

## Calendar No. 267

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1733****[Report No. 111–121]**

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2009

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

FEBRUARY 2, 2010

Reported by Mrs. BOXER, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

**A BILL**

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

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

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

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

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

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

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

Sec. 101. Structure of Act.

#### TITLE I—GREENHOUSE GAS REDUCTION PROGRAMS

##### Subtitle A—Clean Transportation

Sec. 111. Emission standards.

##### “PART B—MOBILE SOURCES

“Sec. 821. Greenhouse gas emission standards for mobile sources.  
 Sec. 112. Greenhouse gas emission reductions through transportation efficiency.

##### “PART C—TRANSPORTATION EMISSIONS

“Sec. 831. Greenhouse gas emission reductions through transportation ef-  
 ficiency.  
 Sec. 113. Transportation greenhouse gas emission reduction program grants.  
 “Sec. 832. Transportation greenhouse gas emission reduction program  
 grants.  
 Sec. 114. SmartWay transportation efficiency program.  
 “Sec. 822. SmartWay transportation efficiency program.

##### Subtitle B—Carbon Capture and Sequestration

Sec. 121. National strategy.  
 Sec. 122. Regulations for geological sequestration sites.  
 “Sec. 813. Geological storage sites.  
 Sec. 123. Studies and reports.  
 Sec. 124. Performance standards for coal-fueled power plants.  
 “Sec. 812. Performance standards for new coal-fired power plants.  
 Sec. 125. Carbon capture and sequestration demonstration and early deploy-  
 ment program.

##### Subtitle C—Nuclear and Advanced Technologies

Sec. 131. Findings and policy.  
 Sec. 132. Nuclear worker training.  
 Sec. 133. Nuclear safety and waste management programs.

##### Subtitle D—Water Efficiency

Sec. 141. WaterSense.  
 Sec. 142. Federal procurement of water-efficient products.  
 Sec. 143. State residential water efficiency and conservation incentives pro-  
 gram.

### Subtitle E—Miscellaneous

- Sec. 151. Office of Consumer Advocacy.
- Sec. 152. Clean technology business competition grant program.
- Sec. 153. Product carbon disclosure program.
- Sec. 154. State recycling programs.
- Sec. 155. Supplemental agriculture and forestry greenhouse gas reduction and renewable energy program.
- Sec. 156. Economic Development Climate Change Fund.
- “Sec. 219. Economic Development Climate Change Fund.
- Sec. 157. Study of risk-based programs addressing vulnerable areas.

### Subtitle F—Energy Efficiency and Renewable Energy

- Sec. 161. Renewable energy.
- Sec. 162. Advanced biofuels.
- Sec. 163. Energy efficiency in building codes.
- Sec. 164. Retrofit for energy and environmental performance.

### Subtitle G—Emission Reductions From Public Transportation Vehicles

- Sec. 171. Short title.
- Sec. 172. State fuel economy regulation for taxicabs.
- Sec. 173. State regulation of motor vehicle emissions for taxicabs.

### Subtitle H—Clean Energy and Natural Gas

- Sec. 181. Clean Energy and Accelerated Emission Reduction Program.
- Sec. 182. Advanced natural gas technologies.

## TITLE H—RESEARCH

### Subtitle A—Energy Research

- Sec. 201. Advanced energy research.

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

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

## TITLE III—TRANSITION AND ADAPTATION

### Subtitle A—Green Jobs and Worker Transition

#### PART 1—GREEN JOBS

- Sec. 301. Clean energy curriculum development grants.
- Sec. 302. Development of Information and Resources clearinghouse for vocational education and job training in renewable energy sectors.
- Sec. 303. Green construction careers demonstration project.

#### PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

- Sec. 311. Petitions, eligibility requirements, and determinations.
- Sec. 312. Program benefits.
- Sec. 313. General provisions.

### Subtitle B—International Climate Change Programs

Sec. 321. Strategic Interagency Board on International Climate Investment.  
 Sec. 322. Emission reductions from reduced deforestation.

#### “PART E—SUPPLEMENTAL EMISSION REDUCTIONS

“Sec. 751. Definitions.  
 “Sec. 752. Purposes.  
 “Sec. 753. Emission reductions from reduced deforestation.  
 Sec. 323. International Clean Energy Deployment Program.  
 Sec. 324. International climate change adaptation and global security program.  
 Sec. 325. Evaluation and reports.  
 Sec. 326. Report on climate actions of major economies.

#### Subtitle C—Adapting to Climate Change

#### PART 1—DOMESTIC ADAPTATION

##### SUBPART A—NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM

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

##### SUBPART B—PUBLIC HEALTH AND CLIMATE CHANGE

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

##### SUBPART C—CLIMATE CHANGE SAFEGUARDS FOR NATURAL RESOURCES CONSERVATION

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

##### SUBPART D—ADDITIONAL CLIMATE CHANGE ADAPTATION PROGRAMS

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

#### DIVISION B—POLLUTION REDUCTION AND INVESTMENT

#### TITLE I—REDUCING GLOBAL WARMING POLLUTION

Subtitle A—Reducing Global Warming Pollution

Sec. 101. Reducing global warming pollution.

“TITLE VII—GLOBAL WARMING POLLUTION REDUCTION AND  
INVESTMENT PROGRAM

“PART A—GLOBAL WARMING POLLUTION REDUCTION GOALS AND TARGETS

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

“PART B—DESIGNATION AND REGISTRATION OF GREENHOUSE GASES

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

“PART C—PROGRAM RULES

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

“PART D—OFFSETS

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

Subtitle B—Disposition of Allowances

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

“PART H—DISPOSITION OF ALLOWANCES

- “Sec. 771. Allocation of emission allowances.
- “Sec. 772. Electricity consumers.
- “Sec. 773. Natural gas consumers.
- “Sec. 774. Home heating oil and propane consumers.
- “Sec. 775. Domestic fuel production.
- “Sec. 776. Consumer protection.
- “Sec. 777. Exchange for State-issued allowances.
- “Sec. 778. Auction procedures.
- “Sec. 779. Auctioning allowances for other entities.
- “Sec. 780. Commercial deployment of carbon capture and sequestration technologies.
- “Sec. 781. Oversight of allocations.
- “Sec. 782. Early action recognition.
- “Sec. 783. Establishment of Deficit Reduction Fund.

Subtitle C—Additional Greenhouse Gas Standards

Sec. 421. Greenhouse gas standards.

“TITLE VIII—ADDITIONAL GREENHOUSE GAS STANDARDS

“Sec. 801. Definitions.

“PART A—STATIONARY SOURCE STANDARDS

- “Sec. 811. Standards of performance.
- Sec. 422. HFC regulation.
- “Sec. 619. Hydrofluorocarbons (HFCs).
- Sec. 423. Black carbon.

“PART E—BLACK CARBON

- “Sec. 851. Black carbon.
- Sec. 424. States.
- Sec. 425. State programs.

“PART F—MISCELLANEOUS

- “Sec. 861. State programs.
- “Sec. 862. Grants for support of air pollution control programs.
- Sec. 426. Enforcement.
- Sec. 427. Conforming amendments.
- Sec. 428. Davis-Bacon compliance.

Subtitle D—Carbon Market Assurance

Sec. 431. Carbon market assurance.

Subtitle E—Ensuring Real Reductions in Industrial Emissions

Sec. 441. Ensuring real reductions in industrial emissions.

“PART F—ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS

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

#### TITLE H—PROGRAM ALLOCATIONS

- Sec. 201. Investment in clean vehicle technology.
- Sec. 202. State and local investment in energy efficiency and renewable energy.
- Sec. 203. Energy efficiency in building codes.
- Sec. 204. Building retrofit program.
- Sec. 205. Energy Innovation Hubs.
- Sec. 206. ARPA-E research.
- Sec. 207. International clean energy deployment program.
- Sec. 208. International climate change adaptation and global security.
- Sec. 209. Energy efficiency and renewable energy worker training.
- Sec. 210. Worker transition.
- Sec. 211. State programs for greenhouse gas reduction and climate adaptation.
- Sec. 212. Climate Change Health Protection and Promotion Fund.
- Sec. 213. Climate change safeguards for natural resources conservation.
- Sec. 214. Nuclear worker training.
- Sec. 215. Supplemental agriculture, renewable energy, and forestry.

#### 1    **SEC. 2. FINDINGS.**

2        Congress finds that—

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

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

14           (3) efficiency in the energy sector also rep-  
 15        resents a critical avenue to reduce energy consump-

tion and carbon pollution, and those benefits can be captured while generating additional savings for consumers;

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

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

(6) investment in the clean energy sector will allow companies in the United States to retake a leadership position, and the jobs created by those investments will significantly accelerate growth in domestic manufacturing;

(7) those opportunities also will result in substantial employment gains in construction, a sector in which the median hourly wage is 17 percent higher than the national median;

(8) those jobs are distributed throughout the United States, and the highest clean energy economy employment growth rates in the last 10 years were



1 in the States of Idaho, Nebraska, South Dakota, Or-  
 2 egon, and New Mexico;

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

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

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

14 ~~(A) increased outbreaks from waterborne~~  
 15 ~~diseases;~~

16 ~~(B) more droughts;~~

17 ~~(C) diminished agricultural production;~~

18 ~~(D) severe storms and floods;~~

19 ~~(E) heat waves;~~

20 ~~(F) wildfires; and~~

21 ~~(G) a substantial rise in sea levels, due in~~  
 22 ~~part to—~~

23 ~~(i) melting mountain glaciers;~~

24 ~~(ii) shrinking sea ice; and~~

25 ~~(iii) thawing permafrost;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15          (15) The program for drinking water adaptation,  
16          technology, education, and research under subtitle  
17          B of title II of this division.

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

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

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

3           **TITLE I—GREENHOUSE GAS**  
 4           **REDUCTION PROGRAMS**

5           **Subtitle A—Clean Transportation**

6           ~~SEC. 111. EMISSION STANDARDS.~~

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

10                   **“PART B—MOBILE SOURCES**

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

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

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

gines, excluding such motor vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section), shall contain standards that reflect the greatest degree of emissions reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology. Any such regulations shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, and, at a minimum, shall apply for a period no less than 3 model years beginning no earlier than the model year commencing 4 years after such regulations are promulgated.

“(3) Regulations issued under section 202(a)(1) applicable to emissions of greenhouse gases from new heavy-duty motor vehicles or new heavy-duty motor vehicle engines, excluding such motor vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section), shall supersede and satisfy any and all of the rulemaking and compliance requirements of section 32902(k) of title 49, United States Code.

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

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

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

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

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

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

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

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

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

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

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

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

12 **“PART C—TRANSPORTATION EMISSIONS**

13 **“SEC. 831. GREENHOUSE GAS EMISSION REDUCTIONS**  
 14 **THROUGH TRANSPORTATION EFFICIENCY.**

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 emissions from transportation plans and projects;  
 2 and

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

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

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

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

15 “(e) ASSESSMENT.—

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

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

25 “(A) improvements in vehicle efficiency;

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

3           ~~“(C) reductions in vehicle miles traveled;~~

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

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

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

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

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

17           ~~(b) METROPOLITAN PLANNING ORGANIZATIONS.—~~

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

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

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

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

related greenhouse gas emissions,” after  
“consumption”;

(B) in subsection (h)(1)(E)—

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

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

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

(C) in subsection (i)—

(i) in paragraph (4)(A)—

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

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

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

(ii) in paragraph (5)(C)(iii), by inserting “and through the website of the metropolitan planning organization, including emission reduction targets and strategies developed under subsection (k)(6), including an analysis of the anticipated effects of the targets and strategies,” after “World Wide Web”; and

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

“(6) TRANSPORTATION GREENHOUSE GAS REDUCTION EFFORTS.—

“(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address transportation-related greenhouse gas emissions by including emission reduction targets and strategies to meet those targets.

“(B) ELIGIBLE ORGANIZATIONS.—

“(i) MPOS WITHIN TMAS.—All provisions and requirements of this section, including the requirements of the transportation greenhouse gas reduction efforts, shall apply to metropolitan planning orga-

nizations that also serve as transportation management areas.

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

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

“(II) if those targets and strategies are developed, shall be subject to all applicable provisions and requirements of this section and the Clean Energy Jobs and American Power Act, including requirements of the transportation greenhouse gas reduction efforts.

“(C) ESTABLISHMENT OF TARGETS AND CRITERIA.—

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

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

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

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

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



egies developed under this subparagraph  
shall, at a minimum—

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

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

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

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

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

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

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

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

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

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

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

10                   “(ff) intercity passenger rail  
11                   improvements;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25                   ~~“(B) may include features such as—~~

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

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

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

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

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

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

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

18 “(iv) analysis of implications;

19 “(v) evaluation of scenarios; and

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

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

23 ~~(A) in subsection (a)(1)—~~

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

(ii) by inserting “, reliance on oil, impacts on the environment, transportation-related greenhouse gas emissions,” after “consumption”;

(B) in subsection (h)(1)(E)—

(i) by inserting “sustainability, and livability, reduce surface transportation-related greenhouse gas emissions and reliance on oil, adapt to the effects of climate change,” after “energy conservation,”;

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

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

(C) in subsection (i)—

(i) in paragraph (4)(A)—

(I) by striking “consult, as appropriate,” and inserting “cooperate”;

(II) by inserting “transportation, public transportation, air quality, and housing, and shall consult, as appropriate, with State and local agencies responsible for” after “responsible for”; and

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

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

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

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

22                  “(B) ELIGIBLE ORGANIZATIONS.—

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



1           politan planning organizations within a  
2           transportation management area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10                  “(ff) intercity passenger rail  
11                  improvements;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14                   ~~(e) STATES.—~~

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

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

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

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

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

(B) in subsection (f)—

(i) in paragraph (2)(D)(i)—

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

(II) by inserting “State and local agencies responsible for transportation, public transportation, air quality, and housing and in consultation with” before “State, tribal”; and

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

(ii) in paragraph (3)(B)(iii), by inserting “and through the website of the State, including emission reduction targets and strategies developed under paragraph (9) and an analysis of the anticipated effects of the targets and strategies” after “World Wide Web”; and

(iii) by adding at the end the following:



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           “(dd) travel demand man-  
2           agement programs (including  
3           carpool, vanpool, or car-share  
4           projects); transportation pricing  
5           measures; parking policies; and  
6           programs to promote telecom-  
7           muting; flexible work schedules;  
8           and satellite work centers;

9           “(ee) surface transportation  
10          system operation improvements;  
11          including intelligent transpor-  
12          tation systems or other oper-  
13          ational improvements to reduce  
14          congestion and improve system  
15          management;

16          “(ff) intercity passenger rail  
17          improvements;

18          “(gg) intercity bus improve-  
19          ments;

20          “(hh) freight rail improve-  
21          ments;

22          “(ii) use of materials or  
23          equipment associated with the  
24          construction or maintenance of

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

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

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

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

14 “(i) in coordination with—

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

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

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

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

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

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

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

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

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

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

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

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

(i) by inserting “sustainability, and livability, reduce surface transportation-related greenhouse gas emissions and reliance on oil, adapt to the effects of climate change,” after “energy conservation,”;

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

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

(B) in subsection (f)—

(i) in paragraph (2)(D)(i)—

(I) by striking “, as appropriate, in consultation” and inserting “in cooperation”;

(II) by inserting “State and local agencies responsible for transportation, public transportation, air quality, and housing and in consultation with” before “State, tribal”; and

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

(ii) in paragraph (3)(B)(iii), by inserting “and through the website of the State, including emission reduction targets and

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

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

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

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

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

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



the transportation planning process under  
this section:

~~“(ii) MINIMUM REQUIREMENTS.—~~

Each transportation plan developed by a  
State under clause (i) shall, within the  
plan, demonstrate progress in stabilizing  
and reducing transportation-related green-  
house gas emissions in the State so as to  
contribute to the achievement of national  
targets pursuant to section 831(a)(1) of  
the Clean Air Act.

~~“(iii) REQUIREMENTS FOR TARGETS~~

~~AND STRATEGIES.—The targets and strat-~~  
~~egies developed under this subparagraph~~  
~~shall, at a minimum—~~

~~“(I) be based on the emission~~

~~models and related methodologies es-~~  
~~tablished in the final regulations re-~~  
~~quired under section 831 of the Clean~~  
~~Air Act;~~

~~“(II) inventory all sources of sur-~~

~~face transportation-related greenhouse~~  
~~gas emissions;~~

~~“(III) apply to those modes of~~

~~surface transportation that are ad-~~

1 dressed in the planning process under  
 2 this section;

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

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

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

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

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

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

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

22          “(ff) intercity passenger rail  
23          improvements;

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

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

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

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

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

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

19                         “(i) in coordination with—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(b) PLANNING GRANTS.—

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

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

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

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

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

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

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

8 “(c) PERFORMANCE GRANTS.—

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

12          “(f) COMPLIANCE WITH APPLICABLE LAWS.—

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

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

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

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

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

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

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

7           “(g) ~~ADDITIONAL REQUIREMENTS.—~~

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

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

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

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

24          “(h) ~~MISCELLANEOUS.—~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(3) Development of tools for—

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

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

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

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

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

3       “(e) ~~ESTABLISHMENT OF FINANCING PROGRAM.—~~

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **“(a) COORDINATED PROCESS.—**

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

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

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

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

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

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

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

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

9 “(2) requirements for—

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

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

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

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

23 “(d) REPORT.—

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

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

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

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

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

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

23 “(D) other relevant information.”.

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

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

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

11             “(2) ~~FINANCIAL RESPONSIBILITY.—~~

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

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

23                   “(i) ~~Insurance.~~

24                   “(ii) ~~Guarantee.~~

25                   “(iii) ~~Trust.~~

1                   “(iv) Standby trust.

2                   “(v) Surety bond.

3                   “(vi) Letter of credit.

4                   “(vii) Qualification as a self-insurer.

5                   “(viii) Any other method satisfactory  
6                   to the Administrator.”.

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

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

10           (1) ESTABLISHMENT OF TASK FORCE.—

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

16                           (i) subject matter experts;

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

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

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

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



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

6           (vii) members of the private sector.

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

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

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

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

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

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

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

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

20 (b) ENVIRONMENTAL STATUTES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

port that there are in commercial operation in the United States electric generating units or other stationary sources equipped with carbon capture and sequestration technology that, in the aggregate—

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

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

“(II) up to 1 gigawatt may be industrial applications, for which capture and sequestration of 3,000,000 tons of carbon dioxide per year on an aggregate annualized basis shall be considered equivalent to 1 gigawatt;

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

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

“(B) January 1, 2025.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1       (b) CARBON STORAGE RESEARCH CORPORATION.—

2           (1) ESTABLISHMENT.—

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

(B) STATE REGULATORY AUTHORITIES.—

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

(2) TERMINATION.—The Corporation shall be

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

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

16           ~~(A) MEMBERS.—~~The Board shall include  
 17      at least 4 representative of each of the fol-  
 18      lowing:

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

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

3                   (vii) Consumer groups.

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

7                   (ix) The Environmental Protection  
8                   Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

17 ~~(d) ASSESSMENTS.~~—

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

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

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

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

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

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

12          ~~(c) ERCOT.—~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 the power sold by each individual distribution  
2 utility.

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

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

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

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

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

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

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

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

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

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

5 (i) RECOVERY OF COSTS.—

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

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

19 (j) TECHNICAL ADVISORY COMMITTEE.—

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

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

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

10        ~~(3) CHAIRPERSON AND VICE CHAIRPERSON.—~~

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

15        ~~(4) COMPENSATION.—~~The Board shall provide

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

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

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

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

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

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

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

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

(1) in 2008, 104 nuclear power plants produced 19.6 percent of the electricity generated in the United States, slightly less than the electricity generated by natural gas;

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

(4) by displacing fossil fuels that would otherwise be used for electricity production, nuclear power plants virtually eliminate emissions of greenhouse

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (A) electrical craft certification;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21          (2) CONDUCT OF PROGRAM.—

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

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

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

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

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

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

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

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

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

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

## 7 **Subtitle D—Water Efficiency**

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

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

13 (1) to reduce water use;

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

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

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

24 (b) DUTIES.—The Administrator shall—

25 (1) establish—

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

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

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

9           ~~(A) reducing water use; and~~

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

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

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

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

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

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



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

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

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

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

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

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

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

3 (A) an explanation of the changes; and

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

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

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

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

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

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

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

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

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

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

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

17       (a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

3           (1) ~~REQUIREMENT.—~~

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

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

11                  (ii) a FEMP-designated product.

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

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

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

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

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

10       (3) PROCUREMENT PLANNING.—

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

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

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

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

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

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

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

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

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

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



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

3 (a) **DEFINITIONS.**—In this section:

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

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

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

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

24 (i) by the WaterSense program; or

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

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

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

6 (i) faucets;

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

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

11 (iv) reuse and recycling technologies;

12 (v) toilets;

13 (vi) clothes washers;

14 (vii) dishwashers;

15 (viii) showerheads;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19          (f) ISSUANCE OF INCENTIVES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

## 10           **Subtitle E—Miscellaneous**

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

#### 12       (a) OFFICE.—

13           (1) ESTABLISHMENT.—There is established an  
 14       Office of Consumer Advocacy to serve as an advo-  
 15       cate for the public interest.

16           (2) DIRECTOR.—The Office shall be headed by  
 17       a Director to be appointed by the President, who is  
 18       admitted to the Federal Bar, with experience in pub-  
 19       lic utility proceedings, and by and with the advice  
 20       and consent of the Senate.

21           (3) DUTIES.—The Office may—

22               (A) represent, and appeal on behalf of, en-  
 23       ergy customers on matters concerning rates or  
 24       service of public utilities and natural gas com-

panies under the jurisdiction of the Commission—

(i) at hearings of the Commission;

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

(iii) at hearings or proceedings of other Federal regulatory agencies and commissions;

(B) monitor and review energy customer complaints and grievances on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission;

(C) investigate independently, or within the context of formal proceedings, the services provided by, the rates charged by, and the valuation of the properties of, public utilities and natural gas companies under the jurisdiction of the Commission;

(D) develop means, such as public dissemination of information, consultative services, and technical assistance, to ensure, to the maximum extent practicable, that the interests of energy consumers are adequately represented in the

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

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

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

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

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

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

15 ~~(5) ACCESS TO INFORMATION.—Each depart-~~  
 16 ~~ment, agency, and instrumentality of the Federal~~  
 17 ~~Government is authorized and directed to furnish to~~  
 18 ~~the Director such reports and other information as~~  
 19 ~~he deems necessary to carry out his functions under~~  
 20 ~~this section.~~

21 ~~(b) CONSUMER ADVOCACY ADVISORY COMMITTEE.—~~

22 ~~(1) ESTABLISHMENT.—The Director shall es-~~  
 23 ~~tablish an advisory committee to be known as Con-~~  
 24 ~~sumer Advocacy Advisory Committee (in this section~~  
 25 ~~referred to as the “Advisory Committee”) to review~~



1 rates, services, and disputes and to make rec-  
 2 ommendations to the Director.

3 ~~(2) COMPOSITION.—~~The Director shall appoint  
 4 ~~5~~ members to the Advisory Committee including—

5 (A) 2 individuals representing State Utility  
 6 Consumer Advocates; and

7 (B) ~~1~~ individual, from a nongovernmental  
 8 organization, representing consumers.

9 ~~(3) MEETINGS.—~~The Advisory Committee shall  
 10 meet at such frequency as may be required to carry  
 11 out its duties.

12 ~~(4) REPORTS.—~~The Director shall provide for  
 13 publication of recommendations of the Advisory  
 14 Committee on the public website established for the  
 15 Office.

16 ~~(5) DURATION.—~~Notwithstanding any other  
 17 provision of law, the Advisory Committee shall con-  
 18 tinue in operation during the period in which the Of-  
 19 fice exists.

20 ~~(6) APPLICATION OF FACa.—~~Except as other-  
 21 wise specifically provided, the Advisory Committee  
 22 shall be subject to the Federal Advisory Committee  
 23 Act.

24 ~~(c) DEFINITIONS.—~~In this section:

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

3           (2) ENERGY CUSTOMER.—The term “energy  
4 customer” means a residential customer or a small  
5 commercial customer that receives products or serv-  
6 ices from a public utility or natural gas company  
7 under the jurisdiction of the Commission.

8           (3) NATURAL GAS COMPANY.—The term “nat-  
9 ural gas company” has the meaning given the term  
10 in section 2 of the Natural Gas Act (15 U.S.C.  
11 717a).

12           (4) OFFICE.—The term “Office” means the Of-  
13 fice of Consumer Advocacy established by subsection  
14 (a)(1).

15           (5) PUBLIC UTILITY.—The term “public util-  
16 ity” has the meaning given the term in section  
17 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

18           (6) SMALL COMMERCIAL CUSTOMER.—The term  
19 “small commercial customer” means a commercial  
20 customer that has a peak demand of not more than  
21 1,000 kilowatts per hour.

22           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized such sums as necessary to carry out this  
24 section.

1       (e) SAVINGS CLAUSE.—Nothing in this section af-  
 2       fects the rights or obligations of State Utility Consumer  
 3       Advocates.

4       **SEC. 152. CLEAN TECHNOLOGY BUSINESS COMPETITION**  
 5               **GRANT PROGRAM.**

6       (a) IN GENERAL.—The Administrator may provide  
 7       grants to organizations to conduct business competitions  
 8       that provide incentives, training, and mentorship to entre-  
 9       preneurs and early stage start-up companies throughout  
 10      the United States to meet high-priority economic, environ-  
 11      mental, and energy goals in areas including air quality,  
 12      energy efficiency and renewable energy, transportation,  
 13      water quality and conservation, green buildings, and waste  
 14      management.

15      (b) PURPOSES.—

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

18                   (A) accelerating the development and de-  
 19                   ployment of clean technology businesses and  
 20                   green jobs;

21                   (B) stimulating green economic develop-  
 22                   ment;

23                   (C) providing business training and men-  
 24                   toring to early stage clean technology compa-  
 25                   nies; and

1           ~~(D)~~ strengthening the competitiveness of  
 2           United States clean technology industry in  
 3           world trade markets.

4           ~~(2) PRIORITY.~~—Priority shall be given to busi-  
 5           ness competitions that—

6           ~~(A)~~ are led by the private sector;

7           ~~(B)~~ encourage regional and interregional  
 8           cooperation; and

9           ~~(C)~~ can demonstrate market-driven prac-  
 10          tices and the creation of cost-effective green  
 11          jobs through an annual publication of competi-  
 12          tion activities and directory of companies.

13       ~~(c) ELIGIBILITY.~~—

14       ~~(1) IN GENERAL.~~—To be eligible for a grant  
 15       under this section, an organization shall be any  
 16       sponsored entity of an organization described in sub-  
 17       paragraph (A) that is operated as a nonprofit entity.

18       ~~(2) PRIORITY.~~—In making grants under this  
 19       section, the Administrator shall give priority to orga-  
 20       nizations that can demonstrate broad funding sup-  
 21       port from private and other non-Federal funding  
 22       sources to leverage Federal investment.

23       ~~(d) AUTHORIZATION OF APPROPRIATIONS.~~—There is  
 24       authorized to be appropriated to carry out this section  
 25       \$20,000,000.

1 **SEC. 153. PRODUCT CARBON DISCLOSURE PROGRAM.**

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

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

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

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

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

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

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

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

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

cluding what pieces of quantitative and qualitative information need to be disclosed.

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

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

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

(12) An assessment of options for educating consumers about product carbon content and the product carbon disclosure program and product carbon labeling program.

(13) An analysis of the costs and timelines associated with establishing a national product carbon disclosure program and product carbon labeling program, including options for a phased approach. Costs should include those for businesses associated

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

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

12 (b) DEVELOPMENT OF NATIONAL CARBON DISCLO-  
13 SURE PROGRAM.—Upon conclusion of the study, and not  
14 later than 3 years after the date of enactment of this Act,  
15 the Administrator shall establish a national product car-  
16 bon disclosure program, participation in which shall be  
17 voluntary, and which may involve a product carbon label  
18 with broad applicability to the wholesale and consumer  
19 markets to enable and encourage knowledge about carbon  
20 content by producers and consumers and to inform efforts  
21 to reduce energy consumption (carbon dioxide equivalent  
22 emissions) nationwide. In developing such a program, the  
23 Administrator shall—

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



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

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

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

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

21          (6) create a means to—

22                  (A) document best practices;

23                  (B) ensure clarity and consistency;

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (d) DEFINITIONS.—In this section:

16 (1) The term “carbon content” means the  
 17 quantity of greenhouse gas emissions and the warm-  
 18 ing impact of those emissions on the atmosphere ex-  
 19 pressed in carbon dioxide equivalent associated with  
 20 a product's value chain.

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

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

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

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to the Administrator—

7 (1) to carry out the study required by sub-  
8 section (a), \$5,000,000; and

9 (2) to carry out the program required under  
10 subsection (b), \$25,000,000 for each of fiscal years  
11 2010 through 2025.

12 **SEC. 154. STATE RECYCLING PROGRAMS.**

13 (a) ESTABLISHMENT.—The Administrator shall es-  
14 tablish a State Recycling Program governing the use of  
15 funds by States in accordance with this Act.

16 (b) USE OF FUNDING.—

17 (1) IN GENERAL.—States receiving funding to  
18 carry out this section shall use the proceeds to carry  
19 out recycling programs in accordance with this sec-  
20 tion.

21 (2) COUNTY AND MUNICIPAL PROGRAMS.—Not  
22 less than  $\frac{1}{4}$  of the funding made available to a State  
23 to carry out this section shall be distributed by the  
24 State to county and municipal recycling programs as  
25 described in subsection (c)(1), to be used exclusively

1 to support recycling purposes and associated source  
2 reduction purposes, including to provide incentives—

3 (A) for recycling-related technology that—

4 (i) reduces or avoids greenhouse gas  
5 emissions;

6 (ii) increases collection rates; and

7 (iii) improves the quality of recyclable  
8 material that is separated from solid  
9 waste;

10 (B) for energy-efficiency projects for trans-  
11 portation fleets and recycling equipment used to  
12 collect and sort recyclable material separated  
13 from solid waste;

14 (C) for recycling program-related expenses,  
15 including—

16 (i) education and job training;

17 (ii) development and implementation  
18 of variable rate (commonly referred to as  
19 “pay-as-you-throw”) recycling programs  
20 and anaerobic digestion programs;

21 (iii) promotion of public space recy-  
22 cling programs;

23 (iv) approaches for assuring compli-  
24 ance with recycling requirements; and

1                   (v) development or implementation of  
 2                   best practices for municipal solid waste re-  
 3                   duction programs; and

4                   (D) to ensure that recyclable material is  
 5                   not sent for disposal or incineration during flue-  
 6                   tuating markets.

7                   (3) RECYCLING FACILITIES.—Not less than  $\frac{1}{4}$   
 8                   of the funding made available to a State to carry out  
 9                   this section shall be distributed by the State to eligi-  
 10                  ble recycling facilities as described in subsection  
 11                  (e)(2) to be used exclusively to support the recycling  
 12                  purposes and associated source reduction purposes  
 13                  of the facilities, including to provide—

14                  (A) incentives for the demonstration or de-  
 15                  ployment of recycling-related technology and  
 16                  equipment that reduce or avoid greenhouse gas  
 17                  emissions;

18                  (B) incentives to facilities that increase the  
 19                  quantity and quality of recyclable material that  
 20                  is recycled versus sent for disposal or inciner-  
 21                  ation;

22                  (C) funding for research, management,  
 23                  and removal of impediments to recycling, in-  
 24                  cluding—

25                         (i) radioactive material; and

1                   (ii) devices or materials that contain  
2                   polychlorinated biphenyls, mercury, or  
3                   chlorofluorocarbons;

4                   (D) funding for research on, and develop-  
5                   ment and deployment of, new technologies to  
6                   more efficiently and effectively recycle items  
7                   such as automobile shredder residue, cathode  
8                   ray tubes, plastics, and tires; and

9                   (E) incentives to recycle materials identi-  
10                  fied by the Administrator that are not being re-  
11                  cycled at a recycling facility.

12               (4) MANUFACTURING FACILITIES.—Not less  
13               than ¼ of the funding made available to a State to  
14               carry out this section shall be distributed by the  
15               State to eligible manufacturing facilities as described  
16               in subsection (c)(3) to be used exclusively to support  
17               recycling purposes, including to provide incentives  
18               for the demonstration or deployment of—

19                   (A) manufacturing-related technology and  
20                   equipment that would increase the use of recy-  
21                   clable material and avoid or reduce greenhouse  
22                   gas emissions;

23                   (B) radiation detection equipment and the  
24                   costs associated with recovery of detected radi-  
25                   ated recyclable material;

(C) technologies that will detect and separate contaminants, including mercury, lead, and cadmium-containing devices;

(D) strategies and technologies to remove impediments to recovering recyclable material; and

(E) strategies and technologies to improve the energy efficiency of technology and equipment used to manufacture recyclable material.

(c) ELIGIBILITY REQUIREMENTS.—

(1) COUNTY AND MUNICIPALITY PROGRAMS.—

Funds provided under subsection (b)(2) shall be provided on a competitive basis to county and municipal recycling programs that—

(A) have within the solid waste management plans of the programs a recycling management plan that includes an education outreach program for the individuals and entities served by the program constituency that highlights the lifecycle benefits of recycling; and

(B) collect at least 5 recyclable materials, such as—

(i) ferrous and nonferrous metal;

(ii) aluminum;

(iii) plastic;



- 1                   (iv) tires and rubber;
- 2                   (v) household electronic equipment;
- 3                   (vi) glass;
- 4                   (vii) scrap food;
- 5                   (viii) recoverable fiber or paper; and
- 6                   (ix) textiles;

7                   (C) demonstrate, not later than 3 years  
 8                   after the date of receipt of funds under this  
 9                   subtitle, reasonable progress toward achieving—

10                   (i) a collection rate goal of at least 30  
 11                   percent of the total recyclable materials  
 12                   available from the solid waste stream in  
 13                   the requesting State, county, or municipal  
 14                   program; or

15                   (ii) a 10-percent increase of collected  
 16                   recyclable materials compared to the total  
 17                   solid waste stream in the requesting State,  
 18                   county, or municipal program; and

19                   (D)(i) own, operate, or contract to oper-  
 20                   ate—

21                   (I) a curbside recyclables collection  
 22                   program;

23                   (II) a redemption center or drop-off  
 24                   facility for recyclables; and

25                   (III) a materials recovery facility; and

(ii) have in place a quality, environmental, health, and safety management system (such as that of the International Standards Organization or an equivalent) that includes goals to reduce the operational carbon baselines of the programs.

(2) RECYCLING FACILITY.—Funds provided under subsection (b)(3) shall be provided on a competitive basis to a recycling facility that—

(A) processes recyclable material into commercial specification-grade commodities for use as raw material feed stock at recovery facilities, including for use as—

(i) a replacement or substitute for a virgin raw material; or

(ii) a replacement or substitute for a product made, in whole or in part, from a virgin raw material;

(B) has a verifiable carbon baseline; and

(C) has an environmental, health and safety, and quality management system (such as that of the International Standards Organization or an equivalent) that includes goals to reduce the operational carbon baseline of the recycling facility per unit of material processed.

1           ~~(3)~~ MANUFACTURING FACILITY.—Funds pro-  
 2       vided under subsection (b)(4) shall be provided on a  
 3       competitive basis to a manufacturing facility that—

4           ~~(A)~~ can report on a verifiable carbon base-  
 5       line that is consistent with applicable reporting  
 6       requirements; and

7           ~~(B)~~ has an environmental, health and safe-  
 8       ty, and quality management system (such as  
 9       that of the International Standards Organiza-  
 10      tion or an equivalent) that includes goals to re-  
 11      duce the operational carbon baseline of the  
 12      manufacturing facility per unit of material  
 13      processed.

14       ~~(d)~~ REPORTING.—Each State that distributes funds  
 15      under this section shall submit to the Administrator, in  
 16      accordance with such requirements as the Administrator  
 17      may prescribe, a report that includes—

18           ~~(1)~~ a list of entities receiving funding under  
 19      this section, including entities receiving such funding  
 20      from units of local government pursuant to sub-  
 21      section (b)(2);

22           ~~(2)~~ the amount of funding received by each  
 23      such recipient;

24           ~~(3)~~ the specific purposes for which the funding  
 25      was conveyed to each such recipient; and

1           (4) documentation of the quantity of net recy-  
 2           clable material that was collected and processed and  
 3           greenhouse gas emissions that were reduced or  
 4           avoided accordingly, through use of the funding,  
 5           based on a lifecycle calculation developed by the Ad-  
 6           ministrator.

7           (e) ~~METHODOLOGY AND DECISIONMAKING.~~—The Ad-  
 8           ministrator, as appropriate—

9           (1) shall develop and periodically update  
 10          lifecycle methods to quantify the relationship be-  
 11          tween waste management decisions, including recy-  
 12          cling and waste reduction, greenhouse gas reduc-  
 13          tions, and energy use reductions, for purposes that  
 14          include—

15                (A) helping to support decisions under  
 16                Federal, State, and municipal recycling and  
 17                waste management programs, including—

18                   (i) estimating greenhouse gas and en-  
 19                   ergy benefits of increasing collection or  
 20                   adding new materials to recycling pro-  
 21                   grams;

22                   (ii) comparing the benefits of recy-  
 23                   cling and waste reduction to other green-  
 24                   house gas and energy use reduction strate-  
 25                   gies;

1 (iii) optimizing waste management  
 2 strategies to maximize greenhouse gas re-  
 3 ductions and energy use reductions; and

4 (iv) public education; and

5 (B) designing products to optimize waste  
 6 reduction and recycling opportunities and use of  
 7 recycled materials in the manufacturing proc-  
 8 ess;

9 (2) may collect data to support the development  
 10 of the methods described in paragraph (1); and

11 (3) to improve national consistency, shall, in  
 12 consultation with appropriate State and local rep-  
 13 resentatives and municipal recycling programs, iden-  
 14 tify best practices to promote improvement in, and  
 15 support State efforts in improving, municipal recy-  
 16 cling and resource recovery programs.

17 **SEC. 155. SUPPLEMENTAL AGRICULTURE AND FORESTRY**

18 **GREENHOUSE GAS REDUCTION AND RENEW-**

19 **ABLE ENERGY PROGRAM.**

20 (a) AGRICULTURAL GREENHOUSE GAS REDUC-  
 21 TIONS.—

22 (1) ESTABLISHMENT.—

23 (A) IN GENERAL.—The Secretary of Agri-  
 24 culture (referred to in this section as the “Sec-  
 25 retary”), in coordination with the Secretary of

the Interior, shall establish a Greenhouse Gas Reduction Incentives Program (referred to in this section as the “program”) to provide financial assistance to owners and operators of agricultural land (including land on which specialty crops are produced and private or public land used for grazing) and forest land for projects and activities that measurably increase carbon sequestration or reduce greenhouse gas emissions.

(B) ~~SHARED AUTHORITY.~~—The Secretary shall delegate to the Secretary of the Interior the authority to carry out projects on land under the jurisdiction of or operated by the Department of the Interior.

(2) ~~PRIORITY.~~—In carrying out the program, the Secretary shall give priority to projects or activities that—

(A) reduce greenhouse gas emissions or increase sequestration of greenhouse gases, and achieve significant other environmental benefits, such as the improvements of water or air quality or natural resources; and

(B) reduce greenhouse gas emissions or sequester carbon in agricultural and forestry op-

1           erations where there are limited recognized op-  
 2           portunities to achieve such emission reductions  
 3           or sequestration.

4           ~~(3)~~ ELIGIBLE PROJECTS AND ACTIVITIES.—Eli-  
 5           gible projects and payments shall include those  
 6           that—

7                   (A) reflect the comparable amount that the  
 8                   owners or operators would receive in the offset  
 9                   market if not for compliance with environ-  
 10                  mental laws that preclude the owners and oper-  
 11                  ators from being eligible for receiving an offset  
 12                  credit under a Federal law enacted for the pur-  
 13                  pose of regulating greenhouse gas emissions;

14                  (B) provide greenhouse gas emission bene-  
 15                  fits, but do not receive an offset credit or qual-  
 16                  ify for an early action allowance under a Fed-  
 17                  eral law enacted for the purpose of regulating  
 18                  greenhouse gas emissions, including projects  
 19                  and activities that provide an opportunity to  
 20                  demonstrate and test new or uncertain methods  
 21                  to reduce or sequester emissions;

22                  (C) reward early adopters, including pro-  
 23                  ducers that practice no-till agriculture, and en-  
 24                  sure that individuals and entities that took ac-  
 25                  tion prior to the implementation of a Federal

1 law enacted for the purpose of regulating green-  
 2 house gas emissions are not placed at a com-  
 3 petitive disadvantage, including giving special  
 4 consideration to owners or operators located in  
 5 jurisdictions with more stringent environmental  
 6 laws (including regulations), compliance with  
 7 which precludes the owners or operators from  
 8 participating such an offset market;

9 (D) provide incentives for supplemental  
 10 greenhouse gas emission reductions on private  
 11 forest land of the United States;

12 (E) prevent any conversion of land, includ-  
 13 ing native grassland, native prairie, rangeland,  
 14 cropland, or forested land, that would increase  
 15 greenhouse gas emissions or a loss of carbon se-  
 16 questration; or

17 (F) support action on Federal, State, or  
 18 tribal land.

19 (4) REQUIREMENTS.—Financial incentives and  
 20 support provided by the Secretary for a project or  
 21 activity under this section shall, to the maximum ex-  
 22 tent practicable—

23 (A) be directly proportional to the quantity  
 24 and duration of greenhouse gas emissions re-  
 25 duced or carbon sequestered (except with re-



1 spect to projects and activities that provide ad-  
2 aptation benefits); and

3 ~~(B) complement and leverage existing con-~~  
4 ~~servation, forestry, and energy program expend-~~  
5 ~~itures to provide measurable emission reduction~~  
6 ~~and sequestration benefits that otherwise may~~  
7 ~~not take place or continue to exist.~~

8 ~~(5) ELIGIBILITY.—An owner or operator shall~~  
9 ~~not be prohibited from participating in the program~~  
10 ~~established under this section due to participation of~~  
11 ~~the owner or operator in other Federal or State con-~~  
12 ~~servation or agricultural assistance programs.~~

13 ~~(6) FORMS OF ASSISTANCE.—The Secretary~~  
14 ~~may use any of the following to provide assistance~~  
15 ~~under this section:~~

16 ~~(A) Conservation easements.~~

17 ~~(B) Carbon sequestration and mitigation~~  
18 ~~contracts between the owner or operator and~~  
19 ~~the Secretary for the performance of projects or~~  
20 ~~activities that reduce greenhouse gas emissions~~  
21 ~~or sequester carbon.~~

22 ~~(C) Financial incentives through timber~~  
23 ~~harvest contracts.~~

24 ~~(D) Financial incentives through grazing~~  
25 ~~contracts.~~

1                   ~~(E) Grants.~~

2                   ~~(F) Such other forms of assistance as the~~  
 3                   ~~Secretary determines to be appropriate.~~

4                   ~~(7) REVERSALS.—The Secretary shall specify~~  
 5                   ~~methods to address intentional or unintentional re-~~  
 6                   ~~versal of carbon sequestration or greenhouse gas~~  
 7                   ~~emission reductions that occur during the term of a~~  
 8                   ~~contract or easement under this section.~~

9                   ~~(8) ACCOUNTING SYSTEMS.—In carrying out~~  
 10                   ~~this section, the Secretary shall develop and imple-~~  
 11                   ~~ment—~~

12                   ~~(A) a national accounting system for ear-~~  
 13                   ~~bon stocks, sequestration, and greenhouse gas~~  
 14                   ~~emissions that may be used to assess progress~~  
 15                   ~~in implementing this section at a national level;~~  
 16                   ~~and~~

17                   ~~(B) credible reporting and accounting sys-~~  
 18                   ~~tems to ensure that incentives provided under~~  
 19                   ~~this section are achieving stated objectives.~~

20                   ~~(9) PROGRAM MEASUREMENT, MONITORING,~~  
 21                   ~~AND VERIFICATION.—The Secretary, in consultation~~  
 22                   ~~with the Administrator—~~

23                   ~~(A) shall establish and implement protocols~~  
 24                   ~~that provide reasonable monitoring and~~  
 25                   ~~verification of compliance with terms associated~~

1 with assistance provided under this section, in-  
2 cluding field sampling of actual performance, to  
3 develop annual estimates of emission reductions  
4 achieved under the program;

5 (B) shall report annually the total number  
6 of tons of carbon dioxide sequestered or the  
7 total number of tons of emissions avoided  
8 through incentives provided under this section;  
9 and

10 (C) not later than 2 years after the date  
11 of enactment of this Act, and at least every 18  
12 months thereafter, submit to Congress and  
13 make available to the public on the website of  
14 the Department of Agriculture a report that in-  
15 cludes—

16 (i) an estimate of annual and cumu-  
17 lative reductions generated through the  
18 program under this section, determined  
19 using standardized measures (including  
20 economic efficiency); and

21 (ii) a summary of any changes to the  
22 program, in accordance with this section,  
23 that will be made as a result of program  
24 measurement, monitoring, and verification  
25 conducted under this section.

(a) IN GENERAL.—Title II of the Public Works and  
Economic Development Act of 1965 (42 U.S.C. 3141 et  
seq.) is amended by adding at the end the following:

“(a) IN GENERAL.—On the application of an eligible  
recipient, the Secretary may provide technical assistance,  
make grants, enter into contracts, or otherwise provide  
amounts for projects—

21 “(2) to increase the use of renewable energy re-  
22 sources to support sustainable economic development  
23 and job growth;

1           “(3) to support the development of conventional  
2           energy resources to produce alternative transpor-  
3           tation fuels; electricity and heat;

4           “(4) to develop energy efficient or environ-  
5           mentally sustainable infrastructure;

6           “(5) to promote environmentally sustainable  
7           economic development practices and models;

8           “(6) to support development of energy effi-  
9           ciency and alternative energy development plans;  
10          studies or analysis; including enhancement of new  
11          and existing Comprehensive Economic Development  
12          Strategies funded under this Act; and

13          “(7) to supplement other Federal grants, loans,  
14          or loan guarantees for purposes described in para-  
15          graphs (1) through (6).

16          “(b) FEDERAL SHARE.—The Federal share of the  
17          cost of any project carried out under this section shall not  
18          exceed 80 percent, except that the Federal share of a Fed-  
19          eral grant, loan, or loan guarantee provided under sub-  
20          section (a)(7) may be 100 percent.

21          “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
22          is authorized to be appropriated to carry out this section  
23          \$50,000,000 for each of fiscal years 2009 through 2013,  
24          to remain available until expended.”.

1       (b) CONFORMING AMENDMENT.—The table of con-  
 2 tents contained in section 1(b) of the Public Works and  
 3 Economic Development Act of 1965 (42 U.S.C. 3141 et  
 4 seq.) is amended by inserting after the item relating to  
 5 section 218 the following:

“Sec. 219. Economic Development Climate Change Fund.”.

6       **SEC. 157. STUDY OF RISK-BASED PROGRAMS ADDRESSING**  
 7                               **VULNERABLE AREAS.**

8       (a) IN GENERAL.—The Administrator, or the heads  
 9 of such other Federal agencies as the President may des-  
 10 ignate, shall conduct a study and, not later than 2 years  
 11 after the date of enactment of this Act, submit to Con-  
 12 gress a report regarding risk-based policies and programs  
 13 addressing vulnerable areas.

14       (b) REQUIREMENTS.—The report shall

15               (1) review and assess Federal predisaster miti-  
 16 gation, emergency response, and flood insurance  
 17 policies and programs that affect areas vulnerable to  
 18 the impacts of climate change;

19               (2) describe strategies for better addressing  
 20 such vulnerabilities and provide implementation rec-  
 21 ommendations;

22               (3) assess whether the policies and programs  
 23 described in paragraph (1) support the State re-  
 24 sponse and adaptation goals and objectives identified  
 25 under this Act;

(4) identify, and make recommendations to resolve, inconsistencies in Federal policies and programs in effect as of the date of enactment of this Act that address areas vulnerable to climate change; and

(5) identify annual cost savings to the Federal Government associated with the implementation of the strategies and recommendations contained in the report.

## **Subtitle F—Energy Efficiency and Renewable Energy**

### **SEC. 161. RENEWABLE ENERGY.**

(a) DEFINITIONS.—In this section:

(1) RENEWABLE ENERGY.—The term “renewable energy” means electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(2) RENEWABLE PORTFOLIO STANDARD.—The term “renewable portfolio standard” means a State statute that requires electricity providers to

1 obtain a minimum percentage of their power from  
 2 renewable energy resources by a certain date.

3 ~~(b) GRANTS.—The Administrator, in consultation~~  
 4 ~~with the Secretaries of Energy, Interior, and Agriculture,~~  
 5 ~~may provide grants for projects to increase the quantity~~  
 6 ~~of energy a State uses from renewable sources under State~~  
 7 ~~renewable portfolio standard laws.~~

8 ~~(c) ELIGIBILITY.—The Administrator shall review for~~  
 9 ~~approval projects applications that are—~~

10 ~~(1) submitted by State and local governments,~~  
 11 ~~Indian tribes, public utilities, regional energy co-~~  
 12 ~~operatives, or individual energy producers from~~  
 13 ~~states with a binding Renewable Portfolio Standard;~~  
 14 ~~or~~

15 ~~(2) submitted by State and local governments,~~  
 16 ~~Indian tribes, public utilities, or regional energy co-~~  
 17 ~~operatives from States with nonbinding goals for~~  
 18 ~~adoption of renewable energy requirements.~~

19 ~~(d) PRIORITY.—The Administrator shall give priority~~  
 20 ~~to project applications that are—~~

21 ~~(1) submitted by States with a binding renew-~~  
 22 ~~able portfolio standard;~~

23 ~~(2) cost-effective in achieving greater renewable~~  
 24 ~~energy production in each State.~~

25 ~~(e) CERTIFICATION.—~~



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

6           (2) CERTIFICATION.—The Governor shall cer-  
 7       tify in writing within 30 days of receipt of the Ad-  
 8       ministrator's notification described in subsection (1)  
 9       that the project application—

10           (A) will assist the State in reaching renew-  
 11       able portfolio standard targets under applicable  
 12       state laws; and

13           (B) has secured non-Federal funding  
 14       sources that, in conjunction with the requested  
 15       grant amount, will be sufficient to complete the  
 16       renewable energy project.

17       (f) RULEMAKING.—

18           (1) IN GENERAL.—Not later than 90 days after  
 19       the date of enactment of this Act, the Administrator  
 20       shall initiate rulemaking procedures necessary to im-  
 21       plement this section.

22           (2) FINAL RULES; ACCEPTANCE OF APPLICA-  
 23       TIONS.—Not later than 90 days after the close of  
 24       the public comment period relating to the rule-

1 making described in paragraph (1), the Adminis-  
 2 trator shall—

3 (A) promulgate final regulations to carry  
 4 out this section; and

5 (B) begin accepting project applications for  
 6 review.

7 (g) REPORTING.—Not later than 180 days after the  
 8 date of enactment of this Act, and every 180 days there-  
 9 after, the Administrator shall submit to the Committee on  
 10 Energy and Commerce of the House of Representatives  
 11 and the Committee on Environment and Public Works of  
 12 the Senate a report specifying, with respect to the pro-  
 13 gram under this section—

14 (1) the project applications received;

15 (2) the project applications approved;

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

17 and

18 (4) the cumulative benefits of the grant pro-  
 19 gram.

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

1 (i) AUTHORIZATION.—There are authorized to be ap-  
 2 propriated such sums as are necessary to carry out this  
 3 section.

4 **SEC. 162. ADVANCED BIOFUELS.**

5 (a) DEFINITIONS.—In this section:

6 (1) ADVANCED BIOFUEL.—The term “advanced  
 7 biofuel” shall have such meaning as is given the  
 8 term by the Administrator in regulations promul-  
 9 gated under subsection (c).

10 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
 11 ty” means an individual, corporate entity, unit of  
 12 State or local government, Indian tribe, farm cooper-  
 13 ative, institution of higher learning, rural electric co-  
 14 operative, or public utility.

15 (b) GRANTS.—The Administrator, in consultation  
 16 with the Secretary of Agriculture and the Secretary of En-  
 17 ergy, may provide grants to support research and develop-  
 18 ment of advanced biofuels.

19 (c) REGULATIONS.—

20 (1) IN GENERAL.—Not later than 18 months  
 21 after the date of enactment of this Act, the Adminis-  
 22 trator shall promulgate regulations to carry out this  
 23 section (including a definition of the term “advanced  
 24 biofuel” for the purpose of providing assistance  
 25 under this section).

1           (2) REQUIREMENTS.—The regulations promul-  
2           gated under paragraph (1) shall—

3           (A) provide that the Administrator shall  
4           make grants available to eligible entities to sup-  
5           port—

6           (i) research regarding the production  
7           of advanced biofuels;

8           (ii) the development of new advanced  
9           biofuel production and capacity-building  
10          technologies;

11          (iii) the development and construction  
12          of commercial-scale advanced biofuel pro-  
13          duction facilities; and

14          (iv) the expanded production of ad-  
15          vanced biofuels;

16          (B) provide that, to receive a grant under  
17          this section, an eligible entity shall submit to  
18          the Administrator—

19          (i) a project proposal with detailed  
20          project information, as determined by the  
21          Administrator; and

22          (ii) such records as the Administrator  
23          may require as evidence of the production  
24          of advanced biofuels or the importance and

1 necessity of advanced biofuels research and  
 2 new technologies; and

3 ~~(C) include appropriate cost-sharing re-~~  
 4 ~~quirements developed by the Administrator for~~  
 5 ~~grant awards for authorized uses of funds~~  
 6 ~~under this section.~~

7 ~~(3) PRIORITY.~~—The Administrator shall give  
 8 priority to eligible entities based on—

9 ~~(A) technical and economic feasibility of a~~  
 10 ~~project proposal;~~

11 ~~(B) cost-effectiveness of a project proposal;~~

12 ~~(C) the use of innovative technologies in a~~  
 13 ~~project proposal;~~

14 ~~(D) the availability of non-Federal re-~~  
 15 ~~sources, including private resources, to fund the~~  
 16 ~~project proposal; and~~

17 ~~(E) whether the project proposed can be~~  
 18 ~~replicated.~~

19 **SEC. 163. ENERGY EFFICIENCY IN BUILDING CODES.**

20 ~~(a) ENERGY EFFICIENCY TARGETS.—~~

21 ~~(1) RULEMAKING TO ESTABLISH TARGETS.—~~

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

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

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

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

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

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

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

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

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

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

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

15 **SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL**  
 16 **PERFORMANCE.**

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

18       (1) ASSISTED HOUSING.—The term “assisted  
 19 housing” means those properties receiving project-  
 20 based assistance pursuant to section 202 of the  
 21 Housing Act of 1959 (42 U.S.C. 1701q); section  
 22 811 of the Cranston-Gonzalez National Affordable  
 23 Housing Act (42 U.S.C. 8013); section 8 of the  
 24 United States Housing Act of 1937 (42 U.S.C.  
 25 1437f); or similar programs.

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

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

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

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



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

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

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

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

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

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

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

18       (d) FEDERAL ADMINISTRATION.—

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

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

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

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

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

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

9 ~~(c) STATE AND LOCAL ADMINISTRATION.—~~

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

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

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

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

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

15 (f) ~~ELEMENTS OF REEP PROGRAM.~~—The Adminis-  
 16 trator, in consultation with the Secretary of Energy, shall  
 17 establish goals, guidelines, practices, and standards for ac-  
 18 complishing the purpose stated in subsection (e), 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 eially in all air-conditioned buildings, roofing mate-  
2 rials with high solar energy reflectance, unless inap-  
3 propriate due to green roof management, solar en-  
4 ergy production, or for other reasons identified by  
5 the Administrator, in order to reduce energy con-  
6 sumption within the building, increase the albedo of  
7 the building's roof, and decrease the heat island ef-  
8 fect in the area of the building, without reduction of  
9 otherwise applicable ceiling insulation standards.

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

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

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

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



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

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

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

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

15          ~~(12) Guidance on opportunities for—~~

16                 ~~(A) rating or certifying retrofitted build-~~  
17                 ~~ings as Energy Star buildings, or as green~~  
18                 ~~buildings under a recognized green building rat-~~  
19                 ~~ing system;~~

20                 ~~(B) assigning Home Energy Rating Sys-~~  
21                 ~~tem (HERS) or similar ratings; and~~

22                 ~~(C) completing any applicable building per-~~  
23                 ~~formance labels.~~

1           (13) Sample materials for publicizing the pro-  
2           gram to building owners, including public service an-  
3           nouncements and advertisements.

4           (14) Processes for tracking the numbers and lo-  
5           cations of buildings retrofitted under the REEP pro-  
6           gram, with information on projected and actual sav-  
7           ings of energy and its value over time.

8           (g) REQUIREMENTS.—As a condition of receiving as-  
9           sistance for the REEP program pursuant to this Act, a  
10          State or qualifying local government shall—

11           (1) adopt the standards for training, certifi-  
12           cation of contractors, certification of buildings, and  
13           post-retrofit inspection as developed by the Adminis-  
14           trator for residential and nonresidential buildings,  
15           respectively, except as necessary to match local con-  
16           ditions, needs, efficiency opportunities, or other local  
17           factors, or to accord with State laws or regulations,  
18           and then only after the Administrator approves such  
19           a variance;

20           (2) establish fiscal controls and accounting pro-  
21           cedures (which conform to generally accepted gov-  
22           ernment accounting principles) sufficient to ensure  
23           proper accounting during appropriate accounting pe-  
24           riods for payments received and disbursements, and  
25           for fund balances;

1           ~~(3)~~ agree to make 10 percent of assistance re-  
 2           ceived to carry out this section available on a pref-  
 3           erential basis for retrofit projects proposed for pub-  
 4           lic housing and assisted housing; provided that—

5                   (A) none of such funds shall be used for  
 6                   demolition of such housing;

7                   (B) such retrofits not shall not be used to  
 8                   justify any increase in rents charged to resi-  
 9                   dents of such housing; and

10                  (C) owners of such housing shall agree to  
 11                  continue to provide affordable housing con-  
 12                  sistent with the provisions of the authorizing  
 13                  legislation governing each program for an addi-  
 14                  tional period commensurate with the funding  
 15                  received; and

16                  (4) the Administrator shall conduct or require  
 17                  each State to have such independent financial audits  
 18                  of REEP-related funding as the Administrator con-  
 19                  siders necessary or appropriate to carry out the pur-  
 20                  poses of this section.

21           ~~(h)~~ OPTIONS TO SUPPORT REEP PROGRAM.—The  
 22           assistance provided under this section shall support the  
 23           implementation through State REEP programs of alter-  
 24           nate means of creating incentives for, or reducing financial

1 barriers to, improved energy and environmental perform-  
 2 ance in buildings, consistent with this section, including—

3       (1) implementing prescriptive building retrofit  
 4 programs and performance-based building retrofit  
 5 programs;

6       (2) providing credit enhancement, interest rate  
 7 subsidies, loan guarantees, or other credit support;

8       (3) providing initial capital for public revolving  
 9 fund financing of retrofits;

10       (4) providing funds to support utility-operated  
 11 retrofit programs with repayments over time  
 12 through utility rates, calibrated to create net positive  
 13 cash flow to the building owner, and transferable  
 14 from one building owner to the next with the build-  
 15 ing's utility services;

16       (5) providing funds to local government pro-  
 17 grams to provide REEP services and financial as-  
 18 sistance; and

19       (6) other means proposed by State and local  
 20 agencies, subject to the approval of the Adminis-  
 21 trator.

22       (i) SUPPORT FOR PROGRAM.—

23       (1) INITIAL AWARD LIMITS.—Except as pro-  
 24 vided in paragraph (2), State and local REEP pro-  
 25 grams may make per-building direct expenditures

1 for retrofit improvements, or their equivalent in indi-  
 2 rect or other forms of financial support, from funds  
 3 made available to carry out this section, in amounts  
 4 not to exceed the following amounts per unit:

5 (A) RESIDENTIAL BUILDING PROGRAM.—

6 (i) AWARDS.—For residential build-  
 7 ings—

8 (I) support for a free or low-cost  
 9 detailed building energy audit that  
 10 prescribes measures sufficient to  
 11 achieve at least a 20 percent reduc-  
 12 tion in energy use, by providing an in-  
 13 centive equal to the documented cost  
 14 of such audit, but not more than  
 15 \$200, in addition to any earned by  
 16 achieving a 20 percent or greater effi-  
 17 ciency improvement;

18 (II) a total of \$1,000 for a com-  
 19 bination of measures, prescribed in an  
 20 audit conducted under subclause (I),  
 21 designed to reduce energy consump-  
 22 tion by more than 10 percent, and  
 23 \$2,000 for a combination of measures  
 24 prescribed in such an audit, designed

to reduce energy consumption by more  
than 20 percent;

(III) \$3,000 for demonstrated  
savings of 20 percent, pursuant to a  
performance-based building retrofit  
program; and

(IV) \$1,000 for each additional 5  
percentage points of energy savings  
achieved beyond savings for which  
funding is provided under subclause  
(II) or (III).

Funding shall not be provided under  
clauses (II) and (III) for the same energy  
savings.

(ii) **MAXIMUM PERCENTAGE.**—Awards  
under clause (i) shall not exceed 50 per-  
cent of retrofit costs for each building. For  
buildings with multiple residential units,  
awards under clause (i) shall not be great-  
er than 50 percent of the total cost of ret-  
rofitting the building, prorated among indi-  
vidual residential units on the basis of rel-  
ative costs of the retrofit. In the case of  
public housing and assisted housing, the  
50 percent contribution matching the con-

1           tribution from REEP program funds may  
 2           come from any other source, including  
 3           other Federal funds.

4           (iii) ~~ADDITIONAL AWARDS.~~—Addi-  
 5           tional awards may be provided for pur-  
 6           poses of increasing energy efficiency, for  
 7           buildings achieving at least 20 percent en-  
 8           ergy savings using funding provided under  
 9           clause (i), in the form of grants of not  
 10          more than \$600 for measures projected or  
 11          measured (using an appropriate method  
 12          approved by the Administrator) to achieve  
 13          at least 35 percent potable water savings  
 14          through equipment or systems with an es-  
 15          timated service life of not less than 7  
 16          years, and not more than an additional  
 17          \$20 may be provided for each additional  
 18          one percent of such savings, up to a max-  
 19          imum total grant of \$1,200.

20          (B) ~~NONRESIDENTIAL BUILDING PRO-~~  
 21          GRAM.—

22           (i) ~~AWARDS.~~—For nonresidential  
 23          buildings—

24           (I) support for a free or low-cost  
 25          detailed building energy audit that

prescribes, as part of a energy-reducing measures sufficient to achieve at least a 20 percent reduction in energy use, by providing an incentive equal to the documented cost of such audit, but not more than \$500, in addition to any award earned by achieving a 20 percent or greater efficiency improvement;

(II) \$0.15 per square foot of retrofit area for demonstrated energy use reductions from 20 percent to 30 percent;

(III) \$0.75 per square foot for demonstrated energy use reductions from 30 percent to 40 percent;

(IV) \$1.60 per square foot for demonstrated energy use reductions from 40 percent to 50 percent; and

(V) \$2.50 per square foot for demonstrated energy use reductions exceeding 50 percent.

(ii) MAXIMUM PERCENTAGE.—

Amounts provided under subclauses (II) through (V) of clause (i) combined shall



not exceed 50 percent of the total retrofit cost of a building. In nonresidential buildings with multiple units, such awards shall be prorated among individual units on the basis of relative costs of the retrofit.

(iii) **ADDITIONAL AWARDS.**—Additional awards may be provided, for buildings achieving at least 20 percent energy savings using funding provided under clause (i), as follows:

(I) **WATER.**—For purposes of increasing energy efficiency, grants may be made for whole building potable water use reduction (using an appropriate method approved by the Administrator) for up to 50 percent of the total retrofit cost, including amounts up to—

(aa) \$24.00 per thousand gallons per year of potable water savings of 40 percent or more;

(bb) \$27.00 per thousand gallons per year of potable water savings of 50 percent or more; and

(cc) \$30.00 per thousand gallons per year of potable water savings of 60 percent or more.

(II) ENVIRONMENTAL IMPROVEMENTS.—Additional awards of up to \$1,000 may be granted for the inclusion of other environmental attributes that the Administrator, in consultation with the Secretary, identifies as contributing to energy efficiency. Such attributes may include, but are not limited to waste diversion and the use of environmentally preferable materials (including salvaged, renewable, or recycled materials, and materials with no or low-VOC content). The Administrator may recommend that States develop such standards as are necessary to account for local or regional conditions that may affect the feasibility or availability of identified resources and attributes.

(iv) INDOOR AIR QUALITY MINIMUM.—Nonresidential buildings receiving incentives under this section must satisfy at a

1           minimum the most recent version of  
2           ASHRAE Standard 62.1 for ventilation, or  
3           the equivalent as determined by the Ad-  
4           ministrator. A State may issue a waiver  
5           from this requirement to a building project  
6           on a showing that such compliance is in-  
7           feasible due to the physical constraints of  
8           the building's existing ventilation system,  
9           or such other limitations as may be speci-  
10          fied by the Administrator.

11           (C) DISASTER DAMAGED BUILDINGS.—Any  
12          source of funds, including Federal funds pro-  
13          vided through the Robert T. Stafford Disaster  
14          Relief and Emergency Assistance Act, shall  
15          qualify as the building owner's 50 percent con-  
16          tribution, in order to match the contribution of  
17          REEP funds, so long as the REEP funds are  
18          only used to improve the energy efficiency of  
19          the buildings being reconstructed. In addition,  
20          the appropriate Federal agencies providing as-  
21          sistance to building owners through the Robert  
22          T. Stafford Disaster Relief and Emergency As-  
23          sistance Act shall make information available,  
24          following a disaster, to building owners rebuild-  
25          ing disaster damaged buildings with assistance

1 from the Act, that REEP funds may be used  
2 for energy efficiency improvements.

3 (D) HISTORIC BUILDINGS.—Notwith-  
4 standing subparagraphs (A) and (B), a building  
5 in or eligible for the National Register of His-  
6 toric Places shall be eligible for awards under  
7 this paragraph in amounts up to 120 percent of  
8 the amounts set forth in subparagraphs (A) and  
9 (B).

10 (E) SUPPLEMENTAL SUPPORT.—State and  
11 local governments may supplement the per-  
12 building expenditures under this paragraph  
13 with funding from other sources.

14 (2) ADJUSTMENT.—The Administrator may ad-  
15 just the specific dollar amounts provided under para-  
16 graph (1) in years subsequent to the second year  
17 after the date of enactment of this Act, and every  
18 2 years thereafter, as the Administrator determines  
19 necessary to achieve optimum cost-effectiveness and  
20 to maximize incentives to achieve energy efficiency  
21 within the total building award amounts provided in  
22 that paragraph, and shall publish and hold constant  
23 such revised limits for at least 2 years.

24 (j) REPORT TO CONGRESS.—The Administrator shall  
25 conduct an annual assessment of the achievements of the

1 REEP program in each State, shall prepare an annual re-  
 2 port of such achievements and any recommendations for  
 3 program modifications, and shall provide such report to  
 4 Congress at the end of each fiscal year during which fund-  
 5 ing or other resources were made available to the States  
 6 for the REEP Program.

7 **Subtitle G—Emission Reductions**  
 8 **From Public Transportation Ve-**  
 9 **hicles**

10 **SEC. 171. SHORT TITLE.**

11 This subtitle may be cited as the “Green Taxis Act  
 12 of 2009”.

13 **SEC. 172. STATE FUEL ECONOMY REGULATION FOR TAXI-**  
 14 **CABS.**

15 Section 32919 of title 49, United States Code, is  
 16 amended by adding at the end the following new sub-  
 17 section:

18 “(d) TAXICABS.—Notwithstanding subsection (a), a  
 19 State or political subdivision of a State may prescribe re-  
 20 quirements for fuel economy for taxicabs and other auto-  
 21 mobiles if such requirements are at least as stringent as  
 22 applicable Federal requirements and if such taxicabs and  
 23 other automobiles—

1           “(1) are automobiles that are capable of trans-  
 2           porting not more than 10 individuals, including the  
 3           driver;

4           “(2) are commercially available or are designed  
 5           and manufactured pursuant to a contract with such  
 6           State or political subdivision of such State;

7           “(3) are operated for hire pursuant to an oper-  
 8           ating or regulatory license, permit, or other author-  
 9           ization issued by such State or political subdivision  
 10          of such State;

11          “(4) provide local transportation for a fare de-  
 12          termined on the basis of the time or distance trav-  
 13          eled or a combination of time and distance traveled;  
 14          and

15          “(5) do not exclusively provide transportation to  
 16          and from airports.”.

17 **SEC. 173. STATE REGULATION OF MOTOR VEHICLE EMIS-**  
 18 **SIONS FOR TAXICABS.**

19          Section 209 of the Clean Air Act (42 U.S.C. 7543)  
 20 is amended by adding at the end the following new sub-  
 21 section:

22          “(f) TAXICABS.—(1) Notwithstanding subsection (a),  
 23 a State or political subdivision thereof may adopt and en-  
 24 force standards for the control of emissions from new  
 25 motor vehicles that are taxicabs and other vehicles if such

1 standards will be, in the aggregate, at least as protective  
2 of public health and welfare as applicable Federal stand-  
3 ards and if such taxicabs and other vehicles—

4           “(A) are passenger motor vehicles that are  
5           capable of transporting not more than 10 indi-  
6           viduals, including the driver;

7           “(B) are commercially available or are de-  
8           signed and manufactured pursuant to a con-  
9           tract with such State or political subdivision  
10          thereof;

11          “(C) are operated for hire pursuant to an  
12          operating or regulatory license, permit, or other  
13          authorization issued by such State or political  
14          subdivision thereof;

15          “(D) provide local transportation for a fare  
16          determined on the basis of the time or distance  
17          traveled or a combination of time and distance  
18          traveled; and

19          “(E) do not exclusively provide transpor-  
20          tation to and from airports.

21          “(2) If each standard of a State or political subdivi-  
22          sion thereof is at least as stringent as the comparable ap-  
23          plicable Federal standard, such standard of such State or  
24          political subdivision thereof shall be deemed at least as

1 protective of health and welfare as such Federal standards  
 2 for purposes of this subsection.”.

## 3       **Subtitle H—Clean Energy and** 4                   **Natural Gas**

### 5   **SEC. 181. CLEAN ENERGY AND ACCELERATED EMISSION** 6                   **REDUCTION PROGRAM.**

7       (a) **ESTABLISHMENT.**—

8               (1) **IN GENERAL.**—The Administrator shall es-  
 9       tablish a program to promote dispatchable power  
 10      generation projects that can accelerate the reduction  
 11      of power sector carbon dioxide and other greenhouse  
 12      gas emissions.

13              (2) **USE OF FUNDS.**—Funds provided under  
 14      this section shall be used by the Administrator to  
 15      make incentive payments to owners or operators of  
 16      eligible projects.

17       (b) **REGULATIONS.**—Not later than 90 days after the  
 18      date of enactment of this Act, the Administrator shall pro-  
 19      mulgate regulations providing for incentives, pursuant to  
 20      the requirements of this section.

21       (c) **GOAL.**—Not later than 3 years after the date of  
 22      enactment of this Act, the Administrator shall provide in-  
 23      centives for eligible projects that generate 300,000  
 24      gigawatt-hours of electricity per year.



1       (d) CRITERIA FOR ELIGIBLE PROJECTS.—To be eli-  
2 gible for funding under this section a project must—

3           (1) reduce emissions below the 2007 average  
4 greenhouse gas emissions per megawatt-hour of the  
5 United States electric power sector by the quantity  
6 specified in subsection (f); and

7           (2) not receive an investment or production  
8 credit in—

9               (A) the year in which the project is placed  
10 in service; or

11               (B) calendar year 2009, notwithstanding  
12 the year in which the project was placed in  
13 service.

14       (e) PRIORITY.—The Administrator shall give priority  
15 to eligible projects from the following categories:

16           (1) Power generation projects designed to inte-  
17 grate intermittent renewable power into the bulk-  
18 power system.

19           (2) Energy storage projects used to support re-  
20 newable energy.

21           (3) Power generation projects with carbon cap-  
22 ture and sequestration that are not eligible for other  
23 assistance under this Act.

1           (4) Projects that achieve the greatest reduction  
 2           in greenhouse gas emissions per dollar of incentive  
 3           payment.

4           (f) EMISSION REDUCTION CRITERIA.—For the pur-  
 5           poses of subsection (d), the applicable emission reduction  
 6           quantity shall be determined in accordance with the fol-  
 7           lowing table:

Calendar years	Percentage below 2007 average green- house gas emissions per MWh of United States electric power sector
2010 through 2020 .....	25 percent
2021 through 2025 .....	40 percent
2026 through 2030 .....	65 percent

8           (g) AUTHORIZATION OF APPROPRIATIONS.—There  
 9           are authorized to be appropriated to the Administrator  
 10          such sums as are necessary to carry out this section for  
 11          each of fiscal years 2010 through 2030.

12   **SEC. 182. ADVANCED NATURAL GAS TECHNOLOGIES.**

13          (a) DEFINITIONS.—In this section:

14           (1) CORPORATION.—

15           (A) IN GENERAL.—The term “corpora-  
 16           tion” means any corporation, joint-stock com-  
 17           pany, partnership, limited liability company, as-  
 18           sociation, business trust, or other organized  
 19           group of persons, regardless of incorporation.

20           (B) EXCLUSION.—The term “corporation”  
 21           does not include a municipality.

22           (2) ELIGIBLE ENTITY.—

1           (A) IN GENERAL.—The term “eligible enti-  
2           ty” means an entity that is eligible to receive a  
3           grant under subsection (b).

4           (B) INCLUSIONS.—The term “eligible enti-  
5           ty” includes a corporation, an eligible research  
6           entity, an industry entity, a municipality, a mu-  
7           nicipal natural gas distribution system, and a  
8           natural gas distribution company.

9           (3) ELIGIBLE RESEARCH ENTITY.—

10          (A) IN GENERAL.—The term “eligible re-  
11          search entity” means an entity that is experi-  
12          enced in planning, conducting, and imple-  
13          menting natural gas research, development,  
14          demonstration, and deployment projects.

15          (B) INCLUSIONS.—The term “eligible re-  
16          search entity” includes a research institution  
17          and an institution of higher education.

18          (4) INDUSTRY ENTITY.—

19          (A) IN GENERAL.—The term “industry en-  
20          tity” means the persons and municipalities col-  
21          lectively engaged in the delivery of natural gas  
22          for consumption in the United States (such as  
23          natural gas distribution companies and munic-  
24          ipal natural gas distribution systems).

1           (B) ~~EXCLUSION.~~—The term “industry en-  
2           tity” does not include any natural gas cus-  
3           tomer.

4           (5) ~~MUNICIPALITY.~~—The term “municipality”  
5           means a city, county, or other political subdivision or  
6           agency of a State.

7           (6) ~~MUNICIPAL NATURAL GAS DISTRIBUTION~~  
8           ~~SYSTEM.~~—The term “municipal natural gas distribu-  
9           tion system” means a municipality engaged in the  
10          business of delivering natural gas for consumption to  
11          residential, commercial, industrial, and other natural  
12          gas customers.

13          (7) ~~NATURAL GAS.~~—

14               (A) ~~IN GENERAL.~~—The term “natural  
15               gas” means a mixture of hydrocarbon and non-  
16               hydrocarbon gases, primarily methane, that  
17               have been produced from geological formations  
18               or by any other means.

19               (B) ~~INCLUSION.~~—The term “natural gas”  
20               includes renewable biogas.

21          (8) ~~NATURAL GAS DISTRIBUTION COMPANY.~~—  
22          The term “natural gas distribution company” means  
23          a person engaged in the business of distributing nat-  
24          ural gas for consumption to residential, commercial,  
25          industrial, or other natural gas customers.

1 (b) GRANT PROGRAMS.—

2 (1) NATURAL GAS ELECTRICITY GENERATION  
3 GRANTS.—The Administrator, in consultation with  
4 Secretary of Energy, may provide to eligible entities  
5 research and development grants to support the de-  
6 ployment of low greenhouse-gas-emitting end-use  
7 technologies, including carbon capture and seques-  
8 tration technologies, for natural gas electricity gen-  
9 eration.

10 (2) NATURAL GAS RESIDENTIAL AND COMMER-  
11 CIAL TECHNOLOGY GRANTS.—The Administrator  
12 shall establish a program to provide to eligible enti-  
13 ties grants to advance the commercial demonstration  
14 or early development of low greenhouse-gas-emitting  
15 end-use technologies fueled by natural gas, including  
16 carbon capture and storage, for residential and com-  
17 mercial purposes, through research, development,  
18 demonstration, and deployment of those tech-  
19 nologies.

20 (c) REPORTING.—Not later than 180 days after the  
21 date of enactment of this Act, and every 180 days there-  
22 after, the Secretary of Energy shall submit to the Com-  
23 mittee on Energy and Commerce of the House of Rep-  
24 resentatives and the Senate Committees on Energy and  
25 Natural Resources and Environment and Public Works of

1 the Senate a report that describes the status and results  
 2 of activities carried out under subsection (b).

3 (d) AUTHORIZATION.—There are authorized to be ap-  
 4 propriated such sums as are necessary to carry out this  
 5 section.

## 6 **TITLE II—RESEARCH**

### 7 **Subtitle A—Energy Research**

#### 8 **SEC. 201. ADVANCED ENERGY RESEARCH.**

9 (a) IN GENERAL.—The Administrator shall establish  
 10 a program to provide grants for advanced energy research.

11 (b) DISTRIBUTION.—The Administrator shall dis-  
 12 tribute grants on a competitive basis to institutions of  
 13 higher education, companies, research foundations, trade  
 14 and industry research collaborations, or consortia of such  
 15 entities, or other appropriate research and development  
 16 entities.

17 (c) SELECTION OF PROPOSALS.—In selecting pro-  
 18 posals for funding under this section, the Administrator  
 19 shall prioritize applications that—

20 (1) enhance the economic and energy security  
 21 of the United States through the development of en-  
 22 ergy technologies that result in—

23 (A) reductions of imports of energy from  
 24 foreign sources;

1                   (B) reductions of energy-related emissions;  
2                   including greenhouse gases; and

3                   (C) improvements in the energy efficiency  
4                   of all economic sectors; and

5                   (2) ensure that the United States maintains a  
6                   technological lead in developing and deploying ad-  
7                   vanced energy technologies.

8                   (d) RESPONSIBILITIES.—The Administrator shall be  
9                   responsible for assessing the success of programs and ter-  
10                  minating programs carried out under this section that are  
11                  not achieving the goals of the programs.

12                  (e) ASSISTANCE.—Assistance provided under this  
13                  section shall be used to supplement, and not to supplant,  
14                  any other Federal resources available to carry out activi-  
15                  ties described in this section.

16                  (f) AUTHORIZATION.—There are authorized to be ap-  
17                  propriated such sums as are necessary to carry out this  
18                  section.

19                  **Subtitle B—Drinking Water Adap-**  
20                  **tation, Technology, Education,**  
21                  **and Research**

22                  **SEC. 211. EFFECTS OF CLIMATE CHANGE ON DRINKING**  
23                  **WATER UTILITIES.**

24                  (a) FINDINGS.—Congress finds that—

1           (1) the consensus among climate scientists is  
2           overwhelming that climate change is occurring more  
3           rapidly than can be attributed to natural causes, and  
4           that significant impacts to the water supply are al-  
5           ready occurring;

6           (2) among the first and most critical of those  
7           impacts will be change to patterns of precipitation  
8           around the world, which will affect water availability  
9           for the most basic drinking water and domestic  
10          water needs of populations in many areas of the  
11          United States;

12          (3) drinking water utilities throughout the  
13          United States, as well as those in Europe, Australia,  
14          and Asia, are concerned that extended changes in  
15          precipitation will lead to extended droughts;

16          (4) supplying water is highly energy-intensive  
17          and will become more so as climate change forces  
18          more utilities to turn to alternative supplies;

19          (5) energy production consumes a significant  
20          percentage of the fresh water resources of the  
21          United States;

22          (6) since 2003, the drinking water industry of  
23          the United States has sponsored, through a non-  
24          profit water research foundation, various studies to



1        assess the impacts of climate change on drinking  
2        water supplies;

3            ~~(7)~~ those studies demonstrate the need for a  
4        comprehensive program of research into the full  
5        range of impacts on drinking water utilities, includ-  
6        ing impacts on water supplies, facilities, and cus-  
7        tomers;

8            ~~(8)~~ that nonprofit water research foundation is  
9        also coordinating internationally with other drinking  
10       water utilities on shared research projects and has  
11       hosted international workshops with counterpart Eu-  
12       ropean and Asian water research organizations to  
13       develop a unified research agenda for applied re-  
14       search on adaptive strategies to address climate  
15       change impacts;

16           ~~(9)~~ research data in existence as of the date of  
17       enactment of this Act—

18                ~~(A)~~ summarize the best available scientific  
19       evidence on climate change;

20                ~~(B)~~ identify the implications of climate  
21       change for the water cycle and the availability  
22       and quality of water resources; and

23                ~~(C)~~ provide general guidance on planning  
24       and adaptation strategies for water utilities;  
25       and

1           ~~(10)~~ given uncertainties about specific climate  
 2       changes in particular areas, drinking water utilities  
 3       need to prepare for a wider range of likely possibili-  
 4       ties in managing and delivery of water.

5       ~~(b)~~ IN GENERAL.—The Administrator, in cooperation  
 6       with the Secretary of Commerce, the Secretary of Energy,  
 7       and the Secretary of the Interior, shall establish and pro-  
 8       vide funding for a program of directed and applied re-  
 9       search, to be conducted through a nonprofit drinking  
 10      water research foundation and sponsored by water utili-  
 11      ties, to assist the utilities in adapting to the effects of cli-  
 12      mate change.

13      ~~(c)~~ RESEARCH AREAS.—The research conducted in  
 14      accordance with subsection ~~(b)~~ shall include research  
 15      into—

16           ~~(1)~~ water quality impacts and solutions, includ-  
 17      ing research—

18           ~~(A)~~ to address probable impacts on raw  
 19      water quality resulting from—

20                   (i) erosion and turbidity from extreme  
 21                   precipitation events;

22                   (ii) watershed vegetation changes; and

23                   (iii) increasing ranges of pathogens,  
 24                   algae, and nuisance organisms resulting  
 25                   from warmer temperatures; and

1           (B) on mitigating increasing damage to  
2           watersheds and water quality by evaluating ex-  
3           treme events, such as wildfires and hurricanes,  
4           to learn and develop management approaches to  
5           mitigate—

6                   (i) permanent watershed damage;

7                   (ii) quality and yield impacts on  
8           source waters; and

9                   (iii) increased costs of water treat-  
10          ment;

11          (2) impacts on groundwater supplies from car-  
12          bon sequestration, including research to evaluate po-  
13          tential water quality consequences of carbon seques-  
14          tration in various regional aquifers, soil conditions,  
15          and mineral deposits;

16          (3) water quantity impacts and solutions, in-  
17          cluding research—

18                   (A) to evaluate climate change impacts on  
19           water resources throughout hydrological basins  
20           of the United States;

21                   (B) to improve the accuracy and resolution  
22           of climate change models at a regional level;

23                   (C) to identify and explore options for in-  
24           creasing conjunctive use of aboveground and  
25           underground storage of water; and

1           (D) to optimize operation of existing and  
 2           new reservoirs in diminished and erratic periods  
 3           of precipitation and runoff;

4           (4) infrastructure impacts and solutions for  
 5           water treatment and wastewater treatment facilities  
 6           and underground pipelines, including research—

7           (A) to evaluate and mitigate the impacts of  
 8           sea level rise on—

9                   (i) near-shore facilities;

10                   (ii) soil drying and subsidence;

11                   (iii) reduced flows in water and waste-  
 12           water pipelines; and

13                   (iv) extreme flows in wastewater sys-  
 14           tems; and

15           (B) on ways of increasing the resilience of  
 16           existing infrastructure, planning cost-effective  
 17           responses to adapt to climate change, and de-  
 18           veloping new design standards for future infra-  
 19           structure that include the use of energy con-  
 20           servation measures and renewable energy in  
 21           new construction to the maximum extent prac-  
 22           ticable;

23           (5) desalination, water reuse, and alternative  
 24           supply technologies, including research—

1           (A) to improve and optimize existing mem-  
2           brane technologies; and to identify and develop  
3           breakthrough technologies; to enable the use of  
4           seawater, brackish groundwater, treated waste-  
5           water, and other impaired sources;

6           (B) into new sources of water through  
7           more cost-effective water treatment practices in  
8           recycling and desalination; and

9           (C) to improve technologies for use in—

10           (i) managing and minimizing the vol-  
11           ume of desalination and reuse concentrate  
12           streams; and

13           (ii) minimizing the environmental im-  
14           pacts of seawater intake at desalination fa-  
15           cilities;

16           (6) energy efficiency and greenhouse gas mini-  
17           mization; including research—

18           (A) on optimizing the energy efficiency of  
19           water supply and wastewater operations and  
20           improving water efficiency in energy production  
21           and management; and

22           (B) to identify and develop renewable, car-  
23           bon-neutral energy options for the water supply  
24           and wastewater industry;

1           (7) regional and hydrological basin cooperative  
2       water management solutions, including research  
3       into—

4           (A) institutional mechanisms for greater  
5       regional cooperation and use of water ex-  
6       changes, banking, and transfers; and

7           (B) the economic benefits of sharing risks  
8       of shortage across wider areas;

9       (8) utility management, decision support sys-  
10     tems, and water management models, including re-  
11     search—

12           (A) into improved decision support systems  
13     and modeling tools for use by water utility  
14     managers to assist with increased water supply  
15     uncertainty and adaptation strategies posed by  
16     climate change;

17           (B) to provide financial tools, including  
18     new rate structures, to manage financial re-  
19     sources and investments, because increased con-  
20     servation practices may diminish revenue and  
21     increase investments in infrastructure; and

22           (C) to develop improved systems and mod-  
23     els for use in evaluating—

1                   (i) successful alternative methods for  
 2                   conservation and demand management;  
 3                   and

4                   (ii) climate change impacts on  
 5                   groundwater resources;

6           (9) reducing greenhouse gas emissions and im-  
 7           proving energy demand management, including re-  
 8           search to improve energy efficiency in water collec-  
 9           tion, production, transmission, treatment, distribu-  
 10          tion, and disposal to provide more sustainability and  
 11          means to assist drinking water utilities in reducing  
 12          the production of greenhouse gas emissions in the  
 13          collection, production, transmission, treatment, dis-  
 14          tribution, and disposal of drinking water;

15          (10) water conservation and demand manage-  
 16          ment, including research—

17               (A) to develop strategic approaches to  
 18               water demand management that offer the low-  
 19               est-cost, noninfrastructural options to serve  
 20               growing populations or manage declining sup-  
 21               plies, primarily through—

22                   (i) efficiencies in water use and re-  
 23                   allocation of the saved water;

24                   (ii) demand management tools;

25                   (iii) economic incentives; and

1 (iv) water-saving technologies; and

2 (B) into efficiencies in water management  
3 through integrated water resource management  
4 that incorporates—

5 (i) supply-side and demand-side pro-  
6 cesses;

7 (ii) continuous adaptive management;  
8 and

9 (iii) the inclusion of stakeholders in  
10 decisionmaking processes; and

11 (11) communications, education, and public ac-  
12 ceptance, including research—

13 (A) into improved strategies and ap-  
14 proaches for communicating with customers, de-  
15 cisionmakers, and other stakeholders about the  
16 implications of climate change on water supply  
17 and water management;

18 (B) to develop effective communication ap-  
19 proaches—

20 (i) to gain public acceptance of alter-  
21 native water supplies and new policies and  
22 practices, including conservation and de-  
23 mand management; and

24 (ii) to gain public recognition and ac-  
25 ceptance of increased costs; and



1           (C) to create and maintain a clearinghouse  
 2           of climate change information for water utili-  
 3           ties, academic researchers, stakeholders, gov-  
 4           ernment agencies, and research organizations.

5           (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
 6 authorized to be appropriated to carry out this section  
 7 \$25,000,000 for each of fiscal years 2010 through 2020.

8           **TITLE III—TRANSITION AND**  
 9           **ADAPTATION**  
 10          **Subtitle A—Green Jobs and Worker**  
 11          **Transition**

12          **PART 1—GREEN JOBS**

13          **SEC. 301. CLEAN ENERGY CURRICULUM DEVELOPMENT**  
 14          **GRANTS.**

15          (a) AUTHORIZATION.—The Secretary of Education is  
 16 authorized to award grants, on a competitive basis, to eli-  
 17 gible partnerships to develop programs of study (con-  
 18 taining the information described in section 122(c)(1)(A)  
 19 of the Carl D. Perkins Career and Technical Education  
 20 Act of 2006 (20 U.S.C. 2342)), that are focused on emerg-  
 21 ing careers and jobs in the fields of clean energy, renew-  
 22 able energy, energy efficiency, climate change mitigation,  
 23 and climate change adaptation. The Secretary of Edu-  
 24 cation shall consult with the Secretary of Labor and the

1 Secretary of Energy prior to the issuance of a solicitation  
2 for grant applications.

3 (b) ELIGIBLE PARTNERSHIPS.—For purposes of this  
4 section, an eligible partnership shall include—

5 (1) at least 1 local educational agency eligible  
6 for funding under section 131 of the Carl D. Per-  
7 kins Career and Technical Education Act of 2006  
8 (20 U.S.C. 2351) or an area career and technical  
9 education school or education service agency de-  
10 scribed in such section;

11 (2) at least 1 postsecondary institution eligible  
12 for funding under section 132 of such Act (20  
13 U.S.C. 2352); and

14 (3) representatives of the community including  
15 business, labor organizations, and industry that have  
16 experience in fields as described in subsection (a).

17 (c) APPLICATION.—An eligible partnership seeking a  
18 grant under this section shall submit an application to the  
19 Secretary at such time and in such manner as the Sec-  
20 retary may require. Applications shall include—

21 (1) a description of the eligible partners and  
22 partnership, the roles and responsibilities of each  
23 partner, and a demonstration of each partner's ca-  
24 pacity to support the program;

1           (2) a description of the career area or areas  
2           within the fields as described in subsection (a) to be  
3           developed, the reason for the choice, and evidence of  
4           the labor market need to prepare students in that  
5           area;

6           (3) a description of the new or existing program  
7           of study and both secondary and postsecondary com-  
8           ponents;

9           (4) a description of the students to be served by  
10          the new program of study;

11          (5) a description of how the program of study  
12          funded by the grant will be replicable and dissemi-  
13          nated to schools outside of the partnership, including  
14          urban and rural areas;

15          (6) a description of applied learning that will be  
16          incorporated into the program of study and how it  
17          will incorporate or reinforce academic learning;

18          (7) a description of how the program of study  
19          will be delivered;

20          (8) a description of how the program will pro-  
21          vide accessibility to students, especially economically  
22          disadvantaged, low performing, and urban and rural  
23          students;

24          (9) a description of how the program will ad-  
25          dress placement of students in nontraditional fields

1 as described in section 3(20) of the Carl D. Perkins  
2 Career and Technical Education Act of 2006 (20  
3 U.S.C. 2302(20)); and

4 (10) a description of how the applicant proposes  
5 to consult or has consulted with a labor organiza-  
6 tion, labor management partnership, apprenticeship  
7 program, or joint apprenticeship and training pro-  
8 gram that provides education and training in the  
9 field of study for which the applicant proposes to de-  
10 velop a curriculum.

11 (d) PRIORITY.—The Secretary shall give priority to  
12 applications that—

13 (1) use online learning or other innovative  
14 means to deliver the program of study to students,  
15 educators, and instructors outside of the partner-  
16 ship; and

17 (2) focus on low performing students and spe-  
18 cial populations as defined in section 3(29) of the  
19 Carl D. Perkins Career and Technical Education  
20 Act of 2006 (20 U.S.C. 2302(29)).

21 (e) PEER REVIEW.—The Secretary shall convene a  
22 peer review process to review applications for grants under  
23 this section and to make recommendations regarding the  
24 selection of grantees. Members of the peer review com-  
25 mittee shall include—

1           (1) educators who have experience imple-  
2           menting curricula with comparable purposes; and

3           (2) business and industry experts in fields as  
4           described in subsection (a).

5           (f) USES OF FUNDS.—Grants awarded under this  
6           section shall be used for the development, implementation,  
7           and dissemination of programs of study (as described in  
8           section 122(c)(1)(A) of the Carl D. Perkins Career and  
9           Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in  
10          career areas related to clean energy, renewable energy, en-  
11          ergy efficiency, climate change mitigation, and climate  
12          change adaptation.

13   **SEC. 302. DEVELOPMENT OF INFORMATION AND RE-**  
14                   **SOURCES CLEARINGHOUSE FOR VOCA-**  
15                   **TIONAL EDUCATION AND JOB TRAINING IN**  
16                   **RENEWABLE ENERGY SECTORS.**

17          (a) DEVELOPMENT OF CLEARINGHOUSE.—Not later  
18          than 18 months after the date of enactment of this Act,  
19          the Secretary of Labor, in collaboration with the Secretary  
20          of Energy and the Secretary of Education, shall develop  
21          an internet based information and resources clearinghouse  
22          to aid career and technical education and job training pro-  
23          grams for the renewable energy sectors. In establishing  
24          the clearinghouse, the Secretary shall—

1           (1) collect and provide information that ad-  
2       dresses the consequences of rapid changes in tech-  
3       nology and regional disparities for renewable energy  
4       training programs and provides best practices for  
5       training and education in light of such changes and  
6       disparities;

7           (2) place an emphasis on facilitating collabora-  
8       tion between the renewable energy industry and job  
9       training programs and on identifying industry and  
10      technological trends and best practices, to better  
11      help job training programs maintain quality and rel-  
12      evance; and

13          (3) place an emphasis on assisting programs  
14      that cater to high-demand middle-skill, trades, man-  
15      ufacturing, contracting, and consulting careers.

16      (b) SOLICITATION AND CONSULTATION.—In devel-  
17   oping the clearinghouse pursuant to subsection (a), the  
18   Secretary shall solicit information and expertise from busi-  
19   nesses and organizations in the renewable energy sector  
20   and from institutions of higher education, career and tech-  
21   nical schools, and community colleges that provide train-  
22   ing in the renewable energy sectors. The Secretary shall  
23   solicit a comprehensive peer review of the clearinghouse  
24   by such entities not less than once every 2 years. Nothing

1 in this subsection should be interpreted to require the di-  
 2 vulgence of proprietary or competitive information.

3 ~~(c) CONTENTS OF CLEARINGHOUSE.—~~

4 ~~(1) SEPARATE SECTION FOR EACH RENEWABLE~~  
 5 ~~ENERGY SECTOR.—~~The clearinghouse shall contain  
 6 separate sections developed for each of the following  
 7 renewable energy sectors:

8 ~~(A) Solar energy systems.~~

9 ~~(B) Wind energy systems.~~

10 ~~(C) Energy transmission systems.~~

11 ~~(D) Geothermal systems of energy and~~  
 12 ~~heating.~~

13 ~~(E) Energy efficiency technical training.~~

14 ~~(2) ADDITIONAL REQUIREMENTS.—~~In addition  
 15 ~~to the information required in subsection (a), each~~  
 16 ~~section of the clearinghouse shall include information~~  
 17 ~~on basic environmental science and processes needed~~  
 18 ~~to understand renewable energy systems; Federal~~  
 19 ~~government and industry resources; and points of~~  
 20 ~~contact to aid institutions in the development of~~  
 21 ~~placement programs for apprenticeships and post~~  
 22 ~~graduation opportunities; and information and tips~~  
 23 ~~about a green workplace; energy efficiency; and rel-~~  
 24 ~~evant environmental topics and information on avail-~~  
 25 ~~able industry recognized certifications in each area.~~

1       (d) DISSEMINATION.—The clearinghouse shall be  
 2 made available via the Internet to the general public. No-  
 3 tice of the completed clearinghouse and any major revi-  
 4 sions thereto shall also be provided—

5           (1) to each Member of Congress; and

6           (2) on the websites of the Departments of Edu-  
 7 cation, Energy, and Labor.

8       (e) REVISION.—The Secretary of Labor shall revise  
 9 and update the clearinghouse on a regular basis to ensure  
 10 its relevance.

11 **SEC. 303. GREEN CONSTRUCTION CAREERS DEMONSTRA-**  
 12 **TION PROJECT.**

13       (a) ESTABLISHMENT AND AUTHORITY.—The Sec-  
 14 retary of Labor, in consultation with the Secretary of En-  
 15 ergy, shall, not later than 180 days after the enactment  
 16 of this Act, establish a Green Construction Careers dem-  
 17 onstration project by rules, regulations, and guidance in  
 18 accordance with the provisions of this section. The purpose  
 19 of the demonstration project shall be to promote middle  
 20 class careers and quality employment practices in the  
 21 green construction sector among targeted workers and to  
 22 advance efficiency and performance on construction  
 23 projects related to this Act. In order to advance these pur-  
 24 poses, the Secretary shall identify projects, including resi-  
 25 dential retrofitting projects, funded directly by or assisted



1 in whole or in part by or through the Federal Government  
2 pursuant to this Act or by any other entity established  
3 in accordance with this Act, to which all of the following  
4 shall apply.

5 (b) REQUIREMENTS.—The Secretaries may establish  
6 such terms and conditions for the demonstration projects  
7 as the Secretaries determine are necessary to meet the  
8 purposes of subsection (a), including establishing min-  
9 imum proportions of hours to be worked by targeted work-  
10 ers on such projects. The Secretaries may require the con-  
11 tractors and subcontractors performing construction serv-  
12 ices on the project to comply with the terms and conditions  
13 as a condition of receiving funding or assistance from the  
14 Federal Government under this Act.

15 (c) EVALUATION.—The Secretaries shall evaluate the  
16 demonstration projects against the purposes of this section  
17 at the end of 3 years from initiation of the demonstration  
18 project. If the Secretaries determine that the demonstra-  
19 tion projects have been successful, the Secretaries may  
20 identify further projects to which of the provisions of this  
21 section shall apply.

22 (d) GAO REPORT.—The Comptroller General shall  
23 prepare and submit a report to the Committee on Health,  
24 Education, Labor, and Pensions and the Committee on  
25 Energy and Natural Resources of the Senate and the

1 Committee on Education and Labor and the Committee  
 2 on Energy and Commerce of the House of Representatives  
 3 not later than 5 years after the date of enactment of this  
 4 Act, which shall advise the committees of the results of  
 5 the demonstration projects and make appropriate rec-  
 6 ommendations.

7 (e) DEFINITION AND DESIGNATION OF TARGETED  
 8 WORKERS.—As used in this section, the term “targeted  
 9 worker” means an individual who resides in the same  
 10 labor market area (as defined in section 101(18) of the  
 11 Workforce Investment Act of 1998 (29 U.S.C. 2801(18)))  
 12 as the project and who—

13 (1) is a member of a targeted group, within the  
 14 meaning of section 51 of the Internal Revenue Code  
 15 of 1986, other than an individual described in sub-  
 16 section (d)(1)(C) of such section;

17 (2)(A) resides in a census tract in which not  
 18 less than 20 percent of the households have incomes  
 19 below the Federal poverty guidelines; or

20 (B) is a member of a family that received a  
 21 total family income that, during the 2-year period  
 22 prior to employment on the project or admission to  
 23 the pre-apprenticeship program, did not exceed 200  
 24 percent of the Federal poverty guidelines (exclusive  
 25 of unemployment compensation, child support pay-

1       ments, payments described in section 101(25)(A) of  
 2       the Workforce Investment Act (29 U.S.C.  
 3       2801(25)(A)); and old-age and survivors insurance  
 4       benefits received under section 202 of the Social Se-  
 5       curity Act (42 U.S.C. 402); or

6       (3) is a displaced homemaker, as such term is  
 7       defined in section 3(10) of the Carl D. Perkins Ca-  
 8       reer and Technical Education Act of 2006 (20  
 9       U.S.C. 2302(10)).

10       (f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A  
 11       qualified pre-apprenticeship program is a pre-apprentice-  
 12       ship program that has demonstrated an ability to recruit,  
 13       train, and prepare for admission to apprenticeship pro-  
 14       grams individuals who are targeted workers.

15       (g) QUALIFIED APPRENTICESHIP AND OTHER  
 16       TRAINING PROGRAMS.—

17       (1) PARTICIPATION BY EACH CONTRACTOR RE-  
 18       QUIRED.—Each contractor and subcontractor that  
 19       seeks to provide construction services on projects  
 20       identified by the Secretaries pursuant to subsection  
 21       (a) shall submit adequate assurances with its bid or  
 22       proposal that it participates in a qualified appren-  
 23       ticeship or other training program, with a written  
 24       arrangement with a qualified pre-apprenticeship pro-  
 25       gram, for each craft or trade classification of worker

1 that it intends to employ to perform work on the  
 2 project.

3 ~~(2) DEFINITION OF QUALIFIED APPRENTICE~~  
 4 ~~SHIP OR OTHER TRAINING PROGRAM.—~~

5 (A) IN GENERAL.—For purposes of this  
 6 section, the term “qualified apprenticeship or  
 7 other training program” means an apprentice-  
 8 ship or other training program that qualifies as  
 9 an employee welfare benefit plan, as defined in  
 10 section 3(1) of the Employee Retirement In-  
 11 come Security Act of 1974 (29 U.S.C.  
 12 1002(1)).

13 (B) CERTIFICATION OF OTHER PROGRAMS  
 14 IN CERTAIN LOCALITIES.—In the event that the  
 15 Secretary of Labor certifies that a qualified ap-  
 16 prenticeship or other training program (as de-  
 17 fined in subparagraph (A)) for a craft or trade  
 18 classification of workers that a prospective con-  
 19 tractor or subcontractor intends to employ, is  
 20 not operated in the locality where the project  
 21 will be performed, an apprenticeship or other  
 22 training program that is not an employee wel-  
 23 fare benefit plan (as defined in such section)  
 24 may be certified by the Secretary as a qualified  
 25 apprenticeship or other training program pro-

vided it is registered with the Office of Apprenticeship of the Department of Labor, or a State apprenticeship agency recognized by the Office of Apprenticeship for Federal purposes.

(h) FACILITATING COMPLIANCE.—The Secretary may require Federal contracting agencies, recipients of Federal assistance, and any other entity established in accordance with this Act to require contractors to enter into an agreement in a manner comparable with the standards set forth in sections 3 and 4 of Executive Order 13502 in order to achieve the purposes of this section, including any requirements established by subsection (b).

(i) LIMITATION.—The requirements of this section shall not apply to any project funded under this Act in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the United States Virgin Islands, unless participation is requested by the governor of such territories within 1 year of the promulgation of rules under this Act.

## **PART 2—CLIMATE CHANGE WORKER**

### **ADJUSTMENT ASSISTANCE**

#### **SEC. 311. PETITIONS, ELIGIBILITY REQUIREMENTS, AND DETERMINATIONS.**

(a) PETITIONS.—

1           (1) FILING.—A petition for certification of eli-  
 2           gibility to apply for adjustment assistance for a  
 3           group of workers under this part may be filed by  
 4           any of the following:

5                   (A) The group of workers.

6                   (B) The certified or recognized union or  
 7           other duly authorized representative of such  
 8           workers.

9                   (C) Employers of such workers, one-stop  
 10          operators or one-stop partners (as defined in  
 11          section 101 of the Workforce Investment Act of  
 12          1998 (29 U.S.C. 2801)), including State em-  
 13          ployment security agencies, or the State dis-  
 14          located worker unit established under title I of  
 15          such Act, on behalf of such workers.

16          The petition shall be filed simultaneously with the  
 17          Secretary of Labor and with the Governor of the  
 18          State in which such workers' employment site is lo-  
 19          cated.

20          (2) ACTION BY GOVERNORS.—Upon receipt of a  
 21          petition filed under paragraph (1), the Governor  
 22          shall—

23                   (A) ensure that rapid response activities  
 24          and appropriate core and intensive services (as  
 25          described in section 134 of the Workforce In-

1 vestment Act of 1998 (29 U.S.C. 2864)) au-  
 2 thorized under other Federal laws are made  
 3 available to the workers covered by the petition  
 4 to the extent authorized under such laws; and

5 (B) assist the Secretary in the review of  
 6 the petition by verifying such information and  
 7 providing such other assistance as the Secretary  
 8 may request.

9 ~~(3) ACTION BY THE SECRETARY.~~—Upon receipt  
 10 of the petition, the Secretary shall promptly publish  
 11 notice in the Federal Register and on the website of  
 12 the Department of Labor that the Secretary has re-  
 13 ceived the petition and initiated an investigation.

14 ~~(4) HEARINGS.~~—If the petitioner, or any other  
 15 person found by the Secretary to have a substantial  
 16 interest in the proceedings, submits not later than  
 17 10 days after the date of the Secretary's publication  
 18 under paragraph ~~(3)~~ a request for a hearing, the  
 19 Secretary shall provide for a public hearing and af-  
 20 ford such interested persons an opportunity to be  
 21 present, to produce evidence, and to be heard.

22 ~~(b) ELIGIBILITY.~~—

23 ~~(1) IN GENERAL.~~—A group of workers shall be  
 24 certified by the Secretary as eligible to apply for ad-

1       justment assistance under this part pursuant to a  
2       petition filed under subsection (a) if—

3               (A) the group of workers is employed in—

4                       (i) energy producing and transforming  
5                       industries;

6                       (ii) industries dependent upon energy  
7                       industries;

8                       (iii) energy-intensive manufacturing  
9                       industries;

10                      (iv) consumer goods manufacturing;

11                      or

12                      (v) other industries whose employment  
13                      the Secretary determines has been ad-  
14                      versely affected by any requirement of title  
15                      VII of the Clean Air Act;

16               (B) the Secretary determines that a sig-  
17               nificant number or proportion of the workers in  
18               such workers' employment site have become to-  
19               tally or partially separated, or are threatened to  
20               become totally or partially separated from em-  
21               ployment; and

22               (C) the sales, production, or delivery of  
23               goods or services have decreased as a result of  
24               any requirement of title VII of the Clean Air  
25               Act, including—



1 (i) the shift from reliance upon fossil  
2 fuels to other sources of energy, including  
3 renewable energy, that results in the clos-  
4 ing of a facility or layoff of employees at  
5 a facility that mines, produces, processes,  
6 or utilizes fossil fuels to generate elec-  
7 tricity;

8 (ii) a substantial increase in the cost  
9 of energy required for a manufacturing fa-  
10 cility to produce items whose prices are  
11 competitive in the marketplace, to the ex-  
12 tent the cost is not offset by assistance  
13 provided to the facility pursuant to title  
14 VII of the Clean Air Act; or

15 (iii) other documented occurrences  
16 that the Secretary determines are indica-  
17 tors of an adverse impact on an industry  
18 described in subparagraph (A) as a result  
19 of any requirement of title VII of the  
20 Clean Air Act.

21 ~~(2) WORKERS IN PUBLIC AGENCIES.~~—A group  
22 of workers in a public agency shall be certified by  
23 the Secretary as eligible to apply for climate change  
24 adjustment assistance pursuant to a petition filed if  
25 the Secretary determines that a significant number

1 or proportion of the workers in the public agency  
 2 have become totally or partially separated from em-  
 3 ployment, or are threatened to become totally or  
 4 partially separated as a result of any requirement of  
 5 title VII of the Clean Air Act.

6 ~~(3) ADVERSELY AFFECTED SERVICE WORK-~~  
 7 ~~ERS.—~~A group of workers shall be certified as eligi-  
 8 ble to apply for climate change adjustment assist-  
 9 ance pursuant to a petition filed if the Secretary de-  
 10 termines that—

11 (A) a significant number or proportion of  
 12 the service workers at an employment site  
 13 where a group of workers has been certified by  
 14 the Secretary as eligible to apply for adjustment  
 15 assistance under this part pursuant to para-  
 16 graph (1) have become totally or partially sepa-  
 17 rated from employment, or are threatened to  
 18 become totally or partially separated; and

19 (B) a loss of business in the firm providing  
 20 service workers to an employment site is di-  
 21 rectly attributable to one or more of the docu-  
 22 mented occurrences listed in paragraph (1)(C).

23 ~~(c) AUTHORITY TO INVESTIGATE AND COLLECT IN-~~  
 24 ~~FORMATION.—~~

1           ~~(1) IN GENERAL.—~~The Secretary shall, in de-  
 2           termining whether to certify a group of workers  
 3           under subsection (d), obtain information the Sec-  
 4           retary determines to be necessary to make the cer-  
 5           tification, through questionnaires and in such other  
 6           manner as the Secretary determines appropriate  
 7           from—

8                       (A) the workers' employer;

9                       (B) officials of certified or recognized  
 10           unions or other duly authorized representatives  
 11           of the group of workers; or

12                      (C) one-stop operators or one-stop partners  
 13           (as defined in section 101 of the Workforce In-  
 14           vestment Act of 1998 (29 U.S.C. 2801)).

15           ~~(2) VERIFICATION OF INFORMATION.—~~The Sec-  
 16           retary shall require an employer, union, or one-stop  
 17           operator or partner to certify all information ob-  
 18           tained under paragraph (1) from the employer,  
 19           union, or one-stop operator or partner (as the case  
 20           may be) on which the Secretary relies in making a  
 21           determination under subsection (d), unless the Sec-  
 22           retary has a reasonable basis for determining that  
 23           such information is accurate and complete without  
 24           being certified.

1           ~~(3) PROTECTION OF CONFIDENTIAL INFORMA-~~  
2           ~~TION.—~~The Secretary may not release information  
3           obtained under paragraph ~~(1)~~ that the Secretary  
4           considers to be confidential business information un-  
5           less the employer submitting the confidential busi-  
6           ness information had notice, at the time of submis-  
7           sion, that the information would be released by the  
8           Secretary, or the employer subsequently consents to  
9           the release of the information. Nothing in this para-  
10          graph shall be construed to prohibit the Secretary  
11          from providing such confidential business informa-  
12          tion to a court in camera or to another party under  
13          a protective order issued by a court.

14          ~~(d) DETERMINATION BY THE SECRETARY OF~~  
15          ~~LABOR.—~~

16          ~~(1) IN GENERAL.—~~As soon as possible after the  
17          date on which a petition is filed under subsection  
18          ~~(a)~~, but in any event not later than 40 days after  
19          that date, the Secretary, in consultation with the  
20          Secretary of Energy and the Administrator, as nec-  
21          essary, shall determine whether the petitioning  
22          group meets the requirements of subsection ~~(b)~~ and  
23          shall issue a certification of eligibility to apply for  
24          assistance under this part covering workers in any  
25          group which meets such requirements. Each certifi-

1 eation shall specify the date on which the total or  
2 partial separation began or threatened to begin.  
3 Upon reaching a determination on a petition, the  
4 Secretary shall promptly publish a summary of the  
5 determination in the Federal Register and on the  
6 website of the Department of Labor, together with  
7 the Secretary's reasons for making such determina-  
8 tion.

