

# DISCUSSION DRAFT

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S.** \_\_\_\_\_

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

\_\_\_\_\_  
IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

## A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “\_\_\_\_\_ Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. International participation.

## 2

## TITLE I—GREENHOUSE GAS REDUCTION PROGRAMS

## Subtitle A—Clean Transportation

## PART I—CLEAN TRANSPORTATION

Sec. 101. Distribution of allowances for investment in clean vehicles.

## PART II—TRANSPORTATION EFFICIENCY

Sec. 111. Emissions standards.

## “PART B—MOBILE SOURCES

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

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

## “PART D—PLANNING REQUIREMENTS

“Sec. 841. Greenhouse gas emissions reductions through transportation efficiency.

Sec. 113. SmartWay Transportation Efficiency Program.

“Sec. 822. SmartWay Transportation Efficiency Program.

## Subtitle B—Carbon Capture and Sequestration

Sec. 121. National strategy.

Sec. 122. Regulations for geologic sequestration sites.

“Sec. 813. Geologic sequestration sites.

Sec. 123. Studies and reports.

Sec. 124. Distribution of allowances for commercial deployment of carbon capture and sequestration.

“Sec. 786. Commercial deployment of carbon capture and sequestration technologies.

Sec. 125. Performance standards for coal-fueled power plants.

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

Sec. 126. Carbon capture and sequestration demonstration and early deployment program.

## Subtitle C—State and Local Government Participation

Sec. 131. Distribution of allowances to States.

## Subtitle D—Nuclear and Advanced Technologies

Sec. 141. Nuclear grants and programs.

Sec. 142. Nuclear waste research and development.

## Subtitle E—Water Efficiency

Sec. 151. WaterSense.

Sec. 152. Federal procurement of water efficient products.

Sec. 153. State residential water efficiency and conservation incentives program.

## Subtitle F—Miscellaneous

Sec. 161. Office of Consumer Advocacy.

Sec. 162. Clean technology business competition grant program.

## 3

- Sec. 163. Agriculture.
- Sec. 164. Clean Energy and Accelerated Emission Reduction Program.
- Sec. 165. Product carbon disclosure program.

Subtitle G—Energy Efficiency and Renewable Energy

- Sec. 171. Thermal energy efficiency grants program.
- Sec. 172. Renewable energy.
- Sec. 173. Advanced biofuels.
- Sec. 174. Energy efficiency in building codes.
- Sec. 175. Building retrofit program.

Subtitle H—State Adaptation Programs

- Sec. 181. Flood prevention.
- Sec. 182. Wildfire.

TITLE II—RESEARCH

Subtitle A—Energy Research

- Sec. 201. Energy Innovation Hubs.
- Sec. 202. Advanced energy research.

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

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

TITLE III—TRANSITION AND ADAPTATION

Subtitle A—Ensuring Real Reductions in Industrial Emissions

- Sec. 301. Ensuring real reductions in industrial emissions.

“PART F—ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS

- “Sec. 761. Purposes.
- “Sec. 762. Definitions.

“SUBPART 1—EMISSION ALLOWANCE REBATE PROGRAM

- “Sec. 763. Eligible industrial sectors.
- “Sec. 764. Distribution of emission allowance rebates.

“SUBPART 2—PROMOTING INTERNATIONAL REDUCTIONS IN INDUSTRIAL  
EMISSIONS

- “Sec. 765. International negotiations.
- “Sec. 766. United States negotiating objectives with respect to multilateral environmental negotiations.
- “Sec. 767. Presidential reports and determinations.
- “Sec. 768. International reserve allowance program.
- “Sec. 769. Iron and steel sector.

Subtitle B—Green Jobs and Worker Transition

PART 1—GREEN JOBS

- Sec. 321. Clean energy curriculum development grants.

## 4

- Sec. 322. Increased funding for energy worker training program.
- Sec. 323. Development of Information and Resources clearinghouse for vocational education and job training in renewable energy sectors.
- Sec. 324. Monitoring program effectiveness.
- Sec. 324A. Green construction careers demonstration project.

## PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

- Sec. 325. Petitions, eligibility requirements, and determinations.
- Sec. 326. Program benefits.
- Sec. 327. General provisions.

## Subtitle C—Consumer Assistance

- Sec. 331. Energy refund program.
- “Sec. 790. Energy refund program.

## Subtitle D—International Climate Change Program

- Sec. 341. To be supplied.

## Subtitle E—Adapting to Climate Change

## PART 1—DOMESTIC ADAPTATION

## SUBPART A—NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM

- Sec. 351. National Climate Change Adaptation Program.
- Sec. 352. Climate services.

## SUBPART B—PUBLIC HEALTH AND CLIMATE CHANGE

- Sec. 361. Sense of Congress on public health and climate change.
- Sec. 362. Relationship to other laws.
- Sec. 363. National strategic action plan.
- Sec. 364. Advisory board.
- Sec. 365. Reports.
- Sec. 366. Definitions.
- Sec. 367. Climate Change Health Protection and Promotion Fund.

SUBPART C—CLIMATE CHANGE SAFEGUARDS FOR NATURAL RESOURCES  
CONSERVATION

- Sec. 371. Purposes.
- Sec. 372. Natural resources climate change adaptation policy.
- Sec. 373. Definitions.
- Sec. 374. Council on Environmental Quality.
- Sec. 375. Natural Resources Climate Change Adaptation Panel.
- Sec. 376. Natural Resources Climate Change Adaptation Strategy.
- Sec. 377. Natural resources adaptation science and information.
- Sec. 378. Federal natural resource agency adaptation plans.
- Sec. 379. State natural resources adaptation plans.
- Sec. 380. Natural Resources Climate Change Adaptation Fund.
- Sec. 381. National Wildlife Habitat and Corridors Information Program.
- Sec. 382. Additional provisions regarding Indian tribes.

## TITLE IV—REDUCING GLOBAL WARMING POLLUTION

## Subtitle A—Reducing Global Warming Pollution

## 5

- Sec. 401. Reducing global warming pollution.
- Sec. 402. Definitions.
- Sec. 403. Offset reporting requirements.

Subtitle B—Disposition of Allowances

- Sec. 411. Disposition of allowances for global warming pollution reduction program.

Subtitle C—Additional Greenhouse Gas Standards

- Sec. 421. Greenhouse gas standards.
- Sec. 422. HFC regulation.
- Sec. 423. Black carbon.
- Sec. 424. States.
- Sec. 425. State programs.
- Sec. 426. Enforcement.
- Sec. 427. Conforming amendments.
- Sec. 428. Davis-Bacon compliance.

Subtitle D—Carbon Market Assurance

- Sec. 431. Oversight and assurance of carbon markets.

Subtitle E—Distribution of Allowances to States

- Sec. 441. State and local government participation.

Subtitle F—Program Allocations

- Sec. 451. Distribution of allowances for investment in clean vehicles.
- Sec. 452. Distribution of allowances to States.
- Sec. 453. Distribution of allowances for commercial deployment of carbon capture and sequestration.
  - “Sec. 786. Commercial deployment of carbon capture and sequestration technologies.
- Sec. 454. Energy efficiency in building codes.
- Sec. 455. Building retrofit program.
- Sec. 456. Flood prevention.
- Sec. 457. Wildfire.
- Sec. 458. Energy Innovation Hubs.
- Sec. 459. Advanced energy research.
- Sec. 460. Green jobs and worker transition.
- Sec. 461. National Climate Change Adaptation Program.
- Sec. 462. Climate Change Health Protection and Promotion Fund.
- Sec. 463. Climate change safeguards for natural resources conservation.
- Sec. 464. Natural Resources Climate Change Adaptation Fund.
- Sec. 465. Investment in energy efficiency and renewable energy.

**1 SEC. 2. FINDINGS.**

**2        【To be supplied.】**

1 **SEC. 3. ECONOMYWIDE REDUCTION GOALS.**

2 The goals of the [\_\_\_\_\_ Act] (and the  
3 amendments made by that Act) are to reduce steadily the  
4 quantity of United States greenhouse gas emissions such  
5 that—

6 (1) in 2012, the quantity of United States  
7 greenhouse gas emissions does not exceed 97 percent  
8 of the quantity of United States greenhouse gas  
9 emissions in 2005;

10 (2) in 2020, the quantity of United States  
11 greenhouse gas emissions does not exceed 80 percent  
12 of the quantity of United States greenhouse gas  
13 emissions in 2005;

14 (3) in 2030, the quantity of United States  
15 greenhouse gas emissions does not exceed 58 percent  
16 of the quantity of United States greenhouse gas  
17 emissions in 2005; and

18 (4) in 2050, the quantity of United States  
19 greenhouse gas emissions does not exceed 17 percent  
20 of the quantity of United States greenhouse gas  
21 emissions in 2005.

22 **SEC. 4. DEFINITIONS.**

23 For purposes of this Act:

24 (1) ADMINISTRATOR.—The term “Adminis-  
25 trator” means the Administrator of the Environ-  
26 mental Protection Agency.

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

4   **SEC. 5. INTERNATIONAL PARTICIPATION.**

5           The Administrator, in consultation with the Depart-  
6           ment of State and the United States Trade Representa-  
7           tive, shall annually prepare and certify a report to the  
8           Congress regarding whether China and India have adopted  
9           greenhouse gas emissions standards at least as strict as  
10          those standards required under this Act. If the Adminis-  
11          trator determines that China and India have not adopted  
12          greenhouse gas emissions standards at least as stringent  
13          as those set forth in this Act, the Administrator shall no-  
14          tify each Member of Congress of his determination, and  
15          shall release his determination to the media.

16           **TITLE I—GREENHOUSE GAS**  
17           **REDUCTION PROGRAMS**

18           **Subtitle A—Clean Transportation**

19           **PART I—CLEAN TRANSPORTATION**

20           **SEC. 101. DISTRIBUTION OF ALLOWANCES FOR INVEST-**  
21           **MENT IN CLEAN VEHICLES.**

22           **[PLACEHOLDER FOR AUTHORIZING LAN-**  
23           **GUAGE]**

1           **PART II—TRANSPORTATION EFFICIENCY**

2   **SEC. 111. EMISSIONS STANDARDS.**

3           Title VIII of the Clean Air Act, as added by section  
4 421 of this Act, is amended by inserting after part A the  
5 following new part:

6                           **“PART B—MOBILE SOURCES**

7   **“SEC. 821. GREENHOUSE GAS EMISSION STANDARDS FOR**  
8                           **MOBILE SOURCES.**

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

19           “(2) Regulations issued under section 202(a)(1) ap-  
20 plicable to emissions of greenhouse gases from new heavy-  
21 duty motor vehicles or new heavy-duty motor vehicle en-  
22 gines, excluding such motor vehicles covered by the Tier  
23 II standards (as established by the Administrator as of  
24 the date of enactment of this section), shall contain stand-  
25 ards that reflect the greatest degree of emissions reduction  
26 achievable through the application of technology which the



1 Administrator determines will be available for the model  
2 year to which such standards apply, giving appropriate  
3 consideration to cost, energy, and safety factors associated  
4 with the application of such technology. Any such regula-  
5 tions shall take effect after such period as the Adminis-  
6 trator finds necessary to permit the development and ap-  
7 plication of the requisite technology, and, at a minimum,  
8 shall apply for a period no less than 3 model years begin-  
9 ning no earlier than the model year commencing 4 years  
10 after such regulations are promulgated.

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

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

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

23           “(2) Standards under section 213(a)(4) and (5) ap-  
24 plicable to emissions of greenhouse gases from those class-  
25 es or categories of new nonroad engines or vehicles identi-

1 fied in the first sentence of paragraph (1) of this sub-  
2 section, shall achieve the greatest degree of emissions re-  
3 duction achievable based on the application of technology  
4 which the Administrator determines will be available at  
5 the time such standards take effect, taking into consider-  
6 ation cost, energy, and safety factors associated with the  
7 application of such technology. Any such regulations shall  
8 take effect after such period as the Administrator finds  
9 necessary to permit the development and application of the  
10 requisite technology.

11 “(3) For purposes of this section and standards  
12 under section 213(a)(4) or (5) applicable to emissions of  
13 greenhouse gases, the term ‘nonroad engines and vehicles’  
14 shall include non-internal combustion engines and the ve-  
15 hicles these engines power (such as electric engines and  
16 electric vehicles), for those non-internal combustion en-  
17 gines and vehicles which would be in the same category  
18 and have the same uses as nonroad engines and vehicles  
19 that are powered by internal combustion engines.

20 “(c) AIRCRAFT AND AIRCRAFT ENGINES.—

21 “(1) Pursuant to section 231(a), the Adminis-  
22 trator shall promulgate standards applicable to emis-  
23 sions of greenhouse gases from new aircraft and new  
24 engines used in aircraft by December 31, 2012. Not-  
25 withstanding any requirement in section 231(a), the

1 Administrator, in consultation with the Adminis-  
2 trator of the Federal Aviation Administration, shall  
3 also promulgate standards applicable to emissions of  
4 greenhouse gases from other classes and categories  
5 of aircraft and aircraft engines for such classes and  
6 categories as the Administrator determines appro-  
7 priate and in the timeframe the Administrator deter-  
8 mines appropriate. The Administrator may revise  
9 these standards from time to time.

10 “(2) Standards under section 231(a) applicable  
11 to emissions of greenhouse gases from new aircraft  
12 and new engines used in aircraft, and any later revi-  
13 sions or additional standards, shall achieve the  
14 greatest degree of emissions reduction achievable  
15 based on the application of technology which the Ad-  
16 ministrator determines will be available at the time  
17 such standards take effect, taking into consideration  
18 cost, energy, and safety factors associated with the  
19 application of such technology. Any such standards  
20 shall take effect after such period as the Adminis-  
21 trator finds necessary to permit the development and  
22 application of the requisite technology.

23 “(d) AVERAGING, BANKING, AND TRADING OF EMIS-  
24 SIONS CREDITS.—In establishing standards applicable to  
25 emissions of greenhouse gases pursuant to this section and

1 sections 202(a), 213(a)(4) and (5), and 231(a), the Ad-  
2 ministrator may establish provisions for averaging, bank-  
3 ing, and trading of greenhouse gas emissions credits with-  
4 in or across classes or categories of motor vehicles and  
5 motor vehicle engines, nonroad vehicles and engines (in-  
6 cluding marine vessels), and aircraft and aircraft engines,  
7 to the extent the Administrator determines appropriate  
8 and considering the factors appropriate in setting stand-  
9 ards under those sections. Such provisions may include  
10 reasonable and appropriate provisions concerning genera-  
11 tion, banking, trading, duration, and use of credits.

12 “(e) REPORTS.—The Administrator shall, from time  
13 to time, submit a report to Congress that projects the  
14 amount of greenhouse gas emissions from the transpor-  
15 tation sector, including transportation fuels, for the years  
16 2030 and 2050, based on the standards adopted under  
17 this section.

18 “(f) GREENHOUSE GASES.—Notwithstanding the  
19 provisions of section 711, hydrofluorocarbons shall be con-  
20 sidered a greenhouse gas for purposes of this section.”.

21 **SEC. 112. GREENHOUSE GAS EMISSIONS REDUCTIONS**  
22 **THROUGH TRANSPORTATION EFFICIENCY.**

23 Title VIII of the Clean Air Act, as added by section  
24 421 of this Act, is further amended by inserting after part  
25 C the following new part:

1           **“PART D—PLANNING REQUIREMENTS**  
2 **“SEC. 841. GREENHOUSE GAS EMISSIONS REDUCTIONS**  
3           **THROUGH TRANSPORTATION EFFICIENCY.**

4           “(a) IN GENERAL.—Each State shall—

5                 “(1) not later than 3 years after the date of en-  
6 actment of this section, submit to the Administrator  
7 goals for transportation-related greenhouse gas  
8 emissions reductions, which goals shall be reasonably  
9 commensurate with the targets for overall green-  
10 house gas emissions reduction established by this  
11 Act; and

12                 “(2) as part of each transportation plan or  
13 transportation improvement program developed  
14 under title 23 or title 49, United States Code, en-  
15 sure that a plan to achieve such goals, or an up-  
16 dated version of such a plan, is submitted to the Ad-  
17 ministrator and to the Secretary of Transportation  
18 (in this section referred to as the ‘Secretary’) by  
19 each metropolitan planning organization in the State  
20 for an area with a population exceeding 200,000.

21           “(b) MODELS AND METHODOLOGIES.—

22                 “(1) IN GENERAL.—The Administrator shall  
23 promulgate regulations to establish standards for  
24 use in developing goals, plans, and strategies under  
25 this section and for monitoring progress toward such  
26 goals. Such standards shall include—

1           “(A) data collection techniques for assess-  
2           ing State and regional transportation-related  
3           greenhouse gas emissions;

4           “(B) methodologies for determining trans-  
5           portation-related greenhouse gas emissions  
6           baselines;

7           “(C) models and methodologies for sce-  
8           nario analysis; and

9           “(D) models and methodologies for esti-  
10          mating transportation-related greenhouse gas  
11          emissions reductions from the strategies consid-  
12          ered under this section.

13          Such regulations may approve or improve existing  
14          models and methodologies.

15          “(2) TIMING.—The Administrator shall—

16               “(A) publish proposed regulations under  
17               paragraph (1) not later than 1 year after the  
18               date of enactment of this section; and

19               “(B) promulgate final regulations under  
20               paragraph (1) not later than 2 years after such  
21               date of enactment.

22          “(3) ASSESSMENT.—At least every 6 years  
23          after promulgating final regulations under para-  
24          graph (1), the Administrator, in coordination with  
25          the Secretary, shall assess current and projected

1 progress in reducing transportation-related green-  
2 house gas emissions. The assessment shall examine  
3 the contributions to emissions reductions attrib-  
4 utable to improvements in vehicle efficiency, green-  
5 house gas performance of transportation fuels, and  
6 increased efficiency in utilizing transportation sys-  
7 tems.

8 “(c) GREENHOUSE GAS REDUCTION GOALS.—

9 “(1) CONSULTATION.—Each State shall develop  
10 the goals referred to in subsection (a)(1)—

11 “(A) in concurrence with State agencies re-  
12 sponsible for air quality and transportation;

13 “(B) in consultation with each metropoli-  
14 tan planning organization for an area in the  
15 State with a population exceeding 200,000 and  
16 applicable local air quality and transportation  
17 agencies; and

18 “(C) with public involvement, including  
19 public comment periods and meetings.

20 “(2) PERIOD.—The goals referred to in sub-  
21 section (a)(1) shall be for 4-, 10-, and 20-year peri-  
22 ods.

23 “(3) TARGETS; DESIGNATED YEAR.—The goals  
24 referred to in subsection (a)(1) shall establish tar-  
25 gets to reduce transportation-related greenhouse gas



1 emissions in the covered area. The targets shall be  
2 designed to ensure that the levels of such emissions  
3 stabilize and decrease after a designated year. The  
4 State shall consider designating 2010 as such des-  
5 ignated year.

6 “(4) COVERED AREA.—The goals referred to in  
7 subsection (a)(1)—

8 “(A) shall be established on a statewide  
9 basis;

10 “(B) shall be established for each metro-  
11 politan planning organization in the State for  
12 an area with a population exceeding 200,000;  
13 and

14 “(C) may be established on a voluntary  
15 basis, in accordance with the provisions of this  
16 section, for any metropolitan planning organiza-  
17 tion not described in subparagraph (B).

18 “(5) REVISED GOALS.—Every 4 years, each  
19 State shall update and revise, as appropriate, the  
20 goals referred to in subsection (a)(1).

21 “(d) PLANNING.—A plan submitted under subsection  
22 (a)(2) shall—

23 “(1) be based upon the models and methodolo-  
24 gies established by the Administrator under sub-  
25 section (b);

1           “(2) use transportation and land use scenario  
2           analysis to address transportation-related green-  
3           house gas emissions and economic development im-  
4           pacts; and

5           “(3) be developed—

6                   “(A) with public involvement, including  
7                   public comment periods and meetings that pro-  
8                   vide opportunities for comment from a variety  
9                   of stakeholders based on age, race, income, and  
10                  disability;

11                   “(B) with regional coordination, including  
12                  with respect to—

13                           “(i) metropolitan planning organiza-  
14                           tions;

15                           “(ii) the localities comprising the met-  
16                           ropolitan planning organization;

17                           “(iii) the State in which the metro-  
18                           politan planning organization is located;

19                           and

20                           “(iv) air quality, environmental  
21                           health, and transportation agencies for the  
22                           State and region involved; and

23                   “(C) in consultation with the State and  
24                  local housing, public health, economic develop-

1           ment, land use, environment, and public trans-  
2           portation agencies.

3           “(e) STRATEGIES.—In developing goals under sub-  
4 section (a)(1) and a plan under subsection (a)(2), the  
5 State or metropolitan planning organization, as applicable,  
6 shall consider transportation and land use planning strate-  
7 gies to reduce transportation-related greenhouse gas emis-  
8 sions, including the following:

9           “(1) Efforts to increase or improve public  
10          transportation, including—

11                 “(A) new public transportation systems,  
12                 including new commuter rail systems;

13                 “(B) expansion of existing public transpor-  
14                 tation systems;

15                 “(C) employer-based subsidies;

16                 “(D) cleaner locomotive technologies;

17                 “(E) quality of service improvements, in-  
18                 cluding improved frequency of service; and

19                 “(F) use of transit buses that are powered  
20                 by alternative fuels.

21           “(2) Updates to zoning and other land use reg-  
22          ulations and plans to support development that—

23                 “(A) coordinates transportation and land  
24                 use planning;

1           “(B) focuses future growth close to exist-  
2           ing and planned job centers and public facili-  
3           ties;

4           “(C) uses existing infrastructure;

5           “(D) promotes walking, bicycling, and pub-  
6           lic transportation use; and

7           “(E) mixes land uses such as housing, re-  
8           tail, and schools.

9           “(3) Implementation of a policy (referred to as  
10          a ‘complete streets policy’) that—

11           “(A) ensures adequate accommodation of  
12           all users of transportation systems, including  
13           pedestrians, bicyclists, public transportation  
14           users, motorists, children, the elderly, and indi-  
15           viduals with disabilities; and

16           “(B) adequately addresses the safety and  
17           convenience of all users of the transportation  
18           system.

19           “(4) Construction of bicycle and pedestrian in-  
20           frastructure facilities, including facilities that im-  
21           prove the connections with networks that provide ac-  
22           cess to human services, employment, schools, and re-  
23           tail.

24           “(5) Projects to promote telecommuting, flexi-  
25           ble work schedules, or satellite work centers.

1           “(6) Pricing measures, including tolling, con-  
2           gestion pricing, and pay-as-you-drive insurance.

3           “(7) Intermodal freight system strategies, in-  
4           cluding enhanced rail services, short sea shipping,  
5           and other strategies.

6           “(8) Parking policies.

7           “(9) Intercity rail service, including high speed  
8           rail.

9           “(10) Travel demand management projects.

10          “(11) Restriction of the use of certain roads, or  
11          lanes, by vehicles other than passenger buses and  
12          high-occupancy vehicles.

13          “(12) Reduction of vehicle idling, including  
14          idling associated with freight management, construc-  
15          tion, transportation, and commuter operations.

16          “(13) Policies to encourage the use of retrofit  
17          technologies and early replacement of vehicles, en-  
18          gines, and equipment to reduce transportation-re-  
19          lated greenhouse gas emissions from existing mobile  
20          sources.

21          “(14) Other projects that the Administrator  
22          finds reduce transportation-related greenhouse gas  
23          emissions.

1           “(f) PUBLIC AVAILABILITY.—The Administrator  
2 shall publish, including by posting on the Environmental  
3 Protection Agency’s website—

4                   “(1) the goals and plans submitted under sub-  
5 section (a); and

6                   “(2) for each plan submitted under subsection  
7 (a)(2), an analysis of the anticipated effects of the  
8 plan on greenhouse gas emissions and oil consump-  
9 tion.

10           “(g) CERTIFICATION.—The Administrator, in con-  
11 sultation with the Secretary, shall certify a State or metro-  
12 politan planning organization greenhouse gas reduction  
13 plan submitted under subsection (a)(2) if the plan’s imple-  
14 mentation is likely to meet the corresponding greenhouse  
15 gas reduction goal referred to in subsection (a)(1). If the  
16 Administrator, in consultation with the Secretary, deter-  
17 mines that a submitted plan cannot be certified, the State  
18 or metropolitan planning organization shall revise and re-  
19 submit the plan within 1 year.

20           “(h) ENFORCEMENT.—If the Administrator finds  
21 that a State has failed to submit goals under subsection  
22 (a)(1), has failed to ensure the submission of a plan under  
23 subsection (a)(2), or has failed to submit a revised plan  
24 under subsection (g), for any area in the State (irrespec-  
25 tive of whether the area is a nonattainment area), the Ad-

1 administrator shall impose a prohibition in accordance with  
2 section 179(b)(1) applicable to the area within 2 years of  
3 such a finding. The Administrator may not impose a pro-  
4 hibition under the preceding sentence, and no action may  
5 be brought by the Administrator or any other entity alleg-  
6 ing a violation of this section, based on the content or ade-  
7 quacy of a goal or plan submitted under subsection (a)(1)  
8 or (a)(2) or failure to achieve the goal submitted under  
9 subsection (a)(1).

10 “(i) COMPETITIVE GRANTS.—

11 “(1) GRANTS.—The Administrator, in consulta-  
12 tion with the Secretary, may award grants to States  
13 or metropolitan planning organizations—

14 “(A) to support activities related to im-  
15 proving data collection, modeling, and moni-  
16 toring systems to assess transportation-related  
17 greenhouse gas emissions and the effects of  
18 plans, policies, and strategies referenced in this  
19 section;

20 “(B) for the development of goals and  
21 plans to be submitted under sections (a)(1) or  
22 (a)(2); and

23 “(C) to implement plans certified under  
24 subsection (g) or elements thereof, provided  
25 that each project thus funded includes a meas-

1           urement and evaluation component that meets  
2           the regulations promulgated under subsection  
3           (b).

4           “(2) PRIORITY.—In making grants under para-  
5           graph (1)(C), the Administrator shall give priority to  
6           applicants based upon—

7                   “(A) the amount of total greenhouse gas  
8                   emissions to be reduced as a result of imple-  
9                   mentation of a certified plan, within the covered  
10                  area, as determined by methods established  
11                  under subsection (b);

12                  “(B) the amount of per capita greenhouse  
13                  gas emissions to be reduced as a result of im-  
14                  plementation of a certified plan, within the cov-  
15                  ered area, as determined by methods estab-  
16                  lished under subsection (b);

17                  “(C) the cost effectiveness, in terms of dol-  
18                  lars per tons of greenhouse gas reductions, to  
19                  be achieved as a result of the implementation of  
20                  a certified plan;

21                  “(D) the potential for both short- and  
22                  long-term reductions; and

23                  “(E) such other factors as the Adminis-  
24                  trator determines appropriate.



1           “(3) AUTHORIZATION OF APPROPRIATIONS.—

2           To carry out this subsection, there are authorized to  
3           be appropriated such sums as may be necessary.

4           “(j) DEFINITIONS.—In this section:

5           “(1) The term ‘metropolitan planning organiza-  
6           tion’ means a metropolitan planning organization, as  
7           such term is used in section 176.

8           “(2) The term ‘scenario analysis’ means an  
9           analysis that is conducted by identifying different  
10          trends and making projections based on those trends  
11          to develop a range of scenarios and estimates of how  
12          each scenario could improve access to goods and  
13          services, including access to employment, education,  
14          and health care (especially for elderly and economi-  
15          cally disadvantaged communities), and could affect  
16          rates of—

17                   “(A) vehicle miles traveled;

18                   “(B) vehicle hours traveled;

19                   “(C) use of mobile source fuel by type, in-  
20                   cluding electricity; and

21                   “(D) transportation-related greenhouse gas  
22                   emissions.

23          “(k) LAND USE AUTHORITY.—Nothing in this sec-  
24          tion may be construed to—

1           “(1) infringe upon the existing authority of  
2           State or local governments to plan or control land  
3           use; or

4           “(2) provide or transfer authority over land use  
5           to any other entity.”.

6   **SEC. 113. SMARTWAY TRANSPORTATION EFFICIENCY PRO-**  
7                           **GRAM.**

8           Part B of title VIII of the Clean Air Act, as added  
9           by section 111 of this Act, is amended by adding after  
10          section 821 the following section:

11   **“SEC. 822. SMARTWAY TRANSPORTATION EFFICIENCY PRO-**  
12                           **GRAM.**

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

20          “(b) **GENERAL DUTIES.**—Under the program estab-  
21          lished under this section, the Administrator shall carry out  
22          each of the following:

23                 “(1) Development of measurement protocols to  
24                 evaluate the energy consumption and greenhouse gas  
25                 impacts from technologies and strategies in the mo-

1       bile source sector, including those for passenger  
2       transport and goods movement.

3               “(2) Development of qualifying thresholds for  
4       certifying, verifying, or designating energy-efficient,  
5       low-greenhouse gas SmartWay technologies and  
6       strategies for each mode of passenger transportation  
7       and goods movement.

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

12              “(4) Promotion of the availability of, and en-  
13      couragement of the adoption of, SmartWay certified  
14      or verified technologies and strategies, and publica-  
15      tion of the availability of financial incentives, such  
16      as assistance from loan programs and other Federal  
17      and State incentives.

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

24              “(1) Verification of the energy and greenhouse  
25      gas performance of participating freight carriers, in-

1 cluding those operating rail, trucking, marine, and  
2 other goods movement operations.

3 “(2) Publication of a comprehensive energy and  
4 greenhouse gas performance index of freight modes  
5 (including rail, trucking, marine, and other modes of  
6 transporting goods) and individual freight companies  
7 so that shippers can choose to deliver their goods  
8 more efficiently.

9 “(3) Development of tools for—

10 “(A) carriers to calculate their energy and  
11 greenhouse gas performance; and

12 “(B) shippers to calculate the energy and  
13 greenhouse gas impacts of moving their prod-  
14 ucts and to evaluate the relative impacts from  
15 transporting their goods by different modes and  
16 corporate carriers.

17 “(4) Provision of recognition opportunities for  
18 participating shipper and carrier companies dem-  
19 onstrating advanced practices and achieving superior  
20 levels of greenhouse gas performance.

21 “(d) IMPROVING FREIGHT GREENHOUSE GAS PER-  
22 FORMANCE DATABASES.—The Administrator shall, in co-  
23 ordination with the Secretary of Commerce and other ap-  
24 propriate agencies, define and collect data on the physical  
25 and operational characteristics of the Nation’s truck popu-

1 lation, with special emphasis on data related to energy ef-  
2 ficiency and greenhouse gas performance to inform the  
3 performance index published under subsection (c)(2) of  
4 this section, and other means of goods transport as nec-  
5 essary, at least every 5 years as part of the economic cen-  
6 sus required under title 13, United States Code.

7 “(e) ESTABLISHMENT OF FINANCING PROGRAM.—  
8 The Administrator shall establish a SmartWay Financing  
9 Program to competitively award funding to eligible entities  
10 identified by the Administrator in accordance with the  
11 program requirements in subsection (g).

12 “(f) PURPOSE.—Under the SmartWay Financing  
13 Program, eligible entities shall—

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

19 “(2) make such loans and/or leases available to  
20 public and private entities for the purpose of adopt-  
21 ing low-greenhouse gas technologies or strategies for  
22 the mobile source sector that are designated by the  
23 Administrator.

1           “(g) PROGRAM REQUIREMENTS.—The Administrator  
2 shall determine program design elements and require-  
3 ments, including—

4           “(1) the type of financial mechanism with  
5 which to award funding, in the form of grants and/  
6 or contracts;

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

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

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

17           “(B) ability to promote the loan or lease  
18 program and associated technologies and strate-  
19 gies to the target audience; and

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

22           “(A) actual cost-effectiveness and green-  
23 house gas savings from the loan or lease pro-  
24 gram based on a methodology designated by the  
25 Administrator;

1           “(B) the total number of applications and  
2           number of approved applications; and

3           “(C) terms granted to loan and lease re-  
4           cipients compared to prevailing market prac-  
5           tices and/or rates.

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

9           **Subtitle B—Carbon Capture and**  
10           **Sequestration**

11           **SEC. 121. NATIONAL STRATEGY.**

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

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

22           (1) identify those regulatory, legal, and other  
23           gaps and barriers that could be addressed by a Fed-  
24           eral agency using existing statutory authority, those,  
25           if any, that require Federal legislation, and those

1 that would be best addressed at the State or re-  
2 gional level;

3 (2) identify regulatory implementation chal-  
4 lenges, including those related to approval of State  
5 programs and delegation of authority for permitting;  
6 and

7 (3) recommend rulemakings, Federal legisla-  
8 tion, or other actions that should be taken to further  
9 evaluate and address such barriers.

10 **SEC. 122. REGULATIONS FOR GEOLOGIC SEQUESTRATION**  
11 **SITES.**

12 (a) COORDINATED CERTIFICATION AND PERMITTING  
13 PROCESS.—Title VIII of the Clean Air Act, as added by  
14 section 421 of this Act, is amended by adding after section  
15 812 (as added by section 125 of this Act) the following:

16 **“SEC. 813. GEOLOGIC SEQUESTRATION SITES.**

17 “(a) COORDINATED PROCESS.—The Administrator  
18 shall establish a coordinated approach to certifying and  
19 permitting geologic sequestration, taking into consider-  
20 ation all relevant statutory authorities. In establishing  
21 such approach, the Administrator shall—

22 “(1) take into account, and reduce redundancy  
23 with, the requirements of section 1421 of the Safe  
24 Drinking Water Act (42 U.S.C. 300h), including the



1 rulemaking for geologic sequestration wells described  
2 at 73 Fed. Reg. 43492–43541 (July 25, 2008); and

3 “(2) to the extent practicable, reduce the bur-  
4 den on certified entities and implementing authori-  
5 ties.

6 “(b) REGULATIONS.—Not later than 2 years after  
7 the date of enactment of this title, the Administrator shall  
8 promulgate regulations to protect human health and the  
9 environment by minimizing the risk of escape to the at-  
10 mosphere of carbon dioxide injected for purposes of geo-  
11 logic sequestration.

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

14 “(1) a process to obtain certification for geo-  
15 logic sequestration under this section; and

16 “(2) requirements for—

17 “(A) monitoring, record keeping, and re-  
18 porting for emissions associated with injection  
19 into, and escape from, geologic sequestration  
20 sites, taking into account any requirements or  
21 protocols developed under section 713;

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

1           “(C) the sharing of data between States,  
2           Indian tribes, and the Environmental Protec-  
3           tion Agency; and

4           “(D) other elements or safeguards nec-  
5           essary to achieve the purpose set forth in sub-  
6           section (b).

7           “(d) REPORT.—Not later than 2 years after the pro-  
8           mulgation of regulations under subsection (b), and at 3-  
9           year intervals thereafter, the Administrator shall deliver  
10          to the Committee on Energy and Commerce of the House  
11          of Representatives and the Committee on Environment  
12          and Public Works of the Senate a report on geologic se-  
13          questration in the United States, and, to the extent rel-  
14          evant, other countries in North America. Such report shall  
15          include—

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

21           “(2) an evaluation of the performance of rel-  
22           evant Federal environmental regulations and pro-  
23           grams in ensuring environmentally protective geo-  
24           logic sequestration practices;

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

4           “(4) other relevant information.”.

5           (b) SAFE DRINKING WATER ACT STANDARDS.—Sec-  
6           tion 1421 of the Safe Drinking Water Act (42 U.S.C.  
7           300h) is amended by inserting after subsection (d) the fol-  
8           lowing:

9           “(e) CARBON DIOXIDE GEOLOGIC SEQUESTRATION  
10          WELLS.—

11           “(1) IN GENERAL.—Not later than 1 year after  
12           the date of enactment of this subsection, the Admin-  
13           istrator shall promulgate regulations under sub-  
14           section (a) for carbon dioxide geologic sequestration  
15           wells.

16           “(2) FINANCIAL RESPONSIBILITY.—The regula-  
17           tions referred to in paragraph (1) shall include re-  
18           quirements for maintaining evidence of financial re-  
19           sponsibility, including financial responsibility for  
20           emergency and remedial response, well plugging, site  
21           closure, and post-injection site care. Financial re-  
22           sponsibility may be established for carbon dioxide  
23           geologic sequestration wells in accordance with regu-  
24           lations promulgated by the Administrator by any  
25           one, or any combination, of the following: insurance,

1       guarantee, trust, standby trust, surety bond, letter  
2       of credit, qualification as a self-insurer, or any other  
3       method satisfactory to the Administrator.”.

4   **SEC. 123. STUDIES AND REPORTS.**

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

7           (1) ESTABLISHMENT OF TASK FORCE.—As  
8       soon as practicable, but not later than 6 months  
9       after the date of enactment of this Act, the Adminis-  
10      trator shall establish a task force to be composed of  
11      an equal number of subject matter experts, non-  
12      governmental organizations with expertise in envi-  
13      ronmental policy, academic experts with expertise in  
14      environmental law, State officials with environmental  
15      expertise, representatives of State Attorneys Gen-  
16      eral, and members of the private sector, to conduct  
17      a study of—

18           (A) existing Federal environmental stat-  
19      utes, State environmental statutes, and State  
20      common law that apply to geologic sequestra-  
21      tion sites for carbon dioxide, including the abil-  
22      ity of such laws to serve as risk management  
23      tools;

24           (B) the existing statutory framework, in-  
25      cluding Federal and State laws, that apply to

1           harm and damage to the environment or public  
2           health at closed sites where carbon dioxide in-  
3           jection has been used for enhanced hydrocarbon  
4           recovery;

5           (C) the statutory framework, environ-  
6           mental health and safety considerations, imple-  
7           mentation issues, and financial implications of  
8           potential models for Federal, State, or private  
9           sector assumption of liabilities and financial re-  
10          sponsibilities with respect to closed geologic se-  
11          questration sites;

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

16          (E) the subsurface mineral rights, water  
17          rights, or property rights issues associated with  
18          geologic sequestration of carbon dioxide.

19          (2) REPORT.—Not later than 18 months after  
20          the date of enactment of this Act, the task force es-  
21          tablished under paragraph (1) shall submit to Con-  
22          gress a report describing the results of the study  
23          conducted under that paragraph including any con-  
24          sensus recommendations of the task force.

25          (b) ENVIRONMENTAL STATUTES.—



1 a permit under section 503(a) and is authorized  
2 under State or Federal law to derive at least 30 per-  
3 cent of its annual heat input from coal, petroleum  
4 coke, or any combination of these fuels.】

5 【“(2) INITIALLY PERMITTED.—The term ‘ini-  
6 tially permitted’ means that the owner or operator  
7 has received a preconstruction approval or permit  
8 under this Act, for the covered EGU as a new (not  
9 a modified) source, but administrative review or ap-  
10 peal of such approval or permit has not been ex-  
11 hausted. A subsequent modification of any such ap-  
12 proval or permits, ongoing administrative or court  
13 review, appeals, or challenges, or the existence or  
14 tolling of any time to pursue further review, appeals,  
15 or challenges shall not affect the date on which a  
16 covered EGU is considered to be initially permitted  
17 under this paragraph.】

18 【“(b) STANDARDS.—】(1) A covered EGU that is ini-  
19 tially permitted on or after January 1, 2020, shall achieve  
20 an emission limit that is a 65 percent reduction in emis-  
21 sions of the carbon dioxide produced by the unit, as  
22 measured on an annual basis, or meet such more stringent  
23 standard as the Administrator may establish pursuant to  
24 subsection (c).】

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

9           **【“(A) Four years after the date the Adminis-**  
10   trator has published pursuant to subsection (d) a re-  
11   port that there are in commercial operation in the  
12   United States electric generating units or other sta-  
13   tionary sources equipped with carbon capture and  
14   sequestration technology that, in the aggregate—】

15           **【“(i) have a total of at least 4 gigawatts**  
16   of nameplate generating capacity of which—】

17           **【“(I) at least 3 gigawatts must be**  
18   electric generating units; and】

19           **【“(II) up to 1 gigawatt may be indus-**  
20   trial applications, for which capture and  
21   sequestration of 3,000,000 tons of carbon  
22   dioxide per year on an aggregate  
23   annualized basis shall be considered equiv-  
24   alent to 1 gigawatt;】



1           【“(ii) include at least 2 electric generating  
2           units, each with a nameplate generating capac-  
3           ity of 250 megawatts or greater, that capture,  
4           inject, and sequester carbon dioxide into geo-  
5           logic formations other than oil and gas fields;  
6           and】

7           【“(iii) are capturing and sequestering in  
8           the aggregate at least 12,000,000 tons of car-  
9           bon dioxide per year, calculated on an aggre-  
10          gate annualized basis.】

11          【“(B) January 1, 2025.】

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

22          【“(c) REVIEW AND REVISION OF STANDARDS.—Not  
23 later than 2025 and at 5-year intervals thereafter, the Ad-  
24 ministrator shall review the standards for new covered  
25 EGUs under this section and shall, by rule, reduce the

1 maximum carbon dioxide emission rate for new covered  
2 EGUs to a rate which reflects the degree of emission limi-  
3 tation achievable through the application of the best sys-  
4 tem of emission reduction which (taking into account the  
5 cost of achieving such reduction and any nonair quality  
6 health and environmental impact and energy require-  
7 ments) the Administrator determines has been adequately  
8 demonstrated.】

9 【“(d) REPORTS.—Not later than 18 months after the  
10 date of enactment of this title and semiannually there-  
11 after, the Administrator shall publish a report on the  
12 nameplate capacity of units (determined pursuant to sub-  
13 section (b)(2)(A)) in commercial operation in the United  
14 States equipped with carbon capture and sequestration  
15 technology, including the information described in sub-  
16 section (b)(2)(A) (including the cumulative generating ca-  
17 pacity to which carbon capture and sequestration retrofit  
18 projects meeting the criteria described in section  
19 786(b)(1)(A)(ii) and (b)(1)(A)(iv)(II) has been applied  
20 and the quantities of carbon dioxide captured and seques-  
21 tered by such projects).】

22 【“(e) REGULATIONS.—Not later than 2 years after  
23 the date of enactment of this title, the Administrator shall  
24 promulgate regulations to carry out the requirements of  
25 this section.”.】

1 **[SEC. 126. CARBON CAPTURE AND SEQUESTRATION DEM-**  
2 **ONSTRATION AND EARLY DEPLOYMENT PRO-**  
3 **GRAM.]**

4 **[(a) DEFINITIONS.—For purposes of this section:]**

5 **[(1) SECRETARY.—The term “Secretary”**  
6 **means the Secretary of Energy.]**

7 **[(2) DISTRIBUTION UTILITY.—The term “dis-**  
8 **tribution utility” means an entity that distributes**  
9 **electricity directly to retail consumers under a legal,**  
10 **regulatory, or contractual obligation to do so.]**

11 **[(3) ELECTRIC UTILITY.—The term “electric**  
12 **utility” has the meaning provided by section 3(22)**  
13 **of the Federal Power Act (16 U.S.C. 796(22)).]**

14 **[(4) FOSSIL FUEL-BASED ELECTRICITY.—The**  
15 **term “fossil fuel-based electricity” means electricity**  
16 **that is produced from the combustion of fossil**  
17 **fuels.]**

18 **[(5) FOSSIL FUEL.—The term “fossil fuel”**  
19 **means coal, petroleum, natural gas or any derivative**  
20 **of coal, petroleum, or natural gas.]**

21 **[(6) CORPORATION.—The term “Corporation”**  
22 **means the Carbon Storage Research Corporation es-**  
23 **tablished in accordance with this section.]**

24 **[(7) QUALIFIED INDUSTRY ORGANIZATION.—**  
25 **The term “qualified industry organization” means**  
26 **the Edison Electric Institute, the American Public**

1 Power Association, the National Rural Electric Co-  
2 operative Association, a successor organization of  
3 such organizations, or a group of owners or opera-  
4 tors of distribution utilities delivering fossil fuel-  
5 based electricity who collectively represent at least  
6 20 percent of the volume of fossil fuel-based elec-  
7 tricity delivered by distribution utilities to consumers  
8 in the United States.】

9 【(8) RETAIL CONSUMER.—The term “retail  
10 consumer” means an end-user of electricity.】

11 【(b) CARBON STORAGE RESEARCH CORPORATION.—  
12 】

13 【(1) ESTABLISHMENT.—

14 【(A) REFERENDUM.—Qualified industry  
15 organizations may conduct, at their own ex-  
16 pense, a referendum among the owners or oper-  
17 ators of distribution utilities delivering fossil  
18 fuel-based electricity for the creation of a Car-  
19 bon Storage Research Corporation. Such ref-  
20 erendum shall be conducted by an independent  
21 auditing firm agreed to by the qualified indus-  
22 try organizations. Voting rights in such ref-  
23 erendum shall be based on the quantity of fossil  
24 fuel-based electricity delivered to consumers in  
25 the previous calendar year or other representa-

1           tive period as determined by the Secretary pur-  
2           suant to subsection (f). Upon approval of those  
3           persons representing two-thirds of the total  
4           quantity of fossil fuel-based electricity delivered  
5           to retail consumers, the Corporation shall be es-  
6           tablished unless opposed by the State regu-  
7           latory authorities pursuant to subparagraph  
8           (B). All distribution utilities voting in the ref-  
9           erendum shall certify to the independent audit-  
10          ing firm the quantity of fossil fuel-based elec-  
11          tricity represented by their vote.】

12                   【(B) STATE REGULATORY AUTHORITIES.—  
13           Upon its own motion or the petition of a quali-  
14           fied industry organization, each State regu-  
15           latory authority shall consider its support or op-  
16           position to the creation of the Corporation  
17           under subparagraph (A). State regulatory au-  
18           thorities may notify the independent auditing  
19           firm referred to in subparagraph (A) of their  
20           views on the creation of the Corporation within  
21           180 days after the date of enactment of this  
22           Act. If 40 percent or more of the State regu-  
23           latory authorities submit to the independent au-  
24           diting firm written notices of opposition, the  
25           Corporation shall not be established notwith-

1 standing the approval of the qualified industry  
2 organizations as provided in subparagraph  
3 (A).】

4 【(2) TERMINATION.—The Corporation shall be  
5 authorized to collect assessments and conduct oper-  
6 ations pursuant to this section for a 10-year period  
7 from the date 6 months after the date of enactment  
8 of this Act. After such 10-year period, the Corpora-  
9 tion is no longer authorized to collect assessments  
10 and shall be dissolved on the date 15 years after  
11 such date of enactment, unless the period is ex-  
12 tended by an Act of Congress.】

13 【(3) GOVERNANCE.—The Corporation shall op-  
14 erate as a division or affiliate of the Electric Power  
15 Research Institute (referred to in this section as  
16 “EPRI”) and be managed by a Board of not more  
17 than 15 voting members responsible for its oper-  
18 ations, including compliance with this section. EPRI,  
19 in consultation with the Edison Electric Institute,  
20 the American Public Power Association and the Na-  
21 tional Rural Electric Cooperative Association shall  
22 appoint the Board members under clauses (i), (ii),  
23 and (iii) of subparagraph (A) from among can-  
24 didates recommended by those organizations. At  
25 least a majority of the Board members appointed by

1 EPRI shall be representatives of distribution utilities  
2 subject to assessments under subsection (d).】

3 【(A) MEMBERS.—The Board shall include  
4 at least one representative of each of the fol-  
5 lowing:】

6 【(i) Investor-owned utilities.】

7 【(ii) Utilities owned by a State agen-  
8 cy, a municipality, and an Indian tribe.】

9 【(iii) Rural electric cooperatives.】

10 【(iv) Fossil fuel producers.】

11 【(v) Nonprofit environmental organi-  
12 zations.】

13 【(vi) Independent generators or  
14 wholesale power providers.】

15 【(vii) Consumer groups.】

16 【(B) NONVOTING MEMBERS.—The Board  
17 shall also include as additional nonvoting Mem-  
18 bers the Secretary of Energy or his designee  
19 and 2 representatives of State regulatory au-  
20 thorities as defined in section 3(17) of the Pub-  
21 lic Utility Regulatory Policies Act of 1978 (16  
22 U.S.C. 2602(17)), each designated by the Na-  
23 tional Association of State Regulatory Utility  
24 Commissioners from States that are not within  
25 the same transmission interconnection.】

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

5           **[(5) TERMS.—**Corporation Board members  
6 shall serve terms of 4 years and may serve not more  
7 than 2 full consecutive terms. Members filling unex-  
8 pired terms may serve not more than a total of 8  
9 consecutive years. Former members of the Corpora-  
10 tion Board may be reappointed to the Corporation  
11 Board if they have not been members for a period  
12 of 2 years. Initial appointments to the Corporation  
13 Board shall be for terms of 1, 2, 3, and 4 years,  
14 staggered to provide for the selection of 3 members  
15 each year.]

16           **[(6) STATUS OF CORPORATION.—**The Corpora-  
17 tion shall not be considered to be an agency, depart-  
18 ment, or instrumentality of the United States, and  
19 no officer or director or employee of the Corporation  
20 shall be considered to be an officer or employee of  
21 the United States Government, for purposes of title  
22 5 or title 31 of the United States Code, or for any  
23 other purpose, and no funds of the Corporation shall  
24 be treated as public money for purposes of chapter



1       33 of title 31, United States Code, or for any other  
2       purpose.】

3       【(c) FUNCTIONS AND ADMINISTRATION OF THE COR-  
4       PORATION.—】

5           【(1) IN GENERAL.—The Corporation shall es-  
6       tablish and administer a program to accelerate the  
7       commercial availability of carbon dioxide capture  
8       and storage technologies and methods, including  
9       technologies which capture and store, or capture and  
10      convert, carbon dioxide. Under such program com-  
11      petitively awarded grants, contracts, and financial  
12      assistance shall be provided and entered into with el-  
13      igible entities. Except as provided in paragraph (8),  
14      the Corporation shall use all funds derived from as-  
15      sessments under subsection (d) to issue grants and  
16      contracts to eligible entities.】

17           【(2) PURPOSE.—The purposes of the grants,  
18      contracts, and assistance under this subsection shall  
19      be to support commercial-scale demonstrations of  
20      carbon capture or storage technology projects capa-  
21      ble of advancing the technologies to commercial  
22      readiness. Such projects should encompass a range  
23      of different coal and other fossil fuel varieties, be  
24      geographically diverse, involve diverse storage media,  
25      and employ capture or storage, or capture and con-

1 version, technologies potentially suitable either for  
2 new or for retrofit applications. The Corporation  
3 shall seek, to the extent feasible, to support at least  
4 5 commercial-scale demonstration projects inte-  
5 grating carbon capture and sequestration or conver-  
6 sion technologies.】

7 【(3) ELIGIBLE ENTITIES.—Entities eligible for  
8 grants, contracts or assistance under this subsection  
9 may include distribution utilities, electric utilities  
10 and other private entities, academic institutions, na-  
11 tional laboratories, Federal research agencies, State  
12 and tribal research agencies, nonprofit organizations,  
13 or consortiums of 2 or more entities. Pilot-scale and  
14 similar small-scale projects are not eligible for sup-  
15 port by the Corporation. Owners or developers of  
16 projects supported by the Corporation shall, where  
17 appropriate, share in the costs of such projects.  
18 Projects supported by the Corporation shall meet the  
19 eligibility criteria of section 786(b) of the Clean Air  
20 Act (as added by section 124 of this Act).】

21 【(4) GRANTS FOR EARLY MOVERS.—Fifty per-  
22 cent of the funds raised under this section shall be  
23 provided in the form of grants to electric utilities  
24 that had, prior to the award of any grant under this  
25 section, committed resources to deploy a large scale

1 electricity generation unit with integrated carbon  
2 capture and sequestration or conversion applied to a  
3 substantial portion of the unit's carbon dioxide emis-  
4 sions. Grant funds shall be provided to defray costs  
5 incurred by such electricity utilities for at least 5  
6 such electricity generation units.】

7 【(5) ADMINISTRATION.—The members of the  
8 Board of Directors of the Corporation shall elect a  
9 Chairman and other officers as necessary, may es-  
10 tablish committees and subcommittees of the Cor-  
11 poration, and shall adopt rules and bylaws for the  
12 conduct of business and the implementation of this  
13 section. The Board shall appoint an Executive Di-  
14 rector and professional support staff who may be  
15 employees of the Electric Power Research Institute  
16 (EPRI). After consultation with the Technical Advi-  
17 sory Committee established under subsection (j), the  
18 Secretary, and the Director of the National Energy  
19 Technology Laboratory to obtain advice and rec-  
20 ommendations on plans, programs, and project selec-  
21 tion criteria, the Board shall establish priorities for  
22 grants, contracts, and assistance; publish requests  
23 for proposals for grants, contracts, and assistance;  
24 and award grants, contracts, and assistance competi-  
25 tively, on the basis of merit, after the establishment

1 of procedures that provide for scientific peer review  
2 by the Technical Advisory Committee. The Board  
3 shall give preference to applications that reflect the  
4 best overall value and prospect for achieving the  
5 purposes of the section, such as those which dem-  
6 onstrate an integrated approach for capture and  
7 storage or capture and conversion technologies. The  
8 Board members shall not participate in making  
9 grants or awards to entities with whom they are af-  
10 filiated.】

11 【(6) USES OF GRANTS, CONTRACTS, AND AS-  
12 SISTANCE.—A grant, contract, or other assistance  
13 provided under this subsection may be used to pur-  
14 chase carbon dioxide when needed to conduct tests  
15 of carbon dioxide storage sites, in the case of estab-  
16 lished projects that are storing carbon dioxide emis-  
17 sions, or for other purposes consistent with the pur-  
18 poses of this section. The Corporation shall make  
19 publicly available at no cost information learned as  
20 a result of projects which it supports financially.】

21 【(7) INTELLECTUAL PROPERTY.—The Board  
22 shall establish policies regarding the ownership of in-  
23 tellectual property developed as a result of Corpora-  
24 tion grants and other forms of technology support.

1       Such policies shall encourage individual ingenuity  
2       and invention.】

3           【(8) ADMINISTRATIVE EXPENSES.—Up to 5  
4       percent of the funds collected in any fiscal year  
5       under subsection (d) may be used for the adminis-  
6       trative expenses of operating the Corporation (not  
7       including costs incurred in the determination and  
8       collection of the assessments pursuant to subsection  
9       (d)).】

10           【(9) PROGRAMS AND BUDGET.—Before August  
11       1 each year, the Corporation, after consulting with  
12       the Technical Advisory Committee and the Secretary  
13       and the Director of the Department’s National En-  
14       ergy Technology Laboratory and other interested  
15       parties to obtain advice and recommendations, shall  
16       publish for public review and comment its proposed  
17       plans, programs, project selection criteria, and  
18       projects to be funded by the Corporation for the  
19       next calendar year. The Corporation shall also pub-  
20       lish for public review and comment a budget plan for  
21       the next calendar year, including the probable costs  
22       of all programs, projects, and contracts and a rec-  
23       ommended rate of assessment sufficient to cover  
24       such costs. The Secretary may recommend programs  
25       and activities the Secretary considers appropriate.

1       The Corporation shall include in the first publication  
2       it issues under this paragraph a strategic plan or  
3       roadmap for the achievement of the purposes of the  
4       Corporation, as set forth in paragraph (2).】

5           【(10) RECORDS; AUDITS.—The Corporation  
6       shall keep minutes, books, and records that clearly  
7       reflect all of the acts and transactions of the Cor-  
8       poration and make public such information. The  
9       books of the Corporation shall be audited by a cer-  
10      tified public accountant at least once each fiscal year  
11      and at such other times as the Corporation may des-  
12      ignate. Copies of each audit shall be provided to the  
13      Congress, all Corporation board members, all quali-  
14      fied industry organizations, each State regulatory  
15      authority and, upon request, to other members of  
16      the industry. If the audit determines that the Cor-  
17      poration’s practices fail to meet generally accepted  
18      accounting principles the assessment collection au-  
19      thority of the Corporation under subsection (d) shall  
20      be suspended until a certified public accountant ren-  
21      ders a subsequent opinion that the failure has been  
22      corrected. The Corporation shall make its books and  
23      records available for review by the Secretary or the  
24      Comptroller General of the United States.】

1           **[(11) PUBLIC ACCESS.—**The Corporation  
2 Board’s meetings shall be open to the public and  
3 shall occur after at least 30 days advance public no-  
4 tice. Meetings of the Board of Directors may be  
5 closed to the public where the agenda of such meet-  
6 ings includes only confidential matters pertaining to  
7 project selection, the award of grants or contracts,  
8 personnel matters, or the receipt of legal advice. The  
9 minutes of all meetings of the Corporation shall be  
10 made available to and readily accessible by the pub-  
11 lic.]

12           **[(12) ANNUAL REPORT.—**Each year the Cor-  
13 poration shall prepare and make publicly available a  
14 report which includes an identification and descrip-  
15 tion of all programs and projects undertaken by the  
16 Corporation during the previous year. The report  
17 shall also detail the allocation or planned allocation  
18 of Corporation resources for each such program and  
19 project. The Corporation shall provide its annual re-  
20 port to the Congress, the Secretary, each State regu-  
21 latory authority, and upon request to the public. The  
22 Secretary shall, not less than 60 days after receiving  
23 such report, provide to the President and Congress  
24 a report assessing the progress of the Corporation in  
25 meeting the objectives of this section.]

1 **[(d) ASSESSMENTS.—]**

2 **[(1) AMOUNT.—(A)** In all calendar years fol-  
 3 lowing its establishment, the Corporation shall col-  
 4 lect an assessment on distribution utilities for all  
 5 fossil fuel-based electricity delivered directly to retail  
 6 consumers (as determined under subsection (f)). The  
 7 assessments shall reflect the relative carbon dioxide  
 8 emission rates of different fossil fuel-based elec-  
 9 tricity, and initially shall be not less than the fol-  
 10 lowing amounts for coal, natural gas, and oil: ]

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

11 **[(B)** The Corporation is authorized to adjust  
 12 the assessments on fossil fuel-based electricity to re-  
 13 flect changes in the expected quantities of such elec-  
 14 tricity from different fuel types, such that the as-  
 15 sessments generate not less than \$1.0 billion and  
 16 not more than \$1.1 billion annually. The Corpora-  
 17 tion is authorized to supplement assessments  
 18 through additional financial commitments. ]

19 **[(2) INVESTMENT OF FUNDS.—**Pending dis-  
 20 bursement pursuant to a program, plan, or project,  
 21 the Corporation may invest funds collected through  
 22 assessments under this subsection, and any other



1 funds received by the Corporation, only in obliga-  
2 tions of the United States or any agency thereof, in  
3 general obligations of any State or any political sub-  
4 division thereof, in any interest-bearing account or  
5 certificate of deposit of a bank that is a member of  
6 the Federal Reserve System, or in obligations fully  
7 guaranteed as to principal and interest by the  
8 United States.】

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

20 【(e) ERCOT.—】

21 【(1) ASSESSMENT, COLLECTION, AND REMIT-  
22 TANCE.—(A) Notwithstanding any other provision of  
23 this section, within ERCOT, the assessment pro-  
24 vided for in subsection (d) shall be—】

1           **[(i) levied directly on qualified scheduling**  
2           **entities, or their successor entities;]**

3           **[(ii) charged consistent with other charges**  
4           **imposed on qualified scheduling entities as a fee**  
5           **on energy used by the load-serving entities;**  
6           **and]**

7           **[(iii) collected and remitted by ERCOT to**  
8           **the Corporation in the amounts and in the**  
9           **same manner as set forth in subsection (d).]**

10          **[(B) The assessment amounts referred to in**  
11          **subparagraph (A) shall be—]**

12               **[(i) determined by the amount and types**  
13               **of fossil fuel-based electricity delivered directly**  
14               **to all retail customers in the prior calendar year**  
15               **beginning with the year ending immediately**  
16               **prior to the period described in subsection**  
17               **(b)(2); and]**

18               **[(ii) take into account the number of re-**  
19               **newable energy credits retired by the load-serv-**  
20               **ing entities represented by a qualified sched-**  
21               **uling entity within the prior calendar year.]**

22          **[(2) ADMINISTRATION EXPENSES.—Up to 1**  
23          **percent of the funds collected in any fiscal year by**  
24          **ERCOT under the provisions of this subsection may**  
25          **be used for the administrative expenses incurred in**

1 the determination, collection and remittance of the  
2 assessments to the Corporation.】

3 【(3) AUDIT.—ERCOT shall provide a copy of  
4 its annual audit pertaining to the administration of  
5 the provisions of this subsection to the Corpora-  
6 tion.】

7 【(4) DEFINITIONS.—For the purposes of this  
8 subsection:】

9 【(A) The term “ERCOT” means the Elec-  
10 tric Reliability Council of Texas.】

11 【(B) The term “load-serving entities” has  
12 the meaning adopted by ERCOT Protocols and  
13 in effect on the date of enactment of this Act.】

14 【(C) The term “qualified scheduling enti-  
15 ties” has the meaning adopted by ERCOT Pro-  
16 tocols and in effect on the date of enactment of  
17 this Act.】

18 【(D) The term “renewable energy credit”  
19 has the meaning as promulgated and adopted  
20 by the Public Utility Commission of Texas pur-  
21 suant to section 39.904(b) of the Public Utility  
22 Regulatory Act of 1999, and in effect on the  
23 date of enactment of this Act.】

24 【(f) DETERMINATION OF FOSSIL FUEL-BASED  
25 ELECTRICITY DELIVERIES.—】

1           **[(1) FINDINGS.—The Congress finds that:]**

2                   **[(A) The assessments under subsection (d)**  
3                   are to be collected based on the amount of fossil  
4                   fuel-based electricity delivered by each distribu-  
5                   tion utility.]

6                   **[(B) Since many distribution utilities pur-**  
7                   chase all or part of their retail consumer’s elec-  
8                   tricity needs from other entities, it may not be  
9                   practical to determine the precise fuel mix for  
10                  the power sold by each individual distribution  
11                  utility.]

12                  **[(C) It may be necessary to use average**  
13                  data, often on a regional basis with reference to  
14                  Regional Transmission Organization (“RTO”)  
15                  or NERC regions, to make the determinations  
16                  necessary for making assessments.]

17                  **[(2) DOE PROPOSED RULE.—The Secretary,**  
18                  acting in close consultation with the Energy Infor-  
19                  mation Administration, shall issue for notice and  
20                  comment a proposed rule to determine the level of  
21                  fossil fuel electricity delivered to retail customers by  
22                  each distribution utility in the United States during  
23                  the most recent calendar year or other period deter-  
24                  mined to be most appropriate. Such proposed rule  
25                  shall balance the need to be efficient, reasonably pre-

1       cise, and timely, taking into account the nature and  
2       cost of data currently available and the nature of  
3       markets and regulation in effect in various regions  
4       of the country. Different methodologies may be ap-  
5       plied in different regions if appropriate to obtain the  
6       best balance of such factors.】

7           【(3) FINAL RULE.—Within 6 months after the  
8       date of enactment of this Act, and after opportunity  
9       for comment, the Secretary shall issue a final rule  
10      under this subsection for determining the level and  
11      type of fossil fuel-based electricity delivered to retail  
12      customers by each distribution utility in the United  
13      States during the appropriate period. In issuing  
14      such rule, the Secretary may consider opportunities  
15      and costs to develop new data sources in the future  
16      and issue recommendations for the Energy Informa-  
17      tion Administration or other entities to collect such  
18      data. After notice and opportunity for comment the  
19      Secretary may, by rule, subsequently update and  
20      modify the methodology for making such determina-  
21      tions.】

22           【(4) ANNUAL DETERMINATIONS.—Pursuant to  
23      the final rule issued under paragraph (3), the Sec-  
24      retary shall make annual determinations of the  
25      amounts and types for each such utility and publish

1       such determinations in the Federal Register. Such  
2       determinations shall be used to conduct the ref-  
3       erendum under subsection (b) and by the Corpora-  
4       tion in applying any assessment under this sub-  
5       section.】

6           【(5) REHEARING AND JUDICIAL REVIEW.—The  
7       owner or operator of any distribution utility that be-  
8       lieves that the Secretary has misapplied the method-  
9       ology in the final rule in determining the amount  
10      and types of fossil fuel electricity delivered by such  
11      distribution utility may seek rehearing of such deter-  
12      mination within 30 days of publication of the deter-  
13      mination in the Federal Register. The Secretary  
14      shall decide such rehearing petitions within 30 days.  
15      The Secretary’s determinations following rehearing  
16      shall be final and subject to judicial review in the  
17      United States Court of Appeals for the District of  
18      Columbia.】

19           【(g) COMPLIANCE WITH CORPORATION ASSESS-  
20      MENTS.—The Corporation may bring an action in the ap-  
21      propriate court of the United States to compel compliance  
22      with an assessment levied by the Corporation under this  
23      section. A successful action for compliance under this sub-  
24      section may also require payment by the defendant of the

1 costs incurred by the Corporation in bringing such ac-  
2 tion.】

3       【(h) MIDCOURSE REVIEW.—Not later than 5 years  
4 following establishment of the Corporation, the Comp-  
5 troller General of the United States shall prepare an anal-  
6 ysis, and report to Congress, assessing the Corporation’s  
7 activities, including project selection and methods of dis-  
8 bursement of assessed fees, impacts on the prospects for  
9 commercialization of carbon capture and storage tech-  
10 nologies, adequacy of funding, and administration of  
11 funds. The report shall also make such recommendations  
12 as may be appropriate in each of these areas. The Cor-  
13 poration shall reimburse the Government Accountability  
14 Office for the costs associated with performing this mid-  
15 course review.】

16       【(i) RECOVERY OF COSTS.—】

17           【(1) IN GENERAL.—A distribution utility whose  
18 transmission, delivery, or sales of electric energy are  
19 subject to any form of rate regulation shall not be  
20 denied the opportunity to recover the full amount of  
21 the prudently incurred costs associated with com-  
22 plying with this section, consistent with applicable  
23 State or Federal law.】

24           【(2) RATEPAYER REBATES.—Regulatory au-  
25 thorities that approve cost recovery pursuant to

1 paragraph (1) may order rebates to ratepayers to  
2 the extent that distribution utilities are reimbursed  
3 undedicated or unassigned balances pursuant to sub-  
4 section (d)(3).】

5 **【(j) TECHNICAL ADVISORY COMMITTEE.—】**

6 **【(1) ESTABLISHMENT.—**There is established an  
7 advisory committee, to be known as the “Technical  
8 Advisory Committee”.】

9 **【(2) MEMBERSHIP.—**The Technical Advisory  
10 Committee shall be comprised of not less than 7  
11 members appointed by the Board from among aca-  
12 demic institutions, national laboratories, independent  
13 research institutions, and other qualified institu-  
14 tions. No member of the Committee shall be affili-  
15 ated with EPRI or with any organization having  
16 members serving on the Board. At least one member  
17 of the Committee shall be appointed from among of-  
18 ficers or employees of the Department of Energy  
19 recommended to the Board by the Secretary of En-  
20 ergy.】

21 **【(3) CHAIRPERSON AND VICE CHAIRPERSON.—**

22 The Board shall designate one member of the Tech-  
23 nical Advisory Committee to serve as Chairperson of  
24 the Committee and one to serve as Vice Chairperson  
25 of the Committee.】



1           **[(4) COMPENSATION.—**The Board shall provide  
2           compensation to members of the Technical Advisory  
3           Committee for travel and other incidental expenses  
4           and such other compensation as the Board deter-  
5           mines to be necessary.]

6           **[(5) PURPOSE.—**The Technical Advisory Com-  
7           mittee shall provide independent assessments and  
8           technical evaluations, as well as make non-binding  
9           recommendations to the Board, concerning Corpora-  
10          tion activities, including but not limited to the fol-  
11          lowing:]

12                 **[(A)** Reviewing and evaluating the Cor-  
13                 poration's plans and budgets described in sub-  
14                 section (c)(9), as well as any other appropriate  
15                 areas, which could include approaches to  
16                 prioritizing technologies, appropriateness of en-  
17                 gineering techniques, monitoring and  
18                 verification technologies for storage, geological  
19                 site selection, and cost control measures.]

20                 **[(B)** Making annual non-binding rec-  
21                 ommendations to the Board concerning any of  
22                 the matters referred to in subparagraph (A), as  
23                 well as what types of investments, scientific re-  
24                 search, or engineering practices would best fur-  
25                 ther the goals of the Corporation.]

1           **[(6) PUBLIC AVAILABILITY.—**All reports, eval-  
2           uations, and other materials of the Technical Advi-  
3           sory Committee shall be made available to the public  
4           by the Board, without charge, at time of receipt by  
5           the Board.]

6           **[(k) LOBBYING RESTRICTIONS.—**No funds collected  
7           by the Corporation shall be used in any manner for influ-  
8           encing legislation or elections, except that the Corporation  
9           may recommend to the Secretary and the Congress  
10          changes in this section or other statutes that would fur-  
11          ther the purposes of this section.]

12          **[(l) DAVIS-BACON COMPLIANCE.—**The Corporation  
13          shall ensure that entities receiving grants, contracts, or  
14          other financial support from the Corporation for the  
15          project activities authorized by this section are in compli-  
16          ance with subchapter IV of chapter 31 of title 40, United  
17          States Code (commonly known as the “Davis-Bacon  
18          Act”).]

19                   **Subtitle C—State and Local**  
20                   **Government Participation**

21           **SEC. 131. DISTRIBUTION OF ALLOWANCES TO STATES.**

22           **[(PLACEHOLDER FOR AUTHORIZING LAN-**  
23           **GUAGE)]**

1     **Subtitle D—Nuclear and Advanced**  
2                     **Technologies**

3     **SEC. 141. NUCLEAR GRANTS AND PROGRAMS.**

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

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

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

10            (b) USE OF FUNDS.—Of amounts made available  
11 under [section \_\_\_\_\_] for the calendar years in each ap-  
12 plicable period—

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

20                 (2) [\_\_\_\_\_ percent for each calendar year in the  
21                 applicable period] shall be allocated to the Secretary  
22                 of Labor, in consultation with nuclear energy enti-  
23                 ties and organized labor, for use in expanding work-  
24                 force training to meet the high demand for workers

1 skilled in nuclear power plant construction and oper-  
2 ation, including programs for—

3 (A) electrical craft certification;

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

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

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

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

15 **SEC. 142. NUCLEAR WASTE RESEARCH AND DEVELOPMENT.**

16 **【To be supplied.】**

17 **Subtitle E—Water Efficiency**

18 **SEC. 151. WATERSENSE.**

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

23 (1) to reduce water use;

24 (2) to reduce the strain on water, wastewater,  
25 and stormwater infrastructure;

1           (3) to conserve energy used to pump, heat,  
2           transport, and treat water; and

3           (4) to preserve water resources for future gen-  
4           erations, through voluntary labeling of, or other  
5           forms of communications about, products, buildings,  
6           landscapes, facilities, processes, and services that  
7           meet the highest water efficiency and performance  
8           criteria.

9           (b) DUTIES.—The Administrator of the Environ-  
10          mental Protection Agency shall—

11           (1) establish—

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

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

16           (2) promote WaterSense-labeled products,  
17           buildings, landscapes, facilities, processes, and serv-  
18           ices in the market place as the preferred tech-  
19           nologies and services for—

20                   (A) reducing water use; and

21                   (B) ensuring product and service perform-  
22                   ance;

23           (3) work to enhance public awareness of the  
24           WaterSense label through public outreach, edu-  
25           cation, and other means;

1           (4) preserve the integrity of the WaterSense  
2 label by—

3           (A) establishing and maintaining perform-  
4           ance criteria so that products, buildings, land-  
5           scapes, facilities, processes, and services labeled  
6           with the WaterSense label perform as well or  
7           better than less water-efficient counterparts;

8           (B) overseeing WaterSense certifications  
9           made by third parties;

10          (C) conducting reviews of the use of the  
11          WaterSense label in the marketplace and taking  
12          corrective action in any case in which misuse of  
13          the label is identified; and

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

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

20          (6) to the maximum extent practicable, regu-  
21          larly estimate and make available to the public the  
22          production and relative market shares of, and the  
23          savings of water, energy, and capital costs of water,  
24          wastewater, and stormwater infrastructure attrib-  
25          utable to the use of WaterSense-labeled products,

1 buildings, landscapes, facilities, processes, and serv-  
2 ices, at least annually;

3 (7) solicit comments from interested parties and  
4 the public prior to establishing or revising a  
5 WaterSense category, specification, installation cri-  
6 terion, or other criterion (or prior to effective dates  
7 for any such category, specification, installation cri-  
8 terion, or other criterion);

9 (8) provide reasonable notice to interested par-  
10 ties and the public of any changes (including effec-  
11 tive dates), on the adoption of a new or revised cat-  
12 egory, specification, installation criterion, or other  
13 criterion, along with—

14 (A) an explanation of the changes; and

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

17 (9) provide appropriate lead time (as deter-  
18 mined by the Administrator) prior to the applicable  
19 effective date for a new or significant revision to a  
20 category, specification, installation criterion, or other  
21 criterion, taking into account the timing require-  
22 ments of the manufacturing, marketing, training,  
23 and distribution process for the specific product,  
24 building and landscape, or service category ad-  
25 dressed;

1           (10) identify and, if appropriate, implement  
2           other voluntary approaches in commercial, institu-  
3           tional, residential, industrial, and municipal sectors  
4           to encourage recycling and reuse technologies to im-  
5           prove water efficiency or lower water use; and

6           (11) where appropriate, apply the WaterSense  
7           label to water-using products that are labeled by the  
8           Energy Star program implemented by the Adminis-  
9           trator and the Secretary of Energy.

10          (c) AUTHORIZATION OF APPROPRIATIONS.—There  
11          are authorized to be appropriated to carry out this sec-  
12          tion—

13               (1) \$7,500,000 for fiscal year 2010;

14               (2) \$10,000,000 for fiscal year 2011;

15               (3) \$20,000,000 for fiscal year 2012;

16               (4) \$50,000,000 for fiscal year 2013; and

17               (5) for each subsequent fiscal year, the applica-  
18               ble amount during the preceding fiscal year, as ad-  
19               justed to reflect changes for the 12-month period  
20               ending the preceding November 30 in the Consumer  
21               Price Index for All Urban Consumers published by  
22               the Bureau of Labor Statistics of the Department of  
23               Labor.



1 **SEC. 152. FEDERAL PROCUREMENT OF WATER EFFICIENT**  
2 **PRODUCTS.**

3 (a) DEFINITIONS.—In this section:

4 (1) AGENCY.—The term “Agency” has the  
5 meaning given that term in section 7902(a) of title  
6 5, United States Code.

7 (2) FEMP-DESIGNATED PRODUCT.—The term  
8 “FEMP-designated product” means a product that  
9 is designated under the Federal Energy Manage-  
10 ment Program of the Department of Energy as  
11 being among the highest 25 percent of equivalent  
12 products for efficiency.

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

17 (A) any water-using product, building,  
18 landscape, facility, process, or service designed  
19 or procured for combat or combat-related mis-  
20 sions; or

21 (B) any product, building, landscape, facil-  
22 ity, process, or service already covered by the  
23 Federal procurement regulations established  
24 under section 553 of the National Energy Con-  
25 servation Policy Act (42 U.S.C. 8259b).

1           (4) WATERSENSE PRODUCT, BUILDING, LAND-  
2           SCAPE, FACILITY, PROCESS, OR SERVICE.—The term  
3           “WaterSense product, building, landscape, facility,  
4           process, or service” means a product, building, land-  
5           scape, facility, process, or service that is labeled for  
6           water efficiency under the WaterSense program.

7           (5) WATERSENSE PROGRAM.—The term  
8           “WaterSense program” means the program estab-  
9           lished by **[section 151]**.

10          (b) PROCUREMENT OF WATER EFFICIENT PROD-  
11          UCTS.—

12           (1) REQUIREMENT.—

13           (A) IN GENERAL.—To meet the require-  
14           ments of an agency for a water-using product,  
15           building, landscape, facility, process, or service,  
16           the head of the agency shall, except as provided  
17           in paragraph (2), procure—

18                   (i) a WaterSense product, building,  
19                   landscape, facility, process, or service; or

20                   (ii) a FEMP-designated product.

21           (B) SENSE OF CONGRESS REGARDING IN-  
22           STALLATION PREFERENCES.—It is the sense of  
23           Congress that a WaterSense irrigation system  
24           should, to the maximum extent practicable, be  
25           installed and audited by a WaterSense-certified

1 irrigation professional to ensure optimal per-  
2 formance.

3 (2) EXCEPTIONS.—The head of an agency shall  
4 not be required to procure a WaterSense product,  
5 building, landscape, facility, process, or service or  
6 FEMP-designated product under paragraph (1) if  
7 the head of the agency finds in writing that—

8 (A) a WaterSense product, building, land-  
9 scape, facility, process, or service or FEMP-des-  
10 ignated product is not cost-effective over the life  
11 of the product, building, landscape, facility,  
12 process, or service, taking energy, water, and  
13 wastewater service cost savings into account; or

14 (B) no WaterSense product, building, land-  
15 scape, facility, process, or service or FEMP-des-  
16 ignated product is reasonably available that  
17 meets the functional requirements of the agen-  
18 cy.

19 (3) PROCUREMENT PLANNING.—

20 (A) IN GENERAL.—The head of an agency  
21 shall incorporate criteria used for evaluating  
22 WaterSense products, buildings, landscapes, fa-  
23 cilities, processes, and services and FEMP-des-  
24 ignated products into—

1 (i) the specifications for all procure-  
2 ments involving water-using products,  
3 buildings, landscapes, facilities, processes,  
4 and systems, including guide specifications,  
5 project specifications, and construction,  
6 renovation, and services contracts that in-  
7 clude provision of water-using products,  
8 buildings, landscapes, facilities, processes,  
9 and systems; and

10 (ii) the factors for the evaluation of  
11 offers received for the procurement.

12 (B) LISTING OF WATER-EFFICIENT PROD-  
13 UCTS IN FEDERAL CATALOGS.—WaterSense  
14 products, buildings, landscapes, facilities, proc-  
15 esses, and systems and FEMP-designated prod-  
16 ucts shall be clearly identified and prominently  
17 displayed in any inventory or listing of products  
18 by the General Services Administration or the  
19 Defense Logistics Agency.

20 (C) ADDITIONAL MEASURES.—The head of  
21 an agency shall consider, to the maximum ex-  
22 tent practicable, additional measures for reduc-  
23 ing agency water use, including water reuse  
24 technologies, leak detection and repair, and use

1           of waterless products that perform similar func-  
2           tions to existing water-using products.

3           (c) RETROFIT PROGRAMS.—The head of each Agen-  
4   cy, working in coordination with the Administrator and  
5   such other agency head or heads as the President may  
6   designate, shall develop standards and implementation  
7   procedures for a building water efficiency retrofit pro-  
8   gram, which shall include the following elements:

9           (1) Within 270 days after the date of enact-  
10   ment of this Act, each Agency shall evaluate water  
11   consuming products and systems in buildings oper-  
12   ated by such Agency and identify opportunities for  
13   retrofit and replacement of such products and sys-  
14   tems with high efficiency equipment, such as [zero  
15   water consumption urinals, high efficiency toilets,  
16   high efficiency shower heads, high efficiency fau-  
17   cets], and other products that are certified as  
18   Watersense products or FEMP designated products.

19          (2) Within 360 days after the date of enact-  
20   ment of this Act, each Agency shall, in coordination  
21   with other appropriate federal agencies and officials,  
22   prepare a water efficiency retrofit plan which shall,  
23   to the greatest extent practicable, maximize retro-  
24   fitting of water consuming products and systems

1 and replacement with high efficiency equipment as  
2 listed in subsection (1) above.

3 (d) REGULATIONS.—Not later than 180 days after  
4 the date of enactment of this Act, the Administrator,  
5 working in coordination with the Secretary of Energy and  
6 such other agency head or heads as the President may  
7 designate, shall issue guidelines to carry out this section.

8 **SEC. 153. STATE RESIDENTIAL WATER EFFICIENCY AND**  
9 **CONSERVATION INCENTIVES PROGRAM.**

10 (a) DEFINITIONS.—In this section:

11 (1) ADMINISTRATOR.—The term “Adminis-  
12 trator” means the Administrator of the Environ-  
13 mental Protection Agency.

14 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
15 ty” means a State government, local or county gov-  
16 ernment, tribal government, wastewater or sewerage  
17 utility, municipal water authority, energy utility,  
18 water utility, or nonprofit organization that meets  
19 the requirements of subsection (b).

20 (3) INCENTIVE PROGRAM.—The term “incentive  
21 program” means a program for administering finan-  
22 cial incentives for consumer purchase and installa-  
23 tion of water-efficient products, buildings (including  
24 New Water-Efficient Homes), landscapes, processes,  
25 or services described in subsection (b)(1).

1           (4) RESIDENTIAL WATER-EFFICIENT PRODUCT,  
2 BUILDING, LANDSCAPE, PROCESS, OR SERVICE.—

3           (A) IN GENERAL.—The term “residential  
4 water-efficient product, building, landscape,  
5 process, or service” means a product, building,  
6 landscape, process, or service for a residence or  
7 its landscape that is rated for water efficiency  
8 and performance—

9                   (i) by the WaterSense program; or

10                   (ii) if a WaterSense specification does  
11 not exist, by the Energy Star program or  
12 an incentive program approved by the Ad-  
13 ministrator.

14           (B) INCLUSIONS.—The term “residential  
15 water-efficient product, building, landscape,  
16 process, or service” includes, but is not limited  
17 to—

18                   (i) faucets;

19                   (ii) irrigation technologies and serv-  
20 ices;

21                   (iii) point-of-use water treatment de-  
22 vices;

23                   (iv) reuse and recycling technologies;

24                   (v) toilets;

25                   (vi) clothes washers;

- 1 (vii) dishwashers;
- 2 (viii) showerheads;
- 3 (ix) xeriscaping and other landscape
- 4 conversions that replace irrigated turf; and
- 5 (x) New Water Efficient Homes cer-
- 6 tified by the WaterSense program.

7 (5) WATERSENSE PROGRAM.—The term

8 “WaterSense program” means the program estab-

9 lished by [section 151].

10 (b) ELIGIBLE ENTITIES.—An entity shall be eligible

11 to receive an allocation under subsection (c) if the entity—

12 (1) establishes (or has established) an incentive

13 program to provide financial incentives to residential

14 consumers for the purchase of residential water-effi-

15 cient products, buildings, landscapes, processes, or

16 services;

17 (2) submits an application for the allocation at

18 such time, in such form, and containing such infor-

19 mation as the Administrator may require; and

20 (3) provides assurances satisfactory to the Ad-

21 ministrator that the entity will use the allocation to

22 supplement, but not supplant, funds made available

23 to carry out the incentive program.

24 (c) AMOUNT OF ALLOCATIONS.—For each fiscal year,

25 the Administrator shall determine the amount to allocate



1 to each eligible entity to carry out subsection (d), taking  
2 into consideration—

3 (1) the population served by the eligible entity  
4 during the most recent calendar year for which data  
5 are available;

6 (2) the targeted population of the incentive pro-  
7 gram of the eligible entity, such as general house-  
8 holds, low-income households, or first-time home-  
9 owners, and the probable effectiveness of the incen-  
10 tive program for that population;

11 (3) for existing programs, the effectiveness of  
12 the program in encouraging the adoption of water-  
13 efficient products, buildings, landscapes, facilities,  
14 processes, and services;

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

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

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

1           (e) **FIXTURE RECYCLING.**—Eligible entities are en-  
2   couraged to promote or implement fixture recycling pro-  
3   grams to manage the disposal of older fixtures replaced  
4   due to the incentive program under this section.

5           (f) **ISSUANCE OF INCENTIVES.**—

6               (1) **IN GENERAL.**—Financial incentives may be  
7   provided to residential consumers that meet the re-  
8   quirements of the applicable incentive program.

9               (2) **MANNER OF ISSUANCE.**—An eligible entity  
10   may—

11                   (A) issue all financial incentives directly to  
12   residential consumers; or

13                   (B) with approval of the Administrator,  
14   delegate all or part of financial incentive admin-  
15   istration to other organizations, including local  
16   governments, municipal water authorities, water  
17   utilities, and non-profit organizations.

18               (3) **AMOUNT.**—The amount of a financial in-  
19   centive shall be determined by the eligible entity,  
20   taking into consideration—

21                   (A) the amount of any Federal or State  
22   tax incentive available for the purchase of the  
23   residential water-efficient product or service;

1 (B) the amount necessary to change con-  
2 sumer behavior to purchase water-efficient  
3 products and services; and

4 (C) the consumer expenditures for onsite  
5 preparation, assembly, and original installation  
6 of the product.

7 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to the Administrator to  
9 carry out this section—

10 (1) \$100,000,000 for fiscal year 2010;

11 (2) \$150,000,000 for fiscal year 2011;

12 (3) \$200,000,000 for fiscal year 2012;

13 (4) \$150,000,000 for fiscal year 2013;

14 (5) \$100,000,000 for fiscal year 2014; and

15 (6) for each subsequent fiscal year, the applica-  
16 ble amount during the preceding fiscal year, as ad-  
17 justed to reflect changes for the 12-month period  
18 ending the preceding November 30 in the Consumer  
19 Price Index for All Urban Consumers published by  
20 the Bureau of Labor Statistics of the Department of  
21 Labor.

## 22 **Subtitle F—Miscellaneous**

### 23 **SEC. 161. OFFICE OF CONSUMER ADVOCACY.**

24 (a) OFFICE.—

1           (1) ESTABLISHMENT.—There is an Office of  
2           Consumer Advocacy established within the Commis-  
3           sion to serve as an advocate for the public interest.

4           (2) DIRECTOR.—The Office shall be headed by  
5           a Director to be appointed by the President, who is  
6           admitted to the Federal Bar, with experience in pub-  
7           lic utility proceedings, and by and with the advice  
8           and consent of the Senate.

9           (3) DUTIES.—The Office may—

10           (A) represent, and appeal on behalf of, en-  
11           ergy customers on matters concerning rates or  
12           service of public utilities and natural gas com-  
13           panies under the jurisdiction of the Commis-  
14           sion—

15                   (i) at hearings of the Commission;

16                   (ii) in judicial proceedings in the  
17                   courts of the United States; and

18                   (iii) at hearings or proceedings of  
19                   other Federal regulatory agencies and com-  
20                   missions;

21           (B) monitor and review energy customer  
22           complaints and grievances on matters con-  
23           cerning rates or service of public utilities and  
24           natural gas companies under the jurisdiction of  
25           the Commission;

1 (C) investigate independently, or within the  
2 context of formal proceedings, the services pro-  
3 vided by, the rates charged by, and the valu-  
4 ation of the properties of, public utilities and  
5 natural gas companies under the jurisdiction of  
6 the Commission;

7 (D) develop means, such as public dissemi-  
8 nation of information, consultative services, and  
9 technical assistance, to ensure, to the maximum  
10 extent practicable, that the interests of energy  
11 consumers are adequately represented in the  
12 course of any hearing or proceeding described  
13 in subparagraph (A);

14 (E) collect data concerning rates or service  
15 of public utilities and natural gas companies  
16 under the jurisdiction of the Commission; and

17 (F) prepare and issue reports and rec-  
18 ommendations.

19 (4) COMPENSATION AND POWERS.—The Direc-  
20 tor may—

21 (A) employ and fix the compensation of  
22 such staff personnel as is deemed necessary;  
23 and

24 (B) procure temporary and intermittent  
25 services as needed.

1           (5) ACCESS TO INFORMATION.—Each depart-  
2           ment, agency, and instrumentality of the Federal  
3           Government is authorized and directed to furnish to  
4           the Director such reports and other information as  
5           he deems necessary to carry out his functions under  
6           this section.

7           (b) CONSUMER ADVOCACY ADVISORY COMMITTEE.—

8           (1) ESTABLISHMENT.—The Director shall es-  
9           tablish an advisory committee to be known as Con-  
10          sumer Advocacy Advisory Committee (in this section  
11          referred to as the “Advisory Committee”) to review  
12          rates, services, and disputes and to make rec-  
13          ommendations to the Director.

14          (2) COMPOSITION.—The Director shall appoint  
15          5 members to the Advisory Committee including—

16                (A) 2 individuals representing State Utility  
17                Consumer Advocates; and

18                (B) 1 individual, from a nongovernmental  
19                organization, representing consumers.

20          (3) MEETINGS.—The Advisory Committee shall  
21          meet at such frequency as may be required to carry  
22          out its duties.

23          (4) REPORTS.—The Director shall provide for  
24          publication of recommendations of the Advisory

1 Committee on the public website established for the  
2 Office.

3 (5) DURATION.—Notwithstanding any other  
4 provision of law, the Advisory Committee shall con-  
5 tinue in operation during the period in which the Of-  
6 fice exists.

7 (6) APPLICATION OF FACa.—Except as other-  
8 wise specifically provided, the Advisory Committee  
9 shall be subject to the Federal Advisory Committee  
10 Act.

