows:

''Sec. 134. Energy efficiency and Smart Grid public information initiative.''.

SEC. 146. INCLUSION OF SMART GRID FEATURES IN APPLIANCE REBATE PROGRAM.

(a) AMENDMENTS.—Section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821) is amended as follows:

(1) By amending the section heading to read as follows: ''**ENERGY EFFICIENT AND SMART APPLIANCE REBATE PROGRAM**.''.

(2) By redesignating paragraphs (4) and (5) of subsection (a) as paragraphs (5) and (6), respectively, and inserting after paragraph (3) the following:

''(4) SMART APPLIANCE.—The term 'smart appliance' means a product that the Administrator of the Environmental Protection Agency or the Secretary of Energy has determined qualifies for such a designation in the Energy Star program pursuant to section 142 of the American Clean Energy and Security Act of 2009, or that the Secretary or the Administrator has separately determined includes the relevant Smart Grid capabilities listed in section 1301 of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381).''.

(3) In subsection (b)(1) by inserting ''and smart'' after ''efficient'' and by inserting after ''products'' the first place it appears '', including products designated as being smart appliances''.

(4) In subsection (b)(3), by inserting ''the administration of'' after ''carry out''.

(5) In subsection (d), by inserting ''the administration of'' after ''carrying out'' and by inserting '', and up to 100 percent of the value of the rebates provided pursuant to this section'' before the period at the end.

(6) In subsection (e)(3), by inserting '', with separate consideration as applicable if the product is also a smart appliance,'' after ''Energy Star product'' the first place it appears and by inserting ''or smart appliance'' before the period at the end.

(7) In subsection (f), by striking ''$50,000,000'' through the period at the end and inserting ''$100,000,000 for each fiscal year from 2010 through 2015.''.

(b) TABLE OF CONTENTS.—The item relating to section 124 in the table of contents for the Energy Policy Act of 2005 (42 U.S.C. 15801 and following) is amended to read as follows:

''Sec. 124. Energy efficient and smart appliance rebate program.''.

Subtitle F—Transmission Planning

SEC. 151. TRANSMISSION PLANNING AND SITING.

(a) IN GENERAL.—Section 216 of the Federal Power Act (16 U.S.C. 824p) is amended as follows:

(1) In subsection (b), in paragraph (5), by striking ''; and'' and inserting a semicolon, in paragraph (6) by striking the period and inserting ''; and'' and by adding the following at the end thereof:

''(7) the facility is interstate in nature or is an intrastate segment integral to a proposed interstate facility;''.

(2) In subsection (k), by inserting at the end the following: ''Subsections (a), (b), (c), and (h) of this section shall not apply in the Western interconnection.''.

(3) In subsections (d) and (e), by striking ''subsection (b)'' in each place and inserting ''subsection (b) or section 216B'', and by striking ''permit'' and inserting ''permit or certificate'' in each place it appears.

(b) NEW SECTIONS.—The Federal Power Act (16 U.S.C. 824p) is amended by inserting the following new sections after section 216:

''SEC. 216A TRANSMISSION PLANNING.

''(a) FEDERAL POLICY FOR TRANSMISSION PLANNING.—

''(1) OBJECTIVES.—It is the policy of the United States that regional electric grid planning should facilitate the deployment of renewable and other zero-carbon and low-carbon energy sources for generating electricity to reduce greenhouse gas emissions while ensuring reliability, reducing congestion, ensuring cyber-security, minimizing environmental harm, and providing for cost-effective electricity services throughout the United States, in addition to serving the objectives stated in section 217(b)(4).

''(2) OPTIONS.—In addition to the policy under paragraph (1), it is the policy of the United States that regional electric grid planning to meet these objectives should result from an open, inclusive and transparent process, taking into account all significant demand-side and supply-side options, including energy efficiency, distributed generation, renewable energy and zero-carbon electricity generation technologies, smart-grid technologies and practices, demand response, electricity storage, voltage regulation technologies, high capacity conductors with at least 25 percent greater efficiency than traditional ACSR (aluminum stranded conductors steel reinforced) conductors, superconductor technologies, underground transmission technologies, and new conventional electric transmission capacity and corridors.

''(b) PLANNING.—

''(1) PLANNING PRINCIPLES.—Not later than 1 year after the date of enactment of this section, the Commission shall adopt, after notice and opportunity for comment, national electricity grid planning principles derived from the Federal policy established under subsection (a) to be applied in ongoing and future transmission planning that may implicate interstate transmission of electricity.

''(2) REGIONAL PLANNING ENTITIES.—Not later than 3 months after the date of adoption by the Commission of national electricity grid planning principles pursuant to paragraph (1), entities that conduct or may conduct transmission planning pursuant to State, tribal, or Federal law or regulation, including States, Indian tribes, entities designated by States and Indian tribes, Federal Power Marketing Administrations, transmission providers, operators and owners, regional organizations, and electric utilities, and that are willing to incorporate the national electricity grid planning principles adopted by the Commission in their electric grid planning, shall identify themselves and the regions for which they propose to develop plans to the Commission.

''(3) COORDINATION OF REGIONAL PLANNING ENTITIES.—The Commission shall encourage regional planning entities described under paragraph (2) to cooperate and coordinate across regions and to harmonize regional electric grid planning with planning in adjacent or overlapping jurisdictions to the maximum extent feasible. The Commission shall work with States, Indian tribes, Federal land management agencies, State energy, environment, natural resources, and land management agencies and commissions, Federal power marketing administrations, electric utilities, transmission providers, load-serving entities, transmission operators, regional transmission organizations, independent system operators, and other organizations to resolve any conflict or competition among proposed planning entities in order to build consensus and promote the Federal policy established under subsection (a). The Commission shall seek to ensure that planning that is consistent with the national electricity grid planning principles adopted pursuant to paragraph (1) is conducted in all regions of the United States and the territories, but in a manner that, to the extent feasible, avoids uncoordinated planning by more than one planning entity for the same area.

''(4) RELATION TO EXISTING PLANNING POLICY.—In implementing the Federal policy established under subsection (a), the Commission shall

''(A) incorporate and coordinate with any ongoing planning efforts undertaken pursuant to section 217 and Commission Order No. 890;

''(B) coordinate with the Secretary of Energy in providing to the regional planning entities an annual summary of national energy policy priorities and goals;

''(C) coordinate with corridor designation and planning functions carried out pursuant to section 216 by the Secretary of Energy, who shall provide financial support from available funds to support the purposes of this section; and

''(D) coordinate with the Secretaries of the Interior and Agriculture and Indian tribes in carrying out the Secretaries' or tribal governments' existing responsibilities for the planning or siting of transmission facilities on Federal or tribal lands, consistent with law, policy, and regulations relating to the management of federal public lands .

''(5) ASSISTANCE.—

''(A) IN GENERAL.—The Commission shall provide support to and may participate if invited to do so in the regional grid planning processes conducted by regional planning entities. The Secretary of Energy and the Commission may provide planning resources and assistance as required or as requested by regional planning entities, including system data, cost information, system analysis, technical expertise, modeling support, dispute resolution services, and other assistance to regional planning entities, as appropriate.

''(B) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

''(6) CONFLICT RESOLUTION.—In the event that regional grid plans conflict, the Commission shall assist the regional planning entities in resolving such conflicts in order to achieve the objectives of the Federal policy established under subsection (a).

''(7) SUBMISSION OF PLANS.—The Commission shall require regional planning entities to submit initial regional electric grid plans to the Commission not later than 18 months after the date the Commission promulgates national electricity grid planning principles pursuant to paragraph (1), with updates to such plans not less than every 3 years thereafter. The Commission shall review such plans for consistency with the national grid planning principles and may return a plan to one or more planning entities for further consideration, along with the Commission's own recommendations for resolution of any conflict or for improvement.

''(8) INTEGRATION OF PLANS.—Regional electric grid plans should, in general, be developed from sub-regional requirements and plans, including planning input reflecting individual utility service areas. Regional plans may then in turn be combined into larger regional plans, up to interconnection-wide and national plans, as appropriate and necessary as determined by the Commission. In no case shall a multi-regional plan impose inclusion of a facility on a region that has submitted a valid plan that, after efforts to resolve the conflict, does not include such facility. To the extent practicable, all plans submitted to the Commission shall be public documents and available on the Commission's Web site.

''(9) MULTI-REGIONAL MEETINGS.—As regional grid plans are submitted to the Commission, the Commission may convene multi-regional meetings to discuss regional

grid plan consistency and integration, including requirements for multi-regional projects, and to resolve any conflicts that emerge from such multi-regional projects. The Commission shall provide its recommendations for eliminating any inter-regional conflicts.

''(10) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this section and each 3 years thereafter, the Commission shall provide a report to Congress containing the results of the regional grid planning process, including summaries of the adopted regional plans and the extent to which the Federal policy objectives in subsection (a) have been successfully achieved. The Commission shall provide an electronic version of its report on its website with links to all regional and sub-regional plans taken into account. The Commission shall note and provide its recommended resolution for any conflicts not resolved during the planning process. The Commission shall make any recommendations to Congress on the appropriate Federal role or support required to address the needs of the electric grid, including recommendations for addressing any needs that are beyond the reach of existing State, tribal, and Federal authority.

''SEC. 216B. SITING AND CONSTRUCTION IN THE WESTERN INTERCONNECTION.

''(a) APPLICABILITY.—This section applies only to States located in the Western Interconnection and does not apply to States located in the Eastern Interconnection, to the States of Alaska or Hawaii, or to ERCOT.

''(b) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—The Commission may, after notice and opportunity for hearing, issue a certificate of public convenience and necessity for the construction or modification of a transmission facility if the Commission finds that—

''(1) the facility was identified and included in one or more relevant and final regional or interconnection-wide electric grid plans submitted to the Commission pursuant to subsection (b) of 216A;

''(2) any conflict among regional electric grid plans concerning the need for the facility was resolved;

''(3) such relevant regional electric grid plans are consistent with the national grid planning principles adopted by the Commission pursuant to subsection (b);

''(4) the facility was identified as needed in significant measure to meet demand for renewable energy in such plans;

''(5) the facility is a multistate facility;

''(6) the developer of such facility filed a complete application seeking approval for the siting of the facility with a state commission or other entity that has authority to approve the siting of the facility;

''(7) a State commission or other entity that has authority to approve the siting of the facility—

''(A) did not issue a decision on an application seeking approval for the siting of the facility within 1 year after the date the applicant submitted a completed application to the State;

''(B) denied a complete application seeking approval for the siting of the facility; or

''(C) authorized the siting of the facility subject to conditions that unreasonably interfere with the development of the facility; and

''(8) the siting of the facility can be accomplished in a manner consistent with the Federal policy established in subsection (a) of section 216A and the national grid planning principles adopted by the Commission pursuant to subsection (b) of section 216A.

''(c) STATE RECOMMENDATIONS ON RESOURCE PROTECTION.—In issuing a final certificate of public convenience and necessity pursuant to subsection (b), the Commission shall—

''(1) consider any siting constraints and mitigation measures based on habitat protection, health and safety considerations, environmental considerations, or cultural site protection identified by relevant State or local authorities; and

''(2) incorporate those identified siting constraints or mitigation measures, including recommendations related to project routing, as conditions in the final certificate of public convenience and necessity, or if the Commission determines that a recommended siting constraint or mitigation measure is infeasible, excessively costly, or inconsistent with the Federal policy established in subsection (a) of section 216A or the national grid planning principles adopted by the Commission pursuant to subsection (b) of section 216A—

''(A) consult with State regulatory agencies to seek to resolve the issue;

''(B) incorporate as conditions on the certificate such recommended siting constraints or mitigation measures as are determined to be appropriate by the Commission, based on consultation by the Commission with State regulatory agencies, the Federal policy established in subsection (a) of section 216A and the national grid planning principles adopted by the Commission pursuant to subsection (b)of section 216A, and the record before the Commission; and

''(C) if, after consultation, the Commission does not adopt in whole or in part a recommendation of an agency, publish a finding that the adoption of the recommendation is infeasible, not cost effective, or inconsistent with this section or other applicable provisions of law.

''(d) CERTIFICATE APPLICATIONS.—(1) An application for a preliminary or final certificate of public convenience and necessity under this subsection shall be made in writing to the Commission.

''(2) The Commission shall issue rules specifying—

''(A) the form of the application;

''(B) the information to be contained in the application; and

''(C) the manner of service of notice of the application on interested persons.

''(e) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION FACILITIES.—

''(1) In this subsection, the term 'Federal authorization' shall have the same meaning and include the same actions as in section 216(h).

''(2) The Federal Energy Regulatory Commission shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility, provided, however, that to the extent the facility is proposed to be sited on Federal lands, the Department of the Interior will assume such lead-agency duties as agreed between the Commission and the Department of Interior.

''(3) To the maximum extent practicable under applicable Federal law, the Commission, and to the extent agreed, the Secretary of Interior, shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

''(4)(A) As head of the lead agency, the Chairman of the Commission, in consultation with the Secretary of Interior and with those entities referred to in paragraph (3) that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.

''(B) The Chairman of the Commission, or the Secretary of Interior, as agreed under paragraph (2), shall ensure that, once an application has been submitted with such data as the lead agency considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—

''(i) within 1 year; or

''(ii) if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.

''(C) The Commission shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—

''(i) the likelihood of approval for a potential facility; and

''(ii) key issues of concern to the agencies and public.

''(5)(A) As lead agency head, the Chairman of the Commission, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.

''(B) The Chairman of the Commission and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.

''(C) The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.

''(6)(A) If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Commission pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

''(B) Based on the overall record and in consultation with the affected agency, the President may—

''(i) issue the necessary authorization with any appropriate conditions; or

''(ii) deny the application.

''(C) The President shall issue a decision not later than 90 days after the date of the filing of the appeal.

''(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—

''(i) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

''(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

''(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

''(7)(A) Not later than 18 months after August 8, 2005, the Commission or, as requested, the Secretary or Interior, shall issue any regulations necessary to implement this subsection.

''(B)(i) Not later than 1 year after August 8, 2005, the Commission, the Secretary of Interior, and the heads of all Federal agencies

with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.

''(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.

''(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.

''(8)(A) Each Federal land use authorization for an electricity transmission facility shall be issued—

''(i) for a duration, as determined by the Secretary of Interior, commensurate with the anticipated use of the facility; and

''(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

''(B) On the expiration of the authorization (including an authorization issued before August 8, 2005), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

''(9) In exercising the responsibilities under this section, the Commission shall consult regularly with—

''(A) electric reliability organizations (including related regional entities) approved by the Commission; and

''(B) Transmission Organizations approved by the Commission.''.

SEC. 152. NET METERING FOR FEDERAL AGENCIES.

(a) STANDARD.—Subsection (b) of section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is amended by adding the following new paragraph at the end thereof:

''(6) NET METERING FOR FEDERAL AGENCIES.—Each electric utility shall offer to arrange (either directly or through a third party) to make interconnection and net metering available to Federal Government agencies, offices, or facilities in accordance with the requirements of section 115(j). The standard under this paragraph shall apply only to electric utilities that sold over 4,000,000 megawatt hours of electricity in the preceding year to the ultimate consumers thereof. In the case of a standard under this paragraph, a period of 1 year after the date of the enactment of this section shall be substituted for the 2-year period referred to in other provisions of this section.''.

(b) SPECIAL RULES.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding the following new subsection at the end thereof:

''(j) NET METERING FOR FEDERAL AGENCIES.—(1) The standard under paragraph (6) of section 113(b) shall require that rates and charges and contract terms and conditions for the sale of electric energy to the Federal Government or agency shall be the same as the rates and charges and contract terms and conditions that would be applicable if the agency did not own or operate a qualified generation unit and use a net metering system.

''(2)(A) The standard under paragraph (6) of section 113(b) shall require that each electric utility shall arrange to provide to the Government office or agency that qualifies for net metering an electrical energy meter capable of net metering and measuring, to the maximum extent practicable, the flow of electricity to or from the customer, using a single meter and single register, the cost of which shall be recovered from the customer.

''(B) In a case in which it is not practicable to provide a meter under subparagraph (A), the utility (either directly or through a third party) shall, at the expense of the utility install 1 or more of those electric energy meters.

''(3)(A) The standard under paragraph (6) of section 113(b) shall require that each electric utility shall calculate the electric energy consumption for the Government office or agency using a net metering system that meets the requirements of this subsection and paragraph (6) of section 113(b) and shall measure the net electricity produced or consumed during the billing period using the metering installed in accordance with this paragraph.

''(B) If the electricity supplied by the retail electric supplier exceeds the electricity generated by the Government office or agency during the billing period, the Government office or agency shall be billed for the net electric energy supplied by the retail electric supplier in accordance with normal billing practices.

''(C) If electric energy generated by the Government office or agency exceeds the electric energy supplied by the retail electric supplier during the billing period, the Government office or agency shall be billed for the appropriate customer charges for that billing period and credited for the excess electric energy generated during the billing period, with the credit appearing as a kilowatt-hour credit on the bill for the following billing period.

''(D) Any kilowatt-hour credits provided to the Government office or agency as provided in this subsection shall be applied to the Government office or agency electric energy consumption on the following billing period bill (except for a billing period that ends in the next calendar year). At the beginning of each calendar year, any unused kilowatt-hour credits remaining from the preceding year will carry over to the new year.

''(4) The standard under paragraph (6) of section 113(b) shall require that each electric utility shall offer a meter and retail billing arrangement that has time-differentiated rates. The kilowatt-hour credit shall be based on the ratio representing the difference in retail rates for each time-of-use rate, or the credits shall be reflected on the bill of the Government office or agency as a monetary credit reflecting retail rates at the time of generation of the electric energy by the customer-generator.

''(5) The standard under paragraph (6) of section 113(b) shall require that the qualified generation unit, interconnection standards, and net metering system used by the Government office or agency shall meet all applicable safety and performance and reliability standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, and the American National Standards Institute.

''(6) The standard under paragraph (6) of section 113(b) shall require that electric utilities shall not make additional charges, including standby charges, for equipment or services for safety or performance that are in addition to those necessary to meet the other standards and requirements of this subsection and paragraph (6) of section 113(b).

''(7) For purposes of this subsection and paragraph (6) of section 113(b):

''(A) The term 'Government' means any office, facility, or agency of the Federal Government.

''(B) The term 'customer-generator' means the owner or operator of a electricity generation unit.

''(C) The term 'electric generation unit' means any renewable electric generation unit that is owned, operated, or sited on a Federal Government facility.

''(D) The term 'net metering' means the process of—

''(i) measuring the difference between the electricity supplied to a customer-generator and the electricity generated by the customer-generator that is delivered to a utility at the same point of interconnection during an applicable billing period; and

''(ii) providing an energy credit to the customer-generator in the form of a kilowatt-hour credit for each kilowatt-hour of electricity produced by the customer-generator from an electric generation unit.''.

(c) SAVINGS PROVISION.—If this section or a portion of this section is determined to be invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this Act.

SEC. 153. SUPPORT FOR QUALIFIED ADVANCED ELECTRIC TRANSMISSION MANUFACTURING PLANTS, QUALIFIED HIGH EFFICIENCY TRANSMISSION PROPERTY, AND QUALIFIED ADVANCED ELECTRIC TRANSMISSION PROPERTY.

(a) LOAN GUARANTEES PRIOR TO SEPTEMBER 30, 2011.—Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16515(a)), as added by section 406 of the American Recovery and Reinvestment Act of 2009 (Public Law 109-58; 119 Stat. 594) is amended by adding the following new paragraph at the end thereof:

''(5) The development, construction, acquisition, retrofitting, or engineering integration of a qualified advanced electric transmission manufacturing plant or the construction of a qualified high efficiency transmission property or a qualified advanced electric transmission property (whether by construction of new facilities or the modification of existing facilities). For purposes of this paragraph:

''(A) The term 'qualified advanced electric transmission property' means any high voltage electric transmission cable, related substation, converter station, or other integrated facility that—

''(i) utilizes advanced ultra low resistance superconductive material or other advanced technology that has been determined by the Secretary of Energy as—

''(I) reasonably likely to become commercially viable within 10 years after the date of enactment of this paragraph;

''(II) capable of reliably transmitting at least 5 gigawatts of high-voltage electric energy for distances greater than 300 miles with energy losses not exceeding 3 percent of the total power transported; and

''(III) not creating an electromagnetic field;

''(ii) has been determined by an appropriate energy regulatory body, upon application, to be in the public interest and thereby eligible for inclusion in regulated rates; and

''(iii) can be located safely and economically in a permanent underground right of way not to exceed 25 feet in width.

The term 'qualified advanced electric transmission property' shall not include any property placed in service after December 31, 2016.

''(B)(i) The term 'qualified high efficiency transmission property' means any high voltage overhead electric transmission line, related substation, or other integrated facility that—

''(I) utilizes advanced conductor core technology that—

''(aa) has been determined by the Secretary of Energy as reasonably likely to become commercially viable within 10 years after the date of enactment of this paragraph;

''(bb) is suitable for use on transmission lines up to 765kV; and

''(cc) exhibits power losses at least 30 percent lower than that of transmission lines using conventional 'ACSR' conductors;

''(II) has been determined by an appropriate energy regulatory body, upon application, to be in the public interest and thereby eligible for inclusion in regulated rates; and

''(III) can be located safely and economically in a right of way not to exceed that used by conventional 'ACSR' conductors; and

''(ii) The term 'qualified high efficiency transmission property' shall not include any property placed in service after December 31, 2016.

''(C) The term 'qualified advanced electric transmission manufacturing plant' means any industrial facility located in the United States which can be equipped, re-equipped, expanded, or established to produce in whole or in part qualified advanced electric transmission property.''.

(b) ADDITIONAL LOAN GUARANTEE AUTHORITY.—Section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513) is amended by adding the following new paragraph at the end of subsection (b):

''(12) The development, construction, acquisition, retrofitting, or engineering integration of a qualified advanced electric transmission manufacturing plant or the construction of a qualified advanced electric transmission property (whether by construction of new facilities or the modification of existing facilities). For purposes of this paragraph, the terms 'qualified advanced electric transmission property' and 'qualified advanced electric transmission manufacturing plant' have the meanings provided by section 1705(a)(5).''.

(c) GRANTS.—The Secretary of Energy is authorized to provide grants for up to 50 percent of costs incurred in connection with the development, construction, acquisition of components for, or engineering of a qualified advanced electric transmission property defined in paragraph (5) of section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16515(a)). Such grants may only be made to the first project which qualifies under that paragraph. There are authorized to be appropriated for purposes of this subsection not more than $100,000,000 for fiscal year 2010. The United States shall take no equity or other ownership interest in the qualified advanced electric transmission manufacturing plant or qualified advanced electric transmission property for which funding is provided under this subsection.

Subtitle G—Technical Corrections to Energy Laws

SEC. 161. TECHNICAL CORRECTIONS TO ENERGY INDEPENDENCE AND SECURITY ACT OF 2007.

(a) TITLE III—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLIANCE AND LIGHTING.—(1) Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) (as amended by section 301(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1550)) is amended—

(A) by redesignating paragraph (7) as paragraph (4); and

(B) in paragraph (4) (as so redesignated), by striking ''supplies is'' and inserting ''supply is''.

(2) Section 302 of the Energy Independence and Security Act of 2007 (121 Stat. 1551)) is amended—

(A) in subsection (a), by striking ''end of the paragraph'' and inserting ''end of subparagraph (A)''; and

(B) in subsection (b), by striking ''6313(a)'' and inserting ''6314(a)''.

(3) Section 343(a)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(1)) (as amended by section 302(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1551)) is amended—

(A) by striking ''TEST PROCEDURES'' and all that follows through ''At least once'' and inserting ''TEST PROCEDURES.—At least once''; and

(B) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively (and by moving the margins of such subparagraphs 2 ems to the left).

(4) Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)) is amended—

(A) in subparagraph (B)—

(i) by striking ''If the Secretary'' and inserting the following:

''(i) IN GENERAL.—If the Secretary'';

(ii) by striking ''clause (ii)(II)'' and inserting ''subparagraph (A)(ii)(II)'';

(iii) by striking ''clause (i)'' and inserting ''subparagraph (A)(i)''; and

(iv) by adding at the end the following:

''(ii) FACTORS.—In determining whether a standard is economically justified for the purposes of subparagraph (A)(ii)(II), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed the burden of the proposed standard by, to the maximum extent practicable, considering—

''(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to the standard;

''(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products that are likely to result from the imposition of the standard;

''(III) the total projected quantity of energy savings likely to result directly from the imposition of the standard;

''(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

''(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

''(VI) the need for national energy conservation; and

''(VII) other factors the Secretary considers relevant.

''(iii) ADMINISTRATION.—

''(I) ENERGY USE AND EFFICIENCY.—The Secretary may not prescribe any amended standard under this paragraph that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

''(II) UNAVAILABILITY.—

''(aa) IN GENERAL.—The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes the finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States at the time of the finding of the Secretary.

''(bb) OTHER TYPES OR CLASSES.—The failure of some types (or classes) to meet the criterion established under this subclause shall not affect the determination of the Secretary on whether to prescribe a standard for the other types or classes.''; and

(B) in subparagraph (C)(iv), by striking ''An amendment prescribed under this subsection'' and inserting ''Notwithstanding subparagraph (D), an amendment prescribed under this subparagraph''.

(5) Section 342(a)(6)(B)(iii) of the Energy Policy and Conservation Act (as added by section 306(c) of the Energy Independence and Security Act of 2007) is transferred and redesignated as clause (vi) of section 342(a)(6)(C) of the Energy Policy and Conservation Act (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007).

(6) Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) (as amended by sections 312(a)(2) and 314(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1564, 1569)) is amended by redesignating paragraphs (22) and (23) (as added by section 314(a) of that Act) as paragraphs (23) and (24), respectively.

(7) Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) (as amended by section 312(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1567)) is amended—

(A) by striking ''subparagraphs (B) through (G)'' each place it appears and inserting ''subparagraphs (B), (C), (D), (I), (J), and (K)'';

(B) by striking ''part A'' each place it appears and inserting ''part B''; and

(C) in subsection (h)(3), by striking ''section 342(f)(3)'' and inserting ''section 342(f)(4)''.

(8) Section 340(13) of the Energy Policy and Conservation Act (42 U.S.C. 6311(13)) (as amended by section 313(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1568)) is amended—

(A) by striking subparagraphs (A) and (B) and inserting the following:

''(A) IN GENERAL.—The term 'electric motor' means any motor that is—

''(i) a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987; or

''(ii) a motor incorporating the design elements described in clause (i), but is configured to incorporate one or more of the following variations—

''(I) U-frame motor;

''(II) NEMA Design C motor;

''(III) close-coupled pump motor;

''(IV) footless motor;

''(V) vertical solid shaft normal thrust motor (as tested in a horizontal configuration);

''(VI) 8-pole motor; or

''(VII) poly-phase motor with a voltage rating of not more than 600 volts (other than 230 volts or 460 volts, or both, or can be operated on 230 volts or 460 volts, or both).''; and

(B) by redesignating subparagraphs (C) through (I) as subparagraphs (B) through (H), respectively.

(9)(A) Section 342(b) of the Energy Policy and Conservation Act (42 U.S.C. 6313(b)) is amended—

(i) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraph (3)'';

(ii) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4);

(iii) by inserting after paragraph (1) the following:

''(2) STANDARDS EFFECTIVE BEGINNING DECEMBER 19, 2010.—

''(A) IN GENERAL.—Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (3) and except as provided for in subparagraphs (B), (C), and (D), each electric motor manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on

or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG-1 (2006) Table 12-12.

''(B) FIRE PUMP ELECTRIC MOTORS.—Except for those motors exempted by the Secretary under paragraph (3), each fire pump electric motor manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency that is not less than the nominal full load efficiency described in NEMA MG-1 (2006) Table 12-11.

''(C) NEMA DESIGN B ELECTRIC MOTORS.—Except for those motors exempted by the Secretary under paragraph (3), each NEMA Design B electric motor with power ratings of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG-1 (2006) Table 12-11.

''(D) MOTORS INCORPORATING CERTAIN DESIGN ELEMENTS.—Except for those motors exempted by the Secretary under paragraph (3), each electric motor described in section 340(13)(A)(ii) manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG-1 (2006) Table 12-11.''; and

(iv) in paragraph (3) (as redesignated by clause (ii)), by striking ''paragraph (1)'' each place it appears in subparagraphs (A) and (D) and inserting ''paragraphs (1) and (2)''.

(B) Section 313 of the Energy Independence and Security Act of 2007 (121 Stat. 1568) is repealed.

(C) The amendments made by—

(i) subparagraph (A) shall take effect on December 19, 2010; and

(ii) subparagraph (B) shall take effect on December 19, 2007.

(10) Section 321(30)(D)(i)(III) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(D)(i)(III)) (as amended by section 321(a)(1)(A) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended by inserting before the semicolon the following: ''or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens''.

(11) Section 321(30)(T) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(T) (as amended by section 321(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended—

(A) in clause (i)—

(i) by striking the comma after ''household appliance'' and inserting ''and''; and

(ii) by striking ''and is sold at retail,''; and

(B) in clause (ii), by inserting ''when sold at retail,'' before ''is designated''.

(12) Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by sections 321(a)(3)(A) and 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1577, 1588)) is amended by striking subsection (i) and inserting the following:

''(i) GENERAL SERVICE FLUORESCENT LAMPS, GENERAL SERVICE INCANDESCENT LAMPS, INTERMEDIATE BASE INCANDESCENT LAMPS, CANDELABRA BASE INCANDESCENT LAMPS, AND INCANDESCENT REFLECTOR LAMPS.—

''(1) ENERGY EFFICIENCY STANDARDS.—

''(A) IN GENERAL.—Each of the following general service fluorescent lamps, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps, and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this subparagraph shall meet or exceed the following lamp efficacy, new maximum wattage, and CRI standards:

''FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	≤35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	≤100 W	45	80.0	18

''INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
40–50	10.5	36
51–66	11.0	36

''INCANDESCENT REFLECTOR LAMPS—Continued

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
67–85	12.5	36
86–115	14.0	36

''INCANDESCENT REFLECTOR LAMPS—Continued

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
116–155	14.5	36
156–205	15.0	36

''GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rated Wattage	Minimum Rated Lifetime	Effective Date
1490–2600	72	1,000 hrs	1/1/2012
1050–1489	53	1,000 hrs	1/1/2013
750–1049	43	1,000 hrs	1/1/2014
310–749	29	1,000 hrs	1/1/2014

''MODIFIED SPECTRUM GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rated Wattage	Minimum Rated Lifetime	Effective Date
1118–1950	72	1,000 hrs	1/1/2012
788–1117	53	1,000 hrs	1/1/2013
563–787	43	1,000 hrs	1/1/2014
232–562	29	1,000 hrs	1/1/2014

''(B) APPLICATION.—

''(i) APPLICATION CRITERIA.—This subparagraph applies to each lamp that—

''(I) is intended for a general service or general illumination application (whether incandescent or not);

''(II) has a medium screw base or any other screw base not defined in ANSI C81.61–2006;

''(III) is capable of being operated at a voltage at least partially within the range of 110 to 130 volts; and

''(IV) is manufactured or imported after December 31, 2011.

''(ii) REQUIREMENT.—For purposes of this paragraph, each lamp described in clause (i) shall have a color rendering index that is greater than or equal to—

''(I) 80 for nonmodified spectrum lamps; or

''(II) 75 for modified spectrum lamps.

''(C) CANDELABRA INCANDESCENT LAMPS AND INTERMEDIATE BASE INCANDESCENT LAMPS.—

''(i) CANDELABRA BASE INCANDESCENT LAMPS.—Effective beginning January 1, 2012, a candelabra base incandescent lamp shall not exceed 60 rated watts.

''(ii) INTERMEDIATE BASE INCANDESCENT LAMPS.—Effective beginning January 1, 2012, an intermediate base incandescent lamp shall not exceed 40 rated watts.

''(D) EXEMPTIONS.—

''(i) STATUTORY EXEMPTIONS.—The standards specified in subparagraph (A) shall not apply to the following types of incandescent reflector lamps:

''(I) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps.

''(II) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps.

''(III) R20 incandescent reflector lamps rated 45 watts or less.

''(ii) ADMINISTRATIVE EXEMPTIONS.—

''(I) PETITION.—Any person may petition the Secretary for an exemption for a type of general service lamp from the requirements of this subsection.

''(II) CRITERIA.—The Secretary may grant an exemption under subclause (I) only to the extent that the Secretary finds, after a hearing and opportunity for public comment, that it is not technically feasible to serve a specialized lighting application (such as a military, medical, public safety, or certified historic lighting application) using a lamp that meets the requirements of this subsection.

''(III) ADDITIONAL CRITERION.—To grant an exemption for a product under this clause, the Secretary shall include, as an additional criterion, that the exempted product is unlikely to be used in a general service lighting application.

''(E) EXTENSION OF COVERAGE.—

''(i) PETITION.—Any person may petition the Secretary to establish standards for lamp shapes or bases that are excluded from the definition of general service lamps.

''(ii) INCREASED SALES OF EXEMPTED LAMPS.—The petition shall include evidence that the availability or sales of exempted incandescent lamps have increased significantly since the date on which the standards on general service incandescent lamps were established.

''(iii) CRITERIA.—The Secretary shall grant a petition under clause (i) if the Secretary finds that—

''(I) the petition presents evidence that demonstrates that commercial availability or sales of exempted incandescent lamp types have increased significantly since the standards on general service lamps were established and likely are being widely used in general lighting applications; and

''(II) significant energy savings could be achieved by covering exempted products, as determined by the Secretary based in part on sales data provided to the Secretary from manufacturers and importers.

''(iv) NO PRESUMPTION.—The grant of a petition under this subparagraph shall create no presumption with respect to the determination of the Secretary with respect to any criteria under a rulemaking conducted under this section.

''(v) EXPEDITED PROCEEDING.—If the Secretary grants a petition for a lamp shape or base under this subparagraph, the Secretary shall—

''(I) conduct a rulemaking to determine standards for the exempted lamp shape or base; and

''(II) complete the rulemaking not later than 18 months after the date on which notice is provided granting the petition.

''(F) EFFECTIVE DATES.—

''(i) IN GENERAL.—In this paragraph, except as otherwise provided in a table contained in subparagraph (A) or in clause (ii), the term 'effective date' means the last day of the month specified in the table that follows October 24, 1992.

''(ii) SPECIAL EFFECTIVE DATES.—

''(I) ER, BR, AND BPAR LAMPS.—The standards specified in subparagraph (A) shall apply with respect to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.

''(II) LAMPS BETWEEN 2.25–2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (A) shall apply with respect to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after the later of January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.

''(2) COMPLIANCE WITH EXISTING LAW.—Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp that is in compliance with the law at the time the lamp was manufactured.

''(3) RULEMAKING BEFORE OCTOBER 24, 1995.—

''(A) IN GENERAL.—Not later than 36 months after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on October 24, 1992, to determine whether the standards established under paragraph (1) should be amended.

''(B) ADMINISTRATION.—The rule shall contain the amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date on which the final rule is published.

''(4) RULEMAKING BEFORE OCTOBER 24, 2000.—

''(A) IN GENERAL.—Not later than 8 years after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than 9 years and 6 months after October 24, 1992, to determine whether the standards in effect for fluorescent lamps and incandescent lamps should be amended.

''(B) ADMINISTRATION.—The rule shall contain the amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date on which the final rule is published.

''(5) RULEMAKING FOR ADDITIONAL GENERAL SERVICE FLUORESCENT LAMPS.—

''(A) IN GENERAL.—Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall—

''(i) initiate a rulemaking procedure to determine whether the standards in effect for fluorescent lamps and incandescent lamps should be amended so that the standards would be applicable to additional general service fluorescent lamps; and

''(ii) publish, not later than 18 months after initiating the rulemaking, a final rule including the amended standards, if any.

''(B) ADMINISTRATION.—The rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date on which the rule is published.

''(6) STANDARDS FOR GENERAL SERVICE LAMPS.—

''(A) RULEMAKING BEFORE JANUARY 1, 2014.—

''(i) IN GENERAL.—Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—

''(I) standards in effect for general service lamps should be amended; and

''(II) the exclusions for certain incandescent lamps should be maintained or discontinued based, in part, on excluded lamp sales collected by the Secretary from manufacturers.

''(ii) SCOPE.—The rulemaking—

''(I) shall not be limited to incandescent lamp technologies; and

''(II) shall include consideration of a minimum standard of 45 lumens per watt for general service lamps.

''(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

''(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

''(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

''(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

''(v) BACKSTOP REQUIREMENT.—If the Secretary fails to complete a rulemaking in accordance with clauses (i) through (iv) or if the final rule does not produce savings that are greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt, effective beginning January 1, 2020, the Secretary shall prohibit the manufacture of any general service lamp that does not meet a minimum efficacy standard of 45 lumens per watt.

''(vi) STATE PREEMPTION.—Neither section 327(c) nor any other provision of law shall preclude California or Nevada from adopting, effective beginning on or after January 1, 2018—

''(I) a final rule adopted by the Secretary in accordance with clauses (i) through (iv);

''(II) if a final rule described in subclause (I) has not been adopted, the backstop requirement under clause (v); or

''(III) in the case of California, if a final rule described in subclause (I) has not been adopted, any California regulations relating to these covered products adopted pursuant to State statute in effect as of the date of enactment of the Energy Independence and Security Act of 2007.

''(B) RULEMAKING BEFORE JANUARY 1, 2020.—

''(i) IN GENERAL.—Not later than January 1, 2020, the Secretary shall initiate a rulemaking procedure to determine whether—

''(I) standards in effect for general service lamps should be amended; and

''(II) the exclusions for certain incandescent lamps should be maintained or discontinued based, in part, on excluded lamp sales data collected by the Secretary from manufacturers.

''(ii) SCOPE.—The rulemaking shall not be limited to incandescent lamp technologies.

''(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2022, with an effective date that is not earlier than 3 years

after the date on which the final rule is published.

''(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

''(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

''(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

''(7) FEDERAL ACTIONS.—

''(A) COMMENTS OF SECRETARY.—

''(i) IN GENERAL.—With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions that would adversely impact the energy consumption or energy efficiency of the lamp of the energy conservation consequences of the action.

''(ii) CONSIDERATION.—The Federal entity shall carefully consider the comments of the Secretary.

''(B) AMENDMENT OF STANDARDS.—Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if the action is warranted as a result of other Federal action (including restrictions on materials or processes) that would have the effect of either increasing the energy use or decreasing the energy efficiency of the product.

''(8) COMPLIANCE.—

''(A) IN GENERAL.—Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to that section, each manufacturer of a product to which the standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type.

''(B) CONTENTS.—The report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period.

''(C) OTHER LAMP TYPES.—With respect to lamp types that are not manufactured during the 12-month period preceding the date on which the standards become effective, the report shall—

''(i) be filed with the Secretary not later than the date that is 12 months after the date on which manufacturing is commenced; and

''(ii) include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during the 12-month period.''.

(13) Section 325(l)(4)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)(4)(A)) (as amended by section 321(a)(3)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1581)) is amended by striking ''only''.

(14) Section 327(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)(B)) (as amended by section 321(d)(3) of the Energy Independence and Security Act of 2007 (121 Stat. 1585)) is amended—

(A) in clause (i), by inserting ''and'' after the semicolon at the end;

(B) in clause (ii), by striking ''; and'' and inserting a period; and

(C) by striking clause (iii).

(15) Section 321(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1586) is amended—

(A) in the matter preceding paragraph (1), by striking ''is amended'' and inserting ''(as amended by section 306(b)) is amended''; and

(B) by striking paragraphs (1) and (2) and inserting the following:

''(1) in paragraph (5), by striking 'or' after the semicolon at the end;

''(2) in paragraph (6), by striking the period at the end and inserting '; or'; and''.

(16) Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) (as amended by section 321(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1586)) is amended by redesignating the second paragraph (6) as paragraph (7).

(17) Section 321(30)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(C)(ii)) (as amended by section 322(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1587)) is amended by inserting a period after ''40 watts or higher''.

(18) Section 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1588)) is amended by striking ''6995(i)'' and inserting ''6295(i)''.

(19) Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) (as amended by sections 324(f) of the Energy Independence and Security Act of 2007 (121 Stat. 1594)) is amended—

(A) in paragraph (6), by striking ''or'' after the semicolon at the end;

(B) in paragraph (8)(B), by striking ''and'' after the semicolon at the end;

(C) in paragraph (9)—

(i) by striking ''except that—'' and all that follows through ''if the Secretary fails to issue'' and inserting ''except that if the Secretary fails to issue'';

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively (and by moving the margins of such subparagraphs 2 ems to the left); and

(iii) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(10) is a regulation for general service lamps that conforms with Federal standards and effective dates;

''(11) is an energy efficiency standard for general service lamps enacted into law by the State of Nevada prior to December 19, 2007, if the State has not adopted the Federal standards and effective dates pursuant to subsection (b)(1)(B)(ii); or''.

(20) Section 325(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1596)) is amended by striking ''6924(c)'' and inserting ''6294(c)''.

(b) TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY.—(1) Section 401 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061) is amended—

(A) in paragraph (2), by striking ''484'' and inserting ''494''; and

(B) in paragraph (13), by striking ''Agency'' and inserting ''Administration''.

(2) Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) (as amended by section 411(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1600)) is amended by striking 1 of the 2 periods at the end of paragraph (5).

(3) Section 305(a)(3)(D)(i) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)(i)) (as amended by section 433(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1612)) is amended—

(A) in subclause (I)—

(i) by striking ''in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency'' and inserting ''as measured by the calendar year 2003 Commercial Buildings Energy Consumption Survey or the calendar year 2005 Residential Energy Consumption Survey data from the Energy Information Administration''; and

(ii) in the table at the end, by striking **''Fiscal Year''** and inserting **''Calendar Year''**; and

(B) in subclause (II)—

(i) by striking ''(II) Upon petition'' and inserting the following:

''(II) DOWNWARD ADJUSTMENT OF NUMERIC REQUIREMENT.—

''(aa) IN GENERAL.—On petition''; and

(ii) by striking the last sentence and inserting the following:

''(bb) EXCEPTIONS TO REQUIREMENT FOR CONCURRENCE OF SECRETARY.—

''(AA) IN GENERAL.—The requirement to petition and obtain the concurrence of the Secretary under this subclause shall not apply to any Federal building with respect to which the Administrator of General Services is required to transmit a prospectus to Congress under section 3307 of title 40, United States Code, or to any other Federal building designed, constructed, or renovated by the Administrator if the Administrator certifies, in writing, that meeting the applicable numeric requirement under subclause (I) with respect to the Federal building would be technically impracticable in light of the specific functional needs for the building.

''(BB) ADJUSTMENT.—In the case of a building described in subitem (AA), the Administrator may adjust the applicable numeric requirement of subclause (I) downward with respect to the building.''.

(4) Section 436(c)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17092(c)(3)) is amended by striking ''474'' and inserting ''494''.

(5) Section 440 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17096) is amended by striking ''and 482''.

(6) Section 373(c) of the Energy Policy and Conservation Act (42 U.S.C. 6343(c)) (as amended by section 451(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1628)) is amended by striking ''Administrator'' and inserting ''Secretary''.

(c) DATE OF ENACTMENT.—Section 1302 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17382) is amended in the first sentence by striking ''enactment'' and inserting ''the date of enactment of this Act''.

(d) REFERENCE.—Section 1306(c)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17386(c)(3)) is amended by striking ''section 1307 (paragraph (17) of section 111(d) of the Public Utility Regulatory Policies Act of 1978)'' and inserting ''paragraph (19) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))''.

(e) EFFECTIVE DATE.—This section and the amendments made by this section take effect as if included in the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1492).

SEC. 162. TECHNICAL CORRECTIONS TO ENERGY POLICY ACT OF 2005.

(a) TITLE I—ENERGY EFFICIENCY.—Section 325(g)(8)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(8)(C)(ii)) (as added by section 135(c)(2)(B) of the Energy Policy Act of 2005) is amended by striking ''20°F'' and inserting ''−20°F''.

(b) EFFECTIVE DATE.—This section and the amendments made by this section take effect as if included in the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594).

Subtitle H—Energy and Efficiency Centers and Research

SEC. 171. ENERGY INNOVATION HUBS.

(a) PURPOSE.—The Secretary shall carry out a program to establish Energy Innovation Hubs to enhance the Nation's economic, environmental, and energy security by promoting commercial application of clean, indigenous energy alternatives to oil and other

fossil fuels, reducing greenhouse gas emissions, and ensuring that the United States maintains a technological lead in the development and commercial application of state-of-the-art energy technologies. To achieve these purposes the program shall—

(1) leverage the expertise and resources of the university and private research communities, industry, venture capital, national laboratories, and other participants in energy innovation to support cross-disciplinary research and development in areas not being served by the private sector in order to develop and transfer innovative clean energy technologies into the marketplace;

(2) expand the knowledge base and human capital necessary to transition to a low-carbon economy; and

(3) promote regional economic development by cultivating clusters of clean energy technology firms, private research organizations, suppliers, and other complementary groups and businesses.

(b) DEFINITIONS.—For purposes of this section:

(1) ALLOWANCE.—The term ''allowance'' means an emission allowance established under section 721 of the Clean Air Act (as added by section 311 of this Act).

(2) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means a technology that—

(A) produces energy from solar, wind, geothermal, biomass, tidal, wave, ocean, and other renewable energy resources (as such term is defined in section 610 of the Public Utility Regulatory Policies Act of 1978);

(B) more efficiently transmits, distributes, or stores energy;

(C) enhances energy efficiency for buildings and industry, including combined heat and power;

(D) enables the development of a Smart Grid (as described in section 1301 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381)), including integration of renewable energy resources and distributed generation, demand response, demand side management, and systems analysis;

(E) produces an advanced or sustainable material with energy or energy efficiency applications;

(F) enhances water security through improved water management, conservation, distribution, and end use applications; or

(G) improves energy efficiency for transportation, including electric vehicles.

(3) CLUSTER.—The term ''cluster'' means a network of entities directly involved in the research, development, finance, and commercialization of clean energy technologies whose geographic proximity facilitates utilization and sharing of skilled human resources, infrastructure, research facilities, educational and training institutions, venture capital, and input suppliers.

(4) HUB.—The term ''Hub'' means an Energy Innovation Hub established in accordance with this section.

(5) PROJECT.—The term ''project'' means an activity with respect to which a Hub provides support under subsection (e).

(6) QUALIFYING ENTITY.—The term ''qualifying entity'' means each of the following:

(A) A research university.

(B) A State or Federal institution with a focus on the advancement of clean energy technologies.

(C) A nongovernmental organization with research or commercialization expertise in clean energy technology development.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(8) TECHNOLOGY DEVELOPMENT FOCUS.—The term ''technology development focus'' means the unique technology development areas in which a Hub will specialize, and may include solar electricity, fuels from solar energy, batteries and energy storage, electricity grid systems and devices, energy efficient building systems and design, advanced materials, modeling and simulation, and other clean energy technology development areas designated by the Secretary.

(9) TRANSLATIONAL RESEARCH.—The term ''translational research'' means coordination of basic or applied research with technical and commercial applications to enable promising discoveries or inventions to attract investment sufficient for market penetration and diffusion.

(10) VINTAGE YEAR.—The term ''vintage year'' has the meaning given that term in section 700 of the Clean Air Act (as added by section 312 of this Act).

(c) ROLE OF THE SECRETARY.—The Secretary shall—

(1) have ultimate responsibility for, and oversight of, all aspects of the program under this section;

(2) provide for the distribution of allowances allocated under section 782(h)(1) of the Clean Air Act (as added by section 321 of this Act) to support the establishment of 8 Hubs, each with a unique designated technology development focus, pursuant to this section;

(3) coordinate the innovation activities of Hubs with those occurring through other Department of Energy entities, including the National Laboratories, the Advanced Research Projects Agency—Energy, and Energy Frontier Research Collaborations, and within industry, including by annually—

(A) issuing guidance regarding national energy research and development priorities and strategic objectives; and

(B) convening a conference of staff of the Department of Energy and representatives from such other entities to share research results, program plans, and opportunities for collaboration.

(d) ENTITIES ELIGIBLE FOR SUPPORT.—A consortium shall be eligible to receive allowances to support the establishment of a Hub under this section if—

(1) it is composed of—

(A) 2 research universities with a combined annual research budget of $500,000,000; and

(B) 1 or more additional qualifying entities;

(2) its members have established a binding agreement that documents—

(A) the structure of the partnership agreement;

(B) a governance and management structure to enable cost-effective implementation of the program;

(C) an intellectual property management policy;

(D) a conflicts of interest policy consistent with subsection (e)(4);

(E) an accounting structure that meets the requirements of the Department of Energy and can be audited under subsection (f)(5); and

(F) that it has an Advisory Board consistent with subsection (e)(3);

(3) it receives financial contributions from States, consortium participants, or other non-Federal sources, to be used to support project awards pursuant to subsection (e);

(4) it is part of an existing cluster or demonstrates high potential to develop a new cluster; and

(5) it operates as a nonprofit organization.

(e) ENERGY INNOVATION HUBS.—

(1) ROLE.—Hubs receiving allowances under this section shall support translational research activities leading to commercial application of clean energy technologies, in accordance with the purposes of this section, through issuance of awards to projects managed by qualifying entities and other entities meeting the Hub's project criteria, including national laboratories. Each such Hub shall—

(A) develop and publish for public review and comment proposed plans, programs, project selection criteria, and terms for individual project awards under this subsection;

(B) submit an annual report to the Secretary summarizing the Hub's activities, organizational expenditures, and Board members, which shall include a certification of compliance with conflict of interest policies and a description of each project in the research portfolio;

(C) establish policies—

(i) regarding intellectual property developed as a result of Hub awards and other forms of technology support that encourage individual ingenuity and invention while speeding technology transfer and facilitating the establishment of rapid commercialization pathways;

(ii) to prevent resources provided to the Hub from being used to displace private sector investment otherwise likely to occur, including investment from private sector entities that are members of the consortium;

(iii) to facilitate the participation of private investment firms or other private entities that invest in clean energy technologies to perform due diligence on award proposals, to participate in the award review process, and to provide guidance to projects supported by the Hub; and

(iv) to facilitate the participation of entrepreneurs with a demonstrated history of developing and commercializing clean energy technologies;

(D) oversee project solicitations, review proposed projects, and select projects for awards; and

(E) monitor project implementation.

(2) DISTRIBUTION OF AWARDS BY HUBS.—A Hub shall distribute awards under this subsection to support clean energy technology projects conducting translational research and related activities, provided that at least 50 percent of such support shall be provided to projects related to the Hub's technology development focus.

(3) ADVISORY BOARDS.—

(A) IN GENERAL.—Each Hub shall establish an Advisory Board, the members of which shall have extensive and relevant scientific, technical, industry, financial, or research management expertise. The Advisory Board shall review the Hub's proposed plans, programs, project selection criteria, and projects and shall ensure that projects selected for awards meet the conflict of interest policies of the Hub. Advisory Board members other than those representing consortium members shall serve for no more than 3 years. All Advisory Board members shall comply with the Hub's conflict of interest policies and procedures.

(B) MEMBERS.—Each Advisory Board shall consist of—

(i) 5 members selected by the consortium's research universities;

(ii) 2 members selected by the consortium's other qualifying entities;

(iii) 2 members selected at large by other Advisory Board members to represent the entrepreneur and venture capital communities; and

(iv) 1 member appointed by the Secretary.

(D) COMPENSATION.—Members of an Advisory Board may receive reimbursement for travel expenses and a reasonable stipend.

(4) CONFLICT OF INTEREST.—

(A) PROCEDURES.—Hubs shall establish procedures to ensure that any employee or consortia designee for Hub activities who serves in a decisionmaking capacity shall—

(i) disclose any financial interests in, or financial relationships with, applicants for or recipients of awards under this subsection, including those of his or her spouse or minor child, unless such relationships or interests

would be considered to be remote or inconsequential; and

(ii) recuse himself or herself from any funding decision for projects in which he or she has a personal financial interest.

(B) DISQUALIFICATION AND REVOCATION.—The Secretary may disqualify an application or revoke allowances distributed to the Hub or awards provided under this subsection, if cognizant officials of the Hub fail to comply with procedures required under subparagraph (A).

(f) DISTRIBUTION OF ALLOWANCES TO ENERGY INNOVATION HUBS.—

(1) DISTRIBUTION OF ALLOWANCES.—Not later than September 30 of 2011 and each calendar year thereafter through 2049, the Secretary shall, in accordance with the requirements of this section, distribute to eligible consortia allowances allocated for the following vintage year under section 782(h)(1) of the Clean Air Act (as added by section 321 of this Act). Not less than 10 percent and not more than 30 percent of the allowances available for distribution in any given year shall be distributed to support any individual Hub under this section.

(2) SELECTION AND SCHEDULE.—Allowances to support the establishment of a Hub shall be distributed to eligible consortia (as defined in subsection (d)) selected through a competitive process. Not later than 120 days after the date of enactment of this Act, the Secretary shall solicit proposals from eligible consortia to establish Hubs, which shall be submitted not later than 180 days after the date of enactment of this Act. The Secretary shall select the program consortia not later than 270 days after the date of enactment of this Act. For at least 3 awards to consortia under this section, the Secretary shall give special consideration to applications in which 1 or more of the institutions under subsection (d)(1)(A) are 1890 Land Grant Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7061)), Predominantly Black Institutions (as defined in section 318 of the Higher Education Act of 1965 (20 U.S.C. 1059e)), Tribal Colleges or Universities (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)), or Hispanic Serving Institutions (as defined in section 318 of the Higher Education Act of 1965 (20 U.S.C. 1059e)).

(3) AMOUNT AND TERM OF AWARDS.—For each Hub selected to receive an award under this subsection, the Secretary shall define a quantity of allowances that shall be distributed to such Hub each year for an initial period not to exceed 5 years. The Secretary may extend the term of such award by up to 5 additional years, and a Hub may compete to receive an increase in the quantity of allowances per year that it shall receive during any such extension. A Hub shall be eligible to compete for a new award after the expiration of the term of any award, including any extension of such term, under this subsection.

(4) USE OF ALLOWANCES.—Allowances distributed under this section shall be used exclusively to support project awards pursuant to subsection (e)(1) and (2), provided that a Hub may use not more than 10 percent of the value of such allowances for its administrative expenses related to making such awards. Allowances distributed under this section shall not be used for construction of new buildings or facilities for Hubs, and construction of new buildings or facilities shall not be considered as part of the non-Federal share of a cost sharing agreement under this section.

(5) AUDIT.—Each Hub shall conduct, in accordance with such requirements as the Secretary may prescribe, an annual audit to determine the extent to which allowances distributed to the Hub under this subsection, and awards under subsection (e), have been utilized in a manner consistent with this section. The auditor shall transmit a report of the results of the audit to the Secretary and to the Government Accountability Office. The Secretary shall include such report in an annual report to Congress, along with a plan to remedy any deficiencies cited in the report. The Government Accountability Office may review such audits as appropriate and shall have full access to the books, records, and personnel of the Hub to ensure that allowances distributed to the Hub under this subsection, and awards made under subsection (e), have been utilized in a manner consistent with this section.

(6) REVOCATION OF ALLOWANCES.—The Secretary shall have authority to review awards made under this subsection and to revoke such awards if the Secretary determines that a Hub has used the award in a manner not consistent with the requirements of this section.

SEC. 172. ADVANCED ENERGY RESEARCH.

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

(1) ALLOWANCE.—The term ''allowance'' means an emission allowance established under section 721 of the Clean Air Act (as added by section 311 of this Act).

(2) DIRECTOR.—The term ''Director'' means Director of the Advanced Research Projects Agency-Energy.

(b) IN GENERAL.—Not later than September 30 of 2011 and each calendar year thereafter through 2049, the Director shall distribute allowances allocated for the following vintage year under section 782(h)(2) of the Clean Air Act (as added by section 321 of this Act). Such allowances shall be distributed on a competitive basis to institutions of higher education, companies, research foundations, trade and industry research collaborations, or consortia of such entities, or other appropriate research and development entities to achieve the goals of the Advanced Research Projects Agency-Energy (as described in section 5012(c) of the America COMPETES Act) through targeted acceleration of—

(1) novel early-stage energy research with possible technology applications;

(2) development of techniques, processes, and technologies, and related testing and evaluation;

(3) development of manufacturing processes for technologies; and

(4) demonstration and coordination with nongovernmental entities for commercial applications of technologies and research applications.

(c) RESPONSIBILITIES.—The Director shall be responsible for assessing the success of programs and terminating programs carried out under this section that are not achieving the goals of the programs, consistent with 5012(e)(2) and (4) of the America COMPETES Act. The Director shall designate program managers whose responsibilities are consistent with 5012(f)(1)(B) of the America COMPETES Act. The Director's reporting and coordination requirements established through 5012(g) and (h) of the America COMPETES Act shall apply to activities funded through this section.

(d) SUPPLEMENT NOT SUPPLANT.—Assistance provided under this section shall be used to supplement, and not to supplant, any other Federal resources available to carry out activities described in this section.

SEC. 173. BUILDING ASSESSMENT CENTERS.

(a) IN GENERAL.—The Secretary of Energy (in this section referred to as the ''Secretary'') shall provide funding to institutions of higher education for Building Assessment Centers to—

(1) identify opportunities for optimizing energy efficiency and environmental performance in existing buildings;

(2) promote high-efficiency building construction techniques and materials options;

(3) promote applications of emerging concepts and technologies in commercial and institutional buildings;

(4) train engineers, architects, building scientists, and building technicians in energy-efficient design and operation;

(5) assist local community colleges, trade schools, registered apprenticeship programs and other accredited training programs in training building technicians;

(6) promote research and development for the use of alternative energy sources to supply heat and power, for buildings, particularly energy-intensive buildings; and

(7) coordinate with and assist State-accredited technical training centers and community colleges, while ensuring appropriate services to all regions of the United States.

(b) COORDINATION WITH REGIONAL CENTERS FOR ENERGY AND ENVIRONMENTAL KNOWLEDGE AND OUTREACH.—A Building Assessment Center may serve as a Center for Energy and Environmental Knowledge and Outreach established pursuant to section 174.

(c) COORDINATION AND DUPLICATION.—The Secretary shall coordinate efforts under this section with other programs of the Department of Energy and other Federal agencies to avoid duplication of effort.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $50,000,000 for fiscal year 2010 and each fiscal year thereafter.

SEC. 174. CENTERS FOR ENERGY AND ENVIRONMENTAL KNOWLEDGE AND OUTREACH.

(a) REGIONAL CENTERS FOR ENERGY AND ENVIRONMENTAL KNOWLEDGE AND OUTREACH.—

(1) ESTABLISHMENT.—The Secretary shall establish not more than 10 regional Centers for Energy and Environmental Knowledge and Outreach at institutions of higher education to coordinate with and advise industrial research and assessment centers, Building Assessment Centers, and Clean Energy Application Centers located in the region of such Center for Energy and Environmental Knowledge and Outreach.

(2) TECHNICAL ASSISTANCE PROGRAMS.—Each Center for Energy and Environmental Knowledge and Outreach shall consist of at least one, new or existing, high performing, of the following:

(A) An industrial research and assessment center.

(B) A Clean Energy Application Center.

(C) A Building Assessment Center.

(3) SELECTION CRITERIA.—The Secretary shall select Centers for Energy and Environmental Knowledge and Outreach through a competitive process, based on the following:

(A) Identification of the highest performing industrial research and assessment centers, Clean Energy Application Centers, and Building Assessment Centers.

(B) The degree to which an institution of higher education maintains credibility among regional private sector organizations such as trade associations, engineering associations, and environmental organizations.

(C) The degree to which an institution of higher education is providing or has provided technical assistance, academic leadership, and market leadership in the energy arena in a manner that is consistent with the areas of focus of industrial research and assessment centers, Clean Energy Application Centers, and Building Assessment Centers.

(D) The presence of an additional industrial research and assessment center, Clean

Energy Application Center, or Building Assessment Center at the institution of higher education.

(4) GEOGRAPHIC DIVERSITY.—In selecting Centers for Energy and Environmental Knowledge and Outreach under this subsection, the Secretary shall ensure such Centers are distributed geographically in a relatively uniform manner to ensure all regions of the Nation are represented.

(5) REGIONAL LEADERSHIP.—Each Center for Energy and Environmental Knowledge and Outreach shall, to the extent possible, provide leadership to all other industrial research and assessment centers, Clean Energy Application Centers, and Building Assessment Centers located in the Center's geographic region, as determined by the Secretary. Such leadership shall include—

(A) developing regional goals specific to the purview of the industrial research and assessment centers, Clean Energy Application Centers, and Building Assessment Centers programs;

(B) developing regionally specific technical resources; and

(C) outreach to interested parties in the region to inform them of the information, resources, and services available through the associated industrial research and assessment centers, Clean Energy Application Centers, and Building Assessment Centers.

(6) FURTHER COORDINATION.—To increase the value and capabilities of the regionally associated industrial research and assessment centers, Clean Energy Application Centers, and Building Assessment Centers programs, Centers for Energy and Environmental Knowledge and Outreach shall—

(A) coordinate with Manufacturing Extension Partnership Centers of the National Institute of Science and Technology;

(B) coordinate with the relevant programs in the Department of Energy, including the Building Technology Program and Industrial Technologies Program;

(C) increase partnerships with the National Laboratories of the Department of Energy to leverage the expertise and technologies of the National Laboratories to achieve the goals of the industrial research and assessment centers, Clean Energy Application Centers, and Building Assessment Centers;

(D) work with relevant municipal, county, and State economic development entities to leverage relevant financial incentives for capital investment and other policy tools for the protection and growth of local business and industry;

(E) partner with local professional and private trade associations and business development interests to leverage existing knowledge of local business challenges and opportunities;

(F) work with energy utilities and other administrators of publicly funded energy programs to leverage existing energy efficiency and clean energy programs;

(G) identify opportunities for reducing greenhouse gas emissions; and

(H) promote sustainable business practices for those served by the industrial research and assessment centers, Clean Energy Application Centers, and Building Assessment Centers.

(7) WORKFORCE TRAINING.—

(A) IN GENERAL.—The Secretary shall require each Center for Energy and Environmental Knowledge and Outreach to establish or maintain an internship program for the region of such Center, designed to encourage students who perform energy assessments to continue working with a particular company, building, or facility to help implement the recommendations contained in any such assessment provided to such company, building, or facility. Each Center for Energy and Environmental Knowledge and Outreach shall act as internship coordinator to help match students to available opportunities.

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out internship programs described under subparagraph (A) shall be 50 percent.

(C) FUNDING.—Subject to the availability of appropriations, of the funds made available to carry out this subsection, the Secretary shall use to carry out this paragraph not less than $5,000,000 for fiscal year 2010 and each fiscal year thereafter.

(8) SMALL BUSINESS LOANS.—The Administrator of the Small Business Administration shall, to the maximum practicable, expedite consideration of applications from eligible small business concerns for loans under the Small Business Act (15 U.S.C. 631 et seq.) for loans to implement recommendations of any industrial research and assessment center, Clean Energy Application Center, or Building Assessment Center.

(9) DEFINITIONS.—In this subsection:

(A) INDUSTRIAL RESEARCH AND ASSESSMENT CENTER.—The term ''industrial research and assessment center'' means a center established or maintained pursuant to section 452(e) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(e)).

(B) CLEAN ENERGY APPLICATION CENTER.—The term ''Clean Energy Application Center'' means a center redesignated and described section under section 375 of the Energy Policy and Conservation Act (42 U.S.C. 6345).

(C) BUILDING ASSESSMENT CENTER.—The term ''Building Assessment Center'' means an institution of higher education-based center established pursuant to section 173.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(10) FUNDING.—There are authorized to be appropriated to the Secretary to carry out this subsection $10,000,000 for fiscal year 2010 and each fiscal year thereafter. Subject to the availability of appropriations, of the funds made available to carry out this subsection, the Secretary shall provide to each Center for Energy and Environmental Knowledge and Outreach not less than $500,000 for fiscal year 2010 and each fiscal year thereafter.

(b) INTEGRATION OF OTHER TECHNICAL ASSISTANCE PROGRAMS.—

(1) CLEAN ENERGY APPLICATION CENTERS.—Section 375 of the Energy Policy and Conservation Act (42 U.S.C. 6345) is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by adding after subsection (e) the following new subsection:

''(f) COORDINATION WITH CENTERS FOR ENERGY AND ENVIRONMENTAL KNOWLEDGE AND OUTREACH.—A Clean Energy Application Center may serve as a Center for Energy and Environmental Knowledge and Outreach established pursuant to section 174 of the American Clean Energy and Security Act of 2009.''.

(2) INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—Section 452(e) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(e)) is amended—

(A) by striking ''The Secretary'' and all that follows through ''shall be—'' and inserting the following:

''(1) IN GENERAL.—The Secretary shall provide funding to institution of higher education-based industrial research and assessment centers, whose purposes shall be—'';

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively (and by moving the margins of such subparagraphs 2 ems to the right); and

(C) by adding at the end the following new paragraph:

''(2) COORDINATION WITH CENTERS FOR ENERGY AND ENVIRONMENTAL KNOWLEDGE AND OUTREACH.—An industrial research and assessment center may serve as a Center for Energy and Environmental Knowledge and Outreach established pursuant to section 174 of the American Clean Energy and Security Act of 2009.''.

(c) ADDITIONAL FUNDING FOR CLEAN ENERGY APPLICATION CENTERS.—Subsection (g) of section 375 of the Energy Policy and Conservation Act (42 U.S.C. 6345(f)), as redesignated by subsection (b)(1) of this section, is amended by striking ''$10,000,000 for each of fiscal years 2008 through 2012'' and inserting ''$30,000,000 for fiscal year 2010 and each fiscal year thereafter''.

SEC. 175. HIGH EFFICIENCY GAS TURBINE RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) IN GENERAL.—The Secretary of Energy shall carry out a multiyear, multiphase program of research, development, and technology demonstration to improve the efficiency of gas turbines used in combined cycle power generation systems and to identify the technologies that ultimately will lead to gas turbine combined cycle efficiency of 65 percent.

(b) PROGRAM ELEMENTS.—The program under this section shall—

(1) support first-of-a-kind engineering and detailed gas turbine design for utility-scale electric power generation, including—

(A) high temperature materials, including superalloys, coatings, and ceramics;

(B) improved heat transfer capability;

(C) manufacturing technology required to construct complex three-dimensional geometry parts with improved aerodynamic capability;

(D) combustion technology to produce higher firing temperature while lowering nitrogen oxide and carbon monoxide emissions per unit of output;

(E) advanced controls and systems integration;

(F) advanced high performance compressor technology; and

(G) validation facilities for the testing of components and subsystems;

(2) include technology demonstration through component testing, subscale testing, and full scale testing in existing fleets;

(3) include field demonstrations of the developed technology elements so as to demonstrate technical and economic feasibility; and

(4) assess overall combined cycle system performance.

(c) PROGRAM GOALS.—The goals of the multiphase program established under subsection (a) shall be—

(1) in phase I—

(A) to develop the conceptual design of advanced high efficiency gas turbines that can achieve at least 62 percent combined cycle efficiency on a lower heating value basis; and

(B) to develop and demonstrate the technology required for advanced high efficiency gas turbines that can achieve at least 62 percent combined cycle efficiency on a lower heating value basis; and

(2) in phase II, to develop the conceptual design for advanced high efficiency gas turbines that can achieve at least 65 percent combined cycle efficiency on a lower heating value basis.

(d) PROPOSALS.—Within 180 days after the date of enactment of this section, the Secretary shall solicit proposals for conducting activities under this section. In selecting proposals, the Secretary shall emphasize—

(1) the extent to which the proposal will stimulate the creation or increased retention of jobs in the United States; and

(2) the extent to which the proposal will promote and enhance United States technology leadership.

(e) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall

apply to an award of financial assistance made under this section.

(f) LIMITS ON PARTICIPATION.—The limits on participation applicable under section 999E of the Energy Policy Act of 2005 (42 U.S.C. 16375) shall apply to financial assistance awarded under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $65,000,000 for each of fiscal years 2011 through 2014.

Subtitle I—Nuclear and Advanced Technologies

SEC. 181. REVISIONS TO LOAN GUARANTEE PROGRAM AUTHORITY.

(a) DEFINITION OF CONDITIONAL COMMITMENT.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511), as amended by section 130(a) of this Act, is amended by adding after paragraph (7) the following:

''(8) CONDITIONAL COMMITMENT.—The term 'conditional commitment' means a final term sheet negotiated between the Secretary and a project sponsor or sponsors, which term sheet shall be binding on both parties and become a final loan guarantee agreement if all conditions precedent established in the term sheet, which shall include the acquisition of all necessary permits and licenses, are satisfied.''.

(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsection (b) and inserting the following:

''(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

''(1) IN GENERAL.—No guarantee shall be made unless—

''(A) an appropriation for the cost has been made;

''(B) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury; or

''(C) a combination of appropriations or payments from the borrower has been made sufficient to cover the cost of the obligation.

''(2) LIMITATION.—The source of payments received from a borrower under paragraph (1)(B) shall not be a loan or other debt obligation that is made or guaranteed by the Federal Government.''.

(c) FEES.—Section 1702(h) of the Energy Policy Act of 2005 (42 U.S.C. 16512(h)) is amended by striking paragraph (2) and inserting the following:

''(2) AVAILABILITY.—Fees collected under this subsection shall—

''(A) be deposited by the Secretary into a special fund in the Treasury to be known as the 'Incentives For Innovative Technologies Fund'; and

''(B) remain available to the Secretary for expenditure, without further appropriation or fiscal year limitation, for administrative expenses incurred in carrying out this title.''.

(d) WAGE RATE REQUIREMENTS.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following new subsection:

''(k) WAGE RATE REQUIREMENTS.—No loan guarantee shall be made under this title unless the borrower has provided to the Secretary reasonable assurances that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed in whole or in part by the guaranteed loan will be paid wages at rates not less than those prevailing on projects of a character similar to the contract work in the civil subdivision of the State in which the contract work is to be performed as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.''.

(e) SUBROGATION.—Section 1702(g)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16512(g)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:

''(B) SUPERIORITY OF RIGHTS.—Except as provided in subparagraph (C), the rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

''(C) TERMS AND CONDITIONS.—A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to—

''(i) protect the financial interests of the United States in the case of default;

''(ii) have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project;

''(iii) provide for sharing the proceeds received from the sale of project assets with other creditors or control the disposition of project assets if necessary to protect the financial interests of the United States in the case of default; and

''(iv) provide such lien priority in project assets as necessary to protect the financial interests of the United States in the case of a default.''.

SEC. 182. PURPOSE.

The purpose of sections 183 through 189 of this subtitle is to promote the domestic development and deployment of clean energy technologies required for the 21st century through the establishment of a self-sustaining Clean Energy Deployment Administration that will provide for an attractive investment environment through partnership with and support of the private capital market in order to promote access to affordable financing for accelerated and widespread deployment of—

(1) clean energy technologies;

(2) advanced or enabling energy infrastructure technologies;

(3) energy efficiency technologies in residential, commercial, and industrial applications, including end-use efficiency in buildings; and

(4) manufacturing technologies for any of the technologies or applications described in this section.

SEC. 183. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATION.—The term ''Administration'' means the Clean Energy Deployment Administration established by section 186.

(2) ADVISORY COUNCIL.—The term ''Advisory Council'' means the Energy Technology Advisory Council of the Administration.

(3) BREAKTHROUGH TECHNOLOGY.—The term ''breakthrough technology'' means a clean energy technology that—

(A) presents a significant opportunity to advance the goals developed under section 185, as assessed under the methodology established by the Advisory Council; but

(B) has generally not been considered a commercially ready technology as a result of high perceived technology risk or other similar factors.

(4) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means a technology related to the production, use, transmission, storage, control, or conservation of energy—

(A) that will contribute to a stabilization of atmospheric greenhouse gas concentrations thorough reduction, avoidance, or sequestration of energy-related emissions and—

(i) reduce the need for additional energy supplies by using existing energy supplies with greater efficiency or by transmitting, distributing, or transporting energy with greater effectiveness through the infrastructure of the United States; or

(ii) diversify the sources of energy supply of the United States to strengthen energy security and to increase supplies with a favorable balance of environmental effects if the entire technology system is considered; and

(B) for which, as determined by the Administrator, insufficient commercial lending is available at affordable rates to allow for widespread deployment.

(5) COST.—The term ''cost'' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(6) DIRECT LOAN.—The term ''direct loan'' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(7) FUND.—The term ''Fund'' means the Clean Energy Investment Fund established by section 184(a).

(8) GREEN BONDS.—The term ''Green Bonds'' means bonds issued pursuant to section 184.

(8) LOAN GUARANTEE.—The term ''loan guarantee'' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(9) NATIONAL LABORATORY.—The term ''National Laboratory'' has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(11) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(12) TECHNOLOGY RISK.—The term ''technology risk'' means the risks during construction or operation associated with the design, development, and deployment of clean energy technologies (including the cost, schedule, performance, reliability and maintenance, and accounting for the perceived risk), from the perspective of commercial lenders, that may be increased as a result of the absence of adequate historical construction, operating, or performance data from commercial applications of the technology.

SEC. 184. CLEAN ENERGY INVESTMENT FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Clean Energy Investment Fund'', consisting of—

(1) such amounts as are deposited in the Fund under this subtitle; and

(2) such sums as may be appropriated to supplement the Fund.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this subtitle.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Amounts in the Fund shall be available to the Administrator of the Administration for obligation without fiscal year limitation, to remain available until expended.

(2) ADMINISTRATIVE EXPENSES.—

(A) FEES.—Fees collected for administrative expenses shall be available without limitation to cover applicable expenses.

(B) FUND.—To the extent that administrative expenses are not reimbursed through

fees, an amount not to exceed 1.5 percent of the amounts in the Fund as of the beginning of each fiscal year shall be available to pay the administrative expenses for the fiscal year necessary to carry out this subtitle.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(3) CASH FLOWS.—Cash flows associated with costs of the Fund described in section 502(5)(B) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(B)) shall be transferred to appropriate credit accounts.

(e) GREEN BONDS.—

(1) INITIAL CAPITALIZATION.—The Secretary of the Treasury shall issue Green Bonds in the amount of $7,500,000,000 on the credit of the United States to acquire capital stock of the Administration. Stock certificates evidencing ownership in the Administration shall be issued by the Administration to the Secretary of the Treasury, to the extent of payments made for the capital stock of the Administration.

(2) DENOMINATIONS AND MATURITY.—Green Bonds shall be in such forms and denominations, and shall mature within such periods, as determined by the Secretary of the Treasury.

(3) INTEREST.—Green Bonds shall bear interest at a rate not less than the current average yield on outstanding market obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury.

(4) LAWFUL INVESTMENTS.—Green Bonds shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

SEC. 185. ENERGY TECHNOLOGY DEPLOYMENT GOALS.

(a) GOALS.—Not later than 1 year after the date of enactment of this Act, the Secretary, after consultation with the Advisory Council, shall develop and publish for review and comment in the Federal Register recommended near-, medium-, and long-term goals (including numerical performance targets at appropriate intervals to measure progress toward those goals) for the deployment of clean energy technologies through the credit support programs established by section 187 to promote—

(1) sufficient electric generating capacity using clean energy technologies to meet the energy needs of the United States;

(2) clean energy technologies in vehicles and fuels that will substantially reduce the reliance of the United States on foreign sources of energy and insulate consumers from the volatility of world energy markets;

(3) a domestic commercialization and manufacturing capacity that will establish the United States as a world leader in clean energy technologies across multiple sectors;

(4) installation of sufficient infrastructure to allow for the cost-effective deployment of clean energy technologies appropriate to each region of the United States;

(5) the transformation of the building stock of the United States to zero net energy consumption;

(6) the recovery, use, and prevention of waste energy;

(7) domestic manufacturing of clean energy technologies on a scale that is sufficient to achieve price parity with conventional energy sources;

(8) domestic production of commodities and materials (such as steel, chemicals, polymers, and cement) using clean energy technologies so that the United States will become a world leader in environmentally sustainable production of the commodities and materials;

(9) a robust, efficient, and interactive electricity transmission grid that will allow for the incorporation of clean energy technologies, distributed generation, and demand-response in each regional electric grid;

(10) sufficient availability of financial products to allow owners and users of residential, retail, commercial, and industrial buildings to make energy efficiency and distributed generation technology investments with reasonable payback periods; and

(11) sufficient availability of financial services and support to small businesses developing and deploying clean energy technologies through partnerships with private entities that have relevant creidt expertise; and

(12) such other goals as the Secretary, in consultation with the Advisory Council, determines to be consistent with the purpose stated in section 182.

(b) REVISIONS.—The Secretary shall revise the goals established under subsection (a), from time to time as appropriate, to account for advances in technology and changes in energy policy.

SEC. 186. CLEAN ENERGY DEPLOYMENT ADMINISTRATION.

(a) ESTABLISHMENT.—

(1) ESTABLISHMENT OF CORPORATION.—There is established a corporation to be known as the Clean Energy Deployment Administration that shall be wholly owned by the United States.

(2) INDEPENDENT CORPORATION.—The Administration shall be an independent corporation. Neither the Administration nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress provides otherwise.

(3) CHARTER.—The Administration shall be chartered for 20 years from the date of enactment of this section.

(4) STATUS.—

(A) INSPECTOR GENERAL.—Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in paragraph (1), by inserting ''the Administrator of the Clean Energy Deployment Administration;'' after ''Export-Import Bank;''; and

(ii) in paragraph (2), by inserting ''the Clean Energy Deployment Administration,'' after ''Export-Import Bank,''.

(3) OFFICES.—

(A) PRINCIPAL OFFICE.—The Administration shall—

(i) maintain the principal office of the Administration in the national capital region; and

(ii) for purposes of venue in civil actions, be considered to be a resident of the District of Columbia.

(B) OTHER OFFICES.—The Administration may establish other offices in such other places as the Administration considers necessary or appropriate for the conduct of the business of the Administration.

(b) ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator of the Administration shall be—

(A) appointed by the President, with the advice and consent of the Senate, for a 5-year term; and

(B) compensated at the prevailing rate for compensation for similar positions in industry.

(2) DUTIES.—The Administrator of the Administration shall—

(A) serve as the Chief Executive Officer of the Administration and Chairman of the Board;

(B) ensure that—

(i) the Administration operates in a safe and sound manner, including maintenance of adequate capital and internal controls (consistent with section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262));

(ii) the operations and activities of the Administration foster liquid, efficient, competitive, and resilient energy and energy efficiency finance markets;

(iii) the Administration carries out the purpose stated in section 182 only through activities that are authorized under and consistent with sections 182 through 189; and

(iv) the activities of the Administration and the manner in which the Administration is operated are consistent with the public interest;

(C) develop policies and procedures for the Administration that will—

(i) promote a self-sustaining portfolio of investments that will maximize the value of investments to effectively promote clean energy technologies;

(ii) promote transparency and openness in Administration operations;

(iii) afford the Administration with sufficient flexibility to meet the purpose stated in section 182; and

(iv) provide for the efficient processing of applications; and

(D) with the concurrence of the Board, set expected loss reserves for the support provided by the Administration consistent with section 187(c).

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of the Administration shall consist of—

(A) the Secretary or the designee of the Secretary, who shall serve as an ex-officio member of the Board of Directors;

(B) the Secretary of the Treasury or the designee of the Secretary, who shall serve as an ex-officio member of the Board of Directors;

(C) the Secretary of the Interior or the designee of the Secretary, who shall serve as an ex-officio member of the Board of Directors;

(D) the Secretary of Agriculture or the designee of the Secretary, who shall serve as an ex officio member of the Board of Directors;

(E) the Administrator of the Administration, who shall serve as the Chairman of the Board of Directors; and

(F) 4 additional members who shall—

(i) be appointed by the President, with the advice and consent of the Senate, for staggered 5-year terms; and

(ii) have experience in banking, financial services, technology assessment, energy regulation, or risk management, including individuals with substantial experience in the development of energy projects, the electricity generation sector, the transportation sector, the manufacturing sector, and the energy efficiency sector.

(2) DUTIES.—The Board of Directors shall—

(A) oversee the operations of the Administration and ensure industry best practices are followed in all financial transactions involving the Administration;

(B) consult with the Administrator of the Administration on the general policies and procedures of the Administration to ensure the interests of the taxpayers are protected;

(C) ensure the portfolio of investments are consistent with purpose stated in section 182 and with the long-term financial stability of the Administration;

(D) ensure that the operations and activities of the Administration are consistent with the development of a robust private sector that can provide commercial loans or financing products; and

(E) not serve on a full-time basis, except that the Board of Directors shall meet at least quarterly to review, as appropriate, applications for credit support and set policies and procedures as necessary.

(3) REMOVAL.—An appointed member of the Board of Directors may be removed from office by the President for good cause.

(4) VACANCIES.—An appointed seat on the Board of Directors that becomes vacant shall be filled by appointment by the President, but only for the unexpired portion of the term of the vacating member.

(5) COMPENSATION OF MEMBERS.—An appointed member of the Board of Directors shall be compensated at the prevailing rate for compensation for similar positions in industry.

(d) ENERGY TECHNOLOGY ADVISORY COUNCIL.—

(1) IN GENERAL.—The Administration shall have an Energy Technology Advisory Council consisting of 8 members selected by the Board of Directors of the Administration.

(2) QUALIFICATIONS.—The members of the Advisory Council shall—

(A) have clean energy project development, clean energy finance, commercial, and/or relevant scientific expertise; and

(B) include representatives of—

(i) the academic community;

(ii) the private research community;

(iii) National Laboratories;

(iv) the technology or project development community; and

(v) the commercial energy financing and operations sector.

(3) DUTIES.—The Advisory Council shall—

(A) develop and publish for comment in the Federal Register a methodology for assessment of clean energy technologies that will allow the Administration to evaluate projects based on the progress likely to be achieved per-dollar invested in maximizing the attributes of the definition of clean energy technology, taking into account the extent to which support for a clean energy technology is likely to accrue subsequent benefits that are attributable to a commercial scale deployment taking place earlier than that which otherwise would have occurred without the support; and

(B) advise on the technological approaches that should be supported by the Administration to meet the technology deployment goals established by the Secretary pursuant to section 185.

(4) TERM.—

(A) IN GENERAL.—Members of the Advisory Council shall have 5-year staggered terms, as determined by the Administrator of the Administration.

(B) REAPPOINTMENT.—A member of the Advisory Council may be reappointed.

(5) COMPENSATION.—A member of the Advisory Council, who is not otherwise compensated as a Federal employee, shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Advisory Council.

(e) STAFF.—

(1) IN GENERAL.—The Administrator of the Administration, in consultation with the Board of Directors, may—

(A) appoint and terminate such officers, attorneys, employees, and agents as are necessary to carry out this subtitle; and

(B) vest those personnel with such powers and duties as the Administrator of the Administration may determine.

(f) CONFLICTS OF INTEREST.—No director, officer, attorney, agent, or employee of the Administration shall in any manner, directly or indirectly, participate in the deliberation upon, or the determination of, any question affecting such individual's personal interests, or the interests of any corporation, partnership, or association in which such individual is directly or indirectly personally interested.

(g) SUNSET.—

(1) EXPIRATION OF CHARTER.—The Administration shall continue to exercise its functions until all obligations and commitments of the Administration are discharged, even after its charter has expired.

(2) PRIOR OBLIGATIONS.—No provisions of this subsection shall be construed as preventing the Administration from—

(A) undertaking obligations prior to the date of the expiration of its charter which mature subsequent to such date;

(B) assuming, prior to the date of the expiration of its charter, liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date; or

(C) continuing as a corporation and exercising any of its functions subsequent to the date of the expiration of its charter for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the Administration.

SEC. 187. DIRECT SUPPORT.

(a) IN GENERAL.—The Administration may issue direct loans, letters of credit, and loan guarantees to deploy clean energy technologies if the Administrator of the Administration has determined that deployment of the technologies would benefit or be accelerated by the support.

(b) ELIGIBILITY CRITERIA.—In carrying out this section and awarding credit support to projects, the Administrator of the Administration shall account for—

(1) how the technology rates based on an evaluation methodology established by the Advisory Council;

(2) how the project fits with the goals established under section 185; and

(3) the potential for the applicant to successfully complete the project.

(c) RISK.—

(1) EXPECTED LOAN LOSS RESERVE.—The Administrator of the Administration shall establish an expected loan loss reserve to account for estimated losses attributable to activities under this section that is consistent with the purposes of—

(A) developing breakthrough technologies to the point at which technology risk is largely mitigated;

(B) achieving widespread deployment and advancing the commercial viability of clean energy technologies; and

(C) advancing the goals established under section 185.

(2) INITIAL EXPECTED LOAN LOSS RESERVE.—Until such time as the Administrator of the Administration determines sufficient data exist to establish an expected loan loss reserve that is appropriate, the Administrator of the Administration shall consider establishing an initial rate of 10 percent for the portfolio of investments under this subtitle.

(3) PORTFOLIO INVESTMENT APPROACH.—The Administration shall—

(A) use a portfolio investment approach to mitigate risk and diversify investments across technologies and ensure that no particular technology is provided more than 30 percent of the financial support available;

(B) to the maximum extent practicable and consistent with long-term self-sufficiency, weigh the portfolio of investments in projects to advance the goals established under section 185;

(C) consistent with the expected loan loss reserve established under this subsection, the purpose stated in section 182, and section 186(b)(2)(B), provide the maximum practicable percentage of support to promote breakthrough technologies; and

(D) give the highest priority to investments that promote technologies that will achieve the maximum greenhouse gas emission reductions within a reasonable period of time per dollar invested and the earliest reductions in greenhouse gas emissions.

(4) LOSS RATE REVIEW.—

(A) IN GENERAL.—The Board of Directors shall review on an annual basis the loss rates of the portfolio to determine the adequacy of the reserves.

(B) REPORT.—Not later than 90 days after the date of the initiation of the review, the Administrator of the Administration shall submit to the Committee on Energy and Natural Resources and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report describing the results of the review and any recommended policy changes.

(5) FEDERAL COST SHARE.—Direct loans, letters of credit and loan guarantees by the Administration shall not exceed an amount equal to 80 percent of the project cost of the facility that is the subject of the loan, letter of credit or loan guarantee, as estimated at the time at which the loan, letter of credit or loan guarantee is issued.

(d) APPLICATION REVIEW.—

(1) IN GENERAL.—To the maximum extent practicable and consistent with sound business practices, the Administration shall seek to consolidate reviews of applications for credit support under this subtitle such that final decisions on applications can generally be issued not later than 180 days after the date of submission of a completed application.

(2) ENVIRONMENTAL REVIEW.—In carrying out this subtitle, the Administration shall, to the maximum extent practicable—

(A) avoid duplicating efforts that have already been undertaken by other agencies (including State agencies acting under Federal programs); and

(B) with the advice of the Council on Environmental Quality and any other applicable agencies, use the administrative records of similar reviews conducted throughout the executive branch to develop the most expeditious review process practicable.

(e) WAGE RATE REQUIREMENTS.—

(1) IN GENERAL.—No credit support shall be issued under this section unless the borrower has provided to the Administrator of the Administration reasonable assurances that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed in whole or in part by the Administration will be paid wages at rates not less than those prevailing on projects of a character similar to the contract work in the civil subdivision of the State in which the contract work is to be performed as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code.

(2) LABOR STANDARDS.—With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(f) LIMITATIONS.—(1) The Administration shall not provide direct support as defined

under this section or indirect support as defined under section 188 to an individual clean energy technology project that obtained a loan guarantee under title XVII of the Energy Policy Act of 2005.

(2) No direct or indirect support provided by the Administration may be used to pay any part of the cost of an obligation or a loan guarantee under Title XVII of the Energy Policy Act of 2005.

SEC. 188. INDIRECT SUPPORT.

(a) IN GENERAL.—For the purpose of enhancing the availability of private financing for clean energy technology deployment, the Administration may—

(1) provide credit support to portfolios of taxable debt obligations originated by state, local, and private sector entities that enable owners and users of buildings and industrial facilities to—

(A) significantly increase the energy efficiency of such buildings or facilities; or

(B) install systems that individually generate electricity from renewable energy resources and have a capacity of no more than 2 megawatts;

(2) facilitate financing transactions in tax equity markets and long-term purchasing of clean energy by state, local, and non-governmental not-for-profit entities, to the degree and extent that the Administration determines such financing activity is appropriate and consistent with carrying out the purposes described in Section 182 of this Act; and

(3) provide credit support to portfolios of taxable debt obligations originated by state, local, and private sector entities that enable the deployment of energy storage applications for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(b) DEFINITIONS.—For purposes of the section:

(1) CREDIT SUPPORT.—The term ''credit support'' means—

(A) direct loans, letters of credit, loan guarantees, and insurance products; and

(B) the purchase or commitment to purchase, or the sale or commitment to sell, debt instruments (including subordinated securities).

(2) RENEWABLE ENERGY RESOURCE.—The term ''renewable energy resource'' shall have the meaning given that term in section 610 of the Public Utility Regulatory Policies Act of 1978 (as added by section 101 of this Act).

(c) TRANSPARENCY.—The Administration shall seek to foster through its credit support activities—

(1) the development and consistent application of standard contractual terms, transparent underwriting standards and consistent measurement and verification protocols, as applicable; and

(2) the creation of performance data that promotes effective underwriting and risk management to support lending markets and stimulate the development of private investment markets.

(d) EXEMPT SECURITIES.—All securities insured or guaranteed by the Administration shall, to the same extent as securities that are direct obligations of or obligations guaranteed as to the principal or interest by the United States, be considered to be exempt securities within the meaning of the laws administered by the Securities and Exchange Commission.

SEC. 189. FEDERAL CREDIT AUTHORITY.

(a) PAYMENTS OF LIABILITIES.—

(1) IN GENERAL.—Any payment made to discharge liabilities arising from agreements under this subtitle shall be paid exclusively out of the Fund or the associated credit account, as appropriate.

(2) SECURITY.—Subject to paragraph (1), the full faith and credit of the United States is pledged to the payment of all obligations entered into by the Administration pursuant to this subtitle.

(b) FEES.—

(1) IN GENERAL.—Consistent with achieving the purpose stated in section 182, the Administrator of the Administration shall charge fees or collect compensation generally in accordance with commercial rates.

(2) AVAILABILITY OF FEES.—All fees collected by the Administration may be retained by the Administration and placed in the Fund and may remain available to the Administration, without further appropriation or fiscal year limitation, for use in carrying out the purpose stated in section 182.

(3) BREAKTHROUGH TECHNOLOGIES.—The Administration shall charge the minimum amount in fees or compensation practicable for breakthrough technologies, consistent with the long-term viability of the Administration, unless the Administration first determines that a higher charge will not impede the development of the technology.

(4) ALTERNATIVE FEE ARRANGEMENTS.—The Administration may use such alternative arrangements (such as profit participation, contingent fees, and other valuable contingent interests) as the Administration considers appropriate to compensate the Administration for the expenses of the Administration and the risk inherent in the support of the Administration.

(c) COST TRANSFER AUTHORITY.—Amounts collected by the Administration for the cost of a loan or loan guarantee shall be transferred by the Administration to the respective credit accounts.

SEC. 190. GENERAL PROVISIONS.

(a) IMMUNITY FROM IMPAIRMENT, LIMITATION, OR RESTRICTION.—

(1) IN GENERAL.—All rights and remedies of the Administration (including any rights and remedies of the Administration on, under, or with respect to any mortgage or any obligation secured by a mortgage) shall be immune from impairment, limitation, or restriction by or under—

(A) any law (other than a law enacted by Congress expressly in limitation of this paragraph) that becomes effective after the acquisition by the Administration of the subject or property on, under, or with respect to which the right or remedy arises or exists or would so arise or exist in the absence of the law; or

(B) any administrative or other action that becomes effective after the acquisition.

(2) STATE LAW.—The Administrator of the Administration may conduct the business of the Administration without regard to any qualification or law of any State relating to incorporation.

(b) USE OF OTHER AGENCIES.—With the consent of a department, establishment, or instrumentality (including any field office), the Administration may—

(1) use and act through any department, establishment, or instrumentality; and

(2) use, and pay compensation for, information, services, facilities, and personnel of the department, establishment, or instrumentality.

(c) FINANCIAL MATTERS.—

(1) INVESTMENTS.—Funds of the Administration may be invested in such investments as the Board of Directors may prescribe. Earnings from such funds, other than fees collected under section 189, may be spent by the Administration only to such extent or in such amounts as are provided in advance by appropriation Acts.

(2) FISCAL AGENTS.—Any Federal Reserve bank or any bank as to which at the time of the designation of the bank by the Administrator of the Administration there is outstanding a designation by the Secretary of the Treasury as a general or other depository of public money, may be designated by the Administrator of the Administration as a depositary or custodian or as a fiscal or other agent of the Administration.

(d) PERIODIC REPORTS.—Not later than 1 year after commencement of operation of the Administration and at least biannually thereafter, the Administrator of the Administration shall submit to the Committee on Energy and Natural Resources and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report that includes a description of—

(1) the technologies supported by activities of the Administration and how the activities advance the purpose stated in section 182; and

(2) the performance of the Administration on meeting the goals established under section 185.

(g) AUDITS BY THE COMPTROLLER GENERAL.—

(1) IN GENERAL.—The programs, activities, receipts, expenditures, and financial transactions of the Administration shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) ACCESS.—The representatives of the Government Accountability Office shall—

(A) have access to the personnel and to all books, accounts, documents, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to, under the control of, or in use by the Administration, or any agent, representative, attorney, advisor, or consultant retained by the Administration, and necessary to facilitate the audit;

(B) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians;

(C) be authorized to obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to the audit without cost to the Comptroller General; and

(D) have the right of access of the Comptroller General to such information pursuant to section 716(c) of title 31, United States Code.

(3) ASSISTANCE AND COST.—

(A) IN GENERAL.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—On the request of the Comptroller General, the Administration shall reimburse the Government Accountability Office for the full cost of any audit conducted by the Comptroller General under this subsection.

(ii) CREDITING.—Such reimbursements shall—

(I) be credited to the appropriation account entitled ''Salaries and Expenses, Government Accountability Office'' at the time at which the payment is received; and

(II) remain available until expended.

(h) ANNUAL INDEPENDENT AUDITS.—

(1) IN GENERAL.—The Administrator of the Administration shall—

(A) have an annual independent audit made of the financial statements of the Administration by an independent public accountant

in accordance with generally accepted auditing standards; and

(B) submit to the Secretary and to the Committee on Energy and Natural Resources and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House the results of the audit.

(2) CONTENT.—In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Administration—

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) comply with any disclosure requirements imposed under this subtitle.

(i) FINANCIAL REPORTS.—

(1) IN GENERAL.—The Administrator of the Administration shall submit to the Secretary and to the Committee on Energy and Natural Resources and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House annual and quarterly reports of the financial condition and operations of the Administration, which shall be in such form, contain such information, and be submitted on such dates as the Secretary shall require.

(2) CONTENTS OF ANNUAL REPORTS.—Each annual report shall include—

(A) financial statements prepared in accordance with generally accepted accounting principles;

(B) any supplemental information or alternative presentation that the Secretary may require; and

(C) an assessment (as of the end of the most recent fiscal year of the Administration), signed by the chief executive officer and chief accounting or financial officer of the Administration, of—

(i) the effectiveness of the internal control structure and procedures of the Administration; and

(ii) the compliance of the Administration with applicable safety and soundness laws.

(3) SPECIAL REPORTS.—The Secretary may require the Administrator of the Administration to submit other reports on the condition (including financial condition), management, activities, or operations of the Administration, as the Secretary considers appropriate.

(4) ACCURACY.—Each report of financial condition shall contain a declaration by the Administrator of the Administration or any other officer designated by the Board of Directors of the Administration to make the declaration, that the report is true and correct to the best of the knowledge and belief of the officer.

(5) AVAILABILITY OF REPORTS.—Reports required under this section shall be published and made publicly available as soon as is practicable after receipt by the Secretary.

(j) SPENDING SAFEGUARDS AND REPORTING.—

(1) IN GENERAL.—The Administrator—

(A) shall require any entity receiving financing support from the Administration to report quarterly, in a format specified by the Administrator, on such entity's use of such support and its progress fulfilling the objectives for which such support was granted, and the Administrator shall make these reports available to the public;

(B) may establish additional reporting and information requirements for any recipient of financing support from the Administration;

(C) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any financing support from the Administration;

(D) shall create and maintain a fully searchable database, accessible on the Internet (or successor protocol) at no cost to the public, that contains at least—

(i) a list of each entity that has applied for financing support;

(ii) a description of each application;

(iii) the status of each such application;

(iv) the name of each entity receiving financing support;

(v) the purpose for which such entity is receiving such financing support;

(vi) each quarterly report submitted by the entity pursuant to this section; and

(vii) such other information sufficient to allow the public to understand and monitor the financial support provided by the Administration;

(E) shall make all financing transactions available for public inspection, including formal annual reviews by both a private auditor and the Comptroller General; and

(F) shall at all times be available to receive public comment in writing on the activities of the Administration.

(2) PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION.—To the extent necessary and appropriate, the Administrator may redact any information regarding applicants and borrowers to protect confidential business information.

SEC. 191. CONFORMING AMENDMENTS.

(a) TAX EXEMPT STATUS.—Subsection (l) of section 501 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(4) The Clean Energy Deployment Administration established under section 186 of the American Clean Energy and Security Act of 2009''.

(b) WHOLLY OWNED GOVERNMENT CORPORATION.—Paragraph (3) of section 9101 of title 31, United States Code, is amended by adding at the end the following:

''(S) the Clean Energy Deployment Administration.''.

Subtitle J—Miscellaneous

SEC. 195. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior, the Secretary of Energy, and the Secretary of the Army shall jointly update the study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities required in section 1834 of the Energy Policy Act of 2005.

(b) CONTENT.—The update under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretaries shall submit to the Committees on Energy and Commerce, Natural Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the update of the study under this section by not later than 12 months after the date of enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility, and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or by construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, water supply, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 196. CLEAN TECHNOLOGY BUSINESS COMPETITION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Energy is authorized to provide grants to organizations to conduct business competitions that provide incentives, training, and mentorship to entrepreneurs including minority-owned and woman-owned and early stage start-up companies throughout the United States to meet high priority economic, environmental, and energy security goals in areas to include energy efficiency, renewable energy, air quality, water quality and conservation, transportation, smart grid, green building, and waste management. Such competitions shall have the purpose of accelerating the development and deployment of clean technology businesses and green jobs; stimulating green economic development; providing business training and mentoring to early stage clean technology companies; and strengthening the competitiveness of United States clean technology industry in world trade markets. Priority shall be given to business competitions that are private sector led, encourage regional and interregional cooperation, and can demonstrate market-driven practices and show the creation of cost-effective green jobs through an annual publication of competition activities and directory of companies.

(b) ELIGIBILITY.—An organization eligible for a grant under subsection (a) is—

(1) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(2) any sponsored entity of an organization described in paragraph (1) that is operated as a nonprofit entity.

(c) PRIORITY.—In making grants under this section, the Secretary shall give priority to those organizations that can demonstrate broad funding support from private and other non-Federal funding sources to leverage Federal investment.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000.

SEC. 197. NATIONAL BIOENERGY PARTNERSHIP.

(a) IN GENERAL.—The Secretary of Energy shall establish a National Bioenergy Partnership to provide coordination among programs of State governments, the Federal Government, and the private sector that support the institutional and physical infrastructure necessary to promote the deployment of sustainable biomass fuels and bioenergy technologies for the United States.

(b) PROGRAM.—The National Bioenergy Partnership shall consist of five regions, to be administered by the CONEG Policy Research Center, the Council of Great Lakes

Governors, the Southern States Energy Board, the Western Governors Association, and the Pacific Regional Biomass Energy Partnership led by the Washington State University Energy Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2010 through 2014 to carry out this section—

(1) $5,000,000, to be allocated among the 5 regions described in subsection (b) on the basis of the number of States in each region, for distribution among the member States of that region based on procedures developed by the member States of the region; and

(2) $2,500,000, to be allocated equally among the 5 regions described in subsection (b) for region-wide activities, including technical assistance and regional studies and coordination.

SEC. 198. OFFICE OF CONSUMER ADVOCACY.

Section 319 of the Federal Power Act is amended to read as follows:

''SEC. 319. OFFICE OF CONSUMER ADVOCACY.

''(a) OFFICE.—

''(1) ESTABLISHMENT.—There is established within the Commission an Office of Consumer Advocacy to serve as an advocate for the public interest. The Office of Administrative Litigation within the Commission shall be incorporated into the Office of Consumer Advocacy.

''(2) DIRECTOR.—The Office shall be headed by a Director to be appointed by the President by and with the advice and consent of the Senate from among individuals who are licensed attorneys admitted to the Bar of any State or of the District of Columbia and who have experience in public utility proceedings.

''(3) DUTIES.—The Office may—

''(A) represent the interests of energy customers—

''(i) on matters before the Commission concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission;

''(ii) as amicus curiae, in the review in the courts of the United States of rulings by the Commission in such matters; and

''(iii) as amicus, in hearings and proceedings in other Federal regulatory agencies and commissions related to such matters;

''(B) monitor and review energy customer complaints and grievances on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission;

''(C) investigate independently, or within the context of formal proceedings, the services provided by, the rates charged by, and the valuation of the properties of, public utilities and natural gas companies under the jurisdiction of the Commission;

''(D) develop means, such as public dissemination of information, consultative services, and technical assistance, to ensure, to the maximum extent practicable, that the interests of energy consumers are adequately represented in the course of any hearing or proceeding described in subparagraph (A);

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

''(F) prepare and issue reports and recommendations.

''(4) COMPENSATION AND POWERS.—The Director shall be compensated at Level IV of the Executive Schedule. The Director may—

''(A) employ not more than 25 full-time professional employees at appropriate levels in the GS Scale and such additional support personnel as required; and

''(B) procure temporary and intermittent services as needed.

''(5) INFORMATION FROM OTHER FEDERAL AGENCIES.—The Director may request, from any department, agency, or instrumentality of the United States such information as he deems necessary to carry out his functions under this section. Upon such request, the head of the department, agency, or instrumentality concerned shall, to the extent practicable and authorized by law, provide such information to the Office.

''(b) CONSUMER ADVOCACY ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—The Director shall establish an advisory committee to be known as Consumer Advocacy Advisory Committee (in this section referred to as the 'Advisory Committee') to review rates, services, and disputes and to make recommendations to the Director.

''(2) COMPOSITION.—The Director shall appoint 5 members to the Advisory Committee including—

''(A) 2 individuals representing State utility consumer advocates; and

''(B) 1 individual, from a nongovernmental organization representing consumers.

''(3) MEETINGS.—The Advisory Committee shall meet at such frequency as may be required to carry out its duties.

''(4) REPORTS.—The Director shall provide for the publication of recommendations of the Advisory Committee on the public website established for the Office.

''(5) DURATION.—Notwithstanding any other provision of law, the Advisory Committee shall continue in operation during the period for which the Office exists.

''(c) DEFINITIONS.—

''(1) ENERGY CUSTOMER.—The term 'energy customer' means a residential customer or a small commercial customer that receives products or services directly or indirectly from a public utility or natural gas company under the jurisdiction of the Commission.

''(2) NATURAL GAS COMPANY.—The term 'natural gas company' has the meaning given the term in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

''(3) OFFICE.—The term 'Office' means the Office of Consumer Advocacy established under this section.

''(4) PUBLIC UTILITY.—The term 'public utility' has the meaning given the term in section 201(e) of this Act.

''(5) SMALL COMMERCIAL CUSTOMER.—The term 'small commercial customer' means a commercial customer that has a peak demand of not more than 1,000 kilowatts per hour.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

''(e) SAVINGS CLAUSE.—Nothing in this section affects the rights or obligations of any State utility consumer advocate.''.

SEC. 199. DEVELOPMENT CORPORATION FOR RENEWABLE POWER BORROWING AUTHORITY

(a) DETERMINATION.—No later than 6 months after the date of enactment of this Act, the Secretary of Energy, in coordination with the Secretary of Commerce, shall—

(1) determine any geographic area within the contiguous United States that lacks a Federal power marketing agency;

(2) develop a plan or criteria for the geographic areas identified in paragraph (1) regarding investment in renewable energy and associated infrastructure within an area identified in paragraph (1); and

(3) identify any Federal agency within an area in paragraph (1) that has, or could develop, the ability to facilitate the investment in paragraph (2).

(b) REPORT.—The Secretary of Energy, in coordination with the Secretary of Commerce, shall provide the determinations made under subsection (a) to the Committee on Energy and Commerce of the House of Representatives.

(c) ESTABLISHMENT.—Based upon the determinations made pursuant to subsection (a), the Secretary of Energy, in coordination with the Secretary of Commerce, shall recommend to the Committee on Energy and Commerce of the House of Representatives the establishment of any new Federal lending authority, including authorization of additional lending authority for existing Federal agencies, not to exceed $3,500,000,000 per geographic area identified in subsection (a)(1).

(d) AUTHORIZATION.—$25,000,000 is authorized to be appropriated for fiscal year 2010 to carry out the provisions of this section.

SEC. 199A. STUDY.

Not later than February 1, 2011, the Secretary of Energy shall transmit to the Congress a report showing the results of a study on the use of thorium-fueled nuclear reactors for national energy needs. Such report shall include a response to the International Atomic Energy Agency study entitled ''Thorium fuel cycle - Potential benefits and challenges'' (IAEA-TECDOC-1450).

TITLE II—ENERGY EFFICIENCY

Subtitle A—Building Energy Efficiency Programs

SEC. 201. GREATER ENERGY EFFICIENCY IN BUILDING CODES.

Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

''SEC. 304. GREATER ENERGY EFFICIENCY IN BUILDING CODES.

''(a) ENERGY EFFICIENCY TARGETS.—

''(1) IN GENERAL.—Except as provided in paragraph (2) or (3), the national building code energy efficiency target for the national average percentage improvement of a building's energy performance when built to a code meeting the target shall be—

''(A) effective on the date of enactment of the American Clean Energy and Security Act of 2009, 30 percent reduction in energy use relative to a comparable building constructed in compliance with the baseline code;

''(B) effective January 1, 2014, for residential buildings, and January 1, 2015, for commercial buildings, 50 percent reduction in energy use relative to the baseline code; and

''(C) effective January 1, 2017, for residential buildings, and January 1, 2018, for commercial buildings, and every 3 years thereafter, respectively, through January 1, 2029, and January 1, 2030, 5 percent additional reduction in energy use relative to the baseline code.

''(2) CONSENSUS-BASED CODES.—If on any effective date specified in paragraph (1)(A), (B), or (C) a successor code to the baseline codes provides for greater reduction in energy use than is required under paragraph (1), the overall percentage reduction in energy use provided by that successor code shall be the national building code energy efficiency target.

''(3) TARGETS ESTABLISHED BY SECRETARY.—The Secretary may by rule establish a national building code energy efficiency target for residential or commercial buildings achieving greater reductions in energy use than the targets prescribed in paragraph (1) or (2) if the Secretary determines that such greater reductions in energy use can be achieved with a code that is life cycle cost-justified and technically feasible. The Secretary may by rule establish a national building code energy efficiency target for residential or commercial buildings achieving a reduction in energy use that is greater

than zero but less than the targets prescribed in paragraph (1) or (2) if the Secretary determines that such lesser target is the maximum reduction in energy use that can be achieved through a code that is life cycle cost-justified and technically feasible.

''(4) ADDITIONAL REDUCTIONS IN ENERGY USE.—Effective on January 1, 2033, and once every 3 years thereafter, the Secretary shall determine, after notice and opportunity for comment, whether further energy efficiency building code improvements for residential or commercial buildings, respectively, are life cycle cost-justified and technically feasible, and shall establish updated national building code energy efficiency targets that meet such criteria.

''(5) ZERO-NET-ENERGY BUILDINGS.—In setting targets under this subsection, the Secretary shall consider ways to support the deployment of distributed renewable energy technology, and shall seek to achieve the goal of zero-net-energy commercial buildings established in section 422 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082).

''(6) BASELINE CODE.—For purposes of this section, the term 'baseline code' means—

''(A) for residential buildings, the 2006 International Energy Conservation Code (IECC) published by the International Code Council (ICC); and

''(B) for commercial buildings, the code published in ASHRAE Standard 90.1-2004.

''(7) CONSULTATION.—In establishing the targets required by this section, the Secretary shall consult with the Director of the National Institute of Standards and Technology.

''(b) NATIONAL ENERGY EFFICIENCY BUILDING CODES.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—There shall be established national energy efficiency building codes under this subsection, for residential and commercial buildings, sufficient to meet each of the national building code energy efficiency targets established under subsection (a), not later than the date that is one year after the deadline for establishment of each such target, except that the national energy efficiency building code established to meet the target described in subsection (a)(1)(A) shall be established by not later than 15 months after the effective date of that target.

''(B) EXISTING CODE.—If the Secretary finds prior to the date provided in subparagraph (A) for establishing a national code for any target that one or more energy efficiency building codes published by a recognized developer of national energy codes and standards meet or exceed the established target, the Secretary shall select the code that meets the target with the highest efficiency in the most cost-effective manner, and such code shall be the national energy efficiency building code.

''(C) REQUIREMENT TO ESTABLISH CODE.—If the Secretary does not make a finding under subparagraph (B), the national energy efficiency building code shall be established by rule by the Secretary under paragraph (2).

''(2) ESTABLISHMENT BY SECRETARY.—

''(A) PROCEDURE.—In order to establish a national energy efficiency building code as required under paragraph (1)(C), the Secretary shall—

''(i) not later than six months prior to the effective date for each target, review existing and proposed codes published or under review by recognized developers of national energy codes and standards;

''(ii) determine the percentage of energy efficiency improvements that are or would be achieved in such published or proposed code versions relative to the target;

''(iii) propose improvements to such published or proposed code versions sufficient to meet or exceed the target; and

''(iv) unless a finding is made under paragraph (1)(B) with respect to a code published by a recognized developer of national energy codes and standards, adopt a code that meets or exceeds the relevant national building code energy efficiency target by not later than one year after the effective date of each such target, and by not later than 15 months after the target is established under subsection (a)(1)(A).

''(B) CALCULATIONS.—Each national energy efficiency building code established by the Secretary under this paragraph shall be set at the maximum level the Secretary determines is life cycle cost-justified and technically feasible, in accordance with the following:

''(i) SAVINGS CALCULATIONS.—Calculations of energy savings shall take into account the typical lifetimes of different products, measures, and system configurations.

''(ii) COST-EFFECTIVENESS CALCULATIONS.—Calculations of life cycle cost-effectiveness shall be based on life cycle cost methods and procedures under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), but shall incorporate to the extent feasible externalities such as impacts on climate change and on peak energy demand that are not already incorporated in assumed energy costs.

''(C) CONSIDERATIONS.—In developing a national energy efficiency building code under this paragraph, the Secretary shall consider—

''(i) for residential national energy efficiency building codes—

''(I) residential building standards published or proposed by ASHRAE;

''(II) building codes published or proposed by the International Code Council (ICC);

''(III) data from the Residential Energy Services Network (RESNET) on compliance measures utilized by consumers to qualify for the residential energy efficiency tax credits established under the Energy Policy Act of 2005;

''(IV) data and information from the Department of Energy's Building America Program;

''(V) data and information from the Energy Star New Homes program;

''(VI) data and information from the New Building Institute and similar organizations; and

''(VII) standards for practices and materials to achieve cool roofs in residential buildings, taking into consideration reduced air conditioning energy use as a function of cool roofs, the potential reduction in global warming from increased solar reflectance from buildings, and cool roofs criteria in State and local building codes and in national and local voluntary programs, without reduction of otherwise applicable ceiling insulation standards; and

''(ii) for commercial national energy efficiency building codes—

''(I) commercial building standards proposed by ASHRAE;

''(II) building codes proposed by the International Code Council (ICC);

''(III) the Core Performance Criteria published by the New Buildings Institute;

''(IV) data and information developed by the Director of the Commercial High-Performance Green Building Office of the Department of Energy and any public-private partnerships established under that Office;

''(V) data and information from the Energy Star for Buildings program;

''(VI) data and information from the New Building Institute, RESNET, and similar organizations; and

''(VII) standards for practices and materials to achieve cool roofs in commercial buildings, taking into consideration reduced air conditioning energy use as a function of cool roofs, the potential reduction in global warming from increased solar reflectance from buildings, and cool roofs criteria in State and local building codes and in national and local voluntary programs, without reduction of otherwise applicable ceiling insulation standards.

''(D) CONSULTATION.—In establishing any national energy efficiency building code required by this section, the Secretary shall consult with the Director of the National Institute of Standards and Technology.

''(3) CONSENSUS STANDARD ASSISTANCE.—(A) To support the development of consensus standards that may provide the basis for national energy efficiency building codes, minimize duplication of effort, encourage progress through consensus, and facilitate the development of greater building efficiency, the Secretary shall provide assistance to recognized developers of national energy codes and standards to develop, and where the relevant code has been adopted as the national code, disseminate consensus based energy efficiency building codes as provided in this paragraph.

''(B) Upon a finding by the Secretary that a code developed by such a developer meets a target established under subsection (a), the Secretary shall—

''(i) send notice of the Secretary's finding to all duly authorized or appointed State, tribal, and local code agencies; and

''(ii) provide sufficient support to such a developer to make the code available on the Internet, or to accomplish distribution of such code to all such State, tribal, and local code agencies at no cost to the State, tribal, and local code agencies.

''(C) The Secretary may contract with such a developer and with other organizations with expertise on codes to provide training for State, tribal, and local code officials and building inspectors in the implementation and enforcement of such code.

''(D) The Secretary may provide grants and other support to such a developer to—

''(i) develop appropriate refinements to such code; and

''(ii) support analysis of options for improvements in the code to meet the next scheduled target.

''(4) CODE DEVELOPED BY SECRETARY.—If the Secretary establishes a national energy efficiency building code under paragraph (2), the Secretary shall—

''(A) to the extent that such code is based on a prior code developed by a recognized developer of national energy codes and standards, negotiate and provide appropriate compensation to such developer for the use of the code materials that remain in the code established by the Secretary; and

''(B) disseminate the national energy efficiency building codes to State, tribal, and local code officials, and support training and provide guidance and technical assistance to such officials as appropriate.

''(c) STATE ADOPTION OF ENERGY EFFICIENCY BUILDING CODES.—

''(1) REQUIREMENT.—Not later than 1 year after a national energy efficiency building code for residential or commercial buildings is established or revised under subsection (b), each State—

''(A) shall—

''(i) review and update the provisions of its building code regarding energy efficiency to meet or exceed the target met in the new national energy efficiency building code, to achieve equivalent or greater energy savings;

''(ii) document, where local governments establish building codes, that local governments representing not less than 80 percent

of the State's urban population have adopted the new national code, or have adopted local codes that meet or exceed the target met in the new national code to achieve equivalent or greater energy savings; or

''(iii) adopt the new national code; and

''(B) shall provide a certification to the Secretary demonstrating that energy efficiency building code provisions that apply pursuant to subparagraph (A) in that State meet or exceed the target met by the new national code, to achieve equivalent or greater energy savings.

''(2) CONFIRMATION.—

''(A) REQUIREMENT.—Not later than 90 days after a State certification is provided under paragraph (1)(B), the Secretary shall determine whether the State's energy efficiency building code provisions meet the requirements of this subsection.

''(B) ACCEPTANCE BY SECRETARY.—If the Secretary determines under subparagraph (A) that the State's energy efficiency building code or codes meet the requirements of this subsection, the Secretary shall accept the certification.

''(C) DEFICIENCY NOTICE.—If the Secretary determines under subparagraph (A) that the State's building code or codes do not meet the requirements of this subsection, the Secretary shall identify the deficiency in meeting the national building code energy efficiency target, and, to the extent possible, indicate areas where further improvement in the State's code provisions would allow the deficiency to be eliminated.

''(D) REVISION OF CODE AND RECERTIFICATION.—A State may revise its code or codes and submit a recertification under paragraph (1)(B) to the Secretary at any time.

''(3) COMPLIANT CODE.—For the purposes of meeting the target described in subsection (a)(1)(A) for residential buildings, a State that adopts the code represented in California's Title 24-2009 by the date 27 months after the date of enactment of the American Clean Energy and Security Act of 2009 shall be considered to have met the requirements of this subsection for the applicable period.

''(d) APPLICATION OF NATIONAL CODE TO STATE AND LOCAL JURISDICTIONS.—

''(1) IN GENERAL.—Upon the expiration of 18 months after a national energy efficiency building code is established under subsection (b), in any jurisdiction where the State has not had a certification relating to that code accepted by the Secretary under subsection (c)(2)(B), and the local government has not had a certification relating to that code accepted by the Secretary under subsection (e)(5), the national energy efficiency building code shall become the applicable energy efficiency building code for such jurisdiction.

''(2) CONFLICTS.—In the event of a conflict between a provision of the national energy efficiency building code and a provision of other applicable energy codes, the national energy efficiency building code shall apply. If there is a conflict between a provision of the national energy efficiency building code and a provision of any applicable fire code, life safety code, egress code, or accessibility code, the Secretary shall take appropriate actions to resolve such conflict in a manner that does not compromise the objectives of such codes.

''(3) STATE LEGISLATIVE ADOPTION.—In a State in which the relevant building energy code is adopted legislatively, the deadline in paragraph (1) shall not be earlier than 1 year after the first day that the legislature meets following establishment of a national energy efficiency building code.

''(4) NOTICE OF INTENT TO ENFORCE.—A State or locality that enforces building codes may assume responsibility for enforcing the national energy efficiency building code by notifying the Secretary to that effect not later than three months after the date established under paragraph (1).

''(5) VIOLATIONS.—Violations of this section shall be defined as follows:

''(A) If the building is subject to the requirements of a State energy efficiency building code with respect to which a certification has been accepted by the Secretary under subsection (c)(2)(B) or a local energy efficiency building code with respect to which a certification has been accepted by the Secretary pursuant to subsection (e)(5), or the requirements of the national energy efficiency building code in a State where the State or locality has notified the Secretary of its intent to enforce the provisions of the national energy efficiency building code, a violation shall be determined pursuant to the relevant provisions of State or local law.

''(B) If the building is subject to the requirements of a national energy efficiency building code made applicable under paragraph (1) of this subsection, except as provided in subparagraph (A), a violation shall be defined by the Secretary pursuant to subsection (g).

''(e) STATE ENFORCEMENT OF ENERGY EFFICIENCY BUILDING CODES.—

''(1) IN GENERAL.—Each State, or where applicable under State law each local government, shall implement and enforce applicable State or local codes with respect to which a certification was accepted by the Secretary under subsection (c)(2)(B) or paragraph (5) of this subsection, or the national energy efficiency building codes, as provided in this subsection.

''(2) STATE CERTIFICATION.—Not later than 2 years after the date of a certification under subsection (c)(1) or the application of a national energy efficiency building code under subsection (d)(1), each State shall certify that it has—

''(A) achieved compliance with—

''(i) State codes, or, as provided under State law, local codes, with respect to which a certification was accepted by the Secretary under subsection (c)(2)(B); or

''(ii) the national energy efficiency building code, as applicable; or

''(B) for any certification submitted within 7 years after the date of enactment of the American Clean Energy and Security Act of 2009, made significant progress toward achieving such compliance.

''(3) ACHIEVING COMPLIANCE.—A State shall be considered to achieve compliance with a code described in paragraph (2)(A) if at least 90 percent of new and substantially renovated building space in that State in the preceding year upon inspection meets the requirements of the code. A certification under paragraph (2) shall include documentation of the rate of compliance based on—

''(A) independent inspections of a random sample of the new and substantially renovated buildings covered by the code in the preceding year; or

''(B) an alternative method that yields an accurate measure of compliance as determined by the Secretary.

''(4) SIGNIFICANT PROGRESS.—A State shall be considered to have made significant progress toward achieving compliance with a code described in paragraph (2)(A) if—

''(A) the State has developed a plan, including for hiring enforcement staff, providing training, providing manuals and checklists, and instituting enforcement programs, designed to achieve full compliance within 5 years after the date of the adoption of the code;

''(B) the State is taking significant, timely, and measurable action to implement that plan;

''(C) the State has not reduced its expenditures for code enforcement; and

''(D) at least 50 percent of new and substantially renovated building space in the State in the preceding year upon inspection meets the requirements of the code.

''(5) SECRETARY'S DETERMINATION.—Not later than 90 days after a State certification under paragraph (2), the Secretary shall determine whether the State has demonstrated that it has complied with the requirements of this subsection, including accurate measurement of compliance, or that it has made significant progress toward compliance. If such determination is positive, the Secretary shall accept the certification. If the determination is negative, the Secretary shall identify the areas of deficiency.

''(6) OUT OF COMPLIANCE.—

''(A) IN GENERAL.—Any State for which the Secretary has not accepted a certification under paragraph (5) by the dates specified in paragraph (2) is out of compliance with this section.

''(B) LOCAL COMPLIANCE.—In any State that is out of compliance with this section as provided in subparagraph (A), a local government may be in compliance with this section by meeting all certification requirements of this subsection.

''(C) NONCOMPLIANCE.—Any State that is not in compliance with this section, as provided in subparagraph (A), shall, until the State regains such compliance, be ineligible to receive—

''(i) emission allowances pursuant to subsection (h)(1);

''(ii) Federal funding in excess of that State's share (calculated according to the allocation formula in section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323)) of $125,000,000 each year; and

''(iii) for—

''(I) the first year for which the State is out of compliance, 25 percent of any additional funding or other items of monetary value otherwise provided under the American Clean Energy and Security Act of 2009;

''(II) the second year for which the State is out of compliance, 50 percent of any additional funding or other items of monetary value otherwise provided under the American Clean Energy and Security Act of 2009;

''(III) the third year for which the State is out of compliance, 75 percent of any additional funding or other items of monetary value otherwise provided under the American Clean Energy and Security Act of 2009; and

''(IV) the fourth and subsequent years for which the State is out of compliance, 100 percent of any additional funding or other items of monetary value otherwise provided under the American Clean Energy and Security Act of 2009.

''(f) FEDERAL ENFORCEMENT AND TRAINING.—Where a State fails and local governments in that State also fail to enforce the applicable State or national energy efficiency building codes, the Secretary shall enforce such codes, as follows:

''(1) The Secretary shall establish, by rule, within 2 years after the date of enactment of the American Clean Energy and Security Act of 2009, an energy efficiency building code enforcement capability.

''(2) Such enforcement capability shall be designed to achieve 90 percent compliance with such code in any State within 1 year after the date of the Secretary's determination that such State is out of compliance with this section.

''(3) The Secretary may set and collect reasonable inspection fees to cover the costs of inspections required for such enforcement. Revenue from fees collected shall be available to the Secretary to carry out the requirements of this section upon appropriation.

''(4) In any jurisdiction to which this subsection applies, the Secretary shall coordinate enforcement of the national energy efficiency building code with State and local code enforcement of other building codes.

''(5) In any jurisdiction to which this subsection applies, the Secretary shall enhance compliance by conducting training and education of builders and other professionals in the jurisdiction concerning the national energy efficiency building code.

''(6) The Secretary shall coordinate with professional organizations representing code officials, architects, engineers, builders, and other experts to develop training curricula concerning the national energy efficiency building code.

''(7) If the Secretary enforces such codes under this subsection, the Secretary may, as appropriate, redefine violations of such codes.

''(g) ENFORCEMENT PROCEDURES.—The Secretary shall propose and, not later than three years after the date of enactment of the American Clean Energy and Security Act of 2009, shall define by rule violations of the energy efficiency building codes to be enforced by the Secretary pursuant to this section, and the penalties that shall apply to violators, in any jurisdiction in which the national energy efficiency building code has been made applicable under subsection (d)(1). To the extent that the Secretary determines that the authority to adopt and impose such violations and penalties by rule requires further statutory authority, the Secretary shall report such determination to Congress as soon as such determination is made, but not later than one year after the enactment of the American Clean Energy and Security Act of 2009.

''(h) FEDERAL SUPPORT.—

''(1) ALLOWANCE ALLOCATION FOR STATE COMPLIANCE.—For each vintage year from 2012 through 2050, the Administrator shall distribute allowances allocated pursuant to section 782(g)(2) of the Clean Air Act to the SEED Account for each State. Such allowances shall be distributed according to a formula established by the Secretary as follows:

''(A) One-fifth in an equal amount to each of the 50 States and United States territories.

''(B) Two-fifths as a function of the relative energy use in all buildings in each State in the most recent year for which data is available.

''(C) Two-fifths based on the number of building construction starts recorded in each State, the number of new building permits applied for in each State, or other relevant available data indicating building activity in each State, in the judgment of the Secretary, for the year prior to the year of the distribution.

''(2) ALLOWANCE ALLOCATION TO LOCAL GOVERNMENTS.—In the instance that the Secretary certifies that one or more local governments are in compliance with this section pursuant to subsection (e)(6)(B), the Administrator shall provide to each such local government the portion of the emission allowances that would have been provided to that State as a function of the population of that locality as a proportion of the population of that State as a whole.

''(3) UNALLOCATED ALLOWANCES.—To the extent that allowances are not provided to State or local governments for lack of certification in any year, those allowances shall be added to the amount provided to those States and local governments that are certified as eligible in that year.

''(4) USE OF ALLOWANCES.—Each State or each local government shall use such emission allowances as it receives pursuant to this section exclusively for the purposes of this section, including covering a reasonable portion of the costs of the development, adoption, implementation, and enforcement of a State or local energy efficiency building code that meets the national building code energy efficiency targets, or the national energy efficiency building code. In a State where local governments provide substantially all building code enforcement, a minimum of 50 percent of the allowance value received pursuant to this section shall be distributed to local governments as a function of the relative populations of such localities. In a State where local and State governments share building code enforcement duties, the State and local shares of allowance value required for enforcement shall be allocated in proportion to the number of building inspections performed by each level of government, and the share for local governments shall be distributed as a function of the relative populations of such localities. States shall further ensure that the allowance value made available pursuant to section 782 of the Clean Air Act and section 132 of the American Clean Energy and Security Act of 2009 is provided to the applicable State or local governmental entities as necessary to adopt and implement energy efficiency building codes, provide training for inspectors, ensure compliance, and provide such other functions as necessary. Actions taken by local authorities pursuant to this section shall constitute an acceptable use of funds authorized pursuant to the Energy Efficiency and Conservation Block Grant program under section 544 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17154).

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $25,000,000, and such additional sums as may be necessary to provide enforcement of a national energy efficiency building code, for each of fiscal years 2010 through 2020, and such sums thereafter as may be necessary to support the purposes of this section.

''(j) ANNUAL REPORTS BY SECRETARY.—The Secretary shall annually submit to Congress, and publish in the Federal Register, a report on—

''(1) the status of national energy efficiency building codes;

''(2) the status of energy efficiency building code adoption and compliance in the States;

''(3) the implementation of this section;

''(4) the status of Federal enforcement of building codes, including coordination with State and local enforcement, and the extent and resolution of any conflicts between the national energy efficiency building code and other residential and commercial building codes in force in the same jurisdictions; and

''(5) impacts of past action under this section, and potential impacts of further action, on lifetime energy use by buildings, including resulting energy and cost savings.''.

SEC. 202. BUILDING RETROFIT PROGRAM.

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

(1) ASSISTED HOUSING.—The term ''assisted housing'' means those properties receiving project-based assistance pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), or similar programs.

(2) NONRESIDENTIAL BUILDING.—The term ''nonresidential building'' means a building with a primary use or purpose other than residential housing, including any building used for commercial offices, schools, academic and other public and private institutions, nonprofit organizations including faith-based organizations, hospitals, hotels, and other nonresidential purposes. Such buildings shall include mixed-use properties used for both residential and nonresidential purposes in which more than half of building floor space is nonresidential.

(3) PERFORMANCE-BASED BUILDING RETROFIT PROGRAM.—The term ''performance-based building retrofit program'' means a program that determines building energy efficiency success based on actual measured savings after a retrofit is complete, as evidenced by energy invoices or evaluation protocols.

(4) PRESCRIPTIVE BUILDING RETROFIT PROGRAM.—The term ''prescriptive building retrofit program'' means a program that projects building retrofit energy efficiency success based on the known effectiveness of measures prescribed to be included in a retrofit.

(5) PUBLIC HOUSING.—The term ''public housing'' means properties receiving assistance under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

(6) RECOMMISSIONING; RETROCOMMISSIONING.—The terms ''recommissioning'' and ''retrocommissioning'' have the meaning given those terms in section 543(f)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(f)(1)).

(7) RESIDENTIAL BUILDING.—The term ''residential building'' means a building whose primary use is residential. Such buildings shall include single-family homes (both attached and detached), owner-occupied units in larger buildings with their own dedicated space-conditioning systems, apartment buildings, multi-unit condominium buildings, public housing, assisted housing, and buildings used for both residential and nonresidential purposes in which more than half of building floor space is residential.

(8) STATE ENERGY PROGRAM.—The term ''State Energy Program'' means the program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(b) ESTABLISHMENT.—The Administrator shall develop and implement, in consultation with the Secretary of Energy, standards for a national energy and environmental building retrofit policy for single-family and multifamily residences. The Administrator shall develop and implement, in consultation with the Secretary of Energy and the Director of Commercial High-Performance Green Buildings, standards for a national energy and environmental building retrofit policy for nonresidential buildings. The programs to implement the residential and nonresidential policies based on the standards developed under this section shall together be known as the Retrofit for Energy and Environmental Performance (REEP) program.

(c) PURPOSE.—The purpose of the REEP program is to facilitate the retrofitting of existing buildings across the United States to achieve maximum cost-effective energy efficiency improvements and significant improvements in water use and other environmental attributes.

(d) FEDERAL ADMINISTRATION.—

(1) EXISTING PROGRAMS.—In creating and operating the REEP program—

(A) the Administrator shall make appropriate use of existing programs, including the Energy Star program and in particular the Environmental Protection Agency Energy Star for Buildings program; and

(B) the Secretary of Energy shall make appropriate use of existing programs, including delegating authority to the Director of Commercial High-Performance Green Buildings appointed under section 421 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081), who shall designate and provide funding to support a high-performance

green building partnership consortium pursuant to subsection (f) of such section to support efforts under this section.

(2) CONSULTATION AND COORDINATION.—The Administrator and the Secretary of Energy shall consult with and coordinate with the Secretary of Housing and Urban Development in carrying out the REEP program with regard to retrofitting of public housing and assisted housing. As a result of such consultation, the Administrator shall establish standards to ensure that retrofits of public housing and assisted housing funded pursuant to this section are cost-effective, including opportunities to address the potential coperformance of repair and replacement needs that may be supported with other forms of Federal assistance. ''Owners of public housing or assited housing receiving funding through the REEP program shall agree to continue to provide affordable housing consistent with the provisions of the authorizing legislation governing each program for an additional period commensurate with the funding received, as determined in accordance with guidelines established by the Secretary of Housing and Urban Development.''

(3) ASSISTANCE.—The Administrator and the Secretary of Energy shall provide consultation and assistance to State and local agencies for the establishment of revolving loan funds, loan guarantees, or other forms of financial assistance under this section.

(e) STATE AND LOCAL ADMINISTRATION.—

(1) DESIGNATION AND DELEGATION.—A State may designate one or more agencies or entities, including those regulated by the State, to carry out the purposes of this section, but shall designate one entity or individual as the principal point of contact for the Administrator regarding the REEP Program. The designated State agency, agencies, or entities may delegate performance of appropriate elements of the REEP program, upon their request and subject to State law, to counties, municipalities, appropriate public agencies, and other divisions of local government, as well as to entities regulated by the State. In making any such designation or delegation, a State shall give priority to entities that administer existing comprehensive retrofit programs, including those under the supervision of State utility regulators. States shall maintain responsibility for meeting the standards and requirements of the REEP program. In any State that elects not to administer the REEP program, a unit of local government may propose to do so within its jurisdiction, and if the Administrator finds that such local government is capable of administering the program, the Administrator may provide allowances to that local government, prorated according to the population of the local jurisdiction relative to the population of the State, for purposes of the REEP program.

(2) EMPLOYMENT.—States and local government entities may administer a REEP program in a manner that authorizes public or regulated investor-owned utilities, building auditors and inspectors, contractors, nonprofit organizations, for-profit companies, and other entities to perform audits and retrofit services under this section. A State may provide incentives for retrofits without direct participation by the State or its agents, so long as the resulting savings are measured and verified. A State or local administrator of a REEP program shall seek to ensure that sufficient qualified entities are available to support retrofit activities so that building owners have a competitive choice among qualified auditors, raters, contractors, and providers of services related to retrofits. Nothing in this section is intended to deny the right of a building owner to choose the specific providers of retrofit services to engage for a retrofit project in that owner's building.

(3) EQUAL INCENTIVES FOR EQUAL IMPROVEMENT.—In general, the States should strive to offer the same levels of incentives for retrofits that meet the same efficiency improvement goals, regardless of whether the State, its agency or entity, or the building owner has conducted the retrofit achieving the improvement, provided the improvement is measured and verified.

(f) ELEMENTS OF REEP PROGRAM.—The Administrator, in consultation with the Secretary of Energy, shall establish goals, guidelines, practices, and standards for accomplishing the purpose stated in subsection (c), and shall annually review and, as appropriate, revise such goals, guidelines, practices, and standards. The program under this section shall include the following:

(1) Residential Energy Services Network (RESNET) or Building Performance Institute (BPI) analyst certification of residential building energy and environment auditors, inspectors, and raters, or an equivalent certification system as determined by the Administrator.

(2) BPI certification or licensing by States of residential building energy and environmental retrofit contractors, or an equivalent certification or licensing system as determined by the Administrator.

(3) Provision of BPI, RESNET, or other appropriate information on equipment and procedures, as determined by the Administrator, that contractors can use to test the energy and environmental efficiency of buildings effectively (such as infrared photography and pressurized testing, and tests for water use and indoor air quality).

(4) Provision of clear and effective materials to describe the testing and retrofit processes for typical buildings.

(5) Guidelines for offering and managing prescriptive building retrofit programs and performance-based building retrofit programs for residential and nonresidential buildings.

(6) Guidelines for applying recommissioning and retrocommissioning principles to improve a building's operations and maintenance procedures.

(7) A requirement that building retrofits conducted pursuant to a REEP program utilize, especially in all air-conditioned buildings, roofing materials with high solar energy reflectance, unless inappropriate due to green roof management, solar energy production, or for other reasons identified by the Administrator, in order to reduce energy consumption within the building, increase the albedo of the building's roof, and decrease the heat island effect in the area of the building, without reduction of otherwise applicable ceiling insulation standards.

(8) Determination of energy savings in a performance-based building retrofit program through—

(A) for residential buildings, comparison of before and after retrofit scores on the Home Energy Rating System (HERS) Index, where the final score is produced by an objective third party;

(B) for nonresidential buildings, Environmental Protection Agency Portfolio Manager benchmarks; or

(C) for either residential or nonresidential buildings, use of an Administrator-approved simulation program by a contractor with the appropriate certification, subject to appropriate software standards and verification of at least 15 percent of all work done, or such other percentage as the Administrator may determine.

(9) Guidelines for utilizing the Energy Star Portfolio Manager, the Home Energy Rating System (HERS) rating system, Home Performance with Energy Star program approvals, and any other tools associated with the retrofit program.

(10) Requirements and guidelines for post-retrofit inspection and confirmation of work and energy savings.

(11) Detailed descriptions of funding options for the benefit of State and local governments, along with model forms, accounting aids, agreements, and guides to best practices.

(12) Guidance on opportunities for—

(A) rating or certifying retrofitted buildings as Energy Star buildings, or as green buildings under a recognized green building rating system;

(B) assigning Home Energy Rating System (HERS) or similar ratings; and

(C) completing any applicable building performance labels.

(13) Sample materials for publicizing the program to building owners, including public service announcements and advertisements.

(14) Processes for tracking the numbers and locations of buildings retrofitted under the REEP program, with information on projected and actual savings of energy and its value over time.

(g) REQUIREMENTS.—As a condition of receiving allowances for the REEP program pursuant to this Act, a State or qualifying local government shall—

(1) adopt the standards for training, certification of contractors, certification of buildings, and post-retrofit inspection as developed by the Administrator for residential and nonresidential buildings, respectively, except as necessary to match local conditions, needs, efficiency opportunities, or other local factors, or to accord with State laws or regulations, and then only after the Administrator approves such a variance;

(2) establish fiscal controls and accounting procedures (which conform to generally accepted government accounting principles) sufficient to ensure proper accounting during appropriate accounting periods for payments received and disbursements, and for fund balances; and

(3) agree to make not less than 10 percent of allowance value received pursuant to section 132(c)(2) for dedicated funding of its REEP program available on a preferential basis for retrofit projects proposed for public housing and assisted housing, provided that—

(A) none of such funds shall be used for demolition of such housing;

(B) such retrofits shall not be used to justify any increase in rents charged to residents of such housing; and

(C) owners of such housing shall agree to continue to provide affordable housing consistent with the provisions of the authorizing legislation governing each program for an additional period commensurate with the funding received.

The Administrator shall conduct or require each State to have such independent financial audits of REEP-related funding as the Administrator considers necessary or appropriate to carry out the purposes of this section.

(h) OPTIONS TO SUPPORT REEP PROGRAM.—The emission allowances provided pursuant to this Act to the States SEED Accounts shall support the implementation through State REEP programs of alternate means of creating incentives for, or reducing financial barriers to, improved energy and environmental performance in buildings, consistent with this section, including—

(1) implementing prescriptive building retrofit programs and performance-based building retrofit programs;

(2) providing credit enhancement, interest rate subsidies, loan guarantees, or other credit support;

(3) providing initial capital for public revolving fund financing of retrofits, with repayments by beneficiary building owners over time through their tax payments, calibrated to create net positive cash flow to the building owner;

(4) providing funds to support utility-operated retrofit programs with repayments over time through utility rates, calibrated to create net positive cash flow to the building owner, and transferable from one building owner to the next with the building's utility services;

(5) providing funds to local government programs to provide REEP services and financial assistance; and

(6) other means proposed by State and local agencies, subject to the approval of the Administrator.

(i) SUPPORT FOR PROGRAM.—

(1) USE OF ALLOWANCES.—Direct Federal support for the REEP program is provided through the emission allowances allocated to the States' SEED Accounts pursuant to section 132 of this Act. To the extent that a State provides allowances to local governments within the State to implement elements of the REEP Program, that shall be deemed a distribution of such allowances to units of local government pursuant to subsection (c)(1) of that section.

(2) INITIAL AWARD LIMITS.—Except as provided in paragraph (3), State and local REEP programs may make per-building direct expenditures for retrofit improvements, or their equivalent in indirect or other forms of financial support, from funds derived from the sale of allowances received directly from the Administrator in amounts not to exceed the following amounts per unit:

(A) RESIDENTIAL BUILDING PROGRAM.—

(i) AWARDS.—For residential buildings—

(I) support for a free or low-cost detailed building energy audit that prescribes measures sufficient to achieve at least a 20 percent reduction in energy use, by providing an incentive equal to the documented cost of such audit, but not more than $200, in addition to any earned by achieving a 20 percent or greater efficiency improvement;

(II) a total of $1,000 for a combination of measures, prescribed in an audit conducted under subclause (I), designed to reduce energy consumption by more than 10 percent, and $2,000 for a combination of measures prescribed in such an audit, designed to reduce energy consumption by more than 20 percent;

(III) $3,000 for demonstrated savings of 20 percent, pursuant to a performance-based building retrofit program; and

(IV) $1,000 for each additional 5 percentage points of energy savings achieved beyond savings for which funding is provided under subclause (II) or (III).

Funding shall not be provided under clauses (II) and (III) for the same energy savings.

(ii) MAXIMUM PERCENTAGE.—Awards under clause (i) shall not exceed 50 percent of retrofit costs for each building. For buildings with multiple residential units, awards under clause (i) shall not be greater than 50 percent of the total cost of retrofitting the building, prorated among individual residential units on the basis of relative costs of the retrofit. In the case of public housing and assisted housing, the 50 percent contribution matching the contribution from REEP program funds may come from any other source, including other Federal funds.

(iii) ADDITIONAL AWARDS.—Additional awards may be provided for purposes of increasing energy efficiency, for buildings achieving at least 20 percent energy savings using funding provided under clause (i), in the form of grants of not more than $600 for measures projected or measured (using an appropriate method approved by the Administrator) to achieve at least 35 percent potable water savings through equipment or systems with an estimated service life of not less than seven years, and not more than an additional $20 may be provided for each additional one percent of such savings, up to a maximum total grant of $1,200.

(B) NONRESIDENTIAL BUILDING PROGRAM.—

(i) AWARDS.—For nonresidential buildings—

(I) support for a free or low-cost detailed building energy audit that prescribes, as part of a energy-reducing measures sufficient to achieve at least a 20 percent reduction in energy use, by providing an incentive equal to the documented cost of such audit, but not more than $500, in addition to any award earned by achieving a 20 percent or greater efficiency improvement;

(II) $0.15 per square foot of retrofit area for demonstrated energy use reductions from 20 percent to 30 percent;

(III) $0.75 per square foot for demonstrated energy use reductions from 30 percent to 40 percent;

(IV) $1.60 per square foot for demonstrated energy use reductions from 40 percent to 50 percent; and

(V) $2.50 per square foot for demonstrated energy use reductions exceeding 50 percent.

(ii) MAXIMUM PERCENTAGE.—Amounts provided under subclauses (II) through (V) of clause (i) combined shall not exceed 50 percent of the total retrofit cost of a building. In nonresidential buildings with multiple units, such awards shall be prorated among individual units on the basis of relative costs of the retrofit.

(iii) ADDITIONAL AWARDS.—Additional awards may be provided, for buildings achieving at least 20 percent energy savings using funding provided under clause (i), as follows:

(I) WATER.—For purposes of increasing energy efficiency, grants may be made for whole building potable water use reduction (using an appropriate method approved by the Administrator) for up to 50 percent of the total retrofit cost, including amounts up to—

(aa) $24.00 per thousand gallons per year of potable water savings of 40 percent or more;

(bb) $27.00 per thousand gallons per year of potable water savings of 50 percent or more; and

(cc) $30.00 per thousand gallons per year of potable water savings of 60 percent or more.

(II) ENVIRONMENTAL IMPROVEMENTS.—Additional awards of up to $1,000 may be granted for the inclusion of other environmental attributes that the Administrator, in consultation with the Secretary, identifies as contributing to energy efficiency. Such attributes may include, but are not limited to waste diversion and the use of environmentally preferable materials (including salvaged, renewable, or recycled materials, and materials with no or low-VOC content). The Administrator may recommend that States develop such standards as are necessary to account for local or regional conditions that may affect the feasibility or availability of identified resources and attributes.

(iv) INDOOR AIR QUALITY MINIMUM.—Nonresidential buildings receiving incentives under this section must satisfy at a minimum the most recent version of ASHRAE Standard 62.1 for ventilation, or the equivalent as determined by the Administrator. A State may issue a waiver from this requirement to a building project on a showing that such compliance is infeasible due to the physical constraints of the building's existing ventilation system, or such other limitations as may be specified by the Administrator.

(C) DISASTER DAMAGED BUILDINGS.—Any source of funds, including Federal funds provided through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, shall qualify as the building owner's 50 percent contribution, in order to match the contribution of REEP funds, so long as the REEP funds are only used to improve the energy efficiency of the buildings being reconstructed. In addition, the appropriate Federal agencies providing assistance to building owners through the Robert T. Stafford Disaster Relief and Emergency Assistance Act shall make information available, following a disaster, to building owners rebuilding disaster damaged buildings with assistance from the Act, that REEP funds may be used for energy efficiency improvements.

(D) HISTORIC BUILDINGS.—Notwithstanding subparagraphs (A) and (B), a building in or eligible for the National Register of Historic Places shall be eligible for awards under this paragraph in amounts up to 120 percent of the amounts set forth in subparagraphs (A) and (B).

(E) SUPPLEMENTAL SUPPORT.—State and local governments may supplement the per-building expenditures under this paragraph with funding from other sources.

(3) ADJUSTMENT.—The Administrator may adjust the specific dollar limits funded by the sale of allowances pursuant to paragraph (2) in years subsequent to the second year after the date of enactment of this Act, and every 2 years thereafter, as the Administrator determines necessary to achieve optimum cost-effectiveness and to maximize incentives to achieve energy efficiency within the total building award amounts provided in that paragraph, and shall publish and hold constant such revised limits for at least 2 years.

(j) REPORT TO CONGRESS.—The Administrator shall conduct an annual assessment of the achievements of the REEP program in each State, shall prepare an annual report of such achievements and any recommendations for program modifications, and shall provide such report to Congress at the end of each fiscal year during which funding or other resources were made available to the States for the REEP Program.

(k) OTHER SOURCES OF FEDERAL SUPPORT.—

(1) ADDITIONAL STATE ENERGY PROGRAM FUNDS.—Any Federal funding provided to a State Energy Program that is not required to be expended for a different federally designated purpose may be used to support a REEP program.

(2) PROGRAM ADMINISTRATION.—State Energy Offices or designated State agencies may expend up to 10 percent of available allowance value provided under this section for program administration.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section, for each of fiscal years 2010, 2011, 2012, and 2013—

(A) $50,000,000 to the Administrator for program administration costs; and

(B) $20,000,000 to the Secretary of Energy for program administration costs.

SEC. 203. ENERGY EFFICIENT MANUFACTURED HOMES.

(a) DEFINITIONS.—In this section:

(1) MANUFACTURED HOME.—The term ''manufactured home'' has the meaning given such term in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).

(2) ENERGY STAR QUALIFIED MANUFACTURED HOME.—The term ''Energy Star qualified manufactured home'' means a manufactured home that has been designed, produced, and installed in accordance with Energy Star's guidelines by an Energy Star certified plant.

(b) PURPOSE.—The purpose of this section is to assist low-income households residing in manufactured homes constructed prior to 1976 to save energy and energy expenditures by providing support toward the purchase of

new Energy Star qualified manufactured homes.

(c) STATE IMPLEMENTATION OF PROGRAM.—

(1) MANUFACTURED HOME REPLACEMENT PROGRAM.—Any State may provide to the owner of a manufactured home constructed prior to 1976 a rebate to use toward the purchase of a new Energy Star qualified manufactured home pursuant to this section.

(2) USE OF ALLOWANCES.—Direct Federal support for the program established in this section is provided through the emission allowances allocated to the States' SEED Accounts pursuant to section 132 of this Act. To the extent that a State provides allowances to local governments within the State to implement this program, that shall be deemed a distribution of such allowances to units of local government pursuant to subsection (c)(1) of that section.

(3) REBATES.—

(A) PRIMARY RESIDENCE REQUIREMENT.—A rebate described under paragraph (1) may only be made to an owner of a manufactured home constructed prior to 1976 that is used on a year-round basis as a primary residence.

(B) DISMANTLING AND REPLACEMENT.—A rebate described under paragraph (1) may be made only if the manufactured home constructed prior to 1976 will be—

(i) rendered unusable for human habitation (including appropriate recycling); and

(ii) replaced, in the same general location, as determined by the applicable State agency, with an Energy Star qualified manufactured home.

(C) SINGLE REBATE.—A rebate described under paragraph (1) may not be provided to any owner of a manufactured home constructed prior to 1976 that was or is a member of a household for which any other member of the household was provided a rebate pursuant to this section.

(D) ELIGIBLE HOUSEHOLDS.—To be eligible to receive a rebate described under paragraph (1), an owner of a manufactured home constructed prior to 1976 shall demonstrate to the applicable State agency that the total income of all members the owner's household does not exceed 200 percent of the Federal poverty level for income in the applicable area.

(E) ADVANCE AVAILABILITY.—A rebate may be provided under this section in a manner to facilitate the purchase of a new Energy Star qualified manufactured home.

(4) REBATE LIMITATION.—Rebates provided by States under this section shall not exceed $7,500 per manufactured home from any value derived from the use of emission allowances provided to the State pursuant to section 132.

(5) USE OF STATE FUNDS.—A State providing rebates under this section may supplement the amount of such rebates under paragraph (4) by any additional amount is from State funds and other sources, including private donations or grants from charitable organizations.

(6) COORDINATION WITH SIMILAR PROGRAMS.—

(A) STATE PROGRAMS.—A State conducting an existing program that has the purpose of replacing manufactured homes constructed prior to 1976 with Energy Star qualified manufactured homes, may use allowance value provided under section 782 of the Clean Air Act to support such a program, provided such funding does not exceed the rebate limitation amount under paragraph (4).

(B) FEDERAL PROGRAMS.—The Secretary of Energy shall coordinate with and seek to achieve the purpose of this section through similar Federal programs including—

(i) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); and

(ii) the program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(C) COORDINATION WITH OTHER STATE AGENCIES.—A State agency using allowance value to administer the program under this section may coordinate its efforts, and share funds for administration, with other State agencies involved in low-income housing programs.

(7) ADMINISTRATIVE EXPENSES.—A State using allowance value under this section may expend not more than 10 percent of such value for administrative expenses related to this program.

SEC. 204. BUILDING ENERGY PERFORMANCE LABELING PROGRAM.

(a) ESTABLISHMENT.—

(1) PURPOSE.—The Administrator shall establish a building energy performance labeling program with broad applicability to the residential and commercial markets to enable and encourage knowledge about building energy performance by owners and occupants and to inform efforts to reduce energy consumption nationwide.

(2) COMPONENTS.—In developing such program, the Administrator shall—

(A) consider existing programs, such as Environmental Protection Agency's Energy Star program, the Home Energy Rating System (HERS) Index, and programs at the Department of Energy;

(B) support the development of model performance labels for residential and commercial buildings; and

(C) utilize incentives and other means to spur use of energy performance labeling of public and private sector buildings nationwide.

(b) DATA ASSESSMENT FOR BUILDING ENERGY PERFORMANCE.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Administrator shall provide to Congress, as well as to the Secretary of Energy and the Office of Management and Budget, a report identifying—

(A) all principal building types for which statistically significant energy performance data exists to serve as the basis of measurement protocols and labeling requirements for achieved building energy performance; and

(B) those building types for which additional data are required to enable the development of such protocols and requirements.

(2) ADDITIONAL REPORTS.—Additional updated reports shall be provided under this subsection as often as The Administrator considers practicable, but not less than every 2 years.

(c) BUILDING DATA ACQUISITION.—

(1) RESOURCE REQUIREMENTS.—For all principal building types identified under subsection (b), the Secretary of Energy, not later than 90 days after a report by the Administrator under subsection (b), shall provide to Congress, the Administrator, and the Office of Management and Budget a statement of additional resources needed, if any, to fully develop the relevant data, as well as the anticipated timeline for data development.

(2) CONSULTATION.—The Secretary of Energy shall consult with the Administrator concerning the Administrator's ability to use data series for these additional building types to support the achieved performance component in the labeling program.

(3) IMPROVEMENTS TO BUILDING ENERGY CONSUMPTION DATABASES.—

(A) COMMERCIAL DATABASE.—The Secretary of Energy shall support improvements to the Commercial Buildings Energy Consumption Survey (CBECS) as authorized by section 205(k) of the Department of Energy Organization Act (42 U.S.C. 7135(k))—

(i) to enable complete and robust data for the actual energy performance of principal building types currently covered by survey;

(ii) to cover additional building types as identified by the Administrator under subsection (b)(1)(B), to enable the development of achieved performance measurement protocols are developed for at least 90 percent of all major commercial building types within 5 years after the date of enactment of this Act; and

(iii) to include third-party audits of random data samplings to ensure the quality and accuracy of survey information.

(B) RESIDENTIAL DATABASES.—The Administrator, in consultation with the Energy Information Administration and the Secretary of Energy, shall support improvements to the Residential Energy Consumption Survey (RECS) as authorized by section 205(k) of the Department of Energy Organization Act (42 U.S.C. 7135(k)), or such other residential energy performance databases as the Administrator considers appropriate, to aid the development of achieved performance measurement protocols for residential building energy use for at least 90 percent of the residential market within 5 years after the date of enactment of this Act.

(C) CONSULTATION.—The Secretary of Energy and the Administrator shall consult with public, private, and nonprofit sector representatives from the building industry and real estate industry to assist in the evaluation and improvement of building energy performance databases and labeling programs.

(d) IDENTIFICATION OF MEASUREMENT PROTOCOLS FOR ACHIEVED PERFORMANCE.—

(1) PROPOSED PROTOCOLS AND REQUIREMENTS.—At the earliest practicable date, but not later than 1 year after identifying a building type under subsection (b)(1)(A), the Administrator shall propose a measurement protocol for that building type and a requirement detailing how to use that protocol in completing applicable commercial or residential performance labels created pursuant to this section.

(2) FINAL RULE.—After providing for notice and comment, the Administrator shall publish a final rule containing a measurement protocol and the corresponding requirements for applying that protocol. Such a rule—

(A) shall define the minimum period for measurement of energy use by buildings of that type and other details for determining achieved performance, to include leased buildings or parts thereof;

(B) shall identify necessary data collection and record retention requirements; and

(C) may specify transition rules and exemptions for classes of buildings within the building type.

(e) PROCEDURES FOR EVALUATING DESIGNED PERFORMANCE.—The Administrator shall develop protocols for evaluating the designed performance of individual building types. The Administrator may conduct such feasibility studies and demonstration projects as are necessary to evaluate the sufficiency of proposed protocols for designed performance.

(f) CREATION OF BUILDING ENERGY PERFORMANCE LABELING PROGRAM.—

(1) MODEL LABEL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall propose a model building energy label that provides a format—

(A) to display achieved performance and designed performance data;

(B) that may be tailored for residential and commercial buildings, and for single-occupancy and multitenanted buildings; and

(C) to display other appropriate elements identified during the development of measurement protocols under subsections (d) and (e).

(2) INCLUSIONS.—Nothing in this section shall require the inclusion on such a label of designed performance data where impracticable or not cost effective, or to preclude the display of both achieved performance and designed performance data for a particular building where both such measures are available, practicable, and cost effective.

(3) EXISTING PROGRAMS.—In developing the model label, the Administrator shall consider existing programs, including—

(A) the Environmental Protection Agency's Energy Star Portfolio Manager program and the California HERS II Program Custom Approach for the achieved performance component of the label;

(B) the Home Energy Rating System (HERS) Index system for the designed performance component of the label; and

(C) other Federal and State programs, including the Department of Energy's related programs on building technologies and those of the Federal Energy Management Program.

(4) FINAL RULE.—After providing for notice and comment, the Administrator shall publish a final rule containing the label applicable to covered building types.

(g) DEMONSTRATION PROJECTS FOR LABELING PROGRAM.—

(1) IN GENERAL.—The Administrator shall conduct building energy performance labeling demonstration projects for different building types—

(A) to ensure the sufficiency of the current Commercial Buildings Energy Consumption Survey and other data to serve as the basis for new measurement protocols for the achieved performance component of the building energy performance labeling program;

(B) to inform the development of measurement protocols for building types not currently covered by the Commercial Buildings Energy Consumption Survey; and

(C) to identify any additional information that needs to be developed to ensure effective use of the model label.

(2) PARTICIPATION.—Such demonstration projects shall include participation of—

(A) buildings from diverse geographical and climate regions;

(B) buildings in both urban and rural areas;

(C) single-family residential buildings;

(D) multihousing residential buildings with more than 50 units, including at least one project that provides affordable housing to individuals of diverse incomes;

(E) single-occupant commercial buildings larger than 30,000 square feet;

(F) multitenanted commercial buildings larger than 50,000 square feet; and

(G) buildings from both the public and private sectors.

(3) PRIORITY.—Priority in the selection of demonstration projects shall be given to projects that facilitate large-scale implementation of the labeling program for samples of buildings across neighborhoods, geographic regions, cities, or States.

(4) FINDINGS.—The Administrator shall report any findings from demonstration projects under this subsection, including an identification of any areas of needed data improvement, to the Department of Energy's Energy Information Administration and Building Technologies Program.

(5) COORDINATION.—The Administrator and the Secretary of Energy shall coordinate demonstration projects undertaken pursuant to this subsection with those undertaken as part of the Zero-Net-Energy Commercial Buildings Initiative adopted under section 422 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082).

(h) IMPLEMENTATION OF LABELING PROGRAM.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Energy, shall work with all State Energy Offices established pursuant to part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) or other State authorities as necessary for the purpose of implementing the labeling program established under this section for commercial and residential buildings.

(2) OUTREACH TO LOCAL AUTHORITIES.—The Administrator shall, acting in consultation and coordination with the respective States, encourage use of the labeling program by counties and other localities to broaden access to information about building energy use, for example, through disclosure of building label contents in tax, title, and other records those localities maintain. For this purpose, the Administrator shall develop an electronic version of the label and information that can be readily transmitted and read in widely-available computer programs but is protected from unauthorized manipulation.

(3) MEANS OF IMPLEMENTATION.—In adopting the model labeling program established under this section, a State shall seek to ensure that labeled information be made accessible to the public in a manner so that owners, lenders, tenants, occupants, or other relevant parties can utilize it. Such accessibility may be accomplished through—

(A) preparation, and public disclosure of the label through filing with tax and title records at the time of—

(i) a building audit conducted with support from Federal or State funds;

(ii) a building energy-efficiency retrofit conducted in response to such an audit;

(iii) a final inspection of major renovations or additions made to a building in accordance with a building permit issued by a local government entity;

(iv) a sale that is recorded for title and tax purposes consistent with paragraph (8);

(v) a new lien recorded on the property for more than a set percentage of the assessed value of the property, if that lien reflects public financial assistance for energy-related improvements to that building; or

(vi) a change in ownership or operation of the building for purposes of utility billing; or

(B) other appropriate means.

(4) STATE IMPLEMENTATION OF PROGRAM.—

(A) ELIGIBILITY.—A State may become eligible to utilize allowance value to implement this program by—

(i) adopting by statute or regulation a requirement that buildings be assessed and labeled, consistent with the labeling requirements of the program established under this section; or

(ii) adopting a plan to implement a model labeling program consistent with this section within one year of enactment of this Act, including the establishment of that program within 3 years after the date of enactment of this Act, and demonstrating continuous progress under that plan.

(B) USE OF ALLOWANCES.—Direct Federal support for the program established in this section is provided through the emission allowances allocated to the States' SEED Accounts pursuant to section 132 of this Act. To the extent that a State provides allowances to local governments within the State to implement this program, that shall be deemed a distribution of such allowances to units of local government pursuant to subsection (c)(1) of that section.

(5) GUIDANCE.—The Administrator may create or identify model programs and resources to provide guidance to offer to States and localities for creating labeling programs consistent with the model program established under this section.

(6) PROGRESS REPORT.—The Administrator, in consultation with the Secretary of Energy, shall provide a progress report to Congress not later than 3 years after the date of enactment of this Act that—

(A) evaluates the effectiveness of efforts to advance use of the model labeling program by States and localities;

(B) recommends any legislative changes necessary to broaden the use of the model labeling program; and

(C) identifies any changes to broaden the use of the model labeling program that the Administrator has made or intends to make that do not require additional legislative authority.

(7) STATE INFORMATION.—The Administrator may require States to report to the Administrator information that the Administrator requires to provide the report required under paragraph (6).

(8) PREVENTION OF DISRUPTION OF SALES TRANSACTIONS.—No State shall implement a new labeling program pursuant to this section in a manner that requires the labeling of a building to occur after a contract has been executed for the sale of that building and before the sales transaction is completed.

(i) IMPLEMENTATION OF LABELING PROGRAM IN FEDERAL BUILDINGS.—

(1) USE OF LABELING PROGRAM.—The Secretary of Energy and the Administrator shall use the labeling program established under this section to evaluate energy performance in the facilities of the Department of Energy and the Environmental Protection Agency, respectively, to the extent practicable, and shall encourage and support implementation efforts in other Federal agencies.

(2) ANNUAL PROGRESS REPORT.—The Secretary of Energy and Administrator shall provide an annual progress report to Congress and the Office of Management and Budget detailing efforts to implement this subsection, as well as any best practices or needed resources identified as a result of such efforts.

(j) PUBLIC OUTREACH.—The Secretary of Energy and the Administrator, in consultation with nonprofit and industry stakeholders with specialized expertise, and in conjunction with other energy efficiency public awareness efforts, shall establish a business and consumer education program to increase awareness about the importance of building energy efficiency and to facilitate widespread use of the labeling program established under this section.

(k) DEFINITIONS.—In this section:

(1) BUILDING TYPE.—The term ''building type'' means a grouping of buildings as identified by their principal building activities, or as grouped by their use, including office buildings, laboratories, libraries, data centers, retail establishments, hotels, warehouses, and educational buildings.

(2) MEASUREMENT PROTOCOL.—The term ''measurement protocol'' means the methodology, prescribed by the Administrator, for defining a benchmark for building energy performance for a specific building type and for measuring that performance against the benchmark.

(3) ACHIEVED PERFORMANCE.—The term ''achieved performance'' means the actual energy consumption of a building as compared to a baseline building of the same type and size, determined by actual consumption data normalized for appropriate variables.

(4) DESIGNED PERFORMANCE.—The term ''designed performance'' means the energy consumption performance a building would achieve if operated consistent with its design intent for building energy use, utilizing a standardized set of operational conditions informed by data collected or confirmed during an energy audit.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to the Administrator $50,000,000 for implementation of this section for each fiscal year from 2010 through 2020; and

(2) to the Secretary of Energy $20,000,000 for implementation of this section for fiscal year 2010 and $10,000,000 for fiscal years 2011 through 2020.

(m) NEW CONSTRUCTION.—This section shall apply only to construction beginning after the date of enactment of this Act.

SEC. 205. TREE PLANTING PROGRAMS.

(a) FINDINGS.—The Congress finds that—

(1) the utility sector is the largest single source of greenhouse gas emissions in the United States today, producing approximately one-third of the country's emissions;

(2) heating and cooling homes accounts for nearly 60 percent of residential electricity usage in the United States;

(3) shade trees planted in strategic locations can reduce residential cooling costs by as much as 30 percent;

(4) shade trees have significant clean-air benefits associated with them;

(5) every 100 healthy large trees removes about 300 pounds of air pollution (including particulate matter and ozone) and about 15 tons of carbon dioxide from the air each year;

(6) tree cover on private property and on newly-developed land has declined since the 1970s, even while emissions from transportation and industry have been rising; and

(7) in over a dozen test cities across the United States, increasing urban tree cover has generated between two and five dollars in savings for every dollar invested in such tree planting.

(b) DEFINITIONS.—As used in this section:

(1) The term ''Secretary'' refers to the Secretary of Energy.

(2) The term ''retail power provider'' means any entity authorized under applicable State or Federal law to generate, distribute, or provide retail electricity, natural gas, or fuel oil service.

(3) The term ''tree-planting organization'' means any nonprofit or not-for-profit group which exists, in whole or in part, to—

(A) expand urban and residential tree cover;

(B) distribute trees for planting;

(C) increase awareness of the environmental and energy-related benefits of trees;

(D) educate the public about proper tree planting, care, and maintenance strategies; or

(E) carry out any combination of the foregoing activities.

(4) The term ''tree-siting guidelines'' means a comprehensive list of science-based measurements outlining the species and minimum distance required between trees planted pursuant to this section, in addition to the minimum required distance to be maintained between such trees and—

(A) building foundations;

(B) air conditioning units;

(C) driveways and walkways;

(D) property fences;

(E) preexisting utility infrastructure;

(F) septic systems;

(G) swimming pools; and

(H) other infrastructure as deemed appropriate.

(5) The terms ''small office'', ''small office buildings'', and ''small office settings'' means nonresidential buildings or structures zoned for business purposes that are 20,000 square feet or less in total area.

(c) PURPOSES.—The purpose of this section is to establish a grant program to assist retail power providers with the establishment and operation of targeted tree-planting programs in residential and small office settings, for the following purposes:

(1) Reducing the peak-load demand for electricity from residences and small office buildings during the summer months through direct shading of buildings provided by strategically planted trees.

(2) Reducing wintertime demand for energy from residences and small office buildings by blocking cold winds from reaching such structures, which lowers interior temperatures and drives heating demand.

(3) Protecting public health by removing harmful pollution from the air.

(4) Utilizing the natural photosynthetic and transpiration process of trees to lower ambient temperatures and absorb carbon dioxide, thus mitigating the effects of climate change.

(5) Lowering electric bills for residential and small office ratepayers by limiting electricity consumption without reducing benefits.

(6) Relieving financial and demand pressure on retail power providers that stems from large peak-load energy demand.

(7) Protecting water quality and public health by reducing stormwater runoff and keeping harmful pollutants from entering waterways.

(8) Ensuring that trees are planted in locations that limit the amount of public money needed to maintain public and electric infrastructure.

(d) GENERAL AUTHORITY.—

(1) ASSISTANCE.—The Secretary is authorized to provide financial, technical, and related assistance to retail power providers to assist with the establishment of new, or continued operation of existing, targeted tree-planting programs for residences and small office buildings.

(2) PUBLIC RECOGNITION INITIATIVE.—In carrying out the authority provided under this section, the Secretary shall also create a national public recognition initiative to encourage participation in tree-planting programs by retail power providers.

(3) ELIGIBILITY.—Only those programs which utilize targeted, strategic tree-siting guidelines to plant trees in relation to building location, sunlight, and prevailing wind direction shall be eligible for assistance under this section.

(4) REQUIREMENTS.—In order to qualify for assistance under this section, a tree-planting program shall meet each of the following requirements:

(A) The program shall provide free or discounted shade-providing or wind-reducing trees to residential and small office consumers interested in lowering their home energy costs.

(B) The program shall optimize the electricity-consumption reduction benefit of each tree by planting in strategic locations around a given residence or small office.

(C) The program shall either—

(i) provide maximum amounts of shade during summer intervals when residences and small offices are exposed to the most sun intensity; or

(ii) provide maximum amounts of wind protection during fall and winter intervals when residences and small offices are exposed to the most wind intensity.

(D) The program shall use the best available science to create tree siting guidelines which dictate where the optimum tree species are best planted in locations that achieve maximum reductions in consumer energy demand while causing the least disruption to public infrastructure, considering overhead and underground facilities.

(E) The program shall receive certification from the Secretary that it is designed to achieve the goals set forth in subparagraphs (A) through (D). In designating criteria for such certification, the Secretary shall collaborate with the United States Forest Service's Urban and Community Forestry Program to ensure that certification requirements are consistent with such above goals.

(5) NEW PROGRAM FUNDING SHARE.—The Secretary shall ensure that no less than 30 percent of the funds made available under this section are distributed to retail power providers which—

(A) have not previously established or operated qualified tree-planting programs; or

(B) are operating qualified tree-planting programs which were established no more than three years prior to the date of enactment of this section.

(e) AGREEMENTS BETWEEN ELECTRICITY PROVIDERS AND TREE-PLANTING ORGANIZATIONS.—

(1) GRANT AUTHORIZATION.—In providing assistance under this section, the Secretary is authorized to award grants only to retail power providers that have entered into binding legal agreements with nonprofit tree-planting organizations.

(2) CONDITIONS OF AGREEMENT.—Those agreements between retail power providers and tree-planting organizations shall set forth conditions under which nonprofit tree-planting organizations shall provide targeted tree-planting programs which may require these organizations to—

(A) participate in local technical advisory committees responsible for drafting general tree-siting guidelines and choosing the most effective species of trees to plant in given locations;

(B) coordinate volunteer recruitment to assist with the physical act of planting trees in residential locations;

(C) undertake public awareness campaigns to educate local residents about the benefits, cost savings, and availability of free shade trees;

(D) establish education and information campaigns to encourage recipients to maintain their shade trees over the long term;

(E) serve as the point of contact for existing and potential residential participants who have questions or concerns regarding the tree-planting program;

(F) require tree recipients to sign agreements committing to voluntary stewardship and care of provided trees;

(G) monitor and report on the survival, growth, overall health, and estimated energy savings of provided trees up until the end of their establishment period which shall be no less than five years; and

(H) ensure that trees planted near existing power lines will not interfere with energized electricity distribution lines when mature, and that no new trees will be planted under or adjacent to high-voltage electric transmission lines without prior consultation with the applicable retail power provider receiving assistance under this section.

(3) LACK OF NONPROFIT ORGANIZATION.—If qualified nonprofit or not-for-profit tree planting organizations do not exist or operate within areas served by retail power providers applying for assistance under this section, the requirements of this section shall apply to binding legal agreements entered into by such retail power providers and one of the following entities:

(A) Local municipal governments with jurisdiction over the urban or suburban forest.

(B) The State Forester for the State in which the tree planting program will operate.

(C) The United States Forest Service's Urban and Community Forestry representative for the State in which the tree-planting program will operate.

(D) A landscaping services company that is—

(i) identified in consultation with a national or State nonprofit or not-for-profit tree-planting organization;

(ii) licensed to operate in the State in which the tree-planting program will operate; and

(iii) a business as defined by the United States Census Bureau's 2007 North American Industry Classification System Code 561730.

(f) TECHNICAL ADVISORY COMMITTEES.—

(1) DESCRIPTION.—In order to qualify for assistance under this section, the retail power provider shall establish and consult with a local technical advisory committee which shall provide advice and consultation to the program, and may—

(A) design and adopt an approved plant list that emphasizes the use of hardy, noninvasive tree species and, where geographically appropriate, the use of native, or site-adapted, or low water-use shade trees;

(B) design and adopt planting, installation, and maintenance specifications and create a process for inspection and quality control;

(C) ensure that tree recipients are educated to care for and maintain their trees over the long term;

(D) help the public become more engaged and educated in the planting and care of shade trees;

(E) prioritize which sites receive trees, giving preference to locations with the most potential for energy conservation and secondary preference to areas where the average annual income is below the regional median; and

(F) assist with monitoring and collection of data on tree health, tree survival, and energy conservation benefits generated under this section.

(2) COMPENSATION.—Individuals serving on local technical advisory committees shall not receive compensation for their service.

(3) COMPOSITION.—Local technical advisory committees shall be composed of representatives from public, private, and nongovernmental agencies with expertise in demand-side energy efficiency management, urban forestry, or arboriculture, and shall be composed of the following:

(A) Up to 4 persons, but no less than one person, representing the retail power provider receiving assistance under this section.

(B) Up to 4 persons, but no less than one person, representing the local tree-planting organization which will partner with the retail power provider to carry out this section.

(C) Up to 3 persons representing local nonprofit conservation or environmental organizations. Preference shall be given to those entities which are organized under section 501(c)(3) of the Internal Revenue Code of 1986, and which have demonstrated expertise engaging the public in energy conservation, energy efficiency, or green building practices or a combination thereof, such that no single organization is represented by more than one individual under this paragraph.

(D) Up to 2 persons representing a local affordable housing agency, affordable housing builder, or community development corporation.

(E) Up to 3, but no less than one, persons representing local city or county government for each municipality where a shade tree-planting program will take place; at least one of these representatives shall be the city or county forester, city or county arborist, or functional equivalent.

(F) Up to one person representing the local government agency responsible for management of roads, sewers, and infrastructure, including but not limited to public works departments, transportation agencies, or equivalents.

(G) Up to 3 persons representing the nursery and landscaping industry.

(H) Up to 3 persons representing the research community or academia with expertise in natural resources or energy management issues.

(4) CHAIRPERSON.—Each local technical advisory committee shall elect a chairperson to preside over Committee meetings, act as a liaison to governmental and other outside entities, and direct the general operation of the committee; only committee representatives from paragraph (3)(A) or paragraph (3)(B) of this subsection shall be eligible to act as local technical advisory committee chairpersons.

(5) CREDENTIALS.—At least one of the members of each local technical advisory committee shall be certified with one or more of the following credentials: International Society of Arboriculture; Certified Arborist, ISA; Certified Arborist Municipal Specialist, ISA; Certified Arborist Utility Specialist, ISA; Board Certified Master Arborist; or Registered Landscape Architect recommended by the American Society of Landscape Architects.

(g) COST-SHARE PROGRAM.—

(1) FEDERAL SHARE.—The Federal share of support for projects funded under this section shall not exceed 50 percent of the cost of such project and shall be provided on a matching basis.

(2) NON-FEDERAL SHARE.—The non-Federal share of such costs may be paid or contributed by any governmental or nongovernmental entity other than from funds derived directly or indirectly from an agency or instrumentality of the United States.

(h) RULEMAKING.—

(1) RULEMAKING PERIOD.—The Secretary shall be authorized to solicit comments and initiate a rulemaking period that shall last no more than 6 months after the date of enactment of this section.

(2) COMPETITIVE GRANT RULE.—At the conclusion of the rulemaking period under paragraph (1), the Secretary shall promulgate a rule governing a public, competitive grants process through which retail power providers may apply for Federal support under this section.

(i) NONDUPLICITY.—Nothing in this section shall be construed to supersede, duplicate, cancel, or negate the programs or authorities provided under section 9 of the Cooperative Forestry Assistance Act of 1978 (92 Stat. 369; Public Law 95–313; 16 U.S.C. 2105).

(j) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary for the implementation of this section.

SEC. 206. ENERGY EFFICIENCY FOR DATA CENTER BUILDINGS.

Section 453(c)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17112(c)(1)) is amended by inserting ''but not later than 2 years after the date of enactment of this Act'' after ''described in subsection (b)''.

SEC. 207. COMMUNITY BUILDING CODE ADMINISTRATION GRANTS.

(a) GRANT PROGRAM AUTHORIZED.—

(1) GRANT AUTHORIZATION.—The Secretary of Housing and Urban Development shall to the extent amounts are made available for grants under this section provide grants to local building code enforcement departments.

(2) COMPETITIVE AWARDS.—The Secretary shall award grants under paragraph (1) on a competitive basis taking into consideration the following:

(A) The financial need of each building code enforcement department.

(B) The benefit to the jurisdiction of having an adequately funded building code enforcement department.

(C) The demonstrated ability of each building code enforcement department to work cooperatively with other local code enforcement offices, health departments, and local prosecutorial agencies.

(3) MAXIMUM AMOUNT.—The maximum amount of any grant awarded under this subsection shall not exceed $1,000,000.

(4) COORDINATION.—The Secretary of Housing and Urban Development shall coordinate with the Secretary of Energy to ensure that any unnecessarily duplicative funding through grants under this section of activities otherwise funded through the Department of Energy is minimized or eliminated.