9 ~~(2) ONE-YEAR LIMITATION.~~—A certification  
10 under this section shall not apply to any worker  
11 whose last total or partial separation from the em-  
12 ployment site before the worker's application under  
13 section ~~312~~(a) occurred more than 1 year before the  
14 date of the petition on which such certification was  
15 granted.

16 ~~(3) REVOCATION OF CERTIFICATION.~~—When-  
17 ever the Secretary determines, with respect to any  
18 certification of eligibility of the workers of an em-  
19 ployment site, that total or partial separations from  
20 such site are no longer a result of the factors speci-  
21 fied in subsection (b)(1), the Secretary shall termi-  
22 nate such certification and promptly have notice of  
23 such termination published in the Federal Register  
24 and on the website of the Department of Labor, to-  
25 gether with the Secretary's reasons for making such

1       determination. Such termination shall apply only  
2       with respect to total or partial separations occurring  
3       after the termination date specified by the Secretary.

4       (e) INDUSTRY NOTIFICATION OF ASSISTANCE.—

5       Upon receiving a notification of a determination under  
6       subsection (d) with respect to a domestic industry the Sec-  
7       retary of Labor shall notify the representatives of the do-  
8       mestic industry affected by the determination; employers  
9       publicly identified by name during the course of the pro-  
10      ceeding relating to the determination; and any certified  
11      or recognized union or, to the extent practicable, other  
12      duly authorized representative of workers employed by  
13      such representatives of the domestic industry, of—

14           (1) the adjustment assistance, training, and  
15           other benefits available under this part;

16           (2) the manner in which to file a petition and  
17           apply for such benefits;

18           (3) the availability of assistance in filing such  
19           petitions;

20           (4) notify the Governor of each State in which  
21           one or more employers in such industry are located  
22           of the Secretary's determination and the identity of  
23           the employers; and

24           (5) upon request, provide any assistance that is  
25           necessary to file a petition under subsection (a).

1       (f) BENEFIT INFORMATION TO WORKERS, PRO-  
2 VIDERS OF TRAINING.—

3           (1) IN GENERAL.—The Secretary shall provide  
4 full information to workers about the adjustment as-  
5 sistance, training, and other benefits available under  
6 this part and about the petition and application pro-  
7 cedures, and the appropriate filing dates, for such  
8 assistance, training and services. The Secretary shall  
9 provide whatever assistance is necessary to enable  
10 groups of workers to prepare petitions or applica-  
11 tions for program benefits. The Secretary shall make  
12 every effort to insure that cooperating State agen-  
13 cies fully comply with the agreements entered into  
14 under section 312(a) and shall periodically review  
15 such compliance. The Secretary shall inform the  
16 State Board for Vocational Education or equivalent  
17 agency, the one-stop operators or one-stop partners  
18 (as defined in section 101 of the Workforce Invest-  
19 ment Act of 1998 (29 U.S.C. 2801)), and other pub-  
20 lic or private agencies, institutions, and employers,  
21 as appropriate, of each certification issued under  
22 subsection (d) and of projections, if available, of the  
23 needs for training under as a result of such certifi-  
24 cation.

1           (2) NOTICE BY MAIL.—The Secretary shall pro-  
 2       vide written notice through the mail of the benefits  
 3       available under this part to each worker whom the  
 4       Secretary has reason to believe is covered by a cer-  
 5       tification made under subsection (d)—

6           (A) at the time such certification is made;  
 7       if the worker was partially or totally separated  
 8       from the adversely affected employment before  
 9       such certification; or

10          (B) at the time of the total or partial sepa-  
 11       ration of the worker from the adversely affected  
 12       employment, if subparagraph (A) does not  
 13       apply.

14          (3) NEWSPAPERS; WEBSITE.—The Secretary  
 15       shall publish notice of the benefits available under  
 16       this part to workers covered by each certification  
 17       made under subsection (d) in newspapers of general  
 18       circulation in the areas in which such workers reside  
 19       and shall make such information available on the  
 20       website of the Department of Labor.

21 **SEC. 312. PROGRAM BENEFITS.**

22       (a) CLIMATE CHANGE ADJUSTMENT ASSISTANCE.—

23           (1) ELIGIBILITY.—Payment of climate change  
 24       adjustment assistance shall be made to an adversely  
 25       affected worker covered by a certification under sec-



1       tion 311(b) who files an application for such assist-  
2       ance for any week of unemployment which begins on  
3       or after the date of such certification, if the fol-  
4       lowing conditions are met:

5               (A) Such worker's total or partial separa-  
6       tion before the worker's application under this  
7       part occurred—

8               (i) on or after the date, as specified in  
9       the certification under which the worker is  
10      covered, on which total or partial separa-  
11      tion began or threatened to begin in the  
12      adversely affected employment;

13              (ii) before the expiration of the 2-year  
14      period beginning on the date on which the  
15      determination under section 311(d) was  
16      made; and

17              (iii) before the termination date, if  
18      any, determined pursuant to section  
19      311(d)(3).

20              (B) Such worker had, in the 52-week pe-  
21      riod ending with the week in which such total  
22      or partial separation occurred, at least 26  
23      weeks of full-time employment or 1,040 hours  
24      of part time employment in adversely affected  
25      employment, or, if data with respect to weeks of

1 employment are not available, equivalent  
2 amounts of employment computed under regu-  
3 lations prescribed by the Secretary. For the  
4 purposes of this paragraph, any week in which  
5 such worker—

6 (i) is on employer-authorized leave for  
7 purposes of vacation, sickness, injury, ma-  
8 ternity, or inactive duty or active duty  
9 military service for training;

10 (ii) does not work because of a dis-  
11 ability that is compensable under a work-  
12 men's compensation law or plan of a State  
13 or the United States;

14 (iii) had his employment interrupted  
15 in order to serve as a full-time representa-  
16 tive of a labor organization in such firm; or

17 (iv) is on call-up for purposes of active  
18 duty in a reserve status in the Armed  
19 Forces of the United States, provided such  
20 active duty is "Federal service" as defined  
21 in section 8521(a)(1) of title 5, United  
22 States Code,

23 shall be treated as a week of employment.

1           (C) Such worker is enrolled in a training  
 2           program approved by the Secretary under sub-  
 3           section (b)(2).

4           (2) INELIGIBILITY FOR CERTAIN OTHER BENE-  
 5           FITS.—An adversely affected worker receiving a pay-  
 6           ment under this section shall be ineligible to receive  
 7           any other form of unemployment insurance for the  
 8           period in which such worker is receiving climate  
 9           change adjustment assistance under this section.

10          (3) REVOCATION.—If—

11           (A) the Secretary determines that—

12               (i) the adversely affected worker—

13                   (I) has failed to begin participa-  
 14                   tion in the training program the en-  
 15                   rollment in which meets the require-  
 16                   ment of paragraph (1)(C); or

17                   (II) has ceased to participate in  
 18                   such training program before com-  
 19                   pleting such training program; and

20               (ii) there is no justifiable cause for  
 21               such failure or cessation; or

22           (B) the certification made with respect to  
 23           such worker under section 311(d) is revoked  
 24           under paragraph (3) of such section;

1 no adjustment assistance may be paid to the ad-  
 2 versely affected worker under this part for the week  
 3 in which such failure, cessation, or revocation oc-  
 4 curred, or any succeeding week, until the adversely  
 5 affected worker begins or resumes participation in a  
 6 training program approved by the Secretary under  
 7 subsection (b)(2).

8 (4) ~~WAIVERS OF TRAINING REQUIREMENTS.—~~

9 The Secretary may issue a written statement to an  
 10 adversely affected worker waiving the requirement to  
 11 be enrolled in training described in subsection (b)(2)  
 12 if the Secretary determines that it is not feasible or  
 13 appropriate for the worker, because of 1 or more of  
 14 the following reasons:

15 (A) ~~RECALL.—~~The worker has been noti-

16 fied that the worker will be recalled by the em-  
 17 ployer from which the separation occurred.

18 (B) ~~MARKETABLE SKILLS.—~~

19 (i) ~~IN GENERAL.—~~The worker pos-

20 sesses marketable skills for suitable em-  
 21 ployment (as determined pursuant to an  
 22 assessment of the worker, which may in-  
 23 clude the profiling system under section  
 24 303(j) of the Social Security Act (42  
 25 U.S.C. 503(j)), carried out in accordance

with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

(ii) MARKETABLE SKILLS DEFINED.—

For purposes of clause (i), the term “marketable skills” may include the possession of a postgraduate degree from an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) or an equivalent institution, or the possession of an equivalent postgraduate certification in a specialized field.

(C) RETIREMENT.—The worker is within 2 years of meeting all requirements for entitlement to either—

(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor); or

(ii) a private pension sponsored by an employer or labor organization.

(D) HEALTH.—The worker is unable to participate in training due to the health of the

1 worker, except that a waiver under this sub-  
2 paragraph shall not be construed to exempt a  
3 worker from requirements relating to the avail-  
4 ability for work, active search for work, or re-  
5 fusals to accept work under Federal or State un-  
6 employment compensation laws.

7 (E) ENROLLMENT UNAVAILABLE.—The  
8 first available enrollment date for the training  
9 of the worker is within 60 days after the date  
10 of the determination made under this para-  
11 graph, or, if later, there are extenuating cir-  
12 cumstances for the delay in enrollment, as de-  
13 termined pursuant to guidelines issued by the  
14 Secretary.

15 (F) TRAINING NOT AVAILABLE.—Training  
16 described in subsection (b)(2) is not reasonably  
17 available to the worker from either govern-  
18 mental agencies or private sources (which may  
19 include area career and technical education  
20 schools, as defined in section 3 of the Carl D.  
21 Perkins Career and Technical Education Act of  
22 2006 (20 U.S.C. 2302), and employers), no  
23 training that is suitable for the worker is avail-  
24 able at a reasonable cost, or no training funds  
25 are available.

1           ~~(5) WEEKLY AMOUNTS.—~~The climate change  
 2           adjustment assistance payable to an adversely af-  
 3           fected worker for a week of unemployment shall be  
 4           an amount equal to 70 percent of the average weekly  
 5           wage of such worker, but in no case shall such  
 6           amount exceed the average weekly wage for all work-  
 7           ers in the State where the adversely affected worker  
 8           resides.

9           ~~(6) MAXIMUM DURATION OF BENEFITS.—~~An el-  
 10          igible worker may receive a climate change adjust-  
 11          ment assistance under this subsection for a period of  
 12          not longer than ~~156~~ weeks.

13       ~~(b) EMPLOYMENT SERVICES AND TRAINING.—~~

14           ~~(1) INFORMATION AND EMPLOYMENT SERV-~~  
 15          ICES.—The Secretary shall make available, directly  
 16          or through agreements with the States under section  
 17          ~~313(a)~~ to adversely affected workers covered by a  
 18          certification under section ~~311(a)~~ the following in-  
 19          formation and employment services:

20                   ~~(A) Comprehensive and specialized assess-~~  
 21                   ment of skill levels and service needs, including  
 22                   through—

23                           ~~(i) diagnostic testing and use of other~~  
 24                           assessment tools; and

1                   (ii) in-depth interviewing and evalua-  
2                   tion to identify employment barriers and  
3                   appropriate employment goals.

4                   (B) Development of an individual employ-  
5                   ment plan to identify employment goals and ob-  
6                   jectives, and appropriate training to achieve  
7                   those goals and objectives.

8                   (C) Information on training available in  
9                   local and regional areas, information on indi-  
10                  vidual counseling to determine which training is  
11                  suitable training, and information on how to  
12                  apply for such training.

13                  (D) Information on training programs and  
14                  other services provided by a State pursuant to  
15                  title I of the Workforce Investment Act of 1998  
16                  (29 U.S.C. 2801 et seq.) and available in local  
17                  and regional areas, information on individual  
18                  counseling to determine which training is suit-  
19                  able training, and information on how to apply  
20                  for such training.

21                  (E) Information on how to apply for finan-  
22                  cial aid, including referring workers to edu-  
23                  cational opportunity centers described in section  
24                  402F of the Higher Education Act of 1965 (20  
25                  U.S.C. 1070a-16), where applicable, and noti-



1       fying workers that the workers may request fi-  
2       nancial aid administrators at institutions of  
3       higher education (as defined in section 102 of  
4       such Act (20 U.S.C. 1002)) to use the adminis-  
5       trators' discretion under section 479A of such  
6       Act (20 U.S.C. 1087tt) to use current year in-  
7       come data, rather than preceding year income  
8       data, for determining the amount of need of the  
9       workers for Federal financial assistance under  
10      title IV of such Act (20 U.S.C. 1070 et seq.).

11       (F) Short-term prevocational services, in-  
12      cluding development of learning skills, commu-  
13      nications skills, interviewing skills, punctuality,  
14      personal maintenance skills, and professional  
15      conduct to prepare individuals for employment  
16      or training.

17       (G) Individual career counseling, including  
18      job search and placement counseling, during the  
19      period in which the individual is receiving cli-  
20      mate change adjustment assistance or training  
21      under this part, and after receiving such train-  
22      ing for purposes of job placement.

23       (H) Provision of employment statistics in-  
24      formation, including the provision of accurate

information relating to local, regional, and national labor market areas, including—

(i) job vacancy listings in such labor market areas;

(ii) information on jobs skills necessary to obtain jobs identified in job vacancy listings described in subparagraph (A);

(iii) information relating to local occupations that are in demand and earnings potential of such occupations; and

(iv) skills requirements for local occupations described in subparagraph (C).

(I) Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.

(2) TRAINING.—

(A) APPROVAL OF AND PAYMENT FOR TRAINING.—If the Secretary determines, with respect to an adversely affected worker that—

(i) there is no suitable employment (which may include technical and profes-

1           sional employment) available for an ad-  
2           versely affected worker;

3           (ii) the worker would benefit from ap-  
4           propriate training;

5           (iii) there is a reasonable expectation  
6           of employment following completion of  
7           such training;

8           (iv) training approved by the Sec-  
9           retary is reasonably available to the worker  
10          from either governmental agencies or pri-  
11          vate sources (including area career and  
12          technical education schools, as defined in  
13          section 3 of the Carl D. Perkins Career  
14          and Technical Education Act of 2006 (20  
15          U.S.C. 2302), and employers);

16          (v) the worker is qualified to under-  
17          take and complete such training; and

18          (vi) such training is suitable for the  
19          worker and available at a reasonable cost;  
20          the Secretary shall approve such training for  
21          the worker. Upon such approval, the worker  
22          shall be entitled to have payment of the costs  
23          of such training (subject to the limitations im-  
24          posed by this section) paid on the worker's be-

1 half by the Secretary directly or through a  
2 voucher system.

3 (B) DISTRIBUTION.—The Secretary shall  
4 establish procedures for the distribution of the  
5 funds to States to carry out the training pro-  
6 grams approved under this paragraph, and shall  
7 make an initial distribution of the funds made  
8 available as soon as practicable after the begin-  
9 ning of each fiscal year.

10 (C) ADDITIONAL RULES REGARDING AP-  
11 PROVAL OF AND PAYMENT FOR TRAINING.—

12 (i) For purposes of applying subpara-  
13 graph (A)(iii), a reasonable expectation of  
14 employment does not require that employ-  
15 ment opportunities for a worker be avail-  
16 able, or offered, immediately upon the  
17 completion of training approved under  
18 such subparagraph.

19 (ii) If the costs of training an ad-  
20 versely affected worker are paid by the  
21 Secretary under subparagraph (A), no  
22 other payment for such costs may be made  
23 under any other provision of Federal law.  
24 No payment may be made under subpara-  
25 graph (A) of the costs of training an ad-

1           versely affected worker or an adversely af-  
2           fected incumbent worker if such costs—

3                   (I) have already been paid under  
4                   any other provision of Federal law; or

5                   (II) are reimbursable under any  
6                   other provision of Federal law and a  
7                   portion of such costs have already  
8                   been paid under such other provision  
9                   of Federal law.

10          The provisions of this clause shall not  
11          apply to, or take into account, any funds  
12          provided under any other provision of Fed-  
13          eral law which are used for any purpose  
14          other than the direct payment of the costs  
15          incurred in training a particular adversely  
16          affected worker, even if such use has the  
17          effect of indirectly paying or reducing any  
18          portion of the costs involved in training the  
19          adversely affected worker.

20          (D) TRAINING PROGRAMS.—The training  
21          programs that may be approved under subpara-  
22          graph (A) include—

23                   (i) employer-based training, includ-  
24                   ing—

1                   (I) ~~on-the-job training if ap-~~  
2                   proved by the Secretary under sub-  
3                   section (e); and

4                   (II) ~~joint labor-management ap-~~  
5                   prenticeship programs;

6                   (ii) any training program provided by  
7                   a State pursuant to title I of the Work-  
8                   force Investment Act of 1998 (29 U.S.C.  
9                   2801 et seq.);

10                  (iii) any programs in career and tech-  
11                  nical education described in section 3(5) of  
12                  the Carl D. Perkins Career and Technical  
13                  Education Act of 2006 (20 U.S.C.  
14                  2302(5));

15                  (iv) any program of remedial edu-  
16                  cation;

17                  (v) any program of prerequisite edu-  
18                  cation or coursework required to enroll in  
19                  training that may be approved under this  
20                  paragraph;

21                  (vi) any training program for which  
22                  all, or any portion, of the costs of training  
23                  the worker are paid—

24                   (I) under any Federal or State  
25                   program other than this part; or

1 (II) from any source other than  
2 this part;

3 (vii) any training program or  
4 coursework at an accredited institution of  
5 higher education (described in section 102  
6 of the Higher Education Act of 1965 (20  
7 U.S.C. 1002)); including a training pro-  
8 gram or coursework for the purpose of—

9 (I) obtaining a degree or certifi-  
10 cation; or

11 (II) completing a degree or cer-  
12 tification that the worker had pre-  
13 viously begun at an accredited institu-  
14 tion of higher education; and

15 (viii) any other training program ap-  
16 proved by the Secretary.

17 ~~(3) SUPPLEMENTAL ASSISTANCE.—~~The Sec-  
18 retary may, as appropriate, authorize supplemental  
19 assistance that is necessary to defray reasonable  
20 transportation and subsistence expenses for separate  
21 maintenance in a case in which training for a worker  
22 is provided in a facility that is not within commuting  
23 distance of the regular place of residence of the  
24 worker.

25 ~~(c) ON-THE-JOB TRAINING REQUIREMENTS.—~~

1           ~~(1) IN GENERAL.~~—The Secretary may approve  
 2           ~~on-the-job training for any adversely affected worker~~  
 3           ~~if—~~

4                   ~~(A) the Secretary determines that on-the-~~  
 5                   ~~job training—~~

6                           ~~(i) can reasonably be expected to lead~~  
 7                           ~~to suitable employment with the employer~~  
 8                           ~~offering the on-the-job training;~~

9                           ~~(ii) is compatible with the skills of the~~  
 10                          ~~worker;~~

11                          ~~(iii) includes a curriculum through~~  
 12                          ~~which the worker will gain the knowledge~~  
 13                          ~~or skills to become proficient in the job for~~  
 14                          ~~which the worker is being trained; and~~

15                          ~~(iv) can be measured by benchmarks~~  
 16                          ~~that indicate that the worker is gaining~~  
 17                          ~~such knowledge or skills; and~~

18                          ~~(B) the State determines that the on-the-~~  
 19                          ~~job training program meets the requirements of~~  
 20                          ~~clauses (iii) and (iv) of subparagraph (A).~~

21           ~~(2) MONTHLY PAYMENTS.~~—The Secretary shall  
 22           ~~pay the costs of on-the-job training approved under~~  
 23           ~~paragraph (1) in monthly installments.~~

24           ~~(3) CONTRACTS FOR ON-THE-JOB TRAINING.—~~



1           (A) ~~IN GENERAL.~~—The Secretary shall en-  
2           sure, in entering into a contract with an em-  
3           ployer to provide ~~on-the-job~~ training to a work-  
4           er under this subsection, that the skill require-  
5           ments of the job for which the worker is being  
6           trained, the academic and occupational skill  
7           level of the worker, and the work experience of  
8           the worker are taken into consideration.

9           (B) ~~TERM OF CONTRACT.~~—Training under  
10          any such contract shall be limited to the period  
11          of time required for the worker receiving on-  
12          the-job training to become proficient in the job  
13          for which the worker is being trained, but may  
14          not exceed 156 weeks in any case.

15          (4) ~~EXCLUSION OF CERTAIN EMPLOYERS.~~—The  
16          Secretary shall not enter into a contract for on-the-  
17          job training with an employer that exhibits a pattern  
18          of failing to provide workers receiving on-the-job  
19          training from the employer with—

20               (A) continued, long-term employment as  
21               regular employees; and

22               (B) wages, benefits, and working condi-  
23               tions that are equivalent to the wages, benefits,  
24               and working conditions provided to regular em-  
25               ployees who have worked a similar period of

1           time and are doing the same type of work as  
 2           workers receiving on-the-job training from the  
 3           employer.

4           ~~(d) ADMINISTRATIVE AND EMPLOYMENT SERVICES~~  
 5 ~~FUNDING.—~~

6           ~~(1) ADMINISTRATIVE FUNDING.—~~In addition to  
 7           any funds made available to a State to carry out this  
 8           section for a fiscal year, the State shall receive for  
 9           the fiscal year a payment in an amount that is equal  
 10          to 15 percent of the amount of such funds and  
 11          shall—

12                 ~~(A) use not more than  $\frac{2}{3}$  of such payment~~  
 13                 for the administration of the climate change ad-  
 14                 justment assistance for workers program under  
 15                 this part, including for—

16                         ~~(i) processing waivers of training re-~~  
 17                         quirements under subsection (a)(4); and

18                         ~~(ii) collecting, validating, and report-~~  
 19                         ing data required under this part; and

20                 ~~(B) use not less than  $\frac{1}{3}$  of such payment~~  
 21                 for information and employment services under  
 22                 subsection (b)(1).

23          ~~(2) EMPLOYMENT SERVICES FUNDING.—~~

24                 ~~(A) IN GENERAL.—~~In addition to any  
 25                 funds made available to a State to carry out

1 subsection (b)(2) and the payment under para-  
 2 graph (1) for a fiscal year, the Secretary shall  
 3 provide to the State for the fiscal year a reason-  
 4 able payment for the purpose of providing em-  
 5 ployment and services under subsection (b)(1).

6 ~~(B) VOLUNTARY RETURN OF FUNDS.—A~~  
 7 State that receives a payment under subpara-  
 8 graph (A) may decline or otherwise return such  
 9 payment to the Secretary.

10 ~~(c) JOB SEARCH ASSISTANCE.—~~The Secretary of  
 11 Labor may provide adversely affected workers one-time  
 12 job search assistance in accordance with regulations pre-  
 13 scribed by the Secretary. Any job search assistance pro-  
 14 vided shall be available only under the following cir-  
 15 cumstances and conditions:

16 ~~(1)~~ The worker is no longer eligible for the cli-  
 17 mate change adjustment assistance under subsection  
 18 ~~(a)~~ and has completed the training program required  
 19 by subsection (b)(1)(E).

20 ~~(2)~~ The Secretary determines that the worker  
 21 cannot reasonably be expected to secure suitable em-  
 22 ployment in the commuting area in which the worker  
 23 resides.

24 ~~(3)~~ Assistance granted shall provide reimburse-  
 25 ment to the worker of all necessary job search ex-

penses as prescribed by the Secretary in regulations.  
Such reimbursement under this subsection may not  
exceed \$1,500 for any worker.

~~(f) RELOCATION ASSISTANCE AUTHORIZED.—~~

~~(1) IN GENERAL.—Any adversely affected work-~~  
~~er covered by a certification issued under section~~  
~~311 may file an application for relocation assistance~~  
~~with the Secretary, and the Secretary may grant the~~  
~~relocation assistance, subject to the terms and condi-~~  
~~tions of this subsection.~~

~~(2) CONDITIONS FOR GRANTING ASSISTANCE.—~~  
~~Relocation assistance may be granted if all of the~~  
~~following terms and conditions are met:~~

~~(A) ASSIST AN ADVERSELY AFFECTED~~  
~~WORKER.—The relocation assistance will assist~~  
~~an adversely affected worker in relocating with-~~  
~~in the United States.~~

~~(B) LOCAL EMPLOYMENT NOT AVAIL-~~  
~~ABLE.—The Secretary determines that the~~  
~~worker cannot reasonably be expected to secure~~  
~~suitable employment in the commuting area in~~  
~~which the worker resides.~~

~~(C) TOTAL SEPARATION.—The worker is~~  
~~totally separated from employment at the time~~  
~~relocation commences.~~

~~(D) SUITABLE EMPLOYMENT OBTAINED.—~~

The worker—

(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

(ii) has obtained a bona fide offer of such employment.

~~(E) APPLICATION.—~~The worker filed an application with the Secretary at such time and in such manner as the Secretary shall specify by regulation.

~~(3) AMOUNT OF ASSISTANCE.—~~Relocation assistance granted to a worker under paragraph (1) includes—

(A) all reasonable and necessary expenses (including, subsistence and transportation expenses at levels not exceeding amounts prescribed by the Secretary in regulations) incurred in transporting the worker, the worker's family, and household effects; and

(B) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of \$1,500.

1           (4) LIMITATIONS.—Relocation assistance may  
2           not be granted to a worker unless—

3                   (A) the relocation occurs within 182 days  
4                   after the filing of the application for relocation  
5                   assistance; or

6                   (B) the relocation occurs within 182 days  
7                   after the conclusion of training, if the worker  
8                   entered a training program approved by the  
9                   Secretary under subsection (b)(2).

10          (g) HEALTH INSURANCE CONTINUATION.—Not later  
11          than 1 year after the date of enactment of this Act, the  
12          Secretary of Labor shall prescribe regulations to provide,  
13          for the period in which an adversely affected worker is  
14          participating in a training program described in sub-  
15          section (b)(2), 80 percent of the monthly premium of any  
16          health insurance coverage that an adversely affected work-  
17          er was receiving from such worker's employer prior to the  
18          separation from employment described in section 311(b),  
19          to be paid to any health care insurance plan designated  
20          by the adversely affected worker receiving assistance  
21          under this section.

22          **SEC. 313. GENERAL PROVISIONS.**

23          (a) AGREEMENTS WITH STATES.—

24                   (1) IN GENERAL.—The Secretary is authorized  
25                   on behalf of the United States to enter into an

1       agreement with any State, or with any State agency  
 2       (referred to in this section as “cooperating States”  
 3       and “cooperating State agencies” respectively).  
 4       Under such an agreement, the cooperating State or  
 5       cooperating State agency—

6               (A) as agent of the United States, shall re-  
 7       ceive applications for, and shall provide, pay-  
 8       ments on the basis provided in this part;

9               (B) in accordance with paragraph (6),  
 10       shall make available to adversely affected work-  
 11       ers covered by a certification under section  
 12       311(d) the employment services described in  
 13       section 312(b)(1);

14              (C) shall make any certifications required  
 15       under section 311(d); and

16              (D) shall otherwise cooperate with the Sec-  
 17       retary and with other State and Federal agen-  
 18       cies in providing payments and services under  
 19       this part.

20       Each agreement under this section shall provide the  
 21       terms and conditions upon which the agreement may  
 22       be amended, suspended, or terminated.

23              (2) FORM AND MANNER OF DATA.—Each  
 24       agreement under this section shall—

1           (A) provide the Secretary with the author-  
 2           ity to collect any data the Secretary determines  
 3           necessary to meet the requirements of this part;  
 4           and

5           (B) specify the form and manner in which  
 6           any such data requested by the Secretary shall  
 7           be reported.

8           (3) RELATIONSHIP TO UNEMPLOYMENT INSUR-  
 9           ANCE.—Each agreement under this section shall  
 10          provide that an adversely affected worker receiving  
 11          climate change adjustment assistance under this  
 12          part shall not be eligible for unemployment insur-  
 13          ance otherwise payable to such worker under the  
 14          laws of the State.

15          (4) REVIEW.—A determination by a cooper-  
 16          ating State agency with respect to entitlement to  
 17          program benefits under an agreement is subject to  
 18          review in the same manner and to the same extent  
 19          as determinations under the applicable State law  
 20          and only in that manner and to that extent.

21          (5) COORDINATION.—Any agreement entered  
 22          into under this section shall provide for the coordi-  
 23          nation of the administration of the provisions for  
 24          employment services, training, and supplemental as-  
 25          sistance under section 312 and under title I of the



1 Workforce Investment Act of 1998 (29 U.S.C. 2801  
 2 et seq.) upon such terms and conditions as are es-  
 3 tablished by the Secretary in consultation with the  
 4 States and set forth in such agreement. Any agency  
 5 of the State jointly administering such provisions  
 6 under such agreement shall be considered to be a co-  
 7 operating State agency for purposes of this part.

8 (6) RESPONSIBILITIES OF COOPERATING AGEN-  
 9 CIES.—Each cooperating State agency shall, in ear-  
 10 rying out paragraph (1)(B)—

11 (A) advise each worker who applies for un-  
 12 employment insurance of the benefits under this  
 13 part and the procedures and deadlines for ap-  
 14 plying for such benefits;

15 (B) facilitate the early filing of petitions  
 16 under section 311(a) for any workers that the  
 17 agency considers are likely to be eligible for  
 18 benefits under this part;

19 (C) advise each adversely affected worker  
 20 to apply for training under section 312(b) be-  
 21 fore, or at the same time, the worker applies for  
 22 climate change adjustment assistance under  
 23 section 312(a);

24 (D) perform outreach to, intake of, and  
 25 orientation for adversely affected workers and

1 adversely affected incumbent workers covered  
2 by a certification under section 312(a) with re-  
3 spect to assistance and benefits available under  
4 this part;

5 (E) make employment services described in  
6 section 312(b)(1) available to adversely affected  
7 workers and adversely affected incumbent work-  
8 ers covered by a certification under section  
9 311(d) and, if funds provided to carry out this  
10 part are insufficient to make such services  
11 available, make arrangements to make such  
12 services available through other Federal pro-  
13 grams; and

14 (F) provide the benefits and reemployment  
15 services under this part in a manner that is  
16 necessary for the proper and efficient adminis-  
17 tration of this part, including the use of state  
18 agency personnel employed in accordance with a  
19 merit system of personnel administration stand-  
20 ards, including—

21 (i) making determinations of eligibility  
22 for, and payment of, climate change read-  
23 justment assistance and health care benefit  
24 replacement amounts;

(ii) developing recommendations regarding payments as a bridge to retirement and lump sum payments to pension plans in accordance with this subsection; and

(iii) the provision of reemployment services to eligible workers, including referral to training services.

~~(7) SUBMISSION OF CERTAIN INFORMATION.—~~

In order to promote the coordination of workforce investment activities in each State with activities carried out under this part, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)) and a description of the State's rapid response activities under section 134(a)(2)(A) of that Act (29 U.S.C. 2864(a)(2)(A)).

~~(8) CONTROL MEASURES.—~~

~~(A) IN GENERAL.—~~The Secretary shall require each cooperating State and cooperating State agency to implement effective control measures and to effectively oversee the oper-

1           ation and administration of the climate change  
 2           adjustment assistance program under this part,  
 3           including by means of monitoring the operation  
 4           of control measures to improve the accuracy  
 5           and timeliness of the data being collected and  
 6           reported.

7           (B) DEFINITION.—For purposes of sub-  
 8           paragraph (A), the term “control measures”  
 9           means measures that—

10                   (i) are internal to a system used by a  
 11                   State to collect data; and

12                   (ii) are designed to ensure the accu-  
 13                   racy and verifiability of such data.

14           (9) DATA REPORTING.—

15           (A) IN GENERAL.—Any agreement entered  
 16           into under this section shall require the cooper-  
 17           ating State or cooperating State agency to re-  
 18           port to the Secretary on a quarterly basis com-  
 19           prehensive performance accountability data; to  
 20           consist of—

21                   (i) the core indicators of performance  
 22                   described in subparagraph (B)(i);

23                   (ii) the additional indicators of per-  
 24                   formance described in subparagraph  
 25                   (B)(ii), if any; and

(iii) a description of efforts made to improve outcomes for workers under the climate change adjustment assistance program.

(B) CORE INDICATORS DESCRIBED.—

(i) IN GENERAL.—The core indicators of performance described in this subparagraph are—

(I) the percentage of workers receiving benefits under this part who are employed during the second calendar quarter following the calendar quarter in which the workers cease receiving such benefits;

(II) the percentage of such workers who are employed in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits; and

(III) the earnings of such workers in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits.

1                   (ii) ~~ADDITIONAL INDICATORS.~~—The  
 2                   Secretary and a cooperating State or co-  
 3                   operating State agency may agree upon  
 4                   additional indicators of performance for  
 5                   the climate change adjustment assistance  
 6                   program under this part, as appropriate.

7                   (C) ~~STANDARDS WITH RESPECT TO RELI-~~  
 8                   ~~ABILITY OF DATA.~~—In preparing the quarterly  
 9                   report required by subparagraph (A), each co-  
 10                  operating State or cooperating State agency  
 11                  shall establish procedures that are consistent  
 12                  with guidelines to be issued by the Secretary to  
 13                  ensure that the data reported are valid and reli-  
 14                  able.

15                (10) ~~VERIFICATION OF ELIGIBILITY FOR PRO-~~  
 16                GRAM BENEFITS.—

17                   (A) ~~IN GENERAL.~~—An agreement under  
 18                   this section shall provide that the State shall  
 19                   periodically redetermine that a worker receiving  
 20                   benefits under this part who is not a citizen or  
 21                   national of the United States remains in a sat-  
 22                   isfactory immigration status. Once satisfactory  
 23                   immigration status has been initially verified  
 24                   through the immigration status verification sys-  
 25                   tem described in section 1137(d) of the Social

Security Act (42 U.S.C. 1320b-7(d)) for purposes of establishing a worker's eligibility for unemployment compensation, the State shall reverify the worker's immigration status if the documentation provided during initial verification will expire during the period in which that worker is potentially eligible to receive benefits under this part. The State shall conduct such redetermination in a timely manner, utilizing the immigration status verification system described in section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)).

(B) PROCEDURES.—The Secretary shall establish procedures to ensure the uniform application by the States of the requirements of this paragraph.

(b) ADMINISTRATION ABSENT STATE AGREEMENT.—

(1) In any State where there is no agreement in force between a State or its agency under subsection (a), the Secretary shall promulgate regulations for the performance of all necessary functions under section 312, including provision for a fair hearing for any worker whose application for payments is denied.

1           ~~(2)~~ A final determination under paragraph ~~(1)~~  
 2       with respect to entitlement to program benefits  
 3       under section ~~312~~ is subject to review by the courts  
 4       in the same manner and to the same extent as is  
 5       provided by section 205(g) of the Social Security Act  
 6       ~~(42 U.S.C. 405(g))~~.

7       ~~(c)~~ PROHIBITION ON CONTRACTING WITH PRIVATE  
 8 ENTITIES.—Neither the Secretary nor a State may con-  
 9 tract with any private for-profit or nonprofit entity for the  
 10 administration of the climate change adjustment assist-  
 11 ance program under this part.

12       ~~(d)~~ PAYMENT TO THE STATES.—

13           ~~(1)~~ IN GENERAL.—The Secretary shall from  
 14       time to time certify to the Secretary of the Treasury  
 15       for payment to each cooperating State the sums nec-  
 16       essary to enable such State as agent of the United  
 17       States to make payments provided for by this part.

18           ~~(2)~~ RESTRICTION.—All money paid a State  
 19       under this subsection shall be used solely for the  
 20       purposes for which it is paid; and money so paid  
 21       which is not used for such purposes shall be re-  
 22       turned, at the time specified in the agreement under  
 23       this section, to the Secretary of the Treasury.

24           ~~(3)~~ BONDS.—Any agreement under this section  
 25       may require any officer or employee of the State cer-



1       tifying payments or disbursing funds under the  
2       agreement or otherwise participating in the perform-  
3       ance of the agreement, to give a surety bond to the  
4       United States in such amount as the Secretary may  
5       deem necessary, and may provide for the payment of  
6       the cost of such bond from funds for carrying out  
7       the purposes of this part.

8       (e) LABOR STANDARDS.—

9           (1) PROHIBITION ON DISPLACEMENT.—An indi-  
10       vidual in an apprenticeship program or on-the-job  
11       training program under this part shall not displace  
12       (including a partial displacement, such as a reduc-  
13       tion in the hours of non-overtime work, wages, or  
14       employment benefits) any employed employee.

15          (2) PROHIBITION ON IMPAIRMENT OF CON-  
16       TRACTS.—An apprenticeship program or on-the-job  
17       training program under this Act shall not impair an  
18       existing contract for services or collective bargaining  
19       agreement, and no such activity that would be incon-  
20       sistent with the terms of a collective bargaining  
21       agreement shall be undertaken without the written  
22       concurrence of the labor organization and employer  
23       concerned.

24          (3) ADDITIONAL STANDARDS.—The Secretary,  
25       or a State acting under an agreement described in

1 subsection (a) may pay the costs of on-the-job train-  
2 ing, notwithstanding any other provision of this sec-  
3 tion, only if—

4 (A) in the case of training which would be  
5 inconsistent with the terms of a collective bar-  
6 gaining agreement, the written concurrence of  
7 the labor organization concerned has been ob-  
8 tained;

9 (B) the job for which such adversely af-  
10 fected worker is being trained is not being cre-  
11 ated in a promotional line that will infringe in  
12 any way upon the promotional opportunities of  
13 currently employed individuals;

14 (C) such training is not for the same occu-  
15 pation from which the worker was separated  
16 and with respect to which such worker's group  
17 was certified pursuant to section 311(d);

18 (D) the employer is provided reimburse-  
19 ment of not more than 50 percent of the wage  
20 rate of the participant, for the cost of providing  
21 the training and additional supervision related  
22 to the training; and

23 (E) the employer has not received payment  
24 under with respect to any other on-the-job  
25 training provided by such employer which failed

1           to meet the requirements of subparagraphs (A)  
2           through (D).

3       (f) DEFINITIONS.—As used in this part the following  
4 definitions apply:

5           (1) The term “adversely affected employment”  
6       means employment at an employment site, if work-  
7       ers at such site are eligible to apply for adjustment  
8       assistance under this part.

9           (2) The term “adversely affected worker”  
10      means an individual who has been totally or partially  
11      separated from employment and is eligible to apply  
12      for adjustment assistance under this part.

13          (3) The term “average weekly wage” means  $\frac{1}{13}$   
14      of the total wages paid to an individual in the quar-  
15      ter in which the individual’s total wages were highest  
16      among the first 4 of the last 5 completed calendar  
17      quarters immediately before the quarter in which oc-  
18      curs the week with respect to which the computation  
19      is made. Such week shall be the week in which total  
20      separation occurred, or, in cases where partial sepa-  
21      ration is claimed, an appropriate week, as defined in  
22      regulations prescribed by the Secretary.

23          (4) The term “average weekly hours” means  
24      the average hours worked by the individual (exclud-  
25      ing overtime) in the employment from which he has

1        been or claims to have been separated in the 52  
2        weeks (excluding weeks during which the individual  
3        was sick or on vacation) preceding the week speci-  
4        fied in the last sentence of paragraph (4).

5            (5) The term “benefit period” means, with re-  
6        spect to an individual—

7            (A) the benefit year and any ensuing pe-  
8        riod, as determined under applicable State law,  
9        during which the individual is eligible for reg-  
10       ular compensation, additional compensation, or  
11       extended compensation; or

12           (B) the equivalent to such a benefit year  
13       or ensuing period provided for under the appli-  
14       cable Federal unemployment insurance law.

15           (6) The term “consumer goods manufacturing”  
16       means the electrical equipment, appliance, and com-  
17       ponent manufacturing industry and transportation  
18       equipment manufacturing.

19           (7) The term “employment site” means a single  
20       facility or site of employment.

21           (8) The term “energy-intensive manufacturing  
22       industries” means all industrial sectors, entities, or  
23       groups of entities that meet the energy or green-  
24       house gas intensity criteria in section 763(b)(2)(A)

1 of the Clean Air Act based on the most recent data  
2 available.

3 (9) The term “energy producing and trans-  
4 forming industries” means the coal mining industry,  
5 oil and gas extraction, electricity power generation,  
6 transmission and distribution, and natural gas dis-  
7 tribution.

8 (10) The term “on-the-job training” means  
9 training provided by an employer to an individual  
10 who is employed by the employer.

11 (11) The terms “partial separation” and “par-  
12 tially separated” refer, with respect to an individual  
13 who has not been totally separated, that such indi-  
14 vidual has had—

15 (A) his or her hours of work reduced to 80  
16 percent or less of his average weekly hours in  
17 adversely affected employment; and

18 (B) his or her wages reduced to 80 percent  
19 or less of his average weekly wage in such ad-  
20 versely affected employment.

21 (12) The term “public agency” means a depart-  
22 ment or agency of a State or political subdivision of  
23 a State or of the Federal Government.

24 (13) The term “Secretary” means the Secretary  
25 of Labor.

1           (14) The term “service workers” means work-  
 2           ers supplying support or auxiliary services to an em-  
 3           ployment site.

4           (15) The term “State” includes the District of  
 5           Columbia and the Commonwealth of Puerto Rico;  
 6           and the term “United States” when used in the geo-  
 7           graphical sense includes such Commonwealth.

8           (16) The term “State agency” means the agen-  
 9           cy of the State which administers the State law.

10          (17) The term “State law” means the unem-  
 11          ployment insurance law of the State approved by the  
 12          Secretary of Labor under section 3304 of the Inter-  
 13          nal Revenue Code of 1986.

14          (18) The terms “total separation” and “totally  
 15          separated” refer to the layoff or severance of an in-  
 16          dividual from employment with an employer in which  
 17          adversely affected employment exists.

18          (19) The term “unemployment insurance”  
 19          means the unemployment compensation payable to  
 20          an individual under any State law or Federal unem-  
 21          ployment compensation law, including chapter 85 of  
 22          title 5, United States Code, and the Railroad Unem-  
 23          ployment Insurance Act (45 U.S.C. 351 et seq.).  
 24          The terms “regular compensation”, “additional com-  
 25          pensation”, and “extended compensation” have the

1 same respective meanings that are given them in  
 2 section 205(2), (3), and (4) of the Federal-State Ex-  
 3 tended Unemployment Compensation Act of 1970  
 4 (26 U.S.C. 3304 note; Public Law 91-373).

5 (20) The term “week” means a week as defined  
 6 in the applicable State law.

7 (21) The term “week of unemployment” means  
 8 a week of total, part-total, or partial unemployment  
 9 as determined under the applicable State law or  
 10 Federal unemployment insurance law.

11 (g) SPECIAL RULE WITH RESPECT TO MILITARY  
 12 SERVICE.—

13 (1) IN GENERAL.—Notwithstanding any other  
 14 provision of this part, the Secretary may waive any  
 15 requirement of this part that the Secretary deter-  
 16 mines is necessary to ensure that an adversely af-  
 17 fected worker who is a member of a reserve compo-  
 18 nent of the Armed Forces and serves a period of  
 19 duty described in paragraph (2) is eligible to receive  
 20 climate change adjustment assistance, training, and  
 21 other benefits under this part in the same manner  
 22 and to the same extent as if the worker had not  
 23 served the period of duty.

24 (2) PERIOD OF DUTY DESCRIBED.—An ad-  
 25 versely affected worker serves a period of duty de-

scribed in this paragraph if, before completing training under this part, the worker—

(A) serves on active duty for a period of more than 30 days under a call or order to active duty of more than 30 days; or

(B) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performs full-time National Guard duty under section 502(f) of title 32, United States Code, for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

(h) FRAUD AND RECOVERY OF OVERPAYMENTS.—

(1) RECOVERY OF PAYMENTS TO WHICH AN INDIVIDUAL WAS NOT ENTITLED.—If the Secretary or a court of competent jurisdiction determines that any person has received any payment under this part to which the individual was not entitled, such individual shall be liable to repay such amount to the Secretary, as the case may be, except that the Secretary shall waive such repayment if such agency or the Secretary determines that—



1           (A) the payment was made without fault  
2           on the part of such individual; and

3           (B) requiring such repayment would cause  
4           a financial hardship for the individual (or the  
5           individual's household, if applicable) when tak-  
6           ing into consideration the income and resources  
7           reasonably available to the individual (or house-  
8           hold) and other ordinary living expenses of the  
9           individual (or household).

10          (2) MEANS OF RECOVERY.—Unless an overpay-  
11          ment is otherwise recovered, or waived under para-  
12          graph (1), the Secretary shall recover the overpay-  
13          ment by deductions from any sums payable to such  
14          person under this part, under any Federal unem-  
15          ployment compensation law or other Federal law ad-  
16          ministered by the Secretary which provides for the  
17          payment of assistance with respect to unemploy-  
18          ment. Any amount recovered under this section shall  
19          be returned to the Treasury of the United States.

20          (3) PENALTIES FOR FRAUD.—Any person  
21          who—

22               (A) makes a false statement of a material  
23               fact knowing it to be false, or knowingly fails  
24               to disclose a material fact, for the purpose of  
25               obtaining or increasing for that person or for

1           any other person any payment authorized to be  
2           furnished under this part; or

3           ~~(B)~~ makes a false statement of a material  
4           fact knowing it to be false; or knowingly fails  
5           to disclose a material fact, when providing in-  
6           formation to the Secretary during an investiga-  
7           tion of a petition under section 311(c);

8   shall be imprisoned for not more than one year; or fined  
9   under title 18, United States Code; or both; and be ineli-  
10   gible for any further payments under this part.

11       (i) REGULATIONS.—The Secretary shall prescribe  
12   such regulations as may be necessary to carry out the pro-  
13   visions of this part.

14       (j) STUDY ON OLDER WORKERS.—The Secretary  
15   shall conduct a study examine the circumstances of older  
16   adversely affected workers and the ability of such workers  
17   to access their retirement benefits. The Secretary shall  
18   transmit a report to Congress not later than 2 years after  
19   the date of enactment of this Act on the findings of the  
20   study and the Secretary's recommendations on how to en-  
21   sure that adversely affected workers within 2 years of re-  
22   tirement are able to access their retirement benefits.

## **Subtitle B—International Climate Change Programs**

### **SEC. 321. STRATEGIC INTERAGENCY BOARD ON INTERNATIONAL CLIMATE INVESTMENT.**

~~(a) ESTABLISHMENT.—~~

~~(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall establish the “Strategic Interagency Board on International Climate Investment” (referred to in this subtitle as the “Board”).~~

~~(2) COMPOSITION.—The Board shall be composed of—~~

~~(A) the Secretary of State;~~

~~(B) the Administrator of United States Agency for International Development;~~

~~(C) the Secretary of Energy;~~

~~(D) the Secretary of the Treasury;~~

~~(E) the Secretary of Commerce;~~

~~(F) the Secretary of Agriculture;~~

~~(G) the Administrator; and~~

~~(H) such other relevant officials as the President may designate.~~

~~(b) DUTIES.—The duties of the Board shall include assessing, monitoring, and evaluating the progress and contributions of relevant departments and agencies of the~~

1 Federal Government in supporting financing for inter-  
 2 national climate change activities.

3 **SEC. 322. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
 4 **ESTATION.**

5 Title VII of the Clean Air Act (as amended by section  
 6 101 of division B) is amended by adding at the end the  
 7 following:

8 **“PART E—SUPPLEMENTAL EMISSION**  
 9 **REDUCTIONS**

10 **“SEC. 751. DEFINITIONS.**

11 “In this part:

12 “(1) ADMINISTRATOR.—The term ‘Adminis-  
 13 trator’ means the Administrator of the United  
 14 States Agency for International Development.

15 “(2) DEFORESTATION.—The term ‘deforest-  
 16 ation’ means a change in land use from a forest to  
 17 any other land use.

18 “(3) DEGRADATION.—The term ‘degradation’,  
 19 with respect to a forest, is any reduction in the car-  
 20 bon stock of a forest due to the impact of human  
 21 land-use activities.

22 “(4) EMISSION REDUCTIONS.—The term ‘emis-  
 23 sion reductions’ means greenhouse gas emission re-  
 24 ductions achieved from reduced or avoided deforest-  
 25 ation under this title.

1           “(5) LEAKAGE PREVENTION ACTIVITIES.—The  
2       term ‘leakage prevention activities’ means activities  
3       in developing countries that are directed at pre-  
4       serving existing forest carbon stocks, including for-  
5       ested wetlands and peatlands, that might, absent  
6       such activities, be lost through leakage.

7   **“SEC. 752. PURPOSES.**

8       “The purposes of this part are to provide United  
9   States assistance to developing countries—

10           “(1) to develop, implement and improve nation-  
11       ally appropriate greenhouse gas mitigation policies  
12       and actions that reduce deforestation and forest deg-  
13       radation or conserve or restore forest ecosystems, in  
14       a measurable, reportable, and verifiable manner; and

15           “(2) in a manner that is consistent with and  
16       enhances the implementation of complementary  
17       United States policies that support the good govern-  
18       ance of forests, biodiversity conservation, and envi-  
19       ronmentally sustainable development, while taking  
20       local communities, most vulnerable populations and  
21       communities, particularly forest-dependent commu-  
22       nities and indigenous peoples into consideration.

1 **“SEC. 753. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
2 **ESTATION.**

3 “(a) IN GENERAL.—Not later than 2 years after the  
4 date of the enactment of this part, the Administrator, in  
5 consultation with the Administrator of the Environmental  
6 Protection Agency, the Secretary of Agriculture, and the  
7 head of any other appropriate agency, shall establish a  
8 program to provide assistance to reduce greenhouse gas  
9 emissions from deforestation in developing countries, in  
10 accordance with this title.

11 “(b) OBJECTIVES.—The objectives of the program es-  
12 tablished under this section shall be—

13 “(1) to reduce greenhouse gas emissions from  
14 deforestation in developing countries by at least  
15 720,000,000 tons of carbon dioxide equivalent in  
16 2020, and a cumulative quantity of at least  
17 6,000,000,000 tons of carbon dioxide equivalent by  
18 December 31, 2025, with additional reductions in  
19 subsequent years;

20 “(2) to assist developing countries in preparing  
21 to participate in international markets for inter-  
22 national offset credits for reduced emissions from  
23 deforestation; and

24 “(3) to preserve existing forest carbon stocks in  
25 countries where such forest carbon may be vulner-  
26 able to international leakage.”.

1 **SEC. 323. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**  
2 **PROGRAM.**

3 (a) **PURPOSES.**—The purposes of this section are—

4 (1) to assist developing countries in activities  
5 that reduce, sequester, or avoid greenhouse gas  
6 emissions;

7 (2) to encourage those countries to shift toward  
8 low-carbon development, and promote a successful  
9 global agreement under the United Nations Frame-  
10 work Convention on Climate Change, done at New  
11 York on May 9, 1992 (or a successor agreement)  
12 (referred to in this subtitle as the “Convention”);  
13 and

14 (3) to promote robust compliance with and en-  
15 forcement of existing international legal require-  
16 ments for the protection of intellectual property  
17 rights.

18 (b) **ESTABLISHMENT OF INTERNATIONAL CLEAN EN-**  
19 **ERGY DEPLOYMENT PROGRAM.**—

20 (1) **ESTABLISHMENT.**—The Secretary of State,  
21 in consultation with an interagency group designated  
22 by the President, shall establish an International  
23 Clean Energy Deployment Program in accordance  
24 with this section.

25 (2) **DISTRIBUTION OF ASSISTANCE.**—The Sec-  
26 retary of State, or the head of such other Federal

1       agency as the President may designate, shall direct  
 2       the distribution of funding to carry out the Clean  
 3       Energy Technology Program—

4               (A) in the form of bilateral assistance;

5               (B) to multilateral funds or international  
 6       institutions pursuant to the Convention or an  
 7       agreement negotiated under the Convention; or

8               (C) through a combination of the mecha-  
 9       nisms identified under subparagraphs (A) and  
 10       (B).

11       (e) DETERMINATION OF QUALIFYING ACTIVITIES.—

12 Assistance under this subtitle may be provided only to  
 13 qualifying entities for clean technology activities (includ-  
 14 ing building relevant technical and institutional capacity)  
 15 that contribute to substantial, measurable, reportable, and  
 16 verifiable reductions, sequestration, or avoidance of green-  
 17 house gas emissions.

18 **SEC. 324. INTERNATIONAL CLIMATE CHANGE ADAPTATION**

19               **AND GLOBAL SECURITY PROGRAM.**

20       (a) PURPOSES.—The purposes of this section are—

21               (1) to provide assistance to the most vulnerable  
 22       developing countries, particularly to the most vulner-  
 23       able communities and populations in those countries;  
 24       and



1           (2) to support the development and implemen-  
2           tation of climate change adaptation programs in a  
3           way that protects and promotes interests of the  
4           United States; to the extent those interests may be  
5           advanced by minimizing, averting, or increasing re-  
6           silience to climate change impacts.

7           (b) INTERNATIONAL CLIMATE CHANGE ADAPTATION  
8           AND GLOBAL SECURITY PROGRAM.—

9           (1) ESTABLISHMENT.—The Secretary of State;  
10          in consultation with the Administrator of the United  
11          States Agency for International Development, the  
12          Secretary of the Treasury, and the Administrator,  
13          shall establish an International Climate Change Ad-  
14          aptation and Global Security Program in accordance  
15          with this section.

16          (2) DISTRIBUTION OF ASSISTANCE.—The Sec-  
17          retary of State, or the head of such other Federal  
18          agency as the President may designate, after con-  
19          sultation with the Secretary of the Treasury, the Ad-  
20          ministrator of the United States Agency for Inter-  
21          national Development, and the Administrator, shall  
22          direct the distribution of funding to carry out the  
23          International Climate Change Adaptation and Global  
24          Security Program—

25                 (A) in the form of bilateral assistance;

1           ~~(B)~~ to multilateral funds or international  
 2           institutions pursuant to the Convention or an  
 3           agreement negotiated under the Convention; or  
 4           ~~(C)~~ through a combination of the mecha-  
 5           nisms identified under subparagraphs (A) and  
 6           ~~(B)~~.

7   **SEC. 325. EVALUATION AND REPORTS.**

8           ~~(a)~~ MONITORING, EVALUATION, AND ENFORCE-  
 9   MENT.—The Board shall establish and implement a sys-  
 10   tem to monitor and evaluate the effectiveness and effi-  
 11   ciency of assistance provided under this subtitle by includ-  
 12   ing evaluation criteria, such as performance indicators.

13          ~~(b)~~ REPORTS AND REVIEW.—

14           ~~(1)~~ ANNUAL REPORT.—Not later than 1 year  
 15   after the date of enactment of this Act, and annually  
 16   thereafter, the Board shall submit to the appropriate  
 17   committees of Congress a report that describes—

18           ~~(A)~~ the steps Federal agencies have taken,  
 19           and the progress made, toward accomplishing  
 20           the objectives of this section; and

21           ~~(B)~~ the ramifications of any potentially de-  
 22           stabilizing impacts climate change may have on  
 23           the interests of the United States.

24           ~~(2)~~ REVIEWS.—Not later than 3 years after the  
 25   date of enactment of this Act, and triennially there-

1 after, the Board, in cooperation with the National  
 2 Academy of Sciences and other appropriate research  
 3 and development institutions, shall—

4 (A) review the global needs and opportuni-  
 5 ties for climate change investment in developing  
 6 countries; and

7 (B) submit to Congress a report that de-  
 8 scribes the findings of the review.

9 **SEC. 326. REPORT ON CLIMATE ACTIONS OF MAJOR**  
 10 **ECONOMIES.**

11 (a) IN GENERAL.—The Secretary of State, in co-  
 12 operation with the Board, shall prepare an interagency re-  
 13 port on climate change and energy policy of the 5 coun-  
 14 tries that, of the countries that are not members of the  
 15 Organisation for Economic Co-Operation and Develop-  
 16 ment, emit the greatest annual quantity of greenhouse  
 17 gases.

18 (b) PURPOSES.—The purposes of the report shall  
 19 be—

20 (1) to provide to Congress and the public of the  
 21 United States—

22 (A) a better understanding of the actions  
 23 the countries described in subsection (a) are  
 24 taking to reduce greenhouse gas emissions; and

1           (B) an assessment of the climate change  
 2           and energy policy commitments and actions of  
 3           those countries; and

4           (2) to identify the means by which the United  
 5           States can assist those countries in achieving such  
 6           a reduction.

7           (c) **SUBMISSION TO CONGRESS.**—Not later than 15  
 8           months after the date of enactment of this Act, the Sec-  
 9           retary of State shall submit to the appropriate committees  
 10          of Congress the report prepared under this section.

## 11           **Subtitle C—Adapting to Climate** 12           **Change**

### 13           **PART 1—DOMESTIC ADAPTATION**

#### 14           **Subpart A—National Climate Change Adaptation** 15           **Program**

#### 16           **SEC. 341. NATIONAL CLIMATE CHANGE ADAPTATION PRO-** 17           **GRAM.**

18          The President shall establish within the United  
 19          States Global Change Research Program a National Cli-  
 20          mate Change Adaptation Program for the purpose of in-  
 21          creasing the overall effectiveness of Federal climate  
 22          change adaptation efforts.

#### 23           **SEC. 342. CLIMATE SERVICES.**

24          The Secretary of Commerce, acting through the Ad-  
 25          ministrators of the National Oceanic and Atmospheric Ad-

1 ministration (NOAA), shall establish within NOAA a Na-  
 2 tional Climate Service to develop climate information,  
 3 data, forecasts, and warnings at national and regional  
 4 scales, and to distribute information related to climate im-  
 5 pacts to State, local, and tribal governments and the pub-  
 6 lic to facilitate the development and implementation of  
 7 strategies to reduce society's vulnerability to climate varia-  
 8 bility and change.

9       **Subpart B—Public Health and Climate Change**

10   **SEC. 351. SENSE OF CONGRESS ON PUBLIC HEALTH AND**  
 11                           **CLIMATE CHANGE.**

12       It is the sense of the Congress that the Federal Gov-  
 13 ernment, in cooperation with international, State, tribal,  
 14 and local governments, Indian tribes, concerned public and  
 15 private organizations, and citizens, should use all prac-  
 16 ticable means and measures—

17           (1) to assist the efforts of public health and  
 18 health care professionals, first responders, States,  
 19 Indian tribes, municipalities, and local communities  
 20 to incorporate measures to prepare health systems to  
 21 respond to the impacts of climate change;

22           (2) to ensure—

23                   (A) that the Nation's health professionals  
 24 have sufficient information to prepare for and

1           respond to the adverse health impacts of cli-  
2           mate change;

3           ~~(B) the utility and value of scientific re-~~  
4           ~~search in advancing understanding of—~~

5           (i) the health impacts of climate  
6           change; and

7           (ii) strategies to prepare for and re-  
8           spond to the health impacts of climate  
9           change;

10          ~~(C) the identification of communities vul-~~  
11          ~~nerable to the health effects of climate change~~  
12          ~~and the development of strategic response plans~~  
13          ~~to be carried out by health professionals for~~  
14          ~~those communities;~~

15          ~~(D) the improvement of health status and~~  
16          ~~health equity through efforts to prepare for and~~  
17          ~~respond to climate change; and~~

18          ~~(E) the inclusion of health policy in the de-~~  
19          ~~velopment of climate change responses;~~

20          ~~(3) to encourage further research, interdiscipli-~~  
21          ~~nary partnership, and collaboration among stake-~~  
22          ~~holders in order to—~~

23          (A) understand and monitor the health im-  
24          pacts of climate change; and

1           (B) improve public health knowledge and  
2           response strategies to climate change;

3           (4) to enhance preparedness activities, and pub-  
4           lic health infrastructure, relating to climate change  
5           and health;

6           (5) to encourage each and every American to  
7           learn about the impacts of climate change on health;  
8           and

9           (6) to assist the efforts of developing nations to  
10          incorporate measures to prepare health systems to  
11          respond to the impacts of climate change.

12 **SEC. 352. RELATIONSHIP TO OTHER LAWS.**

13          Nothing in this subpart in any manner limits the au-  
14          thority provided to or responsibility conferred on any Fed-  
15          eral department or agency by any provision of any law  
16          (including regulations) or authorizes any violation of any  
17          provision of any law (including regulations), including any  
18          health, energy, environmental, transportation, or any  
19          other law or regulation.

20 **SEC. 353. NATIONAL STRATEGIC ACTION PLAN.**

21          (a) REQUIREMENT.—

22               (1) IN GENERAL.—The Secretary of Health and  
23          Human Services, within 2 years after the date of the  
24          enactment of this Act, on the basis of the best avail-  
25          able science, and in consultation pursuant to para-

graph (2), shall publish a strategic action plan to assist health professionals in preparing for and responding to the impacts of climate change on public health in the United States and other nations, particularly developing nations.

(2) CONSULTATION.—In developing or making any revision to the national strategic action plan, the Secretary shall—

(A) consult with the Director of the Centers for Disease Control and Prevention, the Administrator of the Environmental Protection Agency, the Director of the National Institutes of Health, the Director of the Indian Health Service, the Secretary of Energy, other appropriate Federal agencies, Indian tribes, State and local governments, public health organizations, scientists, and other interested stakeholders; and

(B) provide opportunity for public input.

(b) CONTENTS.—

(1) IN GENERAL.—The Secretary shall assist health professionals in preparing for and responding effectively and efficiently to the health effects of climate 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                   paets;

4                   (B) creating tools for predicting and moni-  
5                   toring the public health effects of climate  
6                   change on the international, national, regional,  
7                   State, tribal, and local levels, and providing  
8                   technical support to assist in their implementa-  
9                   tion;

10                  (C) developing public health communica-  
11                  tions strategies and interventions for extreme  
12                  weather events and disaster response situations;

13                  (D) identifying and prioritizing commu-  
14                  nities and populations vulnerable to the health  
15                  effects of climate change, and determining ac-  
16                  tions and communication strategies that should  
17                  be taken to inform and protect these commu-  
18                  nities and populations from the health effects of  
19                  climate change;

20                  (E) developing health communication, pub-  
21                  lic education, and outreach programs aimed at  
22                  public health and health care professionals, as  
23                  well as the general public, to promote prepared-  
24                  ness and response strategies relating to climate  
25                  change and public health, including the identi-

1           fication of greenhouse gas reduction behaviors  
2           that are health-promoting; and

3           ~~(F)~~ developing academic and regional cen-  
4           ters of excellence devoted to—

5                   (i) researching relationships between  
6                   climate change and health;

7                   (ii) expanding and training the public  
8                   health workforce to strengthen the capacity  
9                   of such workforce to respond to and pre-  
10                  pare for the health effects of climate  
11                  change;

12                  (iii) creating and supporting academic  
13                  fellowships focusing on the health effects  
14                  of climate change; and

15                  (iv) training senior health ministry of-  
16                  ficials from developing nations to strength-  
17                  en the capacity of such nations to—

18                           (I) prepare for and respond to  
19                           the health effects of climate change;  
20                           and

21                           (II) build an international net-  
22                           work of public health professionals  
23                           with the necessary climate change  
24                           knowledge base;

(G) using techniques, including health impact assessments, to assess various climate change public health preparedness and response strategies on international, national, State, regional, tribal, and local levels, and make recommendations as to those strategies that best protect the public health;

(H)(i) assisting in the development, implementation, and support of State, regional, tribal, and local preparedness, communication, and response plans (including with respect to the health departments of such entities) to anticipate and reduce the health threats of climate change; and

(ii) pursuing collaborative efforts to develop, integrate, and implement such plans;

(I) creating a program to advance research as it relates to the effects of climate change on public health across Federal agencies, including research to—

(i) identify and assess climate change health effects preparedness and response strategies;

(ii) prioritize critical public health infrastructure projects related to potential

1 climate change impacts that affect public  
 2 health; and

3 (iii) coordinate preparedness for cli-  
 4 mate change health impacts, including the  
 5 development of modeling and forecasting  
 6 tools;

7 (J) providing technical assistance for the  
 8 development, implementation, and support of  
 9 preparedness and response plans to anticipate  
 10 and reduce the health threats of climate change  
 11 in developing nations; and

12 (K) carrying out other activities deter-  
 13 mined appropriate by the Secretary to plan for  
 14 and respond to the impacts of climate change  
 15 on public health.

16 (c) REVISION.—The Secretary shall revise the na-  
 17 tional strategic action plan not later than July 1, 2014,  
 18 and every 4 years thereafter, to reflect new information  
 19 collected pursuant to implementation of the national stra-  
 20 tegic action plan and otherwise, including information  
 21 on—

22 (1) the status of critical environmental health  
 23 parameters and related human health impacts;

24 (2) the impacts of climate change on public  
 25 health; and

1           ~~(3)~~ advances in the development of strategies  
 2           for preparing for and responding to the impacts of  
 3           climate change on public health.

4           ~~(d)~~ IMPLEMENTATION.—

5           ~~(1)~~ IMPLEMENTATION THROUGH HHS.—The  
 6           Secretary shall exercise the Secretary's authority  
 7           under this subpart and other provisions of Federal  
 8           law to achieve the goals and measures of the na-  
 9           tional strategic action plan.

10          ~~(2)~~ OTHER PUBLIC HEALTH PROGRAMS AND  
 11          INITIATIVES.—The Secretary and Federal officials of  
 12          other relevant Federal agencies shall administer  
 13          public health programs and initiatives authorized by  
 14          provisions of law other than this subpart, subject to  
 15          the requirements of such statutes, in a manner de-  
 16          signed to achieve the goals of the national strategic  
 17          action plan.

18          ~~(3)~~ SPECIFIC ACTIVITIES.—In furtherance of  
 19          the national strategic action plan, the Secretary  
 20          shall—

21                 ~~(A)~~ conduct scientific research to assist  
 22                 health professionals in preparing for and re-  
 23                 sponding to the impacts of climate change on  
 24                 public health; and

25                 ~~(B)~~ provide funding for—

1 (i) research on the health effects of  
2 climate change; and

3 (ii) preparedness planning on the  
4 international, national, State, tribal, re-  
5 gional, and local levels to respond to or re-  
6 duce the burden of health effects of climate  
7 change; and

8 (C) carry out other activities determined  
9 appropriate by the Secretary to prepare for and  
10 respond to the impacts of climate change on  
11 public health.

12 **SEC. 354. ADVISORY BOARD.**

13 (a) **ESTABLISHMENT.**—The Secretary shall establish  
14 a permanent science advisory board comprised of not less  
15 than 10 and not more than 20 members.

16 (b) **APPOINTMENT OF MEMBERS.**—The Secretary  
17 shall appoint the members of the science advisory board  
18 from among individuals—

19 (1) who have expertise in public health and  
20 human services, climate change, and other relevant  
21 disciplines; and

22 (2) at least 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. 355. REPORTS.**

12      (a) NEEDS ASSESSMENT.—

13           (1) IN GENERAL.—The Secretary shall seek to  
 14      enter into, by not later than 6 months after the date  
 15      of the enactment of this Act, an agreement with the  
 16      National Research Council and the Institute of Med-  
 17      icine to complete a report that—

18           (A) assesses the needs for health profes-  
 19      sionals to prepare for and respond to climate  
 20      change impacts on public health; and

21           (B) recommends programs to meet those  
 22      needs.

23           (2) SUBMISSION.—The agreement under para-  
 24      graph (1) shall require the completed report to be  
 25      submitted to the Congress and the Secretary and



1       made publicly available not later than 1 year after  
2       the date of the agreement.

3       (b) CLIMATE CHANGE HEALTH PROTECTION AND  
4 PROMOTION REPORTS.—

5           (1) IN GENERAL.—The Secretary, in consulta-  
6       tion with the advisory board established under sec-  
7       tion 354, shall ensure the issuance of reports to aid  
8       health professionals in preparing for and responding  
9       to the adverse health effects of climate change  
10      that—

11           (A) review scientific developments on  
12       health impacts of climate change; and

13           (B) recommend changes to the national  
14       strategic action plan.

15       (2) SUBMISSION.—The Secretary shall submit  
16       the reports required by paragraph (1) to the Con-  
17       gress and make such reports publicly available not  
18       later than July 1, 2013, and every 4 years there-  
19       after.

20 **SEC. 356. DEFINITIONS.**

21       In this subpart:

22           (1) HEALTH IMPACT ASSESSMENT.—The term  
23       “health impact assessment” means a combination of  
24       procedures, methods, and tools by which a policy,  
25       program, or project may be judged as to its potential

1 effects on the health of a population, and the dis-  
 2 tribution of those effects within the population.

3 ~~(2) NATIONAL STRATEGIC ACTION PLAN.—The~~  
 4 term “national strategic action plan” means the  
 5 plan issued and revised under section 353.

6 ~~(3) SECRETARY.—Unless otherwise specified,~~  
 7 the term “Secretary” means the Secretary of Health  
 8 and Human Services.

9 **Subpart C—Climate Change Safeguards for Natural**  
 10 **Resources Conservation**

11 **SEC. 361. PURPOSES.**

12 The purposes of this subpart are—

13 (1) to establish an integrated Federal program  
 14 that responds to ongoing and expected impacts of  
 15 climate change, including, where applicable, ocean  
 16 acidification, drought, flooding, and wildfire, by pro-  
 17 tecting, restoring, and conserving the natural re-  
 18 sources of the United States; and

19 (2) to provide financial support and incentives  
 20 for programs, strategies, and activities that respond  
 21 to threats of climate change, including, where appli-  
 22 cable, ocean acidification, drought, flooding, and  
 23 wildfire, by protecting, restoring, and conserving the  
 24 natural resources of the United States.

1 **SEC. 362. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
 2 **TATION POLICY.**

3 It is the policy of the Federal Government, in co-  
 4 operation with State and local governments, Indian tribes,  
 5 and other interested stakeholders, to use all practicable  
 6 means to protect, restore, and conserve natural resources  
 7 so that natural resources become more resilient, adapt to,  
 8 and withstand the ongoing and expected impacts of cli-  
 9 mate change, including, where applicable, ocean acidifica-  
 10 tion, drought, flooding, and wildfire.

11 **SEC. 363. DEFINITIONS.**

12 In this subpart:

13 (1) **ACCOUNT.**—The term “Account” means the  
 14 Natural Resources Climate Change Adaption Ac-  
 15 count established by section 370(a).

16 (2) **ADMINISTRATORS.**—The term “Administra-  
 17 tors” means—

18 (A) the Administrator of the National Oee-  
 19 anic and Atmospheric Administration; and

20 (B) the Director of the United States Geo-  
 21 logical Survey.

22 (3) **BOARD.**—The term “Board” means the  
 23 Science Advisory Board established by section  
 24 367(f)(1).

1           (4) CENTER.—The term “Center” means the  
2       National Climate Change and Wildlife Science Cen-  
3       ter described by section 367(e)(1).

4           (5) COASTAL STATE.—The term “coastal  
5       State” has the meaning given the term “coastal  
6       state” in section 304 of the Coastal Zone Manage-  
7       ment Act of 1972 (16 U.S.C. 1453).

8           (6) CORRIDORS.—The term “corridors” means  
9       areas that—

10           (A) provide connectivity, over different  
11       time scales, of habitats or potential habitats;  
12       and

13           (B) facilitate terrestrial, marine, estuarine,  
14       and freshwater fish, wildlife, or plant movement  
15       necessary for migration, gene flow, or dispersal,  
16       or to respond to the ongoing and expected im-  
17       pacts of climate change, including, where appli-  
18       cable, ocean acidification, drought, flooding,  
19       and wildfire.

20           (7) ECOLOGICAL PROCESSES.—The term “eco-  
21       logical processes” means biological, chemical, or  
22       physical interaction between the biotic and abiotic  
23       components of an ecosystem, including—

24           (A) nutrient cycling;

25           (B) pollination;

- 1                   (C) predator-prey relationships;
- 2                   (D) soil formation;
- 3                   (E) gene flow;
- 4                   (F) disease epizootiology;
- 5                   (G) larval dispersal and settlement;
- 6                   (H) hydrological cycling;
- 7                   (I) decomposition; and
- 8                   (J) disturbance regimes, such as fire and
- 9                   flooding.

10           (8) HABITAT.—The term “habitat” means the  
 11           physical, chemical, and biological properties that  
 12           fish, wildlife, or plants use for growth, reproduction,  
 13           survival, food, water, or cover (whether on land, in  
 14           water, or in an area or region).

15           (9) INDIAN TRIBE.—The term “Indian tribe”  
 16           has the meaning given the term in section 4 of the  
 17           Indian Self-Determination and Education Assistance  
 18           Act (25 U.S.C. 450b).

19           (10) NATURAL RESOURCES.—The term “nat-  
 20           ural resources” means land, wildlife, fish, air, water,  
 21           estuaries, plants, habitats, and ecosystems of the  
 22           United States.

23           (11) NATURAL RESOURCES ADAPTATION.—The  
 24           term “natural resources adaptation” means the pro-  
 25           tection, restoration, and conservation of natural re-

sources so that natural resources become more resilient, adapt to, and withstand the ongoing and expected impacts of climate change, including, where applicable, ocean acidification, drought, flooding, and wildfire.

(12) PANEL.—The term “Panel” means the Natural Resources Climate Change Adaptation Panel established under section 365(a).

(13) RESILIENCE; RESILIENT.—The terms “resilience” and “resilient” mean—

(A) the ability to resist or recover from disturbance; and

(B) the ability to preserve diversity, productivity, and sustainability.

(14) STATE.—The term “State” means—

(A) a State of the United States;

(B) the District of Columbia;

(C) American Samoa;

(D) Guam;

(E) the Commonwealth of the Northern Mariana Islands;

(F) the Commonwealth of Puerto Rico; and

(G) the United States Virgin Islands.

1           ~~(15) STRATEGY.—The term “Strategy” means~~  
 2           ~~the Natural Resources Climate Change Adaptation~~  
 3           ~~Strategy developed under section 366(a).~~

4   **SEC. 364. COUNCIL ON ENVIRONMENTAL QUALITY.**

5           The Chair of the Council on Environmental Quality  
 6 shall—

7           ~~(1) advise the President on implementing and~~  
 8           ~~developing—~~

9                     ~~(A) the Strategy; and~~

10                    ~~(B) the Federal natural resource agency~~  
 11                    ~~adaptation plans required by section 368;~~

12           ~~(2) serve as the Chair of the Panel established~~  
 13           ~~under section 365; and~~

14           ~~(3) coordinate Federal agency strategies, plans,~~  
 15           ~~programs, and activities relating to protecting, re-~~  
 16           ~~storing, and maintaining natural resources so that~~  
 17           ~~natural resources become more resilient, adapt to,~~  
 18           ~~and withstand the ongoing and expected impacts of~~  
 19           ~~climate change.~~

20   **SEC. 365. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
 21           **TATION PANEL.**

22           ~~(a) ESTABLISHMENT.—Not later than 90 days after~~  
 23           ~~the date of enactment of this Act, the President shall es-~~  
 24           ~~tablish a Natural Resources Climate Change Adaptation~~  
 25           ~~Panel.~~

1       (b) DUTIES.—The Panel shall serve as a forum for  
 2 interagency consultation on, and the coordination of, the  
 3 development and implementation of the Strategy.

4       (c) MEMBERSHIP.—The Panel shall be composed  
 5 of—

6           (1) the Administrator of the National Oceanic  
 7 and Atmospheric Administration (or a designee);

8           (2) the Chief of the Forest Service (or a des-  
 9 ignee);

10          (3) the Director of the National Park Service  
 11 (or a designee);

12          (4) the Director of the United States Fish and  
 13 Wildlife Service (or a designee);

14          (5) the Director of the Bureau of Land Man-  
 15 agement (or a designee);

16          (6) the Director of the United States Geological  
 17 Survey (or a designee);

18          (7) the Commissioner of Reclamation (or a des-  
 19 ignee);

20          (8) the Director of the Bureau of Indian Affairs  
 21 (or a designee);

22          (9) the Administrator of the Environmental  
 23 Protection Agency (or a designee);

24          (10) the Chief of Engineers (or a designee);



1           (11) the Chair of the Council on Environmental  
2   Quality (or a designee);

3           (12) the Administrator of the Federal Emer-  
4   gency Management Agency (or a designee); and

5           (13) the heads of such other Federal agencies  
6   or departments with jurisdiction over natural re-  
7   sources of the United States, as determined by the  
8   President.

9           (d) CHAIRPERSON.—The Chair of the Council on En-  
10   vironmental Quality shall serve as the Chairperson of the  
11   Panel.

12   **SEC. 366. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
13                           **TATION STRATEGY.**

14           (a) IN GENERAL.—Not later than 1 year after the  
15   date of enactment of this Act, the Panel shall develop a  
16   Natural Resources Climate Change Adaptation Strategy—

17           (1) to protect, restore, and conserve natural re-  
18   sources so that natural resources become more resil-  
19   ient, adapt to, and withstand the ongoing and ex-  
20   pected impacts of climate change; and

21           (2) to identify opportunities to mitigate the on-  
22   going and expected impacts of climate change.

23           (b) DEVELOPMENT.—In developing and revising the  
24   Strategy, the Panel shall—

1           (1) base the strategy on the best available  
2 science;

3           (2) develop the strategy in close cooperation  
4 with States and Indian tribes;

5           (3) coordinate with other Federal agencies, as  
6 appropriate;

7           (4) consult with local governments, conservation  
8 organizations, scientists, and other interested stake-  
9 holders; and

10          (5) provide public notice and opportunity for  
11 comment.

12          (c) REVISION.—After the Panel adopts the initial  
13 Strategy, the Panel shall review and revise the Strategy  
14 every 5 years to incorporate—

15           (1) new information regarding the ongoing and  
16 expected impacts of climate change on natural re-  
17 sources; and

18           (2) new advances in the development of strate-  
19 gies that make natural resources more resilient or  
20 able to adapt to the ongoing and expected impacts  
21 of climate change.

22          (d) CONTENTS.—The Strategy shall—

23           (1) assess the vulnerability of natural resources  
24 to climate change, including short-term, medium-

1 term, long-term, cumulative, and synergistic im-  
2 pacts;

3 (2) describe current research, observation, and  
4 monitoring activities at the Federal, State, tribal,  
5 and local level related to the ongoing and expected  
6 impacts of climate change on natural resources;

7 (3) identify and prioritize research and data  
8 needs;

9 (4) identify natural resources likely to have the  
10 greatest need for protection, restoration, and con-  
11 servation due to the ongoing and expanding impacts  
12 of climate change;

13 (5) include specific protocols for integrating  
14 natural resources adaptation strategies and activities  
15 into the conservation and management of natural re-  
16 sources by Federal departments and agencies to en-  
17 sure consistency across agency jurisdictions;

18 (6) include specific actions that Federal depart-  
19 ments and agencies shall take to protect, conserve,  
20 and restore natural resources to become more resil-  
21 ient, adapt to, and withstand the ongoing and ex-  
22 pected impacts of climate change, including a  
23 timeline to implement those actions;

24 (7) include specific mechanisms for ensuring  
25 communication and coordination—

1           (A) among Federal departments and agen-  
2           cies; and

3           (B) between Federal departments and  
4           agencies and State natural resource agencies;  
5           United States territories, Indian tribes, private  
6           landowners, conservation organizations, and  
7           other countries that share jurisdiction over nat-  
8           ural resources with the United States;

9           (8) include specific actions to develop and im-  
10          plement consistent natural resources inventory and  
11          monitoring protocols through interagency coordina-  
12          tion and collaboration; and

13          (9) include procedures for guiding the develop-  
14          ment of detailed agency- and department-specific ad-  
15          aptation plans required under section 368.

16          (e) IMPLEMENTATION.—Consistent with other laws  
17          and Federal trust responsibilities concerning Indian land,  
18          each Federal department or agency represented on the  
19          Panel shall integrate the elements of the Strategy that re-  
20          late to conservation, restoration, and management of nat-  
21          ural resources into agency plans, environmental reviews,  
22          programs, and activities.

1 **SEC. 367. NATURAL RESOURCES ADAPTATION SCIENCE**  
2 **AND INFORMATION.**

3 (a) **COORDINATION.**—Not later than 90 days after  
4 the date of enactment of this Act, the Administrators shall  
5 establish coordinated procedures for developing and pro-  
6 viding science and information necessary to address the  
7 ongoing and expected impacts of climate change on nat-  
8 ural resources.

9 (b) **OVERSIGHT.**—The National Climate Change and  
10 Wildlife Science Center established under subsection (c)  
11 and the National Climate Service of the National Oceanic  
12 and Atmospheric Administration shall oversee develop-  
13 ment of the procedures.

14 (c) **FUNCTIONS.**—The Administrators shall—

15 (1) ensure that the procedures required under  
16 subsection (a) avoid duplication; and

17 (2) ensure that the National Oceanic and At-  
18 mospheric Administration and the United States Ge-  
19 ological Survey—

20 (A) provide technical assistance to Federal  
21 departments and agencies, State and local gov-  
22 ernments, Indian tribes, and interested private  
23 landowners that are pursuing the goals of ad-  
24 dressing the ongoing and expected impacts of  
25 climate change on natural resources;

1           ~~(B)~~ conduct and sponsor research to de-  
2           velop strategies that increase the ability of nat-  
3           ural resources to become more resilient, adapt  
4           to, and withstand the ongoing and expected im-  
5           pacts of climate change;

6           ~~(C)~~ provide Federal departments and agen-  
7           cies, State and local governments, Indian tribes,  
8           and interested private landowners with research  
9           products, decision and monitoring tools, and in-  
10          formation to develop strategies that increase  
11          the ability of natural resources to become more  
12          resilient, adapt to, and withstand the ongoing  
13          and expected impacts of climate change; and

14          ~~(D)~~ assist Federal departments and agen-  
15          cies in the development of adaptation plans re-  
16          quired by section 368.

17          ~~(d)~~ SURVEY.—Not later than 1 year after the date  
18          of enactment of this Act, and every 5 years thereafter,  
19          the Secretary of Commerce and the Secretary of the Inte-  
20          rior shall conduct a climate change impact survey that—

21                 ~~(1)~~ identifies natural resources considered likely  
22                 to be adversely affected by climate change;

23                 ~~(2)~~ includes baseline monitoring and ongoing  
24                 trend analysis;

1           (3) with input from stakeholders; identifies and  
 2           prioritizes necessary monitoring and research that is  
 3           most relevant to the needs of natural resource man-  
 4           agers to address the ongoing and expected impacts  
 5           of climate change and to promote resilience; and

6           (4) identifies the decision tools necessary to de-  
 7           velop strategies that increase the ability of natural  
 8           resources to become more resilient, adapt to, and  
 9           withstand the ongoing and expected impacts of cli-  
 10          mate change.

11          (e) NATIONAL CLIMATE CHANGE AND WILDLIFE  
 12          SCIENCE CENTER.—

13               (1) ESTABLISHMENT.—The Secretary of the In-  
 14               terior shall establish the National Climate Change  
 15               and Wildlife Science Center within the United States  
 16               Geological Survey.

17               (2) FUNCTIONS.—In collaboration with Federal  
 18               and State natural resources agencies and depart-  
 19               ments, Indian tribes, universities, and other partner  
 20               organizations, the Center shall—

21                       (A) assess and synthesize current physical  
 22                       and biological knowledge;

23                       (B) prioritize scientific gaps in such knowl-  
 24                       edge in order to forecast the ecological impacts  
 25                       of climate change, including, where applicable,

1 ocean acidification, drought, flooding, and wild-  
 2 fire on fish and wildlife at the ecosystem, habi-  
 3 tat, community, population, and species levels;

4 (C) develop and improve tools to identify,  
 5 evaluate, and link scientific approaches and  
 6 models that forecast the impacts of climate  
 7 change, including, where applicable, ocean acidi-  
 8 fication, drought, flooding, and wildfire on fish,  
 9 wildlife, plants, and associated habitats, includ-  
 10 ing—

11 (i) monitoring;

12 (ii) predictive models;

13 (iii) vulnerability analyses;

14 (iv) risk assessments; and

15 (v) decision support systems that help  
 16 managers make informed decisions;

17 (D) develop and evaluate tools to adapt-  
 18 ively manage and monitor the effects of climate  
 19 change (including tools for the collection of  
 20 data) on fish and wildlife on the national, re-  
 21 gional, and local level; and

22 (E) develop capacities for sharing stand-  
 23 ardized data and the synthesis of the data de-  
 24 scribed in subparagraph (D).

25 (f) SCIENCE ADVISORY BOARD.—



1           (1) ESTABLISHMENT.—Not later than 180 days  
2     after the date of enactment of this Act, the Sec-  
3     retary of Commerce and the Secretary of the Inte-  
4     rior shall establish and appoint the members of the  
5     Science Advisory Board.

6           (2) MEMBERSHIP.—The Board shall be com-  
7     prised of not fewer than 10 and not more than 20  
8     members—

9           (A) who have expertise in fish, wildlife,  
10     plant, aquatic, and coastal and marine biology,  
11     ecology, climate change, including, where appli-  
12     cable, ocean acidification, drought, flooding,  
13     and wildfire, and other relevant scientific dis-  
14     ciplines;

15          (B) who represent a balanced membership  
16     among Federal, State, tribal, and local rep-  
17     resentatives, universities, and conservation or-  
18     ganizations; and

19          (C) at least  $\frac{1}{2}$  of whom are recommended  
20     by the President of the National Academy of  
21     Sciences.

22          (3) DUTIES.—The Board shall—

23           (A) advise the Secretary of Commerce and  
24     the Secretary of the Interior on the state of the  
25     science regarding—

- 1                   (i) the ongoing and expected impacts  
2                   of climate change, including, where appli-  
3                   cable, ocean acidification, drought, flood-  
4                   ing, and wildfire on natural resources; and  
5                   (ii) scientific strategies and mecha-  
6                   nisms for protecting, restoring, and con-  
7                   serving natural resources so natural re-  
8                   sources become more resilient, adapt to,  
9                   and withstand the ongoing and expected  
10                  impacts of climate change, including,  
11                  where applicable, ocean acidification,  
12                  drought, flooding, and wildfire; and  
13                  (B) identify and recommend priorities for  
14                  ongoing research needs on the issues described  
15                  in subparagraph (A).
- 16                  (4) COLLABORATION.—The Board shall collabo-  
17                  rate with climate change and ecosystem research en-  
18                  tities in other Federal agencies and departments.
- 19                  (5) AVAILABILITY TO PUBLIC.—The advice and  
20                  recommendations of the Board shall be made avail-  
21                  able to the public.

1 **SEC. 368. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-**  
2 **TION PLANS.**

3 (a) **DEVELOPMENT.**—Not later than 1 year after the  
4 date of development of the Strategy, each department or  
5 agency with representation on the Panel shall—

6 (1) complete an adaptation plan for that de-  
7 partment or agency that—

8 (A) implements the Strategy and is con-  
9 sistent with the natural resources climate  
10 change adaptation policy required by section  
11 362;

12 (B) details the ongoing and expanding ac-  
13 tions of the department or agency, and any  
14 changes in decisionmaking processes necessary  
15 to increase the ability of resources under the ju-  
16 risdiction of the department or agency and, to  
17 the maximum extent practicable, resources  
18 under the jurisdiction of other departments and  
19 agencies that may be significantly affected by  
20 decisions of the department or agency, to be-  
21 come more resilient, adapt to, and withstand  
22 the ongoing and expected impacts of climate  
23 change, including, where applicable, ocean acidi-  
24 fication, drought, flooding, and wildfire; and

25 (C) includes a timeline for implementation;

1           (2) provide opportunities for public review and  
 2           comment on the adaptation plan, and in the case of  
 3           a plan by the Bureau of Indian Affairs, review by  
 4           Indian tribes; and

5           (3) submit the plan to the President for ap-  
 6           proval.

7           (b) REVIEW BY PRESIDENT AND SUBMISSION TO  
 8           CONGRESS.—

9           (1) REVIEW BY PRESIDENT.—The President  
 10          shall—

11                (A) approve an adaptation plan submitted  
 12                under subsection (a)(3) if the plan meets the  
 13                requirements of subsection (c) and is consistent  
 14                with the Strategy; and

15                (B) decide whether to approve the plan  
 16                within 60 days of submission.

17           (2) DISAPPROVAL.—If the President dis-  
 18           approves an adaptation plan, the President shall di-  
 19           rect the department or agency to submit a revised  
 20           plan within 60 days of that disapproval.

21           (3) SUBMISSION TO CONGRESS.—Not later than  
 22           30 days after the date of approval of an adaptation  
 23           plan by the President, the department or agency  
 24           shall submit the plan to—

1           (A) the Committee on Natural Resources  
2           of the House of Representatives;

3           (B) the Committee on Energy and Natural  
4           Resources of the Senate;

5           (C) the Committee on Environment and  
6           Public Works of the Senate; and

7           (D) any other committees of the House of  
8           Representatives or the Senate with principal ju-  
9           risdiction over the department or agency.

10       (e) REQUIREMENTS.—Each adaptation plan shall—

11           (1) establish programs for assessing the ongo-  
12           ing and expected impacts of climate change, includ-  
13           ing, where applicable, ocean acidification, drought,  
14           flooding, and wildfire on natural resources under the  
15           jurisdiction of the department or agency preparing  
16           the plan, including—

17                   (A) assessment of cumulative and syner-  
18                   gistic effects; and

19                   (B) programs that identify and monitor  
20                   natural resources likely to be adversely affected  
21                   and that have need for conservation;

22           (2) identify and prioritize—

23                   (A) the strategies of the department or  
24                   agency preparing the plan;

1           (B) the specific conservation actions that  
2           address the ongoing and expected impacts of  
3           climate change, including, where applicable,  
4           ocean acidification, drought, flooding, and wild-  
5           fire on natural resources under jurisdiction of  
6           the department or agency preparing the plan;

7           (C) strategies to protect, restore, and con-  
8           serve such resources to become more resilient,  
9           adapt to, and better withstand those impacts,  
10          including—

11               (i) protection, restoration, and con-  
12               servation of terrestrial, marine, estuarine,  
13               and freshwater habitats and ecosystems;

14               (ii) establishment of terrestrial, ma-  
15               rine, estuarine, and freshwater habitat  
16               linkages and corridors;

17               (iii) restoration and conservation of  
18               ecological processes;

19               (iv) protection of a broad diversity of  
20               native species of fish, wildlife, and plant  
21               populations across the ranges of those spe-  
22               cies; and

23               (v) protection of fish, wildlife, and  
24               plant health, recognizing that climate can

1           alter the distribution and ecology of  
2           parasites, pathogens, and vectors;

3       ~~(3)~~ describe how the department or agency  
4       will—

5           (A) integrate the strategies and conserva-  
6           tion activities into plans, programs, activities,  
7           and actions of the department or agency relat-  
8           ing to the conservation and management of nat-  
9           ural resources; and

10          (B) establish new plans, programs, activi-  
11          ties, and actions, if necessary;

12       ~~(4)~~ establish methods—

13           (A) to assess the effectiveness of strategies  
14           and conservation actions the department or  
15           agency takes to protect, restore, and conserve  
16           natural resources so natural resources become  
17           more resilient, adapt to, and withstand the on-  
18           going and expected impacts of climate change;  
19           and

20           (B) to update those strategies and actions  
21           to respond to new information and changing  
22           conditions;

23       ~~(5)~~ describe current and proposed mechanisms  
24       to enhance cooperation and coordination of natural  
25       resources adaptation efforts with other Federal

1 agencies, State and local governments, Indian tribes,  
2 and nongovernmental stakeholders;

3 (6) include written guidance to resource man-  
4 agers that—

5 (A) explains how managers are expected to  
6 address the ongoing and expected effects of cli-  
7 mate change, including, where applicable, ocean  
8 acidification, drought, flooding, and wildfire;

9 (B) identifies how managers shall obtain  
10 any necessary site-specific information; and

11 (C) reflects best practices shared among  
12 relevant agencies, but recognizes the unique  
13 missions, objectives, and responsibilities of each  
14 agency;

15 (7) identify and assess data and information  
16 gaps necessary to develop natural resources adapta-  
17 tion plans and strategies; and

18 (8) consider strategies that engage youth and  
19 young adults (including youth and young adults  
20 working in full-time or part-time youth service or  
21 conservation corps programs) to provide the youth  
22 and young adults with opportunities for meaningful  
23 conservation and community service and to encour-  
24 age opportunities for employment in the private sec-  
25 tor through partnerships with employers.



1       ~~(d) IMPLEMENTATION.—~~

2           ~~(1) IN GENERAL.—~~Upon approval by the Presi-  
 3       dent, each department or agency with representation  
 4       on the Panel shall, consistent with existing author-  
 5       ity, implement the adaptation plan of the depart-  
 6       ment or agency through existing and new plans,  
 7       policies, programs, activities, and actions.

8           ~~(2) CONSIDERATION OF IMPACTS.—~~

9           ~~(A) IN GENERAL.—~~To the maximum ex-  
 10       tent practicable and consistent with existing au-  
 11       thority, natural resource management decisions  
 12       made by the department or agency shall—

13               ~~(i)~~ consider the ongoing and expected  
 14               impacts of climate change, including,  
 15               where applicable, ocean acidification,  
 16               drought, flooding, nd wildfire on natural  
 17               resources; and

18               ~~(ii)~~ choose alternatives that will avoid  
 19               and minimize those impacts and promote  
 20               resilience.

21           ~~(B) GUIDANCE.—~~The Council on Environ-  
 22       mental Quality shall provide guidance for Fed-  
 23       eral departments and agencies considering those  
 24       impacts and choosing alternatives that will

1           avoid and minimize those impacts and promote  
2           resilience.

3           ~~(c) REVISION AND REVIEW.~~—Not less than every 5  
4   years, each department or agency shall review and revise  
5   the adaptation plan of the department or agency to incor-  
6   porate the best available science, and other information,  
7   regarding the ongoing and expected impacts of climate  
8   change on natural resources.

9   **SEC. 369. STATE NATURAL RESOURCES ADAPTATION**  
10           **PLANS.**

11           ~~(a) REQUIREMENT.~~—In order to be eligible for funds  
12   under section 370, not later than 1 year after the develop-  
13   ment of the Strategy, each State shall prepare a State nat-  
14   ural resources adaptation plan detailing current and fu-  
15   ture efforts of the State to address the ongoing and ex-  
16   pected impacts of climate change on natural resources and  
17   coastal areas within the jurisdiction of the State.

18           ~~(b) REVIEW OR APPROVAL.~~—

19                   ~~(1) IN GENERAL.~~—The Secretary of the Inte-  
20   rior and, as applicable, the Secretary of Commerce  
21   shall review each State adaptation plan, and approve  
22   the plan if the plan—

23                           ~~(A)~~ meets the requirements of subsection

24                           ~~(c)~~; and

25                           ~~(B)~~ is consistent with the Strategy.

1           (2) APPROVAL OR DISAPPROVAL.—The Sec-  
 2       retary of the Interior and, as applicable, the Sec-  
 3       retary of Commerce shall approve or disapprove the  
 4       plan by written notice not later than 180 days after  
 5       the date of submission of the plan (or a revised  
 6       plan).

7           (3) RESUBMISSION.—Not later than 90 days  
 8       after the date of resubmission of an adaptation plan  
 9       that has been disapproved under paragraph (2), the  
 10      Secretary of the Interior and, as applicable, the Sec-  
 11      retary of Commerce, shall approve or disapprove the  
 12      plan by written notice.

13      (c) CONTENTS.—A State natural resources adapta-  
 14      tion plan shall—

15           (1) include strategies for addressing the ongoing  
 16       ing and expected impacts of climate change, includ-  
 17       ing, where applicable, ocean acidification, drought,  
 18       flooding, and wildfire on terrestrial, marine, estua-  
 19       rine, and freshwater fish, wildlife, plants, habitats,  
 20       ecosystems, wildlife health, and ecological processes  
 21       that—

22           (A) describe the ongoing and expected im-  
 23       pacts of climate change, including, where appli-  
 24       cable, ocean acidification, drought, flooding,  
 25       and wildfire on the diversity and health of fish,

1 wildlife and plant populations, habitats, eco-  
2 systems, and associated ecological processes;

3 (B) establish programs for monitoring the  
4 ongoing and expected impacts of climate  
5 change, including, where applicable, ocean acidi-  
6 fication, drought, flooding, and wildfire on fish,  
7 wildlife, and plant populations, habitats, eco-  
8 systems, and associated ecological processes;

9 (C) describe and prioritize proposed con-  
10 servation actions that increase the ability of  
11 fish, wildlife, plant populations, habitats, eco-  
12 systems, and associated ecological processes to  
13 become more resilient, adapt to, and better  
14 withstand those impacts;

15 (D) consider strategies that engage youth  
16 and young adults (including youth and young  
17 adults working in full-time or part-time youth  
18 service or conservation corps programs) to pro-  
19 vide the youth and young adults with opportu-  
20 nities for meaningful conservation and commu-  
21 nity service and to encourage opportunities for  
22 employment in the private sector through part-  
23 nerships with employers;

1           (E) integrate protection and restoration of  
2           resource resilience into agency decision making  
3           and specific conservation actions;

4           (F) include a time frame for implementing  
5           conservation actions for fish, wildlife, and plant  
6           populations, habitats, ecosystems, and associ-  
7           ated ecological processes;

8           (G) establish methods—

9           (i) for assessing the effectiveness of  
10           strategies and conservation actions taken  
11           to increase the ability of fish, wildlife, and  
12           plant populations, habitats, ecosystems,  
13           and associated ecological processes to be-  
14           come more resilient, adapt to, and better  
15           withstand the ongoing and expected im-  
16           pacts of climate changes, including, where  
17           applicable, ocean acidification, drought,  
18           flooding, and wildfire; and

19           (ii) for updating strategies and ac-  
20           tions to respond appropriately to new in-  
21           formation or changing conditions;

22           (H) are incorporated into a revision of the  
23           State wildlife action plan (also known as the  
24           State comprehensive wildlife strategy) that has  
25           been—

1 (i) submitted to the United States  
2 Fish and Wildlife Service; and

3 (ii) approved, or is pending approval,  
4 by the United States Fish and Wildlife  
5 Service; and

6 ~~(I)~~ are developed—

7 (i) with the participation of the State  
8 fish and wildlife agency, the State coastal  
9 agency, the State agency responsible for  
10 administration of Land and Water Con-  
11 servation Fund grants, the State Forest  
12 Legacy program coordinator, and other  
13 State agencies considered appropriate by  
14 the Governor of the State;

15 (ii) in coordination with the Secretary  
16 of the Interior, and where applicable, the  
17 Secretary of Commerce; and

18 ~~(iii)~~ in coordination with other States  
19 that share jurisdiction over natural re-  
20 sources with the State; and

21 ~~(2)~~ in the case of a coastal State, include strat-  
22 egies for addressing the ongoing and expected im-  
23 pacts of climate change, including, where applicable,  
24 ocean acidification, drought, flooding, and wildfire  
25 on a coastal zone that—

1           (A) identify natural resources likely to be  
2           impacted by climate change, and describe the  
3           impacts;

4           (B) identify and prioritize continuing re-  
5           search and data collection needed to address  
6           the impacts, including—

7                   (i) acquisition of high-resolution  
8                   coastal elevation and nearshore bathymetry  
9                   data;

10                   (ii) historic shoreline position maps,  
11                   erosion rates, and inventories of shoreline  
12                   features and structures;

13                   (iii) measures and models of relative  
14                   rates of sea level rise or lake level changes,  
15                   including effects on flooding, storm surge,  
16                   inundation, and coastal geological proc-  
17                   esses;

18                   (iv) measures and models of habitat  
19                   loss, including projected losses of coastal  
20                   wetlands and potentials for inland migra-  
21                   tion of natural shoreline habitats;

22                   (v) measures and models of ocean and  
23                   coastal species and ecosystem migrations,  
24                   and changes in species population dynam-  
25                   ics;

- 1                   (vi) changes in storm frequency, in-
- 2                   tensity, or rainfall patterns;
- 3                   (vii) measures and models of saltwater
- 4                   intrusion into coastal rivers and aquifers;
- 5                   (viii) changes in chemical or physical
- 6                   characteristics of marine and estuarine
- 7                   systems, including the presence, extent,
- 8                   and timing of hypoxic and anoxic condi-
- 9                   tions;
- 10                  (ix) measures and models of increased
- 11                  harmful algal blooms; and
- 12                  (x) measures and models of the
- 13                  spread of invasive species;
- 14                  (C) identify and prioritize adaptation strat-
- 15                  egies to protect, restore, and conserve natural
- 16                  resources to enable natural resources to become
- 17                  more resilient, adapt to, and withstand the on-
- 18                  going and expected impacts of climate change,
- 19                  including, where applicable, ocean acidification,
- 20                  drought, flooding, and wildfire, including—
- 21                   (i) protection, maintenance, and res-
- 22                   toration of ecologically important coastal
- 23                   lands, coastal and ocean ecosystems, and
- 24                   species biodiversity and the establishment



1 of habitat buffer zones, migration cor-  
2 ridors, and climate refugia; and

3 (ii) improved planning, siting policies,  
4 hazard mitigation strategies, and State  
5 property insurance programs;

6 (D) establish programs—

7 (i) for the long-term monitoring of the  
8 ongoing and expected impacts of climate  
9 change, including, where applicable, ocean  
10 acidification, drought, flooding, and wild-  
11 fire on the ocean and coastal zone; and

12 (ii) assess and adjust, when necessary,  
13 the adaptive management strategies;

14 (E) establish performance measures that—

15 (i) assess the effectiveness of adapta-  
16 tion strategies intended to improve resil-  
17 ience and the ability of natural resources  
18 to adapt to and withstand the ongoing and  
19 expected impacts of climate change, includ-  
20 ing, where applicable, ocean acidification,  
21 drought, flooding, and wildfire;

22 (ii) assess the effectiveness of adapta-  
23 tion strategies intended to minimize those  
24 impacts on the coastal zone; and

1                   (iii) update the strategies to respond  
 2                   to new information or changing conditions;  
 3                   and

4                   (F) are developed—

5                   (i) with the participation of the State  
 6                   coastal agency and other appropriate State  
 7                   agencies; and

8                   (ii) in coordination with the Secretary  
 9                   of Commerce and other appropriate Fed-  
 10                  eral agencies.

11       (d) PUBLIC INPUT.—In developing the adaptation  
 12 plan, a State shall provide for solicitation and consider-  
 13 ation of public input and independent scientific input.

14       (e) COORDINATION WITH OTHER PLANS.—The State  
 15 adaptation plan shall review research and information  
 16 and, where appropriate, integrate the goals and measures  
 17 set forth in other natural resources conservation strate-  
 18 gies, including—

19               (1) the National Fish Habitat Action Plan;

20               (2) plans under the North American Wetlands  
 21 Conservation Act (16 U.S.C. 4401 et seq.);

22               (3) the Federal, State, and local partnership  
 23 known as “Partners in Flight”;

1           (4) federally approved coastal zone management  
2           plans under the Coastal Zone Management Act of  
3           1972 (16 U.S.C. 1451 et seq.);

4           (5) federally approved regional fishery manage-  
5           ment plans and habitat conservation activities  
6           under the Magnuson-Stevens Fishery Conservation  
7           and Management Act (16 U.S.C. 1801 et seq.);

8           (6) the National Coral Reef Action Plan;

9           (7) recovery plans for threatened species and  
10          endangered species under section 4(f) of the Endan-  
11          gered Species Act of 1973 (16 U.S.C. 1533(f));

12          (8) habitat conservation plans under section 10  
13          of that Act (16 U.S.C. 1539);

14          (9) other Federal, State, and tribal plans for  
15          imperiled species;

16          (10) State or tribal hazard mitigation plans;

17          (11) State or tribal water management plans;

18          (12) State property insurance programs; and

19          (13) other State-based strategies that com-  
20          prehensively implement adaptation activities to re-  
21          mediate the ongoing and expected effects of climate  
22          change, including, where applicable, ocean acidifica-  
23          tion, drought, flooding, and wildfire, on terrestrial,  
24          marine, and freshwater fish, wildlife, plants, and  
25          other natural resources.

1       (f) ~~UPDATING.~~—Each State plan shall be updated at  
 2   least every 5 years.

3       (g) ~~FUNDING.~~—

4           (1) ~~IN GENERAL.~~—Funds allocated to States  
 5   under section 370 shall be used only for activities  
 6   consistent with a State natural resources adaptation  
 7   plan approved by the Secretary of the Interior and,  
 8   as appropriate, the Secretary of Commerce.

9           (2) ~~FUNDING PRIOR TO THE APPROVAL OF A~~  
 10   ~~STATE PLAN.~~—Until the earlier of the date that is  
 11   3 years after the date of enactment of this Act or  
 12   the date on which a State adaptation plan is ap-  
 13   proved, a State shall be eligible to receive funding  
 14   under section 370 for adaptation activities that  
 15   are—

16           (A) consistent with the comprehensive  
 17   wildlife strategy of the State and, where appro-  
 18   priate, other natural resources conservation  
 19   strategies; and

20           (B) in accordance with a work plan devel-  
 21   oped in coordination with—

22                   (i) the Secretary of the Interior; and

23                   (ii) the Secretary of Commerce.

24           (3) ~~COASTAL STATE.~~—In developing a work  
 25   plan under paragraph (2)(B), a coastal State shall

1 coordinate with the Secretary of Commerce only for  
 2 those portions of the strategy relating to activities  
 3 affecting the coastal zone.

4 (4) PENDING APPROVAL.—During the period  
 5 for which approval by the applicable Secretary is  
 6 pending, the State may continue to receive funds  
 7 under section 370 pursuant to the work plan de-  
 8 scribed in paragraph (2)(B).

9 **SEC. 370. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
 10 **TATION ACCOUNT.**

11 (a) DISTRIBUTION OF AMOUNTS.—

12 (1) STATES.—Of the amounts made available  
 13 for each fiscal year to carry out this subpart, 38.5  
 14 percent shall be provided to States to carry out nat-  
 15 ural resources adaptation activities in accordance  
 16 with adaptation plans approved under section 369,  
 17 and shall be distributed as follows:

18 (A) 32.5 percent shall be available to State  
 19 wildlife agencies in accordance with the appor-  
 20 tionment formula established under the second  
 21 subsection (c) (relating to the apportionment of  
 22 the Wildlife Conservation and Restoration Ac-  
 23 count) of section 4 of the Pittman-Robertson  
 24 Wildlife Restoration Act (16 U.S.C. 669e); and

1           ~~(B)~~ 6 percent shall be available to State  
 2           coastal agencies pursuant to the formula estab-  
 3           lished by the Secretary of Commerce under sec-  
 4           tion ~~306(c)~~ of the Coastal Management Act of  
 5           1972 (~~16 U.S.C. 1455(c)~~).

6           ~~(2)~~ NATURAL RESOURCE ADAPTATION.—Of the  
 7           amounts made available for each fiscal year to carry  
 8           out this subpart—

9           ~~(A)~~ 17 percent shall be allocated to the  
 10          Secretary of the Interior for use in funding—

11                   (i) natural resources adaptation activi-  
 12                   ties carried out—

13                           (I) under endangered species, mi-  
 14                           gratory species, and other fish and  
 15                           wildlife programs administered by the  
 16                           National Park Service, the United  
 17                           States Fish and Wildlife Service, the  
 18                           Bureau of Indian Affairs, and the Bu-  
 19                           reau of Land Management;

20                           (II) on wildlife refuges, National  
 21                           Park Service land, and other public  
 22                           land under the jurisdiction of the  
 23                           United States Fish and Wildlife Serv-  
 24                           ice, the Bureau of Land Management,

1 the Bureau of Indian Affairs, or the  
2 National Park Service; and

3 ~~(III) within Federal water man-~~  
4 ~~aged by the Bureau of Reclamation~~  
5 ~~and the National Park Service; and~~

6 ~~(ii) the implementation of the Na-~~  
7 ~~tional Fish and Wildlife Habitat and Cor-~~  
8 ~~ridors Information Program required by~~  
9 ~~section 371;~~

10 ~~(B) 5 percent shall be allocated to the Sec-~~  
11 ~~retary of the Interior for natural resources ad-~~  
12 ~~aptation activities carried out under cooperative~~  
13 ~~grant programs; including—~~

14 ~~(i) the cooperative endangered species~~  
15 ~~conservation fund authorized under section~~  
16 ~~6 of the Endangered Species Act of 1973~~  
17 ~~(16 U.S.C. 1535);~~

18 ~~(ii) programs under the North Amer-~~  
19 ~~ican Wetlands Conservation Act (16~~  
20 ~~U.S.C. 4401 et seq.);~~

21 ~~(iii) the Neotropical Migratory Bird~~  
22 ~~Conservation Fund established by section~~  
23 ~~9(a) of the Neotropical Migratory Bird~~  
24 ~~Conservation Act (16 U.S.C. 6108(a));~~

(iv) the Coastal Program of the United States Fish and Wildlife Service;

(v) the National Fish Habitat Action Plan;

(vi) the Partners for Fish and Wildlife Program;

(vii) the Landowner Incentive Program;

(viii) the Wildlife Without Borders Program of the United States Fish and Wildlife Service; and

(ix) the Migratory Species Program and Park Flight Migratory Bird Program of the National Park Service; and

(C) 3 percent shall be allocated to the Secretary of the Interior to provide financial assistance to Indian tribes to carry out natural resources adaptation activities through the Tribal Wildlife Grants Program of the United States Fish and Wildlife Service.

~~(3) LAND AND WATER CONSERVATION.—~~

~~(A) DEPOSITS.—~~

(i) IN GENERAL.—Of the amounts made available for each fiscal year to carry out this subpart, 12 percent shall be de-



1           posited in the Land and Water Conserva-  
 2           tion Fund established under section 2 of  
 3           the Land and Water Conservation Fund  
 4           Act of 1965 (16 U.S.C. 460l-5).

5           (ii) USE OF DEPOSITS.—Deposits in  
 6           the Land and Water Conservation Fund  
 7           under this paragraph shall—

8                   (I) be supplemental to authoriza-  
 9                   tions provided under section 3 of the  
 10                  Land and Water Conservation Fund  
 11                  Act of 1965 (16 U.S.C. 460l-6),  
 12                  which shall remain available for non-  
 13                  adaptation needs; and

14                  (II) be available to carry out this  
 15                  subpart without further appropriation  
 16                  or fiscal year limitation.