11 (c) DEFINITIONS.—In this section:

12 (1) COMMISSION.—The term “Commission”  
13 means the Federal Energy Regulatory Commission.

14 (2) ENERGY CUSTOMER.—The term “energy  
15 customer” means a residential customer or a small  
16 commercial customer that receives products or serv-  
17 ices from a public utility or natural gas company  
18 under the jurisdiction of the Commission.

19 (3) NATURAL GAS COMPANY.—The term “nat-  
20 ural gas company” has the meaning given the term  
21 in section 2 of the Natural Gas Act (15 U.S.C.  
22 717a), as modified by section 601(a) of the Natural  
23 Gas Policy Act of 1978 (15 U.S.C. 3431(a)).





1 ciency and renewable energy, transportation, water quality  
2 and conservation, green buildings, and waste manage-  
3 ment.

4 (b) PURPOSES.—

5 (1) IN GENERAL.—The competitions described  
6 in subsection (a) shall have the purposes of—

7 (A) accelerating the development and de-  
8 ployment of clean technology businesses and  
9 green jobs;

10 (B) stimulating green economic develop-  
11 ment;

12 (C) providing business training and men-  
13 toring to early stage clean technology compa-  
14 nies; and

15 (D) strengthening the competitiveness of  
16 United States clean technology industry in  
17 world trade markets.

18 (2) PRIORITY.—Priority shall be given to busi-  
19 ness competitions that—

20 (A) are led by the private sector;

21 (B) encourage regional and interregional  
22 cooperation; and

23 (C) can demonstrate market-driven prac-  
24 tices and the creation of cost-effective green

1           jobs through an annual publication of competi-  
2           tion activities and directory of companies.

3       (c) ELIGIBILITY.—

4           (1) IN GENERAL.—To be eligible for a grant  
5       under this section, an organization shall be—

6           (A) an organization described in section  
7           501(c)(3) of the Internal Revenue Code of 1986  
8           and exempt from taxation under 501(a) of that  
9           Code; or

10          (B) any sponsored entity of an organiza-  
11       tion described in subparagraph (A) that is oper-  
12       ated as a nonprofit entity.

13          (2) PRIORITY.—In making grants under this  
14       section, the Administrator shall give priority to orga-  
15       nizations that can demonstrate broad funding sup-  
16       port from private and other non-Federal funding  
17       sources to leverage Federal investment.

18       (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
19       authorized to be appropriated to carry out this section  
20       \$20,000,000.

21       **SEC. 163. AGRICULTURE.**

22          (a) FINDINGS.—Congress finds that—**【TO BE SUP-**  
23       **PLIED】**.

24          (b) RESOURCES.—

1           (1) IN GENERAL.—The Secretary of Agriculture  
2           (referred to in this section as the “Secretary”) may  
3           provide resources for agricultural projects to reduce  
4           agriculture-related greenhouse gas emissions.

5           (2) PARTICIPATION.—Projects to reduce agri-  
6           culture-related greenhouse gas emissions shall, to  
7           the maximum extent practicable, allow for participa-  
8           tion by all forms of domestic agriculture production,  
9           including specialty crops, orchard crops, row crops,  
10          livestock, dairy, and organic production.

11          (3) GOALS.—Project applications submitted  
12          under this section shall meet goals, including—

13                (A) reducing agriculture-related green-  
14                house gas emissions;

15                (B) reducing air pollution in agricultural  
16                areas;

17                (C) mitigating the effects of climate  
18                change on domestic agricultural production; and

19                (D) preserving agricultural land and nat-  
20                ural resources.

21          (c) ELIGIBILITY.—

22                (1) IN GENERAL.—The Secretary shall accept  
23                for review project applications that are submitted  
24                under this section by—

25                    (A) agricultural producers;

- 1 (B) agricultural cooperatives;  
2 (C) resource conservation districts;  
3 (D) States;  
4 (E) local governments and Indian tribes;  
5 and  
6 (F) other appropriate entities;
- 7 (2) PROJECT APPLICATIONS.—Eligible project  
8 applications submitted under this section may in-  
9 clude projects relating to such matters as—
- 10 (A) methane digestion;  
11 (B) improvements to mobile or stationary  
12 equipment (including engines);  
13 (C) practices to reduce and eliminate soil  
14 tillage;  
15 (D) advanced irrigation technologies;  
16 (E) adaptive plant breeding technologies;  
17 (F) wetland, grassland, grazing land, and  
18 wildlife habitat protection;  
19 (G) reduced soil erosion;  
20 (H) soil sequestration;  
21 (I) pest management;  
22 (J) drought relief; and  
23 (K) the development of renewable biofuels.

1 (d) PRIORITY.—In providing assistance for reducing  
2 agriculture-related greenhouse gas emissions, the Sec-  
3 retary shall give priority to project applications that—

4 (1) assist eligible recipients in meeting Federal,  
5 State, or local regulatory requirements relating to  
6 air quality and reducing greenhouse gas emissions;

7 (2) are the most cost-effective in reducing  
8 greenhouse gas emissions and mitigating the effects  
9 of climate change on domestic agricultural produc-  
10 tion; and

11 (3) reflect innovative approaches and tech-  
12 nologies.

13 (e) RULEMAKING.—

14 (1) IN GENERAL.—Not later than 90 days after  
15 the date of enactment of this Act, the Secretary  
16 shall initiate rulemaking procedures necessary to im-  
17 plement this section.

18 (2) FINAL RULES; ACCEPTANCE OF APPLICA-  
19 TIONS.—Not later than 90 days after the close of  
20 the public comment period relating to the rule-  
21 making described in paragraph (1), the Secretary  
22 shall—

23 (A) promulgate final regulations to carry  
24 out this section; and

1 (B) begin accepting project applications for  
2 review;

3 (f) REPORTING.—Not later than 180 days after the  
4 date of enactment of this Act, and every 180 days there-  
5 after, the Secretary shall submit to the Committees on Ag-  
6 riculture and Energy and Commerce of the House of Rep-  
7 resentatives and the Committees on Agriculture and Envi-  
8 ronment and Public Works of the Senate a report speci-  
9 fying, with respect to the program under this section—

10 (1) the project applications received;

11 (2) the project applications approved;

12 (3) the amount of funding allocated per project;

13 and

14 (4) the aggregate reduction in greenhouse gas  
15 emissions resulting from approved projects.

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

19 **SEC. 164. CLEAN ENERGY AND ACCELERATED EMISSION**  
20 **REDUCTION PROGRAM.**

21 (a) ESTABLISHMENT.—

22 (1) IN GENERAL.—The Administrator shall es-  
23 tablish a program to promote dispatchable power  
24 generation projects that can accelerate the reduction

1 of power sector carbon dioxide (CO<sub>2</sub>) and other  
2 greenhouse gas emissions.

3 (2) USE OF FUNDS.—Funds provided under  
4 this section shall be used by the Administrator to  
5 make incentive payments to owners or operators of  
6 eligible projects.

7 (b) REGULATIONS.—Not later than 90 days after the  
8 date of enactment of this section, the Administrator shall  
9 promulgate regulations providing for incentives, pursuant  
10 to the requirements of this section.

11 (c) GOAL.—Within 3 years of enactment, the Admin-  
12 istrator shall provide incentives for eligible projects that  
13 generate 150,000 gigawatt-hours of electricity per year.

14 (d) CRITERIA FOR ELIGIBLE PROJECT.—To be eligi-  
15 ble for funding under this section a project must—

16 (1)(A) In calendar year 2010 through 2015, re-  
17 duce emissions by at least 35 percent below the  
18 2007 average greenhouse gas emissions per mega-  
19 watt hour (MWh) of the U.S. electric power sector;

20 (B) after calendar year 2015, reduce emissions  
21 by at least 50 percent below the 2007 average green-  
22 house gas emissions per megawatt hour (MWh) of  
23 the U.S. electric power sector; and

24 (2) not receive an investment or production tax credit  
25 in—

1 (A) the year in which it is placed in service; or

2 (B) calendar year 2009, notwithstanding the  
3 year in which the project was placed in service.

4 (e) PRIORITY.—The Administrator shall give priority  
5 to eligible projects from the following categories:

6 (1) Power generation projects that replace or  
7 retire power units with emission rates that exceed  
8 the 2007 average greenhouse gas emissions per  
9 MWh of the U.S. electric power sector.

10 (2) Power generation projects designed to inte-  
11 grate intermittent renewable power on to the bulk-  
12 power system.

13 (3) Energy storage projects used to support re-  
14 newable energy.

15 (4) Power generation projects with carbon cap-  
16 ture and sequestration that are not eligible under  
17 section **【CCS bonus allowance program】**.

18 (5) Projects that achieve the greatest reduction  
19 in greenhouse gas emissions per dollar of incentive  
20 payment

21 (f) There are authorized to be appropriated to the  
22 Administrator such sums as necessary to carry out this  
23 section for each of fiscal years 2010 through 2030.



1 **SEC. 165. PRODUCT CARBON DISCLOSURE PROGRAM.**

2 (a) EPA STUDY.—The Administrator shall conduct  
3 a study to determine the feasibility of establishing a na-  
4 tional program for measuring, reporting, publicly dis-  
5 closing, and labeling products or materials sold in the  
6 United States for their carbon content, and shall, not later  
7 than 18 months after the date of enactment of this Act,  
8 transmit a report to Congress which shall include the fol-  
9 lowing:

10 (1) A determination of whether a national prod-  
11 uct carbon disclosure program and labeling program  
12 would be effective in achieving the intended goals of  
13 achieving greenhouse gas reductions and an exam-  
14 ination of existing programs globally and their  
15 strengths and weaknesses.

16 (2) Criteria for identifying and prioritizing sec-  
17 tors and products and processes that should be cov-  
18 ered in such program or programs.

19 (3) An identification of products, processes, or  
20 sectors whose inclusion could have a substantial car-  
21 bon impact (prioritizing industrial products such as  
22 iron and steel, aluminum, cement, chemicals, and  
23 paper products, and also including food, beverage,  
24 hygiene, cleaning, household cleaners, construction,  
25 metals, clothing, semiconductor, and consumer elec-  
26 tronics).

1           (4) Suggested methodology and protocols for  
2           measuring the carbon content of the products across  
3           the entire carbon lifecycle of such products for use  
4           in a carbon disclosure program and labeling pro-  
5           gram.

6           (5) A review of existing greenhouse gas product  
7           accounting standards, methodologies, and practices  
8           including the Greenhouse Gas Protocol, ISO 14040/  
9           44, ISO 14067, and Publically Available Specifica-  
10          tion 2050, and including a review of the strengths  
11          and weaknesses of each.

12          (6) A survey of secondary databases including  
13          the Manufacturing Energy Consumption Survey, an  
14          evaluation of the quality of data for use in a product  
15          carbon disclosure program and product carbon label-  
16          ing program, an identification of gaps in the data  
17          relative to the potential purposes of a national prod-  
18          uct carbon disclosure program and product carbon  
19          labeling program, and development of recommenda-  
20          tions for addressing these data gaps.

21          (7) An assessment of the utility of comparing  
22          products and the appropriateness of product carbon  
23          standards.

24          (8) An evaluation of the information needed on  
25          a label for clear and accurate communication, in-

1 including what pieces of quantitative and qualitative  
2 information need to be disclosed.

3 (9) An evaluation of the appropriate boundaries  
4 of the carbon lifecycle analysis for different sectors  
5 and products.

6 (10) An analysis of whether default values  
7 should be developed for products whose producer  
8 does not participate in the program or does not have  
9 data to support a disclosure or label and a deter-  
10 mination of the best ways to develop such default  
11 values.

12 (11) A recommendation of certification and  
13 verification options necessary to assure the quality  
14 of the information and avoid greenwashing or the  
15 use of insubstantial or meaningless environmental  
16 claims to promote a product.

17 (12) An assessment of options for educating  
18 consumers about product carbon content and the  
19 product carbon disclosure program and product car-  
20 bon labeling program.

21 (13) An analysis of the costs and timelines as-  
22 sociated with establishing a national product carbon  
23 disclosure program and product carbon labeling pro-  
24 gram, including options for a phased approach.  
25 Costs should include those for businesses associated

1 with the measurement of carbon footprints and  
2 those associated with creating a product carbon label  
3 and managing and operating a product carbon label-  
4 ing program, and options for minimizing these costs.

5 (14) An evaluation of incentives (such as finan-  
6 cial incentives, brand reputation, and brand loyalty)  
7 to determine whether reductions in emissions can be  
8 accelerated through encouraging more efficient man-  
9 ufacturing or by encouraging preferences for lower-  
10 emissions products to substitute for higher-emissions  
11 products whose level of performance is no better.

12 (b) DEVELOPMENT OF NATIONAL CARBON DISCLO-  
13 SURE PROGRAM.—Upon conclusion of the study, and not  
14 more than 36 months after the date of enactment of this  
15 Act, the Administrator shall establish a national product  
16 carbon disclosure program, participation in which shall be  
17 voluntary, and which may involve a product carbon label  
18 with broad applicability to the wholesale and consumer  
19 markets to enable and encourage knowledge about carbon  
20 content by producers and consumers and to inform efforts  
21 to reduce energy consumption (carbon dioxide equivalent  
22 emissions) nationwide. In developing such a program, the  
23 Administrator shall—

24 (1) consider the results of the study conducted  
25 under subsection (a);

1           (2) consider existing and planned programs and  
2 proposals and measurement standards (including the  
3 Publicly Available Specification 2050, standards to  
4 be developed by the World Resource Institute/World  
5 Business Council for Sustainable Development, the  
6 International Standards Organization, and the bill  
7 AB19 pending in the California legislature as of the  
8 date of enactment of this Act);

9           (3) consider the compatibility of a national  
10 product carbon disclosure program with existing pro-  
11 grams;

12           (4) utilize incentives and other means to spur  
13 the adoption of product carbon disclosure and prod-  
14 uct carbon labeling;

15           (5) develop protocols and parameters for a  
16 product carbon disclosure program, including a  
17 methodology and formula for assessing, verifying,  
18 and potentially labeling a product's greenhouse gas  
19 content, and for data quality requirements to allow  
20 for product comparison;

21           (6) create a means to—

22                   (A) document best practices;

23                   (B) ensure clarity and consistency;

24                   (C) work with suppliers, manufacturers,  
25 and retailers to encourage participation;

1 (D) ensure that protocols are consistent  
2 and comparable across like products; and

3 (E) evaluate the effectiveness of the pro-  
4 gram;

5 (7) make publicly available information on  
6 product carbon content to ensure transparency;

7 (8) provide for public outreach, including a con-  
8 sumer education program to increase awareness;

9 (9) develop training and education programs to  
10 help businesses learn how to measure and commu-  
11 nicate their carbon footprint and easy tools and tem-  
12 plates for businesses to use to reduce cost and time  
13 to measure their products' carbon lifecycle;

14 (10) consult with the Secretary of Energy, the  
15 Secretary of Commerce, the Federal Trade Commis-  
16 sion, and other Federal agencies, as necessary;

17 (11) gather input from stakeholders through  
18 consultations, public workshops, or hearings with  
19 representatives of consumer product manufacturers,  
20 consumer groups, and environmental groups;

21 (12) utilize systems for verification and product  
22 certification that will ensure that claims manufactur-  
23 ers make about their products are valid;

24 (13) create a process for reviewing the accuracy  
25 of product carbon label information and protecting

1 the product carbon label in the case of a change in  
2 the product's energy source, supply chain, ingredi-  
3 ents, or other factors, and specify the frequency to  
4 which data should be updated; and

5 (14) develop a standardized, easily understand-  
6 able carbon label, if appropriate, and create a proc-  
7 ess for responding to inaccuracies and misuses of  
8 such a label.

9 (c) REPORT TO CONGRESS.—Not later than 5 years  
10 after the program is established pursuant to subsection  
11 (b), the Administrator shall report to Congress on the ef-  
12 fectiveness and impact of the program, the level of vol-  
13 untary participation, and any recommendations for addi-  
14 tional measures.

15 (d) DEFINITIONS.—As used in this section—

16 (1) the term “carbon content” means the  
17 amount of greenhouse gas emissions and their  
18 warming impact on the atmosphere expressed in car-  
19 bon dioxide equivalent associated with a product's  
20 value chain;

21 (2) the term “carbon footprint” means the level  
22 of greenhouse gas emissions produced by a par-  
23 ticular activity, service, or entity; and

24 (3) the term “carbon lifecycle” means the  
25 greenhouse gas emissions that are released as part

1 of the processes of creating, producing, processing or  
2 manufacturing, modifying, transporting, distrib-  
3 uting, storing, using, recycling, or disposing of goods  
4 and services.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to the Administrator  
7 \$5,000,000 for the study required by subsection (a) and  
8 \$25,000,000 for each of fiscal years 2010 through 2025  
9 for the program required under subsection (b).

## 10 **Subtitle G—Energy Efficiency and** 11 **Renewable Energy**

### 12 **SEC. 171. THERMAL ENERGY EFFICIENCY GRANTS PRO-** 13 **GRAM.**

14 (a) DEFINITIONS.—In this section:

15 (1) COMBINED HEAT AND POWER.—The term  
16 “combined heat and power” means simultaneous  
17 generation of electric energy and heat in a single, in-  
18 tegrated system, with an overall efficiency of 60 per-  
19 cent or higher based on a lower-heating value basis.

20 (2) DISTRICT ENERGY SYSTEM.—The term  
21 “district energy system” means a system that pro-  
22 vides thermal energy from 1 or more central plants  
23 to at least 2 or more buildings through a network  
24 of pipes to provide steam, hot water, or chilled water  
25 to be used for space heating, air conditioning, do-



1 mestic hot water, compression, process energy, or  
2 other end uses for the thermal energy.

3 (3) ELIGIBLE ENTITY.—The term “eligible enti-  
4 ty” means—

5 (A) an institutional entity; or

6 (B) a commercial or industrial entity.

7 (4) INSTITUTIONAL ENTITY.—The term “insti-  
8 tutional entity” means—

9 (A) an institution of higher education;

10 (B) a public school district;

11 (C) a local government;

12 (D) a State government;

13 (E) a tribal government;

14 (F) a municipal utility;

15 (G) a nonprofit or public hospital; or

16 (H) a designee of 1 of the entities de-  
17 scribed in subparagraphs (A) through (G).

18 (5) QUALIFYING PROJECT.—The term “quali-  
19 fying project” means a district energy, combined  
20 heat and power, or recoverable waste energy project  
21 that (in accordance with guidance issued by the Ad-  
22 ministrator)—

23 (A) reduces or avoids greenhouse gas emis-  
24 sions; and

1 (B)(i) produces thermal energy from re-  
2 newable energy resources (such as biomass, geo-  
3 thermal, and solar resources) or natural cooling  
4 sources (such as cold lake or ocean water  
5 sources);

6 (ii) captures and productively uses thermal  
7 energy from an existing electric generation fa-  
8 cility;

9 (iii) provides for the capture and produc-  
10 tive use of thermal energy in a new electric gen-  
11 eration facility;

12 (iv) integrates new electricity generation  
13 into an existing district energy system;

14 (v) captures and productively uses surplus  
15 thermal energy from an industrial or municipal  
16 process (such as wastewater treatment); or

17 (vi) distributes and transfers to buildings  
18 the thermal energy from the energy sources de-  
19 scribed in clauses (i) through (v).

20 (6) RECOVERABLE WASTE ENERGY.—The term  
21 “recoverable waste energy” means electrical, ther-  
22 mal, or mechanical energy that—

23 (A) may be recovered or generated through  
24 modification of an existing facility or addition  
25 of a new facility; and

1 (B) if not for that recovery, would be wast-  
2 ed.

3 (b) GRANTS FOR QUALIFYING PROJECTS.—

4 (1) IN GENERAL.—States shall make competi-  
5 tive grants to eligible entities to carry out qualifying  
6 projects in accordance with this section, as deter-  
7 mined by the Administrator.

8 (2) USE OF GRANT FUNDS.—Of the amount of  
9 grants that are made available for each of calendar  
10 years 2012 through 2050 under section 131(c)(6) of  
11 the \_\_\_\_\_ Act, the States shall  
12 use—

13 (A) at least 75 percent of the amount to  
14 make grants to support infrastructure construc-  
15 tion and development for qualifying projects;

16 (B) at least 15 percent of the amount to  
17 make grants to support planning, engineering,  
18 and feasibility studies for qualifying projects;  
19 and

20 (C) the remainder to make grants de-  
21 scribed in paragraph (A) or (B) to fund quali-  
22 fying projects as determined by the State.

23 (3) RECIPIENT ALLOCATION.—Of the amount  
24 of grants that are made available for each of cal-  
25 endar years 2012 through 2050 under section

1       131(c)(6) of the \_\_\_\_\_ Act, the  
2       States shall use—

3               (A) at least 40 percent of the amount to  
4               make grants to institutional entities to carry  
5               out qualifying projects;

6               (B) at least 40 percent of the amount to  
7               make grants to industrial and commercial enti-  
8               ties to carry out qualifying projects; and

9               (C) the remainder to make grants de-  
10              scribed in paragraph (A) or (B) to fund quali-  
11              fying projects as determined by the States.

12             (4) MATCHING REQUIREMENTS.—To be eligible  
13             to obtain a grant, a recipient shall provide matching  
14             funds in an amount equal to at least—

15               (A) in the case of each of calendar years  
16               2012 through 2017, 25 percent of the amount  
17               of the grant; and

18               (B) in the case of each of calendar years  
19               2018 through 2050, 50 percent of the amount  
20               of the grant.

21             (c) CRITERIA FOR GRANTS.—

22               (1) IN GENERAL.—Within 18 months after en-  
23               actment of the \_\_\_\_\_ Act, the Ad-  
24               ministrator shall establish guidance and regulations  
25               to assure that grants provided under this section

1 provide greenhouse gas emission reductions from  
2 combined heat and power and district energy sys-  
3 tems to the maximum extent practicable.

4 (2) CONSULTATION.—In developing such guid-  
5 ance and regulations, the Administrator shall consult  
6 with the Administrator, the States and other inter-  
7 ested stakeholders.

8 (d) STATE REPORTS.—On an annual basis for cal-  
9 endar years 2013 through 2051, the States shall submit  
10 to the Administrator a summary of all grants provided  
11 under this section. Such reports shall include—

12 (1) the number of combined heat and power fa-  
13 cilities and the number of district energy systems  
14 that received grants under the provisions of this sec-  
15 tion;

16 (2) the estimated greenhouse gas reductions  
17 achieved through such projects; and

18 (3) any such recommendations for program im-  
19 provement that the States deem appropriate.

20 (e) ADMINISTRATOR GRANTS.—For each calendar  
21 year 2013 through 2050, the Administrator shall provide  
22 the Congress with a report that details all grants provided  
23 under this section, including all recommendations for pro-  
24 gram improvement recommended by the States, as well as

1 any further recommendations that the Administrator  
2 deems appropriate.

3 **SEC. 172. RENEWABLE ENERGY.**

4 (a) DEFINITIONS.—In this section:

5 (1) RENEWABLE ENERGY.—The term “renew-  
6 able energy” means electric energy generated from  
7 solar, wind, biomass, landfill gas, ocean (including  
8 tidal, wave, current, and thermal), geothermal, mu-  
9 nicipal solid waste, or new hydroelectric generation  
10 capacity achieved from increased efficiency or addi-  
11 tions of new capacity at an existing hydroelectric  
12 project.

13 (2) RENEWABLE PORTFOLIO STANDARD.—The  
14 term “renewable portfolio standard” means a state  
15 statute that requires electricity providers to obtain a  
16 minimum percentage of their power from renewable  
17 energy resources by a certain date.

18 (a) GRANTS.—The Administrator, in consultation  
19 with the Secretaries of Energy, Interior, and Agriculture,  
20 may provide grants for projects to increase the quantity  
21 of energy a State uses from renewable sources under State  
22 renewable portfolio standard laws.

23 (c) ELIGIBILITY.—The Administrator shall review for  
24 approval projects applications that are—

1           (1) submitted by State and local governments,  
2           Indian tribes, public utilities, regional energy co-  
3           operatives, or individual energy producers from  
4           states with a binding Renewable Portfolio Standard;  
5           or

6           (2) submitted by State and local governments,  
7           Indian tribes, public utilities, or regional energy co-  
8           operatives from states with nonbinding goals for  
9           adoption of renewable energy requirements.

10          (d) PRIORITY.—The Administrator shall give priority  
11 to project applications that are—

12           (1) submitted by States with a binding renew-  
13           able portfolio standard;

14           (2) cost-effective in achieving greater renewable  
15           energy production in each State.

16          (e) CERTIFICATION.—

17           (1) IN GENERAL.—The Administrator shall no-  
18           tify in writing the Governor of each eligible State as  
19           described in section (c) at the time at which the Ad-  
20           ministrator begins review of a project application re-  
21           ceived from an eligible entity within the State.

22           (2) CERTIFICATION.—The Governor shall cer-  
23           tify in writing within 30 days of receipt of the Ad-  
24           ministrator's notification described in subsection (1)  
25           that the project application—

1 (A) will assist the State in reaching renew-  
2 able portfolio standard targets under applicable  
3 state laws; and

4 (B) has secured non-Federal funding  
5 sources that, in conjunction with the requested  
6 grant amount, will be sufficient to complete the  
7 renewable energy project.

8 (f) RULEMAKING.—

9 (1) IN GENERAL.—Not later than 90 days after  
10 the date of enactment of this Act, the Administrator  
11 shall initiate rulemaking procedures necessary to im-  
12 plement this section.

13 (2) FINAL RULES; ACCEPTANCE OF APPLICA-  
14 TIONS.—Not later than 90 days after the close of  
15 the public comment period relating to the rule-  
16 making described in paragraph (1), the Adminis-  
17 trator shall—

18 (A) promulgate final regulations to carry  
19 out this section; and

20 (B) begin accepting project applications for  
21 review.

22 (f) REPORTING.—Not later than 180 days after the  
23 date of enactment of this Act, and every 180 days there-  
24 after, the Administrator shall submit to the Committee on  
25 Energy and Commerce of the House of Representatives



1 and the Committee on Environment and Public Works of  
2 the Senate a report specifying, with respect to the pro-  
3 gram under this section—

4 (1) the project applications received;

5 (2) the project applications approved;

6 (3) the amount of funding allocated per project;

7 and

8 (4) the cumulative benefits of the grant pro-  
9 gram.

10 (h) GRANT AMOUNT.—A grant provided under this  
11 section may be in an amount that does not exceed 50 per-  
12 cent of the total cost of the renewable energy project to  
13 be funded by the grant.

14 (i) AUTHORIZATION.—There are authorized to be ap-  
15 propriated such sums as are necessary to carry out this  
16 section.

17 **SEC. 173. ADVANCED BIOFUELS.**

18 **【TO BE SUPPLIED】**

19 **SEC. 174. ENERGY EFFICIENCY IN BUILDING CODES.**

20 (a) ENERGY EFFICIENCY TARGETS.—

21 (1) RULEMAKING TO ESTABLISH TARGETS.—

22 The Administrator, or such other agency head or  
23 heads as may be designated by the President, in  
24 consultation with the Director of the National Insti-  
25 tute of Standards and Technology, shall promulgate

1 regulations establishing building code energy effi-  
2 ciency targets for the national average percentage  
3 improvement of buildings' energy performance. Such  
4 regulations shall establish a national building code  
5 energy efficiency target for residential buildings and  
6 commercial buildings when built to a code meeting  
7 the target, beginning not later than January 1, 2014  
8 and applicable each calendar year through December  
9 31, 2030.

10 (b) NATIONAL ENERGY EFFICIENCY BUILDING  
11 CODES.—

12 (1) RULEMAKING TO ESTABLISH NATIONAL  
13 CODES.—The Administrator, or such other agency  
14 head or heads as may be designated by the Presi-  
15 dent, shall promulgate regulations establishing na-  
16 tional energy efficiency building codes for residential  
17 and commercial buildings. Such regulations shall be  
18 sufficient to meet the national building code energy  
19 efficiency targets established under subsection (a) in  
20 the most cost-effective manner, and may include pro-  
21 visions for State adoption of the national building  
22 code standards and certification of State programs

23 (c) ANNUAL REPORTS.—The Administrator, or such  
24 other agency head or heads as may be designated by the

1 President, shall annually submit to Congress, and publish  
2 in the Federal Register, a report on—

3 (1) the status of national energy efficiency  
4 building codes;

5 (2) the status of energy efficiency building code  
6 adoption and compliance in the States;

7 (3) the implementation of and compliance with  
8 regulations promulgated under this section;

9 (4) the status of Federal and State enforcement  
10 of building codes; and

11 (5) impacts of action under this section, and  
12 potential impacts of further action, on lifetime en-  
13 ergy use by buildings, including resulting energy and  
14 cost savings.

15 **SEC. 175. BUILDING RETROFIT PROGRAM.**

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

17 (1) ASSISTED HOUSING.—The term “assisted  
18 housing” means those properties receiving project-  
19 based assistance pursuant to section 202 of the  
20 Housing Act of 1959 (12 U.S.C. 1701q), section  
21 811 of the Cranston-Gonzalez National Affordable  
22 Housing Act (42 U.S.C. 8013), section 8 of the  
23 United States Housing Act of 1937 (42 U.S.C.  
24 1437f), or similar programs.

1           (2) NONRESIDENTIAL BUILDING.—The term  
2           “nonresidential building” means a building with a  
3           primary use or purpose other than residential hous-  
4           ing, including any building used for commercial of-  
5           fices, schools, academic and other public and private  
6           institutions, nonprofit organizations including faith-  
7           based organizations, hospitals, hotels, and other non-  
8           residential purposes. Such buildings shall include  
9           mixed-use properties used for both residential and  
10          nonresidential purposes in which more than half of  
11          building floor space is nonresidential.

12          (3) PERFORMANCE-BASED BUILDING RETROFIT  
13          PROGRAM.—The term “performance-based building  
14          retrofit program” means a program that determines  
15          building energy efficiency success based on actual  
16          measured savings after a retrofit is complete, as evi-  
17          denced by energy invoices or evaluation protocols.

18          (4) PRESCRIPTIVE BUILDING RETROFIT PRO-  
19          GRAM.—The term “prescriptive building retrofit pro-  
20          gram” means a program that projects building ret-  
21          rofit energy efficiency success based on the known  
22          effectiveness of measures prescribed to be included  
23          in a retrofit.

24          (5) PUBLIC HOUSING.—The term “public hous-  
25          ing” means properties receiving assistance under

1 section 9 of the United States Housing Act of 1937  
2 (42 U.S.C. 1437g).

3 (6) RECOMMISSIONING;  
4 RETROCOMMISSIONING.—The terms “recommis-  
5 sioning” and “retrocommissioning” have the mean-  
6 ing given those terms in section 543(f)(1) of the Na-  
7 tional Energy Conservation Policy Act (42 U.S.C.  
8 8253(f)(1)).

9 (7) RESIDENTIAL BUILDING.—The term “resi-  
10 dential building” means a building whose primary  
11 use is residential. Such buildings shall include sin-  
12 gle-family homes (both attached and detached),  
13 owner-occupied units in larger buildings with their  
14 own dedicated space-conditioning systems, apart-  
15 ment buildings, multi-unit condominium buildings,  
16 public housing, assisted housing, and buildings used  
17 for both residential and nonresidential purposes in  
18 which more than half of building floor space is resi-  
19 dential.

20 (8) STATE ENERGY PROGRAM.—The term  
21 “State Energy Program” means the program under  
22 part D of title III of the Energy Policy and Con-  
23 servation Act (42 U.S.C. 6321 et seq.).

24 (b) ESTABLISHMENT.—The Administrator shall de-  
25 velop and implement, in consultation with the Secretary

1 of Energy, standards for a national energy and environ-  
2 mental building retrofit policy for single-family and multi-  
3 family residences. The Administrator shall develop and  
4 implement, in consultation with the Secretary of Energy  
5 and the Director of Commercial High-Performance Green  
6 Buildings, standards for a national energy and environ-  
7 mental building retrofit policy for nonresidential buildings.  
8 The programs to implement the residential and nonresi-  
9 dential policies based on the standards developed under  
10 this section shall together be known as the Retrofit for  
11 Energy and Environmental Performance (REEP) pro-  
12 gram.

13 (c) PURPOSE.—The purpose of the REEP program  
14 is to facilitate the retrofitting of existing buildings across  
15 the United States to achieve maximum cost-effective en-  
16 ergy efficiency improvements and significant improve-  
17 ments in water use and other environmental attributes.

18 (d) FEDERAL ADMINISTRATION.—

19 (1) EXISTING PROGRAMS.—In creating and op-  
20 erating the REEP program—

21 (A) the Administrator shall make appro-  
22 priate use of existing programs, including the  
23 Energy Star program and in particular the En-  
24 vironmental Protection Agency Energy Star for  
25 Buildings program; and

1 (B) the Administrator shall consult with  
2 the Secretary of Energy regarding appropriate  
3 use of existing programs, including delegating  
4 authority to the Director of Commercial High-  
5 Performance Green Buildings appointed under  
6 section 421 of the Energy Independence and  
7 Security Act of 2007 (42 U.S.C. 17081).

8 (2) CONSULTATION AND COORDINATION.—The  
9 Administrator shall consult with and coordinate with  
10 the and the Secretary of Energy and the Secretary  
11 of Housing and Urban Development in carrying out  
12 the REEP program with regard to retrofitting of  
13 public housing and assisted housing. As a result of  
14 such consultation, the Administrator shall establish  
15 standards to ensure that retrofits of public housing  
16 and assisted housing funded pursuant to this section  
17 are cost-effective, including opportunities to address  
18 the potential co-performance of repair and replace-  
19 ment needs that may be supported with other forms  
20 of Federal assistance. Owners of public housing or  
21 assisted housing receiving funding through the  
22 REEP program shall agree to continue to provide  
23 affordable housing consistent with the provisions of  
24 the authorizing legislation governing each program  
25 for an additional period commensurate with the

1 funding received, as determined in accordance with  
2 guidelines established by the Secretary of Housing  
3 and Urban Development.

4 (3) ASSISTANCE.—The Administrator shall pro-  
5 vide consultation and assistance to State and local  
6 agencies for the establishment of revolving loan  
7 funds, loan guarantees, or other forms of financial  
8 assistance under this section.

9 (e) STATE AND LOCAL ADMINISTRATION.—

10 (1) DESIGNATION AND DELEGATION.—A State  
11 may designate one or more agencies or entities, in-  
12 cluding those regulated by the State, to carry out  
13 the purposes of this section, but shall designate one  
14 entity or individual as the principal point of contact  
15 for the Administrator regarding the REEP Pro-  
16 gram. The designated State agency, agencies, or en-  
17 tities may delegate performance of appropriate ele-  
18 ments of the REEP program, upon their request  
19 and subject to State law, to counties, municipalities,  
20 appropriate public agencies, and other divisions of  
21 local government, as well as to entities regulated by  
22 the State. In making any such designation or delega-  
23 tion, a State shall give priority to entities that ad-  
24 minister existing comprehensive retrofit programs,  
25 including those under the supervision of State utility



1 regulators. States shall maintain responsibility for  
2 meeting the standards and requirements of the  
3 REEP program. In any State that elects not to ad-  
4 minister the REEP program, a unit of local govern-  
5 ment may propose to do so within its jurisdiction,  
6 and if the Administrator finds that such local gov-  
7 ernment is capable of administering the program,  
8 the Administrator may provide allowances to that  
9 local government, prorated according to the popu-  
10 lation of the local jurisdiction relative to the popu-  
11 lation of the State, for purposes of the REEP pro-  
12 gram.

13 (2) EMPLOYMENT.—States and local govern-  
14 ment entities may administer a REEP program in  
15 a manner that authorizes public or regulated inves-  
16 tor-owned utilities, building auditors and inspectors,  
17 contractors, nonprofit organizations, for-profit com-  
18 panies, and other entities to perform audits and ret-  
19 rofit services under this section. A State may pro-  
20 vide incentives for retrofits without direct participa-  
21 tion by the State or its agents, so long as the result-  
22 ing savings are measured and verified. A State or  
23 local administrator of a REEP program shall seek  
24 to ensure that sufficient qualified entities are avail-  
25 able to support retrofit activities so that building

1 owners have a competitive choice among qualified  
2 auditors, raters, contractors, and providers of serv-  
3 ices related to retrofits. Nothing in this section is in-  
4 tended to deny the right of a building owner to  
5 choose the specific providers of retrofit services to  
6 engage for a retrofit project in that owner's building.

7 (3) EQUAL INCENTIVES FOR EQUAL IMPROVE-  
8 MENT.—In general, the States should strive to offer  
9 the same levels of incentives for retrofits that meet  
10 the same efficiency improvement goals, regardless of  
11 whether the State, its agency or entity, or the build-  
12 ing owner has conducted the retrofit achieving the  
13 improvement, provided the improvement is measured  
14 and verified.

15 (f) ELEMENTS OF REEP PROGRAM.—The Adminis-  
16 trator, in consultation with the Secretary of Energy, shall  
17 establish goals, guidelines, practices, and standards for ac-  
18 complishing the purpose stated in subsection (c), and shall  
19 annually review and, as appropriate, revise such goals,  
20 guidelines, practices, and standards. The program under  
21 this section shall include the following:

22 (1) Residential Energy Services Network  
23 (RESNET) or Building Performance Institute  
24 (BPI) analyst certification of residential building en-  
25 ergy and environment auditors, inspectors, and rat-

1       ers, or an equivalent certification system as deter-  
2       mined by the Administrator.

3           (2) BPI certification or licensing by States of  
4       residential building energy and environmental ret-  
5       rofit contractors, or an equivalent certification or li-  
6       censing system as determined by the Administrator.

7           (3) Provision of BPI, RESNET, or other ap-  
8       propriate information on equipment and procedures,  
9       as determined by the Administrator, that contractors  
10      can use to test the energy and environmental effi-  
11      ciency of buildings effectively (such as infrared pho-  
12      tography and pressurized testing, and tests for water  
13      use and indoor air quality).

14          (4) Provision of clear and effective materials to  
15      describe the testing and retrofit processes for typical  
16      buildings.

17          (5) Guidelines for offering and managing pre-  
18      scriptive building retrofit programs and perform-  
19      ance-based building retrofit programs for residential  
20      and nonresidential buildings.

21          (6) Guidelines for applying recommissioning  
22      and retrocommissioning principles to improve a  
23      building's operations and maintenance procedures.

24          (7) A requirement that building retrofits con-  
25      ducted pursuant to a REEP program utilize, espe-

1 cially in all air-conditioned buildings, roofing mate-  
2 rials with high solar energy reflectance, unless inap-  
3 propriate due to green roof management, solar en-  
4 ergy production, or for other reasons identified by  
5 the Administrator, in order to reduce energy con-  
6 sumption within the building, increase the albedo of  
7 the building's roof, and decrease the heat island ef-  
8 fect in the area of the building, without reduction of  
9 otherwise applicable ceiling insulation standards.

10 (8) Determination of energy savings in a per-  
11 formance-based building retrofit program through—

12 (A) for residential buildings, comparison of  
13 before and after retrofit scores on the Home  
14 Energy Rating System (HERS) Index, where  
15 the final score is produced by an objective third  
16 party;

17 (B) for nonresidential buildings, Environ-  
18 mental Protection Agency Portfolio Manager  
19 benchmarks; or

20 (C) for either residential or nonresidential  
21 buildings, use of an Administrator-approved  
22 simulation program by a contractor with the  
23 appropriate certification, subject to appropriate  
24 software standards and verification of at least

1           15 percent of all work done, or such other per-  
2           centage as the Administrator may determine.

3           (9) Guidelines for utilizing the Energy Star  
4           Portfolio Manager, the Home Energy Rating System  
5           (HERS) rating system, Home Performance with En-  
6           ergy Star program approvals, and any other tools  
7           associated with the retrofit program.

8           (10) Requirements and guidelines for post-ret-  
9           rofit inspection and confirmation of work and energy  
10          savings.

11          (11) Detailed descriptions of funding options  
12          for the benefit of State and local governments, along  
13          with model forms, accounting aids, agreements, and  
14          guides to best practices.

15          (12) Guidance on opportunities for—

16                 (A) rating or certifying retrofitted build-  
17                 ings as Energy Star buildings, or as green  
18                 buildings under a recognized green building rat-  
19                 ing system;

20                 (B) assigning Home Energy Rating Sys-  
21                 tem (HERS) or similar ratings; and

22                 (C) completing any applicable building per-  
23                 formance labels.

1           (13) Sample materials for publicizing the pro-  
2           gram to building owners, including public service an-  
3           nouncements and advertisements.

4           (14) Processes for tracking the numbers and lo-  
5           cations of buildings retrofitted under the REEP pro-  
6           gram, with information on projected and actual sav-  
7           ings of energy and its value over time.

8           (g) REQUIREMENTS.—As a condition of receiving al-  
9           lowances for the REEP program pursuant to this Act, a  
10          State or qualifying local government shall—

11           (1) adopt the standards for training, certifi-  
12           cation of contractors, certification of buildings, and  
13           post-retrofit inspection as developed by the Adminis-  
14           trator for residential and nonresidential buildings,  
15           respectively, except as necessary to match local con-  
16           ditions, needs, efficiency opportunities, or other local  
17           factors, or to accord with State laws or regulations,  
18           and then only after the Administrator approves such  
19           a variance;

20           (2) establish fiscal controls and accounting pro-  
21           cedures (which conform to generally accepted gov-  
22           ernment accounting principles) sufficient to ensure  
23           proper accounting during appropriate accounting pe-  
24           riods for payments received and disbursements, and  
25           for fund balances; and

1           (3) agree to make not less than 10 percent of  
2 allowance value received pursuant to section  
3 132(c)(2) for dedicated funding of its REEP pro-  
4 gram available on a preferential basis for retrofit  
5 projects proposed for public housing and assisted  
6 housing, provided that—

7           (A) none of such funds shall be used for  
8 demolition of such housing;

9           (B) such retrofits not shall not be used to  
10 justify any increase in rents charged to resi-  
11 dents of such housing; and

12           (C) owners of such housing shall agree to  
13 continue to provide affordable housing con-  
14 sistent with the provisions of the authorizing  
15 legislation governing each program for an addi-  
16 tional period commensurate with the funding  
17 received.

18           **[(4) the Administrator shall conduct or require**  
19 **each State to have such independent financial audits**  
20 **of REEP-related funding as the Administrator con-**  
21 **siders necessary or appropriate to carry out the pur-**  
22 **poses of this section.]**

23           (h) **OPTIONS TO SUPPORT REEP PROGRAM.**—The  
24 emission allowances provided pursuant to this Act to the  
25 States SEED Accounts shall support the implementation

1 through State REEP programs of alternate means of cre-  
2 ating incentives for, or reducing financial barriers to, im-  
3 proved energy and environmental performance in build-  
4 ings, consistent with this section, including—

5           (1) implementing prescriptive building retrofit  
6 programs and performance-based building retrofit  
7 programs;

8           (2) providing credit enhancement, interest rate  
9 subsidies, loan guarantees, or other credit support;

10           (3) providing initial capital for public revolving  
11 fund financing of retrofits, with repayments by bene-  
12 ficiary building owners over time through their tax  
13 payments, calibrated to create net positive cash flow  
14 to the building owner;

15           (4) providing funds to support utility-operated  
16 retrofit programs with repayments over time  
17 through utility rates, calibrated to create net positive  
18 cash flow to the building owner, and transferable  
19 from one building owner to the next with the build-  
20 ing's utility services;

21           (5) providing funds to local government pro-  
22 grams to provide REEP services and financial as-  
23 sistance; and



1           (6) other means proposed by State and local  
2 agencies, subject to the approval of the Adminis-  
3 trator.

4           (i) SUPPORT FOR PROGRAM.—

5           (1) USE OF ALLOWANCES.—Direct Federal sup-  
6 port for the REEP program is provided through the  
7 emission allowances allocated to the States' SEED  
8 Accounts pursuant to section \_\_\_\_ of this Act.

9           (2) INITIAL AWARD LIMITS.—Except as pro-  
10 vided in paragraph (3), State and local REEP pro-  
11 grams may make per-building direct expenditures  
12 for retrofit improvements, or their equivalent in indi-  
13 rect or other forms of financial support, from funds  
14 derived from the sale of allowances received directly  
15 from the Administrator in amounts not to exceed the  
16 following amounts per unit:

17           (A) RESIDENTIAL BUILDING PROGRAM.—

18           (i) AWARDS.—For residential build-  
19 ings—

20           (I) support for a free or low-cost  
21 detailed building energy audit that  
22 prescribes measures sufficient to  
23 achieve at least a 20 percent reduc-  
24 tion in energy use, by providing an in-  
25 centive equal to the documented cost

1 of such audit, but not more than  
2 \$200, in addition to any earned by  
3 achieving a 20 percent or greater effi-  
4 ciency improvement;

5 (II) a total of \$1,000 for a com-  
6 bination of measures, prescribed in an  
7 audit conducted under subclause (I),  
8 designed to reduce energy consump-  
9 tion by more than 10 percent, and  
10 \$2,000 for a combination of measures  
11 prescribed in such an audit, designed  
12 to reduce energy consumption by more  
13 than 20 percent;

14 (III) \$3,000 for demonstrated  
15 savings of 20 percent, pursuant to a  
16 performance-based building retrofit  
17 program; and

18 (IV) \$1,000 for each additional 5  
19 percentage points of energy savings  
20 achieved beyond savings for which  
21 funding is provided under subclause  
22 (II) or (III).

23 Funding shall not be provided under  
24 clauses (II) and (III) for the same energy  
25 savings.



1                   timated service life of not less than 7  
2                   years, and not more than an additional  
3                   \$20 may be provided for each additional  
4                   one percent of such savings, up to a max-  
5                   imum total grant of \$1,200.

6                   (B) NONRESIDENTIAL BUILDING PRO-  
7                   GRAM.—

8                   (i) AWARDS.—For nonresidential  
9                   buildings—

10                   (I) support for a free or low-cost  
11                   detailed building energy audit that  
12                   prescribes, as part of a energy-reduc-  
13                   ing measures sufficient to achieve at  
14                   least a 20 percent reduction in energy  
15                   use, by providing an incentive equal to  
16                   the documented cost of such audit,  
17                   but not more than \$500, in addition  
18                   to any award earned by achieving a  
19                   20 percent or greater efficiency im-  
20                   provement;

21                   (II) \$0.15 per square foot of ret-  
22                   rofit area for demonstrated energy use  
23                   reductions from 20 percent to 30 per-  
24                   cent;

1 (III) \$0.75 per square foot for  
2 demonstrated energy use reductions  
3 from 30 percent to 40 percent;

4 (IV) \$1.60 per square foot for  
5 demonstrated energy use reductions  
6 from 40 percent to 50 percent; and

7 (V) \$2.50 per square foot for  
8 demonstrated energy use reductions  
9 exceeding 50 percent.

10 (ii) MAXIMUM PERCENTAGE.—  
11 Amounts provided under subclauses (II)  
12 through (V) of clause (i) combined shall  
13 not exceed 50 percent of the total retrofit  
14 cost of a building. In nonresidential build-  
15 ings with multiple units, such awards shall  
16 be prorated among individual units on the  
17 basis of relative costs of the retrofit.

18 (iii) ADDITIONAL AWARDS.—Addi-  
19 tional awards may be provided, for build-  
20 ings achieving at least 20 percent energy  
21 savings using funding provided under  
22 clause (i), as follows:

23 (I) WATER.—For purposes of in-  
24 creasing energy efficiency, grants may  
25 be made for whole building potable

1 water use reduction (using an appro-  
2 priate method approved by the Ad-  
3 ministrator) for up to 50 percent of  
4 the total retrofit cost, including  
5 amounts up to—

6 (aa) \$24.00 per thousand  
7 gallons per year of potable water  
8 savings of 40 percent or more;

9 (bb) \$27.00 per thousand  
10 gallons per year of potable water  
11 savings of 50 percent or more;  
12 and

13 (cc) \$30.00 per thousand  
14 gallons per year of potable water  
15 savings of 60 percent or more.

16 (II) ENVIRONMENTAL IMPROVE-  
17 MENTS.—Additional awards of up to  
18 \$1,000 may be granted for the inclu-  
19 sion of other environmental attributes  
20 that the Administrator, in consulta-  
21 tion with the Secretary, identifies as  
22 contributing to energy efficiency. Such  
23 attributes may include, but are not  
24 limited to waste diversion and the use  
25 of environmentally preferable mate-

1                   rials (including salvaged, renewable,  
2                   or recycled materials, and materials  
3                   with no or low-VOC content). The Ad-  
4                   ministrator may recommend that  
5                   States develop such standards as are  
6                   necessary to account for local or re-  
7                   gional conditions that may affect the  
8                   feasibility or availability of identified  
9                   resources and attributes.

10                   (iv) INDOOR AIR QUALITY MINIMUM.—  
11                   Nonresidential buildings receiving incen-  
12                   tives under this section must satisfy at a  
13                   minimum the most recent version of  
14                   ASHRAE Standard 62.1 for ventilation, or  
15                   the equivalent as determined by the Ad-  
16                   ministrator. A State may issue a waiver  
17                   from this requirement to a building project  
18                   on a showing that such compliance is in-  
19                   feasible due to the physical constraints of  
20                   the building's existing ventilation system,  
21                   or such other limitations as may be speci-  
22                   fied by the Administrator.

23                   (C) DISASTER DAMAGED BUILDINGS.—Any  
24                   source of funds, including Federal funds pro-  
25                   vided through the Robert T. Stafford Disaster

1           Relief and Emergency Assistance Act, shall  
2           qualify as the building owner's 50 percent con-  
3           tribution, in order to match the contribution of  
4           REEP funds, so long as the REEP funds are  
5           only used to improve the energy efficiency of  
6           the buildings being reconstructed. In addition,  
7           the appropriate Federal agencies providing as-  
8           sistance to building owners through the Robert  
9           T. Stafford Disaster Relief and Emergency As-  
10          sistance Act shall make information available,  
11          following a disaster, to building owners rebuild-  
12          ing disaster damaged buildings with assistance  
13          from the Act, that REEP funds may be used  
14          for energy efficiency improvements.

15                 (D)    HISTORIC    BUILDINGS.—Notwith-  
16          standing subparagraphs (A) and (B), a building  
17          in or eligible for the National Register of His-  
18          toric Places shall be eligible for awards under  
19          this paragraph in amounts up to 120 percent of  
20          the amounts set forth in subparagraphs (A) and  
21          (B).

22                 (E)    SUPPLEMENTAL SUPPORT.—State and  
23          local governments may supplement the per-  
24          building expenditures under this paragraph  
25          with funding from other sources.



1           (3) ADJUSTMENT.—The Administrator may ad-  
2           just the specific dollar limits funded by the sale of  
3           allowances pursuant to paragraph (2) in years sub-  
4           sequent to the second year after the date of enact-  
5           ment of this Act, and every 2 years thereafter, as  
6           the Administrator determines necessary to achieve  
7           optimum cost-effectiveness and to maximize incen-  
8           tives to achieve energy efficiency within the total  
9           building award amounts provided in that paragraph,  
10          and shall publish and hold constant such revised lim-  
11          its for at least 2 years.

12          (j) REPORT TO CONGRESS.—The Administrator shall  
13          conduct an annual assessment of the achievements of the  
14          REEP program in each State, shall prepare an annual re-  
15          port of such achievements and any recommendations for  
16          program modifications, and shall provide such report to  
17          Congress at the end of each fiscal year during which fund-  
18          ing or other resources were made available to the States  
19          for the REEP Program.

20                   **Subtitle H—State Adaptation**  
21                                   **Programs**

22          **SEC. 181. FLOOD PREVENTION.**

23                   **【TO BE SUPPLIED】**

24          **SEC. 182. WILDFIRE.**

25          (a) FINDINGS.—Congress finds that—

1           (1) since 1980, wildfires in the United States  
2           have burned almost twice as many acres per year on  
3           average than the average burned acreage during the  
4           period beginning on January 1, 1920, and ending on  
5           December 31, 1979;

6           (2) the wildfire season in the western United  
7           States has increased by an average of 78 days dur-  
8           ing the 30-year period preceding the date of enact-  
9           ment of this Act;

10          (3) researchers predict that the area subject to  
11          wildfire damage will increase during the 21st cen-  
12          tury by up to 118 percent as a result of climate  
13          change;

14          (4) of the annual budget of the Forest Service,  
15          the Forest Service used for wildfire suppression ac-  
16          tivities—

17                   (A) 13 percent in 1991; and

18                   (B) 45 percent in 2007; and

19          (5) 1 percent of the largest escaped fires—

20                   (A) burn 95 percent of all burned acres;

21                   and

22                   (B) consume 85 percent of all wildfire  
23                   fighting costs.

1           (b) PURPOSE.—The purpose of this section is to au-  
2 thorize a program to reduce the risk of wildfires in fire-  
3 ready communities.

4           (c) DEFINITIONS.—In this section:

5               (1) FIRE-READY COMMUNITY.—The term “fire-  
6 ready community” means a community that—

7                   (A) is located within a priority area identi-  
8 fied pursuant to subsection (d);

9                   (B) has a cooperative fire agreement that  
10 articulates the roles and responsibilities for  
11 Federal, State and local government entities in  
12 local wildfire suppression and protection;

13                   (C) has local codes that require fire-resist-  
14 ant home design and building materials;

15                   (D) has a community wildfire protection  
16 plan (as defined in section 101 of the Healthy  
17 Forests Restoration Act of 2003 (16 U.S.C.  
18 6502)); and

19                   (E) is engaged in a successful collaborative  
20 process that includes multiple interested per-  
21 sons representing diverse interests and is trans-  
22 parent and nonexclusive, such as a resource ad-  
23 visory committee established under section 205  
24 of the Secure Rural Schools and Community

1 Self-Determination Act of 2000 (Public Law  
2 106-393; 16 U.S.C. 500 note).

3 (2) SECRETARIES.—The term “Secretaries”  
4 means the Secretary of Agriculture and the Sec-  
5 retary of the Interior.

6 (d) FIRE RISK MAPPING.—As soon as is practicable  
7 after the date of the enactment of this Act, the Secretaries  
8 shall develop regional maps of communities most at risk  
9 of wildfire and in need of hazardous fuel treatment and  
10 maintenance. The maps shall identify priority areas for  
11 hazardous fuels reduction projects, including—

12 (1) at-risk communities in fire-prone areas of  
13 the wildland-urban interface (as defined in section  
14 101 of the Healthy Forests Restoration Act of 2003  
15 (16 U.S.C. 6502));

16 (2) watersheds and municipal drinking water  
17 sources;

18 (3) emergency evacuation corridors;

19 (4) electricity transmission corridors; and

20 (5) low-capacity or low-income communities.

21 (e) LOCAL WILDLAND FIREFIGHTING CAPABILITY  
22 GRANTS.—

23 (1) GRANTS AVAILABLE.—The Secretaries may  
24 provide cost-share grants to fire-ready communities

1 to assist such communities in carrying out activities  
2 authorized by paragraph (2).

3 (2) ELIGIBLE ACTIVITIES.—Grant funds may  
4 be used for the following:

5 (A) Education programs to raise aware-  
6 ness of homeowners and citizens about wildland  
7 fire protection practices, including FireWise or  
8 similar programs.

9 (B) Training programs for local fire-  
10 fighters on wildland firefighting techniques and  
11 approaches.

12 (C) Equipment acquisition to facilitate  
13 wildland fire preparedness.

14 (D) Implementation of a community wild-  
15 fire protection plan.

16 (E) Forest restoration that accomplishes  
17 fuels reduction

18 (f) WILDLAND FIRE COST-SHARE AGREEMENTS.—In  
19 developing any wildland fire cost-share agreement with a  
20 State Forester or equivalent official, the Secretaries shall,  
21 to the maximum extent practicable, encourage the State  
22 and local communities involved to become fire-ready com-  
23 munities.

1                   **TITLE II—RESEARCH**  
2                   **Subtitle A—Energy Research**

3   **SEC. 201. ENERGY INNOVATION HUBS.**

4           **[PLACEHOLDER       FOR       AUTHORIZING**  
5   **LANGUGE]**

6   **[SEC. 202. ADVANCED ENERGY RESEARCH.**

7           **[PLACEHOLDER FOR AUTHORIZING LAN-**  
8   **GUAGE]]**

9                   **Subtitle B—Drinking Water Adap-**  
10                   **tation, Technology, Education,**  
11                   **and Research**

12   **SEC. 211. EFFECTS OF CLIMATE CHANGE ON DRINKING**  
13                   **WATER UTILITIES.**

14           (a) FINDINGS.—Congress finds that—

15                   (1) the consensus among climate scientists is  
16                   overwhelming that climate change is occurring more  
17                   rapidly than can be attributed to natural causes, and  
18                   that significant impacts to the water supply are al-  
19                   ready occurring;

20                   (2) among the first and most critical of those  
21                   impacts will be change to patterns of precipitation  
22                   around the world, which will affect water availability  
23                   for the most basic drinking water and domestic  
24                   water needs of populations in many areas of the  
25                   United States;

1           (3) drinking water utilities throughout the  
2 United States, as well as those in Europe, Australia,  
3 and Asia, are concerned that extended changes in  
4 precipitation will lead to extended droughts;

5           (4) supplying water is highly energy-intensive  
6 and will become more so as climate change forces  
7 more utilities to turn to alternative supplies;

8           (5) energy production consumes a significant  
9 percentage of the fresh water resources of the  
10 United States;

11           (6) since 2003, the drinking water industry of  
12 the United States has sponsored, through a non-  
13 profit water research foundation, various studies to  
14 assess the impacts of climate change on drinking  
15 water supplies;

16           (7) those studies demonstrate the need for a  
17 comprehensive program of research into the full  
18 range of impacts on drinking water utilities, includ-  
19 ing impacts on water supplies, facilities, and cus-  
20 tomers;

21           (8) that nonprofit water research foundation is  
22 also coordinating internationally with other drinking  
23 water utilities on shared research projects and has  
24 hosted international workshops with counterpart Eu-  
25 ropean and Asian water research organizations to

1       develop a unified research agenda for applied re-  
2       search on adaptive strategies to address climate  
3       change impacts;

4           (9) research data in existence as of the date of  
5       enactment of this Act—

6           (A) summarize the best available scientific  
7       evidence on climate change;

8           (B) identify the implications of climate  
9       change for the water cycle and the availability  
10      and quality of water resources; and

11          (C) provide general guidance on planning  
12      and adaptation strategies for water utilities;  
13      and

14          (10) given uncertainties about specific climate  
15      changes in particular areas, drinking water utilities  
16      need to prepare for a wider range of likely possibili-  
17      ties in managing and delivery of water.

18      (b) IN GENERAL.—The Administrator, in cooperation  
19      with the Secretary of Commerce, the Secretary of Energy,  
20      and the Secretary of the Interior, shall establish and pro-  
21      vide funding for a program of directed and applied re-  
22      search, to be conducted through a nonprofit drinking  
23      water research foundation and sponsored by water utili-  
24      ties, to assist the utilities in adapting to the effects of cli-  
25      mate change.



1 (c) RESEARCH AREAS.—The research conducted in  
2 accordance with subsection (b) shall include research  
3 into—

4 (1) water quality impacts and solutions, includ-  
5 ing research—

6 (A) to address probable impacts on raw  
7 water quality resulting from—

8 (i) erosion and turbidity from extreme  
9 precipitation events;

10 (ii) watershed vegetation changes; and

11 (iii) increasing ranges of pathogens,  
12 algae, and nuisance organisms resulting  
13 from warmer temperatures; and

14 (B) on mitigating increasing damage to  
15 watersheds and water quality by evaluating ex-  
16 treme events, such as wildfires and hurricanes,  
17 to learn and develop management approaches to  
18 mitigate—

19 (i) permanent watershed damage;

20 (ii) quality and yield impacts on  
21 source waters; and

22 (iii) increased costs of water treat-  
23 ment;

24 (2) impacts on groundwater supplies from car-  
25 bon sequestration, including research to evaluate po-

1        potential water quality consequences of carbon seques-  
2        tration in various regional aquifers, soil conditions,  
3        and mineral deposits;

4            (3) water quantity impacts and solutions, in-  
5        cluding research—

6            (A) to evaluate climate change impacts on  
7        water resources throughout hydrological basins  
8        of the United States;

9            (B) to improve the accuracy and resolution  
10       of climate change models at a regional level;

11           (C) to identify and explore options for in-  
12       creasing conjunctive use of aboveground and  
13       underground storage of water; and

14           (D) to optimize operation of existing and  
15       new reservoirs in diminished and erratic periods  
16       of precipitation and runoff;

17           (4) infrastructure impacts and solutions for  
18       water treatment and wastewater treatment facilities  
19       and underground pipelines, including research—

20           (A) to evaluate and mitigate the impacts of  
21       sea level rise on—

22            (i) near-shore facilities;

23            (ii) soil drying and subsidence;

24            (iii) reduced flows in water and waste-  
25       water pipelines; and

1 (iv) extreme flows in wastewater sys-  
2 tems; and

3 (B) on ways of increasing the resilience of  
4 existing infrastructure, planning cost-effective  
5 responses to adapt to climate change, and de-  
6 veloping new design standards for future infra-  
7 structure that include the use of energy con-  
8 servation measures and renewable energy in  
9 new construction to the maximum extent prac-  
10 ticable;

11 (5) desalination, water reuse, and alternative  
12 supply technologies, including research—

13 (A) to improve and optimize existing mem-  
14 brane technologies, and to identify and develop  
15 breakthrough technologies, to enable the use of  
16 seawater, brackish groundwater, treated waste-  
17 water, and other impaired sources;

18 (B) into new sources of water through  
19 more cost-effective water treatment practices in  
20 recycling and desalination; and

21 (C) to improve technologies for use in—

22 (i) managing and minimizing the vol-  
23 ume of desalination and reuse concentrate  
24 streams; and

1 (ii) minimizing the environmental im-  
2 pacts of seawater intake at desalination fa-  
3 cilities;

4 (6) energy efficiency and greenhouse gas mini-  
5 mization, including research—

6 (A) on optimizing the energy efficiency of  
7 water supply and wastewater operations and  
8 improving water efficiency in energy production  
9 and management; and

10 (B) to identify and develop renewable, car-  
11 bon-neutral energy options for the water supply  
12 and wastewater industry;

13 (7) regional and hydrological basin cooperative  
14 water management solutions, including research  
15 into—

16 (A) institutional mechanisms for greater  
17 regional cooperation and use of water ex-  
18 changes, banking, and transfers; and

19 (B) the economic benefits of sharing risks  
20 of shortage across wider areas;

21 (8) utility management, decision support sys-  
22 tems, and water management models, including re-  
23 search—

24 (A) into improved decision support systems  
25 and modeling tools for use by water utility

1 managers to assist with increased water supply  
2 uncertainty and adaptation strategies posed by  
3 climate change;

4 (B) to provide financial tools, including  
5 new rate structures, to manage financial re-  
6 sources and investments, because increased con-  
7 servation practices may diminish revenue and  
8 increase investments in infrastructure; and

9 (C) to develop improved systems and mod-  
10 els for use in evaluating—

11 (i) successful alternative methods for  
12 conservation and demand management;  
13 and

14 (ii) climate change impacts on  
15 groundwater resources;

16 (9) reducing greenhouse gas emissions and im-  
17 proving energy demand management, including re-  
18 search to improve energy efficiency in water collec-  
19 tion, production, transmission, treatment, distribu-  
20 tion, and disposal to provide more sustainability and  
21 means to assist drinking water utilities in reducing  
22 the production of greenhouse gas emissions in the  
23 collection, production, transmission, treatment, dis-  
24 tribution, and disposal of drinking water;

1           (10) water conservation and demand manage-  
2           ment, including research—

3                   (A) to develop strategic approaches to  
4           water demand management that offer the low-  
5           est-cost, noninfrastructural options to serve  
6           growing populations or manage declining sup-  
7           plies, primarily through—

8                           (i) efficiencies in water use and re-  
9                           allocation of the saved water;

10                           (ii) demand management tools;

11                           (iii) economic incentives; and

12                           (iv) water-saving technologies; and

13                   (B) into efficiencies in water management  
14           through integrated water resource management  
15           that incorporates—

16                           (i) supply-side and demand-side proc-  
17                           esses;

18                           (ii) continuous adaptive management;

19                           and

20                           (iii) the inclusion of stakeholders in  
21           decisionmaking processes; and

22           (11) communications, education, and public ac-  
23           ceptance, including research—

24                   (A) into improved strategies and ap-  
25           proaches for communicating with customers, de-

1           cisionmakers, and other stakeholders about the  
2           implications of climate change on water supply  
3           and water management;

4           (B) to develop effective communication ap-  
5           proaches—

6           (i) to gain public acceptance of alter-  
7           native water supplies and new policies and  
8           practices, including conservation and de-  
9           mand management; and

10          (ii) to gain public recognition and ac-  
11          ceptance of increased costs; and

12          (C) to create and maintain a clearinghouse  
13          of climate change information for water utili-  
14          ties, academic researchers, stakeholders, gov-  
15          ernment agencies, and research organizations.

16          (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
17          authorized to be appropriated to carry out this section  
18          \$25,000,000 for each of fiscal years 2010 through 2020.

1           **TITLE III—TRANSITION AND**  
2                           **ADAPTATION**  
3           **Subtitle A—Ensuring Real**  
4           **Reductions in Industrial Emissions**

5   **SEC. 301. ENSURING REAL REDUCTIONS IN INDUSTRIAL**  
6                           **EMISSIONS.**

7           Title VII of the Clean Air Act as added and amended  
8 by this Act is amended by inserting after part E the fol-  
9 lowing new part:

10           **“PART F—ENSURING REAL REDUCTIONS IN**  
11                           **INDUSTRIAL EMISSIONS**

12           **“SEC. 761. PURPOSES.**

13           “(a) PURPOSES OF PART.—The purposes of this part  
14 are—

15                   “(1) to promote a strong global effort to signifi-  
16 cantly reduce greenhouse gas emissions, and,  
17 through this global effort, stabilize greenhouse gas  
18 concentrations in the atmosphere at a level that will  
19 prevent dangerous anthropogenic interference with  
20 the climate system; and

21                   “(2) to prevent an increase in greenhouse gas  
22 emissions in countries other than the United States  
23 as a result of direct and indirect compliance costs in-  
24 curred under this title.



1       “(b) PURPOSES OF SUBPART 1.—The purposes of  
2 subpart 1 are additionally—

3               “(1) to provide a rebate to the owners and op-  
4 erators of entities in domestic eligible industrial sec-  
5 tors for their greenhouse gas emission costs incurred  
6 under this title, but not for costs associated with  
7 other related or unrelated market dynamics;

8               “(2) to design such rebates in a way that will  
9 prevent carbon leakage while also rewarding innova-  
10 tion and facility-level investments in energy effi-  
11 ciency performance improvements; and

12               “(3) to eliminate or reduce distribution of emis-  
13 sion allowances under subpart 1 when such distribu-  
14 tion is no longer necessary to prevent carbon leakage  
15 from eligible industrial sectors.

16       “(c) PURPOSES OF SUBPART 2.—The purposes of  
17 subpart 2 are additionally—

18               “(1) to induce foreign countries, and, in par-  
19 ticular, fast-growing developing countries, to take  
20 substantial action with respect to their greenhouse  
21 gas emissions consistent with the Bali Action Plan  
22 developed under the United Nations Framework  
23 Convention on Climate Change; and

24               “(2) to ensure that the measures described in  
25 subpart 2 are designed and implemented in a man-

1       ner consistent with applicable international agree-  
2       ments to which the United States is a party.

3       **“SEC. 762. DEFINITIONS.**

4       “In this part:

5               “(1) CARBON LEAKAGE.—The term ‘carbon  
6       leakage’ means any substantial increase (as deter-  
7       mined by the Administrator) in greenhouse gas  
8       emissions by industrial entities located in other  
9       countries if such increase is caused by an incre-  
10      mental cost of production increase in the United  
11      States resulting from the implementation of this  
12      title.

13              “(2) COVERED GOOD.—The term ‘covered good’  
14      means a good that, as identified by the Adminis-  
15      trator by regulation, is either—

16                      “(A) entered under a heading or sub-  
17                      heading of the Harmonized Tariff Schedule of  
18                      the United States that corresponds to the  
19                      NAICS code for an eligible industrial sector, as  
20                      established in the concordance between NAICS  
21                      codes and the Harmonized Tariff Schedule of  
22                      the United States prepared by the United  
23                      States Census Bureau; or

24                      “(B) a manufactured item for consump-  
25                      tion.

1           “(3) ELIGIBLE INDUSTRIAL SECTOR.—The  
2 term ‘eligible industrial sector’ means an industrial  
3 sector determined by the Administrator under sec-  
4 tion 763(b) to be eligible to receive emission allow-  
5 ance rebates under subpart 1.

6           “(4) INDUSTRIAL SECTOR.—The term ‘indus-  
7 trial sector’ means any sector that is in the manu-  
8 facturing sector (as defined in NAICS codes 31, 32,  
9 and 33) or that beneficiates or otherwise processes  
10 (including agglomeration) metal ores, including iron  
11 and copper ores, soda ash, or phosphate. The extrac-  
12 tion of metal ores, soda ash, or phosphate shall not  
13 be considered to be an industrial sector.

14           “(5) MANUFACTURED ITEM FOR CONSUMP-  
15 TION.—

16           “(A) IN GENERAL.—The term ‘manufac-  
17 tured item for consumption’ means any good—

18                   “(i) that includes in substantial  
19 amounts one or more goods like the goods  
20 produced by an eligible industrial sector;

21                   “(ii) with respect to which an inter-  
22 national reserve allowance program pursu-  
23 ant to subpart 2 is in effect with regard to  
24 the eligible industrial sector and the quan-

1           tity of international reserve allowances is  
2           not zero pursuant to section 768(b);

3           “(iii) with respect to which the trade  
4           intensity of the industrial sector that pro-  
5           duces the good, as measured consistent  
6           with section 763(b)(2)(A)(iii), is at least  
7           15 percent; and

8           “(iv) for which the domestic producers  
9           of the good have demonstrated, and the  
10          Administrator has determined, that the ap-  
11          plication of the international reserve allow-  
12          ance program pursuant to subpart 2 is  
13          technically and administratively feasible  
14          and appropriate to achieve the purposes of  
15          this part, taking into account the energy  
16          and greenhouse gas intensity of the indus-  
17          trial sector that produces the good, as  
18          measured consistent with section  
19          763(b)(2)(A)(ii), and the ability of such  
20          producers to pass on cost increases and  
21          other appropriate factors.

22          “(B) RULE OF CONSTRUCTION.—A deter-  
23          mination of the Administrator under subpara-  
24          graph (A)(iv) shall not be considered to be a de-

1           termination of the President under section  
2           767(b).

3           “(6) NAICS.—The term ‘NAICS’ means the  
4           North American Industrial Classification System of  
5           2002.

6           “(7) OUTPUT.—The term ‘output’ means the  
7           total tonnage or other standard unit of production  
8           (as determined by the Administrator) produced by  
9           an entity in an industrial sector. The output of the  
10          cement sector is hydraulic cement, and not clinker.

11          **“Subpart 1—Emission Allowance Rebate Program**

12          **“SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.**

13          “(a) LIST.—

14                 “(1) INITIAL LIST.—Not later than June 30,  
15                 2011, the Administrator shall publish in the Federal  
16                 Register a list of eligible industrial sectors pursuant  
17                 to subsection (b). Such list shall include the amount  
18                 of the emission allowance rebate per unit of produc-  
19                 tion that shall be provided to entities in each eligible  
20                 industrial sector in the following two calendar years  
21                 pursuant to section 764.

22                 “(2) SUBSEQUENT LISTS.—Not later than Feb-  
23                 ruary 1, 2013, and every 4 years thereafter, the Ad-  
24                 ministrator shall publish in the Federal Register an

1 updated version of the list published under para-  
2 graph (1).

3 “(b) ELIGIBLE INDUSTRIAL SECTORS.—

4 “(1) IN GENERAL.—Not later than June 30,  
5 2011, the Administrator shall promulgate a rule des-  
6 ignating, based on the criteria under paragraph (2),  
7 the industrial sectors eligible for emission allowance  
8 rebates under this subpart.

9 “(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL  
10 SECTORS.—

11 “(A) ELIGIBILITY CRITERIA.—

12 “(i) IN GENERAL.—An owner or oper-  
13 ator of an entity shall be eligible to receive  
14 emission allowance rebates under this sub-  
15 part if such entity is in an industrial sector  
16 that is included in a six-digit classification  
17 of the NAICS that meets the criteria in  
18 both clauses (ii) and (iii), or the criteria in  
19 clause (iv).

20 “(ii) ENERGY OR GREENHOUSE GAS  
21 INTENSITY.—As determined by the Admin-  
22 istrator, the industrial sector had—

23 “(I) an energy intensity of at  
24 least 5 percent, calculated by dividing  
25 the cost of purchased electricity and

1 fuel costs of the sector by the value of  
2 the shipments of the sector, based on  
3 data described in subparagraph (D);  
4 or

5 “(II) a greenhouse gas intensity  
6 of at least 5 percent, calculated by di-  
7 viding—

8 “(aa) the number 20 multi-  
9 plied by the number of tons of  
10 carbon dioxide equivalent green-  
11 house gas emissions (including  
12 direct emissions from fuel com-  
13 bustion, process emissions, and  
14 indirect emissions from the gen-  
15 eration of electricity used to  
16 produce the output of the sector)  
17 of the sector based on data de-  
18 scribed in subparagraph (D); by

19 “(bb) the value of the ship-  
20 ments of the sector, based on  
21 data described in subparagraph  
22 (D).

23 “(iii) TRADE INTENSITY.—As deter-  
24 mined by the Administrator, the industrial  
25 sector had a trade intensity of at least 15

1 percent, calculated by dividing the value of  
2 the total imports and exports of such sec-  
3 tor by the value of the shipments plus the  
4 value of imports of such sector, based on  
5 data described in subparagraph (D).

6 “(iv) VERY HIGH ENERGY OR GREEN-  
7 HOUSE GAS INTENSITY.—As determined by  
8 the Administrator, the industrial sector  
9 had an energy or greenhouse gas intensity,  
10 as calculated under clause (ii)(I) or (II), of  
11 at least 20 percent.

12 “(B) METAL AND PHOSPHATE PRODUC-  
13 TION CLASSIFIED UNDER MORE THAN ONE  
14 NAICS CODE.—For purposes of this section, the  
15 Administrator shall—

16 “(i) aggregate data for the  
17 beneficiation or other processing (including  
18 agglomeration) of metal ores, including  
19 iron and copper ores, soda ash, or phos-  
20 phate with subsequent steps in the process  
21 of metal and phosphate manufacturing, re-  
22 gardless of the NAICS code under which  
23 such activity is classified; and

24 “(ii) aggregate data for the manufac-  
25 turing of steel with the manufacturing of



1 steel pipe and tube made from purchased  
2 steel in a nonintegrated process.

3 “(C) EXCLUSION.—The petroleum refining  
4 sector shall not be an eligible industrial sector.

5 “(D) DATA SOURCES.—

6 “(i) ELECTRICITY AND FUEL COSTS,  
7 VALUE OF SHIPMENTS.—The Adminis-  
8 trator shall determine electricity and fuel  
9 costs and the value of shipments under  
10 this subsection from data from the United  
11 States Census Annual Survey of Manufac-  
12 turers. The Administrator shall take the  
13 average of data from as many of the years  
14 of 2004, 2005, and 2006 for which such  
15 data are available. If such data are un-  
16 available, the Administrator shall make a  
17 determination based upon 2002 or 2006  
18 data from the most detailed industrial clas-  
19 sification level of Energy Information  
20 Agency’s Manufacturing Energy Consump-  
21 tion Survey (using 2006 data if it is avail-  
22 able) and the 2002 or 2007 Economic Cen-  
23 sus of the United States (using 2007 data  
24 if it is available). If data from the Manu-  
25 facturing Energy Consumption Survey or

1 Economic Census are unavailable for any  
2 sector at the six-digit classification level in  
3 the NAICS, then the Administrator may  
4 extrapolate the information necessary to  
5 determine the eligibility of a sector under  
6 this paragraph from available Manufac-  
7 turing Energy Consumption Survey or  
8 Economic Census data pertaining to a  
9 broader industrial category classified in the  
10 NAICS. If data relating to the  
11 beneficiation or other processing (including  
12 agglomeration) of metal ores, including  
13 iron and copper ores, soda ash, or phos-  
14 phate are not available from the specified  
15 data sources, the Administrator shall use  
16 the best available Federal or State govern-  
17 ment data and may use, to the extent nec-  
18 essary, representative data submitted by  
19 entities that perform such beneficiation or  
20 other processing (including agglomeration),  
21 in making a determination. Fuel cost data  
22 shall not include the cost of fuel used as  
23 feedstock by an industrial sector.

24 “(ii) IMPORTS AND EXPORTS.—The  
25 Administrator shall base the value of im-

1 ports and exports under this subsection on  
2 United States International Trade Com-  
3 mission data. The Administrator shall take  
4 the average of data from as many of the  
5 years of 2004, 2005, and 2006 for which  
6 such data are available. If data from the  
7 United States International Trade Com-  
8 mission are unavailable for any sector at  
9 the six-digit classification level in the  
10 NAICS, then the Administrator may ex-  
11 trapolate the information necessary to de-  
12 termine the eligibility of a sector under  
13 this paragraph from available United  
14 States International Trade Commission  
15 data pertaining to a broader industrial cat-  
16 egory classified in the NAICS.

17 “(iii) PERCENTAGES.—The Adminis-  
18 trator shall round the energy intensity,  
19 greenhouse gas intensity, and trade inten-  
20 sity percentages under subparagraph (A)  
21 to the nearest whole number.

22 “(iv) GREENHOUSE GAS EMISSION  
23 CALCULATIONS.—When calculating the  
24 tons of carbon dioxide equivalent green-  
25 house gas emissions for each sector under

1                   subparagraph (A)(ii)(II)(aa), the Adminis-  
2                   trator—

3                   “(I) shall use the best available  
4                   data from as many of the years 2004,  
5                   2005, and 2006 for which such data  
6                   is available; and

7                   “(II) may, to the extent nec-  
8                   essary with respect to a sector, use  
9                   economic and engineering models and  
10                  the best available information on tech-  
11                  nology performance levels for such  
12                  sector.

13                  “(3) ADMINISTRATIVE DETERMINATION OF AD-  
14                  DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

15                  “(A) UPDATED TRADE INTENSITY DATA.—  
16                  The Administrator shall designate as eligible to  
17                  receive emission allowance rebates under this  
18                  subpart an industrial sector that—

19                  “(i) met the energy or greenhouse gas  
20                  intensity criteria in paragraph (2)(A)(ii) as  
21                  of the date of promulgation of the rule  
22                  under paragraph (1); and

23                  “(ii) meets the trade intensity criteria  
24                  in paragraph (2)(A)(iii), using data from  
25                  any year after 2006.

1 “(B) INDIVIDUAL SHOWING PETITION.—

2 “(i) PETITION.—In addition to des-  
3 ignation under paragraph (2) or subpara-  
4 graph (A) of this paragraph, the owner or  
5 operator of an entity in an industrial sec-  
6 tor may petition the Administrator to des-  
7 ignate as eligible industrial sectors under  
8 this subpart an entity or a group of enti-  
9 ties that—

10 “(I) represent a subsector of a  
11 six-digit section of the NAICS code;  
12 and

13 “(II) meet the eligibility criteria  
14 in both clauses (ii) and (iii) of para-  
15 graph (2)(A), or the eligibility criteria  
16 in clause (iv) of paragraph (2)(A).

17 “(ii) DATA.—In making a determina-  
18 tion under this subparagraph, the Admin-  
19 istrator shall consider data submitted by  
20 the petitioner that is specific to the entity,  
21 data solicited by the Administrator from  
22 other entities in the subsector, if such  
23 other entities exist, and data specified in  
24 paragraph (2)(D).

1                   “(iii) BASIS OF SUBSECTOR DETER-  
2                   MINATION.—The Administrator shall de-  
3                   termine an entity or group of entities to be  
4                   a subsector of a six-digit section of the  
5                   NAICS code based only upon the products  
6                   manufactured and not the industrial pro-  
7                   cess by which the products are manufac-  
8                   tured, except that the Administrator may  
9                   determine an entity or group of entities  
10                  that manufacture a product from primarily  
11                  virgin material to be a separate subsector  
12                  from another entity or group of entities  
13                  that manufacture the same product pri-  
14                  marily from recycled material.

15                  “(iv) USE OF MOST RECENT DATA.—  
16                  In determining whether to designate a sec-  
17                  tor or subsector as an eligible industrial  
18                  sector under this subparagraph, the Ad-  
19                  ministrator shall use the most recent data  
20                  available from the sources described in  
21                  paragraph (2)(D), rather than the data  
22                  from the years specified in paragraph  
23                  (2)(D), to determine the trade intensity of  
24                  such sector or subsector, but only for de-  
25                  termining such trade intensity.

1                   “(v) FINAL ACTION.—The Adminis-  
2                   trator shall take final action on such peti-  
3                   tion no later than 6 months after the peti-  
4                   tion is received by the Administrator.

5 **“SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE RE-**  
6                   **BATES.**

7                   “(a) DISTRIBUTION SCHEDULE.—

8                   “(1) IN GENERAL.—For each vintage year, the  
9                   Administrator shall distribute pursuant to this sec-  
10                  tion emission allowances made available under sec-  
11                  tion 782(e), no later than October 31 of the pre-  
12                  ceding calendar year. The Administrator shall make  
13                  such annual distributions to the owners and opera-  
14                  tors of each entity in an eligible industrial sector in  
15                  the amount of emission allowances calculated under  
16                  subsection (b), except that—

17                  “(A) for vintage years 2012 and 2013, the  
18                  distribution for a covered entity shall be pursu-  
19                  ant to the entity’s indirect carbon factor as cal-  
20                  culated under subsection (b)(3);

21                  “(B) for vintage year 2026 and thereafter,  
22                  the distribution shall be pursuant to the  
23                  amount calculated under subsection (b) multi-  
24                  plied by, except as modified by the President  
25                  pursuant to section 767(d)(1)(C) for a sector—

1 “(i) 90 percent for vintage year 2026;

2 “(ii) 80 percent for vintage year  
3 2027;

4 “(iii) 70 percent for vintage year  
5 2028;

6 “(iv) 60 percent for vintage year  
7 2029;

8 “(v) 50 percent for vintage year 2030;

9 “(vi) 40 percent for vintage year  
10 2031;

11 “(vii) 30 percent for vintage year  
12 2032;

13 “(viii) 20 percent for vintage year  
14 2033;

15 “(ix) 10 percent for vintage year  
16 2034; and

17 “(x) 0 percent for vintage year 2035  
18 and thereafter.

19 “(2) RESUMPTION OF REDUCTION.—If the  
20 President has modified the percentage stated in  
21 paragraph (1)(B) under section 767(d)(1)(C), and  
22 the President subsequently makes a determination  
23 under section 767(c) for an eligible industrial sector  
24 that more than 85 percent of United States imports  
25 for that sector are produced or manufactured in



1 countries that have met at least one of the criteria  
2 in that section, then the 10-year reduction schedule  
3 set forth in paragraph (1)(B) of this subsection shall  
4 begin in the next vintage year, with the percentage  
5 reduction based on the amount of the distribution of  
6 emission allowances under this section in the pre-  
7 vious year.

8 “(3) NEWLY ELIGIBLE SECTORS.—In addition  
9 to receiving a distribution of emission allowances  
10 under this section in the first distribution occurring  
11 after an industrial sector is designated as eligible  
12 under section 763(b)(3), the owner or operator of an  
13 entity in that eligible industrial sector may receive a  
14 prorated share of any emission allowances made  
15 available for distribution under this section that  
16 were not distributed for the year in which the peti-  
17 tion for eligibility was granted under section  
18 763(b)(3)(A).

19 “(4) CESSATION OF QUALIFYING ACTIVITIES.—  
20 If, as determined by the Administrator, a facility is  
21 no longer in an eligible industrial sector designated  
22 under section 763—

23 “(A) the Administrator shall not distribute  
24 emission allowances to the owner or operator of  
25 such facility under this section; and

1           “(B) the owner or operator of such facility  
2 shall return to the Administrator all allowances  
3 that have been distributed to it for future vin-  
4 tage years and a pro-rated amount of allow-  
5 ances distributed to the facility under this sec-  
6 tion for the vintage year in which the facility  
7 ceases to be in an eligible industrial sector des-  
8 igned under section 763.

9           “(b) CALCULATION OF DIRECT AND INDIRECT CAR-  
10 BON FACTORS.—

11           “(1) IN GENERAL.—

12           “(A) COVERED ENTITIES.—Except as pro-  
13 vided in subsection (a), for covered entities that  
14 are in eligible industrial sectors, the amount of  
15 emission allowance rebates shall be based on  
16 the sum of the covered entity’s direct and indi-  
17 rect carbon factors.

18           “(B) OTHER ELIGIBLE ENTITIES.—For  
19 entities that are in eligible industrial sectors  
20 but are not covered entities, the amount of  
21 emission allowance rebates shall be based on  
22 the entity’s indirect carbon factor.

23           “(C) NEW ENTITIES.—Not later than 2  
24 years after the date of enactment of this title,  
25 the Administrator shall issue regulations gov-

1           erning the distribution of emission allowance re-  
2           bates for the first and second years of operation  
3           of a new entity in an eligible industrial sector.  
4           These regulations shall provide for—

5                   “(i) the distribution of emission allow-  
6                   ance rebates to such entities based on com-  
7                   parable entities in the same sector; and

8                   “(ii) an adjustment in the third and  
9                   fourth years of operation to reconcile the  
10                  total amount of emission allowance rebates  
11                  received during the first and second years  
12                  of operation to the amount the entity  
13                  would have received during the first and  
14                  second years of operation had the appro-  
15                  priate data been available.

16                  “(2) DIRECT CARBON FACTOR.—The direct car-  
17                  bon factor for a covered entity for a vintage year is  
18                  the product of—

19                          “(A) the average annual output of the cov-  
20                          ered entity for the 2 years preceding the year  
21                          of the distribution; and

22                          “(B) the most recent calculation of the av-  
23                          erage direct greenhouse gas emissions (ex-  
24                          pressed in tons of carbon dioxide equivalent)  
25                          per unit of output for all covered entities in the

1 sector, as determined by the Administrator  
2 under paragraph (4).

3 “(3) INDIRECT CARBON FACTOR.—

4 “(A) IN GENERAL.—The indirect carbon  
5 factor for an entity for a vintage year is the  
6 product obtained by multiplying the average an-  
7 nual output of the entity for the 2 years pre-  
8 ceeding the year of the distribution by both the  
9 electricity emissions intensity factor determined  
10 pursuant to subparagraph (B) and the elec-  
11 tricity efficiency factor determined pursuant to  
12 subparagraph (C) for the year concerned.

13 “(B) ELECTRICITY EMISSIONS INTENSITY  
14 FACTOR.—

15 “(i) IN GENERAL.—Each person sell-  
16 ing electricity to the owner or operator of  
17 an entity in any sector designated as an el-  
18 igible industrial sector under section  
19 763(b) shall provide the owner or operator  
20 of the entity and the Administrator, on an  
21 annual basis, the electricity emissions in-  
22 tensity factor for the entity. The electricity  
23 emissions intensity factor for the entity,  
24 expressed in tons of carbon dioxide equiva-



1           tion Administration or collected and re-  
2           ported by the Administrator for the utility  
3           serving the entity to determine the elec-  
4           tricity emissions intensity factor.

5           “(C) ELECTRICITY EFFICIENCY FACTOR.—

6           The electricity efficiency factor is the average  
7           amount of electricity (in kilowatt hours) used  
8           per unit of output for all entities in the relevant  
9           sector, as determined by the Administrator  
10          based on the best available data, including data  
11          provided under paragraph (6).

12          “(D) INDIRECT CARBON FACTOR REDUC-

13          TION.—If an electricity provider received a free  
14          allocation of emission allowances pursuant to  
15          section 782(a), the Administrator shall adjust  
16          the indirect carbon factor to avoid rebates to  
17          the eligible entity for costs that the Adminis-  
18          trator determines were not incurred by the eli-  
19          gible entity because the allowances were freely  
20          allocated to the eligible entity’s electricity pro-  
21          vider and used for the benefit of industrial con-  
22          sumers.

23          “(4) GREENHOUSE GAS INTENSITY CALCULA-

24          TIONS.—The Administrator shall calculate the aver-  
25          age direct greenhouse gas emissions (expressed in

1 tons of carbon dioxide equivalent) per unit of output  
2 and the electricity efficiency factor for all covered  
3 entities in each eligible industrial sector every 4  
4 years, using an average of the four most recent  
5 years of the best available data. For purposes of the  
6 lists required to be published no later than February  
7 1, 2013, the Administrator shall use the best avail-  
8 able data for the maximum number of years, up to  
9 4 years, for which data are available.