(b) REQUIRED ELEMENTS IN GRANT PROPOSALS.—In order to be eligible for a grant under subsection (a), a building code enforcement department of a jurisdiction shall submit to the Secretary the following:

(1) A demonstration of the jurisdiction's needs in executing building code enforcement administration.

(2) A plan for the use of any funds received from a grant under this section that addresses the needs discussed in paragraph (1) and that is consistent with the authorized uses established in subsection (c).

(3) A plan for local governmental actions to be taken to establish and sustain local building code enforcement administration functions, without continuing Federal support, at a level at least equivalent to that proposed in the grant application.

(4) A plan to create and maintain a program of public outreach that includes a regularly updated and readily accessible means of public communication, interaction, and reporting regarding the services and work of the building code enforcement department to be supported by the grant.

(5) A plan for ensuring the timely and effective administrative enforcement of building safety and fire prevention violations.

(c) USE OF FUNDS; MATCHING FUNDS.—

(1) AUTHORIZED USES.—Amounts from grants awarded under subsection (a) may be used by the grant recipient to supplement existing State or local funding for administration of building code enforcement, or to supplement allowance value received pursuant to this Act for implementation and enforcement of energy efficiency building codes. Such amounts may be used to increase staffing, provide staff training, increase staff competence and professional qualifications, or support individual certification or departmental accreditation, or for capital expenditures specifically dedicated to the administration of the building code enforcement department.

(2) ADDITIONAL REQUIREMENT.—Each building code enforcement department receiving a grant under subsection (a) shall empanel a code administration and enforcement team consisting of at least 1 full-time building code enforcement officer, a city planner, and a health planner or similar officer.

(3) MATCHING FUNDS REQUIRED.—

(A) IN GENERAL.—To be eligible to receive a grant under this section, a building code enforcement department shall provide matching, non-Federal funds in the following amount:

(i) In the case of a building code enforcement department serving an area with a population of more than 50,000, an amount equal to not less than 50 percent of the total amount of any grant to be awarded under this section.

(ii) In the case of a building code enforcement department serving an area with a population of between 20,001 and 50,000, an amount equal to not less than 25 percent of the total amount of any grant to be awarded under this section.

(iii) In the case of a building code enforcement department serving an area with a population of less than 20,000, an amount equal to not less than 12.5 percent of the total amount of any grant to be awarded under this section.

(B) ECONOMIC DISTRESS.—

(i) IN GENERAL.—The Secretary may waive the matching fund requirements under subparagraph (A), and institute, by regulation, new matching fund requirements based upon the level of economic distress of the jurisdiction in which the local building code enforcement department seeking such grant is located.

(ii) CONTENT OF REGULATIONS.—Any regulations instituted under clause (i) shall include—

(I) a method that allows for a comparison of the degree of economic distress among the local jurisdictions of grant applicants, as measured by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in such jurisdiction; and

(II) any other factor determined to be relevant by the Secretary in assessing the comparative degree of economic distress among such jurisdictions.

(4) IN-KIND CONTRIBUTIONS.—In determining the non-Federal share required to be provided under paragraph (3), the Secretary shall consider in-kind contributions, not to exceed 50 percent of the amount that the department contributes in non-Federal funds.

(5) WAIVER OF MATCHING REQUIREMENT.—The Secretary shall waive the matching fund requirements under paragraph (3) for any recipient jurisdiction that has dedicated all building code permitting fees to the conduct of local building code enforcement.

(d) EVALUATION AND REPORT.—

(1) IN GENERAL.—Grant recipients under this section shall—

(A) be obligated to fully account and report for the use of all grants funds; and

(B) provide a report to the Secretary on the effectiveness of the program undertaken by the grantee and any other criteria requested by the Secretary for the purpose of indicating the effectiveness of, and ideas for, refinement of the grant program.

(2) REPORT.—The report required under paragraph (1)(B) shall include a discussion of—

(A) the specific capabilities and functions in local building code enforcement administration that were addressed using funds received under this section;

(B) the lessons learned in carrying out the plans supported by the grant; and

(C) the manner in which the programs supported by the grant are to be maintained by the grantee.

(3) CONTENT OF REPORTS.—The Secretary shall—

(A) require each recipient of a grant under this section to file interim and final reports under paragraph (2) to ensure that grant funds are being used as intended and to measure the effectiveness and benefits of the grant program; and

(B) develop and maintain a means whereby the public can access such reports, at no cost, via the Internet.

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BUILDING CODE ENFORCEMENT.—The term ''building code enforcement'' means the enforcement of any code, adopted by a State or local government, that regulates the construction of buildings and facilities to mitigate hazards to life or property. Such term includes building codes, electrical codes, energy codes, fire codes, fuel gas codes, mechanical codes, and plumbing codes.

(2) BUILDING CODE ENFORCEMENT DEPARTMENT.—The term ''building code enforcement department'' means an inspection or enforcement agency of a jurisdiction that is responsible for conducting building code enforcement.

(3) JURISDICTION.—The term ''jurisdiction'' means a city, county, parish, city and county authority, or city and parish authority having local authority to enforce building codes and regulations and to collect fees for building permits.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $20,000,000 for each of fiscal years 2010 through 2014 to the Secretary of Housing and Urban Development to carry out the provisions of this section.

(2) RESERVATION.—From the amount made available under paragraph (1), the Secretary may reserve not more than 5 percent for administrative costs.

(3) AVAILABILITY.—Any funds appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 208. SOLAR ENERGY SYSTEMS BUILDING PERMIT REQUIREMENTS FOR RECEIPT OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

''(n) REQUIREMENTS FOR BUILDING PERMITS REGARDING SOLAR ENERGY SYSTEMS.—

''(1) IN GENERAL.—A grant under section 106 for a fiscal year may be made only if the grantee certifies to the Secretary that—

''(A) in the case of a grant under section 106(a) for any Indian tribe or insular area, during such fiscal year the cost of any permit or license, for construction or installation of any solar energy system for any structure, that is required by the tribe or insular area or by any other unit of general local government or other political subdivision of such tribe or insular area, complies with paragraph (2);

''(B) in the case of a grant under section 106(b) for any metropolitan city or urban county, during such fiscal year the cost of any permit or license, for construction or installation of any solar energy system for any structure, that is required by the metropolitan city or urban county, or by any other political subdivision of such city or county, complies with paragraph (2); and

''(C) in the case of a grant under section 106(d) for any State, during such fiscal year the cost of any permit or license, for construction or installation of any solar energy system for any structure, that is required by the State, or by any other unit of general local government within any nonentitlement area of such State, or other political subdivision within any nonentitlement area of such State or such a unit of general local government, complies with paragraph (2).

''(2) LIMITATION ON COST.—The cost of permit or license for construction or installation of any solar energy system complies with this paragraph only if such cost does not exceed the following amount:

''(A) RESIDENTIAL STRUCTURES.—In the case of a structure primarily for residential use, $500.

''(B) NONRESIDENTIAL STRUCTURES.—In the case of a structure primarily for nonresidential use, 1.0 percent of the total cost of the installation or construction of the solar energy system, but not in excess of $10,000.

''(3) NONCOMPLIANCE.—If the Secretary determines that a grantee of a grant made under section 106 is not in compliance with a certification under paragraph (1)—

''(A) the Secretary shall notify the grantee of such determination; and

''(B) if the grantee has not corrected such noncompliance before the expiration of the 6-month period beginning upon notification under subparagraph (A), such grantee shall not be eligible for 5 percent of any amounts awarded under a grant under section 106 for the first fiscal year that commences after the expiration of such 6-month period.

''(4) SOLAR ENERGY SYSTEM.—For purposes of this subsection, the term 'solar energy system' means, with respect to a structure, equipment that uses solar energy to generate electricity for, or to heat or cool (or provide hot water for use in), such structure.''.

SEC. 209. PROHIBITION OF RESTRICTIONS ON RESIDENTIAL INSTALLATION OF SOLAR ENERGY SYSTEM.

(a) REGULATIONS.—Within 180 days after the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall issue regulations—

(1) to prohibit any private covenant, contract provision, lease provision, homeowners' association rule or bylaw, or similar restriction, that impairs the ability of the owner or lessee of any residential structure designed for occupancy by 1 family to install, construct, maintain, or use a solar energy system on such residential property; and

(2) to require that whenever any such covenant, provision, rule or bylaw, or restriction requires approval for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

(b) CONTENTS.—The regulations required under subsection (a) shall provide that—

(1) such a covenant, provision, rule or bylaw, or restriction impairs the installation, construction, maintenance, or use of a solar energy system if it—

(A) unreasonably delays or prevents installation, maintenance, or use;

(B) unreasonably increases the cost of installation, maintenance, or use; or

(C) precludes use of such a system; and

(2) any fee or cost imposed on the owner or lessee of such a residential structure by such a covenant, provision, rule or bylaw, or restriction shall be considered unreasonable if—

(A) such fee or cost is not reasonable in comparison to the cost of the solar energy system or the value of its use; or

(B) treatment of solar energy systems by the covenant, provision, rule or bylaw, or restriction is not reasonable in comparison with treatment of comparable systems by the same covenant, provision, rule or bylaw, or restriction.

(c) SOLAR ENERGY SYSTEM.—For purposes of this section, the term ''solar energy system'' means, with respect to a structure, equipment that uses solar energy to generate electricity for, or to heat or cool (or provide hot water for use in), such structure.

Subtitle B—Lighting and Appliance Energy Efficiency Programs

SEC. 211. LIGHTING EFFICIENCY STANDARDS.

(a) OUTDOOR LIGHTING.—

(1) DEFINITIONS.—

(A) Section 340(1) of the Energy Policy and Conservation Act (42 U.S.C. 6311(1)) is amended by striking subparagraph (L) and inserting the following:

''(L) Outdoor luminaires.

''(M) Outdoor high light output lamps.

''(N) Any other type of industrial equipment which the Secretary classifies as covered equipment under section 341(b).''.

(B) Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended as adding at the end the following:

''(25) The term 'luminaire' means a complete lighting unit consisting of one or more light sources and ballast(s), together with parts designed to distribute the light, to position and protect such lamps, and to connect such light sources to the power supply.

''(26) The term 'outdoor luminaire' means a luminaire that is listed as suitable for wet locations pursuant to Underwriters Laboratories Inc. standard UL 1598 and is labeled as

'Suitable for Wet Locations' consistent with section 410.4(A) of the National Electrical Code 2005, or is designed for roadway illumination and meets the requirements of Addendum A for IESNA TM-15-07: Backlight, Uplight, and Glare (BUG) Ratings, except for—

''(A) luminaires designed for outdoor video display images that cannot be used in general lighting applications;

''(B) portable luminaires designed for use at construction sites;

''(C) luminaires designed for continuous immersion in swimming pools and other water features;

''(D) seasonal luminaires incorporating solely individual lamps rated at 10 watts or less;

''(E) luminaires designed to be used in emergency conditions that incorporate a means of charging a battery and a device to switch the power supply to emergency lighting loads automatically upon failure of the normal power supply;

''(F) components used for repair of installed luminaries and that meet the requirements of section 342(h);

''(G) a luminaire utilizing an electrode-less fluorescent lamp as the light source;

''(H) decorative gas lighting systems;

''(I) luminaires designed explicitly for lighting for theatrical purposes, including performance, stage, film production, and video production;

''(J) luminaires designed as theme elements in theme/amusement parks and that cannot be used in most general lighting applications;

''(K) luminaires designed explicitly for vehicular roadway tunnels designed to comply with ANSI/IESNA RP–22–05;

''(L) luminaires designed explicitly for hazardous locations meeting UL Standard 844;

''(M) searchlights;

''(N) luminaires that are designed to be recessed into a building, and that cannot be used in most general lighting applications;

''(O) a luminaire rated only for residential applications utilizing a light source or sources regulated under the amendments made by section 321 of the Energy Independence and Security Act of 2007 and with a light output no greater than 2,600 lumens;

''(P) a residential pole-mounted luminaire that is not rated for commercial use utilizing a light source or sources meeting the efficiency requirements of section 231 of the Energy Independence and Security Act of 2007 and mounted on a post or pole not taller than 10.5 feet above ground and with a light output not greater than 2,600 lumens;

''(Q) a residential fixture with E12 (Candelabra) bases that is rated for not more than 300 watts total; or

''(R) a residential fixture with medium screw bases that is rated for not more than 145 watts.

''(27) The term 'outdoor high light outputlamp' means a lamp that—

''(A) has a rated lumen output not less than 2601 lumens;

''(B) is capable of being operated at a voltage not less than 110 volts and not greater than 300 volts, or driven at a constant current of 6.6 amperes;

''(C) is not a Parabolic Aluminized Reflector lamp; and

''(D) is not a J-type double-ended (T-3) halogen quartz lamp, utilizing R-7S bases, that is manufactured before January 1, 2015.

''(28) The term 'outdoor lighting control' means a device incorporated in a luminaire that receives a signal, from either a sensor (such as an occupancy sensor, motion sensor, or daylight sensor) or an input signal (including analog or digital signals communicated through wired or wireless technology), and can adjust the light level according to the signal.''.

(2) STANDARDS.— Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

''(g) OUTDOOR LUMINAIRES.—

''(1) Each outdoor luminaire manufactured on or after January 1, 2011, shall—

''(A) have an initial luminaire efficacy of at least 50 lumens per watt; and

''(B) be designed to use a light source with a lumen maintenance, calculated as mean rated lumens divided by initial lumens, of at least 0.6.

''(2) Each outdoor luminaire manufactured on or after January 1, 2018, shall—

''(A) have an initial luminaire efficacy of at least 70 lumens per watt; and

''(B) be designed to use a light source with a lumen maintenance, calculated as mean rated lumens divided by initial lumens, of at least 0.6.

''(3) In addition to the requirements of paragraphs (1) through (3), each outdoor luminaire manufactured on or after January 1, 2016, shall have the capability of producing at least two different light levels, including 100 percent and 60 percent of full lamp output as tested with the maximum rated lamp per UL1598 or the manufacturer's maximum specified for the luminaire under test, outdoor luminaires used for roadway lighting applications shall be exempt from the 2 light level requirements.

''(4)(A) Not later than January 1, 2022, the Secretary shall issue a final rule amending the applicable standards established in paragraph (3) if technologically feasible and economically justified.

''(B) A final rule issued under subparagraph (A) shall establish efficiency standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 325. The Secretary may also, in such rulemaking, amend or discontinue the product exclusions listed in section 340(26)(A) through (P), or amend the lumen maintenance requirements in paragraph (2) if the Secretary determines that such amendments are consistent with the purposes of this Act.

''(C) If the Secretary issues a final rule under subparagraph (A) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after January 1, 2025, or one year after the date on which the final amended standard is published, whichever is later.

''(h) OUTDOOR HIGH LIGHT OUTPUT LAMPS.— Each outdoor high light output lamp manufactured on or after January 1, 2017, shall have a lighting efficiency of at least 45 lumens per watt.''.

(3) TEST PROCEDURES.— Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by adding at the end the following:

''(10) OUTDOOR LIGHTING.—

''(A) With respect to outdoor luminaires and outdoor high light output lamps, the test procedures shall be based upon the test procedures specified in illuminating engineering society procedures LM–79 as of March 1, 2009, and LM-31, and/or other appropriate consensus test procedures developed by the Illuminating Engineering Society or other appropriate consensus standards bodies.

''(B) If illuminating engineering society procedure LM—79 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended LM–79 test procedure, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraph (2).

''(C) The Secretary may revise the test procedures for outdoor luminaires or outdoor high light output lamps by rule consistent with paragraph (2), and may incorporate as appropriate consensus test procedures developed by the Illuminating Engineering Society or other appropriate consensus standards bodies.''.

(4) PREEMPTION.— Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended by adding at the end the following:

''(i)(1) Except as provided in paragraph (2), section 327 shall apply to outdoor luminaires to the same extent and in the same manner as the section applies under part B.

''(2) Any State standard that is adopted on or before January 1, 2015, pursuant to a statutory requirement to adopt efficiency standards for reducing outdoor lighting energy use enacted prior to January 31, 2008, shall not be preempted.''.

(5) ENERGY EFFICIENCY STANDARDS FOR CERTAIN LUMINAIRES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall, in consultation with the National Electrical Manufacturers Association, collect data for United States sales of luminaires described in section 340(26)(H) and (M) of the Energy Policy and Conservation Act, to determine the historical growth rate. If the Secretary finds that the growth in market share of such luminaires exceeds twice the year to year rate of the average of the previous three years, then the Secretary shall within 12 months initiate a rulemaking to determine if such exclusion should be eliminated, if substitute products exist that perform more efficiently and fulfill the performance functions of these luminaires.

(b) PORTABLE LIGHTING.—

(1) PORTABLE LIGHT FIXTURES.—

(A) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding at the end the following:

''(67) ART WORK LIGHT FIXTURE.—The term 'art work light fixture' means a light fixture designed only to be mounted directly to an art work and for the purpose of illuminating that art work.

''(68) LED LIGHT ENGINE.—The term 'LED light engine' or 'LED light engine with integral heat sink' means a subsystem of an LED light fixture that—

''(A) includes 1 or more LED components, including—

''(i) an LED driver power source with electrical and mechanical interfaces; and

''(ii) an integral heat sink to provide thermal dissipation; and

''(B) may be designed to accept additional components that provide aesthetic, optical, and environmental control.

''(69) LED LIGHT FIXTURE.—The term 'LED light fixture' means a complete lighting unit consisting of—

''(A) an LED light source with 1 or more LED lamps or LED light engines; and

''(B) parts—

''(i) to distribute the light;

''(ii) to position and protect the light source; and

''(iii) to connect the light source to electrical power.

''(70) LIGHT FIXTURE.—The term 'light fixture' means a product designed to provide light that includes—

''(A) at least 1 lamp socket; and

''(B) parts—

''(i) to distribute the light;

''(ii) position and protect 1 or more lamps; and

''(iii) to connect 1 or more lamps to a power supply.

''(71) PORTABLE LIGHT FIXTURE.—

''(A) IN GENERAL.—The term 'portable light fixture' means a light fixture that has a flexible cord and an attachment plug for connection to a nominal 120-volt circuit that—

''(i) allows the user to relocate the product without any rewiring; and

''(ii) typically can be controlled with a switch located on the product or the power cord of the product.

''(B) EXCLUSIONS.—The term 'portable light fixture' does not include—

''(i) direct plug-in night lights, sun or heat lamps, medical or dental lights, portable electric hand lamps, signs or commercial advertising displays, photographic lamps, germicidal lamps, or light fixtures for marine use or for use in hazardous locations (as those terms are defined in ANSI/NFPA 70 of the National Electrical Code); or

''(ii) decorative lighting strings, decorative lighting outfits, or electric candles or candelabra without lamp shades that are covered by Underwriter Laboratories (UL) standard 588, 'Seasonal and Holiday Decorative Products'.''.

(B) COVERAGE.—

(i) IN GENERAL.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended—

(I) by redesignating paragraph (20) as paragraph (24); and

(II) by inserting after paragraph (19) the following:

''(20) Portable light fixtures.''.

(ii) CONFORMING AMENDMENTS.—Section 325(l) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)) is amended by striking ''paragraph (19)'' each place it appears in paragraphs (1) and (2) and inserting ''paragraph (24)''.

(C) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

''(19) LED FIXTURES AND LED LIGHT ENGINES.—Test procedures for LED fixtures and LED light engines shall be based on Illuminating Engineering Society of North America (IESNA) test procedure LM–79, Approved Method for Electrical and Photometric Testing of Solid-State Lighting Devices, and IESNA-approved test procedure for testing LED light engines.''.

(D) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(i) by redesignating subsection (ii) as subsection (oo);

(ii) in subsection (oo)(2), as redesignated in clause (i) of this subparagraph, by striking ''(hh)'' each place it appears and inserting ''(mm)''; and

(iii) by inserting after subsection (hh) the following:

''(ii) PORTABLE LIGHT FIXTURES.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), portable light fixtures manufactured on or after January 1, 2012, shall meet 1 or more of the following requirements:

''(A) Be a fluorescent light fixture that meets the requirements of the Energy Star Program for Residential Light Fixtures, Version 4.2.

''(B) Be equipped with only 1 or more GU–24 line-voltage sockets, not be rated for use with incandescent lamps of any type (as defined in ANSI standards), and meet the requirements of version 4.2 of the Energy Star program for residential light fixtures.

''(C) Be an LED light fixture or a light fixture with an LED light engine and comply with the following minimum requirements:

''(i) Minimum light output: 200 lumens (initial).

''(ii) Minimum LED light engine efficacy: 40 lumens/watt installed in fixtures that meet the minimum light fixture efficacy of 29 lumens/watt or, alternatively, a minimum LED light engine efficacy of 60 lumens/watt for fixtures that do not meet the minimum light fixture efficacy of 29 lumens/watt.

''(iii) All portable fixtures shall have a minimum LED light fixture efficacy of 29 lumens/watt and a minimum LED light engine efficacy of 60 lumens/watt by January 1, 2016.

''(iv) Color Correlated Temperature (CCT): 2700K through 4000K.

''(v) Minimum Color Rendering Index (CRI): 75.

''(vi) Power factor equal to or greater than 0.70.

''(vii) Portable luminaries that have internal power supplies shall have zero standby power when the luminaire is turned off.

''(viii) LED light sources shall deliver at least 70 percent of initial lumens for at least 25,000 hours.

''(D)(i) Be equipped with an ANSI-designated E12, E17, or E26 screw-based socket and be prepackaged and sold together with 1 screw-based compact fluorescent lamp or screw-based LED lamp for each screw-based socket on the portable light fixture.

''(ii) The compact fluorescent or LED lamps prepackaged with the light fixture shall be fully compatible with any light fixture controls incorporated into the light fixture (for example, light fixtures with dimmers shall be packed with dimmable lamps).

''(iii) Compact fluorescent lamps prepackaged with light fixtures shall meet the requirements of the Energy Star Program for CFLs Version 4.0.

''(iv) Screw-based LED lamps shall comply with the minimum requirements described in subparagraph (C).

''(E) Be equipped with 1 or more single-ended, non-screw based halogen lamp sockets (line or low voltage), a dimmer control or high-low control, and be rated for a maximum of 100 watts.

''(2) REVIEW.—

''(A) REVIEW.—The Secretary shall review the criteria and standards established under paragraph (1) to determine if revised standards are technologically feasible and economically justified.

''(B) COMPONENTS.—The review shall include consideration of—

''(i) whether a separate compliance procedure is still needed for halogen fixtures described in subparagraph (E) and, if necessary, what an appropriate standard for halogen fixtures shall be;

''(ii) whether the specific technical criteria described in subparagraphs (A), (C), and (D)(iii) should be modified; and

''(iii) which fixtures should be exempted from the light fixture efficacy standard as of January 1, 2016, because the fixtures are primarily decorative in nature (as defined by the Secretary) and, even if exempted, are likely to be sold in limited quantities.

''(C) TIMING.—

''(i) DETERMINATION.—Not later than January 1, 2014, the Secretary shall publish amended standards, or a determination that no amended standards are justified, under this subsection.

''(ii) STANDARDS.—Any standards under this paragraph shall take effect on January 1, 2016.

''(3) ART WORK LIGHT FIXTURES.—Art work light fixtures manufactured on or after January 1, 2012, shall—

''(A) comply with paragraph (1); or

''(B)(i) contain only ANSI-designated E12 screw-based line-voltage sockets;

''(ii) have not more than 3 sockets;

''(iii) be controlled with an integral high/low switch;

''(iv) be rated for not more than 25 watts if fitted with 1 socket; and

''(v) be rated for not more than 15 watts per socket if fitted with 2 or 3 sockets.

''(4) EXCEPTION FROM PREEMPTION.—Notwithstanding section 327, Federal preemption shall not apply to a regulation concerning portable light fixtures adopted by the California Energy Commission on or before January 1, 2014.''.

(2) GU–24 BASE LAMPS.—

(A) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by paragraph (1)(A)) is amended by adding at the end the following:

''(72) GU–24.—The term 'GU–24' means the designation of a lamp socket, based on a coding system by the International Electrotechnical Commission, under which—

''(A) 'G' indicates a holder and socket type with 2 or more projecting contacts, such as pins or posts;

''(B) 'U' distinguishes between lamp and holder designs of similar type that are not interchangeable due to electrical or mechanical requirements; and

''(C) 24 indicates the distance in millimeters between the electrical contact posts.

''(73) GU-24 ADAPTOR.—

''(A) IN GENERAL.—The term 'GU-24 Adaptor' means a 1-piece device, pig-tail, wiring harness, or other such socket or base attachment that—

''(i) connects to a GU-24 socket on 1 end and provides a different type of socket or connection on the other end; and

''(ii) does not alter the voltage.

''(B) EXCLUSION.—The term 'GU-24 Adaptor' does not include a fluorescent ballast with a GU–24 base.

''(74) GU–24 BASE LAMP.—'GU–24 base lamp' means a light bulb designed to fit in a GU–24 socket.''.

(B) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by paragraph (1)(D)) is amended by inserting after subsection (ii) the following:

''(jj) GU–24 BASE LAMPS.—

''(1) IN GENERAL.—A GU–24 base lamp shall not be an incandescent lamp as defined by ANSI.

''(2) GU-24 ADAPTORS.—GU–24 adaptors shall not adapt a GU–24 socket to any other line voltage socket.''.

(3) STANDARDS FOR CERTAIN INCANDESCENT REFLECTOR LAMPS.—Section 325(i) of the Energy Policy and Conservation Act (42 U.S.C. 6295(i)), as amended by section 161(a)(12) of this Act, is amended by adding at the end the following:

''(9) CERTAIN INCANDESCENT REFLECTOR LAMPS.—(A) No later than 12 months after enactment of this paragraph, the Secretary shall publish a final rule establishing standards for incandescent reflector lamp types described in paragraph (1)(D). Such standards shall be effective on July 1, 2013.

''(B) Any rulemaking for incandescent reflector lamps completed after enactment of this section shall consider standards for all incandescent reflector lamps, inclusive of those specified in paragraph (1)(C).

''(10) REFLECTOR LAMPS.—No later than January 1, 2015, the Secretary shall publish a final rule establishing and amending standards for reflector lamps, including incandescent reflector lamps. Such standards shall be effective no sooner than three years after publication of the final rule. Such rulemaking shall consider incandescent and non-incandescent technologies. Such rulemaking shall consider a new metric other than lumens-per-watt based on the photometric distribution of light from such lamps.''.

SEC. 212. OTHER APPLIANCE EFFICIENCY STANDARDS.

(a) STANDARDS FOR WATER DISPENSERS, HOT FOOD HOLDING CABINETS, AND PORTABLE ELECTRIC SPAS.—

(1) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291), as amended by section 211 of this Act, is further amended by adding at the end the following:

''(75) The term 'water dispenser' means a factory-made assembly that mechanically cools and heats potable water and that dispenses the cooled or heated water by integral or remote means.

''(76) The term 'bottle-type water dispenser' means a drinking water dispenser designed for dispensing both hot and cold water that uses a removable bottle or container as the source of potable water.

''(77) The term 'commercial hot food holding cabinet' means a heated, fully-enclosed compartment with one or more solid or glass doors that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. Such term does not include heated glass merchandizing cabinets, drawer warmers, commercial hot food holding cabinets with interior volumes of less than 8 cubic feet, or cook-and-hold appliances.

''(78) The term 'portable electric spa' means a factory-built electric spa or hot tub, supplied with equipment for heating and circulating water.''.

(2) COVERAGE.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)), as amended by section 211(b)(1)(B) of this Act, is further amended by inserting after paragraph (20) the following new paragraphs:

''(21) Bottle type water dispensers.

''(22) Commercial hot food holding cabinets.

''(23) Portable electric spas.''.

(3) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)), as amended by section 211(b)(1)(C) of this Act, is further amended by adding at the end the following:

''(20) BOTTLE TYPE WATER DISPENSERS.—Test procedures for bottle type water dispensers shall be based on 'Energy Star Program Requirements for Bottled Water Coolers version 1.1' published by the Environmental Protection Agency. Units with an integral, automatic timer shall not be tested using section 4D, 'Timer Usage,' of the test criteria.

''(21) COMMERCIAL HOT FOOD HOLDING CABINETS.—Test procedures for commercial hot food holding cabinets shall be based on the test procedures described in ANSI/ASTM F2140–01 (Test for idle energy rate-dry test). Interior volume shall be based on the method shown in the Environmental Protection Agency's 'Energy Star Program Requirements for Commercial Hot Food Holding Cabinets' as in effect on August 15, 2003.

''(22) PORTABLE ELECTRIC SPAS.—Test procedures for portable electric spas shall be based on the test method for portable electric spas contained in section 1604, title 20, California Code of Regulations as amended on December 3, 2008. When the American National Standards Institute publishes a test procedure for portable electric spas, the Secretary shall revise the Department of Energy's procedure.''.

(4) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295), as amended by section 211 of this Act, is further amended by adding after subsection (jj) the following:

''(kk) BOTTLE TYPE WATER DISPENSERS.—Effective January 1, 2012, bottle-type water dispensers designed for dispensing both hot and cold water shall not have standby energy consumption greater than 1.2 kilowatt-hours per day.

''(ll) COMMERCIAL HOT FOOD HOLDING CABINETS.—Effective January 1, 2012, commercial hot food holding cabinets with interior volumes of 8 cubic feet or greater shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume.

''(mm) PORTABLE ELECTRIC SPAS.—Effective January 1, 2012, portable electric spas shall not have a normalized standby power greater than 5(V⅔) Watts where V=the fill volume in gallons.

''(nn) REVISIONS.—The Secretary of Energy shall consider revisions to the standards in subsections (kk), (ll), and (mm) in accordance with subsection (o) and publish a final rule no later than January 1, 2013 establishing such revised standards, or make a finding that no revisions are technically feasible and economically justified. Any such revised standards shall take effect January 1, 2016.''.

(b) COMMERCIAL FURNACE EFFICIENCY STANDARDS.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6312(a)) is amended by inserting after paragraph (10) the following new paragraph:

''(11) WARM AIR FURNACES.—Each warm air furnace with an input rating of 225,000 Btu per hour or more and manufactured after January 1, 2011, shall meet the following standard levels:

''(A) GAS-FIRED UNITS.—

''(i) Minimum thermal efficiency of 80 percent.

''(ii) Include an interrupted or intermittent ignition device.

''(iii) Have jacket losses not exceeding 0.75 percent of the input rating.

''(iv) Have either power venting or a flue damper.

''(B) OIL-FIRED UNITS.—

''(i) Minimum thermal efficiency of 81 percent.

''(ii) Have jacket losses not exceeding 0.75 percent of the input rating.

''(iii) Have either power venting or a flue damper.''.

SEC. 213. APPLIANCE EFFICIENCY DETERMINATIONS AND PROCEDURES.

(a) DEFINITION OF ENERGY CONSERVATION STANDARD.—Section 321(6) of the Energy Policy and Conservation Act (42 U.S.C. 6291(6)) is amended to read as follows:

''(6) ENERGY CONSERVATION STANDARD.—

''(A) IN GENERAL.—The term 'energy conservation standard' means 1 or more performance standards that—

''(i) for covered products (excluding clothes washers, dishwashers, showerheads, faucets, water closets, and urinals), prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323;

''(ii) for showerheads, faucets, water closets, and urinals, prescribe a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with test procedures prescribed under section 323; and

''(iii) for clothes washers and dishwashers—

''(I) prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323; and

''(II) may include a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with those test procedures.

''(B) INCLUSIONS.—The term 'energy conservation standard' includes—

''(i) 1 or more design requirements, if the requirements were established—

''(I) on or before the date of enactment of this subclause;

''(II) as part of a direct final rule under section 325(p)(4); or

''(III) as part of a final rule published on or after January 1, 2012, and

''(ii) any other requirements that the Secretary may prescribe under section 325(r).

''(C) EXCLUSION.—The term 'energy conservation standard' does not include a performance standard for a component of a finished covered product, unless regulation of the component is specifically authorized or established pursuant to this title.''.

(b) ADOPTING CONSENSUS TEST PROCEDURES AND TEST PROCEDURES IN USE ELSEWHERE.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)), as amended by sections 211 and 212 of this Act, is further amended by adding the following new paragraph after paragraph (22):

''(23) CONSENSUS AND ALTERNATE TEST PROCEDURES.—

''(A) RECEIPT OF JOINT RECOMMENDATION OR ALTERNATE TESTING PROCEDURE.—On receipt of—

''(i) a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, and contains recommendations with respect to the testing procedure for a covered product; or

''(ii) a submission of a testing procedure currently in use for a covered product by a State, nation, or group of nations—

''(I) if the Secretary determines that the recommended testing procedure contained in the statement or submission is in accordance with subsection (b)(3), the Secretary may issue a final rule that establishes an energy or water conservation testing procedure that is published simultaneously with a notice of proposed rulemaking that proposes a new or amended energy or water conservation testing procedure that is identical to the testing procedure established in the final rule to establish the recommended testing procedure (referred to in this paragraph as a 'direct final rule'); or

''(II) if the Secretary determines that a direct final rule cannot be issued based on the statement or submission, the Secretary shall publish a notice of the determination, together with an explanation of the reasons for the determination.

''(B) PUBLIC COMMENT.—The Secretary shall solicit public comment for a period of at least 110 days with respect to each direct final rule issued by the Secretary under subparagraph (A)(ii)(I).

''(C) WITHDRAWAL OF DIRECT FINAL RULES.—

''(i) IN GENERAL.—Not later than 120 days after the date on which a direct final rule issued under subparagraph (A)(ii)(I) is published in the Federal Register, the Secretary shall withdraw the direct final rule if—

''(I) the Secretary receives 1 or more adverse public comments relating to the direct final rule under subparagraph (B)or any alternative joint recommendation; and

''(II) based on the rulemaking record relating to the direct final rule, the Secretary determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule under paragraph (3) or any other applicable law.

''(ii) ACTION ON WITHDRAWAL.—On withdrawal of a direct final rule under clause (i), the Secretary shall—

''(I) proceed with the notice of proposed rulemaking published simultaneously with the direct final rule as described in subparagraph (A)(ii)(I); and

''(II) publish in the Federal Register the reasons why the direct final rule was withdrawn.

''(iii) TREATMENT OF WITHDRAWN DIRECT FINAL RULES.—A direct final rule that is withdrawn under clause (i) shall not be considered to be a final rule for purposes of subsection (b).

''(D) EFFECT OF PARAGRAPH.—Nothing in this paragraph authorizes the Secretary to issue a direct final rule based solely on receipt of more than 1 statement containing recommended test procedures relating to the direct final rule.''.

(c) UPDATING TELEVISION TEST METHODS.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)), as amended by sections 211 and 212 of this Act, and subsection (b) of this section, is further amended by adding at the end the following new paragraph:

''(24) TELEVISIONS.—(A) On the date of enactment of this paragraph, Appendix H to Subpart B of Part 430 of the United States Code of Federal Regulations, 'Uniform Test Method for Measuring the Energy Consumption of Television Sets', is repealed.

''(B) No later than 12 months after the date of enactment of this paragraph the Secretary shall publish in the Federal Register a final rule prescribing a new test method for televisions.''.

(d) CRITERIA FOR PRESCRIBING NEW OR AMENDED STANDARDS.—(1) Section 325(o)(2)(B)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)(2)(B)(i)) is amended as follows:

(A) By striking ''and'' at the end of subclause (VI).

(B) By redesignating subclause (VII) as subclause (XI).

(C) By inserting the following new subclauses after subclause (VI):

''(VII) the estimated value of the carbon dioxide and other emission reductions that will be achieved by virtue of the higher energy efficiency of the covered products resulting from the imposition of the standard;

''(VIII) the estimated impact of standards for a particular product on average consumer energy prices;

''(IX) the increased energy efficiency that may be attributable to the installation of Smart Grid technologies or capabilities in the covered products, if applicable in the determination of the Secretary;

''(X) the availability in the United States or in other nations of examples or prototypes of covered products that achieve significantly higher efficiency standards for energy or for water; and''.

(2) Section 325(o)(2)(B)(iii) of such Act is amended as follows:

(A) By striking ''three'' and inserting ''5''.

(B) By inserting after the first sentence the following ''For products with an average expected useful life of less than 5 years, such rebuttable presumption shall be determined utilizing 75 percent of the product's average expected useful life as a multiplier instead of 5.''.

(C) By striking the last sentence and inserting the following: ''Such a presumption may be rebutted only if the Secretary finds, based on clear, convincing, and reliable evidence, that—

''(I) such standard level would cause serious and unavoidable hardship to the average consumer of the product, or to manufacturers supplying a significant portion of the market for the product, that substantially outweighs the standard level's benefits;

''(II) the standard and implementing regulations cannot be designed to avoid or mitigate the hardship identified under subclause (I), through the adoption of regional standards consistent with paragraph (6) of this subsection, or other reasonable means consistent with this part;

''(III) the same or substantially similar hardship would not occur under a standard adopted in the absence of the presumption, but that otherwise meets the requirements of this section; and

''(IV) the hardship cannot be avoided or mitigated pursuant the procedures specified in section 504 of the Department of Energy Organization Act (42 U.S.C. 7194).

A determination by the Secretary that the criteria triggering such presumption are not met, or that the criterion for rebutting the presumption are met shall not be taken into consideration in the Secretary's determination of whether a standard is economically justified.''.

(e) OBTAINING APPLIANCE INFORMATION FROM MANUFACTURERS.—Section 326(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended to read as follows:

''(d) INFORMATION REQUIREMENTS.—(1) For purposes of carrying out this part, the Secretary shall publish proposed regulations not later than one year after the date of enactment of the American Clean Energy and Security Act of 2009, and after receiving public comment, final regulations not later than 18 months from such date of enactment under this part or other provision of law administered by the Secretary, which shall require each manufacturer of a covered product to submit information or reports to the Secretary on an annual basis in a form adopted by the Secretary. Such reports shall include information or data with respect to—

''(A) the manufacturers' compliance with all requirements applicable pursuant to this part;

''(B) the economic impact of any proposed energy conservation standard;

''(C) the manufacturers' annual shipments of each class or category of covered products, organized, to the maximum extent practicable, by—

''(i) energy efficiency, energy use, and, if applicable, water use;

''(ii) the presence or absence of such efficiency related or energy consuming operational characteristics or components as the Secretary determines are relevant for the purposes of carrying out this part; and

''(iii) the State or regional location of sale, for covered products for which the Secretary may adopt regional standards; and

''(D) such other categories of information as the Secretary deems relevant to carry out this part, including such other information as may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards and to insure compliance with the requirements of this part.

''(2) In adopting regulations under this subsection, the Secretary shall consider existing public sources of information, including nationally recognized certification programs of trade associations.

''(3) The Secretary shall exercise authority under this section in a manner designed to minimize unnecessary burdens on manufacturers of covered products.

''(4) To the extent that they do not conflict with the duties of the Secretary in carrying out this part, the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)) shall apply with respect to information obtained under this subsection to the same extent and in the same manner as they apply with respect to other energy information obtained under such section.''.

(f) STATE WAIVER.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)), as amended by section 161(a)(19) of this Act, is further amended by adding at the end the following:

''(12) is a regulation concerning standards for hot food holding cabinets, drinking water dispensers and portable electric spas adopted by the California Energy Commission on or before January 1, 2013.''.

(g) WAIVER OF FEDERAL PREEMPTION.—Paragraph (1) of section 327(d) of the Energy Policy and Conservation Act (42 U.S.C. 6297(d)) is amended as follows:

(1) In subparagraph (A) by striking ''State regulation'' each place it appears and inserting ''State statute or regulation''.

(2) In subparagraph (B) by adding at the end the following new sentence: ''In making such a finding, the Secretary may not reject a petition for failure of the petitioning State or river basin commission to produce confidential information maintained by any manufacturer or distributor, or group or association of manufacturers or distributors, and which the petitioning party does not have the legal right to obtain.''.

(3) In clause (ii) of subparagraph (C) by striking ''costs'' each place it appears and inserting ''estimated costs''.

(4) In subparagraph (C) by striking ''within the context of the State's energy plan and forecast, and,''.

(h) INCLUSION OF CARBON OUTPUT ON APPLIANCE ''ENERGYGUIDE'' LABELS.—(1) Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end:

''(I)(i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to implement the additional labeling requirements specified in subsection (c)(1)(C) of this section with an effective date for the revised labeling requirement not later than 12 months from issuance of the final rule.

''(ii) Not later than 24 months after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).

''(iii) Not later than 90 days after issuance of the final rule as provided in this subparagraph, the Secretary shall issue calculation methods required to effectuate the labeling requirements specified in subsection (c)(1)(C) of this section.''.

(2) Section 324(c)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6294(c)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(C) for products or groups of products providing a comparable function (including the group of products comprising the heating function of heat pumps and furnaces) among covered products listed in paragraphs (3), (4), (5), (8), (9), (10), and (11) of section 322(a) of this part, and others designated by the Secretary, the estimated total annual atmospheric carbon dioxide emissions (or their equivalent in other greenhouse gases) associated with, or caused by, the product, calculated utilizing—

''(i) national average energy use for the product including energy consumed at the point of end use based on test procedures developed under section 323 of this part;

''(ii) national average energy consumed or lost in the production, generation, transportation, storage, and distribution of energy to the point of end use; and

''(iii) any direct emissions of greenhouse gases from the product during normal use;

''(D) in determining the national average energy consumption and total annual atmospheric carbon dioxide emissions, the Secretary shall utilize Federal Government sources, including the Energy Information Administration Annual Energy Review, the Environmental Protection Agency eGRID data base, Environmental Protection Agency AP–42 Emission Factors as amended, and other sources determined to be appropriate by the Secretary; and

''(E) information presenting, for each product (or group of products providing the comparable function) identified in section (c)(1)(C) of this section, the estimated annual carbon dioxide emissions calculated within the range of emissions calculated for all models of the product or group according to its function, including those models consuming fuels and those models not consuming fuels.''.

(i) PERMITTING STATES TO SEEK INJUNCTIVE ENFORCEMENT.—(1) Section 334 of the Energy Policy and Conservation Act (42 U.S.C. 6304) is amended to read as follows:

''SEC. 334. JURISDICTION AND VENUE.

''(a) JURISDICTION.—The United States district courts shall have jurisdiction to restrain—

''(1) any violation of section 332; and

''(2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 324 or 325.

''(b) AUTHORITY.—Any action referred to in subsection (a) shall be brought by the Commission or by the attorney general of a State in the name of the State, except that—

''(1) any such action to restrain any violation of section 332(a)(3) which relates to requirements prescribed by the Secretary or any violation of section 332(a)(4) which relates to request of the Secretary under section 326(b)(2) shall be brought by the Secretary; and

''(2) any violation of section 332(a)(5) or 332(a)(7) shall be brought by the Secretary or by the attorney general of a State in the name of the State.

''(c) VENUE AND SERVICE OF PROCESS.—Any such action may be brought in the United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court of the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.''.

(2) The item relating to section 334 in the table of contents for such Act is amended to read as follows:

''Sec. 334. Jurisdiction and venue.''.

(j) TREATMENT OF APPLIANCES WITHIN BUILDING CODES.—(1) Section 327(f)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6297(f)(3)) is amended by striking subparagraphs (B) through (G) and inserting the following:

''(B) The code meets at least one of the following requirements:

''(i) The code does not require that the covered product have an energy efficiency exceeding—

''(I) the applicable energy conservation standard established in or prescribed under section 325;

''(II) the level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d) of this section; or

''(III) the required level established in the International Energy Conservation Code or in a standard of the American Society of Heating, Refrigerating and Air-Conditioning Engineers, or by the Secretary pursuant to section 304 of the Energy Conservation and Production Act.

''(ii) If the code uses one or more baseline building designs against which all submitted building designs are to be evaluated and such baseline building designs contain a covered product subject to an energy conservation standard established in or prescribed under section 325, the baseline building designs are based on an efficiency level for such covered product which meets but does not exceed one of the levels specified in clause (i).

''(iii) If the code sets forth one or more optional combinations of items which meet the energy consumption or conservation objective, in at least one combination that the State has found to be reasonably achievable using commercially available technologies the efficiency of the covered product meets but does not exceed one of the levels specified in clause (i).

''(C) The credit to the energy consumption or conservation objective allowed by the code for installing covered products having energy efficiencies exceeding one of the levels specified in subparagraph (B)(i) is on a one-for-one equivalent energy use or equivalent energy cost basis, taking into account the typical lifetime of the product.

''(D) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be calculated from energy loss- or gain-based codes) utilizing an equivalent amount of energy (which may be specified in units of energy or its equivalent cost) and equivalent lifetimes.

''(E) The estimated energy use of any covered product permitted or required in the code, or used in calculating the objective, is determined using the applicable test procedures prescribed under section 323, except that the State may permit the estimated energy use calculation to be adjusted to reflect the conditions of the areas where the code is being applied if such adjustment is based on the use of the applicable test procedures prescribed under section 323 or other technically accurate documented procedure.''.

(2) Section 327(f)(4)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(f)(4)(B)) is amended to read as follows:

''(B) If a building code requires the installation of covered products with efficiencies exceeding the levels and requirements specified in paragraph (3)(B), such requirement of the building code shall not be applicable unless the Secretary has granted a waiver for such requirement under subsection (d) of this section.''.

SEC. 214. BEST-IN-CLASS APPLIANCES DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in consultation with the Administrator, shall establish a program to be known as the ''Best-in-Class Appliances Deployment Program'' to—

(1) provide bonus payments to retailers or distributors under subsection (c) for sales of best-in-class high-efficiency household appliance models, high-efficiency installed building equipment, and high-efficiency consumer electronics, with the goal of reducing lifecycle costs for consumers, encouraging innovation, and maximizing energy savings and public benefit;

(2) provide bounties under subsection (d) to retailers and manufacturers for the replacement, retirement, and recycling of old, inefficient, and environmentally harmful products; and

(3) provide premium awards under subsection (e) to manufacturers for developing and producing new Superefficient Best-in-Class Products.

(b) DESIGNATION OF BEST-IN-CLASS PRODUCT MODELS.—

(1) IN GENERAL.—The Secretary of Energy shall designate product models of appliances, equipment, or electronics as Best-in-Class Product models. The Secretary shall publicly announce the Best-in-Class Product models designated under this subsection. The Secretary shall define product classes broadly and, except as provided in paragraph (2), shall designate as Best-in-Class Product models no more than the most efficient 10 percent of the commercially available product models in a class that demonstrate, as a group, a distinctly greater energy efficiency than the average energy efficiency of that class of appliances, equipment, or electronics. In designating models, the Secretary shall—

(A) identify commercially available models in the relevant class of products;

(B) identify the subgroup of those models that share the distinctly higher energy-efficiency characteristics that warrant designation as best-in-class; and

(C) add other models in that class to the list of Best-in-Class Product models as they demonstrate their ability to meet the higher-efficiency characteristics on which the designation was made.

(2) PERCENTAGE EXCEPTION.—If there are fewer than 10 product models in a class of products, the Secretary may designate one or more of such models as Best-in-Class Products.

(3) REVIEW OF BEST-IN-CLASS STANDARDS.—The Secretary shall review annually the product-specific criteria for designating, and the product models that qualify as, Best-in-Class Products and, after notice and a 30-day comment period, make upwards adjustments in the efficiency criteria as necessary to maintain an appropriate ratio of such product models to the total number of product models in the product class.

(4) SMART GRID ENERGY EFFICIENCY SAVINGS.—The Secretary shall include energy efficiency savings achieved by a commercially available product having smart grid capability in determining the efficiency level of a product for purposes of a Best-In-Class Product designation pursuant to this subsection. In measuring energy efficiency savings achieved by smart grid capability, the Secretary shall use a metric that—

(A) is based on the time-differentiated value and amount of energy consumption;

(B) accounts for the capability of the product to respond to a smart grid in which the physical capability of the product to save or delay energy because of a smart grid feature is weighted by the likelihood that the feature will be used;

(C) is based on the value of a unit of electric or gas consumption as a function of time of day and season; and

(D) includes a test method by which the manufacturer shall determine the energy efficiency of smart grid capable products.

(c) BONUSES FOR SALES OF BEST-IN-CLASS PRODUCTS.—

(1) IN GENERAL.—The Secretary of Energy shall make bonus payments to retailers or, as provided in paragraph (5)(B), distributors for the sale of Best-in-Class Products.

(2) BONUS PROGRAM.—The Secretary shall—

(A) publicly announce the availability and amount of the bonus to be paid for each sale of a Best-in-Class Product of a model designated under subsection (b); and

(B) make bonus payments in at least that amount for each Best-in-Class Product of that model sold during the 3-year period beginning on the date the model is designated under subsection (b).

(3) UPGRADE OF BEST-IN-CLASS PRODUCT ELIGIBILITY.—In conducting a review under subsection (b)(3), the Secretary shall—

(A) consider designating as a Best-in-Class Product model a Superefficient Best-in-Class Product model that has been designated pursuant to subsection (e);

(B) announce any change in the bonus payment as necessary to increase the market share of Best-in-Class Product models;

(C) list models that will be eligible for bonuses in the new amount; and

(D) continue paying bonus payments at the original level, for the sale of any models that previously qualified as Best-in-Class Products but do not qualify at the new level, for

the remainder of the 3-year period announced with the original designation.

(4) SIZE OF INDIVIDUAL BONUS PAYMENTS.—(A) The size of each bonus payment under this subsection shall be the product of—

(i) an amount determined by the Secretary; and

(ii) the difference in energy consumption between the Best-in-Class Product and the average product in the product class.

(B) The Secretary shall determine the amount under subparagraph (A)(i) for each product type, in consultation with State and utility efficiency program administrators as well as the Administrator, based on estimates of the amount of bonus payment that would provide significant incentive to increase the market share of Best-in-Class Products.

(5) ELIGIBLE BONUS RECIPIENT.—(A) The Secretary shall ensure that not more than 1 bonus payment is provided under this subsection for each Best-in-Class Product.

(B) The Secretary may make distributors eligible to receive bonus payments under this subsection for sales that are not to the final end-user, to the extent that the Secretary determines that for a particular product category distributors are well situated to increase sales of Best-in-Class Products.

(d) BOUNTIES FOR REPLACEMENT, RETIREMENT, AND RECYCLING OF EXISTING LOW-EFFICIENCY PRODUCTS.—

(1) IN GENERAL.—The Secretary of Energy shall make bounty payments to—

(A) retailers for the replacement, retirement, and recycling of older operating low-efficiency products that might otherwise continue in operation; and

(B) manufacturers of Superefficient Best-in-Class Products for the retirement and recycling of older operating low-efficiency products that perform the same function and which might otherwise continue in operation.

(2) BOUNTIES.—Bounties shall be payable—

(A) to a retailer upon documentation that the sale of a Best-in-Class Product was accompanied by the replacement, retirement, and recycling of—

(i) an inefficient but still-functioning product; or

(ii) a nonfunctioning product containing a refrigerant, by the consumer to whom the Best-in-Class Product was sold; and

(B) to a manufacturer upon documentation of the retirement and recycling of—

(i) an inefficient but still-functioning product from a consumer to whom a Superefficient Best-in-Class Product was delivered; or

(ii) a nonfunctioning product containing a refrigerant from a consumer to whom a Superefficient Best-in-Class Product was delivered.

(3) AMOUNT.—

(A) FUNCTIONING PRODUCTS.—The bounty payment payable under this subsection for a product described in paragraphs (2)(A)(i) and (2)(B)(i) shall be based on the difference between the estimated energy use of the product replaced and the energy use of an average new product in the product class, over the estimated remaining lifetime of the product that was replaced.

(B) NONFUNCTIONING PRODUCTS CONTAINING REFRIGERANTS.—The bounty payment payable under this subsection for a product described in paragraphs (2)(A)(ii) and (2)(B)(ii) shall be in the amount that the Secretary of Energy, in consultation with the Administrator, determines is sufficient to promote the recycling of such products, up to the amount of bounty for a comparable product described in paragraphs (2)(A) and (2)(B).

(4) RETIREMENT.—The Secretary shall ensure that no product for which a bounty is paid under this subsection is returned to active service, but that it is instead destroyed, and recycled to the extent feasible.

(5) RECYCLING APPLIANCES CONTAINING REFRIGERANTS.—Exclusively for the purpose of implementing the bounty payment program for products containing a refrigerant under this section, the Administrator shall establish standards for environmentally responsible methods of recycling and disposal of refrigerant-containing appliances that, at a minimum, meet the requirements set by the Responsible Appliance Disposal (RAD) Program for refrigerant disposal. The Secretary shall ensure that such standards are met before a bounty payment is made under this subsection for a product containing a refrigerant. Nothing in this section shall be interpreted to alter the requirements of section 608 of the Clean Air Act or to relieve any person from complying with those requirements.

(e) PREMIUM AWARDS FOR DEVELOPMENT AND PRODUCTION OF SUPEREFFICIENT BEST-IN-CLASS PRODUCTS.—

(1) IN GENERAL.—(A) The Secretary of Energy shall provide premium awards to manufacturers for the development and production of Superefficient Best-in-Class Products. The Secretary shall set and periodically revise standards for eligibility of products for designation as a Superefficient Best-in-Class Product.

(B) The Secretary may establish a standard for a Superefficient Best-in-Class Product even if no product meeting that standard exists, if the Secretary has reasonable grounds to conclude that a mass-producible product could be made to meet that standard.

(C) The Secretary may also establish a Superefficient Best-in-Class Product standard that is met by one or more existing Best-in-Class Product models, if those product models have distinct energy efficiency attributes and performance characteristics that make them significantly better than other product models qualifying as best-in-class. The Secretary may not designate as Superefficient Best-in-Class Products under this subparagraph models that represent more than 10 percent of the currently qualifying Best-in-Class Product models. This subparagraph shall not apply to products designated pursuant to paragraph (4)(A).

(D) In making its finding on the efficiency level a product can achieve for purposes of a Superefficient Best-In-Class Product designation pursuant to this paragraph, the Secretary shall include energy efficiency savings that would be achieved by a product as a result of smart grid capability when a product having such capability can be produced and sold commercially to mass market consumers. In measuring energy efficiency savings achieved by smart grid capability, the Secretary shall use a metric that—

(i) is based on the time-differentiated value and amount of energy consumption;

(ii) accounts for the capability of the product to respond to a smart grid in which the physical capability of the product to save or delay energy because of a smart grid feature is weighted by the likelihood that the feature will be used;

(iii) is based on the value of a unit of electric or gas consumption as a function of time of day and season; and

(iv) includes a test method by which the manufacturer shall determine the energy efficiency of smart grid capable products.

(2) PREMIUM AWARDS.—(A) The premium award payment provided to a manufacturer under this subsection shall be in addition to any bonus payments made under subsection (c).

(B) The amount of the premium award paid per unit of Superefficient Best-in-Class Products sold to retailers or distributors shall, except as provided by subparagraph (F), be the product of—

(i) an amount determined by the Secretary; and

(ii) the difference in energy consumption between the Superefficient Best-in-Class Product and the average product in the product class.

(C) The Secretary shall determine the amount under subparagraph (B)(i) for each product type, in consultation with State and utility efficiency program administrators as well as the Administrator, based on consideration of the present value to the Nation of the energy (and water or other resources or inputs) saved over the useful life of the product. The Secretary may also take into consideration the methods used to increase sales of qualifying products in determining such amount.

(D) The Secretary may adjust the value described in subparagraph (C) upward or downward as appropriate, including based on the effect of the premium awards on the sales of products in different classes that may be affected by the program under this subsection.

(E) Premium award payments shall be applied to sales of any Superefficient Best-in-Class Product for the first 3 years after designation as a Superefficient Best-in-Class Product.

(F) For years 2011 through 2013, the Secretary shall make bonus payments to manufacturers of the products designated in paragraph (4)(A) for each product produced in the following amounts:

(i) $75 for each dishwasher.

(ii) $250 for each clothes washer.

(iii) $200 for each refrigerator or refrigerator-freezer.

(iv) $250 for each clothes dryer.

(v) $200 for each cooking product.

(vi) $300 for each water heater.

(3) COORDINATION OF INCENTIVES.—No product for which Federal tax credit is received under section 45M of the Internal Revenue Code of 1986 shall be eligible to receive premium award payments pursuant to this subsection.

(4) DESIGNATIONS.—

(A) INITIAL DESIGNATIONS.—Notwithstanding any other provisions of this section, the products the Secretary shall designate as a Superefficient Best-In-Class Product include, but are not limited to, the following products manufactured in 2011 through 2013:

(i) A dishwasher, clothes washer, refrigerator, or refrigerator-freezer that meets the highest efficiency performance standards in its product category as provided in Section 305(b) of the Emergency Economic Stabilization Act of 2008 and has the smart grid capability specified in paragraph (5).

(ii) A water heater that meets an efficiency standard that is the same or equivalent to the standard provided in Section 1333 of the Energy Policy Act of 2005 and has the smart grid capability specified in paragraph (5).

(iii) A clothes dryer or cooking product that the Secretary determines meets the standards specified in subsection (j)(3), which the Secretary shall promulgate no later than one year after the date of enactment, and has the smart grid capability specified in paragraph (5).

(B) EXTENSION OF INITIAL DESIGNATIONS.—

(i) GENERAL.—The Secretary shall in 2013 extend the Superefficient Best-In-Class Product designation of each product specified in subparagraph (A)(i) through (iii) through 2017, provided that for each product designation extended—

(I) the extension will result in significant energy efficiency savings;

(II) the product meets the Superefficient Best-In-Class Product criteria specified in paragraph (1);

(III) the eligibility standards of the product include the smart grid capability specified in paragraph (5); and

(IV) the Secretary makes appropriate revisions to the eligibility standards of the product as provided by paragraph (1).

(ii) AWARDS.—If a Superefficient Best-In-Class Product designation for a product is extended pursuant to this subparagraph, the premium award for the product shall be determined in accordance with paragraph (2).

(5) SMART GRID CAPABILITY.—

(A) Until the Secretary promulgates criteria under subparagraph (B), the term ''smart grid capability'' means capability of receiving and interpreting time-of-use pricing and peak-load-shed signals from a utility and—

(i) in the case of a cooking product, reducing a minimum of 20 percent during peak demand as measured by the tested average wattage over the course of a typical operating cycle of the product; or

(ii) in the case of a clothes washer, a refrigerator, a dishwasher, a dryer and a water heater, reducing a minimum of 50 percent during peak demand as measured by the tested average wattage over the course of a typical operating cycle of the product, provided that the typical operating cycle of a refrigerator and a water heater shall be a 24-hour period.

(B) After completion of the analysis required under section 142(b) of this Act, the Secretary shall expeditiously promulgate, after notice and a 30-day public comment period, criteria for what constitutes ''smart grid capability.''

(f) REPORTING.—The Secretary of Energy shall require, as a condition of receiving a bonus, bounty, or premium award under this section, that a report containing the following documentation be provided:

(1) For retailers and distributors, the number of units sold within each product type, and model-specific wholesale purchase prices and retail sale prices, on a monthly basis.

(2) For manufacturers, model-specific energy efficiency and consumption data.

(3) For manufacturers, on an immediate basis, information concerning any product design or function changes that affect the energy consumption of the unit.

(4) The methods used to increase the sales of qualifying products.

(g) MONITORING AND VERIFICATION PROTOCOLS.—The Secretary of Energy shall establish monitoring and verification protocols for energy consumption tests for each product model and for sales of energy-efficient models. The Secretary shall estimate actual savings of energy from the use of Smart Grid capability in appliances for which premium award payments are made pursuant to subsection (e) as a function of utility and consumer readiness to utilize such capability.

(h) DISCLOSURE.—The Secretary of Energy may require that manufacturers, retailers and distributors disclose publicly and to consumers their participation in the program under this section.

(i) COST-EFFECTIVENESS REQUIREMENT.—

(1) REQUIREMENT.—The Secretary of Energy shall make cost-effectiveness a top priority in designing the program under, and administering, this section, except that the cost-effectiveness of providing premium awards to manufacturers under subsection (e), in aggregate, may be lower by this measure than that of the bonuses and bounties to retailers and distributors under subsections (c) and (d).

(2) DEFINITIONS.—In this subsection:

(A) COST-EFFECTIVENESS.—The term ''cost-effectiveness'' means a measure of aggregate savings in the cost of energy over the lifetime of a product in relation to the cost to the Secretary of the bonuses, bounties, and premium awards provided under this section for a product.

(B) SAVINGS.—The term ''savings'' means the cumulative megawatt-hours of electricity or million British thermal units of other fuels saved by a product during the projected useful life of the product, in comparison to projected energy consumption of the average product in the same class, taking into consideration the impact of any documented measures to replace, retire, and recycle low-efficiency products at the time of purchase of highly-efficient substitutes.

(j) DEFINITIONS.—In this section—

(1) the term ''distributor'' mean an individual, organization, or company that sells products in multiple lots and not directly to end-users;

(2) the term ''retailer'' means an individual, organization, or company that sells products directly to end-users;

(3) the term ''manufacturer'' means an individual, organization, or company that transforms raw materials into mass-producible finished goods; and

(4) the term ''Superefficient Best-in-Class Product'' means a product that—

(A) can be mass produced; and

(B) achieves the highest level of efficiency that the Secretary of Energy finds can, given the current state of technology, be produced and sold commercially to mass-market consumers.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $600,000,000 for each of the fiscal years 2011 through 2013 to the Secretary of Energy for purposes of this section, and such sums as may be necessary for subsequent fiscal years. Of funds appropriated, not more than 10 percent for any fiscal year may be expended on program administration, and not less than 40 percent of any funds appropriated during fiscal years 2011 through 2013 shall be for purposes of subsection (e).

SEC. 215. WATERSENSE.

(a) IN GENERAL.—There is established within the Environmental Protection Agency a WaterSense program to identify and promote water efficient products, buildings and landscapes, and services in order—

(1) to reduce water use;

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

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

(4) to preserve water resources for future generations,

through voluntary labeling of, or other forms of communications about, products, buildings and landscapes, and services that meet the highest water efficiency and performance standards.

(b) DUTIES.—The Administrator shall—

(1) promote WaterSense labeled products, buildings and landscapes, and services in the market place as the preferred technologies and services for—

(A) reducing water use; and

(B) ensuring product and service performance;

(2) work to enhance public awareness of the WaterSense label through public outreach, education, and other means;

(3) establish and maintain performance standards so that products, buildings and landscapes, and services labeled with the WaterSense label perform as well or better than their less efficient counterparts;

(4) publicize the need for proper installation and maintenance of WaterSense products by a licensed, and where certification guidelines exist, WaterSense-certified professional to ensure optimal performance;

(5) preserve the integrity of the WaterSense label;

(6) regularly review and, when appropriate, update WaterSense criteria for categories of products, buildings and landscapes, and services, at least once every four years;

(7) to the extent practical, regularly estimate and make available to the public the production and relative market shares of WaterSense labeled products, buildings and landscapes, and services, at least annually;

(8) to the extent practical, regularly estimate and make available to the public the water and energy savings attributable to the use of WaterSense labeled products, buildings and landscapes, and services, at least annually;

(9) solicit comments from interested parties and the public prior to establishing or revising a WaterSense category, specification, installation criterion, or other criterion (or prior to effective dates for any such category, specification, installation criterion, or other criterion);

(10) provide reasonable notice to interested parties and the public of any changes (including effective dates), on the adoption of a new or revised category, specification, installation criterion, or other criterion, along with—

(A) an explanation of changes; and

(B) as appropriate, responses to comments submitted by interested parties;

(11) provide appropriate lead time (as determined by the Administrator) prior to the applicable effective date for a new or significant revision to a category, specification, installation criterion, or other criterion, taking into account the timing requirements of the manufacturing, marketing, training, and distribution process for the specific product, building and landscape, or service category addressed; and

(12) identify and, where appropriate, implement other voluntary approaches in commercial, institutional, residential, municipal, and industrial sectors to encourage reuse and recycling technologies, improve water efficiency, or lower water use while meeting, where applicable, the performance standards established under paragraph (3).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,500,000 for fiscal year 2010, $10,000,000 for fiscal year 2011, $20,000,000 for fiscal year 2012, and $50,000,000 for fiscal year 2013 and each year thereafter, adjusted for inflation, to carry out this section.

SEC. 216. FEDERAL PROCUREMENT OF WATER EFFICIENT PRODUCTS.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' has the meaning given that term in section 7902(a) of title 5, United States Code.

(2) WATERSENSE PRODUCT OR SERVICE.—The term ''WaterSense product or service'' means a product or service that is rated for water efficiency under the WaterSense program.

(3) WATERSENSE PROGRAM.—The term ''WaterSense program'' means the program established by section 215 of this Act.

(4) FEMP DESIGNATED PRODUCT.—The term ''FEMP designated product'' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for efficiency.

(5) PRODUCT AND SERVICE.—The terms ''product'' and ''service'' do not include any water consuming product or service designed or procured for combat or combat-related missions. The terms also exclude products or services already covered by the Federal procurement regulations established under section 553 of the National Energy Conservation Policy Act (42 U.S.C. 8259b).

(b) PROCUREMENT OF WATER EFFICIENT PRODUCTS.—

(1) REQUIREMENT.—To meet the requirements of an agency for a water consuming product or service, the head of the agency

shall, except as provided in paragraph (2), procure—

(A) a WaterSense product or service; or

(B) a FEMP designated product.

A WaterSense plumbing product should preferably, when possible, be installed by a licensed and, when WaterSense certification guidelines exist, WaterSense-certified plumber or mechanical contractor, and a WaterSense irrigation system should preferably, when possible, be installed, maintained, and audited by a WaterSense-certified irrigation professional to ensure optimal performance.

(2) EXCEPTIONS.—The head of an agency is not required to procure a WaterSense product or service or FEMP designated product under paragraph (1) if the head of the agency finds in writing that—

(A) a WaterSense product or service or FEMP designated product is not cost-effective over the life of the product, taking energy and water cost savings into account; or

(B) no WaterSense product or service or FEMP designated product is reasonably available that meets the functional requirements of the agency.

(3) PROCUREMENT PLANNING.—The head of an agency shall incorporate into the specifications for all procurements involving water consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of water consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria used for rating WaterSense products and services and FEMP designated products. The head of an agency shall consider, to the maximum extent practicable, additional measures for reducing agency water consumption, including water reuse technologies, leak detection and repair, and use of waterless products that perform similar functions to existing water-consuming products.

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy, working in coordination with the Administrator, shall issue guidelines to carry out this section.

SEC. 217. EARLY ADOPTER WATER EFFICIENT PRODUCT INCENTIVE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term ''eligible entity'' means a State government, local or county government, tribal government, wastewater or sewerage utility, municipal water authority, energy utility, water utility, or nonprofit organization that meets the requirements of subsection (b).

(2) INCENTIVE PROGRAM.—The term ''incentive program'' means a program for administering financial incentives for consumer purchase and installation of residential water efficient products and services as described in subsection (b)(1).

(3) RESIDENTIAL WATER EFFICIENT PRODUCT OR SERVICE.—The term ''residential water efficient product or service'' means a product or service for a single-family or multifamily residence or its landscape that is rated for water efficiency and performance—

(A) by the WaterSense program; or

(B) where a WaterSense specification does not exist; by an incentive program.

Categories of water efficient products and services may include faucets, irrigation technologies and services, point-of-use water treatment devices, reuse and recycling technologies, toilets, and showerheads.

(4) WATERSENSE PROGRAM.—The term ''WaterSense program'' means the program established by section 215 of this Act.

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

(1) establishes (or has established) an incentive program to provide rebates, vouchers, other financial incentives, or direct installs to consumers for the purchase of residential water efficient products or services;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Administrator may require; and

(3) provides assurances satisfactory to the Administrator that the entity will use the allocation to supplement, but not supplant, funds made available to carry out the incentive program.

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

(1) the population served by the eligible entity in the most recent calendar year for which data are available;

(2) the targeted population of the eligible entity's incentive program, such as general households, low-income households, or first-time homeowners, and the probable effectiveness of the incentive program for that population;

(3) for existing programs, the effectiveness of the incentive program in encouraging the adoption of water efficient products and services; and

(4) any prior year's allocation to the eligible entity that remains unused.

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

(e) FIXTURE RECYCLING.—Entities are encouraged to promote or implement fixture recycling programs to manage the disposal of older fixtures replaced due to the incentive program under this section.

(f) ISSUANCE OF INCENTIVES.—Financial incentives may be provided to consumers that meet the requirements of the incentive program. The entity may issue all financial incentives directly to consumers or, with approval of the Administrator, delegate some or all financial incentive administration to other organizations including, but not limited to local governments, municipal water authorities, and water utilities. The amount of a financial incentive shall be determined by the entity, taking into consideration—

(1) the amount of the allocation to the entity under subsection (c);

(2) the amount of any Federal, State, or other organization's tax or financial incentive available for the purchase of the residential water efficient product or service;

(3) the amount necessary to change consumer behavior to purchase water efficient products and services; and

(4) the consumer expenditures for onsite preparation, assembly, and original installation of the product.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section $50,000,000 for fiscal years 2010, $100,000,000 for fiscal year 2011, $150,000,000 for fiscal year 2012, $100,000,000 for fiscal year 2013, and $50,000,000 for fiscal year 2014.

SEC. 218. CERTIFIED STOVES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''Agency'' means the Environmental Protection Agency.

(2) WOOD STOVE OR PELLET STOVE.—The term ''wood stove or pellet stove'' means a wood stove, pellet stove, or fireplace insert that uses wood or pellets for fuel.

(3) CERTIFIED STOVE.—The term ''certified stove'' means a wood stove or pellet stove that meets the standards of performance for new residential wood heaters under subpart AAA of part 60 of subchapter C of chapter I of title 40, Code of Federal Regulations (or successor regulations), as certified by the Administrator. Pellet stoves and fireplace inserts using pellets for fuel that are exempt from testing by the Administrator but meet the same standards of performance as wood stoves are considered certified for the purposes of this section.

(4) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a State, a local government, or a federally recognized Indian tribe;

(B) Alaskan Native villages or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.)); and

(C) a nonprofit organization or institution that—

(i) represents or provides pollution reduction or educational services relating to wood smoke minimization to persons, organizations, or communities; or

(ii) has, as its principal purpose, the promotion of air quality or energy efficiency.

(b) ESTABLISHMENT.—The Administrator shall establish and carry out a program to assist in the replacement of wood stoves or pellet stoves that do not meet the standards of performance referred to in subsection (a)(4) by—

(1) requiring that each wood stove or pellet stove sold in the United States on and after the date of enactment of this Act meet the standards of performance referred to in subsection (a)(4);

(2) requiring that no wood stove or pellet stove replaced under this program is sold or returned to active service, but that it is instead destroyed and recycled to the maximum extent feasible;

(3) providing funds to an eligible entity to replace a wood stove or pellet stove that does not meet the standards of performance in subsection (a)(4) with a certified stove, including funds to pay for—

(A) installation of a replacement certified stove; and

(B) necessary replacement of or repairs to ventilation, flues, chimneys, or other relevant items necessary for safe installation of a replacement certified stove;

(4) in addition to any funds that may be appropriated for the program under this subsection, using existing Federal, State, and local programs and incentives, to the greatest extent practicable;

(5) prioritizing the replacement of wood stoves or pellet stoves manufactured before July 1, 1990; and

(6) carrying out such other activities as the Administrator determines appropriate to facilitate the replacement of wood stoves or pellet stoves that do not meet the standards of performance referred to in subsection (a)(3).

(c) REGULATIONS.—The Administrator may promulgate such regulations as are necessary to carry out the program established under subsection (b).

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the program under this section $20,000,000 for the period of fiscal years 2010 through 2014.

(2) DESIGNATED USE.—Of amounts appropriated pursuant to this subsection—

(A) 25 percent shall be designated for use to carry out the program under this section on lands held in trust for the benefit of a federally recognized Indian tribe;

(B) 3 percent shall be designated for use to carry out the program under this section in Alaskan Native villages or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.)); and

(C) 72 percent shall be designated for use to carry out the program under this section nationwide.

(3) REGULATORY PROGRAMS.—

(A) IN GENERAL.—No grant or loan provided under this section shall be used to fund the costs of emissions reductions that are mandated under Federal, State, or local law.

(B) MANDATED.—For purposes of subparagraph (A), voluntary or elective emission reduction measures shall not be considered ''mandated'', regardless of whether the reductions are included in the implementation plan of a State.

(e) EPA AUTHORITY TO ACCEPT WOOD STOVE OR PELLET STOVE REPLACEMENT SUPPLEMENTAL ENVIRONMENTAL PROJECTS.—

(1) IN GENERAL.—The Administrator may accept (notwithstanding sections 3302 and 1301 of title 31, United States Code) wood stove or pellet stove replacement Supplemental Environmental Projects if such projects, as part of a settlement of any alleged violation of environmental law—

(A) protect human health or the environment;

(B) are related to the underlying alleged violation;

(C) do not constitute activities that the defendant would otherwise be legally required to perform; and

(D) do not provide funds for the staff of the Agency or for contractors to carry out the Agency's internal operations.

(2) CERTIFICATION.—In any settlement agreement regarding an alleged violation of environmental law in which a defendant agrees to perform a wood stove or pellet stove replacement Supplemental Environmental Project, the Administrator shall require the defendant to include in the settlement documents a certification under penalty of law that the defendant would have agreed to perform a comparably valued, alternative project other than a wood stove or pellet stove replacement Supplemental Environmental Project if the Administrator were precluded by law from accepting a wood stove or pellet stove replacement Supplemental Environmental Project. A failure by the Administrator to include this language in such a settlement agreement shall not create a cause of action against the United States under the Clean Air Act or any other law or create a basis for overturning a settlement agreement entered into by the United States.

SEC. 219. ENERGY STAR STANDARDS.

(a) ENERGY STAR.—Section 324A(c) of the Energy Policy and Conservation Act is amended—

(1) in paragraph (6)(B), by striking ''and'' after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(8) not later than 18 months after the date of enactment of this paragraph, establish and implement a rating system for products identified as Energy Star products pursuant to this section to provide consumers with the most helpful information on the relative energy efficiency, including cost effectiveness from the consumer's perspective, and relative length of time for consumers to recover costs attributable to the energy efficient features, of those products, unless the Administrator and the Secretary communicate to Congress that establishing such a system would diminish the value of the Energy Star brand to consumers;

''(9)(A) review the Energy Star product criteria for the 10 product models in each product category with the greatest energy consumption at least once every 3 years; and

''(B) based on the review, update and publish the Energy Star product criteria for each such category, as necessary; and

''(10) require periodic verification of compliance with the Energy Star product criteria by products identified as Energy Star products pursuant to this section, including—

''(A) purchase and testing of products from the market; or

''(B) other appropriate testing and compliance approaches.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the amendments made by this section $5,000,000 for fiscal year 2010 and for each fiscal year thereafter.

Subtitle C—Transportation Efficiency

SEC. 221. EMISSIONS STANDARDS.

Title VIII of the Clean Air Act, as added by section 331 of this Act, is amended by inserting after part A the following new part:

''PART B—MOBILE SOURCES

''SEC. 821. GREENHOUSE GAS EMISSION STANDARDS FOR MOBILE SOURCES.

''(a) NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES.—(1) Pursuant to section 202(a)(1), by December 31, 2010, the Administrator shall promulgate standards applicable to emissions of greenhouse gases from new heavy-duty motor vehicles or new heavy-duty motor vehicle engines, excluding such motor vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section). The Administrator may revise these standards from time to time.

''(2) Regulations issued under section 202(a)(1) applicable to emissions of greenhouse gases from new heavy-duty motor vehicles or new heavy-duty motor vehicle engines, excluding such motor vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section), shall contain standards that reflect the greatest degree of emissions reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology. Any such regulations shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, and, at a minimum, shall apply for a period no less than 3 model years beginning no earlier than the model year commencing 4 years after such regulations are promulgated.

''(3) Regulations issued under section 202(a)(1) applicable to emissions of greenhouse gases from new heavy-duty motor vehicles or new heavy-duty motor vehicle engines, excluding such motor vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section), shall supersede and satisfy any and all of the rulemaking and compliance requirements of section 32902(k) of title 49, United States Code.

''(4) Other than as specifically set forth in paragraph (3) of this subsection, nothing in this section shall affect or otherwise increase or diminish the authority of the Secretary of Transportation to adopt regulations to improve the overall fuel efficiency of the commercial goods movement system.

''(b) NONROAD VEHICLES AND ENGINES.—(1) Pursuant to section 213(a)(4) and (5), the Administrator shall identify those classes or categories of new nonroad vehicles or engines, or combinations of such classes or categories, that, in the judgment of the Administrator, both contribute significantly to the total emissions of greenhouse gases from nonroad engines and vehicles, and provide the greatest potential for significant and cost-effective reductions in emissions of greenhouse gases. The Administrator shall promulgate standards applicable to emissions of greenhouse gases from these new nonroad engines or vehicles by December 31, 2012. The Administrator shall also promulgate standards applicable to emissions of greenhouse gases for such other classes and categories of new nonroad vehicles and engines as the Administrator determines appropriate and in the timeframe the Administrator determines appropriate. The Administrator shall base such determination, among other factors, on the relative contribution of greenhouse gas emissions, and the costs for achieving reductions, from such classes or categories of new nonroad engines and vehicles. The Administrator may revise these standards from time to time.

''(2) Standards under section 213(a)(4) and (5) applicable to emissions of greenhouse gases from those classes or categories of new nonroad engines or vehicles identified in the first sentence of paragraph (1) of this subsection, shall achieve the greatest degree of emissions reduction achievable based on the application of technology which the Administrator determines will be available at the time such standards take effect, taking into consideration cost, energy, and safety factors associated with the application of such technology. Any such regulations shall take effect at the earliest possible date after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period, the applicable compliance dates for other standards, and other appropriate factors, including the period of time appropriate for the transfer of applicable technology from other applications, including motor vehicles, and the period of time in which previously promulgated regulations have been in effect.

''(3) For purposes of this section and standards under section 213(a)(4) or (5) applicable to emissions of greenhouse gases, the term 'nonroad engines and vehicles' shall include non-internal combustion engines and the vehicles these engines power (such as electric engines and electric vehicles), for those non-internal combustion engines and vehicles which would be in the same category and have the same uses as nonroad engines and vehicles that are powered by internal combustion engines.

''(c) AVERAGING, BANKING, AND TRADING OF EMISSIONS CREDITS.—In establishing standards applicable to emissions of greenhouse gases pursuant to this section and sections 202(a), 213(a)(4) and (5), and 231(a), the Administrator may establish provisions for averaging, banking, and trading of greenhouse gas emissions credits within or across classes or categories of motor vehicles and motor vehicle engines, nonroad vehicles and engines (including marine vessels), and aircraft and aircraft engines, to the extent the Administrator determines appropriate and considering the factors appropriate in setting standards under those sections. Such provisions may include reasonable and appropriate provisions concerning generation, banking, trading, duration, and use of credits.

''(d) REPORTS.—The Administrator shall, from time to time, submit a report to Congress that projects the amount of greenhouse gas emissions from the transportation sector, including transportation fuels, for the years 2030 and 2050, based on the standards adopted under this section.

''(e) GREENHOUSE GASES.—Notwithstanding the provisions of section 711, hydrofluorocarbons shall be considered a greenhouse gas for purposes of this section.''.

SEC. 222. GREENHOUSE GAS EMISSIONS REDUCTIONS THROUGH TRANSPORTATION EFFICIENCY.

(a) ENVIRONMENTAL PROTECTION AGENCY.—Title VIII of the Clean Air Act, as added by section 331 of this Act, is further amended by inserting after part C the following new part:

''PART D—TRANSPORTATION EMISSIONS

''SEC. 841. GREENHOUSE GAS EMISSIONS REDUCTIONS THROUGH TRANSPORTATION EFFICIENCY.

''(a) IN GENERAL.—The Administrator, in consultation with the Secretary of Transportation, shall promulgate, and update from time to time, regulations to establish national transportation-related greenhouse gas emissions reduction goals, standardized models and methodologies for use in developing surface transportation-related greenhouse gas emissions reduction targets pursuant to sections 134 and 135 of title 23 of the United States Code and methods for collection of data on transportation-related greenhouse gas emissions. Such goals shall be commensurate with the emissions reductions goals established under the American Clean Energy and Security Act of 2009. In establishing such goals, models, and methodologies, the Administrator shall consult with States and metropolitan planning organizations and may utilize existing models and methodologies.

''(b) TIMING.—The Administrator shall—

''(1) publish proposed regulations under subsection (a) not later than 12 months after the date of enactment of this section; and

''(2) promulgate final regulations under subsection (a) not later than 18 months after the date of enactment of this section.

''(c) ASSESSMENT.—At least every 6 years after promulgating final regulations under subsection (a), the Administrator, jointly with the Secretary of Transportation, shall assess current and projected progress in reducing national transportation-related greenhouse gas emissions. The assessment shall examine the contributions to emissions reductions attributable to improvements in vehicle efficiency, greenhouse gas performance of transportation fuels, increased efficiency in utilizing transportation systems and the effects of local and State planning.''.

(b) METROPOLITAN PLANNING ORGANIZATIONS.—Section 134 of title 23 of the United States Code is amended as follows:

(1) In subsection (a)(1)—

(A) by striking ''minimizing'' and inserting ''reducing''; and

(B) by inserting '', reliance on oil, impacts on the environment, transportation-related greenhouse gas emissions'' after ''consumption''.

(2) In subsection (h)(1)(E)—

(A) by inserting ''sustainability and livability, reduce surface transportation-related greenhouse gas emissions and reliance on oil, adapt to the effects of climate change,'' after ''energy conservation'';

(B) by inserting ''and public health'' after ''quality of life''; and

(C) by inserting '', including housing and land use patterns'' after ''development patterns''.

(3) In subsection (i)(4)(A) by inserting ''air quality, public health, housing, transportation,'' after ''conservation,''.

(4) In subsection (k) by inserting at the end the following new paragraph:

''(6) EMISSIONS REDUCTION PROCESS.—

''(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address transportation-related greenhouse gas emissions by including emission reduction targets and strategies.

''(B) ESTABLISHMENT OF EMISSIONS REDUCTION TARGETS AND STRATEGIES.—

''(i) IN GENERAL.—Not later than one year after the promulgation of the final regulations required under section 841 of the Clean Air Act, each metropolitan planning organization shall develop surface transportation-related greenhouse gas emission reduction targets, as well as strategies to meet such targets, as part of the transportation planning process under this section. If more than one metropolitan planning organization has been designated within a metropolitan planning area serving a transportation management area, each such metropolitan planning organization shall work cooperatively with other such organization to develop the surface transportation-related greenhouse gas emission reduction targets required under this subparagraph.

''(ii) MINIMUM REQUIREMENTS.—Each metropolitan planning organization that develops targets and strategies required under clause (i) shall demonstrate progress in stabilizing and reducing transportation-related greenhouse gas emissions in each metropolitan planning area serving a surface transportation management area. The targets and strategies shall, at a minimum—

''(I) be based on the models and methodologies established in the final regulations required under section 841 of the Clean Air Act;

''(II) address sources of surface transportation-related greenhouse gas emissions and contribute to achievement of the national transportation-related greenhouse gas emissions reduction goals;

''(III) include efforts to increase public transportation ridership; and

''(IV) include efforts to increase walking, bicycling, and other forms of nonmotorized transportation.

''(C) PUBLIC NOTICE.—Each metropolitan planning organization shall make its emission reduction targets and strategies, and an analysis of the anticipated effects thereof, available to the public through its Web site.

''(D) ENFORCEMENT.—If the Secretary finds that a metropolitan planning organization has failed to develop, submit or publish its emission reduction targets and strategies, the Secretary shall not certify that the requirements of this section are met with respect to the metropolitan planning process of such organization.''.

(c) STATES.—Section 135 of title 23 of the United States Code is amended as follows:

(1) In subsection (d)(1)(E)—

(A) by inserting ''sustainability and livability, reduce surface transportation-related greenhouse gas emissions and reliance on oil, adapt to the effects of climate change,'' after ''energy conservation'';

(B) by inserting ''and public health'' after ''quality of life''; and

(C) by inserting '', including housing and land use patterns'' after ''development patterns''.

(2) In subsection (f)(2)(D)(i) by inserting ''air quality, public health, housing, transportation,'' after ''conservation,''.

(3) In subsection (f) by inserting at the end the following new paragraph:

''(9) EMISSIONS REDUCTION PROCESS.—

''(A) IN GENERAL.—Within a State, the transportation planning process under this section shall address transportation-related greenhouse gas emissions by including emission reduction targets and strategies.

''(B) ESTABLISHMENT OF EMISSIONS REDUCTION TARGETS AND STRATEGIES.—

''(i) IN GENERAL.—Not later than one year after the promulgation of the final regulations required under section 841 of the Clean Air Act, each State shall develop surface transportation-related greenhouse gas emission reduction targets, as well as strategies to meet such targets, as part of the transportation planning process under this section.

''(ii) MINIMUM REQUIREMENTS.—Each State that develops targets and strategies required under clause (i) shall demonstrate progress in stabilizing and reducing transportation-related greenhouse gas emissions in such State. The targets and strategies shall, at a minimum,

''(I) be based on the models and methodologies established in the final regulations required under section 841 of the Clean Air Act;

''(II) address sources of surface transportation-related greenhouse gas emissions and contribute to achievement of the national transportation-related greenhouse gas emissions reduction goals;

''(III) include efforts to increase public transportation ridership; and

''(IV) include efforts to increase walking, bicycling, and other forms of nonmotorized transportation.

''(D) PUBLIC NOTICE.—Each State shall make its emission reduction targets and strategies, and an analysis of the anticipated effects thereof, available to the public through its Web site.

''(E) ENFORCEMENT.—If the Secretary finds that a State has failed to develop, submit or publish its emission reduction targets and strategies, the Secretary shall not certify that the requirements of this section are met with respect to the statewide planning process of such State.''.

(d) DEPARTMENT OF TRANSPORTATION.—The Secretary of Transportation shall establish appropriate requirements, including performance measures, to ensure that transportation plans developed under sections 134 and 135 of title 23 of the United States Code sufficiently meet the requirements of this section, including achieving progress towards national transportation-related greenhouse gas emissions reduction goals.

SEC. 223. SMARTWAY TRANSPORTATION EFFICIENCY PROGRAM.

Part B of title VIII of the Clean Air Act, as added by section 221 of this Act is amended by adding after section 821 the following section:

''SEC. 822. SMARTWAY TRANSPORTATION EFFICIENCY PROGRAM.

''(a) IN GENERAL.—There is established within the Environmental Protection Agency a SmartWay Transport Program to quantify, demonstrate, and promote the benefits of technologies, products, fuels, and operational strategies that reduce petroleum consumption, air pollution, and greenhouse gas emissions from the mobile source sector.

''(b) GENERAL DUTIES.—Under the program established under this section, the Administrator shall carry out each of the following:

''(1) Development of measurement protocols to evaluate the energy consumption and greenhouse gas impacts from technologies and strategies in the mobile source sector, including those for passenger transport and goods movement.

''(2) Development of qualifying thresholds for certifying, verifying, or designating energy-efficient, low-greenhouse gas SmartWay technologies and strategies for each mode of passenger transportation and goods movement.

''(3) Development of partnership and recognition programs to promote best practices and drive demand for energy-efficient, low-greenhouse gas transportation performance.

''(4) Promotion of the availability of, and encouragement of the adoption of, SmartWay certified or verified technologies and strategies, and publication of the availability of financial incentives, such as assistance from loan programs and other Federal and State incentives.

''(c) SMARTWAY TRANSPORT FREIGHT PARTNERSHIP.—The Administrator shall establish a SmartWay Transport Freight Partnership

program with shippers and carriers of goods to promote energy-efficient, low-greenhouse gas transportation. In carrying out such partnership, the Administrator shall undertake each of the following:

''(1) Certification of the energy and greenhouse gas performance of participating freight carriers, including those operating rail, trucking, marine, and other goods movement operations.

''(2) Publication of a comprehensive energy and greenhouse gas performance index of freight modes (including rail, trucking, marine, and other modes of transporting goods) and individual freight companies so that shippers can choose to deliver their goods more efficiently.

''(3) Development of tools for—

''(A) carriers to calculate their energy and greenhouse gas performance; and

''(B) shippers to calculate the energy and greenhouse gas impacts of moving their products and to evaluate the relative impacts from transporting their goods by different modes and corporate carriers.

''(4) Provision of recognition opportunities for participating shipper and carrier companies demonstrating advanced practices and achieving superior levels of greenhouse gas performance.

''(d) IMPROVING FREIGHT GREENHOUSE GAS PERFORMANCE DATABASES.—The Administrator shall, in coordination with other appropriate agencies, define and collect data on the physical and operational characteristics of the Nation's truck population, with special emphasis on data related to energy efficiency and greenhouse gas performance to inform the performance index published under subsection (c)(2) of this section, and other means of goods transport as necessary, at least every 5 years.

''(e) ESTABLISHMENT OF FINANCING PROGRAM.—The Administrator shall establish a SmartWay Financing Program to competitively award funding to eligible entities identified by the Administrator in accordance with the program requirements in subsection (g).

''(f) PURPOSE.—Under the SmartWay Financing Program, eligible entities shall—

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

''(2) make such loans and leases available to public and private entities for the purpose of adopting low-greenhouse gas technologies or strategies for the mobile source sector that are designated by the Administrator.

''(g) PROGRAM REQUIREMENTS.—The Administrator shall determine program design elements and requirements, including—

''(1) the type of financial mechanism with which to award funding, in the form of grants or contracts;

''(2) the designation of eligible entities to receive funding, including State, tribal, and local governments, regional organizations comprised of governmental units, nonprofit organizations, or for-profit companies;

''(3) criteria for evaluating applications from eligible entities, including anticipated—

''(A) cost-effectiveness of loan or lease program on a metric-ton-of-greenhouse gas-saved-per-dollar basis;

''(B) ability to promote the loan or lease program and associated technologies and strategies to the target audience; and

''(4) reporting requirements for entities that receive awards, including—

''(A) actual cost-effectiveness and greenhouse gas savings from the loan or lease program based on a methodology designated by the Administrator;

''(B) the total number of applications and number of approved applications; and

''(C) terms granted to loan and lease recipients compared to prevailing market practices.

''(h) AUTHORIZATION OF APPROPRIATIONS.—Such sums as necessary are authorized to be appropriated to the Administrator to carry out this section.''.

SEC. 224. STATE VEHICLE FLEETS.

Section 507(o) of the Energy Policy Act of 1992 (42 U.S.C. 13257) is amended by adding the following new paragraph at the end thereof:

''(3) The Secretary shall revise the rules under this subsection with respect to the types of alternative fueled vehicles required for compliance with this subsection to ensure those rules are consistent with any guidance issued pursuant to section 303 of this Act.''.

Subtitle D—Industrial Energy Efficiency Programs

SEC. 241. INDUSTRIAL PLANT ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall continue to support the development of the American National Standards Institute (ANSI) voluntary industrial plant energy efficiency certification program, pending International Standards Organization (ISO) consensus standard 50001, and other related ANSI/ISO standards. In addition, the Department shall undertake complementary activities through the Department of Energy's Industry Technologies Program that support the voluntary implementation of such standards by manufacturing firms. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out these activities. The Secretary shall report to Congress on the status of standards development and plans for further standards development pursuant to this section by not later than 18 months after the date of enactment of this Act, and shall prepare a second such report 18 months thereafter.

SEC. 242. ELECTRIC AND THERMAL WASTE ENERGY RECOVERY AWARD PROGRAM.

(a) ELECTRIC AND THERMAL WASTE ENERGY RECOVERY AWARDS.—The Secretary of Energy shall establish a program to make monetary awards to the owners and operators of new and existing electric energy generation facilities or thermal energy production facilities using fossil or nuclear fuel, to encourage them to use innovative means of recovering any thermal energy that is a potentially useful byproduct of electric power generation or other processes to—

(1) generate additional electric energy; or

(2) make sales of thermal energy not used for electric generation, in the form of steam, hot water, chilled water, or desiccant regeneration, or for other commercially valid purposes.

(b) AMOUNT OF AWARDS.—

(1) ELIGIBILITY.—Awards shall be made under subsection (a) only for the use of innovative means that achieve net energy efficiency at the facility concerned significantly greater than the current standard technology in use at similar facilities.

(2) AMOUNT.—The amount of an award made under subsection (a) shall equal an amount up to the value of 25 percent of the energy projected to be recovered or generated during the first 5 years of operation of the facility using the innovative energy recovery method, or such lesser amount that the Secretary determines to be the minimum amount that can cost-effectively stimulate such innovation.

(3) LIMITATION.—No person may receive an award under this section if a grant under the waste energy incentive grant program under section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343) is made for the same energy savings resulting from the same innovative method.

(c) REGULATORY STATUS.—The Secretary of Energy shall—

(1) assist State regulatory commissions to identify and make changes in State regulatory programs for electric utilities to provide appropriate regulatory status for thermal energy byproduct businesses of regulated electric utilities to encourage those utilities to enter businesses making the sales referred to in subsection (a)(2); and

(2) encourage self-regulated utilities to enter businesses making the sales referred to in subsection (a)(2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy such sums as are necessary for the purposes of this section.

SEC. 243. CLARIFYING ELECTION OF WASTE HEAT RECOVERY FINANCIAL INCENTIVES.

Section 373(e) of the Energy Policy and Conservation Act (42 U.S.C. 6343(e)) is amended—

(1) by striking ''that qualifies for'' and inserting ''who elects to claim''; and

(2) by inserting ''from that project'' after ''for waste heat recovery''.

SEC. 244. MOTOR MARKET ASSESSMENT AND COMMERCIAL AWARENESS PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) electric motor systems account for about half of the electricity used in the United States;

(2) electric motor energy use is determined by both the efficiency of the motor and the system in which the motor operates;

(3) Federal Government research on motor end use and efficiency opportunities is more than a decade old; and

(4) the Census Bureau has discontinued collection of data on motor and generator importation, manufacture, shipment, and sales.

(b) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) INTERESTED PARTIES.—The term ''interested parties'' includes—

(A) trade associations;

(B) motor manufacturers;

(C) motor end users;

(D) electric utilities; and

(E) individuals and entities that conduct energy efficiency programs.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy, in consultation with interested parties.

(c) ASSESSMENT.—The Secretary shall conduct an assessment of electric motors and the electric motor market in the United States that shall—

(1) include important subsectors of the industrial and commercial electric motor market (as determined by the Secretary), including—

(A) the stock of motors and motor-driven equipment;

(B) efficiency categories of the motor population; and

(C) motor systems that use drives, servos, and other control technologies;

(2) characterize and estimate the opportunities for improvement in the energy efficiency of motor systems by market segment, including opportunities for—

(A) expanded use of drives, servos, and other control technologies;

(B) expanded use of process control, pumps, compressors, fans or blowers, and material handling components; and

(C) substitution of existing motor designs with existing and future advanced motor designs, including electronically commutated permanent magnet, interior permanent magnet, and switched reluctance motors; and

(3) develop an updated profile of motor system purchase and maintenance practices, including surveying the number of companies that have motor purchase and repair specifications, by company size, number of employees, and sales.

(d) RECOMMENDATIONS; UPDATE.—Based on the assessment conducted under subsection (c), the Secretary shall—

(1) develop—

(A) recommendations to update the detailed motor profile on a periodic basis;

(B) methods to estimate the energy savings and market penetration that is attributable to the Save Energy Now Program of the Department; and

(C) recommendations for the Director of the Census Bureau on market surveys that should be undertaken in support of the motor system activities of the Department; and

(2) prepare an update to the Motor Master+ program of the Department.

(e) PROGRAM.—Based on the assessment, recommendations, and update required under subsections (c) and (d), the Secretary shall establish a proactive, national program targeted at motor end-users and delivered in cooperation with interested parties to increase awareness of—

(1) the energy and cost-saving opportunities in commercial and industrial facilities using higher efficiency electric motors;

(2) improvements in motor system procurement and management procedures in the selection of higher efficiency electric motors and motor-system components, including drives, controls, and driven equipment; and

(3) criteria for making decisions for new, replacement, or repair motor and motor system components.

SEC. 245. MOTOR EFFICIENCY REBATE PROGRAM.

(a) IN GENERAL.—Part C of title III of the Energy Policy and Conservation Act (42 U.S.C. 6311 et seq.) is amended by adding at the end the following:

"SEC. 347. MOTOR EFFICIENCY REBATE PROGRAM.

''(a) ESTABLISHMENT.—Not later than January 1, 2010, in accordance with subsection (b), the Secretary shall establish a program to provide rebates for expenditures made by entities—

''(1) for the purchase and installation of a new electric motor that has a nominal full load efficiency that is not less than the nominal full load efficiency as defined in—

''(A) table 12–12 of NEMA Standards Publication MG 1–2006 for random wound motors rated 600 volts or lower; or

''(B) table 12–13 of NEMA Standards Publication MG 1–2006 for form wound motors rated 5000 volts or lower; and

''(2) to replace an installed motor of the entity the specifications of which are established by the Secretary by a date that is not later than 90 days after the date of enactment of this section.

''(b) REQUIREMENTS.—

''(1) APPLICATION.—To be eligible to receive a rebate under this section, an entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including—

''(A) demonstrated evidence that the entity purchased an electric motor described in subsection (a)(1) to replace an installed motor described in subsection (a)(2);

''(B) demonstrated evidence that the entity—

''(i) removed the installed motor of the entity from service; and

''(ii) properly disposed the installed motor of the entity; and

''(C) the physical nameplate of the installed motor of the entity.

''(2) AUTHORIZED AMOUNT OF REBATE.—The Secretary may provide to an entity that meets each requirement under paragraph (1) a rebate the amount of which shall be equal to the product obtained by multiplying—

''(A) the nameplate horsepower of the electric motor purchased by the entity in accordance with subsection (a)(1); and

''(B) $25.00.

''(3) PAYMENTS TO DISTRIBUTORS OF QUALIFYING ELECTRIC MOTORS.—To assist in the payment for expenses relating to processing and motor core disposal costs, the Secretary shall provide to the distributor of an electric motor described in subsection (a)(1), the purchaser of which received a rebate under this section, an amount equal to the product obtained by multiplying—

''(A) the nameplate horsepower of the electric motor; and

''(B) $5.00.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

''(1) $80,000,000 for fiscal year 2011;

''(2) $75,000,000 for fiscal year 2012;

''(3) $70,000,000 for fiscal year 2013;

''(4) $65,000,000 for fiscal year 2014; and

''(5) $60,000,000 for fiscal year 2015.''.

(b) TABLE OF CONTENTS.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by adding at the end of the items relating to part C of title III the following:

''Sec. 347. Motor efficiency rebate program.''.

SEC. 246. CLEAN ENERGY MANUFACTURING REVOLVING LOAN FUND PROGRAM.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 26 the following:

"SEC. 27. CLEAN ENERGY MANUFACTURING REVOLVING LOAN FUND PROGRAM.

''(a) PURPOSES.—The purposes of this section are as follows:

''(1) To develop the long-term manufacturing capacity of the United States.

''(2) To create jobs through the retooling and expansion of manufacturing facilities to produce clean energy technology products and energy efficient products.

''(3) To improve the long-term competitiveness of domestic manufacturing by increasing the energy efficiency of manufacturing facilities.

''(4) To assist small and medium-sized manufacturers diversify operations to respond to emerging clean energy technology product markets.

''(b) DEFINITIONS.—In this section:

''(1) CLEAN ENERGY TECHNOLOGY PRODUCT.—The term 'clean energy technology product' means technology products relating to the following:

''(A) Wind turbines.

''(B) Solar energy.

''(C) Fuel cells.

''(D) Advanced batteries, battery systems, or storage devices.

''(E) Biomass equipment.

''(F) Geothermal equipment.

''(G) Advanced biofuels.

''(H) Ocean energy equipment.

''(I) Carbon capture and storage.

''(J) Such other products as the Secretary determines—

''(i) relate to the production, use, transmission, storage, control, or conservation of energy;

''(ii) reduce greenhouse gas concentrations;

''(iii) achieve the earliest and maximum emission reductions within a reasonable period per dollar invested;

''(iv) result in the fewest non-greenhouse gas environmental impacts; and

''(v) either—

''(I) reduce the need for additional energy supplies by—

''(aa) using existing energy supplies with greater efficiency; or

''(bb) by transmitting, distributing, or transporting energy with greater effectiveness through the infrastructure of the United States; or

''(II) diversity the sources of energy supply of the United States—

''(aa) to strengthen energy security; and

''(bb) to increase supplies with a favorable balance of environmental effects if the entire technology system is considered.

''(2) ENERGY EFFICIENT PRODUCT.—The term 'energy efficient product' means a product that, as determined by the Secretary in consultation with the Secretary of Energy—

''(A) consumes significantly less energy than the average amount that all similar products consumed on the day before the date of the enactment of this Act; or

''(B) is a component, system, or group of subsystems that is designed, developed, and validated to optimize the energy efficiency of a product.

''(3) HOLLINGS MANUFACTURING EXTENSION CENTER.—The term 'Hollings Manufacturing Extension Center' means a center established under section 25.

''(4) HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM.—The term 'Hollings Manufacturing Partnership Program' means the program established under sections 25 and 26.

''(5) PROGRAM.—The term 'Program' means the grant program established pursuant to subsection (c)(1).

''(6) REVOLVING LOAN FUND.—The term 'revolving loan fund' means a revolving loan fund described in subsection (d).

''(7) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Commerce.

''(8) SMALL OR MEDIUM-SIZED MANUFACTURER.—The term 'small or medium-sized manufacturer' means a manufacturer that employs fewer than 500 full-time equivalent employees at a manufacturing facility that is not owned or controlled by an automobile manufacturer.

''(c) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this section, the Secretary shall establish a program under which the Secretary shall award grants to States to establish revolving loan funds to provide loans to small and medium-sized manufacturers to finance the cost of—

''(A) reequipping, expanding, or establishing (including applicable engineering costs) a manufacturing facility in the United States to produce—

''(i) clean energy technology products;

''(ii) energy efficient products; or

''(iii) integral component parts of clean energy technology products or energy efficient products; or

''(B) reducing the energy intensity or greenhouse gas production of a manufacturing facility in the United States, including using energy intensive feedstocks.

''(2) MAXIMUM AMOUNT.—The Secretary may not award a grant under the Program in an amount that exceeds $500,000,000 in any fiscal year.

''(d) CRITERIA FOR AWARDING GRANTS.—

''(1) MATCHING FUNDS.—The Secretary may make a grant to a State under the Program only if the State agrees to ensure that for each loan provided by the State under the Program, not less than 20 percent of the amount of each loan will come from a non-Federal source.

''(2) ADMINISTRATIVE COSTS.—A State receiving a grant under the Program may only use such amount of the grant for the costs of

administering the revolving loan fund as the Secretary shall provide in regulations.

''(3) APPLICATION.—Each State seeking a grant under the Program shall submit to the Secretary an application therefor in such form and in such manner as the Secretary considers appropriate.

''(4) EVALUATION.—The Secretary shall evaluate and prioritize an application submitted by a State for a grant under the Program on the basis of—

''(A) the description of the revolving loan fund to be established with the grant and how such revolving loan fund will achieve the purposes described in subsection (a);

''(B) whether the State will be able to provide loans from the revolving loan fund to small or medium-sized manufacturers before the date that is 120 days after the date on which the State receives the grant;

''(C) a description of how the State will administer the revolving loan fund in coordination with other State and Federal programs, including programs administered by the Assistant Secretary for Economic Development;

''(D) a description of the actual or potential clean energy manufacturing supply chains, including significant component parts, in the region served by the revolving loan fund;

''(E) how the State will target the provision of loans under the Program to manufacturers located in regions characterized by high unemployment and sudden and severe economic dislocation, in particular where mass layoffs have resulted in a precipitous increase in unemployment;

''(F) the availability of a skilled manufacturing workforce in the region served by the revolving loan fund and the capacity of the region's workforce and education systems to provide pathways for unemployed or low-income workers into skilled manufacturing employment;

''(G) a description of how the State will target loans to small or medium-sized manufacturers who are—

''(i) manufacturers of automobile components; and

''(ii) either—

''(I) increasing the energy efficiency of their manufacturing facilities; or

''(II) retooling to manufacture clean energy products or energy efficient products, including manufacturing components to improve the compliance of an automobile with fuel economy standards prescribed under section 32902 of title 49, United States Code;

''(H) a description of how the State will use the loan fund to achieve the earliest and maximum greenhouse gas emission reductions within a reasonable period of time per dollar invested and with the fewest nongreenhouse gas environmental impacts; and

''(I) such other factors as the Secretary considers appropriate to ensure that grants awarded under the Program effectively and efficiently achieve the purposes described in subsection (a).

''(e) REVOLVING LOAN FUNDS.—

''(1) IN GENERAL.—A State receiving a grant under the Program shall establish, maintain, and administer a revolving loan fund in accordance with this subsection.

''(2) DEPOSITS.—A revolving loan fund shall consist of the following:

''(A) Amounts from grants awarded under this section.

''(B) All amounts held or received by the State incident to the provision of loans described in subsection (f), including all collections of principal and interest.

''(3) EXPENDITURES.—Amounts in the revolving loan fund shall be available for the provision and administration of loans in accordance with subsection (f).

''(4) LIMITATION.—No funds provided pursuant to this section may be leveraged through use of tax-exempt bonding authority by a State or a political subdivision of a State.

''(f) LOANS.—

''(1) IN GENERAL.—A State receiving a grant under this section shall use the amount in the revolving loan fund to provide loans to small and medium-sized manufacturers as described in subsection (c)(1).

''(2) LOAN TERMS AND CONDITIONS.—The following shall apply with respect to loans provided under paragraph (1):

''(A) TERMS.—Loans shall have a term determined by the State receiving the grant as follows:

''(i) For fixed assets, the term of the loan shall not exceed the useful life of the asset and shall be less than 15 years.

''(ii) For working capital, the term of the loan shall not exceed 36 months.

''(B) INTEREST RATES.—Loans shall bear an interest rate determined by the State receiving the grant as follows:

''(i) The interest rate shall enable the loan recipient to accomplish the activities described in subparagraphs (A) and (B) of subsection (c)(1).

''(ii) The interest rate may be set below-market interest rates.

''(iii) The interest rate may not be less than zero percent.

''(iv) The interest rate may not exceed the current prime rate plus 500 basis points.

''(C) DESCRIPTION AND BUDGET FOR USE OF LOAN FUNDS.—Each recipient of a loan from a State under the Program shall develop and submit to the State and the Secretary a description and budget for the use of loan amounts, including a description of the following:

''(i) Any new business expected to be developed with the loan.

''(ii) Any improvements to manufacturing operations to be developed with the loan.

''(iii) Any technology expected to be commercialized with the loan.

''(D) PRIORITY IN REVIEW AND PREFERENCE IN SELECTION FOR CERTAIN LOAN APPLICANTS.—

''(i) REVIEW.—In reviewing applications submitted by small or medium-sized manufacturers for a loan, a recipient of a grant under the Program shall give priority to small or medium-sized manufacturers described in clause (iii).

''(ii) SELECTION.—In selecting small or medium-sized manufacturers to receive a loan, a recipient of a grant under the Program shall give preference to small or medium-sized manufacturers described in clause (iii).

''(iii) PRIORITY AND PREFERRED SMALL OR MEDIUM-SIZED MANUFACTURERS.—A small or medium-sized manufacturer described in this clause is a manufacturer that—

''(I) is certified by a Hollings Manufacturing Extension Center or a manufacturing-related local intermediary designated by the Secretary for purposes of providing such certification; or

''(II) provides individuals employed at the manufacturing facilities of the manufacturer—

''(aa) pay in amounts that are, on average, equal to or more than the average wage of an individual working in a manufacturing facility in the State; and

''(bb) health benefits.

''(iv) CERTIFICATION BY HOLLINGS MANUFACTURING EXTENSION CENTER.—A Hollings Manufacturing Extension Center or other entity designated by the Secretary for purposes of providing certification under clause (iii)(I) shall only certify applications for a loan after carrying out a qualitative and quantitative review of the applicant's business strategy, manufacturing operations, and technological ability to contribute to the purposes described in subsection (a).

''(E) REPAYMENT UPON RELOCATION OUTSIDE UNITED STATES.—

''(i) IN GENERAL.—If a person receives a loan under paragraph (1) to finance the cost of reequipping, expanding, or establishing a manufacturing facility as described in subsection (c)(1)(A) or to reduce the energy intensity of a manufacturing facility and such person relocates the production activities of such manufacturing facility outside the United States during the term of the loan, the recipient shall repay such loan in full with interest as described in clause (ii) and for a duration described in clause (iii).

''(ii) PAYMENT OF INTEREST.—Any amount owed by the recipient of a loan under paragraph (1) who is required to repay the loan under clause (i) shall bear interest at a penalty rate determined by the Secretary to deter recipients of loans under paragraph (1) from relocating production activities as described in clause (i).

''(iii) PERIOD OF REPAYMENT.—Repayment of a loan under clause (i) shall be for a duration determined by the Secretary.

''(F) COMPLIANCE WITH WAGE RATE REQUIREMENTS.—Each recipient of a loan shall undertake and agree to incorporate or cause to be incorporated into all contracts for construction, alteration or repair, which are paid for in whole or in part with funds obtained pursuant to such loan, a requirement that all laborers and mechanics employed by contractors and subcontractors performing construction, alteration or repair shall be paid wages at rates not less than those determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code (known as the 'Davis-Bacon Act'), to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the same locality in which the work is to be performed. The Secretary of Labor shall have, with respect to the labor standards specified in this subparagraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 3145 of title 40, United States Code.

''(G) ANNUAL REPORTS BY LOAN RECIPIENTS.—Each recipient of a loan issued by a State under paragraph (1) shall, not less frequently than once each year during the term of the loan, submit to such State a report containing such information as the Secretary may specify for purposes of the Program, including information that the Secretary can use to determine whether a recipient of a loan is required to repay the loan under subparagraph (E).

''(3) ANNUAL REPORTS BY GRANT RECIPIENTS.—Each recipient of a grant under the Program shall, not less frequently than once each year, submit to the Secretary a report on the impact of each loan issued by the State under the Program and the aggregate impact of all loans so issued, including the following:

''(A) The sales increased or retained.

''(B) Cost savings or costs avoided.

''(C) Additional investment encouraged.

''(D) Jobs created or retained.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000,000 for each of fiscal years 2010 and 2011.''.

SEC. 247. CLEAN ENERGY AND EFFICIENCY MANUFACTURING PARTNERSHIPS.

(a) HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM.—Section 25(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(b)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) the establishment of a clean energy manufacturing supply chain initiative—

''(A) to support manufacturers in their identification of and diversification to new markets, including support for manufacturers transitioning to the use of clean energy supply chains;

''(B) to assist manufacturers improve their competitiveness by reducing energy intensity and greenhouse gas production, including the use of energy intensive feedstocks;

''(C) to increase adoption and implementation of innovative manufacturing technologies;

''(D) to coordinate and leverage the expertise of the National Laboratories and Technology Centers and the Industrial Assessment Centers of the Department of Energy to meet the needs of manufacturers; and

''(E) to identify, assist, and certify manufacturers seeking loans under section 27(e)(1).''.

(b) REDUCTION IN COST SHARE REQUIREMENTS.—Section 25(c) of such Act (15 U.S.C. 278k(c)) is amended—

(1) in paragraph (1), by inserting ''or as provided in paragraph (5)'' after ''not to exceed six years'';

(2) in paragraph (3)(B), by striking ''not less than 50 percent of the costs incurred for the first 3 years and an increasing share for each of the last 3 years'' and inserting ''50 percent of the costs incurred or such lesser percentage of the costs incurred as determined appropriate by the Secretary by rule''; and

(3) in paragraph (5)—

(A) by striking ''at declining levels'';

(B) by striking ''one third'' and inserting ''50 percent''; and

(C) by inserting '', or such lesser percentage as determined appropriate by the Secretary by rule,'' after ''maintenance costs''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the Hollings Manufacturing Partnership Program authorized under sections 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) and for the provision of assistance under section 26 of such Act (15 U.S.C. 278*l*)—

(1) $200,000,000 for fiscal year 2010;

(2) $250,000,000 for fiscal year 2011;

(3) $300,000,000 for fiscal year 2012;

(4) $350,000,000 for fiscal year 2013; and

(5) $400,000,000 for fiscal year 2014.

SEC. 248. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k(b)) is amended—

(1) in subsection (a), by striking ''(hereafter in this Act referred to as the 'Centers')''; and

(2) by adding at the end the following:

''(g) DESIGNATION.—

''(1) HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM.—The program under this section shall be known as the 'Hollings Manufacturing Partnership Program'.

''(2) HOLLINGS MANUFACTURING EXTENSION CENTERS.—The Regional Centers for the Transfer of Manufacturing Technology created and supported under subsection (a) shall be known as the 'Hollings Manufacturing Extension Centers' (in this Act referred to as the 'Centers').''.

(b) AMENDMENT TO CONSOLIDATED APPROPRIATIONS ACT, 2005.—Division B of title II of the Consolidated Appropriations Act, 2005 (Public Law 108–09447; 118 Stat. 2879; 15 U.S.C. 278k note) is amended under the heading ''INDUSTRIAL TECHNOLOGY SERVICES'' by striking ''2007: *Provided further*, That'' and all that follows through ''Extension Centers.'' and inserting ''2007.''.

Subtitle E—Improvements in Energy Savings Performance Contracting

SEC. 251. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) COMPETITION REQUIREMENTS FOR TASK OR DELIVERY ORDERS UNDER ENERGY SAVINGS PERFORMANCE CONTRACTS.—

(1) COMPETITION REQUIREMENTS.—Subsection (a) of section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following paragraph:

''(3)(A) The head of a Federal agency may issue a task or delivery order under an energy savings performance contract by—

''(i) notifying all contractors that have received an award under such contract that the agency proposes to discuss energy savings performance services for some or all of its facilities and, following a reasonable period of time to provide a proposal in response to the notice, soliciting an expression of interest in performing site surveys or investigations and feasibility designs and studies and the submission of qualifications from such contractors, and including in such notice summary information concerning energy use for any facilities that the agency has specific interest in including in such contract;

''(ii) reviewing all expressions of interest and qualifications submitted pursuant to the notice under clause (i);

''(iii) selecting two or more contractors (from among those reviewed under clause (ii)) to conduct discussions concerning the contractors' respective qualifications to implement potential energy conservation measures, including requesting references demonstrating experience on similar efforts and the resulting energy savings of such similar efforts, and providing an opportunity for a post-award debriefing to all contractors that submitted expressions of interest and qualifications under clause (ii) pursuant to the notice;

''(iv) selecting and authorizing—

''(I) more than one contractor (from among those selected under clause (iii)) to conduct site surveys, investigations, feasibility designs and studies or similar assessments for the energy savings performance contract services (or for discrete portions of such services), for the purpose of allowing each such contractor to submit a firm, fixed-price proposal to implement specific energy conservation measures; or

''(II) one contractor (from among those selected under clause (iii)) to conduct a site survey, investigation, a feasibility design and study or similar for the purpose of allowing the contractor to submit a firm, fixed-price proposal to implement specific energy conservation measures;

''(v) negotiating a task or delivery order for energy savings performance contracting services with the contractor or contractors selected under clause (iv) based on the energy conservation measures identified; and

''(vi) issuing a task or delivery order for energy savings performance contracting services to such contractor or contractors.

''(B) The issuance of a task or delivery order for energy savings performance contracting services pursuant to subparagraph (A) is deemed to satisfy the task and delivery order competition requirements in section 2304c(d) of title 10, United States Code, and section 303J(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253j(d)).

''(C) The Secretary may issue guidance as necessary to agencies issuing task or delivery orders pursuant to subparagraph (A).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) is inapplicable to task or delivery orders issued before the date of enactment of this section.

(b) INCLUSION OF THERMAL RENEWABLE ENERGY.—Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended—

(1) in subsection (a), by striking ''electric''; and

(2) in subsection (b)(2), by inserting ''or thermal'' after ''means electric''.

(c) CREDIT FOR RENEWABLE ENERGY PRODUCED AND USED ON SITE.—Subsection (c) of section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended to read as follows:

''(c) CALCULATION.—Renewable energy produced at a Federal facility, on Federal lands, or on Indian lands (as defined in title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.)) shall be calculated separately from renewable energy consumed at a Federal facility, and each may be used to comply with the consumption requirement under subsection (a).''.

(d) FINANCING FLEXIBILITY.—Section 801(a)(2)(E) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(E)) is amended by striking ''In'' and inserting ''Notwithstanding any other provision of law, in''.

Subtitle F—Public Institutions

SEC. 261. PUBLIC INSTITUTIONS.

Section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1) is amended—

(1) in subsection (a)(5), by striking ''or a designee'' and inserting ''an Indian tribe, a not-for-profit hospital or not-for-profit inpatient health care facility, or a designated agent'';

(2) in subsection (c)(1), by striking subparagraph (C);

(3) in subsection (f)(3)(A), by striking ''$1,000,000'' and inserting ''$2,500,000''; and

(4) in subsection (i)(1), by striking ''$250,000,000 for each of fiscal years 2009 through 2013'' and inserting ''$250,000,000 for each of fiscal years 2010 through 2015''.

SEC. 262. COMMUNITY ENERGY EFFICIENCY FLEXIBILITY.

Section 545(b)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17155(b)(3)) is amended—

(1) by striking ''Indian tribe may use'' and all that follows through ''for administrative expenses'' and inserting ''Indian tribe may use for administrative expenses'';

(2) by striking subparagraphs (B) and (C);

(3) by redesignating the remaining clauses (i) and (ii) as subparagraphs (A) and (B), respectively and adjusting the margin of those subparagraphs accordingly; and

(4) by striking the semicolon at the end and inserting a period.

SEC. 263. SMALL COMMUNITY JOINT PARTICIPATION.

(a) Section 541(3)(A) of the Energy Independence and Security Act of 2007 is amended in clause (i) by striking ''and'' at the end of subclause (II), in clause (ii) by striking the period at the end of subclause (II) and inserting ''; or'', and by inserting the following new clause (iii):

''(iii) a group of adjacent, contiguous, or geographically proximate units of local government that reach agreement to act jointly for purposes of this section and that represent a combined population of not less than 35,000.''.

(b) Section 541(3)(B) of the Energy Independence and Security Act of 2007 is amended in clause (i) by striking ''or'', in clause (ii) by striking the period at the end and inserting ''; or'', and by inserting the following new clause (iii):

''(iii) a group of adjacent, contiguous, or geographically proximate units of local government that reach agreement to act jointly for purposes of this section and that represent a combined population of not less than 50,000.''.

SEC. 264. LOW INCOME COMMUNITY ENERGY EFFICIENCY PROGRAM.

(a) IN GENERAL.—The Secretary of Energy is authorized to make grants to private, nonprofit, mission-driven community development organizations including community development corporations and community development financial institutions to provide financing to businesses and projects that improve energy efficiency; identify and develop alternative, renewable, and distributed energy supplies; provide technical assistance and promote job and business opportunities for low-income residents; and increase energy conservation in low income rural and urban communities.

(b) GRANTS.—The purpose of such grants is to increase the flow of capital and benefits to low income communities, minority-owned and woman-owned businesses and entrepreneurs and other projects and activities located in low income communities in order to reduce environmental degradation, foster energy conservation and efficiency and create job and business opportunities for local residents. The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable, and distributed energy supplies;

(2) capitalizing loan funds that lend to energy efficiency projects and energy conservation programs;

(3) technical assistance to plan, develop, and manage an energy efficiency financing program; and

(4) technical and financial assistance to assist small-scale businesses and private entities develop new renewable and distributed sources of power or combined heat and power generation.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there is authorized to be appropriated $50,000,000 for each of the fiscal years 2010 through 2015.

SEC. 265. CONSUMER BEHAVIOR RESEARCH.

(a) IN GENERAL.—The Secretary of Energy is authorized to establish a research program to identify the factors affecting consumer actions to conserve energy and make improvements in energy efficiency. Through the program the Secretary will make grants to public and private institutions of higher education to study the effects of consumer behavior on total energy use; potential energy savings from changes in consumption habits; the ability to reduce greenhouse gas emissions through changes in energy consumption habits; increase public awareness of Federal climate adaptation and mitigation programs; and the potential for alterations in consumer behavior to further American energy independence. Grants may also fund projects that evaluate or inform public knowledge of the effects of energy consumption habits on these topics.

(b) GRANTS.—The purpose of the program is to provide grants to public and private institutions of higher education to carry out projects which will improve understanding of the effects of consumer behavior on energy consumption and conservation. The Secretary shall make grants on a competitive basis for—

(1) studies of the effects of consumer habits on energy consumption and conservation;

(2) development of strategies that communicate the importance of energy efficiency and conservation to consumers;

(3) identification of best practices to improve consumer energy use habits;

(4) education programs that inform consumers about the implications of consumption habits on energy use and climate change;

(5) evaluation of the effectiveness of programs designed to promote public awareness of Federal Government climate adaptation and mitigation activities; and

(6) other projects that advance the mission of the program.

(c) REPORT.—The Secretary of Energy shall provide Congress with a report on progress towards establishing the program within 120 days after the date of enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle G—Miscellaneous

SEC. 271. ENERGY EFFICIENT INFORMATION AND COMMUNICATIONS TECHNOLOGIES.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended to read as follows:

''SEC. 543. ENERGY EFFICIENT INFORMATION AND COMMUNICATIONS TECHNOLOGIES.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of the American Clean Energy and Security Act of 2009, each Federal agency shall collaborate with the Director of the Office of Management and Budget (referred to in this section as the 'Director') to create an implementation strategy, including best practices and measurement and verification techniques, for the purchase and use of energy efficient information and communications technologies and practices. Wherever possible, existing standards, specifications, performance metrics, and best management practices that have been or are being developed in open collaboration and with broad stakeholder input and review should be incorporated. In addition, agency strategies shall be flexible, cost-effective, and based on the specific operating requirements and statutory mission of each agency.

''(b) ENERGY EFFICIENT INFORMATION AND COMMUNICATIONS TECHNOLOGIES.—In developing an implementation strategy, each agency shall—

''(1) consider information and communications technologies and infrastructure, including, but not limited to, advanced metering infrastructure, information and communications technology services and products, efficient data center strategies, applications modernization and rationalization, building systems energy efficiency, and telework; and

''(2) ensure that agencies are eligible to realize the savings and rewards brought about through increased efficiencies.

''(c) PERFORMANCE GOALS.—Not later than 6 months after the date of enactment of the American Clean Energy and Security Act of 2009, the Director shall establish performance goals for evaluating the efforts of the agencies in improving the maintenance, purchase and use of energy efficiency of information and communications technology systems. These performance goals should measure information technology costs over a specific time horizon (3 to 5 years), providing a complete picture of all costs, including energy.

''(d) REPORT.—Not later than 18 months after the date of enactment of the American Clean Energy and Security Act of 2009, and annually thereafter, the Director shall submit a report to Congress on—

''(1) the progress of each agency in reducing energy use through its implementation strategy; and

''(2) new and emerging technologies that would help achieve increased energy efficiency.''.

SEC. 272. NATIONAL ENERGY EFFICIENCY GOALS.

(a) GOALS.—The energy efficiency goals of the United States are—

(1) to achieve an improvement in the overall energy productivity of the United States (measured in gross domestic product per unit of energy input) of at least 2.5 percent per year by the year 2012; and

(2) to maintain that annual rate of improvement each year through 2030.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy (referred to in this section as the ''Secretary''), in cooperation with the Administrator and the heads of other appropriate Federal agencies, shall develop a strategic plan to achieve the national goals for improvement in energy productivity established under subsection (a).

(2) PUBLIC INPUT AND COMMENT.—The Secretary shall develop the plan in a manner that provides appropriate opportunities for public input and comment.

(c) PLAN CONTENTS.—The strategic plan shall—

(1) identify future regulatory, funding, and policy priorities that would assist the United States in meeting the national goals;

(2) include energy savings estimates for each sector; and

(3) include data collection methodologies and compilations used to establish baseline and energy savings data.

(d) PLAN UPDATES.—

(1) IN GENERAL.—The Secretary shall—

(A) update the strategic plan biennially; and

(B) include the updated strategic plan in the national energy policy plan required by section 801 of the Department of Energy Organization Act (42 U.S.C. 7321).

(2) CONTENTS.—In updating the plan, the Secretary shall—

(A) report on progress made toward implementing efficiency policies to achieve the national goals established under subsection (a); and

(B) verify, to the maximum extent practicable, energy savings resulting from the policies.

(e) REPORT TO CONGRESS AND THE PUBLIC.—The Secretary shall submit to Congress, and make available to the public, the initial strategic plan developed under subsection (b) and each updated plan.

SEC. 273. AFFILIATED ISLAND ENERGY INDEPENDENCE TEAM.

(a) DEFINITIONS.—In this section:

(1) AFFILIATED ISLAND.—The term ''affiliated island'' means—

(A) the Commonwealth of Puerto Rico;

(B) Guam;

(C) American Samoa;

(D) the Commonwealth of the Northern Mariana Islands;

(E) the Federated States of Micronesia;

(F) the Republic of the Marshall Islands;

(G) the Republic of Palau; and

(H) the United States Virgin Islands.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy (acting through the Assistant Secretary of Energy Efficiency and Renewable Energy), in consultation with the Secretary of the Interior and the Secretary of State.

(3) TEAM.—The term ''team'' means the team established by the Secretary under subsection (b).

(b) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the Secretary shall assemble a team of technical, policy, and financial experts to address the energy needs of each affiliated island—

(1) to reduce the reliance and expenditure of each affiliated island on imported fossil fuels;

(2) to increase the use by each affiliated island of indigenous, nonfossil fuel energy sources;

(3) to improve the performance of the energy infrastructure of the affiliated island through projects—

(A) to improve the energy efficiency of power generation, transmission, and distribution; and

(B) to increase consumer energy efficiency;

(4) to improve the performance of the energy infrastructure of each affiliated island through enhanced planning, education, and training;

(5) to adopt research-based and public-private partnership-based approaches as appropriate;

(6) to stimulate economic development and job creation; and

(7) to enhance the engagement by the Federal Government in international efforts to address island energy needs.

(c) DUTIES OF TEAM.—

(1) ENERGY ACTION PLANS.—

(A) IN GENERAL.—In accordance with subparagraph (B), the team shall provide technical, programmatic, and financial assistance to each utility of each affiliated island, and the government of each affiliated island, as appropriate, to develop and implement an energy Action Plan for each affiliated island to reduce the reliance of each affiliated island on imported fossil fuels through increased efficiency and use of indigenous clean-energy resources.

(B) REQUIREMENTS.—Each Action Plan described in subparagraph (A) for each affiliated island shall require and provide for—

(i) the conduct of 1 or more studies to assess opportunities to reduce fossil fuel use through—

(I) the improvement of the energy efficiency of the affiliated island; and

(II) the increased use by the affiliated island of indigenous clean-energy resources;

(ii) the identification and implementation of the most cost-effective strategies and projects to reduce the dependence of the affiliated island on fossil fuels;

(iii) the promotion of education and training activities to improve the capacity of the local utilities of the affiliated island, and the government of the affiliated island, as appropriate, to plan for, maintain, and operate the energy infrastructure of the affiliated island through the use of local or regional institutions, as appropriate;

(iv) the coordination of the activities described in clause (iii) to leverage the expertise and resources of international entities, the Department of Energy, the Department of the Interior, and the regional utilities of the affiliated island;

(v) the identification, and development, as appropriate, of research-based and private-public, partnership approaches to implement the Action Plan; and

(vi) any other component that the Secretary determines to be necessary to reduce successfully the use by each affiliated island of fossil fuels.

(2) REPORTS TO SECRETARY.—Not later than 1 year after the date on which the Secretary establishes the team and biennially thereafter, the team shall submit to the Secretary a report that contains a description of the progress of each affiliated island in—

(A) implementing the Action Plan of the affiliated island developed under paragraph (1)(A); and

(B) reducing the reliance of the affiliated island on fossil fuels.

(d) USE OF REGIONAL UTILITY ORGANIZATIONS.—To provide expertise to affiliated islands to assist the affiliated islands in meeting the purposes of this section, the Secretary shall consider—

(1) including regional utility organizations in the establishment of the team; and

(2) providing assistance through regional utility organizations.

(e) ANNUAL REPORTS TO CONGRESS.—Not later than 30 days after the date on which the Secretary receives a report submitted by the team under subsection (c)(2), the Secretary shall submit to the appropriate committees of Congress a report that contains a summary of the report of the team.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 274. PRODUCT CARBON DISCLOSURE PROGRAM.

(a) EPA STUDY.—The Administrator shall conduct a study to determine the feasibility of establishing a national program for measuring, reporting, publicly disclosing, and labeling products or materials sold in the United States for their carbon content, and shall, not later than 18 months after the date of enactment of this Act, transmit a report to Congress which shall include the following:

(1) A determination of whether a national product carbon disclosure program and labeling program would be effective in achieving the intended goals of achieving greenhouse gas reductions and an examination of existing programs globally and their strengths and weaknesses.

(2) Criteria for identifying and prioritizing sectors and products and processes that should be covered in such program or programs.

(3) An identification of products, processes, or sectors whose inclusion could have a substantial carbon impact (prioritizing industrial products such as iron and steel, aluminum, cement, chemicals, and paper products, and also including food, beverage, hygiene, cleaning, household cleaners, construction, metals, clothing, semiconductor, and consumer electronics).

(4) Suggested methodology and protocols for measuring the carbon content of the products across the entire carbon lifecycle of such products for use in a carbon disclosure program and labeling program.

(5) A review of existing greenhouse gas product accounting standards, methodologies, and practices including the Greenhouse Gas Protocol, ISO 14040/44, ISO 14067, and Publically Available Specification 2050, and including a review of the strengths and weaknesses of each.

(6) A survey of secondary databases including the Manufacturing Energy Consumption Survey and evaluate the quality of data for use in a product carbon disclosure program and product carbon labeling program and an identification of gaps in the data relative to the potential purposes of a national product carbon disclosure program and product carbon labeling program and development of recommendations for addressing these data gaps.

(7) An assessment of the utility of comparing products and the appropriateness of product carbon standards.

(8) An evaluation of the information needed on a label for clear and accurate communication, including what pieces of quantitative and qualitative information needs to be disclosed.

(9) An evaluation of the appropriate boundaries of the carbon lifecycle analysis for different sectors and products.

(10) An analysis of whether default values should be developed for products whose producer does not participate in the program or does not have data to support a disclosure or label and determine best ways to develop such default values.

(11) A recommendation of certification and verification options necessary to assure the quality of the information and avoid greenwashing or the use of insubstantial or meaningless environmental claims to promote a product.

(12) An assessment of options for educating consumers about product carbon content and the product carbon disclosure program and product carbon labeling program.

(13) An analysis of the costs and timelines associated with establishing a national product carbon disclosure program and product carbon labeling program, including options for a phased approach. Costs should include those for businesses associated with the measurement of carbon footprints and those associated with creating a product carbon label and managing and operating a product carbon labeling program, and options for minimizing these costs.

(14) An evaluation of incentives (such as financial incentives, brand reputation, and brand loyalty) to determine whether reductions in emissions can be accelerated through encouraging more efficient manufacturing or by encouraging preferences for lower-emissions products to substitute for higher-emissions products whose level of performance is no better.

(b) DEVELOPMENT OF NATIONAL CARBON DISCLOSURE PROGRAM.—Upon conclusion of the study, and not more than 36 months after the date of enactment of this Act, the Administrator shall establish a national product carbon disclosure program, participation in which shall be voluntary, and which may involve a product carbon label with broad applicability to the wholesale and consumer markets to enable and encourage knowledge about carbon content by producers and consumers and to inform efforts to reduce energy consumption (carbon dioxide equivalent emissions) nationwide. In developing such a program, the Administrator shall—

(1) consider the results of the study conducted under subsection (a);

(2) consider existing and planned programs and proposals and measurement standards (including the Publicly Available Specification 2050, standards to be developed by the World Resource Institute/World Business Council for Sustainable Development, the International Standards Organization, and the bill AB19 pending in the California legislature);

(3) consider the compatibility of a national product carbon disclosure program with existing programs;

(4) utilize incentives and other means to spur the adoption of product carbon disclosure and product carbon labeling;

(5) develop protocols and parameters for a product carbon disclosure program, including a methodology and formula for assessing, verifying, and potentially labeling a product's greenhouse gas content, and for data quality requirements to allow for product comparison;

(6) create a means to—

(A) document best practices;

(B) ensure clarity and consistency;

(C) work with suppliers, manufacturers, and retailers to encourage participation;

(D) ensure that protocols are consistent and comparable across like products; and

(E) evaluate the effectiveness of the program;

(7) make publicly available information on product carbon content to ensure transparency;

(8) provide for public outreach, including a consumer education program to increase awareness;

(9) develop training and education programs to help businesses learn how to measure and communicate their carbon footprint and easy tools and templates for businesses to use to reduce cost and time to measure their products' carbon lifecycle;

(10) consult with the Secretary of Energy, the Secretary of Commerce, the Federal

Trade Commission, and other Federal agencies, as necessary;

(11) gather input from stakeholders through consultations, public workshops or hearings with representatives of consumer product manufacturers, consumer groups, and environmental groups;

(12) utilize systems for verification and product certification that will ensure that claims manufacturers make about their products are valid;

(13) create a process for reviewing the accuracy of product carbon label information and protecting the product carbon label in the case of a change in the product's energy source, supply chain, ingredients, or other factors, and specify the frequency to which data should be updated; and

(14) develop a standardized, easily understandable carbon label, if appropriate, and create a process for responding to inaccuracies and misuses of such a label.

(c) REPORT TO CONGRESS.—Not later than 5 years after the program is established pursuant to subsection (b), the Administrator shall report to Congress on the effectiveness and impact of the program, the level of voluntary participation, and any recommendations for additional measures.

(d) DEFINITIONS.—As used in this section—

(1) the term ''carbon content'' means the amount of greenhouse gas emissions and their warming impact on the atmosphere expressed in carbon dioxide equivalent associated with a product's value chain;

(2) the term ''carbon footprint'' means the level of greenhouse gas emissions produced by a particular activity, service, or entity; and

(3) the term ''carbon lifecycle'' means the greenhouse gas emissions that are released as part of the processes of creating, producing, processing or manufacturing, modifying, transporting, distributing, storing, using, recycling, or disposing of goods and services.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $5,000,000 for the study required by subsection (a) and $25,000,000 for each of fiscal years 2010 through 2025 for the program required under subsection (b).

SEC. 275. INDUSTRIAL ENERGY EFFICIENCY EDUCATION AND TRAINING INITIATIVE.

(a) IN GENERAL.—The Secretary of Energy shall carry out a national education and awareness program for the purpose of informing building, facility, and industrial plant owners and managers and decisionmakers, government leaders, and industry leaders about the large energy-saving potential of greater use of mechanical insulation, and other benefits.

(b) PURPOSE AND GOALS.—

(1) PURPOSE.—The purpose of the initiative shall be to increase the energy efficiency of the commercial and industrial sectors through an ongoing program that will include—

(A) education and training sessions;

(B) Web-based information; and

(C) advertising.

(2) GOALS.—The goals of the initiative shall be to—

(A) educate and motivate commercial building owners and industrial facility managers to utilize mechanical insulation in new and existing facilities;

(B) preserve and create jobs while reducing energy and greenhouse gas emissions;

(C) create a safer working environment and make businesses more competitive in a global economy; and

(D) motivate and empower the industry to make better use of mechanical insulation through awareness, education, and training.

(c) REPORT.—Not later than July 1, 2013, the Secretary shall submit to Congress a report describing the extent by which the initiative has been enacted and the actual and projected effectiveness of the program under this section, including the energy efficiency, greenhouse gas emissions reductions, cost savings, and safety benefits at manufacturing facilities, power plants, refineries, hospitals, universities, government buildings, and other commercial and industrial locations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,500,000 for each of fiscal years 2010 through 2014 to carry out this section. The Secretary may enter into a cooperative agreement, including grant funding, with an industry association and union working collaboratively and having expertise on the installation, maintenance, measure of efficiencies and standards, and certification of mechanical insulation in buildings and facilities.

(e) TERMINATION OF AUTHORITY.—The program carried out under this section shall terminate on December 31, 2014.

SEC. 276. SENSE OF CONGRESS.

It is the sense of Congress that the United States should—

(1) continue to actively promote, within the International Civil Aviation Organization, the development of a global framework for the regulation of greenhouse gas emissions from civil aircraft that recognizes the uniquely international nature of the industry and treats commercial aviation industries in all countries fairly; and

(2) work with foreign governments towards a global agreement that reconciles foreign carbon emissions reduction programs to minimize duplicative requirements and avoids unnecessary complication for the aviation industry, while still achieving the environmental goals.

Subtitle H—Green Resources for Energy Efficient Neighborhoods

SEC. 281. SHORT TITLE.

This subtitle may be cited as the ''Green Resources for Energy Efficient Neighborhoods Act of 2009'' or the ''GREEN Act of 2009''.

SEC. 282. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) GREEN BUILDING STANDARDS.—The term ''green building standards'' means standards to require use of sustainable design principles to reduce the use of nonrenewable resources, encourage energy-efficient construction and rehabilitation and the use of renewable energy resources, minimize the impact of development on the environment, and improve indoor air quality.

(2) HUD.—The term ''HUD'' means the Department of Housing and Urban Development.

(3) HUD ASSISTANCE.—The term ''HUD assistance'' means financial assistance that is awarded, competitively or noncompetitively, allocated by formula, or provided by HUD through loan insurance or guarantee.

(4) NONRESIDENTIAL STRUCTURE.—The term ''nonresidential structures'' means only nonresidential structures that are appurtenant to single-family or multifamily housing residential structures, or those that are funded by the Secretary of Housing and Urban Development through the HUD Community Development Block Grant program.

(5) SECRETARY.—The term ''Secretary'', unless otherwise specified, means the Secretary of Housing and Urban Development.

SEC. 283. IMPLEMENTATION OF ENERGY EFFICIENCY PARTICIPATION INCENTIVES FOR HUD PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue such regulations as may be necessary to establish annual energy efficiency participation incentives to encourage participants in programs administered by the Secretary, including recipients under programs for which HUD assistance is provided, to achieve substantial improvements in energy efficiency.

(b) REQUIREMENT FOR APPROPRIATION OF FUNDS.—The requirement under subsection (a) for the Secretary to provide annual energy efficiency participation incentives pursuant to the provisions of this subtitle shall be subject to the annual appropriation of necessary funds.

SEC. 284. BASIC HUD ENERGY EFFICIENCY STANDARDS AND STANDARDS FOR ADDITIONAL CREDIT.

(a) BASIC HUD STANDARD.—

(1) RESIDENTIAL STRUCTURES.—A residential single-family or multifamily structure shall be considered to comply with the energy efficiency standards under this subsection if—

(A) the structure complies with an energy efficiency building code that has been certified as in compliance with section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) as amended by section 201 of this Act, or a national energy efficiency building code adopted pursuant to that section;

(B) the structure complies with the applicable provisions of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–2007, as such standard or successor standard is in effect for purposes of this section pursuant subsection (c);

(C) the structure complies with the applicable provisions of the 2009 International Energy Conservation Code, as such standard or successor standard is in effect for purposes of this section pursuant subsection (c);

(D) in the case only of an existing structure, where determined cost effective, the structure has undergone rehabilitation or improvements, completed after the date of the enactment of this Act, and the energy consumption for the structure has been reduced by at least 20 percent from the previous level of consumption, as determined in accordance with energy audits performed both before and after any rehabilitation or improvements undertaken to reduce such consumption; or

(E) the structure complies with the applicable provisions of such other energy efficiency requirements, standards, checklists, or ratings systems as the Secretary may adopt and apply by regulation, as may be necessary, for purposes of this section for specific types of residential single-family or multifamily structures or otherwise, except that the Secretary shall make a determination regarding whether to adopt and apply any such requirements, standards, checklists, or rating system for purposes of this section not later than the expiration of the 180-day period beginning upon the date of receipt of any written request, made in such form as the Secretary shall provide, for such adoption and application.

In addition to compliance with any of subparagraphs (A) through (E), the Secretary shall by regulation require, for any newly constructed residential single-family or multifamily structure to be considered to comply with the energy efficiency standards under this subsection, that the structure have appropriate electrical outlets with the facility and capacity to recharge a standard electric passenger vehicle, including an electric hybrid vehicle, where such vehicle would normally be parked.

(2) NONRESIDENTIAL STRUCTURES.—For purposes of this section, the Secretary shall identify and adopt by regulation, as may be necessary, energy efficiency requirements,

standards, checklists, or rating systems applicable to nonresidential structures that are constructed or rehabilitated with HUD assistance. A nonresidential structure shall be considered to comply with the energy efficiency standards under this subsection if the structure complies with the applicable provisions of any such energy efficiency requirements, standards, checklist, or rating systems identified and adopted by the Secretary pursuant to this paragraph, as such standards are in effect for purposes of this section pursuant to subsection (c).

(3) EFFECT.—Nothing in this subsection may be construed to require any structure to comply with any standard established or adopted pursuant to this subsection, or identified in this subsection, or to provide any benefit or credit under any Federal program for any structure that complies with any such standard, except to the extent that—

(A) any provision of law other than this subsection provides a benefit or credit under a Federal program for compliance with a standard established or adopted pursuant to this subsection, or identified in this subsection; or

(B) the Secretary specifically provides pursuant to subsection (c) for the applicability of such standard.

(b) ENHANCED ENERGY EFFICIENCY STANDARDS FOR PURPOSES OF PROVIDING ADDITIONAL CREDIT UNDER CERTAIN FEDERALLY ASSISTED HOUSING PROGRAMS.—

(1) PURPOSE AND EFFECT.—

(A) PURPOSE.—The purpose of this subsection is to establish energy efficiency and conservation standards and green building standards that—

(i) provide for greater energy efficiency and conservation in structures than is required for compliance with the energy efficiency standards under subsection (a) and then in effect;

(ii) provide for green and sustainable building standards not required by such standards; and

(iii) can be used in connection with Federal housing, housing finance, and development programs to provide incentives for greater energy efficiency and conservation and for green and sustainable building methods, elements, practices, and materials.

(B) EFFECT.—Nothing in this subsection may be construed to require any structure to comply with any standard established pursuant to this subsection or to provide any benefit or credit under any Federal program for any structure, except to the extent that any provision of law other than this subsection provides a benefit or credit under a Federal program for compliance with a standard established pursuant to this subsection.

(2) COMPLIANCE.—A residential or nonresidential structure shall be considered to comply with the enhanced energy efficiency and conservation standards or the green building standards under this subsection, to the extent that such structure complies with the applicable provisions of the standards under paragraph (3) or (4), respectively (as such standards are in effect for purposes of this section, pursuant to paragraph (7)), in a manner that is not required for compliance with the energy efficiency standards under subsection (a) then in effect and subject to the Secretary's determination of which standards are applicable to which structures.

(3) ENERGY EFFICIENCY AND CONSERVATION STANDARDS.—The energy efficiency and conservation standards under this paragraph are as follows:

(A) RESIDENTIAL STRUCTURES.—With respect to residential structures:

(i) NEW CONSTRUCTION.—For new construction, the Energy Star standards established by the Environmental Protection Agency, as such standards are in effect for purposes of this subsection pursuant to paragraph (7);

(ii) EXISTING STRUCTURES.—For existing structures, a reduction in energy consumption from the previous level of consumption for the structure, as determined in accordance with energy audits performed both before and after any rehabilitation or improvements undertaken to reduce such consumption, that exceeds the reduction necessary for compliance with the energy efficiency standards under subsection (a) then in effect and applicable to existing structures.

(B) NONRESIDENTIAL STRUCTURES.—With respect to nonresidential structures, such energy efficiency and conservation requirements, standards, checklists, or rating systems for nonresidential structures as the Secretary shall identify and adopt by regulation, as may be necessary, for purposes of this paragraph.

(4) GREEN BUILDING STANDARDS.—The green building standards under this paragraph are as follows:

(A) The national Green Communities criteria checklist for residential construction that provides criteria for the design, development, and operation of affordable housing, as such checklist or successor checklist is in effect for purposes of this section pursuant to paragraph (7).

(B) The gold certification level for the LEED for New Construction rating system, the LEED for Homes rating system, the LEED for Core and Shell rating system, as applicable, as such systems or successor systems are in effect for purposes of this section pursuant to paragraph (7).

(C) The Green Globes assessment and rating system of the Green Buildings Initiative.

(D) For manufactured housing, energy star rating with respect to fixtures, appliances, and equipment in such housing, as such standard or successor standard is in effect for purposes of this section pursuant to paragraph (7).

(E) The National Green Building Standard.

(F) Any other requirements, standards, checklists, or rating systems for green building or sustainability as the Secretary may identify and adopt by regulation, as may be necessary for purposes of this paragraph, except that the Secretary shall make a determination regarding whether to adopt and apply any such requirements, standards, checklist, or rating system for purposes of this section not later than the expiration of the 180-day period beginning upon date of receipt of any written request, made in such form as the Secretary shall provide, for such adoption and application.

(5) GREEN BUILDING.—For purposes of this subsection, the term ''green building'' means, with respect to standards for structures, standards to require use of sustainable design principles to reduce the use of nonrenewable resources, minimize the impact of development on the environment, and to improve indoor air quality.

(6) ENERGY AUDITS.—The Secretary shall establish standards and requirements for energy audits for purposes of paragraph (3)(A)(ii) and, in establishing such standards, may consult with any advisory committees established pursuant to section 285(c)(2) of this subtitle.

(7) APPLICABILITY AND UPDATING OF STANDARDS.—

(A) APPLICABILITY.—Except as provided in subparagraph (B), the requirements, standards, checklists, and rating systems referred to in this subsection that are in effect for purposes of this subsection are such requirements, standards, checklists, and systems are as in existence upon the date of the enactment of this Act.

(B) UPDATING.—For purposes of this section, the Secretary may adopt and apply by regulation, as may be necessary, future amendments and supplements to, and editions of, the requirements, standards, checklists, and rating systems referred to in this subsection, including applicable energy efficiency building codes that are certified as in compliance with section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) as amended by section 201 of this Act, or national energy efficiency building codes adopted pursuant to that section.

(c) AUTHORITY OF SECRETARY TO APPLY STANDARDS TO FEDERALLY ASSISTED HOUSING AND PROGRAMS.—

(1) HUD HOUSING AND PROGRAMS.—The Secretary of Housing and Urban Development may, by regulation, provide for the applicability of the energy efficiency standards under subsection (a) or the enhanced energy efficiency and conservation standards and green building standards under subsection (b), or both, with respect to any covered federally assisted housing described in paragraph (3)(A) or any HUD assistance, subject to minimum Federal codes or standards then in effect.

(2) RURAL HOUSING.—The Secretary of Agriculture may, by regulation, provide for the applicability of the energy efficiency standards under subsection (a) or the enhanced energy efficiency and conservation standards and green building standards under subsection (b), or both, with respect to any covered federally assisted housing described in paragraph (3)(B) or any assistance provided with respect to rural housing by the Rural Housing Service of the Department of Agriculture, subject to minimum Federal codes or standards then in effect.

(3) COVERED FEDERALLY ASSISTED HOUSING.—For purposes of this subsection, the term ''covered federally assisted housing'' means—

(A) any residential or nonresidential structure for which any HUD assistance is provided; and

(B) any new construction of single-family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

SEC. 285. ENERGY EFFICIENCY AND CONSERVATION DEMONSTRATION PROGRAM FOR MULTIFAMILY HOUSING PROJECTS ASSISTED WITH PROJECT-BASED RENTAL ASSISTANCE.

(a) AUTHORITY.—For multifamily housing projects for which project-based rental assistance is provided under a covered multifamily assistance program, the Secretary shall, subject to the availability of amounts provided in advance in appropriation Acts, carry out a program to demonstrate the effectiveness of funding a portion of the costs of meeting the enhanced energy efficiency standards under section 284(b). At the discretion of the Secretary, the demonstration program may include incentives for housing that is assisted with Indian housing block grants provided pursuant to the Native American Housing Assistance and Self-Determination Act of 1996, but only to the extent that such inclusion does not violate such Act, its regulations, and the goal of such Act of tribal self-determination.

(b) GOALS.—The demonstration program under this section shall be carried out in a manner that—

(1) protects the financial interests of the Federal Government;

(2) reduces the proportion of funds provided by the Federal Government and by owners and residents of multifamily housing projects that are used for costs of utilities for the projects;

(3) encourages energy efficiency and conservation by owners and residents of multifamily housing projects and installation of renewable energy improvements, such as improvements providing for use of solar, wind, geothermal, or biomass energy sources;

(4) creates incentives for project owners to carry out such energy efficiency renovations and improvements by allowing a portion of the savings in operating costs resulting from such renovations and improvements to be retained by the project owner, notwithstanding otherwise applicable limitations on dividends;

(5) promotes the installation, in existing residential buildings, of energy-efficient and cost-effective improvements and renewable energy improvements, such as improvements providing for use of solar, wind, geothermal, or biomass energy sources;

(6) tests the efficacy of a variety of energy efficiency measures for multifamily housing projects of various sizes and in various geographic locations;

(7) tests methods for addressing the various, and often competing, incentives that impede owners and residents of multifamily housing projects from working together to achieve energy efficiency or conservation; and

(8) creates a database of energy efficiency and conservation, and renewable energy, techniques, energy-savings management practices, and energy efficiency and conservation financing vehicles.

(c) APPROACHES.—In carrying out the demonstration program under this section, the Secretary may—

(1) enter into agreements with the Building America Program of the Department of Energy and other consensus committees under which such programs, partnerships, or committees assume some or all of the functions, obligations, and benefits of the Secretary with respect to energy savings;

(2) establish advisory committees to advise the Secretary and any such third-party partners on technological and other developments in the area of energy efficiency and the creation of an energy efficiency and conservation credit facility and other financing opportunities, which committees shall include representatives of homebuilders, realtors, architects, nonprofit housing organizations, environmental protection organizations, renewable energy organizations, and advocacy organizations for the elderly and persons with disabilities; any advisory committees established pursuant to this paragraph shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.);

(3) approve, for a period not to exceed 10 years, additional adjustments in the maximum monthly rents or additional project rental assistance, or additional Indian housing block grant funds under the Native American Housing Assistance and Self-Determination Act of 1996, as applicable, for dwelling units in multifamily housing projects that are provided project-based rental assistance under a covered multifamily assistance program, in such amounts as may be necessary to amortize a portion of the cost of energy efficiency and conservation measures for such projects;

(4) develop a competitive process for the award of such additional assistance for multifamily housing projects seeking to implement energy efficiency, renewable energy sources, or conservation measures; and

(5) waive or modify any existing statutory or regulatory provision that would otherwise impair the implementation or effectiveness of the demonstration program under this section, including provisions relating to methods for rent adjustments, comparability standards, maximum rent schedules, and utility allowances; notwithstanding the preceding provisions of this paragraph, the Secretary may not waive any statutory requirement relating to fair housing, nondiscrimination, labor standards, or the environment, except pursuant to existing authority to waive nonstatutory environmental and other applicable requirements.

(d) REQUIREMENT.—During the 4-year period beginning 12 months after the date of the enactment of this Act, the Secretary shall carry out demonstration programs under this section with respect to not fewer than 50,000 dwelling units.

(e) SELECTION.—

(1) SCOPE.—In order to provide a broad and representative profile for use in designing a program which can become operational and effective nationwide, the Secretary shall carry out the demonstration program under this section with respect to dwelling units located in a wide variety of geographic areas and project types assisted by the various covered multifamily assistance programs and using a variety of energy efficiency and conservation and funding techniques to reflect differences in climate, types of dwelling units and technical and scientific methodologies, and financing options. The Secretary shall ensure that the geographic areas included in the demonstration program include dwelling units on Indian lands (as such term is defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501), to the extent that dwelling units on Indian land have the type of residential structures that are the focus of the demonstration program.

(2) PRIORITY.—The Secretary shall provide priority for selection for participation in the program under this section based on the extent to which, as a result of assistance provided, the project will comply with the energy efficiency standards under subsection (a), (b), or (c) of section 284 of this subtitle.

(f) USE OF EXISTING PARTNERSHIPS.—To the extent feasible, the Secretary shall—

(1) utilize the Partnership for Advancing Technology in Housing of the Department of Housing and Urban Development to assist in carrying out the requirements of this section and to provide education and outreach regarding the demonstration program authorized under this section; and

(2) consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Secretary of the Army regarding utilizing the Building America Program of the Department of Energy, the Energy Star Program, and the Army Corps of Engineers, respectively, to determine the manner in which they might assist in carrying out the goals of this section and providing education and outreach regarding the demonstration program authorized under this section.

(g) LIMITATION.—No amounts made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) may be used to carry out the demonstration program under this section.

(h) REPORTS.—

(1) ANNUAL.—Not later than the expiration of the 2-year beginning upon the date of the enactment of this Act, and for each year thereafter during the term of the demonstration program, the Secretary shall submit a report to the Congress annually that describes and assesses the demonstration program under this section.

(2) FINAL.—Not later than 6 months after the expiration of the 4-year period described in subsection (d), the Secretary shall submit a final report to the Congress assessing the demonstration program, which—

(A) shall assess the potential for expanding the demonstration program on a nationwide basis; and

(B) shall include descriptions of—

(i) the size of each multifamily housing project for which assistance was provided under the program;

(ii) the geographic location of each project assisted, by State and region;

(iii) the criteria used to select the projects for which assistance is provided under the program;

(iv) the energy efficiency and conservation measures and financing sources used for each project that is assisted under the program;

(v) the difference, before and during participation in the demonstration program, in the amount of the monthly assistance payments under the covered multifamily assistance program for each project assisted under the program;

(vi) the average length of the term of the such assistance provided under the program for a project;

(vii) the aggregate amount of savings generated by the demonstration program and the amount of savings expected to be generated by the program over time on a per-unit and aggregate program basis;

(viii) the functions performed in connection with the implementation of the demonstration program that were transferred or contracted out to any third parties;

(ix) an evaluation of the overall successes and failures of the demonstration program; and

(x) recommendations for any actions to be taken as a result of the such successes and failures.

(3) CONTENTS.—Each annual report pursuant to paragraph (1) and the final report pursuant to paragraph (2) shall include—

(A) a description of the status of each multifamily housing project selected for participation in the demonstration program under this section; and

(B) findings from the program and recommendations for any legislative actions.

(i) COVERED MULTIFAMILY ASSISTANCE PROGRAM.—For purposes of this section, the term ''covered multifamily assistance program'' means—

(1) the program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for project-based rental assistance;

(2) the program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) for assistance for supportive housing for the elderly;

(3) the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) for supportive housing for persons with disabilities;

(4) the program under section 236 of the National Housing Act (12 U.S.C. 1715z–1 for assistance for rental housing projects;

(5) the program under section 515 of the Housing Act of 1949 (42 U.S.C. 1485) for rural rental housing; and

(6) the program for assistance under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111).

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, including providing rent adjustments, additional project rental assistance, and incentives, $50,000,000 for each fiscal year in which the demonstration program under this section is carried out.

(k) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary shall issue any regulations necessary to carry out this section.

SEC. 286. ADDITIONAL CREDIT FOR FANNIE MAE AND FREDDIE MAC HOUSING GOALS FOR ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES.

Section 1336(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)), as amended by the Federal Housing

Finance Regulatory Reform Act of 2008 (Public Law 110–289; 122 Stat. 2654), is amended—

(1) in paragraph (2), by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (6)''; and

(2) by adding at the end the following new paragraph:

''(6) ADDITIONAL CREDIT.—

''(A) IN GENERAL.—In assigning credit toward achievement under this section of the housing goals for mortgage purchase activities of the enterprises, the Director shall assign—

''(i) more than 125 percent credit, for any such purchase that both—

''(I) complies with the requirements of such goals; and

''(II)(aa) supports housing that meets the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009; or

''(bb) is a location-efficient mortgage, as such term is defined in section 1335(e); and

''(ii) credit in addition to credit under clause (i), for any such purchase that both—

''(I) complies with the requirements of such goals, and

''(II) supports housing that complies with the enhanced energy efficiency and conservation standards, or the green building standards, under section 284(b) of such Act, or both,

and such additional credit shall be given based on the extent to which the housing supported with such purchases complies with such standards.

''(B) TREATMENT OF ADDITIONAL CREDIT.—The availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.''.

SEC. 287. DUTY TO SERVE UNDERSERVED MARKETS FOR ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES.

Section 1335 of Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565), as amended by the Federal Housing Finance Regulatory Reform Act of 2008 (Public Law 110–289; 122 Stat. 2654), is amended—

(1) in subsection (a)(1), by adding at the end the following new subparagraph:

''(D) MARKETS FOR ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES.—

''(i) DUTY.—Subject to clause (ii), the enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for energy-efficient and location-efficient mortgages on housing for very low-, low-, and moderate-income families, and for second and junior mortgages made for purposes of energy efficiency or renewable energy improvements, or both.

''(ii) AUTHORITY TO SUSPEND.—Notwithstanding any other provision of this section, the Director may suspend the applicability of the requirement under clause (i) with respect to an enterprise, for such period as is necessary, if the Director determines that exigent circumstances exist and such suspension is appropriate to ensure the safety and soundness of the portfolio holdings of the enterprise.'';

(2) by adding at the end the following new subsection:

''(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) ENERGY-EFFICIENT MORTGAGE.—The term 'energy-efficient mortgage' means a mortgage loan under which the income of the borrower, for purposes of qualification for such loan, is considered to be increased by not less than $1 for each $1 of savings projected to be realized by the borrower as a result of cost-effective energy-saving design, construction or improvements (including use of renewable energy sources, such as solar, geothermal, biomass, and wind, super-insulation, energy-saving windows, insulating glass and film, and radiant barrier) for the home for which the loan is made.

''(2) LOCATION-EFFICIENT MORTGAGE.—The term 'location-efficient mortgage' means a mortgage loan under which—

''(A) the income of the borrower, for purposes of qualification for such loan, is considered to be increased by not less than $1 for each $1 of savings projected to be realized by the borrower because the location of the home for which loan is made will result in decreased transportation costs for the household of the borrower; or

''(B) the sum of the principal, interest, taxes, and insurance due under the mortgage loan is decreased by not less than $1 for each $1 of savings projected to be realized by the borrower because the location of the home for which loan is made will result in decreased transportation costs for the household of the borrower.''.

SEC. 288. CONSIDERATION OF ENERGY EFFICIENCY UNDER FHA MORTGAGE INSURANCE PROGRAMS AND NATIVE AMERICAN AND NATIVE HAWAIIAN LOAN GUARANTEE PROGRAMS.

(a) FHA MORTGAGE INSURANCE.—

(1) REQUIREMENT.—Title V of the National Housing Act is amended by adding after section 542 (12 U.S.C. 1735f–20) the following new section:

''SEC. 543. CONSIDERATION OF ENERGY EFFICIENCY.

''(a) UNDERWRITING STANDARDS.—The Secretary shall establish a method to consider, in its underwriting standards for mortgages on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are insured under this Act, the impact that savings on utility costs has on the income of the mortgagor.

''(b) GOAL.—It is the sense of the Congress that, in carrying out this Act, the Secretary should endeavor to insure mortgages on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 such that at least 50,000 such mortgages are insured during the period beginning upon the date of the enactment of such Act and ending on December 31, 2012.''.

(2) REPORTING ON DEFAULTS.—Section 540(b) of the National Housing Act (12 U.S.C. 1735f–18(b)) is amended by adding at the end the following new paragraph:

''(3) With respect to each collection period that commences after December 31, 2011, the total number of mortgages on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are insured by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on such mortgages during such period, the percentage of the total of such mortgages insured during such period on which defaults and foreclosure occurred, and the rate for such period of defaults and foreclosures on such mortgages compared to the overall rate for such period of defaults and foreclosures on mortgages for single-family housing insured under this Act by the Secretary.''.

(b) INDIAN HOUSING LOAN GUARANTEES.—

(1) REQUIREMENT.—Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a) is amended—

(A) by redesignating subsection (l) as subsection (m); and

(B) by inserting after subsection (k) the following new subsection:

''(l) CONSIDERATION OF ENERGY EFFICIENCY.—The Secretary shall establish a method to consider, in its underwriting standards for loans for single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are guaranteed under this section, the impact that savings on utility costs has on the income of the borrower.''.

(2) REPORTING ON DEFAULTS.—Section 540(b) of the National Housing Act (12 U.S.C. 1735f–18(b)), as amended by subsection (a)(2) of this section, is further amended by adding at the end the following new paragraph:

''(4) With respect to each collection period that commences after December 31, 2011, the total number of loans guaranteed under section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a) on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are guaranteed by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on such loans during such period, the percentage of the total of such loans guaranteed during such period on which defaults and foreclosure occurred, and the rate for such period of defaults and foreclosures on such loans compared to the overall rate for such period of defaults and foreclosures on loans for single-family housing guaranteed under such section 184 by the Secretary.''.

(c) NATIVE HAWAIIAN HOUSING LOAN GUARANTEES.—

(1) REQUIREMENT.—Section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b) is amended by inserting after subsection (l) the following new subsection:

''(m) ENERGY-EFFICIENT HOUSING REQUIREMENT.—The Secretary shall establish a method to consider, in its underwriting standards for loans for single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are guaranteed under this section, the impact that savings on utility costs has on the income of the borrower.''.

(2) REPORTING ON DEFAULTS.—Section 540(b) of the National Housing Act (12 U.S.C. 1735f–18(b)), as amended by the preceding provisions of this section, is further amended by adding at the end the following new paragraph:

''(5) With respect to each collection period that commences after December 31, 2011, the total number of loans guaranteed under section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b) on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are guaranteed by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on such loans during such period, the percentage of the total of such loans guaranteed during such period on which defaults and foreclosure occurred, and the rate for such period of defaults and foreclosures on such loans compared to the overall rate for such period of defaults and foreclosures on loans for single-family housing guaranteed under such section 184A by the Secretary.''.

SEC. 289. ENERGY-EFFICIENT MORTGAGES AND LOCATION-EFFICIENT MORTGAGES EDUCATION AND OUTREACH CAMPAIGN.

Section 106 of the Energy Policy Act of 1992 (12 U.S.C. 1701z–16) is amended by adding at the end the following new subsection:

''(g) EDUCATION AND OUTREACH CAMPAIGN.—

''(1) DEVELOPMENT OF ENERGY- AND LOCATION-EFFICIENT MORTGAGES OUTREACH PROGRAM.—

''(A) COMMISSION.—The Secretary, in consultation and coordination with the Secretary of Energy, the Secretary of Education, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, shall establish a commission to develop and recommend model mortgage products and underwriting guidelines that provide market-based incentives to prospective home buyers, lenders, and sellers to incorporate energy efficiency upgrades and location efficiencies in new mortgage loan transactions.

''(B) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall provide a written report to the Congress on the results of work of the commission established pursuant to subparagraph (A) and that identifies model mortgage products and underwriting guidelines that may encourage energy and location efficiency.

''(2) IMPLEMENTATION.—After submission of the report under paragraph (1)(B), the Secretary, in consultation and coordination with the Secretary of Energy, the Secretary of Education, and the Administrator of the Environmental Protection Agency, shall carry out a public awareness, education, and outreach campaign based on the findings of the commission established pursuant to paragraph (1) to inform and educate residential lenders and prospective borrowers regarding the availability, benefits, advantages, and terms of energy-efficient mortgages and location-efficient mortgages made available pursuant to this section, energy-efficient and location-efficient mortgages that meet the requirements of section 1335 of the Housing and Community Development Act of 1992 (42 U.S.C. 4565), and other mortgages, including mortgages for multifamily housing, that have energy improvement features or location efficiency features and to publicize such availability, benefits, advantages, and terms. Such actions may include entering into a contract with an appropriate entity to publicize and market such mortgages through appropriate media.

''(3) RENEWABLE ENERGY HOME PRODUCT EXPOS.—The Congress hereby encourages the Secretary of Housing and Urban Development to work with appropriate entities to organize and hold renewable energy expositions that provide an opportunity for the public to view and learn about renewable energy products for the home that are currently on the market.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $5,000,000 for each of fiscal years 2010 through 2014.''.

SEC. 290. COLLECTION OF INFORMATION ON ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES THROUGH HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 304(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(5) the number and dollar amount of mortgage loans for single-family housing and for multifamily housing that are energy-efficient mortgages (as such term is defined in section 1335 of Housing and Community Development Act of 1992); and

''(6) the number and dollar amount of mortgage loans for single-family housing and for multifamily housing that are location-efficient mortgages (as such term is defined in section 1335 of Housing and Community Development Act of 1992).''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to the first calendar year that begins after the expiration of the 30-day period beginning on the date of the enactment of this Act.

SEC. 291. ENSURING AVAILABILITY OF HOMEOWNERS INSURANCE FOR HOMES NOT CONNECTED TO ELECTRICITY GRID.

(a) CONGRESSIONAL INTENT.—The Congress intends that—

(1) consumers shall not be denied homeowners insurance for a dwelling (as such term is defined in subsection (c)) based solely on the fact that the dwelling is not connected to or able to receive electricity service from any wholesale or retail electric power provider;

(2) States should ensure that consumers are able to obtain homeowners insurance for such dwellings;

(3) States should support insurers that develop voluntary incentives to provide such insurance; and

(4) States may not prohibit insurers from offering a homeowners insurance product specifically designed for such dwellings.

(b) INSURING HOMES AND RELATED PROPERTY IN INDIAN AREAS.—Notwithstanding any other provision of law, dwellings located in Indian areas (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) and constructed or maintained using assistance, loan guarantees, or other authority under the Native American Housing Assistance and Self-Determination Act of 1996 may be insured by any tribally owned self-insurance risk pool approved by the Secretary of Housing and Urban Development.

(c) DWELLING.—For purposes of this section, the term ''dwelling'' means a residential structure that—

(1) consists of one to four dwelling units;

(2) is provided electricity from renewable energy sources; and

(3) is not connected to any wholesale or retail electrical power grid.

SEC. 292. MORTGAGE INCENTIVES FOR ENERGY-EFFICIENT MULTIFAMILY HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall establish incentives for increasing the energy efficiency of multifamily housing that is subject to a mortgage to be insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.) so that the housing meets the energy efficiency standards under section 284(a) of this subtitle and incentives to encourage compliance of such housing with the energy efficiency and conservation standards, and the green building standards, under section 284(b) of this subtitle, to the extent that such incentives are based on the impact that savings on utility costs has on the operating costs of the housing, as determined by the Secretary.

(b) INCENTIVES.—Such incentives may include, for any such multifamily housing that complies with the energy efficiency standards under section 284(a)—

(1) providing a discount on the chargeable premiums for the mortgage insurance for such housing from the amount otherwise chargeable for such mortgage insurance;

(2) allowing mortgages to exceed the dollar amount limits otherwise applicable under law to the extent such additional amounts are used to finance improvements or measures designed to meet the standards referred to in subsection (a); and

(3) reducing the amount that the owner of such multifamily housing meeting the standards referred to in subsection (a) is required to contribute.

SEC. 293. ENERGY-EFFICIENT CERTIFICATIONS FOR MANUFACTURED HOUSING WITH MORTGAGES.

Section 526 of the National Housing Act (12 U.S.C. 1735f–4(a)) is amended—

(1) in subsection (a)—

(A) by striking '', other than manufactured homes,'' each place such term appears;

(B) by inserting after the period at the end the following: ''The energy performance requirements developed and established by the Secretary under this section for manufactured homes shall require energy star rating for wall fixtures, appliances, and equipment in such housing.'';

(C) by inserting ''(1)'' after ''(a)''; and

(D) by adding at the end the following new paragraphs:

''(2) The Secretary shall require, with respect to any single- or multi-family residential housing subject to a mortgage insured under this Act, that any approval or certification of the housing for meeting any energy efficiency or conservation criteria, standards, or requirements pursuant to this title and any approval or certification required pursuant to this title with respect to energy-conserving improvements or any renewable energy sources, such as wind, solar energy geothermal, or biomass, shall be conducted only by an individual certified by a home energy rating system provider who has been accredited to conduct such ratings by the Home Energy Ratings System Council, the Residential Energy Services Network, or such other appropriate national organization, as the Secretary may provide, or by licensed professional architect or engineer. If any organization makes a request to the Secretary for approval to accredit individuals to conduct energy efficiency or conservation ratings, the Secretary shall review and approve or disapprove such request not later than the expiration of the 6-month period beginning upon receipt of such request.

''(3) The Secretary shall periodically examine the method used to conduct inspections for compliance with the requirements under this section, analyze various other approaches for conducting such inspections, and review the costs and benefits of the current method compared with other methods.''; and

(2) in subsection (b), by striking '', other than a manufactured home,''.

SEC. 294. ASSISTED HOUSING ENERGY LOAN PILOT PROGRAM.

(a) AUTHORITY.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary shall develop and implement a pilot program under this section to facilitate the financing of cost-effective capital improvements for covered assisted housing projects to improve the energy efficiency and conservation of such projects.

(b) LOANS.—The pilot program under this section shall involve not less than three and not more than five lenders, and shall provide for a privately financed loan to be made for a covered assisted housing project, which shall—

(1) finance capital improvements for the project that meet such requirements as the Secretary shall establish, and may involve contracts with third parties to perform such capital improvements, including the design of such improvements by licensed professional architects or engineers;

(2) have a term to maturity of not more than 20 years, which shall be based upon the duration necessary to realize cost savings sufficient to repay the loan;

(3) be secured by a mortgage subordinate to the mortgage for the project that is insured under the National Housing Act; and

(4) provide for a reduction in the remaining principal obligation under the loan based on

the actual resulting cost savings realized from the capital improvements financed with the loan.

(c) UNDERWRITING STANDARDS.—The Secretary shall establish underwriting requirements for loans made under the pilot program under this section, which shall—

(1) require the cost savings projected to be realized from the capital improvements financed with the loan, during the term of the loan, to exceed the costs of repaying the loan;

(2) allow the designer or contractor involved in designing capital improvements to be financed with a loan under the program to carry out such capital improvements; and

(3) include such energy, audit, property, financial, ownership, and approval requirements as the Secretary considers appropriate.

(d) TREATMENT OF SAVINGS.—The pilot program under this section shall provide that the project owner shall receive the full financial benefit from any reduction in the cost of utilities resulting from capital improvements financed with a loan made under the program.

(e) COVERED ASSISTED HOUSING PROJECTS.—For purposes of this section, the term ''covered assisted housing project'' means a housing project that—

(1) is financed by a loan or mortgage that is—

(A) insured by the Secretary under—

(i) subsection (d)(3) of section 221 of the National Housing Act (12 U.S.C. 1715l), and bears interest at a rate determined under the proviso of section 221(d)(5) of such Act; or

(ii) subsection (d)(4) of such section 221.

(B) insured or assisted under section 236 of the National Housing Act (12 U.S.C. 1715z–1);

(2) at the time a loan under this section is made, is provided project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for 50 percent or more of the dwelling units in the project; and

(3) is not a housing project owned or held by the Secretary, or subject to a mortgage held by the Secretary.

SEC. 295. MAKING IT GREEN.

(a) PARTNERSHIPS WITH TREE-PLANTING ORGANIZATIONS.—The Secretary shall establish and provide incentives for developers of housing for which any HUD financial assistance, as determined by the Secretary, is provided for development, maintenance, operation, or other costs, to enter into agreements and partnerships with tree-planting organizations, nurseries, and landscapers to certify that trees, shrubs, grasses, and other plants are planted in the proper manner, are provided adequate maintenance, and survive for at least 3 years after planting or are replaced. The financial assistance determined by the Secretary as eligible under this section shall take into consideration such factors as cost effectiveness and affordability.

(b) MAKING IT GREEN PLAN.—In the case of any new or substantially rehabilitated housing for which HUD financial assistance, as determined in accordance with subsection (a), is provided by the Secretary for the development, construction, maintenance, rehabilitation, improvement, operation, or costs of the housing, including financial assistance provided through the Community Development Block Grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), the Secretary shall require the development of a plan that provides for—

(1) in the case of new construction and improvements, siting of such housing and improvements in a manner that provides for energy efficiency and conservation to the extent feasible, taking into consideration location and project type;

(2) minimization of the effects of construction, rehabilitation, or other development on the condition of existing trees;

(3) selection and installation of indigenous trees, shrubs, grasses, and other plants based upon applicable design guidelines and standards of the International Society for Arboriculture;

(4) post-planting care and maintenance of the landscaping relating to or affected by the housing in accordance with best management practices; and

(5) establishment of a goal for minimum greenspace or tree canopy cover for the housing site for which such financial assistance is provided, including guidelines and timetables within which to achieve compliance with such minimum requirements.

(c) PARTNERSHIPS.—In carrying out this section, the Secretary is encouraged to consult, as appropriate, with national organizations dedicated to providing housing assistance and related services to low-income families, such as the Alliance for Community Trees and its affiliates, the American Nursery and Landscape Association, the American Society of Landscape Architects, and the National Arbor Day Foundation.

SEC. 296. RESIDENTIAL ENERGY EFFICIENCY BLOCK GRANT PROGRAM.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

''SEC. 123. RESIDENTIAL ENERGY EFFICIENCY BLOCK GRANT PROGRAM.

''(a) IN GENERAL.—To the extent amounts are made available for grants under this section, the Secretary shall make grants under this section to States, metropolitan cities and urban counties, Indian tribes, and insular areas to carry out energy efficiency improvements in new and existing single-family and multifamily housing.

''(b) ALLOCATIONS.—

''(1) IN GENERAL.—Of the total amount made available for each fiscal year for grants under this section that remains after reserving amounts pursuant to paragraph (2), the Secretary shall allocate for insular areas, for metropolitan cities and urban counties, and for States, an amount that bears the same ratio to such total amount as the amount allocated for such fiscal year under section 106 for Indian tribes, for insular areas, for metropolitan cities and urban counties, and for States, respectively, bears to the total amount made available for such fiscal year for grants under section 106.

''(2) SET ASIDE FOR INDIAN TRIBES.—Of the total amount made available for each fiscal year for grants under this section, the Secretary shall allocate not less than 1 percent to Indian tribes.