17           (B) DISTRIBUTION OF AMOUNTS.—Of the  
 18           amounts deposited under this paragraph in the  
 19           Land and Water Conservation Fund—

20                  (i) for the purposes of carrying out  
 21                  the natural resources adaptation activities  
 22                  through the acquisition of land and inter-  
 23                  ests in land under section 6 of the Land  
 24                  and Water Conservation Fund Act of 1965  
 25                  (16 U.S.C. 460l-8), 1/6 shall be allocated

1 to the Secretary of the Interior and made  
2 available on a competitive basis—

3 (I) to States, in accordance with  
4 the natural resources adaptation plans  
5 of States, and to Indian tribes;

6 (II) notwithstanding section 5 of  
7 that Act (16 U.S.C. 460~~l~~–7); and

8 (III) in addition to any funds  
9 provided pursuant to annual appro-  
10 priations Acts, the Energy Policy Act  
11 of 2005 (42 U.S.C. 15801 et seq.); or  
12 any other authorization for non-  
13 adaptation needs;

14 (ii)  $\frac{1}{3}$  shall be allocated to the Sec-  
15 retary of the Interior to carry out natural  
16 resources adaptation activities through the  
17 acquisition of lands and interests in land  
18 under section 7 of the Land and Water  
19 Conservation Fund Act of 1965 (16 U.S.C.  
20 460~~l~~–9);

21 (iii)  $\frac{1}{6}$  shall be allocated to the Sec-  
22 retary of Agriculture and made available to  
23 the States and Indian tribes to carry out  
24 natural resources adaptation activities  
25 through the acquisition of land and inter-

1           ests in land under section 7 of the Cooper-  
2           ative Forestry Assistance Act of 1978 (16  
3           U.S.C. 2103e); and

4           (iv)  $\frac{1}{3}$  shall be allocated to the Sec-  
5           retary of Agriculture to carry out natural  
6           resources adaptation activities through the  
7           acquisition of land and interests in land  
8           under section 7 of the Land and Water  
9           Conservation Fund Act of 1965 (16 U.S.C.  
10          460l-9).

11          (C) EXPENDITURE OF FUNDS.—In allo-  
12          eating funds under subparagraph (B), the Sec-  
13          retary of the Interior and the Secretary of Agri-  
14          culture shall take into consideration factors in-  
15          cluding—

16               (i) the availability of non-Federal con-  
17               tributions from State, local, or private  
18               sources;

19               (ii) opportunities to protect fish and  
20               wildlife corridors or otherwise to link or  
21               consolidate fragmented habitats;

22               (iii) opportunities to reduce the risk of  
23               catastrophic wildfires, drought, extreme  
24               flooding, or other climate-related events

1           that are harmful to fish and wildlife and  
2           people; and

3           (iv) the potential for conservation of  
4           species or habitat types at serious risk due  
5           to climate change, including, where appli-  
6           cable, ocean acidification, drought, flood-  
7           ing, and wildfire, or other stressors.

8           (4) NATIONAL FOREST AND GRASSLAND ADAP-  
9           TATION.—Of the amounts made available for each  
10          fiscal year to carry out this subpart, 5 percent shall  
11          be allocated to the Forest Service, through the Sec-  
12          retary of Agriculture—

13           (A) to fund natural resources adaptation  
14           activities carried out in national forests and na-  
15           tional grasslands under the jurisdiction of the  
16           Forest Service; and

17           (B) to carry out natural resource adapta-  
18           tion activities on State and private forest land  
19           carried out under the Cooperative Forestry As-  
20           sistance Act of 1978 (16 U.S.C. 2101 et seq.).

21           (5) COASTAL AND MARINE SYSTEM ADAPTA-  
22           TION.—Of the amounts made available for each fis-  
23           cal year to carry out this subpart, 7 percent shall be  
24           allocated to the Secretary of Commerce to fund nat-  
25           ural resources adaptation activities that protect,

1 maintain, and restore coastal, estuarine, and marine  
2 resources, habitats, and ecosystems, including such  
3 activities carried out under—

4 (A) the coastal and estuarine land con-  
5 servation program administered by the National  
6 Oceanic and Atmospheric Administration;

7 (B) the community-based restoration pro-  
8 gram for fishery and coastal habitats estab-  
9 lished under section 117 of the Magnuson-Ste-  
10 vens Fishery Conservation and Management  
11 Reauthorization Act of 2006 (16 U.S.C.  
12 1891a);

13 (C) the Coastal Zone Management Act of  
14 1972 (16 U.S.C. 1451 et seq.) that are specifi-  
15 cally designed to strengthen the ability of coast-  
16 al, estuarine, and marine resources, habitats,  
17 and ecosystems to adapt to and withstand the  
18 ongoing and expected impacts of climate  
19 change, including, where applicable, ocean acidi-  
20 fication, drought, flooding, and wildfire;

21 (D) the Open Rivers Initiative;

22 (E) the Magnuson-Stevens Fishery Con-  
23 servation and Management Act (16 U.S.C.  
24 1801 et seq.);

1           (F) the Marine Mammal Protection Act of  
2           1972 (16 U.S.C. 1361 et seq.);

3           (G) the Endangered Species Act of 1973  
4           (16 U.S.C. 1531 et seq.);

5           (H) the Marine Protection, Research, and  
6           Sanctuaries Act of 1972 (33 U.S.C. 1401 et  
7           seq.);

8           (I) the Coral Reef Conservation Act of  
9           2000 (16 U.S.C. 6401 et seq.); and

10          (J) the Estuary Restoration Act of 2000  
11          (33 U.S.C. 2901 et seq.).

12          (6) ESTUARINE AND FRESHWATER ECOSYSTEM  
13          ADAPTATION.—Of the amounts made available for  
14          each fiscal year to carry out this subpart, 7.5 per-  
15          cent shall be allocated to the Administrator of the  
16          Environmental Protection Agency and 5 percent  
17          shall be available to the Secretary of the Army for  
18          use by the Corps of Engineers for use in natural re-  
19          sources adaptation activities restoring and pro-  
20          tecting—

21               (A) large-scale freshwater aquatic eco-  
22               systems, such as the Everglades, the Great  
23               Lakes, Flathead Lake, the Missouri River, the  
24               Mississippi River, the Colorado River, the Sac-  
25               ramento-San Joaquin Rivers, the Ohio River,

1 the Columbia-Snake River System, the Apa-  
2 lachicola, Chattahoochee, and Flint River Sys-  
3 tem, the Connecticut River, and the Yellowstone  
4 River;

5 (B) large-scale estuarine ecosystems, such  
6 as Chesapeake Bay, Long Island Sound, Puget  
7 Sound, the Mississippi River Delta, the San  
8 Francisco Bay Delta, Narragansett Bay, and  
9 Albemarle-Pamlico Sound;

10 (C) freshwater and estuarine ecosystems,  
11 watersheds, and basins identified and  
12 prioritized by the Administrator of the Environ-  
13 mental Protection Agency or the Corps of Engi-  
14 neers, working in cooperation with other Fed-  
15 eral agencies, States, tribal governments, local  
16 governments, scientists, and other conservation  
17 partners; and

18 (D)(i) habitats and ecosystems through es-  
19 tuary habitat restoration projects authorized by  
20 the Estuary Restoration Act of 2000 (33  
21 U.S.C. 2901 et seq.);

22 (ii) project modifications for improvement  
23 of the environment;

24 (iii) aquatic restoration and protection  
25 projects authorized by section 206 of the Water

1           Resources Development Act of 1996 (33 U.S.C.  
2           2330); and

3           (iv) other appropriate programs and activi-  
4           ties.

5           (b) USE OF FUNDS BY FEDERAL DEPARTMENTS AND  
6 AGENCIES.—Funds allocated to Federal departments and  
7 agencies under this section shall only be used for natural  
8 resources adaptation activities consistent with an adapta-  
9 tion plan approved under section 368.

10          (c) STATE COST-SHARING.—Notwithstanding any  
11 other provision of law, a State that receives a grant under  
12 this section shall use funds from non-Federal sources to  
13 pay 10 percent of the costs of each activity carried out  
14 under the grant.

15 **SEC. 371. NATIONAL FISH AND WILDLIFE HABITAT AND**  
16 **CORRIDORS INFORMATION PROGRAM.**

17          (a) DEFINITIONS.—In this section:

18           (1) GEOSPATIAL INTEROPERABILITY FRAME-  
19 WORK.—The term “Geospatial Interoperability  
20 Framework” means the strategy used by the Na-  
21 tional Biological Information Infrastructure (based  
22 on accepted standards, specifications, and protocols  
23 adopted through the International Standards Orga-  
24 nization, the Open Geospatial Consortium, and the  
25 Federal Geographic Data Committee) to manage, ar-



1       chive, integrate, analyze, and make geospatial and  
2       biological data and metadata accessible.

3           ~~(2)~~ PROGRAM.—The term “Program” means  
4       the National Fish and Wildlife Habitat and Cor-  
5       ridors Information Program established under sub-  
6       section (b).

7           ~~(3)~~ SECRETARY.—The term “Secretary” means  
8       the Secretary of the Interior.

9           ~~(4)~~ SYSTEM.—The term “System” means the  
10      Habitat and Corridors Information System estab-  
11      lished under subsection (d)(1).

12      ~~(b)~~ ESTABLISHMENT.—Not later than 180 days after  
13      the date of enactment of this Act, the Secretary, in co-  
14      operation with the States and Indian tribes, shall establish  
15      a National Fish and Wildlife Habitat and Corridors Infor-  
16      mation Program.

17      ~~(c)~~ PURPOSE.—The purposes of the Program are—

18           ~~(1)~~ to support States and Indian tribes in devel-  
19      oping geographical information system databases of  
20      fish and wildlife habitats and corridors that—

21           ~~(A)~~ inform planning and development deci-  
22      sions within each State;

23           ~~(B)~~ enable each State to model climate im-  
24      pacts and adaptation; and

1           (C) provide geographically specific en-  
 2           hancements of State wildlife action plans;

3           (2) to ensure the collaborative development of a  
 4           comprehensive national geographic information sys-  
 5           tem database of maps, models, data, surveys, infor-  
 6           mational products, and other geospatial information  
 7           regarding fish and wildlife habitat and corridors  
 8           that—

9           (A) is based on consistent protocols for  
 10          sampling and mapping across landscapes;

11          (B) takes into account regional differences;  
 12          and

13          (C) uses—

14               (i) existing and planned State- and  
 15               tribal-based geographical information sys-  
 16               tem databases; and

17               (ii) existing databases, analytical  
 18               tools, metadata activities, and other infor-  
 19               mation products available through the Na-  
 20               tional Biological Information Infrastruc-  
 21               ture maintained by the Secretary and non-  
 22               governmental organizations; and

23          (3) to facilitate the use of those databases by  
 24          Federal, State, local, and tribal decisionmakers to  
 25          incorporate qualitative information on fish and wild-

1 life habitats and corridors at the earliest practicable  
2 stage for use in—

3 (A) prioritizing and targeting natural re-  
4 sources adaptation strategies and activities;

5 (B) avoiding, minimizing, and mitigating  
6 the impacts on fish and wildlife habitat and cor-  
7 ridors when locating energy development, water,  
8 transmission, transportation, and other land  
9 use projects;

10 (C) assessing the impacts of existing devel-  
11 opment on habitats and corridors; and

12 (D) developing management strategies that  
13 enhance the ability of fish, wildlife, and plant  
14 species to migrate or respond to shifting habi-  
15 tats within existing habitats and corridors.

16 (d) HABITAT AND CORRIDORS INFORMATION SYS-  
17 TEM.—

18 (1) IN GENERAL.—The Secretary, in coopera-  
19 tion with States and Indian tribes, shall establish a  
20 Habitat and Corridors Information System.

21 (2) CONTENTS.—The System shall—

22 (A) include maps, data, and descriptions of  
23 fish and wildlife habitat and corridors that—

24 (i) have been developed by Federal  
25 agencies, State wildlife agencies, and nat-

1           ural heritage programs, Indian tribes, local  
2           governments, nongovernmental organiza-  
3           tions, and industry; and

4           (ii) meet accepted geospatial inter-  
5           operability framework data and metadata  
6           protocols and standards;

7           (B) include maps and descriptions of pro-  
8           jected shifts in habitats and corridors of fish  
9           and wildlife species in response to climate  
10          change;

11          (C) ensure data quality;

12          (D) at scales useful to decisionmakers,  
13          make data, models, and analyses included in  
14          the System available—

15           (i) to prioritize and target natural re-  
16           sources adaptation strategies and activi-  
17           ties;

18           (ii) to assess the impacts of existing  
19           development on habitats and corridors;

20           (iii) to assess the impacts of proposed  
21           energy development, water, transmission,  
22           transportation, and other land use projects  
23           and to avoid, minimize, or mitigate those  
24           impacts on habitats and corridors; and

1 (iv) to develop management strategies  
2 that enhance the ability of fish, wildlife,  
3 and plant species to migrate or respond to  
4 shifting habitats within existing habitats  
5 and corridors;

6 (E) update maps and other information as  
7 landscapes, habitats, corridors, and wildlife pop-  
8 ulations change, or as new information becomes  
9 available;

10 (F) encourage development of collaborative  
11 plans by Federal and State agencies and Indian  
12 tribes that monitor and evaluate the ability of  
13 the System to meet the needs of decision-  
14 makers;

15 (G) identify gaps in habitat and corridor  
16 information, mapping, and research needed to  
17 fully assess current data and metadata;

18 (H) prioritize research and future data col-  
19 lection activities for use in updating the System  
20 and provide support for those activities;

21 (I) include mechanisms to support collabo-  
22 rative research, mapping, and planning of habi-  
23 tats and corridors by Federal and State agen-  
24 cies, Indian tribes, and other interested stake-  
25 holders;

1           ~~(J)~~ incorporate biological and geospatial  
 2           data on species and corridors found in energy  
 3           development and transmission plans, including  
 4           renewable energy initiatives, transportation, and  
 5           other land use plans;

6           ~~(K)~~ identify, prioritize, and describe key  
 7           parcels of non-Federal land that—

8                   (i) are located within units of the Na-  
 9                   tional Park System, National Wildlife Ref-  
 10                  uge System, National Forest System, or  
 11                  National Grassland System; and

12                  (ii) are critical to maintenance of  
 13                  wildlife habitat and migration corridors;  
 14                  and

15           ~~(L)~~ be based on the best scientific informa-  
 16           tion available.

17       ~~(e) FINANCIAL AND OTHER SUPPORT.—~~The Sec-  
 18       retary may provide support to the States and Indian  
 19       tribes, including financial and technical assistance, for ac-  
 20       tivities that support the development and implementation  
 21       of the System.

22       ~~(f) COORDINATION.—~~In cooperation with States and  
 23       Indian tribes, the Secretary shall recommend how the in-  
 24       formation in the System may be incorporated into relevant

1 State and Federal plans that affect fish and wildlife, in-  
 2 cluding—

3           (1) land management plans;

4           (2) the State Comprehensive Wildlife Conserva-  
 5 tion Strategies; and

6           (3) appropriate tribal conservation plans.

7       (g) PURPOSE OF INCORPORATION.—The Secretary  
 8 shall make the recommendations required by subsection  
 9 (f) to ensure that relevant State and Federal plans that  
 10 affect fish and wildlife—

11           (1) prevent unnecessary habitat fragmentation  
 12 and disruption of corridors;

13           (2) promote the landscape connectivity nec-  
 14 essary to allow wildlife to move as necessary to meet  
 15 biological needs; adjust to shifts in habitat; and  
 16 adapt to climate change; and

17           (3) minimize the impacts of energy, develop-  
 18 ment, water, transportation, and transmission  
 19 projects and other activities expected to impact habi-  
 20 tat and corridors.

21 **SEC. 372. ADDITIONAL PROVISIONS REGARDING INDIAN**  
 22 **TRIBES.**

23       (a) FEDERAL TRUST RESPONSIBILITY.—Nothing in  
 24 this subpart amends, alters, or gives priority over the Fed-  
 25 eral trust responsibility to any Indian tribe.

1       (b) ~~EXEMPTION FROM FOIA.~~—If a Federal depart-  
 2   ment or agency receives any information relating to sacred  
 3   sites or cultural activities identified by an Indian tribe as  
 4   confidential, such information shall be exempt from disclo-  
 5   sure under section 552 of title 5, United States Code  
 6   (commonly referred to as the Freedom of Information  
 7   Act).

8       (c) ~~APPLICATION OF OTHER LAW.~~—The Secretary of  
 9   the Interior may apply the provisions of the Indian Self-  
 10   Determination and Education Assistance Act (25 U.S.C.  
 11   450 et seq.) in the implementation of this subpart.

12   **Subpart D—Additional Climate Change Adaptation**  
 13                                   **Programs**

14   **SEC. 381. WATER SYSTEM MITIGATION AND ADAPTION**  
 15                                   **PARTNERSHIPS.**

16       (a) ~~DEFINITIONS.~~—In this section:

17               (1) ~~OWNER OR OPERATOR.~~—

18                       (A) ~~IN GENERAL.~~—The term “owner or  
 19       operator” means a person (including a regional,  
 20       local, municipal, or private entity) that owns or  
 21       operates a water system.

22                       (B) ~~INCLUSION.~~—The term “owner or op-  
 23       erator” includes—



1 (i) a non-Federal entity that has oper-  
 2 ational responsibilities for a federally or  
 3 State owned water system; and

4 (ii) an entity formed pursuant to any  
 5 State's joint exercise of powers statutes  
 6 that includes one or more of the entities in  
 7 paragraph (A).

8 (2) WATER SYSTEM.—The term “water sys-  
 9 tem” means—

10 (A) a community water system (as defined  
 11 in section 1401 of the Safe Drinking Water Act  
 12 (42 U.S.C. 300f));

13 (B) a treatment works (as defined in sec-  
 14 tion 212 of the Federal Water Pollution Control  
 15 Act (33 U.S.C. 1292)), including a municipal  
 16 separate storm sewer system;

17 (C) a decentralized wastewater treatment  
 18 system for domestic sewage;

19 (D) a groundwater storage and replenish-  
 20 ment system; or

21 (E) a system for transport and delivery of  
 22 water for irrigation or conservation.

23 (b) ESTABLISHMENT.—The Administrator shall es-  
 24 tablish a water system mitigation and adaptation partner-

1 ship program to provide funds to States for water system  
2 adaptation projects.

3 (c) GRANTS.—Beginning in fiscal year 2010, each  
4 State receiving funds pursuant to this section shall make  
5 grants to owners or operators of water systems to address  
6 any ongoing or forecasted (based on the best available re-  
7 search and data) climate-related impact on the water qual-  
8 ity, water supply or reliability of a region of the United  
9 States, for the purposes of mitigating or adapting to the  
10 impacts of climate change.

11 (d) ELIGIBLE USES.—The funds made available to  
12 each State pursuant to this section shall be used exclu-  
13 sively to assist in the planning, design, construction, im-  
14 plementation, or operation or maintenance of any program  
15 or project to respond or increase the resilience of a water  
16 system to climate change by—

17 (1) conserving water or enhancing water use ef-  
18 ficiency, including through the use of water metering  
19 and electronic sensing and control systems to meas-  
20 ure the effectiveness of a water efficiency program;

21 (2) modifying or relocating existing water sys-  
22 tem infrastructure made or projected to be signifi-  
23 cantly impaired by climate change impacts;

24 (3) preserving or improving water quality, in-  
25 cluding through measures to manage, reduce, treat,

1 or reuse municipal stormwater, wastewater, or  
2 drinking water;

3 (4) investigating, designing, or constructing  
4 groundwater remediation, recycled water, or desali-  
5 nation facilities or systems to serve existing commu-  
6 nities;

7 (5) enhancing water management by increasing  
8 watershed preservation and protection, such as  
9 through the use of natural or engineered green in-  
10 frastructure in the management, conveyance, or  
11 treatment of water, wastewater, or stormwater;

12 (6) enhancing energy efficiency or the use and  
13 generation of renewable energy in the management,  
14 conveyance, or treatment of water, wastewater, or  
15 stormwater;

16 (7) supporting the adoption and use of ad-  
17 vanced water treatment, water supply management  
18 (such as reservoir reoperation and water banking),  
19 or water demand management technologies, projects,  
20 or processes (such as water reuse and recycling,  
21 adaptive conservation pricing, and groundwater  
22 banking) that maintain or increase water supply or  
23 improve water quality;

24 (8) modifying or replacing existing systems or  
25 constructing new systems for existing communities

1 or land currently in agricultural production to im-  
2 prove water supply, reliability, storage, or convey-  
3 ance in a manner that—

4 (A) promotes conservation or improves the  
5 efficiency of utilization of available water sup-  
6 plies; and

7 (B) does not further exacerbate stresses on  
8 ecosystems or cause redirected impacts by de-  
9 grading water quality or increasing net green-  
10 house gas emissions;

11 (9) supporting practices and projects, such as  
12 improved irrigation systems, water banking and  
13 other forms of water transactions, groundwater re-  
14 charge, stormwater capture, groundwater conjunc-  
15 tive use, and reuse or recycling of drainage water,  
16 to improve water quality or promote more efficient  
17 water use on land currently in agricultural produc-  
18 tion; or

19 (10) conducting and completing studies or as-  
20 sessments to project how climate change may impact  
21 the future operations and sustainability of water sys-  
22 tems.

23 (e) APPLICATION.—To be eligible to receive a grant  
24 from the State under this section, the owner or operator

1 of a water system shall submit to the State an application  
2 that—

3           ~~(1)~~ includes a proposal of the program, strat-  
4           egy, or infrastructure improvement to be planned,  
5           designed, constructed, implemented, or maintained  
6           by the water system;

7           ~~(2)~~ cites the best available research or data that  
8           demonstrate—

9                   ~~(A)~~ the risk to the water resources or in-  
10                 frastructure of the water system as a result of  
11                 ongoing or forecasted changes to the  
12                 hydrological system brought about by factors  
13                 arising from climate change, including rising  
14                 sea levels and changes in precipitation levels;  
15                 and

16                   ~~(B)~~ how the proposed program, strategy,  
17                 or infrastructure improvement would perform  
18                 under the anticipated climate conditions; and

19           ~~(3)~~ explains how the proposed program, strat-  
20           egy, or infrastructure improvement is expected to  
21           enhance the resiliency of the water system, including  
22           source water protection for community water sys-  
23           tems, to these risks or reduce the direct or indirect  
24           greenhouse gas emissions of the water system.

25           ~~(f)~~ COMPETITIVE PROCESS.—

1           (1) ~~IN GENERAL.~~—Each calendar year, each  
2       State shall conduct a competitive process to select  
3       and fund applications under this section.

4           (2)     PRIORITY       REQUIREMENTS       AND  
5       WEIGHTING.—In carrying out the process, the  
6       States shall—

7                (A) prioritize funding of applications that  
8                are submitted by the owners or operators of  
9                water systems that are, based on the best avail-  
10              able research and data, at the greatest and  
11              most immediate risk of facing significant cli-  
12              mate-related negative impacts on water quality  
13              or quantity; and

14              (B) in selecting among the priority applica-  
15              tions determined under subparagraph (A), en-  
16              sure that, to the maximum extent practicable,  
17              the final list of applications funded for each  
18              year includes a substantial number meeting one  
19              or more of each of the following goals—

20                   (i) promote more efficient water use;  
21                   water conservation, water reuse, or recy-  
22                   cling;

23                   (ii) use decentralized, low-impact de-  
24                   velopment technologies and nonstructural  
25                   approaches, including practices that use,

1 enhance, or mimic the natural hydrological  
2 cycle or protect natural flows;

3 (iii) reduce stormwater runoff by pro-  
4 tecting or enhancing natural ecosystem  
5 functions;

6 (iv) modify, upgrade, enhance, or re-  
7 place existing water system infrastructure  
8 in response to ongoing or forecasted cli-  
9 mate-related impacts;

10 (v) promote the sustainability and re-  
11 liability of water supplies used for agricul-  
12 tural purposes;

13 (vi) improve water quality or quantity  
14 for agricultural and municipal uses, includ-  
15 ing through salinity reduction; and

16 (vii) provide multiple benefits, includ-  
17 ing to water supply enhancement or de-  
18 mand reduction, water quality protection  
19 or improvement, increased flood protection,  
20 and ecosystem protection or improvement;  
21 and

22 (C) provide for solicitation and consider-  
23 ation of public input in the development of cri-  
24 teria used in evaluating applications.

25 (g) COST-SHARING.—

1           (1) ~~FEDERAL SHARE.~~—The share of the cost of  
 2           any program, strategy, or infrastructure improve-  
 3           ment that is the subject of a grant awarded by a  
 4           State to the owner or operator of a water system  
 5           under subsection (c) paid through funds distributed  
 6           under this section shall not exceed 50 percent of the  
 7           cost of the program, strategy, and infrastructure im-  
 8           provement.

9           (2) ~~CALCULATION OF NON-FEDERAL SHARE.~~—  
 10          In calculating the non-Federal share of the cost of  
 11          a program, strategy, or infrastructure improvement  
 12          proposed by a water system through an application  
 13          submitted by the water system under subsection (c),  
 14          the State shall—

15                (A) include the value of any in-kind serv-  
 16               ices that are integral to the completion of the  
 17               program, strategy, or infrastructure improve-  
 18               ment, including reasonable administrative and  
 19               overhead costs; and

20                (B) not include any other amount that the  
 21               water system receives from a Federal agency.

22          (h) ~~LABOR STANDARDS.~~—

23                (1) ~~IN GENERAL.~~—Other than with respect to  
 24               employees of State and local agencies, or other pub-  
 25               lie entities, all laborers and mechanics employed on



1 infrastructure improvements funded directly by or  
 2 assisted in whole or in part by this section shall be  
 3 paid wages at rates not less than those prevailing for  
 4 the same type of work on similar construction in the  
 5 immediate locality, as determined by the Secretary  
 6 of Labor in accordance with subchapter IV of chap-  
 7 ter 31 of part A of subtitle H of title 40, United  
 8 States Code.

9 ~~(2) AUTHORITY AND FUNCTIONS.~~—With re-  
 10 spect to the labor standards in this subsection, the  
 11 Secretary of Labor shall have the authority and  
 12 functions set forth in Reorganization Plan Num-  
 13 bered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.)  
 14 and section 3145 of title 40, United States Code.

15 **SEC. 382. FLOOD CONTROL, PROTECTION, PREVENTION,**  
 16 **AND RESPONSE.**

17 ~~(a) ESTABLISHMENT.~~—The Administrator shall es-  
 18 tablish a Flood Control, Protection, Prevention and Re-  
 19 sponse Program to provide funds to States for flood con-  
 20 trol, protection, prevention and response projects.

21 ~~(b) ELIGIBLE USES.~~—

22 ~~(1) IN GENERAL.~~—States receiving funding  
 23 pursuant to this section may use such funding on  
 24 flood control, protection, prevention and response  
 25 programs and projects addressing the projected im-

1       pacts of climate change in accordance with this sec-  
2       tion.

3           ~~(2)~~ OBJECTIVES.—Such projects and activities  
4       shall seek to mitigate or adapt to the destructive im-  
5       pacts of climate related increases in the duration,  
6       frequency, or magnitude of rainfall or runoff, includ-  
7       ing snowmelt runoff, as well as hurricanes, including  
8       projects and programs that—

9           ~~(A)~~ reduce flood damage, risk, and vulner-  
10       ability;

11          ~~(B)~~ identify, maintain and restore eco-  
12       systems and natural barriers integral to flood  
13       control, protection, prevention and response;

14          ~~(C)~~ update the available data, technologies,  
15       and scientific knowledge used in estimating,  
16       identifying and mitigating flood hazards;

17          ~~(D)~~ highlight, update and remediate  
18       vulnerabilities in emergency response;

19          ~~(E)~~ incorporate risk analysis and a risk-re-  
20       duction approach to flood-related investments;

21          ~~(F)~~ incorporate and identify changes in  
22       risk due to processes such as land loss, subsid-  
23       ence, sea-level rise, reduced natural buffers,  
24       urban development and infrastructure aging;  
25       and

1           (G) identify and incorporate innovative ap-  
2           proaches to land use management, water re-  
3           source planning, and ecosystem restoration.

4           (3) PRIORITY.—Priority in projects to reduce  
5           flood events shall be given to those projects that di-  
6           rectly assist local governments and communities in  
7           flood control, protection, prevention and response ac-  
8           tivities.

9   **SEC. 383. WILDFIRE.**

10       (a) FINDINGS.—Congress finds that—

11           (1) since 1980, wildfires in the United States  
12           have burned almost twice as many acres per year on  
13           average than the average burned acreage during the  
14           period beginning on January 1, 1920, and ending on  
15           December 31, 1979;

16           (2) the wildfire season in the western United  
17           States has increased by an average of 78 days dur-  
18           ing the 30-year period preceding the date of enact-  
19           ment of this Act;

20           (3) researchers predict that the area subject to  
21           wildfire damage will increase during the 21st cen-  
22           tury by up to 118 percent as a result of climate  
23           change;

1           (4) of the annual budget of the Forest Service;  
 2           the Forest Service used for wildfire suppression ac-  
 3           tivities—

4                   (A) ~~13~~ percent in 1991; and

5                   (B) 45 percent in 2007; and

6           (5) 1 percent of the largest escaped fires—

7                   (A) burn 95 percent of all burned acres;

8                   and

9                   (B) consume 85 percent of all wildfire  
 10           fighting costs.

11       (b) PURPOSE.—The purpose of this section is to au-  
 12       thorize a program to reduce the risk of wildfires in fire-  
 13       ready communities.

14       (c) DEFINITIONS.—In this section:

15           (1) FIRE-READY COMMUNITY.—The term “fire-  
 16       ready community” means a community that—

17                   (A) is located within a priority area identi-  
 18                   fied pursuant to subsection (d);

19                   (B) has a cooperative fire agreement that  
 20                   articulates the roles and responsibilities for  
 21                   Federal, State and local government entities in  
 22                   local wildfire suppression and protection;

23                   (C) has local codes that require fire-resist-  
 24                   ant home design and building materials;

1           (D) has a community wildfire protection  
 2           plan (as defined in section 101 of the Healthy  
 3           Forests Restoration Act of 2003 (16 U.S.C.  
 4           6502)); and

5           (E) is engaged in a successful collaborative  
 6           process that includes multiple interested per-  
 7           sons representing diverse interests and is trans-  
 8           parent and nonexclusive, such as a resource ad-  
 9           visory committee established under section 205  
 10          of the Secure Rural Schools and Community  
 11          Self-Determination Act of 2000 (Public Law  
 12          106-393; 16 U.S.C. 500 note).

13          (2) SECRETARIES.—The term “Secretaries”  
 14          means the Secretary of Agriculture and the Sec-  
 15          retary of the Interior.

16          (d) FIRE RISK MAPPING.—As soon as is practicable  
 17          after the date of the enactment of this Act, the Secretaries  
 18          shall develop regional maps of communities most at risk  
 19          of wildfire and in need of hazardous fuel treatment and  
 20          maintenance. The maps shall identify priority areas for  
 21          hazardous fuels reduction projects, including—

22               (1) at-risk communities in fire-prone areas of  
 23               the wildland-urban interface (as defined in section  
 24               101 of the Healthy Forests Restoration Act of 2003  
 25               (16 U.S.C. 6502));

1           (2) watersheds and municipal drinking water  
2       sources;

3           (3) emergency evacuation corridors;

4           (4) electricity transmission corridors;

5           (5) low-capacity or low-income communities;

6       and

7           (6) communities in fire-prone areas due to the  
8       impact of pest infestation on forest resources.

9       (c) LOCAL WILDLAND FIREFIGHTING CAPABILITY  
10   GRANTS.—

11           (1) GRANTS AVAILABLE.—The Secretaries may  
12       provide cost-share grants to fire-ready communities  
13       to assist such communities in carrying out activities  
14       authorized by paragraph (2).

15           (2) ELIGIBLE ACTIVITIES.—Grant funds may  
16       be used for the following:

17           (A) Education programs to raise aware-  
18       ness of homeowners and citizens about wildland  
19       fire protection practices, including FireWise or  
20       similar programs.

21           (B) Training programs for local fire-  
22       fighters on wildland firefighting techniques and  
23       approaches.

24           (C) Equipment acquisition to facilitate  
25       wildland fire preparedness.

1                   (D) Implementation of a community wild-  
2                   fire protection plan.

3                   (E) Forest restoration that accomplishes  
4                   fuels reduction.

5           (f) WILDLAND FIRE COST-SHARE AGREEMENTS.—

6 In developing any wildland fire cost-share agreement with  
7 a State Forester or equivalent official, the Secretaries  
8 shall, to the maximum extent practicable, encourage the  
9 State and local communities involved to become fire-ready  
10 communities.

11 **SEC. 384. COASTAL AND GREAT LAKES STATE ADAPTATION**  
12 **PROGRAM.**

13           (a) FINDINGS.—According to the National Ocean Ec-  
14 onomics Program, coastal and Great Lakes States account  
15 for 81.4 percent of the population of the United States  
16 and generate 82 percent of the economic output of the  
17 United States.

18           (b) DEFINITIONS.—In this section:

19                   (1) COASTAL STATE.—The term “coastal  
20 State” has the meaning given the term “coastal  
21 state” in section 304 of the Coastal Zone Manage-  
22 ment Act of 1972 (16 U.S.C. 1453).

23                   (2) COASTAL WATERSHED.—The term “coastal  
24 watershed” means a geographical area drained into  
25 or contributing water to an estuarine area, an ocean,

1 or a Great Lake, all or a portion of which is within  
 2 the coastal zone (as defined in section 304 of the  
 3 Coastal Zone Management Act of 1972 (16 U.S.C.  
 4 1453)).

5 (3) SHORELINE MILES.—The term “shoreline  
 6 miles”, with respect to a coastal State, means the  
 7 mileage of tidal shoreline or Great Lake shoreline of  
 8 the coastal State, based on the most recently avail-  
 9 able data from or accepted by the National Ocean  
 10 Service of the National Oceanic and Atmospheric  
 11 Administration.

12 (c) DISTRIBUTION.—

13 (1) IN GENERAL.—The Administrator shall dis-  
 14 tribute, in accordance with this section, funding for  
 15 coastal State economic protection under subsection.

16 (2) ALLOCATION.—The funding available for al-  
 17 location under subsection (b) for a calendar year  
 18 shall be distributed among coastal States, as follows:

19 (A) 25 percent based on the proportion

20 that—

21 (i) the number of shoreline miles of a

22 coastal State; bears to

23 (ii) the total number of shoreline

24 miles of all coastal States.



1           ~~(B)~~ 25 percent based on the proportion  
2           that—

3                   ~~(i)~~ the population of a coastal State;  
4                   bears to  
5                   ~~(ii)~~ the total population of all coastal  
6                   States.

7           ~~(C)~~ 50 percent divided equally among all  
8           coastal States.

9           ~~(d)~~ USE OF FUNDING.—

10           ~~(1)~~ IN GENERAL.—During any calendar year, a  
11           coastal State receiving funding under this section  
12           may use the funding only for projects and activities  
13           to plan for and address the impacts of climate  
14           change in the coastal watershed, including—

15                   ~~(A)~~ to address the impacts of climate  
16                   change with respect to—

17                           ~~(i)~~ accelerated sea level rise and lake  
18                           level changes;

19                           ~~(ii)~~ shoreline erosion;

20                           ~~(iii)~~ increased storm frequency or in-  
21                           tensity;

22                           ~~(iv)~~ changes in rainfall or other pre-  
23                           cipitation; and

24                           ~~(v)~~ related flooding;

(B) to identify and develop plans to protect, or, as necessary or applicable, to relocate public facilities and infrastructure, coastal resources of national significance, public energy facilities, or other public water uses located in the coastal watershed that are affected by climate change, including strategies that use natural resources, such as natural buffer zones, natural shorelines, and habitat protection or restoration;

(C) to research and collect data using, or on matters such as—

- (i) historical shoreline position maps;
- (ii) historical shoreline erosion rates;
- (iii) inventories of shoreline features and conditions;
- (iv) acquisition of high-resolution topography and bathymetry;
- (v) sea level rise inundation models;
- (vi) storm surge sea level rise linked inundation models;
- (vii) shoreline change modeling based on sea level rise projections;
- (viii) sea level rise vulnerability analyses and socioeconomic studies; and

1                   (ix) environmental and habitat  
 2                   changes associated with sea level rise; and  
 3                   (D) to respond to—

4                   (i) changes in chemical characteristics  
 5                   (including ocean acidification) and physical  
 6                   characteristics (including thermal strati-  
 7                   fication) of marine systems;

8                   (ii) saltwater intrusion into ground-  
 9                   water aquifers;

10                  (iii) increased harmful algae blooms;

11                  (iv) spread of invasive species;

12                  (v) coastal habitat loss;

13                  (vi) species migrations; and

14                  (vii) marine, estuarine, and freshwater  
 15                  ecosystem changes associated with climate  
 16                  change.

17                  (2) EXECUTION.—Priority to plan and carry  
 18                  out projects and activities under this subsection shall  
 19                  be given to State coastal agencies, as determined in  
 20                  accordance with State law.

21                  (3) COORDINATION.—In carrying out this sub-  
 22                  section, a coastal State shall coordinate with other  
 23                  statewide climate change efforts in order to avoid  
 24                  duplication of such efforts.

1       (e) REPORT.—Not later than 1 year after the date  
 2 on which a State receives funds under this section, and  
 3 biennially thereafter until such time as the funding is fully  
 4 expended, the State shall submit to the Administrator, or  
 5 the heads of such other Federal agencies as the President  
 6 may designate, a report that—

7           (1) provides a full accounting for the State’s  
 8 use of funding distributed under this section, includ-  
 9 ing a description of the projects and activities fund-  
 10 ed; and

11          (2) may be independent or included within any  
 12 report required for any State programs for green-  
 13 house gas reduction and climate adaptation.

14           **DIVISION B—POLLUTION**  
 15       **REDUCTION AND INVESTMENT**  
 16       **TITLE I—REDUCING GLOBAL**  
 17           **WARMING POLLUTION**  
 18           **Subtitle A—Reducing Global**  
 19               **Warming Pollution**

20       **SEC. 101. REDUCING GLOBAL WARMING POLLUTION.**

21       The Clean Air Act is amended by adding after title  
 22 VI (42 U.S.C. 7671 et seq.) the following:

1 **“TITLE VII—GLOBAL WARMING**  
2 **POLLUTION REDUCTION AND**  
3 **INVESTMENT PROGRAM**

4 **“PART A—GLOBAL WARMING POLLUTION**  
5 **REDUCTION GOALS AND TARGETS**

6 **“SEC. 701. FINDINGS.**

7 “Congress finds that—

8 “(1) global warming poses a significant threat  
9 to the national security, economy, public health and  
10 welfare, and environment of the United States, as  
11 well as of other countries;

12 “(2) reviews of scientific studies, including by  
13 the Intergovernmental Panel on Climate Change and  
14 the National Academy of Sciences, demonstrate that  
15 global warming is the result of the combined anthro-  
16 pogenic greenhouse gas emissions from numerous  
17 sources of all types and sizes;

18 “(3) each increment of emission, when com-  
19 bined with other emissions, causes or contributes  
20 materially to the acceleration and extent of global  
21 warming and its adverse effects for the lifetime of  
22 such gas in the atmosphere;

23 “(4) accordingly, controlling emissions in small  
24 as well as large quantities is essential to prevent,

1       slow the pace of, reduce the threats from, and miti-  
2       gate global warming and its adverse effects;

3       ~~“(5) because they induce global warming,~~  
4       ~~greenhouse gas emissions cause or contribute to in-~~  
5       ~~juries to persons in the United States, including—~~

6               ~~“(A) adverse health effects, such as disease~~  
7       ~~and loss of life;~~

8               ~~“(B) displacement of human populations;~~

9               ~~“(C) damage to property and other inter-~~  
10       ~~ests relating to ocean levels, acidification, and~~  
11       ~~ice changes;~~

12              ~~“(D) severe weather and seasonal changes;~~

13              ~~“(E) disruption, costs, and losses to busi-~~  
14       ~~ness, trade, employment, farms, subsistence,~~  
15       ~~aesthetic enjoyment of the environment, recre-~~  
16       ~~ation, culture, and tourism;~~

17              ~~“(F) damage to plants, forests, lands, and~~  
18       ~~waters;~~

19              ~~“(G) harm to wildlife and habitat;~~

20              ~~“(H) scarcity of water and the decreased~~  
21       ~~abundance of other natural resources;~~

22              ~~“(I) worsening of tropospheric air pollu-~~  
23       ~~tion;~~

24              ~~“(J) substantial threats of similar damage;~~  
25       ~~and~~

1                   “(K) other harm;

2                   “(6) the fact that many of those effects and  
3 risks of future effects of global warming are widely  
4 shared does not minimize the adverse effects indi-  
5 vidual persons have suffered, will suffer, and are at  
6 risk of suffering because of global warming;

7                   “(7) the fact that some of the adverse and po-  
8 tentially catastrophic effects of global warming are  
9 at risk of occurring and not a certainty does not ne-  
10 gate the harm persons suffer from actions that in-  
11 crease the likelihood, extent, and severity of such fu-  
12 ture impacts;

13                   “(8) countries of the world look to the United  
14 States for leadership in addressing the threat of and  
15 harm from global warming;

16                   “(9) full implementation of this title is critical  
17 to engage other countries in an international effort  
18 to mitigate the threat of and harm from global  
19 warming; and

20                   “(10) global warming and its adverse effects  
21 are occurring and are likely to continue and increase  
22 in magnitude, and to do so at a greater and more  
23 harmful rate, unless the this title is fully imple-  
24 mented and enforced in an expeditious manner.

1 **“SEC. 702. ECONOMY-WIDE REDUCTION GOALS.**

2 “The goals of this title, and the Clean Energy Jobs  
3 and American Power Act (and the amendments made by  
4 that Act), are to reduce steadily the quantity of United  
5 States greenhouse gas emissions such that—

6 “(1) in 2012, the quantity of United States  
7 greenhouse gas emissions does not exceed 97 percent  
8 of the quantity of United States greenhouse gas  
9 emissions in 2005;

10 “(2) in 2020, the quantity of United States  
11 greenhouse gas emissions does not exceed 80 percent  
12 of the quantity of United States greenhouse gas  
13 emissions in 2005;

14 “(3) in 2030, the quantity of United States  
15 greenhouse gas emissions does not exceed 58 percent  
16 of the quantity of United States greenhouse gas  
17 emissions in 2005; and

18 “(4) in 2050, the quantity of United States  
19 greenhouse gas emissions does not exceed 17 percent  
20 of the quantity of United States greenhouse gas  
21 emissions in 2005.

22 **“SEC. 703. REDUCTION TARGETS FOR SPECIFIED SOURCES.**

23 “(a) IN GENERAL.—The regulations issued under  
24 section 721 shall limit and reduce annually the greenhouse  
25 gas emissions of capped sources each calendar year begin-  
26 ning in 2012 such that—



1           “(1) in 2012, the quantity of greenhouse gas  
2           emissions from capped sources does not exceed 97  
3           percent of the quantity of greenhouse gas emissions  
4           from such sources in 2005;

5           “(2) in 2020, the quantity of greenhouse gas  
6           emissions from capped sources does not exceed 80  
7           percent of the quantity of greenhouse gas emissions  
8           from such sources in 2005;

9           “(3) in 2030, the quantity of greenhouse gas  
10          emissions from capped sources does not exceed 58  
11          percent of the quantity of greenhouse gas emissions  
12          from such sources in 2005; and

13          “(4) in 2050, the quantity of greenhouse gas  
14          emissions from capped sources does not exceed 17  
15          percent of the quantity of greenhouse gas emissions  
16          from such sources in 2005.

17          “(b) DEFINITION OF GREENHOUSE GAS EMISSIONS  
18          FROM SUCH SOURCES IN 2005.—For purposes of this sec-  
19          tion, the term ‘greenhouse gas emissions from such  
20          sources in 2005’ means emissions to which section 722  
21          would have applied if the requirements of this title for the  
22          specified year had been in effect for 2005.

23          **“SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.**

24          “For the purposes of decreasing the likelihood of cat-  
25          astrophic climate change, preserving tropical forests,

1 building capacity to generate offset credits, and facili-  
 2 tating international action on global warming, the Admin-  
 3 istrator shall set aside a percentage specified in section  
 4 771(d) of the quantity of emission allowances established  
 5 under section 721(a) for each year, to be used to achieve  
 6 a reduction of greenhouse gas emissions from deforest-  
 7 ation in developing countries in accordance with part E.  
 8 In 2020, activities supported under part E shall provide  
 9 greenhouse gas reductions in an amount equal to an addi-  
 10 tional 10 percentage points of reductions from United  
 11 States greenhouse gas emissions in 2005. The Adminis-  
 12 trator shall distribute these allowances with respect to ac-  
 13 tivities in countries that enter into and implement agree-  
 14 ments or arrangements relating to reduced deforestation  
 15 as described in section 753(a)(2).

16 **~~“SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.~~**

17 ~~“(a) IN GENERAL.—The Administrator shall, in con-~~  
 18 ~~sultation with appropriate Federal agencies, submit to~~  
 19 ~~Congress a report not later than July 1, 2013, and every~~  
 20 ~~4 years thereafter, that includes—~~

21 ~~“(1) an analysis of key findings based on up-~~  
 22 ~~to-date scientific information and data relevant to~~  
 23 ~~global climate change;~~

24 ~~“(2) an analysis of capabilities to monitor and~~  
 25 ~~verify greenhouse gas reductions on a worldwide~~

1 basis, including for the United States, as required  
2 under the Clean Energy Jobs and American Power  
3 Act (and the amendments made by that Act); and

4 “(3) an analysis of the status of worldwide  
5 greenhouse gas reduction efforts, including imple-  
6 mentation of the Clean Energy Jobs and American  
7 Power Act and other policies, both domestic and  
8 international, for reducing greenhouse gas emissions,  
9 preventing dangerous atmospheric concentrations of  
10 greenhouse gases, preventing significant irreversible  
11 consequences of climate change, and reducing vul-  
12 nerability to the impacts of climate change.

13 “(b) EXCEPTION.—Subsection (a)(3) shall not apply  
14 to the first report submitted under subsection (a).

15 “(c) LATEST SCIENTIFIC INFORMATION.—The anal-  
16 ysis required under subsection (a)(1) shall—

17 “(1) address existing scientific information and  
18 reports, considering, to the greatest extent possible,  
19 the most recent assessment report of the Intergov-  
20 ernmental Panel on Climate Change, reports by the  
21 United States Global Change Research Program, the  
22 Natural Resources Climate Change Adaptation  
23 Panel established under section 365 of the Clean  
24 Energy Jobs and American Power Act, and Federal

1 agencies, and the European Union's global tempera-  
2 ture data assessment;

3 “(2) review trends and projections for—

4 “(A) global and country-specific annual  
5 emissions of greenhouse gases, and cumulative  
6 greenhouse gas emissions produced between  
7 1850 and the present, including—

8 “(i) global cumulative emissions of an-  
9 thropogenic greenhouse gases;

10 “(ii) global annual emissions of an-  
11 thropogenic greenhouse gases; and

12 “(iii) by country, annual total, annual  
13 per capita, and cumulative anthropogenic  
14 emissions of greenhouse gases for the top  
15 50 emitting nations;

16 “(B) significant changes, both globally and  
17 by region, in annual net non-anthropogenic  
18 greenhouse gas emissions from natural sources,  
19 including permafrost, forests, or oceans;

20 “(C) global atmospheric concentrations of  
21 greenhouse gases, expressed in annual con-  
22 centration units as well as carbon dioxide  
23 equivalents based on 100-year global warming  
24 potentials;

1           “(D) major climate forcing factors, such as  
2           aerosols;

3           “(E) global average temperature, expressed  
4           as seasonal and annual averages in land, ocean,  
5           and land-plus-ocean averages; and

6           “(F) sea level rise;

7           “(G) assess the current and potential impacts of  
8           global climate change on—

9           “(A) human populations, including impacts  
10          on public health, economic livelihoods, subsist-  
11          ence, tribal culture, human infrastructure, and  
12          displacement or permanent relocation due to  
13          flooding, severe weather, extended drought, ero-  
14          sion, or other ecosystem changes;

15          “(B) freshwater systems, including water  
16          resources for human consumption and agri-  
17          culture and natural and managed ecosystems;  
18          flood and drought risks, and relative humidity;

19          “(C) the carbon cycle, including impacts  
20          related to the thawing of permafrost, the fre-  
21          quency and intensity of wildfire, and terrestrial  
22          and ocean carbon sinks;

23          “(D) ecosystems and animal and plant  
24          populations, including impacts on species abun-  
25          dance, phenology, and distribution;

1           “(E) oceans and ocean ecosystems, includ-  
 2           ing effects on sea level, ocean acidity, ocean  
 3           temperatures, coral reefs, ocean circulation,  
 4           fisheries, and other indicators of ocean eco-  
 5           system health;

6           “(F) the cryosphere, including effects on  
 7           ice sheet mass balance, mountain glacier mass  
 8           balance, and sea-ice extent and volume;

9           “(G) changes in the intensity, frequency,  
 10          or distribution of severe weather events, includ-  
 11          ing precipitation, tropical cyclones, tornadoes,  
 12          and severe heat waves;

13          “(H) agriculture and forest systems; and

14          “(I) any other indicators the Administrator  
 15          deems appropriate;

16          “(4) summarize any significant socioeconomic  
 17          impacts of climate change in the United States, in-  
 18          cluding the territories of the United States, drawing  
 19          on work by Federal agencies and the academic lit-  
 20          erature, including impacts on—

21               “(A) public health;

22               “(B) economic livelihoods, subsistence, and  
 23               tribal culture;

1           “(C) displacement or permanent relocation  
2           due to flooding, severe weather, extended  
3           drought, or other ecosystem changes;

4           “(D) human infrastructure, including  
5           coastal infrastructure vulnerability to extreme  
6           events and sea level rise, river floodplain infra-  
7           structure, and sewer and water management  
8           systems;

9           “(E) agriculture and forests, including ef-  
10          fects on potential growing season, distribution,  
11          and yield;

12          “(F) water resources for human consump-  
13          tion, agriculture and natural and managed eco-  
14          systems, flood and drought risks, and relative  
15          humidity;

16          “(G) energy supply and use; and

17          “(H) transportation;

18          “(5) in assessing risks and impacts, use a risk  
19          management framework, including both qualitative  
20          and quantitative measures, to assess the observed  
21          and projected impacts of current and future climate  
22          change, accounting for—

23          “(A) both monetized and non-monetized  
24          losses;

1           “(B) potential nonlinear, abrupt, or essen-  
2           tially irreversible changes in the climate system;

3           “(C) potential nonlinear increases in the  
4           cost of impacts;

5           “(D) potential low-probability, high impact  
6           events; and

7           “(E) whether impacts are transitory or es-  
8           sentially permanent; and

9           “(6) based on the findings of the Administrator  
10          under this section, as well as assessments produced  
11          by the Intergovernmental Panel on Climate Change,  
12          the United States Global Change Research program,  
13          and other relevant scientific entities—

14          “(A) describe increased risks to natural  
15          systems and society that would result from an  
16          increase in global average temperature 3.6 de-  
17          grees Fahrenheit (2 degrees Celsius) above the  
18          pre-industrial average or an increase in atmos-  
19          pheric greenhouse gas concentrations above 450  
20          parts per million carbon dioxide equivalent; and

21          “(B) identify and assess—

22                 “(i) significant residual risks not  
23                 avoided by the thresholds described in sub-  
24                 paragraph (A);



1                   “(ii) alternative thresholds or targets  
2                   that may more effectively limit the risks  
3                   identified pursuant to clause (i); and

4                   “(iii) thresholds above those described  
5                   in subparagraph (A) which significantly in-  
6                   crease the risk of certain impacts or render  
7                   them essentially permanent.

8           “(d) STATUS OF MONITORING AND VERIFICATION  
9 CAPABILITIES TO EVALUATE GREENHOUSE GAS REDUC-  
10 TION EFFORTS.—The analysis required under subsection  
11 (a)(2) shall evaluate the capabilities of the monitoring, re-  
12 porting, and verification systems used to quantify progress  
13 in achieving reductions in greenhouse gas emissions both  
14 globally and in the United States (as described in section  
15 702), including—

16                   “(1) quantification of emissions and emission  
17                   reductions by entities participating in the pollution  
18                   reduction and investment program under this title;

19                   “(2) quantification of emissions and emission  
20                   reductions by entities participating in the offset pro-  
21                   gram under this title;

22                   “(3) quantification of emission and emission re-  
23                   ductions by entities regulated by performance stand-  
24                   ards;

1           “(4) quantification of aggregate net emissions  
2           and emission reductions by the United States; and

3           “(5) quantification of global changes in net  
4           emissions and in sources and sinks of greenhouse  
5           gases.

6           “(e) STATUS OF GREENHOUSE GAS REDUCTION EF-  
7 FORTS.—The analysis required under subsection (a)(3)  
8 shall address—

9           “(1) whether the programs under the Clean En-  
10          ergy Jobs and American Power Act (and the amend-  
11          ments made by that Act) and other Federal statutes  
12          are resulting in sufficient United States greenhouse  
13          gas emission reductions to meet the emissions reduc-  
14          tion goals described in section 702, taking into ac-  
15          count the use of offsets; and

16          “(2) whether United States actions, taking into  
17          account international actions, commitments, and  
18          trends, and considering the range of plausible emis-  
19          sions scenarios, are sufficient to avoid—

20                 “(A) atmospheric greenhouse gas con-  
21                 centrations above 450 parts per million carbon  
22                 dioxide equivalent;

23                 “(B) global average surface temperature  
24                 3.6 degrees Fahrenheit (2 degrees Celsius)  
25                 above the pre-industrial average, or such other

1 temperature thresholds as the Administrator  
 2 deems appropriate; and

3 ~~“(C) other temperature or greenhouse gas~~  
 4 ~~thresholds identified pursuant to subsection~~  
 5 ~~(e)(6)(B).~~

6 ~~“(f) RECOMMENDATIONS.—~~

7 ~~“(1) LATEST SCIENTIFIC INFORMATION.—~~

8 Based on the analysis described in subsection (a)(1),  
 9 each report under subsection (a) shall identify ac-  
 10 tions that could be taken to—

11 ~~“(A) improve the characterization of~~  
 12 ~~changes in the earth-climate system and im-~~  
 13 ~~pacts of global climate change;~~

14 ~~“(B) better inform decision making and~~  
 15 ~~actions related to global climate change;~~

16 ~~“(C) mitigate risks to natural and social~~  
 17 ~~systems; and~~

18 ~~“(D) design policies to better account for~~  
 19 ~~climate risks.~~

20 ~~“(2) MONITORING, REPORTING AND~~  
 21 ~~VERIFICATION.—Based on the analysis described in~~  
 22 ~~subsection (a)(2), each report under subsection (a)~~  
 23 ~~shall identify key gaps in measurement, reporting,~~  
 24 ~~and verification capabilities and make recommenda-~~

1        tions to improve the accuracy and reliability of those  
2        capabilities.

3            ~~“(3) STATUS OF GREENHOUSE GAS REDUCTION~~  
4        ~~EFFORTS.—~~Based on the analysis described in sub-  
5        section (a)(3), taking into account international ac-  
6        tions, commitments, and trends, and considering the  
7        range of plausible emissions scenarios, each report  
8        under subsection (a) shall identify—

9            ~~“(A) the quantity of additional reductions~~  
10        required to meet the emissions reduction goals  
11        in section 702;

12            ~~“(B) the quantity of additional reductions~~  
13        in global greenhouse gas emissions needed to  
14        avoid the concentration and temperature  
15        thresholds identified in subsection (c); and

16            ~~“(C) possible strategies and approaches for~~  
17        achieving additional reductions.

18        ~~“(g) AUTHORIZATION OF APPROPRIATIONS.—~~There  
19        are authorized to be appropriated to carry out this section  
20        such sums as may be necessary.

21        **“SEC. 706. NATIONAL ACADEMY REVIEW.**

22            ~~“(a) IN GENERAL.—~~Not later than 1 year after the  
23        date of enactment of this title, the Administrator shall  
24        offer to enter into a contract with the National Academy  
25        of Sciences (in this section referred to as the ‘Academy’)

1 under which the Academy shall, not later than July 1,  
 2 2014, and every 4 years thereafter, submit to Congress  
 3 and the Administrator a report that includes—

4           “(1) a review of the most recent report and rec-  
 5 ommendations issued under section 705; and

6           “(2) an analysis of technologies to achieve re-  
 7 ductions in greenhouse gas emissions.

8           “(b) FAILURE TO ISSUE A REPORT.—In the event  
 9 that the Administrator has not issued all or part of the  
 10 most recent report required under section 705, the Acad-  
 11 emy shall conduct its own review and analysis of the re-  
 12 quired information.

13           “(c) TECHNOLOGICAL INFORMATION.—The analysis  
 14 required under subsection (a)(2) shall—

15           “(1) review existing technological information  
 16 and reports, including the most recent reports by the  
 17 Department of Energy, the United States Global  
 18 Change Research Program, the Intergovernmental  
 19 Panel on Climate Change, and the International En-  
 20 ergy Agency and any other relevant information on  
 21 technologies or practices that reduce or limit green-  
 22 house gas emissions;

23           “(2) include the participation of technical ex-  
 24 perts from relevant private industry sectors;

1           “(3) review the current and future projected de-  
 2           ployment of technologies and practices in the United  
 3           States that reduce or limit greenhouse gas emis-  
 4           sions, including—

5                   “(A) technologies for capture and seques-  
 6                   tration of greenhouse gases;

7                   “(B) technologies to improve energy effi-  
 8                   ciency;

9                   “(C) low- or zero-greenhouse gas emitting  
 10                  energy technologies;

11                  “(D) low- or zero-greenhouse gas emitting  
 12                  fuels;

13                  “(E) biological sequestration practices and  
 14                  technologies; and

15                  “(F) any other technologies the Academy  
 16                  deems relevant; and

17           “(4) review and compare the emissions reduc-  
 18           tion potential, commercial viability, market penetra-  
 19           tion, investment trends, and deployment of the tech-  
 20           nologies described in paragraph (3), including—

21                   “(A) the need for additional research and  
 22                   development, including publicly funded research  
 23                   and development;

24                   “(B) the extent of commercial deployment,  
 25                   including, where appropriate, a comparison to

1 the cost and level of deployment of conventional  
 2 fossil fuel-fired energy technologies and devices;  
 3 and

4 “(C) an evaluation of any substantial tech-  
 5 nological, legal, or market-based barriers to  
 6 commercial deployment.

7 “(d) RECOMMENDATIONS.—

8 “(1) LATEST SCIENTIFIC INFORMATION.—

9 Based on the review described in subsection (a)(1),  
 10 the Academy shall identify actions that could be  
 11 taken to—

12 “(A) improve the characterization of  
 13 changes in the earth-climate system and im-  
 14 pacts of global climate change;

15 “(B) better inform decision making and  
 16 actions related to global climate change;

17 “(C) mitigate risks to natural and social  
 18 systems;

19 “(D) design policies to better account for  
 20 climate risks; and

21 “(E) improve the accuracy and reliability  
 22 of capabilities to monitor, report, and verify  
 23 greenhouse gas emissions reduction efforts.

1           ~~“(2) TECHNOLOGICAL INFORMATION.—Based~~  
 2           ~~on the analysis described in subsection (a)(2), the~~  
 3           ~~Academy shall identify—~~

4                   ~~“(A) additional emission reductions that~~  
 5                   ~~may be possible as a result of technologies de-~~  
 6                   ~~scribed in the analysis;~~

7                   ~~“(B) barriers to the deployment of such~~  
 8                   ~~technologies; and~~

9                   ~~“(C) actions that could be taken to speed~~  
 10                  ~~deployment of such technologies.~~

11           ~~“(3) STATUS OF GREENHOUSE GAS REDUCTION~~  
 12           ~~EFFORTS.—Based on the review described in sub-~~  
 13           ~~section (a)(1), the Academy shall identify—~~

14                   ~~“(A) the quantity of additional reductions~~  
 15                   ~~required to meet the emissions reduction goals~~  
 16                   ~~described in section 702; and~~

17                   ~~“(B) the quantity of additional reductions~~  
 18                   ~~in global greenhouse gas emissions needed to~~  
 19                   ~~avoid the concentration and temperature~~  
 20                   ~~thresholds described in section 705(e)(6)(A) or~~  
 21                   ~~identified pursuant to section 705(e)(6)(B).~~

22           ~~“(e) AUTHORIZATION OF APPROPRIATIONS.—There~~  
 23           ~~are authorized to be appropriated to carry out this section~~  
 24           ~~such sums as may be necessary.~~



1 **“SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDA-**  
 2 **TIONS.**

3 “Not later than July 1, 2015, and every 4 years  
 4 thereafter—

5 “(1) the President shall direct relevant Federal  
 6 agencies to use existing statutory authority to take  
 7 appropriate actions identified in the reports sub-  
 8 mitted under sections 705 and 706 and to address  
 9 any shortfalls identified in such reports; and

10 “(2) in the event that the National Academy of  
 11 Sciences has concluded, in the most recent report  
 12 submitted under section 706, that the United States  
 13 will not achieve the necessary domestic greenhouse  
 14 gas emission reductions, or that global actions will  
 15 not maintain safe global average surface tempera-  
 16 ture and atmospheric greenhouse gas concentration  
 17 thresholds, the President shall submit to Congress a  
 18 plan identifying domestic and international actions  
 19 that will achieve necessary additional greenhouse gas  
 20 reductions, including any recommendations for legis-  
 21 lative action.

22 **“PART B—DESIGNATION AND REGISTRATION OF**  
 23 **GREENHOUSE GASES**

24 **“SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

25 “(a) GREENHOUSE GASES.—For purposes of this  
 26 title, the following are greenhouse gases:

1           “(1) Carbon dioxide.

2           “(2) Methane.

3           “(3) Nitrous oxide.

4           “(4) Sulfur hexafluoride.

5           “(5) Hydrofluorocarbons from a chemical man-  
6           ufacturing process at an industrial stationary  
7           source.

8           “(6) Any perfluorocarbon, except as otherwise  
9           provided in section 714.

10          “(7) Nitrogen trifluoride.

11          “(8) Any other anthropogenic gas designated as  
12          a greenhouse gas by the Administrator under this  
13          section.

14          “(b) DETERMINATION ON ADMINISTRATOR’S INITIA-  
15          TIVE.—The Administrator shall, by rule—

16               “(1) determine whether 1 metric ton of another  
17               anthropogenic gas makes the same or greater con-  
18               tribution to global warming over 100 years as 1 met-  
19               ric ton of carbon dioxide;

20               “(2) determine the carbon dioxide equivalent  
21               value for each gas with respect to which the Admin-  
22               istrator makes an affirmative determination under  
23               paragraph (1);

24               “(3) for each gas with respect to which the Ad-  
25               ministrator makes an affirmative determination

under paragraph (1) and that is used as a substitute for a class I or class II substance under title VI, determine the extent to which to regulate that gas under section 619 and specify appropriate compliance obligations under section 619;

“(4) designate as a greenhouse gas for purposes of this title each gas for which the Administrator makes an affirmative determination under paragraph (1), to the extent that it is not regulated under section 619; and

“(5) specify the appropriate compliance obligations under this title for each gas designated as a greenhouse gas under paragraph (4).

“(e) PETITIONS TO DESIGNATE A GREENHOUSE GAS.—

“(1) IN GENERAL.—Any person may petition the Administrator to designate as a greenhouse gas any anthropogenic gas  $\pm$  metric ton of which makes the same or greater contribution to global warming over 100 years as  $\pm$  metric ton of carbon dioxide.

“(2) CONTENTS OF PETITION.—The petitioner shall provide sufficient data, as specified by rule by the Administrator, to demonstrate that the gas is likely to be a greenhouse gas and is likely to be produced, imported, used, or emitted in the United

1 States. To the extent practicable, the petitioner shall  
2 also identify producers, importers, distributors,  
3 users, and emitters of the gas in the United States.

4 “(3) REVIEW AND ACTION BY THE ADMINIS-  
5 TRATOR.—Not later than 90 days after receipt of a  
6 petition under paragraph (2), the Administrator  
7 shall determine whether the petition is complete and  
8 notify the petitioner and the public of the decision.

9 “(4) ADDITIONAL INFORMATION.—The Admin-  
10 istrator may require producers, importers, distribu-  
11 tors, users, or emitters of the gas to provide infor-  
12 mation on the contribution of the gas to global  
13 warming over 100 years compared to carbon dioxide.

14 “(5) TREATMENT OF PETITION.—For any sub-  
15 stance used as a substitute for a class I or class II  
16 substance under title VI, the Administrator may  
17 elect to treat a petition under this subsection as a  
18 petition to list the substance as a class II, group II  
19 substance under section 619, and may require the  
20 petition to be amended to address listing criteria  
21 promulgated under that section.

22 “(6) DETERMINATION.—Not later than 2 years  
23 after receipt of a complete petition, the Adminis-  
24 trator shall, after notice and an opportunity for com-  
25 ment—

1           “(A) issue and publish in the Federal Reg-  
2           ister—

3                   “(i) a determination that 1 metric ton  
4                   of the gas does not make a contribution to  
5                   global warming over 100 years that is  
6                   equal to or greater than that made by 1  
7                   metric ton of carbon dioxide; and

8                   “(ii) an explanation of the decision; or

9           “(B) determine that 1 metric ton of the  
10           gas makes a contribution to global warming  
11           over 100 years that is equal to or greater than  
12           that made by 1 metric ton of carbon dioxide;  
13           and take the actions described in subsection (b)  
14           with respect to such gas.

15           ~~“(7) GROUNDS FOR DENIAL.—The Adminis-~~  
16           ~~trator may not deny a petition under this subsection~~  
17           ~~solely on the basis of inadequate Environmental Pro-~~  
18           ~~tection Agency resources or time for review.~~

19           ~~“(d) SCIENCE ADVISORY BOARD CONSULTATION.—~~

20                   ~~“(1) CONSULTATION.—The Administrator~~  
21           ~~shall—~~

22                   ~~“(A) give notice to the Science Advisory~~  
23           ~~Board prior to making a determination under~~  
24           ~~subsection (b)(1), (c)(6), or (c)(2)(B);~~

1           ~~“(B) consider the written recommendations~~  
2           ~~of the Science Advisory Board under paragraph~~  
3           ~~(2) regarding the determination; and~~

4           ~~“(C) consult with the Science Advisory~~  
5           ~~Board regarding such determination, including~~  
6           ~~consultation subsequent to receipt of such writ-~~  
7           ~~ten recommendations.~~

8           ~~“(2) FORMULATION OF RECOMMENDATIONS.—~~  
9           ~~Upon receipt of notice under paragraph (1)(A) re-~~  
10          ~~garding a pending determination under subsection~~  
11          ~~(b)(1), (c)(6), or (c)(2)(B), the Science Advisory~~  
12          ~~Board shall—~~

13           ~~“(A) formulate recommendations regarding~~  
14           ~~such determination, subject to a peer review~~  
15           ~~process; and~~

16           ~~“(B) submit such recommendations in~~  
17           ~~writing to the Administrator.~~

18          ~~“(c) MANUFACTURING AND EMISSION NOTICES.—~~

19           ~~“(1) NOTICE REQUIREMENT.—~~

20           ~~“(A) IN GENERAL.—Except as otherwise~~  
21           ~~provided in section 714, effective 24 months~~  
22           ~~after the date of enactment of this title, no per-~~  
23           ~~son may manufacture or introduce into inter-~~  
24           ~~state commerce a fluorinated gas, or emit a sig-~~  
25           ~~nificant quantity, as determined by the Admin-~~

1           istrator, of any fluorinated gas that is gen-  
2           erated as a byproduct during the production or  
3           use of another fluorinated gas, unless—

4                   “(i) the gas is designated as a green-  
5           house gas under this section or is an  
6           ozone-depleting substance listed as a class  
7           I or class II substance under title VI;

8                   “(ii) the Administrator has deter-  
9           mined that 1 metric ton of such gas does  
10          not make a contribution to global warming  
11          that is equal to or greater than that made  
12          by 1 metric ton of carbon dioxide; or

13                  “(iii) the person manufacturing or im-  
14          porting the gas for distribution into inter-  
15          state commerce, or emitting the gas, has  
16          submitted to the Administrator, at least 90  
17          days before the start of such manufacture,  
18          introduction into commerce, or emission, a  
19          notice of such person’s manufacture, intro-  
20          duction into commerce, or emission of such  
21          gas, and the Administrator has not deter-  
22          mined that notice or a substantially similar  
23          notice is incomplete.

24                  “(B) ~~ALTERNATIVE COMPLIANCE.~~—For a  
25          gas that is a substitute for a class I or class II

substance under title VI and either has been listed as acceptable for use under section 612 or is currently subject to evaluation under section 612, the Administrator may accept the notice and information provided pursuant to that section as fulfilling the obligation under clause (iii) of subparagraph (A).

“(2) REVIEW AND ACTION BY THE ADMINISTRATOR.—

“(A) COMPLETENESS.—Not later than 90 days after receipt of notice under paragraph (1)(A)(iii) or (B), the Administrator shall determine whether the notice is complete.

“(B) DETERMINATION.—If the Administrator determines that the notice is complete, the Administrator shall, after notice and an opportunity for comment, not later than 12 months after receipt of the notice—

“(i) issue and publish in the Federal Register a determination that 1 metric ton of the gas does not make a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide and an explanation of the decision; or



1                   “(ii) determine that 1 metric ton of  
 2                   the gas makes a contribution to global  
 3                   warming over 100 years that is equal to or  
 4                   greater than that made by 1 metric ton of  
 5                   carbon dioxide; and take the actions de-  
 6                   scribed in subsection (b) with respect to  
 7                   such gas.

8           “(f) REGULATIONS.—Not later than one year after  
 9           the date of enactment of this title, the Administrator shall  
 10          promulgate regulations to carry out this section. Such reg-  
 11          ulations shall include—

12                   “(1) requirements for the contents of a petition  
 13                   submitted under subsection (c);

14                   “(2) requirements for the contents of a notice  
 15                   required under subsection (c); and

16                   “(3) methods and standards for evaluating the  
 17                   carbon dioxide equivalent value of a gas.

18          “(g) GASES REGULATED UNDER TITLE VI.—The  
 19          Administrator shall not designate a gas as a greenhouse  
 20          gas under this section to the extent that the gas is regu-  
 21          lated under title VI.

22          “(h) SAVINGS CLAUSE.—Nothing in this section shall  
 23          be interpreted to relieve any person from complying with  
 24          the requirements of section 612.

1 **“SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF**  
 2 **GREENHOUSE GASES.**

3 “(a) MEASURE OF QUANTITY OF GREENHOUSE  
 4 GASES.—Any provision of this title or title VIII that refers  
 5 to a quantity or percentage of a quantity of greenhouse  
 6 gases shall mean the quantity or percentage of the green-  
 7 house gases expressed in carbon dioxide equivalents.

8 “(b) INITIAL VALUE.—Except as provided by the Ad-  
 9 ministrator under this section or section 711—

10 “(1) the carbon dioxide equivalent value of  
 11 greenhouse gases for purposes of this Act shall be as  
 12 follows:

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
 GREENHOUSE GASES**

<b>Greenhouse gas (1 metric ton)</b>	<b>Carbon dioxide equivalent (metric tons)</b>
Carbon dioxide	1
Methane	25
Nitrous oxide	298
HFC-23	14,800
HFC-125	3,500
HFC-134a	1,430
HFC-143a	4,470
HFC-152a	124
HFC-227ea	3,220
HFC-236fa	9,810
HFC-4310mee	1,640
CF <sub>4</sub>	7,390

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
GREENHOUSE GASES—Continued**

<b>Greenhouse gas (1 metric ton)</b>	<b>Carbon dioxide equivalent (metric tons)</b>
C <sub>2</sub> F <sub>6</sub>	12,200
C <sub>4</sub> F <sub>10</sub>	8,860
C <sub>6</sub> F <sub>14</sub>	9,300
SF <sub>6</sub>	22,800
NF <sub>3</sub>	17,200

1           ; and

2           “(2) the carbon dioxide equivalent value for  
3           purposes of this Act for any greenhouse gas not list-  
4           ed in the table under paragraph (1) shall be the  
5           100-year Global Warming Potentials provided in the  
6           Intergovernmental Panel on Climate Change Fourth  
7           Assessment Report.

8           “(c) PERIODIC REVIEW.—

9           “(1) Not later than February 1, 2017, and (ex-  
10          cept as provided in paragraph (3)) not less than  
11          every 5 years thereafter, the Administrator shall—

12               “(A) review and, if appropriate, revise the  
13               carbon dioxide equivalent values established  
14               under this section or section 711(b)(2), based  
15               on a determination of the number of metric  
16               tons of carbon dioxide that makes the same  
17               contribution to global warming over 100 years  
18               as 1 metric ton of each greenhouse gas; and

1           “(B) publish in the Federal Register the  
2           results of that review and any revisions.

3           “(2) A revised determination published in the  
4           Federal Register under paragraph (1)(B) shall take  
5           effect for greenhouse gas emissions starting on Jan-  
6           uary 1 of the first calendar year starting at least 9  
7           months after the date on which the revised deter-  
8           mination was published.

9           “(3) The Administrator may decrease the fre-  
10          quency of review and revision under paragraph (1)  
11          if the Administrator determines that such decrease  
12          is appropriate in order to synchronize such review  
13          and revision with any similar review process carried  
14          out pursuant to the United Nations Framework  
15          Convention on Climate Change, done at New York  
16          on May 9, 1992, or to an agreement negotiated  
17          under that convention, except that in no event shall  
18          the Administrator carry out such review and revision  
19          any less frequently than every 10 years.

20          “(d) METHODOLOGY.—In setting carbon dioxide  
21          equivalent values, for purposes of this section or section  
22          711, the Administrator shall take into account publica-  
23          tions by the Intergovernmental Panel on Climate Change  
24          or a successor organization under the auspices of the

1 United Nations Environmental Programme and the World  
 2 Meteorological Organization.

3 **~~“SEC. 713. GREENHOUSE GAS REGISTRY.~~**

4 ~~“(a) DEFINITIONS.—For purposes of this section:~~

5 ~~“(1) CLIMATE REGISTRY.—The term ‘Climate~~  
 6 ~~Registry’ means the greenhouse gas emissions reg-~~  
 7 ~~istry jointly established and managed by more than~~  
 8 ~~40 States and Indian tribes in 2007 to collect high-~~  
 9 ~~quality greenhouse gas emission data from facilities,~~  
 10 ~~corporations, and other organizations to support var-~~  
 11 ~~ious greenhouse gas emission reporting and reduc-~~  
 12 ~~tion policies for the member States and Indian~~  
 13 ~~tribes.~~

14 ~~“(2) REPORTING ENTITY.—The term ‘reporting~~  
 15 ~~entity’ means—~~

16 ~~“(A) a covered entity;~~

17 ~~“(B) an entity that—~~

18 ~~“(i) would be a covered entity if it had~~  
 19 ~~emitted, produced, imported, manufac-~~  
 20 ~~tured, or delivered in 2008 or any subse-~~  
 21 ~~quent year more than the applicable~~  
 22 ~~threshold level in the definition of covered~~  
 23 ~~entity in paragraph (13) of section 700;~~  
 24 ~~and~~

1           “(ii) has emitted, produced, imported,  
2           manufactured, or delivered in 2008 or any  
3           subsequent year more than the applicable  
4           threshold level in the definition of covered  
5           entity in paragraph (13) of section 700,  
6           provided that the figure of 25,000 tons of  
7           carbon dioxide equivalent is read instead  
8           as 10,000 tons of carbon dioxide equivalent  
9           and the figure of 460,000,000 cubic feet is  
10          read instead as 184,000,000 cubic feet;

11          “(C) any other entity that emits a green-  
12          house gas, or produces, imports, manufactures,  
13          or delivers material whose use results or may  
14          result in greenhouse gas emissions if the Ad-  
15          ministrator determines that reporting under  
16          this section by such entity will help achieve the  
17          purposes of this title or title VIII;

18          “(D) any vehicle fleet with emissions of  
19          more than 25,000 tons of carbon dioxide equiv-  
20          alent on an annual basis, if the Administrator  
21          determines that the inclusion of such fleet will  
22          help achieve the purposes of this title or title  
23          VIII; or

24          “(E) any entity that delivers electricity to  
25          an energy-intensive facility in an industrial sec-

1           tor that meets the energy or greenhouse gas in-  
 2           tensity criteria in section 764(b)(3)(B)(i).

3           ~~“(b) REGULATIONS.—~~

4           ~~“(1) IN GENERAL.—~~Not later than 6 months  
 5           after the date of enactment of this title, the Admin-  
 6           istrator shall issue regulations establishing a Federal  
 7           greenhouse gas registry. Such regulations shall—

8                     ~~“(A) require reporting entities to submit to~~  
 9           the Administrator data on—

10                    ~~“(i) greenhouse gas emissions in the~~  
 11                   United States;

12                    ~~“(ii) the production and manufacture~~  
 13                   in the United States, importation into the  
 14                   United States, and, at the discretion of the  
 15                   Administrator, exportation from the  
 16                   United States, of fuels and industrial gases  
 17                   the uses of which result or may result in  
 18                   greenhouse gas emissions;

19                    ~~“(iii) deliveries in the United States of~~  
 20                   natural gas, and any other gas meeting the  
 21                   specifications for commingling with natural  
 22                   gas for purposes of delivery, the combus-  
 23                   tion of which result or may result in green-  
 24                   house gas emissions; and

1                   “(iv) the capture and sequestration of  
2                   greenhouse gases;

3                   “(B) require covered entities and, where  
4                   appropriate, other reporting entities to submit  
5                   to the Administrator data sufficient to ensure  
6                   compliance with or implementation of the re-  
7                   quirements of this title;

8                   “(C) require reporting of electricity deliv-  
9                   ered to industrial sources in energy-intensive in-  
10                  dustries;

11                  “(D) ensure the completeness, consistency,  
12                  transparency, accuracy, precision, and reliability  
13                  of such data;

14                  “(E) take into account the best practices  
15                  from the most recent Federal, State, tribal, and  
16                  international protocols for the measurement, ac-  
17                  counting, reporting, and verification of green-  
18                  house gas emissions, including protocols from  
19                  the Climate Registry and other mandatory  
20                  State or multistate authorized programs;

21                  “(F) take into account the latest scientific  
22                  research;

23                  “(G) require that, for covered entities with  
24                  respect to greenhouse gases to which section  
25                  722 applies, and, to the extent determined to be



1 appropriate by the Administrator, for covered  
2 entities with respect to other greenhouse gases  
3 and for other reporting entities, submitted data  
4 are based on—

5 “(i) continuous monitoring systems  
6 for fuel flow or emissions, such as contin-  
7 uous emission monitoring systems;

8 “(ii) alternative systems that are dem-  
9 onstrated as providing data with the same  
10 precision, reliability, accessibility, and  
11 timeliness, or, to the extent the Adminis-  
12 trator determines is appropriate for report-  
13 ing small amounts of emissions, the same  
14 precision, reliability, and accessibility and  
15 similar timeliness, as data provided by con-  
16 tinuous monitoring systems for fuel flow or  
17 emissions; or

18 “(iii) alternative methodologies that  
19 are demonstrated to provide data with pre-  
20 cision, reliability, accessibility, and timeli-  
21 ness, or, to the extent the Administrator  
22 determines is appropriate for reporting  
23 small amounts of emissions, precision, reli-  
24 ability, and accessibility, as similar as is  
25 technically feasible to that of data gen-

erally provided by continuous monitoring systems for fuel flow or emissions, if the Administrator determines that, with respect to a reporting entity, there is no continuous monitoring system or alternative system described in clause (i) or (ii) that is technically feasible;

“(H) require that the Administrator, in determining the extent to which the requirement to use systems or methodologies in accordance with subparagraph (G) is appropriate for reporting entities other than covered entities or for greenhouse gases to which section 722 does not apply, consider the cost of using such systems and methodologies, and of using other systems and methodologies that are available and suitable, for quantifying the emissions involved in light of the purposes of this title, including the goal of collecting consistent entity-wide data;

“(I) include methods for minimizing double reporting and avoiding irreconcilable double reporting of greenhouse gas emissions;

“(J) establish measurement protocols for carbon capture and sequestration systems, tak-

1 ing into consideration the regulations promul-  
2 gated under section 813;

3 “(K) require that reporting entities provide  
4 the data required under this paragraph in re-  
5 ports submitted electronically to the Adminis-  
6 trator, in such form and containing such infor-  
7 mation as may be required by the Adminis-  
8 trator;

9 “(L) include requirements for keeping  
10 records supporting or related to, and protocols  
11 for auditing, submitted data;

12 “(M) establish consistent policies for calcu-  
13 lating carbon content and greenhouse gas emis-  
14 sions for each type of fossil fuel with respect to  
15 which reporting is required;

16 “(N) subsequent to implementation of poli-  
17 cies developed under subparagraph (M), provide  
18 for immediate dissemination, to States, Indian  
19 tribes, and on the Internet, of all data reported  
20 under this section as soon as practicable after  
21 electronic audit by the Administrator and any  
22 resulting correction of data, except that data  
23 shall not be disseminated under this subpara-  
24 graph if—

1           “(i) its nondissemination is vital to  
2           the national security of the United States;  
3           as determined by the President; or

4           “(ii) it is confidential business infor-  
5           mation that cannot be derived from infor-  
6           mation that is otherwise publicly available  
7           and that would cause significant calculable  
8           competitive harm if published, except  
9           that—

10           “(I) data relating to greenhouse  
11           gas emissions, including any upstream  
12           or verification data from reporting en-  
13           tities, shall not be considered to be  
14           confidential business information; and

15           “(II) data that is confidential  
16           business information shall be provided  
17           to a State or Indian tribe within  
18           whose jurisdiction the reporting entity  
19           is located, if the Administrator deter-  
20           mines that such State or Indian tribe  
21           has in effect protections for confiden-  
22           tial business information that are  
23           equivalent to protections applicable to  
24           the Federal Government;

1           “(O) prescribe methods by which the Ad-  
2           ministrators shall, in cases in which satisfactory  
3           data are not submitted to the Administrator for  
4           any period of time, estimate emission, produc-  
5           tion, importation, manufacture, or delivery lev-  
6           els—

7           “(i) for covered entities with respect  
8           to greenhouse gas emissions, production,  
9           importation, manufacture, or delivery regu-  
10          lated under this title to ensure that emis-  
11          sions, production, importation, manufac-  
12          ture, or deliveries are not underreported,  
13          and to create a strong incentive for meet-  
14          ing data monitoring and reporting require-  
15          ments—

16          “(I) with a conservative estimate  
17          of the highest emission, production,  
18          importation, manufacture, or delivery  
19          levels that may have occurred during  
20          the period for which data are missing;  
21          or

22          “(H) to the extent the Adminis-  
23          trator considers appropriate, with an  
24          estimate of such levels assuming the  
25          unit is emitting, producing, importing,

1 manufacturing, or delivering at a  
2 maximum potential level during the  
3 period, in order to ensure that such  
4 levels are not underreported and to  
5 create a strong incentive for meeting  
6 data monitoring and reporting re-  
7 quirements; and

8 “(ii) for covered entities with respect  
9 to greenhouse gas emissions to which sec-  
10 tion 722 does not apply and for other re-  
11 porting entities, with a reasonable estimate  
12 of the emission, production, importation,  
13 manufacture, or delivery levels that may  
14 have occurred during the period for which  
15 data are missing;

16 “(P) require the designation of a des-  
17 ignated representative for each reporting entity;

18 “(Q) require an appropriate certification,  
19 by the designated representative for the report-  
20 ing entity, of accurate and complete accounting  
21 of greenhouse gas emissions, as determined by  
22 the Administrator; and

23 “(R) include requirements for other data  
24 necessary for accurate and complete accounting  
25 of greenhouse gas emissions, as determined by

1 the Administrator, including data for quality  
2 assurance of monitoring systems, monitors and  
3 other measurement devices, and other data  
4 needed to verify reported emissions, production,  
5 importation, manufacture, or delivery.

6 ~~“(2) TIMING.—~~

7 ~~“(A) CALENDAR YEARS 2007 THROUGH~~  
8 ~~2010.—For a base period of calendar years~~  
9 ~~2007 through 2010, each reporting entity shall~~  
10 ~~submit annual data required under this section~~  
11 ~~to the Administrator not later than March 31,~~  
12 ~~2011. The Administrator may waive or modify~~  
13 ~~reporting requirements for calendar years 2007~~  
14 ~~through 2010 for categories of reporting enti-~~  
15 ~~ties to the extent that the Administrator deter-~~  
16 ~~mines that the reporting entities did not keep~~  
17 ~~data or records necessary to meet reporting re-~~  
18 ~~quirements. The Administrator may, in addition~~  
19 ~~to or in lieu of such requirements, collect infor-~~  
20 ~~mation on energy consumption and production.~~

21 ~~“(B) SUBSEQUENT CALENDAR YEARS.—~~

22 ~~For calendar year 2011 and each subsequent~~  
23 ~~calendar year, each reporting entity shall sub-~~  
24 ~~mit quarterly data required under this section~~  
25 ~~to the Administrator not later than 60 days~~

1 after the end of the applicable quarter, except  
 2 when the data is already being reported to the  
 3 Administrator on an earlier timeframe for an-  
 4 other program.

5 “(3) WAIVER OF REPORTING REQUIREMENTS.—

6 The Administrator may waive reporting require-  
 7 ments under this section for specific entities to the  
 8 extent that the Administrator determines that suffi-  
 9 cient and equally or more reliable verified and timely  
 10 data are available to the Administrator and the pub-  
 11 lic on the Internet under other mandatory statutory  
 12 requirements.

13 “(4) ALTERNATIVE THRESHOLD.—The Admin-  
 14 istrator may, by rule, establish applicability thresh-  
 15 olds for reporting under this section using alter-  
 16 native metrics and levels, provided that such metrics  
 17 and levels are easier to administer and cover the  
 18 same size and type of sources as the threshold de-  
 19 fined in this section.

20 “(e) INTERRELATIONSHIP WITH OTHER SYSTEMS.—

21 In developing the regulations issued under subsection (b),  
 22 the Administrator shall take into account the work done  
 23 by the Climate Registry and other mandatory State or  
 24 multistate programs. Such regulations shall include an ex-  
 25 planation of any major differences in approach between



1 the system established under the regulations and such reg-  
 2 istries and programs.

3 **“SEC. 714. PERFLUOROCARBON REGULATION.**

4       “(a) DEFINITIONS.—In this section:

5               “(1) CONSUMPTION.—The term ‘consumption’  
 6 means, with respect to perfluorocarbon, the quantity  
 7 of that substance produced in the United States,  
 8 plus the quantity imported, minus the quantity ex-  
 9 ported.

10              “(2) PRODUCE; PRODUCED; PRODUCTION.—

11                   “(A) IN GENERAL.—The terms ‘produce’,  
 12 ‘produced’, and ‘production’ mean the manufac-  
 13 ture of perfluorocarbon, or the emission of  
 14 perfluorocarbon from other industrial sources.

15                   “(B) EXCLUSIONS.—The terms ‘produce’,  
 16 ‘produced’, and ‘production’ do not include—

17                           “(i) the manufacture of  
 18 perfluorocarbon that is used and entirely  
 19 consumed (except for trace quantities) in  
 20 the manufacture of other chemicals or  
 21 products;

22                           “(ii) the reuse or recycling of  
 23 perfluorocarbon; or

1                   “(iii) the emission of perfluorocarbon  
 2                   from use in production processes, such as  
 3                   electronics manufacturing.

4                   “(C) OFFSET CREDIT.—The term ‘offset  
 5                   credit’ means reduction of perfluorocarbon  
 6                   emissions by destruction or conversionary use of  
 7                   perfluorocarbons during production processes,  
 8                   such as electronics manufacturing.

9                   “(b) DETERMINATION BY ADMINISTRATOR.—As soon  
 10                  as practicable after the date of enactment of this section,  
 11                  the Administrator shall determine, based on such criteria  
 12                  as the Administrator determines to be appropriate, wheth-  
 13                  er emissions from the production and consumption of  
 14                  perfluorocarbon should be regulated in accordance with—

15                   “(1) this section; or

16                   “(2) the other applicable provisions of this title.

17                  “(c) EFFECT OF DETERMINATION.—On a determina-  
 18                  tion by the Administrator under subsection (a)(1) that  
 19                  perfluorocarbon emissions described in subsection (b)  
 20                  should be regulated in accordance with this section—

21                   “(1) emissions from the production of  
 22                   perfluorocarbon shall be subject to the best available  
 23                   control technology (as defined in section 169) for  
 24                   each greenhouse gas designated in section 711 at fa-

ilities emitting 25,000 metric tons of carbon dioxide  
equivalent perfluorocarbon emissions or more; and

~~“(2) the consumption of perfluorocarbon shall  
be phased down in accordance with this section.~~

~~“(d) USE AND CONSUMPTION.—~~

~~“(1) PHASE-DOWNS.—~~

~~“(A) CONSUMPTION.—~~

~~“(i) IN GENERAL.—With respect to  
perfluorocarbon, not later than 18 months  
after the date of enactment of this section,  
the Administrator shall promulgate regula-  
tions phasing down, in accordance with  
this section—~~

~~“(I) the consumption of  
perfluorocarbon in the United States;  
and~~

~~“(II) the importation into the  
United States of products containing  
any perfluorocarbon.~~

~~“(ii) PROHIBITION.—Effective begin-  
ning on January 1, 2014, it shall be un-  
lawful for any person to produce any per-  
fluorocarbon, import any perfluorocarbon,  
or import any product containing  
perfluorocarbon, unless the person holds 1~~

consumption allowance or 1 offset credit  
for each carbon dioxide equivalent ton of  
the perfluorocarbon destroyed.

“(iii) RETIRED ALLOWANCES.—Any  
person who exports a perfluorocarbon for  
which a use allowance was retired may re-  
ceive a refund of that allowance from the  
Administrator after the date of export.

“(B) INTEGRITY OF LIMITS.—To maintain  
the integrity of the perfluorocarbon limits under  
this paragraph, the Administrator may limit, by  
regulation, the percentage of the compliance ob-  
ligation of any person that may be met through  
the consumption of offset credits or banked al-  
lowances.

“(C) COUNTING OF VIOLATIONS.—Each  
consumption allowance or offset credit not held  
as required by this subsection shall be a sepa-  
rate violation of this section.

“(2) SCHEDULE.—Pursuant to the regulations  
promulgated under paragraph (1)(A), the number of  
perfluorocarbon consumption allowances available for  
distribution for each calendar year beginning in cal-  
endar year 2014 shall be established by the Adminis-  
trator.

1           ~~“(3) BASELINE.—~~

2                   ~~“(A) IN GENERAL.—Not later than 1 year~~  
 3                   ~~after the date of enactment of this section, the~~  
 4                   ~~Administrator shall promulgate regulations to~~  
 5                   ~~establish the baseline for purposes of paragraph~~  
 6                   ~~(2).~~

7                   ~~“(B) CALCULATION.—The baseline shall~~  
 8                   ~~be—~~

9                           ~~“(i) the sum, expressed in metric tons~~  
 10                   ~~of carbon dioxide equivalents, of—~~

11                               ~~“(I) the average of the annual~~  
 12                               ~~consumption of all perfluorocarbon in~~  
 13                               ~~each of calendar years 2004, 2005,~~  
 14                               ~~and 2006; and~~

15                               ~~“(II) the annual average quantity~~  
 16                               ~~of all perfluorocarbon contained in im-~~  
 17                               ~~ported products during the period of~~  
 18                               ~~calendar years 2004, 2005, and 2006;~~  
 19                               ~~or~~

20                               ~~“(ii) such alternative quantity of ear-~~  
 21                               ~~bon dioxide equivalents that, as determined~~  
 22                               ~~by the Administrator, more accurately re-~~  
 23                               ~~flects the average annual quantity of~~  
 24                               ~~perfluorocarbon consumed in and imported~~  
 25                               ~~into the United States (including in prod-~~

1                   ucts), as based on information compiled by  
2                   the Administrator.

3                   “(4) DISTRIBUTION OF ALLOWANCES.—The  
4           Administrator shall determine an allocation, and  
5           procedures for the distribution, transfer, and ex-  
6           change of allowances for the consumption of  
7           perfluorocarbon under this section, including a de-  
8           termination of whether allowances may be auctioned,  
9           sold, or allocated and distributed at no cost, trans-  
10          ferred, or exchanged for domestic or international  
11          consumption, in accordance with such criteria as the  
12          Administrator considers to be appropriate.

13                  “(e) IMPLEMENTATION.—To the maximum extent  
14       practicable, the Administrator shall implement this section  
15       in accordance with the procedures described in section  
16       619.

17                  “(f) DEADLINES FOR COMPLIANCE.—The Adminis-  
18       trator shall promulgate regulations for perfluorocarbon in  
19       accordance with this section by not later than October 31,  
20       2013.

## 21                   **“PART C—PROGRAM RULES**

### 22       **“SEC. 721. EMISSION ALLOWANCES.**

23                  “(a) IN GENERAL.—The Administrator shall estab-  
24       lish a separate quantity of emission allowances for each

1 calendar year starting in 2012, in the amounts prescribed  
2 under subsection (e).

3       “(b) IDENTIFICATION NUMBERS.—The Adminis-  
4 trator shall assign to each emission allowance established  
5 under subsection (a) a unique identification number that  
6 includes the vintage year for that emission allowance.

7       “(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

8               “(1) IN GENERAL.—An allowance established  
9 by the Administrator under this title does not con-  
10 stitute a property right.

11              “(2) TERMINATION OR LIMITATION.—Nothing  
12 in this Act or any other provision of law shall be  
13 construed to limit or alter the authority of the  
14 United States, including the Administrator acting  
15 pursuant to statutory authority, to terminate or  
16 limit allowances, offset credits, or term offset cred-  
17 its.

18              “(3) OTHER PROVISIONS UNAFFECTED.—Ex-  
19 cept as otherwise specified in this Act, nothing in  
20 this Act relating to allowances, offset credits, or  
21 term offset credits established or issued under this  
22 title shall affect the application of any other provi-  
23 sion of law to a covered entity, or the responsibility  
24 for a covered entity to comply with any such provi-  
25 sion of law.

1       “(d) SAVINGS PROVISION.—Nothing in this part shall  
 2 be construed as requiring a change of any kind in any  
 3 State law regulating electric utility rates and charges, or  
 4 as affecting any State law regarding such State regula-  
 5 tion, or as limiting State regulation (including any  
 6 prudence review) under such a State law. Nothing in this  
 7 part shall be construed as modifying the Federal Power  
 8 Act (16 U.S.C. 791a et seq.) or as affecting the authority  
 9 of the Federal Energy Regulatory Commission under that  
 10 Act. Nothing in this part shall be construed to interfere  
 11 with or impair any program for competitive bidding for  
 12 power supply in a State in which such program is estab-  
 13 lished.

14       “(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

15               “(1) IN GENERAL.—Except as provided in para-  
 16 graph (2), the number of emission allowances estab-  
 17 lished by the Administrator under subsection (a) for  
 18 each calendar year shall be as provided in the fol-  
 19 lowing table:

“Calendar Year	Emissions Allow- ances (MtCO <sub>2</sub> e)
2012 .....	4,627
2013 .....	4,544
2014 .....	5,099
2015 .....	5,003
2016 .....	5,482
2017 .....	5,261
2018 .....	5,132
2019 .....	5,002
2020 .....	4,873
2021 .....	4,739
2022 .....	4,605
2023 .....	4,471



2024	4,337
2025	4,203
2026	4,069
2027	3,935
2028	3,801
2029	3,667
2030	3,533
2031	3,408
2032	3,283
2033	3,158
2034	3,033
2035	2,908
2036	2,784
2037	2,659
2038	2,534
2039	2,409
2040	2,284
2041	2,159
2042	2,034
2043	1,910
2044	1,785
2045	1,660
2046	1,535
2047	1,410
2048	1,285
2049	1,160
2050	1,035

1           “(2) REVISION.—

2                   “(A) IN GENERAL.—The Administrator  
3           may adjust, in accordance with subparagraph  
4           (B), the number of emission allowances estab-  
5           lished pursuant to paragraph (1) if, after notice  
6           and an opportunity for public comment, the Ad-  
7           ministrator determines that—

8                   “(i) United States greenhouse gas  
9           emissions in 2005 were other than 7,206  
10          million metric tons carbon dioxide equiva-  
11          lent;

12                   “(ii) if the requirements of this title  
13          for 2012 had been in effect in 2005, see-

tion 722 would have required emission allowances to be held for other than 66.2 percent of United States greenhouse gas emissions in 2005;

“(iii) if the requirements of this title for 2014 had been in effect in 2005, section 722 would have required emission allowances to be held for other than 75.7 percent of United States greenhouse gas emissions in 2005; or

“(iv) if the requirements of this title for 2016 had been in effect in 2005, section 722 would have required emission allowances to be held for other than 84.5 percent United States greenhouse gas emissions in 2005.

“(B) ADJUSTMENT FORMULA.—

“(i) IN GENERAL.—If the Administrator adjusts under this paragraph the number of emission allowances established pursuant to paragraph (1), the number of emission allowances the Administrator establishes for any given calendar year shall equal the product of—

1                   “(I) United States greenhouse  
2                   gas emissions in 2005, expressed in  
3                   tons of carbon dioxide equivalent;

4                   “(II) the percent of United  
5                   States greenhouse gas emissions in  
6                   2005, expressed in tons of carbon di-  
7                   oxide equivalent, that would have been  
8                   subject to section 722 if the require-  
9                   ments of this title for the given cal-  
10                  endar year had been in effect in 2005;  
11                  and

12                  “(III) the percentage set forth  
13                  for that calendar year in section  
14                  703(a), or determined under clause  
15                  (ii) of this subparagraph.

16                  “(ii) TARGETS.—In applying the por-  
17                  tion of the formula in clause (i)(III) of this  
18                  subparagraph, for calendar years for which  
19                  a percentage is not listed in section 703(a),  
20                  the Administrator shall use a uniform an-  
21                  nual decline in the amount of emissions be-  
22                  tween the years that are specified.

23                  “(iii) CARBON DIOXIDE EQUIVALENT  
24                  VALUE.—If the Administrator adjusts  
25                  under this paragraph the number of emis-

1           sion allowances established pursuant to  
 2           paragraph (1), the Administrator shall use  
 3           the carbon dioxide equivalent values estab-  
 4           lished pursuant to section 712.

5           “(iv) LIMITATION ON ADJUSTMENT  
 6           TIMING.—Once a calendar year has start-  
 7           ed, the Administrator may not adjust the  
 8           number of emission allowances to be estab-  
 9           lished for that calendar year.

10          “(C) LIMITATION ON ADJUSTMENT AU-  
 11          THORITY.—The Administrator may adjust  
 12          under this paragraph the number of emission  
 13          allowances to be established pursuant to para-  
 14          graph (1) only once.

15          “(f) COMPENSATORY ALLOWANCE.—

16          “(1) IN GENERAL.—The regulations promul-  
 17          gated under subsection (h) shall provide for the es-  
 18          tablishment and distribution of compensatory allow-  
 19          ances for—

20               “(A) the destruction, in 2012 or later, of  
 21               fluorinated gases that are greenhouse gases if—

22                   “(i) allowances or offset credits were  
 23                   retired for their production or importation;  
 24                   and

1           “(ii) such gases are not required to be  
2           destroyed under any other provision of law;

3           “(B) the nonemissive use, in 2012 or later,  
4           of petroleum-based or coal-based liquid or gas-  
5           eous fuel, petroleum coke, natural gas liquid, or  
6           natural gas as a feedstock, if allowances or off-  
7           set credits were retired for the greenhouse  
8           gases that would have been emitted from their  
9           combustion; and

10          “(C) the conversionary use, in 2012 or  
11          later, of fluorinated gases in a manufacturing  
12          process, including semiconductor research or  
13          manufacturing, if allowances or offset credits  
14          were retired for the production or importation  
15          of such gas.

16          “(2) ESTABLISHMENT AND DISTRIBUTION.—

17          “(A) IN GENERAL.—Not later than 90  
18          days after the end of each calendar year, the  
19          Administrator shall establish and distribute to  
20          the entity taking the actions described in sub-  
21          paragraph (A), (B), or (C) of paragraph (1) a  
22          quantity of compensatory allowances equivalent  
23          to the number of tons of carbon dioxide equiva-  
24          lent of avoided emissions achieved through such  
25          actions. In establishing the quantity of compen-

1           satory allowances; the Administrator shall take  
2           into account the carbon dioxide equivalent value  
3           of any greenhouse gas resulting from such ac-  
4           tion.

5           “(B) SOURCE OF ALLOWANCES.—Compen-  
6           satory allowances established under this sub-  
7           section shall not be emission allowances estab-  
8           lished under subsection (a).

9           “(C) IDENTIFICATION NUMBERS.—The  
10          Administrator shall assign to each compen-  
11          satory allowance established under subpara-  
12          graph (A) a unique identification number.

13          “(3) DEFINITIONS.—For purposes of this sub-  
14          section—

15               “(A) the term ‘destruction’ means the con-  
16               version of a greenhouse gas by thermal, chem-  
17               ical, or other means to another gas or set of  
18               gases with little or no carbon dioxide equivalent  
19               value;

20               “(B) the term ‘nonemissive use’ means the  
21               use of fossil fuel as a feedstock in an industrial  
22               or manufacturing process to the extent that  
23               greenhouse gases are not emitted from such  
24               process; and to the extent that the products of

1 such process are not intended for use as, or to  
2 be contained in, a fuel; and

3 “(C) the term ‘conversionary use’ means  
4 the conversion during research or manufac-  
5 turing of a fluorinated gas into another green-  
6 house gas or set of gases with a lower carbon  
7 dioxide equivalent value.

8 “(4) FEEDSTOCK EMISSIONS STUDY.—

9 “(A) The Administrator may conduct a  
10 study to determine the extent to which petro-  
11 leum-based or coal-based liquid or gaseous fuel,  
12 petroleum coke, natural gas liquid, or natural  
13 gas are used as feedstocks in manufacturing  
14 processes to produce products and the green-  
15 house gas emissions resulting from such uses.

16 “(B) If as a result of such a study, the Ad-  
17 ministrator determines that the use of such  
18 products by noncovered sources results in sub-  
19 stantial emissions of greenhouse gases or their  
20 precursors and that such emissions have not  
21 been adequately addressed under other require-  
22 ments of this Act, the Administrator may, after  
23 notice and comment rulemaking, promulgate a  
24 regulation reducing compensatory allowances

1 commensurately if doing so will not result in  
2 leakage.

3 ~~“(g) FLUORINATED GASES ASSESSMENT.—~~

4 ~~“(1) IN GENERAL.—Not later than March 31,~~  
5 ~~2014, the Administrator shall conduct an assess-~~  
6 ~~ment of the regulation of non-hydrofluorocarbon~~  
7 ~~fluorinated gases under this title (excluding~~  
8 ~~perfluorocarbon) to determine whether the most ap-~~  
9 ~~propriate point of regulation of those gases is at—~~

10 ~~“(A) the gas manufacturer or importer~~  
11 ~~level; or~~

12 ~~“(B) the downstream source of the emis-~~  
13 ~~sions.~~

14 ~~“(2) MODIFICATION OF DEFINITION.—If the~~  
15 ~~Administrator determines, based on consideration of~~  
16 ~~environmental effectiveness, cost-effectiveness, ad-~~  
17 ~~ministrative feasibility, extent of coverage of emis-~~  
18 ~~sions, and competitiveness considerations, that emis-~~  
19 ~~sions of non-hydrofluorocarbon fluorinated gases (ex-~~  
20 ~~cluding perfluorocarbons) can best be regulated by~~  
21 ~~designating downstream emission sources as covered~~  
22 ~~entities with compliance obligations under section~~  
23 ~~722, the Administrator shall—~~

24 ~~“(A) after providing notice and an oppor-~~  
25 ~~tunity for comment, modify the definition of the~~



1 term ‘covered entity’ with respect to fluorinated  
 2 gases (other than hydrofluorocarbons and  
 3 perfluorocarbons) accordingly; and

4 “(B) establish such requirements as are  
 5 necessary to ensure compliance by the covered  
 6 entities with the requirements of this title.

7 “(h) REGULATIONS.—Not later than 24 months after  
 8 the date of enactment of this title, the Administrator shall  
 9 promulgate regulations to carry out the provisions of this  
 10 title.

11 **“SEC. 722. PROHIBITION OF EXCESS EMISSIONS.**

12 “(a) PROHIBITION.—Except as provided in sub-  
 13 section (c), effective January 1, 2012, each covered entity  
 14 is prohibited from emitting greenhouse gases, and having  
 15 attributable greenhouse gas emissions, in combination, in  
 16 excess of its allowable emissions level. A covered entity’s  
 17 allowable emissions level for each calendar year is the  
 18 number of emission allowances (or credits or other allow-  
 19 ances as provided in subsection (d)) it holds as of 12:01  
 20 a.m. on April 1 (or a later date established by the Admin-  
 21 istrator under subsection (j)) of the following calendar  
 22 year.

23 “(b) METHODS OF DEMONSTRATING COMPLIANCE.—  
 24 Except as otherwise provided in this section, the owner  
 25 or operator of a covered entity shall not be considered to

1 be in compliance with the prohibition in subsection (a) un-  
 2 less, as of 12:01 a.m. on April 1 (or a later date estab-  
 3 lished by the Administrator under subsection (j)) of each  
 4 calendar year starting in 2013, the owner or operator  
 5 holds a quantity of emission allowances (or credits or other  
 6 allowances as provided in subsection (d)) at least as great  
 7 as the quantity calculated as follows:

8           “(1) ELECTRICITY SOURCES.—For a covered  
 9       entity described in section 700(13)(A), 1 emission  
 10      allowance for each ton of carbon dioxide equivalent  
 11      of greenhouse gas that such covered entity emitted  
 12      in the previous calendar year, excluding emissions  
 13      resulting from the combustion of—

14           “(A) petroleum-based or coal-based liquid  
 15      fuel;

16           “(B) natural gas liquid;

17           “(C) renewable biomass or gas derived  
 18      from renewable biomass; or

19           “(D) petroleum coke.

20           “(2) FUEL PRODUCERS AND IMPORTERS.—For  
 21      a covered entity described in section 700(13)(B), 1  
 22      emission allowance for each ton of carbon dioxide  
 23      equivalent of greenhouse gas that would be emitted  
 24      from the combustion of any petroleum-based or coal-  
 25      based liquid fuel, petroleum coke, or natural gas liq-

1       aid, produced or imported by such covered entity  
 2       during the previous calendar year for sale or dis-  
 3       tribution in interstate commerce, assuming no cap-  
 4       ture and sequestration of any greenhouse gas emis-  
 5       sions.

6           “(3) INDUSTRIAL GAS PRODUCERS AND IM-  
 7       PORTERS.—For a covered entity described in section  
 8       700(13)(C), 1 emission allowance for each ton of  
 9       carbon dioxide equivalent of fossil fuel-based carbon  
 10      dioxide, nitrous oxide, or any other fluorinated gas  
 11      that is a greenhouse gas (except for nitrogen  
 12      trifluoride), or any combination thereof, produced or  
 13      imported by such covered entity during the previous  
 14      calendar year for sale or distribution in interstate  
 15      commerce or released as fugitive emissions in the  
 16      production of fluorinated gas.

17          “(4) NITROGEN TRIFLUORIDE SOURCES.—For  
 18      a covered entity described in section 700(13)(D), 1  
 19      emission allowance for each ton of carbon dioxide  
 20      equivalent of nitrogen trifluoride that such covered  
 21      entity emitted in the previous calendar year.

22          “(5) GEOLOGICAL SEQUESTRATION SITES.—For  
 23      a covered entity described in section 700(13)(E), 1  
 24      emission allowance for each ton of carbon dioxide

equivalent of greenhouse gas that such covered entity emitted in the previous calendar year.

~~“(6) INDUSTRIAL STATIONARY SOURCES.—For~~  
~~a covered entity described in section 700(13)(F),~~  
~~(G), or (H), 1 emission allowance for each ton of~~  
~~carbon dioxide equivalent of greenhouse gas that~~  
~~such covered entity emitted in the previous calendar~~  
~~year, excluding emissions resulting from—~~

~~“(A) the combustion of petroleum-based or~~  
~~coal-based liquid fuel;~~

~~“(B) the combustion of natural gas liquid;~~

~~“(C) the combustion of renewable biomass~~  
~~or gas derived from renewable biomass;~~

~~“(D) the combustion of petroleum coke; or~~

~~“(E) the use of any fluorinated gas that is~~  
~~a greenhouse gas purchased for use at that cov-~~  
~~ered entity, except for nitrogen trifluoride.~~

~~“(7) INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-~~  
~~TION DEVICES.—For a covered entity described in~~  
~~section 700(13)(I), 1 emission allowance for each~~  
~~ton of carbon dioxide equivalent of greenhouse gas~~  
~~that the devices emitted in the previous calendar~~  
~~year, excluding emissions resulting from the combus-~~  
~~tion of—~~

1           “(A) petroleum-based or coal-based liquid  
2           fuel;

3           “(B) natural gas liquid;

4           “(C) renewable biomass or gas derived  
5           from renewable biomass; or

6           “(D) petroleum coke.

7           “(8) NATURAL GAS LOCAL DISTRIBUTION COM-  
8           PANIES.—For a covered entity described in section  
9           700(13)(J), 1 emission allowance for each ton of  
10          carbon dioxide equivalent of greenhouse gas that  
11          would be emitted from the combustion of the natural  
12          gas, and any other gas meeting the specifications for  
13          commingling with natural gas for purposes of deliv-  
14          ery, that such entity delivered during the previous  
15          calendar year to customers that are not covered enti-  
16          ties, assuming no capture and sequestration of that  
17          greenhouse gas.

18          “(9) R&D FACILITIES.—

19               “(A) IN GENERAL.—For a qualified R&D  
20               facility that emitted 25,000 tons per year or  
21               more carbon dioxide equivalent in the previous  
22               calendar year, 1 emission allowance for each  
23               ton of carbon dioxide equivalent of greenhouse  
24               gas that such facility emitted in the previous  
25               calendar year.

1                   “(B) TREATMENT.—A qualified R&D facil-  
 2                   ity shall be treated as a separate covered entity  
 3                   solely for purposes of applying the requirements  
 4                   of this subsection.

5                   “(10) ALGAE-BASED FUELS.—Where carbon di-  
 6                   oxide (or another greenhouse gas) is used as an  
 7                   input in the production of algae-based fuels, the Ad-  
 8                   ministrator shall ensure that allowances are required  
 9                   to be held either for the carbon dioxide used to grow  
 10                  the algae or for the carbon dioxide emitted from  
 11                  combustion of the fuel produced from such algae,  
 12                  but not for both.

13                  “(11) FUGITIVE EMISSIONS.—The greenhouse  
 14                  gas emissions to which paragraphs (1), (4), (6), and  
 15                  (7) apply shall not include fugitive emissions of  
 16                  greenhouse gas, except to the extent the Adminis-  
 17                  trator determines that data on the carbon dioxide  
 18                  equivalent value of greenhouse gas in the fugitive  
 19                  emissions can be provided with sufficient precision,  
 20                  reliability, accessibility, and timeliness to ensure the  
 21                  integrity of emission allowances, the allowance track-  
 22                  ing system, and the limits on emissions.