10 “(5) ENSURING EFFICIENCY IMPROVEMENTS.—

11 When making greenhouse gas calculations, the Ad-  
12 ministrator shall—

13 “(A) limit the average direct greenhouse  
14 gas emissions per unit of output, calculated  
15 under paragraph (4), for any eligible industrial  
16 sector to an amount that is not greater than it  
17 was in any previous calculation under this sub-  
18 section;

19 “(B) limit the electricity emissions inten-  
20 sity factor, calculated under paragraph (3)(B)  
21 and resulting from a change in electricity sup-  
22 ply, for any entity to an amount that is not  
23 greater than it was during any previous year;  
24 and

1           “(C) limit the electricity efficiency factor,  
2           calculated under paragraph (3)(C), for any eli-  
3           gible industrial sector to an amount that is not  
4           greater than it was in any previous calculation  
5           under this subsection.

6           “(6) DATA SOURCES.—For the purposes of this  
7           subsection—

8           “(A) the Administrator shall use data from  
9           the greenhouse gas registry established under  
10          section 713, where it is available; and

11          “(B) each owner or operator of an entity  
12          in an eligible industrial sector and each depart-  
13          ment, agency, and instrumentality of the  
14          United States shall provide the Administrator  
15          with such information as the Administrator  
16          finds necessary to determine the direct carbon  
17          factor and the indirect carbon factor for each  
18          entity subject to this section.

19          “(c) TOTAL MAXIMUM DISTRIBUTION.—Notwith-  
20          standing subsections (a) and (b), the Administrator shall  
21          not distribute more allowances for any vintage year pursu-  
22          ant to this section than are allocated for use under this  
23          subpart pursuant to section 782(e) for that vintage year.  
24          For any vintage year for which the total emission allow-  
25          ance rebates calculated pursuant to this section exceed the



1 number of allowances allocated pursuant to section 782(e),  
2 the Administrator shall reduce each entity's distribution  
3 on a pro rata basis so that the total distribution under  
4 this section equals the number of allowances allocated  
5 under section 782(e).

6 “(d) IRON AND STEEL SECTOR.—For purposes of  
7 this section, the Administrator shall consider as in dif-  
8 ferent industrial sectors—

9 “(1) entities using integrated iron and  
10 steelmaking technologies (including coke ovens, blast  
11 furnaces, and other iron-making technologies); and

12 “(2) entities using electric arc furnace tech-  
13 nologies.

14 “(e) METAL, SODA ASH, OR PHOSPHATE PRODUC-  
15 TION CLASSIFIED UNDER MORE THAN ONE NAICS  
16 CODE.—For purposes of this section, the Administrator  
17 shall not aggregate data for the beneficiation or other  
18 processing (including agglomeration) of metal ores, soda  
19 ash, or phosphate with subsequent steps in the process  
20 of metal, soda ash, or phosphate manufacturing. The Ad-  
21 ministrator shall consider the beneficiation or other proc-  
22 essing (including agglomeration) of metal ores, soda ash,  
23 or phosphate to be in separate industrial sectors from the  
24 metal, soda ash, or phosphate manufacturing sectors. In-  
25 dustrial sectors that beneficiate or otherwise process (in-

1 cluding agglomeration) metal ores, soda ash, or phosphate  
2 shall not receive emission allowance rebates under this sec-  
3 tion related to the activity of extracting metal ores, soda  
4 ash, or phosphate.

5 “(f) COMBINED HEAT AND POWER.—For purposes  
6 of this section, and to achieve the purpose set forth in  
7 section 761(b)(2), the Administrator may consider entities  
8 to be in different industrial sectors or otherwise take into  
9 account the differences among entities in the same indus-  
10 trial sector, based upon the extent to which such entities  
11 use combined heat and power technologies.

12 **“Subpart 2—Promoting International Reductions in**  
13 **Industrial Emissions**

14 **“SEC. 765. INTERNATIONAL NEGOTIATIONS.**

15 “(a) FINDING.—Congress finds that the purposes of  
16 this subpart, as set forth in section 761(c), can be most  
17 effectively addressed and achieved through agreements ne-  
18 gotiated between the United States and foreign countries.

19 “(b) STATEMENT OF POLICY.—It is the policy of the  
20 United States to work proactively under the United Na-  
21 tions Framework Convention on Climate Change, and in  
22 other appropriate fora, to establish binding agreements,  
23 including sectoral agreements, committing all major  
24 greenhouse gas-emitting nations to contribute equitably to  
25 the reduction of global greenhouse gas emissions.

1 “(c) NOTIFICATION OF FOREIGN COUNTRIES.—

2 “(1) IN GENERAL.—As soon as practicable  
3 after the date of the enactment of this title, the  
4 President shall provide a notification on climate  
5 change described in paragraph (2) to each foreign  
6 country the products of which are not exempted  
7 under section 768(a)(1)(E).

8 “(2) NOTIFICATION DESCRIBED.—A notifica-  
9 tion described in this paragraph is a notification  
10 that consists of—

11 “(A) a statement of the policy of the  
12 United States described in subsection (b); and

13 “(B) a declaration—

14 “(i) requesting the foreign country to  
15 take appropriate measures to limit the  
16 greenhouse gas emissions of the foreign  
17 country; and

18 “(ii) indicating that, beginning on  
19 January 1, 2020, the international reserve  
20 requirements of this subpart may apply to  
21 a covered good.

1 **“SEC. 766. UNITED STATES NEGOTIATING OBJECTIVES**  
2 **WITH RESPECT TO MULTILATERAL ENVIRON-**  
3 **MENTAL NEGOTIATIONS.**

4 “(a) IN GENERAL.—The negotiating objectives of the  
5 United States with respect to multilateral environmental  
6 negotiations described in this subpart are—

7 “(1) to reach an internationally binding agree-  
8 ment in which all major greenhouse gas-emitting  
9 countries contribute equitably to the reduction of  
10 global greenhouse gas emissions;

11 “(2)(A) to include in such international agree-  
12 ment provisions that recognize and address the com-  
13 petitive imbalances that lead to carbon leakage and  
14 may be created between parties and non-parties to  
15 the agreement in domestic and export markets; and

16 “(B) not to prevent parties to such agreement  
17 from addressing the competitive imbalances that  
18 lead to carbon leakage and may be created by the  
19 agreement among parties to the agreement in do-  
20 mestic and export markets ; and

21 “(3) to include in such international agreement  
22 agreed remedies for any party to the agreement that  
23 fails to meet its greenhouse gas reduction obligations  
24 in the agreement.



1 global output for that sector is produced or manufactured  
2 in countries that have met at least one of the following  
3 criteria:

4           “(1) The country is a party to an international  
5 agreement to which the United States is a party  
6 that includes a nationally enforceable greenhouse gas  
7 emissions reduction commitment for that country  
8 that is at least as stringent as that of the United  
9 States.

10           “(2) The country is a party to a multilateral or  
11 bilateral emission reduction agreement for that sec-  
12 tor to which the United States is a party.

13           “(3) The country has an annual energy or  
14 greenhouse gas intensity, as described in section  
15 764(b)(2)(A)(i), for the sector that is equal to or  
16 less than the energy or greenhouse gas intensity for  
17 such sector in the United States in the most recent  
18 calendar year for which data are available.

19           “(4) The country has implemented policies, in-  
20 cluding sectoral caps, export tariffs, production fees,  
21 electricity generation regulations, or greenhouse gas  
22 emissions fees, that individually or collectively im-  
23 pose an incremental increase on the cost of produc-  
24 tion associated with greenhouse gas emissions from  
25 the sector that is at least 60 percent of the cost of

1       complying with this title in the United States for  
2       such sector, averaged over a two-year period.

3       “(c) EFFECT OF PRESIDENTIAL DETERMINATION.—

4       If the President makes a determination under subsection  
5       (b) with respect to an eligible industrial sector that 70  
6       percent or less of the global output for the sector is pro-  
7       duced or manufactured in countries that have met one or  
8       more of the criteria in subsection (b), then the President  
9       shall, not later than June 30, 2022, and every four years  
10       thereafter—

11               “(1) assess the extent to which the emission al-  
12       lowance rebates provided pursuant to subpart 1 have  
13       mitigated or addressed, or could mitigate or address,  
14       carbon leakage in that sector;

15               “(2) assess the extent to which an International  
16       Reserve Allowance Program has mitigated or ad-  
17       dressed, or could mitigate or address, carbon leakage  
18       in that sector and the feasibility of establishing such  
19       a program; and

20               “(3) with respect to that sector—

21                       “(A) modify the percentage by which direct  
22       and indirect carbon factors will be multiplied  
23       under section 765(a)(1)(B);

1           “(B) implement an International Reserve  
2 Allowance Program under section 766 for the  
3 products of the sector; or

4           “(C) take the actions in both subpara-  
5 graphs (A) and (B).

6       “(d) REPORT TO CONGRESS.—Not later than June  
7 30, 2022, and every four years thereafter, the President  
8 shall transmit to the Congress a report providing notice  
9 of any determination made under subsection (b), explain-  
10 ing the reasons for such determination, and identifying the  
11 actions taken by the President under subsection (c).

12       “(e) LIMITATION.—The President may only imple-  
13 ment an International Reserve Allowance Program for sec-  
14 tors producing primary products.

15       “(f) IRON AND STEEL SECTOR.—For the purposes  
16 of this subpart, the Administrator shall consider to be in  
17 the same industrial sector—

18           “(1) entities using integrated iron and  
19 steelmaking technologies (including coke ovens, blast  
20 furnaces, and other iron-making technologies); and

21           “(2) entities using electric arc furnace tech-  
22 nologies.

23 **“SEC. 768. INTERNATIONAL RESERVE ALLOWANCE PRO-**  
24 **GRAM.**

25       “(a) ESTABLISHMENT.—



1           “(1) IN GENERAL.—The Administrator, with  
2 the concurrence of Commissioner responsible for  
3 U.S. Customs and Border Protection, shall issue  
4 regulations—

5           “(A) establishing an international reserve  
6 allowance program for the sale, exchange, pur-  
7 chase, transfer, and banking of international re-  
8 serve allowances for covered goods with respect  
9 to the eligible industrial sector;

10           “(B) ensuring that the price for pur-  
11 chasing the international reserve allowances  
12 from the United States on a particular day is  
13 equivalent to the auction clearing price for  
14 emission allowances under section 722 for the  
15 most recent emission allowance auction;

16           “(C) establishing a general methodology  
17 for calculating the quantity of international re-  
18 serve allowances that a United States importer  
19 of any covered good must submit;

20           “(D) requiring the submission of appro-  
21 priate amounts of such allowances for covered  
22 goods with respect to the eligible industrial sec-  
23 tor that enter the customs territory of the  
24 United States;

1           “(E) exempting from the requirements of  
2 subparagraph (D) such products that are the  
3 origin of—

4           “(i) any country determined to meet  
5 any of the standards provided in section  
6 767(e);

7           “(ii) any foreign country that the  
8 United Nations has identified as among  
9 the least developed of developing countries;  
10 or

11           “(iii) any foreign country that the  
12 President has determined to be responsible  
13 for less than 0.5 percent of total global  
14 greenhouse gas emissions and less than 5  
15 percent of United States imports of cov-  
16 ered goods with respect to the eligible in-  
17 dustrial sector;

18           “(F) specifying the procedures that U.S.  
19 Customs and Border Protection will apply for  
20 the declaration and entry of covered goods with  
21 respect to the eligible industrial sector into the  
22 customs territory of the United States; and

23           “(G) establishing procedures that prevent  
24 circumvention of the international reserve allow-  
25 ance requirement for covered goods with respect

1 to the eligible industrial sector that are manu-  
2 factured or processed in more than one foreign  
3 country.

4 “(2) PURPOSE OF PROGRAM.—The Adminis-  
5 trator shall establish the program under paragraph  
6 (1) consistent with international agreements to  
7 which the United States is a party, in a manner that  
8 minimizes the likelihood of carbon leakage as a re-  
9 sult of differences between—

10 “(A) the direct and indirect costs of com-  
11 plying with section 722; and

12 “(B) the direct and indirect costs, if any,  
13 of complying in other countries with greenhouse  
14 gas regulatory programs, requirements, export  
15 tariffs, or other measures adopted or imposed  
16 to reduce greenhouse gas emissions.

17 “(b) EMISSION ALLOWANCE REBATES.—In estab-  
18 lishing a general methodology for purposes of subsection  
19 (a)(1)(C), the Administrator shall include an adjustment  
20 to the quantity of international reserve allowances based  
21 on the value of emission allowance rebates distributed  
22 under subpart 1 and the benefit received by the eligible  
23 industrial sector concerned from the provision of free al-  
24 lowances to electricity providers pursuant to section  
25 782(a) and may, if appropriate, determine that the quan-

1 tity of international reserve allowances should be reduced  
2 as low as to zero.

3 “(c) **EFFECTIVE DATE.**—The international reserve  
4 allowance program may not apply to imports of covered  
5 goods entering the customs territory of the United States  
6 before January 1, 2020.

7 “(d) **COVERED ENTITIES.**—International reserve al-  
8 lowances may not be used by covered entities to comply  
9 with section 722.

10 **“SEC. 769. IRON AND STEEL SECTOR.**

11 “For purposes of this subpart, the Administrator  
12 shall consider to be in the same eligible industrial sector—

13 “(1) entities using integrated iron and  
14 steelmaking technologies (including coke ovens, blast  
15 furnaces, and other iron-making technologies); and

16 “(2) entities using electric arc furnace tech-  
17 nologies.”.

18 **Subtitle B—Green Jobs and**

19 **Worker Transition**

20 **PART 1—GREEN JOBS**

21 **SEC. 321. CLEAN ENERGY CURRICULUM DEVELOPMENT**

22 **GRANTS.**

23 (a) **AUTHORIZATION.**—The Secretary of Education is  
24 authorized to award grants, on a competitive basis, to eli-  
25 gible partnerships to develop programs of study (con-

1 taining the information described in section 122(c)(1)(A)  
2 of the Carl D. Perkins Career and Technical Education  
3 Act of 2006 (20 U.S.C. 2342)), that are focused on emerg-  
4 ing careers and jobs in the fields of clean energy, renew-  
5 able energy, energy efficiency, climate change mitigation,  
6 and climate change adaptation. The Secretary of Edu-  
7 cation shall consult with the Secretary of Labor and the  
8 Secretary of Energy prior to the issuance of a solicitation  
9 for grant applications.

10 (b) ELIGIBLE PARTNERSHIPS.—For purposes of this  
11 section, an eligible partnership shall include—

12 (1) at least 1 local educational agency eligible  
13 for funding under section 131 of the Carl D. Per-  
14 kins Career and Technical Education Act of 2006  
15 (20 U.S.C. 2351) or an area career and technical  
16 education school or education service agency de-  
17 scribed in such section;

18 (2) at least 1 postsecondary institution eligible  
19 for funding under section 132 of such Act (20  
20 U.S.C. 2352); and

21 (3) representatives of the community including  
22 business, labor organizations, and industry that have  
23 experience in fields as described in subsection (a).

24 (c) APPLICATION.—An eligible partnership seeking a  
25 grant under this section shall submit an application to the

1 Secretary at such time and in such manner as the Sec-  
2 retary may require. Applications shall include—

3 (1) a description of the eligible partners and  
4 partnership, the roles and responsibilities of each  
5 partner, and a demonstration of each partner's ca-  
6 pacity to support the program;

7 (2) a description of the career area or areas  
8 within the fields as described in subsection (a) to be  
9 developed, the reason for the choice, and evidence of  
10 the labor market need to prepare students in that  
11 area;

12 (3) a description of the new or existing program  
13 of study and both secondary and postsecondary com-  
14 ponents;

15 (4) a description of the students to be served by  
16 the new program of study;

17 (5) a description of how the program of study  
18 funded by the grant will be replicable and dissemi-  
19 nated to schools outside of the partnership, including  
20 urban and rural areas;

21 (6) a description of applied learning that will be  
22 incorporated into the program of study and how it  
23 will incorporate or reinforce academic learning;

24 (7) a description of how the program of study  
25 will be delivered;

1           (8) a description of how the program will pro-  
2           vide accessibility to students, especially economically  
3           disadvantaged, low performing, and urban and rural  
4           students;

5           (9) a description of how the program will ad-  
6           dress placement of students in nontraditional fields  
7           as described in section 3(20) of the Carl D. Perkins  
8           Career and Technical Education Act of 2006 (20  
9           U.S.C. 2302(20)); and

10          (10) a description of how the applicant proposes  
11          to consult or has consulted with a labor organiza-  
12          tion, labor management partnership, apprenticeship  
13          program, or joint apprenticeship and training pro-  
14          gram that provides education and training in the  
15          field of study for which the applicant proposes to de-  
16          velop a curriculum.

17          (d) PRIORITY.—The Secretary shall give priority to  
18          applications that—

19                (1) use online learning or other innovative  
20                means to deliver the program of study to students,  
21                educators, and instructors outside of the partner-  
22                ship; and

23                (2) focus on low performing students and spe-  
24                cial populations as defined in section 3(29) of the

1 Carl D. Perkins Career and Technical Education  
2 Act of 2006 (20 U.S.C. 2302(29)).

3 (e) PEER REVIEW.—The Secretary shall convene a  
4 peer review process to review applications for grants under  
5 this section and to make recommendations regarding the  
6 selection of grantees. Members of the peer review com-  
7 mittee shall include—

8 (1) educators who have experience imple-  
9 menting curricula with comparable purposes; and

10 (2) business and industry experts in fields as  
11 described in subsection (a).

12 (f) USES OF FUNDS.—Grants awarded under this  
13 section shall be used for the development, implementation,  
14 and dissemination of programs of study (as described in  
15 section 122(c)(1)(A) of the Carl D. Perkins Career and  
16 Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in  
17 career areas related to clean energy, renewable energy, en-  
18 ergy efficiency, climate change mitigation, and climate  
19 change adaptation.

20 **SEC. 322. INCREASED FUNDING FOR ENERGY WORKER**  
21 **TRAINING PROGRAM.**

22 (a) AUTHORIZATION.—Section 171(e)(8) of the  
23 Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8))  
24 is amended by striking “\$125,000,000” and inserting  
25 “\$150,000,000”.



1           (b) ESTABLISHMENT OF FUND.—There is hereby es-  
2     tablished in the Treasury a separate account that shall  
3     be known as the Energy Efficiency and Renewable Energy  
4     Worker Training Fund.

5           (c) AVAILABILITY OF AMOUNTS.—Subject to subtitle  
6     F of title IV, all amounts deposited into the Energy Effi-  
7     ciency and Renewable Energy Worker Training Fund shall  
8     be available to the Secretary to carry out section 171(e)(8)  
9     of the Workforce Investment Act of 1998 (29 U.S.C.  
10    2916(e)(8)) subject to further appropriation.

11   **SEC. 323. DEVELOPMENT OF INFORMATION AND RE-**  
12                   **SOURCES CLEARINGHOUSE FOR VOCA-**  
13                   **TIONAL EDUCATION AND JOB TRAINING IN**  
14                   **RENEWABLE ENERGY SECTORS.**

15           (a) DEVELOPMENT OF CLEARINGHOUSE.—Not later  
16     than 18 months after the date of enactment of this Act,  
17     the Secretary of Labor, in collaboration with the Secretary  
18     of Energy and the Secretary of Education, shall develop  
19     an internet based information and resources clearinghouse  
20     to aid career and technical education and job training pro-  
21     grams for the renewable energy sectors. In establishing  
22     the clearinghouse, the Secretary shall—

23           (1) collect and provide information that ad-  
24     dresses the consequences of rapid changes in tech-  
25     nology and regional disparities for renewable energy

1 training programs and provides best practices for  
2 training and education in light of such changes and  
3 disparities;

4 (2) place an emphasis on facilitating collabora-  
5 tion between the renewable energy industry and job  
6 training programs and on identifying industry and  
7 technological trends and best practices, to better  
8 help job training programs maintain quality and rel-  
9 evance; and

10 (3) place an emphasis on assisting programs  
11 that cater to high-demand middle-skill, trades, man-  
12 ufacturing, contracting, and consulting careers.

13 (b) SOLICITATION AND CONSULTATION.—In devel-  
14 oping the clearinghouse pursuant to subsection (a), the  
15 Secretary shall solicit information and expertise from busi-  
16 nesses and organizations in the renewable energy sector  
17 and from institutions of higher education, career and tech-  
18 nical schools, and community colleges that provide train-  
19 ing in the renewable energy sectors. The Secretary shall  
20 solicit a comprehensive peer review of the clearinghouse  
21 by such entities not less than once every 2 years. Nothing  
22 in this subsection should be interpreted to require the di-  
23 vulgence of proprietary or competitive information.

24 (c) CONTENTS OF CLEARINGHOUSE.—

1           (1) SEPARATE SECTION FOR EACH RENEWABLE  
2 ENERGY SECTOR.—The clearinghouse shall contain  
3 separate sections developed for each of the following  
4 renewable energy sectors:

5                   (A) Solar energy systems.

6                   (B) Wind energy systems.

7                   (C) Energy transmission systems.

8                   (D) Geothermal systems of energy and  
9 heating.

10                   (E) Energy efficiency technical training.

11           (2) ADDITIONAL REQUIREMENTS.—In addition  
12 to the information required in subsection (a), each  
13 section of the clearinghouse shall include information  
14 on basic environmental science and processes needed  
15 to understand renewable energy systems, Federal  
16 government and industry resources, and points of  
17 contact to aid institutions in the development of  
18 placement programs for apprenticeships and post  
19 graduation opportunities, and information and tips  
20 about a green workplace, energy efficiency, and rel-  
21 evant environmental topics and information on avail-  
22 able industry recognized certifications in each area.

23           (d) DISSEMINATION.—The clearinghouse shall be  
24 made available via the Internet to the general public. No-

1 tice of the completed clearinghouse and any major revi-  
2 sions thereto shall also be provided—

3 (1) to each Member of Congress; and

4 (2) on the websites of the Departments of Edu-  
5 cation, Energy, and Labor.

6 (e) REVISION.—The Secretary of Labor shall revise  
7 and update the clearinghouse on a regular basis to ensure  
8 its relevance.

9 **SEC. 324. MONITORING PROGRAM EFFECTIVENESS.**

10 The Secretary of Labor shall monitor the potential  
11 growth of affected and displaced workers to ensure that  
12 the necessary funding continues to support the number of  
13 workers affected.

14 **SEC. 324A. GREEN CONSTRUCTION CAREERS DEMONSTRATION PROJECT.**

15  
16 (a) ESTABLISHMENT AND AUTHORITY.—The Sec-  
17 retary of Labor, in consultation with the Secretary of En-  
18 ergy, shall, not later than 180 days after the enactment  
19 of this Act, establish a Green Construction Careers dem-  
20 onstration project by rules, regulations, and guidance in  
21 accordance with the provisions of this section. The purpose  
22 of the demonstration project shall be to promote middle  
23 class careers and quality employment practices in the  
24 green construction sector among targeted workers and to  
25 advance efficiency and performance on construction

1 projects related to this Act. In order to advance these pur-  
2 poses, the Secretary shall identify projects, including resi-  
3 dential retrofitting projects, funded directly by or assisted  
4 in whole or in part by or through the Federal Government  
5 pursuant to this Act or by any other entity established  
6 in accordance with this Act, to which all of the following  
7 shall apply.

8 (b) REQUIREMENTS.—The Secretaries may establish  
9 such terms and conditions for the demonstration projects  
10 as the Secretaries determine are necessary to meet the  
11 purposes of subsection (a), including establishing min-  
12 imum proportions of hours to be worked by targeted work-  
13 ers on such projects. The Secretaries may require the con-  
14 tractors and subcontractors performing construction serv-  
15 ices on the project to comply with the terms and conditions  
16 as a condition of receiving funding or assistance from the  
17 Federal Government under this Act.

18 (c) EVALUATION.—The Secretaries shall evaluate the  
19 demonstration projects against the purposes of this section  
20 at the end of 3 years from initiation of the demonstration  
21 project. If the Secretaries determine that the demonstra-  
22 tion projects have been successful, the Secretaries may  
23 identify further projects to which of the provisions of this  
24 section shall apply.

1 (d) GAO REPORT.—The Comptroller General shall  
2 prepare and submit a report to the Committee on Health,  
3 Education, Labor, and Pensions and the Committee on  
4 Energy and Natural Resources of the Senate and the  
5 Committee on Education and Labor and the Committee  
6 on Energy and Commerce of the House of Representatives  
7 not later than 5 years after the date of enactment of this  
8 Act, which shall advise the committees of the results of  
9 the demonstration projects and make appropriate rec-  
10 ommendations.

11 (e) DEFINITION AND DESIGNATION OF TARGETED  
12 WORKERS.—As used in this section, the term “targeted  
13 worker” means an individual who resides in the same  
14 labor market area (as defined in section 101(18) of the  
15 Workforce Investment Act of 1998 (29 U.S.C. 2801(18)))  
16 as the project and who—

17 (1) is a member of a targeted group, within the  
18 meaning of section 51 of the Internal Revenue Code  
19 of 1986, other than an individual described in sub-  
20 section (d)(1)(C) of such section;

21 (2)(A) resides in a census tract in which not  
22 less than 20 percent of the households have incomes  
23 below the Federal poverty guidelines; or

24 (B) is a member of a family that received a  
25 total family income that, during the 2-year period

1 prior to employment on the project or admission to  
2 the pre-apprenticeship program, did not exceed 200  
3 percent of the Federal poverty guidelines (exclusive  
4 of unemployment compensation, child support pay-  
5 ments, payments described in section 101(25)(A) of  
6 the Workforce Investment Act (29 U.S.C.  
7 2801(25)(A)), and old-age and survivors insurance  
8 benefits received under section 202 of the Social Se-  
9 curity Act (42 U.S.C. 402); or

10 (3) is a displaced homemaker, as such term is  
11 defined in section 3(10) of the Carl D. Perkins Ca-  
12 reer and Technical Education Act of 2006 (20  
13 U.S.C. 2302(10)).

14 (f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A  
15 qualified pre-apprenticeship program is a pre-apprentice-  
16 ship program that has demonstrated an ability to recruit,  
17 train, and prepare for admission to apprenticeship pro-  
18 grams individuals who are targeted workers.

19 (g) QUALIFIED APPRENTICESHIP AND OTHER  
20 TRAINING PROGRAMS.—

21 (1) PARTICIPATION BY EACH CONTRACTOR RE-  
22 QUIRED.—Each contractor and subcontractor that  
23 seeks to provide construction services on projects  
24 identified by the Secretaries pursuant to subsection  
25 (a) shall submit adequate assurances with its bid or

1       proposal that it participates in a qualified appren-  
2       ticeship or other training program, with a written  
3       arrangement with a qualified pre-apprenticeship pro-  
4       gram, for each craft or trade classification of worker  
5       that it intends to employ to perform work on the  
6       project.

7               (2) DEFINITION OF QUALIFIED APPRENTICE  
8       SHIP OR OTHER TRAINING PROGRAM.—

9               (A) IN GENERAL.—For purposes of this  
10       section, the term “qualified apprenticeship or  
11       other training program” means an apprentice-  
12       ship or other training program that qualifies as  
13       an employee welfare benefit plan, as defined in  
14       section 3(1) of the Employee Retirement In-  
15       come Security Act of 1974 (29 U.S.C.  
16       1002(1)).

17              (B) CERTIFICATION OF OTHER PROGRAMS  
18       IN CERTAIN LOCALITIES.—In the event that the  
19       Secretary of Labor certifies that a qualified ap-  
20       prenticeship or other training program (as de-  
21       fined in subparagraph (A)) for a craft or trade  
22       classification of workers that a prospective con-  
23       tractor or subcontractor intends to employ, is  
24       not operated in the locality where the project  
25       will be performed, an apprenticeship or other



1 training program that is not an employee wel-  
2 fare benefit plan (as defined in such section)  
3 may be certified by the Secretary as a qualified  
4 apprenticeship or other training program pro-  
5 vided it is registered with the Office of Appren-  
6 ticeship of the Department of Labor, or a State  
7 apprenticeship agency recognized by the Office  
8 of Apprenticeship for Federal purposes.

9 (h) FACILITATING COMPLIANCE.—The Secretary  
10 may require Federal contracting agencies, recipients of  
11 Federal assistance, and any other entity established in ac-  
12 cordance with this Act to require contractors to enter into  
13 an agreement in a manner comparable with the standards  
14 set forth in sections 3 and 4 of Executive Order 13502  
15 in order to achieve the purposes of this section, including  
16 any requirements established by subsection (b).

17 (i) LIMITATION.—The requirements of this section  
18 shall not apply to any project funded under this Act in  
19 American Samoa, Guam, the Commonwealth of the North-  
20 ern Mariana Islands, the Commonwealth of Puerto Rico,  
21 or the United States Virgin Islands, unless participation  
22 is requested by the governor of such territories within 1  
23 year of the promulgation of rules under this Act.

1                   **PART 2—CLIMATE CHANGE WORKER**  
2                   **ADJUSTMENT ASSISTANCE**  
3 **SEC. 325. PETITIONS, ELIGIBILITY REQUIREMENTS, AND**  
4                   **DETERMINATIONS.**

5           (a) PETITIONS.—

6               (1) FILING.—A petition for certification of eli-  
7           gibility to apply for adjustment assistance for a  
8           group of workers under this part may be filed by  
9           any of the following:

10                   (A) The group of workers.

11                   (B) The certified or recognized union or  
12           other duly authorized representative of such  
13           workers.

14                   (C) Employers of such workers, one-stop  
15           operators or one-stop partners (as defined in  
16           section 101 of the Workforce Investment Act of  
17           1998 (29 U.S.C. 2801)), including State em-  
18           ployment security agencies, or the State dis-  
19           located worker unit established under title I of  
20           such Act, on behalf of such workers.

21           The petition shall be filed simultaneously with the  
22           Secretary of Labor and with the Governor of the  
23           State in which such workers' employment site is lo-  
24           cated.

1           (2) ACTION BY GOVERNORS.—Upon receipt of a  
2 petition filed under paragraph (1), the Governor  
3 shall—

4           (A) ensure that rapid response activities  
5 and appropriate core and intensive services (as  
6 described in section 134 of the Workforce In-  
7 vestment Act of 1998 (29 U.S.C. 2864)) au-  
8 thorized under other Federal laws are made  
9 available to the workers covered by the petition  
10 to the extent authorized under such laws; and

11           (B) assist the Secretary in the review of  
12 the petition by verifying such information and  
13 providing such other assistance as the Secretary  
14 may request.

15           (3) ACTION BY THE SECRETARY.—Upon receipt  
16 of the petition, the Secretary shall promptly publish  
17 notice in the Federal Register and on the website of  
18 the Department of Labor that the Secretary has re-  
19 ceived the petition and initiated an investigation.

20           (4) HEARINGS.—If the petitioner, or any other  
21 person found by the Secretary to have a substantial  
22 interest in the proceedings, submits not later than  
23 10 days after the date of the Secretary's publication  
24 under paragraph (3) a request for a hearing, the  
25 Secretary shall provide for a public hearing and af-

1       ford such interested persons an opportunity to be  
2       present, to produce evidence, and to be heard.

3       (b) ELIGIBILITY.—

4           (1) IN GENERAL.—A group of workers shall be  
5       certified by the Secretary as eligible to apply for ad-  
6       justment assistance under this part pursuant to a  
7       petition filed under subsection (a) if—

8           (A) the group of workers is employed in—

9                   (i) energy producing and transforming  
10          industries;

11                   (ii) industries dependent upon energy  
12          industries;

13                   (iii) energy-intensive manufacturing  
14          industries;

15                   (iv) consumer goods manufacturing;

16          or

17                   (v) other industries whose employment  
18          the Secretary determines has been ad-  
19          versely affected by any requirement of title  
20          VII of the Clean Air Act;

21           (B) the Secretary determines that a sig-  
22          nificant number or proportion of the workers in  
23          such workers' employment site have become to-  
24          tally or partially separated, or are threatened to

1           become totally or partially separated from em-  
2           ployment; and

3           (C) the sales, production, or delivery of  
4           goods or services have decreased as a result of  
5           any requirement of title VII of the Clean Air  
6           Act, including—

7                   (i) the shift from reliance upon fossil  
8                   fuels to other sources of energy, including  
9                   renewable energy, that results in the clos-  
10                  ing of a facility or layoff of employees at  
11                  a facility that mines, produces, processes,  
12                  or utilizes fossil fuels to generate elec-  
13                  tricity;

14                  (ii) a substantial increase in the cost  
15                  of energy required for a manufacturing fa-  
16                  cility to produce items whose prices are  
17                  competitive in the marketplace, to the ex-  
18                  tent the cost is not offset by allowance al-  
19                  location to the facility pursuant to title VII  
20                  of the Clean Air Act; or

21                  (iii) other documented occurrences  
22                  that the Secretary determines are indica-  
23                  tors of an adverse impact on an industry  
24                  described in subparagraph (A) as a result

1                   of any requirement of title VII of the  
2                   Clean Air Act.

3                   (2) WORKERS IN PUBLIC AGENCIES.—A group  
4                   of workers in a public agency shall be certified by  
5                   the Secretary as eligible to apply for climate change  
6                   adjustment assistance pursuant to a petition filed if  
7                   the Secretary determines that a significant number  
8                   or proportion of the workers in the public agency  
9                   have become totally or partially separated from em-  
10                  ployment, or are threatened to become totally or  
11                  partially separated as a result of any requirement of  
12                  title VII of the Clean Air Act.

13                  (3) ADVERSELY AFFECTED SERVICE WORK-  
14                  ERS.—A group of workers shall be certified as eligi-  
15                  ble to apply for climate change adjustment assist-  
16                  ance pursuant to a petition filed if the Secretary de-  
17                  termines that—

18                         (A) a significant number or proportion of  
19                         the service workers at an employment site  
20                         where a group of workers has been certified by  
21                         the Secretary as eligible to apply for adjustment  
22                         assistance under this part pursuant to para-  
23                         graph (1) have become totally or partially sepa-  
24                         rated from employment, or are threatened to  
25                         become totally or partially separated; and

1 (B) a loss of business in the firm providing  
2 service workers to an employment site is di-  
3 rectly attributable to one or more of the docu-  
4 mented occurrences listed in paragraph (1)(C).

5 (c) AUTHORITY TO INVESTIGATE AND COLLECT IN-  
6 FORMATION.—

7 (1) IN GENERAL.—The Secretary shall, in de-  
8 termining whether to certify a group of workers  
9 under subsection (d), obtain information the Sec-  
10 retary determines to be necessary to make the cer-  
11 tification, through questionnaires and in such other  
12 manner as the Secretary determines appropriate  
13 from—

14 (A) the workers' employer;

15 (B) officials of certified or recognized  
16 unions or other duly authorized representatives  
17 of the group of workers; or

18 (C) one-stop operators or one-stop partners  
19 (as defined in section 101 of the Workforce In-  
20 vestment Act of 1998 (29 U.S.C. 2801)).

21 (2) VERIFICATION OF INFORMATION.—The Sec-  
22 retary shall require an employer, union, or one-stop  
23 operator or partner to certify all information ob-  
24 tained under paragraph (1) from the employer,  
25 union, or one-stop operator or partner (as the case

1       may be) on which the Secretary relies in making a  
2       determination under subsection (d), unless the Sec-  
3       retary has a reasonable basis for determining that  
4       such information is accurate and complete without  
5       being certified.

6               (3) PROTECTION OF CONFIDENTIAL INFORMA-  
7       TION.—The Secretary may not release information  
8       obtained under paragraph (1) that the Secretary  
9       considers to be confidential business information un-  
10      less the employer submitting the confidential busi-  
11      ness information had notice, at the time of submis-  
12      sion, that the information would be released by the  
13      Secretary, or the employer subsequently consents to  
14      the release of the information. Nothing in this para-  
15      graph shall be construed to prohibit the Secretary  
16      from providing such confidential business informa-  
17      tion to a court in camera or to another party under  
18      a protective order issued by a court.

19             (d) DETERMINATION BY THE SECRETARY OF  
20      LABOR.—

21               (1) IN GENERAL.—As soon as possible after the  
22      date on which a petition is filed under subsection  
23      (a), but in any event not later than 40 days after  
24      that date, the Secretary, in consultation with the  
25      Secretary of Energy and the Administrator, as nec-



1        essary, shall determine whether the petitioning  
2        group meets the requirements of subsection (b) and  
3        shall issue a certification of eligibility to apply for  
4        assistance under this part covering workers in any  
5        group which meets such requirements. Each certifi-  
6        cation shall specify the date on which the total or  
7        partial separation began or threatened to begin.  
8        Upon reaching a determination on a petition, the  
9        Secretary shall promptly publish a summary of the  
10       determination in the Federal Register and on the  
11       website of the Department of Labor, together with  
12       the Secretary's reasons for making such determina-  
13       tion.

14            (2) ONE YEAR LIMITATION.—A certification  
15        under this section shall not apply to any worker  
16        whose last total or partial separation from the em-  
17        ployment site before the worker's application under  
18        section 326(a) occurred more than 1 year before the  
19        date of the petition on which such certification was  
20        granted.

21            (3) REVOCATION OF CERTIFICATION.—When-  
22        ever the Secretary determines, with respect to any  
23        certification of eligibility of the workers of an em-  
24        ployment site, that total or partial separations from  
25        such site are no longer a result of the factors speci-

1       fied in subsection (b)(1), the Secretary shall termi-  
2       nate such certification and promptly have notice of  
3       such termination published in the Federal Register  
4       and on the website of the Department of Labor, to-  
5       gether with the Secretary's reasons for making such  
6       determination. Such termination shall apply only  
7       with respect to total or partial separations occurring  
8       after the termination date specified by the Secretary.

9       (e) INDUSTRY NOTIFICATION OF ASSISTANCE.—

10      Upon receiving a notification of a determination under  
11      subsection (d) with respect to a domestic industry the Sec-  
12      retary of Labor shall notify the representatives of the do-  
13      mestic industry affected by the determination, employers  
14      publicly identified by name during the course of the pro-  
15      ceeding relating to the determination, and any certified  
16      or recognized union or, to the extent practicable, other  
17      duly authorized representative of workers employed by  
18      such representatives of the domestic industry, of—

19              (1) the adjustment allowances, training, and  
20              other benefits available under this part;

21              (2) the manner in which to file a petition and  
22              apply for such benefits;

23              (3) the availability of assistance in filing such  
24              petitions;

1           (4) notify the Governor of each State in which  
2           one or more employers in such industry are located  
3           of the Secretary's determination and the identity of  
4           the employers; and

5           (5) upon request, provide any assistance that is  
6           necessary to file a petition under subsection (a).

7           (f) BENEFIT INFORMATION TO WORKERS, PRO-  
8           VIDERS OF TRAINING.—

9           (1) IN GENERAL.—The Secretary shall provide  
10          full information to workers about the adjustment al-  
11          lowances, training, and other benefits available  
12          under this part and about the petition and applica-  
13          tion procedures, and the appropriate filing dates, for  
14          such allowances, training and services. The Sec-  
15          retary shall provide whatever assistance is necessary  
16          to enable groups of workers to prepare petitions or  
17          applications for program benefits. The Secretary  
18          shall make every effort to insure that cooperating  
19          State agencies fully comply with the agreements en-  
20          tered into under section 326(a) and shall periodically  
21          review such compliance. The Secretary shall inform  
22          the State Board for Vocational Education or equiva-  
23          lent agency, the one-stop operators or one-stop part-  
24          ners (as defined in section 101 of the Workforce In-  
25          vestment Act of 1998 (29 U.S.C. 2801)), and other

1 public or private agencies, institutions, and employ-  
2 ers, as appropriate, of each certification issued  
3 under subsection (d) and of projections, if available,  
4 of the needs for training under as a result of such  
5 certification.

6 (2) NOTICE BY MAIL.—The Secretary shall pro-  
7 vide written notice through the mail of the benefits  
8 available under this part to each worker whom the  
9 Secretary has reason to believe is covered by a cer-  
10 tification made under subsection (d)—

11 (A) at the time such certification is made,  
12 if the worker was partially or totally separated  
13 from the adversely affected employment before  
14 such certification; or

15 (B) at the time of the total or partial sepa-  
16 ration of the worker from the adversely affected  
17 employment, if subparagraph (A) does not  
18 apply.

19 (3) NEWSPAPERS; WEBSITE.—The Secretary  
20 shall publish notice of the benefits available under  
21 this part to workers covered by each certification  
22 made under subsection (d) in newspapers of general  
23 circulation in the areas in which such workers reside  
24 and shall make such information available on the  
25 website of the Department of Labor.

1 **SEC. 326. PROGRAM BENEFITS.**

2 (a) CLIMATE CHANGE ADJUSTMENT ALLOWANCE.—

3 (1) ELIGIBILITY.—Payment of a climate change  
4 adjustment allowance shall be made to an adversely  
5 affected worker covered by a certification under sec-  
6 tion 325(b) who files an application for such allow-  
7 ance for any week of unemployment which begins on  
8 or after the date of such certification, if the fol-  
9 lowing conditions are met:

10 (A) Such worker's total or partial separa-  
11 tion before the worker's application under this  
12 part occurred—

13 (i) on or after the date, as specified in  
14 the certification under which the worker is  
15 covered, on which total or partial separa-  
16 tion began or threatened to begin in the  
17 adversely affected employment;

18 (ii) before the expiration of the 2-year  
19 period beginning on the date on which the  
20 determination under section 325(d) was  
21 made; and

22 (iii) before the termination date, if  
23 any, determined pursuant to section  
24 325(d)(3).

25 (B) Such worker had, in the 52-week pe-  
26 riod ending with the week in which such total

1 or partial separation occurred, at least 26  
2 weeks of full-time employment or 1,040 hours  
3 of part time employment in adversely affected  
4 employment, or, if data with respect to weeks of  
5 employment are not available, equivalent  
6 amounts of employment computed under regu-  
7 lations prescribed by the Secretary. For the  
8 purposes of this paragraph, any week in which  
9 such worker—

10 (i) is on employer-authorized leave for  
11 purposes of vacation, sickness, injury, ma-  
12 ternity, or inactive duty or active duty  
13 military service for training;

14 (ii) does not work because of a dis-  
15 ability that is compensable under a work-  
16 men's compensation law or plan of a State  
17 or the United States;

18 (iii) had his employment interrupted  
19 in order to serve as a full-time representa-  
20 tive of a labor organization in such firm; or

21 (iv) is on call-up for purposes of active  
22 duty in a reserve status in the Armed  
23 Forces of the United States, provided such  
24 active duty is "Federal service" as defined

1                   in section 8521(a)(1) of title 5, United  
2                   States Code,  
3                   shall be treated as a week of employment.

4                   (C) Such worker is enrolled in a training  
5                   program approved by the Secretary under sub-  
6                   section (b)(2).

7                   (2) INELIGIBILITY FOR CERTAIN OTHER BENE-  
8                   FITS.—An adversely affected worker receiving a pay-  
9                   ment under this section shall be ineligible to receive  
10                  any other form of unemployment insurance for the  
11                  period in which such worker is receiving a climate  
12                  change adjustment allowance under this section.

13                  (3) REVOCATION.—If—

14                   (A) the Secretary determines that—

15                   (i) the adversely affected worker—

16                   (I) has failed to begin participa-  
17                   tion in the training program the en-  
18                   rollment in which meets the require-  
19                   ment of paragraph (1)(C); or

20                   (II) has ceased to participate in  
21                   such training program before com-  
22                   pleting such training program; and

23                   (ii) there is no justifiable cause for  
24                   such failure or cessation; or





1           clude the profiling system under section  
2           303(j) of the Social Security Act (42  
3           U.S.C. 503(j)), carried out in accordance  
4           with guidelines issued by the Secretary)  
5           and there is a reasonable expectation of  
6           employment at equivalent wages in the  
7           foreseeable future.

8                   (ii) MARKETABLE SKILLS DEFINED.—  
9           For purposes of clause (i), the term “mar-  
10          ketable skills” may include the possession  
11          of a postgraduate degree from an institu-  
12          tion of higher education (as defined in sec-  
13          tion 102 of the Higher Education Act of  
14          1965 (20 U.S.C. 1002)) or an equivalent  
15          institution, or the possession of an equiva-  
16          lent postgraduate certification in a special-  
17          ized field.

18                   (C) RETIREMENT.—The worker is within 2  
19          years of meeting all requirements for entitle-  
20          ment to either—

21                   (i) old-age insurance benefits under  
22                   title II of the Social Security Act (42  
23                   U.S.C. 401 et seq.) (except for application  
24                   therefor); or

1                   (ii) a private pension sponsored by an  
2                   employer or labor organization.

3                   (D) HEALTH.—The worker is unable to  
4                   participate in training due to the health of the  
5                   worker, except that a waiver under this sub-  
6                   paragraph shall not be construed to exempt a  
7                   worker from requirements relating to the avail-  
8                   ability for work, active search for work, or re-  
9                   fusal to accept work under Federal or State un-  
10                  employment compensation laws.

11                  (E) ENROLLMENT UNAVAILABLE.—The  
12                  first available enrollment date for the training  
13                  of the worker is within 60 days after the date  
14                  of the determination made under this para-  
15                  graph, or, if later, there are extenuating cir-  
16                  cumstances for the delay in enrollment, as de-  
17                  termined pursuant to guidelines issued by the  
18                  Secretary.

19                  (F) TRAINING NOT AVAILABLE.—Training  
20                  described in subsection (b)(2) is not reasonably  
21                  available to the worker from either govern-  
22                  mental agencies or private sources (which may  
23                  include area career and technical education  
24                  schools, as defined in section 3 of the Carl D.  
25                  Perkins Career and Technical Education Act of

1           2006 (20 U.S.C. 2302), and employers), no  
2           training that is suitable for the worker is avail-  
3           able at a reasonable cost, or no training funds  
4           are available.

5           (5) WEEKLY AMOUNTS.—The climate change  
6           adjustment allowance payable to an adversely af-  
7           fected worker for a week of unemployment shall be  
8           an amount equal to 70 percent of the average weekly  
9           wage of such worker, but in no case shall such  
10          amount exceed the average weekly wage for all work-  
11          ers in the State where the adversely affected worker  
12          resides.

13          (6) MAXIMUM DURATION OF BENEFITS.—An el-  
14          igible worker may receive a climate change adjust-  
15          ment allowance under this subsection for a period of  
16          not longer than 156 weeks.

17          (b) EMPLOYMENT SERVICES AND TRAINING.—

18               (1) INFORMATION AND EMPLOYMENT SERV-  
19               ICES.—The Secretary shall make available, directly  
20               or through agreements with the States under section  
21               327(a) to adversely affected workers covered by a  
22               certification under section 325(a) the following in-  
23               formation and employment services:

1 (A) Comprehensive and specialized assess-  
2 ment of skill levels and service needs, including  
3 through—

4 (i) diagnostic testing and use of other  
5 assessment tools; and

6 (ii) in-depth interviewing and evalua-  
7 tion to identify employment barriers and  
8 appropriate employment goals.

9 (B) Development of an individual employ-  
10 ment plan to identify employment goals and ob-  
11 jectives, and appropriate training to achieve  
12 those goals and objectives.

13 (C) Information on training available in  
14 local and regional areas, information on indi-  
15 vidual counseling to determine which training is  
16 suitable training, and information on how to  
17 apply for such training.

18 (D) Information on training programs and  
19 other services provided by a State pursuant to  
20 title I of the Workforce Investment Act of 1998  
21 (29 U.S.C. 2801 et seq.) and available in local  
22 and regional areas, information on individual  
23 counseling to determine which training is suit-  
24 able training, and information on how to apply  
25 for such training.

1           (E) Information on how to apply for finan-  
2           cial aid, including referring workers to edu-  
3           cational opportunity centers described in section  
4           402F of the Higher Education Act of 1965 (20  
5           U.S.C. 1070a–16), where applicable, and noti-  
6           fying workers that the workers may request fi-  
7           nancial aid administrators at institutions of  
8           higher education (as defined in section 102 of  
9           such Act (20 U.S.C. 1002)) to use the adminis-  
10          trators’ discretion under section 479A of such  
11          Act (20 U.S.C. 1087tt) to use current year in-  
12          come data, rather than preceding year income  
13          data, for determining the amount of need of the  
14          workers for Federal financial assistance under  
15          title IV of such Act (20 U.S.C. 1070 et seq.).

16          (F) Short-term prevocational services, in-  
17          cluding development of learning skills, commu-  
18          nications skills, interviewing skills, punctuality,  
19          personal maintenance skills, and professional  
20          conduct to prepare individuals for employment  
21          or training.

22          (G) Individual career counseling, including  
23          job search and placement counseling, during the  
24          period in which the individual is receiving a cli-  
25          mate change adjustment allowance or training

1           under this part, and after receiving such train-  
2           ing for purposes of job placement.

3           (H) Provision of employment statistics in-  
4           formation, including the provision of accurate  
5           information relating to local, regional, and na-  
6           tional labor market areas, including—

7                   (i) job vacancy listings in such labor  
8                   market areas;

9                   (ii) information on jobs skills nec-  
10                  essary to obtain jobs identified in job va-  
11                  cancy listings described in subparagraph  
12                  (A);

13                  (iii) information relating to local occu-  
14                  pations that are in demand and earnings  
15                  potential of such occupations; and

16                  (iv) skills requirements for local occu-  
17                  pations described in subparagraph (C).

18           (I) Information relating to the availability  
19           of supportive services, including services relat-  
20           ing to child care, transportation, dependent  
21           care, housing assistance, and need-related pay-  
22           ments that are necessary to enable an indi-  
23           vidual to participate in training.

24           (2) TRAINING.—

1 (A) APPROVAL OF AND PAYMENT FOR  
2 TRAINING.—If the Secretary determines, with  
3 respect to an adversely affected worker that—

4 (i) there is no suitable employment  
5 (which may include technical and profes-  
6 sional employment) available for an ad-  
7 versely affected worker;

8 (ii) the worker would benefit from ap-  
9 propriate training;

10 (iii) there is a reasonable expectation  
11 of employment following completion of  
12 such training;

13 (iv) training approved by the Sec-  
14 retary is reasonably available to the worker  
15 from either governmental agencies or pri-  
16 vate sources (including area career and  
17 technical education schools, as defined in  
18 section 3 of the Carl D. Perkins Career  
19 and Technical Education Act of 2006 (20  
20 U.S.C. 2302), and employers);

21 (v) the worker is qualified to under-  
22 take and complete such training; and

23 (vi) such training is suitable for the  
24 worker and available at a reasonable cost,

1           the Secretary shall approve such training for  
2           the worker. Upon such approval, the worker  
3           shall be entitled to have payment of the costs  
4           of such training (subject to the limitations im-  
5           posed by this section) paid on the worker's be-  
6           half by the Secretary directly or through a  
7           voucher system.

8           (B) DISTRIBUTION.—The Secretary shall  
9           establish procedures for the distribution of the  
10          funds to States to carry out the training pro-  
11          grams approved under this paragraph, and shall  
12          make an initial distribution of the funds made  
13          available as soon as practicable after the begin-  
14          ning of each fiscal year.

15          (C) ADDITIONAL RULES REGARDING AP-  
16          PROVAL OF AND PAYMENT FOR TRAINING.—

17                 (i) For purposes of applying subpara-  
18                 graph (A)(iii), a reasonable expectation of  
19                 employment does not require that employ-  
20                 ment opportunities for a worker be avail-  
21                 able, or offered, immediately upon the  
22                 completion of training approved under  
23                 such subparagraph.

24                 (ii) If the costs of training an ad-  
25                 versely affected worker are paid by the



1 Secretary under subparagraph (A), no  
2 other payment for such costs may be made  
3 under any other provision of Federal law.  
4 No payment may be made under subpara-  
5 graph (A) of the costs of training an ad-  
6 versely affected worker or an adversely af-  
7 fected incumbent worker if such costs—

8 (I) have already been paid under  
9 any other provision of Federal law; or

10 (II) are reimbursable under any  
11 other provision of Federal law and a  
12 portion of such costs have already  
13 been paid under such other provision  
14 of Federal law.

15 The provisions of this clause shall not  
16 apply to, or take into account, any funds  
17 provided under any other provision of Fed-  
18 eral law which are used for any purpose  
19 other than the direct payment of the costs  
20 incurred in training a particular adversely  
21 affected worker, even if such use has the  
22 effect of indirectly paying or reducing any  
23 portion of the costs involved in training the  
24 adversely affected worker.

1 (D) TRAINING PROGRAMS.—The training  
2 programs that may be approved under subpara-  
3 graph (A) include—

4 (i) employer-based training, includ-  
5 ing—

6 (I) on-the-job training if ap-  
7 proved by the Secretary under sub-  
8 section (c); and

9 (II) joint labor-management ap-  
10 prenticeship programs;

11 (ii) any training program provided by  
12 a State pursuant to title I of the Work-  
13 force Investment Act of 1998 (29 U.S.C.  
14 2801 et seq.);

15 (iii) any programs in career and tech-  
16 nical education described in section 3(5) of  
17 the Carl D. Perkins Career and Technical  
18 Education Act of 2006 (20 U.S.C.  
19 2302(5));

20 (iv) any program of remedial edu-  
21 cation;

22 (v) any program of prerequisite edu-  
23 cation or coursework required to enroll in  
24 training that may be approved under this  
25 paragraph;

1 (vi) any training program for which  
2 all, or any portion, of the costs of training  
3 the worker are paid—

4 (I) under any Federal or State  
5 program other than this part; or

6 (II) from any source other than  
7 this part;

8 (vii) any training program or  
9 coursework at an accredited institution of  
10 higher education (described in section 102  
11 of the Higher Education Act of 1965 (20  
12 U.S.C. 1002)), including a training pro-  
13 gram or coursework for the purpose of—

14 (I) obtaining a degree or certifi-  
15 cation; or

16 (II) completing a degree or cer-  
17 tification that the worker had pre-  
18 viously begun at an accredited institu-  
19 tion of higher education; and

20 (viii) any other training program ap-  
21 proved by the Secretary.

22 (3) SUPPLEMENTAL ASSISTANCE.—The Sec-  
23 retary may, as appropriate, authorize supplemental  
24 assistance that is necessary to defray reasonable  
25 transportation and subsistence expenses for separate

1 maintenance in a case in which training for a worker  
2 is provided in a facility that is not within commuting  
3 distance of the regular place of residence of the  
4 worker.

5 (c) ON-THE-JOB TRAINING REQUIREMENTS.—

6 (1) IN GENERAL.—The Secretary may approve  
7 on-the-job training for any adversely affected worker  
8 if—

9 (A) the Secretary determines that on-the-  
10 job training—

11 (i) can reasonably be expected to lead  
12 to suitable employment with the employer  
13 offering the on-the-job training;

14 (ii) is compatible with the skills of the  
15 worker;

16 (iii) includes a curriculum through  
17 which the worker will gain the knowledge  
18 or skills to become proficient in the job for  
19 which the worker is being trained; and

20 (iv) can be measured by benchmarks  
21 that indicate that the worker is gaining  
22 such knowledge or skills; and

23 (B) the State determines that the on-the-  
24 job training program meets the requirements of  
25 clauses (iii) and (iv) of subparagraph (A).

1           (2) MONTHLY PAYMENTS.—The Secretary shall  
2           pay the costs of on-the-job training approved under  
3           paragraph (1) in monthly installments.

4           (3) CONTRACTS FOR ON-THE-JOB TRAINING.—

5                 (A) IN GENERAL.—The Secretary shall en-  
6                 sure, in entering into a contract with an em-  
7                 ployer to provide on-the-job training to a work-  
8                 er under this subsection, that the skill require-  
9                 ments of the job for which the worker is being  
10                trained, the academic and occupational skill  
11                level of the worker, and the work experience of  
12                the worker are taken into consideration.

13               (B) TERM OF CONTRACT.—Training under  
14               any such contract shall be limited to the period  
15               of time required for the worker receiving on-  
16               the-job training to become proficient in the job  
17               for which the worker is being trained, but may  
18               not exceed 156 weeks in any case.

19           (4) EXCLUSION OF CERTAIN EMPLOYERS.—The  
20           Secretary shall not enter into a contract for on-the-  
21           job training with an employer that exhibits a pattern  
22           of failing to provide workers receiving on-the-job  
23           training from the employer with—

24                 (A) continued, long-term employment as  
25                 regular employees; and

1           (B) wages, benefits, and working condi-  
2           tions that are equivalent to the wages, benefits,  
3           and working conditions provided to regular em-  
4           ployees who have worked a similar period of  
5           time and are doing the same type of work as  
6           workers receiving on-the-job training from the  
7           employer.

8           (d) ADMINISTRATIVE AND EMPLOYMENT SERVICES  
9           FUNDING.—

10           (1) ADMINISTRATIVE FUNDING.—In addition to  
11           any funds made available to a State to carry out this  
12           section for a fiscal year, the State shall receive for  
13           the fiscal year a payment in an amount that is equal  
14           to 15 percent of the amount of such funds and  
15           shall—

16           (A) use not more than  $\frac{2}{3}$  of such payment  
17           for the administration of the climate change ad-  
18           justment assistance for workers program under  
19           this part, including for—

20           (i) processing waivers of training re-  
21           quirements under subsection (a)(4); and

22           (ii) collecting, validating, and report-  
23           ing data required under this part; and

1 (B) use not less than  $\frac{1}{3}$  of such payment  
2 for information and employment services under  
3 subsection (b)(1).

4 (2) EMPLOYMENT SERVICES FUNDING.—

5 (A) IN GENERAL.—In addition to any  
6 funds made available to a State to carry out  
7 subsection (b)(2) and the payment under para-  
8 graph (1) for a fiscal year, the Secretary shall  
9 provide to the State for the fiscal year a reason-  
10 able payment for the purpose of providing em-  
11 ployment and services under subsection (b)(1).

12 (B) VOLUNTARY RETURN OF FUNDS.—A  
13 State that receives a payment under subpara-  
14 graph (A) may decline or otherwise return such  
15 payment to the Secretary.

16 (e) JOB SEARCH ALLOWANCES.—The Secretary of  
17 Labor may provide adversely affected workers a one-time  
18 job search allowance in accordance with regulations pre-  
19 scribed by the Secretary. Any job search allowance pro-  
20 vided shall be available only under the following cir-  
21 cumstances and conditions:

22 (1) The worker is no longer eligible for the cli-  
23 mate change adjustment allowance under subsection  
24 (a) and has completed the training program required  
25 by subsection (b)(1)(E).

1           (2) The Secretary determines that the worker  
2 cannot reasonably be expected to secure suitable em-  
3 ployment in the commuting area in which the worker  
4 resides.

5           (3) An allowance granted shall provide reim-  
6 bursement to the worker of all necessary job search  
7 expenses as prescribed by the Secretary in regula-  
8 tions. Such reimbursement under this subsection  
9 may not exceed \$1,500 for any worker.

10 (f) RELOCATION ALLOWANCE AUTHORIZED.—

11           (1) IN GENERAL.—Any adversely affected work-  
12 er covered by a certification issued under section  
13 325 may file an application for a relocation allow-  
14 ance with the Secretary, and the Secretary may  
15 grant the relocation allowance, subject to the terms  
16 and conditions of this subsection.

17           (2) CONDITIONS FOR GRANTING ALLOWANCE.—

18 A relocation allowance may be granted if all of the  
19 following terms and conditions are met:

20           (A) ASSIST AN ADVERSELY AFFECTED  
21 WORKER.—The relocation allowance will assist  
22 an adversely affected worker in relocating with-  
23 in the United States.

24           (B) LOCAL EMPLOYMENT NOT AVAIL-  
25 ABLE.—The Secretary determines that the



1 worker cannot reasonably be expected to secure  
2 suitable employment in the commuting area in  
3 which the worker resides.

4 (C) TOTAL SEPARATION.—The worker is  
5 totally separated from employment at the time  
6 relocation commences.

7 (D) SUITABLE EMPLOYMENT OBTAINED.—  
8 The worker—

9 (i) has obtained suitable employment  
10 affording a reasonable expectation of long-  
11 term duration in the area in which the  
12 worker wishes to relocate; or

13 (ii) has obtained a bona fide offer of  
14 such employment.

15 (E) APPLICATION.—The worker filed an  
16 application with the Secretary at such time and  
17 in such manner as the Secretary shall specify  
18 by regulation.

19 (3) AMOUNT OF ALLOWANCE.—The relocation  
20 allowance granted to a worker under paragraph (1)  
21 includes—

22 (A) all reasonable and necessary expenses  
23 (including, subsistence and transportation ex-  
24 penses at levels not exceeding amounts pre-  
25 scribed by the Secretary in regulations) in-

1 curred in transporting the worker, the worker's  
2 family, and household effects; and

3 (B) a lump sum equivalent to 3 times the  
4 worker's average weekly wage, up to a max-  
5 imum payment of \$1,500.

6 (4) LIMITATIONS.—A relocation allowance may  
7 not be granted to a worker unless—

8 (A) the relocation occurs within 182 days  
9 after the filing of the application for relocation  
10 assistance; or

11 (B) the relocation occurs within 182 days  
12 after the conclusion of training, if the worker  
13 entered a training program approved by the  
14 Secretary under subsection (b)(2).

15 (g) HEALTH INSURANCE CONTINUATION.—Not later  
16 than 1 year after the date of enactment of this Act, the  
17 Secretary of Labor shall prescribe regulations to provide,  
18 for the period in which an adversely affected worker is  
19 participating in a training program described in sub-  
20 section (b)(2), 80 percent of the monthly premium of any  
21 health insurance coverage that an adversely affected work-  
22 er was receiving from such worker's employer prior to the  
23 separation from employment described in section 325(b),  
24 to be paid to any health care insurance plan designated

1 by the adversely affected worker receiving an allowance  
2 under this section.

3 **SEC. 327. GENERAL PROVISIONS.**

4 (a) AGREEMENTS WITH STATES.—

5 (1) IN GENERAL.—The Secretary is authorized  
6 on behalf of the United States to enter into an  
7 agreement with any State, or with any State agency  
8 (referred to in this section as “cooperating States”  
9 and “cooperating State agencies” respectively).  
10 Under such an agreement, the cooperating State or  
11 cooperating State agency—

12 (A) as agent of the United States, shall re-  
13 ceive applications for, and shall provide, pay-  
14 ments on the basis provided in this part;

15 (B) in accordance with paragraph (6),  
16 shall make available to adversely affected work-  
17 ers covered by a certification under section  
18 325(d) the employment services described in  
19 section 326(b)(1);

20 (C) shall make any certifications required  
21 under section 325(d); and

22 (D) shall otherwise cooperate with the Sec-  
23 retary and with other State and Federal agen-  
24 cies in providing payments and services under  
25 this part.

1 Each agreement under this section shall provide the  
2 terms and conditions upon which the agreement may  
3 be amended, suspended, or terminated.

4 (2) FORM AND MANNER OF DATA.—Each  
5 agreement under this section shall—

6 (A) provide the Secretary with the author-  
7 ity to collect any data the Secretary determines  
8 necessary to meet the requirements of this part;  
9 and

10 (B) specify the form and manner in which  
11 any such data requested by the Secretary shall  
12 be reported.

13 (3) RELATIONSHIP TO UNEMPLOYMENT INSUR-  
14 ANCE.—Each agreement under this section shall  
15 provide that an adversely affected worker receiving  
16 a climate change adjustment allowance under this  
17 part shall not be eligible for unemployment insur-  
18 ance otherwise payable to such worker under the  
19 laws of the State.

20 (4) REVIEW.—A determination by a cooper-  
21 ating State agency with respect to entitlement to  
22 program benefits under an agreement is subject to  
23 review in the same manner and to the same extent  
24 as determinations under the applicable State law  
25 and only in that manner and to that extent.

1           (5) COORDINATION.—Any agreement entered  
2 into under this section shall provide for the coordi-  
3 nation of the administration of the provisions for  
4 employment services, training, and supplemental as-  
5 sistance under section 326 and under title I of the  
6 Workforce Investment Act of 1998 (29 U.S.C. 2801  
7 et seq.) upon such terms and conditions as are es-  
8 tablished by the Secretary in consultation with the  
9 States and set forth in such agreement. Any agency  
10 of the State jointly administering such provisions  
11 under such agreement shall be considered to be a co-  
12 operating State agency for purposes of this part.

13           (6) RESPONSIBILITIES OF COOPERATING AGEN-  
14 CIES.—Each cooperating State agency shall, in car-  
15 rying out paragraph (1)(B)—

16           (A) advise each worker who applies for un-  
17 employment insurance of the benefits under this  
18 part and the procedures and deadlines for ap-  
19 plying for such benefits;

20           (B) facilitate the early filing of petitions  
21 under section 325(a) for any workers that the  
22 agency considers are likely to be eligible for  
23 benefits under this part;

24           (C) advise each adversely affected worker  
25 to apply for training under section 326(b) be-

1 fore, or at the same time, the worker applies for  
2 climate change adjustment allowances under  
3 section 326(a);

4 (D) perform outreach to, intake of, and  
5 orientation for adversely affected workers and  
6 adversely affected incumbent workers covered  
7 by a certification under section 326(a) with re-  
8 spect to assistance and benefits available under  
9 this part;

10 (E) make employment services described in  
11 section 326(b)(1) available to adversely affected  
12 workers and adversely affected incumbent work-  
13 ers covered by a certification under section  
14 325(d) and, if funds provided to carry out this  
15 part are insufficient to make such services  
16 available, make arrangements to make such  
17 services available through other Federal pro-  
18 grams; and

19 (F) provide the benefits and reemployment  
20 services under this part in a manner that is  
21 necessary for the proper and efficient adminis-  
22 tration of this part, including the use of state  
23 agency personnel employed in accordance with a  
24 merit system of personnel administration stand-  
25 ards, including—

1 (i) making determinations of eligibility  
2 for, and payment of, climate change read-  
3 justment allowances and health care ben-  
4 efit replacement amounts;

5 (ii) developing recommendations re-  
6 garding payments as a bridge to retire-  
7 ment and lump sum payments to pension  
8 plans in accordance with this subsection;  
9 and

10 (iii) the provision of reemployment  
11 services to eligible workers, including refer-  
12 ral to training services.

13 (7) SUBMISSION OF CERTAIN INFORMATION.—

14 In order to promote the coordination of workforce  
15 investment activities in each State with activities  
16 carried out under this part, any agreement entered  
17 into under this section shall provide that the State  
18 shall submit to the Secretary, in such form as the  
19 Secretary may require, the description and informa-  
20 tion described in paragraphs (8) and (14) of section  
21 112(b) of the Workforce Investment Act of 1998 (29  
22 U.S.C. 2822(b)) and a description of the State's  
23 rapid response activities under section 134(a)(2)(A)  
24 of that Act (29 U.S.C. 2864(a)(2)(A)).

25 (8) CONTROL MEASURES.—

1           (A) IN GENERAL.—The Secretary shall re-  
2           quire each cooperating State and cooperating  
3           State agency to implement effective control  
4           measures and to effectively oversee the oper-  
5           ation and administration of the climate change  
6           adjustment assistance program under this part,  
7           including by means of monitoring the operation  
8           of control measures to improve the accuracy  
9           and timeliness of the data being collected and  
10          reported.

11          (B) DEFINITION.—For purposes of sub-  
12          paragraph (A), the term “control measures”  
13          means measures that—

14               (i) are internal to a system used by a  
15               State to collect data; and

16               (ii) are designed to ensure the accu-  
17               racy and verifiability of such data.

18          (9) DATA REPORTING.—

19               (A) IN GENERAL.—Any agreement entered  
20               into under this section shall require the cooper-  
21               ating State or cooperating State agency to re-  
22               port to the Secretary on a quarterly basis com-  
23               prehensive performance accountability data, to  
24               consist of—



1 (i) the core indicators of performance  
2 described in subparagraph (B)(i);

3 (ii) the additional indicators of per-  
4 formance described in subparagraph  
5 (B)(ii), if any; and

6 (iii) a description of efforts made to  
7 improve outcomes for workers under the  
8 climate change adjustment assistance pro-  
9 gram.

10 (B) CORE INDICATORS DESCRIBED.—

11 (i) IN GENERAL.—The core indicators  
12 of performance described in this subpara-  
13 graph are—

14 (I) the percentage of workers re-  
15 ceiving benefits under this part who  
16 are employed during the second cal-  
17 endar quarter following the calendar  
18 quarter in which the workers cease re-  
19 ceiving such benefits;

20 (II) the percentage of such work-  
21 ers who are employed in each of the  
22 third and fourth calendar quarters fol-  
23 lowing the calendar quarter in which  
24 the workers cease receiving such bene-  
25 fits; and

1 (III) the earnings of such work-  
2 ers in each of the third and fourth  
3 calendar quarters following the cal-  
4 endar quarter in which the workers  
5 cease receiving such benefits.

6 (ii) ADDITIONAL INDICATORS.—The  
7 Secretary and a cooperating State or co-  
8 operating State agency may agree upon  
9 additional indicators of performance for  
10 the climate change adjustment assistance  
11 program under this part, as appropriate.

12 (C) STANDARDS WITH RESPECT TO RELI-  
13 ABILITY OF DATA.—In preparing the quarterly  
14 report required by subparagraph (A), each co-  
15 operating State or cooperating State agency  
16 shall establish procedures that are consistent  
17 with guidelines to be issued by the Secretary to  
18 ensure that the data reported are valid and reli-  
19 able.

20 (10) VERIFICATION OF ELIGIBILITY FOR PRO-  
21 GRAM BENEFITS.—

22 (A) IN GENERAL.—An agreement under  
23 this section shall provide that the State shall  
24 periodically redetermine that a worker receiving  
25 benefits under this part who is not a citizen or

1 national of the United States remains in a sat-  
2 isfactory immigration status. Once satisfactory  
3 immigration status has been initially verified  
4 through the immigration status verification sys-  
5 tem described in section 1137(d) of the Social  
6 Security Act (42 U.S.C. 1320b-7(d)) for pur-  
7 poses of establishing a worker's eligibility for  
8 unemployment compensation, the State shall  
9 reverify the worker's immigration status if the  
10 documentation provided during initial  
11 verification will expire during the period in  
12 which that worker is potentially eligible to re-  
13 ceive benefits under this part. The State shall  
14 conduct such redetermination in a timely man-  
15 ner, utilizing the immigration status verification  
16 system described in section 1137(d) of the So-  
17 cial Security Act (42 U.S.C. 1320b-7(d)).

18 (B) PROCEDURES.—The Secretary shall  
19 establish procedures to ensure the uniform ap-  
20 plication by the States of the requirements of  
21 this paragraph.

22 (b) ADMINISTRATION ABSENT STATE AGREE-  
23 MENT.—

24 (1) In any State where there is no agreement  
25 in force between a State or its agency under sub-

1 section (a), the Secretary shall promulgate regula-  
2 tions for the performance of all necessary functions  
3 under section 326, including provision for a fair  
4 hearing for any worker whose application for pay-  
5 ments is denied.

6 (2) A final determination under paragraph (1)  
7 with respect to entitlement to program benefits  
8 under section 326 is subject to review by the courts  
9 in the same manner and to the same extent as is  
10 provided by section 205(g) of the Social Security Act  
11 (42 U.S.C. 405(g)).

12 (c) PROHIBITION ON CONTRACTING WITH PRIVATE  
13 ENTITIES.—Neither the Secretary nor a State may con-  
14 tract with any private for-profit or nonprofit entity for the  
15 administration of the climate change adjustment assist-  
16 ance program under this part.

17 (d) PAYMENT TO THE STATES.—

18 (1) IN GENERAL.—The Secretary shall from  
19 time to time certify to the Secretary of the Treasury  
20 for payment to each cooperating State the sums nec-  
21 essary to enable such State as agent of the United  
22 States to make payments provided for by this part.

23 (2) RESTRICTION.—All money paid a State  
24 under this subsection shall be used solely for the  
25 purposes for which it is paid; and money so paid

1       which is not used for such purposes shall be re-  
2       turned, at the time specified in the agreement under  
3       this section, to the Secretary of the Treasury.

4           (3) BONDS.—Any agreement under this section  
5       may require any officer or employee of the State cer-  
6       tifying payments or disbursing funds under the  
7       agreement or otherwise participating in the perform-  
8       ance of the agreement, to give a surety bond to the  
9       United States in such amount as the Secretary may  
10      deem necessary, and may provide for the payment of  
11      the cost of such bond from funds for carrying out  
12      the purposes of this part.

13      (e) LABOR STANDARDS.—

14           (1) PROHIBITION ON DISPLACEMENT.—An indi-  
15      vidual in an apprenticeship program or on-the-job  
16      training program under this part shall not displace  
17      (including a partial displacement, such as a reduc-  
18      tion in the hours of non-overtime work, wages, or  
19      employment benefits) any employed employee.

20           (2) PROHIBITION ON IMPAIRMENT OF CON-  
21      TRACTS.—An apprenticeship program or on-the-job  
22      training program under this Act shall not impair an  
23      existing contract for services or collective bargaining  
24      agreement, and no such activity that would be incon-  
25      sistent with the terms of a collective bargaining

1 agreement shall be undertaken without the written  
2 concurrence of the labor organization and employer  
3 concerned.

4 (3) ADDITIONAL STANDARDS.—The Secretary,  
5 or a State acting under an agreement described in  
6 subsection (a) may pay the costs of on-the-job train-  
7 ing, notwithstanding any other provision of this sec-  
8 tion, only if—

9 (A) in the case of training which would be  
10 inconsistent with the terms of a collective bar-  
11 gaining agreement, the written concurrence of  
12 the labor organization concerned has been ob-  
13 tained;

14 (B) the job for which such adversely af-  
15 fected worker is being trained is not being cre-  
16 ated in a promotional line that will infringe in  
17 any way upon the promotional opportunities of  
18 currently employed individuals;

19 (C) such training is not for the same occu-  
20 pation from which the worker was separated  
21 and with respect to which such worker's group  
22 was certified pursuant to section 325(d);

23 (D) the employer is provided reimburse-  
24 ment of not more than 50 percent of the wage  
25 rate of the participant, for the cost of providing

1           the training and additional supervision related  
2           to the training; and

3                   (E) the employer has not received payment  
4           under with respect to any other on-the-job  
5           training provided by such employer which failed  
6           to meet the requirements of subparagraphs (A)  
7           through (D).

8           (f) DEFINITIONS.—As used in this part the following  
9   definitions apply:

10           (1) The term “adversely affected employment”  
11           means employment at an employment site, if work-  
12           ers at such site are eligible to apply for adjustment  
13           assistance under this part.

14           (2) The term “adversely affected worker”  
15           means an individual who has been totally or partially  
16           separated from employment and is eligible to apply  
17           for adjustment assistance under this part.

18           (3) The term “average weekly wage” means  $\frac{1}{13}$   
19           of the total wages paid to an individual in the quar-  
20           ter in which the individual’s total wages were highest  
21           among the first 4 of the last 5 completed calendar  
22           quarters immediately before the quarter in which oc-  
23           curs the week with respect to which the computation  
24           is made. Such week shall be the week in which total  
25           separation occurred, or, in cases where partial sepa-

1       ration is claimed, an appropriate week, as defined in  
2       regulations prescribed by the Secretary.

3           (4) The term “average weekly hours” means  
4       the average hours worked by the individual (exclud-  
5       ing overtime) in the employment from which he has  
6       been or claims to have been separated in the 52  
7       weeks (excluding weeks during which the individual  
8       was sick or on vacation) preceding the week speci-  
9       fied in the last sentence of paragraph (4).

10          (5) The term “benefit period” means, with re-  
11       spect to an individual—

12           (A) the benefit year and any ensuing pe-  
13       riod, as determined under applicable State law,  
14       during which the individual is eligible for reg-  
15       ular compensation, additional compensation, or  
16       extended compensation; or

17           (B) the equivalent to such a benefit year  
18       or ensuing period provided for under the appli-  
19       cable Federal unemployment insurance law.

20          (6) The term “consumer goods manufacturing”  
21       means the electrical equipment, appliance, and com-  
22       ponent manufacturing industry and transportation  
23       equipment manufacturing.

24          (7) The term “employment site” means a single  
25       facility or site of employment.



1           (8) The term “energy-intensive manufacturing  
2 industries” means all industrial sectors, entities, or  
3 groups of entities that meet the energy or green-  
4 house gas intensity criteria in section  
5 765(b)(2)(A)(i) of the Clean Air Act based on the  
6 most recent data available.

7           (9) The term “energy producing and trans-  
8 forming industries” means the coal mining industry,  
9 oil and gas extraction, electricity power generation,  
10 transmission and distribution, and natural gas dis-  
11 tribution.

12           (10) The term “on-the-job training” means  
13 training provided by an employer to an individual  
14 who is employed by the employer.

15           (11) The terms “partial separation” and “par-  
16 tially separated” refer, with respect to an individual  
17 who has not been totally separated, that such indi-  
18 vidual has had—

19                   (A) his or her hours of work reduced to 80  
20 percent or less of his average weekly hours in  
21 adversely affected employment; and

22                   (B) his or her wages reduced to 80 percent  
23 or less of his average weekly wage in such ad-  
24 versely affected employment.

1           (12) The term “public agency” means a depart-  
2           ment or agency of a State or political subdivision of  
3           a State or of the Federal Government.

4           (13) The term “Secretary” means the Secretary  
5           of Labor.

6           (14) The term “service workers” means work-  
7           ers supplying support or auxiliary services to an em-  
8           ployment site.

9           (15) The term “State” includes the District of  
10          Columbia and the Commonwealth of Puerto Rico:  
11          and the term “United States” when used in the geo-  
12          graphical sense includes such Commonwealth.

13          (16) The term “State agency” means the agen-  
14          cy of the State which administers the State law.

15          (17) The term “State law” means the unem-  
16          ployment insurance law of the State approved by the  
17          Secretary of Labor under section 3304 of the Inter-  
18          nal Revenue Code of 1986.

19          (18) The terms “total separation” and “totally  
20          separated” refer to the layoff or severance of an in-  
21          dividual from employment with an employer in which  
22          adversely affected employment exists.

23          (19) The term “unemployment insurance”  
24          means the unemployment compensation payable to  
25          an individual under any State law or Federal unem-

1       employment compensation law, including chapter 85 of  
2       title 5, United States Code, and the Railroad Unem-  
3       ployment Insurance Act (45 U.S.C. 351 et seq.).  
4       The terms “regular compensation”, “additional com-  
5       pensation”, and “extended compensation” have the  
6       same respective meanings that are given them in  
7       section 205(2), (3), and (4) of the Federal-State Ex-  
8       tended Unemployment Compensation Act of 1970  
9       (26 U.S.C. 3304 note; Public Law 91–373).

10           (20) The term “week” means a week as defined  
11       in the applicable State law.

12           (21) The term “week of unemployment” means  
13       a week of total, part-total, or partial unemployment  
14       as determined under the applicable State law or  
15       Federal unemployment insurance law.

16       (g) SPECIAL RULE WITH RESPECT TO MILITARY  
17 SERVICE.—

18           (1) IN GENERAL.—Notwithstanding any other  
19       provision of this part, the Secretary may waive any  
20       requirement of this part that the Secretary deter-  
21       mines is necessary to ensure that an adversely af-  
22       fected worker who is a member of a reserve compo-  
23       nent of the Armed Forces and serves a period of  
24       duty described in paragraph (2) is eligible to receive  
25       a climate change adjustment allowance, training,

1 and other benefits under this part in the same man-  
2 ner and to the same extent as if the worker had not  
3 served the period of duty.

4 (2) PERIOD OF DUTY DESCRIBED.—An ad-  
5 versely affected worker serves a period of duty de-  
6 scribed in this paragraph if, before completing train-  
7 ing under this part, the worker—

8 (A) serves on active duty for a period of  
9 more than 30 days under a call or order to ac-  
10 tive duty of more than 30 days; or

11 (B) in the case of a member of the Army  
12 National Guard of the United States or Air Na-  
13 tional Guard of the United States, performs  
14 full-time National Guard duty under section  
15 502(f) of title 32, United States Code, for 30  
16 consecutive days or more when authorized by  
17 the President or the Secretary of Defense for  
18 the purpose of responding to a national emer-  
19 gency declared by the President and supported  
20 by Federal funds.

21 (h) FRAUD AND RECOVERY OF OVERPAYMENTS.—

22 (1) RECOVERY OF PAYMENTS TO WHICH AN IN-  
23 DIVIDUAL WAS NOT ENTITLED.—If the Secretary or  
24 a court of competent jurisdiction determines that  
25 any person has received any payment under this

1 part to which the individual was not entitled, such  
2 individual shall be liable to repay such amount to  
3 the Secretary, as the case may be, except that the  
4 Secretary shall waive such repayment if such agency  
5 or the Secretary determines that—

6 (A) the payment was made without fault  
7 on the part of such individual; and

8 (B) requiring such repayment would cause  
9 a financial hardship for the individual (or the  
10 individual's household, if applicable) when tak-  
11 ing into consideration the income and resources  
12 reasonably available to the individual (or house-  
13 hold) and other ordinary living expenses of the  
14 individual (or household).

15 (2) MEANS OF RECOVERY.—Unless an overpay-  
16 ment is otherwise recovered, or waived under para-  
17 graph (1), the Secretary shall recover the overpay-  
18 ment by deductions from any sums payable to such  
19 person under this part, under any Federal unem-  
20 ployment compensation law or other Federal law ad-  
21 ministered by the Secretary which provides for the  
22 payment of assistance or an allowance with respect  
23 to unemployment. Any amount recovered under this  
24 section shall be returned to the Treasury of the  
25 United States.

1           (3) PENALTIES FOR FRAUD.—Any person  
2           who—

3                   (A) makes a false statement of a material  
4                   fact knowing it to be false, or knowingly fails  
5                   to disclose a material fact, for the purpose of  
6                   obtaining or increasing for that person or for  
7                   any other person any payment authorized to be  
8                   furnished under this part; or

9                   (B) makes a false statement of a material  
10                  fact knowing it to be false, or knowingly fails  
11                  to disclose a material fact, when providing in-  
12                  formation to the Secretary during an investiga-  
13                  tion of a petition under section 325(c),

14 shall be imprisoned for not more than one year, or fined  
15 under title 18, United States Code, or both, and be ineli-  
16 gible for any further payments under this part.

17           (i) REGULATIONS.—The Secretary shall prescribe  
18 such regulations as may be necessary to carry out the pro-  
19 visions of this part.

20           (j) STUDY ON OLDER WORKERS.—The Secretary  
21 shall conduct a study examine the circumstances of older  
22 adversely affected workers and the ability of such workers  
23 to access their retirement benefits. The Secretary shall  
24 transmit a report to Congress not later than 2 years after  
25 the date of enactment of this Act on the findings of the

1 study and the Secretary's recommendations on how to en-  
2 sure that adversely affected workers within 2 years of re-  
3 tirement are able to access their retirement benefits.

## 4 **Subtitle C—Consumer Assistance**

### 5 **SEC. 331. ENERGY REFUND PROGRAM.**

6 Title VII of the Clean Air Act is amended by insert-  
7 ing after section 789 the following:

8 **“SEC. 790. ENERGY REFUND PROGRAM.**

9 **“[TO BE SUPPLIED]”**

## 10 **Subtitle D—International Climate** 11 **Change Program**

### 12 **SEC. 341. TO BE SUPPLIED.**

## 13 **Subtitle E—Adapting to Climate** 14 **Change**

### 15 **PART 1—DOMESTIC ADAPTATION**

#### 16 **Subpart A—National Climate Change Adaptation** 17 **Program**

### 18 **SEC. 351. NATIONAL CLIMATE CHANGE ADAPTATION PRO-** 19 **GRAM.**

20 The President shall establish within the United  
21 States Global Change Research Program a National Cli-  
22 mate Change Adaptation Program for the purpose of in-  
23 creasing the overall effectiveness of Federal climate  
24 change adaptation efforts.

1 **SEC. 352. CLIMATE SERVICES.**

2 The Secretary of Commerce, acting through the Ad-  
3 ministrator of the National Oceanic and Atmospheric Ad-  
4 ministration (NOAA), shall establish within NOAA a Na-  
5 tional Climate Service to develop climate information,  
6 data, forecasts, and warnings at national and regional  
7 scales, and to distribute information related to climate im-  
8 pacts to State, local, and tribal governments and the pub-  
9 lic to facilitate the development and implementation of  
10 strategies to reduce society's vulnerability to climate varia-  
11 bility and change.\*\*

12 **Subpart B—Public Health and Climate Change**

13 **SEC. 361. SENSE OF CONGRESS ON PUBLIC HEALTH AND**  
14 **CLIMATE CHANGE.**

15 It is the sense of the Congress that the Federal Gov-  
16 ernment, in cooperation with international, State, tribal,  
17 and local governments, concerned public and private orga-  
18 nizations, and citizens, should use all practicable means  
19 and measures—

20 (1) to assist the efforts of public health and  
21 health care professionals, first responders, States,  
22 tribes, municipalities, and local communities to in-  
23 corporate measures to prepare health systems to re-  
24 spond to the impacts of climate change;

25 (2) to ensure—



1 (A) that the Nation's health professionals  
2 have sufficient information to prepare for and  
3 respond to the adverse health impacts of cli-  
4 mate change;

5 (B) the utility and value of scientific re-  
6 search in advancing understanding of—

7 (i) the health impacts of climate  
8 change; and

9 (ii) strategies to prepare for and re-  
10 spond to the health impacts of climate  
11 change;

12 (C) the identification of communities vul-  
13 nerable to the health effects of climate change  
14 and the development of strategic response plans  
15 to be carried out by health professionals for  
16 those communities;

17 (D) the improvement of health status and  
18 health equity through efforts to prepare for and  
19 respond to climate change; and

20 (E) the inclusion of health policy in the de-  
21 velopment of climate change responses;

22 (3) to encourage further research, interdiscipli-  
23 nary partnership, and collaboration among stake-  
24 holders in order to—

1 (A) understand and monitor the health im-  
2 pacts of climate change; and

3 (B) improve public health knowledge and  
4 response strategies to climate change;

5 (4) to enhance preparedness activities, and pub-  
6 lic health infrastructure, relating to climate change  
7 and health;

8 (5) to encourage each and every American to  
9 learn about the impacts of climate change on health;  
10 and

11 (6) to assist the efforts of developing nations to  
12 incorporate measures to prepare health systems to  
13 respond to the impacts of climate change.

14 **SEC. 362. RELATIONSHIP TO OTHER LAWS.**

15 Nothing in this subpart in any manner limits the au-  
16 thority provided to or responsibility conferred on any Fed-  
17 eral department or agency by any provision of any law  
18 (including regulations) or authorizes any violation of any  
19 provision of any law (including regulations), including any  
20 health, energy, environmental, transportation, or any  
21 other law or regulation.

22 **SEC. 363. NATIONAL STRATEGIC ACTION PLAN.**

23 (a) REQUIREMENT.—

24 (1) IN GENERAL.—The Secretary of Health and  
25 Human Services, within 2 years after the date of the

1 enactment of this Act, on the basis of the best avail-  
2 able science, and in consultation pursuant to para-  
3 graph (2), shall publish a strategic action plan to as-  
4 sist health professionals in preparing for and re-  
5 sponding to the impacts of climate change on public  
6 health in the United States and other nations, par-  
7 ticularly developing nations.

8 (2) CONSULTATION.—In developing or making  
9 any revision to the national strategic action plan, the  
10 Secretary shall—

11 (A) consult with the Director of the Cen-  
12 ters for Disease Control and Prevention, the  
13 Administrator of the Environmental Protection  
14 Agency, the Director of the National Institutes  
15 of Health, the Secretary of Energy, other ap-  
16 propriate Federal agencies, Indian tribes, State  
17 and local governments, public health organiza-  
18 tions, scientists, and other interested stake-  
19 holders; and

20 (B) provide opportunity for public input.