''(c) GRANT AMOUNTS.—

''(1) ENTITLEMENT COMMUNITIES.—From the amounts allocated pursuant to subsection (b) for metropolitan cities and urban counties for each fiscal year, the Secretary shall make a grant for such fiscal year to each metropolitan city and urban county that complies with the requirement under subsection (d), in the amount that bears the same ratio such total amount so allocated as the amount of the grant for such fiscal year under section 106 for such metropolitan city or urban county bears to the aggregate amount of all grants for such fiscal year under section 106 for all metropolitan cities and urban counties.

''(2) STATES.—From the amounts allocated pursuant to subsection (b) for States for each fiscal year, the Secretary shall make a grant for such fiscal year to each State that complies with the requirement under subsection (d), in the amount that bears the same ratio such total amount so allocated as the amount of the grant for such fiscal year under section 106 for such State bears to the aggregate amount of all grants for such fiscal year under section 106 for all States. Grant amounts received by a State shall be used only for eligible activities under subsection (e) carried out in nonentitlement areas of the State.

''(3) INDIAN TRIBES.—From the amounts allocated pursuant to subsection (b) for Indian tribes, the Secretary shall make grants to Indian tribes that comply with the requirement under subsection (d) on the basis of a competition conducted pursuant to specific criteria, as the Secretary shall establish by regulation, for the selection of Indian tribes to receive such amount.

''(4) INSULAR AREAS.—From the amounts allocated pursuant to subsection (b) for insular areas, the Secretary shall make a grant to each insular area that complies with the requirement under subsection (d) on the basis of the ratio of the population of the insular area to the aggregate population of all insular areas. In determining the distribution of amounts to insular areas, the Secretary may also include other statistical criteria as data become available from the Bureau of Census of the Department of Labor, but only if such criteria are set forth by regulation issued after notice and an opportunity for comment.

''(d) STATEMENT OF ACTIVITIES.—

''(1) REQUIREMENT.—Before receipt the receipt in any fiscal year of a grant under subsection (c) by any grantee, the grantee shall have prepared a final statement of housing energy efficiency objectives and projected use of funds as the Secretary shall require and shall have provided the Secretary with such certifications regarding such objectives and use as the Secretary may require. In the case of metropolitan cities, urban counties, units of general local government, and insular areas receiving grants, the statement of projected use of funds shall consist of proposed housing energy efficiency activities. In the case of States receiving grants, the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

''(2) PUBLIC PARTICIPATION.—The Secretary may establish requirements to ensure the public availability of information regarding projected use of grant amounts and public participation in determining such projected use.

''(e) ELIGIBLE ACTIVITIES.—

''(1) REQUIREMENT.—Amounts from a grant under this section may be used only to carry out activities for single-family or multifamily housing that are designed to improve the energy efficiency of the housing so that the housing complies with the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009, including such activities to provide energy for such housing from renewable sources, such as wind, waves, solar, biomass, and geothermal sources.

''(2) PREFERENCE FOR COMPLIANCE BEYOND BASIC REQUIREMENTS.—In selecting activities to be funded with amounts from a grant under this section, a grantee shall give more preference to activities based on the extent to which the activities will result in compliance by the housing with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of such Act.

''(f) REPORTS.—Each grantee of a grant under this section for a fiscal year shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report concerning the use of grant amounts, which shall contain an assessment by the grantee of the relationship of such use

to the objectives identified in the grantees statement under subsection (d).

''(g) APPLICABILITY OF CDBG PROVISIONS.—Sections 109, 110, and 111 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309, 5310, 5311) shall apply to assistance received under this section to the same extent and in the same manner that such sections apply to assistance received under title I of such Act.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this section $2,500,000,000 for fiscal year 2010 and such sums as may be necessary for each fiscal year thereafter.''.

SEC. 297. INCLUDING SUSTAINABLE DEVELOPMENT AND TRANSPORTATION STRATEGIES IN COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by striking ''and'' at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting ''; and'';

(3) and by inserting after paragraph (20) the following new paragraphs:

''(21) describe the jurisdiction's strategies to encourage sustainable development for affordable housing, including single-family and multifamily housing, as measured by—

''(A) greater energy efficiency and use of renewable energy sources, including any strategies regarding compliance with the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 and with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of such Act;

''(B) increased conservation, recycling, and reuse of resources;

''(C) more effective use of existing infrastructure;

''(D) use of building materials and methods that are healthier for residents of the housing, including use of building materials that are free of added known carcinogens that are classified as Group 1 Known Carcinogens by the International Agency for Research on Cancer; and

''(E) such other criteria as the Secretary determines, in consultation with the Secretary of Energy, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, are in accordance with the purposes of this paragraph; and

''(22) describe the jurisdiction's efforts to coordinate its housing strategy with its transportation planning strategies to ensure to the extent practicable that residents of affordable housing have access to public transportation.''.

SEC. 298. GRANT PROGRAM TO INCREASE SUSTAINABLE LOW-INCOME COMMUNITY DEVELOPMENT CAPACITY.

(a) IN GENERAL.—The Secretary may make grants to nonprofit organizations to use for any of the following purposes:

(1) Training, educating, supporting, or advising an eligible community development organization or qualified youth service and conservation corps in improving energy efficiency, resource conservation and reuse, design strategies to maximize energy efficiency, installing or constructing renewable energy improvements (such as wind, wave, solar, biomass, and geothermal energy sources), and effective use of existing infrastructure in affordable housing and economic development activities in low-income communities, taking into consideration energy efficiency standards under section 284(a) of this subtitle and with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of this subtitle.

(2) Providing loans, grants, or predevelopment assistance to eligible community development organizations or qualified youth service and conservation corps to carry out energy efficiency improvements that comply with the energy efficiency standards under section 284(a) of this subtitle, resource conservation and reuse, and effective use of existing infrastructure in affordable housing and economic development activities in low-income communities. In providing assistance under this paragraph, the Secretary shall give more preference to activities based on the extent to which the activities will result in compliance with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of this subtitle.

(3) Such other purposes as the Secretary determines are in accordance with the purposes of this subsection.

(b) APPLICATION REQUIREMENT.—To be eligible for a grant under this section, a nonprofit organization shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) AWARD OF CONTRACTS.—Contracts for architectural or engineering services funded with amounts from grants made under this section shall be awarded in accordance with chapter 11 of title 40, United States Code (relating to selection of architects and engineers).

(d) MATCHING REQUIREMENT.—A grant made under this section may not exceed the amount that the nonprofit organization receiving the grant certifies, to the Secretary, will be provided (in cash or in-kind) from nongovernmental sources to carry out the purposes for which the grant is made.

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term ''nonprofit organization'' has the meaning given such term in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704).

(2) The term ''eligible community development organization'' means—

(A) a unit of general local government (as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704));

(B) a community housing development organization (as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704));

(C) an Indian tribe or tribally designated housing entity (as such terms are defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)); or

(D) a public housing agency, as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437(b)).

(3) The term ''low-income community'' means a census tract in which 50 percent or more of the households have an income which is less than 80 percent of the greater of—

(A) the median gross income for such year for the area in which such census tract is located; or

(B) the median gross income for such year for the State in which such census tract is located.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2010 through 2014.

SEC. 299. HOPE VI GREEN DEVELOPMENTS REQUIREMENT.

(a) MANDATORY COMPONENT.—Section 24(e) of the United States Housing Act of 1937 (42 U.S.C. 1437v(e)) is amended by adding at the end the following new paragraph:

''(4) GREEN DEVELOPMENTS REQUIREMENT.—

''(A) REQUIREMENT.—The Secretary may not make a grant under this section to an applicant unless the proposed revitalization plan of the applicant to be carried out with such grant amounts meets the following requirements:

''(i) GREEN COMMUNITIES CRITERIA CHECKLIST.—All residential construction under the proposed plan complies with the national Green Communities criteria checklist for residential construction that provides criteria for the design, development, and operation of affordable housing, as such checklist is in effect for purposes of this paragraph pursuant to subparagraph (D) at the date of the application for the grant, or any substantially equivalent standard or standards as determined by the Secretary, as follows:

''(I) The proposed plan shall comply with all items of the national Green Communities criteria checklist for residential construction that are identified as mandatory.

''(II) The proposed plan shall comply with such other nonmandatory items of such national Green Communities criteria checklist so as to result in a cumulative number of points attributable to such nonmandatory items under such checklist of not less than—

''(aa) 25 points, in the case of any proposed plan (or portion thereof) consisting of new construction; and

''(bb) 20 points, in the case of any proposed plan (or portion thereof) consisting of rehabilitation.

''(ii) GREEN BUILDINGS CERTIFICATION SYSTEM.—All nonresidential construction under the proposed plan complies with all minimum required levels of the green building rating systems and levels identified by the Secretary pursuant to subparagraph (C), as such systems and levels are in effect for purposes of this paragraph pursuant to subparagraph (D) at the time of the application for the grant.

''(B) VERIFICATION.—

''(i) IN GENERAL.—The Secretary shall verify, or provide for verification, sufficient to ensure that each proposed revitalization plan carried out with amounts from a grant under this section complies with the requirements under subparagraph (A) and that the revitalization plan is carried out in accordance with such requirements and plan.

''(ii) TIMING.—In providing for such verification, the Secretary shall establish procedures to ensure such compliance with respect to each grantee, and shall report to the Congress with respect to the compliance of each grantee, at each of the following times:

''(I) Not later than 6 months after execution of the grant agreement under this section for the grantee.

''(II) Upon completion of the revitalization plan of the grantee.

''(C) IDENTIFICATION OF GREEN BUILDINGS RATING SYSTEMS AND LEVELS.—

''(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall identify rating systems and levels for green buildings that the Secretary determines to be the most likely to encourage a comprehensive and environmentally sound approach to ratings and standards for green buildings. The identification of the ratings systems and levels shall be based on the criteria specified in clause (ii), shall identify the highest levels the Secretary determines are appropriate above the minimum levels required under the systems selected. Within 90 days of the completion of each study required by clause (iii), the Secretary shall review and update the rating systems and levels, or identify alternative systems and levels for purposes of this paragraph, taking into account the conclusions of such study.

''(ii) CRITERIA.—In identifying the green rating systems and levels, the Secretary shall take into consideration—

''(I) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this paragraph;

''(II) the ability of the applicable ratings system organizations to collect and reflect public comment;

''(III) the ability of the standards to be developed and revised through a consensus-based process;

''(IV) An evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

''(aa) efficient and sustainable use of water, energy, and other natural resources;

''(bb) use of renewable energy sources;

''(cc) improved indoor and outdoor environmental quality through enhanced indoor and outdoor air quality, thermal comfort, acoustics, outdoor noise pollution, day lighting, pollutant source control, sustainable landscaping, and use of building system controls and low- or no-emission materials, including preference for materials with no added carcinogens that are classified as Group 1 Known Carcinogens by the International Agency for Research on Cancer; and

''(dd) such other criteria as the Secretary determines to be appropriate; and

''(V) national recognition within the building industry.

''(iii) 5-YEAR EVALUATION.—At least once every 5 years, the Secretary shall conduct a study to evaluate and compare available third-party green building rating systems and levels, taking into account the criteria listed in clause (ii).

''(D) APPLICABILITY AND UPDATING OF STANDARDS.—

''(i) APPLICABILITY.—Except as provided in clause (ii) of this subparagraph, the national Green Communities criteria checklist and green building rating systems and levels referred to in clauses (i) and (ii) of subparagraph (A) that are in effect for purposes of this paragraph are such checklist systems, and levels as in existence upon the date of the enactment of the Green Resources for Energy Efficient Neighborhoods Act of 2009.

''(ii) UPDATING.—The Secretary may, by regulation, adopt and apply, for purposes of this paragraph, future amendments and supplements to, and editions of, the national Green Communities criteria checklist, any standard or standards that the Secretary has determined to be substantially equivalent to such checklist, and the green building ratings systems and levels identified by the Secretary pursuant to subparagraph (C).''.

(b) SELECTION CRITERIA; GRADED COMPONENT.—Section 24(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437v(e)(2)) is amended—

(1) in subparagraph (K), by striking ''and'' at the end;

(2) by redesignating subparagraph (L) as subparagraph (M); and

(3) by inserting after subparagraph (K) the following new subparagraph:

''(L) the extent to which the proposed revitalization plan—

''(i) in the case of residential construction, complies with the nonmandatory items of the national Green Communities criteria checklist identified in paragraph (4)(A)(i), or any substantially equivalent standard or standards as determined by the Secretary, but only to the extent such compliance exceeds the compliance necessary to accumulate the number of points required under such paragraph; and

''(ii) in the case of nonresidential construction, complies with the components of the green building rating systems and levels identified by the Secretary pursuant to paragraph (4)(C), but only to the extent such compliance exceeds the minimum level required under such systems and levels; and''.

SEC. 299A. CONSIDERATION OF ENERGY EFFICIENCY IMPROVEMENTS IN APPRAISALS.

(a) APPRAISALS IN CONNECTION WITH FEDERALLY RELATED TRANSACTIONS.—

(1) REQUIREMENT.—Section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339) is amended—

(A) in paragraph (1), by striking ''and'' at the end;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) that such appraisals be performed in accordance with appraisal standards that require, in determining the value of a property, consideration of any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property; and''.

(2) REVISION OF APPRAISAL STANDARDS.—Each Federal financial institutions regulatory agency shall, not later than 6 months after the date of the enactment of this Act, revise its standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of the agency to comply with the requirement under the amendments made by paragraph (1) of this subsection.

(b) APPRAISER CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended—

(1) in subsection (a), by inserting before the period at the end the following: '', and meets the requirements established pursuant to subsection (f) for qualifications regarding consideration of any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property'';

(2) in subsection (c), by inserting before the period at the end the following: '', which shall include compliance with the requirements established pursuant to subsection (f) regarding consideration of any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property'';

(3) in subsection (e), by striking ''The'' and inserting ''Except as provided in subsection (f), the''; and

(4) by adding at the end the following new subsection:

''(f) REQUIREMENTS FOR APPRAISERS REGARDING ENERGY EFFICIENCY FEATURES.—The Appraisal Subcommittee shall establish requirements for State certification of State certified real estate appraisers and for State licensing of State licensed appraisers, to ensure that appraisers consider and are qualified to consider, in determining the value of a property, any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property.''.

(c) GUIDELINES FOR APPRAISING PHOTOVOLTAIC MEASURES AND TRAINING OF APPRAISERS.—Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by adding at the end the following new subsection:

''(g) GUIDELINES FOR APPRAISING PHOTOVOLTAIC MEASURES AND TRAINING OF APPRAISERS.—The Appraisal Subcommittee shall, in consultation with the Secretary of Housing and Urban Development, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, establish specific guidelines for—

''(1) appraising off- and on-grid photovoltaic measures for compliance with the appraisal standards prescribed pursuant to section 1110(2);

''(2) requirements under section 1116(f) for certification of State certified real estate appraisers and for State licensing of State licensed appraisers, to ensure that appraisers consider, and are qualified to consider, such photovoltaic measures in determining the value of a property; and

''(3) training of appraisers to meet the requirements established pursuant to paragraph (2) of this subsection.''.

SEC. 299B. HOUSING ASSISTANCE COUNCIL.

The Secretary shall require the Housing Assistance Council—

(1) to encourage each organization that receives assistance from the Council with any amounts made available from the Secretary to provide that any structures and buildings developed or assisted under projects, programs, and activities funded with such amounts complies with the energy efficiency standards under section 284(a) of this subtitle; and

(2) to establish incentives to encourage each such organization to provide that any such structures and buildings comply with the energy efficiency and conservation standards, and the green building standards, under section 284(b) of such Act.

SEC. 299C. RURAL HOUSING AND ECONOMIC DEVELOPMENT ASSISTANCE.

The Secretary shall—

(1) require each tribe, agency, organization, corporation, and other entity that receives any assistance from the Office of Rural Housing and Economic Development of the Department of Housing and Urban Development to provide that any structures and buildings developed or assisted under activities funded with such amounts complies with the energy efficiency standards under section 284(a) of this subtitle; and

(2) establish incentives to encourage each such tribe, agency, organization, corporation, and other entity to provide that any such structures and buildings comply with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of such Act.

SEC. 299D. LOANS TO STATES AND INDIAN TRIBES TO CARRY OUT RENEWABLE ENERGY SOURCES ACTIVITIES.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund, to be known as the ''Alternative Energy Sources State Loan Fund''.

(b) EXPENDITURES.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (c)(1).

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the Fund, not more than 5 percent shall be available for each fiscal year to pay the administrative expenses of the Department of Housing and Urban Development to carry out this section.

(c) LOANS TO STATES AND INDIAN TRIBES.—

(1) IN GENERAL.—The Secretary shall use amounts in the Fund to provide loans to States and Indian tribes to provide incentives to owners of single-family and multifamily housing, commercial properties, and public buildings to provide—

(A) renewable energy sources for such structures, such as wind, wave, solar, biomass, or geothermal energy sources, including incentives to companies and business to change their source of energy to such renewable energy sources and for changing the sources of energy for public buildings to such renewable energy sources;

(B) energy efficiency and energy conserving improvements and features for such structures; or

(C) infrastructure related to the delivery of electricity and hot water for structures lacking such amenities.

(2) ELIGIBILITY.—To be eligible to receive a loan under this subsection, a State or Indian tribe, directly or through an appropriate State or tribal agency, shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) CRITERIA FOR APPROVAL.—The Secretary may approve an application of a State or Indian tribe under paragraph (2) only if the Secretary determines that the State or tribe will use the funds from the loan under this subsection to carry out a program to provide incentives described in paragraph (1) that—

(A) requires that any such renewable energy sources, and energy efficiency and energy conserving improvements and features, developed pursuant to assistance under the program result in compliance of the structure so improved with energy efficiency requirements determined by the Secretary; and

(B) includes such compliance and audit requirements as the Secretary determines are necessary to ensure that the program is operated in a sound and effective manner.

(4) PREFERENCE.—In making loans during each fiscal year, the Secretary shall give preference to States and Indian tribes that have not previously received a loan under this subsection.

(5) MAXIMUM AMOUNT.—The aggregate outstanding principal amount from loans under this subsection to any single State or Indian tribe may not exceed $500,000,000.

(6) LOAN TERMS.—Each loan under this subsection shall have a term to maturity of not more than 10 years and shall bear interest at annual rate, determined by the Secretary, that shall not exceed interest rate charged by the Federal Reserve Bank of New York to commercial banks and other depository institutions for very short-term loans under the primary credit program, as most recently published in the Federal Reserve Statistical Release on selected interest rates (daily or weekly), and commonly referred to as the H.15 release, preceding the date of a determination for purposes of applying this paragraph.

(7) LOAN REPAYMENT.—The Secretary shall require full repayment of each loan made under this section.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts in the Fund that are not, in the judgment of the Secretary of the Treasury, required to meet needs for current withdrawals.

(2) OBLIGATIONS OF UNITED STATES.—Investments may be made only in interest-bearing obligations of the United States.

(e) REPORTS.—

(1) REPORTS TO SECRETARY.—For each year during the term of a loan made under subsection (c), the State or Indian tribe that received the loan shall submit to the Secretary a report describing the State or tribal alternative energy sources program for which the loan was made and the activities conducted under the program using the loan funds during that year.

(2) REPORT TO CONGRESS.—Not later than September 30 of each year that loans made under subsection (c) are outstanding, the Secretary shall submit a report to the Congress describing the total amount of such loans provided under subsection (c) to each eligible State and Indian tribe during the fiscal year ending on such date, and an evaluation on effectiveness of the Fund.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $5,000,000,000.

(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given such term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).

(2) STATE.—The term ''State'' means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States.

SEC. 299E. GREEN BANKING CENTERS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

''(x) 'GREEN BANKING' CENTERS.—

''(1) IN GENERAL.—The Federal banking agencies shall prescribe guidelines encouraging the establishment and maintenance of 'green banking' centers by insured depository institutions to provide any consumer who seeks information on obtaining a mortgage, home improvement loan, home equity loan, or renewable energy lease with additional information on—

''(A) obtaining an home energy rating or audit for the residence for which such mortgage or loan is sought;

''(B) obtaining financing for cost-effective energy-saving improvements to such property; and

''(C) obtaining beneficial terms for any mortgage or loan, or qualifying for a larger mortgage or loan, secured by a residence which meets or will meet energy efficiency standards.

''(2) INFORMATION AND REFERRALS.—The information made available to consumers under paragraph (1) may include—

''(A) information on obtaining a home energy rating and contact information on qualified energy raters in the area of the residence;

''(B) information on the secondary market guidelines that permit lenders to provide more favorable terms by allowing lenders to increase the ratio on debt-to-income requirements or to use the projected utility savings as a compensating factor;

''(C) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered by the Secretary of Housing and Urban Development, including the Energy Efficient Mortgage Program;

''(D) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered for qualified military personal, reservists, and veterans by the Secretary of Veterans Affairs;

''(E) information about, and contact information for, the Office of Efficiency and Renewable Energy at the Department of Energy, including the weatherization assistance program;

''(F) information about, and contact information for, the Energy Star Program of the Environmental Protection Agency;

''(G) information from, and contact information for, the Federal Citizen Information Center of the General Services Administration on energy-efficient mortgages and loans, home energy rating systems, and the availability of energy-efficient mortgage information from a variety of Federal agencies; and

''(H) such other information as the agencies or the insured depository institution may determine to be appropriate or useful.''.

(b) INSURED CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

''(x) 'GREEN BANKING' CENTERS.—

''(1) IN GENERAL.—The Board shall prescribe guidelines encouraging the establishment and maintenance of 'green banking' centers by insured credit unions to provide any member who seeks information on obtaining a mortgage, home improvement loan, home equity loan, or renewable energy lease with additional information on—

''(A) obtaining an home energy rating or audit for the residence for which such mortgage or loan is sought;

''(B) obtaining financing for cost-effective energy-saving improvements to such property; and

''(C) obtaining beneficial terms for any mortgage or loan, or qualifying for a larger mortgage or loan, secured by a residence which meets or will meet energy efficiency standards.

''(2) INFORMATION AND REFERRALS.—The information made available to members under paragraph (1) may include—

''(A) information on obtaining a home energy rating and contact information on qualified energy raters in the area of the residence;

''(B) information on the secondary market guidelines that permit lenders to provide more favorable terms by allowing lenders to increase the ratio on debt-to-income requirements or to use the projected utility savings as a compensating factor;

''(C) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered by the Secretary of Housing and Urban Development, including the Energy Efficient Mortgage Program;

''(D) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered for qualified military personal, reservists, and veterans by the Secretary of Veterans Affairs;

''(E) information about, and contact information for, the Office of Efficiency and Renewable Energy at the Department of Energy, including the weatherization assistance program;

''(F) information from, and contact information for, the Federal Citizen Information Center of the General Services Administration on energy-efficient mortgages and loans, home energy rating systems, and the availability of energy-efficient mortgage information from a variety of Federal agencies; and

''(G) such other information as the Board or the insured credit union may determine to be appropriate or useful.''.

SEC. 299F. GAO REPORTS ON AVAILABILITY OF AFFORDABLE MORTGAGES.

(a) STUDY.—The Comptroller General of the United States shall periodically, as necessary to comply with subsection (b), examine the impact of this subtitle and the amendments made by this subtitle on the availability of affordable mortgages in various areas throughout the United States, including cities having older infrastructure and limited space for the development of new housing.

(b) TRIENNIAL REPORTS.—The Comptroller General shall submit a report once every 3 years to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that shall include—

(1) a detailed statement of the most recent findings pursuant to subsection (a); and

(2) if the Comptroller General finds that this subtitle or the amendments made by

this subtitle have directly or indirectly resulted in consequences that limit the availability or affordability of mortgages in any area or areas within the United States, including any city having older infrastructure and limited space for the development of new housing, any recommendations for any additional actions at the Federal, State, or local levels that the Comptroller General considers necessary or appropriate to mitigate such effects.

The first report under this subsection shall be submitted not later than the expiration of the 3-year period beginning on the date of the enactment of this Act.

SEC. 299G. PUBLIC HOUSING ENERGY COST REPORT.

(a) COLLECTION OF INFORMATION BY HUD.—The Secretary of Housing and Urban Development shall obtain from each public housing agency, by such time as may be necessary to comply with the reporting requirement under subsection (b), information regarding the energy costs for public housing administered or operated by the agency. For each public housing agency, such information shall include the monthly energy costs associated with each separate building and development of the agency, for the most recently completed 12-month period for which such information is available, and such other information as the Secretary determines is appropriate in determining which public housing buildings and developments are most in need of repairs and improvements to reduce energy needs and costs and become more energy efficient.

(b) REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress setting forth the information collected pursuant to subsection (a).

SEC. 299H. SECONDARY MARKET FOR RESIDENTIAL RENEWABLE ENERGY LEASE INSTRUMENTS.

(a) PURPOSES.—The purposes of this section are—

(1) to encourage residential use of renewable energy systems by minimizing up-front costs and providing immediate utility cost savings to consumers through leasing of such systems to homeowners;

(2) to reduce carbon emissions and the use of nonrenewable resources;

(3) to encourage energy-efficient residential construction and rehabilitation;

(4) to encourage the use of renewable resources by homeowners;

(5) to minimize the impact of development on the environment;

(6) to reduce consumer utility costs; and

(7) to encourage private investment in the green economy.

(b) RESIDUAL VALUE OF RENEWABLE ENERGY ASSET.—The Secretary of Housing and Urban Development shall establish a means of determining the residual value of a renewable energy asset such that a secondary market for residential renewable energy lease instruments may be facilitated. Such means may include, without limitation, the calculation of residual value based on the net present value of projected future energy production of the renewable energy asset.

SEC. 299I. GREEN GUARANTEES.

(a) AUTHORITY TO GUARANTEE ''GREEN PORTION'' OF ELIGIBLE MORTGAGES.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development may make commitments to guarantee under this section and may guarantee, the repayment of the portions of the principal obligations of eligible mortgages that are used to finance eligible sustainable building elements for the housing that is subject to the mortgage.

(2) AMOUNT OF GUARANTEE.—A guarantee under this section by the Secretary in connection with an eligible mortgage shall not exceed a percentage of the green portion (as such term is defined in subsection (g)) of the mortgage, as shall be established by the Secretary and may be established on a regional basis as the Secretary determines appropriate.

(b) ELIGIBLE MORTGAGES.—To be considered an eligible mortgage for purposes of this section, a mortgage shall comply with all of the following requirements:

(1) ACQUISITION OR CONSTRUCTION OF HOUSING.—The mortgage shall be made for the acquisition or construction of single- or multifamily housing and repayment of the mortgage shall be secured by an interest in such housing.

(2) FINANCING OF ELIGIBLE SUSTAINABLE BUILDING ELEMENTS THROUGH GREEN PORTION OF MORTGAGE.—A portion of the principal obligation of the mortgage, which meets the requirements under subsection (c), shall be used only for financing the provision of eligible sustainable building elements for the housing for which the mortgage was made.

(3) MAXIMUM MORTGAGE AMOUNT.—The principal obligation of the mortgage (including the eligible portion of such mortgage, and such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) may not exceed the following amounts:

(A) SINGLE-FAMILY HOUSING.—Such dollar amounts for single-family housing as the Secretary shall establish, which may be established on the basis of the number of dwelling units in the housing, as the Secretary considers appropriate.

(B) MULTIFAMILY HOUSING.—Such dollar amounts for multifamily housing as the Secretary shall establish, which may be established on the basis of the number of dwelling units in the housing and the number of bedrooms in such dwelling units, as the Secretary considers appropriate.

(4) REPAYMENT.—The mortgage meets such requirements as the Secretary shall establish to ensure that there is a reasonable prospect of repayment of the principal and interest on the obligation by the mortgagor.

(5) MORTGAGE TERMS.—The mortgage shall meet such requirements with respect to loan-to-value ratio, mortgagor credit scores, debt-to-income ratio, and other underwriting standards, term to maturity, interest rates and amortization, including amortization of the green portion of the mortgage, and other mortgage terms as the Secretary shall establish.

(c) LIMITATIONS ON GREEN PORTION OF MORTGAGE.—The requirements under this subsection with respect to the green portion of an eligible mortgage are as follows:

(1) PERCENTAGE LIMITATION.—Such portion shall not exceed, in the case of single-family or multifamily housing, 10 percent of the total principal obligation of the mortgage.

(2) DOLLAR AMOUNT LIMITATION.—Such portion shall not exceed—

(A) in the case of single-family housing, such maximum dollar amount limitation as the Secretary shall establish, which may be established on the basis of the number of dwelling units in the housing, as the Secretary considers appropriate; and

(B) in the case of multifamily housing, such maximum dollar amount limitation as the Secretary shall establish, which limitation may be established on the basis of the number of dwelling units in the housing and the number of bedrooms in such dwelling units, as the Secretary considers appropriate.

(3) COST-EFFECTIVENESS LIMITATION.—Such portion shall not exceed the total present value of the savings (as determined in accordance with subsection (d)) attributable to the incorporation of the eligible sustainable building elements to be financed with the green portion of the mortgage that are to be realized over the useful life of such elements.

(d) ELIGIBLE SUSTAINABLE BUILDING ELEMENTS.—The Secretary may not guarantee any eligible mortgage under this section unless the mortgagor has demonstrated, in accordance with such requirements as the Secretary shall establish, the amount of savings attributable to incorporation of the sustainable building elements to be financed with the green portion of the mortgage, as measured by the National Green Building Standard for all residential construction developed by the National Association of Home Builders and the U.S. Green Building Council, and approved by the American National Standards Institute, as updated and in effect at the time of such demonstration.

(e) GUARANTEE FEE.—

(1) ASSESSMENT AND COLLECTION.—The Secretary shall assess and collect fees for guarantees under this section in amounts that the Secretary determines are sufficient to cover the costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such guarantees.

(2) AVAILABILITY.—Fees collected under this subsection shall be deposited by the Secretary in the Treasury of the United States and shall remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(f) PAYMENT OF GUARANTEE.—

(1) DEFAULT.—

(A) RIGHT TO PAYMENT.—If a mortgagor under a mortgage guaranteed under this section defaults (as defined in regulations issued by the Secretary and specified in the guarantee contract) on the obligation under the mortgage—

(i) the holder of the guarantee shall have the right to demand payment of the unpaid amount of the guaranteed portion of the mortgage, to the extent provided under subsection (a)(2), from the Secretary; and

(ii) within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the guarantee, to the extent provided under subsection (a)(2), the unpaid interest on, and unpaid principal of the portion of guaranteed portion of the mortgage with respect to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(B) FORBEARANCE.—Nothing in this paragraph precludes any forbearance by the holder of an eligible mortgage for the benefit of the mortgagor which may be agreed upon by the parties to the mortgage and approved by the Secretary.

(2) SUBROGATION.—

(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements including, if appropriate, the authority (notwithstanding any other provision of law)—

(i) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements; or

(ii) to permit the mortgagor, pursuant to an agreement with the Secretary, to continue to occupy the property subject to the mortgage, if the Secretary determines such occupancy to be appropriate.

(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of

any other person with respect to the property.

(C) TERMS AND CONDITIONS.—A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to protect the interests of the United States in the case of default.

(3) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ELIGIBLE MORTGAGE.—The term ''eligible mortgage'' means a mortgage that meets the requirements under subsection (b).

(2) GREEN PORTION.—The term ''green portion'' means, with respect to an eligible mortgage, the portion of the mortgage principal referred to in subsection (b)(2) that is attributable, as determined in accordance with regulations issued by the Secretary, to the increased costs incurred in financing provision of sustainable building elements for the housing for which the mortgage was made, as compared to the costs that would have been incurred in financing the provision of other building elements for the housing for the same purposes that are commonly or conventionally used but are not sustainable building elements.

(3) GUARANTEED PORTION.—The term ''guaranteed portion'' means, with respect to an eligible mortgage guaranteed under this section, the green portion of the mortgage that is so guaranteed.

(4) MORTGAGE.—The term ''mortgage'' has the meaning given such term in section 201 of the National Housing Act (12 U.S.C. 1707).

(5) MULTIFAMILY HOUSING.—The term ''multifamily housing'' means a residential property consisting of five or more dwelling units.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(7) SINGLE-FAMILY HOUSING.—The term ''single-family housing'' means a residential property consisting of one to four dwelling units.

(8) SUSTAINABLE BUILDING ELEMENT.—The term ''sustainable building element'' means such building elements, as the Secretary shall define, that have energy efficiency or environmental sustainability qualities that are superior to such qualities for other building elements for the same purposes that are commonly or conventionally used.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a) of guarantees under this section $500,000,000 for each of fiscal years 2010 through 2014.

(i) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

TITLE III—REDUCING GLOBAL WARMING POLLUTION

SEC. 301. SHORT TITLE.

This title, and sections 112, 116, 221, 222, 223, and 401 of this Act, and the amendments made by this title and those sections, may be cited as the ''Safe Climate Act''.

Subtitle A—Reducing Global Warming Pollution

SEC. 311. REDUCING GLOBAL WARMING POLLUTION.

The Clean Air Act (42 U.S.C. and following) is amended by adding after title VI the following new title:

''TITLE VII—GLOBAL WARMING POLLUTION REDUCTION PROGRAM

''PART A—GLOBAL WARMING POLLUTION REDUCTION GOALS AND TARGETS

''SEC. 701. FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds as follows:

''(1) Global warming poses a significant threat to the national security, economy, public health and welfare, and environment of the United States, as well as of other nations.

''(2) Reviews of scientific studies, including by the Intergovernmental Panel on Climate Change and the National Academy of Sciences, demonstrate that global warming is the result of the combined anthropogenic greenhouse gas emissions from numerous sources of all types and sizes. Each increment of emission, when combined with other emissions, causes or contributes materially to the acceleration and extent of global warming and its adverse effects for the lifetime of such gas in the atmosphere. Accordingly, controlling emissions in small as well as large amounts is essential to prevent, slow the pace of, reduce the threats from, and mitigate global warming and its adverse effects.

''(3) Because they induce global warming, greenhouse gas emissions cause or contribute to injuries to persons in the United States, including—

''(A) adverse health effects such as disease and loss of life;

''(B) displacement of human populations;

''(C) damage to property and other interests related to ocean levels, acidification, and ice changes;

''(D) severe weather and seasonal changes;

''(E) disruption, costs, and losses to business, trade, employment, farms, subsistence, aesthetic enjoyment of the environment, recreation, culture, and tourism;

''(F) damage to plants, forests, lands, and waters;

''(G) harm to wildlife and habitat;

''(H) scarcity of water and the decreased abundance of other natural resources;

''(I) worsening of tropospheric air pollution;

''(J) substantial threats of similar damage; and

''(K) other harm.

''(4) That many of these effects and risks of future effects of global warming are widely shared does not minimize the adverse effects individual persons have suffered, will suffer, and are at risk of suffering because of global warming.

''(5) That some of the adverse and potentially catastrophic effects of global warming are at risk of occurring and not a certainty does not negate the harm persons suffer from actions that increase the likelihood, extent, and severity of such future impacts.

''(6) Nations of the world look to the United States for leadership in addressing the threat of and harm from global warming. Full implementation of the Safe Climate Act is critical to engage other nations in an international effort to mitigate the threat of and harm from global warming.

''(7) Global warming and its adverse effects are occurring and are likely to continue and increase in magnitude, and to do so at a greater and more harmful rate, unless the Safe Climate Act is fully implemented and enforced in an expeditious manner.

''(b) PURPOSE.—It is the general purpose of the Safe Climate Act to help prevent, reduce the pace of, mitigate, and remedy global warming and its adverse effects. To fulfill such purpose, it is necessary to—

''(1) require the timely fulfillment of all governmental acts and duties, both substantive and procedural, and the prompt compliance of covered entities with the requirements of the Safe Climate Act;

''(2) establish and maintain an effective, transparent, and fair market for emission allowances and preserve the integrity of the cap on emissions and of offset credits;

''(3) advance the production and deployment of clean energy and energy efficiency technologies; and

''(4) ensure effective enforcement of the Safe Climate Act by citizens, States, Indian tribes, and all levels of government because each violation of the Safe Climate Act is likely to result in an additional increment of greenhouse gas emission and will slow the pace of implementation of the Safe Climate Act and delay the achievement of the goals set forth in section 702, and cause or contribute to global warming and its adverse effects.

''SEC. 702. ECONOMY-WIDE REDUCTION GOALS.

''The goals of the Safe Climate Act are to reduce steadily the quantity of United States greenhouse gas emissions such that—

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

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

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

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

''SEC. 703. REDUCTION TARGETS FOR SPECIFIED SOURCES.

''(a) IN GENERAL.—The regulations issued under section 721 shall cap and reduce annually the greenhouse gas emissions of capped sources each calendar year beginning in 2012 such that—

''(1) in 2012, the quantity of greenhouse gas emissions from capped sources does not exceed 97 percent of the quantity of greenhouse gas emissions from such sources in 2005;

''(2) in 2020, the quantity of greenhouse gas emissions from capped sources does not exceed 83 percent of the quantity of greenhouse gas emissions from such sources in 2005;

''(3) in 2030, the quantity of greenhouse gas emissions from capped sources does not exceed 58 percent of the quantity of greenhouse gas emissions from such sources in 2005; and

''(4) in 2050, the quantity of greenhouse gas emissions from capped sources does not exceed 17 percent of the quantity of greenhouse gas emissions from such sources in 2005.

''(b) DEFINITION.—For purposes of this section, the term 'greenhouse gas emissions from such sources in 2005' means emissions to which section 722 would have applied if the requirements of this title for the specified year had been in effect for 2005.

''SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.

''For the purposes of decreasing the likelihood of catastrophic climate change, preserving tropical forests, building capacity to generate offset credits, and facilitating international action on global warming, the Administrator shall set aside the percentage specified in section 781 of the quantity of emission allowances established under section 721(a) for each year, to be used to achieve a reduction of greenhouse gas emissions from deforestation in developing countries in accordance with part E. In 2020, activities supported under part E shall provide greenhouse gas reductions in an amount equal to an additional 10 percentage points of reductions from United States greenhouse

gas emissions in 2005. The Administrator shall distribute these allowances with respect to activities in countries that enter into and implement agreements or arrangements relating to reduced deforestation as described in section 754(a)(2).

"SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.

''(a) IN GENERAL.—The Administrator shall, in consultation with appropriate Federal agencies, submit to Congress a report not later than July 1, 2013, and every 4 years thereafter, that includes—

''(1) an analysis of key findings based on the latest scientific information and data relevant to global climate change;

''(2) an analysis of capabilities to monitor and verify greenhouse gas reductions on a worldwide basis, including for the United States, as required under the Safe Climate Act; and

''(3) an analysis of the status of worldwide greenhouse gas reduction efforts, including implementation of the Safe Climate Act and other policies, both domestic and international, for reducing greenhouse gas emissions, preventing dangerous atmospheric concentrations of greenhouse gases, preventing significant irreversible consequences of climate change, and reducing vulnerability to the impacts of climate change.

''(b) EXCEPTION.—Paragraph (3) of subsection (a) shall not apply to the first report submitted under such subsection.

''(c) LATEST SCIENTIFIC INFORMATION.—The analysis required under subsection (a)(1) shall—

''(1) address existing scientific information and reports, considering, to the greatest extent possible, the most recent assessment report of the Intergovernmental Panel on Climate Change, reports by the United States Global Change Research Program, the Natural Resources Climate Change Adaptation Panel established under section 475 of the American Clean Energy and Security Act of 2009, and Federal agencies, and the European Union's global temperature data assessment; and

''(2) review trends and projections for—

''(A) global and country-specific annual emissions of greenhouse gases, and cumulative greenhouse gas emissions produced between 1850 and the present, including—

''(i) global cumulative emissions of anthropogenic greenhouse gases;

''(ii) global annual emissions of anthropogenic greenhouse gases; and

''(iii) by country, annual total, annual per capita, and cumulative anthropogenic emissions of greenhouse gases for the top 50 emitting nations;

''(B) significant changes, both globally and by region, in annual net non-anthropogenic greenhouse gas emissions from natural sources, including permafrost, forests, or oceans;

''(C) global atmospheric concentrations of greenhouse gases, expressed in annual concentration units as well as carbon dioxide equivalents based on 100-year global warming potentials;

''(D) major climate forcing factors, such as aerosols;

''(E) global average temperature, expressed as seasonal and annual averages in land, ocean, and land-plus-ocean averages; and

''(F) sea level rise;

''(3) assess the current and potential impacts of global climate change on—

''(A) human populations, including impacts on public health, economic livelihoods, subsistence, human infrastructure, and displacement or permanent relocation due to flooding, severe weather, extended drought, erosion, or other ecosystem changes;

''(B) freshwater systems, including water resources for human consumption and agriculture and natural and managed ecosystems, flood and drought risks, and relative humidity;

''(C) the carbon cycle, including impacts related to the thawing of permafrost, the frequency and intensity of wildfire, and terrestrial and ocean carbon sinks;

''(D) ecosystems and animal and plant populations, including impacts on species abundance, phenology, and distribution;

''(E) oceans and ocean ecosystems, including effects on sea level, ocean acidity, ocean temperatures, coral reefs, ocean circulation, fisheries, and other indicators of ocean ecosystem health;

''(F) the cryosphere, including effects on ice sheet mass balance, mountain glacier mass balance, and sea-ice extent and volume;

''(G) changes in the intensity, frequency, or distribution of severe weather events, including precipitation, tropical cyclones, tornadoes, and severe heat waves;

''(H) agriculture and forest systems; and

''(I) any other indicators the Administrator deems appropriate;

''(4) summarize any significant socio-economic impacts of climate change in the United States, including the territories of the United States, drawing on work by Federal agencies and the academic literature, including impacts on—

''(A) public health;

''(B) economic livelihoods and subsistence;

''(C) displacement or permanent relocation due to flooding, severe weather, extended drought, erosion, or other ecosystem changes;

''(D) human infrastructure, including coastal infrastructure vulnerability to extreme events and sea level rise, river floodplain infrastructure, and sewer and water management systems;

''(E) agriculture and forests, including effects on potential growing season, distribution, and yield;

''(F) water resources for human consumption, agriculture and natural and managed ecosystems, flood and drought risks, and relative humidity;

''(G) energy supply and use; and

''(H) transportation;

''(5) in assessing risks and impacts, use a risk management framework, including both qualitative and quantitative measures, to assess the observed and projected impacts of current and future climate change, accounting for—

''(A) both monetized and non-monetized losses;

''(B) potential nonlinear, abrupt, or essentially irreversible changes in the climate system;

''(C) potential nonlinear increases in the cost of impacts;

''(D) potential low-probability, high impact events; and

''(E) whether impacts are transitory or essentially permanent; and

''(6) based on the findings of the Administrator under this section, as well as assessments produced by the Intergovernmental Panel on Climate Change, the United States Global Change Research program, and other relevant scientific entities—

''(A) describe increased risks to natural systems and society that would result from an increase in global average temperature 3.6 degrees Fahrenheit (2 degrees Celsius) above the pre-industrial average or an increase in atmospheric greenhouse gas concentrations above 450 parts per million carbon dioxide equivalent; and

''(B) identify and assess—

''(i) significant residual risks not avoided by the thresholds described in subparagraph (A);

''(ii) alternative thresholds or targets that may more effectively limit the risks identified pursuant to clause (i); and

''(iii) thresholds above those described in subparagraph (A) which significantly increase the risk of certain impacts or render them essentially permanent.

''(d) STATUS OF MONITORING AND VERIFICATION CAPABILITIES TO EVALUATE GREENHOUSE GAS REDUCTION EFFORTS.—The analysis required under subsection (a)(2) shall evaluate the capabilities of the monitoring, reporting, and verification systems used to quantify progress in achieving reductions in greenhouse gas emissions both globally and in the United States (as described in section 702), including—

''(1) quantification of emissions and emission reductions by entities participating in the cap and trade program under this title;

''(2) quantification of emissions and emission reductions by entities participating in the offset program under this title;

''(3) quantification of emission and emissions reductions by entities regulated by performance standards;

''(4) quantification of aggregate net emissions and emissions reductions by the United States; and

''(5) quantification of global changes in net emissions and in sources and sinks of greenhouse gases.

''(e) STATUS OF GREENHOUSE GAS REDUCTION EFFORTS.—The analysis required under subsection (a)(3) shall address—

''(1) whether the programs under Safe Climate Act and other Federal statutes are resulting in sufficient United States greenhouse gas emissions reductions to meet the emissions reduction goals described in section 702, taking into account the use of offsets; and

''(2) whether United States actions, taking into account international actions, commitments, and trends, and considering the range of plausible emissions scenarios, are sufficient to avoid—

''(A) atmospheric greenhouse gas concentrations above 450 parts per million carbon dioxide equivalent;

''(B) global average surface temperature 3.6 degrees Fahrenheit (2 degrees Celsius) above the pre-industrial average, or such other temperature thresholds as the Administrator deems appropriate; and

''(C) other temperature or greenhouse gas thresholds identified pursuant to subsection (c)(6)(B).

''(f) RECOMMENDATIONS.—

''(1) LATEST SCIENTIFIC INFORMATION.—Based on the analysis described in subsection (a)(1), each report under subsection (a) shall identify actions that could be taken to—

''(A) improve the characterization of changes in the earth-climate system and impacts of global climate change;

''(B) better inform decision making and actions related to global climate change;

''(C) mitigate risks to natural and social systems; and

''(D) design policies to better account for climate risks.

''(2) MONITORING, REPORTING AND VERIFICATION.—Based on the analysis described in subsection (a)(2), each report under subsection (a) shall identify key gaps in measurement, reporting, and verification capabilities and make recommendations to improve the accuracy and reliability of those capabilities.

''(3) STATUS OF GREENHOUSE GAS REDUCTION EFFORTS.—Based on the analysis described in subsection (a)(3), taking into account international actions, commitments, and trends, and considering the range of plausible emissions scenarios, each report under subsection (a) shall identify—

''(A) the quantity of additional reductions required to meet the emissions reduction goals in section 702;

''(B) the quantity of additional reductions in global greenhouse gas emissions needed to avoid the concentration and temperature thresholds identified in subsection (e); and

''(C) possible strategies and approaches for achieving additional reductions.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

''SEC. 706. NATIONAL ACADEMY REVIEW.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall offer to enter into a contract with the National Academy of Sciences (in this section referred to as the 'Academy') under which the Academy shall, not later than July 1, 2014, and every 4 years thereafter, submit to Congress and the Administrator a report that includes—

''(1) a review of the most recent report and recommendations issued under section 705; and

''(2) an analysis of technologies to achieve reductions in greenhouse gas emissions.

''(b) FAILURE TO ISSUE A REPORT.—In the event that the Administrator has not issued all or part of the most recent report required under section 705, the Academy shall conduct its own review and analysis of the required information.

''(c) TECHNOLOGICAL INFORMATION.—The analysis required under subsection (a)(2) shall—

''(1) review existing technological information and reports, including the most recent reports by the Department of Energy, the United States Global Change Research Program, the Intergovernmental Panel on Climate Change, and the International Energy Agency and any other relevant information on technologies or practices that reduce or limit greenhouse gas emissions;

''(2) include the participation of technical experts from relevant private industry sectors;

''(3) review the current and future projected deployment of technologies and practices in the United States that reduce or limit greenhouse gas emissions, including—

''(A) technologies for capture and sequestration of greenhouse gases;

''(B) technologies to improve energy efficiency;

''(C) low- or zero-greenhouse gas emitting energy technologies;

''(D) low- or zero-greenhouse gas emitting fuels;

''(E) biological sequestration practices and technologies; and

''(F) any other technologies the Academy deems relevant; and

''(4) review and compare the emissions reduction potential, commercial viability, market penetration, investment trends, and deployment of the technologies described in paragraph (3), including—

''(A) the need for additional research and development, including publicly funded research and development;

''(B) the extent of commercial deployment, including, where appropriate, a comparison to the cost and level of deployment of conventional fossil fuel-fired energy technologies and devices; and

''(C) an evaluation of any substantial technological, legal, or market-based barriers to commercial deployment.

''(d) RECOMMENDATIONS.—

''(1) LATEST SCIENTIFIC INFORMATION.—Based on the review described in subsection (a)(1), the Academy shall identify actions that could be taken to—

''(A) improve the characterization of changes in the earth-climate system and impacts of global climate change;

''(B) better inform decision making and actions related to global climate change;

''(C) mitigate risks to natural and social systems;

''(D) design policies to better account for climate risks; and

''(E) improve the accuracy and reliability of capabilities to monitor, report, and verify greenhouse gas emissions reduction efforts.

''(2) TECHNOLOGICAL INFORMATION.—Based on the analysis described in subsection (a)(2), the Academy shall identify—

''(A) additional emissions reductions that may be possible as a result of technologies described in the analysis;

''(B) barriers to the deployment of such technologies; and

''(C) actions that could be taken to speed deployment of such technologies.

''(3) STATUS OF GREENHOUSE GAS REDUCTION EFFORTS.—Based on the review described in subsection (a)(1), the Academy shall identify—

''(A) the quantity of additional reductions required to meet the emissions reduction goals described in section 702; and

''(B) the quantity of additional reductions in global greenhouse gas emissions needed to avoid the concentration and temperature thresholds described in section 705(c)(6)(A) or identified pursuant to section 705(c)(6)(B).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

''SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDATIONS.

''(a) AGENCY ACTIONS.—The President shall direct relevant Federal agencies to use existing statutory authority to take appropriate actions identified in the reports submitted under sections 705 and 706, and to address any shortfalls identified in such reports, not later than July 1, 2015, and every 4 years thereafter.

''(b) PLAN.—In the event that the Administrator or the National Academy of Sciences has concluded, in the most recent report submitted under section 705 or 706 respectively, that the United States will not achieve the necessary domestic greenhouse gas emissions reductions, or that global actions will not maintain safe global average surface temperature and atmospheric greenhouse gas concentration thresholds, the President shall, not later than July 1, 2015, and every 4 years thereafter, submit to Congress a plan identifying domestic and international actions that will achieve necessary additional greenhouse gas reductions, including any recommendations for legislative action.

''PART B—DESIGNATION AND REGISTRATION OF GREENHOUSE GASES

''SEC. 711. DESIGNATION OF GREENHOUSE GASES.

''(a) GREENHOUSE GASES.—For purposes of this title, the following are greenhouse gases:

''(1) Carbon dioxide.

''(2) Methane.

''(3) Nitrous oxide.

''(4) Sulfur hexafluoride.

''(5) Hydrofluorocarbons emitted from a chemical manufacturing process at an industrial stationary source.

''(6) Any perfluorocarbon.

''(7) Nitrogen trifluoride.

''(8) Any other anthropogenic gas designated as a greenhouse gas by the Administrator under this section.

''(b) DETERMINATION ON ADMINISTRATOR'S INITIATIVE.—The Administrator shall, by rule—

''(1) determine whether 1 metric ton of another anthropogenic gas makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide;

''(2) determine the carbon dioxide equivalent value for each gas with respect to which the Administrator makes an affirmative determination under paragraph (1);

''(3) for each gas with respect to which the Administrator makes an affirmative determination under paragraph (1) and that is used as a substitute for a class I or class II substance under title VI, determine the extent to which to regulate that gas under section 619 and specify appropriate compliance obligations under section 619;

''(4) designate as a greenhouse gas for purposes of this title each gas for which the Administrator makes an affirmative determination under paragraph (1), to the extent that it is not regulated under section 619; and

''(5) specify the appropriate compliance obligations under this title for each gas designated as a greenhouse gas under paragraph (4).

''(c) PETITIONS TO DESIGNATE A GREENHOUSE GAS.—

''(1) IN GENERAL.—Any person may petition the Administrator to designate as a greenhouse gas any anthropogenic gas 1 metric ton of which makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide.

''(2) CONTENTS OF PETITION.—The petitioner shall provide sufficient data, as specified by rule by the Administrator, to demonstrate that the gas is likely to be designated as a greenhouse gas and is likely to be produced, imported, used, or emitted in the United States. To the extent practicable, the petitioner shall also identify producers, importers, distributors, users, and emitters of the gas in the United States.

''(3) REVIEW AND ACTION BY THE ADMINISTRATOR.—Not later than 90 days after receipt of a petition under paragraph (2), the Administrator shall determine whether the petition is complete and notify the petitioner and the public of the decision.

''(4) ADDITIONAL INFORMATION.—The Administrator may require producers, importers, distributors, users, or emitters of the gas to provide information on the contribution of the gas to global warming over 100 years compared to carbon dioxide.

''(5) TREATMENT OF PETITION.—For any substance used as a substitute for a class I or class II substance under title VI, the Administrator may elect to treat a petition under this subsection as a petition to list the substance as a class II, group II substance under section 619, and may require the petition to be amended to address listing criteria promulgated under that section.

''(6) DETERMINATION.—Not later than 2 years after receipt of a complete petition, the Administrator shall, after notice and an opportunity for comment—

''(A) issue and publish in the Federal Register—

''(i) a determination that 1 metric ton of the gas does not make a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide; and

''(ii) an explanation of the decision; or

''(B) determine that 1 metric ton of the gas makes a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide, and take the actions described in subsection (b) with respect to such gas.

''(7) GROUNDS FOR DENIAL.—The Administrator may not deny a petition under this subsection solely on the basis of inadequate Environmental Protection Agency resources or time for review.

''(d) SCIENCE ADVISORY BOARD CONSULTATION.—

''(1) CONSULTATION.—The Administrator shall—

''(A) give notice to the Science Advisory Board prior to making a determination under subsection (b)(1), (c)(6), or (e)(2)(B);

''(B) consider the written recommendations of the Science Advisory Board under paragraph (2) regarding the determination; and

''(C) consult with the Science Advisory Board regarding such determination, including consultation subsequent to receipt of such written recommendations.

''(2) FORMULATION OF RECOMMENDATIONS.—Upon receipt of notice under paragraph (1)(A) regarding a pending determination under subsection (b)(1), (c)(6), or (e)(2)(B), the Science Advisory Board shall—

''(A) formulate recommendations regarding such determination, subject to a peer review process; and

''(B) submit such recommendations in writing to the Administrator.

''(e) MANUFACTURING AND EMISSION NOTICES.—

''(1) NOTICE REQUIREMENT.—

''(A) IN GENERAL.—Effective 24 months after the date of enactment of this title, no person may manufacture or introduce into interstate commerce a fluorinated gas, or emit a significant quantity, as determined by the Administrator, of any fluorinated gas that is generated as a byproduct during the production or use of another fluorinated gas, unless—

''(i) the gas is designated as a greenhouse gas under this section or is an ozone-depleting substance listed as a class I or class II substance under title VI;

''(ii) the Administrator has determined that 1 metric ton of such gas does not make a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide; or

''(iii) the person manufacturing or importing the gas for distribution into interstate commerce, or emitting the gas, has submitted to the Administrator, at least 90 days before the start of such manufacture, introduction into commerce, or emission, a notice of such person's manufacture, introduction into commerce, or emission of such gas, and the Administrator has not determined that that notice or a substantially similar notice submitted by that person is incomplete.

''(B) ALTERNATIVE COMPLIANCE.—For a gas that is a substitute for a class I or class II substance under title VI and either has been listed as acceptable for use under section 612 or is currently subject to evaluation under section 612, the Administrator may accept the notice and information provided pursuant to that section as fulfilling the obligation under clause (iii) of subparagraph (A).

''(2) REVIEW AND ACTION BY THE ADMINISTRATOR.—

''(A) COMPLETENESS.—Not later than 90 days after receipt of notice under paragraph (1)(A)(iii) or (B), the Administrator shall determine whether the notice is complete.

''(B) DETERMINATION.—If the Administrator determines that the notice is complete, the Administrator shall, after notice and an opportunity for comment, not later than 12 months after receipt of the notice—

''(i) issue and publish in the Federal Register—

''(I) a determination that 1 metric ton of the gas does not make a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide; and

''(II) an explanation of the decision; or

''(ii) determine that 1 metric ton of the gas makes a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide, and take the actions described in subsection (b) with respect to such gas.

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

''(1) requirements for the contents of a petition submitted under subsection (c);

''(2) requirements for the contents of a notice required under subsection (e); and

''(3) methods and standards for evaluating the carbon dioxide equivalent value of a gas.

''(g) GASES REGULATED UNDER TITLE VI.—The Administrator shall not designate a gas as a greenhouse gas under this section to the extent that the gas is regulated under title VI.

''(h) SAVINGS CLAUSE.—Nothing in this section shall be interpreted to relieve any person from complying with the requirements of section 612.

''SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF GREENHOUSE GASES.

''(a) MEASURE OF QUANTITY OF GREENHOUSE GASES.—Any provision of this title or title VIII that refers to a quantity or percentage of a quantity of greenhouse gases shall mean the quantity or percentage of the greenhouse gases expressed in carbon dioxide equivalents.

''(b) INITIAL VALUE.—Except as provided by the Administrator under this section or section 711—

''(1) the carbon dioxide equivalent value of greenhouse gases for purposes of this Act shall be as follows:

''CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED GREENHOUSE GASES

Greenhouse gas (1 metric ton)	Carbon dioxide equivalent (metric tons)
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-4310mee	1,640
CF_4	7,390
C_2F_6	12,200
C_4F_{10}	8,860
C_6F_{14}	9,300
SF_6	22,800
NF_3	17,200

; and

''(2) the carbon dioxide equivalent value for purposes of this Act for any greenhouse gas not listed in the table under paragraph (1) shall be the 100-year Global Warming Potentials provided in the Intergovernmental Panel on Climate Change Fourth Assessment Report.

''(c) PERIODIC REVIEW.—

''(1) Not later than February 1, 2017, and (except as provided in paragraph (3)) not less than every 5 years thereafter, the Administrator shall—

''(A) review and, if appropriate, revise the carbon dioxide equivalent values established under this section or section 711(b)(2), based on a determination of the number of metric tons of carbon dioxide that makes the same contribution to global warming over 100 years as 1 metric ton of each greenhouse gas; and

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

''(2) A revised determination published in the Federal Register under paragraph (1)(B) shall take effect for greenhouse gas emissions starting on January 1 of the first calendar year starting at least 9 months after the date on which the revised determination was published.

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

''(d) METHODOLOGY.—In setting carbon dioxide equivalent values, for purposes of this section or section 711, the Administrator shall take into account publications by the Intergovernmental Panel on Climate Change or a successor organization under the auspices of the United Nations Environmental Programme and the World Meteorological Organization.

''SEC. 713. GREENHOUSE GAS REGISTRY.

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

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

''(2) REPORTING ENTITY.—The term 'reporting entity' means—

''(A) a covered entity;

''(B) an entity that—

''(i) would be a covered entity if it had emitted, produced, imported, manufactured, or delivered in 2008 or any subsequent year more than the applicable threshold level in the definition of covered entity in paragraph (13) of section 700; and

''(ii) has emitted, produced, imported, manufactured, or delivered in 2008 or any subsequent year more than the applicable threshold level in the definition of covered entity in paragraph (13) of section 700, provided that the figure of 25,000 tons of carbon dioxide equivalent is read instead as 10,000 tons of carbon dioxide equivalent and the figure of 460,000,000 cubic feet is read instead as 184,000,000 cubic feet;

''(C) any other entity that emits a greenhouse gas, or produces, imports, manufactures, or delivers material whose use results or may result in greenhouse gas emissions if the Administrator determines that reporting under this section by such entity will help achieve the purposes of this title or title VIII;

''(D) any vehicle fleet with emissions of more than 25,000 tons of carbon dioxide equivalent on an annual basis, if the Administrator determines that the inclusion of

such fleet will help achieve the purposes of this title or title VIII; or

''(E) any entity that delivers electricity to a facility in an energy-intensive industrial sector that meets the energy or greenhouse gas intensity criteria in section 764(b)(2)(A)(i).

''(b) REGULATIONS.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title, the Administrator shall issue regulations establishing a Federal greenhouse gas registry. Such regulations shall—

''(A) require reporting entities to submit to the Administrator data on—

''(i) greenhouse gas emissions in the United States;

''(ii) the production and manufacture in the United States, importation into the United States, and, at the discretion of the Administrator, exportation from the United States, of fuels and industrial gases the uses of which result or may result in greenhouse gas emissions;

''(iii) deliveries in the United States of natural gas, and any other gas meeting the specifications for commingling with natural gas for purposes of delivery, the combustion of which result or may result in greenhouse gas emissions; and

''(iv) the capture and sequestration of greenhouse gases;

''(B) require covered entities and, where appropriate, other reporting entities to submit to the Administrator data sufficient to ensure compliance with or implementation of the requirements of this title;

''(C) require reporting of electricity delivered to facilities in an energy-intensive industrial sector that meets the energy or greenhouse gas intensity criteria in section 764(b)(2)(A)(i);

''(D) ensure the completeness, consistency, transparency, accuracy, precision, and reliability of such data;

''(E) take into account the best practices from the most recent Federal, State, tribal, and international protocols for the measurement, accounting, reporting, and verification of greenhouse gas emissions, including protocols from the Climate Registry and other mandatory State or multistate authorized programs;

''(F) take into account the latest scientific research;

''(G) require that, for covered entities with respect to greenhouse gases to which section 722 applies, and, to the extent determined to be appropriate by the Administrator, for covered entities with respect to other greenhouse gases and for other reporting entities, submitted data are based on—

''(i) continuous monitoring systems for fuel flow or emissions, such as continuous emission monitoring systems;

''(ii) alternative systems that are demonstrated as providing data with the same precision, reliability, accessibility, and timeliness, or, to the extent the Administrator determines is appropriate for reporting small amounts of emissions, the same precision, reliability, and accessibility and similar timeliness, as data provided by continuous monitoring systems for fuel flow or emissions; or

''(iii) alternative methodologies that are demonstrated to provide data with precision, reliability, accessibility, and timeliness, or, to the extent the Administrator determines is appropriate for reporting small amounts of emissions, precision, reliability, and accessibility, as similar as is technically feasible to that of data generally provided by continuous monitoring systems for fuel flow or emissions, if the Administrator determines that, with respect to a reporting entity, there is no continuous monitoring system or alternative system described in clause (i) or (ii) that is technically feasible;

''(H) require that the Administrator, in determining the extent to which the requirement to use systems or methodologies in accordance with subparagraph (G) is appropriate for reporting entities other than covered entities or for greenhouse gases to which section 722 does not apply, consider the cost of using such systems and methodologies, and of using other systems and methodologies that are available and suitable, for quantifying the emissions involved in light of the purposes of this title, including the goal of collecting consistent entity-wide data;

''(I) include methods for minimizing double reporting and avoiding irreconcilable double reporting of greenhouse gas emissions;

''(J) establish measurement protocols for carbon capture and sequestration systems, taking into consideration the regulations promulgated under section 813;

''(K) require that reporting entities provide the data required under this paragraph in reports submitted electronically to the Administrator, in such form and containing such information as may be required by the Administrator;

''(L) include requirements for keeping records supporting or related to, and protocols for auditing, submitted data;

''(M) establish consistent policies for calculating carbon content and greenhouse gas emissions for each type of fossil fuel with respect to which reporting is required;

''(N) subsequent to implementation of policies developed under subparagraph (M), provide for immediate dissemination, to States, Indian tribes, and on the Internet, of all data reported under this section as soon as practicable after electronic audit by the Administrator and any resulting correction of data, except that data shall not be disseminated under this subparagraph if—

''(i) its nondissemination is vital to the national security of the United States, as determined by the President; or

''(ii) it is confidential business information that cannot be derived from information that is otherwise publicly available and that would cause significant calculable competitive harm if published, except that—

''(I) data relating to greenhouse gas emissions, including any upstream or verification data from reporting entities, shall not be considered to be confidential business information; and

''(II) data that is confidential business information shall be provided to a State or Indian tribe within whose jurisdiction the reporting entity is located, if the Administrator determines that such State or Indian tribe has in effect protections for confidential business information that are at least as protective as protections applicable to the Federal Government;

''(O) prescribe methods by which the Administrator shall, in cases in which satisfactory data are not submitted to the Administrator for any period of time, estimate emission, production, importation, manufacture, or delivery levels—

''(i) for covered entities with respect to greenhouse gas emissions, production, importation, manufacture, or delivery regulated under this title to ensure that emissions, production, importation, manufacture, or deliveries are not underreported, and to create a strong incentive for meeting data monitoring and reporting requirements—

''(I) with a conservative estimate of the highest emission, production, importation, manufacture, or delivery levels that may have occurred during the period for which data are missing; or

''(II) to the extent the Administrator considers appropriate, with an estimate of such levels assuming the unit is emitting, producing, importing, manufacturing, or delivering at a maximum potential level during the period, in order to ensure that such levels are not underreported and to create a strong incentive for meeting data monitoring and reporting requirements; and

''(ii) for covered entities with respect to greenhouse gas emissions to which section 722 does not apply and for other reporting entities, with a reasonable estimate of the emission, production, importation, manufacture, or delivery levels that may have occurred during the period for which data are missing;

''(P) require the designation of a designated representative for each reporting entity;

''(Q) require an appropriate certification, by the designated representative for the reporting entity, of accurate and complete accounting of greenhouse gas emissions, as determined by the Administrator; and

''(R) include requirements for other data necessary for accurate and complete accounting of greenhouse gas emissions, as determined by the Administrator, including data for quality assurance of monitoring systems, monitors and other measurement devices, and other data needed to verify reported emissions, production, importation, manufacture, or delivery.

''(2) TIMING.—

''(A) CALENDAR YEARS 2007 THROUGH 2010.—For a base period of calendar years 2007 through 2010, each reporting entity shall submit annual data required under this section to the Administrator not later than March 31, 2011. The Administrator may waive or modify reporting requirements for calendar years 2007 through 2010 for categories of reporting entities to the extent that the Administrator determines that the reporting entities did not keep data or records necessary to meet reporting requirements. The Administrator may, in addition to or in lieu of such requirements, collect information on energy consumption and production.

''(B) SUBSEQUENT CALENDAR YEARS.—For calendar year 2011 and each subsequent calendar year, each reporting entity shall submit quarterly data required under this section to the Administrator not later than 60 days after the end of the applicable quarter, except when the data is already being reported to the Administrator on an earlier timeframe for another program.

''(3) WAIVER OF REPORTING REQUIREMENTS.—The Administrator may waive reporting requirements under this section for specific entities to the extent that the Administrator determines that sufficient and equally or more reliable verified and timely data are available to the Administrator and the public on the Internet under other mandatory statutory requirements.

''(4) ALTERNATIVE THRESHOLD.—The Administrator may, by rule, establish applicability thresholds for reporting under this section using alternative metrics and levels, provided that such metrics and levels are easier to administer and cover the same size and type of sources as the threshold defined in this section.

''(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—In developing the regulations issued under subsection (b), the Administrator shall take into account the work done by the Climate Registry and other mandatory State or multistate programs. Such regulations shall include an explanation of any major differences in approach between the system established under the regulations and such registries and programs.

"PART C—PROGRAM RULES

"SEC. 721. EMISSION ALLOWANCES.

''(a) IN GENERAL.—The Administrator shall establish a separate quantity of emission allowances for each calendar year starting in 2012, in the amounts prescribed under subsection (e).

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

''(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

''(1) IN GENERAL.—An allowance established by the Administrator under this title does not constitute a property right, nor does any offset credit or other instrument established or issued under the American Clean Energy and Security Act of 2009, and the amendments made thereby, for the purpose of demonstrating compliance with this title.

''(2) TERMINATION OR LIMITATION.—Nothing in this Act or any other provision of law shall be construed to limit or alter the authority of the United States, including the Administrator acting pursuant to statutory authority, to terminate or limit allowances, offset credits, or term offset credits.''

''(3) OTHER PROVISIONS UNAFFECTED.—Except as otherwise specified in this Act, nothing in this Act relating to allowances, offset credits, or term offset credits, established or issued under this title shall affect the application of any other provision of law to a covered entity, or the responsibility for a covered entity to comply with any such provision of law.

''(d) SAVINGS PROVISION.—Nothing in this part shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges, or as affecting any State law regarding such State regulation, or as limiting State regulation (including any prudency review) under such a State law. Nothing in this part shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this part shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

''(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the number of emission allowances established by the Administrator under subsection (a) for each calendar year shall be as provided in the following table:

"Calendar year	Emission allowances (in millions)
2012	4,627
2013	4,544
2014	5,099
2015	5,003
2016	5,482
2017	5,375
2018	5,269
2019	5,162
2020	5,056
2021	4,903
2022	4,751
2023	4,599
2024	4,446
2025	4,294
2026	4,142
2027	3,990
2028	3,837
2029	3,685
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 and each year thereafter	1,035

''(2) REVISION.—

''(A) IN GENERAL.—The Administrator may adjust, in accordance with subparagraph (B), the number of emission allowances established pursuant to paragraph (1) if, after notice and an opportunity for public comment, the Administrator determines that—

''(i) United States greenhouse gas emissions in 2005 were other than 7,206 million metric tons carbon dioxide equivalent;

''(ii) if the requirements of this title for 2012 had been in effect in 2005, section 722 would have required emission allowances to be held for other than 66.2 percent of United States greenhouse gas emissions in 2005;

''(iii) if the requirements of this title for 2014 had been in effect in 2005, section 722 would have required emission allowances to be held for other than 75.7 percent of United States greenhouse gas emissions in 2005; or

''(iv) if the requirements of this title for 2016 had been in effect in 2005, section 722 would have required emission allowances to be held for other than 84.5 percent United States greenhouse gas emissions in 2005.

''(B) ADJUSTMENT FORMULA.—

''(i) IN GENERAL.—If the Administrator adjusts under this paragraph the number of emission allowances established pursuant to paragraph (1), the number of emission allowances the Administrator establishes for any given calendar year shall equal the product of—

''(I) United States greenhouse gas emissions in 2005, expressed in tons of carbon dioxide equivalent;

''(II) the percent of United States greenhouse gas emissions in 2005, expressed in tons of carbon dioxide equivalent, that would have been subject to section 722 if the requirements of this title for the given calendar year had been in effect in 2005; and

''(III) the percentage set forth for that calendar year in section 703(a), or determined under clause (ii) of this subparagraph.

''(ii) TARGETS.—In applying the portion of the formula in clause (i)(III) of this subparagraph, for calendar years for which a percentage is not listed in section 703(a), the Administrator shall use a uniform annual decline in the amount of emissions between the years that are specified.

''(iii) CARBON DIOXIDE EQUIVALENT VALUE.—If the Administrator adjusts under this paragraph the number of emission allowances established pursuant to paragraph (1), the Administrator shall use the carbon dioxide equivalent values established pursuant to section 712.

''(iv) LIMITATION ON ADJUSTMENT TIMING.—Once a calendar year has started, the Administrator may not adjust the number of emission allowances to be established for that calendar year.

''(C) LIMITATION ON ADJUSTMENT AUTHORITY.—The Administrator may adjust under this paragraph the number of emission allowances to be established pursuant to paragraph (1) only once.

''(f) COMPENSATORY ALLOWANCE.—

''(1) IN GENERAL.—The regulations promulgated under subsection (h) shall provide for the establishment and distribution of compensatory allowances for—

''(A) the destruction, in 2012 or later, of fluorinated gases that are greenhouse gases if—

''(i) allowances or offset credits were retired for their production or importation; and

''(ii) such gases are not required to be destroyed under any other provision of law;

''(B) the nonemissive use, in 2012 or later, of petroleum-based or coal-based liquid or gaseous fuel, petroleum coke, natural gas liquid, or natural gas as a feedstock, if allowances or offset credits were retired for the greenhouse gases that would have been emitted from their combustion; and

''(C) the conversionary use, in 2012 or later, of fluorinated gases in a manufacturing process, including semiconductor research or manufacturing, if allowances or offset credits were retired for the production or importation of such gas.

''(2) ESTABLISHMENT AND DISTRIBUTION.—

''(A) IN GENERAL.—Not later than 90 days after the end of each calendar year, the Administrator shall establish and distribute to the entity taking the actions described in subparagraph (A), (B), or (C) of paragraph (1) a quantity of compensatory allowances equivalent to the number of tons of carbon dioxide equivalent of avoided emissions achieved through such actions. In establishing the quantity of compensatory allowances, the Administrator shall take into account the carbon dioxide equivalent value of any greenhouse gas resulting from such action.

''(B) SOURCE OF ALLOWANCES.—Compensatory allowances established under this subsection shall not be emission allowances established under subsection (a).

''(C) IDENTIFICATION NUMBERS.—The Administrator shall assign to each compensatory allowance established under subparagraph (A) a unique identification number.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'destruction' means the conversion of a greenhouse gas by thermal, chemical, or other means to another gas or set of gases with little or no carbon dioxide equivalent value;

''(B) the term 'nonemissive use' means the use of fossil fuel as a feedstock in an industrial or manufacturing process to the extent that greenhouse gases are not emitted from such process, and to the extent that the products of such process are not intended for use as, or to be contained in, a fuel; and

''(C) the term 'conversionary use' means the conversion during research or manufacturing of a fluorinated gas into another greenhouse gas or set of gases with a lower carbon dioxide equivalent value.

''(4) FEEDSTOCK EMISSIONS STUDY.—

''(A) The Administrator may conduct a study to determine the extent to which petroleum-based or coal-based liquid or gaseous fuel, petroleum coke, natural gas liquid, or natural gas are used as feedstocks in manufacturing processes to produce products and the greenhouse gas emissions resulting from such uses.

''(B) If as a result of such a study, the Administrator determines that the use of such products by noncovered sources results in substantial emissions of greenhouse gases and that such emissions have not been adequately addressed under other requirements of this Act, the Administrator may, after notice and comment rulemaking, promulgate a regulation reducing compensatory allowances commensurately if doing so will not result in shifting such emissions to noncovered sources.

''(g) FLUORINATED GASES ASSESSMENT.—No later than March 31, 2014, the Administrator shall complete an assessment of the regulation of non-HFC fluorinated gases under this title to determine whether the most appropriate point of regulation is at the gas manufacturer or importer level, or at the source of emissions downstream. If the Administrator determines, based on consideration of environmental effectiveness, cost effectiveness, administrative feasibility, extent of coverage of emissions, competitiveness and other relevant considerations consistent with the purposes of this title, that emissions of non-HFC fluorinated gases can best be regulated by designating downstream emission sources as covered entities with compliance obligations under section 722, the Administrator shall, after notice and comment rulemaking, change the definition of covered entity and the compliance obligations under section 722 with respect to non-HFC fluorinated gases accordingly, consistent with the purposes of this title, and establish such other requirements as are necessary to ensure compliance for such entities with the requirements of this title.

''(h) REGULATIONS.—Not later than 24 months after the date of enactment of this title, the Administrator shall promulgate regulations to carry out the provisions of this title.

''SEC. 722. PROHIBITION OF EXCESS EMISSIONS.

''(a) PROHIBITION.—Except as provided in subsection (c), effective January 1, 2012, each covered entity is prohibited from emitting greenhouse gases and having attributable greenhouse gas emissions, in combination, in excess of its allowable emissions level. A covered entity's allowable emissions level for each calendar year is the number of emission allowances (or offset credits or other allowances as provided in subsection (d)) it holds as of 12:01 a.m. on April 1 (or a later date established by the Administrator under subsection (j)) of the following calendar year.

''(b) METHODS OF DEMONSTRATING COMPLIANCE.—Except as otherwise provided in this section, the owner or operator of a covered entity shall not be considered to be in compliance with the prohibition in subsection (a) unless, as of 12:01 a.m. on April 1 (or a later date established by the Administrator under subsection (j)) of each calendar year starting in 2013, the owner or operator holds a quantity of emission allowances (or offset credits or other allowances as provided in subsection (d)) at least as great as the quantity calculated as follows:

''(1) ELECTRICITY SOURCES.—For a covered entity described in section 700(13)(A), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that such covered entity emitted in the previous calendar year, excluding emissions resulting from the combustion of—

''(A) petroleum-based or coal-based liquid fuel;

''(B) natural gas liquid;

''(C) renewable biomass or gas derived from renewable biomass; or

''(D) petroleum coke or gas derived from petroleum coke.

''(2) FUEL PRODUCERS AND IMPORTERS.—For a covered entity described in section 700(13)(B), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that would be emitted from the combustion of any petroleum-based or coal-based liquid fuel, petroleum coke, or natural gas liquid, produced or imported by such covered entity during the previous calendar year for sale or distribution in interstate commerce, assuming no capture and sequestration of any greenhouse gas emissions.

''(3) INDUSTRIAL GAS PRODUCERS AND IMPORTERS.—For a covered entity described in section 700(13)(C), 1 emission allowance for each ton of carbon dioxide equivalent of fossil fuel-based carbon dioxide, nitrous oxide, or any other fluorinated gas that is a greenhouse gas (except for nitrogen trifluoride), or any combination thereof, produced or imported by such covered entity during the previous calendar year for sale or distribution in interstate commerce.

''(4) NITROGEN TRIFLUORIDE SOURCES.—For a covered entity described in section 700(13)(D), 1 emission allowance for each ton of carbon dioxide equivalent of nitrogen trifluoride that such covered entity emitted in the previous calendar year.

''(5) GEOLOGICAL SEQUESTRATION SITES.—For a covered entity described in section 700(13)(E), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that such covered entity emitted in the previous calendar year.

''(6) INDUSTRIAL STATIONARY SOURCES.—For a covered entity described in section 700(13)(F), (G), or (H), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that such covered entity emitted in the previous calendar year, excluding emissions resulting from—

''(A) the combustion of petroleum-based or coal-based liquid fuel;

''(B) the combustion of natural gas liquid;

''(C) the combustion of renewable biomass or gas derived from renewable biomass;

''(D) the combustion of petroleum coke or gas derived from petroleum coke; or

''(E) the use of any fluorinated gas that is a greenhouse gas purchased for use at that covered entity, except for nitrogen trifluoride.

''(7) INDUSTRIAL FOSSIL FUEL-FIRED COMBUSTION DEVICES.—For a covered entity described in section 700(13)(I), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that the devices emitted in the previous calendar year, excluding emissions resulting from the combustion of—

''(A) petroleum-based or coal-based liquid fuel;

''(B) natural gas liquid;

''(C) renewable biomass or gas derived from renewable biomass; or

''(D) petroleum coke or gas derived from petroleum coke.

''(8) NATURAL GAS LOCAL DISTRIBUTION COMPANIES.—For a covered entity described in section 700(13)(J), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that would be emitted from the combustion of the natural gas, and any other gas meeting the specifications for commingling with natural gas for purposes of delivery, that such entity delivered during the previous calendar year to customers that are not covered entities, assuming no capture and sequestration of that greenhouse gas.

''(9) ALGAE-BASED FUELS.—Where carbon dioxide (or another greenhouse gas) generated by a covered entity is used as an input in the production of algae-based fuels, the Administrator shall ensure that emission allowances are required to be held either for the carbon dioxide generated by a covered entity that is used to grow the algae or for the portion of the carbon dioxide emitted from combustion of the fuel produced from such algae that is attributable to carbon dioxide generated by a covered entity, but not for both.

''(10) FUGITIVE EMISSIONS.—The greenhouse gas emissions to which paragraphs (1), (4), (6), and (7) apply shall not include fugitive emissions of greenhouse gas, except to the extent the Administrator determines that data on the carbon dioxide equivalent value of greenhouse gas in the fugitive emissions can be provided with sufficient precision, reliability, accessibility, and timeliness to ensure the integrity of emission allowances, the allowance tracking system, and the cap on emissions.

''(11) EXPORT EXEMPTION.—This section shall not apply to any petroleum-based or coal-based liquid fuel, petroleum coke, natural gas liquid, fossil fuel-based carbon dioxide, nitrous oxide, or fluorinated gas that is exported for sale or use.

''(12) NATURAL GAS LIQUIDS.—For natural gas liquids, the covered entity subject to the requirement stated in paragraph (2) shall be the owner of the natural gas liquids at the point the natural gas liquids are separated into merchantable products.

''(13) APPLICATION OF MULTIPLE PARAGRAPHS.—For a covered entity to which more than 1 of paragraphs (1) through (8) apply, all applicable paragraphs shall apply, except that not more than 1 emission allowance shall be required for the same emission.

''(14) APPLICATION TO FRACTIONS OF TONS.—In applying paragraphs (1) through (8), any amount less than 1 ton of carbon dioxide equivalent of emissions or attributable greenhouse gas emissions shall be treated as 1 ton of such carbon dioxide equivalent.

''(c) PHASE-IN OF PROHIBITION.—

''(1) INDUSTRIAL STATIONARY SOURCES.—The prohibition under subsection (a) shall first apply to a covered entity described in section 700(13)(D), (F), (G), (H), or (I), with respect to emissions occurring during calendar year 2014.

''(2) NATURAL GAS LOCAL DISTRIBUTION COMPANIES.—The prohibition under subsection (a) shall first apply to a covered entity described in section 700(13)(J) with respect to deliveries occurring during calendar year 2016.

''(d) ADDITIONAL METHODS.—In addition to using the method of compliance described in subsection (b), a covered entity may do the following:

''(1) OFFSET CREDITS.—

''(A) IN GENERAL.—Covered entities collectively may, in accordance with this paragraph, use offset credits to demonstrate compliance for up to a maximum of 2 billion tons of greenhouse gas emissions annually. The ability to demonstrate compliance with offset credits shall be divided pro rata among covered entities by allowing each covered entity to satisfy a percentage of the number of allowances required to be held under subsection (b) to demonstrate compliance by holding 1 domestic offset credit or 1.25 international offset credits in lieu of an emission allowance, except as provided in subparagraph (D).

''(B) APPLICABLE PERCENTAGE.—The percentage referred to in subparagraph (A) for a given calendar year shall be determined by dividing 2 billion by the sum of 2 billion plus the number of emission allowances established under section 721(a) for the previous year, and multiplying that number by 100. Not more than one half of the applicable percentage under this paragraph may be used by holding domestic offset credits, and not more than one half of the applicable percentage under this paragraph may be used by holding international offset credits, except as provided in subparagraph (C).

''(C) MODIFIED PERCENTAGES.—If the Administrator determines that domestic offset credits available for use in demonstrating compliance in any calendar year at domestic offset prices generally equal to or less than emission allowance prices, are likely to offset less than 0.9 billion tons of greenhouse gas emissions (measured in tons of carbon dioxide equivalents), for purposes of compliance demonstration in that year the Administrator shall—

''(i) increase the percentage of emissions that can be offset through the use of international offset credits to reflect the amount that 1.0 billion exceeds the number of domestic offset credits the Administrator determines is available, at prices generally equal to or less than emission allowance prices, for that year, up to a maximum of 0.5 billion tons of greenhouse gas emissions; and

''(ii) decrease the percentage of emissions that can be offset through the use of domestic offset credits by the same amount.

''(D) INTERNATIONAL OFFSET CREDITS.—Notwithstanding subparagraph (A), to demonstrate compliance prior to calendar year 2018, a covered entity may use 1 international offset credit in lieu of an emission allowance up to the amount permitted under this paragraph.

''(E) PRESIDENT'S RECOMMENDATION.—The President may make a recommendation to Congress as to whether the number 2 billion specified in subparagraphs (A) and (B) should be increased or decreased.

''(2) TERM OFFSETT CREDITS.—

''(A) IN GENERAL.—Covered entities may, in accordance with this paragraph, use non-expired term offset credits instead of domestic offset credits for purposes of temporarily demonstrating compliance with this section.

''(B) AMOUNT.—The combined quantity of term offset credits and domestic offset credits used by a covered entity to demonstrate compliance for its emissions or attributable greenhouse gas emissions in any given year shall not exceed the quantity of domestic offset credits that a covered entity is entitled to use for that year to demonstrate compliance in accordance with paragraph (1).

''(C) EXPIRATION.—A term offset credit shall expire in the year after its term ends. The term of a term offset credit shall be calculated by adding to the year of issuance the number of years equal to the length of the crediting period for the practice or project for which the term offset credit was issued, but in no case shall be later than the date 5 years from the date of issuance.

''(D) DEMONSTRATING COMPLIANCE UPON EXPIRATION OF TERM OFFSET CREDIT.—With respect to the emissions for which a covered entity is using term offset credits to demonstrate compliance temporarily with this section, the owner or operator of a covered entity shall not be considered to be in compliance with the prohibition in subsection (a) unless, as of 12:01 a.m. on April 1 (or a later date established by the Administrator under subsection (j)) of the calendar year in which a term offset credit expires, the owner or operator holds—

''(i) for purposes of finally demonstrating compliance, an allowance or a domestic offset credit; or

''(ii) for purposes of temporarily demonstrating compliance, a non-expired term offset credit.

Domestic offset credits used for purposes of finally demonstrating compliance under this subparagraph shall not be subject to the percentage limitations in subparagraph (B).

''(E) FINANCIAL ASSURANCE.—A covered entity may not use a term offset credit to demonstrate compliance temporarily unless it simultaneously provides to the Administrator financial assurance that, at the end of the term offset credit's crediting term, the covered entity will have sufficient resources to obtain the quantity of allowances or credits necessary to demonstrate final compliance. The Administrator shall issue regulations establishing requirements for such financial assurance, which shall take into account the increased risk associated with longer crediting terms. These regulations shall take into account the total number of tons of carbon dioxide equivalent of greenhouse gas emissions for which a covered entity is demonstrating compliance temporarily, and may set a limit on this amount. In the event that a covered entity that used term offset credits to demonstrate compliance temporarily fails to meet the requirements of subparagraph (D) at the end of the term offset credits' crediting term, if the financial assurance mechanism fails to provide to the Administrator the number of allowances or offset credits for which the crediting term has expired, then the Administrator shall retire that number of allowances with the vintage year 2 years after the year in which the term offset credit expires in the same amount. Allowances so retired shall not be counted as emission allowances established for that calendar year under section 721(a).

''(3) INTERNATIONAL EMISSION ALLOWANCES.—To demonstrate compliance, a covered entity may hold an international emission allowance in lieu of an emission allowance, except as modified under section 728(d).

''(4) COMPENSATORY ALLOWANCES.—To demonstrate compliance, a covered entity may hold a compensatory allowance obtained under section 721(f) in lieu of an emission allowance.

''(e) RETIREMENT OF ALLOWANCES AND CREDITS.—As soon as practicable after a deadline established for covered entities to demonstrate compliance with this title, the Administrator shall retire the quantity of allowances or credits required to be held under this title.

''(f) ALTERNATIVE METRICS.—For categories of covered entities described in subparagraph (B), (C), (D), (G), (H), or (I) of section 700(13), the Administrator may, by rule, establish an applicability threshold for inclusion under those subparagraphs using an alternative metric and level, provided that such metric and level are easier to administer and cover the same size and type of sources as the threshold defined in such subparagraphs.

''(g) THRESHOLD REVIEW.—For each category of covered entities described in subparagraph (B), (C), (D), (G), (H), or (I) of section 700(13), the Administrator shall, in 2020 and once every 8 years thereafter, review the carbon dioxide equivalent emission threshold that is used to define covered entities in such category. After consideration of—

''(1) emissions from covered entities in such category, and from other entities of the same type that emit less than the threshold amount for the category (including emission sources that commence operation after the date of enactment of this title that are not covered entities); and

''(2) whether greater greenhouse gas emission reductions can be cost-effectively achieved by lowering the applicable threshold,

the Administrator may by rule lower such threshold to not less than 10,000 tons of carbon dioxide equivalent emissions. In determining the cost effectiveness of potential reductions from lowering the threshold for covered entities, the Administrator shall consider alternative regulatory greenhouse gas programs, including setting standards under other titles of this Act.

''(h) DESIGNATED REPRESENTATIVES.—The regulations promulgated under section 721(h) shall require that each covered entity, and each entity holding allowances or offset credits or receiving allowances or offset credits from the Administrator under this title, submit to the Administrator a certificate of representation designating a designated representative.

''(i) EDUCATION AND OUTREACH.—

''(1) IN GENERAL.—The Administrator shall establish and carry out a program of education and outreach to assist covered entities, especially entities having little experience with environmental regulatory requirements similar or comparable to those under this title, in preparing to meet the compliance obligations of this title. Such program shall include education with respect to using markets to effectively achieve such compliance.

''(2) FAILURE TO RECEIVE INFORMATION.—A failure to receive information or assistance under this subsection may not be used as a defense against an allegation of any violation of this title.

''(j) ADJUSTMENT OF DEADLINE.—The Administrator may, by rule, establish a deadline for demonstrating compliance, for a calendar year, later than the date provided in subsection (a), as necessary to ensure the availability of emissions data, but in no event shall the deadline be later than June 1.

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

''(l) COMPLIANCE OBLIGATION.—For purposes of this title, the year of a compliance obligation is the year in which compliance is determined, not the year in which the greenhouse gas emissions occur or the covered entity has attributable greenhouse gas emissions.

''SEC. 723. PENALTY FOR NONCOMPLIANCE.

''(a) ENFORCEMENT.—A violation of any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. It shall be a violation of this Act for a covered entity to emit greenhouse gases and have attributable greenhouse gas emissions, in combination, in excess of its allowable emissions level as provided in section 722(a). Each ton of carbon dioxide equivalent for which a covered entity fails to demonstrate compliance under section 722 shall be a separate violation. In the

event that a covered entity fails to demonstrates compliance at the expiration of a term offset credit's crediting term as required by section 722(d)(2)(D), the year of the violation shall be the year in which the term offset credit expires.

''(b) EXCESS EMISSIONS PENALTY.—

''(1) IN GENERAL.—The owner or operator of any covered entity that fails for any year to comply, on the deadline described in section 722(a), (d)(2) or (j), shall be liable for payment to the Administrator of an excess emissions penalty in the amount described in paragraph (2).

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

''(A) the tons of carbon dioxide equivalent of greenhouse gas emissions or attributable greenhouse gas emissions for which the owner or operator of a covered entity failed to demonstrate compliance under section 722 on the deadline; by

''(B) twice the auction clearing price for the earliest vintage year emission allowances in the last auction carried out pursuant to section 791 before such deadline.

''(3) TIMING.—An excess emissions penalty required under this subsection shall be immediately due and payable to the Administrator, without demand, in accordance with regulations promulgated by the Administrator, which shall be issued not later than 2 years after the date of enactment of this title.

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

''(c) EXCESS EMISSIONS ALLOWANCES.—The owner or operator of a covered entity that fails for any year to comply on the deadline described in section 722(a), (d)(2) or (j) shall be liable to offset the covered entity's excess combination of greenhouse gases emitted and attributable greenhouse gas emissions by an equal quantity of emission allowances during the following calendar year, or such longer period as the Administrator may prescribe. During the year in which the covered entity failed to comply, or any year thereafter, the Administrator may deduct the emission allowances required under this subsection to offset the covered entity's excess greenhouse gas emissions or attributable greenhouse gas emissions.

''SEC. 724. TRADING.

''(a) PERMITTED TRANSACTIONS.—Except as otherwise provided in this title, the lawful holder of an emission allowance, compensatory allowance, or offset credit may, without restriction, sell, exchange, transfer, hold for compliance in accordance with section 722, or request that the Administrator retire the emission allowance, compensatory allowance, or offset credit.

''(b) NO RESTRICTION ON TRANSACTIONS.—The privilege of purchasing, holding, selling, exchanging, transferring, and requesting retirement of emission allowances, compensatory allowances, or offset credits shall not be restricted to the owners and operators of covered entities, except as otherwise provided in this title.

''(c) EFFECTIVENESS OF ALLOWANCE TRANSFERS.—No transfer of an allowance, offset credit or term offset credit shall be effective for purposes of this title until a certification of the transfer, signed by the designated representative of the transferor, is received and recorded by the Administrator in accordance with regulations promulgated under section 721(h).

''(d) ALLOWANCE TRACKING SYSTEM.—The regulations promulgated under section 721(h) shall include a system for issuing, recording, holding, and tracking allowances, offset credits, and term offset credits that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the allowance and offset credit markets. Such regulations shall provide for appropriate publication of the information in the system on the Internet.

''SEC. 725. BANKING AND BORROWING.

''(a) BANKING.—An emission allowance may be used to comply with section 722 or section 723 for emissions in—

''(1) the vintage year for the allowance; or

''(2) any calendar year subsequent to the vintage year for the allowance.

''(b) EXPIRATION.—

''(1) REGULATIONS.—The Administrator may establish by regulation criteria and procedures for determining whether, and for implementing a determination that, the expiration of an allowance offset credit, or term offset credit, established or issued under the American Clean Energy and Security Act of 2009 or the amendments made thereby or expiration of the ability to use an international emission allowance to comply with section 722, is necessary to ensure the authenticity and integrity of allowances, offset credits, or term offset credits or the allowance tracking system.

''(2) GENERAL RULE.—Allowance, offset credit, or term offset credit, established or issued under the American Clean Energy and Security Act of 2009 or the amendments made thereby, shall not expire unless—

''(A) it is retired by the Administrator pursuant to this title; or

''(B) it is determined to expire or to have expired by a specific date by the Administrator in accordance with regulations promulgated under paragraph (1).

''(3) INTERNATIONAL EMISSION ALLOWANCES.—The ability to use an international emission allowance to comply with section 722 shall not expire unless—

''(A) the allowance is retired by the Administrator pursuant to this title; or

''(B) the ability to use such allowance to meet such compliance obligation requirements is determined to expire or to have expired by a specific date by the Administrator in accordance with regulations promulgated under paragraph (1).

''(c) BORROWING FUTURE VINTAGE YEAR ALLOWANCES.—

''(1) BORROWING WITHOUT INTEREST.—In addition to the uses described in subsection (a), an emission allowance may be used to demonstrate compliance under section 722 or comply with section 723 for emissions, production, importation, manufacture, or deliveries in the calendar year immediately preceding the vintage year for the allowance.

''(2) BORROWING WITH INTEREST.—

''(A) IN GENERAL.—A covered entity may demonstrate compliance under section 722 in a specific calendar year for up to 15 percent of its emissions by holding emission allowances with a vintage year 1 to 5 years later than that calendar year.

''(B) LIMITATIONS.—An emission allowance borrowed pursuant to this paragraph shall be an emission allowance that is established by the Administrator for a specific future calendar year under section 721(a) and that is held by the borrower.

''(C) PREPAYMENT OF INTEREST.—For each emission allowance that an owner or operator of a covered entity borrows pursuant to this paragraph, such owner or operator shall, at the time it borrows the allowance, hold for retirement by the Administrator, and the Administrator shall retire, a quantity of emission allowances that is equal to the product obtained by multiplying—

''(i) 0.08; by

''(ii) the number of years between the calendar year in which the allowance is being used to satisfy a compliance obligation and the vintage year of the allowance.

''SEC. 726. STRATEGIC RESERVE.

''(a) STRATEGIC RESERVE AUCTIONS.—

''(1) IN GENERAL.—Once each quarter of each calendar year for which allowances are established under section 721(a), the Administrator shall auction strategic reserve allowances.

''(2) RESTRICTION TO COVERED ENTITIES.—In each auction conducted under paragraph (1), only covered entities that the Administrator expects will be required to comply with section 722 in the following calendar year shall be eligible to make purchases.

''(b) POOL OF EMISSION ALLOWANCES FOR STRATEGIC RESERVE AUCTIONS.—

''(1) FILLING THE STRATEGIC RESERVE INITIALLY.—

''(A) IN GENERAL.—The Administrator shall, not later than 2 years after the date of enactment of this title, establish a strategic reserve account, and shall place in that account an amount of emission allowances established under section 721(a) for each calendar year from 2012 through 2050 in the amounts specified in subparagraph (B) of this paragraph.

''(B) AMOUNT.—The amount referred to in subparagraph (A) shall be—

''(i) for each of calendar years 2012 through 2019, 1 percent of the quantity of emission allowances established for that year pursuant to section 721(e)(1);

''(ii) for each of calendar years 2020 through 2029, 2 percent of the quantity of emission allowances established for that year pursuant to section 721(e)(1); and

''(iii) for each of calendar years 2030 through 2050, 3 percent of the quantity of emission allowances established for that year pursuant to section 721(e)(1).

''(C) EFFECT ON OTHER PROVISIONS.—Any provision in this title (except for subparagraph (B) of this paragraph) that refers to a quantity or percentage of the emission allowances established for a calendar year under section 721(a) shall be considered to refer to the amount of emission allowances as determined pursuant to section 721(e), less any emission allowances established for that year that are placed in the strategic reserve account under this paragraph.

''(2) SUPPLEMENTING THE STRATEGIC RESERVE.—The Administrator shall also—

''(A) at the end of each calendar year, transfer to the strategic reserve account each emission allowance that was offered for sale but not sold at any auction conducted under section 791; and

''(B) deposit emission allowances established under subsection (g) from auction proceeds into the strategic reserve, to the extent necessary to maintain the reserve at its original size.

''(c) MINIMUM STRATEGIC RESERVE AUCTION PRICE.—

''(1) IN GENERAL.—At each strategic reserve auction, the Administrator shall offer emission allowances for sale beginning at a minimum price per emission allowance, which shall be known as the 'minimum strategic reserve auction price'.

''(2) INITIAL MINIMUM STRATEGIC RESERVE AUCTION PRICES.—The minimum strategic reserve auction price shall be $28 (in constant 2009 dollars) for the strategic reserve auctions held in 2012. For the strategic reserve auctions held in 2013 and 2014, the minimum strategic reserve auction price shall be the strategic reserve auction price for the previous year increased by 5 percent plus the

rate of inflation (as measured by the Consumer Price Index for All Urban Consumers).

''(3) MINIMUM STRATEGIC RESERVE AUCTION PRICE IN SUBSEQUENT YEARS.—For each strategic reserve auction held in 2015 and each year thereafter, the minimum strategic reserve auction price shall be 60 percent above a rolling 36-month average of the daily closing price for that year's emission allowance vintage as reported on registered carbon trading facilities, calculated using constant dollars.

''(d) QUANTITY OF EMISSION ALLOWANCES RELEASED FROM THE STRATEGIC RESERVE.—

''(1) INITIAL LIMITS.—For each of calendar years 2012 through 2016, the annual limit on the number of emission allowances from the strategic reserve account that may be auctioned is an amount equal to 5 percent of the emission allowances established for that calendar year under section 721(a). This limit does not apply to international offset credits sold on consignment pursuant to subsection (h).

''(2) LIMITS IN SUBSEQUENT YEARS.—For calendar year 2017 and each year thereafter, the annual limit on the number of emission allowances from the strategic reserve account that may be auctioned is an amount equal to 10 percent of the emission allowances established for that calendar year under section 721(a). This limit does not apply to international offset credits sold on consignment pursuant to subsection (h).

''(3) ALLOCATION OF LIMITATION.—One-fourth of each year's annual strategic reserve auction limit under this subsection shall be made available for auction in each quarter. Any allowances from the strategic reserve account that are made available for sale in a quarterly auction and not sold shall be rolled over and added to the quantity available for sale in the following quarter, except that allowances not sold at auction in the fourth quarter of a year shall not be rolled over to the following calendar year's auctions, but shall be returned to the strategic reserve account.

''(e) PURCHASE LIMIT.—

''(1) IN GENERAL.—Except as provided in paragraph (2) or (3), the annual number of emission allowances that a covered entity may purchase at the strategic reserve auctions in each calendar year shall not exceed 20 percent of the covered entity's combined greenhouse gas emissions and attributable greenhouse gas emissions during the most recent year for which allowances or offset credits were retired under section 722.

''(2) 2012 LIMIT.—For calendar year 2012, the maximum aggregate number of emission allowances that a covered entity may purchase from that year's strategic reserve auctions shall be 20 percent of the covered entity's combined greenhouse gas emissions and attributable greenhouse gas emissions that the covered entity reported to the registry established under section 713 for 2011 and that would be subject to section 722(a) if occurring in later calendar years.

''(3) NEW ENTRANTS.—The Administrator shall, by regulation, establish a separate purchase limit applicable to entities that expect to become a covered entity in the year of the auction, permitting them to purchase emission allowances at the strategic reserve auctions in their first calendar year of operation in an amount of at least 20 percent of their expected combined greenhouse gas emissions and attributable greenhouse gas emissions for that year.

''(f) DELEGATION OR CONTRACT.—Pursuant to regulations under this section, the Administrator may, by delegation or contract, provide for the conduct of strategic reserve auctions under the Administrator's supervision by other departments or agencies of the Federal Government or by nongovernmental agencies, groups, or organizations.

''(g) USE OF AUCTION PROCEEDS.—

''(1) DEPOSIT IN STRATEGIC RESERVE FUND.—The proceeds from strategic reserve auctions shall be placed in the Strategic Reserve Fund established under section 793(1), and shall be available without further appropriation or fiscal year limitation for the purposes described in this subsection.

''(2) INTERNATIONAL OFFSET CREDITS FOR REDUCED DEFORESTATION.—The Administrator shall use the proceeds from each strategic reserve auction to purchase international offset credits issued for reduced deforestation activities pursuant to section 743(e). The Administrator shall retire those international offset credits and establish a number of emission allowances equal to 80 percent of the number of international offset credits so retired. Emission allowances established under this paragraph shall be in addition to those established under section 721(a).

''(3) EMISSION ALLOWANCES.—The Administrator shall deposit emission allowances established under paragraph (2) in the strategic reserve, except that, with respect to any such emission allowances in excess of the amount necessary to fill the strategic reserve to its original size, the Administrator shall—

''(A) except as provided in subparagraph (B), assign a vintage year to the emission allowance, which shall be no earlier than the year in which the allowance is established under paragraph (2), and shall treat such allowances as ones that are not designated for distribution or auction for purposes of section 782(q) and (r); and

''(B) to the extent any such allowances cannot be assigned a vintage year because of the limitation in paragraph (4), retire the allowances.

''(4) LIMITATION.—In no case may the Administrator assign under paragraph (3)(A) more emission allowances to a vintage year than the number of emission allowances from that vintage year that were placed in the strategic reserve account under subsection (b)(1).

''(h) AVAILABILITY OF INTERNATIONAL OFFSET CREDITS FOR AUCTION.—

''(1) IN GENERAL.—The regulations promulgated under section 721(h) shall allow any entity holding international offset credits from reduced deforestation issued under section 743(e) to request that the Administrator include such offset credits in an upcoming strategic reserve auction. The regulations shall provide that—

''(A) such international offset credits will be used to fill bid orders only after the supply of strategic reserve allowances available for sale at that auction has been depleted;

''(B) international offset credits may be sold at a strategic reserve auction under this subsection only if the Administrator determines that it is highly likely that covered entities will, to cover emissions occurring in the year the auction is held, use offset credits to demonstrate compliance under section 722 for emissions equal to or greater than 80 percent of 2 billion tons of carbon dioxide equivalent;

''(C) upon sale of such international offset credits, the Administrator shall retire those international offset credits, and establish and provide to the purchasers a number of emission allowances equal to 80 percent of the number of international offset credits so retired, which allowances shall be in addition to those established under section 721(a); and

''(D) for international offset credits sold pursuant to this subsection, the proceeds for the entity that offered the international offset credits for sale shall be the lesser of—

''(i) the average daily closing price for international offset credits sold on registered exchanges (or if such price is unavailable, the average price as determined by the Administrator) during the six months prior to the strategic reserve auction at which they were auctioned, with the remaining funds collected upon the sale of the international offset credits deposited in the Treasury; and

''(ii) the amount received for the international offset credits at the auction.

''(2) PROCEEDS.—For international offset credits sold pursuant to this subsection, notwithstanding section 3302 of title 31, United States Code, or any other provision of law, within 90 days of receipt, the United States shall transfer the proceeds from the auction, as defined in paragraph (1)(D), to the entity that offered the international offset credits for sale. No funds transferred from a purchaser to a seller of international offset credits under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as public monies.

''(3) PRICING.—When the Administrator acts under this subsection as the agent of an entity in possession of international offset credits, the Administrator is not obligated to obtain the highest price possible for the international offset credits, and instead shall auction such international offset credits in the same manner and pursuant to the same rules (except as modified in paragraph (1)) as set forth for auctioning strategic reserve allowances. Entities requesting that such international offset credits be offered for sale at a strategic reserve auction may not set a minimum reserve price for their international offset credits that is different than the minimum strategic reserve auction price set pursuant to subsection (c).

''(i) INITIAL REGULATIONS.—Not later than 24 months after the date of enactment of this title, the Administrator shall promulgate regulations, in consultation with other appropriate agencies, governing the auction of allowances under this section. Such regulations shall include the following requirements:

''(1) FREQUENCY; FIRST AUCTION.—Auctions shall be held four times per year at regular intervals, with the first auction to be held no later than March 31, 2012.

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

''(3) PARTICIPATION; FINANCIAL ASSURANCE.—Auctions shall be open to any covered entity eligible to purchase emission allowances at the auction under subsection (a)(2), except that the Administrator may establish financial assurance requirements to ensure that auction participants can and will perform on their bids.

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

''(5) PURCHASE LIMITS.—No person may, directly or in concert with another participant, purchase more than 20 percent of the allowances offered for sale at any quarterly auction.

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

''(7) OTHER REQUIREMENTS.—The Administrator may include in the regulations such other requirements or provisions as the Administrator, in consultation with other

agencies as appropriate, considers appropriate to promote effective, efficient, transparent, and fair administration of auctions under this section.

''(j) REVISION OF REGULATIONS.—The Administrator may, at any time, in consultation with other agencies as appropriate, revise the initial regulations promulgated under subsection (i). Such revised regulations need not meet the requirements identified in subsection (i) by promulgating new regulations if the Administrator determines that an alternative auction design would be more effective, taking into account factors including costs of administration, transparency, fairness, and risks of collusion or manipulation. In determining whether and how to revise the initial regulations under this subsection, the Administrator shall not consider maximization of revenues to the Federal Government.

''SEC. 727. PERMITS.

''(a) PERMIT PROGRAM.—For stationary sources subject to title V of this Act that are covered entities, the provisions of this title shall be implemented by permits issued to such covered entities (and enforced) in accordance with the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State or Indian tribe with an approved permit program, shall require the owner or operator of a covered entity to hold allowances or offset credits at least equal to the total annual amount of carbon dioxide equivalents for its combined emissions and attributable greenhouse gas emissions to which section 722 applies. No such permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable. Nothing in this section regarding compliance plans or in title V shall be construed as affecting allowances or offset credits. Submission of a statement by the owner or operator, or the designated representative of the owners and operators, of a covered entity that the owners and operators will hold allowances or offset credits for the entity's combined emissions and attributable greenhouse gas emissions to which section 722 applies shall be deemed to meet the proposed and approved planning requirements of title V. Recordation by the Administrator of transfers of allowances and offset credits shall amend automatically all applicable proposed or approved permit applications, compliance plans, and permits.

''(b) MULTIPLE OWNERS.—No permit shall be issued under this section and no allowances or offset credits shall be disbursed under this title to a covered entity or any other person until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of emission allowances and the proceeds of transactions involving emission allowances. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, such a covered entity or other entity or where a utility or industrial customer purchases power under a long-term power purchase contract from an independent power production facility that is a covered entity, the certificate shall state—

''(1) that emission allowances and the proceeds of transactions involving emission allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement; or

''(2) if such multiple holders have expressly provided for a different distribution of emission allowances by contract, that emission allowances and the proceeds of transactions involving emission allowances will be deemed to be held or distributed in accordance with the contract.

A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the covered entity or other entity shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing emission allowances as provided in this subsection, during either the term of such leasehold or thereafter, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in a covered entity, or other entity, is held by a single person, the certificate shall state that all emission allowances received by the entity are deemed to be held for that person.

''(c) PROHIBITION.—It shall be unlawful for any person to operate any stationary source subject to the requirements of this section except in compliance with the terms and requirements of a permit issued by the Administrator or a State or Indian tribe with an approved permit program in accordance with this section. For purposes of this subsection, compliance, as provided in section 504(f), with a permit issued under title V which complies with this title for covered entities shall be deemed compliance with this subsection as well as section 502(a).

''(d) RELIABILITY.—Nothing in this section or title V shall be construed as requiring termination of operations of a stationary source that is a covered entity for failure to have an approved permit, or compliance plan, that is consistent with the requirements in the second and fifth sentences of subsection (a) concerning the holding of allowances or offset credits, except that any such covered entity may be subject to the applicable enforcement provision of section 113.

''(e) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations to implement this section. To provide for permits required under this section, each State in which one or more stationary sources that are covered entities are located shall submit, in accordance with this section and title V, revised permit programs for approval.

''SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.

''(a) QUALIFYING PROGRAMS.—The Administrator, in consultation with the Secretary of State, may by rule designate an international climate change program as a qualifying international program if—

''(1) the program is run by a national or supranational foreign government, and imposes a mandatory absolute tonnage limit on greenhouse gas emissions from 1 or more foreign countries, or from 1 or more economic sectors in such a country or countries; and

''(2) the program is at least as stringent as the program established by this title, including provisions to ensure at least comparable monitoring, compliance, enforcement, quality of offsets, and restrictions on the use of offsets.

''(b) DISQUALIFIED ALLOWANCES.—An international emission allowance may not be held under section 722(d)(2) if it is in the nature of an offset instrument or allowance awarded based on the achievement of greenhouse gas emission reductions or avoidance, or greenhouse gas sequestration, that are not subject to the mandatory absolute tonnage limits referred to in subsection (a)(1).

''(c) RETIREMENT.—

''(1) ENTITY CERTIFICATION.—The owner or operator of an entity that holds an international emission allowance under section 722(d)(2) shall certify to the Administrator that such international emission allowance has not previously been used to comply with any foreign, international, or domestic greenhouse gas regulatory program.

''(2) RETIREMENT.—

''(A) FOREIGN AND INTERNATIONAL REGULATORY ENTITIES.—The Administrator, in consultation with the Secretary of State, shall seek, by whatever means appropriate, including agreements and technical cooperation on allowance tracking, to ensure that any relevant foreign, international, and domestic regulatory entities—

''(i) are notified of the use, for purposes of compliance with this title, of any international emission allowance; and

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

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

''(d) USE LIMITATIONS.—The Administrator may, by rule, apply a limit to the percentage of the combined greenhouse gas emissions and attributable greenhouse gas emissions of a covered entity with respect to which compliance may be demonstrated by holding international emission allowances under section 722(d)(2), consistent with the purposes of the Safe Climate Act.

''PART D—OFFSETS

''SEC. 731. OFFSETS INTEGRITY ADVISORY BOARD.

''(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this title, the Administrator shall establish an independent Offsets Integrity Advisory Board. The Advisory Board shall make recommendations to the Administrator for use in promulgating and revising regulations under this part and part E, and for ensuring the overall environmental integrity of the programs established pursuant to those regulations.

''(b) MEMBERSHIP.—The Advisory Board shall be comprised of at least nine members. Each member shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall appoint Advisory Board members, including a chair and vice-chair of the Advisory Board. Terms shall be 3 years in length, except for initial terms, which may be up to 5 years in length to allow staggering. Members may be reappointed only once for an additional 3-year term, and such second term may follow directly after a first term.

''(c) ACTIVITIES.—The Advisory Board established pursuant to subsection (a) shall—

''(1) provide recommendations, not later than 90 days after the Advisory Board's establishment and periodically thereafter, to the Administrator regarding offset project types that should be considered for eligibility under section 733, taking into consideration relevant scientific and other issues, including—

''(A) the availability of a representative data set for use in developing the activity baseline;

''(B) the potential for accurate quantification of greenhouse gas reduction, avoidance, or sequestration for an offset project type;

''(C) the potential level of scientific and measurement uncertainty associated with an offset project type; and

''(D) any beneficial or adverse environmental, public health, welfare, social, economic, or energy effects associated with an offset project type;

''(2) make available to the Administrator its advice and comments on offset methodologies that should be considered under regulations promulgated with respect to section 734, including methodologies to address the issues of additionality, activity baselines, quantification methods, leakage, uncertainty, permanence, and environmental integrity;

''(3) make available to the Administrator, and other relevant Federal agencies, its advice and comments regarding scientific, technical, and methodological issues specific to the issuance of international offset credits under section 743;

''(4) make available to the Administrator, and other relevant Federal agencies, its advice and comments regarding scientific, technical, and methodological issues associated with the implementation of part E;

''(5) make available to the Administrator its advice and comments on areas in which further knowledge is required to appraise the adequacy of existing, revised, or proposed methodologies for use under this part and part E, and describe the research efforts necessary to provide the required information; and

''(6) make available to the Administrator its advice and comments on other ways to improve or safeguard the environmental integrity of programs established under this part and part E.

''(d) SCIENTIFIC REVIEW OF OFFSET AND DEFORESTATION REDUCTION PROGRAMS.—Not later than January 1, 2017, and at five-year intervals thereafter, the Advisory Board shall submit to the Administrator and make available to the public an analysis of relevant scientific and technical information related to this part and part E. The Advisory Board shall review approved and potential methodologies, scientific studies, offset project monitoring, offset project verification reports, and audits related to this part and part E, and evaluate the net emissions effects of implemented offset projects. The Advisory Board shall recommend changes to offset methodologies, protocols, or project types, or to the overall offset program under this part, to ensure that offset credits issued by the Administrator do not compromise the integrity of the annual emission reductions established under section 703, and to avoid or minimize adverse effects to human health or the environment.

''SEC. 732. ESTABLISHMENT OF OFFSETS PROGRAM.

''(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with appropriate Federal agencies and taking into consideration the recommendations of the Advisory Board, shall promulgate regulations establishing a program for the issuance of offset credits in accordance with the requirements of this part. The Administrator shall periodically revise these regulations as necessary to meet the requirements of this part.

''(b) REQUIREMENTS.—The regulations described in subsection (a) shall—

''(1) authorize the issuance of offset credits with respect to qualifying offset projects that result in reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases;

''(2) ensure that such offset credits represent verifiable and additional greenhouse gas emission reductions or avoidance, or increases in sequestration;

''(3) ensure that offset credits issued for sequestration offset projects are only issued for greenhouse gas reductions that are permanent;

''(4) provide for the implementation of the requirements of this part; and

''(5) include as reductions in greenhouse gases reductions achieved through the destruction of methane and its conversion to carbon dioxide, and reductions achieved through destruction of chlorofluorocarbons or other ozone depleting substances, if permitted by the Administrator under section 619(b)(9) and subject to the conditions specified in section 619(b)(9), based on the carbon dioxide equivalent value of the substance destroyed.

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

''(d) OFFSET REGISTRY.—The Administrator shall establish within the allowance tracking system established under section 724(d) an Offset Registry for qualifying offset projects and offset credits issued with respect thereto under this part.

''(e) LEGAL STATUS OF OFFSET CREDIT.—An offset credit does not constitute a property right.

''(f) FEES.—The Administrator shall assess fees payable by offset project developers in an amount necessary to cover the administrative costs to the Environmental Protection Agency of carrying out the activities under this part. Amounts collected for such fees shall be available to the Administrator for carrying out the activities under this part to the extent provided in advance in appropriations Acts.

''SEC. 733. ELIGIBLE PROJECT TYPES.

''(a) LIST OF ELIGIBLE PROJECT TYPES.—

''(1) IN GENERAL.—As part of the regulations promulgated under section 732(a), the Administrator shall establish, and may periodically revise, a list of types of projects eligible to generate offset credits, including international offset credits, under this part.

''(2) ADVISORY BOARD RECOMMENDATIONS.—In determining the eligibility of project types, the Administrator shall take into consideration the recommendations of the Advisory Board. If a list established under this section differs from the recommendations of the Advisory Board, the regulations promulgated under section 732(a) shall include a justification for the discrepancy.

''(3) INITIAL DETERMINATION.—The Administrator shall establish the initial eligibility list under paragraph (1) not later than one year after the date of enactment of this title. The Administrator shall add additional project types to the list not later than 2 years after the date of enactment of this title. In determining the initial list, the Administrator shall give priority to consideration of offset project types that are recommended by the Advisory Board and for which there are well developed methodologies that the Administrator determines would meet the criteria of section 734, with such modifications as the Administrator deems appropriate. In establishing methodologies pursuant to section 734, the Administrator shall give priority to methodologies for offset project types included on the initial eligibility list.

''(b) MODIFICATION OF LIST.—The Administrator—

''(1) may at any time, by rule, add a project type to the list established under subsection (a) if the Administrator, in consultation with appropriate Federal agencies and taking into consideration the recommendations of the Advisory Board, determines that the project type can generate additional reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, subject to the requirements of this part;

''(2) may at any time, by rule, determine that a project type on the list does not meet the requirements of this part, and remove the project type from the list established under subsection (a), in consultation with appropriate Federal agencies and taking into consideration any recommendations of the Advisory Board; and

''(3) shall consider adding to or removing from the list established under subsection (a), at a minimum, project types proposed to the Administrator—

''(A) by petition pursuant to subsection (c); or

''(B) by the Advisory Board.

''(c) PETITION PROCESS.—Any person may petition the Administrator to modify the list established under subsection (a) by adding or removing a project type pursuant to subsection (b). Any such petition shall include a showing by the petitioner that there is adequate data to establish that the project type does or does not meet the requirements of this part. Not later than 12 months after receipt of such a petition, the Administrator shall either grant or deny the petition and publish a written explanation of the reasons for the Administrator's decision. The Administrator may not deny a petition under this subsection on the basis of inadequate Environmental Protection Agency resources or time for review.

''SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS.

''(a) METHODOLOGIES.—As part of the regulations promulgated under section 732(a), the Administrator shall establish, for each type of offset project listed as eligible under section 733, the following:

''(1) ADDITIONALITY.—A standardized methodology for determining the additionality of greenhouse gas emission reductions or avoidance, or greenhouse gas sequestration, achieved by an offset project of that type. Such methodology shall ensure, at a minimum, that any greenhouse gas emission reduction or avoidance, or any greenhouse gas sequestration, is considered additional only to the extent that it results from activities that—

''(A) are not required by or undertaken to comply with any law, including any regulation or consent order;

''(B) were not commenced prior to January 1, 2009, except in the case of—

''(i) offset project activities that commenced after January 1, 2001, and were registered as of the date of enactment of this title under an offset program with respect to which the Administrator has made an affirmative determination under section 740(a)(2); or

''(ii) activities that are readily reversible, with respect to which the Administrator may set an alternative earlier date under this subparagraph that is not earlier than January 1, 2001, where the Administrator determines that setting such an alternative date may produce an environmental benefit by removing an incentive to cease and then reinitiate activities that began prior to January 1, 2009; and

''(C) exceed the activity baseline established under paragraph (2).

''(2) ACTIVITY BASELINES.—A standardized methodology for establishing activity baselines for offset projects of that type. The Administrator shall set activity baselines to reflect a conservative estimate of business-as-usual performance or practices for the relevant type of activity such that the baseline provides an adequate margin of safety to ensure the environmental integrity of offsets calculated in reference to such baseline.

''(3) QUANTIFICATION METHODS.—A standardized methodology for determining the extent to which greenhouse gas emission reductions or avoidance, or greenhouse gas sequestration, achieved by an offset project of that type exceed a relevant activity baseline, including protocols for monitoring and accounting for uncertainty.

''(4) LEAKAGE.—A standardized methodology for accounting for and mitigating potential leakage, if any, from an offset project of that type, taking uncertainty into account.

''(b) ACCOUNTING FOR REVERSALS.—

''(1) IN GENERAL.—For each type of sequestration project listed under section 733, the Administrator shall establish requirements to account for and address reversals, including—

''(A) a requirement to report any reversal with respect to an offset project for which offset credits have been issued under this part;

''(B) provisions to require emission allowances to be held in amounts to fully compensate for greenhouse gas emissions attributable to reversals, and to assign responsibility for holding such emission allowances; and

''(C) any other provisions the Administrator determines necessary to account for and address reversals.

''(2) MECHANISMS.—The Administrator shall prescribe mechanisms to ensure that any sequestration with respect to which an offset credit is issued under this part results in a permanent net increase in sequestration, and that full account is taken of any actual or potential reversal of such sequestration, with an adequate margin of safety. The Administrator shall prescribe at least one of the following mechanisms to meet the requirements of this paragraph:

''(A) An offsets reserve, pursuant to paragraph (3).

''(B) Insurance that provides for purchase and provision to the Administrator for retirement of an amount of offset credits or emission allowances equal in number to the tons of carbon dioxide equivalents of greenhouse gas emissions released due to reversal.

''(C) Another mechanism that the Administrator determines satisfies the requirements of this part.

''(3) OFFSETS RESERVE.—

''(A) IN GENERAL.—An offsets reserve referred to in paragraph (2)(A) is a program under which, before issuance of offset credits under this part, the Administrator shall subtract and reserve from the quantity to be issued a quantity of offset credits based on the risk of reversal. The Administrator shall—

''(i) hold these reserved offset credits in the offsets reserve; and

''(ii) register the holding of the reserved offset credits in the Offset Registry established under section 732(d).

''(B) PROJECT REVERSAL.—

''(i) IN GENERAL.—If a reversal has occurred with respect to an offset project for which offset credits are reserved under this paragraph, the Administrator shall retire offset credits or emission allowances from the offsets reserve to fully account for the tons of carbon dioxide equivalent that are no longer sequestered.

''(ii) INTENTIONAL REVERSALS.—If the Administrator determines that a reversal was intentional, the offset project developer for the relevant offset project shall place into the offsets reserve a quantity of offset credits, or combination of offset credits and emission allowances, equal in number to the number of reserve offset credits that were canceled due to the reversal pursuant to clause (i).

''(iii) UNINTENTIONAL REVERSALS.—If the Administrator determines that a reversal was unintentional, the offset project developer for the relevant offset project shall place into the offsets reserve a quantity of offset credits, or combination of offset credits and emission allowances, equal in number to half the number of offset credits that were reserved for that offset project, or half the number of reserve offset credits that were canceled due to the reversal pursuant to clause (i), whichever is less.

''(C) USE OF RESERVED OFFSET CREDITS.—Offset credits placed into the offsets reserve under this paragraph may not be used to comply with section 722.

''(c) CREDITING PERIODS.—

''(1) IN GENERAL.—For each offset project type, the Administrator shall specify a crediting period, and establish provisions for petitions for new crediting periods, in accordance with this subsection.

''(2) DURATION.—The crediting period shall be no less than 5 and no greater than 10 years for any project type other than those involving sequestration.

''(3) ELIGIBILITY.—An offset project shall be eligible to generate offset credits under this part only during the project's crediting period. During such crediting period, the project shall remain eligible to generate offset credits, subject to the methodologies and project type eligibility list that applied as of the date of project approval under section 735, except as provided in paragraph (4) of this subsection.

''(4) PETITION FOR NEW CREDITING PERIOD.—An offset project developer may petition for a new crediting period to commence after termination of a crediting period, subject to the methodologies and project type eligibility list in effect at the time when such petition is submitted. A petition may not be submitted under this paragraph more than 18 months before the end of the pending crediting period. The Administrator may limit the number of new crediting periods available for projects of particular project types.

''(d) ENVIRONMENTAL INTEGRITY.—In establishing the requirements under this section, the Administrator shall apply conservative assumptions or methods to maximize the certainty that the environmental integrity of the cap established under section 703 is not compromised.

''(e) PRE-EXISTING METHODOLOGIES.—In promulgating requirements under this section, the Administrator shall give due consideration to methodologies for offset projects existing as of the date of enactment of this title.

''(f) ADDED PROJECT TYPES.—The Administrator shall establish methodologies described in subsection (a), and, as applicable, requirements and mechanisms for reversals as described in subsection (b), for any project type that is added to the list pursuant to section 733.

''SEC. 735. APPROVAL OF OFFSET PROJECTS.

''(a) APPROVAL PETITION.—An offset project developer shall submit an offset project approval petition providing such information as the Administrator requires to determine whether the offset project is eligible for issuance of offset credits under rules promulgated pursuant to this part.

''(b) TIMING.—An approval petition shall be submitted to the Administrator under subsection (a) no later than the time at which an offset project's first verification report is submitted under section 736.

''(c) APPROVAL PETITION REQUIREMENTS.—As part of the regulations promulgated under section 732, the Administrator shall include provisions for, and shall specify, the required components of an offset project approval petition required under subsection (a), which shall include—

''(1) designation of an offset project developer; and

''(2) any other information that the Administrator considers to be necessary to achieve the purposes of this part.

''(d) APPROVAL AND NOTIFICATION.—Not later than 90 days after receiving a complete approval petition under subsection (a), the Administrator shall make the approval petition publicly available, approve or deny the petition in writing and if the petition is denied, provide the reasons for denial, and make the Administrator's written decision publicly available. After an offset project is approved, the offset project developer shall not be required to resubmit an approval petition during the offset project's crediting period, except as provided in section 734(c)(4).

''(e) APPEAL.—The Administrator shall establish procedures for appeal and review of determinations made under subsection (d).

''(f) VOLUNTARY PREAPPROVAL REVIEW.—The Administrator may establish a voluntary preapproval review procedure, to allow an offset project developer to request the Administrator to conduct a preliminary eligibility review for an offset project. Findings of such reviews shall not be binding upon the Administrator. The voluntary preapproval review procedure—

''(1) shall require the offset project developer to submit such basic project information as the Administrator requires to provide a meaningful review; and

''(2) shall require a response from the Administrator not later than 6 weeks after receiving a request for review under this subsection.

''SEC. 736. VERIFICATION OF OFFSET PROJECTS.

''(a) IN GENERAL.—As part of the regulations promulgated under section 732(a), the Administrator shall establish requirements, including protocols, for verification of the quantity of greenhouse gas emission reductions or avoidance, or sequestration of greenhouse gases, resulting from an offset project. The regulations shall require that an offset project developer shall submit a report, prepared by a third-party verifier accredited under subsection (d), providing such information as the Administrator requires to determine the quantity of greenhouse gas emission reductions or avoidance, or sequestration of greenhouse gases, resulting from the offset project.

''(b) SCHEDULE.—The Administrator shall prescribe a schedule for the submission of verification reports under subsection (a).

''(c) VERIFICATION REPORT REQUIREMENTS.—The Administrator shall specify the required components of a verification report required under subsection (a), which shall include—

''(1) the name and contact information for a designated representative for the offset project developer;

''(2) the quantity of greenhouse gases reduced, avoided, or sequestered;

''(3) the methodologies applicable to the project pursuant to section 734;

''(4) a certification that the project meets the applicable requirements;

''(5) a certification establishing that the conflict of interest requirements in the regulations promulgated under subsection (d)(1) have been complied with; and

''(6) any other information that the Administrator considers to be necessary to achieve the purposes of this part.

''(d) VERIFIER ACCREDITATION.—

''(1) IN GENERAL.—As part of the regulations promulgated under section 732(a), the Administrator shall establish a process and requirements for periodic accreditation of third-party verifiers to ensure that such verifiers are professionally qualified and have no conflicts of interest.

''(2) STANDARDS.—

''(A) AMERICAN NATIONAL STANDARDS INSTITUTE ACCREDITATION.—The Administrator may accredit, or accept for purposes of accreditation under this subsection, verifiers accredited under the American National Standards Institute (ANSI) accreditation program in accordance with ISO 14065. The Administrator shall accredit, or accept for accreditation, verifiers under this subparagraph only if the Administrator finds that the American National Standards Institute accreditation program provides sufficient assurance that the requirements of this part will be met.

''(B) EPA ACCREDITATION.—As part of the regulations promulgated under section 732(a), the Administrator may establish accreditation standards for verifiers under this subsection, and may establish related training and testing programs and requirements.

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

''SEC. 737. ISSUANCE OF OFFSET CREDITS.

''(a) DETERMINATION AND NOTIFICATION.—Not later than 90 days after receiving a complete verification report under section 736, the Administrator shall—

''(1) make the report publicly available;

''(2) make a determination of the quantity of greenhouse gas emissions that have been reduced or avoided, or greenhouse gases that have been sequestered, by the offset project; and

''(3) notify the offset project developer in writing of such determination and make such determination publicly available.

''(b) ISSUANCE OF OFFSET CREDITS.—The Administrator shall issue one offset credit to an offset project developer for each ton of carbon dioxide equivalent that the Administrator has determined has been reduced, avoided, or sequestered during the period covered by a verification report submitted in accordance with section 736, only if—

''(1) the Administrator has approved the offset project pursuant to section 735; and

''(2) the relevant emissions reduction, avoidance, or sequestration has—

''(A) already occurred, during the offset project's crediting period; and

''(B) occurred after January 1, 2009.

''(c) APPEAL.—The Administrator shall establish procedures for appeal and review of determinations made under subsection (a).

''(d) TIMING.—Offset credits meeting the criteria established in subsection (b) shall be issued not later than 2 weeks following the verification determination made by the Administrator under subsection (a).

''(e) REGISTRATION.—The Administrator shall assign a unique serial number to and register each offset credit to be issued in the Offset Registry established under section 732(d).

''SEC. 738. AUDITS.

''(a) IN GENERAL.—The Administrator shall, on an ongoing basis, conduct random audits of offset projects, offset credits, and practices of third-party verifiers. In each year, the Administrator shall conduct audits, at minimum, for a representative sample of project types and geographic areas.

''(b) DELEGATION.—The Administrator may delegate to a State or tribal government the responsibility for conducting audits under this section if the Administrator finds that the program proposed by the State or tribal government provides assurances equivalent to those provided by the auditing program of the Administrator, and that the integrity of the offset program under this part will be maintained. Nothing in this subsection shall prevent the Administrator from conducting any audit the Administrator considers necessary and appropriate.

''SEC. 739. PROGRAM REVIEW AND REVISION.

''At least once every 5 years, the Administrator shall review and, based on new or updated information and taking into consideration the recommendations of the Advisory Board, update and revise—

''(1) the list of eligible project types established under section 733;

''(2) the methodologies established, including specific activity baselines, under section 734(a);

''(3) the reversal requirements and mechanisms established or prescribed under section 734(b);

''(4) measures to improve the accountability of the offsets program; and

''(5) any other requirements established under this part to ensure the environmental integrity and effective operation of this part.

''SEC. 740. EARLY OFFSET SUPPLY.

''(a) PROJECTS REGISTERED UNDER OTHER GOVERNMENT-RECOGNIZED PROGRAMS.—Except as provided in subsection (b) or (c), the Administrator shall issue one offset credit for each ton of carbon dioxide equivalent emissions reduced, avoided, or sequestered—

''(1) under an offset project that was started after January 1, 2001;

''(2) for which a credit was issued under any regulatory or voluntary greenhouse gas emission offset program that the Administrator determines—

''(A) was established under State or tribal law or regulation prior to January 1, 2009, or has been approved by the Administrator pursuant to subsection (e);

''(B) has developed offset project type standards, methodologies, and protocols through a public consultation process or a peer review process;

''(C) has made available to the public standards, methodologies, and protocols that require that credited emission reductions, avoidance, or sequestration are permanent, additional, verifiable, and enforceable;

''(D) requires that all emission reductions, avoidance, or sequestration be verified by a State or tribal regulatory agency or an accredited third-party independent verification body;

''(E) requires that all credits issued are registered in a publicly accessible registry, with individual serial numbers assigned for each ton of carbon dioxide equivalent emission reductions, avoidance, or sequestration; and

''(F) ensures that no credits are issued for an activity if the entity administering the program, or a program administrator or representative, has funded, solicited, or served as a fund administrator for the development of the activity; and

''(3) for which the credit described in paragraph (2) is transferred to the Administrator.

''(b) INELIGIBLE CREDITS.—Subsection (a) shall not apply to offset credits that have expired or have been retired, canceled, or used for compliance under a program established under State or tribal law or regulation.

''(c) LIMITATION.—Notwithstanding subsection (a)(1), offset credits shall be issued under this section—

''(1) only for reductions or avoidance of greenhouse gas emissions, sequestration of greenhouse gases, or destruction of chlorofluorocarbons (subject to the conditions specified in section 619(b)(9) and based on the carbon dioxide equivalent value of the substance destroyed), that occur after January 1, 2009; and

''(2) only until the date that is 3 years after the date of enactment of this title, or the date that regulations promulgated under section 732(a) take effect, whichever occurs sooner.

''(d) RETIREMENT OF CREDITS.—The Administrator shall seek to ensure that offset credits described in subsection (a)(2) are retired for purposes of use under a program described in subsection (b).

''(e) OTHER PROGRAMS.—(1) Offset programs that either—

''(A) were not established under State or tribal law or regulation; or

''(B) were not established prior to January 1, 2009,

but that otherwise meet all of the criteria of subsection (a)(2) may apply to the Administrator to be approved under this subsection as an eligible program for early offset credits under this section.

''(2) The Administrator shall approve any such program that the Administrator determines has criteria and methodologies of at least equal stringency to the criteria and methodologies of the programs established under State or tribal law or regulation that the Administrator determines meet the criteria of subsection (a)(2). The Administrator may approve types of offsets under any such program that are subject to criteria and methodologies of at least equal stringency to the criteria and methodologies for such types of offsets applied under the programs established under State or tribal law or regulation that the Administrator determines meet the criteria of subsection (a)(2). The Administrator shall make a determination on any application received under this section by no later than 180 days from the date of receipt of the application.

''SEC. 741. ENVIRONMENTAL CONSIDERATIONS.

''If the Administrator lists forestry or other relevant land management-related offset projects as eligible offset project types under section 733, the Administrator, in consultation with appropriate Federal agencies, shall promulgate regulations for the selection and use of species in such offset projects—

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

''(2) to enhance biological diversity in such projects;

''(3) to prohibit the use of federally designated or State-designated noxious weeds;

''(4) to prohibit the use of a species listed by a regional or State invasive plant authority within the applicable region or State; and

''(5) in the case of forestry offset projects, in accordance with widely accepted, environmentally sustainable forestry practices.

''SEC. 742. TRADING.

''Section 724 shall apply to the trading of offset credits.

''SEC. 743. INTERNATIONAL OFFSET CREDITS.

''(a) IN GENERAL.—The Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, may issue, in accordance with this section, international offset credits based on activities that reduce or avoid greenhouse gas emissions, or increase sequestration of greenhouse gases, in a developing country. Such credits may be issued for projects eligible under section 733 or as provided in subsection (c), (d), or (e) of this section.

''(b) ISSUANCE.—

''(1) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of State, the Administrator of the United States Agency for International Development, and any other appropriate Federal agency, and taking into consideration the recommendations of the Advisory Board, shall promulgate regulations for implementing this section. Except as otherwise provided in this section, the issuance of

international offset credits under this section shall be subject to the requirements of this part.

''(2) REQUIREMENTS FOR INTERNATIONAL OFFSET CREDITS.—The Administrator may issue international offset credits only if—

''(A) the United States is a party to a bilateral or multilateral agreement or arrangement that includes the country in which the project or measure achieving the relevant greenhouse gas emission reduction or avoidance, or greenhouse gas sequestration, has occurred;

''(B) such country is a developing country; and

''(C) such agreement or arrangement—

''(i) ensures that the requirements of this part apply to the issuance of international offset credits under this section; and

''(ii) provides for the appropriate distribution of international offset credits issued.

''(c) SECTOR-BASED CREDITS.—

''(1) IN GENERAL.—In order to minimize the potential for leakage and to encourage countries to take nationally appropriate mitigation actions to reduce or avoid greenhouse gas emissions, or sequester greenhouse gases, the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall—

''(A) identify sectors of specific countries with respect to which the issuance of international offset credits on a sectoral basis is appropriate; and

''(B) issue international offset credits for such sectors only on a sectoral basis.

''(2) IDENTIFICATION OF SECTORS.—

''(A) GENERAL RULE.—For purposes of paragraph (1)(A), a sectoral basis shall be appropriate for activities—

''(i) in countries that have comparatively high greenhouse gas emissions, or comparatively greater levels of economic development; and

''(ii) that, if located in the United States, would be within a sector subject to the compliance obligation under section 722.

''(B) FACTORS.—In determining the sectors and countries for which international offset credits should be awarded only on a sectoral basis, the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall consider the following factors:

''(i) The country's gross domestic product.

''(ii) The country's total greenhouse gas emissions.

''(iii) Whether the comparable sector of the United States economy is covered by the compliance obligation under section 722.

''(iv) The heterogeneity or homogeneity of sources within the relevant sector.

''(v) Whether the relevant sector provides products or services that are sold in internationally competitive markets.

''(vi) The risk of leakage if international offset credits were issued on a project-level basis, instead of on a sectoral basis, for activities within the relevant sector.

''(vii) The capability of accurately measuring, monitoring, reporting, and verifying the performance of sources across the relevant sector.

''(viii) Such other factors as the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, determines are appropriate to—

''(I) ensure the integrity of the United States greenhouse gas emissions cap established under section 703; and

''(II) encourage countries to take nationally appropriate mitigation actions to reduce or avoid greenhouse gas emissions, or sequester greenhouse gases.

''(3) SECTORAL BASIS.—

''(A) DEFINITION.—In this subsection, the term 'sectoral basis' means the issuance of international offset credits only for the quantity of sector-wide reductions or avoidance of greenhouse gas emissions, or sector-wide increases in sequestration of greenhouse gases, achieved across the relevant sector of the economy relative to a domestically enforceable baseline level of absolute emissions established in an agreement or arrangement described in subsection (b)(2)(A) for the sector.

''(B) BASELINE.—The baseline for a sector shall be established on an absolute basis and at levels of greenhouse gas emissions consistent with the thresholds identified in section 705(e)(2) and lower than would occur under a business-as-usual scenario taking into account relevant domestic or international policies or incentives to reduce greenhouse gas emissions, among other factors, and additionality and performance shall be determined on the basis of such baseline.

''(d) CREDITS ISSUED BY AN INTERNATIONAL BODY.—

''(1) IN GENERAL.—The Administrator, in consultation with the Secretary of State, may issue international offset credits in exchange for instruments in the nature of offset credits that are issued by an international body established pursuant to the United Nations Framework Convention on Climate Change, to a protocol to such Convention, or to a treaty that succeeds such Convention. The Administrator may issue international offset credits under this subsection only if, in addition to the requirements of subsection (b), the Administrator has determined that the international body that issued the instruments has implemented substantive and procedural requirements for the relevant project type that provide equal or greater assurance of the integrity of such instruments as is provided by the requirements of this part. Starting January 1, 2016, the Administrator shall issue no offset credit pursuant to this subsection if the activity generating the greenhouse gas emissions reductions or avoidance, or greenhouse gas sequestration, occurs in a country and sector identified by the Administrator under subsection (c).

''(2) RETIREMENT.—The Administrator, in consultation with the Secretary of State, shall seek, by whatever means appropriate, including agreements, arrangements, or technical cooperation with the international issuing body described in paragraph (1), to ensure that such body—

''(A) is notified of the Administrator's issuance, under this subsection, of an international offset credit in exchange for an instrument issued by such international body; and

''(B) provides, to the extent feasible, for the disqualification of the instrument issued by such international body for subsequent use under any relevant foreign or international greenhouse gas regulatory program, regardless of whether such use is a sale, exchange, or submission to satisfy a compliance obligation.

''(e) OFFSETS FROM REDUCED DEFORESTATION.—

''(1) REQUIREMENTS.—The Administrator, in accordance with the regulations promulgated under subsection (b)(1) and an agreement or arrangement described in subsection (b)(2)(A), shall issue international offset credits for greenhouse gas emission reductions achieved through activities to reduce deforestation only if, in addition to the requirements of subsection (b)—

''(A) the activity occurs in—

''(i) a country listed by the Administrator pursuant to paragraph (2);

''(ii) a state or province listed by the Administrator pursuant to paragraph (5); or

''(iii) a country listed by the Administrator pursuant to paragraph (6);

''(B) except as provided in paragraph (5) or (6), the quantity of the international offset credits is determined by comparing the national emissions from deforestation relative to a national deforestation baseline for that country established, in accordance with an agreement or arrangement described in subsection (b)(2)(A), pursuant to paragraph (4);

''(C) the reduction in emissions from deforestation has occurred before the issuance of the international offset credit and, taking into consideration relevant international standards, has been demonstrated using ground-based inventories, remote sensing technology, and other methodologies to ensure that all relevant carbon stocks are accounted;

''(D) the Administrator has made appropriate adjustments, such as discounting for any additional uncertainty, to account for circumstances specific to the country, including its technical capacity described in paragraph (2)(A);

''(E) the activity is designed, carried out, and managed—

''(i) in accordance with widely accepted, environmentally sustainable forest management practices;

''(ii) to promote or restore native forest species and ecosystems where practicable, and to avoid the introduction of invasive nonnative species;

''(iii) in a manner that gives due regard to the rights and interests of local communities, indigenous peoples, forest-dependent communities, and vulnerable social groups;

''(iv) with consultations with, and full participation of, local communities, indigenous peoples, and forest-dependent communities, in affected areas, as partners and primary stakeholders, prior to and during the design, planning, implementation, and monitoring and evaluation of activities; and

''(v) with equitable sharing of profits and benefits derived from offset credits with local communities, indigenous peoples, and forest-dependent communities; and

''(F) the reduction otherwise satisfies and is consistent with any relevant requirements established by an agreement reached under the auspices of the United Nations Framework Convention on Climate Change.

''(2) ELIGIBLE COUNTRIES.—The Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, and in accordance with an agreement or arrangement described in subsection (b)(2)(A), shall establish, and periodically review and update, a list of the developing countries that have the capacity to participate in deforestation reduction activities at a national level, including—

''(A) the technical capacity to monitor, measure, report, and verify forest carbon fluxes for all significant sources of greenhouse gas emissions from deforestation with an acceptable level of uncertainty, as determined taking into account relevant internationally accepted methodologies, such as those established by the Intergovernmental Panel on Climate Change;

''(B) the institutional capacity to reduce emissions from deforestation, including strong forest governance and mechanisms to equitably distribute deforestation resources for local actions; and

''(C) a land use or forest sector strategic plan that—

''(i) assesses national and local drivers of deforestation and forest degradation and identifies reforms to national policies needed to address them;

''(ii) estimates the country's emissions from deforestation and forest degradation;

''(iii) identifies improvements in data collection, monitoring, and institutional capacity necessary to implement a national deforestation reduction program; and

''(iv) establishes a timeline for implementing the program and transitioning to low-emissions development with respect to emissions from forest and land use activities.

''(3) PROTECTION OF INTERESTS.—With respect to an agreement or arrangement described in subsection (b)(2)(A) that addresses international offset credits under this subsection, the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall seek to ensure the establishment and enforcement by such country of legal regimes, processes, standards, and safeguards that—

''(A) give due regard to the rights and interests of local communities, indigenous peoples, forest-dependent communities, and vulnerable social groups;

''(B) promote consultations with, and full participation of, forest-dependent communities and indigenous peoples in affected areas, as partners and primary stakeholders, prior to and during the design, planning, implementation, and monitoring and evaluation of activities; and

''(C) encourage equitable sharing of profits and benefits derived from international offset credits with local communities, indigenous peoples, and forest-dependent communities.

''(4) NATIONAL DEFORESTATION BASELINE.—A national deforestation baseline established under this subsection shall—

''(A) be national in scope;

''(B) be consistent with nationally appropriate mitigation commitments or actions with respect to deforestation, taking into consideration the average annual historical deforestation rates of the country during a period of at least 5 years, the applicable drivers of deforestation, and other factors to ensure additionality;

''(C) establish a trajectory that would result in zero net deforestation by not later than 20 years after the national deforestation baseline has been established;

''(D) be adjusted over time to take account of changing national circumstances;

''(E) be designed to account for all significant sources of greenhouse gas emissions from deforestation in the country; and

''(F) be consistent with the national deforestation baseline, if any, established for such country under section 754(d)(1) and (2).

''(5) STATE-LEVEL OR PROVINCE-LEVEL ACTIVITIES.—

''(A) ELIGIBLE STATES OR PROVINCES.—The Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall establish within 2 years after the date of enactment of this title, and periodically review and update, a list of states or provinces in developing countries where—

''(i) the developing country is not included on the list of countries established pursuant to paragraph (6)(A);

''(ii) the state or province by itself is a major emitter of greenhouse gases from tropical deforestation on a scale commensurate to the emissions of other countries; and

''(iii) the state or province meets the eligibility criteria in paragraphs (2) and (3) for the geographic area under its jurisdiction.

''(B) ACTIVITIES.—The Administrator may issue international offset credits for greenhouse gas emission reductions achieved through activities to reduce deforestation at a state or provincial level that meet the requirements of this section. Such credits shall be determined by comparing the emissions from deforestation within that state or province relative to the state or province deforestation baseline for that state or province established, in accordance with an agreement or arrangement described in subsection (b)(2)(A), pursuant to subparagraph (C) of this paragraph.

''(C) STATE OR PROVINCE DEFORESTATION BASELINE.—A state or province deforestation baseline shall—

''(i) be consistent with any existing nationally appropriate mitigation commitments or actions for the country in which the activity is occurring, taking into consideration the average annual historical deforestation rates of the state or province during a period of at least 5 years, relevant drivers of deforestation, and other factors to ensure additionality;

''(ii) establish a trajectory that would result in zero net deforestation by not later than 20 years after the state or province deforestation baseline has been established; and

''(iii) be designed to account for all significant sources of greenhouse gas emissions from deforestation in the state or province and adjusted to fully account for emissions leakage outside the state or province.

''(D) PHASE OUT.—Beginning 5 years after the first calendar year for which a covered entity must demonstrate compliance with section 722(a), the Administrator shall issue no further international offset credits for eligible state-level or province-level activities to reduce deforestation pursuant to this paragraph.

''(6) PROJECTS AND PROGRAMS TO REDUCE DEFORESTATION.—

''(A) ELIGIBLE COUNTRIES.—The Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall establish within 2 years after the date of enactment of this title, and periodically review and update, a list of developing countries each of which—

''(i) the Administrator determines, based on recent, credible, and reliable emissions data, accounts for less than 1 percent of global greenhouse gas emissions and less than 3 percent of global forest-sector and land use change greenhouse gas emissions; and

''(ii) has, or in the determination of the Administrator is making a good faith effort to develop, a land use or forest sector strategic plan that meets the criteria described in paragraph (2)(C).

''(B) ACTIVITIES.—The Administrator may issue international offset credits for greenhouse gas emission reductions achieved through project or program level activities to reduce deforestation in countries listed under subparagraph (A) that meet the requirements of this section. The quantity of international offset credits shall be determined by comparing the project-level or program-level emissions from deforestation to a deforestation baseline for such project or program established pursuant to subparagraph (C).

''(C) PROJECT-LEVEL OR PROGRAM-LEVEL BASELINE.—A project-level or program-level deforestation baseline shall—

''(i) be consistent with any existing nationally appropriate mitigation commitments or actions for the country in which the project or program is occurring, taking into consideration the average annual historical deforestation rates relevant to the specific project or program during a period of at least 5 years, applicable drivers of deforestation, and other factors to ensure additionality;

''(ii) be designed to account for all significant sources of greenhouse gas emissions from deforestation in the project or program boundary; and

''(iii) be adjusted to fully account for emissions leakage outside the project or program boundary.

''(D) PHASE OUT.—(i) Beginning 5 years after the first calendar year for which a covered entity must demonstrate compliance with section 722(a), the Administrator shall issue no further international offset credits for project-level or program-level activities pursuant to this paragraph, except as provided in clause (ii).

''(ii) The Administrator may extend the phase out deadline for the issuance of international offset credits under this paragraph by up to 8 years with respect to eligible activities taking place in a least developed country, which for purposes of this paragraph is defined as a foreign country that the United Nations has identified as among the least developed of developing countries at the time that the Administrator determines to provide an extension, if the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, determines the country—

''(I) lacks sufficient capacity to adopt and implement effective programs to achieve reductions in deforestation measured against national baselines;

''(II) is receiving support under part E to develop such capacity; and

''(III) has developed and is working to implement a credible national strategy or plan to reduce deforestation.

''(7) DEFORESTATION.—In implementing this subsection, the Administrator, taking into consideration the recommendations of the Advisory Board, may include forest degradation, or soil carbon losses associated with forested wetlands or peatlands, within the meaning of deforestation.

''(8) CONSULTATION.—In implementing this subsection, the Administrator shall consult with the Secretary of Agriculture on relevant matters within such Secretary's area of expertise.

''(f) MODIFICATION OF REQUIREMENTS.—In promulgating regulations under subsection (b)(1) with respect to the issuance of international offset credits under subsection (c), (d), or (e), the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, may modify or omit a requirement of this part (excluding the requirements of this section) if the Administrator determines that the application of that requirement to such subsection is not feasible. In modifying or omitting such a requirement on the basis of infeasibility, the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall ensure, with an adequate margin of safety, the integrity of international offset credits issued under this section and of the greenhouse gas emissions cap established pursuant to section 703.

''(g) AVOIDING DOUBLE COUNTING.—The Administrator, in consultation with the Secretary of State, shall seek, by whatever means appropriate, including agreements, arrangements, or technical cooperation, to ensure that activities on the basis of which international offset credits are issued under this section are not used for compliance with an obligation to reduce or avoid greenhouse gas emissions, or increase greenhouse gas sequestration, under a foreign or international regulatory system. In addition, no international offset credits shall be issued for emission reductions from activities with respect to which emission allowances were allocated under section 781 for distribution under part E.

''(h) LIMITATION.—The Administrator shall not issue international offset credits generated by projects based on the destruction of hydrofluorocarbons.

"PART E—SUPPLEMENTAL EMISSIONS REDUCTIONS FROM REDUCED DEFORESTATION

"SEC. 751. DEFINITIONS.

''In this part:

''(1) LEAKAGE PREVENTION ACTIVITIES.—The term 'leakage prevention activities' means activities in developing countries that are directed at preserving existing forest carbon stocks, including forested wetlands and peatlands, that might, absent such activities, be lost through leakage.

''(2) NATIONAL DEFORESTATION REDUCTION ACTIVITIES.—The term 'national deforestation reduction activities' means activities in developing countries that reduce a quantity of greenhouse gas emissions from deforestation that is calculated by measuring actual emissions against a national deforestation baseline established pursuant to section 754(d)(1) and (2).

''(3) SUBNATIONAL DEFORESTATION REDUCTION ACTIVITIES.—The term 'subnational deforestation reduction activities' means activities in developing countries that reduce a quantity of greenhouse gas emissions from deforestation that are calculated by measuring actual emissions using an appropriate baseline established by the Administrator that is less than national in scope.

''(4) SUPPLEMENTAL EMISSIONS REDUCTIONS.—The term 'supplemental emissions reductions' means greenhouse gas emissions reductions achieved from reduced or avoided deforestation under this part.

''(5) USAID.—The term 'USAID' means the United States Agency for International Development.

"SEC. 752. FINDINGS.

''Congress finds that—

''(1) as part of a global effort to mitigate climate change, it is in the national interest of the United States to assist developing countries to reduce and ultimately halt emissions from deforestation;

''(2) deforestation is one of the largest sources of greenhouse gas emissions in developing countries, amounting to roughly 20 percent of overall emissions globally;

''(3) recent scientific analysis shows that it will be substantially more difficult to limit the increase in global temperatures to less than 2 degrees centigrade above preindustrial levels without reducing and ultimately halting net emissions from deforestation;

''(4) reducing emissions from deforestation is highly cost-effective, compared to many other sources of emissions reductions;

''(5) in addition to contributing significantly to worldwide efforts to address global warming, assistance under this part will generate significant environmental and social cobenefits, including protection of biodiversity, ecosystem services, and forest-related livelihoods; and

''(6) under the Bali Action Plan, developed country parties to the United Nations Framework Convention on Climate Change, including the United States, committed to 'enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology cooperation,' including, inter alia, consideration of 'improved access to adequate, predictable, and sustainable financial resources and financial and technical support, and the provision of new and additional resources, including official and concessional funding for developing country parties' .

"SEC. 753. SUPPLEMENTAL EMISSIONS REDUCTIONS THROUGH REDUCED DEFORESTATION.

''(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with the Administrator of USAID and any other appropriate agencies, shall promulgate regulations establishing a program to use emission allowances set aside for this purpose under section 781 to reduce greenhouse gas emissions from deforestation in developing countries in accordance with the requirements of this part.

''(b) OBJECTIVES.—The objectives of the program established under this section shall be to—

''(1) achieve supplemental emissions reductions of at least 720,000,000 tons of carbon dioxide equivalent in 2020, a cumulative amount of at least 6,000,000,000 tons of carbon dioxide equivalent by December 31, 2025, and additional supplemental emissions reductions in subsequent years;

''(2) build capacity to reduce deforestation in developing countries experiencing deforestation, including preparing developing countries to participate in international markets for international offset credits for reduced emissions from deforestation; and

''(3) preserve existing forest carbon stocks in countries where such forest carbon may be vulnerable to international leakage, particularly in developing countries with largely intact native forests.

"SEC. 754. REQUIREMENTS FOR INTERNATIONAL DEFORESTATION REDUCTION PROGRAM.

''(a) ELIGIBLE COUNTRIES.—The Administrator may support activities under this part only with respect to a developing country that—

''(1) the Administrator, in consultation with the Administrator of USAID, determines is experiencing deforestation or forest degradation or has standing forest carbon stocks that may be at risk of deforestation or degradation; and

''(2) has entered into a bilateral or multilateral agreement or arrangement with the United States establishing the conditions of its participation in the program established under this part, which shall include an agreement to meet the standards established under subsection (d) for the activities to which those standards apply.

''(b) ACTIVITIES.—

''(1) AUTHORIZED ACTIVITIES.—Subject to the requirements of this part, the Administrator, in consultation with the Administrator of USAID, may support activities to achieve the objectives identified in section 753(b), including—

''(A) national deforestation reduction activities;

''(B) subnational deforestation reduction activities, including pilot activities that reduce greenhouse gas emissions but are subject to significant uncertainty;

''(C) activities to measure, monitor, and verify deforestation, avoided deforestation, and deforestation rates;

''(D) leakage prevention activities;

''(E) development of measurement, monitoring, and verification capacities to enable a country to quantify supplemental emissions reductions and to generate for sale offset credits from reduced or avoided deforestation;

''(F) development of governance structures to reduce deforestation and illegal logging;

''(G) enforcement of requirements for reduced deforestation or forest conservation;

''(H) efforts to combat illegal logging and increase enforcement cooperation;

''(I) providing incentives for policy reforms to achieve the objectives identified in section 753(b); and

''(J) monitoring and evaluation of the results of the activities conducted under this section.

''(2) ACTIVITIES SELECTED BY USAID.—

''(A) The Administrator of USAID, in consultation with the Administrator, may select for support and implementation pursuant to subsection (c) any of the activities described in paragraph (1), consistent with this part and the regulations promulgated under subsection (d), and subject to the requirement to achieve the objectives listed in section 753(b)(1).

''(B) With respect to the activities listed in subparagraphs (D) through (J) of paragraph (1), the Administrator of USAID, in consultation with the Administrator, shall have primary but not exclusive responsibility for selecting the activities to be supported and implemented.

''(3) INTERAGENCY COORDINATION.—The Administrator and the Administrator of USAID shall jointly develop and biennially update a strategic plan for meeting the objectives listed in section 753(b) and shall execute a memorandum of understanding delineating the agencies' respective roles in implementing this part.

''(c) MECHANISMS.—

''(1) IN GENERAL.—The Administrator may support activities to achieve the objectives identified in section 753(b) by—

''(A) developing and implementing programs and projects that achieve such objectives; and

''(B) distributing emission allowances to a country that is eligible under subsection (a), to a private or public group (including international organizations), or to an international fund established by an international agreement to which the United States is a party, to carry out activities to achieve such objectives.

''(2) USAID ACTIVITIES.—With respect to activities selected and implemented by the Administrator of USAID pursuant to subsection (b)(2), the Administrator shall distribute emission allowances as provided in paragraph (1) of this subsection based upon the direction of the Administrator of USAID, subject to the availability of allowances for such activities.

''(3) IMPLEMENTATION THROUGH INTERNATIONAL ORGANIZATIONS.—If support is distributed through an international organization, the agency responsible for selecting activities in accordance with subsection (b)(1) or (2), in consultation with the Secretary of State, shall ensure the establishment and implementation of adequate mechanisms to apply and enforce the eligibility requirements and other requirements of this section.

''(4) ROLE OF THE SECRETARY OF STATE.—The Administrator may not distribute emission allowances under this part to the government of another country or to an international organization or international fund unless the Secretary of State has concurred with such distribution.

''(d) STANDARDS.—The Administrator, in consultation with the Administrator of USAID, shall promulgate regulations establishing standards to ensure that supplemental emissions reductions achieved through supported activities are additional, measurable, verifiable, permanent, and monitored, and account for leakage and uncertainty. In addition, such standards shall—

''(1) require the establishment of a national deforestation baseline for each country with national deforestation reduction activities that is used to account for reductions achieved from such activities;

''(2) provide that a national deforestation baseline established under paragraph (1) shall—

''(A) be national in scope;

''(B) be consistent with nationally appropriate mitigation commitments or actions with respect to deforestation, taking into consideration the average annual historical deforestation rates of the country during a period of at least 5 years, the applicable drivers of deforestation, and other factors to ensure additionality;

''(C) establish a trajectory that would result in zero net deforestation by not later than 20 years from the date the baseline is established;

''(D) be adjusted over time to take account of changing national circumstances;

''(E) be designed to account for all significant sources of greenhouse gas emissions from deforestation in the country; and

''(F) be consistent with the national deforestation baseline, if any, established for such country under section 743(e)(4);

''(3) with respect to support provided pursuant to subsection (b)(1)(A) or (B), require supplemental emissions reductions to be achieved and verified prior to compensation through the distribution of emission allowances under this part;

''(4) with respect to accounting for subnational deforestation reduction activities that lack the standardized or precise measurement and monitoring techniques needed for a full accounting of changes in emissions or baselines, or are subject to other sources of uncertainty, apply a conservative discount factor to reflect the uncertainty regarding the levels of reductions achieved;

''(5) ensure that activities under this part shall be designed, carried out, and managed—

''(A) in accordance with widely accepted, environmentally sustainable forest management practices;

''(B) to promote or restore native forest species and ecosystems where practicable, and to avoid the introduction of invasive nonnative species;

''(C) in a manner that gives due regard to the rights and interests of local communities, indigenous peoples, forest-dependent communities, and vulnerable social groups;

''(D) with consultations with, and full participation of, local communities, indigenous peoples, and forest-dependent communities in affected areas, as partners and primary stakeholders, prior to and during the design, planning, implementation, and monitoring and evaluation of activities; and

''(E) with equitable sharing of profits and benefits derived from the activities with local communities, indigenous peoples, and forest-dependent communities; and

''(6) with respect to support for all activities under this part, seek to ensure the establishment and enforcement, by the country in which the activities occur, of legal regimes, standards, processes, and safeguards that—

''(A) give due regard to the rights and interests of local communities, indigenous peoples, forest-dependent communities, and vulnerable social groups;

''(B) promote consultations with local communities and indigenous peoples and forest-dependent communities in affected areas, as partners and primary stakeholders, prior to and during the design, planning, implementation, monitoring, and evaluation of activities under this part; and

''(C) encourage equitable sharing of profits and benefits from incentives for emissions reductions or leakage prevention with local communities, indigenous peoples, and forest-dependent communities.

''(e) SCOPE.—(1) The Administrator shall include within the scope of activities under this part reduced emissions from forest degradation.

''(2) The Administrator, in consultation with the Administrator of USAID, may decide, taking into account any advice from the Advisory Board, to expand, where appropriate, the scope of activities under this part to include reduced soil carbon-derived emissions associated with deforestation and degradation of forested wetlands and peatlands.

''(f) ACCOUNTING.—The Administrator shall establish a publicly accessible registry of the supplemental emissions reductions achieved through support provided under this part each year, after appropriately discounting for uncertainty and other relevant factors as required by the standards established under subsection (d).

''(g) TRANSITION TO NATIONAL REDUCTIONS.—Beginning 5 years after the date that a country entered into the agreement or arrangement required under subsection (a)(2), the Administrator shall provide no further compensation through emission allowances to that country under this part for any subnational deforestation reduction activities, except that the Administrator may extend this period by an additional 5 years if the Administrator, in consultation with the Administrator of USAID, determines that—

''(1) the country is making substantial progress towards adopting and implementing a program to achieve reductions in deforestation measured against a national baseline;

''(2) the greenhouse gas emissions reductions achieved are not resulting in significant leakage; and

''(3) the greenhouse gas emissions reductions achieved are being appropriately discounted to account for any leakage that is occurring.

The limitation under this subsection shall not apply to support for activities to further the objectives listed in section 753(b)(2) or (3).

''(h) COORDINATION WITH U.S. FOREIGN ASSISTANCE.—Subject to the direction of the President, the Administrator and the Administrator of USAID shall, to the extent practicable and consistent with the objectives of this program, seek to align activities under this section with broader development, poverty alleviation, or natural resource management objectives and initiatives in the recipient country.

''(i) SUPPORT AS SUPPLEMENT.—The provision of support for activities under this part shall be used to supplement, and not to supplant, any other Federal, State, or local support available to carry out such qualifying activities under this part.

''(j) NOT ELIGIBLE FOR OFFSET CREDIT.—Activities that receive support under this part shall not be issued offset credits for the greenhouse gas emissions reductions or avoidance, or greenhouse gas sequestration, produced by such activities.

''SEC. 755. REPORTS AND REVIEWS.

''(a) REPORTS.—Not later than January 1, 2014, and annually thereafter, the Administrator and the Administrator of USAID shall submit to the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Foreign Relations of the Senate, and make available to the public, a report on the support provided under this part during the prior fiscal year. The report shall include—

''(1) a statement of the quantity of supplemental emissions reductions for which compensation in the form of emission allowances was provided under this part during the prior fiscal year, as registered by the Administrator under section 754(f); and

''(2) a description of the national and subnational deforestation reduction activities, capacity-building activities, and leakage prevention activities supported under this part, including a statement of the quantity of emission allowances distributed to each recipient for each activity during the prior fiscal year, and a description of what was accomplished through each of the activities.

''(b) REVIEWS.—Not later than 4 years after the date of enactment of this title and every 5 years thereafter, the Administrator and the Administrator of USAID, taking into consideration any evaluation by or recommendations from the Advisory Board established under section 731, shall conduct a review of the activities undertaken pursuant to this part and make any appropriate changes in the program established under this part, consistent with the requirements of this part, based on the findings of the review. The review shall include the effects of the activities on—

''(1) total documented carbon stocks of each country that directly or indirectly received support under this part compared with such country's national deforestation baseline established under section 754(d)(1) and (2);

''(2) the number of countries with the capacity to generate for sale instruments in the nature of offset credits from forest-related activities, and the amount of such activities;

''(3) forest governance in each country that directly or indirectly received support under this part;

''(4) indigenous peoples and forest-dependent communities residing in areas affected by such activities;

''(5) biodiversity and ecosystem services within forested areas associated with the activities;

''(6) subnational and international leakage; and

''(7) any program or mechanism established under the United Nations Framework Convention on Climate Change related to greenhouse gas emissions from deforestation.

''SEC. 756. LEGAL EFFECT OF PART.

''(1) IN GENERAL.—Nothing in this part supersedes, limits, or otherwise affects any restriction imposed by Federal law (including regulations) on any interaction between an entity located in the United States and an entity located in a foreign country.

''(2) ROLE OF THE SECRETARY OF STATE.—Nothing in this part shall be construed as affecting the role of the Secretary of State or the responsibilities of the Secretary under section 622(c) of the Foreign Assistance Act of 1961.''.

SEC. 312. DEFINITIONS.

Title VII of the Clean Air Act, as added by section 311 of this Act, is amended by inserting before part A the following new section:

''SEC. 700. DEFINITIONS.

''In this title:

''(1) ADDITIONAL.—The term 'additional', when used with respect to reductions or avoidance of greenhouse gas emissions, or to sequestration of greenhouse gases, means reductions, avoidance, or sequestration that result in a lower level of net greenhouse gas emissions or atmospheric concentrations than would occur in the absence of an offset project.

''(2) ADDITIONALITY.—The term 'additionality' means the extent to which reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, are additional.

''(3) ADVISORY BOARD.—The term 'Advisory Board' means the Offsets Integrity Advisory Board established under section 731.

''(4) AFFILIATED.—The term 'affiliated'—

''(A) when used in relation to an entity means owned or controlled by, or under common ownership or control with, another entity, as determined by the Administrator; and

''(B) when used in relation to a natural gas local distribution company, means owned or

controlled by, or under common ownership or control with, another natural gas local distribution company, as determined by the Administrator.

''(5) ALLOWANCE.—The term 'allowance' means a limited authorization to emit, or have attributable greenhouse gas emissions in an amount of, 1 ton of carbon dioxide equivalent of a greenhouse gas in accordance with this title. Such term includes an emission allowance, a compensatory allowance, and an international emission allowance, but does not include an international reserve allowance established under section 766.

''(6) ATTRIBUTABLE GREENHOUSE GAS EMISSIONS.—The term 'attributable greenhouse gas emissions', for a given calendar year, means—

''(A) for a covered entity that is a fuel producer or importer described in paragraph (13)(B), greenhouse gases that would be emitted from the combustion of any petroleum-based or coal-based liquid fuel, petroleum coke, or natural gas liquid, produced or imported by that covered entity during that calendar year for sale or distribution in interstate commerce, assuming no capture and sequestration of any greenhouse gas emissions;

''(B) for a covered entity that is an industrial gas producer or importer described in paragraph (13)(C), the tons of carbon dioxide equivalent of any gas described in clauses (i) through (vi) of paragraph (13)(C)—

''(i) produced or imported by such covered entity during that calendar year for sale or distribution in interstate commerce; or

''(ii) released as fugitive emissions in the production of fluorinated gas; and

''(C) for a natural gas local distribution company described in paragraph (13)(J), greenhouse gases that would be emitted from the combustion of the natural gas, and any other gas meeting the specifications for commingling with natural gas for purposes of delivery, that such entity delivered during that calendar year to customers that are not covered entities, assuming no capture and sequestration of that greenhouse gas.

''(7) BIOLOGICAL SEQUESTRATION; BIOLOGICALLY SEQUESTERED.—The terms 'biological sequestration' and 'biologically sequestered' mean the removal of greenhouse gases from the atmosphere by terrestrial biological means, such as by growing plants, and the storage of those greenhouse gases in plants or soils.

''(8) CAPPED EMISSIONS.—The term 'capped emissions' means greenhouse gas emissions to which section 722 applies, including emissions from the combustion of natural gas, petroleum-based or coal-based liquid fuel, petroleum coke, or natural gas liquid to which section 722(b)(2) or (8) applies.

''(9) CAPPED SOURCE.—The term 'capped source' means a source that directly emits capped emissions.

''(10) CARBON DIOXIDE EQUIVALENT.—The term 'carbon dioxide equivalent' means the unit of measure, expressed in metric tons, of greenhouse gases as provided under section 711 or 712.

''(11) CARBON STOCK.—The term 'carbon stock' means the quantity of carbon contained in a biological reservoir or system which has the capacity to accumulate or release carbon.

''(12) COMPENSATORY ALLOWANCE.—The term 'compensatory allowance' means an allowance issued under section 721(f).

''(13) COVERED ENTITY.—The term 'covered entity' means each of the following:

''(A) Any electricity source.

''(B) Any stationary source that produces, and any entity that (or any group of two or more affiliated entities that, in the aggregate) imports, for sale or distribution in interstate commerce in 2008 or any subsequent year, petroleum-based or coal-based liquid fuel, petroleum coke, or natural gas liquid, the combustion of which would emit 25,000 or more tons of carbon dioxide equivalent, as determined by the Administrator.

''(C) Any stationary source that produces, and any entity that (or any group of two or more affiliated entities that, in the aggregate) imports, for sale or distribution in interstate commerce, in bulk, or in products designated by the Administrator, in 2008 or any subsequent year 25,000 or more tons of carbon dioxide equivalent of—

''(i) fossil fuel-based carbon dioxide;

''(ii) nitrous oxide;

''(iii) perfluorocarbons;

''(iv) sulfur hexafluoride;

''(v) any other fluorinated gas, except for nitrogen trifluoride, that is a greenhouse gas, as designated by the Administrator under section 711; or

''(vi) any combination of greenhouse gases described in clauses (i) through (v).

''(D) Any stationary source that has emitted 25,000 or more tons of carbon dioxide equivalent of nitrogen trifluoride in 2008 or any subsequent year.

''(E) Any geologic sequestration site.

''(F) Any stationary source in the following industrial sectors:

''(i) Adipic acid production.

''(ii) Primary aluminum production.

''(iii) Ammonia manufacturing.

''(iv) Cement production, excluding grinding-only operations.

''(v) Hydrochlorofluorocarbon production.

''(vi) Lime manufacturing.

''(vii) Nitric acid production.

''(viii) Petroleum refining.

''(ix) Phosphoric acid production.

''(x) Silicon carbide production.

''(xi) Soda ash production.

''(xii) Titanium dioxide production.

''(xiii) Coal-based liquid or gaseous fuel production.

''(G) Any stationary source in the chemical or petrochemical sector that, in 2008 or any subsequent year—

''(i) produces acrylonitrile, carbon black, ethylene, ethylene dichloride, ethylene oxide, or methanol; or

''(ii) produces a chemical or petrochemical product if producing that product results in annual combustion plus process emissions of 25,000 or more tons of carbon dioxide equivalent.

''(H) Any stationary source that—

''(i) is in one of the following industrial sectors: ethanol production; ferroalloy production; fluorinated gas production; food processing; glass production; hydrogen production; iron and steel production; lead production; pulp and paper manufacturing; and zinc production; and

''(ii) has emitted 25,000 or more tons of carbon dioxide equivalent in 2008 or any subsequent year.

''(I) Any fossil fuel-fired combustion device (such as a boiler) or grouping of such devices that—

''(i) is all or part of an industrial source not specified in subparagraph (D), (F), (G), or (H); and

''(ii) has emitted 25,000 or more tons of carbon dioxide equivalent in 2008 or any subsequent year.

''(J) Any natural gas local distribution company that (or any group of 2 or more affiliated natural gas local distribution companies that, in the aggregate), in 2008 or any subsequent year, delivers 460,000,000 cubic feet or more of natural gas, and any other gas meeting the specifications for commingling with natural gas for purposes of delivery, to customers that are not covered entities.

''(14) CREDITING PERIOD.—The term 'crediting period' means the period with respect to which an offset project is eligible to earn offset credits under part D, as determined under section 734(c).

''(15) DESIGNATED REPRESENTATIVE.—The term 'designated representative' means, with respect to a covered entity, a reporting entity (as defined in section 713), an offset project developer, or any other entity receiving or holding allowances, offset credits, or term offset credits under this title, an individual authorized, through a certificate of representation submitted to the Administrator by the owners and operators or similar entity official, to represent the owners and operators or similar entity official in all matters pertaining to this title (including the holding, transfer, or disposition of allowances or offset credits), and to make all submissions to the Administrator under this title.

''(16) DEVELOPING COUNTRY.—The term 'developing country' means a country eligible to receive official development assistance according to the income guidelines of the Development Assistance Committee of the Organization for Economic Cooperation and Development.

''(17) DOMESTIC OFFSET CREDIT.—For purposes of part D, the term 'domestic offset credit' means an offset credit issued under part D, other than an international offset credit. For purposes of part C, the term means any offset credit issued under the American Clean Energy and Security Act of 2009, or the amendments made thereby. The term does not include a term offset credit.

''(18) ELECTRICITY SOURCE.—The term 'electricity source' means a stationary source that includes one or more utility units.

''(19) EMISSION.—The term 'emission' means the release of a greenhouse gas into the ambient air. Such term does not include gases that are captured and geologically sequestered, except to the extent that they are later released into the atmosphere, in which case compliance must be demonstrated pursuant to section 722(b)(5).

''(20) EMISSION ALLOWANCE.—The term 'emission allowance' means an allowance established under section 721(a) or section 726(g)(2) or (h)(1)(C).

''(21) FAIR MARKET VALUE.—The term 'fair market value' means the average daily closing price on registered exchanges or, if such a price is unavailable, the average price as determined by the Administrator, during a specified time period, of an emission allowance.

''(22) FEDERAL LAND.—The term 'Federal land' means land that is owned by the United States, other than land held in trust for an Indian or Indian tribe.

''(23) FOSSIL FUEL.—The term 'fossil fuel' means natural gas, petroleum, or coal, or any form of solid, liquid, or gaseous fuel derived from such material, including consumer products that are derived from such materials and are combusted.

''(24) FOSSIL FUEL-FIRED.—The term 'fossil fuel-fired' means powered by combustion of fossil fuel, alone or in combination with any other fuel, regardless of the percentage of fossil fuel consumed.

''(25) FUGITIVE EMISSIONS.—The term 'fugitive emissions' means emissions from leaks, valves, joints, or other small openings in pipes, ducts, or other equipment, or from vents.

''(26) GEOLOGIC SEQUESTRATION; GEOLOGICALLY SEQUESTERED.—The terms 'geologic sequestration' and 'geologically sequestered' mean the sequestration of greenhouse gases in subsurface geologic formations for purposes of permanent storage.

''(27) GEOLOGIC SEQUESTRATION SITE.—The term 'geologic sequestration site' means a site where carbon dioxide is geologically sequestered.

''(28) GREENHOUSE GAS.—The term 'greenhouse gas' means any gas described in section 711(a) or designated under section 711, except to the extent that it is regulated under title VI.

''(30) HOLD.—The term 'hold' means, with respect to an allowance, offsets credit, or term offset credit, to have in the appropriate account in the allowance tracking system established under section 724(d), or submit to the Administrator for recording in such account.

''(31) INDUSTRIAL SOURCE.—The term 'industrial source' means any stationary source that—

''(A) is not an electricity source; and

''(B) is in—

''(i) the manufacturing sector (as defined in North American Industrial Classification System codes 31, 32, and 33); or

''(ii) the natural gas processing or natural gas pipeline transportation sector (as defined in North American Industrial Classification System codes 211112 and 486210).

''(32) INTERNATIONAL EMISSION ALLOWANCE.—The term 'international emission allowance' means a tradable authorization to emit 1 ton of carbon dioxide equivalent of greenhouse gas that is issued by a national or supranational foreign government pursuant to a qualifying international program designated by the Administrator pursuant to section 728(a).

''(33) INTERNATIONAL OFFSET CREDIT.—The term 'international offset credit' means an offset credit issued by the Administrator under section 743.

''(34) LEAKAGE.—Except as provided in part F, the term 'leakage' means a significant increase in greenhouse gas emissions, or significant decrease in sequestration, which is caused by an offset project or activities under part E and occurs outside the boundaries of the offset project or the relevant program or project under part E.