23                  “(12) EXPORT EXEMPTION.—This section shall  
 24                  not apply to any petroleum-based or coal-based liq-  
 25                  uid fuel, petroleum coke, natural gas liquid, fossil

1 fuel-based carbon dioxide, nitrous oxide, or  
2 fluorinated gas that is exported for sale or use.

3 “(13) NATURAL GAS LIQUIDS.—Notwith-  
4 standing subsection (a), if the owner or operator of  
5 a covered entity described in section 700(13)(B)  
6 that produces natural gas liquids does not take own-  
7 ership of the liquids, and is not responsible for the  
8 distribution or use of the liquids in commerce, the  
9 owner of the liquids shall be responsible for compli-  
10 ance with this section, section 723, and other rel-  
11 evant sections of this title with respect to such liq-  
12 uids. In the regulations promulgated under section  
13 721, the Administrator shall include such provisions  
14 with respect to such liquids as the Administrator de-  
15 termines are appropriate to determine and ensure  
16 compliance, and to penalize noncompliance. In such  
17 a case, the owner of the covered entity shall provide  
18 to the Administrator, in a manner to be determined  
19 by the Administrator, information regarding the  
20 quantity and ownership of liquids produced at the  
21 covered entity.

22 “(14) APPLICATION OF MULTIPLE PARA-  
23 GRAPHS.—For a covered entity to which more than  
24 1 of paragraphs (1) through (8) apply, all applicable  
25 paragraphs shall apply, except that not more than 1

1 emission allowance shall be required for the same  
 2 emission.

3 ~~“(c) PHASE-IN OF PROHIBITION.—~~

4 ~~“(1) INDUSTRIAL STATIONARY SOURCES.—The~~  
 5 ~~prohibition under subsection (a) shall first apply to~~  
 6 ~~a covered entity described in section 700(13)(D),~~  
 7 ~~(F), (G), (H), or (I), with respect to emissions oc-~~  
 8 ~~curing during calendar year 2014.~~

9 ~~“(2) NATURAL GAS LOCAL DISTRIBUTION COM-~~  
 10 ~~PANIES.—The prohibition under subsection (a) shall~~  
 11 ~~first apply to a covered entity described in section~~  
 12 ~~700(13)(J) with respect to deliveries occurring dur-~~  
 13 ~~ing calendar year 2016.~~

14 ~~“(d) ADDITIONAL METHODS.—In addition to using~~  
 15 ~~the method of compliance described in subsection (b), a~~  
 16 ~~covered entity may do the following:~~

17 ~~“(1) OFFSET CREDITS.—~~

18 ~~“(A) CREDITS.—~~

19 ~~“(i) IN GENERAL.—Covered entities~~  
 20 ~~collectively may, in accordance with this~~  
 21 ~~paragraph, use offset credits to dem-~~  
 22 ~~onstrate compliance for up to a maximum~~  
 23 ~~of 2,000,000,000 tons of greenhouse gas~~  
 24 ~~emissions annually.~~



1           “(ii) DEMONSTRATION OF COMPLI-  
 2           ANCE.—In any calendar year, a covered  
 3           entity may demonstrate compliance by  
 4           holding 1 domestic offset credit or 1.25  
 5           international offset credits in lieu of an  
 6           emission allowance, except as provided in  
 7           subparagraph (D), up to a total number of  
 8           offset credits described in subparagraph  
 9           (B).

10          “(B) APPLICABLE PERCENTAGE.—

11           “(i) IN GENERAL.—The total number  
 12           of offset credits referred to in subpara-  
 13           graph (A)(ii) for a covered entity for a  
 14           given calendar year shall be determined  
 15           by—

16           “(I) dividing—

17           “(aa) the tons of carbon di-  
 18           oxide equivalent of greenhouse  
 19           gas emissions of the covered enti-  
 20           ty (except for the types of emis-  
 21           sions excluded under subpara-  
 22           graphs (A) through (D) of sub-  
 23           section (b)(1), subparagraphs (A)  
 24           through (E) of subsection (b)(6),  
 25           and subparagraphs (A) through

(D) of subsection (b)(7)) and attributable greenhouse gas emissions for the year before the preceding calendar year; by

“(bb) the sum of the tons of carbon dioxide equivalent of greenhouse gas emissions of all covered entities (except for the types of emissions excluded under subparagraphs (A) through (D) of subsection (b)(1), subparagraphs (A) through (E) of subsection (b)(6), and subparagraphs (A) through (D) of subsection (b)(7)) and attributable greenhouse gas emissions for the year before the preceding calendar year; and

“(H) multiplying the quotient obtained under subclause (I) by 2,000,000,000.

“(ii) APPLICABILITY.—Clause (i) shall apply to a covered entity (including a covered entity that commenced operation during the preceding calendar year) even if

1 the covered entity had no greenhouse gas  
2 emissions or attributable greenhouse gas  
3 emissions described in that clause.

4 “(iii) OFFSET CREDITS.—Not more  
5 than  $\frac{3}{4}$  of the applicable percentage under  
6 this paragraph may be used by holding do-  
7 mestic offset credits, and not more than  $\frac{1}{4}$   
8 of the applicable percentage under this  
9 paragraph may be used by holding inter-  
10 national offset credits, except as provided  
11 in subparagraph (C).

12 “(C) MODIFIED PERCENTAGES.—If the  
13 Administrator determines that domestic offset  
14 credits available for use in demonstrating com-  
15 pliance in any calendar year at domestic offset  
16 prices generally equal to or less than allowance  
17 prices, are likely to offset less than 900,000,000  
18 tons of greenhouse gas emissions (measured in  
19 tons of carbon dioxide equivalents), the Admin-  
20 istrator shall increase the percent of emissions  
21 that can be offset through the use of inter-  
22 national offset credits (and decrease the percent  
23 of emissions that can be allowed through the  
24 use of domestic offset credits by the same  
25 amount) to reflect the amount that

1 1,500,000,000 exceeds the number of domestic  
 2 offset credits the Administrator determines is  
 3 available for that year, up to a maximum of  
 4 750,000,000 tons of greenhouse gas emissions.

5 “(D) INTERNATIONAL OFFSET CREDITS.—  
 6 Notwithstanding subparagraph (A), to dem-  
 7 onstrate compliance prior to calendar year  
 8 2018, a covered entity may use 1 international  
 9 offset credit in lieu of an emission allowance up  
 10 to the amount permitted under this paragraph.

11 “(E) PRESIDENT’S RECOMMENDATION.—  
 12 The President may make a recommendation to  
 13 Congress as to whether the number  
 14 2,000,000,000 specified in subparagraphs (A)  
 15 and (B) should be increased or decreased.

16 “(2) TERM OFFSET CREDITS.—

17 “(A) IN GENERAL.—Covered entities may,  
 18 in accordance with this paragraph, use non-ex-  
 19 pired term offset credits instead of domestic  
 20 offset credits for purposes of temporarily dem-  
 21 onstrating compliance with this section.

22 “(B) AMOUNT.—The combined quantity of  
 23 term offset credits and domestic offset credits  
 24 used by a covered entity to demonstrate compli-  
 25 ance for its emissions or attributable green-

1 house gas emissions in any given year shall not  
 2 exceed the quantity of domestic offset credits  
 3 that a covered entity is entitled to use for that  
 4 year to demonstrate compliance in accordance  
 5 with paragraph (1).

6 “(C) EXPIRATION.—A term offset credit  
 7 shall expire in the year after its term ends. The  
 8 term of a term offset credit shall be calculated  
 9 by adding to the year of issuance the number  
 10 of years equal to the length of the crediting pe-  
 11 riod for the practice or project for which the  
 12 term offset credit was issued, but in no case  
 13 shall be later than the date 5 years from the  
 14 date of issuance.

15 “(D) DEMONSTRATING COMPLIANCE UPON  
 16 EXPIRATION OF TERM OFFSET CREDIT.—With  
 17 respect to the emissions for which a covered en-  
 18 tity is using term offset credits to demonstrate  
 19 compliance temporarily with this section, the  
 20 owner or operator of a covered entity shall not  
 21 be considered to be in compliance with the pro-  
 22 hibition in subsection (a) unless, as of 12:01  
 23 a.m. on April 1 (or a later date established by  
 24 the Administrator under subsection (j)) of the

1           calendar year in which a term offset credit ex-  
 2           pires, the owner or operator holds—

3                   “(i) for purposes of finally dem-  
 4                   onstrating compliance, an allowance or a  
 5                   domestic offset credit; or

6                   “(ii) for purposes of temporarily dem-  
 7                   onstrating compliance, a non-expired term  
 8                   offset credit.

9                   “(E) INAPPLICABILITY OF PERCENTAGE  
 10                  LIMITATIONS.—Domestic offset credits used for  
 11                  purposes of finally demonstrating compliance  
 12                  under this subparagraph shall not be subject to  
 13                  the percentage limitations in subparagraph (B).

14                  “(F) FINANCIAL ASSURANCE.—A covered  
 15                  entity may not use a term offset credit to dem-  
 16                  onstrate compliance temporarily unless it simul-  
 17                  taneously provides to the Administrator finan-  
 18                  cial assurance that, at the end of the term off-  
 19                  set credit’s crediting term, the covered entity  
 20                  will have sufficient resources to obtain the  
 21                  quantity of allowances or credits necessary to  
 22                  demonstrate final compliance. The Adminis-  
 23                  trator shall issue regulations establishing re-  
 24                  quirements for such financial assurance, which  
 25                  shall take into account the increased risk asso-

1           ciated with longer crediting terms. These regu-  
2           lations shall take into account the total number  
3           of tons of carbon dioxide equivalent of green-  
4           house gas emissions for which a covered entity  
5           is demonstrating compliance temporarily, and  
6           may set a limit on this amount. In the event  
7           that a covered entity that used term offset cred-  
8           its to demonstrate compliance temporarily fails  
9           to meet the requirements of subparagraph (D)  
10          at the end of the term offset credits' crediting  
11          term, if the financial assurance mechanism fails  
12          to provide to the Administrator the number of  
13          allowances or offset credits for which the cred-  
14          iting term has expired, then the Administrator  
15          shall retire that number of allowances with the  
16          vintage year 2 years after the year in which the  
17          term offset credit expires in the same amount.  
18          Allowances so retired shall not be counted as  
19          emission allowances established for that cal-  
20          endar year under section 721(a).

21          “(3)   INTERNATIONAL   EMISSION   ALLOW-  
22          ANCES.—To demonstrate compliance, a covered enti-  
23          ty may hold an international emission allowance in  
24          lieu of an emission allowance, except as modified  
25          under section 728(d).

1           “(4) COMPENSATORY ALLOWANCES.—To dem-  
 2           onstrate compliance, a covered entity may hold a  
 3           compensatory allowance obtained under section  
 4           721(f) in lieu of an emission allowance.

5           “(e) RETIREMENT OF ALLOWANCES AND CREDITS.—  
 6           As soon as practicable after a deadline established for cov-  
 7           ered entities to demonstrate compliance with this title, the  
 8           Administrator shall retire the quantity of allowances or  
 9           credits required to be held under this title.

10          “(f) ALTERNATIVE METRICS.—For categories of cov-  
 11          ered entities described in subparagraph (B), (C), (D), (G),  
 12          (H), or (I) of section 700(13), the Administrator may, by  
 13          rule, establish an applicability threshold for inclusion  
 14          under those subparagraphs using an alternative metric  
 15          and level, provided that such metric and level are easier  
 16          to administer and cover the same size and type of sources  
 17          as the threshold defined in such subparagraphs.

18          “(g) THRESHOLD REVIEW.—For each category of  
 19          covered entities described in subparagraph (B), (C), (D),  
 20          (G), (H), or (I) of section 700(13), the Administrator  
 21          shall, in 2020 and once every 8 years thereafter, review  
 22          the carbon dioxide equivalent emission thresholds that are  
 23          used to define covered entities. After consideration of—

24                 “(1) emissions from covered entities in each  
 25                 such category, and from other entities of the same



1 type that emit less than the threshold amount for  
2 the category (including emission sources that com-  
3 mence operation after the date of enactment of this  
4 title that are not covered entities); and

5 “(2) whether greater greenhouse gas emission  
6 reductions can be cost-effectively achieved by low-  
7 ering the applicable threshold;

8 the Administrator may by rule lower such threshold to not  
9 less than 10,000 tons of carbon dioxide equivalent emis-  
10 sions. In determining the cost effectiveness of potential re-  
11 ductions from lowering the threshold for covered entities,  
12 the Administrator shall consider alternative regulatory  
13 greenhouse gas programs, including setting standards  
14 under other titles of this Act.

15 “(h) DESIGNATED REPRESENTATIVES.—The regula-  
16 tions promulgated under section 721(h) shall require that  
17 each covered entity, and each entity holding allowances or  
18 credits or receiving allowances or credits from the Admin-  
19 istrator under this title, select a designated representative.

20 “(i) EDUCATION AND OUTREACH.—

21 “(1) IN GENERAL.—The Administrator shall es-  
22 tablish and carry out a program of education and  
23 outreach to assist covered entities, especially entities  
24 having little experience with environmental regu-  
25 latory requirements similar or comparable to those

1 under this title, in preparing to meet the compliance  
 2 obligations of this title. Such program shall include  
 3 education with respect to using markets to effec-  
 4 tively achieve such compliance.

5 “(2) FAILURE TO RECEIVE INFORMATION.—A  
 6 failure to receive information or assistance under  
 7 this subsection may not be used as a defense against  
 8 an allegation of any violation of this title.

9 “(j) ADJUSTMENT OF DEADLINE.—The Adminis-  
 10 trator may, by rule, establish a deadline for demonstrating  
 11 compliance, for a calendar year, later than the date pro-  
 12 vided in subsection (a), as necessary to ensure the avail-  
 13 ability of emissions data, but in no event shall the deadline  
 14 be later than June 1.

15 “(k) NOTICE REQUIREMENT FOR COVERED ENTI-  
 16 TIES RECEIVING NATURAL GAS FROM NATURAL GAS  
 17 LOCAL DISTRIBUTION COMPANIES.—The owner or oper-  
 18 ator of a covered entity that takes delivery of natural gas  
 19 from a natural gas local distribution company shall, not  
 20 later than September 1 of each calendar year, notify such  
 21 natural gas local distribution company in writing that  
 22 such entity will qualify as a covered entity under this title  
 23 for that calendar year.

24 “(l) COMPLIANCE OBLIGATION.—For purposes of  
 25 this title, the year of a compliance obligation is the year

1 in which compliance is determined, not the year in which  
 2 the greenhouse gas emissions occur or the covered entity  
 3 has attributable greenhouse gas emissions.

4 **~~“SEC. 723. PENALTY FOR NONCOMPLIANCE.~~**

5 ~~“(a) ENFORCEMENT.—A violation of any prohibition~~  
 6 ~~of, requirement of, or regulation promulgated pursuant to~~  
 7 ~~this title shall be a violation of this Act. It shall be a viola-~~  
 8 ~~tion of this Act for a covered entity to emit greenhouse~~  
 9 ~~gases, and have attributable greenhouse gas emissions, in~~  
 10 ~~combination, in excess of its allowable emissions level as~~  
 11 ~~provided in section 722(a). Each ton of carbon dioxide~~  
 12 ~~equivalent for which a covered entity fails to demonstrate~~  
 13 ~~compliance under section 722(b) shall be a separate viola-~~  
 14 ~~tion. In the event that a covered entity fails to dem-~~  
 15 ~~onstrate compliance at the expiration of a term of offset~~  
 16 ~~credits crediting term as required by section 722(d)(2)(D);~~  
 17 ~~the year of the violation shall be the year in which the~~  
 18 ~~term offset credit expires.~~

19 **~~“(b) EXCESS EMISSIONS PENALTY.—~~**

20 ~~“(1) IN GENERAL.—The owner or operator of~~  
 21 ~~any covered entity that fails for any year to comply,~~  
 22 ~~on the deadline described in section 722(a) or (j);~~  
 23 ~~shall be liable for payment to the Administrator of~~  
 24 ~~an excess emissions penalty in the amount described~~  
 25 ~~in paragraph (2).~~

1           “(2) AMOUNT.—The amount of an excess emis-  
2           sions penalty required to be paid under paragraph  
3           (1) shall be equal to the product obtained by multi-  
4           plying—

5                   “(A) the tons of carbon dioxide equivalent  
6                   of greenhouse gas emissions or attributable  
7                   greenhouse gas emissions for which the owner  
8                   or operator of a covered entity failed to comply  
9                   under section 722(b) on the deadline; by

10                   “(B) twice the fair market value of emis-  
11                   sion allowances established for emissions occur-  
12                   ring in the calendar year for which the emission  
13                   allowances were due.

14           “(3) TIMING.—An excess emissions penalty re-  
15           quired under this subsection shall be immediately  
16           due and payable to the Administrator, without de-  
17           mand, in accordance with regulations promulgated  
18           by the Administrator, which shall be issued not later  
19           than 2 years after the date of enactment of this  
20           title.

21           “(4) NO EFFECT ON LIABILITY.—An excess  
22           emissions penalty due and payable by the owners or  
23           operators of a covered entity under this subsection  
24           shall not diminish the liability of the owners or oper-  
25           ators for any fine, penalty, or assessment against

1 the owners or operators for the same violation under  
 2 any other provision of this Act or any other law.

3 “(c) ~~EXCESS EMISSIONS ALLOWANCES.~~—The owner  
 4 or operator of a covered entity that fails for any year to  
 5 comply on the deadline described in section 722(a) or (j)  
 6 shall be liable to offset the covered entity’s excess com-  
 7 bination of greenhouse gases emitted and attributable  
 8 greenhouse gas emissions by an equal quantity of emission  
 9 allowances during the following calendar year, or such  
 10 longer period as the Administrator may prescribe. During  
 11 the year in which the covered entity failed to comply, or  
 12 any year thereafter, the Administrator may deduct the  
 13 emission allowances required under this subsection to off-  
 14 set the covered entity’s excess actual or attributable emis-  
 15 sions.

16 **~~SEC. 724. TRADING.~~**

17 “(a) ~~PERMITTED TRANSACTIONS.~~—Except as other-  
 18 wise provided in this title, the lawful holder of an emission  
 19 allowance, compensatory allowance, or offset credit may,  
 20 without restriction, sell, exchange, transfer, hold for com-  
 21 pliance in accordance with section 722, or request that the  
 22 Administrator retire the emission allowance, compensatory  
 23 allowance, or offset credit.

24 “(b) ~~NO RESTRICTION ON TRANSACTIONS.~~—The  
 25 privilege of purchasing, holding, selling, exchanging,

1 transferring, and requesting retirement of emission allow-  
 2 ances, compensatory allowances, or offset credits shall not  
 3 be restricted to the owners and operators of covered enti-  
 4 ties, except as otherwise provided in this title.

5       “(e) EFFECTIVENESS OF ALLOWANCE TRANS-  
 6 FERS.—No transfer of an allowance or offset credit shall  
 7 be effective for purposes of this title until a certification  
 8 of the transfer, signed by the designated representative of  
 9 the transferor, is received and recorded by the Adminis-  
 10 trator in accordance with regulations promulgated under  
 11 section 721(h).

12       “(d) ALLOWANCE TRACKING SYSTEM.—The regula-  
 13 tions promulgated under section 721(h) shall include a  
 14 system for issuing, recording, holding, and tracking allow-  
 15 ances, offset credits, and term offset credits that shall  
 16 specify all necessary procedures and requirements for an  
 17 orderly and competitive functioning of the allowance and  
 18 offset credit markets. Such regulations shall provide for  
 19 appropriate publication of the information in the system  
 20 on the Internet.

21 **“SEC. 725. BANKING AND BORROWING.**

22       “(a) BANKING.—An emission allowance may be used  
 23 to comply with section 722 or 723 for emissions in—

24               “(1) the vintage year for the allowance; or

1           “(2) any calendar year subsequent to the vin-  
2           tage year for the allowance.

3           “(b) EXPIRATION.—

4           “(1) REGULATIONS.—The Administrator may  
5           establish by regulation criteria and procedures for  
6           determining whether, and for implementing a deter-  
7           mination that, the expiration of an allowance, credit,  
8           or term offset credit established or issued by the Ad-  
9           ministrator under this title, or expiration of the abil-  
10          ity to use an international emission allowance to  
11          comply with section 722, is necessary to ensure the  
12          authenticity and integrity of allowances, credits, or  
13          term offset credits or the allowance tracking system.

14          “(2) GENERAL RULE.—An allowance, credit, or  
15          term offset credit established or issued by the Ad-  
16          ministrator under this title shall not expire unless—

17                 “(A) it is retired by the Administrator as  
18                 required under this title; or

19                 “(B) it is determined to expire or to have  
20                 expired by a specific date by the Administrator  
21                 in accordance with regulations promulgated  
22                 under paragraph (1).

23          “(3) INTERNATIONAL EMISSION ALLOW-  
24          ANCES.—The ability to use an international emission

1 allowance to comply with section 722 shall not ex-  
 2 pire unless—

3 “(A) the allowance is retired by the Ad-  
 4 ministrator as required by this title; or

5 “(B) the ability to use such allowance to  
 6 meet such compliance obligation requirements is  
 7 determined to expire or to have expired by a  
 8 specific date by the Administrator in accord-  
 9 ance with regulations promulgated under para-  
 10 graph (1).

11 “(c) BORROWING FUTURE VINTAGE YEAR ALLOW-  
 12 ANCES.—

13 “(1) BORROWING WITHOUT INTEREST.—In ad-  
 14 dition to the uses described in subsection (a), an  
 15 emission allowance may be used to comply with sec-  
 16 tion 722(a) or 723 for emissions, production, impor-  
 17 tation, manufacture, or deliveries in the calendar  
 18 year immediately preceding the vintage year for the  
 19 allowance.

20 “(2) BORROWING WITH INTEREST.—

21 “(A) IN GENERAL.—A covered entity may  
 22 demonstrate compliance under subsection (b) in  
 23 a specific calendar year for up to 15 percent of  
 24 its emissions by holding emission allowances



1 with a vintage year 1 to 5 years later than that  
2 calendar year.

3 “(B) LIMITATIONS.—An emission allow-  
4 ance borrowed pursuant to this paragraph shall  
5 be an emission allowance that is established by  
6 the Administrator for a specific future calendar  
7 year under section 721(a) and that is held by  
8 the borrower.

9 “(C) PREPAYMENT OF INTEREST.—For  
10 each emission allowance that an owner or oper-  
11 ator of a covered entity borrows pursuant to  
12 this paragraph, such owner or operator shall, at  
13 the time it borrows the allowance, hold for re-  
14 tirement by the Administrator a quantity of  
15 emission allowances that is equal to the product  
16 obtained by multiplying—

17 “(i) 0.08; by

18 “(ii) the number of years between the  
19 calendar year in which the allowance is  
20 being used to satisfy a compliance obliga-  
21 tion and the vintage year of the allowance.

22 **“SEC. 726. MARKET STABILITY RESERVE.**

23 “(a) MARKET STABILITY RESERVE AUCTIONS.—

24 “(1) IN GENERAL.—Once each quarter of each  
25 calendar year for which allowances are established

1 under section 721(a), the Administrator shall auc-  
 2 tion market stability reserve allowances.

3 ~~“(2) RESTRICTION TO COVERED ENTITIES.—In~~  
 4 ~~each auction conducted under paragraph (1), only~~  
 5 ~~covered entities that the Administrator expects will~~  
 6 ~~be required to comply with section 722 in the fol-~~  
 7 ~~lowing calendar year shall be eligible to make pur-~~  
 8 ~~chases.~~

9 ~~“(b) POOL OF EMISSION ALLOWANCES FOR MARKET~~  
 10 ~~STABILITY RESERVE AUCTIONS.—~~

11 ~~“(1) FILLING THE MARKET STABILITY RE-~~  
 12 ~~SERVE INITIALLY.—~~

13 ~~“(A) IN GENERAL.—The Administrator~~  
 14 ~~shall, not later than 2 years after the date of~~  
 15 ~~enactment of this title, establish a market sta-~~  
 16 ~~bility reserve account, and shall place in that~~  
 17 ~~account an amount of emission allowances es-~~  
 18 ~~tablished under section 721(a).~~

19 ~~“(B) EFFECT ON OTHER PROVISIONS.—~~  
 20 ~~Any provision in this title (except for subpara-~~  
 21 ~~graph (B) of this paragraph) that refers to a~~  
 22 ~~quantity or percentage of the emission allow-~~  
 23 ~~ances established for a calendar year under sec-~~  
 24 ~~tion 721(a) shall be considered to refer to the~~  
 25 ~~amount of emission allowances as determined~~

1           pursuant to section 721(e), less any emission  
 2           allowances established for that year that are  
 3           placed in the market stability reserve account  
 4           under this paragraph.

5           ~~“(2) SUPPLEMENTING THE MARKET STABILITY~~  
 6           ~~RESERVE.—The Administrator shall also—~~

7                     ~~“(A) at the end of each calendar year,~~  
 8                     ~~transfer to the market stability reserve account~~  
 9                     ~~each emission allowance that was offered for~~  
 10                    ~~sale but not sold at any auction conducted~~  
 11                    ~~under section 778; and~~

12                   ~~“(B) transfer emission allowances estab-~~  
 13                    ~~lished under subsection (g) from auction pro-~~  
 14                    ~~ceeds, and deposit them into the market sta-~~  
 15                    ~~bility reserve, to the extent necessary to main-~~  
 16                    ~~tain the reserve at its original size.~~

17           ~~“(e) MINIMUM MARKET STABILITY RESERVE AUC-~~  
 18           ~~TION PRICE.—~~

19                   ~~“(1) IN GENERAL.—At each market stability re-~~  
 20                    ~~serve auction, the Administrator shall offer emission~~  
 21                    ~~allowances for sale beginning at a minimum price~~  
 22                    ~~per emission allowance, which shall be known as the~~  
 23                    ~~‘minimum market stability reserve auction price’.~~

24                   ~~“(2) INITIAL MINIMUM MARKET STABILITY RE-~~  
 25                    ~~SERVE AUCTION PRICES.—The minimum market~~

1 stability reserve auction price shall be \$28 (in con-  
 2 stant 2005 dollars) for the market stability reserve  
 3 auctions held in 2012. For the market stability re-  
 4 serve auctions held in 2013 through 2017, the min-  
 5 imum market stability reserve auction price shall be  
 6 the market stability reserve auction price for the  
 7 previous year increased by 5 percent plus the rate of  
 8 inflation (as measured by the Consumer Price Index  
 9 for All Urban Consumers).

10 “(3) MINIMUM MARKET STABILITY RESERVE  
 11 AUCTION PRICE IN SUBSEQUENT YEARS.—For each  
 12 market stability reserve auction held in 2018 and  
 13 each year thereafter, the minimum market stability  
 14 reserve auction price shall be the market stability re-  
 15 serve auction price for the previous year increased  
 16 by 7 percent, plus the rate of inflation (as measured  
 17 by the Consumer Price Index for All Urban Con-  
 18 sumers).

19 “(d) QUANTITY OF EMISSION ALLOWANCES RE-  
 20 LEASED FROM THE MARKET STABILITY RESERVE.—

21 “(1) INITIAL LIMITS.—Subject to paragraph  
 22 (4), for each of calendar years 2012 through 2016,  
 23 the annual limit on the number of emission allow-  
 24 ances from the market stability reserve account that  
 25 may be auctioned is an amount equal to 15 percent

1 of the emission allowances established for that cal-  
2 endar year under section 721(a). This limit does not  
3 apply to offset credits sold on consignment pursuant  
4 to subsection (h).

5 “(2) LIMITS IN SUBSEQUENT YEARS.—Subject  
6 to paragraph (4), for calendar year 2017 and each  
7 year thereafter, the annual limit on the number of  
8 emission allowances from the market stability re-  
9 serve account that may be auctioned is an amount  
10 equal to 25 percent of the emission allowances estab-  
11 lished for that calendar year under section 721(a).  
12 This limit does not apply to offset credits sold on  
13 consignment pursuant to subsection (h).

14 “(3) ALLOCATION OF LIMITATION.—One-fourth  
15 of each year’s annual market stability reserve auc-  
16 tion limit under this subsection shall be made avail-  
17 able for auction in each quarter. Any allowances  
18 from the market stability reserve account that are  
19 made available for sale in a quarterly auction and  
20 not sold shall be rolled over and added to the quan-  
21 tity available for sale in the following quarter, except  
22 that allowances not sold at auction in the fourth  
23 quarter of a year shall not be rolled over to the fol-  
24 lowing calendar year’s auctions, but shall be re-  
25 turned to the market stability reserve account.

1           ~~“(4) AUTHORITY TO ADJUST LIMITATION.—The~~  
2           Administrator may adjust the limits in paragraphs  
3           ~~(1) or (2)~~ if the Administrator determines an adjust-  
4           ment is required to prevent disruptively high prices  
5           or to preserve the integrity of the market stability  
6           reserve.

7           ~~“(e) PURCHASE LIMIT.—~~

8           ~~“(1) IN GENERAL.—Except as provided in para-~~  
9           graph ~~(2) or (3)~~, the annual number of emission al-  
10          lowances that a covered entity may purchase at the  
11          market stability reserve auctions in each calendar  
12          year shall not exceed 20 percent of the covered enti-  
13          ty’s emissions during the most recent year for which  
14          allowances or credits were retired under section 722.

15          ~~“(2) 2012 LIMIT.—For calendar year 2012, the~~  
16          maximum aggregate number of emission allowances  
17          that a covered entity may purchase from that year’s  
18          market stability reserve auctions shall be 20 percent  
19          of the covered entity’s greenhouse gas emissions that  
20          the covered entity reported to the registry estab-  
21          lished under section 713 for 2011 and that would be  
22          subject to section 722(a) if occurring in later cal-  
23          endar years.

24          ~~“(3) NEW ENTRANTS.—The Administrator~~  
25          shall, by regulation, establish a separate purchase

1       limit applicable to entities that expect to become a  
2       covered entity in the year of the auction, permitting  
3       them to purchase emission allowances at the market  
4       stability reserve auctions in their first calendar year  
5       of operation in an amount of at least 20 percent of  
6       their expected combined emissions and attributable  
7       greenhouse gas emissions for that year.

8       “(f) DELEGATION OR CONTRACT.—Pursuant to regu-  
9       lations under this section, the Administrator may, by dele-  
10      gation or contract, provide for the conduct of market sta-  
11      bility reserve auctions under the Administrator’s super-  
12      vision by other departments or agencies of the Federal  
13      Government or by nongovernmental agencies, groups, or  
14      organizations.

15      “(g) USE OF AUCTION PROCEEDS.—

16           “(1) DEPOSIT IN MARKET STABILITY RESERVE  
17      FUND.—The proceeds from market stability reserve  
18      auctions shall be placed in the Market Stability Re-  
19      serve Fund established by subsection (j), and shall  
20      be available without further appropriation or fiscal  
21      year limitation for the purposes described in this  
22      subsection.

23           “(2) OFFSET CREDITS.—The Administrator  
24      shall use the proceeds from each market stability re-  
25      serve auction to purchase offset credits, including

1 domestic offset credits and international offset cred-  
 2 its issued for reduced deforestation activities pursu-  
 3 ant to section 753. The Administrator shall retire  
 4 those offset credits and establish a number of emis-  
 5 sion allowances equal to the number of international  
 6 offset credits so retired. Emission allowances estab-  
 7 lished under this paragraph shall be in addition to  
 8 those established under section 721(a).

9 “(3) EMISSION ALLOWANCES.—The Adminis-  
 10 trator shall deposit emission allowances established  
 11 under paragraph (2) in the market stability reserve;  
 12 except that, with respect to any such emission allow-  
 13 ances in excess of the amount necessary to fill the  
 14 market stability reserve to its original size, the Ad-  
 15 ministrator shall—

16 “(A) except as provided in subparagraph  
 17 (B), assign a vintage year to the emission al-  
 18 lowance, which shall be no earlier than the year  
 19 in which the allowance is established under  
 20 paragraph (2) and shall treat such allowances  
 21 as ones that are not designated for distribution  
 22 or auction; and

23 “(B) to the extent any such allowances  
 24 cannot be assigned a vintage year because of



1           the limitation in paragraph (4), retire the allow-  
2           ances.

3           “(4) LIMITATION.—In no case may the Admin-  
4           istrator assign under paragraph (3)(A) more emis-  
5           sion allowances to a vintage year than the number  
6           of emission allowances from that vintage year that  
7           were placed in the market stability reserve account  
8           under subsection (b)(1).

9           “(h) AVAILABILITY OF OFFSET CREDITS FOR AUG-  
10          TION.—

11           “(1) IN GENERAL.—The regulations promul-  
12           gated under section 721(h) shall allow any entity  
13           holding offset credits to request that the Adminis-  
14           trator include such offset credits in an upcoming  
15           market stability reserve auction. The regulations  
16           shall provide that—

17           “(A) upon sale of such offset credits, the  
18           Administrator shall retire those offset credits,  
19           and establish and provide to the purchasers a  
20           number of emission allowances equal to the  
21           number of offset credits so retired, which allow-  
22           ances shall be in addition to those established  
23           under section 721(a); and

24           “(B) for offset credits sold pursuant to  
25           this subsection, the proceeds for the entity that

1           offered the offset credits for sale shall be the  
2           lesser of—

3                   “(i) the average daily closing price for  
4                   offset credits sold on registered exchanges  
5                   (or if such price is unavailable, the average  
6                   price as determined by the Administrator)  
7                   during the six months prior to the market  
8                   stability reserve auction at which they were  
9                   auctioned, with the remaining funds col-  
10                  lected upon the sale of the offset credits  
11                  deposited in the Treasury; and

12                   “(ii) the amount received for the off-  
13                  set credits at the auction.

14                  “(2) PROCEEDS.—For offset credits sold pursu-  
15                  ant to this subsection, notwithstanding section 3302  
16                  of title 31, United States Code, or any other provi-  
17                  sion of law, within 90 days of receipt, the United  
18                  States shall transfer the proceeds from the auction,  
19                  as defined in paragraph (1)(D), to the entity that  
20                  offered the offset credits for sale. No funds trans-  
21                  ferred from a purchaser to a seller of offset credits  
22                  under this paragraph shall be held by any officer or  
23                  employee of the United States or treated for any  
24                  purpose as public monies.

1           ~~“(3) PRICING.—When the Administrator acts~~  
2           ~~under this subsection as the agent of an entity in~~  
3           ~~possession of offset credits, the Administrator is not~~  
4           ~~obligated to obtain the highest price possible for the~~  
5           ~~offset credits, and instead shall auction such offset~~  
6           ~~credits in the same manner and pursuant to the~~  
7           ~~same rules (except as modified in paragraph (1)) as~~  
8           ~~set forth for auctioning market stability reserve al-~~  
9           ~~lowances. Entities requesting that such offset credits~~  
10          ~~be offered for sale at a market stability reserve auc-~~  
11          ~~tion may not set a minimum reserve price for their~~  
12          ~~offset credits that is different than the minimum~~  
13          ~~market stability reserve auction price set pursuant~~  
14          ~~to subsection (c).~~

15          ~~“(i) INITIAL REGULATIONS.—Not later than 24~~  
16          ~~months after the date of enactment of this title, the Ad-~~  
17          ~~ministrator shall promulgate regulations, in consultation~~  
18          ~~with other appropriate agencies, governing the auction of~~  
19          ~~allowances under this section. Such regulations shall in-~~  
20          ~~clude the following requirements:~~

21                 ~~“(1) FREQUENCY; FIRST AUCTION.—Auctions~~  
22                 ~~shall be held four times per year at regular intervals,~~  
23                 ~~with the first auction to be held no later than March~~  
24                 ~~31, 2012.~~

1           ~~“(2) AUCTION FORMAT.—Auctions shall follow~~  
 2           ~~a single-round, sealed-bid, uniform price format.~~

3           ~~“(3) PARTICIPATION; FINANCIAL ASSURANCE.—~~  
 4           ~~Auctions shall be open to any covered entity eligible~~  
 5           ~~to purchase emission allowances at the auction~~  
 6           ~~under subsection (a)(2); except that the Adminis-~~  
 7           ~~trator may establish financial assurance require-~~  
 8           ~~ments to ensure that auction participants can and~~  
 9           ~~will perform on their bids.~~

10          ~~“(4) DISCLOSURE OF BENEFICIAL OWNER-~~  
 11          ~~SHIP.—Each bidder in an auction shall be required~~  
 12          ~~to disclose the person or entity sponsoring or bene-~~  
 13          ~~fitting from the bidder’s participation in the auction~~  
 14          ~~if such person or entity is, in whole or in part, other~~  
 15          ~~than the bidder.~~

16          ~~“(5) PURCHASE LIMITS.—No person may, di-~~  
 17          ~~rectly or in concert with another participant, pur-~~  
 18          ~~chase more than 20 percent of the allowances of-~~  
 19          ~~fered for sale at any quarterly auction.~~

20          ~~“(6) PUBLICATION OF INFORMATION.—After~~  
 21          ~~the auction, the Administrator shall, in a timely~~  
 22          ~~fashion, publish the identities of winning bidders,~~  
 23          ~~the quantity of allowances obtained by each winning~~  
 24          ~~bidder, and the auction clearing price.~~

1           “(7) OTHER REQUIREMENTS.—The Adminis-  
 2           trator may include in the regulations such other re-  
 3           quirements or provisions as the Administrator, in  
 4           consultation with other agencies as appropriate, con-  
 5           siders appropriate to promote effective, efficient,  
 6           transparent, and fair administration of auctions  
 7           under this section.

8           “(j) MARKET STABILITY RESERVE FUND.—There  
 9           are established in the Treasury of the United States a  
 10          fund to be known as the ‘Market Stability Reserve Fund’.

11          “(k) REVISION OF REGULATIONS.—The Adminis-  
 12          trator may, at any time, in consultation with other agen-  
 13          cies as appropriate, revise the initial regulations promul-  
 14          gated under subsection (i). Such revised regulations need  
 15          not meet the requirements identified in subsection (i) if  
 16          the Administrator determines that an alternative auction  
 17          design would be more effective, taking into account factors  
 18          including costs of administration, transparency, fairness,  
 19          and risks of collusion or manipulation. In determining  
 20          whether and how to revise the initial regulations under  
 21          this subsection, the Administrator shall not consider maxi-  
 22          mization of revenues to the Federal Government.

23       **“SEC. 727. PERMITS.**

24          “(a) PERMIT PROGRAM.—For stationary sources  
 25          subject to title V of this Act, that are covered entities,

1 the provisions of this title shall be implemented by permits  
2 issued to such covered entities (and enforced) in accord-  
3 ance with the provisions of title V, as modified by this  
4 title. Any such permit issued by the Administrator, or by  
5 a State with an approved permit program, shall require  
6 the owner or operator of a covered entity to hold emission  
7 allowances or offset credits at least equal to the total an-  
8 nual amount of carbon dioxide equivalents for its com-  
9 bined emissions and attributable greenhouse gas emissions  
10 to which section 722 applies. No such permit shall be  
11 issued that is inconsistent with the requirements of this  
12 title, and title V as applicable. Nothing in this section re-  
13 garding compliance plans or in title V shall be construed  
14 as affecting allowances or offset credits. Submission of a  
15 statement by the owner or operator, or the designated rep-  
16 resentative of the owners and operators, of a covered enti-  
17 ty that the owners and operators will hold emission allow-  
18 ances or offset credits for the entity's combined emissions  
19 and attributable greenhouse gas emissions to which sec-  
20 tion 722 applies shall be deemed to meet the proposed and  
21 approved planning requirements of title V. Recordation by  
22 the Administrator of transfers of emission allowances shall  
23 amend automatically all applicable proposed or approved  
24 permit applications, compliance plans, and permits.

1       “(b) MULTIPLE OWNERS.—No permit shall be issued  
2 under this section and no allowances or offset credits shall  
3 be disbursed under this title to a covered entity or any  
4 other person until the designated representative of the  
5 owners or operators has filed a certificate of representa-  
6 tion with regard to matters under this title, including the  
7 holding and distribution of emission allowances and the  
8 proceeds of transactions involving emission allowances.  
9 Where there are multiple holders of a legal or equitable  
10 title to, or a leasehold interest in, such a covered entity  
11 or other entity or where a utility or industrial customer  
12 purchases power under a long-term power purchase con-  
13 tract from an independent power production facility that  
14 is a covered entity, the certificate shall state—

15           “(1) that emission allowances and the proceeds  
16 of transactions involving emission allowances will be  
17 deemed to be held or distributed in proportion to  
18 each holder’s legal, equitable, leasehold, or contrac-  
19 tual reservation or entitlement; or

20           “(2) if such multiple holders have expressly pro-  
21 vided for a different distribution of emission allow-  
22 ances by contract, that emission allowances and the  
23 proceeds of transactions involving emission allow-  
24 ances will be deemed to be held or distributed in ac-  
25 cordance with the contract.

1 A passive lessor, or a person who has an equitable interest  
2 through such lessor, whose rental payments are not based,  
3 either directly or indirectly, upon the revenues or income  
4 from the covered entity or other entity shall not be deemed  
5 to be a holder of a legal, equitable, leasehold, or contrac-  
6 tual interest for the purpose of holding or distributing  
7 emission allowances as provided in this subsection, during  
8 either the term of such leasehold or thereafter, unless ex-  
9 pressly provided for in the leasehold agreement. Except  
10 as otherwise provided in this subsection, where all legal  
11 or equitable title to or interest in a covered entity, or other  
12 entity, is held by a single person, the certificate shall state  
13 that all emission allowances received by the entity are  
14 deemed to be held for that person.

15 “(e) PROHIBITION.—It shall be unlawful for any per-  
16 son to operate any stationary source subject to the re-  
17 quirements of this section except in compliance with the  
18 terms and requirements of a permit issued by the Admin-  
19 istrator or a State with an approved permit program in  
20 accordance with this section. For purposes of this sub-  
21 section, compliance, as provided in section 504(f), with a  
22 permit issued under title V which complies with this title  
23 for covered entities shall be deemed compliance with this  
24 subsection as well as section 502(a).



1       “(d) **RELIABILITY.**—Nothing in this section or title  
 2 V shall be construed as requiring termination of oper-  
 3 ations of a stationary source that is a covered entity for  
 4 failure to have an approved permit, or compliance plan,  
 5 that is consistent with the requirements in the second and  
 6 fifth sentences of subsection (a) concerning the holding  
 7 of emission allowances, compensatory allowances, inter-  
 8 national emission allowances, or offset allowances, except  
 9 that any such covered entity may be subject to the applica-  
 10 ble enforcement provision of section 113.

11       “(e) **REGULATIONS.**—The Administrator shall pro-  
 12 mulgate regulations to implement this section. To provide  
 13 for permits required under this section, each State in  
 14 which one or more stationary sources and that are covered  
 15 entities are located shall submit, in accordance with this  
 16 section and title V, revised permit programs for approval.

17       **“SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.**

18       “(a) **QUALIFYING PROGRAMS.**—The Administrator,  
 19 in consultation with the Secretary of State, may by rule  
 20 designate an international climate change program as a  
 21 qualifying international program if—

22               “(1) the program is run by a national or supra-  
 23 national foreign government, and imposes a manda-  
 24 tory absolute tonnage limit on greenhouse gas emis-  
 25 sions from 1 or more foreign countries, or from 1 or

1 more economic sectors in such a country or coun-  
 2 tries; and

3 “(2) the program is at least as stringent as the  
 4 program established by this title, including provi-  
 5 sions to ensure at least comparable monitoring, com-  
 6 pliance, enforcement, quality of offsets, and restric-  
 7 tions on the use of offsets.

8 “(b) DISQUALIFIED ALLOWANCES.—An international  
 9 emission allowance may not be held under section  
 10 722(d)(3) if it is in the nature of an offset instrument  
 11 or allowance awarded based on the achievement of green-  
 12 house gas emission reductions or avoidance, or greenhouse  
 13 gas sequestration, that are not subject to the mandatory  
 14 absolute tonnage limits referred to in subsection (a)(1).

15 “(c) RETIREMENT.—

16 “(1) ENTITY CERTIFICATION.—The owner or  
 17 operator of an entity that holds an international  
 18 emission allowance under section 722(d)(3) shall  
 19 certify to the Administrator that such international  
 20 emission allowance has not previously been used to  
 21 comply with any foreign, international, or domestic  
 22 greenhouse gas regulatory program.

23 “(2) RETIREMENT.—

24 “(A) FOREIGN AND INTERNATIONAL REG-  
 25 ULATORY ENTITIES.—The Administrator, in

1 consultation with the Secretary of State, shall  
 2 seek, by whatever means appropriate, including  
 3 agreements and technical cooperation on allow-  
 4 ance tracking, to ensure that any relevant for-  
 5 eign, international, and domestic regulatory en-  
 6 tities—

7 “(i) are notified of the use, for pur-  
 8 poses of compliance with this title, of any  
 9 international emission allowance; and

10 “(ii) provide for the disqualification of  
 11 such international emission allowance for  
 12 any subsequent use under the relevant for-  
 13 eign, international, or domestic greenhouse  
 14 gas regulatory program, regardless of  
 15 whether such use is a sale, exchange, or  
 16 submission to satisfy a compliance obliga-  
 17 tion.

18 “(B) ~~DISQUALIFICATION FROM FURTHER~~  
 19 ~~USE.~~—The Administrator shall ensure that,  
 20 once an international emission allowance has  
 21 been disqualified or otherwise used for purposes  
 22 of compliance with this title, such allowance  
 23 shall be disqualified from any further use under  
 24 this title.

1       “(d) ~~USE LIMITATIONS.—The Administrator may, by~~  
 2 rule, modify the percentage applicable to international  
 3 emission allowances under section 722(d)(3), consistent  
 4 with the purposes of the Clean Energy Jobs and American  
 5 Power Act.

6                               **“PART D—OFFSETS**

7       **“SEC. 731. OFFSETS INTEGRITY ADVISORY BOARD.**

8       “(a) ~~ESTABLISHMENT.—Not later than 30 days after~~  
 9 the date of enactment of this title, the President shall es-  
 10 tablish an independent Offsets Integrity Advisory Board.  
 11 The Advisory Board shall make recommendations to the  
 12 President for use in promulgating and revising regulations  
 13 under this part, and for ensuring the overall environ-  
 14 mental integrity of the programs established pursuant to  
 15 those regulations.

16       “(b) ~~MEMBERSHIP.—The Advisory Board shall be~~  
 17 comprised of at least nine members. Each member shall  
 18 be qualified by education, training, and experience to  
 19 evaluate scientific and technical information on matters  
 20 referred to the Board under this section. The President  
 21 shall appoint Advisory Board members, including a chair  
 22 and vice-chair of the Advisory Board. Terms shall be 3  
 23 years in length, except for initial terms, which may be up  
 24 to 5 years in length to allow staggering. Members may  
 25 be reappointed only once for an additional 3-year term,

1 and such second term may follow directly after a first  
2 term.

3       “(e) ACTIVITIES.—The Advisory Board established  
4 pursuant to subsection (a) shall—

5               “(1) provide recommendations, not later than  
6       90 days after the Advisory Board’s establishment  
7       and periodically thereafter, to the President regard-  
8       ing offset project types that should be considered for  
9       eligibility under section 733, taking into consider-  
10      ation relevant scientific and other issues, including—

11                   “(A) the availability of a representative  
12              data set for use in developing the activity base-  
13              line;

14                   “(B) the potential for accurate quantifica-  
15              tion of greenhouse gas reduction, avoidance, or  
16              sequestration for an offset project type;

17                   “(C) the potential level of scientific and  
18              measurement uncertainty associated with an  
19              offset project type;

20                   “(D) any beneficial or adverse environ-  
21              mental, public health, welfare, social, economic,  
22              or energy effects associated with an offset  
23              project type;

1           “(E) the extent to which, as of the date of  
 2           submission of the report, the project or activity  
 3           types within each category—

4                   “(i) are required by law (including a  
 5                   regulation); or

6                   “(ii) represent business-as-usual (ab-  
 7                   sent funding from offset credits) practices  
 8                   for a relevant land area, industry sector, or  
 9                   forest, soil or facility type;

10           “(2) make available to the President its advice  
 11           and comments on offset methodologies that should  
 12           be considered under regulations promulgated pursu-  
 13           ant to subsection (a) and (b) of section 734, includ-  
 14           ing methodologies to address the issues of  
 15           additionality, activity baselines, measurement, leak-  
 16           age, uncertainty, permanence, and environmental in-  
 17           tegrity;

18           “(3) make available to the President, and other  
 19           relevant Federal agencies, its advice and comments  
 20           regarding scientific, technical, and methodological  
 21           issues specific to the issuance of international offset  
 22           credits under section 744;

23           “(4) make available to the President, and other  
 24           relevant Federal agencies, its advice and comments  
 25           regarding scientific, technical, and methodological

1 issues associated with the implementation of this  
2 part;

3 “(5) make available to the President its advice  
4 and comments on areas in which further knowledge  
5 is required to appraise the adequacy of existing, re-  
6 vised, or proposed methodologies for use under this  
7 part, and describe the research efforts necessary to  
8 provide the required information; and

9 “(6) make available to the President its advice  
10 and comments on other ways to improve or safe-  
11 guard the environmental integrity of programs es-  
12 tablished under this part.

13 “(d) SCIENTIFIC REVIEW OF OFFSET AND DEFOR-  
14 ESTATION REDUCTION PROGRAMS.—Not later than Janu-  
15 ary 1, 2017, and at five-year intervals thereafter, the Ad-  
16 visory Board shall submit to the President and make avail-  
17 able to the public an analysis of relevant scientific and  
18 technical information related to this part. The Advisory  
19 Board shall review approved and potential methodologies,  
20 scientific studies, offset project monitoring, offset project  
21 verification reports, and audits related to this part, and  
22 evaluate the net emissions effects of implemented offset  
23 projects. The Advisory Board shall recommend changes to  
24 offset methodologies, protocols, or project types, or to the  
25 overall offset program under this part, to ensure that off-

1 set credits issued by the President do not compromise the  
 2 integrity of the annual emission reductions established  
 3 under section 703, and to avoid or minimize adverse ef-  
 4 fects to human health or the environment.

5 **~~“SEC. 732. ESTABLISHMENT OF OFFSETS PROGRAM.~~**

6 ~~“(a) REGULATIONS.—Not later than 2 years after~~  
 7 ~~the date of enactment of this title, the President, in con-~~  
 8 ~~sultation with appropriate Federal agencies and taking~~  
 9 ~~into consideration the recommendations of the Advisory~~  
 10 ~~Board, shall promulgate regulations establishing a pro-~~  
 11 ~~gram for the issuance of offset credits in accordance with~~  
 12 ~~the requirements of this part. The President shall periodi-~~  
 13 ~~cally revise these regulations as necessary to meet the re-~~  
 14 ~~quirements of this part.~~

15 ~~“(b) REQUIREMENTS.—The regulations described in~~  
 16 ~~subsection (a) shall—~~

17 ~~“(1) authorize the issuance of offset credits~~  
 18 ~~with respect to qualifying offset projects that result~~  
 19 ~~in reductions or avoidance of greenhouse gas emis-~~  
 20 ~~sions, or sequestration of greenhouse gases;~~

21 ~~“(2) ensure that such offset credits represent~~  
 22 ~~verifiable and additional greenhouse gas emission re-~~  
 23 ~~ductions or avoidance, or increases in sequestration;~~



1           “(3) ensure that offset credits issued for se-  
 2           questration offset projects are only issued for green-  
 3           house gas reductions that are permanent;

4           “(4) provide for the implementation of the re-  
 5           quirements of this part;

6           “(5) include as reductions in greenhouse gases  
 7           reductions achieved through the destruction of meth-  
 8           ane and its conversion to carbon dioxide, and reduc-  
 9           tions achieved through destruction of chlorofluoro-  
 10          carbons or other ozone depleting substances, if per-  
 11          mitted by the President under section 619(b)(9) and  
 12          subject to the conditions specified in section  
 13          619(b)(9), based on the carbon dioxide equivalent  
 14          value of the substance destroyed; and

15          “(6) establish a process to accept and respond  
 16          to comments from third parties regarding programs  
 17          established under this part in a timely manner.

18          “(c) COORDINATION TO MINIMIZE NEGATIVE EF-  
 19          FECTS.—In promulgating and implementing regulations  
 20          under this part, the President shall act (including by re-  
 21          jecting projects, if necessary) to avoid or minimize, to the  
 22          maximum extent practicable, adverse effects on human  
 23          health or the environment resulting from the implementa-  
 24          tion of offset projects under this part.

1       “(d) **OFFSET REGISTRY.**—The President shall estab-  
 2       lish within the allowance tracking system established  
 3       under section 724(d) an Offset Registry for qualifying off-  
 4       set projects and offset credits issued with respect thereto  
 5       under this part.

6       “(e) **LEGAL STATUS OF OFFSET CREDIT.**—An offset  
 7       credit does not constitute a property right.

8       “(f) **FEEES.**—The President shall assess fees payable  
 9       by offset project developers in an amount necessary to  
 10      cover the administrative costs and the enforcement costs  
 11      to the Environmental Protection Agency and the Depart-  
 12      ment of Justice of carrying out the activities under this  
 13      part. Amounts collected for such fees shall be available  
 14      to the President and the Attorney General for carrying  
 15      out the activities under this part to the extent provided  
 16      in advance in appropriations Acts.

17   **“SEC. 733. ELIGIBLE PROJECT TYPES.**

18       “(a) **LIST OF ELIGIBLE PROJECT TYPES.**—

19           “(1) **IN GENERAL.**—As part of the regulations  
 20      promulgated under section 732(a), the President  
 21      shall establish, and may periodically revise, a list of  
 22      types of projects eligible to generate offset credits,  
 23      including international offset credits, under this  
 24      part.

1           ~~“(2) ADVISORY BOARD RECOMMENDATIONS.—~~

2           In determining the eligibility of project types, the  
3           President shall take into consideration the rec-  
4           ommendations of the Advisory Board. If a list estab-  
5           lished under this section differs from the rec-  
6           ommendations of the Advisory Board, the regula-  
7           tions promulgated under section 732(a) shall include  
8           a justification for the discrepancy.

9           ~~“(3) INITIAL DETERMINATION.—~~The President  
10          shall establish the initial eligibility list under para-  
11          graph (1) not later than one year after the date of  
12          enactment of this title for which there are well devel-  
13          oped methodologies that the President determines  
14          would meet the criteria of section 734.

15          ~~“(4) PROJECT TYPES TO BE CONSIDERED FOR~~  
16          ~~INITIAL LIST.—~~In determining the initial list, the  
17          President shall give priority to consideration of off-  
18          set project types that are recommended by the Advi-  
19          sory Board and for which there are well developed  
20          methodologies that the President determines would  
21          meet the criteria of section 734, and shall con-  
22          sider—

23                 ~~“(A) methane collection and combustion~~  
24                 projects at active underground coal mines;

1           “(B) methane collection and combustion  
2 projects at landfills;

3           “(C) capture of venting, flaring, and fugi-  
4 tive emissions from oil and natural gas systems;

5           “(D) nonlandfill methane collection, com-  
6 bustion and avoidance projects involving organic  
7 waste streams that would have otherwise emit-  
8 ted methane in the atmosphere, including ma-  
9 nure management and biogas capture and com-  
10 bustion;

11           “(E) projects involving afforestation or re-  
12 forestation of acreage not forested as of Janu-  
13 ary 1, 2009;

14           “(F) forest management resulting in an in-  
15 crease in forest carbon stores, including har-  
16 vested wood products;

17           “(G) agricultural, grassland, and range-  
18 land sequestration and management practices,  
19 including—

20               “(i) altered tillage practices, including  
21 avoided abandonment of such practices;

22               “(ii) winter cover cropping, contin-  
23 uous cropping, and other means to in-  
24 crease biomass returned to soil in lieu of  
25 planting followed by fallowing;

- 1 “(iii) reduction of nitrogen fertilizer
- 2 use or increase in nitrogen use efficiency;
- 3 “(iv) reduction in the frequency and
- 4 duration of flooding of rice paddies;
- 5 “(v) reduction in carbon emissions
- 6 from organic soils;
- 7 “(vi) reduction in greenhouse gas
- 8 emissions from manure and effluent;
- 9 “(vii) reduction in greenhouse gas
- 10 emissions due to changes in animal man-
- 11 agement practices, including dietary modi-
- 12 fications;
- 13 “(viii) planting and cultivation of per-
- 14 manent tree crops;
- 15 “(ix) greenhouse gas emission reduc-
- 16 tions from improvements and upgrades to
- 17 mobile or stationary equipment (including
- 18 engines);
- 19 “(x) practices to reduce and eliminate
- 20 soil tillage;
- 21 “(xi) reductions in greenhouse gas
- 22 emissions through restoration of wetlands,
- 23 forestland, and grassland; and

1                   “(xii) sequestration of greenhouse  
 2                   gases through management of tree crops;  
 3                   and

4                   “(H) changes in carbon stocks attributed  
 5                   to land use change and forestry activities, in-  
 6                   cluding—

7                   “(i) management of peatland or wet-  
 8                   land;

9                   “(ii) conservation of grassland and  
 10                  forested land;

11                  “(iii) improved forest management,  
 12                  including accounting for carbon stored in  
 13                  wood products;

14                  “(iv) reduced deforestation or avoided  
 15                  forest conversion;

16                  “(v) urban tree-planting and mainte-  
 17                  nance;

18                  “(vi) agroforestry; and

19                  “(vii) adaptation of plant traits or  
 20                  new technologies that increase sequestra-  
 21                  tion by forests.

22                  “(5) METHODOLOGIES.—In issuing methodolo-  
 23                  gies pursuant to section 734, the President shall  
 24                  give priority to methodologies for offset types in-  
 25                  cluded on the initial eligibility list.

1 “(b) MODIFICATION OF LIST.—The President—

2 “(1) shall add additional project types to the  
3 list not later than 2 years after the date of enact-  
4 ment of this title;

5 “(2) may at any time, by rule, add a project  
6 type to the list established under subsection (a) if  
7 the President, in consultation with appropriate Fed-  
8 eral agencies and taking into consideration the rec-  
9 ommendations of the Advisory Board, determines  
10 that the project type can generate additional reduc-  
11 tions or avoidance of greenhouse gas emissions, or  
12 sequestration of greenhouse gases, subject to the re-  
13 quirements of this part;

14 “(3) may at any time, by rule, determine that  
15 a project type on the list does not meet the require-  
16 ments of this part, and remove a project type from  
17 the list established under subsection (a), in consulta-  
18 tion with appropriate Federal agencies and taking  
19 into consideration any recommendations of the Advi-  
20 sory Board; and

21 “(4) shall consider adding to or removing from  
22 the list established under subsection (a), at a min-  
23 imum, project types proposed to the President—

24 “(A) by petition pursuant to subsection  
25 (c); or

1                   “(B) by the Advisory Board.

2           “(e) PETITION PROCESS.—Any person may petition  
3 the President to modify the list established under sub-  
4 section (a) by adding or removing a project type pursuant  
5 to subsection (b). Any such petition shall include a show-  
6 ing by the petitioner that there is adequate data to estab-  
7 lish that the project type does or does not meet the re-  
8 quirements of this part. Not later than 12 months after  
9 receipt of such a petition, the President shall either grant  
10 or deny the petition and publish a written explanation of  
11 the reasons for the President’s decision. The President  
12 may not deny a petition under this subsection on the basis  
13 of inadequate Environmental Protection Agency resources  
14 or time for review.

15   **“SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS.**

16           “(a) METHODOLOGIES.—As part of the regulations  
17 promulgated under section 732(a), the President shall es-  
18 tablish, for each type of offset project listed as eligible  
19 under section 733, the following:

20                   “(1) ADDITIONALITY.—A standardized method-  
21 ology for determining the additionality of greenhouse  
22 gas emission reductions or avoidance, or greenhouse  
23 gas sequestration, achieved by an offset project of  
24 that type. Such methodology shall ensure, at a min-  
25 imum, that any greenhouse gas emission reduction



1 or avoidance, or any greenhouse gas sequestration, is  
2 considered additional only to the extent that it re-  
3 sults from activities that—

4 “(A) are not required by or undertaken to  
5 comply with any law, including any regulation  
6 or consent order;

7 “(B) were not commenced prior to Janu-  
8 ary 1, 2009, except in the case of—

9 “(i) offset project activities that com-  
10 menced after January 1, 2001, and were  
11 registered as of the date of enactment of  
12 this title under an offset program with re-  
13 spect to which the President has made an  
14 affirmative determination under section  
15 740(a)(2); or

16 “(ii) activities that are readily revers-  
17 ible, with respect to which the President  
18 may set an alternative earlier date under  
19 this subparagraph that is not earlier than  
20 January 1, 2001, where the President de-  
21 termines that setting such an alternative  
22 date may produce an environmental benefit  
23 by removing an incentive to cease and then  
24 reinstitute activities that began prior to  
25 January 1, 2009;

1           “(C) are not receiving support under sec-  
 2           tion 323 of division A, or section 207 of divi-  
 3           sion B, of the Clean Energy Jobs and American  
 4           Power Act; and

5           “(D) exceed the activity baseline estab-  
 6           lished under paragraph (2).

7           “(2) ACTIVITY BASELINES.—A standardized  
 8           methodology for establishing activity baselines for  
 9           offset projects of that type. The President shall set  
 10          activity baselines to reflect a conservative estimate of  
 11          business-as-usual performance or practices for the  
 12          relevant type of activity such that the baseline pro-  
 13          vides an adequate margin of safety to ensure the en-  
 14          vironmental integrity of offsets calculated in ref-  
 15          erence to such baseline.

16          “(3) QUANTIFICATION METHODS.—A standard-  
 17          ized methodology for determining the extent to  
 18          which greenhouse gas emission reductions or avoid-  
 19          ance, or greenhouse gas sequestration, achieved by  
 20          an offset project of that type exceed a relevant activ-  
 21          ity baseline, including protocols for monitoring and  
 22          accounting for uncertainty.

23          “(4) LEAKAGE.—A standardized methodology  
 24          for accounting for and mitigating potential leakage;

1 if any, from an offset project of that type, taking  
 2 uncertainty into account.

3 ~~“(b) ACCOUNTING FOR REVERSALS.—~~

4 ~~“(1) IN GENERAL.—As part of the regulations~~  
 5 ~~promulgated under section 732(a), for each type of~~  
 6 ~~sequestration project listed under section 733, the~~  
 7 ~~President shall establish requirements to account for~~  
 8 ~~and address reversals, including—~~

9 ~~“(A) a requirement to report any reversal~~  
 10 ~~with respect to an offset project for which offset~~  
 11 ~~credits have been issued under this part;~~

12 ~~“(B) provisions to require emission allow-~~  
 13 ~~ances to be held in amounts to fully compensate~~  
 14 ~~for greenhouse gas emissions attributable to re-~~  
 15 ~~versals, and to assign responsibility for holding~~  
 16 ~~such emission allowances;~~

17 ~~“(C) provisions to discourage repeated in-~~  
 18 ~~tentional reversals by offset project developers,~~  
 19 ~~including but not limited to the assessment of~~  
 20 ~~administrative fees, temporary suspension, or~~  
 21 ~~disqualification of an offset project developer~~  
 22 ~~from the program; and~~

23 ~~“(D) any other provisions the President~~  
 24 ~~determines necessary to account for and ad-~~  
 25 ~~dress reversals.~~

1           ~~“(2) MECHANISMS.—~~The President shall pre-  
 2       scribe mechanisms to ensure that any sequestration  
 3       with respect to which an offset credit is issued under  
 4       this part results in a permanent net increase in se-  
 5       questration, and that full account is taken of any ac-  
 6       tual or potential reversal of such sequestration, with  
 7       an adequate margin of safety. The President shall  
 8       prescribe at least one of the following mechanisms to  
 9       meet the requirements of this paragraph:

10           ~~“(A) An offsets reserve, pursuant to para-~~  
 11       graph (3).

12           ~~“(B) Insurance that provides for purchase~~  
 13       and provision to the President for retirement of  
 14       an amount of offset credits or emission allow-  
 15       ances equal in number to the tons of carbon di-  
 16       oxide equivalents of greenhouse gas emissions  
 17       released due to reversal.

18           ~~“(C) Another mechanism that the Presi-~~  
 19       dent determines satisfies the requirements of  
 20       this part.

21       ~~“(3) OFFSETS RESERVE.—~~

22           ~~“(A) IN GENERAL.—~~An offsets reserve re-  
 23       ferred to in paragraph (2)(A) is a program  
 24       under which, before issuance of offset credits  
 25       under this part, the President shall subtract

1 and reserve from the quantity to be issued a  
 2 quantity of offset credits based on the risk of  
 3 reversal. The President shall—

4 “(i) hold these reserved offset credits  
 5 in the offsets reserve; and

6 “(ii) register the holding of the re-  
 7 served offset credits in the Offset Registry  
 8 established under section 732(d).

9 “(B) PROJECT REVERSAL.—

10 “(i) IN GENERAL.—If a reversal has  
 11 occurred with respect an offset project for  
 12 which offset credits are reserved under this  
 13 paragraph, the President shall remove off-  
 14 set credits or emission allowances from the  
 15 offsets reserve and cancel them to fully ac-  
 16 count for the tons of carbon dioxide equiv-  
 17 alent that are no longer sequestered.

18 “(ii) INTENTIONAL REVERSALS.—If  
 19 the President determines that a reversal  
 20 was intentional, the offset project developer  
 21 for the relevant offset project shall place  
 22 into the offsets reserve a quantity of offset  
 23 credits, or combination of offset credits  
 24 and emission allowances, equal in number  
 25 to the number of reserve offset credits that

1           were canceled due to the reversal pursuant  
2           to clause (i).

3           “(iii) ~~UNINTENTIONAL REVERSALS.—~~

4           If the President determines that a reversal  
5           was unintentional, the offset project devel-  
6           oper for the relevant offset project shall  
7           place into the offsets reserve a quantity of  
8           offset credits, or combination of offset  
9           credits and emission allowances, equal in  
10          number to half the number of offset credits  
11          that were reserved for that offset project,  
12          or half the number of reserve offset credits  
13          that were canceled due to the reversal pur-  
14          suant to clause (i), whichever is less.

15          “(iv) ~~PETITION.—~~Any person may pe-

16          tition the President for a determination  
17          that an offsets reversal has occurred. Any  
18          such petition shall include a showing by  
19          the petitioner that there is adequate data  
20          or other evidence to support the petition.  
21          Not later than 90 days after the date of  
22          receipt of the petition, the President shall  
23          take final action determining either that  
24          the reversal has occurred or that the rever-  
25          sal has not occurred. Such determination

1           shall be accompanied by a statement of the  
2           basis for the determination.

3           ~~“(C) USE OF RESERVED OFFSET CRED-~~  
4           ~~ITS.—Offset credits placed into the offsets re-~~  
5           ~~serve under this paragraph may not be used to~~  
6           ~~comply with section 722.~~

7           ~~“(4) TERM OFFSET CREDITS.—~~

8           ~~“(A) APPLICABILITY.—With respect to a~~  
9           ~~practice listed under section 733 that seques-~~  
10          ~~ters greenhouse gases and has a crediting pe-~~  
11          ~~riod of not more than 5 years, the President~~  
12          ~~may address reversals pursuant to this para-~~  
13          ~~graph in lieu of permanently accounting for re-~~  
14          ~~versals pursuant to paragraphs (1) and (2).~~

15          ~~“(B) ACCOUNTING FOR REVERSALS.—For~~  
16          ~~such practices or projects implementing the~~  
17          ~~practices described in subparagraph (A), the~~  
18          ~~President shall require only reversals that occur~~  
19          ~~during the crediting period to be accounted for~~  
20          ~~and addressed pursuant to paragraphs (1) and~~  
21          ~~(2).~~

22          ~~“(C) CREDITS ISSUED.—For practices or~~  
23          ~~projects regulated pursuant to subparagraph~~  
24          ~~(B), the Secretary shall issue under section 737~~  
25          ~~a term offset credit, in lieu of an offset credit,~~

1           for each ton of carbon dioxide equivalent that  
2           has been sequestered.

3       ~~“(e) CREDITING PERIODS.—~~

4           ~~“(1) IN GENERAL.—As part of the regulations~~  
5       ~~promulgated under section 732(a), for each offset~~  
6       ~~project type, the President shall specify a crediting~~  
7       ~~period, and establish provisions for petitions for new~~  
8       ~~crediting periods, in accordance with this subsection.~~

9       ~~“(2) DURATION.—~~

10           ~~“(A) IN GENERAL.—The crediting period~~  
11       ~~shall be not less than 5 and not greater than~~  
12       ~~10 years for any project type other than those~~  
13       ~~involving sequestration or term offsets.~~

14           ~~“(B) FORESTRY PROJECTS.—The crediting~~  
15       ~~period for a forestry offset project shall not ex-~~  
16       ~~ceed 20 years.~~

17           ~~“(C) TERM OFFSET CREDITS.—The cred-~~  
18       ~~iting period for a term offset credit issued shall~~  
19       ~~not exceed 5 years.~~

20       ~~“(3) ELIGIBILITY.—An offset project shall be~~  
21       ~~eligible to generate offset credits under this part~~  
22       ~~only during the project’s crediting period. During~~  
23       ~~such crediting period, the project shall remain eligi-~~  
24       ~~ble to generate offset credits, subject to the meth-~~  
25       ~~odologies and project type eligibility list that applied~~



1 as of the date of project approval under section 735;  
2 except as provided in paragraph (4).

3 ~~“(4) PETITION FOR NEW CREDITING PERIOD.—~~

4 An offset project developer may petition for a new  
5 crediting period to commence after termination of a  
6 crediting period, subject to the methodologies and  
7 project type eligibility list in effect at the time when  
8 such petition is submitted. A petition may not be  
9 submitted under this paragraph more than 18  
10 months before the end of the pending crediting pe-  
11 riod. The President may grant such petition after  
12 public notice and opportunity for comment. The  
13 President may limit the number of new crediting pe-  
14 riods available for projects of particular project  
15 types.

16 ~~“(d) ENVIRONMENTAL INTEGRITY.—In establishing~~  
17 the requirements under this section, the President shall  
18 apply conservative assumptions or methods to maximize  
19 the certainty that the environmental integrity of the green-  
20 house gas limitations established under section 703 is not  
21 compromised.

22 ~~“(e) PRE-EXISTING METHODOLOGIES.—In promul-~~  
23 gating requirements under this section, the President shall  
24 give due consideration to methodologies for offset projects  
25 existing as of the date of enactment of this title.

1       “(f) ~~ADDED PROJECT TYPES.~~—The President shall  
 2       establish methodologies described in subsection (a), and,  
 3       as applicable, requirements and mechanisms for reversals  
 4       as described in subsection (b), for any project type that  
 5       is added to the list pursuant to section 733.

6       **“SEC. 735. APPROVAL OF OFFSET PROJECTS.**

7       “(a) ~~APPROVAL PETITION.~~—An offset project devel-  
 8       oper shall submit an offset project approval petition signed  
 9       by a responsible official (who shall certify the accuracy of  
 10      the information submitted) and providing such informa-  
 11      tion as the President requires to determine whether the  
 12      offset project is eligible for issuance of offset credits under  
 13      rules promulgated pursuant to this part.

14      “(b) ~~TIMING.~~—An approval petition shall be sub-  
 15      mitted to the President under subsection (a) not later than  
 16      the time at which an offset project’s first verification re-  
 17      port is submitted under section 736.

18      “(c) ~~APPROVAL PETITION REQUIREMENTS.~~—As part  
 19      of the regulations promulgated under section 732, the  
 20      President shall include provisions for, and shall specify,  
 21      the required components of an offset project approval peti-  
 22      tion required under subsection (a), which shall include—

23               “(1) designation of an offset project developer;

1           ~~“(2)~~ designation of a party who is authorized to  
 2           provide access to the appropriate officials or an au-  
 3           thorized representative to the offset project; and

4           ~~“(3)~~ any other information that the President  
 5           considers to be necessary to achieve the purposes of  
 6           this part.

7           ~~“(d) APPROVAL AND NOTIFICATION.—~~Not later than  
 8           90 days after receiving a complete approval petition under  
 9           subsection (a), the President shall make the approval peti-  
 10          tion publicly available on the internet, approve or deny the  
 11          petition in writing, and, if the petition is denied, make  
 12          the President’s decision publicly available on the internet.  
 13          After an offset project is approved, the offset project de-  
 14          veloper shall not be required to resubmit an approval peti-  
 15          tion during the offset project’s crediting period, except as  
 16          provided in section 734(c)(4).

17          ~~“(e) APPEAL.—~~The President shall establish proce-  
 18          dures for appeal and review of determinations made under  
 19          subsection (d).

20          ~~“(f) VOLUNTARY PREAPPROVAL REVIEW.—~~The  
 21          President may establish a voluntary preapproval review  
 22          procedure, to allow an offset project developer to request  
 23          the President to conduct a preliminary eligibility review  
 24          for an offset project. Findings of such reviews shall not

1 be binding upon the President. The voluntary preapproval  
 2 review procedure—

3       “(1) shall require the offset project developer to  
 4       submit such basic project information as the Presi-  
 5       dent requires to provide a meaningful review; and

6       “(2) shall require a response from the President  
 7       not later than 6 weeks after receiving a request for  
 8       review under this subsection.

9 **“SEC. 736. VERIFICATION OF OFFSET PROJECTS.**

10       “(a) IN GENERAL.—As part of the regulations pro-  
 11       mulgated under section 732(a), the President shall estab-  
 12       lish requirements, including protocols, for verification of  
 13       the quantity of greenhouse gas emission reductions or  
 14       avoidance, or sequestration of greenhouse gases, resulting  
 15       from an offset project. The regulations shall require that  
 16       an offset project developer shall submit a report, prepared  
 17       by a third-party verifier accredited under subsection (d),  
 18       providing such information as the President requires to  
 19       determine the quantity of greenhouse gas emission reduc-  
 20       tions or avoidance, or sequestration of greenhouse gas, re-  
 21       sulting from the offset project.

22       “(b) SCHEDULE.—The President shall prescribe a  
 23       schedule for the submission of verification reports under  
 24       subsection (a).

1       “(c) VERIFICATION REPORT REQUIREMENTS.—The  
 2 President shall specify the required components of a  
 3 verification report required under subsection (a), which  
 4 shall include—

5           “(1) the name and contact information for a  
 6 designated representative for the offset project devel-  
 7 oper;

8           “(2) the quantity of greenhouse gas reduced,  
 9 avoided, or sequestered;

10          “(3) the methodologies applicable to the project  
 11 pursuant to section 734;

12          “(4) a certification that the project meets the  
 13 applicable requirements;

14          “(5) a certification establishing that the conflict  
 15 of interest requirements in the regulations promul-  
 16 gated under subsection (d)(1) have been complied  
 17 with; and

18          “(6) any other information that the President  
 19 considers to be necessary to achieve the purposes of  
 20 this part.

21       “(d) VERIFIER ACCREDITATION.—

22           “(1) IN GENERAL.—As part of the regulations  
 23 promulgated under section 732(a), the President  
 24 shall establish a process and requirements for peri-  
 25 odic accreditation of third-party verifiers to ensure

1       that such verifiers are professionally qualified and  
 2       have no conflicts of interest with offset project devel-  
 3       opers.

4           ~~“(2) STANDARDS.—~~

5               ~~“(A) AMERICAN NATIONAL STANDARDS IN-~~  
 6       ~~STITUTE ACCREDITATION.—The President may~~  
 7       ~~accredit, or accept for purposes of accreditation~~  
 8       ~~under this subsection, verifiers accredited under~~  
 9       ~~the American National Standards Institute~~  
 10       ~~(ANSI) accreditation program in accordance~~  
 11       ~~with ISO 14065. The President shall accredit,~~  
 12       ~~or accept for accreditation, verifiers under this~~  
 13       ~~subparagraph only if the President finds that~~  
 14       ~~the American National Standards Institute ac-~~  
 15       ~~creditation program provides sufficient assur-~~  
 16       ~~ance that the requirements of this part will be~~  
 17       ~~met.~~

18           ~~“(B) EPA ACCREDITATION.—As part of~~  
 19       ~~the regulations promulgated under section~~  
 20       ~~732(a), the President may establish accredita-~~  
 21       ~~tion standards for verifiers under this sub-~~  
 22       ~~section, and may establish related training and~~  
 23       ~~testing programs and requirements.~~

24           ~~“(3) PUBLIC ACCESSIBILITY.—Each verifier~~  
 25       ~~meeting the requirements for accreditation in ac-~~

1 cordance with this subsection shall be listed in a  
 2 publicly accessible database, which shall be main-  
 3 tained and updated by the President.

4 “(4) REVOCATION.—The regulations concerning  
 5 accreditation of third-party verifiers required under  
 6 paragraph (1) shall establish a process for the Presi-  
 7 dent to revoke the accreditation of any third-party  
 8 verifier that the President finds fails to maintain  
 9 professional qualifications or to avoid a conflict of  
 10 interest, or for other good cause.

11 **“SEC. 737. ISSUANCE OF OFFSET CREDITS.**

12 “(a) DETERMINATION AND NOTIFICATION.—Not  
 13 later than 90 days after receiving a complete verification  
 14 report under section 736, the President shall—

15 “(1) make the report publicly available on the  
 16 Internet;

17 “(2) make a determination of the quantity of  
 18 greenhouse gas emissions reduced or avoided, or  
 19 greenhouse gases sequestered, resulting from an off-  
 20 set project approved under section 735; and

21 “(3) notify the offset project developer in writ-  
 22 ing of such determination and make such determina-  
 23 tion publicly available on the Internet.

24 “(b) ISSUANCE OF OFFSET CREDITS.—The Presi-  
 25 dent shall issue one offset credit to an offset project devel-

1 oper for each ton of carbon dioxide equivalent that the  
 2 President has determined has been reduced, avoided, or  
 3 sequestered during the period covered by a verification re-  
 4 port submitted in accordance with section 736, only if—

5       “(1) the President has approved the offset  
 6 project pursuant to section 735; and

7       “(2) the relevant emissions reduction, avoid-  
 8 ance, or sequestration has—

9               “(A) already occurred, during the offset  
 10 project’s crediting period; and

11              “(B) occurred after January 1, 2009.

12       “(e) APPEAL.—The President shall establish proce-  
 13 dures for appeal and review of determinations made under  
 14 subsection (a).

15       “(d) TIMING.—Offset credits meeting the criteria es-  
 16 tablished in subsection (b) shall be issued not later than  
 17 2 weeks following the verification determination made by  
 18 the President under subsection (a).

19       “(e) REGISTRATION.—The President shall assign a  
 20 unique serial number to and register each offset credit to  
 21 be issued in the Offset Registry established under section  
 22 732(d).

23 **“SEC. 738. AUDITS.**

24       “(a) IN GENERAL.—The President shall, on an ongo-  
 25 ing basis, conduct random audits of offset projects and



1 offset credits. The President shall conduct audits of the  
2 practices of third-party verifiers. In each year, the Presi-  
3 dent shall conduct audits, at minimum, for a representa-  
4 tive sample of project types and geographic areas.

5 “(b) DELEGATION.—The President may delegate to  
6 a State or tribal government the responsibility for con-  
7 ducting audits under this section if the President finds  
8 that the program proposed by the State or tribal govern-  
9 ment provides assurances equivalent to those provided by  
10 the auditing program of the President, and that the integ-  
11 rity of the offset program under this part will be main-  
12 tained. Nothing in this subsection shall prevent the Presi-  
13 dent from conducting any audit the President considers  
14 necessary and appropriate.

15 “(c) AUDIT REQUIREMENTS.—As part of the regula-  
16 tions promulgated under section 732(a), the appropriate  
17 officials shall establish requirements and protocols for an  
18 auditing program, whether undertaken by the appropriate  
19 officials or an authorized representative, concerning  
20 project developers, third-party verifiers, and various com-  
21 ponents of the offsets program. Such regulations shall in-  
22 clude—

23 “(1) the components of the offset project, which  
24 shall be evaluated against the offset approval peti-  
25 tion and the verification report;

1           “(2) the minimum experience or training of the  
2     auditors;

3           “(3) the form in which reports shall be com-  
4     pleted;

5           “(4) requirements for delegating auditing func-  
6     tions to States or tribal governments, including re-  
7     quiring periodic reports from State or tribal govern-  
8     ments on their auditing activities and findings; and

9           “(5) any other information that the appropriate  
10    officials considers to be necessary to achieve the pur-  
11    pose of the Act.

12   **“SEC. 739. PROGRAM REVIEW AND REVISION.**

13        “At least once every 5 years, the President shall re-  
14    view and, based on new or updated information and taking  
15    into consideration the recommendations of the Advisory  
16    Board, update and revise—

17           “(1) the list of eligible project types established  
18    under section 733;

19           “(2) the methodologies established, including  
20    specific activity baselines, under section 734(a);

21           “(3) the reversal requirements and mechanisms  
22    established or prescribed under section 734(b);

23           “(4) measures to improve the accountability of  
24    the offsets program; and

1           “(5) any other requirements established under  
2           this part to ensure the environmental integrity and  
3           effective operation of this part.

4   **“SEC. 740. EARLY OFFSET SUPPLY.**

5           “(a) PROJECTS REGISTERED UNDER OTHER GOV-  
6   ~~ERNMENT-RECOGNIZED PROGRAMS.~~—Except as provided  
7   in subsection (b) or (c), after public notice and oppor-  
8   tunity for comment, the President shall issue one offset  
9   credit for each ton of carbon dioxide equivalent emissions  
10   reduced, avoided, or sequestered—

11           “(1) under an offset project that was started  
12   after January 1, 2001;

13           “(2) for which a credit was issued under any  
14   regulatory or voluntary greenhouse gas emission off-  
15   set program that the President determines—

16           “(A) was established under State or tribal  
17   law or regulation prior to January 1, 2009, or  
18   has been approved by the President pursuant to  
19   subsection (c);

20           “(B) has developed offset project type  
21   standards, methodologies, and protocols  
22   through a public consultation process or a peer  
23   review process;

24           “(C) has made available to the public  
25   standards, methodologies, and protocols that re-

1       quire that credited emission reductions, avoid-  
2       ance, or sequestration are permanent, addi-  
3       tional, verifiable, and enforceable;

4       “(D) requires that all emission reductions,  
5       avoidance, or sequestration be verified by a  
6       State regulatory agency or an accredited third-  
7       party independent verification body;

8       “(E) requires that all credits issued are  
9       registered in a publicly accessible registry, with  
10      individual serial numbers assigned for each ton  
11      of carbon dioxide equivalent emission reduc-  
12      tions, avoidance, or sequestration; and

13      “(F) ensures that no credits are issued for  
14      activities for which the entity administering the  
15      program, or a program administrator or rep-  
16      resentative, has funded, solicited, or served as a  
17      fund administrator for the development of, the  
18      project or activity that caused the emission re-  
19      duction, avoidance, or sequestration; and

20      “(3) for which the credit described in para-  
21      graph (2) is transferred to the President.

22      “(b) INELIGIBLE CREDITS.—Subsection (a) shall not  
23      apply to offset credits that have expired or have been re-  
24      tired, canceled, or used for compliance under a program  
25      established under State or tribal law or regulation.

1       “(c) LIMITATION.—Notwithstanding subsection  
2 (a)(1), offset credits shall be issued under this section—

3               “(1) only for reductions or avoidance of green-  
4 house gas emissions, or sequestration of greenhouse  
5 gases, that occur after January 1, 2009; and

6               “(2) only until the date that is 3 years after the  
7 date of enactment of this title, or the date that regu-  
8 lations promulgated under section 732(a) take ef-  
9 fect, whichever occurs sooner.

10       “(d) RETIREMENT OF CREDITS.—The President  
11 shall seek to ensure that offset credits described in sub-  
12 section (a)(2) are retired for purposes of use under a pro-  
13 gram described in subsection (b).

14       “(e) OTHER PROGRAMS.—

15               “(1) IN GENERAL.—Offset programs that ei-  
16 ther—

17                       “(A) were not established under State or  
18 tribal law; or

19                       “(B) were not established prior to January  
20 1, 2009;

21 but that otherwise meet all of the criteria of sub-  
22 section (a)(2) may apply to the President to be ap-  
23 proved under this subsection as an eligible program  
24 for early offset credits under this section.

1           ~~“(2) APPROVAL.—~~The President shall approve  
 2           any such program that the President determines has  
 3           criteria and methodologies of at least equal string-  
 4           gency to the criteria and methodologies of the pro-  
 5           grams established under State or tribal law that the  
 6           President determines meet the criteria of subsection  
 7           ~~(a)(2)~~. The President may approve types of offsets  
 8           under any such program that are subject to criteria  
 9           and methodologies of at least equal stringency to the  
 10          criteria and methodologies for such types of offsets  
 11          applied under the programs established under State  
 12          or tribal law that the President determines meet the  
 13          criteria of subsection ~~(a)(2)~~. The President shall  
 14          make a determination on any application received  
 15          under this subsection by not later than 180 days  
 16          from the date of receipt of the application.

17   **~~“SEC. 741. ENVIRONMENTAL CONSIDERATIONS.~~**

18          ~~“If the President lists forestry or other relevant land~~  
 19          management-related offset projects as eligible offset  
 20          project types under section 733, the President, in con-  
 21          sultation with appropriate Federal agencies, shall promul-  
 22          gate regulations to establish criteria for such offset  
 23          projects—

24                 ~~“(1) to ensure that native species are given pri-~~  
 25          mary consideration in such projects;

1           “(2) to enhance biological diversity in such  
2       projects;

3           “(3) to prohibit the use of federally designated  
4       or State-designated noxious weeds;

5           “(4) to prohibit the use of a species listed by  
6       a regional or State invasive plant authority within  
7       the applicable region or State;

8           “(5) in the case of forestry offset projects, in  
9       accordance with widely accepted, environmentally  
10      sustainable forestry practices;

11          “(6) to ensure that the offset project area was  
12      not converted from native ecosystems, such as a for-  
13      est, grassland, scrubland or wetland, to generate off-  
14      sets, unless such conversion took place at least 10  
15      years prior to the date of enactment of this title or  
16      before January 1, 2009, whichever date is earlier;  
17      and

18          “(7) to the maximum extent practicable, ensure  
19      that the use of offset credits would be eligible to sat-  
20      isfy emission reduction commitments made by the  
21      United States in multilateral agreements, such as  
22      the United Nations Framework Convention on Cli-  
23      mate Change, done at New York on May 9, 1992 (or  
24      any successor agreement).

1 ~~“SEC. 742. TRADING.~~

2       ~~“Section 724 shall apply to the trading of offset cred-~~  
3 ~~its.~~

4 ~~“SEC. 743. OFFICE OF OFFSETS INTEGRITY.~~

5       ~~“(a) ESTABLISHMENT.—There is established within~~  
6 ~~the Office of the Assistant Attorney General of the Envi-~~  
7 ~~ronment and Natural Resources Division in the Depart-~~  
8 ~~ment of Justice a Carbon Offsets Integrity Unit, to be~~  
9 ~~headed by a Special Counsel (hereinafter referred to as~~  
10 ~~the ‘Special Counsel’). The Carbon Offsets Integrity Unit~~  
11 ~~and the Special Counsel shall be responsible to and shall~~  
12 ~~report directly to the Assistant Attorney General of the~~  
13 ~~Environment and Natural Resources Division.~~

14       ~~“(b) APPOINTMENT.—The Special Counsel shall be~~  
15 ~~appointed by the President, by and with the advice and~~  
16 ~~consent of the Senate.~~

17       ~~“(c) RESPONSIBILITIES.—The Special Counsel~~  
18 ~~shall—~~

19               ~~“(1) supervise and coordinate investigations~~  
20       ~~and civil enforcement within the Department of Jus-~~  
21       ~~tice of the carbon offsets program under this part;~~

22               ~~“(2) ensure that Federal law relating to civil~~  
23       ~~enforcement of the carbon offsets program is used to~~  
24       ~~the fullest extent authorized; and~~



1           “(3) ensure that adequate resources are made  
2           available for the investigation and enforcement of  
3           civil violations of the carbon offsets program.

4           “(d) COMPENSATION.—The Special Counsel shall be  
5           paid at the basic pay payable for level V of the Executive  
6           Schedule under section 5316 of title 5, United States  
7           Code.

8           “(e) ASSIGNMENT OF PERSONNEL.—There shall be  
9           assigned to the Carbon Offsets Integrity Unit such per-  
10          sonnel as the Attorney General determines to be necessary  
11          to provide an appropriate level of enforcement activity in  
12          the area of carbon offsets.

13       **“SEC. 744. INTERNATIONAL OFFSET CREDITS.**

14          “(a) IN GENERAL.—The Administrator, in consulta-  
15          tion with the Secretary of State and the Administrator  
16          of the United States Agency for International Develop-  
17          ment, may issue, in accordance with this section, inter-  
18          national offset credits based on activities that reduce or  
19          avoid greenhouse gas emissions, or increase sequestration  
20          of greenhouse gases, in a developing country. Such credits  
21          may be issued for projects pursuant to the requirements  
22          of this part or as provided in subsection (c), (d), or (e).

23          “(b) ISSUANCE.—

24               “(1) REGULATIONS.—Not later than 2 years  
25          after the date of enactment of this title, the Admin-

1       istrator, in consultation with the Secretary of State,  
2       the Administrator of the United States Agency for  
3       International Development, and any other appropriate  
4       Federal agency, and taking into consideration  
5       the recommendations of the Advisory Board, shall  
6       promulgate regulations for implementing this section,  
7       taking into consideration specific factors relevant  
8       to the determination of eligible international  
9       offset project types and the implementation of international  
10      methodologies for each offset type approved. Except as otherwise  
11      provided in this section,  
12      the issuance of international offset credits under this  
13      section shall be subject to the requirements of this  
14      part.

15           “(2) REQUIREMENTS FOR INTERNATIONAL  
16      OFFSET CREDITS.—The Administrator may issue  
17      international offset credits only if—

18           “(A) the United States is a party to a bi-  
19      lateral or multilateral agreement or arrangement that includes  
20      the country in which the project or measure achieving the relevant  
21      greenhouse gas emission reduction or avoidance, or  
22      greenhouse gas sequestration, has occurred;

23           “(B) such country is a developing country;  
24      and  
25

1                   ~~“(C) such agreement or arrangement—~~

2                   ~~“(i) ensures that all of the require-~~  
 3                   ~~ments of this part apply to the issuance of~~  
 4                   ~~international offset credits under this sec-~~  
 5                   ~~tion;~~

6                   ~~“(ii) provides for the appropriate dis-~~  
 7                   ~~tribution of international offset credits~~  
 8                   ~~issued; and~~

9                   ~~“(iii) provides that the offset project~~  
 10                   ~~developer be eligible to receive service of~~  
 11                   ~~process in the United States for the pur-~~  
 12                   ~~pose of all civil and regulatory actions in~~  
 13                   ~~Federal courts; if such service is made in~~  
 14                   ~~accordance with the Federal rules for serv-~~  
 15                   ~~ice of process in the States in which the~~  
 16                   ~~case or regulatory action is brought.~~

17                   ~~“(3) SUPPLEMENTAL INTERNATIONAL OFFSET~~  
 18                   ~~CATEGORIES.—~~

19                   ~~“(A) IN GENERAL.—In order to ensure a~~  
 20                   ~~sufficient supply of international offsets and to~~  
 21                   ~~reduce the cost of compliance with this title, the~~  
 22                   ~~Administrator may establish categories of inter-~~  
 23                   ~~national offsets in addition to those described in~~  
 24                   ~~subsections (c), (d), and (e), if—~~

“(i) for 2 consecutive years, the auction price for allowances reaches the market stability reserve auction price under section 726(c); and

“(ii) the Administrator determines that the total amount of international offsets held by covered entities for each of the 2 years referred to in clause (i) does not exceed the limit on international offsets established under section 722(d)(3).

“(B) SUPPLEMENTAL CATEGORIES.—

“(i) IN GENERAL.—Any supplemental categories of international offsets established pursuant to subparagraph (A) shall—

“(I) satisfy all applicable provisions of this part, including subsection (b)(2) of this section and sections 733 and 734; and

“(II) meet the criteria described in clause (ii).

“(ii) CRITERIA.—The criteria referred to in clause (i)(II) are that—

“(I) the country in which the activities in the offset category would

1 take place has developed and is imple-  
 2 menting a low carbon development  
 3 plan that includes provisions for the  
 4 activities described in the offset cat-  
 5 egory;

6 “(II) the activities in the offset  
 7 category are not activities included  
 8 under subsection (c), (d) or (e); and

9 “(III) the activities in the offset  
 10 category satisfy specific criteria rel-  
 11 evant to methodologies and institu-  
 12 tional and technical capacities associ-  
 13 ated with developing country contexts  
 14 to ensure adequate treatment of leak-  
 15 age, additionality, and permanence.

16 “(c) ~~SECTOR-BASED CREDITS.—~~

17 “(1) ~~IN GENERAL.—~~In order to minimize the  
 18 potential for leakage and to encourage countries to  
 19 take nationally appropriate mitigation actions to re-  
 20 duce or avoid greenhouse gas emissions, or sequester  
 21 greenhouse gases, the Administrator, in consultation  
 22 with the Secretary of State and the Administrator of  
 23 the United States Agency for International Develop-  
 24 ment, shall—

“(A) identify sectors, or combinations of sectors, within specific countries with respect to which the issuance of international offset credits on a sectoral basis is appropriate; and

“(B) issue international offset credits for such sectors only on a sectoral basis.

“(2) IDENTIFICATION OF SECTORS.—

“(A) GENERAL RULE.—For purposes of paragraph (1)(A), a sectoral basis shall be appropriate for activities—

“(i) in countries that have comparatively high greenhouse gas emissions, or comparatively greater levels of economic development; and

“(ii) that, if located in the United States, would be within a sector subject to the compliance obligation under section 722.

“(B) FACTORS.—In determining the sectors and countries for which international offset credits should be awarded only on a sectoral basis, the Administrator, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall consider the following factors:

1           “(i) The country’s gross domestic  
2 product.

3           “(ii) The country’s total greenhouse  
4 gas emissions.

5           “(iii) Whether the comparable sector  
6 of the United States economy is covered by  
7 the compliance obligation under section  
8 722.

9           “(iv) The heterogeneity or homo-  
10 geneity of sources within the relevant sec-  
11 tor.

12           “(v) Whether the relevant sector pro-  
13 vides products or services that are sold in  
14 internationally competitive markets.

15           “(vi) The risk of leakage if inter-  
16 national offset credits were issued on a  
17 project-level basis, instead of on a sectoral  
18 basis, for activities within the relevant sec-  
19 tor.

20           “(vii) The capability of accurately  
21 measuring, monitoring, reporting, and  
22 verifying the performance of sources across  
23 the relevant sector.

24           “(viii) Such other factors as the Ad-  
25 ministrator, in consultation with the Sec-

retary of State and the Administrator of  
the United States Agency for International  
Development, determines are appropriate  
to—

“(I) ensure the integrity of the  
United States greenhouse gas emis-  
sions limitations established under  
section 703; and

“(II) encourage countries to take  
nationally appropriate mitigation ac-  
tions to reduce or avoid greenhouse  
gas emissions; or sequester green-  
house gases.

“(ix) The issuance of offsets for ac-  
tivities that are—

“(I) in addition to nationally ap-  
propriate mitigation actions taken by  
developing countries pursuant to the  
low-carbon development plans of the  
countries; and

“(II) on a sectoral basis.

“(3) ~~SECTORAL BASIS.~~—

“(A) ~~DEFINITION.~~—In this subsection, the  
term ‘sectoral basis’ means the issuance of  
international offset credits only for the quantity



1 of sector-wide reductions or avoidance of green-  
 2 house gas emissions; or sector-wide increases in  
 3 sequestration of greenhouse gases; achieved  
 4 across the relevant sector or sectors of the econ-  
 5 omy relative to a baseline level of emissions es-  
 6 tablished in an agreement or arrangement de-  
 7 scribed in subsection (b)(2)(A) for the sector.

8 “(B) BASELINE.—The baseline for a sec-  
 9 tor shall—

10 “(i) be established at levels of green-  
 11 house gas emissions lower than would  
 12 occur under a business-as-usual scenario;  
 13 taking into account relevant domestic or  
 14 international policies or incentives to re-  
 15 duce greenhouse gas emissions;

16 “(ii) be used to determine  
 17 additionality and performance;

18 “(iii) account for all significant  
 19 sources of emissions from a sector;

20 “(iv) be adjusted over time to reflect  
 21 changing circumstances;

22 “(v) be developed taking into consid-  
 23 eration such factors as—

24 “(I) any established emissions  
 25 performance level for the sector;

1                   “(H) the current performance of  
2                   the sector in the country;

3                   “(III) expected future trends of  
4                   the sector in the country; and

5                   “(IV) historical data and other  
6                   factors to ensure additionality; and

7                   “(vi) be designed to produce signifi-  
8                   cant deviations from business-as-usual  
9                   emissions, consistent with nationally appro-  
10                  priate mitigation commitments or actions;  
11                  in a way that equitably contributes to  
12                  meeting thresholds identified in section  
13                  705(e)(2).

14       “(d) CREDITS ISSUED BY AN INTERNATIONAL  
15 BODY.—

16               “(1) IN GENERAL.—The Administrator, in con-  
17               sultation with the Secretary of State, may issue  
18               international offset credits in exchange for instru-  
19               ments in the nature of offset credits that are issued  
20               by an international body established pursuant to the  
21               United Nations Framework Convention on Climate  
22               Change, to a protocol to such Convention, or to a  
23               treaty that succeeds such Convention. The Adminis-  
24               trator may issue international offset credits under  
25               this subsection only if, in addition to the require-

1       ments of subsection (b), the Administrator has de-  
2       termined that the international body that issued the  
3       instruments has implemented substantive and proce-  
4       dural requirements for the relevant project type that  
5       provide equal or greater assurance of the integrity of  
6       such instruments as is provided by the requirements  
7       of this part. Beginning on January 1, 2016, the Ad-  
8       ministrator shall issue no offset credit pursuant to  
9       this subsection if the activity generating the green-  
10      house gas emission reductions or avoidance, or  
11      greenhouse gas sequestration, occurs in a country  
12      and sector identified by the Administrator under  
13      subsection (c), unless the offset credit issued by the  
14      international body is consistent with section 744(e).

15       “(2) RETIREMENT.—The Administrator, in  
16      consultation with the Secretary of State, shall seek,  
17      by whatever means appropriate, including agree-  
18      ments, arrangements, or technical cooperation with  
19      the international issuing body described in para-  
20      graph (1), to ensure that such body—

21       “(A) is notified of the Administrator’s  
22      issuance, under this subsection, of an inter-  
23      national offset credit in exchange for an instru-  
24      ment issued by such international body; and

1           “(B) provides, to the extent feasible, for  
 2           the disqualification of the instrument issued by  
 3           such international body for subsequent use  
 4           under any relevant foreign or international  
 5           greenhouse gas regulatory program, regardless  
 6           of whether such use is a sale, exchange, or sub-  
 7           mission to satisfy a compliance obligation.

8           “(e) OFFSETS FROM REDUCED DEFORESTATION.—

9           “(1) REQUIREMENTS.—The Administrator, in  
 10          accordance with the regulations promulgated under  
 11          subsection (b)(1) and an agreement or arrangement  
 12          described in subsection (b)(2)(A), shall issue inter-  
 13          national offset credits for greenhouse gas emission  
 14          reductions achieved through activities to reduce de-  
 15          forestation only if, in addition to the requirements of  
 16          subsection (b)—

17               “(A) the activity occurs in—

18                   “(i) a country listed by the Adminis-  
 19                   trator pursuant to paragraph (2);

20                   “(ii) a State or province listed by the  
 21                   Administrator pursuant to paragraph (5);

22                   or

23                   “(iii) a country listed by the Adminis-  
 24                   trator pursuant to paragraph (6);

1           “(B) except as provided in paragraph (5)  
2           or (6), the quantity of the international offset  
3           credits is determined by comparing the national  
4           emissions from deforestation relative to a na-  
5           tional deforestation baseline for that country es-  
6           tablished, in accordance with an agreement or  
7           arrangement described in subsection (b)(2)(A);  
8           pursuant to paragraph (4);

9           “(C) the reduction in emissions from de-  
10          forestation has occurred before the issuance of  
11          the international offset credit and, taking into  
12          consideration relevant international standards,  
13          has been demonstrated using ground-based in-  
14          ventories, remote sensing technology, and other  
15          methodologies to ensure that all relevant carbon  
16          stocks are accounted;

17          “(D) the Administrator has made appro-  
18          priate adjustments, such as discounting for any  
19          additional uncertainty, to account for cir-  
20          cumstances specific to the country, including its  
21          technical capacity described in paragraph  
22          (2)(A);

23          “(E) the Administrator has determined  
24          that the country within which the activity oc-  
25          curs has in place a publicly available strategic

1 plan that includes the criteria listed in para-  
2 graph (2)(C);

3 “(F) the activity is designed, carried out,  
4 and managed—

5 “(i) in accordance with forest manage-  
6 ment practices that—

7 “(I) improve the livelihoods of  
8 forest communities;

9 “(II) maintain the natural bio-  
10 diversity, resilience, and carbon stor-  
11 age capacity of forests; and

12 “(III) do not adversely impact  
13 the permanence of forest carbon  
14 stocks or emission reductions;

15 “(ii) to promote or restore native for-  
16 est species and ecosystems where prae-  
17 ticable, and to avoid the introduction of  
18 invasive nonnative species;

19 “(iii) in a manner that gives due re-  
20 gard to the rights and interests of local  
21 communities, indigenous peoples, forest-de-  
22 pendent communities, and vulnerable social  
23 groups;

24 “(iv) with consultations with, and full  
25 participation of, local communities, indige-

nous peoples, and forest-dependent communities, in affected areas, as partners and primary stakeholders, prior to and during the design, planning, implementation, and monitoring and evaluation of activities;

“(v) with transparent and equitable sharing of profits and benefits derived from offset credits with local communities, indigenous peoples, and forest-dependent communities;

“(vi) with full transparency, third-party independent oversight, and public dissemination of related financial and contractual arrangements; and

“(vii) so that the social and environmental impacts of these activities are monitored and reported in sufficient detail to allow appropriate officials to determine compliance with the requirements of this section;

“(G) the reduction otherwise satisfies and is consistent with any relevant requirements established by an agreement reached under the auspices of the United Nations Framework

1 Convention on Climate Change, done at New  
2 York on May 9, 1992; and

3 “(H) in the case that offsets are deter-  
4 mined by comparing the national emissions  
5 from deforestation relative to a national, state-  
6 level, or province-level deforestation baseline as  
7 provided in paragraph (4) or (5)—

8 “(i) a list of activities to reduce defor-  
9 estation is provided to the Administrator  
10 and made publicly available;

11 “(ii) the social and environmental im-  
12 pacts of these activities are monitored and  
13 reported in sufficient detail to allow the  
14 Administrator to determine compliance  
15 with the requirements of this section; and

16 “(iii) the distribution of revenues for  
17 activities to reduce deforestation is trans-  
18 parent, subject to independent third-party  
19 oversight, and publicly disseminated.

20 “(2) ELIGIBLE COUNTRIES.—The Adminis-  
21 trator, in consultation with the Secretary of State  
22 and the Administrator of the United States Agency  
23 for International Development, and in accordance  
24 with an agreement or arrangement described in sub-  
25 section (b)(2)(A), shall establish, and periodically re-



1 view and update, a list of the developing countries  
2 that have the capacity to participate in deforestation  
3 reduction activities at a national level, including—

4 “(A) the technical capacity to monitor,  
5 measure, report, and verify forest carbon fluxes  
6 for all significant sources of greenhouse gas  
7 emissions from deforestation with an acceptable  
8 level of uncertainty, as determined taking into  
9 account relevant internationally accepted meth-  
10 odologies, such as those established by the  
11 Intergovernmental Panel on Climate Change;

12 “(B) the institutional capacity to reduce  
13 emissions from deforestation, including strong  
14 forest governance and mechanisms to ensure  
15 transparency and third-party independent over-  
16 sight of offset activities and revenues, and the  
17 transparent and equitable distribution of offset  
18 revenues for local actions; and

19 “(C) a land use or forest sector strategic  
20 plan that—

21 “(i) assesses national and local drivers  
22 of deforestation and forest degradation and  
23 identifies reforms to national policies need-  
24 ed to address them;

1 “(ii) estimates the country’s emissions  
2 from deforestation and forest degradation;

3 “(iii) identifies improvements in and a  
4 timeline for data collection, monitoring,  
5 and institutional capacity necessary to im-  
6 plement an effective national deforestation  
7 reduction program that meets the criteria  
8 set forth in this section (including a na-  
9 tional deforestation baseline);

10 “(iv) establishes a timeline for imple-  
11 menting the program and transitioning  
12 forest-based economies to low-emissions de-  
13 velopment pathways with respect to emis-  
14 sions from forest and land use activities;

15 “(v) includes a national policy for con-  
16 sultations with, and full participation of,  
17 all stakeholders, especially indigenous and  
18 forest-dependent communities, in its de-  
19 sign, planning, and implementation of ac-  
20 tivities, whether at the national or local  
21 level, to reduce deforestation in the country  
22 (including a national process for address-  
23 ing grievances if stakeholders have been  
24 caused social, environmental, or economic  
25 harm);

1           “(vi) provides for the distribution of  
2           revenues for activities to reduce deforest-  
3           ation transparently and publicly, subject to  
4           independent third-party oversight; and

5           “(vii) includes a national platform or  
6           a type of registry for information relating  
7           to deforestation and degradation policy and  
8           program implementation processes, includ-  
9           ing a mechanism for the monitoring and  
10          reporting of the social and environmental  
11          impacts of those activities.

12          “(3) PROTECTION OF INTERESTS.—With re-  
13          spect to an agreement or arrangement described in  
14          subsection (b)(2)(A) with a country that addresses  
15          international offset credits under this subsection, the  
16          Administrator, in consultation with the Secretary of  
17          State and the Administrator of the United States  
18          Agency for International Development, shall under-  
19          take due diligence to ensure the establishment and  
20          enforcement by such country of legal regimes, proc-  
21          esses, standards, and safeguards that—

22               “(A) give due regard to the rights and in-  
23               terests of local communities, indigenous peoples,  
24               forest-dependent communities, and vulnerable  
25               social groups;

1           “(B) promote consultations with, and full  
 2 participation of, forest-dependent communities  
 3 and indigenous peoples in affected areas, as  
 4 partners and primary stakeholders, prior to and  
 5 during the design, planning, implementation,  
 6 and monitoring and evaluation of activities; and

7           “(C) encourage transparent and equitable  
 8 sharing of profits and benefits derived from  
 9 international offset credits with local commu-  
 10 nities, indigenous peoples, and forest-dependent  
 11 communities.

12           “(4) NATIONAL DEFORESTATION BASELINE.—A  
 13 national deforestation baseline established under this  
 14 subsection shall—

15           “(A) be national in scope;

16           “(B) be consistent with nationally appro-  
 17 priate mitigation commitments or actions with  
 18 respect to deforestation, taking into consider-  
 19 ation the average annual historical deforestation  
 20 rates of the country during a period of at least  
 21 5 years, the applicable drivers of deforestation,  
 22 and other factors to ensure that only reductions  
 23 that are in addition to such commitments or ac-  
 24 tions will generate offsets;

1           “(C) establish a trajectory that would re-  
 2           sult in zero net deforestation by not later than  
 3           20 years after the national deforestation base-  
 4           line has been established, including a spatially  
 5           explicit land use plan that identifies intact and  
 6           primary forest areas and managed forest areas  
 7           that are to remain while the country is reaching  
 8           the zero net deforestation trajectory;

9           “(D) be adjusted over time to take account  
 10          of changing national circumstances;

11          “(E) be designed to account for all signifi-  
 12          cant sources of greenhouse gas emissions from  
 13          deforestation in the country; and

14          “(F) be consistent with the national defor-  
 15          estation baseline, if any, established for such  
 16          country under section 753.

17          ~~“(5) STATE-LEVEL OR PROVINCE-LEVEL AC-~~  
 18          ~~TIVITIES.—~~

19          ~~“(A) ELIGIBLE STATES OR PROVINCES.—~~

20          The Administrator, in consultation with the  
 21          Secretary of State and the Administrator of the  
 22          United States Agency for International Devel-  
 23          opment, shall establish, and periodically review  
 24          and update, a list of States or provinces in de-  
 25          veloping countries where—

1 “(i) the developing country is not in-  
 2 cluded on the list of countries established  
 3 pursuant to paragraph (6)(A);

4 “(ii) the State or province is under-  
 5 taking deforestation reduction activities;

6 “(iii) the State or province has the ca-  
 7 pacity to engage in deforestation reduction  
 8 activities at the State or province level, in-  
 9 cluding—

10 “(I) the technical capacity to  
 11 monitor and measure forest carbon  
 12 fluxes for all significant sources of  
 13 greenhouse gas emissions from defor-  
 14 estation with an acceptable amount of  
 15 uncertainty, including a spatially ex-  
 16 plicit land use plan that identifies in-  
 17 tact and primary forest areas and  
 18 managed forest areas that are to re-  
 19 main while the country is reaching the  
 20 zero net deforestation trajectory; and

21 “(II) the institutional capacity to  
 22 reduce emissions from deforestation;  
 23 including strong forest governance  
 24 and mechanisms to deliver forest con-  
 25 servation resources for local actions;

1 “(iv) the State or province meets the  
2 eligibility criteria in paragraphs (2) and  
3 (3) for the geographic area under its juris-  
4 diction; and

5 “(v) the country—

6 “(I) demonstrates that efforts  
7 are underway to transition to a na-  
8 tional program within 5 years; or

9 “(II) in the determination of the  
10 Administrator, is making a good-faith  
11 effort to develop a land use or forest  
12 sector strategic national plan or pro-  
13 gram that meets the criteria described  
14 in paragraph (2)(C).

15 “(B) ACTIVITIES.—The Administrator may  
16 issue international offset credits for greenhouse  
17 gas emission reductions achieved through activi-  
18 ties to reduce deforestation at a State or pro-  
19 vincial level that meet the requirements of this  
20 section. Such credits shall be determined by  
21 comparing the emissions from deforestation  
22 within that State or province relative to the  
23 State or province deforestation baseline for that  
24 State or province established, in accordance  
25 with an agreement or arrangement described in

subsection (b)(2)(A), pursuant to subparagraph  
(C) of this paragraph.