21 (b) CONTENTS.—

22 (1) IN GENERAL.—The Secretary shall assist  
23 health professionals in preparing for and responding  
24 effectively and efficiently to the health effects of cli-  
25 mate change through measures including—

- 1 (A) developing, improving, integrating, and  
2 maintaining domestic and international disease  
3 surveillance systems and monitoring capacity to  
4 respond to health-related effects of climate  
5 change, including on topics addressing—
- 6 (i) water, food, and vector borne infec-  
7 tious diseases and climate change;
  - 8 (ii) pulmonary effects, including re-  
9 sponses to aeroallergens;
  - 10 (iii) cardiovascular effects, including  
11 impacts of temperature extremes;
  - 12 (iv) air pollution health effects, includ-  
13 ing heightened sensitivity to air pollution;
  - 14 (v) hazardous algal blooms;
  - 15 (vi) mental and behavioral health im-  
16 pacts of climate change;
  - 17 (vii) the health of refugees, displaced  
18 persons, and vulnerable communities;
  - 19 (viii) the implications for communities  
20 vulnerable to health effects of climate  
21 change, as well as strategies for responding  
22 to climate change within these commu-  
23 nities; and

1 (ix) local and community-based health  
2 interventions for climate-related health im-  
3 pacts;

4 (B) creating tools for predicting and moni-  
5 toring the public health effects of climate  
6 change on the international, national, regional,  
7 State, and local levels, and providing technical  
8 support to assist in their implementation;

9 (C) developing public health communica-  
10 tions strategies and interventions for extreme  
11 weather events and disaster response situations;

12 (D) identifying and prioritizing commu-  
13 nities and populations vulnerable to the health  
14 effects of climate change, and determining ac-  
15 tions and communication strategies that should  
16 be taken to inform and protect these commu-  
17 nities and populations from the health effects of  
18 climate change;

19 (E) developing health communication, pub-  
20 lic education, and outreach programs aimed at  
21 public health and health care professionals, as  
22 well as the general public, to promote prepared-  
23 ness and response strategies relating to climate  
24 change and public health, including the identi-

1           fication of greenhouse gas reduction behaviors  
2           that are health-promoting; and

3           (F) developing academic and regional cen-  
4           ters of excellence devoted to—

5                 (i) researching relationships between  
6                 climate change and health;

7                 (ii) expanding and training the public  
8                 health workforce to strengthen the capacity  
9                 of such workforce to respond to and pre-  
10                pare for the health effects of climate  
11                change;

12               (iii) creating and supporting academic  
13                fellowships focusing on the health effects  
14                of climate change; and

15               (iv) training senior health ministry of-  
16                ficials from developing nations to strength-  
17                en the capacity of such nations to—

18                         (I) prepare for and respond to  
19                         the health effects of climate change;  
20                         and

21                         (II) build an international net-  
22                         work of public health professionals  
23                         with the necessary climate change  
24                         knowledge base;

1           (G) using techniques, including health im-  
2           pact assessments, to assess various climate  
3           change public health preparedness and response  
4           strategies on international, national, State, re-  
5           gional, tribal, and local levels, and make rec-  
6           ommendations as to those strategies that best  
7           protect the public health;

8           (H)(i) assisting in the development, imple-  
9           mentation, and support of State, regional, trib-  
10          al, and local preparedness, communication, and  
11          response plans (including with respect to the  
12          health departments of such entities) to antici-  
13          pate and reduce the health threats of climate  
14          change; and

15          (ii) pursuing collaborative efforts to de-  
16          velop, integrate, and implement such plans;

17          (I) creating a program to advance research  
18          as it relates to the effects of climate change on  
19          public health across Federal agencies, including  
20          research to—

21                  (i) identify and assess climate change  
22                  health effects preparedness and response  
23                  strategies;

24                  (ii) prioritize critical public health in-  
25                  frastructure projects related to potential

1 climate change impacts that affect public  
2 health; and

3 (iii) coordinate preparedness for cli-  
4 mate change health impacts, including the  
5 development of modeling and forecasting  
6 tools;

7 (J) providing technical assistance for the  
8 development, implementation, and support of  
9 preparedness and response plans to anticipate  
10 and reduce the health threats of climate change  
11 in developing nations; and

12 (K) carrying out other activities deter-  
13 mined appropriate by the Secretary to plan for  
14 and respond to the impacts of climate change  
15 on public health.

16 (c) REVISION.—The Secretary shall revise the na-  
17 tional strategic action plan not later than July 1, 2014,  
18 and every 4 years thereafter, to reflect new information  
19 collected pursuant to implementation of the national stra-  
20 tegic action plan and otherwise, including information  
21 on—

22 (1) the status of critical environmental health  
23 parameters and related human health impacts;

24 (2) the impacts of climate change on public  
25 health; and



1           (3) advances in the development of strategies  
2           for preparing for and responding to the impacts of  
3           climate change on public health.

4           (d) IMPLEMENTATION.—

5           (1) IMPLEMENTATION THROUGH HHS.—The  
6           Secretary shall exercise the Secretary's authority  
7           under this subpart and other provisions of Federal  
8           law to achieve the goals and measures of the na-  
9           tional strategic action plan.

10          (2) OTHER PUBLIC HEALTH PROGRAMS AND  
11          INITIATIVES.—The Secretary and Federal officials of  
12          other relevant Federal agencies shall administer  
13          public health programs and initiatives authorized by  
14          provisions of law other than this subpart, subject to  
15          the requirements of such statutes, in a manner de-  
16          signed to achieve the goals of the national strategic  
17          action plan.

18          (3) SPECIFIC ACTIVITIES.—In furtherance of  
19          the national strategic action plan, the Secretary  
20          shall—

21                 (A) conduct scientific research to assist  
22                 health professionals in preparing for and re-  
23                 sponding to the impacts of climate change on  
24                 public health; and

25                 (B) provide funding for—

1 (i) research on the health effects of  
2 climate change; and

3 (ii) preparedness planning on the  
4 international, national, State, tribal, re-  
5 gional, and local levels to respond to or re-  
6 duce the burden of health effects of climate  
7 change; and

8 (C) carry out other activities determined  
9 appropriate by the Secretary to prepare for and  
10 respond to the impacts of climate change on  
11 public health.

12 **SEC. 364. ADVISORY BOARD.**

13 (a) ESTABLISHMENT.—The Secretary shall establish  
14 a permanent science advisory board comprised of not less  
15 than 10 and not more than 20 members.

16 (b) APPOINTMENT OF MEMBERS.—The Secretary  
17 shall appoint the members of the science advisory board  
18 from among individuals—

19 (1) who have expertise in public health and  
20 human services, climate change, and other relevant  
21 disciplines; and

22 (2) at least ½ of whom are recommended by  
23 the President of the National Academy of Sciences.

24 (c) FUNCTIONS.—The science advisory board shall—

- 1           (1) provide scientific and technical advice and  
2           recommendations to the Secretary on the domestic  
3           and international impacts of climate change on pub-  
4           lic health, populations and regions particularly vul-  
5           nerable to the effects of climate change, and strate-  
6           gies and mechanisms to prepare for and respond to  
7           the impacts of climate change on public health; and  
8           (2) advise the Secretary regarding the best  
9           science available for purposes of issuing the national  
10          strategic action plan.

11 **SEC. 365. REPORTS.**

12          (a) NEEDS ASSESSMENT.—

13           (1) IN GENERAL.—The Secretary shall seek to  
14           enter into, by not later than 6 months after the date  
15           of the enactment of this Act, an agreement with the  
16           National Research Council and the Institute of Med-  
17           icine to complete a report that—

18                   (A) assesses the needs for health profes-  
19                   sionals to prepare for and respond to climate  
20                   change impacts on public health; and

21                   (B) recommends programs to meet those  
22                   needs.

23           (2) SUBMISSION.—The agreement under para-  
24           graph (1) shall require the completed report to be  
25           submitted to the Congress and the Secretary and

1       made publicly available not later than 1 year after  
2       the date of the agreement.

3       (b) CLIMATE CHANGE HEALTH PROTECTION AND  
4 PROMOTION REPORTS.—

5           (1) IN GENERAL.—The Secretary, in consulta-  
6       tion with the advisory board established under sec-  
7       tion 364, shall ensure the issuance of reports to aid  
8       health professionals in preparing for and responding  
9       to the adverse health effects of climate change  
10      that—

11           (A) review scientific developments on  
12      health impacts of climate change; and

13           (B) recommend changes to the national  
14      strategic action plan.

15           (2) SUBMISSION.—The Secretary shall submit  
16      the reports required by paragraph (1) to the Con-  
17      gress and make such reports publicly available not  
18      later than July 1, 2013, and every 4 years there-  
19      after.

20 **SEC. 366. DEFINITIONS.**

21      In this subpart:

22           (1) HEALTH IMPACT ASSESSMENT.—The term  
23      “health impact assessment” means a combination of  
24      procedures, methods, and tools by which a policy,  
25      program, or project may be judged as to its potential

1 effects on the health of a population, and the dis-  
2 tribution of those effects within the population.

3 (2) NATIONAL STRATEGIC ACTION PLAN.—The  
4 term “national strategic action plan” means the  
5 plan issued and revised under section 363.

6 (3) SECRETARY.—Unless otherwise specified,  
7 the term “Secretary” means the Secretary of Health  
8 and Human Services.

9 **SEC. 367. CLIMATE CHANGE HEALTH PROTECTION AND**  
10 **PROMOTION FUND.**

11 (a) ESTABLISHMENT OF FUND.—Subject to subtitle  
12 F of title IV, there is hereby established in the Treasury  
13 a separate account that shall be known as the Climate  
14 Change Health Protection and Promotion Fund.

15 (b) AVAILABILITY OF AMOUNTS.—Subject to subtitle  
16 F of title IV, all amounts deposited into the Climate  
17 Change Health Protection and Promotion Fund shall be  
18 available to the Secretary to carry out this subpart subject  
19 to further appropriation.

20 (c) DISTRIBUTION OF FUNDS BY HHS.—In carrying  
21 out this subpart, the Secretary may make funds deposited  
22 in the Climate Change Health Protection and Promotion  
23 Fund available to—

24 (1) other departments, agencies, and offices of  
25 the Federal Government;



1 **SEC. 372. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
2 **TATION POLICY.**

3 It is the policy of the Federal Government, in co-  
4 operation with State and local governments, Indian tribes,  
5 and other interested stakeholders, to use all practicable  
6 means to protect, restore, and conserve natural resources  
7 so that natural resources become more resilient, adapt to,  
8 and withstand the ongoing and expected impacts of cli-  
9 mate change, including, where applicable, ocean acidifica-  
10 tion, drought, and wildfire.

11 **SEC. 373. DEFINITIONS.**

12 In this subpart:

13 (1) ACCOUNT.—The term “Account” means the  
14 Natural Resources Climate Change Adaption Ac-  
15 count established by section 380(a).

16 (2) ADMINISTRATORS.—The term “Administra-  
17 tors” means—

18 (A) the Administrator of the National Oce-  
19 anic and Atmospheric Administration; and

20 (B) the Director of the United States Geo-  
21 logical Survey.

22 (3) BOARD.—The term “Board” means the  
23 Science Advisory Board established by section  
24 377(f)(1).

1           (4) CENTER.—The term “Center” means the  
2           National Climate Change and Wildlife Science Cen-  
3           ter described by section 377(e)(1).

4           (5) COASTAL STATE.—The term “coastal  
5           State” has the meaning given the term in section  
6           304 of the Coastal Zone Management Act of 1972  
7           (16 U.S.C. 1453).

8           (6) CORRIDORS.—The term “corridors” means  
9           areas that—

10           (A) provide connectivity, over different  
11           time scales, of habitats or potential habitats;  
12           and

13           (B) facilitate terrestrial, marine, estuarine,  
14           and freshwater fish, wildlife, or plant movement  
15           necessary for migration, gene flow, or dispersal,  
16           or to respond to the ongoing and expected im-  
17           pacts of climate change, including, where appli-  
18           cable, ocean acidification, drought, and wildfire.

19           (7) ECOLOGICAL PROCESSES.—The term “eco-  
20           logical processes” means biological, chemical, or  
21           physical interaction between the biotic and abiotic  
22           components of an ecosystem, including—

23           (A) nutrient cycling;

24           (B) pollination;

25           (C) predator-prey relationships;



- 1 (D) soil formation;  
2 (E) gene flow;  
3 (F) disease epizootiology;  
4 (G) larval dispersal and settlement;  
5 (H) hydrological cycling;  
6 (I) decomposition; and  
7 (J) disturbance regimes, such as fire and  
8 flooding.

9 (8) HABITAT.—The term “habitat” means the  
10 physical, chemical, and biological properties that  
11 fish, wildlife, or plants use for growth, reproduction,  
12 survival, food, water, or cover (whether on land, in  
13 water, or in an area or region).

14 (9) INDIAN TRIBE.—The term “Indian tribe”  
15 has the meaning given the term in section 4 of the  
16 Indian Self-Determination and Education Assistance  
17 Act (25 U.S.C. 450b).

18 (10) NATURAL RESOURCES.—The term “nat-  
19 ural resources” means land, wildlife, fish, air, water,  
20 estuaries, plants, habitats, and ecosystems of the  
21 United States.

22 (11) NATURAL RESOURCES ADAPTATION.—The  
23 term “natural resources adaptation” means the pro-  
24 tection, restoration, and conservation of natural re-  
25 sources so that natural resources become more resil-

1       ient, adapt to, and withstand the ongoing and ex-  
2       pected impacts of climate change, including, where  
3       applicable, ocean acidification, drought, and wildfire.

4           (12) PANEL.—The term “Panel” means the  
5       Natural Resources Climate Change Adaptation  
6       Panel established under section 375(a).

7           (13) RESILIENCE; RESILIENT.—The terms “re-  
8       silience” and “resilient” mean—

9           (A) the ability to resist or recover from  
10       disturbance; and

11          (B) the ability to preserve diversity, pro-  
12       ductivity, and sustainability.

13          (14) STATE.—The term “State” means—

14           (A) a State of the United States;

15           (B) the District of Columbia;

16           (C) American Samoa;

17           (D) Guam;

18           (E) the Commonwealth of the Northern  
19       Mariana Islands;

20           (F) the Commonwealth of Puerto Rico;

21       and

22           (G) the United States Virgin Islands.

23          (15) STRATEGY.—The term “Strategy” means  
24       the Natural Resources Climate Change Adaptation  
25       Strategy developed under section 376(a).

1 **SEC. 374. COUNCIL ON ENVIRONMENTAL QUALITY.**

2 The Chair of the Council on Environmental Quality  
3 shall—

4 (1) advise the President on implementing and  
5 developing—

6 (A) the Natural Resources Climate Change  
7 Adaptation Strategy required by section 376;  
8 and

9 (B) the Federal natural resource agency  
10 adaptation plans required by section 378;

11 (2) serve as the Chair of the Natural Resources  
12 Climate Change Adaptation Panel established under  
13 section 375; and

14 (3) coordinate Federal agency strategies, plans,  
15 programs, and activities relating to protecting, re-  
16 storing, and maintaining natural resources so that  
17 natural resources become more resilient, adapt to,  
18 and withstand the ongoing and expected impacts of  
19 climate change.

20 **SEC. 375. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
21 **TATION PANEL.**

22 (a) ESTABLISHMENT.—Not later than 90 days after  
23 the date of enactment of this Act, the President shall es-  
24 tablish a Natural Resources Climate Change Adaptation  
25 Panel.

1           (b) DUTIES.—The Panel shall serve as a forum for  
2 interagency consultation on, and the coordination of, the  
3 development and implementation of the Natural Resources  
4 Climate Change Adaptation Strategy required by section  
5 376.

6           (c) MEMBERSHIP.—The Panel shall be composed  
7 of—

8                 (1) the Administrator of the National Oceanic  
9                 and Atmospheric Administration (or a designee);

10                (2) the Chief of the Forest Service (or a des-  
11                ignee);

12                (3) the Director of the National Park Service  
13                (or a designee);

14                (4) the Director of the United States Fish and  
15                Wildlife Service (or a designee);

16                (5) the Director of the Bureau of Land Man-  
17                agement (or a designee);

18                (6) the Director of the United States Geological  
19                Survey (or a designee);

20                (7) the Commissioner of Reclamation (or a des-  
21                ignee); and

22                (8) the Director of the Bureau of Indian Affairs  
23                (or a designee);

24                (9) the Administrator of the Environmental  
25                Protection Agency (or a designee);

1 (10) the Chief of Engineers (or a designee);

2 (11) the Chair of the Council on Environmental  
3 Quality (or a designee); and

4 (12) the heads of such other Federal agencies  
5 or departments with jurisdiction over natural re-  
6 sources of the United States, as determined by the  
7 President.

8 (d) CHAIRPERSON.—The Chair of the Council on En-  
9 vironmental Quality shall serve as the Chairperson of the  
10 Panel.

11 **SEC. 376. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
12 **TATION STRATEGY.**

13 (a) IN GENERAL.—Not later than 1 year after the  
14 date of enactment of this Act, the Panel shall develop a  
15 Natural Resources Climate Change Adaptation Strategy—

16 (1) to protect, restore, and conserve natural re-  
17 sources so that natural resources become more resil-  
18 ient, adapt to, and withstand the ongoing and ex-  
19 pected impacts of climate change; and

20 (2) to identify opportunities to mitigate the on-  
21 going and expected impacts of climate change.

22 (b) DEVELOPMENT.—In developing and revising the  
23 Strategy, the Panel shall—

24 (1) base the strategy on the best available  
25 science;

1           (2) develop the strategy in close cooperation  
2 with States and Indian tribes;

3           (3) coordinate with other Federal agencies, as  
4 appropriate;

5           (4) consult with local governments, conservation  
6 organizations, scientists, and other interested stake-  
7 holders; and

8           (5) provide public notice and opportunity for  
9 comment.

10       (c) REVISION.—After the Panel adopts the initial  
11 Strategy, the Panel shall review and revise the Strategy  
12 every 5 years to incorporate—

13           (1) new information regarding the ongoing and  
14 expected impacts of climate change on natural re-  
15 sources; and

16           (2) new advances in the development of strate-  
17 gies that make natural resources more resilient or  
18 able to adapt to the ongoing and expected impacts  
19 of climate change.

20       (d) CONTENTS.—The Strategy shall—

21           (1) assess the vulnerability of natural resources  
22 to climate change, including short-term, medium-  
23 term, long-term, cumulative, and synergistic im-  
24 pacts;

1           (2) describe current research, observation, and  
2           monitoring activities at the Federal, State, tribal,  
3           and local level related to the ongoing and expected  
4           impacts of climate change on natural resources;

5           (3) identify and prioritize research and data  
6           needs;

7           (4) identify natural resources likely to have the  
8           greatest need for protection, restoration, and con-  
9           servation due to the ongoing and expanding impacts  
10          of climate change;

11          (5) include specific protocols for integrating  
12          natural resources adaptation strategies and activities  
13          into the conservation and management of natural re-  
14          sources by Federal departments and agencies to en-  
15          sure consistency across agency jurisdictions;

16          (6) include specific actions that Federal depart-  
17          ments and agencies shall take to protect, conserve,  
18          and restore natural resources to become more resil-  
19          ient, adapt to, and withstand the ongoing and ex-  
20          pected impacts of climate change, including a  
21          timeline to implement those actions;

22          (7) include specific mechanisms for ensuring  
23          communication and coordination—

24                 (A) among Federal departments and agen-  
25                 cies; and

1 (B) between Federal departments and  
2 agencies and State natural resource agencies,  
3 United States territories, Indian tribes, private  
4 landowners, conservation organizations, and  
5 other countries that share jurisdiction over nat-  
6 ural resources with the United States;

7 (8) include specific actions to develop and im-  
8 plement consistent natural resources inventory and  
9 monitoring protocols through interagency coordina-  
10 tion and collaboration; and

11 (9) include procedures for guiding the develop-  
12 ment of detailed agency- and department-specific ad-  
13 aptation plans required under section 378.

14 (e) IMPLEMENTATION.—Consistent with other laws  
15 and Federal trust responsibilities concerning Indian land,  
16 each Federal department or agency represented on the  
17 Panel shall integrate the elements of the Strategy that re-  
18 late to conservation, restoration, and management of nat-  
19 ural resources into agency plans, environmental reviews,  
20 programs, and activities.

21 **SEC. 377. NATURAL RESOURCES ADAPTATION SCIENCE**  
22 **AND INFORMATION.**

23 (a) COORDINATION.—Not later than 90 days after  
24 the date of enactment of this Act, the Administrators shall  
25 establish coordinated procedures for developing and pro-



1 viding science and information necessary to address the  
2 ongoing and expected impacts of climate change on nat-  
3 ural resources.

4 (b) OVERSIGHT.—The National Climate Change and  
5 Wildlife Science Center established under subsection (e)  
6 and the National Climate Service of the National Oceanic  
7 and Atmospheric Administration shall oversee develop-  
8 ment of the procedures.

9 (c) FUNCTIONS.—The Administrators shall—

10 (1) ensure that the procedures required under  
11 subsection (a) avoid duplication; and

12 (2) ensure that the National Oceanic and At-  
13 mospheric Administration and the United States Ge-  
14 ological Survey—

15 (A) provide technical assistance to Federal  
16 departments and agencies, State and local gov-  
17 ernments, Indian tribes, and interested private  
18 landowners that are pursuing the goals of ad-  
19 dressing the ongoing and expected impacts of  
20 climate change on natural resources;

21 (B) conduct and sponsor research to de-  
22 velop strategies that increase the ability of nat-  
23 ural resources to become more resilient, adapt  
24 to, and withstand the ongoing and expected im-  
25 pacts of climate change;

1           (C) provide Federal departments and agen-  
2           cies, State and local governments, Indian tribes,  
3           and interested private landowners with research  
4           products, decision and monitoring tools, and in-  
5           formation to develop strategies that increase  
6           the ability of natural resources to become more  
7           resilient, adapt to, and withstand the ongoing  
8           and expected impacts of climate change; and

9           (D) assist Federal departments and agen-  
10          cies in the development of adaptation plans re-  
11          quired by section 378.

12         (d) SURVEY.—Not later than 1 year after the date  
13         of enactment of this Act, and every 5 years thereafter,  
14         the Secretary of Commerce and the Secretary of the Inte-  
15         rior shall conduct a climate change impact survey that—

16           (1) identifies natural resources considered likely  
17           to be adversely affected by climate change;

18           (2) includes baseline monitoring and ongoing  
19           trend analysis;

20           (3) with input from stakeholders, identifies and  
21           prioritizes necessary monitoring and research that is  
22           most relevant to the needs of natural resource man-  
23           agers to address the ongoing and expected impacts  
24           of climate change and to promote resilience; and

1           (4) identifies the decision tools necessary to de-  
2       velop strategies that increase the ability of natural  
3       resources to become more resilient, adapt to, and  
4       withstand the ongoing and expected impacts of cli-  
5       mate change.

6       (e) NATIONAL CLIMATE CHANGE AND WILDLIFE  
7       SCIENCE CENTER.—

8           (1) ESTABLISHMENT.—The Secretary of the In-  
9       terior shall establish the National Climate Change  
10      and Wildlife Center within the United States Geo-  
11      logical Survey.

12          (2) FUNCTIONS.—In collaboration with Federal  
13      and State natural resources agencies and depart-  
14      ments, Indian tribes, universities, and other partner  
15      organizations, the Center shall—

16            (A) assess and synthesize current physical  
17            and biological knowledge;

18            (B) prioritize scientific gaps in such knowl-  
19            edge in order to forecast the ecological impacts  
20            of climate change, including, where applicable,  
21            ocean acidification, drought, and wildfire on  
22            fish and wildlife at the ecosystem, habitat, com-  
23            munity, population, and species levels;

24            (C) develop and improve tools to identify,  
25            evaluate, and link scientific approaches and

1 models that forecast the impacts of climate  
2 change, including, where applicable, ocean acidi-  
3 fication, drought, and wildfire on fish, wildlife,  
4 plants, and associated habitats, including—

- 5 (i) monitoring;
- 6 (ii) predictive models;
- 7 (iii) vulnerability analyses;
- 8 (iv) risk assessments; and
- 9 (v) decision support systems that help  
10 managers make informed decisions;

11 (D) develop and evaluate tools to adapt-  
12 ively manage and monitor the effects of climate  
13 change (including tools for the collection of  
14 data) on fish and wildlife on the national, re-  
15 gional, and local level; and

16 (E) develop capacities for sharing stand-  
17 ardized data and the synthesis of the data de-  
18 scribed in subparagraph (D).

19 (f) SCIENCE ADVISORY BOARD.—

20 (1) ESTABLISHMENT.—Not later than 180 days  
21 after the date of enactment of this Act, the Sec-  
22 retary of Commerce and the Secretary of the Inte-  
23 rior shall establish and appoint the members of the  
24 Science Advisory Board.

1           (2) MEMBERSHIP.—The Board shall be com-  
2           prised of not fewer than 10 and not more than 20  
3           members—

4                   (A) who have expertise in fish, wildlife,  
5                   plant, aquatic, and coastal and marine biology,  
6                   ecology, climate change, including, where appli-  
7                   cable, ocean acidification, drought, and wildfire,  
8                   and other relevant scientific disciplines;

9                   (B) who represent a balanced membership  
10                  among Federal, State, tribal, and local rep-  
11                  resentatives, universities, and conservation or-  
12                  ganizations; and

13                  (C) at least  $\frac{1}{2}$  of whom are recommended  
14                  by the President of the National Academy of  
15                  Sciences.

16           (3) DUTIES.—The Board shall—

17                   (A) advise the Secretary of Commerce and  
18                   the Secretary of the Interior on the state of the  
19                   science regarding—

20                           (i) the ongoing and expected impacts  
21                           of climate change, including, where appli-  
22                           cable, ocean acidification, drought, and  
23                           wildfire on natural resources; and

24                           (ii) scientific strategies and mecha-  
25                           nisms for protecting, restoring, and con-

1 serving natural resources so natural re-  
2 sources become more resilient, adapt to,  
3 and withstand the ongoing and expected  
4 impacts of climate change, including,  
5 where applicable, ocean acidification,  
6 drought, and wildfire; and

7 (B) identify and recommend priorities for  
8 ongoing research needs on the issues described  
9 in subparagraph (A).

10 (4) COLLABORATION.—The Board shall collabo-  
11 rate with climate change and ecosystem research en-  
12 tities in other Federal agencies and departments.

13 (5) AVAILABILITY TO PUBLIC.—The advice and  
14 recommendations of the Board shall be made avail-  
15 able to the public.

16 **SEC. 378. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-**  
17 **TION PLANS.**

18 (a) DEVELOPMENT.—Not later than 1 year after the  
19 date of development of the Strategy, each department or  
20 agency with representation on the Panel shall—

21 (1) complete an adaptation plan for that de-  
22 partment or agency that—

23 (A) implements the Strategy and is con-  
24 sistent with the natural resources climate

1 change adaptation policy required by section  
2 372;

3 (B) details the ongoing and expanding ac-  
4 tions of the department or agency, and any  
5 changes in decisionmaking processes necessary  
6 to increase the ability of resources under the ju-  
7 risdiction of the department or agency and, to  
8 the maximum extent practicable, resources  
9 under the jurisdiction of other departments and  
10 agencies that may be significantly affected by  
11 decisions of the department or agency, to be-  
12 come more resilient, adapt to, and withstand  
13 the ongoing and expected impacts of climate  
14 change, including, where applicable, ocean acidi-  
15 fication, drought, and wildfire; and

16 (C) includes a timeline for implementation;

17 (2) provide opportunities for public review and  
18 comment on the adaptation plan, and in the case of  
19 a plan by the Bureau of Indian Affairs, review by  
20 Indian tribes; and

21 (3) submit the plan to the President for ap-  
22 proval.

23 (b) REVIEW BY PRESIDENT AND SUBMISSION TO  
24 CONGRESS.—

1           (1) REVIEW BY PRESIDENT.—The President  
2 shall—

3           (A) approve an adaptation plan submitted  
4 under subsection (a)(3) if the plan meets the  
5 requirements of subsection (c) and is consistent  
6 with the Strategy; and

7           (B) decide whether to approve the plan  
8 within 60 days of submission.

9           (2) DISAPPROVAL.—If the President dis-  
10 approves an adaptation plan, the President shall di-  
11 rect the department or agency to submit a revised  
12 plan within 60 days of that disapproval.

13           (3) SUBMISSION TO CONGRESS.—Not later than  
14 30 days after the date of approval of an adaptation  
15 plan by the President, the department or agency  
16 shall submit the plan to—

17           (A) the Committee on Natural Resources  
18 of the House of Representatives;

19           (B) the Committee on Energy and Natural  
20 Resources of the Senate;

21           (C) the Committee on Environment and  
22 Public Works of the Senate; and

23           (D) any other committees of the House of  
24 Representatives or the Senate with principal ju-  
25 risdiction over the department or agency.



1 (c) REQUIREMENTS.—Each adaptation plan shall—

2 (1) establish programs for assessing the ongoing  
3 ing and expected impacts of climate change, including,  
4 where applicable, ocean acidification, drought,  
5 and wildfire on natural resources under the jurisdiction  
6 tion of the department or agency preparing the plan,  
7 including—

8 (A) assessment of cumulative and synergistic  
9 gistic effects; and

10 (B) programs that identify and monitor  
11 natural resources likely to be adversely affected  
12 and that have need for conservation;

13 (2) identify and prioritize—

14 (A) the strategies of the department or  
15 agency preparing the plan;

16 (B) the specific conservation actions that  
17 address the ongoing and expected impacts of  
18 climate change, including, where applicable,  
19 ocean acidification, drought, and wildfire on  
20 natural resources under jurisdiction of the department  
21 or agency preparing the plan;

22 (C) strategies to protect, restore, and conserve  
23 such resources to become more resilient,  
24 adapt to, and better withstand those impacts,  
25 including—

1 (i) protection, restoration, and con-  
2 servation of terrestrial, marine, estuarine,  
3 and freshwater habitats and ecosystems;

4 (ii) establishment of terrestrial, ma-  
5 rine, estuarine, and freshwater habitat  
6 linkages and corridors;

7 (iii) restoration and conservation of  
8 ecological processes;

9 (iv) protection of a broad diversity of  
10 native species of fish, wildlife, and plant  
11 populations across the ranges of those spe-  
12 cies; and

13 (v) protection of fish, wildlife, and  
14 plant health, recognizing that climate can  
15 alter the distribution and ecology of  
16 parasites, pathogens, and vectors;

17 (3) describe how the department or agency  
18 will—

19 (A) integrate the strategies and conserva-  
20 tion activities into plans, programs, activities,  
21 and actions of the department or agency relat-  
22 ing to the conservation and management of nat-  
23 ural resources; and

24 (B) establish new plans, programs, activi-  
25 ties, and actions, if necessary;

1 (4) establish methods—

2 (A) to assess the effectiveness of strategies  
3 and conservation actions the department or  
4 agency takes to protect, restore, and conserve  
5 natural resources so natural resources become  
6 more resilient, adapt to, and withstand the on-  
7 going and expected impacts of climate change;  
8 and

9 (B) to update those strategies and actions  
10 to respond to new information and changing  
11 conditions;

12 (5) describe current and proposed mechanisms  
13 to enhance cooperation and coordination of natural  
14 resources adaptation efforts with other Federal  
15 agencies, State and local governments, Indian tribes,  
16 and nongovernmental stakeholders;

17 (6) include written guidance to resource man-  
18 agers that—

19 (A) explains how managers are expected to  
20 address the ongoing and expected effects of cli-  
21 mate change, including, where applicable, ocean  
22 acidification, drought, and wildfire;

23 (B) identifies how managers shall obtain  
24 any necessary site-specific information; and

1 (C) reflects best practices shared among  
2 relevant agencies, but recognizes the unique  
3 missions, objectives, and responsibilities of each  
4 agency;

5 (7) identify and assess data and information  
6 gaps necessary to develop natural resources adapta-  
7 tion plans and strategies; and

8 (8) consider strategies that engage youth and  
9 young adults (including youth and young adults  
10 working in full-time or part-time youth service or  
11 conservation corps programs) to provide the youth  
12 and young adults with opportunities for meaningful  
13 conservation and community service and to encour-  
14 age opportunities for employment in the private sec-  
15 tor through partnerships with employers.

16 (d) IMPLEMENTATION.—

17 (1) IN GENERAL.—Upon approval by the Presi-  
18 dent, each department or agency with representation  
19 on the Panel shall, consistent with existing author-  
20 ity, implement the adaptation plan of the depart-  
21 ment or agency through existing and new plans,  
22 policies, programs, activities, and actions.

23 (2) CONSIDERATION OF IMPACTS.—

24 (A) IN GENERAL.—To the maximum ex-  
25 tent practicable and consistent with existing au-

1           thority, natural resource management decisions  
2           made by the department or agency shall—

3                   (i) consider the ongoing and expected  
4                   impacts of climate change, including,  
5                   where applicable, ocean acidification,  
6                   drought, and wildfire on natural resources;  
7                   and

8                   (ii) choose alternatives that will avoid  
9                   and minimize those impacts and promote  
10                  resilience.

11                (B) GUIDANCE.—The Council on Environ-  
12                mental Quality shall provide guidance for Fed-  
13                eral departments and agencies considering those  
14                impacts and choosing alternatives that will  
15                avoid and minimize those impacts and promote  
16                resilience.

17                (e) REVISION AND REVIEW.—Not less than every 5  
18                years, each department or agency shall review and revise  
19                the adaptation plan of the department or agency to incor-  
20                porate the best available science, and other information,  
21                regarding the ongoing and expected impacts of climate  
22                change on natural resources.

1 **SEC. 379. STATE NATURAL RESOURCES ADAPTATION**  
2 **PLANS.**

3 (a) REQUIREMENT.—In order to be eligible for funds  
4 under section 380, not later than 1 year after the develop-  
5 ment of the Strategy, each State shall prepare a State nat-  
6 ural resources adaptation plan detailing current and fu-  
7 ture efforts of the State to address the ongoing and ex-  
8 pected impacts of climate change on natural resources and  
9 coastal areas within the jurisdiction of the State.

10 (b) REVIEW OR APPROVAL.—

11 (1) IN GENERAL.—The Secretary of the Inte-  
12 rior and, as applicable, the Secretary of Commerce  
13 shall review each State adaptation plan, and approve  
14 the plan if the plan—

15 (A) meets the requirements of subsection

16 (c); and

17 (B) is consistent with the Strategy.

18 (2) APPROVAL OR DISAPPROVAL.—The Sec-  
19 retary of the Interior and, as applicable, the Sec-  
20 retary of Commerce shall approve or disapprove the  
21 plan by written notice not later than 180 days after  
22 the date of submission of the plan (or a revised  
23 plan).

24 (3) RESUBMISSION.—Not later than 90 days  
25 after the date of resubmission of an adaptation plan  
26 that has been disapproved under paragraph (2), the

1 Secretary of the Interior and, as applicable, the Sec-  
2 retary of Commerce, shall approve or disapprove the  
3 plan by written notice.

4 (c) CONTENTS.—A State natural resources adapta-  
5 tion plan shall—

6 (1) include strategies for addressing the ongo-  
7 ing and expected impacts of climate change, includ-  
8 ing, where applicable, ocean acidification, drought,  
9 and wildfire on terrestrial, marine, estuarine, and  
10 freshwater fish, wildlife, plants, habitats, ecosystems,  
11 wildlife health, and ecological processes that—

12 (A) describe the ongoing and expected im-  
13 pacts of climate change, including, where appli-  
14 cable, ocean acidification, drought, and wildfire  
15 on the diversity and health of fish, wildlife and  
16 plant populations, habitats, ecosystems, and as-  
17 sociated ecological processes;

18 (B) establish programs for monitoring the  
19 ongoing and expected impacts of climate  
20 change, including, where applicable, ocean acidi-  
21 fication, drought, and wildfire on fish, wildlife,  
22 and plant populations, habitats, ecosystems,  
23 and associated ecological processes;

24 (C) describe and prioritize proposed con-  
25 servation actions that increase the ability of

1 fish, wildlife, plant populations, habitats, eco-  
2 systems, and associated ecological processes to  
3 become more resilient, adapt to, and better  
4 withstand those impacts;

5 (D) consider strategies that engage youth  
6 and young adults (including youth and young  
7 adults working in full-time or part-time youth  
8 service or conservation corps programs) to pro-  
9 vide the youth and young adults with opportu-  
10 nities for meaningful conservation and commu-  
11 nity service and to encourage opportunities for  
12 employment in the private sector through part-  
13 nerships with employers;

14 (E) integrate protection and restoration of  
15 resource resilience into agency decision making  
16 and specific conservation actions;

17 (F) include a time frame for implementing  
18 conservation actions for fish, wildlife, and plant  
19 populations, habitats, ecosystems, and associ-  
20 ated ecological processes;

21 (G) establish methods—

22 (i) for assessing the effectiveness of  
23 strategies and conservation actions taken  
24 to increase the ability of fish, wildlife, and  
25 plant populations, habitats, ecosystems,



1 and associated ecological processes to be-  
2 come more resilient, adapt to, and better  
3 withstand the ongoing and expected im-  
4 pacts of climate changes, including, where  
5 applicable, ocean acidification, drought,  
6 and wildfire; and

7 (ii) for updating strategies and ac-  
8 tions to respond appropriately to new in-  
9 formation or changing conditions;

10 (H) are incorporated into a revision of the  
11 State wildlife action plan (also known as the  
12 State comprehensive wildlife strategy) that has  
13 been—

14 (i) submitted to the United States  
15 Fish and Wildlife Service; and

16 (ii) approved, or is pending approval,  
17 by the United States Fish and Wildlife  
18 Service; and

19 (I) are developed—

20 (i) with the participation of the State  
21 fish and wildlife agency, the State coastal  
22 agency, the State agency responsible for  
23 administration of Land and Water Con-  
24 servation Fund grants, the State Forest  
25 Legacy program coordinator, and other

1 State agencies considered appropriate by  
2 the Governor of the State;

3 (ii) in coordination with the Secretary  
4 of the Interior, and where applicable, the  
5 Secretary of Commerce; and

6 (iii) in coordination with other States  
7 that share jurisdiction over natural re-  
8 sources with the State; and

9 (2) in the case of a coastal State, include strat-  
10 egies for addressing the ongoing and expected im-  
11 pacts of climate change, including, where applicable,  
12 ocean acidification, drought, and wildfire on a coast-  
13 al zone that—

14 (A) identify natural resources likely to be  
15 impacted by climate change, and describe the  
16 impacts;

17 (B) identify and prioritize continuing re-  
18 search and data collection needed to address  
19 the impacts, including—

20 (i) acquisition of high-resolution  
21 coastal elevation and nearshore bathymetry  
22 data;

23 (ii) historic shoreline position maps,  
24 erosion rates, and inventories of shoreline  
25 features and structures;

1 (iii) measures and models of relative  
2 rates of sea level rise or lake level changes,  
3 including effects on flooding, storm surge,  
4 inundation, and coastal geological pro-  
5 cesses;

6 (iv) measures and models of habitat  
7 loss, including projected losses of coastal  
8 wetlands and potentials for inland migra-  
9 tion of natural shoreline habitats;

10 (v) measures and models of ocean and  
11 coastal species and ecosystem migrations,  
12 and changes in species population dynam-  
13 ics;

14 (vi) changes in storm frequency, in-  
15 tensity, or rainfall patterns;

16 (vii) measures and models of saltwater  
17 intrusion into coastal rivers and aquifers;

18 (viii) changes in chemical or physical  
19 characteristics of marine and estuarine  
20 systems, including the presence, extent,  
21 and timing of hypoxic and anoxic condi-  
22 tions;

23 (ix) measures and models of increased  
24 harmful algal blooms; and

1 (x) measures and models of the  
2 spread of invasive species;

3 (C) identify and prioritize adaptation strat-  
4 egies to protect, restore, and conserve natural  
5 resources to enable natural resources to become  
6 more resilient, adapt to, and withstand the on-  
7 going and expected impacts of climate change,  
8 including, where applicable, ocean acidification,  
9 drought, and wildfire, including—

10 (i) protection, maintenance, and res-  
11 toration of ecologically important coastal  
12 lands, coastal and ocean ecosystems, and  
13 species biodiversity and the establishment  
14 of habitat buffer zones, migration cor-  
15 ridors, and climate refugia; and

16 (ii) improved planning, siting policies,  
17 and hazard mitigation strategies;

18 (D) establish programs—

19 (i) for the long-term monitoring of the  
20 ongoing and expected impacts of climate  
21 change, including, where applicable, ocean  
22 acidification, drought, and wildfire on the  
23 ocean and coastal zone; and

24 (ii) assess and adjust, when necessary,  
25 the adaptive management strategies;

1 (E) establish performance measures that—

2 (i) assess the effectiveness of adapta-  
3 tion strategies intended to improve resil-  
4 ience and the ability of natural resources  
5 to adapt to and withstand the ongoing and  
6 expected impacts of climate change, includ-  
7 ing, where applicable, ocean acidification,  
8 drought, and wildfire;

9 (ii) assess the effectiveness of adapta-  
10 tion strategies intended to minimize those  
11 impacts on the coastal zone; and

12 (iii) update the strategies to respond  
13 to new information or changing conditions;  
14 and

15 (F) are developed—

16 (i) with the participation of the State  
17 coastal agency and other appropriate State  
18 agencies; and

19 (ii) in coordination with the Secretary  
20 of Commerce and other appropriate Fed-  
21 eral agencies.

22 (d) PUBLIC INPUT.—In developing the adaptation  
23 plan, a State shall provide for solicitation and consider-  
24 ation of public input and independent scientific input.

1 (e) COORDINATION WITH OTHER PLANS.—The State  
2 adaptation plan shall review research and information  
3 and, where appropriate, integrate the goals and measures  
4 set forth in other natural resources conservation strate-  
5 gies, including—

6 (1) the National Fish Habitat Action Plan;

7 (2) plans under the North American Wetlands  
8 Conservation Act (16 U.S.C. 4401 et seq.);

9 (3) the Federal, State, and local partnership  
10 known as “Partners in Flight”;

11 (4) federally approved coastal zone management  
12 plans under the Coastal Zone Management Act of  
13 1972 (16 U.S.C. 1451 et seq.);

14 (5) federally approved regional fishery manage-  
15 ment plans and habitat conservation activities  
16 under the Magnuson-Stevens Fishery Conservation  
17 and Management Act (16 U.S.C. 1801 et seq.);

18 (6) the National Coral Reef Action Plan;

19 (7) recovery plans for threatened species and  
20 endangered species under section 4(f) of the Endan-  
21 gered Species Act of 1973 (16 U.S.C. 1533(f));

22 (8) habitat conservation plans under section 10  
23 of that Act (16 U.S.C. 1539);

24 (9) other Federal, State, and tribal plans for  
25 imperiled species;

1 (10) State or tribal hazard mitigation plans;

2 (11) State or tribal water management plans;

3 and

4 (12) other State-based strategies that com-  
5 prehensively implement adaptation activities to re-  
6 mediate the ongoing and expected effects of climate  
7 change, including, where applicable, ocean acidifica-  
8 tion, drought, and wildfire, on terrestrial, marine,  
9 and freshwater fish, wildlife, plants, and other nat-  
10 ural resources.

11 (f) UPDATING.—Each State plan shall be updated at  
12 least every 5 years.

13 (g) FUNDING.—

14 (1) IN GENERAL.—Funds allocated to States  
15 under section 380 shall be used only for activities  
16 consistent with a State natural resources adaptation  
17 plan approved by the Secretary of the Interior and,  
18 as appropriate, the Secretary of Commerce.

19 (2) FUNDING PRIOR TO THE APPROVAL OF A  
20 STATE PLAN.—Until the earlier of the date that is  
21 3 years after the date of enactment of this Act or  
22 the date on which a State adaptation plan is ap-  
23 proved, a State shall be eligible to receive funding  
24 under section 380 for adaptation activities that  
25 are—

1 (A) consistent with the comprehensive  
2 wildlife strategy of the State and, where appro-  
3 priate, other natural resources conservation  
4 strategies; and

5 (B) in accordance with a work plan devel-  
6 oped in coordination with—

7 (i) the Secretary of the Interior; and  
8 (ii) the Secretary of Commerce.

9 (3) COASTAL STATE.—In developing a work  
10 plan under paragraph (2)(B), a coastal State shall  
11 coordinate with the Secretary of Commerce only for  
12 those portions of the strategy relating to activities  
13 affecting the coastal zone.

14 (4) PENDING APPROVAL.—During the period  
15 for which approval by the applicable Secretary is  
16 pending, the State may continue to receive funds  
17 under section 380 pursuant to the work plan de-  
18 scribed in paragraph (2)(B).

19 **SEC. 380. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
20 **TATION FUND.**

21 (a) ESTABLISHMENT OF FUND.—There is estab-  
22 lished in the Treasury a separate account, to be known  
23 as the “Natural Resources Climate Change Adaptation  
24 Account”.



1           (b) AVAILABILITY OF AMOUNTS.—All amounts de-  
2    posited into the Account shall be available without further  
3    appropriation or fiscal year limitation.

4           (c) DISTRIBUTION OF AMOUNTS.—

5           (1) STATES.—Of the amounts made available  
6    for each fiscal year to carry out this subpart, 38.5  
7    percent shall be provided to States to carry out nat-  
8    ural resources adaptation activities in accordance  
9    with adaptation plans approved under section 379,  
10   and shall be distributed as follows:

11           (A) 32.5 percent shall be available to State  
12    wildlife agencies in accordance with the appor-  
13    tionment formula established under the second  
14    subsection (c) (relating to the apportionment of  
15    the Wildlife Conservation and Restoration Ac-  
16    count) of section 4 of the Pittman-Robertson  
17    Wildlife Restoration Act (16 U.S.C. 669c); and

18           (B) 6 percent shall be available to State  
19    coastal agencies pursuant to the formula estab-  
20    lished by the Secretary of Commerce under sec-  
21    tion 306(c) of the Coastal Management Act of  
22    1972 (16 U.S.C. 1455(c)).

23           (2) NATURAL RESOURCE ADAPTATION.—Of the  
24    amounts made available for each fiscal year to carry  
25    out this subpart—

1 (A) 17 percent shall be allocated to the  
2 Secretary of the Interior for use in funding—

3 (i) natural resources adaptation activi-  
4 ties carried out—

5 (I) under endangered species, mi-  
6 gratory species, and other fish and  
7 wildlife programs administered by the  
8 National Park Service, the United  
9 States Fish and Wildlife Service, the  
10 Bureau of Indian Affairs, and the Bu-  
11 reau of Land Management;

12 (II) on wildlife refuges, National  
13 Park Service land, and other public  
14 land under the jurisdiction of the  
15 United States Fish and Wildlife Serv-  
16 ice, the Bureau of Land Management,  
17 the Bureau of Indian Affairs, or the  
18 National Park Service; and

19 (III) within Federal water man-  
20 aged by the Bureau of Reclamation  
21 and the National Park Service; and

22 (ii) the implementation of the Na-  
23 tional Fish and Wildlife Habitat and Cor-  
24 ridors Identification Program required by  
25 section 381;

1 (B) 5 percent shall be allocated to the Sec-  
2 retary of the Interior for natural resources ad-  
3 aptation activities carried out under cooperative  
4 grant programs, including—

5 (i) the cooperative endangered species  
6 conservation fund authorized under section  
7 6 of the Endangered Species Act of 1973  
8 (16 U.S.C. 1535);

9 (ii) programs under the North Amer-  
10 ican Wetlands Conservation Act (16  
11 U.S.C. 4401 et seq.);

12 (iii) the Neotropical Migratory Bird  
13 Conservation Fund established by section  
14 9(a) of the Neotropical Migratory Bird  
15 Conservation Act (16 U.S.C. 6108(a));

16 (iv) the Coastal Program of the  
17 United States Fish and Wildlife Service;

18 (v) the National Fish Habitat Action  
19 Plan;

20 (vi) the Partners for Fish and Wildlife  
21 Program;

22 (vii) the Landowner Incentive Pro-  
23 gram;

1 (viii) the Wildlife Without Borders  
2 Program of the United States Fish and  
3 Wildlife Service; and

4 (ix) the Migratory Species Program  
5 and Park Flight Migratory Bird Program  
6 of the National Park Service; and

7 (C) 3 percent shall be allocated to the Sec-  
8 retary of the Interior to provide financial assist-  
9 ance to Indian tribes to carry out natural re-  
10 sources adaptation activities through the Tribal  
11 Wildlife Grants Program of the United States  
12 Fish and Wildlife Service.

13 (3) LAND AND WATER CONSERVATION.—

14 (A) DEPOSITS.—

15 (i) IN GENERAL.—Of the amounts  
16 made available for each fiscal year to carry  
17 out this subpart, 12 percent shall be de-  
18 posited in the Land and Water Conserva-  
19 tion Fund established under section 2 of  
20 the Land and Water Conservation Fund  
21 Act of 1965 (16 U.S.C. 460l-5).

22 (ii) USE OF DEPOSITS.—Deposits in  
23 the Land and Water Conservation Fund  
24 under this paragraph shall—

1 (I) be supplemental to authoriza-  
2 tions provided under section 3 of the  
3 Land and Water Conservation Fund  
4 Act of 1965 (16 U.S.C. 460l–6),  
5 which shall remain available for non-  
6 adaptation needs; and

7 (II) be available to carry out this  
8 subpart without further appropriation  
9 or fiscal year limitation.

10 (B) DISTRIBUTION OF AMOUNTS.—Of the  
11 amounts deposited under this paragraph in the  
12 Land and Water Conservation Fund—

13 (i) for the purposes of carrying out  
14 the natural resources adaptation activities  
15 through the acquisition of land and inter-  
16 ests in land under section 6 of the Land  
17 and Water Conservation Fund Act of 1965  
18 (16 U.S.C. 460l–8),  $\frac{1}{6}$  shall be allocated  
19 to the Secretary of the Interior and made  
20 available on a competitive basis—

21 (I) to States, in accordance with  
22 the natural resources adaptation plans  
23 of States, and to Indian tribes;

24 (II) notwithstanding section 5 of  
25 that Act (16 U.S.C. 460l–7); and

1 (III) in addition to any funds  
2 provided pursuant to annual appro-  
3 priations Acts, the Energy Policy Act  
4 of 2005 (42 U.S.C. 15801 et seq.), or  
5 any other authorization for non-  
6 adaptation needs;

7 (ii)  $\frac{1}{3}$  shall be allocated to the Sec-  
8 retary of the Interior to carry out natural  
9 resources adaptation activities through the  
10 acquisition of lands and interests in land  
11 under section 7 of the Land and Water  
12 Conservation Fund Act of 1965 (16 U.S.C.  
13 460l-9);

14 (iii)  $\frac{1}{6}$  shall be allocated to the Sec-  
15 retary of Agriculture and made available to  
16 the States and Indian tribes to carry out  
17 natural resources adaptation activities  
18 through the acquisition of land and inter-  
19 ests in land under section 7 of the Cooper-  
20 ative Forestry Assistance Act of 1978 (16  
21 U.S.C. 2103c); and

22 (iv)  $\frac{1}{3}$  shall be allocated to the Sec-  
23 retary of Agriculture to carry out natural  
24 resources adaptation activities through the  
25 acquisition of land and interests in land

1 under section 7 of the Land and Water  
2 Conservation Fund Act of 1965 (16 U.S.C.  
3 460l–9).

4 (C) EXPENDITURE OF FUNDS.—In allo-  
5 eating funds under subparagraph (B), the Sec-  
6 retary of the Interior and the Secretary of Agri-  
7 culture shall take into consideration factors in-  
8 cluding—

9 (i) the availability of non-Federal con-  
10 tributions from State, local, or private  
11 sources;

12 (ii) opportunities to protect fish and  
13 wildlife corridors or otherwise to link or  
14 consolidate fragmented habitats;

15 (iii) opportunities to reduce the risk of  
16 catastrophic wildfires, drought, extreme  
17 flooding, or other climate-related events  
18 that are harmful to fish and wildlife and  
19 people; and

20 (iv) the potential for conservation of  
21 species or habitat types at serious risk due  
22 to climate change, including, where appli-  
23 cable, ocean acidification, drought, and  
24 wildfire, or other stressors.





1 (B) the community-based restoration pro-  
2 gram for fishery and coastal habitats estab-  
3 lished under section 117 of the Magnuson-Ste-  
4 vens Fishery Conservation and Management  
5 Reauthorization Act of 2006 (16 U.S.C.  
6 1891a);

7 (C) the Coastal Zone Management Act of  
8 1972 (16 U.S.C. 1451 et seq.) that are specifi-  
9 cally designed to strengthen the ability of coast-  
10 al, estuarine, and marine resources, habitats,  
11 and ecosystems to adapt to and withstand the  
12 ongoing and expected impacts of climate  
13 change, including, where applicable, ocean acidi-  
14 fication, drought, and wildfire;

15 (D) the Open Rivers Initiative;

16 (E) the Magnuson-Stevens Fishery Con-  
17 servation and Management Act (16 U.S.C.  
18 1801 et seq.);

19 (F) the Marine Mammal Protection Act of  
20 1972 (16 U.S.C. 1361 et seq.);

21 (G) the Endangered Species Act of 1973  
22 (16 U.S.C. 1531 et seq.);

23 (H) the Marine Protection, Research, and  
24 Sanctuaries Act of 1972 (33 U.S.C. 1401 et  
25 seq.);

1 (I) the Coral Reef Conservation Act of  
2 2000 (16 U.S.C. 6401 et seq.); and

3 (J) the Estuary Restoration Act of 2000  
4 (33 U.S.C. 2901 et seq.).

5 (6) ESTUARINE AND FRESHWATER ECOSYSTEM  
6 ADAPTATION.—Of the amounts made available for  
7 each fiscal year to carry out this subpart, 7.5 per-  
8 cent shall be allocated to the Administrator of the  
9 Environmental Protection Agency and 5 percent  
10 shall be available to the Secretary of the Army for  
11 use by the Corps of Engineers for use in natural re-  
12 sources adaptation activities restoring and pro-  
13 tecting—

14 (A) large-scale freshwater aquatic eco-  
15 systems, such as the Everglades, the Great  
16 Lakes, Flathead Lake, the Missouri River, the  
17 Mississippi River, the Colorado River, the Sac-  
18 ramento-San Joaquin Rivers, the Ohio River,  
19 the Columbia-Snake River System, the Apa-  
20 lachicola, Chattahoochee, and Flint River Sys-  
21 tem, the Connecticut River, and the Yellowstone  
22 River;

23 (B) large-scale estuarine ecosystems, such  
24 as Chesapeake Bay, Long Island Sound, Puget  
25 Sound, the Mississippi River Delta, the San

1 Francisco Bay Delta, Narragansett Bay, and  
2 Albemarle-Pamlico Sound;

3 (C) freshwater and estuarine ecosystems,  
4 watersheds, and basins identified and  
5 prioritized by the Administrator of the Environ-  
6 mental Protection Agency or the Corps of Engi-  
7 neers, working in cooperation with other Fed-  
8 eral agencies, States, tribal governments, local  
9 governments, scientists, and other conservation  
10 partners; and

11 (D)(i) habitats and ecosystems through es-  
12 tuary habitat restoration projects authorized by  
13 the Estuary Restoration Act of 2000 (33  
14 U.S.C. 2901 et seq.);

15 (ii) project modifications for improvement  
16 of the environment;

17 (iii) aquatic restoration and protection  
18 projects authorized by section 206 of the Water  
19 Resources Development Act of 1996 (33 U.S.C.  
20 2330); and

21 (iv) other appropriate programs and activi-  
22 ties.

23 (d) USE OF FUNDS BY FEDERAL DEPARTMENTS AND  
24 AGENCIES.—Funds allocated to Federal departments and  
25 agencies under this section shall only be used for natural

1 resources adaptation activities consistent with an adapta-  
2 tion plan approved under section 378.

3 (e) STATE COST SHARING.—Notwithstanding any  
4 other provision of law, a State that receives a grant under  
5 this section shall use funds from non-Federal sources to  
6 pay 10 percent of the costs of each activity carried out  
7 under the grant.

8 **SEC. 381. NATIONAL WILDLIFE HABITAT AND CORRIDORS**  
9 **INFORMATION PROGRAM.**

10 (a) DEFINITIONS.—In this section:

11 (1) GEOSPATIAL INTEROPERABILITY FRAME-  
12 WORK.—The term “Geospatial Interoperability  
13 Framework” means the strategy used by the Na-  
14 tional Biological Information Infrastructure (based  
15 on accepted standards, specifications, and protocols  
16 adopted through the International Standards Orga-  
17 nization, the Open Geospatial Consortium, and the  
18 Federal Geographic Data Committee) to manage, ar-  
19 chive, integrate, analyze, and make geospatial and  
20 biological data and metadata accessible.

21 (2) PROGRAM.—The term “Program” means  
22 the National Fish and Wildlife Habitat and Cor-  
23 ridors Information Program established under sub-  
24 section (b).

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3           (4) SYSTEM.—The term “System” means the  
4           Habitat and Corridors Information System estab-  
5           lished under subsection (d)(1).

6           (b) ESTABLISHMENT.—Not later than 180 days after  
7           the date of enactment of this Act, the Secretary, in co-  
8           operation with the States and Indian tribes, shall establish  
9           a National Fish and Wildlife Habitat and Corridors Infor-  
10          mation Program.

11          (c) PURPOSE.—The purposes of the Program are—

12           (1) to support States and Indian tribes in devel-  
13           oping geographical information system databases of  
14           fish and wildlife habitats and corridors that—

15           (A) inform planning and development deci-  
16           sions within each State;

17           (B) enable each State to model climate im-  
18           pacts and adaptation; and

19           (C) provide geographically specific en-  
20           hancements of State wildlife action plans;

21           (2) to ensure the collaborative development of a  
22           comprehensive national geographic information sys-  
23           tem database of maps, models, data, surveys, infor-  
24           mational products, and other geospatial information

1       regarding fish and wildlife habitat and corridors  
2       that—

3               (A) is based on consistent protocols for  
4       sampling and mapping across landscapes;

5               (B) takes into account regional differences;

6       and

7               (C) uses—

8                       (i) existing and planned State- and  
9       tribal-based geographical information sys-  
10      tem databases; and

11                      (ii) existing databases, analytical  
12      tools, metadata activities, and other infor-  
13      mation products available through the Na-  
14      tional Biological Information Infrastruc-  
15      ture maintained by the Secretary and non-  
16      governmental organizations; and

17               (3) to facilitate the use of those databases by  
18      Federal, State, local, and tribal decisionmakers to  
19      incorporate qualitative information on fish and wild-  
20      life habitats and corridors at the earliest practicable  
21      stage for use in—

22                      (A) prioritizing and targeting natural re-  
23      sources adaptation strategies and activities;

24                      (B) avoiding, minimizing, and mitigating  
25      the impacts on fish and wildlife habitat and cor-

1           ridors when locating energy development, water,  
2           transmission, transportation, and other land  
3           use projects;

4           (C) assessing the impacts of existing devel-  
5           opment on habitats and corridors; and

6           (D) developing management strategies that  
7           enhance the ability of fish, wildlife, and plant  
8           species to migrate or respond to shifting habi-  
9           tats within existing habitats and corridors.

10       (d) HABITAT AND CORRIDORS INFORMATION SYS-  
11       TEM.—

12           (1) IN GENERAL.—The Secretary, in coopera-  
13           tion with States and Indian tribes, shall establish a  
14           Habitat and Corridors Information System.

15           (2) CONTENTS.—The System shall—

16           (A) include maps, data, and descriptions of  
17           fish and wildlife habitat and corridors that—

18           (i) have been developed by Federal  
19           agencies, State wildlife agencies, and nat-  
20           ural heritage programs, Indian tribes, local  
21           governments, nongovernmental organiza-  
22           tions, and industry; and

23           (ii) meet accepted geospatial inter-  
24           operability framework data and metadata  
25           protocols and standards;

1 (B) include maps and descriptions of pro-  
2 jected shifts in habitats and corridors of fish  
3 and wildlife species in response to climate  
4 change;

5 (C) ensure data quality;

6 (D) at scales useful to decisionmakers,  
7 make data, models, and analyses included in  
8 the System available—

9 (i) to prioritize and target natural re-  
10 sources adaptation strategies and activi-  
11 ties;

12 (ii) to assess the impacts of existing  
13 development on habitats and corridors;

14 (iii) to assess the impacts of proposed  
15 energy development, water, transmission,  
16 transportation, and other land use projects  
17 and to avoid, minimize, or mitigate those  
18 impacts on habitats and corridors; and

19 (iv) to develop management strategies  
20 that enhance the ability of fish, wildlife,  
21 and plant species to migrate or respond to  
22 shifting habitats within existing habitats  
23 and corridors;

24 (E) update maps and other information as  
25 landscapes, habitats, corridors, and wildlife pop-



1           ulations change, or as new information becomes  
2           available;

3           (F) encourage development of collaborative  
4           plans by Federal and State agencies and Indian  
5           tribes that monitor and evaluate the ability of  
6           the System to meet the needs of decision-  
7           makers;

8           (G) identify gaps in habitat and corridor  
9           information, mapping, and research needed to  
10          fully assess current data and metadata;

11          (H) prioritize research and future data col-  
12          lection activities for use in updating the System  
13          and provide support for those activities;

14          (I) include mechanisms to support collabo-  
15          rative research, mapping, and planning of habi-  
16          tats and corridors by Federal and State agen-  
17          cies, Indian tribes, and other interested stake-  
18          holders;

19          (J) incorporate biological and geospatial  
20          data on species and corridors found in energy  
21          development and transmission plans, including  
22          renewable energy initiatives, transportation, and  
23          other land use plans;

24          (K) identify, prioritize, and describe key  
25          parcels of non-Federal land that—

1 (i) are located within units of the Na-  
2 tional Park System, National Wildlife Ref-  
3 uge System, National Forest System, or  
4 National Grassland System; and

5 (ii) are critical to maintenance of  
6 wildlife habitat and migration corridors;  
7 and

8 (L) be based on the best scientific informa-  
9 tion available.

10 (e) FINANCIAL AND OTHER SUPPORT.—The Sec-  
11 retary may provide support to the States and Indian  
12 tribes, including financial and technical assistance, for ac-  
13 tivities that support the development and implementation  
14 of the System.

15 (f) COORDINATION.—In cooperation with States and  
16 Indian tribes, the Secretary shall recommend how the in-  
17 formation in the System may be incorporated into relevant  
18 State and Federal plans that affect fish and wildlife, in-  
19 cluding—

20 (1) land management plans;

21 (2) the State Comprehensive Wildlife Conserva-  
22 tion Strategies; and

23 (3) appropriate tribal conservation plans.

24 (g) PURPOSE OF INCORPORATION.—The Secretary  
25 shall make the recommendations required by subsection

1 (f) to ensure that relevant State and Federal plans that  
2 affect fish and wildlife—

3 (1) prevent unnecessary habitat fragmentation  
4 and disruption of corridors;

5 (2) promote the landscape connectivity nec-  
6 essary to allow wildlife to move as necessary to meet  
7 biological needs, adjust to shifts in habitat, and  
8 adapt to climate change; and

9 (3) minimize the impacts of energy, develop-  
10 ment, water, transportation, and transmission  
11 projects and other activities expected to impact habi-  
12 tat and corridors.

13 **SEC. 382. ADDITIONAL PROVISIONS REGARDING INDIAN**  
14 **TRIBES.**

15 (a) **FEDERAL TRUST RESPONSIBILITY.**—Nothing in  
16 this subpart amends, alters, or gives priority over the Fed-  
17 eral trust responsibility to any Indian tribe.

18 (b) **EXEMPTION FROM FOIA.**—If a Federal depart-  
19 ment or agency receives any information relating to sacred  
20 sites or cultural activities identified by an Indian tribe as  
21 confidential, such information shall be exempt from dislo-  
22 sure under section 552 of title 5, United States Code  
23 (commonly referred to as the Freedom of Information  
24 Act).

1 (c) APPLICATION OF OTHER LAW.—The Secretary of  
2 the Interior may apply the provisions of the Indian Self-  
3 Determination and Education Assistance Act (25 U.S.C.  
4 450 et seq.) in the implementation of this subpart.

5 **TITLE IV—REDUCING GLOBAL**  
6 **WARMING POLLUTION**

7 **Subtitle A—Reducing Global**  
8 **Warming Pollution**

9 **SEC. 401. REDUCING GLOBAL WARMING POLLUTION.**

10 The Clean Air Act is amended by adding after title  
11 VI (42 U.S.C. 7671 et seq.) the following new title:

12 **“TITLE VII—GLOBAL WARMING**  
13 **POLLUTION REDUCTION PRO-**  
14 **GRAM**

15 **“PART A—GLOBAL WARMING POLLUTION**  
16 **REDUCTION GOALS AND TARGETS**

17 **“SEC. 701. REDUCTION TARGETS FOR SPECIFIED SOURCES.**

18 “(a) IN GENERAL.—The regulations issued under  
19 section 721 shall cap and reduce annually the greenhouse  
20 gas emissions of capped sources each calendar year begin-  
21 ning in 2012 such that—

22 “(1) in 2012, the quantity of greenhouse gas  
23 emissions from capped sources does not exceed 97  
24 percent of the quantity of greenhouse gas emissions  
25 from such sources in 2005;

1           “(2) in 2020, the quantity of greenhouse gas  
2           emissions from capped sources does not exceed 80  
3           percent of the quantity of greenhouse gas emissions  
4           from such sources in 2005;

5           “(3) in 2030, the quantity of greenhouse gas  
6           emissions from capped sources does not exceed 58  
7           percent of the quantity of greenhouse gas emissions  
8           from such sources in 2005; and

9           “(4) in 2050, the quantity of greenhouse gas  
10          emissions from capped sources does not exceed 17  
11          percent of the quantity of greenhouse gas emissions  
12          from such sources in 2005.

13          “(b) DEFINITION.—For purposes of this section, the  
14          term ‘greenhouse gas emissions from such sources in  
15          2005’ means emissions to which section 722 would have  
16          applied if the requirements of this title for the specified  
17          year had been in effect for 2005.

18          **“SEC. 702. SUPPLEMENTAL POLLUTION REDUCTIONS.**

19          “For the purposes of decreasing the likelihood of cat-  
20          astrophic climate change, preserving tropical forests,  
21          building capacity to generate offset credits, and facili-  
22          tating international action on global warming, the Admin-  
23          istrator shall set aside the percentage specified in section  
24          781 of the quantity of emission allowances established  
25          under section 721(a) for each year, to be used to achieve

1 a reduction of greenhouse gas emissions from deforest-  
2 ation in developing countries in accordance with part E.  
3 In 2020, activities supported under part E shall provide  
4 greenhouse gas reductions in an amount equal to an addi-  
5 tional 10 percentage points of reductions from United  
6 States greenhouse gas emissions in 2005. The Adminis-  
7 trator shall distribute these allowances with respect to ac-  
8 tivities in countries that enter into and implement agree-  
9 ments or arrangements relating to reduced deforestation  
10 as described in section 754(a)(2).

11 **“SEC. 703. REVIEW AND PROGRAM RECOMMENDATIONS.**

12 “(a) IN GENERAL.—The Administrator shall, in con-  
13 sultation with appropriate Federal agencies, submit to  
14 Congress a report not later than July 1, 2013, and every  
15 4 years thereafter, that includes—

16 “(1) an analysis of key findings based on the  
17 latest scientific information and data relevant to  
18 global climate change;

19 “(2) an analysis of capabilities to monitor and  
20 verify greenhouse gas reductions on a worldwide  
21 basis, including for the United States, as required  
22 under the \_\_\_\_\_ Act (and the  
23 amendments made by that Act); and

24 “(3) an analysis of the status of worldwide  
25 greenhouse gas reduction efforts, including imple-

1       mentation of the \_\_\_\_\_ Act and  
2       other policies, both domestic and international, for  
3       reducing greenhouse gas emissions, preventing dan-  
4       gerous atmospheric concentrations of greenhouse  
5       gases, preventing significant irreversible con-  
6       sequences of climate change, and reducing vulner-  
7       ability to the impacts of climate change.

8       “(b) EXCEPTION.—Paragraph (3) of subsection (a)  
9       shall not apply to the first report submitted under such  
10      subsection.

11      “(c) LATEST SCIENTIFIC INFORMATION.—The anal-  
12      ysis required under subsection (a)(1) shall—

13           “(1) address existing scientific information and  
14           reports, considering, to the greatest extent possible,  
15           the most recent assessment report of the Intergov-  
16           ernmental Panel on Climate Change, reports by the  
17           United States Global Change Research Program, the  
18           Natural Resources Climate Change Adaptation  
19           Panel established under section 375 of the  
20           \_\_\_\_\_ Act, and Federal agencies,  
21           and the European Union’s global temperature data  
22           assessment;

23           “(2) review trends and projections for—

24                   “(A) global and country-specific annual  
25                   emissions of greenhouse gases, and cumulative

1 greenhouse gas emissions produced between  
2 1850 and the present, including—

3 “(i) global cumulative emissions of an-  
4 thropogenic greenhouse gases;

5 “(ii) global annual emissions of an-  
6 thropogenic greenhouse gases; and

7 “(iii) by country, annual total, annual  
8 per capita, and cumulative anthropogenic  
9 emissions of greenhouse gases for the top  
10 50 emitting nations;

11 “(B) significant changes, both globally and  
12 by region, in annual net non-anthropogenic  
13 greenhouse gas emissions from natural sources,  
14 including permafrost, forests, or oceans;

15 “(C) global atmospheric concentrations of  
16 greenhouse gases, expressed in annual con-  
17 centration units as well as carbon dioxide  
18 equivalents based on 100-year global warming  
19 potentials;

20 “(D) major climate forcing factors, such as  
21 aerosols;

22 “(E) global average temperature, expressed  
23 as seasonal and annual averages in land, ocean,  
24 and land-plus-ocean averages; and

25 “(F) sea level rise;



1           “(3) assess the current and potential impacts of  
2           global climate change on—

3                   “(A) human populations, including impacts  
4                   on public health, economic livelihoods, subsist-  
5                   ence, human infrastructure, and displacement  
6                   or permanent relocation due to flooding, severe  
7                   weather, extended drought, erosion, or other  
8                   ecosystem changes;

9                   “(B) freshwater systems, including water  
10                  resources for human consumption and agri-  
11                  culture and natural and managed ecosystems,  
12                  flood and drought risks, and relative humidity;

13                  “(C) the carbon cycle, including impacts  
14                  related to the thawing of permafrost, the fre-  
15                  quency and intensity of wildfire, and terrestrial  
16                  and ocean carbon sinks;

17                  “(D) ecosystems and animal and plant  
18                  populations, including impacts on species abun-  
19                  dance, phenology, and distribution;

20                  “(E) oceans and ocean ecosystems, includ-  
21                  ing effects on sea level, ocean acidity, ocean  
22                  temperatures, coral reefs, ocean circulation,  
23                  fisheries, and other indicators of ocean eco-  
24                  system health;

1           “(F) the cryosphere, including effects on  
2 ice sheet mass balance, mountain glacier mass  
3 balance, and sea-ice extent and volume;

4           “(G) changes in the intensity, frequency,  
5 or distribution of severe weather events, includ-  
6 ing precipitation, tropical cyclones, tornadoes,  
7 and severe heat waves;

8           “(H) agriculture and forest systems; and

9           “(I) any other indicators the Administrator  
10 deems appropriate;

11          “(4) summarize any significant socioeconomic  
12 impacts of climate change in the United States, in-  
13 cluding the territories of the United States, drawing  
14 on work by Federal agencies and the academic lit-  
15 erature, including impacts on—

16           “(A) public health;

17           “(B) economic livelihoods and subsistence;

18           “(C) displacement or permanent relocation  
19 due to flooding, severe weather, extended  
20 drought, or other ecosystem changes;

21           “(D) human infrastructure, including  
22 coastal infrastructure vulnerability to extreme  
23 events and sea level rise, river floodplain infra-  
24 structure, and sewer and water management  
25 systems;

1           “(E) agriculture and forests, including ef-  
2           fects on potential growing season, distribution,  
3           and yield;

4           “(F) water resources for human consump-  
5           tion, agriculture and natural and managed eco-  
6           systems, flood and drought risks, and relative  
7           humidity;

8           “(G) energy supply and use; and

9           “(H) transportation;

10          “(5) in assessing risks and impacts, use a risk  
11          management framework, including both qualitative  
12          and quantitative measures, to assess the observed  
13          and projected impacts of current and future climate  
14          change, accounting for—

15               “(A) both monetized and non-monetized  
16               losses;

17               “(B) potential nonlinear, abrupt, or essen-  
18               tially irreversible changes in the climate system;

19               “(C) potential nonlinear increases in the  
20               cost of impacts;

21               “(D) potential low-probability, high impact  
22               events; and

23               “(E) whether impacts are transitory or es-  
24               sentially permanent; and

1           “(6) based on the findings of the Administrator  
2           under this section, as well as assessments produced  
3           by the Intergovernmental Panel on Climate Change,  
4           the United States Global Change Research program,  
5           and other relevant scientific entities—

6           “(A) describe increased risks to natural  
7           systems and society that would result from an  
8           increase in global average temperature 3.6 de-  
9           grees Fahrenheit (2 degrees Celsius) above the  
10          pre-industrial average or an increase in atmos-  
11          pheric greenhouse gas concentrations above 450  
12          parts per million carbon dioxide equivalent; and

13          “(B) identify and assess—

14                 “(i) significant residual risks not  
15                 avoided by the thresholds described in sub-  
16                 paragraph (A);

17                 “(ii) alternative thresholds or targets  
18                 that may more effectively limit the risks  
19                 identified pursuant to clause (i); and

20                 “(iii) thresholds above those described  
21                 in subparagraph (A) which significantly in-  
22                 crease the risk of certain impacts or render  
23                 them essentially permanent.

24          “(d) STATUS OF MONITORING AND VERIFICATION  
25          CAPABILITIES TO EVALUATE GREENHOUSE GAS REDUC-

1 TION EFFORTS.—The analysis required under subsection  
2 (a)(2) shall evaluate the capabilities of the monitoring, re-  
3 porting, and verification systems used to quantify progress  
4 in achieving reductions in greenhouse gas emissions both  
5 globally and in the United States (as described in section  
6 **[702]**), including—

7 “(1) quantification of emissions and emission  
8 reductions by entities participating in the cap and  
9 trade program under this title;

10 “(2) quantification of emissions and emission  
11 reductions by entities participating in the offset pro-  
12 gram under this title;

13 “(3) quantification of emission and emissions  
14 reductions by entities regulated by performance  
15 standards;

16 “(4) quantification of aggregate net emissions  
17 and emissions reductions by the United States; and

18 “(5) quantification of global changes in net  
19 emissions and in sources and sinks of greenhouse  
20 gases.

21 “(e) STATUS OF GREENHOUSE GAS REDUCTION EF-  
22 FORTS.—The analysis required under subsection (a)(3)  
23 shall address—

24 “(1) whether the programs under the  
25 \_\_\_\_\_ Act (and the amendments

1       made by that Act) and other Federal statutes are re-  
2       sulting in sufficient United States greenhouse gas  
3       emissions reductions to meet the emissions reduction  
4       goals described in section **[702]**, taking into ac-  
5       count the use of offsets; and

6               “(2) whether United States actions, taking into  
7       account international actions, commitments, and  
8       trends, and considering the range of plausible emis-  
9       sions scenarios, are sufficient to avoid—

10               “(A) atmospheric greenhouse gas con-  
11       centrations above 450 parts per million carbon  
12       dioxide equivalent;

13               “(B) global average surface temperature  
14       3.6 degrees Fahrenheit (2 degrees Celsius)  
15       above the pre-industrial average, or such other  
16       temperature thresholds as the Administrator  
17       deems appropriate; and

18               “(C) other temperature or greenhouse gas  
19       thresholds identified pursuant to subsection  
20       (c)(6)(B).

21       “(f) RECOMMENDATIONS.—

22               “(1) LATEST SCIENTIFIC INFORMATION.—  
23       Based on the analysis described in subsection (a)(1),  
24       each report under subsection (a) shall identify ac-  
25       tions that could be taken to—

1           “(A) improve the characterization of  
2 changes in the earth-climate system and im-  
3 pacts of global climate change;

4           “(B) better inform decision making and  
5 actions related to global climate change;

6           “(C) mitigate risks to natural and social  
7 systems; and

8           “(D) design policies to better account for  
9 climate risks.

10          “(2) MONITORING, REPORTING AND  
11 VERIFICATION.—Based on the analysis described in  
12 subsection (a)(2), each report under subsection (a)  
13 shall identify key gaps in measurement, reporting,  
14 and verification capabilities and make recommenda-  
15 tions to improve the accuracy and reliability of those  
16 capabilities.

17          “(3) STATUS OF GREENHOUSE GAS REDUCTION  
18 EFFORTS.—Based on the analysis described in sub-  
19 section (a)(3), taking into account international ac-  
20 tions, commitments, and trends, and considering the  
21 range of plausible emissions scenarios, each report  
22 under subsection (a) shall identify—

23           “(A) the quantity of additional reductions  
24 required to meet the emissions reduction goals  
25 in section **[702]**;

1           “(B) the quantity of additional reductions  
2           in global greenhouse gas emissions needed to  
3           avoid the concentration and temperature  
4           thresholds identified in subsection (e); and

5           “(C) possible strategies and approaches for  
6           achieving additional reductions.

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

10   **“SEC. 704. NATIONAL ACADEMY REVIEW.**

11           “(a) IN GENERAL.—Not later than 1 year after the  
12           date of enactment of this title, the Administrator shall  
13           offer to enter into a contract with the National Academy  
14           of Sciences (in this section referred to as the ‘Academy’)  
15           under which the Academy shall, not later than July 1,  
16           2014, and every 4 years thereafter, submit to Congress  
17           and the Administrator a report that includes—

18           “(1) a review of the most recent report and rec-  
19           ommendations issued under section 703; and

20           “(2) an analysis of technologies to achieve re-  
21           ductions in greenhouse gas emissions.

22           “(b) FAILURE TO ISSUE A REPORT.—In the event  
23           that the Administrator has not issued all or part of the  
24           most recent report required under section 703, the Acad-



1 emy shall conduct its own review and analysis of the re-  
2 quired information.

3 “(c) TECHNOLOGICAL INFORMATION.—The analysis  
4 required under subsection (a)(2) shall—

5 “(1) review existing technological information  
6 and reports, including the most recent reports by the  
7 Department of Energy, the United States Global  
8 Change Research Program, the Intergovernmental  
9 Panel on Climate Change, and the International En-  
10 ergy Agency and any other relevant information on  
11 technologies or practices that reduce or limit green-  
12 house gas emissions;

13 “(2) include the participation of technical ex-  
14 perts from relevant private industry sectors;

15 “(3) review the current and future projected de-  
16 ployment of technologies and practices in the United  
17 States that reduce or limit greenhouse gas emis-  
18 sions, including—

19 “(A) technologies for capture and seques-  
20 tration of greenhouse gases;

21 “(B) technologies to improve energy effi-  
22 ciency;

23 “(C) low- or zero-greenhouse gas emitting  
24 energy technologies;

1           “(D) low- or zero-greenhouse gas emitting  
2           fuels;

3           “(E) biological sequestration practices and  
4           technologies; and

5           “(F) any other technologies the Academy  
6           deems relevant; and

7           “(4) review and compare the emissions reduc-  
8           tion potential, commercial viability, market penetra-  
9           tion, investment trends, and deployment of the tech-  
10          nologies described in paragraph (3), including—

11           “(A) the need for additional research and  
12           development, including publicly funded research  
13           and development;

14           “(B) the extent of commercial deployment,  
15           including, where appropriate, a comparison to  
16           the cost and level of deployment of conventional  
17           fossil fuel-fired energy technologies and devices;  
18           and

19           “(C) an evaluation of any substantial tech-  
20           nological, legal, or market-based barriers to  
21           commercial deployment.

22          “(d) RECOMMENDATIONS.—

23           “(1) LATEST SCIENTIFIC INFORMATION.—  
24          Based on the review described in subsection (a)(1),

1 the Academy shall identify actions that could be  
2 taken to—

3 “(A) improve the characterization of  
4 changes in the earth-climate system and im-  
5 pacts of global climate change;

6 “(B) better inform decision making and  
7 actions related to global climate change;

8 “(C) mitigate risks to natural and social  
9 systems;

10 “(D) design policies to better account for  
11 climate risks; and

12 “(E) improve the accuracy and reliability  
13 of capabilities to monitor, report, and verify  
14 greenhouse gas emissions reduction efforts.

15 “(2) TECHNOLOGICAL INFORMATION.—Based  
16 on the analysis described in subsection (a)(2), the  
17 Academy shall identify—

18 “(A) additional emissions reductions that  
19 may be possible as a result of technologies de-  
20 scribed in the analysis;

21 “(B) barriers to the deployment of such  
22 technologies; and

23 “(C) actions that could be taken to speed  
24 deployment of such technologies.



1 submitted under section 704, that the United States  
2 will not achieve the necessary domestic greenhouse  
3 gas emissions reductions, or that global actions will  
4 not maintain safe global average surface tempera-  
5 ture and atmospheric greenhouse gas concentration  
6 thresholds, the President shall submit to Congress a  
7 plan identifying domestic and international actions  
8 that will achieve necessary additional greenhouse gas  
9 reductions, including any recommendations for legis-  
10 lative action.

11 **“PART B—DESIGNATION AND REGISTRATION OF**  
12 **GREENHOUSE GASES**

13 **“SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

14 “(a) GREENHOUSE GASES.—For purposes of this  
15 title, the following are greenhouse gases:

16 “(1) Carbon dioxide.

17 “(2) Methane.

18 “(3) Nitrous oxide.

19 “(4) Sulfur hexafluoride.

20 “(5) Hydrofluorocarbons from a chemical man-  
21 ufacturing process at an industrial stationary  
22 source.

23 “(6) Any perfluorocarbon.

24 “(7) Nitrogen trifluoride.

1           “(8) Any other anthropogenic gas designated as  
2           a greenhouse gas by the Administrator under this  
3           section.

4           “(b) DETERMINATION ON ADMINISTRATOR’S INITIA-  
5 TIVE.—The Administrator shall, by rule—

6           “(1) determine whether 1 metric ton of another  
7           anthropogenic gas makes the same or greater con-  
8           tribution to global warming over 100 years as 1 met-  
9           ric ton of carbon dioxide;

10           “(2) determine the carbon dioxide equivalent  
11           value for each gas with respect to which the Admin-  
12           istrator makes an affirmative determination under  
13           paragraph (1);

14           “(3) for each gas with respect to which the Ad-  
15           ministrator makes an affirmative determination  
16           under paragraph (1) and that is used as a substitute  
17           for a class I or class II substance under title VI, de-  
18           termine the extent to which to regulate that gas  
19           under section 619 and specify appropriate compli-  
20           ance obligations under section 619;

21           “(4) designate as a greenhouse gas for purposes  
22           of this title each gas for which the Administrator  
23           makes an affirmative determination under para-  
24           graph (1), to the extent that it is not regulated  
25           under section 619; and

1           “(5) specify the appropriate compliance obliga-  
2           tions under this title for each gas designated as a  
3           greenhouse gas under paragraph (4).

4           “(c) PETITIONS TO DESIGNATE A GREENHOUSE  
5 GAS.—

6           “(1) IN GENERAL.—Any person may petition  
7           the Administrator to designate as a greenhouse gas  
8           any anthropogenic gas 1 metric ton of which makes  
9           the same or greater contribution to global warming  
10          over 100 years as 1 metric ton of carbon dioxide.

11          “(2) CONTENTS OF PETITION.—The petitioner  
12          shall provide sufficient data, as specified by rule by  
13          the Administrator, to demonstrate that the gas is  
14          likely to be a greenhouse gas and is likely to be pro-  
15          duced, imported, used, or emitted in the United  
16          States. To the extent practicable, the petitioner shall  
17          also identify producers, importers, distributors,  
18          users, and emitters of the gas in the United States.

19          “(3) REVIEW AND ACTION BY THE ADMINIS-  
20          TRATOR.—Not later than 90 days after receipt of a  
21          petition under paragraph (2), the Administrator  
22          shall determine whether the petition is complete and  
23          notify the petitioner and the public of the decision.

24          “(4) ADDITIONAL INFORMATION.—The Admin-  
25          istrator may require producers, importers, distribu-

1       tors, users, or emitters of the gas to provide infor-  
2       mation on the contribution of the gas to global  
3       warming over 100 years compared to carbon dioxide.

4           “(5) TREATMENT OF PETITION.—For any sub-  
5       stance used as a substitute for a class I or class II  
6       substance under title VI, the Administrator may  
7       elect to treat a petition under this subsection as a  
8       petition to list the substance as a class II, group II  
9       substance under section 619, and may require the  
10      petition to be amended to address listing criteria  
11      promulgated under that section.

12          “(6) DETERMINATION.—Not later than 2 years  
13      after receipt of a complete petition, the Adminis-  
14      trator shall, after notice and an opportunity for com-  
15      ment—

16           “(A) issue and publish in the Federal Reg-  
17      ister—

18           “(i) a determination that 1 metric ton  
19           of the gas does not make a contribution to  
20           global warming over 100 years that is  
21           equal to or greater than that made by 1  
22           metric ton of carbon dioxide; and

23           “(ii) an explanation of the decision; or

24           “(B) determine that 1 metric ton of the  
25      gas makes a contribution to global warming



1 over 100 years that is equal to or greater than  
2 that made by 1 metric ton of carbon dioxide,  
3 and take the actions described in subsection (b)  
4 with respect to such gas.

5 “(7) GROUNDS FOR DENIAL.—The Adminis-  
6 trator may not deny a petition under this subsection  
7 solely on the basis of inadequate Environmental Pro-  
8 tection Agency resources or time for review.

9 “(d) SCIENCE ADVISORY BOARD CONSULTATION.—

10 “(1) CONSULTATION.—The Administrator  
11 shall—

12 “(A) give notice to the Science Advisory  
13 Board prior to making a determination under  
14 subsection (b)(1), (c)(6), or (e)(2)(B);

15 “(B) consider the written recommendations  
16 of the Science Advisory Board under paragraph  
17 (2) regarding the determination; and

18 “(C) consult with the Science Advisory  
19 Board regarding such determination, including  
20 consultation subsequent to receipt of such writ-  
21 ten recommendations.

22 “(2) FORMULATION OF RECOMMENDATIONS.—

23 Upon receipt of notice under paragraph (1)(A) re-  
24 garding a pending determination under subsection

1 (b)(1), (c)(6), or (e)(2)(B), the Science Advisory  
2 Board shall—

3 “(A) formulate recommendations regarding  
4 such determination, subject to a peer review  
5 process; and

6 “(B) submit such recommendations in  
7 writing to the Administrator.

8 “(e) MANUFACTURING AND EMISSION NOTICES.—

9 “(1) NOTICE REQUIREMENT.—

10 “(A) IN GENERAL.—Effective 24 months  
11 after the date of enactment of this title, no per-  
12 son may manufacture or introduce into inter-  
13 state commerce a fluorinated gas, or emit a sig-  
14 nificant quantity, as determined by the Admin-  
15 istrator, of any fluorinated gas that is gen-  
16 erated as a byproduct during the production or  
17 use of another fluorinated gas, unless—

18 “(i) the gas is designated as a green-  
19 house gas under this section or is an  
20 ozone-depleting substance listed as a class  
21 I or class II substance under title VI;

22 “(ii) the Administrator has deter-  
23 mined that 1 metric ton of such gas does  
24 not make a contribution to global warming

1           that is equal to or greater than that made  
2           by 1 metric ton of carbon dioxide; or

3           “(iii) the person manufacturing or im-  
4           porting the gas for distribution into inter-  
5           state commerce, or emitting the gas, has  
6           submitted to the Administrator, at least 90  
7           days before the start of such manufacture,  
8           introduction into commerce, or emission, a  
9           notice of such person’s manufacture, intro-  
10          duction into commerce, or emission of such  
11          gas, and the Administrator has not deter-  
12          mined that notice or a substantially similar  
13          notice is incomplete.

14          “(B) ALTERNATIVE COMPLIANCE.—For a  
15          gas that is a substitute for a class I or class II  
16          substance under title VI and either has been  
17          listed as acceptable for use under section 612  
18          or is currently subject to evaluation under sec-  
19          tion 612, the Administrator may accept the no-  
20          tice and information provided pursuant to that  
21          section as fulfilling the obligation under clause  
22          (iii) of subparagraph (A).

23          “(2) REVIEW AND ACTION BY THE ADMINIS-  
24          TRATOR.—

1           “(A) COMPLETENESS.—Not later than 90  
2 days after receipt of notice under paragraph  
3 (1)(A)(iii) or (B), the Administrator shall deter-  
4 mine whether the notice is complete.

5           “(B) DETERMINATION.—If the Adminis-  
6 trator determines that the notice is complete,  
7 the Administrator shall, after notice and an op-  
8 portunity for comment, not later than 12  
9 months after receipt of the notice—

10           “(i) issue and publish in the Federal  
11 Register a determination that 1 metric ton  
12 of the gas does not make a contribution to  
13 global warming over 100 years that is  
14 equal to or greater than that made by 1  
15 metric ton of carbon dioxide and an expla-  
16 nation of the decision; or

17           “(ii) determine that 1 metric ton of  
18 the gas makes a contribution to global  
19 warming over 100 years that is equal to or  
20 greater than that made by 1 metric ton of  
21 carbon dioxide, and take the actions de-  
22 scribed in subsection (b) with respect to  
23 such gas.