''(35) MINERAL SEQUESTRATION.—The term 'mineral sequestration' means sequestration of carbon dioxide from the atmosphere by capturing carbon dioxide into a permanent mineral, such as the aqueous precipitation of carbonate minerals that results in the storage of carbon dioxide in a mineral form.

''(36) NATURAL GAS LIQUID.—The term 'natural gas liquid' means ethane, butane, isobutane, natural gasoline, and propane.

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

''(38) OFFSET CREDIT.—For purposes of this section and part D, the term 'offset credit' means an offset credit issued under part D. For purposes of part C, the term means any offset credit issued under the American Clean Energy and Security Act of 2009, or the amendments made thereby. The term does not include a term offset credit.

''(39) OFFSET PROJECT.—The term 'offset project' means a project or activity that reduces or avoids greenhouse gas emissions, or sequesters greenhouse gases, and for which offset credits are or may be issued under part D.

''(40) OFFSET PROJECT DEVELOPER.—The term 'offset project developer' means the individual or entity designated as the offset project developer in an offset project approval petition under section 735(c)(1).

''(41) PETROLEUM.—The term 'petroleum' includes crude oil, tar sands, oil shale, and heavy oils.

''(42) RENEWABLE BIOMASS.—The term 'renewable biomass' means any of the following:

''(A) Materials, pre-commercial thinnings, or removed invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), including those that are byproducts of preventive treatments (such as trees, wood, brush, thinnings, chips, and slash), that are removed as part of a federally recognized timber sale, or that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health, and that are—

''(i) not from components of the National Wilderness Preservation System, Wilderness Study Areas, Inventoried Roadless Areas, old growth stands, late-successional stands (except for dead, severely damaged, or badly infested trees), components of the National Landscape Conservation System, National Monuments, National Conservation Areas, Designated Primitive Areas, or Wild and Scenic Rivers corridors;

''(ii) harvested in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

''(iii) harvested in accordance with Federal and State law, and applicable land management plans.

''(B) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(i) renewable plant material, including—

''(I) feed grains;

''(II) other agricultural commodities;

''(III) other plants and trees; and

''(IV) algae; and

''(ii) waste material, including—

''(I) crop residue;

''(II) other vegetative waste material (including wood waste and wood residues);

''(III) animal waste and byproducts (including fats, oils, greases, and manure);

''(IV) construction waste; and

''(V) food waste and yard waste.

''(C) Residues and byproducts from wood, pulp, or paper products facilities.''.

''(43) RETIRE.—The term 'retire', with respect to an ''allowance, offset credit, or term offset credit, established or issued under the American Clean Energy and Security Act of 2009 or the amendments made thereby, means to disqualify such allowance or offset credit for any subsequent use under this title, regardless of whether the use is a sale, exchange, or submission of the allowance, offset credit, or term offset credit to satisfy a compliance obligation.

''(44) REVERSAL.—The term 'reversal' means an intentional or unintentional loss of sequestered greenhouse gases to the atmosphere.

''(45) SEQUESTERED AND SEQUESTRATION.—The terms 'sequestered' and 'sequestration' mean the separation, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator. The terms include biological, geologic, and mineral sequestration, but do not include ocean fertilization techniques.

''(46) STATIONARY SOURCE.—The term 'stationary source' means any integrated operation comprising any plant, building, structure, or stationary equipment, including support buildings and equipment, that is located within one or more contiguous or adjacent properties, is under common control of the same person or persons, and emits or may emit a greenhouse gas.

''(47) STRATEGIC RESERVE ALLOWANCE.—The term 'strategic reserve allowance' means an emission allowance reserved for, transferred to, or deposited in the strategic reserve under section 726.

''(48) TON.—The term 'ton' means metric ton.

''(49) UNCAPPED EMISSIONS.—The term 'uncapped emissions' means emissions of greenhouse gases emitted after December 31, 2011, that are not capped emissions.

''(50) UNITED STATES GREENHOUSE GAS EMISSIONS.—The term 'United States greenhouse gas emissions' means the total quantity of annual greenhouse gas emissions from the United States, as calculated by the Administrator and reported to the United Nations Framework Convention on Climate Change Secretariat.

''(51) UTILITY UNIT.—The term 'utility unit' means a combustion device that, on January 1, 2009, or any date thereafter, is fossil fuel-fired and serves a generator that produces electricity for sale, unless such combustion device, during the 12-month period starting the later of January 1, 2009, or the commencement of commercial operation and each calendar year starting after such later date—

''(A) is part of an integrated cycle system that cogenerates steam and electricity during normal operation and that supplies one-third or less of its potential electric output capacity and 25 MW or less of electrical output for sale; or

''(B) combusts materials of which more than 95 percent is municipal solid waste on a heat input basis.

''(52) VINTAGE YEAR.—The term 'vintage year' means the calendar year for which an emission allowance is established under section 721(a) or which is assigned to an emission allowance under section 726(g)(3)(A), except that the vintage year for a strategic reserve allowance shall be the year in which such allowance is purchased at auction.''.

Subtitle B—Disposition of Allowances

SEC. 321. DISPOSITION OF ALLOWANCES FOR GLOBAL WARMING POLLUTION REDUCTION PROGRAM.

Title VII of the Clean Air Act, as added by section 311 of this Act, is amended by adding at the end the following part:

''PART H—DISPOSITION OF ALLOWANCES

''SEC. 781. ALLOCATION OF ALLOWANCES FOR SUPPLEMENTAL REDUCTIONS.

''(a) IN GENERAL.—The Administrator shall allocate for each vintage year the following percentage of the emission allowances established under section 721(a), for distribution in accordance with part E:

''(1) For vintage years 2012 through 2025, 5 percent.

''(2) For vintage years 2026 through 2030, 3 percent.

''(3) For vintage years 2031 through 2050, 2 percent.

''(b) ADJUSTMENT.—The Administrator shall modify the percentages set forth in subsection (a) as necessary to ensure the achievement of the annual supplemental emission reduction objective for 2020, and the cumulative reduction objective through 2025, set forth in section 753(b)(1).

''(c) CARRYOVER.—If the Administrator has not distributed all of the allowances allocated pursuant to this section for a given vintage year by the end of that year, all such undistributed emission allowances shall, in accordance with section 782(s), be exchanged for allowances from the following vintage year and treated as part of the allocation for supplemental reductions under this section for that later vintage year.

''SEC. 782. ALLOCATION OF EMISSION ALLOWANCES.

''(a) ELECTRICITY CONSUMERS.—(1) The Administrator shall allocate emission allowances for the benefit of electricity consumers, to be distributed in accordance with section 783(b), (c), and (d) in the following amounts:

''(A) For vintage years 2012 and 2013: 43.75 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage years 2014 and 2015: 38.89 percent of the emission allowances established for each year under section 721(a).

''(C) For vintage years 2016 through 2025: 35.00 percent of the emission allowances established for each year under section 721(a).

''(D) For vintage year 2026: 28 percent of the emission allowances established for that year under section 721(a).

''(E) For vintage year 2027: 21 percent of the emission allowances established for that year under section 721(a).

''(F) For vintage year 2028: 14 percent of the emission allowances established for that year under section 721(a).

''(G) For vintage year 2029: 7 percent of the emission allowances established for that year under section 721(a).

''(2) The Administrator shall allocate emission allowances for energy efficiency, renewable electricity, and low income ratepayer assistance programs administered by small electricity local distribution companies, to be distributed in accordance with section 783(e) in the following amounts:

''(A) For vintage years 2012 through 2025: 0.5 percent of the emission allowances established each year under section 721(a).

''(B) For vintage year 2026: 0.4 percent of the emission allowances established for that year under section 721(a).

''(C) For vintage year 2027: 0.3 percent of the emission allowances established for that year under section 721(a).

''(D) For vintage year 2028: 0.2 percent of the emission allowances established for that year under section 721(a).

''(E) For vintage year 2029: 0.1 percent of the emission allowances established for that year under section 721(a).

''(3) For vintage year 2012, the Administrator shall allocate 0.35 percent of emission allowances established for such year under section 721(a) to avoid disincentives to the continued use of existing energy-efficient cogeneration facilities at industrial parks, to be distributed in accordance with section 783(f).

''(b) NATURAL GAS CONSUMERS.—The Administrator shall allocate emission allowances for the benefit of natural gas consumers to be distributed in accordance with section 784 in the following amounts:

''(1) For vintage years 2016 through 2025, 9 percent of the emission allowances established for each year under section 721(a).

''(2) For vintage year 2026, 7.2 percent of the emission allowances established for that year under section 721(a).

''(3) For vintage year 2027, 5.4 percent of the emission allowances established for that year under section 721(a).

''(4) For vintage year 2028, 3.6 percent of the emission allowances established for that year under section 721(a).

''(5) For vintage year 2029, 1.8 percent of the emission allowances established for that year under section 721(a).

''(c) HOME HEATING OIL AND PROPANE CONSUMERS.—The Administrator shall allocate emission allowances for the benefit of home heating oil and propane consumers to be distributed in accordance with section 785 in the following amounts:

''(1) For vintage years 2012 and 2013, 1.875 percent of the emission allowances established for each year under section 721(a).

''(2) For vintage years 2014 and 2015, 1.67 percent of the emission allowances established for each year under section 721(a).

''(3) For vintage years 2016 through 2025, 1.5 percent of the emission allowances established for each year under section 721(a).

''(4) For vintage year 2026, 1.2 percent of the emission allowances established for that year under section 721(a).

''(5) For vintage year 2027, 0.9 percent of the emission allowances established for that year under section 721(a).

''(6) For vintage year 2028, 0.6 percent of the emission allowances established for that year under section 721(a).

''(7) For vintage year 2029, 0.3 percent of the emission allowances established for that year under section 721(a).

''(d) LOW INCOME CONSUMERS.—For each vintage year starting in 2012, the Administrator shall auction, pursuant to section 791, 15 percent of the emission allowances established for each year under section 721(a), with the proceeds used for the benefit of low income consumers to fund the program set forth in subtitle C of title IV of American Clean Energy and Security Act of 2009 and the amendments made thereby.

''(e) TRADE-VULNERABLE INDUSTRIES.—

''(1) IN GENERAL.—The Administrator shall allocate emission allowances to energy-intensive, trade-exposed entities, to be distributed in accordance with section 765, in the following amounts:

''(A) For vintage years 2012 and 2013, up to 2.0 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage year 2014, up to 15 percent of the emission allowances established for that year under section 721(a).

''(C) For vintage year 2015, up to the product of—

''(i) the amount specified in paragraph (2); multiplied by

''(ii) the quantity of emission allowances established for 2015 under section 721(a) divided by the quantity of emission allowances established for 2014 under section 721(a).

''(D) For vintage year 2016, up to the product of—

''(i) the amount specified in paragraph (3); multiplied by

''(ii) the quantity of emission allowances established for 2015 under section 721(a) divided by the quantity of emission allowances established for 2014 under section 721(a).

''(E) For vintage years 2017 through 2025, up to the product of—

''(i) the amount specified in paragraph (4); multiplied by

''(ii) the quantity of emission allowances established for that year under section 721(a) divided by the quantity of emission allowances established for 2016 under section 721(a).

''(F) For vintage years 2026 through 2050, up to the product of the amount specified in paragraph (4)—

''(i) multiplied by the quantity of emission allowances established for the applicable year during 2026 through 2050 under section 721(a) divided by the quantity of emission allowances established for 2016 under section 721(a); and

''(ii) multiplied by a factor that shall equal 90 percent for 2026 and decline 10 percent for each year thereafter until reaching zero, except that, if the President modifies a percentage for a year under subparagraph (A) of section 767(c)(3), the highest percentage the President applies for any sector under that subparagraph for that year (not exceeding 100 percent) shall be used for that year instead of the factor otherwise specified in this clause.

''(2) CARRYOVER.—After the Administrator distributes emission allowances pursuant to section 765 for any given vintage year, any emission allowances allocated to energy-intensive, trade-exposed entities pursuant to this subsection that have not been so distributed shall, in accordance with subsection (s), be exchanged for allowances from the following vintage year and treated as part of the allocation to such entities for that later vintage year.

''(f) DEPLOYMENT OF CARBON CAPTURE AND SEQUESTRATION TECHNOLOGY.—

''(1) ANNUAL ALLOCATION.—The Administrator shall allocate emission allowances for the deployment of carbon capture and sequestration technology to be distributed in accordance with section 786 in the following amounts:

''(A) For vintage years 2014 through 2017, 1.75 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage years 2018 and 2019, 4.75 percent of the emission allowances established for each year under section 721(a).

''(C) For vintage years 2020 through 2050, 5 percent of the emission allowances established for each year under section 721(a).

''(2) CARRYOVER.—If the Administrator has not distributed all of the allowances allocated pursuant to this subsection for a given vintage year by the end of that year, all such undistributed emission allowances shall, in accordance with subsection (s), be exchanged for allowances from the following vintage year and treated as part of the allocation for the deployment of carbon capture and sequestration technology under this subsection for that later vintage year.

''(g) INVESTMENT IN ENERGY EFFICIENCY AND RENEWABLE ENERGY.—The Administrator shall allocate emission allowances to invest in energy efficiency and renewable energy as follows:

''(1) To be distributed in accordance with section 132 of the American Clean Energy and Security Act of 2009 in the following amounts:

''(A) For vintage years 2012 through 2015, 9.5 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage years 2016 through 2017, 6.5 percent of the emission allowances established for each year under section 721(a).

''(C) For vintage years 2018 through 2021, 5.5 percent of the emission allowances established for each year under section 721(a).

''(D) For vintage years 2022 through 2025, 1.0 percent of the emission allowances established for each year under section 721(a).

''(E) For vintage years 2026 through 2050, 4.5 percent of the emission allowances established for each year under section 721(a).

''(F) At the same time allowances are distributed under subparagraph (D) for each of the vintage years 2022 through 2025, 3.55 percent of emission allowances established under section 721(a) for the vintage year four years after that vintage year shall also be distributed (which shall be in addition to the emission allowances distributed under subparagraph (E)).

''(2) To be distributed in accordance with section 304 of the Energy Conservation and Production Act, as amended by section 201 of the American Clean Energy and Security Act of 2009, for each vintage year from 2012 through 2050, 0.5 percent of emission allowances established for that year under section 721(a).

''(3) To be distributed among the States in accordance with the formula in section 132(b) of the American Clean Energy and Security Act of 2009 and to be used exclusively for the purposes of section 202 of the American Clean Energy and Security Act of 2009 in the following amounts:

''(A) For vintage years 2012 through 2017, 0.05 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage years 2018 through 2050, 0.03 percent of the emission allowances established for each year under section 721(a).

''(h) ENERGY RESEARCH AND DEVELOPMENT.—

''(1) ENERGY INNOVATION HUBS.—For vintage years 2012 through 2050, the Administrator shall allocate 0.45 percent of the emission allowances established under section 721(a) to

be distributed to Energy Innovation Hubs in accordance with section 171 of the American Clean Energy and Security Act of 2009.

''(2) ADVANCED ENERGY RESEARCH.—For vintage years 2012 through 2050, the Administrator shall allocate 1.05 percent of the emission allowances established under section 721(a) for the Advanced Research Project Agency-Energy to be distributed in accordance with section 172 of the American Clean Energy and Security Act of 2009.

''(i) INVESTMENT IN CLEAN VEHICLE TECHNOLOGY.—The Administrator shall allocate emission allowances to invest in the development and deployment of clean vehicles, to be distributed in accordance with section 124 of the American Clean Energy and Security Act of 2009 in the following amounts:

''(1) For vintage years 2012 through 2017, 3 percent of the emission allowances established for each year under section 721(a).

''(2) For vintage years 2018 through 2025, 1 percent of the emission allowances established for each year under section 721(a).

''(j) DOMESTIC FUEL PRODUCTION.—For vintage years 2014 through 2026, the Administrator shall allocate and distribute according to section 787—

''(1) 2 percent of the emission allowances established for each year under section 721(a) to domestic petroleum refineries that are covered entities pursuant to section 700(13)(F)(viii), including small business refiners; and

''(2) an additional 0.25 percent of the emissions allowances established for each year under section 721(a) to small business refiners that are covered entities pursuant to section 700(13)(F)(viii).

''(k) INVESTMENT IN WORKERS.—The Administrator shall auction pursuant to section 791 emission allowances for the benefit of workers pursuant to part 2 of subtitle B of the American Clean Energy and Security Act of 2009 in the following amounts, and shall deposit into the Climate Change Worker Adjustment Assistance Fund established pursuant to section 793, and report to the Secretary of Labor on, the proceeds from the sale of these allowances:

''(A) For vintage years 2012 through 2021, 0.5 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage years 2022 through 2050, 1.0 percent of the emission allowances established for each year under section 721(a).

All amounts deposited into the fund shall be available to the Secretary of Labor until expended to carry out part 2 of subtitle B of title IV of the American Clean Energy and Security Act of 2009. Of the amounts deposited, not more than $10,000,000 shall be available to the Secretary of Labor for Federal administration costs of such part 2 each fiscal year.

''(2) The Administrator shall auction, pursuant to section 791, 0.75 percent of the emission allowances established for each of vintage years 2012 and 2013 under section 721(a), and shall deposit the proceeds in the Energy Efficiency and Renewable Energy Worker Training Fund established by section 422 of the American Clean Energy and Security Act of 2009.

''(l) DOMESTIC ADAPTATION.—The Administrator shall allocate emission allowances for domestic adaptation as follows:

''(1) To be distributed in accordance with section 453 of the American Clean Energy and Security Act of 2009 in the following amounts:

''(A) For vintage years 2012 through 2021, 0.9 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage years 2022 through 2026, 1.9 percent of the emission allowances established for each year under section 721(a).

''(C) For vintage years 2027 through 2050, 3.9 percent of the emission allowances established for each year under section 721(a).

''(2) For vintage year 2012 and thereafter, the Administrator shall auction, pursuant to section 791, 0.1 percent of the emission allowances established for each year under section 721(a), and shall deposit the proceeds in the Climate Change Health Protection and Promotion Fund established by section 467 of the American Clean Energy and Security Act of 2009.

''(m) WILDLIFE AND NATURAL RESOURCE ADAPTATION.—The Administrator shall allocate emission allowances for wildlife and natural resource adaptation as follows:

''(1) To be distributed to State agencies in accordance with section 480(a) of the American Clean Energy and Security Act of 2009 in the following amounts:

''(A) For vintage years 2012 through 2021, 0.385 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage years 2022 through 2026, 0.77 percent of the emission allowances established for each year under section 721(a).

''(C) For vintage years 2027 through 2050, 1.54 percent of the emission allowances established for each year under section 721(a).

''(2) To be auctioned pursuant to section 791, with the proceeds to be deposited in the Natural Resources Climate Change Adaptation Fund established pursuant to section 480(b), in the following amounts:

''(A) For vintage years 2012 through 2021, 0.615 percent of the emission allowances established for each year under section 721(a).

''(B) For vintage years 2022 through 2026, 1.23 percent of the emission allowances established for each year under section 721(a).

''(C) For vintage years 2027 through 2050, 2.46 percent of the emission allowances established for each year under section 721(a).

''(n) INTERNATIONAL ADAPTATION.—The Administrator shall allocate emission allowances for international adaptation to be distributed in accordance with part 2 of subtitle E of title IV of the American Clean Energy and Security Act of 2009 in the following amounts:

''(1) For vintage years 2012 through 2021, 1.0 percent of the emission allowances established for each year under section 721(a).

''(2) For vintage years 2022 through 2026, 2.0 percent of the emission allowances established for each year under section 721(a).

''(3) For vintage years 2027 through 2050, 4.0 percent of the emission allowances established for each year under section 721(a).

''(o) INTERNATIONAL CLEAN TECHNOLOGY DEPLOYMENT.—The Administrator shall allocate emission allowances for international clean technology deployment for distribution in accordance with subtitle D of title IV of the American Clean Energy and Security Act of 2009 in the following amounts:

''(1) For vintage years 2012 through 2021, 1.0 percent of the emission allowances established for each year under section 721(a).

''(2) For vintage years 2022 through 2026, 2.0 percent of the emission allowances established for each year under section 721(a).

''(3) For vintage years 2027 through 2050, 4.0 percent of the emission allowances established for each year under section 721(a).

''(p) RELEASE OF FUTURE ALLOWANCES.—The Administrator shall make future year allowances available by auctioning allowances, pursuant to section 791, in the following amounts:

''(1) In each of calendar years 2014 through 2019, a string of 0.70 billion allowances with vintage years 12 to 17 years after the year of the auction, with an equal number of allowances from each vintage year in the string.

''(2) In each of calendar years 2020 through 2025, a string of 0.50 billion allowances with vintage years 12 to 17 years after the year of the auction, with an equal number of allowances from each vintage year in the string.

''(3) In each of calendar years 2026 through 2030, a string of 0.3 billion allowances with vintage years 12 to 17 years after the year of the auction, with an equal number of allowances from each vintage year in the string.

''(q) DEFICIT REDUCTION.—

''(1) For each of vintage years 2012 through 2025, any allowances not allocated for distribution or auction pursuant to section 781 or subsections (s) and (t) of this section, or disbursed pursuant to section 790, shall be auctioned by the Administrator pursuant to section 791 and the proceeds shall be deposited into the Treasury.

''(2) Unless otherwise specified, any allowances allocated pursuant to subsections (s) and (t) and not distributed by March 31 of the calendar year following the allowance's vintage year, shall be auctioned by the Administrator and the proceeds shall be deposited into the Treasury.

''(3) For auctions conducted through calendar year 2020 pursuant to subsection (p), the auction proceeds shall be deposited into the Treasury.

''(r) CLIMATE CHANGE CONSUMER REFUND.—

''(1) For each of vintage years 2026 through 2050, the Administrator shall auction the following allowances established under section 721(a) and deposit the proceeds into the Climate Change Consumer Refund Account:

''(A) Any allowances not allocated for distribution or auction pursuant to section 781 or subsections (a) through (p) of this section, or disbursed pursuant to section 790.

''(B) Unless otherwise specified, any allowances allocated pursuant to subsections (a) through (o) and not distributed by March 31 of the calendar year following the allowance's vintage year.

''(2) For auctions conducted pursuant to subsection (p) in calendar years 2021 and thereafter, the Administrator shall place the proceeds from the sales of the these allowances into the Climate Change Consumer Refund Account.

''(3) Funds deposited into the Climate Change Consumer Refund Account shall be used as specified in section 789 and shall be available for expenditure, without further appropriation or fiscal year limitation.

''(s) TREATMENT OF CARRYOVER ALLOWANCES.—

''(1) IN GENERAL.—If there are undistributed allowances from a vintage year for supplemental reductions pursuant to section 781(c), energy-intensive, trade-exposed industries pursuant to subsection (e)(2) of this section, deployment of carbon capture and sequestration technology pursuant to subsection (f)(2) of this section, or supplemental agriculture and renewable energy pursuant to subsection (u)(2) of this section, the Administrator shall—

''(A) use the undistributed allowances to increase for the same vintage year—

''(i) the allocation of allowances to be auctioned for deficit reduction pursuant to subsection (q) or for consumer refunds pursuant to subsection (r);

''(ii) the allocation of allowances to be auctioned for low income consumers pursuant to subsection (d); or

''(iii) a combination of both; and

''(B) except as provided in paragraph (2)—

''(i) decrease by the same amount for the following vintage year the allocation for the purpose for which the allocation was increased pursuant to subparagraph (A); and

''(ii) increase by the same amount for the following vintage year the allocation for the purpose for which the undistributed allowances were originally allocated.

''(2) EXCESS UNDISTRIBUTED ALLOWANCES.—(A) For each vintage year for which this subsection applies, the Administrator shall determine whether—

''(i) the total quantity of undistributed allowances for that vintage year that were allocated pursuant to section 781(c), and subsections (e)(2), (f)(2), and (u)(2) of this section, exceeds

''(ii) the total quantity of allowances allocated pursuant to subsection (d), (q) and (r) for the following vintage year, decreased by the quantity of allowances for that following vintage year set aside for the reserve established by section 791(f).

''(B) If the Administrator determines under subparagraph (A) that the quantity described in subparagraph (A)(i) exceeds the quantity described in subparagraph (A)(ii), paragraph (1)(B)(ii) of this subsection shall not apply. Instead, for each purpose described in section 781(c), or subsections (e)(2), (f)(2), and (u)(2) of this section for which undistributed allowances for a given vintage year were allocated, the Administrator shall increase the allocation for the following vintage year by the amount that is the product of—

''(i) the number of undistributed allowances for that purpose, times

''(ii) the quantity described in subparagraph (A)(ii) divided by the quantity described in subparagraph (A)(i).

''(t) COMPENSATION FOR EARLY ACTORS.—For vintage year 2012, the Administrator shall allocate for compensation for early actors 1 percent of emission allowances established under section 721(a), to be distributed in accordance with section 795 of the American Clean Energy and Security Act of 2009.

''(u) SUPPLEMENTAL AGRICULTURE AND RENEWABLE ENERGY.—

''(1) IN GENERAL.—For vintage years 2012 through 2016, the Administrator shall allocate 0.28 percent of emission allowances established under section 721(a), to be distributed in accordance with section 788 of the American Clean Energy and Security Act of 2009.

''(2) CARRYOVER.—After the Administrator distributes emission allowances pursuant to section 788 for any given vintage year, any emission allowances allocated to supplemental agriculture and renewable energy pursuant to this subsection that have not been so distributed shall, in accordance with subsection (s), be exchanged for allowances from the following vintage year and treated as part of the allocation to such entities for that later vintage year.

''SEC. 783. ELECTRICITY CONSUMERS.

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

''(1) COAL-FUELED UNIT.—The term 'coal-fueled unit' means a utility unit that derives at least 85 percent of its heat input from coal, petroleum coke, or any combination of these 2 fuels.

''(2) ELECTRICITY LOCAL DISTRIBUTION COMPANY.—The term 'electricity local distribution company' means an electric utility—

''(A) that has a legal, regulatory, or contractual obligation to deliver electricity directly to retail consumers in the United States, regardless of whether that entity or another entity sells the electricity as a commodity to those retail consumers; and

''(B) the retail rates of which, except in the case of an electric cooperative, are regulated or set by—

''(i) a State regulatory authority;

''(ii) a State or political subdivision thereof (or an agency or instrumentality of, or corporation wholly owned by, either of the foregoing); or

''(iii) an Indian tribe pursuant to tribal law.

''(3) ELECTRICITY SAVINGS; RENEWABLE ENERGY RESOURCE.—The terms 'electricity savings' and 'renewable energy resource' shall have the meaning given those terms in section 610 of the Public Utility Regulatory Policies Act of 1978 (as added by section 101 of the American Clean Energy and Security Act of 2009).

''(4) INDEPENDENT POWER PRODUCTION FACILITY.—The term 'independent power production facility' means a facility—

''(A) that is used for the generation of electric energy, at least 80 percent of which is sold at wholesale; and

''(B) the sales of the output of which are not subject to retail rate regulation or setting of retail rates by—

''(i) a State regulatory authority;

''(ii) a State or political subdivision thereof (or an agency or instrumentality of, or corporation wholly owned by, either of the foregoing);

''(iii) an electric cooperative; or

''(iv) an Indian tribe pursuant to tribal law.

''(5) LONG-TERM CONTRACT GENERATOR.—The term 'long-term contract generator' means a qualifying small power production facility, a qualifying cogeneration facility), an independent power production facility, or a facility for the production of electric energy for sale to others that is owned and operated by an electric cooperative that is—

''(A) a covered entity; and

''(B) as of the date of enactment of this title—

''(i) a facility with 1 or more sales or tolling agreements executed before March 1, 2007, that govern the facility's electricity sales and provide for sales at a price (whether a fixed price or a price formula) for electricity that does not allow for recovery of the costs of compliance with the limitation on greenhouse gas emissions under this title, provided that such agreements are not between entities that are affiliates of one another; or

''(ii) a facility consisting of 1 or more cogeneration units that makes useful thermal energy available to an industrial or commercial process with 1 or more sales agreements executed before March 1, 2007, that govern the facility's useful thermal energy sales and provide for sales at a price (whether a fixed price or price formula) for useful thermal energy that does not allow for recovery of the costs of compliance with the limitation on greenhouse gas emissions under this title, provided that such agreements are not between entities that are affiliates of one another.

''(6) MERCHANT COAL UNIT.—The term 'merchant coal unit' means a coal-fueled unit that—

''(A) is or is part of a covered entity;

''(B) is not owned by a Federal, State, or regional agency or power authority; and

''(C) generates electricity solely for sale to others, provided that all or a portion of such sales are made by a separate legal entity that—

''(i) has a full or partial ownership or leasehold interest in the unit, as certified in accordance with such requirements as the Administrator shall prescribe; and

''(ii) is not subject to retail rate regulation or setting of retail rates by—

''(I) a State regulatory authority;

''(II) a State or political subdivision thereof (or an agency or instrumentality of, or corporation wholly owned by, either of the foregoing);

''(III) an electric cooperative; or

''(IV) an Indian tribe pursuant to tribal law.

''(7) MERCHANT COAL UNIT SALES.—The term 'merchant coal unit sales' means sales to others of electricity generated by a merchant coal unit that are made by the owner or leaseholder described in paragraph (6)(C).

''(8) NEW COAL-FUELED UNIT.—The term 'new coal-fueled unit' means a coal-fueled unit that commenced operation on or after January 1, 2009 and before January 1, 2013.

''(9) NEW MERCHANT COAL UNIT.—The term 'new merchant coal unit' means a merchant coal unit—

''(A) that commenced operation on or after January 1, 2009 and before January 1, 2013; and

''(B) the actual, on-site construction of which commenced prior to January 1, 2009.

''(10) QUALIFYING SMALL POWER PRODUCTION FACILITY; QUALIFYING COGENERATION FACILITY.—The terms 'qualifying small power production facility' and 'qualifying cogeneration facility' have the meanings given those terms in section 3(17)(C) and 3(18)(B) of the Federal Power Act (16 U.S.C. 796(17)(C) and 796(18)(B)).

''(11) SMALL LDC.—The term 'small LDC' means, for any given year, an electricity local distribution company that delivered less than 4,000,000 megawatt hours of electric energy directly to retail consumers in the preceding year.

''(12) STATE REGULATORY AUTHORITY.—The term 'State regulatory authority' has the meaning given that term in section 3(17) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(17)).

''(13) USEFUL THERMAL ENERGY.—The term 'useful thermal energy'has the meaning given that term in section 371(7) of the Energy Policy and Conservation Act (42 U.S.C. 6341(7)).

''(b) ELECTRICITY LOCAL DISTRIBUTION COMPANIES.—

''(1) DISTRIBUTION OF ALLOWANCES.—Not later than September 30 of 2011 and each calendar year thereafter through 2028, the Administrator shall distribute to electricity local distribution companies for the benefit of retail ratepayers the quantity of emission allowances allocated for the following vintage year pursuant to section 782(a)(1). Notwithstanding the preceding sentence, the Administrator shall withhold from distribution under this subsection a quantity of emission allowances equal to the lesser of 14.3 percent of the quantity of emission allowances allocated under section 782(a)(1) for the relevant vintage year, or 105 percent of the emission allowances for the relevant vintage year that the Administrator anticipates will be distributed to merchant coal units and to long-term contract generators, respectively, under subsections (c) and (d). If not required by subsections (c) and (d) to distribute all of these reserved allowances, the Administrator shall distribute any remaining emission allowances to electricity local distribution companies in accordance with this subsection.

''(2) DISTRIBUTION BASED ON EMISSIONS.—

''(A) IN GENERAL.—For each vintage year, 50 percent of the emission allowances available for distribution under paragraph (1), after reserving allowances for distribution under subsections (c) and (d), shall be distributed by the Administrator among individual electricity local distribution companies ratably based on the annual average carbon dioxide emissions attributable to generation of electricity delivered at retail by each such company during the base period determined under subparagraph (B).

''(B) BASE PERIOD.—

''(i) VINTAGE YEARS 2012 AND 2013.—For vintage years 2012 and 2013, an electricity local distribution company's base period shall be—

''(I) calendar years 2006 through 2008; or

''(II) any 3 consecutive calendar years between 1999 and 2008, inclusive, that such company selects, provided that the company timely informs the Administrator of such selection.

''(ii) VINTAGE YEARS 2014 AND THEREAFTER.—For vintage years 2014 and thereafter, the base period shall be—

''(I) the base period selected under clause (i); or

''(II) calendar year 2012, in the case of an electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by a new coal-fueled unit, provided that such company timely informs the Administrator of its election to use 2012 as its base period.

''(C) DETERMINATION OF EMISSIONS.—

''(i) DETERMINATION FOR 1999-2008.—As part of the regulations promulgated pursuant to subsection, the Administrator, after consultation with the Energy Information Administration, shall determine the average amount of carbon dioxide emissions attributable to generation of electricity delivered at retail by each electricity local distribution company for each of the years 1999 through 2008, taking into account entities' electricity generation, electricity purchases, and electricity sales. In the case of any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by, a coal-fueled unit that commenced operation after January 1, 2006 and before December 31, 2008, the Administrator shall adjust the emissions attributable to such company's retail deliveries in calendar years 2006 through 2008 to reflect the emissions that would have occurred if the relevant unit were in operation during the entirety of such 3-year period.

''(ii) ADJUSTMENTS FOR NEW COAL-FUELED UNITS.—

''(I) VINTAGE YEARS 2012 AND 2013.—For purposes of emission allowance distributions for vintage years 2012 and 2013, in the case of any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by, a new coal-fueled unit, the Administrator shall adjust the emissions attributable to such company's retail deliveries in the applicable base period to reflect the emissions that would have occurred if the new coal-fueled unit were in operation during such period.

''(II) VINTAGE YEAR 2014 AND THEREAFTER.—Not later than necessary for use in making emission allowance distributions under this subsection for vintage year 2014, the Administrator shall, for any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by a new coal-fueled unit and has selected calendar year 2012 as its base period pursuant to subparagraph (B)(ii)(II), determine the amount of carbon dioxide emissions attributable to generation of electricity delivered at retail by such company in calendar year 2012. If the relevant new coal-fueled unit was not yet operational by January 1, 2012, the Administrator shall adjust such determination to reflect the emissions that would have occurred if such unit were in operation for all of calendar year 2012.

''(iii) REQUIREMENTS.—Determinations under this paragraph shall be as precise as practicable, taking into account the nature of data currently available and the nature of markets and regulation in effect in various regions of the country. The following requirements shall apply to such determinations:

''(I) The Administrator shall determine the amount of fossil fuel-based electricity delivered at retail by each electricity local distribution company, and shall use appropriate emission factors to calculate carbon dioxide emissions associated with the generation of such electricity.

''(II) Where it is not practical to determine the precise fuel mix for the electricity delivered at retail by an individual electricity local distribution company, the Administrator may use the best available data, including average data on a regional basis with reference to Regional Transmission Organizations or regional entities (as that term is defined in section 215(a)(7) of the Federal Power Act (16 U.S.C. 824o(a)(7)), to estimate fuel mix and emissions. Different methodologies may be applied in different regions if appropriate to obtain the most accurate estimate.

''(3) DISTRIBUTION BASED ON DELIVERIES.—

''(A) INITIAL FORMULA.—Except as provided in subparagraph (B), for each vintage year, the Administrator shall distribute 50 percent of the emission allowances available for distribution under paragraph (1), after reserving allowances for distribution under subsections (c) and (d), among individual electricity local distribution companies ratably based on each electricity local distribution company's annual average retail electricity deliveries for calendar years 2006 through 2008, unless the owner or operator of the company selects 3 other consecutive years between 1999 and 2008, inclusive, and timely notifies the Administrator of its selection.

''(B) UPDATING.—Prior to distributing 2015 vintage year emission allowances under this paragraph and at 3-year intervals thereafter, the Administrator shall update the distribution formula under this paragraph to reflect changes in each electricity local distribution company's service territory since the most recent formula was established. For each successive 3-year period, the Administrator shall distribute allowances ratably among individual electricity local distribution companies based on the product of—

''(i) each electricity local distribution company's average annual deliveries per customer during calendar years 2006 through 2008, or during the 3 alternative consecutive years selected by such company under subparagraph (A); and

''(ii) the number of customers of such electricity local distribution company in the most recent year in which the formula is updated under this subparagraph.

''(4) PROHIBITION AGAINST EXCESS DISTRIBUTIONS.—The regulations promulgated under subsection 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).

''(5) USE OF ALLOWANCES.—

''(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.

''(B) RATEPAYER CLASSES.—In using emission allowances distributed under this subsection for the benefit of ratepayers, an electricity local distribution company shall ensure that ratepayer benefits are distributed—

''(i) among ratepayer classes ratably based on electricity deliveries to each class; and

''(ii) equitably among individual ratepayers within each ratepayer class, including entities that receive emission allowances pursuant to part F.

''(C) LIMITATION.—In general, an electricity local distribution company shall not use the value of emission allowances distributed under this subsection to provide to any ratepayer a rebate that is based solely on the quantity of electricity delivered to such ratepayer. To the extent an electricity local distribution company uses the value of emission allowances distributed under this subsection to provide rebates, it shall, to the maximum extent practicable, provide such rebates with regard to the fixed portion of ratepayers' bills or as a fixed credit or rebate on electricity bills.

''(D) INDUSTRIAL RATEPAYERS.—Notwithstanding subparagraph (C), if compliance with the requirements of this title results (or would otherwise result) in an increase in electricity costs for industrial retail ratepayers of any given electricity local distribution company (including entities that receive emission allowances pursuant to part F), such electricity local distribution company—

''(i) shall pass through to industrial retail ratepayers their ratable share (based on deliveries to each ratepayer class) of the value of the emission allowances distributed to such company under this subsection, to reduce electricity cost impacts on such ratepayers; and

''(ii) may do so based on the quantity of electricity delivered to individual industrial retail ratepayers.

''(E) GUIDELINES.—As part of the regulations promulgated under subsection, the Administrator shall, after consultation with State regulatory authorities, prescribe guidelines for the implementation of the requirements of this paragraph. Such guidelines shall include requirements to ensure that industrial retail ratepayers (including entities that receive emission allowances under part F) receive their ratable share of the value of the allowances distributed to each electricity local distribution company pursuant to this subsection.

''(6) REGULATORY PROCEEDINGS.—

''(A) REQUIREMENT.—No electricity local distribution company shall be eligible to receive emission allowances under this subsection or subsection (e) unless the State regulatory authority with authority over such company's retail rates, or the entity with authority to regulate or set retail electricity rates of an electricity local distribution company not regulated by a State regulatory authority, has—

''(i) after public notice and an opportunity for comment, promulgated a regulation or completed a rate proceeding (or the equivalent, in the case of a ratemaking entity other than a State regulatory authority) that provides for the full implementation of the requirements of paragraph (5) of this subsection and the requirements of subsection (e); and

''(ii) made available to the Administrator and the public a report describing, in adequate detail, the manner in which the requirements of paragraph (5) and the requirements of subsection (e) will be implemented.

''(B) UPDATING.—The Administrator shall require, as a condition of continued receipt of emission allowances under this subsection by an electricity local distribution company, that a new regulation be promulgated or rate proceeding be completed , after public notice

and an opportunity for comment, and a new report be made available to the Administrator and the public, pursuant to subparagraph (A), not less frequently than every 5 years.

''(7) PLANS AND REPORTING.—

''(A) REGULATIONS.—As part of the regulations promulgated under subsection, the Administrator shall prescribe requirements governing plans and reports to be submitted in accordance with this paragraph.

''(B) PLANS.—Not later than April 30 of 2011 and every 5 years thereafter through 2026, each electricity local distribution company shall submit to the Administrator a plan, approved by the State regulatory authority or other entity charged with regulating tor setting the retail rates of such company, describing such company's plans for the disposition of the value of emission allowances to be received pursuant to this subsection and subsection (e), in accordance with the requirements of this subsection and subsection (e). Such plan shall include a description of the manner in which the company will provide to industrial retail ratepayers (including entities that receive emission allowances under part F) their ratable share of the value of such allowances.

''(C) REPORTS.—Not later than June 30 of 2013 and each calendar year thereafter through 2031, each electricity local distribution company shall submit a report to the Administrator, and to the relevant State regulatory authority or other entity charged with regulating or setting the retail electricity rates of such company, describing the disposition of the value of any emission allowances received by such company in the prior calendar year pursuant to this subsection and subsection (e), including—

''(i) a description of sales, transfer, exchange, or use by the company for compliance with obligations under this title, of any such emission allowances;

''(ii) the monetary value received by the company, whether in money or in some other form, from the sale, transfer, or exchange of any such emission allowances;

''(iii) the manner in which the company's disposition of any such emission allowances complies with the requirements of this subsection and of subsection (e), including each of the requirements of paragraph (5) of this subsection, including the requirement that industrial retail ratepayers (including entities that receive emission allowances under part F) receive their ratable share of the value of such allowances; and

''(iv) such other information as the Administrator may require pursuant to subparagraph (A).

''(D) PUBLICATION.—The Administrator shall make available to the public all plans and reports submitted under this subsection, including by publishing such plans and reports on the Internet.

''(8) AUDITS.—Each year, the Administrator shall audit a representative sample of electricity local distribution companies to ensure that emission allowances distributed under this subsection have been used exclusively for the benefit of retail ratepayers and that such companies are complying with the requirements of this subsection and of subsection (e), including the requirement that industrial retail ratepayers (including entities that receive emission allowances under part F) receive their ratable share of the value of such allowances. In selecting companies for audit, the Administrator shall take into account any credible evidence of noncompliance with such requirements. The Administrator shall make available to the public a report describing the results of each such audit, including by publishing such report on the Internet.

''(9) ENFORCEMENT.—A violation of any requirement of this subsection or of subsection (e) shall be a violation of this Act. Each emission allowance the value of which is used in violation of the requirements of this subsection or of subsection (e) shall be a separate violation.

''(c) MERCHANT COAL UNITS.—

''(1) QUALIFYING EMISSIONS.—The qualifying emissions for a merchant coal unit for a given calendar year shall be the product of the number of megawatt hours of merchant coal unit sales generated by such unit in such calendar year and the average carbon dioxide emissions per megawatt hour generated by such unit during the base period under paragraph (2), provided that the number of megawatt hours in a given calendar year for purposes of such calculation shall be reduced in proportion to the portion of such unit's carbon dioxide emissions that are either—

''(A) captured and sequestered in such calendar year; or

''(B) attributable to the combustion or gasification of biomass, to the extent that the owner or operator of the unit is not required to hold emission allowances for such emissions.

''(2) BASE PERIOD.—For purposes of this subsection, the base period for a merchant coal unit shall be—

''(A) calendar years 2006 through 2008; or

''(B) in the case of a new merchant coal unit—

''(i) the first full calendar year of operation of such unit, if such unit commences operation before January 1, 2012;

''(ii) calendar year 2012, if such unit commences operation on or after January 1, 2012.

''(iii) calendar year 2013, if such unit commences operation on or after October 1, 2012, and before January 1, 2013.

''(3) PHASE-DOWN SCHEDULE.—The Administrator shall identify an annual phase-down factor, applicable to distributions to merchant coal units for each of vintage years 2012 through 2029, that corresponds to the overall decline in the amount of emission allowances allocated to the electricity sector in such years pursuant to section 782(a)(1). Such factor shall—

''(A) for vintage year 2012, be equal to 1.0;

''(B) for each of vintage years 2013 through 2029, correspond to the quotient of—

''(i) the quantity of emission allowances allocated under section 782(a)(1) for such vintage year; divided by

''(ii) the quantity of emission allowances allocated under section 782(a)(1) for vintage year 2012.

''(4) DISTRIBUTION OF EMISSION ALLOWANCES.—Not later than March 1 of 2013 and each calendar year through 2030, the Administrator shall distribute emission allowances of the preceding vintage year to the owner or operator of each merchant coal unit described in subsection (a)(6)(C) in an amount equal to the product of—

''(A) 0.5;

''(B) the qualifying emissions for such merchant coal unit for the preceding year, as determined under paragraph (1); and

''(C) the phase-down factor for the preceding calendar year, as identified under paragraph (3).

''(5) ADJUSTMENT.—

''(A) STUDY.—Not later than July 1, 2014, the Administrator, in consultation with the Federal Energy Regulatory Commission, shall complete a study to determine whether the allocation formula under paragraph (3) is resulting in, or is likely to result in, windfall profits to merchant coal generators or substantially disparate treatment of merchant coal generators operating in different markets or regions.

''(B) REGULATION.—If the Administrator, in consultation with the Federal Energy Regulatory Commission, makes an affirmative finding of windfall profits or disparate treatment under subparagraph (A), the Administrator shall, not later than 18 months after the completion of the study described in subparagraph (A), promulgate regulations providing for the adjustment of the allocation formula under paragraph (3) to mitigate, to the extent practicable, such windfall profits, if any, and such disparate treatment, if any.

''(6) LIMITATION ON ALLOWANCES.—Notwithstanding paragraph (4) or (5), for each vintage year the Administrator shall distribute under this subsection no more than 10 percent of the total quantity of emission allowances available for such vintage year for distribution to the electricity sector under section 782(a)(1). If the quantity of emission allowances that would otherwise be distributed pursuant to paragraph (4) or (5) for any vintage year would exceed such limit, the Administrator shall distribute 10 percent of the total emission allowances available for distribution under section 782(a)(1) for such vintage year ratably among merchant coal generators based on the applicable formula under paragraph (4) or (5).

''(7) ELIGIBILITY.—The owner or operator of a merchant coal unit shall not be eligible to receive emission allowances under this subsection for any vintage year for which such owner or operator has elected to receive emission allowances for the same unit under subsection (d).

''(d) LONG-TERM CONTRACT GENERATORS.—

''(1) DISTRIBUTION.—Not later than March 1 of 2013 and each calendar year through 2030, the Administrator shall distribute to the owner or operator of each long-term contract generator a quantity of emission allowances of the preceding vintage year that is equal to the sum of—

''(A) the number of tons of carbon dioxide emitted as a result of a qualifying electricity sales agreement referred to in subsection (a)(5)(B)(i); and

''(B) the incremental number of tons of carbon dioxide emitted solely as a result of a qualifying thermal sales agreement referred to in subsection (a)(5)(B)(ii), provided that in no event shall the Administrator distribute more than 1 emission allowance for the same ton of emissions.

''(2) LIMITATION ON ALLOWANCES.— Notwithstanding paragraph (1), for each vintage year the Administrator shall distribute under this subsection no more than 4.3 percent of the total quantity of emission allowances available for such vintage year for distribution to the electricity sector under section 782(a)(1). If the quantity of emission allowances that would otherwise be distributed pursuant to paragraph (1) for any vintage year would exceed such limit, the Administrator shall distribute 4.3 percent of the total emission allowances available for distribution under section 782(a)(1) for such vintage year ratably among long-term contract generators based on paragraph (1).

''(3) ELIGIBILITY.—

''(A) FACILITY ELIGIBILITY.—The owner or operator of a facility shall cease to be eligible to receive emission allowances under this subsection upon the earliest date on which the facility no longer meets each and every element of the definition of a long-term contract generator under subsection (a)(5).

''(B) CONTRACT ELIGIBILITY.—The owner or operator of a facility shall cease to be eligible to receive emission allowances under this subsection based on an electricity or thermal sales agreement referred to in subsection (a)(5)(B) upon the earliest date that such agreement—

''(i) expires;

''(ii) is terminated; or

''(iii) is amended in any way that changes the location of the facility, the price (whether a fixed price or price formula) for electricity or thermal energy sold under such agreement, the quantity of electricity or thermal energy sold under the agreement, or the expiration or termination date of the agreement.

''(4) DEMONSTRATION OF ELIGIBILITY.—To be eligible to receive allowance distributions under this subsection, the owner or operator of a long-term contract generator shall submit each of the following in writing to the Administrator within 180 days after the date of enactment of this title, and not later than September 30 of each vintage year for which such generator wishes to receive emission allowances:

''(A) A certificate of representation described in section 700(15).

''(B) An identification of each owner and each operator of the facility.

''(C) An identification of the units at the facility and the location of the facility.

''(D) A written certification by the designated representative that the facility meets all the requirements of the definition of a long-term contract generator.

''(E) The expiration date of each qualifying electricity or thermal sales agreement referred to in subsection (a)(5)(B).

''(F) A copy of each qualifying electricity or thermal sales agreement referred to in subsection (a)(5)(B).

''(5) NOTIFICATION.—Not later than 30 days after, in accordance with paragraph (3), a facility or an agreement ceases to meet the eligibility requirements for distribution of emission allowances pursuant to this subsection, the designated representative of such facility shall notify the Administrator in writing when, and on what basis, such facility or agreement ceased to meet such requirements.

''(e) SMALL LDCS.—

''(1) DISTRIBUTION.—Not later than September 30 of each calendar year from 2011 through 2028, the Administrator shall, in accordance with this subsection, distribute emission allowances allocated pursuant to section 782(a)(2) for the following vintage year. Such allowances shall be distributed ratably among small LDCs based on historic emissions in accordance with the same measure of such emissions applied to each such small LDC for the relevant vintage year under subsection (b)(2) of this section.

''(2) USES.—A small LDC receiving allowances under this section shall use such allowances exclusively for the following purposes:

''(A) Cost-effective programs to achieve electricity savings, provided that such savings shall not be transferred or used for compliance with section 610 of the Public Utility Regulatory Policies Act of 1978.

''(B) Deployment of technologies to generate electricity from renewable energy resources, provided that any Federal renewable electricity credits issued based on generation supported under this section shall be submitted to the Federal Energy Regulatory Commission for voluntary retirement and shall not be used for compliance with section 610 of the Public Utility Regulatory Policies Act of 1978.

''(C) Assistance programs to reduce electricity costs for low-income residential ratepayers of such small LDC, provided that such assistance is made available equitably to all residential ratepayers below a certain income level, which shall not be higher than 200 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

''(3) REQUIREMENTS.—As part of the regulations promulgated under subsection, the Administrator shall prescribe—

''(A) after consultation with the Federal Energy Regulatory Commission, requirements to ensure that programs and projects under paragraph (2)(A) and (B) are consistent with the standards established by, and effectively supplement electricity savings and generation of electricity from renewable energy resources achieved by, the Combined Efficiency and Renewable Electricity Standard established under section 610 of the Public Utility Regulatory Policies Act of 1978;

''(B) eligibility criteria and guidelines for consumer assistance programs for low-income residential ratepayers under paragraph (2)(C); and

''(C) such other requirements as the Administrator determines appropriate to ensure compliance with the requirements of this subsection.

''(4) REPORTING.—Reports submitted under subsection (b)(7) shall include, in accordance with such requirements as the Administrator may prescribe—

''(A) a description of any facilities deployed under paragraph (2)(A), the quantity of resulting electricity generation from renewable energy resources;

''(B) an assessment demonstrating the cost-effectiveness of, and electricity savings achieved by, programs supported under paragraph (2)(B); and

''(C) a description of assistance provided to low-income retail ratepayers under paragraph (2)(C).

(f) CERTAIN COGENERATION FACILITIES.—

(1) ELIGIBLE COGENERATION FACILITIES.—For purposes of this subsection, an ''eligible cogeneration facility'' is a facility that—

(A) is a qualifying co-generation facility (as that term is defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B));

(B) derives 80 percent or more of its heat input from coal, petroleum coke, or any combination of these 2 fuels;

(C) has a nameplate capacity of 100 megawatts or greater;

(D) was in operation as of January 1, 2009, and remains in operation as of the date of any distribution of emission allowances under this subsection;

(E) in calendar years 2006 through 2008 sold, and as of the date of any distribution of emission allowances under this section sells, steam or electricity directly and solely to multiple, separately-owned industrial or commercial facilities co-located at the same site with the cogeneration facility; and

(F) is not eligible to receive allowances under any other subsection of this section or under part F of this title.

(2) DISTRIBUTION.—The Administrator shall distribute the emission allowances allocated pursuant to section 782(a)(3) to owners or operators of eligible cogeneration facilities ratably based on the carbon dioxide emissions of each such facility in calendar years 2006 through 2008. The Administrator—

(A) shall not, in any year, distribute emission allowances under this subsection to the owner or operator of any eligible cogeneration facility in excess of the amount necessary to offset such facility's cost of compliance with the requirements of this title in that year; and

(B) may distribute such allowances over a period of years if annual distributions under this subsection would otherwise exceed the limitation in subparagraph (A), provided that in no event shall distributions be made under this subsection after calendar year 2025.

(3) REQUIREMENTS.—The Administrator shall, by regulation, establish requirements to ensure that the value of any emission allowances distributed pursuant to this subsection are passed through, on an equitable basis, to the facilities to which the relevant cogeneration facility provides electricity or steam deliveries, including any facility owned or operated by the owner or operator of the cogeneration facility.

''(g) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with the Federal Energy Regulatory Commission, shall promulgate regulations to implement the requirements of this section.

''SEC. 784. NATURAL GAS CONSUMERS.

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

''(1) COST-EFFECTIVE.—The term 'cost-effective', with respect to an energy efficiency program, means that the program meets the Total Resource Cost Test, which requires that the net present value of economic benefits over the life of the program, including avoided supply and delivery costs and deferred or avoided investments, is greater than the net present value of the economic costs over the life of the program, including program costs and incremental costs borne by the energy consumer.

''(2) NATURAL GAS LOCAL DISTRIBUTION COMPANY.—The term 'natural gas local distribution company' means a natural gas local distribution company that is a covered entity.

''(3) NON-COVERED ENTITY.—The term 'non-covered entity' means, when used in reference to a date or period prior to the enactment of this title, an entity that would not have been a covered entity if this title had been in effect during such date or period.

''(4) STATE REGULATORY AUTHORITY.—The term 'State regulatory authority' has the meaning given the term 'State commission' in section 2(8) of the Natural Gas Act (15 U.S.C. 717a(8)).

''(b) DISTRIBUTION.—Not later than June 30 of 2015 and each calendar year thereafter through 2028, the Administrator shall distribute to natural gas local distribution companies for the benefit of retail ratepayers the quantity of emission allowances allocated for the following vintage year pursuant to section 782(b). Such allowances shall be distributed among local natural gas distribution companies based on the following formula:

''(1) INITIAL FORMULA.—Except as provided in paragraph (2), for each vintage year, the Administrator shall distribute emission allowances among natural gas local distribution companies ratably based on each such company's annual average retail natural gas deliveries for 2006 through 2008 to customers that were non-covered entities, unless the owner or operator of the company selects 3 other consecutive years between 1999 and 2008, inclusive, and timely notifies the Administrator of its selection.

''(2) UPDATING.—Prior to distributing 2019 vintage year emission allowances and at 3-year intervals thereafter, the Administrator shall update the distribution formula under this subsection to reflect changes in each natural gas local distribution company's service territory since the most recent formula was established. For each successive 3-year period, the Administrator shall distribute allowances ratably among natural gas local distribution companies based on the product of—

''(A) each natural gas local distribution company's average annual natural gas deliveries per customer to customers that were non-covered entities during calendar years 2006 through 2008, or during the 3 alternative consecutive years selected by such company under paragraph (1); and

''(B) the number of customers of such natural gas local distribution company that are not covered entities in the most recent year in which the formula is updated under this paragraph.

''(c) USE OF ALLOWANCES.—

''(1) RATEPAYER BENEFIT.—Emission allowances distributed to a natural gas local distribution company under this section shall be used exclusively for the benefit of retail ratepayers of such natural gas local distribution company other than covered entities and may not be used to support natural gas sales or deliveries to entities or persons other than such ratepayers.

''(2) RATEPAYER CLASSES.—In using emission allowances distributed under this section for the benefit of ratepayers, a natural gas local distribution company shall ensure that ratepayer benefits are distributed—

''(A) among ratepayer classes ratably based on natural gas deliveries to each class, excluding deliveries to covered entities; and

''(B) equitably among individual ratepayers other than covered entities within each ratepayer class.

''(3) LIMITATION.—In general, a natural gas local distribution company shall not use the value of emission allowances distributed under this section to provide to any ratepayer a rebate that is based solely on the quantity of natural gas delivered to such ratepayer. To the extent a natural gas local distribution company uses the value of emission allowances distributed under this section to provide rebates, it shall, to the maximum extent practicable, provide such rebates with regard to the fixed portion of ratepayers' bills or as a fixed creditor rebate on natural gas bills.

''(4) INDUSTRIAL RATEPAYERS.—Notwithstanding paragraph (3), if compliance with the requirements of this title results (or would otherwise result) in an increase in natural gas costs for industrial retail ratepayers of any given natural gas local distribution company that are not covered entities (including entities that receive emission allowances pursuant to part F), such natural gas local distribution company—

''(A) shall pass through to industrial retail ratepayers that are not covered entities their ratable share (based on deliveries to each ratepayer class) of the value of the emission allowances distributed to such company under this subsection, to reduce natural gas cost impacts on such ratepayers; and

''(B) may do so based on the quantity of natural gas delivered to individual industrial retail ratepayers.

''(5) ENERGY EFFICIENCY PROGRAMS.—The value of no less than one third of the emission allowances distributed to natural gas local distribution companies pursuant to this section in any calendar year shall be used for cost-effective energy efficiency programs for natural gas consumers. Such programs must be authorized and overseen by the State regulatory authority, or by the entity with authority to regulate or set retail natural gas rates in the case of a natural gas local distribution company that is not regulated by a State regulatory authority.

''(6) CERTAIN INTRACOMPANY DELIVERIES.—If a natural gas local distribution company makes an intracompany delivery of natural gas to a customer that is not a covered entity, for which such company is required to hold emission allowances under section 722, such customer shall, for purposes of this section, be considered a retail ratepayer and a member of a ratepayer class to be determined by the relevant State regulatory authority, or other entity with authority to regulate or set natural gas rates in the case of a company not regulated by a State regulatory authority.

''(7) GUIDELINES.—As part of the regulations promulgated under subsection (h), the Administrator shall, after consultation with State regulatory authorities, prescribe guidelines for the implementation of the requirements of this subsection. Such guidelines shall include requirements to ensure that industrial retail ratepayers that are not covered entities (including entities that receive emission allowances under part F) receive their ratable share of the value of the allowances distributed to each natural gas local distribution company pursuant to this section.

''(d) REGULATORY PROCEEDINGS.—

''(1) REQUIREMENT.—No natural gas local distribution company shall be eligible to receive emission allowances under this section unless the State regulatory authority with authority over the retail rates of such company, or the entity with authority to regulate or set retail rates of a natural gas local distribution company not regulated by a State regulatory authority, has—

''(A) after public notice and an opportunity for comment, promulgated a regulation or completed a public rate proceeding (or the equivalent, in the case of a ratemaking entity other than a State regulatory authority) that provides for the full implementation of the requirements of subsection (c); and

''(B) made available to the Administrator and the public a report describing, in adequate detail, the manner in which the requirements of subsection (c) will be implemented.

''(2) UPDATING.—The Administrator shall require, as a condition of continued receipt of emission allowances under this section, that a new regulation be promulgated or rate proceeding be completed, after public notice and an opportunity for comment, and a new report be made available to the Administrator and the public, pursuant to paragraph (1), not less frequently than every 5 years.

''(e) PLANS AND REPORTING.—

''(1) REGULATIONS.—As part of the regulations promulgated under subsection (h), the Administrator shall prescribe requirements governing plans and reports to be submitted in accordance with this subsection.

''(2) PLANS.—Not later than April 30 of 2015 and every 5 years thereafter through 2025, each natural gas local distribution company shall submit to the Administrator a plan, approved by the State regulatory authority or other entity charged with regulating or setting the retail rates of such company, describing such company's plans for the disposition of the value of emission allowances to be received pursuant to this section, in accordance with the requirements of this section.

''(3) REPORTS.—Not later than June 30 of 2017 and each calendar year thereafter through 2031, each natural gas local distribution company shall submit a report to the Administrator, approved by the relevant State regulatory authority or other entity charged with regulating or setting the retail natural gas rates of such company, describing the disposition of the value of any emission allowances received by such company in the prior calendar year pursuant to this section, including—

''(A) a description of sales, transfer, exchange, or use by the company for compliance with obligations under this title, of any such emission allowances;

''(B) the monetary value received by the company, whether in money or in some other form, from the sale, transfer, or exchange of emission allowances received by the company under this section;

''(C) the manner in which the company's disposition of emission allowances received under this section complies with the requirements of this section, including each of the requirements of subsection (c);

''(D) the cost-effectiveness of, and energy savings achieved by, energy efficiency programs supported through such emission allowances; and

''(E) such other information as the Administrator may require pursuant to paragraph (1).

''(4) PUBLICATION.—The Administrator shall make available to the public all plans and reports submitted by natural gas local distribution companies under this subsection, including by publishing such plans and reports on the Internet.

''(f) AUDITS.—Each year, the Administrator shall audit a representative sample of natural gas local distribution companies to ensure that emission allowances distributed under this section have been used exclusively for the benefit of retail ratepayers and that such companies are complying with the requirements of this section. In selecting companies for audit, the Administrator shall take into account any credible evidence of noncompliance with such requirements. The Administrator shall make available to the public a report describing the results of each such audit, including by publishing such report on the Internet.

''(g) ENFORCEMENT.—A violation of any requirement of this section shall be a violation of this Act. Each emission allowance the value of which is used in violation of the requirements of this section shall be a separate violation.

''(h) REGULATIONS.—Not later than January 1, 2014, the Administrator, in consultation with the Federal Energy Regulatory Commission, shall promulgate regulations to implement the requirements of this section.

''SEC. 785. HOME HEATING OIL, PROPANE, AND KEROSENE CONSUMERS.

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

''(1) CARBON CONTENT.—The term 'carbon content' means the amount of carbon dioxide that would be emitted as a result of the combustion of a fuel.

''(2) COST-EFFECTIVE.—The term 'cost-effective' has the meaning given that term in section 784(a)(1).

''(3) OILHEAT FUEL.—The term 'oilheat fuel' means fuel that—

''(A) is—

''(i) No. 1 distillate;

''(ii) No. 2 dyed distillate;

''(iii) a liquid blended with No. 1 distillate or No. 2 dyed distillate; or

''(iv) a biobased liquid; and

''(B) is used as a fuel for nonindustrial commercial or residential space or hot water heating.

''(b) DISTRIBUTION AMONG STATES.—Not later than September 30 of each of calendar years 2011 through 2028, the Administrator shall distribute among the States, in accordance with this section, the quantity of emission allowances allocated for the following vintage year pursuant to section 782(c). The Administrator shall distribute emission allowances among the States under this section each year ratably based on the ratio of—

''(1) the carbon content of oilheat fuel, propane, and kerosene sold to consumers within each State in the preceding year for residential or commercial uses; to

''(2) the carbon content of oilheat fuel, propane, and kerosene sold to consumers within the United States in the preceding year for residential or commercial uses.

''(c) USE OF ALLOWANCES.—

''(1) IN GENERAL.—States shall use emission allowances distributed under this section exclusively for the benefit of consumers of oilheat fuel, propane, or kerosene for residential or commercial purposes. Such proceeds shall be used exclusively for—

''(A) cost-effective energy efficiency programs for consumers that use oilheat fuel, propane, or kerosene for residential or commercial purposes; or

''(B) rebates or other direct financial assistance programs for consumers of oilheat

fuel, propane, or kerosene used for residential or commercial purposes.

''(2) ADMINISTRATION AND DELIVERY MECHANISMS.—In administering programs supported by this section, States shall

''(A) use no less than 50 percent of the value of emission allowances received under this section for cost-effective energy efficiency programs to reduce consumers' overall fuel costs;

''(B) to the extent practicable, deliver consumer support under this section through existing energy efficiency and consumer energy assistance programs or delivery mechanisms, including, where appropriate, programs or mechanisms administered by parties other than the State; and

''(C) seek to coordinate the administration and delivery of energy efficiency and consumer energy assistance programs supported under this section, with one another and with existing programs for various fuel types, so as to deliver comprehensive, fuel-blind, coordinated programs to consumers.

''(d) REPORTING.—Each State receiving emission allowances under this section shall submit to the Administrator, within 12 months of each receipt of such allowances, a report, in accordance with such requirements as the Administrator may prescribe, that—

''(1) describes the State's use of emission allowances distributed under this section, including a description of the energy efficiency and consumer assistance programs supported with such allowances;

''(2) demonstrates the cost-effectiveness of, and the energy savings and greenhouse gas emissions reductions achieved by, energy efficiency programs supported under this section; and

''(3) includes a report prepared by an independent third party, in accordance with such regulations as the Administrator may promulgate, evaluating the performance of the energy efficiency and consumer assistance programs supported under this section.

''(e) ENFORCEMENT.—If the Administrator determines that a State is not in compliance with this section, the Administrator may withhold a portion of the emission allowances, the quantity of which is equal to up to twice the quantity of the allowances that the State failed to use in accordance with the requirements of this section, that such State would otherwise be eligible to receive under this section in later years. Allowances withheld pursuant to this subsection shall be distributed among the remaining States ratably in accordance with the formula in subsection (b).

''SEC. 787. ALLOCATIONS TO REFINERIES.

''(a) PURPOSE.—The purpose of this section is to provide emission allowance rebates to petroleum refineries in the United States in a manner that promotes energy efficiency and a reduction in greenhouse gas emissions at such facilities.

''(b) DEFINITIONS.—In this section:

''(1) EMISSIONS.—The term 'emissions' includes direct emissions from fuel combustion, process emissions, and indirect emissions from the generation of electricity, steam, and hydrogen used to produce the output of a petroleum refinery or the petroleum refinery sector.

''(2) PETROLEUM REFINERY.—The term 'petroleum refinery' means a facility classified under code 324110 of the North American Industrial Classification System of 2002.

''(3) SMALL BUSINESS REFINER.—The term 'small business refiner' means a refiner that meets the applicable Federal refinery capacity and employee limitations criteria described in section 45H(c)(1) of the Internal Revenue Code of 1986 (as in effect on the date of enactment of this section and without regard to section 45H(d)). Eligibility of a small business refiner under this paragraph shall not be recalculated or disallowed on account of (i) its merger with another small business refiner or refiners after December 31, 2002 or (ii) its acquisition of another small business refiner (or refinery of such refiner) after December 31, 2002.

''(c) IN GENERAL.—For each vintage year between 2014 and 2026, the Administrator shall distribute allowances pursuant to this section to owners and operators of petroleum refineries, including small business refiners, in the United States.

''(d) DISTRIBUTION SCHEDULE.—The Administrator shall distribute emission allowances pursuant to the regulations issued under subsection (e) for each vintage year no later than October 31 of the preceding calendar year.

''(e) REGULATIONS.—Not later than 3 years after the date of enactment of this title, the Administrator, in consultation with the Administrator of the Energy Information Administration, shall promulgate regulations that establish a formula for distributing emission allowances consistent with the purpose of this section. In establishing such formula, the Administrator shall consider the relative complexity of refinery processes and appropriate mechanisms to take energy efficiency and greenhouse gas reductions into account. If a petroleum refinery's electricity provider received a free allocation of emission allowances pursuant to section 782(a), the Administrator shall take this free allocation into account when establishing such formula to avoid rebates to a petroleum refinery for costs that the Administrator determines were not incurred by the petroleum refinery because the allowances were freely allocated to the petroleum refinery's electricity provider and used for the benefit of the petroleum refinery. This formula shall apply separately to the distribution of allowances allocated pursuant to section 782(j)(1) and to those allocated under section 782(j)(2).

''SEC. 788. SUPPLEMENTAL AGRICULTURE AND RENEWABLE ENERGY INCENTIVES PROGRAMS.

''(a) IN GENERAL.—Emission allowances allocated pursuant to section 782(u) shall be distributed by the Administrator at the direction of the Secretary of Energy and the Secretary of Agriculture in accordance with this section. Not less than 50 percent of the allowances shall be available for the program established pursuant to subsection (b).

''(b) AGRICULTURE INCENTIVES PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish by rule a program to provide incentives in the form of emission allowances for activities undertaken in the agriculture sector that reduce greenhouse gas emissions or sequester carbon. Under this program, the Secretary of Agriculture shall provide incentives for projects and activities that—

''(A) reduce or avoid greenhouse gas emissions, or sequester greenhouse gases, but do not meet the criteria for offset credits established under the American Clean Energy and Security Act of 2009;

''(B) support actions to adapt to climate change; or

''(C) prevent conversion of land that would increase greenhouse gas emissions (including projects and activities that complement or supplement conservation programs administered by the Secretary).

''(2) CONSIDERATIONS.—In designing this program, the Secretary shall ensure that it provides support for—

''(A) development and demonstration of practices to reduce greenhouse gas emissions or sequester carbon in agricultural operations where there are limited recognized opportunities to achieve such emissions reductions or sequestration; and

''(B) projects that reduce greenhouse gas emissions or increase sequestration of greenhouse gases and also achieve other significant environmental benefits, such as the improvement of water or air quality.

''(3) RESEARCH.—The Secretary shall establish by rule a program to conduct research to develop additional projects and activities for crops to find additional techniques and methods to reduce greenhouse gas emissions or sequester greenhouse gases that may or may not meet the criteria for offset credits established under the American Clean Energy and Security Act of 2009.

''(4) USE OF INFORMATION.—Information and data generated by this program should, where relevant, be used to inform the development of additional offset practices and methodologies.

''(c) RENEWABLE ENERGY INCENTIVES PROGRAM.—The Secretary of Energy and the Administrator shall establish by rule a program to provide allowances to State and local governments to support the deployment of renewable energy infrastructure.''.

''SEC. 789. CLIMATE CHANGE CONSUMER REFUNDS.

''(a) REFUND.—In each year after deposits are made to the Climate Change Consumer Refund Account, the Secretary of the Treasury shall provide tax refunds on a per capita basis to each household in the United States that shall collectively equal the amount deposited into the Climate Change Consumer Refund Account.

''(b) LIMITATIONS.—The Secretary of the Treasury shall establish procedures to ensure that individuals who are not—

''(1) citizens or nationals of the United States; or

''(2) immigrants lawfully residing in the United States,

are excluded for the purpose of calculating and distributing refunds under this section.

''SEC. 790. EXCHANGE FOR STATE-ISSUED ALLOWANCES.

''(a) IN GENERAL.—Not later than one year after the date of enactment of this title, the Administrator shall issue regulations allowing any person in the United States to exchange greenhouse gas emission allowances issued before December 31, 2011, by the State of California or for the Regional Greenhouse Gas Initiative, or the Western Climate Initiative (in this section referred to as 'State allowances') for emission allowances established by the Administrator under section 721(a).

''(b) REGULATIONS.—Regulations issued under subsection (a) shall—

''(1) provide that a person exchanging State allowances under this section receive emission allowances established under section 721(a) in the amount that is sufficient to compensate for the cost of obtaining and holding such State allowances;

''(2) establish a deadline by which persons must exchange the State allowances;

''(4) require that, once exchanged, the credit or other instrument be retired for purposes of use under the program by or for which it was originally issued.

''(5) provide that the Federal emission allowances disbursed pursuant to this section shall be deducted from the allowances to be auctioned pursuant to section 782(d); and

''(c) COST OF OBTAINING STATE ALLOWANCE.—For purposes of this section, the cost of obtaining a State allowance shall be the average auction price, for emission allowances issued in the year in which the State allowance was issued, under the program under which the State allowance was issued.

''SEC. 791. AUCTION PROCEDURES.

''(a) IN GENERAL.—To the extent that auctions of emission allowances by the Administrator are authorized by this part, such auctions shall be carried out pursuant to this

section and the regulations established hereunder.

''(b) INITIAL REGULATIONS.—Not later than 12 months after the date of enactment of this title, the Administrator, in consultation with other agencies, as appropriate, shall promulgate regulations governing the auction of allowances under this section. Such regulations shall include the following requirements:

''(1) FREQUENCY; FIRST AUCTION.—Auctions shall be held four times per year at regular intervals, with the first auction to be held no later than March 31, 2011.

''(2) AUCTION SCHEDULE; CURRENT AND FUTURE VINTAGES.—The Administrator shall, at each quarterly auction under this section, offer for sale both a portion of the allowances with the same vintage year as the year in which the auction is being conducted and a portion of the allowances with vintage years from future years. The preceding sentence shall not apply to auctions held before 2012, during which period, by necessity, the Administrator shall auction only allowances with a vintage year that is later than the year in which the auction is held. Beginning with the first auction and at each quarterly auction held thereafter, the Administrator may offer for sale allowances with vintage years of up to four years after the year in which the auction is being conducted, except as provided in section 782(p).

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

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

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

''(6) PURCHASE LIMITS.—No person may, directly or in concert with another participant, purchase more than 5 percent of the allowances offered for sale at any quarterly auction.

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

''(8) OTHER REQUIREMENTS.—The Administrator may include in the regulations such other requirements or provisions as the Administrator, in consultation with other agencies, as appropriate, considers appropriate to promote effective, efficient, transparent, and fair administration of auctions under this section.

''(c) REVISION OF REGULATIONS.—The Administrator may, in consultation with other agencies, as appropriate, at any time, revise the initial regulations promulgated under subsection (b) by promulgating new regulations. Such revised regulations need not meet the requirements identified in subsection (b) if the Administrator determines that an alternative auction design would be more effective, taking into account factors including costs of administration, transparency, fairness, and risks of collusion or manipulation. In determining whether and how to revise the initial regulations under this subsection, the Administrator shall not consider maximization of revenues to the Federal Government.

''(d) RESERVE AUCTION PRICE.—The minimum reserve auction price shall be $10 (in constant 2009 dollars) for auctions occurring in 2012. The minimum reserve price for auctions occurring in years after 2012 shall be the minimum reserve auction price for the previous year increased by 5 percent plus the rate of inflation (as measured by the Consumer Price Index for all urban consumers).

''(e) DELEGATION OR CONTRACT.—Pursuant to regulations under this section, the Administrator may by delegation or contract provide for the conduct of auctions under the Administrator's supervision by other departments or agencies of the Federal Government or by nongovernmental agencies, groups, or organizations.

''(f) SMALL BUSINESS REFINER RESERVE.—The Administrator shall, in accordance with this subsection, issue regulations setting aside a specified number of allowances that small business refiners may purchase at the average auction price and may use to demonstrate compliance pursuant to section 722. These regulations shall provide the following:

''(1) AMOUNT.—The Administrator shall place in the small business refiner reserve account allowances that are to be sold at auction pursuant to the allocations in section 782 in an amount equal to—

''(A) 6.2 percent of the emission allowances established under section 721(a) for each vintage year from 2012 through 2013;

''(B) 5.4 percent of the emission allowances established under section 721(a) for each vintage year from 2014 through 2015; and

''(C) 4.9 percent of the emission allowances established under section 721(a) for each vintage year from 2016 through 2024.

''(2) ALLOWED PURCHASES.—From January 1 of the calendar year that matches the vintage year for which allowances have been placed in the reserve, through January 14 of the following year, small business refiners (as defined in section 787(b)) may purchase allowances from this reserve at the price determined pursuant to paragraph (3).

''(3) PRICE.—The price for allowances purchased from this reserve shall be the average auction price for allowances of the same vintage year purchased at auctions conducted pursuant to this section during the 12 months preceding the purchase of the allowances.

''(4) USE OF ALLOWANCES.—Allowances purchased from this reserve shall only be used by the purchaser to demonstrate compliance pursuant to section 722 for attributable greenhouse gas emissions in the calendar year that matches the vintage year of the purchased allowance. Allowances purchased from this reserve may not be banked, traded or borrowed.

''(5) LIMITATIONS ON PURCHASE AMOUNT.—The Administrator, by regulation adopted after public notice and an opportunity for comment, shall establish procedures to distribute the ability to purchase allowances from the reserve fairly among all small business refiners interested in purchasing allowances from this reserve so as to address the potential that requests to purchase allowances exceed the number of allowances available in the reserve. This regulation may place limits on the number of allowances a small business refiner may purchase from the reserve.

''(6) UNSOLD ALLOWANCES.—Vintage year allowances not sold from the reserve on or before January 15 of the calendar year following the vintage year shall be sold at an auction conducted pursuant to this section no later than March 31 of the calendar year following the vintage year. If significantly more allowances are being placed in the reserve than are being purchased from the reserve several years in a row, the Administrator may adjust either the percent of allowances placed in the reserve or the date by which allowances may be purchased from the reserve.

''SEC. 792. AUCTIONING ALLOWANCES FOR OTHER ENTITIES.

''(a) CONSIGNMENT.—Any entity holding emission allowances or compensatory allowances may request that the Administrator auction, pursuant to section 791, the allowances on consignment.

''(b) PRICING.—When the Administrator acts under this section as the agent of an entity in possession of emission allowances or compensatory allowances, the Administrator is not obligated to obtain the highest price possible for the allowances, and instead shall auction consignment allowances in the same manner and pursuant to the same rules as auctions of other allowances under section 791. The Administrator may permit the entity offering the allowance for sale to condition the sale of its allowances pursuant to this section on a minimum reserve price that is different than the reserve auction price set pursuant to section 791(d).

''(c) PROCEEDS.—For emission allowances and compensatory allowances auctioned pursuant to this section, notwithstanding section 3302 of title 31, United States Code, or any other provision of law, within 90 days of receipt, the United States shall transfer the proceeds from the auction to the entity which held the allowances auctioned. No funds transferred from a purchaser to a seller of emission allowances or compensatory allowances under this subsection shall be held by any officer or employee of the United States or treated for any purpose as public monies.

''(d) UNSOLD ALLOWANCES.—Allowances offered for sale under this section that are not sold shall be returned to the entity in possession of the allowance, notwithstanding section 726(b)(2)(A).

''(e) REGULATIONS.—The Administrator shall issue regulations within 24 months after the date of enactment of this title to implement this section.

''SEC. 793. ESTABLISHMENT OF FUNDS.

''There is hereby established in the Treasury of the United States the following separate accounts:

''(1) The Strategic Reserve Fund.

''(2) The Climate Change Consumer Refund Account.

''(3) The Climate Change Worker Adjustment Assistance Fund.

''SEC. 794. OVERSIGHT OF ALLOCATIONS.

''(a) IN GENERAL.—Not later than January 1, 2014, and every 2 years thereafter, the Comptroller General of the United States shall carry out and report to Congress on the results of a review of programs administered by the Federal Government that distribute emission allowances or funds from any Federal auction of allowances.

''(b) CONTENTS.—Each such report shall include a comprehensive evaluation of the administration and effectiveness of each program, including—

''(1) the efficiency, transparency, and soundness of the administration of each program;

''(2) the performance of activities receiving assistance under each program;

''(3) the cost-effectiveness of each program in achieving the stated purposes of the program; and

''(4) recommendations, if any, for legislative, regulatory, or administrative changes to each program to improve its effectiveness.

''(c) FOCUS.—In evaluating program performance, each review under this section review shall address the effectiveness of such programs in—

''(1) creating and preserving jobs;

''(2) ensuring a manageable transition for working families and workers;

''(3) reducing the emissions, or enhancing sequestration, of greenhouse gases;

''(4) developing clean technologies; and

''(5) building resilience to the impacts of climate change.

''SEC. 795. EXCHANGE FOR EARLY ACTION OFFSET CREDITS.

''(a) IN GENERAL.—Emission allowances allocated pursuant to section 782(t) shall be distributed by the Administrator in accordance with this section. Not later than one year after the date of enactment of this title, the Administrator shall issue regulations allowing—

''(1) any person in the United States to exchange instruments in the nature of offset credits issued before January 1, 2009, by a State or voluntary offset program with respect to which the Administrator has made an affirmative determination under section 740(a)(2), for emissions allowances established by the Administrator under section 721(a); and

''(2) the Administrator to provide compensation in the form of emission allowances to entities that do not meet the criteria of paragraph (1) and meet the criteria of this paragraph for documented early reductions or avoidance of greenhouse gas emissions or greenhouse gases sequestered before January 1, 2009, from projects begun before January 1, 2009, where—

''(A) the entity publicly stated greenhouse gas reduction goals and publicly reported against those goals;

''(B) the entity demonstrated entity-wide net greenhouse gas reductions; and

''(C) the entity demonstrates the actual projects undertaken to make reductions and documents the reductions (e.g., through documentation of engineering projects).

''(b) REGULATIONS.—Regulations issued under subsection (a) shall—

''(1) provide that a person exchanging credits under subsection (a)(1) receive emission allowances established under section 721(a) in an amount for which the monetary value is equivalent to the average monetary value of the credits during the period from January 1, 2006, to January 1, 2009, as adjusted for inflation to reflect current dollar values at the time of the exchange;

''(2) provide that a person receiving compensation for documented early action under subsection (a)(2) shall receive emission allowances established under section 721(a) in an amount that is approximately equivalent in value to the carbon dioxide equivalent per ton value received by entities in exchange for credits under paragraph (1) (as adjusted for inflation to reflect current dollar values at the time of the exchange), as determined by the Administrator;

''(3) provide that only reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, achieved by activities in the United States between January 1, 2001, and January 1, 2009, may be compensated under this section, and only credits issued for such activities may be exchanged under this section;

''(4) provide that only credits that have not been retired or otherwise used to meet a voluntary or mandatory commitment, and have not expired, may be exchanged under subsection (a)(1);

''(5) require that, once exchanged, the credit be retired for purposes of use under the program by or for which it was originally issued; and

''(6) establish a deadline by which persons must exchange the credits or request compensation for early action under this section.

''(c) PARTICIPATION.—Participation in an exchange of credits for allowances or compensation for early action authorized by this section shall not preclude any person from participation in an offset credit program established under the American Clean Energy and Security Act of 2009.

''(d) DISTRIBUTION.—Of the emission allowances distributed under this section, a quantity equal to 0.75 percent of vintage year 2012 emission allowances established under section 721(a) shall be distributed pursuant to subsection (a)(1), and a quantity equal to 0.25 percent of vintage year 2012 emission allowances established under section 721(a) shall be distributed pursuant to subsection (a)(2).''.

Subtitle C—Additional Greenhouse Gas Standards

SEC. 331. GREENHOUSE GAS STANDARDS.

The Clean Air Act (42 U.S.C. 7401 and following), as amended by subtitles A and B of this title, is further amended by adding the following new title after title VII:

''TITLE VIII—ADDITIONAL GREENHOUSE GAS STANDARDS

''SEC. 801. DEFINITIONS.

''For purposes of this title, terms that are defined in title VII, except for the term 'stationary source', shall have the meaning given those terms in title VII.

''PART A—STATIONARY SOURCE STANDARDS

''SEC. 811. STANDARDS OF PERFORMANCE.

''(a) UNCAPPED STATIONARY SOURCES.—

''(1) INVENTORY OF SOURCE CATEGORIES.—(A) Within 12 months after the date of enactment of this title, the Administrator shall publish under section 111(b)(1)(A) an inventory of categories of stationary sources that consist of those categories that contain sources that individually had uncapped greenhouse gas emissions greater than 10,000 tons of carbon dioxide equivalent and that, in the aggregate, were responsible for emitting at least 20 percent annually of the uncapped greenhouse gas emissions.

''(B) The Administrator shall include in the inventory under this paragraph each source category that is responsible for at least 10 percent of the uncapped methane emissions in 2005. Notwithstanding any other provision, the inventory required by this section shall not include sources of enteric fermentation. The list under this paragraph shall include industrial sources, the emissions from which, when added to the capped emissions from industrial sources, constitute at least 95 percent of the greenhouse gas emissions of the industrial sector.

''(C) For purposes of this subsection, emissions shall be calculated using tons of carbon dioxide equivalents. In promulgating the inventory required by this paragraph and the schedule required under by paragraph (2)(C), the Administrator shall use the most current emissions data available at the time of promulgation, except as provided in subparagraph (B).

''(D) Notwithstanding any other provisions, the Administrator may list under 111(b) any source category identified in the inventory required by this subsection without making a finding that the source category causes or contributes significantly to, air pollution with may be reasonably anticipated to endanger public health or welfare.

''(2) STANDARDS AND SCHEDULE.—(A) For each category identified as provided in paragraph (1), the Administrator shall promulgate standards of performance under section 111 for the uncapped emissions of greenhouse gases from stationary sources in that category and shall promulgate corresponding regulations under section 111(d).

''(B) The Administrator shall promulgate standards as required by this subsection for stationary sources in categories identified as provided in paragraph (1) as expeditiously as practicable, assuring that—

''(i) standards for identified source categories that, combined, emitted 80 percent or more of the greenhouse gas emissions of the identified source categories shall be promulgated not later than 3 years after the date of enactment of this title and shall include standards for natural gas extraction; and

''(ii) for all other identified source categories—

''(I) standards for not less than an additional 25 percent of the identified categories shall be promulgated not later than 5 years after the date of enactment of this title;

''(II) standards for not less than an additional 25 percent of the identified categories shall be promulgated not later than 7 years after the date of enactment of this title; and

''(III) standards for all the identified categories shall be promulgated not later than 10 years after the date of enactment of this title.

''(C) Not later than 24 months after the date of enactment of this title and after notice and opportunity for comment, the Administrator shall publish a schedule establishing a date for the promulgation of standards for each category of sources identified pursuant to paragraph (1). The date for each category shall be consistent with the requirements of subparagraph (B). The determination of priorities for the promulgation of standards pursuant to this paragraph is not a rulemaking and shall not be subject to judicial review, except that failure to promulgate any standard pursuant to the schedule established by this paragraph shall be subject to review under section 304(a)(2).

''(D) Notwithstanding section 307, no action of the Administrator listing a source category under paragraph (1) shall be a final agency action subject to judicial review, except that any such action may be reviewed under section 307 when the Administrator issues performance standards for such category.

''(b) CAPPED SOURCES.—No standard of performance shall be established under section 111 for capped greenhouse gas emissions from a capped source unless the Administrator determines that such standards are appropriate because of effects that do not include climate change effects. In promulgating a standard of performance under section 111 for the emission from capped sources of any air pollutant that is not a greenhouse gas, the Administrator shall treat the emission of any greenhouse gas by those entities as a nonair quality public health and environmental impact within the meaning of section 111(a)(1).

''(c) PERFORMANCE STANDARDS.—For purposes of setting a performance standard for source categories identified pursuant to subsection (a)—

''(1) The Administrator shall take into account the goal of reducing total United States greenhouse gas emissions as set forth in section 702.

''(2) The Administrator may promulgate a design, equipment, work practice, or operational standard, or any combination thereof, under section 111 in lieu of a standard of performance under that section without regard to any determination of feasibility that would otherwise be required under section 111(h).

''(3) Notwithstanding any other provision, in setting the level of each standard required by this section, the Administrator shall take into account projections of allowance prices, such that the marginal cost of compliance (expressed as dollars per ton of carbon dioxide equivalent reduced) imposed by the standard would not, in the judgement of the Administrator, be expected to exceed the Administrator's projected allowance prices over the time period spanning from the date of initial compliance to the date that the next

revisions of the standard would come into effect pursuant to the schedule under section 111(b)(1)(B).

''(d) DEFINITIONS.—In this section, the terms 'uncapped greenhouse gas emissions' and 'uncapped methane emissions' mean those greenhouse gas or methane emissions, respectively, to which section 722 would not have applied if the requirements of this title had been in effect for the same year as the emissions data upon which the list is based.

''(e) STUDY OF THE EFFECTS OF PERFORMANCE STANDARDS.—

''(1) STUDY.—The Administrator shall conduct a study of the impacts of performance standards required under this section, which shall evaluate the effect of such standards on the—

''(A) costs of achieving compliance with the economy-wide reduction goals specified in section 702 and the reduction targets specified in section 703;

''(B) available supply of offset credits; and

''(C) ability to achieve the economy-wide reduction goals specified in section 702 and any other benefits of such standards.

''(2) REPORT.—The Administrator shall submit to the House Energy and Commerce Committee a report that describes the results of the study not later than 18 months after the publication of the standards required under subsection (a)(2)(B)(i).

''PART C—EXEMPTIONS FROM OTHER PROGRAMS

''SEC. 831. CRITERIA POLLUTANTS.

''As of the date of the enactment of the Safe Climate Act, no greenhouse gas may be added to the list under section 108(a) on the basis of its effect on global climate change.

''SEC. 832. INTERNATIONAL AIR POLLUTION.

''Section 115 shall not apply to an air pollutant with respect to that pollutant's contribution to global warming.

''SEC. 833. HAZARDOUS AIR POLLUTANTS.

''No greenhouse gas may be added to the list of hazardous air pollutants under section 112 unless such greenhouse gas meets the listing criteria of section 112(b) independent of its effects on global climate change.

''SEC. 834. NEW SOURCE REVIEW.

''The provisions of part C of title I shall not apply to a major emitting facility that is initially permitted or modified after January 1, 2009, on the basis of its emissions of any greenhouse gas.

''SEC. 835. TITLE V PERMITS.

''Notwithstanding any provision of title III or V, no stationary source shall be required to apply for, or operate pursuant to, a permit under title V, solely because the source emits any greenhouse gases that are regulated solely because of their effect on global climate change.''.

SEC. 332. HFC REGULATION.

(a) IN GENERAL.—Title VI of the Clean Air Act (42 U.S.C. 7671 et seq.) (relating to stratospheric ozone protection) is amended by adding at the end the following:

''SEC. 619. HYDROFLUOROCARBONS (HFCS).

''(a) TREATMENT AS CLASS II, GROUP II SUBSTANCES.—Except as otherwise provided in this section, hydrofluorocarbons shall be treated as class II substances for purposes of applying the provisions of this title. The Administrator shall establish two groups of class II substances. Class II, group I substances shall include all hydrochlorofluorocarbons (HCFCs) listed pursuant to section 602(b). Class II, group II substances shall include each of the following:

''(1) Hydrofluorocarbon-23 (HFC-23).

''(2) Hydrofluorocarbon-32 (HFC-32).

''(3) Hydrofluorocarbon-41 (HFC-41).

''(4) Hydrofluorocarbon-125 (HFC-125).

''(5) Hydrofluorocarbon-134 (HFC-134).

''(6) Hydrofluorocarbon-134a (HFC-134a).

''(7) Hydrofluorocarbon-143 (HFC-143).

''(8) Hydrofluorocarbon-143a (HFC-143a).

''(9) Hydrofluorocarbon-152 (HFC-152).

''(10) Hydrofluorocarbon-152a (HFC-152a).

''(11) Hydrofluorocarbon-227ea (HFC-227ea).

''(12) Hydrofluorocarbon-236cb (HFC-236cb).

''(13) Hydrofluorocarbon-236ea (HFC-236ea).

''(14) Hydrofluorocarbon-236fa (HFC-236fa).

''(15) Hydrofluorocarbon-245ca (HFC-245ca).

''(16) Hydrofluorocarbon-245fa (HFC-245fa).

''(17) Hydrofluorocarbon-365mfc (HFC-365mfc).

''(18) Hydrofluorocarbon-43-10mee (HFC-43-10mee).

''(19) Hydrofluoroolefin-1234yf (HFO-1234yf).

''(20) Hydrofluoroolefin-1234ze (HFO-1234ze).

Not later than 6 months after the date of enactment of this title, the Administrator shall publish an initial list of class II, group II substances, which shall include the substances listed in this subsection. The Administrator may add to the list of class II, group II substances any other substance used as a substitute for a class I or II substance if the Administrator determines that 1 metric ton of the substance makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide. Within 24 months after the date of enactment of this section, the Administrator shall amend the regulations under this title (including the regulations referred to in sections 603, 608, 609, 610, 611, 612, and 613) to apply to class II, group II substances.

''(b) CONSUMPTION AND PRODUCTION OF CLASS II, GROUP II SUBSTANCES.—

''(1) IN GENERAL.—

''(A) CONSUMPTION PHASE DOWN.—In the case of class II, group II substances, in lieu of applying section 605 and the regulations thereunder, the Administrator shall promulgate regulations phasing down the consumption of class II, group II substances in the United States, and the importation of products containing any class II, group II substance, in accordance with this subsection within 18 months after the date of enactment of this section. Effective January 1, 2012, it shall be unlawful for any person to produce any class II, group II substance, import any class II, group II substance, or import any product containing any class II, group II substance without holding one consumption allowance or one destruction offset credit for each carbon dioxide equivalent ton of the class II, group II substance. Any person who exports a class II, group II substance for which a consumption allowance was retired may receive a refund of that allowance from the Administrator following the export.

''(B) PRODUCTION.—If the United States becomes a party or otherwise adheres to a multilateral agreement, including any amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer, that restricts the production of class II, group II substances, the Administrator shall promulgate regulations establishing a baseline for the production of class II, group II substances in the United States and phasing down the production of class II, group II substances in the United States, in accordance with such multilateral agreement and subject to the same exceptions and other provisions as are applicable to the phase down of consumption of class II, group II substances under this section (except that the Administrator shall not require a person who obtains production allowances from the Administrator to make payment for such allowances if the person is making payment for a corresponding quantity of consumption allowances of the same vintage year). Upon the effective date of such regulations, it shall be unlawful for any person to produce any class II, group II substance without holding one consumption allowance and one production allowance, or one destruction offset credit, for each carbon dioxide equivalent ton of the class II, group II substance.

''(C) INTEGRITY OF CAP.—To maintain the integrity of the class II, group II cap, the Administrator may, through rulemaking, limit the percentage of each person's compliance obligation that may be met through the use of destruction offset credits or banked allowances.

''(D) COUNTING OF VIOLATIONS.—Each consumption allowance, production allowance, or destruction offset credit not held as required by this section shall be a separate violation of this section.

''(2) SCHEDULE.—Pursuant to the regulations promulgated pursuant to paragraph (1)(A), the number of class II, group II consumption allowances established by the Administrator for each calendar year beginning in 2012 shall be the following percentage of the baseline, as established by the Administrator 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
2031	21
2032	17
after 2032	15

''(3) BASELINE.—(A) Within 12 months after the date of enactment of this section, the Administrator shall promulgate regulations to establish the baseline for purposes of paragraph (2). The baseline shall be the sum, expressed in metric tons of carbon dioxide equivalents, of—

''(i) the annual average consumption of all class II substances in calendar years 2004, 2005, and 2006; plus

''(ii) the annual average quantity of all class II substances contained in imported products in calendar years 2004, 2005, and 2006.

''(B) Notwithstanding subparagraph (A), if the Administrator determines that the baseline is higher than 370 million metric tons of

carbon dioxide equivalents, then the Administrator shall establish the baseline at 370 million metric tons of carbon dioxide equivalents.

''(C) Notwithstanding subparagraph (A), if the Administrator determines that the baseline is lower than 280 million metric tons of carbon dioxide equivalents, then the Administrator shall establish the baseline at 280 million metric tons of carbon dioxide equivalents.

''(4) DISTRIBUTION OF ALLOWANCES.—

''(A) IN GENERAL.—Pursuant to the regulations promulgated under paragraph (1)(A), for each calendar year beginning in 2012, the Administrator shall sell consumption allowances in accordance with this paragraph.

''(B) ESTABLISHMENT OF POOLS.—The Administrator shall establish two allowance pools. Eighty percent of the consumption allowances available for a calendar year shall be placed in the producer-importer pool, and 20 percent of the consumption allowances available for a calendar year shall be placed in the secondary pool.

''(C) PRODUCER-IMPORTER POOL.—

''(i) AUCTION.—(I) For each calendar year, the Administrator shall offer for sale at auction the following percentage of the consumption allowances in the producer-importer pool:

''Calendar Year	Percent Available for Auction
2012	10
2013	20
2014	30
2015	40
2016	50
2017	60
2018	70
2019	80
2020 and thereafter	90

''(II) Any person who produced or imported any class II substance during calendar year 2004, 2005, or 2006 may participate in the auction. No other persons may participate in the auction unless permitted to do so pursuant to subclause (III).

''(III) Not later than three years after the date of the initial auction and from time to time thereafter, the Administrator shall determine through rulemaking whether any persons who did not produce or import a class II substance during calendar year 2004, 2005, or 2006 will be permitted to participate in future auctions. The Administrator shall base this determination on the duration, consistency, and scale of such person's purchases of consumption allowances in the secondary pool under subparagraph (D)(ii)(III), as well as economic or technical hardship and other factors deemed relevant by the Administrator.

''(IV) The Administrator shall set a minimum bid per consumption allowance of the following:

''(aa) For vintage year 2012, $1.00.

''(bb) For vintage year 2013, $1.20.

''(cc) For vintage year 2014, $1.40.

''(dd) For vintage year 2015, $1.60.

''(ee) For vintage year 2016, $1.80.

''(ff) For vintage year 2017, $2.00.

''(gg) For vintage year 2018 and thereafter, $2.00 adjusted for inflation after vintage year 2017 based upon the producer price index as published by the Department of Commerce.

''(ii) NON-AUCTION SALE.—(I) For each calendar year, as soon as practicable after auction, the Administrator shall offer for sale the remaining consumption allowances in the producer-importer pool at the following prices:

''(aa) A fee of $1.00 per vintage year 2012 allowance.

''(bb) A fee of $1.20 per vintage year 2013 allowance.

''(cc) A fee of $1.40 per vintage year 2014 allowance.

''(dd) For each vintage year 2015 allowance, a fee equal to the average of $1.10 and the auction clearing price for vintage year 2014 allowances.

''(ee) For each vintage year 2016 allowance, a fee equal to the average of $1.30 and the auction clearing price for vintage year 2015 allowances.

''(ff) For each vintage year 2017 allowance, a fee equal to the average of $1.40 and the auction clearing price for vintage year 2016 allowances.

''(gg) For each allowance of vintage year 2018 and subsequent vintage years, a fee equal to the auction clearing price for that vintage year.

''(II) The Administrator shall offer to sell the remaining consumption allowances in the producer-importer pool to producers of class II, group II substances and importers of class II, group II substances in proportion to their relative allocation share.

''(III) Such allocation share for such sale shall be determined by the Administrator using such producer's or importer's annual average data on class II substances from calendar years 2004, 2005, and 2006, on a carbon dioxide equivalent basis, and—

''(aa) shall be based on a producer's production, plus importation, plus acquisitions and purchases from persons who produced class II substances in the United States during calendar years 2004, 2005, or 2006, less exportation, less transfers and sales to persons who produced class II substances in the United States during calendar years 2004, 2005, or 2006; and

''(bb) for an importer of class II substances that did not produce in the United States any class II substance during calendar years 2004, 2005, and 2006, shall be based on the importer's importation less exportation.

For purposes of item (aa), the Administrator shall account for 100 percent of class II, group II substances and 60 percent of class II, group I substances. For purposes of item (bb), the Administrator shall account for 100 percent of class II, group II substances and 100 percent of class II, group I substances.

''(IV) Any consumption allowances made available for nonauction sale to a specific producer or importer of class II, group II substances but not purchased by the specific producer or importer shall be made available for sale to any producer or importer of class II substances during calendar years 2004, 2005, or 2006. If demand for such consumption allowances exceeds supply of such consumption allowances, the Administrator shall develop and utilize criteria for the sale of such consumption allowances that may include pro rata shares, historic production and importation, economic or technical hardship, or other factors deemed relevant by the Administrator. If the supply of such consumption allowances exceeds demand, the Administrator may offer such consumption allowances for sale in the secondary pool as set forth in subparagraph (D).

''(D) SECONDARY POOL.—(i) For each calendar year, as soon as practicable after the auction required in subparagraph (C), the Administrator shall offer for sale the consumption allowances in the secondary pool at the prices listed in subparagraph (C)(ii).

''(ii) The Administrator shall accept applications for purchase of secondary pool consumption allowances from—

''(I) importers of products containing class II, group II substances;

''(II) persons who purchased any class II, group II substance directly from a producer or importer of class II, group II substances for use in a product containing a class II, group II substance, a manufacturing process, or a reclamation process;

''(III) persons who did not produce or import a class II substance during calendar year 2004, 2005, or 2006, but who the Administrator determines have subsequently taken significant steps to produce or import a substantial quantity of any class II, group II substance; and

''(IV) persons who produced or imported any class II substance during calendar year 2004, 2005, or 2006.

''(iii) If the supply of consumption allowances in the secondary pool equals or exceeds the demand for consumption allowances in the secondary pool as presented in the applications for purchase, the Administrator shall sell the consumption allowances in the secondary pool to the applicants in the amounts requested in the applications for purchase. Any consumption allowances in the secondary pool not purchased in a calendar year may be rolled over and added to the quantity available in the secondary pool in the following year.

''(iv) If the demand for consumption allowances in the secondary pool as presented in the applications for purchase exceeds the supply of consumption allowances in the secondary pool, the Administrator shall sell the consumption allowances as follows:

''(I) The Administrator shall first sell the consumption allowances in the secondary pool to any importers of products containing class II, group II substances in the amounts requested in their applications for purchase. If the demand for such consumption allowances exceeds supply of such consumption allowances, the Administrator shall develop and utilize criteria for the sale of such consumption allowances among importers of products containing class II, group II substances that may include pro rata shares, historic importation, economic or technical hardship, or other factors deemed relevant by the Administrator.

''(II) The Administrator shall next sell any remaining consumption allowances to persons identified in subclauses (II) and (III) of clause (ii) in the amounts requested in their applications for purchase. If the demand for such consumption allowances exceeds remaining supply of such consumption allowances, the Administrator shall develop and utilize criteria for the sale of such consumption allowances among subclauses (II) and (III) applicants that may include pro rata shares, historic use, economic or technical hardship, or other factors deemed relevant by the Administrator.

''(III) The Administrator shall then sell any remaining consumption allowances to persons who produced or imported any class II substance during calendar year 2004, 2005, or 2006 in the amounts requested in their applications for purchase. If demand for such consumption allowances exceeds remaining supply of such consumption allowances, the Administrator shall develop and utilize criteria for the sale of such consumption allowances that may include pro rata shares, historic production and importation, economic or technical hardship, or other factors deemed relevant by the Administrator.

''(IV) Each person who purchases consumption allowances in a non-auction sale under this subparagraph shall be required to disclose the person or entity sponsoring or benefitting from the purchases if such person or

entity is, in whole or in part, other than the purchaser or the purchaser's employer.

''(E) DISCRETION TO WITHHOLD ALLOWANCES.—Nothing in this paragraph prevents the Administrator from exercising discretion to withhold and retire consumption allowances that would otherwise be available for auction or nonauction sale. Not later than 18 months after the date of enactment of this section, the Administrator shall promulgate regulations establishing criteria for withholding and retiring consumption allowances.

''(5) BANKING.—A consumption allowance or destruction offset credit may be used to meet the compliance obligation requirements of paragraph (1) in—

''(A) the vintage year for the allowance or destruction offset credit; or

''(B) any calendar year subsequent to the vintage year for the allowance or destruction offset credit.

''(6) AUCTIONS.—

''(A) INITIAL REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall promulgate regulations governing the auction of allowances under this section. Such regulations shall include the following requirements:

''(i) FREQUENCY; FIRST AUCTION.—Auctions shall be held one time per year at regular intervals, with the first auction to be held no later than October 31, 2011.

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

''(iii) FINANCIAL ASSURANCE.—The Administrator may establish financial assurance requirements to ensure that auction participants can and will perform on their bids.

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

''(v) PUBLICATION OF INFORMATION.—After the auction, the Administrator shall, in a timely fashion, publish the number of bidders, number of winning bidders, the quantity of allowances sold, and the auction clearing price.

''(vi) BIDDING LIMITS IN 2012.—In the vintage year 2012 auction, no auction participant may, directly or in concert with another participant, bid for or purchase more allowances offered for sale at the auction than the greater of—

''(I) the number of allowances which, when added to the number of allowances available for purchase by the participant in the producer-importer pool non-auction sale, would equal the participant's annual average consumption of class II, group II substances in calendar years 2004, 2005, and 2006; or

''(II) the number of allowances equal to the product of—

''(aa) 1.20 multiplied by the participant's allocation share of the producer-importer pool non-auction sale as determined under paragraph (4)(C)(ii); and

''(bb) the number of vintage year 2012 allowances offered at auction.

''(vii) BIDDING LIMITS IN 2013.—In the vintage year 2013 auction, no auction participant may, directly or in concert with another participant, bid for or purchase more allowances offered for sale at the auction than the product of—

''(I) 1.15 multiplied by the ratio of the total number of vintage year 2012 allowances purchased by the participant from the auction and from the producer-importer pool non-auction sale to the total number of vintage year 2012 allowances in the producer-importer pool; and

''(II) the number of vintage year 2013 allowances offered at auction.

''(viii) BIDDING LIMITS IN SUBSEQUENT YEARS.—In the auctions for vintage year 2014 and subsequent vintage years, no auction participant may, directly or in concert with another participant, bid for or purchase more allowances offered for sale at the auction than the product of—

''(I) 1.15 multiplied by the ratio of the highest number of allowances required to be held by the participant in any of the three prior vintage years to meet its compliance obligation under paragraph (1) to the total number of allowances in the producer-importer pool for such vintage year; and

''(II) the number of allowances offered at auction for that vintage year.

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

''(B) REVISION OF REGULATIONS.—The Administrator may, at any time, revise the initial regulations promulgated under subparagraph (A) based on the Administrator's experience in administering allowance auctions by promulgating new regulations. Such revised regulations need not meet the requirements identified in subparagraph (A) if the Administrator determines that an alternative auction design would be more effective, taking into account factors including costs of administration, transparency, fairness, and risks of collusion or manipulation. In determining whether and how to revise the initial regulations under this paragraph, the Administrator shall not consider maximization of revenues to the Federal Government.

''(C) DELEGATION OR CONTRACT.—Pursuant to regulations under this section, the Administrator may, by delegation or contract, provide for the conduct of auctions under the Administrator's supervision by other departments or agencies of the Federal Government or by nongovernmental agencies, groups, or organizations.

''(7) PAYMENTS FOR ALLOWANCES.—

''(A) INITIAL REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall promulgate regulations governing the payment for allowances purchased in auction and non-auction sales under this section. Such regulations shall include the requirement that, in the event that full payment for purchased allowances is not made on the date of purchase, equal payments shall be made one time per calendar quarter with all payments for allowances of a vintage year made by the end of that vintage year.

''(B) REVISION OF REGULATIONS.— The Administrator may, at any time, revise the initial regulations promulgated under subparagraph (A) based on the Administrator's experience in administering collection of payments by promulgating new regulations. Such revised regulations need not meet the requirements identified in subparagraph (A) if the Administrator determines that an alternative payment structure or frequency would be more effective, taking into account factors including cost of administration, transparency, and fairness. In determining whether and how to revise the initial regulations under this paragraph, the Administrator shall not consider maximization of revenues to the Federal Government.

''(C) PENALTIES FOR NON-PAYMENT.—Failure to pay for purchased allowances in accordance with the regulations promulgated pursuant to this paragraph shall be a violation of the requirements of subsection (b). Section 113(c)(3) shall apply in the case of any person who knowingly fails to pay for purchased allowances in accordance with the regulations promulgated pursuant to this paragraph.

''(8) IMPORTED PRODUCTS.—If the United States becomes a party or otherwise adheres to a multilateral agreement, including any amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer, which restricts the production or consumption of class II, group II substances—

''(A) as of the date on which such agreement or amendment enters into force, it shall no longer be unlawful for any person to import from a party to such agreement or amendment any product containing any class II, group II substance whose production or consumption is regulated by such agreement or amendment without holding one consumption allowance or one destruction offset credit for each carbon dioxide equivalent ton of the class II, group II substance;

''(B) the Administrator shall promulgate regulations within 12 months of the date the United States becomes a party or otherwise adheres to such agreement or amendment, or the date on which such agreement or amendment enters into force, whichever is later, to establish a new baseline for purposes of paragraph (2), which new baseline shall be the original baseline less the carbon dioxide equivalent of the annual average quantity of any class II substances regulated by such agreement or amendment contained in products imported from parties to such agreement or amendment in calendar years 2004, 2005, and 2006;

''(C) as of the date on which such agreement or amendment enters into force, no person importing any product containing any class II, group II substance may, directly or in concert with another person, purchase any consumption allowances for sale by the Administrator for the importation of products from a party to such agreement or amendment that contain any class II, group II substance restricted by such agreement or amendment; and

''(D) the Administrator may adjust the two allowance pools established in paragraph (4) such that up to 90 percent of the consumption allowances available for a calendar year are placed in the producer-importer pool with the remaining consumption allowances placed in the secondary pool.

''(9) OFFSETS.—

''(A) CHLOROFLUOROCARBON DESTRUCTION.—Within 18 months after the date of enactment of this section, the Administrator shall promulgate regulations to provide for the issuance of offset credits for the destruction, in the calendar year 2012 or later, of chlorofluorocarbons in the United States. The Administrator shall establish and distribute to the destroying entity a quantity of destruction offset credits equal to 0.8 times the number of metric tons of carbon dioxide equivalents of reduction achieved through the destruction. No destruction offset credits shall be established for the destruction of a class II, group II substance.

''(B) DEFINITION.—For purposes of this paragraph, the term 'destruction' means the conversion of a substance by thermal, chemical, or other means to another substance with little or no carbon dioxide equivalent value and no ozone depletion potential.

''(C) REGULATIONS.—The regulations promulgated under this paragraph shall include standards and protocols for project eligibility, certification of destroyers, monitoring, tracking, destruction efficiency, quantification of project and baseline emissions and carbon dioxide equivalent value, and verification. The Administrator shall ensure that destruction offset credits represent real and verifiable destruction of chlorofluorocarbons or other class I or class

II, group I, substances authorized under subparagraph (D).

''(D) OTHER SUBSTANCES.—The Administrator may promulgate regulations to add to the list of class I and class II, group I, substances that may be destroyed for destruction offset credits, taking into account a candidate substance's carbon dioxide equivalent value, ozone depletion potential, prevalence in banks in the United States, and emission rates, as well as the need for additional cost containment under the class II, group II cap and the integrity of the class II, group II cap. The Administrator shall not add a class I or class II, group I substance to the list if the consumption of the substance has not been completely phased-out internationally (except for essential use exemptions or other similar exemptions) pursuant to the Montreal Protocol.

''(E) EXTENSION OF OFFSETS.—(i) At any time after the Administrator promulgates regulations pursuant to subparagraph (A), the Administrator may, pursuant to the requirements of part D of title VII and based on the carbon dioxide equivalent value of the substance destroyed, add the types of destruction projects authorized to receive destruction offset credits under this paragraph to the list of types of projects eligible for offset credits under section 733. If such projects are added to the list under section 733, the issuance of offset credits for such projects under part D of title VII shall be governed by the requirements of such part D, while the issuance of offset credits for such projects under this paragraph shall be governed by the requirements of this paragraph. Nothing in this paragraph shall affect the issuance of offset credits under section 740.

''(ii) The Administrator shall not make the addition under clause (i) unless the Administrator finds that insufficient destruction is occurring or is projected to occur under this paragraph and that the addition would increase destruction.

''(iii) In no event shall more than one destruction offset credit be issued under title VII and this section for the destruction of the same quantity of a substance.

''(10) LEGAL STATUS OF ALLOWANCES AND CREDITS.—None of the following constitutes a property right:

''(A) A production or consumption allowance.

''(B) A destruction offset credit.

''(c) DEADLINES FOR COMPLIANCE.—Notwithstanding the deadlines specified for class II substances in sections 608, 609, 610, 612, and 613 that occur prior to January 1, 2009, the deadline for promulgating regulations under those sections for class II, group II substances shall be January 1, 2012.

''(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwithstanding any phase down of production and consumption required by this section, to the extent consistent with any applicable multilateral agreement to which the United States is a party or otherwise adheres, the Administrator may provide the following exceptions for essential uses:

''(1) MEDICAL DEVICES.—The Administrator, after notice and opportunity for public comment, and in consultation with the Commissioner of the Food and Drug Administration, may provide an exception for the production and consumption of class II, group II substances solely for use in medical devices.

''(2) AVIATION AND SPACE VEHICLE SAFETY.—The Administrator, after notice and opportunity for public comment, may authorize the production and consumption of limited quantities of class II, group II substances solely for the purposes of aviation or space vehicle safety if either the Administrator of the Federal Aviation Administration or the Administrator of the National Aeronautics and Space Administration, in consultation with the Administrator, determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation or space flight safety purposes.

''(e) DEVELOPING COUNTRIES.—Notwithstanding any phase down of production required by this section, the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of class II, group II substances in excess of the amounts otherwise allowable under this section solely for export to, and use in, developing countries. Any production authorized under this subsection shall be solely for purposes of satisfying the basic domestic needs of such countries as provided in applicable international agreements, if any, to which the United States is a party or otherwise adheres.

''(f) NATIONAL SECURITY; FIRE SUPPRESSION, ETC.—The provisions of subsection (f) and paragraphs (1) and (2) of subsection (g) of section 604 shall apply to any consumption and production phase down of class II, group II substances in the same manner and to the same extent, consistent with any applicable international agreement to which the United States is a party or otherwise adheres, as such provisions apply to the substances specified in such subsection.

''(g) ACCELERATED SCHEDULE.—In lieu of section 606, the provisions of paragraphs (1), (2), and (3) of this subsection shall apply in the case of class II, group II substances.

''(1) IN GENERAL.—The Administrator shall promulgate initial regulations not later than 18 months after the date of enactment of this section, and revised regulations any time thereafter, which establish a schedule for phasing down the consumption (and, if the condition in subsection (b)(1)(B) is met, the production) of class II, group II substances that is more stringent than the schedule set forth in this section if, based on the availability of substitutes, the Administrator determines that such more stringent schedule is practicable, taking into account technological achievability, safety, and other factors the Administrator deems relevant, or if the Montreal Protocol, or any applicable international agreement to which the United States is a party or otherwise adheres, is modified or established to include a schedule or other requirements to control or reduce production, consumption, or use of any class II, group II substance more rapidly than the applicable schedule under this section.

''(2) PETITION.—Any person may submit a petition to promulgate regulations under this subsection in the same manner and subject to the same procedures as are provided in section 606(b).

''(3) INCONSISTENCY.—If the Administrator determines that the provisions of this section regarding banking, allowance rollover, or destruction offset credits create a significant potential for inconsistency with the requirements of any applicable international agreement to which the United States is a party or otherwise adheres, the Administrator may promulgate regulations restricting the availability of banking, allowance rollover, or destruction offset credits to the extent necessary to avoid such inconsistency.

''(h) EXCHANGE.—Section 607 shall not apply in the case of class II, group II substances. Production and consumption allowances for class II, group II substances may be freely exchanged or sold but may not be converted into allowances for class II, group I substances.

''(i) LABELING.—(1) In applying section 611 to products containing or manufactured with class II, group II substances, in lieu of the words 'destroying ozone in the upper atmosphere' on labels required under section 611 there shall be substituted the words 'contributing to global warming'.

''(2) The Administrator may, through rulemaking, exempt from the requirements of section 611 products containing or manufactured with class II, group II substances determined to have little or no carbon dioxide equivalent value compared to other substances used in similar products.

''(j) NONESSENTIAL PRODUCTS.—For the purposes of section 610, class II, group II substances shall be regulated under section 610(b), except that in applying section 610(b) the word 'hydrofluorocarbon' shall be substituted for the word 'chlorofluorocarbon' and the term 'class II, group II' shall be substituted for the term 'class I'. Class II, group II substances shall not be subject to the provisions of section 610(d).

''(k) INTERNATIONAL TRANSFERS.—In the case of class II, group II substances, in lieu of section 616, this subsection shall apply. To the extent consistent with any applicable international agreement to which the United States is a party or otherwise adheres, including any amendment to the Montreal Protocol, the United States may engage in transfers with other parties to such agreement or amendment under the following conditions:

''(1) The United States may transfer production allowances to another party to such agreement or amendment if, at the time of the transfer, the Administrator establishes revised production limits for the United States accounting for the transfer in accordance with regulations promulgated pursuant to this subsection.

''(2) The United States may acquire production allowances from another party to such agreement or amendment if, at the time of the transfer, the Administrator finds that the other party has revised its domestic production limits in the same manner as provided with respect to transfers by the United States in the regulations promulgated pursuant to this subsection.

''(l) RELATIONSHIP TO OTHER LAWS.—

''(1) STATE LAWS.—For purposes of section 116, the requirements of this section for class II, group II substances shall be treated as requirements for the control and abatement of air pollution.

''(2) MULTILATERAL AGREEMENTS.—Section 614 shall apply to the provisions of this section concerning class II, group II substances, except that for the words 'Montreal Protocol' there shall be substituted the words 'Montreal Protocol, or any applicable multilateral agreement to which the United States is a party or otherwise adheres that restricts the production or consumption of class II, group II substances,' and for the words 'Article 4 of the Montreal Protocol' there shall be substituted 'any provision of such multilateral agreement regarding trade with non-parties'.

''(3) FEDERAL FACILITIES.—For purposes of section 118, the requirements of this section for class II, group II substances and corresponding State, interstate, and local requirements, administrative authority, and process and sanctions shall be treated as requirements for the control and abatement of air pollution within the meaning of section 118.

''(m) CARBON DIOXIDE EQUIVALENT VALUE.—(1) In lieu of section 602(e), the provisions of this subsection shall apply in the case of class II, group II substances. Simultaneously with establishing the list of class II, group II substances, and simultaneously with any addition to that list, the Administrator shall publish the carbon dioxide equivalent value of each listed class II, group II substance, based on a determination of the number of metric tons of carbon dioxide that makes the same contribution to global warming over

100 years as 1 metric ton of each class II, group II substance.

''(2) Not later than February 1, 2017, and not less than every 5 years thereafter, the Administrator shall—

''(A) review, and if appropriate, revise the carbon dioxide equivalent values established for class II, group II substances based on a determination of the number of metric tons of carbon dioxide that makes the same contributions to global warming over 100 years as 1 metric ton of each class II, group II substance; and

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

''(3) A revised determination published in the Federal Register under paragraph (2)(B) shall take effect for production of class II, group II substances, consumption of class II, group II substances, and importation of products containing class II, group II substances starting on January 1 of the first calendar year starting at least 9 months after the date on which the revised determination was published.

''(4) The Administrator may decrease the frequency of review and revision under paragraph (2) if the Administrator determines that such decrease is appropriate in order to synchronize such review and revisions with any similar review process carried out pursuant to the United Nations Framework Convention on Climate Change, an agreement negotiated under that convention, The Vienna Convention for the Protection of the Ozone Layer, or an agreement negotiated under that convention, except that in no event shall the Administrator carry out such review and revision any less frequently than every 10 years.

''(n) REPORTING REQUIREMENTS.—In lieu of subsections (b) and (c) of section 603, paragraphs (1) and (2) of this subsection shall apply in the case of class II, group II substances:

''(1) IN GENERAL.—On a quarterly basis, or such other basis (not less than annually) as determined by the Administrator, each person who produced, imported, or exported a class II, group II substance, or who imported a product containing a class II, group II substance, shall file a report with the Administrator setting forth the carbon dioxide equivalent amount of the substance that such person produced, imported, or exported, as well as the amount that was contained in products imported by that person, during the preceding reporting period. Each such report shall be signed and attested by a responsible officer. If all other reporting is complete, no such report shall be required from a person after April 1 of the calendar year after such person permanently ceases production, importation, and exportation of the substance, as well as importation of products containing the substance, and so notifies the Administrator in writing. If the United States becomes a party or otherwise adheres to a multilateral agreement, including any amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer, that restricts the production or consumption of class II, group II substances, then, if all other reporting is complete, no such report shall be required from a person with respect to importation from parties to such agreement or amendment of products containing any class II, group II substance restricted by such agreement or amendment, after April 1 of the calendar year following the year during which such agreement or amendment enters into force.

''(2) BASELINE REPORTS FOR CLASS II, GROUP II SUBSTANCES.—

''(A) IN GENERAL.—Unless such information has been previously reported to the Administrator, on the date on which the first report under paragraph (1) of this subsection is required to be filed, each person who produced, imported, or exported a class II, group II substance, or who imported a product containing a class II substance, (other than a substance added to the list of class II, group II substances after the publication of the initial list of such substances under this section), shall file a report with the Administrator setting forth the amount of such substance that such person produced, imported, exported, or that was contained in products imported by that person, during each of calendar years 2004, 2005, and 2006.

''(B) PRODUCERS.—In reporting under subparagraph (A), each person who produced in the United States a class II substance during calendar years 2004, 2005, or 2006 shall—

''(i) report all acquisitions or purchases of class II substances during each of calendar years 2004, 2005, and 2006 from all other persons who produced in the United States a class II substance during calendar years 2004, 2005, or 2006, and supply evidence of such acquisitions and purchases as deemed necessary by the Administrator; and

''(ii) report all transfers or sales of class II substances during each of calendar years 2004, 2005, and 2006 to all other persons who produced in the United States a class II substance during calendar years 2004, 2005, or 2006, and supply evidence of such transfers and sales as deemed necessary by the Administrator.

''(C) ADDED SUBSTANCES.—In the case of a substance added to the list of class II, group II substances after publication of the initial list of such substances under this section, each person who produced, imported, exported, or imported products containing such substance in calendar year 2004, 2005, or 2006 shall file a report with the Administrator within 180 days after the date on which such substance is added to the list, setting forth the amount of the substance that such person produced, imported, and exported, as well as the amount that was contained in products imported by that person, in calendar years 2004, 2005, and 2006.

''(o) STRATOSPHERIC OZONE AND CLIMATE PROTECTION FUND.—

''(1) IN GENERAL.—There is established in the Treasury of the United States a Stratospheric Ozone and Climate Protection Fund.

''(2) DEPOSITS.—The Administrator shall deposit all proceeds from the auction and non-auction sale of allowances under this section into the Stratospheric Ozone and Climate Protection Fund.

''(3) USE.—Amounts deposited into the Stratospheric Ozone and Climate Protection Fund shall be available, subject to appropriations, exclusively for the following purposes:

''(A) RECOVERY, RECYCLING, AND RECLAMATION.—The Administrator may utilize funds to establish a program to incentivize the recovery, recycling, and reclamation of any Class II substances in order to reduce emissions of such substances.

''(B) MULTILATERAL FUND.—If the United States becomes a party or otherwise adheres to a multilateral agreement, including any amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer, which restricts the production or consumption of class II, group II substances, the Administrator may utilize funds to meet any related contribution obligation of the United States to the Multilateral Fund for the Implementation of the Montreal Protocol or similar multilateral fund established under such multilateral agreement.

''(C) BEST-IN-CLASS APPLIANCES DEPLOYMENT PROGRAM.—The Secretary of Energy is authorized to utilize funds to carry out the purposes of section 214 of the American Clean Energy and Security Act of 2009.

''(D) LOW GLOBAL WARMING PRODUCT TRANSITION ASSISTANCE PROGRAM.—

''(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Energy, may utilize funds in fiscal years 2012 through 2022 to establish a program to provide financial assistance to manufacturers of products containing class II, group II substances to facilitate the transition to products that contain or utilize alternative substances with no or low carbon dioxide equivalent value and no ozone depletion potential.

''(ii) DEFINITION.—In this subparagraph, the term 'products' means refrigerators, freezers, dehumidifiers, air conditioners, foam insulation, technical aerosols, fire protection systems, and semiconductors.

''(iii) FINANCIAL ASSISTANCE.—The Administrator may provide financial assistance to manufacturers pursuant to clause (i) for—

''(I) the design and configuration of new products that use alternative substances with no or low carbon dioxide equivalent value and no ozone depletion potential; and

''(II) the redesign and retooling of facilities for the manufacture of products in the United States that use alternative substances with no or low carbon dioxide equivalent value and no ozone depletion potential.

''(iv) REPORTS.—For any fiscal year during which the Administrator provides financial assistance pursuant to this subparagraph, the Administrator shall submit a report to the Congress within 3 months of the end of such fiscal year detailing the amounts, recipients, specific purposes, and results of the financial assistance provided.''.

(b) TABLE OF CONTENTS.—The table of contents of title VI of the Clean Air Act (42 U.S.C. 7671 et seq.) is amended by adding the following new item at the end thereof:

''Sec. 619. Hydrofluorocarbons (HFCs).''.

(c) FIRE SUPPRESSION AGENTS.—Section 605(a) of the Clean Air Act (42 U.S.C. 7671(a)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding the following new paragraph after paragraph (3):

''(4) is listed as acceptable for use as a fire suppression agent for nonresidential applications in accordance with section 612(c).''.

(d) MOTOR VEHICLE AIR CONDITIONERS.—

(1) Section 609(e) of the Clean Air Act (42 U.S.C. 7671h(e)) is amended by inserting '', group I'' after each reference to ''class II'' in the text and heading.

(2) Section 609 of the Clean Air Act (42 U.S.C. 7671h) is amended by adding the following new subsection after subsection (e):

''(f) CLASS II, GROUP II SUBSTANCES.—

''(1) REPAIR.—The Administrator may promulgate regulations establishing requirements for repair of motor vehicle air conditioners prior to adding a class II, group II substance.

''(2) SMALL CONTAINERS.—(A) The Administrator may promulgate regulations establishing servicing practices and procedures for recovery of class II, group II substances from containers which contain less than 20 pounds of such class II, group II substances.

''(B) Not later than 18 months after enactment of this subsection, the Administrator shall either promulgate regulations requiring that containers which contain less than 20 pounds of a class II, group II substance be equipped with a device or technology that limits refrigerant emissions and leaks from the container and limits refrigerant emissions and leaks during the transfer of refrigerant from the container to the motor vehicle air conditioner or issue a determination that such requirements are not necessary or appropriate.

''(C) Not later than 18 months after enactment of this subsection, the Administrator shall promulgate regulations establishing requirements for consumer education materials on best practices associated with the use of containers which contain less than 20 pounds of a class II, group II substance and prohibiting the sale or distribution, or offer for sale or distribution, of any class II, group II substance in any container which contains less than 20 pounds of such class II, group II substance, unless consumer education materials consistent with such requirements are displayed and available at point-of-sale locations, provided to the consumer, or included in or on the packaging of the container which contain less than 20 pounds of a class II, group II substance.

''(D) The Administrator may, through rulemaking, extend the requirements established under this paragraph to containers which contain 30 pounds or less of a class II, group II substance if the Administrator determines that such action would produce significant environmental benefits.

''(3) RESTRICTION OF SALES.—Effective January 1, 2014, no person may sell or distribute or offer to sell or distribute or otherwise introduce into interstate commerce any motor vehicle air conditioner refrigerant in any size container unless the substance has been found acceptable for use in a motor vehicle air conditioner under section 612.''.

(e) SAFE ALTERNATIVES POLICY.—Section 612(e) of the Clean Air Act (42 U.S.C. 7671k(e)) is amended by inserting ''or class II'' after each reference to ''class I''.

SEC. 333. BLACK CARBON.

(a) DEFINITION.—As used in this section, the term ''black carbon'' means primary light absorbing aerosols, as defined by the Administrator, based on the best available science.

(b) BLACK CARBON ABATEMENT REPORT.—Not later than one year after the date of enactment of this section, the Administrator shall, in consultation with other appropriate Federal agencies, submit to Congress a report regarding black carbon emissions. The report shall include the following:

(1) A summary of the current information and research that identifies—

(A) an inventory of the major sources of black carbon emissions in the United States and throughout the world, including—

(i) an estimate of the quantity of current and projected future emissions; and

(ii) the net climate forcing of the emissions from such sources, including consideration of co-emissions of other pollutants;

(B) effective and cost-effective control technologies, operations, and strategies for additional domestic and international black carbon emissions reductions, such as diesel retrofit technologies on existing on-road, non-road, and stationary engines and programs to address residential cookstoves, and forest and agriculture-based burning;

(C) potential metrics and approaches for quantifying the climatic effects of black carbon emissions, including its radiative forcing and warming effects, that may be used to compare the climate benefits of different mitigation strategies, including an assessment of the uncertainty in such metrics and approaches; and

(D) the public health and environmental benefits associated with additional controls for black carbon emissions.

(2) Recommendations regarding—

(A) development of additional emissions monitoring techniques and capabilities, modeling, and other black carbon-related areas of study;

(B) areas of focus for additional study of technologies, operations, and strategies with the greatest potential to reduce emissions of black carbon and associated public health, economic, and environmental impacts associated with these emissions; and

(C) actions, in addition to those identified by the Administrator under section 851 of the Clean Air Act (as added by subsection (c)), the Federal Government may take to encourage or require reductions in black carbon emissions.

(c) BLACK CARBON MITIGATION.—Title VIII of the Clean Air Act, as added by section 331 of this Act, and amended by section 222 of this Act, is further amended by adding after part D the following new part:

''PART E—BLACK CARBON

''SEC. 851. BLACK CARBON.

''(a) DOMESTIC BLACK CARBON MITIGATION.—Not later than 18 months after the date of enactment of this section, the Administrator, taking into consideration the public health and environmental impacts of black carbon emissions, including the effects on global and regional warming, the Arctic, and other snow and ice-covered surfaces, shall propose regulations under the existing authorities of this Act to reduce emissions of black carbon or propose a finding that existing regulations promulgated pursuant to this Act adequately regulate black carbon emissions. Not later than two years after the date of enactment of this section, the Administrator shall promulgate final regulations under the existing authorities of this Act or finalize the proposed finding. Such regulations shall not apply to specific types, classes, categories, or other suitable groupings of emissions sources that the Administrator finds are subject to adequate regulation.

''(b) INTERNATIONAL BLACK CARBON MITIGATION.—

''(1) REPORT.—Not later than one year after the date of enactment of this section, the Administrator, in coordination with the Secretary of State and other appropriate Federal agencies, shall transmit a report to Congress on the amount, type, and direction of all present United States financial, technical, and related assistance to foreign countries to reduce, mitigate, and otherwise abate black carbon emissions.

''(2) OTHER OPPORTUNITIES.—The report required under paragraph (1) shall also identify opportunities and recommendations, including action under existing authorities, to achieve significant black carbon emission reductions in foreign countries through technical assistance or other approaches to—

''(A) promote sustainable solutions to bring clean, efficient, safe, and affordable stoves, fuels, or both stoves and fuels to residents of developing countries that are reliant on solid fuels such as wood, dung, charcoal, coal, or crop residues for home cooking and heating, so as to help reduce the public health, environmental, and economic impacts of black carbon emissions from these sources by—

''(i) identifying key regions for large-scale demonstration efforts, and key partners in each such region; and

''(ii) developing for each such region a large-scale implementation strategy with a goal of collectively reaching 20,000,000 homes over 5 years with interventions that will—

''(I) increase stove efficiency by over 50 percent (or such other goal as determined by the Administrator);

''(II) reduce emissions of black carbon by over 60 percent (or such other goal as determined by the Administrator); and

''(III) reduce the incidence of severe pneumonia in children under 5 years old by over 30 percent (or such other goal as determined by the Administrator);

''(B) make technological improvements to diesel engines and provide greater access to fuels that emit less or no black carbon;

''(C) reduce unnecessary agricultural or other biomass burning where feasible alternatives exist;

''(D) reduce unnecessary fossil fuel burning that produces black carbon where feasible alternatives exist;

''(E) reduce other sources of black carbon emissions; and

''(F) improve capacity to achieve greater compliance with existing laws to address black carbon emissions.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 334. STATES.

Section 116 of the Clean Air Act (42 U.S.C. 7416) is amended by adding the following at the end thereof: ''For the purposes of this section, the phrases 'standard or limitation respecting emissions of air pollutants' and 'requirements respecting control or abatement of air pollution' shall include any provision to: cap greenhouse gas emissions, require surrender to the State or a political subdivision thereof of emission allowances or offset credits established or issued under this Act, and require the use of such allowances or credits as a means of demonstrating compliance with requirements established by a State or political subdivision thereof.''.

SEC. 335. STATE PROGRAMS.

Title VIII of the Clean Air Act, as added by section 331 of this Act and amended by several sections of this Act, is further amended by adding after part E (as added by section 333(c) of this Act) the following new part:

''PART F—MISCELLANEOUS

''SEC. 861. STATE PROGRAMS.

''Notwithstanding section 116, no State or political subdivision thereof shall implement or enforce a cap and trade program that covers any capped emissions emitted during the years 2012 through 2017. For purposes of this section, the term 'cap and trade program' means a system of greenhouse gas regulation under which a State or political subdivision issues a limited number of tradable instruments in the nature of emission allowances and requires that sources within its jurisdiction surrender such tradeable instruments for each unit of greenhouse gases emitted during a compliance period. For purposes of this section, a 'cap-and-trade program' does not include a target or limit on greenhouse gas emissions adopted by a State or political subdivision that is implemented other than through the issuance and surrender of a limited number of tradable instruments in the nature of emission allowances, nor does it include any other standard, limit, regulation, or program to reduce greenhouse gas emissions that is not implemented through the issuance and surrender of a limited number of tradeable instruments in the nature of emission allowances. For purposes of this section, the term 'cap and trade program' does not include, among other things, fleet-wide motor vehicle emission requirements that allow greater emissions with increased vehicle production, or requirements that fuels, or other products, meet an average pollution emission rate or lifecycle greenhouse gas standard.

''SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CONTROL PROGRAMS.

''The Administrator is authorized to make grants to air pollution control agencies pursuant to section 105 for purposes of assisting in the implementation of programs to address global warming established under the Safe Climate Act.''.

SEC. 336. ENFORCEMENT.

(a) REMAND.—Section 307(b) of the Clean Air Act (42 U.S.C. 7607(b)) is amended by adding the following new paragraphs at the end thereof:

''(3) If the court determines that any action of the Administrator is arbitrary, capricious, or otherwise unlawful, the court may remand such action, without vacatur, if vacatur would impair or delay protection of the environment or public health or otherwise undermine the timely achievement of the purposes of this Act.

''(4) If the court determines that any action of the Administrator is arbitrary, capricious, or otherwise unlawful, and remands the matter to the Administrator, the Administrator shall complete final action on remand within an expeditious time period no longer than the time originally allowed for the action or one year, whichever is less, unless the court on motion determines that a shorter or longer period is necessary, appropriate, and consistent with the purposes of this Act. The court of appeals shall have jurisdiction to enforce a deadline for action on remand under this subparagraph.''.

(b) PETITION FOR RECONSIDERATION.—Section 307(d)(7)(B) of the Clean Air Act (42 U.S.C. 7607(d)(7)(B)) is amended as follows:

(1) By inserting after the second sentence ''If a petition for reconsideration is filed, the Administrator shall take final action on such petition, including promulgation of final action either revising or determining not to revise the action for which reconsideration is sought, within 150 days after the petition is received by the Administrator or the petition shall be deemed denied for the purpose of judicial review.''.

(2) By amending the third sentence to read as follows: ''Such person may seek judicial review of such denial, or of any other final action, by the Administrator, in response to a petition for reconsideration, in the United States court of appeals for the appropriate circuit (as provided in subsection (b)).''.

SEC. 337. CONFORMING AMENDMENTS.

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

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

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

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

(4) In subsection (c)—

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

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

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

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

(b) RETENTION OF STATE AUTHORITY.—Section 116 of the Clean Air Act (42 U.S.C. 7416) is amended as follows:

(1) By striking ''and 233'' and inserting ''233''.

(2) By striking ''of moving sources)'' and inserting ''of moving sources), and 861 (preempting certain State greenhouse gas programs for a limited time)''.

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

(d) ENFORCEMENT.—Subsection (f) of section 304 of the Clean Air Act (42 U.S.C. 7604(f)) is amended as follows:

(1) By striking ''; or'' at the end of paragraph (3) thereof and inserting a comma.

(2) By striking the period at the end of paragraph (4) thereof and inserting '', or''.

(3) By adding the following after paragraph (4) thereof:

''(5) any requirement of title VII or VIII.''.

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

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

(2) In subsection (b)(1)—

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

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

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

''(S) the promulgation or revision of any regulation under title VII or VIII,''.

SEC. 338. DAVIS-BACON COMPLIANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, to receive emission allowances or funding under this Act, or the amendments made by this Act, the recipient shall provide reasonable assurances that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act, or the amendments made by this Act, or by any entity established in accordance with this Act, or the amendments made by this Act, including the Carbon Storage Research Corporation, will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the ''Davis-Bacon Act''). With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(b) EXEMPTION.—Neither subsection (a) nor the requirements of subchapter IV of chapter 31 of title 40, United States Code, shall apply to retrofitting of the following:

(1) Single family homes (both attached and detached) under section 202.

(2) Owner-occupied residential units in larger buildings that have their own dedicated space-conditioning systems under section 202.

(3) Residential buildings (as defined in section 202(a)(5)) if designed for residential use by less than 4 families.

(4) Nonresidential buildings (as defined in section 202(a)(1)) if the net interior space of such nonresidential building is less than 6,500 square feet.

SEC. 339. NATIONAL STRATEGY FOR DOMESTIC BIOLOGICAL CARBON SEQUESTRATION.

Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, the Secretary of Agriculture, the Secretary of the Interior, and the heads of such other relevant Federal agencies as the President may designate, shall submit to Congress a report setting forth a unified and comprehensive strategy to address the key legal, regulatory, technological, and other barriers to maximizing the potential for sustainable biological sequestration of carbon within the United States.

SEC. 340. REDUCING ACID RAIN AND MERCURY POLLUTION.

Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to Congress a report that analyzes the effects of different carbon dioxide reduction strategies and technologies on the emissions of mercury, sulfur dioxide, and nitrogen oxide, which cause acid rain, particulate matter, ground level ozone, mercury contamination, and other environmental problems. The report shall assess a variety of carbon reduction technologies, including the application of various carbon capture and sequestration technologies for both new and existing power plants. The report shall assess the current scientific and technical understanding of the interplay between the various technologies and emissions of air pollutants, identify hurdles to strategies that could cost-effectively reduce emissions of multiple pollutants, and make appropriate recommendations.

Subtitle D—Carbon Market Assurance

SEC. 341. CARBON MARKET ASSURANCE.

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

''PART IV—CARBON MARKET ASSURANCE

''SEC. 401. OVERSIGHT AND ASSURANCE OF CARBON MARKETS.

''(a) DEFINITIONS.—In this section:

''(1) CONTRACT OF SALE.—The term 'contract of sale' includes sales, agreements of sale, and agreements to sell.

''(1) COVERED ENTITY.—The term 'covered entity' shall have the meaning given in section 700 of the Clean Air Act.

''(2) REGULATED ALLOWANCE.—The term 'regulated allowance' means any emission allowance, compensatory allowance, offset credit, or Federal renewable electricity credit established or issued under the American Clean Energy and Security Act of 2009.

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

''(b) REGULATED ALLOWANCE MARKET.—

''(1) AUTHORITY.—The Commission shall promulgate regulations for the establishment, operation, and oversight of markets for regulated allowances not later than 18 months after the date of the enactment of this section, and from time to time thereafter as may be appropriate.

''(2) REGULATIONS.—The regulations promulgated pursuant to paragraph (1) shall—

''(A) provide for effective and comprehensive market oversight;

''(B) prohibit fraud, market manipulation, and excess speculation, and provide measures to limit unreasonable fluctuation in the prices of regulated allowances;

''(C) facilitate compliance with title VII of the Clean Air Act by covered entities;

''(D) ensure market transparency and recordkeeping deemed necessary and appropriate by the Commission to provide for efficient price discovery; prevention of fraud, market manipulation, and excess speculation; and compliance with title VII of the Clean Air Act and section 610 of the Public Utility Regulatory Policies Act of 1978;

''(E) as necessary, ensure that position limitations for individual market participants are established with respect to each class of regulated allowances;

''(F) as necessary, ensure that margin requirements are established for each class of regulated allowances;

''(G) provide for the formation and operation of a fair, orderly and liquid national market system that allows for the best execution in the trading of regulated allowances;

''(H) limit or eliminate counterparty risks, market power concentration risks, and other risks associated with trading regulated allowances outside of trading facilities

''(I) establish standards for qualification as, and operation of, trading facilities for regulated allowances;

''(J) establish standards for qualification as, and operation of, clearing organizations for trading facilities for regulated allowances; and

''(K) include such other requirements as necessary to preserve market integrity and facilitate compliance with title VII of the Clean Air Act and section 610 of the Public Utility Regulatory Policies Act of 1978 and the regulations promulgated under such title and such section.

''(3) ENFORCEMENT.—

''(A) IN GENERAL.—If the Commission determines, after notice and an opportunity for a hearing on the record, that any entity has violated any rule or order issued by the Commission under this subsection, the Commission may issue an order—

''(i) prohibiting the entity from trading on a trading facility for regulated allowances registered with the Commission, and requiring all such facilities to refuse the entity all privileges for such period as may be specified in the order;

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

''(iii) assessing the entity a civil penalty of not more than $1,000,000 per day per violation for as long as the violation continues (and in determining the amount of a civil penalty, the Commission shall take into account the nature and seriousness of the violation and the efforts to remedy the violation); and

''(iv) requiring disgorgement of unjust profits, restitution to entities harmed by the violation as determined by the Commission, or both.

''(B) AUTHORITY TO SUSPEND OR REVOKE REGISTRATION.—The Commission may suspend for a period of not more than 6 months, or revoke, the registration of a trading facility for regulated allowances or of a clearing organization registered by the Commission if, after notice and opportunity for a hearing on the record, the Commission finds that—

''(i) the entity violated any rule or order issued by the Commission under this subsection; or

''(ii) a director, officer, employee, or agent of the entity has violated any rule or order issued by the Commission under this subsection.

''(C) CEASE AND DESIST PROCEEDINGS.—

''(i) IN GENERAL.—If the Commission determines that any entity may be violating, may have violated, or may be about to violate any provision of this part, or any regulation promulgated by, or any restriction, condition, or order made or imposed by, the Commission under this Act, and if the Commission finds that the alleged violation or threatened violation, or the continuation of the violation, is likely to result in significant harm to covered entities or market participants, or significant harm to the public interest, the Commission may issue a temporary order requiring the entity—

''(I) to cease and desist from the violation or threatened violation;

''(II) to take such action as is necessary to prevent the violation or threatened violation; and

''(III) to prevent, as the Commission determines to be appropriate—

''(aa) significant harm to covered entities or market participants;

''(bb) significant harm to the public interest; and

''(cc) frustration of the ability of the Commission to conduct the proceedings or to redress the violation at the conclusion of the proceedings.

''(ii) TIMING OF ENTRY.—An order issued under clause (i) shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing before entry would be impracticable or contrary to the public interest.

''(iii) EFFECTIVE DATE.—A temporary order issued under clause (i) shall—

''(I) become effective upon service upon the entity; and

''(II) unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, remain effective and enforceable pending the completion of the proceedings.

''(D) PROCEEDINGS REGARDING DISSIPATION OR CONVERSION OF ASSETS.—

''(i) IN GENERAL.—In a proceeding involving an alleged violation of a regulation or order promulgated or issued by the Commission, if the Commission determines that the alleged violation or related circumstances are likely to result in significant dissipation or conversion of assets, the Commission may issue a temporary order requiring the respondent to take such action as is necessary to prevent the dissipation or conversion of assets.

''(ii) TIMING OF ENTRY.—An order issued under clause (i) shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing before entry would be impracticable or contrary to the public interest.

''(iii) EFFECTIVE DATE.—A temporary order issued under clause (i) shall—

''(I) become effective upon service upon the respondent; and

''(II) unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, remain effective and enforceable pending the completion of the proceedings.

''(E) REVIEW OF TEMPORARY ORDERS.—

''(i) APPLICATION FOR REVIEW.—At any time after a respondent has been served with a temporary cease-and-desist order pursuant to subparagraph (C) or order regarding the dissipation or conversion of assets pursuant to subparagraph (D), the respondent may apply to the Commission to have the order set aside, limited, or suspended.

''(ii) NO PRIOR HEARING.—If a respondent has been served with a temporary order entered without a prior hearing of the Commission—

''(I) the respondent may, not later than 10 days after the date on which the order was served, request a hearing on the application; and

''(II) the Commission shall hold a hearing and render a decision on the application at the earliest practicable time.

''(iii) JUDICIAL REVIEW.—

''(I) IN GENERAL.—An entity shall not be required to submit a request for rehearing of a temporary order before seeking judicial review in accordance with this subparagraph.

''(II) TIMING OF REVIEW.—Not later than 10 days after the date on which a respondent is served with a temporary cease-and-desist order entered with a prior hearing of the Commission, or 10 days after the date on which the Commission renders a decision on an application and hearing under clause (i) with respect to any temporary order entered without such a prior hearing—

''(aa) the respondent may obtain a review of the order in a United States circuit court having jurisdiction over the circuit in which the respondent resides or has a principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order; and

''(bb) the court shall have jurisdiction to enter such an order.

''(III) NO PRIOR HEARING.—A respondent served with a temporary order entered without a prior hearing of the Commission may not apply to the applicable court described in subclause (II) except after a hearing and decision by the Commission on the application of the respondent under clauses (i) and (ii).

''(iv) PROCEDURES.—Section 222 and Part III shall apply to—

''(I) an application for review of an order under clause (i); and

''(II) an order subject to review under clause (iii).

''(v) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under clause (iii) shall not, unless specifically ordered by the court, operate as a stay of the order of the Commission.

''(F) ACTIONS TO COLLECT CIVIL PENALTIES.—If any person fails to pay a civil penalty assessed under this subsection after an order assessing the penalty has become final and unappealable, the Commission shall bring an action to recover the amount of the penalty in any appropriate United States district court.

''(4) TRANSACTION FEES.—

''(A) IN GENERAL.—The Commission shall, in accordance with this paragraph, establish and collect transaction fees designed to recover the costs to the Federal Government of the supervision and regulation of regulated allowance markets and market participants, including related costs for enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.

''(B) INITIAL FEE RATE.—Each trading facility on or through which regulated allowances are transacted shall pay to the Commission a fee at a rate of not more than $15 per $1,000,000 of the aggregate dollar amount of sales of regulated allowances transacted through the facility.

''(C) ANNUAL ADJUSTMENT OF FEE RATE.—The Commission shall, on an annual basis—

''(i) assess the rate at which fees are to be collected as necessary to meet the cost recovery requirement in subparagraph (A); and

''(ii) consistent with subparagraph (B), adjust the rate as necessary in order to meet the requirement.

''(D) REPORT ON ADEQUACY OF FEES IN RECOVERING COSTS.—The Commission, shall, on an annual basis, report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the adequacy of the transaction fees in providing funding for the Commission to regulate the regulated allowance markets.

''(5) JUDICIAL REVIEW.—Judicial review of actions taken by the Commission under this subsection shall be pursuant to part III.

''(6) ADDITIONAL EMPLOYEES REPORT AND APPOINTMENT.—Within 18 months after the date of the enactment of this section, the Commission shall submit to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, a report that contains recommendations as to how many additional employees would be necessary to provide robust oversight and enforcement of the regulations promulgated under this subsection. As soon as practicable after the completion of the report, subject to appropriations, the Commission shall appoint the recommended number of additional employees for such purposes.

''(e) WORKING GROUP.—

''(1) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this section, the President shall establish an interagency working group on carbon market oversight, which shall include the Administrator of the Environmental Protection Agency and representatives of other relevant agencies, to make recommendations to the Commodity Futures Trading Commission regarding proposed regulations for the establishment, operation, and oversight of markets for regulated allowance derivatives.

''(2) REPORT.—Not later than 180 days after the date of the enactment of this section, and biennially thereafter, the interagency working group shall submit a written report to the President and Congress that includes its recommendations to the Commodity Futures Trading Commission regarding proposed regulations for the establishment, operation, and oversight of markets for regulated allowance derivatives and any recommendations to Congress for statutory changes needed to ensure the establishment, operation, and oversight of transparent, fair, stable, and efficient markets for regulated allowance derivatives.

''(d) PENALTY FOR FRAUD AND FALSE OR MISLEADING STATEMENTS.—A person convicted under section 1041 of title 18, United States Code, may be prohibited from holding or trading regulated allowances for a period of not more than 5 years pursuant to the regulations promulgated under this section, except that, if the person is a covered entity, the person shall be allowed to hold sufficient regulated allowances to meet its compliance obligations.

''(e) RELATION TO STATE LAW.—Nothing in this section shall preclude, diminish or qualify any authority of a State or political subdivision thereof to adopt or enforce any unfair competition, antitrust, consumer protection, securities, commodities or any other law or regulation, except that no such State law or regulation may relieve any person of any requirement otherwise applicable under this section.

''(f) MARKET REPORTS.—

''(1) COLLECTION AND ANALYSIS OF INFORMATION.—The Commission, in conjunction with the Commodity Futures Trading Commission shall, on a continuous basis, analyze the following information on the functioning of the markets for regulated instruments established under this part:

''(A) The status of, and trends in, the markets, including prices, trading volumes, transaction types, and trading channels and mechanisms.

''(B) Spikes, collapses, and volatility in prices of regulated instruments, and the causes therefor.

''(C) The relationship between the market for regulated allowances and allowance derivatives, and the spot and futures markets for energy commodities, including electricity.

''(D) The economic effects of the markets, including to macro- and micro-economic effects of unexpected significant increases and decreases in the price of regulated instruments.

''(E) Any changes in the roles, activities, or strategies of various market participants.

''(F) Regional, industrial, and consumer responses to the markets, and energy investment responses to the markets.

''(G) Any other issue related to the markets that the Commission, Commodity Futures Trading Commission, deems appropriate.

''(2) ANNUAL REPORTS TO THE CONGRESS.—Not later than 1 month after the end of each calendar year, the Commission, in conjunction with the Federal agency, shall submit to the President, the Committee on Agriculture and Committee on Energy and Commerce of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and Committee on Energy and Natural Resources of the Senate, and make available to the public, a report on the matters described in paragraph (1) with respect to the year, including recommendations for any administrative or statutory measures the Commission, and the Commodity Futures Trading Commission consider necessary to address any threats to the transparency, fairness, or integrity of the markets in regulated instruments.

''SEC. 402. APPLICABILITY OF PART III PROVISIONS.

''(a) SECTIONS 301, 304, AND 306.—Sections 301, 304, and 306 shall not apply to this part.

''(b) SECTION 315.—In applying section 315(a) to this part, the words ''person or entity'' shall be substituted for the words ''licensee or public utility''. In applying section 315(b) to this part, the words ''an entity'' shall be substituted for the words ''a licensee or public utility'' and the words ''such entity'' shall be substituted for the words ''such licensee or public utility.''

''(c) SECTION 316.—Section 316(a) shall not apply to section 401(d).''.

(b) CRIMINAL PROHIBITION AGAINST FRAUD AND FALSE OR MISLEADING STATEMENTS.—

(1) Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1041. Fraud and false statements in connection with regulated allowances

''Whoever in connection with a transaction involving a regulated allowance (as defined in section 401(a) of the Federal Power Act, as added by section 341 of the American Clean Energy and Security Act of 2009), knowingly—

''(1) makes or uses a materially false or misleading statement, writing, representation, scheme, or device; or

''(2) falsifies, conceals, or covers up by any trick, scheme, or device any material fact,

shall be fined not more than $5,000,000 (or $25,000,000 in the case of an organization) or imprisoned not more than 20 years, or both.''.

(2) The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

''1041. Fraud and false statements in connection with regulated allowances.''.

SEC. 342. CARBON DERIVATIVE MARKETS.

(a) Section 1a(14) of the Commodity Exchange Act (7 U.S.C. 1a(14)) is amended by striking ''or an agricultural commodity'' and inserting '', an agricultural commodity, or any emission allowance, compensatory allowance, offset credit, or Federal renewable electricity credit established or issued under the American Clean Energy and Security Act of 2009''.

(b) Section 4(c) of such Act (7 U.S.C. 6(c)) is amended by adding at the end the following:

''(6) This subsection does not apply to any agreement, contract, or transaction for any emission allowance, compensatory allowance, offset credit, or Federal renewable electricity credit established or issued under the American Clean Energy and Security Act of 2009.''.

Subtitle E—Additional Market Assurance

SEC. 351. REGULATION OF CERTAIN TRANSACTIONS IN DERIVATIVES INVOLVING ENERGY COMMODITIES.

(a) ENERGY COMMODITY DEFINED.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) in paragraph (14), by inserting '', an energy commodity,'' after ''excluded commodity'';

(2) by redesignating paragraphs (13) through (21) and paragraphs (22) through (34) as paragraphs (14) through (22) and paragraphs (24) through (36), respectively;

(3) by inserting after paragraph (12) the following:

''(13) ENERGY COMMODITY.—The term 'energy commodity' means—

''(A) coal;

''(B) crude oil, gasoline, diesel fuel, jet fuel, heating oil, and propane;

''(C) electricity (excluding financial transmission rights which are subject to regulation and oversight by the Federal Energy Regulatory Commission);

''(D) natural gas; and

''(E) any other substance (other than an excluded commodity, a metal, or an agricultural commodity) that is used as a source of energy, as the Commission, in its discretion, deems appropriate.''; and

(4) by inserting after paragraph (22) (as so redesignated by paragraph (2) of this subsection) the following:

''(23) INCLUDED ENERGY TRANSACTION.—The term 'included energy transaction' means a contract, agreement, or transaction in an energy commodity for future delivery that provides for a delivery point of the energy commodity in the United States or a territory or possession of the United States, or that is offered or transacted on or through a computer terminal located in the United States.''.

(b) EXTENSION OF REGULATORY AUTHORITY TO SWAPS INVOLVING ENERGY TRANSACTIONS.—Section 2(g) of such Act (7 U.S.C. 2(g)) is amended by inserting ''or an energy commodity'' after ''agricultural commodity''.

(c) ELIMINATION OF EXEMPTION FOR OVER-THE-COUNTER SWAPS INVOLVING ENERGY COMMODITIES.—Section 2(h)(1) of such Act (7 U.S.C. 2(h)(1)) is amended by inserting ''(other than an energy commodity)'' after ''exempt commodity''.

(d) EXTENSION OF REGULATORY AUTHORITY TO INCLUDED ENERGY TRANSACTIONS ON FOREIGN BOARDS OF TRADE.—Section 4 of such Act (7 U.S.C. 6) is amended—

(1) in subsection (a), by inserting '', and which is not an included energy transaction'' after ''territories or possessions'' the 2nd place it appears; and

(2) in subsection (b), by adding at the end the following: ''The preceding sentence shall not apply with respect to included energy transactions.''.

(e) LIMITATION OF GENERAL EXEMPTIVE AUTHORITY OF THE CFTC WITH RESPECT TO INCLUDED ENERGY TRANSACTIONS.—

(1) IN GENERAL.—Section 4(c) of such Act (7 U.S.C. 6(c)) is amended by adding at the end the following:

''(6) The Commission may not exempt any included energy transaction from the requirements of subsection (a), unless the Commission provides 60 days advance notice to the Congress and the Position Limit Energy Advisory Group and solicits public comment about the exemption request and any proposed Commission action.''.

(2) NULLIFICATION OF NO-ACTION LETTER EXEMPTIONS TO CERTAIN REQUIREMENTS APPLICABLE TO INCLUDED ENERGY TRANSACTIONS.—Beginning 180 days after the date of the enactment of this Act, any exemption provided by the Commodity Futures Trading Commission that has allowed included energy transactions (as defined in section 1a(13) of the Commodity Exchange Act) to be conducted without regard to the requirements of section 4(a) of such Act shall be null and void.

(f) REQUIREMENT TO ESTABLISH UNIFORM SPECULATIVE POSITION LIMITS FOR ENERGY TRANSACTIONS.—

(1) IN GENERAL.—Section 4a(a) of such Act (7 U.S.C. 6a(a)) is amended—

(A) by inserting ''(1)'' after ''(a)'';

(B) by inserting after the 2nd sentence the following: ''With respect to energy transactions, the Commission shall fix limits on the aggregate number of positions which may be held by any person for each month across all markets subject to the jurisdiction of the Commission.'';

(C) in the 4th sentence by inserting '', consistent with the 3rd sentence,'' after ''Commission''; and

(D) by adding after and below the end the following:

''(2)(A) Not later than 60 days after the date of the enactment of this paragraph, the Commission shall convene a Position Limit Energy Advisory Group consisting of representatives from—

''(i) 7 predominantly commercial short hedgers of the actual energy commodity for future delivery;

''(ii) 7 predominantly commercial long hedgers of the actual energy commodity for future delivery;

''(iii) 4 non-commercial participants in markets for energy commodities for future delivery; and

''(iv) each designated contract market or derivatives transaction execution facility upon which a contract in the energy commodity for future delivery is traded, and each electronic trading facility that has a significant price discovery contract in the energy commodity.

''(B) Not later than 60 days after the date on which the advisory group is convened under subparagraph (A), and annually thereafter, the advisory group shall submit to the Commission advisory recommendations regarding the position limits to be established in paragraph (1).

''(C) The Commission shall have exclusive authority to grant exemptions for bona fide hedging transactions and positions from position limits imposed under this Act on energy transactions.''.

(2) CONFORMING AMENDMENTS.—

(A) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h)(7) of such Act (7 U.S.C. 2(h)(7)) is amended—

(i) in subparagraph (A)—

(I) by inserting ''of this paragraph and section 4a(a)'' after ''(B) through (D)''; and

(II) by inserting ''of this paragraph'' before the period; and

(ii) in subparagraph (C)(ii)(IV)—

(I) in the heading, by striking ''LIMITATIONS OR''; and

(II) by striking ''position limitations or''.

(B) CONTRACTS TRADED ON OR THROUGH DESIGNATED CONTRACT MARKETS.—Section 5(d)(5) of such Act (7 U.S.C. 7(d)(5)) is amended—

(i) in the heading by striking ''LIMITATIONS OR''; and

(ii) by striking ''position limitations or''.

(C) CONTRACTS TRADED ON OR THROUGH DERIVATIVES TRANSACTION EXECUTION FACILITIES.—Section 5a(d)(4) of such Act (7 U.S.C. 7a(d)(4)) is amended—

(i) in the heading by striking ''LIMITATIONS OR''; and

(ii) by striking ''position limits or''.

(g) ELIMINATION OF THE SWAPS LOOPHOLE.—Section 4a(c) of such Act (7 U.S.C. 6a(c)) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding after and below the end the following:

''(2) For the purposes of contracts of sale for future delivery and options on such contracts or commodities, the Commission shall define what constitutes a bona fide hedging transaction or position as a transaction or position that—

''(A)(i) represents a substitute for transactions made or to be made or positions taken or to be taken at a later time in a physical marketing channel;

''(ii) is economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise; and

''(iii) arises from the potential change in the value of—

''(I) assets that a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;

''(II) liabilities that a person owns or anticipates incurring; or

''(III) services that a person provides, purchases, or anticipates providing or purchasing; or

''(B) reduces risks attendant to a position resulting from a transaction that—

''(i) was executed pursuant to subsection (d), (g), (h)(1), or (h)(2) of section 2, or an exemption issued by the Commission by rule, regulation or order; and

''(ii) was executed opposite a counterparty for which the transaction would qualify as a bona fide hedging transaction pursuant to paragraph (2)(A) of this subsection.''.

(h) DETAILED REPORTING AND DISAGGREGATION OF MARKET DATA.—Section 4 of such Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) DETAILED REPORTING AND DISAGGREGATION OF MARKET DATA.—

''(1) INDEX TRADERS AND SWAP DEALERS REPORTING.—The Commission shall issue a proposed rule defining and classifying index traders and swap dealers (as those terms are defined by the Commission) for purposes of data reporting requirements and setting routine detailed reporting requirements for any positions of such entities in contracts traded on designated contract markets, over-the-counter markets, derivatives transaction execution facilities, foreign boards of trade subject to section 4(f), and electronic trading facilities with respect to significant price discovery contracts not later than 120 days after the date of the enactment of this subsection, and issue a final rule within 180 days after such date of enactment.

''(2) DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN MARKETS.—Subject to section 8 and beginning within 60 days of the issuance of the final rule required by paragraph (1), the Commission shall disaggregate and make public weekly—

''(A) the number of positions and total notional value of index funds and other passive, long-only and short-only positions (as defined by the Commission) in all markets to the extent such information is available; and

''(B) data on speculative positions relative to bona fide physical hedgers in those markets to the extent such information is available.

''(3) DISCLOSURE OF IDENTITY OF HOLDERS OF POSITIONS IN INDEXES IN EXCESS OF POSITION LIMITS.—The Commission shall include in its weekly Commitment of Trader reports the identity of each person who holds a position in an index in excess of a limit imposed under section 4i.''.

(i) AUTHORITY TO SET LIMITS TO PREVENT EXCESSIVE SPECULATION IN INDEXES.—

(1) IN GENERAL.—Section 4a of such Act (7 U.S.C. 6a) is amended by adding at the end the following:

''(f) The provisions of this section shall apply to the amounts of trading which may be done or positions which may be held by any person under contracts of sale of an index for future delivery on or subject to the rules of any contract market, derivatives transaction execution facility, or over-the-counter market, or on an electronic trading facility with respect to a significant price discovery contract, in the same manner in which this section applies to contracts of sale of a commodity for future delivery.''.

(2) REGULATIONS.—The Commodity Futures Trading Commission shall issue regulations under section 4a(f) of the Commodity Exchange Act within 180 days after the date of the enactment of this Act.

SEC. 352. NO EFFECT ON AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:.

''(j) This Act shall not be interpreted to affect the jurisdiction of the Federal Energy Regulatory Commission with respect to the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.), the Natural Gas Act (15 U.S.C. 717 et seq.), or other law to obtain information, carry out enforcement actions, or otherwise carry out the responsibilities of the Federal Energy Regulatory Commission.''.

SEC. 353. INSPECTOR GENERAL OF THE COMMODITY FUTURES TRADING COMMISSION.

(a) ELEVATION OF OFFICE.—

(1) INCLUSION OF CFTC IN DEFINITION OF ESTABLISHMENT.—

(A) Section 12(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code;'' and inserting ''the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; or the Chairman of the Commodity Futures Trading Commission;''.

(B) Section 12(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''or the Commissions established under section 15301 of title 40, United States Code,'' and inserting ''the Commissions established under section 15301 of title 40, United States Code, or the Commodity Futures Trading Commission,''.

(2) EXCLUSION OF CFTC FROM DEFINITION OF DESIGNATED FEDERAL ENTITY.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''the Commodity Futures Trading Commission,''.

(b) PROVISIONS RELATING TO PAY AND PERSONNEL AUTHORITY.—

(1) PROVISION RELATING TO THE POSITION OF INSPECTOR GENERAL OF THE CFTC.—In the case of the Inspector General of the Commodities Futures Trading Commission, subsections (b) and (c) of section 4 of the Inspector General Reform Act of 2008 (Public Law 110-409) shall apply in the same manner as if the Commission was a designated Federal entity under section 8G. The Inspector General of the Commodities Futures Trading Commission shall not be subject to section 3(e) of such Act.

(2) PROVISION RELATING TO OTHER PERSONNEL.—Notwithstanding paragraphs (7) and (8) of section 6(a) of the Inspector General Act of 1978 (5 U.S.C. App.), the Inspector General of the Commodities Futures Trading Commission may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the Commodities Futures Trading Commission.

(c) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of the enactment of this Act.

(2) TRANSITION RULE.—An individual serving as Inspector General of the Commodity

Futures Trading Commission on the effective date of this section pursuant to an appointment made under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)—

(A) may continue so serving until the President makes an appointment under section 3(a) of such Act consistent with the amendments made by this section; and

(B) shall, while serving under subparagraph (A), remain subject to the provisions of section 8G of such Act which apply with respect to the Commodity Futures Trading Commission.

SEC. 354. SETTLEMENT AND CLEARING THROUGH REGISTERED DERIVATIVES CLEARING ORGANIZATIONS.

(a) IN GENERAL.—

(1) APPLICATION TO EXCLUDED DERIVATIVE TRANSACTIONS.—

(A) Section 2(d)(1) of the Commodity Exchange Act (7 U.S.C. 2(d)(1)) is amended—

(i) by striking ''and'' at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) except as provided in section 4(f), the agreement, contract, or transaction is settled and cleared through a derivatives clearing organization registered with the Commission.''.

(B) Section 2(d)(2) of such Act (7 U.S.C. 2(d)(2)) is amended—

(i) by striking ''and'' at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(iii) by adding at the end the following:

''(D) except as provided in section 4(f), the agreement, contract, or transaction is settled and cleared through a derivatives clearing organization registered with the Commission.''.

(2) APPLICATION TO CERTAIN SWAP TRANSACTIONS.—Section 2(g) of such Act (7 U.S.C. 2(g)) is amended—

(A) by striking ''and'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(C) by adding at the end the following:

''(4) except as provided in section 4(f), settled and cleared through a derivatives clearing organization registered with the Commission.''.

(3) APPLICATION TO CERTAIN TRANSACTIONS IN EXEMPT COMMODITIES.—

(A) Section 2(h)(1) of such Act (7 U.S.C. 2(h)(1)) is amended—

(i) by striking ''and'' at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) except as provided in section 4(f), is settled and cleared through a derivatives clearing organization registered with the Commission.''.

(B) Section 2(h)(3) of such Act (7 U.S.C. 2(h)(3)) is amended—

(i) by striking ''and'' at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) except as provided in section 4(f), settled and cleared through a derivatives clearing organization registered with the Commission.''.

(4) GENERAL EXEMPTIVE AUTHORITY.—Section 4(c)(1) of such Act (7 U.S.C. 6(c)(1)) is amended by inserting ''the agreement, contract, or transaction, except as provided in section 4(h), will be settled and cleared through a derivatives clearing organization registered with the Commission and'' before ''the Commission determines''.

(5) CONFORMING AMENDMENT RELATING TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h)(7)(D) of such Act (7 U.S.C. 2(h)(7)(D)) is amended by striking the designation and heading for the subparagraph and all that follows through ''As part of'' and inserting the following:

''(D) REVIEW OF IMPLEMENTATION.—As part of''.

(b) ALTERNATIVES TO CLEARING THROUGH DESIGNATED CLEARING ORGANIZATIONS.—Section 4 of such Act (7 U.S.C. 6), as amended by section 351(h) of this Act, is amended by adding at the end the following:

''(f) ALTERNATIVES TO CLEARING THROUGH DESIGNATED CLEARING ORGANIZATIONS.—

''(1) SETTLEMENT AND CLEARING THROUGH CERTAIN OTHER REGULATED ENTITIES.—An agreement, contract, or transaction, or class thereof, relating to an excluded commodity, that would otherwise be required to be settled and cleared by section 2(d)(1)(C), 2(d)(2)(D), 2(g)(4), 2(h)(1)(C), or 2(h)(3)(C) of this Act, or subsection (c)(1) of this section may be settled and cleared through an entity listed in subsections (a) or (b) of section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

''(2) WAIVER OF CLEARING REQUIREMENT.—

''(A) The Commission, in its discretion, may exempt an agreement, contract, or transaction, or class thereof, that would otherwise be required by section 2(d)(1)(C), 2(d)(2)(D), 2(g)(4), 2(h)(1)(C), or 2(h)(3)(C) of this Act, or subsection (c)(1) of this section to be settled and cleared through a derivatives clearing organization registered with the Commission from such requirement.

''(B) In granting exemptions pursuant to subparagraph (A), the Commission shall consult with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System regarding exemptions that relate to excluded commodities or entities for which the Securities Exchange Commission or the Board of Governors of the Federal Reserve System serve as the primary regulator.

''(C) Before granting an exemption pursuant to subparagraph (A), the Commission shall find that the agreement, contract, or transaction, or class thereof—

''(i) is highly customized as to its material terms and conditions;

''(ii) is transacted infrequently;

''(iii) does not serve a significant price-discovery function in the marketplace; and

''(iv) is being entered into by parties who can demonstrate the financial integrity of the agreement, contract, or transaction and their own financial integrity, as such terms and standards are determined by the Commission. The standards may include, with respect to any federally regulated financial entity for which net capital requirements are imposed, a net capital requirement associated with any agreement, contract, or transaction subject to an exemption from the clearing requirement that is higher than the net capital requirement that would be associated with such a transaction were it cleared

''(D) Any agreement, contract, or transaction, or class thereof, which is exempted pursuant to subparagraph (A) shall be reported to the Commission in a manner designated by the Commission, or to such other entity the Commission deems appropriate.

''(E) The Commission, the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall enter into a memorandum of understanding by which the information reported to the Commission pursuant to subparagraph (D) with regard to excluded commodities or entities for which the Securities Exchange Commission or the Board of Governors of the Federal Reserve System serve as the primary regulator may be provided to the other agencies.

''(g) SPOT AND FORWARD EXCLUSION.—The settlement and clearing requirements of section 2(d)(1)(C), 2(d)(2)(D), 2(g)(4), 2(h)(1)(C), 2(h)(3)(C), or 4(c)(1) shall not apply to an agreement, contract, or transaction of any cash commodity for immediate or deferred shipment or delivery, as defined by the Commission.''.

(c) ADDITIONAL REQUIREMENTS APPLICABLE TO APPLICANTS FOR REGISTRATION AS A DERIVATIVE CLEARING ORGANIZATION.—Section 5b(c)(2) of such Act (7 U.S.C. 7a-1(c)(2)) is amended by adding at the end the following:

''(O) DISCLOSURE OF GENERAL INFORMATION.—The applicant shall disclose publicly and to the Commission information concerning—

''(i) the terms and conditions of contracts, agreements, and transactions cleared and settled by the applicant;

''(ii) the conventions, mechanisms, and practices applicable to the contracts, agreements, and transactions;

''(iii) the margin-setting methodology and the size and composition of the financial resource package of the applicant; and

''(iv) other information relevant to participation in the settlement and clearing activities of the applicant.

''(P) DAILY PUBLICATION OF TRADING INFORMATION.—The applicant shall make public daily information on settlement prices, volume, and open interest for contracts settled or cleared pursuant to the requirements of section 2(d)(1)(C), 2(d)(2)(D), 2(g)(4), 2(h)(1)(C), 2(h)(3)(C) or 4(c)(1) of this Act by the applicant if the Commission determines that the contracts perform a significant price discovery function for transactions in the cash market for the commodity underlying the contracts.

''(Q) FITNESS STANDARDS.—The applicant shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, and members of the applicant, and any other persons with direct access to the settlement or clearing activities of the applicant, including any parties affiliated with any of the persons described in this subparagraph.''.

(d) AMENDMENTS.—

(1) Section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4422) is amended by adding at the end the following:

''(c) CLEARING REQUIREMENT.—A multilateral clearing organization described in subsections (a) or (b) of this section shall comply with requirements similar to the requirements of sections 5b and 5c of the Commodity Exchange Act.''.

(2) Section 407 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27e) is amended by inserting ''and the settlement and clearing requirements of sections 2(d)(1)(C), 2(d)(2)(D), 2(g)(4), 2(h)(1)(C), 2(h)(3)(C), and 4(c)(1) of such Act'' after ''the clearing of covered swap agreements''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 150 days after the date of the enactment of this Act.

(f) TRANSITION RULE.—Any agreement, contract, or transaction entered into before the date of the enactment of this Act or within 150 days after such date of enactment, in reliance on subsection (d), (g), (h)(1), or (h)(3) of section 2 of the Commodity Exchange Act or any other exemption issued by the Commission Futures Trading Commission by rule, regulation, or order shall, within 90 days after such date of enactment, unless settled and cleared through an entity registered with the Commission as a derivatives clearing organization or another clearing entity pursuant to section 4(f) of such Act, be

reported to the Commission in a manner designated by the Commission, or to such other entity as the Commission deems appropriate.

SEC. 355. LIMITATION ON ELIGIBILITY TO PURCHASE A CREDIT DEFAULT SWAP.

(a) IN GENERAL.—Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by adding at the end the following:

''(h) LIMITATION ON ELIGIBILITY TO PURCHASE A CREDIT DEFAULT SWAP.—It shall be unlawful for any person to enter into a credit default swap unless the person—

''(1) owns a credit instrument which is insured by the credit default swap;

''(2) would experience financial loss if an event that is the subject of the credit default swap occurs with respect to the credit instrument; and

''(3) meets such minimum capital adequacy standards as may be established by the Commission, in consultation with the Board of Governors of the Federal Reserve System, or such more stringent minimum capital adequacy standards as may be established by or under the law of any State in which the swap is originated or entered into, or in which possession of the contract involved takes place.''.

(b) ELIMINATION OF PREEMPTION OF STATE BUCKETING LAWS REGARDING NAKED CREDIT DEFAULT SWAPS.—Section 12(e)(2)(B) of such Act (7 U.S.C. 16(e)(2)(B)) is amended by inserting ''(other than a credit default swap in which the purchaser of the swap would not experience financial loss if an event that is the subject of the swap occurred)'' before ''that is excluded''.

(c) DEFINITION OF CREDIT DEFAULT SWAP.—Section 1a of such Act (7 U.S.C. 1a), as amended by section 351(a) of this Act, is amended by adding at the end the following:

''(37) CREDIT DEFAULT SWAP.—The term 'credit default swap' means a contract which insures a party to the contract against the risk that an entity may experience a loss of value as a result of an event specified in the contract, such as a default or credit downgrade. A credit default swap that is traded on or cleared by a registered entity shall be excluded from the definition of a security as defined in this Act and in section 2(a)(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934, except it shall be deemed a security solely for purpose of enforcing prohibitions against insider trading in sections 10 and 16 of the Securities Exchange Act of 1934.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective for credit default swaps (as defined in section 1a(37) of the Commodity Exchange Act) entered into after 60 days after the date of the enactment of this section.

SEC. 356. TRANSACTION FEES.

(a) IN GENERAL.—Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively, and inserting after subsection (d) the following:

''(e) CLEARING FEES.—

''(1) IN GENERAL.—The Commission shall, in accordance with this subsection, charge and collect from each registered clearing organization, and each such organization shall pay to the Commission, transaction fees at a rate calculated to recover the costs to the Federal Government of the supervision and regulation of futures markets, except those directly related to enforcement.

''(2) FEES ASSESSED PER SIDE OF CLEARED CONTRACTS.—

''(A) IN GENERAL.—The Commission shall determine the fee rate referred to in paragraph (1), and shall apply the fee rate per side of any transaction cleared.

''(B) AUTHORITY TO DELEGATE.— The Commission may determine the procedures by which the fee rate is to be applied on the transactions subject to the fee, or delegate the authority to make the determination to any appropriate derivatives clearing organization.

''(3) EXEMPTIONS.—The Commission may not impose a fee under paragraph (1) on—

''(A) a class of contracts or transactions if the Commission finds that it is in the public interest to exempt the class from the fee; or

''(B) a contract or transaction cleared by a registered derivatives clearing organization that is—

''(i) subject to fees under section 31 of the Securities Exchange Act of 1934; or

''(ii) a security as defined in the Securities Act of 1933 or the Securities Exchange Act of 1934.

''(4) DATES FOR PAYMENT OF FEES.—The fees imposed under paragraph (1) shall be paid on or before—

''(A) March 15 of each year, with respect to transactions occurring on or after the preceding September 1 and on or before the preceding December 31; and

''(B) September 15 of each year, with respect to transactions occurring on or after the preceding January 1 and on or before the preceding August 31.