~~“(C) STATE-LEVEL OR PROVINCE-LEVEL  
DEFORESTATION BASELINE.—A State-level or  
province-level deforestation baseline shall—~~

~~“(i) be consistent with any existing  
nationally appropriate mitigation commit-  
ments or actions for the country in which  
the activity is occurring, so that only re-  
ductions that are in addition to those com-  
mitments or actions will generate offsets;~~

~~“(ii) be developed taking into consid-  
eration the average annual historical defor-  
estation rates of the State or province dur-  
ing a period of at least 5 years, relevant  
drivers of deforestation, and other factors  
to ensure additionality;~~

~~“(iii) establish a trajectory that would  
result in zero net deforestation by not later  
than 20 years after the State-level or prov-  
ince-level deforestation baseline has been  
established; and~~

~~“(iv) be designed to account for all  
significant sources of greenhouse gas emis-  
sions from deforestation in the State or~~



1 province and adjusted to fully account for  
 2 emissions leakage outside the State or  
 3 province through monitoring of major for-  
 4 ested areas in the host country and other  
 5 areas of the host country susceptible to  
 6 leakage.

7 “(D) PHASE-OUT.—Beginning 5 years  
 8 after the first calendar year for which a covered  
 9 entity must demonstrate compliance with sec-  
 10 tion 722(a), the Administrator shall issue no  
 11 further international offset credits for eligible  
 12 State-level or province-level activities to reduce  
 13 deforestation pursuant to this paragraph.

14 “(6) PROJECTS AND PROGRAMS TO REDUCE  
 15 DEFORESTATION.—

16 “(A) ELIGIBLE COUNTRIES.—The Admin-  
 17 istrator, in consultation with the Secretary of  
 18 State and the Administrator of the United  
 19 States Agency for International Development,  
 20 shall establish, and periodically review and up-  
 21 date, a list of developing countries that—

22 “(i) the Administrator determines,  
 23 based on recent, credible, and reliable  
 24 emissions data, account for less than 1  
 25 percent of global greenhouse gas emissions

1 and less than 3 percent of global forest-  
2 sector and land use change greenhouse gas  
3 emissions;

4 “(ii) have, or in the determination of  
5 the Administrator are making a good faith  
6 effort to develop, a land use or forest sec-  
7 tor strategic plan that meets the criteria  
8 described in paragraph (2)(C); and

9 “(iii) has made, or in the determina-  
10 tion of the Administrator, is making, a  
11 good-faith effort to develop, through the  
12 implementation of activities under this sec-  
13 tion, a monitoring program for major for-  
14 ested areas in a host country and other  
15 areas in a host country susceptible to leak-  
16 age, including a spatially explicit land use  
17 plan that identifies intact and primary for-  
18 est areas and managed forest areas that  
19 are to remain while country is reaching the  
20 zero net deforestation trajectory.

21 “(B) ACTIVITIES.—The Administrator may  
22 issue international offset credits for greenhouse  
23 gas emission reductions achieved through  
24 project or program level activities to reduce de-  
25 forestation in countries listed under subpara-

graph (A) that meet the requirements of this section. The quantity of international offset credits shall be determined by comparing the project-level or program-level emissions from deforestation to a deforestation baseline for such project or program established pursuant to subparagraph (C).

“(C) PROJECT-LEVEL OR PROGRAM-LEVEL BASELINE.—A project-level or program-level deforestation baseline shall—

“(i) be consistent with any existing nationally appropriate mitigation commitments or actions for the country in which the project or program is occurring, so that only reductions that are in addition to such commitments or actions will generate offsets;

“(ii) be developed taking into consideration the average annual historical deforestation rates in the project or program boundary during a period of at least 5 years; applicable drivers of deforestation; and other factors to ensure additionality;

“(iii) be designed to account for all significant sources of greenhouse gas emis-

1 sions from deforestation in the project or  
2 program boundary; and

3 “(iv) be adjusted to fully account for  
4 emissions leakage outside the project or  
5 program boundary, including—

6 “(I) estimation through moni-  
7 toring of major forested areas in a  
8 host country and other areas in a host  
9 country susceptible to leakage, pursu-  
10 ant to section 744(c)(5); and

11 “(II) a spatially explicit land use  
12 plan that identifies intact and primary  
13 forest areas and managed forest areas  
14 that are to remain while country is  
15 reaching the zero net deforestation  
16 trajectory.

17 “(D) PHASE-OUT.—

18 “(i) IN GENERAL.—Beginning on the  
19 date that is 8 years after the first calendar  
20 year for which a covered entity must dem-  
21 onstrate compliance with section 722(a),  
22 the Administrator shall issue no further  
23 international offset credits for project-level  
24 or program-level activities as described in

1           this paragraph, except as provided in  
2           clause (ii).

3           “(ii) ~~EXTENSION.~~—The Administrator  
4           may extend the phase out deadline for the  
5           issuance of international offset credits  
6           under this section by up to 5 years with re-  
7           spect to eligible activities taking place in a  
8           least developed country, which is a foreign  
9           country that the United Nations has iden-  
10          tified as among the least developed of de-  
11          veloping countries at the time that the Ad-  
12          ministrator determines to provide an exten-  
13          sion, provided that the Administrator, in  
14          consultation with the Secretary of State  
15          and the Administrator of the United States  
16          Agency for International Development, de-  
17          termines the country—

18                 “(I) lacks sufficient capacity to  
19                 adopt and implement effective pro-  
20                 grams to achieve reductions in defor-  
21                 estation measured against national  
22                 baselines;

23                 “(II) is receiving support under  
24                 part E to develop such capacity; and

1                   “(III) has developed and is work-  
2                   ing to implement a credible national  
3                   strategy or plan to reduce deforest-  
4                   ation.

5                   “(7) EXPANSION OF SCOPE.—In implementing  
6                   this subsection, the Administrator, taking into con-  
7                   sideration the recommendations of the Advisory  
8                   Board, may—

9                   “(A) expand credible activities to include  
10                  forest degradation; and

11                  “(B) include soil carbon losses associated  
12                  with forested wetlands or peatlands.

13                  “(f) MODIFICATION OF REQUIREMENTS.—In promul-  
14                  gating regulations under subsection (b)(1) with respect to  
15                  the issuance of international offset credits under sub-  
16                  section (c), (d), or (e), the Administrator, in consultation  
17                  with the Secretary of State and the Administrator of the  
18                  United States Agency for International Development, may  
19                  modify or omit a requirement of this part (excluding the  
20                  requirements of this section) if the Administrator deter-  
21                  mines that the application of that requirement to such  
22                  subsection is not feasible or would result in the creation  
23                  of offset credits that would not be eligible to satisfy emis-  
24                  sions reduction commitments made by the United States  
25                  pursuant to the United Nations Framework Convention

1 on Climate Change, done at New York on May 9, 1992  
2 (or any successor agreement). In modifying or omitting  
3 such a requirement on the basis of infeasibility, the Ad-  
4 ministrator, in consultation with the Secretary of State  
5 and the Administrator of the United States Agency for  
6 International Development, shall ensure, with an adequate  
7 margin of safety, the integrity of international offset cred-  
8 its issued under this section and of the greenhouse gas  
9 emissions limitations established pursuant to section 703.

10 “(g) AVOIDING DOUBLE COUNTING.—The Adminis-  
11 trator, in consultation with the Secretary of State, shall  
12 seek, by whatever means appropriate, including agree-  
13 ments, arrangements, or technical cooperation, to ensure  
14 that activities on the basis of which international offset  
15 credits are issued under this section are not used for com-  
16 pliance with an obligation to reduce or avoid greenhouse  
17 gas emissions, or increase greenhouse gas sequestration,  
18 under a foreign or international regulatory system. In ad-  
19 dition, no international offset credits shall be issued for  
20 emission reductions from activities with respect to which  
21 emission allowances were allocated under section 771(d)  
22 for distribution under part E.

23 “(h) LIMITATION.—The Administrator shall not issue  
24 international offset credits generated by projects based on  
25 the destruction of hydrofluorocarbons.”

1 **SEC. 102. DEFINITIONS.**

2 Title VII of the Clean Air Act (as added by section  
3 101 of this division) is amended by inserting before part  
4 A the following:

5 **“SEC. 700. DEFINITIONS.**

6 “In this title:

7 “(1) **ADDITIONAL.**—The term ‘additional’,  
8 when used with respect to reductions or avoidance of  
9 greenhouse gas emissions, or to sequestration of  
10 greenhouse gases, means reductions, avoidance, or  
11 sequestration that result in a lower level of net  
12 greenhouse gas emissions or atmospheric concentra-  
13 tions than would occur in the absence of an offset  
14 credit.

15 “(2) **ADDITIONALITY.**—The term ‘additionality’  
16 means the extent to which reductions or avoidance  
17 of greenhouse gas emissions, or sequestration of  
18 greenhouse gases, are additional.

19 “(3) **ADVISORY BOARD.**—The term ‘Advisory  
20 Board’ means the Offsets Integrity Advisory Board  
21 established under section 731.

22 “(4) **AFFILIATED.**—The term ‘affiliated’—

23 “(A) when used in relation to an entity,  
24 means owned or controlled by, or under com-  
25 mon ownership or control with, another entity,  
26 as determined by the Administrator; and



1           “(B) when used in relation to a natural  
 2           gas local distribution company, means owned or  
 3           controlled by, or under common ownership or  
 4           control with, another natural gas local distribu-  
 5           tion company, as determined by the Adminis-  
 6           trator.

7           “(5) ALLOWANCE.—The term ‘allowance’  
 8           means a limited authorization to emit, or have at-  
 9           tributable greenhouse gas emissions in an amount  
 10          of, 1 ton of carbon dioxide equivalent of a green-  
 11          house gas in accordance with this title; it includes an  
 12          emission allowance, a compensatory allowance, or an  
 13          international emission allowance.

14          “(6) ATTRIBUTABLE GREENHOUSE GAS EMIS-  
 15          SIONS.—The term ‘attributable greenhouse gas emis-  
 16          sions’ means—

17               “(A) for a covered entity that is a fuel pro-  
 18               ducer or importer described in paragraph  
 19               (13)(B), greenhouse gases that would be emit-  
 20               ted from the combustion of any petroleum-  
 21               based or coal-based liquid fuel, petroleum coke,  
 22               or natural gas liquid, produced or imported by  
 23               that covered entity for sale or distribution in  
 24               interstate commerce, assuming no capture and  
 25               sequestration of any greenhouse gas emissions;

1           “(B) for a covered entity that is an indus-  
 2           trial gas producer or importer described in  
 3           paragraph (13)(C), the tons of carbon dioxide  
 4           equivalent of fossil fuel-based carbon dioxide,  
 5           nitrous oxide, any fluorinated gas, other than  
 6           nitrogen trifluoride, that is a greenhouse gas, or  
 7           any combination thereof—

8                   “(i) produced or imported by such  
 9                   covered entity during the previous calendar  
 10                  year for sale or distribution in interstate  
 11                  commerce; or

12                  “(ii) released as fugitive emissions in  
 13                  the production of fluorinated gas; and

14           “(C) for a natural gas local distribution  
 15           company described in paragraph (13)(J), green-  
 16           house gases that would be emitted from the  
 17           combustion of the natural gas, and any other  
 18           gas meeting the specifications for commingling  
 19           with natural gas for purposes of delivery, that  
 20           such entity delivered during the previous cal-  
 21           endar year to customers that are not covered  
 22           entities, assuming no capture and sequestration  
 23           of that greenhouse gas.

24           “(7) BIOLOGICAL SEQUESTRATION; BIO-  
 25           LOGICALLY SEQUESTERED.—The terms ‘biological

1 sequestration' and 'biologically sequestered' mean  
2 the removal of greenhouse gases from the atmos-  
3 phere by terrestrial biological means, such as by  
4 growing plants, and the storage of those greenhouse  
5 gases in plants or soils.

6 “(8) **CAPPED EMISSIONS.**—The term ‘capped  
7 emissions’ means greenhouse gas emissions to which  
8 section 722 applies, including emissions from the  
9 combustion of natural gas, petroleum-based or coal-  
10 based liquid fuel, petroleum coke, or natural gas liq-  
11 uid to which section 722(b)(2) or (8) applies.

12 “(9) **CAPPED SOURCE.**—The term ‘capped  
13 source’ means a source that directly emits capped  
14 emissions.

15 “(10) **CARBON DIOXIDE EQUIVALENT.**—The  
16 term ‘carbon dioxide equivalent’ means the unit of  
17 measure, expressed in metric tons, of greenhouse  
18 gases as provided under section 711 or 712.

19 “(11) **CARBON STOCK.**—The term ‘carbon  
20 stock’ means the quantity of carbon contained in a  
21 biological reservoir or system which has the capacity  
22 to accumulate or release carbon.

23 “(12) **COMPENSATORY ALLOWANCE.**—The term  
24 ‘compensatory allowance’ means an allowance issued  
25 under section 721(f).

1           “(13) COVERED ENTITY.—The term ‘covered  
2       entity’ means each of the following:

3           “(A) Any electricity source.

4           “(B)(i) Any stationary source that pro-  
5       duces petroleum-based or coal-based liquid fuel,  
6       petroleum coke, or natural gas liquid, the com-  
7       bustion of which would emit 25,000 or more  
8       tons of carbon dioxide equivalent, as determined  
9       by the Administrator.

10          “(ii) Any entity that (or any group of 2 or  
11       more affiliated entities that, in the aggregate)  
12       imports petroleum-based or coal-based liquid  
13       fuel, petroleum coke, or natural gas liquid, the  
14       combustion of which would emit 25,000 or more  
15       tons of carbon dioxide equivalent, as determined  
16       by the Administrator.

17          “(C) Any stationary source that produces,  
18       and any entity that (or any group of two or  
19       more affiliated entities that, in the aggregate)  
20       imports, for sale or distribution in interstate  
21       commerce, in bulk, or in products designated by  
22       the Administrator, in 2008 or any subsequent  
23       year more than 25,000 tons of carbon dioxide  
24       equivalent of—

25          “(i) fossil fuel-based carbon dioxide;

1 “(ii) nitrous oxide;

2 “(iii) except as otherwise provided in  
3 section 714, perfluorocarbons;

4 “(iv) sulfur hexafluoride;

5 “(v) any other fluorinated gas, except  
6 for nitrogen trifluoride, that is a green-  
7 house gas, as designated by the Adminis-  
8 trator under section 711(b) or (c); or

9 “(vi) any combination of greenhouse  
10 gases described in clauses (i) through (v).

11 “(D) Any stationary source that has emit-  
12 ted 25,000 or more tons of carbon dioxide  
13 equivalent of nitrogen trifluoride in 2008 or any  
14 subsequent year.

15 “(E) Any geologic sequestration site.

16 “(F) Any stationary source in the following  
17 industrial sectors:

18 “(i) Adipic acid production.

19 “(ii) Primary aluminum production.

20 “(iii) Ammonia manufacturing.

21 “(iv) Cement production, excluding  
22 grinding-only operations.

23 “(v) Hydrochlorofluorocarbon produc-  
24 tion.

25 “(vi) Lime manufacturing.

1 “(vii) Nitric acid production.

2 “(viii) Petroleum refining.

3 “(ix) Phosphoric acid production.

4 “(x) Silicon carbide production.

5 “(xi) Soda ash production.

6 “(xii) Titanium dioxide production.

7 “(xiii) Coal-based liquid or gaseous  
8 fuel production.

9 “(G) Any stationary source in the chemical  
10 or petrochemical sector that, in 2008 or any  
11 subsequent year—

12 “(i) produces acrylonitrile, carbon  
13 black, ethylene, ethylene dichloride, ethyl-  
14 ene oxide, or methanol; or

15 “(ii) produces a chemical or petro-  
16 chemical product if producing that product  
17 results in annual combustion plus process  
18 emissions of 25,000 or more tons of carbon  
19 dioxide equivalent.

20 “(H) Any stationary source that—

21 “(i) is in one of the following indus-  
22 trial sectors: ethanol production; ferroalloy  
23 production; fluorinated gas production;  
24 food processing; glass production; hydrogen  
25 production; metal ore production or other

1           processing; iron and steel production; lead  
 2           production; pulp and paper manufacturing;  
 3           and zinc production; and

4           “(ii) has emitted 25,000 or more tons  
 5           of carbon dioxide equivalent in 2008 or  
 6           any subsequent year.

7           “(I) Any fossil fuel-fired combustion device  
 8           (such as a boiler) or grouping of such devices  
 9           that—

10           “(i) is all or part of an industrial  
 11           source not specified in subparagraph (D),  
 12           (F), (G), or (H); and

13           “(ii) has emitted 25,000 or more tons  
 14           of carbon dioxide equivalent in 2008 or  
 15           any subsequent year.

16           “(J) Any natural gas local distribution  
 17           company that (or any group of 2 or more affili-  
 18           ated natural gas local distribution companies  
 19           that, in the aggregate) in 2008 or any subse-  
 20           quent year, delivers 460,000,000 cubic feet or  
 21           more of natural gas to customers that are not  
 22           covered entities.

23           “(14) CREDITING PERIOD.—The term ‘crediting  
 24           period’ means the period with respect to which an

1 offset project is eligible to earn offset credits under  
2 part D, as determined under section 734(e).

3 “(15) DESIGNATED REPRESENTATIVE.—The  
4 term ‘designated representative’ means, with respect  
5 to a covered entity, a reporting entity, an offset  
6 project developer, or any other entity receiving or  
7 holding allowances or offset credits under this title;  
8 an individual authorized, through a certificate of  
9 representation submitted to the Administrator by  
10 the owners and operators or similar entity official, to  
11 represent the owners and operators or similar entity  
12 official in all matters pertaining to this title (includ-  
13 ing the holding, transfer, or disposition of allowances  
14 or offset credits), and to make all submissions to the  
15 Administrator under this title.

16 “(16) DEVELOPING COUNTRY.—The term ‘de-  
17 veloping country’ means a country eligible to receive  
18 official development assistance according to the in-  
19 come guidelines of the Development Assistance Com-  
20 mittee of the Organization for Economic Coopera-  
21 tion and Development.

22 “(17) DOMESTIC OFFSET CREDIT.—

23 “(A) IN GENERAL.—The term ‘domestic  
24 offset credit’ means an offset credit issued



1           under part D, other than an international offset  
2           credit.

3           “(B) **EXCLUSION.**—The term ‘domestic  
4           offset credit’ does not include a term offset  
5           credit.

6           “(18) **ELECTRICITY SOURCE.**—The term ‘elec-  
7           tricity source’ means a stationary source that in-  
8           cludes one or more utility units.

9           “(19) **EMISSION.**—The term ‘emission’ means  
10          the release of a greenhouse gas into the ambient air.  
11          Such term does not include gases that are captured  
12          and sequestered, except to the extent that they are  
13          later released into the atmosphere, in which case  
14          compliance must be demonstrated pursuant to sec-  
15          tion 722(b)(5).

16          “(20) **EMISSION ALLOWANCE.**—The term ‘emis-  
17          sion allowance’ means an allowance established  
18          under section 721(a) or 726(g)(2).

19          “(21) **FAIR MARKET VALUE.**—The term ‘fair  
20          market value’ means the average daily closing price  
21          on registered exchanges or, if such a price is un-  
22          available, the average price as determined by the Ad-  
23          ministrator, during a specified time period, of an  
24          emission allowance.

1           “(22) FEDERAL LAND.—The term ‘Federal  
2           land’ means land that is owned by the United  
3           States, other than land held in trust for an Indian  
4           or Indian tribe.

5           “(23) FOSSIL FUEL.—The term ‘fossil fuel’  
6           means natural gas, petroleum, or coal, or any form  
7           of solid, liquid, or gaseous fuel derived from such  
8           material, including consumer products that are de-  
9           rived from such materials and are combusted.

10          “(24) FOSSIL FUEL-FIRED.—The term ‘fossil  
11          fuel-fired’ means powered by combustion of fossil  
12          fuel, alone or in combination with any other fuel, re-  
13          gardless of the percentage of fossil fuel consumed.

14          “(25) FUGITIVE EMISSIONS.—The term ‘fugi-  
15          tive emissions’ means emissions from leaks, valves,  
16          joints, or other small openings in pipes, ducts, or  
17          other equipment, or from vents.

18          “(26) GEOLOGIC SEQUESTRATION; GEOLOGI-  
19          CALLY SEQUESTERED.—The terms ‘geologic seques-  
20          tration’ and ‘geologically sequestered’ mean the se-  
21          questration of greenhouse gases in subsurface geo-  
22          logic formations for purposes of permanent storage.

23          “(27) GEOLOGIC SEQUESTRATION SITE.—The  
24          term ‘geologic sequestration site’ means a site where  
25          carbon dioxide is geologically sequestered.

1           “(28) GREENHOUSE GAS.—The term ‘green-  
 2       house gas’ means any gas described in section  
 3       711(a) or designated under section 711(b), (c), or  
 4       (e), except to the extent that it is regulated under  
 5       title VI.

6           “(29) HIGH CONSERVATION PRIORITY LAND.—  
 7       The term ‘high conservation priority land’ means  
 8       land that is not Federal land and is—

9           “(A) globally or State ranked as critically  
 10       imperiled or imperiled under a State Natural  
 11       Heritage Program; or

12          “(B) old-growth or late-successional forest,  
 13       as identified by the office of the State Forester  
 14       or relevant State agency with regulatory juris-  
 15       diction over forestry activities.

16          “(30) HOLD.—The term ‘hold’ means, with re-  
 17       spect to an allowance, offset credit, or term offset  
 18       credit, to have in the appropriate account in the al-  
 19       lowance tracking system, or submit to the Adminis-  
 20       trator for recording in such account.

21          “(31) INDUSTRIAL SOURCE.—The term ‘indus-  
 22       trial source’ means any stationary source that—

23           “(A) is not an electricity source; and

24           “(B) is in—

1 “(i) the manufacturing sector (as de-  
 2 fined in North American Industrial Classi-  
 3 fication System codes 31, 32, and 33); or

4 “(ii) the natural gas processing or  
 5 natural gas pipeline transportation sector  
 6 (as defined in North American Industrial  
 7 Classification System codes 211112 or  
 8 486210).

9 “(32) INTERNATIONAL EMISSION ALLOW-  
 10 ANCE.—The term ‘international emission allowance’  
 11 means a tradable authorization to emit 1 ton of car-  
 12 bon dioxide equivalent of greenhouse gas that is  
 13 issued by a national or supranational foreign govern-  
 14 ment pursuant to a qualifying international program  
 15 designated by the Administrator pursuant to section  
 16 728(a).

17 “(33) INTERNATIONAL OFFSET CREDIT.—The  
 18 term ‘international offset credit’ means an offset  
 19 credit issued by the Administrator under section  
 20 744.

21 “(34) LEAKAGE.—The term ‘leakage’ means a  
 22 significant increase in greenhouse gas emissions; or  
 23 significant decrease in sequestration, which is caused  
 24 by an offset project and occurs outside the bound-  
 25 aries of the offset project.

1           “(35) MARKET STABILITY RESERVE ALLOW-  
 2           ANCE.—The term ‘market stability reserve allow-  
 3           ance’ means an emission allowance reserved for,  
 4           transferred to, or deposited in the market stability  
 5           reserve, or established, under section 726.

6           “(36) MINERAL SEQUESTRATION.—The term  
 7           ‘mineral sequestration’ means sequestration of car-  
 8           bon dioxide from the atmosphere by capturing car-  
 9           bon dioxide into a permanent mineral, such as the  
 10          aqueous precipitation of carbonate minerals that re-  
 11          sults in the storage of carbon dioxide in a mineral  
 12          form.

13          “(37) NATURAL GAS LIQUID.—The term ‘nat-  
 14          ural gas liquid’ means ethane, butane, isobutane,  
 15          natural gasoline, and propane which is ready for  
 16          commercial sale or use.

17          “(38) NATURAL GAS LOCAL DISTRIBUTION  
 18          COMPANY.—The term ‘natural gas local distribution  
 19          company’ has the meaning given the term ‘local dis-  
 20          tribution company’ in section 2(17) of the Natural  
 21          Gas Policy Act of 1978 (15 U.S.C. 3301(17)).

22          “(39) OFFSET CREDIT.—

23                 “(A) IN GENERAL.—The term ‘offset cred-  
 24                 it’ means an offset credit issued under part D.

1                   “(B) EXCLUSION.—The term ‘offset credit’  
2                   does not include a term offset credit.

3                   ~~“(40) OFFSET PROJECT.—The term ‘offset~~  
4                   ~~project’ means a project or activity that reduces or~~  
5                   ~~avoids greenhouse gas emissions, or sequesters~~  
6                   ~~greenhouse gases, and for which offset credits are or~~  
7                   ~~may be issued under part D.~~

8                   ~~“(41) OFFSET PROJECT DEVELOPER.—The~~  
9                   ~~term ‘offset project developer’ means the individual~~  
10                  ~~or entity designated as the offset project developer~~  
11                  ~~in an offset project approval petition under section~~  
12                  ~~735(c)(1).~~

13                  ~~“(42) QUALIFIED R&D FACILITY.—The term~~  
14                  ~~‘qualified R&D facility’ means a facility that con-~~  
15                  ~~ducts research and development, that was in oper-~~  
16                  ~~ation as of the date of enactment of this title, and~~  
17                  ~~that is part of a covered entity subject to paragraphs~~  
18                  ~~(1) through (8) of section 722(b).~~

19                  ~~“(43) PETROLEUM.—The term ‘petroleum’ in-~~  
20                  ~~cludes crude oil, tar sands, oil shale, and heavy oils.~~

21                  ~~“(44) REPEATED INTENTIONAL REVERSALS.—~~  
22                  ~~The term ‘repeated intentional reversals’ means at~~  
23                  ~~least 3 intentional reversals, as determined by the~~  
24                  ~~Administrator or a court under section~~  
25                  ~~734(b)(3)(B)(ii).~~

1           “(45) RESEARCH AND DEVELOPMENT.—The  
2       term ‘research and development’ means activities—

3           “(A) that are conducted in process units or  
4       at laboratory bench-scale settings;

5           “(B) whose purpose is to conduct research  
6       and development for new processes, tech-  
7       nologies, or products that contribute to lower  
8       greenhouse gas emissions; and

9           “(C) that do not manufacture products for  
10      sale.

11          “(46) RENEWABLE BIOMASS.—The term ‘re-  
12      newable biomass’ means any of the following:

13           “(A) Plant material, including waste mate-  
14      rial, harvested or collected from actively man-  
15      aged agricultural land that was in cultivation,  
16      cleared, or fallow and nonforested on January  
17      1, 2009.

18           “(B) Plant material, including waste mate-  
19      rial, harvested or collected from pastureland  
20      that was nonforested on January 1, 2009.

21           “(C) Nonhazardous vegetative matter de-  
22      rived from waste, including separated yard  
23      waste, landscape right-of-way trimmings, con-  
24      struction and demolition debris, or food waste  
25      (but not municipal solid waste, recyclable waste

1 paper, painted, treated or pressurized wood, or  
2 wood contaminated with plastic or metals).

3 “(D) Animal waste or animal byproducts,  
4 including products of animal waste digesters.

5 “(E) Algae.

6 “(F) Trees, brush, slash, residues, or any  
7 other vegetative matter removed from within  
8 600 feet of any building, campground, or route  
9 designated for evacuation by a public official  
10 with responsibility for emergency preparedness,  
11 or from within 300 feet of a paved road, electric  
12 transmission line, utility tower, or water supply  
13 line.

14 “(G) Residues from or byproducts of  
15 milled logs.

16 “(H) Any of the following removed from  
17 forested land that is not Federal and is not  
18 high conservation priority land:

19 “(i) Trees, brush, slash, residues,  
20 interplanted energy crops, or any other  
21 vegetative matter removed from an actively  
22 managed tree plantation established—

23 “(I) prior to January 1, 2009; or



1                   “(H) on land that, as of January  
2                   1, 2009, was cultivated or fallow and  
3                   non-forested.

4                   “(ii) Trees, logging residue, thinnings,  
5                   cull trees, pulpwood, and brush removed  
6                   from naturally regenerated forests or other  
7                   non-plantation forests, including for the  
8                   purposes of hazardous fuel reduction or  
9                   preventative treatment for reducing or con-  
10                  taining insect or disease infestation.

11                  “(iii) Logging residue, thinnings, cull  
12                  trees, pulpwood, brush, and species that  
13                  are non-native and noxious, from stands  
14                  that were planted and managed after Jan-  
15                  uary 1, 2009, to restore or maintain native  
16                  forest types.

17                  “(iv) Dead or severely damaged trees  
18                  removed within 5 years of fire, blowdown,  
19                  or other natural disaster, and badly in-  
20                  fested trees.

21                  “(I) Materials, pre-commercial thinnings,  
22                  or removed invasive species from National For-  
23                  est System land and public lands (as defined in  
24                  section 103 of the Federal Land Policy and  
25                  Management Act of 1976 (43 U.S.C. 1702)),

1 including those that are byproducts of preven-  
2 tive treatments (such as trees, wood, brush,  
3 thinnings, chips, and slash), that are removed  
4 as part of a federally recognized timber sale, or  
5 that are removed to reduce hazardous fuels, to  
6 reduce or contain disease or insect infestation,  
7 or to restore ecosystem health, and that are—

8 “(i) not from components of the Na-  
9 tional Wilderness Preservation System,  
10 Wilderness Study Areas, Inventoried  
11 Roadless Areas, old growth or mature for-  
12 est stands, components of the National  
13 Landscape Conservation System, National  
14 Monuments, National Conservation Areas,  
15 Designated Primitive Areas, or Wild and  
16 Scenic Rivers corridors;

17 “(ii) harvested in environmentally sus-  
18 tainable quantities, as determined by the  
19 appropriate Federal land manager; and

20 “(iii) are harvested in accordance with  
21 Federal and State law, and applicable land  
22 management plans.

23 “(47) RETIRE.—The term ‘retire’, with respect  
24 to an allowance, offset credit, or term offset credit  
25 established or issued under this title, means to dis-

1 qualify such allowance or offset credit for any subse-  
2 quent use under this title, regardless of whether the  
3 use is a sale, exchange, or submission of the allow-  
4 ance, offset credit, or term offset credit to satisfy a  
5 compliance obligation.

6 “(48) REVERSAL.—The term ‘reversal’ means  
7 an intentional or unintentional loss of sequestered  
8 greenhouse gases to the atmosphere.

9 “(49) SEQUESTERED AND SEQUESTRATION.—  
10 The terms ‘sequestered’ and ‘sequestration’ mean  
11 the separation, isolation, or removal of greenhouse  
12 gases from the atmosphere, as determined by the  
13 Administrator. The terms include biological, geo-  
14 logic, and mineral sequestration, but do not include  
15 ocean fertilization techniques.

16 “(50) STATIONARY SOURCE.—The term ‘sta-  
17 tionary source’ means any integrated operation com-  
18 prising any plant, building, structure, or stationary  
19 equipment, including support buildings and equip-  
20 ment, that is located within one or more contiguous  
21 or adjacent properties, is under common control of  
22 the same person or persons, and emits or may emit  
23 a greenhouse gas.

24 “(51) TON.—The term ‘ton’ means a metric  
25 ton.

1           “(52) **UNCAPPED EMISSIONS.**—The term ‘un-  
 2 capped emissions’ means emissions of greenhouse  
 3 gases emitted after December 31, 2011, that are not  
 4 capped emissions.

5           “(53) **UNITED STATES GREENHOUSE GAS EMIS-**  
 6 **SIONS.**—The term ‘United States greenhouse gas  
 7 emissions’ means the total quantity of annual green-  
 8 house gas emissions from the United States, as cal-  
 9 culated by the Administrator and reported to the  
 10 United Nations Framework Convention on Climate  
 11 Change Secretariat.

12           “(54) **UTILITY UNIT.**—The term ‘utility unit’  
 13 means a combustion device that, on January 1,  
 14 2009, or any date thereafter, is fossil fuel-fired and  
 15 serves a generator that produces electricity for sale;  
 16 unless such combustion device, during the 12-month  
 17 period starting the later of January 1, 2009, or the  
 18 commencement of commercial operation and each  
 19 calendar year starting after such later date—

20           “(A) is part of an integrated cycle system  
 21 that cogenerates steam and electricity during  
 22 normal operation and that supplies one-third or  
 23 less of its potential electric output capacity and  
 24 25 MW or less of electrical output for sale; or

1           “(B) combusts materials of which more  
2           than 95 percent is municipal solid waste on a  
3           heat input basis.

4           “(55) VINTAGE YEAR.—The term ‘vintage year’  
5           means the calendar year for which an emission al-  
6           lowance is established under section 721(a) or which  
7           is assigned to an emission allowance under section  
8           726(g)(3)(A), except that the vintage year for a  
9           market stability reserve allowance shall be the year  
10          in which such allowance is purchased at auction.”.

11 **SEC. 103. OFFSET REPORTING REQUIREMENTS.**

12          Section 114 of Clean Air Act (42 U.S.C. 7414) is  
13          amended by adding at the end the following:

14          “(e) RECORDKEEPING FOR CARBON OFFSETS PRO-  
15          GRAM.—For the purpose of implementing the carbon off-  
16          sets program set forth in subtitle D of title VII, the Ad-  
17          ministrator shall require any person who is an offset  
18          project developer, and may require any person who is a  
19          third-party verifier, to establish and maintain records, for  
20          a period of not less than the crediting period under section  
21          734(c) plus 5 years, relating to—

22               “(1) any offset project approval petition sub-  
23               mitted to the appropriate officials under section 735;

24               “(2) any reversals which occur with respect to  
25               an offset project;

1           ~~“(3) any verification reports; and~~  
 2           ~~“(4) any other aspect of the offset project that~~  
 3           ~~the appropriate officials determines is appropriate.”.~~

## 4           **Subtitle B—Disposition of** 5           **Allowances**

6   **SEC. 111. DISPOSITION OF ALLOWANCES FOR GLOBAL**  
 7           **WARMING POLLUTION REDUCTION PRO-**  
 8           **GRAM.**

9           Title VII of the Clean Air Act (as amended by section  
 10   ~~141~~ of this division) is amended by adding at the end the  
 11   following:

### 12           **“PART H—DISPOSITION OF ALLOWANCES**

13   **“SEC. 771. ALLOCATION OF EMISSION ALLOWANCES.**

14           ~~“(a) ALLOCATION.—The Administrator shall allocate~~  
 15   ~~emission allowances for the following purposes:~~

16           ~~“(1) The program for electricity consumers pur-~~  
 17   ~~suant to section 772.~~

18           ~~“(2) The program for natural gas consumers~~  
 19   ~~pursuant to section 773.~~

20           ~~“(3) The program for home heating oil and pro-~~  
 21   ~~pane consumers pursuant to section 774.~~

22           ~~“(4) The program for domestic fuel production;~~  
 23   ~~including petroleum refiners and small business re-~~  
 24   ~~finers, under section 775.~~

1           “(5) The program to ensure real reductions in  
2       industrial emissions under part F.

3           “(6) The program for commercial deployment  
4       of carbon capture and sequestration technologies  
5       under section 780.

6           “(7) The program for early action recognition  
7       pursuant to section 782.

8           “(8) The program for State and local invest-  
9       ment in energy efficiency and renewable energy  
10      under section 202 of division B of the Clean Energy  
11      Jobs and American Power Act.

12          “(9) The program for energy efficiency in build-  
13      ing codes under section 163 of division A, and sec-  
14      tion 203 of division B, of the Clean Energy Jobs  
15      and American Power Act.

16          “(10) The program for retrofit for energy and  
17      environmental performance under section 164 of di-  
18      vision A, and 204 of division B, of the Clean Energy  
19      Jobs and American Power Act.

20          “(11) The program for Energy Innovation  
21      Hubs pursuant to section 205 of division B of the  
22      Clean Energy Jobs and American Power Act.

23          “(12) The program for ARPA-E research pur-  
24      suant to section 206 of division B of the Clean En-  
25      ergy Jobs and American Power Act.

1           “(13) The International Clean Energy Deploy-  
2           ment Program under section 323 of division A, and  
3           section 207 of division B, of the Clean Energy Jobs  
4           and American Power Act.

5           “(14) The international climate change adapta-  
6           tion and global security program under section 324  
7           of division A, and section 208 of division B, of the  
8           Clean Energy Jobs and American Power Act.

9           “(b) AUCTIONS.—The Administrator shall auction,  
10          pursuant to section 778, emission allowances for the fol-  
11          lowing purposes:

12           “(1) The Market Stability Reserve Fund under  
13          section 726.

14           “(2) The program for climate change consumer  
15          refunds and low- and moderate-income consumers  
16          pursuant to section 776, including—

17           “(A) consumer rebates under section  
18          776(a); and

19           “(B) energy refunds under section 776(b).

20           “(3) The program for investment in clean vehi-  
21          cle technology under section 201 of division B of the  
22          Clean Energy Jobs and American Power Act.

23           “(4) The program for State and local invest-  
24          ment in energy efficiency and renewable energy



1 under section 202 of division B of the Clean Energy  
2 Jobs and American Power Act.

3 “(5) The program for energy efficiency and re-  
4 newable energy worker training under section 209 of  
5 division B of the Clean Energy Jobs and American  
6 Power Act.

7 “(6) The program for worker transition under  
8 part 2 of subtitle A of title III of division A, and  
9 section 210 of division B, of the Clean Energy Jobs  
10 and American Power Act.

11 “(7) The State programs for greenhouse gas re-  
12 duction and climate adaptation pursuant to section  
13 211 of division B of the Clean Energy Jobs and  
14 American Power Act.

15 “(8) The program for public health and climate  
16 change under subpart B of part 1 of subtitle C of  
17 title III of division A, and section 212 of division B,  
18 of the Clean Energy Jobs and American Power Act.

19 “(9) The program for climate change safe-  
20 guards for natural resources conservation under sub-  
21 part C of part 1 of subtitle C of title III of division  
22 A, and section 213 of division B, of the Clean En-  
23 ergy Jobs and American Power Act.

1           “(10) Nuclear worker training under section  
2           132 of division A, and section 214 of division B, of  
3           the Clean Energy Jobs and American Power Act.

4           “(11) The supplemental agriculture and for-  
5           estry greenhouse gas reduction and renewable en-  
6           ergy program under section 155 of division A, and  
7           section 215 of division B, of the Clean Energy Jobs  
8           and American Power Act.

9           “(c) DEFICIT REDUCTION.—

10           “(1) IN GENERAL.—The Administrator shall—

11                   “(A) auction, pursuant to section 778,  
12                   emission allowances for deficit reduction in the  
13                   amounts described in paragraph (2); and

14                   “(B) deposit those proceeds immediately  
15                   on receipt in the Deficit Reduction Fund estab-  
16                   lished by section 783.

17           “(2) AMOUNTS.—For vintage years 2012  
18           through 2050, 25.0 percent of emission allowances  
19           established for each year under section 721(a) shall  
20           be auctioned and the proceeds deposited pursuant to  
21           paragraph (1) to ensure that this title does not con-  
22           tribute to the deficit for that particular calendar  
23           year.

24           “(d) SUPPLEMENTAL REDUCTIONS.—

1           “(1) IN GENERAL.—The Administrator shall al-  
 2       locate allowances for each vintage year to achieve  
 3       supplemental reductions pursuant to section 753.

4           “(2) ADJUSTMENT.—The Administrator shall  
 5       modify the allowances allocated under paragraph (1)  
 6       as necessary to ensure the achievement of the an-  
 7       nual supplemental emissions reduction objective for  
 8       2020 set forth in section 704.

9       **“SEC. 772. ELECTRICITY CONSUMERS.**

10       “(a) DEFINITIONS.—For purposes of this section:

11           “(1) CHP SAVINGS.—The term ‘CHP savings’  
 12       means—

13           “(A) CHP system savings from a combined  
 14       heat and power system that commences oper-  
 15       ation after the date of enactment of this sec-  
 16       tion; and

17           “(B) the increase in CHP system savings  
 18       from, at any time after the date of the enact-  
 19       ment of this section, upgrading, replacing, ex-  
 20       panding, or increasing the utilization of a com-  
 21       bined heat and power system that commenced  
 22       operation on or before the date of enactment of  
 23       this section.

24           “(2) CHP SYSTEM SAVINGS.—The term ‘CHP  
 25       system savings’ means the increment of electric out-

put of a combined heat and power system that is attributable to the higher efficiency of the combined system (as compared to the efficiency of separate production of the electric and thermal outputs).

“(3) COAL-FUELED UNIT.—The term ‘coal-fueled unit’ means a utility unit that derives at least 85 percent of its heat input from coal, petroleum coke, or any combination of those 2 fuels.

“(4) COST-EFFECTIVE.—The term ‘cost-effective’, with respect to an energy efficiency program, means that the program meets the total resource cost test, which requires that the net present value of economic benefits over the life of the program, including avoided supply and delivery costs and deferred or avoided investments, is greater than the net present value of the economic costs over the life of the program, including program costs and incremental costs borne by the energy consumer.

“(5) ELECTRICITY LOCAL DISTRIBUTION COMPANY.—The term ‘electricity local distribution company’ means an electric utility—

“(A) that has a legal, regulatory, or contractual obligation to deliver electricity directly to retail consumers in the United States, regardless of whether that entity or another enti-

ty sells the electricity as a commodity to those  
retail consumers; and

“(B) the retail rates of which, except in  
the case of an electric cooperative, are regulated  
or set by—

“(i) a State regulatory authority;

“(ii) a State or political subdivision  
thereof (or an agency or instrumentality  
of, or corporation wholly owned by, either  
of the foregoing); or

“(iii) an Indian tribe pursuant to trib-  
al law.

“(6) ELECTRICITY SAVINGS.—The term ‘elec-  
tricity savings’ means reductions in electricity con-  
sumption, relative to business-as-usual projections,  
achieved through measures implemented after the  
date of enactment of this section, limited to—

“(A) customer facility savings of elec-  
tricity, adjusted to reflect any associated in-  
crease in fuel consumption at the facility;

“(B) reductions in distribution system  
losses of electricity achieved by a retail elec-  
tricity distributor, as compared to losses attrib-  
utable to new or replacement distribution sys-  
tem equipment of average efficiency;

1                   ~~“(C) CHP savings; and~~

2                   ~~“(D) fuel cell savings.~~

3                   ~~“(7) FUEL CELL.—The term ‘fuel cell’ means a~~  
 4                   ~~device that directly converts the chemical energy of~~  
 5                   ~~a fuel and an oxidant into electricity by electro-~~  
 6                   ~~chemical processes occurring at separate electrodes~~  
 7                   ~~in the device.~~

8                   ~~“(8) FUEL CELL SAVINGS.—The term ‘fuel cell~~  
 9                   ~~savings’ means the electricity saved by a fuel cell~~  
 10                   ~~that is installed after the date of enactment of this~~  
 11                   ~~section; or by upgrading a fuel cell that commenced~~  
 12                   ~~operation on or before the date of enactment of this~~  
 13                   ~~section; as a result of the greater efficiency with~~  
 14                   ~~which the fuel cell transforms fuel into electricity as~~  
 15                   ~~compared with sources of electricity delivered~~  
 16                   ~~through the grid; provided that—~~

17                   ~~“(A) the fuel cell meets such requirements~~  
 18                   ~~relating to efficiency and other operating char-~~  
 19                   ~~acteristics as the Federal Energy Regulatory~~  
 20                   ~~Commission may promulgate by regulation; and~~

21                   ~~“(B) the net sales of electricity from the~~  
 22                   ~~fuel cell to customers not consuming the ther-~~  
 23                   ~~mal output from the fuel cell, if any, do not ex-~~  
 24                   ~~ceed 50 percent of the total annual electricity~~  
 25                   ~~generation by the fuel cell.~~

1           “(9) INDEPENDENT POWER PRODUCTION FA-  
2           CILTY.—The term ‘independent power production  
3           facility’ means a facility—

4           “(A) that is used for the generation of  
5           electric energy, at least 80 percent of which is  
6           sold at wholesale; and

7           “(B) the sales of the output of which are  
8           not subject to retail rate regulation or setting  
9           of retail rates by—

10           “(i) a State regulatory authority;

11           “(ii) a State or political subdivision  
12           thereof (or an agency or instrumentality  
13           of, or corporation wholly owned by, either  
14           of the foregoing);

15           “(iii) an electric cooperative; or

16           “(iv) an Indian tribe pursuant to trib-  
17           al law.

18           “(10) LONG-TERM CONTRACT GENERATOR.—

19           The term ‘long-term contract generator’ means a  
20           qualifying small power production facility, a quali-  
21           fying cogeneration facility ); an independent power  
22           production facility, or a facility for the production of  
23           electric energy for sale to others that is owned and  
24           operated by an electric cooperative that is—

25           “(A) a covered entity; and

1           “(B) as of the date of enactment of this  
2 title—

3           “(i) a facility with 1 or more sales or  
4 tolling agreements executed before March  
5 1, 2007, that govern the facility’s elec-  
6 tricity sales and provide for sales at a price  
7 (whether a fixed price or a price formula)  
8 for electricity that does not allow for recov-  
9 ery of the costs of compliance with the lim-  
10 itation on greenhouse gas emissions under  
11 this title; provided that such agreements  
12 are not between entities that are affiliates  
13 of one another; or

14           “(ii) a facility consisting of 1 or more  
15 cogeneration units that makes useful ther-  
16 mal energy available to an industrial or  
17 commercial process with 1 or more sales  
18 agreements executed before March 1,  
19 2007, that govern the facility’s useful ther-  
20 mal energy sales and provide for sales at  
21 a price (whether a fixed price or price for-  
22 mula) for useful thermal energy that does  
23 not allow for recovery of the costs of com-  
24 pliance with the limitation on greenhouse  
25 gas emissions under this title; provided



1           that such agreements are not between enti-  
 2           ties that are affiliates of one another.

3           ~~“(11) MERCHANT COAL UNIT.—~~The term ‘mer-  
 4           chant coal unit’ means a coal-fueled unit that—

5           ~~“(A) is or is part of a covered entity;~~

6           ~~“(B) is not owned by a Federal, State, or~~  
 7           ~~regional agency or power authority; and~~

8           ~~“(C) generates electricity solely for sale to~~  
 9           ~~others; provided that all or a portion of such~~  
 10          ~~sales are made by a separate legal entity that—~~

11          ~~“(i) has a full or partial ownership or~~  
 12          ~~leasehold interest in the unit, as certified~~  
 13          ~~in accordance with such requirements as~~  
 14          ~~the Administrator shall prescribe; and~~

15          ~~“(ii) is not subject to retail rate regu-~~  
 16          ~~lation or setting of retail rates by—~~

17          ~~“(I) a State regulatory authority;~~

18          ~~“(II) a State or political subdivi-~~  
 19          ~~sion thereof (or an agency or instru-~~  
 20          ~~mentality of, or corporation wholly~~  
 21          ~~owned by, either of the foregoing);~~

22          ~~“(III) an electric cooperative; or~~

23          ~~“(IV) an Indian tribe pursuant~~  
 24          ~~to tribal law.~~

1           “(12) MERCHANT COAL UNIT SALES.—The  
2           term ‘merchant coal unit sales’ means sales to oth-  
3           ers of electricity generated by a merchant coal unit  
4           that are made by the owner or leaseholder described  
5           in paragraph (11)(C).

6           “(13) NEW COAL-FUELED UNIT.—The term  
7           ‘new coal-fueled unit’ means a coal-fueled unit that  
8           commenced operation on or after January 1, 2009  
9           and before January 1, 2013.

10          “(14) NEW MERCHANT COAL UNIT.—The term  
11          ‘new merchant coal unit’ means a merchant coal  
12          unit—

13                 “(A) that commenced operation on or after  
14                 January 1, 2009 and before January 1, 2013;  
15                 and

16                 “(B) the actual, on-site construction of  
17                 which commenced prior to January 1, 2009.

18          “(15) QUALIFIED HYDROPOWER.—The term  
19          ‘qualified hydropower’ means—

20                 “(A) energy produced from increased effi-  
21                 ciency achieved, or additions of capacity made,  
22                 on or after January 1, 1988, at a hydroelectric  
23                 facility that was placed in service before that  
24                 date and does not include additional energy  
25                 generated as a result of operational changes not

1 directly associated with efficiency improvements  
2 or capacity additions; or

3 “(B) energy produced from generating ca-  
4 pacity added to a dam on or after January 1,  
5 1988, provided that the Federal Energy Regu-  
6 latory Commission certifies that—

7 “(i) the dam was placed in service be-  
8 fore the date of the enactment of this sec-  
9 tion and was operated for flood control,  
10 navigation, or water supply purposes and  
11 was not producing hydroelectric power  
12 prior to the addition of such capacity;

13 “(ii) the hydroelectric project installed  
14 on the dam is licensed (or is exempt from  
15 licensing) by the Federal Energy Regu-  
16 latory Commission and is in compliance  
17 with the terms and conditions of the li-  
18 cense or exemption, and with other appli-  
19 cable legal requirements for the protection  
20 of environmental quality, including applica-  
21 ble fish passage requirements; and

22 “(iii) the hydroelectric project in-  
23 stalled on the dam is operated so that the  
24 water surface elevation at any given loca-  
25 tion and time that would have occurred in

the absence of the hydroelectric project is maintained, subject to any license or exemption requirements that require changes in water surface elevation for the purpose of improving the environmental quality of the affected waterway.

~~“(16) QUALIFYING SMALL POWER PRODUCTION FACILITY; QUALIFYING COGENERATION FACILITY.—~~

The terms ‘qualifying small power production facility’ and ‘qualifying cogeneration facility’ have the meanings given those terms in section ~~3(17)(C) and 3(18)(B)~~ of the Federal Power Act (~~16 U.S.C. 796(17)(C) and 796(18)(B)~~).

~~“(17) RENEWABLE ENERGY RESOURCE.—The term ‘renewable energy resource’ means each of the following:~~

~~“(A) Wind energy.~~

~~“(B) Solar energy.~~

~~“(C) Geothermal energy.~~

~~“(D) Renewable biomass.~~

~~“(E) Biogas derived exclusively from renewable biomass.~~

~~“(F) Biofuels derived exclusively from renewable biomass.~~

~~“(G) Qualified hydropower.~~

1           “(H) Marine and hydrokinetic renewable  
2           energy, as that term is defined in section 632  
3           of the Energy Independence and Security Act  
4           of 2007 (42 U.S.C. 17211).

5           “(18) SMALL LDC.—The term ‘small LDC’  
6           means, for any given year, an electricity local dis-  
7           tribution company that delivered less than 4,000,000  
8           megawatt hours of electric energy directly to retail  
9           consumers in the preceding year.

10          “(19) STATE REGULATORY AUTHORITY.—The  
11          term ‘State regulatory authority’ has the meaning  
12          given that term in section 3(17) of the Public Utility  
13          Regulatory Policies Act of 1978 (16 U.S.C.  
14          2602(17)).

15          “(20) USEFUL THERMAL ENERGY.—The term  
16          ‘useful thermal energy’ has the meaning given that  
17          term in section 371(7) of the Energy Policy and  
18          Conservation Act (42 U.S.C. 6341(7)).

19          “(b) ELECTRICITY LOCAL DISTRIBUTION COMPA-  
20          NIES.—

21          “(1) DISTRIBUTION OF ALLOWANCES.—The  
22          Administrator shall distribute to electricity local dis-  
23          tribution companies for the benefit of retail rate-  
24          payers the quantity of emission allowances allocated  
25          for the following vintage year pursuant to section

771(a)(1). Notwithstanding the preceding sentence, the Administrator shall withhold from distribution under this subsection a quantity of emission allowances equal to the lesser of 14.3 percent of the quantity of emission allowances allocated under section 771(a)(1) for the relevant vintage year, or 105 percent of the emission allowances for the relevant vintage year that the Administrator anticipates will be distributed to merchant coal units and to long-term contract generators, respectively, under subsections (c) and (d). If not required by subsections (c) and (d) to distribute all of these reserved allowances, the Administrator shall distribute any remaining emission allowances to electricity local distribution companies in accordance with this subsection.

~~“(2) DISTRIBUTION BASED ON EMISSIONS.—~~

~~“(A) IN GENERAL.—For each vintage year, 50 percent of the emission allowances available for distribution under paragraph (1), after reserving allowances for distribution under subsections (c) and (d), shall be distributed by the Administrator among individual electricity local distribution companies ratably based on the annual average carbon dioxide emissions attributable to generation of electricity delivered at~~

1 retail by each such company during the base  
 2 period determined under subparagraph (B).

3 ~~“(B) BASE PERIOD.—~~

4 ~~“(i) VINTAGE YEARS 2012 AND 2013.—~~

5 ~~For vintage years 2012 and 2013, an elec-~~  
 6 ~~tricity local distribution company’s base~~  
 7 ~~period shall be—~~

8 ~~“(I) calendar years 2006 through~~  
 9 ~~2008; or~~

10 ~~“(II) any 3 consecutive calendar~~  
 11 ~~years between 1999 and 2008, inclu-~~  
 12 ~~sive; that such company selects, pro-~~  
 13 ~~vided that the company timely informs~~  
 14 ~~the Administrator of such selection.~~

15 ~~“(ii) VINTAGE YEARS 2014 AND~~  
 16 ~~THEREAFTER.—For vintage years 2014~~  
 17 ~~and thereafter, the base period shall be—~~

18 ~~“(I) the base period selected~~  
 19 ~~under clause (i); or~~

20 ~~“(II) calendar year 2012, in the~~  
 21 ~~case of an electricity local distribution~~  
 22 ~~company that owns, co-owns, or pur-~~  
 23 ~~chases through a power purchase~~  
 24 ~~agreement (whether directly or~~  
 25 ~~through a cooperative arrangement) a~~

substantial portion of the electricity generated by a new coal-fueled unit, provided that such company timely informs the Administrator of its election to use 2012 as its base period.

~~“(C) DETERMINATION OF EMISSIONS.—~~

~~“(i) DETERMINATION FOR 1999–2008.—As part of the regulations promulgated pursuant to subsection (g), the Administrator, after consultation with the Energy Information Administration, shall determine the average amount of carbon dioxide emissions attributable to generation of electricity delivered at retail by each electricity local distribution company for each of the years 1999 through 2008, taking into account entities’ electricity generation, electricity purchases, and electricity sales. In the case of any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by, a coal-fueled unit that commenced op-~~



1           eration after January 1, 2006, and before  
2           December 31, 2008, the Administrator  
3           shall adjust the emissions attributable to  
4           such company's retail deliveries in calendar  
5           years 2006 through 2008 to reflect the  
6           emissions that would have occurred if the  
7           relevant unit were in operation during the  
8           entirety of such 3-year period.

9           “(ii) ADJUSTMENTS FOR NEW COAL-  
10          FUELED UNITS.—

11           “(I) VINTAGE YEARS 2012 AND  
12          2013.—For purposes of emission al-  
13          lowance distributions for vintage years  
14          2012 and 2013, in the case of any  
15          electricity local distribution company  
16          that owns, co-owns, or purchases  
17          through a power purchase agreement  
18          (whether directly or through a cooper-  
19          ative arrangement) a substantial por-  
20          tion of the electricity generated by, a  
21          new coal-fueled unit, the Adminis-  
22          trator shall adjust the emissions at-  
23          tributable to such company's retail de-  
24          liveries in the applicable base period  
25          to reflect the emissions that would

1 have occurred if the new coal-fueled  
2 unit were in operation during such pe-  
3 riod.

4 “(H) VINTAGE YEAR 2014 AND  
5 THEREAFTER.—Not later than nec-  
6 essary for use in making emission al-  
7 lowance distributions under this sub-  
8 section for vintage year 2014, the Ad-  
9 ministrator shall, for any electricity  
10 local distribution company that owns,  
11 co-owns, or purchases through a  
12 power purchase agreement (whether  
13 directly or through a cooperative ar-  
14 rangement) a substantial portion of  
15 the electricity generated by a new  
16 coal-fueled unit and has selected cal-  
17 endar year 2012 as its base period  
18 pursuant to subparagraph (B)(ii)(H),  
19 determine the amount of carbon diox-  
20 ide emissions attributable to genera-  
21 tion of electricity delivered at retail by  
22 such company in calendar year 2012.  
23 If the relevant new coal-fueled unit  
24 was not yet operational by January 1,  
25 2012, the Administrator shall adjust

1           such determination to reflect the  
2           emissions that would have occurred if  
3           such unit were in operation for all of  
4           calendar year 2012.

5           “(iii) REQUIREMENTS.—Determina-  
6           tions under this paragraph shall be as pre-  
7           cise as practicable, taking into account the  
8           nature of data currently available and the  
9           nature of markets and regulation in effect  
10          in various regions of the country. The fol-  
11          lowing requirements shall apply to such de-  
12          terminations:

13               “(I) The Administrator shall de-  
14               termine the amount of fossil fuel-  
15               based electricity delivered at retail by  
16               each electricity local distribution com-  
17               pany, and shall use appropriate emis-  
18               sion factors to calculate carbon diox-  
19               ide emissions associated with the gen-  
20               eration of such electricity.

21               “(II) Where it is not practical to  
22               determine the precise fuel mix for the  
23               electricity delivered at retail by an in-  
24               dividual electricity local distribution  
25               company, the Administrator may use

1 the best available data, including aver-  
 2 age data on a regional basis with ref-  
 3 erence to Regional Transmission Or-  
 4 ganizations or regional entities (as  
 5 that term is defined in section  
 6 215(a)(7) of the Federal Power Act  
 7 (16 U.S.C. 824o(a)(7)), to estimate  
 8 fuel mix and emissions. Different  
 9 methodologies may be applied in dif-  
 10 ferent regions if appropriate to obtain  
 11 the most accurate estimate.

12 ~~“(3) DISTRIBUTION BASED ON DELIVERIES.—~~

13 ~~“(A) INITIAL FORMULA.—Except as pro-~~  
 14 ~~vided in subparagraph (B), for each vintage~~  
 15 ~~year, the Administrator shall distribute 50 per-~~  
 16 ~~cent of the emission allowances available for~~  
 17 ~~distribution under paragraph (1), after reserv-~~  
 18 ~~ing allowances for distribution under sub-~~  
 19 ~~sections (c) and (d), among individual elec-~~  
 20 ~~tricity local distribution companies ratably~~  
 21 ~~based on each electricity local distribution com-~~  
 22 ~~pany’s annual average retail electricity deliv-~~  
 23 ~~eries for calendar years 2006 through 2008, un-~~  
 24 ~~less the owner or operator of the company se-~~  
 25 ~~lects 3 other consecutive years between 1999~~

1 and 2008, inclusive, and timely notifies the Ad-  
2 ministrator of its selection.

3 “(B) ~~UPDATING.~~—Prior to distributing  
4 2015 vintage year emission allowances under  
5 this paragraph and at 3-year intervals there-  
6 after, the Administrator shall update the dis-  
7 tribution formula under this paragraph to re-  
8 flect changes in each electricity local distribu-  
9 tion company’s service territory since the most  
10 recent formula was established. For each suc-  
11 cessive 3-year period, the Administrator shall  
12 distribute allowances ratably among individual  
13 electricity local distribution companies based on  
14 the product of—

15 “(i) each electricity local distribution  
16 company’s average annual deliveries per  
17 customer during calendar years 2006  
18 through 2008, or during the 3 alternative  
19 consecutive years selected by such company  
20 under subparagraph (A); and

21 “(ii) the number of customers of such  
22 electricity local distribution company in the  
23 most recent year in which the formula is  
24 updated under this subparagraph.

1           “(4) PROHIBITION AGAINST EXCESS DISTRIBUTIONS.—The regulations promulgated under subsection (g) shall ensure that, notwithstanding paragraphs (2) and (3), no electricity local distribution company shall receive a greater quantity of allowances under this subsection than is necessary to offset any increased electricity costs to such company’s retail ratepayers, including increased costs attributable to purchased power costs, due to enactment of this title. Any emission allowances withheld from distribution to an electricity local distribution company pursuant to this paragraph shall be distributed among all remaining electricity local distribution companies ratably based on emissions pursuant to paragraph (2).

16           “(5) USE OF ALLOWANCES.—

17           “(A) RATEPAYER BENEFIT.—Emission allowances distributed to an electricity local distribution company under this subsection shall be used exclusively for the benefit of retail ratepayers of such electricity local distribution company and may not be used to support electricity sales or deliveries to entities or persons other than such ratepayers.

1           “(B) RATEPAYER CLASSES.—In using  
2           emission allowances distributed under this sub-  
3           section for the benefit of ratepayers, an elec-  
4           tricity local distribution company shall ensure  
5           that ratepayer benefits are distributed—

6                   “(i) among ratepayer classes ratably  
7                   based on electricity deliveries to each class;  
8                   and

9                   “(ii) equitably among individual rate-  
10                  payers within each ratepayer class, includ-  
11                  ing entities that receive emission allow-  
12                  ances pursuant to part F.

13           “(C) LIMITATION.—In general, an elec-  
14           tricity local distribution company shall not use  
15           the value of emission allowances distributed  
16           under this subsection to provide to any rate-  
17           payer a rebate that is based solely on the quan-  
18           tity of electricity delivered to such ratepayer.  
19           To the extent an electricity local distribution  
20           company uses the value of emission allowances  
21           distributed under this subsection to provide re-  
22           bates, it shall, to the maximum extent prac-  
23           ticable, provide such rebates with regard to the  
24           fixed portion of ratepayers’ bills or as a fixed  
25           credit or rebate on electricity bills.

1           “(D) ~~RESIDENTIAL AND INDUSTRIAL~~  
 2           ~~RATEPAYERS.~~—Notwithstanding subparagraph  
 3           (C), if compliance with the requirements of this  
 4           title results (or would otherwise result) in an  
 5           increase in electricity costs for residential or in-  
 6           dustrial retail ratepayers of any given electricity  
 7           local distribution company (including entities  
 8           that receive emission allowances pursuant to  
 9           part F), such electricity local distribution com-  
 10          pany—

11               “(i) shall pass through to residential  
 12               retail ratepayers as a class their ratable  
 13               share (based on deliveries to each rate-  
 14               payer class) of the value of the emission al-  
 15               lowances that reduce electricity cost im-  
 16               pacts on such ratepayers; and

17               “(ii) shall pass through to industrial  
 18               ratepayers as a class their ratable share  
 19               (based on deliveries to each ratepayer  
 20               class) of the value of the emission allow-  
 21               ances that reduce electricity cost impacts  
 22               on such ratepayers. The electricity local  
 23               distribution company may do so based on  
 24               the quantity of electricity delivered to indi-  
 25               vidual industrial retail ratepayers.



1           “(E) GUIDELINES.—As part of the regula-  
 2           tions promulgated under subsection (g), the Ad-  
 3           ministrators shall, after consultation with State  
 4           regulatory authorities, prescribe guidelines for  
 5           the implementation of the requirements of this  
 6           paragraph. Such guidelines shall include—

7                   “(i) requirements to ensure that resi-  
 8                   dential and industrial retail ratepayers (in-  
 9                   cluding entities that receive emission allow-  
 10                  ances under part F) receive their ratable  
 11                  share of the value of the allowances dis-  
 12                  tributed to each electricity local distribu-  
 13                  tion company pursuant to this subsection;  
 14                  and

15                  “(ii) requirements for measurement,  
 16                  verification, reporting, and approval of  
 17                  methods used to assure the use of allow-  
 18                  ance values to benefit retail ratepayers.

19           “(6) REGULATORY PROCEEDINGS.—

20           “(A) REQUIREMENT.—No electricity local  
 21           distribution company shall be eligible to receive  
 22           emission allowances under this subsection or  
 23           subsection (e) unless the State regulatory au-  
 24           thority with authority over such company’s re-  
 25           tail rates, or the entity with authority to regu-

1 late or set retail electricity rates of an elec-  
2 tricity local distribution company not regulated  
3 by a State regulatory authority, has—

4 “(i) after public notice and an oppor-  
5 tunity for comment, promulgated a regula-  
6 tion or completed a rate proceeding (or the  
7 equivalent, in the case of a ratemaking en-  
8 tity other than a State regulatory author-  
9 ity) that provides for the full implementa-  
10 tion of the requirements of paragraph (5)  
11 of this subsection and the requirements of  
12 subsection (c); and

13 “(ii) made available to the Adminis-  
14 trator and the public a report describing,  
15 in adequate detail, the manner in which  
16 the requirements of paragraph (5) and the  
17 requirements of subsection (c) will be im-  
18 plemented.

19 “(B) UPDATING.—The Administrator shall  
20 require, as a condition of continued receipt of  
21 emission allowances under this subsection by an  
22 electricity local distribution company, that a  
23 new regulation be promulgated or rate pro-  
24 ceeding be completed, after public notice and an  
25 opportunity for comment, and a new report be

1 made available to the Administrator and the  
2 public, pursuant to subparagraph (A), not less  
3 frequently than every 5 years.

4 “(7) PLANS AND REPORTING.—

5 “(A) REGULATIONS.—As part of the regu-  
6 lations promulgated under subsection (g), the  
7 Administrator shall prescribe requirements gov-  
8 erning plans and reports to be submitted in ac-  
9 cordance with this paragraph.

10 “(B) PLANS.—Not later than April 30 of  
11 2011 and every 5 years thereafter through  
12 2026, each electricity local distribution com-  
13 pany shall submit to the Administrator a plan,  
14 approved by the State regulatory authority or  
15 other entity charged with regulating or setting  
16 the retail rates of such company, describing  
17 such company’s plans for the disposition of the  
18 value of emission allowances to be received pur-  
19 suant to this subsection and subsection (e), in  
20 accordance with the requirements of this sub-  
21 section and subsection (e). Such plan shall in-  
22 clude a description of the manner in which the  
23 company will provide to industrial retail rate-  
24 payers (including entities that receive emission

allowances under part F) their ratable share of the value of such allowances.

“(C) REPORTS.—Not later than June 30, 2013, and each calendar year thereafter through 2031, each electricity local distribution company shall submit a report to the Administrator, and to the relevant State regulatory authority or other entity charged with regulating or setting the retail electricity rates of such company, describing the disposition of the value of any emission allowances received by such company in the prior calendar year pursuant to this subsection and subsection (c), including—

“(i) a description of sales, transfer, exchange, or use by the company for compliance with obligations under this title, of any such emission allowances;

“(ii) the monetary value received by the company, whether in money or in some other form, from the sale, transfer, or exchange of any such emission allowances;

“(iii) the manner in which the company’s disposition of any such emission allowances complies with the requirements of this subsection and of subsection (c), in-

cluding each of the requirements of paragraph (5) of this subsection, including the requirement that industrial retail ratepayers (including entities that receive emission allowances under part F) receive their ratable share of the value of such allowances; and

“(iv) such other information as the Administrator may require pursuant to subparagraph (A).

“(D) PUBLICATION.—The Administrator shall make available to the public all plans and reports submitted under this subsection, including by publishing such plans and reports on the Internet.

“(8) ADMINISTRATOR AUDIT REPORTS.—

“(A) IN GENERAL.—Each year, the Administrator shall audit a representative sample of electricity local distribution companies to ensure that emission allowances distributed under this subsection have been used exclusively for the benefit of retail ratepayers and that such companies are complying with the requirements of this subsection and of subsection (e), including the requirement that residential and indus-

1 trial retail ratepayers (including entities that  
2 receive emission allowances under part F) re-  
3 ceive their ratable share of the value of such al-  
4 lowances. The Administrator shall assess the  
5 degree to which electric local distribution com-  
6 panies have maintained a marginal electric  
7 price signal while protecting consumers on total  
8 cost using the value of emissions allowances. In  
9 selecting companies for audit, the Adminis-  
10 trator shall take into account any credible evi-  
11 dence of noncompliance with such requirements.  
12 The Administrator shall make available to the  
13 public a report describing the results of each  
14 such audit, including by publishing such report  
15 on the Internet.

16 “(B) GAO AUDIT REPORT.—Not later  
17 than April 30, 2015, and every 3 years there-  
18 after through 2026, the Comptroller General of  
19 the United States, incorporating results from  
20 the Administrators’ audit report and other rel-  
21 evant information including distribution com-  
22 pany reports, shall conduct an in-depth evalua-  
23 tion and make available to the public a report  
24 on the investments made pursuant to paragraph  
25 (5). Said report shall be made available to the

1 State regulatory authority, or the entity with  
2 authority to regulate or set retail electricity  
3 rates in the case of an electricity distribution  
4 company that is not regulated by a State regu-  
5 latory authority, and shall include a description  
6 of how the distribution companies in the audit  
7 meet or fail to meet the requirement of para-  
8 graph (5), including for investments made in  
9 cost-effective end-use energy efficiency pro-  
10 grams, the lifetime and annual energy saving  
11 benefits, and capacity benefits of said pro-  
12 grams.

13 “(C) ADMINISTRATOR COST CONTAINMENT  
14 REPORT.—Not later than April 30, 2015 and  
15 every 3 years thereafter through 2026, the Ad-  
16 ministrator shall transmit a report to Congress  
17 containing an evaluation of the disposition of  
18 the value of emission allowances received pursu-  
19 ant to this subsection and subsection (c) and  
20 recommendations of ways to more effectively di-  
21 rect the value of allowances to reduce costs for  
22 consumers; contain the overall costs of the  
23 greenhouse gas emissions reduction program;  
24 and meet the pollution reduction targets of the  
25 Act. The Administrator shall make available to

1           the public such report, including by publishing  
2           such report on the Internet.

3           ~~“(9) ENFORCEMENT.—A violation of any re-~~  
4           ~~quirement of this subsection or of subsection (c), ir-~~  
5           ~~respective of approval by a State regulatory author-~~  
6           ~~ity, shall be a violation of this Act. Each emission~~  
7           ~~allowance the value of which is used in violation of~~  
8           ~~the requirements of this subsection or of subsection~~  
9           ~~(c) shall be a separate violation.~~

10          ~~“(c) MERCHANT COAL UNITS.—~~

11           ~~“(1) QUALIFYING EMISSIONS.—The qualifying~~  
12           ~~emissions for a merchant coal unit for a given cal-~~  
13           ~~endar year shall be the product of the number of~~  
14           ~~megawatt hours of merchant coal unit sales gen-~~  
15           ~~erated by such unit in such calendar year and the~~  
16           ~~average carbon dioxide emissions per megawatt hour~~  
17           ~~generated by such unit during the base period under~~  
18           ~~paragraph (2), provided that the number of mega-~~  
19           ~~watt hours in a given calendar year for purposes of~~  
20           ~~such calculation shall be reduced in proportion to~~  
21           ~~the portion of such unit’s carbon dioxide emissions~~  
22           ~~that are either—~~

23                   ~~“(A) captured and sequestered in such cal-~~  
24                   ~~endar year; or~~



1           ~~“(B) attributable to the combustion or gas-~~  
 2           ~~ification of biomass, to the extent that the~~  
 3           ~~owner or operator of the unit is not required to~~  
 4           ~~hold emission allowances for such emissions.~~

5           ~~“(2) BASE PERIOD.—For purposes of this sub-~~  
 6           ~~section, the base period for a merchant coal unit~~  
 7           ~~shall be—~~

8           ~~“(A) calendar years 2006 through 2008; or~~

9           ~~“(B) in the case of a new merchant coal~~  
 10          ~~unit—~~

11           ~~“(i) the first full calendar year of op-~~  
 12           ~~eration of such unit, if such unit com-~~  
 13           ~~mences operation before January 1, 2012;~~

14           ~~“(ii) calendar year 2012, if such unit~~  
 15           ~~commences operation on or after January~~  
 16           ~~1, 2012, and before October 1, 2012; or~~

17           ~~“(iii) calendar year 2013, if such unit~~  
 18           ~~commences operation on or after October~~  
 19           ~~1, 2012, and before January 1, 2013.~~

20          ~~“(3) PHASE-DOWN SCHEDULE.—The Adminis-~~  
 21          ~~trator shall identify an annual phase-down factor,~~  
 22          ~~applicable to distributions to merchant coal units for~~  
 23          ~~each of vintage years 2012 through 2029, that cor-~~  
 24          ~~responds to the overall decline in the amount of~~  
 25          ~~emission allowances allocated to the electricity sector~~

1 in such years pursuant to section 771(a)(1). Such  
 2 factor shall—

3 “(A) for vintage year 2012, be equal to  
 4 1.0;

5 “(B) for each of vintage years 2013  
 6 through 2029, correspond to the quotient of—

7 “(i) the quantity of emission allow-  
 8 ances allocated under section 771(a)(1) for  
 9 such vintage year; divided by

10 “(ii) the quantity of emission allow-  
 11 ances allocated under section 771(a)(1) for  
 12 vintage year 2012.

13 “(4) DISTRIBUTION OF EMISSION ALLOW-  
 14 ANCES.—Not later than March 1 of 2013 and each  
 15 calendar year through 2030, the Administrator shall  
 16 distribute emission allowances of the preceding vin-  
 17 tage year to the owner or operator of each merchant  
 18 coal unit described in subsection (a)(11)(C) in an  
 19 amount equal to the product of—

20 “(A) 0.5;

21 “(B) the qualifying emissions for such  
 22 merchant coal unit for the preceding year, as  
 23 determined under paragraph (1); and

1           “(C) the phase-down factor for the pre-  
2           ceding calendar year, as identified under para-  
3           graph (3).-  
4

5           “(5) ADJUSTMENT.—

6           “(A) STUDY.—Not later than July 1,  
7           2014, the Administrator, in consultation with  
8           the Federal Energy Regulatory Commission,  
9           shall complete a study to determine whether the  
10          allocation formula under paragraph (3) is re-  
11          sulting in, or is likely to result in, windfall prof-  
12          its to merchant coal generators or substantially  
13          disparate treatment of merchant coal genera-  
14          tors operating in different markets or regions.

15          “(B) REGULATION.—If the Administrator,  
16          in consultation with the Federal Energy Regu-  
17          latory Commission, makes an affirmative find-  
18          ing of windfall profits or disparate treatment  
19          under subparagraph (A), the Administrator  
20          shall, not later than 18 months after the com-  
21          pletion of the study described in subparagraph  
22          (A), promulgate regulations providing for the  
23          adjustment of the allocation formula under  
24          paragraph (3) to mitigate, to the extent prae-  
25          ticable, such windfall profits, if any, and such  
        disparate treatment, if any.

1           “(6) LIMITATION ON ALLOWANCES.—Notwith-  
 2           standing paragraph (4) or (5), for each vintage year  
 3           the Administrator shall distribute under this sub-  
 4           section no more than 10 percent of the total quan-  
 5           tity of emission allowances available for such vintage  
 6           year for distribution to the electricity sector under  
 7           section 771(a)(1). If the quantity of emission allow-  
 8           ances that would otherwise be distributed pursuant  
 9           to paragraph (4) or (5) for any vintage year would  
 10          exceed such limit, the Administrator shall distribute  
 11          10 percent of the total emission allowances available  
 12          for distribution under section 771(a)(1) for such vin-  
 13          tage year ratably among merchant coal generators  
 14          based on the applicable formula under paragraph (4)  
 15          or (5).

16          “(7) ELIGIBILITY.—The owner or operator of a  
 17          merchant coal unit shall not be eligible to receive  
 18          emission allowances under this subsection for any  
 19          vintage year for which such owner or operator has  
 20          elected to receive emission allowances for the same  
 21          unit under subsection (d).

22          “(d) LONG-TERM CONTRACT GENERATORS.—

23                 “(1) DISTRIBUTION.—Not later than March 1,  
 24                 2013, and each calendar year through 2030, the Ad-  
 25                 ministrator shall distribute to the owner or operator

1 of each long-term contract generator a quantity of  
2 emission allowances of the preceding vintage year  
3 that is equal to the sum of—

4 “(A) the number of tons of carbon dioxide  
5 emitted as a result of a qualifying electricity  
6 sales agreement referred to in subsection  
7 (a)(10)(B)(i); and

8 “(B) the incremental number of tons of  
9 carbon dioxide emitted solely as a result of a  
10 qualifying thermal sales agreement referred to  
11 in subsection (a)(10)(B)(ii); provided that in no  
12 event shall the Administrator distribute more  
13 than 1 emission allowance for the same ton of  
14 emissions.

15 “(2) LIMITATION ON ALLOWANCES.—Notwith-  
16 standing paragraph (1), for each vintage year the  
17 Administrator shall distribute under this subsection  
18 no more than 4.3 percent of the total quantity of  
19 emission allowances available for such vintage year  
20 for distribution to the electricity sector under section  
21 771(a)(1). If the quantity of emission allowances  
22 that would otherwise be distributed pursuant to  
23 paragraph (1) for any vintage year would exceed  
24 such limit, the Administrator shall distribute 4.3  
25 percent of the total emission allowances available for

1 distribution under section 771(a)(1) for such vintage  
 2 year ratably among long-term contract generators  
 3 based on paragraph (1).

4 “(3) ELIGIBILITY.—

5 “(A) FACILITY ELIGIBILITY.—The owner  
 6 or operator of a facility shall cease to be eligible  
 7 to receive emission allowances under this sub-  
 8 section upon the earliest date on which the fa-  
 9 cility no longer meets each and every element of  
 10 the definition of a long-term contract generator  
 11 under subsection (a)(10).

12 “(B) CONTRACT ELIGIBILITY.—The owner  
 13 or operator of a facility shall cease to be eligible  
 14 to receive emission allowances under this sub-  
 15 section based on an electricity or thermal sales  
 16 agreement referred to in subsection (a)(10)(B)  
 17 upon the earliest date that such agreement—

18 “(i) expires;

19 “(ii) is terminated; or

20 “(iii) is amended in any way that  
 21 changes the location of the facility, the  
 22 price (whether a fixed price or price for-  
 23 mula) for electricity or thermal energy sold  
 24 under such agreement, the quantity of  
 25 electricity or thermal energy sold under the

1                   agreement, or the expiration or termi-  
2                   nation date of the agreement.

3                   ~~“(4) DEMONSTRATION OF ELIGIBILITY.—To be~~  
4                   eligible to receive allowance distributions under this  
5                   subsection, the owner or operator of a long-term  
6                   contract generator shall submit each of the following  
7                   in writing to the Administrator within 180 days  
8                   after the date of enactment of this title, and not  
9                   later than September 30 of each vintage year for  
10                  which such generator wishes to receive emission al-  
11                  lowances:

12                  ~~“(A) A certificate of representation de-~~  
13                  scribed in section 700(15).

14                  ~~“(B) An identification of each owner and~~  
15                  each operator of the facility.

16                  ~~“(C) An identification of the units at the~~  
17                  facility and the location of the facility.

18                  ~~“(D) A written certification by the des-~~  
19                  ignated representative that the facility meets all  
20                  the requirements of the definition of a long-  
21                  term contract generator.

22                  ~~“(E) The expiration date of each quali-~~  
23                  fying electricity or thermal sales agreement re-  
24                  ferred to in subsection (a)(10)(B).

1           “(F) A copy of each qualifying electricity  
2           or thermal sales agreement referred to in sub-  
3           section (a)(10)(B).

4           “(5) NOTIFICATION.—Not later than 30 days  
5           after, in accordance with paragraph (3), a facility or  
6           an agreement ceases to meet the eligibility require-  
7           ments for distribution of emission allowances pursu-  
8           ant to this subsection, the designated representative  
9           of such facility shall notify the Administrator in  
10          writing when, and on what basis, such facility or  
11          agreement ceased to meet such requirements.

12          “(e) SMALL LDCs.—

13           “(1) DISTRIBUTION.—The Administrator shall,  
14           in accordance with this subsection, distribute emis-  
15           sion allowances allocated pursuant to section  
16           771(a)(1) for the following vintage year. Such allow-  
17           ances shall be distributed ratably among small  
18           LDCs based on historic emissions in accordance with  
19           the same measure of such emissions applied to each  
20           such small LDC for the relevant vintage year under  
21           subsection (b)(2) of this section.

22           “(2) USES.—A small LDC receiving allowances  
23           under this section shall use such allowances exclu-  
24           sively for the following purposes:



1           “(A) Cost-effective programs to achieve  
2           electricity savings, provided that such savings  
3           shall not be transferred or used for compliance  
4           with any renewable electricity standard estab-  
5           lished under the Public Utility Regulatory Poli-  
6           cies Act of 1978 (16 U.S.C. 2601 et seq.).

7           “(B) Deployment of technologies to gen-  
8           erate electricity from renewable energy re-  
9           sources, provided that any Federal renewable  
10          electricity credits issued based on generation  
11          supported under this section shall be submitted  
12          to the Federal Energy Regulatory Commission  
13          for voluntary retirement and shall not be used  
14          for compliance with the Public Utility Regu-  
15          latory Policies Act of 1978 (16 U.S.C. 2601 et  
16          seq.).

17          “(C) Assistance programs to reduce elec-  
18          tricity costs for low-income residential rate-  
19          payers of such small LDC, provided that such  
20          assistance is made available equitably to all res-  
21          idential ratepayers below a certain income level,  
22          which shall not be higher than 200 percent of  
23          the poverty line (as that term is defined in sec-  
24          tion 673(2) of the Community Services Block  
25          Grant Act (42 U.S.C. 9902(2))).

1           ~~“(3) REQUIREMENTS.—~~As part of the regula-  
2           tions promulgated under subsection (g), the Admin-  
3           istrator shall prescribe—

4                   ~~“(A) after consultation with the Federal~~  
5           Energy Regulatory Commission, requirements  
6           to ensure that programs and projects under  
7           paragraph (2)(A) and (B) are consistent with  
8           the standards established by, and effectively  
9           supplement electricity savings and generation of  
10          electricity from renewable energy resources  
11          achieved by, the Combined Efficiency and Re-  
12          newable Electricity Standard established by  
13          law;

14                   ~~“(B) eligibility criteria and guidelines for~~  
15          consumer assistance programs for low-income  
16          residential ratepayers under paragraph (2)(C);  
17          and

18                   ~~“(C) such other requirements as the Ad-~~  
19          ministrator determines appropriate to ensure  
20          compliance with the requirements of this sub-  
21          section.

22           ~~“(4) REPORTING.—~~Reports submitted under  
23          subsection (b)(7) shall include, in accordance with  
24          such requirements as the Administrator may pre-  
25          scribe—

1           “(A) a description of any facilities de-  
 2           ployed under paragraph (2)(A); the quantity of  
 3           resulting electricity generation from renewable  
 4           energy resources;

5           “(B) an assessment demonstrating the  
 6           cost-effectiveness of, and electricity savings  
 7           achieved by, programs supported under para-  
 8           graph (2)(B); and

9           “(C) a description of assistance provided to  
 10          low-income retail ratepayers under paragraph  
 11          (2)(C).

12       “(f) CERTAIN COGENERATION FACILITIES.—

13           “(1) ELIGIBLE COGENERATION FACILITIES.—

14       For purposes of this subsection, an ‘eligible cogen-  
 15       eration facility’ is a facility that—

16           “(A) is a qualifying co-generation facility  
 17           (as that term is defined in section 3(18)(B) of  
 18           the Federal Power Act (16 U.S.C. 796(18)(B));

19           “(B) derives 80 percent or more of its heat  
 20           input from coal, petroleum coke, or any com-  
 21           bination of these 2 fuels;

22           “(C) has a nameplate capacity of 100  
 23           megawatts or greater;

24           “(D) was in operation as of January 1,  
 25           2009, and remains in operation as of the date

1 of any distribution of emission allowances under  
 2 this subsection;

3 “(E) in calendar years 2006 through 2008  
 4 sold, and as of the date of any distribution of  
 5 emission allowances under this section sells,  
 6 steam or electricity directly and solely to mul-  
 7 tiple, separately owned industrial or commercial  
 8 facilities co-located at the same site with the co-  
 9 generation facility; and

10 “(F) is not eligible to receive allowances  
 11 under any other subsection of this section or  
 12 under part F of this title.

13 “(2) DISTRIBUTION.—The Administrator shall  
 14 distribute the emission allowances allocated pursuant  
 15 to section 771(a)(1) to owners or operators of eligi-  
 16 ble cogeneration facilities ratably based on the car-  
 17 bon dioxide emissions of each such facility in cal-  
 18 endar years 2006 through 2008. The Adminis-  
 19 trator—

20 “(A) shall not, in any year, distribute  
 21 emission allowances under this subsection to the  
 22 owner or operator of any eligible cogeneration  
 23 facility in excess of the amount necessary to  
 24 offset such facility’s cost of compliance with the  
 25 requirements of this title in that year; and

1           “(B) may distribute such allowances over a  
 2           period of years if annual distributions under  
 3           this subsection would otherwise exceed the limi-  
 4           tation in subparagraph (A), provided that in no  
 5           event shall distributions be made under this  
 6           subsection after calendar year 2025.

7           “(3) REQUIREMENTS.—The Administrator  
 8           shall, by regulation, establish requirements to ensure  
 9           that the value of any emission allowances distributed  
 10          pursuant to this subsection are passed through, on  
 11          an equitable basis, to the facilities to which the rel-  
 12          evant cogeneration facility provides electricity or  
 13          steam deliveries, including any facility owned or op-  
 14          erated by the owner or operator of the cogeneration  
 15          facility.

16          “(g) REGULATIONS.—Not later than 2 years after  
 17          the date of enactment of this title, the Administrator, in  
 18          consultation with the Federal Energy Regulatory Commis-  
 19          sion, shall promulgate regulations to implement the re-  
 20          quirements of this section.

21       **“SEC. 773. NATURAL GAS CONSUMERS.**

22          “(a) DEFINITION.—For purposes of this section, the  
 23          term ‘cost-effective’, with respect to an energy efficiency  
 24          program, means that the program meets the Total Re-  
 25          source Cost Test, which requires that the net present

1 value of economic benefits over the life of the program;  
 2 including avoided supply and delivery costs and deferred  
 3 or avoided investments, is greater than the net present  
 4 value of the economic costs over the life of the program;  
 5 including program costs and incremental costs borne by  
 6 the energy consumer.

7 “(b) ALLOCATION.—Not later than June 30, 2015,  
 8 and each calendar year thereafter through 2028, the Ad-  
 9 ministrator shall distribute to natural gas local distribu-  
 10 tion companies for the benefit of retail ratepayers the  
 11 quantity of emission allowances allocated for the following  
 12 vintage year pursuant to section 771(a)(2). Such allow-  
 13 ances shall be distributed among local natural gas dis-  
 14 tribution companies based on the following formula:

15 “(1) INITIAL FORMULA.—Except as provided in  
 16 paragraph (2), for each vintage year, the Adminis-  
 17 trator shall distribute emission allowances among  
 18 natural gas local distribution companies on a pro  
 19 rata basis based on each such company’s annual av-  
 20 erage retail natural gas deliveries for 2006 through  
 21 2008, unless the owner or operator of the company  
 22 selects 3 other consecutive years between 1999 and  
 23 2008, inclusive, and timely notifies the Adminis-  
 24 trator of its selection.

1           ~~“(2) UPDATING.—~~Prior to distributing 2019  
 2           vintage emission allowances and at 3-year intervals  
 3           thereafter, the Administrator shall update the dis-  
 4           tribution formula under this subsection to reflect  
 5           changes in each natural gas local distribution com-  
 6           pany’s service territory since the most recent for-  
 7           mula was established. For each successive 3-year pe-  
 8           riod, the Administrator shall distribute allowances  
 9           on a pro rata basis among natural gas local distribu-  
 10          tion companies based on the product of—

11                 ~~“(A) each natural gas local distribution~~  
 12                 company’s average annual natural gas deliveries  
 13                 per customer during calendar years 2006  
 14                 through 2008, or during the 3 alternative con-  
 15                 secutive years selected by such company under  
 16                 paragraph (1); and

17                 ~~“(B) the number of customers of such nat-~~  
 18                 ural gas local distribution company in the most  
 19                 recent year in which the formula is updated  
 20                 under this paragraph.

21          ~~“(c) USE OF ALLOWANCES.—~~

22                 ~~“(1) RATEPAYER BENEFIT.—~~Emission allow-  
 23                 ances distributed to a natural gas local distribution  
 24                 company under this section shall be used exclusively  
 25                 for the benefit of retail ratepayers of such natural

1 gas local distribution company and may not be used  
2 to support natural gas sales or deliveries to entities  
3 or persons other than such ratepayers.

4 “(2) RATEPAYER CLASSES.—In using emission  
5 allowances distributed under this section for the ben-  
6 efit of ratepayers, a natural gas local distribution  
7 company shall ensure that ratepayer benefits are  
8 distributed—

9 “(A) among ratepayer classes on a pro  
10 rata basis based on natural gas deliveries to  
11 each class; and

12 “(B) equitably among individual ratepayers  
13 within each ratepayer class.

14 “(3) LIMITATION.—A natural gas local dis-  
15 tribution company shall not use the value of emis-  
16 sion allowances distributed under this section to pro-  
17 vide to any ratepayer a rebate that is based solely  
18 on the quantity of natural gas delivered to such  
19 ratepayer. To the extent a natural gas local distribu-  
20 tion company uses the value of emission allowances  
21 distributed under this section to provide rebates, it  
22 shall, to the maximum extent practicable, provide  
23 such rebates with regard to the fixed portion of rate-  
24 payers’ bills or as a fixed creditor rebate on natural  
25 gas bills.



1           “(4) ENERGY EFFICIENCY PROGRAMS.—The  
 2           value of no less than one-third of the emission allow-  
 3           ances distributed to natural gas local distribution  
 4           companies pursuant to this section in any calendar  
 5           year shall be used for cost-effective energy efficiency  
 6           programs for natural gas consumers. Such programs  
 7           must be authorized and overseen by the State regu-  
 8           latory authority, or by the entity with regulatory au-  
 9           thority over retail natural gas rates in the case of  
 10          a natural gas local distribution company that is not  
 11          regulated by a State regulatory authority.

12           “(5) GUIDELINES.—As part of the regulations  
 13          promulgated under subsection (h), the Administrator  
 14          shall prescribe specific guidelines for the implemen-  
 15          tation of the requirements of this subsection.

16          “(d) REGULATORY PROCEEDINGS.—

17           “(1) REQUIREMENT.—No natural gas local dis-  
 18          tribution company shall be eligible to receive emis-  
 19          sion allowances under this section unless the State  
 20          regulatory authority with authority over such com-  
 21          pany, or the entity with authority to regulate retail  
 22          rates of a natural gas local distribution company not  
 23          regulated by a State regulatory authority, has—

24           “(A) promulgated a regulation or com-  
 25          pleted a rate proceeding (or the equivalent, in

the case of a ratemaking entity other than a State regulatory authority) that provides for the full implementation of the requirements of subsection (c); and

“(B) made available to the Administrator and the public a report describing, in adequate detail, the manner in which the requirements of subsection (c) will be implemented.

“(2) UPDATING.—The Administrator shall require, as a condition of continued receipt of emission allowances under this section, that a new regulation be promulgated or rate proceeding be completed, and a new report be made available to the Administrator and the public, pursuant to paragraph (1), not less frequently than every 5 years.

“(c) PLANS AND REPORTING.—

“(1) REGULATIONS.—As part of the regulations promulgated under subsection (h), the Administrator shall prescribe requirements governing plans and reports to be submitted in accordance with this subsection.

“(2) PLANS.—Not later than April 30, 2015, and every 5 years thereafter through 2025, each natural gas local distribution company shall submit to the Administrator a plan, approved by the State

1 regulatory authority or other entity charged with  
 2 regulating the retail rates of such company, describ-  
 3 ing such company's plans for the disposition of the  
 4 value of emission allowances to be received pursuant  
 5 to this section, in accordance with the requirements  
 6 of this section.

7 “(3) REPORTS.—Not later than June 30, 2017,  
 8 and each calendar year thereafter through 2031,  
 9 each natural gas local distribution company shall  
 10 submit a report to the Administrator, approved by  
 11 the relevant State regulatory authority or other enti-  
 12 ty charged with regulating the retail natural gas  
 13 rates of such company, describing the disposition of  
 14 the value of any emission allowances received by  
 15 such company in the prior calendar year pursuant to  
 16 this subsection, including—

17 “(A) a description of sales, transfer, ex-  
 18 change, or use by the company for compliance  
 19 with obligations under this title, of any such  
 20 emission allowances;

21 “(B) the monetary value received by the  
 22 company, whether in money or in some other  
 23 form, from the sale, transfer, or exchange of  
 24 emission allowances received by the company  
 25 under this section;

1           ~~“(C) the manner in which the company’s~~  
 2           ~~disposition of emission allowances received~~  
 3           ~~under this subsection complies with the require-~~  
 4           ~~ments of this section, including each of the re-~~  
 5           ~~quirements of subsection (c);~~

6           ~~“(D) the cost-effectiveness of, and energy~~  
 7           ~~savings achieved by, energy efficiency programs~~  
 8           ~~supported through such emission allowances;~~  
 9           ~~and~~

10           ~~“(E) such other information as the Admin-~~  
 11           ~~istrator may require pursuant to paragraph (1).~~

12           ~~“(4) PUBLICATION.—The Administrator shall~~  
 13           ~~make available to the public all plans and reports~~  
 14           ~~submitted by natural gas local distribution compa-~~  
 15           ~~nies under this subsection, including by publishing~~  
 16           ~~such plans and reports on the Internet.~~

17           ~~“(f) AUDITING.—~~

18           ~~“(1) ADMINISTRATOR AUDIT REPORT.—Each~~  
 19           ~~year, the Administrator shall audit a significant rep-~~  
 20           ~~resentative sample of natural gas local distribution~~  
 21           ~~companies to ensure that emission allowances dis-~~  
 22           ~~tributed under this section have been used exclu-~~  
 23           ~~sively for the benefit of retail ratepayers and that~~  
 24           ~~such companies are complying with the requirements~~  
 25           ~~of this section. In selecting companies for audit, the~~

1 Administrator shall take into account any credible  
2 evidence of noncompliance with such requirements.  
3 The Administrator shall make available to the public  
4 a report describing the results of each such audit,  
5 including by publishing such report on the Internet.

6 ~~“(2) GAO AUDIT REPORT.—Not later April 30,~~  
7 ~~2015 and every 3 years thereafter through April 30,~~  
8 ~~2026, the Comptroller General of the United States,~~  
9 ~~incorporating results from the Administrators’ audit~~  
10 ~~report and other relevant information including dis-~~  
11 ~~tribution company reports, shall conduct an in-depth~~  
12 ~~evaluation and make available to the public a report~~  
13 ~~on the investments made pursuant to subsection (c).~~  
14 ~~Said report shall be made available to the State reg-~~  
15 ~~ulatory authority, or the entity with authority to~~  
16 ~~regulate or set retail natural gas rates in the case~~  
17 ~~of a natural gas distribution company that is not~~  
18 ~~regulated by a State regulatory authority, and shall~~  
19 ~~include a description how the distribution companies~~  
20 ~~in the audit meet or fail to meet the requirement of~~  
21 ~~subsection (c), including for investments made in~~  
22 ~~cost-effective end-use energy efficiency programs, the~~  
23 ~~lifetime and annual energy saving benefits, and ca-~~  
24 ~~pacity benefits of said programs.~~

1           ~~“(3) ADMINISTRATOR COST CONTAINMENT RE-~~  
 2           ~~PORT.—Not later April 30, 2015, and every 3 years~~  
 3           ~~thereafter through April 30, 2026, the Adminis-~~  
 4           ~~trator shall transmit a report to Congress containing~~  
 5           ~~an evaluation of the disposition of the value of emis-~~  
 6           ~~sion allowances received pursuant to this subsection~~  
 7           ~~and recommendations of ways to more effectively di-~~  
 8           ~~rect the value of allowances to reduce costs for con-~~  
 9           ~~sumers; contain the overall costs of the greenhouse~~  
 10           ~~gas emissions reduction program; and meet the pol-~~  
 11           ~~lution reduction targets of the Act. The Adminis-~~  
 12           ~~trator shall make available to the public such report,~~  
 13           ~~including by publishing such report on the Internet.~~

14           ~~“(g) ENFORCEMENT.—A violation of any require-~~  
 15           ~~ment of this section, irrespective of approval by a State~~  
 16           ~~regulatory authority, shall be a violation of this Act. Each~~  
 17           ~~emission allowance the value of which is used in violation~~  
 18           ~~of the requirements of this section shall be a separate vio-~~  
 19           ~~lation.~~

20           ~~“(h) REGULATIONS.—Not later than January 1,~~  
 21           ~~2014, the Administrator, in consultation with the Federal~~  
 22           ~~Energy Regulatory Commission, shall promulgate regula-~~  
 23           ~~tions to implement the requirements of this section.~~

24           ~~“SEC. 774. HOME HEATING OIL AND PROPANE CONSUMERS.~~

25           ~~“(a) DEFINITIONS.—For purposes of this section:~~

1           “(1) CARBON CONTENT.—The term ‘carbon  
2           content’ means the amount of carbon dioxide that  
3           would be emitted as a result of the combustion of a  
4           fuel.

5           “(2) COST-EFFECTIVE.—The term ‘cost-effec-  
6           tive’ has the meaning given that term in section  
7           773(a).

8           “(b) ALLOCATION.—The Administrator shall dis-  
9           tribute among the States, in accordance with this section,  
10          the quantity of emission allowances allocated pursuant to  
11          section 771(a)(3). The Administrator shall distribute a  
12          percentage of such allowances determined by the Adminis-  
13          trator, after consultation with the Secretary of the Inte-  
14          rior, pursuant to subsection (f).

15          “(c) DISTRIBUTION AMONG STATES.—The Adminis-  
16          trator shall distribute emission allowances among the  
17          States under this section each year on a pro rata basis  
18          based on the ratio of—

19               “(1) the carbon content of home heating oil and  
20               propane sold to consumers within each State in the  
21               preceding year for residential or commercial uses; to

22               “(2) the carbon content of home heating oil and  
23               propane sold to consumers within the United States  
24               in the preceding year for residential or commercial  
25               uses.

1       “(d) USE OF ALLOWANCES.—

2               “(1) IN GENERAL.—States shall use emission  
3 allowances distributed under this section exclusively  
4 for the benefit of consumers of home heating oil or  
5 propane for residential or commercial purposes.  
6 Such proceeds shall be used exclusively for—

7               “(A) cost-effective energy efficiency pro-  
8 grams for consumers that use home heating oil  
9 or propane for residential or commercial pur-  
10 poses; or

11              “(B) rebates or other direct financial as-  
12 sistance programs for consumers of home heat-  
13 ing oil or propane used for residential or com-  
14 mercial purposes.

15              “(2) ADMINISTRATION AND DELIVERY MECHA-  
16 NISMS.—In administering programs supported by  
17 this section, States shall—

18              “(A) use no less than 50 percent of the  
19 value of emission allowances received under this  
20 section for cost-effective energy efficiency pro-  
21 grams to reduce consumers’ overall fuel costs;

22              “(B) to the extent practicable, deliver con-  
23 sumer support under this section through exist-  
24 ing energy efficiency and consumer energy as-  
25 sistance programs or delivery mechanisms, in-



1           cluding, where appropriate, programs or mecha-  
 2           nisms administered by parties other than the  
 3           State; and

4           “(C) seek to coordinate the administration  
 5           and delivery of energy efficiency and consumer  
 6           energy assistance programs supported under  
 7           this section; with one another and with existing  
 8           programs for various fuel types; so as to deliver  
 9           comprehensive, fuel-blind, coordinated programs  
 10          to consumers.

11          “(e) REPORTING.—Each State receiving emission al-  
 12         lowances under this section shall submit to the Adminis-  
 13         trator, within 12 months of each receipt of such allow-  
 14         ances, a report, in accordance with such requirements as  
 15         the Administrator may prescribe, that—

16                 “(1) describes the State’s use of emission allow-  
 17                 ances distributed under this section; including a de-  
 18                 scription of the energy efficiency and consumer as-  
 19                 sistance programs supported with such allowances;

20                 “(2) demonstrates the cost-effectiveness of, and  
 21                 the energy savings achieved by, energy efficiency  
 22                 programs supported under this section; and

23                 “(3) includes a report prepared by an inde-  
 24                 pendent third party, in accordance with such regula-  
 25                 tions as the Administrator may promulgate, evalu-

1        ating the performance of the energy efficiency and  
 2        consumer assistance programs supported under this  
 3        section.

4        “(f) ENFORCEMENT.—If the Administrator deter-  
 5        mines that a State is not in compliance with this section,  
 6        the Administrator may withhold a portion of the emission  
 7        allowances, the quantity of which is equal to up to twice  
 8        the quantity of the allowances that the State failed to use  
 9        in accordance with the requirements of this section, that  
 10       such State would otherwise be eligible to receive under this  
 11       section in later years. Allowances withheld pursuant to  
 12       this subsection shall be distributed among the remaining  
 13       States on a pro rata basis in accordance with the formula  
 14       in subsection (e).

15       **“SEC. 775. DOMESTIC FUEL PRODUCTION.**

16       “(a) PURPOSE.—The purpose of this section is to  
 17       provide emission allowance rebates to petroleum refineries  
 18       in the United States in a manner that promotes energy  
 19       efficiency and a reduction in greenhouse gas emissions at  
 20       such facilities.

21       “(b) DEFINITIONS.—In this section:

22                “(1) EMISSIONS.—The term ‘emissions’ in-  
 23       eludes direct emissions from fuel combustion, proc-  
 24       ess emissions, and indirect emissions from the gen-  
 25       eration of electricity, steam, and hydrogen used to

1 produce the output of a petroleum refinery or the  
 2 petroleum refinery sector.

3 ~~“(2) PETROLEUM REFINERY.—The term ‘petro-~~  
 4 ~~leum refinery’ means a facility classified under code~~  
 5 ~~324110 of the North American Industrial Classifica-~~  
 6 ~~tion System of 2002.~~

7 ~~“(3) SMALL BUSINESS REFINER.—The term~~  
 8 ~~‘small business refiner’ means a refiner that meets~~  
 9 ~~the applicable Federal refinery capacity and em-~~  
 10 ~~ployee limitations criteria described in section~~  
 11 ~~45H(e)(1) of the Internal Revenue Code of 1986 (as~~  
 12 ~~in effect on the date of enactment of this section and~~  
 13 ~~without regard to section 45H(d)). Eligibility of a~~  
 14 ~~small business refiner under this paragraph shall not~~  
 15 ~~be recalculated or disallowed on account of (i) its~~  
 16 ~~merger with another small business refiner or refin-~~  
 17 ~~ers after December 31, 2002, or (ii) its acquisition~~  
 18 ~~of another small business refiner (or refinery of such~~  
 19 ~~refiner) after December 31, 2002.~~

20 ~~“(e) IN GENERAL.—The Administrator shall dis-~~  
 21 ~~tribute allowances pursuant to this section to owners and~~  
 22 ~~operators of petroleum refineries, including small business~~  
 23 ~~refiners, in the United States.~~

24 ~~“(d) DISTRIBUTION SCHEDULE.—The Administrator~~  
 25 ~~shall distribute emission allowances pursuant to the regu-~~

1 lations issued under subsection (e) for each vintage year  
 2 no later than October 31 of the preceding calendar year.

3       “(e) **REGULATIONS.**—Not later than 3 years after the  
 4 date of enactment of this title, the Administrator, in con-  
 5 sultation with the Administrator of the Energy Informa-  
 6 tion Administration, shall promulgate regulations that es-  
 7 tablish a formula for distributing emission allowances con-  
 8 sistent with the purpose of this section. In establishing  
 9 such formula, the Administrator shall consider the relative  
 10 complexity of refinery processes and appropriate mecha-  
 11 nisms to take energy efficiency and greenhouse gas reduc-  
 12 tions into account. If a petroleum refinery’s electricity pro-  
 13 vider received a free allocation of emission allowances pur-  
 14 suant to section 771(a)(1), the Administrator shall take  
 15 this free allocation into account when establishing such  
 16 formula to avoid rebates to a petroleum refinery for costs  
 17 that the Administrator determines were not incurred by  
 18 the petroleum refinery because the allowances were freely  
 19 allocated to the petroleum refinery’s electricity provider  
 20 and used for the benefit of the petroleum refinery. This  
 21 formula shall apply separately to the distribution of allow-  
 22 ances allocated pursuant to section 771(a)(4), including  
 23 for petroleum refiners and small business refiners.

24 **“SEC. 776. CONSUMER PROTECTION.**

25       “(a) **CONSUMER REBATES.**—

1           “(1) ESTABLISHMENT OF FUND.—There is es-  
 2           tablished in the Treasury a separate account, to be  
 3           known as the ‘Consumer Rebate Fund’).

4           “(2) AVAILABILITY OF AMOUNTS.—All amounts  
 5           deposited in the Consumer Rebate Fund shall be  
 6           available without further appropriation or fiscal year  
 7           limitation.

8           “(3) DISTRIBUTION OF AMOUNTS.—Beginning  
 9           in 2026, for each year after deposits are made in the  
 10          Consumer Rebate Fund pursuant to section  
 11          771(b)(2)(A), the President shall use the funds in  
 12          accordance with Federal statutory authority to pro-  
 13          vide relief to consumers and others affected by the  
 14          enactment of the Clean Energy Jobs and American  
 15          Power Act (and amendments made by that Act).

16          “(b) ENERGY REFUND PROGRAM.—

17               “(1) ESTABLISHMENT OF FUND.—There is es-  
 18               tablished in the Treasury a separate account, to be  
 19               known as the ‘Energy Refund Account’).

20               “(2) AVAILABILITY OF AMOUNTS.—All amounts  
 21               deposited in the Energy Refund Account shall be  
 22               available without further appropriation or fiscal year  
 23               limitation.

24               “(3) DISTRIBUTION OF AMOUNTS.—For each  
 25               year after deposits are made to the Energy Refund

1 Account pursuant to section 771(b)(2)(B), the  
 2 President shall use the funds in accordance with  
 3 Federal statutory authority to offset energy cost im-  
 4 pacts on low- and moderate-income households.

5 **“SEC. 777. EXCHANGE FOR STATE-ISSUED ALLOWANCES.**

6 “(a) ~~IN GENERAL.~~—Not later than 1 year after the  
 7 date of enactment of this title, the Administrator shall  
 8 issue regulations allowing any person in the United States  
 9 to exchange greenhouse gas emission allowances issued be-  
 10 fore the later of December 31, 2011, or the date that is  
 11 9 months after the first auction under section 778, by the  
 12 State of California or for the Regional Greenhouse Gas  
 13 Initiative, or the Western Climate Initiative (in this sec-  
 14 tion referred to as ‘State allowances’) for emission allow-  
 15 ances established by the Administrator under section  
 16 721(a).

17 “(b) ~~REGULATIONS.~~—Regulations issued under sub-  
 18 section (a) shall—

19 “(1) provide that a person exchanging State al-  
 20 lowances under this section receive emission allow-  
 21 ances established under section 721(a) in the  
 22 amount that is sufficient to compensate for the cost  
 23 of obtaining and holding such State allowances;

24 “(2) establish a deadline by which persons must  
 25 exchange the State allowances;

1           “(3) provide that the Federal emission allow-  
 2           ances disbursed pursuant to this section shall be de-  
 3           ducted from the allowances to be auctioned pursuant  
 4           to section 771(b); and

5           “(4) require that, once exchanged, the credit or  
 6           other instrument be retired for purposes of use  
 7           under the program by or for which it was originally  
 8           issued.

9           “(e) COST OF OBTAINING STATE ALLOWANCE.—For  
 10          purposes of this section, the cost of obtaining a State al-  
 11          lowance shall be the average auction price, for emission  
 12          allowances issued in the year in which the State allowance  
 13          was issued, under the program under which the State al-  
 14          lowance was issued.

15       **“SEC. 778. AUCTION PROCEDURES.**

16           “(a) IN GENERAL.—To the extent that auctions of  
 17          emission allowances by the Administrator are authorized  
 18          by this part, such auctions shall be carried out pursuant  
 19          to this section and the regulations established hereunder.

20           “(b) INITIAL REGULATIONS.—Not later than 12  
 21          months after the date of enactment of this title, the Ad-  
 22          ministrator, in consultation with other agencies, as appro-  
 23          priate, shall promulgate regulations governing the auction  
 24          of allowances under this section. Such regulations shall in-  
 25          clude the following requirements:

1           “(1) FREQUENCY; FIRST AUCTION.—Auctions  
2           shall be held four times per year at regular intervals,  
3           with the first auction to be held no later than March  
4           31, 2011.

5           “(2) AUCTION SCHEDULE; CURRENT AND FU-  
6           TURE VINTAGES.—The Administrator shall, at each  
7           quarterly auction under this section, offer for sale  
8           both a portion of the allowances with the same vin-  
9           tage year as the year in which the auction is being  
10          conducted and a portion of the allowances with vin-  
11          tage years from future years. The preceding sen-  
12          tence shall not apply to auctions held before 2012,  
13          during which period, by necessity, the Administrator  
14          shall auction only allowances with a vintage year  
15          that is later than the year in which the auction is  
16          held. Beginning with the first auction and at each  
17          quarterly auction held thereafter, the Administrator  
18          may offer for sale allowances with vintage years of  
19          up to 4 years after the year in which the auction is  
20          being conducted.

21          “(3) AUCTION FORMAT.—Auctions shall follow  
22          a single-round, sealed-bid, uniform price format.

23          “(4) PARTICIPATION; FINANCIAL ASSURANCE.—  
24          Auctions shall be open to any person, except that  
25          the Administrator may establish financial assurance



1 requirements to ensure that auction participants can  
2 and will perform on their bids.

3 ~~“(5) DISCLOSURE OF BENEFICIAL OWNER-~~  
4 ~~SHIP.—~~Each bidder in the auction shall be required  
5 to disclose the person or entity sponsoring or bene-  
6 fitting from the bidder’s participation in the auction  
7 if such person or entity is, in whole or in part, other  
8 than the bidder.

9 ~~“(6) PURCHASE LIMITS.—~~No person may, di-  
10 rectly or in concert with another participant, pur-  
11 chase more than 5 percent of the allowances offered  
12 for sale at any quarterly auction.

13 ~~“(7) PUBLICATION OF INFORMATION.—~~After  
14 the auction, the Administrator shall, in a timely  
15 fashion, publish the identities of winning bidders,  
16 the quantity of allowances obtained by each winning  
17 bidder, and the auction clearing price.

18 ~~“(8) OTHER REQUIREMENTS.—~~The Adminis-  
19 trator may include in the regulations such other re-  
20 quirements or provisions as the Administrator, in  
21 consultation with other agencies, as appropriate,  
22 considers appropriate to promote effective, efficient,  
23 transparent, and fair administration of auctions  
24 under this section.

1       “(c) **REVISION OF REGULATIONS.**—The Adminis-  
2 trator may, in consultation with other agencies, as appro-  
3 priate, at any time, revise the initial regulations promul-  
4 gated under subsection (b) by promulgating new regula-  
5 tions. Such revised regulations need not meet the require-  
6 ments identified in subsection (b) if the Administrator de-  
7 termines that an alternative auction design would be more  
8 effective, taking into account factors including costs of ad-  
9 ministration, transparency, fairness, and risks of collusion  
10 or manipulation. In determining whether and how to re-  
11 vise the initial regulations under this subsection, the Ad-  
12 ministrator shall not consider maximization of revenues to  
13 the Federal Government.

14       “(d) **RESERVE AUCTION PRICE.**—The minimum re-  
15 serve auction price shall be \$10 (in constant 2005 dollars)  
16 for auctions occurring in 2012. The minimum reserve  
17 price for auctions occurring in years after 2012 shall be  
18 the minimum reserve auction price for the previous year  
19 increased by 5 percent plus the rate of inflation (as meas-  
20 ured by the Consumer Price Index for all urban con-  
21 sumers).