24           “(f) REGULATIONS.—Not later than one year after  
25 the date of enactment of this title, the Administrator shall

1 promulgate regulations to carry out this section. Such reg-  
2 ulations shall include—

3 “(1) requirements for the contents of a petition  
4 submitted under subsection (c);

5 “(2) requirements for the contents of a notice  
6 required under subsection (e); and

7 “(3) methods and standards for evaluating the  
8 carbon dioxide equivalent value of a gas.

9 “(g) GASES REGULATED UNDER TITLE VI.—The  
10 Administrator shall not designate a gas as a greenhouse  
11 gas under this section to the extent that the gas is regu-  
12 lated under title VI.

13 “(h) SAVINGS CLAUSE.—Nothing in this section shall  
14 be interpreted to relieve any person from complying with  
15 the requirements of section 612.

16 **“SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF**  
17 **GREENHOUSE GASES.**

18 “(a) MEASURE OF QUANTITY OF GREENHOUSE  
19 GASES.—Any provision of this title or title VIII that refers  
20 to a quantity or percentage of a quantity of greenhouse  
21 gases shall mean the quantity or percentage of the green-  
22 house gases expressed in carbon dioxide equivalents.

23 “(b) INITIAL VALUE.—Except as provided by the Ad-  
24 ministrator under this section or section 711—

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1           “(1) the carbon dioxide equivalent value of  
 2           greenhouse gases for purposes of this Act shall be as  
 3           follows:

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
 GREENHOUSE GASES**

<b>Greenhouse gas (1 metric ton)</b>	<b>Carbon dioxide equivalent (metric tons)</b>
Carbon dioxide	1
Methane	25
Nitrous oxide	298
HFC-23	14,800
HFC-125	3,500
HFC-134a	1,430
HFC-143a	4,470
HFC-152a	124
HFC-227ea	3,220
HFC-236fa	9,810
HFC-4310mee	1,640
CF <sub>4</sub>	7,390
C <sub>2</sub> F <sub>6</sub>	12,200
C <sub>4</sub> F <sub>10</sub>	8,860
C <sub>6</sub> F <sub>14</sub>	9,300
SF <sub>6</sub>	22,800
NF <sub>3</sub>	17,200

4           ; and

5           “(2) the carbon dioxide equivalent value for  
 6           purposes of this Act for any greenhouse gas not list-  
 7           ed in the table under paragraph (1) shall be the

1 100-year Global Warming Potentials provided in the  
2 Intergovernmental Panel on Climate Change Fourth  
3 Assessment Report.

4 “(c) PERIODIC REVIEW.—

5 “(1) Not later than February 1, 2017, and (ex-  
6 cept as provided in paragraph (3)) not less than  
7 every 5 years thereafter, the Administrator shall—

8 “(A) review and, if appropriate, revise the  
9 carbon dioxide equivalent values established  
10 under this section or section 711(b)(2), based  
11 on a determination of the number of metric  
12 tons of carbon dioxide that makes the same  
13 contribution to global warming over 100 years  
14 as 1 metric ton of each greenhouse gas; and

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

17 “(2) A revised determination published in the  
18 Federal Register under paragraph (1)(B) shall take  
19 effect for greenhouse gas emissions starting on Jan-  
20 uary 1 of the first calendar year starting at least 9  
21 months after the date on which the revised deter-  
22 mination was published.

23 “(3) The Administrator may decrease the fre-  
24 quency of review and revision under paragraph (1)  
25 if the Administrator determines that such decrease

1 is appropriate in order to synchronize such review  
2 and revision with any similar review process carried  
3 out pursuant to the United Nations Framework  
4 Convention on Climate Change, done at New York  
5 on May 9, 1992, or to an agreement negotiated  
6 under that convention, except that in no event shall  
7 the Administrator carry out such review and revision  
8 any less frequently than every 10 years.

9 “(d) **METHODOLOGY.**—In setting carbon dioxide  
10 equivalent values, for purposes of this section or section  
11 711, the Administrator shall take into account publica-  
12 tions by the Intergovernmental Panel on Climate Change  
13 or a successor organization under the auspices of the  
14 United Nations Environmental Programme and the World  
15 Meteorological Organization.

16 **“SEC. 713. GREENHOUSE GAS REGISTRY.**

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

18 “(1) **CLIMATE REGISTRY.**—The term ‘Climate  
19 Registry’ means the greenhouse gas emissions reg-  
20 istry jointly established and managed by more than  
21 40 States and Indian tribes in 2007 to collect high-  
22 quality greenhouse gas emission data from facilities,  
23 corporations, and other organizations to support var-  
24 ious greenhouse gas emission reporting and reduc-



1           tion policies for the member States and Indian  
2           tribes.

3           “(2) REPORTING ENTITY.—The term ‘reporting  
4           entity’ means—

5                   “(A) a covered entity;

6                   “(B) an entity that—

7                           “(i) would be a covered entity if it had  
8                           emitted, produced, imported, manufac-  
9                           tured, or delivered in 2008 or any subse-  
10                           quent year more than the applicable  
11                           threshold level in the definition of covered  
12                           entity in paragraph (13) of section 700;  
13                           and

14                           “(ii) has emitted, produced, imported,  
15                           manufactured, or delivered in 2008 or any  
16                           subsequent year more than the applicable  
17                           threshold level in the definition of covered  
18                           entity in paragraph (13) of section 700,  
19                           provided that the figure of 25,000 tons of  
20                           carbon dioxide equivalent is read instead  
21                           as 10,000 tons of carbon dioxide equivalent  
22                           and the figure of 460,000,000 cubic feet is  
23                           read instead as 184,000,000 cubic feet;

24                           “(C) any other entity that emits a green-  
25                           house gas, or produces, imports, manufactures,

1 or delivers material whose use results or may  
2 result in greenhouse gas emissions if the Ad-  
3 ministrator determines that reporting under  
4 this section by such entity will help achieve the  
5 purposes of this title or title VIII;

6 “(D) any vehicle fleet with emissions of  
7 more than 25,000 tons of carbon dioxide equiv-  
8 alent on an annual basis, if the Administrator  
9 determines that the inclusion of such fleet will  
10 help achieve the purposes of this title or title  
11 VIII; or

12 “(E) any entity that delivers electricity to  
13 an energy-intensive facility in an industrial sec-  
14 tor that meets the energy or greenhouse gas in-  
15 tensity criteria in section 764(b)(2)(A)(i).

16 “(b) REGULATIONS.—

17 “(1) IN GENERAL.—Not later than 6 months  
18 after the date of enactment of this title, the Admin-  
19 istrator shall issue regulations establishing a Federal  
20 greenhouse gas registry. Such regulations shall—

21 “(A) require reporting entities to submit to  
22 the Administrator data on—

23 “(i) greenhouse gas emissions in the  
24 United States;

1                   “(ii) the production and manufacture  
2                   in the United States, importation into the  
3                   United States, and, at the discretion of the  
4                   Administrator, exportation from the  
5                   United States, of fuels and industrial gases  
6                   the uses of which result or may result in  
7                   greenhouse gas emissions;

8                   “(iii) deliveries in the United States of  
9                   natural gas, and any other gas meeting the  
10                  specifications for commingling with natural  
11                  gas for purposes of delivery, the combus-  
12                  tion of which result or may result in green-  
13                  house gas emissions; and

14                  “(iv) the capture and sequestration of  
15                  greenhouse gases;

16                  “(B) require covered entities and, where  
17                  appropriate, other reporting entities to submit  
18                  to the Administrator data sufficient to ensure  
19                  compliance with or implementation of the re-  
20                  quirements of this title;

21                  “(C) require reporting of electricity deliv-  
22                  ered to industrial sources in energy-intensive in-  
23                  dustries;

1           “(D) ensure the completeness, consistency,  
2           transparency, accuracy, precision, and reliability  
3           of such data;

4           “(E) take into account the best practices  
5           from the most recent Federal, State, tribal, and  
6           international protocols for the measurement, ac-  
7           counting, reporting, and verification of green-  
8           house gas emissions, including protocols from  
9           the Climate Registry and other mandatory  
10          State or multistate authorized programs;

11          “(F) take into account the latest scientific  
12          research;

13          “(G) require that, for covered entities with  
14          respect to greenhouse gases to which section  
15          722 applies, and, to the extent determined to be  
16          appropriate by the Administrator, for covered  
17          entities with respect to other greenhouse gases  
18          and for other reporting entities, submitted data  
19          are based on—

20                 “(i) continuous monitoring systems  
21                 for fuel flow or emissions, such as contin-  
22                 uous emission monitoring systems;

23                 “(ii) alternative systems that are dem-  
24                 onstrated as providing data with the same  
25                 precision, reliability, accessibility, and

1 timeliness, or, to the extent the Adminis-  
2 trator determines is appropriate for report-  
3 ing small amounts of emissions, the same  
4 precision, reliability, and accessibility and  
5 similar timeliness, as data provided by con-  
6 tinuous monitoring systems for fuel flow or  
7 emissions; or

8 “(iii) alternative methodologies that  
9 are demonstrated to provide data with pre-  
10 cision, reliability, accessibility, and timeli-  
11 ness, or, to the extent the Administrator  
12 determines is appropriate for reporting  
13 small amounts of emissions, precision, reli-  
14 ability, and accessibility, as similar as is  
15 technically feasible to that of data gen-  
16 erally provided by continuous monitoring  
17 systems for fuel flow or emissions, if the  
18 Administrator determines that, with re-  
19 spect to a reporting entity, there is no con-  
20 tinuous monitoring system or alternative  
21 system described in clause (i) or (ii) that  
22 is technically feasible;

23 “(H) require that the Administrator, in de-  
24 termining the extent to which the requirement  
25 to use systems or methodologies in accordance

1 with subparagraph (G) is appropriate for re-  
2 porting entities other than covered entities or  
3 for greenhouse gases to which section 722 does  
4 not apply, consider the cost of using such sys-  
5 tems and methodologies, and of using other sys-  
6 tems and methodologies that are available and  
7 suitable, for quantifying the emissions involved  
8 in light of the purposes of this title, including  
9 the goal of collecting consistent entity-wide  
10 data;

11 “(I) include methods for minimizing double  
12 reporting and avoiding irreconcilable double re-  
13 porting of greenhouse gas emissions;

14 “(J) establish measurement protocols for  
15 carbon capture and sequestration systems, tak-  
16 ing into consideration the regulations promul-  
17 gated under section 813;

18 “(K) require that reporting entities provide  
19 the data required under this paragraph in re-  
20 ports submitted electronically to the Adminis-  
21 trator, in such form and containing such infor-  
22 mation as may be required by the Adminis-  
23 trator;

1           “(L) include requirements for keeping  
2 records supporting or related to, and protocols  
3 for auditing, submitted data;

4           “(M) establish consistent policies for calcu-  
5 lating carbon content and greenhouse gas emis-  
6 sions for each type of fossil fuel with respect to  
7 which reporting is required;

8           “(N) subsequent to implementation of poli-  
9 cies developed under subparagraph (M), provide  
10 for immediate dissemination, to States, Indian  
11 tribes, and on the Internet, of all data reported  
12 under this section as soon as practicable after  
13 electronic audit by the Administrator and any  
14 resulting correction of data, except that data  
15 shall not be disseminated under this subpara-  
16 graph if—

17           “(i) its nondissemination is vital to  
18 the national security of the United States,  
19 as determined by the President; or

20           “(ii) it is confidential business infor-  
21 mation that cannot be derived from infor-  
22 mation that is otherwise publicly available  
23 and that would cause significant calculable  
24 competitive harm if published, except  
25 that—

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1                   “(I) data relating to greenhouse  
2                   gas emissions, including any upstream  
3                   or verification data from reporting en-  
4                   tities, shall not be considered to be  
5                   confidential business information; and

6                   “(II) data that is confidential  
7                   business information shall be provided  
8                   to a State or Indian tribe within  
9                   whose jurisdiction the reporting entity  
10                  is located, if the Administrator deter-  
11                  mines that such State or Indian tribe  
12                  has in effect protections for confiden-  
13                  tial business information that are  
14                  equivalent to protections applicable to  
15                  the Federal Government;

16                  “(O) prescribe methods by which the Ad-  
17                  ministrators shall, in cases in which satisfactory  
18                  data are not submitted to the Administrator for  
19                  any period of time, estimate emission, produc-  
20                  tion, importation, manufacture, or delivery lev-  
21                  els—

22                  “(i) for covered entities with respect  
23                  to greenhouse gas emissions, production,  
24                  importation, manufacture, or delivery regu-  
25                  lated under this title to ensure that emis-



1                   sions, production, importation, manufac-  
2                   ture, or deliveries are not underreported,  
3                   and to create a strong incentive for meet-  
4                   ing data monitoring and reporting require-  
5                   ments—

6                                 “(I) with a conservative estimate  
7                                 of the highest emission, production,  
8                                 importation, manufacture, or delivery  
9                                 levels that may have occurred during  
10                                the period for which data are missing;  
11                                or

12                               “(II) to the extent the Adminis-  
13                               trator considers appropriate, with an  
14                               estimate of such levels assuming the  
15                               unit is emitting, producing, importing,  
16                               manufacturing, or delivering at a  
17                               maximum potential level during the  
18                               period, in order to ensure that such  
19                               levels are not underreported and to  
20                               create a strong incentive for meeting  
21                               data monitoring and reporting re-  
22                               quirements; and

23                               “(ii) for covered entities with respect  
24                               to greenhouse gas emissions to which sec-  
25                               tion 722 does not apply and for other re-

1            reporting entities, with a reasonable estimate  
2            of the emission, production, importation,  
3            manufacture, or delivery levels that may  
4            have occurred during the period for which  
5            data are missing;

6            “(P) require the designation of a des-  
7            igned representative for each reporting entity;

8            “(Q) require an appropriate certification,  
9            by the designated representative for the report-  
10           ing entity, of accurate and complete accounting  
11           of greenhouse gas emissions, as determined by  
12           the Administrator; and

13           “(R) include requirements for other data  
14           necessary for accurate and complete accounting  
15           of greenhouse gas emissions, as determined by  
16           the Administrator, including data for quality  
17           assurance of monitoring systems, monitors and  
18           other measurement devices, and other data  
19           needed to verify reported emissions, production,  
20           importation, manufacture, or delivery.

21           “(2) TIMING.—

22           “(A) CALENDAR YEARS 2007 THROUGH  
23           2010.—For a base period of calendar years  
24           2007 through 2010, each reporting entity shall  
25           submit annual data required under this section

1 to the Administrator not later than March 31,  
2 2011. The Administrator may waive or modify  
3 reporting requirements for calendar years 2007  
4 through 2010 for categories of reporting enti-  
5 ties to the extent that the Administrator deter-  
6 mines that the reporting entities did not keep  
7 data or records necessary to meet reporting re-  
8 quirements. The Administrator may, in addition  
9 to or in lieu of such requirements, collect infor-  
10 mation on energy consumption and production.

11 “(B) SUBSEQUENT CALENDAR YEARS.—  
12 For calendar year 2011 and each subsequent  
13 calendar year, each reporting entity shall sub-  
14 mit quarterly data required under this section  
15 to the Administrator not later than 60 days  
16 after the end of the applicable quarter, except  
17 when the data is already being reported to the  
18 Administrator on an earlier timeframe for an-  
19 other program.

20 “(3) WAIVER OF REPORTING REQUIREMENTS.—  
21 The Administrator may waive reporting require-  
22 ments under this section for specific entities to the  
23 extent that the Administrator determines that suffi-  
24 cient and equally or more reliable verified and timely  
25 data are available to the Administrator and the pub-

1       lic on the Internet under other mandatory statutory  
2       requirements.

3               “(4) ALTERNATIVE THRESHOLD.—The Admin-  
4       istrator may, by rule, establish applicability thresh-  
5       olds for reporting under this section using alter-  
6       native metrics and levels, provided that such metrics  
7       and levels are easier to administer and cover the  
8       same size and type of sources as the threshold de-  
9       fined in this section.

10       “(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—  
11       In developing the regulations issued under subsection (b),  
12       the Administrator shall take into account the work done  
13       by the Climate Registry and other mandatory State or  
14       multistate programs. Such regulations shall include an ex-  
15       planation of any major differences in approach between  
16       the system established under the regulations and such reg-  
17       istries and programs.

18                       **“PART C—PROGRAM RULES**

19       **“SEC. 721. EMISSION ALLOWANCES.**

20       “(a) IN GENERAL.—The Administrator shall estab-  
21       lish a separate quantity of emission allowances for each  
22       calendar year starting in 2012, in the amounts prescribed  
23       under subsection (e).

24       “(b) IDENTIFICATION NUMBERS.—The Adminis-  
25       trator shall assign to each emission allowance established

1 under subsection (a) a unique identification number that  
2 includes the vintage year for that emission allowance.

3 “(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

4 “(1) IN GENERAL.—An allowance established  
5 by the Administrator under this title does not con-  
6 stitute a property right.

7 “(2) TERMINATION OR LIMITATION.—Nothing  
8 in this Act or any other provision of law shall be  
9 construed to limit or alter the authority of the  
10 United States, including the Administrator acting  
11 pursuant to statutory authority, to terminate or  
12 limit allowances or offset credits.

13 “(3) OTHER PROVISIONS UNAFFECTED.—Ex-  
14 cept as otherwise specified in this Act, nothing in  
15 this Act relating to allowances or offset credits es-  
16 tablished or issued under this title shall affect the  
17 application of any other provision of law to a covered  
18 entity, or the responsibility for a covered entity to  
19 comply with any such provision of law.

20 “(d) SAVINGS PROVISION.—Nothing in this part shall  
21 be construed as requiring a change of any kind in any  
22 State law regulating electric utility rates and charges, or  
23 as affecting any State law regarding such State regula-  
24 tion, or as limiting State regulation (including any  
25 prudence review) under such a State law. Nothing in this

1 part shall be construed as modifying the Federal Power  
 2 Act (16 U.S.C. 791a et seq.) or as affecting the authority  
 3 of the Federal Energy Regulatory Commission under that  
 4 Act. Nothing in this part shall be construed to interfere  
 5 with or impair any program for competitive bidding for  
 6 power supply in a State in which such program is estab-  
 7 lished.

8 “(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

9 “(1) IN GENERAL.—Except as provided in para-  
 10 graph (2), the number of emission allowances estab-  
 11 lished by the Administrator under subsection (a) for  
 12 each calendar year shall be as provided in the fol-  
 13 lowing table:

<b>“Calendar year</b>	<b>Emission allowances (in mil- lions)</b>
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

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<b>“Calendar year</b>	<b>Emission allowances (in mil- lions)</b>
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

1 “(2) REVISION.—

2 “(A) IN GENERAL.—The Administrator  
3 may adjust, in accordance with subparagraph  
4 (B), the number of emission allowances estab-  
5 lished pursuant to paragraph (1) if, after notice  
6 and an opportunity for public comment, the Ad-  
7 ministrator determines that—

8 “(i) United States greenhouse gas  
9 emissions in 2005 were other than 7,206  
10 million metric tons carbon dioxide equiva-  
11 lent;

12 “(ii) if the requirements of this title  
13 for 2012 had been in effect in 2005, sec-  
14 tion 722 would have required emission al-  
15 lowances to be held for other than 66.2  
16 percent of United States greenhouse gas  
17 emissions in 2005;

18 “(iii) if the requirements of this title  
19 for 2014 had been in effect in 2005, sec-  
20 tion 722 would have required emission al-  
21 lowances to be held for other than 75.7  
22 percent of United States greenhouse gas  
23 emissions in 2005; or

24 “(iv) if the requirements of this title  
25 for 2016 had been in effect in 2005, sec-



1           tion 722 would have required emission al-  
2           lowances to be held for other than 84.5  
3           percent United States greenhouse gas  
4           emissions in 2005.

5           “(B) ADJUSTMENT FORMULA.—

6                   “(i) IN GENERAL.—If the Adminis-  
7           trator adjusts under this paragraph the  
8           number of emission allowances established  
9           pursuant to paragraph (1), the number of  
10          emission allowances the Administrator es-  
11          tablishes for any given calendar year shall  
12          equal the product of—

13                   “(I) United States greenhouse  
14          gas emissions in 2005, expressed in  
15          tons of carbon dioxide equivalent;

16                   “(II) the percent of United  
17          States greenhouse gas emissions in  
18          2005, expressed in tons of carbon di-  
19          oxide equivalent, that would have been  
20          subject to section 722 if the require-  
21          ments of this title for the given cal-  
22          endar year had been in effect in 2005;  
23          and

24                   “(III) the percentage set forth  
25          for that calendar year in section

1                   701(a), or determined under clause  
2                   (ii) of this subparagraph.

3                   “(ii) TARGETS.—In applying the por-  
4                   tion of the formula in clause (i)(III) of this  
5                   subparagraph, for calendar years for which  
6                   a percentage is not listed in section 701(a),  
7                   the Administrator shall use a uniform an-  
8                   nual decline in the amount of emissions be-  
9                   tween the years that are specified.

10                  “(iii) CARBON DIOXIDE EQUIVALENT  
11                  VALUE.—If the Administrator adjusts  
12                  under this paragraph the number of emis-  
13                  sion allowances established pursuant to  
14                  paragraph (1), the Administrator shall use  
15                  the carbon dioxide equivalent values estab-  
16                  lished pursuant to section 712.

17                  “(iv) LIMITATION ON ADJUSTMENT  
18                  TIMING.—Once a calendar year has start-  
19                  ed, the Administrator may not adjust the  
20                  number of emission allowances to be estab-  
21                  lished for that calendar year.

22                  “(C) LIMITATION ON ADJUSTMENT AU-  
23                  THORITY.—The Administrator may adjust  
24                  under this paragraph the number of emission

1 allowances to be established pursuant to para-  
2 graph (1) only once.

3 “(f) COMPENSATORY ALLOWANCE.—

4 “(1) IN GENERAL.—The regulations promul-  
5 gated under subsection (h) shall provide for the es-  
6 tablishment and distribution of compensatory allow-  
7 ances for—

8 “(A) the destruction, in 2012 or later, of  
9 fluorinated gases that are greenhouse gases if—

10 “(i) allowances or offset credits were  
11 retired for their production or importation;  
12 and

13 “(ii) such gases are not required to be  
14 destroyed under any other provision of law;

15 “(B) the nonemissive use, in 2012 or later,  
16 of petroleum-based or coal-based liquid or gas-  
17 eous fuel, petroleum coke, natural gas liquid, or  
18 natural gas as a feedstock, if allowances or off-  
19 set credits were retired for the greenhouse  
20 gases that would have been emitted from their  
21 combustion; and

22 “(C) the conversionary use, in 2012 or  
23 later, of fluorinated gases in a manufacturing  
24 process, including semiconductor research or  
25 manufacturing, if allowances or offset credits

1           were retired for the production or importation  
2           of such gas.

3           “(2) ESTABLISHMENT AND DISTRIBUTION.—

4                   “(A) IN GENERAL.—Not later than 90  
5           days after the end of each calendar year, the  
6           Administrator shall establish and distribute to  
7           the entity taking the actions described in sub-  
8           paragraph (A), (B), or (C) of paragraph (1) a  
9           quantity of compensatory allowances equivalent  
10          to the number of tons of carbon dioxide equiva-  
11          lent of avoided emissions achieved through such  
12          actions. In establishing the quantity of compen-  
13          satory allowances, the Administrator shall take  
14          into account the carbon dioxide equivalent value  
15          of any greenhouse gas resulting from such ac-  
16          tion.

17                   “(B) SOURCE OF ALLOWANCES.—Compen-  
18          satory allowances established under this sub-  
19          section shall not be emission allowances estab-  
20          lished under subsection (a).

21                   “(C) IDENTIFICATION NUMBERS.—The  
22          Administrator shall assign to each compen-  
23          satory allowance established under subpara-  
24          graph (A) a unique identification number.

1           “(3) DEFINITIONS.—For purposes of this sub-  
2           section—

3                   “(A) the term ‘destruction’ means the con-  
4                   version of a greenhouse gas by thermal, chem-  
5                   ical, or other means to another gas or set of  
6                   gases with little or no carbon dioxide equivalent  
7                   value;

8                   “(B) the term ‘nonemissive use’ means the  
9                   use of fossil fuel as a feedstock in an industrial  
10                  or manufacturing process to the extent that  
11                  greenhouse gases are not emitted from such  
12                  process, and to the extent that the products of  
13                  such process are not intended for use as, or to  
14                  be contained in, a fuel; and

15                  “(C) the term ‘conversionary use’ means  
16                  the conversion during research or manufac-  
17                  turing of a fluorinated gas into another green-  
18                  house gas or set of gases with a lower carbon  
19                  dioxide equivalent value.

20           “(4) FEEDSTOCK EMISSIONS STUDY.—

21                   “(A) The Administrator may conduct a  
22                   study to determine the extent to which petro-  
23                   leum-based or coal-based liquid or gaseous fuel,  
24                   petroleum coke, natural gas liquid, or natural  
25                   gas are used as feedstocks in manufacturing

1 processes to produce products and the green-  
2 house gas emissions resulting from such uses.

3 “(B) If as a result of such a study, the Ad-  
4 ministrator determines that the use of such  
5 products by noncovered sources results in sub-  
6 stantial emissions of greenhouse gases or their  
7 precursors and that such emissions have not  
8 been adequately addressed under other require-  
9 ments of this Act, the Administrator may, after  
10 notice and comment rulemaking, promulgate a  
11 regulation reducing compensatory allowances  
12 commensurately if doing so will not result in  
13 leakage.

14 “(g) FLUORINATED GASES ASSESSMENT.—No later  
15 than March 31, 2014, the Administrator shall conduct an  
16 assessment of the regulation of non-HFC fluorinated  
17 gases under this title to determine whether the most ap-  
18 propriate point of regulation is at the gas manufacturer  
19 or importer level, or at the source of emissions down-  
20 stream. If the Administrator determines, based on consid-  
21 eration of environmental effectiveness, cost effectiveness,  
22 administrative feasibility, extent of coverage of emissions,  
23 and competitiveness considerations, that emissions of non-  
24 HFC fluorinated gases can best be regulated by desig-  
25 nating downstream emission sources as covered entities

1 with compliance obligations under section 722, the Admin-  
2 istrator shall, after notice and comment rulemaking,  
3 change the definition of covered entity with respect to  
4 fluorinated gases (other than HFCs) accordingly and es-  
5 tablish such requirements as are necessary to ensure com-  
6 pliance for such entities with the requirements of this title.

7 “(h) REGULATIONS.—Not later than 24 months after  
8 the date of enactment of this title, the Administrator shall  
9 promulgate regulations to carry out the provisions of this  
10 title.

11 **“SEC. 722. PROHIBITION OF EXCESS EMISSIONS.**

12 “(a) PROHIBITION.—Except as provided in sub-  
13 section (c), effective January 1, 2012, each covered entity  
14 is prohibited from emitting greenhouse gases, and having  
15 attributable greenhouse gas emissions, in combination, in  
16 excess of its allowable emissions level. A covered entity’s  
17 allowable emissions level for each calendar year is the  
18 number of emission allowances (or credits or other allow-  
19 ances as provided in subsection (d)) it holds as of 12:01  
20 a.m. on April 1 (or a later date established by the Admin-  
21 istrator under subsection (j)) of the following calendar  
22 year.

23 “(b) METHODS OF DEMONSTRATING COMPLIANCE.—  
24 Except as otherwise provided in this section, the owner  
25 or operator of a covered entity shall not be considered to

1 be in compliance with the prohibition in subsection (a) un-  
2 less, as of 12:01 a.m. on April 1 (or a later date estab-  
3 lished by the Administrator under subsection (j)) of each  
4 calendar year starting in 2013, the owner or operator  
5 holds a quantity of emission allowances (or credits or other  
6 allowances as provided in subsection (d)) at least as great  
7 as the quantity calculated as follows:

8           “(1) ELECTRICITY SOURCES.—For a covered  
9           entity described in section 700(13)(A), 1 emission  
10          allowance for each ton of carbon dioxide equivalent  
11          of greenhouse gas that such covered entity emitted  
12          in the previous calendar year, excluding emissions  
13          resulting from the combustion of—

14                 “(A) petroleum-based or coal-based liquid  
15                 fuel;

16                 “(B) natural gas liquid;

17                 “(C) renewable biomass or gas derived  
18                 from renewable biomass; or

19                 “(D) petroleum coke or gas derived from  
20                 petroleum coke.

21           “(2) FUEL PRODUCERS AND IMPORTERS.—For  
22          a covered entity described in section 700(13)(B), 1  
23          emission allowance for each ton of carbon dioxide  
24          equivalent of greenhouse gas that would be emitted  
25          from the combustion of any petroleum-based or coal-



1 based liquid fuel, petroleum coke, or natural gas liq-  
2 uid, produced or imported by such covered entity  
3 during the previous calendar year for sale or dis-  
4 tribution in interstate commerce, assuming no cap-  
5 ture and sequestration of any greenhouse gas emis-  
6 sions.

7 “(3) INDUSTRIAL GAS PRODUCERS AND IM-  
8 PORTERS.—For a covered entity described in section  
9 700(13)(C), 1 emission allowance for each ton of  
10 carbon dioxide equivalent of fossil fuel-based carbon  
11 dioxide, nitrous oxide, or any other fluorinated gas  
12 that is a greenhouse gas (except for nitrogen  
13 trifluoride), or any combination thereof, produced or  
14 imported by such covered entity during the previous  
15 calendar year for sale or distribution in interstate  
16 commerce or released as fugitive emissions in the  
17 production of fluorinated gas.

18 “(4) NITROGEN TRIFLUORIDE SOURCES.—For  
19 a covered entity described in section 700(13)(D), 1  
20 emission allowance for each ton of carbon dioxide  
21 equivalent of nitrogen trifluoride that such covered  
22 entity emitted in the previous calendar year.

23 “(5) GEOLOGICAL SEQUESTRATION SITES.—For  
24 a covered entity described in section 700(13)(E), 1  
25 emission allowance for each ton of carbon dioxide

1 equivalent of greenhouse gas that such covered enti-  
2 ty emitted in the previous calendar year.

3 “(6) INDUSTRIAL STATIONARY SOURCES.—For  
4 a covered entity described in section 700(13)(F),  
5 (G), or (H), 1 emission allowance for each ton of  
6 carbon dioxide equivalent of greenhouse gas that  
7 such covered entity emitted in the previous calendar  
8 year, excluding emissions resulting from—

9 “(A) the combustion of petroleum-based or  
10 coal-based liquid fuel;

11 “(B) the combustion of natural gas liquid;

12 “(C) the combustion of renewable biomass  
13 or gas derived from renewable biomass;

14 “(D) the combustion of petroleum coke or  
15 gas derived from petroleum coke; or

16 “(E) the use of any fluorinated gas that is  
17 a greenhouse gas purchased for use at that cov-  
18 ered entity, except for nitrogen trifluoride.

19 “(7) INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-  
20 TION DEVICES.—For a covered entity described in  
21 section 700(13)(I), 1 emission allowance for each  
22 ton of carbon dioxide equivalent of greenhouse gas  
23 that the devices emitted in the previous calendar  
24 year, excluding emissions resulting from the combus-  
25 tion of—

1           “(A) petroleum-based or coal-based liquid  
2           fuel;

3           “(B) natural gas liquid;

4           “(C) renewable biomass or gas derived  
5           from renewable biomass; or

6           “(D) petroleum coke or gas derived from  
7           petroleum coke.

8           “(8) NATURAL GAS LOCAL DISTRIBUTION COM-  
9           PANIES.—For a covered entity described in section  
10          700(13)(J), 1 emission allowance for each ton of  
11          carbon dioxide equivalent of greenhouse gas that  
12          would be emitted from the combustion of the natural  
13          gas, and any other gas meeting the specifications for  
14          commingling with natural gas for purposes of deliv-  
15          ery, that such entity delivered during the previous  
16          calendar year to customers that are not covered enti-  
17          ties, assuming no capture and sequestration of that  
18          greenhouse gas.

19          “(9) R&D FACILITIES.—

20                 “(A) IN GENERAL.—For a qualified R&D  
21                 facility that emitted 25,000 tons per year or  
22                 more carbon dioxide equivalent in the previous  
23                 calendar year, 1 emission allowance for each  
24                 ton of carbon dioxide equivalent of greenhouse

1 gas that such facility emitted in the previous  
2 calendar year.

3 “(B) TREATMENT.—A qualified R&D facil-  
4 ity shall be treated as a separate covered entity  
5 solely for purposes of applying the requirements  
6 of this subsection.

7 “(10) ALGAE-BASED FUELS.—Where carbon di-  
8 oxide (or another greenhouse gas) is used as an  
9 input in the production of algae-based fuels, the Ad-  
10 ministrator shall ensure that allowances are required  
11 to be held either for the carbon dioxide used to grow  
12 the algae or for the carbon dioxide emitted from  
13 combustion of the fuel produced from such algae,  
14 but not for both.

15 “(11) FUGITIVE EMISSIONS.—The greenhouse  
16 gas emissions to which paragraphs (1), (4), (6), and  
17 (7) apply shall not include fugitive emissions of  
18 greenhouse gas, except to the extent the Adminis-  
19 trator determines that data on the carbon dioxide  
20 equivalent value of greenhouse gas in the fugitive  
21 emissions can be provided with sufficient precision,  
22 reliability, accessibility, and timeliness to ensure the  
23 integrity of emission allowances, the allowance track-  
24 ing system, and the cap on emissions.

1           “(12) EXPORT EXEMPTION.—This section shall  
2 not apply to any petroleum-based or coal-based liq-  
3 uid fuel, petroleum coke, natural gas liquid, fossil  
4 fuel-based carbon dioxide, nitrous oxide, or  
5 fluorinated gas that is exported for sale or use.

6           “(13) NATURAL GAS LIQUIDS.—Notwith-  
7 standing subsection (a), if the owner or operator of  
8 a covered entity described in section 700(13)(B)  
9 that produces natural gas liquids does not take own-  
10 ership of the liquids, and is not responsible for the  
11 distribution or use of the liquids in commerce, the  
12 owner of the liquids shall be responsible for compli-  
13 ance with this section, section 723, and other rel-  
14 evant sections of this title with respect to such liq-  
15 uids. In the regulations promulgated under section  
16 721, the Administrator shall include such provisions  
17 with respect to such liquids as the Administrator de-  
18 termines are appropriate to determine and ensure  
19 compliance, and to penalize noncompliance. In such  
20 a case, the owner of the covered entity shall provide  
21 to the Administrator, in a manner to be determined  
22 by the Administrator, information regarding the  
23 quantity and ownership of liquids produced at the  
24 covered entity.





1 section (b)(1), subparagraphs (A)  
2 through (E) of subsection (b)(6),  
3 and subparagraphs (A) through  
4 (D) of subsection (b)(7)) and at-  
5 tributable greenhouse gas emis-  
6 sions for the year before the pre-  
7 ceding calendar year; by

8 “(bb) the sum of the tons of  
9 carbon dioxide equivalent of  
10 greenhouse gas emissions of all  
11 covered entities (except for the  
12 types of emissions excluded under  
13 subparagraphs (A) through (D)  
14 of subsection (b)(1), subpara-  
15 graphs (A) through (E) of sub-  
16 section (b)(6), and subpara-  
17 graphs (A) through (D) of sub-  
18 section (b)(7)) and attributable  
19 greenhouse gas emissions for the  
20 year before the preceding cal-  
21 endar year; and

22 “(II) multiplying the quotient ob-  
23 tained under subclause (I) by  
24 2,000,000,000.



1                   “(ii) APPLICABILITY.—Clause (i) shall  
2                   apply to a covered entity (including a cov-  
3                   ered entity that commenced operation dur-  
4                   ing the preceding calendar year) even if  
5                   the covered entity had no greenhouse gas  
6                   emissions or attributable greenhouse gas  
7                   emissions described in that clause.

8                   “(iii) OFFSET CREDITS.—Not more  
9                   than  $\frac{1}{2}$  of the applicable percentage under  
10                  this paragraph may be used by holding do-  
11                  mestic offset credits, and not more than  $\frac{1}{2}$   
12                  of the applicable percentage under this  
13                  paragraph may be used by holding inter-  
14                  national offset credits, except as provided  
15                  in subparagraph (C).

16                  “(C) MODIFIED PERCENTAGES.—If the  
17                  Administrator determines that domestic offset  
18                  credits available for use in demonstrating com-  
19                  pliance in any calendar year at domestic offset  
20                  prices generally equal to or less than allowance  
21                  prices, are likely to offset less than 900,000,000  
22                  tons of greenhouse gas emissions (measured in  
23                  tons of carbon dioxide equivalents), the Admin-  
24                  istrator shall increase the percent of emissions  
25                  that can be offset through the use of inter-

1 national offset credits (and decrease the percent  
2 of emissions that can be allowed through the  
3 use of domestic offset credits by the same  
4 amount) to reflect the amount that  
5 1,000,000,000 exceeds the number of domestic  
6 offset credits the Administrator determines is  
7 available for that year, up to a maximum of  
8 500,000,000 tons of greenhouse gas emissions.

9 “(D) INTERNATIONAL OFFSET CREDITS.—  
10 Notwithstanding subparagraph (A), to dem-  
11 onstrate compliance prior to calendar year  
12 2018, a covered entity may use 1 international  
13 offset credit in lieu of an emission allowance up  
14 to the amount permitted under this paragraph.

15 “(E) PRESIDENT’S RECOMMENDATION.—  
16 The President may make a recommendation to  
17 Congress as to whether the number  
18 2,000,000,000 specified in subparagraphs (A)  
19 and (B) should be increased or decreased.

20 “(2) INTERNATIONAL EMISSION ALLOW-  
21 ANCES.—To demonstrate compliance, a covered enti-  
22 ty may hold an international emission allowance in  
23 lieu of an emission allowance, except as modified  
24 under section 728(d).

1           “(3) COMPENSATORY ALLOWANCES.—To dem-  
2           onstrate compliance, a covered entity may hold a  
3           compensatory allowance obtained under section  
4           721(f) in lieu of an emission allowance.

5           “(e) RETIREMENT OF ALLOWANCES AND CREDITS.—  
6           As soon as practicable after a deadline established for cov-  
7           ered entities to demonstrate compliance with this title, the  
8           Administrator shall retire the quantity of allowances or  
9           credits required to be held under this title.

10          “(f) ALTERNATIVE METRICS.—For categories of cov-  
11          ered entities described in subparagraph (B), (C), (D), (G),  
12          (H), or (I) of section 700(13), the Administrator may, by  
13          rule, establish an applicability threshold for inclusion  
14          under those subparagraphs using an alternative metric  
15          and level, provided that such metric and level are easier  
16          to administer and cover the same size and type of sources  
17          as the threshold defined in such subparagraphs.

18          “(g) THRESHOLD REVIEW.—For each category of  
19          covered entities described in subparagraph (B), (C), (D),  
20          (G), (H), or (I) of section 700(13), the Administrator  
21          shall, in 2020 and once every 8 years thereafter, review  
22          the carbon dioxide equivalent emission thresholds that are  
23          used to define covered entities. After consideration of—

24                 “(1) emissions from covered entities in each  
25                 such category, and from other entities of the same

1 type that emit less than the threshold amount for  
2 the category (including emission sources that com-  
3 mence operation after the date of enactment of this  
4 title that are not covered entities); and

5 “(2) whether greater greenhouse gas emission  
6 reductions can be cost-effectively achieved by low-  
7 ering the applicable threshold,

8 the Administrator may by rule lower such threshold to not  
9 less than 10,000 tons of carbon dioxide equivalent emis-  
10 sions. In determining the cost effectiveness of potential re-  
11 ductions from lowering the threshold for covered entities,  
12 the Administrator shall consider alternative regulatory  
13 greenhouse gas programs, including setting standards  
14 under other titles of this Act.

15 “(h) DESIGNATED REPRESENTATIVES.—The regula-  
16 tions promulgated under section 721(h) shall require that  
17 each covered entity, and each entity holding allowances or  
18 credits or receiving allowances or credits from the Admin-  
19 istrator under this title, select a designated representative.

20 “(i) EDUCATION AND OUTREACH.—

21 “(1) IN GENERAL.—The Administrator shall es-  
22 tablish and carry out a program of education and  
23 outreach to assist covered entities, especially entities  
24 having little experience with environmental regu-  
25 latory requirements similar or comparable to those

1 under this title, in preparing to meet the compliance  
2 obligations of this title. Such program shall include  
3 education with respect to using markets to effec-  
4 tively achieve such compliance.

5 “(2) FAILURE TO RECEIVE INFORMATION.—A  
6 failure to receive information or assistance under  
7 this subsection may not be used as a defense against  
8 an allegation of any violation of this title.

9 “(j) ADJUSTMENT OF DEADLINE.—The Adminis-  
10 trator may, by rule, establish a deadline for demonstrating  
11 compliance, for a calendar year, later than the date pro-  
12 vided in subsection (a), as necessary to ensure the avail-  
13 ability of emissions data, but in no event shall the deadline  
14 be later than June 1.

15 “(k) NOTICE REQUIREMENT FOR COVERED ENTI-  
16 TIES RECEIVING NATURAL GAS FROM NATURAL GAS  
17 LOCAL DISTRIBUTION COMPANIES.—The owner or oper-  
18 ator of a covered entity that takes delivery of natural gas  
19 from a natural gas local distribution company shall, not  
20 later than September 1 of each calendar year, notify such  
21 natural gas local distribution company in writing that  
22 such entity will qualify as a covered entity under this title  
23 for that calendar year.

24 “(l) COMPLIANCE OBLIGATION.—For purposes of  
25 this title, the year of a compliance obligation is the year

1 in which compliance is determined, not the year in which  
2 the greenhouse gas emissions occur or the covered entity  
3 has attributable greenhouse gas emissions.

4 **“SEC. 723. PENALTY FOR NONCOMPLIANCE.**

5 “(a) ENFORCEMENT.—A violation of any prohibition  
6 of, requirement of, or regulation promulgated pursuant to  
7 this title shall be a violation of this Act. It shall be a viola-  
8 tion of this Act for a covered entity to emit greenhouse  
9 gases, and have attributable greenhouse gas emissions, in  
10 combination, in excess of its allowable emissions level as  
11 provided in section 722(a). Each ton of carbon dioxide  
12 equivalent for which a covered entity fails to demonstrate  
13 compliance under section 722(b) shall be a separate viola-  
14 tion.

15 “(b) EXCESS EMISSIONS PENALTY.—

16 “(1) IN GENERAL.—The owner or operator of  
17 any covered entity that fails for any year to comply,  
18 on the deadline described in section 722(a) or (j),  
19 shall be liable for payment to the Administrator of  
20 an excess emissions penalty in the amount described  
21 in paragraph (2).

22 “(2) AMOUNT.—The amount of an excess emis-  
23 sions penalty required to be paid under paragraph  
24 (1) shall be equal to the product obtained by multi-  
25 plying—

1           “(A) the tons of carbon dioxide equivalent  
2           of greenhouse gas emissions or attributable  
3           greenhouse gas emissions for which the owner  
4           or operator of a covered entity failed to comply  
5           under section 722(b) on the deadline; by

6           “(B) twice the fair market value of emis-  
7           sion allowances established for emissions occur-  
8           ring in the calendar year for which the emission  
9           allowances were due.

10          “(3) TIMING.—An excess emissions penalty re-  
11          quired under this subsection shall be immediately  
12          due and payable to the Administrator, without de-  
13          mand, in accordance with regulations promulgated  
14          by the Administrator, which shall be issued not later  
15          than 2 years after the date of enactment of this  
16          title.

17          “(4) NO EFFECT ON LIABILITY.—An excess  
18          emissions penalty due and payable by the owners or  
19          operators of a covered entity under this subsection  
20          shall not diminish the liability of the owners or oper-  
21          ators for any fine, penalty, or assessment against  
22          the owners or operators for the same violation under  
23          any other provision of this Act or any other law.

24          “(c) EXCESS EMISSIONS ALLOWANCES.—The owner  
25          or operator of a covered entity that fails for any year to

1 comply on the deadline described in section 722(a) or (j)  
2 shall be liable to offset the covered entity's excess com-  
3 bination of greenhouse gases emitted and attributable  
4 greenhouse gas emissions by an equal quantity of emission  
5 allowances during the following calendar year, or such  
6 longer period as the Administrator may prescribe. During  
7 the year in which the covered entity failed to comply, or  
8 any year thereafter, the Administrator may deduct the  
9 emission allowances required under this subsection to off-  
10 set the covered entity's excess actual or attributable emis-  
11 sions.

12 **“SEC. 724. TRADING.**

13       “(a) PERMITTED TRANSACTIONS.—Except as other-  
14 wise provided in this title, the lawful holder of an emission  
15 allowance, compensatory allowance, or offset credit may,  
16 without restriction, sell, exchange, transfer, hold for com-  
17 pliance in accordance with section 722, or request that the  
18 Administrator retire the emission allowance, compensatory  
19 allowance, or offset credit.

20       “(b) NO RESTRICTION ON TRANSACTIONS.—The  
21 privilege of purchasing, holding, selling, exchanging,  
22 transferring, and requesting retirement of emission allow-  
23 ances, compensatory allowances, or offset credits shall not  
24 be restricted to the owners and operators of covered enti-  
25 ties, except as otherwise provided in this title.



1           “(c) EFFECTIVENESS OF ALLOWANCE TRANS-  
2 FERS.—No transfer of an allowance or offset credit shall  
3 be effective for purposes of this title until a certification  
4 of the transfer, signed by the designated representative of  
5 the transferor, is received and recorded by the Adminis-  
6 trator in accordance with regulations promulgated under  
7 section 721(h).

8           “(d) ALLOWANCE TRACKING SYSTEM.—The regula-  
9 tions promulgated under section 721(h) shall include a  
10 system for issuing, recording, holding, and tracking allow-  
11 ances and offset credits that shall specify all necessary  
12 procedures and requirements for an orderly and competi-  
13 tive functioning of the allowance and offset credit markets.  
14 Such regulations shall provide for appropriate publication  
15 of the information in the system on the Internet.

16 **“SEC. 725. BANKING AND BORROWING.**

17           “(a) BANKING.—An emission allowance may be used  
18 to comply with section 722 or section 723 for emissions  
19 in—

20                   “(1) the vintage year for the allowance; or

21                   “(2) any calendar year subsequent to the vin-  
22 tage year for the allowance.

23           “(b) EXPIRATION.—

24                   “(1) REGULATIONS.—The Administrator may  
25 establish by regulation criteria and procedures for

1 determining whether, and for implementing a deter-  
2 mination that, the expiration of an allowance or  
3 credit established or issued by the Administrator  
4 under this title, or expiration of the ability to use an  
5 international emission allowance to comply with sec-  
6 tion 722, is necessary to ensure the authenticity and  
7 integrity of allowances or credits or the allowance  
8 tracking system.

9 “(2) GENERAL RULE.—An allowance or credit  
10 established or issued by the Administrator under  
11 this title shall not expire unless—

12 “(A) it is retired by the Administrator as  
13 required under this title; or

14 “(B) it is determined to expire or to have  
15 expired by a specific date by the Administrator  
16 in accordance with regulations promulgated  
17 under paragraph (1).

18 “(3) INTERNATIONAL EMISSION ALLOW-  
19 ANCES.—The ability to use an international emission  
20 allowance to comply with section 722 shall not ex-  
21 pire unless—

22 “(A) the allowance is retired by the Ad-  
23 ministrator as required by this title; or

24 “(B) the ability to use such allowance to  
25 meet such compliance obligation requirements is

1           determined to expire or to have expired by a  
2           specific date by the Administrator in accord-  
3           ance with regulations promulgated under para-  
4           graph (1).

5           “(c) BORROWING FUTURE VINTAGE YEAR ALLOW-  
6           ANCES.—

7           “(1) BORROWING WITHOUT INTEREST.—In ad-  
8           dition to the uses described in subsection (a), an  
9           emission allowance may be used to comply with sec-  
10          tion 722(a) or section 723 for emissions, production,  
11          importation, manufacture, or deliveries in the cal-  
12          endar year immediately preceding the vintage year  
13          for the allowance.

14          “(2) BORROWING WITH INTEREST.—

15                 “(A) IN GENERAL.—A covered entity may  
16                 demonstrate compliance under subsection (b) in  
17                 a specific calendar year for up to 15 percent of  
18                 its emissions by holding emission allowances  
19                 with a vintage year 1 to 5 years later than that  
20                 calendar year.

21                 “(B) LIMITATIONS.—An emission allow-  
22                 ance borrowed pursuant to this paragraph shall  
23                 be an emission allowance that is established by  
24                 the Administrator for a specific future calendar

1           year under section 721(a) and that is held by  
2           the borrower.

3           “(C) PREPAYMENT OF INTEREST.—For  
4           each emission allowance that an owner or oper-  
5           ator of a covered entity borrows pursuant to  
6           this paragraph, such owner or operator shall, at  
7           the time it borrows the allowance, hold for re-  
8           tirement by the Administrator a quantity of  
9           emission allowances that is equal to the product  
10          obtained by multiplying—

11                   “(i) 0.08; by

12                   “(ii) the number of years between the  
13                   calendar year in which the allowance is  
14                   being used to satisfy a compliance obliga-  
15                   tion and the vintage year of the allowance.

16 **“SEC. 726. STRATEGIC RESERVE.**

17           “(a) STRATEGIC RESERVE AUCTIONS.—

18                   “(1) IN GENERAL.—Once each quarter of each  
19                   calendar year for which allowances are established  
20                   under section 721(a), the **【Administrator】** shall auc-  
21                   tion strategic reserve allowances.

22                   “(2) RESTRICTION TO COVERED ENTITIES.—In  
23                   each auction conducted under paragraph (1), only  
24                   covered entities that the **【Administrator】** expects  
25                   will be required to comply with section 722 in the

1 following calendar year shall be eligible to make pur-  
2 chases.

3 “(b) POOL OF EMISSION ALLOWANCES FOR STRA-  
4 TEGIC RESERVE AUCTIONS.—

5 “(1) FILLING THE STRATEGIC RESERVE INI-  
6 TIALLY.—

7 “(A) IN GENERAL.—The Administrator  
8 shall, not later than 2 years after the date of  
9 enactment of this title, establish a strategic re-  
10 serve account, and shall place in that account  
11 an amount of emission allowances established  
12 under section 721(a) for each calendar year  
13 from 2012 through 2050 in the amounts speci-  
14 fied in subparagraph (B) of this paragraph.

15 “(B) AMOUNT.—The amount referred to in  
16 subparagraph (A) shall be—

17 “(i) for each of calendar years 2012  
18 through 2019, 1 percent of the quantity of  
19 emission allowances established for that  
20 year pursuant to section 721(e)(1);

21 “(ii) for each of calendar years 2020  
22 through 2029, 2 percent of the quantity of  
23 emission allowances established for that  
24 year pursuant to section 721(e)(1); and

1                   “(iii) for each of calendar years 2030  
2                   through 2050, 3 percent of the quantity of  
3                   emission allowances established for that  
4                   year pursuant to section 721(e)(1).

5                   “(C) EFFECT ON OTHER PROVISIONS.—  
6                   Any provision in this title (except for subpara-  
7                   graph (B) of this paragraph) that refers to a  
8                   quantity or percentage of the emission allow-  
9                   ances established for a calendar year under sec-  
10                  tion 721(a) shall be considered to refer to the  
11                  amount of emission allowances as determined  
12                  pursuant to section 721(e), less any emission  
13                  allowances established for that year that are  
14                  placed in the strategic reserve account under  
15                  this paragraph.

16                  “(2) SUPPLEMENTING THE STRATEGIC RE-  
17                  SERVE.—The Administrator shall also—

18                         “(A) at the end of each calendar year,  
19                         transfer to the strategic reserve account each  
20                         emission allowance that was offered for sale but  
21                         not sold at any auction conducted under section  
22                         791; and

23                         “(B) transfer emission allowances estab-  
24                         lished under subsection (g) from auction pro-  
25                         ceeds, and deposit them into the strategic re-

1           serve, to the extent necessary to maintain the  
2           reserve at its original size.

3           “(c) MINIMUM STRATEGIC RESERVE AUCTION  
4 PRICE.—

5           “(1) IN GENERAL.—At each strategic reserve  
6 auction, the [Administrator] shall offer emission al-  
7 lowances for sale beginning at a minimum price per  
8 emission allowance, which shall be known as the  
9 ‘minimum strategic reserve auction price’.

10           “(2) INITIAL MINIMUM STRATEGIC RESERVE  
11 AUCTION PRICES.—The minimum strategic reserve  
12 auction price shall be \$28 (in constant 2009 dollars)  
13 for the strategic reserve auctions held in 2012. For  
14 the strategic reserve auctions held in 2013 through  
15 2017, the minimum strategic reserve auction price  
16 shall be the strategic reserve auction price for the  
17 previous year increased by 5 percent plus the rate of  
18 inflation (as measured by the Consumer Price Index  
19 for All Urban Consumers).

20           “(3) MINIMUM STRATEGIC RESERVE AUCTION  
21 PRICE IN SUBSEQUENT YEARS.—For each strategic  
22 reserve auction held in 2018 and each year there-  
23 after, the minimum strategic reserve auction price  
24 shall be the strategic reserve auction price for the  
25 previous year increased by 7 percent, plus the rate

1 of inflation (as measured by the Consumer Price  
2 Index for All Urban Consumers).

3 “(d) QUANTITY OF EMISSION ALLOWANCES RE-  
4 LEASED FROM THE STRATEGIC RESERVE.—

5 “(1) INITIAL LIMITS.—Subject to paragraph  
6 (4), for each of calendar years 2012 through 2016,  
7 the annual limit on the number of emission allow-  
8 ances from the strategic reserve account that may be  
9 auctioned is an amount equal to 15 percent of the  
10 emission allowances established for that calendar  
11 year under section 721(a). This limit does not apply  
12 to offset credits sold on consignment pursuant to  
13 subsection (h).

14 “(2) LIMITS IN SUBSEQUENT YEARS.—Subject  
15 to paragraph (4), for calendar year 2017 and each  
16 year thereafter, the annual limit on the number of  
17 emission allowances from the strategic reserve ac-  
18 count that may be auctioned is an amount equal to  
19 25 percent of the emission allowances established for  
20 that calendar year under section 721(a). This limit  
21 does not apply to offset credits sold on consignment  
22 pursuant to subsection (h).

23 “(3) ALLOCATION OF LIMITATION.—One-fourth  
24 of each year’s annual strategic reserve auction limit  
25 under this subsection shall be made available for



1 auction in each quarter. Any allowances from the  
2 strategic reserve account that are made available for  
3 sale in a quarterly auction and not sold shall be  
4 rolled over and added to the quantity available for  
5 sale in the following quarter, except that allowances  
6 not sold at auction in the fourth quarter of a year  
7 shall not be rolled over to the following calendar  
8 year's auctions, but shall be returned to the stra-  
9 tegic reserve account.

10 “(4) **AUTHORITY TO ADJUST LIMITATION.**—The  
11 **【Administrator】** may adjust the limits in para-  
12 graphs (1) or (2) if the **【Administrator】** determines  
13 an adjustment is required to prevent disruptively  
14 high prices or to preserve the integrity of the stra-  
15 tegic reserve.

16 “(e) **PURCHASE LIMIT.**—

17 “(1) **IN GENERAL.**—Except as provided in para-  
18 graph (2) or (3), the annual number of emission al-  
19 lowances that a covered entity may purchase at the  
20 strategic reserve auctions in each calendar year shall  
21 not exceed 20 percent of the covered entity's emis-  
22 sions during the most recent year for which allow-  
23 ances or credits were retired under section 722.

24 “(2) **2012 LIMIT.**—For calendar year 2012, the  
25 maximum aggregate number of emission allowances

1       that a covered entity may purchase from that year’s  
2       strategic reserve auctions shall be 20 percent of the  
3       covered entity’s greenhouse gas emissions that the  
4       covered entity reported to the registry established  
5       under section 713 for 2011 and that would be sub-  
6       ject to section 722(a) if occurring in later calendar  
7       years.

8               “(3) NEW ENTRANTS.—The **【Administrator】**  
9       shall, by regulation, establish a separate purchase  
10      limit applicable to entities that expect to become a  
11      covered entity in the year of the auction, permitting  
12      them to purchase emission allowances at the stra-  
13      tegic reserve auctions in their first calendar year of  
14      operation in an amount of at least 20 percent of  
15      their expected combined emissions and attributable  
16      greenhouse gas emissions for that year.

17              “(f) DELEGATION OR CONTRACT.—Pursuant to regu-  
18      lations under this section, the **【Administrator】** may, by  
19      delegation or contract, provide for the conduct of strategic  
20      reserve auctions under the **【Administrator’s】** supervision  
21      by other departments or agencies of the Federal Govern-  
22      ment or by nongovernmental agencies, groups, or organi-  
23      zations.

24              “(g) USE OF AUCTION PROCEEDS.—

1           “(1) DEPOSIT IN STRATEGIC RESERVE FUND.—

2           The proceeds from strategic reserve auctions shall be  
3           placed in the Strategic Reserve Fund established  
4           under section 793(1), and shall be available without  
5           further appropriation or fiscal year limitation for the  
6           purposes described in this subsection.

7           “(2) OFFSET CREDITS.—The Administrator  
8           shall use the proceeds from each strategic reserve  
9           auction to purchase offset credits, including domes-  
10          tic offset credits and international offset credits  
11          【issued for reduced deforestation activities pursuant  
12          to section 743(e)】. The Administrator shall retire  
13          those offset credits and establish a number of emis-  
14          sion allowances equal to the number of international  
15          offset credits so retired. Emission allowances estab-  
16          lished under this paragraph shall be in addition to  
17          those established under section 721(a).

18          “(3) EMISSION ALLOWANCES.—The Adminis-  
19          trator shall deposit emission allowances established  
20          under paragraph (2) in the strategic reserve, except  
21          that, with respect to any such emission allowances in  
22          excess of the amount necessary to fill the strategic  
23          reserve to its original size, the Administrator shall—

24                  “(A) except as provided in subparagraph

25                  (B), assign a vintage year to the emission al-

1 allowance, which shall be no earlier than the year  
2 in which the allowance is established under  
3 paragraph (2) and shall treat such allowances  
4 as ones that are not designated for distribution  
5 or auction; and

6 “(B) to the extent any such allowances  
7 cannot be assigned a vintage year because of  
8 the limitation in paragraph (4), retire the allow-  
9 ances.

10 “(4) LIMITATION.—In no case may the Admin-  
11 istrator assign under paragraph (3)(A) more emis-  
12 sion allowances to a vintage year than the number  
13 of emission allowances from that vintage year that  
14 were placed in the strategic reserve account under  
15 subsection (b)(1).

16 “(h) AVAILABILITY OF OFFSET CREDITS FOR AUC-  
17 TION.—

18 “(1) IN GENERAL.—The regulations promul-  
19 gated under section 721(h) shall allow any entity  
20 holding offset credits to request that the Adminis-  
21 trator include such offset credits in an upcoming  
22 strategic reserve auction. The regulations shall pro-  
23 vide that—

24 “(A) upon sale of such offset credits, the  
25 Administrator shall retire those offset credits,

1           and establish and provide to the purchasers a  
2           number of emission allowances equal to the  
3           number of offset credits so retired, which allow-  
4           ances shall be in addition to those established  
5           under section 721(a); and

6                   “(B) for offset credits sold pursuant to  
7           this subsection, the proceeds for the entity that  
8           offered the offset credits for sale shall be the  
9           lesser of—

10                   “(i) the average daily closing price for  
11           offset credits sold on registered exchanges  
12           (or if such price is unavailable, the average  
13           price as determined by the Administrator)  
14           during the six months prior to the stra-  
15           tegic reserve auction at which they were  
16           auctioned, with the remaining funds col-  
17           lected upon the sale of the offset credits  
18           deposited in the Treasury; and

19                   “(ii) the amount received for the off-  
20           set credits at the auction.

21                   “(2) PROCEEDS.—For offset credits sold pursu-  
22           ant to this subsection, notwithstanding section 3302  
23           of title 31, United States Code, or any other provi-  
24           sion of law, within 90 days of receipt, the United  
25           States shall transfer the proceeds from the auction,

1 as defined in paragraph (1)(D), to the entity that  
2 offered the offset credits for sale. No funds trans-  
3 ferred from a purchaser to a seller of offset credits  
4 under this paragraph shall be held by any officer or  
5 employee of the United States or treated for any  
6 purpose as public monies.

7 “(3) PRICING.—When the Administrator acts  
8 under this subsection as the agent of an entity in  
9 possession of offset credits, the Administrator is not  
10 obligated to obtain the highest price possible for the  
11 offset credits, and instead shall auction such offset  
12 credits in the same manner and pursuant to the  
13 same rules (except as modified in paragraph (1)) as  
14 set forth for auctioning strategic reserve allowances.  
15 Entities requesting that such offset credits be of-  
16 fered for sale at a strategic reserve auction may not  
17 set a minimum reserve price for their offset credits  
18 that is different than the minimum strategic reserve  
19 auction price set pursuant to subsection (c).

20 “(i) INITIAL REGULATIONS.—Not later than 24  
21 months after the date of enactment of this title, the Ad-  
22 ministrator shall promulgate regulations, in consultation  
23 with other appropriate agencies, governing the auction of  
24 allowances under this section. Such regulations shall in-  
25 clude the following requirements:

1           “(1) FREQUENCY; FIRST AUCTION.—Auctions  
2           shall be held four times per year at regular intervals,  
3           with the first auction to be held no later than March  
4           31, 2012.

5           “(2) AUCTION FORMAT.—Auctions shall follow  
6           a single-round, sealed-bid, uniform price format.

7           “(3) PARTICIPATION; FINANCIAL ASSURANCE.—  
8           Auctions shall be open to any covered entity eligible  
9           to purchase emission allowances at the auction  
10          under subsection (a)(2), except that the [Adminis-  
11          trator] may establish financial assurance require-  
12          ments to ensure that auction participants can and  
13          will perform on their bids.

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

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

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

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

4 “(7) OTHER REQUIREMENTS.—The [Adminis-  
5 trator] may include in the regulations such other re-  
6 quirements or provisions as the [Administrator], in  
7 consultation with other agencies as appropriate, con-  
8 siders appropriate to promote effective, efficient,  
9 transparent, and fair administration of auctions  
10 under this section.

11 “(j) REVISION OF REGULATIONS.—The Adminis-  
12 trator may, at any time, in consultation with other agen-  
13 cies as appropriate, revise the initial regulations promul-  
14 gated under subsection (i). Such revised regulations need  
15 not meet the requirements identified in subsection (i) if  
16 the Administrator determines that an alternative auction  
17 design would be more effective, taking into account factors  
18 including costs of administration, transparency, fairness,  
19 and risks of collusion or manipulation. In determining  
20 whether and how to revise the initial regulations under  
21 this subsection, the Administrator shall not consider maxi-  
22 mization of revenues to the Federal Government.

23 **“SEC. 727. PERMITS.**

24 “(a) PERMIT PROGRAM.—For stationary sources  
25 subject to title V of this Act, that are covered entities,



1 the provisions of this title shall be implemented by permits  
2 issued to such covered entities (and enforced) in accord-  
3 ance with the provisions of title V, as modified by this  
4 title. Any such permit issued by the Administrator, or by  
5 a State with an approved permit program, shall require  
6 the owner or operator of a covered entity to hold emission  
7 allowances or offset credits at least equal to the total an-  
8 nual amount of carbon dioxide equivalents for its com-  
9 bined emissions and attributable greenhouse gas emissions  
10 to which section 722 applies. No such permit shall be  
11 issued that is inconsistent with the requirements of this  
12 title, and title V as applicable. Nothing in this section re-  
13 garding compliance plans or in title V shall be construed  
14 as affecting allowances or offset credits. Submission of a  
15 statement by the owner or operator, or the designated rep-  
16 resentative of the owners and operators, of a covered enti-  
17 ty that the owners and operators will hold emission allow-  
18 ances or offset credits for the entity's combined emissions  
19 and attributable greenhouse gas emissions to which sec-  
20 tion 722 applies shall be deemed to meet the proposed and  
21 approved planning requirements of title V. Recordation by  
22 the Administrator of transfers of emission allowances shall  
23 amend automatically all applicable proposed or approved  
24 permit applications, compliance plans, and permits.

1           “(b) MULTIPLE OWNERS.—No permit shall be issued  
2 under this section and no allowances or offset credits shall  
3 be disbursed under this title to a covered entity or any  
4 other person until the designated representative of the  
5 owners or operators has filed a certificate of representa-  
6 tion with regard to matters under this title, including the  
7 holding and distribution of emission allowances and the  
8 proceeds of transactions involving emission allowances.  
9 Where there are multiple holders of a legal or equitable  
10 title to, or a leasehold interest in, such a covered entity  
11 or other entity or where a utility or industrial customer  
12 purchases power under a long-term power purchase con-  
13 tract from an independent power production facility that  
14 is a covered entity, the certificate shall state—

15           “(1) that emission allowances and the proceeds  
16 of transactions involving emission allowances will be  
17 deemed to be held or distributed in proportion to  
18 each holder’s legal, equitable, leasehold, or contrac-  
19 tual reservation or entitlement; or

20           “(2) if such multiple holders have expressly pro-  
21 vided for a different distribution of emission allow-  
22 ances by contract, that emission allowances and the  
23 proceeds of transactions involving emission allow-  
24 ances will be deemed to be held or distributed in ac-  
25 cordance with the contract.

1 A passive lessor, or a person who has an equitable interest  
2 through such lessor, whose rental payments are not based,  
3 either directly or indirectly, upon the revenues or income  
4 from the covered entity or other entity shall not be deemed  
5 to be a holder of a legal, equitable, leasehold, or contrac-  
6 tual interest for the purpose of holding or distributing  
7 emission allowances as provided in this subsection, during  
8 either the term of such leasehold or thereafter, unless ex-  
9 pressly provided for in the leasehold agreement. Except  
10 as otherwise provided in this subsection, where all legal  
11 or equitable title to or interest in a covered entity, or other  
12 entity, is held by a single person, the certificate shall state  
13 that all emission allowances received by the entity are  
14 deemed to be held for that person.

15 “(c) PROHIBITION.—It shall be unlawful for any per-  
16 son to operate any stationary source subject to the re-  
17 quirements of this section except in compliance with the  
18 terms and requirements of a permit issued by the Admin-  
19 istrator or a State with an approved permit program in  
20 accordance with this section. For purposes of this sub-  
21 section, compliance, as provided in section 504(f), with a  
22 permit issued under title V which complies with this title  
23 for covered entities shall be deemed compliance with this  
24 subsection as well as section 502(a).

1           “(d) RELIABILITY.—Nothing in this section or title  
2 V shall be construed as requiring termination of oper-  
3 ations of a stationary source that is a covered entity for  
4 failure to have an approved permit, or compliance plan,  
5 that is consistent with the requirements in the second and  
6 fifth sentences of subsection (a) concerning the holding  
7 of emission allowances, compensatory allowances, inter-  
8 national emission allowances, or offset allowances, except  
9 that any such covered entity may be subject to the applica-  
10 ble enforcement provision of section 113.

11           “(e) REGULATIONS.—The Administrator shall pro-  
12 mulgate regulations to implement this section. To provide  
13 for permits required under this section, each State in  
14 which one or more stationary sources and that are covered  
15 entities are located shall submit, in accordance with this  
16 section and title V, revised permit programs for approval.

17 **“SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.**

18           “(a) QUALIFYING PROGRAMS.—The Administrator,  
19 in consultation with the Secretary of State, may by rule  
20 designate an international climate change program as a  
21 qualifying international program if—

22                   “(1) the program is run by a national or supra-  
23 national foreign government, and imposes a manda-  
24 tory absolute tonnage limit on greenhouse gas emis-  
25 sions from 1 or more foreign countries, or from 1 or

1 more economic sectors in such a country or coun-  
2 tries; and

3 “(2) the program is at least as stringent as the  
4 program established by this title, including provi-  
5 sions to ensure at least comparable monitoring, com-  
6 pliance, enforcement, quality of offsets, and restric-  
7 tions on the use of offsets.

8 “(b) DISQUALIFIED ALLOWANCES.—An international  
9 emission allowance may not be held under section  
10 722(d)(2) if it is in the nature of an offset instrument  
11 or allowance awarded based on the achievement of green-  
12 house gas emission reductions or avoidance, or greenhouse  
13 gas sequestration, that are not subject to the mandatory  
14 absolute tonnage limits referred to in subsection (a)(1).

15 “(c) RETIREMENT.—

16 “(1) ENTITY CERTIFICATION.—The owner or  
17 operator of an entity that holds an international  
18 emission allowance under section 722(d)(2) shall  
19 certify to the Administrator that such international  
20 emission allowance has not previously been used to  
21 comply with any foreign, international, or domestic  
22 greenhouse gas regulatory program.

23 “(2) RETIREMENT.—

24 “(A) FOREIGN AND INTERNATIONAL REG-  
25 ULATORY ENTITIES.—The Administrator, in

1           consultation with the Secretary of State, shall  
2           seek, by whatever means appropriate, including  
3           agreements and technical cooperation on allow-  
4           ance tracking, to ensure that any relevant for-  
5           eign, international, and domestic regulatory en-  
6           tities—

7                   “(i) are notified of the use, for pur-  
8                   poses of compliance with this title, of any  
9                   international emission allowance; and

10                   “(ii) provide for the disqualification of  
11                   such international emission allowance for  
12                   any subsequent use under the relevant for-  
13                   eign, international, or domestic greenhouse  
14                   gas regulatory program, regardless of  
15                   whether such use is a sale, exchange, or  
16                   submission to satisfy a compliance obliga-  
17                   tion.

18                   “(B) DISQUALIFICATION FROM FURTHER  
19                   USE.—The Administrator shall ensure that,  
20                   once an international emission allowance has  
21                   been disqualified or otherwise used for purposes  
22                   of compliance with this title, such allowance  
23                   shall be disqualified from any further use under  
24                   this title.

1       “(d) USE LIMITATIONS.—The Administrator may, by  
2 rule, modify the percentage applicable to international  
3 emission allowances under section 722(d)(2), consistent  
4 with the purposes of the \_\_\_\_\_ Act.

5                                   **“PART D—OFFSETS**

6       **“SEC. 731. OFFSETS INTEGRITY ADVISORY BOARD.**

7       “(a) ESTABLISHMENT.—Not later than 30 days after  
8 the date of enactment of this title, the Administrator shall  
9 establish an independent Offsets Integrity Advisory  
10 Board. The Advisory Board shall make recommendations  
11 to the Administrator for use in promulgating and revising  
12 regulations under this part and part E, and for ensuring  
13 the overall environmental integrity of the programs estab-  
14 lished pursuant to those regulations.

15       “(b) MEMBERSHIP.—The Advisory Board shall be  
16 comprised of at least nine members. Each member shall  
17 be qualified by education, training, and experience to  
18 evaluate scientific and technical information on matters  
19 referred to the Board under this section. The Adminis-  
20 trator shall appoint Advisory Board members, including  
21 a chair and vice-chair of the Advisory Board. Terms shall  
22 be 3 years in length, except for initial terms, which may  
23 be up to 5 years in length to allow staggering. Members  
24 may be reappointed only once for an additional 3-year

1 term, and such second term may follow directly after a  
2 first term.

3 “(c) ACTIVITIES.—The Advisory Board established  
4 pursuant to subsection (a) shall—

5 “(1) provide recommendations, not later than  
6 90 days after the Advisory Board’s establishment  
7 and periodically thereafter, to the Administrator re-  
8 garding offset project types that should be consid-  
9 ered for eligibility under section 733, taking into  
10 consideration relevant scientific and other issues, in-  
11 cluding—

12 “(A) the availability of a representative  
13 data set for use in developing the activity base-  
14 line;

15 “(B) the potential for accurate quantifica-  
16 tion of greenhouse gas reduction, avoidance, or  
17 sequestration for an offset project type;

18 “(C) the potential level of scientific and  
19 measurement uncertainty associated with an  
20 offset project type;

21 “(D) any beneficial or adverse environ-  
22 mental, public health, welfare, social, economic,  
23 or energy effects associated with an offset  
24 project type;



1           “(E) the extent to which, as of the date of  
2           submission of the report, the project or activity  
3           types within each category—

4                   “(i) are required by law (including a  
5                   regulation); or

6                   “(ii) represent business-as-usual (ab-  
7                   sent funding from offset credits) practices  
8                   for a relevant land area, industry sector, or  
9                   forest, soil or facility type;

10           “(2) make available to the Administrator its ad-  
11           vice and comments on offset methodologies that  
12           should be considered under regulations promulgated  
13           pursuant to subsection (a) and (b) of section 734,  
14           including methodologies to address the issues of  
15           additionality, activity baselines, measurement, leak-  
16           age, uncertainty, permanence, and environmental in-  
17           tegrity;

18           “(3) make available to the Administrator, and  
19           other relevant Federal agencies, its advice and com-  
20           ments regarding scientific, technical, and methodo-  
21           logical issues specific to the issuance of international  
22           offset credits under section 744;

23           “(4) make available to the Administrator, and  
24           other relevant Federal agencies, its advice and com-  
25           ments regarding scientific, technical, and methodo-

1 logical issues associated with the implementation of  
2 part E;

3 “(5) make available to the Administrator its ad-  
4 vice and comments on areas in which further knowl-  
5 edge is required to appraise the adequacy of exist-  
6 ing, revised, or proposed methodologies for use  
7 under this part and part E, and describe the re-  
8 search efforts necessary to provide the required in-  
9 formation; and

10 “(6) make available to the Administrator its ad-  
11 vice and comments on other ways to improve or  
12 safeguard the environmental integrity of programs  
13 established under this part and part E.

14 “(d) SCIENTIFIC REVIEW OF OFFSET AND DEFOR-  
15 ESTATION REDUCTION PROGRAMS.—Not later than Janu-  
16 ary 1, 2017, and at five-year intervals thereafter, the Ad-  
17 visory Board shall submit to the Administrator and make  
18 available to the public an analysis of relevant scientific and  
19 technical information related to this part and part E. The  
20 Advisory Board shall review approved and potential meth-  
21 odologies, scientific studies, offset project monitoring, off-  
22 set project verification reports, and audits related to this  
23 part and part E, and evaluate the net emissions effects  
24 of implemented offset projects. The Advisory Board shall  
25 recommend changes to offset methodologies, protocols, or

1 project types, or to the overall offset program under this  
2 part, to ensure that offset credits issued by the Adminis-  
3 trator do not compromise the integrity of the annual emis-  
4 sion reductions established under section 701, and to  
5 avoid or minimize adverse effects to human health or the  
6 environment.

7 **“SEC. 732. ESTABLISHMENT OF OFFSETS PROGRAM.**

8 “(a) REGULATIONS.—Not later than 2 years after  
9 the date of enactment of this title, the Administrator, in  
10 consultation with appropriate Federal agencies and taking  
11 into consideration the recommendations of the Advisory  
12 Board, shall promulgate regulations establishing a pro-  
13 gram for the issuance of offset credits in accordance with  
14 the requirements of this part. The Administrator shall pe-  
15 riodically revise these regulations as necessary to meet the  
16 requirements of this part.

17 “(b) REQUIREMENTS.—The regulations described in  
18 subsection (a) shall—

19 “(1) authorize the issuance of offset credits  
20 with respect to qualifying offset projects that result  
21 in reductions or avoidance of greenhouse gas emis-  
22 sions, or sequestration of greenhouse gases;

23 “(2) ensure that such offset credits represent  
24 verifiable and additional greenhouse gas emission re-  
25 ductions or avoidance, or increases in sequestration;

1           “(3) ensure that offset credits issued for se-  
2           questration offset projects are only issued for green-  
3           house gas reductions that are permanent;

4           “(4) provide for the implementation of the re-  
5           quirements of this part; and

6           “(5) include as reductions in greenhouse gases  
7           reductions achieved through the destruction of meth-  
8           ane and its conversion to carbon dioxide, and reduc-  
9           tions achieved through destruction of  
10          chlorofluorocarbons or other ozone depleting sub-  
11          stances, if permitted by the Administrator under  
12          section 619(b)(9) and subject to the conditions spec-  
13          ified in section 619(b)(9), based on the carbon diox-  
14          ide equivalent value of the substance destroyed.

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

22          “(d) OFFSET REGISTRY.—The Administrator shall  
23          establish within the allowance tracking system established  
24          under section 724(d) an Offset Registry for qualifying off-

1 set projects and offset credits issued with respect thereto  
2 under this part.

3 “(e) LEGAL STATUS OF OFFSET CREDIT.—An offset  
4 credit does not constitute a property right.

5 “(f) FEES.—The Administrator shall assess fees pay-  
6 able by offset project developers in an amount necessary  
7 to cover the administrative costs to the Environmental  
8 Protection Agency of carrying out the activities under this  
9 part. Amounts collected for such fees shall be available  
10 to the Administrator for carrying out the activities under  
11 this part to the extent provided in advance in appropria-  
12 tions Acts.

13 【“(g) DELEGATION OF AUTHORITY.—The President  
14 may delegate additional authority, in addition to such au-  
15 thority provided to the Administrator, to the Secretary of  
16 Agriculture for the purposes of implementing the require-  
17 ments of this part for agricultural or forestry offset  
18 projects.】

19 **“SEC. 733. ELIGIBLE PROJECT TYPES.**

20 “(a) LIST OF ELIGIBLE PROJECT TYPES.—

21 “(1) IN GENERAL.—As part of the regulations  
22 promulgated under section 732(a), the Adminis-  
23 trator shall establish, and may periodically revise, a  
24 list of types of projects eligible to generate offset

1 credits, including international offset credits, under  
2 this part.

3 “(2) ADVISORY BOARD RECOMMENDATIONS.—  
4 In determining the eligibility of project types, the  
5 Administrator shall take into consideration the rec-  
6 ommendations of the Advisory Board. If a list estab-  
7 lished under this section differs from the rec-  
8 ommendations of the Advisory Board, the regula-  
9 tions promulgated under section 732(a) shall include  
10 a justification for the discrepancy.

11 “(3) INITIAL DETERMINATION.—The Adminis-  
12 trator shall establish the initial eligibility list under  
13 paragraph (1) not later than one year after the date  
14 of enactment of this title for which there are well de-  
15 veloped methodologies that the Administrator deter-  
16 mines would meet the criteria of section 734.

17 “(4) PROJECT TYPES TO BE CONSIDERED FOR  
18 INITIAL LIST.—In determining the initial list, the  
19 Administrator shall give priority to consideration of  
20 offset project types that are recommended by the  
21 Advisory Board and for which there are well devel-  
22 oped methodologies that the Administrator deter-  
23 mines would meet the criteria of section 734, and  
24 shall consider—

1           “(A) methane collection and combustion  
2 projects at active underground coal mines;

3           “(B) methane collection and combustion  
4 projects at landfills;

5           “(C) methane collection and combustion at  
6 oil and natural gas distribution facilities;

7           “(D) nonlandfill methane collection, com-  
8 bustion and avoidance projects involving organic  
9 waste streams that would have otherwise emit-  
10 ted methane in the atmosphere, including ma-  
11 nure management and biogas capture and com-  
12 bustion;

13           “(E) projects involving afforestation or re-  
14 forestation of acreage not forested as of Janu-  
15 ary 1, 2009;

16           “(F) forest management resulting in an in-  
17 crease in forest carbon stores, including har-  
18 vested wood products;

19           “(G) agricultural, grassland, and range-  
20 land sequestration and management practices,  
21 including—

22                   “(i) altered tillage practices;

23                   “(ii) winter cover cropping, contin-  
24 uous cropping, and other means to in-

1           crease biomass returned to soil in lieu of  
2           planting followed by fallowing;

3           “(iii) reduction of nitrogen fertilizer  
4           use or increase in nitrogen use efficiency;

5           “(iv) reduction in the frequency and  
6           duration of flooding of rice paddies;

7           “(v) reduction in carbon emissions  
8           from organic soils;

9           “(vi) reduction in greenhouse gas  
10          emissions from manure and effluent; and

11          “(vii) reduction in greenhouse gas  
12          emissions due to changes in animal man-  
13          agement practices, including dietary modi-  
14          fications; and

15          “(H) changes in carbon stocks attributed  
16          to land use change and forestry activities, in-  
17          cluding—

18                 “(i) management of peatland or wet-  
19                 land;

20                 “(ii) conservation of grassland and  
21                 forested land;

22                 “(iii) improved forest management,  
23                 including accounting for carbon stored in  
24                 wood products;



1                   “(iv) reduced deforestation or avoided  
2                   forest conversion;

3                   “(v) urban tree-planting and mainte-  
4                   nance;

5                   “(vi) agroforestry; and

6                   “(vii) adaptation of plant traits or  
7                   new technologies that increase sequestra-  
8                   tion by forests.

9                   “(5) METHODOLOGIES.—In issuing methodolo-  
10                  gies pursuant to section 734, the Administrator shall  
11                  give priority to methodologies for offset types in-  
12                  cluded on the initial eligibility list.

13                  “(b) MODIFICATION OF LIST.—The Administrator—

14                  “(1) shall add additional project types to the  
15                  list not later than 2 years after the date of enact-  
16                  ment of this title;

17                  “(2) may at any time, by rule, add a project  
18                  type to the list established under subsection (a) if  
19                  the Administrator, in consultation with appropriate  
20                  Federal agencies and taking into consideration the  
21                  recommendations of the Advisory Board, determines  
22                  that the project type can generate additional reduc-  
23                  tions or avoidance of greenhouse gas emissions, or  
24                  sequestration of greenhouse gases, subject to the re-  
25                  quirements of this part;

1           “(3) may at any time, by rule, determine that  
2           a project type on the list does not meet the require-  
3           ments of this part, and remove a project type from  
4           the list established under subsection (a), in consulta-  
5           tion with appropriate Federal agencies and taking  
6           into consideration any recommendations of the Advi-  
7           sory Board; and

8           “(4) shall consider adding to or removing from  
9           the list established under subsection (a), at a min-  
10          imum, project types proposed to the Adminis-  
11          trator—

12                   “(A) by petition pursuant to subsection  
13                   (c); or

14                   “(B) by the Advisory Board.

15          “(c) PETITION PROCESS.—Any person may petition  
16          the Administrator to modify the list established under sub-  
17          section (a) by adding or removing a project type pursuant  
18          to subsection (b). Any such petition shall include a show-  
19          ing by the petitioner that there is adequate data to estab-  
20          lish that the project type does or does not meet the re-  
21          quirements of this part. Not later than 12 months after  
22          receipt of such a petition, the Administrator shall either  
23          grant or deny the petition and publish a written expla-  
24          nation of the reasons for the Administrator’s decision. The  
25          Administrator may not deny a petition under this sub-

1 section on the basis of inadequate Environmental Protec-  
2 tion Agency resources or time for review.

3 **“SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS.**

4 “(a) **METHODOLOGIES.**—As part of the regulations  
5 promulgated under section 732(a), the Administrator shall  
6 establish, for each type of offset project listed as eligible  
7 under section 733, the following:

8 “(1) **ADDITIONALITY.**—A standardized method-  
9 ology for determining the additionality of greenhouse  
10 gas emission reductions or avoidance, or greenhouse  
11 gas sequestration, achieved by an offset project of  
12 that type. Such methodology shall ensure, at a min-  
13 imum, that any greenhouse gas emission reduction  
14 or avoidance, or any greenhouse gas sequestration, is  
15 considered additional only to the extent that it re-  
16 sults from activities that—

17 “(A) are not required by or undertaken to  
18 comply with any law, including any regulation  
19 or consent order;

20 “(B) were not commenced prior to Janu-  
21 ary 1, 2009, except in the case of—

22 “(i) offset project activities that com-  
23 menced after January 1, 2001, and were  
24 registered as of the date of enactment of  
25 this title under an offset program with re-

1           spect to which the Administrator has made  
2           an affirmative determination under section  
3           740(a)(2); or

4           “(ii) activities that are readily revers-  
5           ible, with respect to which the Adminis-  
6           trator may set an alternative earlier date  
7           under this subparagraph that is not earlier  
8           than January 1, 2001, where the Adminis-  
9           trator determines that setting such an al-  
10          ternative date may produce an environ-  
11          mental benefit by removing an incentive to  
12          cease and then reinitiate activities that  
13          began prior to January 1, 2009;

14          “(C) are not receiving support under part  
15          E of this title or subtitle D of title IV of the  
16          **【\_\_\_\_\_ Act】**; and

17          “(D) exceed the activity baseline estab-  
18          lished under paragraph (2).

19          “(2) **ACTIVITY BASELINES.**—A standardized  
20          methodology for establishing activity baselines for  
21          offset projects of that type. The Administrator shall  
22          set activity baselines to reflect a conservative esti-  
23          mate of business-as-usual performance or practices  
24          for the relevant type of activity such that the base-  
25          line provides an adequate margin of safety to ensure

1 the environmental integrity of offsets calculated in  
2 reference to such baseline.

3 “(3) QUANTIFICATION METHODS.—A standard-  
4 ized methodology for determining the extent to  
5 which greenhouse gas emission reductions or avoid-  
6 ance, or greenhouse gas sequestration, achieved by  
7 an offset project of that type exceed a relevant activ-  
8 ity baseline, including protocols for monitoring and  
9 accounting for uncertainty.

10 “(4) LEAKAGE.—A standardized methodology  
11 for accounting for and mitigating potential leakage,  
12 if any, from an offset project of that type, taking  
13 uncertainty into account.

14 “(b) ACCOUNTING FOR REVERSALS.—

15 “(1) IN GENERAL.—As part of the regulations  
16 promulgated under section 732(a), for each type of  
17 sequestration project listed under section 733, the  
18 Administrator shall establish requirements to ac-  
19 count for and address reversals, including—

20 “(A) a requirement to report any reversal  
21 with respect to an offset project for which offset  
22 credits have been issued under this part;

23 “(B) provisions to require emission allow-  
24 ances to be held in amounts to fully compensate  
25 for greenhouse gas emissions attributable to re-

1           versals, and to assign responsibility for holding  
2           such emission allowances;

3           “(C) provisions to discourage repeated in-  
4           tentional reversals by offset project developers,  
5           including but not limited to the assessment of  
6           administrative fees, temporary suspension, or  
7           disqualification of an offset project developer  
8           from the program; and

9           “(D) any other provisions the Adminis-  
10          trator determines necessary to account for and  
11          address reversals.

12          “(2) MECHANISMS.—The Administrator shall  
13          prescribe mechanisms to ensure that any sequestra-  
14          tion with respect to which an offset credit is issued  
15          under this part results in a permanent net increase  
16          in sequestration, and that full account is taken of  
17          any actual or potential reversal of such sequestra-  
18          tion, with an adequate margin of safety. The Admin-  
19          istrator shall prescribe at least one of the following  
20          mechanisms to meet the requirements of this para-  
21          graph:

22                 “(A) An offsets reserve, pursuant to para-  
23                 graph (3).

24                 “(B) Insurance that provides for purchase  
25                 and provision to the Administrator for retire-

1           ment of an amount of offset credits or emission  
2           allowances equal in number to the tons of car-  
3           bon dioxide equivalents of greenhouse gas emis-  
4           sions released due to reversal.

5           “(C) Another mechanism that the Admin-  
6           istrator determines satisfies the requirements of  
7           this part.

8           “(3) OFFSETS RESERVE.—

9           “(A) IN GENERAL.—An offsets reserve re-  
10          ferred to in paragraph (2)(A) is a program  
11          under which, before issuance of offset credits  
12          under this part, the Administrator shall sub-  
13          tract and reserve from the quantity to be issued  
14          a quantity of offset credits based on the risk of  
15          reversal. The Administrator shall—

16               “(i) hold these reserved offset credits  
17               in the offsets reserve; and

18               “(ii) register the holding of the re-  
19               served offset credits in the Offset Registry  
20               established under section 732(d).

21          “(B) PROJECT REVERSAL.—

22               “(i) IN GENERAL.—If a reversal has  
23               occurred with respect an offset project for  
24               which offset credits are reserved under this  
25               paragraph, the Administrator shall remove

1 offset credits from the offsets reserve and  
2 cancel them to fully account for the tons of  
3 carbon dioxide equivalent that are no  
4 longer sequestered.

5 “(ii) INTENTIONAL REVERSALS.—If  
6 the Administrator determines that a rever-  
7 sal was intentional, the offset project devel-  
8 oper for the relevant offset project shall  
9 place into the offsets reserve a quantity of  
10 offset credits, or combination of offset  
11 credits and emission allowances, equal in  
12 number to the number of reserve offset  
13 credits that were canceled due to the rever-  
14 sal pursuant to clause (i).

15 “(iii) UNINTENTIONAL REVERSALS.—  
16 If the Administrator determines that a re-  
17 versal was unintentional, the offset project  
18 developer for the relevant offset project  
19 shall place into the offsets reserve a quan-  
20 tity of offset credits, or combination of off-  
21 set credits and emission allowances, equal  
22 in number to half the number of offset  
23 credits that were reserved for that offset  
24 project, or half the number of reserve off-  
25 set credits that were canceled due to the



1 reversal pursuant to clause (i), whichever  
2 is less.