''(5) ANNUAL ADJUSTMENT OF FEE RATES.—

''(A) IN GENERAL.—Not later than April 30 of each fiscal year , the Commission shall, by order, adjust each fee rate determined under paragraph (2) for the fiscal year to a uniform adjusted rate that, when applied to the estimated aggregate number of cleared sides of transactions for the fiscal year, is reasonably likely to produce aggregate fee receipts under this subsection for the fiscal year equal to the target offsetting receipt amount for the fiscal year.

''(B) DEFINITIONS.—In subparagraph (A):

''(i) ESTIMATED AGGREGATE NUMBER OF CLEARED SIDES OF TRANSACTIONS.—The term 'estimated aggregate number of cleared sides of transactions' means, with respect to a fiscal year, the aggregate number of cleared sides of transactions to be cleared by registered derivatives clearing organizations during the fiscal year, as estimated by the Commission, after consultation with the Office of Management and Budget, using the methodology required for making projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(ii) TARGET OFFSETTING RECEIPT AMOUNT.—The term 'target offsetting receipt amount' means, with respect to a fiscal year, the total level of Commission budget authority for all non-enforcement activities of the Commission, as contained in the regular appropriations Acts for the fiscal year.

''(C) NO JUDICIAL REVIEW.—An adjusted fee rate prescribed under subparagraph (A) shall not be subject to judicial review.

''(6) PUBLICATION.—Not later than April 30 of each fiscal year, the Commission shall cause to be published in the Federal Register notices of the fee rates applicable under this subsection for the succeeding fiscal year, and any estimate or projection on which the fee rates are based.

''(7) ESTABLISHMENT OF FUTURES AND OPTIONS TRANSACTION FEE ACCOUNT; DEPOSIT OF FEES.—There is established in the Treasury of the United States an account which shall be known as the 'Futures and Options Transaction Fee Account'. All fees collected under this subsection for a fiscal year shall be deposited in the account. Amounts in the account are authorized to be appropriated to fund the expenditures of the Commission.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning 30 or more days after the date of the enactment of this Act.

(c) TRANSITION RULE.—If this section becomes law after March 31 and before September 1 of a fiscal year, then paragraphs (5)(A) and (6) of section 12(e) of the Commodity Exchange Act shall be applied, in the case of the 1st fiscal year beginning after the date of the enactment of this Act, by substituting ''August 31'' for ''April 30''.

SEC. 357. NO EFFECT ON ANTITRUST LAW OR AUTHORITY OF THE FEDERAL TRADE COMMISSION.

(a) Nothing in this subtitle shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of this subsection, the term ''antitrust laws'' has the meaning given it in subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such term applies to unfair methods of competition.

(b) Nothing in this subtitle shall be construed to affect or diminish the jurisdiction or authority of the Federal Trade Commission with respect to its authorities under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or the Energy Independence and Security Act of 2007 (Public Law 110–140) to obtain information, to carry out enforcement activities, or otherwise to carry out the responsibilities of the Federal Trade Commission.

SEC. 358. EFFECT OF DERIVATIVES REGULATORY REFORM LEGISLATION.

(a) STATUTES.—Upon the passage of legislation that includes derivatives regulatory reform, sections 351, 352, 354, 355, 356, and 357 shall be repealed.

(b) REGULATIONS.—Upon the passage of legislation that includes derivatives regulatory reform, any regulations promulgated under section 351, 352, 354, 355, 356, or 357 shall be considered null and void.

SEC. 359. CEASE-AND-DESIST AUTHORITY.

(a) NATURAL GAS ACT.—Section 20 of the Natural Gas Act (15 U.S.C. 717s) is amended by adding the following at the end:

''(e) CEASE-AND-DESIST PROCEEDINGS; TEMPORARY ORDERS; AUTHORITY OF THE COMMISSION.—

''(1) IN GENERAL.—If the Commission finds, after notice and opportunity for hearing, that any entity may be violating, may have violated, or may be about to violate any provision of this Act, or any rule, regulation, restriction, condition, or order made or imposed by the Commission under the authority of this Act, the Commission may publish its findings and issue an order requiring such entity, and any other entity that is, was, or would be a cause of the violation, due to an act or omission the entity knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring an entity to cease and desist from committing or causing a violation, require such entity to comply, to provide an accounting and disgorgement, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify.

''(2) TIMING OF ENTRY.—An order issued under this subsection shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest.

''(f) HEARING.—The notice instituting proceedings pursuant to subsection (e) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

''(g) TEMPORARY ORDER.—Whenever the Commission determines that—

''(1) a respondent may take actions to dissipate or convert assets prior to the completion of the proceedings referred to in subsection (e), and such assets would be necessary to comply with or otherwise satisfy a final enforcement order of the Commission pursuant to alleged violations or threatened violations specified in the notice instituting proceedings; or

''(2) a respondent is engaged in actual or threatened violations of this Act or a Commission rule, regulation, restriction or order referred to in subsection (e),

the Commission may issue a temporary order requiring the respondent to take such action to prevent dissipation or conversion of assets, significant harm to energy consumers, or substantial harm to the public interest, frustration of the Commission's ability to conduct the proceedings, or frustration of the Commission's ability to redress said violation at the conclusion of the proceedings, as the Commission deems appropriate pending completion of such proceedings.

''(h) REVIEW OF TEMPORARY ORDERS.—

''(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (g), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

''(2) JUDICIAL REVIEW.—Within—

''(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing; or

''(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1),

with respect to any temporary cease-and-desist order entered without a prior Commission hearing, the respondent may apply to the United States circuit court having jurisdiction over the circuit in which the respondent resides or has its principal place of business, or to the United States Court of Appeals for the District of Columbia Circuit, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

''(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

''(4) EXCLUSIVE REVIEW.—Sections 19(d) and 24 shall not apply to a temporary order entered pursuant to this section.

''(i) IMPLEMENTATION.—The Commission is authorized to adopt rules, regulations, and orders as it deems appropriate to implement this section.''.

(c) NATURAL GAS POLICY ACT OF 1978.—Section 504 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414) is amended by adding the following at the end:

''(d) CEASE-AND-DESIST PROCEEDINGS; TEMPORARY ORDERS; AUTHORITY OF THE COMMISSION.—

''(1) IN GENERAL.—If the Commission finds, after notice and opportunity for hearing, that any entity may be violating, may have violated, or may be about to violate any provision of this Act, or any rule, regulation, restriction, condition, or order made or imposed by the Commission under the authority of this Act, the Commission may publish its findings and issue an order requiring such entity, and any other entity that is, was, or would be a cause of the violation, due to an act or omission the entity knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring an entity to cease and desist from committing or causing a violation, require such entity to comply, to provide an accounting and disgorgement, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify.

''(2) TIMING OF ENTRY.—An order issued under this subsection shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest.

''(3) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

''(4) TEMPORARY ORDER.—Whenever the Commission determines that—

''(A) a respondent may take actions to dissipate or convert assets prior to the completion of the proceedings referred to in paragraph (1) and such assets would be necessary to comply with or otherwise satisfy a final enforcement order of the Commission pursuant to alleged violations or threatened violations specified in the notice instituting proceedings; or

''(B) a respondent is engaged in actual or threatened violations of this Act or a Commission rule, regulation, restriction or order referred to in paragraph (1),

the Commission may issue a temporary order requiring the respondent to take such action to prevent dissipation or conversion of assets, significant harm to energy consumers, or substantial harm to the public interest, frustration of the Commission's ability to conduct the proceedings, or frustration of the Commission's ability to redress said violation at the conclusion of the proceedings, as the Commission deems appropriate pending completion of such proceedings.

''(5) REVIEW OF TEMPORARY ORDERS.—

''(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (4), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

''(B) JUDICIAL REVIEW.—Within—

''(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing; or

''(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing, the respondent may apply to the United States circuit court having jurisdiction over the circuit in which the respondent resides or has its principal place of business, or to the United States Court of Appeals for the District of Columbia Circuit, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

''(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

''(6) IMPLEMENTATION.—The Commission is authorized to adopt rules, regulations, and orders as it deems appropriate to implement this subsection.''.

SEC. 360. PRESIDENTIAL REVIEW OF REGULATIONS.

Not later than 24 months after the date of enactment of this Act, the President shall review the offset regulations and derivatives regulations promulgated pursuant to the American Clean Energy and Security Act of 2009. The President shall determine whether such regulations adequately protect the United States financial system from systemic risk.

TITLE IV—TRANSITIONING TO A CLEAN ENERGY ECONOMY

Subtitle A—Ensuring Real Reductions in Industrial Emissions

SEC. 401. ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS.

Title VII of the Clean Air Act is amended by inserting after part E the following new part:

''PART F—ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS

''SEC. 761. PURPOSES.

''(a) PURPOSES OF PART.—The purposes of this part are—

''(1) to promote a strong global effort to significantly reduce greenhouse gas emissions, and, through this global effort, stabilize greenhouse gas concentrations in the atmosphere at a level that will prevent dangerous anthropogenic interference with the climate system; and

''(2) to prevent an increase in greenhouse gas emissions in countries other than the United States as a result of direct and indirect compliance costs incurred under this title.

''(b) PURPOSES OF SUBPART 1.—The purposes of subpart 1 are additionally—

''(1) to provide a rebate to the owners and operators of entities in domestic eligible industrial sectors for their greenhouse gas emission costs incurred under this title, but not for costs associated with other related or unrelated market dynamics;

''(2) to design such rebates in a way that will prevent carbon leakage while also rewarding innovation and facility-level investments in energy efficiency performance improvements; and

''(3) to eliminate or reduce distribution of emission allowances under subpart 1 when such distribution is no longer necessary to prevent carbon leakage from eligible industrial sectors.

''(c) PURPOSES OF SUBPART 2.—The purposes of subpart 2 are additionally—

''(1) to induce foreign countries, and, in particular, fast-growing developing countries, to take substantial action with respect to their greenhouse gas emissions consistent with the Bali Action Plan developed under the United Nations Framework Convention on Climate Change; and

''(2) to ensure that the measures described in subpart 2 are designed and implemented in a manner consistent with applicable international agreements to which the United States is a party.

''SEC. 762. DEFINITIONS.

''In this part:

''(1) CARBON LEAKAGE.—The term 'carbon leakage' means any substantial increase (as determined by the Administrator) in greenhouse gas emissions by industrial entities located in other countries if such increase is caused by an incremental cost of production increase in the United States resulting from the implementation of this title.

''(2) COVERED GOOD.—The term 'covered good' means a good that, as identified by the Administrator by regulation, is either—

''(A) entered under a heading or subheading of the Harmonized Tariff Schedule of the United States that corresponds to the NAICS code for an eligible industrial sector, as established in the concordance between NAICS codes and the Harmonized Tariff Schedule of the United States prepared by the United States Census Bureau; or

''(B) a manufactured item for consumption.

''(3) ELIGIBLE INDUSTRIAL SECTOR.—The term 'eligible industrial sector' means an industrial sector determined by the Administrator under section 763(b) to be eligible to receive emission allowance rebates under subpart 1.

''(4) INDUSTRIAL SECTOR.—The term 'industrial sector' means any sector that is in the manufacturing sector (as defined in NAICS codes 31, 32, and 33) or that beneficiates or otherwise processes (including agglomeration) metal ores, including iron and copper ores, soda ash, or phosphate. The extraction of metal ores, soda ash, or phosphate shall not be considered to be an industrial sector.

''(5) MANUFACTURED ITEM FOR CONSUMPTION.—

''(A) IN GENERAL.—The term 'manufactured item for consumption' means any good—

''(i) that includes in substantial amounts one or more goods like the goods produced by an eligible industrial sector;

''(ii) with respect to which an international reserve allowance program pursuant to subpart 2 is in effect with regard to the eligible industrial sector and the quantity of international reserve allowances is not zero pursuant to section 768(b);

''(iii) with respect to which the trade intensity of the industrial sector that produces the good, as measured consistent with section 763(b)(2)(A)(iii), is at least 15 percent; and

''(iv) for which the domestic producers of the good have demonstrated, and the Administrator has determined, that the application of the international reserve allowance program pursuant to subpart 2 is technically and administratively feasible and appropriate to achieve the purposes of this part, taking into account the energy and greenhouse gas intensity of the industrial sector that produces the good, as measured consistent with section 763(b)(2)(A)(ii), and the ability of such producers to pass on cost increases and other appropriate factors.

''(B) RULE OF CONSTRUCTION.—A determination of the Administrator under subparagraph (A)(iv) shall not be considered to be a determination of the President under section 767(b).

''(6) NAICS.—The term 'NAICS' means the North American Industrial Classification System of 2002.

''(7) OUTPUT.—The term 'output' means the total tonnage or other standard unit of production (as determined by the Administrator) produced by an entity in an industrial sector. The output of the cement sector is hydraulic cement, and not clinker.

''Subpart 1—Emission Allowance Rebate Program

''SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.

''(a) LIST.—

''(1) INITIAL LIST.—Not later than June 30, 2011, the Administrator shall publish in the Federal Register a list of eligible industrial sectors pursuant to subsection (b). Such list shall include the amount of the emission allowance rebate per unit of production that shall be provided to entities in each eligible industrial sector in the following two calendar years pursuant to section 764.

''(2) SUBSEQUENT LISTS.—Not later than February 1, 2013, and every four years thereafter, the Administrator shall publish in the Federal Register an updated version of the list published under paragraph (1).

''(b) ELIGIBLE INDUSTRIAL SECTORS.—

''(1) IN GENERAL.—Not later than June 30, 2011, the Administrator shall promulgate a rule designating, based on the criteria under paragraph (2), the industrial sectors eligible for emission allowance rebates under this subpart.

''(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL SECTORS.—

''(A) ELIGIBILITY CRITERIA.—

''(i) IN GENERAL.—An owner or operator of an entity shall be eligible to receive emission allowance rebates under this subpart if such entity is in an industrial sector that is included in a six-digit classification of the NAICS that meets the criteria in both clauses (ii) and (iii), or the criteria in clause (iv).

''(ii) ENERGY OR GREENHOUSE GAS INTENSITY.—As determined by the Administrator, the industrial sector had—

''(I) an energy intensity of at least 5 percent, calculated by dividing the cost of purchased electricity and fuel costs of the sector by the value of the shipments of the sector, based on data described in subparagraph (D); or

''(II) a greenhouse gas intensity of at least 5 percent, calculated by dividing—

''(aa) the number 20 multiplied by the number of tons of carbon dioxide equivalent greenhouse gas emissions (including direct emissions from fuel combustion, process emissions, and indirect emissions from the generation of electricity used to produce the output of the sector) of the sector based on data described in subparagraph (D); by

''(bb) the value of the shipments of the sector, based on data described in subparagraph (D).

''(iii) TRADE INTENSITY.—As determined by the Administrator, the industrial sector had a trade intensity of at least 15 percent, calculated by dividing the value of the total imports and exports of such sector by the value of the shipments plus the value of imports of such sector, based on data described in subparagraph (D).

''(iv) VERY HIGH ENERGY OR GREENHOUSE GAS INTENSITY.—As determined by the Administrator, the industrial sector had an energy or greenhouse gas intensity, as calculated under clause (ii)(I) or (II), of at least 20 percent.

''(B) METAL AND PHOSPHATE PRODUCTION CLASSIFIED UNDER MORE THAN ONE NAICS CODE.—For purposes of this section, the Administrator shall—

''(i) aggregate data for the beneficiation or other processing (including agglomeration) of metal ores, including iron and copper ores, soda ash, or phosphate with subsequent steps in the process of metal and phosphate manufacturing, regardless of the NAICS code under which such activity is classified; and

''(ii) aggregate data for the manufacturing of steel with the manufacturing of steel pipe and tube made from purchased steel in a nonintegrated process.

''(C) EXCLUSION.—The petroleum refining sector shall not be an eligible industrial sector.

''(D) DATA SOURCES.—

''(i) ELECTRICITY AND FUEL COSTS, VALUE OF SHIPMENTS.—The Administrator shall determine electricity and fuel costs and the value of shipments under this subsection from data from the United States Census Annual Survey of Manufacturers. The Administrator shall take the average of data from as many of the years of 2004, 2005, and 2006 for which such data are available. If such data are unavailable, the Administrator shall make a determination based upon 2002 or 2006 data from the most detailed industrial classification level of Energy Information Agency's Manufacturing Energy Consumption Survey (using 2006 data if it is available) and the 2002 or 2007 Economic Census of the United States (using 2007 data if it is available). If data from the Manufacturing Energy Consumption Survey or Economic Census are unavailable for any sector at the six-digit classification level in the NAICS, then the Administrator may extrapolate the information necessary to determine the eligibility of a sector under this paragraph from available Manufacturing Energy Consumption Survey or Economic Census data pertaining to a broader industrial category classified in the NAICS. If data relating to the beneficiation or other processing (including agglomeration) of metal ores, including iron and copper ores, soda ash, or phosphate are not available from the specified data sources, the Administrator shall use the best available Federal or State government data and may use, to the extent necessary, representative data submitted by entities that perform such beneficiation or other processing (including agglomeration), in making a determination. Fuel cost data shall not include the cost of fuel used as feedstock by an industrial sector.

''(ii) IMPORTS AND EXPORTS.—The Administrator shall base the value of imports and exports under this subsection on United States International Trade Commission data. The Administrator shall take the average of data from as many of the years of 2004, 2005, and 2006 for which such data are available. If data from the United States International Trade Commission are unavailable for any sector at the six-digit classification level in the NAICS, then the Administrator may extrapolate the information necessary to determine the eligibility of a sector under this paragraph from available United States International Trade Commission data pertaining to a broader industrial category classified in the NAICS.

''(iii) PERCENTAGES.—The Administrator shall round the energy intensity, greenhouse gas intensity, and trade intensity percentages under subparagraph (A) to the nearest whole number.

''(iv) GREENHOUSE GAS EMISSION CALCULATIONS.—When calculating the tons of carbon

dioxide equivalent greenhouse gas emissions for each sector under subparagraph (A)(ii)(II)(aa), the Administrator—

''(I) shall use the best available data from as many of the years 2004, 2005, and 2006 for which such data is available; and

''(II) may, to the extent necessary with respect to a sector, use economic and engineering models and the best available information on technology performance levels for such sector.

''(3) ADMINISTRATIVE DETERMINATION OF ADDITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

''(A) UPDATED TRADE INTENSITY DATA.—The Administrator shall designate as eligible to receive emission allowance rebates under this subpart an industrial sector that—

''(i) met the energy or greenhouse gas intensity criteria in paragraph (2)(A)(ii) as of the date of promulgation of the rule under paragraph (1); and

''(ii) meets the trade intensity criteria in paragraph (2)(A)(iii), using data from any year after 2006.

''(B) INDIVIDUAL SHOWING PETITION.—

''(i) PETITION.—In addition to designation under paragraph (2) or subparagraph (A) of this paragraph, the owner or operator of an entity in an industrial sector may petition the Administrator to designate as eligible industrial sectors under this subpart an entity or a group of entities that—

''(I) represent a subsector of a six-digit section of the NAICS code; and

''(II) meet the eligibility criteria in both clauses (ii) and (iii) of paragraph (2)(A), or the eligibility criteria in clause (iv) of paragraph (2)(A).

''(ii) DATA.—In making a determination under this subparagraph, the Administrator shall consider data submitted by the petitioner that is specific to the entity, data solicited by the Administrator from other entities in the subsector, if such other entities exist, and data specified in paragraph (2)(D).

''(iii) BASIS OF SUBSECTOR DETERMINATION.—The Administrator shall determine an entity or group of entities to be a subsector of a six-digit section of the NAICS code based only upon the products manufactured and not the industrial process by which the products are manufactured, except that the Administrator may determine an entity or group of entities that manufacture a product from primarily virgin material to be a separate subsector from another entity or group of entities that manufacture the same product primarily from recycled material.

''(iv) USE OF MOST RECENT DATA.—In determining whether to designate a sector or subsector as an eligible industrial sector under this subparagraph, the Administrator shall use the most recent data available from the sources described in paragraph (2)(D), rather than the data from the years specified in paragraph (2)(D), to determine the trade intensity of such sector or subsector, but only for determining such trade intensity.

''(v) FINAL ACTION.—The Administrator shall take final action on such petition no later than 6 months after the petition is received by the Administrator.

''SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE REBATES.

''(a) DISTRIBUTION SCHEDULE.—

''(1) IN GENERAL.—For each vintage year, the Administrator shall distribute pursuant to this section emission allowances made available under section 782(e), no later than October 31 of the preceding calendar year. The Administrator shall make such annual distributions to the owners and operators of each entity in an eligible industrial sector in the amount of emission allowances calculated under subsection (b), except that—

''(A) for vintage years 2012 and 2013, the distribution for a covered entity shall be pursuant to the entity's indirect carbon factor as calculated under subsection (b)(3);

''(B) for vintage year 2026 and thereafter, the distribution shall be pursuant to the amount calculated under subsection (b) multiplied by, except as modified by the President pursuant to section 767(d)(1)(C) for a sector—

''(i) 90 percent for vintage year 2026;

''(ii) 80 percent for vintage year 2027;

''(iii) 70 percent for vintage year 2028;

''(iv) 60 percent for vintage year 2029;

''(v) 50 percent for vintage year 2030;

''(vi) 40 percent for vintage year 2031;

''(vii) 30 percent for vintage year 2032;

''(viii) 20 percent for vintage year 2033;

''(ix) 10 percent for vintage year 2034; and

''(x) 0 percent for vintage year 2035 and thereafter.

''(2) RESUMPTION OF REDUCTION.—If the President has modified the percentage stated in paragraph (1)(B) under section 767(d)(1)(C), and the President subsequently makes a determination under section 767(c) for an eligible industrial sector that more than 85 percent of United States imports for that sector are produced or manufactured in countries that have met at least one of the criteria in that section, then the 10-year reduction schedule set forth in paragraph (1)(B) of this subsection shall begin in the next vintage year, with the percentage reduction based on the amount of the distribution of emission allowances under this section in the previous year.

''(3) NEWLY ELIGIBLE SECTORS.—In addition to receiving a distribution of emission allowances under this section in the first distribution occurring after an industrial sector is designated as eligible under section 763(b)(3), the owner or operator of an entity in that eligible industrial sector may receive a prorated share of any emission allowances made available for distribution under this section that were not distributed for the year in which the petition for eligibility was granted under section 763(b)(3)(A).

''(4) CESSATION OF QUALIFYING ACTIVITIES.—If, as determined by the Administrator, a facility is no longer in an eligible industrial sector designated under section 763—

''(A) the Administrator shall not distribute emission allowances to the owner or operator of such facility under this section; and

''(B) the owner or operator of such facility shall return to the Administrator all allowances that have been distributed to it for future vintage years and a pro-rated amount of allowances distributed to the facility under this section for the vintage year in which the facility ceases to be in an eligible industrial sector designated under section 763.

''(b) CALCULATION OF DIRECT AND INDIRECT CARBON FACTORS.—

''(1) IN GENERAL.—

''(A) COVERED ENTITIES.—Except as provided in subsection (a), for covered entities that are in eligible industrial sectors, the amount of emission allowance rebates shall be based on the sum of the covered entity's direct and indirect carbon factors.

''(B) OTHER ELIGIBLE ENTITIES.—For entities that are in eligible industrial sectors but are not covered entities, the amount of emission allowance rebates shall be based on the entity's indirect carbon factor.

''(C) NEW ENTITIES.—Not later than 2 years after the date of enactment of this title, the Administrator shall issue regulations governing the distribution of emission allowance rebates for the first and second years of operation of a new entity in an eligible industrial sector. These regulations shall provide for—

''(i) the distribution of emission allowance rebates to such entities based on comparable entities in the same sector; and

''(ii) an adjustment in the third and fourth years of operation to reconcile the total amount of emission allowance rebates received during the first and second years of operation to the amount the entity would have received during the first and second years of operation had the appropriate data been available.

''(2) DIRECT CARBON FACTOR.—The direct carbon factor for a covered entity for a vintage year is the product of—

''(A) the average annual output of the covered entity for the two years preceding the year of the distribution; and

''(B) the most recent calculation of the average direct greenhouse gas emissions (expressed in tons of carbon dioxide equivalent) per unit of output for all covered entities in the sector, as determined by the Administrator under paragraph (4).

''(3) INDIRECT CARBON FACTOR.—

''(A) IN GENERAL.—The indirect carbon factor for an entity for a vintage year is the product obtained by multiplying the average annual output of the entity for the two years preceding the year of the distribution by both the electricity emissions intensity factor determined pursuant to subparagraph (B) and the electricity efficiency factor determined pursuant to subparagraph (C) for the year concerned.

''(B) ELECTRICITY EMISSIONS INTENSITY FACTOR.—

''(i) IN GENERAL.—Each person selling electricity to the owner or operator of an entity in any sector designated as an eligible industrial sector under section 763(b) shall provide the owner or operator of the entity and the Administrator, on an annual basis, the electricity emissions intensity factor for the entity. The electricity emissions intensity factor for the entity, expressed in tons of carbon dioxide equivalents per kilowatt hour, is determined by dividing—

''(I) the annual sum of the hourly product of—

''(aa) the electricity purchased by the entity from that person in each hour (expressed in kilowatt hours); multiplied by

''(bb) the marginal or weighted average tons of carbon dioxide equivalent per kilowatt hour that are reflected in the electricity charges to the entity, as determined by the entity's retail rate arrangements; by

''(II) the total kilowatt hours of electricity purchased by the entity from that person during that year.

''(ii) USE OF OTHER DATA TO DETERMINE FACTOR.—Where it is not possible to determine the precise electricity emissions intensity factor for an entity using the methodology in clause (i), the person selling electricity shall use the monthly average data reported by the Energy Information Administration or collected and reported by the Administrator for the utility serving the entity to determine the electricity emissions intensity factor.

''(C) ELECTRICITY EFFICIENCY FACTOR.—The electricity efficiency factor is the average amount of electricity (in kilowatt hours) used per unit of output for all entities in the relevant sector, as determined by the Administrator based on the best available data, including data provided under paragraph (6).

''(D) INDIRECT CARBON FACTOR REDUCTION.—If an electricity provider received a free allocation of emission allowances pursuant to section 782(a), the Administrator shall adjust the indirect carbon factor to avoid rebates to the eligible entity for costs that the Administrator determines were not incurred by the eligible entity because the allowances were freely allocated to the eligible entity's electricity provider and used for the benefit of industrial consumers.

''(4) GREENHOUSE GAS INTENSITY CALCULATIONS.—The Administrator shall calculate

the average direct greenhouse gas emissions (expressed in tons of carbon dioxide equivalent) per unit of output and the electricity efficiency factor for all covered entities in each eligible industrial sector every four years, using an average of the four most recent years of the best available data. For purposes of the lists required to be published no later than February 1, 2013, the Administrator shall use the best available data for the maximum number of years, up to 4 years, for which data are available.

''(5) ENSURING EFFICIENCY IMPROVEMENTS.—When making greenhouse gas calculations, the Administrator shall—

''(A) limit the average direct greenhouse gas emissions per unit of output, calculated under paragraph (4), for any eligible industrial sector to an amount that is not greater than it was in any previous calculation under this subsection;

''(B) limit the electricity emissions intensity factor, calculated under paragraph (3)(B) and resulting from a change in electricity supply, for any entity to an amount that is not greater than it was during any previous year; and

''(C) limit the electricity efficiency factor, calculated under paragraph (3)(C), for any eligible industrial sector to an amount that is not greater than it was in any previous calculation under this subsection.

''(6) DATA SOURCES.—For the purposes of this subsection—

''(A) the Administrator shall use data from the greenhouse gas registry established under section 713, where it is available; and

''(B) each owner or operator of an entity in an eligible industrial sector and each department, agency, and instrumentality of the United States shall provide the Administrator with such information as the Administrator finds necessary to determine the direct carbon factor and the indirect carbon factor for each entity subject to this section.

''(c) TOTAL MAXIMUM DISTRIBUTION.—Notwithstanding subsections (a) and (b), the Administrator shall not distribute more allowances for any vintage year pursuant to this section than are allocated for use under this subpart pursuant to section 782(e) for that vintage year. For any vintage year for which the total emission allowance rebates calculated pursuant to this section exceed the number of allowances allocated pursuant to section 782(e), the Administrator shall reduce each entity's distribution on a pro rata basis so that the total distribution under this section equals the number of allowances allocated under section 782(e).

''(d) IRON AND STEEL SECTOR.—For purposes of this section, the Administrator shall consider as in different industrial sectors—

''(1) entities using integrated iron and steelmaking technologies (including coke ovens, blast furnaces, and other iron-making technologies); and

''(2) entities using electric arc furnace technologies.

''(e) METAL, SODA ASH, OR PHOSPHATE PRODUCTION CLASSIFIED UNDER MORE THAN ONE NAICS CODE.—For purposes of this section, the Administrator shall not aggregate data for the beneficiation or other processing (including agglomeration) of metal ores, soda ash, or phosphate with subsequent steps in the process of metal, soda ash, or phosphate manufacturing. The Administrator shall consider the beneficiation or other processing (including agglomeration) of metal ores, soda ash, or phosphate to be in separate industrial sectors from the metal, soda ash, or phosphate manufacturing sectors. Industrial sectors that beneficiate or otherwise process (including agglomeration) metal ores, soda ash, or phosphate shall not receive emission allowance rebates under this section related to the activity of extracting metal ores, soda ash, or phosphate.

''(f) COMBINED HEAT AND POWER.—For purposes of this section, and to achieve the purpose set forth in section 761(b)(2), the Administrator may consider entities to be in different industrial sectors or otherwise take into account the differences among entities in the same industrial sector, based upon the extent to which such entities use combined heat and power technologies.

''Subpart 2—Promoting International Reductions in Industrial Emissions

''SEC. 765. INTERNATIONAL NEGOTIATIONS.

''(a) FINDING.—Congress finds that the purposes of this subpart, as set forth in section 761(c), can be most effectively addressed and achieved through agreements negotiated between the United States and foreign countries.

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

''(c) NOTIFICATION OF FOREIGN COUNTRIES.—

''(1) IN GENERAL.—As soon as practicable after the date of the enactment of this title, the President shall provide a notification on climate change described in paragraph (2) to each foreign country the products of which are not exempted under section 768(a)(1)(E).

''(2) NOTIFICATION DESCRIBED.—A notification described in this paragraph is a notification that consists of—

''(A) a statement of the policy of the United States described in subsection (b); and

''(B) a declaration—

''(i) requesting the foreign country to take appropriate measures to limit the greenhouse gas emissions of the foreign country; and

''(ii) indicating that, beginning on January 1, 2020, the international reserve requirements of this subpart may apply to a covered good.

''SEC. 766. UNITED STATES NEGOTIATING OBJECTIVES WITH RESPECT TO MULTILATERAL ENVIRONMENTAL NEGOTIATIONS.

''(a) IN GENERAL.—The negotiating objectives of the United States with respect to multilateral environmental negotiations described in this subpart are—

''(1) to reach an internationally binding agreement in which all major greenhouse gas-emitting countries contribute equitably to the reduction of global greenhouse gas emissions;

''(2)(A) to include in such international agreement provisions that recognize and address the competitive imbalances that lead to carbon leakage and may be created between parties and non-parties to the agreement in domestic and export markets; and

''(B) not to prevent parties to such agreement from addressing the competitive imbalances that lead to carbon leakage and may be created by the agreement among parties to the agreement in domestic and export markets ; and

''(3) to include in such international agreement agreed remedies for any party to the agreement that fails to meet its greenhouse gas reduction obligations in the agreement.

''(b) RULE OF CONSTRUCTION.—Nothing in subsection (a)(2) shall be construed to require the United States to alter the provisions of section 764 .

''SEC. 767. PRESIDENTIAL REPORTS AND DETERMINATIONS.

''(a) REPORT.—Not later than January 1, 2017, and every 2 years thereafter, the President shall submit a report to Congress on the effectiveness of the distribution of emission allowance rebates under subpart 1 in mitigating carbon leakage in eligible industrial sectors. Such report shall also include—

''(1) an assessment, for each eligible industrial sector receiving emission allowance rebates, as to whether, and by how much, the per unit cost of production has increased for that sector as a result of compliance with section 722 (as determined in a manner consistent with section 764(b)), taking into account the provision of the emission allowance rebates to that industrial sector and the benefit received by that industrial sector from the provision of free allowances to electricity providers pursuant to section 782(a);

''(2) recommendations on how to better achieve the purposes of this subpart, including an assessment of the feasibility and usefulness of an international reserve allowance program for the eligible industrial sector under section 768;

''(3) to the extent the President determines that an international reserve allowance program would not be useful for the eligible industrial sector because its exposure to carbon leakage is the result of competition in export markets with goods produced in countries not implementing similar greenhouse gas emission reduction policies, an identification of, and to the extent appropriate a description of how the President will implement, alternative actions or programs consistent with the purposes of this subpart (and, in such case, the President may determine not to apply an international reserve allowance program to the eligible industrial sector under subsection (b)); and

''(4) an assessment of the amount and duration of assistance, including distribution of free allowances, being provided to industrial sectors in other developed countries to mitigate costs of compliance with domestic greenhouse gas reduction programs in such countries.

''(b) PRESIDENTIAL DETERMINATION.—

''(1) IN GENERAL.—If, by January 1, 2018, a multilateral agreement consistent with the negotiating objectives set forth in section 766 has not entered into force with respect to the United States, the President shall establish an international reserve allowance program for each eligible industrial sector to the extent provided under section 768 unless—

''(A) the President determines and certifies to the Congress with respect to such eligible industrial sector that such program would not be in the national economic interest or environmental interest of the United States; and

''(B) not later than 90 days after the President transmits the certification described in subparagraph (A), a joint resolution is enacted into law that approves the determination of the President described in subparagraph (A).

''(2) CONTENTS OF JOINT RESOLUTION.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress approves the determination of the President under section 768(b)(1)(A) of the Clean Air Act transmitted to the Congress on _____.', the blank space being filled with the appropriate date.

''(3) CONGRESSIONAL PROCEDURES.—Subsections (c), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192 (c), (d), (e), and (f)) shall apply to a joint resolution under this subsection to the same extent as such subsections apply to a joint resolution under section 152 of such Act.

''(4) RULE OF CONSTRUCTION.—For purposes of this section and section 768, if the President transmits a multilateral agreement to

Congress (regardless of whether it is transmitted as a treaty for ratification by the Senate or another international agreement for implementation by law enacted by the Congress) indicating that the agreement is consistent with the negotiating objectives set forth in section 766, such agreement will be considered to be consistent with such negotiating objectives as of the date on which the Senate ratifies the treaty, or legislation is enacted implementing such other agreement, unless the Senate (in the case of ratification) or the implementing legislation expressly provides that the multilateral agreement shall not be treated as consistent with such negotiating objectives for purposes of this section and section 768.

''(c) DETERMINATIONS WITH RESPECT TO ELIGIBLE INDUSTRIAL SECTORS.—If the President establishes an international reserve allowance program pursuant to subsection (b), then not later than June 30, 2018, and every four years thereafter, the President, in consultation with the Administrator and other appropriate agencies, shall determine, for each eligible industrial sector, whether or not more than 85 percent of United States imports of covered goods with respect to that sector are produced or manufactured in countries that have met at least one of the following criteria:

''(1) The country is a party to an international agreement to which the United States is a party that includes a nationally enforceable and economy-wide greenhouse gas emissions reduction commitment for that country that is at least as stringent as that of the United States.

''(2) The country is a party to a multilateral or bilateral emission reduction agreement for that sector to the which the United States is a party.

''(3) The country has an annual energy or greenhouse gas intensity, as described in section 763(b)(2)(A)(ii), for the sector that is equal to or less than the energy or greenhouse gas intensity for such industrial sector in the United States in the most recent calendar year for which data are available.

''(d) EFFECT OF PRESIDENTIAL DETERMINATION.—

''(1) REQUIRED ACTIONS.—If the President makes a determination under subsection (c) with respect to an eligible industrial sector that 85 percent or less of United States imports of covered goods with respect to the sector are produced or manufactured in countries that have met one or more of the criteria in subsection (c), then the President shall, not later than June 30, 2018, and every four years thereafter—

''(A) assess the extent to which the emission allowance rebates provided pursuant to subpart 1 and the benefit received by that industrial sector from the provision of free allowances to electricity providers pursuant to section 782(a) have mitigated or addressed, or could mitigate or address, carbon leakage in that sector;

''(B) assess the extent to which an international reserve allowance program has mitigated or addressed, or could mitigate or address, carbon leakage in that sector; and

''(C) with respect to that sector—

''(i) modify the percentage by which direct and indirect carbon factors will be multiplied under section 764(a)(1)(B); and

''(ii) apply or continue to apply an international reserve allowance program under section 768 with respect to imports of covered goods with respect to that sector.

''(2) PROHIBITED ACTIONS.—If the President makes a determination under subsection (c) with respect to an eligible industrial sector that more than 85 percent of United States imports of covered goods with respect to the sector are produced or manufactured in countries that have met one or more of the criteria in subsection (c), then the President may not apply or continue to apply an international reserve allowance program under section 768 with respect to imports of covered goods with respect to that sector.

''(e) REPORT TO CONGRESS.—Not later than June 30, 2018, and every four years thereafter, the President shall transmit to the Congress a report providing notice of any determination made under subsection (c), explaining the reasons for such determination, and identifying the actions taken by the President under subsection (d).

''SEC. 768. INTERNATIONAL RESERVE ALLOWANCE PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Administrator, with the concurrence of Commissioner responsible for U.S. Customs and Border Protection, shall issue regulations—

''(A) establishing an international reserve allowance program for the sale, exchange, purchase, transfer, and banking of international reserve allowances for covered goods with respect to the eligible industrial sector;

''(B) ensuring that the price for purchasing the international reserve allowances from the United States on a particular day is equivalent to the auction clearing price for emission allowances under section 722 for the most recent emission allowance auction;

''(C) establishing a general methodology for calculating the quantity of international reserve allowances that a United States importer of any covered good must submit;

''(D) requiring the submission of appropriate amounts of such allowances for covered goods with respect to the eligible industrial sector that enter the customs territory of the United States;

''(E) exempting from the requirements of subparagraph (D) such products that are the origin of—

''(i) any country determined to meet any of the standards provided in section 767(c);

''(ii) any foreign country that the United Nations has identified as among the least developed of developing countries; or

''(iii) any foreign country that the President has determined to be responsible for less than 0.5 percent of total global greenhouse gas emissions and less than 5 percent of United States imports of covered goods with respect to the eligible industrial sector;

''(F) specifying the procedures that U.S. Customs and Border Protection will apply for the declaration and entry of covered goods with respect to the eligible industrial sector into the customs territory of the United States; and

''(G) establishing procedures that prevent circumvention of the international reserve allowance requirement for covered goods with respect to the eligible industrial sector that are manufactured or processed in more than one foreign country.

''(2) PURPOSE OF PROGRAM.—The Administrator shall establish the program under paragraph (1) consistent with international agreements to which the United States is a party, in a manner that minimizes the likelihood of carbon leakage as a result of differences between—

''(A) the direct and indirect costs of complying with section 722; and

''(B) the direct and indirect costs, if any, of complying in other countries with greenhouse gas regulatory programs, requirements, export tariffs, or other measures adopted or imposed to reduce greenhouse gas emissions.

''(b) EMISSION ALLOWANCE REBATES.—In establishing a general methodology for purposes of subsection (a)(1)(C), the Administrator shall include an adjustment to the quantity of international reserve allowances based on the value of emission allowance rebates distributed under subpart 1 and the benefit received by the eligible industrial sector concerned from the provision of free allowances to electricity providers pursuant to section 782(a) and may, if appropriate, determine that the quantity of international reserve allowances should be reduced as low as to zero.

''(c) EFFECTIVE DATE.—The international reserve allowance program may not apply to imports of covered goods entering the customs territory of the United States before January 1, 2020.

''(d) COVERED ENTITIES.—International reserve allowances may not be used by covered entities to comply with section 722.

''SEC. 769. IRON AND STEEL SECTOR.

''For purposes of this subpart, the Administrator shall consider to be in the same eligible industrial sector—

''(1) entities using integrated iron and steelmaking technologies (including coke ovens, blast furnaces, and other iron-making technologies); and

''(2) entities using electric arc furnace technologies.''.

Subtitle B—Green Jobs and Worker Transition

PART 1—GREEN JOBS

SEC. 421. CLEAN ENERGY CURRICULUM DEVELOPMENT GRANTS.

(a) AUTHORIZATION.—The Secretary of Education is authorized to award grants, on a competitive basis, to eligible partnerships to develop programs of study (containing the information described in section 122(c)(1)(A) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2342)), that are focused on emerging careers and jobs in the fields of clean energy, renewable energy, energy efficiency, climate change mitigation, and climate change adaptation. The Secretary of Education shall consult with the Secretary of Labor and the Secretary of Energy prior to the issuance of a solicitation for grant applications.

(b) ELIGIBLE PARTNERSHIPS.—For purposes of this section, an eligible partnership shall include—

(1) at least 1 local educational agency eligible for funding under section 131 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2351) or an area career and technical education school or education service agency described in such section;

(2) at least 1 postsecondary institution eligible for funding under section 132 of such Act (20 U.S.C. 2352); and

(3) representatives of the community including business, labor organizations, and industry that have experience in fields as described in subsection (a).

(c) APPLICATION.—An eligible partnership seeking a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Applications shall include—

(1) a description of the eligible partners and partnership, the roles and responsibilities of each partner, and a demonstration of each partner's capacity to support the program;

(2) a description of the career area or areas within the fields as described in subsection (a) to be developed, the reason for the choice, and evidence of the labor market need to prepare students in that area;

(3) a description of the new or existing program of study and both secondary and postsecondary components;

(4) a description of the students to be served by the new program of study;

(5) a description of how the program of study funded by the grant will be replicable and disseminated to schools outside of the partnership, including urban and rural areas;

(6) a description of applied learning that will be incorporated into the program of study and how it will incorporate or reinforce academic learning;

(7) a description of how the program of study will be delivered;

(8) a description of how the program will provide accessibility to students, especially economically disadvantaged, low performing, and urban and rural students;

(9) a description of how the program will address placement of students in nontraditional fields as described in section 3(20) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(20)); and

(10) a description of how the applicant proposes to consult or has consulted with a labor organization, labor management partnership, apprenticeship program, or joint apprenticeship and training program that provides education and training in the field of study for which the applicant proposes to develop a curriculum.

(d) PRIORITY.—The Secretary shall give priority to applications that—

(1) use online learning or other innovative means to deliver the program of study to students, educators, and instructors outside of the partnership; and

(2) focus on low performing students and special populations as defined in section 3(29) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(29)).

(e) PEER REVIEW.—The Secretary shall convene a peer review process to review applications for grants under this section and to make recommendations regarding the selection of grantees. Members of the peer review committee shall include—

(1) educators who have experience implementing curricula with comparable purposes; and

(2) business and industry experts in fields as described in subsection (a).

(f) USES OF FUNDS.—Grants awarded under this section shall be used for the development, implementation, and dissemination of programs of study (as described in section 122(c)(1)(A) of the Carl D. Perkins Career and Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in career areas related to clean energy, renewable energy, energy efficiency, climate change mitigation, and climate change adaptation.

SEC. 422. INCREASED FUNDING FOR ENERGY WORKER TRAINING PROGRAM.

(a) AUTHORIZATION.—Section 171(e)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8)) is amended by striking ''$125,000,000'' and inserting ''$150,000,000''.

(b) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury a separate account that shall be known as the Energy Efficiency and Renewable Energy Worker Training Fund.

(c) AVAILABILITY OF AMOUNTS.—Subject to subtitle F of title IV, all amounts deposited into the Energy Efficiency and Renewable Energy Worker Training Fund shall be available to the Secretary to carry out section 171(e)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8)) subject to further appropriation.

SEC. 423. DEVELOPMENT OF INFORMATION AND RESOURCES CLEARINGHOUSE FOR VOCATIONAL EDUCATION AND JOB TRAINING IN RENEWABLE ENERGY SECTORS.

(a) DEVELOPMENT OF CLEARINGHOUSE.—Not later than 18 months after the date of enactment of this Act, the Secretary of Labor, in collaboration with the Secretary of Energy and the Secretary of Education, shall develop an internet based information and resources clearinghouse to aid career and technical education and job training programs for the renewable energy sectors. In establishing the clearinghouse, the Secretary shall—

(1) collect and provide information that addresses the consequences of rapid changes in technology and regional disparities for renewable energy training programs and provides best practices for training and education in light of such changes and disparities;

(2) place an emphasis on facilitating collaboration between the renewable energy industry and job training programs and on identifying industry and technological trends and best practices, to better help job training programs maintain quality and relevance; and

(3) place an emphasis on assisting programs that cater to high-demand middle-skill, trades, manufacturing, contracting, and consulting careers.

(b) SOLICITATION AND CONSULTATION.—In developing the clearinghouse pursuant to subsection (a), the Secretary shall solicit information and expertise from businesses and organizations in the renewable energy sector and from institutions of higher education, career and technical schools, and community colleges that provide training in the renewable energy sectors. The Secretary shall solicit a comprehensive peer review of the clearinghouse by such entities not less than once every 2 years. Nothing in this subsection should be interpreted to require the divulgence of proprietary or competitive information.

(c) CONTENTS OF CLEARINGHOUSE.—

(1) SEPARATE SECTION FOR EACH RENEWABLE ENERGY SECTOR.—The clearinghouse shall contain separate sections developed for each of the following renewable energy sectors:

(A) Solar energy systems.

(B) Wind energy systems.

(C) Energy transmission systems.

(D) Geothermal systems of energy and heating.

(E) Energy efficiency technical training.

(2) ADDITIONAL REQUIREMENTS.—In addition to the information required in subsection (a), each section of the clearinghouse shall include information on basic environmental science and processes needed to understand renewable energy systems, Federal government and industry resources, and points of contact to aid institutions in the development of placement programs for apprenticeships and post graduation opportunities, and information and tips about a green workplace, energy efficiency, and relevant environmental topics and information on available industry recognized certifications in each area.

(d) DISSEMINATION.—The clearinghouse shall be made available via the Internet to the general public. Notice of the completed clearinghouse and any major revisions thereto shall also be provided—

(1) to each Member of Congress; and

(2) on the websites of the Departments of Education, Energy, and Labor.

(e) REVISION.—The Secretary of Labor shall revise and update the clearinghouse on a regular basis to ensure its relevance.

SEC. 424. MONITORING PROGRAM EFFECTIVENESS.

The Secretary of Labor shall monitor the potential growth of affected and displaced workers to ensure that the necessary funding continues to support the number of workers affected.

SEC. 424A. GREEN CONSTRUCTION CAREERS DEMONSTRATION PROJECT.

(a) ESTABLISHMENT AND AUTHORITY.—The Secretary of Labor, in consultation with the Secretary of Energy, shall, not later than 180 days after the enactment of this Act, establish a Green Construction Careers demonstration project by rules, regulations, and guidance in accordance with the provisions of this section. The purpose of the demonstration project shall be to promote middle class careers and quality employment practices in the green construction sector among targeted workers and to advance efficiency and performance on construction projects related to this Act. In order to advance these purposes, the Secretary shall identify projects, including residential retrofitting projects, funded directly by or assisted in whole or in part by or through the Federal Government pursuant to this Act or by any other entity established in accordance with this Act, to which all of the following shall apply.

(b) REQUIREMENTS.—The Secretaries may establish such terms and conditions for the demonstration projects as the Secretaries determine are necessary to meet the purposes of subsection (a), including establishing minimum proportions of hours to be worked by targeted workers on such projects. The Secretaries may require the contractors and subcontractors performing construction services on the project to comply with the terms and conditions as a condition of receiving funding or assistance from the Federal Government under this Act.

(c) EVALUATION.—The Secretaries shall evaluate the demonstration projects against the purposes of this section at the end of 3 years from initiation of the demonstration project. If the Secretaries determine that the demonstration projects have been successful, the Secretaries may identify further projects to which of the provisions of this section shall apply.

(d) GAO REPORT.—The Comptroller General shall prepare and submit a report to the Committee on Health, Education, Labor and Pensions and the Committee on Energy and Natural Resources of the Senate and the Committee on Education and Labor and the Committee on Energy and Commerce of the House of Representatives not later than 5 years after the date of enactment of this Act, which shall advise the committees of the results of the demonstration projects and make appropriate recommendations.

(e) DEFINITION AND DESIGNATION OF TARGETED WORKERS.—As used in this section, the term ''targeted worker'' means an individual who resides in the same labor market area (as defined in section 101(18) of the Workforce Investment Act of 1998 (29 U.S.C. 2801(18))) as the project and who—

(1) is a member of a targeted group, within the meaning of section 51 of the Internal Revenue Code of 1986, other than an individual described in subsection (d)(1)(C) of such section;

(2)(A) resides in a census tract in which not less than 20 percent of the households have incomes below the Federal poverty guidelines; or

(B) is a member of a family that received a total family income that, during the 2-year period prior to employment on the project or admission to the pre-apprenticeship program, did not exceed 200 percent of the Federal poverty guidelines (exclusive of unemployment compensation, child support payments, payments described in section 101(25)(A) of the Workforce Investment Act (29 U.S.C. 2801(25)(A)), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402); or

(3) is a displaced homemaker, as such term is defined in section 3(10) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(10)).

(f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A qualified pre-apprenticeship program is a pre-apprenticeship program that has demonstrated an ability to recruit, train, and prepare for admission to apprenticeship programs individuals who are targeted workers.

(g) QUALIFIED APPRENTICESHIP AND OTHER TRAINING PROGRAMS.—

(1) PARTICIPATION BY EACH CONTRACTOR REQUIRED.—Each contractor and subcontractor that seeks to provide construction services on projects identified by the Secretaries pursuant to subsection (a) shall submit adequate assurances with its bid or proposal that it participates in a qualified apprenticeship or other training program, with a written arrangement with a qualified pre-apprenticeship program, for each craft or trade classification of worker that it intends to employ to perform work on the project.

(2) DEFINITION OF QUALIFIED APPRENTICESHIP OR OTHER TRAINING PROGRAM.—

(A) IN GENERAL.—For purposes of this section, the term ''qualified apprenticeship or other training program'' means an apprenticeship or other training program that qualifies as an employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(B) CERTIFICATION OF OTHER PROGRAMS IN CERTAIN LOCALITIES.—In the event that the Secretary of Labor certifies that a qualified apprenticeship or other training program (as defined in subparagraph (A)) for a craft or trade classification of workers that a prospective contractor or subcontractor intends to employ, is not operated in the locality where the project will be performed, an apprenticeship or other training program that is not an employee welfare benefit plan (as defined in such section) may be certified by the Secretary as a qualified apprenticeship or other training program provided it is registered with the Office of Apprenticeship of the Department of Labor, or a State apprenticeship agency recognized by the Office of Apprenticeship for Federal purposes.

(h) FACILITATING COMPLIANCE.—The Secretary may require Federal contracting agencies, recipients of Federal assistance, and any other entity established in accordance with this Act to require contractors to enter into an agreement in a manner comparable with the standards set forth in sections 3 and 4 of Executive Order 13502 in order to achieve the purposes of this section, including any requirements established by subsection (b).

(i) LIMITATION.—The requirements of this section shall not apply to any project funded under this Act in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the United States Virgin Islands, unless participation is requested by the governor of such territories within 1 year of the promulgation of rules under this Act.

PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

SEC. 425. PETITIONS, ELIGIBILITY REQUIREMENTS, AND DETERMINATIONS.

(a) PETITIONS.—

(1) FILING.—A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this part may be filed by any of the following:

(A) The group of workers.

(B) The certified or recognized union or other duly authorized representative of such workers.

(C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), including State employment security agencies, or the State dislocated worker unit established under title I of such Act, on behalf of such workers.

The petition shall be filed simultaneously with the Secretary of Labor and with the Governor of the State in which such workers' employment site is located.

(2) ACTION BY GOVERNORS.—Upon receipt of a petition filed under paragraph (1), the Governor shall—

(A) ensure that rapid response activities and appropriate core and intensive services (as described in section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864)) authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

(B) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

(3) ACTION BY THE SECRETARY.—Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register and on the website of the Department of Labor that the Secretary has received the petition and initiated an investigation.

(4) HEARINGS.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under paragraph (3) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

(b) ELIGIBILITY.—

(1) IN GENERAL.—A group of workers shall be certified by the Secretary as eligible to apply for adjustment assistance under this part pursuant to a petition filed under subsection (a) if—

(A) the group of workers is employed in—

(i) energy producing and transforming industries;

(ii) industries dependent upon energy industries;

(iii) energy-intensive manufacturing industries;

(iv) consumer goods manufacturing; or

(v) other industries whose employment the Secretary determines has been adversely affected by any requirement of title VII of the Clean Air Act;

(B) the Secretary determines that a significant number or proportion of the workers in such workers' employment site have become totally or partially separated, or are threatened to become totally or partially separated from employment; and

(C) the sales, production, or delivery of goods or services have decreased as a result of any requirement of title VII of the Clean Air Act, including—

(i) the shift from reliance upon fossil fuels to other sources of energy, including renewable energy, that results in the closing of a facility or layoff of employees at a facility that mines, produces, processes, or utilizes fossil fuels to generate electricity;

(ii) a substantial increase in the cost of energy required for a manufacturing facility to produce items whose prices are competitive in the marketplace, to the extent the cost is not offset by allowance allocation to the facility pursuant to title VII of the Clean Air Act; or

(iii) other documented occurrences that the Secretary determines are indicators of an adverse impact on an industry described in subparagraph (A) as a result of any requirement of title VII of the Clean Air Act.

(2) WORKERS IN PUBLIC AGENCIES.—A group of workers in a public agency shall be certified by the Secretary as eligible to apply for climate change adjustment assistance pursuant to a petition filed if the Secretary determines that a significant number or proportion of the workers in the public agency have become totally or partially separated from employment, or are threatened to become totally or partially separated as a result of any requirement of title VII of the Clean Air Act.

(3) ADVERSELY AFFECTED SERVICE WORKERS.—A group of workers shall be certified as eligible to apply for climate change adjustment assistance pursuant to a petition filed if the Secretary determines that—

(A) a significant number or proportion of the service workers at an employment site where a group of workers has been certified by the Secretary as eligible to apply for adjustment assistance under this part pursuant to paragraph (1) have become totally or partially separated from employment, or are threatened to become totally or partially separated; and

(B) a loss of business in the firm providing service workers to an employment site is directly attributable to one or more of the documented occurrences listed in paragraph (1)(C).

(c) AUTHORITY TO INVESTIGATE AND COLLECT INFORMATION.—

(1) IN GENERAL.—The Secretary shall, in determining whether to certify a group of workers under subsection (d), obtain information the Secretary determines to be necessary to make the certification, through questionnaires and in such other manner as the Secretary determines appropriate from—

(A) the workers' employer;

(B) officials of certified or recognized unions or other duly authorized representatives of the group of workers; or

(C) one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)); or

(2) VERIFICATION OF INFORMATION.—The Secretary shall require an employer, union, or one-stop operator or partner to certify all information obtained under paragraph (1) from the employer, union, or one-stop operator or partner (as the case may be) on which the Secretary relies in making a determination under subsection (d), unless the Secretary has a reasonable basis for determining that such information is accurate and complete without being certified.

(3) PROTECTION OF CONFIDENTIAL INFORMATION.—The Secretary may not release information obtained under paragraph (1) that the Secretary considers to be confidential business information unless the employer submitting the confidential business information had notice, at the time of submission, that the information would be released by the Secretary, or the employer subsequently consents to the release of the information. Nothing in this paragraph shall be construed to prohibit the Secretary from providing such confidential business information to a court in camera or to another party under a protective order issued by a court.

(d) DETERMINATION BY THE SECRETARY OF LABOR.—

(1) IN GENERAL.—As soon as possible after the date on which a petition is filed under subsection (a), but in any event not later than 40 days after that date, the Secretary, in consultation with the Secretary of Energy and the Administrator, as necessary, shall determine whether the petitioning group meets the requirements of subsection (b) and shall issue a certification of eligibility to apply for assistance under this part covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin. Upon reaching a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register and on the website of the Department of Labor, together with the Secretary's reasons for making such determination.

(2) ONE YEAR LIMITATION.—A certification under this section shall not apply to any

worker whose last total or partial separation from the employment site before the worker's application under section 426(a) occurred more than 1 year before the date of the petition on which such certification was granted.

(3) REVOCATION OF CERTIFICATION.—Whenever the Secretary determines, with respect to any certification of eligibility of the workers of an employment site, that total or partial separations from such site are no longer a result of the factors specified in subsection (b)(1), the Secretary shall terminate such certification and promptly have notice of such termination published in the Federal Register and on the website of the Department of Labor, together with the Secretary's reasons for making such determination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

(e) INDUSTRY NOTIFICATION OF ASSISTANCE.—Upon receiving a notification of a determination under subsection (d) with respect to a domestic industry the Secretary of Labor shall notify the representatives of the domestic industry affected by the determination, employers publicly identified by name during the course of the proceeding relating to the determination, and any certified or recognized union or, to the extent practicable, other duly authorized representative of workers employed by such representatives of the domestic industry, of—

(1) the adjustment allowances, training, and other benefits available under this part;

(2) the manner in which to file a petition and apply for such benefits; and

(3) the availability of assistance in filing such petitions;

(4) notify the Governor of each State in which one or more employers in such industry are located of the Secretary's determination and the identity of the employers; and

(5) upon request, provide any assistance that is necessary to file a petition under subsection (a).

(f) BENEFIT INFORMATION TO WORKERS, PROVIDERS OF TRAINING.—

(1) IN GENERAL.—The Secretary shall provide full information to workers about the adjustment allowances, training, and other benefits available under this part and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 426(a) and shall periodically review such compliance. The Secretary shall inform the State Board for Vocational Education or equivalent agency, the one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801), and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under subsection (d) and of projections, if available, of the needs for training under as a result of such certification.

(2) NOTICE BY MAIL.—The Secretary shall provide written notice through the mail of the benefits available under this part to each worker whom the Secretary has reason to believe is covered by a certification made under subsection (d)—

(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or—

(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

(3) NEWSPAPERS; WEBSITE.—The Secretary shall publish notice of the benefits available under this part to workers covered by each certification made under subsection (d) in newspapers of general circulation in the areas in which such workers reside and shall make such information available on the website of the Department of Labor.

SEC. 426. PROGRAM BENEFITS.

(a) CLIMATE CHANGE ADJUSTMENT ALLOWANCE.—

(1) ELIGIBILITY.—Payment of a climate change adjustment allowance shall be made to an adversely affected worker covered by a certification under section 425(b) who files an application for such allowance for any week of unemployment which begins on or after the date of such certification, if the following conditions are met:

(A) Such worker's total or partial separation before the worker's application under this part occurred—

(i) on or after the date, as specified in the certification under which the worker is covered, on which total or partial separation began or threatened to begin in the adversely affected employment;

(ii) before the expiration of the 2-year period beginning on the date on which the determination under section 425(d) was made; and

(iii) before the termination date, if any, determined pursuant to section 425(d)(3).

(B) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of full-time employment or 1,040 hours of part time employment in adversely affected employment, or, if data with respect to weeks of employment are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purposes of this paragraph, any week in which such worker—

(i) is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training;

(ii) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States;

(iii) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm; or

(iv) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is ''Federal service'' as defined in section 8521(a)(1) of title 5, United States Code,

shall be treated as a week of employment.

(C) Such worker is enrolled in a training program approved by the Secretary under subsection (b)(2).

(2) INELIGIBILITY FOR CERTAIN OTHER BENEFITS.—An adversely affected worker receiving a payment under this section shall be ineligible to receive any other form of unemployment insurance for the period in which such worker is receiving a climate change adjustment allowance under this section.

(3) REVOCATION.—If—

(A) the Secretary determines that—

(i) the adversely affected worker—

(I) has failed to begin participation in the training program the enrollment in which meets the requirement of paragraph (1)(C); or

(II) has ceased to participate in such training program before completing such training program; and

(ii) there is no justifiable cause for such failure or cessation; or

(B) the certification made with respect to such worker under section 425(d) is revoked under paragraph (3) of such section,

no adjustment allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved by the Secretary under section (b)(2).

(4) WAIVERS OF TRAINING REQUIREMENTS.—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (b)(2) if the Secretary determines that it is not feasible or appropriate for the worker, because of 1 or more of the following reasons:

(A) RECALL.—The worker has been notified that the worker will be recalled by the employer from which the separation occurred.

(B) MARKETABLE SKILLS.—

(i) IN GENERAL.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

(ii) MARKETABLE SKILLS DEFINED.—For purposes of clause (i), the term ''marketable skills'' may include the possession of a postgraduate degree from an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) or an equivalent institution, or the possession of an equivalent postgraduate certification in a specialized field.

(C) RETIREMENT.—The worker is within 2 years of meeting all requirements for entitlement to either—

(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor); or

(ii) a private pension sponsored by an employer or labor organization.

(D) HEALTH.—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

(E) ENROLLMENT UNAVAILABLE.—The first available enrollment date for the training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

(F) TRAINING NOT AVAILABLE.—Training described in subsection (b)(2) is not reasonably available to the worker from either governmental agencies or private sources (which may include area career and technical education schools, as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

(5) WEEKLY AMOUNTS.—The climate change adjustment allowance payable to an adversely affected worker for a week of unemployment shall be an amount equal to 70 percent of the average weekly wage of such worker, but in no case shall such amount exceed the average weekly wage for all workers in the State where the adversely affected worker resides.

(6) MAXIMUM DURATION OF BENEFITS.—An eligible worker may receive a climate change adjustment allowance under this subsection for a period of not longer than 156 weeks.

(b) EMPLOYMENT SERVICES AND TRAINING.—

(1) INFORMATION AND EMPLOYMENT SERVICES.—The Secretary shall make available, directly or through agreements with the States under section 427(a) to adversely affected workers covered by a certification under section 425(a) the following information and employment services:

(A) Comprehensive and specialized assessment of skill levels and service needs, including through—

(i) diagnostic testing and use of other assessment tools; and

(ii) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

(B) Development of an individual employment plan to identify employment goals and objectives, and appropriate training to achieve those goals and objectives.

(C) Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.

(D) Information on training programs and other services provided by a State pursuant to title I of the Workforce Investment Act of 1998 and available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.

(E) Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965 (20 U.S.C. 1070a–16), where applicable, and notifying workers that the workers may request financial aid administrators at institutions of higher education (as defined in section 102 of such Act (20 U.S.C. 1002)) to use the administrators' discretion under section 479A of such Act (20 U.S.C. 1087tt) to use current year income data, rather than preceding year income data, for determining the amount of need of the workers for Federal financial assistance under title IV of such Act (20 U.S.C. 1070 et seq.).

(F) Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.

(G) Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a climate change adjustment allowance or training under this part, and after receiving such training for purposes of job placement.

(H) Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

(i) job vacancy listings in such labor market areas;

(ii) information on jobs skills necessary to obtain jobs identified in job vacancy listings described in subparagraph (A);

(iii) information relating to local occupations that are in demand and earnings potential of such occupations; and

(iv) skills requirements for local occupations described in subparagraph (C).

(I) Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.

(2) TRAINING.—

(A) APPROVAL OF AND PAYMENT FOR TRAINING.—If the Secretary determines, with respect to an adversely affected worker that—

(i) there is no suitable employment (which may include technical and professional employment) available for an adversely affected worker;

(ii) the worker would benefit from appropriate training;

(iii) there is a reasonable expectation of employment following completion of such training;

(iv) training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (including area career and technical education schools, as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006, and employers);

(v) the worker is qualified to undertake and complete such training; and

(vi) such training is suitable for the worker and available at a reasonable cost,

the Secretary shall approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training (subject to the limitations imposed by this section) paid on the worker's behalf by the Secretary directly or through a voucher system.

(B) DISTRIBUTION.—The Secretary shall establish procedures for the distribution of the funds to States to carry out the training programs approved under this paragraph, and shall make an initial distribution of the funds made available as soon as practicable after the beginning of each fiscal year.

(C) ADDITIONAL RULES REGARDING APPROVAL OF AND PAYMENT FOR TRAINING.—

(i) For purposes of applying subparagraph (A)(iii), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under such subparagraph.

(ii) If the costs of training an adversely affected worker are paid by the Secretary under subparagraph (A), no other payment for such costs may be made under any other provision of Federal law. No payment may be made under subparagraph (A) of the costs of training an adversely affected worker or an adversely affected incumbent worker if such costs—

(I) have already been paid under any other provision of Federal law; or

(II) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

The provisions of this clause shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.

(D) TRAINING PROGRAMS.—The training programs that may be approved under subparagraph (A) include—

(i) employer-based training, including—

(I) on-the-job training if approved by the Secretary under subsection (c); and

(II) joint labor-management apprenticeship programs;

(ii) any training program provided by a State pursuant to title I of the Workforce Investment Act of 1998;

(iii) any training program approved by a private industry council established under section 102 of such Act;

(iv) any programs in career and technical education described in section 3(5) of the Carl D. Perkins Career and Technical Education Act of 2006;

(v) any program of remedial education;

(vi) any program of prerequisite education or coursework required to enroll in training that may be approved under this paragraph;

(vii) any training program for which all, or any portion, of the costs of training the worker are paid—

(I) under any Federal or State program other than this part; or

(II) from any source other than this part;

(viii) any training program or coursework at an accredited institution of higher education (described in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), including a training program or coursework for the purpose of—

(I) obtaining a degree or certification; or

(II) completing a degree or certification that the worker had previously begun at an accredited institution of higher education; and

(ix) any other training program approved by the Secretary.

(3) SUPPLEMENTAL ASSISTANCE.—The Secretary may, as appropriate, authorize supplemental assistance that is necessary to defray reasonable transportation and subsistence expenses for separate maintenance in a case in which training for a worker is provided in a facility that is not within commuting distance of the regular place of residence of the worker.

(c) ON-THE-JOB TRAINING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may approve on-the-job training for any adversely affected worker if—

(A) the Secretary determines that on-the-job training—

(i) can reasonably be expected to lead to suitable employment with the employer offering the on-the-job training;

(ii) is compatible with the skills of the worker;

(iii) includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and

(iv) can be measured by benchmarks that indicate that the worker is gaining such knowledge or skills; and

(B) the State determines that the on-the-job training program meets the requirements of clauses (iii) and (iv) of subparagraph (A).

(2) MONTHLY PAYMENTS.—The Secretary shall pay the costs of on-the-job training approved under paragraph (1) in monthly installments.

(3) CONTRACTS FOR ON-THE-JOB TRAINING.—

(A) IN GENERAL.—The Secretary shall ensure, in entering into a contract with an employer to provide on-the-job training to a worker under this subsection, that the skill requirements of the job for which the worker is being trained, the academic and occupational skill level of the worker, and the work experience of the worker are taken into consideration.

(B) TERM OF CONTRACT.—Training under any such contract shall be limited to the period of time required for the worker receiving on-the-job training to become proficient in the job for which the worker is being trained, but may not exceed 156 weeks in any case.

(4) EXCLUSION OF CERTAIN EMPLOYERS.—The Secretary shall not enter into a contract for on-the-job training with an employer that exhibits a pattern of failing to provide workers receiving on-the-job training from the employer with—

(A) continued, long-term employment as regular employees; and

(B) wages, benefits, and working conditions that are equivalent to the wages, benefits, and working conditions provided to regular employees who have worked a similar period of time and are doing the same type of work as workers receiving on-the-job training from the employer.

(d) ADMINISTRATIVE AND EMPLOYMENT SERVICES FUNDING.—

(1) ADMINISTRATIVE FUNDING.—In addition to any funds made available to a State to carry out this section for a fiscal year, the State shall receive for the fiscal year a payment in an amount that is equal to 15 percent of the amount of such funds and shall—

(A) use not more than ⅔ of such payment for the administration of the climate change adjustment assistance for workers program under this part, including for—

(i) processing waivers of training requirements under subsection (a)(4);

(ii) collecting, validating, and reporting data required under this part; and

(iii) administering the Climate Change Adjustment Assistance Allowance payments; and

(B) use not less than ⅓ of such payment for information and employment services under subsection (b)(1).

(2) EMPLOYMENT SERVICES FUNDING.—

(A) IN GENERAL.—In addition to any funds made available to a State to carry out subsection (b)(2) and the payment under paragraph (1) for a fiscal year, the Secretary shall provide to the State for the fiscal year a reasonable payment for the purpose of providing employment and services under subsection (b)(1).

(B) VOLUNTARY RETURN OF FUNDS.—A State that receives a payment under subparagraph (A) may decline or otherwise return such payment to the Secretary.

(e) JOB SEARCH ALLOWANCES.—The Secretary of Labor may provide adversely affected workers a one-time job search allowance in accordance with regulations prescribed by the Secretary. Any job search allowance provided shall be available only under the following circumstances and conditions:

(1) The worker is no longer eligible for the climate change adjustment allowance under subsection (a) and has completed the training program required by subsection (a)(1)(E).

(2) The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(3) An allowance granted shall provide reimbursement to the worker of all necessary job search expenses as prescribed by the Secretary in regulations. Such reimbursement under this subsection may not exceed $1,500 for any worker.

(f) RELOCATION ALLOWANCE AUTHORIZED.—

(1) IN GENERAL.—Any adversely affected worker covered by a certification issued under section 425 may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this subsection.

(2) CONDITIONS FOR GRANTING ALLOWANCE.—A relocation allowance may be granted if all of the following terms and conditions are met:

(A) ASSIST AN ADVERSELY AFFECTED WORKER.—The relocation allowance will assist an adversely affected worker in relocating within the United States.

(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(C) TOTAL SEPARATION.—The worker is totally separated from employment at the time relocation commences.

(D) SUITABLE EMPLOYMENT OBTAINED.—The worker—

(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

(ii) has obtained a bona fide offer of such employment.

(E) APPLICATION.—The worker filed an application with the Secretary at such time and in such manner as the Secretary shall specify by regulation.

(3) AMOUNT OF ALLOWANCE.—The relocation allowance granted to a worker under paragraph (1) includes—

(A) all reasonable and necessary expenses (including, subsistence and transportation expenses at levels not exceeding amounts prescribed by the Secretary in regulations) incurred in transporting the worker, the worker's family, and household effects; and

(B) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $1,500.

(4) LIMITATIONS.—A relocation allowance may not be granted to a worker unless—

(A) the relocation occurs within 182 days after the filing of the application for relocation assistance; or

(B) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under subsection (b)(2).

(g) HEALTH INSURANCE CONTINUATION.—Not later than 1 year after the date of enactment of this part, the Secretary of Labor shall prescribe regulations to provide, for the period in which an adversely affected worker is participating in a training program described in subsection (b)(2), 80 percent of the monthly premium of any health insurance coverage that an adversely affected worker was receiving from such worker's employer prior to the separation from employment described in section 425(b), to be paid to any health care insurance plan designated by the adversely affected worker receiving an allowance under this section.

SEC. 427. GENERAL PROVISIONS.

(a) AGREEMENTS WITH STATES.—

(1) IN GENERAL.—The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this section as ''cooperating States'' and ''cooperating States agencies'' respectively). Under such an agreement, the cooperating State agency—

(A) as agent of the United States, shall receive applications for, and shall provide, payments on the basis provided in this part;

(B) in accordance with paragraph (6), shall make available to adversely affected workers covered by a certification under section 425(d) the employment services described in section 426(b)(1);

(C) shall make any certifications required under section 425(d);

(D) shall otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this part.

Each agreement under this section shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

(2) FORM AND MANNER OF DATA.—Each agreement under this section shall—

(A) provide the Secretary with the authority to collect any data the Secretary determines necessary to meet the requirements of this part; and

(B) specify the form and manner in which any such data requested by the Secretary shall be reported.

(3) RELATIONSHIP TO UNEMPLOYMENT INSURANCE.—Each agreement under this section shall provide that an adversely affected worker receiving a climate change adjustment allowance under this part shall not be eligible for unemployment insurance otherwise payable to such worker under the laws of the State.

(4) REVIEW.—A determination by a cooperating State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

(5) COORDINATION.—Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under section 426 and under title I of the Workforce Investment Act of 1998 upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this part.

(6) RESPONSIBILITIES OF COOPERATING AGENCIES.—Each cooperating State agency shall, in carrying out paragraph (1)(B)—

(A) advise each worker who applies for unemployment insurance of the benefits under this part and the procedures and deadlines for applying for such benefits;

(B) facilitate the early filing of petitions under section 425(a) for any workers that the agency considers are likely to be eligible for benefits under this part;

(C) advise each adversely affected worker to apply for training under section 426(b) before, or at the same time, the worker applies for climate change adjustment allowances under section 426(a);

(D) perform outreach to, intake of, and orientation for adversely affected workers and adversely affected incumbent workers covered by a certification under section 426(a) with respect to assistance and benefits available under this part;

(E) make employment services described in section 426(b)(1) available to adversely affected workers and adversely affected incumbent workers covered by a certification under section 425(d) and, if funds provided to carry out this part are insufficient to make such services available, make arrangements to make such services available through other Federal programs; and

(F) provide the benefits and reemployment services under this part in a manner that is necessary for the proper and efficient administration of this part, including the use of state agency personnel employed in accordance with a merit system of personnel administration standards, including—

(i) making determinations of eligibility for, and payment of, climate change readjustment allowances and health care benefit replacement amounts;

(ii) developing recommendations regarding payments as a bridge to retirement and lump sum payments to pension plans in accordance with this subsection; and

(iii) the provision of reemployment services to eligible workers, including referral to training services.

(7) In order to promote the coordination of workforce investment activities in each State with activities carried out under this part, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)) and a description of the State's rapid response activities under section 221(a)(2)(A).

(8) CONTROL MEASURES.—

(A) IN GENERAL.—The Secretary shall require each cooperating State and cooperating State agency to implement effective control measures and to effectively oversee the operation and administration of the climate change adjustment assistance program

under this part, including by means of monitoring the operation of control measures to improve the accuracy and timeliness of the data being collected and reported.

(B) DEFINITION.—For purposes of subparagraph (A), the term ''control measures'' means measures that—

(i) are internal to a system used by a State to collect data; and

(ii) are designed to ensure the accuracy and verifiability of such data.

(9) DATA REPORTING.—

(A) IN GENERAL.—Any agreement entered into under this section shall require the cooperating State or cooperating State agency to report to the Secretary on a quarterly basis comprehensive performance accountability data, to consist of—

(i) the core indicators of performance described in subparagraph (B)(i);

(ii) the additional indicators of performance described in subparagraph (B)(ii), if any; and

(iii) a description of efforts made to improve outcomes for workers under the climate change adjustment assistance program.

(B) CORE INDICATORS DESCRIBED.—

(i) IN GENERAL.—The core indicators of performance described in this subparagraph are—

(I) the percentage of workers receiving benefits under this part who are employed during the second calendar quarter following the calendar quarter in which the workers cease receiving such benefits;

(II) the percentage of such workers who are employed in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits; and

(III) the earnings of such workers in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits.

(ii) ADDITIONAL INDICATORS.—The Secretary and a cooperating State or cooperating State agency may agree upon additional indicators of performance for the climate change adjustment assistance program under this part, as appropriate.

(C) STANDARDS WITH RESPECT TO RELIABILITY OF DATA.—In preparing the quarterly report required by subparagraph (A), each cooperating State or cooperating State agency shall establish procedures that are consistent with guidelines to be issued by the Secretary to ensure that the data reported are valid and reliable.

(10) VERIFICATION OF ELIGIBILITY FOR PROGRAM BENEFITS.—

(A) IN GENERAL.—An agreement under this section shall provide that the State shall periodically redetermine that a worker receiving benefits under this part who is not a citizen or national of the United States remains in a satisfactory immigration status. Once satisfactory immigration status has been initially verified through the immigration status verification system described in section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)) for purposes of establishing a worker's eligibility for unemployment compensation, the State shall reverify the worker's immigration status if the documentation provided during initial verification will expire during the period in which that worker is potentially eligible to receive benefits under this part. The State shall conduct such redetermination in a timely manner, utilizing the immigration status verification system described in section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)).

(B) PROCEDURES.—The Secretary shall establish procedures to ensure the uniform application by the States of the requirements of this paragraph.

(b) ADMINISTRATION ABSENT STATE AGREEMENT.—

(1) In any State where there is no agreement in force between a State or its agency under subsection (a), the Secretary shall promulgate regulations for the performance of all necessary functions under section 426, including provision for a fair hearing for any worker whose application for payments is denied.

(2) A final determination under paragraph (1) with respect to entitlement to program benefits under section 426 is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

(c) PROHIBITION ON CONTRACTING WITH PRIVATE ENTITIES.—Neither the Secretary nor a State may contract with any private for-profit or nonprofit entity for the administration of the climate change adjustment assistance program under this part.

(d) PAYMENT TO THE STATES.—

(1) IN GENERAL.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable such State as agent of the United States to make payments provided for by this part.

(2) RESTRICTION.—All money paid a State under this subsection shall be used solely for the purposes for which it is paid; and money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this section, to the Secretary of the Treasury.

(3) BONDS.—Any agreement under this section may require any officer or employee of the State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this part.

(e) LABOR STANDARDS.—

(1) PROHIBITION ON DISPLACEMENT.—An individual in an apprenticeship program or on-the-job training program under this part shall not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any employed employee.

(2) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—An apprenticeship program or on-the-job raining program under this Act shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) ADDITIONAL STANDARDS.—The Secretary, or a State acting under an agreement described in subsection (a) may pay the costs of on-the-job training, notwithstanding any other provision of this section, only if—

(A) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained;

(B) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals;

(C) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 425(d);

(D) the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training; and

(E) the employer has not received payment under with respect to any other on-the-job training provided by such employer which failed to meet the requirements of subparagraphs (A) through (D).

(f) DEFINITIONS.—As used in this part the following definitions apply:

(1) The term ''adversely affected employment'' means employment at an employment site, if workers at such site are eligible to apply for adjustment assistance under this part.

(2) The term ''adversely affected worker'' means an individual who has been totally or partially separated from employment and is eligible to apply for adjustment assistance under this part.

(3) The term ''average weekly wage'' means 1/13 of the total wages paid to an individual in the quarter in which the individual's total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

(4) The term ''average weekly hours'' means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (4).

(5) The term ''benefit period'' means, with respect to an individual—

(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation; or

(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.

(6) The term ''consumer goods manufacturing'' means the electrical equipment, appliance, and component manufacturing industry and transportation equipment manufacturing.

(7) The term ''employment site'' means a single facility or site of employment.

(8) The term ''energy-intensive manufacturing industries'' means all industrial sectors, entities, or groups of entities that meet the energy or greenhouse gas intensity criteria in section 765(b)(2)(A)(i) of the Clean Air Act based on the most recent data available.

(9) The term ''energy producing and transforming industries'' means the coal mining industry, oil and gas extraction, electricity power generation, transmission and distribution, and natural gas distribution.

(10) The term ''industries dependent on energy industries'' means rail transportation and pipeline transportation.

(11) The term ''on-the-job training'' means training provided by an employer to an individual who is employed by the employer.

(12) The terms ''partial separation'' and ''partially separated'' refer, with respect to an individual who has not been totally separated, that such individual has had—

(A) his or her hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment; and

(B) his or her wages reduced to 80 percent or less of his average weekly wage in such adversely affected employment.

(13) The term ''public agency'' means a department or agency of a State or political

subdivision of a State or of the Federal government.

(14) The term ''Secretary'' means the Secretary of Labor.

(15) The term ''service workers'' means workers supplying support or auxiliary services to an employment site.

(16) The term ''State agency'' means the agency of the State which administers the State law.

(17) The term ''State law'' means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(18) The terms ''total separation'' and ''totally separated'' refer to the layoff or severance of an individual from employment with an employer in which adversely affected employment exists.

(19) The term ''unemployment insurance'' means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act. The terms ''regular compensation'', ''additional compensation'', and ''extended compensation'' have the same respective meanings that are given them in section 205(2), (3), and (4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note.)

(20) The term ''week'' means a week as defined in the applicable State law.

(21) The term ''week of unemployment'' means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

(g) SPECIAL RULE WITH RESPECT TO MILITARY SERVICE.—

(1) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary may waive any requirement of this part that the Secretary determines is necessary to ensure that an adversely affected worker who is a member of a reserve component of the Armed Forces and serves a period of duty described in paragraph (2) is eligible to receive a climate change adjustment allowance, training, and other benefits under this part in the same manner and to the same extent as if the worker had not served the period of duty.

(2) PERIOD OF DUTY DESCRIBED.—An adversely affected worker serves a period of duty described in this paragraph if, before completing training under this part, the worker—

(A) serves on active duty for a period of more than 30 days under a call or order to active duty of more than 30 days; or

(B) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performs full-time National Guard duty under section 502(f) of title 32, United States Code, for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

(h) FRAUD AND RECOVERY OF OVERPAYMENTS.—

(1) RECOVERY OF PAYMENTS TO WHICH AN INDIVIDUAL WAS NOT ENTITLED.—If the Secretary or a court of competent jurisdiction determines that any person has received any payment under this part to which the individual was not entitled, such individual shall be liable to repay such amount to the Secretary, as the case may be, except that the Secretary shall waive such repayment if such agency or the Secretary determines that—

(A) the payment was made without fault on the part of such individual; and

(B) requiring such repayment would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household).

(2) MEANS OF RECOVERY.—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this part, under any Federal unemployment compensation law or other Federal law administered by the Secretary which provides for the payment of assistance or an allowance with respect to unemployment. Any amount recovered under this section shall be returned to the Treasury of the United States.

(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part.

(j) STUDY ON OLDER WORKERS.—The Secretary shall conduct a study examine the circumstances of older adversely affected workers and the ability of such workers to access their retirement benefits. The Secretary shall transmit a report to Congress not later than 2 years after the date of enactment of this part on the findings of the study and the Secretary's recommendations on how to ensure that adversely affected workers within 2 years of retirement are able to access their retirement benefits.

[(k) SPENDING LIMIT.—For each fiscal year, the total amount of funds disbursed for the purposes described in section 426 shall not exceed the amount deposited in that fiscal year into the Climate Change Worker Assistance Fund established under section [782(j)] of the Clean Air Act. The annual spending limit for any succeeding year shall be increased by the difference, if any, between the amount of the prior year's disbursements and the spending limitation for that year. The Secretary shall promulgate rules to ensure that this spending limit is not exceeded. Such rules shall provide that workers who receive any of the benefits described in section 426 receive full benefits, and shall include the establishment of a waiting list for workers in the event that the requests for assistance exceed the spending limit.]

Subtitle C—Consumer Assistance

SEC. 431. ENERGY REFUND PROGRAM.

The Social Security Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXII—ENERGY REFUND PROGRAM

"SEC. 2201. ENERGY REFUND PROGRAM.

''(a) IN GENERAL.—The Secretary shall formulate and administer the program provided for in this section, which shall be known as the 'Energy Refund Program', and under which eligible low-income households are provided cash payments to reimburse the households for the estimated loss in their purchasing power resulting from the American Clean Energy and Security Act of 2009.

''(b) ENTITLEMENT OF ELIGIBLE HOUSEHOLDS TO CASH PAYMENTS.—At the request of the State agency of a State, each eligible low-income household in the State shall be entitled to receive monthly cash payments under this section in an amount equal to the monthly energy refund amount determined under subsection (d).

''(c) ELIGIBILITY.—

''(1) ELIGIBLE HOUSEHOLDS.—A household shall be considered to be an eligible low-income household for purposes of this section if—

''(A) the gross income of the household does not exceed the greater of—

''(i) 150 percent of the poverty line; or

''(ii) the greatest amount of household gross income in respect of which a benefit could be payable under subsection (d)(2)(B);

''(B) the State agency of the State in which the household is located determines that the household is participating in—

''(i) the Supplemental Nutrition Assistance Program authorized by the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

''(ii) the Food Distribution Program on Indian Reservations authorized by section 4(b) of such Act (7 U.S.C. 2013(b)); or

''(iii) the program for nutrition assistance in Puerto Rico or American Samoa under section 19 of such Act (7 U.S.C. 2028);

''(C) the household consists of a single individual or a married couple, and—

''(i) receives the subsidy described in section 1860D–14 of this Act (42 U.S.C. 1395w–114); or

''(ii)(I) participates in the program under title XVIII of this Act; and

''(II) meets the income requirements described in section 1860D–14(a)(1) or (a)(2) of this Act (42 U.S.C. 1395w–114(a)(1) or (a)(2)); or

''(D) the household consists of a single individual or a married couple, and receives benefits under the supplemental security income program under title XVI of this Act (42 U.S.C. 1381–1383f).

''(2) STREAMLINED PARTICIPATION FOR CERTAIN BENEFICIARIES.—The Secretary shall—

''(A) periodically estimate the number of eligible beneficiaries and households, and the number of participating beneficiaries and households, for the Energy Refund Program; and

''(B) develop procedures, in consultation with the Commissioner of Social Security, the Railroad Retirement Board, the Secretary of Veterans Affairs, and the State agencies, to ensure that low-income beneficiaries of the benefit programs administered by such entities receive the energy refund for which the beneficiaries are eligible under the Energy Refund Program.

''(3) LIMITATION.—Notwithstanding any other provision of law, the Secretary shall provide refunds to United States citizens, United States nationals, and individuals lawfully residing in the United States who qualify for a refund under paragraph (1)(A), and shall establish procedures to ensure that other individuals do not receive refunds.

''(4) NATIONAL STANDARDS.—The Secretary shall consult with the Secretary of Agriculture and establish uniform national standards of eligibility ensuring that States may seamlessly co-administer the energy refund program with the Supplemental Nutrition Assistance Program in accordance with the provisions of this section. No State agency shall impose any other standard or requirement as a condition of eligibility or refund receipt under the program. Assistance in the Energy Refund Program shall be furnished promptly to all eligible households who make application for such participation or are already enrolled in any program referred to in paragraph (1).

''(d) MONTHLY ENERGY REFUND AMOUNT.—

''(1) ESTIMATED ANNUAL TOTAL LOSS IN PURCHASING POWER.—Not later than August 31 of each fiscal year, the Energy Information Administration shall estimate the annual total loss in purchasing power that will result from American Clean Energy and Security Act of 2009 in the next fiscal year for households of each size with gross income equal to 150 percent of the poverty line, based on the projected total market value of all compliance costs (including, but not limited to, the emissions allowances used to demonstrate compliance with title VII of the Clean Air Act in the next fiscal year, and excluding costs that are not projected to be incurred

by households as a result of allowances freely allocated and intended for residential consumer assistance pursuant to sections 783 through 785 of the Clean Air Act), in a way generally recognized as suitable by experts.

''(2) MONTHLY ENERGY REFUND.—The monthly energy refund amount for an eligible household under this section shall be—

''(A) if the gross income of the household does not exceed 150 percent of the poverty line applicable to the household—

''(i) if the household has 1, 2, 3, or 4 members, 1/12 of the amount estimated under paragraph (1) for a household of the same size, rounded to the nearest whole dollar amount; or

''(ii) if the household has 5 or more members, 1/12 of the arithmetic mean value of the amounts estimated under paragraph (1) for households with 5 or more members, rounded to the nearest whole dollar amount; or

''(B) if the gross income of the household exceeds 150 percent of the poverty line applicable to the household, 1/12 of the amount (if any) by which—

''(i) the amount estimated under paragraph (1) for a household of the same size; exceeds

''(ii) 20 percent of the amount by which the gross income of the household exceeds 150 percent of the poverty line.

''(e) DELIVERY MECHANISM.—

''(1) Subject to standards and an implementation schedule set by the Secretary, the energy refund shall be provided in monthly installments via—

''(A) direct deposit into the eligible household's designated bank account;

''(B) the State's electronic benefit transfer system; or

''(C) another Federal or State mechanism, if such a mechanism is approved by the Secretary.

''(2) Such standards shall include—

''(A)(i) defining the required level of recipient protection regarding privacy;

''(ii) guidance on how recipients are offered choices, when relevant, about the delivery mechanism;

''(iii) guidance on ease of use and access to the refund, including the prohibition of fees charged to recipients for withdrawals or other services; and

''(iv) cost-effective protections against improper accessing of the energy refund;

''(B) operating standards that provide for interoperability between States and law enforcement monitoring; and

''(C) other standards, as determined by the Secretary or the Secretary's designee.

''(f) ADMINISTRATION.—

''(1) IN GENERAL.—The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issuance of refunds and the control and accountability thereof.

''(2) PROCEDURES.—Under standards established by the Secretary, the State agency shall establish procedures governing the administration of the Energy Refund Program that the State agency determines best serve households in the State, including households with special needs, such as households with elderly or disabled members, households in rural areas, homeless individuals, and households residing on reservations as defined in the Indian Child Welfare Act of 1978 and the Indian Financing Act of 1974. In carrying out this paragraph, a State agency—

''(A) shall provide timely, accurate, and fair service to applicants for, and participants in, the Energy Refund Program;

''(B) shall permit an applicant household to apply to participate in the program at the time that the household first contacts the State agency, and shall consider an application that contains the name, address, and signature of the applicant to be sufficient to constitute an application for participation;

''(C) shall screen any applicant household for the Supplemental Nutrition Assistance Program, the State's medical assistance program under section XIX of this Act, State Childrens Health Insurance Program under section XXI of this Act, and a State program that provides basic assistance under a State program funded under title IV of this Act or with qualified State expenditures as defined in section 409(a)(7) of this Act for eligibility for the Energy Refund Program and, if eligible, shall enroll such applicant household in the Energy Refund Program;

''(D) shall complete certification of and provide a refund to any eligible household not later than 30 days following its filing of an application;

''(E) shall use appropriate bilingual personnel and materials in the administration of the program in those portions of the State in which a substantial number of members of low-income households speak a language other than English; and

''(F) shall utilize State agency personnel who are employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728) modifying or superseding such standards relating to the establishment and maintenance of personnel standards on a merit basis to make all tentative and final determinations of eligibility and ineligibility.

''(3) REGULATIONS.—

''(A) Except as provided in subparagraph (B), the Secretary shall issue such regulations consistent with this section as the Secretary deems necessary or appropriate for the effective and efficient administration of the Energy Refund Program, and shall promulgate all such regulations in accordance with the procedures set forth in section 553 of title 5, United States Code.

''(B) Without regard to section 553 of title 5 of such Code, the Administrator may by rule promulgate as final, to be effective until no later than two years after the date of the enactment of the American Clean Energy and Security Act of 2009, any procedures that are substantially the same as the procedures governing the Supplemental Nutrition Assistance Program in section 273.2, 273.12, or 273.15 of title 7, Code of Federal Regulations.

''(C) Notwithstanding subsection (i)(4), the Secretary may promulgate regulations allowing for streamlined eligibility determinations for some or all households which include individuals receiving assistance under a State plan approved under title XIX or XXI of this Act. The regulations may institute procedures whereby the income and family size information used for determining eligibility under such title XIX or XXI may be the basis for determining eligibility for the Energy Refund Program.

''(D) Notwithstanding any other provision of this section, the Secretary may authorize States to provide benefits under this section on a quarterly basis if the Secretary determines that the amount of the benefits that would be provided on a monthly basis to households is insufficient to be efficiently paid on a monthly basis in light of the administrative expenses of the Energy Refund Program.

''(g) TREATMENT.—The value of the refund provided under this section shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to an income tax, or public assistance programs (including, but not limited to, health care, cash aid, child care, nutrition programs, and housing assistance) and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of a refund under this section.

''(h) PROGRAM INTEGRITY.—For purposes of ensuring program integrity and complying with the requirements of the Improper Payment Information Act of 2002, the Secretary shall, to the maximum extent possible, rely on and coordinate with the quality control sample and review procedures of paragraphs (2), (3), (4), and (5) of section 16(c) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(c)).

''(i) DEFINITIONS.—

''(1) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services or the head of another agency designated by the Secretary of Health and Human Services.

''(2) ELECTRONIC BENEFIT TRANSFER SYSTEM.—The term 'electronic benefit transfer system' means a system by which household benefits or refunds defined under subsection (e) are issued from and stored in a central databank via electronic benefit transfer cards.

''(3) GROSS INCOME.—The term 'gross income' means the gross income of a household that is determined in accordance with standards and procedures established under section 5 of the Food and Nutrition Act of 2008 (7 U.S.C. 2014) and its implementing regulations.

''(4) HOUSEHOLD.—

''(A) The term 'household' means—

''(i) in subparagraphs (A) and (B) of subsection (c)(1) of this section, except as provided in subparagraph (C) of this paragraph, an individual or a group of individuals who are a household under section 3(n) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(n));

''(ii) in subsection (c)(1)(C) of this section, a single individual or married couple that receives benefits under section 1860D–14 of this Act (42 U.S.C. 1395w–114); and

''(iii) in subsection (c)(1)(D) of this section, a single individual or married couple that receives benefits under the supplemental security income program under title XVI of this Act (42 U.S.C. 1381–1383f).

''(B) The Secretary shall establish rules for providing the energy refund in an equitable and administratively simple manner to households where the group of individuals who live together includes members not all of whom are described in a single clause of subparagraph (A), or includes additional members not described in any such clause.

''(C) The Secretary shall establish rules regarding the eligibility and delivery of the energy refund to groups of individuals described in section 3(n)(4) or (5) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(n)).

''(5) POVERTY LINE.—The term 'poverty line' has the meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section.

''(6) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands.

''(7) STATE AGENCY.—The term 'State agency' means an agency of State government, including the local offices thereof, that has responsibility for administration of the 1 or more federally aided public assistance programs within the State, and in those States where such assistance programs are operated on a decentralized basis, the term shall include the counterpart local agencies administering such programs.

''(8) OTHER TERMS.—Other terms not defined in this title shall have the same meaning applied in the Supplemental Nutrition Assistance Program authorized by the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) unless the Secretary finds for good cause that application of a particular definition would be detrimental to the purposes of the Energy Refund Program.''.

SEC. 432. MODIFICATION OF EARNED INCOME CREDIT AMOUNT FOR INDIVIDUALS WITH NO QUALIFYING CHILDREN.

(a) IN GENERAL.—Subsection (b) of section 32 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR INDIVIDUALS WITH NO QUALIFYING CHILDREN WHO ARE AFFECTED BY THE AMERICAN CLEAN ENERGY AND SECURITY ACT OF 2009.—

''(A) IN GENERAL.—In the case of any household which the Secretary determines experienced a reduction in purchasing power as a result of the provisions of, or amendments made by, the American Clean Energy and Security Act of 2009 (determined without regard to this paragraph and section 2201 of the Social Security Act)—

''(i) INCREASE IN CREDIT PERCENTAGE AND PHASEOUT PERCENTAGE.—The table contained in paragraph (1)(A) shall be applied by substituting '15.3' for '7.65'.

''(ii) INCREASE IN BEGINNING PHASEOUT AMOUNT.—The table contained in paragraph (2)(A) shall be applied by substituting '$11,640' for '$5,280'.

''(B) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning after 2012, the $11,640 amount in subparagraph (A)(ii) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (i) in the same manner as if such increase were under paragraph (1) of subsection (j).

''(iii) COORDINATION WITH OTHER INFLATION ADJUSTMENTS.—Paragraph (1) of subsection (j) shall not apply to the dollar amount substituted under subparagraph (A)(ii).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 433. PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS.

(a) OASDI TRUST FUNDS.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following new subsection:

''(o) The Secretary of the Treasury shall transfer from time to time to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, from amounts in the general fund of the Treasury that are not otherwise appropriated, such sums as the Chief Actuary of the Social Security Administration calculates as necessary (and so certifies to such Secretary) for any fiscal year, on account of changes in benefit costs and changes in tax revenue attributable to the provisions of the American Clean Energy and Security Act of 2009 and the amendments made thereby, in order to place each of such Trust Funds in the same position at the end of such fiscal year as the position in which such Trust Fund would have been if such changes had not occurred.''.

(b) HI TRUST FUND.—Section 1817 of such Act (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

''(l) TRANSFERS TO ACCOUNT FOR CHANGES IN BENEFIT COSTS AND CHANGES IN TAX REVENUE ATTRIBUTABLE TO THE AMERICAN CLEAN ENERGY AND SECURITY ACT OF 2009.—The Secretary of the Treasury shall transfer from time to time to the Trust Fund, from amounts in the general fund of the Treasury that are not otherwise appropriated, such sums as the Chief Actuary of the Centers for Medicare & Medicaid Services calculates as necessary (and so certifies to such Secretary) for any fiscal year, on account of changes in benefit costs and changes in tax revenue attributable to the provisions of the American Clean Energy and Security Act of 2009 and the amendments made thereby, in order to place the Trust Fund in the same position at the end of such fiscal year as the position in which it would have been if such changes had not occurred.''.

Subtitle D—Exporting Clean Technology

SEC. 441. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Protecting Americans from the impacts of climate change requires global reductions in greenhouse gas emissions.

(2) Although developing countries are historically least responsible for the cumulative greenhouse gas emissions that are causing climate change and continue to have very low per capita greenhouse gas emissions, their overall greenhouse gas emissions are increasing as they seek to grow their economies and reduce energy poverty for their populations.

(3) Many developing countries lack the financial and technical resources to adopt clean energy technologies and absent assistance their greenhouse gas emissions will continue to increase.

(4) Investments in clean energy technology cooperation can substantially reduce global greenhouse gas emissions while providing developing countries with incentives to adopt policies that will address competitiveness concerns related to regulation of United States greenhouse gas emissions.

(5) Investments in clean technology in developing countries will increase demand for clean energy products, open up new markets for United States companies, spur innovation, and lower costs.

(6) Under Article 4 of the United Nations Framework Convention on Climate Change, developed country parties, including the United States, committed to ''take all practicable steps to promote, facilitate, and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other parties, particularly developing country parties, to enable them to implement the provisions of the Convention''.

(7) Under the Bali Action Plan, developed country parties to the United Nations Framework Convention on Climate Change, including the United States, committed to ''enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology cooperation,'' including, inter alia, consideration of ''improved access to adequate, predictable, and sustainable financial resources and financial and technical support, and the provision of new and additional resources, including official and concessional funding for developing country parties''.

(8) Intellectual property rights are a key driver of investment and research and development in, and the global deployment of, clean technologies.

(9) Innovative clean technologies, including U.S. and multilateral financing mechanisms for their deployment, are critical to mitigating global warming pollution, preventing catastrophic changes to the climate, and developing robust economies around the world.

(10) Any weakening of intellectual property rights protection poses a substantial competitive risk to U.S. companies and the creation of high-quality U.S. jobs, inhibiting the creation of new ''green'' employment and the transformational shift to the ''Green Economy'' of the 21st Century.

(11) Any U.S. funding directed toward assisting developing countries with regard to exporting clean technology should promote the robust compliance with and enforcement of existing international legal requirements for the protection of intellectual property rights as formulated in the Agreement on Trade-Related Aspects of Intellectual Property Rights, referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C.3511(d)(15) and in applicable intellectual property provisions of bilateral trade agreements.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide United States assistance and leverage private resources to encourage widespread implementation, in developing countries, of activities that reduce, sequester, or avoid greenhouse gas emissions; and

(2) to provide such assistance in a manner that—

(A) encourages such countries to adopt policies and measures, including sector-based and cross-sector policies and measures, that substantially reduce, sequester, or avoid greenhouse gas emissions;

(B) promotes the successful negotiation of a global agreement to reduce greenhouse gas emissions under the United Nations Framework Convention on Climate Change; and

(C) promotes robust compliance with and enforcement of existing international legal requirements for the protection of intellectual property rights, as formulated in the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)) and in applicable intellectual property provisions of bilateral trade agreements.

SEC. 442. DEFINITIONS.

In this subtitle:

(1) ALLOWANCE.—The term ''allowance'' means an emission allowance established under section 721 of the Clean Air Act.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committees on Energy and Commerce, Foreign Affairs, and Financial Services of the House of Representatives; and

(B) the Committees on Environment and Public Works, Energy and Natural Resources, and Foreign Relations of the Senate.

(3) CONVENTION.—The term ''Convention'' means the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, and entered into force on March 21, 1994.

(4) DEVELOPING COUNTRY.—The term ''developing country'' means a country eligible to receive official development assistance according to the income guidelines of the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(5) ELIGIBLE COUNTRY.—The term ''eligible country'' means a developing country that is determined by the interagency group under section 444 to be eligible to receive assistance under this subtitle.

(6) INTERAGENCY GROUP.—The term ''interagency group'' means the group established by the President under section 443 to administer the program established under this subtitle.

(7) LEAST DEVELOPED COUNTRY.—The term ''least developed country'' means a foreign country the United Nations has identified as among the least developed of developing countries.

(8) QUALIFYING ACTIVITY.—The term ''qualifying activity'' means an activity that meets the criteria in section 445.

(9) QUALIFYING ENTITY.—The term ''qualifying entity'' means a national, regional, or local government in, or a nongovernmental organization or private entity located or operating in, an eligible country.

SEC. 443. GOVERNANCE.

(a) OVERSIGHT.—The Secretary of State, or such other Federal agency head as the President may designate, in consultation with the interagency group established under subsection (b), shall oversee distributions of allowances allocated under section 782(o) of the Clean Air Act (as added by section 321 of this Act) for distribution pursuant to this subtitle.

(b) INTERAGENCY GROUP.—The President shall establish an interagency group to administer the program established under this subtitle. The Members of the interagency group shall include—

(1) the Secretary of State;

(2) the Administrator of the Environmental Protection Agency;

(3) the Secretary of Energy;

(4) the Secretary of the Treasury;

(5) the Secretary of Commerce;

(6) the Administrator of the United States Agency for International Development; and

(7) any other head of a Federal agency or executive branch appointee that the President may designate.

(c) CHAIRPERSON.—The Secretary of State shall serve as the chairperson of the interagency group.

(d) SUPPLEMENT NOT SUPPLANT.—Allowances distributed pursuant to this subtitle shall be used to supplement, and not to supplant, any other Federal, State, or local resources available to carry out activities that are qualifying activities under this subtitle.

SEC. 444. DETERMINATION OF ELIGIBLE COUNTRIES.

(a) IN GENERAL.—The interagency group shall determine a country to be an eligible country for the purposes of this subtitle if a country meets the following criteria:

(1) The country is a developing country that—

(A) has entered into an international agreement to which the United States is a party, under which such country agrees to take actions to produce measurable, reportable, and verifiable greenhouse gas emissions mitigation; or

(B) is determined by the interagency group to have in force national policies and measures that are capable of producing measurable, reportable, and verifiable greenhouse gas emissions mitigation.

(2) The country has developed a nationally appropriate mitigation strategy that seeks to achieve substantial reductions, sequestration, or avoidance of greenhouse gas emissions, relative to business-as-usual levels.

(3) Subject to subsection (b)(1), such other criteria as the President determines will serve the purposes of this subtitle or other United States national security, foreign policy, environmental, or economic objectives including robust compliance with and enforcement of existing international legal requirements for the protection of intellectual property rights for clean technology, as formulated in the Agreement on Trade-Related Aspects of Intellectual Property Rights, referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)) and in applicable intellectual property provisions of bilateral trade agreements.

(b) EXCEPTIONS.—

(1) Subsection (a)(3) applies only to bilateral assistance under section 446(c)(4).

(2) The eligibility criteria in this section do not apply in the case of least developed countries receiving assistance under section 445(7) for the purpose of building capacity to meet such eligibility criteria.

SEC. 445. QUALIFYING ACTIVITIES.

Assistance under this subtitle may be provided only to qualifying entities for clean technology activities (including building relevant technical and institutional capacity) that contribute to substantial, measurable, reportable, and verifiable reductions, sequestration, or avoidance of greenhouse gas emissions including—

(1) deployment of technologies to capture and sequester carbon dioxide emissions from electric generating units or large industrial sources (except that assistance under this subtitle for such deployment shall be limited to the cost of retrofitting existing facilities with such technologies or the incremental cost of purchasing and installing such technologies at new facilities);

(2) deployment of renewable electricity generation from wind, solar, sustainably produced biomass, geothermal, marine, or hydrokinetic sources;

(3) substantial increases in the efficiency of electricity transmission, distribution, and consumption;

(4) deployment of low- or zero emissions technologies that are facing financial or other barriers to their widespread deployment which could be addressed through support under this subtitle in order to reduce, sequester, or avoid emission;

(5) reduction in transportation sector emissions through increased transportation system and vehicle efficiency or use of transportation fuels that have lifecycle greenhouse gas emissions that are substantially lower than those attributable to fossil fuel-based alternatives;

(6) reduction in black carbon emissions; or

(7) capacity building activities, including—

(A) developing and implementing methodologies and programs for measuring and quantifying greenhouse gas emissions and verifying emissions mitigation;

(B) assessing, developing, and implementing technology and policy options for greenhouse gas emissions mitigation and avoidance of future emissions, including sector and cross-sector mitigation strategies; and

(C) providing other forms of technical assistance to facilitate the qualification for, and receipt of, assistance under this Act.

SEC. 446. ASSISTANCE.

(a) IN GENERAL.—The Secretary of State, or such other Federal agency head as the President may designate, is authorized to provide assistance, through the distribution of allowances, allocated for such purpose under section 782(o) of the Clean Air Act (as added by section 321 of this Act) for qualifying activities that take place in eligible countries, in accordance with the requirements of this subtitle.

(b) DEFINITION.—For the purposes of this section the term ''clean technology'' means any technology or service related to the qualifying activities identified in section 445.

(c) DISTRIBUTION OF ALLOWANCES.—

(1) IN GENERAL.—The Secretary of State, or such other Federal agency head as the President may designate, after consultation with the interagency group, shall distribute allowances under this subtitle—

(A) in the form of bilateral assistance in accordance with paragraph (4);

(B) to multilateral funds or institutions pursuant to the Convention or an agreement negotiated under the Convention; or

(C) through some combination of the mechanisms identified in subparagraphs (A) and (B).

(2) GLOBAL ENVIRONMENT FACILITY.—For any allowances provided to the Global Environment Facility pursuant to paragraph (1)(B), the President shall designate the Secretary of the Treasury to distribute those allowances to the Global Environment Facility.

(3) DISTRIBUTION THROUGH INTERNATIONAL FUND OR INSTITUTION.—If allowances are distributed to a multilateral fund or institution, as authorized in paragraph (1), the Secretary of State, or such other Federal agency head as the President may designate, shall seek to ensure the establishment and implementation of adequate mechanisms to—

(A) apply and enforce the criteria for determination of eligible countries and qualifying activities under sections 444 and 445, respectively;

(B) require public reporting describing the process and methodology for selecting the ultimate recipients of assistance and a description of each activity that received assistance, including the amount of obligations and expenditures for assistance; and

(C) require that no funds be expended for the benefit of any qualifying activity where that activity or any activity relating to a qualifying activity under section 445 undermines the robust compliance with and enforcement of existing legal requirements for the protection of intellectual property rights for clean technology, as formulated in the Agreement on Trade-Related Aspects of Intellectual Property Rights, referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)).

(4) BILATERAL ASSISTANCE.—

(A) IN GENERAL.—Bilateral assistance under paragraph (1) shall be carried out by the Administrator of the United States Agency for International Development, in consultation with the interagency group.

(B) LIMITATIONS.—Not more than 15 percent of allowances made available to carry out bilateral assistance under this subtitle in any year shall be distributed to support activities in any single country.

(C) SELECTION CRITERIA.—Not later than 2 years after the date of enactment of this subtitle, the Administrator of the United States Agency for International Development, after consultation with the interagency group, shall develop and publish a set of criteria to be used in evaluating activities within eligible countries for bilateral assistance under this subtitle.

(D) CRITERIA REQUIREMENTS.—The criteria under subparagraph (C) shall require that—

(i) the activity is a qualifying activity;

(ii) the activity will be conducted as part of an eligible country's nationally appropriate mitigation strategy or as part of an eligible country's actions towards providing a nationally appropriate mitigation strategy to reduce, sequester, or avoid emissions being implemented by the eligible country;

(iii) the activity will not have adverse effects on human health, safety, or welfare, the environment, or natural resources;

(iv) any technologies deployed through bilateral assistance under this subtitle will be properly implemented and maintained;

(v) the activity will not cause any net loss of United States jobs or displacement of United States production;

(vi) costs of the activity will be shared by the host country government, private sector parties, or a multinational development bank, except that this clause does not apply to least developed countries;

(vii) the activity would not undermine the protection of intellectual property rights for clean technology, as formulated in the

Agreement on Trade-Related Aspects of Intellectual Property Rights, referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)) and applicable intellectual property provisions of bilateral trade agreements; and

(viii) the activity meets such other requirements as the interagency group determines appropriate to further the purposes of this subtitle.

(E) CRITERIA PREFERENCES.—The criteria under subparagraph (C) shall give preference to activities that—

(i) promise to achieve large-scale greenhouse gas reductions, sequestration, or avoidance at a national, sectoral or cross-sectoral level;

(ii) have the potential to catalyze a shift within the host country towards widespread deployment of low- or zero-carbon energy technologies;

(iii) build technical and institutional capacity and other activities that are unlikely to be attractive to private sector funding; or

(iv) maximize opportunities to leverage other sources of assistance and catalyze private-sector investment.

(d) MONITORING, EVALUATION, AND ENFORCEMENT.—The Secretary of State, or such other Federal agency head as the President may designate, in consultation with the interagency group, shall establish and implement a system to monitor and evaluate the performance of activities receiving assistance under this subtitle. The Secretary of State, or such other Federal agency head as the President may designate, shall have the authority to suspend or terminate assistance in whole or in part for an activity if it is determined that the activity is not operating in compliance with the approved proposal.

(e) COORDINATION WITH U.S. FOREIGN ASSISTANCE.—Subject to the direction of the President, the Secretary of State shall, to the extent practicable, seek to align activities under this section with broader development, poverty alleviation, or natural resource management objectives and initiatives in the recipient country.

(f) ANNUAL REPORTS.—Not later than March 1, 2012, and annually thereafter, the President shall submit to the appropriate congressional committees a report on the assistance provided under this subtitle during the prior fiscal year. Such report shall include—

(1) a description of the amount and value of allowances distributed during the prior fiscal year;

(2) a description of each activity that received assistance during the prior fiscal year, and a description of the anticipated and actual outcomes;

(3) an assessment of any adverse effects to human health, safety, or welfare, the environment, or natural resources as a result of activities supported under this subtitle;

(4) an assessment of the success of the assistance provided under this subtitle to improving the technical and institutional capacity to implement substantial emissions reductions;

(5) an estimate of the greenhouse gas emissions reductions, sequestration, or avoidance achieved by assistance provided under this subtitle during the prior fiscal year; and

(6) an assessment whether any funds expended for the benefit of any qualifying activity undermined the protection of intellectual property rights for clean technology, as formulated in the Agreement on Trade-Related Aspects of Intellectual Property Rights, referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)) and applicable intellectual property provisions of bilateral trade agreements.

(g) NOT ELIGIBLE FOR OFFSET CREDIT.—Activities that receive support under this subtitle shall not be issued offset credits for the greenhouse gas emissions reductions or avoidance, or greenhouse gas sequestration, produced by such activities.

Subtitle E—Adapting to Climate Change

PART 1—DOMESTIC ADAPTATION

Subpart A—National Climate Change Adaptation Program

SEC. 451. GLOBAL CHANGE RESEARCH AND DATA MANAGEMENT.

(a) SHORT TITLE.—This section may be cited as the ''Global Change Research and Data Management Act of 2009''.

(b) GLOBAL CHANGE RESEARCH.—

(1) PURPOSE.—The purpose of this subsection is to provide for the continuation and coordination of a comprehensive and integrated United States observation, research, and outreach program which will assist the Nation and the world to understand, assess, predict, and respond to the effects of human-induced and natural processes of global change.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term ''global change'' means human-induced or natural changes in the global environment (including alterations in climate, land productivity, oceans or other water resources, atmospheric chemistry, biodiversity, and ecological systems) that may alter the capacity of the Earth to sustain life;

(B) the term ''global change research'' means study, monitoring, assessment, prediction, and information management activities to describe and understand—

(i) the interactive physical, chemical, and biological processes that regulate the total Earth system;

(ii) the unique environment that the Earth provides for life;

(iii) changes that are occurring in the Earth system; and

(iv) the manner in which such system, environment, and changes are influenced by human actions;

(C) the term ''interagency committee'' means the interagency committee established under paragraph (3);

(D) the term ''Plan'' means the National Global Change Research and Assessment Plan developed under paragraph (5);

(E) the term ''Program'' means the United States Global Change Research Program established under paragraph (4); and

(F) the term ''regional climate change'' means the natural or human-induced changes manifested in the local or regional environment (including alterations in weather patterns, land productivity, water resources, sea level rise, atmospheric chemistry, biodiversity, and ecological systems) that may alter the capacity of a specific region to support current or future social and economic activity or natural ecosystems.

(3) INTERAGENCY COOPERATION AND COORDINATION.—

(A) ESTABLISHMENT.—The President shall establish or designate an interagency committee to ensure cooperation and coordination of all Federal research activities pertaining to processes of global change for the purpose of increasing the overall effectiveness and productivity of Federal global change research efforts. The interagency committee shall include research and program representatives of agencies conducting global change research, agencies with authority over resources likely to be affected by global change, and agencies with authority to mitigate human-induced global change.

(B) FUNCTIONS OF THE INTERAGENCY COMMITTEE.—The interagency committee shall—

(i) serve as the forum for developing the Plan and for overseeing its implementation;

(ii) serve as the forum for developing the vulnerability assessment under paragraph (7);

(iii) ensure cooperation among Federal agencies with respect to global change research activities;

(iv) work with academic, State, industry, and other groups conducting global change research, to provide for periodic public and peer review of the Program;

(v) cooperate with the Secretary of State in—

(I) providing representation at international meetings and conferences on global change research in which the United States participates; and

(II) coordinating the Federal activities of the United States with programs of other nations and with international global change research activities;

(vi) work with appropriate Federal, State, regional, and local authorities to ensure that the Program is designed to produce information needed to develop policies to mitigate human-induced global change and to reduce the vulnerability of the United States and other regions to global change;

(vii) facilitate ongoing dialog and information exchange with regional, State, and local governments and other user communities; and

(viii) identify additional decisionmaking groups that may use information generated through the Program.

(4) UNITED STATES GLOBAL CHANGE RESEARCH PROGRAM.—

(A) ESTABLISHMENT.—The President shall establish an interagency United States Global Change Research Program to improve understanding of global change, to respond to the information needs of communities and decisionmakers, and to provide periodic assessments of the vulnerability of the United States and other regions to global and regional climate change. The Program shall be implemented in accordance with the Plan.

(B) LEAD AGENCY.—The lead agency for the United States Global Change Research Program shall be the Office of Science and Technology Policy.

(C) INTERAGENCY PROGRAM ACTIVITIES.—The Director of the Office of Science and Technology Policy, in consultation with the interagency committee, shall identify activities included in the Plan that involve participation by 2 or more agencies in the Program, and that do not fall within the current fiscal year budget allocations of those participating agencies, to fulfill the requirements of this section. The Director of the Office of Science and Technology Policy shall allocate funds to the agencies to conduct the identified interagency activities. Such activities may include—

(i) development of scenarios for climate, land-cover change, population growth, and socioeconomic development;

(ii) calibration and testing of alternative regional and global climate models;

(iii) identification of economic sectors and regional climatic zones; and

(iv) convening regional workshops to facilitate information exchange and involvement of regional, State, and local decisionmakers, non-Federal experts, and other stakeholder groups in the activities of the Program.

(D) WORKSHOPS.—The Director shall ensure that at least one workshop is held per year in each region identified by the Plan under paragraph (5)(B)(xi) to facilitate information exchange and outreach to regional, State, and local stakeholders as required by this section.

(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Science and Technology Policy

for carrying out this paragraph $10,000,000 for each of the fiscal years 2009 through 2014.

(5) NATIONAL GLOBAL CHANGE RESEARCH AND ASSESSMENT PLAN.—

(A) IN GENERAL.—The President shall develop a National Global Change Research and Assessment Plan for implementation of the Program. The Plan shall contain recommendations for global change research and assessment. The President shall submit an outline for the development of the Plan to the Congress within 1 year after the date of enactment of this Act, and shall submit a completed Plan to the Congress within 3 years after the date of enactment of this Act. Revised Plans shall be submitted to the Congress at least once every 5 years thereafter. In the development of each Plan, the President shall conduct a formal assessment process under this paragraph to determine the needs of appropriate Federal, State, regional, and local authorities and other interested parties regarding the types of information needed by them in developing policies to mitigate human-induced global change and to reduce society's vulnerability to global change and shall utilize these assessments, including the reviews by the National Academy of Sciences and the National Governors Association under subparagraphs (E) and (F), in developing the Plan.

(B) CONTENTS OF THE PLAN.—The Plan shall—

(i) establish, for the 10-year period beginning in the year the Plan is submitted, the goals and priorities for Federal global change research which most effectively advance scientific understanding of global change and provide information of use to Federal, State, regional, and local authorities in the development of policies relating to global change;

(ii) describe specific activities, including efforts to determine user information needs, research activities, data collection, database development, and data analysis requirements, development of regional scenarios, assessment of model predictability, assessment of climate change impacts, participation in international research efforts, and information management, required to achieve such goals and priorities;

(iii) identify relevant programs and activities of the Federal agencies that contribute to the Program directly and indirectly;

(iv) set forth the role of each Federal agency in implementing the Plan;

(v) consider and utilize, as appropriate, reports and studies conducted by Federal agencies, the National Research Council, or other entities;

(vi) make recommendations for the coordination of the global change research and assessment activities of the United States with such activities of other nations and international organizations, including—

(I) a description of the extent and nature of international cooperative activities;

(II) bilateral and multilateral efforts to provide worldwide access to scientific data and information; and

(III) improving participation by developing nations in international global change research and environmental data collection;

(vii) detail budget requirements for Federal global change research and assessment activities to be conducted under the Plan;

(viii) catalog the type of information identified by appropriate Federal, State, regional, and local decisionmakers needed to develop policies to reduce society's vulnerability to global change and indicate how the planned research will meet these decisionmakers' information needs;

(ix) identify the observing systems currently employed in collecting data relevant to global and regional climate change research and prioritize additional observation systems that may be needed to ensure adequate data collection and monitoring of global change;

(x) describe specific activities designed to facilitate outreach and data and information exchange with regional, State, and local governments and other user communities; and

(xi) identify and describe regions of the United States that are likely to experience similar impacts of global change or are likely to share similar vulnerabilities to global change.

(C) RESEARCH ELEMENTS.—The Plan shall include at a minimum the following research elements:

(i) Global measurements, establishing worldwide to regional scale observations prioritized to understand global change and to meet the information needs of decisionmakers on all relevant spatial and time scales.

(ii) Information on economic, demographic, and technological trends that contribute to changes in the Earth system and that influence society's vulnerability to global and regional climate change.

(iii) Development of indicators and baseline databases to document global change, including changes in species distribution and behavior, extent of glaciations, and changes in sea level.

(iv) Studies of historical changes in the Earth system, using evidence from the geological and fossil record.

(v) Assessments of predictability using quantitative models of the Earth system to simulate global and regional environmental processes and trends.

(vi) Focused research initiatives to understand the nature of and interaction among physical, chemical, biological, land use, and social processes related to global and regional climate change.

(vii) Focused research initiatives to determine and then meet the information needs of appropriate Federal, State, and regional decisionmakers.

(D) INFORMATION MANAGEMENT.—The Plan shall incorporate, to the extent practicable, the recommendations relating to data acquisition, management, integration, and archiving made by the interagency climate and other global change data management working group established under subsection (c)(3).

(E) NATIONAL ACADEMY OF SCIENCES EVALUATION.—The President shall enter into an agreement with the National Academy of Sciences under which the Academy shall—

(i) evaluate the scientific content of the Plan; and

(ii) recommend priorities for future global and regional climate change research and assessment.

(F) NATIONAL GOVERNORS ASSOCIATION EVALUATION.—The President shall enter into an agreement with the National Governors Association Center for Best Practices under which that Center shall—

(i) evaluate the utility to State, local, and regional decisionmakers of each Plan and of the anticipated and actual information outputs of the Program for development of State, local, and regional policies to reduce vulnerability to global change; and

(ii) recommend priorities for future global and regional climate change research and assessment.

(G) PUBLIC PARTICIPATION.—In developing the Plan, the President shall consult with representatives of academic, State, industry, and environmental groups. Not later than 90 days before the President submits the Plan, or any revision thereof, to the Congress, a summary of the proposed Plan shall be published in the Federal Register for a public comment period of not less than 60 days.

(6) BUDGET COORDINATION.—

(A) IN GENERAL.—The President shall provide general guidance to each Federal agency participating in the Program with respect to the preparation of requests for appropriations for activities related to the Program.

(B) CONSIDERATION IN PRESIDENT'S BUDGET.—The President shall submit, at the time of his annual budget request to Congress, a description of those items in each agency's annual budget which are elements of the Program.

(7) VULNERABILITY ASSESSMENT.—

(A) REQUIREMENT.—Within 1 year after the date of enactment of this Act, and at least once every 5 years thereafter, the President shall submit to the Congress an assessment which—

(i) integrates, evaluates, and interprets the findings of the Program and discusses the scientific uncertainties associated with such findings;

(ii) analyzes current trends in global change, both human-induced and natural, and projects major trends for the subsequent 25 to 100 years;

(iii) based on indicators and baselines developed under paragraph (5)(C)(iii), as well as other measurements, analyzes changes to the natural environment, land and water resources, and biological diversity in—

(I) major geographic regions of the United States; and

(II) other continents;

(iv) analyzes the effects of global change, including the changes described in clause (iii), on food and fiber production, energy production and use, transportation, human health and welfare, water availability and coastal infrastructure, and human social and economic systems, including providing information about the differential impacts on specific geographic regions within the United States, on people of different income levels within those regions, and for rural and urban areas within those regions; and

(v) summarizes the vulnerability of different geographic regions of the world to global change and analyzes the implications of global change for the United States, including international assistance, population displacement, food and resource availability, and national security.

(B) USE OF RELATED REPORTS.—To the extent appropriate, the assessment produced pursuant to this paragraph may coordinate with, consider, incorporate, or otherwise make use of related reports, assessments, or information produced by the United States Global Change Research Program, regional, State, and local entities, and international organizations, including the World Meteorological Organization and the Intergovernmental Panel on Climate Change.

(8) POLICY ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, and at least once every 4 years thereafter, the President shall enter into a joint agreement with the National Academy of Public Administration and the National Academy of Sciences under which the Academies shall—

(A) document current policy options being implemented by Federal, State, and local governments to mitigate or adapt to the effects of global and regional climate change;

(B) evaluate the realized and anticipated effectiveness of those current policy options in meeting mitigation and adaptation goals;

(C) identify and evaluate a range of additional policy options and infrastructure for mitigating or adapting to the effects of global and regional climate change;

(D) analyze the adoption rates of policies and technologies available to reduce the vulnerability of society to global change with an evaluation of the market and policy obstacles to their adoption in the United States; and

(E) evaluate the distribution of economic costs and benefits of these policy options across different United States economic sectors.

(9) ANNUAL REPORT.—Each year at the time of submission to the Congress of the President's budget request, the President shall submit to the Congress a report on the activities conducted pursuant to this subsection, including—

(A) a description of the activities of the Program during the past fiscal year;

(B) a description of the activities planned in the next fiscal year toward achieving the goals of the Plan; and

(C) a description of the groups or categories of State, local, and regional decisionmakers identified as potential users of the information generated through the Program and a description of the activities used to facilitate consultations with and outreach to these groups, coordinated through the work of the interagency committee.

(10) RELATION TO OTHER AUTHORITIES.—The President shall—

(A) ensure that relevant research, assessment, and outreach activities of the National Climate Program, established by the National Climate Program Act (15 U.S.C. 2901 et seq.), are considered in developing national global and regional climate change research and assessment efforts; and

(B) facilitate ongoing dialog and information exchange with regional, State, and local governments and other user communities through programs authorized in the National Climate Program Act (15 U.S.C. 2901 et seq.).

(11) REPEAL.—The Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.) is amended by striking titles I and III thereof.

(12) GLOBAL CHANGE RESEARCH INFORMATION.—The President shall establish or designate a Global Change Research Information Exchange to make scientific research and other information produced through or utilized by the Program which would be useful in preventing, mitigating, or adapting to the effects of global change accessible through electronic means.

(13) ICE SHEET STUDY AND REPORT.—

(A) STUDY.—

(i) REQUIREMENT.—The Director of the National Science Foundation and the Administrator of National Oceanic and Atmospheric Administration shall enter into an arrangement with the National Academy of Sciences to complete a study of the current status of ice sheet melt, as caused by climate change, with implications for global sea level rise.

(ii) CONTENTS.—The study shall take into consideration—

(I) the past research completed related to ice sheet melt as reviewed by Working Group I of the Intergovernmental Panel on Climate Change;

(II) additional research completed since the fall of 2005 that was not included in the Working Group I report due to time constraints; and

(III) the need for an accurate assessment of changes in ice sheet spreading, changes in ice sheet flow, self-lubrication, the corresponding effect on ice sheets, and current modeling capabilities.

(B) REPORT.—Not later than 18 months after the date of enactment of this Act, the National Academy of Sciences shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the key findings of the study conducted under subparagraph (A), along with recommendations for additional research related to ice sheet melt and corresponding sea level rise.

(14) HURRICANE FREQUENCY AND INTENSITY STUDY AND REPORT.—

(A) STUDY.—

(i) REQUIREMENT.—The Administrator of the National Oceanic and Atmospheric Administration and the Director of the National Science Foundation shall enter into an arrangement with the National Academy of Sciences to complete a study of the current state of the science on the potential impacts of climate change on patterns of hurricane and typhoon development, including storm intensity, track, and frequency, and the implications for hurricane-prone and typhoon-prone coastal regions.

(ii) CONTENTS.—The study shall take into consideration—

(I) the past research completed related to hurricane and typhoon development, track, and intensity as reviewed by Working Groups I and II of the Intergovernmental Panel on Climate Change;

(II) additional research completed since the fall of 2005 that was not included in the Working Group I and II reports due to time constraints;

(III) the need for accurate assessment of potential changes in hurricane and typhoon intensity, track, and frequency and of the current modeling and forecasting capabilities and the need for improvements in forecasting of these parameters; and

(IV) the need for additional research and monitoring to improve forecasting of hurricanes and typhoons and to understand the relationship between climate change and hurricane and typhoon development.

(B) REPORT.—Not later than 18 months after the date of enactment of this Act, the National Academy of Sciences shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the key findings of the study conducted under subparagraph (A).

(c) CLIMATE AND OTHER GLOBAL CHANGE DATA MANAGEMENT.—

(1) PURPOSES.—The purposes of this subsection are to establish climate and other global change data management and archiving as Federal agency missions, and to establish Federal policies for managing and archiving climate and other global change data.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term ''metadata'' means information describing the content, quality, condition, and other characteristics of climate and other global change data, compiled, to the maximum extent possible, consistent with the requirements of the ''Content Standard for Digital Geospatial Metadata'' (FGDC–STD–001–1998) issued by the Federal Geographic Data Committee, or any successor standard approved by the working group; and

(B) the term ''working group'' means the interagency climate and other global change data management working group established under paragraph (3).

(3) INTERAGENCY CLIMATE AND OTHER GLOBAL CHANGE DATA MANAGEMENT WORKING GROUP.—

(A) ESTABLISHMENT.—The President shall establish or designate an interagency climate and other global change data management working group to make recommendations for coordinating Federal climate and other global change data management and archiving activities.

(B) MEMBERSHIP.—The working group shall include the Administrator of the National Aeronautics and Space Administration, the Administrator of the National Oceanic and Atmospheric Administration, the Secretary of Energy, the Secretary of Defense, the Director of the National Science Foundation, the Director of the United States Geological Survey, the Archivist of the United States, the Administrator of the Environmental Protection Agency, the Secretary of the Smithsonian Institution, or their designees, and representatives of any other Federal agencies the President considers appropriate.

(C) REPORTS.—Not later than 1 year after the date of enactment of this Act, the working group shall transmit a report to the Congress containing the elements described in subparagraph (D). Not later than 4 years after the initial report under this subparagraph, and at least once every 4 years thereafter, the working group shall transmit reports updating the previous report. In preparing reports under this subparagraph, the working group shall consult with expected users of the data collected and archived by the Program.

(D) CONTENTS.—The reports and updates required under subparagraph (C) shall—

(i) include recommendations for the establishment, maintenance, and accessibility of a catalog identifying all available climate and other global change data sets;

(ii) identify climate and other global change data collections in danger of being lost and recommend actions to prevent such loss;

(iii) identify gaps in climate and other global change data and recommend actions to fill those gaps;

(iv) identify effective and compatible procedures for climate and other global change data collection, management, and retention and make recommendations for ensuring their use by Federal agencies and other appropriate entities;

(v) develop and propose a coordinated strategy for funding and allocating responsibilities among Federal agencies for climate and other global change data collection, management, and retention;

(vi) make recommendations for ensuring that particular attention is paid to the collection, management, and archiving of metadata;

(vii) make recommendations for ensuring a unified and coordinated Federal capital investment strategy with respect to climate and other global change data collection, management, and archiving;

(viii) evaluate the data record from each observing system and make recommendations to ensure that delivered data are free from time-dependent biases and random errors before they are transferred to long-term archives; and

(ix) evaluate optimal design of observation system components to ensure a cost-effective, adequate set of observations detecting and tracking global change.

SEC. 452. NATIONAL CLIMATE SERVICE.

(a) SHORT TITLE.—This section may be cited as the ''National Climate Service Act of 2009''.

(b) PURPOSE.—The purpose of this section is to establish a National Climate Service and to define the activities to be undertaken within the National Oceanic and Atmospheric Administration to—

(1) advance understanding of climate variability and change at the global, national, regional, and local levels;

(2) provide forecasts, warnings, and other information to the public on variability and change in weather and climate that affect geographic areas, natural resources, infrastructure, economic sectors, and communities; and

(3) support development of adaptation and response plans by Federal agencies, State, local, and tribal governments, the private sector, and the public.

(c) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Climate Service

Advisory Committee established under subsection (f).

(2) DIRECTOR.—The term ''Director'' means the Director of the Climate Service Office.

(3) REPRESENTATIVE.—The term ''representative'' means an individual who is not a full-time or part-time employee of the Federal Government and who is appointed to an advisory committee to represent the views of an entity or entities outside the Federal Government.

(4) SPECIAL GOVERNMENT EMPLOYEE.—The term ''Special Government Employee'' has the same meaning as in section 202(a) of title 18, United States Code.

(5) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Commerce for Oceans and Atmosphere.

(d) INTERAGENCY DEVELOPMENT OF A NATIONAL CLIMATE SERVICE.—

(1) IN GENERAL.—The President shall—

(A) initiate a process within 30 days after the date of enactment of this Act through the Committee on Environment and Natural Resources of the National Science and Technology Council and led by the Director of the Office of Science and Technology Policy, to evaluate alternative structures to support a collaborative, interagency research and operational program that will achieve the goal of meeting the needs of decisionmakers in—

(i) Federal agencies;

(ii) State, local, and tribal governments;

(iii) regional entities and other stakeholders and users,

for reliable, timely, and relevant information related to climate variability and change;

(B) within 1 year after the date of enactment of this Act complete pursuant to paragraph (2) a survey of the needs of current and future users of information related to climate variability and change;

(C) within 2 years after the date of enactment of this Act report to Congress under paragraph (3) the results of the evaluation described in subparagraph (A) and provide a plan to establish a collaborative, interagency research and operational program to deliver information related to climate variability and change to all users; and

(D) within 3 years after the date of enactment of this Act, and after delivery of the report to Congress required under subparagraph (C), establish a National Climate Service, based upon the information obtained through the process described in subparagraph (A), that meets the goal described in subparagraph (A).

(2) SURVEY OF NEED FOR CLIMATE SERVICES.—

(A) IN GENERAL.—The Director of the Office of Science and Technology Policy, through the Committee on Environment and Natural Resources, shall provide a report to Congress within 1 year after the date of enactment of this Act that compiles information on the current climate products being delivered by each Federal agency and its partner organizations to users and stakeholders, and on the needs of users and stakeholders for new climate products and services.

(B) CONTENTS OF THE REPORT.—The report shall identify—

(i) specific user groups and stakeholders that currently are served by each Federal agency and its partner organizations;

(ii) the type of climate products and services currently delivered to specific users groups and stakeholders, and the specific Federal agency office, program, or partner organization that delivers these products and services;

(iii) potential user groups and stakeholders that may be served by expanding climate products and services;

(iv) specific needs for new climate products and services to be delivered by each Federal agency and its partner organizations identified by user groups and stakeholders;

(v) a characterization of the different user and stakeholder groups that were surveyed by each Federal agency; and

(vi) a list of non-Federal entities that deliver climate products and services.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—Within 2 years after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall report to the President and the Congress on a proposal, prepared through the Committee on Environment and Natural Resources, to establish and operate a National Climate Service. The report shall include—

(i) a description of the alternative structures considered;

(ii) a description of the structure proposed for a National Climate Service, including a discussion of the benefits of this structure as compared to the alternatives considered;

(iii) designation of a specific office or agency that will lead the National Climate Service and that shall be accountable for the daily operation of the National Climate Service;

(iv) a description of the role and capability of each Federal agency, including a list of all entities within each agency or supported with agency funds that currently provide or may provide climate products or services;

(v) a description of the mechanisms that will be used to ensure ongoing communication and information exchange among the Federal agencies and between Federal agencies and their respective user and stakeholder communities including—

(I) mechanisms to facilitate ongoing dialogue with non-Federal organizations providing climate services;

(II) mechanisms to facilitate ongoing dialogue with regional, State, local, and tribal governments, the private sector, and other users and stakeholders on the development and delivery of climate services;

(III) mechanisms to collect information, observations, and other data relevant for improving climate products and services; and

(IV) designation of points of contact for each Federal agency with responsibilities to deliver climate services;

(vi) a detailed description of the processes and procedures that will be necessary to coordinate observations and information collection by different Federal agencies to ensure the compatibility of information and to facilitate data and information exchange among Federal agencies and with non-Federal entities, and a designation of the agency or agencies that would be responsible for ongoing oversight of these functions;

(vii) a detailed description of how research findings and climate impact assessments produced through the United States Global Change Research Program and the other activities undertaken within the United States Global Change Research Program would be integrated with the activities undertaken by a National Climate Service;

(viii) a list of the existing observation and monitoring systems or programs operated by each Federal agency that provide data, observations, and other information that may be used to develop or improve climate products and services;

(ix) a description of new infrastructure, equipment, personnel or other resources, by agency, that may be needed to achieve the goals of a National Climate Service, and the time period over which these new resources will be allocated;

(x) an identification of the activities that may be undertaken in cooperation with international partners;

(xi) the mechanisms established to provide quality assurance and quality control of climate service products and services, and the agency or agencies designated to conduct and oversee these mechanisms;

(xii) an identification of non-Federal entities that provide climate products and services, and a description of the relationship envisioned between a National Climate Service and the non-Federal entities providing climate services; and

(xiii) responses to the comments received during the public comment period.

(B) DRAFT REPORT.—Prior to the submission of the final report, the Director of the Office of Science and Technology Policy shall publish a draft report in the Federal Register with a comment period of at least 30 days.

(C) CONSULTATION.—In developing the report, the Director of the Office of Science and Technology Policy shall consult with State, local, and tribal governments, regional entities, the private sector, and other users and stakeholder groups, and Congress.

(4) ANNUAL REPORT.—The Director of the Office of Science and Technology Policy shall transmit to the Congress at the time of the President's fiscal year 2013 budget request, and annually thereafter, a report on the annual anticipated cost of carrying out the research and operational activities of the National Climate Service, with a description of the budget for each Federal agency's activities.

(e) CLIMATE SERVICE PROGRAM.—

(1) IN GENERAL.—The Under Secretary, building upon the resources of the National Weather Service and other weather and climate programs in the National Oceanic and Atmospheric Administration, shall establish a Climate Service Program.

(2) CLIMATE SERVICE OFFICE.—The Under Secretary shall establish a Climate Service Office and shall appoint a Director of the Office to collaborate with the leadership of the National Oceanic and Atmospheric Administration line offices to perform the duties assigned to the Office. The Climate Service Office shall—

(A) coordinate programs at the National Oceanic and Atmospheric Administration to ensure the timely production and distribution of data and information on global, national, regional, and local climate variability and change over all time scales relevant for planning and response, including intraseasonal, interannual, decadal, and multidecadal time periods;

(B) ensure exchange of information between the research and operational offices at the National Oceanic and Atmospheric Administration to identify research needs for improving climate products and services and ensure the timely and orderly transition of research findings, improved technologies, models, and other tools to the National Oceanic and Atmospheric Administration's operations;

(C) ensure operational quality control of all Climate Service Program products including a transparent and open accounting of all the assumptions built into the global, national, regional, and local weather and climate computer models upon which such products are based;

(D) ensure a continuous level of high-quality data collected through a national observation and monitoring infrastructure, including at a minimum performing regular maintenance and verification, and periodic upgrades;

(E) serve as liaison to and exchange information with other Federal agencies that provide climate services in order to—

(i) ensure the timely dissemination of data and information on weather and climate produced by the National Oceanic and Atmospheric Administration to other Federal agencies;

(ii) ensure that data and information collected by other Federal agencies relevant to improving climate services are made available to the National Oceanic and Atmospheric Administration;

(iii) facilitate the development and delivery of climate products and services to relevant stakeholders; and

(iv) obtain information from other Federal agencies to improve the development and dissemination by the National Oceanic and Atmospheric Administration of information on weather and climate to other Federal agencies for the development of climate service products by those agencies;

(F) ensure cooperation and collaboration, as appropriate, of the Climate Service Program with State, local, and tribal governments, regional entities, academic and nonprofit research organizations, and private sector entities, including weather information providers and other stakeholders; and

(G) ensure exchange of data, information, and research with the United States Global Change Research Program to support the development of assessments required under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

(3) CLIMATE SERVICE PROGRAM.—

(A) IN GENERAL.—The Under Secretary shall operate the Climate Service Program through a national center, the Climate Service Office, and a network of regional and local facilities, including the established regional and local offices of the National Weather Service, 6 Regional Climate Centers, the offices of the Regional Integrated Sciences and Assessments program, the National Integrated Drought Information System, and any other National Oceanic and Atmospheric Administration or National Oceanic and Atmospheric Administration-supported regional and local entities, as appropriate.

(B) REGIONAL CLIMATE CENTERS PROGRAM.—The Under Secretary shall maintain a network of 6 Regional Climate Centers to work cooperatively with the State Climate Offices to—

(i) collect and exchange data and information needed to characterize, understand, and forecast regional and local weather and climate;

(ii) facilitate collection and exchange of data and information between the States and Federal Government on weather and climate in conjunction with the National Climatic Data Center;

(iii) support research and observations;

(iv) obtain input on stakeholder needs for weather and climate information and products; and

(v) support State and local adaptation and response planning.

(C) REGIONAL INTEGRATED SCIENCES AND ASSESSMENTS PROGRAM.—The Under Secretary shall maintain a network of offices as part of the Regional Integrated Sciences and Assessments Program. Such offices shall engage in cooperative research, development, and demonstration projects with the academic community, State Climate Offices, Regional Climate Offices, and other users and stakeholders on climate products, technologies, models, and other tools to improve understanding and forecasting of regional and local climate variability and change and the effects on economic activities, natural resources, and water availability, and other effects on communities, to facilitate development of regional and local adaptation plans to respond to climate variability and change, and any other needed research identified by the Under Secretary or the Advisory Committee.

(D) OTHER OFFICES.—In carrying out the functions of the Climate Service Program, the Under Secretary shall utilize the assets and expertise of—

(i) the National Weather Service to—

(I) deliver operational weather and climate forecasts, warnings, products, and information through the Climate Service Programs Division, Local Weather Forecast Offices, Weather Service Offices, and River Forecast Centers; and

(II) develop climate forecast models and tools through the National Centers for Environmental Prediction;

(ii) the National Environmental Satellite, Data, and Information Service to provide data services and support for product development and operations through the National Climatic Data Center and the Regional Climate Centers;

(iii) the Office of Oceanic and Atmospheric Research to—

(I) provide research on product development;

(II) improve weather and climate forecast models;

(III) provide new technologies and methods of observation; and

(IV) oversee the National Oceanic and Atmospheric Administration supported research performed by the Joint Cooperative Institutes, universities, and other non-Federal entities;

(iv) the National Integrated Drought Information System to—

(I) provide an effective drought warning system;

(II) coordinate and integrate Federal research on droughts;

(III) collect and integrate information on key indicators of drought;

(IV) make usable, reliable, and timely forecasts and assessments of drought, including assessments of the severity of drought conditions and effects;

(V) communicate drought forecasts, conditions, and effects to Federal, State, tribal, and local governments, regional entities, the private sector, and the public; and

(VI) coordinate with State Climate Offices and RISA teams to assess management practices and technologies, and the effects of both, used for drought mitigation at the local, State, and regional levels; and

(v) any other National Oceanic and Atmospheric Administration offices or programs, as appropriate.

(E) MISSION.—The Under Secretary shall ensure that the core functions and missions of the National Weather Service, the National Integrated Drought Information System, and any other programs within the National Oceanic and Atmospheric Administration are not diminished or neglected by the establishment of the Climate Service Program or the duties imposed on such offices or programs under this paragraph.

(F) PROGRAM ELEMENTS.—The Climate Service Program shall—

(i) conduct analyses of and studies relating to the effects of weather and climate on communities, including effects on agricultural production, natural resources, energy supply and demand, recreation, and other sectors of the economy;

(ii) carry out observations, data collection, and monitoring of atmospheric and oceanic conditions on a statewide, regional, national, and global basis;

(iii) provide information and technical support for Federal, regional, State, tribal, and local government efforts to assess and respond to climate variability and change;

(iv) develop systems for the management and dissemination of data, information, and assessments, including mechanisms for consultation with current and potential users and other stakeholders;

(v) conduct research to improve forecasting, characterization, and understanding of weather and climate variability and change and its effects on communities, including its effects on agricultural production, natural resources, energy supply and demand, recreation, and other sectors of the economy; and

(vi) develop tools to facilitate the use of climate information by local and regional stakeholders.

(f) CLIMATE SERVICE ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Under Secretary shall establish a Climate Service Advisory Committee to provide advice on—

(A) climate service product development;

(B) delivery of services to decisionmakers and other stakeholders;

(C) infrastructure to support observations and monitoring;

(D) computation and modeling needs, research needs, and other resources needed to develop, distribute, and ensure the utility of climate data, products, and services; and

(E) any other topics as may be requested by the Under Secretary or Congress.

(2) MEMBERS.—

(A) IN GENERAL.—The Advisory Committee shall be composed of at least 25 members appointed by the Under Secretary. Each member of the Advisory Committee shall be qualified either—

(i) by education, training, and experience to evaluate scientific and technical information on matters referred to the Advisory Committee under this subsection; or

(ii) to evaluate the utility and need for climate products by planners, decisionmakers, the private sector, and the public.

(B) TERMS OF SERVICE.—Members shall be appointed for 3-year terms, renewable once, and shall serve at the discretion of the Under Secretary. Vacancy appointments shall be for the remainder of the unexpired term of the vacancy, and an individual so appointed may subsequently be appointed for 2 full 3-year terms if the remainder of the unexpired term is less than one year.

(C) CHAIRPERSON.—The Under Secretary shall designate a chairperson from among the members of the Advisory Committee. The designated Chairperson shall alternate between a member who is appointed as a representative and a member who is appointed as a Special Government Employee.

(D) SUBCOMMITTEES.—

(i) ESTABLISHMENT.—The Advisory Committee shall establish—

(I) a Subcommittee on Science and Technology to advise the Climate Service Program on needed research, technology development, and additional observations, and on any other scientific or technical issues as appropriate; and

(II) a Subcommittee on Product Development and Delivery composed primarily of representatives of the community of potential users of the products developed and delivered by the Climate Service Program.

The Advisory Committee may establish such additional subcommittees of its members as may be necessary.

(ii) APPOINTMENT.—

(I) FULL ADVISORY COMMITTEE.—At least 50 percent of the members of the Advisory Committee shall be appointed as Special Government Employees.

(II) SUBCOMMITTEES.—At least 75 percent of the members of the Subcommittee on Science and Technology shall be appointed as Special Government Employees. Not more than 25 percent of the members of the Subcommittee on Product Development and Delivery shall be appointed as Special Government Employees.

(3) ADMINISTRATIVE PROVISIONS.—

(A) REPORTING.—The Advisory Committee shall report to the Under Secretary and the appropriate requesting party.

(B) ADMINISTRATIVE SUPPORT.—The Under Secretary shall provide administrative support to the Advisory Committee.

(C) MEETINGS.—The Advisory Committee shall meet at least twice each year and at other times at the call of the Under Secretary or the Chairperson.

(D) COMPENSATION AND EXPENSES.—A member of the Advisory Committee shall not be compensated for service on the Advisory Committee, but may be allowed travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(4) EXPIRATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Climate Service Advisory Committee.

(g) REPEAL.—The National Climate Program Act (15 U.S.C. 2901 et seq.) is repealed.

(h) ESTABLISHMENT OF REGIONAL INTEGRATED SCIENCES AND ASSESSMENTS TEAMS.—

(1) IN GENERAL.—In maintaining the network of Regional Integrated Sciences and Assessments (RISA) Teams under subsection (e)(3)(C), the Under Secretary shall utilize a competitive, peer-reviewed selection process. Teams shall conduct applied regional climate research and projects to address the needs of local and regional decisionmakers for information and tools to develop adaptation and response plans to climate variability and change. The awards shall be administered through a cooperative agreement between the National Oceanic and Atmospheric Administration and the RISA Team. Each award shall be for a period of five years.

(2) RISA TEAMS.—Teams shall be composed of multi-institutional partnerships whose individual members may include—

(A) institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a));

(B) minority serving institutions, as defined in section 371(a) of the Higher Education Act of 1965; and

(C) nongovernmental research organizations, Federal agencies, State and local agencies, tribal organizations, and for-profit entities.

(3) CONSIDERATIONS.—In making awards under this subsection, the Under Secretary shall consider—

(A) the overall geographic distribution of RISA Teams and existing gaps in applied research to support local and regional decisionmakers;

(B) the team's ability to contribute to the National Oceanic and Atmospheric Administration's efforts to deliver climate services in the region; and

(C) the team's proposal to integrate social and physical sciences research to address the effects of climate variability and change on the ecology, economy, infrastructure, and communities in the region.

(i) SURVEY OF NEED FOR CLIMATE SERVICES.—

(1) IN GENERAL.—The Under Secretary shall provide a report to Congress within 9 months after the date of enactment of this Act that compiles information on the current climate products being delivered by the National Oceanic and Atmospheric Administration and its partner organizations to users and stakeholders and on the needs of users and stakeholders for new climate products and services.

(2) CONTENTS OF REPORT.—The report shall identify—

(A) specific user groups and stakeholders that currently are served by the National Oceanic and Atmospheric Administration and its partner organizations;

(B) the type of climate products and services currently delivered to specific user groups and stakeholders and the specific National Oceanic and Atmospheric Administration office or partner organization that delivers these products and services;

(C) potential user groups and stakeholders that may be served by expanding climate products and services; and

(D) specific needs for new climate products and services identified by user groups and stakeholders.

(3) CONSULTATION.—The Under Secretary shall consult with the Climate Service Advisory Committee in the preparation of this report.

(j) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—The Under Secretary shall prepare a plan for creating a Climate Service Program in the National Oceanic and Atmospheric Administration and delivering climate products and services to the National Oceanic and Atmospheric Administration users and stakeholders. The plan shall be submitted to the President and the Congress within 1 year after the date of enactment of this Act.

(2) DRAFT PLAN.—Prior to the submission of the final plan, the Under Secretary shall publish a draft plan in the Federal Register with a public comment period of at least 30 days.

(3) CONTENTS.—The plan shall—

(A) identify the current gaps in climate services and outline the process and resources the National Oceanic and Atmospheric Administration will use to fill these gaps;

(B) describe the roles of the National Oceanic and Atmospheric Administration line offices and the National Oceanic and Atmospheric Administration partner organizations in the development and delivery of climate products and services;

(C) describe the development and implementation of quality assurance and control mechanisms for climate products and services delivered by the National Oceanic and Atmospheric Administration and its partner organizations;

(D) identify the mechanisms and opportunities for determining user needs and engaging in a two-way dialogue with users that will inform climate product and service development and delivery of authoritative, timely, and useful information on climate variability and change and the effects on local, State, regional, national, and global scales;

(E) identify new responsibilities or tasks to be undertaken by existing National Oceanic and Atmospheric Administration line offices and partner organizations;

(F) identify new infrastructure, equipment, personnel, or other resources needed to implement the proposed plan; and

(G) include responses to the comments received during the public comment period.

(4) CONTINUITY OF SERVICE.—During the development of the implementation plan, the public comment period, and final plan, the National Oceanic and Atmospheric Administration shall continue to provide climate services to the user community.

(5) CONSULTATION.—In developing the plan, the Under Secretary shall consult with user groups and stakeholders, State Climate Offices, Regional Climate Centers, other Federal agencies, the Climate Service Advisory Committee, and Congress.

(6) COORDINATION WITH INTERAGENCY DEVELOPMENT OF A NATIONAL CLIMATE SERVICE.—In preparing the plan required under this subsection, the Under Secretary shall consult with the Director of the Office of Science and Technology Policy to ensure that the program developed by the Agency will serve the needs of a National Climate Service.

(k) SUMMER INSTITUTES PROGRAM AT THE REGIONAL CLIMATE CENTERS.—

(1) DEFINITIONS.—In this subsection:

(A) SUMMER INSTITUTE.—The term ''summer institute'' means an institute, operated during the summer, that—

(i) is hosted by a Regional Climate Center or an eligible partner;

(ii) is operated for a period of not less than 2 weeks; and

(iii) provides direct interaction of middle school and high school teacher and undergraduate student participants with personnel of the Regional Climate Centers or eligible partners who have scientific expertise in weather and climate.

(B) ELIGIBLE PARTNER.—The term ''eligible partner'' means—

(i) the science, engineering, or mathematics department at an institution of higher education; or

(ii) a nonprofit entity with expertise in providing educational enrichment experiences for students.

(2) SUMMER INSTITUTES PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Under Secretary shall establish a summer institutes program, to be conducted in cooperation with the Regional Climate Centers, which may include an eligible partner. The purpose of the program is to provide training and professional enrichment by providing opportunities for interaction between participants and climate scientists in a research and operational setting to—

(i) enable middle school and high school teachers to integrate weather and climate sciences into their curricula: and

(ii) encourage undergraduate students to pursue further study and careers in weather and climate sciences.

(B) REQUIRED ACTIVITIES.—Funds authorized under this subsection shall be used for—

(i) providing educational opportunities for middle school and high school teachers and undergraduate students not achievable inside the classroom;

(ii) exposing such teachers and students to researchers, scientists, or engineers who can demonstrate their daily activities to the teachers and students;

(iii) exposing teachers and students to scientific methods in a research discovery setting; and

(iv) assisting teachers with curriculum development in the areas of weather and climate science.

(3) PRIORITY.—The Under Secretary shall ensure that each summer institute program authorized under paragraph (2) includes students from groups underrepresented in the fields of science, technology, engineering, and mathematics teaching, including women and members of minority groups.

(4) REPORT TO CONGRESS.—The Under Secretary shall submit to Congress a biennial report on the activities conducted under this subsection, including the number of participants and the new curricula developed in atmospheric and climate sciences.

(l) CLEARINGHOUSE OF FEDERAL CLIMATE SERVICE PRODUCTS AND LINKS TO FEDERAL AGENCIES PROVIDING CLIMATE SERVICES.—

(1) IN GENERAL.—The Under Secretary shall establish and maintain a clearinghouse to inform State, local, and tribal governments and the public about the information and services available to—

(A) assess the impacts of climate variability and change at different geographic scales;

(B) characterize and forecast climate variability and change for specific regions, resources, and economic sectors; and

(C) develop and implement adaptation strategies to reduce vulnerabilities to climate variability and change.

(2) OTHER RESOURCES.—The clearinghouse shall include hyperlinks to Internet sites that describe the activities, information, and resources of—

(A) the Federal Government;

(B) State and local governments;

(C) the private sector;

(D) nongovernmental and nonprofit entities and organizations; and

(E) international organizations.

(m) FINANCIAL BURDEN.—Nothing in this section shall be construed as authorizing the National Climate Service or the Climate Service Program at the National Oceanic and Atmospheric Administration to require State, tribal, or local governments to develop adaptation or response plans or to take any other action in response to variations in climate that may result in an increased financial burden to such governments.

SEC. 453. STATE PROGRAMS TO BUILD RESILIENCE TO CLIMATE CHANGE IMPACTS.

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

(1) ALLOWANCE.—The term ''allowance'' means an emission allowance established under section 721 of the Clean Air Act (as added by section 311 of this Act).

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) VINTAGE YEAR.—The term ''vintage year'' has the meaning given that term under section 700 of the Clean Air Act (as added by section 312 of this Act).

(b) REGULATIONS; COORDINATION.—Not later than 2 years after the date of enactment of this Act, the Administrator, or such Federal agency head or heads as the President may designate, shall promulgate regulations to implement the requirements of this section. If the President designates more than 1 Federal agency to implement this section, the President shall require such agencies to establish a memorandum of understanding providing for coordination of rulemaking and other implementing activities, in accordance with the requirements of this section.

(c) DISTRIBUTION OF ALLOWANCES.—

(1) IN GENERAL.—Not later than September 30 of each of calendar years 2011 through 2049, the Administrator shall distribute, in accordance with this section, allowances allocated for the following vintage year pursuant to section 782(l) of the Clean Air Act (as added by section 321 of this Act). The Administrator shall reserve 1 percent of such allowances for distribution to Indian tribes in accordance with subsection (d). The remainder of such allowances shall be distributed ratably among the States based on the product of—

(A) each State's population; and

(B) each State's allocation factor as determined under paragraph (2).

(2) STATE ALLOCATION FACTORS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the allocation factor for a State shall be the quotient of—

(i) the per capita income of all individuals in the United States, divided by

(ii) the per capita income of all individuals in such State.

(B) LIMITATION.—If the allocation factor for a State as calculated under subparagraph (A) would exceed 1.2, then the allocation factor for such State shall be 1.2. If the allocation factor for a State as calculated under subparagraph (A) would be less than 0.8, then the allocation factor for such State shall be 0.8.

(C) PER CAPITA INCOME.—For purposes of this paragraph, per capita income shall be—

(i) determined at 2-year intervals; and

(ii) subject to subparagraph (D), equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(D) REVENUE DIRECTLY RESULTING FROM A PRESIDENTIALLY DECLARED MAJOR DISASTER.—For purposes of this paragraph, per capita income from one or more of the following sources shall be reduced or excluded if the Secretary of Commerce (in consultation with the Administrator and the secretaries or administrators of the departments or agencies involved) determines that the income accrues to persons as the result of a Major Disaster (as declared by the President of the United States) and if the Secretary finds that the inclusion of one or more of these income sources, in whole or in part, results in a transitory, rather than a sustainable, increase in a State's per capita income level relative to the national average:

(i) Property and casualty insurance (including homeowners and renters insurance).

(ii) The National Flood Insurance Program of the Federal Emergency Management Agency.

(iii) The Individual and Family Grants Program of the Federal Emergency Management Agency.

(iv) The Disaster Housing Program of the Federal Emergency Management Agency.

(v) The Community Development Block Grant Program of the Department of Housing and Urban Development.

(vi) The Disaster Unemployment Assistance Program of the Department of Labor.

(vii) Any other source determined appropriate by the Administrator.

(d) DISTRIBUTION TO INDIAN TRIBES.—The Administrator, or such Federal agency head or heads as the President may designate, shall promulgate regulations establishing a program to distribute allowances on a competitive basis to Indian tribes, in accordance with the requirements of this section. Such allowances shall be used exclusively in accordance with the requirements of subsection (e). Beginning with vintage year 2015, Indian tribes with a tribal adaptation plan approved pursuant to subsection (f) shall be given priority in selection of programs or projects for receipt of emission allowances under this subsection.

(e) USE OF ALLOWANCES.—

(1) IN GENERAL.—States and Indian tribes shall use allowances distributed under this section exclusively for the implementation of projects, programs, or measures to build resilience to the impacts of climate change, including—

(A) extreme weather events such as flooding and tropical cyclones;

(B) more frequent heavy precipitation events;

(C) water scarcity and adverse impacts on water quality;

(D) stronger and longer heat waves;

(E) more frequent and severe droughts;

(F) rises in sea level;

(G) ecosystem disruption;

(H) increased air pollution; and

(I) effects on public health.

(2) PRIORITY IN PROJECTS TO REDUCE FLOOD EVENTS.—When implementing any project, program, or measure supported under this section and designed to reduce flood events, a State or Indian tribe should consider prioritizing projects that seek to—

(A) mitigate the destructive impacts of climate-related increases in the duration, frequency, or magnitude of rainfall or runoff, including snowmelt runoff, as well as hurricanes;

(B) improve flood protection for densely populated urban areas; and

(C) mitigate the destructive impact of ocean-related climate change effects, including effects on bays, estuaries, populated barrier islands and other ocean-related features, through a variety of means and measures, including the construction of jetties, levies, and other coastal structures in densely populated coastal areas impacted by climate change.

(3) STATE AND TRIBAL ADAPTATION PLANS.—Upon approval of a State or tribal climate adaptation plan under subsection (f), allowances received by a State under this section shall be used in accordance with such plan.

(4) SUPPLEMENT, NOT SUPPLANT.—It is the intent of the Congress that allowances distributed to carry out this section should be used to supplement, and not replace, existing sources of funding used to build resilience to the impacts of climate change identified in paragraph (1).

(5) RESEARCH ON HURRICANES.—The authorized uses of allowances under this section shall include establishment of projects or programs to conduct research and monitoring on the effect of ongoing climate change on the frequency and intensity of hurricanes.

(f) STATE AND TRIBAL CLIMATE ADAPTATION PLANS.—

(1) IN GENERAL.—The regulations promulgated pursuant to subsection (b) shall include requirements for submission and approval of State or tribal climate adaptation plans under this section. Beginning with vintage year 2015, distribution of allowances to a State pursuant to this section shall be contingent on approval of a State climate adaptation plan for such State that meets the requirements of such regulations. Requirements for tribal climate adaptation plans may vary from those of State adaptation plans to the extent necessary to account for the special circumstances of Indian tribes.

(2) REQUIREMENTS.—Regulations promulgated under this section shall require, at minimum, that State and tribal climate adaptation plans—

(A) assess and prioritize the State's or Indian tribe's vulnerability to a broad range of impacts of climate change, based on the best available science;

(B) include an assessment of potential for carbon reduction through changes to land management policies (including enhancement or protection of forest carbon sinks);

(C) identify and prioritize specific cost-effective projects, programs, and measures to build resilience to current and predicted impacts of climate change;

(D) ensure that the State or Indian tribe fully considers and undertakes, to the maximum extent practicable, initiatives that—

(i) protect or enhance natural ecosystem functions, including protection, maintenance, or restoration of natural infrastructure such as wetlands, reefs, and barrier islands to buffer communities from floodwaters or storms, watershed protection to maintain water quality and groundwater recharge, or floodplain restoration to improve natural flood control capacity; or

(ii) use non-structural approaches including practices that utilize, enhance, or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse;

(E) be revised and resubmitted for approval not less frequently than every 5 years; and

(F) be consistent with Federal conservation and environmental laws and, to the maximum extent practicable, avoid environmental degradation.

(3) COORDINATION WITH PRIOR PLANNING EFFORTS.—In implementing this subsection, the Administrator, or such Federal agency head or heads as the President may designate, shall—

(A) draw upon lessons learned and best practices from preexisting State and tribal climate adaptation planning efforts;

(B) seek to avoid duplication of such efforts; and

(C) ensure that the plans developed under this section reflect and are fully consistent with State natural resources adaptation plans developed under section 479 of this Act.

(g) REPORTING.—Each State or Indian tribe receiving allowances under this section shall submit to the Administrator, or such Federal agency head or heads as the President may designate, within 12 months after each receipt of such allowances and once every 2 years thereafter until the value of any allowances received under this section has been fully expended, a report that—

(1) provides a full accounting for the State's or Indian tribe's use of allowances distributed under this section, including a description of the projects, programs, or measures supported using such allowances;

(2) includes a report prepared by an independent third party, in accordance with such regulations as are promulgated by the Administrator or such other Federal agency head or heads as the President may designate, evaluating the performance of the projects, programs, or measures supported under this section; and

(3) identifies any use by the State or Indian tribe of allowances distributed under this section for the reduction of flood and storm damage and the effects of climate change on water and flood protection infrastructure.

(h) ENFORCEMENT.—If the Administrator, or such Federal agency head or heads as the President may designate, determines that a State or Indian tribe is not in compliance with this section, the Administrator or such other agency head may withhold a quantity of the allowances equal to up to twice the quantity of allowances that the State or Indian tribe failed to use in accordance with the requirements of this section, that such State or Indian tribe would otherwise be eligible to receive under this section in 1 or more later years. Allowances withheld pursuant to this subsection shall be distributed among the remaining States or Indian tribes ratably in accordance with the formula in subsection (c) in the case of allowances withheld from a State, or in accordance with subsection (d) in the case of allowances withheld from an Indian tribe.

Subpart B—Public Health and Climate Change

SEC. 461. SENSE OF CONGRESS ON PUBLIC HEALTH AND CLIMATE CHANGE.

It is the sense of the Congress that the Federal Government, in cooperation with international, State, tribal, and local governments, concerned public and private organizations, and citizens, should use all practicable means and measures—

(1) to assist the efforts of public health and health care professionals, first responders, States, tribes, municipalities, and local communities to incorporate measures to prepare health systems to respond to the impacts of climate change;

(2) to ensure—

(A) that the Nation's health professionals have sufficient information to prepare for and respond to the adverse health impacts of climate change;

(B) the utility and value of scientific research in advancing understanding of—

(i) the health impacts of climate change; and

(ii) strategies to prepare for and respond to the health impacts of climate change;

(C) the identification of communities vulnerable to the health effects of climate change and the development of strategic response plans to be carried out by health professionals for those communities;

(D) the improvement of health status and health equity through efforts to prepare for and respond to climate change; and

(E) the inclusion of health policy in the development of climate change responses;

(3) to encourage further research, interdisciplinary partnership, and collaboration among stakeholders in order to—

(A) understand and monitor the health impacts of climate change; and

(B) improve public health knowledge and response strategies to climate change;

(4) to enhance preparedness activities, and public health infrastructure, relating to climate change and health;

(5) to encourage each and every American to learn about the impacts of climate change on health; and

(6) to assist the efforts of developing nations to incorporate measures to prepare health systems to respond to the impacts of climate change.

SEC. 462. RELATIONSHIP TO OTHER LAWS.

Nothing in this subpart in any manner limits the authority provided to or responsibility conferred on any Federal department or agency by any provision of any law (including regulations) or authorizes any violation of any provision of any law (including regulations), including any health, energy, environmental, transportation, or any other law or regulation.

SEC. 463. NATIONAL STRATEGIC ACTION PLAN.

(a) REQUIREMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services, within 2 years after the date of the enactment of this Act, on the basis of the best available science, and in consultation pursuant to paragraph (2), shall publish a strategic action plan to assist health professionals in preparing for and responding to the impacts of climate change on public health in the United States and other nations, particularly developing nations.

(2) CONSULTATION.—In developing or making any revision to the national strategic action plan, the Secretary shall—

(A) consult with the Director of the Centers for Disease Control and Prevention, the Administrator of the Environmental Protection Agency, the Director of the National Institutes of Health, the Secretary of Energy, other appropriate Federal agencies, Indian tribes, State and local governments, public health organizations, scientists, and other interested stakeholders; and

(B) provide opportunity for public input.

(b) CONTENTS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and other appropriate Federal agencies, shall assist health professionals in preparing for and responding effectively and efficiently to the health effects of climate change through measures including—

(A) developing, improving, integrating, and maintaining domestic and international disease surveillance systems and monitoring capacity to respond to health-related effects of climate change, including on topics addressing—

(i) water, food, and vector borne infectious diseases and climate change;

(ii) pulmonary effects, including responses to aeroallergens;

(iii) cardiovascular effects, including impacts of temperature extremes;

(iv) air pollution health effects, including heightened sensitivity to air pollution;

(v) hazardous algal blooms;

(vi) mental and behavioral health impacts of climate change;

(vii) the health of refugees, displaced persons, and vulnerable communities;

(viii) the implications for communities vulnerable to health effects of climate change, as well as strategies for responding to climate change within these communities; and

(ix) local and community-based health interventions for climate-related health impacts;

(B) creating tools for predicting and monitoring the public health effects of climate change on the international, national, regional, State, and local levels, and providing technical support to assist in their implementation;

(C) developing public health communications strategies and interventions for extreme weather events and disaster response situations;

(D) identifying and prioritizing communities and populations vulnerable to the health effects of climate change, and determining actions and communication strategies that should be taken to inform and protect these communities and populations from the health effects of climate change;

(E) developing health communication, public education, and outreach programs aimed at public health and health care professionals, as well as the general public, to promote preparedness and response strategies relating to climate change and public health, including the identification of greenhouse gas reduction behaviors that are health-promoting; and

(F) developing academic and regional centers of excellence devoted to—

(i) researching relationships between climate change and health;

(ii) expanding and training the public health workforce to strengthen the capacity of such workforce to respond to and prepare for the health effects of climate change;

(iii) creating and supporting academic fellowships focusing on the health effects of climate change; and

(iv) training senior health ministry officials from developing nations to strengthen the capacity of such nations to—

(I) prepare for and respond to the health effects of climate change; and

(II) build an international network of public health professionals with the necessary climate change knowledge base;

(G) using techniques, including health impact assessments, to assess various climate change public health preparedness and response strategies on international, national, State, regional, tribal, and local levels, and make recommendations as to those strategies that best protect the public health;

(H)(i) assisting in the development, implementation, and support of State, regional, tribal, and local preparedness, communication, and response plans (including with respect to the health departments of such entities) to anticipate and reduce the health threats of climate change; and

(ii) pursuing collaborative efforts to develop, integrate, and implement such plans;

(I) creating a program to advance research as it relates to the effects of climate change on public health across Federal agencies, including research to—

(i) identify and assess climate change health effects preparedness and response strategies;

(ii) prioritize critical public health infrastructure projects related to potential climate change impacts that affect public health; and

(iii) coordinate preparedness for climate change health impacts, including the development of modeling and forecasting tools;

(J) providing technical assistance for the development, implementation, and support of preparedness and response plans to anticipate and reduce the health threats of climate change in developing nations; and

(K) carrying out other activities determined appropriate by the Secretary to plan for and respond to the impacts of climate change on public health.

(c) REVISION.—The Secretary shall revise the national strategic action plan not later than July 1, 2014, and every 4 years thereafter, to reflect new information collected pursuant to implementation of the national strategic action plan and otherwise, including information on—

(1) the status of critical environmental health parameters and related human health impacts;

(2) the impacts of climate change on public health; and

(3) advances in the development of strategies for preparing for and responding to the impacts of climate change on public health.

(d) IMPLEMENTATION.—

(1) IMPLEMENTATION THROUGH HHS.—The Secretary shall exercise the Secretary's authority under this subpart and other provisions of Federal law to achieve the goals and measures of the national strategic action plan.

(2) OTHER PUBLIC HEALTH PROGRAMS AND INITIATIVES.—The Secretary and Federal officials of other relevant Federal agencies shall administer public health programs and initiatives authorized by provisions of law other than this subpart, subject to the requirements of such statutes, in a manner designed to achieve the goals of the national strategic action plan.

(3) CDC.—In furtherance of the national strategic action plan, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and the head of any other appropriate Federal agency, shall—

(A) conduct scientific research to assist health professionals in preparing for and responding to the impacts of climate change on public health; and

(B) provide funding for—

(i) research on the health effects of climate change; and

(ii) preparedness planning on the international, national, State, tribal, regional, and local levels to respond to or reduce the burden of health effects of climate change; and

(C) carry out other activities determined appropriate by the Director or the head of such agency to prepare for and respond to the impacts of climate change on public health.

SEC. 464. ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish a permanent science advisory board comprised of not less than 10 and not more than 20 members.

(b) APPOINTMENT OF MEMBERS.—The Secretary shall appoint the members of the science advisory board from among individuals—

(1) who have expertise in public health and human services, climate change, and other relevant disciplines; and

(2) at least ½ of whom are recommended by the President of the National Academy of Sciences.

(c) FUNCTIONS.—The science advisory board shall—

(1) provide scientific and technical advice and recommendations to the Secretary on the domestic and international impacts of climate change on public health, populations and regions particularly vulnerable to the effects of climate change, and strategies and mechanisms to prepare for and respond to the impacts of climate change on public health; and

(2) advise the Secretary regarding the best science available for purposes of issuing the national strategic action plan.

SEC. 465. REPORTS.

(a) NEEDS ASSESSMENT.—

(1) IN GENERAL.—The Secretary shall seek to enter into, by not later than 6 months after the date of the enactment of this Act, an agreement with the National Research Council and the Institute of Medicine to complete a report that—

(A) assesses the needs for health professionals to prepare for and respond to climate change impacts on public health; and

(B) recommends programs to meet those needs.

(2) SUBMISSION.—The agreement under paragraph (1) shall require the completed report to be submitted to the Congress and the Secretary and made publicly available not later than 1 year after the date of the agreement.

(b) CLIMATE CHANGE HEALTH PROTECTION AND PROMOTION REPORTS.—

(1) IN GENERAL.—The Secretary, in consultation with the advisory board established under section 464, shall ensure the issuance of reports to aid health professionals in preparing for and responding to the adverse health effects of climate change that—

(A) review scientific developments on health impacts of climate change; and

(B) recommend changes to the national strategic action plan.

(2) SUBMISSION.—The Secretary shall submit the reports required by paragraph (1) to the Congress and make such reports publicly available not later than July 1, 2013, and every 4 years thereafter.

SEC. 466. DEFINITIONS.

In this subpart:

(1) HEALTH IMPACT ASSESSMENT.—The term ''health impact assessment'' means a combination of procedures, methods, and tools by which a policy, program, or project may be judged as to its potential effects on the health of a population, and the distribution of those effects within the population.

(2) NATIONAL STRATEGIC ACTION PLAN.—The term ''national strategic action plan'' means the plan issued and revised under section 463.

(3) SECRETARY.—Unless otherwise specified, the term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 467. CLIMATE CHANGE HEALTH PROTECTION AND PROMOTION FUND.

(a) ESTABLISHMENT OF FUND.—Subject to subtitle F of title IV, there is hereby established in the Treasury a separate account that shall be known as the Climate Change Health Protection and Promotion Fund.

(b) AVAILABILITY OF AMOUNTS.—Subject to Subtitle F of title IV, all amounts deposited into the Climate Change Health Protection and Promotion Fund shall be available to the Secretary to carry out this subpart subject to further appropriation.

(c) DISTRIBUTION OF FUNDS BY HHS.—In carrying out this subpart, the Secretary may make funds deposited in the Climate Change Health Protection and Promotion Fund available to—

(1) other departments, agencies, and offices of the Federal Government;

(2) foreign, State, tribal, and local governments; and

(3) such other entities as the Secretary determines appropriate.

(d) SUPPLEMENT, NOT REPLACE.—It is the intent of Congress that funds made available to carry out this subpart should be used to supplement, and not replace, existing sources of funding for public health.

Subpart C—Natural Resource Adaptation

SEC. 471. PURPOSES.

The purposes of this subpart are to—

(1) establish an integrated Federal program to protect, restore, and conserve the Nation's natural resources in response to the threats of climate change and ocean acidification; and

(2) provide financial support and incentives for programs, strategies, and activities that protect, restore, and conserve the Nation's natural resources in response to the threats of climate change and ocean acidification.

SEC. 472. NATURAL RESOURCES CLIMATE CHANGE ADAPTATION POLICY.

It is the policy of the Federal Government, in cooperation with State and local governments, Indian tribes, and other interested stakeholders to use all practicable means and measures to protect, restore, and conserve natural resources to enable them to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification.

SEC. 473. DEFINITIONS.

In this subpart:

(1) COASTAL STATE.—The term ''coastal State'' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

(2) CORRIDORS.—The term ''corridors'' means areas that provide connectivity, over different time scales (including seasonal or longer), of habitat or potential habitat and that facilitate the ability of terrestrial, marine, estuarine, and freshwater fish, wildlife, or plants to move within a landscape as needed for migration, gene flow, or dispersal, or in response to the impacts of climate change and ocean acidification or other impacts.

(3) ECOLOGICAL PROCESSES.—The term ''ecological processes'' means biological, chemical, or physical interaction between the biotic and abiotic components of an ecosystem and includes—

(A) nutrient cycling;

(B) pollination;

(C) predator-prey relationships;

(D) soil formation;

(E) gene flow;

(F) disease epizootiology;

(G) larval dispersal and settlement;

(H) hydrological cycling;

(I) decomposition; and

(J) disturbance regimes such as fire and flooding.

(4) HABITAT.—The term ''habitat'' means the physical, chemical, and biological properties that are used by fish, wildlife, or plants for growth, reproduction, survival, food, water, and cover, on a tract of land, in a body of water, or in an area or region.

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) NATURAL RESOURCES.—The term ''natural resources'' means the terrestrial, freshwater, estuarine, and marine fish, wildlife, plants, land, water, habitats, and ecosystems of the United States.

(7) NATURAL RESOURCES ADAPTATION.—The term ''natural resources adaptation'' means the protection, restoration, and conservation of natural resources to enable them to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification.

(8) RESILIENCE.—Each of the terms ''resilience'' and ''resilient'' means the ability to resist or recover from disturbance and preserve diversity, productivity, and sustainability.

(9) STATE.—The term ''State'' means—

(A) a State of the United States;

(B) the District of Columbia; and

(C) the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa.

SEC. 474. COUNCIL ON ENVIRONMENTAL QUALITY.