22       “(e) **DELEGATION OR CONTRACT.**—Pursuant to reg-  
23 ulations under this section, the Administrator may by del-  
24 egation or contract provide for the conduct of auctions  
25 under the Administrator’s supervision by other depart-

1 ments or agencies of the Federal Government or by non-  
2 governmental agencies, groups, or organizations.

3       ~~“(f) SMALL BUSINESS REFINER RESERVE.—The Ad-~~  
4 ~~ministrator shall, in accordance with this subsection, issue~~  
5 ~~regulations setting aside a specified number of allowances,~~  
6 ~~as determined by the Administrator, that small business~~  
7 ~~refiners may purchase at the average auction price and~~  
8 ~~may use to demonstrate compliance pursuant to section~~  
9 ~~722. These regulations shall provide the following:~~

10       ~~“(1) ALLOWED PURCHASES.—From January 1~~  
11 ~~of the calendar year that matches the vintage year~~  
12 ~~for which allowances have been placed in the reserve,~~  
13 ~~through January 14 of the following year, small~~  
14 ~~business refiners (as defined in section 775(b)) may~~  
15 ~~purchase allowances from this reserve at the price~~  
16 ~~determined pursuant to paragraph (2).~~

17       ~~“(2) PRICE.—The price for allowances pur-~~  
18 ~~chased from this reserve shall be the average auction~~  
19 ~~price for allowances of the same vintage year pur-~~  
20 ~~chased at auctions conducted pursuant to this sec-~~  
21 ~~tion during the 12 months preceding the purchase of~~  
22 ~~the allowances.~~

23       ~~“(3) USE OF ALLOWANCES.—Allowances pur-~~  
24 ~~chased from this reserve shall only be used by the~~  
25 ~~purchaser to demonstrate compliance pursuant to~~

1 section 722 for attributable greenhouse gas emis-  
 2 sions in the calendar year that matches the vintage  
 3 year of the purchased allowance. Allowances pur-  
 4 chased from this reserve may not be banked, traded  
 5 or borrowed.

6 “(4) LIMITATIONS ON PURCHASE AMOUNT.—

7 The Administrator, by regulation adopted after pub-  
 8 lic notice and an opportunity for comment, shall es-  
 9 tablish procedures to distribute the ability to pur-  
 10 chase allowances from the reserve fairly among all  
 11 small business refiners interested in purchasing al-  
 12 lowances from this reserve so as to address the po-  
 13 tential that requests to purchase allowances exceed  
 14 the number of allowances available in the reserve.  
 15 This regulation may place limits on the number of  
 16 allowances a small business refiner may purchase  
 17 from the reserve.

18 “(5) UNSOLD ALLOWANCES.—Vintage year al-

19 lowances not sold from the reserve on or before Jan-  
 20 uary 15 of the calendar year following the vintage  
 21 year shall be sold at an auction conducted pursuant  
 22 to this section no later than March 31 of the cal-  
 23 endar year following the vintage year. If significantly  
 24 more allowances are being placed in the reserve than  
 25 are being purchased from the reserve several years

1 in a row, the Administrator may adjust either the  
 2 percent of allowances placed in the reserve or the  
 3 date by which allowances may be purchased from the  
 4 reserve.

5 **“SEC. 779. AUCTIONING ALLOWANCES FOR OTHER ENTI-**  
 6 **TIES.**

7 “(a) CONSIGNMENT.—Any entity holding emission al-  
 8 lowances or compensatory allowances may request that the  
 9 Administrator auction, pursuant to section 778, the allow-  
 10 ances on consignment.

11 “(b) PRICING.—When the Administrator acts under  
 12 this section as the agent of an entity in possession of emis-  
 13 sion allowances, the Administrator is not obligated to ob-  
 14 tain the highest price possible for the emission allowances,  
 15 and instead shall auction consignment allowances in the  
 16 same manner and pursuant to the same rules as auctions  
 17 of other allowances under section 778. The Administrator  
 18 may permit the entity offering the allowance for sale to  
 19 condition the sale of its allowances pursuant to this section  
 20 on a minimum reserve price that is different than the re-  
 21 serve auction price set pursuant to section 778(d).

22 “(c) PROCEEDS.—For emission allowances and com-  
 23 pensatory allowances auctioned pursuant to this section,  
 24 notwithstanding section 3302 of title 31, United States  
 25 Code, or any other provision of law, within 90 days of re-

cept, the United States shall transfer the proceeds from the auction to the entity which held the allowances auctioned. No funds transferred from a purchaser to a seller of emission allowances or compensatory allowances under this subsection shall be held by any officer or employee of the United States or treated for any purpose as public monies.

“(d) REGULATIONS.—The Administrator shall issue regulations within 24 months after the date of enactment of this title to implement this section.

**“SEC. 780. COMMERCIAL DEPLOYMENT OF CARBON CAPTURE AND SEQUESTRATION TECHNOLOGIES.**

“(a) DEFINITIONS.—In this section:

“(1) CARBON CAPTURE AND STORAGE.—The term ‘carbon capture and sequestration’ shall—

“(A) have such term as Administrator shall determine by regulation; and

“(B) include—

“(i) geological sequestration; and

“(ii) conversion of captured carbon dioxide to a stable form that will safely and permanently sequester the carbon dioxide.

“(2) QUALIFYING ELECTRIC GENERATING UNIT.—The term ‘qualifying electric generating unit’ means an electric utility unit that—

1           “(A) derives at least 50 percent of the an-  
2           nual fuel input of the unit from—

3                   “(i) coal or waste coal;

4                   “(ii) petroleum coke; or

5                   “(iii) any combination of those 2  
6           fuels; and

7           “(B)(i) has a nameplate capacity of 200  
8           megawatts or more; or

9                   “(ii) in the case of retrofit applications, the  
10          carbon capture and sequestration technology is  
11          applied to the flue gas or fuel gas stream from  
12          at least 200 megawatts of the total nameplate  
13          generating capacity of the unit.

14          “(3) QUALIFYING INDUSTRIAL SOURCE.—The  
15          term ‘qualifying industrial source’ means a source  
16          that—

17                   “(A) is not a qualifying electric generating  
18                  unit;

19                   “(B) absent carbon capture and sequestra-  
20                  tion, would emit greater than 50,000 tons per  
21                  year of carbon dioxide; and

22                   “(C) does not produce a liquid transpor-  
23                  tation fuel from a solid fossil-based feedstock.

24          “(4) TREATED GENERATING CAPACITY.—

1           “(A) IN GENERAL.—The term ‘treated  
2           generating capacity’ means the portion of the  
3           total generating capacity of an electric gener-  
4           ating unit (or industrial source, measured by  
5           such method as the Administrator may des-  
6           ignate to be equivalent to the calculation under  
7           subparagraph (B)) for which the flue gas or  
8           fuel gas is treated by the carbon capture and  
9           sequestration technology.

10           “(B) CALCULATION.—In determining the  
11           treated portion of flue gas or fuel gas of an  
12           electric generating unit under subparagraph  
13           (A), the Administrator shall multiply the name-  
14           plate capacity of the unit by the ratio that—

15                   “(i) the mass of flue gas or fuel gas  
16                   that is treated by the carbon capture and  
17                   sequestration technology; bears to

18                   “(ii) the total mass of the flue gas or  
19                   fuel gas that is produced when the unit is  
20                   operating at maximum capacity.

21           “(b) REGULATIONS.—Not later than 2 years after  
22           the date of enactment of this title, the Administrator shall  
23           promulgate regulations providing for the distribution of  
24           emission allowances allocated under section 771(a)(6),  
25           pursuant to the requirements of this section, to support



1 the commercial deployment of carbon capture and seques-  
 2 tration technologies in electric power generation and in-  
 3 dustrial operations.

4 “(c) ELIGIBILITY CRITERIA AND METHOD OF DIS-  
 5 TRIBUTION.—

6 “(1) ELIGIBILITY.—For an owner or operator  
 7 of a project to be eligible to receive emission allow-  
 8 ances under this section, the project shall—

9 “(A) implement carbon capture and se-  
 10 questration technology—

11 “(i) at a qualifying electric generating  
 12 unit that, upon implementation of the car-  
 13 bon capture and sequestration technology,  
 14 will achieve an emission limitation that is  
 15 at least a 50-percent reduction in emis-  
 16 sions of the carbon dioxide produced by—

17 “(I) the unit, measured on an  
 18 annual basis, as determined by the  
 19 Administrator; or

20 “(II) in the case of retrofit appli-  
 21 cations described in subsection  
 22 (a)(2)(B)(ii), the treated portion of  
 23 flue gas from the unit, measured on  
 24 an annual basis, as determined by the  
 25 Administrator; or

1           “(ii) at a qualifying industrial source  
 2           that, upon implementation, will achieve an  
 3           emission limitation that is at least a 50-  
 4           percent reduction in emissions of the car-  
 5           bon dioxide produced by the emission  
 6           point, measured on an annual basis, as de-  
 7           termined by the Administrator;

8           “(B)(i) geologically sequester carbon diox-  
 9           ide at a site that meets all applicable permitting  
 10          and certification requirements for geological se-  
 11          questration; or

12          “(ii) pursuant to such requirements as the  
 13          Administrator may prescribe by regulation, con-  
 14          vert captured carbon dioxide to a stable form  
 15          that will safely and permanently sequester the  
 16          carbon dioxide;

17          “(C) meet all other applicable State, tribal,  
 18          and Federal permitting requirements; and

19          “(D) be located in the United States.

20          “(2) METHOD OF DISTRIBUTION.—

21          “(A) PERIOD.—The Administrator shall  
 22          distribute emission allowances allocated under  
 23          section 771(a)(6) to eligible projects for each of  
 24          the first 10 calendar years for which each eligi-  
 25          ble project is in commercial operation.

1                   “(B) BONUS ALLOWANCE FORMULA FOR  
2                   ELECTRIC GENERATING UNITS.—

3                   “(i) PHASE I DISTRIBUTION.—For  
4                   each project that is certified under sub-  
5                   section (h), the quantity of emission allow-  
6                   ances that the Administrator shall dis-  
7                   tribute for a calendar year to the owner or  
8                   operator of the eligible project shall be  
9                   equal to the quotient obtained by divid-  
10                  ing—

11                  “(I) the product obtained by mul-  
12                  tiplying—

13                   “(aa) the number of metric  
14                   tons of carbon dioxide emissions  
15                   avoided through capture and se-  
16                   questration of emissions by the  
17                   project for a particular year, as  
18                   determined pursuant to such  
19                   methodology as the Adminis-  
20                   trator shall prescribe by regula-  
21                   tion; and

22                   “(bb) a bonus allowance  
23                   value that is assigned to the  
24                   project under subsection (d)(2);  
25                   by

1                   ~~“(H) the average fair market~~  
 2                   ~~value of an emission allowance during~~  
 3                   ~~the calendar year preceding the year~~  
 4                   ~~during which the project captured and~~  
 5                   ~~sequestered the carbon dioxide emis-~~  
 6                   ~~sions.~~

7                   ~~“(ii) PHASE II DISTRIBUTION.—For~~  
 8                   ~~each project that qualifies under subsection~~  
 9                   ~~(e), the quantity of emission allowances~~  
 10                   ~~that the Administrator shall distribute for~~  
 11                   ~~a calendar year to the owner or operator of~~  
 12                   ~~the eligible project shall be determined~~  
 13                   ~~through—~~

14                   ~~“(I) reverse auction, as pre-~~  
 15                   ~~scribed by regulation under subsection~~  
 16                   ~~(e)(3); or~~

17                   ~~“(II) if the Administrator decides~~  
 18                   ~~not to distribute allowances through a~~  
 19                   ~~reverse auction, an alternate distribu-~~  
 20                   ~~tion method established by regulation~~  
 21                   ~~under subsection (e)(4).~~

22                   ~~“(C) FORMULA FOR INDUSTRIAL~~  
 23                   ~~SOURCES.—For each project that qualifies~~  
 24                   ~~under subsection (g), the quantity of emission~~  
 25                   ~~allowances that the Administrator shall dis-~~

tribute for a calendar year to the owner or operator of the eligible project shall be determined in accordance with subsection ~~(g)~~(2).

~~“(D) CONSISTENCY.—~~The Administrator shall develop a method of distribution for each category of eligible projects under this paragraph in a manner that is consistent with the certification and distribution requirements under subsection ~~(h)~~.

~~“(d) PHASE I DISTRIBUTION TO ELECTRIC GENERATING UNITS.—~~

~~“(1) APPLICABILITY.—~~

~~“(A) IN GENERAL.—~~Subject to subparagraph (B), this subsection shall apply to projects that are undertaken at qualifying electric generating units that the Administrator determines to be eligible to receive emission allowances under this section.

~~“(B) CAPACITY.—~~The total cumulative generating capacity of the projects described in subparagraph (A) shall be equal to approximately 20 gigawatts of the treated generating capacity.

~~“(2) BONUS ALLOWANCE VALUES.—~~

~~“(A) FIRST TRANCHE.—~~

1 “(i) IN GENERAL.—The first tranche  
 2 shall include the first 10 gigawatts of  
 3 treated generating capacity undertaken at  
 4 qualifying electric generating units that re-  
 5 ceive emission allowances under this sec-  
 6 tion.

7 “(ii) CERTAIN UNITS.—For an eligible  
 8 project achieving capture and sequestration  
 9 of 90 percent or more of the carbon diox-  
 10 ide that otherwise would be emitted by the  
 11 unit, the bonus allowance value shall be  
 12 \$96 per ton of carbon dioxide emissions  
 13 avoided through the use of capture and se-  
 14 questration.

15 “(iii) BONUS ALLOWANCE VALUE.—  
 16 The Administrator shall establish, by regu-  
 17 lation, a bonus allowance value for each  
 18 rate of capture and sequestration achieved  
 19 by an eligible project—

20 “(I) beginning at a minimum of  
 21 \$50 per ton for a 50-percent rate; and

22 “(II) varying in direct proportion  
 23 with increasing rates of capture and  
 24 sequestration up to \$96 per ton for an  
 25 90-percent rate.

1 “(B) SECOND TRANCHE.—

2 “(i) IN GENERAL.—The second  
3 tranche shall include the second 10  
4 gigawatts of treated generating capacity  
5 undertaken at qualifying electric gener-  
6 ating units that receive emission allow-  
7 ances under this section.

8 “(ii) CERTAIN UNITS.—For an eligible  
9 project achieving the capture and seques-  
10 tration of 90 percent or more of the carbon  
11 dioxide that otherwise would be emitted by  
12 the eligible project, the bonus allowance  
13 value shall be \$85 per ton of carbon diox-  
14 ide emissions avoided through the use of  
15 capture and sequestration.

16 “(iii) BONUS ALLOWANCE VALUE.—  
17 The Administrator shall establish, by regu-  
18 lation, a bonus allowance value for each  
19 rate of capture and sequestration achieved  
20 by an eligible project—

21 “(I) beginning at a minimum of  
22 \$50 per ton for a 50-percent rate; and

23 “(II) varying in direct proportion  
24 with increasing rates of capture and

1                   sequestration up to \$85 per ton for a  
2                   90-percent rate.

3                   ~~“(C) INCREASE IN BONUS ALLOWANCE~~  
4                   ~~VALUE.—~~For an eligible project that com-  
5                   mences commercial operation by not later than  
6                   January 1, 2017, and that meets the eligibility  
7                   criteria under subsection (c), the otherwise-ap-  
8                   plicable bonus allowance value under this para-  
9                   graph shall be increased by \$10, if the owner  
10                  or operator of the eligible project submits to the  
11                  Administrator by not later than January 1,  
12                  2012, a notification of the intent to implement  
13                  carbon capture and sequestration technology at  
14                  a qualifying electric generating unit in accord-  
15                  ance with subsection (c).

16                  ~~“(D) REDUCTION.—~~

17                  ~~“(i) IN GENERAL.—~~For a carbon cap-  
18                  ture and sequestration project sequestering  
19                  in a geological formation for purposes of  
20                  enhanced hydrocarbon recovery, the Ad-  
21                  ministrator, by regulation, shall reduce the  
22                  applicable bonus allowance value under  
23                  this paragraph to reflect the lower net cost  
24                  of the project, as compared to sequestra-



tion into geological formations solely for purposes of sequestration.

“(ii) ASSESSMENT OF NET COST.—

For the purpose of this subparagraph, an assessment of net cost of a project shall account for the cost of the injection of carbon dioxide, or other method of enhanced hydrocarbon recovery, that would have otherwise been undertaken in the absence of the carbon capture and sequestration project under consideration.

“(E) ADJUSTMENTS.—The Administrator shall annually adjust for monetary inflation the bonus allowance values established under this paragraph.

“(F) MEASUREMENT.—The Administrator shall measure the tranches and capture levels for assigning the bonus allowance values under this subsection based on the treated generating capacity of the qualifying electric generating units and qualifying industrial sources that receive emission allowances under this subsection.

“(G) AVERAGE FAIR MARKET VALUE.—

“(i) IN GENERAL.—The Administrator and the Secretary of Energy may jointly

determine that the average fair market value for emission allowances or the bonus allowances have been too low or too high to achieve efficient and cost-effective commercial deployment of carbon capture and sequestration technology in a given calendar year.

“(ii) ACTION ON DETERMINATION.—

On making a determination under clause (i), the Administrator may—

“(I) promulgate regulations to adjust the bonus allowance value under this paragraph; or

“(II) distribute an appropriate quantity of emission allowances allocated under section 771(a)(6) from any future vintage year.

“(e) PHASE II DISTRIBUTION TO ELECTRIC GENERATING UNITS.—

“(1) APPLICATION.—This subsection shall apply only to the distribution of emission allowances for carbon capture and sequestration projects undertaken at qualifying electric generating units and qualifying industrial sources after the treated gener-

1        ating capacity threshold identified under subsection  
2        (d)(1) is reached.

3            ~~“(2) REGULATIONS.—~~Not later than 2 years  
4        before the date on which the capacity threshold iden-  
5        tified in subsection (d)(1) is projected to be reached,  
6        the Administrator shall promulgate regulations to  
7        govern the distribution of emission allowances to the  
8        owners or operators of eligible projects under this  
9        subsection.

10          ~~“(3) REVERSE AUCTIONS.—~~

11            ~~“(A) IN GENERAL.—~~Except as provided in  
12        paragraph (4), the regulations promulgated  
13        pursuant to paragraph (2) shall provide for the  
14        distribution of emission allowances to the own-  
15        ers or operators of eligible projects under this  
16        subsection through at least 2 reverse auctions,  
17        each of which shall be held not less frequently  
18        than once each calendar year.

19          ~~“(B) REQUIREMENTS.—~~

20            ~~“(i) PROJECTS AT INDUSTRIAL~~  
21        SOURCES.—The Administrator shall annu-  
22        ally establish a reverse auction for projects  
23        at industrial sources, which may not par-  
24        ticipate in other auctions.

1                   “(ii) OTHER AUCTIONS.—The Admin-  
 2                   istrator may establish a separate auction  
 3                   for each of not more than 5 different  
 4                   project categories, as defined based on—

5                   “(I) coal type;

6                   “(II) capture technology;

7                   “(III) geological formation type;

8                   “(IV) new unit versus retrofit ap-  
 9                   plication;

10                  “(V) such other factors as the  
 11                  Administrator may prescribe; or

12                  “(VI) any combination of the fac-  
 13                  tors described in subclauses (I)  
 14                  through (V).

15                  “(iii) EFFICIENT DISTRIBUTION.—

16                  The Administrator shall establish proce-  
 17                  dures for the auction of emission allow-  
 18                  ances under this subparagraph to ensure  
 19                  that the establishment of separate auctions  
 20                  for different project categories will not un-  
 21                  duly impede the efficient and expeditious  
 22                  distribution of emission allowances to eligi-  
 23                  ble projects under this subsection.

24                  “(iv) MINIMUM RATES.—The Admin-  
 25                  istrator may establish appropriate min-

1           imum rates of capture and sequestration  
2           for the treated generating capacity of a  
3           project in implementing this subparagraph.

4           “(C) AUCTION PROCESS.—At each reverse  
5           auction under this paragraph—

6                   “(i) the Administrator shall solicit  
7                   bids from eligible projects;

8                   “(ii) owners or operators of eligible  
9                   projects participating in the auction shall  
10                  submit a bid, including the desired level of  
11                  carbon dioxide sequestration incentive per  
12                  ton and the estimated quantity of carbon  
13                  dioxide that the project will permanently  
14                  sequester during a 10-year period; and

15                  “(iii) the Administrator shall select  
16                  bids within each auction for the sequestra-  
17                  tion quantity submitted, beginning with  
18                  the eligible project for which the bid is  
19                  submitted for the lowest level of sequestra-  
20                  tion incentive on a per-ton basis and meet-  
21                  ing such other requirements as the Admin-  
22                  istrator may specify, until the amounts  
23                  available for the reverse auction are com-  
24                  mitted.

1           “(D) FORM OF DISTRIBUTION.—The Ad-  
 2           ministrators shall distribute emission allowances  
 3           to the owners or operators of eligible projects  
 4           selected through a reverse auction under this  
 5           paragraph pursuant to a formula equivalent to  
 6           the formula contained in subsection (c)(2)(B),  
 7           except that the bonus allowance value that is  
 8           bid by the applicable entity shall be substituted  
 9           for the bonus allowance values described in sub-  
 10          section (c)(2).

11          “(4) ALTERNATIVE DISTRIBUTION METHOD.—

12           “(A) IN GENERAL.—If the Administrator  
 13           determines that a reverse auction will not result  
 14           in efficient and cost-effective commercial de-  
 15           ployment of carbon capture and sequestration  
 16           technologies, the Administrator, pursuant to  
 17           regulations under paragraph (2) or (5), shall  
 18           prescribe a schedule for the provision of bonus  
 19           allowances to the owners or operators of eligible  
 20           projects under this subsection, in accordance  
 21           with the requirements of this paragraph.

22           “(B) MULTIPLE TRANCHES.—The Admin-  
 23           istrator shall divide emission allowances avail-  
 24           able for distribution to the owners or operators

of eligible projects into a series of tranches,  
each of which—

“(i) shall support the deployment of a  
specified quantity of cumulative electric  
generating capacity using carbon capture  
and sequestration technology; and

“(ii) shall not be greater than 10  
gigawatts of treated generating capacity.

“(C) METHOD OF DISTRIBUTION.—The  
Administrator shall distribute emission allow-  
ances within each tranche, on a first-come,  
first-served basis—

“(i) based on the date of full-scale op-  
eration of capture and sequestration tech-  
nology; and

“(ii) pursuant to a formula that—

“(I) is similar to the formula  
contained in subsection (c)(2)(C), ex-  
cept that the Administrator may pre-  
scribe bonus allowance values dif-  
ferent than those described in sub-  
section (c)(2) based on the criteria es-  
tablished under subparagraph (E);  
and

1                   “(H) establishes the number of  
2                   emission allowances to be distributed  
3                   per ton of carbon dioxide sequestered  
4                   by the project.

5                   “(D) REQUIREMENTS.—For each tranche  
6                   established pursuant to subparagraph (B), the  
7                   Administrator shall establish a schedule for dis-  
8                   tributing emission allowances that—

9                   “(i) is based on a sliding scale that  
10                  provides higher bonus allowance values for  
11                  projects achieving higher rates of capture  
12                  and sequestration for the treated genera-  
13                  tion capacity at the unit;

14                  “(ii) for each capture and sequestra-  
15                  tion rate, establishes a bonus allowance  
16                  value that is lower than that established  
17                  for the applicable rate for the previous  
18                  tranche (or, in the case of the first  
19                  tranche, than that established for the ap-  
20                  plicable rate under subsection (d)(2)); and

21                  “(iii) may establish different bonus al-  
22                  lowance levels for not more than 5 dif-  
23                  ferent project categories, as defined based  
24                  on—

25                  “(I) coal type;



1                   “(H) capture and transportation  
2                   technology;

3                   “(III) geological formation type;

4                   “(IV) new unit versus retrofit ap-  
5                   plication;

6                   “(V) such other factors as the  
7                   Administrator may prescribe; or

8                   “(VI) any combination of the fac-  
9                   tors described in subclauses (I)  
10                  through (V).

11                  “(E) CRITERIA FOR ESTABLISHING BONUS  
12                  ALLOWANCE VALUES.—In establishing bonus al-  
13                  lowance values under this paragraph, the Ad-  
14                  ministrator shall seek to cover not more than  
15                  the reasonable incremental capital and oper-  
16                  ating costs of a project that are attributable to  
17                  implementation of carbon capture, transpor-  
18                  tation, and sequestration technologies, taking  
19                  into account—

20                  “(i) the reduced cost of compliance  
21                  with section 722;

22                  “(ii) the reduced cost associated with  
23                  sequestering in a geological formation for  
24                  purposes of enhanced hydrocarbon recov-  
25                  ery, as compared to sequestration into geo-

1                   logical formations solely for purposes of se-  
2                   questration;

3                   “~~(iii)~~ the relevant factors defining the  
4                   project category; and

5                   “~~(iv)~~ such other factors as the Admin-  
6                   istrator determines to be appropriate.

7                   “~~(5)~~ REVISION OF REGULATIONS.—The Admin-  
8                   istrator shall review and, as appropriate, revise the  
9                   applicable regulations under this subsection not less  
10                  frequently than once every 8 years.

11                  “~~(f)~~ LIMITS FOR CERTAIN ELECTRIC GENERATING  
12                  UNITS.—

13                  “~~(1)~~ DEFINITIONS.—In this subsection, the  
14                  terms ‘covered EGU’ and ‘initially permitted’ have  
15                  the meanings given those terms in section 812.

16                  “~~(2)~~ COVERED EGUS INITIALLY PERMITTED  
17                  FROM 2009 THROUGH 2014.—For a covered EGU  
18                  that is initially permitted during the period begin-  
19                  ning on January 1, 2009, and ending on December  
20                  31, 2014, the Administrator shall reduce the quan-  
21                  tity of emission allowances that the owner or oper-  
22                  ator of the covered EGU would otherwise be eligible  
23                  to receive under this section as follows:

24                  “~~(A)~~ In the case of a covered EGU com-  
25                  mencing operation on or before January 1,

2019, if the date in clause (ii)(I) is earlier than  
the date in clause (ii)(II), by the product ob-  
tained by multiplying—

“(i) 20 percent; and

“(ii) the number of years, if any, that  
have elapsed between—

“(I) the earlier of—

“(aa) January 1, 2020; and

“(bb) the date that is 5  
years after the commencement of  
operation of the covered EGU;  
and

“(II) the first year that the cov-  
ered EGU achieves (and thereafter  
maintains) an emission limitation that  
is at least a 50-percent reduction in  
emissions of carbon dioxide produced  
by the unit, measured on an annual  
basis, as determined in accordance  
with section 812(b)(2).

“(B) In the case of a covered EGU com-  
mencing operation after January 1, 2019, by  
the product obtained by multiplying—

“(i) 20 percent; and

1 “(ii) the number of years, if any, that  
2 have elapsed between—

3 “(I) the commencement of oper-  
4 ation of the covered EGU; and

5 “(II) the first year that the cov-  
6 ered EGU achieves (and thereafter  
7 maintains) an emission limitation that  
8 is at least a 50-percent reduction in  
9 emissions of carbon dioxide produced  
10 by the unit, measured on an annual  
11 basis, as determined in accordance  
12 with section 812(b)(2).

13 “(3) COVERED EGUS INITIALLY PERMITTED  
14 FROM 2015 THROUGH 2019.—The owner or operator  
15 of a covered EGU that is initially permitted during  
16 the period beginning on January 1, 2015, and end-  
17 ing on December 31, 2019, shall be ineligible to re-  
18 ceive emission allowances under this section if the  
19 covered EGU, on commencement of operations (and  
20 thereafter), does not achieve and maintain an emis-  
21 sion limitation that is at least a 50-percent reduction  
22 in emissions of carbon dioxide produced by the cov-  
23 ered EGU, measured on an annual basis, as deter-  
24 mined in accordance with section 812(b)(2).

25 “(g) INDUSTRIAL SOURCES.—

1           “(1) EMISSION ALLOWANCES.—The Adminis-  
2       trator—

3           “(A) may distribute not more than 15 per-  
4       cent of the emission allowances allocated under  
5       section 771(a)(6) for any vintage year to the  
6       owners or operators of eligible industrial  
7       sources to support the commercial-scale deploy-  
8       ment of carbon capture and sequestration tech-  
9       nologies at those sources; and

10          “(B) notwithstanding any other provision  
11       of law—

12           “(i) may distribute to eligible indus-  
13       trial sources not more than 15 percent of  
14       the emission allowances allocated under  
15       section 771(a)(6) for any vintage year in  
16       the second tranche of phase I; but

17           “(ii) may not distribute those allow-  
18       ances for any vintage year in the first  
19       tranche of phase I.

20          “(2) DISTRIBUTION.—

21           “(A) IN GENERAL.—The Administrator  
22       shall prescribe, by regulation, requirements for  
23       the distribution of emission allowances to the  
24       owners or operators of industrial sources under  
25       this subsection, based on a bonus allowance for-

1           mula that awards emission allowances to quali-  
 2           fying projects on the basis of tons of carbon di-  
 3           oxide captured and permanently sequestered.

4           “(B) METHOD.—The Administrator may  
 5           provide for the distribution of emission allow-  
 6           ances pursuant to—

7                   “(i) a reverse auction method similar  
 8                   to the method described in subsection  
 9                   (e)(3), including the use of separate auc-  
 10                  tions for different project categories; or

11                  “(ii) an incentive schedule similar to  
 12                  the schedule described in subsection (e)(4),  
 13                  which shall ensure that incentives are es-  
 14                  tablished so as to satisfy the requirement  
 15                  described in subsection (e)(4)(E).

16           “(3) REVISION OF REGULATIONS.—The Admin-  
 17           istrator shall review and, as appropriate, revise the  
 18           regulations under this subsection not less frequently  
 19           than once every 8 years.

20           “(h) CERTIFICATION AND DISTRIBUTION.—

21                   “(1) CERTIFICATION.—

22                           “(A) REQUEST.—

23                                   “(i) PHASE I; ALTERNATIVE DIS-  
 24                                   TRIBUTION METHOD.—In the case of a  
 25                                   qualifying project that is eligible to receive

1 allowances under phase I or under sub-  
2 section (e)(4), the owner or operator of the  
3 planned project may request from the Ad-  
4 ministrator a certification that the project  
5 is eligible to receive emission allowances  
6 under this section.

7 “(ii) REVERSE AUCTIONS.—In the  
8 case of a qualifying project that wins a re-  
9 verse auction under subsection (e) or (g),  
10 within a reasonably brief period following  
11 completion of the auction (as specified by  
12 the Administrator), the owner or operator  
13 of the qualifying project shall request from  
14 the Administrator a certification that the  
15 project is eligible to receive emission allow-  
16 ances under this section.

17 “(iii) ELIGIBLE PROJECTS.—Eligible  
18 projects in phase I and phase II may re-  
19 ceive certification under this paragraph.

20 “(iv) ISSUANCE.—The Administrator  
21 shall issue a certification described in this  
22 subparagraph if the owner or operator  
23 demonstrates a commitment to construct  
24 and operate a project that satisfies—

1                   “(I) the eligibility criteria of sub-  
2                   section (e); and

3                   “(H) the requirements of this  
4                   subsection.

5                   “(B) DOCUMENTATION.—The Adminis-  
6                   trator shall prescribe, by regulation, the docu-  
7                   mentation necessary for making a determina-  
8                   tion of project eligibility for the certification  
9                   under subparagraph (A), including—

10                   “(i) technical information regarding  
11                   the capture and sequestration technology,  
12                   coal type, geological formation type (if ap-  
13                   plicable), and other relevant design fea-  
14                   tures of the project;

15                   “(ii) the annual reductions in carbon  
16                   dioxide emissions that the capture and se-  
17                   questration technology is projected to  
18                   achieve during each of the first 10 years of  
19                   the project’s commercial operation; and

20                   “(iii) a demonstration that the owner  
21                   or operator is committed to both con-  
22                   structing and operating the planned  
23                   project on a timeline marked by reasonable  
24                   capture and sequestration milestones;



1 through the completion of 1 of the actions  
 2 specified in subparagraph (C)(iii).

3 ~~“(C) COMMITMENT.—~~

4 ~~“(i) IN GENERAL.—Subject to clause~~  
 5 ~~(ii), the completion of any 1 of the quali-~~  
 6 ~~ifying actions specified under clause (iii)~~  
 7 ~~shall constitute a commitment to construct~~  
 8 ~~and operate a planned carbon capture and~~  
 9 ~~sequestration project.~~

10 ~~“(ii) CONDITION.—In the case of a~~  
 11 ~~qualifying action specified in subclause (I)~~  
 12 ~~or (II) of clause (iii), the completion of~~  
 13 ~~such an action may be subject to a condi-~~  
 14 ~~tion that the Administrator will issue a~~  
 15 ~~certification under this paragraph for the~~  
 16 ~~distribution of emission allowances to the~~  
 17 ~~project.~~

18 ~~“(iii) QUALIFYING ACTIONS.—Quali-~~  
 19 ~~ifying actions under this subparagraph~~  
 20 ~~shall include—~~

21 ~~“(I) the execution of—~~

22 ~~“(aa) a commitment by~~  
 23 ~~lenders or other appropriate enti-~~  
 24 ~~ties to finance the project, which~~  
 25 ~~may be subject to customary~~

1 closing conditions that are associ-  
 2 ated with the execution of the  
 3 commitment; and

4 “(bb) a commitment by the  
 5 owner or operator of the project  
 6 to execute a surety bond in suffi-  
 7 cient amounts by not later than 2  
 8 years after the date on which the  
 9 Administrator issues the certifi-  
 10 cation for the project; or

11 “(II) an authorization by a State  
 12 regulatory authority to allow recovery,  
 13 from the retail customers of such elec-  
 14 tric utility, of the costs of the project  
 15 by a State-regulated electric utility  
 16 that plans to construct the project.

17 “(D) FAILURE TO REQUEST CERTIFI-  
 18 CATION.—

19 “(i) IN GENERAL.—An owner or oper-  
 20 ator may elect not to request a certifi-  
 21 cation on the eligibility of a planned  
 22 project under subparagraph (A) prior to  
 23 the commercial operation of the project.

24 “(ii) DETERMINATION BY ADMINIS-  
 25 TRATOR.—If an owner or operator elects

not to request a certification under clause (i), the Administrator shall make a determination regarding whether the project satisfies the eligibility requirements of subsection (c) at the time that the Administrator makes a determination regarding the annual distribution of emission allowances under paragraph (3)(A).

~~“(2) RESERVATION OF EMISSION ALLOWANCES.—~~

~~“(A) AMOUNT.—~~

~~“(i) IN GENERAL.—For each project that receives a certification of eligibility under paragraph (1), the Administrator shall reserve on a first-come, first-served basis a portion of the emission allowances that are allocated for the deployment of carbon capture and sequestration technology under section 771(a)(6).~~

~~“(ii) DETERMINATION.—The reservation of emission allowances for a particular eligible project under this paragraph shall be equal to the number of emission allowances that the project is entitled to receive under the applicable distribution method~~

under this section upon commercial operation of the carbon capture and sequestration technology, as determined by the Administrator based on—

“(I) the applicable bonus allowance value;

“(II) the number of tons of carbon dioxide emissions projected to be captured and sequestered each calendar year under paragraph (1)(B)(i)(II); and

“(III) a discount rate to account for the monetary inflation that may be expected to occur during each of the relevant 10 calendar years, as determined by the Administrator.

“(B) TERMINATION OF RESERVATION.—

“(i) IN GENERAL.—A reservation of emission allowances for a particular project under subparagraph (A) shall terminate if the owner or operator fails to achieve reasonable milestones for commencing construction or commercial operation of the project, as specified under paragraph (1)(B)(i)(III).

1 “(ii) REDUCED QUANTITY OF CARBON  
2 DIOXIDE CAPTURED AND SEQUESTERED.—

3 If the quantity of carbon dioxide captured  
4 and sequestered by a project on average  
5 over 3 consecutive vintage years is less  
6 than the quantity estimated for those vin-  
7 tage years under subparagraph (A), the  
8 reservation of emission allowances for the  
9 project under subparagraph (A) shall be  
10 reduced in future years by the difference  
11 between—

12 “(I) the quantity of carbon diox-  
13 ide captured and sequestered on aver-  
14 age over the applicable 3 consecutive  
15 years; and

16 “(II) the quantity estimated  
17 under subparagraph (A) for the appli-  
18 cable years.

19 “(iii) AVAILABILITY.—The Adminis-  
20 trator shall immediately make available to  
21 other eligible projects emission allowances  
22 for which the Administrator has termi-  
23 nated an emission allowance reservation  
24 for a particular project under this subpara-  
25 graph.

1           ~~“(3) DISTRIBUTION PROCESS.—~~

2                   ~~“(A) ANNUAL DISTRIBUTION.—The Ad-~~  
 3                   ~~ministrators shall distribute the emission allow-~~  
 4                   ~~ances to eligible projects on an annual basis.~~

5                   ~~“(B) BASIS.—The annual distribution of~~  
 6                   ~~emission allowances shall be based on the total~~  
 7                   ~~tons of carbon dioxide that the project annually~~  
 8                   ~~captures and sequesters during each of the first~~  
 9                   ~~10 years of commercial operation, in accordance~~  
 10                   ~~with subsection (c)(2).~~

11                   ~~“(C) TOTAL DISTRIBUTION AMOUNT.—The~~  
 12                   ~~total amount of emission allowances distributed~~  
 13                   ~~to an eligible project for each of the first 10~~  
 14                   ~~years of commercial operation may be greater~~  
 15                   ~~than, or less than, the quantity of emissions al-~~  
 16                   ~~lowances that the Administrator has reserved~~  
 17                   ~~for the eligible project under paragraph (2).~~

18                   ~~“(D) REPORTS.—~~

19                   ~~“(i) IN GENERAL.—Except as pro-~~  
 20                   ~~vided in subparagraph (B), the Adminis-~~  
 21                   ~~trator shall make each annual distribution~~  
 22                   ~~of emission allowances by not later than 90~~  
 23                   ~~days after the date on which the owner or~~  
 24                   ~~operator of a project submits to the Ad-~~  
 25                   ~~ministrator a report regarding the carbon~~

1                   dioxide emissions captured and sequestered  
2                   for a particular year by the project.

3                   ~~“(ii) REQUIREMENT.—A report under~~  
4                   ~~subclause (I) shall be verified in accord-~~  
5                   ~~ance with regulations to be promulgated by~~  
6                   ~~the Administrator.~~

7                   ~~“(i) LIMITATIONS.—~~

8                   ~~“(1) IN GENERAL.—Emission allowances shall~~  
9                   ~~be distributed under this section only for tons of car-~~  
10                  ~~bon dioxide emissions that have already been cap-~~  
11                  ~~tured and sequestered.~~

12                  ~~“(2) PERIOD.—A qualifying project may receive~~  
13                  ~~annual emission allowances under this section only~~  
14                  ~~for the first 10 years of operation.~~

15                  ~~“(3) CAPACITY.—~~

16                  ~~“(A) IN GENERAL.—Approximately 72~~  
17                  ~~gigawatts of total cumulative treated generating~~  
18                  ~~capacity may receive emission allowances under~~  
19                  ~~this section.~~

20                  ~~“(B) ALLOWANCE SURPLUS.—On reaching~~  
21                  ~~the cumulative capacity described in subpara-~~  
22                  ~~graph (A), any emission allowances that are al-~~  
23                  ~~located for carbon capture and sequestration~~  
24                  ~~deployment under section 771(a)(6) and are not~~  
25                  ~~yet obligated under this section shall be treated~~

1 as emission allowances not designated for dis-  
 2 tribution for purposes of section 771(b)(2).

3 ~~“(j) EXHAUSTION OF ACCOUNT AND ANNUAL ROLL-~~  
 4 ~~OVER OF SURPLUS EMISSION ALLOWANCES.—~~

5 ~~“(1) IN GENERAL.—In distributing emission al-~~  
 6 ~~lowances under this section, the Administrator shall~~  
 7 ~~ensure that eligible projects receive distributions of~~  
 8 ~~emission allowances for the first 10 years of com-~~  
 9 ~~mercial operation.~~

10 ~~“(2) DIFFERENT VINTAGE YEARS.—~~

11 ~~“(A) DETERMINATION.—If the Adminis-~~  
 12 ~~trator determines that the emission allowances~~  
 13 ~~allocated under section 771(a)(6) with a vintage~~  
 14 ~~year that matches the year of distribution will~~  
 15 ~~be exhausted once the estimated full 10-year~~  
 16 ~~distributions will be provided to current eligible~~  
 17 ~~participants, the Administrator shall provide to~~  
 18 ~~new eligible projects emission allowances from~~  
 19 ~~vintage years after the year of the distribution.~~

20 ~~“(B) DIVERSITY FACTORS.—If the Admin-~~  
 21 ~~istrator provides allowances to new eligible~~  
 22 ~~projects under subparagraph (A), the Adminis-~~  
 23 ~~trator shall promulgate regulations to prioritize~~  
 24 ~~new eligible projects that are distinguished from~~  
 25 ~~prior recipients of allowances by 1 or more of~~



1 the following diversity factors (without regard  
2 to order):

3 “(i) Location in a coal-producing re-  
4 gion that provides a majority of coal to the  
5 project.

6 “(ii) Coal type, including waste coal.

7 “(iii) Capture and transportation  
8 technologies.

9 “(iv) Geological formations.

10 “(v) New units and retrofit applica-  
11 tions.

12 “(k) ALLOCATION OF ALLOWANCES FOR DEPLOY-  
13 MENT OF CARBON CAPTURE AND SEQUESTRATION TECH-  
14 NOLOGY.—

15 “(1) ANNUAL ALLOCATION.—The Adminis-  
16 trator shall allocate emission allowances for the de-  
17 ployment of carbon capture and sequestration tech-  
18 nology in accordance with this section in the fol-  
19 lowing quantities:

20 “(A) For each of vintage years 2014  
21 through 2017, 1.75 percent of the emission al-  
22 lowances established for each year under section  
23 721(a).

1           ~~“(B) For each of vintage years 2018 and~~  
 2           ~~2019, 4.75 percent of the emission allowances~~  
 3           ~~established for each year under section 721(a).~~

4           ~~“(C) For each of vintage years 2020~~  
 5           ~~through 2050, 5 percent of the emission allow-~~  
 6           ~~ances established for each year under section~~  
 7           ~~721(a).~~

8           ~~“(2) CARRYOVER.—If the Administrator has~~  
 9           ~~not distributed all of the allowances allocated pursu-~~  
 10          ~~ant to this subsection for a given vintage year by the~~  
 11          ~~end of that year, the Administrator shall—~~

12          ~~“(A) auction those emission allowances in~~  
 13          ~~accordance with section 778 by not later than~~  
 14          ~~March 31 of the year following that vintage~~  
 15          ~~year; and~~

16          ~~“(B) increase the allocation under this~~  
 17          ~~subsection for the vintage year after the vintage~~  
 18          ~~year for which emission allowances were~~  
 19          ~~undisbursed by the quantity of undisbursed~~  
 20          ~~emission allowances, but only to the extent that~~  
 21          ~~allowances for that later year are to be auc-~~  
 22          ~~tioned.~~

23          ~~“(1) DAVIS-BACON COMPLIANCE.—~~

24          ~~“(1) IN GENERAL.—All laborers and mechanics~~  
 25          ~~employed on projects funded directly by or assisted~~

1 in whole or in part by this section through the use  
 2 of emission allowances shall be paid wages at rates  
 3 not less than those prevailing on projects of a char-  
 4 acter similar in the locality as determined by the  
 5 Secretary of Labor in accordance with subchapter  
 6 IV of chapter 31 of title 40, United States Code.

7 “(2) **AUTHORITY.**—With respect to the labor  
 8 standards specified in this subsection, the Secretary  
 9 of Labor shall have the authority and functions set  
 10 forth in Reorganization Plan Numbered 14 of 1950  
 11 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of  
 12 title 40, United States Code.

13 **“SEC. 781. OVERSIGHT OF ALLOCATIONS.**

14 “(a) **IN GENERAL.**—Not later than January 1, 2014,  
 15 and every 2 years thereafter, the Comptroller General of  
 16 the United States shall carry out a review of programs  
 17 administered by the Federal Government that distribute  
 18 emission allowances or funds from any Federal auction of  
 19 allowances.

20 “(b) **CONTENTS.**—Each such report shall include a  
 21 comprehensive evaluation of the administration and effec-  
 22 tiveness of each program, including—

23 “(1) the efficiency, transparency, and sound-  
 24 ness of the administration of each program;

1           “(2) the performance of activities receiving as-  
2           sistance under each program;

3           “(3) the cost-effectiveness of each program in  
4           achieving the stated purposes of the program; and

5           “(4) recommendations, if any, for regulatory or  
6           administrative changes to each program to improve  
7           its effectiveness.

8           “(e) FOCUS.—In evaluating program performance,  
9           each review under this section review shall address the ef-  
10          fectiveness of such programs in—

11           “(1) creating and preserving jobs;

12           “(2) ensuring a manageable transition for  
13          working families and workers;

14           “(3) reducing the emissions, or enhancing se-  
15          questration, of greenhouse gases;

16           “(4) developing clean technologies; and

17           “(5) building resilience to the impacts of cli-  
18          mate change.

19   **“SEC. 782. EARLY ACTION RECOGNITION.**

20           “(a) IN GENERAL.—Emission allowances allocated  
21          pursuant to section 771(a)(7) shall be distributed by the  
22          Administrator in accordance with this section. Not later  
23          than 1 year after the date of enactment of this title, the  
24          Administrator shall issue regulations allowing—

1           “(1) any person in the United States to ex-  
2       change instruments in the nature of offset credits  
3       issued before January 1, 2009, by a State, local, or  
4       voluntary offset program with respect to which the  
5       Administrator has made an affirmative determina-  
6       tion under section 740(a)(2), for emission allowances  
7       established by the Administrator under section  
8       721(a); and

9           “(2) the Administrator to provide compensation  
10      in the form of emission allowances to entities, in-  
11      cluding units of local government, that do not meet  
12      the criteria of paragraph (1) and meet the criteria  
13      of this paragraph for documented early reductions or  
14      avoidance of greenhouse gas emissions or greenhouse  
15      gases sequestered before January 1, 2009, from  
16      projects or process improvements begun before Jan-  
17      uary 1, 2009, where—

18           “(A) the entity publicly stated greenhouse  
19      gas reduction goals and publicly reported  
20      against those goals;

21           “(B) the entity demonstrated entity-wide  
22      net greenhouse gas reductions; and

23           “(C) the entity demonstrates the actual  
24      projects or process improvements undertaken to  
25      make reductions and documents the reductions

1           (such as through documentation of engineering  
2           projects).

3           ~~“(b) REGULATIONS.—Regulations issued under sub-~~  
4           ~~section (a) shall—~~

5           ~~“(1) provide that a person exchanging credits~~  
6           ~~under subsection (a)(1) receive emission allowances~~  
7           ~~established under section 721(a) in an amount for~~  
8           ~~which the monetary value is equivalent to the aver-~~  
9           ~~age monetary value of the credits during the period~~  
10          ~~from January 1, 2006, to January 1, 2009, as ad-~~  
11          ~~justed for inflation to reflect current dollar values at~~  
12          ~~the time of the exchange;~~

13          ~~“(2) provide that a person receiving compensa-~~  
14          ~~tion for documented early action under subsection~~  
15          ~~(a)(2) shall receive emission allowances established~~  
16          ~~under section 721(a) in an amount that is approxi-~~  
17          ~~mately equivalent in value to the carbon dioxide~~  
18          ~~equivalent per ton value received by entities in ex-~~  
19          ~~change for credits under paragraph (1) (as adjusted~~  
20          ~~for inflation to reflect current dollar values at the~~  
21          ~~time of the exchange); as determined by the Admin-~~  
22          ~~istrator;~~

23          ~~“(3) provide that only reductions or avoidance~~  
24          ~~of greenhouse gas emissions, or sequestration of~~  
25          ~~greenhouse gases, achieved by activities in the~~

1 United States between January 1, 2001, and Janu-  
2 ary 1, 2009, may be compensated under this section,  
3 and only credits issued for such activities may be ex-  
4 changed under this section;

5 “(4) provide that only credits that have not  
6 been retired or otherwise used to meet a voluntary  
7 or mandatory commitment, and have not expired,  
8 may be exchanged under subsection (a)(1);

9 “(5) require that, once exchanged, the credit be  
10 retired for purposes of use under the program by or  
11 for which it was originally issued; and

12 “(6) establish a deadline by which persons must  
13 exchange the credits or request compensation for  
14 early action under this section.

15 “(c) PARTICIPATION.—Participation in an exchange  
16 of credits for allowances or compensation for early action  
17 authorized by this section shall not preclude any person  
18 from participation in an offset credit program established  
19 under part D.

20 “(d) DISTRIBUTION.—Of the emission allowances  
21 distributed under this section, a quantity equal to 0.75  
22 percent of vintage year 2012 emission allowances estab-  
23 lished under section 721(a) shall be distributed pursuant  
24 to subsection (a)(1), and a quantity equal to 0.25 percent  
25 of vintage year 2012 emission allowances established

1 under section 721(a) shall be distributed pursuant to sub-  
 2 section (a)(2).

3 **“SEC. 783. ESTABLISHMENT OF DEFICIT REDUCTION FUND.**

4 “(a) DEFICIT REDUCTION FUND.—There is estab-  
 5 lished in the Treasury of the United States a fund, to be  
 6 known as the ‘Deficit Reduction Fund’.

7 “(b) DISBURSEMENTS.—No disbursement shall be  
 8 made from the Deficit Reduction Fund except pursuant  
 9 to an appropriation Act.”.

10 **Subtitle C—Additional Greenhouse**  
 11 **Gas Standards**

12 **SEC. 121. GREENHOUSE GAS STANDARDS.**

13 The Clean Air Act (42 U.S.C. 7401 et seq.), as  
 14 amended by subtitles A and B of this title, is further  
 15 amended by adding the following new title after title VII:

16 **“TITLE VII—ADDITIONAL**  
 17 **GREENHOUSE GAS STANDARDS**

18 **“SEC. 801. DEFINITIONS.**

19 “For purposes of this title, terms that are defined  
 20 in title VII, except for the term ‘stationary source’, shall  
 21 have the meanings given those terms in title VII.

22 **“PART A—STATIONARY SOURCE STANDARDS**

23 **“SEC. 811. STANDARDS OF PERFORMANCE.**

24 “(a) DEFINITION OF UNCAPPED GREENHOUSE GAS  
 25 EMISSIONS.—In this section, the term ‘uncapped green-



1 house gas emissions' means those greenhouse gas emis-  
 2 sions to which section 722 does not apply.

3 “(b) STANDARDS.—Before January 1, 2020, the Ad-  
 4 ministrator shall not promulgate new source performance  
 5 standards for greenhouse gases under section 111 that are  
 6 applicable to any stationary source that—

7 “(1) emits uncapped greenhouse gas emissions;  
 8 and

9 “(2) qualifies as an eligible offset project pursu-  
 10 ant to section 733 that is eligible to receive an offset  
 11 credit pursuant to section 737.”.

12 **SEC. 122. HFC REGULATION.**

13 (a) IN GENERAL.—Title VI of the Clean Air Act (42  
 14 U.S.C. 7671 et seq.) (relating to stratospheric ozone pro-  
 15 tection) is amended by adding at the end the following:

16 **“SEC. 619. HYDROFLUOROCARBONS (HFCs).**

17 “(a) TREATMENT AS CLASS II, GROUP II SUB-  
 18 STANCES.—Except as otherwise provided in this section,  
 19 hydrofluorocarbons shall be treated as class II substances  
 20 for purposes of applying the provisions of this title. The  
 21 Administrator shall establish two groups of class II sub-  
 22 stances. Class II, group I substances shall include all  
 23 hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-  
 24 tion 602(b). Class II, group II substances shall include  
 25 each of the following:

- 1           “(1) Hydrofluorocarbon-~~23~~ (HFC-~~23~~).
  - 2           “(2) Hydrofluorocarbon-~~32~~ (HFC-~~32~~).
  - 3           “(3) Hydrofluorocarbon-~~41~~ (HFC-~~41~~).
  - 4           “(4) Hydrofluorocarbon-~~125~~ (HFC-~~125~~).
  - 5           “(5) Hydrofluorocarbon-~~134~~ (HFC-~~134~~).
  - 6           “(6) Hydrofluorocarbon-~~134a~~ (HFC-~~134a~~).
  - 7           “(7) Hydrofluorocarbon-~~143~~ (HFC-~~143~~).
  - 8           “(8) Hydrofluorocarbon-~~143a~~ (HFC-~~143a~~).
  - 9           “(9) Hydrofluorocarbon-~~152~~ (HFC-~~152~~).
  - 10          “(10) Hydrofluorocarbon-~~152a~~ (HFC-~~152a~~).
  - 11          “(11) Hydrofluorocarbon-~~227ea~~ (HFC-~~227ea~~).
  - 12          “(12) Hydrofluorocarbon-~~236cb~~ (HFC-~~236cb~~).
  - 13          “(13) Hydrofluorocarbon-~~236ca~~ (HFC-~~236ca~~).
  - 14          “(14) Hydrofluorocarbon-~~236fa~~ (HFC-~~236fa~~).
  - 15          “(15) Hydrofluorocarbon-~~245ea~~ (HFC-~~245ea~~).
  - 16          “(16) Hydrofluorocarbon-~~245fa~~ (HFC-~~245fa~~).
  - 17          “(17)     Hydrofluorocarbon-~~365mfe~~     (HFC-
  - 18          ~~365mfe~~).
  - 19          “(18) Hydrofluorocarbon-~~43-10mee~~ (HFC-~~43-~~
  - 20          ~~10mee~~).
  - 21          “(19) Hydrofluoroolefin-~~1234yf~~ (HFO-~~1234yf~~).
  - 22          “(20) Hydrofluoroolefin-~~1234ze~~ (HFO-~~1234ze~~).
- 23 Not later than 6 months after the date of enactment of
- 24 this title, the Administrator shall publish an initial list of
- 25 class H, group H substances, which shall include the sub-

stances listed in this subsection. The Administrator may add to the list of class II, group II substances any other substance used as a substitute for a class I or II substance if the Administrator determines that 1 metric ton of the substance makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide. Within 24 months after the date of enactment of this section, the Administrator shall amend the regulations under this title (including the regulations referred to in sections 603, 608, 609, 610, 611, 612, and 613) to apply to class II, group II substances.

“(b) CONSUMPTION AND PRODUCTION OF CLASS II, GROUP II SUBSTANCES.—

“(1) IN GENERAL.—

“(A) CONSUMPTION PHASE DOWN.—In the case of class II, group II substances, in lieu of applying section 605 and the regulations thereunder, the Administrator shall promulgate regulations phasing down the consumption of class II, group II substances in the United States, and the importation of products containing any class II, group II substance, in accordance with this subsection within 18 months after the date of enactment of this section. Effective January 1, 2012, it shall be unlawful for any person to

1 produce any class II, group II substance, im-  
2 port any class II, group II substance, or import  
3 any product containing any class II, group II  
4 substance without holding one consumption al-  
5 lowance or one destruction offset credit for each  
6 carbon dioxide equivalent ton of the class II,  
7 group II substance. Any person who exports a  
8 class II, group II substance for which a con-  
9 sumption allowance was retired may receive a  
10 refund of that allowance from the Adminis-  
11 trator following the export.

12 “(B) PRODUCTION.—If the United States  
13 becomes a party or otherwise adheres to a mul-  
14 tilateral agreement, including any amendment  
15 to the Montreal Protocol on Substances That  
16 Deplete the Ozone Layer, that restricts the pro-  
17 duction of class II, group II substances, the Ad-  
18 ministrator shall promulgate regulations estab-  
19 lishing a baseline for the production of class II,  
20 group II substances in the United States and  
21 phasing down the production of class II, group  
22 II substances in the United States, in accord-  
23 ance with such multilateral agreement and sub-  
24 ject to the same exceptions and other provisions  
25 as are applicable to the phase down of con-

1           sumption of class H, group H substances under  
2           this section (except that the Administrator shall  
3           not require a person who obtains production al-  
4           lowances from the Administrator to make pay-  
5           ment for such allowances if the person is mak-  
6           ing payment for a corresponding quantity of  
7           consumption allowances of the same vintage  
8           year). Upon the effective date of such regula-  
9           tions, it shall be unlawful for any person to  
10          produce any class H, group H substance with-  
11          out holding one consumption allowance and one  
12          production allowance, or one destruction offset  
13          credit, for each carbon dioxide equivalent ton of  
14          the class H, group H substance.

15               “(C) INTEGRITY OF LIMITS.—To maintain  
16           the integrity of the class H, group H limits, the  
17           Administrator may, through rulemaking, limit  
18           the percentage of each person’s compliance obli-  
19           gation that may be met through the use of de-  
20           struction offset credits or banked allowances.

21               “(D) COUNTING OF VIOLATIONS.—Each  
22           consumption allowance, production allowance,  
23           or destruction offset credit not held as required  
24           by this section shall be a separate violation of  
25           this section.

1           “(2) SCHEDULE.—Pursuant to the regulations  
2           promulgated pursuant to paragraph (1)(A), the  
3           number of class II, group II consumption allowances  
4           established by the Administrator for each calendar  
5           year beginning in 2012 shall be the following per-  
6           centage of the baseline, as established by the Admin-  
7           istrator pursuant to paragraph (3):

Calendar Year	Percent of Baseline
2012	90
2013	87.5
2014	85
2015	82.5
2016	80
2017	77.5
2018	75
2019	71
2020	67
2021	63
2022	59
2023	54
2024	50
2025	46
2026	42
2027	38
2028	34
2029	30
2030	25

“Calendar Year	Percent of Baseline
2031	21
2032	17
after 2032	15

1           “(3) BASELINE.—(A) Within 12 months after  
2           the date of enactment of this section, the Adminis-  
3           trator shall promulgate regulations to establish the  
4           baseline for purposes of paragraph (2). The baseline  
5           shall be the sum, expressed in metric tons of carbon  
6           dioxide equivalents, of—

7                   “(i) the annual average consumption of all  
8                   class II substances in calendar years 2004,  
9                   2005, and 2006; plus

10                   “(ii) the annual average quantity of all  
11                   class II substances contained in imported prod-  
12                   ucts in calendar years 2004, 2005, and 2006.

13           “(B) Notwithstanding subparagraph (A), if the  
14           Administrator determines that the baseline is higher  
15           than 370 million metric tons of carbon dioxide  
16           equivalents, then the Administrator shall establish  
17           the baseline at 370 million metric tons of carbon di-  
18           oxide equivalents.

19           “(C) Notwithstanding subparagraph (A), if the  
20           Administrator determines that the baseline is lower  
21           than 280 million metric tons of carbon dioxide

equivalents, then the Administrator shall establish the baseline at 280 million metric tons of carbon dioxide equivalents.

~~“(4) DISTRIBUTION OF ALLOWANCES.—~~

~~“(A) IN GENERAL.—Pursuant to the regulations promulgated under paragraph (1)(A), for each calendar year beginning in 2012, the Administrator shall sell consumption allowances in accordance with this paragraph.~~

~~“(B) ESTABLISHMENT OF POOLS.—The Administrator shall establish two allowance pools. Eighty percent of the consumption allowances available for a calendar year shall be placed in the producer-importer pool, and 20 percent of the consumption allowances available for a calendar year shall be placed in the secondary pool.~~

~~“(C) PRODUCER-IMPORTER POOL.—~~

~~“(i) AUCTION.—(I) For each calendar year, the Administrator shall offer for sale at auction the following percentage of the consumption allowances in the producer-importer pool:~~

<del>“Calendar Year</del>	<del>Percent Available for Auction</del>
<del>2012</del>	<del>10</del>



“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                   “(H) 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 subelause  
7                   (HI).

8                   “(III) Not later than 3 years after the  
9                   date of the initial auction and from time to  
10                  time thereafter, the Administrator shall de-  
11                  termine through rulemaking whether any  
12                  persons who did not produce or import a  
13                  class II substance during calendar year  
14                  2004, 2005, or 2006 will be permitted to  
15                  participate in future auctions. The Admin-  
16                  istrator shall base this determination on  
17                  the duration, consistency, and scale of such

1 person's purchases of consumption allow-  
 2 ances in the secondary pool under subpara-  
 3 graph (D)(ii)(III), as well as economic or  
 4 technical hardship and other factors  
 5 deemed relevant by the Administrator.

6 “(IV) The Administrator shall set a  
 7 minimum bid per consumption allowance of  
 8 the following:

9 “(aa) For vintage year 2012,  
 10 \$1.00.

11 “(bb) For vintage year 2013,  
 12 \$1.20.

13 “(cc) For vintage year 2014,  
 14 \$1.40.

15 “(dd) For vintage year 2015,  
 16 \$1.60.

17 “(ee) For vintage year 2016,  
 18 \$1.80.

19 “(ff) For vintage year 2017,  
 20 \$2.00.

21 “(gg) For vintage year 2018 and  
 22 thereafter, \$2.00 adjusted for infla-  
 23 tion after vintage year 2017 based  
 24 upon the producer price index as pub-

1                   lished by the Department of Com-  
2                   merce.

3                   “(ii) ~~NON-AUCTION SALE.~~—(I) For  
4                   each calendar year, as soon as practicable  
5                   after auction, the Administrator shall offer  
6                   for sale the remaining consumption allow-  
7                   ances in the producer-importer pool at the  
8                   following prices:

9                   “~~(aa)~~ A fee of \$1.00 per vintage  
10                  year ~~2012~~ allowance.

11                  “~~(bb)~~ A fee of \$1.20 per vintage  
12                  year ~~2013~~ allowance.

13                  “~~(cc)~~ A fee of \$1.40 per vintage  
14                  year ~~2014~~ allowance.

15                  “~~(dd)~~ For each vintage year  
16                  ~~2015~~ allowance, a fee equal to the av-  
17                  erage of \$1.10 and the auction clear-  
18                  ing price for vintage year ~~2014~~ allow-  
19                  ances.

20                  “~~(ee)~~ For each vintage year ~~2016~~  
21                  allowance, a fee equal to the average  
22                  of \$1.30 and the auction clearing  
23                  price for vintage year ~~2015~~ allow-  
24                  ances.

1                   ~~“(ff) For each vintage year 2017~~  
 2                   allowance, a fee equal to the average  
 3                   of \$1.40 and the auction clearing  
 4                   price for vintage year 2016 allow-  
 5                   ances.

6                   ~~“(gg) For each allowance of vin-~~  
 7                   tage year 2018 and subsequent vin-  
 8                   tage years, a fee equal to the auction  
 9                   clearing price for that vintage year.

10                  ~~“(H) 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 H,  
2 group H 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 H substances during cal-  
6 endar year 2004, 2005, or 2006. If de-  
7 mand for such consumption allowances ex-  
8 ceeds supply of such consumption allow-  
9 ances, the Administrator shall develop and  
10 utilize criteria for the sale of such con-  
11 sumption allowances that may include pro  
12 rata shares, historic production and impor-  
13 tation, economic or technical hardship, or  
14 other factors deemed relevant by the Ad-  
15 ministrator. If the supply of such con-  
16 sumption allowances exceeds demand, the  
17 Administrator may offer such consumption  
18 allowances for sale in the secondary pool as  
19 set forth in subparagraph (D).

20 “(D) SECONDARY POOL.—(i) For each cal-  
21 endar year, as soon as practicable after the auc-  
22 tion required in subparagraph (C), the Adminis-  
23 trator shall offer for sale the consumption al-  
24 lowances in the secondary pool at the prices  
25 listed in subparagraph (C)(ii).

1           “(ii) The Administrator shall accept appli-  
2           cations for purchase of secondary pool con-  
3           sumption allowances from—

4           “(I) importers of products containing  
5           class II, group II substances;

6           “(II) persons who purchased any class  
7           II, group II substance directly from a pro-  
8           ducer or importer of class II, group II sub-  
9           stances for use in a product containing a  
10          class II, group II substance, a manufac-  
11          turing process, or a reclamation process;

12          “(III) persons who did not produce or  
13          import a class II substance during cal-  
14          endar year 2004, 2005, or 2006, but who  
15          the Administrator determines have subse-  
16          quently taken significant steps to produce  
17          or import a substantial quantity of any  
18          class II, group II substance; and

19          “(IV) persons who produced or im-  
20          ported any class II substance during cal-  
21          endar year 2004, 2005, or 2006.

22          “(iii) If the supply of consumption allow-  
23          ances in the secondary pool equals or exceeds  
24          the demand for consumption allowances in the  
25          secondary pool as presented in the applications

1 for purchase, the Administrator shall sell the  
2 consumption allowances in the secondary pool  
3 to the applicants in the amounts requested in  
4 the applications for purchase. Any consumption  
5 allowances in the secondary pool not purchased  
6 in a calendar year may be rolled over and added  
7 to the quantity available in the secondary pool  
8 in the following year.

9 “(iv) If the demand for consumption allow-  
10 ances in the secondary pool as presented in the  
11 applications for purchase exceeds the supply of  
12 consumption allowances in the secondary pool,  
13 the Administrator shall sell the consumption al-  
14 lowances as follows:

15 “(I) The Administrator shall first sell  
16 the consumption allowances in the sec-  
17 ondary pool to any importers of products  
18 containing class II, group II substances in  
19 the amounts requested in their applications  
20 for purchase. If the demand for such con-  
21 sumption allowances exceeds supply of  
22 such consumption allowances, the Adminis-  
23 trator shall develop and utilize criteria for  
24 the sale of such consumption allowances  
25 among importers of products containing



1 class II, group II substances that may in-  
2 clude pro rata shares, historic importation,  
3 economic or technical hardship, or other  
4 factors deemed relevant by the Adminis-  
5 trator.

6 “(II) The Administrator shall next  
7 sell any remaining consumption allowances  
8 to persons identified in subclauses (II) and  
9 (III) of clause (ii) in the amounts re-  
10 quested in their applications for purchase.  
11 If the demand for such consumption allow-  
12 ances exceeds remaining supply of such  
13 consumption allowances, the Administrator  
14 shall develop and utilize criteria for the  
15 sale of such consumption allowances  
16 among subclauses (II) and (III) applicants  
17 that may include pro rata shares, historic  
18 use, economic or technical hardship, or  
19 other factors deemed relevant by the Ad-  
20 ministrator.

21 “(III) The Administrator shall then  
22 sell any remaining consumption allowances  
23 to persons who produced or imported any  
24 class II substance during calendar year  
25 2004, 2005, or 2006 in the amounts re-

1 requested in their applications for purchase.  
2 If demand for such consumption allow-  
3 ances exceeds remaining supply of such  
4 consumption allowances, the Administrator  
5 shall develop and utilize criteria for the  
6 sale of such consumption allowances that  
7 may include pro rata shares, historic pro-  
8 duction and importation, economic or tech-  
9 nical hardship, or other factors deemed rel-  
10 evant by the Administrator.

11 “(IV) Each person who purchases  
12 consumption allowances in a non-auction  
13 sale under this subparagraph shall be re-  
14 quired to disclose the person or entity  
15 sponsoring or benefitting from the pur-  
16 chases if such person or entity is, in whole  
17 or in part, other than the purchaser or the  
18 purchaser’s employer.

19 “(E) DISCRETION TO WITHHOLD ALLOW-  
20 ANCES.—Nothing in this paragraph prevents  
21 the Administrator from exercising discretion to  
22 withhold and retire consumption allowances  
23 that would otherwise be available for auction or  
24 nonauction sale. Not later than 18 months after  
25 the date of enactment of this section, the Ad-

1            administrator shall promulgate regulations estab-  
 2            lishing criteria for withholding and retiring con-  
 3            sumption allowances.

4            “(5) BANKING.—A consumption allowance or  
 5            destruction offset credit may be used to meet the  
 6            compliance obligation requirements of paragraph (1)  
 7            in—

8                    “(A) the vintage year for the allowance or  
 9                    destruction offset credit; or

10                   “(B) any calendar year subsequent to the  
 11                   vintage year for the allowance or destruction  
 12                   offset credit.

13            “(6) AUCTIONS.—

14                   “(A) INITIAL REGULATIONS.—Not later  
 15                   than 18 months after the date of enactment of  
 16                   this section, the Administrator shall promulgate  
 17                   regulations governing the auction of allowances  
 18                   under this section. Such regulations shall in-  
 19                   clude the following requirements:

20                            “(i) FREQUENCY; FIRST AUCTION.—

21                            Auctions shall be held one time per year at  
 22                            regular intervals, with the first auction to  
 23                            be held no later than October 31, 2011.

1           “(ii) AUCTION FORMAT.—Auctions  
2           shall follow a single-round, sealed-bid, uni-  
3           form price format.

4           “(iii) FINANCIAL ASSURANCE.—The  
5           Administrator may establish financial as-  
6           surance requirements to ensure that auc-  
7           tion participants can and will perform on  
8           their bids.

9           “(iv) DISCLOSURE OF BENEFICIAL  
10          OWNERSHIP.—Each bidder in the auction  
11          shall be required to disclose the person or  
12          entity sponsoring or benefitting from the  
13          bidder’s participation in the auction if such  
14          person or entity is, in whole or in part,  
15          other than the bidder.

16          “(v) PUBLICATION OF INFORMA-  
17          TION.—After the auction, the Adminis-  
18          trator shall, in a timely fashion, publish  
19          the number of bidders, number of winning  
20          bidders, the quantity of allowances sold,  
21          and the auction clearing price.

22          “(vi) BIDDING LIMITS IN 2012.—In  
23          the vintage year 2012 auction, no auction  
24          participant may, directly or in concert with  
25          another participant, bid for or purchase

more allowances offered for sale at the auction than the greater of—

“(I) the number of allowances which, when added to the number of allowances available for purchase by the participant in the producer-importer pool non-auction sale, would equal the participant’s annual average consumption of class II, group II substances in calendar years 2004, 2005, and 2006; or

“(II) the number of allowances equal to the product of—

“(aa) 1.20 multiplied by the participant’s allocation share of the producer-importer pool non-auction sale as determined under paragraph (4)(C)(ii); and

“(bb) the number of vintage year 2012 allowances offered at auction.

“(vii) BIDDING LIMITS IN 2013.—In the vintage year 2013 auction, no auction participant may, directly or in concert with another participant, bid for or purchase

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 “(H) 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           manipulation. 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           ministrator may, by delegation or contract, pro-  
9           vide for the conduct of auctions under the Ad-  
10          ministrator’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 ae-  
 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 DESTRU-~~  
3           ~~CTION.—Within 18 months after the date of en-~~  
4           ~~actment of this section, the Administrator shall~~  
5           ~~promulgate regulations to provide for the~~  
6           ~~issuance of offset credits for the destruction, in~~  
7           ~~the calendar year 2012 or later, of~~  
8           ~~chlorofluorocarbons in the United States. The~~  
9           ~~Administrator shall establish and distribute to~~  
10          ~~the destroying entity a quantity of destruction~~  
11          ~~offset credits equal to 0.8 times the number of~~  
12          ~~metric tons of carbon dioxide equivalents of re-~~  
13          ~~duction achieved through the destruction. No~~  
14          ~~destruction offset credits shall be established~~  
15          ~~for the destruction of a class II, group II sub-~~  
16          ~~stance.~~

17                   ~~“(B) DEFINITION.—For purposes of this~~  
18          ~~paragraph, the term ‘destruction’ means the~~  
19          ~~conversion of a substance by thermal, chemical,~~  
20          ~~or other means to another substance with little~~  
21          ~~or no carbon dioxide equivalent value and no~~  
22          ~~ozone depletion potential.~~

23                   ~~“(C) REGULATIONS.—The regulations pro-~~  
24          ~~mulgated under this paragraph shall include~~  
25          ~~standards and protocols for project eligibility,~~

1 certification of destroyers, monitoring, tracking,  
2 destruction efficiency, quantification of project  
3 and baseline emissions and carbon dioxide  
4 equivalent value, and verification. The Adminis-  
5 trator shall ensure that destruction offset cred-  
6 its represent real and verifiable destruction of  
7 chlorofluorocarbons or other class I or class II,  
8 group I, substances authorized under subpara-  
9 graph (D).

10 “(D) OTHER SUBSTANCES.—The Adminis-  
11 trator may promulgate regulations to add to the  
12 list of class I and class II, group I, substances  
13 that may be destroyed for destruction offset  
14 credits, taking into account a candidate sub-  
15 stance’s carbon dioxide equivalent value, ozone  
16 depletion potential, prevalence in banks in the  
17 United States, and emission rates, as well as  
18 the need for additional cost containment under  
19 the class II, group II limits and the integrity of  
20 the class II, group II limits. The Administrator  
21 shall not add a class I or class II, group I sub-  
22 stance to the list if the consumption of the sub-  
23 stance has not been completely phased-out  
24 internationally (except for essential use exemp-

tions or other similar exemptions) pursuant to the Montreal Protocol.

“(E) ~~EXTENSION OF OFFSETS.~~—(i) At any time after the Administrator promulgates regulations pursuant to subparagraph (A), the Administrator may, pursuant to the requirements of part D of title VII and based on the carbon dioxide equivalent value of the substance destroyed, add the types of destruction projects authorized to receive destruction offset credits under this paragraph to the list of types of projects eligible for offset credits under section 733. If such projects are added to the list under section 733, the issuance of offset credits for such projects under part D of title VII shall be governed by the requirements of such part D, while the issuance of offset credits for such projects under this paragraph shall be governed by the requirements of this paragraph. Nothing in this paragraph shall affect the issuance of offset credits under section 740.

“(ii) The Administrator shall not make the addition under clause (i) unless the Administrator finds that insufficient destruction is occurring or is projected to occur under this para-

1 graph and that the addition would increase de-  
 2 struction.

3 “(iii) In no event shall more than one de-  
 4 struction offset credit be issued under title VII  
 5 and this section for the destruction of the same  
 6 quantity of a substance.

7 “(10) LEGAL STATUS OF ALLOWANCES AND  
 8 CREDITS.—None of the following constitutes a prop-  
 9 erty right:

10 “(A) A production or consumption allow-  
 11 ance.

12 “(B) A destruction offset credit.

13 “(c) DEADLINES FOR COMPLIANCE.—Notwith-  
 14 standing the deadlines specified for class II substances in  
 15 sections 608, 609, 610, 612, and 613 that occur prior to  
 16 January 1, 2009, the deadline for promulgating regula-  
 17 tions under those sections for class II, group II substances  
 18 shall be January 1, 2012.

19 “(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwith-  
 20 standing any phase down of production and consumption  
 21 required by this section, to the extent consistent with any  
 22 applicable multilateral agreement to which the United  
 23 States is a party or otherwise adheres, the Administrator  
 24 shall consider providing exceptions for essential uses under

1 paragraph (1) and may provide exceptions for essential  
 2 uses under paragraph (2), as follows:

3       ~~“(1) MEDICAL DEVICES.—If the Administrator~~  
 4       ~~makes the determination under this subsection that~~  
 5       ~~a medical device is eligible for an exception, after no-~~  
 6       ~~tice and opportunity for public comment, and in con-~~  
 7       ~~sultation with the Commissioner of Food and Drugs,~~  
 8       ~~the Administrator shall provide an exception for the~~  
 9       ~~production and consumption of class II, group II~~  
 10       ~~substances solely for use in medical devices, such as~~  
 11       ~~metered dose inhalers.~~

12       ~~“(2) AVIATION AND SPACE VEHICLE SAFETY.—~~  
 13       ~~The Administrator, after notice and opportunity for~~  
 14       ~~public comment, may authorize the production and~~  
 15       ~~consumption of limited quantities of class II, group~~  
 16       ~~II substances solely for the purposes of aviation or~~  
 17       ~~space vehicle safety if either the Administrator of~~  
 18       ~~the Federal Aviation Administration or the Adminis-~~  
 19       ~~trator of the National Aeronautics and Space Ad-~~  
 20       ~~ministration, in consultation with the Administrator,~~  
 21       ~~determines that no safe and effective substitute has~~  
 22       ~~been developed and that such authorization is nec-~~  
 23       ~~essary for aviation or space flight safety purposes.~~

24       ~~“(e) DEVELOPING COUNTRIES.—Notwithstanding~~  
 25       ~~any phase down of production required by this section, the~~



1 Administrator, after notice and opportunity for public  
2 comment, may authorize the production of limited quan-  
3 tities of class II, group II substances in excess of the  
4 amounts otherwise allowable under this section solely for  
5 export to, and use in, developing countries. Any produc-  
6 tion authorized under this subsection shall be solely for  
7 purposes of satisfying the basic domestic needs of such  
8 countries as provided in applicable international agree-  
9 ments, if any, to which the United States is a party or  
10 otherwise adheres.

11       “(f) NATIONAL SECURITY; FIRE SUPPRESSION;  
12 ETC.—The provisions of subsection (f) and paragraphs (1)  
13 and (2) of subsection (g) of section 604 shall apply to any  
14 consumption and production phase down of class II, group  
15 II substances in the same manner and to the same extent,  
16 consistent with any applicable international agreement to  
17 which the United States is a party or otherwise adheres,  
18 as such provisions apply to the substances specified in  
19 such subsection.

20       “(g) ACCELERATED SCHEDULE.—In lieu of section  
21 606, the provisions of paragraphs (1), (2), and (3) of this  
22 subsection shall apply in the case of class II, group II sub-  
23 stances.

24       “(1) IN GENERAL.—The Administrator shall  
25 promulgate initial regulations not later than 18

1 months after the date of enactment of this section;  
2 and revised regulations any time thereafter, which  
3 establish a schedule for phasing down the consump-  
4 tion (and, if the condition in subsection (b)(1)(B) is  
5 met, the production) of class II, group II substances  
6 that is more stringent than the schedule set forth in  
7 this section if, based on the availability of sub-  
8 stitutes, the Administrator determines that such  
9 more stringent schedule is practicable, taking into  
10 account technological achievability, safety, and other  
11 factors the Administrator deems relevant, or if the  
12 Montreal Protocol, or any applicable international  
13 agreement to which the United States is a party or  
14 otherwise adheres, is modified or established to in-  
15 clude a schedule or other requirements to control or  
16 reduce production, consumption, or use of any class  
17 II, group II substance more rapidly than the appli-  
18 cable schedule under this section.

19 “(2) PETITION.—Any person may submit a pe-  
20 tition to promulgate regulations under this sub-  
21 section in the same manner and subject to the same  
22 procedures as are provided in section 606(b).

23 “(3) INCONSISTENCY.—If the Administrator de-  
24 termines that the provisions of this section regarding  
25 banking, allowance rollover, or destruction offset

1 credits create a significant potential for inconsis-  
2 tency with the requirements of any applicable inter-  
3 national agreement to which the United States is a  
4 party or otherwise adheres; the Administrator may  
5 promulgate regulations restricting the availability of  
6 banking; allowance rollover; or destruction offset  
7 credits to the extent necessary to avoid such incon-  
8 sistency.

9 “(h) EXCHANGE.—Section 607 shall not apply in the  
10 case of class II, group II substances. Production and con-  
11 sumption allowances for class II, group II substances may  
12 be freely exchanged or sold but may not be converted into  
13 allowances for class II, group I substances.

14 “(i) LABELING.—(1) In applying section 611 to prod-  
15 ucts containing or manufactured with class II, group II  
16 substances, in lieu of the words ‘destroying ozone in the  
17 upper atmosphere’ on labels required under section 611  
18 there shall be substituted the words ‘contributing to global  
19 warming’.

20 “(2) The Administrator may, through rulemaking,  
21 exempt from the requirements of section 611 products  
22 containing or manufactured with class II, group II sub-  
23 stances determined to have little or no carbon dioxide  
24 equivalent value compared to other substances used in  
25 similar products.

1       “(j) NONESSENTIAL PRODUCTS.—For the purposes  
 2 of section 610, class II, group II substances shall be regu-  
 3 lated under section 610(b), except that in applying section  
 4 610(b) the word ‘hydrofluorocarbon’ shall be substituted  
 5 for the word ‘chlorofluorocarbon’ and the term ‘class II,  
 6 group II’ shall be substituted for the term ‘class I’. Class  
 7 II, group II substances shall not be subject to the provi-  
 8 sions of section 610(d).

9       “(k) INTERNATIONAL TRANSFERS.—In the case of  
 10 class II, group II substances, in lieu of section 616, this  
 11 subsection shall apply. To the extent consistent with any  
 12 applicable international agreement to which the United  
 13 States is a party or otherwise adheres, including any  
 14 amendment to the Montreal Protocol, the United States  
 15 may engage in transfers with other parties to such agree-  
 16 ment or amendment under the following conditions:

17           “(1) The United States may transfer produc-  
 18 tion allowances to another party to such agreement  
 19 or amendment if, at the time of the transfer, the  
 20 Administrator establishes revised production limits  
 21 for the United States accounting for the transfer in  
 22 accordance with regulations promulgated pursuant  
 23 to this subsection.

24           “(2) The United States may acquire production  
 25 allowances from another party to such agreement or

1 amendment if, at the time of the transfer, the Ad-  
 2 ministrator finds that the other party has revised its  
 3 domestic production limits in the same manner as  
 4 provided with respect to transfers by the United  
 5 States in the regulations promulgated pursuant to  
 6 this subsection.

7 “(1) RELATIONSHIP TO OTHER LAWS.—

8 “(1) STATE LAWS.—For purposes of section  
 9 116, the requirements of this section for class II,  
 10 group II substances shall be treated as requirements  
 11 for the control and abatement of air pollution.

12 “(2) MULTILATERAL AGREEMENTS.—Section  
 13 614 shall apply to the provisions of this section con-  
 14 cerning class II, group II substances, except that for  
 15 the words ‘Montreal Protocol’ there shall be sub-  
 16 stituted the words ‘Montreal Protocol, or any appli-  
 17 cable multilateral agreement to which the United  
 18 States is a party or otherwise adheres that restricts  
 19 the production or consumption of class II, group II  
 20 substances,’ and for the words ‘Article 4 of the Mon-  
 21 treal Protocol’ there shall be substituted ‘any provi-  
 22 sion of such multilateral agreement regarding trade  
 23 with non-parties’.

24 “(3) FEDERAL FACILITIES.—For purposes of  
 25 section 118, the requirements of this section for

1 class H, group H substances and corresponding  
 2 State, interstate, and local requirements, administra-  
 3 tive authority, and process and sanctions shall be  
 4 treated as requirements for the control and abate-  
 5 ment of air pollution within the meaning of section  
 6 118.

7 “(m) CARBON DIOXIDE EQUIVALENT VALUE.—(1)  
 8 In lieu of section 602(e), the provisions of this subsection  
 9 shall apply in the case of class H, group H substances.  
 10 Simultaneously with establishing the list of class H, group  
 11 H substances, and simultaneously with any addition to  
 12 that list, the Administrator shall publish the carbon diox-  
 13 ide equivalent value of each listed class H, group H sub-  
 14 stance, based on a determination of the number of metric  
 15 tons of carbon dioxide that makes the same contribution  
 16 to global warming over 100 years as 1 metric ton of each  
 17 class H, group H substance.

18 “(2) Not later than February 1, 2017, and not less  
 19 than every 5 years thereafter, the Administrator shall—

20 “(A) review, and if appropriate, revise the car-  
 21 bon dioxide equivalent values established for class H,  
 22 group H substances based on a determination of the  
 23 number of metric tons of carbon dioxide that makes  
 24 the same contributions to global warming over 100

1       years as 1 metric ton of each class II, group II sub-  
2       stance; and

3           “(B) publish in the Federal Register the results  
4       of that review and any revisions.

5       “(3) A revised determination published in the Federal  
6       Register under paragraph (2)(B) shall take effect for pro-  
7       duction of class II, group II substances, consumption of  
8       class II, group II substances, and importation of products  
9       containing class II, group II substances starting on Janu-  
10      ary 1 of the first calendar year starting at least 9 months  
11      after the date on which the revised determination was pub-  
12      lished.

13       “(4) The Administrator may decrease the frequency  
14      of review and revision under paragraph (2) if the Adminis-  
15      trator determines that such decrease is appropriate in  
16      order to synchronize such review and revisions with any  
17      similar review process carried out pursuant to the United  
18      Nations Framework Convention on Climate Change, an  
19      agreement negotiated under that convention, The Vienna  
20      Convention for the Protection of the Ozone Layer, or an  
21      agreement negotiated under that convention, except that  
22      in no event shall the Administrator carry out such review  
23      and revision any less frequently than every 10 years.

24       “(n) REPORTING REQUIREMENTS.—In lieu of sub-  
25      sections (b) and (c) of section 603, paragraphs (1) and

1 (2) of this subsection shall apply in the case of class II,  
2 group II substances:

3       “(1) IN GENERAL.—On a quarterly basis, or  
4       such other basis (not less than annually) as deter-  
5       mined by the Administrator, each person who pro-  
6       duced, imported, or exported a class II, group II  
7       substance, or who imported a product containing a  
8       class II, group II substance, shall file a report with  
9       the Administrator setting forth the carbon dioxide  
10      equivalent amount of the substance that such person  
11      produced, imported, or exported, as well as the  
12      amount that was contained in products imported by  
13      that person, during the preceding reporting period.  
14      Each such report shall be signed and attested by a  
15      responsible officer. If all other reporting is complete,  
16      no such report shall be required from a person after  
17      April 1 of the calendar year after such person per-  
18      manently ceases production, importation, and expor-  
19      tation of the substance, as well as importation of  
20      products containing the substance, and so notifies  
21      the Administrator in writing. If the United States  
22      becomes a party or otherwise adheres to a multilat-  
23      eral agreement, including any amendment to the  
24      Montreal Protocol on Substances That Deplete the  
25      Ozone Layer, that restricts the production or con-



1       sumption of class II, group II substances; then, if all  
 2       other reporting is complete, no such report shall be  
 3       required from a person with respect to importation  
 4       from parties to such agreement or amendment of  
 5       products containing any class II, group II substance  
 6       restricted by such agreement or amendment, after  
 7       April 1 of the calendar year following the year dur-  
 8       ing which such agreement or amendment enters into  
 9       force.

10       “(2) BASELINE REPORTS FOR CLASS II, GROUP  
 11       II SUBSTANCES.—

12       “(A) IN GENERAL.—Unless such informa-  
 13       tion has been previously reported to the Admin-  
 14       istrator, on the date on which the first report  
 15       under paragraph (1) of this subsection is re-  
 16       quired to be filed, each person who produced,  
 17       imported, or exported a class II, group II sub-  
 18       stance, or who imported a product containing a  
 19       class II substance, (other than a substance  
 20       added to the list of class II, group II substances  
 21       after the publication of the initial list of such  
 22       substances under this section), shall file a re-  
 23       port with the Administrator setting forth the  
 24       amount of such substance that such person pro-  
 25       duced, imported, exported, or that was con-

1           tained in products imported by that person;  
2           during each of calendar years 2004, 2005, and  
3           2006.

4           “(B) PRODUCERS.—In reporting under  
5           subparagraph (A), each person who produced in  
6           the United States a class II substance during  
7           calendar year 2004, 2005, or 2006 shall—

8                   “(i) report all acquisitions or pur-  
9                   chases of class II substances during each  
10                  of calendar years 2004, 2005, and 2006  
11                  from all other persons who produced in the  
12                  United States a class II substance during  
13                  calendar year 2004, 2005, or 2006, and  
14                  supply evidence of such acquisitions and  
15                  purchases as deemed necessary by the Ad-  
16                  ministrator; and

17                  “(ii) report all transfers or sales of  
18                  class II substances during each of calendar  
19                  years 2004, 2005, and 2006 to all other  
20                  persons who produced in the United States  
21                  a class II substance during calendar year  
22                  2004, 2005, or 2006, and supply evidence  
23                  of such transfers and sales as deemed nec-  
24                  essary by the Administrator.

1           ~~“(C) ADDED SUBSTANCES.—~~In the case of  
 2           a substance added to the list of class II, group  
 3           II substances after publication of the initial list  
 4           of such substances under this section, each per-  
 5           son who produced, imported, exported, or im-  
 6           ported products containing such substance in  
 7           calendar year 2004, 2005, or 2006 shall file a  
 8           report with the Administrator within 180 days  
 9           after the date on which such substance is added  
 10          to the list, setting forth the amount of the sub-  
 11          stance that such person produced, imported,  
 12          and exported, as well as the amount that was  
 13          contained in products imported by that person,  
 14          in calendar years 2004, 2005, and 2006.

15       ~~“(o) STRATOSPHERIC OZONE AND CLIMATE PROTEC-~~  
 16       ~~TION FUND.—~~

17           ~~“(1) IN GENERAL.—~~There is established in the  
 18       Treasury of the United States a Stratospheric Ozone  
 19       and Climate Protection Fund.

20           ~~“(2) DEPOSITS.—~~The Administrator shall de-  
 21       posit all proceeds from the auction and non-auction  
 22       sale of allowances under this section into the Strato-  
 23       spheric Ozone and Climate Protection Fund.

24           ~~“(3) USE.—~~Amounts deposited into the Strato-  
 25       spheric Ozone and Climate Protection Fund shall be

1 available, subject to appropriations, exclusively for  
 2 the following purposes:

3 “(A) RECOVERY, RECYCLING, AND REC-  
 4 LAMATION.—The Administrator may utilize  
 5 funds to establish a program to incentivize the  
 6 recovery, recycling, and reclamation of any  
 7 Class II substances in order to reduce emissions  
 8 of such substances.

9 “(B) MULTILATERAL FUND.—If the  
 10 United States becomes a party or otherwise ad-  
 11 heres to a multilateral agreement, including any  
 12 amendment to the Montreal Protocol on Sub-  
 13 stances That Deplete the Ozone Layer, which  
 14 restricts the production or consumption of class  
 15 II, group II substances, the Administrator may  
 16 utilize funds to meet any related contribution  
 17 obligation of the United States to the Multilat-  
 18 eral Fund for the Implementation of the Mon-  
 19 treal Protocol or similar multilateral fund es-  
 20 tablished under such multilateral agreement.

21 “(C) LOW GLOBAL WARMING PRODUCT  
 22 TRANSITION ASSISTANCE PROGRAM.—

23 “(i) IN GENERAL.—The Adminis-  
 24 trator, in consultation with the Secretary  
 25 of Energy, may utilize funds in fiscal years

1 2012 through 2022 to establish a program  
2 to provide financial assistance to manufac-  
3 turers of products containing class II,  
4 group II substances to facilitate the transi-  
5 tion to products that contain or utilize al-  
6 ternative substances with no or low carbon  
7 dioxide equivalent value and no ozone de-  
8 pletion potential.

9 “(ii) DEFINITION.—In this subpara-  
10 graph, the term ‘products’ means refriger-  
11 erators, freezers, dehumidifiers, air condi-  
12 tioners, foam insulation, technical aerosols,  
13 fire protection systems, and semiconduc-  
14 tors.

15 “(iii) FINANCIAL ASSISTANCE.—The  
16 Administrator may provide financial assist-  
17 ance to manufacturers pursuant to clause  
18 (i) for—

19 “(I) the design and configuration  
20 of new products that use alternative  
21 substances with no or low carbon di-  
22 oxide equivalent value and no ozone  
23 depletion potential; and

24 “(II) the redesign and retooling  
25 of facilities for the manufacture of

1 products in the United States that use  
 2 alternative substances with no or low  
 3 carbon dioxide equivalent value and  
 4 no ozone depletion potential.

5 “(iv) REPORTS.—For any fiscal year  
 6 during which the Administrator provides  
 7 financial assistance pursuant to this sub-  
 8 paragraph, the Administrator shall submit  
 9 a report to the Congress within 3 months  
 10 of the end of such fiscal year detailing the  
 11 amounts, recipients, specific purposes, and  
 12 results of the financial assistance pro-  
 13 vided.”.

14 (b) TABLE OF CONTENTS.—The table of contents of  
 15 title VI of the Clean Air Act (42 U.S.C. 7671 et seq.)  
 16 is amended by adding the following new item at the end  
 17 thereof:

“Sec. 619. Hydrofluorocarbons (HFCs).”.

18 (c) FIRE SUPPRESSION AGENTS.—Section 605(a) of  
 19 the Clean Air Act (42 U.S.C. 7671(a)) is amended—

20 (1) by striking “or” at the end of paragraph

21 (2);

22 (2) by striking the period at the end of para-  
 23 graph (3) and inserting “; or”; and

24 (3) by adding the following new paragraph after  
 25 paragraph (3):

1           “(4) is listed as acceptable for use as a fire sup-  
 2           pression agent for nonresidential applications in ac-  
 3           cordance with section 612(c).”.

4           (d) MOTOR VEHICLE AIR CONDITIONERS.—

5           (1) Section 609(e) of the Clean Air Act (42  
 6           U.S.C. 7671h(e)) is amended by inserting “, group  
 7           I” after each reference to “class H” in the text and  
 8           heading.

9           (2) Section 609 of the Clean Air Act (42 U.S.C.  
 10          7671h) is amended by adding the following new sub-  
 11          section after subsection (e):

12          “(f) CLASS H, GROUP H SUBSTANCES.—

13               “(1) REPAIR.—The Administrator may promul-  
 14               gate regulations establishing requirements for repair  
 15               of motor vehicle air conditioners prior to adding a  
 16               class H, group H substance.

17               “(2) SMALL CONTAINERS.—(A) The Adminis-  
 18               trator may promulgate regulations establishing serv-  
 19               icing practices and procedures for recovery of class  
 20               H, group H substances from containers which con-  
 21               tain less than 20 pounds of such class H, group H  
 22               substances.

23               “(B) Not later than 18 months after enactment  
 24               of this subsection, the Administrator shall either  
 25               promulgate regulations requiring that containers

1       which contain less than 20 pounds of a class II,  
2       group II substance be equipped with a device or  
3       technology that limits refrigerant emissions and  
4       leaks from the container and limits refrigerant emis-  
5       sions and leaks during the transfer of refrigerant  
6       from the container to the motor vehicle air condi-  
7       tioner or issue a determination that such require-  
8       ments are not necessary or appropriate.

9           “(C) Not later than 18 months after enactment  
10       of this subsection, the Administrator shall promul-  
11       gate regulations establishing requirements for con-  
12       sumer education materials on best practices associ-  
13       ated with the use of containers which contain less  
14       than 20 pounds of a class II, group II substance and  
15       prohibiting the sale or distribution, or offer for sale  
16       or distribution, of any class II, group II substance  
17       in any container which contains less than 20 pounds  
18       of such class II, group II substance, unless con-  
19       sumer education materials consistent with such re-  
20       quirements are displayed and available at point-of-  
21       sale locations, provided to the consumer, or included  
22       in or on the packaging of the container which con-  
23       tain less than 20 pounds of a class II, group II sub-  
24       stance.



1           “(D) The Administrator may, through rule-  
 2           making, extend the requirements established under  
 3           this paragraph to containers which contain 30  
 4           pounds or less of a class II, group II substance if  
 5           the Administrator determines that such action would  
 6           produce significant environmental benefits.

7           “(3) RESTRICTION OF SALES.—Effective Janu-  
 8           ary 1, 2014, no person may sell or distribute or offer  
 9           to sell or distribute or otherwise introduce into inter-  
 10          state commerce any motor vehicle air conditioner re-  
 11          frigerant in any size container unless the substance  
 12          has been found acceptable for use in a motor vehicle  
 13          air conditioner under section 612.”.

14          (e) SAFE ALTERNATIVES POLICY.—Section 612(e) of  
 15          the Clean Air Act (42 U.S.C. 7671k(e)) is amended by  
 16          inserting “or class II” after each reference to “class I”.

17       **SEC. 123. BLACK CARBON.**

18          (a) STUDY OF BLACK CARBON EMISSIONS.—

19               (1) DEFINITION OF BLACK CARBON.—In this  
 20               subsection, the term “black carbon” means any  
 21               light-absorbing graphitic (or elemental) particle pro-  
 22               duced by incomplete combustion.

23               (2) STUDY.—The Administrator, in consulta-  
 24               tion with the Secretary of Energy, the Secretary of  
 25               State, and the heads of the National Oceanic and

1 Atmospheric Administration, the National Aero-  
 2 nautics and Space Administration, the United States  
 3 Agency for International Development, the National  
 4 Institutes of Health, the Centers for Disease Control  
 5 and Prevention, National Institute of Standards and  
 6 Technology, and other relevant Federal departments  
 7 and agencies and representatives of appropriate in-  
 8 dustry and environmental groups, shall conduct a 4-  
 9 phase study of black carbon emissions, the phases of  
 10 which shall be the following:

11 (A) PHASE I—UNIVERSAL DEFINITION.—

12 The Administrator shall conduct phase I of the  
 13 study under this subsection to carry out meas-  
 14 ures to establish for the scientific community  
 15 standard definitions of the terms—

16 (i) black carbon; and

17 (ii) organic carbon.

18 (B) PHASE II—SOURCES AND TECH-

19 NOLOGIES.—The Administrator shall conduct  
 20 phase II of the study under this subsection to  
 21 summarize the available scientific and technical  
 22 information concerning—

23 (i) the identification of the major  
 24 sources of black carbon emissions in the  
 25 United States and throughout the world;

1 (ii) an estimate of—

2 (I) the quantity of current and  
3 projected future black carbon emis-  
4 sions from those sources; and

5 (II) the net climate effects of the  
6 emissions;

7 (iii) the most recent scientific data  
8 relevant to the public health- and climate-  
9 related impacts of black carbon emissions  
10 and associated emissions of organic car-  
11 bon, nitrogen oxides, and sulfur oxides  
12 from the sources identified under clause  
13 (i);

14 (iv) the most effective control strate-  
15 gies for additional domestic and inter-  
16 national reductions in black carbon emis-  
17 sions, taking into consideration lifecycle  
18 analysis, cost-effectiveness, and the net cli-  
19 mate impact of technologies, operations,  
20 and strategies, such as—

21 (I) diesel particulate filters on ex-  
22 isting diesel on- and off-road engines;  
23 and

24 (II) particulate emission reduc-  
25 tion measures for marine vessels;

(v) carbon dioxide equivalency factors; global/regional modeling; or other metrics to compare the global warming and other climate effects of black carbon emissions with carbon dioxide and other greenhouse gas emissions; and

(vi) the health benefits associated with additional black carbon emission reductions.

(C) ~~PHASE III—INTERNATIONAL FUNDING.~~—The Administrator shall conduct phase ~~III~~ of the study under this subsection—

(i) to summarize the amount, type, and direction of all actual and potential financial, technical, and related assistance provided by the United States to foreign countries to reduce, mitigate, or otherwise abate—

(I) black carbon emissions; and

(II) any health, environmental, and economic impacts associated with those emissions; and

(ii) to identify opportunities, including action under existing authority, to achieve significant black carbon emission reduc-

1           tions in foreign countries through the pro-  
2           vision of technical assistance or other ap-  
3           proaches.

4           ~~(D)~~ PHASE IV—RESEARCH AND DEVELOP-  
5           MENT OPPORTUNITIES.—The Administrator  
6           shall conduct phase IV of the study under this  
7           subsection for the purpose of providing to Con-  
8           gress recommendations regarding—

9           (i) areas of focus for additional re-  
10          search for cost-effective technologies; oper-  
11          ations; and strategies with the highest po-  
12          tential to reduce black carbon emissions  
13          and protect public health in the United  
14          States and internationally; and

15          (ii) actions that the Federal Govern-  
16          ment could take to encourage or require  
17          additional black carbon emission reduc-  
18          tions.

19          ~~(3)~~ REPORTS.—The Administrator shall submit  
20          to Congress—

21          ~~(A)~~ by not later than 180 days after the  
22          date of enactment of this Act, a report describ-  
23          ing the results of phases I and II of the study  
24          under subparagraphs ~~(A)~~ and ~~(B)~~ of paragraph  
25          ~~(2)~~;

(B) by not later than 270 days after the date of enactment of this Act, a report describing the results of phase III of the study under paragraph (2)(C); and

(C) by not later than 1 year after the date of enactment of this Act, a report describing the recommendations developed for phase IV of the study under paragraph (2)(D).

~~(4) AUTHORIZATION OF APPROPRIATIONS.—~~

There are authorized to be appropriated such sums as are necessary to carry out this subsection.

~~(b) BLACK CARBON MITIGATION.—~~Title VIII of the Clean Air Act (as amended by section 113 of division A) is amended by adding at the end the following:

**~~“PART E—BLACK CARBON~~**

**~~“SEC. 851. BLACK CARBON.~~**

~~“(a) DOMESTIC BLACK CARBON MITIGATION.—~~

~~“(1) IN GENERAL.—~~Taking into consideration the public health and environmental impacts of black carbon emissions, including the effects on global and regional warming, the Arctic, and other snow and ice-covered surfaces, the Administrator shall—

~~“(A) not later than 2 years after the date of enactment of this part, propose—~~

1 “(i) regulations applicable to emis-  
2 sions of black carbon under the existing  
3 authorities of this Act; or

4 “(ii) a finding that existing regula-  
5 tions promulgated pursuant to this Act  
6 adequately regulate black carbon emis-  
7 sions; which finding may be based on a  
8 finding that existing regulations, in the  
9 judgment of the Administrator—

10 “(I) address those sources that  
11 both contribute significantly to the  
12 total emissions of black carbon and  
13 provide the greatest potential for sig-  
14 nificant and cost-effective reductions  
15 in emissions of black carbon; under  
16 the existing authorities; and

17 “(II) reflect the greatest degree  
18 of emission reduction achievable  
19 through application of technology that  
20 will be available for such sources; giv-  
21 ing appropriate consideration to cost,  
22 energy, and safety factors associated  
23 with the application of such tech-  
24 nology; and

1           “(B) not later than 3 years after the date  
2           of enactment of this part, promulgate final reg-  
3           ulations under the existing authorities of this  
4           Act or finalize the proposed finding.

5           “(2) APPLICABILITY OF REGULATIONS.—Regu-  
6           lations promulgated under paragraph (1) shall not  
7           apply to specific types, classes, categories, or other  
8           suitable groupings of emission sources that the Ad-  
9           ministrators find are subject to adequate regulation.

10          “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
11       are authorized to be appropriated such sums as are nec-  
12       essary to carry out this section.”.

13       **SEC. 124. STATES.**

14       Section 116 of the Clean Air Act (42 U.S.C. 7416)  
15       is amended by adding the following at the end thereof:  
16       “‘For the purposes of this section, the phrases ‘standard  
17       or limitation respecting emissions of air pollutants’ and  
18       ‘requirements respecting control or abatement of air pollu-  
19       tion’ shall include any provision to: limit greenhouse gas  
20       emissions; require surrender to the State or a political  
21       subdivision thereof of emission allowances or offset credits  
22       established or issued under this Act; and require the use  
23       of such allowances or credits as a means of demonstrating  
24       compliance with requirements established by a State or  
25       political subdivision thereof.’”.



1 **SEC. 125. STATE PROGRAMS.**

2 Title VIII of the Clean Air Act (as amended by sec-  
3 tion 123(b)) is amended by adding at the end the fol-  
4 lowing:

5 **“PART F—MISCELLANEOUS**

6 **“SEC. 861. STATE PROGRAMS.**

7 “(a) IN GENERAL.—Notwithstanding section 116, if  
8 a Federal auction is conducted, by the deadline of March  
9 31, 2011, as established in section 778, no State or polit-  
10 ical subdivision thereof shall implement or enforce a com-  
11 prehensive greenhouse gas emission limitation program  
12 that covers any capped emissions emitted during the years  
13 2012 through 2017.

14 “(b) DEADLINE.—Notwithstanding section 116, in  
15 the event the March 31, 2011 auction is delayed, no State  
16 or political subdivision thereof shall enforce a comprehen-  
17 sive greenhouse gas emission limitation program that cov-  
18 ers any capped emissions emitted during the period that  
19 is at least 9 months from the first auction as set out in  
20 section 778, through 2017.

21 “(c) DEFINITION OF COMPREHENSIVE GREENHOUSE  
22 GAS EMISSION LIMITATION PROGRAM.—For purposes of  
23 this section, the term ‘comprehensive greenhouse gas  
24 emission limitation program’ means a system of green-  
25 house gas regulation under which a State or political sub-  
26 division issues a limited number of tradable instruments

1 in the nature of emission allowances and requires that  
2 sources within its jurisdiction surrender such tradeable in-  
3 struments for each unit of greenhouse gases emitted dur-  
4 ing a compliance period. For purposes of this section, a  
5 ‘comprehensive greenhouse gas emission limitation pro-  
6 gram’ does not include a target or limit on greenhouse  
7 gas emissions adopted by a State or political subdivision  
8 that is implemented other than through the issuance and  
9 surrender of a limited number of tradable instruments in  
10 the nature of emission allowances; nor does it include any  
11 other standard, limit, regulation, or program to reduce  
12 greenhouse gas emissions that is not implemented through  
13 the issuance and surrender of a limited number of  
14 tradeable instruments in the nature of emission allow-  
15 ances. For purposes of this section, the term ‘comprehen-  
16 sive greenhouse gas emission limitation program’ does not  
17 include, among other things, fleet-wide motor vehicle emis-  
18 sion requirements that allow greater emissions with in-  
19 creased vehicle production, or requirements that fuels, or  
20 other products, meet an average pollution emission rate  
21 or lifecycle greenhouse gas standard.

22 **“SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CON-**  
23 **TROL PROGRAMS.**

24 “The Administrator is authorized to make grants to  
25 air pollution control agencies pursuant to section 105 for

1 purposes of assisting in the implementation of programs  
2 to address global warming established under the Clean  
3 Energy Jobs and American Power Act.”.

4 **SEC. 126. ENFORCEMENT.**

5 (a) REMAND.—Section 307(b) of the Clean Air Act  
6 (42 U.S.C. 7607(b)) is amended by adding the following  
7 new paragraph at the end thereof:

8 “(3) If the court determines that any action of  
9 the Administrator is arbitrary, capricious, or other-  
10 wise unlawful, the court may remand such action,  
11 without vacatur, if vacatur would impair or delay  
12 protection of the environment or public health or  
13 otherwise undermine the timely achievement of the  
14 purposes of this Act.

15 “(4) If the court determines that any action of  
16 the Administrator is arbitrary, capricious, or other-  
17 wise unlawful, and remands the matter to the Ad-  
18 ministrator, the Administrator shall complete final  
19 action on remand within an expeditious time period  
20 not longer than the time originally allowed for the  
21 action or 1 year, whichever is less, unless the court  
22 on motion determines that a shorter or longer period  
23 is necessary, appropriate, and consistent with the  
24 purposes of this Act. The court of appeals shall have

1 jurisdiction to enforce a deadline for action on re-  
2 mand under this paragraph.”.

3 (b) PETITION FOR RECONSIDERATION.—Section  
4 307(d)(7)(B) of the Clean Air Act (42 U.S.C.  
5 7607(d)(7)(B)) is amended as follows:

6 (1) By inserting after the second sentence “If  
7 a petition for reconsideration is filed, the Adminis-  
8 trator shall take final action on such petition, in-  
9 cluding promulgation of final action either revising  
10 or determining not to revise the action for which re-  
11 consideration is sought, within 150 days after the  
12 petition is received by the Administrator or the peti-  
13 tion shall be deemed denied for the purpose of judi-  
14 cial review.”.

15 (2) By amending the third sentence to read as  
16 follows: “Such person may seek judicial review of  
17 such denial, or of any other final action, by the Ad-  
18 ministrator, in response to a petition for reconsider-  
19 ation, in the United States court of appeals for the  
20 appropriate circuit (as provided in subsection (b)).”.

21 (c) PETITION FOR REVIEW.—Section 307(b)(1) of  
22 the Clean Air Act (42 U.S.C. 7607(b)(1)) is amended by  
23 inserting after the second sentence the following: “Any  
24 person may file a petition for review of action by the Ad-  
25 ministrator as provided in this subsection.”.

1 **SEC. 127. CONFORMING AMENDMENTS.**

2 (a) ~~FEDERAL ENFORCEMENT.~~—Section 113 of the  
3 Clean Air Act (42 U.S.C. 7413) is amended as follows:

4 (1) In subsection (a)(3), by striking “or title  
5 VI,” and inserting “title VI, title VII, or title VIII”.

6 (2) In subsection (b), by striking “or a major  
7 stationary source” and inserting “a major stationary  
8 source, or a covered EGU under title VIII” in the  
9 material preceding paragraph (1).

10 (3) In paragraph (2) of subsection (b), by strik-  
11 ing “or title VI” and inserting “title VI, title VII,  
12 or title VIII”.

13 (4) In subsection (c)—

14 (A) in the first sentence of paragraph (1),  
15 by striking “or title VI (relating to strato-  
16 spheric ozone control),” and inserting “title VI,  
17 title VII, or title VIII,”; and

18 (B) in the first sentence of paragraph (3),  
19 by striking “or VI” and inserting “VI, VII, or  
20 VIII”.

21 (5) In subsection (d)(1)(B), by striking “or VI”  
22 and inserting “VI, VII, or VIII”.

23 (6) In subsection (f), in the first sentence, by  
24 striking “or VI” and inserting “VI, VII, or VIII”.

1       (b) RETENTION OF STATE AUTHORITY.—Section  
 2 116 of the Clean Air Act (42 U.S.C. 7416) is amended  
 3 as follows:

4           (1) By striking “and 233” and inserting “233”.

5           (2) By striking “of moving sources)” and in-  
 6 serting “of moving sources); and 861 (preempting  
 7 certain State greenhouse gas programs for a limited  
 8 time)”.

9       (c) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
 10 tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is  
 11 amended by striking “section 112,” and all that follows  
 12 through “(ii)” and inserting the following: “section 112,  
 13 or any regulation of greenhouse gas emissions under title  
 14 VII or VIII, (ii)”.

15       (d) ENFORCEMENT.—Subsection (f) of section 304 of  
 16 the Clean Air Act (42 U.S.C. 7604(f)) is amended as fol-  
 17 lows:

18           (1) By striking “; or” at the end of paragraph

19 (3) thereof and inserting a comma.

20           (2) By striking the period at the end of para-  
 21 graph (4) thereof and inserting “; or”.

22           (3) By adding the following after paragraph (4)  
 23 thereof:

24           “(5) any requirement of title VII or VIII.”.

1       (e) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL  
 2 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.  
 3 7607) is amended as follows:

4           (1) In subsection (a), by striking “, or section  
 5 306” and inserting “section 306, or title VII or  
 6 VIII”.

7           (2) In subsection (b)(1)—

8               (A) by striking “,” and inserting “,” in  
 9 each place such punctuation appears; and

10               (B) by striking “section 120,” in the first  
 11 sentence and inserting “section 120, any final  
 12 action under title VII or VIII,”.

13           (3) In subsection (d)(1) by amending subpara-  
 14 graph (S) to read as follows:

15               “(S) the promulgation or revision of any  
 16 regulation under title VII or VIII,”.