3 “(iv) PETITION.—Any person may pe-  
4 tition the Administrator for a determina-  
5 tion that an offsets reversal has occurred.  
6 Within 90 days of receipt of the petition,  
7 the Administrator must take final action  
8 determining either that the reversal has oc-  
9 curred or that the reversal has not oc-  
10 curred and publish the determination and  
11 accompanying reasons in the Federal Reg-  
12 ister.

13 “(C) USE OF RESERVED OFFSET CRED-  
14 ITS.—Offset credits placed into the offsets re-  
15 serve under this paragraph may not be used to  
16 comply with section 722.

17 **【“(4) TERM OFFSET CREDITS.—】**

18 **【“(A) APPLICABILITY.—With respect to a**  
19 **practice listed under section 733 that seques-**  
20 **ters greenhouse gases and has a crediting pe-**  
21 **riod of not more than 5 years, the Adminis-**  
22 **trator may address reversals pursuant to this**  
23 **paragraph in lieu of permanently accounting for**  
24 **reversals pursuant to paragraphs (1) and (2).】**

1           **【“(B) ACCOUNTING FOR REVERSALS.—**  
2           For such practices or projects implementing the  
3           practices described in subparagraph (A), the  
4           Secretary shall require only reversals that occur  
5           during the crediting period to be accounted for  
6           and addressed pursuant to paragraphs (1) and  
7           **(2).】**

8           **【“(C) CREDITS ISSUED.—**For practices or  
9           projects regulated pursuant to subparagraph  
10          (B), the Secretary shall issue under section 737  
11          a term offset credit for each ton of carbon diox-  
12          ide equivalent that has been sequestered.**】**

13          **“(c) CREDITING PERIODS.—**

14               **“(1) IN GENERAL.—**As part of the regulations  
15               promulgated under section 732(a), for each offset  
16               project type, the Administrator shall specify a cred-  
17               iting period, and establish provisions for petitions  
18               for new crediting periods, in accordance with this  
19               subsection.

20               **“(2) DURATION.—**

21                       **“(A) IN GENERAL.—**The crediting period  
22                       shall be not less than 5 and not greater than  
23                       10 years for any project type other than those  
24                       involving sequestration.

1           “(B) FORESTRY PROJECTS.—The crediting  
2           period for a forestry offset project shall not ex-  
3           ceed 30 years.

4           “(3) ELIGIBILITY.—An offset project shall be  
5           eligible to generate offset credits under this part  
6           only during the project’s crediting period. During  
7           such crediting period, the project shall remain eligi-  
8           ble to generate offset credits, subject to the meth-  
9           odologies and project type eligibility list that applied  
10          as of the date of project approval under section 735,  
11          except as provided in paragraph (4).

12          “(4) PETITION FOR NEW CREDITING PERIOD.—  
13          An offset project developer may petition for a new  
14          crediting period to commence after termination of a  
15          crediting period, subject to the methodologies and  
16          project type eligibility list in effect at the time when  
17          such petition is submitted. A petition may not be  
18          submitted under this paragraph more than 18  
19          months before the end of the pending crediting pe-  
20          riod. The Administrator may grant such petition  
21          after public notice and opportunity for comment.  
22          The Administrator may limit the number of new  
23          crediting periods available for projects of particular  
24          project types.

1       “(d) ENVIRONMENTAL INTEGRITY.—In establishing  
2 the requirements under this section, the Administrator  
3 shall apply conservative assumptions or methods to maxi-  
4 mize the certainty that the environmental integrity of the  
5 cap established under section 701 is not compromised.

6       “(e) PRE-EXISTING METHODOLOGIES.—In promul-  
7 gating requirements under this section, the Administrator  
8 shall give due consideration to methodologies for offset  
9 projects existing as of the date of enactment of this title.

10       “(f) ADDED PROJECT TYPES.—The Administrator  
11 shall establish methodologies described in subsection (a),  
12 and, as applicable, requirements and mechanisms for re-  
13 versals as described in subsection (b), for any project type  
14 that is added to the list pursuant to section 733.

15       **“SEC. 735. APPROVAL OF OFFSET PROJECTS.**

16       “(a) APPROVAL PETITION.—An offset project devel-  
17 oper shall submit an offset project approval petition signed  
18 by a responsible official (who shall certify the accuracy of  
19 the information submitted) and providing such informa-  
20 tion as the Administrator requires to determine whether  
21 the offset project is eligible for issuance of offset credits  
22 under rules promulgated pursuant to this part.

23       “(b) TIMING.—An approval petition shall be sub-  
24 mitted to the Administrator under subsection (a) not later

1 than the time at which an offset project's first verification  
2 report is submitted under section 736.

3 “(c) APPROVAL PETITION REQUIREMENTS.—As part  
4 of the regulations promulgated under section 732, the Ad-  
5 ministrator shall include provisions for, and shall specify,  
6 the required components of an offset project approval peti-  
7 tion required under subsection (a), which shall include—

8 “(1) designation of an offset project developer;

9 “(2) designation of a party who is authorized to  
10 provide access to the appropriate officials or an au-  
11 thorized representative to the offset project; and

12 “(3) any other information that the Adminis-  
13 trator considers to be necessary to achieve the pur-  
14 poses of this part.

15 “(d) APPROVAL AND NOTIFICATION.—Not later than  
16 90 days after receiving a complete approval petition under  
17 subsection (a), the Administrator shall make the approval  
18 petition publicly available on the internet, approve or deny  
19 the petition in writing, and, if the petition is denied, make  
20 the Administrator's decision publicly available on the  
21 internet. After an offset project is approved, the offset  
22 project developer shall not be required to resubmit an ap-  
23 proval petition during the offset project's crediting period,  
24 except as provided in section 734(c)(4).

1           “(e) APPEAL.—The Administrator shall establish  
2 procedures for appeal and review of determinations made  
3 under subsection (d).

4           “(f) VOLUNTARY PREAPPROVAL REVIEW.—The Ad-  
5 ministrator may establish a voluntary preapproval review  
6 procedure, to allow an offset project developer to request  
7 the Administrator to conduct a preliminary eligibility re-  
8 view for an offset project. Findings of such reviews shall  
9 not be binding upon the Administrator. The voluntary  
10 preapproval review procedure—

11                   “(1) shall require the offset project developer to  
12 submit such basic project information as the Admin-  
13 istrator requires to provide a meaningful review; and

14                   “(2) shall require a response from the Adminis-  
15 trator not later than 6 weeks after receiving a re-  
16 quest for review under this subsection.

17 **“SEC. 736. VERIFICATION OF OFFSET PROJECTS.**

18           “(a) IN GENERAL.—As part of the regulations pro-  
19 mulgated under section 732(a), the Administrator shall es-  
20 tablish requirements, including protocols, for verification  
21 of the quantity of greenhouse gas emission reductions or  
22 avoidance, or sequestration of greenhouse gases, resulting  
23 from an offset project. The regulations shall require that  
24 an offset project developer shall submit a report, prepared  
25 by a third-party verifier accredited under subsection (d),

1 providing such information as the Administrator requires  
2 to determine the quantity of greenhouse gas emission re-  
3 ductions or avoidance, or sequestration of greenhouse gas,  
4 resulting from the offset project.

5 “(b) SCHEDULE.—The Administrator shall prescribe  
6 a schedule for the submission of verification reports under  
7 subsection (a).

8 “(c) VERIFICATION REPORT REQUIREMENTS.—The  
9 Administrator shall specify the required components of a  
10 verification report required under subsection (a), which  
11 shall include—

12 “(1) the name and contact information for a  
13 designated representative for the offset project devel-  
14 oper;

15 “(2) the quantity of greenhouse gas reduced,  
16 avoided, or sequestered;

17 “(3) the methodologies applicable to the project  
18 pursuant to section 734;

19 “(4) a certification that the project meets the  
20 applicable requirements;

21 “(5) a certification establishing that the conflict  
22 of interest requirements in the regulations promul-  
23 gated under subsection (d)(1) have been complied  
24 with; and

1           “(6) any other information that the Adminis-  
2           trator considers to be necessary to achieve the pur-  
3           poses of this part.

4           “(d) VERIFIER ACCREDITATION.—

5           “(1) IN GENERAL.—As part of the regulations  
6           promulgated under section 732(a), the Adminis-  
7           trator shall establish a process and requirements for  
8           periodic accreditation of third-party verifiers to en-  
9           sure that such verifiers are professionally qualified  
10          and have no conflicts of interest.

11          “(2) STANDARDS.—

12           “(A) AMERICAN NATIONAL STANDARDS IN-  
13           STITUTE ACCREDITATION.—The Administrator  
14           may accredit, or accept for purposes of accredi-  
15           tation under this subsection, verifiers accredited  
16           under the American National Standards Insti-  
17           tute (ANSI) accreditation program in accord-  
18           ance with ISO 14065. The Administrator shall  
19           accredit, or accept for accreditation, verifiers  
20           under this subparagraph only if the Adminis-  
21           trator finds that the American National Stand-  
22           ards Institute accreditation program provides  
23           sufficient assurance that the requirements of  
24           this part will be met.



1           “(B) EPA ACCREDITATION.—As part of  
2           the regulations promulgated under section  
3           732(a), the Administrator may establish accred-  
4           itation standards for verifiers under this sub-  
5           section, and may establish related training and  
6           testing programs and requirements.

7           “(3) PUBLIC ACCESSIBILITY.—Each verifier  
8           meeting the requirements for accreditation in ac-  
9           cordance with this subsection shall be listed in a  
10          publicly accessible database, which shall be main-  
11          tained and updated by the Administrator.

12          “(4) REVOCATION.—The regulations concerning  
13          accreditation of third-party verifiers required under  
14          paragraph (1) shall establish a process for the Ad-  
15          ministrator to revoke the accreditation of any third-  
16          party verifier that the Administrator finds fails to  
17          maintain professional qualifications or to avoid a  
18          conflict of interest, or for other good cause.

19          **“SEC. 737. ISSUANCE OF OFFSET CREDITS.**

20          “(a) DETERMINATION AND NOTIFICATION.—Not  
21          later than 90 days after receiving a complete verification  
22          report under section 736, the Administrator shall—

23                  “(1) make the report publicly available on the  
24          Internet;

1           “(2) make a determination of the quantity of  
2           greenhouse gas emissions reduced or avoided, or  
3           greenhouse gases sequestered, resulting from an off-  
4           set project approved under section 735; and

5           “(3) notify the offset project developer in writ-  
6           ing of such determination and make such determina-  
7           tion publicly available on the Internet.

8           “(b) ISSUANCE OF OFFSET CREDITS.—The Adminis-  
9           trator shall issue one offset credit to an offset project de-  
10          veloper for each ton of carbon dioxide equivalent that the  
11          Administrator has determined has been reduced, avoided,  
12          or sequestered during the period covered by a verification  
13          report submitted in accordance with section 736, only if—

14                 “(1) the Administrator has approved the offset  
15          project pursuant to section 735; and

16                 “(2) the relevant emissions reduction, avoid-  
17          ance, or sequestration has—

18                         “(A) already occurred, during the offset  
19          project’s crediting period; and

20                         “(B) occurred after January 1, 2009.

21          “(c) APPEAL.—The Administrator shall establish  
22          procedures for appeal and review of determinations made  
23          under subsection (a).

24          “(d) TIMING.—Offset credits meeting the criteria es-  
25          tablished in subsection (b) shall be issued not later than

1 2 weeks following the verification determination made by  
2 the Administrator under subsection (a).

3 “(e) REGISTRATION.—The Administrator shall as-  
4 sign a unique serial number to and register each offset  
5 credit to be issued in the Offset Registry established under  
6 section 732(d).

7 **“SEC. 738. AUDITS.**

8 “(a) IN GENERAL.—The Administrator shall, on an  
9 ongoing basis, conduct random audits of offset projects  
10 and offset credits. The Administrator shall conduct audits  
11 of the practices of third-party verifiers. In each year, the  
12 Administrator shall conduct audits, at minimum, for a  
13 representative sample of project types and geographic  
14 areas.

15 “(b) DELEGATION.—The Administrator may delegate  
16 to a State or tribal government the responsibility for con-  
17 ducting audits under this section if the Administrator  
18 finds that the program proposed by the State or tribal  
19 government provides assurances equivalent to those pro-  
20 vided by the auditing program of the Administrator, and  
21 that the integrity of the offset program under this part  
22 will be maintained. Nothing in this subsection shall pre-  
23 vent the Administrator from conducting any audit the Ad-  
24 ministrator considers necessary and appropriate.

1           “(c) **AUDIT REQUIREMENTS.**—As part of the regula-  
2 tions promulgated under section 732(a), the appropriate  
3 officials shall establish requirements and protocols for an  
4 auditing program, whether undertaken by the appropriate  
5 officials or an authorized representative, concerning  
6 project developers, third party verifiers, and various com-  
7 ponents of the offsets program. Such regulations shall in-  
8 clude—

9           “(1) the components of the offset project, which  
10 shall be evaluated against the offset approval peti-  
11 tion and the verification report;

12           “(2) the minimum experience or training of the  
13 auditors;

14           “(3) the form in which reports shall be com-  
15 pleted;

16           “(4) requirements for delegating auditing func-  
17 tions to States or tribal governments, including re-  
18 quiring periodic reports from State or tribal govern-  
19 ments on their auditing activities and findings; and

20           “(5) any other information that the appropriate  
21 officials considers to be necessary to achieve the pur-  
22 pose of the Act.

23 **“SEC. 739. PROGRAM REVIEW AND REVISION.**

24           ““At least once every 5 years, the Administrator shall  
25 review and, based on new or updated information and tak-

1 ing into consideration the recommendations of the Advi-  
2 sory Board, update and revise—

3 “(1) the list of eligible project types established  
4 under section 733;

5 “(2) the methodologies established, including  
6 specific activity baselines, under section 734(a);

7 “(3) the reversal requirements and mechanisms  
8 established or prescribed under section 734(b);

9 “(4) measures to improve the accountability of  
10 the offsets program; and

11 “(5) any other requirements established under  
12 this part to ensure the environmental integrity and  
13 effective operation of this part.

14 **“SEC. 740. EARLY OFFSET SUPPLY.**

15 “(a) PROJECTS REGISTERED UNDER OTHER GOV-  
16 ERNMENT-RECOGNIZED PROGRAMS.—Except as provided  
17 in subsection (b) or (c), after public notice and oppor-  
18 tunity for comment, the Administrator shall issue one off-  
19 set credit for each ton of carbon dioxide equivalent emis-  
20 sions reduced, avoided, or sequestered—

21 “(1) under an offset project that was started  
22 after January 1, 2001;

23 “(2) for which a credit was issued under any  
24 regulatory or voluntary greenhouse gas emission off-  
25 set program that the Administrator determines—

1           “(A) was established under State or tribal  
2 law or regulation prior to January 1, 2009, or  
3 has been approved by the Administrator pursu-  
4 ant to subsection (e);

5           “(B) has developed offset project type  
6 standards, methodologies, and protocols  
7 through a public consultation process or a peer  
8 review process;

9           “(C) has made available to the public  
10 standards, methodologies, and protocols that re-  
11 quire that credited emission reductions, avoid-  
12 ance, or sequestration are permanent, addi-  
13 tional, verifiable, and enforceable;

14           “(D) requires that all emission reductions,  
15 avoidance, or sequestration be verified by a  
16 State regulatory agency or an accredited third-  
17 party independent verification body;

18           “(E) requires that all credits issued are  
19 registered in a publicly accessible registry, with  
20 individual serial numbers assigned for each ton  
21 of carbon dioxide equivalent emission reduc-  
22 tions, avoidance, or sequestration; and

23           “(F) ensures that no credits are issued for  
24 activities for which the entity administering the  
25 program, or a program administrator or rep-

1           representative, has funded, solicited, or served as a  
2           fund administrator for the development of, the  
3           project or activity that caused the emission re-  
4           duction, avoidance, or sequestration; and

5           “(3) for which the credit described in para-  
6           graph (2) is transferred to the Administrator.

7           “(b) INELIGIBLE CREDITS.—Subsection (a) shall not  
8           apply to offset credits that have expired or have been re-  
9           tired, canceled, or used for compliance under a program  
10          established under State or tribal law or regulation.

11          “(c) LIMITATION.—Notwithstanding subsection  
12          (a)(1), offset credits shall be issued under this section—

13               “(1) only for reductions or avoidance of green-  
14               house gas emissions, or sequestration of greenhouse  
15               gases, that occur after January 1, 2009; and

16               “(2) only until the date that is 3 years after the  
17               date of enactment of this title, or the date that regu-  
18               lations promulgated under section 732(a) take ef-  
19               fect, whichever occurs sooner.

20          “(d) RETIREMENT OF CREDITS.—The Administrator  
21          shall seek to ensure that offset credits described in sub-  
22          section (a)(2) are retired for purposes of use under a pro-  
23          gram described in subsection (b).

24          “(e) OTHER PROGRAMS.—

1           “(1) IN GENERAL.—Offset programs that ei-  
2 ther—

3           “(A) were not established under State or  
4 tribal law; or

5           “(B) were not established prior to January  
6 1, 2009;

7 but that otherwise meet all of the criteria of sub-  
8 section (a)(2) may apply to the Administrator to be  
9 approved under this subsection as an eligible pro-  
10 gram for early offset credits under this section.

11           “(2) APPROVAL.—The Administrator shall ap-  
12 prove any such program that the Administrator de-  
13 termines has criteria and methodologies of at least  
14 equal stringency to the criteria and methodologies of  
15 the programs established under State or tribal law  
16 that the Administrator determines meet the criteria  
17 of subsection (a)(2). The Administrator may approve  
18 types of offsets under any such program that are  
19 subject to criteria and methodologies of at least  
20 equal stringency to the criteria and methodologies  
21 for such types of offsets applied under the programs  
22 established under State or tribal law that the Ad-  
23 ministrator determines meet the criteria of sub-  
24 section (a)(2). The Administrator shall make a de-  
25 termination on any application received under this



1 subsection by not later than 180 days from the date  
2 of receipt of the application.

3 **“SEC. 741. ENVIRONMENTAL CONSIDERATIONS.**

4 “If the Administrator lists forestry projects as eligible  
5 offset project types under section 733, the Administrator,  
6 in consultation with appropriate Federal agencies, shall  
7 promulgate regulations for the selection and use of species  
8 in forestry and other relevant land management-related  
9 offset projects—

10 “(1) to ensure that native species are given pri-  
11 mary consideration in such projects;

12 “(2) to enhance biological diversity in such  
13 projects;

14 “(3) to prohibit the use of federally designated  
15 or State-designated noxious weeds;

16 “(4) to prohibit the use of a species listed by  
17 a regional or State invasive plant authority within  
18 the applicable region or State; and

19 “(5) in accordance with widely accepted, envi-  
20 ronmentally sustainable forestry practices.

21 **“SEC. 742. TRADING.**

22 “Section 724 shall apply to the trading of offset cred-  
23 its.

1 **“SEC. 743. CARBON OFFSETS INTEGRITY.**

2       “(a) ESTABLISHMENT.—There is established within  
3 the Office of the Assistant Attorney General of the Envi-  
4 ronment and Natural Resources Division in the Depart-  
5 ment of Justice a Carbon Offsets Integrity Unit, to be  
6 headed by a Special Counsel (hereinafter referred to as  
7 the ‘Special Counsel’). The Carbon Offsets Integrity Unit  
8 and the Special Counsel shall be responsible to and shall  
9 report directly to the Assistant Attorney General of the  
10 Environment and Natural Resources Division.

11       “(b) APPOINTMENT.—The Special Counsel shall be  
12 appointed by the President, by and with the advice and  
13 consent of the Senate.

14       “(c) RESPONSIBILITIES.—The Special Counsel  
15 shall—

16               “(1) supervise and coordinate investigations  
17 and civil enforcement within the Department of Jus-  
18 tice of the carbon offsets program set forth in **[IN-**  
19 **SERT CITE]**;

20               “(2) ensure that Federal law relating to civil  
21 enforcement of the carbon offsets program is used to  
22 the fullest extent authorized; and

23               “(3) ensure that adequate resources are made  
24 available for the investigation and enforcement of  
25 civil violations of the carbon offsets program.

1           “(d) COMPENSATION.—The Special Counsel shall be  
2 paid at the basic pay payable for level V of the Executive  
3 Schedule under section 5316 of title 5, United States  
4 Code.

5           “(e) ASSIGNMENT OF PERSONNEL.—There shall be  
6 assigned to the Carbon Offsets Integrity Unit such per-  
7 sonnel as the Attorney General determines to be necessary  
8 to provide an appropriate level of enforcement activity in  
9 the area of carbon offsets.

10 **“SEC. 744. INTERNATIONAL OFFSET CREDITS.**

11           “(a) IN GENERAL.—The Administrator, in consulta-  
12 tion with the Secretary of State and the Administrator  
13 of the United States Agency for International Develop-  
14 ment, may issue, in accordance with this section, inter-  
15 national offset credits based on activities that reduce or  
16 avoid greenhouse gas emissions, or increase sequestration  
17 of greenhouse gases, in a developing country. Such credits  
18 may be issued for projects pursuant to the requirements  
19 of this part or as provided in subsection (c), (d), or (e).

20           “(b) ISSUANCE.—

21                 “(1) REGULATIONS.—Not later than 2 years  
22 after the date of enactment of this title, the Admin-  
23 istrator, in consultation with the Secretary of State,  
24 the Administrator of the United States Agency for  
25 International Development, and any other appro-

1        appropriate Federal agency, and taking into consideration  
2        the recommendations of the Advisory Board, shall  
3        promulgate regulations for implementing this sec-  
4        tion. Except as otherwise provided in this section,  
5        the issuance of international offset credits under this  
6        section shall be subject to the requirements of this  
7        part.

8               “(2) REQUIREMENTS FOR INTERNATIONAL  
9        OFFSET CREDITS.—The Administrator may issue  
10       international offset credits only if—

11               “(A) the United States is a party to a bi-  
12       lateral or multilateral agreement or arrange-  
13       ment that includes the country in which the  
14       project or measure achieving the relevant green-  
15       house gas emission reduction or avoidance, or  
16       greenhouse gas sequestration, has occurred;

17               “(B) such country is a developing country;

18               “(C) such agreement or arrangement—

19                       “(i) ensures that all of the require-  
20       ments of this part apply to the issuance of  
21       international offset credits under this sec-  
22       tion; and

23                       “(ii) provides for the appropriate dis-  
24       tribution of international offset credits  
25       issued; and

1           “(D) the offset project developer des-  
2           ignates a registered agent in the United States  
3           who is authorized to accept service of process of  
4           behalf of the offsets project developer for the  
5           purpose of all civil and regulatory actions in  
6           Federal courts, if such service is made in ac-  
7           cordance with the Federal rules for service of  
8           process in the States in which the case or regu-  
9           latory action is brought. A foreign offset project  
10          developer that designates an agent under this  
11          section thereby consents to the personal juris-  
12          diction of the Federal courts of the State in  
13          which the registered agent is located for the  
14          purpose of any civil or regulatory proceeding.

15          “(c) SECTOR-BASED CREDITS.—

16                 “(1) IN GENERAL.—In order to minimize the  
17                 potential for leakage and to encourage countries to  
18                 take nationally appropriate mitigation actions to re-  
19                 duce or avoid greenhouse gas emissions, or sequester  
20                 greenhouse gases, the Administrator, in consultation  
21                 with the Secretary of State and the Administrator of  
22                 the United States Agency for International Develop-  
23                 ment, shall—

24                         “(A) identify sectors of specific countries  
25                         with respect to which the issuance of inter-

1 national offset credits on a sectoral basis is ap-  
2 propriate; and

3 “(B) issue international offset credits for  
4 such sectors only on a sectoral basis.

5 “(2) IDENTIFICATION OF SECTORS.—

6 “(A) GENERAL RULE.—For purposes of  
7 paragraph (1)(A), a sectoral basis shall be ap-  
8 propriate for activities—

9 “(i) in countries that have compara-  
10 tively high greenhouse gas emissions, or  
11 comparatively greater levels of economic  
12 development; and

13 “(ii) that, if located in the United  
14 States, would be within a sector subject to  
15 the compliance obligation under section  
16 722.

17 “(B) FACTORS.—In determining the sec-  
18 tors and countries for which international offset  
19 credits should be awarded only on a sectoral  
20 basis, the Administrator, in consultation with  
21 the Secretary of State and the Administrator of  
22 the United States Agency for International De-  
23 velopment, shall consider the following factors:

24 “(i) The country’s gross domestic  
25 product.

1           “(ii) The country’s total greenhouse  
2 gas emissions.

3           “(iii) Whether the comparable sector  
4 of the United States economy is covered by  
5 the compliance obligation under section  
6 722.

7           “(iv) The heterogeneity or homo-  
8 geneity of sources within the relevant sec-  
9 tor.

10          “(v) Whether the relevant sector pro-  
11 vides products or services that are sold in  
12 internationally competitive markets.

13          “(vi) The risk of leakage if inter-  
14 national offset credits were issued on a  
15 project-level basis, instead of on a sectoral  
16 basis, for activities within the relevant sec-  
17 tor.

18          “(vii) The capability of accurately  
19 measuring, monitoring, reporting, and  
20 verifying the performance of sources across  
21 the relevant sector.

22          “(viii) Such other factors as the Ad-  
23 ministrator, in consultation with the Sec-  
24 retary of State and the Administrator of  
25 the United States Agency for International

1           Development, determines are appropriate  
2           to—

3                   “(I) ensure the integrity of the  
4                   United States greenhouse gas emis-  
5                   sions cap established under section  
6                   701; and

7                   “(II) encourage countries to take  
8                   nationally appropriate mitigation ac-  
9                   tions to reduce or avoid greenhouse  
10                  gas emissions, or sequester green-  
11                  house gases.

12           “(3) SECTORAL BASIS.—

13                   “(A) DEFINITION.—In this subsection, the  
14                   term ‘sectoral basis’ means the issuance of  
15                   international offset credits only for the quantity  
16                   of sector-wide reductions or avoidance of green-  
17                   house gas emissions, or sector-wide increases in  
18                   sequestration of greenhouse gases, achieved  
19                   across the relevant sector of the economy rel-  
20                   ative to a baseline level of performance estab-  
21                   lished in an agreement or arrangement de-  
22                   scribed in subsection (b)(2)(A) for the sector.

23                   “(B) BASELINE.—The baseline for a sec-  
24                   tor shall be established at levels of greenhouse  
25                   gas emissions lower than would occur under a



1 business-as-usual scenario taking into account  
2 relevant domestic or international policies or in-  
3 centives to reduce greenhouse gas emissions,  
4 among other factors, and additionality and per-  
5 formance shall be determined on the basis of  
6 such baseline.

7 “(d) CREDITS ISSUED BY AN INTERNATIONAL  
8 BODY.—

9 “(1) IN GENERAL.—The Administrator, in con-  
10 sultation with the Secretary of State, may issue  
11 international offset credits in exchange for instru-  
12 ments in the nature of offset credits that are issued  
13 by an international body established pursuant to the  
14 United Nations Framework Convention on Climate  
15 Change, to a protocol to such Convention, or to a  
16 treaty that succeeds such Convention. The Adminis-  
17 trator may issue international offset credits under  
18 this subsection only if, in addition to the require-  
19 ments of subsection (b), the Administrator has de-  
20 termined that the international body that issued the  
21 instruments has implemented substantive and proce-  
22 dural requirements for the relevant project type that  
23 provide equal or greater assurance of the integrity of  
24 such instruments as is provided by the requirements  
25 of this part.

1           “(2) RETIREMENT.—The Administrator, in  
2           consultation with the Secretary of State, shall seek,  
3           by whatever means appropriate, including agree-  
4           ments, arrangements, or technical cooperation with  
5           the international issuing body described in para-  
6           graph (1), to ensure that such body—

7                   “(A) is notified of the Administrator’s  
8                   issuance, under this subsection, of an inter-  
9                   national offset credit in exchange for an instru-  
10                  ment issued by such international body; and

11                   “(B) provides, to the extent feasible, for  
12                   the disqualification of the instrument issued by  
13                   such international body for subsequent use  
14                   under any relevant foreign or international  
15                   greenhouse gas regulatory program, regardless  
16                   of whether such use is a sale, exchange, or sub-  
17                   mission to satisfy a compliance obligation.

18           “(e) OFFSETS FROM REDUCED DEFORESTATION.—

19                   “(1) REQUIREMENTS.—The Administrator, in  
20                   accordance with the regulations promulgated under  
21                   subsection (b)(1) and an agreement or arrangement  
22                   described in subsection (b)(2)(A), shall issue inter-  
23                   national offset credits for greenhouse gas emission  
24                   reductions achieved through activities to reduce de-

1       forestation only if, in addition to the requirements of  
2       subsection (b)—

3               “(A) the activity occurs in—

4                       “(i) a country listed by the Adminis-  
5                       trator pursuant to paragraph (2);

6                       “(ii) a state or province listed by the  
7                       Administrator pursuant to paragraph (5);

8               or

9                       “(iii) a country listed by the Adminis-  
10                      trator pursuant to paragraph (6);

11               “(B) except as provided in paragraph (5)  
12               or (6), the quantity of the international offset  
13               credits is determined by comparing the national  
14               emissions from deforestation relative to a na-  
15               tional deforestation baseline for that country es-  
16               tablished, in accordance with an agreement or  
17               arrangement described in subsection (b)(2)(A),  
18               pursuant to paragraph (4);

19               “(C) the reduction in emissions from de-  
20               forestation has occurred before the issuance of  
21               the international offset credit and, taking into  
22               consideration relevant international standards,  
23               has been demonstrated using ground-based in-  
24               ventories, remote sensing technology, and other

1 methodologies to ensure that all relevant carbon  
2 stocks are accounted;

3 “(D) the Administrator has made appro-  
4 priate adjustments, such as discounting for any  
5 additional uncertainty, to account for cir-  
6 cumstances specific to the country, including its  
7 technical capacity described in paragraph  
8 (2)(A);

9 “(E) the activity is designed, carried out,  
10 and managed—

11 “(i) in accordance with widely accept-  
12 ed, environmentally sustainable forest  
13 management practices;

14 “(ii) to promote or restore native for-  
15 est species and ecosystems where prac-  
16 ticable, and to avoid the introduction of  
17 invasive nonnative species;

18 “(iii) in a manner that gives due re-  
19 gard to the rights and interests of local  
20 communities, indigenous peoples, forest-de-  
21 pendent communities, and vulnerable social  
22 groups;

23 “(iv) with consultations with, and full  
24 participation of, local communities, indige-  
25 nous peoples, and forest-dependent com-

1 communities, in affected areas, as partners  
2 and primary stakeholders, prior to and  
3 during the design, planning, implementa-  
4 tion, and monitoring and evaluation of ac-  
5 tivities;

6 “(v) with transparent and equitable  
7 sharing of profits and benefits derived  
8 from offset credits with local communities,  
9 indigenous peoples, and forest-dependent  
10 communities;

11 “(vi) with full transparency, third-  
12 party independent oversight, and public  
13 dissemination of related financial and con-  
14 tractual arrangements, and

15 “(vii) so that the social and environ-  
16 mental impacts of these activities are mon-  
17 itored and reported in sufficient detail to  
18 allow appropriate officials to determine  
19 compliance with the requirements of this  
20 section;

21 “(F) the reduction otherwise satisfies and  
22 is consistent with any relevant requirements es-  
23 tablished by an agreement reached under the  
24 auspices of the United Nations Framework

1 Convention on Climate Change, done at New  
2 York on May 9, 1992; and

3 “(G) in the case that offsets are deter-  
4 mined by comparing the national emissions  
5 from deforestation relative to a national, state-  
6 level, or province-level deforestation baseline as  
7 provided in paragraph (4) or (5)—

8 “(i) a list of activities to reduce defor-  
9 estation is provided to the Administrator  
10 and made publicly available;

11 “(ii) the social and environmental im-  
12 pacts of these activities are monitored and  
13 reported in sufficient detail to allow the  
14 Administrator to determine compliance  
15 with the requirements of this section; and

16 “(iii) the distribution of revenues for  
17 activities to reduce deforestation is trans-  
18 parent, subject to independent third-party  
19 oversight, and publicly disseminated.

20 “(2) ELIGIBLE COUNTRIES.—The Adminis-  
21 trator, in consultation with the Secretary of State  
22 and the Administrator of the United States Agency  
23 for International Development, and in accordance  
24 with an agreement or arrangement described in sub-  
25 section (b)(2)(A), shall establish, and periodically re-

1 view and update, a list of the developing countries  
2 that have the capacity to participate in deforestation  
3 reduction activities at a national level, including—

4 “(A) the technical capacity to monitor,  
5 measure, report, and verify forest carbon fluxes  
6 for all significant sources of greenhouse gas  
7 emissions from deforestation with an acceptable  
8 level of uncertainty, as determined taking into  
9 account relevant internationally accepted meth-  
10 odologies, such as those established by the  
11 Intergovernmental Panel on Climate Change;

12 “(B) the institutional capacity to reduce  
13 emissions from deforestation, including strong  
14 forest governance and mechanisms to ensure  
15 transparency and third-party independent over-  
16 sight of offset activities and revenues, and the  
17 transparent and equitable distribution of offset  
18 revenues for local actions; and

19 “(C) a land use or forest sector strategic  
20 plan that—

21 “(i) assesses national and local drivers  
22 of deforestation and forest degradation and  
23 identifies reforms to national policies need-  
24 ed to address them;

1 “(ii) estimates the country’s emissions  
2 from deforestation and forest degradation;

3 “(iii) identifies improvements in data  
4 collection, monitoring, and institutional ca-  
5 pacity necessary to implement a national  
6 deforestation reduction program;

7 “(iv) establishes a timeline for imple-  
8 menting the program and transitioning to  
9 low-emissions development; and

10 “(v) includes consultations with, and  
11 full participation of, civil society in its de-  
12 sign, planning, and implementation.

13 “(3) PROTECTION OF INTERESTS.—With re-  
14 spect to an agreement or arrangement described in  
15 subsection (b)(2)(A) with a country that addresses  
16 international offset credits under this subsection, the  
17 Administrator, in consultation with the Secretary of  
18 State and the Administrator of the United States  
19 Agency for International Development, shall seek to  
20 ensure the establishment and enforcement by such  
21 country of legal regimes, processes, standards, and  
22 safeguards that—

23 “(A) give due regard to the rights and in-  
24 terests of local communities, indigenous peoples,



1 forest-dependent communities, and vulnerable  
2 social groups;

3 “(B) promote consultations with, and full  
4 participation of, forest-dependent communities  
5 and indigenous peoples in affected areas, as  
6 partners and primary stakeholders, prior to and  
7 during the design, planning, implementation,  
8 and monitoring and evaluation of activities; and

9 “(C) encourage transparent and equitable  
10 sharing of profits and benefits derived from  
11 international offset credits with local commu-  
12 nities, indigenous peoples, and forest-dependent  
13 communities.

14 “(4) NATIONAL DEFORESTATION BASELINE.—A  
15 national deforestation baseline established under this  
16 subsection shall—

17 “(A) be national in scope;

18 “(B) be consistent with nationally appro-  
19 priate mitigation commitments or actions with  
20 respect to deforestation, taking into consider-  
21 ation the average annual historical deforestation  
22 rates of the country during a period of at least  
23 5 years, the applicable drivers of deforestation,  
24 and other factors to ensure additionality;

1           “(C) establish a trajectory that would re-  
2           sult in zero net deforestation by not later than  
3           20 years after the national deforestation base-  
4           line has been established;

5           “(D) be adjusted over time to take account  
6           of changing national circumstances;

7           “(E) be designed to account for all signifi-  
8           cant sources of greenhouse gas emissions from  
9           deforestation in the country; and

10           “(F) be consistent with the national defor-  
11           estation baseline, if any, established for such  
12           country under section 754(d)(1).

13           “(5) STATE-LEVEL OR PROVINCE-LEVEL AC-  
14           TIVITIES.—

15           “(A) ELIGIBLE STATES OR PROVINCES.—

16           The Administrator, in consultation with the  
17           Secretary of State and the Administrator of the  
18           United States Agency for International Devel-  
19           opment, shall establish, and periodically review  
20           and update, a list of states or provinces in de-  
21           veloping countries where—

22           “(i) the developing country is not in-  
23           cluded on the list of countries established  
24           pursuant to paragraph (6)(A);

1           “(ii) the state or province by itself is  
2           a major emitter of greenhouse gases from  
3           tropical deforestation on a scale commensurate to the emissions of other countries;  
4           and  
5           and

6           “(iii) the state or province meets the  
7           eligibility criteria in paragraphs (2) and  
8           (3) for the geographic area under its jurisdiction.  
9           diction.

10           “(B) ACTIVITIES.—The Administrator may  
11           issue international offset credits for greenhouse  
12           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.

23           “(C) STATE-LEVEL OR PROVINCE-LEVEL  
24           DEFORESTATION BASELINE.—A state-level or  
25           province-level deforestation baseline shall—

1           “(i) be consistent with any existing  
2           nationally appropriate mitigation commit-  
3           ments or actions for the country in which  
4           the activity is occurring, taking into con-  
5           sideration the average annual historical de-  
6           forestation rates of the state or province  
7           during a period of at least 5 years, rel-  
8           evant drivers of deforestation, and other  
9           factors to ensure additionality;

10           “(ii) establish a trajectory that would  
11           result in zero net deforestation by not later  
12           than 20 years after the state-level or prov-  
13           ince-level deforestation baseline has been  
14           established; and

15           “(iii) be designed to account for all  
16           significant sources of greenhouse gas emis-  
17           sions from deforestation in the state or  
18           province and adjusted to fully account for  
19           emissions leakage outside the state or  
20           province.

21           “(D) PHASE OUT.—Beginning 5 years  
22           after the first calendar year for which a covered  
23           entity must demonstrate compliance with sec-  
24           tion 722(a), the Administrator shall issue no  
25           further international offset credits for eligible

1 state-level or province-level activities to reduce  
2 deforestation pursuant to this paragraph.

3 “(6) PROJECTS AND PROGRAMS TO REDUCE  
4 DEFORESTATION.—

5 “(A) ELIGIBLE COUNTRIES.—The Admin-  
6 istrator, in consultation with the Secretary of  
7 State and the Administrator of the United  
8 States Agency for International Development,  
9 shall establish, and periodically review and up-  
10 date, a list of developing countries that—

11 “(i) the Administrator determines,  
12 based on recent, credible, and reliable  
13 emissions data, account for less than 1  
14 percent of global greenhouse gas emissions  
15 and less than 3 percent of global forest-  
16 sector and land use change greenhouse gas  
17 emissions; and

18 “(ii) have, or in the determination of  
19 the Administrator are making a good faith  
20 effort to develop, a land use or forest sec-  
21 tor strategic plan that meets the criteria  
22 described in paragraph (2)(C).

23 “(B) ACTIVITIES.—The Administrator may  
24 issue international offset credits for greenhouse  
25 gas emission reductions achieved through

1 project or program level activities to reduce de-  
2 forestation in countries listed under subpara-  
3 graph (A) that meet the requirements of this  
4 section. The quantity of international offset  
5 credits shall be determined by comparing the  
6 project-level or program-level emissions from  
7 deforestation to a deforestation baseline for  
8 such project or program established pursuant to  
9 subparagraph (C).

10 “(C) PROJECT-LEVEL OR PROGRAM-LEVEL  
11 BASELINE.—A project-level or program-level de-  
12 forestation baseline shall—

13 “(i) be consistent with any existing  
14 nationally appropriate mitigation commit-  
15 ments or actions for the country in which  
16 the project or program is occurring, taking  
17 into consideration the average annual his-  
18 torical deforestation rates in the project or  
19 program boundary during a period of at  
20 least 5 years, applicable drivers of defor-  
21 estation, and other factors to ensure  
22 additionality;

23 “(ii) be designed to account for all  
24 significant sources of greenhouse gas emis-

1 sions from deforestation in the project or  
2 program boundary; and

3 “(iii) be adjusted to fully account for  
4 emissions leakage outside the project or  
5 program boundary.

6 “(D) PHASE OUT.—

7 “(i) Beginning 5 years after the first  
8 calendar year for which a covered entity  
9 must demonstrate compliance with section  
10 722(a), the Administrator shall issue no  
11 further international offset credits for  
12 project-level or program-level activities as  
13 described in this paragraph, except as pro-  
14 vided in clause (ii).

15 “(ii) The Administrator may extend  
16 the phase out deadline for the issuance of  
17 international offset credits under this sec-  
18 tion by up to 8 years with respect to eligi-  
19 ble activities taking place in a least devel-  
20 oped nation, which is a foreign country  
21 that the United Nations has identified as  
22 among the least developed of developing  
23 countries at the time that the Adminis-  
24 trator determines to provide an extension,  
25 provided that the Administrator, in con-

1                   sultation with the Secretary of State and  
2                   the Administrator of the United States  
3                   Agency for International Development, de-  
4                   termines the nation—

5                   “(I) lacks sufficient capacity to  
6                   adopt and implement effective pro-  
7                   grams to achieve reductions in defor-  
8                   estation measured against national  
9                   baselines;

10                  “(II) is receiving support under  
11                  part E to develop such capacity; and

12                  “(III) has developed and is work-  
13                  ing to implement a credible national  
14                  strategy or plan to reduce deforest-  
15                  ation.

16                  “(7) DEFORESTATION.—In implementing this  
17                  subsection, the Administrator, taking into consider-  
18                  ation the recommendations of the Advisory Board,  
19                  may include forest degradation, or soil carbon losses  
20                  associated with forested wetlands or peatlands, with-  
21                  in the meaning of deforestation.

22                  “(f) MODIFICATION OF REQUIREMENTS.—In promul-  
23                  gating regulations under subsection (b)(1) with respect to  
24                  the issuance of international offset credits under sub-  
25                  section (c), (d), or (e), the Administrator, in consultation



1 with the Secretary of State and the Administrator of the  
2 United States Agency for International Development, may  
3 modify or omit a requirement of this part (excluding the  
4 requirements of this section) if the Administrator deter-  
5 mines that the application of that requirement to such  
6 subsection is not feasible. In modifying or omitting such  
7 a requirement on the basis of infeasibility, the Adminis-  
8 trator, in consultation with the Secretary of State and the  
9 Administrator of the United States Agency for Inter-  
10 national Development, shall ensure, with an adequate  
11 margin of safety, the integrity of international offset cred-  
12 its issued under this section and of the greenhouse gas  
13 emissions cap established pursuant to section 701.

14       “(g) AVOIDING DOUBLE COUNTING.—The Adminis-  
15 trator, in consultation with the Secretary of State, shall  
16 seek, by whatever means appropriate, including agree-  
17 ments, arrangements, or technical cooperation, to ensure  
18 that activities on the basis of which international offset  
19 credits are issued under this section are not used for com-  
20 pliance with an obligation to reduce or avoid greenhouse  
21 gas emissions, or increase greenhouse gas sequestration,  
22 under a foreign or international regulatory system. In ad-  
23 dition, no international offset credits shall be issued for  
24 emission reductions from activities with respect to which

1 emission allowances were allocated under section 781 for  
2 distribution under part E.

3 “(h) LIMITATION.—The Administrator shall not issue  
4 international offset credits generated by projects based on  
5 the destruction of hydrofluorocarbons.

6 **“PART E—SUPPLEMENTAL EMISSIONS**

7 **REDUCTIONS FROM REDUCED DEFORESTATION**

8 **“SEC. 751. DEFINITIONS.**

9 “In this part:

10 “(1) LEAKAGE PREVENTION ACTIVITIES.—The  
11 term ‘leakage prevention activities’ means activities  
12 in developing countries that are directed at pre-  
13 serving existing forest carbon stocks, including for-  
14 ested wetlands and peatlands, that might, absent  
15 such activities, be lost through leakage.

16 “(2) NATIONAL DEFORESTATION REDUCTION  
17 ACTIVITIES.—The term ‘national deforestation re-  
18 duction activities’ means activities in developing  
19 countries that reduce a quantity of greenhouse gas  
20 emissions from deforestation that is calculated by  
21 measuring actual emissions against a national defor-  
22 estation baseline established pursuant to section  
23 754(d)(1) and (2).

24 “(3) SUBNATIONAL DEFORESTATION REDUC-  
25 TION ACTIVITIES.—The term ‘subnational deforest-

1       ation reduction activities’ means activities in devel-  
2       oping countries that reduce a quantity of greenhouse  
3       gas emissions from deforestation that are calculated  
4       by measuring actual emissions using an appropriate  
5       baseline established by the Administrator that is less  
6       than national in scope.

7               “(4) SUPPLEMENTAL EMISSIONS REDUC-  
8       TIONS.—The term ‘supplemental emissions reduc-  
9       tions’ means greenhouse gas emissions reductions  
10      achieved from reduced or avoided deforestation  
11      under this part.

12              “(5) USAID.—The term ‘USAID’ means the  
13      United States Agency for International Develop-  
14      ment.

15   **“SEC. 752. FINDINGS.**

16      “Congress finds that—

17              “(1) as part of a global effort to mitigate cli-  
18      mate change, it is in the national interest of the  
19      United States to assist developing countries to re-  
20      duce and ultimately halt emissions from deforest-  
21      ation;

22              “(2) deforestation is one of the largest sources  
23      of greenhouse gas emissions in developing countries,  
24      amounting to roughly 20 percent of overall emissions  
25      globally;

1           “(3) recent scientific analysis shows that it will  
2           be substantially more difficult to limit the increase  
3           in global temperatures to less than 2 degrees centi-  
4           grade above preindustrial levels without reducing  
5           and ultimately halting net emissions from deforest-  
6           ation;

7           “(4) reducing emissions from deforestation is  
8           highly cost-effective, compared to many other  
9           sources of emissions reductions;

10           “(5) in addition to contributing significantly to  
11           worldwide efforts to address global warming, this as-  
12           sistance will generate significant environmental and  
13           social cobenefits, including protection of biodiversity,  
14           ecosystem services, and forest-related livelihoods;  
15           and

16           “(6) under the Bali Action Plan, developed  
17           country parties to the United Nations Framework  
18           Convention on Climate Change, including the United  
19           States, committed to ‘enhanced action on the provi-  
20           sion of financial resources and investment to support  
21           action on mitigation and adaptation and technology  
22           cooperation,’ including, inter alia, consideration of  
23           ‘improved access to adequate, predictable, and sus-  
24           tainable financial resources and financial and tech-  
25           nical support, and the provision of new and addi-

1 tional resources, including official and concessional  
2 funding for developing country parties’.

3 **“SEC. 753. SUPPLEMENTAL EMISSIONS REDUCTIONS**  
4 **THROUGH REDUCED DEFORESTATION.**

5 “(a) REGULATIONS.—Not later than 2 years after  
6 the date of enactment of this title, the Administrator, in  
7 consultation with the Administrator of USAID and any  
8 other appropriate agencies, shall promulgate regulations  
9 establishing a program to use emission allowances set  
10 aside for this purpose under section 781 to achieve the  
11 reduction of greenhouse gas emissions from deforestation  
12 in developing countries in accordance with the require-  
13 ments of this part.

14 “(b) OBJECTIVES.—The objectives of the program es-  
15 tablished under this section shall be to—

16 “(1) achieve supplemental emissions reductions  
17 of at least 720,000,000 tons of carbon dioxide equiv-  
18 alent in 2020, a cumulative amount of at least  
19 6,000,000,000 tons of carbon dioxide equivalent by  
20 December 31, 2025, and additional supplemental  
21 emissions reductions in subsequent years;

22 “(2) build capacity to reduce deforestation in  
23 developing countries experiencing deforestation, in-  
24 cluding preparing developing countries to participate

1 in international markets for international offset  
2 credits for reduced emissions from deforestation; and

3 “(3) preserve existing forest carbon stocks in  
4 countries where such forest carbon may be vulner-  
5 able to international leakage, particularly in devel-  
6 oping countries with largely intact native forests.

7 **“SEC. 754. REQUIREMENTS FOR INTERNATIONAL DEFOR-**  
8 **ESTATION REDUCTION PROGRAM.**

9 “(a) **ELIGIBLE COUNTRIES.**—The Administrator  
10 may support activities under this part only with respect  
11 to a developing country that—

12 “(1) the Administrator, in consultation with the  
13 Administrator of USAID, determines is experiencing  
14 deforestation or forest degradation or has standing  
15 forest carbon stocks that may be at risk of deforest-  
16 ation or degradation; and

17 “(2) has entered into a bilateral or multilateral  
18 agreement or arrangement with the United States  
19 establishing the conditions of its participation in the  
20 program established under this part, which shall in-  
21 clude an agreement to meet the standards estab-  
22 lished under subsection (d) for the activities to  
23 which those standards apply.

24 “(b) **ACTIVITIES.**—(1) Subject to the requirements of  
25 this part, the Administrator, in consultation with the Ad-

1 administrator of USAID, may support activities to achieve  
2 the objectives identified in section 753(b), including—

3 “(A) national deforestation reduction activities;

4 “(B) subnational deforestation reduction activi-  
5 ties, including pilot activities that reduce greenhouse  
6 gas emissions but are subject to significant uncer-  
7 tainty;

8 “(C) activities to measure, monitor, and verify  
9 deforestation, avoided deforestation, and deforest-  
10 ation rates;

11 “(D) leakage prevention activities;

12 “(E) development of measurement, monitoring,  
13 and verification capacities to enable a country to  
14 quantify supplemental emissions reductions and to  
15 generate for sale offset credits from reduced or  
16 avoided deforestation;

17 “(F) development of governance structures to  
18 reduce deforestation and illegal logging;

19 “(G) enforcement of requirements for reduced  
20 deforestation or forest conservation;

21 “(H) efforts to combat illegal logging and in-  
22 crease enforcement cooperation;

23 “(I) providing incentives for policy reforms to  
24 achieve the objectives identified in section 753(b);

25 and

1           “(J) monitoring and evaluation of the results of  
2           the activities conducted under this section.

3           “(2) ACTIVITIES SELECTED BY USAID.—

4           “(A) The Administrator of USAID, in consulta-  
5           tion with the Administrator, may select for support  
6           and implementation pursuant to subsection (c) any  
7           of the activities described in paragraph (1), con-  
8           sistent with this part and the regulations promul-  
9           gated under subsection (d), and subject to the re-  
10          quirement to achieve the objectives listed in section  
11          753(b)(1).

12          “(B) With respect to the activities listed in sub-  
13          paragraphs (D) through (J) of paragraph (1), the  
14          Administrator of USAID, in consultation with the  
15          Administrator, shall have primary but not exclusive  
16          responsibility for selecting the activities to be sup-  
17          ported and implemented.

18          “(3) INTERAGENCY COORDINATION.—The Adminis-  
19          trator and the Administrator of USAID shall jointly de-  
20          velop and biennially update a strategic plan for meeting  
21          the objectives listed in section 753(b) and shall execute  
22          a memorandum of understanding delineating the agencies’  
23          respective roles in implementing this part.

24          “(c) MECHANISMS.—



1           “(1) IN GENERAL.—The Administrator may  
2 support activities to achieve the objectives identified  
3 in section 753(b) by—

4           “(A) developing and implementing pro-  
5 grams and projects that achieve such objectives;  
6 and

7           “(B) distributing emission allowances to a  
8 country that is eligible under subsection (a), to  
9 any private or public group (including inter-  
10 national organizations), or to an international  
11 fund established by an international agreement  
12 to which the United States is a party, to carry  
13 out activities to achieve such objectives.

14           “(2) USAID ACTIVITIES.—With respect to ac-  
15 tivities selected and implemented by the Adminis-  
16 trator of USAID pursuant to subsection (b)(2), the  
17 Administrator shall distribute emission allowances as  
18 provided in paragraph (1) based upon the direction  
19 of the Administrator of USAID, subject to the avail-  
20 ability of allowances for such activities.

21           “(3) IMPLEMENTATION THROUGH INTER-  
22 NATIONAL ORGANIZATIONS.—If support is distrib-  
23 uted through an international organization, the  
24 agency responsible for selecting activities in accord-  
25 ance with subsection (b)(1) or (2), in consultation

1 with the Secretary of State, shall ensure the estab-  
2 lishment and implementation of adequate mecha-  
3 nisms to apply and enforce the eligibility require-  
4 ments and other requirements of this section.

5 “(4) ROLE OF THE SECRETARY OF STATE.—  
6 The Administrator may not distribute emission al-  
7 lowances to the government of another country or to  
8 an international organization or international fund  
9 unless the Secretary of State has concurred with  
10 such distribution.

11 “(d) STANDARDS.—The Administrator, in consulta-  
12 tion with the Administrator of USAID, shall promulgate  
13 standards to ensure that supplemental emissions reduc-  
14 tions achieved through supported activities are additional,  
15 measurable, verifiable, permanent, monitored, and account  
16 for leakage and uncertainty. In addition, such standards  
17 shall—

18 “(1) require the establishment of a national de-  
19 forestation baseline for each country with national  
20 deforestation reduction activities that is used to ac-  
21 count for reductions achieved from such activities;

22 “(2) provide that a national deforestation base-  
23 line established under paragraph (1) shall—

24 “(A) be national in scope;

1           “(B) be consistent with nationally appro-  
2           priate mitigation commitments or actions with  
3           respect to deforestation, taking into consider-  
4           ation the average annual historical deforestation  
5           rates of the country during a period of at least  
6           5 years and other factors to ensure  
7           additionality;

8           “(C) establish a trajectory that would re-  
9           sult in zero net deforestation by not later than  
10          20 years from the date the baseline is estab-  
11          lished;

12          “(D) be adjusted over time to take account  
13          of changing national circumstances;

14          “(E) be designed to account for all signifi-  
15          cant sources of greenhouse gas emissions from  
16          deforestation in the country; and

17          “(F) be consistent with the national defor-  
18          estation baseline, if any, established for such  
19          country under section 743(e)(4);

20          “(3) with respect to support provided pursuant  
21          to subsection (b)(1)(A) or (B), require supplemental  
22          emissions reductions to be achieved and verified  
23          prior to compensation through the distribution of  
24          emission allowances under this part;

1           “(4) with respect to accounting for subnational  
2           deforestation reduction activities that lack the stand-  
3           ardized or precise measurement and monitoring  
4           techniques needed for a full accounting of changes  
5           in emissions or baselines, or are subject to other  
6           sources of uncertainty, apply a conservative discount  
7           factor to reflect the uncertainty regarding the levels  
8           of reductions achieved;

9           “(5) ensure that activities under this part shall  
10          be designed, carried out, and managed—

11                 “(A) in accordance with widely accepted,  
12                 environmentally sustainable forestry practices;

13                 “(B) to promote native species and con-  
14                 servation or restoration of native forests, if  
15                 practicable, and to avoid the introduction of  
16                 invasive nonnative species;

17                 “(C) in a manner that gives due regard to  
18                 the rights and interests of local communities,  
19                 indigenous peoples, forest-dependent commu-  
20                 nities, and vulnerable social groups;

21                 “(D) with consultations with, and full par-  
22                 ticipation of, local communities, indigenous peo-  
23                 ples, and forest-dependent communities in af-  
24                 fected areas, as partners and primary stake-  
25                 holders, prior to and during the design, plan-

1           ning, implementation, and monitoring and eval-  
2           uation of activities; and

3           “(E) with equitable sharing of profits and  
4           benefits derived from the activities with local  
5           communities, indigenous peoples, and forest-de-  
6           pendent communities; and

7           “(6) with respect to support for all activities  
8           under this part, seek to ensure the establishment  
9           and enforcement by the recipient country of legal re-  
10          gimes, standards, processes, and safeguards that—

11           “(A) give due regard to the rights and in-  
12          terests of local communities, indigenous peoples,  
13          forest-dependent communities, and vulnerable  
14          social groups;

15           “(B) promote consultations with local com-  
16          munities and indigenous peoples and forest-de-  
17          pendent communities in affected areas, as part-  
18          ners and primary stakeholders, prior to and  
19          during the design, planning, implementation,  
20          monitoring, and evaluation of activities under  
21          this part; and

22           “(C) encourage equitable sharing of profits  
23          and benefits from incentives for emissions re-  
24          ductions or leakage prevention with local com-

1           munities, indigenous peoples, and forest-de-  
2           pendent communities.

3           “(e) EXPANSION OF SCOPE.—The Administrator, in  
4 consultation with the Administrator of USAID, may de-  
5 cide, taking into account any advice from the Advisory  
6 Board, to expand, where appropriate, the scope of activi-  
7 ties under this part to include—

8           “(1) reduced emissions from forest degradation;  
9           or

10           “(2) reduced soil carbon-derived emissions asso-  
11 ciated with deforestation and degradation of forested  
12 wetlands and peatlands.

13           “(f) ACCOUNTING.—The Administrator shall estab-  
14 lish a publicly accessible registry of the supplemental emis-  
15 sions reductions achieved through support provided under  
16 this part each year, after appropriately discounting for un-  
17 certainty and other relevant factors as required by the  
18 standards established under subsection (d).

19           “(g) TRANSITION TO NATIONAL REDUCTIONS.—Be-  
20 ginning 5 years after the date that a country entered into  
21 the agreement or arrangement required under subsection  
22 (a)(2), the Administrator shall provide no further com-  
23 pensation through emission allowances to that country  
24 under this part for any subnational deforestation reduc-  
25 tion activities, except that the Administrator may extend

1 this period by an additional 5 years if the Administrator,  
2 in consultation with the Administrator of USAID, deter-  
3 mines that—

4           “(1) the country is making substantial progress  
5 towards adopting and implementing a program to  
6 achieve reductions in deforestation measured against  
7 a national baseline;

8           “(2) the greenhouse gas emissions reductions  
9 achieved are not resulting in significant leakage; and

10           “(3) the greenhouse gas emissions reductions  
11 achieved are being appropriately discounted to ac-  
12 count for any leakage that is occurring.

13 The limitation under this subsection shall not apply to  
14 support for activities to further the objectives listed in sec-  
15 tion 753(b)(2) or (3).

16           “(h) COORDINATION WITH U.S. FOREIGN ASSIST-  
17 ANCE.—Subject to the direction of the President, the Ad-  
18 ministrator and the Administrator of USAID shall, to the  
19 extent practicable and consistent with the objectives of  
20 this program, seek to align activities under this section  
21 with broader development, poverty alleviation, or natural  
22 resource management objectives and initiatives in the re-  
23 cipient country.

24           “(i) SUPPORT AS SUPPLEMENT.—The provision of  
25 support for activities under this part shall be used to sup-

1 plement, and not to supplant, any other Federal, State,  
2 or local support available to carry out such qualifying ac-  
3 tivities under this part.

4 **“SEC. 755. REPORTS AND REVIEWS.**

5 “(a) REPORTS.—Not later than January 1, 2014,  
6 and annually thereafter, the Administrator and the Ad-  
7 ministrator of USAID shall submit to the Committee on  
8 Energy and Commerce and the Committee on Foreign Af-  
9 fairs of the House of Representatives, and the Committee  
10 on Environment and Public Works and the Committee on  
11 Foreign Relations of the Senate, and make available to  
12 the public, a report on the support provided under this  
13 part during the prior fiscal year. The report shall in-  
14 clude—

15 “(1) a statement of the quantity of supple-  
16 mental emissions reductions for which compensation  
17 in the form of emission allowances was provided  
18 under this part during the prior fiscal year, as reg-  
19 istered by the Administrator under section 754(f);  
20 and

21 “(2) a description of the national and sub-  
22 national deforestation reduction activities, capacity-  
23 building activities, and leakage prevention activities  
24 supported under this part, including a statement of  
25 the quantity of emission allowances distributed to



1 each recipient for each activity during the prior fis-  
2 cal year, and a description of what was accomplished  
3 through each of the activities.

4 “(b) **REVIEWS.**—Not later than 4 years after the date  
5 of enactment of this title and every 5 years thereafter,  
6 the Administrator and the Administrator of USAID and  
7 taking into consideration any evaluation by or rec-  
8 ommendations from the Advisory Board established under  
9 section 731, shall conduct a review of the activities under-  
10 taken pursuant to this part and make any appropriate  
11 changes in the program established under this part based  
12 on the findings of the review. The review shall include the  
13 effects of the activities on—

14 “(1) total documented carbon stocks of each  
15 country that directly or indirectly received support  
16 under this part compared with such country’s na-  
17 tional deforestation baseline established under sec-  
18 tion 754(d)(1);

19 “(2) the number of countries with the capacity  
20 to generate for sale instruments in the nature of off-  
21 set credits from forest-related activities, and the  
22 amount of such activities;

23 “(3) forest governance in each country that di-  
24 rectly or indirectly received support under this part;

1           “(4) indigenous peoples and forest-dependent  
2 communities residing in areas affected by such ac-  
3 tivities;

4           “(5) biodiversity and ecosystem services within  
5 forested areas associated with the activities;

6           “(6) international leakage; and

7           “(7) any program or mechanism established  
8 under the United Nations Framework Convention on  
9 Climate Change related to greenhouse gas emissions  
10 from deforestation.

11 **“SEC. 756. LEGAL EFFECT OF PART.**

12           “(1) IN GENERAL.—Nothing in this part super-  
13 sedes, limits, or otherwise affects any restriction im-  
14 posed by Federal law (including regulations) on any  
15 interaction between an entity located in the United  
16 States and an entity located in a foreign country.

17           “(2) ROLE OF THE SECRETARY OF STATE.—  
18 Nothing in this part shall be construed as affecting  
19 the role of the Secretary of State or the responsibil-  
20 ities of the Secretary under section 622(c) of the  
21 Foreign Assistance Act of 1961 (22 U.S.C.  
22 2382(e)).”.

1 **SEC. 402. DEFINITIONS.**

2 Title VII of the Clean Air Act, as added by section  
3 401 of this Act, is amended by inserting before part A  
4 the following new section:

5 **“SEC. 700. DEFINITIONS.**

6 “In this title:

7 “(1) **ADDITIONAL.**—The term ‘additional’,  
8 when used with respect to reductions or avoidance of  
9 greenhouse gas emissions, or to sequestration of  
10 greenhouse gases, means reductions, avoidance, or  
11 sequestration that result in a lower level of net  
12 greenhouse gas emissions or atmospheric concentra-  
13 tions than would occur in the absence of an offset  
14 project.

15 “(2) **ADDITIONALITY.**—The term ‘additionality’  
16 means the extent to which reductions or avoidance  
17 of greenhouse gas emissions, or sequestration of  
18 greenhouse gases, are additional.

19 “(3) **ADVISORY BOARD.**—The term ‘Advisory  
20 Board’ means the Offsets Integrity Advisory Board  
21 established under section 731.

22 “(4) **AFFILIATED.**—The term ‘affiliated’—

23 “(A) when used in relation to an entity,  
24 means owned or controlled by, or under com-  
25 mon ownership or control with, another entity,  
26 as determined by the Administrator; and

1           “(B) when used in relation to a natural  
2           gas local distribution company, means owned or  
3           controlled by, or under common ownership or  
4           control with, another natural gas local distribu-  
5           tion company, as determined by the Adminis-  
6           trator.

7           “(5) ALLOWANCE.—The term ‘allowance’  
8           means a limited authorization to emit, or have at-  
9           tributable greenhouse gas emissions in an amount  
10          of, 1 ton of carbon dioxide equivalent of a green-  
11          house gas in accordance with this title; it includes an  
12          emission allowance, a compensatory allowance, or an  
13          international emission allowance.

14          “(6) ATTRIBUTABLE GREENHOUSE GAS EMIS-  
15          SIONS.—The term ‘attributable greenhouse gas emis-  
16          sions’ means—

17                 “(A) for a covered entity that is a fuel pro-  
18                 ducer or importer described in paragraph  
19                 (13)(B), greenhouse gases that would be emit-  
20                 ted from the combustion of any petroleum-  
21                 based or coal-based liquid fuel, petroleum coke,  
22                 or natural gas liquid, produced or imported by  
23                 that covered entity for sale or distribution in  
24                 interstate commerce, assuming no capture and  
25                 sequestration of any greenhouse gas emissions;

1           “(B) for a covered entity that is an indus-  
2           trial gas producer or importer described in  
3           paragraph (13)(C), the tons of carbon dioxide  
4           equivalent of fossil fuel-based carbon dioxide,  
5           nitrous oxide, any fluorinated gas, other than  
6           nitrogen trifluoride, that is a greenhouse gas, or  
7           any combination thereof—

8                   “(i) produced or imported by such  
9                   covered entity during the previous calendar  
10                  year for sale or distribution in interstate  
11                  commerce; or

12                   “(ii) released as fugitive emissions in  
13                  the production of fluorinated gas; and

14           “(C) for a natural gas local distribution  
15           company described in paragraph (13)(J), green-  
16           house gases that would be emitted from the  
17           combustion of the natural gas, and any other  
18           gas meeting the specifications for commingling  
19           with natural gas for purposes of delivery, that  
20           such entity delivered during the previous cal-  
21           endar year to customers that are not covered  
22           entities, assuming no capture and sequestration  
23           of that greenhouse gas.

24           “(7) BIOLOGICAL SEQUESTRATION.—The term  
25           ‘biological sequestration’ means the removal of

1 greenhouse gases from the atmosphere by terrestrial  
2 biological means, such as by growing plants, and the  
3 storage of those greenhouse gases in plants or soils.

4 “(8) CAPPED EMISSIONS.—The term ‘capped  
5 emissions’ means greenhouse gas emissions to which  
6 section 722 applies, including emissions from the  
7 combustion of natural gas, petroleum-based or coal-  
8 based liquid fuel, petroleum coke, or natural gas liq-  
9 uid to which section 722(b)(2) or (8) applies.

10 “(9) CAPPED SOURCE.—The term ‘capped  
11 source’ means a source that directly emits capped  
12 emissions.

13 “(10) CARBON DIOXIDE EQUIVALENT.—The  
14 term ‘carbon dioxide equivalent’ means the unit of  
15 measure, expressed in metric tons, of greenhouse  
16 gases as provided under section 711 or 712.

17 “(11) CARBON STOCK.—The term ‘carbon  
18 stock’ means the quantity of carbon contained in a  
19 biological reservoir or system which has the capacity  
20 to accumulate or release carbon.

21 “(12) COMPENSATORY ALLOWANCE.—The term  
22 ‘compensatory allowance’ means an allowance issued  
23 under section 721(f).

24 “(13) COVERED ENTITY.—The term ‘covered  
25 entity’ means each of the following:

1           “(A) Any electricity source.

2           “(B) Any stationary source that produces,  
3 and any entity that (or any group of two or  
4 more affiliated entities that, in the aggregate)  
5 imports, for sale or distribution in interstate  
6 commerce in 2008 or any subsequent year, pe-  
7 troleum-based or coal-based liquid fuel, petro-  
8 leum coke, or natural gas liquid, the combus-  
9 tion of which would emit more than 25,000  
10 tons of carbon dioxide equivalent, as determined  
11 by the Administrator.

12           “(C) Any stationary source that produces,  
13 and any entity that (or any group of two or  
14 more affiliated entities that, in the aggregate)  
15 imports, for sale or distribution in interstate  
16 commerce, in bulk, or in products designated by  
17 the Administrator, in 2008 or any subsequent  
18 year more than 25,000 tons of carbon dioxide  
19 equivalent of—

20                   “(i) fossil fuel-based carbon dioxide;

21                   “(ii) nitrous oxide;

22                   “(iii) perfluorocarbons;

23                   “(iv) sulfur hexafluoride;

24                   “(v) any other fluorinated gas, except  
25 for nitrogen trifluoride, that is a green-

1 house gas, as designated by the Adminis-  
2 trator under section 711(b) or (c); or

3 “(vi) any combination of greenhouse  
4 gases described in clauses (i) through (v).

5 “(D) Any stationary source that has emit-  
6 ted 25,000 or more tons of carbon dioxide  
7 equivalent of nitrogen trifluoride in 2008 or any  
8 subsequent year.

9 “(E) Any geologic sequestration site.

10 “(F) Any stationary source in the following  
11 industrial sectors:

12 “(i) Adipic acid production.

13 “(ii) Primary aluminum production.

14 “(iii) Ammonia manufacturing.

15 “(iv) Cement production, excluding  
16 grinding-only operations.

17 “(v) Hydrochlorofluorocarbon produc-  
18 tion.

19 “(vi) Lime manufacturing.

20 “(vii) Nitric acid production.

21 “(viii) Petroleum refining.

22 “(ix) Phosphoric acid production.

23 “(x) Silicon carbide production.

24 “(xi) Soda ash production.

25 “(xii) Titanium dioxide production.



1                   “(xiii) Coal-based liquid or gaseous  
2                   fuel production.

3                   “(G) Any stationary source in the chemical  
4                   or petrochemical sector that, in 2008 or any  
5                   subsequent year—

6                   “(i) produces acrylonitrile, carbon  
7                   black, ethylene, ethylene dichloride, ethyl-  
8                   ene oxide, or methanol; or

9                   “(ii) produces a chemical or petro-  
10                  chemical product if producing that product  
11                  results in annual combustion plus process  
12                  emissions of 25,000 or more tons of carbon  
13                  dioxide equivalent.

14                  “(H) Any stationary source that—

15                  “(i) is in one of the following indus-  
16                  trial sectors: ethanol production; ferroalloy  
17                  production; fluorinated gas production;  
18                  food processing; glass production; hydrogen  
19                  production; iron and steel production; lead  
20                  production; pulp and paper manufacturing;  
21                  and zinc production; and

22                  “(ii) has emitted 25,000 or more tons  
23                  of carbon dioxide equivalent in 2008 or  
24                  any subsequent year.

1           “(I) Any fossil fuel-fired combustion device  
2           (such as a boiler) or grouping of such devices  
3           that—

4                   “(i) is all or part of an industrial  
5           source not specified in subparagraph (D),  
6           (F), (G), or (H); and

7                   “(ii) has emitted 25,000 or more tons  
8           of carbon dioxide equivalent in 2008 or  
9           any subsequent year.

10           “(J) Any natural gas local distribution  
11           company that (or any group of 2 or more affili-  
12           ated natural gas local distribution companies  
13           that, in the aggregate) in 2008 or any subse-  
14           quent year, delivers 460,000,000 cubic feet or  
15           more of natural gas to customers that are not  
16           covered entities.

17           “(14) CREDITING PERIOD.—The term ‘crediting  
18           period’ means the period with respect to which an  
19           offset project is eligible to earn offset credits under  
20           part D, as determined under section 734(c).

21           “(15) DESIGNATED REPRESENTATIVE.—The  
22           term ‘designated representative’ means, with respect  
23           to a covered entity, a reporting entity, an offset  
24           project developer, or any other entity receiving or  
25           holding allowances or offset credits under this title,

1 an individual authorized, through a certificate of  
2 representation submitted to the Administrator by  
3 the owners and operators or similar entity official, to  
4 represent the owners and operators or similar entity  
5 official in all matters pertaining to this title (includ-  
6 ing the holding, transfer, or disposition of allowances  
7 or offset credits), and to make all submissions to the  
8 Administrator under this title.

9 “(16) DEVELOPING COUNTRY.—The term ‘de-  
10 veloping country’ means a country eligible to receive  
11 official development assistance according to the in-  
12 come guidelines of the Development Assistance Com-  
13 mittee of the Organization for Economic Coopera-  
14 tion and Development.

15 “(17) DOMESTIC OFFSET CREDIT.—The term  
16 ‘domestic offset credit’ means an offset credit issued  
17 under part D, other than an international offset  
18 credit.

19 “(18) ELECTRICITY SOURCE.—The term ‘elec-  
20 tricity source’ means a stationary source that in-  
21 cludes one or more utility units.

22 “(19) EMISSION.—The term ‘emission’ means  
23 the release of a greenhouse gas into the ambient air.  
24 Such term does not include gases that are captured  
25 and sequestered, except to the extent that they are

1 later released into the atmosphere, in which case  
2 compliance must be demonstrated pursuant to sec-  
3 tion 722(b)(5).

4 “(20) EMISSION ALLOWANCE.—The term ‘emis-  
5 sion allowance’ means an allowance established  
6 under section 721(a) or section 726(g)(2) or  
7 (h)(1)(C).

8 “(21) FAIR MARKET VALUE.—The term ‘fair  
9 market value’ means the average daily closing price  
10 on registered exchanges or, if such a price is un-  
11 available, the average price as determined by the Ad-  
12 ministrator, during a specified time period, of an  
13 emission allowance.

14 “(22) FEDERAL LAND.—The term ‘Federal  
15 land’ means land that is owned by the United  
16 States, other than land held in trust for an Indian  
17 or Indian tribe.

18 “(23) FOSSIL FUEL.—The term ‘fossil fuel’  
19 means natural gas, petroleum, or coal, or any form  
20 of solid, liquid, or gaseous fuel derived from such  
21 material, including consumer products that are de-  
22 rived from such materials and are combusted.

23 “(24) FOSSIL FUEL-FIRED.—The term ‘fossil  
24 fuel-fired’ means powered by combustion of fossil

1 fuel, alone or in combination with any other fuel, re-  
2 gardless of the percentage of fossil fuel consumed.

3 “(25) FUGITIVE EMISSIONS.—The term ‘fugi-  
4 tive emissions’ means emissions from leaks, valves,  
5 joints, or other small openings in pipes, ducts, or  
6 other equipment, or from vents.

7 “(26) GEOLOGIC SEQUESTRATION; GEOLOGI-  
8 CALLY SEQUESTERED.—The terms ‘geologic seques-  
9 tration’ and ‘geologically sequestered’ mean the se-  
10 questration of greenhouse gases in subsurface geo-  
11 logic formations for purposes of permanent storage.

12 “(27) GEOLOGIC SEQUESTRATION SITE.—The  
13 term ‘geologic sequestration site’ means a site where  
14 carbon dioxide is geologically sequestered.

15 “(28) GREENHOUSE GAS.—The term ‘green-  
16 house gas’ means any gas described in section  
17 711(a) or designated under section 711(b), (c), or  
18 (e), except to the extent that it is regulated under  
19 title VI.

20 “(29) HIGH CONSERVATION PRIORITY LAND.—  
21 The term ‘high conservation priority land’ means  
22 land that is not Federal land and is—

23 “(A) globally or State ranked as critically  
24 imperiled or imperiled under a State Natural  
25 Heritage Program; or

1           “(B) old-growth or late-successional forest,  
2           as identified by the office of the State Forester  
3           or relevant State agency with regulatory juris-  
4           diction over forestry activities.

5           “(30) HOLD.—The term ‘hold’ means, with re-  
6           spect to an allowance or offset credit, to have in the  
7           appropriate account in the allowance tracking sys-  
8           tem, or submit to the Administrator for recording in  
9           such account.

10           “(31) INDUSTRIAL SOURCE.—The term ‘indus-  
11           trial source’ means any stationary source that—

12                   “(A) is not an electricity source; and

13                   “(B) is in—

14                           “(i) the manufacturing sector (as de-  
15                           fined in North American Industrial Classi-  
16                           fication System codes 31, 32, and 33); or

17                           “(ii) the natural gas processing or  
18                           natural gas pipeline transportation sector  
19                           (as defined in North American Industrial  
20                           Classification System codes 211112 or  
21                           486210).

22           “(32) INTERNATIONAL EMISSION ALLOW-  
23           ANCE.—The term ‘international emission allowance’  
24           means a tradable authorization to emit 1 ton of car-  
25           bon dioxide equivalent of greenhouse gas that is

1 issued by a national or supranational foreign govern-  
2 ment pursuant to a qualifying international program  
3 designated by the Administrator pursuant to section  
4 728(a).

5 “(33) INTERNATIONAL OFFSET CREDIT.—The  
6 term ‘international offset credit’ means an offset  
7 credit issued by the Administrator under section  
8 743.

9 “(34) LEAKAGE.—The term ‘leakage’ means a  
10 significant increase in greenhouse gas emissions, or  
11 significant decrease in sequestration, which is caused  
12 by an offset project and occurs outside the bound-  
13 aries of the offset project.

14 “(35) MINERAL SEQUESTRATION.—The term  
15 ‘mineral sequestration’ means sequestration of car-  
16 bon dioxide from the atmosphere by capturing car-  
17 bon dioxide into a permanent mineral, such as the  
18 aqueous precipitation of carbonate minerals that re-  
19 sults in the storage of carbon dioxide in a mineral  
20 form.

21 “(36) NATURAL GAS LIQUID.—The term ‘nat-  
22 ural gas liquid’ means ethane, butane, isobutane,  
23 natural gasoline, and propane which is ready for  
24 commercial sale or use.

1           “(37) NATURAL GAS LOCAL DISTRIBUTION  
2           COMPANY.—The term ‘natural gas local distribution  
3           company’ has the meaning given the term ‘local dis-  
4           tribution company’ in section 2(17) of the Natural  
5           Gas Policy Act of 1978 (15 U.S.C. 3301(17)).

6           “(38) OFFSET CREDIT.—The term ‘offset cred-  
7           it’ means a credit issued under part D.

8           “(39) OFFSET PROJECT.—The term ‘offset  
9           project’ means a project or activity that reduces or  
10          avoids greenhouse gas emissions, or sequesters  
11          greenhouse gases, and for which offset credits are  
12          issued under part D.

13          “(40) OFFSET PROJECT DEVELOPER.—The  
14          term ‘offset project developer’ means the individual  
15          or entity designated as the offset project developer  
16          in an offset project approval petition under section  
17          735(c)(1).

18          “(41) QUALIFIED R&D FACILITY.—The term  
19          ‘qualified R&D facility’ means a facility that con-  
20          ducts research and development, that was in oper-  
21          ation as of the date of enactment of this title, and  
22          that is part of a covered entity subject to paragraphs  
23          (1) through (8) of section 722(b).

24          “(42) PETROLEUM.—The term ‘petroleum’ in-  
25          cludes crude oil, tar sands, oil shale, and heavy oils.





1           “(C) Nonhazardous vegetative matter de-  
2 rived from waste, including separated yard  
3 waste, landscape right-of-way trimmings, con-  
4 struction and demolition debris, or food waste  
5 (but not municipal solid waste, recyclable waste  
6 paper, painted, treated or pressurized wood, or  
7 wood contaminated with plastic or metals).

8           “(D) Animal waste or animal byproducts,  
9 including products of animal waste digesters.

10          “(E) Algae.

11          “(F) Trees, brush, slash, residues, or any  
12 other vegetative matter removed from within  
13 600 feet of any building, campground, or route  
14 designated for evacuation by a public official  
15 with responsibility for emergency preparedness,  
16 or from within 300 feet of a paved road, electric  
17 transmission line, utility tower, or water supply  
18 line.

19          “(G) Residues from or byproducts of  
20 milled logs.

21          “(H) Any of the following removed from  
22 forested land that is not Federal and is not  
23 high conservation priority land:

24                 “(i) Trees, brush, slash, residues,  
25 interplanted energy crops, or any other

1 vegetative matter removed from an actively  
2 managed tree plantation established—

3 “(I) prior to January 1, 2009; or

4 “(II) on land that, as of January  
5 1, 2009, was cultivated or fallow and  
6 non-forested.

7 “(ii) Trees, logging residue, thinnings,  
8 cull trees, pulpwood, and brush removed  
9 from naturally regenerated forests or other  
10 non-plantation forests, including for the  
11 purposes of hazardous fuel reduction or  
12 preventative treatment for reducing or con-  
13 taining insect or disease infestation.

14 “(iii) Logging residue, thinnings, cull  
15 trees, pulpwood, brush, and species that  
16 are non-native and noxious, from stands  
17 that were planted and managed after Jan-  
18 uary 1, 2009, to restore or maintain native  
19 forest types.

20 “(iv) Dead or severely damaged trees  
21 removed within 5 years of fire, blowdown,  
22 or other natural disaster, and badly in-  
23 fested trees.

24 “(I) Materials, pre-commercial thinnings,  
25 or removed invasive species from National For-

1 est System land and public lands (as defined in  
2 section 103 of the Federal Land Policy and  
3 Management Act of 1976 (43 U.S.C. 1702)),  
4 including those that are byproducts of preven-  
5 tive treatments (such as trees, wood, brush,  
6 thinnings, chips, and slash), that are removed  
7 as part of a federally recognized timber sale, or  
8 that are removed to reduce hazardous fuels, to  
9 reduce or contain disease or insect infestation,  
10 or to restore ecosystem health, and that are—

11 “(i) not from components of the Na-  
12 tional Wilderness Preservation System,  
13 Wilderness Study Areas, Inventoried  
14 Roadless Areas, old growth or mature for-  
15 est stands, components of the National  
16 Landscape Conservation System, National  
17 Monuments, National Conservation Areas,  
18 Designated Primitive Areas; or Wild and  
19 Scenic Rivers corridors;

20 “(ii) harvested in environmentally sus-  
21 tainable quantities, as determined by the  
22 appropriate Federal land manager; and

23 “(iii) are harvested in accordance with  
24 Federal and State law, and applicable land  
25 management plans.

1           “(46) RETIRE.—The term ‘retire’, with respect  
2           to an allowance or offset credit established or issued  
3           under this title, means to disqualify such allowance  
4           or offset credit for any subsequent use under this  
5           title, regardless of whether the use is a sale, ex-  
6           change, or submission of the allowance or offset  
7           credit to satisfy a compliance obligation.

8           “(47) REVERSAL.—The term ‘reversal’ means  
9           an intentional or unintentional loss of sequestered  
10          greenhouse gases to the atmosphere.

11          “(48) SEQUESTERED AND SEQUESTRATION.—  
12          The terms ‘sequestered’ and ‘sequestration’ mean  
13          the separation, isolation, or removal of greenhouse  
14          gases from the atmosphere, as determined by the  
15          Administrator. The terms include biological, geo-  
16          logic, and mineral sequestration, but do not include  
17          ocean fertilization techniques.

18          “(49) STATIONARY SOURCE.—The term ‘sta-  
19          tionary source’ means any integrated operation com-  
20          prising any plant, building, structure, or stationary  
21          equipment, including support buildings and equip-  
22          ment, that is located within one or more contiguous  
23          or adjacent properties, is under common control of  
24          the same person or persons, and emits or may emit  
25          a greenhouse gas.

1           “(50) STRATEGIC RESERVE ALLOWANCE.—The  
2 term ‘strategic reserve allowance’ means an emission  
3 allowance reserved for, transferred to, or deposited  
4 in the strategic reserve, or established, under section  
5 726.

6           “(51) UNCAPPED EMISSIONS.—The term ‘un-  
7 capped emissions’ means emissions of greenhouse  
8 gases emitted after December 31, 2011, that are not  
9 capped emissions.

10           “(52) UNITED STATES GREENHOUSE GAS EMIS-  
11 SIONS.—The term ‘United States greenhouse gas  
12 emissions’ means the total quantity of annual green-  
13 house gas emissions from the United States, as cal-  
14 culated by the Administrator and reported to the  
15 United Nations Framework Convention on Climate  
16 Change Secretariat.

17           “(53) UTILITY UNIT.—The term ‘utility unit’  
18 means a combustion device that, on January 1,  
19 2009, or any date thereafter, is fossil fuel-fired and  
20 serves a generator that produces electricity for sale,  
21 unless such combustion device, during the 12-month  
22 period starting the later of January 1, 2009, or the  
23 commencement of commercial operation and each  
24 calendar year starting after such later date—

1           “(A) is part of an integrated cycle system  
2           that cogenerates steam and electricity during  
3           normal operation and that supplies one-third or  
4           less of its potential electric output capacity and  
5           25 MW or less of electrical output for sale; or

6           “(B) combusts materials of which more  
7           than 95 percent is municipal solid waste on a  
8           heat input basis.

9           “(54) VINTAGE YEAR.—The term ‘vintage year’  
10          means the calendar year for which an emission al-  
11          lowance is established under section 721(a) or which  
12          is assigned to an emission allowance under section  
13          726(g)(3)(A), except that the vintage year for a  
14          strategic reserve allowance shall be the year in which  
15          such allowance is purchased at auction.”.

16 **SEC. 403. OFFSET REPORTING REQUIREMENTS.**

17          Section 114 of Clean Air Act (42 U.S.C. ) is amended  
18          by adding at the end the following:

19          “(e) RECORDKEEPING FOR CARBON OFFSETS PRO-  
20          GRAM.—For the purpose of implementing the carbon off-  
21          sets program set forth in subtitle D of title VII, the Ad-  
22          ministrators shall require any person who is an offset  
23          project developer, and may require any person who is a  
24          third party verifier, to establish and maintain records, for

1 a period of not less than the crediting period under section  
2 734(c) plus 5 years, relating to—

3 “(1) any offset project approval petition sub-  
4 mitted to the appropriate officials under section 735;

5 “(2) any reversals which occur with respect to  
6 an offset project;

7 “(3) any verification reports; and

8 “(4) any other aspect of the offset project that  
9 the appropriate officials determines is appropriate.”.

## 10 **Subtitle B—Disposition of** 11 **Allowances**

### 12 **SEC. 411. DISPOSITION OF ALLOWANCES FOR GLOBAL** 13 **WARMING POLLUTION REDUCTION PRO-** 14 **GRAM.**

15 Title VII of the Clean Air Act, as added by section  
16 401 of this Act, is amended by adding at the end the fol-  
17 lowing part:

#### 18 **“PART H—DISPOSITION OF ALLOWANCES**

#### 19 **“SEC. 781. ALLOCATION OF ALLOWANCES FOR SUPPLE-** 20 **MENTAL REDUCTIONS.**

21 “(a) IN GENERAL.—The Administrator shall allocate  
22 for each vintage year the following percentage of the emis-  
23 sion allowances established under section 721(a), for dis-  
24 tribution in accordance with part E:



1           “(1) For vintage years 2012 through 2025, 5  
2           percent.

3           “(2) For vintage years 2026 through 2030, 3  
4           percent.

5           “(3) For vintage years 2031 through 2050, 2  
6           percent.

7           “(b) ADJUSTMENT.—The Administrator shall modify  
8 the percentages set forth in subsection (a) as necessary  
9 to ensure the achievement of the annual supplemental  
10 emissions reduction objective for 2020, and the cumulative  
11 reduction objective through 2025, set forth in section  
12 753(b)(1).

13          “(c) CARRYOVER.—If the Administrator has not dis-  
14 tributed all of the allowances allocated pursuant to this  
15 section for a given vintage year by the end of that year,  
16 the Administrator shall—

17           “(1) auction the remaining emission allowances  
18           under section 791 not later than March 31 of the  
19           year following that vintage year; and

20           “(2) increase the allocation for the vintage year  
21           after the vintage year for which emission allowances  
22           were undistributed by the amount of undistributed  
23           emission allowances.

1 **“SEC. 782. ALLOCATION OF EMISSION ALLOWANCES.**

2 “(a) ALLOCATION.—The Administrator shall allocate  
3 emission allowances for the following purposes:

4 “(1) Supplemental reductions from reduced de-  
5 forestation pursuant to section \_\_\_\_\_.

6 “(2) Electricity consumers pursuant to section  
7 783.

8 “(3) Natural gas consumers pursuant to section  
9 784.

10 “(4) **【Home heating oil and propane consumers**  
11 **pursuant to section 785.】**

12 “(5) Low-income consumers pursuant to section  
13 **【4\_\_\_\_\_】**.

14 “(6) Trade-vulnerable industries pursuant to  
15 section 765.

16 “(7) Deployment of carbon capture and seques-  
17 tration technology pursuant to section 786.

18 “(8) Investment in energy efficiency and renew-  
19 able energy pursuant to section **【1\_\_\_\_\_】**.

20 “(9) Building code updates pursuant to section  
21 **【1\_\_\_\_\_】**.

22 “(10) Building retrofit program pursuant to  
23 section **【1\_\_\_\_\_】**.

24 “(11) Advanced energy research pursuant to  
25 section **【2\_\_\_\_\_】**.

1           “(12) Investment in clean vehicle technology  
2           pursuant to section **[1\_\_\_\_\_]**.

3           “(13) Domestic fuel production pursuant to sec-  
4           tion 787.

5           “(14) Compensation for early actors pursuant  
6           to section 795.

7           “(15) International adaptation pursuant to sec-  
8           tion **[\_\_\_\_\_]**.

9           “(16) International clean energy deployment  
10          pursuant to section **[\_\_\_\_\_]**.

11          “(b) ACTIONS.—The Administrator shall auction,  
12          pursuant to section 791, emission allowances for the fol-  
13          lowing purposes:

14               “(1) Market Stability Reserve Fund pursuant  
15               to section 726.

16               “(2) Investment in workers pursuant to section  
17               793.

18               “(3) Green jobs training pursuant to section  
19               **[4\_\_]**.

20               “(4) Domestic adaptation pursuant to section  
21               **[4\_\_\_\_\_]**.

22               “(5) Climate change health protection pursuant  
23               to section **[4\_\_\_\_\_]**.