The Chair of the Council on Environmental Quality shall—

(1) advise the President on implementation and development of—

(A) a Natural Resources Climate Change Adaptation Strategy required under section 476; and

(B) Federal natural resource agency adaptation plans required under section 478;

(2) serve as the Chair of the Natural Resources Climate Change Adaptation Panel established under section 475; and

(3) coordinate Federal agency strategies, plans, programs, and activities related to protecting, restoring, and maintaining natural resources to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification.

SEC. 475. NATURAL RESOURCES CLIMATE CHANGE ADAPTATION PANEL.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this subpart, the President shall establish a Natural Resources Climate Change Adaptation Panel, consisting of—

(1) the head, or their designee, of each of—

(A) the National Oceanic and Atmospheric Administration;

(B) the Forest Service;

(C) the National Park Service;

(D) the United States Fish and Wildlife Service;

(E) the Bureau of Land Management;

(F) the United States Geological Survey;

(G) the Bureau of Reclamation;

(H) the Bureau of Indian Affairs;

(I) the Environmental Protection Agency; and

(J) the Army Corps of Engineers;

(2) the Chair of the Council on Environmental Quality; and

(3) the heads of such other Federal agencies or departments with jurisdiction over natural resources of the United States, as determined by the President.

(b) FUNCTIONS.—The Panel shall serve as a forum for interagency consultation on and the coordination of the development and implementation of a national Natural Resources Climate Change Adaptation Strategy required under section 476.

(c) CHAIR.—The Chair of the Council on Environmental Quality shall serve as the Chair of the Panel.

SEC. 476. NATURAL RESOURCES CLIMATE CHANGE ADAPTATION STRATEGY.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this subpart, the President, through the Natural Resources Climate Change Adaptation Panel established under section 475, shall develop a Natural Resources Climate Change Adaptation Strategy to protect, restore, and conserve natural resources to enable them to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification and to identify opportunities to mitigate those impacts.

(b) DEVELOPMENT AND REVISION.—In developing and revising the Strategy, the Panel shall—

(1) base the strategy on the best available science;

(2) develop the strategy in close cooperation with States and Indian tribes;

(3) coordinate with other Federal agencies as appropriate;

(4) consult with local governments, conservation organizations, scientists, and other interested stakeholders;

(5) provide public notice and opportunity for comment; and

(6) review and revise the Strategy every 5 years to incorporate new information regarding the impacts of climate change and ocean acidification on natural resources and advances in the development of strategies for becoming more resilient and adapting to those impacts.

(c) CONTENTS.—The National Resources Adaptation Strategy shall include—

(1) an assessment of the vulnerability of natural resources to climate change and ocean acidification, including the short-term, medium-term, long-term, cumulative, and synergistic impacts;

(2) a description of current research, observation, and monitoring activities at the Federal, State, tribal, and local level related to the impacts of climate change and ocean acidification on natural resources, as well as identification of research and data needs and priorities;

(3) identification of natural resources that are likely to have the greatest need for protection, restoration, and conservation because of the adverse effects of climate change and ocean acidification;

(4) specific protocols for integrating climate change and ocean acidification adaptation strategies and activities into the conservation and management of natural resources by Federal departments and agencies to ensure consistency across agency jurisdictions and resources;

(5) specific actions that Federal departments and agencies shall take to protect, conserve, and restore natural resources to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification, including a timeline to implement those actions;

(6) specific mechanisms for ensuring communication and coordination among Federal departments and agencies, and between Federal departments and agencies and State natural resource agencies, United States territories, Indian tribes, private landowners, conservation organizations, and other nations that share jurisdiction over natural resources with the United States;

(7) specific actions to develop and implement consistent natural resources inventory and monitoring protocols through interagency coordination and collaboration; and

(8) a process for guiding the development of detailed agency- and department-specific adaptation plans required under section 478 to address the impacts of climate change and ocean acidification on the natural resources in the jurisdiction of each agency.

(d) IMPLEMENTATION.—Consistent with its authorities under other laws and with Federal trust responsibilities with respect to Indian lands, each Federal department or agency with representation on the National Resources Climate Change Adaptation Panel shall consider the impacts of climate change and ocean acidification and integrate the elements of the strategy into agency plans, environmental reviews, programs, and activities related to the conservation, restoration, and management of natural resources.

SEC. 477. NATURAL RESOURCES ADAPTATION SCIENCE AND INFORMATION.

(a) COORDINATION.—Not later than 90 days after the date of the enactment of this subpart, the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, and the Secretary of the Interior, acting through the Director of the United States Geological Survey, shall establish a coordinated process for developing and providing science and information needed to assess and address the impacts of climate change and ocean acidification on natural resources. The process shall be led by the National Climate Change and Wildlife Science Center established within the United States Geological Survey under subsection (d) and the National Climate Service of the National Oceanic and Atmospheric Administration.

(b) FUNCTIONS.—The Secretaries shall ensure that such process avoids duplication and that the National Oceanic and Atmospheric Administration and the United States Geological Survey shall—

(1) provide technical assistance to Federal departments and agencies, State and local governments, Indian tribes, and interested private landowners in their efforts to assess and address the impacts of climate change and ocean acidification on natural resources;

(2) conduct and sponsor research and provide Federal departments and agencies, State and local governments, Indian tribes, and interested private landowners with research products, decision and monitoring tools and information, to develop strategies for assisting natural resources to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification; and

(3) assist Federal departments and agencies in the development of the adaptation plans required under section 478.

(c) SURVEY.—Not later than one year after the date of enactment of this subpart and every 5 years thereafter, the Secretary of Commerce and the Secretary of the Interior shall undertake a climate change and ocean acidification impact survey that—

(1) identifies natural resources considered likely to be adversely affected by climate change and ocean acidification;

(2) includes baseline monitoring and ongoing trend analysis;

(3) uses a stakeholder process to identify and prioritize needed monitoring and research that is of greatest relevance to the ongoing needs of natural resource managers to address the impacts of climate change and ocean acidification; and

(4) identifies decision tools necessary to develop strategies for assisting natural resources to become more resilient and adapt to and withstand the impacts of climate change and ocean acidification.

(d) NATIONAL CLIMATE CHANGE AND WILDLIFE SCIENCE CENTER.—

(1) ESTABLISHMENT.—The Secretary of the Interior shall establish the National Climate Change and Wildlife Science Center within the United States Geological Survey.

(2) FUNCTIONS.—The Center shall, in collaboration with Federal and State natural resources agencies and departments, Indian tribes, universities, and other partner organizations—

(A) assess and synthesize current physical and biological knowledge and prioritize scientific gaps in such knowledge in order to forecast the ecological impacts of climate change on fish and wildlife at the ecosystem, habitat, community, population, and species levels;

(B) develop and improve tools to identify, evaluate, and, where appropriate, link scientific approaches and models for forecasting the impacts of climate change and adaptation on fish, wildlife, plants, and their habitats, including monitoring, predictive models, vulnerability analyses, risk assessments, and decision support systems to help managers make informed decisions;

(C) develop and evaluate tools to adaptively manage and monitor the effects of climate change on fish and wildlife at national, regional, and local scales; and

(D) develop capacities for sharing standardized data and the synthesis of such data.

(e) SCIENCE ADVISORY BOARD.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this subpart, the Secretary of Commerce and the Secretary of the Interior shall establish and appoint the members of a Science Advisory Board, to be comprised of not fewer than 10 and not more than 20 members—

(A) who have expertise in fish, wildlife, plant, aquatic, and coastal and marine biology, ecology, climate change, ocean acidification, and other relevant scientific disciplines;

(B) who represent a balanced membership among Federal, State, Indian tribes, and local representatives, universities, and conservation organizations; and

(C) at least ½ of whom are recommended by the President of the National Academy of Sciences.

(2) DUTIES.—The Science Advisory Board shall—

(A) advise the Secretaries on the state-of-the-science regarding the impacts of climate change and ocean acidification on natural resources and scientific strategies and mechanisms for protecting, restoring, and conserving natural resources to enable them to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification; and

(B) identify and recommend priorities for ongoing research needs on such issues.

(3) COLLABORATION.—The Science Advisory Board shall collaborate with other climate change and ecosystem research entities in other Federal agencies and departments.

(4) AVAILABILITY TO THE PUBLIC.—The advice and recommendations of the Science Advisory Board shall be made available to the public.

SEC. 478. FEDERAL NATURAL RESOURCE AGENCY ADAPTATION PLANS.

(a) DEVELOPMENT.—Not later than 1 year after the date of the development of a Natural Resources Climate Change Adaptation Strategy under section 476, each department or agency that has a representative on the Natural Resources Climate Change Adaptation Panel established under section 475 shall—

(1) complete an adaptation plan for that department or agency, respectively, implementing the Natural Resources Climate Change Adaptation Strategy under section 476 and consistent with the Natural Resources Climate Change Adaptation Policy under section 472, detailing the department's or agency's current and projected efforts to address the potential impacts of climate change and ocean acidification on natural resources within the department's or agency's jurisdiction and necessary additional actions, including a timeline for implementation of those actions;

(2) provide opportunities for review and comment on that adaptation plan by the public, including in the case of a plan by the Bureau of Indian Affairs, review by Indian tribes; and

(3) submit such plan to the President for approval.

(b) REVIEW BY PRESIDENT AND SUBMISSION TO CONGRESS.—

(1) REVIEW BY PRESIDENT.—The President shall—

(A) approve an adaptation plan submitted under subsection (a)(3) if the plan meets the requirements of subsection (c) and is consistent with the strategy developed under section 476;

(B) decide whether to approve the plan within 60 days after submission; and

(C) if the President disapproves a plan, direct the department or agency to submit a revised plan to the President under subsection (a)(3) within 60 days after such disapproval.

(2) SUBMISSION TO CONGRESS.—Not later than 30 days after the date of approval of such adaptation plan by the President, the department or agency shall submit the approved plan to the Committee on Natural Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the committees of the House of Representatives and the Senate with principal jurisdiction over the department or agency.

(c) REQUIREMENTS.—Each adaptation plan shall—

(1) establish programs for assessing the current and future impacts of climate change and ocean acidification on natural resources within the department's or agency's, respectively, jurisdiction, including cumulative and synergistic effects, and for identifying and monitoring those natural resources that are likely to be adversely affected and that have need for conservation;

(2) identify and prioritize the department's or agency's strategies and specific conservation actions to address the current and future impacts of climate change and ocean acidification on natural resources within the scope of the department's or agency's jurisdiction and to develop and implement strategies to protect, restore, and conserve such resources to become more resilient, adapt to, and better withstand those impacts, including—

(A) the protection, restoration, and conservation of terrestrial, marine, estuarine, and freshwater habitats and ecosystems;

(B) the establishment of terrestrial, marine, estuarine, and freshwater habitat linkages and corridors;

(C) the restoration and conservation of ecological processes;

(D) the protection of a broad diversity of native species of fish, wildlife, and plant populations across their range; and

(E) the protection of fish, wildlife, and plant health, recognizing that climate can alter the distribution and ecology of parasites, pathogens, and vectors;

(3) describe how the department or agency will integrate such strategies and conservation activities into plans, programs, activities, and actions of the department or agency, related to the conservation and management of natural resources and establish new plans, programs, activities, and actions as necessary;

(4) establish methods for assessing the effectiveness of strategies and conservation actions taken to protect, restore, and conserve natural resources to enable them to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification, and for updating those strategies and actions to respond to new information and changing conditions;

(5) include a description of current and proposed mechanisms to enhance cooperation and coordination of natural resources adaptation efforts with other Federal agencies, State and local governments, Indian tribes, and nongovernmental stakeholders;

(6) include specific written guidance to resource managers to—

(A) explain how managers are expected to address the effects of climate change and ocean acidification;

(B) identify how managers are to obtain any site-specific information that may be necessary; and

(C) reflect best practices shared among relevant agencies, while also recognizing the unique missions, objectives, and responsibilities of each agency; and

(7) identify and assess data and information gaps necessary to develop natural resources adaptation plans and strategies.

(d) IMPLEMENTATION.—

(1) IN GENERAL.—Upon approval by the President, each department or agency that serves on the Natural Resources Climate Change Adaptation Panel shall implement its adaptation plan through existing and new plans, policies, programs, activities, and actions to the extent not inconsistent with existing authority.

(2) CONSIDERATION OF IMPACTS.—

(A) IN GENERAL.—To the maximum extent practicable and consistent with applicable law, every natural resource management decision made by the department or agency shall consider the impacts of climate change and ocean acidification on those natural resources.

(B) GUIDANCE.—The Council on Environmental Quality shall issue guidance for Federal departments and agencies for considering those impacts.

(e) REVISION AND REVIEW.—Not less than every 5 years, each adaptation plan under this section shall be reviewed and revised to incorporate the best available science and other information regarding the impacts of climate change and ocean acidification on natural resources.

SEC. 479. STATE NATURAL RESOURCES ADAPTATION PLANS.

(a) REQUIREMENT.—In order to be eligible for funds under section 480, not later than 1 year after the development of a Natural Resources Climate Change Adaptation Strategy required under section 476 each State shall prepare a State natural resources adaptation plan detailing the State's current and projected efforts to address the potential impacts of climate change and ocean acidification on natural resources and coastal areas within the State's jurisdiction.

(b) REVIEW OR APPROVAL.—

(1) IN GENERAL.—Each State adaptation plan shall be reviewed and approved or disapproved by the Secretary of the Interior and, as applicable, the Secretary of Commerce. Such approval shall be granted if the plan meets the requirements of subsection (c) and is consistent with the Natural Resources Climate Change Adaptation Strategy required under section 476.

(2) APPROVAL OR DISAPPROVAL.—Within 180 days after transmittal of such a plan, or a revision to such a plan, the Secretary of the Interior and, as applicable, the Secretary of Commerce shall approve or disapprove the plan by written notice.

(3) RESUBMITTAL.—Within 90 days after transmittal of a resubmitted adaptation plan as a result of disapproval under paragraph (3), the Secretary of the Interior and, as applicable, the Secretary of Commerce, shall approve or disapprove the plan by written notice.

(c) CONTENTS.—A State natural resources adaptation plan shall—

(1) include a strategy for addressing the impacts of climate change and ocean acidification on terrestrial, marine, estuarine, and freshwater fish, wildlife, plants, habitats, ecosystems, wildlife health, and ecological processes, that—

(A) describes the impacts of climate change and ocean acidification on the diversity and health of the fish, wildlife and plant populations, habitats, ecosystems, and associated ecological processes;

(B) establishes programs for monitoring the impacts of climate change and ocean acidification on fish, wildlife, and plant populations, habitats, ecosystems, and associated ecological processes;

(C) describes and prioritizes proposed conservation actions to assist fish, wildlife, plant populations, habitats, ecosystems, and associated ecological processes in becoming more resilient, adapting to, and better withstanding those impacts;

(D) includes strategies, specific conservation actions, and a time frame for implementing conservation actions for fish, wildlife, and plant populations, habitats, ecosystems, and associated ecological processes;

(E) establishes methods for assessing the effectiveness of strategies and conservation actions taken to assist fish, wildlife, and plant populations, habitats, ecosystems, and associated ecological processes in becoming

more resilient, adapt to, and better withstand the impacts of climate changes and ocean acidification and for updating those strategies and actions to respond appropriately to new information or changing conditions;

(F) is incorporated into a revision of the State wildlife action plan (also known as the State comprehensive wildlife strategy)—

(i) that has been submitted to the United States Fish and Wildlife Service; and

(ii) that has been approved by the Service or on which a decision on approval is pending; and

(G) is developed—

(i) with the participation of the State fish and wildlife agency, the State coastal agency, the State agency responsible for administration of Land and Water Conservation Fund grants, the State Forest Legacy program coordinator, and other State agencies considered appropriate by the Governor of such State; and

(ii) in coordination with the Secretary of the Interior, and where applicable, the Secretary of Commerce and other States that share jurisdiction over natural resources with the State; and

(2) include, in the case of a coastal State, a strategy for addressing the impacts of climate change and ocean acidification on the coastal zone that—

(A) identifies natural resources that are likely to be impacted by climate change and ocean acidification and describes those impacts;

(B) identifies and prioritizes continuing research and data collection needed to address those impacts including—

(i) acquisition of high resolution coastal elevation and nearshore bathymetry data;

(ii) historic shoreline position maps, erosion rates, and inventories of shoreline features and structures;

(iii) measures and models of relative rates of sea level rise or lake level changes, including effects on flooding, storm surge, inundation, and coastal geological processes;

(iv) habitat loss, including projected losses of coastal wetlands and potentials for inland migration of natural shoreline habitats;

(v) ocean and coastal species and ecosystem migrations, and changes in species population dynamics;

(vi) changes in storm frequency, intensity, or rainfall patterns;

(vii) saltwater intrusion into coastal rivers and aquifers;

(viii) changes in chemical or physical characteristics of marine and estuarine systems;

(ix) increased harmful algal blooms; and

(x) spread of invasive species;

(C) identifies and prioritizes adaptation strategies to protect, restore, and conserve natural resources to enable them to become more resilient, adapt to, and withstand the impacts of climate change and ocean acidification, including—

(i) protection, maintenance, and restoration of ecologically important coastal lands, coastal and ocean ecosystems, and species biodiversity and the establishment of habitat buffer zones, migration corridors, and climate refugia; and

(ii) improved planning, siting policies, and hazard mitigation strategies;

(D) establishes programs for the long-term monitoring of the impacts of climate change and ocean acidification on the ocean and coastal zone and to assess and adjust, when necessary, such adaptive management strategies;

(E) establishes performance measures for assessing the effectiveness of adaptation strategies intended to improve resilience and the ability of natural resources in the coastal zone to adapt to and withstand the impacts of climate change and ocean acidification and of adaptation strategies intended to minimize those impacts on the coastal zone and to update those strategies to respond to new information or changing conditions; and

(F) is developed with the participation of the State coastal agency and other appropriate State agencies and in coordination with the Secretary of Commerce and other appropriate Federal agencies.

(d) PUBLIC INPUT.—States shall provide for solicitation and consideration of public and independent scientific input in the development of their plans.

(e) COORDINATION WITH OTHER PLANS.—The State plan shall take into consideration research and information contained in, and coordinate with and integrate the goals and measures identified in, as appropriate, other natural resources conservation strategies, including—

(1) the national fish habitat action plan;

(2) plans under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

(3) the Federal, State, and local partnership known as ''Partners in Flight'';

(4) federally approved coastal zone management plans under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(5) federally approved regional fishery management plants and habitat conservation activities under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(6) the national coral reef action plan;

(7) recovery plans for threatened species and endangered species under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f));

(8) habitat conservation plans under section 10 of that Act (16 U.S.C. 1539);

(9) other Federal, State, and tribal plans for imperiled species;

(10) State or tribal hazard mitigation plans;

(11) State or tribal water management plans; and

(12) other State-based strategies that comprehensively implement adaptation activities to remediate the effects of climate change and ocean acidification on terrestrial, marine, and freshwater fish, wildlife, plants, and other natural resources.

(f) UPDATING.—Each State plan shall be updated not less than every 5 years.

(g) FUNDING.—

(1) IN GENERAL.—Funds allocated to States under section 480 shall be used only for activities that are consistent with a State natural resources adaptation plan that has been approved by the Secretaries of Interior and Commerce.

(2) FUNDING PRIOR TO THE APPROVAL OF A STATE PLAN.—Until the earlier of the date that is 3 years after the date of the enactment of this subpart or the date on which a State receives approval for the State strategy, a State shall be eligible to receive funding under section 480 for adaptation activities that are—

(A) consistent with the comprehensive wildlife strategy of the State and, where appropriate, other natural resources conservation strategies; and

(B) in accordance with a workplan developed in coordination with—

(i) the Secretary of the Interior; and

(ii) the Secretary of Commerce, for any coastal State subject to the condition that coordination with the Secretary of Commerce shall be required only for those portions of the strategy relating to activities affecting the coastal zone.

(3) PENDING APPROVAL.—During the period for which approval by the applicable Secretary of a State plan is pending, the State may continue receiving funds under section 480 pursuant to the workplan described in paragraph (2)(B).

SEC. 480. NATURAL RESOURCES CLIMATE CHANGE ADAPTATION FUND.

(a) ALLOCATIONS TO STATES.—100 percent of the emission allowances made available for each year to carry out this subpart shall be provided to States to carry out natural resources adaptation activities in accordance with State natural resources adaptation plans approved under section 479. Specifically—

(1) 84.4 percent shall be available to State wildlife agencies in accordance with the apportionment formula established under the second subsection (c) of section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c), as added by section 902(e) of H.R. 5548 as introduced in the 106th Congress and enacted into law by section 1(a)(2) of Public Law 106–553 (114 Stat. 2762A–119); and

(2) 15.6 percent shall be available to State coastal agencies pursuant to the formula established by the Secretary of Commerce under section 306(c) of the Coastal Management Act of 1972 (16 U.S.C. 1455(c)).

(b) ESTABLISHMENT OF FUND.—

(1) ESTABLISHMENT.—Subject to Subtitle F of title IV, there is hereby established in the Treasury a separate account that shall be known as the Natural Resources Climate Change Adaptation Fund.

(2) AUTHORIZATION OF APPROPRIATIONS.—Subject to Subtitle F of this title IV, there are authorized to be appropriated for subsection (c) such sums as are deposited in the Natural Resources Climate Change Fund, and the amounts appropriated for subsection (c) shall be no less than the total estimated annual deposits in the Natural Resources Climate Change Adaptation Fund.

(c) ALLOCATIONS TO FEDERAL AGENCIES.—

(1) DEPARTMENT OF THE INTERIOR.—Of the amounts made available for each fiscal year to carry out this subpart—

(A) 27.6 percent shall be allocated to the Secretary of the Interior for use in funding—

(i) natural resources adaptation activities carried out—

(I) under endangered species, migratory species, and other fish and wildlife programs administered by the National Park Service, the United States Fish and Wildlife Service, the Bureau of Indian Affairs, and the Bureau of Land Management;

(II) on wildlife refuges, National Park Service land, and other public land under the jurisdiction of the United States Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs, or the National Park Service; or

(III) within Federal water managed by the Bureau of Reclamation and the National Park Service; and

(ii) for the implementation of the National Fish and Wildlife Habitat and Corridors Identification Program pursuant to section 481;

(B) 8.1 percent shall be allocated to the Secretary of the Interior for natural resources adaptation activities carried out under cooperative grant programs, including—

(i) the cooperative endangered species conservation fund authorized under section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535);

(ii) programs under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

(iii) the Neotropical Migratory Bird Conservation Fund established by section 478(a) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6108(a));

(iv) the Coastal Program of the United States Fish and Wildlife Service;

(v) the National Fish Habitat Action Plan;

(vi) the Partners for Fish and Wildlife Program;

(vii) the Landowner Incentive Program;

(viii) the Wildlife Without Borders Program of the United States Fish and Wildlife Service; and

(ix) the Migratory Species Program and Park Flight Migratory Bird Program of the National Park Service; and

(C) 4.9 percent shall be allocated to the Secretary of the Interior to provide financial assistance to Indian tribes to carry out natural resources adaptation activities through the Tribal Wildlife Grants Program of the United States Fish and Wildlife Service and in accordance with the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450(f).

(2) LAND AND WATER CONSERVATION FUND.—

(A) DEPOSITS.—

(i) IN GENERAL.—Of the amounts made available for each fiscal year to carry out this subpart, 19.5 percent shall be deposited into the Land and Water Conservation Fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5).

(ii) USE OF DEPOSITS.— (I) Deposits into the Land and Water Conservation Fund under this paragraph shall be supplemental to authorizations provided under section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6), which shall remain available for nonadaptation needs.

(II) There are authorized to be appropriated for activities in this subpart such sums as are deposited in the Land and Water Conservation Fund pursuant to section 480(c)(3)(A)(ii), and the amounts appropriated for this paragraph shall be no less than the total estimated annual deposits in the Land and Water Conservation Fund.

(B) ALLOCATIONS.—Of the amounts deposited under this paragraph into the Land and Water Conservation Fund—

(i) ⅙ shall be allocated to the Secretary of the Interior and made available on a competitive basis to carry out natural resources adaptation activities through the acquisition of land and interests in land under section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8)—

(I) to States in accordance with their natural resources adaptation plans, and to Indian tribes;

(II) notwithstanding section 5 of that Act (16 U.S.C. 4601–7); and

(III) in addition to any funds provided pursuant to annual appropriations Acts, the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), or any other authorization for nonadaptation needs;

(ii) ⅓ shall be allocated to the Secretary of the Interior to carry out natural resources adaptation activities through the acquisition of lands and interests in land under section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9);

(iii) ⅙ shall be allocated to the Secretary of Agriculture and made available to the States and Indian tribes to carry out natural resources adaptation activities through the acquisition of land and interests in land under section 7 of the Forest Legacy Program under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c); and

(iv) ⅓ shall be allocated to the Secretary of Agriculture to carry out natural resources adaptation activities through the acquisition of land and interests in land under section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9).

(C) EXPENDITURE OF FUNDS.—In allocating funds under subparagraph (B), the Secretary of the Interior and the Secretary of Agriculture shall take into consideration factors including—

(i) the availability of non-Federal contributions from State, local, or private sources;

(ii) opportunities to protect fish and wildlife corridors or otherwise to link or consolidate fragmented habitats;

(iii) opportunities to reduce the risk of catastrophic wildfires, drought, extreme flooding, or other climate-related events that are harmful to fish and wildlife and people; and

(iv) the potential for conservation of species or habitat types at serious risk due to climate change, ocean acidification, and other stressors.

(3) FOREST SERVICE.—Of the amounts made available for each fiscal year to carry out this subpart, 8.1 percent shall be allocated to the Secretary of Agriculture for use in funding natural resources adaptation activities carried out on national forests and national grasslands under the jurisdiction of the Forest Service and for natural resource adaptation activities on state and private lands carried out under the Cooperative Forestry Assistance Act of 1978.

(4) DEPARTMENT OF COMMERCE.—Of the amounts made available for each fiscal year to carry out this subpart, 11.5 percent shall be allocated to the Secretary of Commerce for use in funding natural resources adaptation activities to protect, maintain, and restore coastal, estuarine, and marine resources, habitats, and ecosystems, including such activities carried out under—

(A) the coastal and estuarine land conservation program;

(B) the community-based restoration program;

(C) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), that are specifically designed to strengthen the ability of coastal, estuarine, and marine resources, habitats, and ecosystems to adapt to and withstand the impacts of climate change and ocean acidification;

(D) the Open Rivers Initiative;

(E) the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(F) the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

(G) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(H) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);

(I) the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.); and

(J) the Estuary Restoration Act of 2000 (33 U.S.C. 2901 et seq.).

(5) ENVIRONMENTAL PROTECTION AGENCY.—Of the amounts made available each fiscal year to carry out this section, 12.2 percent shall be allocated to the Administrator for use in natural resources adaptation activities restoring and protecting—

(A) large-scale freshwater aquatic ecosystems, such as the Everglades, the Great Lakes, Flathead Lake, the Missouri River, the Mississippi River, the Colorado River, the Sacramento-San Joaquin Rivers, the Ohio River, the Columbia-Snake River System, the Apalachicola, Chattahoochee, and Flint River System, the Connecticut River, and the Yellowstone River;

(B) large-scale estuarine ecosystems, such as Chesapeake Bay, Long Island Sound, Puget Sound, the Mississippi River Delta, the San Francisco Bay Delta, Narragansett Bay, and Albemarle-Pamlico Sound; and

(C) freshwater and estuarine ecosystems, watersheds, and basins identified as priorities by the Administrator, working in cooperation with other Federal agencies, States, Indian tribes, local governments, scientists, and other conservation partners.

(6) CORPS OF ENGINEERS.—Of the amounts made available each fiscal year to carry out this section, 8.1 percent shall be available to the Secretary of the Army for use by the Corps of Engineers to carry out natural resources adaptation activities restoring—

(A) large-scale freshwater aquatic ecosystems, such as the ecosystems described in paragraph (5)(A);

(B) large-scale estuarine ecosystems, such as the ecosystems described in paragraph (5)(B);

(C) freshwater and estuarine ecosystems, watersheds, and basins identified as priorities by the Corps of Engineers, working in cooperation with other Federal agencies, States, Indian tribes, local governments, scientists, and other conservation partners; and

(D) habitats and ecosystems through the implementation of estuary habitat restoration projects authorized by the Estuary Restoration Act of 2000 (33 U.S.C. 2901 et seq.), project modifications for improvement of the environment, aquatic restoration and protection projects authorized by section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), and other appropriate programs and activities.

(d) USE OF FUNDS BY FEDERAL DEPARTMENTS AND AGENCIES.—Funds allocated to Federal departments and agencies under this section shall only be used for natural resources adaptation activities that are consistent with an adaptation plan developed and approved by the President under section 478.

(e) STATE COST SHARING.—Notwithstanding any other provision of law, a State that receives a grant with amounts allocated under this section shall use funds from non-Federal sources to pay at least 10 percent of the costs of each activity carried out using amounts provided under the grant.

SEC. 481. NATIONAL WILDLIFE HABITAT AND CORRIDORS INFORMATION PROGRAM.

(a) ESTABLISHMENT.—Within 6 months of the date of enactment of this subpart, the Secretary of the Interior, in cooperation with the States and Indian tribes, shall establish a National Fish and Wildlife Habitat and Corridors Information Program in accordance with the requirements of this section.

(b) PURPOSE.—The purpose of this program is to—

(1) support States and Indian tribes in the development of a geographic information system database of fish and wildlife habitat and corridors that would inform planning and development decisions within each State and Indian tribe, enable each State and Indian tribe to model climate impacts and adaptation, and provide geographically specific enhancements of State and tribal wildlife action plans;

(2) ensure the collaborative development, with the States and Indian tribes, of a comprehensive, national geographic information system database of maps, models, data, surveys, informational products, and other geospatial information regarding fish and wildlife habitat and corridors, that—

(A) is based on consistent protocols for sampling and mapping across landscapes that take into account regional differences; and

(B) that utilizes—

(i) existing and planned State- and tribal-based geographic information system databases; and

(ii) existing databases, analytical tools, metadata activities, and other information products available through the National Biological Information Infrastructure maintained by the Secretary and nongovernmental organizations; and

(3) facilitate the use of such databases by Federal, State, local, and tribal decisionmakers to incorporate qualitative information on fish and wildlife habitat and corridors at the earliest possible stage to—

(A) prioritize and target natural resources adaptation strategies and activities;

(B) avoid, minimize, and mitigate the impacts on fish and wildlife habitat and corridors in siting energy development, water, transmission, transportation, and other land use projects;

(C) assess the impacts of existing development on habitats and corridors; and

(D) develop management strategies to enhance the ability of fish, wildlife, and plant species to migrate or respond to shifting habitats within existing habitats and corridors.

(c) HABITAT AND CORRIDORS INFORMATION SYSTEM.—

(1) IN GENERAL.—The Secretary, in cooperation with the States and Indian tribes, shall develop a Habitat and Corridors Information System.

(2) CONTENTS.—The System shall—

(A) include maps, data, and descriptions of fish and wildlife habitat and corridors, that—

(i) have been developed by Federal agencies, State wildlife agencies and natural heritage programs, Indian tribes, local governments, nongovernmental organizations, and industry;

(ii) meet accepted Geospatial Interoperability Framework data and metadata protocols and standards;

(B) include maps and descriptions of projected shifts in habitats and corridors of fish and wildlife species in response to climate change;

(C) assure data quality and make the data, models, and analyses included in the System available at scales useful to decisionmakers—

(i) to prioritize and target natural resources adaptation strategies and activities;

(ii) to assess the impacts of proposed energy development, water, transmission, transportation, and other land use projects and avoid, minimize, and mitigate those impacts on habitats and corridors;

(iii) to assess the impacts of existing development on habitats and corridors; and

(iv) to develop management strategies to enhance the ability of fish, wildlife, and plant species to migrate or respond to shifting habitats within existing habitats and corridors;

(D) establish a process for updating maps and other information as landscapes, habitats, corridors, and wildlife populations change or as other information becomes available;

(E) encourage the development of collaborative plans by Federal and State agencies and Indian tribes to monitor and evaluate the efficacy of the System to meet the needs of decisionmakers;

(F) identify gaps in habitat and corridor information, mapping, and research that should be addressed to fully understand and assess current data and metadata, and to prioritize research and future data collection activities for use in updating the System and provide support for those activities;

(G) include mechanisms to support collaborative research, mapping, and planning of habitats and corridors by Federal and State agencies, Indian tribes, and other interested stakeholders;

(H) incorporate biological and geospatial data on species and corridors found in energy development and transmission plans, including renewable energy initiatives, transportation, and other land use plans;

(I) be based on the best scientific information available; and

(J) identify, prioritize, and describe key parcels of non-Federal land located within the boundaries of units of the National Park System, National Wildlife Refuge System, National Forest System, or National Grassland System that are critical to maintenance of wildlife habitat and migration corridors.

(d) FINANCIAL AND OTHER SUPPORT.—The Secretary may provide support to the States and Indian tribes, including financial and technical assistance, for activities that support the development and implementation of the System.

(e) COORDINATION.—The Secretary, in cooperation with the States and Indian tribes, shall make recommendations on how the information developed in the System may be incorporated into existing relevant State and Federal plans affecting fish and wildlife, including land management plans, the State Comprehensive Wildlife Conservation Strategies, and appropriate tribal conservation plans, to ensure that they—

(1) prevent unnecessary habitat fragmentation and disruption of corridors;

(2) promote the landscape connectivity necessary to allow wildlife to move as necessary to meet biological needs, adjust to shifts in habitat, and adapt to climate change; and

(3) minimize the impacts of energy, development, water, transportation, and transmission projects and other activities expected to impact habitat and corridors.

(f) DEFINITIONS.—In this section:

(1) GEOSPATIAL INTEROPERABILITY FRAMEWORK.—The term ''Geospatial Interoperability Framework'' means the strategy utilized by the National Biological Information Infrastructure that is based upon accepted standards, specifications, and protocols adopted through the International Standards Organization, the Open Geospatial Consortium, and the Federal Geographic Data Committee, to manage, archive, integrate, analyze, and make accessible geospatial and biological data and metadata.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 482. ADDITIONAL PROVISIONS REGARDING INDIAN TRIBES.

(a) FEDERAL TRUST RESPONSIBILITY.—Nothing in this subpart is intended to amend, alter, or give priority over the Federal trust responsibility to Indian tribes.

(b) EXEMPTION FROM FOIA.—Information received by a Federal agency pursuant to this Act relating to the location, character, or ownership of human remains of a person of Indian ancestry; or resources, cultural items, uses, or activities identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature to the Indian tribe; shall not be subject to disclosure under section 552 of title 5, United States Code, if the head of the agency, in consultation with the Secretary of the Interior and an affected Indian tribe, determines that disclosure may—

(1) cause a significant invasion of privacy;

(2) risk harm to the human remains or resources, cultural items, uses, or activities; or

(3) impede the use of a traditional religious site by practitioners.

(c) APPLICATION OF OTHER LAW.—The Secretary of the Interior may apply the provisions of Public Law 93–638 where appropriate in the implementation of this subpart.

PART 2—INTERNATIONAL CLIMATE CHANGE ADAPTATION PROGRAM

SEC. 491. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Global climate change is a potentially significant national and global security threat multiplier and is likely to exacerbate competition and conflict over agricultural, vegetative, marine, and water resources and to result in increased displacement of people, poverty, and hunger within developing countries.

(2) The strategic, social, political, economic, cultural, and environmental consequences of global climate change are likely to have disproportionate adverse impacts on developing countries, which have less economic capacity to respond to such impacts.

(3) The countries most vulnerable to climate change, due both to greater exposure to harmful impacts and to lower capacity to adapt, are developing countries with very low industrial greenhouse gas emissions that have contributed less to climate change than more affluent countries.

(4) To a much greater degree than developed countries, developing countries rely on the natural and environmental systems likely to be affected by climate change for sustenance, livelihoods, and economic growth and stability.

(5) Within developing countries there may be varying climate change adaptation and resilience needs among different communities and populations, including impoverished communities, children, women, and indigenous peoples.

(6) The consequences of global climate change, including increases in poverty and destabilization of economies and societies, are likely to pose long-term challenges to the national security, foreign policy, and economic interests of the United States.

(7) It is in the national security, foreign policy, and economic interests of the United States to recognize, plan for, and mitigate the international strategic, social, political, cultural, environmental, health, and economic effects of climate change and to assist developing countries to increase their resilience to those effects.

(8) Under Article 4 of the United Nations Framework Convention on Climate Change, developed country parties, including the United States, committed to ''assist the developing country parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects''.

(9) Under the Bali Action Plan, developed country parties to the United Nations Framework Convention on Climate Change, including the United States, committed to ''enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology cooperation,'' including, inter alia, consideration of ''improved access to adequate, predictable, and sustainable financial resources and financial and technical support, and the provision of new and additional resources, including official and concessional funding for developing country parties''.

(b) PURPOSES.—The purposes of this part are—

(1) to provide new and additional assistance from the United States to the most vulnerable developing countries, including the most vulnerable communities and populations therein, in order to support the development and implementation of climate change adaptation programs and activities that reduce the vulnerability and increase the resilience of communities to climate change impacts, including impacts on water availability, agricultural productivity, flood risk, coastal resources, timing of seasons, biodiversity, economic livelihoods, health and diseases, and human migration; and

(2) to provide such assistance in a manner that protects and promotes the national security, foreign policy, environmental, and economic interests of the United States to the extent such interests may be advanced by minimizing, averting, or increasing resilience to climate change impacts.

SEC. 492. DEFINITIONS.

In this part:

(1) ALLOWANCE.—The term ''allowance'' means an emission allowance established under section 721 of the Clean Air Act.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committees on Energy and Commerce, Financial Services, and Foreign Affairs of the House of Representatives; and

(B) the Committees on Environment and Public Works and Foreign Relations of the Senate.

(3) DEVELOPING COUNTRY.—The term ''developing country'' means a country eligible to receive official development assistance according to the income guidelines of the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(4) MOST VULNERABLE DEVELOPING COUNTRIES.—The term ''most vulnerable developing countries'' means, as determined by the Administrator of USAID, developing countries that are at risk of substantial adverse impacts of climate change and have limited capacity to respond to such impacts, considering the approaches included in any international treaties and agreements.

(5) MOST VULNERABLE COMMUNITIES AND POPULATIONS.—The term ''most vulnerable communities and populations'' means communities and populations that are at risk of substantial adverse impacts of climate change and have limited capacity to respond to such impacts, including impoverished communities, children, women, and indigenous peoples.

(6) PROGRAM.—The term ''Program'' means the International Climate Change Adaptation Program established under section 493.

(7) USAID.—The term ''USAID'' means the United States Agency for International Development.

(8) UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE.—The term ''United Nations Framework Convention on Climate Change'' or ''Convention'' means the United Nations Framework Convention on Climate Change done at New York on May 9, 1992, and entered into force on March 21, 1994.

SEC. 493. INTERNATIONAL CLIMATE CHANGE ADAPTATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of State, in consultation with the Administrator of USAID, the Secretary of the Treasury, and the Administrator of the Environmental Protection Agency, shall establish an International Climate Change Adaptation Program in accordance with the requirements of this part.

(b) ALLOWANCE ACCOUNT.—Allowances allocated pursuant to section 782(n) of the Clean Air Act shall be available for distribution to carry out the Program established under subsection (a).

(c) SUPPLEMENT NOT SUPPLANT.—Assistance provided under this part shall be used to supplement, and not to supplant, any other Federal, State, or local resources available to carry out activities of the type carried out under the Program.

SEC. 494. DISTRIBUTION OF ALLOWANCES.

(a) IN GENERAL.—The Secretary of State, or such other Federal agency head as the President may designate, after consultation with the Secretary of the Treasury, the Administrator of USAID, and the Administrator of the Environmental Protection Agency, shall direct the distribution of allowances to carry out the Program—

(1) in the form of bilateral assistance pursuant to the requirements under section 495;

(2) to multilateral funds or international institutions pursuant to the Convention or an agreement negotiated under the Convention; or

(3) through a combination of the mechanisms identified under paragraphs (1) and (2).

(b) LIMITATION.—

(1) CONDITIONAL DISTRIBUTION TO MULTILATERAL FUNDS OR INTERNATIONAL INSTITUTIONS.—In any fiscal year, the Secretary of State, or such other Federal agency head as the President may designate, in consultation with the Administrator of USAID, the Secretary of the Treasury, and the Administrator of the Environmental Protection Agency, shall distribute at least 40 percent and up to 60 percent of the allowances available to carry out the Program to one or more multilateral funds or international institutions that meet the requirements of paragraph (2), if any such fund or institution exists, and shall annually certify in a report to the appropriate congressional committees that any multilateral fund or international institution receiving allowances under this section meets the requirements of paragraph (2) or that no multilateral fund or international institution that meets the requirements of paragraph (2) exists, as the case may be. The Secretary of State shall notify the appropriate congressional committees not less than 15 days prior to any transfer of allowances to a multilateral fund or international institution pursuant to this section.

(2) MULTILATERAL FUND OR INTERNATIONAL INSTITUTION ELIGIBILITY.—A multilateral fund or international institution is eligible to receive allowances available to carry out the Program—

(A) if—

(i) such fund or institution is established pursuant to—

(I) the Convention; or

(II) an agreement negotiated under the Convention; or

(ii) the allowances are directed to one or more multilateral development banks or international development institutions, pursuant to an agreement negotiated under such Convention; and

(B) if such fund or institution—

(i) specifies the terms and conditions under which the United States is to provide allowances to the fund or institution, and under which the fund or institution is to provide assistance to recipient countries;

(ii) ensures that assistance from the United States to the fund or institution and the principal and income of the fund or institution are disbursed only for purposes that are consistent with those described in section 491(b)(1);

(iii) requires a regular meeting of a governing body of the fund or institution that includes representation from countries among the most vulnerable developing countries and provides public access;

(iv) requires that local communities and indigenous peoples in areas where any activities or programs are planned are engaged through adequate disclosure of information, public participation, and consultation; and

(v) prepares and makes public an annual report that—

(I) describes the process and methodology for selecting the recipients of assistance from the fund or institution, including assessments of vulnerability;

(II) describes specific programs and activities supported by the fund or institution and the extent to which the assistance is addressing the adaptation needs of the most vulnerable developing countries, and the most vulnerable communities and populations therein;

(III) describes the performance goals for assistance authorized under the fund or institution and expresses such goals in an objective and quantifiable form, to the extent practicable;

(IV) describes the performance indicators to be used in measuring or assessing the achievement of the performance goals described in subclause (III);

(V) provides a basis for recommendations for adjustments to assistance authorized under this part to enhance the impact of such assistance; and

(VI) describes the participation of other nations and international organizations in supporting and governing the fund or institution.

(c) OVERSIGHT.—

(1) DISTRIBUTION TO MULTILATERAL FUNDS OR INTERNATIONAL INSTITUTIONS.—The Secretary of State, or such other Federal agency head as the President may designate, in consultation with the Administrator of USAID, shall oversee the distribution of allowances available to carry out the Program to a multilateral fund or international institution under subsection (b).

(2) BILATERAL ASSISTANCE.—The Administrator of USAID, in consultation with the Secretary of State, shall oversee the distribution of allowances available to carry out the Program for bilateral assistance under section 495.

SEC. 495. BILATERAL ASSISTANCE.

(a) ACTIVITIES AND FOREIGN AID.—

(1) IN GENERAL.—In order to achieve the purposes of this part, the Administrator of USAID may carry out programs and activities and distribute allowances to any private or public group (including international organizations and faith-based organizations), association, or other entity engaged in peaceful activities to—

(A) provide assistance to the most vulnerable developing countries for—

(i) the development of national or regional climate change adaptation plans, including a systematic assessment of socioeconomic vulnerabilities in order to identify the most vulnerable communities and populations;

(ii) associated national policies; and

(iii) planning, financing, and execution of adaptation programs and activities;

(B) support investments, capacity-building activities, and other assistance, to reduce vulnerability and promote community-level resilience related to climate change and its impacts in the most vulnerable developing countries, including impacts on water availability, agricultural productivity, flood risk, coastal resources, timing of seasons, biodiversity, economic livelihoods, health, human migration, or other social, economic, political, cultural, or environmental matters;

(C) support climate change adaptation research in or for the most vulnerable developing countries;

(D) reduce vulnerability and provide increased resilience to climate change for local communities and livelihoods in the most vulnerable developing countries by encouraging—

(i) the protection and rehabilitation of natural systems;

(ii) the enhancement and diversification of agricultural, fishery, and other livelihoods; and

(iii) the reduction of disaster risks;

(E) support the deployment of technologies to help the most vulnerable developing countries respond to the destabilizing impacts of climate change and encourage the identification and adoption of appropriate renewable and efficient energy technologies that are beneficial in increasing community-level resilience to the impacts of global climate change in those countries; and

(F) encourage the engagement of local communities through disclosure of information, consultation, and the communities' informed participation relating to the development of plans, programs, and activities to increase community-level resilience to climate change impacts.

(2) LIMITATIONS.—Not more than 10 percent of the allowances made available to carry

out bilateral assistance under this part in any year shall be distributed to support activities in any single country.

(3) PRIORITIZING ASSISTANCE.—In providing assistance under this section, the Administrator of USAID shall give priority to countries, including the most vulnerable communities and populations therein, that are most vulnerable to the adverse impacts of climate change, determined by the likelihood and severity of such impacts and the country's capacity to adapt to such impacts.

(b) COMMUNITY ENGAGEMENT.—

(1) IN GENERAL.—The Administrator of USAID shall ensure that local communities, including the most vulnerable communities and populations therein, in areas where any programs or activities are carried out pursuant to this section are engaged in, through disclosure of information, public participation, and consultation, the design, implementation, monitoring, and evaluation of such programs and activities.

(2) CONSULTATION AND DISCLOSURE.—For each country receiving assistance under this section, the Administrator of USAID shall establish a process for consultation with, and disclosure of information to, local, national, and international stakeholders regarding any programs and activities carried out pursuant to this section.

(c) COORDINATION.—

(1) ALIGNMENT OF ACTIVITIES.—Subject to the direction of the President and the Secretary of State, the Administrator of USAID shall, to the extent practicable, seek to align activities under this section with broader development, poverty alleviation, or natural resource management objectives and initiatives in the recipient country.

(2) COORDINATION OF ACTIVITIES.—The Administrator of USAID shall ensure that there is coordination among the activities under this section, subtitle D of this title, and part E of title VII of the Clean Air Act, in order to maximize the effectiveness of United States assistance to developing countries.

(d) REPORTING.—

(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Administrator of USAID, in consultation with the Secretary of State, shall submit to the President and the appropriate congressional committees an initial report that—

(A) based on the most recent information available from reliable public sources or knowledge obtained by USAID on a reliable basis, as determined by the Administrator of USAID, identifies the developing countries, including the most vulnerable communities and populations therein, that are most vulnerable to climate change impacts and in which assistance may have the greatest and most sustainable benefit in reducing vulnerability to climate change; and

(B) describes the process and methodology for selecting the recipients of assistance under subsection (a)(1).

(2) ANNUAL REPORTS.—Not later than 18 months after the date on which the initial report is submitted pursuant to paragraph (1), and annually thereafter, the Administrator of USAID, in consultation with the Secretary of State, shall submit to the President and the appropriate congressional committees a report that—

(A) describes the extent to which global climate change, through its potential negative impacts on sensitive populations and natural resources in the most vulnerable developing countries, may threaten, cause, or exacerbate political, economic, environmental, cultural, or social instability or international conflict in those regions;

(B) describes the ramifications of any potentially destabilizing impacts climate change may have on the national security, foreign policy, and economic interests of the United States, including—

(i) the creation of environmental migrants and internally displaced peoples;

(ii) international or internal armed conflicts over water, food, land, or other resources;

(iii) loss of agricultural and other livelihoods, cultural stability, and other causes of increased poverty and economic destabilization;

(iv) decline in availability of resources needed for survival, including water;

(v) increased impact of natural disasters (including droughts, flooding, and other severe weather events);

(vi) increased prevalence or virulence of climate-related diseases; and

(vii) intensified urban migration;

(C) describes how allowances available under this section were distributed during the previous fiscal year to enhance the national security, foreign policy, and economic interests of the United States and assist in avoiding the economically, politically, environmentally, culturally, and socially destabilizing impacts of climate change in most vulnerable developing countries;

(D) identifies and recommends the developing countries, including the most vulnerable communities and populations therein, that are most vulnerable to climate change impacts and in which assistance may have the greatest and most sustainable benefit in reducing vulnerability to climate change, including in the form of deploying technologies, investments, capacity-building activities, and other types of assistance for adaptation to climate change impacts and approaches to reduce greenhouse gases in ways that may also provide community-level resilience to climate change impacts; and

(E) describes cooperation undertaken with other nations and international organizations to carry out this part.

(e) MONITORING AND EVALUATION.—

(1) IN GENERAL.—The Administrator of USAID shall establish and implement a system to monitor and evaluate the effectiveness and efficiency of assistance provided under this section in order to maximize the long-term sustainable development impact of such assistance, including the extent to which such assistance is meeting the purposes of this part and addressing the adaptation needs of developing countries.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Administrator of USAID shall—

(A) in consultation with national governments in recipient countries, establish performance goals for assistance authorized under this section and express such goals in an objective and quantifiable form, to the extent practicable;

(B) establish performance indicators to be used in measuring or assessing the achievement of the performance goals described in subparagraph (A), including an evaluation of—

(i) the extent to which assistance under this section provided for disclosure of information to, consultation with, and informed participation by local communities;

(ii) the extent to which local communities participated in the design, implementation, and evaluation of programs and activities implemented pursuant to this section; and

(iii) the impacts of such participation on the goals and objectives of the programs and activities implemented under this section;

(C) provide a basis for recommendations for adjustments to assistance authorized under this section to enhance the impact of such assistance; and

(D) include, in the annual report to the appropriate congressional committees and other relevant agencies required under subsection (d)(2), findings resulting from the monitoring and evaluation of programs and activities under this section.

Subtitle F—Deficit Neutral Budgetary Treatment

SEC. 496. DEFICIT NEUTRALITY.

(a) FUNDS ESTABLISHED.—Funds established under sections 422, 467, and 480 of this Act are to be treated as separate accounts in the Treasury and shall be known as ''the Funds''.

(b) AVAILABILITY.—Funds appropriated or made available pursuant to sections 422(b), 467(b), and 480(b)(2) are only available for the purposes set forth under this Act. Receipts in the Funds and appropriations therefrom shall not be available and are precluded from obligation for any other purpose.

(c) ESTIMATION OF BUDGETARY IMPACT.—For the purposes of estimating the revenue and spending effects of this Act;

(1) the revenue assumed to be deposited into the Funds established under sections 422, 467, and 480, shall be attributed to this Act; and

(2) the authorization or availability of appropriations from the Funds shall be treated as new direct spending and attributed to this Act.

(d) BUDGETARY TREATMENT.—For the purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, the Funds, and amounts subsequently appropriated or made available for the purposes for which such Funds were established, shall be deemed to be included on the list of appropriations referenced under section 250(c)(17) of that Act. Such appropriations from each Fund shall not be in excess of the amounts deposited into the respective Fund in the previous year.

TITLE V—AGRICULTURAL AND FORESTRY RELATED OFFSETS

Subtitle A—Offset Credit Program From Domestic Agricultural and Forestry Sources

SEC. 501. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) ADDITIONAL.—The term ''additional'', when used with respect to reductions or avoidance of greenhouse gas emissions, or to sequestration of greenhouse gases, means reductions, avoidance, or sequestration that result in a lower level of net greenhouse gas emissions or atmospheric concentrations than would occur in the absence of an offset project.

(2) ADDITIONALITY.—The term ''additionality'' means the extent to which reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, are additional.

(3) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(4) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the USDA Greenhouse Gas Emission Reduction and Sequestration Advisory Committee established under section 1245(f) of the Food Security Act of 1985 (16 U.S.C. 3845).

(5) GREENHOUSE GAS.—The term ''greenhouse gas'' means any of the following:

(A) Carbon dioxide.

(B) Methane.

(C) Nitrous oxide.

(D) Sulfur hexafluoride.

(E) Hydrofluorocarbons from a chemical manufacturing process at an industrial stationary source.

(F) Any perfluorocarbon.

(G) Nitrogen trifluoride.

(H) Any other anthropogenic gas designated as a greenhouse gas by the Administrator.

(6) LEAKAGE.—The term ''leakage'' means a significant and quantifiable increase in

greenhouse gas emissions, or a significant and quantifiable decrease in sequestration, which is caused by an offset practice and occurs outside the boundaries of the offset practice.

(7) OFFSET CREDIT.—The term ''offset credit'' means a tradeable compliance instrument that—

(A) represents the reduction, avoidance, or sequestration of 1 ton of carbon dioxide equivalent; and

(B) is issued pursuant to this title.

(8) OFFSET PRACTICE.—The term ''offset practice'' means an activity that reduces, avoids, or sequesters greenhouse gas emissions, and for which offset credits may be issued pursuant to this title.

(9) OFFSET PRODUCER.—The term ''offset producer'' means an owner, operator, landlord, tenant, or sharecropper who has or shares responsibility for ensuring that an offset practice is established and maintained during the crediting period for purposes of an offset credit.

(10) OFFSET PROJECT.—The term ''offset project'' means a practice or set of practices that reduce or avoid greenhouse gas emissions, or sequester greenhouse gases as implemented by an offset producer.

(11) OFFSET PROJECT DEVELOPER.—The term ''offset project developer'' means the offset producer or designee of the offset producer.

(12) PRACTICE TYPE.—The term ''practice type'' means a discrete category of offset practices for which the Secretary develops a standardized methodology to accurately estimate the amount of greenhouse gas emissions reduced or avoided or greenhouse gases sequestered.

(13) REVERSAL.—The term ''reversal'' means an intentional or unintentional loss of sequestered greenhouse gases to the atmosphere.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(15) SEQUESTRATION AND SEQUESTERED.—The terms ''sequestered'' and ''sequestration'' mean the separation, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Secretary. The terms include biological sequestration, but do not include ocean fertilization techniques.

(16) TERM OFFSET CREDIT.—The term ''term offset credit'' means a compliance instrument authorized under section 504(d).

(b) AGRICULTURAL AND FORESTRY EXCEPTION TO DEFINITION OF CAPPED SECTOR.—For purposes of this title and title III of this Act, and amendments made by such titles, the term ''capped sector'' means a sector of economic activity that directly emits capped emissions, including the industrial sector, the electricity generation sector, the transportation sector, and the residential and commercial sectors (to the extent they burn oil or natural gas), but not including the agricultural or forestry sectors.

SEC. 502. ESTABLISHMENT OF OFFSET CREDIT PROGRAM FROM DOMESTIC AGRICULTURAL AND FORESTRY SOURCES.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this title, the Secretary shall establish a program governing the generation of offset credits from domestic agricultural and forestry sources.

(b) REQUIREMENTS.—The program described in subsection (a) shall—

(1) ensure that offset credits represent verifiable and additional greenhouse gas emission reductions or avoidance, or increases in sequestration; and

(2) ensure that offset credits issued for sequestration offset projects are only issued for greenhouse gas reductions that result in a permanent net reduction in atmospheric greenhouse gases.

(c) DUTIES OF SECRETARY.—In addition to the duties described in subsection (a) and section 1245 of the Food Security Act of 1985 (16 U.S.C. 3845), the Secretary shall, with respect to practices relating to offset credits from agricultural and forestry sources—

(1) establish by rule methodologies by practice types for quantifying greenhouse gas benefits;

(2) establish by rule methodologies for each practice type for establishing activity baselines and determining additionality;

(3) establish by rule methodologies by practice types for accounting for and mitigating potential leakage;

(4) establish rules to account for and address reversals;

(5) establish rules to require third-party verification;

(6) provide technical assistance to offset project developers using funds appropriated to the Conservation Operations account;

(7) establish rules for approval of offset project plans;

(8) establish rules for certification of implementation of offset project plans;

(9) establish by rule requirements for reporting and record keeping; and

(10) conduct audits.

SEC. 503. LIST OF ELIGIBLE DOMESTIC AGRICULTURAL AND FORESTRY OFFSET PRACTICE TYPES.

(a) LIST REQUIRED.—

(1) PREPARATION AND PUBLICATION.—Not later than 1 year after the date of enactment of this title, the Secretary shall prepare and publish in the Federal Register a list of domestic agricultural and forestry practice types that are eligible to generate offset credits under this title because the practices avoid or reduce greenhouse gas emissions or sequester greenhouse gases.

(2) RECOMMENDATIONS.—In preparing the list under paragraph (1), the Secretary shall take into consideration the recommendations of the Advisory Committee.

(b) INITIAL LIST.—At a minimum, the list prepared under this section shall include those practices that avoid or reduce greenhouse gas emissions or sequester greenhouse gases, such as—

(1) agricultural, grassland, and rangeland sequestration and management practices, including—

(A) altered tillage practices;

(B) winter cover cropping, continuous cropping, and other means to increase biomass returned to soil in lieu of planting followed by fallowing;

(C) reduction of nitrogen fertilizer use or increase in nitrogen use efficiency;

(D) reduction in the frequency and duration of flooding of rice paddies;

(E) reduction in carbon emissions from organic soils;

(F) reduction in greenhouse gas emissions from manure and effluent; and

(G) reduction in greenhouse gas emissions due to changes in animal management practices, including dietary modifications;

(2) changes in carbon stocks attributed to land use change and forestry activities, including—

(A) afforestation or reforestation of acreage that is not forested;

(B) forest management resulting in an increase in forest carbon stores including but not limited to harvested wood products;

(C) management of peatland or wetland;

(D) conservation of grassland and forested land;

(E) improved forest management, including accounting for carbon stored in wood products;

(F) reduced deforestation or avoided forest conversion;

(G) urban tree-planting and maintenance;

(H) agroforestry; and

(I) adaptation of plant traits or new technologies that increase sequestration by forests; and

(3) manure management and disposal, including—

(A) waste aeration;

(B) biogas capture and combustion; and

(C) application to fields as a substitute for commercial fertilizer.

(c) ADDITIONS AND REVISIONS TO LIST.—

(1) PERIODIC REVISION.—Not later than 2 years after the date of enactment of this title, and every 2 years thereafter, the Secretary, after public notice and opportunity for comment, shall add to and revise the types of offset practices to the list established under subsection (a) if those types of practices meet the standards for environmental integrity that are consistent with the purposes of this title.

(2) CONSIDERATION OF PETITIONS.—The Secretary shall—

(A) consider petitions to add types of offset practices to the list established under subsection (a); and

(B) add those types of offset practices to the list if the types of offset practices meet standards for environmental integrity consistent with the purposes of this title.

(3) TIME FOR CONSIDERATION OF PETITIONS.—Not later than 1 year after the receipt of a petition under paragraph (2), the Secretary shall make a decision to either grant or deny the petition and publish a written explanation of the reasons for the Secretary's decision. The Secretary may not deny a petition under this subsection on the basis of inadequate Department of Agriculture resources at the time of the review.

SEC. 504. REQUIREMENTS FOR DOMESTIC AGRICULTURAL AND FORESTRY PRACTICES.

(a) METHODOLOGIES.—

(1) IN GENERAL; CONDITION.—In promulgating regulations under section 502, the Secretary shall establish methodologies for domestic agricultural and forestry practices listed under section 503, if the Secretary determines that methodologies can be established for such practices that meet each of the requirements of this section. The Secretary shall only issue offset credits under this title pursuant to promulgated methodologies applicable to the offset practice that avoided or reduced greenhouse gas emissions or sequestered greenhouse gases.

(2) SPECIFIED METHODOLOGIES.—The Secretary shall establish the following methodologies under this section:

(A) ACTIVITY BASELINES.—A standardized methodology for establishing activity baselines for an offset practice of that type. The Secretary shall set activity baselines to reflect a conservative estimate of performance or activities for the relevant type of practice (excluding changes in performance or activities due to the availability of offset credits) such that the baseline provides an adequate margin of safety to ensure the environmental integrity of offset credits calculated in reference to such baseline.

(B) ADDITIONALITY.—A standardized methodology for determining the additionality of greenhouse gas emissions reduction or avoidance, or greenhouse gas sequestration, achieved by an offset practice of that type. Such methodology shall ensure, at a minimum, that any greenhouse gas emission reduction or avoidance, or any greenhouse gas sequestration, is considered additional only to the extent that it results from activities that—

(i) are not required by existing government regulations, as determined by the Secretary;

(ii) were not commenced prior to January 1, 2009, except in the case of—

(I) offset project activities that commenced after January 1, 2001, and were registered as of the date of enactment of this title under an offset program with respect to which an affirmative determination has been made under section 740 of the Clean Air Act; or

(II) activities that are readily reversible, with respect to which the Secretary may set an alternative earlier date under this subparagraph that is not earlier than January 1, 2001, where the Secretary determines that setting such an alternative date may produce an environmental benefit by removing an incentive to cease and then reinitiate activities that began prior to January 1, 2009; and

(iii) exceed the applicable activity baseline established under paragraph (2).

(C) QUANTIFICATION METHODS.—A standardized methodology for determining the extent to which greenhouse gas emission reductions or avoidance, or greenhouse gas sequestration, achieved by an offset practice of that type exceeded a relevant activity baseline, including methods for monitoring and accounting for uncertainty.

(D) LEAKAGE.—A standardized methodology for accounting for and mitigating potential leakage, if any, from an offset practice of that type, taking uncertainty into account, excluding international indirect land use changes unless a positive determination is made under section 211(o)(13)(C)(iii) of the Clean Air Act.

(b) SPECIAL CONSIDERATIONS.—

(1) EXISTING OFFSET PRACTICES.—In establishing the methodologies under subsection (a), the Secretary shall give due consideration to methodologies for offset practices existing as of the date of the enactment of this title.

(2) CERTAIN FACTORS.—As part of the methodologies established under subsection (a), the Secretary shall establish a formula that takes into account the components of the practice, the characteristics of the land on which the practice is applied, the crop produced, and such other factors as determined appropriate by the Secretary.

(c) ACCOUNTING FOR REVERSALS.—

(1) IN GENERAL.—Except as provided in subsection (d) with respect to issuance of a term offset credit, for each type of practice listed under section 503, the Secretary shall establish requirements to account for and address reversals, including—

(A) a requirement to report any reversal with respect to an offset practice for which offset credits have been issued under this title;

(B) provisions to require emission allowances or offset credits to be held in amounts to fully compensate for greenhouse gas emissions attributable to reversals, and to assign responsibility for holding such emission allowances; and

(C) any other provisions that the Secretary determines to be necessary to account for and address reversals.

(2) MECHANISMS.—

(A) IN GENERAL.—The Secretary shall prescribe mechanisms to ensure that any sequestration of greenhouse gases, with respect to which an offset credit is issued under this title, results in a permanent net increase in sequestration of greenhouse gases, and that full account is taken of any actual or potential reversal of such sequestration, with an adequate margin of safety.

(B) SPECIFIC MECHANISMS.—The Secretary shall make available one or more of the following mechanisms to meet the requirements of this paragraph:

(i) An offsets reserve, pursuant to paragraph (3).

(ii) Insurance that provides for purchase and provision to the Secretary for retirement of a quantity of offset credits or emission allowances equal in number to the tons of carbon dioxide equivalents of greenhouse gas emissions released due to reversal.

(iii) Another mechanism if the Secretary determines it is necessary to satisfy the requirements of this title, taking into account whether the reversal was intentional or unintentional.

(3) OFFSETS RESERVE.—

(A) IN GENERAL.—An offsets reserve referred to in paragraph (2)(B)(i) is a program under which, before issuance of offset credits under this title, the Secretary shall—

(i) subtract and reserve from the quantity to be issued a quantity of offset credits based on the risk of reversal;

(ii) hold those reserved offset credits in the offsets reserve; and

(iii) register the holding of the reserved offset credits in an offset registry.

(B) PRACTICE REVERSAL.—

(i) IN GENERAL.—If a reversal has occurred with respect to an offset practice within an offset project, for which offset credits are reserved under this paragraph, the Secretary shall retire offset credits from the offsets reserve to fully account for the tons of carbon dioxide equivalent that are no longer sequestered.

(ii) INTENTIONAL REVERSALS.—If the Secretary determines that a reversal was intentional, the offset practice developer for the relevant offset practice shall place into the offsets reserve a quantity of offset credits, or combination of offset credits and emission allowances, equal in number to the number of reserve offset credits that were retired pursuant to clause (i).

(iii) UNINTENTIONAL REVERSALS.—If the Secretary determines that a reversal was unintentional, the offset project developer for the relevant offset project shall place into the offsets reserve a quantity of offset credits, or combination of offset credits and emission allowances, equal in number to half the number of offset credits that were reserved for that offset project, or half the number of reserve offset credits that were canceled due to the reversal pursuant to clause (i), whichever is less, except that the Secretary may lower this amount based on undue hardship in the event of a catastrophic occurrence.

(C) USE OF RESERVED OFFSET CREDITS.—Offset credits placed into the offsets reserve under this paragraph may not be used to comply with section 722 of the Clean Air Act.

(d) TERM OFFSET CREDITS.—

(1) APPLICABILITY.—With respect to a practice listed under section 503 that sequesters greenhouse gases and has a crediting period of no more than five years, the Secretary may address reversals pursuant to this subsection in lieu of permanently accounting for reversals pursuant to subsection (c).

(2) ACCOUNTING FOR REVERSALS.—For such practices or projects implementing such practices, the Secretary shall require only reversals that occur during the crediting period to be accounted for and addressed pursuant to subsection (c).

(3) CREDITS ISSUED.—For practices or projects regulated pursuant to paragraph (2), the Secretary shall issue under section 507 a term offset credit, in lieu of an offset credit, for each ton of carbon dioxide equivalent that has been sequestered.

(e) CREDITING PERIODS.—

(1) IN GENERAL.—For each offset practice type within an offset project, the Secretary shall specify a crediting period, and establish provisions for reenrollment for a subsequent crediting period, in accordance with this subsection.

(2) DURATION.—The crediting period shall have a term of up to—

(A) 5 years for agricultural sequestration practices;

(B) 20 years for forestry sequestration practices; and

(C) 10 years for other practice types that reduce or avoid greenhouse gas emissions or sequester greenhouse gases.

(3) ELIGIBILITY.—An offset practice, within an offset project, shall—

(A) be eligible to generate offset credits under this title only during the crediting period of the offset practice; and

(B) remain eligible to generate offset credits, only during the crediting period, subject to the methodologies and practice type eligibility list that applied as of the date of the project approval.

(4) REENROLLMENT FOR SUBSEQUENT CREDITING PERIOD.—

(A) REENROLLMENT AUTHORIZED; TIME FOR REENROLLMENT.—An offset project developer may reenroll for a subsequent crediting period, to commence after termination of the current crediting period, subject to the methodologies and practice type eligibility list in effect at the time of reenrollment. Reenrollment may not occur more than 18 months before the end of the crediting period then in effect.

(B) LIMITATION.—The Secretary may limit the number of subsequent crediting periods available for a particular practice type.

(f) ENVIRONMENTAL INTEGRITY.—In establishing the requirements under this section, the Secretary shall apply conservative assumptions or methods to ensure the environmental integrity of the cap established under section 703 of the Clean Air Act is not compromised.

SEC. 505. PROJECT PLAN SUBMISSION AND APPROVAL.

(a) PROJECT PLAN REQUIRED.—An offset project developer shall submit to the Secretary an offset project plan for approval.

(b) REQUIREMENTS.—As part of the regulations promulgated under this title, the Secretary shall include provisions for, and shall specify, the required components of an offset project plan, including—

(1) designation of an offset project developer;

(2) a list and schedule of the practices to be implemented;

(3) any other information that the Secretary considers to be necessary—

(A) to determine whether the offset practice, within the offset project, is eligible for issuance of offset credits under regulations promulgated under this title; and

(B) to achieve the purposes of this title.

(c) TIME FOR CONSIDERATION; NOTIFICATION.—Not later than 90 days after receiving a complete offset project plan under subsection (a), the Secretary shall—

(1) approve the plan in writing and include an estimate of the offset project credits that will be earned if the plan is implemented, subject to verification of all project-specific variables; or

(2) if the plan is denied, provide the reasons for denial in writing.

(d) APPEAL.—The Secretary shall establish procedures for appeal and review of determinations made under this section.

(e) RESUBMISSION.—After an offset project plan is approved, the offset project developer shall not be required to resubmit a project plan during the crediting period.

SEC. 506. VERIFICATION OF OFFSET PRACTICES.

(a) IN GENERAL.—As part of the regulations promulgated under this title, the Secretary shall establish requirements to verify—

(1) that offset practices in an approved offset project plan have been implemented; and

(2) the quantity of greenhouse gas emission reductions or avoidance, or sequestration of greenhouse gases, resulting from an offset practice and project.

(b) VERIFICATION REPORTS.—

(1) IN GENERAL.—The regulations described in subsection (a) shall require an offset project developer to submit a report, prepared by a third-party verifier accredited under subsection (c).

(2) REQUIREMENTS.—The Secretary shall specify the components of a verification report required under paragraph (1), including—

(A) the name and contact information for the offset project developer;

(B) a certification that the project plan has been implemented;

(C) the quantity of greenhouse gases reduced, avoided, or sequestered;

(D) a certification establishing that the conflict of interest requirements in the regulations promulgated under this title have been complied with;

(E) any other information that the Secretary requires to determine the quantity of greenhouse gas emission reduction or avoidance, or sequestration of greenhouse gases, resulting from the offset practice and project; and

(F) any other information that the Secretary considers to be necessary to achieve the purposes of this title.

(c) VERIFIER ACCREDITATION.—

(1) IN GENERAL.—As part of the regulations promulgated under this title, the Secretary shall establish a process and requirements for periodic accreditation of third-party verifiers for offset credits under this program to ensure that those verifiers are professionally qualified and have no conflicts of interest.

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

SEC. 507. CERTIFICATION OF OFFSET CREDITS.

(a) DETERMINATION AND NOTIFICATION.—Not later than 90 days after receiving a complete verification report, the Secretary shall—

(1) make a determination of the quantity of greenhouse gas emissions that have been reduced or avoided, or greenhouse gases that have been sequestered, by the offset practice in an approved and verified offset project plan; and

(2) notify the offset project developer in writing of the determination.

(b) ISSUANCE OF OFFSET CREDITS.—The Secretary shall issue 1 offset credit to an offset project developer for each ton of carbon dioxide equivalent that the Secretary determines has been reduced, avoided, or sequestered during the crediting period. Offset credits may be issued only for greenhouse gas emissions reduced, avoided, or sequestered after January 1, 2009.

(c) APPEAL.—The Secretary shall establish procedures for appeal and review of determinations made under subsection (a).

(d) TIMING.—Offset credits meeting the criteria described in subsection (b) shall be issued by the Secretary not later than 14 days after the date on which the Secretary makes a determination under subsection (a).

(e) REGISTRATION.—The Secretary shall obtain from the Administrator a unique serial number to allow for the registration of each offset credit to be issued under this title.

SEC. 508. OWNERSHIP AND TRANSFER OF OFFSET CREDITS.

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

(b) TRANSFERABILITY.—An offset credit issued under this title may be sold, traded, or transferred, unless the offset credit has expired or been retired.

SEC. 509. PROGRAM REVIEW AND REVISION.

At least once every 5 years, the Secretary shall review and, based on new or updated information and taking into consideration the recommendations of the Advisory Board, update and revise—

(1) the list of eligible practice types established under section 503;

(2) the methodologies established, including specific activity baselines, under section 504(a);

(3) the reversal requirements and mechanisms established or prescribed under subsections (c) and (d) of section 504;

(4) measures to improve the accountability of the offsets program; and

(5) any other requirements established under this title to ensure the environmental integrity and effective operation of this title.

SEC. 510. ENVIRONMENTAL CONSIDERATIONS.

If the Secretary lists forestry practices as eligible offset practice types under section 503, the Secretary, in consultation with appropriate Federal agencies, shall promulgate regulations for the selection and use of species in forestry and other relevant land management-related offset practices—

(1) to ensure that native species are given primary consideration in such practices;

(2) to encourage the conservation of biological diversity in such practices;

(3) to prohibit the use of federally designated or State-designated noxious weeds;

(4) to prohibit the use of a species listed by a regional or State invasive plant authority within the applicable region or State; and

(5) in accordance with widely accepted, environmentally sustainable forestry practices.

SEC. 511. AUDITS.

(a) AUDITS REQUIRED.—The Secretary shall conduct, on an annual basis, random audits of offset projects, offset credits, and the practices of third-party verifiers. At a minimum, the Secretary shall conduct audits each year for a representative sample of practice types and geographical areas.

(b) ADDITIONAL AUTHORITY.—Nothing in this section prevents the Secretary from conducting any audit the Secretary considers to be necessary.

Subtitle B—USDA Greenhouse Gas Emission Reduction and Sequestration Advisory Committee

SEC. 531. ESTABLISHMENT OF USDA GREENHOUSE GAS EMISSION REDUCTION AND SEQUESTRATION ADVISORY COMMITTEE.

Section 1245 of the Food Security Act of 1985 (16 U.S.C. 3854), as added by section 2709 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1809), is amended by adding at the end the following new subsection:

''(f) USDA GREENHOUSE GAS EMISSION REDUCTION AND SEQUESTRATION ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of the American Clean Energy and Security Act of 2009, the Secretary shall establish an independent advisory committee, to be known as the 'USDA Greenhouse Gas Emission Reduction and Sequestration Advisory Committee', to provide scientific and technical advice on establishing, implementing, and ensuring the overall environmental integrity of an offset program for domestic agricultural and forestry practices that reduce or avoid greenhouse gas emissions, or sequester greenhouse gases.

''(2) MEMBERSHIP.—The Advisory Committee shall be comprised of nine members, including a chairperson and vice-chairperson, appointed by the Secretary. Each member shall be qualified by education, training, and experience to evaluate scientific and technical information for domestic agricultural and forestry offset practices that reduce or avoid greenhouse gas emissions or sequester greenhouse gases.

''(3) TERMS.—Terms shall be 3 years in length, except for the initial terms, which may be up to 5 years in length to allow staggered terms. Members may be reappointed only once for an additional 3-year term, and such term may follow directly after a first term.

''(4) DUTIES.—The Advisory Committee shall—

''(A) provide options and recommendations, not later than 180 days after the date of the enactment of the American Clean Energy and Security Act of 2009, to the Secretary regarding the establishment of methodologies as described in section 504 of such Act, taking into account relevant scientific information, including—

''(i) the availability of representative data for use in developing an activity baseline for a land area, forest, soil, industry sector, and facility type;

''(ii) the potential for accurate quanitification of greenhouse gas reduction, or sequestration for an offset practice type;

''(iii) the potential level of scientific and measurement uncertainty associated with an offset practice type; and

''(iv) the use of practice methodologies that account for common practice or other direct comparisons within a relevant land area, industry sector, forest, soil, or facility type;

''(B) make available to the Secretary options and recommendations for the program as a whole and on offset methodologies for each practice type that should be considered under regulations promulgated pursuant to section 504 of the American Clean Energy and Security Act of 2009, including methodologies to address the issues of additionality, activity baselines, measurement, leakage, including the application of sector specific leakage factors, uncertainty, permanence, and environmental integrity;

''(C) make available to the Secretary advice and comment on areas where further knowledge is required to appraise the adequacy of existing, revised, or proposed methodologies and describe the research efforts necessary to provide the required information;

''(D) make available to the Secretary advice and comments on other ways to improve or safeguard the environmental integrity of the offset practice types listed under section 503 of the American Clean Energy and Security Act of 2009; and

''(E) provide options and recommendations regarding new practice types.

''(5) SCIENTIFIC REVIEW OF OFFSET PROGRAM.—Not later than January 1, 2017, and at 5-year intervals thereafter, the Advisory Committee shall—

''(A) submit to the Secretary and make available to the public an analysis of relevant scientific and technical information regarding agricultural and forestry offset practices that reduce or avoid greenhouse gas emissions or sequester greenhouse gases;

''(B) review approved and potential practice types, methodologies, scientific studies, offset project monitoring, offset project verification reports, reporting of reversals, audits related to the offset program, and other relevant information needed to evaluate the offset program;

''(C) evaluate the net emission effects of implemented offset projects; and

''(D) recommend changes to offset methodologies, procedures, practice types, or the overall program to ensure that—

''(i) the offset practices result in reduced or avoided greenhouse gas emissions or sequestration of greenhouse gases;

''(ii) the offset credits issued by the Secretary do not compromise the integrity of the annual emissions reductions established under section 703 of the Clean Air Act; and

''(iii) the offset program avoids or minimizes adverse affects to human health and the environment.

''(6) COORDINATION.—To avoid duplication, the Advisory Committee shall coordinate its activities with those of any other Federal advisory committees working in related areas, and shall to the maximum extent possible use research data and services of the research, education, extension agencies of the Department of Agriculture.

''(7) CONSULTATION.—On a periodic basis, the Advisory Committee shall consult with, and be informed by the views of, the Offsets Integrity Advisory Board established under section 731 of the Clean Air Act.

''(8) MEETING.—The Advisory Committee shall meet on at least a quarterly basis each year.

''(9) ADMINISTRATIVE SUPPORT AND FUNDING.—The Secretary may provide such administrative and funding support as necessary to enable the Advisory Committee to carry out its duties under this section.

''(10) REPORT.—For each fiscal year, the Secretary shall submit to Congress a report on—

''(A) the status and progress on the offset practices;

''(B) the general status of cooperation and research and development; and

''(C) the plans for addressing future issues and concerns.''.

Subtitle C—Miscellaneous

SEC. 551. INTERNATIONAL INDIRECT LAND USE CHANGES.

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

''(13) INTERNATIONAL INDIRECT LAND USE CHANGES.—

''(A) EXCLUSION FROM REGULATORY REQUIREMENTS REGARDING LIFECYCLE GREENHOUSE GAS EMISSIONS.—Notwithstanding the definition of 'lifecycle greenhouse gas emissions' in paragraph (1)(H), for purposes of determining whether the fuel meets a definition in paragraph (1) or complies with paragraph (2)(A)(i), the Administrator shall exclude emissions from indirect land use changes outside the renewable fuel's feedstock's country of origin.

''(B) NATIONAL ACADEMIES OF SCIENCE REPORT.—(i) Not later than 6 months after the date of enactment of this paragraph, the Administrator and the Secretary of Agriculture shall jointly arrange for the National Academies of Science to review and report on specified issues related to indirect greenhouse gas emissions related to transportation fuels.

''(ii) The report shall evaluate and report on whether there are economic and environmental models and methodologies that individually, or as a system, can project with reliability, predictability, and confidence—

''(I) for purposes of determining whether the fuel meets a definition in paragraph (1) or complies with paragraph (2)(A)(i), indirect land use changes that are related to the production of renewable fuels and that may occur outside the country in which the feedstocks are grown, and the impacts of these changes on greenhouse gas emissions; and

''(II) indirect effects, both domestic and international, related to the production and importation of non-renewable transportation fuels that have significant greenhouse gas emissions, and the impact of these effects on greenhouse gas emissions.

''(iii) The report shall include a review and assessment of all pertinent scientific studies, methodologies and data, shall evaluate potential methodologies for calculating such emissions (including an evaluation of methods for annualizing emissions associated with forest degradation or land conversion), and shall make appropriate recommendations. The recommendations shall address indirect effects, both domestic and international, related to the production and importation of non-renewable transportation fuels that have significant greenhouse gas emissions. The report shall use appropriate validation procedures, including sensitivity analyses, of how results change as assumptions change. The evaluation shall include for a model, a methodology, or a system of models—

''(I) an assessment of how reliably the models, methodologies, or systems track actual outcomes over historical periods using available historical data; and

''(II) an assessment of how reliably the models, methodologies or systems will project future outcomes.

''(iv) The report shall be publicly available and shall include sufficient information and data such that economists and other scientists with relevant expertise that are not on the National Academies of Science panel can fully evaluate the conclusions of the report.

''(v) The report shall be completed within three years of the date of enactment of this paragraph.

''(C) DETERMINATION.—(i) The Administrator and the Secretary of Agriculture shall, after notice and an opportunity for public comment, determine whether, for purposes of determining compliance with the percent reductions in lifecycle greenhouse gas emissions specified in paragraph (1) for various renewable fuels, scientifically valid models and methodologies exist to project indirect land use changes that are related to the production of renewable fuels and that occur outside the country in which the feedstocks are grown, and the impact of these changes on greenhouse gas emissions.

''(ii) The determination shall take into account the findings and recommendations of the report required under subparagraph (B), as well as other available scientific, economic, and other relevant information. The Administrator and the Secretary may also consider methods used by the Environmental Protection Agency, the Department of Agriculture, and other Federal agencies to assess or guide their related policies.

''(iii) The Administrator and the Secretary of Agriculture shall publish a proposed determination not later than 4 years after date of enactment of this paragraph, and shall publish a final determination not later than 5 years after date of enactment of this paragraph. An explanation and justification of the determination shall be included in the proposed and final actions, together with a response to comments received.

''(D) RESPONSE TO DETERMINATION.—(i) In the event of a positive determination under subparagraph (C), the Administrator and the Secretary of Agriculture shall, after notice and an opportunity for public comment, by the same date jointly establish a methodology (or methodologies) to calculate greenhouse gas emissions from indirect land use changes that are attributable to the production of renewable fuels and that occur outside the country in which feedstocks are grown for purposes of calculating a renewable fuel's lifecycle greenhouse gas emissions to determine whether the fuel meets a definition in paragraph (1) or complies with paragraph (2)(A)(i). The exclusion in subparagraph (A) shall end, and the Administrator shall issue a regulation by the same date that shall include emissions from indirect land use changes outside the renewable fuel's feedstock's country of origin for purposes of calculating a renewable fuel's lifecycle greenhouse gas emissions to determine whether the fuel meets a definition in paragraph (1) or complies with paragraph (2)(A)(i) for renewable fuels sold in the calendar year following the year of the positive determination. The effective date of the regulation shall be six years after the date of enactment of this paragraph.

''(ii) A negative determination under subparagraph (C) shall include a statement of the basis for the determination.

''(E) ACCOUNTABILITY.—The joint duties and actions of the Administrator and the Secretary of Agriculture shall be subject to sections 304 and 307 of this Act as if they were the duties and actions of the Administrator alone.''.

SEC. 552. BIOMASS-BASED DIESEL.

Section 211(o)(2)(A) of the Clean Air Act (42 U.S.C. 7545(o)(2)(A)) is amended by adding at the end the following new clause:

''(v) GRANDFATHERING BIOMASS-BASED DIESEL.—The Administrator shall promulgate regulations exempting from the lifecycle greenhouse gas requirements in subparagraphs (B) and (D) of paragraph (1) up to the greater of 1 billion gallons or the volume mandate adopted pursuant to subparagraph (B)(ii) of biomass-based diesel annually from facilities that commenced construction before the date of enactment of the Energy Independence and Security Act of 2007.''.

SEC. 553. MODIFICATION OF DEFINITION OF RENEWABLE BIOMASS.

(a) NATIONAL ACADEMY OF SCIENCES REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Federal Energy Regulatory Commission shall jointly arrange for the National Academy of Sciences to evaluate how sources of renewable biomass contribute to the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

(b) MODIFICATION.—

(1) EPA MODIFICATION AUTHORITY.—After reviewing the report required by subsection (a), the Administrator of the Environmental Protection Agency, in concurrence with the Secretary of Agriculture, may, by regulation and after public notice and comment, modify the non-Federal lands portion of the definition of ''renewable biomass'' in sections 211(o)(1)(I) and 700 of the Clean Air Act in order to advance the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

(2) FERC MODIFICATION AUTHORITY.—After reviewing the report required by subsection (a), the Federal Energy Regulatory Commission, in concurrence with the Secretary of Agriculture, may, by regulation and after public notice and comment, modify the non-Federal lands portion of the definition of ''renewable biomass'' in section 610 of the Public Utility Regulatory Policies Act of 1978 in order to advance the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

(c) FEDERAL LANDS.—

(1) SCIENTIFIC REVIEW.—The Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency shall conduct a joint scientific review, within one year after the date of enactment of this Act, to evaluate how sources of biomass from Federal lands could

contribute to the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

(2) MODIFICATION AUTHORITY.—Based on the scientific review, the agencies may, by rule, modify the definition of ''renewable biomass'' from Federal lands in sections 211(o)(1)(I) and 700 of the Clean Air Act and section 610 of the Public Utility Regulatory Policies Act of 1978 as appropriate to advance the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

The SPEAKER pro tempore. After 3 hours of debate on the bill, as amended, with 2½ hours equally divided and controlled by the Chair and ranking minority member of the Committee on Energy and Commerce and 30 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Ways and Means, it shall be in order to consider a further amendment in the nature of a substitute printed in part B of the report, if offered, by the gentleman from Virginia (Mr. FORBES) or his designee, which shall be considered read, and shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent.

The gentleman from California (Mr. WAXMAN) and the gentleman from Texas (Mr. BARTON) each will control 1 hour and 15 minutes. The gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. CAMP) each will control 15 minutes of debate on the bill.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. WAXMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Madam Speaker, I yield myself such time as I may consume.

Today we are taking a decisive and historic action to promote America's energy security and to create millions of clean-energy jobs that will drive our economic recovery and long-term growth.

This bill, when enacted into law, will break our dependence on foreign oil, make our Nation the world leader in clean-energy jobs and technology, and cut global warming pollution. As a result of these new policy settings, we will create millions of clean-energy jobs for America and restore our technological leadership in clean energy. We are also protecting consumers.

The bill tackles big problems that have been ignored for far too long. It proposes solutions that will transform our economic and clean-air environment.

There is a remarkable coalition behind this bill. Electric utilities support the bill. Manufacturers support the bill. Farmers support the bill, and so do the Nation's leading environmental organizations, labor unions, and faith-based groups.

There are many Members responsible for this remarkable coalition. On the Energy and Commerce Committee, JOHN DINGELL helped forge compromises with the auto industry. RICK BOUCHER developed ideas that will provide a future for coal. MIKE DOYLE addressed the concerns of the steel industry and other trade-vulnerable industries. The chairman of the Ways and Means Committee worked with us to make sure that the interest of low-income families are fully protected. And the chairman of the Agriculture Committee made sure the legislation addresses the concerns of farmers and makes them part of our energy future.

The need to act is clear and urgent. There is a national security imperative to act. This legislation at long last begins to break our addiction to imported foreign oil and put us on a path to true energy security.

There is a scientific imperative to act. The evidence on global warming, on the consequences of carbon emission is overwhelming, and we have based our bill on the science. And there is a moral imperative to act. We have obligations to protect and preserve the environment for our children and the generations that follow.

And there is an economic imperative to act. This legislation is an enormous jobs bill for America. It will promote investment and growth for decades ahead, creating jobs for the new-energy economy of the 21st century.

People in industry have told us that as soon as this legislation becomes law, we will find billions of dollars invested in infrastructure over the next 5 years. We can see an incredible lost opportunity if we don't act now. There are amazing developing new technological centers around the U.S., and we can see those jobs going overseas and that technological superiority going overseas as well.

And this bill is affordable. Contrary to what we will hear from our friends on the other side of the aisle, the Congressional Budget Office found that this legislation will cost households an average of only $175 in 2020, less than 50 cents a day. EPA's analysis put the cost at 22 to 30 cents a day, less than the cost of a single postage stamp, while lowering utility bills by 7 percent.

This bill is a tremendous opportunity to prevent a dangerous threat while creating millions of new jobs and driving economic growth. It will end our dependence on foreign oil and keep us more secure. This bill will drive a new era of sustainable growth and innovation, and I urge all Members to support it.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 24, 2009.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR CHAIRMAN WAXMAN: This is to advise you that, as a result of your having consulted with us on provisions in H.R. 2454, the American Clean Energy and Security Act of 2009, that fall within the rule X jurisdiction of the Committee on the Judiciary, we are able to agree to waive seeking any formal referral of the bill, in order that it may proceed without delay to the House floor for consideration.

The Judiciary Committee takes this action with the understanding that by forgoing further consideration of H.R. 2454 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation. We reserve the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this important legislation, and request your support if such a request is made.

I would appreciate your including this letter in the Congressional Record during consideration of the bill on the House floor. Thank you for your attention to our requests, and for the cooperative relationship between our two committees.

Sincerely,

JOHN CONYERS, JR.
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC, June 19, 2009.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN WAXMAN: I write to you. regarding H.R. 2454, the American Clean Energy and Security Act of 2009. This legislation was initially referred to the Committee on Energy and Commerce and in addition to the Committees on Foreign Affairs, Financial Services, Education and Labor, Science and Technology, Transportation. and-Infrastructure, Natural Resources, Agriculture, and Ways and Means.

H.R. 2454 was reported to the House by the Committee on Energy and Commerce on June 5, 2009. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner, and, accordingly, I will waive further consideration of this bill in Committee. However, agreeing to waive consideration of this bill should not be construed as the Committee on Science and Technology waiving its jurisdiction over H.R. 2454.

Further, I request your support for the appointment of Science and Technology Committee conferees during any House-Senate conference convened on this, or any similar legislation. I also ask that a copy of this letter and your response be placed in the Congressional Record during consideration of this bill on the House floor.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

BART GORDON,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, June 24, 2009.

Hon. BART GORDON,
Chairman, House Committee on Science and Technology, Washington, DC.

DEAR CHAIRMAN GORDON: Thank you for your letter regarding H.R. 2454, the ''American Clean Energy and Security Act of 2009.''

The letter noted that certain provisions of the bill are within the jurisdiction of the Committee on Science and Technology under rule X of the Rules of the House.

The Committee on Energy and Commerce recognizes the jurisdictional interest of the Committee on Science and Technology in these provisions. We appreciate your agreement to forgo action on the bill, and I concur that this agreement does not in any way prejudice the Committee on Science and Technology with respect to the appointment of conferees or its jurisdictional prerogatives on this bill or similar legislation in the future.

I will include our letters in the Congressional Record during consideration of the bill on the House floor. Again I appreciate your cooperation regarding this important legislation.

Sincerely,

HENRY A. WAXMAN.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, June 25, 2009.

Hon. EDOLPHUS TOWNS,
Chairman, House Committee on Oversight and Government Reform, Washington DC.

DEAR CHAIRMAN TOWNS: Thank you for your letter regarding H.R. 2454, the ''American Clean Energy and Security Act of 2009.'' The letter noted that provisions of the bill are within the jurisdiction of the Committee on Oversight and Government Reform under rule X of the Rules of the House.

The Committee on Energy and Commerce recognizes the jurisdictional interest of the Committee on Oversight and Government Reform in these provisions. We appreciate your agreement to work with us without sequential referral, and I concur that this agreement does not in any way prejudice the Committee on Oversight with respect to its jurisdictional prerogatives on this bill or similar legislation in the future. I also agree to support a request by the Committee with respect to serving as conferees on the bill, consistent with the Speaker's practice in this regard.

I will include our letters in the Congressional Record during consideration of the bill on the House floor. Again I appreciate your cooperation regarding this important legislation.

Sincerely,

HENRY A. WAXMAN,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC, June 25, 2009.

Hon. HENRY A. WAXMAN,
Chairman, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN WAXMAN: I am writing regarding H.R. 2454, the ''American Clean Energy and Security Act of 2009''. I appreciate your commitment and willingness to work with the Committee on Oversight and Government Reform on the provisions of H.R. 2454 that fall within the Oversight Committee's jurisdiction. These provisions include matters such as, but not limited to, federal procurement requirements and the elevation of the Inspector General of the Commodity Futures Trading Commission.

In the interest of expediting consideration of H.R. 2454, the Oversight Committee agreed to work with you on these provisions without a sequential referral of the bill. This should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 2454 that fall within the jurisdiction of the Committee.

The Committee maintains its interest in any provisions of the bill that are within the Committee's jurisdiction. I therefore request your support for the appointment of conferees from the Oversight Committee should H.R. 2454 or a similar bill be considered in conference with the Senate.

I also respectfully request that you include our exchange of letters on this matter in the Congressional Record during consideration of this legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

EDOLPHUS TOWNS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, June 26, 2009.

Hon. HOWARD L. BERMAN,
Chairman, House Committee on Foreign Affairs, Washington DC.

DEAR CHAIRMAN BERMAN: Thank you for your letter regarding H.R. 2454, the ''American Clean Energy and Security Act of 2009.'' The letter noted that certain provisions of the bill are within the jurisdiction of the Committee on Foreign Affairs under rule X of the Rules of the House.

The Committee on Energy and Commerce recognizes the jurisdictional interest of the Committee on Foreign Affairs in these provisions. We appreciate your agreement to forgo action on the bill, and I concur that this agreement does not in any way prejudice the Committee on Foreign Affairs with respect to its jurisdictional prerogatives on this bill or similar legislation in the future. I also agree to support a request by the Committee with respect to serving as conferees on the bill, consistent with the Speaker's practice in this regard.

I will include our letters in the Congressional Record during consideration of the bill on the House floor. Again I appreciate your cooperation regarding this important legislation.

Sincerely,

HENRY A. WAXMAN,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, June 26, 2009.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning H.R. 2454, the American Clean Energy and Security Act of 2009.

This bill contains provisions within the Rule X jurisdiction of the Committee on Foreign Affairs. In the interest of permitting your Committee to proceed expeditiously to floor consideration of this important bill, I am willing to waive this Committee's right to mark up this bill. I do so with the understanding that by waiving consideration of the bill, the Committee on Foreign Affairs does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of Foreign Affairs Committee conferees during any House-Senate conference convened on this legislation. I would ask that you place this letter into the Congressional Record during floor consideration of H.R. 2454.

I look forward to working with you as we move this important measure through the legislative process.

Sincerely,

HOWARD L. BERMAN,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, June 26, 2009.

Hon. HOWARD L. BERMAN,
Chairman, House Committee on Foreign Affairs, Washington DC.

DEAR CHAIRMAN BERMAN: Thank you for your letter regarding H.R. 2454, the ''American Clean Energy and Security Act of 2009.'' The letter noted that certain provisions of the bill are within the jurisdiction of the Committee on Foreign Affairs under rule X of the Rules of the House.

The Committee on Energy and Commerce recognizes the jurisdictional interest of the Committee on Foreign Affairs in these provisions. We appreciate your agreement to forgo action on the bill, and I concur that this agreement does not in any way prejudice the Committee on Foreign Affairs with respect to its jurisdictional prerogatives on this bill or similar legislation in the future. I also agree to support a request by the Committee with respect to serving as conferees on the bill, consistent with the Speaker's practice in this regard.

I will include our letters in the Congressional Record during consideration of the bill on the House floor. Again I appreciate your cooperation regarding this important legislation.

Sincerely,

HENRY A. WAXMAN,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC, June 25, 2009.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR CHAIRMAN WAXMAN: I write to you regarding Congressman Boccieri's amendment to the amendment in the nature of a substitute to H.R. 2454, the American Clean Energy and Security Act of 2009.

It is my understanding that you are seeking my support to have this amendment made in order for floor consideration. I will support this amendment being made in order, but only with the understanding that the programs contained in this amendment are within the sole jurisdiction of the Committee on Science and Technology based on our Rule X jurisdiction over the National Institutes of Standards and Technology. In addition, I ask for your commitment that the Science and Technology Committee will be given deference in any House-Senate conference on any matters relating to this provision or any similar provision.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

BART GORDON,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, June 25, 2009.

Hon. BART GORDON,
Chairman, Committee on Science and Technology, Washington, DC.

DEAR CHAIRMAN GORDON: Thank you for your letter regarding Congressman Boccieri's amendment to the amendment in the nature of a substitute to H.R. 2454, the American Clean Energy and Security Act of 2009.

I agree that the programs contained within this amendment would receive an exclusive referral to the Committee on Science and Technology. I also agree that the inclusion of this provision in H.R. 2454 should not be construed to give the Committee on Energy and Commerce a jurisdictional claim to the provision. In addition, I agree to defer to the

Science and Technology Committee in any House-Senate conference on any matters relating to this provision or any similar provision.

I appreciate your support of this amendment, and I appreciate your cooperation regarding this important legislation.

Sincerely,

HENRY A. WAXMAN,
Chairman.

I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that the ranking member of the Agriculture Committee, the gentleman from Oklahoma (Mr. LUCAS), control the first 15 minutes of debate on the minority side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LUCAS. Madam Speaker, I thank the gentleman from Texas, and I yield myself such time as I may consume.

The Waxman-Markey bill promises to destroy our standard of living and the quality of life with higher energy costs, higher food prices, and lost jobs. The bill is the single largest economic threat to our farmers and ranchers in decades. We have more than 115 agricultural and food groups who publicly oppose this bill as of today, and I ask that the list be entered in the RECORD.

Do you know why? The greatest threat to our agricultural producers is ignored. Under H.R. 2454, input costs will escalate as a direct result of the energy tax. Meanwhile, the markets for their crops will shrink because of foreign competitors whose governments will not place burdens on their farmers. They will be able to undersell us.

And what about the billions of dollars annually that farmers are supposed to garner selling offset credits? Many farmers will not be able to participate. Soil sequestration of carbon was going to be the way for farmers to generate credits, but if the producer started soil tillage practices before 2001, they will be ineligible to participate.

The amendment does not exempt agriculture from performance standards in the bill, which means the EPA could tell our producers how to manage their farms.

This bill will tax you. This bill will destroy the livelihoods of those who live and work in rural America, those who work every day to consistently provide our Nation and the world with a safe, affordable, abundant food and fiber supply. Agriculture sits squarely in the crosshairs of this bill because it is energy intensive. Whether it is the fuel for the tractor, the fertilizer for the crops, or the delivery of food to the grocery store, agriculture uses a great deal of energy throughout production and processing.

Although USDA hasn't devoted any time or resources to complete an economic analysis of how this bill will impact farmers, the Heritage Foundation has. A recent study from the Heritage Foundation revealed that by the year 2035, the average net income for farms will be decreased by 57 percent. And also by 2035, gasoline and diesel costs are expected to be 58 percent higher and electric rates 90 percent higher. For example, residents in Oklahoma can expect their electric rates to increase by $300 million.

So why are we doing this bill? So the U.S. can lead on climate change in the world? We can lead when China and India have refused to participate? We can lead when Europe is willing to do half of what this bill calls for? We can lead when the rest of the developing world is unable to do anything at all about climate change?

Some of my idealistic colleagues will say we have to set a standard for the rest of the world. But I say I will not make any constituents poor—poorer—so that others can get richer at our expense. My friends, this is the wrong bill at the wrong time for the wrong reason.

Madam Speaker, I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, at this time I am delighted to yield to the gentleman from Massachusetts (Mr. MARKEY), the chairman of the Subcommittee on Energy and the Environment as well as the Select Committee on Global Warming. He has played the fundamental role of shepherding this bill through our committee and working to get it to the floor today. I yield to Mr. MARKEY 3 minutes.

Mr. MARKEY of Massachusetts. I thank the gentleman from California, and I thank him and his staff for the outstanding leadership and vision which he has provided on this legislation. This is the culmination of a career of work for the gentleman from California, and it is my honor to have been allowed to partner with him in order to construct this legislation that we bring to the floor here today.

I want to thank, as the gentleman from California has noted, the other Members who have worked on this legislation: Mr. DINGELL, Mr. BOUCHER, Mr. DOYLE, Mr. INSLEE, Mr. GREEN, Mr. BUTTERFIELD, Mr. STUPAK, Mr. RUSH. So many Members, including Members off the committee like HENRY CUELLAR from the State of Texas who worked with us on natural gas-related issues. We would not be here unless we had the cooperation of so many Members across the full spectrum of the House.

During this process, we have received valuable input and expertise from other leaders in the House, like Chairman RANGEL on trade issues, Chairman PETERSON on agriculture issues, amongst, again, many others.

The legislation we have before us today is the most important energy and environment legislation to ever have been considered in the history of the United States. The consequences for our country are great unless we act to deal with these issues.

This legislation sets a new course for our country, creating millions of new, clean-energy jobs while reducing our dependence upon imported oil. And when it becomes law, and it will, for the first time in the history of the United States Congress, for the first time in the history of our country, we will put enforceable limits on global warming pollution.

At its core, however, this is a jobs bill. It will create millions of new, clean-energy jobs in whole new industries with incentives to drive competition in the energy marketplace. It sets ambitious and achievable standards for energy efficiency and renewable energy from solar, wind, geothermal, biomass so that by 2020, 20 percent of America's energy will be clean.

It saves consumers money by updating efficiency standards for new buildings, appliances, and lighting systems. It invests $10 billion a year in energy efficiency programs in States across this country.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. WAXMAN. Madam Speaker, I yield the gentleman an additional minute.

Mr. MARKEY of Massachusetts. And it starts the much-needed process of making our electric grid a smart grid so we can plug in the hybrid and electric cars of the future into an advanced, efficient energy network that by the year 2030 we will be raising a generation of children who know not how to receive gasoline at a gasoline station but, rather, by plugging their cars into a plug so that the electricity that we are generating ensures that those vehicles are being run for the benefit of our people.

This is a revolution. This is a moment in history. This is what the American people were calling for in the election of 2008, a fundamental change that breaks our dependence upon imported oil, creates millions of new jobs, reduces the amount of pollution that we send up into the atmosphere, and points us in a new direction in our country that breaks with the pattern of cyclical dependence on imported oil coming from OPEC that holds our Nation hostage.

I urge an ''aye'' vote on this bill.

Madam Speaker, I rise in strong support of H.R. 2454, the Waxman-Markey American Clean Energy and Security Act.

I want to start by thanking the Chairman of the Energy and Commerce Committee and my partner in this legislation, HENRY WAXMAN. He and I and our staffs have worked tirelessly on this bill, and his leadership, patience and fortitude have been remarkable.

And I want to thank all of my Energy and Commerce colleagues, especially RICK BOUCHER, JOHN DINGELL, MIKE DOYLE, JAY INSLEE, GENE GREEN, GK BUTTERFIELD, BART STUPAK and so many others. And special thanks to Speaker NANCY PELOSI on her outstanding leadership on these issues since she became Speaker.

And during this process we have received valuable input and expertise from other leaders in the House like Chairman RANGEL on trade issues and Mr. PETERSON on agriculture issues.

The legislation we have before us today is the most important energy and environmental

legislation in the history of our country. It sets a new course for our country, one that steers us away from foreign oil and towards a path of clean American energy.

It will create millions of new clean energy jobs while reducing our dependence on foreign oil.

And when it becomes law, it will, for the first time in the history of the United States Congress, put enforceable limits on global warming pollution.

I also want to take time to commend my colleague JOHN MCHUGH for his outstanding leadership on acid rain and air pollution control.

His state and my state both share a common problem of transported air pollution which falls in New York and New England as acid rain.

JOHN MCHUGH has worked tirelessly to protect public health and the environment from the deleterious effects of air pollution, especially the problems of acid rain and toxic mercury pollution.

Reducing emissions of greenhouse gases must be done immediately to stop global warming, but we must also continue to reduce emissions of NO_X SO_X and mercury.

The technologies that we will use to reduce global warming pollution will also reduce other pollutants that kill our citizens and damage our environment.

We need to get the programs, including the Clean Air Interstate Rule and facility-specific mercury regulations, back on track.

Representative MCHUGH has introduced H.R. 1841, legislation that would help protect public health and fight acid rain.

That legislation describes well the problems we face today in fighting acid rain, soot and smog and sets forth thoughtful solutions to those problems. I agree with the gentleman that:

(1) reductions of atmospheric sulfur dioxide and nitrogen oxide from utility plants, in addition to the reductions required under the Clean Air Act (42 U.S.C. 7401 et seq.), are needed to reduce acid deposition and its serious adverse effects on public health, natural resources, building structures, sensitive ecosystems, and visibility; (2) sulfur dioxide and nitrogen oxide contribute to the development of fine particulates, suspected of causing human mortality and morbidity to a significant extent; (3) regional nitrogen oxide reductions of 75 percent in the Eastern United States, in addition to the reductions required under the Clean Air Act, may be necessary to protect sensitive watersheds from the effects of nitrogen deposition; (4) since the Clean Air Act Amendments of 1990 were enacted, some acidic lakes in the Adirondacks in the State of New York have started to slowly show chemical recovery from acid rain, demonstrating that sulfur dioxide and nitrogen oxide regulations can be implemented in a cost-effective manner, but the recovery is progressing at a slower rate than originally intended; (5) nitrogen oxide is highly mobile and can lead to ozone formation hundreds of miles from the emitting source; (6) on March 10, 2005, the Environmental Protection Agency (EPA) issued the Clean Air Interstate Rule (CAIR) to require additional reductions in sulfur dioxide and nitrogen oxide in 28 Eastern States and the District of Columbia; (7) these reductions represent approximately a 70 percent reduction in sulfur dioxide and a 60 percent reduction in nitrogen oxide in the affected States; (8) on July 11, 2008, the United States Court of Appeals for the District of Columbia Circuit vacated CAIR and on December 23, 2008, the same court remanded the rule back to the EPA without vacature; (9) fossil fuel-fired electric generating units emit approximately 1/3 of the total mercury emissions in the United States; (10) mercury is considered a neurotoxin which can bioaccumulate as it moves its way up the food chain and is especially harmful to young children and developing fetuses; (11) according to the EPA, there were 3,080 fish advisories for mercury in 2006; there are over 90 fish advisories for mercury in New York alone, with blanket warning for the Adirondack and Catskill Mountains; (12) on March 15, 2005, EPA issued the Clean Air Mercury Rule (CAMR), which for the first time sought to regulate mercury emissions from power plants, but used a less restrictive cap-and-trade approach for this very harmful substance and would take a full decade to implement; (13) on February 8, 2008, the United States Court of Appeals for the District of Columbia Circuit vacated CAMR; and (14) on February 23, 2009, the Supreme Court denied a request to reconsider the decision.

This bill includes a study on the effects of different carbon reduction strategies on reducing emissions of NO_X, SO_X and mercury. Such a study will ensure that as we move to control greenhouse gas emissions, particularly from coal fired power plants that emit mercury, NO_X and SO_X, we do not lose the opportunity to implement the most cost effective ways of controlling soot, smog and mercury.

This is exactly the type of very thoughtful work that JOHN MCHUGH has done during his many years in Congress to protect public health and fight acid rain and I am proud to stand beside this champion of environmental protection as we move to pass this legislation.

At its core, this is a jobs bill. It will create millions of new, clean energy jobs in whole new industries with incentives to drive competition in the energy marketplace.

It sets ambitious and achievable standards for energy efficiency and renewable energy from solar, wind, geothermal and biomass, so that by 2020, 20 percent of America's energy will be clean.

It saves consumers money by updating efficiency standards for our new buildings and the appliances and lighting systems we use. It invests $10 billion a year in energy efficiency programs in states across the country.

And it starts the much-needed process of making our electric grid a Smart Grid, so we can plug in the hybrid and electric cars of the future into an advanced, efficient, domestically-powered energy network that will give consumers more control of their power bill.

It makes nearly $200 billion in investments in clean energy technologies, including $20 billion in vital clean energy research and development.

And it does all this while nearly doubling the size of the economy by 2030, remaining budget neutral, and costing the average American family less than a postage stamp a day—a small price to pay as we transition off foreign oil once and for all.

By bringing competition and efficiency back to the energy marketplace, Waxman-Markey will deliver consumer savings. America's low-income families will actually benefit by $40 a year in 2020, and the energy efficiency policies alone will save American families more than $200 every year by 2030.

This bill address a technological imperative to lead on clean energy, the economic imperative to compete in a global clean energy race, and the moral imperative to protect our planet and the rights of all to live and prosper for generations to come.

This bill has the goals of the moon landing, the moral imperative of the Civil Rights Act, and the scope of the Clean Air Act, wrapped up in one.

I believe this is the most important vote we will take in our lives. The entire world is watching us. Our children and grandchildren are watching us. We have a choice to make and the fate of the planet hangs in the balance.

We cannot afford to be governed by fear and cling to the failed policies that have brought us to this crisis. As the President said yesterday: "We cannot be afraid of the future, and we can't be prisoners of the past."

Scientists say that global warming is a dangerous man-made problem.

Today we are saying clean energy will be the American-made solution.

This is an historic bill. This is a historic vote. This is a historic choice.

I urge my colleagues to support the Waxman-Markey American Clean Energy and Security Act. Vote "aye."

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Mr. LUCAS. Madam Speaker, I recognize the gentleman from Virginia (Mr. GOODLATTE) for 2 minutes.

(Mr. GOODLATTE asked and was given permission to revise and extend his remarks.)

Mr. GOODLATTE. Madam Speaker, I rise in strong opposition to this bill.

I agree with one thing the gentleman from Massachusetts had to say and, that is, this bill has very important consequences, but those consequences are devastating for the future of the economy of this country, and it's in pursuit of the fantasy of thinking that this legislation will cause us to be able to turn down the thermostat of the world by reducing CO_2 gas emissions when China and India and other nations are pumping more and more CO_2 gas into the atmosphere all the time.

We would be far better served with legislation that devotes itself to developing new technologies before we slam the door on our traditional sources of energy like coal and oil and natural gas and nuclear power, the most CO_2-free emission that we have; and this bill does nothing to promote it.

It stifles the ability of the people of this country to have the kind of competitiveness they need in the world to be able to get inexpensive sources of energy. So I strongly oppose this legislation.

You know, we, Republicans and Democrats, offered over 200 amendments to try to improve this bill. They made in order one. In shutting down this democratic process, the Speaker of the House has taken away the voice of the American people. The simple truth behind this legislation is it raises taxes, kills jobs, and will lead to more government intrusion.

It is estimated this bill will raise electricity rates 90 percent, gasoline prices 74 percent, natural gas prices 55 percent—and that's in addition to the expected rise in all of those sources of energy because this Congress, for the last 2½ years, has refused to take up a real American energy plan to devote more to producing domestic sources of all of our traditional sources of energy and developing new sources.

We support the effort for energy efficiency. We support the effort to promote new and alternative forms of energy. We do not support this kind of suicide for the American economy.

I urge my colleagues to oppose this legislation.

It would be true democracy to allow the people's representatives to have a say about what is in this legislation. However, committees with jurisdiction, including the Agriculture Committee, were not allowed to mark-up the bill and make changes.

The simple truth behind this legislation—it raises taxes, kills jobs and will lead to more government intrusion. Many have said the ''Peterson compromise'' is a win for farmers. Let me be clear, this legislation is not a win for American famers. Agriculture is an energy intensive industry, and this legislation will make the cost of energy even higher for everyone.

In effect this legislation turns off the ability to produce energy from reliable sources in favor of energy technologies that have not proven that they can meet the energy demands of our nation. We cannot ignore that America's economy is intrinsically linked to the availability and affordability of energy. During this economic slow-down we should adopt policies that seek to rebuild our economy and create more jobs. We need reliable and affordable energy supplies. Unfortunately, cap and trade legislation would only further cripple our economy.

Mr. WAXMAN. Madam Speaker, I want to yield now to the gentleman who had been the chairman of the Energy Subcommittee on our full committee last Congress and who was instrumental in getting the first draft of the legislation that we worked off, but more importantly, as a knowledgeable individual of this area and from a constituency that has a special concern about the problems, he was able to negotiate with us so that we could reach some of the accommodations in this legislation that has made it a much better bill.

I yield, with great admiration, 5 minutes to the gentleman from Virginia (Mr. BOUCHER).

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. I thank the gentleman from California for yielding and congratulate him on the tremendous leadership that he has shown in bringing this measure to the House floor this afternoon.

Madam Speaker, I rise in strong support of the bill, and I urge its approval by the House. It achieves broad reductions in greenhouse gases, enhances America's energy security, and by placing a price on carbon dioxide emissions, will unleash investments in clean-energy technologies that will create millions of new American jobs.

These energy technologies will evolve from America's laboratories; they will be deployed at home; they will be exported around the world; they will be the foundation for our next technology revolution. And it all starts here with passage today of the Clean Energy Security Act.

Approximately 80 percent of the electricity in the district that I represent is coal-generated. Coal production is one of our region's major industries, and it is a major employer of our constituents. Not surprisingly, my focus in the shaping of the bill in the Energy and Commerce Committee was to keep electricity rates affordable and to enable utilities to continue using coal, which accounts for fully 51 percent of America's electricity generation. Both of these goals have been achieved in the bill that is before us today.

Electricity rates will be only modestly affected. The nonpartisan Congressional Budget Office says that by 2020, the cost of the entire program for the typical American family will be $175 per year. The Environmental Protection Agency projects that the nearer-term cost for the typical family from all elements of this legislation will be between $80 and $110 per year; that's about 20 cents a day for the typical American family. And so the claims by the opponents that this legislation will impose enormous electricity price increases are simply wrong.

The Environmental Protection Agency projects that by 2020, the usage of coal in our economy will grow as compared to today's usage. Now, that may seem somewhat counterintuitive in a bill that regulates greenhouse gas emissions, so let me repeat that: the EPA projects that by 2020, coal usage in America, under the terms of this bill, will actually grow.

As transportation electrifies and the demand for electricity increases, coal, our most abundant fuel, will still be the fuel of choice to meet that rising demand. The claims of opponents that the CO_2 controls under the bill will force utilities to surrender coal use, causing an overreliance on natural gas with attendant broad economic harm to the Nation, are also simply wrong.

This is a responsible measure. It is carefully balanced; it reduces greenhouse gases by 83 percent by the year 2050 as compared to 2005 levels; it keeps electricity rates affordable; it enables coal usage to grow as the demand for electricity increases nationwide; and it opens the door to a more secure energy future and the creation of millions of new jobs, innovating, deploying and exporting to the world the new, low-carbon-dioxide-emitting technologies that will power our energy future.

Now, these are sound reasons to approve the bill; but for those who still harbor doubts, let me make a more practical argument to vote for passage.

In March of 2007, the Supreme Court held that carbon dioxide is a pollutant. Under that ruling, and the terms of the existing Clean Air Act, the Environmental Protection Agency is now effectively required to regulate CO_2 emissions, and so Federal regulation for greenhouse gases is now inevitable. It is not a question of whether we are going to have regulation. The only question is whether the regulation will be our carefully balanced, congressionally adopted, economically sustainable regulation, as contained within the bill before us today, or whether we will have EPA's regulation under the blunt instrument of the Clean Air Act where economic considerations cannot be fully waived.

Given that choice, and the path this bill charts for affordable electricity, for increased coal use, and for new job creation, I would urge the Members to make the reasonable decision to approve today the Clean Energy Security Act.

Mr. LUCAS. Madam Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. I thank the gentleman for yielding.

Madam Speaker, there is an assertion, a story around Congress today that with the adoption of the Peterson amendment, the negotiations between the chairman of the Agriculture Committee and the chairman of the Commerce Committee, that this bill somehow now becomes acceptable, something advantageous for those of us who represent rural America. I can assure my colleagues, Republican or Democrat, who come from rural America and who represent agricultural interests that nothing could be further from the truth. While the Peterson amendment substantially improves the bill, at least modestly improves the bill, the end result is nothing but something that is disadvantageous and negative for rural economies.

Agriculture had thought at one point in time there would be something they could gain from sequestering carbon in the soil, and yet this bill still provides no assurance that the EPA—not the Department of Agriculture, but that the EPA will allow that to occur. If they would, then the Department of Agriculture is involved; but once again, agriculture is not even mentioned in this bill in regard to offsets.

In addition to that, the electric cooperatives are still disadvantaged. If you come from rural America, the allowances that this bill allows are advantages to those who live on the west and east coasts, and yet those of us who represent some of the poor areas of the country, we will be transferring our income and wealth to those coasts.

This bill, in my opinion, is a jobs bill, as indicated by the gentleman from

Massachusetts, but it is a jobs elimination bill. This bill creates a significant competitive disadvantage for American small business and agriculture as we try to compete in the global economy in which other countries do not abide by these caps, rules, or regulations.

I would assert that during my time in Congress there is no piece of legislation that will be more damaging to the future of rural America, to the future of small farms and businesses than the bill that is before us today. This bill—a jobs bill, as described by the gentleman from Massachusetts—is a job elimination bill, not a job creation bill. I urge my colleagues, both Republicans and Democrats, who come from the Midwest, who come from rural America to vote ''no.''

Mr. WAXMAN. Madam Speaker, it is my privilege now to yield 1 minute to a very important member of the committee, Mr. ENGEL.

Mr. ENGEL. I thank the chairman for yielding to me, and I rise in support of this bill as I supported it in committee.

I think this bill goes a great step in the right direction. It will revitalize our economy by creating millions of clean-energy jobs, increase our national security by reducing our dependence on foreign oil, and help preserve our planet by reducing greenhouse gas emissions.

But I want to mention, as I did in committee, my disappointment that the bill does not contain strong enough language in terms of flex-fuel cars in this country. I believe very strongly that the United States needs to move towards cars manufactured in America that can run on methanol, ethanol, and gasoline. If you give gasoline competition with ethanol and methanol, I believe that it will reduce the price of gasoline. So I am disappointed that while the bill goes a step in that direction, it doesn't go totally in the direction that I would like to see.

Yesterday, Energy Secretary Chu said all new cars should have flex-fuel capacity in this country. And I would like to enter this into the RECORD from The Des Moines Register.

Madam Speaker, flex-fuel vehicles would only cost $90 or $100 per car, and it would be very important to moving us in that direction.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman 1 minute.

Mr. ENGEL. I thank the chairman.

Just 6 months ago, the CEOs of GM, Chrysler and Ford appeared before the House Financial Services Committee, and each committed to making 50 percent of their cars flex-fuel vehicles by 2012. They are reneging now, and I believe that we should have strong language to move them back to their original position. I really believe that flex-fuel cars are the way to go.

But we have a bill before us, and the bill is much, much more positive than anything else. It is a big step in the right direction. And I think that our colleagues who are on the fence—as I pointed out, the bill doesn't give everything to everybody and it doesn't do nearly what I would like it to do, but I think it does enough so that we ought to move this country in the right direction to make ourselves energy independent, to reduce the warming of our planet, and to reduce the greenhouse gases.

So I would urge my colleagues for a ''yes'' vote. We can work afterwards to make the bill better, we can work afterwards to have the policies that we want to see, but rejection of this bill would be a terrible step in the wrong direction.

I urge my colleagues to vote ''yes.''

[From the Des Moines Register, June 22, 2009]

CHU: ALL NEW CARS SHOULD HAVE FLEX-FUEL CAPACITY

(By Thomas Beaumont)

U.S. Energy Secretary Steven Chu said in Des Moines today the nation's car manufacturers ought to make all new automobiles able to run on E85 ethanol-blended fuel.

But Chu said the government could face resistance should it insist on the new standard, despite two of the nation's three main automakers' having recently filed for bankruptcy protection.

Chu, in Iowa awarding the state a share of its federal stimulus money, later said all pumps ought to offer at least a blend of 15 percent ethanol.

''We should think about doing the following. I've been told it costs about $100 in gaskets and fuel lines to turn a car so that it can go all the way to E85,'' Chu said, addressing public officials and news media at the Des Moines Botanical Center.

E85 is a blend of 85 percent ethanol and 15 percent gasoline. Iowa is the nation's leading producer of ethanol.

''But a new car, it would only cost $100 out of $15,000. Wouldn't it be nice to put in those fuel lines and gaskets so that we can use any ratio we wanted,'' Chu added. ''It's just a thought, I don't think you're going to get any objections in this audience.''

Chu stopped short of saying the Obama administration would require the companies to build all vehicles as flex-fuel-ready.

''It's beginning to be discussed,'' Chu said. ''But, again, it's one of those things where I think with virtually anything, once the government steps in the natural tendency is to resist government intervention.''

General Motors and Chrysler have recently sought bankruptcy. The federal government would become a majority shareholder in GM.

There is legislation pending in Congress that would require all domestic automobiles to eventually make all vehicles capable of running on E85.

Monte Shaw, executive director of the Iowa Renewable Fuel Association said the government's new financial stake in the auto industry means it can require the higher renewable fuel standard.

''Clearly, if the White House decided they wanted GM and Chrysler to do this, they would do it,'' Shaw said. ''I think it would be good. Once one company goes that way, I think it puts pressure on the other automakers not to be left out.''

Mr. LUCAS. Madam Speaker, I recognize the gentleman from Ohio (Mr. LATTA) for 1 minute.

Mr. LATTA. I thank the gentleman for yielding.

Madam Speaker, I rise today in opposition to this massive national energy tax.

You know, we are all for clean energy. And Republicans have put forth an all-of-the-above strategy, and that's the strategy we need to do in this country. We can't pick winners and losers.

I represent a very interesting district in Ohio. Not only do I represent the largest manufacturing district in the State of Ohio, I represent the largest agricultural district. Ohio uses 87 percent of its coal for our generation. What this bill is going to do is kill jobs in Ohio, and we are struggling right now. It's tough.

One of the things that a lot of people don't realize out there because we have so few farmers out there that are left, less than 1 percent in Ohio, is that we have so many of our farmers, my relatives included, that not only work a full day on the farm, but they go out and work all night on another job. But we've got to have jobs going both ways parallel with each other.

This bill is not going to help these people out there. This bill is going to kill jobs across this country. And when the Secretary of Agriculture was before us not too long ago, I posed this question: Is China going to comply with what we're going to do? And the answer was, Well, maybe not this month, or maybe not next month, but it's going to happen.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. LUCAS. I yield the gentleman an additional 15 seconds.

Mr. LATTA. We can't put the American farmer behind the proverbial eight ball. We've got to be able to compete against the world, and this bill is going to kill that ability to do that.

I thank the gentleman for yielding.

□ 1315

Mr. WAXMAN. Madam Speaker, it's my distinct honor to yield 2 minutes to the chairman emeritus of our committee who has been the leader in fashioning so many important legislative proposals that are now law and are serving our country so well, the gentleman from Michigan (Mr. DINGELL).

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. I thank my good friend from California for his kind remarks, and I express my appreciation to him.

Madam Speaker, I rise in support of the Clean Energy Security Act. But before I address my remarks, I want to congratulate you on your distinguished service here and wish you well in the future and express my personal distress that you are leaving us.

Now, my colleagues on the Republican side, they are very anxious to criticize the bill. And there are criticisms that can be had. There is not one of the 435 of us that could not come forward with statements in saying that

the bill could be improved and that there are faults in the bill. Both of those statements are true.

But the harsh fact of the matter is it is urgent that we commence acting upon this legislation. It is based largely on the recommendations of USCAP, which is a diverse group of environmental groups and industry with a shared desire for a commonsense bill to address climate change. That process began last year with the drafting of the initial versions of this legislation, which were taken and which were then handled by my friend from California. I would note that those proposals have undergone significant improvement by reason of the work of Members of this Congress and this committee.

Now, there are some hard facts to be addressed. There's a scientific consensus that we need to address climate change quickly and effectively. We need and industry needs certainty. This bill gives certainty to American industry. Without this certainty new expansion and new investment in this difficult time is not going to occur. There will be jobs which will flow from this legislation.

Actions by the Supreme Court, and I urge my colleagues to be scared to death of this——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional minute.

Mr. DINGELL. Actions by the Supreme Court in a recent endangerment finding by EPA makes it critically important that we act. Otherwise, greenhouse gases will be regulated by EPA. And if you want something to shudder about, I beg you to take a look at that because we will see better than 300 different kinds of regulations coming from Federal and State bodies if we're charged with this.

Now, the bill does protect the consumers. It's going to cost consumers about $175 a year. It will also protect American manufacturing, and there are provisions in the legislation for that. And it has, in addition to that, additional programs which will meet the concerns of all of our branches of industry—coal, electric utility, manufacturing, chemicals—and also the securities market, which will be controlled under an amendment offered by our good friend and colleague Mr. STUPAK.

I am happy that this bill does have a dedicated allowance for natural resource adaptation and significant protection in acquisition of lands.

This is a good bill. I urge my colleagues to support it.

Madam Speaker, I rise in support of the American Clean Energy and Security Act.

Is the bill before us perfect? No. But I have long told my friends on both the right and the left, we must not let the perfect be the enemy of the good.

The legislation before us is largely based on the recommendations of USCAP, a diverse group of environmental groups and industry with a shared desire for a commonsense bill to address climate change.

One might ask why such a diverse group would agree on a matter like this. Well, the answer is three-fold:

1. There is scientific consensus that we need to address climate change quickly and effectively.

2. We need, and industry needs, certainty. Without this certainty, expansion and new investment is not going to happen.

3. Actions by the Supreme Court which led to the recent endangerment finding by EPA makes it critically important we act. If we do not, we will face regulation under the Clean Air Act—and I assure you, the Clean Air Act was not designed to regulate greenhouse gases.

I am pleased with the provisions of the bill to protect consumers—the legislation will cost consumers on average only $175 per year—and protect American manufacturing and pave the way for the green jobs of the future. In fact, my home state of Michigan just had some wonderful news today: General Electric has decided to locate a new research & development facility, working on renewable energy technologies and other green jobs in the 15th District, which I have the honor of representing. We have the best workers in the world in Michigan and I look forward to many more green job announcements just like this thanks to provisions in this bill. However, job protection and creation warrants a very watchful eye to ensure the United States does not face job leakage and these matters will need to be readdressed if we do see such consequences.

We have seen remarkable innovations from our automakers and this bill builds on those successes by providing allowance values for retooling existing plants to make the cars of the future and new, green job creation here at home.

I am very pleased the bill includes an amendment I offered to establish a Clean Energy Bank. As we transition to clean energy, we must fund the R&D as well as deployment of these energy sources to meet the mounting demand for zero-carbon technology to dramatically reduce our greenhouse gas emissions.

Finally, I am very pleased that this bill includes a dedicated allowance for natural resource adaptation. The great conservationist and the 26th President of these United States, Theodore Roosevelt, taught us that conservation is a great moral issue—that it is our duty, as it insures the safety and continuance of the nation.

This is a good bill and I urge my colleagues to support it.

Mr. LUCAS. Madam Speaker, I wish to recognize the gentleman from Texas (Mr. CONAWAY) for 1 minute.

Mr. CONAWAY. Madam Speaker, I too congratulate you on your long distinguished service.

There's an old Western movie entitled ''Bad Day at Black Rock.'' Madam Speaker, if this bill passes today, this will be a bad day at Black Rock for America.

This bill will raise energy costs. Our President has said they will skyrocket. Claims of higher coal usage at lower costs are nonsensical on their face. The sense of urgency is muted by the fact that we delay implementation of many of these provisions for years and years in order to convince people to vote for this nonsense. It has no meaningful effect.

We all want to breathe clean air. We all want to drink clean water. God has put us on this Earth as responsible stewards of these resources, and we ought to use them responsibly. This bill does not do it. In fact, it does nothing good. The only meaningful thing that it might do is provide a relatively meaningless photo op for our President in December in Copenhagen as he stands to brag about what America has done while the leaders of India and China laugh at us behind his back.

A vote for this bill is a vote to lower living standards for all Americans for the foreseeable future. I urge my colleagues to vote against this bill. It does nothing good.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to my colleague from California (Ms. ESHOO), who is a very important member for our committee.

Ms. ESHOO. I thank our very distinguished chairman for yielding.

First, Madam Speaker, congratulations to you and God speed.

There may be no more critical issue facing our Nation today than that of our energy future and the desperate need for new policies that will dramatically and forever change how we live and work in our country. Our national security is irrevocably linked to it. Our economic stability depends on it. The future of our planet, the legacy of health and prosperity we all want to leave for our children cannot be assured without it. So it's time to take up this energy bill.

In this season of days we are granted in this honorable institution, this is truly a historic moment. By passing this act, we are guaranteeing an investment of $190 billion in new, clean-energy technologies and energy efficiency, creating jobs, spurring on new industries, and fulfilling the desire of all Americans that each of us in our own way can make this a better world.

In my home district of Silicon Valley, dozens of burgeoning companies at the cutting edge of green and clean-energy technology are poised for an explosion in innovation and healthy, sustainable economic growth.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. WAXMAN. I yield another 30 seconds to the gentlewoman.

Ms. ESHOO. I thank the gentleman.

It's a particular pride for me to have had the opportunity to work on this act and to influence some of its outcome. I'm proud that my own bill, H.R. 1742, the Electric Vehicle Infrastructure Act, which will allow State and local governments to apply for financial assistance for the deployment of regional infrastructure to support the widespread use of electric vehicles, is included.

We are a hardworking people, Madam Speaker, who face the future with optimism and hope. This act embodies these qualities, a vehicle for our willingness to work hard, to innovate, to

imagine a better future, and then to reach out and grasp it.

Mr. LUCAS. Madam Speaker, I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. I thank the gentleman from Oklahoma for yielding.

Madam Speaker, first I would say that the canard of this court case that says the EPA will regulate CO_2 regardless, it takes a little change in Interior approps to fix that. We're the United States Congress. We don't capitulate to cap-and-tax because a court made a ruling; we tell them what the American people think.

Second, this bill freezes or rolls back oil, natural gas, coal, nuclear, and biofuels. We'll have less. We are not going to break dependency on foreign oil with less energy. Iowa no-till corn farmers, 6.2 million acres; 5 million of them went in before 2001, and only 25 percent of those that went in afterwards will be able to qualify because they rotate. So we're down to 4.8 percent of the guys doing it right. One out of 20 are going to get any benefit out of the Peterson amendment that's been incorporated into this bill.

And, furthermore, when Speaker PELOSI set up the cap-and-trade and bought the carbon credits, I can't verify that any of that changed any behavior for the positive. The ones I could verify had already been in place.

We've seen the example in Spain. It's a colossal mistake there, a political and an economic error. This could be the most colossal mistake ever made in the history of the United States Congress.

Mr. WAXMAN. Madam Speaker, I am pleased at this point to yield 1 minute to my good friend and colleague from southern California (Mrs. CAPPS).

Mrs. CAPPS. Madam Speaker, I rise with great pride today to express my support for the American Clean Energy and Security Act.

Over the last two Congresses, thanks to tremendous leadership, we have built a record on energy and climate policy that indicates that the time for action is now. America is ready. The world is watching. We must transition to a clean-energy economy so that we can create jobs, achieve energy independence, and protect our planet.

We have before us a powerful, thorough, and effective bill. It includes a nationwide renewable electricity standard. It contains critical investments in energy efficiency. It requires immediate significant reductions in greenhouse gas emissions that are harming the health of our people and our planet.

The bill also makes substantial investments in domestic, international, natural resource, and public health adaptations that are crucial to the continuing prosperity of our Nation and our world.

Madam Speaker, to protect our health, to protect our economy, our national security, and our planet, we must enact comprehensive climate legislation and we must enact it now. We cannot sit idly by. I hope others will join me in seizing this opportunity to transition our economy to a new, clean-energy economy.

I urge a ''yes'' vote on this bill.

Mr. LUCAS. Madam Speaker, once again I would like to yield 1 minute to the gentleman from Pennsylvania (Mr. THOMPSON).

Mr. THOMPSON of Pennsylvania. I thank my friend from Oklahoma for yielding.

I have more concerns with this legislation than I even have time to discuss. But since agriculture is Pennsylvania's number one industry and because I'm a member of the House Agriculture Committee, I would like to focus on the alarming effects cap-and-trade will have on the farmers in my home State.

This legislation, through mandates, attempts to decrease our use of fossil fuels. The whole point of cap-and-trade is to make fossil fuels, or 85 percent of the energy we consume, more expensive. Fossil fuels are essential for energy and electrical generation and also are equally important to use as a feedstock in many goods that we utilize.

Agriculture is an energy-intensive industry, and natural gas will be capped under this legislation. Natural gas is a basic ingredient in fertilizer, which is a building block for all of the food the U.S. supplies. We can't make our food without fertilizer, and we can't make fertilizer without natural gas.

The dairy industry in my State is having a difficult time making profits because of falling milk prices. And while there are many reasons for low milk prices, energy costs are certainly part of that equation.

This legislation will do nothing to reduce our carbon emissions or help Pennsylvania agriculture and will only cause more economic hardship for many small farmers and businesses.

I urge my colleagues to reject this misguided measure.

Mr. WAXMAN. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN), who played a very significant role in developing this legislation.

Mr. GENE GREEN of Texas. Madam Speaker, like my colleagues, we will miss you and good luck in your new endeavor in the administration.

Today the House is set to consider the first comprehensive climate program in the history of the House of Representatives, and I support H.R. 2454.

This bill represents efforts to reach a consensus across our diverse membership and produce legislation that seeks to reduce greenhouse gas emissions both at home but also abroad. If Congress does nothing, greenhouse gas emissions could be regulated administratively through the EPA without input from Members that represent diverse constituencies nationwide.

I represent the Port of Houston, a petrochemical complex that stretches along the Texas gulf coast and is home to thousands of chemical industry and petroleum refining jobs. We cannot allow the petrochemical and refining industries to migrate out of America. They are vital to our economy and to our national security, and we cannot outsource that capability.

These energy-intensive industries could be left vulnerable to foreign competitors not facing carbon regulations if we do not carefully craft transitional policies to prevent job loss and strengthen U.S. industries at home.

I want to thank Congressman INSLEE and Congressman DOYLE for putting forth a proposal to provide 15 percent of the free allowances to emission-intensive industries to address competitive concerns, especially in the chemical industry. If a manufacturing facility is energy intensive and trade exposed, allowances will be provided to that facility on a production output basis, providing rebates for both the direct and indirect costs of complying with the climate program. These rebates will level the playing field relative to imports while encouraging emission reductions.

The bill also helps protects the U.S. domestic refining industry while creating a climate-change program. Our domestic refiners will face a competitive disadvantage with foreign competitors that are not subject to carbon regulations. U.S. refiners in this bill will receive 2 percent of the allowances starting in 2014 and ending in 2026, plus an additional .25 percent for small business refiners.

□ 1330

That's over one-half of the projected 4 percent of refined emissions. This funding will help defray expenses associated with direct and indirect costs and their stationary source of emissions under the cap as well as help improve the efficiency of refineries through technical and feedstock changes.

To level the playing field, foreign importers of refined oil must pay for carbon content of imported fuel, just as our domestic producers have to do, Madam Speaker.

And that's why I think this bill is a good first step. If I were writing it, it would be different.

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I want to thank Congressman INSLEE and Congressman DOYLE for putting forward a proposal to provide 15 percent of free allowances to emissions-intensive industries to address competitiveness concerns, especially in the chemical industry.

If a manufacturing facility is energy-intensive and trade-exposed, allowances will be provided to that facility on a production output basis, providing rebates for both the direct and indirect costs of complying with the climate program.

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Our domestic refiners will face a competitive disadvantage with foreign competitors that are not subject to carbon regulations.

U.S. refiners will receive 2 percent of allowances starting in 2014 and ending in 2026, plus an additional .25 percent for small business refiners. That's over one-half of the projected 4 percent of refinery emissions.

This funding will help defray expenses associated with the direct and indirect costs of their stationary source emissions under the cap, as well as help improve the energy efficiency of refineries through technological and feedstock changes.

To level the playing field, foreign importers of refined oil must pay for the carbon content of imported fuel, as do domestic refiners.

While I believe the refining industry could use additional assistance, and I hope any final agreement does so, this is a reasonable first step to protecting our energy infrastructure and keeping good-paying jobs here at home.

These proposals, however, cannot substitute for the need for a strong international agreement with binding carbon reductions amongst the world's largest emitters, including developing countries.

Mr. LUCAS. Madam Speaker, I yield myself the remainder of my time.

The SPEAKER pro tempore. The gentleman has 3¾ minutes remaining.

Mr. LUCAS. Madam Speaker, my fellow Members, let me rise to conclude the House Agriculture Republican portion of this discussion this evening and remind my colleagues one more time that this bill has a tremendous effect on rural America and production agriculture. When 115 farm groups send in letters, and food groups, expressing their opposition to the bill, that says something, 115 groups.

Madam Speaker, I submit a list of these groups for the RECORD.

Agriculture Groups Oppose to Waxman-Markey—as of June 26, 2009

1. Agribusiness Association of Iowa
2. Agricultural Retailers Association
3. Agrium Inc.
4. Alabama Farmers Federation
5. American Agri-Women
6. American Farm Bureau Association
7. American Farmers & Ranchers
8. American Feed Industry Association
9. American Frozen Food Institute
10. American Meat Institute
11. American Plant Food Corporation
12. AmeriFlax
13. Associated Industries of Florida
14. Beck' Superior Hybrids
15. Brandt Consolidated
16. CF Industries
17. Chemical Industry Council of Illinois
18. CHS Inc.
19. Corn Producers Association of Texas
20. D.B. Western, Inc.
21. Far West Agribusiness Association
22. Florida Chamber of Commerce
23. Florida Farm Bureau Federation
24. Florida Fertilizer & Agrichemical Association
25. Florida Strawberry Growers Association
26. Food Industry Environmental Council
27. GROWMARK
28. Hardee County Farm Bureau (FL)
29. Hillsborough County Farm Bureau (FL)
30. Illinois Farm Bureau
31. Illinois Fertilizer & Chemical Association
32. Indiana Beef Cattle Association
33. Indiana Farm Bureau
34. Indiana Grain & Feed Association
35. Indiana Office of Energy Development
36. Indiana Plant Food & Ag Chemicals Association
37. Indiana Pork Producers Association
38. Indiana Professional Dairy Producers
39. Indiana State Department of Agriculture
40. Indiana State Poultry Association
41. Institute for Shortening and Edible Oils
42. International Raw Materials, Ltd.
43. J.R. Simplot Company
44. Kansas Agribusiness Retailers Association
45. Kansas Grain and Feed Association
46. Minnesota Agri-Growth Council
47. Minnesota Corn Growers Association
48. Minnesota Crop Production Retailers
49. Missouri Agribusiness Association
50. Missouri Farm Bureau
51. Montana Agricultural Business Association
52. National Cattlemen's Beef Association
53. National Chicken Council
54. National Grain and Feed Association
55. National Grange
56. National Meat Association
57. National Oilseed Processors Association
58. National Pork Producers Council
59. National Turkey Federation
60. Nebraska Farm Bureau
61. NCRA
62. Nebraska Agri-Business Association
63. New Mexico Peanut Growers Association
64. North American Millers Association
65. North Carolina Peanut Growers Association
66. North Dakota Agricultural Association
67. North Dakota Barley Council
68. North Dakota Farm Bureau
69. North Dakota Grain Dealers Association
70. North Dakota Grain Growers Association
71. North Dakota Soybean Growers Association
72. North Dakota Stockmen's Association
73. North Dakota Wheat Commission
74. Northern Canola Growers Association
75. Northern Pulse Growers Association
76. Ohio Corn Growers Association
77. Ohio Farm Bureau
78. Ohio Poultry Association
79. Ohio Rural Electric Cooperatives, Inc.
80. Ohio Wheat Growers Association
81. Oklahoma Ag Retailers Association
82. Oklahoma Grain & Feed Association
83. Oklahoma Peanut Commission
84. Oklahoma Seed Trade Association
85. Oklahoma Wheat Growers Association
86. Panhandle Peanut Growers Association
87. Peace River Valley Citrus Growers Association
88. Peanut Growers Cooperative Marketing Association
89. Polk County Farm Bureau (FL)
90. PotashCorp
91. Rocky Mountain Agribusiness Association
92. Sarasota County Farm Bureau (FL)
93. Society of American Florists
94. South Carolina Fertilizer & Agrichemicals Association
95. South Carolina Peanut Growers Association
96. South Dakota Agri-Business Association
97. South Dakota Farm Bureau
98. South Dakota Grain & Feed Association
99. Southern Crop Production Association
100. Southwest Council of Agribusiness
101. Terra Industries Inc.
102. Texas Agricultural Cooperative Council
103. Texas Cattle Feeders Association
104. Texas Farm Bureau
105. Texas Grain & Feed Association
106. Texas Peanut Producers Board
107. Texas Sheep & Goat Raisers Association
108. Texas Wheat Producers Association
109. The Andersons, Inc.
110. The Fertilizer Institute
111. The McGregor Company
112. Todd Staples, Commissioner, Texas Department of Agriculture
113. Tom Farms (Kip Tom, CEO)
114. United Egg Producers
115. USA Rice Federation
116. Virginia Peanut Growers Association
117. W.B. Johnston Grain Co.
118. Western Peanut Growers Association
119. Western Plant Health Association
120. Wyoming Stock Growers Association

Madam Speaker, I would also be remiss if I didn't express my appreciation and the appreciation of my colleagues on the Republican side of the Agriculture Committee to Chairman PETERSON. He made, we believe, good-faith efforts with Chairman WAXMAN to try to correct the worst features of this bill. Unfortunately, good faith in the legislative process doesn't always cure every problem.

The fundamental underlying issue still is this bill will raise the cost of energy for production agriculture, an energy-intensive business. It will reduce our competitiveness with our competitors around the world, South America, Asia, Europe. But look at the way the so-called grand compromise on agriculture was put together. ''Compromise'' is a phrase used in one of the electronic publications this morning.

Indirect land use, where an agency of the Federal Government can determine how your corn farm or your wheat farm affects farms on other continents and tell you to change the way you do your business? Now, I know the bill says that can't happen for 5 years, and we will have a study and a moratorium for another year. But 6 years from now, 6 years from now, it comes at us like a brick bat.

The section of the bill talking about farms being able to be rewarded for good stewardship, carbon sequestration and those kinds of matters, the bill

says the amendment adopted, the practices can only be rewarded if they began after 2001. You heard my friend from Iowa talk about the percentage of corn farmers who adopted those good practices before 2001.

How do you explain to the folks back home that the good farmers, the good stewards, don't get anything, but the bad farmers who waited until they were shamed or embarrassed into adopting the best practices get rewarded?

Renewable fuel. Yes, we protect facilities that were under construction or have been completed or in production in 2007 and before, but that doesn't apply to everything since then. If you have got a mature ethanol plant, you are in good shape. But does that mean no one else can build an ethanol plant?

We, on the minority side of the Ag Committee, view ourselves as the conscience of the body. We have a responsibility to defend rural America and production agriculture. We thank Chairman PETERSON for what he tried to accomplish, but we believe it is not enough to protect the future of farming and ranching and the folks out in rural America. That's why we have to be united in our opposition against this bill.

I am a farmer by trade. I may not always be a Member of this body, but I am going home to Oklahoma. I can't vote for this and go home to Oklahoma.

Mr. WAXMAN. Madam Speaker, I am pleased to yield to the vice chairman of the Commerce Committee, the gentlewoman from Colorado (Ms. DEGETTE) for 90 seconds

(Ms. DEGETTE asked and was given permission to revise and extend her remarks.)

Ms. DEGETTE. Madam Speaker, I rise today in support of this important energy and environmental legislation, probably the most important this body has ever considered.

And I will say to my friends who say it's not enough, that we need to remember how important it is for us to put together a framework in place so that we can assure energy independence and create jobs.

In Colorado, Madam Speaker, in 2004, our voters passed a renewable energy standard, the first time that it was done in any State by ballot initiative. Industry opposed it universally, but yet it passed 53–47 percent. That standard was 10 percent by 2015, and we exceeded that standard within 2 years. Two years later, we came back to the Colorado Legislature. We doubled that standard. It was bipartisan and industry supported it.

When people see the wonderful framework we are putting in place today for energy independence, which will create jobs, they will embrace this concept. They will embrace the concept of becoming independent from foreign oil and making sure that we develop clean alternative sources of energy, which are going to benefit our children and our children's children.

One last thing. According to the Congressional Budget Office, this bill will cost the typical family less than that of a postage stamp per day.

And I will say, once we develop these clean alternative energy sources, we will benefit, because we will regain our place in the world as a leader in technology and as a leader in clean alternative sources of energy.

I want to urge my colleagues to support this legislation, which relies on scientific evidence to set our Nation's policy.

Mr. BARTON of Texas. Madam Speaker, I want to yield 3 minutes to the deputy ranking member of the Energy and Commerce Committee, Mr. BLUNT of Missouri.

Mr. BLUNT. I thank the gentleman for yielding.

Madam Speaker, you and I came to the House of Representatives at the same time. We have often voted differently, but I have always appreciated your public service and will continue to and wish you well in the new responsibility that you are taking and well in the other announcement that you made today.

I think this bill, Madam Speaker, heads the country very much in the wrong direction. It's the wrong direction for America. It's the wrong direction for our economy. It puts us at a competitive disadvantage. The Republican alternative that many Democrats could easily support would look for more American energy, would look for more ways to conserve the energy we use, and would invest in the future in a way that makes our energy future make sense.

We have 28 percent to 30 percent of all the coal in the world. If this was something that the majority wanted to do, the majority would be saying, if this country could put a man on the Moon in a decade, we could find a way to use coal in a way that doesn't create an immediate penalty on every coal-producing utility in America. In Mr. WAXMAN's State, I have great respect for him, the primary sponsor of the bill, less than 4 percent of California's electricity comes from coal.

In Mr. MARKEY's State, less than 24 percent of the electricity comes from coal. In Missouri, more than 85 percent of the electricity comes from coal, and we are not the top State. We are in the top 10. We will be affected by this dramatically, but so will everybody from, say, Pittsburgh to Wyoming.

This is going to impact utility bills unfairly. It will impact job opportunity unfairly. And, frankly, the jobs we lose in our part of the country, and in the country generally, are not likely to relocate somewhere else in America. They are more likely—these manufacturing jobs use lots of energy—to locate in a country that has less environmental standards than we do, the ultimate lose-lose. We lose the jobs. You actually put more of these things in the air than you would otherwise, and Americans suffer because of that.

In our State, the estimate is that utility bills would go up 40 percent in the first 5 years, 80 percent in the first 10 years, and even more after the various allowances are gone. This is unfair to American families, and, frankly, the less you can afford to put in new windows, new insulation, new everything else, the harder a burden this is going to be.

I urge my colleagues to vote this bill down and work together to have a better bill for America.

Mr. WAXMAN. Madam Speaker, I want to yield to the gentleman from Pennsylvania (Mr. DOYLE) a minute, with an option for another one, if he needs it. And I want to point out the essential role that he played in making sure this legislation protected those industries that are vulnerable to trade that might be at their disadvantage. I thank him for the work he has done.

Mr. DOYLE. Madam Speaker, today we have a historic opportunity to create thousands of clean-energy jobs, to secure this country's energy future, and to give our kids and grandkids a brighter, cleaner planet. Madam Speaker, we do that while protecting our basic industries like steel, aluminum, cement, and our ratepayers, both residential, commercial and industrial.

I was proud to work on this committee with my friend and colleague JAY INSLEE to develop a formula that looks at our carbon intensive industries like steel, that have trade pressures, and level the playing field for them so that we don't lose jobs. This bill wasn't going to cause any jobs to be lost. This is a job-creating bill, and you don't need to take my word for it.

I have a letter from the international president of the steelworkers union—people whose very jobs would be on the line if we didn't get this right—who endorses this bill, who says this bill will create more jobs for steelworkers in Pittsburgh.

And we do that by rewarding efficiencies. We say to our carbon-intensive industries, Be average in your sector. We will make you whole for the cost of this program.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional 30 seconds.

Mr. DOYLE. For those industries that invest and become more efficient, we give them more rewards. We encourage efficiency in our markets at the same time, giving them a level playing field with their competitors. We do the same thing in the electricity markets.

Every one of my constituents get their electricity from coal. We protect those ratepayers. Thirty-five percent of the allocations in this bill go towards protecting residential, commercial and industrial ratepayers. This is not a job loser. This is not a rate hike for consumers; $173 a year for the average family in America as a result of this bill. That's a small price to pay for a cleaner planet and more jobs for America.

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to the distinguished Representative from Washington State, Mr. HASTINGS.

Mr. HASTINGS of Washington. I thank the gentleman for yielding.

Madam Speaker, this bill was written in a fantasy land where unemployment isn't reaching 10 percent, thousands haven't lost homes to foreclosure, and millions haven't witnessed half their retirement savings disappear. By imposing this national energy tax and creating a massive new bureaucracy to regulate the entire economy, this bill will drive up the cost of doing business in America, sending jobs overseas to China and India, nations that flat out refuse to reduce their own carbon emissions.

We are told America must lead by example. Are we to believe that after the government drives America's economy further into the gutter, the rest of the world will do the same?

Madam Speaker, America should not be the first lemming to jump off the cliff just because NANCY PELOSI and Al Gore are convinced that China, India and Russia and others will follow us over the ledge. Republicans have an all-of-the-above energy plan to build more nuclear power and invest in cleaner alternative energies funded by drilling oil here in America. Yet, Madam Speaker, Democrats refuse to even allow a vote on this plan.

So I urge my colleagues to vote ''no'' on this bill.

Madam Speaker, this bill has been written in a fantasyland where unemployment isn't reaching 10 percent, thousands haven't lost their homes to foreclosure, and millions haven't witnessed half of their 401k's and retirement savings disappear.

By imposing a national energy tax, our economy will shrink in size, millions of jobs will be lost, energy costs will, to use the President's own word, ''skyrocket'', and gas prices will again reach record highs.

By creating a massive new government bureaucracy to regulate the entire economy, this bill will drive up the cost of doing business in America, sending jobs overseas to countries like China and India, nations that flat-out reject reducing their carbon emissions, and that are building coal-fired energy plants at a breakneck pace.

Democrats are trying to impose a high-priced, gourmet energy plan that restricts and dictates what specific sources of energy America should use. What our country actually needs is Republicans' all-of-the-above approach that says yes to nuclear power, yes to alternative energy, yes to wind and solar power, yes to energy from wood-waste and biomass, yes to hydro power, and, yes to opening more areas to drilling for oil and natural gas in America to reduce our vulnerability to spikes in prices at the pump because of turmoil in overseas oil nations.

America's economy can't afford this Democrat plan to cherry-pick a few high-priced energy sources. Creating green jobs makes good sense, but creating nuclear jobs, drilling jobs, green jobs and all new energy jobs is far, far better for America's economy.

America's economy is ailing, and enacting a new national energy tax is like a doctor ordering his sick patient to go stand outside in the cold rain. Our economy needs to recover, not be made sicker.

We're told America must lead by example, and then the rest of the world will follow. Are we to believe that after the federal government drives America's economy further into the gutter, the rest of world will do the same?

Yet, Democrats have refused to condition putting this national energy tax into force upon reciprocal action by China and the world's other nations.

Madam Speaker, America should not be the first lemming to jump off the cliff just because NANCY PELOSI and Al Gore are convinced that China, India, Russia and others will follow us over the ledge.

And what would this Democrat scheme do with the hundreds of billions of dollars taxed away from families and businesses? Shockingly, this bill would give away billions in foreign aid. In fact, this bill pays four times as much in foreign aid than it provides to the over two and half million Americans who will lose their jobs because of this bill. And on top of that foreign aid, it pays five times as much to countries to protect tropical trees than it does to help jobless Americans.

We don't need the biggest job-killing tax in history to reduce carbon emissions and put in place cleaner energy sources.

We can promote nuclear power that emits no carbon and we can invest in new alternative energies funded by revenues from simply getting our oil here in America rather than from volatile foreign nations.

This is the Republicans' all-of-the-above energy plan—called the American Energy Act. Yet the Democrats refuse to even allow a vote on it.

Democrats are forcing Congress to either accept or reject their national energy tax and high-priced, gourmet energy mandates. The only right choice to protect our economy and American jobs is to vote no.

Mr. WAXMAN. Madam Speaker, I am pleased at this time to yield 1½ minutes to the gentleman from Illinois, who made sure in this legislation, among other important contributions, that we looked out for the interests of low-income people.

Mr. RUSH. Madam Speaker, today marks a historic chance to move our great country forward and transform our economy for the demands of the 21st century.

I fully support this bill. It will not only make our country more substantive and energy efficient, but it would also provide jobs and economic opportunities for all of our citizens while opening an entirely new sector of our economy. I really must begin by thanking Chairman WAXMAN and Chairman MARKEY for their hard-working staffs and for all the work that they have done to improve this bill as it made its way through the legislative process and onto the floor today.

With the chairman's help, we were able to strengthen this legislation by not only protecting low-, moderate-, and middle-income families from rising energy costs, but also providing real assistance for communities like the one I represent for new career pathways to move out of poverty and to move into quality, career-oriented jobs in construction and energy-related fields.

□ 1345

Some of these provisions that we were able to get in the bill are the low-income allowances, 60 percent of all the total allowances go to low-income people; local targeted hiring for middle class careers in construction; Low-Income Community Energy-Efficiency programs. The LICEEP program, the Low Income Community Energy-Efficiency Program, will provide loans, technical assistance, and grants to community development organizations to provide financing to minority entrepreneurs.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional 30 seconds.

Mr. RUSH. The Public Housing Retrofit program, which I worked with the gentlelady from California, Ms. WATERS, as well as my colleague from Vermont, Mr. WELCH. It's a new program that provides grants to public housing agencies for energy retrofits and green investments in property.

Madam Speaker, this is a great bill. This is a good bill. This bill should pass. I urge all of my colleagues to vote in support of this bill.

Mr. BARTON of Texas. Madam Speaker, I'd like to yield 2 minutes to a member of the committee, the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Madam Speaker, my appreciation for your years in the House and your great service here. Congratulations and great success in your new endeavor.

I agree, Madam Speaker, with President Obama and Warren Buffett: under this bill, ''Electricity rates will necessarily skyrocket.'' Under this bill, we create the single largest energy tax in United States history. Warren Buffett called it ''a huge tax, and there's no sense calling it anything else. Very poor people are going to pay a lot more for electricity.''

Last night, in my district, a utility company calculated its estimate of what this bill will cost the families in my district. It will increase their electric rates $500 a year—not your statistics from those who don't live in a place like Michigan; $500 a year. And that doesn't incorporate the fact that their clothes will now be more expensive, their groceries will now be more expensive, their school supplies will now be more expensive.

If you haven't noticed, people are hurting around the United States. Adding costs today is absolutely the wrong direction. It will destroy $1,400 in wages for the average family in my district. $1,400. That's a $2,000 swing. People in Michigan, who are already under assault, want to know what they're getting for that $2,000 swing.

Well, they won't get a new nuclear plant. Not one. They will not get the

modern electric grid that they need to carry clean electricity. Not going to get that. And they will not get a level playing field with China and India. And—make no mistake—they want to steal the jobs that make up our middle class. They're active and aggressive in doing it. You pass this bill, you won't be able to build anything in the United States of America. Their jobs are going overseas.

They will also see their gas prices rise, on average, 70 cents—70 cents a gallon to families who are already under financial crisis. And who gets their money? Wall Street will.

This bill takes millions, billions out of families' budgets and launders it through Wall Street. The same people who brought you the credit default swap in the housing market are now going to sell you carbon offset swaps. Billions of dollars from average Americans sent to Wall Street. That's no solution.

If you want an economy built on foreign manufacturing and financial engineering, vote ''yes.'' But if you still want to live in a country that makes things, in a country that grows its own food and actually produces its own energy, vote ''no.''

Mr. WAXMAN. Madam Speaker, at this time I yield 2 minutes to the very distinguished chairman of the House Armed Services Committee, the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. I certainly thank the gentleman for yielding. Madam Speaker, as a farm State Representative, I have said for quite some time that any climate change legislation approved by the House must take into consideration the unique needs of rural America, including those of farmers and rural electric cooperatives.

Since first being introduced, the climate change measure has improved a great deal, thanks in large part to the work of House Agriculture Committee Chairman COLLIN PETERSON and his negotiations with House Energy and Commerce Committee Chairman HENRY WAXMAN.

I first approached this legislation with a great deal of skepticism. I have since been pleased that some, though not all, concerns of utilities, electric cooperatives, and farmers have been addressed in the version of the bill that is being considered today.

As this bill was being drafted, I have heard the views of Fourth District residents and have raised them with the House leaders. To be sure, the measure before us is not perfect, but it's a step in the right direction.

I think it's important that we move this bill forward. After we pass it in the House, the measure will receive additional refinement in the other body. I think that the congressional leadership and the administration understand the concerns of rural America, and I will keep working to ensure our point of view is more completely addressed in the final bill.

Truth be told, Congress has an obligation to enact energy reform this year, especially given that the U.S. Environmental Protection Agency, that is the EPA, is working right now to create tough, costly regulations on greenhouse gases emitted by livestock, farms, factories, and utilities. Without congressional action, the EPA will have free rein. That is unacceptable to me, and ought to be unacceptable to every farmer and business owner in Missouri.

Unlike the EPA proposal, the House bill would exempt livestock and farms from greenhouse gas regulation, and it would provide farmers an opportunity to potentially profit from their carbon-friendly farm practices by participating in the carbon market.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional 30 seconds.

Mr. SKELTON. Also, for farmers, the legislation would correct a problem that has been lingering since enactment of the 2007 energy bill. For the next 5 years, it would prevent EPA from calculating indirect land use when determining how to implement our Nation's renewable fuel standard.

This is good news for ethanol and biodiesel production facilities and for the farmers who sell the goods to these facilities.

Energy reform is not just a matter of wanting to keep our air and planet clean, as worthy and important as those goals are. It's also a matter of national security.

In recent years, the Pentagon has taken a hard look at how climate change could have an impact on global security and stability.

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to a member of the committee, the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Madam Speaker, we are at a crossroads. Our Nation faces significant challenges, with unemployment nearing 10 percent and trillion-dollar deficits piling up decades of debt for our children and our grandchildren.

However, congressional Democrats should not be so shortsighted to think that we cannot make a bad situation significantly worse by enacting legislation like this bill that will only knock more Americans off the assembly line and into the unemployment line.

This bill will impose the Pelosi Global Warming Tax on every single American household and business, raising home electricity costs and annual energy costs by almost $3,000 for every family, and the only reduction will be in our Nation's gross domestic product by almost $10 trillion and in the number of Americans employed by the millions.

Madam Speaker, Washington cannot save this country. Only the American people and American ingenuity can. Unfortunately, congressional Democrats have already allowed the Federal Government to take over our banking industry, the automobile industry, and now this House may very well vote to take over America's energy, with control over health care not far behind.

Let's stop the insanity and wake up to the reality imposed in the Global Pelosi Warming Tax and, in the words of another Californian, our distinguished former first lady, Nancy Reagan: Just say no.

Mr. WAXMAN. Madam Speaker, may I inquire about the time each side has remaining.

The SPEAKER pro tempore. The gentleman from California has 44½ minutes remaining; the gentleman from Texas has 53½ minutes remaining.

Mr. WAXMAN. Thank you. At this time I'd like to yield 1 minute to a distinguished member of our committee, the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Madam Speaker, I rise today in strong support of H.R. 2454 and congratulate Mr. WAXMAN for his leadership.

For over a century, the United States has embraced an energy policy based almost entirely on fossil fuels that have several dangerous consequences for today. This outdated policy has compromised our national security by making us reliant on foreign oil, has led the United States to lag behind other countries in the research and development of new energy technologies that would have created jobs, and has poison our planet. Now, today, we have the opportunity to change directions.

When I was back in my district last recess, I could feel the crackling of new innovation. S&C Electric is making our electric grid much smarter and more reliable. Northwestern University is enabling entrepreneurs who are utilizing nanotechnology and applying it to the energy field. Republic Doors and Windows, a Chicago business that made Energy Star windows, shut down. But those 260 skilled workers were rehired with help from the recovery bill that we passed.

These are just a few of the thousands of success stories around the country, and the 1.7 million good jobs that will be created with the passage of H.R. 2454.

Mr. BARTON of Texas. I'd like to yield 1 minute to a member of the committee, the gentleman from Nebraska, (Mr. TERRY).

Mr. TERRY. There's a vigorous debate about the anthropologic impact on our climate. I believe that we do have an obligation to reduce CO_2, if we can. But this must be balanced with an equal obligation to treat our constituents in a manner that preserves our Nation's economic competitiveness.

Advocates for the cap-and-trade bill state that it will not significantly increase economic burdens on our constituents. This is just not true. The cap-and-tax bill also contains a renewable electric standard and other elements which will significantly increase costs to utilities and consumers. The Omaha Public Power District in my district conducted an independent

analysis of the cost to my constituents, free of political interference like the one put out by the EPA.

Even with the free allowances allocated under the Waxman-Markey cap-and-tax bill, Nebraskans will have to suffer a $74 million bill in 2012, and increased to $410 million a year by 2030 in the most optimistic case.

Vote against this bill.

Mr. WAXMAN. Madam Speaker, it's my privilege at this time to yield 1½ minutes to a gentleman who has worked successfully with Members representing disparate interests in different parts of the country to find workable solutions that helped lead to the consensus product we have today, the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Madam Speaker, this bill renews some basic American values of confidence in ourselves, optimism about our future, and a ''can-do'' spirit. We support this bill because we believe Americans still have the right stuff that we had in the 1960s when we went to the Moon.

This bill calls forward Americans' future to get off of foreign oil, to put millions of people to work in clean technology, and to give our grandkids a chance at a future with a decent atmosphere like we grew up with.

The people who are against this bill, I urge them to avoid the pessimism and the lack of imagination that I have heard on the floor of this House.

Now, will this have some investment cost? Yes. And what is the best assessment of that cost? It is the Congressional Budget Office, a nonpartisan group that Republicans typically rely upon, and what have they said? They said this will cost a typical family of four 47 cents, a little more than the cost of a stamp.

Will we pay the cost of a stamp to get rid of five million barrels of oil a day from the Mid East? You bet we will. And this bill will do that. Will we pay a stamp to give our grandkids a future of an environment that's not going to destroy their health? You bet we will. Will we pay a stamp to give people at the Bright Source Company a chance? You bet we will.

We're going to put a stamp on America's future for the price of a stamp. It's a good deal for our future.

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to the distinguished chairman of the Republic Policy Committee, the gentleman from Michigan (Mr. MCCOTTER).

□ 1400

Mr. MCCOTTER. Today we consider a bill that claims the government can control the weather by raising your taxes, taking your job and dictating your life. In my State of Michigan, with a 15 percent unemployment rate, we know we cannot afford this cap-and-tax bill. Others, however, disagree.

''Make no mistake,'' President Obama pronounced, ''this is a jobs bill.'' He is correct. This bill will destroy jobs. But then again, this comes from an administration that claimed its trillion-dollar stimulus bill would stop unemployment from going over 8 percent.

The argument for this bill is nuts on its face. Government cannot design our economy and prosperity. It can only engineer our decline in poverty. But such feelings explain why this job-killing cap-and-tax bill is a fundamental shift from a manufacturing economy to an old green economy called hunting and gathering.

Passing this abominable energy tax on working families in a recession shows this job-killing, budget-busting government doesn't understand how much real Americans are hurting for work. This is the hubris of Big Government, the delusion that our families' economic futures rest in the manicured hands of Congress rather than the hardworking hands of the American people.

I disagree, and I urge the rejection of this bill.

Mr. WAXMAN. Madam Speaker, I am pleased at this time to yield 1½ minutes to the gentlelady from Wisconsin (Ms. BALDWIN) who is an important member of our committee in both the energy and the health areas.

Ms. BALDWIN. Thank you, Mr. Chairman.

Madam Speaker, the Waxman-Markey American Clean Energy and Security Act represents our Nation's response to a challenge that has consequences of epic proportions. Global climate change must be addressed in a real and meaningful manner. Our greenhouse gas emissions have put our global environment, our security and our very social structure at risk; and if we fail to act, the impact will reverberate throughout this century with the loss of human lives, species destruction, destruction of ecosystems, declines in health and increased social conflict.

Climate change is a unique challenge in that our greatest obligation in tackling this threat is to the generations of Americans and people throughout the world who haven't even been born yet, the ones who will inhabit this planet long after we're all gone. The legislation we have before us addresses global climate change while spurring innovation, creating clean energy jobs and containing costs. It brings what we need in terms of leadership and commitment as we look toward Copenhagen and beyond. It recognizes that our Nation's security, our planet's sustainability and our children's future hang in the balance.

I urge my colleagues to support this bill and commit to a clean energy economy that creates jobs and protects our health, national security and planet for generations to come.

Mr. BARTON of Texas. Madam Speaker, I yield 2 minutes to a distinguished gentleman on the committee, a member of the Energy Solutions Group and a tireless worker on behalf of energy solutions for America, the gentleman from Illinois (Mr. SHIMKUS).

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, this bill is a disaster, and let me just explain who is opposed. Rural America is opposed to this bill. The manufacturing sector is opposed to this bill. Utilities are opposed to this bill. The transportation sector is opposed to this bill. Why? Because they believe Democrats. They believe JOHN DINGELL when he says, Nobody in this country realizes that a cap-and-trade is a tax, and it is a very big one. They believe Barack Obama when he said, Under my plan of a cap-and-trade system, electricity costs would necessarily skyrocket. What's the result? They believe the Pennsylvania Public Utility Commission that says, 66,000 Pennsylvanians will lose their jobs. Why am I so impassioned? These are miners who lost their jobs the last time we came to the well on climate legislation, when 1,200 miners lost their jobs, 35,000 miners lost their jobs in the State of Ohio.

What will this do to the average American? Here's one example. When the Democrats came into power, a gallon of gas was $2.33. Today it's $2.66. Add the cap-and-trade tax, 77 cents per gallon, and you're going to be paying $3.43. Now that's okay in the big city; but in rural America where you've got to drive long distances to get to school, to get to the grocery store, to get to health care, rural America is poor. Why do we have the rich areas of this country attack the rural poor of America? This is a shame. How dare you do that to my constituents.

Mr. WAXMAN. Madam Speaker, I yield 1½ minutes to the gentleman from New York (Mr. WEINER) who has been a very constructive and important member of our committee and has played a very essential role in having us recognize the essential part that transportation efforts can play in reducing carbon emissions.

Mr. WEINER. The chairman will be recognized for generations to come for confronting the challenges that we face. You know, the fact of the matter is that the EPA, under a court's decision, is going to have the ability to write these regulations. We're taking the responsibility to do it here in this Congress. The fact of the matter is, despite some of the contrarian views on this floor, there is a real global crisis that we face. Despite the objections of my colleagues on the other side, there is a need to create new jobs, and this bill would create 1.7 million of them. But I want to give you one other reason that we should support this change in our policy. Ahmadinejad, the Saudi kingdom, they want exactly what my Republican friends are advocating—Don't do anything. Keep pumping the same amount of petroleum. Keep using

the same amount of oil. Every time we put the pump to our gas tanks, we are helping the tyrants in Iran and the tyrants in Saudi Arabia export their terrorism. Why do we keep doing it? We need to change our behavior, and this bill recognizes it. It reduces carbon emissions and makes our Earth safer, of course; but it also creates new jobs and takes away the lifeblood to these terrorist regimes. We can't come to the floor and say I'm outraged at what's going on in Iran, I'm outraged at what's going on around the world with the exporting of terrorism and then continue the same policies where we pay for them. That's what our present policy does. Our policies are paying for the terrorists around the world, whether we like it or not. The American people understand that. We need energy independence. We need a thriving economy that creates 1.7 million new jobs. We need to reduce the carbon emissions, despite the fact that still some people in this House deny it's a necessity. We need to act, and that's what the Democrats are doing.

GLOBAL WARMING WOW FACTS

The number of Category 4 and 5 hurricanes has almost doubled in the last 30 years. Source: Inconvenient Truth

Average global temperatures could increase 11 degrees Fahrenheit by the end of the century, with greater overall increases in the United States exceeding global averages, Source: US Global Change Research Program

By 2030, local temperatures in NYC could rise by two degrees. This compounds an existing problem, known as the ''urban heat island effect.'' This is due to the fact the NYC's urban infrastructure absorbing and retaining heat. As a result, NYC is often four to seven degrees warmer than the surrounding suburbs, Source: PlaNYC 2030

KEY PROVISIONS IN THE BILL

Keep costs low for American families: the bill directs 15% of the allowances be auctioned with the proceeds going to consumers through a combination of refundable tax credits and electronic benefit payments. EPA and C130 estimate that the bill will cost American families less than 50 cents per day.

Bill will cut foreign dependence on oil: Would require electric utilities to meet 20% of their electricity demand through renewable energy sources and energy efficiency by 2020.

Cut Greenhouse gases: Bill reduces carbon emissions from major U.S. sources by 17% by 2020 and over 80% by 2050 compared to 2005 levels.

ECONOMIC BENEFITS

The stimulus bill and the energy bill will create 1.7 million new clean energy jobs nationwide, Source: Center for American Progress

The energy efficiency provisions alone in the Waxman-Markey bill will generate 770,000 jobs nationwide by 2030. Source: American Council for an Energy-Efficient Economy

Clean-energy investments create over 16 jobs for every $1 million in spending. Spending on fossil fuels, by contrast, generates 5 jobs per $1 million in spending. Source: Center for American Progress

NYS will see 109,000 new jobs and a net increase of about $10 billion in clean-energy investments. Source: Center for American Progress

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to the gentleman from California, Mr. ''Surf's Up'' ROHRABACHER.

Mr. ROHRABACHER. Thank you very much.

Wake up, America. What's happening on the floor today is a power grab that will leave you with empty pockets and no jobs. The jobs will go to China, and the economy will go to hell. Worse than that, the scientific basis for the claims being made to frighten us into accepting this economy-destroying legislation are wrong.

Wake up, America. There hasn't been any global warming, which is what we heard over and over and over again—there hasn't been any global warming for 10 years. In fact, the ice caps are melting, which we see over and over again. Yeah, they're melting on Mars too, which in any honest discussion would lead to the conclusion that the ice caps are melting and these things are happening because of solar activity, not because of the activity of human beings.

The science is wrong. The economics is wrong. You're going to cause great damage to the people of this country, to their well-being, in the name of phony science. There are hundreds and hundreds of scientific leaders, like Dr. Lindzen of the Massachusetts Institute of Technology, that have refuted the arguments. They are pleading with us. Pay attention to the good science. Don't hurt our people based on the false claim of global warming, which they don't even use that language anymore.

Mr. WAXMAN. Madam Speaker, I am pleased now to yield 1½ minutes to an important and distinguished member of the Energy and Commerce Committee, the gentleman from North Carolina (Mr. BUTTERFIELD).

Mr. BUTTERFIELD. I want to thank the chairman of the committee for giving me this very precious time this afternoon.

Madam Speaker, the House of Representatives is ready today to pass this historic legislation that will literally save the planet. You can call it a cap-and-tax all you want. You can say that the science does not support this legislation. You can say that the scientists are wrong. But I say, Republicans are wrong on this issue. We cannot afford to wait any longer to enact this legislation that will reduce greenhouse gas emissions. Chairman WAXMAN and Chairman MARKEY should each be commended for their extraordinary work in reaching a good compromise that will now allow this legislation to advance to the other body.

It saddens me that our Republican friends were not partners with us as we crafted this legislation, but Democrats understand the mandate of the American people, and we are moving forward. One of my roles as the vice chairman of the Energy subcommittee was to ensure that any increase in costs to consumers would be painless. So 15 percent of the allowances will be dedicated to providing a safety net for the lowest-income Americans. My district is one of the poorest districts in America. My constituents are low-income families, and they need the assurance that their goods and services will not dramatically increase. I am pleased with the report from the Congressional Budget Office that estimates that low-income households will actually see a net gain, not a loss, of $40 per year as a result of the legislation in 2020. The CBO also says that it is estimated that as a result of this legislation, the average cost per household will be, as the gentleman from the State of Washington said, 48 cents a day.

I ask my colleagues to join with me in voting ''yes'' on this important legislation.

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to the gentlelady on the committee from Nashville, Tennessee, Congresswoman BLACKBURN.

Mrs. BLACKBURN. Madam Speaker, this is not an energy bill. This is a tax bill. They're going to tax the air you breathe. It is a transfer-of-wealth bill. The American people are figuring this out. Our friends across the aisle have, indeed, become the party of punishment, and my constituents in Tennessee are being punished.

Listen to this: By 2012 we will lose 33,000 jobs. For the next 23 years, every year it is estimated this bill will cause us to lose 25,600 jobs. The American people are figuring this out. We want them to know it. When my colleagues come down here and talk about it being important and talk about it being historic, it's all from the negative. The impacts of this bill will shut small businesses. It will close family farms. It will shutter manufacturing plants, and those jobs will end up in China, in India. It will increase our taxes. The President told us so. Every household is going to pay between $1,300 and $3,100 in new taxes every year. The cost of products will increase. The American people know that the bill chooses winners and losers, and the taxpayer is the big loser.

Mr. WAXMAN. Madam Speaker, I wish to yield 1 minute to the gentleman from Maryland (Mr. SARBANES).

Mr. SARBANES. I want to salute Chairman WAXMAN and Chairman MARKEY for their tremendous work on this bill.

When it comes to energy policy, the United States has been a sleeping giant; but the giant is beginning to stir. And with the passage of this legislation today, we'll awaken to a new era of possibility. That's what makes this so exciting.

This bill, the American Clean Energy and Security Act, is going to create a new framework and new space so that ordinary citizens and entrepreneurs can jump into that space and take us to the next level. And what most excites me is that this is about the future. The next generation is going to take these clean technologies, they're going to take this knowledge, and they're going to lead us to a new place.

I urge passage of this bill, and I congratulate its architects.

Mr. BARTON of Texas. I yield 1 minute to the distinguished gentleman from Oklahoma (Mr. COLE).

□ 1415

Mr. COLE. Madam Speaker, I rise today to speak against this flawed cap-and-trade, or rather, cap-and-tax legislation. There is no good time for a bad idea, Madam Speaker. This bad bill is nothing more or less than a national energy tax. The legislation will force American families to pay on average more than $3,000 a year in additional energy costs.

The majority would like us to believe that passing this legislation will benefit all Americans. Nothing could be further from the truth. Under this bill, energy-producing States like Oklahoma will be economically punished and devastated. Residents in rural areas who must commute long distances to work will be disproportionately affected. Rising fuel prices, coupled with rising home energy costs, will force people to make ever tougher choices. Many will face reduced living standards; spending less, saving less, and going without many of the items they need for a decent life.

Madam Speaker, for over 100 years, the people in my State and my district have worked hard to produce the energy that this country needs. Now that energy is going to be taxed. Taking away their choices, their jobs and their future just isn't bad policy. It is punitive, and it is shameful.

Mr. WAXMAN. May I inquire how much time we have for the Energy and Commerce Committee?

The SPEAKER pro tempore. The gentleman from California has 36½ minutes remaining.

The gentleman from Texas has 46¾ minutes remaining.

Mr. WAXMAN. At this time, I would like to yield to my colleague from California (Mr. MCNERNEY) 1 minute.

Mr. MCNERNEY. Thank you, Mr. Chairman.