17       (f) TECHNICAL AMENDMENT.—Title IV of the Clean  
 18 Air Act (relating to noise pollution) (42 U.S.C. 7641 et  
 19 seq.)—

20           (1) is amended by redesignating sections 401  
 21 through 403 as sections 901 through 903, respec-  
 22 tively; and

23           (2) is redesignated as title IX and moved to ap-  
 24 pear at the end of that Act.

1 **SEC. 128. DAVIS-BACON COMPLIANCE.**

2       (a) **IN GENERAL.**—Notwithstanding any other provi-  
 3 sion of law and in a manner consistent with other provi-  
 4 sions in this Act, to receive emission allowances or funding  
 5 under this Act, or the amendments made by this Act, the  
 6 recipient shall provide reasonable assurances that all la-  
 7 borers and mechanics employed by contractors and sub-  
 8 contractors on projects funded directly by or assisted in  
 9 whole or in part by and through the Federal Government  
 10 pursuant to this Act, or the amendments made by this  
 11 Act, or by any entity established in accordance with this  
 12 Act, or the amendments made by this Act, including the  
 13 Carbon Storage Research Corporation, will be paid wages  
 14 at rates not less than those prevailing on projects of a  
 15 character similar in the locality as determined by the Sec-  
 16 retary of Labor in accordance with subchapter IV of chap-  
 17 ter 31 of title 40, United States Code (commonly known  
 18 as the “Davis-Bacon Act”). With respect to the labor  
 19 standards specified in this section, the Secretary of Labor  
 20 shall have the authority and functions set forth in Reorga-  
 21 nization Plan Numbered 14 of 1950 (64 Stat. 1267; 5  
 22 U.S.C. App.) and section 3145 of title 40, United States  
 23 Code.

24       (b) **EXEMPTION.**—Neither subsection (a) nor the re-  
 25 quirements of subchapter IV of chapter 31 of title 40,



1 United States Code, shall apply to retrofitting of the fol-  
 2 lowing:

3           (1) Single family homes (both attached and de-  
 4           tached) under section 164 of division A.

5           (2) Owner-occupied residential units in larger  
 6           buildings that have their own dedicated space-condi-  
 7           tioning systems under section 164 of division A.

8           (3) Residential buildings (as defined in section  
 9           164(a) of division A) if designed for residential use  
 10          by less than 4 families.

11          (4) Nonresidential buildings (as defined in sec-  
 12          tion 164(a) of division A) if the net interior space  
 13          of such nonresidential building is less than 6,500  
 14          square feet.

## 15           **Subtitle D—Carbon Market** 16           **Assurance**

### 17   **SEC. 131. CARBON MARKET ASSURANCE.**

18          It is the sense of the Senate that there shall be a  
 19   single, integrated carbon market oversight program—

20           (1) to provide for effective and comprehensive  
 21   market oversight and enforcement;

22           (2) to lower systemic risk and protect con-  
 23   sumers;

24           (3) to ensure market liquidity and allowance  
 25   availability;

1           (4) to enhance the price discovery function of  
2 such markets, ensuring that the price for emission  
3 allowances and offset credits reflects the marginal  
4 cost of abatement;

5           (5) to prevent excessive speculation that con-  
6 tributes to price volatility, including the establish-  
7 ment of robust aggregate position limits and margin  
8 requirements;

9           (6) to ensure that market mechanisms and as-  
10 sociated oversight support the environmental integ-  
11 rity of the program established under title VII of the  
12 Clean Air Act (as added by section 101 of this divi-  
13 sion);

14          (7) to establish provisions for market trans-  
15 parency that provide authority, resources, and infor-  
16 mation needed to prevent fraud and manipulation in  
17 such markets;

18          (8) to establish standards for trading as, and  
19 operation of, trading facilities;

20          (9) to ensure a well-functioning, well-regulated  
21 market, including a futures market, designed to  
22 manage risk and facilitate investment in emission re-  
23 ductions;

24          (10) to establish clear, professional standards  
25 for dealers, traders, and other market participants;

1           (11) to provide for appropriate criminal and  
2           civil penalties; and

3           (12) to prevent any excessive leverage by mar-  
4           ket participants that creates risk to the economy.

5           **Subtitle E—Ensuring Real**  
6           **Reductions in Industrial Emissions**

7           **SEC. 141. ENSURING REAL REDUCTIONS IN INDUSTRIAL**  
8           **EMISSIONS.**

9           Title VII of the Clean Air Act (as amended by section  
10          322 of division A) is amended by adding at the end the  
11          following:

12          **“PART F—ENSURING REAL REDUCTIONS IN**  
13          **INDUSTRIAL EMISSIONS**

14          **“SEC. 761. PURPOSES.**

15          “The purposes of this part are—

16               “(1) to promote a strong global effort to signifi-  
17               cantly reduce greenhouse gas emissions; and,  
18               through this global effort, stabilize greenhouse gas  
19               concentrations in the atmosphere at a level that will  
20               prevent dangerous anthropogenic interference with  
21               the climate system;

22               “(2) to prevent an increase in greenhouse gas  
23               emissions in countries other than the United States  
24               as a result of direct and indirect compliance costs in-  
25               curred under this title;

1           “(3) to provide a rebate to the owners and op-  
 2           erators of entities in domestic eligible industrial sec-  
 3           tors for their greenhouse gas emission costs incurred  
 4           under this title, but not for costs associated with  
 5           other related or unrelated market dynamics;

6           “(4) to design such rebates in a way that will  
 7           prevent carbon leakage while also rewarding innova-  
 8           tion and facility-level investments in energy effi-  
 9           ciency performance improvements; and

10           “(5) to eliminate or reduce distribution of emis-  
 11           sion allowances under this part when such distribu-  
 12           tion is no longer necessary to prevent carbon leakage  
 13           from eligible industrial sectors.

14   **“SEC. 762. DEFINITIONS.**

15           “In this part:

16           “(1) CARBON LEAKAGE.—The term ‘carbon  
 17           leakage’ means any substantial increase (as deter-  
 18           mined by the Administrator) in greenhouse gas  
 19           emissions by industrial entities located in other  
 20           countries if such increase is caused by an incre-  
 21           mental cost of production increase in the United  
 22           States resulting from the implementation of this  
 23           title.

24           “(2) ELIGIBLE INDUSTRIAL SECTOR.—The  
 25           term ‘eligible industrial sector’ means an industrial

sector determined by the Administrator under section 763(b) to be eligible to receive emission allowance rebates under this part.

“(3) **INDUSTRIAL SECTOR.**—The term ‘industrial sector’ means any sector that is in the manufacturing sector (as defined in NAICS codes 31, 32, and 33) or that beneficiates or otherwise processes (including agglomeration) metal ores, including iron and copper ores, soda ash, or phosphate. The extraction of metal ores, soda ash, or phosphate shall not be considered to be an industrial sector.

“(4) **NAICS.**—The term ‘NAICS’ means the North American Industrial Classification System of 2002.

“(5) **OUTPUT.**—The term ‘output’ means the total tonnage or other standard unit of production (as determined by the Administrator) produced by an entity in an industrial sector. The output of the cement sector is hydraulic cement, and not clinker.

**“SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.**

“(a) **LIST.**—

“(1) **INITIAL LIST.**—Not later than June 30, 2011, the Administrator shall publish in the Federal Register a list of eligible industrial sectors pursuant to subsection (b). Such list shall include the amount

1 of the emission allowance rebate per unit of produc-  
 2 tion that shall be provided to entities in each eligible  
 3 industrial sector in the following two calendar years  
 4 pursuant to section 764.

5 “(2) SUBSEQUENT LISTS.—Not later than Feb-  
 6 ruary 1, 2013, and every 4 years thereafter, the Ad-  
 7 ministrator shall publish in the Federal Register an  
 8 updated version of the list published under para-  
 9 graph (1).

10 “(b) ELIGIBLE INDUSTRIAL SECTORS.—

11 “(1) IN GENERAL.—Not later than June 30,  
 12 2011, the Administrator shall promulgate a rule des-  
 13 ignating, based on the criteria under paragraph (2),  
 14 the industrial sectors eligible for emission allowance  
 15 rebates under this part.

16 “(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL  
 17 SECTORS.—

18 “(A) ELIGIBILITY CRITERIA.—

19 “(i) IN GENERAL.—An owner or oper-  
 20 ator of an entity shall be eligible to receive  
 21 emission allowance rebates under this part  
 22 if such entity is in an industrial sector that  
 23 is included in a six-digit classification of  
 24 the NAICS that meets the criteria in both

1 clauses (ii) and (iii), or the criteria in  
 2 clause (iv):

3 ~~“(ii) ENERGY OR GREENHOUSE GAS~~  
 4 ~~INTENSITY.—As determined by the Admin-~~  
 5 ~~istrator, the industrial sector had—~~

6 ~~“(I) an energy intensity of at~~  
 7 ~~least 5 percent, calculated by dividing~~  
 8 ~~the cost of purchased electricity and~~  
 9 ~~fuel costs of the sector by the value of~~  
 10 ~~the shipments of the sector, based on~~  
 11 ~~data described in subparagraph (D);~~  
 12 ~~or~~

13 ~~“(II) a greenhouse gas intensity~~  
 14 ~~of at least 5 percent, calculated by di-~~  
 15 ~~viding—~~

16 ~~“(aa) the number 20 multi-~~  
 17 ~~plied by the number of tons of~~  
 18 ~~carbon dioxide equivalent green-~~  
 19 ~~house gas emissions (including~~  
 20 ~~direct emissions from fuel com-~~  
 21 ~~bustion, process emissions, and~~  
 22 ~~indirect emissions from the gen-~~  
 23 ~~eration of electricity used to~~  
 24 ~~produce the output of the sector)~~

1 of the sector based on data de-  
 2 scribed in subparagraph (D); by

3 “(bb) the value of the ship-  
 4 ments of the sector, based on  
 5 data described in subparagraph  
 6 (D).

7 “(iii) TRADE INTENSITY.—As deter-  
 8 mined by the Administrator, the industrial  
 9 sector had a trade intensity of at least 15  
 10 percent, calculated by dividing the value of  
 11 the total imports and exports of such sec-  
 12 tor by the value of the shipments plus the  
 13 value of imports of such sector, based on  
 14 data described in subparagraph (D).

15 “(iv) VERY HIGH ENERGY OR GREEN-  
 16 HOUSE GAS INTENSITY.—As determined by  
 17 the Administrator, the industrial sector  
 18 had an energy or greenhouse gas intensity,  
 19 as calculated under clause (ii)(I) or (II), of  
 20 at least 20 percent.

21 “(B) METAL AND PHOSPHATE PRODUC-  
 22 TION CLASSIFIED UNDER MORE THAN ONE  
 23 NAICS CODE.—For purposes of this section, the  
 24 Administrator shall—



1           “(i) aggregate data for the  
2           beneficiation or other processing (including  
3           agglomeration) of metal ores, including  
4           iron and copper ores, soda ash, or phos-  
5           phate with subsequent steps in the process  
6           of metal and phosphate manufacturing, re-  
7           gardless of the NAICS code under which  
8           such activity is classified; and

9           “(ii) aggregate data for the manufac-  
10          turing of steel with the manufacturing of  
11          steel pipe and tube made from purchased  
12          steel in a nonintegrated process.

13          “(C) EXCLUSION.—The petroleum refining  
14          sector shall not be an eligible industrial sector.

15          “(D) DATA SOURCES.—

16          “(i) ELECTRICITY AND FUEL COSTS;  
17          VALUE OF SHIPMENTS.—The Adminis-  
18          trator shall determine electricity and fuel  
19          costs and the value of shipments under  
20          this subsection from data from the United  
21          States Census Annual Survey of Manufac-  
22          turers. The Administrator shall take the  
23          average of data from as many of the years  
24          of 2004, 2005, and 2006 for which such  
25          data are available. If such data are un-

1 available, the Administrator shall make a  
2 determination based upon 2002 or 2006  
3 data from the most detailed industrial clas-  
4 sification level of Energy Information  
5 Agency's Manufacturing Energy Consump-  
6 tion Survey (using 2006 data if it is avail-  
7 able) and the 2002 or 2007 Economic Cen-  
8 sus of the United States (using 2007 data  
9 if it is available). If data from the Manu-  
10 facturing Energy Consumption Survey or  
11 Economic Census are unavailable for any  
12 sector at the six-digit classification level in  
13 the NAICS, then the Administrator may  
14 extrapolate the information necessary to  
15 determine the eligibility of a sector under  
16 this paragraph from available Manufac-  
17 turing Energy Consumption Survey or  
18 Economic Census data pertaining to a  
19 broader industrial category classified in the  
20 NAICS. If data relating to the  
21 beneficiation or other processing (including  
22 agglomeration) of metal ores, including  
23 iron and copper ores, soda ash, or phos-  
24 phate are not available from the specified  
25 data sources, the Administrator shall use

1 the best available Federal or State govern-  
2 ment data and may use, to the extent nec-  
3 essary, representative data submitted by  
4 entities that perform such beneficiation or  
5 other processing (including agglomeration),  
6 in making a determination. Fuel cost data  
7 shall not include the cost of fuel used as  
8 feedstock by an industrial sector.

9 “(ii) IMPORTS AND EXPORTS.—The  
10 Administrator shall base the value of im-  
11 ports and exports under this subsection on  
12 United States International Trade Com-  
13 mission data. The Administrator shall take  
14 the average of data from as many of the  
15 years of 2004, 2005, and 2006 for which  
16 such data are available. If data from the  
17 United States International Trade Com-  
18 mission are unavailable for any sector at  
19 the six-digit classification level in the  
20 NAICS, then the Administrator may ex-  
21 trapolate the information necessary to de-  
22 termine the eligibility of a sector under  
23 this paragraph from available United  
24 States International Trade Commission

1 data pertaining to a broader industrial cat-  
 2 egory classified in the NAICS.

3 “(iii) PERCENTAGES.—The Adminis-  
 4 trator shall round the energy intensity,  
 5 greenhouse gas intensity, and trade inten-  
 6 sity percentages under subparagraph (A)  
 7 to the nearest whole number.

8 “(iv) GREENHOUSE GAS EMISSION  
 9 CALCULATIONS.—When calculating the  
 10 tons of carbon dioxide equivalent green-  
 11 house gas emissions for each sector under  
 12 subparagraph (A)(ii)(II)(aa), the Adminis-  
 13 trator—

14 “(I) shall use the best available  
 15 data from as many of the years 2004,  
 16 2005, and 2006 for which such data  
 17 is available; and

18 “(II) may, to the extent nec-  
 19 essary with respect to a sector, use  
 20 economic and engineering models and  
 21 the best available information on tech-  
 22 nology performance levels for such  
 23 sector.

24 “(3) ADMINISTRATIVE DETERMINATION OF AD-  
 25 DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

1           “(A) UPDATED TRADE INTENSITY DATA.—

2           The Administrator shall designate as eligible to  
3           receive emission allowance rebates under this  
4           part an industrial sector that—

5                   “(i) met the energy or greenhouse gas  
6                   intensity criteria in paragraph (2)(A)(ii) as  
7                   of the date of promulgation of the rule  
8                   under paragraph (1); and

9                   “(ii) meets the trade intensity criteria  
10                  in paragraph (2)(A)(iii), using data from  
11                  any year after 2006.

12          “(B) INDIVIDUAL SHOWING PETITION.—

13                  “(i) PETITION.—In addition to des-  
14                  ignation under paragraph (2) or subpara-  
15                  graph (A) of this paragraph, the owner or  
16                  operator of an entity in an industrial sec-  
17                  tor may petition the Administrator to des-  
18                  ignate as eligible industrial sectors under  
19                  this part an entity or a group of entities  
20                  that—

21                          “(I) represent a subsector of a  
22                          six-digit section of the NAICS code;  
23                          and

24                          “(II) meet the eligibility criteria  
25                          in both clauses (ii) and (iii) of para-

graph (2)(A), or the eligibility criteria  
in clause (iv) of paragraph (2)(A).

“(ii) DATA.—In making a determination under this subparagraph, the Administrator shall consider data submitted by the petitioner that is specific to the entity, data solicited by the Administrator from other entities in the subsector, if such other entities exist, and data specified in paragraph (2)(D).

“(iii) BASIS OF SUBSECTOR DETERMINATION.—The Administrator shall determine an entity or group of entities to be a subsector of a six-digit section of the NAICS code based only upon the products manufactured and not the industrial process by which the products are manufactured, except that the Administrator may determine an entity or group of entities that manufacture a product from primarily virgin material to be a separate subsector from another entity or group of entities that manufacture the same product primarily from recycled material.

1                   “(iv) USE OF MOST RECENT DATA.—

2                   In determining whether to designate a sec-  
 3                   tor or subsector as an eligible industrial  
 4                   sector under this subparagraph, the Ad-  
 5                   ministrator shall use the most recent data  
 6                   available from the sources described in  
 7                   paragraph (2)(D), rather than the data  
 8                   from the years specified in paragraph  
 9                   (2)(D), to determine the trade intensity of  
 10                  such sector or subsector, but only for de-  
 11                  termining such trade intensity.

12                  “(v) FINAL ACTION.—The Adminis-

13                  trator shall take final action on such peti-  
 14                  tion no later than 6 months after the peti-  
 15                  tion is received by the Administrator.

16   **“SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE RE-**  
 17                  **BATES.**

18                  “(a) DISTRIBUTION SCHEDULE.—

19                  “(1) IN GENERAL.—For each vintage year, the  
 20                  Administrator shall distribute pursuant to this sec-  
 21                  tion emission allowances made available under sec-  
 22                  tion 771(a)(5), no later than October 31 of the pre-  
 23                  ceding calendar year. The Administrator shall make  
 24                  such annual distributions to the owners and opera-  
 25                  tors of each entity in an eligible industrial sector in

1 the amount of emission allowances calculated under  
2 subsection (b), except that—

3 “(A) for vintage years 2012 and 2013, the  
4 distribution for a covered entity shall be pursu-  
5 ant to the entity’s indirect carbon factor as cal-  
6 culated under subsection (b)(3);

7 “(B) for vintage year 2026 and thereafter,  
8 the distribution shall be pursuant to the  
9 amount calculated under subsection (b) multi-  
10 plied by, for a sector—

11 “(i) 90 percent for vintage year 2026;

12 “(ii) 80 percent for vintage year  
13 2027;

14 “(iii) 70 percent for vintage year  
15 2028;

16 “(iv) 60 percent for vintage year  
17 2029;

18 “(v) 50 percent for vintage year 2030;

19 “(vi) 40 percent for vintage year  
20 2031;

21 “(vii) 30 percent for vintage year  
22 2032;

23 “(viii) 20 percent for vintage year  
24 2033;



1                   ~~“(ix) 10 percent for vintage year~~  
 2                   ~~2034; and~~

3                   ~~“(x) 0 percent for vintage year 2035~~  
 4                   ~~and thereafter.~~

5                   ~~“(2) NEWLY ELIGIBLE SECTORS.—In addition~~  
 6                   ~~to receiving a distribution of emission allowances~~  
 7                   ~~under this section in the first distribution occurring~~  
 8                   ~~after an industrial sector is designated as eligible~~  
 9                   ~~under section 763(b)(3), the owner or operator of an~~  
 10                  ~~entity in that eligible industrial sector may receive a~~  
 11                  ~~prorated share of any emission allowances made~~  
 12                  ~~available for distribution under this section that~~  
 13                  ~~were not distributed for the year in which the peti-~~  
 14                  ~~tion for eligibility was granted under section~~  
 15                  ~~763(b)(3)(A).~~

16                  ~~“(3) CESSATION OF QUALIFYING ACTIVITIES.—~~  
 17                  ~~If, as determined by the Administrator, a facility is~~  
 18                  ~~no longer in an eligible industrial sector designated~~  
 19                  ~~under section 763—~~

20                  ~~“(A) the Administrator shall not distribute~~  
 21                  ~~emission allowances to the owner or operator of~~  
 22                  ~~such facility under this section; and~~

23                  ~~“(B) the owner or operator of such facility~~  
 24                  ~~shall return to the Administrator all allowances~~  
 25                  ~~that have been distributed to it for future vin-~~

1           tage years and a pro-rated amount of allow-  
2           ances distributed to the facility under this sec-  
3           tion for the vintage year in which the facility  
4           ceases to be in an eligible industrial sector des-  
5           ignated under section 763.

6           “(b) ~~CALCULATION OF DIRECT AND INDIRECT CAR-~~  
7 ~~BON FACTORS.—~~

8           “(1) ~~IN GENERAL.—~~

9           “(A) ~~COVERED ENTITIES.—~~Except as pro-  
10          vided in subsection (a), for covered entities that  
11          are in eligible industrial sectors, the amount of  
12          emission allowance rebates shall be based on  
13          the sum of the covered entity’s direct and indi-  
14          rect carbon factors.

15          “(B) ~~OTHER ELIGIBLE ENTITIES.—~~For  
16          entities that are in eligible industrial sectors  
17          but are not covered entities, the amount of  
18          emission allowance rebates shall be based on  
19          the entity’s indirect carbon factor.

20          “(C) ~~NEW ENTITIES.—~~Not later than 2  
21          years after the date of enactment of this title,  
22          the Administrator shall issue regulations gov-  
23          erning the distribution of emission allowance re-  
24          bates for the first and second years of operation

1 of a new entity in an eligible industrial sector.

2 These regulations shall provide for—

3 “(i) the distribution of emission allow-  
4 ance rebates to such entities based on com-  
5 parable entities in the same sector; and

6 “(ii) an adjustment in the third and  
7 fourth years of operation to reconcile the  
8 total amount of emission allowance rebates  
9 received during the first and second years  
10 of operation to the amount the entity  
11 would have received during the first and  
12 second years of operation had the appro-  
13 priate data been available.

14 “(2) DIRECT CARBON FACTOR.—The direct car-  
15 bon factor for a covered entity for a vintage year is  
16 the product of—

17 “(A) the average annual output of the cov-  
18 ered entity for the 2 years preceding the year  
19 of the distribution; and

20 “(B) the most recent calculation of the av-  
21 erage direct greenhouse gas emissions (ex-  
22 pressed in tons of carbon dioxide equivalent)  
23 per unit of output for all covered entities in the  
24 sector, as determined by the Administrator  
25 under paragraph (4).

1           “(3) INDIRECT CARBON FACTOR.—

2                   “(A) IN GENERAL.—The indirect carbon  
3           factor for an entity for a vintage year is the  
4           product obtained by multiplying the average an-  
5           nual output of the entity for the 2 years pre-  
6           ceding the year of the distribution by both the  
7           electricity emissions intensity factor determined  
8           pursuant to subparagraph (B) and the elec-  
9           tricity efficiency factor determined pursuant to  
10          subparagraph (C) for the year concerned.

11                   “(B) ELECTRICITY EMISSIONS INTENSITY  
12          FACTOR.—

13                   “(i) IN GENERAL.—Each person sell-  
14          ing electricity to the owner or operator of  
15          an entity in any sector designated as an el-  
16          igible industrial sector under section  
17          763(b) shall provide the owner or operator  
18          of the entity and the Administrator, on an  
19          annual basis, the electricity emissions in-  
20          tensity factor for the entity. The electricity  
21          emissions intensity factor for the entity,  
22          expressed in tons of carbon dioxide equiva-  
23          lents per kilowatt hour, is determined by  
24          dividing—

1 “(I) the annual sum of the hour-  
2 ly product of—

3 “(aa) the electricity pur-  
4 chased by the entity from that  
5 person in each hour (expressed in  
6 kilowatt hours); multiplied by

7 “(bb) the marginal or  
8 weighted average tons of carbon  
9 dioxide equivalent per kilowatt  
10 hour that are reflected in the  
11 electricity charges to the entity,  
12 as determined by the entity’s re-  
13 tail rate arrangements; by

14 “(II) the total kilowatt hours of  
15 electricity purchased by the entity  
16 from that person during that year.

17 “(ii) USE OF OTHER DATA TO DETER-  
18 MINE FACTOR.—Where it is not possible to  
19 determine the precise electricity emissions  
20 intensity factor for an entity using the  
21 methodology in clause (i), the person sell-  
22 ing electricity shall use the monthly aver-  
23 age data reported by the Energy Informa-  
24 tion Administration or collected and re-  
25 ported by the Administrator for the utility

1 serving the entity to determine the elec-  
2 tricity emissions intensity factor.

3 ~~“(C) ELECTRICITY EFFICIENCY FACTOR.—~~

4 The electricity efficiency factor is the average  
5 amount of electricity (in kilowatt hours) used  
6 per unit of output for all entities in the relevant  
7 sector, as determined by the Administrator  
8 based on the best available data, including data  
9 provided under paragraph (6).

10 ~~“(D) INDIRECT CARBON FACTOR REDUC-~~

11 ~~TION.—~~If an electricity provider received a free  
12 allocation of emission allowances pursuant to  
13 section 771(a)(1), the Administrator shall ad-  
14 just the indirect carbon factor to avoid rebates  
15 to the eligible entity for costs that the Adminis-  
16 trator determines were not incurred by the eli-  
17 gible entity because the allowances were freely  
18 allocated to the eligible entity’s electricity pro-  
19 vider and used for the benefit of industrial con-  
20 sumers.

21 ~~“(4) GREENHOUSE GAS INTENSITY CALCULA-~~

22 ~~TIONS.—~~The Administrator shall calculate the aver-  
23 age direct greenhouse gas emissions (expressed in  
24 tons of carbon dioxide equivalent) per unit of output  
25 and the electricity efficiency factor for all covered

1 entities in each eligible industrial sector every 4  
2 years, using an average of the four most recent  
3 years of the best available data. For purposes of the  
4 lists required to be published no later than February  
5 1, 2013, the Administrator shall use the best avail-  
6 able data for the maximum number of years, up to  
7 4 years, for which data are available.

8 “(5) ENSURING EFFICIENCY IMPROVEMENTS.—

9 When making greenhouse gas calculations, the Ad-  
10 ministrator shall—

11 “(A) limit the average direct greenhouse  
12 gas emissions per unit of output, calculated  
13 under paragraph (4), for any eligible industrial  
14 sector to an amount that is not greater than it  
15 was in any previous calculation under this sub-  
16 section;

17 “(B) limit the electricity emissions inten-  
18 sity factor, calculated under paragraph (3)(B)  
19 and resulting from a change in electricity sup-  
20 ply, for any entity to an amount that is not  
21 greater than it was during any previous year;  
22 and

23 “(C) limit the electricity efficiency factor,  
24 calculated under paragraph (3)(C), for any eli-  
25 gible industrial sector to an amount that is not

1 greater than it was in any previous calculation  
2 under this subsection.

3 ~~“(6) DATA SOURCES.—~~For the purposes of this  
4 subsection—

5 ~~“(A) the Administrator shall use data from~~  
6 ~~the greenhouse gas registry established under~~  
7 ~~section 713, where it is available; and~~

8 ~~“(B) each owner or operator of an entity~~  
9 ~~in an eligible industrial sector and each depart-~~  
10 ~~ment, agency, and instrumentality of the~~  
11 ~~United States shall provide the Administrator~~  
12 ~~with such information as the Administrator~~  
13 ~~finds necessary to determine the direct carbon~~  
14 ~~factor and the indirect carbon factor for each~~  
15 ~~entity subject to this section.~~

16 ~~“(c) TOTAL MAXIMUM DISTRIBUTION.—~~Notwith-  
17 standing subsections (a) and (b), the Administrator shall  
18 not distribute more allowances for any vintage year pursu-  
19 ant to this section than are allocated for use under this  
20 part pursuant to section 765 for that vintage year. For  
21 any vintage year for which the total emission allowance  
22 rebates calculated pursuant to this section exceed the  
23 number of allowances allocated pursuant to section 765,  
24 the Administrator shall reduce each entity’s distribution  
25 on a pro rata basis so that the total distribution under



1 this section equals the number of allowances allocated  
 2 under section 765.

3       “(d) IRON AND STEEL SECTOR.—For purposes of  
 4 this section, the Administrator shall consider as in dif-  
 5 ferent industrial sectors—

6               “(1) entities using integrated iron and  
 7 steelmaking technologies (including coke ovens, blast  
 8 furnaces, and other iron-making technologies); and

9               “(2) entities using electric arc furnace tech-  
 10 nologies.

11       “(e) METAL, SODA ASH, OR PHOSPHATE PRODUC-  
 12 TION CLASSIFIED UNDER MORE THAN ONE NAICS  
 13 CODE.—For purposes of this section, the Administrator  
 14 shall not aggregate data for the beneficiation or other  
 15 processing (including agglomeration) of metal ores, soda  
 16 ash, or phosphate with subsequent steps in the process  
 17 of metal, soda ash, or phosphate manufacturing. The Ad-  
 18 ministrator shall consider the beneficiation or other pro-  
 19 cessing (including agglomeration) of metal ores, soda ash,  
 20 or phosphate to be in separate industrial sectors from the  
 21 metal, soda ash, or phosphate manufacturing sectors. In-  
 22 dustrial sectors that beneficiate or otherwise process (in-  
 23 cluding agglomeration) metal ores, soda ash, or phosphate  
 24 shall not receive emission allowance rebates under this sec-

tion related to the activity of extracting metal ores, soda ash, or phosphate.

“(f) ~~COMBINED HEAT AND POWER.~~—For purposes of this section, and to achieve the purpose set forth in section 761(4), (the Administrator may consider entities to be in different industrial sectors or otherwise take into account the differences among entities in the same industrial sector, based upon the extent to which such entities use combined heat and power technologies.

**“SEC. 765. INTERNATIONAL TRADE.**

“It is the sense of the Senate that this Act will contain a trade title that will include a border measure that is consistent with our international obligations and designed to work in conjunction with provisions that allocate allowances to energy-intensive and trade-exposed industries.”.

## **TITLE II—PROGRAM ALLOCATIONS**

**SEC. 201. INVESTMENT IN CLEAN VEHICLE TECHNOLOGY.**

(a) ~~ESTABLISHMENT OF FUND.~~—There is established in the Treasury a separate account, which shall be known as the “Clean Vehicle Technology Fund”.

(b) ~~AUCTION PROCEEDS.~~—The Administrator shall deposit the proceeds of the auction conducted pursuant

1 to section 771(b)(3) of the Clean Air Act in the Clean  
2 Vehicle Technology Fund.

3 (c) AVAILABILITY OF AMOUNTS.—Of the amounts  
4 deposited in the Clean Vehicle Technology Fund—

5 (1) 80 percent shall be available to the Sec-  
6 retary of Energy to support—

7 (A) the development and demonstration of  
8 a national transportation low-emissions energy  
9 plan; and

10 (B) the use of plug-in electric drive vehi-  
11 cles, including medium- and heavy-duty motor  
12 vehicles (including transit vehicles) and other  
13 advanced technology vehicles (as defined in sec-  
14 tions 131 and 136 of the Energy Independence  
15 and Security Act of 2007 (42 U.S.C. 17011,  
16 17013)) that are developed and produced in the  
17 United States; and

18 (2) 20 percent of the amounts shall be available  
19 to the Administrator for use in providing grants au-  
20 thorized under subtitle G of title VII of the Energy  
21 Policy Act of 2005 (42 U.S.C. 16131 et seq.).

22 (d) PILOT PROGRAM.—

23 (1) IN GENERAL.—Of the amounts deposited in  
24 accordance with (c)(1), the Secretary of Energy  
25 shall use not more than 5 percent to develop a na-

1 tional transportation low-emissions energy plan that  
2 shall—

3 (A) project the near- and long-term need  
4 for and location of electric drive vehicle refuel-  
5 ing infrastructure at strategic locations across  
6 all major national highways, roads, and cor-  
7 ridors;

8 (B) identify infrastructure and standard-  
9 ization needs for electricity providers, infra-  
10 structure providers, vehicle manufacturers, and  
11 electricity purchasers;

12 (C) establish an aspirational goal of  
13 achieving strategic deployment of electric vehi-  
14 cle infrastructure by 2020;

15 (D) be developed by the Secretary with the  
16 involvement of all relevant stakeholders; and

17 (E) prioritize the development of—

18 (i) standardized public charge access  
19 ports with wireless or smart card billing  
20 capability; and

21 (ii) level I and level II charge port  
22 systems (that charge an electric vehicle  
23 over a period of 8 to 14 hours and 4 to 8  
24 hours, respectively) that will meet the en-

1           ergy requirements of the majority of plug-  
2           in hybrid and battery electric vehicles;

3           (F) examine the feasibility of level III  
4           charge port systems that can charge an electric  
5           vehicle over a period of 10 to 20 minutes; and

6           (G) focus on infrastructure that provides  
7           consumers with the lowest cost while providing  
8           convenient charge system access.

9           (2)   ELECTRIC   DRIVE   DEMONSTRATION  
10       PROJECTS.—

11           (A) IN GENERAL.—The Secretary shall es-  
12           tablish pilot projects to demonstrate electric  
13           drive vehicles and infrastructure.

14           (B)   REQUIREMENTS.—The   Secretary  
15           shall—

16           (i) establish the pilot projects de-  
17           scribed in subparagraph (A) after publica-  
18           tion of the plan developed under paragraph  
19           (1);

20           (ii) use the plan to determine which  
21           regions of the United States are most  
22           ready to demonstrate electric vehicle infra-  
23           structure;

1 (iii) carry out the pilot projects under  
 2 this paragraph in different regions of the  
 3 United States; and

4 (iv) ensure that—

5 (I) at least 1 pilot project is ear-  
 6 ried out in a rural region of the  
 7 United States; and

8 (II) at least 1 pilot project is fo-  
 9 cused on freight issues.

10 ~~(3) FINANCIAL RESOURCES.—In carrying out~~  
 11 ~~the pilot projects under paragraph (2), the Secretary~~  
 12 ~~shall coordinate the use of appropriate financial in-~~  
 13 ~~centives, grant programs, and other Federal finan-~~  
 14 ~~cial resources to ensure that electric infrastructure~~  
 15 ~~delivery entities are able to participate in the pilot~~  
 16 ~~projects.~~

17 ~~(4) LEEP COORDINATOR.—The Secretary may~~  
 18 ~~designate 1 full-time position within the Department~~  
 19 ~~of Transportation, to be known as the “LEEP coor-~~  
 20 ~~dinator”, with responsibility to oversee—~~

21 ~~(A) the development of the plan under~~  
 22 ~~paragraph (1); and~~

23 ~~(B) the implementation of the pilot~~  
 24 ~~projects under paragraph (2).~~

1 **SEC. 202. STATE AND LOCAL INVESTMENT IN ENERGY EFFI-**  
2 **CIENCY AND RENEWABLE ENERGY.**

3 (a) **DEFINITIONS.**—For purposes of this section:

4 (1) **ALLOWANCE.**—The term “allowance”  
5 means an emission allowance established under sec-  
6 tion 721 of the Clean Air Act.

7 (2) **INDIAN TRIBE.**—The term “Indian tribe”  
8 has the meaning given the term in section 4 of the  
9 Indian Self-Determination and Education Assistance  
10 Act (25 U.S.C. 450b).

11 (3) **VINTAGE YEAR.**—The term “vintage year”  
12 has the meaning given the term in section 700 of the  
13 Clean Air Act.

14 (b) **DISTRIBUTION AMONG INDIAN TRIBES, STATES,**  
15 **LOCAL GOVERNMENTS, METROPOLITAN PLANNING ORGA-**  
16 **NIZATIONS AND RENEWABLE ELECTRICITY GENERA-**  
17 **TIONS.**—The Administrator shall, in accordance with this  
18 section, distribute allowances allocated pursuant to section  
19 771(a)(8) of the Clean Air Act for the following vintage  
20 year. The Administrator, after consultation with the Sec-  
21 retary of the Interior, shall distribute not less than 1 per-  
22 cent of such allowances to Indian tribes. The Adminis-  
23 trator, after consultation with the Secretary of Energy  
24 and the with the assistance of the Secretary of Transpor-  
25 tation, shall distribute the remaining allowances among  
26 the States, local governments, metropolitan planning orga-

1 nizations, and renewable electricity generations under this  
2 section each year in accordance with the following for-  
3 mula:

4           (1) ~~62.5~~ percent of the allowances shall be pro-  
5 vided to the States, of which—

6               (A) ~~30~~ percent shall be divided equally  
7 among the States;

8               (B) ~~30~~ percent shall be distributed on a  
9 pro rata basis among the States based on the  
10 population of each State, as contained in the  
11 most recent reliable census data available from  
12 the Bureau of the Census for all States at the  
13 time at which the Administrator calculates the  
14 formula for distribution;

15               (C) ~~30~~ percent shall be distributed on a  
16 pro rata basis among the States on the basis of  
17 the energy consumption of each State, as con-  
18 tained in the most recent State Energy Data  
19 Report available from the Energy Information  
20 Administration (or such alternative reliable  
21 source as the Administrator may designate);  
22 and

23               (D) ~~10~~ percentage shall be provided to the  
24 States based on an energy-efficiency formula



1 developed by the Administrator, which formula  
2 shall be—

3 (i) based on—

4 (I) weather-adjusted criteria; and

5 (II) performance-based metrics  
6 that measure each State's success at  
7 decreasing energy consumption or in-  
8 creasing energy efficiency—

9 (aa) on a per capita basis in  
10 the residential sector; and

11 (bb) on an energy consump-  
12 tion per square-foot basis in the  
13 commercial sector; and

14 (ii) updated every 3 years.

15 (2) 25 percent of the allowances shall be pro-  
16 vided to local governments for energy conservation  
17 and efficiency grants.

18 (3) 10 percent of the allowances shall be re-  
19 served by the Secretary of Transportation for grants  
20 to States and metropolitan planning organizations  
21 for greenhouse gas reduction programs in the trans-  
22 portation sector.

23 (4) 2.5 percent of the allowances shall be pro-  
24 vided to renewable energy generating companies with  
25 a capacity of 20 megawatts or greater exclusively for

1 the generation of renewable energy. The Adminis-  
 2 trator, in consultation with the Secretary of Energy,  
 3 shall award allocations to renewable energy genera-  
 4 tion companies based on the number of megawatt-  
 5 hours the company generates and the technology  
 6 used. The Administrator shall promulgate such regu-  
 7 lations as are appropriate to carry out this para-  
 8 graph.

9 (c) USES.—The allowances distributed to each State,  
 10 local government, and metropolitan planning organization  
 11 pursuant to this section shall be used exclusively in accord-  
 12 ance with the following requirements:

13 (1) ALLOCATION TO STATES.—Allowances allo-  
 14 cated to the States under subsection (b)(1) shall be  
 15 for the following purposes and be used in accordance  
 16 with the following conditions:

17 (A) PURPOSES.—

18 (i) ENERGY EFFICIENCY PRO-  
 19 GRAMS.—Not less than 35 percent shall be  
 20 used exclusively for—

21 (I) implementation and enforce-  
 22 ment of building codes;

23 (II) implementation of the en-  
 24 ergy-efficient manufactured homes  
 25 program;

1 (III) implementation of building  
2 energy performance labeling; and

3 (IV) low-income community en-  
4 ergy efficiency programs.

5 (ii) RENEWABLE ENERGY PRO-  
6 GRAMS.—Renewable energy programs for  
7 capital grants; production incentives; loans;  
8 loan guarantees; forgivable loans; direct  
9 provision of allowances; and interest rate  
10 buy-downs for—

11 (I) re-equipping; expanding; or  
12 establishing a manufacturing facility  
13 that receives certification from the  
14 Secretary of Energy pursuant to sec-  
15 tion 48C of the Internal Revenue  
16 Code of 1986 for the production of—

17 (aa) property designed to be  
18 used to produce energy from re-  
19 newable energy sources; and

20 (bb) electricity storage sys-  
21 tems;

22 (II) deployment of technologies to  
23 generate electricity from renewable  
24 energy sources; and

1                   (III) deployment of facilities or  
2                   equipment, such as solar panels, to  
3                   generate electricity or thermal energy  
4                   from renewable energy resources in  
5                   and on buildings in an urban environ-  
6                   ment.

7                   (iii) IMPROVEMENT IN ELECTRICITY  
8                   TRANSMISSION.—Improvement in elec-  
9                   tricity transmission for 1 or more of the  
10                  following purposes:

11                  (I) State implementation of elec-  
12                  tricity transmission planning and  
13                  siting activities that facilitate renew-  
14                  able energy development, including fa-  
15                  cilitation of landowner negotiations  
16                  for transmission of right-of-way leas-  
17                  ing or other contractual arrange-  
18                  ments.

19                  (II) Grants to nonprofit organi-  
20                  zations that facilitate negotiations for  
21                  transmission right-of-way leasing or  
22                  other contractual agreements between  
23                  landowners and developers.

24                  (III) State or regional studies of  
25                  renewable energy zones and resources

1 with insufficient transmission capac-  
2 ity, including geographical identifica-  
3 tion of potential renewable energy  
4 sites, environmental reviews, and land  
5 use or coastal zone constraints.

6 (IV) Grants to support land-  
7 owner associations' and other non-  
8 profit organizations' participation in  
9 State and Federal siting processes, in-  
10 cluding such associations' studies of  
11 renewable energy feasibility and bene-  
12 fits and associated data collection.

13 (V) Grants to landowners or  
14 landowner associations or nonprofit  
15 organizations for mitigation of im-  
16 pacts on property or ecosystems due  
17 to transmission projects that are part  
18 of an interconnection-wide plan fo-  
19 cused on facilitating renewable energy  
20 development.

21 (VI) Training for State regu-  
22 latory authority staff and local  
23 workforces relating to renewable en-  
24 ergy generation resources and storage;

1 smart grid, or new transmission tech-  
2 nologies.

3 (VII) Grants to transmission pro-  
4 viders for transmission improvements  
5 (including smart grid investments)  
6 that benefit consumers.

7 (VIII) Grants to transmission  
8 providers for security upgrades to the  
9 transmission system and authorized  
10 uses under title XIII of the Energy  
11 Independence and Security Act of  
12 2007 (42 U.S.C. 17381 et seq.).

13 (IX) Grants to develop energy  
14 storage, reliability, or distributed re-  
15 newable generation projects.

16 (iv) END-USE CONSUMERS.—Cost ef-  
17 fective energy efficiency programs for end-  
18 use consumers of electricity, natural gas,  
19 home heating oil, or propane, including,  
20 where appropriate, programs or mecha-  
21 nisms administered by local governments  
22 and entities other than the State.

23 (v) RETROFITS AND HOUSING INVEST-  
24 MENTS.—Energy retrofits and green in-  
25 vestments in subsidized housing based on

standards to ensure that investments are cost-effective, taking into account reductions in future use of energy and other utilities, and the extent to which such retrofits and investments address repair and replacement needs that may otherwise need to be addressed with other forms of assistance. As a condition of such funding, the recipient shall commit to an additional period of affordability of not fewer than 15 years, covering all units for which such grants and loans are used.

(vi) THERMAL ENERGY EFFICIENCY.—Not less than 2 percent shall be used for thermal energy efficiency projects that provide district thermal energy through a network of pipes from 1 or more central plants to at least 2 or more buildings, combined heat and power that produces electricity and thermal energy with a minimum 60 percent overall efficiency on a lower-heating value basis, or recoverable waste energy (including mechanical, thermal, or electrical energy) that, if not for recovery, would be wasted and may be re-

covered or generated through modification  
of an existing facility or addition of a new  
facility. Allocations may be used for plan-  
ning, engineering, and feasibility studies as  
well as project construction and develop-  
ment. Such projects shall—

(I) reduce or avoid greenhouse  
gas emissions; and

(II)(aa) produce thermal energy  
from renewable energy resources or  
natural cooling sources;

(bb) capture and productively use  
thermal energy from an electric gen-  
eration facility;

(cc) integrate new electricity gen-  
eration into an existing district energy  
system;

(dd) capture and productively  
uses surplus thermal energy from an  
industrial or municipal process (such  
as wastewater treatment); or

(ee) distribute and transfer to  
buildings the thermal energy from the  
energy sources described in items (aa)  
through (dd).



## (vii) SMART GRID DEVELOPMENT.—

Enabling the development of a Smart Grid (as described in section 1301 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381)) for State, local government, and other public buildings and facilities, including integration of renewable energy resources and distributed generation, demand response, demand-side management, and systems analysis.

## (B) CONDITIONS.—

(i) IN GENERAL.—The States shall prioritize expansion of existing energy efficiency programs approved and overseen by the State or the appropriate State regulatory authority.

(ii) SUPPLEMENTATION.—The States shall demonstrate that such allowances have been used to supplement, and not to supplant, existing and otherwise available State, local, and ratepayer funding for such purpose.

## (2) ENERGY CONSERVATION AND EFFI-

CIENCY.—Allowances allocated to local governments under subsection (b)(2) shall be used exclusively for

1 energy conservation and efficiency purposes specified  
2 under section 543 of the Energy Independence and  
3 Security Act of 2007 (42 U.S.C. 17153).

4 (3) STATE AND MPO GRANTS.—Allocation to  
5 the Secretary of Transportation for grants to States  
6 and metropolitan planning organizations under sub-  
7 section (b)(3) shall be used exclusively for the  
8 Transportation Greenhouse Gas Reduction program  
9 in accordance with sections 831 and 832 of the  
10 Clean Air Act.

11 (d) REPORTING.—Each Indian tribe, State, local gov-  
12 ernment, metropolitan planning organization, and renew-  
13 able electricity generating company directly receiving al-  
14 lowances or allowance value under this section shall sub-  
15 mit to the Administrator a report that contains a list of  
16 entities receiving allowances or allowance value under this  
17 section.

18 (e) ENFORCEMENT.—If the Administrator deter-  
19 mines that an Indian tribe, State, local government, met-  
20 ropolitan planning organization, or renewable electricity  
21 generation company is not in compliance with this section,  
22 the Administrator may withhold up to twice the number  
23 of allowances or allowance value that the Indian tribe,  
24 State, local government, metropolitan planning organiza-  
25 tion, or renewable electricity generation company failed to

1 use in accordance with the requirements of this section;  
2 that such Indian tribe, State, local government, metropoli-  
3 tan planning organization, or renewable electricity genera-  
4 tion companies would otherwise be eligible to receive under  
5 this section in later years. Allowances withheld pursuant  
6 to this subsection shall be distributed among the remain-  
7 ing Indian tribes, States, local governments, metropolitan  
8 planning organizations, and renewable electricity genera-  
9 tion companies in accordance with subsection (b).

10 **SEC. 203. ENERGY EFFICIENCY IN BUILDING CODES.**

11 The Administrator shall distribute emission allow-  
12 ances allocated for the following vintage year pursuant to  
13 section 771(a)(9) of the Clean Air Act among the States  
14 in accordance with the formula described in section 202  
15 of this division exclusively for the purpose of section 163  
16 of division A.

17 **SEC. 204. BUILDING RETROFIT PROGRAM.**

18 The Administrator shall distribute emission allow-  
19 ances allocated for the following vintage year pursuant to  
20 section 771(a)(10) of the Clean Air Act among the States  
21 in accordance with the formula described in section 202  
22 of this division exclusively for the purpose of section 164  
23 of division A.

1 **SEC. 205. ENERGY INNOVATION HUBS.**

2 (a) PURPOSE.—The Secretary shall carry out a pro-  
 3 gram in accordance with this section to establish Energy  
 4 Innovation Hubs to enhance the economic, environmental,  
 5 and energy security of the United States by promoting  
 6 commercial application of clean, indigenous energy alter-  
 7 natives to oil and other fossil fuels, reducing greenhouse  
 8 gas emissions, and ensuring that the United States main-  
 9 tains a technological lead in the development and commer-  
 10 cial application of state-of-the-art energy technologies.

11 (b) DISTRIBUTION OF ALLOWANCES TO ENERGY IN-  
 12 NOVATION HUBS.—The Secretary shall, in accordance  
 13 with the requirements of this section, distribute to eligible  
 14 consortia allowances allocated for the following vintage  
 15 year under section 772(a)(11) of the Clean Air Act.

16 **SEC. 206. ARPA-E RESEARCH.**

17 (a) DEFINITIONS.—For purposes of this section:

18 (1) ALLOWANCE.—The term “allowance”  
 19 means an emission allowance established under sec-  
 20 tion 721 of the Clean Air Act.

21 (2) DIRECTOR.—The term “Director” means  
 22 Director of the Advanced Research Projects Agency—  
 23 Energy.

24 (b) DISTRIBUTION OF ALLOWANCES.—The Director,  
 25 in accordance with this section, shall distribute allowances  
 26 allocated for the following vintage year under section

1 771(a)(12) of the Clean Air Act. Such allowances shall  
2 be distributed on a competitive basis to institutions of  
3 higher education, companies, research foundations, trade  
4 and industry research collaborations, or consortia of such  
5 entities, or other appropriate research and development  
6 entities to achieve the goals of the Advanced Research  
7 Projects Agency-Energy (as described in section 5012(c)  
8 of the America COMPETES Act (42 U.S.C. 16538(e)))  
9 through targeted acceleration of—

10           (1) novel early-stage energy research with pos-  
11           sible technology applications;

12           (2) development of techniques, processes, and  
13           technologies, and related testing and evaluation;

14           (3) development of manufacturing processes for  
15           technologies; and

16           (4) demonstration and coordination with non-  
17           governmental entities for commercial applications of  
18           technologies and research applications.

19           (c) SUPPLEMENT NOT SUPPLANT.—Assistance pro-  
20           vided under this section shall be used to supplement, and  
21           not to supplant, any other Federal resources available to  
22           carry out activities described in this section.

1 **SEC. 207. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**  
 2 **PROGRAM.**

3 The Secretary of State shall distribute emission al-  
 4 lowances allocated for the following vintage year pursuant  
 5 to section 771(a)(13) of the Clean Air Act exclusively for  
 6 the purpose of section 323 of division A.

7 **SEC. 208. INTERNATIONAL CLIMATE CHANGE ADAPTATION**  
 8 **AND GLOBAL SECURITY.**

9 The Secretary of State shall distribute emission al-  
 10 lowances allocated for the following vintage year pursuant  
 11 to section 771(a)(14) of the Clean Air Act exclusively for  
 12 the purpose of section 324 of division A.

13 **SEC. 209. ENERGY EFFICIENCY AND RENEWABLE ENERGY**  
 14 **WORKER TRAINING.**

15 (a) **ESTABLISHMENT OF FUND.**—There is estab-  
 16 lished in the Treasury a separate account, to be known  
 17 as the “Energy Efficiency and Renewable Energy Worker  
 18 Training Fund”.

19 (b) **AUCTION PROCEEDS.**—The Administrator shall  
 20 deposit the proceeds of the auction conducted pursuant  
 21 to section 771(b)(5) of the Clean Air Act in the Energy  
 22 Efficiency and Renewable Energy Worker Training Fund.

23 (c) **AVAILABILITY OF AMOUNTS.**—The Secretary of  
 24 Energy shall use the amounts deposited in the Energy Ef-  
 25 ficiency and Renewable Energy Worker Training Fund  
 26 under subsection (b) to carry out section 171(e)(8) of the

1 Workforce Investment Act of 1998 (29 U.S.C. 2916(c)(8))  
 2 without further appropriation or fiscal year limitation.

3 **SEC. 210. WORKER TRANSITION.**

4 (a) ESTABLISHMENT OF FUND.—There is estab-  
 5 lished in the Treasury a separate account, to be known  
 6 as the “Worker Transition Fund”.

7 (b) AUCTION PROCEEDS.—The Administrator shall  
 8 deposit the proceeds of the auction conducted pursuant  
 9 to section 771(b)(6) of the Clean Air Act in the Worker  
 10 Transition Fund.

11 (c) AVAILABILITY OF AMOUNTS.—The amounts de-  
 12 posited in the Worker Transition Fund shall be used to  
 13 carry out part 2 of subtitle A of title III of division A.

14 **SEC. 211. STATE PROGRAMS FOR GREENHOUSE GAS RE-**  
 15 **DUCTION AND CLIMATE ADAPTATION.**

16 (a) DEFINITIONS.—In this section:

17 (1) ALASKA NATIVE VILLAGE.—The term  
 18 “Alaska Native village” means a federally recognized  
 19 Indian tribe located in the State of Alaska and listed  
 20 in the Bureau of Indian Affairs publication entitled  
 21 “Indian Entities Recognized and Eligible to Receive  
 22 Services from the United States Bureau of Indian  
 23 Affairs” (74 Fed. Reg. 40218 (Aug. 11, 2009)).

1           (2) ALLOWANCE.—The term “allowance”  
 2 means an emission allowance established under sec-  
 3 tion 721 of the Clean Air Act.

4           (3) INDIAN TRIBE.—The term “Indian tribe”  
 5 has the meaning given the term in section 4 of the  
 6 Indian Self-Determination and Education Assistance  
 7 Act (25 U.S.C. 450b).

8           (4) SCCR ACCOUNT.—The term “SCCR Ac-  
 9 count” means a State Climate Change Response Ac-  
 10 count established under subsection (d)(5).

11           (5) VINTAGE YEAR.—The term “vintage year”  
 12 has the meaning given that term in section 700 of  
 13 the Clean Air Act.

14       (b) REGULATIONS; COORDINATION.—

15           (1) REGULATIONS.—Not later than 2 years  
 16 after the date of enactment of this Act, the Adminis-  
 17 trator, or the heads of such Federal agencies as the  
 18 President may designate, shall promulgate regula-  
 19 tions to implement this section.

20           (2) COORDINATION.—If the President des-  
 21 ignates more than 1 Federal agency to implement  
 22 this section, the President shall require such agen-  
 23 cies to establish a memorandum of understanding  
 24 providing for coordination of rulemaking and other



1 implementing activities, in accordance with this sec-  
2 tion.

3 ~~(c) STATE CLIMATE CHANGE RESPONSE AND TRANS-~~  
4 ~~PORTATION FUND.—~~

5 (1) ESTABLISHMENT OF FUND.—There is es-  
6 tablished in the Treasury a separate account, to be  
7 known as the “State Climate Change Response and  
8 Transportation Fund”.

9 ~~(2) AUCTION PROCEEDS DEPOSITED TO~~  
10 ~~FUND.—~~The Administrator shall deposit the pro-  
11 ceeds of the auction conducted pursuant to section  
12 771(b)(7) of the Clean Air Act in the State Climate  
13 Change Response and Transportation Fund.

14 ~~(3) AVAILABILITY OF AMOUNTS.—~~All amounts  
15 deposited in the State Climate Change Response and  
16 Transportation Fund shall be available, without fur-  
17 ther appropriation or fiscal year limitation, to carry  
18 out this section.

19 ~~(d) DISTRIBUTION OF ALLOWANCE PROCEEDS.—~~

20 (1) IN GENERAL.—The Administrator shall dis-  
21 tribute, in accordance with this section, proceeds of  
22 the auction of allowances allocated for the following  
23 vintage year that have been deposited in the State  
24 Climate Change Response and Transportation Fund  
25 pursuant to subsection (c)(2).

1           ~~(2) RESERVATION AND ALLOCATION.~~—The Ad-  
 2       ministrator shall—

3           ~~(A)~~ reserve ~~10~~ percent of the proceeds of  
 4       such allowances described in paragraph ~~(1)~~ for  
 5       distribution among coastal and Great Lakes  
 6       States in accordance with subsection ~~(f)~~;

7           ~~(B)~~ after consultation with the Secretary  
 8       of the Interior, reserve at least ~~1~~ percent of the  
 9       proceeds of those allowances for distribution to  
 10      Indian tribes in accordance with subsection ~~(e)~~;  
 11      and

12          ~~(C)~~ distribute the remaining proceeds of  
 13      those allowances to fund State and local govern-  
 14      ment programs for greenhouse gas reduction  
 15      and climate adaptation, with such remaining  
 16      proceeds divided equally between—

17           ~~(i)~~ funding of transportation grant  
 18      programs under subsection ~~(g)~~; and

19           ~~(ii)~~ funding of other programs admin-  
 20      istered by the States, with the proceeds to  
 21      be deposited in and administered through  
 22      the State Climate Change Response Ac-  
 23      counts established pursuant to paragraph  
 24      ~~(5)~~.

~~(3)~~ FORMULA FOR DISTRIBUTION.—The Administrator shall distribute the proceeds to be allocated pursuant to paragraph ~~(2)~~(C)(ii) ratably among the States based on the product obtained by multiplying—

~~(A)~~ the population of a State; and

~~(B)~~ the allocation factor for the State determined under paragraph ~~(4)~~.

~~(4)~~ STATE ALLOCATION FACTORS.—

~~(A)~~ IN GENERAL.—Except as provided in subparagraph ~~(B)~~, the allocation factor for a State shall be the quotient obtained by dividing—

~~(i)~~ the per capita income of all individuals in the United States; by

~~(ii)~~ the per capita income of all individuals in the State.

~~(B)~~ LIMITATION.—

~~(i)~~ MAXIMUM.—If the allocation factor for a State as calculated under subparagraph ~~(A)~~ would exceed 1.2, the allocation factor for such State shall be 1.2.

~~(ii)~~ MINIMUM.—If the allocation factor for a State as calculated under subparagraph ~~(A)~~ would be less than 0.8, the

allocation factor for such State shall be  
0.8.

(C) PER CAPITA INCOME.—For purposes  
of this paragraph, per capita income shall be—

(i) determined at 2-year intervals; and

(ii) subject to subparagraph (D),  
equal to the average of the annual per cap-  
ita incomes for the most recent period of  
3 consecutive years for which satisfactory  
data are available from the Department of  
Commerce at the time such determination  
is made.

(D) REVENUE DIRECTLY RESULTING FROM  
A PRESIDENTIALLY DECLARED MAJOR DIS-  
ASTER.—

(i) IN GENERAL.—For purposes of  
this paragraph, per capita income from 1  
or more of the sources described in clause  
(ii) shall be reduced or excluded if the Sec-  
retary of Commerce—

(I) (in consultation with the Ad-  
ministrator and the heads of the de-  
partments or agencies involved) deter-  
mines that the income accrues to per-  
sons as the result of a major disaster

designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(II) finds that the inclusion of 1 or more of the income sources, in whole or in part, results in a transitory, rather than a sustainable, increase in a State's per capita income level relative to the national average.

(ii) SOURCES OF INCOME.—The sources of income referred to in clause (i) are the following:

(I) Property and casualty insurance (including homeowners and renters insurance);

(II) The National Flood Insurance Program of the Federal Emergency Management Agency;

(III) The Individual and Family Grants Program of the Federal Emergency Management Agency;

(IV) The Disaster Housing Program of the Federal Emergency Management Agency.

1                   (V) The Community Develop-  
 2                   ment Block Grant Program of the De-  
 3                   partment of Housing and Urban De-  
 4                   velopment.

5                   (VI) The Disaster Unemployment  
 6                   Assistance Program of the Depart-  
 7                   ment of Labor.

8                   (VII) Any other source deter-  
 9                   mined appropriate by the Adminis-  
 10                  trator.

11               (5) STATE CLIMATE CHANGE RESPONSE AC-  
 12               COUNTS.—Each State shall establish a State Cli-  
 13               mate Change Response Account, to be administered  
 14               pursuant to State law, to receive and distribute the  
 15               amounts provided under paragraph (2)(C)(ii). State  
 16               regulations and implementing procedures relating to  
 17               such accounts shall require compliance with the pro-  
 18               visions of this section and all other applicable provi-  
 19               sions of Federal law.

20               (e) DISTRIBUTION TO INDIAN TRIBES.—

21               (1) IN GENERAL.—The Administrator, or the  
 22               heads of such Federal agencies as the President may  
 23               designate, shall promulgate regulations establishing  
 24               a program to distribute allowance proceeds to Indian  
 25               tribes, in accordance with the requirements of this

1       section, of which not less than 18 percent shall be  
2       allocated to Alaska Native Villages for each year.

3           ~~(2) USE OF PROCEEDS.—~~Allowance proceeds  
4       distributed to Indian tribes shall be used exclu-  
5       sively—

6                   ~~(A)~~ in accordance with subsection ~~(h)~~; and

7                   ~~(B)~~ in compliance with any approved tribal  
8       climate change response plan.

9       ~~(f) DISTRIBUTION TO COASTAL AND GREAT LAKES~~  
10   ~~STATES.—~~The Administrator, or the heads of such other  
11   Federal agencies as the President may designate, shall dis-  
12   tribute proceeds of emission allowances for coastal State  
13   economic protection each fiscal year, in accordance with  
14   section 384 of division A.

15   ~~(g) DISTRIBUTION OF TRANSPORTATION GRANTS.—~~

16           ~~(1) DISTRIBUTION OF TRANSPORTATION~~  
17   ~~GRANTS.—~~

18                   ~~(A) IN GENERAL.—~~The Secretary of  
19       Transportation, in consultation with the Admin-  
20       istrator, shall distribute the amounts allocated  
21       for transportation grants each fiscal year in ac-  
22       cordance with subsection ~~(d)(2)(C)(i)~~ as grants  
23       to public transportation agencies (including des-  
24       ignated recipients (as defined in section  
25       5307(a) and section 5340 of title 49, United

States Code)) and recipients and sub-recipients  
(as defined in section 5311(a) of title 49,  
United States Code).

(B) FORMULA.—In providing grants under  
this subsection, the Secretary shall distribute—

(i) 80 percent of the funds in accord-  
ance with the formula and conditions gov-  
erning grants under section 5307 of title  
49, United States Code;

(ii) 10 percent of the funds in accord-  
ance with the formula and conditions gov-  
erning grants under section 5311 of title  
49, United States Code; and

(iii) 10 percent of the funds in accord-  
ance with the formula and conditions gov-  
erning grants under section 5340 of title  
49, United States Code.

(h) USES OF ALLOWANCE PROCEEDS DEPOSITED TO  
SCCR ACCOUNTS.—

(1) IN GENERAL.—States shall use allowance  
proceeds deposited to SCCR Accounts under sub-  
section (d)(2)(C)(ii) exclusively for the development  
and implementation of projects, programs, or meas-  
ures as described in this section to address climate  
change by reducing emissions of greenhouse gases or



by building resilience to the impacts of climate change, including impacts such as—

(A) extreme weather events, such as flooding and tropical cyclones;

(B) more frequent heavy precipitation events;

(C) water scarcity and adverse impacts on water quality;

(D) stronger and longer heat waves;

(E) more frequent and severe droughts;

(F) rises in sea level;

(G) ecosystem disruption;

(H) increased wildfire risk;

(I) increased air pollution;

(J) effects on public health;

(K) impaired transportation systems and infrastructure; and

(L) reduced productivity of agricultural or ranching operations.

(2) REQUIREMENTS.—The allowance proceeds received by each SCCR Account for each fiscal year shall be used by the State exclusively to fund the following categories of activities, in compliance with the provisions of approved State climate change response plans:

1           (A) Grants to fund water system mitiga-  
2           tion and adaptation partnerships in accordance  
3           with section 381 of division A.

4           (B) Flood control, protection, prevention  
5           and response programs and projects in accord-  
6           ance with section 382 of division A.

7           (C) Programs or projects implemented by  
8           State agencies as owners or operators of water  
9           systems to address any ongoing or forecasted  
10          climate-related impact on water quality, water  
11          supply or reliability, for 1 or more of the pur-  
12          poses listed in section 381(d) of division A.

13          (D) Programs or projects to reduce green-  
14          house gas emissions through recycling or for in-  
15          creasing recycling rates in accordance with sec-  
16          tion 154 of division A.

17          (E) Programs and projects addressing ad-  
18          verse impacts of climate change affecting agri-  
19          culture or ranching activities.

20          (F) Programs or projects addressing air  
21          pollution or air quality impacts caused or exae-  
22          erbated by climate change.

23          (G) Programs or projects to reduce green-  
24          house gas emissions that result in a decrease in  
25          emissions of other air pollutants.

1           (3) DISTRIBUTION FOR LOCAL GOVERN-  
 2           MENTS.—Not less than 12.5 percent of the proceeds  
 3           deposited to SCCR Accounts shall be distributed by  
 4           each State to units of local government within such  
 5           State, to be used exclusively to support the cat-  
 6           egories of climate change response efforts listed in  
 7           paragraph (2).

8           (4) VULNERABLE POPULATIONS.—In deploying  
 9           allowance proceeds under this section, States and  
 10          units of local government shall ensure that programs  
 11          and projects are funded responding to impacts af-  
 12          fecting socially and economically vulnerable popu-  
 13          lations, including—

14                (A) persons of low-income (as defined in  
 15                title I of the Housing and Community Develop-  
 16                ment Act of 1974, (42 U.S.C. 5301 et seq.));

17                (B) members of socially disadvantaged  
 18                groups (as defined in section 2501(c)(2) of the  
 19                Food, Agriculture, Conservation, and Trade Act  
 20                of 1990 (7 U.S.C. 2279(c)(2)));

21                (C) individuals over 65 years of age and  
 22                under 5 years of age; and

23                (D) individuals with disabilities.

24          (5) INTENT OF CONGRESS.—It is the intent of  
 25          the Congress that allowances distributed to carry

1 out this section should be used to supplement, and  
2 not replace, existing sources of funding used to ad-  
3 dress and build resilience to the impacts of climate  
4 change.

5 (i) STATE AND TRIBAL CLIMATE CHANGE RESPONSE  
6 PLANS.—

7 (1) IN GENERAL.—The regulations promulgated  
8 pursuant to subsection (b) shall include require-  
9 ments for submission and approval of State and  
10 tribal climate change response plans under this sec-  
11 tion. Beginning with vintage year 2012, distribution  
12 of allowance proceeds to a State pursuant to this  
13 section shall be contingent on approval of a State  
14 climate change response plan for such State that  
15 meets the requirements of such regulations.

16 (2) REQUIREMENTS.—Regulations promulgated  
17 under this section shall require, at minimum, that  
18 State climate change response plans—

19 (A) assess and prioritize the vulnerability  
20 of a State to a broad range of impacts of cli-  
21 mate change, based on the best available  
22 science;

23 (B) identify and prioritize specific cost-ef-  
24 fective projects, programs, and measures to  
25 mitigate and build resilience to current and pre-

1       dicted impacts of climate change, including  
2       projects, programs, and measures within each  
3       of the categories of activities listed in sub-  
4       section (h)(2);

5           (C) include an assessment of potential for  
6       carbon reduction through changes to land man-  
7       agement policies (including enhancement or  
8       protection of forest carbon sinks);

9           (D) ensure that the State fully considers  
10      and undertakes, to the maximum extent prac-  
11      ticable, initiatives that—

12           (i) protect or enhance natural eco-  
13      system functions, including protection,  
14      maintenance, or restoration of natural in-  
15      frastructure such as wetlands, reefs, and  
16      barrier islands to buffer communities from  
17      floodwaters or storms, watershed protec-  
18      tion to maintain water quality and ground-  
19      water recharge, or floodplain restoration to  
20      improve natural flood control capacity;

21           (ii) where appropriate, use non-  
22      structural approaches, including practices  
23      that use, enhance, or mimic the natural  
24      hydrologic cycle processes of infiltration,  
25      evapotranspiration, and use; or

1           (iii) where appropriate, protect for-  
2           ested land via scientifically based ecological  
3           restoration practices, including by reducing  
4           fuel loads, restoring forest diversity, and  
5           conducting research on pest mitigation;

6           (E) give consideration to impacts affecting  
7           socially and economically vulnerable popu-  
8           lations, including—

9           (i) persons of low-income (as defined  
10          in title I of the Housing and Community  
11          Development Act of 1974 (42 U.S.C. sec.  
12          5301 et seq.));

13          (ii) members of socially disadvantaged  
14          groups (as defined in section 2501(e)(2) of  
15          the Food, Agriculture, Conservation, and  
16          Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

17          (iii) persons over 65 years of age and  
18          under 5 years of age; and

19          (iv) persons with disabilities;

20          (F) use pre-disaster mitigation, emergency  
21          response, and public insurance programs to  
22          mitigate the impacts of climate change;

23          (G) be consistent with Federal conserva-  
24          tion and environmental laws and, to the max-

imum extent practicable; avoid environmental degradation; and

(H) be revised and resubmitted for approval not less frequently than every 5 years.

(3) TRIBAL CLIMATE CHANGE RESPONSE PLANS.—Requirements for tribal climate change response plans should include the requirements listed in subparagraphs (A) through (H) of paragraph (2), as appropriate, but may vary from those of State climate change response plans to the extent necessary to account for the special circumstances of Indian tribes.

(4) COORDINATION WITH PRIOR PLANNING EFFORTS.—In implementing this subsection, the Administrator, or the heads of such Federal agencies as the President may designate, shall—

(A) draw upon lessons learned and best practices from pre-existing State and tribal climate change response planning efforts;

(B) seek to avoid duplication of such efforts; and

(C) ensure that the plans developed under this section are developed in coordination with State natural resources adaptation plans developed under section 369 of division A.

1       (j) ~~REPORTING.~~—Not later than 1 year after each  
2 date of receipt of allowance proceeds under this section;  
3 and biennially thereafter until the value of any allowance  
4 proceeds received under this section has been fully ex-  
5 pended, each State or Indian tribe receiving allowance pro-  
6 ceeds under this section shall submit to the Administrator,  
7 or the heads of such Federal agencies as the President  
8 may designate, a report that—

9           (1) provides a full accounting for the use by the  
10 State or Indian tribe of allowance proceeds distrib-  
11 uted under this section, including a description of  
12 the projects, programs, or measures supported using  
13 such proceeds;

14           (2) includes a report prepared by an inde-  
15 pendent third party, in accordance with such regula-  
16 tions as are promulgated by the Administrator or  
17 the heads of such other Federal agencies as the  
18 President may designate, evaluating the performance  
19 of the projects, programs, or measures supported  
20 under this section; and

21           (3) identifies any use by the State or Indian  
22 tribe of allowance proceeds distributed under this  
23 section for the reduction of flood and storm damage  
24 and the effects of climate change on water and flood  
25 protection infrastructure.



1       (k) AUDITING.—The Administrator, or the heads of  
 2 such Federal agencies as the President may designate,  
 3 shall have authority to conduct such audits or other review  
 4 of States implementation of and compliance with this sec-  
 5 tion as such Federal officials may in their discretion deter-  
 6 mine to be necessary or appropriate.

7       (l) ENFORCEMENT.—If the Administrator, or the  
 8 heads of such Federal agencies as the President may des-  
 9 ignate, determine that a State or Indian tribe is not in  
 10 compliance with this section, the Administrator or such  
 11 other agency head may withhold a quantity of the allow-  
 12 ance proceeds equal to up to twice the quantity of allow-  
 13 ance proceeds that the State or Indian tribe failed to use  
 14 in accordance with the requirements of this section, that  
 15 such State or Indian tribe would otherwise be eligible to  
 16 receive under this section in 1 or more later years. Allow-  
 17 ance proceeds withheld pursuant to this subsection shall  
 18 be distributed among the remaining States or Indian  
 19 tribes ratably in accordance with—

20               (1) the formula under subsection (d), in the  
 21 case of allowances withheld from a State; or

22               (2) in accordance with subsection (e), in the  
 23 case of allowance proceeds withheld from an Indian  
 24 tribe.

1 **SEC. 212. CLIMATE CHANGE HEALTH PROTECTION AND**  
2 **PROMOTION FUND.**

3 (a) **ESTABLISHMENT OF FUND.**—There is estab-  
4 lished in the Treasury a separate account, to be known  
5 as the “Climate Change Health Protection and Promotion  
6 Fund”.

7 (b) **AUCTION PROCEEDS.**—The Administrator shall  
8 deposit the proceeds of the auction pursuant to section  
9 771(b)(8) of the Clean Air Act in the Climate Change  
10 Health Protection and Promotion Fund.

11 (c) **AVAILABILITY OF AMOUNTS.**—All amounts depos-  
12 ited in the Climate Change Health Protection and Pro-  
13 motion Fund shall be available to the Secretary of Health  
14 and Human Services to carry out subpart B of subtitle  
15 C of title III of division A, without further appropriation  
16 or fiscal year limitation.

17 (d) **DISTRIBUTION OF FUNDS BY HHS.**—In carrying  
18 out subpart B of subtitle C of title III of division A, the  
19 Secretary of Health and Human Services may make funds  
20 deposited in the Climate Change Health Protection and  
21 Promotion Fund available to—

22 (1) other departments, agencies, and offices of  
23 the Federal Government;

24 (2) foreign, State, tribal, and local govern-  
25 ments; and

1           ~~(3)~~ such other entities as the Secretary deter-  
 2           mines to be appropriate.

3           ~~(c) SUPPLEMENT, NOT REPLACE.~~—It is the intent  
 4 of Congress that funds made available to carry out sub-  
 5 part B of subtitle C of title III of division A should be  
 6 used to supplement, and not replace, existing sources of  
 7 funding for public health.

8   **SEC. 213. CLIMATE CHANGE SAFEGUARDS FOR NATURAL**  
 9                           **RESOURCES CONSERVATION.**

10          ~~(a) ESTABLISHMENT OF FUND.~~—There is estab-  
 11 lished in the Treasury a separate account, to be known  
 12 as the “Natural Resources Climate Change Adaptation  
 13 Account”.

14          ~~(b) AUCTION PROCEEDS.~~—The Administrator shall  
 15 deposit the proceeds of the auction conducted pursuant  
 16 to section 771(b)(9) of the Clean Air Act in the Natural  
 17 Resources Climate Change Adaptation Account.

18          ~~(c) AVAILABILITY OF AMOUNTS.~~—All amounts depos-  
 19 ited in the Natural Resources Climate Change Adaptation  
 20 Account shall be available without further appropriation  
 21 or fiscal year limitation solely for the purposes of section  
 22 ~~370~~ of division A.

1 **SEC. 214. NUCLEAR WORKER TRAINING.**

2 (a) **ESTABLISHMENT OF FUND.**—There is estab-  
3 lished in the Treasury a separate account, to be known  
4 as the “Nuclear Worker Training Fund”.

5 (b) **AUCTION PROCEEDS.**—The Administrator shall  
6 deposit the proceeds of the auction conducted pursuant  
7 to section 771(b)(10) of the Clean Air Act in the Nuclear  
8 Worker Training Fund.

9 (c) **AVAILABILITY OF AMOUNTS.**—All amounts depos-  
10 ited in the Nuclear Worker Training Fund shall be avail-  
11 able without further appropriation or fiscal year limitation  
12 solely for the purpose of carrying out section 132 of divi-  
13 sion A.

14 **SEC. 215. SUPPLEMENTAL AGRICULTURE, RENEWABLE EN-**  
15 **ERGY, AND FORESTRY.**

16 (a) **ESTABLISHMENT OF FUND.**—There is estab-  
17 lished in the Treasury a separate account, to be known  
18 as the “Supplemental Agriculture, Renewable Energy, and  
19 Forestry Fund”.

20 (b) **AUCTION PROCEEDS.**—The Administrator shall  
21 deposit the proceeds of the auction conducted pursuant  
22 to section 771(b)(11) of the Clean Air Act in the Supple-  
23 mental Agriculture, Renewable Energy, and Forestry  
24 Fund.

25 (c) **AVAILABILITY OF AMOUNTS.**—All amounts depos-  
26 ited in the Supplemental Agriculture, Renewable Energy,

1 and Forestry Fund shall be available without further ap-  
 2 propriation or fiscal year limitation solely for the purpose  
 3 of carrying out section 155 of division A.

4 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

5 (a) *SHORT TITLE.*—*This Act may be cited as the*  
 6 *“Clean Energy Jobs and American Power Act”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents of this*  
 8 *Act is as follows:*

*Sec. 1. Short title; table of contents.*

*Sec. 2. Findings.*

*Sec. 3. Economywide emission reduction goals.*

*Sec. 4. Definitions.*

**DIVISION A—AUTHORIZATIONS FOR POLLUTION REDUCTION,  
 TRANSITION, AND ADAPTATION**

*Sec. 101. Structure of Act.*

*Sec. 102. Requirements relating to Federal advisory committees.*

*Sec. 103. Voluntary renewable energy markets.*

**TITLE I—GREENHOUSE GAS REDUCTION PROGRAMS**

**Subtitle A—Clean Transportation**

*Sec. 111. Emission standards.*

**“PART B—MOBILE SOURCES**

*“Sec. 821. Greenhouse gas emission standards for mobile sources.*

*Sec. 112. Greenhouse gas emission reductions through transportation efficiency.*

**“PART C—TRANSPORTATION EMISSIONS**

*“Sec. 831. Greenhouse gas emission reductions through transportation effi-  
 ciency.*

*Sec. 113. Transportation greenhouse gas emission reduction program grants.*

*“Sec. 832. Transportation greenhouse gas emission reduction program  
 grants.*

*Sec. 114. Smartway transportation efficiency program.*

*“Sec. 822. SmartWay transportation efficiency program.*

**Subtitle B—Carbon Capture and Sequestration**

*Sec. 121. National strategy.*

*Sec. 122. Regulations for geological sequestration sites.*

*“Sec. 813. Geological storage sites.*

*Sec. 123. Studies and reports.*

*Sec. 124. Performance standards for new coal-fueled power plants.*

*“Sec. 812. Performance standards for new coal-fired power plants.*

*Sec. 125. Carbon capture and sequestration demonstration and early deployment program.*

*Subtitle C—Nuclear and Advanced Technologies*

*Sec. 131. Findings and policy.*

*Sec. 132. Nuclear worker training.*

*Sec. 133. Nuclear safety and waste management programs.*

*Subtitle D—Water Efficiency*

*Sec. 141. WaterSense.*

*Sec. 142. Federal procurement of water-efficient products.*

*Sec. 143. State residential water efficiency and conservation incentives program.*

*Subtitle E—Miscellaneous*

*Sec. 151. Office of Consumer Advocacy.*

*Sec. 152. Clean technology business competition grant program.*

*Sec. 153. Product carbon disclosure program.*

*Sec. 154. State recycling programs.*

*Sec. 155. Supplemental agriculture, abandoned mine land, and forestry greenhouse gas reduction and renewable energy program.*

*Sec. 156. Economic Development Climate Change Fund.*

*“Sec. 219. Economic Development Climate Change Fund.*

*Sec. 157. Study of risk-based programs addressing vulnerable areas.*

*Sec. 158. Efficient Buildings Program.*

*Subtitle F—Energy Efficiency and Renewable Energy*

*Sec. 161. Renewable energy.*

*Sec. 162. Advanced biofuels.*

*Sec. 163. Energy efficiency in building codes.*

*Sec. 164. Retrofit for energy and environmental performance.*

*Sec. 165. Certified stoves program.*

*Sec. 166. Renewable fuel standard.*

*Sec. 167. Tree planting programs.*

*Subtitle G—Emission Reductions From Public Transportation Vehicles*

*Sec. 171. Short title.*

*Sec. 172. State fuel economy regulation for taxicabs.*

*Sec. 173. State regulation of motor vehicle emissions for taxicabs.*

*Subtitle H—Clean Energy and Natural Gas*

*Sec. 181. Clean Energy and Accelerated Emission Reduction Program.*

*Sec. 182. Advanced natural gas technologies.*

**TITLE II—RESEARCH**

*Subtitle A—Energy Research*

*Sec. 201. Advanced energy research.*

*Subtitle B—Drinking Water Adaptation, Technology, Education, and Research*

*Sec. 211. Effects of climate change on drinking water utilities.*

## TITLE III—TRANSITION AND ADAPTATION

## Subtitle A—Green Jobs and Worker Transition

## PART 1—GREEN JOBS

- Sec. 301. Clean energy curriculum development grants.*  
*Sec. 302. Development of Information and Resources clearinghouse for vocational education and job training in renewable energy sectors.*  
*Sec. 303. Green construction careers demonstration project.*

## PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

- Sec. 311. Petitions, eligibility requirements, and determinations.*  
*Sec. 312. Program benefits.*  
*Sec. 313. General provisions.*

## Subtitle B—International Climate Change Programs

- Sec. 321. Strategic Interagency Board on International Climate Investment.*  
*Sec. 322. Emission reductions from reduced deforestation.*

## “PART E—SUPPLEMENTAL EMISSION REDUCTIONS

- “Sec. 751. Definitions.*  
*“Sec. 752. Purposes.*  
*“Sec. 753. Emission reductions from reduced deforestation.*  
*Sec. 323. International Clean Energy Deployment Program.*  
*Sec. 324. International climate change adaptation and global security program.*  
*Sec. 325. Evaluation and reports.*  
*Sec. 326. Report on climate actions of major economies.*

## Subtitle C—Adapting to Climate Change

## PART 1—DOMESTIC ADAPTATION

## SUBPART A—NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM

- Sec. 341. National Climate Change Adaptation Program.*  
*Sec. 342. Climate services.*

## SUBPART B—PUBLIC HEALTH AND CLIMATE CHANGE

- Sec. 351. Sense of Congress on public health and climate change.*  
*Sec. 352. Relationship to other laws.*  
*Sec. 353. National strategic action plan.*  
*Sec. 354. Advisory board.*  
*Sec. 355. Reports.*  
*Sec. 356. Definitions.*

SUBPART C—CLIMATE CHANGE SAFEGUARDS FOR NATURAL RESOURCES  
CONSERVATION

- Sec. 361. Purposes.*  
*Sec. 362. Natural resources climate change adaptation policy.*  
*Sec. 363. Definitions.*  
*Sec. 364. Council on Environmental Quality.*  
*Sec. 365. Natural Resources Climate Change Adaptation Panel.*  
*Sec. 366. Natural Resources Climate Change Adaptation Strategy.*

- Sec. 367. Natural resources adaptation science and information.*  
*Sec. 368. Federal natural resource agency adaptation plans.*  
*Sec. 369. State natural resources adaptation plans.*  
*Sec. 370. Natural Resources Climate Change Adaptation Account.*  
*Sec. 371. National Fish and Wildlife Habitat and Corridors Information Program.*  
*Sec. 372. Additional provisions regarding Indian tribes.*

*SUBPART D—ADDITIONAL CLIMATE CHANGE ADAPTATION PROGRAMS*

- Sec. 381. Water system mitigation and adaptation partnerships.*  
*Sec. 382. Flood control, protection, prevention, and response.*  
*Sec. 383. Wildfire.*  
*Sec. 384. Coastal and Great Lakes State adaptation program.*

*DIVISION B—POLLUTION REDUCTION AND INVESTMENT*

*TITLE I—REDUCING GLOBAL WARMING POLLUTION*

*Subtitle A—Reducing Global Warming Pollution*

- Sec. 101. Reducing global warming pollution.*

*“TITLE VII—GLOBAL WARMING POLLUTION REDUCTION AND INVESTMENT PROGRAM*

*“PART A—GLOBAL WARMING POLLUTION REDUCTION GOALS AND TARGETS*

- “Sec. 701. Findings.*  
*“Sec. 702. Economywide reduction goals.*  
*“Sec. 703. Reduction targets for specified sources.*  
*“Sec. 704. Supplemental pollution reductions.*  
*“Sec. 705. Review and program recommendations.*  
*“Sec. 706. National Academy review.*  
*“Sec. 707. Presidential response and recommendations.*  
*“Sec. 708. Consultation with States.*

*“PART B—DESIGNATION AND REGISTRATION OF GREENHOUSE GASES*

- “Sec. 711. Designation of greenhouse gases.*  
*“Sec. 712. Carbon dioxide equivalent value of greenhouse gases.*  
*“Sec. 713. Greenhouse gas registry.*  
*“Sec. 714. Perfluorocarbon and other nonhydrofluorocarbon fluorinated substance production regulation.*

*“PART C—PROGRAM RULES*

- “Sec. 721. Emission allowances.*  
*“Sec. 722. Prohibition of excess emissions.*  
*“Sec. 723. Penalty for noncompliance.*  
*“Sec. 724. Trading.*  
*“Sec. 725. Banking and borrowing.*  
*“Sec. 726. Market Stability Reserve.*  
*“Sec. 727. Permits.*  
*“Sec. 728. International emission allowances.*



*“PART D—OFFSETS*

- “Sec. 731. Offsets Integrity Advisory Board.*
- “Sec. 732. Establishment of offsets program.*
- “Sec. 733. Eligible project types.*
- “Sec. 734. Requirements for offset projects.*
- “Sec. 735. Approval of offset projects.*
- “Sec. 736. Verification of offset projects.*
- “Sec. 737. Issuance of offset credits.*
- “Sec. 738. Audits.*
- “Sec. 739. Program review and revision.*
- “Sec. 740. Early offset supply.*
- “Sec. 741. Environmental considerations.*
- “Sec. 742. Trading.*
- “Sec. 743. Office of Offsets Integrity.*
- “Sec. 744. International offset credits.*
- Sec. 102. Definitions.*
- “Sec. 700. Definitions.*
- Sec. 103. Offset reporting requirements.*

*Subtitle B—Disposition of Allowances*

- Sec. 111. Disposition of allowances for global warming pollution reduction program.*

*“PART G—DISPOSITION OF ALLOWANCES*

- “Sec. 771. Allocation of emission allowances.*
- “Sec. 772. Electricity consumers.*
- “Sec. 773. Natural gas consumers.*
- “Sec. 774. Home heating oil and propane consumers.*
- “Sec. 775. Domestic fuel production.*
- “Sec. 776. Consumer protection.*
- “Sec. 777. Exchange for State-issued allowances.*
- “Sec. 778. Auction procedures.*
- “Sec. 779. Auctioning allowances for other entities.*
- “Sec. 780. Commercial deployment of carbon capture and permanent sequestration technologies.*
- “Sec. 781. Oversight of allocations.*
- “Sec. 782. Early action recognition.*
- “Sec. 783. Establishment of Deficit Reduction Fund.*

*Subtitle C—Additional Greenhouse Gas Standards*

- Sec. 121. Greenhouse gas standards.*

*“TITLE VIII—ADDITIONAL GREENHOUSE GAS STANDARDS*

- “Sec. 801. Definitions.*

*“PART A—STATIONARY SOURCE STANDARDS*

- “Sec. 811. Standards of performance.*
- Sec. 122. HFC regulation.*
- “Sec. 619. Hydrofluorocarbons (HFCs).*
- Sec. 123. Black carbon.*

*“PART E—BLACK CARBON**“Sec. 851. Black carbon.**Sec. 124. States.**Sec. 125. State programs.**“PART F—MISCELLANEOUS**“Sec. 861. State programs.**“Sec. 862. Grants for support of air pollution control programs.**“Sec. 863. Reducing acid rain and mercury pollution.**Sec. 126. Enforcement.**Sec. 127. Forestry sector greenhouse gas accounting.**Sec. 128. Conforming amendments.**“Sec. 508. Emissions of greenhouse gases.**Sec. 129. Davis-Bacon compliance.**Subtitle D—Carbon Market Assurance**Sec. 131. Carbon market assurance.**Subtitle E—Ensuring Real Reductions in Industrial Emissions**Sec. 141. Ensuring real reductions in industrial emissions.**“PART F—ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS**“Sec. 761. Purposes.**“Sec. 762. Definitions.**“Sec. 763. Eligible industrial sectors.**“Sec. 764. Distribution of emission allowance rebates.**“Sec. 765. International trade.**TITLE II—PROGRAM ALLOCATIONS**Sec. 201. Distribution of allowances for investment in clean vehicles.**“Sec. 795A. Black carbon reduction grant program.**Sec. 202. State and local investment in energy efficiency and renewable energy.**Sec. 203. Energy efficiency in building codes.**Sec. 204. Energy Innovation Hubs.**Sec. 205. ARPA-E research.**Sec. 206. International clean energy deployment program.**Sec. 207. International climate change adaptation and global security.**Sec. 208. Energy efficiency and renewable energy worker training.**Sec. 209. Worker transition.**Sec. 210. State programs for greenhouse gas reduction and climate adaptation.**Sec. 211. Climate Change Health Protection and Promotion Fund.**Sec. 212. Climate change safeguards for natural resources conservation.**Sec. 213. Nuclear worker training.**Sec. 214. Supplemental agriculture, abandoned mine land, renewable energy, and forestry.**Sec. 215. Investment in greenhouse gas reductions from the transportation sector.**Sec. 216. State programs for natural resource adaptation activities.***1 SEC. 2. FINDINGS.****2 Congress finds that—**

1           (1) *the United States can take back control of the*  
2           *energy future of the United States, strengthen eco-*  
3           *nomics competitiveness, safeguard the health of fami-*  
4           *lies and the environment, and ensure the national se-*  
5           *curity, of the United States by increasing energy*  
6           *independence;*

7           (2) *creating a clean energy future requires a*  
8           *comprehensive approach that includes support for the*  
9           *improvement of all energy sources, including coal,*  
10          *natural gas, nuclear power, and renewable genera-*  
11          *tion;*

12          (3) *efficiency in the energy sector also represents*  
13          *a critical avenue to reduce energy consumption and*  
14          *carbon pollution, and those benefits can be captured*  
15          *while generating additional savings for consumers;*

16          (4) *substantially increasing the investment in*  
17          *the clean energy future of the United States will pro-*  
18          *vide economic opportunities to millions of people in*  
19          *the United States and drive future economic growth*  
20          *in this country;*

21          (5) *the United States is responsible for many of*  
22          *the initial scientific advances in clean energy tech-*  
23          *nology, but, as of September 2009, the United States*  
24          *has only 5 of the top 30 leading companies in solar,*  
25          *wind, and advanced battery technology;*

1           (6) investment in the clean energy sector will  
2           allow companies in the United States to retake a  
3           leadership position, and the jobs created by those in-  
4           vestments will significantly accelerate growth in do-  
5           mestic manufacturing;

6           (7) those opportunities also will result in sub-  
7           stantial employment gains in construction, a sector  
8           in which the median hourly wage is 17 percent higher  
9           than the national median;

10          (8) those jobs are distributed throughout the  
11          United States, and the highest clean energy economy  
12          employment growth rates in the last 10 years were in  
13          the States of Idaho, Nebraska, South Dakota, Oregon,  
14          and New Mexico;

15          (9) focusing on clean energy will dramatically  
16          reduce pollution and significantly improve the health  
17          of families in and the environment of the United  
18          States;

19          (10) moving to a low-carbon economy must pro-  
20          tect the most vulnerable populations in the United  
21          States, including low-income families that are par-  
22          ticularly affected by volatility in energy prices;

23          (11) if unchecked, the impact of climate change  
24          will include widespread effects on health and welfare,  
25          including—

1                   (A) *increased outbreaks from waterborne*  
 2                   *diseases;*

3                   (B) *more droughts;*

4                   (C) *diminished agricultural production;*

5                   (D) *severe storms and floods;*

6                   (E) *heat waves;*

7                   (F) *wildfires; and*

8                   (G) *a substantial rise in sea levels, due in*  
 9                   *part to—*

10                   (i) *melting mountain glaciers;*

11                   (ii) *shrinking sea ice; and*

12                   (iii) *thawing permafrost;*

13                   (12) *the most recent science indicates that the*  
 14                   *changes described in paragraph (11)(G) are occurring*  
 15                   *faster and with greater intensity than expected;*

16                   (13) *military officials, including retired admiral*  
 17                   *and generals, concur with the intelligence com-*  
 18                   *munity that climate change acts as a threat multi-*  
 19                   *plier for instability and presents significant national*  
 20                   *security challenges for the United States;*

21                   (14) *massive portions of the infrastructure of the*  
 22                   *United States, including critical military infrastruc-*  
 23                   *ture, are at risk from the effects of climate change;*

1           (15) *impacts are already being felt in local com-*  
 2           *munities within the United States as well as by at-*  
 3           *risk populations abroad;*

4           (16) *the Declaration of the Leaders from the*  
 5           *Major Economies Forum on Energy and Climate,*  
 6           *representing 17 of the largest economies in the world,*  
 7           *recognizes the need to limit the increase in global av-*  
 8           *erage temperatures to within 2 degrees Centigrade, as*  
 9           *a necessary step to prevent the catastrophic con-*  
 10          *sequences of climate change; and*

11          (17) *the United States should lead the global*  
 12          *community in combating the threat of global climate*  
 13          *change and reaching a robust international agreement*  
 14          *to address global warming under the United Nations*  
 15          *Framework Convention on Climate Change, done at*  
 16          *New York on May 9, 1992 (or a successor agreement).*

17 **SEC. 3. ECONOMYWIDE EMISSION REDUCTION GOALS.**

18          *The goals of this Act and the amendments made by*  
 19          *this Act are to reduce steadily the quantity of United States*  
 20          *greenhouse gas emissions such that—*

21               (1) *in 2012, the quantity of United States green-*  
 22               *house gas emissions does not exceed 97 percent of the*  
 23               *quantity of United States greenhouse gas emissions in*  
 24               *2005;*

1           (2) *in 2020, the quantity of United States green-*  
 2           *house gas emissions does not exceed 80 percent of the*  
 3           *quantity of United States greenhouse gas emissions in*  
 4           *2005;*

5           (3) *in 2030, the quantity of United States green-*  
 6           *house gas emissions does not exceed 58 percent of the*  
 7           *quantity of United States greenhouse gas emissions in*  
 8           *2005; and*

9           (4) *in 2050, the quantity of United States green-*  
 10          *house gas emissions does not exceed 17 percent of the*  
 11          *quantity of United States greenhouse gas emissions in*  
 12          *2005.*

13 **SEC. 4. DEFINITIONS.**

14       *In this Act:*

15           (1) *ADMINISTRATOR.*—*The term “Adminis-*  
 16           *trator” means the Administrator of the Environ-*  
 17           *mental Protection Agency.*

18           (2) *INDIAN TRIBE.*—*The term “Indian tribe” has*  
 19           *the meaning given the term in section 302 of the*  
 20           *Clean Air Act (42 U.S.C. 7602).*

21           (3) *STATE.*—*The term “State” has the meaning*  
 22           *given that term in section 302 of the Clean Air Act*  
 23           *(42 U.S.C. 7602).*

1 ***DIVISION A—AUTHORIZATIONS***  
2 ***FOR POLLUTION REDUCTION,***  
3 ***TRANSITION, AND ADAPTA-***  
4 ***TION***

5 ***SEC. 101. STRUCTURE OF ACT.***

6 (a) *AUTHORIZED AND ALLOCATED PROGRAMS.—The*  
7 *following programs authorized under this division are eligi-*  
8 *ble to receive an allocation under title VII of the Clean Air*  
9 *Act:*

10 (1) *The program for greenhouse gas emission re-*  
11 *ductions through transportation efficiency under part*  
12 *C of title VIII the Clean Air Act (as added by sections*  
13 *112 and 113 of this division) and section 215 of divi-*  
14 *sion B.*

15 (2) *The program for nuclear worker training*  
16 *under section 132 of this division and 213 of division*  
17 *B.*

18 (3) *State recycling programs under section 154*  
19 *of this division and section 210 of division B.*

20 (4) *The supplemental agriculture and forestry*  
21 *greenhouse gas reduction and renewable energy pro-*  
22 *gram under section 155 of this division and section*  
23 *214 of division B.*



1           (5) *The program for energy efficiency in build-*  
 2           *ing codes under section 163 of this division and sec-*  
 3           *tion 203 of division B.*

4           (6) *The program for retrofit for energy and envi-*  
 5           *ronmental performance under section 164 of this divi-*  
 6           *sion.*

7           (7) *The program for worker transition under*  
 8           *part 2 of subtitle A of title III of this division and*  
 9           *section 209 of division B.*

10          (8) *The program for public health and climate*  
 11          *change under subpart B of part 1 of subtitle C of title*  
 12          *III of this division and section 211 of division B.*

13          (9) *The program for climate change safeguards*  
 14          *for natural resources conservation under subpart C of*  
 15          *part 1 of subtitle C of title III of this division, sec-*  
 16          *tions 212 and 216 of division B, including—*

17                (A) *State programs for natural resource ad-*  
 18                *aptation under section 370(a)(1) of division A,*  
 19                *and section 216 of division B; and*

20                (B) *the Natural Resources Climate Change*  
 21                *Adaptation Account under paragraphs (2)*  
 22                *through (6) of section 370(a) of division A, and*  
 23                *section 212 of division B.*

1           (10) *The program for emission reductions from*  
 2           *reduced deforestation under section 753 of the Clean*  
 3           *Air Act (as added by section 322 of this division).*

4           (11) *The International Clean Energy Deploy-*  
 5           *ment Program under section 323 of this division and*  
 6           *section 206 of division B.*

7           (12) *The international climate change adapta-*  
 8           *tion and global security program under 324 of this*  
 9           *division and section 207 of division B.*

10          (13) *The program for water system mitigation*  
 11          *and adaptation partnerships under section 381 of this*  
 12          *division and section 210 of division B.*

13          (14) *The program for flood control, protection,*  
 14          *prevention, and response under section 382 of this di-*  
 15          *vision and section 210 of division B.*

16          (15) *The program for wildfire under section 383*  
 17          *of this division and section 210 of division B.*

18          (16) *The Coastal and Great Lakes State Adapta-*  
 19          *tion Program under section 384 of this division and*  
 20          *section 210 of division B.*

21          (b) *ALLOCATED PROGRAMS.—The following alloca-*  
 22          *tions are provided under title VII of the Clean Air Act:*

23               (1) *The Market Stability Reserve Fund under*  
 24               *section 726 of the Clean Air Act (as added by section*  
 25               *101 of division B).*

1           (2) *The program to ensure real reductions in in-*  
2           *dustrial emissions under part F of title VII of the*  
3           *Clean Air Act (as added by section 141 of division*  
4           *B).*

5           (3) *The program for electricity consumers pursu-*  
6           *ant to section 772 of the Clean Air Act (as added by*  
7           *section 111 of division B).*

8           (4) *The program for natural gas consumers pur-*  
9           *suant to section 773 of the Clean Air Act (as added*  
10          *by section 111 of division B).*

11          (5) *The program for home heating oil and pro-*  
12          *pane consumers pursuant to section 774 of the Clean*  
13          *Air Act (as added by section 111 of division B).*

14          (6) *The program for domestic fuel production,*  
15          *including petroleum refiners and small business refin-*  
16          *ers, under section 775 of the Clean Air Act (as added*  
17          *by section 111 of division B).*

18          (7) *The program for climate change consumer re-*  
19          *funds and low- and moderate-income consumers pur-*  
20          *suant to section 776 of the Clean Air Act (as added*  
21          *by section 111 of division B), including—*

22                (A) *consumer rebates under section 776(a)*  
23                *of the Clean Air Act (as so added); and*

24                (B) *energy refunds under section 776(b) of*  
25                *the Clean Air Act (as so added).*

1           (8) *The program for commercial deployment of*  
2           *carbon capture and storage technology under section*  
3           *780 of the Clean Air Act (as added by section 111 of*  
4           *division B).*

5           (9) *The program for early action recognition*  
6           *pursuant to section 782 of the Clean Air Act (as*  
7           *added by section 111 of division B).*

8           (10) *The program for investment in clean vehicle*  
9           *technology under section 201 of division B.*

10          (11) *The program for State and local investment*  
11          *in energy efficiency and renewable energy under sec-*  
12          *tion 202 of division B.*

13          (12) *The program for Energy Innovation Hubs*  
14          *pursuant to section 204 of division B.*

15          (13) *The program for ARPA-E research pursu-*  
16          *ant to section 205 of division B.*

17          (14) *The program for energy efficiency and re-*  
18          *newable energy worker training under section 208 of*  
19          *division B.*

20          (15) *The State programs for greenhouse gas re-*  
21          *duction and climate adaptation pursuant to section*  
22          *210 of division B.*

23          (16) *The program for greenhouse gas emission*  
24          *reductions from the transportation sector under sec-*  
25          *tion 215 of division B.*

1       (c) *NONALLOCATED PROGRAMS.*—*The following pro-*  
2 *grams are authorized under this division:*

3           (1) *The SmartWay Transportation Efficiency*  
4 *Program under section 822 of the Clean Air Act (as*  
5 *added by section 114 of this division).*

6           (2) *The carbon capture and sequestration dem-*  
7 *onstration and early deployment program under sec-*  
8 *tion 125 of this division.*

9           (3) *The nuclear safety and waste management*  
10 *programs under section 133 of this division.*

11           (4) *Water efficiency programs under subtitle D*  
12 *of title I of this division.*

13           (5) *The Office of Consumer Advocacy under sec-*  
14 *tion 151 of this division.*

15           (6) *The clean technology business competition*  
16 *grant program under section 152 of this division.*

17           (7) *The product carbon disclosure program*  
18 *under section 153 of this division.*

19           (8) *The Economic Development Climate Change*  
20 *Fund under section 219 of the Public Works and Eco-*  
21 *nomic Development Act of 1965 (as added by section*  
22 *156 of this division).*

23           (9) *The program for renewable energy under sec-*  
24 *tion 161 of this division.*

1           (10) *The program for advanced biofuels under*  
2           *section 162 of this division.*

3           (11) *The program for emission reductions from*  
4           *public transportation vehicles under subtitle G of title*  
5           *I of this division.*

6           (12) *The Clean Energy and Accelerated Emis-*  
7           *sion Reduction Program under section 181 of this di-*  
8           *vision.*

9           (13) *The program for advanced natural gas tech-*  
10          *nologies under section 182 of this division.*

11          (14) *The program for advanced energy research*  
12          *under subtitle A of title II of this division.*

13          (15) *The program for drinking water adapta-*  
14          *tion, technology, education, and research under sub-*  
15          *title B of title II of this division.*

16          (16) *The program for clean energy curriculum*  
17          *development grants under section 301 of this division.*

18          (17) *The program for Development of Informa-*  
19          *tion and Resources clearinghouse for vocational edu-*  
20          *cation and job training in renewable energy sectors*  
21          *under section 302 of this division.*

22          (18) *The green construction careers demonstra-*  
23          *tion project under section 303 of this division.*

1 **SEC. 102. REQUIREMENTS RELATING TO FEDERAL ADVI-**  
2 **SORY COMMITTEES.**

3 (a) *APPOINTMENT QUALIFICATIONS.*—Each appoint-  
4 ment of a member to an advisory committee established  
5 under this Act or an amendment made by this Act shall  
6 be—

7 (1) *based on the qualifications, competence, and*  
8 *experience of the member; and*

9 (2) *except as otherwise required by Federal law*  
10 *(including regulations), made without regard to the*  
11 *political affiliation of the member.*

12 (b) *DESIGNATION OF MEMBERS.*—

13 (1) *IN GENERAL.*—An individual appointed to  
14 serve on an advisory committee established under this  
15 Act or an amendment made by this Act who is not  
16 a full-time or permanent part-time officer or em-  
17 ployee of the Federal Government shall be designated  
18 by the Federal department or agency to which the rel-  
19 evant advisory committee reports as—

20 (A) *a special employee of the Federal Gov-*  
21 *ernment, if the individual is providing advice*  
22 *based substantially on the expertise or experience*  
23 *of the individual; or*

24 (B) *a representative, if the individual is*  
25 *substantially representing the views of individ-*  
26 *uals or entities outside the Federal Government.*

1           (2) *REVIEWS.*—

2                   (A) *IN GENERAL.*—*The head of each Federal*  
 3                   *department or agency shall review the member-*  
 4                   *ship of each advisory committee that reports to*  
 5                   *the department or agency—*

6                           (i) *to determine whether the designa-*  
 7                           *tion of the members is appropriate; and*

8                           (ii) *if the designation of any member*  
 9                           *is not appropriate, to redesignate the mem-*  
 10                           *ber.*

11                   (B) *TIMING.*—*A review under subparagraph*  
 12                   (A) *shall be conducted—*

13                           (i) *on the date on which the charter of*  
 14                           *the relevant advisory committee expires; or*

15                           (ii) *for any advisory committee with*  
 16                           *an indefinite charter, not less frequently*  
 17                           *than once every 2 years.*

18           (c) *ENSURING INDEPENDENT ADVICE AND EXPER-*  
 19           *TISE.*—

20                   (1) *APPOINTMENT.*—*To the maximum extent*  
 21                   *practicable, except as provided in subsection*  
 22                   *(b)(1)(B), the head of each Federal department and*  
 23                   *agency shall appoint members of advisory committees*  
 24                   *established under this Act or an amendment made by*



1        *this Act as special employees of the Federal Govern-*  
 2        *ment.*

3            (2) *ACTION BY AGENCY HEADS.—The head of*  
 4        *each Federal department or agency shall ensure, to*  
 5        *the maximum extent practicable, that—*

6            (A) *no individual appointed to serve on an*  
 7        *applicable advisory committee has a conflict of*  
 8        *interest that is relevant to the functions to be*  
 9        *performed by the individual, unless—*

10           (i) *the conflict is promptly and pub-*  
 11          *licly disclosed; and*

12           (ii) *the head of the department or*  
 13          *agency determines that the conflict is un-*  
 14          *avoidable; and*

15           (B) *each report of an applicable advisory*  
 16          *committee—*

17           (i) *is the result of the independent*  
 18          *judgment of the advisory committee; and*

19           (ii) *includes a statement indicating the*  
 20          *process used by the advisory committee in*  
 21          *formulating the recommendations or conclu-*  
 22          *sions contained in the report.*

23           (3) *REQUIREMENT.—The head of each Federal*  
 24          *department or agency shall require that individuals*  
 25          *appointed or considered for appointment to serve on*

1     *an applicable advisory committee shall inform the*  
 2     *head of any conflict of interest of the individual that*  
 3     *is relevant to the advisory committee functions to be*  
 4     *performed by the individual.*

5           (4) *REPRESENTATIVE MEMBERS.*—*If the head of*  
 6     *a Federal department or agency determines that a*  
 7     *member described in subsection (b)(1)(B) is required*  
 8     *to serve on an applicable advisory committee, the ad-*  
 9     *visory committee management officer of the depart-*  
 10    *ment or agency shall consult with the designated eth-*  
 11    *ics official of the department or agency to ensure that*  
 12    *the designation of the member is appropriate and nec-*  
 13    *essary to fulfilling the purpose of the advisory com-*  
 14    *mittee.*

15          (5) *ACTION BY ETHICS OFFICIALS.*—*The des-*  
 16    *ignated ethics official of each applicable Federal de-*  
 17    *partment or agency shall issue guidance to ensure*  
 18    *that the applicable advisory committees are providing*  
 19    *sufficiently independent advice and expertise.*

20          (6) *REPORTS.*—*The Administrator of General*  
 21    *Services shall—*

22           (A) *conduct an annual review of compliance*  
 23       *by Federal departments and agencies with the*  
 24       *requirements of this subsection; and*

1           (B) submit to the Committee on Environ-  
 2           ment and Public Works of the Senate and the  
 3           Committee on Energy and Commerce of the  
 4           House of Representatives annual reports describ-  
 5           ing the results of the reviews.

6           (d) DISCLOSURE OF INFORMATION.—

7           (1) ITEMS REQUIRED TO BE DISCLOSED.—The  
 8           head of each Federal department or agency to which  
 9           an advisory committee established under this Act or  
 10          an amendment made by this Act reports shall make  
 11          available as described in paragraph (2) the following  
 12          information, at a minimum:

13               (A) The charter of the advisory committee.

14               (B) A description of the formation process  
 15          of the advisory committee, including—

16                   (i) the process for identifying prospec-  
 17                  tive members;

18                   (ii) the process of selecting members for  
 19                  balance of viewpoints or expertise; and

20                   (iii) a justification of the need for rep-  
 21                  resentative members, if any.