24               “(6) Wildlife and natural resource adaptation  
25               pursuant to section **[4\_\_\_\_\_]**.

1           “(7) Supplemental agriculture and renewable  
2 energy pursuant to section 788.

3           “(8) Climate change consumer refunds pursu-  
4 ant to section 789.

5           “(c) DEFICIT REDUCTION.—

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

7           “(A) auction, pursuant to section 791,  
8 emission allowances for deficit reduction, pursu-  
9 ant to section 796, in the amounts described in  
10 paragraph (2); and

11           “(B) deposit those proceeds immediately  
12 on receipt in the Deficit Reduction Fund estab-  
13 lished in section 796.

14           “(2) AMOUNTS.—For vintage years 2012  
15 through 2050, 25.0 percent of emission allowances  
16 established for each year under section 721(a) shall  
17 be auctioned and the proceeds deposited pursuant to  
18 paragraph (1) to ensure that this title does not con-  
19 tribute to the deficit for that particular calendar  
20 year.

21 **“SEC. 783. ELECTRICITY CONSUMERS.**

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

23           “(1) COAL-FUELED UNIT.—The term ‘coal-  
24 fueled unit’ means a utility unit that derives at least

1       85 percent of its heat input from coal, petroleum  
2       coke, or any combination of these 2 fuels.

3           “(2) COST-EFFECTIVE.—The term ‘cost-effec-  
4       tive’, with respect to an energy efficiency program,  
5       means that the program meets the total resource  
6       cost test, which requires that the net present value  
7       of economic benefits over the life of the program, in-  
8       cluding avoided supply and delivery costs and de-  
9       ferred or avoided investments, is greater than the  
10      net present value of the economic costs over the life  
11      of the program, including program costs and incre-  
12      mental costs borne by the energy consumer.

13           “(3) ELECTRICITY LOCAL DISTRIBUTION COM-  
14      PANY.—The term ‘electricity local distribution com-  
15      pany’ means an electric utility—

16           “(A) that has a legal, regulatory, or con-  
17      tractual obligation to deliver electricity directly  
18      to retail consumers in the United States, re-  
19      gardless of whether that entity or another enti-  
20      ty sells the electricity as a commodity to those  
21      retail consumers; and

22           “(B) the retail rates of which, except in  
23      the case of an electric cooperative, are regulated  
24      or set by—

25           “(i) a State regulatory authority;



1                   “(ii) a State or political subdivision  
2                   thereof (or an agency or instrumentality  
3                   of, or corporation wholly owned by, either  
4                   of the foregoing);

5                   “(iii) an electric cooperative; or

6                   “(iv) an Indian tribe pursuant to trib-  
7                   al law.

8                   “(6) LONG-TERM CONTRACT GENERATOR.—The  
9                   term ‘long-term contract generator’ means a quali-  
10                  fying small power production facility, a qualifying  
11                  cogeneration facility ), an independent power pro-  
12                  duction facility, or a facility for the production of  
13                  electric energy for sale to others that is owned and  
14                  operated by an electric cooperative that is—

15                  “(A) a covered entity; and

16                  “(B) as of the date of enactment of this  
17                  title—

18                  “(i) a facility with 1 or more sales or  
19                  tolling agreements executed before March  
20                  1, 2007, that govern the facility’s elec-  
21                  tricity sales and provide for sales at a price  
22                  (whether a fixed price or a price formula)  
23                  for electricity that does not allow for recov-  
24                  ery of the costs of compliance with the lim-  
25                  itation on greenhouse gas emissions under

1           this title, provided that such agreements  
2           are not between entities that are affiliates  
3           of one another; or

4                   “(ii) a facility consisting of 1 or more  
5           cogeneration units that makes useful ther-  
6           mal energy available to an industrial or  
7           commercial process with 1 or more sales  
8           agreements executed before March 1,  
9           2007, that govern the facility’s useful ther-  
10          mal energy sales and provide for sales at  
11          a price (whether a fixed price or price for-  
12          mula) for useful thermal energy that does  
13          not allow for recovery of the costs of com-  
14          pliance with the limitation on greenhouse  
15          gas emissions under this title, provided  
16          that such agreements are not between enti-  
17          ties that are affiliates of one another.

18                   “(7) MERCHANT COAL UNIT.—The term ‘mer-  
19          chant coal unit’ means a coal-fueled unit that—

20                           “(A) is or is part of a covered entity;

21                           “(B) is not owned by a Federal, State, or  
22          regional agency or power authority; and

23                           “(C) generates electricity solely for sale to  
24          others, provided that all or a portion of such  
25          sales are made by a separate legal entity that—



1                   “(i) has a full or partial ownership or  
2                   leasehold interest in the unit, as certified  
3                   in accordance with such requirements as  
4                   the Administrator shall prescribe; and

5                   “(ii) is not subject to retail rate regu-  
6                   lation or setting of retail rates by—

7                                 “(I) a State regulatory authority;

8                                 “(II) a State or political subdivi-  
9                                 sion thereof (or an agency or instru-  
10                                mentality of, or corporation wholly  
11                                owned by, either of the foregoing);

12                               “(III) an electric cooperative; or

13                               “(IV) an Indian tribe pursuant  
14                               to tribal law.

15                   “(8) MERCHANT COAL UNIT SALES.—The term  
16                   ‘merchant coal unit sales’ means sales to others of  
17                   electricity generated by a merchant coal unit that  
18                   are made by the owner or leaseholder described in  
19                   paragraph (6)(C).

20                   “(9) NEW COAL-FUELED UNIT.—The term ‘new  
21                   coal-fueled unit’ means a coal-fueled unit that com-  
22                   menced operation on or after January 1, 2009 and  
23                   before January 1, 2013.

1           “(10) NEW MERCHANT COAL UNIT.—The term  
2           ‘new merchant coal unit’ means a merchant coal  
3           unit—

4                   “(A) that commenced operation on or after  
5           January 1, 2009 and before January 1, 2013;  
6           and

7                   “(B) the actual, on-site construction of  
8           which commenced prior to January 1, 2009.

9           “(11) QUALIFYING SMALL POWER PRODUCTION  
10          FACILITY; QUALIFYING COGENERATION FACILITY.—  
11          The terms ‘qualifying small power production facil-  
12          ity’ and ‘qualifying cogeneration facility’ have the  
13          meanings given those terms in section 3(17)(C) and  
14          3(18)(B) of the Federal Power Act (16 U.S.C.  
15          796(17)(C) and 796(18)(B)).

16          “(12) SMALL LDC.—The term ‘small LDC’  
17          means, for any given year, an electricity local dis-  
18          tribution company that delivered less than 4,000,000  
19          megawatt hours of electric energy directly to retail  
20          consumers in the preceding year.

21          “(13) STATE REGULATORY AUTHORITY.—The  
22          term ‘State regulatory authority’ has the meaning  
23          given that term in section 3(17) of the Public Utility  
24          Regulatory Policies Act of 1978 (16 U.S.C.  
25          2602(17)).

1           “(14) USEFUL THERMAL ENERGY.—The term  
2           ‘useful thermal energy’ has the meaning given that  
3           term in section 371(7) of the Energy Policy and  
4           Conservation Act (42 U.S.C. 6341(7)).

5           “(b) ELECTRICITY LOCAL DISTRIBUTION COMPA-  
6           NIES.—

7           “(1) DISTRIBUTION OF ALLOWANCES.—Not  
8           later than September 30, 2011, and each calendar  
9           year thereafter through 2028, the Administrator  
10          shall distribute to electricity local distribution com-  
11          panies for the benefit of retail ratepayers the quan-  
12          tity of emission allowances allocated for the fol-  
13          lowing vintage year pursuant to section 782(a)(1).  
14          Notwithstanding the preceding sentence, the Admin-  
15          istrator shall withhold from distribution under this  
16          subsection a quantity of emission allowances equal to  
17          the lesser of 14.3 percent of the quantity of emission  
18          allowances allocated under section 782(a)(1) for the  
19          relevant vintage year, or 105 percent of the emission  
20          allowances for the relevant vintage year that the Ad-  
21          ministrator anticipates will be distributed to mer-  
22          chant coal units and to long-term contract genera-  
23          tors, respectively, under subsections (c) and (d). If  
24          not required by subsections (c) and (d) to distribute  
25          all of these reserved allowances, the Administrator

1 shall distribute any remaining emission allowances  
2 to electricity local distribution companies in accord-  
3 ance with this subsection.

4 “(2) DISTRIBUTION BASED ON EMISSIONS.—

5 “(A) IN GENERAL.—For each vintage year,  
6 50 percent of the emission allowances available  
7 for distribution under paragraph (1), after re-  
8 serving allowances for distribution under sub-  
9 sections (c) and (d), shall be distributed by the  
10 Administrator among individual electricity local  
11 distribution companies ratably based on the an-  
12 nual average carbon dioxide emissions attrib-  
13 utable to generation of electricity delivered at  
14 retail by each such company during the base  
15 period determined under subparagraph (B).

16 “(B) BASE PERIOD.—

17 “(i) VINTAGE YEARS 2012 AND 2013.—  
18 For vintage years 2012 and 2013, an elec-  
19 tricity local distribution company’s base  
20 period shall be—

21 “(I) calendar years 2006 through  
22 2008; or

23 “(II) any 3 consecutive calendar  
24 years between 1999 and 2008, inclu-  
25 sive, that such company selects, pro-

1 vided that the company timely informs  
2 the Administrator of such selection.

3 “(ii) VINTAGE YEARS 2014 AND  
4 THEREAFTER.—For vintage years 2014  
5 and thereafter, the base period shall be—

6 “(I) the base period selected  
7 under clause (i); or

8 “(II) calendar year 2012, in the  
9 case of an electricity local distribution  
10 company that owns, co-owns, or pur-  
11 chases through a power purchase  
12 agreement (whether directly or  
13 through a cooperative arrangement) a  
14 substantial portion of the electricity  
15 generated by a new coal-fueled unit,  
16 provided that such company timely in-  
17 forms the Administrator of its election  
18 to use 2012 as its base period.

19 “(C) DETERMINATION OF EMISSIONS.—

20 “(i) DETERMINATION FOR 1999–  
21 2008.—As part of the regulations promul-  
22 gated pursuant to subsection (g), the Ad-  
23 ministrator, after consultation with the  
24 Energy Information Administration, shall  
25 determine the average amount of carbon



1 lowance distributions for vintage years  
2 2012 and 2013, in the case of any  
3 electricity local distribution company  
4 that owns, co-owns, or purchases  
5 through a power purchase agreement  
6 (whether directly or through a cooper-  
7 ative arrangement) a substantial por-  
8 tion of the electricity generated by, a  
9 new coal-fueled unit, the Adminis-  
10 trator shall adjust the emissions at-  
11 tributable to such company's retail de-  
12 liveries in the applicable base period  
13 to reflect the emissions that would  
14 have occurred if the new coal-fueled  
15 unit were in operation during such pe-  
16 riod.

17 “(II) VINTAGE YEAR 2014 AND  
18 THEREAFTER.—Not later than nec-  
19 essary for use in making emission al-  
20 lowance distributions under this sub-  
21 section for vintage year 2014, the Ad-  
22 ministrator shall, for any electricity  
23 local distribution company that owns,  
24 co-owns, or purchases through a  
25 power purchase agreement (whether

1 directly or through a cooperative ar-  
2 rangement) a substantial portion of  
3 the electricity generated by a new  
4 coal-fueled unit and has selected cal-  
5 endar year 2012 as its base period  
6 pursuant to subparagraph (B)(ii)(II),  
7 determine the amount of carbon diox-  
8 ide emissions attributable to genera-  
9 tion of electricity delivered at retail by  
10 such company in calendar year 2012.  
11 If the relevant new coal-fueled unit  
12 was not yet operational by January 1,  
13 2012, the Administrator shall adjust  
14 such determination to reflect the  
15 emissions that would have occurred if  
16 such unit were in operation for all of  
17 calendar year 2012.

18 “(iii) REQUIREMENTS.—Determina-  
19 tions under this paragraph shall be as pre-  
20 cise as practicable, taking into account the  
21 nature of data currently available and the  
22 nature of markets and regulation in effect  
23 in various regions of the country. The fol-  
24 lowing requirements shall apply to such de-  
25 terminations:



1                   “(I) The Administrator shall de-  
2                   termine the amount of fossil fuel-  
3                   based electricity delivered at retail by  
4                   each electricity local distribution com-  
5                   pany, and shall use appropriate emis-  
6                   sion factors to calculate carbon diox-  
7                   ide emissions associated with the gen-  
8                   eration of such electricity.

9                   “(II) Where it is not practical to  
10                  determine the precise fuel mix for the  
11                  electricity delivered at retail by an in-  
12                  dividual electricity local distribution  
13                  company, the Administrator may use  
14                  the best available data, including aver-  
15                  age data on a regional basis with ref-  
16                  erence to Regional Transmission Or-  
17                  ganizations or regional entities (as  
18                  that term is defined in section  
19                  215(a)(7) of the Federal Power Act  
20                  (16 U.S.C. 824o(a)(7)), to estimate  
21                  fuel mix and emissions. Different  
22                  methodologies may be applied in dif-  
23                  ferent regions if appropriate to obtain  
24                  the most accurate estimate.

25                  “(3) DISTRIBUTION BASED ON DELIVERIES.—

1           “(A) INITIAL FORMULA.—Except as pro-  
2           vided in subparagraph (B), for each vintage  
3           year, the Administrator shall distribute 50 per-  
4           cent of the emission allowances available for  
5           distribution under paragraph (1), after reserv-  
6           ing allowances for distribution under sub-  
7           sections (c) and (d), among individual elec-  
8           tricity local distribution companies ratably  
9           based on each electricity local distribution com-  
10          pany’s annual average retail electricity deliv-  
11          eries for calendar years 2006 through 2008, un-  
12          less the owner or operator of the company se-  
13          lects 3 other consecutive years between 1999  
14          and 2008, inclusive, and timely notifies the Ad-  
15          ministrator of its selection.

16          “(B) UPDATING.—Prior to distributing  
17          2015 vintage year emission allowances under  
18          this paragraph and at 3-year intervals there-  
19          after, the Administrator shall update the dis-  
20          tribution formula under this paragraph to re-  
21          flect changes in each electricity local distribu-  
22          tion company’s service territory since the most  
23          recent formula was established. For each suc-  
24          cessive 3-year period, the Administrator shall  
25          distribute allowances ratably among individual

1 electricity local distribution companies based on  
2 the product of—

3 “(i) each electricity local distribution  
4 company’s average annual deliveries per  
5 customer during calendar years 2006  
6 through 2008, or during the 3 alternative  
7 consecutive years selected by such company  
8 under subparagraph (A); and

9 “(ii) the number of customers of such  
10 electricity local distribution company in the  
11 most recent year in which the formula is  
12 updated under this subparagraph.

13 “(4) PROHIBITION AGAINST EXCESS DISTRIBUTU-  
14 TIONS.—The regulations promulgated under sub-  
15 section (g) shall ensure that, notwithstanding para-  
16 graphs (2) and (3), no electricity local distribution  
17 company shall receive a greater quantity of allow-  
18 ances under this subsection than is necessary to off-  
19 set any increased electricity costs to such company’s  
20 retail ratepayers, including increased costs attrib-  
21 utable to purchased power costs, due to enactment  
22 of this title. Any emission allowances withheld from  
23 distribution to an electricity local distribution com-  
24 pany pursuant to this paragraph shall be distributed  
25 among all remaining electricity local distribution

1 companies ratably based on emissions pursuant to  
2 paragraph (2).

3 “(5) USE OF ALLOWANCES.—

4 “(A) RATEPAYER BENEFIT.—Emission al-  
5 lowances distributed to an electricity local dis-  
6 tribution company under this subsection shall  
7 be used exclusively for the benefit of retail rate-  
8 payers of such electricity local distribution com-  
9 pany and may not be used to support electricity  
10 sales or deliveries to entities or persons other  
11 than such ratepayers.

12 “(B) RATEPAYER CLASSES.—In using  
13 emission allowances distributed under this sub-  
14 section for the benefit of ratepayers, an elec-  
15 tricity local distribution company shall ensure  
16 that ratepayer benefits are distributed—

17 “(i) among ratepayer classes ratably  
18 based on electricity deliveries to each class;  
19 and

20 “(ii) equitably among individual rate-  
21 payers within each ratepayer class, includ-  
22 ing entities that receive emission allow-  
23 ances pursuant to part F.

24 “(C) LIMITATION.—In general, an elec-  
25 tricity local distribution company shall not use

1           the value of emission allowances distributed  
2           under this subsection to provide to any rate-  
3           payer a rebate that is based solely on the quan-  
4           tity of electricity delivered to such ratepayer.  
5           To the extent an electricity local distribution  
6           company uses the value of emission allowances  
7           distributed under this subsection to provide re-  
8           bates, it shall, to the maximum extent prac-  
9           ticable, provide such rebates with regard to the  
10          fixed portion of ratepayers' bills or as a fixed  
11          credit or rebate on electricity bills.

12           “(D) RESIDENTIAL AND INDUSTRIAL  
13          RATEPAYERS.—Notwithstanding subparagraph  
14          (C), if compliance with the requirements of this  
15          title results (or would otherwise result) in an  
16          increase in electricity costs for residential or in-  
17          dustrial retail ratepayers of any given electricity  
18          local distribution company (including entities  
19          that receive emission allowances pursuant to  
20          part F), such electricity local distribution com-  
21          pany—

22           “(i) shall pass through to residential  
23          retail ratepayers as a class their ratable  
24          share (based on deliveries to each rate-  
25          payer class) of the value of the emission al-

1 lowances that reduce electricity cost im-  
2 pacts on such ratepayers; and

3 “(ii) shall pass through to industrial  
4 ratepayers as a class their ratable share  
5 (based on deliveries to each ratepayer  
6 class) of the value of the emission allow-  
7 ances that reduce electricity cost impacts  
8 on such ratepayers. The electricity local  
9 distribution company may do so based on  
10 the quantity of electricity delivered to indi-  
11 vidual industrial retail ratepayers.

12 “(E) GUIDELINES.—As part of the regula-  
13 tions promulgated under subsection (g), the Ad-  
14 ministrator shall, after consultation with State  
15 regulatory authorities, prescribe guidelines for  
16 the implementation of the requirements of this  
17 paragraph. Such guidelines shall include—

18 “(i) requirements to ensure that resi-  
19 dential and industrial retail ratepayers (in-  
20 cluding entities that receive emission allow-  
21 ances under part F) receive their ratable  
22 share of the value of the allowances dis-  
23 tributed to each electricity local distribu-  
24 tion company pursuant to this subsection;  
25 and

1                   “(ii) requirements for measurement,  
2                   verification, reporting, and approval of  
3                   methods used to assure the use of allow-  
4                   ance values to benefit retail ratepayers.

5                   “(6) REGULATORY PROCEEDINGS.—

6                   “(A) REQUIREMENT.—No electricity local  
7                   distribution company shall be eligible to receive  
8                   emission allowances under this subsection or  
9                   subsection (e) unless the State regulatory au-  
10                  thority with authority over such company’s re-  
11                  tail rates, or the entity with authority to regu-  
12                  late or set retail electricity rates of an elec-  
13                  tricity local distribution company not regulated  
14                  by a State regulatory authority, has—

15                  “(i) after public notice and an oppor-  
16                  tunity for comment, promulgated a regula-  
17                  tion or completed a rate proceeding (or the  
18                  equivalent, in the case of a ratemaking en-  
19                  tity other than a State regulatory author-  
20                  ity) that provides for the full implementa-  
21                  tion of the requirements of paragraph (5)  
22                  of this subsection and the requirements of  
23                  subsection (e); and

24                  “(ii) made available to the Adminis-  
25                  trator and the public a report describing,

1           in adequate detail, the manner in which  
2           the requirements of paragraph (5) and the  
3           requirements of subsection (e) will be im-  
4           plemented.

5           “(B) UPDATING.—The Administrator shall  
6           require, as a condition of continued receipt of  
7           emission allowances under this subsection by an  
8           electricity local distribution company, that a  
9           new regulation be promulgated or rate pro-  
10          ceeding be completed , after public notice and  
11          an opportunity for comment, and a new report  
12          be made available to the Administrator and the  
13          public, pursuant to subparagraph (A), not less  
14          frequently than every 5 years.

15          “(7) PLANS AND REPORTING.—

16                 “(A) REGULATIONS.—As part of the regu-  
17                 lations promulgated under subsection (g), the  
18                 Administrator shall prescribe requirements gov-  
19                 erning plans and reports to be submitted in ac-  
20                 cordance with this paragraph.

21                 “(B) PLANS.—Not later than April 30 of  
22                 2011 and every 5 years thereafter through  
23                 2026, each electricity local distribution com-  
24                 pany shall submit to the Administrator a plan,  
25                 approved by the State regulatory authority or



1 other entity charged with regulating tor setting  
2 the retail rates of such company, describing  
3 such company’s plans for the disposition of the  
4 value of emission allowances to be received pur-  
5 suant to this subsection and subsection (e), in  
6 accordance with the requirements of this sub-  
7 section and subsection (e). Such plan shall in-  
8 clude a description of the manner in which the  
9 company will provide to industrial retail rate-  
10 payers (including entities that receive emission  
11 allowances under part F) their ratable share of  
12 the value of such allowances.

13 “(C) REPORTS.—Not later than June 30,  
14 2013, and each calendar year thereafter  
15 through 2031, each electricity local distribution  
16 company shall submit a report to the Adminis-  
17 trator, and to the relevant State regulatory au-  
18 thority or other entity charged with regulating  
19 or setting the retail electricity rates of such  
20 company, describing the disposition of the value  
21 of any emission allowances received by such  
22 company in the prior calendar year pursuant to  
23 this subsection and subsection (e), including—

24 “(i) a description of sales, transfer,  
25 exchange, or use by the company for com-

1                   pliance with obligations under this title, of  
2                   any such emission allowances;

3                   “(ii) the monetary value received by  
4                   the company, whether in money or in some  
5                   other form, from the sale, transfer, or ex-  
6                   change of any such emission allowances;

7                   “(iii) the manner in which the com-  
8                   pany’s disposition of any such emission al-  
9                   lowances complies with the requirements of  
10                  this subsection and of subsection (e), in-  
11                  cluding each of the requirements of para-  
12                  graph (5) of this subsection, including the  
13                  requirement that industrial retail rate-  
14                  payers (including entities that receive  
15                  emission allowances under part F) receive  
16                  their ratable share of the value of such al-  
17                  lowances; and

18                  “(iv) such other information as the  
19                  Administrator may require pursuant to  
20                  subparagraph (A).

21                  “(D) PUBLICATION.—The Administrator  
22                  shall make available to the public all plans and  
23                  reports submitted under this subsection, includ-  
24                  ing by publishing such plans and reports on the  
25                  Internet.

1 “(8) ADMINISTRATOR AUDIT REPORTS.—

2 “(A) IN GENERAL.—Each year, the Ad-  
3 ministrator shall audit a representative sample  
4 of electricity local distribution companies to en-  
5 sure that emission allowances distributed under  
6 this subsection have been used exclusively for  
7 the benefit of retail ratepayers and that such  
8 companies are complying with the requirements  
9 of this subsection and of subsection (e), includ-  
10 ing the requirement that residential and indus-  
11 trial retail ratepayers (including entities that  
12 receive emission allowances under part F) re-  
13 ceive their ratable share of the value of such al-  
14 lowances. In selecting companies for audit, the  
15 Administrator shall take into account any cred-  
16 ible evidence of noncompliance with such re-  
17 quirements. The Administrator shall make  
18 available to the public a report describing the  
19 results of each such audit, including by pub-  
20 lishing such report on the Internet.

21 “(B) GAO AUDIT REPORT.—Not later  
22 than April 30, 2015, and every 3 years there-  
23 after through 2026, the Comptroller General of  
24 the United States, incorporating results from  
25 the Administrators’ audit report and other rel-

1           evant information including distribution com-  
2           pany reports, shall conduct an in-depth evalua-  
3           tion and make available to the public a report  
4           on the investments made pursuant to paragraph  
5           (5). Said report shall be made available to the  
6           State regulatory authority, or the entity with  
7           authority to regulate or set retail electricity  
8           rates in the case of an electricity distribution  
9           company that is not regulated by a State regu-  
10          latory authority, and shall include a description  
11          of how the distribution companies in the audit  
12          meet or fail to meet the requirement of para-  
13          graph (5), including for investments made in  
14          cost-effective end-use energy efficiency pro-  
15          grams, the lifetime and annual energy saving  
16          benefits, and capacity benefits of said pro-  
17          grams.

18                 “(C) ADMINISTRATOR COST CONTAINMENT  
19                 REPORT.—Not later than April 30, 2015 and  
20                 every 3 years thereafter through 2026, the Ad-  
21                 ministrator shall transmit a report to Congress  
22                 containing an evaluation of the disposition of  
23                 the value of emission allowances received pursu-  
24                 ant to this subsection and subsection (e) and  
25                 recommendations of ways to more effectively di-

1           rect the value of allowances to reduce costs for  
2           consumers, contain the overall costs of the  
3           greenhouse gas emissions reduction program,  
4           and meet the pollution reduction targets of the  
5           Act. The Administrator shall make available to  
6           the public such report, including by publishing  
7           such report on the Internet.

8           “(9) ENFORCEMENT.—A violation of any re-  
9           quirement of this subsection or of subsection (e), ir-  
10          respective of approval by a State regulatory author-  
11          ity, shall be a violation of this Act. Each emission  
12          allowance the value of which is used in violation of  
13          the requirements of this subsection or of subsection  
14          (e) shall be a separate violation.

15          “(c) MERCHANT COAL UNITS.—

16                 “(1) QUALIFYING EMISSIONS.—The qualifying  
17          emissions for a merchant coal unit for a given cal-  
18          endar year shall be the product of the number of  
19          megawatt hours of merchant coal unit sales gen-  
20          erated by such unit in such calendar year and the  
21          average carbon dioxide emissions per megawatt hour  
22          generated by such unit during the base period under  
23          paragraph (2), provided that the number of mega-  
24          watt hours in a given calendar year for purposes of  
25          such calculation shall be reduced in proportion to

1 the portion of such unit's carbon dioxide emissions  
2 that are either—

3 “(A) captured and sequestered in such cal-  
4 endar year; or

5 “(B) attributable to the combustion or gas-  
6 ification of biomass, to the extent that the  
7 owner or operator of the unit is not required to  
8 hold emission allowances for such emissions.

9 “(2) BASE PERIOD.—For purposes of this sub-  
10 section, the base period for a merchant coal unit  
11 shall be—

12 “(A) calendar years 2006 through 2008; or

13 “(B) in the case of a new merchant coal  
14 unit—

15 “(i) the first full calendar year of op-  
16 eration of such unit, if such unit com-  
17 mences operation before January 1, 2012;

18 “(ii) calendar year 2012, if such unit  
19 commences operation on or after January  
20 1, 2012, and before October 1, 2012; or

21 “(iii) calendar year 2013, if such unit  
22 commences operation on or after October  
23 1, 2012, and before January 1, 2013.

24 “(3) PHASE-DOWN SCHEDULE.—The Adminis-  
25 trator shall identify an annual phase-down factor,

1 applicable to distributions to merchant coal units for  
2 each of vintage years 2012 through 2029, that cor-  
3 responds to the overall decline in the amount of  
4 emission allowances allocated to the electricity sector  
5 in such years pursuant to section 782(a)(1). Such  
6 factor shall—

7 “(A) for vintage year 2012, be equal to  
8 1.0;

9 “(B) for each of vintage years 2013  
10 through 2029, correspond to the quotient of—

11 “(i) the quantity of emission allow-  
12 ances allocated under section 782(a)(1) for  
13 such vintage year; divided by

14 “(ii) the quantity of emission allow-  
15 ances allocated under section 782(a)(1) for  
16 vintage year 2012.

17 “(4) DISTRIBUTION OF EMISSION ALLOW-  
18 ANCES.—Not later than March 1 of 2013 and each  
19 calendar year through 2030, the Administrator shall  
20 distribute emission allowances of the preceding vin-  
21 tage year to the owner or operator of each merchant  
22 coal unit described in subsection (a)(6)(C) in an  
23 amount equal to the product of—

24 “(A) 0.5;

1           “(B) the qualifying emissions for such  
2 merchant coal unit for the preceding year, as  
3 determined under paragraph (1); and

4           “(C) the phase-down factor for the pre-  
5 ceeding calendar year, as identified under para-  
6 graph (3).

7           “(5) ADJUSTMENT.—

8           “(A) STUDY.—Not later than July 1,  
9 2014, the Administrator, in consultation with  
10 the Federal Energy Regulatory Commission,  
11 shall complete a study to determine whether the  
12 allocation formula under paragraph (3) is re-  
13 sulting in, or is likely to result in, windfall prof-  
14 its to merchant coal generators or substantially  
15 disparate treatment of merchant coal genera-  
16 tors operating in different markets or regions.

17           “(B) REGULATION.—If the Administrator,  
18 in consultation with the Federal Energy Regu-  
19 latory Commission, makes an affirmative find-  
20 ing of windfall profits or disparate treatment  
21 under subparagraph (A), the Administrator  
22 shall, not later than 18 months after the com-  
23 pletion of the study described in subparagraph  
24 (A), promulgate regulations providing for the  
25 adjustment of the allocation formula under



1 paragraph (3) to mitigate, to the extent prac-  
2 ticable, such windfall profits, if any, and such  
3 disparate treatment, if any.

4 “(6) LIMITATION ON ALLOWANCES.—Notwith-  
5 standing paragraph (4) or (5), for each vintage year  
6 the Administrator shall distribute under this sub-  
7 section no more than 10 percent of the total quan-  
8 tity of emission allowances available for such vintage  
9 year for distribution to the electricity sector under  
10 section 782(a)(1). If the quantity of emission allow-  
11 ances that would otherwise be distributed pursuant  
12 to paragraph (4) or (5) for any vintage year would  
13 exceed such limit, the Administrator shall distribute  
14 10 percent of the total emission allowances available  
15 for distribution under section 782(a)(1) for such vin-  
16 tage year ratably among merchant coal generators  
17 based on the applicable formula under paragraph (4)  
18 or (5).

19 “(7) ELIGIBILITY.—The owner or operator of a  
20 merchant coal unit shall not be eligible to receive  
21 emission allowances under this subsection for any  
22 vintage year for which such owner or operator has  
23 elected to receive emission allowances for the same  
24 unit under subsection (d).

25 “(d) LONG-TERM CONTRACT GENERATORS.—

1           “(1) DISTRIBUTION.—Not later than March 1,  
2           2013, and each calendar year through 2030, the Ad-  
3           ministrators shall distribute to the owner or operator  
4           of each long-term contract generator a quantity of  
5           emission allowances of the preceding vintage year  
6           that is equal to the sum of—

7                   “(A) the number of tons of carbon dioxide  
8                   emitted as a result of a qualifying electricity  
9                   sales agreement referred to in subsection  
10                  (a)(5)(B)(i); and

11                   “(B) the incremental number of tons of  
12                   carbon dioxide emitted solely as a result of a  
13                   qualifying thermal sales agreement referred to  
14                   in subsection (a)(5)(B)(ii), provided that in no  
15                   event shall the Administrator distribute more  
16                   than 1 emission allowance for the same ton of  
17                   emissions.

18           “(2) LIMITATION ON ALLOWANCES.—Notwith-  
19           standing paragraph (1), for each vintage year the  
20           Administrator shall distribute under this subsection  
21           no more than 4.3 percent of the total quantity of  
22           emission allowances available for such vintage year  
23           for distribution to the electricity sector under section  
24           782(a)(1). If the quantity of emission allowances  
25           that would otherwise be distributed pursuant to

1 paragraph (1) for any vintage year would exceed  
2 such limit, the Administrator shall distribute 4.3  
3 percent of the total emission allowances available for  
4 distribution under section 782(a)(1) for such vintage  
5 year ratably among long-term contract generators  
6 based on paragraph (1).

7 “(3) ELIGIBILITY.—

8 “(A) FACILITY ELIGIBILITY.—The owner  
9 or operator of a facility shall cease to be eligible  
10 to receive emission allowances under this sub-  
11 section upon the earliest date on which the fa-  
12 cility no longer meets each and every element of  
13 the definition of a long-term contract generator  
14 under subsection (a)(5).

15 “(B) CONTRACT ELIGIBILITY.—The owner  
16 or operator of a facility shall cease to be eligible  
17 to receive emission allowances under this sub-  
18 section based on an electricity or thermal sales  
19 agreement referred to in subsection (a)(5)(B)  
20 upon the earliest date that such agreement—

21 “(i) expires;

22 “(ii) is terminated; or

23 “(iii) is amended in any way that  
24 changes the location of the facility, the  
25 price (whether a fixed price or price for-

1           mula) for electricity or thermal energy sold  
2           under such agreement, the quantity of  
3           electricity or thermal energy sold under the  
4           agreement, or the expiration or termi-  
5           nation date of the agreement.

6           “(4) DEMONSTRATION OF ELIGIBILITY.—To be  
7           eligible to receive allowance distributions under this  
8           subsection, the owner or operator of a long-term  
9           contract generator shall submit each of the following  
10          in writing to the Administrator within 180 days  
11          after the date of enactment of this title, and not  
12          later than September 30 of each vintage year for  
13          which such generator wishes to receive emission al-  
14          lowances:

15               “(A) A certificate of representation de-  
16               scribed in section 700(15).

17               “(B) An identification of each owner and  
18               each operator of the facility.

19               “(C) An identification of the units at the  
20               facility and the location of the facility.

21               “(D) A written certification by the des-  
22               ignated representative that the facility meets all  
23               the requirements of the definition of a long-  
24               term contract generator.

1           “(E) The expiration date of each quali-  
2           fying electricity or thermal sales agreement re-  
3           ferred to in subsection (a)(5)(B).

4           “(F) A copy of each qualifying electricity  
5           or thermal sales agreement referred to in sub-  
6           section (a)(5)(B).

7           “(5) NOTIFICATION.—Not later than 30 days  
8           after, in accordance with paragraph (3), a facility or  
9           an agreement ceases to meet the eligibility require-  
10          ments for distribution of emission allowances pursu-  
11          ant to this subsection, the designated representative  
12          of such facility shall notify the Administrator in  
13          writing when, and on what basis, such facility or  
14          agreement ceased to meet such requirements.

15          “(e) SMALL LDCs.—

16               “(1) DISTRIBUTION.—Not later than Sep-  
17               tember 30 of each calendar year from 2011 through  
18               2028, the Administrator shall, in accordance with  
19               this subsection, distribute emission allowances allo-  
20               cated pursuant to section 782(a)(2) for the following  
21               vintage year. Such allowances shall be distributed  
22               ratably among small LDCs based on historic emis-  
23               sions in accordance with the same measure of such  
24               emissions applied to each such small LDC for the

1 relevant vintage year under subsection (b)(2) of this  
2 section.

3 “(2) USES.—A small LDC receiving allowances  
4 under this section shall use such allowances exclu-  
5 sively for the following purposes:

6 “(A) Cost-effective programs to achieve  
7 electricity savings, provided that such savings  
8 shall not be transferred or used for compliance  
9 with section 610 of the Public Utility Regu-  
10 latory Policies Act of 1978 [see above Legis.  
11 Counsel note].

12 “(B) Deployment of technologies to gen-  
13 erate electricity from renewable energy re-  
14 sources, provided that any Federal renewable  
15 electricity credits issued based on generation  
16 supported under this section shall be submitted  
17 to the Federal Energy Regulatory Commission  
18 for voluntary retirement and shall not be used  
19 for compliance with section 610 of the Public  
20 Utility Regulatory Policies Act of 1978 [see  
21 above note].

22 “(C) Assistance programs to reduce elec-  
23 tricity costs for low-income residential rate-  
24 payers of such small LDC, provided that such  
25 assistance is made available equitably to all res-

1           idential ratepayers below a certain income level,  
2           which shall not be higher than 200 percent of  
3           the poverty line (as that term is defined in sec-  
4           tion 673(2) of the Community Services Block  
5           Grant Act (42 U.S.C. 9902(2)).

6           “(3) REQUIREMENTS.—As part of the regula-  
7           tions promulgated under subsection (g), the Admin-  
8           istrator shall prescribe—

9                   “(A) after consultation with the Federal  
10                  Energy Regulatory Commission, requirements  
11                  to ensure that programs and projects under  
12                  paragraph (2)(A) and (B) are consistent with  
13                  the standards established by, and effectively  
14                  supplement electricity savings and generation of  
15                  electricity from renewable energy resources  
16                  achieved by, the Combined Efficiency and Re-  
17                  newable Electricity Standard established under  
18                  section 610 of the Public Utility Regulatory  
19                  Policies Act of 1978 [see above note];

20                   “(B) eligibility criteria and guidelines for  
21                  consumer assistance programs for low-income  
22                  residential ratepayers under paragraph (2)(C);  
23                  and

24                   “(C) such other requirements as the Ad-  
25                  ministrator determines appropriate to ensure

1 compliance with the requirements of this sub-  
2 section.

3 “(4) REPORTING.—Reports submitted under  
4 subsection (b)(7) shall include, in accordance with  
5 such requirements as the Administrator may pre-  
6 scribe—

7 “(A) a description of any facilities de-  
8 ployed under paragraph (2)(A), the quantity of  
9 resulting electricity generation from renewable  
10 energy resources;

11 “(B) an assessment demonstrating the  
12 cost-effectiveness of, and electricity savings  
13 achieved by, programs supported under para-  
14 graph (2)(B); and

15 “(C) a description of assistance provided to  
16 low-income retail ratepayers under paragraph  
17 (2)(C).

18 “(f) CERTAIN COGENERATION FACILITIES.—

19 “(1) ELIGIBLE COGENERATION FACILITIES.—  
20 For purposes of this subsection, an ‘eligible cogen-  
21 eration facility’ is a facility that—

22 “(A) is a qualifying co-generation facility  
23 (as that term is defined in section 3(18)(B) of  
24 the Federal Power Act (16 U.S.C. 796(18)(B));



1           “(B) derives 80 percent or more of its heat  
2           input from coal, petroleum coke, or any com-  
3           bination of these 2 fuels;

4           “(C) has a nameplate capacity of 100  
5           megawatts or greater;

6           “(D) was in operation as of January 1,  
7           2009, and remains in operation as of the date  
8           of any distribution of emission allowances under  
9           this subsection;

10           “(E) in calendar years 2006 through 2008  
11           sold, and as of the date of any distribution of  
12           emission allowances under this section sells,  
13           steam or electricity directly and solely to mul-  
14           tiple, separately-owned industrial or commercial  
15           facilities co-located at the same site with the co-  
16           generation facility; and

17           “(F) is not eligible to receive allowances  
18           under any other subsection of this section or  
19           under part F of this title.

20           “(2) DISTRIBUTION.—The Administrator shall  
21           distribute the emission allowances allocated pursuant  
22           to section 782(a)(3) to owners or operators of eligi-  
23           ble cogeneration facilities ratably based on the car-  
24           bon dioxide emissions of each such facility in cal-

1       endar years 2006 through 2008. The Adminis-  
2       trator—

3               “(A) shall not, in any year, distribute  
4       emission allowances under this subsection to the  
5       owner or operator of any eligible cogeneration  
6       facility in excess of the amount necessary to  
7       offset such facility’s cost of compliance with the  
8       requirements of this title in that year; and

9               “(B) may distribute such allowances over a  
10      period of years if annual distributions under  
11      this subsection would otherwise exceed the limi-  
12      tation in subparagraph (A), provided that in no  
13      event shall distributions be made under this  
14      subsection after calendar year 2025.

15              “(3) REQUIREMENTS.—The Administrator  
16      shall, by regulation, establish requirements to ensure  
17      that the value of any emission allowances distributed  
18      pursuant to this subsection are passed through, on  
19      an equitable basis, to the facilities to which the rel-  
20      evant cogeneration facility provides electricity or  
21      steam deliveries, including any facility owned or op-  
22      erated by the owner or operator of the cogeneration  
23      facility.

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

1 consultation with the Federal Energy Regulatory Commis-  
2 sion, shall promulgate regulations to implement the re-  
3 quirements of this section.

4 **“SEC. 784. NATURAL GAS CONSUMERS.**

5 “(a) DEFINITION.—For purposes of this section, the  
6 term ‘cost-effective’, with respect to an energy efficiency  
7 program, means that the program meets the Total Re-  
8 source Cost Test, which requires that the net present  
9 value of economic benefits over the life of the program,  
10 including avoided supply and delivery costs and deferred  
11 or avoided investments, is greater than the net present  
12 value of the economic costs over the life of the program,  
13 including program costs and incremental costs borne by  
14 the energy consumer.

15 “(b) ALLOCATION.—Not later than June 30, 2015,  
16 and each calendar year thereafter through 2028, the Ad-  
17 ministrator shall distribute to natural gas local distribu-  
18 tion companies for the benefit of retail ratepayers the  
19 quantity of emission allowances allocated for the following  
20 vintage year pursuant to section 782(b). Such allowances  
21 shall be distributed among local natural gas distribution  
22 companies based on the following formula:

23 “(1) INITIAL FORMULA.—Except as provided in  
24 paragraph (2), for each vintage year, the Adminis-  
25 trator shall distribute emission allowances among

1 natural gas local distribution companies on a pro  
2 rata basis based on each such company's annual av-  
3 erage retail natural gas deliveries for 2006 through  
4 2008, unless the owner or operator of the company  
5 selects 3 other consecutive years between 1999 and  
6 2008, inclusive, and timely notifies the Adminis-  
7 trator of its selection.

8 “(2) UPDATING.—Prior to distributing 2019  
9 vintage emission allowances and at 3-year intervals  
10 thereafter, the Administrator shall update the dis-  
11 tribution formula under this subsection to reflect  
12 changes in each natural gas local distribution com-  
13 pany's service territory since the most recent for-  
14 mula was established. For each successive 3-year pe-  
15 riod, the Administrator shall distribute allowances  
16 on a pro rata basis among natural gas local distribu-  
17 tion companies based on the product of—

18 “(A) each natural gas local distribution  
19 company's average annual natural gas deliveries  
20 per customer during calendar years 2006  
21 through 2008, or during the 3 alternative con-  
22 secutive years selected by such company under  
23 paragraph (1); and

24 “(B) the number of customers of such nat-  
25 ural gas local distribution company in the most

1           recent year in which the formula is updated  
2           under this paragraph.

3           “(c) USE OF ALLOWANCES.—

4           “(1) RATEPAYER BENEFIT.—Emission allow-  
5           ances distributed to a natural gas local distribution  
6           company under this section shall be used exclusively  
7           for the benefit of retail ratepayers of such natural  
8           gas local distribution company and may not be used  
9           to support natural gas sales or deliveries to entities  
10          or persons other than such ratepayers.

11          “(2) RATEPAYER CLASSES.—In using emission  
12          allowances distributed under this section for the ben-  
13          efit of ratepayers, a natural gas local distribution  
14          company shall ensure that ratepayer benefits are  
15          distributed—

16                 “(A) among ratepayer classes on a pro  
17                 rata basis based on natural gas deliveries to  
18                 each class; and

19                 “(B) equitably among individual ratepayers  
20                 within each ratepayer class.

21          “(3) LIMITATION.—A natural gas local dis-  
22          tribution company shall not use the value of emis-  
23          sion allowances distributed under this section to pro-  
24          vide to any ratepayer a rebate that is based solely  
25          on the quantity of natural gas delivered to such

1 ratepayer. To the extent a natural gas local distribu-  
2 tion company uses the value of emission allowances  
3 distributed under this section to provide rebates, it  
4 shall, to the maximum extent practicable, provide  
5 such rebates with regard to the fixed portion of rate-  
6 payers' bills or as a fixed creditor rebate on natural  
7 gas bills.

8 “(4) ENERGY EFFICIENCY PROGRAMS.—The  
9 value of no less than one-third of the emission allow-  
10 ances distributed to natural gas local distribution  
11 companies pursuant to this section in any calendar  
12 year shall be used for cost-effective energy efficiency  
13 programs for natural gas consumers. Such programs  
14 must be authorized and overseen by the State regu-  
15 latory authority, or by the entity with regulatory au-  
16 thority over retail natural gas rates in the case of  
17 a natural gas local distribution company that is not  
18 regulated by a State regulatory authority.

19 “(5) GUIDELINES.—As part of the regulations  
20 promulgated under subsection (h), the Administrator  
21 shall prescribe specific guidelines for the implemen-  
22 tation of the requirements of this subsection.

23 “(d) REGULATORY PROCEEDINGS.—

24 “(1) REQUIREMENT.—No natural gas local dis-  
25 tribution company shall be eligible to receive emis-

1 sion allowances under this section unless the State  
2 regulatory authority with authority over such com-  
3 pany, or the entity with authority to regulate retail  
4 rates of a natural gas local distribution company not  
5 regulated by a State regulatory authority, has—

6 “(A) promulgated a regulation or com-  
7 pleted a rate proceeding (or the equivalent, in  
8 the case of a ratemaking entity other than a  
9 State regulatory authority) that provides for  
10 the full implementation of the requirements of  
11 subsection (c); and

12 “(B) made available to the Administrator  
13 and the public a report describing, in adequate  
14 detail, the manner in which the requirements of  
15 subsection (c) will be implemented.

16 “(2) UPDATING.—The Administrator shall re-  
17 quire, as a condition of continued receipt of emission  
18 allowances under this section, that a new regulation  
19 be promulgated or rate proceeding be completed, and  
20 a new report be made available to the Administrator  
21 and the public, pursuant to paragraph (1), not less  
22 frequently than every 5 years.

23 “(e) PLANS AND REPORTING.—

24 “(1) REGULATIONS.—As part of the regulations  
25 promulgated under subsection (h), the Administrator

1 shall prescribe requirements governing plans and re-  
2 ports to be submitted in accordance with this sub-  
3 section.

4 “(2) PLANS.—Not later than April 30, 2015,  
5 and every 5 years thereafter through 2025, each  
6 natural gas local distribution company shall submit  
7 to the Administrator a plan, approved by the State  
8 regulatory authority or other entity charged with  
9 regulating the retail rates of such company, describ-  
10 ing such company’s plans for the disposition of the  
11 value of emission allowances to be received pursuant  
12 to this section, in accordance with the requirements  
13 of this section.

14 “(3) REPORTS.—Not later than June 30, 2017,  
15 and each calendar year thereafter through 2031,  
16 each natural gas local distribution company shall  
17 submit a report to the Administrator, approved by  
18 the relevant State regulatory authority or other enti-  
19 ty charged with regulating the retail natural gas  
20 rates of such company, describing the disposition of  
21 the value of any emission allowances received by  
22 such company in the prior calendar year pursuant to  
23 this subsection, including—

24 “(A) a description of sales, transfer, ex-  
25 change, or use by the company for compliance



1 with obligations under this title, of any such  
2 emission allowances;

3 “(B) the monetary value received by the  
4 company, whether in money or in some other  
5 form, from the sale, transfer, or exchange of  
6 emission allowances received by the company  
7 under this section;

8 “(C) the manner in which the company’s  
9 disposition of emission allowances received  
10 under this subsection complies with the require-  
11 ments of this section, including each of the re-  
12 quirements of subsection (c);

13 “(D) the cost-effectiveness of, and energy  
14 savings achieved by, energy efficiency programs  
15 supported through such emission allowances;  
16 and

17 “(E) such other information as the Admin-  
18 istrator may require pursuant to paragraph (1).

19 “(4) PUBLICATION.—The Administrator shall  
20 make available to the public all plans and reports  
21 submitted by natural gas local distribution compa-  
22 nies under this subsection, including by publishing  
23 such plans and reports on the Internet.

24 “(f) AUDITING.—

1           “(1) ADMINISTRATOR AUDIT REPORT.—Each  
2 year, the Administrator shall audit a significant rep-  
3 resentative sample of natural gas local distribution  
4 companies to ensure that emission allowances dis-  
5 tributed under this section have been used exclu-  
6 sively for the benefit of retail ratepayers and that  
7 such companies are complying with the requirements  
8 of this section. In selecting companies for audit, the  
9 Administrator shall take into account any credible  
10 evidence of noncompliance with such requirements.  
11 The Administrator shall make available to the public  
12 a report describing the results of each such audit,  
13 including by publishing such report on the Internet.

14           “(2) GAO AUDIT REPORT.—Not later April 30,  
15 2015 and every 3 years thereafter through April 30,  
16 2026, the Comptroller General of the United States,  
17 incorporating results from the Administrators’ audit  
18 report and other relevant information including dis-  
19 tribution company reports, shall conduct an in-depth  
20 evaluation and make available to the public a report  
21 on the investments made pursuant to subsection (c).  
22 Said report shall be made available to the State reg-  
23 ulatory authority, or the entity with authority to  
24 regulate or set retail natural gas rates in the case  
25 of a natural gas distribution company that is not

1 regulated by a State regulatory authority, and shall  
2 include a description how the distribution companies  
3 in the audit meet or fail to meet the requirement of  
4 subsection (c), including for investments made in  
5 cost-effective end-use energy efficiency programs, the  
6 lifetime and annual energy saving benefits, and ca-  
7 pacity benefits of said programs.

8 “(3) ADMINISTRATOR COST CONTAINMENT RE-  
9 PORT.—Not later April 30, 2015, and every 3 years  
10 thereafter through April 30, 2026, the Adminis-  
11 trator shall transmit a report to Congress containing  
12 an evaluation of the disposition of the value of emis-  
13 sion allowances received pursuant to this subsection  
14 and recommendations of ways to more effectively di-  
15 rect the value of allowances to reduce costs for con-  
16 sumers, contain the overall costs of the greenhouse  
17 gas emissions reduction program, and meet the pol-  
18 lution reduction targets of the Act. The Adminis-  
19 trator shall make available to the public such report,  
20 including by publishing such report on the Internet.

21 “(g) ENFORCEMENT.—A violation of any require-  
22 ment of this section, irrespective of approval by a State  
23 regulatory authority, shall be a violation of this Act. Each  
24 emission allowance the value of which is used in violation

1 of the requirements of this section shall be a separate vio-  
2 lation.

3 “(h) REGULATIONS.—Not later than January 1,  
4 2014, the Administrator, in consultation with the Federal  
5 Energy Regulatory Commission, shall promulgate regula-  
6 tions to implement the requirements of this section.

7 **“SEC. 785. HOME HEATING OIL AND PROPANE CONSUMERS.**

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

9 “(1) CARBON CONTENT.—The term ‘carbon  
10 content’ means the amount of carbon dioxide that  
11 would be emitted as a result of the combustion of a  
12 fuel.

13 “(2) COST-EFFECTIVE.—The term ‘cost-effec-  
14 tive’ has the meaning given that term in section  
15 784(a)(2).

16 “(b) ALLOCATION.—Not later than September 30 of  
17 each of calendar years 2012 through 2029, the Adminis-  
18 trator shall distribute among the States, in accordance  
19 with this section, the quantity of emission allowances allo-  
20 cated pursuant to section 782(c).

21 “(c) DISTRIBUTION AMONG STATES.—The Adminis-  
22 trator shall distribute emission allowances among the  
23 States under this section each year on a pro rata basis  
24 based on the ratio of—

1           “(1) the carbon content of home heating oil and  
2 propane sold to consumers within each State in the  
3 preceding year for residential or commercial uses; to

4           “(2) the carbon content of home heating oil and  
5 propane sold to consumers within the United States  
6 in the preceding year for residential or commercial  
7 uses.

8           “(d) USE OF ALLOWANCES.—

9           “(1) IN GENERAL.—States shall use emission  
10 allowances distributed under this section exclusively  
11 for the benefit of consumers of home heating oil or  
12 propane for residential or commercial purposes.  
13 Such proceeds shall be used exclusively for—

14           “(A) cost-effective energy efficiency pro-  
15 grams for consumers that use home heating oil  
16 or propane for residential or commercial pur-  
17 poses; or

18           “(B) rebates or other direct financial as-  
19 sistance programs for consumers of home heat-  
20 ing oil or propane used for residential or com-  
21 mercial purposes.

22           “(2) ADMINISTRATION AND DELIVERY MECHA-  
23 NISMS.—In administering programs supported by  
24 this section, States shall—

1           “(A) use no less than 50 percent of the  
2 value of emission allowances received under this  
3 section for cost-effective energy efficiency pro-  
4 grams to reduce consumers’ overall fuel costs;

5           “(B) to the extent practicable, deliver con-  
6 sumer support under this section through exist-  
7 ing energy efficiency and consumer energy as-  
8 sistance programs or delivery mechanisms, in-  
9 cluding, where appropriate, programs or mecha-  
10 nisms administered by parties other than the  
11 State; and

12           “(C) seek to coordinate the administration  
13 and delivery of energy efficiency and consumer  
14 energy assistance programs supported under  
15 this section, with one another and with existing  
16 programs for various fuel types, so as to deliver  
17 comprehensive, fuel-blind, coordinated programs  
18 to consumers.

19           “(e) REPORTING.—Each State receiving emission al-  
20 lowances under this section shall submit to the Adminis-  
21 trator, within 12 months of each receipt of such allow-  
22 ances, a report, in accordance with such requirements as  
23 the Administrator may prescribe, that—

24           “(1) describes the State’s use of emission allow-  
25 ances distributed under this section, including a de-

1 description of the energy efficiency and consumer as-  
2 sistance programs supported with such allowances;

3 “(2) demonstrates the cost-effectiveness of, and  
4 the energy savings achieved by, energy efficiency  
5 programs supported under this section; and

6 “(3) includes a report prepared by an inde-  
7 pendent third party, in accordance with such regula-  
8 tions as the Administrator may promulgate, evalu-  
9 ating the performance of the energy efficiency and  
10 consumer assistance programs supported under this  
11 section.

12 “(f) ENFORCEMENT.—If the Administrator deter-  
13 mines that a State is not in compliance with this section,  
14 the Administrator may withhold a portion of the emission  
15 allowances, the quantity of which is equal to up to twice  
16 the quantity of the allowances that the State failed to use  
17 in accordance with the requirements of this section, that  
18 such State would otherwise be eligible to receive under this  
19 section in later years. Allowances withheld pursuant to  
20 this subsection shall be distributed among the remaining  
21 States on a pro rata basis in accordance with the formula  
22 in subsection (c).

23 **“SEC. 786. ALLOCATIONS TO REFINERIES.**

24 “(a) PURPOSE.—The purpose of this section is to  
25 provide emission allowance rebates to petroleum refiners

1 in the United States in a manner that promotes energy  
2 efficiency and a reduction in greenhouse gas emissions at  
3 such facilities.

4 “(b) DEFINITIONS.—In this section:

5 “(1) EMISSIONS.—The term ‘emissions’ means  
6 the greenhouse gas emissions in the calendar year  
7 preceding the calendar year in which emission allow-  
8 ances are being distributed. The term includes direct  
9 emissions from fuel combustion, process emissions,  
10 and indirect emissions from the generation of elec-  
11 tricity used to produce the output of the petroleum  
12 refinery or sector.

13 “(2) INTENSITY.—The term ‘intensity’ means  
14 tons of carbon dioxide equivalent emissions per unit  
15 of output in a given year.

16 “(3) INTENSITY FACTOR.—The term ‘intensity  
17 factor’ means the intensity of the petroleum refining  
18 sector divided by the intensity for an individual pe-  
19 troleum refinery.

20 “(4) OUTPUT.—The term ‘output’ means the  
21 average annual number of gallons of refined fuel  
22 produced in the three calendar years preceding the  
23 calendar year in which emission allowances are being  
24 distributed.



1           “(5) PETROLEUM REFINERY.—The term ‘petro-  
2       leum refinery’ means a facility classified under  
3       324110 of the North American Industrial Classifica-  
4       tion System of 2002.

5           “(6) PRODUCTION FACTOR.—The term ‘produc-  
6       tion factor’ means the output of an individual petro-  
7       leum refinery divided by the output of the petroleum  
8       refining sector.

9           “(c) DISTRIBUTION OF ALLOWANCES.—For each vin-  
10      tage year between 2014 and 2026, the Administrator shall  
11      distribute allowances pursuant to this section to owners  
12      and operators of petroleum refineries in the United States.

13          “(d) DISTRIBUTION SCHEDULE.—The Administrator  
14      shall distribute emission allowances of each vintage year  
15      no later than October 31 of the preceding calendar year.

16          “(e) CALCULATION OF EMISSION ALLOWANCE RE-  
17      BATES.—

18           “(1) For each petroleum refinery, the Adminis-  
19      trator shall calculate an individual allocation factor  
20      for each vintage year, based upon the product of the  
21      intensity factor for such refinery multiplied by the  
22      production factor for such refinery.

23           “(2) The Administrator shall also calculate a  
24      total allocation factor for each vintage year, based

1       upon the sum of all of the individual allocation fac-  
2       tors.

3           “(3) The Administrator shall calculate the  
4       number of emission allowances to be provided to  
5       each petroleum refinery in each vintage year by di-  
6       viding the individual allocation factor for such refin-  
7       ery by the total allocation factor, then multiplying  
8       the result by the number of emission allowances allo-  
9       cated to the program under this section for that vin-  
10      tage year.

11      “(f) DATA SOURCES.—

12           “(1) The Administrator shall use data from the  
13      greenhouse gas registry, established under section  
14      713, where it is available.

15           “(2) The Administrator shall determine, by  
16      rule, the methodology by which to calculate indirect  
17      emissions for a refinery. The Administrator shall  
18      also determine, by rule, the methodology by which to  
19      take into account the value of allowances provided at  
20      no cost to local distribution companies that is passed  
21      through to a refinery. Each person selling electricity  
22      to the owner or operator of a petroleum refinery  
23      shall provide the owner or operator and the Adminis-  
24      trator, on an annual basis, such data as the Admin-

1        istrator determines is necessary to implement this  
2        section.

3        **“SEC. 787. SUPPLEMENTAL AGRICULTURE AND RENEW-**  
4        **ABLE ENERGY INCENTIVES PROGRAMS.**

5        “(a) IN GENERAL.—Emission allowances allocated  
6 pursuant to [section 782(u)—*Legis. Counsel note: no sub-*  
7 *section (u) appears in section 782 of this draft*] shall be  
8 distributed by the Administrator at the direction of the  
9 Secretary of Energy and the Secretary of Agriculture in  
10 accordance with this section. Not less than 50 percent of  
11 the allowances shall be available for the program estab-  
12 lished pursuant to subsection (b).

13        “(b) AGRICULTURE INCENTIVES PROGRAM.—

14                “(1) ESTABLISHMENT.—The Secretary of Agri-  
15 culture shall establish by rule a program to provide  
16 incentives in the form of emission allowances for ac-  
17 tivities undertaken in the agriculture sector that re-  
18 duce greenhouse gas emissions or sequester carbon.  
19 Under this program, the Secretary of Agriculture  
20 shall provide incentives for projects and activities  
21 that—

22                “(A) reduce or avoid greenhouse gas emis-  
23 sions, or sequester greenhouse gases, but do not  
24 meet the criteria for offset credits established  
25 under the \_\_\_\_\_ Act;

1           “(B) support actions to adapt to climate  
2           change; or

3           “(C) prevent conversion of land that would  
4           increase greenhouse gas emissions (including  
5           projects and activities that complement or sup-  
6           plement conservation programs administered by  
7           the Secretary).

8           “(2) CONSIDERATIONS.—In designing this pro-  
9           gram, the Secretary shall ensure that it provides  
10          support for—

11           “(A) development and demonstration of  
12           practices to reduce greenhouse gas emissions or  
13           sequester carbon in agricultural operations  
14           where there are limited recognized opportunities  
15           to achieve such emissions reductions or seques-  
16           tration; and

17           “(B) projects that reduce greenhouse gas  
18           emissions or increase sequestration of green-  
19           house gases and also achieve other significant  
20           environmental benefits, such as the improve-  
21           ment of water or air quality.

22           “(3) RESEARCH.—The Secretary shall establish  
23           by rule a program to conduct research to develop ad-  
24           ditional projects and activities for crops to find addi-  
25           tional techniques and methods to reduce greenhouse

1 gas emissions or sequester greenhouse gases that  
2 may or may not meet the criteria for offset credits  
3 established under the \_\_\_\_\_ Act.

4 “(4) USE OF INFORMATION.—Information and  
5 data generated by this program should, where rel-  
6 evant, be used to inform the development of addi-  
7 tional offset practices and methodologies.

8 “(c) RENEWABLE ENERGY INCENTIVES PROGRAM.—  
9 The Secretary of Energy and the Administrator shall es-  
10 tablish by rule a program to provide allowances to State  
11 and local governments to support the deployment of re-  
12 newable energy infrastructure.

13 **“SEC. 788. CLIMATE CHANGE CONSUMER REBATES.**

14 **“[TO BE SUPPLIED]**

15 **“SEC. 789. EXCHANGE FOR STATE-ISSUED ALLOWANCES.**

16 “(a) IN GENERAL.—Not later than 1 year after the  
17 date of enactment of this title, the Administrator shall  
18 issue regulations allowing any person in the United States  
19 to exchange greenhouse gas emission allowances issued be-  
20 fore the later of December 31, 2011, or the date that is  
21 9 months after the first auction under section 791, by the  
22 State of California or for the Regional Greenhouse Gas  
23 Initiative, or the Western Climate Initiative (in this sec-  
24 tion referred to as ‘State allowances’) for emission allow-

1 ances established by the Administrator under section  
2 721(a).

3 “(b) REGULATIONS.—Regulations issued under sub-  
4 section (a) shall—

5 “(1) provide that a person exchanging State al-  
6 lowances under this section receive emission allow-  
7 ances established under section 721(a) in the  
8 amount that is sufficient to compensate for the cost  
9 of obtaining and holding such State allowances;

10 “(2) establish a deadline by which persons must  
11 exchange the State allowances;

12 “(3) provide that the Federal emission allow-  
13 ances disbursed pursuant to this section shall be de-  
14 ducted from the allowances to be auctioned pursuant  
15 to section 782(d); and

16 “(4) require that, once exchanged, the credit or  
17 other instrument be retired for purposes of use  
18 under the program by or for which it was originally  
19 issued.

20 “(c) COST OF OBTAINING STATE ALLOWANCE.—For  
21 purposes of this section, the cost of obtaining a State al-  
22 lowance shall be the average auction price, for emission  
23 allowances issued in the year in which the State allowance  
24 was issued, under the program under which the State al-  
25 lowance was issued.

1 **“SEC. 790. AUCTION PROCEDURES.**

2 “(a) IN GENERAL.—To the extent that auctions of  
3 emission allowances by the Administrator are authorized  
4 by this part, such auctions shall be carried out pursuant  
5 to this section and the regulations established hereunder.

6 “(b) INITIAL REGULATIONS.—Not later than 12  
7 months after the date of enactment of this title, the Ad-  
8 ministrator, in consultation with other agencies, as appro-  
9 priate, shall promulgate regulations governing the auction  
10 of allowances under this section. Such regulations shall in-  
11 clude the following requirements:

12 “(1) FREQUENCY; FIRST AUCTION.—Auctions  
13 shall be held four times per year at regular intervals,  
14 with the first auction to be held no later than March  
15 31, 2011.

16 “(2) AUCTION SCHEDULE; CURRENT AND FU-  
17 TURE VINTAGES.—The Administrator shall, at each  
18 quarterly auction under this section, offer for sale  
19 both a portion of the allowances with the same vin-  
20 tage year as the year in which the auction is being  
21 conducted and a portion of the allowances with vin-  
22 tage years from future years. The preceding sen-  
23 tence shall not apply to auctions held before 2012,  
24 during which period, by necessity, the Administrator  
25 shall auction only allowances with a vintage year  
26 that is later than the year in which the auction is

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

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

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

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

19 “(6) PURCHASE LIMITS.—No person may, di-  
20 rectly or in concert with another participant, pur-  
21 chase more than 5 percent of the allowances offered  
22 for sale at any quarterly auction.

23 “(7) PUBLICATION OF INFORMATION.—After  
24 the auction, the Administrator shall, in a timely  
25 fashion, publish the identities of winning bidders,



1 the quantity of allowances obtained by each winning  
2 bidder, and the auction clearing price.

3 “(8) OTHER REQUIREMENTS.—The Adminis-  
4 trator may include in the regulations such other re-  
5 quirements or provisions as the Administrator, in  
6 consultation with other agencies, as appropriate,  
7 considers appropriate to promote effective, efficient,  
8 transparent, and fair administration of auctions  
9 under this section.

10 “(c) REVISION OF REGULATIONS.—The Adminis-  
11 trator may, in consultation with other agencies, as appro-  
12 priate, at any time, revise the initial regulations promul-  
13 gated under subsection (b). Such revised regulations need  
14 not meet the requirements identified in subsection (b) if  
15 the Administrator determines that an alternative auction  
16 design would be more effective, taking into account factors  
17 including costs of administration, transparency, fairness,  
18 and risks of collusion or manipulation. In determining  
19 whether and how to revise the initial regulations under  
20 this subsection, the Administrator shall not consider maxi-  
21 mization of revenues to the Federal Government.

22 “(d) RESERVE AUCTION PRICE.—The minimum re-  
23 serve auction price shall be \$10 (in constant 2009 dollars)  
24 for auctions occurring in 2012. The minimum reserve  
25 price for auctions occurring in years after 2012 shall be

1 the minimum reserve auction price for the previous year  
2 increased by 5 percent plus the rate of inflation (as meas-  
3 ured by the Consumer Price Index for all urban con-  
4 sumers).

5 “(e) DELEGATION OR CONTRACT.—Pursuant to reg-  
6 ulations under this section, the Administrator may by del-  
7 egation or contract provide for the conduct of auctions  
8 under the Administrator’s supervision by other depart-  
9 ments or agencies of the Federal Government or by non-  
10 governmental agencies, groups, or organizations.

11 **“SEC. 791. AUCTIONING ALLOWANCES FOR OTHER ENTI-**  
12 **TIES.**

13 “(a) CONSIGNMENT.—Any entity holding emission al-  
14 lowances or compensatory allowances may request that the  
15 Administrator auction, pursuant to section 791, the allow-  
16 ances on consignment.

17 “(b) PRICING.—When the Administrator acts under  
18 this section as the agent of an entity in possession of emis-  
19 sion allowances, the Administrator is not obligated to ob-  
20 tain the highest price possible for the emission allowances,  
21 and instead shall auction consignment allowances in the  
22 same manner and pursuant to the same rules as auctions  
23 of other allowances under section 791. The Administrator  
24 may permit the entity offering the allowance for sale to  
25 condition the sale of its allowances pursuant to this section

1 on a minimum reserve price that is different than the re-  
2 serve auction price set pursuant to section 791(d).

3 “(c) PROCEEDS.—For emission allowances and com-  
4 pensatory allowances auctioned pursuant to this section,  
5 notwithstanding section 3302 of title 31, United States  
6 Code, or any other provision of law, within 90 days of re-  
7 ceipt, the United States shall transfer the proceeds from  
8 the auction to the entity which held the allowances auc-  
9 tioned. No funds transferred from a purchaser to a seller  
10 of emission allowances or compensatory allowances under  
11 this subsection shall be held by any officer or employee  
12 of the United States or treated for any purpose as public  
13 monies.

14 “(d) REGULATIONS.—The Administrator shall issue  
15 regulations within 24 months after the date of enactment  
16 of this title to implement this section.

17 **“SEC. 792. ESTABLISHMENT OF FUNDS.**

18 “There are established in the Treasury of the United  
19 States the following funds:

20 “(1) The Market Stability Reserve Fund.

21 “(2) The Climate Change Consumer Refund  
22 Account.

23 **“SEC. 793. OVERSIGHT OF ALLOCATIONS.**

24 “(a) IN GENERAL.—Not later than January 1, 2014,  
25 and every 2 years thereafter, the Comptroller General of

1 the United States shall carry out a review of programs  
2 administered by the Federal Government that distribute  
3 emission allowances or funds from any Federal auction of  
4 allowances.

5 “(b) CONTENTS.—Each such report shall include a  
6 comprehensive evaluation of the administration and effec-  
7 tiveness of each program, including—

8 “(1) the efficiency, transparency, and sound-  
9 ness of the administration of each program;

10 “(2) the performance of activities receiving as-  
11 sistance under each program;

12 “(3) the cost-effectiveness of each program in  
13 achieving the stated purposes of the program; and

14 “(4) recommendations, if any, for regulatory or  
15 administrative changes to each program to improve  
16 its effectiveness.

17 “(c) FOCUS.—In evaluating program performance,  
18 each review under this section review shall address the ef-  
19 fectiveness of such programs in—

20 “(1) creating and preserving jobs;

21 “(2) ensuring a manageable transition for  
22 working families and workers;

23 “(3) reducing the emissions, or enhancing se-  
24 questration, of greenhouse gases;

25 “(4) developing clean technologies; and

1           “(5) building resilience to the impacts of cli-  
2           mate change.

3   **“SEC. 794. EXCHANGE FOR EARLY ACTION OFFSET CRED-**  
4           **ITS.**

5           “(a) IN GENERAL.—Emission allowances allocated  
6           pursuant to [section 782(t)] shall be distributed by the  
7           Administrator in accordance with this section. Not later  
8           than 1 year after the date of enactment of this title, the  
9           Administrator shall issue regulations allowing—

10           “(1) any person in the United States to ex-  
11           change instruments in the nature of offset credits  
12           issued before January 1, 2009, by a State or vol-  
13           untary offset program with respect to which the Ad-  
14           ministrator has made an affirmative determination  
15           under [section 740(a)(2)], for emissions allowances  
16           established by the Administrator under [section  
17           721(a)]; and

18           “(2) the Administrator to provide compensation  
19           in the form of emission allowances to entities that  
20           do not meet the criteria of paragraph (1) and meet  
21           the criteria of this paragraph for documented early  
22           reductions or avoidance of greenhouse gas emissions  
23           or greenhouse gases sequestered before January 1,  
24           2009, from projects begun before January 1, 2009,  
25           where—

1           “(A) the entity publicly stated greenhouse  
2           gas reduction goals and publicly reported  
3           against those goals;

4           “(B) the entity demonstrated entity-wide  
5           net greenhouse gas reductions; and

6           “(C) the entity demonstrates the actual  
7           projects undertaken to make reductions and  
8           documents the reductions (such as through doc-  
9           umentation of engineering projects).

10          “(b) REGULATIONS.—Regulations issued under sub-  
11 section (a) shall—

12           “(1) provide that a person exchanging credits  
13           under subsection (a)(1) receive emission allowances  
14           established under **【section 721(a)】** in an amount for  
15           which the monetary value is equivalent to the aver-  
16           age monetary value of the credits during the period  
17           from January 1, 2006, to January 1, 2009, as ad-  
18           justed for inflation to reflect current dollar values at  
19           the time of the exchange;

20           “(2) provide that a person receiving compensa-  
21           tion for documented early action under subsection  
22           (a)(2) shall receive emission allowances established  
23           under **【section 721(a)】** in an amount that is ap-  
24           proximately equivalent in value to the carbon dioxide  
25           equivalent per ton value received by entities in ex-

1 change for credits under paragraph (1) (as adjusted  
2 for inflation to reflect current dollar values at the  
3 time of the exchange), as determined by the Admin-  
4 istrator;

5 “(3) provide that only reductions or avoidance  
6 of greenhouse gas emissions, or sequestration of  
7 greenhouse gases, achieved by activities in the  
8 United States between January 1, 2001, and Janu-  
9 ary 1, 2009, may be compensated under this section,  
10 and only credits issued for such activities may be ex-  
11 changed under this section;

12 “(4) provide that only credits that have not  
13 been retired or otherwise used to meet a voluntary  
14 or mandatory commitment, and have not expired,  
15 may be exchanged under subsection (a)(1);

16 “(5) require that, once exchanged, the credit be  
17 retired for purposes of use under the program by or  
18 for which it was originally issued; and

19 “(6) establish a deadline by which persons must  
20 exchange the credits or request compensation for  
21 early action under this section.

22 “(c) PARTICIPATION.—Participation in an exchange  
23 of credits for allowances or compensation for early action  
24 authorized by this section shall not preclude any person

1 from participation in an offset credit program established  
2 under the \_\_\_\_\_ Act.

3 “(d) DISTRIBUTION.—Of the emission allowances  
4 distributed under this section, a quantity equal to 0.75  
5 percent of vintage year 2012 emission allowances estab-  
6 lished under [section 721(a)] shall be distributed pursu-  
7 ant to subsection (a)(1), and a quantity equal to 0.25 per-  
8 cent of vintage year 2012 emission allowances established  
9 under [section 721(a)] shall be distributed pursuant to  
10 subsection (a)(2).

11 **“SEC. 795. DEFICIT REDUCTION.**

12 “(a) DEFICIT REDUCTION FUND.—There is estab-  
13 lished in the Treasury of the United States a fund, to be  
14 known as the ‘Deficit Reduction Fund’.

15 “(b) DISBURSEMENTS.—No disbursement shall be  
16 made from the Deficit Reduction Fund except pursuant  
17 to an appropriation Act.”.

18 **Subtitle C—Additional Greenhouse**  
19 **Gas Standards**

20 **SEC. 421. GREENHOUSE GAS STANDARDS.**

21 The Clean Air Act (42 U.S.C. 7401 et seq.), as  
22 amended by subtitles A and B of this title, is further  
23 amended by adding the following new title after title VII:



1           **“TITLE VIII—ADDITIONAL**  
2           **GREENHOUSE GAS STANDARDS**

3           **“SEC. 801. DEFINITIONS.**

4           “For purposes of this title, terms that are defined  
5 in title VII, except for the term ‘stationary source’, shall  
6 have the meanings given those terms in title VII.

7           **“PART A—STATIONARY SOURCE STANDARDS**

8           **【“SEC. 811. STANDARDS OF PERFORMANCE.】**

9           **【“(a) UNCAPPED STATIONARY SOURCES.—】**

10           **【“(1) INVENTORY OF SOURCE CATEGORIES.—**

11           **】(A)** Within 12 months after the date of enactment  
12 of this title and every 2 years thereafter, the Admin-  
13 istrator shall publish under section 111(b)(1)(A) an  
14 inventory of categories of stationary sources that  
15 consist of those categories that contain sources that  
16 individually had uncapped greenhouse gas emissions  
17 greater than 10,000 tons of carbon dioxide equiva-  
18 lent and that, in the aggregate, were responsible for  
19 emitting at least 20 percent annually of the un-  
20 capped greenhouse gas emissions.】

21           **【“(B)** The Administrator shall include in the  
22 inventory under this paragraph each source category  
23 that is responsible for at least 10 percent of the un-  
24 capped methane emissions in 2005. Notwithstanding  
25 any other provision, the inventory required by this

1 section shall not include sources of enteric fermenta-  
2 tion. The list under this paragraph shall include in-  
3 dustrial sources, the emissions from which, when  
4 added to the capped emissions from industrial  
5 sources, constitute at least 95 percent of the green-  
6 house gas emissions of the industrial sector.】

7 【“(C) For purposes of this subsection, emis-  
8 sions shall be calculated using tons of carbon dioxide  
9 equivalents. In promulgating the inventory required  
10 by this paragraph and the schedule required under  
11 by paragraph (2)(C), the Administrator shall use the  
12 most current emissions data available at the time of  
13 promulgation, except as provided in subparagraph  
14 (B).】

15 【“(D) Notwithstanding any other provisions,  
16 the Administrator may list under 111(b) any source  
17 category identified in the inventory required by this  
18 subsection without making a finding that the source  
19 category causes or contributes significantly to, air  
20 pollution which may be reasonably anticipated to en-  
21 danger public health or welfare.】

22 【“(2) STANDARDS AND SCHEDULE.—】(A) For  
23 each category identified as provided in paragraph  
24 (1), the Administrator shall promulgate standards of  
25 performance under section 111 for the uncapped

1 greenhouse gas emissions from stationary sources in  
2 that category and shall promulgate corresponding  
3 regulations under section 111(d).】

4 “(B) A source covered under paragraph (1)  
5 shall, by January 1, \_\_\_\_\_, comply with the stand-  
6 ards promulgated under subparagraph (C).

7 【“(C) The Administrator shall promulgate  
8 standards as required by this subsection for sta-  
9 tionary sources in categories identified as provided  
10 in paragraph (1).】

11 【“(D) Not later than 24 months after the date  
12 of enactment of this title and after notice and oppor-  
13 tunity for comment, the Administrator shall publish  
14 a schedule establishing a date for the promulgation  
15 of standards for each category of sources identified  
16 pursuant to paragraph (1). The date for each cat-  
17 egory shall be consistent with the requirements of  
18 subparagraph (C). The determination of priorities  
19 for the promulgation of standards pursuant to this  
20 paragraph is not a rulemaking and shall not be sub-  
21 ject to judicial review, except that failure to promul-  
22 gate any standard pursuant to the schedule estab-  
23 lished by this paragraph shall be subject to review  
24 under section 304(a)(2).】

1           **【“(E) Notwithstanding section 307, no action**  
2           of the Administrator listing a source category under  
3           paragraph (1) shall be a final agency action subject  
4           to judicial review, except that any such action may  
5           be reviewed under section 307 when the Adminis-  
6           trator issues performance standards for such cat-  
7           egory.】

8           **【“(b) PERFORMANCE STANDARDS.—For purposes of**  
9           setting a performance standard for source categories iden-  
10          tified pursuant to subsection (a)—】

11           **【“(1) the Administrator shall take into account**  
12           the goal of reducing total United States greenhouse  
13           gas emissions as set forth in section **【702】;**】

14           **【“(2) the Administrator may promulgate a de-**  
15           sign, equipment, work practice, or operational stand-  
16           ard, or any combination thereof, under section 111  
17           in lieu of a standard of performance under that sec-  
18           tion without regard to any determination of feasi-  
19           bility that would otherwise be required under section  
20           111(h); and】

21           **【“(3) notwithstanding any other provision, in**  
22           setting the level of each standard required by this  
23           section, the Administrator shall take into account  
24           projections of allowance prices, such that the mar-  
25           ginal cost of compliance (expressed as dollars per

1 ton of carbon dioxide equivalent reduced) imposed by  
2 the standard would not, in the judgement of the Ad-  
3 ministrator, be expected to exceed the Administra-  
4 tor's projected allowance prices over the time period  
5 spanning from the date of initial compliance to the  
6 date that the next revisions of the standard would  
7 come into effect pursuant to the schedule under sec-  
8 tion 111(b)(1)(B).】

9 【“(c) DEFINITIONS.—In this section, the terms ‘un-  
10 capped greenhouse gas emissions’ and ‘uncapped methane  
11 emissions’ mean those greenhouse gas or methane emis-  
12 sions, respectively, to which section 722 would not have  
13 applied if the requirements of this title had been in effect  
14 for the same year as the emissions data upon which the  
15 list is based.】

16 【“(d) STUDY OF THE EFFECTS OF PERFORMANCE  
17 STANDARDS.—】

18 【“(1) STUDY.—The Administrator shall con-  
19 duct a study of the impacts of performance stand-  
20 ards required under this section, which shall evalu-  
21 ate the effect of such standards on the—】

22 【“(A) costs of achieving compliance with  
23 the economy-wide reduction goals specified in  
24 section 【702】 and the reduction targets speci-  
25 fied in section 701;】

1           【“(B) available supply of offset credits;  
2           and】

3           【“(C) ability to achieve the economy-wide  
4           reduction goals specified in section 【702】 and  
5           any other benefits of such standards.】

6           【“(2) REPORT.—The Administrator shall sub-  
7           mit to the House Energy and Commerce Committee  
8           a report that describes the results of the study not  
9           later than 18 months after the publication of the  
10          standards required under subsection (a)(2)(B)(i).”】

11 **SEC. 422. HFC REGULATION.**

12          (a) IN GENERAL.—Title VI of the Clean Air Act (42  
13 U.S.C. 7671 et seq.) (relating to stratospheric ozone pro-  
14 tection) is amended by adding at the end the following:

15 **“SEC. 619. HYDROFLUOROCARBONS (HFCS).**

16          “(a) TREATMENT AS CLASS II, GROUP II SUB-  
17 STANCES.—Except as otherwise provided in this section,  
18 hydrofluorocarbons shall be treated as class II substances  
19 for purposes of applying the provisions of this title. The  
20 Administrator shall establish two groups of class II sub-  
21 stances. Class II, group I substances shall include all  
22 hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-  
23 tion 602(b). Class II, group II substances shall include  
24 each of the following:

25               “(1) Hydrofluorocarbon-23 (HFC-23).

- 1 “(2) Hydrofluorocarbon-32 (HFC-32).
- 2 “(3) Hydrofluorocarbon-41 (HFC-41).
- 3 “(4) Hydrofluorocarbon-125 (HFC-125).
- 4 “(5) Hydrofluorocarbon-134 (HFC-134).
- 5 “(6) Hydrofluorocarbon-134a (HFC-134a).
- 6 “(7) Hydrofluorocarbon-143 (HFC-143).
- 7 “(8) Hydrofluorocarbon-143a (HFC-143a).
- 8 “(9) Hydrofluorocarbon-152 (HFC-152).
- 9 “(10) Hydrofluorocarbon-152a (HFC-152a).
- 10 “(11) Hydrofluorocarbon-227ea (HFC-227ea).
- 11 “(12) Hydrofluorocarbon-236cb (HFC-236cb).
- 12 “(13) Hydrofluorocarbon-236ea (HFC-236ea).
- 13 “(14) Hydrofluorocarbon-236fa (HFC-236fa).
- 14 “(15) Hydrofluorocarbon-245ca (HFC-245ca).
- 15 “(16) Hydrofluorocarbon-245fa (HFC-245fa).
- 16 “(17) Hydrofluorocarbon-365mfc (HFC-  
17 365mfc).
- 18 “(18) Hydrofluorocarbon-43-10mee (HFC-43-  
19 10mee).
- 20 “(19) Hydrofluoroolefin-1234yf (HFO-1234yf).
- 21 “(20) Hydrofluoroolefin-1234ze (HFO-1234ze).
- 22 Not later than 6 months after the date of enactment of  
23 this title, the Administrator shall publish an initial list of  
24 class II, group II substances, which shall include the sub-  
25 stances listed in this subsection. The Administrator may

1 add to the list of class II, group II substances any other  
2 substance used as a substitute for a class I or II substance  
3 if the Administrator determines that 1 metric ton of the  
4 substance makes the same or greater contribution to glob-  
5 al warming over 100 years as 1 metric ton of carbon diox-  
6 ide. Within 24 months after the date of enactment of this  
7 section, the Administrator shall amend the regulations  
8 under this title (including the regulations referred to in  
9 sections 603, 608, 609, 610, 611, 612, and 613) to apply  
10 to class II, group II substances.

11 “(b) CONSUMPTION AND PRODUCTION OF CLASS II,  
12 GROUP II SUBSTANCES.—

13 “(1) IN GENERAL.—

14 “(A) CONSUMPTION PHASE DOWN.—In the  
15 case of class II, group II substances, in lieu of  
16 applying section 605 and the regulations there-  
17 under, the Administrator shall promulgate reg-  
18 ulations phasing down the consumption of class  
19 II, group II substances in the United States,  
20 and the importation of products containing any  
21 class II, group II substance, in accordance with  
22 this subsection within 18 months after the date  
23 of enactment of this section. Effective January  
24 1, 2012, it shall be unlawful for any person to  
25 produce any class II, group II substance, im-



1 port any class II, group II substance, or import  
2 any product containing any class II, group II  
3 substance without holding one consumption al-  
4 lowance or one destruction offset credit for each  
5 carbon dioxide equivalent ton of the class II,  
6 group II substance. Any person who exports a  
7 class II, group II substance for which a con-  
8 sumption allowance was retired may receive a  
9 refund of that allowance from the Adminis-  
10 trator following the export.

11 “(B) PRODUCTION.—If the United States  
12 becomes a party or otherwise adheres to a mul-  
13 tilateral agreement, including any amendment  
14 to the Montreal Protocol on Substances That  
15 Deplete the Ozone Layer, that restricts the pro-  
16 duction of class II, group II substances, the Ad-  
17 ministrator shall promulgate regulations estab-  
18 lishing a baseline for the production of class II,  
19 group II substances in the United States and  
20 phasing down the production of class II, group  
21 II substances in the United States, in accord-  
22 ance with such multilateral agreement and sub-  
23 ject to the same exceptions and other provisions  
24 as are applicable to the phase down of con-  
25 sumption of class II, group II substances under

1           this section (except that the Administrator shall  
2           not require a person who obtains production al-  
3           lowances from the Administrator to make pay-  
4           ment for such allowances if the person is mak-  
5           ing payment for a corresponding quantity of  
6           consumption allowances of the same vintage  
7           year). Upon the effective date of such regula-  
8           tions, it shall be unlawful for any person to  
9           produce any class II, group II substance with-  
10          out holding one consumption allowance and one  
11          production allowance, or one destruction offset  
12          credit, for each carbon dioxide equivalent ton of  
13          the class II, group II substance.

14                 “(C) INTEGRITY OF CAP.—To maintain  
15                 the integrity of the class II, group II cap, the  
16                 Administrator may, through rulemaking, limit  
17                 the percentage of each person’s compliance obli-  
18                 gation that may be met through the use of de-  
19                 struction offset credits or banked allowances.

20                 “(D) COUNTING OF VIOLATIONS.—Each  
21                 consumption allowance, production allowance,  
22                 or destruction offset credit not held as required  
23                 by this section shall be a separate violation of  
24                 this section.

1           “(2) SCHEDULE.—Pursuant to the regulations  
 2           promulgated pursuant to paragraph (1)(A), the  
 3           number of class II, group II consumption allowances  
 4           established by the Administrator for each calendar  
 5           year beginning in 2012 shall be the following per-  
 6           centage of the baseline, as established by the Admin-  
 7           istrator pursuant to paragraph (3):

“Calendar Year	Percent of Baseline
2012	90
2013	87.5
2014	85
2015	82.5
2016	80
2017	77.5
2018	75
2019	71
2020	67
2021	63
2022	59
2023	54
2024	50
2025	46
2026	42
2027	38
2028	34
2029	30
2030	25

“Calendar Year	Percent of Baseline
2031	21
2032	17
after 2032	15

1           “(3) BASELINE.—(A) Within 12 months after  
2           the date of enactment of this section, the Adminis-  
3           trator shall promulgate regulations to establish the  
4           baseline for purposes of paragraph (2). The baseline  
5           shall be the sum, expressed in metric tons of carbon  
6           dioxide equivalents, of—

7                   “(i) the annual average consumption of all  
8                   class II substances in calendar years 2004,  
9                   2005, and 2006; plus

10                   “(ii) the annual average quantity of all  
11                   class II substances contained in imported prod-  
12                   ucts in calendar years 2004, 2005, and 2006.

13           “(B) Notwithstanding subparagraph (A), if the  
14           Administrator determines that the baseline is higher  
15           than 370 million metric tons of carbon dioxide  
16           equivalents, then the Administrator shall establish  
17           the baseline at 370 million metric tons of carbon di-  
18           oxide equivalents.

19           “(C) Notwithstanding subparagraph (A), if the  
20           Administrator determines that the baseline is lower  
21           than 280 million metric tons of carbon dioxide

1       equivalents, then the Administrator shall establish  
 2       the baseline at 280 million metric tons of carbon di-  
 3       oxide equivalents.

4               “(4) DISTRIBUTION OF ALLOWANCES.—

5                       “(A) IN GENERAL.—Pursuant to the regu-  
 6                       lations promulgated under paragraph (1)(A),  
 7                       for each calendar year beginning in 2012, the  
 8                       Administrator shall sell consumption allowances  
 9                       in accordance with this paragraph.

10                      “(B) ESTABLISHMENT OF POOLS.—The  
 11                      Administrator shall establish two allowance  
 12                      pools. Eighty percent of the consumption allow-  
 13                      ances available for a calendar year shall be  
 14                      placed in the producer-importer pool, and 20  
 15                      percent of the consumption allowances available  
 16                      for a calendar year shall be placed in the sec-  
 17                      ondary pool.

18                      “(C) PRODUCER-IMPORTER POOL.—

19                               “(i) AUCTION.—(I) For each calendar  
 20                               year, the Administrator shall offer for sale  
 21                               at auction the following percentage of the  
 22                               consumption allowances in the producer-  
 23                               importer pool:

“Calendar Year	Percent Available for Auction
2012	10

“Calendar Year	Percent Available for Auction
2013	20
2014	30
2015	40
2016	50
2017	60
2018	70
2019	80
2020 and thereafter	90

1                   “(II) Any person who produced or im-  
2                   ported any class II substance during cal-  
3                   endar year 2004, 2005, or 2006 may par-  
4                   ticipate in the auction. No other persons  
5                   may participate in the auction unless per-  
6                   mitted to do so pursuant to subclause  
7                   (III).