Madam Speaker, I rise in strong support of the American Clean Energy and Security Act. I would also like to thank Chairman WAXMAN and Chairman MARKEY for their leadership on this issue.

Before I came to Congress, I developed new energy technologies. I have seen firsthand these industries develop by leaps and bounds. The economic benefits of the American Clean Energy and Security Act will be profound. This bill will create jobs across the country in fields as diverse as construction, engineering, education and others. These jobs will lay the foundation for long-term prosperity.

The American Clean Energy and Security Act is also a serious commitment to combating climate change. It is long past time for our country to lead in addressing this threat. Fewer emissions will mean cleaner, healthier air for our children and grandchildren.

I am also proud that the legislation includes key provisions that I wrote, including language that will spur the development of a more efficient electrical grid and provide funding for clean-energy job training. I also encourage that during the conference committee process, the opportunity is seized to strengthen the renewable energy standard. This will help ensure that the new energy projects created by this bill will utilize American-made components manufactured by American workers.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. I want to yield 1 minute to the distinguished ranking member of the Financial Services Committee, our expert on derivatives, Mr. SPENCER BACHUS.

Mr. BACHUS. Madam Speaker, as Under Secretary Robert Shapiro, under the Clinton administration, said, we are going to create a multitrillion dollar derivative market overnight. These will be based on carbon offsets.

These projects, most of them, we anticipate, will be in underdeveloped countries or foreign countries, almost all of them. And when you start a project, a clean-coal project in China or India, or you plant trees in Borneo and Brazil, who pays for it? The American taxpayers. Does it reduce discharges and pollution here? No. It absolutely allows you to discharge carbon dioxide into the environment here in the United States.

Before you vote for this bill, ask yourself, if the subprime lending market was hard to police, how do you police the derivatives market based on projects in China and Borneo? Ask yourself, am I going to stick my constituents with the cost of clean-coal projects in China? Go home and explain that to your constituents. Go home and explain how you're going to plant trees in Brazil. They are going to pay for it. It is going to allow more pollution here.

The SPEAKER pro tempore. The time of the gentleman has expired.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Members are reminded to address their comments to the Chair.

Mr. WAXMAN. I wish to yield 1 minute to the gentlelady from Ohio (Ms. SUTTON).

Ms. SUTTON. Madam Speaker, I rise in support of this legislation, and I want to thank the chairman for his leadership and for working with me and other Members of this House to address our concerns about manufacturing and jobs in this bill.

This bill isn't perfect. I have yet to see a bill that is. But the status quo is not the right choice. We must unleash the entrepreneurial spirit of this country and provide the economic opportunities that our constituents need. This bill is part of that mission. It is not the entire answer to all that ails us. But let there be no mistake. This is a jobs bill. This bill has support from groups that represent workers; the United Steel Workers, the UAW, the SEIU, CWA, Building and Construction Trades and the AFL–CIO are all urging a ''yes'' vote on this legislation.

Madam Speaker, the people I represent are facing difficult times. They are looking for jobs, and sometimes they can't find them the way they used to. The inaction of the past has cost them dearly.

There are those who complain that this bill is not perfect. They say it won't do this or it won't do that. But we have got to get started and keep acting until we get it right and provide them with the chance that they need for a change in direction.

Mr. BARTON of Texas. I want to yield 1 minute to ''Mr. Iowa Agriculture,'' Mr. LATHAM of Iowa.

Mr. LATHAM. I thank the gentleman.

Everyone understands that we are in the middle of a very difficult downturn in the economy, a recession. It is difficult enough today to create jobs. We have the second-highest tax rate in the world. We have the most onerous regulatory burden in the world. We have the most litigation in the world. So how do we create new jobs? Well, it is not with this tax-and-cap bill.

I will tell you, in China today they must think that Christmas is coming in June. If you look at this box here, it says ''To China from the U.S. Congress.'' Well, let's see what is inside of it, okay?

What is inside of it is U.S. jobs. This is going to cost 17,000 jobs in Iowa in 2012 and each year after that. Nationwide, 2½ to 3 million jobs will be lost because of this bill.

If we are going to do anything to help the economy, let's not put another burden, let's not make us less competitive in the world, and let's not destroy hope for the next generation, which this bill does.

Please vote ''no'' and save our country.

Mr. WAXMAN. Madam Speaker, I'm pleased at this time to yield to a real leader from the State of Iowa who has taken an active role in this and so many other policy areas, Mr. BRALEY, for 1 minute.

Mr. BRALEY of Iowa. Madam Speaker, this is a defining moment in our country's history. And last night out at the White House, I saw the chairman holding his grandchild in his hands. The question every Member of this body is going to have to face when they look into the eyes of their children and grandchildren is, Where were you on this pivotal vote in our country's history? Where were you when we tried to free ourselves from our dependency on foreign oil? Where were you when we tried to create a new energy policy based on clean energy like the clean-energy revolution taking place in my State of Iowa?

This bill won't cost jobs in Iowa. It will create thousands of jobs in clean energy. That is what the message is I'm sending to my children. That is the

message I'm sending to my grandchildren. This is the time to break away from Middle East oil oligarchs, set a new policy for our energy future, and send a message to the world that we will be leaders, not followers, when it comes to climate change.

Mr. BARTON of Texas. Madam Speaker, I want to yield myself 30 seconds just briefly.

According to David Sokol, the CEO of MidAmerican Energy, which serves most of the utility customers in the State of Iowa, the bill before us will raise utility prices, for every residential customer in Iowa, $110 a month, or $1,320 a year. That is not a job creator in Iowa; that is a job killer in Iowa.

I now want to yield 1 minute to a distinguished member of the committee from the great Keystone State, Mr. TIM MURPHY of Pennsylvania, 1 minute.

Mr. TIM MURPHY of Pennsylvania. A headline in yesterday's Pittsburgh paper said ''More Pa. Residents Suffering in Recession, Poll Shows.'' And this is the time to give people in Pennsylvania, and throughout the Nation, hope.

Pennsylvania and the Pittsburgh area is the area that was built upon energy. We had abundant supplies of coal, natural gas and water. That is why steel was there. We invested in the National Energy Technology labs, and we still have hundreds of years of coal.

Folks, this is a time when we need to improve the efficiency of wind and solar so we can have them as energy resources. But let's not abandon steel because you can't make it without coal. Let's not abandon coal. And let's make sure we invest in clean coal. This is a time when we say to kids that right now we get about 35 percent of our energy out of a lump of coal. And it does pollute. What we have to do is clean it up, invest in that and build clean-coal plants. Whoever figures out how to do that, that is Nobel Prize material. It is the scientific, technological, and educational challenge of our generation.

And what's more, you can't have lights on without doing that. Let's do all of the things we need to do. But this bill is not the way to do it. We can solve these problems. But we can't rush into it the way we are doing it now.

Mr. WAXMAN. Madam Speaker, at this time, I want to yield to the distinguished sole representative from the State of Vermont, a man we are very pleased to have on our committee and who has been a leader in some of the areas on this bill. He reminds us that efficiency is the way to go to use less fuel. I yield 1 minute to Mr. WELCH.

Mr. WELCH. Thank you, Mr. WAXMAN.

Madam Speaker, although some dispute it, there is little doubt that oil is a finite resource and we are at or near peak oil, that global warming is real, that the threat to our economy is immediate and that the need to act is urgent.

And while our friends on the other side raise questions about how our actions will affect jobs and utility bills, those very legitimate concerns have been exhaustively addressed in this legislation.

But what they fail to acknowledge is that the cost of inaction is great in lost opportunity for jobs, a cleaner environment and a stronger economy. Many of the new jobs in Vermont and around the country are related to the new clean-energy economy.

Madam Speaker, today Congress will make a very fundamental decision. Will America confidently and directly declare a policy of American energy independence? Will it unleash the talents of our scientists and engineers, empower our entrepreneurs and manufacturers? Will it put to work our farmers, carpenters, masons, electricians and plumbers through efficiency, through renewable energy and through the new technology for coal?

The great decisions a nation makes, Madam Speaker, are always about facing our problems, not retreating from them, and about the conquest of hope over fear.

I first wanted to thank Chairman WAXMAN, Chairman MARKEY, and the Energy and Commerce Committee staff for their tremendous work and leadership on this legislation. To bring to the floor the first ever bill to address our global warming crisis was no small feat, and while we would all like to see changes in this bill, it represents the best step forward toward charting a new energy future for our country.

If civil rights was the issue of my generation, addressing climate change is the issue of today's. The young people and students across this country deserve great credit for providing the energy—renewable, of course—behind this historic legislation. They have the most at stake; they will inherit this planet and the economy we leave them. Their future must be addressed now.

Earlier this year when we first began taking testimony on this legislation, I had the opportunity to ask executives of some of the world's largest companies whether Congressional inaction for addressing climate change threatened their bottom line, their viability, and our economy. One by one, they each responded: "yes . . . yes . . . yes." These were our nation's economic leaders unanimously recognizing the urgent need for a new, post-carbon economy.

The scientific facts are clear: global warming is real, it is urgent and it threatens our economy, our national security, and our way of life if unaddressed. We must tackle this challenge squarely, like the confident nation that we are.

Addressing this challenge presents us with opportunity—an opportunity to create new, green jobs and build a stronger economy; an opportunity to make our country more secure and energy independent; and an opportunity to save on electric bills at home and turn better profits at the workplace.

This legislation sets us toward the bright future of a post-carbon economy. If we don't make this commitment now, nations like Japan, Germany, Brazil—countries around the world will outpace us and leave us far behind.

In this legislation, we take the bold steps necessary—with a firm cap on carbon pollution, new renewable energy and energy efficiency standards, and investments in renewable energy development. But we also make policy changes throughout our energy economy that will help hard working Americans get and stay ahead.

We create a national Certified Clean Stove Program, building on Vermont's success to encourage those who heat their homes with wood stoves to install cleaner-burning stoves.

We establish the nation's first energy efficiency improvement target.

Among many consumer protection previsions, but critical for states like Vermont, we establish consumer rebates and weatherization efficiency investments to residents in states that rely upon home heating oil.

And we establish The Retrofit for Energy and Environmental Performance (REEP) Program to provide billions of dollars in financial incentives to homeowners and business owners to encourage them to retrofit the nation's existing buildings, which account for 10 percent of global carbon emissions. This program, supported by the Home Builders, Realtors, NRDC and others, will create thousands of jobs and help homeowners and business owners save on energy bills.

At less than the cost of a postage stamp a day, through this bold legislation we will make our nation more secure, create a new, more efficiency, more productive, more prosperous energy future.

When President Kennedy said we would put a man on the moon, many thought it wasn't possible. We did it. Today, we take the bold and necessary step to address one of the most pressing and urgent challenges in generations.

As the author of the provisions of this bill that creates the Retrofit for Energy and Environmental Performance (REEP) Program Act, it is my goal to ensure the greatest possible participation in efforts to reduce energy consumption in residential and commercial buildings.

It has come to my attention that real estate investment trusts (REITs) may be reluctant to participate in this program as it is currently crafted. They are concerned that they may lose their REIT status unless the REEP grants are considered qualifying assets that generate qualifying income for the purposes of the REIT income and asset tests.

Listed REITs own and manage over 6 billion square feet of commercial real estate. This is a significant amount of property that, if retrofitted, could yield significant energy savings.

Therefore it is my hope that as this bill moves through the legislative process we will include the necessary clarifications to ensure that REITs will be able to fully participate in the REEP program.

Mr. BARTON of Texas. Madam Speaker, could I inquire as to when the majority is prepared to go to the Ways and Means Committee's time?

Mr. WAXMAN. If the gentleman would yield to me, when our time expires for both committees. Perhaps we ought to let you take additional time at this point, because we have used far more than you have.

Mr. BARTON of Texas. I have agreed to do that. But my question is, when is it the intention to allow the Ways and Means Committee to use their time? Is that in the next 15 minutes or is it around 3 o'clock? When is your inclination?

Mr. WAXMAN. If the gentleman would yield, perhaps we can inquire of the Chair how much time is still available to the Energy and Commerce Committee.

The SPEAKER pro tempore. The gentleman from California has 32½ minutes remaining.

The gentleman from Texas has 43¼ minutes remaining.

Mr. BARTON of Texas. I just need a planning estimate to tell the Members on my side when we are going to go to the Ways and Means. I'm not being argumentative.

Mr. WAXMAN. Why don't we discuss that informally?

Mr. BARTON of Texas. At this time, I want to yield to another distinguished member of the Energy and Commerce Committee from the Pelican State, Mr. SCALISE, 1 minute.

Mr. SCALISE. Madam Speaker, I want to thank the gentleman from Texas for yielding.

I stand here to strongly oppose this cap-and-trade national energy tax that is being proposed to be created here today.

One of the things we have heard is about jobs. Let's talk about jobs. The National Association of Manufacturers estimates the United States will lose 3 to 4 million jobs if this bill becomes law. The President's own budget director has said American families will see a $1,200 increase per year on their electricity bill if this bill becomes law. That is the policy that they are trying to pass. That is the policy we are standing up and opposing today.

Let's talk about job loss. If you look at the bill, they have 55 pages in this bill dedicated to job losses. Now why would they put 55 pages in the bill dedicated to job losses if they didn't think this was going to lose jobs and run those jobs over to China and India?

And the real irony is for those who think that we need to reduce carbon emissions, this bill will actually increase carbon emissions because when that steel mill moves from the United States to Brazil, four times more carbon is emitted to produce steel in Brazil than in the United States. And not only do we lose jobs, they emit more carbon. This is a horrible way to wreck the American economy. We need to defeat it.

□ 1430

Mr. WAXMAN. Madam Speaker, I wish to yield to the gentleman from Michigan and chairman emeritus of our committee (Mr. DINGELL) so he and I could engage in a colloquy.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Speaker, I ask my good friend to join in a colloquy about the electric transmission provisions. I support renewable power, as does he. However, there is a delicate State-Federal balance of authority in this area.

I yield to my good friend.

Mr. WAXMAN. I agree we must be sensitive to the State and Federal roles, but we must also move forward on transmission policy. My goal here is to take the first step.

Mr. DINGELL. I have concerns about the wisdom of splitting the country in two parts, into eastern and western interconnections, for the purpose of regulating transmissions. Does my colleague agree we should have a unified national transmission policy?

Mr. WAXMAN. Yes, that is my preference. However, there is more consensus about how to move forward in the western interconnect than there is in the eastern interconnect, and we should make the progress we can in the west. I will continue to work towards a policy that is comprehensive and effective.

Mr. DINGELL. I thank my good friend. I have a further question. I am also concerned that wilderness areas and conservation easements be fully protected, particularly in the eastern interconnection.

Mr. WAXMAN. This proposal leaves in place the current environmental protection in the eastern interconnection. The changes in the west account for the very sensitive nature of the lands there, including Federal lands.

Mr. DINGELL. Reclaiming my time, finally, the effect of this language on existing law is unclear, which might only lead to more litigation and delay.

Mr. WAXMAN. Well, we need a policy that is clear and can be implemented. This is only a partial step forward, as I have said, and I look forward to having your help in adopting a workable policy.

Mr. BARTON of Texas. I yield 1 minute to a distinguished senior member of the committee from the great State of Georgia, Mr. DEAL.

Mr. DEAL of Georgia. I thank the gentleman for yielding. There are many issues that need to be discussed. I rise in opposition to this legislation. One of the topics is that of jobs. We are told we are going to gain jobs. By most reasonable estimates, we are going to lose jobs. The best example of that is to look at what happened in Spain. Spain has traveled this path of renewables and green energy. Their estimate is that for every job they gained, they lost over two. I don't consider that to be a direction that our country needs to go, especially in these difficult economic times.

The second thing that needs to be said is that there is a disparity that is being created in the renewable portfolio requirements. For portions of the country such as Georgia and the Southeast, in general, we don't have the volume of alternatives that are allowed under this legislation, especially if we are not going to get credit for the nuclear plants that we are trying to bring on board in our State. Therefore, we will have to purchase those credits from some other part of the country, something that I think will have an undoubtable, definite negative effect on the power bills of the citizens of my State.

I rise in opposition to the legislation and urge my colleagues to vote against it.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from Georgia (Mr. SCOTT) for the purpose of a colloquy.

Mr. SCOTT of Georgia. Madam Speaker, let me thank Chairman WAXMAN for the excellent job he has done in providing leadership and for expanding the renewable energy standard to reflect the interests of my constituents in Georgia, and certainly the Energy Star home labeling program.

As you know, Mr. Chairman, there is one issue that I have discussed with you that I am very concerned about that we are working our way through, and I would like to enter into a colloquy with you. I am concerned about the jurisdiction of derivatives.

I serve on the Agriculture Committee and the Financial Services Committee. We feel very strongly that any language in this dealing with the regulation of derivatives certainly should be handled by the Financial Services and Agriculture Committees, and you and I have discussed that, and I would like to know how that is done, particularly in view of the fact that 95 percent of the 500 largest global corporations use derivatives for risk management.

I yield to the gentleman.

Mr. WAXMAN. You and others have expressed concern about this issue. This matter will be determined by the work of the Financial Services Committee and the Agriculture Committee. We have a placeholder in the bill. Once they agree on the issue that is within their jurisdiction, it will be placed in the bill.

I want to point out that you have a unique role in that because you are on both committees and have a special interest on this question. So I look forward to seeing your work on that matter.

Mr. SCOTT of Georgia. I thank you, and with that I will certainly support the bill and urge my colleagues to support the bill.

Mr. BARTON of Texas. I yield myself 15 seconds.

We have just experienced something somewhat revolutionary. We have a bill before us that has a placeholder in the bill. We are passing a bill with a placeholder to be determined later. I have never seen a final passage on a bill that had a placeholder in the bill.

With that, I yield to Mr. PITTS, a member of the committee from the State of Pennsylvania, for 1 minute.

Mr. PITTS. Madam Speaker, like all of us, I believe we should work to decrease the amount of greenhouse gas emissions in our atmosphere, and we should be good stewards of this Earth and its resources. However, I don't believe this bill will accomplish a dramatic decrease in greenhouse gas emissions; yet I do believe it will have a crippling effect on our economy for years.

No matter how you doctor or tailor it, it is a tax, a national energy tax that will hurt each and every household. It will destroy sectors of our economy and cause job losses at an unprecedented rate.

Here is a chart that shows the jobs losses in thousands of jobs here, nearly 2 million jobs, 2012; 2035, over 2 million jobs a year. We should be protecting our environment through innovation, through entrepreneurship and cooperation, but this bill tries to cut carbon emissions through punishment taxation, heavy hand of government, and litigation.

The bill as originally introduced, analyzed by the PUC, a bipartisan group in Pennsylvania, said it would cost Pennsylvanians 66,000 jobs by the year 2020.

I urge my colleagues to consider just how irresponsible it is to move legislation that is going to cost so many jobs, so much damage to our economy, and yet it is anticipated to slow temperature increases by only two-tenths of 1 degree Fahrenheit by the end of the century. There is a better way.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from Maine (Mr. MICHAUD) for the purposes of a colloquy.

Mr. MICHAUD. I rise for a colloquy with the chairman of the Agriculture Committee, Chairman PETERSON. I want to thank Chairman PETERSON for his hard work on that legislation, and I seek clarification of two provisions in section 788 of the bill relative to the forest land and forestry sector.

Specifically, on page 198, line 14 of the bill, I would like to know if the agricultural sector language includes forest lands and forestry sector. Also, on page 199, line 22 of the bill, I would like to know, does the term ''projects'' include sustainable forest practices, such as avoided deforestation agreement?

Mr. PETERSON. I want to thank the gentleman for his work on improving the definition in this bill and assure him that, just as with many USDA conservation programs, forest land fully qualifies for this energy incentive program and it is our intent that it be included in this section. Both the terms ''agriculture sector'' and ''projects'' in 788 are inclusive of forest land and could be used to provide incentives for private forest land owners who may not otherwise qualify to participate in the ag offset program.

I will continue to work with the gentleman. He can be assured this will be included.

Mr. MICHAUD. I thank the gentleman for that.

Mr. BARTON of Texas. I yield myself another 15 seconds.

I want to tell all of the Members, if you haven't made your deal yet, come on down to the floor. What we are seeing is unprecedented. We're making deals on the floor. I want to commend Mr. WAXMAN; at least he is now doing it in public. I mean, that is unprecedented, but at least it is transparent.

With that, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

Members are reminded to address their remarks to the Chair.

Mr. STEARNS. Madam Speaker, you know, this is a defining moment. And ''where were you when this legislation came on the floor'' is going to be something that you're going to remember.

As the ranking member has indicated, the lobbying on this by Vice President Gore and the President and all of the people has been tremendous, and there is a possibility that they still don't have the votes. One of the reasons is there is not a fairness factor here.

China adds more CO_2 to the atmosphere each year than any other nation in the world. However, they have consistently said they reject any binding international cap on such emissions and claim the right to continue to increase its release of greenhouse gases while at the same time we are going to pass—attempt to pass this legislation.

My colleagues, without equivalent efforts by China and India to limit greenhouse gas emissions, the United States stands to lose many hundreds of thousands of jobs to these countries that will profit from this bill today.

The proponents of this legislation say we should make unilateral reductions, unilateral disarmament, which will in turn impose moral pressure on other countries. I find it hard to believe that China and India will reduce their economic growth and idle their people because they are willing to adopt a cap-and-trade. The cap-and-trade is flawed. China and India are not going to go forward. Any meaningful effort to achieve long-term, sustainable reductions in global greenhouse gas emissions depend on the development and deployment of new energy technologies, we all agree, we must include clean coal technologies, carbon capture and sequestration, and advanced nuclear power generations. I had an amendment that was designed to do this. It was not allowed.

The rapid development demonstration of widespread deployment of such technologies are of paramount importance in any reasonable and any effective effort to address CO_2 reductions. The massive new regulatory burdens imposed by this cap-and-trade scheme will invariably cut the growth and innovation in this country and we will lose jobs. Let's foster new technology. Let's not pass this bill.

Last night, I offered two substantive amendments to improve this flawed legislation. One of my amendments would have allowed states that have existing nuclear power plants to more easily meet the Renewable Electricity Standard by excluding all electricity generated by nuclear power from a retail electric suppliers bases amount. My other amendment would have eliminated the home Energy Star labeling program that will further reduce property values at a time when many homeowners have seen their equity and retirement savings vanish. Unfortunately, both of these amendments were struck down by the Rules Committee along with 221 other amendments.

Quoting from yesterday's Wall Street Journal editorial, Americans should know that those Members who vote for this climate bill are voting for what is likely to be the biggest tax in American history.''

In fact this cap and tax scheme could cost families up to $3,100 more per year and result in real GDP losses of $9.6 trillion over the life of the bill, especially if we do it alone.

China adds more CO_2 to the atmosphere each year than any other nation in the world, however they have consistently rejected any binding international cap on such emissions and claims the right to continue to increase its release of greenhouse gases. Without equivalent efforts by China and India to limit greenhouse gas emissions, the U.S. stands to lose many hundreds of thousands of jobs to these countries that will profit from this bill.

The proponents of this legislation say we should make unilateral reductions, which will in turn impose moral pressure on other countries to reduce their emissions. I find it hard to believe that other nations would follow the United States in reducing economic growth and idling millions of workers. Although cap and trade is flawed, there is much that we can do to reduce carbon emissions and our dependence on imported energy sources.

Any meaningful effort to achieve long-term, sustainable reductions in global greenhouse gas emissions will depend on the development and deployment of new energy technologies, including advanced clean coal technologies, carbon capture and sequestration and advanced nuclear power generators. The rapid development, demonstration and widespread deployment of such technologies are of paramount importance in any reasoned and effective effort to address carbon dioxide reductions.

The massive new regulatory burdens imposed by this cap and trade tax scheme will inevitably undercut the growth and innovation we desperately need to build lasting and effective solutions. Fostering new technology and scientific research across all sectors of the economy, not capping our economy and trading U.S. jobs, will guard our nations security and increase our energy independence.

I encourage all my colleagues to join me in strong opposition to this legislation.

Mr. WAXMAN. Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. CANTOR), the distinguished minority whip.

Mr. CANTOR. Madam Speaker, if there is one thing everyone in this Chamber should be able to agree on, it is that we need to focus on job creation and relieve the burden on middle-class families, not increase it. Yet the evidence suggests that by taking up this cap-and-trade bill, we are abandoning this fundamental mission.

According to an MIT study, the legislation before us will force America's middle-class families to pay as much as $3,100 in higher prices every year. The EPA, meanwhile, estimates that a family of four will eventually pay an additional average of $1,100 each year.

The impact on jobs is equally dismal. A CRA International study finds the legislation, when fully implemented, will cost America 2.3 to 2.7 million jobs. This, at a time when hundreds of thousands of workers are losing their jobs every month.

In the midst of a severe recession, why would we even contemplate a plan that amounts to a growth-killing millstone around the neck of small businesses and all American consumers.

Madam Speaker, it is not the utilities, the oil companies, and the other producers who will bear the cost of this new regime. We already know that the companies will pass their higher costs along to the consumers and small businesses that rely on their services. This means more expensive bills for all Americans on everything from electricity to heating to gasoline to groceries.

We also can't forget that this national energy tax comes down hardest on the poor. The highest income quintile spends less than 5 percent of its income on energy-intensive products, but our families in the lowest income quintile spend over 20 percent on those items—this, according to CBO.

□ 1445

Madam Speaker, with a watchful eye toward the consequences for jobs and economic growth, let us give thoughtful consideration to the limited benefits this unilateral action will bring about. Even if the bill cuts U.S. carbon emissions to 83 percent of current levels by 2050, we still are only anticipated to slow global temperature increases by a mere two-tenths of a degree.

And then there's the real elephant in the room, India and China. Both of these freewheeling nations are growing rapidly and not prepared to slow down. Do we really want to hamstring U.S. industry and put it at a competitive disadvantage to Asia? Can we be so naive to assume our businesses, jobs—and emissions—won't emigrate to China and India?

Moving to eliminate CO_2 from the atmosphere is a noble endeavor, but taking this kind of action without enforceable carbon commitments from our competitors is only an exercise in futility.

Madam Speaker, Republicans remain committed to bringing a swift end to the recession and paving the path to prosperity. We intend to focus on policies that will put people back to work and grow the economy. That does not include this cap-and-trade proposal. With stakes so high, gambling the house away on such a high-cost, low-reward program is a grave mistake that Republicans will not support.

Mr. BARTON of Texas. I yield 1 minute to the distinguished gentlelady from West Virginia, Congresswoman CAPITO.

Mrs. CAPITO. Madam Speaker, at a time when families are already struggling to meet their basic needs, the last thing we need is a new energy tax on all consumers, and that's exactly what this cap-and-trade bill is. It is a national energy tax that will burden consumers, burden businesses, and particularly burden the lower-income families in this country. It picks regional winners and losers, with coal-dependent States like mine, West Virginia, bearing the brunt of this bill.

Under this bill, we will actually be penalized for our lower-cost power and will have to pay more to continue using our greatest resource, coal. We should be innovating towards clean coal and carbon sequestration where we can continue to use our most abundant resource.

We all want cleaner sources of fuel and more efficient energy, but this cap-and-trade bill is not the way forward. This bill is a jobs killer. This bill has real costs for real people. Vote ''no'' on this bill.

The SPEAKER pro tempore. The gentleman from New York is recognized for 15 minutes.

Mr. RANGEL. Mr. Speaker, I rise today in support of the American Clean Energy and Security Act of 2009 and urge my colleagues to support it.

Listening to the beginning of this debate, I'm convinced that—one of the people on the other side said that our voting today will be well remembered, not by Democrats and Republicans, but by the entire world. We know that we have a crisis. It is a universal crisis; it's a crisis that affects our country and our communities. But the ironic thing about it with the other side, all of their comments have been in criticism of the great work that has been done by Congressmen WAXMAN and MARKEY and their committee, the Ways and Means Committee, and those that were concerned about perfecting something to protect the people of this Earth. And just as they will remember the courageous and political forces that were put together to make this great contribution to humankind, they also will remember the negative political shots that have been taken and the absence of any positive program that the minorities have brought forward.

I congratulate our great Speaker for coordinating this effort. People call it, on the other side, ''deals,'' when they don't have any ideas to put forward. But ''deals,'' if it means bringing people together and getting a better bill and moving forward in order to provide a majority, then I'm proud to be on this side of the aisle.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. I yield 1 minute to the member of the committee from the Golden State of California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I rise in strong opposition to the global cap-and-tax bill that is on the floor today. You don't have to look any further than my own beloved State of California to see environmental alarmism at its worst. California has adopted its own renewable energy standard and carbon cap-and-trade scheme. It's killing business in California and driving people out of the State in record numbers.

Rural and agricultural communities will be most affected by this bill, forcing local agriculture producers to pay more for seed, equipment, machinery, steel, and other supplies. If you like getting your oil from Hugo Chavez, with cap-and-tax you're going to love getting breakfast, lunch and dinner from him too.

If we were truly interested in achieving dramatic reductions in CO_2 emissions without destroying our economy, we should preserve our robust economy and allow the free market to continue to produce commercially viable energy efficiencies and clean-energy technologies.

I urge my colleagues to do something good for the economy and the environment and put this bill where it belongs, in the recycle bin.

Mr. BARTON of Texas. Will the gentleman from New York yield for a procedural inquiry?

Mr. RANGEL. I would be glad to.

Mr. BARTON of Texas. I've got two nonmembers of the Ways and Means Committee that I would like to go out of order to get us in balance so Mr. CAMP and you can balance each other.

Mr. RANGEL. I yield to the gentleman.

Mr. BARTON of Texas. I yield 1 minute to the gentleman from New York (Mr. LEE), and I want to thank Mr. RANGEL for his courtesy.

Mr. LEE of New York. I thank my friend for yielding.

The people in my district know only too well that when Washington applies itself to a problem, it overregulates and always hides the true cost to the taxpayer. This bill is truly no different with it being over 1,100 pages in length and 50 pages dedicated to regulating light bulbs.

In order to garner enough votes, the majority has tried to shift the most punitive cost of this bill to later years so they can get it passed. Early on, it will be the government footing this enormous bill with your tax dollars, and then down the road this subsidy will shift to consumers who will pay directly to sustain this program through higher, job-killing energy prices. Either way, it's the taxpayer who bears the burden.

This bill is truly a pipe dream. We need to focus on an energy solution that rewards innovation using American-made energy, not trying to find a way to tax our way to prosperity and continue this horrific job loss. That is why I urge my colleagues to oppose this bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished Congresswoman from Illinois, a member of the Science Committee, Congresswoman BIGGERT.

Mrs. BIGGERT. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the American Clean Energy and Security Act.

In my home State of Illinois, we depend on nuclear, coal, and natural gas for our electricity. Because this bill discriminates against these energy sources, Illinois will be hit especially hard. Gas prices could rise by 77 cents a gallon and diesel by 88 cents a gallon. This is part of an entirely arbitrary penalty on oil and gas that is passed straight on to the consumer.

H.R. 2454 does little to incentivize new nuclear production, despite the fact that nuclear power is safe and emissions free, and what little it does is grossly inadequate concerning the overall goal of this bill.

I am deeply concerned also that there is no framework for an international agreement on climate change in this bill. In the absence of such framework, and in agreement from developing nations, my district can count on losing thousands of jobs to countries like India and China if this legislation is enacted.

Mr. Speaker, I oppose this bill and urge my colleagues to do the same.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan, Chairman LEVIN.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Action on climate change is a policy, indeed, a moral imperative. Prompt action is a vital part of our legacy to the Nation, and to our children and grandchildren.

As we act, we can and must ensure that the U.S. energy-intensive industries are not placed at a competitive disadvantage by nations that have not made a similar commitment to reduce greenhouse gases.

After discussions between the Energy and Commerce and the Ways and Means Committees and the administration, we have developed reasonable and effective provisions which involve the President and the Congress in taking action—no more than necessary—to ensure that this important legislation is trade-neutral for our energy-intensive industries.

We want to see a meaningful international agreement. If we are unable to do so through an international agreement, this legislation ensures that the U.S. will avoid carbon leakage in its energy-intensive and trade-sensitive industries.

There are some critics—and we may hear from them today—who claim that these changes make the bill subject to trade challenges. They are wrong. Just today, the World Trade Organization and the U.N. Environment Program issued a report which confirms that ''WTO rules do not trump environmental requirements.''

Mr. CAMP. Mr. Speaker, I yield myself 3 minutes.

As a candidate, the President stated that under his energy plan ''electricity rates would necessarily skyrocket.'' I give him credit, he was being honest with the American people.

Today, the Nation's unemployment level is fast approaching 10 percent. That means one out of every 10 Americans will soon be without a job and without a paycheck to provide for themselves and their families. Yet, this national energy tax will drive up prices while making jobs scarcer. In fact, one utility which is even supporting this legislation has already applied to State regulators to raise their electricity rates in anticipation of the cost of complying with this national energy tax.

While the Speaker wants us to pay more in energy taxes, China and India have repeatedly said they will not follow suit. They will not impose those hardships on their people. This shouldn't surprise us. As our mothers used to ask, if everyone else jumped off a cliff, would you? Of course not. Neither will China and India. They recognize enacting these caps is like jumping off an economic cliff.

So what does a ''yes'' vote mean? It means more American manufacturing jobs move to China and India, fewer Americans have jobs, and there is no reduction in global greenhouse gases. And because this bill was rushed to the floor, because the American people were not given a chance to review it because their Representatives were not given a chance to improve it through the committee process, this bill contains numerous flaws.

The border measures, which the Committee on Ways and Means has not reviewed, are an area open for our trading partners to retaliate against our goods and against our workers. How does this help our economy? How does this help families? How does this help our environment? It doesn't.

Now, I know promises have been made that your constituents won't be harmed by this bill, that it contains plenty of consumer protections. What are those protections? Who's going to get them? Not the middle class. Not the people the President promised to protect, families making less than $250,000 a year. Somewhere in this House late at night someone made the decision to eliminate the tax credits designed to help middle class families pay for these high energy prices.

Here are the plain and simple facts: under the Speaker's national energy tax, a family of four with income over $33,000 per year will lose under this bill. They, and 235 million other Americans, will pay higher costs and receive no help in offsetting those costs. Let's be clear what this means: three out of every four Americans will pay more under this bill.

The Speaker's national energy tax is bad for our economy, bad for families who are already struggling to make ends meet, and it will do nothing to reduce global greenhouse gas emissions. It's all pain and no gain. I urge my colleagues to vote ''no'' on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. When the Republican Party becomes the protector of the poor, it's a day that I've been waiting for.

I would like to yield 2 minutes to Mr. LARSON, an outstanding leader of the Democratic Party.

Mr. LARSON of Connecticut. I thank the distinguished chairman.

Mr. Speaker, it has been an interesting day in listening to the claims that have emanated from the other side of the aisle, claims about honesty, claims about being forthright. The President of the previous administration, President Bush, stood on the floor and claimed our addiction to oil, and everybody put their head in the sand and did nothing as we continued to send and export American dollars overseas.

We send American taxpayer dollars overseas to Russia, to Saudi Arabia, to Libya, to Venezuela, all the people that you have chimed in about today. That's the real tax that we are paying because of our increasing addiction and our need to stand up and rid ourselves of dependency on foreign soil.

So the challenge faces us once again—it was here 30 years ago, and we didn't have the courage to make the stand, nor the patriotic fervor or fiber to stand up and do the right thing.

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Stop this addiction. If T. Boone Pickens can get out front across this country and talk about this awful addiction, and, as Thomas Friedman said very eloquently, if the American policy of the previous administration is to ''leave no mullah behind'' and find our funds that we pay with American taxpayers going to fund our enemies' efforts against our own troops in our efforts against terrorism, that is what this is about in the final analysis. It's about this great country of ours and making a stand for what we believe in, standing up for American dominance and superiority.

Yes, the Chinese and Indian nations are out there competing. We want to compete against them because we have better technology. We just have to make the investment here and not in Saudi Arabia and Libya and Venezuela and Russia. That's what the policy of previous administrations have led us to. And that's where it must end today, on this floor.

Mr. CAMP. Mr. Speaker, I wish the gentleman's passion was directed at bringing the bill before the Ways and Means Committee.

With that, Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, not only is this legislation not the right thing; this legislation is one of the most overreaching, damaging pieces of legislation that has ever come before this House of Representatives.

This national energy tax is a job killer and will cost American families over $3,000 per year while doing very little

to affect global temperatures. Rural America, low- and middle-income families, and our farmers will suffer the most under this new tax.

Mr. Speaker, we all want to protect our environment. But we should accomplish that through innovation and investment, not by government micromanagement that undercuts Americans' ability to compete globally.

I urge all Members to protect the American economy and livelihoods of millions of American families and say ''no'' to this gigantic national energy tax.

Mr. RANGEL. Mr. Speaker, I would like to yield 2 minutes to the gentleman from Massachusetts, Chairman NEAL.

Mr. NEAL of Massachusetts. I want to commend Mr. RANGEL and Mr. WAXMAN and Mr. MARKEY, who have attempted against long odds to forge a consensus on this legislation.

Mr. Speaker, the bottom line to this legislation as proposed today is it will make America less dependent on foreign oil. And, remember, despite protestations to the contrary from our friends on the other side, there is an element on the other side who rejects to this day the concept of climate change and global warming. It is very difficult to find middle ground if there's a side that simply rejects the science of our times. Part of our job in leadership in governing is to make some difficult decisions and, indeed, some very tough choices. This climate-change bill we have before us today makes those tough choices for our future and our children's future. It's in the interest of America, but just as importantly, it's in the interest of the world. America leads the way, and this is an opportunity for us to reclaim that leadership.

This legislation will lead our consumers, our businesses, and our communities towards smarter, cleaner, and more efficient energy use. And it will not be alone. Strong trade enforcement mechanisms will mean that the American business community will not be disadvantaged by importers who skirt the rules. This long legislation is a vote for innovation and environmental stewardship.

I almost would be remiss if I didn't mention this as well. For the previous 8 years, the administration rejected the idea of global warming. The other side was given fancy talking points to grudgingly acknowledge that perhaps it might be happening but to spin the argument that it presented a peril to our times. You would be hard pressed to find scientists anywhere across this globe who have not at least forged a consensus on identifying and defining the problem. As is always the case in public life, it is difficult once definition has settled in to offer a solution. This legislation today offers a solution.

Mr. CAMP. Mr. Speaker, I yield 1 minute to a true American hero, a distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, as a clean-energy advocate, I believe we should be good stewards of the Earth and its resources.

We're in the midst of a long recession. Yet the Democrats want to impose a massive new energy tax on American families and businesses, costing every American family heavily. Americans are sick and tired of Democrats spending too much, taxing too much, and borrowing too much.

With the price at the pump rising 65 percent this year, the Democrats would create a 70-cent-per-gallon tax hike. With unemployment close to 10 percent, the Democrats would kill 2½ million jobs per year. My district alone would lose 3,000 jobs per year.

Democrat Congressman JOHN DINGELL said it best, Nobody in this country realizes that cap-and-trade is a tax, and it's a great big one.

This is America. Let's don't sell it down the river.

Mr. RANGEL. Mr. Speaker, it's my honor to yield 1 minute to Mr. BLUMENAUER, an outstanding advocate of prevention of global warming.

Mr. BLUMENAUER. I appreciate the gentleman's courtesy.

For the last 2½ years, I have had the privilege of working with the Speaker's Select Committee on Global Warming, driving home the reality of climate change. Today we have a major opportunity to rebuild and renew America while protecting the planet.

I want to thank the Ways and Means Committee and the Commerce Committee for working with me to harness billions of dollars over the life of this bill to develop transportation that reduces carbon footprint for transit, bike, and pedestrian, development patterns, things that will make a difference for a country that emits more carbon with its transportation than China, India, and Europe combined. We have an opportunity to protect the planet, but unless you're prepared to lead, China and India will continue to pollute more and more.

This is the first step in this leadership, and I urge the courage to vote ''yes'' on this legislation today.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. I thank the chairman for yielding.

Mr. Speaker, I will submit a statement for the RECORD, but I'm not going to read that statement. I want to respond to the gentleman from Connecticut, who said we need some honesty in this discussion, and the gentleman from Illinois this morning on the rule. The gentleman from Illinois said on the rule that there are zero peer-reviewed articles by scientists who disagree with the notion that humans are causing global warming.

That will come as a surprise to Professor Morner from the University of Stockholm, who has written 520 himself on sea levels. He's the world's foremost expert on sea levels. Or Richard Lindzen from MIT, the Alfred P. Sloan professor of meteorology at MIT, who has written many peer-reviewed articles. He is a denier. Professor Willie Soon from MIT, one of the world's foremost scientists on precipitation. John Christy and Roy Spencer from Huntsville, Alabama. Fred Singer, who was responsible for leading the charge to get all of our weather satellites in the air from Northern Virginia.

And the five authors of the first IPCC report who wrote in their scientific reports that there is no evidence that humans are causing any of this. And those five sentences were removed by a bureaucrat who replaced them with one sentence that said, It's clear that humans are the cause. In a court action under oath, that bureaucrat was asked why he removed those sentences and replaced them, and he said because of intense pressure from the top of the United States Government.

There are 32,000 scientists, 9,000 Ph.D.s and 23,000 masters in science who signed a petition against this silliness that we're discussing, and they want to join the deniers Galileo and Einstein. Einstein questioned Newton's 200 years of settled science, and he was sent a letter by 100 of the most important scientists in the world who challenged him on his questioning of that settled science, and he showed the letter to his friend, and he said, You would think one of them might have produced a fact.

That's all we ask from you is a fact. Not a computer model but a fact.

''Energy Stamps'' in Democrat Bill Is the Biggest Welfare Program Ever—16 Times Bigger than the Current Welfare Program

Mr. Chairman, some Members deny this bill is a massive tax hike. To them, I can only say you're not paying attention. Everything takes energy. If you raise the price of energy, as this bill does, you raise the price of everything. CBO admits it, again and again.

The authors know very well their bill is a massive tax hike. That's why, as this chart shows, they create the largest welfare program in U.S. history, to relieve some. This legislation would pay checks—call them energy stamps—to 16 times as many people as are on welfare now.

Here's what it says on page 1010:

''The Secretary shall . . . administer . . . the 'Energy Refund Program' . . . under which eligible low-income households are provided cash payments to reimburse the households for the estimated loss in their purchasing power resulting from (this bill) . . . each eligible low-income household . . . shall be entitled to receive monthly cash payments . . . if . . . the gross income of the household does not exceed . . . 150 percent of the poverty line . . .''

65 million Americans fall below 150 percent of poverty. Every one would receive a monthly energy stamp check, on top of any welfare or other benefits they collect now.

Amazingly, this number is down from prior versions because Democrats, predictably, removed any vestige of middle class tax relief.

So the other 235 million Americans would get nothing but a new National Energy Tax.

Every family of four earning over $33,000 ''loses''—getting no energy stamps but all the energy tax hikes.

So much for the President's pledge to cut taxes for 95 percent of Americans. And so much for the Speaker's pledge this won't raise costs for American families.

In his 1935 State of the Union Address, Franklin Roosevelt said ''continued dependence upon relief induces a spiritual and moral disintegration fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit.''

On that President Roosevelt was right, as surely as this legislation is wrong.

Vote ''no.''

Mr. RANGEL. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Virginia (Mr. CONNOLLY).

(Mr. CONNOLLY of Virginia asked and was given permission to revise and extend his remarks.)

Mr. CONNOLLY of Virginia. Mr. Speaker, it is an honor to speak in support of this historic legislation. Congress has never faced a challenge of such magnitude, complexity, or urgency. Global climate change is an existential threat that undermines our national security and imperils our coastal cities, agricultural heartland, and economic vitality.

After enduring eight years of intransigence, denial, and fealty to special interests, we are poised to transform the marketplace and spur a new generation of technological and industrial innovation.

By creating incentives for clean energy we will jump-start job creation and investment in production of advanced batteries, wind turbines, solar panels, geothermal systems, carbon capture and storage, and cellulosic biofuels. The dozens of companies that support this legislation have told us that they are poised to make these investments.

Although we have seen an alarming rise in greenhouse gas pollution, we also know that it is not too late to act. From New Orleans to Glacier National Park to the Everglades, by acting now we will protect America's iconic places and our national identity.

I thank Chairman WAXMAN, Chairman MARKEY, and their committee for leading the effort to write this legislation. Like many of my colleagues, I ran for Congress in order to restore economic growth, reform health care, and address global warming. We have made progress on the first pledge and are embarking on the second. With my vote for this bill I redeem my pledge to begin to address global warming and ask my colleagues to join me.

I also wish to thank Chairman WAXMAN, Chairman MARKEY, and the staff of the Energy and Commerce Committee for their collaboration in drafting this bill. When this discussion draft was released in March, the American Clean Energy and Security Act did not provide dedicated funding for local governments through the State Energy and Environmental Development (SEED) or Retrofit for Energy and Environmental Performance (REEP) programs. I wrote to Chairman Waxman and requested that a portion of funding through these programs be dedicated to local governments, to support local efforts to improve buildings' efficiency and reduce greenhouse gas pollution. The Committee responded to my request by dedicating SEED funding to local governments and by ensuring that REEP funding would support local weatherization programs. These important changes ensure that Northern Virginia localities can continue to lead efforts to reduce residents' electric bills and greenhouse gas pollution. These changes are very significant for Virginia. According to the Congressional Research Service, Virginia will receive between $108 and $216 million in SEED funding in 2012. As a result of the changes I requested, between $13.5 and $27 million should flow directly to local government programs to reduce pollution.

In my letter to Chairman WAXMAN, I also requested reforms to the transmission line siting process in order to protect environmental and cultural resources. Northern Virginians know that we must act to correct deficiencies to the 2005 Energy Policy Act, which created a National Interest Electric Transmission Corridor process that granted unprecedented authority for federal agencies to site transmission lines without regard for the impact on environmental and cultural resources or property values. Fortunately, the manager's amendment that is incorporated in the American Clean Energy and Security Act takes the important first step of ensuring that state and federal environmental agencies and land managers have a seat at the table in the planning process. Although additional reform of the transmission siting process is still needed, this change will better enable us to protect important Northern Virginia resources such as Manassas National Battlefield Park, Prince William Forest Park, and Shenandoah National Park.

I also applaud Chairman WAXMAN for incorporating an amendment proposed by the Sustainable Energy and Environment Caucus, of which I am a member. This amendment ensures that the Federal government will derive 20% of its energy from renewable sources by 2020. This proposal, which Chairman WAXMAN incorporated into the manager's amendment, is particularly important for Northern Virginia because it will result in renewable energy deployment to power Federal facilities in the National Capital Region. This is important because we must move to clean energy generation if our region is to achieve ground level ozone reductions, which are essential for public health, as recommended by the Environmental Protection Agency.

Finally, I thank Mr. WAXMAN for incorporating language that expresses the sense of Congress that the International Civil Aviation Association limit aviation-related emissions worldwide. Following Committee passage of H.R. 2454, the Washington Airports Task Force asked members of the Northern Virginia delegation to identify a role for the International Civil Aviation Association in limiting emissions, and I asked the Committee to see if they could address the Washington Airports Task Force's request. I believe that the language incorporated in Mr. Waxman's manager's amendment is a step in the right direction, and appreciate his willingness to address this issue at such a late point in the legislative process.

In summary, Chairman WAXMAN, Chairman MARKEY, and the staff on the Energy and Commerce Committee have been very responsive to my requests for changes to this bill that benefit Northern Virginia. I greatly appreciate their willingness to work with members like me to ensure that this legislation will benefit residents of Northern Virginia and across the country. As important as it is to have sound overarching legislation, I believe it also is essential that the legislative process allow individuals and businesses from across the country to have a role in crafting any bill. Because of the outstanding work by Chairman WAXMAN, Chairman MARKEY, and their committee, this bill has evolved to reflect the needs of Northern Virginians and others from across the country.

Finally, I would like to offer special praise to my colleague from Virginia, Mr. BOUCHER. As a senior member of the Energy and Commerce Committee, Mr. BOUCHER played a central role in writing the American Clean Energy and Security Act. He is the only Virginia Congressman on that Committee, and I believe he did an outstanding job representing the interests of the Commonwealth. Specifically, he ensured that coal-reliant states like ours can transition to cleaner energy sources without creating price spikes and without negatively impacting regions where coal extraction is important economically. This was a difficult balance to strike, and required the skill and experience of a legislator of Mr. BOUCHER's caliber. Years from now, when coal extraction and electricity generation is substantially cleaner than today, and when Virginia finally has significant renewable electricity generation, we may look back and thank Mr. BOUCHER for his role in crafting this legislation that made such a transition possible.

Congress has never dealt with such a complex bill of such fundamental importance to our economy, environment, and quality of life. Led by Mr. WAXMAN and Mr. MARKEY, the American Clean Energy and Security Act reflects a carefully crafted consensus that has the support of large utilities like Dominion and environmental organizations alike. While forging this consensus the Committee found time to address requests from members representing diverse regions of the nation with competing needs. I thank Chairman WAXMAN, Chairman MARKEY, and I am proud to cast my vote for the American Clean Energy and Security Act.

Mr. RANGEL. Mr. Speaker, at this time it's my pleasure to yield 1 minute to the gentlewoman from Nevada (Ms. BERKLEY), an outstanding member of the Committee on Ways and Means.

Ms. BERKLEY. I thank the chairman for yielding.

Mr. Speaker, I rise today in support of this bill. It addresses climate change, promotes the development of clean-energy sources, and brings us closer to our goal of securing America's energy independence. This bill also takes extra steps to protect consumers while creating new green jobs.

Nevada is in the forefront of renewable energy use. In 1997 Nevada enacted a renewable portfolio standard requiring that 20 percent of our electricity comes from renewable sources by 2015. Nevada's solar potential, coupled with our State's geothermal and wind resources, will bring jobs to Nevada and make us a leader in the use of production of clean energy.

In contrast, the alternative proposed by the House Republicans continues the same old failed policies, including the Yucca Mountain project. It doubles the amount of nuclear waste that can

be shipped to Nevada and jams twice as much of this radioactive garbage down our throats. The Republican plan to more than double the size of the Yucca Mountain dump would only double the danger to families in Nevada and across our Nation at a cost of hundreds of billions of dollars.

I urge all of my colleagues to support this bill.

Mr. CAMP. Mr. Speaker, I yield 1 minute to a distinguished member of the Ways and Means Committee and the ranking member on the House Budget Committee, the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. I thank the gentleman for yielding.

Mr. Speaker, this bill is not about science, it's not about costs and benefits; it's about ideology. Because if you look at the costs and benefits, the goal of this bill is to reduce global warming by 2/10 of a degree over a hundred years, hit our economy with this massive tax increase on homeowners, on people buying gasoline, heating their homes, hit manufacturing at a time when our competitors will not do this. This bill will result in jobs leaving the Midwest and jobs leaving America and going to other countries. And for every 1 ton of greenhouse gases we reduce, what will China do? They'll increase greenhouse gases by 3 tons. And that means more dirty air. That means more greenhouse gases. What will the U.S. have achieved? They will have pushed production off our shores. Jobs will be lost. Prices will go up. And other countries will take those jobs and put more greenhouse gases in the atmosphere.

This unilateral big government, Big Brother bill is not good for the planet. It's not good for our economy. And it sure as heck is not good for the Midwest. And I encourage my colleagues not to vote ideology, vote your districts and your constituents.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to an outstanding Democratic leader, the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, this is an historic day for this House of Representatives. After years of delay and inaction, we're finally poised to embrace America's clean-energy future and adopt an energy strategy for the 21st century.

This act delivers on the change that President Obama has called for in our energy policy. It will strengthen our national security by slashing our dependence on foreign oil by as much as 2 million barrels a day by 2030, which is as much as we export from the Persian Gulf today. We will use those hundreds of billions of dollars instead right here at home on homegrown, clean energy. And by doing so, we're going to create millions of jobs, high-skilled, well-paying jobs that will focus on renewable energy and energy efficiency. And we will do all that without adding a single penny to our national debt.

Mr. Speaker, I especially want to thank Mr. RANGEL, Mr. WAXMAN, Mr. MARKEY, Mr. DINGELL, Mr. INSLEE, Mr. GORDON, and their staff for the collaborative effort that went into the final provisions establishing a Clean Energy Deployment Administration. As a result of this effort, America is going to have an independent——

The SPEAKER pro tempore (Mr. PASTOR of Arizona). The time of the gentleman has expired.

Mr. VAN HOLLEN. Well capitalized bank charged with the exclusive mission of accelerating the deployment of clean energy.

The SPEAKER pro tempore. The time of the gentleman has expired.

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Mr. CAMP. Mr. Speaker, at this time, I yield 1 minute to a distinguished member of the Ways and Means Committee, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. You know, this bill started out as the cap-and-tax bill, then it became the clean energy bill because my colleagues on the other side of the aisle realized it wasn't selling anymore at home. It should really be called the Let's Send More Jobs to China Act.

This bill is going to cost people in the State of Florida an additional $500 on their utility bills, but let's look at the jobs that are going to be lost. In my district alone, we will lose 2,100 manufacturing jobs, 3,200 construction jobs, and 1,900 retail and wholesale jobs.

Personal income loss for Florida's Fifth District in 2012 will be over $508 million. America cannot afford this at a time when our economy is so fragile. Gasoline prices under this will rise substantially. Electricity prices will rise up to 90 percent.

This is a bad bill. This is a bill that is going to cost Americans not only more in their wallets but certainly jobs going elsewhere.

Mr. RANGEL. Mr. Speaker, I would like to recognize the gentleman from Chicago, Illinois (Mr. DAVIS) for 1 minute.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in strong support of H.R. 2454.

I want to commend Chairman WAXMAN, Chairman RANGEL, Mr. BARTON, Chairman PETERSON, Chairman MARKEY, Mr. DINGELL, and all of those who have worked so hard to reach compromises which help to make this legislation possible. Especially do I want to commend Representative BOBBY RUSH for his hard work to protect low-income consumers, Representative BUTTERFIELD for making sure that Historically Black Colleges and Universities and predominantly black institutions had an opportunity to be involved in the research and job creation.

And I also want to thank Representatives JAN SCHAKOWSKY and DONNA CHRISTENSEN for their hard work on environmental issues to help reduce health disparities. It's a good bill, Mr. Speaker, and I urge all of my colleagues to vote in favor of it.

Mr. CAMP. At this time, I yield 1 minute, Mr. Speaker, to a distinguished gentleman from the Ways and Means Committee, Mr. DAVIS.

Mr. DAVIS of Kentucky. Mr. Speaker, this legislation will increase utility bills, raise the price of a gallon of gas, push fuel prices and food prices to new heights, and increase the cost of nearly every consumer product. It is a national energy tax. Let's make that clear. This will punish middle class families, farmers, the elderly, and small businesses both in Kentucky and especially across the Nation.

America needs a comprehensive energy plan, not a national energy tax. Local, State and Federal officials have stressed the need for policy to create jobs. This cap-and-trade proposal will fail to do that when America needs them most. We will lose jobs. Manufacturers will simply move their plants to other countries with cheaper energy and lower taxes, hurting American workers and the environment globally.

In the past 4½ years, I have watched House Democrats defeat every meaningful proposal for energy independence and job creation that has been proposed in this Chamber, and we have got to bring an end to that.

This bill is nothing more than the economic colonization of the heartland by the coastal States like New York and California.

The one thing that I will tell you is it is not about energy. It is about confiscation of wealth. Vote ''no'' to protect our children's future.

Mr. RANGEL. At this time, I would like to inquire—I only have one speaker, that would be me, to conclude, so I would like to see whether the other side has more than one speaker.

Mr. CAMP. We have five speakers remaining.

Mr. RANGEL. I reserve the balance of my time.

Mr. CAMP. At this time, Mr. Speaker, I yield 1 minute to the distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I have two young children, so the environment is very important to me, but I question the benefits of this bill and strongly oppose its devastating cost.

This bill won't impact the natural cycle of the Earth's temperature. It will cost Texas families dearly in bigger utility bills, higher energy costs, and losing nearly 200,000 jobs, many of them in southeast Texas in our energy refining, paper, steel, and ag industries. And with China and India not likely to go along, this will have no environmental benefits at all.

The protectionist trade measures added in secret at the 11th hour are so rigid, they undermine our ability to reach an international agreement on carbon emissions, which is the best way to protect American jobs here. And they are written so poorly, it will be difficult to defend the measure against trade challenges by our competitors. And I should point out, that

WTO report referenced earlier today doesn't even deal with the border measures that are under consideration in this bill.

Instead of rushing this 1,200-page bill through Congress with no time to read it, a better solution is for both parties to get serious about increasing cleaner-burning fuel, like nuclear and natural gas, accelerating research.

That makes more sense, creates jobs and produces real environmental results without the devastating cost to families and businesses from cap and trade.

Mr. RANGEL. The gentleman from Ohio (Mr. RYAN), not a member of the committee but an outstanding Member of this body, I would like to yield 1 minute to him.

Mr. RYAN of Ohio. I would like to thank the gentleman and thank the chairman for this bill. You know, we hear a lot from the other side about, if we pass this bill, all these jobs are going to go to China; if we pass this bill, gas is going to go up higher.

The jobs already went to China. That's what this bill is all about. Come to Youngstown, Ohio. See how many jobs have already gone to China.

This bill is about revitalizing manufacturing. And your energy policy has already been implemented, and it gave us $4 a gallon gas here. And we have a $700 billion transfer in wealth from this country to states that want to fly planes into our building.

And this bill is about creating programs like the green bank that will loan $750 billion to companies that want to create alternative energy resources. This bill has in it $30 billion for auto suppliers, medium and small auto suppliers, to refurbish and retool so that they can sell their products into these windmill companies.

Everyone is talking about losing jobs. Come to my district. Parker-Hannifin Corporation in Cleveland, they make the hydraulics that go into windmills. Thomas Steel, they make the specialty steel that goes into solar panels. When these businesses explode—Roth Brothers makes an electrical system that goes into a wind cube that will sit on top of the buildings. In Youngstown, Ohio, in Akron, Ohio, there will be jobs because this bill passes. We need to nudge this industry and unleash the creative power.

Mr. CAMP. Madam Speaker, I yield 1 minute to a distinguished member of the Ways and Means Committee, the gentleman from Louisiana.

Mr. BOUSTANY. I thank our ranking member.

This bill is a unilateral blueprint for economic disarmament of the United States, let's be clear. Responsible energy production in the Gulf of Mexico is the backbone of American energy security and it creates good, high-paying jobs. This bill, their bill, dramatically increases taxes and will kill American jobs.

Now, I have repeatedly questioned Secretary Geithner about the job loss that's going to be caused by new taxes on American energy producers. I have asked the administration to prove its claim of saving jobs, and they can't do it.

And no one can define what a green job is and how these displaced workers will transition to one. Secretary Geithner says, ''The administration believes that oil and gas preferences distort markets by encouraging more investment in the oil and gas industry that would occur under a neutral system.''

Again, he goes on to say, ''To the extent the credit encourages overproduction of oil, it is detrimental to long-term energy security.'' Who in this country believes we have enough American-made energy?

If we want to move towards cleaner energy and renewable energy, as this bill purports to do, it's clear we need a transition strategy that involves natural gas. It must be part of that. This administration must stop its attack on American business and American independent oil and gas producers if we are going to make this a reality.

The American public deserves a comprehensive energy plan that creates jobs, spurs innovation, and unleashes American genius. That's how we will solve this problem.

Mr. CAMP. I yield 1 minute to a distinguished member of the Ways and Means Committee, the gentleman from Nevada (Mr. HELLER).

Mr. HELLER. Thank you. I appreciate the Member for yielding.

Here is the bill again. I think we have seen this a couple of times. Here is the bill. It is 1,201 pages. What does this cost the American taxpayer? It is $700 million a page for this bill. What does this bill do? Every time you flip on your light switch, you are taxed. Every time you drive your kids to school, you are taxed. Every time you cook your family dinner, you are taxed. Air travel, food prices, electricity costs, gas prices, transportation cost, all will skyrocket under this bill.

This bill will cost my district a half billion dollars in economic activity. It will cost my district 5,500 jobs. It will cost my district nearly 650 million in personal income loss in just the first year.

Nevada, as a whole, will lose 14,000 jobs. Mining, housing, farming, ranching, tourism industries will be devastated at a time when Nevadans are hurting. The majority can't afford the time for hearings or debate, but Americans can't afford this bill.

Mr. CAMP. Madam Speaker, at this time, I yield 1 minute to a distinguished member of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Ms. ROSKAM. I thank the gentleman for yielding.

You know what's happening in suburban Chicago is there are businesses who are really in a touch-and-go position right now. They are treading water. They are barely keeping their heads above the surface of the water. And what they expect from this Congress is for us to come along and literally throw them a lifeline. But you know what this bill is? This bill is a bowling ball. It comes along, it says, Hey, there you go. Hit that with a thud right on your chest. Deal with it, because we are debating ideology today.

My district says let's do the right thing, let's do the transformational thing, but let's not give our markets over to the Chinese, where they have clearly said they are not in this game. Let's not give our markets over to the Indians where they say they are not in this game. Let's not put an additional $3,100 tax on a family of four. Let's offer a lifeline to the American public. Let's pull the plug on this bill.

Mr. CAMP. At this time, Madam Speaker, I have one speaker remaining.

The SPEAKER pro tempore (Mrs. TAUSCHER). The gentleman has 1 minute remaining.

Mr. CAMP. At this time, I yield 1 minute to the distinguished gentleman from the Ways and Means Committee, the gentleman from California (Mr. NUNES).

Mr. NUNES. Madam Speaker, don't be deceived by the comments of the Democratic Party. This bill is a tax increase. This bill is the largest tax increase in American history.

I ask my Democratic friends, Is this really what you have come to? Do you want to throw away the economic prosperity for nothing, because that's what this bill does. And for what, to satisfy the twisted desires of radical environmentalists.

I would ask my colleagues one more question. How will you force China, India, and anyone else to accept this economic suicide pact? The dirty little secret is that you can't.

While you congratulate each other today, I remind my colleagues the State of California is out of water. We have communities with 40 percent unemployment. And in the meantime, Democrats bring up fairy-tale legislation to the floor, phantom green job legislation.

However, we agree on one thing. We should try to reduce our carbon emissions. Republicans have a plan, an all-the-above plan where we drill for American resources, we drill for oil in America. We take the revenue and we put it into solar, wind, nuclear technologies. That's a real plan, Madam Speaker. This bill is a scam.

Mr. RANGEL. I would like to yield to Mr. FATTAH of Pennsylvania for the purpose of a unanimous consent request.

(Mr. FATTAH asked and was given permission to revise and extend his remarks.)

Mr. FATTAH. I thank the gentleman for yielding.

Madam Speaker, I rise for a unanimous consent in support of this very important bill on behalf of my four children and for millions of young Americans who we hope never to see another die on a foreign battlefield trying to get oil from some other place in

the world. We need independence in our energy.

Mr. RANGEL. Madam Speaker, I would just like to conclude, this is a very historic moment in our Nation's life where we have an opportunity to provide leadership to the whole world to prevent the continuation of the global warming. I wish it had been more positive from the other side that they would have had some contribution to make in order to make certain that our Nation maintains the leadership that it has.

I would like to yield the balance of my time to Chairman WAXMAN of the Energy and Commerce Committee, with your kind permission.

The SPEAKER pro tempore. The gentleman from California is recognized for 2½ minutes.

□ 1530

Mr. WAXMAN. At this point I'd like to yield 1 minute for the purpose of a colloquy to the gentleman from Florida (Mr. GRAYSON).

Mr. GRAYSON. I rise to enter into a colloquy with the chairman of the Energy and Commerce Committee, Mr. WAXMAN.

My attention today is to draw attention to the need for further research and work concerning the effect of ongoing changes in climate and on the frequency and intensity and effects of hurricanes.

As you know, damages from hurricanes—in terms of human lives, infrastructure, and property—have grown in scope and cost; and it is critical that we continue to make progress in furthering our understanding of the science behind hurricanes. Doing so will ultimately help vulnerable communities in my district, in Florida, and elsewhere in the United States prepare for and reduce the impacts from hurricanes.

I ask that a portion of the allowance value in H.R. 2454 be directed towards research on hurricanes at a new $50 million National Hurricane Research Center in my district in Orlando. The National Hurricane Research Center in Orlando will be a worldwide center of expertise in the 21st-century science of meteorology.

In a world already affected by global warming, it will help to develop both short-range and long-range hurricane forecasting, conduct practical research on mitigation of hurricane damage, disseminate to the public realtime information on hurricanes——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman 1 additional minute.

Mr. GRAYSON. Advise policymakers and the public, and expand knowledge on what can and should be done to impact the frequency, course, and human and property consequences of hurricanes.

Mr. WAXMAN. I share the gentleman's concern about the need for research on hurricane intensity and frequency and effects. The harm from hurricanes is only going to increase with global warming, and we need to better understand the connections and impacts.

H.R. 2454 includes domestic adaptation provisions giving States substantial resources to study and adapt to climate change. Based on our estimates, the bill will provide up to $1 billion per year from 2012, when the program starts, through 2021. From 2022 through 2026, the amount will be over $2 billion annually.

Research on hurricanes is explicitly listed as an authorized use of these revenues. The project the gentleman mentions is among the type of activity that would be eligible to received funding under these provisions.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional 30 seconds.

Mr. GRAYSON. Mr. Chairman, I understand that H.R. 2454 includes provisions directing allowance value towards State adaptation. I hope that we will be able to work together as this bill moves forward to make certain that hurricane research receives full funding and that we are able to ensure that the work of the National Hurricane Research Center will be supported.

Mr. WAXMAN. The gentleman has discussed this project with me, and I think it's a very worthwhile project. I look forward to working on it and making it a priority as the legislative process moves on.

Mr. GRAYSON. I thank the chairman for his support of our efforts to ensure that our hurricane research efforts are adequately supported.

Mr. BARTON of Texas. Can I inquire how much time we have on the last part of the debate?

The SPEAKER pro tempore. The gentleman from Texas has 30¾ minutes remaining. The gentleman from California has 28½ minutes remaining.

Mr. BARTON of Texas. Well, I want to compliment Chairman WAXMAN on apparently getting another vote—of Congressman GRAYSON—at the cost of 4,100 jobs in Congressman GRAYSON's district in the year 2012.

With that, I want to yield 1 minute to a distinguished member of the committee, the gentleman from Kentucky (Mr. WHITFIELD.)

Mr. WHITFIELD. Mr. Speaker, I rise to speak in opposition to the bill. This legislation is not so much about stopping the import of foreign oil as it is designed to change the way we produce electricity in America.

Today, 52 percent of all electricity produced is produced with coal, and this bill will require the use of permits to burn coal. In my State of Kentucky, the utilities believe—and they have looked at this closely—that in order to comply with this legislation, they will have to spend an additional $500 million.

As we look around the country, we see that only about eight States will really benefit in the sense that their electricity rates will not go up. The problem with this is that as you increase the cost to produce electricity, that makes the United States less competitive in the global marketplace, because when companies decide where they're going to locate and build new plants, they look at cost of production, and one big cost is electricity.

And so those of us who oppose it do so genuinely because we believe that at a time when we are in an economic recession, we should not be jeopardizing more jobs.

Mr. WAXMAN. I'm pleased at this time to yield 1 minute to the gentlewoman from Illinois (Mrs. HALVORSON).

Mrs. HALVORSON. Mr. Speaker, I thank the gentleman for yielding. Chairman WAXMAN, I'm pleased, as I know you are, with the work of the Energy and Commerce and Agriculture Committee and what we have done to address the concerns of agriculture producers and forest landowners in this historic bill.

I would like to clarify provisions in this bill regarding section 795, Exchange for Early Action Offset Credits, and section 740, Requirement of Early Offset Supply. These provisions attempt to fairly compensate farmers and others who have been enrolled in voluntary offset programs since 2001.

I have noted the legislative goal of providing equity and fairness to those early actors and believe that further clarity would improve the understanding of those who are eligible under the requirements in section 740. Therefore, to remove the possibility of uncertainty of economic harm to the holders of potential credits under section 740 and those that would be compensated under section 795, it is my understanding that registries like the Chicago Climate Exchange and their partners should qualify in all respects to the provisions——

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. WAXMAN. I yield the gentlewoman an additional 30 seconds.

Mrs. HALVORSON. Provisions in section 740(a)(2). I believe this is in the spirit and intention of the legislation. Is that the chairman's understanding?

Mr. WAXMAN. The gentlewoman is correct that the provisions of section 795 and 740 are intended to fairly compensate farmers and their partners who have enrolled in voluntary programs and have taken early action to reduce carbon pollution.

All existing voluntary offset programs with strong standards for environmental integrity would meet the requirements of section 740. We expect that offset credits registered with the Chicago Climate Exchange, along with the credits from other recognized voluntary programs, will provide an important source of offset credits in the early years of the program.

Mr. BARTON of Texas. I planted some trees on my grandfather's farm 30 years ago. I hope that that qualifies under that section of the bill.

I want to yield 2 minutes to the distinguished member of the committee, the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. I thank the gentleman for yielding. Passing this bill at this time will be a tragic error. It simply cannot be justified on a cost-benefit analysis. Every day we make decisions in our lives by balancing the costs of our decisions with the benefits of those decisions; and on that basis, this bill can't be justified.

As a Republican who crossed my leadership on many major-profile bills, I urge my colleagues on the other side who are being pressured and all my colleagues who have doubts to carefully think through this vote. Crossing your leadership is not fun or easy, but sometimes its the right thing to do. I know. I've done it.

First, while we have been told that the science on this issue is settled, it clearly is not and is becoming less and less settled every day. Carbon dioxide emissions in the United States have gone up every year since 2001, but global temperatures have remained flat.

Carbon dioxide emissions are going up; global temperatures have been flat since 2001. They have stopped going up almost a decade ago.

More and more scientists are coming forward every day casting doubt on the alleged consensus that greenhouse gases are causing global warming.

Joanne Simpson, the first woman in America to receive a meteorological Ph.D., expressed relief upon her retirement last year, saying she could now speak freely about her nonbelief. Dr. Kiminori Itoh, a Japanese environmental physical chemist, recently said—and he contributed to the U.N. climate report—he called man-made warming the worst scientific scandal in history.

Second, even if you assume that man-made greenhouse gases and carbon dioxide are causing global warming, this bill can't be justified because it doubles the cost of reducing carbon dioxide emissions.

Witnesses testified before our committee that they can control CO_2, but that the cost of doing so under this bill would be twice as much. And why is that? It's because they have to pay first to buy carbon credits and then they have to spend the capital to improve their plants.

Mr. BARTON of Texas. I yield the gentleman 15 seconds.

MR. SHADEGG. Those costs get passed on to American consumers. Why should we double those costs? My colleagues on the other side want the revenue of the carbon credits that have to be purchased. That money ought to go into the capital cost of reducing carbon emissions, but that money won't do one bit for that cause.

I urge my colleagues to vote against this dangerous bill.

Mr. WAXMAN. Mr. Speaker, I'm pleased at this time to yield 1 minute for the purpose of a colloquy to the distinguished chairman of the Agriculture Committee, the gentleman from Minnesota (Mr. PETERSON).

Mr. PETERSON. I want to thank Chairman WAXMAN for his leadership and cooperation on this bill and would ask him to engage in a colloquy regarding subtitle E of title III, which contains a host of provisions amending the Commodity Exchange Act.

Mr. WAXMAN. I'd be pleased to do so.

Mr. PETERSON. These provisions are among those that triggered the referral of H.R. 2454 to the Agriculture Committee, which has jurisdiction over the CEA. Some of these provisions would deal with over-the-counter energy derivatives and credit default swaps, mirror provisions in legislation, H.R. 977, passed by our committee in February. Other provisions are similar, and still others are wholly different. H.R. 977 is awaiting action in the Financial Services Committee.

As the gentleman knows the Financial Services and Agriculture Committees will be working on financial regulation reform, part of which will include derivatives regulation reform. As such, Chairman FRANK and I initially resisted the inclusion of these CEA amendments in H.R. 2454. However, we understand that some Members feel strongly about sending a signal to address potential excessive speculation in derivative markets and rein in some of the current trading practices on Wall Street.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield the gentleman an additional 30 seconds.

Mr. PETERSON. To that end, we agreed not to object to the inclusion of the CEA amendment subject to the understanding that the ultimate resolution of these provisions would take place in the context of financial regulation reform legislation. I want to confirm this understanding we have among the chairmen.

Mr. WAXMAN. The gentleman has correctly described our understanding.

Mr. PETERSON. I want to thank the distinguished chairman for his confirmation, and I look forward to working with him on this bill as it moves through the legislative process.

Mr. BARTON of Texas. I yield myself 15 seconds to explain what they just said. What they just said was, Mr. Speaker, is that you have got something in the bill that we don't agree with, but we're going to let you put it in the bill with the understanding we will take it out later on in Agriculture and Financial Services. I commend the Agriculture chairman for his strong resistance to that part of the bill.

I want to yield 2 minutes to a distinguished member of the committee, the ranking member of the Oversight and Investigation Subcommittee, the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN. I want to talk about a couple of things here involving this bill: process, cost, and language.

This is the 309 pages that were printed at 1:34 in the morning and submitted to the Rules Committee sometime around 2:49 this morning. Nobody—it's impossible—I can't imagine anybody's read this.

I've just discovered they change the hydro language so that—it used to say before 1992 it counted, now they have gone back 4 years. Somewhere in the middle of the night we have added 4 years of hydro as renewable. It's page after page after page of technical changes that have major, major impact.

There were nine committees this bill was referred to, and yet only one of them was allowed to have a markup on the bill, the Energy and Commerce Committee. The other eight waived. So a lot of this got put together in the dark of night, backroom deals, whatever you want to say, private conversations; but no committees held a hearing on this new bill, 309 pages, amending the 1,201 that are sitting there on the desk.

Costs. Look at fuel costs: $811 more for Oregonians in 2012. If you're a PacifiCorp customer in Oregon, you can expect in 2012 to pay 17.7 percent higher electricity costs. They have run the numbers according to the bill.

You want to talk about a massive new welfare program for energy? It's in here too. In fact, this energy tax refund, in effect, this proposed energy stamp bill, 16 times the current U.S. welfare program, the TANF program. Sixteen times. It's a whole new welfare program for energy.

□ 1545

If energy costs aren't going up on the rest of us, why do they have to have this? Because it does drive up energy costs. That's going to hurt small businesspeople. It's going to hurt families. It's going to cost jobs. And we don't know for sure what else it does because I can't imagine anybody on this floor has read every word of this bill that was filed at 2:49 a.m. in the Rules Committee and been able to juxtapose what's here against the 1,201 pages.

I urge a ''no'' vote on this bill.

Mr. WAXMAN. Madam Speaker, I am pleased at this time to yield 1 minute to the very distinguished Representative from the State of Iowa (Mr. BOSWELL).

(Mr. BOSWELL asked and was given permission to revise and extend his remarks.)

Mr. BOSWELL. I will say, with some reservation, that I support H.R. 2454, the American Clean Energy and Security Act. I am pleased with the deal between Chairman PETERSON and Chairman WAXMAN to protect America's farmers and ensure many of agriculture's concerns were resolved. They both should be commended for their hard work. This bill makes tremendous progress on jobs, energy, national security and the environment. However, one troubling issue remains. A formula

partially based on retail sales means consumers in coal-reliant States, like Iowa and the Midwest, who need the most help will see greater rate increases than consumers in other parts of the country.

When Iowa's unemployment rate is at its highest in over 20 years, Iowans are struggling to repay student loans, pay rent, and put food on the table, why are we asking those of us in the heartland to shoulder more of the burden than others? This is neither fair nor equitable because it creates winners and losers.

I am not giving up. This bill is worth supporting; but it is my hope that when the House addresses this legislation again, the allocation formula will be more equitable for Iowans and Midwesterners alike.

I rise today with some reservation to support for H.R. 2454, the American Clean Energy and Security Act. I am proud that this legislation preempts potentially devastating regulation by the EPA, and responds to our constituents' demands to prevent that from happening. I am also proud that it would harness the most innovative workforce in the world to create a clean energy future, creating millions of jobs in the process. Energy independence is vital to our national security and economic future, and this legislation advances this goal while confronting the serious challenge of climate change.

However, when we started this process I had a list of many things which concerned me and needed to be addressed, such as fixing the indirect land use issues under the Renewable Fuel Standard-2, a robust agricultural offset provision which recognized early adaptors and was exclusively operated by USDA to implement and oversee the agriculture and forestry offset program, and the 50–50 allocation formula. I was pleased with the deal that was struck between Chairman PETERSON and Chairman WAXMAN to ensure many of those issues were resolved. They both should be commended for their hard work.

However, one key concern has yet to be addressed. As currently written, this legislation provides local distribution companies with allowances through a formula equally weighted between historic emissions and retail sales. Since the intent of the legislation is to reduce emissions, and the intent of providing allowances is to protect consumers from price increases, basing allowances on retail sales reduces the legislation's effectiveness. While certain providers will receive enough allowances to offset 100 percent of the cost of compliance, many companies throughout the Midwest will be forced to purchase numerous allowances, passing those prices on to their consumers. Consumers in coal-reliant states such as Iowa—who need the most help—will see far greater rate increases than consumers in other parts of the country.

This doesn't have to happen. Congressman LOEBSACK and I offered an amendment to change the formula so that allowances will be distributed based solely on historic emissions. I am gravely disappointed that the Rules Committee did not make this amendment in order.

Under the amendment I had hoped to offer on the floor today, a utility would receive emission allowances based only on its emitting assets, like coal and natural gas-fired plants. It would not receive emission allowances for non-emitting nuclear and hydro assets, because they don't need them.

As such, there will not be enough allowances for higher-emitting electric utilities in the Midwest that need them to comply with H.R. 2454. This makes the bill very different from the Clean Air Act, which distributed sulfur dioxide emission allowances only to utilities that actually had sulfur dioxide emissions to reduce.

Under the current formula, utilities in my area will only receive 65 percent of compliance costs at most, and less than 50 percent in some areas—the shortfall will cost hundreds of millions of dollars. When you compare this to other regions of the country they will receive 100 percent of the needed allocations. Because of this inequity consumers in the Midwest will have to make up the difference; their rates will go up far more than consumers in other areas. This is neither fair nor equitable, because it creates winners and losers.

The retail sales component of the formula benefits companies like FPL and Exelon with heavy nuclear or hydro assets, because they will receive emission allowances for assets that don't emit.

They don't need these windfall allowances to comply with the bill's cap, so they can sell them in a carbon trading market for a profit.

If you don't believe that, just read a June 10th Bernstein Research analysis, in which Exelon's CEO, John Rowe, predicted that H.R. 2454 ''will add $700 to $750 million to Exelon's annual revenues.''

In these tough economic times when Iowa's unemployment rate is at its highest in over 20 years, when Iowan's are struggling to repay student loans, pay rent, and put food on the table, why are we asking those of us in the heartland to shoulder more of the burden than others?

I would also like to take a moment to talk about another amendment I tried to offer. My amendment would have provided a government backed loan guarantee for the construction of a renewable fuel pipeline.

Transporting fuels by rail and truck has higher energy input requirements and much higher greenhouse gas emissions. CO_2 emissions are reduced by 30 percent when comparing liquid fuel transported by pipelines vs. railcars and 87 percent when comparing pipelines to trucks.

Even though my amendment to bring equity to the formula was not ruled in order I am not giving up. I plan to work with my colleagues in the other body to bring this serious issue to light and to work towards a solution that works for Iowa families. It is my hope that when the House addresses this legislation again the allocation formula will be more equitable for Iowan's and Midwesterners alike.

Mr. BARTON of Texas. Madam Speaker, I yield 3 minutes to the ranking member of the Energy and Air Quality Subcommittee, Mr. UPTON of Michigan.

Mr. UPTON. Madam Speaker, there's an old saying, ''Will the last one out please turn out the lights.'' Well, this bill turns out the lights for many Americans. And no matter what you say, this bill does not have the job protections that will prevent jobs from leaving our country and going to India or China. What do you tell that small refinery that came to our committee a couple of weeks ago, a small refinery that's got 1,200 jobs—that it's going to cost $150 million to ramp up the changes that they're going to have to do, and they're going to end up going out of business? That asphalt and that petroleum is going to be made someplace else—India.

What do you tell that small company that I visited last month in Niles, Michigan, a company that figures out that their energy costs are going to increase by perhaps as much as $20,000 dollars a month? Well, they're thinking about it. They want to stay in business. They're thinking about telling the folks not to come to work anymore during the day so they can do the night shift, and they can maybe pay lower utility rates. There are more coal-fired plants in China than there are in the United States, India and Britain combined; and it's going to double by the year 2030. Emissions in China are going to grow by 86 percent.

What does this bill do about emissions in China or India? It does nothing. Environmental restrictions in this country, protections, are the reason why steel, per ton, has one-third the emissions in this country than in China. We want those jobs to stay in this country and not go to China. Michigan, my State, we're already at 15 percent unemployment and headed maybe towards 20. We were told earlier this week that we're going to have as many as 100,000 people, unemployed folks, lose their benefits that they're receiving today because those benefits are going to be exhausted. I didn't come up with the figure that gasoline costs were going to increase by 77 cents a gallon because of this legislation or that diesel prices were going up 88 cents a gallon. It wasn't me. It was the CBO who said that. I hope and pray that they're wrong because I want to protect our workers here to make sure that we can grow jobs, not lose them.

Consumers Energy came up with a study, a major utility in my part of the State, that shows that the estimate of the impact, including certain requirements in this bill, are going to grow as much as 38 percent by the year 2024. Some folks say that it's only going to cost a postage stamp. Well, I'm glad I bought a lot of promise stamps because these stamps are good for life. If they're not worth 44 cents, these may be worth thousands of dollars apiece based on what these costs are going to do to the average consumer.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. UPTON. Let me just close. We as Members of Congress may have to declare these in our financial disclosure reports if we bought more than 10 of them.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlelady from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the gentleman very much. As he

knows, we've been working on this because I come from an area that certainly has vested in the energy industry with a number of jobs that are tied, huge numbers of jobs.

To my constituents, we are working on your behalf today. This bill does not discount your jobs or your commitment to this Nation because 1.7 million jobs will be created, $750 per household will occur in savings and $29 billion in consumer savings will occur.

Also, I appreciate the chairman for working with me to ensure that we are investing in small business, guaranteeing that minority- and women-owned businesses will be involved in energy-innovative competition, language and amendments that I got into this legislation.

In addition, we are still working on the question of whether or not our older homes will be impacted negatively. The language in the bill says new construction only. I want to continue to work with the chairman to ensure that we will also have additional protection for older homes. Jobs—we are going to protect jobs.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. WAXMAN. I yield the gentlelady 30 additional seconds.

Ms. JACKSON-LEE of Texas. There is language in the bill that I wish my friends would read because we insist that the Secretary of Labor shall monitor the potential growth of affected and displaced workers, if any, and continue to have the funding that I got in the bill to ensure that they're not left out in the cold. Mr. Chairman, in spite of the good work, there are those who are saying that our breakthroughs in alternative low-carbon technologies will not be fast enough, that we're going to lose petroleum jobs, we're going to lose jobs. I believe we can work through this and we will not lose jobs but gain jobs because of the new technology. However there is still time to work on this issue of the large and small refineries so that can be efficient and operational. Also manufacturing under this bill will only be efficient not extinguished.

I would like to yield to the chairman.

Mr. WAXMAN. I say to you that they are wrong. This bill is going to produce breakthroughs. It pushes the development of new technology, and it's going to lead to more jobs.

Ms. JACKSON-LEE of Texas. Will you continue to work with me?

Mr. WAXMAN. I look forward to working with you. You have played an important role and made enormous contributions to this legislation. I thank the gentlelady.

Mr. BARTON of Texas. Could I inquire as to the time remaining on both sides, Madam Speaker?

The SPEAKER pro tempore. The gentleman from Texas has 22¼ minutes remaining. The gentleman from California has 23 minutes remaining.

Mr. BARTON of Texas. I yield 1 minute to a member of the committee from Denton, Texas, or actually Flower Mound, Texas, Dr. BURGESS.

Mr. BURGESS. I thank the chairman for yielding.

Madam Speaker, last night I offered an amendment that would prohibit the transfer of or receipt of carbon and credit derivatives. And why is that important? Well, this bill will ensure a price for carbon, and it's going to ensure a market for trading carbon credits. This is a breeding ground for financial malfeasance. We are aware that if something has a price, Wall Street will find a way to create a financial instrument to option, swap or hedge and create fees for trading those instruments and drive value from the price of the underlying asset. The current financial crisis has heightened our awareness of the use of derivatives. Here is the problem: None of us can visualize a ton of carbon dioxide, yet that's what we're going to be buying and selling in these credits. Where would you put a ton of carbon dioxide? What kind of container would it come in? In fact, we've had multiple hearings in our committee about problems with the futures market in trading oil. But at least someone eventually has to take possession of that oil. No one has to take possession of that chunk of blue sky that we are going to call a ton of carbon dioxide. My amendment would have stopped the invention of carbon credit derivatives before it starts. It would have stopped the next Enron before it starts. Unfortunately my attempt to prohibit this activity was denied. I can only ask why.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT) for the purpose of a colloquy.

Mr. HOLT. Madam Speaker, I thank the Chair.

Energy, climate and environment are principal subjects that I have spoken about and worked on for decades, before and since I first came to Congress and to work on these issues, I believe, is a principal reason my constituents sent me to Congress. I admire the chairman's skill in assembling a bill, and I fully support the chairman's efforts to reduce the release of greenhouse gases. However, I'm deeply concerned that the bill does not include the research funding necessary to reach the target of 80 percent emission reduction set in the bill. We must transform the way we produce and use energy. We cannot meet this goal with today's technologies; and this bill, as written, will not provide the billions of dollars needed to fund and develop the future technologies.

So I'm here to ask the chairman of the committee if I may have his assurance that he will work with me to increase the amount of research and development funding in this bill and other legislation that we need in order to reduce our reliance on foreign fuels and to slow the rate of growth of climate change.

Mr. WAXMAN. I thank the gentleman for his comments. There is much in this bill to promote research and to bring about the necessary innovation.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WAXMAN. I yield myself another 10 seconds.

However, I agree that we will need billions more in research and development funding into new innovative ways to produce and use energy. I pledge to work with you to provide additional funding for energy research and development in this bill as this bill moves forward.

Mr. BARTON of Texas. I yield for a unanimous consent request to a member of the committee, Mr. BUYER of Indiana.

(Mr. BUYER asked and was given permission to revise and extend his remarks.)

Mr. BUYER. Madam Speaker, I rise in opposition to this legislation.

I rise in defense of the Midwest and the State of Indiana to oppose this carbon cap and tax bill. This is the most economically disastrous energy policy our nation has ever considered. It's over 1200 pages and full of last minute changes! This is not the way, or the time, to consider a rushed policy that will devastate our economy. The American people deserve more from their Representatives than a bill of empty promises that will send their jobs overseas, raise the cost of living, and increase our dependence on energy from foreign countries.

Over the past few years, I have participated in multiple hearings concerning carbon dioxide emission control. During the mark-up of H.R. 2454 by the Energy and Commerce Committee, I, along with my colleagues, continued to raise concerns about this policy's negative effects on American ratepayers, businesses and industry. Importantly, we offered many amendments in the mark-up we would like to consider on the Floor today, but we have been denied the opportunity. We would have added nuclear energy—the cleanest and most efficient energy generation—but were denied. Other amendments would have offered off-ramps should this legislation prove too costly to the American people. Unfortunately, no significant changes providing off-ramps or safety-valves have been offered to the American people, and our concerns have not been addressed.

H.R. 2454 would hand down the single biggest energy tax in the history of our country. Now is not the time! The unemployment rate is at the highest we have seen in over 25 years. Our automotive industry is just beginning new business plans. This week we are selling off more of our national debt to foreign countries, and next month we are considering a national healthcare plan projected to cost $3.4 trillion! It is not the time to pass a policy that will result in an annual additional cost of $1,241 more in energy costs for a family of four. It is not the time to pass a policy that will drive up the price of goods and services, or export our hard-earned jobs to countries like China. This legislation will kill jobs. Let's talk numbers. An estimated 1,145,000 will be lost under cap and trade. There is a whole section dedicated to unemployment with a price tag to the taxpayer of over a billion dollars! Farmers

will also suffer. This act would lower farm profits by 28: percent in 2012 alone, and 57 percent from 2012–2035. Projections show this would result in total gross domestic product losses averaging $383 billion annually from 2012–2035 and cost our country a total of $9.4 trillion dollars. Where will that money come from?

Well, under this proposal, the Midwest, for one. This cap and tax bill unfairly targets the heartland of our nation. Indiana is the sixth highest carbon dioxide emitting state in the nation. As a state reliant on coal for 96 percent of its electricity, Indiana would be unfairly burdened by the current legislative proposal for producing American-made goods with American-made energy. What kind of energy policy is that? Under the current language, permits are allocated to utilities using a basis of 50 percent of their emissions and 50 percent of their retail sales—providing utilities without emissions access to allowances. Sending allowances to those that do not require them does not benefit the people or states that need them most. I offered an amendment in Rules to correct this bad policy. My amendment would have modified the utility allocation formula to being strictly based on 100% of a utility's emissions. It is common sense: the utilities reliant on the costlier fuel should be the ones receiving the help. We shouldn't be handing out allowances to those who do not need them! Under the current formula, utilities of similar size in California would get 2.43 times the allowances of an Indiana utility—and a Washington utility would receive 8.84 times the allowances of a utility in Indiana! That is not acceptable! Under the current bill, our rates will rise by a projected 90 percent by 2035, driving our manufacturing jobs elsewhere and the costs of goods sky high. The State of Indiana has worked hard over the past several years to bring new jobs and industries to Hoosiers. This bill could undo all the progress we have made. Unfortunately, my amendment was denied by the Rules Committee.

I call upon my colleagues to see this is not the time for this bill. An energy tax anticipated to slow temperature increases by merely hundredths of a single degree Fahrenheit by 2050 is not good policy. I strongly urge Members to protect the economic well-being of the American people and vote no on this bill.

Mr. BARTON of Texas. Madam Speaker, I yield 2 minutes to the distinguished ranking member of the climate change committee and the former chairman of both the Judiciary and the Science Committees, Mr. SENSENBRENNER of Wisconsin.

(Mr. SENSENBRENNER asked and was given permission to revise and extend his remarks.)

Mr. SENSENBRENNER. Madam Speaker, this bill is not only everything that the opponents have said it is, but it is also a massive transfer of wealth from the United States to foreign countries. And the reason it is that is because this bill legalizes offsets. Over 40 percent of the offsets that have been created under the Kyoto Protocol have come from China. The $2.2 trillion that will be transferred through purchase of offsets in foreign countries will be the largest nonmilitary foreign aid bill that this House of Representatives has ever passed.

The chart that is beside me here shows that the $2.2 trillion in foreign giveaways is equal to 210 times the amount of money we give to help people with domestic heating oil and propane; 119 times the amount of money we give for making buildings more efficient; 111 times the money we give for clean vehicle technology; 33 times the money that we give for domestic natural gas consumers; 11 times the amount that we give for the domestic industrial sector; and five times the amount that we give to help out our domestic electric consumers.

Madam Speaker, this money should be spent at home. We have enough problems at home that we have to deal with, and I think the Congress has recognized this today. But let's not send more money overseas, money that will come through higher prices at the pump, higher bills from our utilities, higher food prices when we buy them in the supermarket.

Vote this bill down, and keep the money at home.

Mr. WAXMAN. Madam Speaker, at this time I yield 2 minutes to the gentleman from Massachusetts, Chairman FRANK, for purposes of a colloquy.

□ 1600

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. FRANK) is recognized for 2 minutes.

Mr. FRANK of Massachusetts. Madam Speaker, I yield to the gentleman from New York (Mr. MCMAHON).

Mr. MCMAHON. Thank you, Chairman FRANK.

Madam Speaker, I rise today to thank Chairman FRANK, Chairman WAXMAN, Chairman MARKEY and Chairman PETERSON for agreeing to include in this good piece of legislation the manager's amendment language that makes clear that the sections of this bill that relate to the regulation of energy commodity derivatives shall be superseded by future Congressional financial regulatory reform if it comes forward.

Specifically, the manager's amendment would add section 358 that renders ''null and void'' the sections of the American Clean Energy and Security Act dealing with energy commodity derivatives, as well as all related agency regulations, after Congress adopts future derivative reform legislation.

I and many of my colleagues in the New Democratic Coalition have expressed concerns about many of the provisions included in subtitles D and E of this bill. The energy bill is not the place to set regulatory policy over our financial services industry.

In coordination with the New Dems Financial Services Task Force, I'm in the process of crafting a bill that will take some of the best ideas of the President and the Congress to forge a consensus that protects American jobs and financial innovation. And while I and many of my colleagues would have liked to strike altogether much of the derivatives language from this bill, we understand the need to move this process forward and section 358 will allow us to provide a clean slate when we take up comprehensive reform this year.

Despite the mess at AIG, the over-the-counter derivative market helps companies manage risks and create jobs. We also live in an age of a truly global economy. And if we don't get this right, many of our financial sector jobs, particularly in New York, will just disappear or be shipped offshore.

Again, Madam Speaker, I thank our chairmen for the inclusion of section 358 in the manager's amendment. I and the New Dems look forward to working with you and having future discussions with the Senate and the White House.

Mr. FRANK of Massachusetts. Madam Speaker, I will take back my time. You now have the answer, listening to the gentleman address myself, Mr. WAXMAN, Mr. MARKEY and Mr. PETERSon, to that age-old question of how many chairmen does it take to answer a colloquy?

I ask the gentleman from Massachusetts for 1 additional minute to finish the response to the colloquy.

Mr. MARKEY. I yield further.

Mr. FRANK of Massachusetts. And I want to say that the gentleman from New York has been a very articulate advocate for the very important functions of the financial community in New York in which many of the people in his district live, and he is very well informed about it. We agree with him, myself and members of the Financial Services Committee and the Agriculture Committee. Chairman PETERSON, the gentleman from Minnesota, and I have worked with the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from California (Mr. WAXMAN). And we have the agreement he alluded to.

We are hard at work on a comprehensive, and I believe responsible, proposal for regulation of financial derivatives in their entirety. And it will, under the terms of this bill, become the operative word. So what we have here is a placeholder to tell Members we are aware of it.

Earlier today, Chairman Gensler of the CFTC and Chairwoman Shapiro, in case we didn't have enough chair people in this, met with Mr. PETERSon and myself. I am optimistic that we will have a proposal that responsibly, appropriately and toughly regulates derivatives without doing them harm. The gentleman is to be congratulated for making sure that that will be what will be in the bill.

Mr. MCMAHON. Thank you, Chairman FRANK, and to all the chairmen for your strong leadership in crafting this important piece of legislation and reaching out to form this consensus.

With that, I urge my colleagues to support H.R. 2454.

PARLIAMENTARY INQUIRY

Mr. GOHMERT. I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GOHMERT. Madam Speaker, in order to find out what we are doing, how much damage we are doing to the country, I tried to get a copy of the bill. We have out here on the table H.R. 2454 that has 1,090 pages in it. But I understood since debate in here that there are another 300 pages that were added in the middle of the night.

My inquiry is how do I get a copy of the other 300 pages that people here on the floor haven't had a chance to read or see? Where do we get that before we slam this and cram this down on the American people?

The SPEAKER pro tempore. The amendment is printed in the Rules Committee report.

Mr. GOHMERT. In the Rules Committee report. And Madam Speaker, where would I get that report?

The SPEAKER pro tempore. The rule was passed earlier today.

Mr. GOHMERT. Rules passed it earlier today?

The SPEAKER pro tempore. The rule was passed earlier today.

Mr. GOHMERT. That says basically we are going to the floor without everybody being able to get a copy in the Speaker's Lobby as is normally required?

The SPEAKER pro tempore. The gentleman is not asking a parliamentary inquiry.

Mr. GOHMERT. Well, I'm asking an inquiry because I really want to know. Normally, the rules require we have access to a copy of the bill so we can look at it.

The SPEAKER pro tempore. The amendment was included in the Rules Committee report.

Mr. GOHMERT. My inquiry is, where is it? There is one copy in the Rules Committee? Is that the answer?

The SPEAKER pro tempore. It was part of the Rules Committee report that was part of the rule that was passed earlier today.

Mr. GOHMERT. It was part of the rule passed earlier today. But where is a physical copy I can get, read and look at?

The SPEAKER pro tempore. The Chair is not responsible for dissemination of documents.

Mr. GOHMERT. The Chair is not responsible for disseminating copies. I appreciate that. I was just asking for where I can get a copy. I know that your hands are full. And congratulations on the position. I think the President did a great thing. But I'm still needing a copy of the other 300 mysterious pages that we don't get to see here.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Madam Speaker, I'm going to ask a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BARTON of Texas. Is there somewhere physically in the House of Representatives a copy of what we are voting on?

The SPEAKER pro tempore. The engrossing paper is at the desk. As to copies, the gentleman has not stated a parliamentary inquiry that the Chair can answer.

Mr. BARTON of Texas. All right. Let me digest that, Madam Speaker.

In the meantime, I want to yield 1 minute to the distinguished Congressman from California (Mr. MCCLINTOCK) 1 minute.

Mr. MCCLINTOCK. I thank the gentleman for yielding.

Madam Speaker, when we talk about Herbert Hoover's mishandling of the recession of 1929, the very first thing that economists point to is the Smoot-Hawley Tariff Act that imposed new taxes on over 20,000 imported products.

I believe the Waxman-Markey bill is going to be looked back upon as our generation's Smoot-Hawley Act. In fact, it is worse. It imposes new taxes on an infinitely larger number of domestic products on a scale that utterly dwarfs Smoot-Hawley. At least Hoover could argue that Smoot-Hawley made domestic products more competitive with imports. Waxman-Markey disadvantages American products.

When California adopted similar carbon restrictions 3 years ago, we too were promised an explosion of green jobs. Instead, California's unemployment rate has skyrocketed to one of the highest in the country.

I believe that if this bill becomes law, history guarantees us two things. Number one, the planet will continue to warm and to cool as it has been doing for billions of years; and two, Congress will have just delivered a staggering blow to our Nation's economy just at the time when it is most vulnerable.

Mr. MARKEY. We would like to reserve at this time.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. I have another parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BARTON of Texas. Is there a rule of the House that requires a copy of the pending legislation to be present in or near the body?

The SPEAKER pro tempore. The official papers are at the desk. The Chair is not aware of a rule concerning additional copies.

Mr. BARTON of Texas. So there is no such rule?

The SPEAKER pro tempore. The Chair is not aware of one.

Mr. BARTON of Texas. I appreciate that honest answer.

I want to yield 1 minute to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Madam Speaker, I rise in strong opposition to this national energy tax. This bill is all cost and no benefit. And I want to read some excerpts from a letter that was sent to me from the Pennsylvania Public Utility Commission:

''This policy will have a profound adverse impact on the Commonwealth of Pennsylvania. If the Waxman-Markey bill were to pass, Pennsylvania is looking at a bleak scenario, a net loss of as many as 66,000 jobs, a sizeable hike in the electric bills of residential customers, an increase in natural gas prices, and significant downward pressure on our gross State product.''

''The cost estimates are staggering.''

''Congress has a responsibility to ensure that legislation enacted on this important topic is in the best interests of every State and region in the United States.''

''Residents of Pennsylvania will be severely and disproportionately harmed. It will be impossible to rapidly or immediately stop using power generated at existing coal-fired or natural gas-fired power plants without causing severe and protracted reliability problems.''

''Is Pennsylvania ready to acquiesce behind Federal legislation that will choke off our economy by displacing thousands of jobs and increasing utility bills for residential taxpayers? We hope not.''

That is the Pennsylvania PUC. I say, save jobs. Save money. Vote ''no.''

Mr. MARKEY. The Chair recognizes the gentleman from Rhode Island (Mr. LANGEVIN) for 1 minute.

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. I thank the gentleman for yielding.

Madam Speaker, I rise today in strong support of the American Clean Energy and Security Act. I thank our leaders who made this bill a priority, especially Chairman WAXMAN and the gentleman from Massachusetts (Mr. MARKEY) who worked tirelessly to bring this bill to the floor today.

I have long been an advocate for reducing harmful carbon emissions and investing in a clean-energy economy. The effects of climate change are already beginning, and we must act now not only for this generation but for generations yet to come. By increasing the renewable energy standard, capping carbon emissions and investing in the creation of domestic clean-energy jobs, this bill is directing our Nation towards a sustainable and economically viable energy future.

This bill also establishes five programs to protect consumers from energy price increases. I want to say that again. It establishes programs to protect consumers from energy price increases.

I urge my colleagues to vote ''yes'' on the American Clean Energy and Security Act. It is time for America once again to lead on sustainable energy.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. I have one more parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BARTON of Texas. If a bill for which there is no copy were to actually pass this body, could the bill without a copy be sent to the Senate for its consideration, having no copy?

The SPEAKER pro tempore. The official copy will be at the desk. The Chair cannot comment about extra copies.

Mr. BARTON of Texas. The official copy will be at the desk. Could I inquire as to when that copy will be at the desk? Is it necessary that the official copy be at the desk in order for final passage to occur?

The SPEAKER pro tempore. The official copy is always at the desk during consideration of the bill.

Mr. BARTON of Texas. Then where is it, Madam Speaker?

The SPEAKER pro tempore. At the desk.

Mr. BARTON of Texas. Is it now at the desk? Is it now—I appreciate the Congressman who brought it in. Oh, that is not it. That is not at the desk.

Well, while we research whether the official copy is at the desk, I'm going to yield 1 minute to the gentlelady from Oklahoma, Congresswoman FALLIN, for 1 minute.

Ms. FALLIN. Madam Speaker, I have to say that I am outraged. Here we are getting ready to vote on a piece of legislation, and we haven't even seen 300 pieces of this legislation. No one can even find the bill or even knows where it is at. And here we are talking about major policy that could change the face of America, that will certainly be a large tax increase to our taxpayers. And here we don't even know where the bill is. I'm just shocked at the way we are running this House today before we leave to go on our Independence Day holiday.

And I will say that the government's first priority right now should be addressing our economy and jobs. And economists can tell you that one of the surest ways to prolong a recession and to damage an economy is to raise taxes. My friends on the other side of the aisle apparently didn't get that memo.

This plan for carbon emissions taxes amounts to a $646 billion tax increase on the American public. It will have a negative effect upon every American family, upon business and upon family farms. Family energy costs will increase. In fact, it is said that utility costs can go up anywhere from 30 to 50 percent, not to even mention what cost increases will be upon manufacturing.

So Madam Speaker, I will just tell you that I hope we get a copy of the bill so we can at least look at it before we enact this policy.

Mr. MARKEY. I continue to reserve.

Mr. BARTON of Texas. Madam Speaker, I'm going to ask unanimous consent for a brief recess to find the official copy that includes everything passed at the Rules Committee last night, because I am told that what is at the desk is missing 300 pages. That cannot be the official copy.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MARKEY. I would object, but ask the gentleman to yield to me if he would.

Mr. BARTON of Texas. Why don't you reserve the right to object?

Mr. MARKEY. I reserve the right to object.

Mr. BARTON of Texas. I will be happy to yield to my friend from Massachusetts on his reservation.

Mr. MARKEY. The manager's amendment, which I think is what is of concern to him, is on the Rules Committee Web site that can be accessed right now, and has been there and available for any Member or any citizen of the United States to be able to read. It is on the Web site.

Mr. BARTON of Texas. Do Members have access to the Web site on the floor of the House?

Mr. MARKEY. In the Cloakroom there is access to it. We have these similar technological capacities in our cloak room, yes.

Mr. BARTON of Texas. In the Cloakroom, but not on the floor.

Mr. MARKEY. It is also available at the desk.

□ 1615

Mr. BARTON of Texas. Reclaiming my time on the gentleman's reservation on my unanimous consent request, what is at the desk for any Member of this body who is engaged in the debate is not apparently the official copy. It is missing 300 pages. Now what is on the Web site is almost immaterial because it is unprecedented in this gentleman's history in the Congress to not have some, usually at least two copies that both sides can access during the debate on the floor.

I am just asking for a 15-minute recess to get an actual copy that we can access.

I yield to the gentleman on his reservation.

Mr. MARKEY of Massachusetts. I continue to reserve my right to objection, there is a copy up there on the Speaker's podium at the desk.

Mr. BARTON of Texas. It is missing 300 pages.

Mr. MARKEY of Massachusetts. It is not missing the 300 pages. They are all up there. Everything you are looking for is up there next to the Speaker, and it is available on the Rules Committee Web site for anyone and everyone to have access to. But it is sitting right up there. The 300 pages are right up there.

Mr. BARTON of Texas. I am going to ask a unanimous consent request to give me a minute to go down and look at that and see if it is actually 1,300 pages.

Mr. MARKEY of Massachusetts. I would have to object at this time because the actual document is sitting there right now, and has been sitting there, as it has been on the Web site for the entirety of this debate.

Mr. BARTON of Texas. So the gentleman does object?

Mr. MARKEY of Massachusetts. I do object, yes.

PARLIAMENTARY INQUIRY

Mr. GOHMERT. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Texas will state his parliamentary inquiry.

Mr. GOHMERT. My parliamentary inquiry, I was just at the dais and the clerks, as always, were immensely helpful. But apparently the official copy of the 1,090 pages are there, and then the additional 300 pages are sitting beside it, and the Clerk is having to go through and is in the process as we speak of going through and figuring out where the extra 300 pages that has been added goes in the official copy. So even as I speak, Madam Speaker, the official copy is not truly an official copy because it doesn't have all of the amendments in it.

And since the rule says there is an official copy at the desk, my inquiry is whether it is truly an official copy if it, as yet, does not have all of the pages in the official copy.

The SPEAKER pro tempore. The Clerk is currently executing the order of the House in House Resolution 587.

Mr. GOHMERT. Right, to put the extra pages into the official copy. But is it required that it actually be a full official copy put together before you satisfy the requirement of having an official copy at the desk?

The SPEAKER pro tempore. The two components of the official copy are there together, so it is, in effect, the official copy.

Mr. GOHMERT. So the two together in two different piles that are being worked out together is the official copy. I appreciate the explanation.

Mr. BARTON of Texas. I am parliamentary inquiried out, Madam Speaker, so I am going to yield 1 minute to the chairman of the Republican Study Committee, Mr. PRICE from Georgia.

Mr. PRICE of Georgia. Madam Speaker, this would be humorous if it weren't so doggone sad.

This national energy tax bill will impose a massive tax that even the President's own aides have admitted would cost $2 trillion to taxpayers.

The President himself boasted about the enormous cost saying, ''under my plan of cap-and-trade system, electricity rates would necessarily skyrocket.''

Indeed, this plan would increase taxes on American families by $3,100 and raise their energy bill by $1,500 a year. This national energy tax will force many businesses to outsource jobs overseas or close their doors altogether, which will cost over a million jobs annually.

Amazingly, it will have little or no impact on the environment. Many experts believe the environment will be adversely affected since many companies will be forced overseas where emission and environmental standards are minimal or nonexistent.

Hundreds of groups such as the NFIB, the U.S. Chamber, and the National Association of Manufacturers oppose this

legislation. Tax and government watchdog groups, including the National Taxpayer Union, Americans for Tax Reform, and Citizens Against Government Waste, oppose this legislation.

This bill is bad for the environment and bad for the American people. Just vote ''no.''

Mr. MARKEY of Massachusetts. I continue to reserve.

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Madam Speaker, as someone who has spent a decade regulating air pollution, I look at this bill, of what I can read of it that is presented, and come to the conclusion that the greatest threat to the environment seems to be all of the smoke coming out of the backroom deals that appear to have been made to put this package together.

People may talk about the aspects of clean coal. Clean coal is as logical as safe cigarettes, and that is trying to be sold in this document.

I have to say, in all fairness, what I see here is a huge tax scheme that doesn't fulfill the mandates that the U.N. Convention on Climate Change set as a minimum. In fact, it not only does not fulfill the need of the environment; it does it 5 years late and short. So it is late and short on this task.

Madam Speaker, we have seen legislation come over this floor before. Twenty years ago this body approved a snake oil called ethanol and methanol and MTBE, and today, we still don't have the bravery to admit the mistake and correct it with this bill. We continue the past mistakes. The difference between the mistake we did with methanol and ethanol is the fact that it will take 150 years to correct the mistake that Congress is about ready to do if we pass this piece of legislation.

I look forward to having to spend the next 100 years having to try to correct this mistake.

Mr. MARKEY of Massachusetts. I continue to reserve.

PARLIAMENTARY INQUIRY

Mr. SHADEGG. Madam Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Arizona will state his parliamentary inquiry.

Mr. SHADEGG. I simply want to clarify the points that the gentleman from Texas (Mr. GOHMERT) was making before and make sure I understand this.

This is the printed version of the bill which apparently went to Rules last night. As I understand it, these are the 304 pages that make up the manager's amendment. And together, as I understand the Chair's ruling, this constitutes the official copy; is that correct?

The SPEAKER pro tempore. The Clerk is currently integrating the pages of the amendments with the original copy of the bill. It is available for Members to see. It is right where it is meant to be, and yes, it is the official version.

Mr. SHADEGG. Further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. SHADEGG. Each of these pages, as I understand it, could change a page in this matter, and so the Clerk is presently trying to meld these together. So you can't read this without also reading this, and this modifies any given page in this; is that correct?

The SPEAKER pro tempore. The Clerk is executing the order of the House according to its terms.

Mr. SHADEGG. I thank the Speaker.

Mr. BARTON of Texas. Madam Speaker, I want to yield 1 minute to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Madam Speaker, I am the ranking member of the Armed Services Subcommittee on Seapower. We have talked a lot about climate change and global things and taxes, but my concern is very specific with this bill.

I have had a chance to tour the huge shipyards where the steel frames go up and the nuclear reactors go into the ships of our mighty Navy, and every single step of the way, there is energy involved in making the steel, in making the aluminum for the aircraft, heavy, heavy uses of energy in welding the steel together.

If this bill passes, it is a major threat to heavy industry because it increases the cost of energy. When we increase the cost of ships and planes, we are going to be able to buy less because we are not going to have enough money in the defense budget to be able to buy as many, and in that regard we become more vulnerable as a Nation.

This bill, while it has not been talked about in this regard, is a serious threat to our industrial base and, therefore, a threat to the security of our Nation.

Mr. MARKEY of Massachusetts. I continue to reserve.

Mr. BARTON of Texas. Madam Speaker, I have been so confused by all of the parliamentary inquiries, I have lost track of time. How much time remains?

The SPEAKER pro tempore. The gentleman from Texas has 13½ minutes remaining. The gentleman from California has 17¾ remaining.

Mr. BARTON of Texas. I yield 1 minute to the gentleman from Lubbock, Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Madam Speaker, one of the sayings we have in Texas is, when someone is pretending to be a cowboy, we say that fella is all hat and no cattle.

A lot of people have come down here today to try to represent that this is an energy bill. Well, let me tell you, it is not an energy bill; it is all tax and no energy.

Some of the people were talking about the fact that we are going to make America more energy independent. We are not. This bill does not make America more energy independent.

Every day we get up and write other countries a check for nearly a billion dollars, $900 million. Now, what we get to do with this new bill is we get to send $15 billion in 2012 to countries so they can plant trees and give us credits. Now doesn't that make a lot of sense?

What this bill is, and I think the title is appropriate, cap-and-trade. It is going to cap energy production in America and trade away American jobs. I think the American people are kind of concerned about jobs right now. We have families that are losing their jobs and we have families that are trying to pay their utility costs and trying to afford their gasoline, and yet we have got a bill down here that evidently is all talk and no bill. Don't vote for this bill.

Mr. WAXMAN. Madam Speaker, I continue to reserve my time.

Mr. BARTON of Texas. Madam Speaker, I'm going to reserve my time because they have got more time than we've got.

Mr. WAXMAN. Madam Speaker, I'm pleased at this time to yield 1 minute to the gentlelady from Maryland (Ms. EDWARDS).

Ms. EDWARDS of Maryland. Madam Speaker, I rise today in strong favor and support of the American Clean Energy and Security Act of 2009. I am going to tell you, I was a reluctant comer, but I really commend Chairman MARKEY and Chairman WAXMAN on their leadership and dedication to this bill. This is a big step toward ensuring that our children live in a cleaner and better environment and that we preserve and protect our planet for future generations.

The Earth is warming and glaciers are melting, and some may question the science, but I am not one of them. By the time a child born today, in 2009, reaches first grade, we will reach peak carbon. And without a doubt, we must use every tool attainable to respond to this crisis. This bill is one of those tools, and perhaps our strongest yet. It is my hope as we continue forward we will increase our investment in renewables, that we will ensure that we preserve and protect our planet and reverse the warming of our Earth.

I want to again thank the chairman. And despite my concerns, I support this bill strongly. I urge my colleagues to join me. And the statements made earlier today questioning global warming underscores the importance of this legislation today.

Mr. TAYLOR. Madam Speaker, I ask unanimous consent to express my opposition to this bill and for permission to insert a statement in the RECORD.

Mr. TAYLOR. Madam Speaker, I rise in opposition to this bill.

One of the provisions of this bill would create a cap and trade system throughout the United States in an effort to reduce the production of global warming gases. This system would limit the amount global warming gases emitted through regulation of ''allowances'' to each company. If a company released more

gases than their ''allowances'' permitted the company would be taxed by the federal government.

The system also would establish an ''allowance'' market that would permit companies to buy and sell ''allowances.'' The same speculators who manipulated oil futures last year, pushing gasoline prices over $4 per gallon will be trading in the cap and trade market, trying to figure out how to game the system at the expense of consumers and taxpayers.

I do not believe a cap and trade system is the approach that is best to reduce global warming gases. As a matter of fact I think it is a simple ''Ponzi Scheme'' that will increase energy prices. According to the Congressional Budget Office it will create a complex financial system that allows risky investment in the energy market increasing the cost of living per household by $1600 per year. Additionally, I don't like the idea that a factory in one state is cleaner than it has to be so that another factory is dirtier than it should be. This could potentially leave Mississippi with the cancer causing agents and other states with the credit.

Madam Speaker, I'll be brief.

This is a bad deal for South Mississippi and my nation. I hope that we will defeat this bill.

□ 1630

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to another great Californian, Mr. ROYCE.

Mr. ROYCE. Madam Speaker, I don't know where this ends. This cap-and-trade bill would give Washington 17 percent control of the economy. Nationalizing health care, which is next on the majority agenda here, would give it another 16 percent. The Federal Government right now runs General Motors. The government has a huge equity stake in many of our financial institutions. This Congress is relentlessly politicizing our economy. It has got to stop.

And this bill is an expensive job killer that won't achieve its objectives, and I will just give an example—and that's what's left out of the bill. The bill does nothing to encourage nuclear power plant construction, a sure job creator, a source of clean energy. The Department of Energy reports that the best way for utilities to reduce carbon emissions is nuclear energy, yet nothing here in this bill.

This bill is a bureaucrat's dream, the scheme that we see before us. It gives the EPA, the DOE, the IRS, and many other bureaucracies levers over our energy markets. Some in Congress will have these bureaucrats in their crosshairs aiming to game the system as this massively complex plan is implemented.

I oppose this bill.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE of Kansas. Madam Speaker, I commend Chairmen WAXMAN and MARKEY for crafting this historic energy legislation that will help our country make the transition to a new clean-energy economy.

I urge Members to vote in support of the underlying bill. Americans are demanding bold policies that will push our country in a new direction on energy and ensure a clean, secure energy future for America.

This legislation is a positive step forward, but I urge Chairman WAXMAN's leadership to go even further to strengthen the renewable electricity standard during the conference committee.

A strong standard would mean more jobs in the United States and a larger share of domestic and clean energy. Our children and grandchildren are watching. If we don't take this step for them today to leave them with a world that is healthy and more secure, when will we? As a proud grandfather of nine, I urge my colleagues to vote in favor of this legislation.

Mr. BARTON of Texas. Madam Speaker, I reserve at this point.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentleman from the State of Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Madam Speaker, Chairman WAXMAN, I appreciate your courtesy as I appreciate your leadership.

It's strange that the debate boils down to our friends from the minority party being unable to access the Web site of the Rules Committee to print out the rule that has been available to any Member of the House. And I understand some of them were waving it earlier in the day talking about provisions that they didn't like. But I guess we shouldn't be surprised because this is the same leadership that continually misrepresents the MIT study, citing $3,000 of costs that has been refuted by the author of that report and asks the Republican leadership to stop misrepresenting his handiwork.

The CBO and the EPA have given estimates that are pennies a day, not thousands of dollars a year. And we're not talking about the long-term benefits of transitioning to an economy of the future.

I appreciate the leadership. On a recent trip to China with the Speaker, we saw the Chinese moving ahead. This legislation is an opportunity for us to keep pace and assume our rightful leadership within an economy for the future.

Mr. WAXMAN. Madam Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas has 10¼ minutes remaining. The gentleman from California has 16 minutes remaining.

Mr. BARTON of Texas. I yield 1 minute to Mr. POE of Texas.

Mr. POE of Texas. Madam Speaker, I appreciate the gentleman for yielding.

I represent southeast Texas, the energy capital of the United States. Twenty percent of the refineries in this country that help all these folks all over the fruited plain with energy, I represent them.

This week alone, we've had 86 people call and say, Vote for this bill. We've had 1,578 people in my district call and say vote ''no'' on this bill, almost 20 times the number of yes votes.

I'm an advocate for those people in southeast Texas. They believe, as I believe, we're going to close up America's energy with this bill. The CBO and the EPA says there's not going to be much difference in the climate if we pass this deal. Bummer. It's not even going to work.

And it's more important to realize this bill is about control, government control of our lives, our businesses, and everything we do. Washington, D.C. is going to dictate how we live and how we shall live and how our businesses will live. And it's all bad because D.C. is in control and not the people. This is a bad bill. Vote ''no.''

And that's just the way it is.

Mr. WAXMAN. Madam Speaker, I am pleased to yield at this time 1 minute to the gentleman from Colorado (Mr. PERLMUTTER), who has made many important contributions to this effort.

Mr. PERLMUTTER. Thank you, Chairman WAXMAN.

I rise in support of the Clean Energy Act here. And I want to read the first sentence of a letter we received today from the National Association of Realtors. The National Association of Realtors supports H.R. 2998 (2454) the American Clean Energy and Security Act, which addresses a broad and global array of issues.

In closing, the National Association of Realtors ask for the favorable passage of this, as do Duke Energy, American Electric Power, BP Amoco, GE, and the American Institute of Architects.

This bill is designed to help us with national security, the climate, and jobs. My friend, Mr. POE, from Texas says, Just vote no. Well, that's the party of the status quo. Just vote no, we like the status quo.

It is time for a change, ladies and gentlemen. We can't afford the status quo, and this bill brings us in that change and a new direction.

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to Mr. GOHMERT of Texas.

Mr. GOHMERT. Madam Speaker, you know, I've been trying to get through what I could of this bill and then finding out, well, actually, it's another bill. And then you have to incorporate all these other pages into it because I'd like to know what we're doing to the American people.

We've had people say we're playing politics on this side. If we wanted to play politics, because we know in our hearts this is bad for America, we would let you pass it and let you lose your jobs. But I've grown kind of fond of some of my friends on the other side; I'd like to keep you around.

But let me tell you, those who say there won't be any job loss, we're going to create jobs, let me just read you some of the things that are in your bill. The climate change adjustment allowance: when you lose your job, for any week of unemployment you are going to get some unemployment assistance after that. That's in there.

You've got some relocation allowance. But the coup de grace is that if you're an older American and you lose your job because of this, we fund a study in here.

So I would encourage my colleagues, if you lose your job because of this bill, you probably are going to be able to get assistance because you lost your job because of this bill. Don't vote for it.

Mr. WAXMAN. Madam Speaker, at this time, I want to yield to my good friend, a leader in environmental areas and many others as well, the gentleman from Texas, Mr. DOGGETT.

Mr. DOGGETT. I thank the gentleman.

Earlier today, I voiced my strong objections to this bill. I voted against the rule to permit this bill because of its rejection of some amendments that I thought were important to improve the legislation.

For three reasons, I'm voting for final passage. First, I've been listening to the debate, not so much those who support the bill that I'm not all that enthusiastic about, but listening to the ''flat earth society,'' the climate denials, some of the most inane arguments that I have heard against refusing to act on this vital national security challenge.

Second, I believe there is still some hope to make improvements to this bill once it gets out of the House. Better to have a seat at the table to try to influence the change that is needed in this legislation.

And, third, I'm convinced that unless we act today, the Senate will not act. And unless we act in this Congress, we will not get the international agreements we need to address this serious challenge.

I am voting ''yes'' in the hopes that we will have a better bill and we will have the international accord that we so desperately need to deal with this critical matter.

Mr. WAXMAN. Madam Speaker, at this time, I have an additional colleague who wants to address this issue before we close. I am very pleased to recognize her for 1 minute because she is a good friend and a very important Member of the House of Representatives, a colleague from California, BARBARA LEE.

Ms. LEE of California. I want to thank the Chair for yielding and also for your leadership. You and Mr. MARKEY, everyone has done a phenomenal job on this bill.

I rise today in support of H.R. 2454, which really does send a clear and unequivocal message that polluting our planet, our communities, and our livelihood no longer comes without a cost. This bill will create millions of high-paying, career-term green jobs that represent a much-needed pathway out of poverty for millions of individuals across this country, and I am pleased to see the inclusion of much-needed funding for the Green Jobs Act.

I must also be clear in saying that in America we should do more to address the climate crisis than provided for in this bill, but this is an unbelievable first start.

I believe we can produce more renewable electricity and achieve more aggressive emission reductions over time. I also recognize that passing the American Clean Energy and Security Act is a major, major bold critical first step toward achieving our goal of realizing a greener future.

As a person of faith, and as a longtime advocate for safeguarding our environment for future generations, Mr. Chairman, Madam Speaker, I think it's our moral and our ethical imperative and our responsibility to support this bill.

Mr. WAXMAN. Madam Speaker, we reserve the right to close on the debate, so I will now look to the other side to complete their statements.

Mr. PRICE of Georgia. Madam Speaker, unanimous consent request.

The SPEAKER pro tempore. The gentleman will state his request.

Mr. PRICE of Georgia. Madam Speaker, it's been estimated, with great accuracy, that between 2.3 million and 2.7 million jobs will be lost each year with this bill. I would ask unanimous consent that the House rise for a moment of silence to recognize those who will lose their jobs because of this bill.

Mr. WAXMAN. I reserve the right to object.

The SPEAKER pro tempore. The gentleman from California reserves the right to object.

Mr. WAXMAN. I object.

The SPEAKER pro tempore. The gentleman has objected.

Mr. PRICE of Georgia. I thank the Speaker.

Mr. BARTON of Texas. I yield 3 minutes to the distinguished Republican Conference chairman, Mr. PENCE of Indiana.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. I thank the gentleman for yielding.

It's hard to know where to start. I've got to think, Madam Speaker, a lot of people who are looking in on this debate and hearing about copies filed, esoteric process really don't care very much about all that because this economy is hurting. American families are struggling under the weight of the worst recession in a generation. Families in my district are losing their jobs, small businesses and family farms are struggling, and all they've seen out of Washington, D.C. so far is a gusher of runaway Federal spending, deficits, debt and bailouts. They didn't think it could get worse, but here we go.

In the midst of the worst recession in a generation, this administration and this majority in Congress are prepared to pass a national energy tax that will raise the cost of energy on every American family. Now, my colleague sporting the green lapel button, who I greatly respect, said that there is a lot of dispute about how much the average American household will pay if this national energy tax becomes law, and that's true. There are estimates ranging from a few hundred dollars a year, to the Heritage Foundation's over $4,000 a year. The estimate I prefer was from candidate Barack Obama, who said in January 2008 to the San Francisco Chronicle, and I shall quote with the deepest respect: ''Under my plan of cap-and-trade system, electricity rates would necessarily skyrocket. That will cost money. They''—referring to the utility companies—''They will pass that money on to consumers.'' Now-President Barack Obama.

Now, I know earlier this week the President of the United States said that polluters are going to pay the cost of this national energy tax. That's not what he said last year. Now, I don't know how you all define ''skyrocket'' when the President said electricity rates would necessarily ''skyrocket under my cap-and-trade plan,'' but I would be prepared to defer to you.

□ 1645

I define ''skyrocket'' as a prescription for economic decline. There may be a dispute in the numbers about how much I'll be paying in my electrical bill or how much the costs of goods and services are going to go up. But there is no dispute that this cap-and-trade legislation will cost millions of American jobs. Raising the cost of energy is a bad idea in prosperous times. Raising a national energy tax in the worst recession in a generation is a profoundly bad idea.

But for anyone looking in, Madam Speaker, let me say, we are in the minority, as we have been reminded with some firmness on this debate on occasion today. We don't have the votes to stop this bill. But you do.

If you oppose the national energy tax, call your Congressman right now. If you think we can do better to serve the interests of the American people and achieve energy independence with an all-of-the-above strategy, call your congressman right now.

Alexander Hamilton said it best: ''Here, sir, the people govern.''

We can stop this bill. We can do better. And so we must.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Madam Speaker, I have one more parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BARTON of Texas. Under the rules that we operate on, the leadership on both sides, each is allowed 1 minute to speak at any time. Will that time come out of this debate, or does that time come out of the debate on the Forbes amendment?

The SPEAKER pro tempore. It depends on what part of the debate they are yielded to.

Mr. BARTON of Texas. I'm sorry?

The SPEAKER pro tempore. It depends on what part of the debate they are yielded to.

Mr. BARTON of Texas. Would Mr. WAXMAN yield for a question, then?

I'm trying to figure out if I need to reserve 1 minute for Mr. BOEHNER to speak now or if the Speaker and the majority leader are going to speak later and not in this part of the debate.

Mr. WAXMAN. Will the gentleman yield?

Mr. BARTON of Texas. I would be happy to yield.

Mr. WAXMAN. We're ready to conclude the general debate. We will then move on to the amendment, and in the course of the discussion of the amendment in the nature of a substitute, our leadership plans to speak, and they will close the debate for our side as we move to vote on that amendment and then passage on the bill.

Mr. BARTON of Texas. Then I will yield myself the balance of my time, Madam Speaker.

The SPEAKER pro tempore. The gentleman from Texas has 5¼ minutes remaining.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Speaker, before I begin I want to compliment you on your speakership of this debate. As always, you've been gracious and temperate and fair, and we wish you the very best in your new position at the Department of State.

As the country western song goes, Madam Speaker, I've got a long way to go and a short time to get there. So I'm trying to get through in the next 5 minutes the major issues on the debate before us.

I want to first start with the so-called compromise the chairman of the Agriculture Committee and the chairman of the Energy and Commerce Committee have worked out. As we have seen during the debate by the number of colloquies, the compromise is a work in process. I've seen it amended and referred and rebutted several times on the majority side.

But if you will look to my far left on this chart, in the base text of the bill, there is a provision that gives the Administrator of the EPA the right at any time, at any time, to designate any man-made gas as a greenhouse gas subject to the regulations of this bill. As far as I can tell, that paragraph trumps everything that Chairman PETERSON has attempted to negotiate with Chairman WAXMAN.

The second thing that I want to point out is the basic math of their allowance system simply doesn't work. The transportation sector today is responsible for 35 percent of the greenhouse gas emissions in the United States, 35 percent. If you count the good work that Mr. DINGELL did and the good work that Mr. Green did on the majority side in getting allowances for the transportation sector, they get a grand total of 4 percent, 4 percent. Well 4 from 35 is 31 percent. When you get down to 2050, you have to reduce CO_2 emissions by 83 percent, which only leaves 17 percent of total emissions from the baseline year. You've got to cut the transportation sector in half. And if you assume that we're not going to develop some sort of a giant rubberband for general aviation, you can't put an electric battery or a nuclear reactor in an airplane. General aviation is going to have to use fossil fuel. You simply can't get to that 83 percent reduction from the 2005 baseline with the math in their bill. It is a physical impossibility.

The third point: The science is not there to back it up. There is an EPA report that has been suppressed, that was never made a part of the record, that we are trying to get as we speak that raises grave doubts about the endangerment finding. Now, if you don't have an endangerment finding, you don't need this bill. We don't need this bill. And for some reason, the EPA saw fit not to include that in making the decision. We have e-mails that show that the director of the subcabinet agency within the EPA said the decision has been made the report is not helpful. It's not only not helpful; it's harmful. So the science isn't there.

The next point: No matter how you cut it, costs are going up. Just basic math. Just basic math. In Iowa the CEO of the utility that provides most of the electricity for Iowa says in Iowa alone, costs are going to go up $110 a month per residential customer. That's $1,200 a year. Gasoline prices are going to go up somewhere between 40 to 70 cents a gallon. If you take a midpoint of, say, 50 cents a gallon and assume that the husband and wife work outside the home and they each drive a thousand miles a month, you're going to have a gasoline price increase per family in America of about $800. That is $2,000 a year per family in 2012. It's not a postage stamp.

Now, there are estimates as high as $6,000 a year, but as a baseline let's start with $2,000. That's in the first year and every year thereafter. If you look at this chart here on unemployment, if it goes below the bar, that's a negative: 2015, 2.3 million jobs; 2025, 2.7 million. Go on down the road. It averages over 2 million jobs every year.

Now, you talk about a green job revolution. In Spain they have been trying to do that, Madam Speaker. And in Spain for every green job they've created, they have lost two conventional jobs. And the green jobs they have created in Spain have cost about $1.2 million per job created in terms of government subsidies. That's not a revolution that I want to be part of, Madam Speaker.

I simply cannot express enough to get to 83 percent baseline reduction in CO_2 by the year 2050, which doesn't change in this bill, you have to reduce the emissions in the United States to the level that we had in 1910. And if you want to look at it on a per capita basis, assuming the population is going to average about 1 percent growth a year, it takes us back to 1875.

This is a bad bill. It deserves to be defeated. Please vote ''no.''

This legislation threatens to lock the United States into an era of economic stagnation and global decline, thanks to a massive national energy tax that will kill American industry and send jobs overseas.

We are here today voting on one of the most significant pieces of energy legislation ever, and we have only had the final text for a matter of hours. Surely, a majority of the Members have not read any of the bill, and I doubt that one in a hundred have read the 400 new pages that were turned in to the Rules Committee in the dark hours of this morning. This is not the way this Congress should do business. It is not the way the American people expect us to do business. What happened to the promises of the President and the Speaker of transparency?

This bill will cause the average American's electricity bill to increase by 77 percent to 129 percent. Filling up the gas tank will cost anywhere from 60 percent to 144 percent more. That means, at today's prices, gasoline would be well over $4 per gallon. As we all vividly remember from last summer, $4 gas is painful and unsustainable.

The negative economic effects of this bill will hit some parts of the country worse than others. The Democrats cite a recent CBO study, which is now based on outdated text, which says that the negative economic impact will only be $175 per household. I dispute this analysis because it ignores the full negative consequences of this legislation, in that the study completely ignored the economic damage from restricting energy use. Well, gross costs will be closer to $900 per household. And if average gross costs will be $900, then I can only imagine how bad it will be in the Midwest and Southeast who are going to be much harder hit.

The cost of home heating oil and natural gas will nearly double. An independent analysis of the latest Waxman-Markey text explains that when all of the tax impacts have been added up, the lost GDP in 2035 works out to $6,790 per family-of-four and that is before they pay their $4,600 share of the carbon taxes. That puts the costs per family for the whole energy tax aggregated from 2012 to 2035 to $114,915. Do you think the above estimate will help the American economy? Of course not.

If Democrats manage to pass this fiasco, millions of lost American jobs will likely be sent overseas. Already the recession seems to deepen by the day. The national unemployment rate is 9.4 percent and President Obama has already declared that we are going to see it topping 10 percent. All this even though this House passed the President's Stimulus bill in January without even taking the time to read that bill either. Michigan has an unemployment rate of over 14 percent. South Carolina has an unemployment rate of over 12 percent. North Carolina and California have over 11 percent unemployment. Ohio and Indiana have over 10 percent unemployment. Using the latest numbers, in May of 2009, 14 states have double-digit unemployment, with another 5 states between 9 and 10 percent. We should pass legislation that seeks to decrease unemployment—let's not add fuel to the fire.

This bill would create a trillion dollar carbon derivatives market. We introduced an amendment to ban speculators from participating in

the market during mark-up because we don't think that our economy can withstand another AIG Credit Default Swap Crisis. And we certainly cannot afford another multi-billion dollar bail-out.

Because there is so little protection for industry jobs that rely heavily on affordable and dependable baseload power, I think we can expect to start buying more Mexican cement, Chinese fertilizer and Indian steel.

How can we cap global greenhouse emissions without the participation of China and India? Not only does China reject any mandatory caps on its emissions, but they demanded that we subsidize them in their quest for better technology. Well, I have good news for China—this bill has plenty of handouts for foreign polluters at the expense of American industry. So, congratulations.

This bill is reckless and does not have a safety valve or exit ramp, even though my colleagues and I introduced several safety valves during the mark-up. It seems to me that it would be a good idea to kill this bill if gas goes up to $5 or electricity bills double because of this legislation. But, obviously my colleagues on the other side of the aisle are willing to roll the dice with the American economy. We filed these amendments with the Rules Committee and were shut out completely. The Democrats are so unconfident in the costs and repercussions of their own bill that they cannot even risk an amendment that would sunset the policies when costs and unemployment resulting from this Act cripple the American economy.

This bill grants near-dictatorial powers to the head of the Environmental Protection Agency to sacrifice the American economy in the cause of suppressing greenhouse gases. If you think suppression is the wrong word, I want you to know that it was just yesterday we learned that the EPA administrator and the Obama Administration suppressed an inconvenient dissent offered by a career EPA official.

It seems clear that officials who already engage in political suppression of opposition opinion are hardly the people in whom we want to invest the future of the U.S. economy.

Let's investigate that scandal, but in the meantime, let's turn back this power grab today and go to work on an all-of-the-above energy solution that includes nuclear and offshore drilling.

The SPEAKER pro tempore. The time of the gentleman has expired.

The gentleman from California has 13 minutes remaining.

Mr. WAXMAN. Madam Speaker, I yield myself the balance of my time. I won't take 13 minutes.

My colleagues, we have a unique historical opportunity today to pass a bill that will lead us to greater independence as a Nation, controlling our own national security. We have an opportunity to transform our economy with new jobs. And we must do something about the carbon emissions that are causing such an enormous problem to our planet. We have this opportunity because President Obama has set this high on his agenda. We have it because of the commitment of Speaker PELOSI. We have it because the scientists are telling us there's an overwhelming consensus that, despite the comments that we have heard from the other side of the aisle, global warming is real, and it's moving very rapidly, and we may get to a point that will be a tipping point. Our actions will make no difference after that.

Let us not lose this historical opportunity for our national security, for jobs in this country, to protect our environment, to make us the leader once again in the international community, and to get them to join with us in doing what we must to avoid the disasters that many scientists have predicted. Vote for this legislation.

Mr. POLIS. Madam Speaker I rise today in support of this legislation, and urge its passage.

I also would like to thank Chairman WAXMAN for his hard work on this bill, it is of incredible importance and he has taken that responsibility to heart.

I also thank the chairman for including two of my amendments within the manager's amendment, provisions that are important to ensure quality clean energy jobs training programs are accessible to all communities and that state SEED funds can go directly to renewable energy producers ensuring we get the most for our clean energy investment.

Mr. Speaker, today we will be casting an historic vote, a vote of moral responsibility, a vote of economic prosperity, and a vote FOR our nation's future and our nation's leadership on the international stage.

We've heard the arguments against acting, we've heard the nay sayers and those who would rather fear something they don't understand then roll up our sleeves and work to solve a monumental challenge.

To my younger colleagues and the millions of young men and women in this country who are embarking on their adult lives, who are starting young families and are looking to a brighter future I say . . . This is our generation's space race, this is our generations cold war, this is our generation's greatest challenge and it is past time that we accept that challenge to do better rather than shy away in the face of the unknown.

I'd just like to reiterate the scale of this issue, and say that I find it truly troubling that when we are faced with overwhelming credible and independent scientific evidence, and we can see the effects of a changing climate in our daily lives, the delusion it takes to drum up facts and figures paid for by oil companies and promote those as if they were science is truly reaching a new low.

This bill is not a tax. This bill isn't even a preverbal tax, and to paint something as a tax simply because you don't understand it is irresponsible.

We simply can't afford to do nothing.

Opponents of action would continue the status quo of doing nothing, which has cost the average family a $1,000 increase in energy bills over the past eight years.

America's energy costs will increase by $420 billion annually within the next 5 years if we do nothing to reduce our dependence on oil and fossil fuels. That amounts to $3,500 annually for every family in the nation.

This bill has oversight after oversight, and ensures that consumers aren't hurt at all.

This bill is good for our economy. Low income consumers are protected first, the CBO estimates that this bill will save low income consumers $40 by 2020. The energy efficiency provisions in this bill could save $750 per household by 2020 and $3,900 per household by 2030.

My colleague on the other side of the aisle seems to be giving data compiled by the partisan Heritage foundation, espousing to know something about my district.

But Coloradans already know that in our state we already have many of the provisions that this bill makes federal, like a Renewable Energy Portfolio Standard. These policies have made Colorado a clean energy leader and have brought our state high tech and high quality jobs.

I encourage my colleagues and the American people to learn about this critical issue, learn about the science, learn about the market mechanisms that this bill creates . . . and DON'T BUY the falsities that big oil and big energy companies are spending millions to promote.

We've had enough. We've had enough of old ideas, of fear, of just saying no to a better tomorrow and we've had enough of old technology running our country and economy into the ground.

It's time we take a significant step forward, shaking the special interests and act boldly for the good of our country. You might be scared, but don't hurt our country because of that fear.

This bill is our Apollo project, our Manhattan project but now we act for a nobler cause and we must act in bold and decisive terms.

I urge passage of this legislation.

Mr. HOLT. Madam Speaker, I rise today in support of H.R. 2454, the American Clean Energy and Security Act of 2009.

For years, the consensus in the scientific community has been that the release of greenhouse gasses into the atmosphere is altering the Earth's climate in ways that are expensive and deadly. This is one of the principle subjects I have spoken about and worked on for decades—before and since I first ran for office—and it is one of the reasons, I believe that my constituents sent me to Congress.

Today the House of Representatives at last is taking sweeping action to cap greenhouse gas emissions, promote the production of renewable energy, and make our homes, cars, and businesses more energy efficient. This legislation would require that we reduce our carbon emissions by 17 percent from 2005 levels by 2020 and 80 percent by 2050. It would implement a Renewable Electricity Standard that would require electric utilities to provide 20 percent of their electricity from renewable sources by 2020. It would make historic investments new clean energy technologies and energy efficiency, including energy efficiency and renewable energy, carbon capture and sequestration, electric and other advanced technology vehicles, and research and development. These provisions would help to slow the rate of global warming and preserve our environment for future generations. Further, a recent report from the Center for American Progress estimates that these provisions would help to create 1.7 million new, high skilled clean energy jobs over the next decade.

Opponents of this bill have argued that it would cost American families over $500 a year in additional energy costs. While it is true that there would be increases in the cost of energy, this bill would return almost 50 percent of the proceeds from the cap-and-trade

auction to consumers. In my home state of New Jersey, families who currently pay $100 on their monthly energy bill would see their bill increase by less than $3 a month. If you include the savings that would come through the energy efficiency provisions in this legislation American families could save $4,000 by 2030 on their energy bills.

According to the Environmental Protection Agency, in New Jersey climate change has caused temperatures to be 4 degrees warmer than they were in 1970. Over the past century precipitation has increased by 5 percent and severe weather incidents have increased by 12–20 percent, and sea level along our coast is increasing .14 inches a year. It is worth devoting some money and effort to slow the devastating climate change is having on our state.

I am pleased that several provisions that I wrote were included in this bill. I worked with Rep. GEORGE MILLER and Rep. JERRY MCNERNEY authorize the WaterSense program that would help consumers identify water efficient products. Water efficiency saves energy by reducing the amount of energy used to heat, transport, and clean water. The savings are substantial and real. According to the Environmental Protection Agency, if only one out of every 100 American homes retrofitted their homes with water-efficient fixtures, we would save 100 GWh of electricity, enough energy to power more than 9,000 homes for an entire year, while reducing greenhouse gas emissions by 80,000 tons.

Rep. JARED POLIS and I wrote a provision that would require the Departments of Energy, Labor and Education to compile an online database for a renewable energy curriculum that would be easily accessible to community colleges, vocational schools and universities looking to create training programs but lacking local or technical expertise. The transformation to a clean energy future will require a trained workforce and our amendment would ensure that these communities, whether in rural Wyoming or urban Pittsburg, have easy access to green jobs training in new energy and new manufacturing sectors so they can prosper in a new energy economy.

I worked with Rep. ROSA DELAURO, Rep. TAMMY BALDWIN, and Rep. BRIAN BAIRD to include a provision that would allow the Secretary of Energy to create a research program to study the role that human behavior will play in energy consumption and climate change. Changing consumer behavior offers a promising opportunity to promote energy independence and reduce greenhouse gas emissions, however there is still much to be learned about the forces that drive consumer actions.

As a member of the Committee on Natural Resources, I worked to make sure that sufficient funding from the cap and trade auction would be used for domestic and international adaptation. Funding allocated under this provision would help to ensure the protection, restoration, and conservation of natural resources and enable them to become more resilient, adapt to and withstand the impacts of climate change and ocean acidification. It will require the study of how wildlife corridors will change as climate change affects migration patterns and identify the steps to minimize the effects of climate change on migratory species. It would be used to protect the public health from the effects of climate change. Internationally, it would be used to prevent the tropical deforestation that is adding billions of tons of carbon to our atmosphere.

I remain deeply concerned that this bill does not include the necessary research and development funding that is needed to reach the 80 percent reduction target set in H.R. 2425. We will not be able to meet this goal with today's technologies, and as written, the bill does not provide the billions of dollars a year that will be needed to develop them. This is not a small or parochial concern. If Americans and others around the world are to embrace a transformation in the way we use and produce energy, they must know that our effort includes the engine to drive the innovation for that transformation. Without a very robust research effort—many billions of dollars—the vision of transformation will be a mirage and the public will know it. I have been assured by Chairman WAXMAN, Chairman MARKEY, Speaker PELOSI, members of the Administration and members of the Senate that they understand this shortcoming and that they will work with me to increase the research funding to drive the innovation we need to transform the way we produce and use energy.

Ultimately, I support this bill because doing nothing is not an option. If we continue on the same path the U.S. Global Change Research Program estimates that average global temperatures will increase 11 degrees Fahrenheit by the end of the century, causing among other effects a rise in sea level of 3 to 4 feet, completely flooding low lying areas like the Everglades and Cape Canaveral or Cape May. By passing this legislation we can slow the rate of climate change, we can create millions of new jobs, save consumers money through energy efficiency, and end our reliance on foreign fossil fuels. I urge my colleagues to support it.

Mr. HIMES. Madam Speaker, I rise in support of the Manager's Amendment to H.R. 2454, the American Clean Energy and Security Act.

According to the Department of Energy the building sector is responsible for 39 percent of total U.S. CO_2 emissions. At long last, and due in part to the improvements contained in this amendment, Congress is acting to decrease the negative effect buildings have on our environment. Over the past year, members of the Financial Services Committee have met with a wide array of housing advocates, nonprofits and agency leaders to craft legislation that improves the energy efficiency of housing while creating sustainable and affordable communities for our citizens.

The result of this painstaking work is a bill known as the Green Resources for Energy Efficient Neighborhoods, or GREEN, Act, led by my esteemed colleague from Colorado Mr. PERLMUTTER and currently contained within the Manager's Amendment to H.R. 2454. Through a broad array of public and private incentives, it seeks to encourage energy efficiency and develop renewable energy sources for housing and commercial buildings in order to achieve the changes in the housing sector that will help build America's clean energy economy for the next century.

A provision I contributed to the GREEN Act provides incentives to lenders and financial institutions to help consumers who build, buy or remodel their homes and businesses to improve their energy efficiency—lowering their energy bills, curbing waste and reducing carbon emissions all at once. I strongly encourage my colleagues to support these priorities by passage of the amendment and of the underlying legislation.

While I support many of the changes in the Manager's Amendment, I do have concerns about provisions in the Amendment which address over-the-counter derivatives, a matter which falls properly within the jurisdiction of the Financial Services Committee, and which I believe would best be addressed in that setting.

These reservations notwithstanding, I strongly encourage the passage of the Manager's Amendment and of the American Clean Energy and Security Act, which marks a historic step toward innovation and energy independence for our Nation.

Mr. MATHESON. Madam Speaker, the two great energy issues our generation faces right now are domestic energy security and climate change. These issues deserve our active attention, and they deserve action. Unfortunately, the bill we are considering today does not appropriately address these issues.

Some continue to argue that climate change is not happening. In fact, scientific consensus has clearly been established that climate change is a very real, significant problem and we need to determine an effective way to reduce global greenhouse gas emissions. However, this legislation has problems.

The early-year carbon reduction targets assume an aggressive pace of new technological development that may be unachievable. These targets received little attention in the debates that have taken place on this bill.

I remain concerned that this energy bill will result in unfair regional wealth transfers. The one-size-fits all renewable electricity standard is not the right approach to address climate change. It is an add-on without a purpose. Data shows that the renewable targets in this bill are only slightly better than business-as-usual. So why are we bothering to dictate these standards when we should encourage the 15 States that currently do not have renewable energy targets to find something workable for their communities?

The bill's distribution of emission allowances also creates regional inequities. The ''50–50'' formula in the bill gives extra, unneeded allowances to utilities with lower fossil fuels resources, and less to utilities with greater reliance on fossil fuel resources. Those regions that receive excessive allowances would sell those allowances to other regions of the country that received less.

With respect to carbon markets, this bill overreaches and will effectively destroy the derivatives market. Many people seem to confuse the different types of markets that exist. The futures market contains listed derivatives—these are standardized exchange-traded agreements. There is also a market for cleared derivatives, which are standard contracts that are privately negotiated but booked with a clearinghouse as a counterparty. And finally, you have the over-the-counter derivatives market where people negotiate deals to fit the needs of everyone ranging from utilities, to airlines, to banks, and finally, regular investors. This is a very complicated financial system and while it is clear that we are not appropriately regulating this market today, we should also avoid gutting the market altogether. I think there is a reasonable way to structure the new carbon market and to address deficiencies in the commodity markets. The provisions in the bill are not the right approach, and these provisions of the bill were

never really debated in a House committee hearing.

There are also some changes made to the offsets section which are troubling to me. I have been supportive of the effort to build a strong, accountable offsets program and I am sorry to see that this bill allows USDA to try to establish a much looser, less effective program. This is short-sighted because unless offsets signify real, verifiable carbon reductions, they will be worthless. This is problematic because buying and using offsets is much cheaper for businesses than it is to buy allowances.

I have been advocating for the inclusion of transmission language in order to build much-needed infrastructure. However, this bill only addresses the Western Interconnection, not the whole country. That doesn't get at the underlying problem which is the lack of electricity transmission capacity across the Nation. I wish this bill had taken an approach similar to the one the Senate is considering.

Finally, the issue of energy independence calls for additional items that are not included in today's bill. In the long run, technological advances will provide new options to help this country gain a more secure, stable energy profile. In the interim, we need policies that keep all options on the table for the development and use of conventional energy sources.

As a result of all of these concerns, I will vote against this legislation. However, I will continue to work on the important issues of climate change and energy independence.

Mr. KUCINICH. Madam Speaker, I rise in opposition to H.R. 2454, the American Clean Energy and Security Act of 2009. The reason is simple. It won't address the problem. In fact, it might make the problem worse.

It sets targets that are too weak, especially in the short term, and sets about meeting those targets through Enron-style accounting methods. It gives new life to one of the primary sources of the problem that should be on its way out—coal—by giving it record subsidies. And it is rounded out with massive corporate giveaways at taxpayer expense. There is $60 billion for a single technology which may or may not work, but which enables coal power plants to keep warming the planet at least another 20 years.

Worse, the bill locks us into a framework that will fail. Science tells us that immediately is not soon enough to begin repairing the planet. Waiting another decade or more will virtually guarantee catastrophic levels of warming. But the bill does not require any greenhouse gas reductions beyond current levels until 2030.

Today's bill is a fragile compromise, which leads some to claim that we cannot do better. I respectfully submit that not only can we do better; we have no choice but to do better. Indeed, if we pass a bill that only creates the illusion of addressing the problem, we walk away with only an illusion. The price for that illusion is the opportunity to take substantive action.

There are several aspects of the bill that are problematic:

1. Overall targets are too weak. The bill is predicated on a target atmospheric concentration of 450 parts per million, a target that is arguably justified in the latest report from the Intergovernmental Panel on Climate Change, but which is already out of date. Recent science suggests 350 parts per million is necessary to help us avoid the worst effects of global warming.

2. The offsets undercut the emission reductions. Offsets allow polluters to keep polluting; they are rife with fraudulent claims of emissions reduction; they create environmental, social, and economic unintended adverse consequences; and they codify and endorse the idea that polluters do not have to make sacrifices to solve the problem.

3. It kicks the can down the road. By requiring the bulk of the emissions to be carried out in the long term and requiring few reductions in the short term, we are not only failing to take the action when it is needed to address rapid global warming, but we are assuming the long term targets will remain intact.

4. EPA's authority to help reduce greenhouse gas emissions in the short- to medium-term is rescinded. It is our best defense against a new generation of coal power plants. There is no room for coal as a major energy source in a future with a stable climate.

5. Nuclear power is given a lifeline instead of phasing it out. Nuclear power is far more expensive, has major safety issues including a near release in my own home state in 2002, and there is still no resolution to the waste problem. A recent study by Dr. Mark Cooper showed that it would cost $1.9 trillion to $4.1 trillion more over the life of 100 new nuclear reactors than to generate the same amount of electricity from energy efficiency and renewables.

6. Dirty Coal is given a lifeline instead of phasing it out. Coal-based energy destroys entire mountains, kills and injures workers at higher rates than most other occupations, decimates ecologically sensitive wetlands and streams, creates ponds of ash that are so toxic the Department of Homeland Security will not disclose their locations for fear of their potential to become a terrorist weapon, and fouls the air and water with sulfur oxides, nitrogen oxides, particulates, mercury, polycyclic aromatic hydrocarbons, and thousands of other toxic compounds that cause asthma, birth defects, learning disabilities, and pulmonary and cardiac problems for starters. In contrast, several times more jobs are yielded by renewable energy investments than comparable coal investments.

7. The $60 billion allocated for Carbon Capture and Sequestration (CCS) is triple the amount of money for basic research and development in the bill. We should be pressuring China, India, and Russia, to slow and stop their power plants now instead of enabling their perpetuation. We cannot create that pressure while spending unprecedented amounts on a single technology that may or may not work. If it does not work on the necessary scale, we have then spent 10–20 years emitting more CO_2, which we cannot afford to do. In addition, those who will profit from the technology will not be viable or able to stem any leaks from CCS facilities that may occur 50, 100, or 1000 years from now.

8. Carbon markets can and will be manipulated using the same Wall Street sleights of hand that brought us the financial crisis.

9. It is regressive. Free allocations doled out with the intent of blunting the effects on those of modest means will pale in comparison to the allocations that go to polluters and special interests. The financial benefits of offsets and unlimited banking also tend to accrue to large corporations. And of course, the trillion dollar carbon derivatives market will help Wall Street investors. Much of the benefits designed to assist consumers are passed through coal companies and other large corporations, on whom we will rely to pass on the savings.

10. The Renewable Electricity Standard, RES, is not an improvement. The 15 percent RES standard would be achieved even if we failed to act.

11 Dirty energy options qualify as ''renewable'': The bill allows polluting industries to qualify as ''renewable energy.'' Trash incinerators not only emit greenhouse gases, but also emit highly toxic substances. These plants disproportionately expose communities of color and low-income to the toxics. Biomass burners that allow the use of trees as a fuel source are also defined as ''renewable.'' Under the bill, neither source of greenhouse gas emissions is counted as contributing to global warming.

12. It undermines our bargaining position in international negotiations in Copenhagen and beyond. As the biggest per capita polluter, we have a responsibility to take action that is disproportionately stronger than the actions of other countries. It is, in fact, the best way to preserve credibility in the international context.

13. International assistance is much less than demanded by developing countries. Given the level of climate change that is already in the pipeline, we are going to need to devote major resources toward adaptation. Developing countries will need it the most, which is why they are calling for much more resources for adaptation and technology transfer than is allocated in this bill. This will also undercut our position in Copenhagen.

I offered eight amendments and cosponsored two more that collectively would have turned the bill into an acceptable starting point. All amendments were not allowed to be offered to the full House. Three amendments endeavored to minimize the damage that will be done by offsets, a method of achieving greenhouse gas reductions that has already racked up a history of failure to reduce emissions—increasing emissions in some cases—while displacing people in developing countries who rely on the land for their well being.

Three other amendments would have made the Federal Government a force for change by requiring all Federal energy to eventually come from renewable resources, by requiring the Federal Government to transition to electric and plug-in hybrid cars, and by requiring the installation of solar panels on government rooftops and parking lots. These provisions would accelerate the transition to a green economy.

Another amendment would have moved up the year by which reductions of greenhouse gas emissions were required from 2030 to 2025. It would have encouraged the efficient use of allowances and would have reduced opportunities for speculation by reducing the emission value of an allowance by a third each year.

The last amendment would have removed trash incineration from the definition of renewable energy. Trash incineration is one of the primary sources of environmental injustice in the country. It is a primary source of compounds in the air known to cause cancer, asthma, and other chronic diseases. These facilities are disproportionately sited in communities of color and communities of low income.

Furthermore, incinerators emit more carbon dioxide per unit of electricity produced than coal-fired power plants.

Passing a weak bill today gives us a weak bill tomorrow. Rejecting a weak bill today gives us another chance to pass something more in line with the science tomorrow.

Mr. DICKS. Madam Speaker, as the chairman of the Interior Appropriations Subcommittee and someone who is very concerned about the need to safeguard wildlife and ecosystems from global warming, I wish to express my strong support for the ''American Clean Energy and Security Act of 2009.'' I believe that the policy provisions in this legislation, coupled with a new core funding stream for wildlife and natural resources derived from a portion of the Federal revenues from expected cap-and-trade legislation will provide the policy response necessary to tackle this significant challenge.

I am very much aware of the need to take action to address global warming, and I have held hearings to examine the impact of climate change on many of the agencies and resources under my subcommittee's jurisdiction. I have consistently stated my belief that climate change may be the emerging issue of our time. Climate change will alter the face of our planet in ways we cannot yet fully comprehend, and I believe it is our responsibility not only to do as much as possible to halt or slow it, but also to do everything in our power to protect the earth's resources from its impacts so that future generations will be able to benefit from them as we and past generations have done.

Our Nation's wildlife is one critically important resource that is particularly vulnerable to climate change and is also a resource that is a fundamental part of America's history and character. Conservation of wildlife and wildlife habitat is a core value shared by all Americans.

America's wildlife is vital to our Nation for many reasons. Wildlife conservation provides economic, social, educational, recreational, emotional, and spiritual benefits. The economic value of the outdoor recreation industry—hunting, fishing, and wildlife viewing, hiking, paddling—alone is estimated to contribute $730 billion annually to the U.S. economy. Wildlife habitat, including forests, grasslands, riparian lands, wetlands, rivers and other water bodies, is an essential component of the American landscape, and is protected and valued by Federal, State, and local governments, Tribes, private landowners, and conservation organizations.

Unfortunately, it is becoming increasingly apparent that the effect of climate change on wildlife will be profound. The Intergovernmental Panel on Climate Change reports have made clear that global warming is occurring, that it is exacerbated by human activity, and that it will have devastating impacts on wildlife and wildlife habitat. In addition, a recent report, Global Climate Change in the United States, was released by the Administration and reflects the most current information from our Nation's leading scientists who agree that the impacts from climate change are already being felt and will continue to increase.

Global warming is already impacting all of us: threatening the water we drink, the air we breathe, the medicines we use, the food we eat, the forests and fisheries we depend on, the special places we take our children. Wildlife is suffering from massive changes in habitat, particularly in the arctic, and shifts in ranges and timing of migration and breeding cycles. Continued global warming could lead to large-scale species extinctions. These impacts add to and compound the adverse effects wildlife and its habitat already suffer from land development, energy development, road construction, and other human activities, and from other threats such as invasive species and disease.

According to the IPCC, global warming and associated sea level rise will continue for centuries due to the timescales associated with climate processes and feedbacks, even if greenhouse gas concentrations are stabilized now or in the very near future. I believe that, as a nation, we must craft responses and mechanisms now to help navigate the threats global warming poses to the natural resources that we all depend upon for survival.

To conserve natural resources and wildlife in the face of the far-reaching effects of global warming, there is a need for a coordinated, national strategy based on sound scientific information to ensure that impacts on wildlife that span government jurisdictions are effectively addressed and to ensure that Federal funds are prudently committed. Ensuring strategic and efficient allocation of funding is something of particular interest to me as an appropriator.

To that end, I have acted within my capacity as a lead appropriator on this issue to advance steps necessary to combat the climate change impacts we have already set underway. I have worked to establish the Global Warming and Wildlife Science center at the U.S. Geological Survey, now receiving its second year of funding. Also in the recent FY09 omnibus appropriations bill and the FY2010 Interior Appropriations bill. I have provided direction to the Department of the Interior to develop a national strategy to address global warming's impacts on fish, wildlife, and natural resources.

The American Clean Energy and Security Act will help ensure that the pressing needs that are faced by the agencies and programs under the Interior and Environment appropriations subcommittee to help wildlife and wildlife habitat are addressed strategically, based on a foundation of sound scientific information, and that funding is driven through proven programs at the Federal, State and tribal levels in the most efficient way possible. I have also included significant funding increases. But I can only do so much in the Interior Appropriations bill.

I also have one additional but very significant point to make about funding to address impacts to natural resources and wildlife from global warming. It is essential that actions to safeguard wildlife and the natural resources will all depend upon receiving adequate funding. Addressing the greatest conservation challenge of our time will require long-term investments of the magnitude that only the revenue stream created by comprehensive climate and energy legislation can provide. While I support dedicating more of the allowances under this bill to natural resources adaptation, the 1 percent currently contained in the bill represents an important start of the problem. As I have indicated, the impacts are occurring today and the need is urgent. Paying for these investments through climate revenues takes the burden of protecting these resources off taxpaying citizens and onto the polluting entities responsible for causing global warming pollution.

The Interior and Environment appropriations subcommittee allocation is woefully stressed just dealing with the current needs of the agencies and programs under its jurisdiction. Our Federal land management agencies have tremendous backlogs for operations and maintenance of our national wildlife refuges, parks, forests, and other public lands. This situation was greatly exacerbated under the Bush administration budgets and prior Congresses. Hundreds of important biologist positions have been cut, and the agencies' budgets are far below what they have needed just to keep up with inflation. These programs have been starved to the point where they are on life support. It became apparent in hearings the subcommittee has held on global warming that the land management agencies are already seeing the results of climate change on the ground, but that they have few, if any, resources to deal with these changes. With the effects of global warming only expected to increase in severity in the coming years, I believe it is crucial to infuse a new core funding stream into our efforts to address this crisis, and I am pleased that the American Clean Energy and Security Act provides an important new funding stream.

This is a great Nation with a unique and irreplaceable natural heritage. We must take steps now to protect our wonderful wildlife from the ravages of climate change. With this in mind, I plan to vote for the American Clean Energy and Security Act of 2009.

Mr. CONYERS. Madam Speaker, I rise in support of H.R. 2454, ''The American Clean Energy and Security Act of 2009,'' because, as a nation, we simply cannot afford to delay addressing the cataclysmic economic, national security, and environmental threats posed by global climate change any longer. Although imperfect, this piece of legislation is a necessary precondition for crafting a global solution to climate change. With this vote today, the United States reclaims the mantle of world leadership in addressing the single most important issue facing the planet.

The opponents of this legislation will argue that we are taxing away our economic prosperity and our jobs. This could not be further from the truth. For 22- to 30-cents a day, less than the cost of a stamp, this bill will transform our economy by investing in new energy technologies that will create whole new industries and millions of jobs. All together, this legislation will create 1.7 million new jobs, 53,816 of which will be located in my home State of Michigan. This bill isn't a job killer. In fact, it will unleash a flood of jobs created by a mean, lean, and innovative energy sector.

This bill also furthers other important national priorities. If enacted, this bill would finally break the chokehold the OPEC cartel has over our energy security, provide a lifetime of clean air for our children and their children, and prevent the threats of environmental catastrophes like hurricanes, draughts, and famines.

We must consider the costs of inaction. During the Bush-Cheney years, our dependence on foreign oil increased, average household energy costs went up $1,100, and job growth slowed to a crawl. Throughout this time, the threat of climate change multiplied as the administration ignored reality and the scientific

community and turned a blind eye to the plight of future generations.

Although this is not the bill I would have written, the costs of inaction are simply too great to ignore. A vote for this bill is a vote for jobs at home, energy independence, and a livable world for all.

Mr. STUPAK. Madam Speaker, I rise to support and discuss regulations I included in the American Clean Energy and Security Act to prevent excessive energy speculation, which has played a role in the run away energy prices we saw last year, and are seeing in the first half of 2009.

In January, oil was trading at $35 per barrel. Today, it is trading near $70 per barrel. The price for oil has doubled in the midst of a global recession. Oil supplies are at a 20-year high, and demand is at a 10-year low, yet oil prices have skyrocketed since the beginning of the year. If this is based on supply and demand, what is happening to explain rising oil prices? If supply is up and demand is down during this global recession, why would oil continue to climb?

The Federal Energy Regulatory Commission, the Senate, as well as a number of respected oil market traders and analysts, have pointed to excessive speculation in the energy markets as the primary reason we see price spikes and volatility in the marketplace. In May, I introduced the Prevent Unfair Manipulation of Prices Act, or the PUMP Act of 2009. I worked with Energy and Commerce Chairman WAXMAN and Subcommittee Chairman MARKEY to include the bulk of my bill into the American Clean Energy and Security Act, which is on the floor today.

This legislation is not new; I have been introducing this bill in one form or another since April 2006. But new weaknesses in our regulatory structure, brought to light by the financial crisis and spikes in the price of oil last year, are addressed in the 2009 PUMP Act.

The need for this legislation is two fold: 1. the dramatic rise in prices of oil and natural gas, and 2. the new carbon derivatives trading market created by the ACES bill. Some object to the inclusion of regulations on derivatives in this energy bill. I believe ACES proposed cap-and-trade program is fatally flawed without strong regulations to police this market from run-away price swings on carbon.

Addressing excessive energy speculation should be a key part of any new energy policy pursued, because a dramatic spike in oil prices or carbon prices, would further devastate our already weakened economy. According to NYMEX officials, less than 1/10 of one percent of futures trades in crude oil ever result in physical delivery. Most futures traders are not interested in delivery of a product, they are interested in profit. When speculators increase their investments, physical hedgers—businesses like airlines, trucking companies, and other industries that actually use the energy being traded—represent a smaller and smaller portion of the market. They are being squeezed out!

As a growing majority of the market is controlled by speculators, crude oil is morphed from a commodity into a financial asset, traded for its financial value instead of its energy value! As a result, this excessive speculation by index speculators is a significant factor in the price Americans are paying for gasoline, diesel and home heating oil, and has similar affects on agricultural prices. For too long, through loopholes, exemptions, and poor enforcement by the Commodity Futures Trading Commission, energy speculators have been able to avoid position limits. As a result, excessive speculation has exploded.

My legislation in the 2009 PUMP Act and in ACES is comprehensive, and changes the regulations for the energy markets in fundamental ways. It makes the Commodity Futures Trading Commission regulate all over-the-counter trades that are currently not regulated; it regulates foreign boards of trades' energy transactions that trade for delivery in the United States or on a computer located in the United States. These boards are subject to the same regulations as current markets, including large trader reporting, recordkeeping, and prohibitions against fraud and market manipulation.

My bill closes the swaps loophole; no longer allowing energy transactions to be excluded from the requirements of the Commodity Exchange Act. This would require the CFTC to provide greater oversight over these swap transactions. It bans naked credit default swaps. Naked credit default swaps, or one where the holder has no risk obligation on the swap, which creates a moral hazard by incentivizing economic loss. It sets aggregate position limits for energy speculators across all markets; it includes a CFTC Inspector General provision that makes that office independent and accountable. It also requires all trades be cleared through a designated clearing organization, eliminating the unregulated ''dark markets.''

My bill allows the CFTC to collect fees and create an independent funding stream for oversight and enforcement of commodity markets. Finally, it includes carbon derivatives as a regulated energy commodities under the authority of the CFTC. This incorporates all greenhouse gas emissions, offsets, and financial products derived from carbon credits.

As the House works on the ACES bill, it is important that carbon trading not lead to a speculative bubble like we saw in the 2008 oil markets. Congress needs to pass legislation to set strong position limits, and ensure that excessive speculation does not allow speculators to detach carbon or energy prices from supply and demand fundamentals.

I am committed to continuing to work with my colleagues in passing legislation for the President to sign that sets strong position limits and improves CFTC enforcement to end this excessive speculation and provide relief to American consumers.

Ms. WOOLSEY. Madam Speaker, as a mother and grandmother, the health of our earth is at the top of my list of concerns so that my kids and grandkids aren't left with the messes we've created. For too long, we have ignored the warning signs that human activity is having a negative impact on our environment. It's up to us to change our ways, use our brains, and stop our bad behavior.

The facts are clear. The time for debate on whether or not global climate change exists is over. What we need to do now, is address the problem before it's too late. We need to listen to the world scientific community, and act immediately to curb our carbon emissions. That's why I support H.R. 2454, the American Clean Energy and Security Act.

The single most important part of this bill is that it puts in place the federal structure to, for the first time, seriously regulate carbon emissions that are adversely affecting our climate. And with proper oversight and science—with the right people in charge—this bill will do what we need to do.

Now, it's never easy to change the status quo. There's a lot of money out there for people who would continue the practices that we know are harmful to all of us. And we all know how that money can be used to muddy the issues and derail the will of the people.

The plain fact of the matter is this: Without this bill, without a strict regime for controlling carbon emissions, Big Oil and Big Coal Win. And the environment, endangered species, our kids, our grandkids, you, and I will be the losers.

Now, people point to China and India, and all the carbon they emit as a big problem too, and they're right. But the United States leads the world in carbon emissions and, as the world leader, it's our responsibility to lead the world in a new direction. The burden falls on America to set the tone. By instituting a cap and trade system, we are showing the rest of the world that we're serious about addressing the issue, and proving to them that it can be done.

Madam Speaker, I'm not willing to risk our future by doing nothing. I urge my colleagues to support this bill, take a stand, and lead the world in addressing the issue of global climate change.

Mr. KIND. Madam Speaker, I rise today to express my qualified support for the landmark bill before us, H.R. 2454, the American Clean Energy Security Act.

Global climate change poses grave risks to our planet, our economy, and our way of life; it, therefore, cries out for bold action to reverse mankind's contribution to the problem. At the same time, taking such action offers us the tremendous opportunity to remake our energy infrastructure to become less dependent on foreign sources of energy, improve the health of our population and environment, and create high-paying jobs here in America.

The sponsors of H.R. 2454 and its many champions here in the House claim that it will do all of these things—that it will ignite America's leadership in reducing global greenhouse gas emissions to sustainable levels, shift our nation's energy paradigm away from polluting sources and into clean, renewable ones, and create millions of jobs for domestic workers. I also believe this is the case. However, I fear that under this bill, progress toward these goals will come at great cost to American families, particularly in the area of western Wisconsin I represent and others like it. I am disappointed we did not have more time to debate the cost of the legislation and address our concerns through additional consideration of the bill in the Ways and Means Committee.

H.R. 2454 will require utilities and other greenhouse gas emitters to hold an allowance for each ton of these gases they emit. In the beginning of the program, the government will give a large number of these away to regulated utilities with the requirement that the value of these free allowances be used to mitigate the cost to consumers. While some people are very comfortable with this arrangement, I am not so confident that utilities will pass on the full value of these allowances to ratepayers. The initial years of the European Emissions Trading System demonstrated that giving valuable allowances to utilities for free encourages them to pocket the value rather

than reducing electricity rates. Whether the bill's additional layers of administration, oversight, and bureaucracy will be effective at preventing this from happening here is an experiment I would rather not impose on my constituents in western Wisconsin.

I am also concerned that the ACES bill is skewed against regions like mine that are rural and heavily dependent on coal for energy. The formula it establishes for doling out the free allowances to utilities provides more to those areas that need them the least—those that have a lot of zero-emission hydro or nuclear power—rather than those areas like Wisconsin that need the allowances because of their higher emissions. The federal government helped subsidize the hydro and nuclear plants in other parts of the country; ratepayers in my district should not have to send more money their way while we seek to realize the same low-carbon generation.

Finally, the bill allocates funds derived from consumers and spends it on such things as international deforestation, investments in technology, and wildlife adaptation. While these are worthwhile goals that will need to be addressed in the context of combating climate change, I do not think we should do so by putting an additional financial burden on those who can least afford it.

That is why I introduced H.R. 2757, the Consumer Assistance Rebate for Energy, or CARE, Act. This bill would have ensured that any money raised by the government as a result of climate change legislation would be given back to consumers directly to help them cope with any price increases for energy and consumer goods. The EPA stated in its analysis of the ACES bill that this type of approach is the least burdensome on low-income consumers, and that it achieves greenhouse gas reductions at a lower overall cost than the ACES system of free allowances to businesses and utilities.

While I wish my concerns about consumer protection had been addressed more fully in the bill before us, the legislation has changed for the better since being reported out of the Energy and Commerce Committee, and there is enough in the bill to recommend it that I am willing to support its passage today so that it will move to the Senate where it can be improved further.

The American Clean Energy Security Act will live up to its name in many ways. It will transition our energy systems away from unsustainable, polluting fossil fuels and toward clean, renewable resources such as wind, solar, biomass, and hydrogen. It will provide an unprecedented investment in the technologies and industries of tomorrow, creating more than 4,000 jobs in my Congressional District alone, and millions nationwide.

America is the nation that invented solar cell technology decades ago, and the investments we make in the coming years will allow us to regain our leadership in the world and be the center of innovation and industry that will drive the clean energy revolution.

The bill also includes funding to help our natural resources, and fish and wildlife in particular, adapt to the changes in their habitat that have already begun.

Finally, the bill includes opportunities for farmers, ranchers, and foresters to be a part of the climate solution, which is critical for my district, where agriculture remains the largest industry. The USDA, in consultation with EPA, will establish a program where businesses and utilities can meet their greenhouse gas obligations by paying farmers who help sequester carbon. This new revenue stream will be very important in helping the agriculture sector cope with higher costs for energy, fuel, and fertilizer.

Again, I wish we had had more time to deliberate on this extremely large and complex piece of legislation. I wish the bill contained more direct, more transparent ways of compensating consumers. I wish the bill treated regions equitably. But I support strong action on climate change and the creation of millions of new jobs, and I will vote to move this bill forward in the hope that the Senate will pass a bill that works better for more Americans.

Mr. COSTELLO. Madam Speaker, I rise today in opposition to H.R. 2454, the American Clean Energy and Security Act of 2009.

I believe that climate change is occurring, and that increased greenhouse gas emissions have profoundly impacted our climate and our resources. To combat these changes, we need to develop a sustainable energy policy that will meet our energy needs today without compromising the ability of our children and grandchildren to meet their energy needs tomorrow.

For these reasons, I support a balanced energy plan that will increase our energy independence by promoting the development and deployment of 1) renewable domestic sources of energy, such as ethanol and biodiesel, and 2) technology that will use traditional fuels in a cleaner way, such as clean coal carbon capture and storage. These energy sources eventually may satisfy the needs of the entire country, but they are still being developed and expanded. We must ensure that Americans maintain access to affordable and reliable energy until these sources are broadly available.

I oppose H.R. 2454 because it does not provide a bridge for coal and other fossil fuels to develop and demonstrate new technologies to provide reliable energy and meet the necessary reductions in greenhouse gas emissions. The timelines contained in this legislation do not provide sufficient time to put these technologies in place. Manufacturers and utility companies will be forced to stop using the affordable, abundant fuels they use today and transition to far more expensive energy sources. As a result, this bill will force our most affordable domestic energy source, coal, into extinction. Energy costs will skyrocket and workers will face layoffs and plant closures. American families cannot face these additional burdens during these difficult economic times.

In addition, we cannot ignore the fact that climate change is a global problem and requires a global solution. We must consider the consequences of enacting this legislation when other countries, like China and India, have not taken steps to reduce their own carbon emissions. Without some measure of equity on this issue, our emissions may appear to decrease, but they will simply shift overseas, taking jobs and industries with them.

Madam Speaker, I oppose H.R. 2454 because it does not do enough to bridge the transition to clean energy sources, to prevent spikes in electricity costs, to protect workers from new layoffs, or to provide a global solution to climate change. Quite simply, it is the wrong bill at the wrong time. I ask my colleagues to join me in opposing this measure.

Mr. YOUNG of Florida. Madam Speaker, I rise in opposition to H.R. 2454, the so-called American Clean Energy and Security Act. Throughout my time in Congress I have supported protecting America's environment and climate as well as incentives for clean alternative energy, including solar, wind, and biofuels. It is in our county's best interest environmentally, economically, and for our national security to transition away from imported oil to domestically available, renewable, and clean sources of alternative energy.

For instance, I have supported efforts by the City of St. Petersburg to power 40 of the city's parks entirely using a sustainable solar energy network which will allow these parks to be removed from the city's power grid.

In the 110th Congress I was a cosponsor of the Clean Energy Tax Stimulus Act of 2008. This measure would have provided for the continuation of eight clean energy production and efficiency tax benefits in order to incentivize important alternative energy investment and production.

I am also supportive of initiatives to require auto manufacturers to increase the fuel efficiency of the cars sold in America. In fact, in March I signed a letter to President Obama to urge him to take the strongest stand possible to increase the Corporate Average Fuel Economy (CAFE) standards. Last Congress I was a cosponsor of the Fuel Economy Reform Act which would have raised CAFE standards to 35 miles per gallon over the next decade.

And I have long been supportive of protecting Florida's environment and our military's training needs by opposing offshore drilling in the Eastern Gulf of Mexico.

I also believe in creating and supporting new green jobs. At the same time that we encourage conservation and the production of renewable resources, we must also help prepare Americans to work in these new green jobs. That is why I voted in favor of the Green Energy Education Act. This legislation would authorize funds to be made available to support advanced energy and green building training and graduate programs throughout the country.

Despite my support for clean energy and a clean environment, I must oppose this cap and trade legislation which will impose increased costs on American citizens who have done nothing wrong. At a time when the people of Pinellas County and our nation are hurting, it is incomprehensible that the House will knowingly approve legislation that will impose a new energy tax on American citizens, will put American companies at a competitive disadvantage, and will endanger the jobs of American workers.

Supporters of this legislation have tried to claim that the cap and trade scheme will only cost some negligible amount, a postage stamp per day or $15 per month. They claim that a report by the Congressional Budget Office backs up this statement. However, if you actually take the time to read the CBO's report, you will understand that this is simply not true. The analysis only includes one limited portion of the 1,201 page bill. The analysis does not include the effects from the lower incomes and lost jobs that the CBO predicts will occur. The analysis does not include the effects from the decreased retirement accounts that will be realized as the value of stocks decline, as the CBO predicts. The analysis does not include the increased costs of producing goods in the United States, as the CBO predicts. In short, to say that this legislation will not hurt American families is simply misleading.

If this legislation is signed into law, energy costs are going to rise. Even the President acknowledges that electricity rates are going to ''necessarily skyrocket.'' Britain's Taxpayer Alliance estimates that families there are paying $1,300 more in taxes after the implementation of a similar program only a few short years ago. In drafting this legislation, proposals were offered to suspend the cap and trade program if gas prices rose above $5 per gallon, if electricity prices rose by 10 percent, or if the unemployment rate hits an unthinkable 15 percent. All three of these sensible ideas were voted down by supporters of this bill. All Americans will be impacted by these higher energy prices, but the hardest hit will be the low income and the many of my constituents are seniors who live on fixed incomes.

I do not think that I need to remind any of my colleagues of the energy crisis of last summer. I remember all to well the stories from my constituents of the difficulty they had in dealing with $4 per gallon gasoline. However, a study conducted by the American Petroleum Institute has found that the impact from this legislation will add an additional 77 cents to the price of a gallon of gasoline, and even higher costs for critical diesel fuel. In the last two years alone more than 5,000 trucking companies with at least five trucks went out of business, costing a countless number of jobs. Is this really the type of result we want?

Inexplicably, this legislation would spend seven percent of the cap and trade allowances—paid for by American consumers—in foreign countries. Let me repeat that: this bill will send $302 billion U.S. tax dollars under cap and trade to foreign countries. Most of this money is set aside to plant trees. The Congressional Budget Office has said that ''the allowances spent overseas would impose a net cost on U.S. households: They would bear the cost of the allowances but would not receive the value.''

The cap and trade scheme also creates a new tradable commodity that Wall Street investors will be able to buy and manipulate. The pollution allowances will be traded and sold on the open market to the highest bidder. Companies who will be forced to buy these to provide necessary energy and products will pass on these costs to consumers. Even worse, this bill sets a minimum price for which the allowances can be sold for, not a maximum price to prevent the fleecing of American consumers. After the financial collapse of last year, we should not allow Wall Street speculators and commodity traders to hold the American people hostage in this way. I thought the purpose of this legislation was to protect the environment, not to help Wall Street get richer.

Also included in this bill is a one-size-fits-all nationwide renewable energy standard that favors certain regions of the country at the expense of others. It is estimated that residents in Florida will be forced to pay an additional $339 million in their energy bills within only a few years, while the residents of some states in the northeast and the west coast will be heavily subsidized. Fundamentally, I believe that the federal government must get out of the business of picking winners and losers.

These are just some of the things that we actually know are in the bill. But there is no way for Members to understand everything that is included. The bill itself is 1,201 pages that few, if any of us have read. Then only this morning, the Democrat leadership unveiled and added on a 309 page manager's amendment. The Washington Post says that this is a ''1,201 page measure filled with political compromises, directives, subsidies and selections of winners and losers that members won't be able to analyze before the vote and that leaves us wondering how effective it will be.'' The St. Petersburg Times, which supports the legislation, admits that the bill is ''imperfect'', ''not ideal,'' and that it includes ''weasel language.'' Even the Chairman of the Agriculture Committee COLIN PETERSON, who was one of the principal negotiators of the final bill that we are discussing today, said, ''The truth is, nobody knows for sure how this is going to work.'' Despite the importance of this issue, only one amendment has been allowed to even be considered by the House. The fact of the matter is, this legislation sets emission standards from now until 2050, and will affect our American way of life even further out from there. The initial reaction from my constituents in Pinellas County is that there is no need to rush through this process without understanding the effect on our nation the over the next 40 years. About 80 percent of the calls and e-mails that I have received have opposed this cap and trade bill.

We all agree that the United States must begin the transition to domestically available, renewable, and clean sources of energy. We should work to make it easier for this change to happen, and it is appropriate for the government to provide incentives, not penalties, on those who do the right thing by investing in new sources of energy. We can do this by following in the tradition of the Manhattan Project, where the United States government brought our best and brightest minds together to create the atomic bomb to win World War II. The New Manhattan Project for Energy Independence, which my colleagues and I will have an opportunity to support, will provide funding for American universities, scientists, and inventors to come together and create more energy efficient and affordable cars, buildings, advanced power plants, advanced biofuels, and carbon capturing technology to help clean our air. This can be accomplished without imposing new tax increases on the American people while taking the steps necessary to secure a clean and secure future. We can take this important step by including Democrats and Republicans working together, rather than refusing to even consider suggestions from Republican members or even letting us know of details of this cap and trade bill as it was being written.

This is the right way to approach our future energy and environmental needs. The wrong way is to punish average American citizens simply for going about their everyday lives—picking their children up from school, starting a small business, keeping their family cool in the summer and warm in the winter, or trying to make ends meet. And that's who this bill taxes and punishes.

Madam Speaker, if this was truly an energy bill, there is little doubt in my mind that both sides could come together, as we have done so many times in the past, to find a bipartisan solution that will help this country move in the right direction and reduce our dependence on imported oil, lower our energy costs, and reduce carbon emissions without punishing American families. Unfortunately, this legislation only amounts to imposing a new burden on the American people at a time when they are already overburdened and I cannot support what the Wall Street Journal has called ''the biggest tax in American history.'' Let's vote this down so we can go back and work together and do what's right for America.

Mr. MEEK of Florida. Madam Speaker, I stand for the creation of new American jobs, for less dependence on foreign energy, and for a reduction in the carbon pollution that causes global warming.

This bill is about national security, creating jobs in a new energy economy, and defending consumers through a fiscally responsible bill with consumer protections.

These investments will also spur new jobs. The Political Economy Research Institute estimates that 3.5 jobs will be created in the new green job sector for every 1 job that is fossil fuel source based in Florida. This could mean over 94,000 jobs in Florida alone.

Too often our foreign policy decisions are affected by the regional stability of oil producing countries. In Iraq we are paying for our oil-centric obsession and Floridians have paid over $37 billion for the war there. This legislation offers incentives that promote energy efficiency and that will break our addiction to foreign oil. We must be focused on research and development for green technologies and end the obsession with crude oil that is fueling too much of our economy.

The bill is not perfect—few landmark bills are. Once the Senate takes up the bill later this year, this bill will be further improved and will address the shortcomings that exist in this version. My mission will be to ensure that the final legislation that is passed will include the necessary consumer protections to minimize price increases.

We cannot wait to act on climate change legislation. Florida is already experiencing eroding shorelines, flooding and dying coral reefs. In particular, the Everglades face severely altered water flows and harmful invasive species. This will also have a devastating impact on Florida's economy. In 2007, tourists flocking to Florida's beaches and other priceless environmental areas spent over $65 billion in Florida.

Without aggressively capping carbon emissions, the earth's temperature will continue to rise, causing more extreme storms and altered ocean conditions which will have a devastating effect on Florida's ecosystem.

The American Clean Energy and Security Act (ACES) works to minimize price increases for consumers. On average the EPA estimates that this bill will cost an average household $98 to $140 per year in price increases, while holding those in the lowest income quintile harmless.

Without carbon emissions caps, we have seen energy prices fluctuate drastically. By regulating carbon intensive goods and creating a transparent market this bill will help to stabilize those prices and help protect consumers.

By investing in conservation, efficiency and renewables, Florida residents will see lower costs in energy though building weatherization improvement benefits, and energy efficiency savings.

Mr. TEAGUE. Madam Speaker, as most of my colleague know by this point, I'm an oil man.

Always have been.

Always will be.

When I was 17 years old, my father became sick, so I went to work in the oil fields, making $1.50 an hour on a pulling unit, to help support the family.

I kept at it until I had my own company, employing and providing quality health care for 250 people.

Over the years, I've done just about everything there is to do in oil and gas around New Mexico. People know that HARRY TEAGUE is an oil man, and I am proud of that.

In 2007, when I announced that I would be running for Congress, people were surprised to find an oil man like myself campaigning on a platform that emphasized energy independence through a focus on the development of full and diverse slate of energy sources. Not only was I advocating increased production of our valuable petroleum resources. I told people in Hobbs, Roswell, Carlsbad and across Southern New Mexico that technologies like wind, solar, and biofuels were not only good for the environment, but would also create jobs in our communities and bolster our national security.

I did not wait long after being sworn in as a Member of the 111th Congress to turn my campaign platform into a legislative record. The very first bill I introduced, H.R. 451, provides a multiyear extension of the Renewable Energy Tax Credit. I worked hard to have that legislation included in the House version stimulus package, and when you signed the American Recovery and Reinvestment Act into law on February 17, 2009, the production credit was included.

I am proud to say that H.R. 451 not only gave one of the largest boosts we have ever given to renewable energy production in this country, but it also saved the oil and gas industry $13.1 billion dollars in prospective tax increases.

As the 111th Congress continued, I likewise continued my work promoting energy production in America. I passed several amendments to various legislation promoting renewable energy, and I worked tirelessly to ensure the Budget Resolution passed by Congress did not include tax hikes on oil and natural gas.

Then came the American Clean Energy and Security Act, which is the bill we're here debating today.

When the legislation was introduced and then reported out of committee, I must say, I was deeply skeptical. I had one central concern:

I worried that this bill would hurt the rural communities and small towns and cities that I represent in Congress.

So, I had a choice. I could stand by and issue my reservations and my opposition from the sidelines. Or I could get involved, and stand up for the good people in New Mexico I represent, and advocate for changes that would help people and businesses in my district.

Madam Speaker, anyone who knows me from the oil fields of Hobbs, New Mexico knows one thing: If there's one thing I know, it's hard work. And if there's a job to be done, I'm going to get it done.

The very first thing I saw to in the bill is that there would be no taxes, no additional costs, and no added red tape at the wellhead. I knew we needed to keep this bill away from production because we need more energy in this country, and putting taxes on the folks who produce it makes then produce less energy, not more.

Once I saw that oil and gas producers would not be covered by the legislation, I noted other improvements that had to be made.

The first thing was that portions of the bill threaten to put small refiners out of business. Smaller refiners process below about 200,000 barrels a day, while larger refiners typically process closer to 1.5 million barrels. The difference is drastic. Despite their small size, small refiners still supply about 11 percent of the United States market, serving mainly rural areas and military installations.

The legislation as reported from committee contained only two percent of available allocations for the entire refining sectors stationary emissions, even though refiners emit 3.8 percent of carbon across our economy. Small refiners operate at extraordinarily thin margins and would be fighting for that limited allocation with super-majors like ExxonPhillips, Chevron, and ConocoPhillips. Smaller companies would likely not survive.

If refiners close in rural areas, gas prices there would have to skyrocket in order to attract supplies from the coasts and other refining centers. Thousands of job losses from refinery closings would also result.

To prevent this terrible situation from coming to pass in rural America, I proposed that small refiners receive an allocation for all of their stationary source emissions and further mechanisms that would limit their exposure to the volatility that may exist in the market for allowances for fuels.

I am very pleased that this provision has been included in the bill.

Additionally, I was deeply concerned with the economic livelihood of 180,000 Southern New Mexicans in my Congressional district who get their power from rural electric coops. While the bill's sponsors claim that electric utilities were ''held whole'' with allowance allocations when the bill was reported out of committee, in reality there were regional disparities that unfairly punished rural electric coops. For example, in regions that possess abundant sources of carbon-neutral electricity like hydro and nuclear, consumers would receive far above their needed allocations. But in New Mexico and other states that rely in large part on coal and other carbon sources for electricity, consumers would only receive a portion of the allowances they need to cover their carbon emissions.

To remedy this problem, I proposed that emission allocations be distributed on the basis of carbon intensity rather than the number of people who receive the electricity and that no utilities should receive more than 100 percent of allocations. Allocations over 100 percent would then be redistributed to consumers in places like New Mexico.

I also proposed the same carbon molecule shouldn't be given allowances twice in its life cycle in one part of the country, while a carbon molecule being used in New Mexico receives zero allocations.

Now, we didn't get everything we asked for. But working with Chairman COLLIN PETERSON of the Agriculture Committee and the National Rural Electric Cooperatives Association, we were able to get language in the bill that will protect rural electric coops from costly rate hikes.

Madam Speaker, this bill is not perfect. In fact, it is far from perfect.

We need to do more for rural coops. We need to improve this bill so that it promotes the use of clean burning natural gas.

I do thank my friends on the Energy and Commerce Committee for working with me to address my concerns regarding small business refiners and rural electric coops.

Mr. JORDAN of Ohio. Madam Speaker, I rise today in opposition to this bill. Simply put, this is bad policy for America, particularly the Midwest. In an independent study, my district is the fourth-most impacted district in the nation by this disastrous legislation. The parts of our nation that are powered by coal-burning plants and are heavy in manufacturing and agriculture—like the part of Ohio I get to represent—will be devastated.

Make no mistake, we are about to vote on the largest tax increase and transfer of wealth in American history. In a misguided attempt by the federal government to put a command and control bureaucracy in charge of our national energy economy, this Congress will raise the energy costs of every American who drives a car or turns on a light switch. And for what? Even supporters of this legislation admit that this bill will have a negligible impact on global temperatures.

By unilaterally disarming ourselves, we become less economically competitive for the 21st century. We are preparing, Madam Speaker, to cede our global leadership role to foreign competitors by capping our growth and innovation, and trading even more manufacturing jobs overseas.

Republicans have a better way forward. We have an all-of-the-above energy solution that increases domestic production and use of our own resources and creates incentives to move us toward clean, renewable, and reliable sources of energy like nuclear, wind, solar, and bio-fuels. And we do it the way America has always done it—through the ingenuity and innovation of the American entrepreneur and worker, not top down federal government mandates. I encourage my colleagues to vote down this National Energy Tax and to support real American energy solutions.

Ms. KILPATRICK of Michigan. Madam Speaker, I rise in strong support of H.R 2454, the American Clean Energy and Security Act (ACES) of 2009. This long overdue, necessary, and needed step will make the earth a better place, reduce our dependence on foreign oil, by cutting our use of foreign oil by more than five million barrels per day. The cost of this legislation is just 22 to 30 cents per day—less than the price of a postage stamp—or $80 to $111 per year, according to the EPA. This bill means more than 1.7 million jobs for our nation, 54,000 for the State of Michigan and 23,000 jobs for the City of Detroit. In order to ensure that we no longer import hundreds of barrels of oil per day, to have cleaner air, cleaner land, cleaner water and a better future for my grandchildren and all children, most, if not all, Americans are willing to make that investment.

This bill represents the largest investment in jobs by our government since the Great Depression. Michigan, and America, must become part of the new technology which is renewable technology. The factories and industries that once built cars and trucks can now build wind turbines, solar panels, and help get our electrical grid more efficient and effective. Replacing our nation's old-fashioned, outdated, outmoded and obsolete fossil fuel based energy production equipment will result in new research, new manufacturing, new energy sources and new jobs. Michigan desperately needs this legislation.

I am blessed to represent the people of the 13th Congressional District of Michigan. The 13th Congressional District of Michigan has the highest percent and number of low income families in the State of Michigan. Contrary to what opponents of this bill say, this bill will not add to the already burdensome pain our citizens have already endured and continue to endure. Among other things, the bill provides $40 per month to low income families to help offset potential increases in energy. In fact, the Congressional Budget Office (CBO) has estimated that the bill would actually save low income consumers money on their utility bills. The wealthiest twenty percent of American households would only experience modest, affordable rate increases.

This bill will create the largest growth in jobs in the private sector since the Great Depression. According to the Environmental Protection Agency and the Congressional Budget Office, 1.7 million jobs will be created that cannot be resourced to other countries. These are good paying and secure jobs that will restore businesses and bring economic stability to our cities, counties and states. According to the Political Economy Research Institute, Michigan stands to gain 54,000 jobs or 5.4% jobs for every resident in the state. That means 23,000 new jobs in Detroit alone.

This legislation is the work of many Committees and has been carefully crafted to avoid any undue burdens on agriculture and rural families. Farmers spend more money than any other industry on energy, which only underscores the fact that we need new energy policies that will lower their costs and lower their dependence on fuel. This legislation provides farmers and the agricultural industry with unique opportunities to make money in energy, through siting windmills or solar panels on their lands, or growing crops suitable for the production of biofuels. The bill provides assistance to farmers and agricultural businesses as we transition to renewable energy by providing them with free emissions allowances.

This legislation does not force other countries to reduce their emissions. This legislation cannot do that, anyway. It does show the world that the United States is ready to take the lead in the fight against climate change. China and other European countries that have relied on fossil fuels have shown a willingness to start the fight against global warming. This is our opportunity, once again, to be the world leader that we have always been.

The reduction of the greenhouse gases is not only good for our health and our children's health—it sets the nation on a new pathway using Free-Enterprise principles. Polluted air affects our elderly and young people the most. That's why the American Lung Association supports this bill.

This bill is 30 years overdue, if we had started back then, we would not only be much less dependent on foreign oil, but our water, air and earth would be cleaner. For the government to involve itself in the public health, the economy and national security is the oldest role of the government in the United States. This partnership of the government in these goals has added to the quality of the life we enjoy.

We have the opportunity, and I will say the responsibility to grow jobs in Detroit, Michigan and America. We have a duty to promote renewable energy, clean the air, clean the water, clean the earth and deal with climate change. The nation that leads the effort toward clean and renewable energy will not only make our world a better place for our children, our grandchildren, and our families, but it will lead the world economy for the next hundred years. This is that bill, and that is why I voted for H.R. 2454, the American Clean Energy and Security Act of 2009.

Ms. HERSETH SANDLIN. Madam Speaker, today the House is voting on a bill that is designed to shape the course of our nation's economy and way of life for decades to come. Unfortunately, I believe the process has been too rushed, and I cannot support the bill in its current form.

I believe it's imperative for Congress to address climate change. I agree with the scientific consensus that human activity has substantially increased the accumulation of greenhouse gases and is contributing to a rise in average global temperature. This rise threatens to create a number of dramatic and negative impacts. With much of South Dakota's economy dependent on agriculture, which in turn depends on our climate, global warming could have a profound effect on South Dakota's economy and our way of life.

Moreover, the alternative to no action by Congress is action by the U.S. Environmental Protection Agency (EPA) under the Clean Air Act to step in and in a more punitive fashion dictate rules and impose costs on industry. Given the complexity both of the climate change problem and the steps needed to address it, we need to take time to get it right. The stakes are simply too high for a rushed solution that can potentially create more problems than it solves.

While I can't support the bill before the House today, it has already come a long way from where it started both in its discussion draft form and in the form the Energy and Commerce Committee approved. Both of those versions were imperfect and incomplete and would have imposed regional inequities on a greater scale than the legislation before the House today. Since the committee approved its version of the bill, there have been some positive changes made, most notably in the agricultural sector.

Important and common sense improvements have been made that go a long way towards recognizing the value that agricultural producers in South Dakota can bring to the climate change issue. I commend Agriculture Committee Chairman PETERSON'S efforts as he worked together with many members of the Agriculture Committee to ensure that agriculture's concerns are addressed in this legislation. This has been a priority for me over a long period of time, and I am pleased with the progress made.

The inclusion of an agricultural and forestry offsets program will enable farmers, ranchers and forest owners to fully participate in a market-based carbon offset program, earning income for activities they undertake to address global climate change while also ensuring environmental integrity and protecting early actors. Importantly, these provisions put the U.S. Department of Agriculture (USDA), not the EPA, in charge of regulating the use of farm and forestry projects intended to offset carbon dioxide emissions from industrial sources. The EPA itself has estimated that agricultural and forest lands currently sequester approximately 12 percent of our nation's carbon emissions and that the agriculture and forest sectors can sequester up to 25 percent of emissions. As such, the agriculture and forestry industries must play an essential role in efforts to mitigate climate change.

I am pleased that the manager's amendment also corrects the controversial and unproven methods for calculating indirect emissions through the lifecycle greenhouse gas analysis for biofuels. EPA's current indirect land use proposal would be put on hold for five years pending a needed scientific study and consultation with federal agencies and Congress. Importantly, USDA, the Energy Department or EPA could veto the results of the study if it is not based on sound, peer-reviewed science. The bill also makes it very clear that agriculture and forestry sectors will be exempt from the greenhouse gas emission reduction requirements.

Lastly, this bill ensures that Wall Street speculators will not be able to further drive up energy costs through dark market and secretive trading of derivatives of carbon allowances, offset credits, or renewable electricity credits by requiring that all carbon derivatives trading is conducted only on Commodity Futures Trading Commission-regulated markets.

However, while I am supportive of many of the changes made to the bill that stand to benefit agriculture, serious substantive and process concerns remain when it comes to doing right by rural America. The following represent some of my concerns.

I have heard from several utilities serving South Dakota, such as Black Hills Corporation, which serves tens of thousands of South Dakotans, that the allowances for emissions in the bill still aren't fairly distributed and this disparity could mean dramatic rate hikes for its customers in South Dakota.

Additionally, the bill does not adequately fix the flawed definition of renewable biomass in the Renewable Fuels Standard (RFS) or in the proposed Renewable Electricity Standard (RES). Again, the definition of biomass has improved greatly from the highly restrictive definition included in the discussion draft. However, the flawed definition used in the final bill before the House today unnecessarily and unwisely excludes much federally-sourced biomass from counting toward the RFS and a new RES. It also overlooks the essential role forests can and should play in sustainably generating renewable energy, ensuring our nation meets the cellulosic biofuels mandate in the RFS, moving our nation toward energy independence, and creating jobs in rural communities across the nation. I continue to believe strongly that we can take advantage of this amazing potential within the existing protections provided under current environmental laws and responsible forest management policy.

I have worked for nearly two years to broaden the biomass definition to allow for federally-sourced biomass to count toward the RFS and have urged its inclusion in this legislation, as well as the application of this definition to the RES. Overall, a federal RES presents tremendous economic opportunities for South Dakota in large part because of our state's tremendous wind potential. That is why I was a strong supporter of including an RES in the 2007 Energy Bill, and helped generate support for the RES Amendment when it passed the House. An RES has the potential to create

thousands of jobs and generate economic development all across South Dakota, for farmers, ranchers, and rural communities, as well as our sovereign Native American tribes. And much of what is in the RES in this bill presents great opportunity for South Dakota.

However, the definition of biomass added in the manager's amendment is still flawed. I am concerned with the ''harvested in environmentally sustainable quantities'' requirement, which I think invites new analysis, appeals and/or litigation about biomass in general, but more specifically, about trees that have been killed by fires or insect epidemics. Likewise, I'm concerned with the ''old growth'' and ''late-successional'' forest stands restriction because there is no generally accepted definition of either term, and the bill doesn't define either term. So, that would leave an avenue open for challenges, and would leave uncertainty about supply for potential investors. These are some but not all of my concerns regarding the biomass provisions included in the manager's amendment. I hope they will be addressed during the remainder of the legislative process.

Underlying these specific policy concerns are serious concerns about the rushed process for such an important and consequential bill. This bill is intended to help guide the economic future of our nation for decades and I think the process of fixing the bill since it's been approved by the committee has been too rushed, and has raised too many questions about whether the concerns of rural America are adequately addressed. Therefore, I will vote against this bill, but I hope that the legislative process will address these concerns, and ultimately, a bill can be presented to the House that treats South Dakota and rural America fairly as it moves the nation toward the new energy economy and addresses the real threat of climate change for our nation's future.

Mr. ETHERIDGE. Madam Speaker, I rise reluctantly to speak on H.R. 2456, the American Clean Energy and Security Act of 2009.

This is not a perfect bill, and I will work for its improvement before it comes back here for another vote.

However, one thing is clear to most Americans: the time for action is now. Last summer we had gas prices that hit more than $4 per gallon. Last winter some folks could not afford to heat their homes. We need to start a clean energy economy that will reduce our dependence on foreign oil and position America as a leader in a new technological industry.

America has traditionally been a global leader in innovation and economic growth, and this legislation takes a first step to get America running on new energy technologies. We have the technology and the research infrastructure to create new ideas. We have talented people ready to go to work. And we certainly need the jobs, especially in North Carolina. This bill will put people to work creating the industries of the 21st Century.

We have seen that our current energy policy is not working. By doing nothing, or delaying action, we risk further crippling our economy. That is not a risk we can afford. We will continue to use oil, coal and natural gas, solar, wind, hydroelectric, and nuclear, but should also create new sources of energy and develop efficient technologies. We need to start an energy economy today, with a policy of ''all of the above.''

This is an economic imperative, to create jobs and to prevent spikes in energy costs. This is a national security priority, to reduce our dependence on foreign oil and to keep the hundreds of billions of dollars we send overseas here at home. This is a competitiveness issue, to make America a leader in an emerging industry and promote research and development here in the U.S.A.

North Carolina has always been a leader in technology, and has the potential to meet America's energy needs through our agricultural strength. Moving forward towards a clean energy economy will be a boon for North Carolinians and the whole country.

This is not a perfect bill. It contains some protections for low and moderate income families, but does not do enough for the middle class. It makes some efforts to prevent regional price differences, but does not do enough to recognize the investments North Carolina's rate payers have already made. It takes some steps to establish goals for international climate negotiations and to ensure that the United States is not placed at a competitive disadvantage, but it should do more to protect American companies if we take responsible action and other nations do not.

I will reserve the right to work to improve this bill to improve its consumer relief provisions, promote regional fairness, and ensure that our businesses have a level playing field with their international competitors. But I will vote for this bill today to move us forward into the future that America needs and deserves.

Mr. MOORE of Kansas. Madam Speaker, I commend Chairman WAXMAN and Chairman MARKEY for crafting this truly historic energy legislation that will help our country make the transition to a new, clean energy economy.

I want to also thank Chairman WAXMAN for including a bill I drafted, H.R. 2246, in the manager's amendment. This bipartisan legislation, which I introduced with my friend from Illinois, Congresswoman JUDY BIGGERT, will establish the Community Building Code Administration Grant, or CBCAG, Program.

This competitive grant program will help with local building code enforcement by authorizing $100 million over 5 years, capping awards at $1 million per recipient, and requiring recipients to match a portion of funds received.

Much attention has been focused on the huge energy savings that can be achieved by increased energy efficiency in buildings, which consume nearly 40 percent of all energy and 70 percent of the electricity produced in the U.S.

But building codes don't make a difference unless they are enforced by local code officials who are properly trained and have sufficient resources to inspect buildings for compliance. It will save taxpayer dollars as well—according to a study conducted by the National Institute of Building Sciences, for every $1 spent on mitigation saves $4 in future disaster assistance.

H.R. 2246 is supported by the International Code Council, the Alliance to Save Energy and many other organizations. Again, I'm pleased my legislation has been incorporated into the manager's amendment to the American Clean Energy and Security Act.

I support the underlying bill and urge members to vote in favor of passage. But, I also strongly urge Chairman WAXMAN and Leadership to strengthen the Renewable Electricity Standard (R.E.S.) during the Conference Committee.

I commend Chairman WAXMAN and Chairman MARKEY for crafting this truly historic energy legislation that will help our country make the transition to a new clean energy economy.

The strong R.E.S. that we started with has unfortunately been watered down so significantly that it will not even provide an incentive to maintain current levels of renewable deployment.

Kansas utilities, like those of so many other states, are on track to cost-effectively meet a state R.E.S. of 10 percent by 2011. A federal goal of 6 percent by 2012 would provide no incentive for new investments in wind development or manufacturing.

That means that more jobs will be left on the table and that the U.S. will continue to lag behind the 37 countries around the world that have a binding, long-term commitment to renewable energy development.

The global marketplace is watching us. Companies both here and abroad are waiting to see if we enact an R.E.S. that will provide a true commitment to transitioning our economy to cleaner forms of energy.

They are making critical decisions on whether and where to build new manufacturing facilities or retool their companies to create new, high-quality jobs.

We can decide right now if we are going to build more of the new energy components right here in the United States or continue to import them from overseas.

Kansas is thrilled that Siemens chose to build nacelles for wind turbines in Hutchinson, creating 400 jobs in one small town and supply chain opportunities for hundreds of companies in the region. Several recent reports project job growth in the tens of thousands in our industrial heartland if we make a real commitment to renewable energy.

A stronger national R.E.S. is the most important policy tool we have to make sure new energy projects utilize American-made components manufactured by American workers.

Harnessing renewable energy also builds our rural communities—this ''new crop'' sustains farmers and ranchers and keeps the schools, clinics, roads and services strong in America's small towns.

A stronger national R.E.S. would also benefit consumers by holding down energy prices and protecting them against the price spikes of fossil fuels by promoting fuel diversity.

In fact, numerous independent studies have shown that the R.E.S. saves consumers money on their energy bills in all regions of the country.

In addition, a strong national R.E.S. will ensure that currently available clean technology is deployed quickly to help achieve greater emission reductions in the future at a lower cost.

And perhaps most importantly, Americans are demanding bold policies that will push our country in a new direction on energy and ensure a clean, secure energy future for America.

In April a national poll found that 75 percent of Third District residents support a R.E.S. of 25 percent by 2025. This support is strong across all counties of my state and throughout all regions of the country.

That is why I urge Chairman WAXMAN and House Leadership to strengthen the R.E.S. as this legislation moves forward.

Ms. MARKEY of Colorado. Madam Speaker, I rise today in support of the transmission

siting section of the manager's amendment to the American Clean Energy and Security Act of 2009. Yesterday, Congressman INSLEE and I offered this amendment to strengthen siting authority within the Western Interconnection, which extends from Colorado to the west coast.

My home state of Colorado has enormous renewable energy potential, but our outdated transmission infrastructure is inadequate to bring these resources to where they are needed. According to the Renewable Resource Generation Development Areas Task Force, Colorado has eight potential high concentration wind development areas and two potential high concentration solar development areas capable of generating more than 96 GW and 26 GW of energy, respectively. These estimates show that Colorado is more than able to generate excess renewable electricity for export to other states, and does not take into account smaller scale projects or distributed generation.

For western states like Colorado, the renewable energy potential is there, but the areas with the best wind and solar resources are often in remote areas that lack adequate transmission lines to transport the energy to where it is needed. As I travel to the Eastern Plains of Colorado, the landowners often tell me they are more than willing for wind and solar developers to install wind turbines and solar panels on their property, because for them it is an economic development tool. Ranchers can receive compensation by putting wind turbines on their land and their cattle can still graze under the towers.

Our current transmission system has evolved from local demands without an integrated national plan. Implementation of interstate transmission lines requires coordinating the regulatory permitting processes in each of the individual states and localities that the line will traverse. Our amendment builds upon the existing regional planning section of the American Clean Energy and Security Act and adds a siting plan for the Western Interconnection. This siting plan gives the Federal Energy Regulatory Commission backstop siting authority to ensure the construction of high-priority interstate transmission lines. Self identified regional planning entities will build a national transmission plan from the bottom up and with higher priority given to meet the demand of deploying renewable electricity generation projects. Our amendment will give ample deference to states and will encourage state and local participation throughout the planning and siting process.

In addition to the Inslee/Markey transmission siting amendment, I would like to express my strong support of Chairman PETERSON's agriculture amendment. My district in eastern Colorado contains some of the best agricultural land in Colorado. Weld County, in the 4th CD, is the number one ranking county in the state for agricultural products sold and eighth in the nation. I worked hard with my colleagues on the Agriculture committee to ensure that Colorado's farmers and ranchers will be able to benefit from the programs in this legislation.

I support authorizing the Secretary of Agriculture to carry out the agriculture and forestry related offsets programs in Title V of the American Clean Energy and Security Act. The United States Department of Agriculture conservation programs and the Department's extensive knowledge of optimizing agricultural practices leave them well poised to establish measurable and reliable offsets. Furthermore, the multitude of USDA offices near likely offset projects leave the Department in a better position to provide regulatory and technical assistance to farmers and ranchers.

Finally, I would like to express my support of amending the definition of renewable biomass in the renewable electricity standard and the renewable fuels standard of the Energy Independence and Security Act of 2007 to include infested trees removed from public lands. The Forest Service expects this bark beetle outbreak will kill most of the mature lodgepole pines covering 2.2 million acres in Colorado and southern Wyoming within the next 5 years. Some estimates indicate almost 2 million acres the have already been decimated. While it is not our intention to incentivize unnecessary cutting in our public lands, work is already being done in our public lands to remove trees killed by bark beetles to reduce the threat of wildfires and preserve forest health. We should utilize this available waste.

We have an opportunity to be smarter about the way we create and use energy. By utilizing the great renewable electricity potential in the west, we can invest in our future and put Americans back to work.

Mr. FATTAH. Madam Speaker, I thank you for allowing me the time to speak on this topic of paramount importance. Climate change and the problem of rising carbon emissions is one of the most important public policy quandaries that the nation currently faces. Congress needs to take the lead in helping to solve this issue. Therefore, I implore my fellow members of Congress to vote yes and help pass the American Clean Energy and Security Act, H.R. 2454.

As you well know, H.R. 2454 is a broad-based bill that includes a number of initiatives on clean energy, economic development, and climate change. Taken together, these initiatives will create the national policy framework and all important funding streams that are needed to adequately tackle the threat posed by rising carbon emissions.

Moreover, the incentives contained within H.R. 2454 will help strengthen and support those emerging renewable energy industries to help create jobs that will enable millions of Americans to get back to work. I know that these jobs will be created because I have already seen it happening in my home state of Pennsylvania. I have seen the jobs created by the wind and solar manufactures, and I have spoken to the leaders of local Philadelphia business who have told me how important the clean energy industry is to the Philadelphia region.

Moreover, I have read the studies that show how many jobs will be created if Congress passes H.R. 2454. For example, in a 2008 report published by the Clean Air Council entitled ''Job Opportunities for the Green Economy,'' it was estimated that over 533,000 jobs in Pennsylvania alone will see growth or wage increases by putting global energy solutions to work. As the world moves into a less carbon intensive future, these new industries will allow the country to thrive as they become the new economic engines that power future growth.

I believe that our nation needs a comprehensive energy strategy that makes our nation more energy efficient, decreases our reliance on foreign oil, creates jobs, and helps prevent increases in carbon emissions. I am not alone in my beliefs. People throughout the nation want Congress to get moving on reducing carbon emissions. These Americans understand that climate change is one of the most important issues that face the nation today. They understand that the rapidly changing climate that is due to rising carbon emissions is having a profound impact on the nation's forests, coastal areas, drinking water, and other important ecosystems that human beings rely on.

Therefore, I implore my fellow members of Congress to pass the American Clean Energy and Security Act. Help put our nation on track to a cleaner energy future.

Mr. OLSON. Madam Speaker, this Democratic cap-and-tax plan is simply a shell game designed to funnel billions of taxpayer and industry dollars through government to fund their restrictive energy plan. Faced with an outcry over the impact their plan will have on family budgets, Democrats have tried to buy off opposition by offering ''rebates'' to help offset increased costs.

Let's be clear, this rebate is nothing more than the government giving you your own money back. It is typical Washington: steal your wallet, and pat themself on the back for giving you back the spare change. And let's not forget the fundamental failure of this job-killing plan—it doesn't even reduce carbon emissions.

According to analysis from the Heritage Foundation, hard working folks in my congressional district alone will lose nearly 5,000 jobs in 2012 alone. That is just one year of job losses in one district and the numbers only go up from there. And the average household in Texas could pay an additional $1,136 for household goods and services over a given year.

My office has received 680 calls this week on cap-and-tax and 671 of them strongly urged me to oppose this bill. In these times of economic hardship, Congress must be focused on creating and maintaining jobs. My Democratic colleagues who are advocating for this legislation tout the fact that more ''green'' jobs will be created by this job.

What they fail to mention is that good paying jobs that already exist in this country will be shipped overseas and our national unemployment rate will increase. We have already seen this happen in Spain, where a study found that for every one green job created two other jobs were lost. I do not want this for my constituents, I do not want this for the businesses in the 22nd District of Texas, and I do not want this for the American people.

Madam Speaker, this is simply a scheme to restrict needed energy and decide who is worthy of working in which government approved energy job. That is not the role of government and Americans should be outraged. The stimulus plan was designed to create jobs through billions and billions of tax dollars. It has not created the jobs it promised and this energy shell game will not work either.

Mr. TIAHRT. Madam Speaker, I heard of a climatologist who went to apply for a job recently. During his interview, he was asked, ''What do you predict will happen with the earth's climate next year'?'' He immediately replied, ''Whatever you want me to predict.''

Unfortunately, this joke seems to hit a little too close to home, when we are considering

global warming legislation. Rather than responding to serious questions with serious answers, Congress is replying with what we think people want to hear. Rather than considering all angles before offering a solution, Congress is rushing through legislation in hopes to score points with voters back home. And instead of basing a bill on sound scientific data, we will be considering legislation that is devoid of input from this side of the aisle.

I rise today to express my strong opposition to Waxman-Markey ''cap and tax'' bill. I believe there are three interrelated problems with this misguided legislation. I am concerned with the process by which we have arrived at the point we are today. I am concerned with the political showmanship that has gone on as the bill was written. And I am concerned with the policy itself, which bears the tragic scars of both the process and the politics.

Madam Speaker, from the beginning of the 111th Congress to the present, the cap-and-tax bill has been subjected to unfortunate abuses of the legislative process. In April, the Energy and Commerce Committee held four days of hearings, with the intention of, according to the Committee's website, ''examine the views of the Administration and a broad range of stakeholders,'' on a discussion draft of Chairman WAXMAN's bill. However, these hearings reflected only the Chairman's perspective. Only four of the twenty-one witnesses called before the Committee expressed any opposition to cap-and-tax, despite a petition signed by more than thirty thousand meteorologists, climatologists, and other scientists stating their skepticism about the evidence of man-made greenhouse gases being responsible for increases in the earth's temperature. Contrary to claims made by the Committee, and witnesses at the hearing, there is no ''overwhelming consensus'' in favor of the hypothesis of human-caused global warming. There was also a report issued by Republicans on the Senate Environment and Public Works Committee outlining the dissent views of more than 700 scientists opposing the idea of manmade global warming. Clearly, no consensus has been reached.

Madam Speaker, This bill was drafted without input from our side of the aisle. At no point was any Republican consulted regarding the contents of the bill. In the rush to get the legislation passed through Committee, it seems no one had time to read the entire bill, or figure out what it means. Committee members repeatedly asked questions regarding the potential cost of particular provisions or amendments, but received no answers.

All of this raises the question, ''why''? Why was the bill rushed through the Committee, With hardly enough time to read it, let alone determine the impact that it would have on American taxpayers, farms, and businesses? The only answer I can come up with is the desire on the part of some in this body to score points with their voters back home.

Which brings me to the third problem with Chairman WAXMAN's cap and tax bill—its just bad policy. Earlier this week, Investor's Business Daily had a front page article about the failures of Europe's program, called the Emissions Trading Scheme, or ETS. The article cites numerous studies finding that the ETS has significantly increased energy prices, ''with 'uncertain' effects on greenhouse gas emissions.'' That hardly sounds like a model of success that we should be emulating here in the United States.

Proponents of the cap and tax bill claim that they have learned from Europe's mistakes, but I disagree, Madam Speaker. The article identifies the giving away of the program's carbon allowances as the largest reason for the program's failure. This bill follows that same model, giving away roughly 85 percent of the emissions allowances.

The entire idea of a cap and trade program fails in practice. We are told, ''The cost of polluting will be paid by the polluters.'' And believe me, the authors of this bill expect them to pay a hefty price. In fact, President Obama's budget assumes that even with the sale of only 15 percent of the total emissions permits, the federal government will still take in more than $650 billion. As the cap gets lower, and there are fewer permits available, the cost for ''polluters'' is going to grow ever higher. But that is exactly what the authors want. President Obama recently stated that the only way for a cap-and-trade system to work is for energy prices to ''skyrocket.''

There is nothing in the bill to keep the ''polluters'' from passing those skyrocketing costs on to the consumers. In fact, they will be forced to so. Any business that cannot pass the costs on to consumers runs the risk of being driven out of business. In the end, it will be the American taxpayer that foots the bill for this program, in the form of higher prices at the pump, higher home energy bills, and lost economic growth. But don't just take my word for it. Even the director of the Congressional Budget Office has said that, ''under a cap-and-trade program, consumers would ultimately bear most of the costs of emission reductions.''

One analysis of this bill found that if the standards within the bill are met, by 2035 Americans will see gas prices rise 74 percent, electricity prices increase by 90 percent, and a loss of at least 850,000 jobs every year. The average American household will see its annual energy bill go up by nearly $1,500. For my home state of Kansas in particular, we are going to have to purchase an estimated $206.8 million worth of carbon credits. That is $206 million more that Kansans are going to have to pay in energy costs every year. My district will be particularly hard-hit, as estimates show my district standing to lose nearly half a billion dollars of production in 2012, and more than 5,000 non-agriculture jobs. It's this kind of economic pain that advocates are counting on to force a reduction in carbon emissions.

The European system proves this idea doesnt work. With no signs of a reduction in carbon emissions, Europeans have seen their household energy costs rise by 16%, and the industrial energy costs increase by 32%.

Spain is an especially poignant example of the failure of the European system. They committed to reaching the benchmarks set out by the Kyoto Protocol, with renewable energy standards, so-called green-collar jobs, and a commitment to reduce their carbon emission levels. But the high cost of energy in Spain has destroyed their economy, which is currently facing a 17.5% unemployment rate. Proponents of this bill say that we will be creating new, green jobs. But most of these jobs are temporary construction jobs that go away once facilities, like wind farms for example, are built. In Spain, for every 4 jobs that were created, 9 were lost due to the higher cost of doing business under the Emissions Scheme. We should avoid going down this same path.

There is huge potential for exploitation of the system, on multiple levels. Especially with permits being given out, rather than auctioned, government officials are in a prime position to divert additional credits towards industries or companies of their choice. There is also the possibility that utilities here in the United States could follow the lead of one European company that immediately raised their rate by 70%, explaining to customers that the rate hike was necessary to cover the costs of cap-and-trade. But this utility company was given more credits than it needed, and sold them on the open market.

Tack on a renewables standard to this bill, and we have the perfect recipe for failure. No place that has implemented a renewable standard has ever been able to meet the required levels. And there is little to indicate that a federal standard would be any different. As a 2008 article in the Energy Law Journal stated, ''The DOE has little, if any, experience in administering a program on the scale of a national RPS, and has shown no indication that enforcement of a major program is within the agency's capabilities...[this is] an area in which the DOE has already failed to show effective leadership.''

So what we have here is a bill that has been rammed through with no minority input, to create a system that is ripe for abuse, costs the American taxpayer thousands of dollars, cripples our businesses, and in the end, has no measureable result. This is a bill I cannot support, and urge my colleagues to reject as well. Instead, I would encourage my colleagues to join me in supporting the American Energy Act, a comprehensive energy bill that increases access to domestic energy sources, encourages conservation, and promotes the increased use of renewable sources of energy.

Across this country, we are, once again, seeing gas prices rise. Since the beginning of the year, gas prices are up 60 cents, and crude oil has raised more than $20 a barrel, with no end in sight. Just last week, Russian oil executives predicted that crude prices could reach $250 per barrel.

It is possible for us to relieve some of this pressure by tapping into our own vast resources. The Department of Energy estimates that nearly 20 billion barrels of recoverable oil lie offshore beneath restricted waters, the equivalent to nearly 30 years worth of current imports from Saudi Arabia. Substantial offshore natural gas reserves are also restricted. Even though longstanding restrictions on offshore energy production were lifted last year, the process of leasing these areas falls under the jurisdiction of the Department of the Interior.

Unfortunately, new Secretary of the Interior Ken Salazar refuses to allow additional drilling permits, dredging up every excuse not to produce energy in these areas. The Alaskan National Wildlife Refuge, reported to hold more than 10 billion barrels of oil continues to remain off-limits. He has also sought to block progress on oil shale, a promising source of oil trapped in rock under parts of Colorado, Utah, and Wyoming. The Department of the Interior has even cancelled some existing oil and gas leases.

Often, environmental concerns are cited as the reason for opposing additional drilling. However, technological advances have greatly increased the safety of drilling. During hurricanes Rita and Katrina, less than one cup of

oil was spilled in the Gulf of Mexico, despite damage to more than 120 drilling platforms. There is absolutely no reason why permits for additional drilling should be denied. Furthermore, revenue generated by these oil leases will be invested in the development of cleaner, alternative sources of energy. The end result is a reduced dependency on foreign oil, lower levels of pollution, and new jobs for Americans, all without crippling our economy.

Lastly, Madam Speaker, the American Energy Act includes one key source that could provide clean energy without emissions nuclear power. The Department of Energy has stated that the best way for energy companies to reduce their carbon emissions is to increase their use of nuclear energy. Despite encouragement from DoE, and the fact that that it has been proven safe by countries like France, where more than 80% of their electricity is generated by nuclear power, the Waxman-Markey bill does nothing to encourage nuclear power.

Instead, this administration has begun to walk away from the hundreds of millions of dollars spent on the nuclear storage facility at Yucca Mountain, Nevada. The American Energy Act would provide the Nuclear Regulatory Commission authority to complete its review of the Yucca Mountain facility, repeal the limitations on Yucca's Mountain's storage capacity, and establishes a method for recycling spent nuclear fuel in the U.S. Furthermore, it would reduce the bureaucratic hoops and length of time required to receive a permit for the construction of new nuclear plants.

In conclusion, let me again encourage my colleagues to join me in rejecting the Waxman-Markey cap-and-tax bill that would cripple our economy, without addressing their environmental concerns. Instead, lets support the American Energy Act, which provides real solutions for our energy problems in an economically, and environmentally sound manner.

Mr. BURTON of Indiana. Madam Speaker, if this energy tax passes, the estimated job loss or my district is an average of 3,702 jobs per year from 2012 through 2035. If this bill passes it will mean financial ruin for thousands of my constituents.

5th CD Gross State Product Loss for 2012: $361.7 million

5th CD Gross State Product Loss on average from 2012–2035: $720.1 million

5th CD Personal Income Loss in 2012: $458.7 million

5th CD Personal Income Loss on average from 2012–2035: $265.7 million

5th CD Non-farm Job Loss in 2012: 4,552

5th CD Non-farm Job Loss on average from 2012–2035: 3,702

THE CONSEQUENCES OF CAP AND TAX

Over 1,200 pages long, H.R. 2454 contains four sections outlining mandates for renewable energy, mandates for energy efficiency, a cap-and-tax proposal, and a ''transitioning'' section focused on forestalling expected job loss.

HIGHER ENERGY PRICES

Every consumer will pay for this both directly and indirectly.

Independent researchers, CBO, and the President all agree that this cost will be passed to consumers.

every provision in the bill either increases the cost of energy directly or tried to keep it from increasing too much.

Example: new federal renewable electricity standard that would likely cause electricity prices to spike.

This is the ultimate regressive consumption tax to the tune of nearly $3,000 per year according to the Heritage Foundation.

The costs per family for the whole energy tax aggregated from 2012 to 2035 are estimated to be $71,493.

FEWER JOBS

Yesterday in the Rose Garden, President Obama said that Cap-and-Trade was a ''jobs bill.'' Yet many studies reports rampant job loss through the year 2035.

A national energy tax would undoubtedly outsource millions of manufacturing jobs to countries such as China and India.

According to the independent Charles River Associates International, H.R. 2454 would result in a ''net reduction in U.S. employment of 2.3 million to 2.7 million jobs each year of the policy through 2030,'' even after the ''creation'' of new green jobs.

Green Jobs Are a Proven Failure: According to a recent study that reviewed the impact of ''green jobs'' in Spain, the U.S. can expect 2.2 jobs to be destroyed for every 1 renewable job financed by the government. Only 1 in 10 of the jobs actually created through green investment is permanent, and since 2000, Spain has spent 753,778 U.S. dollars to create each ''green job,'' including subsidies of more than $1,319,783 per wind industry job.

GOVERNMENT MANDATES AND INTERVENTION

This includes new federal mandates on everything from outdoor light bulbs and table lamps to water dispensers, commercial hot food cabinets, and Jacuzzis.

Establishes a myriad of new federal agencies intertwined between at least 21 established agencies with the mission of reallocating trillions of taxpayer dollars. According the U.S. Chamber of Commerce, the bill will impose 397 new federal regulations that require traditional agency rulemakings.

The bill transfers wealth from rural areas to cities. States like California, Washington, and New Jersey would receive more emission credits than they need, enabling them to sell surplus credits to smaller facilities in states like Ohio that receive maybe half of the credits they need—making the rich, richer, and the poor, poorer.

The bill would also increase the demand for electricity (to fuel plug-in vehicles via new hybrid incentives) at the same time as the other portions of the bill cause consumer electricity costs to spike.

Although the bill includes ''free'' allowances for some sectors, economists agree that even if 100 percent of the industry's emissions were initially covered by free allocations, the bill's declining carbon cap will force higher and higher costs onto the American public.

According to the Heritage Foundation, by 2035 this legislation would:

Reduce aggregate gross GDP by $9.4 trillion;

Raise electricity rates 90 percent;

Raise gasoline prices by 58 percent;

Raise residential natural gas prices by 55 percent; and

Increase inflation-adjusted federal debt by 26 percent, or $28,728 additional federal debt per person, again after adjusting for inflation.

Furthermore, a recent poll shows that 78 percent of individuals questioned said that a $50 increase in monthly utility bills would be a hardship.

58 percent of respondents say that they are unwilling to pay any more than they currently pay for electricity to combat climate change.

To that end, one-half of those polled oppose enacting a carbon tax to fund energy research (up from 31 percent in 2007).

In addition, the bill:

Creates a Derivatives Market for Companies like AIG: Companies like AIG and ENRON will be participating in a new derivatives market that is much more volatile than housing or natural gas. This new unregulated derivatives market will be more perilous for companies like these than the traditional ones that got them into trouble in the first place. In addition, since the created artificial market contains no transparency, it is more likely to attract traders intent on imposing Ponzi schemes in the same spirit of Bernie Madoff and swindle thousands of Americans.

Devastates Rural America: Rural households spend 58% more on fuel than urban residents as a percentage of their income. The Heritage Foundation estimates farm income will drop by $50 billion by 2035.

Concedes to the Competition: Currently, China accounts for 85% of global growth in coal each year and is the world's largest annual emitter of greenhouse gases. China's energy usage rose by 7.2% last year and they are building approximately two coal fired power plants per week to keep up with demand. Recently, at a U.N. conference, the Chinese government's advisory panel on climate change asserted that the cap and tax targets were too low by stating Given that, it is natural for China to have some increase in its emissions, so it is not possible for China in that context to accept a binding or compulsory target. In addition, India will not agree to any cap on their total energy production, and many believe India will double their coal-fired-capacity by 2030.

Discriminates Against Developing Nations: The bill creates a new program under USAID to provide U.S. foreign aid to developing countries for their efforts to adapt to climate change. Essentially, the bill is sending taxpayer funds to encourage third world nations to not develop carbon emitting energy sources keeping them at a competitive disadvantage from developed nations for even more decades to come.

Establishes an Unrealistic Renewable Energy Standard (RES): ''Cap and tax'' does not take into account the fact that additional hydropower, nuclear and advanced fossil coal power plants cannot be deployed quickly enough to meet expected growth in electricity demand while also dramatically reducing greenhouse gas (GHG) emissions. Since renewable technology accounts for a small percentage of energy demand, consumers can expect not only higher rates, but more transmission problems during peak hours of demand. Additionally, the bill preempts at least 23 state renewable electricity standards.

Includes Davis-Bacon: ''Cap and tax'' expands Davis-Bacon prevailing wage requirements to many provisions of the bill. This policy has been shown to increase public construction costs by anywhere from 5 to 38 percent above projected costs for the same project in the private sector.

Groups Scoring as a Key Vote: 60 Plus Association, Americans for Prosperity, Americans for Tax Reform (double-rating), Citizens Against Government Waste, Club for Growth, FreedomWorks, Independent Petroleum Association of America, National Association of

Manufacturers, National Association of Wholesaler-Distributors, National Cattleman Beef Association, National Federation of Independent Businesses, National Taxpayers Union, Small Business & Entrepreneurship Council (SBE Council).

Mr. PAULSEN. Madam Speaker, it must be a priority to work aggressively and prudently as a nation to cut greenhouse gas emissions. However, I believe we can do this without the current ''cap and trade'' plan we are voting on today.

Reducing emissions and strengthening our environment are important priorities—priorities I support. However, the ''cap and trade'' bill before us today is just a fancy way of masking ''tax and spend''—and it is the wrong approach to addressing this issue.

America needs a comprehensive energy solution to reduce our dependence on foreign oil and jump-start our economy, but it should not be at the expense of every American taxpayer.

Analysis shows cap and trade will raise gas prices, raise electricity prices and eliminate American jobs. Studies have shown up to 2.5 million jobs will be lost, making America less globally competitive.

In the worst recession in over 70 years, this legislation would exacerbate our situation by increasing energy costs for every sector of our economy. If the priority is jobs, it is stunning to me that we're bringing this bill to the floor that will create a national energy tax on every working family and every small business in America.

There are several common sense, bipartisan solutions that invest in new, clean and reliable sources of energy. I'm supporting a plan that aggressively reduces emissions, promotes conservation, creates jobs and strengthens our environment by promoting nuclear energy—a zero emissions, renewable source. It also boosts domestic supplies of both natural gas and oil.

I hope today that we do what is right for America, by voting down this cap and trade proposal and moving forward with a plan that will work for—not against—all Americans.

Mr. OBERSTAR. Madam Speaker, I rise today in support of H.R. 2454, the ''American Clean Energy and Security Act of 2009''.

This bill seeks to promote clean energy use and reduce carbon emissions in the United States. The legislation will create millions of new clean energy jobs, enhance America's energy independence, and protect the environment. Additionally, this bill recognizes the important role that transportation plays in addressing global climate change, and I am pleased that the Committee on Energy and Commerce has worked in concert with the Committee on Transportation and Infrastructure in crafting key provisions of this bill.

According to the U.S. Environmental Protection Agency (EPA), nearly 30 percent of the total greenhouse gas emissions produced by the United States comes from the transportation sector, second only to electricity generation. The U.S. Department of Energy (DOE) reports that the carbon dioxide emissions from the transportation sector grew 25.4 percent between 1990 and 2006, an average of 1.4 percent each year. The most recent DOE data show that transportation produces more metric tons of energy-related carbon dioxide than the residential and commercial sectors, and almost as much as the industrial sector.

Nearly all of these transportation-related emissions come from the use of petroleum products. The transportation sector accounts for 68 percent of the total U.S. petroleum consumption; Americans used almost 14 million barrels of oil each day for transportation purposes in 2006. According to the Federal Highway Administration (FHWA), the amount of miles Americans drive each year has grown three times faster than the U.S. population, and almost twice as fast as vehicle registrations. Private vehicles are now the largest contributor to household ''carbon footprints''—accounting for 55 percent of carbon emissions from U.S. households. Federal policies over the last 50 years, however, have done little to address the growing problem of greenhouse gas emissions.

A February 2008 report by ICF International released by the American Public Transportation Association found that a person who switches a 20-mile round trip commute alone from car to existing public transportation, can reduce his or her annual carbon dioxide emissions by 4,800 pounds per year. This dramatic energy savings is equal to a 10 percent reduction in all greenhouse gas emissions produced by a typical two-adult, two-car household. Furthermore, if Americans used public transit at the same rate as Europeans—for roughly 10 percent of their daily travel needs—the United States could reduce its dependence on imported oil by more than 40 percent, nearly equal to the 550 million barrels of crude oil that we import from Saudi Arabia each year.

To reduce America's carbon footprint and to encourage the development and expansion of sustainable transportation options, the American Clean Energy and Security Act will implement a number of initiatives to significantly reduce transportation-related greenhouse gas emissions. These provisions represent the next steps to mitigate the negative impact the transportation sector has on climate protection, while increasing the livability of our communities nationwide.

Under the American Clean Energy and Security Act, States will receive allowances for clean energy and energy efficiency investments, and are authorized to use up to 10 percent of these allowances for certain transportation projects. States may use allowances to fulfill the local matching requirement to receive Federal funds for projects like public transportation system improvements, clean fuel buses, or construction of bicycle facilities. While this provision offers only a small portion of the funds needed to address surface transportation-related greenhouse gas emissions, it is a very good first step.

Additional provisions of the legislation expand the scope of current surface transportation planning to include emissions reduction requirements administered by the Department of Transportation (DOT). The Act requires EPA, in consultation with DOT, to set national emission reduction goals, but requires DOT to set transportation-related emissions reduction performance measures for each State and large metropolitan areas. States and metropolitan planning organizations (MPOs) must meet individualized transportation-related emissions reductions targets, and the Act requires public notice of those targets, including an assessment of how well States and MPOs are meeting emission reduction goals.

These important transportation planning provisions are also included in the Surface Transportation Authorization Act of 2009, legislation that the Subcommittee on Highways and Transit passed unanimously this week by voice vote, and which I plan to bring before the full Committee on Transportation and Infrastructure and the House soon after the fourth of July recess.

These transformational changes to our surface transportation planning requirements, especially when coupled with dedicated funding for clean energy transportation projects, will save fuel, reduce emissions, and advance America's long-sought goal of energy independence.

In addition to these important transportation provisions, I am very pleased that agreement has been reached to clarify the definition of renewable biomass. I want to commend the leadership of my Minnesota colleague, COLLIN PETERSON, Chairman of the Committee on Agriculture, for his superb advocacy for rural America and the wood product industry. The new biomass definition and provisions that provide credit for forestry and wood products for carbon sequestration are essential to ensure that our vital wood product sector is not disadvantaged in the climate change legislation.

I am also very pleased that additional language has been added to ensure that the iron ore sector will receive emission allowances, and I greatly appreciate Chairman WAXMAN's willingness to work with my colleague BART STUPAK and me on this important iron ore mining clarification.

While I am prepared to support this legislation today, I continue to have concerns with the climate change bill regarding the border adjustment mechanism. It is imperative that the final climate change legislation contain strong safeguards to ensure that our manufacturing sector is not disadvantaged by imports from nations that have not implemented carbon reduction technologies.

Without further improvements, it is likely that the steel, wood product, and other energy-intensive sectors of our economy would face unfair competition from nations with insufficient environmental safeguards. I am encouraged by the important contributions that my colleagues MIKE DOYLE, JAY INSLEE, CHARLIE RANGEL, and SANDY LEVIN have made in this area, and I will continue to work with my colleagues to make additional improvements.

We must also ensure that the final climate change bill addresses regional concerns regarding the allocation of emissions allowances to utilities in the Midwest. While I am pleased that improvements were made to assist rural electrical cooperatives, I remain concerned that the current formula, which would allocate emissions allowances to utilities based on a combination of sales and emissions, would unfairly impact Midwestern power producers, and I am hopeful that further refinements can be made to ensure regional equity.

For these reasons and more, I support H.R. 2454, the ''American Clean Energy and Security Act of 2009'', and urge my colleagues to do the same.

Mr. RAHALL. Madam Speaker, the Congress would be unwise to sit by and simply allow the Environmental Protection Agency to regulate a reduction in greenhouse gas emissions, as the agency has been mandated to do by the Supreme Court. Similarly, it would be a mistake to sit back and allow other countries to devise international rules that will affect America's economic and energy interests.

I do not agree with those who advocate for sitting on our hands and just saying no to everything, sight unseen. The international community has no interest in protecting American businesses, and the Environmental Protection Agency is not required by the Supreme Court to consider the views of our constituents or the economic consequences to our communities.

I believe America is the one nation best equipped to lead such a multinational effort and, in doing so, to strike a balance between environmental preservation and the preservation of jobs. The hands-off approach of recent years did nothing to help promote new energy technologies, or to advance carbon capture and sequestration, or to protect American jobs.

It is evident that wishing that this complex issue would simply go away will not lead to better results for our Nation or the people we represent. And ''just saying no'' to any and all proposals, sight unseen, is unrealistic and irresponsible.

For those reasons, I chose to work with my colleagues and with numerous stakeholders—including the coal industry, manufacturers, and labor—to positively influence this bill and America's climate change strategies. And for those reasons our coal miners and responsible industry members have been at the table, too, rather than on the sidelines.

I thank Chairman WAXMAN, who has made many concessions in this bill, and I thank leadership for listening to my concerns about this legislation and moving to help address them.

As well, I commend my colleague RICK BOUCHER, from southwestern Virginia, who serves on the Energy and Commerce Committee and worked in determined fashion to make improvements to the bill that we both sought. I am grateful that he has been so welcoming of my views and supportive of our interests—such as ensuring the availability of $10 billion to advance carbon capture and sequestration technologies and other changes that are beneficial to the people of our neighboring districts.

While this bill is greatly improved from the discussion draft that was first circulated in March of this year—and opponents were saying no even before that draft was written—more improvements are needed to gain my support.

Coal does much more than keep the lights on in big cities across America. In southern West Virginia, it covers the mortgage, puts food on the family dinner table, and keeps open the doors of small businesses. While the emissions target in the early years of this program has been lowered from the 20% cap initially contained in this bill, there remains widespread concern that even the reduced cap—17% in 2020—is still too high and too soon to incentivize rapid development and deployment of carbon capture and sequestration technologies, so as to ensure coal mining jobs for the future. We must allow time for expensive clean coal technologies to come on line.

These technologies are critical to lowering emissions across multiple sectors of our economy. And they are necessary for keeping hardworking coal miners in the jobs they want, providing power for the country they love.

For these reasons, I cannot cast my vote for this bill.

Mr. CALVERT. Madam Speaker, Families in communities across our nation continue to struggle through the most difficult economy most of them have ever experienced. Nationally, our unemployment rate is nearing 10 percent. In California, the unemployment rate has soared to 11 percent and in some of the hardest hit portions of my congressional district it has reached almost 18 percent.

Like many Americans, I am dismayed by the decision of the Democratic leadership to bring such an economically damaging bill to the House floor in the midst of these historically difficult times.

Economic organizations and think tanks from around the country have studied the economic impacts of the bill before us . . . and the results are not good. A study conducted by the National Black Chamber of Commerce determined that by 2030 the Waxman-Markey bill will cut net employment by 2.5 million jobs—even after accounting for new ''green'' jobs. Similar studies by the Brookings Institution and the Heritage Foundation also project huge job losses.

Ironically the Democratic leadership in Congress and the Democratic Administration have made job creation one of their biggest priorities this year. During the consideration of the stimulus bill we repeatedly heard claims that the bill would ''save or create more than 3.5 million jobs.'' As most Americans know, the bill has yet to deliver as promised. I think it is notable that as we consider another major piece of legislation both the Administration and Democratic leadership are eerily silent on their job creation predictions.

The reality is the bill before us will kill jobs, weaken our economic security, and enacts punitive measures that will only make matters worse for families struggling to get by. I urge all of my colleagues to vote against this poorly conceived bill that is being pushed through with little to no time for debate or discussion.

Mr. GARRETT of New Jersey. Madam Speaker, I rise in opposition to the so-called cap & trade legislation before us. While there are countless reasons to oppose it, including the millions of jobs that are expected to be lost, I wanted to take a moment to speak on the amendment that I offered to this legislation. More than 200 amendments were offered to this legislation in addition to my amendment, and all of them, with the exception of one, was rejected by the Democrat majority.

My amendment would have stricken all sections of H.R. 2454 that deal with the regulation of derivatives. This bipartisan effort was supported by six cosponsors, including Democratic Reps. MIKE MCMAHON and DAVID SCOTT as well as FSC Ranking Member BACHUS and several others.

Despite lacking any jurisdiction and expertise, the Energy & Commerce Committee added sections to this bill imposing costly new regulations on this portion of our financial services sector. I think we can all agree that a broader discussion within Congress need to take place on these issues, including at the committees of jurisdiction where there is experience and expertise in dealing with them.

Just one week ago, Congress received an outline of President Obama's financial regulatory reform plan, which includes suggestions for the regulation of derivatives. The Financial Services Committee has not yet had a chance to digest the President's proposal, nor has it fully debated this issue within the context of broader financial regulatory reform, which will continue to be the focus of our committee's work over the next several months.

It is not appropriate to enact language that regulates a portion of the derivatives market, potentially in a manner that conflicts with later consensus on how to regulate the industry at large. Ninety-four percent of the 500 largest global companies use derivatives to manage risk and maintain stable consumer prices. Given the importance of these financial products, Congress needs to tread carefully as it looks at regulatory options for these markets. Over-regulation or improper regulation that might sound good politically could have major unintended negative consequences, not just for our financial markets, but for our broader economy.

The sections that remain in this bill that deal with the regulation of our derivatives markets are but one of many reasons to oppose this massive and massively-flawed piece of legislation.

Ms. SCHWARTZ. Madam Speaker, I rise today in support of the American Clean Energy and Security Act (ACES). This historic initiative will create jobs in new renewable energy industries and energy efficiency, reduce American dependence on imported oil, and decrease the greenhouse gas emissions that are causing global climate change.

The growth of these new industries will enhance the ability of the United States to produce its own energy and reduce the need for oil imports from foreign countries. We currently import nearly 60 percent of our energy needs from abroad. This imbalance makes our country dependent upon foreign countries for the fuel that keeps our economy running. It is estimated that ACES will reduce U.S. oil consumption by 2 million barrels per day by 2030.

Growing our domestic clean energy industry and reducing our use of foreign oil will have an important tangible benefit—reducing the greenhouse gas emissions that are causing global climate change. The Nobel-Prize winning Intergovernmental Panel on Climate Change has determined that significant reductions in greenhouse gas emissions, like carbon dioxide, are necessary to mitigate significant environmental consequences. ACES meets this challenge by creating a framework to reduce U.S. emissions 83 percent below 2005 levels by 2050.

ACES accomplishes these goals while limiting costs to businesses and the consumer. The nonpartisan Congressional Budget Office has determined that implementing this bill would cost the average household about 48-cents per day. ACES also includes assistance for energy-intensive manufacturing industries like steel, cement, and glass to ensure that these industries remain economically competitive in the global marketplace as we strengthen our environmental laws and transitioned to clean energy and greater energy efficiency.

I am proud that this bill includes a provision I spearheaded that will require the Environmental Protection Agency Administrator to create a national strategy to reduce carbon emissions through biologic sequestration. Carbon dioxide can be absorbed from the atmosphere into plants, trees, and other vegetation through the natural process of photosynthesis. My provision would ensure that we utilize natural landscape and green infrastructure to maximize our ability to remove carbon from the atmosphere through a determined strategy for reforestation, improved agricultural practices, and urban greening.

This important legislation defines new energy goals for our nation and enables us to

lead the world towards a clean energy future. For businesses and families back home it identifies a way forward to not only reduce harmful carbon emissions but to create new economic opportunities, new ''green'' jobs, conservation and energy efficiency, and alternative, cleaner sources of energy. Together these actions will better ensure our nation's security, economy, and health. I urge my colleagues to vote ''yes'' on this important bill.

Mr. GRIJALVA. Madam Speaker, I rise in support of the legislation before us today.

As the Chair of the Subcommittee on National Parks, Forests and Public Lands of the House Natural Resources Committee, I have held a series of hearings on the impacts that climate change is having, and will have, on our lands, waters, and wildlife. In response, my congressional colleagues and I developed a bill to give state and federal natural resource managers the tools to respond and adapt to these impacts. That bill is included within the American Clean Energy and Security Act which I strongly urge my colleagues to support today.

Any serious attempt to address climate change must include a focus on the management of our nation's natural resources. Our land, water, fish and wildlife resources are critical to public health and the American economy.

These natural resources are also vulnerable to a wide range of physical, biological, economic, and social effects as a result of climate change. At the same time, public lands and resources represent some of the best opportunities we have for implementing natural resource adaptation strategies to help mitigate some of those effects.

Unfortunately, the previous Administration pursued a ''Head in the Sand'' policy regarding climate change and, as a result, the gap between what we know about climate change, and what federal and state resource management agencies are doing about it, has never been wider.

After the Natural Resources Committee held a series of hearings on the impacts that climate change is having, and will have, on our lands, our oceans, and our wildlife, several of my colleagues and I introduced H.R. 2192 to promote a proactive federal-state partnership to address the impacts of climate change on our nation's natural resources and provide the direction and the tools that resource managers will need to develop mitigation and adaptation strategies for our land, water, and wildlife.

We are gratified that the Energy and Commerce Committee shares the belief that this is an important piece of the puzzle and has elected to include our legislation as part of the bill before us today.

The bill establishes a Natural Resources Climate Change Adaptation Panel made up of Federal agencies responsible for managing our Nation's natural resources. The Panel's mission will be to foster the kind of interagency and federal-state cooperation and planning that is both critical in responding to climate change and, so far, sorely lacking.

The Panel will be tasked with developing a comprehensive, national strategy for combating climate change. Once the national strategy is in place, each Federal agency with jurisdiction over natural resources will be required to translate that broader plan into a climate change response tailored specifically to their programs and activities. Furthermore, funding will be authorized to assist states in developing similar state-wide adaptation plans that lead to concrete, on the ground actions to address the impacts of climate change on the natural resources they manage.

In addition, the bill will streamline, centralize and improve the collection and dissemination of climate-related scientific information. This provision will ensure that Federal climate research will be better funded, more aggressive and more easily available to land managers, policy-makers and the public.

Finally, the bill will create a centralized database of geographic mapping information designed to identify significant wildlife habitat and migration corridors. Such areas must be included in any ecosystem-level adaptation planning efforts.

These efforts are belated—we cannot hope to reverse a decade of inaction immediately—but they are important tools and these provisions are an important step forward in developing a response to climate change that will protect the lands and waters owned, and deeply valued, by the American people.

We have wasted valuable time when we should have been working to stop harmful global warming, but with this vote to rein in carbon emissions, we will take a big step toward joining the rest of the world in addressing mankind's impact on our environment. Our existence on this planet depends on our taking action now rather than later, and therefore, I urge passage of the legislation today.

Mr. BACHUS. Madam Speaker, I rise in opposition to the Waxman-Markey bill.

This legislation creates a new multi-trillion dollar market for Carbon Allowance Derivatives overnight, all without one hearing before the Financial Services Committee. This continues a disturbing pattern of conduct of passing sweeping legislative proposals without consideration of the consequences and ramifications.

While Congress and financial regulators continue to work to determine how best to oversee existing derivatives markets, it is ill-advised to rubber stamp the creation of a brand new, hard to price, and convoluted Carbon Allowance Derivative Market. The new market would be open to potential abuse because it will be difficult for regulators to understand and monitor.

Under the Waxman-Markey bill the government would issue allowances (carbon allowance permits) that allow companies to emit a certain amount of greenhouse gases. Companies that emit too much can buy allowances from companies that produce less than their limit. In addition to carbon allowances, there are carbon offsets which allow companies to emit greenhouse gases in excess of the federal cap or limit. They do this by investing in projects that cut emissions and it is anticipated that many of these projects will be in developing countries C.F.T.C. Commissioner Bart Chilton anticipates that overnight the bill will create a $2 trillion dollar market, which he describes as ''the biggest of any commodities derivative product in the next five years.'' Robert Shapiro, a former undersecretary of Commerce in the Clinton administration and a co-founder of the US climate Task Force warns that ''we are on the verge of creating a new trillion dollar market in financial assets that will be securitized, derivatized, and speculated by Wall Street, like the mortgage-backed securities market.'' Mother Jones' Rachel Morris warns that without strong financial regulation of the market you could have abuses, over leveraging and ultimately collapse of the market. Democratic Senator JEFF BINGAMAN has described these offset projects as ''fraught with opportunity for game playing, which will be fully exploited, I'm sure.''

Many of these projects will be created in developing countries. A clean coal project in China or India could be used for carbon offsets, as could a tree planting project in Brazil or Borneo. As much as China needs to clean up their environment, should Americans pay for it? Should a tree planting project in Borneo allow the discharge of more pollution in America? Many of these remote projects will be notoriously difficult to confirm and monitor. Even in America with a well-established regulatory system we witnessed abuses in the subprime mortgage market. The derivatives market has the potential for even greater game playing in remote countries with questionable rule of law and little regulation.

Michele Chan of Friends of the Earth says if not properly regulated the offset derivatives could become what she calls ''subprime carbon''—futures contracts that promise emissions reductions but fail to deliver and then become toxic or worthless. Already the financial markets and speculators are planning how to slice and dice them and sell them to investors. It sounds altogether too familiar—a brand new, hard to price, vast convoluted market of carbon derivatives. And if these warnings are correct, one that certainly could pose a systemic risk in the financial markets.

If you liked what Wall Street did with the securitization of subprime mortgages, you'll love what they are going to do with carbon derivatives.

Finally, ''cap and tax'' will have a devastating impact on my home state of Alabama. The bias against coal and the renewable energy mandates will force consumers in Alabama to buy expensive ''green power'' from other states, which will raise energy costs across the board. One study has projected that the typical family in Alabama could eventually see electricity bills rise by more than $1500 a year. Higher energy costs will make our manufacturers less competitive, and Alabama and the rest of our country will lose jobs to nations like China, Korea, and Mexico which have lower energy costs.

This bill is bad for Alabama, bad for the U.S. economy, and doesn't even begin to solve the serious energy challenges facing our nation.

I urge my colleagues to join me in opposing this legislation.

Mr. STARK. Madam Speaker, I rise today in opposition to the American Clean Energy and Security Act (H.R. 2454). Global warming is real. Man causes it and it threatens nearly every aspect of life. We are right to act with urgency to end our nation's addiction to fossil fuels and combat global warming. But we cannot waste this opportunity by moving a deeply flawed bill that provides too much to special interests and too little to the environment and consumers. I cannot support the American Clean Energy and Security Act in its current form.

This legislation continues the ''clean coal'' myth by providing at least $60 billion for pie in the sky projects that will only continue the destruction of mountains and waterways at the hands of coal mining operations. More importantly, the bill takes away a vital weapon in the

fight to defeat new coal burning plants by repealing the EPA's current authority to regulate greenhouse gas emissions, including the emissions of individual power plants. The result will be a rush to build new coal powered plants over the next decade and then an intense lobbying effort to ensure that these plants are grandfathered in by the time the rules are supposedly set to tighten in 2020.

The creation of a massive, trillion-dollar new carbon market should scare all of us. The new, highly complex carbon market will be ripe with opportunities for Wall Street speculation and manipulation. The Commissioner of the Commodity Futures Trading Commission estimates that the carbon market will consist of 180 million contracts within 5 years, making it the world's largest commodity and derivatives market. The subsequent market volatility will hurt consumers by ensuring that energy prices continue to fluctuate. Market volatility will also dissuade long-term investments in clean energy and efficiency. This is the scenario that has played out in the European Union, where prices have swung wildly and some power plants have actually switched back to coal due to the low cost of emissions permits.

Many of these problems could have been dealt with through amendments that were brought before the Committee on Rules yesterday. One amendment that I cosponsored would have reigned in the carbon market by only allowing entities covered under the Cap and Trade program to trade allowances. This amendment would have greatly curtailed the ability of Wall Street to influence the carbon market and would have protected our economy from another financial meltdown. Unfortunately, this amendment was not allowed to come to the floor for a vote. I also cosponsored an amendment that would have continued EPA's current authority to regulate greenhouse gas emissions under the Clean Air Act. This authority would provide a backstop should the new cap and trade regime prove ineffective. Sadly, this amendment was also not allowed to come to the floor.

I commend the emission reduction targets laid out in the legislation. I am not convinced, however, that these targets will be met in the near future due to the many loopholes and dubious offset provisions contained in the bill. This bill unfortunately continues the Congressional tradition of subsidizing the fossil fuel industry. Only this time it is cloaked in the disguise of environmentalism and the subsidies come in the form of free allowances, institutionalization of the ''clean coal'' fiction, and the gutting of EPA authority.

We have the opportunity and the responsibility to confront catastrophic global warming with bold action. Congress should seize that opportunity by passing legislation that would end our addiction to fossil fuels, prove our leadership to the world, and build a foundation for long-term prosperity. This legislation falls short of these goals. Many have said that this vote is a historic one that we will be judged by. In my view, history will judge this legislation as a missed opportunity. I urge my colleagues to oppose the bill in its current form and work to bring a truly progressive bill to the floor.

Mr. LANGEVIN. Madam Speaker, I rise today in strong support of H.R. 2454, the American Clean Energy and Security Act. I thank our leaders who made this bill a priority, especially Speaker PELOSI, Leader HOYER, Chairman WAXMAN, Chairman RANGEL, Chairman PETERSON, and Chairman MARKEY, who worked tirelessly to bring this bill to the floor today.

I have long been an advocate for reducing harmful carbon emissions and investing in a clean energy economy. The path that we are on is unsustainable. Last year's spike in gasoline prices and home heating oil was only a small example of the challenges our nation faces due to our reliance on foreign oil. The effects of climate change are already beginning, and I believe that we must act now if we are to stop—and ultimately reverse—the damage done to our planet and our economy.

I support this legislation because it will set our nation on a path toward an energy independent future. The bill increases the renewable energy standard to 20 percent by 2020, which means that more of the energy we all use at home will come from clean, renewable resources. It caps harmful carbon emissions that are damaging our environment and ecosystem through a responsible and transparent approach, reaching an overall reduction of 83 percent by 2050. With this reduction, it is my hope that we will be the first generation to pass on a healthier planet to our children and our grandchildren.

The $90 billion investment included in this bill will help create 1.7 million clean energy jobs throughout the nation, particularly in manufacturing industries as demand for construction of renewable energy components will dramatically increase. Increased funding for research and development of renewable technologies, including wind, solar, and wave energy, will drive American entrepreneurship and competitiveness to make the U.S. a global leader in clean energy development.

This bill was also carefully written to ensure that consumers are not overburdened by any increase in cost. Allowances are provided to electricity, natural gas, and heating oil companies that must be redirected to their customers. Low-income families are given even further protections in the bill and will receive specific allowances in the form of monthly energy refunds. The Congressional Budget Office (CBO) estimates that protecting our nation through a cap on emissions would cost an average family $175 per year, or less than 50 cents a day, by 2020. Alternatively, if we fail to act and continue to rely on oil, energy prices per household are estimated to reach $3,500 annually. Further, CBO has determined that the bill meets PAYGO requirements and will not increase the deficit.

Lastly, it must be noted that our nation spends over $400 billion for foreign oil each year. The time has come to stop investing our taxpayers dollars overseas, and to bring them home to invest in clean energy jobs and a healthier planet for our citizens. By increasing the renewable energy standard, capping carbon emissions, and investing in the creation of domestic jobs, this bill is directing our nation towards a sustainable and economically viable energy future. I urge my colleagues to invest in the future of this great nation, and vote yes on the American Energy and Security Act.

Mr. BERMAN. Madam Speaker, I rise in strong support of H.R. 2454, the American Clean Energy and Security Act of 2009.

This groundbreaking legislation will help protect our environment and create an estimated 37 million jobs in the United States over the next 20 years by significantly reducing greenhouse gas emissions, implementing a renewable electricity standard, providing incentives for the adoption of energy efficiency measures, and promoting renewable energy technology research and development.

H.R. 2454 also provides assistance to developing countries to help them adapt to the effects of climate change, deploy clean energy technologies, and reduce emissions from deforestation.

Some of the world's poorest countries—including those that have contributed the least to the problem of climate change—will suffer the most immediate and severe consequences of global warming if we don't take action to reverse it.

Many developing countries face the threat of flooding, the loss of arable lands, and the spread of climate-related diseases, such as malaria and cholera.

A recent World Bank study estimated that storm surges resulting from rising sea levels could threaten 52 million people and 29,000 square kilometers of agricultural land in developing coastal countries around the world.

H.R. 2454 will help people in low-income countries prepare for and adapt to climate change by strengthening local planning capacity and promoting the development and implementation of national adaptation programs.

This legislation also provides financial and technical assistance and leverages private sector involvement to mitigate the emissions of greenhouse gases in developing countries.

This will help reduce the impact of climate change here in the United States and benefit the American economy by encouraging innovation in green technologies and the creation of high quality jobs.

Finally, the bill will help reduce greenhouse gas emissions by helping low-income countries reduce emissions associated with deforestation.

Madam Speaker, the programs on international adaptation, clean technology, forestation as well as provisions for international offsets will all require close collaboration between the Environmental Protection Agency, the United States Agency for International Development, and the Department of State.

In international negotiations on framework agreements to carry out these programs, I expect the Department to continue to have responsibility to approve the initiation of such negotiations, consistent with current law and regulations.

I also expect that USAID, which has significant expertise in dealing with a range of environmental activities overseas, will play a central role in planning and helping administer these critical programs.

Madam Speaker, the international provisions in this legislation are crucial for the successful completion of climate change negotiations in Copenhagen later this year.

They will demonstrate to the rest of the world that the United States is truly committed to working cooperatively with other nations to tackle the global challenges of climate change.

I thank my good friends Chairman WAXMAN and Chairman MARKEY for working closely with me to develop and refine the international provisions in this important legislation, and urge all of my colleagues to vote yes.

Mr. MCCAUL. Madam Speaker, ''Electricity rates would necessarily skyrocket.'' That is a direct quote from President Obama describing

his ''Cap and Trade'' plan. I agree with the President. That is why we call it Cap and Tax. This is a failed European model that should not be imported into the United States. We've already seen the effects in Europe where household energy prices went up 25% and emissions were not reduced. This is the wrong bill at the wrong time. Imposing a national energy tax on the working families in my district who are already struggling to make ends meet is wrong. And who benefits from this? You guessed it, Wall Street, not Main Street.

While I strongly support investing in alternative energy and green technology, I cannot support this bill.

Overall, in my home state of Texas, energy costs will increase by $1.15 billion imposing an enormous tax each year on every Texas family. All of this for something that simply won't work.

Companies that are not able to meet the cap will simply move their manufacturing facilities overseas to countries with fewer regulations. Nationwide, our country will lose around 2.5 million jobs and Texas alone could lose 277,000 jobs in the first year alone. Perhaps that is why the U.S. Chamber, the National Association of Manufacturers, the Farm Bureau, and dozens of other organizations oppose this plan.

I continue to support the American Energy Act which increases our domestic energy supply by developing more of our resources here in the United States, investing in alternative fuels and offering incentives for better efficiency and conservation—without placing a greater burden on our families, our businesses and our economy.

Mr. POSEY. Madam Speaker, I rise to express my strong concerns about the bill before us—a bill which no one has read. This morning members of Congress were told about the addition of 309 pages that were added to this bill early this morning. No one has read it.

Why the rush? Why does Congress have to pass this bill today, before everyone can read it and understand what this new language is doing? When Congress did this with the stimulus bill earlier this year it was discovered after passage of that bill that it contained bonus payments for AIG employees. But this bill, affecting every segment of our economy, has much broader applications. We and the American people have a right to know what is in this bill, how it will affect the American people, and what impact it will have on our economy. Nobody knows that this morning. We do not even have a cost estimate on this latest version of the bill from the Congressional Budget Office (CBO). No one knows what it will cost. My rule is that if you are not going to give Members of Congress the time to read the bill, a cost estimate of the bill, and an ability to understand its impact on the taxpayers and American businesses, I'm going to vote no.

Supporters of the bill claim that it will only cost the average American $175 per year. This is a fatally flawed estimate for three reasons: (1) this figure is derived from a selective reading of the CBO cost estimate, (2) 3 days after the CBO issued their cost estimate 300 additional pages were added to the bill, and (3) at 3 a.m. last night another 309 pages were added to the bill. This bill has grown by nearly 70% since CBO's cost estimate was prepared.

The CBO estimate has serious deficiencies. In fact if you read the entire CBO estimate you would find that they highlight the deficiencies, deficiencies that are being conveniently ignored. The most critical flaw is that CBO picked a year as the basis for their estimate that is before the most costly parts of the bill take effect. This excludes hundreds of billions of dollars from the cost estimate. The footnote on page 4 of the estimate says that they exclude from the costs estimate the ''decrease in gross domestic product (GDP)'' resulting from the bill. Most estimates conclude that it will result in $1–$2 trillion in lost economic activity in the U.S. translating into a loss of over 2.5 million jobs. The CBO fails to incorporate tens of billions of increased costs to the states which will be passed on through higher state taxes. CBO lists a number of other cost estimate omissions.

When you factor in the deficiencies of the CBO estimate most analyses put the cost estimate at between $750 and $3100 per year. Washington has a habit of underestimating the cost of legislation. They are doing so again today. That's why this bill was significantly changed last night and rushed to the floor before Members of Congress have had a chance to read the bill and understand what the changes do.

This 1200-plus page bill started out as legislation aimed at improving the environment but it has become a means of raising money to pay for larger, more intrusive government while having little impact on the global environment.

The idea behind ''Cap and Trade'' is to purposely increase the cost of energy that is produced using fossil fuels like natural gas, coal or petroleum. Nearly 85% of electricity across the U.S. is generated using these sources of fuel. The price of everything you buy will go up, from gas to food, because there will be a hidden national energy tax built into the price of everything.

Senator CARDIN (D–MD) told the Washington Post that, ''This is the greatest revenue generating [read tax] proposal of our time.'' This bill moves money from the family budget to Washington.

Estimates are that this bill will have a negligible effect on the global environment. It is estimated that if enacted, this bill will lower the global temperature two-tenths of one percent. This is equivalent to the annual fluctuation in global temperatures. Also, this fails to acknowledge the fact that China, India and the rest of the developing world are exempt from such regulations and their emissions will far exceed any reductions that result from this bill.

This costly national energy tax will put American products at a competitive disadvantage and further erode the ability of the American worker to compete with China, India and the rest the developing world. The result will be the loss of millions of jobs as more businesses move to countries that will not impose these caps on their citizens. Businesses that otherwise might have built facilities in the U.S. will instead open up factories in countries that are exempt from these regulations. It's no wonder China has called for the U.S. to pass this energy tax bill. With a national unemployment rate nearing 10%, it's estimated that this tax will cost Americans another 2.5 million jobs.

I oppose this plan and will vote against it because it is not good for the American worker, small businesses, seniors on fixed incomes, or families struggling to pay their bills and mortgages. Washington doesn't need more of your money, it needs to control spending. Europe adopted a similar plan several years ago and it forced jobs to leave Europe, caused electricity prices to skyrocket, and they have little to show for the costs. It's all pain and no gain. Check out the non-partisan Tax Foundation's online energy tax calculator (*www.taxfoundation.org/capandtrade*) to figure out how much it may cost you.

Finally, it is a sad day for the Congress and the American people that the Speaker chose to rush this bill through the Congress without an open debate and amendment process. Members of Congress asked that 224 amendments be allowed to be considered to this bill. Unfortunately, the Speaker allowed only one amendment to be offered. Among the amendments denied were one to: (1) suspend the bill if gas exceeds $5 per gallon; (2) suspend the bill if electricity prices increase more than 10%; and (3) suspend the bill if unemployment exceeds 15%. These and many more amendments were reasonable and worthy of consideration. They should have been allowed, as they are in the best interest of the American people.

Again, I rise in strong opposition to this bill and urge my colleagues to vote down this bill. It will further harm our economy and slow our economic recovery.

Mr. PAYNE. Madam Speaker, today I rise on behalf of the 1 billion people who live on less than $1.25 a day and who will most acutely feel the impacts of climate change.

At first glance, climate change is a lot about numbers—temperature rise of 2 degrees, 450 parts per million, a 25–40 percent reduction in greenhouse gas emissions, one percent of allowances. The list goes on.

However, climate change is more than science and numbers. At the end of the day, climate change is about people. Climate change is happening far more rapidly than first thought. For the world's poor the climate crisis is not looming on the horizon. It is happening today. The impacts are hitting the world's poorest first and worst—those least responsible for climate change.

Poor communities—individuals eking out an existence on less than $1.25 a day—are the hardest hit and have the fewest resources to adapt. Harsher climate conditions mean these vulnerable communities are facing more severe, more frequent, and more intense floods, droughts, and cyclones—leading to natural disasters and major disruptions in agricultural growing seasons. Climate change is increasing malnutrition as agricultural productivity declines. In Africa, agricultural productivity is predicted to decrease by as much as 50 percent over the next decade. A quarter billion people will be facing water scarcity. The United States will not be isolated from these events. If left unabated, the spillover caused by climate change will be visited upon U.S. shores.

As resources like water and arable land become scarcer, outbreaks of conflict, mass migration, and refugee crises will rise. A recent report released by CARE, UN University, and Columbia University's Center for International Earth Science Information Network reveals that climate change is expected to spur human migration and displacement on a scale never before seen. According to the International Organization for Migration, as many as 200 million climate migrants may be forced to cross borders by 2050.

One man from Niger interviewed for the study said: ''I have been suffering from the rain water shortage, which made the river very shallow and decreased my fish production, which had negative implications on my income. If the situation does not improve, I might leave for another country like some of my friends and relatives did; they left for Nigeria and Burkina Faso and settled there.'' Left unchecked, climate change will force him, and hundreds of thousands like him, to migrate from home.

These negative impacts will be even greater on women and girls. As primary family caretakers, food providers, and health care providers, women will be forced to walk further to fetch ever scarcer water. They will have to work harder to squeeze a harvest out of the earth to feed their families. As the burden increases, children will be pulled out of school—the girl child will undoubtedly be first.

Passing this bill is imperative. It begins our journey of tackling climate change. It begins to assist poor communities in their efforts to adapt to climate impacts. The challenge of climate change is not insurmountable. We know adaptation works—and it can be fairly simple—though it can also require substantial resources. Development assistance organizations like Oxfam and CARE are allies in this struggle. For example, Oxfam is working with communities in El Salvador to plant mangroves as a natural coastal buffer to protect against severe storms. CARE is partnering with women in Bangladesh who identified duck rearing as a viable adaptive alternative to rearing chickens, since chickens were getting wiped out in increasing flood disasters.

The reality for poor vulnerable communities on the receiving end of the effects of climate change is that the situation is dire. The least developed countries face the brunt of the impacts but contribute less than half a percent of global greenhouse gas emissions. Climate change is not something of the future, the impacts are already happening. For over 100 of the countries most vulnerable to the impacts of climate change, international adaptation will be the key that unlocks their commitment to a global agreement on climate change.

Climate change is a study of injustice—those hardest hit by climate change are the least responsible for it. As a global leader, the U.S. has a critical role to play: our leadership can help bring other countries along—we simply cannot tackle climate change alone. As a global problem, climate change requires a global solution based on a shared sense of community. That solution starts here with this bill.

My esteemed colleagues, I call upon you to pass this bill that will begin to provide President Obama with some of the tools he needs to conclude a global climate agreement. While we might focus on the numbers in this bill, let us remember that this issue is really about people everywhere. People matter. The poor matter. Their livelihoods matter. Their survival matters. This bill marks a historic beginning of putting the U.S. back in the fore of global leadership on climate change. Thank you.

Mrs. CHRISTENSEN. Madam Speaker, the American Clean Energy and Security Act of 2009 is about the future. All the decisions that we know must be made, that we have put off for far too long on energy independence, climate change and retooling our economy for the industries of the future must be made now.

As this bill was crafted, I know that we were careful in making sure that all the regions of our country, from the coal producers, to the oil producers, to the environmentalists, to the farmers, to the climate change experts to those concerned about costs and the transition to green jobs were heard from and our committees and membership worked hard on a bill that will be the first foot forward to the goals that we want to achieve for the 21st century.

While this bill is in no way a panacea to the myriad of issues before us, it certainly is a progressive step towards creating clean energy jobs, achieving energy independence, reducing global warming and slowing climate change.

As a representative of one of the offshore territories of the United States, I would reiterate that the U.S. territories, like other distressed economies around the Nation, stand to be disproportionately affected by the impact of climate change. We are also disproportionately dependent on diesel for power generation and vulnerable to its shifting costs.

On the other hand our geography and natural resources have the potential to promote and utilize a diverse portfolio of renewable energy options. I am proud that my colleagues have recognized this and that this legislation contains language that will help us prepare for the coming challenges and the shift to a greener economy.

Madam Speaker, The American Clean Energy and Security Act undoubtedly responds to the call of countless citizens who have clearly articulated this generation and this Congress must invest in renewable energy, green jobs, clean technology, and adaptation strategies—domestically and internationally—to buffer the ramifications of climate change while at the same time ensuring that the cost will not be prohibitive to poor and middle income Americans.

I am proud that we are responding to the President's vision and mandate to meet our country's climate and energy security needs, in the near future and beyond.

We have accomplished an amazing feat by arriving to where we are today. I implore my colleagues here today to put politics aside and keep the interest of the American people at heart throughout this process.

Let us make this a truly historic day as we hold true to the commitment of leading the world into an economy of 21st century clean technology and industry.

Mr. GRAVES. Madam Speaker, I rise today in strong opposition to the energy tax recklessly being forced through the legislative process only to harm small business owners, farmers, and families in Missouri.

As a 6th generation farmer I can tell you that it is an extremely energy intensive practice. Sixty-five percent of a farmer's costs are dedicated to electricity, fuel, fertilizer, and chemicals; even a slight increase in costs would have a damaging effect on farmers.

When it comes to rising fuel prices, we farmers drive trucks because we have to haul stuff. I would challenge any of my colleagues to come to Missouri and try doing farm chores in a Prius.

Those claiming this bill benefits agriculture don't know a thing about the business. Agriculture producers are price takers on both ends of the equation. It is one of the few industries in the world that purchases its inputs at retail to sell its end product at wholesale.

Farmers have very little ability to pass their own costs onto their customers and even those costs that agriculture producers can pass on will mean only one thing: higher food prices for American families.

Rising food prices will be an indirect tax imposed on American families by this Cap and Tax bill and its effects won't just be confined to agriculture. Business everywhere will be confronted by a new dueling reality of seeing their own energy costs rise and the disposable income of their customers fall. All this can accomplish is to restrain future economic growth and lead to long-term joblessness.

That is if there are any jobs left. None of the regulations or increased costs in this bill will be shouldered by our trading partners and competitors. How can we expect our businesses to remain competitive and create jobs when we are imposing new taxes not only on those same businesses, but their customers as well?

Let's be honest with ourselves. This legislation is nothing more than a thinly veiled attempt to address climate change, while its actual goal is to direct more taxpayer dollars to the government coffers to fund a big government agenda, including the federal takeover of health care.

Today I strongly urge my colleagues to stand with me. It is irresponsible of Congress to use taxation as an answer to our nation's challenges. Voting against this bill will demonstrate your willingness to work together towards real energy solutions for our future and our children's future.

Mr. WAXMAN. Madam Speaker, I yield back the balance of my time.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FORBES

Mr. FORBES. Madam Speaker, I have an amendment in the nature of a substitute at the desk.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. FORBES:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''New Manhattan Project for Energy Independence''.

SEC. 2. DEFINITIONS.

In this Act—

(1) COMMISSION.—The term ''Commission'' means the Commission established under section 7.

(2) RESEARCH.—The term ''research'' includes research on the technologies, materials, and manufacturing processes required to achieve the goals described in section 3.

SEC. 3. GOALS.

(a) IN GENERAL.—The purpose of this Act is to enable the achievement of each of the following goals:

(1) VEHICLE FUEL EFFICIENCIES AND ALTERNATIVE FUEL SOURCES.—Development and manufacturing of a plug-in hybrid vehicle, alternative fuel vehicle, electric vehicle, hydrogen fuel cell vehicle, or other alternative technology vehicle—

(A) that is not more than 10 percent more expensive than a comparable model vehicle of the same model year;

(B) with—

(i) equal acceleration, horsepower, and top speed performance; and

(ii) not more than 20 percent reduction in cargo space,

as compared to a comparable model vehicle of the same model year;

(C) that meets or exceeds Federal safety standards;

(D) that can travel at least 750 miles between refueling; and

(E) in the case of a gasoline powered vehicle, that can travel at least 70 miles per gallon of gasoline.

(2) GREEN BUILDINGS.—Develop and build an energy efficient residential or commercial building that—

(A) uses no more than 50 percent of the energy of the average new building of similar size and type;

(B) costs no more than 15 percent more to construct than the cost of a building of similar size and type; and

(C) can be effectively reproduced in a variety of climate environments found in the United States.

(3) SOLAR POWER.—Construction of a large scale solar thermal power plant or solar photovoltaic power plant capable of generating 300 megawatts or more at a cost of 10 cents or less per kilowatt-hour when all capital and operating expenses are calculated into the cost.

(4) BIOFUELS.—Development and production of a biofuel that, when mass produced, does not exceed 105 percent of the cost for the energy equivalent of unleaded gasoline when all capital and operating expenses are calculated into the cost of the biofuel.

(5) CARBON SEQUESTRATION.—Development and implementation of a carbon capture and storage system for a large scale coal-burning power plant that does not increase operating costs more than 15 percent compared to a baseline design without carbon capture and storage while providing an estimated chance of carbon dioxide escape no greater than 1 percent over 5,000 years.

(6) NUCLEAR WASTE.—Development of both—

(A) a validated process for remediation of the radioactive waste form so it is no longer harmful to the health or welfare of the environment or individuals for a period to be determined by the Commission, which shall be not less than 5,000 years; and

(B) a model that accounts for all the effects of nuclear waste in that process.

(7) NUCLEAR FUSION.—Development of a sustainable nuclear fusion reaction capable of providing a large-scale (greater than 300 megawatts), sustainable source of electricity for residential, commercial, or government entities.

(b) AMENDMENT OF GOALS.—The Secretary of Energy may amend a goal described in subsection (a) pursuant to a recommendation from the Commission under section 7(b)(5), or on his own initiative, if such amendment serves the purpose of achieving the goal of United States energy independence through the development of technologies that lead to the widespread adoption of improvements that increase energy supply or energy efficiency.

SEC. 4. SUMMIT.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the President shall convene a summit that includes—

(1) the principal advisors and directors of all programs in the Federal Government related to the achievement of the goals described in section 3;

(2) the members of the Commission; and

(3) leading researchers at the Federal laboratories and representatives of private sector partners engaged in the production and manufacturing of technologies necessary to achieve the goals described in section 3.

(b) PURPOSE.—The summit shall be for the purpose of reviewing the progress and promise for each of these technologies, the interrelationship of these technologies to each other, and additional funding resources needed to accelerate the progress of these programs toward achieving the goals described in section 3.

SEC. 5. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of Defense, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and other Federal agencies as appropriate, shall carry out a program consisting of a collaborative effort with industry, government, and academia to support research, development, demonstration, and commercial application activities related to achieving the goals described in section 3.

(b) GRANTS.—Such program shall consist of grants to researchers, large and small businesses, National Laboratories, institutions of higher education, or any other qualified applicant, including veterans.

(c) LIMITATION ON AMOUNT.—No grant shall be made under this section in an amount that exceeds 5 percent of the amount authorized under section 8(1) for prizes for the achievement of the same goal.

(d) COST SHARING.—The Federal share of the costs of a project for which a grant is made under this section shall not exceed 15 percent.

SEC. 6. PRIZE PROGRAM.

(a) PRIZE AUTHORITY.—

(1) IN GENERAL.—The Secretary of Energy shall carry out a program to competitively award cash prizes in conformity with this section to advance the research, development, demonstration, and commercial application necessary to achieve the goals described in section 3.

(2) ADVERTISING AND SOLICITATION OF COMPETITORS.—

(A) ADVERTISING.—The Secretary shall widely advertise prize competitions under this section to encourage broad participation by researchers, large and small businesses, institutions of higher education, and any other qualified applicants, including veterans.

(B) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition under this section by publishing a notice in the Federal Register. This notice shall include essential elements of the competition such as the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize, which shall include, at a minimum, the achievement of one of the goals described in section 3.

(3) ANNOUNCEMENT OF PRIZES.—The Secretary may not issue a notice required by paragraph (2)(B) until all the funds needed to pay out the announced amount of the prize have been appropriated.

(b) PRIZE CATEGORIES.—

(1) CATEGORIES.—The Secretary of Energy shall establish a single prize under this section for each of the goals described in paragraphs (1) through (7) of section 3.

(2) CRITERIA.—In establishing the criteria required by this section, the Secretary—

(A) shall consult with other Federal agencies, including the National Science Foundation; and

(B) may consult with other experts such as private organizations, including professional societies, industry associations, and the National Academy of Sciences and the National Academy of Engineering.

(c) ELIGIBILITY.—To be eligible to win a prize under this section, an individual or entity—

(1) shall have complied with all the requirements in accordance with the Federal Register notice required under subsection (a)(2)(B);

(2) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of, or an alien lawfully admitted for permanent residence in, the United States; and

(3) shall not be a Federal entity, a Federal employee acting within the scope of his employment, or an employee of a national laboratory acting within the scope of his employment.

(d) AWARD SELECTION.—

(1) IN GENERAL.—The Secretary of Energy shall award prizes under this section on the basis of the criteria published in the notice required under subsection (a)(2)(B), after receiving the recommendations of the Commission under section 7(b)(3).

(2) CONGRESSIONAL NOTIFICATION.—If the Secretary awards a prize under paragraph (1) in a manner that does not conform to the recommendations of the Commission, the Secretary shall transmit a report to the Congress explaining the reasons for such action.

(e) INTELLECTUAL PROPERTY.—The Federal Government shall not, by virtue of offering or awarding a prize under this section, be entitled to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant in a competition authorized by this section. This subsection shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this section.

(f) LIABILITY.—

(1) WAIVER OF LIABILITY.—The Secretary of Energy may require registered participants to waive claims against the Federal Government (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants' participation in a competition under this section. The Secretary shall give notice of any waiver required under this paragraph in the notice required by subsection (a)(2)(B).

(2) LIABILITY INSURANCE.—

(A) REQUIREMENTS.—Registered participants in a prize competition under this section shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

(i) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in a competition under this section; and

(ii) the Federal Government for damage or loss to Government property resulting from such an activity.

(B) FEDERAL GOVERNMENT INSURED.—The Federal Government shall be named as an additional insured under a registered participant's insurance policy required under subparagraph (A) with respect to claims described in clause (i) of that subparagraph, and registered participants shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities under this section.

(g) NONSUBSTITUTION.—The programs created under this section shall not be considered a substitute for Federal research and development programs.

SEC. 7. COMMISSION.

(a) ESTABLISHMENT.—There shall be established the New Manhattan Project Commission on Energy Independence.

(b) FUNCTIONS.—The Commission shall—

(1) not later than 1 year after the date of enactment of this Act, submit to Congress and the President a report containing—

(A) recommendations on steps that must be taken in order for the United States to achieve 50 percent energy independence within 10 years and 100 percent energy independence within 20 years; and

(B) an assessment of the impact of foreign energy dependence on United States national security;

(2) advise the Secretary of Energy on the design and operation of the grant program established under section 5;

(3) make recommendations to the Secretary of Energy on the design and operation, including selection criteria, of the prize program carried out under section 6;

(4) make recommendations to the Secretary of Energy selecting participants who have achieved a goal for which a prize will be awarded under section 6; and

(5) submit recommendations to Congress for any amendments to make the goals described in section 3 more stringent, as appropriate because of changing circumstances, if such amendments serve the purpose of achieving the goal of United States energy independence through the development of technologies that lead to the widespread adoption of improvements that increase energy supply or energy efficiency.

(c) MEMBERSHIP.—The Commission shall be composed of 13 members as follows:

(1) The Under Secretary for Science of the Department of Energy.

(2) The Administrator of the Research and Innovative Technology Administration.

(3) The Director of the National Science Foundation.

(4) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(5) The President of the National Academy of Sciences.

(6) 2 members appointed by the Speaker of the House of Representatives.

(7) 2 members appointed by the minority leader of the House of Representatives.

(8) 2 members appointed by the majority leader of the Senate.

(9) 2 members appointed by the minority leader of the Senate.

(d) TERMS OF MEMBERSHIP.—Each member of the Commission appointed under subsection (c)(6) through (9) shall be appointed for a term of two years, except that of the members first appointed, one under each of those paragraphs shall be appointed for a term of one year. A member of the Commission may serve after the expiration of the member's term until a successor has taken office.

(e) VACANCIES.—A vacancy in the Commission shall not affect its powers but, in the case of a member appointed under subsection (c)(6) through (9), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(f) QUORUM.—Seven members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(h) COMPENSATION.—(1) Each member of the Commission shall serve without compensation.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(i) STAFF.—Subject to rules prescribed by the Commission, the Commission may appoint personnel as it considers appropriate.

(j) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(k) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(l) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(m) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(n) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Commission, the head of that department or agency shall furnish that information to the Commission.

(o) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(p) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Energy—

(1) for the period encompassing fiscal years 2010 through 2019—

(A) $500,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(1);

(B) $250,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(2);

(C) $250,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(3);

(D) $1,000,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(4);

(E) $1,000,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(5);

(F) $1,000,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(6);

(G) $10,000,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(7); and

(H) $10,000,000,000 for carrying out the grant program under section 5; and

(2) such sums as may be necessary for carrying out this Act for subsequent fiscal years.

The SPEAKER pro tempore. Pursuant to House Resolution 587, the gentleman from Virginia (Mr. FORBES) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. FORBES. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, first of all, I would like to thank the Rules Committee for allowing me to bring this amendment by making it in order. No matter what the motivation or the intentions, I appreciate that opportunity. And I want to make it clear this amendment is not an addition. It is an amendment in the nature of a substitute that would replace the current bill on the floor.

Madam Speaker, I would also like to make clear that this is not a Democratic amendment, obviously, and I think we will hear from the Democratic leadership in a few minutes to make that clear. It's not a Republican amendment, and we will probably hear from the Republican leadership to that extent in just a few moments. But it is an amendment that's overwhelmingly supported by the American people.

I never cease to be amazed at how day after day we come in this body, and as we enter this great Chamber, we somehow put on our adversarial robes and we pick up our adversarial clubs and then we go about our business. But, unfortunately, the adversarial process often leads us to be more concerned with scoring points than we are with winning solutions. In this debate I have listened to today there are good men and women on both sides, and there are smart men and women on both sides, and they all believe they are right. But there are limits to the good ideas that we can bring into this one Chamber about energy.

The reality is if you're from a coal area, the people back at home know you're going to be fighting for coal. If you're from a gas area, you're going to be fighting for gas. And if you're from an area with a lot of wind or solar technology, that's what you're going to be certain it's going to solve our energy problem. But even the majority can't always be right, and that's why only 33 percent of the people in America approve of what Congress is doing currently today.

This amendment, Madam Speaker, is the new Manhattan Project for energy independence. A lot of people have talked about doing something like this.

Today we have an opportunity to do it. And it has a novel approach. It says that instead of the 435 of us on this floor bringing our ideas and imposing them on the American people, what we do is bring together a commission of the brightest men and women in America, from government, from the private sector, from academics, and we have them create in the next year a plan of energy for this country that would get us 50 percent independent from foreign oil in 10 years and 100 percent in 20 years or tell us why we can't get there.

□ 1700

And this amendment also realizes that in this bill on the floor today, we are essentially redistributing another $800 billion of taxpayer money because we think we know what's best for Americans. The new Manhattan Project amendment would set seven goals for energy independence. They are goals that almost everybody agrees we need to reach energy independence: doubling vehicle fuel efficiency, cutting home and business energy usage in half, having solar power work as cheaply as coal, making biofuels work as cheaply as gasoline, safely and cheaply storing carbon emissions from our coal-fired plants, safely storing nuclear waste and producing electricity from nuclear fusion reactions. Then through grants and prizes it energizes an entire Nation to reach those goals through their innovation and their ideas and their imagination. But, Madam Speaker, perhaps the most important thing this amendment does is it restores American competitiveness by sending out two signals.

First of all, it sends a signal out across this country to the American people that we trust them and America is coming back on its competitive edge. And, secondly, it sends a shot across the bow of every country in the world, telling them we are not going to surrender, that we are going to come back, and we are going to compete, and we are going to win on a fair playing field, and we are going to restore a competitive advantage that is going to lead us for the next 50 years.

And then finally, Madam Speaker, it invigorates a whole generation of Americans to go into math and science and be a part of our energy solution for years to come.

And so with that, Madam Speaker, I hope that we will pass this amendment, and I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I rise in opposition to this proposal.

The SPEAKER pro tempore. The gentleman from California is recognized for 15 minutes.

Mr. WAXMAN. I yield myself such time as I might consume.

This amendment is more of the same from the Republicans. After 8 years of failed energy policies, the Republican answer to our energy problems is to do more research and to provide people with prizes for good ideas.

Well, during the last 8 years, the average American family has seen its energy cost increase by nearly $2,800 a year. Those are increases in gasoline prices, home heating, electricity bills. American families cannot afford the same failed policies.

Now, I like the idea of having good, innovative approaches to our challenges. I don't mind giving people awards if they come up with good ideas, but I think good ideas come up with market incentives and competition and rewarding people for good ideas with something more than a good ribbon to pin on their chest.

This amendment strikes the whole bill and substitutes this idea of giving prizes. Could you imagine, giving prizes. Why didn't you give out prizes in the last 8 years, and maybe our energy problems would have been solved if we had given out more prizes for good ideas.

But the bill before us, the American Clean Energy and Security Act, is a comprehensive energy policy. It will create new clean-energy jobs, increase our energy independence and dramatically cut pollution. We are talking about 1.7 million new jobs.

This bill will save 240 million barrels of oil each year. That's oil we don't have to import from the Middle East. And this bill is going to help consumers, because the energy efficiency provisions alone will save consumers $750 per year by 2020.

This bill before us makes a landmark investment in the future of the country by providing $190 billion through 2025 to increase our efficiency and deploy cutting edge energy technologies. We provide for renewable energy, coal with carbon capture and storage, nuclear power and advance technologies, electric vehicles, smart grid transmission, energy efficiency. I could go on.

This substitute amounts to a grant program and a competition with prizes for good ideas. There is no comparison between the two.

The bill before us is a real solution to our very real energy challenges. The Republican amendment simply fails to rise to the challenge.

I urge its defeat and reserve the balance of my time.

Mr. FORBES. Madam Speaker, the gentleman mentions those 8 years of bad ideas. That's why these similar concepts were endorsed in the campaign by President Obama, Senator MCCAIN, Senator Clinton and also individuals like Newt Gingrich.

I would like to yield 1 minute to the distinguished gentleman from Illinois (Mr. SCHOCK).

Mr. SCHOCK. Madam Speaker, I woke up this morning to the front page of my hometown paper, which read, Peoria's unemployment rate crosses double digits for first time in two decades.

At a time when our communities across this country are losing work and out of jobs, we in this body are passing a piece of legislation that will only do more, only put more people out on the street and in the unemployment lines.

This bill, on the average, will add to Illinois residents the cost equal to 1 month of their electricity bill. In essence, we are adding a 13th month to their utility bill. It doesn't matter whether my constituents are senior citizens living on a fixed income, families, businesses, we are asking them to pay more at a time when they have less.

Now, there is not a person in this room that doesn't want more of the same, more green energy, more wind, more nuclear, more solar power. But I, for one, believe we can get there without putting the conventional methods of energy out of business.

The Forbes amendment will do just that. It is creative ideas, incentivizing the behaviors that we want as opposed to what we don't that we need.

I urge a ''yes'' vote on this amendment and a ''no'' on the cap-and-tax bill.

Mr. WAXMAN. Madam Speaker, I would yield 1 minute to my cosponsor of the legislation that's before us. My name came first, his second, because I am older and I am chairman of the full committee. He is chairman of the subcommittee. But the real author of the legislation, he has worked on this problem for many, many years, is ED MARKEY.

Mr. MARKEY of Massachusetts. Thank you, Mr. Chairman.

With our bill, we will take back America's position as the technological leader, give back money to consumers by lowering energy bills, send back the millions of barrels of oil we import from foreign dictators every day, and we will export wind turbines and solar panels that say ''Made in America'' instead of continuing to import millions of barrels of oil a day that say ''Made by OPEC.''

This bill has the ambition of the Moon landing, the moral imperative of the Civil Rights Act, and the scope of the Clean Air Act all wrapped up in one. All we are hearing here this evening are the same discredited policies from the past that have gotten us into this economic national security and environmental situation that we live with today.

Vote ''no'' on this substitute and vote ''aye'' for the bill that we are considering. The gentleman from California has done an excellent job in bringing us to this point.

Vote ''no'' on this substitute.

Mr. FORBES. Madam Speaker, I would like to yield 1 minute to the distinguished gentleman from South Carolina (Mr. INGLIS).

Mr. INGLIS. I thank the gentleman for yielding.

This is not the time for a tax increase. It's not the time for another Wall Street trading scheme, and it's not the time to burden American manufacturing. It is the time to inspire innovation through amendments like Mr. FORBES' and to come together to find a solution that breaks our addiction to oil, that creates new energy jobs, and that cleans up the air.

We can get there if we stop this cap-and-trade, do some fresh thinking, and then come together for America's sake around a revenue-neutral tax swap. It would start with a tax cut on FICA taxes, then in equal amount, we would shift the tax onto carbon. We could then apply that tax to imported as well as domestically produced goods. Just like the fair tax, we would just be changing what we tax.

We would be swapping a FICA tax cut for a similar tax on carbon. The accountability of a revenue-neutral tax swap would cause old fuels to lose out to new fuels. We would be building nuclear power plants, and free enterprise would deliver the triple play of this American century.

Ladies and gentleman, let's support the Forbes amendment for innovation, stop the cap-and-trade, and solve the problem.

Mr. WAXMAN. Madam Speaker, I would like to inquire of the gentleman from Virginia (Mr. FORBES) who is controlling the time, how many speakers do you have? We have two on our side.

Mr. FORBES. I would say to the gentleman, we have three, maybe four more speakers.

Mr. WAXMAN. We will reserve the balance of our time.

Mr. FORBES. Madam Speaker, can you tell us how much time we have remaining.

The SPEAKER pro tempore. The gentleman from Virginia has 9 minutes remaining. The gentleman from California has 11 minutes remaining.

Mr. FORBES. Madam Speaker, I would like to yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. I thank the gentleman for yielding and commend him for offering this amendment, which is a great opportunity for our colleagues on the other side of the aisle to stop putting the cart before the horse and suppressing our traditional sources of energy, oil, natural gas, coal. Doesn't even do anything for nuclear power, and yet you want to push us into a direction where the technology doesn't yet exist.

This legislation, this amendment, this substitute is exactly what you can need. You can vote for this, put us on a Manhattan Project to develop the new green technology that we need in this country, to do it in a way that is commercially feasible, to do it in a way that can rise up to replacing the 95 percent of our sources of energy that we have in our country this day, that you can push down in this legislation.

And if you were to vote for that and against the underlying bill, we would be putting this country on a course in a bipartisan fashion that would lead our country to exactly what we need. Unlike the Markey-Waxman approach, this amendment does not pick winners or losers in technology. It allows the ingenuity of American citizens to create the technology that will make our country energy independent.

I urge my colleagues to support the gentleman's substitute.

This amendment focuses on making our country energy independent through the innovation of American individuals and businesses, not through government mandates and intrusion. Unlike the Waxman-Markey approach, this amendment does not pick winners and losers in technology but allows the ingenuity of American citizens to create the technology that will make our country energy independent while at the same time reducing carbon emissions.

Most importantly, the Forbes Amendment won't raise the cost of living to American consumers or hinder the ability for American businesses to compete. The technology that a new Manhattan Project could spur has the ability to rebuild our economy and make it stronger than ever before.

The Forbes Amendment is the right approach to make our country energy independent while reducing carbon emissions. I encourage all my colleagues to vote for this amendment.

Mr. FORBES. Madam Speaker, I would like to yield 1 minute to the distinguished gentlelady from Minnesota (Mrs. BACHMANN).

Mrs. BACHMANN. I thank the gentleman from Virginia. I support the gentleman's amendment.

We know, Madam Speaker, that this national energy tax will cost the American people $2 trillion. We know that. We know this will result in a loss of 2.5 million jobs every year for the American people. We know that. We know this will result in a reduced standard of living for Americans. We know that. What is the point and what's the benefit?

But what is worse than this is the fact that now, because of this underlying bill, the Federal Government will virtually have control over every aspect of lives for the American people. It is time to stand up and say, We get to choose. We choose liberty or we choose tyranny. It's one of the two.

The underlying bill represents the tyranny and the intervention of the Federal Government. Mr. FORBES' amendment represents liberty for the American people.

It's our choice. What will we choose today? Will we choose liberty or will we choose tyranny?

I choose Mr. FORBES' amendment.

Mr. FORBES. Madam Speaker, I yield 1 minute to the distinguished gentleman from Texas, the ranking member of the Energy and Commerce Committee, Mr. BARTON.

Mr. BARTON of Texas. Madam Speaker, I rise in strong support of the Forbes amendment. This is not a comprehensive substitute, because the majority party, which controls the Rules Committee, ruled out of order and didn't make it in order on the floor either the Republican leadership comprehensive substitute or the Energy and Commerce Committee comprehensive substitute.

So they did rule in order Mr. FORBES' substitute. And I will guarantee you, this is better than the base bill.

It doesn't wreck the economy. It does include, and you can count on the ingenuity of the American people, through an incentives package, to unleash the productivity and innovativeness of our folks in the United States to find new solutions to our energy and environmental problems.

But it doesn't have this boondoggle cap-and-trade program that will wreck the economy, deindustrialize America, and make us a second-rate economic power. It is not a comprehensive substitute, but it is darn better than the base bill.

Vote for it.

Mr. FORBES. Madam Speaker, can you tell me how much additional time we have?

The SPEAKER pro tempore. The gentleman from Virginia has 6 minutes remaining. The gentleman from California has 11 minutes remaining.

Mr. FORBES. Madam Speaker, I yield myself 5 minutes.

□ 1715

Mr. FORBES. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, we have heard a lot today about how these ideas of a new Manhattan Project were stale ideas of this party. I stated at the beginning that, unfortunately, we get so tied up in this Chamber in our adversarial process that all we're concerned about is how many points we take from each other.

The reality is that a project like this, the new Manhattan Project, or you can call it a ''poppy project,'' were concepts that were talked about by President Obama during the campaign, by Senator Clinton during the campaign, by Senator MCCAIN during the campaign and, as I mentioned earlier, by former Speaker Newt Gingrich, and many other people.

They're concepts that have been approved by 77 percent of the American people. And what they do is substitute for taxation of the American people the concept of innovation and trusting the ideas of the ingenuity and imagination of people across America.

We talked about what this bill can do if we reach just one of these goals. Just one of these goals, it could change and save us as much as $100 billion. But, most of all, Madam Speaker, this trusts the American people to do what they always do, and that is find a way to win, if we don't quit before they have a chance to win. And it sends a message to them at a time when they're back on their heels and they need some wins, that we trust that they, with their imagination and innovation, can do things that this body can't do and can't dictate to them.

Perhaps it was best said by Mr. Friedman in a New York Times article that he wrote—and I don't agree with everything he says, but I agree with this. He said, I want an energy bubble. I want so many people throwing crazy dollars at every idea and every garage that we have a hundred thousand people trying a hundred thousand things, five of which might work and two

might be the next green Google. But I don't want a Manhattan Project of 12 people in Los Alamos. I want it to be like the IT revolution: everyone becoming a programmer. Only, in this case, it's everyone becoming a green innovator. What IT was to the eighties and nineties, ET, energy technology, will be to the early 21st century.

Madam Speaker, this amendment gives us that opportunity. This amendment will birth that ability for Americans to create the energy solutions that we need as we go forward into the next several decades and to give our children and our grandchildren the competitive edge to compete in a world economy.

With that, Madam Speaker, I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I'm pleased at this time to yield 1 minute to the majority leader so that he may speak on this amendment and the legislation that's before us, the gentleman from Maryland (Mr. HOYER.)

Mr. HOYER. I thank the gentleman for yielding. Mark this day, June 26, 2009. My colleagues, we have an opportunity to serve in a historic session of the Congress of the United States. We have an opportunity to take action that will make a major difference in the security and independence and environment of our globe as well as our country.

We have been given the privilege by our fellow citizens to serve at a time of historic change and meeting challenges that were the subject of this past Presidential campaign. And in this past Presidential campaign there were three major candidates. You could perhaps name more, but there were two, certainly, at the end.

And the campaign of Senator MCCAIN and Senator Obama had something in common. They were both for comprehensive cap-and-trade legislation, the candidate you supported and the candidate I supported. They put an agenda of action before the American people that they would pursue if they were elected President of the United States. Only one could be elected, but presumably both would have followed through on their commitment, as this President has, and we are today.

This is a transformative moment. This is a moment to build a clean-energy future for our country. This is a moment to create jobs in America. This is a moment to take on, at long last, a defining challenge of our time—global warming. I know my colleagues can seize this moment, if they only will.

The substitute talks about a Manhattan Project. I think the sentiments expressed in the substitute are good ones. The objectives are good ones. But Americans voted for action, not additional studies. America voted to make a difference, not to make a point. America voted for the change we could believe in. That's what this bill represents.

I know they can look back from a future in which America is independent of foreign oil. There has been much talk about taxes. Tragically, almost every debate we have on this floor devolves into: We're going to raise your taxes.

My fellow Americans know about having their expenses raised and because the foreign potentates who hold us hostage because they provide so much of our energy gave us a new tax at the gas pump—and every American remembers it. Why? Because we have not taken the action necessary to become energy independent.

And so our gasoline prices at the pump for my commuters who drive sometimes an hour or an hour and a half to get to work to support their families paid an additional $2.50 per gallon tax imposed by those from abroad who provide us energy.

This bill is about making sure that foreign interests cannot raise the expenses of our families. This bill is about making sure that we in America provide our energy, efficient energy, clean energy, energy that will not bring our globe to a heating process that will drown out what the Navy calls the littorals, the seashores, where most of our people live.

My colleagues, this bill, the American Clean Energy and Security Act, is a true turning point. This is one of the historic actions we will take not just in this Congress, but as Members of Congress, for however long a tenure we may have.

It's a complex bill because we face a complex problem. But we can sum up its outcome simply: new American jobs, less dependence on foreign energy, a reduction in the carbon pollution that causes global warming.

How does this bill accomplish those goals? Among its most important provisions are a requirement that utilities meet 20 percent of electric demand through renewable sources and energy efficiency by 2020.

I'm old enough to remember the lines of the seventies when you waited in line an hour or two or three to put gasoline in your car so you could get your child to school, get to work, pick up your child from child care. America should have acted, but we did not. Today, we're going to act.

Significant new investments in renewables, carbon capture and sequestration, electric vehicles, and cutting-edge energy research, all of that is in this bill to take action, change that America can believe in. And energy savings standards for buildings, appliances, and industries.

This bill also creates a clean-energy bank to fund promising energy projects across America. Investment in America's ingenuity and innovative entrepreneurial spirit, that's what this bill is about. That is why it's so important to America.

It invests in high-tech transmission lines to build the essential foundation for a more efficient grid. That is essential if the energy we produced can be delivered to those who need it in businesses and in homes.

New transmission lines comprised of superconducting cable and other efficient wires will carry more power within existing rights-of-way with less land use is included. The result will be a more secure, environmentally friendly grid. That's what this bill does.

I worked with the chairman and Representative INSLEE to ensure that those transmission provisions were included because they are such an important part of a more cost-effective, energy efficient future that our country needs.

Of course, the bill also includes the reduction of our carbon emissions by 17 percent by 2020. Some would like to do more. Some would like to do less. But we have reached a compromise. That is the legislative process. And it is compromise that can pass this House and pass that Senate and be signed by the President and become law. And make progress. That's what our responsibility is. And then, more than an 80 per reduction by 2050.

We can fight global warming with the same kind of market-based cap-and-trade solution that was so effective in combating acid rain at minimal cost in the 1990s. Global warming threatens every one of us. There was disagreement on that for a long period of time—some 7 years in the Bush administration, until the last year, President Bush, our President, decided that, yes, global warming was in fact a challenge that must be met.

This is not a partisan issue. This is an issue on which we have reached consensus. Global warming threatens every one of us. It will affect the kind of lives our children will lead and the kind of prosperity our country and our world will enjoy.

To those who complain about the cost of the bill, I answer that we are all paying the cost of carbon emissions already, and certainly, as I pointed out earlier, paying the cost of being hostage to those abroad who provide our energy.

The longer we wait to act, the more we will pay year after year after year. But if we take action now, we can get jobs, growth, clean energy, and energy independence for less than the price of a postage stamp a day for each of us, according to the EPA and CBO.

And with this bill passed and signed, the United States will finally be able to argue persuasively and credibly for global action on a challenge that knows no borders. We understand that if the Chinese do not act, or the Indians don't act, the air that they belch will soon come to this continent and our children and families will be at risk.

This is a global problem. But America is the leader. America must lead. America must set the example. This bill does exactly that.

At the same time, action on global warming will send a powerful job-creating price signal to the private sector, spurring innovation in every part of the renewable energy economy. Jobs, jobs, jobs. That is one of the reasons

why the U.S. Climate Action Partnership, a business coalition dedicated to fighting climate change has argued that ''the way we produce and use energy must fundamentally change both nationally and globally''—and that this coming change represents an excellent opportunity for economic growth.

And that is why another coalition of 19 businesses, including the Pacific Gas and Electric Company, Duke Energy, National Grid, H.P., Starbucks, and Nike wrote to President Obama that this bill ''will drive investment into cost-saving, energy saving technologies and job-creating innovation, create the next wave of jobs in the new energy economy and will provide the predictability we need to plan for future business success.''

Those aren't my words. Those are the words of leaders in the corporate community in America who know something about innovation, enterprise, and free markets.

It has long been understood that acting on global warming is a moral necessity as well as an intellectual necessity. But now, more and more of us are realizing that it makes powerful economic sense as well.

Madam Speaker, let me as an aside thank you for your presiding at this time on this historic bill and for presiding over so much legislation in such a fair and effective fashion.

□ 1730

This House will miss your service, but the country will enjoy your continuing service. I thank you, Madam Speaker.

Madam Speaker, a future of clean energy is well worth the price. A Republican governor, inaugurated in the State of Maryland, in his inaugural address said that the cost of failure far exceeds the price of progress.

The cost of failure for the last three to four decades has cost this country. Progress will be far less expensive than failure. My children, my grandchildren and the generations to come will be either the beneficiaries of our stewardship or the victims of our neglect.

I urge my colleagues this day to reject this substitute, not because it is bad for the words that it incorporates, but because its effect would be to stop action so desperately needed by this country and this globe.

I urge my colleagues, defeat this substitute, pass this bill, and take this historic opportunity for our children, our grandchildren and generations yet unborn.

Mr. FORBES. Madam Speaker, may I request how much time is remaining?

The SPEAKER pro tempore. The gentleman from Virginia has 3½ minutes remaining. The gentleman from California has 10 minutes remaining.

Mr. FORBES. Madam Speaker, I yield myself 1½ minutes.

Madam Speaker, the distinguished minority leader just said that Americans must lead; and lead, they must. He also indicated that the cost of their failure would be passed on to our children and grandchildren.

As one of only 17 Members in this body that has voted against every bailout bill and stimulus bill we have passed, I ask the American people who watch here, what has been the enormous cost of our failure in spending all of those dollars, and what have you got from it? Also, Madam Speaker, I would say this—that the American people can lead. They're not stupid. Only 33 percent of them approve of what we're doing.

We have a choice. Only in this body could they believe that we could say words like, We're going to create jobs by destroying jobs. We're going to reduce your taxes by increasing your taxes. We're going to come in here with all your parochialism, and we can create a plan for you that is far better than the brightest experts on energy could do by having this amendment. We prefer taxation over innovation of the American people. Or we'll have a bill like this that only sets a 20 percent goal in 11 years for renewable energy, where in this bill we set a 50 percent goal of dependence from foreign oil in 10 years and 100 percent in 20 years. And, finally, that in this bill we know we're going to spend $800 billion that probably won't work.

In our bill and this amendment, Madam Speaker, we know that we only pay $24 billion, and we only have to pay it when we get the results.

With that, I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I understand that our side has the right to close.

The SPEAKER pro tempore. The gentleman is correct.

Mr. WAXMAN. I reserve the balance of my time.

Mr. FORBES. Madam Speaker, I yield the balance of my time to the distinguished minority leader, the gentleman from Ohio (Mr. BOEHNER).

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 2 minutes.

Mr. BOEHNER. Let me thank my colleague for yielding.

Madam Speaker, I congratulate you on your upcoming marriage and your new job. All of us on the Republican side of the aisle thank you for your service to this institution and your service in the Chair. Good luck to you.

My colleagues, we've been through a very difficult time in our economy. We've had the great economic shocks of last fall, and we've seen unemployment climbing month after month after month. It is now at some 9.4 percent.

Earlier this year we passed a 1,100-page bill that no one read. It was supposed to be about putting the American people back to work again. It was supposed to be about stimulating our economy. And all we heard during that debate was about jobs, jobs and jobs. It's pretty clear that what the bill really ended up being was nothing more than spending, spending and more spending, because since that bill passed, some 1.7 million Americans have lost their jobs. So when we look at the legislation that continues to go through here, the American people are seeing an awful lot of spending, an awful lot of money going to government, but they're not seeing new jobs.

Now we come to what I believe is the most profound piece of legislation that has come to the floor of this House in the last 100 years. It's hard to say in the first 6 months of the new Congress that this could be the defining vote and the defining bill for this Congress, but I really, truly believe that this is the defining bill.

The problems that this bill attempts to go after are the issues of climate change and cleaning up our air, and, secondly, to build a new alternative energy industry in the United States. Those are really the two issues. Well, I guess a third issue would be jobs. Those are the goals that this bill attempts to go after. But when you look at the structure that's being built, it defies anyone's imagination to believe that the Federal Government could create such an elaborate process to deliver on those three goals.

I've got a chart here that goes through all of the agencies involved, all of the structures that are created under this bill. It's all being done, of course, by the Environmental Protection Agency. They are at the center of this.

But if you look at all of the different agencies involved, you will see that we've got the Federal Energy Regulatory Commission involved. We've got the United States Department of Agriculture that's going to be involved. The Internal Revenue Service will be engaged in this bill as well. The Department of the Treasury. I wish I could tell you what FWS was, but somebody could probably tell me. We have the Commodity Futures Trading Commission that's going to be involved in helping to regulate this. The National Oceanic and Atmospheric Administration, the Weather Service, basically. The Department of Health and Human Services is going to be involved in putting this together. The Department of State will play a big role in making sure that we get cleaner air and green energy. We've got the Department of Energy, of course, the Department of Labor, the U.S. Army Corps of Engineers, the Bureau of Indian Affairs, and the Bureau of Land Management. All these Federal agencies are going to take part in trying to put this bill into action.

But that's not all. Not even close. We've got the Offsets Integrity Advisory Board. We also have a Carbon Markets Oversight Interagency Working Group that is going to try to help control who gets these carbon credits and who doesn't, how they can be traded and how they can't, and where in the world these offsets are going to be.

They don't have to be in the United States. We're going to see billions of

American tax dollars being shipped around the world. Whether it's replanting forests in other parts of the world, they're going to help clean up our air. I'm sure our constituents want our money being shipped overseas to plant trees.

But that's not all. That's not all. It's not even close. We've got the Consumer Refunds Fund that is going to be outlined here. We've got the International Reserve Allowance Program here. How about the domestic offset providers? We've got the offset traders and the national offset providers. We've got the Clean Vehicle Technical Advisory Board. We have a Carbon Capture Board. And it goes on and on and on.

This elaborate government structure that will cost the American people several trillion dollars over the next 10 years, all in an effort to clean up our air, will help build a new alternative energy industry in the United States and help create jobs in our country. I don't believe there are hardly any people in America who believe that this giant government bureaucracy is going to be able to deliver on the three goals that you outline.

And it's not just the cost, and it's not just the bureaucracy. Listen, there's not a Member in this body that doesn't want to improve the air quality in our country and around the world. There isn't a Member in this body who doesn't believe that speeding up the development of alternative sources of energy isn't good for America. No one. There's complete agreement on that.

But do we need to go through all of this? Do we need to have a national energy tax on every person in America who would drive a car, who would flip on a light switch or who would buy an American-made product, because virtually every American-made product has an awful lot of energy in it.

That's not enough. If you look at this bill and you look at the analysis of this bill, you'll see that two-and-a-half million jobs on average will be lost each and every year over the next 10 years as a result of this bill. Some of those people happen to reside in my district, in Middletown, Ohio, where AK Steel is headquartered. They make steel the old-fashioned way. They bring in iron ore, coal and limestone. You get it hot enough, you've got steel. The cost of their steel will increase 30 to 40 percent if this bill were to pass. And at a time when we're trying to help the American automobile industry get back on its feet, the last thing they're going to do is pay 30 or 40 percent more for their steel.

So what are they going to do? They're going to bring it in from China, they'll bring it in from India, who are not burdened under this regulatory scheme, nor are they burdened under our current environmental regulations. So what happens is, high-energy jobs in America are going to get shipped overseas at exactly the wrong time.

The American people sent us here to help this economy, to get them back to work. This is the biggest job-killing bill that has ever been on the floor of the House of Representatives, right here, this bill, and I don't think that's what the American people want.

But if our goals are to clean up the air, to build a alternative energy business in the United States, a thriving one, and to create jobs, there's a better way to do this, and it's the all-of-the-above strategy that we've been talking about in this Chamber for nearly a year. That is to say, we need to have more alternative sources, whether they be solar, wind, geothermal.

We can produce those additional types of energy and help renew them. But, in the meantime, America needs energy to grow our economy, so we need to have more drilling for oil and gas in the United States. There's no question about it. We need to increase the supply of American-made energy so that we bring down the price.

What we do in our bill is, we take all the royalties from the development of additional oil and gas reserves in the United States and we plow it back into renewable sources of energy. As a result, our bill puts more money into renewables and speeding up the development of renewables at a faster pace than the bill on the floor of the House today.

That's not enough. We need to do all of the above. We need to develop clean coal technology. We need to be serious about nuclear energy. There's nothing in this bill before us that's going to allow us to produce nuclear energy in any kind of a quick way, or, frankly, any at all. But we all know it's the cleanest source of energy that we can have in the United States. So why shouldn't we do all of the above?

Because here's what all-of-the-above does for us: It gives us cleaner air. It gives us lower energy prices. It really does move us quickly away from our dependence on all the foreign sources of oil that we have to rely on today. And it will do more in a very simple way than this big complex bureaucracy that is being outlined in this bill.

Why can't we do all of the above? Why do we have to try to establish this giant structure that attempts to put some cap in, but really doesn't, when we can do something simple that will help lower prices for Americans while cleaning up the air and moving us to alternative sources of energy. No, that's not what we're dealing with here today.

And if all of this wasn't enough, I woke up this morning and realized that last night at 3:09 a.m., a 300-page manager's amendment was dropped into the hopper, at 3:09 a.m.

□ 1745

I have spent most of the day trying to look at this 309-page bill and trying to come up with and understand what this 309-page amendment to the 1,200-page bill really does? As I started to go through this, I didn't get past the first page, where on page 16, line 5 strike 1992 and insert 1988, and on line 13 strike 1992 and insert 1988. This appears to deal with the hydropower, and I'm trying to figure out what is the impact of this date change? Nowhere in this manager's amendment can I find out what the impact of that is.

Then we get to page 2, not from components of the National Wilderness Preservation System, Wilderness Study Areas, Inventoried Roadless Areas or old growth stands and late-successional stands. So does this mean that renewable biomass is not defined by what it is but rather where it comes from? And why was this change made at 3:09 a.m. this morning?

We get to page 9, the President shall ensure that, of the total amount of electricity Federal agencies consume in the United States during each calendar year, the following percentage shall be renewable electricity.

We are going to mandate to every Federal agency how much electricity they buy that comes from renewable sources. And in here we have this year, 2012, 6 percent, 2013, 6 percent, 2014 we go to 9½ percent, 2016 we go to 13 percent. 2018 we go to 16½ percent. And 2020 through 2039, 20 percent of the electricity that goes into every Federal agency has to come from renewable sources. Do we have any idea whether this is possible? I can't find the answer here.

On Page 10 it says, contracts for renewable energy, a contract for the acquisition of electricity generated from a renewable energy resource for the Federal Government may be made for a period of not more than 20 years. Twenty-year contracts. What if the price of renewable energy goes down? Are taxpayers going to be stuck with a contract that is written today as opposed to what that contract could be negotiated for 10 years from now? I can't tell, because there is no answer here.

Or we get on page 12, renewable biomass. The term ''renewable'' means any of the following. And it goes through of this language. Of course, there is nothing renewable in a National Wilderness Preservation System or a Wilderness Study Area or Inventoried Roadless Areas or old growth stands or late-successional stands except for dead, severely damaged or badly infested trees. Wasn't this the same language that we had on page 2? And why is it being repeated again? I can't tell as I read through this.

So we get to page 16, so that the vehicle or engine is capable of alternative fuel. First we are going to require now every car sold in America, it has to have an engine that is capable of operating on an alternative fuel. So what if you have a car that doesn't operate on a renewable fuel? Are we going to buy the car back from the American people? Are we going to reimburse them for their cost? I can't tell, because, again, this was dropped at 3:09 a.m., and no one probably has had a chance to read it.

How about on page 24, there are authorized to be appropriated such sums

as may be necessary to carry out this paragraph. It sounds like a blank check to me.

Or on page 26, this section applies only to States located in the Western Interconnection and does not apply to States located in the Eastern Interconnection, to the States of Alaska or Hawaii or ERCOT. So are we going to have different rates for different parts of the country under this amendment that was filed at 3:09 a.m. this morning?

Then we get to Page 30. The Federal Energy Regulatory Commission shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews. So now we have FERC is in charge of coordinating environmental reviews, as I read this. Is that what Greenpeace demanded be part of this bill? Then we get to page 34. Page 34, it says not later than 1 year after August 8, 2005—

PARLIAMENTARY INQUIRIES

Mr. WAXMAN. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will suspend.

Does the gentleman yield for a parliamentary inquiry?

Mr. BOEHNER. I would be happy to yield to the gentleman.

Mr. WAXMAN. The Republican leader was yielded the balance of the time, which I think amounted to around 4 or 5 minutes. He has talked for around 20. I know we have this ''magic'' minute that gives leaders a lot of extra time to speak, but I'm just wondering if there is some limit under the rules on the time that a leader may take, even though the time yielded was not 20 or 30 minutes.

The SPEAKER pro tempore. It is the custom of the House to hear the leaders' remarks.

Mr. WAXMAN. Further parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman yield for a parliamentary inquiry?

Mr. BOEHNER. I will be happy to yield to the gentleman.

Mr. WAXMAN. I know it is the custom of the House to give a little extra latitude. Is there any outside limit to the amount of time a leader might take? And do we have historical records that might be broken tonight? Or is this an attempt to try to get some people to leave on a close vote?

The SPEAKER pro tempore. It is the custom of the House to hear to the leaders' remarks.

Mr. BOEHNER. Reclaiming my time, the gentleman has had his 30 years to put this bill together, and the House is going to spend a whopping 5 hours debating the most profound piece of legislation to come to this floor in 100 years. And the chairman has the audacity to drop a 300-plus-page amendment in the hopper at 3:09 a.m. this morning. And so I would ask my colleagues, don't you think the American people expect us to understand what is in this bill before we vote on it?

So we get to page 34. Not 1 year after August 8, 2005. Now, wait a minute. One year later? One year after August of 2005? Wasn't that 3 years ago? I'm just trying to understand what the gentleman has in his amendment.

Then we get to page 36, high efficiency gas turbine research, development and demonstration. Now, I'm trying to figure out who inserted this broad new section of the bill that is covered nowhere in the underlying bill.

Then we get to page 39, $65 million for each of the fiscal years 2011 through 2014, $65 million for 3 years. And who is going to get this money? I can't tell in this amendment.

And as we go through this, page 41, determine any geographic area within the contiguous United States that lacks a Federal power marketing agency. Because, you know, we can't move power around the country without a Federal power marketing agency. We do it today, but now we have to have a new government agency to do this. We are doing it already.

Or same page, 41, the establishment of any new Federal lending authority, including authorization of additional lending authority for existing Federal agencies, not to exceed $3.5 billion per geographic area identified in subsection (a)(1). This is $3.5 billion in loans for each geographic area, but we don't know how many geographic areas are included or how many billions in total we are really talking about.

How about on page 42, any source of funds, including Federal funds provided through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, shall qualify as the building owner's 50 percent contribution. Now, let me make sure I get this straight. So now you can use federal money for non-Federal matching requirements. How much is all of this going to cost?

Or on page 45—remember now, this is the amendment. This is not the bill. This is the amendment filed at 3:09 a.m. On Page 45, this section shall apply only to construction beginning after the date of enactment of this Act. For those of you who don't know it, all of California housing standards are now going to be imposed on every American community. You don't have the right to have your own building standards in your community or in your State. Hell, no, the Federal Government is going to tell you what they are. And guess what? We all get to have California standards. Who is going to pay the price for those new homes? How are we going to do affordable housing when we are pushing up the cost of houses? And while I'm at it, we have to have an energy rating for every home in America. In this bill, we require every home to have an energy rating. And if you are going to sell your house, guess what? You have to have a review, bring people in, have them check out your windows, your appliances, your hot water heater, your door, make sure that your house is energy efficient. And guess what if it isn't? You have got to bring it up to standards before you can sell it. Now what kind of bizarre notion is that?

Well, we get to page 46 at the bottom, a plan for local governmental actions to be taken to establish and sustain local building code enforcement administration functions, without continuing Federal support, at a level at least equivalent to that proposed in the grant application. Do you all get that? It doesn't explain it. But here is what it is. The Federal Government is going to mandate all of these new standards on every house built in America. It is going to cost your local building department all kinds of money to enforce this and to revise their code. And when the money runs out, we are going to allow them to apply for a grant to the United States Government. I'm sure my constituents will love that.

Page 48, each building code enforcement department receiving a grant under subsection (a) shall empanel a code administration and enforcement team consisting of at least one full-time building code enforcement officer, a city planner, and a health planner or similar officer.

Now I have some big towns in my district. Hamilton, Middletown and Westchester can probably afford this new enforcement. But I can take you to Chickasaw, Mercer County, in my district. They don't have one full-time person that works for the village. Not one. Look at the mandate on every city and village in America right here in this bill.

So that we are not only going to tell you what the codes are going to be. But we are going to tell you how many people you need to hire to enforce this in this section of this code. See, we actually did take time, most of today, trying to understand what was in here.

How about on page 53, solar energy systems building permit requirements for receipt of community development block grants. So what are we doing here to amend the community development block grant program? Are we going to impose global warming requirements on all the cities who get CDBG monies from us? That is what it appears to say to me.

□ 1800

Or on page 54, any metropolitan city or urban county, during such fiscal year the cost of any permit or license, for construction or installation of any solar energy system for any structure, that is required by the metropolitan city or urban county, or by any other political subdivision of such city or county complies with paragraph (2).

So now we are going to tell them what to charge for their building permits as well in every city in America.

Then we get to page 56. The Secretary of Energy shall issue regulations to prohibit any private covenant, contract provision, lease provision, homeowners' association rule or bylaw.

Let me read this again: The Secretary of Energy here in Washington,

DC, shall issue regulations to prohibit any private covenant, contract provision, lease provision, homeowners' association rule or bylaw. Just for those of you who didn't think there might not be a lot of government bureaucracy in this bill.

We get to page 63. The amount necessary to change consumer behavior to purchase water efficient products and services. So now—let me read this again and make sure that I am right. The amount necessary to change consumer behavior to purchase water efficient products and services. So we are going to provide the American people with money in order to change their behavior so they will buy goods and services that they don't want to buy.

I wonder how much that will cost.

Page 64, subsection 2, to create jobs through the retooling and expansion of manufacturing facilities to produce clean energy technologies to create jobs. So how many jobs is this going to create? Will it replace the 2.5 million jobs that will be lost each year as a result of this bill? I can't tell.

Now going to page 68, the Secretary shall award grants to States to establish revolving loan funds to provide loans to small and medium-sized manufacturers. So who is going to compensate manufacturers for putting them out of business with more loans?

Let me get to page 70. In particular, where mass layoffs have resulted in a precipitous increase in unemployment. So we have a provision in here that recognizes that millions of American jobs are going to be lost; but don't worry, don't worry, we are going to extend your unemployment. Most of my constituents who are unemployed don't want more unemployment. They want a job, and this is going to kill them.

I hate to do this to all of you, I do. I hate to do this, but when you file a 300-page amendment at 3:09 in the morning, somebody needs to work on it, and I worked on it today and I want to make sure that everybody understands what is in this 300-page amendment.

Page 76. Certification by Hollings Manufacturing Extension Center. A Hollings Manufacturing Extension Center or other entity designated by the Secretary for purposes of providing certification under clause so and so and so and so.

So now, why are we singling out one company, one company, and where did this company come from?

Further down the page on page 76, Repayment upon relocation outside the United States. In general. If a person receives a loan under paragraph (1) to finance the cost of reequipping, expanding, or establishing a manufacturing facility as described in subsection (c)(1)(A) or to reduce the energy intensity of a manufacturing facility and such person relocates the production activities of such manufacturing facility outside the United States.

So we recognize here that we are going to force companies to take their jobs and ship them overseas. It is right here. It is right here in the bill, and I am glad it is recognized by my colleagues.

Then we go to page 80, to support manufacturers in their identification of and diversification to new markets. Another admission that the bill before us is going to kill millions of small businesses and even tens of millions of jobs, so we have to have an effort in here to support manufacturers in their identification and diversification into new markets.

Then we get to page 83. Consumer Behavior Research. The Secretary of Energy is authorized to establish a research program to identify the factors affecting consumer actions to conserve energy and make improvements in energy efficiency. Through the program the Secretary will make grants to public and private institutions of higher education to study the effects of consumer behavior on total energy use.

Do we really need to spend government money to do a study on why people don't want to pay twice the cost and get half the quality?

Page 87, the development of a global framework for the regulation of greenhouse gas emissions from civil aircraft that recognizes the uniquely international nature of the industry and treats commercial aviation industries in all countries fairly.

Will this include China and India? I can't tell from the amendment that we have in front of us.

On page 92, we want to make sure that the structure have appropriate electrical outlets with the facility and capacity to recharge a standard electric passenger vehicle, including an electric hybrid vehicle, where such vehicle would normally be parked.

Oh, no, we are not just going to take the California standard and impose it on every community in America, oh, no. Now we are going to tell you where the electric outlets are going to be and how big they have to be to charge a hybrid vehicle.

I just don't understand whether this would apply to nursing homes where there are no cars.

Oh, here we are, page 96. Existing structures. For existing structures, a reduction in energy consumption from the previous level of consumption for the structure, as determined in accordance with energy audits performed both before and after any rehabilitation or improvements undertaken to reduce such consumption, that exceeds the reduction necessary for compliance with the energy efficiency standards under subsection (a) then in effect and applicable to existing structures.

So not only are we going to tell every community in America what the building codes are going to be, what the efficiency standards are going to be, but if you make changes to your house, you have to have another study done to show how much increase in energy efficiency was gained. That will help sell a lot of new houses and a lot of old ones.

Page 97, for manufactured housing, energy star rating with respect to fixtures, appliances, and equipment in such housing, as such standard or successor standard is in effect for purposes of this section.

Please, is there anything that we are not regulating in this bill?

How about page 105. Waive or modify any existing statutory or regulatory provision that would otherwise impair the implementation or effectiveness of the demonstration program under this section, including provisions relating to methods for rent adjustments, comparability standards, maximum rent schedules, and utility allowances; notwithstanding the preceding provisions of this paragraph, the Secretary may not waive any statutory requirement relating to fair housing, nondiscrimination, labor standards, or the environment.

Now in implementing this demo program, rising rent can be dismissed out of hand, but labor standards or the environment cannot, as I read it.

Let me go to page 107. No amounts made available under the American Recovery and Reinvestment Act of 2009 can be used to carry out the demonstration program under this section.

So if no stimulus funds can be used, and the majority claims stimulus funds are for job creation, is this demo going to create one new job? I don't think so.

Page 112, additional credit for Fannie Mae and Freddie Mac housing goals for energy-efficient and location-efficient mortgages. Oh, yeah. Oh yeah, everybody listen up here. It is not enough that we have huge problems with Fannie Mae and Freddie Mac, they are at the core of the credit meltdown we have had in our country, but we are going to give them a little more money so they can have goals for energy-efficient and location-efficient mortgages. Now we are going to tell Fannie Mae and Freddie Mac what kind of mortgages we are going to have in the marketplace.

How about page 113. Supports housing that complies with enhanced energy efficiency and conservation standards, or the green building standards, under section 284 of such Act.

This is the Federal Government using Fannie Mae and Freddie Mac to impose new Federal building codes and standards across the country.

Let me go to page 114. The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended, by the Federal Housing Finance Regulatory Reform Act of 2008.

If this is supposed to be about energy, why are we further bogging it down with trying to solve problems for Fannie Mae and Freddie Mac?

Page 115, the term ''energy-efficient mortgage'' means a mortgage loan under which the income of the borrower, for purposes of qualification for such loan, is considered to be increased by not less than $1 for each $1 of savings projected to be realized by the borrower as a result of cost-effective energy-saving designs.

I'm sure that will create a lot of jobs.

And then we get to page 141, the Cranston-Gonzalez National Affordable Housing Act is amended. Why are we amending the Cranston-Gonzalez National Affordable Housing Act? I thought we were doing an energy bill here.

Page 142, use of building materials and methods that are healthier for residents of the housing, including the use of building materials that are free of added known carcinogens that are classified as Group 1 Known Carcinogens by the International Agency for Research on Cancer.

We are going to outline building materials as well, it appears.

Then we have a grant program to increase the sustainability of low-income community development capacity. We are going to provide loans, grants, or predevelopment assistance to eligible community development organizations or qualified youth service and conservation corps to carry out energy efficiency improvements.

I just want to know if ACORN would qualify for these grants.

And on page 146, we have another authorization here. There are authorized to be appropriated to the Secretary to carry out this section $10 million for each of the fiscal years 2010 through 2014.

So all the Members know, we have spent all of the year's income by April 16th. Everything we spend here, we have to borrow from our kids and grandchildren and the Chinese and everybody else who wants to loan us money.

Page 148, 25 points, in the case of any proposed plan, or portion thereof, consisting of new construction. So now we have a new government formula to determine winners and losers when it comes to the building of new houses.

Page 149, at the bottom, for purposes of this paragraph, the Secretary shall identify rating systems and levels for green buildings that the Secretary determines to be the most likely to encourage a comprehensive and environmentally sound approach to ratings and standards for green buildings.

So the government is going to decide what is green, not the American people.

In identifying these green rating systems, the Secretary has to take into consideration the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this paragraph.

She also has to improve indoor and outdoor environmental quality through enhanced indoor and outdoor air quality, thermal comfort, acoustics, outdoor noise pollution, day lighting, pollutant source control, sustainable landscaping, and use of building system controls and low- or no-emission materials, and such other criteria as determined by the Secretary.

So why are we giving the Secretary all of this authority under this Act to determine virtually everything?

□ 1815

The Secretary may, by regulation, adopt and apply, for purposes of this paragraph, future amendments and supplements to, and editions of, the national Green Communities criteria checklist, any standard or standards that the Secretary has determined to be substantially equivalent to such checklist, and the green building ratings systems.

So a lot of power for the new Secretary without any congressional oversight.

Now I really hate to do this, but when you file a 300-page amendment at 3:09 a.m., the American people have a right to know what's in this bill and they have a right to know what we're voting on.

Let me get to the bottom of page 155:

Revision of Appraisal Standards. Each Federal financial institutions regulatory agency shall, not later than 6 months after the date of the enactment of this Act, revise its standards for the performance of real estate appraisers in connection with federally related transactions under the jurisdiction of the agency to comply with the requirement under the amendments made by paragraph (1) of this subsection.

So now we have to retrain every appraiser in America so that they understand this law, so that they know how to properly appraise the value of someone's property. And they need to meet the requirements established pursuant to subsection (f) for qualifications regarding consideration of any renewable energy sources, or energy efficiency.

So every appraiser is not only going to be retrained but now we're going to have to send them all to school.

Let me get to page 157: The Appraisal Subcommittee—another new part of the bureaucracy—shall establish requirements for State certification of State certified real estate appraisers and for State licensing of State licensed appraisers, to ensure that appraisers are qualified to consider, in determining the value of a property, any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property.

Interesting.

And the Secretary—on page 158—shall require the Housing Assistance Council to encourage each organization that receives assistance from the Council with any amounts made available from the Secretary to provide that any structures and buildings developed or assisted under projects, programs, and activities funded with such amounts complies with the energy efficiency standards under section 284(a) of this subtitle.

More power for a lot of unelected bureaucrats.

Then on page 160, the middle of the page, it says:

In General. The Secretary shall use amounts in the Fund to provide loans to States and Indian tribes to provide incentives to owners of single-family and multifamily housing, commercial properties, and public buildings to provide renewable energy sources, and it goes on and gives a whole long list. But there is no appropriation in here for it.

And then on page 164 we authorize another $5 billion and there is no idea where this money comes from.

Page 165. Green Banking Centers. It's not going to do houses and commercial properties and multifamily housing. Now we're going to have Green Banking Centers.

The Federal banking agencies shall prescribe guidelines encouraging the establishment and maintenance of ''green banking'' centers by insured depository institutions to provide any consumer who seeks information on obtaining a mortgage, home improvement loan, home equity loan, or renewable energy lease with additional information.

Are you kidding me? I've heard of blackmail, but now I know what greenmail really is.

On page 170 at the top of the page, section 299F.

Government Accountability Office Reports on Availability of Affordable Mortgages.

Really. After we drive the price of every mortgage up in America, we're going to have them do a report on affordable mortgages. Guess what—they're going to be a hell of a lot more expensive.

You get to page 173.

The Secretary of Housing and Urban Development may make commitments to a guarantee under this section and may guarantee the repayment of the portions of the principal obligations of eligible mortgages that are used to finance eligible sustainable building elements for the housing that is subject to the mortgage.

So now we're not only going to guarantee the mortgage but we're going to guarantee the improvements to the property as well.

Page 180. And I would direct all of your attention if you have a copy of this to section 3 of that page:

The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

The term ''green portion'' means, with respect to an eligible mortgage, the portion of the mortgage principal referred to in subsection (b)(2) that is attributable, as determined in accordance with regulations issued by the Secretary.

So we've got a new government program and we're going to guarantee this with the full faith and credit of the United States.

Then on page 184:

On April 1 (or a later date established by the administrator under subsection (j)) of the calendar year in which a term offset credit expires, the owner or operator holds for purposes of finally demonstrating compliance, an allowance or a domestic offset credit.

I read it because I cannot tell you what that means.

On page 190 at the bottom of the page it talks about algae.

And on page 189 we've got Renewable Biomass. This is the third definition of Renewable Biomass that we have just in the manager's amendment, much less in the bill.

This caught my attention, at the bottom of page 191, section 3, for vintage year 2012.

Are we talking about wine?

Then we get to page 208. Carbon Derivative Markets. Now we've already heard enough about credit default swaps, but I think most of you know that under this section, the Commodity Exchange Act is amended by striking ''or an agricultural commodity'' and inserting ''an agricultural commodity, or any emission allowance, compensatory allowance, offset credit, or Federal renewable electricity credit established or issued under this Act.''

So now we're going to let those governed under the CFTC trade these credits with others around the world.

And on page 209 it talks about the effect of derivatives regulatory reform legislation. Upon passage of this legislation that includes derivatives, regulatory reform, sections 351, 352, 354, 355, 356 or 357 shall be repealed.

Any idea of the derivatives regulations that we're repealing in this bill? You probably didn't know we were doing that.

Then on page 210:

To prevent an increase in greenhouse gas emissions in countries other than the United States—I presume that means countries like India and China—to induce foreign countries, and, in particular, fast-growing developing countries, to take substantial action with respect to their greenhouse gas emissions.

India and China have made it perfectly clear to every one of us that they have no interest and will not go down this path.

It further goes on to ensure that the measures described in subpart 2 are designed and implemented in a manner consistent with applicable international agreements to which the United States is a party.

The very structure of the border provisions, however, makes this impossible to achieve. The Wall Street Journal said the other day and suggested that this bill really could start a trade war and that if we begin to try to impose our bureaucracy on other countries, we could just have that.

Let me get to page 225. Distribution of Emission Allowance Rebates. Further down the page, it says, Shall be pursuant to the entity's indirect carbon factor as calculated under subsection (b)(3).

Can anybody tell me how to calculate an indirect carbon factor or what an indirect carbon factor is?

Then we get to page 226. That more than 85 percent of United States imports for that sector are produced or manufactured in countries that have met one of the criteria in that section, then the 10-year reduction schedule set forth in this subsection shall begin in the next vintage year.

So now we're going to try to control imports from countries based on what they're doing with regard to their energy policy.

Use of Other Data to Determine Factor, page 231. Where it is not possible to determine the precise electricity emissions intensity factor for an entity using the methodology in clause (i). In what instances would it not be possible to determine what that is?

Then we get to page 233:

In each eligible industrial sector every 4 years, using an average of the four most recent years of the best available data. For purposes of the lists required to be published no later than February 1, 2013, the Administrator shall use the best available data for the maximum number of years, up to 4 years, for which data are available.

Why every 4 years? What's this data used for? Then it goes on: The Administrator shall limit the average direct greenhouse gas emissions per unit output, calculated under paragraph (4), for any eligible industrial sector to an amount that is not greater than it was in any previous calculation under this subsection.

So what is the cost of this provision?

Or on page 234: The Administrator shall use data from the greenhouse gas registry established under section 713. How much is this going to cost?

Promoting International Reductions in Industrial Emissions, page 236. Congress finds that for the purposes of this subpart, as set forth in section 761(c), can be most effectively addressed and achieved through agreements negotiated between the United States and foreign countries.

It is the policy of the United States to work proactively under the United Nations Framework Convention on Climate Change, and in other appropriate fora, to establish binding agreements, including sectoral agreements, committing all major greenhouse gas-emitting nations to contribute equitably to the reduction of global greenhouse emissions.

The bottom line of all of this is all pain for United States citizens and no gain.

Then we get to page 237: The President shall provide a notification on climate change described in paragraph (2) to each foreign country the products of which are not exempted under section 768.

This is less than a fig leaf here. They're trying to pretend that this notification will satisfy the consultation required by the WTO rules. It won't end there and it's going to result in retaliation against United States exports.

Then we get further down on that page: Requesting the foreign country to take appropriate measures to limit the greenhouse gas emissions in those countries.

So if they're really nice they won't have to but if we can, we can force them to adopt our bizarre regulatory scheme.

Then we get to page 238. United States Negotiating Objectives with Respect to Multilateral Environmental Negotiations.

□ 1830

So here we are telling the administration what their objectives are going to be as they negotiate environmental issues with other countries around the world.

Presidential Reports, page 239: Not later than January 1, 2017, and every 2 years thereafter, the President shall submit a report to Congress on the effectiveness of the distribution of emission allowance rebates under subpart 1 in mitigating carbon leakage in eligible industrial sectors.

Let me go to page 260: Modification of Earned Income Credit Amount For Individuals With No Qualifying Children.

Why does this bill neglect middle class families in America? Why is it that we're only going to help some people who will qualify for the earned income credit for individuals with no qualifying children?

Further down here it says: the Secretary determines experienced a reduction in purchasing power as a result of the provisions of this act.

That's a flat-out admission that every American is going to pay more for all of their energy. And it goes on and on and on.

Ladies and gentlemen, does this give you some idea of why the American people think their Congress is out of touch? The idea that the Federal Government can create this giant bureaucracy to try to control how much CO_2 gets into atmosphere.

We know that if we were to do our all-of-the-above energy strategy, we'd see renewable sources of energy on the scene, available, producing jobs more quickly than under the underlying bill. We know that under our bill, you could actually have nuclear energy plants being built, cleaning up the air at a much faster rate than the underlying bill.

But there's really a big underlying difference between our approach and the approach of my colleagues on the other side of the aisle, and that is trusting the American people. If we give the American people the right incentives, they'll make the right decisions. But that's not what we have on the floor today. What we have on the floor today is typical big government. And the fight that we have between the two sides of the aisle really boils down to one word: It boils down to freedom. The freedom to allow the American people to live their lives without all of these extra taxes and all of this bureaucracy.

And I would just say to my colleagues, I did my best to try to get through the 300-page amendment that

was filed at 3:09 in the morning. Obviously somebody knew this was coming, but it wasn't filed until 3:09 this morning.

This is not the way we should be doing legislation. The American people expect more of us. And you know what? They deserve a lot more from us.

So I would say to my colleagues let's not go down this path of increasing taxes on every single American. Let's not go down the path of moving millions of jobs to China, India, and other countries around the world. Let's trust the American people. Let's give them our all-of-the-above energy act and allow America to flourish, to allow jobs to flourish, and, most importantly, to allow freedom to flourish.

Mr. WAXMAN. Madam Speaker, the minority leader was yielded 2½ minutes. Could you tell us how much time he consumed?

The SPEAKER pro tempore. The gentleman used a customary amount of time.

Mr. WAXMAN. Well, Madam Speaker, the 2½ minutes was extended to over an hour, and this is from the same party that had a 15-minute roll call extended into 3 hours while they tried to twist the arms of their own people.

Madam Speaker, to close the debate, I wish to yield the balance of my time, and I presume it will not be an hour or two, to our distinguished Speaker because of whose leadership we have the attempt to do something that the Republicans neglected, and that's to help our country deal with our energy problems, Speaker NANCY PELOSI.

Ms. PELOSI. I thank the gentleman for yielding.

Madam Speaker, I want to join those who have sung your praises as a distinguished presider over hundreds of hours of debate in the House of Representatives. Your service here, your leadership here will long be remembered and be an inspiration to us. Katherine will be very missed, but now she's off to college. Thank you, ELLEN TAUSCHER, for being such a great chairwoman and presider over the House of Representatives.

Madam Speaker, I also wish to acknowledge the leadership of our chairmen, who so ably brought this important legislation, this historic and transformational legislation, to the floor: Chairman WAXMAN of the Energy and Commerce Committee, Chairman MARKEY of the Energy Security and Climate Change Committee, Chairman RANGEL of the Ways and Means Committee, and Chairman PETERSON of the Agriculture Committee. We thank them for their leadership and for giving us this opportunity today.

Madam Speaker, no matter how long this Congress wants to talk about it, we cannot hold back the future. And so in order to move on with the future, I want to yield back my time, submit my statement for the RECORD, and urge my colleagues to vote for this important legislation.

And when you do, just remember these four words for what this legislation means: jobs, jobs, jobs, and jobs.

Let's vote for jobs.

Madam Speaker, today the House has an opportunity to pass historic and transformative legislation: the American Clean Energy and Security Act.

I would like to acknowledge the authors of the legislation: Chairman WAXMAN of the Committee on Energy and Commerce and Chairman MARKEY of the Select Committee on Energy Security and Climate Change.

I would also like to acknowledge: Chairman COLLIN PETERSON of the Agriculture Committee for bringing the priorities of America's farmers to this bill and Chairman RANGEL who helped ensure that this bill is fiscally responsible and fully paid for.

And I would like to acknowledge the many staff who worked so hard on this legislation.

In his inaugural speech, President Obama called upon us to, "harness the sun and the winds and the soil to fuel our cars and run our factories."

One week and one day later, we did just that. We passed the American Recovery and Reinvestment Act—the single largest investment in history in clean energy—with over $69 billion for new investments in clean energy.

Shortly thereafter, we passed the Omnibus spending bill, with significant investments in advanced energy research and the labs and equipment necessary to perform the next generation of advanced energy research.

We passed the Budget, which included a 10% increase in investment in clean energy and energy efficiency.

This was building upon the work of the last Congress: The Farm Bill was the first in history to include a real investment in energy independence, with over $1 billion to leverage renewable energy industry investments in new technologies and new feedstocks.

And the historic and bipartisan energy bill signed by President Bush increased fuel efficiency standards for vehicles for the first time in 30 years and redirected this country's energy policy toward clean, renewable energy.

Creating a new energy policy and addressing the global climate crisis is: Energy independence is: a national security issue by reducing our dependence on foreign oil; an environmental and health issue; it is a moral issue; and it is an economic issue for America's families.

There are four words that can describe this bill: jobs, jobs, jobs, and jobs.

Madam Speaker, we debate this legislation as millions of Americans are struggling in this economy. This is our moment to transform our economy and create jobs.

This is the moment when we can unleash private sector investment in clean energy to create millions of new jobs and make America the global innovation leader. It will promote clean energy technology—made in America. It will put America in the lead in the global competition.

As we rebuild America in a green way, we will create jobs that cannot be shipped overseas. We are creating a framework in which innovation can occur and that gives business certainty that we are moving to a clean energy economy. That will unleash innovation, investment, and venture capital to drive new technologies into the market.

America's farmers will fuel America's energy independence. They will do so with carbon-offsetting crops and forests, and biofuel and wind farms to repower America.

This historic legislation is the product of months of consensus building to achieve an effective and affordable transition to a clean energy future.

I am so pleased that the diverse coalition supporting this bill includes everyone from: The Union of Concerned Scientists to the Evangelical Climate Initiative and the U.S. Conference of Catholic Bishops; from the business community to labor organizations, from ALCOA to the U.S. Steelworkers of America; from the U.S. Conference of Mayors to members of the U.S. Climate Action Partnership, a coalition of business and nonprofit groups.

Today, we have an opportunity to lead America toward an effective and affordable transition to a clean energy future. It is a moment we cannot afford to miss. We have a responsibility to create jobs and make America more secure, protect the health of our citizens, and honor our moral responsibility to our children and our future generations.

Vote to create jobs. Let's put this Congress on the right side of the future. Vote yes on the American Clean Energy and Security Act.

I urge my colleagues on both sides of the aisle to protect God's beautiful creation by supporting this legislation.

ORGANIZATIONS EXPRESSING SUPPORT FOR HOUSE PASSAGE OF THE AMERICAN CLEAN ENERGY AND SECURITY ACT

ELECTRIC UTILITIES AND ENERGY COMPANIES

Duke Energy
Exelon
PG&E Corporation
FPL Group
Austin Energy
National Grid
PNM Resources
Avista
NRG Energy Inc.
PSE+G
Edison Electric Institute
ConEdison
Constellation Energy
Entergy
Austin Energy
Renewable Fuels Assn.

MANUFACTURING, INDUSTRY AND CORPORATE

GE
Dow Chemical
Dow Corning
National Semiconductor
HP
Business Council on Sustainable Energy
Solar Power Industries
Alcoa
John Deere
Alstom Power
Johnson & Johnson
Siemens
Rio Tinto
BP Solar
Symantec
Applied Materials
eBay
Levi Strauss
Nike
Starbucks
Aspen/Snowmass
Seventh Generation
Clif Bar
Kleiner Perkins Caufield & Buyers
Calpine Corp.
Genpower
BluewaterWind

LABOR

Steelworkers
Boilermakers
Communications Workers
Laborers International
Services Employees

Utilities Workers Union
Building and Construction Trades

FARM AND AGRICULTURE

National Farmers Union
American Farmland Trust
Growth Energy

COMMUNITY, FAITH AND ENVIRONMENT

U.S. Conference of Mayors
Environmental Defense Fund
League of Women Voters
National Parks Conservation Assn.
National Wildlife Federation
National Resource Defense Council
The Wilderness Society
American Institute of Architects
World Resources Institute
Pew Center on Global Climate Change
The Nature Conservancy
Sierra Club
HipHop Caucus
Center for American Progress
Latino Coalition
Union of Concerned Scientists
National Congress of American Indians
World Wildlife Fund
American Public Health Association
Defenders of Wildlife
League of Conservation Voters
Pew Environment Group
National Audubon Society
Renewable Fuels Assn.
American Chemical Society
American Rivers
Clean Water Action
Earthjustice
Environment America
International Forum on Globalization
Oxfam Oceana
Physicians for Social Responsibility
Jewish Council for Public Affairs
Izaak Walton League of America
Baptist Pastors and Theologians
Woods Hole Research Center/20 eminent scientists and leaders
United Nations Foundation
The Episcopal Church
United States Conf. of Catholic Bishops
Catholic Relief Services
Evangelical Climate Initiative
National Council of Churches
National Assn. of Clean Air Agencies
CARE
Trout Unlimited
United Methodist Church-General Board of Church & Society
Evangelical Lutheran Church in America
Climate Communities/ICLEI-Local Governments for Sustainability USA

Mr. WOLF. Madam Speaker, our country has always been the world's innovation leader, and I believe innovation and not taxation must be the answer to the energy challenges we face.

That's why I support the Forbes amendment which would substitute this bill with a new Manhattan project for energy independence, bringing together the best and brightest minds of a new generation of scientists, engineers and researchers in a unified national challenge just as we did with the original Manhattan project in World War II.

Like the first project, which was launched to ensure the security of our country, today our national security depends on our ability to produce reliable, cost-effective and environmentally friendly sources of energy to fuel our economy.

This project would award significant cash prizes to the first person or entity to achieve set energy goals, such as doubling car fuel efficiency to 70 mpg while keeping vehicles affordable, cutting home and business energy usage in half, making solar power work at the same cost as coal, making the production of biofuels cost-competitive with gasoline, safely and cheaply storing carbon emissions from coal-powered plants, safely storing or neutralizing nuclear waste, and producing usable electricity from a nuclear fusion reaction.

Just like the challenge of the space program to put a man on the moon in a decade, I believe by working together, a new Manhattan project could transform our nation's energy security. But the ''cap-and-trade'' plan the House considered is the wrong solution at the wrong time. We can do better and I think this alternative is a better solution.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia (Mr. FORBES).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FORBES. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 256, not voting 5, as follows:

[Roll No. 476]

AYES—172

Aderholt
Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carney
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Fleming
Forbes
Fortenberry
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Holden
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Waters
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOES—256

Abercrombie
Ackerman
Adler (NJ)
Andrews
Arcuri
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Broun (GA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Foxx
Frank (MA)
Fudge
Garrett (NJ)
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Heinrich
Heller
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (GA)
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Wilson (OH)
Woolsey
Yarmuth

NOT VOTING—5

Flake
Hastings (FL)
Moran (VA)
Sullivan
Wu

□ 1859

Messrs. ADLER of New Jersey, PATRICK J. MURPHY of Pennsylvania, BERMAN, McMAHON, and Mrs.

MALONEY changed their vote from ''aye'' to ''no.''

Messrs. McHENRY and HOLDEN changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PASTOR of Arizona). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage will be followed by a 5-minute vote on approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 212, not voting 3, as follows:

[Roll No. 477]

AYES—219

Abercrombie
Ackerman
Adler (NJ)
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Bono Mack
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castle
Castor (FL)
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Driehaus
Edwards (MD)
Ellison
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Heinrich
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirk
Klein (FL)
Kosmas
Kratovil
Lance
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McMahon
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Price (NC)
Quigley
Rangel
Reichert
Reyes
Richardson
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Space
Speier
Spratt
Stupak
Sutton
Tauscher
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Woolsey
Wu
Yarmuth

NOES—212

Aderholt
Akin
Alexander
Altmire
Arcuri
Austria
Bachmann
Bachus
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Boozman
Boren
Boustany
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carney
Carter
Cassidy
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Costa
Costello
Crenshaw
Culberson
Dahlkemper
Davis (AL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly (IN)
Dreier
Duncan
Edwards (TX)
Ehlers
Ellsworth
Emerson
Fallin
Fleming
Forbes
Fortenberry
Foster
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hoekstra
Holden
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirkpatrick (AZ)
Kissell
Kline (MN)
Kucinich
Lamborn
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Massa
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Mollohan
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Nye
Olson
Ortiz
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Pomeroy
Posey
Price (GA)
Putnam
Radanovich
Rahall
Rehberg
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Royce
Ryan (WI)
Salazar
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stark
Stearns
Tanner
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Visclosky
Walden
Wamp
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—3

Flake
Hastings (FL)
Sullivan

□ 1917

Mr. GOHMERT changed his vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. WEINER). Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

THANKING STAFF INVOLVED IN PASSAGE OF ENERGY BILL

(Mr. WAXMAN asked and was given permission to address the House for 1 minute.)

Mr. WAXMAN. I would like to take a moment to thank the staff of the Office of Legislative Counsel and the Congressional Budget Office for their hard work on this bill. The efforts and dedication of Tim Brown, Warren Burke, Alison Bell, Pope Barrow and their colleagues in the Office of Legislative Counsel were indispensable in writing this wide-ranging and historic legislation. Similarly, Suzanne Mehlman, Dan Hoople and their colleagues at the Congressional Budget Office were essential in analyzing the complex financial and scoring issues associated with this bill. Both the staff of the Legislative Counsel and the CBO deserve to be thanked and congratulated for their outstanding work over the many late nights and weekends. We are very grateful for their service to the Nation.

I would like to add my appreciation to the fantastic job that our committee, subcommittee and select committee staffs have done in getting this legislation before the Congress of the United States.

Mr. Speaker, I would like to yield to my colleague on this legislation, Congressman ED MARKEY.

Mr. MARKEY of Massachusetts. I thank you, Mr. Chairman. And I thank everyone who worked on this legislation, all of the Members on both sides of the aisle. But as Chairman WAXMAN just said, this took an enormous amount of work by a lot of staffers over a sustained, intense period of time. And I want to thank all of you for everything that you have done to make today possible.

I think you really do deserve a round of applause for the tremendous work that you have done. It is your victory as much as any Member, and we thank you for it.

Mr. WAXMAN. Reclaiming my time, I would like to read from page 333 of the manager's amendment and to indicate my gratitude to our staff director Phil Barnett; to the environmental staff on the committee, Greg Dotson, Lorie Schmidt, Alexandra Teitz, John