8                   “(III) Not later than 3 years after the  
9                   date of the initial auction and from time to  
10                  time thereafter, the Administrator shall de-  
11                  termine through rulemaking whether any  
12                  persons who did not produce or import a  
13                  class II substance during calendar year  
14                  2004, 2005, or 2006 will be permitted to  
15                  participate in future auctions. The Admin-  
16                  istrator shall base this determination on  
17                  the duration, consistency, and scale of such

1 person's purchases of consumption allow-  
2 ances in the secondary pool under subpara-  
3 graph (D)(ii)(III), as well as economic or  
4 technical hardship and other factors  
5 deemed relevant by the Administrator.

6 “(IV) The Administrator shall set a  
7 minimum bid per consumption allowance of  
8 the following:

9 “(aa) For vintage year 2012,  
10 \$1.00.

11 “(bb) For vintage year 2013,  
12 \$1.20.

13 “(cc) For vintage year 2014,  
14 \$1.40.

15 “(dd) For vintage year 2015,  
16 \$1.60.

17 “(ee) For vintage year 2016,  
18 \$1.80.

19 “(ff) For vintage year 2017,  
20 \$2.00.

21 “(gg) For vintage year 2018 and  
22 thereafter, \$2.00 adjusted for infla-  
23 tion after vintage year 2017 based  
24 upon the producer price index as pub-

600

1                   lished by the Department of Com-  
2                   merce.

3                   “(ii) NON-AUCTION SALE.—(I) For  
4                   each calendar year, as soon as practicable  
5                   after auction, the Administrator shall offer  
6                   for sale the remaining consumption allow-  
7                   ances in the producer-importer pool at the  
8                   following prices:

9                   “(aa) A fee of \$1.00 per vintage  
10                  year 2012 allowance.

11                  “(bb) A fee of \$1.20 per vintage  
12                  year 2013 allowance.

13                  “(cc) A fee of \$1.40 per vintage  
14                  year 2014 allowance.

15                  “(dd) For each vintage year  
16                  2015 allowance, a fee equal to the av-  
17                  erage of \$1.10 and the auction clear-  
18                  ing price for vintage year 2014 allow-  
19                  ances.

20                  “(ee) For each vintage year 2016  
21                  allowance, a fee equal to the average  
22                  of \$1.30 and the auction clearing  
23                  price for vintage year 2015 allow-  
24                  ances.



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1                   “(ff) For each vintage year 2017  
2 allowance, a fee equal to the average  
3 of \$1.40 and the auction clearing  
4 price for vintage year 2016 allow-  
5 ances.

6                   “(gg) For each allowance of vin-  
7 tage year 2018 and subsequent vin-  
8 tage years, a fee equal to the auction  
9 clearing price for that vintage year.

10                  “(II) The Administrator shall offer to  
11 sell the remaining consumption allowances  
12 in the producer-importer pool to producers  
13 of class II, group II substances and im-  
14 porters of class II, group II substances in  
15 proportion to their relative allocation  
16 share.

17                  “(III) Such allocation share for such  
18 sale shall be determined by the Adminis-  
19 trator using such producer’s or importer’s  
20 annual average data on class II substances  
21 from calendar years 2004, 2005, and  
22 2006, on a carbon dioxide equivalent basis,  
23 and—

24                   “(aa) shall be based on a pro-  
25 ducer’s production, plus importation,

1 plus acquisitions and purchases from  
2 persons who produced class II sub-  
3 stances in the United States during  
4 calendar year 2004, 2005, or 2006,  
5 less exportation, less transfers and  
6 sales to persons who produced class II  
7 substances in the United States dur-  
8 ing calendar year 2004, 2005, or  
9 2006; and

10 “(bb) for an importer of class II  
11 substances that did not produce in the  
12 United States any class II substance  
13 during calendar years 2004, 2005,  
14 and 2006, shall be based on the im-  
15 porter’s importation less exportation.

16 For purposes of item (aa), the Adminis-  
17 trator shall account for 100 percent of  
18 class II, group II substances and 60 per-  
19 cent of class II, group I substances. For  
20 purposes of item (bb), the Administrator  
21 shall account for 100 percent of class II,  
22 group II substances and 100 percent of  
23 class II, group I substances.

24 “(IV) Any consumption allowances  
25 made available for nonauction sale to a

1 specific producer or importer of class II,  
2 group II substances but not purchased by  
3 the specific producer or importer shall be  
4 made available for sale to any producer or  
5 importer of class II substances during cal-  
6 endar year 2004, 2005, or 2006. If de-  
7 mand for such consumption allowances ex-  
8 ceeds supply of such consumption allow-  
9 ances, the Administrator shall develop and  
10 utilize criteria for the sale of such con-  
11 sumption allowances that may include pro  
12 rata shares, historic production and impor-  
13 tation, economic or technical hardship, or  
14 other factors deemed relevant by the Ad-  
15 ministrator. If the supply of such con-  
16 sumption allowances exceeds demand, the  
17 Administrator may offer such consumption  
18 allowances for sale in the secondary pool as  
19 set forth in subparagraph (D).

20 “(D) SECONDARY POOL.—(i) For each cal-  
21 endar year, as soon as practicable after the auc-  
22 tion required in subparagraph (C), the Adminis-  
23 trator shall offer for sale the consumption al-  
24 lowances in the secondary pool at the prices  
25 listed in subparagraph (C)(ii).

1           “(ii) The Administrator shall accept appli-  
2 cations for purchase of secondary pool con-  
3 sumption allowances from—

4           “(I) importers of products containing  
5 class II, group II substances;

6           “(II) persons who purchased any class  
7 II, group II substance directly from a pro-  
8 ducer or importer of class II, group II sub-  
9 stances for use in a product containing a  
10 class II, group II substance, a manufac-  
11 turing process, or a reclamation process;

12           “(III) persons who did not produce or  
13 import a class II substance during cal-  
14 endar year 2004, 2005, or 2006, but who  
15 the Administrator determines have subse-  
16 quently taken significant steps to produce  
17 or import a substantial quantity of any  
18 class II, group II substance; and

19           “(IV) persons who produced or im-  
20 ported any class II substance during cal-  
21 endar year 2004, 2005, or 2006.

22           “(iii) If the supply of consumption allow-  
23 ances in the secondary pool equals or exceeds  
24 the demand for consumption allowances in the  
25 secondary pool as presented in the applications

1 for purchase, the Administrator shall sell the  
2 consumption allowances in the secondary pool  
3 to the applicants in the amounts requested in  
4 the applications for purchase. Any consumption  
5 allowances in the secondary pool not purchased  
6 in a calendar year may be rolled over and added  
7 to the quantity available in the secondary pool  
8 in the following year.

9 “(iv) If the demand for consumption allow-  
10 ances in the secondary pool as presented in the  
11 applications for purchase exceeds the supply of  
12 consumption allowances in the secondary pool,  
13 the Administrator shall sell the consumption al-  
14 lowances as follows:

15 “(I) The Administrator shall first sell  
16 the consumption allowances in the sec-  
17 ondary pool to any importers of products  
18 containing class II, group II substances in  
19 the amounts requested in their applications  
20 for purchase. If the demand for such con-  
21 sumption allowances exceeds supply of  
22 such consumption allowances, the Adminis-  
23 trator shall develop and utilize criteria for  
24 the sale of such consumption allowances  
25 among importers of products containing

1 class II, group II substances that may in-  
2 clude pro rata shares, historic importation,  
3 economic or technical hardship, or other  
4 factors deemed relevant by the Adminis-  
5 trator.

6 “(II) The Administrator shall next  
7 sell any remaining consumption allowances  
8 to persons identified in subclauses (II) and  
9 (III) of clause (ii) in the amounts re-  
10 quested in their applications for purchase.  
11 If the demand for such consumption allow-  
12 ances exceeds remaining supply of such  
13 consumption allowances, the Administrator  
14 shall develop and utilize criteria for the  
15 sale of such consumption allowances  
16 among subclauses (II) and (III) applicants  
17 that may include pro rata shares, historic  
18 use, economic or technical hardship, or  
19 other factors deemed relevant by the Ad-  
20 ministrator.

21 “(III) The Administrator shall then  
22 sell any remaining consumption allowances  
23 to persons who produced or imported any  
24 class II substance during calendar year  
25 2004, 2005, or 2006 in the amounts re-

1 requested in their applications for purchase.  
2 If demand for such consumption allow-  
3 ances exceeds remaining supply of such  
4 consumption allowances, the Administrator  
5 shall develop and utilize criteria for the  
6 sale of such consumption allowances that  
7 may include pro rata shares, historic pro-  
8 duction and importation, economic or tech-  
9 nical hardship, or other factors deemed rel-  
10 evant by the Administrator.

11 “(IV) Each person who purchases  
12 consumption allowances in a non-auction  
13 sale under this subparagraph shall be re-  
14 quired to disclose the person or entity  
15 sponsoring or benefitting from the pur-  
16 chases if such person or entity is, in whole  
17 or in part, other than the purchaser or the  
18 purchaser’s employer.

19 “(E) DISCRETION TO WITHHOLD ALLOW-  
20 ANCES.—Nothing in this paragraph prevents  
21 the Administrator from exercising discretion to  
22 withhold and retire consumption allowances  
23 that would otherwise be available for auction or  
24 nonauction sale. Not later than 18 months after  
25 the date of enactment of this section, the Ad-





1                   “(ii) AUCTION FORMAT.—Auctions  
2 shall follow a single-round, sealed-bid, uni-  
3 form price format.

4                   “(iii) FINANCIAL ASSURANCE.—The  
5 Administrator may establish financial as-  
6 surance requirements to ensure that auc-  
7 tion participants can and will perform on  
8 their bids.

9                   “(iv) DISCLOSURE OF BENEFICIAL  
10 OWNERSHIP.—Each bidder in the auction  
11 shall be required to disclose the person or  
12 entity sponsoring or benefitting from the  
13 bidder’s participation in the auction if such  
14 person or entity is, in whole or in part,  
15 other than the bidder.

16                   “(v) PUBLICATION OF INFORMA-  
17 TION.—After the auction, the Adminis-  
18 trator shall, in a timely fashion, publish  
19 the number of bidders, number of winning  
20 bidders, the quantity of allowances sold,  
21 and the auction clearing price.

22                   “(vi) BIDDING LIMITS IN 2012.—In  
23 the vintage year 2012 auction, no auction  
24 participant may, directly or in concert with  
25 another participant, bid for or purchase

1 more allowances offered for sale at the  
2 auction than the greater of—

3 “(I) the number of allowances  
4 which, when added to the number of  
5 allowances available for purchase by  
6 the participant in the producer-im-  
7 porter pool non-auction sale, would  
8 equal the participant’s annual average  
9 consumption of class II, group II sub-  
10 stances in calendar years 2004, 2005,  
11 and 2006; or

12 “(II) the number of allowances  
13 equal to the product of—

14 “(aa) 1.20 multiplied by the  
15 participant’s allocation share of  
16 the producer-importer pool non-  
17 auction sale as determined under  
18 paragraph (4)(C)(ii); and

19 “(bb) the number of vintage  
20 year 2012 allowances offered at  
21 auction.

22 “(vii) BIDDING LIMITS IN 2013.—In  
23 the vintage year 2013 auction, no auction  
24 participant may, directly or in concert with  
25 another participant, bid for or purchase

1 more allowances offered for sale at the  
2 auction than the product of—

3 “(I) 1.15 multiplied by the ratio  
4 of the total number of vintage year  
5 2012 allowances purchased by the  
6 participant from the auction and from  
7 the producer-importer pool non-auc-  
8 tion sale to the total number of vin-  
9 tage year 2012 allowances in the pro-  
10 ducer-importer pool; and

11 “(II) the number of vintage year  
12 2013 allowances offered at auction.

13 “(viii) BIDDING LIMITS IN SUBSE-  
14 QUENT YEARS.—In the auctions for vin-  
15 tage year 2014 and subsequent vintage  
16 years, no auction participant may, directly  
17 or in concert with another participant, bid  
18 for or purchase more allowances offered  
19 for sale at the auction than the product  
20 of—

21 “(I) 1.15 multiplied by the ratio  
22 of the highest number of allowances  
23 required to be held by the participant  
24 in any of the three prior vintage years  
25 to meet its compliance obligation

1 under paragraph (1) to the total num-  
2 ber of allowances in the producer-im-  
3 porter pool for such vintage year; and

4 “(II) the number of allowances  
5 offered at auction for that vintage  
6 year.

7 “(ix) OTHER REQUIREMENTS.—The  
8 Administrator may include in the regula-  
9 tions such other requirements or provisions  
10 as the Administrator considers necessary  
11 to promote effective, efficient, transparent,  
12 and fair administration of auctions under  
13 this section.

14 “(B) REVISION OF REGULATIONS.—The  
15 Administrator may, at any time, revise the ini-  
16 tial regulations promulgated under subpara-  
17 graph (A) based on the Administrator’s experi-  
18 ence in administering allowance auctions by  
19 promulgating new regulations. Such revised reg-  
20 ulations need not meet the requirements identi-  
21 fied in subparagraph (A) if the Administrator  
22 determines that an alternative auction design  
23 would be more effective, taking into account  
24 factors including costs of administration, trans-  
25 parency, fairness, and risks of collusion or ma-

1           nipulation. In determining whether and how to  
2           revise the initial regulations under this para-  
3           graph, the Administrator shall not consider  
4           maximization of revenues to the Federal Gov-  
5           ernment.

6           “(C) DELEGATION OR CONTRACT.—Pursu-  
7           ant to regulations under this section, the Ad-  
8           ministrators may, by delegation or contract, pro-  
9           vide for the conduct of auctions under the Ad-  
10          ministrators’s supervision by other departments  
11          or agencies of the Federal Government or by  
12          nongovernmental agencies, groups, or organiza-  
13          tions.

14          “(7) PAYMENTS FOR ALLOWANCES.—

15          “(A) INITIAL REGULATIONS.—Not later  
16          than 18 months after the date of enactment of  
17          this section, the Administrator shall promulgate  
18          regulations governing the payment for allow-  
19          ances purchased in auction and non-auction  
20          sales under this section. Such regulations shall  
21          include the requirement that, in the event that  
22          full payment for purchased allowances is not  
23          made on the date of purchase, equal payments  
24          shall be made one time per calendar quarter

1 with all payments for allowances of a vintage  
2 year made by the end of that vintage year.

3 “(B) REVISION OF REGULATIONS.—The  
4 Administrator may, at any time, revise the ini-  
5 tial regulations promulgated under subpara-  
6 graph (A) based on the Administrator’s experi-  
7 ence in administering collection of payments by  
8 promulgating new regulations. Such revised reg-  
9 ulations need not meet the requirements identi-  
10 fied in subparagraph (A) if the Administrator  
11 determines that an alternative payment struc-  
12 ture or frequency would be more effective, tak-  
13 ing into account factors including cost of ad-  
14 ministration, transparency, and fairness. In de-  
15 termining whether and how to revise the initial  
16 regulations under this paragraph, the Adminis-  
17 trator shall not consider maximization of reve-  
18 nues to the Federal Government.

19 “(C) PENALTIES FOR NON-PAYMENT.—  
20 Failure to pay for purchased allowances in ac-  
21 cordance with the regulations promulgated pur-  
22 suant to this paragraph shall be a violation of  
23 the requirements of subsection (b). Section  
24 113(c)(3) shall apply in the case of any person  
25 who knowingly fails to pay for purchased allow-

1           ances in accordance with the regulations pro-  
2           mulgated pursuant to this paragraph.

3           “(8) IMPORTED PRODUCTS.—If the United  
4           States becomes a party or otherwise adheres to a  
5           multilateral agreement, including any amendment to  
6           the Montreal Protocol on Substances That Deplete  
7           the Ozone Layer, which restricts the production or  
8           consumption of class II, group II substances—

9                   “(A) as of the date on which such agree-  
10                   ment or amendment enters into force, it shall  
11                   no longer be unlawful for any person to import  
12                   from a party to such agreement or amendment  
13                   any product containing any class II, group II  
14                   substance whose production or consumption is  
15                   regulated by such agreement or amendment  
16                   without holding one consumption allowance or  
17                   one destruction offset credit for each carbon di-  
18                   oxide equivalent ton of the class II, group II  
19                   substance;

20                   “(B) the Administrator shall promulgate  
21                   regulations within 12 months of the date the  
22                   United States becomes a party or otherwise ad-  
23                   heres to such agreement or amendment, or the  
24                   date on which such agreement or amendment  
25                   enters into force, whichever is later, to establish

1 a new baseline for purposes of paragraph (2),  
2 which new baseline shall be the original baseline  
3 less the carbon dioxide equivalent of the annual  
4 average quantity of any class II substances reg-  
5 ulated by such agreement or amendment con-  
6 tained in products imported from parties to  
7 such agreement or amendment in calendar  
8 years 2004, 2005, and 2006;

9 “(C) as of the date on which such agree-  
10 ment or amendment enters into force, no per-  
11 son importing any product containing any class  
12 II, group II substance may, directly or in con-  
13 cert with another person, purchase any con-  
14 sumption allowances for sale by the Adminis-  
15 trator for the importation of products from a  
16 party to such agreement or amendment that  
17 contain any class II, group II substance re-  
18 stricted by such agreement or amendment; and

19 “(D) the Administrator may adjust the  
20 two allowance pools established in paragraph  
21 (4) such that up to 90 percent of the consump-  
22 tion allowances available for a calendar year are  
23 placed in the producer-importer pool with the  
24 remaining consumption allowances placed in the  
25 secondary pool.



1 “(9) OFFSETS.—

2 “(A) CHLOROFLUOROCARBON DESTRUC-  
3 TION.—Within 18 months after the date of en-  
4 actment of this section, the Administrator shall  
5 promulgate regulations to provide for the  
6 issuance of offset credits for the destruction, in  
7 the calendar year 2012 or later, of  
8 chlorofluorocarbons in the United States. The  
9 Administrator shall establish and distribute to  
10 the destroying entity a quantity of destruction  
11 offset credits equal to 0.8 times the number of  
12 metric tons of carbon dioxide equivalents of re-  
13 duction achieved through the destruction. No  
14 destruction offset credits shall be established  
15 for the destruction of a class II, group II sub-  
16 stance.

17 “(B) DEFINITION.—For purposes of this  
18 paragraph, the term ‘destruction’ means the  
19 conversion of a substance by thermal, chemical,  
20 or other means to another substance with little  
21 or no carbon dioxide equivalent value and no  
22 ozone depletion potential.

23 “(C) REGULATIONS.—The regulations pro-  
24 mulgated under this paragraph shall include  
25 standards and protocols for project eligibility,

1 certification of destroyers, monitoring, tracking,  
2 destruction efficiency, quantification of project  
3 and baseline emissions and carbon dioxide  
4 equivalent value, and verification. The Adminis-  
5 trator shall ensure that destruction offset cred-  
6 its represent real and verifiable destruction of  
7 chlorofluorocarbons or other class I or class II,  
8 group I, substances authorized under subpara-  
9 graph (D).

10 “(D) OTHER SUBSTANCES.—The Adminis-  
11 trator may promulgate regulations to add to the  
12 list of class I and class II, group I, substances  
13 that may be destroyed for destruction offset  
14 credits, taking into account a candidate sub-  
15 stance’s carbon dioxide equivalent value, ozone  
16 depletion potential, prevalence in banks in the  
17 United States, and emission rates, as well as  
18 the need for additional cost containment under  
19 the class II, group II cap and the integrity of  
20 the class II, group II cap. The Administrator  
21 shall not add a class I or class II, group I sub-  
22 stance to the list if the consumption of the sub-  
23 stance has not been completely phased-out  
24 internationally (except for essential use exemp-

1           tions or other similar exemptions) pursuant to  
2           the Montreal Protocol.

3           “(E) EXTENSION OF OFFSETS.—(i) At any  
4           time after the Administrator promulgates regu-  
5           lations pursuant to subparagraph (A), the Ad-  
6           ministrator may, pursuant to the requirements  
7           of part D of title VII and based on the carbon  
8           dioxide equivalent value of the substance de-  
9           stroyed, add the types of destruction projects  
10          authorized to receive destruction offset credits  
11          under this paragraph to the list of types of  
12          projects eligible for offset credits under section  
13          733. If such projects are added to the list under  
14          section 733, the issuance of offset credits for  
15          such projects under part D of title VII shall be  
16          governed by the requirements of such part D,  
17          while the issuance of offset credits for such  
18          projects under this paragraph shall be governed  
19          by the requirements of this paragraph. Nothing  
20          in this paragraph shall affect the issuance of  
21          offset credits under section 740.

22          “(ii) The Administrator shall not make the  
23          addition under clause (i) unless the Adminis-  
24          trator finds that insufficient destruction is oc-  
25          curring or is projected to occur under this para-

1 graph and that the addition would increase de-  
2 struction.

3 “(iii) In no event shall more than one de-  
4 struction offset credit be issued under title VII  
5 and this section for the destruction of the same  
6 quantity of a substance.

7 “(10) LEGAL STATUS OF ALLOWANCES AND  
8 CREDITS.—None of the following constitutes a prop-  
9 erty right:

10 “(A) A production or consumption allow-  
11 ance.

12 “(B) A destruction offset credit.

13 “(c) DEADLINES FOR COMPLIANCE.—Notwith-  
14 standing the deadlines specified for class II substances in  
15 sections 608, 609, 610, 612, and 613 that occur prior to  
16 January 1, 2009, the deadline for promulgating regula-  
17 tions under those sections for class II, group II substances  
18 shall be January 1, 2012.

19 “(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwith-  
20 standing any phase down of production and consumption  
21 required by this section, to the extent consistent with any  
22 applicable multilateral agreement to which the United  
23 States is a party or otherwise adheres, the Administrator  
24 may provide the following exceptions for essential uses:

1           “(1) MEDICAL DEVICES.—The Administrator,  
2           after notice and opportunity for public comment,  
3           and in consultation with the Commissioner of the  
4           Food and Drug Administration, may provide an ex-  
5           ception for the production and consumption of class  
6           II, group II substances solely for use in medical de-  
7           vices.

8           “(2) AVIATION AND SPACE VEHICLE SAFETY.—  
9           The Administrator, after notice and opportunity for  
10          public comment, may authorize the production and  
11          consumption of limited quantities of class II, group  
12          II substances solely for the purposes of aviation or  
13          space vehicle safety if either the Administrator of  
14          the Federal Aviation Administration or the Adminis-  
15          trator of the National Aeronautics and Space Ad-  
16          ministration, in consultation with the Administrator,  
17          determines that no safe and effective substitute has  
18          been developed and that such authorization is nec-  
19          essary for aviation or space flight safety purposes.

20          “(e) DEVELOPING COUNTRIES.—Notwithstanding  
21          any phase down of production required by this section, the  
22          Administrator, after notice and opportunity for public  
23          comment, may authorize the production of limited quan-  
24          tities of class II, group II substances in excess of the  
25          amounts otherwise allowable under this section solely for

1 export to, and use in, developing countries. Any produc-  
2 tion authorized under this subsection shall be solely for  
3 purposes of satisfying the basic domestic needs of such  
4 countries as provided in applicable international agree-  
5 ments, if any, to which the United States is a party or  
6 otherwise adheres.

7 “(f) NATIONAL SECURITY; FIRE SUPPRESSION,  
8 ETC.—The provisions of subsection (f) and paragraphs (1)  
9 and (2) of subsection (g) of section 604 shall apply to any  
10 consumption and production phase down of class II, group  
11 II substances in the same manner and to the same extent,  
12 consistent with any applicable international agreement to  
13 which the United States is a party or otherwise adheres,  
14 as such provisions apply to the substances specified in  
15 such subsection.

16 “(g) ACCELERATED SCHEDULE.—In lieu of section  
17 606, the provisions of paragraphs (1), (2), and (3) of this  
18 subsection shall apply in the case of class II, group II sub-  
19 stances.

20 “(1) IN GENERAL.—The Administrator shall  
21 promulgate initial regulations not later than 18  
22 months after the date of enactment of this section,  
23 and revised regulations any time thereafter, which  
24 establish a schedule for phasing down the consump-  
25 tion (and, if the condition in subsection (b)(1)(B) is

1 met, the production) of class II, group II substances  
2 that is more stringent than the schedule set forth in  
3 this section if, based on the availability of sub-  
4 stitutes, the Administrator determines that such  
5 more stringent schedule is practicable, taking into  
6 account technological achievability, safety, and other  
7 factors the Administrator deems relevant, or if the  
8 Montreal Protocol, or any applicable international  
9 agreement to which the United States is a party or  
10 otherwise adheres, is modified or established to in-  
11 clude a schedule or other requirements to control or  
12 reduce production, consumption, or use of any class  
13 II, group II substance more rapidly than the appli-  
14 cable schedule under this section.

15 “(2) PETITION.—Any person may submit a pe-  
16 tition to promulgate regulations under this sub-  
17 section in the same manner and subject to the same  
18 procedures as are provided in section 606(b).

19 “(3) INCONSISTENCY.—If the Administrator de-  
20 termines that the provisions of this section regarding  
21 banking, allowance rollover, or destruction offset  
22 credits create a significant potential for inconsis-  
23 tency with the requirements of any applicable inter-  
24 national agreement to which the United States is a  
25 party or otherwise adheres, the Administrator may

1 promulgate regulations restricting the availability of  
2 banking, allowance rollover, or destruction offset  
3 credits to the extent necessary to avoid such incon-  
4 sistency.

5 “(h) EXCHANGE.—Section 607 shall not apply in the  
6 case of class II, group II substances. Production and con-  
7 sumption allowances for class II, group II substances may  
8 be freely exchanged or sold but may not be converted into  
9 allowances for class II, group I substances.

10 “(i) LABELING.—(1) In applying section 611 to prod-  
11 ucts containing or manufactured with class II, group II  
12 substances, in lieu of the words ‘destroying ozone in the  
13 upper atmosphere’ on labels required under section 611  
14 there shall be substituted the words ‘contributing to global  
15 warming’.

16 “(2) The Administrator may, through rulemaking,  
17 exempt from the requirements of section 611 products  
18 containing or manufactured with class II, group II sub-  
19 stances determined to have little or no carbon dioxide  
20 equivalent value compared to other substances used in  
21 similar products.

22 “(j) NONESSENTIAL PRODUCTS.—For the purposes  
23 of section 610, class II, group II substances shall be regu-  
24 lated under section 610(b), except that in applying section  
25 610(b) the word ‘hydrofluorocarbon’ shall be substituted



1 for the word ‘chlorofluorocarbon’ and the term ‘class II,  
2 group II’ shall be substituted for the term ‘class I’. Class  
3 II, group II substances shall not be subject to the provi-  
4 sions of section 610(d).

5 “(k) INTERNATIONAL TRANSFERS.—In the case of  
6 class II, group II substances, in lieu of section 616, this  
7 subsection shall apply. To the extent consistent with any  
8 applicable international agreement to which the United  
9 States is a party or otherwise adheres, including any  
10 amendment to the Montreal Protocol, the United States  
11 may engage in transfers with other parties to such agree-  
12 ment or amendment under the following conditions:

13 “(1) The United States may transfer produc-  
14 tion allowances to another party to such agreement  
15 or amendment if, at the time of the transfer, the  
16 Administrator establishes revised production limits  
17 for the United States accounting for the transfer in  
18 accordance with regulations promulgated pursuant  
19 to this subsection.

20 “(2) The United States may acquire production  
21 allowances from another party to such agreement or  
22 amendment if, at the time of the transfer, the Ad-  
23 ministrator finds that the other party has revised its  
24 domestic production limits in the same manner as  
25 provided with respect to transfers by the United

1 States in the regulations promulgated pursuant to  
2 this subsection.

3 “(1) RELATIONSHIP TO OTHER LAWS.—

4 “(1) STATE LAWS.—For purposes of section  
5 116, the requirements of this section for class II,  
6 group II substances shall be treated as requirements  
7 for the control and abatement of air pollution.

8 “(2) MULTILATERAL AGREEMENTS.—Section  
9 614 shall apply to the provisions of this section con-  
10 cerning class II, group II substances, except that for  
11 the words ‘Montreal Protocol’ there shall be sub-  
12 stituted the words ‘Montreal Protocol, or any appli-  
13 cable multilateral agreement to which the United  
14 States is a party or otherwise adheres that restricts  
15 the production or consumption of class II, group II  
16 substances,’ and for the words ‘Article 4 of the Mon-  
17 treal Protocol’ there shall be substituted ‘any provi-  
18 sion of such multilateral agreement regarding trade  
19 with non-parties’.

20 “(3) FEDERAL FACILITIES.—For purposes of  
21 section 118, the requirements of this section for  
22 class II, group II substances and corresponding  
23 State, interstate, and local requirements, administra-  
24 tive authority, and process and sanctions shall be  
25 treated as requirements for the control and abate-

1           ment of air pollution within the meaning of section  
2           118.

3           “(m) CARBON DIOXIDE EQUIVALENT VALUE.—(1)

4 In lieu of section 602(e), the provisions of this subsection  
5 shall apply in the case of class II, group II substances.  
6 Simultaneously with establishing the list of class II, group  
7 II substances, and simultaneously with any addition to  
8 that list, the Administrator shall publish the carbon diox-  
9 ide equivalent value of each listed class II, group II sub-  
10 stance, based on a determination of the number of metric  
11 tons of carbon dioxide that makes the same contribution  
12 to global warming over 100 years as 1 metric ton of each  
13 class II, group II substance.

14           “(2) Not later than February 1, 2017, and not less  
15 than every 5 years thereafter, the Administrator shall—

16                 “(A) review, and if appropriate, revise the car-  
17 bon dioxide equivalent values established for class II,  
18 group II substances based on a determination of the  
19 number of metric tons of carbon dioxide that makes  
20 the same contributions to global warming over 100  
21 years as 1 metric ton of each class II, group II sub-  
22 stance; and

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

1           “(3) A revised determination published in the Federal  
2 Register under paragraph (2)(B) shall take effect for pro-  
3 duction of class II, group II substances, consumption of  
4 class II, group II substances, and importation of products  
5 containing class II, group II substances starting on Janu-  
6 ary 1 of the first calendar year starting at least 9 months  
7 after the date on which the revised determination was pub-  
8 lished.

9           “(4) The Administrator may decrease the frequency  
10 of review and revision under paragraph (2) if the Adminis-  
11 trator determines that such decrease is appropriate in  
12 order to synchronize such review and revisions with any  
13 similar review process carried out pursuant to the United  
14 Nations Framework Convention on Climate Change, an  
15 agreement negotiated under that convention, The Vienna  
16 Convention for the Protection of the Ozone Layer, or an  
17 agreement negotiated under that convention, except that  
18 in no event shall the Administrator carry out such review  
19 and revision any less frequently than every 10 years.

20           “(n) REPORTING REQUIREMENTS.—In lieu of sub-  
21 sections (b) and (c) of section 603, paragraphs (1) and  
22 (2) of this subsection shall apply in the case of class II,  
23 group II substances:

24           “(1) IN GENERAL.—On a quarterly basis, or  
25           such other basis (not less than annually) as deter-

1       mined by the Administrator, each person who pro-  
2       duced, imported, or exported a class II, group II  
3       substance, or who imported a product containing a  
4       class II, group II substance, shall file a report with  
5       the Administrator setting forth the carbon dioxide  
6       equivalent amount of the substance that such person  
7       produced, imported, or exported, as well as the  
8       amount that was contained in products imported by  
9       that person, during the preceding reporting period.  
10      Each such report shall be signed and attested by a  
11      responsible officer. If all other reporting is complete,  
12      no such report shall be required from a person after  
13      April 1 of the calendar year after such person per-  
14      manently ceases production, importation, and expor-  
15      tation of the substance, as well as importation of  
16      products containing the substance, and so notifies  
17      the Administrator in writing. If the United States  
18      becomes a party or otherwise adheres to a multilat-  
19      eral agreement, including any amendment to the  
20      Montreal Protocol on Substances That Deplete the  
21      Ozone Layer, that restricts the production or con-  
22      sumption of class II, group II substances, then, if all  
23      other reporting is complete, no such report shall be  
24      required from a person with respect to importation  
25      from parties to such agreement or amendment of

1 products containing any class II, group II substance  
2 restricted by such agreement or amendment, after  
3 April 1 of the calendar year following the year dur-  
4 ing which such agreement or amendment enters into  
5 force.

6 “(2) BASELINE REPORTS FOR CLASS II, GROUP  
7 II SUBSTANCES.—

8 “(A) IN GENERAL.—Unless such informa-  
9 tion has been previously reported to the Admin-  
10 istrator, on the date on which the first report  
11 under paragraph (1) of this subsection is re-  
12 quired to be filed, each person who produced,  
13 imported, or exported a class II, group II sub-  
14 stance, or who imported a product containing a  
15 class II substance, (other than a substance  
16 added to the list of class II, group II substances  
17 after the publication of the initial list of such  
18 substances under this section), shall file a re-  
19 port with the Administrator setting forth the  
20 amount of such substance that such person pro-  
21 duced, imported, exported, or that was con-  
22 tained in products imported by that person,  
23 during each of calendar years 2004, 2005, and  
24 2006.

1           “(B) PRODUCERS.—In reporting under  
2 subparagraph (A), each person who produced in  
3 the United States a class II substance during  
4 calendar year 2004, 2005, or 2006 shall—

5           “(i) report all acquisitions or pur-  
6 chases of class II substances during each  
7 of calendar years 2004, 2005, and 2006  
8 from all other persons who produced in the  
9 United States a class II substance during  
10 calendar year 2004, 2005, or 2006, and  
11 supply evidence of such acquisitions and  
12 purchases as deemed necessary by the Ad-  
13 ministrator; and

14           “(ii) report all transfers or sales of  
15 class II substances during each of calendar  
16 years 2004, 2005, and 2006 to all other  
17 persons who produced in the United States  
18 a class II substance during calendar year  
19 2004, 2005, or 2006, and supply evidence  
20 of such transfers and sales as deemed nec-  
21 essary by the Administrator.

22           “(C) ADDED SUBSTANCES.—In the case of  
23 a substance added to the list of class II, group  
24 II substances after publication of the initial list  
25 of such substances under this section, each per-

1 son who produced, imported, exported, or im-  
2 ported products containing such substance in  
3 calendar year 2004, 2005, or 2006 shall file a  
4 report with the Administrator within 180 days  
5 after the date on which such substance is added  
6 to the list, setting forth the amount of the sub-  
7 stance that such person produced, imported,  
8 and exported, as well as the amount that was  
9 contained in products imported by that person,  
10 in calendar years 2004, 2005, and 2006.

11 “(o) STRATOSPHERIC OZONE AND CLIMATE PROTEC-  
12 TION FUND.—

13 “(1) IN GENERAL.—There is established in the  
14 Treasury of the United States a Stratospheric Ozone  
15 and Climate Protection Fund.

16 “(2) DEPOSITS.—The Administrator shall de-  
17 posit all proceeds from the auction and non-auction  
18 sale of allowances under this section into the Strato-  
19 spheric Ozone and Climate Protection Fund.

20 “(3) USE.—Amounts deposited into the Strato-  
21 spheric Ozone and Climate Protection Fund shall be  
22 available, subject to appropriations, exclusively for  
23 the following purposes:

24 “(A) RECOVERY, RECYCLING, AND REC-  
25 LAMATION.—The Administrator may utilize



1 funds to establish a program to incentivize the  
2 recovery, recycling, and reclamation of any  
3 Class II substances in order to reduce emissions  
4 of such substances.

5 “(B) MULTILATERAL FUND.—If the  
6 United States becomes a party or otherwise ad-  
7 heres to a multilateral agreement, including any  
8 amendment to the Montreal Protocol on Sub-  
9 stances That Deplete the Ozone Layer, which  
10 restricts the production or consumption of class  
11 II, group II substances, the Administrator may  
12 utilize funds to meet any related contribution  
13 obligation of the United States to the Multilat-  
14 eral Fund for the Implementation of the Mon-  
15 treal Protocol or similar multilateral fund es-  
16 tablished under such multilateral agreement.

17 “(C) BEST-IN-CLASS APPLIANCES DEPLOY-  
18 MENT PROGRAM.—The Secretary of Energy is  
19 authorized to utilize funds to carry out the pur-  
20 poses of [section 214 of the  
21 \_\_\_\_\_ Act. *【Legis. Counsel*  
22 *note: this references a section of the House-passed*  
23 *bill that is not included in this draft, so this ref-*  
24 *erence should be modified.】*】



1 substances with no or low carbon di-  
2 oxide equivalent value and no ozone  
3 depletion potential; and

4 “(II) the redesign and retooling  
5 of facilities for the manufacture of  
6 products in the United States that use  
7 alternative substances with no or low  
8 carbon dioxide equivalent value and  
9 no ozone depletion potential.

10 “(iv) REPORTS.—For any fiscal year  
11 during which the Administrator provides  
12 financial assistance pursuant to this sub-  
13 paragraph, the Administrator shall submit  
14 a report to the Congress within 3 months  
15 of the end of such fiscal year detailing the  
16 amounts, recipients, specific purposes, and  
17 results of the financial assistance pro-  
18 vided.”.

19 (b) TABLE OF CONTENTS.—The table of contents of  
20 title VI of the Clean Air Act (42 U.S.C. 7671 et seq.)  
21 is amended by adding the following new item at the end  
22 thereof:

“Sec. 619. Hydrofluorocarbons (HFCs).”.

23 (c) FIRE SUPPRESSION AGENTS.—Section 605(a) of  
24 the Clean Air Act (42 U.S.C. 7671(a)) is amended—

1           (1) by striking “or” at the end of paragraph  
2           (2);

3           (2) by striking the period at the end of para-  
4           graph (3) and inserting “; or”; and

5           (3) by adding the following new paragraph after  
6           paragraph (3):

7           “(4) is listed as acceptable for use as a fire sup-  
8           pression agent for nonresidential applications in ac-  
9           cordance with section 612(e).”.

10          (d) MOTOR VEHICLE AIR CONDITIONERS.—

11           (1) Section 609(e) of the Clean Air Act (42  
12           U.S.C. 7671h(e)) is amended by inserting “, group  
13           I” after each reference to “class II” in the text and  
14           heading.

15           (2) Section 609 of the Clean Air Act (42 U.S.C.  
16           7671h) is amended by adding the following new sub-  
17           section after subsection (e):

18          “(f) CLASS II, GROUP II SUBSTANCES.—

19           “(1) REPAIR.—The Administrator may promul-  
20           gate regulations establishing requirements for repair  
21           of motor vehicle air conditioners prior to adding a  
22           class II, group II substance.

23           “(2) SMALL CONTAINERS.—(A) The Adminis-  
24           trator may promulgate regulations establishing serv-  
25           icing practices and procedures for recovery of class

1       II, group II substances from containers which con-  
2       tain less than 20 pounds of such class II, group II  
3       substances.

4           “(B) Not later than 18 months after enactment  
5       of this subsection, the Administrator shall either  
6       promulgate regulations requiring that containers  
7       which contain less than 20 pounds of a class II,  
8       group II substance be equipped with a device or  
9       technology that limits refrigerant emissions and  
10      leaks from the container and limits refrigerant emis-  
11      sions and leaks during the transfer of refrigerant  
12      from the container to the motor vehicle air condi-  
13      tioner or issue a determination that such require-  
14      ments are not necessary or appropriate.

15          “(C) Not later than 18 months after enactment  
16      of this subsection, the Administrator shall promul-  
17      gate regulations establishing requirements for con-  
18      sumer education materials on best practices associ-  
19      ated with the use of containers which contain less  
20      than 20 pounds of a class II, group II substance and  
21      prohibiting the sale or distribution, or offer for sale  
22      or distribution, of any class II, group II substance  
23      in any container which contains less than 20 pounds  
24      of such class II, group II substance, unless con-  
25      sumer education materials consistent with such re-

1 requirements are displayed and available at point-of-  
2 sale locations, provided to the consumer, or included  
3 in or on the packaging of the container which con-  
4 tain less than 20 pounds of a class II, group II sub-  
5 stance.

6 “(D) The Administrator may, through rule-  
7 making, extend the requirements established under  
8 this paragraph to containers which contain 30  
9 pounds or less of a class II, group II substance if  
10 the Administrator determines that such action would  
11 produce significant environmental benefits.

12 “(3) RESTRICTION OF SALES.—Effective Janu-  
13 ary 1, 2014, no person may sell or distribute or offer  
14 to sell or distribute or otherwise introduce into inter-  
15 state commerce any motor vehicle air conditioner re-  
16 frigerant in any size container unless the substance  
17 has been found acceptable for use in a motor vehicle  
18 air conditioner under section 612.”.

19 (e) SAFE ALTERNATIVES POLICY.—Section 612(e) of  
20 the Clean Air Act (42 U.S.C. 7671k(e)) is amended by  
21 inserting “or class II” after each reference to “class I”.

22 **SEC. 423. BLACK CARBON.**

23 (a) DEFINITION.—As used in this section, the term  
24 “black carbon” means primary light absorbing aerosols,

1 as defined by the Administrator, based on the best avail-  
2 able science.

3 (b) BLACK CARBON ABATEMENT REPORT.—Not  
4 later than one year after the date of enactment of this  
5 Act, the Administrator shall, in consultation with other  
6 appropriate Federal agencies, submit to Congress a report  
7 regarding black carbon emissions. The report shall include  
8 the following:

9 (1) A summary of the current information and  
10 research that identifies—

11 (A) an inventory of the major sources of  
12 black carbon emissions in the United States  
13 and throughout the world, including—

14 (i) an estimate of the quantity of cur-  
15 rent and projected future emissions; and

16 (ii) the net climate forcing of the  
17 emissions from such sources, including  
18 consideration of co-emissions of other pol-  
19 lutants;

20 (B) effective and cost-effective control  
21 technologies, operations, and strategies for ad-  
22 ditional domestic and international black carbon  
23 emissions reductions, such as diesel retrofit  
24 technologies on existing on-road, non-road, and  
25 stationary engines and programs to address res-

1           idential cookstoves, and forest and agriculture-  
2           based burning;

3           (C) potential metrics and approaches for  
4           quantifying the climatic effects of black carbon  
5           emissions, including its radiative forcing and  
6           warming effects, that may be used to compare  
7           the climate benefits of different mitigation  
8           strategies, including an assessment of the un-  
9           certainty in such metrics and approaches; and

10          (D) the public health and environmental  
11          benefits associated with additional controls for  
12          black carbon emissions.

13          (2) Recommendations regarding—

14           (A) development of additional emissions  
15           monitoring techniques and capabilities, mod-  
16           eling, and other black carbon-related areas of  
17           study;

18           (B) areas of focus for additional study of  
19           technologies, operations, and strategies with the  
20           greatest potential to reduce emissions of black  
21           carbon and associated public health, economic,  
22           and environmental impacts associated with  
23           these emissions; and

24           (C) actions, in addition to those identified  
25           by the Administrator under section 851 of the



1           Clean Air Act (as added by subsection (c)), the  
2           Federal Government may take to encourage or  
3           require reductions in black carbon emissions.

4           (c) **BLACK CARBON MITIGATION.**—Title VIII of the  
5 Clean Air Act, as added by section 421 of this Act, and  
6 amended by section 112 of this Act, is further amended  
7 by adding after part D the following new part:

8                           **“PART E—BLACK CARBON**

9           **“SEC. 851. BLACK CARBON.**

10           “(a) **DEFINITION.**—As used in this section, the term  
11 ‘black carbon’ means primary light absorbing aerosols, as  
12 defined by the Administrator, based on the best available  
13 science.

14           “(b) **DOMESTIC BLACK CARBON MITIGATION.**—Not  
15 later than 18 months after the date of enactment of this  
16 section, the Administrator, taking into consideration the  
17 public health and environmental impacts of black carbon  
18 emissions, including the effects on global and regional  
19 warming, the Arctic, and other snow and ice-covered sur-  
20 faces, shall propose regulations under the existing authori-  
21 ties of this Act to reduce emissions of black carbon or pro-  
22 pose a finding that existing regulations promulgated pur-  
23 suant to this Act adequately regulate black carbon emis-  
24 sions. Not later than two years after the date of enactment  
25 of this section, the Administrator shall promulgate final

1 regulations under the existing authorities of this Act or  
2 finalize the proposed finding.

3 “(c) INTERNATIONAL BLACK CARBON MITIGA-  
4 TION.—

5 “(1) REPORT.—Not later than one year after  
6 the date of enactment of this section, the Adminis-  
7 trator, in coordination with the Secretary of State  
8 and other appropriate Federal agencies, shall trans-  
9 mit a report to Congress on the amount, type, and  
10 direction of all present United States financial, tech-  
11 nical, and related assistance to foreign countries to  
12 reduce, mitigate, and otherwise abate black carbon  
13 emissions.

14 “(2) OTHER OPPORTUNITIES.—The report re-  
15 quired under paragraph (1) shall also identify oppor-  
16 tunities and recommendations, including action  
17 under existing authorities, to achieve significant  
18 black carbon emission reductions in foreign countries  
19 through technical assistance or other approaches  
20 to—

21 “(A) promote sustainable solutions to  
22 bring clean, efficient, safe, and affordable  
23 stoves, fuels, or both stoves and fuels to resi-  
24 dents of developing countries that are reliant on  
25 solid fuels such as wood, dung, charcoal, coal,

1 or crop residues for home cooking and heating,  
2 so as to help reduce the public health, environ-  
3 mental, and economic impacts of black carbon  
4 emissions from these sources by—

5 “(i) identifying key regions for large-  
6 scale demonstration efforts, and key part-  
7 ners in each such region; and

8 “(ii) developing for each such region a  
9 large-scale implementation strategy with a  
10 goal of collectively reaching 20,000,000  
11 homes over 5 years with interventions that  
12 will—

13 “(I) increase stove efficiency by  
14 over 50 percent (or such other goal as  
15 determined by the Administrator);

16 “(II) reduce emissions of black  
17 carbon by over 60 percent (or such  
18 other goal as determined by the Ad-  
19 ministrator); and

20 “(III) reduce the incidence of se-  
21 vere pneumonia in children under 5  
22 years old by over 30 percent (or such  
23 other goal as determined by the Ad-  
24 ministrator);

1           “(B) make technological improvements to  
2           diesel engines and provide greater access to  
3           fuels that emit less or no black carbon;

4           “(C) reduce unnecessary agricultural or  
5           other biomass burning where feasible alter-  
6           natives exist;

7           “(D) reduce unnecessary fossil fuel burn-  
8           ing that produces black carbon where feasible  
9           alternatives exist;

10          “(E) reduce other sources of black carbon  
11          emissions; and

12          “(F) improve capacity to achieve greater  
13          compliance with existing laws to address black  
14          carbon emissions.”.

15          (d) **AUTHORIZATION OF APPROPRIATIONS.**—There  
16          are authorized to be appropriated such sums as are nec-  
17          essary to carry out this section and the amendment made  
18          by this section.

19          **SEC. 424. STATES.**

20          Section 116 of the Clean Air Act (42 U.S.C. 7416)  
21          is amended by adding the following at the end thereof:  
22          “For the purposes of this section, the phrases ‘standard  
23          or limitation respecting emissions of air pollutants’ and  
24          ‘requirements respecting control or abatement of air pollu-  
25          tion’ shall include any provision to: cap greenhouse gas

1 emissions, require surrender to the State or a political  
2 subdivision thereof of emission allowances or offset credits  
3 established or issued under this Act, and require the use  
4 of such allowances or credits as a means of demonstrating  
5 compliance with requirements established by a State or  
6 political subdivision thereof.”.

7 **SEC. 425. STATE PROGRAMS.**

8 Title VIII of the Clean Air Act, as added by section  
9 421 of this Act and amended by several sections of this  
10 Act, is further amended by adding after part E (as added  
11 by section 423(c) of this Act) the following new part:

12 **“PART F—MISCELLANEOUS**

13 **“SEC. 861. STATE PROGRAMS.**

14 “(a) IN GENERAL.—Notwithstanding section 116, if  
15 a Federal auction is conducted, by the deadline of March  
16 31, 2011, as established in section 791, no State or polit-  
17 ical subdivision thereof shall implement or enforce a cap  
18 and trade program that covers any capped emissions emit-  
19 ted during the years 2012 through 2017.

20 “(b) DEADLINE.—Notwithstanding section 116, in  
21 the event the March 31, 2011 auction is delayed, no State  
22 or political subdivision thereof shall enforce a cap and  
23 trade program that covers any capped emissions emitted  
24 during the period that is at least 9 months from the first  
25 auction as set out in section 791, through 2017.

1           “(c) DEFINITION OF CAP AND TRADE PROGRAM.—  
2 For purposes of this section, the term ‘cap and trade pro-  
3 gram’ means a system of greenhouse gas regulation under  
4 which a State or political subdivision issues a limited num-  
5 ber of tradable instruments in the nature of emission al-  
6 lowances and requires that sources within its jurisdiction  
7 surrender such tradeable instruments for each unit of  
8 greenhouse gases emitted during a compliance period. For  
9 purposes of this section, a ‘cap-and-trade program’ does  
10 not include a target or limit on greenhouse gas emissions  
11 adopted by a State or political subdivision that is imple-  
12 mented other than through the issuance and surrender of  
13 a limited number of tradable instruments in the nature  
14 of emission allowances, nor does it include any other  
15 standard, limit, regulation, or program to reduce green-  
16 house gas emissions that is not implemented through the  
17 issuance and surrender of a limited number of tradeable  
18 instruments in the nature of emission allowances. For pur-  
19 poses of this section, the term ‘cap and trade program’  
20 does not include, among other things, fleet-wide motor ve-  
21 hicle emission requirements that allow greater emissions  
22 with increased vehicle production, or requirements that  
23 fuels, or other products, meet an average pollution emis-  
24 sion rate or lifecycle greenhouse gas standard.

1 **“SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CON-**  
2 **TROL PROGRAMS.**

3 “The Administrator is authorized to make grants to  
4 air pollution control agencies pursuant to section 105 for  
5 purposes of assisting in the implementation of programs  
6 to address global warming established under the  
7 \_\_\_\_\_ Act.”.

8 **SEC. 426. ENFORCEMENT.**

9 (a) REMAND.—Section 307(b) of the Clean Air Act  
10 (42 U.S.C. 7607(b)) is amended by adding the following  
11 new paragraph at the end thereof:

12 “(3) If the court determines that any action of  
13 the Administrator is arbitrary, capricious, or other-  
14 wise unlawful, the court may remand such action,  
15 without vacatur, if vacatur would impair or delay  
16 protection of the environment or public health or  
17 otherwise undermine the timely achievement of the  
18 purposes of this Act.”.

19 (b) PETITION FOR RECONSIDERATION.—Section  
20 307(d)(7)(B) of the Clean Air Act (42 U.S.C.  
21 7607(d)(7)(B)) is amended as follows:

22 (1) By inserting after the second sentence “If  
23 a petition for reconsideration is filed, the Adminis-  
24 trator shall take final action on such petition, in-  
25 cluding promulgation of final action either revising  
26 or determining not to revise the action for which re-

1 consideration is sought, within 150 days after the  
2 petition is received by the Administrator or the peti-  
3 tion shall be deemed denied for the purpose of judi-  
4 cial review.”.

5 (2) By amending the third sentence to read as  
6 follows: “Such person may seek judicial review of  
7 such denial, or of any other final action, by the Ad-  
8 ministrator, in response to a petition for reconsider-  
9 ation, in the United States court of appeals for the  
10 appropriate circuit (as provided in subsection (b)).”.

11 **SEC. 427. CONFORMING AMENDMENTS.**

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

14 (1) In subsection (a)(3), by striking “or title  
15 VI,” and inserting “title VI, title VII, or title VIII”.

16 (2) In subsection (b), by striking “or a major  
17 stationary source” and inserting “a major stationary  
18 source, or a covered EGU under title VIII” in the  
19 material preceding paragraph (1).

20 (3) In paragraph (2) of subsection (b), by strik-  
21 ing “or title VI” and inserting “title VI, title VII,  
22 or title VIII”.

23 (4) In subsection (c)—

24 (A) in the first sentence of paragraph (1),  
25 by striking “or title VI (relating to strato-



1           spheric ozone control),” and inserting “title VI,  
2           title VII, or title VIII,”; and

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

6           (5) In subsection (d)(1)(B), by striking “or VI”  
7           and inserting “VI, VII, or VIII”.

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

10          (b) RETENTION OF STATE AUTHORITY.—Section  
11 116 of the Clean Air Act (42 U.S.C. 7416) is amended  
12 as follows:

13           (1) By striking “and 233” and inserting “233”.

14           (2) By striking “of moving sources)” and in-  
15           serting “of moving sources), and 861 (preempting  
16           certain State greenhouse gas programs for a limited  
17           time)”.

18          (c) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
19 tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is  
20 amended by striking “section 112,” and all that follows  
21 through “(ii)” and inserting the following: “section 112,  
22 or any regulation of greenhouse gas emissions under title  
23 VII or VIII, (ii)”.

1 (d) ENFORCEMENT.—Subsection (f) of section 304 of  
2 the Clean Air Act (42 U.S.C. 7604(f)) is amended as fol-  
3 lows:

4 (1) By striking “; or” at the end of paragraph  
5 (3) thereof and inserting a comma.

6 (2) By striking the period at the end of para-  
7 graph (4) thereof and inserting “, or”.

8 (3) By adding the following after paragraph (4)  
9 thereof:

10 “(5) any requirement of title VII or VIII.”.

11 (e) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL  
12 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.  
13 7607) is amended as follows:

14 (1) In subsection (a), by striking “, or section  
15 306” and inserting “section 306, or title VII or  
16 VIII”.

17 (2) In subsection (b)(1)—

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

20 (B) by striking “section 120,” in the first  
21 sentence and inserting “section 120, any final  
22 action under title VII or VIII,”.

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

1                   “(S) the promulgation or revision of any  
2                   regulation under title VII or VIII,”.

3           (f) **TECHNICAL AMENDMENT.**—Title IV of the Clean  
4 Air Act (relating to noise pollution) (42 U.S.C. 7641 et  
5 seq.)—

6                   (1) is amended by redesignating sections 401  
7                   through 403 as sections 901 through 903, respec-  
8                   tively; and

9                   (2) is redesignated as title IX and moved to ap-  
10                  pear at the end of that Act.

11 **SEC. 428. DAVIS-BACON COMPLIANCE.**

12           (a) **IN GENERAL.**—Notwithstanding any other provi-  
13 sion of law and in a manner consistent with other provi-  
14 sions in this Act, to receive emission allowances or funding  
15 under this Act, or the amendments made by this Act, the  
16 recipient shall provide reasonable assurances that all la-  
17 borers and mechanics employed by contractors and sub-  
18 contractors on projects funded directly by or assisted in  
19 whole or in part by and through the Federal Government  
20 pursuant to this Act, or the amendments made by this  
21 Act, or by any entity established in accordance with this  
22 Act, or the amendments made by this Act, including the  
23 Carbon Storage Research Corporation, will be paid wages  
24 at rates not less than those prevailing on projects of a  
25 character similar in the locality as determined by the Sec-

1 retary of Labor in accordance with subchapter IV of chap-  
2 ter 31 of title 40, United States Code (commonly known  
3 as the “Davis-Bacon Act”). With respect to the labor  
4 standards specified in this section, the Secretary of Labor  
5 shall have the authority and functions set forth in Reorga-  
6 nization Plan Numbered 14 of 1950 (64 Stat. 1267; 5  
7 U.S.C. App.) and section 3145 of title 40, United States  
8 Code.

9 (b) EXEMPTION.—Neither subsection (a) nor the re-  
10 quirements of subchapter IV of chapter 31 of title 40,  
11 United States Code, shall apply to retrofitting of the fol-  
12 lowing:

13 (1) Single family homes (both attached and de-  
14 tached) under **[section 202]** *【Legis. Counsel note:*  
15 *section 202 of the House-passed bill is not included in*  
16 *this draft, so this reference should be modified.】*.

17 (2) Owner-occupied residential units in larger  
18 buildings that have their own dedicated space-condi-  
19 tioning systems under section 202 *【see above note】*.

20 (3) Residential buildings (as defined in section  
21 202(a)(5)) *【see above note】* if designed for residen-  
22 tial use by less than 4 families.

23 (4) Nonresidential buildings (as defined in sec-  
24 tion 202(a)(1)) *【see above note】* if the net interior

1 space of such nonresidential building is less than  
2 6,500 square feet.

### 3 **Subtitle D—Carbon Market** 4 **Assurance**

#### 5 **SEC. 431. OVERSIGHT AND ASSURANCE OF CARBON MAR-** 6 **KETS.**

7 (a) DEFINITIONS.—In this section:

8 (1) REGULATED ALLOWANCE.—The term “reg-  
9 ulated allowance” means any emission allowance,  
10 compensatory allowance, offset credit, or Federal re-  
11 newable electricity credit established or issued under  
12 the \_\_\_\_\_ Act.

13 (2) REGULATED INSTRUMENT.—The term “reg-  
14 ulated instrument” means a regulated allowance or  
15 a regulated allowance derivative.

16 (b) REGULATED ALLOWANCE MARKET.—

17 (1) AUTHORITY.—The Federal Commodities  
18 Trade Commission shall promulgate regulations for  
19 the establishment, operation, and oversight of mar-  
20 kets for regulated allowances and regulated instru-  
21 ments not later than 18 months after the date of the  
22 enactment of this Act, and from time to time there-  
23 after as may be appropriate.

24 (2) REGULATIONS.—The regulations promul-  
25 gated pursuant to paragraph (1) shall—

1 (A) provide for effective and comprehensive  
2 market oversight;

3 (B) lower systemic risk and protect con-  
4 sumers;

5 (C) enhance the price discovery function of  
6 such markets, ensuring the price for emissions  
7 allowances and offset credits reflects the mar-  
8 ginal cost of abatement;

9 (D) eliminate speculation that contributes  
10 to price volatility;

11 (E) ensure that market mechanisms and  
12 associated oversight support the environmental  
13 integrity of the program established under title  
14 VII of the Clean Air Act (as added by [section  
15 \_\_\_\_]);

16 (F) establish provisions for market trans-  
17 parency that provide the Commission the au-  
18 thority and information needed to prevent fraud  
19 and manipulation in such markets;

20 (G) maximize the economic value of the fu-  
21 tures markets ensuring the market structure is  
22 designed to manage risk and to prevent increas-  
23 ing risk;

24 [(H) provide substantial criminal and civil  
25 penalties; and [SLC Note: This subparagraph

1           *may be struck down by a court as unconsti-*  
2           *tutionally vague, especially for criminal pen-*  
3           *alties.* **¶¶**

4           (I) prevent excessive leverage by market  
5           participants that creates risk to the economy.

6           (c) WORKING GROUP.—Not later than 30 days after  
7           the date of the enactment of this Act, the President shall  
8           establish an interagency working group on carbon market  
9           oversight, which shall include the Administrator and rep-  
10          resentatives of other relevant agencies, to make rec-  
11          ommendations to the Commodity Futures Trading Com-  
12          mission regarding proposed regulations for the establish-  
13          ment, operation, and oversight of markets for regulated  
14          allowances and regulated instruments.

## 15                   **Subtitle E—Distribution of** 16                   **Allowances to States**

### 17           **SEC. 441. STATE AND LOCAL GOVERNMENT PARTICIPA-** 18           **TION.**

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

20                   (1) ALLOWANCE.—The term “allowance”  
21                   means an emission allowance established under sec-  
22                   tion 721 of the Clean Air Act (as added by section  
23                   301 of this Act).

24                   (2) VINTAGE YEAR.—The term “vintage year”  
25                   shall the meaning given that term in section 700 of

1 the Clean Air Act (as added by section 302 of this  
2 Act).

3 (b) DISTRIBUTION AMONG STATES, LOCAL GOVERN-  
4 MENTS, METROPOLITAN PLANNING.—Not later than Sep-  
5 tember 30 of each calendar years 2011 through 2049, the  
6 Administrator shall, in accordance with this section, dis-  
7 tribute allowances allocated pursuant to [section  
8 782(g)(1)] of the Clean Air Act (as added by section 311  
9 of this Act) for the following vintage year [allocation to  
10 be supplied]. The Administrator shall distribute allow-  
11 ances among the States, Local Governments, Metropolitan  
12 Planning Organizations, and Transit Authorities under  
13 this section each year in accordance with the following for-  
14 mula:

15 (1) \_\_\_\_\_ percent of the allowances in (b)  
16 shall be provided to the States—

17 (A) of the allowances in paragraph (1)—

18 (i) \_\_\_\_\_ percentage shall be divided  
19 equally among the States;

20 (ii) \_\_\_\_\_ percentage shall be dis-  
21 tributed on a pro rata basis among the  
22 States based on the population of each  
23 State, as contained in the most recent reli-  
24 able census data available from the Bureau  
25 of the Census for all States at the time the



1 Administrator calculates the formula for  
2 distribution;

3 (iii) \_\_\_\_\_ percentage shall be dis-  
4 tributed on a pro rata basis among the  
5 States on the basis of the energy consump-  
6 tion of each State as contained in the most  
7 recent State Energy Data Report available  
8 from the Energy Information Administra-  
9 tion (or such alternative reliable source as  
10 the Administrator may designate); **and/**  
11 **or**

12 (iv) \_\_\_\_\_ percentage shall be pro-  
13 vided to the States based on an energy-ef-  
14 ficiency formula developed by the Adminis-  
15 trator. Such a formula shall be based on—

16 (I) weather-adjusted criteria;

17 (II) performance-based metrics  
18 that measure each State's success at  
19 decreasing energy consumption or in-  
20 creasing energy efficiency—

21 (aa) on a per capita basis in  
22 the residential sector; and

23 (bb) on an energy consump-  
24 tion per square foot basis in the  
25 commercial sector; and

1 (III) shall be updated every three  
2 years.

3 (2) \_\_\_\_\_ percent of the allowances in sub-  
4 section (b) shall be provided to local governments, or  
5 on their behalf through State governments, for en-  
6 ergy conservation and efficiency grants.

7 (3) \_\_\_\_\_ percent of the allowances in sub-  
8 section (b) shall be provided to States, metropolitan  
9 planning organizations and transit agencies for  
10 greenhouse gas reduction programs in the transpor-  
11 tation sector.

12 (c) USES.—The allowances distributed to each State,  
13 Local Government, Metropolitan Planning Organization,  
14 and Transit Authority pursuant to this section shall be  
15 used exclusively in accordance with the following require-  
16 ments:

17 (1) ALLOCATION TO THE STATES.—Allowances  
18 allocated to the States in subsection (b) shall for the  
19 following purposes and conditions:

20 (A) PURPOSES.—

21 (i) Energy Efficiency Programs for  
22 the purpose of—

23 (I) Implementation and enforce-  
24 ment of building codes.

1 (II) Implementation of the en-  
2 ergy efficient manufactured homes  
3 program.

4 (III) Implementation of building  
5 energy performance labeling.

6 (IV) Low-income community en-  
7 ergy efficiency programs.

8 (ii) Renewable Energy Programs for  
9 capital grants, tax credits, production in-  
10 centives, loans, loan guarantees, forgivable  
11 loans, direct provision of allowances, and  
12 interest rate buy-downs for—

13 (I) re-equipping, expanding, or  
14 establishing a manufacturing facility  
15 that receives certification from the  
16 Secretary of Energy pursuant to sec-  
17 tion 48C of the Internal Revenue  
18 Code of 1986 for the production of—

19 (aa) property designed to be  
20 used to produce energy from re-  
21 newable energy sources; and

22 (bb) electricity storage sys-  
23 tems;

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1 (II) deployment of technologies to  
2 generate electricity from renewable  
3 energy sources; and

4 (III) deployment of facilities or  
5 equipment, such as solar panels, to  
6 generate electricity or thermal energy  
7 from renewable energy resources in  
8 and on buildings in an urban environ-  
9 ment.

10 (iii) Improvement in Electricity  
11 Transmission for one or more of the fol-  
12 lowing purposes:

13 (I) State implementation of elec-  
14 tricity transmission planning and  
15 siting activities that facilitate renew-  
16 able energy development, including fa-  
17 cilitation of landowner negotiations  
18 for transmission of right-of-way leas-  
19 ing or other contractual arrange-  
20 ments.

21 (II) Grants to nonprofit organi-  
22 zations that facilitate negotiations for  
23 transmission right-of-way leasing or  
24 other contractual agreements between  
25 landowners and developers.

1 (III) State or regional studies of  
2 renewable energy zones and resources  
3 with insufficient transmission capac-  
4 ity, including geographic identification  
5 of potential renewable energy sites,  
6 environmental reviews, and land use  
7 or coastal zone constraints.

8 (IV) Grants to support land-  
9 owner associations' and other non-  
10 profit organizations' participation in  
11 State and Federal siting processes, in-  
12 cluding such associations' studies of  
13 renewable energy feasibility and bene-  
14 fits and associated data collection.

15 (V) Grants to landowners or  
16 landowner associations or nonprofit  
17 organizations for mitigation of im-  
18 pacts on property or ecosystems due  
19 to transmission projects that are part  
20 of an interconnection-wide plan fo-  
21 cused on facilitating renewable energy  
22 development.

23 (VI) Training for State regu-  
24 latory authority staff and local  
25 workforces relating to renewable en-

1 energy generation resources and storage,  
2 smart grid, or new transmission tech-  
3 nologies.

4 (VII) Grants to transmission pro-  
5 viders for transmission improvements  
6 (including smart grid investments)  
7 that benefit consumers.

8 (VIII) Grants to transmission  
9 providers for security upgrades to the  
10 transmission system and authorized  
11 uses under title XIII of the Energy  
12 Independence and Security Act of  
13 2007 (42 U.S.C. 17381 et seq.).

14 (IX) Grants to develop energy  
15 storage, reliability, or distributed re-  
16 newable generation projects.

17 (iv) Energy efficiency purposes.

18 (v) Renewable energy purposes.

19 (vi) Cost-effective energy efficiency  
20 programs for end-use consumers of elec-  
21 tricity, natural gas, home heating oil, or  
22 propane, including, where appropriate, pro-  
23 grams or mechanisms administered by  
24 local governments and entities other than  
25 the State.

1 (vii) Energy retrofits and green in-  
2 vestments in subsidized housing based on  
3 standards to ensure that investments are  
4 cost-effective, taking into account reduc-  
5 tions in future use of energy and other  
6 utilities, and the extent to which such ret-  
7 rofits and investments address repair and  
8 replacement needs that may otherwise need  
9 to be addressed with other forms of assist-  
10 ance. As a condition of such funding, the  
11 recipient shall commit to an additional pe-  
12 riod of affordability of not fewer than 15  
13 years, covering all units for which such  
14 grants and loans are used.

15 (viii) Thermal Energy Efficiency  
16 projects that provide district energy, com-  
17 bined heat and power, or recoverable waste  
18 energy. Such projects shall reduce or avoid  
19 greenhouse gas emissions and —

20 (I) produce thermal energy from  
21 renewable energy resources or natural  
22 cooling sources; or

23 (II) capture and productively use  
24 thermal energy from an electric gen-  
25 eration facility; or

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1 (III) integrate new electricity  
2 generation into an existing district en-  
3 ergy system; or

4 (IV) capture and productively  
5 uses surplus thermal energy from an  
6 industrial or municipal process (such  
7 as wastewater treatment); or

8 (V) distribute and transfer to  
9 buildings the thermal energy from the  
10 energy sources described in subclauses  
11 (I) through (IV).

12 (ix) Enabling the development of a  
13 Smart Grid (as described in section 1301  
14 of the Energy Independence and Security  
15 Act of 2007 (42 U.S.C. 17381)) for State,  
16 local government, and other public build-  
17 ings and facilities, including integration of  
18 renewable energy resources and distributed  
19 generation, demand response, demand side  
20 management, and systems analysis.

21 [(x) Retirement of allowances that ac-  
22 count for greenhouse gas emission reduc-  
23 tions resulting from State-required or  
24 State-allowed, utility-run, green-power pur-



1 chasing programs that are voluntary for  
2 ratepayers.】

3 (B) CONDITIONS.—

4 (i) the States shall prioritize expansion of existing energy efficiency programs  
5 approved and overseen by the State or the  
6 appropriate State regulatory authority; and  
7

8 (ii) the States shall demonstrate that  
9 such allowances have been used to supplement, and not to supplant, existing and  
10 otherwise available State, local, and rate-  
11 payer funding for such purpose.  
12

13 (2) Allowances allocated to local governments in  
14 subsection (b)(2) shall be used exclusively for energy  
15 conservation and efficiency purposes specified under  
16 aection 543 of Public Law 110–140.

17 (3) Allocation to States, metropolitan planning  
18 organizations and transit authorities in subsection  
19 (b)(3) shall be used exclusively for transportaion  
20 Greenhouse Gas Reduction program pursuant to section  
21 tion 113 and section 114 of the  
22 \_\_\_\_\_ Act.

23 (d) REPORTING.—Each State, Local Government,  
24 Metropolitan Planning Organization, and Transit Author-  
25 ity directly receiving allowances or allowance value shall

1 submit to the Administrator a report that contains a list  
2 of entities receiving allowances or allowance value under  
3 this section.

4 (e) ENFORCEMENT.—If the Administrator deter-  
5 mines that a State, Local Government, Metropolitan Plan-  
6 ning Organization, or Transit Authority is not in compli-  
7 ance with this section, the Administrator may withhold up  
8 to twice the number of allowances or allowance value that  
9 the State, Local Government, Metropolitan Planning Or-  
10 ganization, or Transit Authority failed to use in accord-  
11 ance with the requirements of this section, that such  
12 State, Local Government, Metropolitan Planning Organi-  
13 zation, or Transit Authority would otherwise be eligible  
14 to receive under this section in later years. Allowances  
15 withheld pursuant to this subsection shall be distributed  
16 among the remaining States, Local Governments, Metro-  
17 politan Planning Organizations, and Transit Authorities  
18 in accordance with the requirements of subsection (b).

## 19 **Subtitle F—Program Allocations**

### 20 **SEC. 451. DISTRIBUTION OF ALLOWANCES FOR INVEST-** 21 **MENT IN CLEAN VEHICLES.**

22 Not later than 2 years after the date of enactment  
23 of this Act, to carry out **【section 101】**, the Administrator  
24 shall promulgate regulations providing for the distribution  
25 of emission allowances allocated pursuant to section 782(j)

1 of the Clean Air Act, [pursuant to the requirements of  
2 this section—to be supplied]—

3 (1) to support the use of plug-in electric drive  
4 vehicles and other advanced technology vehicles (as  
5 defined in sections 131 and 136 of the Energy Inde-  
6 pendence and Security Act of 2007 (42 U.S.C.  
7 17011, 17013)) that are developed and produced in  
8 the United States; and

9 (2) [[to provide?] grants authorized under  
10 subtitle G of title VII of the Energy Policy Act of  
11 2005 (42 U.S.C. 16131 et seq.).]

12 **SEC. 452. DISTRIBUTION OF ALLOWANCES TO STATES.**

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

14 (1) ALLOWANCE.—The term “allowance”  
15 means an emission allowance established under sec-  
16 tion 721 of the Clean Air Act (as added by section  
17 401 of this Act).

18 (2) VINTAGE YEAR.—The term “vintage year”  
19 shall the meaning given that term in section 700 of  
20 the Clean Air Act (as added by section 402 of this  
21 Act).

22 (b) DISTRIBUTION AMONG STATES.—Not later than  
23 September 30 of each calendar years 2011 through 2049,  
24 the Administrator shall, in accordance with this section  
25 [and section 131], distribute allowances allocated pursu-

1 ant to **section 782(g)(1)** of the Clean Air Act (as added  
2 by section 411 of this Act) for the following vintage year.  
3 ***allocation to be supplied*** The Administrator shall dis-  
4 tribute allowances among the States under this section  
5 each year in accordance with the following formula:

6 (1)  $\frac{1}{3}$  of the allowances shall be divided equally  
7 among the States.

8 (2)  $\frac{1}{3}$  of the allowances shall be distributed on  
9 a pro rata basis among the States based on the pop-  
10 ulation of each State, as contained in the most re-  
11 cent reliable census data available from the Bureau  
12 of the Census for all States at the time the Adminis-  
13 trator calculates the formula for distribution.

14 (3)  $\frac{1}{3}$  of the allowances for shall be distributed  
15 on a pro rata basis among the States on the basis  
16 of the energy consumption of each State as con-  
17 tained in the most recent State Energy Data Report  
18 available from the Energy Information Administra-  
19 tion (or such alternative reliable source as the Ad-  
20 ministrator may designate).

21 (c) USES.—The allowances distributed to each State  
22 pursuant to this section shall be used exclusively in accord-  
23 ance with the following requirements:

24 (1) Not less than ***allocation to be supplied***  
25 shall be distributed by the State to units of local

1 government within such State to be used exclusively  
2 to support energy efficiency and renewable energy.

3 (2) Not less than **【*allocation to be supplied*】**  
4 shall be used exclusively for the following energy ef-  
5 ficiency purposes:

6 (A) Implementation and enforcement of  
7 building codes.

8 (B) Implementation of the energy efficient  
9 manufactured homes program.

10 (C) Implementation of building energy per-  
11 formance labeling.

12 (D) Low-income community energy effi-  
13 ciency programs.

14 (3) Not less than **【*allocation to be supplied*】**  
15 shall be used exclusively for capital grants, tax cred-  
16 its, production incentives, loans, loan guarantees,  
17 forgivable loans, direct provision of allowances, and  
18 interest rate buy-downs for—

19 (A) re-equipping, expanding, or estab-  
20 lishing a manufacturing facility that receives  
21 certification from the Secretary of Energy pur-  
22 suant to section 48C of the Internal Revenue  
23 Code of 1986 for the production of—

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

4 (ii) electricity storage systems;  
5 (B) deployment of technologies to generate  
6 electricity from renewable energy sources; and

7 (C) deployment of facilities or equipment,  
8 such as solar panels, to generate electricity or  
9 thermal energy from renewable energy re-  
10 sources in and on buildings in an urban envi-  
11 ronment.

12 (4) The remaining **[allocation to be supplied]**  
13 percent shall be used exclusively for any of the fol-  
14 lowing purposes:

15 (A) Energy efficiency purposes.

16 (B) Renewable energy purposes.

17 (C) Cost-effective energy efficiency pro-  
18 grams for end-use consumers of electricity, nat-  
19 ural gas, home heating oil, or propane, includ-  
20 ing, where appropriate, programs or mecha-  
21 nisms administered by local governments and  
22 entities other than the State.

23 (D) Enabling the development of a Smart  
24 Grid (as described in section 1301 of the En-  
25 ergy Independence and Security Act of 2007

1 (42 U.S.C. 17381)) for State, local government,  
2 and other public buildings and facilities, includ-  
3 ing integration of renewable energy resources  
4 and distributed generation, demand response,  
5 demand side management, and systems anal-  
6 ysis.

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

10 (i) sections 5307, 5308, 5309, 5310,  
11 5311, and 5319 of title 49, United States  
12 Code; and

13 (ii) sections 142, 146, and 149 of title  
14 23, United States Code,

15 provided that **【*allocation to be supplied*】** of al-  
16 lowances distributed to each State pursuant to  
17 this section shall be used for such purpose.

18 (5) For any allowances used, the State shall—

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

23 (B) demonstrate that such allowances have  
24 been used to supplement, and not to supplant,

1 existing and otherwise available State, local,  
2 and ratepayer funding for such purpose.

3 (6) Not less than **【*allocation to be supplied*】**  
4 shall be used for the following purposes:

5 (A) State implementation of electricity  
6 transmission planning and siting activities that  
7 facilitate renewable energy development, includ-  
8 ing facilitation of landowner negotiations for  
9 transmission of right-of-way leasing or other  
10 contractual arrangements.

11 (B) Grants to nonprofit organizations that  
12 facilitate negotiations for transmission right-of-  
13 way leasing or other contractual agreements be-  
14 tween landowners and developers.

15 (C) State or regional studies of renewable  
16 energy zones and resources with insufficient  
17 transmission capacity, including geographic  
18 identification of potential renewable energy  
19 sites, environmental reviews, and land use or  
20 coastal zone constraints.

21 (D) Grants to support landowner associa-  
22 tions' and other nonprofit organizations' par-  
23 ticipation in State and Federal siting processes,  
24 including such associations' studies of renew-



1           able energy feasibility and benefits and associ-  
2           ated data collection.

3           (E) Grants to landowners or landowner as-  
4           sociations or nonprofit organizations for mitiga-  
5           tion of impacts on property or ecosystems due  
6           to transmission projects that are part of an  
7           interconnection-wide plan focused on facilitating  
8           renewable energy development.

9           (F) Training for State regulatory authority  
10          staff and local workforces relating to renewable  
11          energy generation resources and storage, smart  
12          grid, or new transmission technologies.

13          (G) Grants to transmission providers for  
14          transmission improvements (including smart  
15          grid investments) that benefit consumers.

16          (H) Grants to transmission providers for  
17          security upgrades to the transmission system  
18          and authorized uses under title XIII of the En-  
19          ergy Independence and Security Act of 2007  
20          (42 U.S.C. 17381 et seq.).

21          (I) Grants to develop energy storage, reli-  
22          ability, or distributed renewable generation  
23          projects.

24          (d) REPORTING.—Each State receiving allowances  
25          shall submit to the Administrator a report that contains



1 mercial deployment of carbon capture and sequestration  
2 technologies in both electric power generation and indus-  
3 trial operations.”.

4 **SEC. 454. ENERGY EFFICIENCY IN BUILDING CODES.**

5 **【PLACEHOLDER FOR TEXT PROVIDING AL-**  
6 **LOCATION FOR PROGRAM UNDER SECTION 174.】**

7 **SEC. 455. BUILDING RETROFIT PROGRAM.**

8 **【PLACEHOLDER FOR TEXT PROVIDING AL-**  
9 **LOCATION FOR PROGRAM UNDER SECTION 175.】**

10 **SEC. 456. FLOOD PREVENTION.**

11 **【PLACEHOLDER FOR TEXT PROVIDING AL-**  
12 **LOCATION FOR PROGRAM UNDER SECTION 181.】**

13 **SEC. 457. WILDFIRE.**

14 **【PLACEHOLDER FOR TEXT PROVIDING AL-**  
15 **LOCATION FOR PROGRAM UNDER SECTION 182.】**

16 **SEC. 458. ENERGY INNOVATION HUBS.**

17 (a) PURPOSE.—The Secretary shall carry out a pro-  
18 gram, **【in accordance with this section and section 201】**,  
19 to establish Energy Innovation Hubs to enhance the Na-  
20 tion’s economic, environmental, and energy security by  
21 promoting commercial application of clean, indigenous en-  
22 ergy alternatives to oil and other fossil fuels, reducing  
23 greenhouse gas emissions, and ensuring that the United  
24 States maintains a technological lead in the development

1 and commercial application of state-of-the-art energy tech-  
2 nologies.

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

4 (1) ALLOWANCE.—The term “allowance”  
5 means an emission allowance established under sec-  
6 tion 721 of the Clean Air Act (as added by section  
7 411 of this Act).

8 (2) CLEAN ENERGY TECHNOLOGY.—The term  
9 “clean energy technology” means a technology that  
10 produces clean energy, including technology that  
11 produces clean energy, including technology that—

12 (A) produces energy from solar, wind, geo-  
13 thermal, biomass, tidal, wave, ocean, and other  
14 renewable energy resources (as such term is de-  
15 fined in section 610 of the Public Utility Regu-  
16 latory Policies Act of 1978);

17 (B) more efficiently transmits, distributes,  
18 or stores energy;

19 (C) enhances energy efficiency for build-  
20 ings and industry, including combined heat and  
21 power;

22 (D) enables the development of a Smart  
23 Grid (as described in section 1301 of the En-  
24 ergy Independence and Security Act of 2007  
25 (42 U.S.C. 17381)), including integration of re-

1 newable energy resources and distributed gen-  
2 eration, demand response, demand side man-  
3 agement, and systems analysis;

4 (E) produces an advanced or sustainable  
5 material with energy or energy efficiency appli-  
6 cations;

7 (F) enhances water security through im-  
8 proved water management, conservation, dis-  
9 tribution, and end use applications; or

10 (G) improves energy efficiency for trans-  
11 portation, including electric vehicles.

12 (3) HUB.—The term “Hub” means an Energy  
13 Innovation Hub established in accordance with this  
14 section.

15 (4) PROJECT.—The term “project” means an  
16 activity with respect to which a Hub provides sup-  
17 port under subsection (e).

18 (5) QUALIFYING ENTITY.—The term “quali-  
19 fying entity” means an entity that is eligible, as de-  
20 termined by the Secretary, to receive assistance  
21 under this section.

22 (6) SECRETARY.—The term “Secretary” means  
23 the Secretary of Energy.

24 (7) VINTAGE YEAR.—The term “vintage year”  
25 has the meaning given that term in section 700 of

1 the Clean Air Act (as added by section 412 of this  
2 Act).

3 (c) **ROLE OF THE SECRETARY.**—The Secretary, in  
4 accordance with this section and section 201, shall—

5 (1) have ultimate responsibility for, and over-  
6 sight of, all aspects of the program under this sec-  
7 tion;

8 (2) provide for the distribution of allowances al-  
9 located under section 782(h)(1) of the Clean Air Act  
10 (as added by section 421 of this Act) to support the  
11 establishment of 8 Hubs, each with a unique des-  
12 ignated technology development focus, pursuant to  
13 this section;

14 (3) coordinate the innovation activities of Hubs  
15 with those occurring through other Department of  
16 Energy entities, including the National Laboratories,  
17 the Advanced Research Projects Agency—Energy,  
18 and Energy Frontier Research Collaborations, and  
19 within industry.

20 (d) **ENTITIES ELIGIBLE FOR SUPPORT.**—The Sec-  
21 retary shall promulgate regulations listing entities eligible  
22 for support under this section.

23 (e) **ENERGY INNOVATION HUBS.**—

24 (1) **ROLE.**—Hubs receiving allowances under  
25 this section shall support translational research ac-

1           activities leading to commercial application of clean en-  
2           ergy technologies, in accordance with the purposes of  
3           this section, through issuance of awards to projects  
4           and other entities meeting the purposes of this sec-  
5           tion.

6           (2) ADVISORY BOARDS.—Each Hub shall estab-  
7           lish an Advisory Board, the members of which shall  
8           have extensive and relevant scientific, technical, in-  
9           dustry, financial, or research management expertise.  
10          The Advisory Board shall review the Hub’s proposed  
11          plans, programs, project selection criteria, and  
12          projects and shall ensure that projects selected for  
13          awards meet the conflict of interest policies of the  
14          Hub. All Advisory Board members shall comply with  
15          the Hub’s conflict of interest policies and proce-  
16          dures.

17          (3) CONFLICT OF INTEREST.—Hubs shall es-  
18          tablish procedures to prevent conflicts of interest for  
19          any employee or consortia designee for Hub activi-  
20          ties who serves in a decisionmaking capacity.

21          (f) DISTRIBUTION OF ALLOWANCES TO ENERGY IN-  
22          NOVATION HUBS.—

23                 (1) DISTRIBUTION OF ALLOWANCES.—Not later  
24                 than September 30 of 2011 and each calendar year  
25                 thereafter through 2049, the Secretary shall, in ac-

1 cordance with the requirements of this section, dis-  
2 tribute to eligible consortia allowances allocated for  
3 the following vintage year under section 782(h)(1) of  
4 the Clean Air Act (as added by section 421 of this  
5 Act).

6 (2) SELECTION AND SCHEDULE.—Allowances to  
7 support the establishment of a Hub shall be distrib-  
8 uted to eligible consortia (as determined by the Sec-  
9 retary) selected through a competitive process.

10 (3) AMOUNT AND TERM OF AWARDS.—For each  
11 Hub selected to receive an award under this sub-  
12 section, the Secretary shall define a quantity of al-  
13 lowances that shall be distributed to such Hub each  
14 year for an initial period as determined by the Sec-  
15 retary.

16 (4) USE OF ALLOWANCES.—Allowances distrib-  
17 uted under this section shall be used exclusively to  
18 support project awards pursuant to subsection  
19 (e)(1), provided that a Hub may use not more than  
20 10 percent of the value of such allowances for its ad-  
21 ministrative expenses related to making such  
22 awards. Allowances distributed under this section  
23 shall not be used for construction of new buildings  
24 or facilities for Hubs, and construction of new build-  
25 ings or facilities shall not be considered as part of



1 the non-Federal share of a cost sharing agreement  
2 under this section.

3 (5) AUDIT.—Each Hub shall conduct, in ac-  
4 cordance with such requirements as the Secretary  
5 may prescribe, an annual audit to determine the ex-  
6 tent to which allowances distributed to the Hub  
7 under this subsection, and awards under subsection  
8 (e), have been utilized in a manner consistent with  
9 this section. The auditor shall transmit a report of  
10 the results of the audit to the Secretary and to the  
11 Government Accountability Office. The Secretary  
12 shall include such report in an annual report to Con-  
13 gress, along with a plan to remedy any deficiencies  
14 cited in the report. The Government Accountability  
15 Office may review such audits as appropriate and  
16 shall have full access to the books, records, and per-  
17 sonnel of the Hub to ensure that allowances distrib-  
18 uted to the Hub under this subsection, and awards  
19 made under subsection (e), have been utilized in a  
20 manner consistent with this section.

21 (6) REVOCATION OF ALLOWANCES.—The Sec-  
22 retary shall have authority to review awards made  
23 under this subsection and to revoke such awards if  
24 the Secretary determines that a Hub has used the

1       award in a manner not consistent with the require-  
2       ments of this section.

3   **[SEC. 459. ADVANCED ENERGY RESEARCH.]**

4       **[(a) DEFINITIONS.—For purposes of this section:]**

5           **[(1) ALLOWANCE.—The term “allowance”**  
6       means an emission allowance established under sec-  
7       tion 721 of the Clean Air Act (as added by section  
8       411 of this Act).]

9           **[(2) DIRECTOR.—The term “Director” means**  
10      Director of the Advanced Research Projects Agency-  
11      Energy.]

12      **[(b) IN GENERAL.—Not later than September 30 of**  
13      2011 and each calendar year thereafter through 2049, the  
14      Director, **[in accordance with this section and section**  
15      202,] shall distribute allowances allocated for the fol-  
16      lowing vintage year under **[section 782(h)(2)]** of the  
17      Clean Air Act (as added by section 421 of this Act). Such  
18      allowances shall be distributed on a competitive basis to  
19      institutions of higher education, companies, research foun-  
20      dations, trade and industry research collaborations, or  
21      consortia of such entities, or other appropriate research  
22      and development entities to achieve the goals of the Ad-  
23      vanced Research Projects Agency-Energy (as described in  
24      section 5012(c) of the America COMPETES Act) through  
25      targeted acceleration of—]

1           【(1) novel early-stage energy research with possible technology applications;】

2           【(2) development of techniques, processes, and technologies, and related testing and evaluation;】

3           【(3) development of manufacturing processes for technologies; and】

4           【(4) demonstration and coordination with non-governmental entities for commercial applications of technologies and research applications.】

5           【(c) 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.】

6           **SEC. 460. GREEN JOBS AND WORKER TRANSITION.**

7           【PLACEHOLDER FOR TEXT PROVIDING AL-  
8 LOCATION FOR PROGRAM UNDER SUBTITLE B  
9 OF TITLE III or for ENERGY EFFICIENCY AND  
10 RENEWABLE ENERGY WORKER TRAINING FUND  
11 UNDER SECTION 322.】

12           **SEC. 461. NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM.**

13           【PLACEHOLDER FOR TEXT PROVIDING AL-  
14 LOCATION FOR PROGRAM UNDER SECTION 351.】

1 **SEC. 462. CLIMATE CHANGE HEALTH PROTECTION AND**  
2 **PROMOTION FUND.**

3 **【PLACEHOLDER FOR TEXT PROVIDING AL-**  
4 **LOCATION FOR PROGRAM UNDER SECTION 367.】**

5 **SEC. 463. CLIMATE CHANGE SAFEGUARDS FOR NATURAL**  
6 **RESOURCES CONSERVATION.**

7 **【PLACEHOLDER FOR TEXT PROVISING AL-**  
8 **LOCATION FOR PROGRAM UNDER SUBPART C**  
9 **OF PART 1 OF SUBTITLE E OF TITLE III (section**  
10 **371 et seq.).】**

11 **SEC. 464. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
12 **TATION FUND.**

13 **【PLACEHOLDER FOR TEXT PROVISING AL-**  
14 **LOCATION FOR PROGRAM UNDER SECTION 380.】**

15 **SEC. 465. INVESTMENT IN ENERGY EFFICIENCY AND RE-**  
16 **NEWABLE ENERGY.**

17 **【PLACEHOLDER FOR TEXT PROVISING AL-**  
18 **LOCATION FOR PROGRAMS UNDER SUB-**  
19 **SECTIONS (a)(8), (b)(6), and (b)(7) of SECTION 782,**  
20 **and SECTION 788, of the Clean Air Act (as added by**  
21 **SECTION 411).】**