22               (C) A list of all current members of the ad-  
 23          visory committee, updated regularly, including,  
 24          for each member—

1                   (i) *the name of any individual or enti-*  
2                   *ty that nominated the member;*

3                   (ii) *whether the member is designated*  
4                   *as a special employee of the Federal Govern-*  
5                   *ment or a representative member; and*

6                   (iii) *in the case of a representative*  
7                   *member, the individuals or entity the view-*  
8                   *point of which the member represents.*

9                   (D) *A list of all special employees of the*  
10                  *Federal Government who have received conflict of*  
11                  *interest waivers under section 208(b) of title 18,*  
12                  *United States Code, pursuant to regulations pro-*  
13                  *mulgated by the Office of Government Ethics, a*  
14                  *description of the conflict necessitating the wai-*  
15                  *ver, and the reason for granting the waiver.*

16                  (E) *A summary of the decisionmaking proc-*  
17                  *ess of the advisory committee.*

18                  (F) *A complete report of all meetings of the*  
19                  *advisory committee.*

20                  (G) *Notices of future meetings of the advi-*  
21                  *sory committee.*

22                  (2) *METHODS OF DISCLOSURE.—*

23                  (A) *AVAILABILITY.—*

24                         (i) *IN GENERAL.—Subject to clause*

25                         (ii), *the information required to be disclosed*

1           *by a Federal department or agency under*  
2           *this subsection shall be made available elec-*  
3           *tronically, including on the official public*  
4           *Internet website of the department or agen-*  
5           *cy, not later than 7 calendar days before the*  
6           *applicable meeting of the advisory com-*  
7           *mittee.*

8           (ii) *COMPLETE REPORTS.—Each com-*  
9           *plete report of a meeting of an advisory*  
10          *committee established under this Act or an*  
11          *amendment made by this Act—*

12                *(I) shall be disclosed by the rel-*  
13                *evant Federal department or agency*  
14                *under this subsection by not later than*  
15                *7 calendar days after the date of the*  
16                *meeting; and*

17                *(II) may take the form of an elec-*  
18                *tronic recording of the meeting, a tran-*  
19                *script, or any other substantively com-*  
20                *plete accounting of the meeting.*

21           (B) *ACTION BY GSA.—The Administrator of*  
22           *General Services shall provide, on the official*  
23           *public Internet website of the General Services*  
24           *Administration, electronic access to the informa-*

1            *tion made available by each Federal department*  
 2            *or agency under subparagraph (A).*

3    **SEC. 103. VOLUNTARY RENEWABLE ENERGY MARKETS.**

4            *(a) FINDINGS.—Congress finds that—*

5                    *(1) voluntary renewable energy markets can be*  
 6                    *efficient and effective programs for allowing con-*  
 7                    *sumers and businesses to voluntarily use or support*  
 8                    *renewable energy;*

9                    *(2) more than 1,000,000 businesses, households,*  
 10                   *government agencies, farms, and others voluntarily*  
 11                   *purchase renewable electricity or renewable energy*  
 12                   *certificates; and*

13                   *(3) according to the Department of Energy—*

14                            *(A) voluntary renewable energy purchases*  
 15                            *totaled 24,000,000,000 kilowatt-hours during cal-*  
 16                            *endar year 2008, representing 0.6 percent of*  
 17                            *total United States electricity sales; and*

18                            *(B) voluntary renewable energy purchases*  
 19                            *have increased at an average annual rate of 32*  
 20                            *percent since calendar year 2004.*

21            *(b) STATEMENT OF POLICY.—It is the policy of the*  
 22            *United States—*

23                    *(1) to support the continued growth of voluntary*  
 24                    *renewable energy markets; and*

1           (2) *that nothing in this Act or the amendments*  
2           *made by this Act is intended to interfere with or pre-*  
3           *vent the continued operation and growth of the vol-*  
4           *untary renewable energy market.*

5           (c) *REPORT TO CONGRESS.—Not later than 2 years*  
6           *after the date of enactment of this Act, the Comptroller Gen-*  
7           *eral of the United States shall submit to Congress a report*  
8           *describing the efficacy of the voluntary renewable energy*  
9           *market in the context of the pollution reduction and invest-*  
10          *ment programs under this Act and the amendments made*  
11          *by this Act, including—*

12           (1) *whether meaningful reductions in carbon di-*  
13           *oxide emissions have occurred in response to invest-*  
14           *ments in the voluntary renewable energy market;*

15           (2) *whether the voluntary market continues to*  
16           *grow; and*

17           (3) *a list of recommended strategies for ensuring*  
18           *that—*

19           (A) *meaningful emissions reductions may*  
20           *occur; and*

21           (B) *the voluntary renewable energy market*  
22           *may continue to grow.*

1       ***TITLE I—GREENHOUSE GAS***  
 2       ***REDUCTION PROGRAMS***  
 3       ***Subtitle A—Clean Transportation***

4       ***SEC. 111. EMISSION STANDARDS.***

5       *Title VIII of the Clean Air Act (as added by section*  
 6       *121 of division B) is amended by adding at the end the*  
 7       *following:*

8               ***“PART B—MOBILE SOURCES***

9       ***“SEC. 821. GREENHOUSE GAS EMISSION STANDARDS FOR***  
 10       ***MOBILE SOURCES.***

11       *“(a) NEW MOTOR VEHICLES AND NEW MOTOR VEHI-*  
 12       *CLE ENGINES.—(1) Pursuant to section 202(a)(1), by De-*  
 13       *cember 31, 2010, the Administrator shall promulgate stand-*  
 14       *ards applicable to emissions of greenhouse gases from new*  
 15       *heavy-duty motor vehicles or new heavy-duty motor vehicle*  
 16       *engines, excluding such motor vehicles covered by the Tier*  
 17       *II standards (as established by the Administrator as of the*  
 18       *date of the enactment of this section). The Administrator*  
 19       *may revise these standards from time to time.*

20       *“(2) Regulations issued under section 202(a)(1) appli-*  
 21       *cable to emissions of greenhouse gases from new heavy-duty*  
 22       *motor vehicles or new heavy-duty motor vehicle engines, ex-*  
 23       *cluding such motor vehicles covered by the Tier II standards*  
 24       *(as established by the Administrator as of the date of the*  
 25       *enactment of this section), shall contain standards that re-*



1 *flect the greatest degree of emissions reduction achievable*  
2 *through the application of technology which the Adminis-*  
3 *trator determines will be available for the model year to*  
4 *which such standards apply, giving appropriate consider-*  
5 *ation to cost, energy, and safety factors associated with the*  
6 *application of such technology. Any such regulations shall*  
7 *take effect after such period as the Administrator finds nec-*  
8 *essary to permit the development and application of the req-*  
9 *uisite technology, and, at a minimum, shall apply for a*  
10 *period no less than 3 model years beginning no earlier than*  
11 *the model year commencing 4 years after such regulations*  
12 *are promulgated.*

13       “(3) *Regulations issued under section 202(a)(1) appli-*  
14 *cable to emissions of greenhouse gases from new heavy-duty*  
15 *motor vehicles or new heavy-duty motor vehicle engines, ex-*  
16 *cluding such motor vehicles covered by the Tier II standards*  
17 *(as established by the Administrator as of the date of the*  
18 *enactment of this section), shall supersede and satisfy any*  
19 *and all of the rulemaking and compliance requirements of*  
20 *section 32902(k) of title 49, United States Code.*

21       “(4) *Other than as specifically set forth in paragraph*  
22 *(3) of this subsection, nothing in this section shall affect*  
23 *or otherwise increase or diminish the authority of the Sec-*  
24 *retary of Transportation to adopt regulations to improve*

1 *the overall fuel efficiency of the commercial goods movement*  
2 *system.*

3       “(b) *NONROAD VEHICLES AND ENGINES.*—(1) *Pursu-*  
4 *ant to section 213(a)(4) and (5), the Administrator shall*  
5 *identify those classes or categories of new nonroad vehicles*  
6 *or engines, or combinations of such classes or categories,*  
7 *that, in the judgment of the Administrator, both contribute*  
8 *significantly to the total emissions of greenhouse gases from*  
9 *nonroad engines and vehicles, and provide the greatest po-*  
10 *tential for significant and cost-effective reductions in emis-*  
11 *sions of greenhouse gases. The Administrator shall promul-*  
12 *gate standards applicable to emissions of greenhouse gases*  
13 *from these new nonroad engines or vehicles by December*  
14 *31, 2012. The Administrator shall also promulgate stand-*  
15 *ards applicable to emissions of greenhouse gases for such*  
16 *other classes and categories of new nonroad vehicles and en-*  
17 *gines as the Administrator determines appropriate and in*  
18 *the timeframe the Administrator determines appropriate.*  
19 *The Administrator shall base such determination, among*  
20 *other factors, on the relative contribution of greenhouse gas*  
21 *emissions, and the costs for achieving reductions, from such*  
22 *classes or categories of new nonroad engines and vehicles.*  
23 *The Administrator may revise these standards from time*  
24 *to time.*

1       “(2) *Standards under section 213(a)(4) and (5) appli-*  
2 *cable to emissions of greenhouse gases from those classes or*  
3 *categories of new nonroad engines or vehicles identified in*  
4 *the first sentence of paragraph (1) of this subsection, shall*  
5 *achieve the greatest degree of emissions reduction achievable*  
6 *based on the application of technology which the Adminis-*  
7 *trator determines will be available at the time such stand-*  
8 *ards take effect, taking into consideration cost, energy, and*  
9 *safety factors associated with the application of such tech-*  
10 *nology. Any such regulations shall take effect at the earliest*  
11 *possible date after such period as the Administrator finds*  
12 *necessary to permit the development and application of the*  
13 *requisite technology, giving appropriate consideration to*  
14 *the cost of compliance within such period, the applicable*  
15 *compliance dates for other standards, and other appropriate*  
16 *factors, including the period of time appropriate for the*  
17 *transfer of applicable technology from other applications,*  
18 *including motor vehicles, and the period of time in which*  
19 *previously promulgated regulations have been in effect.*

20       “(3) *For purposes of this section and standards under*  
21 *section 213(a)(4) or (5) applicable to emissions of green-*  
22 *house gases, the term ‘nonroad engines and vehicles’ shall*  
23 *include non-internal combustion engines and the vehicles*  
24 *these engines power (such as electric engines and electric*  
25 *vehicles), for those non-internal combustion engines and ve-*

1 *hicles which would be in the same category and have the*  
 2 *same uses as nonroad engines and vehicles that are powered*  
 3 *by internal combustion engines.*

4       “(c) *AVERAGING, BANKING, AND TRADING OF EMIS-*  
 5 *SIONS CREDITS.—In establishing standards applicable to*  
 6 *emissions of greenhouse gases pursuant to this section and*  
 7 *sections 202(a), 213(a)(4) and (5), and 231(a), the Admin-*  
 8 *istrator may establish provisions for averaging, banking,*  
 9 *and trading of greenhouse gas emissions credits within or*  
 10 *across classes or categories of motor vehicles and motor vehi-*  
 11 *cle engines, nonroad vehicles and engines (including marine*  
 12 *vessels), and aircraft and aircraft engines, to the extent the*  
 13 *Administrator determines appropriate and considering the*  
 14 *factors appropriate in setting standards under those sec-*  
 15 *tions. Such provisions may include reasonable and appro-*  
 16 *priate provisions concerning generation, banking, trading,*  
 17 *duration, and use of credits.*

18       “(d) *REPORTS.—The Administrator shall, from time*  
 19 *to time, submit a report to Congress that projects the*  
 20 *amount of greenhouse gas emissions from the transportation*  
 21 *sector, including transportation fuels, for the years 2030*  
 22 *and 2050, based on the standards adopted under this sec-*  
 23 *tion.*

1       “(e) *GREENHOUSE GASES*.—Notwithstanding the pro-  
 2       visions of section 711, hydrofluorocarbons shall be consid-  
 3       ered a greenhouse gas for purposes of this section.”.

4       **SEC. 112. GREENHOUSE GAS EMISSION REDUCTIONS**  
 5               **THROUGH TRANSPORTATION EFFICIENCY.**

6       (a) *ENVIRONMENTAL PROTECTION AGENCY*.—Title  
 7       VIII of the Clean Air Act (as amended by section 111 of  
 8       this division) is amended by adding at the end the fol-  
 9       lowing:

10       **“PART C—TRANSPORTATION EMISSIONS**

11       **“SEC. 831. GREENHOUSE GAS EMISSION REDUCTIONS**  
 12               **THROUGH TRANSPORTATION EFFICIENCY.**

13       “(a) *IN GENERAL*.—The Administrator, in consulta-  
 14       tion with the Secretary of Transportation (referred to in  
 15       this part as the ‘Secretary’), shall promulgate, and update  
 16       from time to time, regulations to establish—

17               “(1) national transportation-related greenhouse  
 18       gas emission reduction goals that are commensurate  
 19       with the emission reduction goals established under  
 20       the Clean Energy Jobs and American Power Act and  
 21       amendments made by that Act;

22               “(2) standardized emission models and related  
 23       methods, to be used by States, metropolitan planning  
 24       organizations, and air quality agencies to address  
 25       emission reduction goals, including—

1           “(A) the development of surface transpor-  
 2           tation-related greenhouse gas emission reduction  
 3           targets pursuant to sections 134 and 135 of title  
 4           23, and sections 5303 and 5304 of title 49,  
 5           United States Code;

6           “(B) the assessment of projected surface  
 7           transportation-related greenhouse gas emissions  
 8           from transportation strategies;

9           “(C) the assessment of projected surface  
 10          transportation-related greenhouse gas emissions  
 11          from State and regional transportation plans;

12          “(D) the establishment of surface transpor-  
 13          tation-related greenhouse gas emission baselines  
 14          at a national, State, and regional levels; and

15          “(E) the measurement and assessment of ac-  
 16          tual surface transportation-related emissions to  
 17          assess progress toward achievement of emission  
 18          targets at the State and regional levels;

19          “(3) methods for collection of data on transpor-  
 20          tation-related greenhouse gas emissions; and

21          “(4) publication and distribution of successful  
 22          strategies employed by States, Indian tribes, metro-  
 23          politan planning organizations, and other entities to  
 24          reduce transportation-related greenhouse gas emis-  
 25          sions.

1       “(b) *ROLE OF DEPARTMENT OF TRANSPORTATION.—*  
 2       *The Secretary, in consultation with the Administrator,*  
 3       *shall promulgate, and update from time to time, regula-*  
 4       *tions—*

5               “(1) *to improve the ability of transportation*  
 6       *planning models and tools, including travel demand*  
 7       *models, to address greenhouse gas emissions;*

8               “(2) *to assess projected surface transportation-re-*  
 9       *lated travel activity and transportation strategies*  
 10       *from State and regional transportation plans; and*

11               “(3) *to update transportation planning require-*  
 12       *ments and approval of transportation plans as nec-*  
 13       *essary to carry out this section.*

14       “(c) *CONSULTATION AND MODELS.—In promulgating*  
 15       *the regulations, the Administrator and the Secretary—*

16               “(1) *shall consult with States, Indian tribes,*  
 17       *metropolitan planning organizations, and air quality*  
 18       *agencies;*

19               “(2) *may use existing models and methodologies*  
 20       *if the models and methodologies are widely considered*  
 21       *to reflect the best practicable modeling or methodo-*  
 22       *logical approach for assessing actual and projected*  
 23       *transportation-related greenhouse gas emissions from*  
 24       *transportation plans and projects; and*

1           “(3) shall consider previously developed plans  
 2           that were based on models and methodologies for re-  
 3           ducing greenhouse gas emissions in applying those  
 4           regulations to the first approvals after promulgation.

5           “(d) *TIMING.*—The Administrator and the Secretary  
 6 shall—

7           “(1) publish proposed regulations under sub-  
 8           sections (a) and (b) not later than 1 year after the  
 9           date of enactment of this section; and

10           “(2) promulgate final regulations under sub-  
 11           sections (a) and (b) not later than 18 months after  
 12           the date of enactment of this section.

13           “(e) *ASSESSMENT.*—

14           “(1) *IN GENERAL.*—At least every 6 years after  
 15           promulgating final regulations under subsections (a)  
 16           and (b), the Administrator and the Secretary shall  
 17           jointly assess current and projected progress in reduc-  
 18           ing national transportation-related greenhouse gas  
 19           emissions.

20           “(2) *REQUIREMENTS.*—The assessment shall ex-  
 21           amine the contributions to emission reductions attrib-  
 22           utable to—

23                   “(A) improvements in vehicle efficiency;

24                   “(B) greenhouse gas performance of trans-  
 25           portation fuels;



1                   “(C) reductions in vehicle miles traveled;

2                   “(D) changes in consumer demand and use  
3 of transportation management systems; and

4                   “(E) any other greenhouse gas-related  
5 transportation policies enacted by Congress.

6                   “(3) RESULTS OF ASSESSMENT.—The Secretary  
7 and the Administrator shall consider—

8                   “(A) the results of the assessment conducted  
9 under this subsection; and

10                   “(B) based on those results, whether tech-  
11 nical or other updates to regulations required  
12 under this section and sections 134 and 135 of  
13 title 23, and sections 5303 and 5304 of title 49,  
14 United States Code, are necessary.”.

15                   (b) METROPOLITAN PLANNING ORGANIZATIONS.—

16                   (1) TITLE 23.—Section 134 of title 23, United  
17 States Code, is amended—

18                   (A) in subsection (a)(1)—

19                   (i) by striking “minimizing” and in-  
20 serting “reducing”; and

21                   (ii) by inserting “, reliance on oil, im-  
22 pacts on the environment, transportation-  
23 related greenhouse gas emissions,” after  
24 “consumption”;

25                   (B) in subsection (h)(1)(E)—

1           (i) by inserting “sustainability, and  
 2           livability, reduce surface transportation-re-  
 3           lated greenhouse gas emissions and reliance  
 4           on oil, adapt to the effects of climate  
 5           change,” after “energy conservation,”;

6           (ii) by inserting “and public health”  
 7           after “quality of life”; and

8           (iii) by inserting “, including housing  
 9           and land use patterns” after “development  
 10          patterns”;

11       (C) in subsection (i)—

12           (i) in paragraph (4)(A)—

13               (I) by striking “consult, as appro-  
 14               priate,” and inserting “cooperate”;

15               (II) by inserting “transportation,  
 16               public transportation, air quality, and  
 17               housing, and shall consult, as appro-  
 18               priate, with State and local agencies  
 19               and Indian tribes responsible for” after  
 20               “responsible for” and

21               (III) by inserting “public health,”  
 22               after “conservation,”; and

23           (ii) in paragraph (5)(C)(iii), by in-  
 24           serting “and through the website of the met-  
 25           ropolitan planning organization, including

1           *emission reduction targets and strategies de-*  
 2           *veloped under subsection (k)(6), including*  
 3           *an analysis of the anticipated effects of the*  
 4           *targets and strategies,” after “World Wide*  
 5           *Web”; and*

6           *(D) in subsection (k), by adding at the end*  
 7           *the following:*

8           “(6) *TRANSPORTATION GREENHOUSE GAS RE-*  
 9           *DUCTION EFFORTS.—*

10           “(A) *IN GENERAL.—*Within a metropolitan  
 11           *planning area serving a transportation manage-*  
 12           *ment area, the transportation planning process*  
 13           *under this section shall address transportation-*  
 14           *related greenhouse gas emissions by including*  
 15           *emission reduction targets and strategies to meet*  
 16           *those targets.*

17           “(B) *ELIGIBLE ORGANIZATIONS.—*

18           “(i) *MPOS WITHIN TMAS.—*All provi-  
 19           *sions and requirements of this section, in-*  
 20           *cluding the requirements of the transpor-*  
 21           *tation greenhouse gas reduction efforts, shall*  
 22           *apply to metropolitan planning organiza-*  
 23           *tions that also serve as transportation man-*  
 24           *agement areas.*

1           “(ii) *OTHER MPOS.*—*A metropolitan*  
 2           *planning organization that does not serve*  
 3           *as a transportation management area—*

4                   “(I) *may develop transportation*  
 5                   *greenhouse gas emission reduction tar-*  
 6                   *gets and strategies to meet those tar-*  
 7                   *gets; and*

8                   “(II) *if those targets and strate-*  
 9                   *gies are developed, shall be subject to*  
 10                  *all applicable provisions and require-*  
 11                  *ments of this section and the Clean*  
 12                  *Energy Jobs and American Power Act,*  
 13                  *including requirements of the transpor-*  
 14                  *tation greenhouse gas reduction efforts.*

15           “(C) *ESTABLISHMENT OF TARGETS AND*  
 16           *CRITERIA.*—

17                   “(i) *IN GENERAL.*—*Not later than 2*  
 18                   *years after the promulgation of the final*  
 19                   *regulations required under section 831 of*  
 20                   *the Clean Air Act, each metropolitan plan-*  
 21                   *ning organization that also serves as a*  
 22                   *transportation management area shall de-*  
 23                   *velop surface transportation-related green-*  
 24                   *house gas emission reduction targets, as well*  
 25                   *as strategies to meet those targets, in con-*

1            *sultation with State air agencies and In-*  
2            *dian tribes as part of the metropolitan*  
3            *transportation planning process under this*  
4            *section.*

5            “(ii) *MULTIPLE DESIGNATIONS.—If*  
6            *more than 1 metropolitan planning organi-*  
7            *zation has been designated within a metro-*  
8            *politan area, each metropolitan planning*  
9            *organization shall coordinate with other*  
10           *metropolitan planning organizations in the*  
11           *same metropolitan area to develop the tar-*  
12           *gets and strategies described in clause (i).*

13           “(iii) *MINIMUM REQUIREMENTS.—*  
14           *Each metropolitan transportation plan de-*  
15           *veloped by a metropolitan planning organi-*  
16           *zation under clause (i) shall, within the*  
17           *plan, demonstrate progress in stabilizing*  
18           *and reducing transportation-related green-*  
19           *house gas emissions so as to contribute to*  
20           *the achievement of State targets pursuant to*  
21           *section 135(f)(9).*

22           “(iv) *REQUIREMENTS FOR TARGETS*  
23           *AND STRATEGIES.—The targets and strate-*  
24           *gies developed under this subparagraph*  
25           *shall, at a minimum—*

1           “(I) be based on the emission and  
2           travel demand models and related  
3           methodologies established in the final  
4           regulations required under section 831  
5           of the Clean Air Act;

6           “(II) inventory all sources of sur-  
7           face transportation-related greenhouse  
8           gas emissions;

9           “(III) apply to those modes of  
10          surface transportation that are ad-  
11          dressed in the planning process under  
12          this section;

13          “(IV) be integrated and consistent  
14          with regional transportation plans and  
15          transportation improvement programs;  
16          and

17          “(V) be selected through scenario  
18          analysis, and include, pursuant to the  
19          requirements of the transportation  
20          planning process under this section,  
21          transportation investment and man-  
22          agement strategies that reduce green-  
23          house gas emissions from the transpor-  
24          tation sector over the life of the plan,  
25          such as—

1           “(aa) efforts to increase pub-  
2           lic transportation ridership, in-  
3           cluding through service improve-  
4           ments, capacity expansions, and  
5           access enhancement;

6           “(bb) efforts to increase walk-  
7           ing, bicycling, and other forms of  
8           nonmotorized transportation;

9           “(cc) implementation of zon-  
10          ing and other land use regulations  
11          and plans to support infill, tran-  
12          sit-oriented development, redevel-  
13          opment, or mixed use develop-  
14          ment;

15          “(dd) travel demand man-  
16          agement programs (including car-  
17          pool, vanpool, or car-share  
18          projects), transportation pricing  
19          measures, parking policies, and  
20          programs to promote telecom-  
21          muting, flexible work schedules,  
22          and satellite work centers;

23          “(ee) surface transportation  
24          system operation improvements,  
25          including intelligent transpor-

1            *tation systems or other oper-*  
2            *ational improvements to reduce*  
3            *long-term greenhouse gas emis-*  
4            *sions through reduced congestion*  
5            *and improved system manage-*  
6            *ment;*

7            *“(ff) intercity passenger rail*  
8            *improvements;*

9            *“(gg) intercity bus improve-*  
10          *ments;*

11          *“(hh) freight rail improve-*  
12          *ments;*

13          *“(ii) use of materials or*  
14          *equipment associated with the*  
15          *construction or maintenance of*  
16          *transportation projects that re-*  
17          *duce greenhouse gas emissions;*

18          *“(jj) public facilities for sup-*  
19          *plying electricity to electric or*  
20          *plug-in hybrid-electric vehicles; or*

21          *“(kk) any other effort that*  
22          *demonstrates progress in reducing*  
23          *transportation-related greenhouse*  
24          *gas emissions in each metropoli-*



1                    *tan planning organization under*  
2                    *this subsection.*

3                    “(D) *REVIEW AND APPROVAL.*—*Not later*  
4                    *than 180 days after the date of submission of a*  
5                    *plan under this section—*

6                    “(i) *the Secretary and the Adminis-*  
7                    *trator shall review the plan; and*

8                    “(ii) *the Secretary shall make a deter-*  
9                    *mination that the plan submitted by a met-*  
10                    *ropolitan planning organization meets the*  
11                    *requirements of subparagraph (C) if—*

12                    “(I) *the Secretary finds that a*  
13                    *metropolitan planning organization*  
14                    *has developed, submitted, and pub-*  
15                    *lished the plan of the metropolitan*  
16                    *planning organization pursuant to this*  
17                    *section;*

18                    “(II) *the Secretary, in consulta-*  
19                    *tion with the Administrator, deter-*  
20                    *mines that the plan is likely to achieve*  
21                    *the targets established by the metro-*  
22                    *politan planning organization under*  
23                    *this subsection; and*

24                    “(III) *the development of the plan*  
25                    *complies with the minimum require-*

1                    *ments established under clauses (iii)*  
 2                    *and (iv) of subparagraph (C).*

3                    “(E) *CERTIFICATION.*—

4                    “(i) *IN GENERAL.*—*Only metropolitan*  
 5                    *planning organizations that meet the re-*  
 6                    *quirements of subparagraph (C) shall be eli-*  
 7                    *gible to receive performance grants under*  
 8                    *section 113(c).*

9                    “(ii) *FAILURE TO COMPLY.*—*Failure to*  
 10                    *comply with the requirements under sub-*  
 11                    *paragraph (C) shall not impact certifi-*  
 12                    *cation standards under paragraph (5).*

13                    “(7) *DEFINITION OF METROPOLITAN PLANNING*  
 14                    *ORGANIZATION.*—*In this subsection, the term ‘metro-*  
 15                    *politan planning organization’ means a metropolitan*  
 16                    *planning organization described in clause (i) or (ii)*  
 17                    *of paragraph (6)(B).*

18                    “(8) *SCENARIO ANALYSIS.*—*The term ‘scenario*  
 19                    *analysis’ means the use of a planning tool that—*

20                    “(A) *develops a range of scenarios rep-*  
 21                    *resenting various combinations of transportation*  
 22                    *and land use strategies, and estimates of how*  
 23                    *each of those scenarios would perform in meeting*  
 24                    *the greenhouse gas emission reduction targets*  
 25                    *based on analysis of various forces (such as*

1           *health, transportation, economic or environ-*  
 2           *mental factors, and land use) that affect growth;*

3           “(B) may include features such as—

4                 “(i) the involvement of the general pub-  
 5                 *lic, key stakeholders, and elected officials on*  
 6                 *a broad scale;*

7                 “(ii) the creation of an opportunity for  
 8                 *those participants to educate each other as*  
 9                 *to growth trends and trade-offs, as a means*  
 10                *to incorporate values and feedback into fu-*  
 11                *ture plans; and*

12                “(iii) the use of continuing efforts and  
 13                *ongoing processes; and*

14           “(C) may include key elements such as—

15                 “(i) identification of the driving forces  
 16                 *behind planning decisions and outcomes;*

17                 “(ii) determination of patterns of  
 18                 *interaction;*

19                 “(iii) creation of scenarios for discus-  
 20                 *sion purposes;*

21                 “(iv) analysis of implications;

22                 “(v) evaluation of scenarios; and

23                 “(vi) use of monitoring indicators.”.

24           (2) *TITLE 49.—Section 5303 of title 49, United*  
 25           *States Code, is amended—*

1                   (A) in subsection (a)(1)—

2                   (i) by striking “minimizing” and in-  
3                   serting “reducing”; and

4                   (ii) by inserting “, reliance on oil, im-  
5                   pacts on the environment, transportation-  
6                   related greenhouse gas emissions,” after  
7                   “consumption”;

8                   (B) in subsection (h)(1)(E)—

9                   (i) by inserting “sustainability, and  
10                  livability, reduce surface transportation-re-  
11                  lated greenhouse gas emissions and reliance  
12                  on oil, adapt to the effects of climate  
13                  change,” after “energy conservation,”;

14                  (ii) by inserting “and public health”  
15                  after “quality of life”; and

16                  (iii) by inserting “, including housing  
17                  and land use patterns” after “development  
18                  patterns”;

19                  (C) in subsection (i)—

20                  (i) in paragraph (4)(A)—

21                   (I) by striking “consult, as appro-  
22                   priate,” and inserting “cooperate”;

23                   (II) by inserting “transportation,  
24                   public transportation, air quality, and  
25                   housing, and shall consult, as appro-

1                    *priate, with State and local agencies*  
 2                    *and Indian tribes responsible for” after*  
 3                    *“responsible for” and*  
 4                    *(III) by inserting “public health,”*  
 5                    *after “conservation,”; and*  
 6                    *(ii) in paragraph (5)(C)(iii), by in-*  
 7                    *serting “and through the website of the met-*  
 8                    *ropolitan planning organization, including*  
 9                    *emission reduction targets and strategies de-*  
 10                    *veloped under subsection (k)(6), including*  
 11                    *an analysis of the anticipated effects of the*  
 12                    *targets and strategies,” after “World Wide*  
 13                    *Web”; and*  
 14                    *(D) in subsection (k), by adding at the end*  
 15                    *the following:*

16                    *“(6) TRANSPORTATION GREENHOUSE GAS RE-*  
 17                    *DUCTION EFFORTS.—*

18                    *“(A) IN GENERAL.—Within a metropolitan*  
 19                    *planning area serving a transportation manage-*  
 20                    *ment area, the transportation planning process*  
 21                    *under this section shall address transportation-*  
 22                    *related greenhouse gas emissions by including*  
 23                    *emission reduction targets and strategies to meet*  
 24                    *those targets.*

25                    *“(B) ELIGIBLE ORGANIZATIONS.—*

1           “(i) *IN GENERAL.*—*The requirements*  
 2           *of the transportation greenhouse gas reduc-*  
 3           *tion efforts shall apply only to metropolitan*  
 4           *planning organizations within a transpor-*  
 5           *tation management area.*

6           “(ii) *DEVELOPMENT OF PLAN.*—*A met-*  
 7           *ropolitan planning organization that does*  
 8           *not serve as a transportation management*  
 9           *area—*

10           “(I) *may develop transportation*  
 11           *greenhouse gas emission reduction tar-*  
 12           *gets and strategies to meet those tar-*  
 13           *gets; and*

14           “(II) *if those targets and strate-*  
 15           *gies are developed, shall be subject to*  
 16           *all provisions and requirements of this*  
 17           *section, including requirements of the*  
 18           *transportation greenhouse gas reduc-*  
 19           *tion efforts.*

20           “(C) *ESTABLISHMENT OF TARGETS AND*  
 21           *CRITERIA.*—

22           “(i) *IN GENERAL.*—*Not later than 2*  
 23           *years after the promulgation of the final*  
 24           *regulations required under section 831 of*  
 25           *the Clean Air Act, each metropolitan plan-*

1            *ning organization shall develop surface*  
2            *transportation-related greenhouse gas emis-*  
3            *sion reduction targets, as well as strategies*  
4            *to meet those targets, in consultation with*  
5            *State air agencies and Indian tribes as part*  
6            *of the metropolitan transportation planning*  
7            *process under this section.*

8            “(ii)    *MULTIPLE    DESIGNATIONS.—If*  
9            *more than 1 metropolitan planning organi-*  
10           *zation has been designated within a metro-*  
11           *politan area, each metropolitan planning*  
12           *organization shall coordinate with other*  
13           *metropolitan planning organizations in the*  
14           *same metropolitan area to develop the tar-*  
15           *gets and strategies described in clause (i).*

16           “(iii)    *MINIMUM    REQUIREMENTS.—*  
17           *Each metropolitan transportation plan de-*  
18           *veloped by a metropolitan planning organi-*  
19           *zation under clause (i) shall, within the*  
20           *plan, demonstrate progress in stabilizing*  
21           *and reducing transportation-related green-*  
22           *house gas emissions so as to contribute to*  
23           *the achievement of State targets pursuant to*  
24           *section 135(f)(9) of title 23.*

1                   “(iv) *REQUIREMENTS FOR TARGETS*  
2                   *AND STRATEGIES.*—*The targets and strate-*  
3                   *gies developed under this subparagraph*  
4                   *shall, at a minimum—*

5                   “(I) *be based on the emission*  
6                   *models and related methodologies estab-*  
7                   *lished in the final regulations required*  
8                   *under section 831 of the Clean Air Act;*

9                   “(II) *inventory all sources of sur-*  
10                  *face transportation-related greenhouse*  
11                  *gas emissions;*

12                  “(III) *apply to those modes of*  
13                  *surface transportation that are ad-*  
14                  *dresssed in the planning process under*  
15                  *this section;*

16                  “(IV) *be integrated and consistent*  
17                  *with regional transportation plans and*  
18                  *transportation improvement programs;*  
19                  *and*

20                  “(V) *be selected through scenario*  
21                  *analysis (as defined in section 134(k)*  
22                  *of title 23), and include, pursuant to*  
23                  *the requirements of the transportation*  
24                  *planning process under this section,*  
25                  *transportation investment and man-*



1            *agement strategies that reduce green-*  
2            *house gas emissions from the transpor-*  
3            *tation sector over the life of the plan,*  
4            *such as—*

5                    *“(aa) efforts to increase pub-*  
6                    *lic transportation ridership, in-*  
7                    *cluding through service improve-*  
8                    *ments, capacity expansions, and*  
9                    *access enhancement;*

10                   *“(bb) efforts to increase walk-*  
11                   *ing, bicycling, and other forms of*  
12                   *nonmotorized transportation;*

13                   *“(cc) implementation of zon-*  
14                   *ing and other land use regulations*  
15                   *and plans to support infill, tran-*  
16                   *sit-oriented development, redevel-*  
17                   *opment, or mixed use develop-*  
18                   *ment;*

19                   *“(dd) travel demand man-*  
20                   *agement programs (including car-*  
21                   *pool, vanpool, or car-share*  
22                   *projects), transportation pricing*  
23                   *measures, parking policies, and*  
24                   *programs to promote telecom-*

1           *muting, flexible work schedules,*  
2           *and satellite work centers;*

3                   “(ee) *surface transportation*  
4           *system operation improvements,*  
5           *including intelligent transpor-*  
6           *tation systems or other oper-*  
7           *ational improvements to reduce*  
8           *long-term greenhouse gas emis-*  
9           *sions through reduced congestion*  
10          *and improved system manage-*  
11          *ment;*

12                   “(ff) *intercity passenger rail*  
13          *improvements;*

14                   “(gg) *intercity bus improve-*  
15          *ments;*

16                   “(hh) *freight rail improve-*  
17          *ments;*

18                   “(ii) *use of materials or*  
19          *equipment associated with the*  
20          *construction or maintenance of*  
21          *transportation projects that re-*  
22          *duce greenhouse gas emissions;*

23                   “(jj) *public facilities for sup-*  
24          *plying electricity to electric or*  
25          *plug-in hybrid-electric vehicles; or*

1                   “(kk) any other effort that  
 2                   demonstrates progress in reducing  
 3                   transportation-related greenhouse  
 4                   gas emissions in each metropoli-  
 5                   tan planning organization under  
 6                   this subsection.

7                   “(D) REVIEW AND APPROVAL.—Not later  
 8                   than 180 days after the date of submission of a  
 9                   plan under this section—

10                   “(i) the Secretary and the Adminis-  
 11                   trator shall review the plan; and

12                   “(ii) the Secretary shall make a deter-  
 13                   mination that the plan submitted by a met-  
 14                   ropolitan planning organization meets the  
 15                   requirements of subparagraph (C) if—

16                   “(I) the Secretary finds that a  
 17                   metropolitan planning organization  
 18                   has developed, submitted, and pub-  
 19                   lished the plan of the metropolitan  
 20                   planning organization pursuant to this  
 21                   section;

22                   “(II) the Secretary, in consulta-  
 23                   tion with the Administrator, deter-  
 24                   mines that the plan is likely to achieve  
 25                   the targets established by the metro-

1                    *politan planning organization under*  
 2                    *this subsection; and*

3                    “(III) *the development of the plan*  
 4                    *complies with the minimum require-*  
 5                    *ments established under clauses (iii)*  
 6                    *and (iv) of subparagraph (C).*

7                    “(E) *CERTIFICATION.—*

8                    “(i) *IN GENERAL.—Only metropolitan*  
 9                    *planning organizations that meet the re-*  
 10                    *quirements of subparagraph (C) shall be eli-*  
 11                    *gible to receive performance grants under*  
 12                    *section 113(c).*

13                    “(ii) *FAILURE TO COMPLY.—Failure to*  
 14                    *comply with the requirements under sub-*  
 15                    *paragraph (C) shall not impact certifi-*  
 16                    *cation standards under paragraph (5).*

17                    “(7) *DEFINITION OF METROPOLITAN PLANNING*  
 18                    *ORGANIZATION.—In this subsection, the term ‘metro-*  
 19                    *politan planning organization’ means a metropolitan*  
 20                    *planning organization described in clause (i) or (ii)*  
 21                    *of paragraph (6)(B).”.*

22                    (c) *STATES.—*

23                    (1) *TITLE 23.—Section 135 of title 23, United*  
 24                    *States Code, is amended—*

25                    (A) *in subsection (d)(1)(E)—*

1           (i) by inserting “sustainability, and  
 2           livability, reduce surface transportation-re-  
 3           lated greenhouse gas emissions and reliance  
 4           on oil, adapt to the effects of climate  
 5           change,” after “energy conservation,”;

6           (ii) by inserting “and public health”  
 7           after “quality of life”; and

8           (iii) by inserting “, including housing  
 9           and land use patterns” after “development  
 10          patterns”; and

11       (B) in subsection (f)—

12           (i) in paragraph (2)(D)(i)—

13               (I) by striking “, as appropriate,  
 14               in consultation” and inserting “in co-  
 15               operation”;

16               (II) by inserting “State and local  
 17               agencies and Indian tribes responsible  
 18               for transportation, public transpor-  
 19               tation, air quality, and housing and in  
 20               consultation with” before “State, trib-  
 21               al”; and

22               (III) by inserting “public health,”  
 23               after “conservation,”;

24           (ii) in paragraph (3)(B)(iii), by in-  
 25           serting “and through the website of the

1           *State, including emission reduction targets*  
 2           *and strategies developed under paragraph*  
 3           *(9) and an analysis of the anticipated ef-*  
 4           *fects of the targets and strategies” after*  
 5           *“World Wide Web”; and*

6                     *(iii) by adding at the end the fol-*  
 7           *lowing:*

8           “(9) *TRANSPORTATION GREENHOUSE GAS RE-*  
 9           *DUCTION EFFORTS.—*

10                   “(A) *IN GENERAL.—Within a State, the*  
 11           *transportation planning process under this sec-*  
 12           *tion, shall address transportation-related green-*  
 13           *house gas emissions by including emission reduc-*  
 14           *tion targets and strategies to meet those targets.*

15                   “(B) *ESTABLISHMENT OF TARGETS AND*  
 16           *CRITERIA.—*

17                   “(i) *IN GENERAL.—Not later than 2*  
 18           *years after the promulgation of the final*  
 19           *regulations required under section 831 of*  
 20           *the Clean Air Act, each State shall develop*  
 21           *surface transportation-related greenhouse*  
 22           *gas emission reduction targets, as well as*  
 23           *strategies to meet those targets, in consulta-*  
 24           *tion with State air agencies and Indian*

1        *tribes as part of the transportation plan-*  
 2        *ning process under this section.*

3                “(ii) *MINIMUM REQUIREMENTS.—Each*  
 4        *transportation plan developed by a State*  
 5        *under clause (i) shall, within the plan, dem-*  
 6        *onstrate progress in stabilizing and reduc-*  
 7        *ing transportation-related greenhouse gas*  
 8        *emissions in the State so as to contribute to*  
 9        *the achievement of national goals pursuant*  
 10       *to section 831(a)(1) of the Clean Air Act.*

11               “(iii) *REQUIREMENTS FOR TARGETS*  
 12        *AND STRATEGIES.—The targets and strate-*  
 13        *gies developed under this subparagraph*  
 14        *shall, at a minimum—*

15               “(I) *be based on the emission*  
 16        *models and related methodologies estab-*  
 17        *lished in the final regulations required*  
 18        *under section 831 of the Clean Air Act;*

19               “(II) *inventory all sources of sur-*  
 20        *face transportation-related greenhouse*  
 21        *gas emissions;*

22               “(III) *apply to those modes of*  
 23        *surface transportation that are ad-*  
 24        *dressed in the planning process under*  
 25        *this section;*

1           “(IV) be integrated and consistent  
2           with statewide transportation plans  
3           and statewide transportation improve-  
4           ment programs; and

5           “(V) be selected through scenario  
6           analysis (as defined in section 134(k)),  
7           and include, pursuant to the require-  
8           ments of the transportation planning  
9           process under this section, transpor-  
10          tation investment and management  
11          strategies that reduce greenhouse gas  
12          emissions from the transportation sec-  
13          tor over the life of the plan, such as—

14               “(aa) efforts to increase pub-  
15               lic transportation ridership, in-  
16               cluding through service improve-  
17               ments, capacity expansions, and  
18               access enhancement;

19               “(bb) efforts to increase walk-  
20               ing, bicycling, and other forms of  
21               nonmotorized transportation;

22               “(cc) implementation of zon-  
23               ing and other land use regulations  
24               and plans to support infill, tran-  
25               sit-oriented development, redevel-



1            *opment, or mixed use develop-*  
2            *ment;*

3            *“(dd) travel demand man-*  
4            *agement programs (including car-*  
5            *pool, vanpool, or car-share*  
6            *projects), transportation pricing*  
7            *measures, parking policies, and*  
8            *programs to promote telecom-*  
9            *muting, flexible work schedules,*  
10           *and satellite work centers;*

11           *“(ee) surface transportation*  
12           *system operation improvements,*  
13           *including intelligent transpor-*  
14           *tation systems or other oper-*  
15           *ational improvements to reduce*  
16           *congestion and improve system*  
17           *management;*

18           *“(ff) intercity passenger rail*  
19           *improvements;*

20           *“(gg) intercity bus improve-*  
21           *ments;*

22           *“(hh) freight rail improve-*  
23           *ments;*

24           *“(ii) use of materials or*  
25           *equipment associated with the*

1                    *construction or maintenance of*  
 2                    *transportation projects that re-*  
 3                    *duce greenhouse gas emissions;*

4                    *“(jj) public facilities for sup-*  
 5                    *plying electricity to electric or*  
 6                    *plug-in hybrid-electric vehicles; or*

7                    *“(kk) any other effort that*  
 8                    *demonstrates progress in reducing*  
 9                    *transportation-related greenhouse*  
 10                   *gas emissions.*

11                   *“(C) COORDINATION AND CONSULTATION*  
 12                   *WITH PUBLIC AGENCIES.—Transportation green-*  
 13                   *house gas targets and plans pursuant to this sec-*  
 14                   *tion shall be developed—*

15                   *“(i) in coordination with—*

16                   *“(I) all metropolitan planning or-*  
 17                   *ganizations covered by this section*  
 18                   *within the State; and*

19                   *“(II) transportation and air qual-*  
 20                   *ity agencies within the State;*

21                   *“(ii) in consultation with representa-*  
 22                   *tives of State and local housing, economic*  
 23                   *development, and land use agencies; and*

24                   *“(iii) in consultation with Indian*  
 25                   *tribes contiguous to the State.*

1           “(D) *ENFORCEMENT.*—Not later than 180  
 2           days after the date of submission of a plan under  
 3           this section—

4                 “(i) *the Secretary and the Adminis-*  
 5                 *trator shall review the plan; and*

6                 “(ii) *the Secretary shall make a deter-*  
 7                 *mination that the plan submitted by a*  
 8                 *State meets the requirements of subpara-*  
 9                 *graph (B) if—*

10                “(I) *the Secretary finds that a*  
 11                *State has developed, submitted, and*  
 12                *published the plan pursuant to this*  
 13                *section;*

14                “(II) *the Secretary, in consulta-*  
 15                *tion with the Administrator, deter-*  
 16                *mines that the plan is likely to achieve*  
 17                *the targets established by the State*  
 18                *under this subsection; and*

19                “(III) *the development of the plan*  
 20                *complies with the minimum require-*  
 21                *ments established under clauses (ii)*  
 22                *and (iii) of subparagraph (B).*

23           “(E) *PLANNING FINDING.*—

24                 “(i) *IN GENERAL.*—Only States that  
 25                 meet the requirements of subparagraph (B)

1           *shall be eligible to receive performance*  
 2           *grants under section 113(c).*

3           “(ii) *FAILURE TO COMPLY.—Failure to*  
 4           *comply with the requirements under sub-*  
 5           *paragraph (B) shall not impact the plan-*  
 6           *ning finding under subsection (g)(7).”.*

7           (2) *TITLE 49.—Section 5304 of title 49, United*  
 8           *States Code is amended—*

9           *(A) in subsection (d)(1)(E)—*

10           *(i) by inserting “sustainability, and*  
 11           *livability, reduce surface transportation-re-*  
 12           *lated greenhouse gas emissions and reliance*  
 13           *on oil, adapt to the effects of climate*  
 14           *change,” after “energy conservation,”;*

15           *(ii) by inserting “and public health”*  
 16           *after “quality of life”; and*

17           *(iii) by inserting “, including housing*  
 18           *and land use patterns” after “development*  
 19           *patterns”; and*

20           *(B) in subsection (f)—*

21           *(i) in paragraph (2)(D)(i)—*

22           *(I) by striking “, as appropriate,*  
 23           *in consultation” and inserting “in co-*  
 24           *operation”;*

1                   (II) by inserting “State and local  
2                   agencies and Indian tribes responsible  
3                   for transportation, public transpor-  
4                   tation, air quality, and housing and in  
5                   consultation with” before “State, trib-  
6                   al”; and

7                   (III) by inserting “public health,”  
8                   after “conservation,”;

9                   (ii) in paragraph (3)(B)(iii), by in-  
10                  serting “and through the website of the  
11                  State, including emission reduction targets  
12                  and strategies developed under paragraph  
13                  (9) and an analysis of the anticipated ef-  
14                  fects of the targets and strategies” after  
15                  “World Wide Web”; and

16                  (iii) by adding at the end the fol-  
17                  lowing:

18                  “(9) *TRANSPORTATION GREENHOUSE GAS RE-*  
19                  *DUCTION EFFORTS.*—

20                  “(A) *IN GENERAL.*—Within a State, the  
21                  transportation planning process under this sec-  
22                  tion, shall address transportation-related green-  
23                  house gas emissions by including emission reduc-  
24                  tion targets and strategies to meet those targets.

1                   “(B) *ESTABLISHMENT OF TARGETS AND*  
 2                   *CRITERIA.*—

3                   “(i) *IN GENERAL.*—*Not later than 2*  
 4                   *years after the promulgation of the final*  
 5                   *regulations required under section 831 of*  
 6                   *the Clean Air Act, each State shall develop*  
 7                   *surface transportation-related greenhouse*  
 8                   *gas emission reduction targets, as well as*  
 9                   *strategies to meet those targets, in consulta-*  
 10                   *tion with State air agencies and Indian*  
 11                   *tribes as part of the transportation plan-*  
 12                   *ning process under this section.*

13                   “(ii) *MINIMUM REQUIREMENTS.*—*Each*  
 14                   *transportation plan developed by a State*  
 15                   *under clause (i) shall, within the plan, dem-*  
 16                   *onstrate progress in stabilizing and reduc-*  
 17                   *ing transportation-related greenhouse gas*  
 18                   *emissions in the State so as to contribute to*  
 19                   *the achievement of national targets pursu-*  
 20                   *ant to section 831(a)(1) of the Clean Air*  
 21                   *Act.*

22                   “(iii) *REQUIREMENTS FOR TARGETS*  
 23                   *AND STRATEGIES.*—*The targets and strate-*  
 24                   *gies developed under this subparagraph*  
 25                   *shall, at a minimum—*

1           “(I) be based on the emission  
2           models and related methodologies estab-  
3           lished in the final regulations required  
4           under section 831 of the Clean Air Act;

5           “(II) inventory all sources of sur-  
6           face transportation-related greenhouse  
7           gas emissions;

8           “(III) apply to those modes of  
9           surface transportation that are ad-  
10          dressed in the planning process under  
11          this section;

12          “(IV) be integrated and consistent  
13          with statewide transportation plans  
14          and statewide transportation improve-  
15          ment programs; and

16          “(V) be selected through scenario  
17          analysis (as defined in section 134(k)  
18          of title 23), and include, pursuant to  
19          the requirements of the transportation  
20          planning process under this section,  
21          transportation investment and man-  
22          agement strategies that reduce green-  
23          house gas emissions from the transpor-  
24          tation sector over the life of the plan,  
25          such as—

1           “(aa) efforts to increase pub-  
2           lic transportation ridership, in-  
3           cluding through service improve-  
4           ments, capacity expansions, and  
5           access enhancement;

6           “(bb) efforts to increase walk-  
7           ing, bicycling, and other forms of  
8           nonmotorized transportation;

9           “(cc) implementation of zon-  
10          ing and other land use regulations  
11          and plans to support infill, tran-  
12          sit-oriented development, redevelop-  
13          ment, or mixed use develop-  
14          ment;

15          “(dd) travel demand man-  
16          agement programs (including car-  
17          pool, vanpool, or car-share  
18          projects), transportation pricing  
19          measures, parking policies, and  
20          programs to promote telecom-  
21          muting, flexible work schedules,  
22          and satellite work centers;

23          “(ee) surface transportation  
24          system operation improvements,  
25          including intelligent transpor-



1            *tation systems or other oper-*  
 2            *ational improvements to reduce*  
 3            *congestion and improve system*  
 4            *management;*

5            *“(ff) intercity passenger rail*  
 6            *improvements;*

7            *“(gg) intercity bus improve-*  
 8            *ments;*

9            *“(hh) freight rail improve-*  
 10          *ments;*

11          *“(ii) use of materials or*  
 12          *equipment associated with the*  
 13          *construction or maintenance of*  
 14          *transportation projects that re-*  
 15          *duce greenhouse gas emissions;*

16          *“(jj) public facilities for sup-*  
 17          *plying electricity to electric or*  
 18          *plug-in hybrid-electric vehicles; or*

19          *“(kk) any other effort that*  
 20          *demonstrates progress in reducing*  
 21          *transportation-related greenhouse*  
 22          *gas emissions.*

23                    *“(C) COORDINATION AND CONSULTATION*  
 24                    *WITH PUBLIC AGENCIES.—Transportation green-*

1           *house gas targets and plans pursuant to this sec-*  
2           *tion shall be developed—*

3                   *“(i) in coordination with—*

4                           *“(I) all metropolitan planning or-*  
5                           *ganizations covered by this section*  
6                           *within the State; and*

7                           *“(II) transportation and air qual-*  
8                           *ity agencies within the State;*

9                           *“(ii) in consultation with representa-*  
10                           *tives of State and local housing, economic*  
11                           *development, and land use agencies; and*

12                           *“(iii) in consultation with Indian*  
13                           *tribes contiguous to the State.*

14                   *“(D) ENFORCEMENT.—Not later than 180*  
15                   *days after the date of submission of a plan under*  
16                   *this section—*

17                           *“(i) the Secretary and the Adminis-*  
18                           *trator shall review the plan; and*

19                           *“(ii) the Secretary shall make a deter-*  
20                           *mination that the plan submitted by a*  
21                           *State meets the requirements of subpara-*  
22                           *graph (B) if—*

23                           *“(I) the Secretary finds that a*  
24                           *State has developed, submitted, and*

1                   *published the plan pursuant to this*  
 2                   *section;*

3                   “(II) *the Secretary, in consulta-*  
 4                   *tion with the Administrator, deter-*  
 5                   *mines that the plan is likely to achieve*  
 6                   *the targets established by the State*  
 7                   *under this subsection; and*

8                   “(III) *the development of the plan*  
 9                   *complies with the minimum require-*  
 10                  *ments established under clauses (ii)*  
 11                  *and (iii) of subparagraph (B).*

12                  “(E) *PLANNING FINDING.—*

13                  “(i) *IN GENERAL.—Only States that*  
 14                  *meet the requirements of subparagraph (B)*  
 15                  *shall be eligible to receive performance*  
 16                  *grants under section 113(c).*

17                  “(ii) *FAILURE TO COMPLY.—Failure to*  
 18                  *comply with the requirements under sub-*  
 19                  *paragraph (B) shall not impact the plan-*  
 20                  *ning finding under subsection (g)(7).”.*

21                  “(d) *APPLICABILITY.—Section 304 of the Clean Air Act*  
 22                  *(42 U.S.C. 7604) shall not apply to the planning provisions*  
 23                  *of this section or any amendment made by this section.*

24                  “(e) *LAND USE AUTHORITY.—Nothing in this section*  
 25                  *or an amendment made by this section—*

- 1           (1) *infringes on the existing authority of local*  
 2           *governments to plan or control land use; or*  
 3           (2) *provides or transfers authority over land use*  
 4           *to any other entity.*

5   **SEC. 113. TRANSPORTATION GREENHOUSE GAS EMISSION**  
 6           **REDUCTION PROGRAM GRANTS.**

7           *Part C of title VIII of the Clean Air Act (as amended*  
 8           *by section 112) is amended by adding at the end the fol-*  
 9           *lowing:*

10   **“SEC. 832. TRANSPORTATION GREENHOUSE GAS EMISSION**  
 11           **REDUCTION PROGRAM GRANTS.**

12           “(a) *IN GENERAL.*—*The Secretary of Transportation*  
 13           *(referred to in this section as the ‘Secretary’)* *shall provide*  
 14           *grants to States and metropolitan planning organizations*  
 15           *to carry out the purposes of this section for each fiscal*  
 16           *year—*

17                   “(1) *to support the developing and updating of*  
 18                   *transportation greenhouse gas reduction targets and*  
 19                   *strategies; and*

20                   “(2) *to provide financial assistance to implement*  
 21                   *plans approved pursuant to—*

22                           “(A) *sections 134(k)(6) and 135(f)(9) of*  
 23                           *title 23, United States Code; and*

24                           “(B) *sections 5303(k)(6) and 5304(f)(9) of*  
 25                           *title 49, United States Code.*

1 “(b) *PLANNING GRANTS.*—

2 “(1) *IN GENERAL.*—*Subject to paragraph (2), the*  
 3 *Secretary shall allocate not more than 10 percent of*  
 4 *the funds available to carry out this section for a fis-*  
 5 *cal year for metropolitan planning organizations to*  
 6 *develop and update transportation plans, including*  
 7 *targets and strategies for greenhouse gas emission re-*  
 8 *duction under—*

9 “(A) *sections 134(k)(6) and 135(f)(9) of*  
 10 *title 23, United States Code; and*

11 “(B) *sections 5303(k)(6) and 5304(f)(9) of*  
 12 *title 49, United States Code.*

13 “(2) *ELIGIBLE ORGANIZATIONS.*—*The Secretary*  
 14 *shall distribute the funds available in (1) to metro-*  
 15 *politan planning organizations (as defined in section*  
 16 *134(k)(7) of title 23, United States Code) in the pro-*  
 17 *portion that—*

18 “(A) *the population within such a metro-*  
 19 *politan planning organization; bears to*

20 “(B) *the total population of all such metro-*  
 21 *politan planning organizations.*

22 “(c) *PERFORMANCE GRANTS.*—

23 “(1) *IN GENERAL.*—*After allocating funds pursu-*  
 24 *ant to subsection (b)(1), and subject to subsection (h),*  
 25 *the Secretary shall use the remainder of amounts*

1       *made available to carry out this section to provide*  
 2       *grants to States and metropolitan planning organiza-*  
 3       *tions.*

4               “(2) *CRITERIA.—In providing grants under this*  
 5       *subsection, the Secretary, in consultation with the Ad-*  
 6       *ministrator, shall develop criteria for providing the*  
 7       *grants, taking into consideration, with respect to*  
 8       *areas to be covered by the grants—*

9               “(A) *the quantity of total greenhouse gas*  
 10       *emissions to be reduced as a result of implemen-*  
 11       *tation of a plan, within a covered area, as deter-*  
 12       *mined by methods established under section*  
 13       *831(a);*

14              “(B) *the quantity of total greenhouse gas*  
 15       *emissions to be reduced per capita as a result of*  
 16       *implementation of a plan, within the covered*  
 17       *area, as determined by methods established under*  
 18       *section 831(a);*

19              “(C) *the cost-effectiveness of reducing green-*  
 20       *house gas emissions during the life of the plan;*

21              “(D) *progress toward achieving emission re-*  
 22       *ductions target established under—*

23                       “(i) *sections 134(k)(6) and 135(f)(9) of*  
 24       *title 23, United States Code; and*

1                   “(ii)     sections     5303(k)(6)     and  
2                   5304(f)(9) of title 49, United States Code;

3                   “(E) reductions in greenhouse gas emissions  
4                   previously achieved by States and metropolitan  
5                   planning organizations during the 5-year period  
6                   beginning on the date of enactment of this Act;

7                   “(F) plans that increase transportation op-  
8                   tions and mobility, particularly for low-income  
9                   individuals, minorities, the elderly, households  
10                  without motor vehicles, cost-burdened households,  
11                  and the disabled; and

12                  “(G) other factors, including innovative ap-  
13                  proaches, minimization of costs, and consider-  
14                  ation of economic development, revenue genera-  
15                  tion, consumer fuel cost-savings, and other eco-  
16                  nomic, environmental and health benefits, as the  
17                  Secretary determines to be appropriate.

18                  “(d) *REQUIREMENT FOR REDUCED EMISSIONS.*—A  
19                  performance grant under subsection (c) may be used only  
20                  to fund strategies that demonstrate a reduction in green-  
21                  house gas emissions that is sustainable over the life of the  
22                  applicable transportation plan.

23                  “(e) *COST-SHARING.*—The Federal share of the costs of  
24                  a project receiving Federal financial assistance under this  
25                  section shall be 80 percent.

1       “(f) *COMPLIANCE WITH APPLICABLE LAWS.*—

2               “(1) *IN GENERAL.*—Subject to paragraph (2), a  
3       project receiving funds under this section shall comply  
4       with all applicable Federal laws (including regula-  
5       tions), including—

6               “(A) subchapter IV of chapter 31 of title 40,  
7       United States Code; and

8               “(B) applicable requirements of titles 23  
9       and 49, United States Code.

10              “(2) *ELIGIBILITY.*—Project eligibility shall be  
11       determined in accordance with this section.

12              “(3) *DETERMINATION OF APPLICABLE MODAL*  
13       *REQUIREMENTS.*—The Secretary shall—

14              “(A) have the discretion to designate the  
15       specific modal requirements that shall apply to  
16       a project; and

17              “(B) be guided by the predominant modal  
18       characteristics of the project in the event that a  
19       project has cross-modal application.

20              “(g) *ADDITIONAL REQUIREMENTS.*—

21              “(1) *IN GENERAL.*—As a condition on the receipt  
22       of financial assistance under this section, the interests  
23       of public transportation employees affected by the as-  
24       sistance shall be protected under arrangements that  
25       the Secretary of Labor determines—



1                   “(A) to be fair and equitable; and

2                   “(B) to provide benefits equal to the benefits  
3                   established under section 5333(b) of title 49,  
4                   United States Code.

5                   “(2) WAGES AND BENEFITS.—Laborers and me-  
6                   chanics employed on projects funded with amounts  
7                   made available under this section shall be paid wages  
8                   and benefits not less than those determined by the  
9                   Secretary of Labor under subchapter IV of chapter 31  
10                  of title 40, United States Code, to be prevailing in the  
11                  same locality.

12                  “(h) ADMINISTRATIVE EXPENSES.—Not more than 5  
13                  percent of the funds made available to carry out this section  
14                  may be used by the Secretary to pay the administrative  
15                  expenses necessary to carry out this section for a fiscal year.

16                  “(i) MISCELLANEOUS.—

17                   “(1) ROAD-USE AND CONGESTION PRICING MEAS-  
18                   URES.—All projects funded by amounts made avail-  
19                   able under this section shall be eligible to receive  
20                   amounts collected through road-use and congestion  
21                   pricing measures.

22                   “(2) LIMITATIONS.—The Administrator may not  
23                   approve any transportation plan for a project that  
24                   would be inconsistent with existing design, procure-

ment, and construction guidelines established by the Department of Transportation.

“(3) *SUBGRANTEES.*—With the approval of the Secretary, recipients of funding under this section may enter into agreements providing for the transfer of funds to private transportation providers or non-eligible public entities (such as local governments, air quality agencies, zoning commissions, special districts and transit agencies) that have statutory responsibility or authority for actions necessary to implement the strategies pursuant to—

“(A) sections 134(k)(6) and 135(f)(9) of title 23, United States Code; and

“(B) sections 5303(k)(6) and 5304(f)(9) of title 49, United States Code.”.

**SEC. 114. SMARTWAY TRANSPORTATION EFFICIENCY PROGRAM.**

Part B of title VIII of the Clean Air Act (as amended by section 111) is amended by adding at the end the following:

**“SEC. 822. SMARTWAY TRANSPORTATION EFFICIENCY PROGRAM.**

“(a) *IN GENERAL.*—There is established within the Environmental Protection Agency a SmartWay Transportation Efficiency Program to quantify, demonstrate, and

1 *promote the benefits of technologies, products, fuels, and*  
2 *operational strategies that reduce petroleum consumption,*  
3 *air pollution, and greenhouse gas emissions from the mobile*  
4 *source sector.*

5       “(b) *GENERAL DUTIES.*—*Under the program estab-*  
6 *lished under this section, the Administrator shall carry out*  
7 *each of the following:*

8               “(1) *Development of measurement protocols to*  
9 *evaluate the energy consumption and greenhouse gas*  
10 *impacts from technologies and strategies in the mobile*  
11 *source sector, including those for passenger transport*  
12 *and goods movement.*

13               “(2) *Development of qualifying thresholds for*  
14 *certifying, verifying, or designating energy-efficient,*  
15 *low-greenhouse gas SmartWay technologies and strat-*  
16 *egies for each mode of passenger transportation and*  
17 *goods movement.*

18               “(3) *Development of partnership and recognition*  
19 *programs to promote best practices and drive demand*  
20 *for energy-efficient, low-greenhouse gas transportation*  
21 *performance.*

22               “(4) *Promotion of the availability of, and en-*  
23 *couragement of the adoption of, SmartWay certified*  
24 *or verified technologies and strategies, and publica-*  
25 *tion of the availability of financial incentives, such as*

1        *assistance from loan programs and other Federal and*  
 2        *State incentives.*

3        “(c) *SMARTWAY TRANSPORT FREIGHT PARTNER-*  
 4        *SHIP.—The Administrator shall establish a SmartWay*  
 5        *Transport Partnership program with shippers and carriers*  
 6        *of goods to promote energy-efficient, low-greenhouse gas*  
 7        *transportation. In carrying out such partnership, the Ad-*  
 8        *ministrator shall undertake each of the following:*

9                “(1) *Verification of the energy and greenhouse*  
 10        *gas performance of participating freight carriers, in-*  
 11        *cluding those operating rail, trucking, marine, and*  
 12        *other goods movement operations.*

13                “(2) *Publication of a comprehensive energy and*  
 14        *greenhouse gas performance index of freight modes*  
 15        *(including rail, trucking, marine, and other modes of*  
 16        *transporting goods) and individual freight companies*  
 17        *so that shippers can choose to deliver their goods more*  
 18        *efficiently.*

19                “(3) *Development of tools for—*

20                        “(A) *carriers to calculate their energy and*  
 21                        *greenhouse gas performance; and*

22                        “(B) *shippers to calculate the energy and*  
 23                        *greenhouse gas impacts of moving their products*  
 24                        *and to evaluate the relative impacts from trans-*

1           *porting their goods by different modes and cor-*  
 2           *porate carriers.*

3           “(4) *Provision of recognition opportunities for*  
 4           *participating shipper and carrier companies dem-*  
 5           *onstrating advanced practices and achieving superior*  
 6           *levels of greenhouse gas performance.*

7           “(d) *IMPROVING FREIGHT GREENHOUSE GAS PER-*  
 8           *FORMANCE DATABASES.—The Secretary of Transportation*  
 9           *shall, in coordination with other appropriate agencies, de-*  
 10          *fine and collect data on the physical and operational char-*  
 11          *acteristics of the Nation’s truck population, with special*  
 12          *emphasis on data related to energy efficiency and green-*  
 13          *house gas performance to inform the performance index*  
 14          *published under subsection (c)(2) of this section, and other*  
 15          *means of goods transport as necessary, at least every 5*  
 16          *years.*

17          “(e) *SMARTWAY PASSENGER TRANSPORT STUDY.—*

18               “(1) *IN GENERAL.—Not later than 1 year after*  
 19               *the date of enactment of this section, the Adminis-*  
 20               *trator shall submit to the Committee on Environment*  
 21               *and Public Works of the Senate and the Committee on*  
 22               *Energy and Commerce of the House of Representa-*  
 23               *tives a report that describes the results of a study of*  
 24               *the commercial passenger carrier industry, including*

1       *tour, charter, intercity, commuter, and other pas-*  
 2       *senger operations.*

3               “(2) *INCLUSIONS.—The study under paragraph*  
 4       *(1) shall include—*

5                       “(A) *an identification of options for com-*  
 6                       *mercial passenger carriers to promote energy-ef-*  
 7                       *ficient, low-greenhouse gas emission transpor-*  
 8                       *tation; and*

9                       “(B) *at the discretion of the Administrator,*  
 10                      *support for a partnership and recognition pro-*  
 11                      *gram for those commercial passenger carrier*  
 12                      *companies that demonstrate and achieve superior*  
 13                      *levels of greenhouse gas emissions performance.*

14               “(f) *ESTABLISHMENT OF FINANCING PROGRAM.—The*  
 15       *Administrator shall establish a SmartWay Financing Pro-*  
 16       *gram to competitively award funding to eligible entities*  
 17       *identified by the Administrator in accordance with the pro-*  
 18       *gram requirements in subsection (h).*

19               “(g) *PURPOSES.—Under the SmartWay Financing*  
 20       *Program, eligible entities shall—*

21                       “(1) *use funds awarded by the Administrator to*  
 22                       *provide flexible loan and/or lease terms that increase*  
 23                       *approval rates or lower the costs of loans and/or*  
 24                       *leases in accordance with guidance developed by the*  
 25                       *Administrator;*

1           “(2) make such loans and/or leases available to  
2           public and private entities for the purpose of adopt-  
3           ing low-greenhouse gas technologies or strategies for  
4           the mobile source sector that are designated by the  
5           Administrator; and

6           “(3) use funds provided by the Administrator for  
7           electrification of freight transportation systems in  
8           major national goods movement corridors, giving pri-  
9           ority to electrification of transportation systems in  
10          areas that are gateways for high volumes of inter-  
11          national and national freight transport and require  
12          substantial criteria pollutant emission reductions in  
13          order to attain national ambient air quality stand-  
14          ards.

15          “(h) *PROGRAM REQUIREMENTS.*—The Administrator  
16          shall determine program design elements and requirements,  
17          including—

18               “(1) the type of financial mechanism with which  
19               to award funding, in the form of grants and/or con-  
20               tracts;

21               “(2) the designation of eligible entities to receive  
22               funding, such as State, tribal, and local governments,  
23               regional organizations comprised of governmental  
24               units, nonprofit organizations, or for-profit compa-  
25               nies;

1           “(3) *criteria for evaluating applications from el-*  
 2           *igible entities, including anticipated—*

3                   “(A) *cost-effectiveness of loan or lease pro-*  
 4                   *gram on a metric-ton-of-greenhouse gas-saved-*  
 5                   *per-dollar basis; and*

6                   “(B) *ability to promote the loan or lease*  
 7                   *program and associated technologies and strate-*  
 8                   *gies to the target audience; and*

9           “(4) *reporting requirements for entities that re-*  
 10           *ceive awards, including—*

11                   “(A) *actual cost-effectiveness and greenhouse*  
 12                   *gas savings from the loan or lease program based*  
 13                   *on a methodology designated by the Adminis-*  
 14                   *trator;*

15                   “(B) *the total number of applications and*  
 16                   *number of approved applications; and*

17                   “(C) *terms granted to loan and lease recipi-*  
 18                   *ents compared to prevailing market practices*  
 19                   *and/or rates.*

20           “(i) *AUTHORIZATION OF APPROPRIATIONS.—Such*  
 21           *sums as necessary are authorized to be appropriated to the*  
 22           *Administrator to carry out this section.”.*



1     ***Subtitle B—Carbon Capture and***  
 2                   ***Sequestration***

3     ***SEC. 121. NATIONAL STRATEGY.***

4           (a) *IN GENERAL.*—Not later than 1 year after the date  
 5 of enactment of this Act, the Administrator, in consultation  
 6 with the Secretary of Energy, the Secretary of the Interior,  
 7 and the heads of such other relevant Federal agencies as  
 8 the President may designate, shall submit to Congress a re-  
 9 port establishing a unified and comprehensive strategy to  
 10 address the key legal, regulatory, and other barriers to the  
 11 commercial-scale deployment of carbon capture and storage.

12          (b) *BARRIERS.*—The report under this section shall—

13               (1) *identify the regulatory, legal, and other gaps*  
 14               *and barriers that—*

15                       (A) *could be addressed by a Federal agency*  
 16                       *using existing statutory authority;*

17                       (B) *require Federal legislation, if any; or*

18                       (C) *would be best addressed at the State,*  
 19                       *tribal, or regional level;*

20               (2) *identify regulatory implementation chal-*  
 21               *lenges, including challenges relating to approval of*  
 22               *State and tribal programs and delegation of author-*  
 23               *ity for permitting; and*

1           (3) *recommend rulemakings, Federal legislation,*  
 2           *or other actions that should be taken to further evalu-*  
 3           *ate and address those barriers.*

4           (c) *FINDING.—Congress finds that it is in the public*  
 5           *interest to achieve widespread, commercial-scale deploy-*  
 6           *ment of carbon capture and storage in the United States*  
 7           *and throughout Asia before January 1, 2030.*

8           **SEC. 122. REGULATIONS FOR GEOLOGICAL SEQUESTRA-**  
 9           **TION SITES.**

10          (a) *COORDINATED CERTIFICATION AND PERMITTING*  
 11          *PROCESS.—Part A of title VIII of the Clean Air Act (as*  
 12          *amended by section 124 of this division) is amended by*  
 13          *adding at the end the following:*

14          **“SEC. 813. GEOLOGICAL STORAGE SITES.**

15          **“(a) COORDINATED PROCESS.—**

16               **“(1) IN GENERAL.—***The Administrator shall es-*  
 17               *tablish a coordinated approach to certifying and per-*  
 18               *mitting geological storage, taking into consideration*  
 19               *all relevant statutory authorities.*

20               **“(2) REQUIREMENTS.—***In establishing such ap-*  
 21               *proach, the Administrator shall—*

22                       **“(A) take into account, and reduce redun-**  
 23                       *dancy with, the requirements of section 1421 of*  
 24                       *the Safe Drinking Water Act (42 U.S.C. 300h),*  
 25                       *including the rulemaking for geological storage*

1        *wells described in the proposed rule entitled ‘Fed-*  
 2        *eral Requirements Under the Underground Injec-*  
 3        *tion Control (UIC) Program for Carbon Dioxide*  
 4        *(CO<sub>2</sub>) Geologic Sequestration (GS) Wells’ (73*  
 5        *Fed. Reg. 43492 (July 25, 2008)); and*

6                *“(B) to the maximum extent practicable, re-*  
 7        *duce the burden on certified entities and imple-*  
 8        *menting authorities.*

9        *“(b) REGULATIONS.—Not later than 2 years after the*  
 10       *date of enactment of this title, the Administrator shall pro-*  
 11       *mulgate regulations to protect human health and the envi-*  
 12       *ronment by minimizing the risk of escape to the atmosphere*  
 13       *of carbon dioxide injected for purposes of geological storage.*

14       *“(c) REQUIREMENTS.—The regulations under sub-*  
 15       *section (b) shall include—*

16                *“(1) a process to obtain certification for geologi-*  
 17       *cal storage under this section; and*

18                *“(2) requirements for—*

19                        *“(A) monitoring, recordkeeping, and report-*  
 20       *ing for emissions associated with injection into,*  
 21       *and escape from, geological storage sites, taking*  
 22       *into account any requirements or protocols devel-*  
 23       *oped under section 713;*

24                        *“(B) public participation in the certifi-*  
 25       *cation process that maximizes transparency;*

1           “(C) *the sharing of data among States, In-*  
2           *dian tribes, and the Environmental Protection*  
3           *Agency; and*

4           “(D) *other elements or safeguards necessary*  
5           *to achieve the purpose described in subsection*  
6           *(b).*

7           “(d) *REPORT.—*

8           “(1) *IN GENERAL.—Not later than 2 years after*  
9           *the date of promulgation of regulations pursuant to*  
10          *subsection (b), and not less frequently than once every*  
11          *3 years thereafter, the Administrator shall submit to*  
12          *the Committee on Energy and Commerce of the House*  
13          *of Representatives and the Committee on Environ-*  
14          *ment and Public Works of the Senate a report de-*  
15          *scribing geological storage in the United States, and,*  
16          *to the extent relevant, other countries in North Amer-*  
17          *ica.*

18          “(2) *INCLUSIONS.—Each report under para-*  
19          *graph (1) shall include—*

20               “(A) *data regarding injection, emissions to*  
21               *the atmosphere, if any, and performance of ac-*  
22               *tive and closed geological storage sites, including*  
23               *those at which enhanced hydrocarbon recovery*  
24               *operations occur;*

1           “(B) an evaluation of the performance of  
 2           relevant Federal environmental regulations and  
 3           programs in ensuring environmentally protective  
 4           geological storage practices;

5           “(C) recommendations on how those pro-  
 6           grams and regulations should be improved or  
 7           made more effective; and

8           “(D) other relevant information.”.

9           (b) *SAFE DRINKING WATER ACT STANDARDS.*—Sec-  
 10          tion 1421 of the Safe Drinking Water Act (42 U.S.C. 300h)  
 11          is amended by adding at the end the following:

12          “(e) *CARBON DIOXIDE GEOLOGICAL STORAGE*  
 13          *WELLS.*—

14               “(1) *IN GENERAL.*—Not later than 1 year after  
 15          the date of enactment of this subsection, the Adminis-  
 16          trator shall promulgate regulations under subsection  
 17          (a) for carbon dioxide geological storage wells.

18               “(2) *FINANCIAL RESPONSIBILITY.*—

19                   “(A) *IN GENERAL.*—The regulations under  
 20          paragraph (1) shall include requirements for  
 21          maintaining evidence of financial responsibility,  
 22          including financial responsibility for emergency  
 23          and remedial response, well plugging, site clo-  
 24          sure, and post-injection site care.

“(B) *REGULATIONS.—Financial responsibility may be established for carbon dioxide geological wells in accordance with regulations promulgated by the Administrator by any 1, or any combination, of the following:*

“(i) *Insurance.*

“(ii) *Guarantee.*

“(iii) *Trust.*

“(iv) *Standby trust.*

“(v) *Surety bond.*

“(vi) *Letter of credit.*

“(vii) *Qualification as a self-insurer.*

“(viii) *Any other method satisfactory to the Administrator.”.*

**SEC. 123. STUDIES AND REPORTS.**

*(a) STUDY OF LEGAL FRAMEWORK FOR GEOLOGICAL STORAGE SITES.—*

*(1) ESTABLISHMENT OF TASK FORCE.—*

*(A) IN GENERAL.—As soon as practicable, but not later than 180 days after the date of enactment of this Act, the Administrator shall establish a task force, to be composed of an equal number of—*

*(i) subject matter experts;*

1                   (ii) nongovernmental organizations  
2                   with expertise regarding environmental pol-  
3                   icy;

4                   (iii) academic experts with expertise in  
5                   environmental law;

6                   (iv) State and tribal officials with en-  
7                   vironmental expertise;

8                   (v) representatives of State and tribal  
9                   attorneys general;

10                  (vi) representatives of the Environ-  
11                  mental Protection Agency, the Department  
12                  of the Interior, the Department of Energy,  
13                  the Department of Transportation, and  
14                  other relevant Federal agencies; and

15                  (vii) members of the private sector.

16                  (B) *STUDY.*—The task force established  
17                  under subparagraph (A) shall conduct a study  
18                  of—

19                       (i) existing Federal environmental  
20                       statutes, State environmental statutes, and  
21                       State common law that apply to geological  
22                       storage sites for carbon dioxide, including  
23                       the ability of those laws to serve as risk  
24                       management tools;

1           (ii) the existing statutory framework,  
 2           including Federal and State laws, that  
 3           apply to harm and damage to the environ-  
 4           ment or public health at closed sites at  
 5           which carbon dioxide injection has been  
 6           used for enhanced hydrocarbon recovery;

7           (iii) the statutory framework, environ-  
 8           mental health and safety considerations,  
 9           implementation issues, and financial impli-  
 10          cations of potential models for Federal,  
 11          State, or private sector assumption of liabil-  
 12          ities and financial responsibilities with re-  
 13          spect to closed geological storage sites;

14          (iv) private sector mechanisms, includ-  
 15          ing insurance and bonding, that may be  
 16          available to manage environmental, health,  
 17          and safety risks from closed geological stor-  
 18          age sites; and

19          (v) the subsurface mineral rights,  
 20          water rights, and property rights issues as-  
 21          sociated with geological storage of carbon  
 22          dioxide, including issues specific to Federal  
 23          land.

24          (2) *REPORT*.—Not later than 18 months after the  
 25          date of enactment of this Act, the task force estab-



1       lished under paragraph (1)(A) shall submit to Con-  
 2       gress a report describing the results of the study con-  
 3       ducted under that paragraph, including any con-  
 4       sensus recommendations of the task force.

5       (b) *ENVIRONMENTAL STATUTES.*—

6           (1) *STUDY.*—The Administrator shall conduct a  
 7       study of the means by which, and under what cir-  
 8       cumstances, the environmental statutes for which the  
 9       Environmental Protection Agency has responsibility  
 10      would apply to carbon dioxide injection and geologi-  
 11      cal storage activities.

12          (2) *REPORT.*—Not later than 1 year after the  
 13      date of enactment of this Act, the Administrator shall  
 14      submit to Congress a report describing the results of  
 15      the study conducted under paragraph (1).

16   **SEC. 124. PERFORMANCE STANDARDS FOR NEW COAL-**  
 17       **FUELED POWER PLANTS.**

18          (a) *IN GENERAL.*—Part A of title VIII of the Clean  
 19      Air Act (as added by section 121 of division B) is amended  
 20      by adding at the end the following:

21   **“SEC. 812. PERFORMANCE STANDARDS FOR NEW COAL-**  
 22       **FIRED POWER PLANTS.**

23          “(a) *DEFINITIONS.*—In this section:

24           “(1) *COVERED EGU.*—The term ‘covered EGU’  
 25      means a utility unit that is—

1           “(A) *required to have a permit under sec-*  
2           *tion 503(a); and*

3           “(B) *authorized under State or Federal law*  
4           *to derive at least 30 percent of the annual heat*  
5           *input of the unit from—*

6                     “(i) *coal;*

7                     “(ii) *petroleum coke; or*

8                     “(iii) *any combination of those fuels.*

9           “(2) *INITIALLY PERMITTED.—*

10                   “(A) *IN GENERAL.—The term ‘initially per-*  
11                   *mitted’, with respect to a covered EGU, means*  
12                   *that—*

13                             “(i) *the owner or operator of the cov-*  
14                             *ered EGU has received a preconstruction*  
15                             *approval or permit under this Act as a new*  
16                             *(not modified) source; but*

17                             “(ii) *administrative review or appeal*  
18                             *of the approval or permit has not been ex-*  
19                             *hausted.*

20                   “(B) *CALCULATION.—A subsequent modi-*  
21                   *fication of any approval or permit described in*  
22                   *subparagraph (A), ongoing administrative or*  
23                   *court review, appeals, challenges, or the existence*  
24                   *or tolling of any time to pursue additional re-*  
25                   *view, appeals, or challenges shall not affect the*

1           *date on which a covered EGU is considered to be*  
 2           *initially permitted for purposes of this para-*  
 3           *graph.*

4           “(b) *STANDARDS.—*

5                 “(1) *IN GENERAL.—A covered EGU that is ini-*  
 6           *tially permitted on or after January 1, 2020, shall—*

7                         “(A) *achieve an emission limitation that*  
 8                         *represents a 65-percent reduction in emissions of*  
 9                         *the carbon dioxide produced by the covered EGU,*  
 10                         *as measured on an annual basis; or*

11                         “(B) *meet such more-stringent standard as*  
 12                         *the Administrator may establish pursuant to*  
 13                         *subsection (c).*

14           “(2) *CERTAIN COVERED EGUS.—*

15                 “(A) *IN GENERAL.—A covered EGU that is*  
 16           *initially permitted during the period beginning*  
 17           *on January 1, 2009, and ending on December*  
 18           *31, 2019, shall achieve, by the applicable compli-*  
 19           *ance date established under this paragraph, an*  
 20           *emission limitation that represents a 50-percent*  
 21           *reduction in emissions of the carbon dioxide pro-*  
 22           *duced by the covered EGU, as measured on an*  
 23           *annual basis.*

1           “(B) *DATE OF REQUIREMENT.*—Compliance  
 2           with the requirement described in subparagraph  
 3           (A) shall be required by the earlier of—

4                   “(i) the date that is 4 years after the  
 5                   date on which the Administrator has pub-  
 6                   lished pursuant to subsection (d) a report  
 7                   that there are in commercial operation in  
 8                   the United States electric generating units  
 9                   or other stationary sources equipped with  
 10                  carbon capture and permanent sequestra-  
 11                  tion technology that, in the aggregate—

12                   “(I) have a total of at least 10  
 13                   gigawatts of capacity (including at  
 14                   least 3 gigawatts which shall be  
 15                   through electric generating units, and  
 16                   up to 1 gigawatt which may be  
 17                   through industrial applications (for  
 18                   which capture and permanent seques-  
 19                   tration of 3,000,000 tons of carbon di-  
 20                   oxide per year on an aggregate  
 21                   annualized basis shall be considered  
 22                   equivalent to 1 gigawatt)), measured  
 23                   as the sum of—

24                   “(aa) the treated generating  
 25                   capacity (as defined in section

1                   780(a)) *for electric generating*  
2                   *unit retrofits and industrial*  
3                   *sources; and*

4                   “(bb) *the nameplate capacity*  
5                   *for new electric generating units;*

6                   “(II) *include at least 3 electric*  
7                   *generating units, each with a name-*  
8                   *plate generating capacity of 250*  
9                   *megawatts or greater, that capture, in-*  
10                  *ject, and sequester carbon dioxide into*  
11                  *geological formations other than oil*  
12                  *and gas fields; and*

13                  “(III) *are capturing and seques-*  
14                  *tering at least 12,000,000 tons of car-*  
15                  *bon dioxide per year, calculated on an*  
16                  *aggregate annualized basis; or*

17                  “(ii) *January 1, 2020.*

18                  “(3) *PROGRESS REVIEW.—*

19                  “(A) *IN GENERAL.—Not later than June 30,*  
20                  *2017, the Administrator and the Secretary of*  
21                  *Energy shall jointly prepare and submit to Con-*  
22                  *gress a review of the status of commercial de-*  
23                  *ployment of carbon capture and permanent se-*  
24                  *questration technology that specifies—*

1                   “(i) the number of and size of units in  
2                   the United States that are capturing and  
3                   permanently sequestering carbon dioxide;

4                   “(ii) the tons of carbon dioxide being  
5                   captured and permanently sequestered by  
6                   those units; and

7                   “(iii) the geographical and techno-  
8                   logical diversity represented by those units  
9                   and that technology.

10                  “(B) *FINDING.*—To accompany the report  
11                  under subparagraph (A), the Administrator and  
12                  the Secretary of Energy shall make a finding  
13                  that, in light of the status of commercial deploy-  
14                  ment of carbon capture and permanent seques-  
15                  tration technology, the date set forth in para-  
16                  graph (2)(B)(ii) should—

17                         “(i) remain in effect; or

18                         “(ii) in accordance with subparagraph  
19                         (C), be extended to January 1, 2022.

20                  “(C) *CONDITIONS FOR EXTENSION.*—The  
21                  date set forth in paragraph (2)(B)(ii) shall be  
22                  extended to January 1, 2022, only if—

23                         “(i) the Administrator and the Sec-  
24                         retary jointly find, pursuant to subpara-

1                   graph (B), that the extension should occur;  
 2                   and

3                   “(ii) Congress acts to approve the find-  
 4                   ing by not later than January 1, 2018.

5                   “(4) UNIT-SPECIFIC EXTENSION.—

6                   “(A) IN GENERAL.—If the deadline for com-  
 7                   pliance with paragraph (2) is the date specified  
 8                   in paragraph (2)(B), the Administrator may ex-  
 9                   tend the deadline for compliance by a covered  
 10                  EGU by not more than 18 months if the Admin-  
 11                  istrator makes a determination, based on a  
 12                  showing by the owner or operator of the covered  
 13                  EGU, that it will be technically infeasible for the  
 14                  covered EGU to meet the standard by that date.

15                  “(B) REQUEST.—An owner or operator of a  
 16                  covered EGU shall submit to the Administrator  
 17                  a request for an extension under subparagraph  
 18                  (A) by not later than June 1, 2018.

19                  “(C) PUBLIC COMMENT.—The Adminis-  
 20                  trator shall provide for public notice and com-  
 21                  ment on each extension request submitted under  
 22                  subparagraph (B).

23                  “(c) REVIEW AND REVISION OF STANDARDS.—Not  
 24                  later than the date specified in subsection (b)(2)(B), and

1 *not less frequently than once every 5 years thereafter, the*  
2 *Administrator shall—*

3           “(1) *review the standards for new covered EGUs*  
4           *under this section; and*

5           “(2) *by rule, reduce the maximum carbon diox-*  
6           *ide emission rate for new covered EGUs to a rate that*  
7           *reflects the degree of emission limitation achievable*  
8           *through the application of the best system of emission*  
9           *reduction that (taking into account the cost of achiev-*  
10          *ing the reduction and any nonair quality health and*  
11          *environmental impact and energy requirements) the*  
12          *Administrator determines has been adequately dem-*  
13          *onstrated.*

14          “(d) *REPORTS.—Not later than the date that is 18*  
15          *months after the date of enactment of this title, and semi-*  
16          *annually thereafter, the Administrator shall publish a re-*  
17          *port on the nameplate capacity of units (determined pursu-*  
18          *ant to subsection (b)(2)(A)) in commercial operation in the*  
19          *United States equipped with carbon capture and storage*  
20          *technology, including the information described in sub-*  
21          *section (b)(2)(A) (including the cumulative generating ca-*  
22          *capacity to which carbon capture and storage retrofit projects*  
23          *meeting the criteria described in section 780(c)(1)(A) has*  
24          *been applied and the quantities of carbon dioxide captured*  
25          *and sequestered by those projects).*



1       “(e) *REGULATIONS*.—Not later than 2 years after the  
 2       date of enactment of this title, the Administrator shall pro-  
 3       mulgate regulations to carry out the requirements of this  
 4       section.”.

5       **SEC. 125. CARBON CAPTURE AND SEQUESTRATION DEM-**  
 6                               **ONSTRATION AND EARLY DEPLOYMENT PRO-**  
 7                               **GRAM.**

8       (a) *DEFINITIONS*.—For purposes of this section:

9               (1) *SECRETARY*.—The term “Secretary” means  
 10       the Secretary of Energy.

11              (2) *DISTRIBUTION UTILITY*.—The term “dis-  
 12       tribution utility” means an entity that distributes  
 13       electricity directly to retail consumers under a legal,  
 14       regulatory, or contractual obligation to do so.

15              (3) *ELECTRIC UTILITY*.—The term “electric util-  
 16       ity” has the meaning provided by section 3 of the  
 17       Federal Power Act (16 U.S.C. 796).

18              (4) *FOSSIL FUEL-BASED ELECTRICITY*.—The  
 19       term “fossil fuel-based electricity” means electricity  
 20       that is produced from the combustion of fossil fuels.

21              (5) *FOSSIL FUEL*.—The term “fossil fuel” means  
 22       coal, petroleum, natural gas or any derivative of coal,  
 23       petroleum, or natural gas.

1           (6) *CORPORATION.*—*The term “Corporation”*  
 2           *means the Carbon Storage Research Corporation es-*  
 3           *tablished in accordance with this section.*

4           (7) *QUALIFIED INDUSTRY ORGANIZATION.*—*The*  
 5           *term “qualified industry organization” means the*  
 6           *Edison Electric Institute, the American Public Power*  
 7           *Association, the National Rural Electric Cooperative*  
 8           *Association, a successor organization of such organi-*  
 9           *zations, or a group of owners or operators of distribu-*  
 10          *tion utilities delivering fossil fuel-based electricity*  
 11          *who collectively represent at least 20 percent of the*  
 12          *volume of fossil fuel-based electricity delivered by dis-*  
 13          *tribution utilities to consumers in the United States.*

14          (8) *RETAIL CONSUMER.*—*The term “retail con-*  
 15          *sumer” means an end-user of electricity.*

16          (b) *CARBON STORAGE RESEARCH CORPORATION.*—

17               (1) *ESTABLISHMENT.*—

18                       (A) *REFERENDUM.*—*Qualified industry or-*  
 19                       *ganizations may conduct, at their own expense,*  
 20                       *a referendum among the owners or operators of*  
 21                       *distribution utilities delivering fossil fuel-based*  
 22                       *electricity for the creation of a Carbon Storage*  
 23                       *Research Corporation. Such referendum shall be*  
 24                       *conducted by an independent auditing firm*  
 25                       *agreed to by the qualified industry organiza-*

1        *tions. Voting rights in such referendum shall be*  
2        *based on the quantity of fossil fuel-based elec-*  
3        *tricity delivered to consumers in the previous*  
4        *calendar year or other representative period as*  
5        *determined by the Secretary pursuant to sub-*  
6        *section (f). Upon approval of those persons rep-*  
7        *resenting two-thirds of the total quantity of fossil*  
8        *fuel-based electricity delivered to retail con-*  
9        *sumers, the Corporation shall be established un-*  
10       *less opposed by the State regulatory authorities*  
11       *pursuant to subparagraph (B). All distribution*  
12       *utilities voting in the referendum shall certify to*  
13       *the independent auditing firm the quantity of*  
14       *fossil fuel-based electricity represented by their*  
15       *vote.*

16                *(B) STATE REGULATORY AUTHORITIES.—*

17        *Upon its own motion or the petition of a quali-*  
18        *fied industry organization, each State regulatory*  
19        *authority shall consider its support or opposition*  
20        *to the creation of the Corporation under sub-*  
21        *paragraph (A). State regulatory authorities may*  
22        *notify the independent auditing firm referred to*  
23        *in subparagraph (A) of their views on the cre-*  
24        *ation of the Corporation within 180 days after*  
25        *the date of enactment of this Act. If 40 percent*

1           or more of the State regulatory authorities sub-  
 2           mit to the independent auditing firm written no-  
 3           tices of opposition, the Corporation shall not be  
 4           established notwithstanding the approval of the  
 5           qualified industry organizations as provided in  
 6           subparagraph (A).

7           (2) *TERMINATION.*—The Corporation shall be au-  
 8           thorized to collect assessments and conduct operations  
 9           pursuant to this section for a 10-year period from the  
 10          date 6 months after the date of enactment of this Act.  
 11          After such 10-year period, the Corporation is no  
 12          longer authorized to collect assessments and shall be  
 13          dissolved on the date 15 years after such date of en-  
 14          actment, unless the period is extended by an Act of  
 15          Congress.

16          (3) *GOVERNANCE.*—The Corporation shall oper-  
 17          ate as a division or affiliate of the Electric Power Re-  
 18          search Institute (referred to in this section as  
 19          “EPRI”) and be managed by a Board of not more  
 20          than 15 voting members responsible for its operations,  
 21          including compliance with this section. EPRI, in con-  
 22          sultation with the Edison Electric Institute, the  
 23          American Public Power Association and the National  
 24          Rural Electric Cooperative Association shall appoint  
 25          the Board members under clauses (i), (ii), and (iii)

1       of subparagraph (A) from among candidates rec-  
 2       ommended by those organizations. At least a majority  
 3       of the Board members appointed by EPRI shall be  
 4       representatives of distribution utilities subject to as-  
 5       sessments under subsection (d).

6               (A) *MEMBERS.*—The Board shall include at  
 7       least 1 representative of each of the following:

8               (i) *Investor-owned utilities.*

9               (ii) *Utilities owned by a State agency,*  
 10       *a municipality, and an Indian tribe.*

11              (iii) *Rural electric cooperatives.*

12              (iv) *Fossil fuel producers.*

13              (v) *Nonprofit environmental organiza-*  
 14       *tions.*

15              (vi) *Independent generators or whole-*  
 16       *sale power providers.*

17              (vii) *Consumer groups.*

18              (viii) *The National Energy Technology*  
 19       *laboratory of the Department of Energy.*

20              (ix) *The Environmental Protection*  
 21       *Agency.*

22              (B) *NONVOTING MEMBERS.*—The Board  
 23       shall also include as additional nonvoting Mem-  
 24       bers the Secretary of Energy or his designee and  
 25       2 representatives of State regulatory authorities

1       *as defined in section 3 of the Public Utility Reg-*  
2       *ulatory Policies Act of 1978 (16 U.S.C. 2602),*  
3       *each designated by the National Association of*  
4       *State Regulatory Utility Commissioners from*  
5       *States that are not within the same transmission*  
6       *interconnection.*

7       (4) *COMPENSATION.*—*Corporation Board mem-*  
8       *bers shall receive no compensation for their services,*  
9       *nor shall Corporation Board members be reimbursed*  
10      *for expenses relating to their service.*

11      (5) *TERMS.*—*Corporation Board members shall*  
12      *serve terms of 4 years and may serve not more than*  
13      *2 full consecutive terms. Members filling unexpired*  
14      *terms may serve not more than a total of 8 consecu-*  
15      *tive years. Former members of the Corporation Board*  
16      *may be reappointed to the Corporation Board if they*  
17      *have not been members for a period of 2 years. Initial*  
18      *appointments to the Corporation Board shall be for*  
19      *terms of 1, 2, 3, and 4 years, staggered to provide for*  
20      *the selection of 3 members each year.*

21      (6) *STATUS OF CORPORATION.*—*The Corporation*  
22      *shall not be considered to be an agency, department,*  
23      *or instrumentality of the United States, and no offi-*  
24      *cer or director or employee of the Corporation shall*  
25      *be considered to be an officer or employee of the*

1     *United States Government, for purposes of title 5 or*  
 2     *title 31 of the United States Code, or for any other*  
 3     *purpose, and no funds of the Corporation shall be*  
 4     *treated as public money for purposes of chapter 33 of*  
 5     *title 31, United States Code, or for any other purpose.*

6     (c) *FUNCTIONS AND ADMINISTRATION OF THE COR-*  
 7     *PORATION.—*

8             (1) *IN GENERAL.—The Corporation shall estab-*  
 9     *lish and administer a program to accelerate the com-*  
 10    *mercial availability of carbon dioxide capture and*  
 11    *storage technologies and methods, including tech-*  
 12    *nologies which capture and store, or capture and con-*  
 13    *vert, carbon dioxide. Under such program competi-*  
 14    *tively awarded grants, contracts, and financial assist-*  
 15    *ance shall be provided and entered into with eligible*  
 16    *entities. Except as provided in paragraph (8), the*  
 17    *Corporation shall use all funds derived from assess-*  
 18    *ments under subsection (d) to issue grants and con-*  
 19    *tracts to eligible entities.*

20            (2) *PURPOSE.—The purposes of the grants, con-*  
 21    *tracts, and assistance under this subsection shall be to*  
 22    *support commercial-scale demonstrations of carbon*  
 23    *capture or storage technology projects capable of ad-*  
 24    *vancing the technologies to commercial readiness.*  
 25    *Such projects should encompass a range of different*

1 coal and other fossil fuel varieties, be geographically  
 2 diverse, involve diverse storage media, and employ  
 3 capture or storage, or capture and conversion, tech-  
 4 nologies potentially suitable either for new or for ret-  
 5 rofit applications. The Corporation shall seek, to the  
 6 extent feasible, to support at least 5 commercial-scale  
 7 demonstration projects integrating carbon capture  
 8 and sequestration or conversion technologies.

9 (3) *ELIGIBLE ENTITIES.*—Entities eligible for  
 10 grants, contracts or assistance under this subsection  
 11 may include distribution utilities, electric utilities  
 12 and other private entities, academic institutions, na-  
 13 tional laboratories, Federal research agencies, State  
 14 and tribal research agencies, nonprofit organizations,  
 15 or consortiums of 2 or more entities. Pilot-scale and  
 16 similar small-scale projects are not eligible for sup-  
 17 port by the Corporation. Owners or developers of  
 18 projects supported by the Corporation shall, where ap-  
 19 propriate, share in the costs of such projects. Projects  
 20 supported by the Corporation shall meet the eligibility  
 21 criteria of section 780(b) of the Clean Air Act.

22 (4) *GRANTS FOR EARLY MOVERS.*—Fifty percent  
 23 of the funds raised under this section shall be pro-  
 24 vided in the form of grants to electric utilities that  
 25 had, prior to the award of any grant under this sec-



1        *tion, committed resources to deploy a large scale elec-*  
2        *tricity generation unit with integrated carbon capture*  
3        *and sequestration or conversion applied to a substan-*  
4        *tial portion of the unit's carbon dioxide emissions.*  
5        *Grant funds shall be provided to defray costs incurred*  
6        *by such electricity utilities for at least 5 such elec-*  
7        *tricity generation units.*

8            (5) *ADMINISTRATION.—The members of the*  
9        *Board of Directors of the Corporation shall elect a*  
10       *Chairman and other officers as necessary, may estab-*  
11       *lish committees and subcommittees of the Corpora-*  
12       *tion, and shall adopt rules and bylaws for the conduct*  
13       *of business and the implementation of this section.*  
14       *The Board shall appoint an Executive Director and*  
15       *professional support staff who may be employees of*  
16       *the Electric Power Research Institute (EPRI). After*  
17       *consultation with the Technical Advisory Committee*  
18       *established under subsection (j), the Secretary, and*  
19       *the Director of the National Energy Technology Lab-*  
20       *oratory to obtain advice and recommendations on*  
21       *plans, programs, and project selection criteria, the*  
22       *Board shall establish priorities for grants, contracts,*  
23       *and assistance; publish requests for proposals for*  
24       *grants, contracts, and assistance; and award grants,*  
25       *contracts, and assistance competitively, on the basis*

1       of merit, after the establishment of procedures that  
2       provide for scientific peer review by the Technical Ad-  
3       visory Committee. The Board shall give preference to  
4       applications that reflect the best overall value and  
5       prospect for achieving the purposes of the section, such  
6       as those which demonstrate an integrated approach  
7       for capture and storage or capture and conversion  
8       technologies. The Board members shall not participate  
9       in making grants or awards to entities with whom  
10      they are affiliated.

11           (6) *USES OF GRANTS, CONTRACTS, AND ASSIST-*  
12      *ANCE.—A grant, contract, or other assistance pro-*  
13      *vided under this subsection may be used to purchase*  
14      *carbon dioxide when needed to conduct tests of carbon*  
15      *dioxide storage sites, in the case of established projects*  
16      *that are storing carbon dioxide emissions, or for other*  
17      *purposes consistent with the purposes of this section.*  
18      *The Corporation shall make publicly available at no*  
19      *cost information learned as a result of projects which*  
20      *it supports financially.*

21           (7) *ADMINISTRATIVE EXPENSES.—Up to 5 per-*  
22      *cent of the funds collected in any fiscal year under*  
23      *subsection (d) may be used for the administrative ex-*  
24      *penses of operating the Corporation (not including*

1 *costs incurred in the determination and collection of*  
2 *the assessments pursuant to subsection (d)).*

3 (8) *PROGRAMS AND BUDGET.*—*Before August 1*  
4 *each year, the Corporation, after consulting with the*  
5 *Technical Advisory Committee and the Secretary and*  
6 *the Director of the Department's National Energy*  
7 *Technology Laboratory and other interested parties to*  
8 *obtain advice and recommendations, shall publish for*  
9 *public review and comment its proposed plans, pro-*  
10 *grams, project selection criteria, and projects to be*  
11 *funded by the Corporation for the next calendar year.*  
12 *The Corporation shall also publish for public review*  
13 *and comment a budget plan for the next calendar*  
14 *year, including the probable costs of all programs,*  
15 *projects, and contracts and a recommended rate of as-*  
16 *essment sufficient to cover such costs. The Secretary*  
17 *may recommend programs and activities the Sec-*  
18 *retary considers appropriate. The Corporation shall*  
19 *include in the first publication it issues under this*  
20 *paragraph a strategic plan or roadmap for the*  
21 *achievement of the purposes of the Corporation, as set*  
22 *forth in paragraph (2).*

23 (9) *RECORDS; AUDITS.*—*The Corporation shall*  
24 *keep minutes, books, and records that clearly reflect*  
25 *all of the acts and transactions of the Corporation*

1       *and make public such information. The books of the*  
2       *Corporation shall be audited by a certified public ac-*  
3       *countant at least once each fiscal year and at such*  
4       *other times as the Corporation may designate. Copies*  
5       *of each audit shall be provided to the Congress, all*  
6       *Corporation board members, all qualified industry or-*  
7       *ganizations, each State regulatory authority and,*  
8       *upon request, to other members of the industry. If the*  
9       *audit determines that the Corporation's practices fail*  
10      *to meet generally accepted accounting principles the*  
11      *assessment collection authority of the Corporation*  
12      *under subsection (d) shall be suspended until a cer-*  
13      *tified public accountant renders a subsequent opinion*  
14      *that the failure has been corrected. The Corporation*  
15      *shall make its books and records available for review*  
16      *by the Secretary or the Comptroller General of the*  
17      *United States.*

18           (10) *PUBLIC ACCESS.—The Corporation Board's*  
19      *meetings shall be open to the public and shall occur*  
20      *after at least 30 days advance public notice. Meetings*  
21      *of the Board of Directors may be closed to the public*  
22      *where the agenda of such meetings includes only con-*  
23      *fidential matters pertaining to project selection, the*  
24      *award of grants or contracts, personnel matters, or*  
25      *the receipt of legal advice. The minutes of all meetings*

1       of the Corporation shall be made available to and  
2       readily accessible by the public.

3           (11) *ANNUAL REPORT.*—Each year the Corpora-  
4       tion shall prepare and make publicly available a re-  
5       port which includes an identification and description  
6       of all programs and projects undertaken by the Cor-  
7       poration during the previous year. The report shall  
8       also detail the allocation or planned allocation of Cor-  
9       poration resources for each such program and project.  
10       The Corporation shall provide its annual report to  
11       the Congress, the Secretary, each State regulatory au-  
12       thority, and upon request to the public. The Secretary  
13       shall, not less than 60 days after receiving such re-  
14       port, provide to the President and Congress a report  
15       assessing the progress of the Corporation in meeting  
16       the objectives of this section.

17       (d) *ASSESSMENTS.*—

18           (1) *AMOUNT.*—(A) In all calendar years fol-  
19       lowing its establishment, the Corporation shall collect  
20       an assessment on distribution utilities for all fossil  
21       fuel-based electricity delivered directly to retail con-  
22       sumers (as determined under subsection (f)). The as-  
23       sessments shall reflect the relative carbon dioxide  
24       emission rates of different fossil fuel-based electricity,

1        *and initially shall be not less than the following*  
 2        *amounts for coal, natural gas, and oil:*

<b><i>Fuel type</i></b>	<b><i>Rate of assessment per kilowatt hour</i></b>
<i>Coal .....</i>	<i>\$0.00043</i>
<i>Natural Gas .....</i>	<i>\$0.00022</i>
<i>Oil .....</i>	<i>\$0.00032.</i>

3                *(B) The Corporation is authorized to adjust the*  
 4        *assessments on fossil fuel-based electricity to reflect*  
 5        *changes in the expected quantities of such electricity*  
 6        *from different fuel types, such that the assessments*  
 7        *generate not less than \$1.0 billion and not more than*  
 8        *\$1.1 billion annually. The Corporation is authorized*  
 9        *to supplement assessments through additional finan-*  
 10       *cial commitments.*

11               *(2) INVESTMENT OF FUNDS.—Pending disburse-*  
 12       *ment pursuant to a program, plan, or project, the*  
 13       *Corporation may invest funds collected through as-*  
 14       *sessments under this subsection, and any other funds*  
 15       *received by the Corporation, only in obligations of the*  
 16       *United States or any agency thereof, in general obli-*  
 17       *gations of any State or any political subdivision*  
 18       *thereof, in any interest-bearing account or certificate*  
 19       *of deposit of a bank that is a member of the Federal*  
 20       *Reserve System, or in obligations fully guaranteed as*  
 21       *to principal and interest by the United States.*

1           (3) *REVERSION OF UNUSED FUNDS.*—If the Cor-  
 2           poration does not disburse, dedicate or assign 75 per-  
 3           cent or more of the available proceeds of the assessed  
 4           fees in any calendar year 7 or more years following  
 5           its establishment, due to an absence of qualified  
 6           projects or similar circumstances, it shall reimburse  
 7           the remaining undedicated or unassigned balance of  
 8           such fees, less administrative and other expenses au-  
 9           thorized by this section, to the distribution utilities  
 10          upon which such fees were assessed, in proportion to  
 11          their collected assessments.

12          (e) *ERCOT.*—

13           (1) *ASSESSMENT, COLLECTION, AND REMIT-*  
 14           *TANCE.*—(A) Notwithstanding any other provision of  
 15           this section, within ERCOT, the assessment provided  
 16           for in subsection (d) shall be—

17                   (i) levied directly on qualified scheduling  
 18                   entities, or their successor entities;

19                   (ii) charged consistent with other charges  
 20                   imposed on qualified scheduling entities as a fee  
 21                   on energy used by the load-serving entities; and

22                   (iii) collected and remitted by ERCOT to  
 23                   the Corporation in the amounts and in the same  
 24                   manner as set forth in subsection (d).

1           (B) *The assessment amounts referred to in sub-*  
 2     *paragraph (A) shall be—*

3                 (i) *determined by the amount and types of*  
 4     *fossil fuel-based electricity delivered directly to*  
 5     *all retail customers in the prior calendar year*  
 6     *beginning with the year ending immediately*  
 7     *prior to the period described in subsection (b)(2);*  
 8     *and*

9                 (ii) *take into account the number of renew-*  
 10    *able energy credits retired by the load-serving en-*  
 11    *tities represented by a qualified scheduling entity*  
 12    *within the prior calendar year.*

13           (2) *ADMINISTRATION EXPENSES.—Up to 1 per-*  
 14    *cent of the funds collected in any fiscal year by*  
 15    *ERCOT under the provisions of this subsection may*  
 16    *be used for the administrative expenses incurred in*  
 17    *the determination, collection and remittance of the as-*  
 18    *sessments to the Corporation.*

19           (3) *AUDIT.—ERCOT shall provide a copy of its*  
 20    *annual audit pertaining to the administration of the*  
 21    *provisions of this subsection to the Corporation.*

22           (4) *DEFINITIONS.—For the purposes of this sub-*  
 23    *section:*

24                 (A) *The term “ERCOT” means the Electric*  
 25     *Reliability Council of Texas.*



1           (B) The term “load-serving entities” has the  
2           meaning adopted by ERCOT Protocols and in  
3           effect on the date of enactment of this Act.

4           (C) The term “qualified scheduling entities”  
5           has the meaning adopted by ERCOT Protocols  
6           and in effect on the date of enactment of this  
7           Act.

8           (D) The term “renewable energy credit” has  
9           the meaning as promulgated and adopted by the  
10          Public Utility Commission of Texas pursuant to  
11          section 39.904(b) of the Public Utility Regu-  
12          latory Act of 1999, and in effect on the date of  
13          enactment of this Act.

14          (f) DETERMINATION OF FOSSIL FUEL-BASED ELEC-  
15          TRICITY DELIVERIES.—

16           (1) FINDINGS.—The Congress finds that:

17           (A) The assessments under subsection (d)  
18           are to be collected based on the amount of fossil  
19           fuel-based electricity delivered by each distribu-  
20           tion utility.

21           (B) Since many distribution utilities pur-  
22           chase all or part of their retail consumer’s elec-  
23           tricity needs from other entities, it may not be  
24           practical to determine the precise fuel mix for

1           the power sold by each individual distribution  
2           utility.

3           (C) *It may be necessary to use average*  
4           *data, often on a regional basis with reference to*  
5           *Regional Transmission Organization (“RTO”)*  
6           *or NERC regions, to make the determinations*  
7           *necessary for making assessments.*

8           (2) *DOE PROPOSED RULE.—The Secretary, act-*  
9           *ing in close consultation with the Energy Information*  
10          *Administration, shall issue for notice and comment a*  
11          *proposed rule to determine the level of fossil fuel elec-*  
12          *tricity delivered to retail customers by each distribu-*  
13          *tion utility in the United States during the most re-*  
14          *cent calendar year or other period determined to be*  
15          *most appropriate. Such proposed rule shall balance*  
16          *the need to be efficient, reasonably precise, and time-*  
17          *ly, taking into account the nature and cost of data*  
18          *currently available and the nature of markets and*  
19          *regulation in effect in various regions of the country.*  
20          *Different methodologies may be applied in different*  
21          *regions if appropriate to obtain the best balance of*  
22          *such factors.*

23          (3) *FINAL RULE.—Within 6 months after the*  
24          *date of enactment of this Act, and after opportunity*  
25          *for comment, the Secretary shall issue a final rule*

1        *under this subsection for determining the level and*  
2        *type of fossil fuel-based electricity delivered to retail*  
3        *customers by each distribution utility in the United*  
4        *States during the appropriate period. In issuing such*  
5        *rule, the Secretary may consider opportunities and*  
6        *costs to develop new data sources in the future and*  
7        *issue recommendations for the Energy Information*  
8        *Administration or other entities to collect such data.*  
9        *After notice and opportunity for comment the Sec-*  
10       *retary may, by rule, subsequently update and modify*  
11       *the methodology for making such determinations.*

12            (4) *ANNUAL DETERMINATIONS.*—*Pursuant to the*  
13        *final rule issued under paragraph (3), the Secretary*  
14        *shall make annual determinations of the amounts and*  
15        *types for each such utility and publish such deter-*  
16        *minations in the Federal Register. Such determina-*  
17        *tions shall be used to conduct the referendum under*  
18        *subsection (b) and by the Corporation in applying*  
19        *any assessment under this subsection.*

20            (5) *REHEARING AND JUDICIAL REVIEW.*—*The*  
21        *owner or operator of any distribution utility that be-*  
22        *lieves that the Secretary has misapplied the method-*  
23        *ology in the final rule in determining the amount*  
24        *and types of fossil fuel electricity delivered by such*  
25        *distribution utility may seek rehearing of such deter-*

1        *mination within 30 days of publication of the deter-*  
2        *mination in the Federal Register. The Secretary shall*  
3        *decide such rehearing petitions within 30 days. The*  
4        *Secretary's determinations following rehearing shall*  
5        *be final and subject to judicial review in the United*  
6        *States Court of Appeals for the District of Columbia.*

7        (g) COMPLIANCE WITH CORPORATION ASSESS-  
8        MENTS.—*The Corporation may bring an action in the ap-*  
9        *propriate court of the United States to compel compliance*  
10       *with an assessment levied by the Corporation under this*  
11       *section. A successful action for compliance under this sub-*  
12       *section may also require payment by the defendant of the*  
13       *costs incurred by the Corporation in bringing such action.*

14       (h) MIDCOURSE REVIEW.—*Not later than 5 years fol-*  
15       *lowing establishment of the Corporation, the Comptroller*  
16       *General of the United States shall prepare an analysis, and*  
17       *report to Congress, assessing the Corporation's activities,*  
18       *including project selection and methods of disbursement of*  
19       *assessed fees, impacts on the prospects for commercializa-*  
20       *tion of carbon capture and storage technologies, adequacy*  
21       *of funding, and administration of funds. The report shall*  
22       *also make such recommendations as may be appropriate in*  
23       *each of these areas. The Corporation shall reimburse the*  
24       *Government Accountability Office for the costs associated*  
25       *with performing this midcourse review.*

1       (i) *RECOVERY OF COSTS.*—

2               (1) *IN GENERAL.*—A distribution utility whose  
3       transmission, delivery, or sales of electric energy are  
4       subject to any form of rate regulation shall not be de-  
5       nied the opportunity to recover the full amount of the  
6       prudently incurred costs associated with complying  
7       with this section, consistent with applicable State or  
8       Federal law.

9               (2) *RATEPAYER REBATES.*—Regulatory authori-  
10       ties that approve cost recovery pursuant to paragraph  
11       (1) may order rebates to ratepayers to the extent that  
12       distribution utilities are reimbursed undedicated or  
13       unassigned balances pursuant to subsection (d)(3).

14       (j) *TECHNICAL ADVISORY COMMITTEE.*—

15               (1) *ESTABLISHMENT.*—There is established an  
16       advisory committee, to be known as the “Technical  
17       Advisory Committee”.

18               (2) *MEMBERSHIP.*—The Technical Advisory  
19       Committee shall be comprised of not less than 7 mem-  
20       bers appointed by the Board from among academic  
21       institutions, national laboratories, independent re-  
22       search institutions, and other qualified institutions.  
23       No member of the Committee shall be affiliated with  
24       EPRI or with any organization having members serv-  
25       ing on the Board. At least one member of the Com-

1        *mittee shall be appointed from among officers or em-*  
 2        *ployees of the Department of Energy recommended to*  
 3        *the Board by the Secretary of Energy.*

4            (3) *CHAIRPERSON AND VICE CHAIRPERSON.—The*  
 5        *Board shall designate one member of the Technical*  
 6        *Advisory Committee to serve as Chairperson of the*  
 7        *Committee and one to serve as Vice Chairperson of*  
 8        *the Committee.*

9            (4) *COMPENSATION.—The Board shall provide*  
 10        *compensation to members of the Technical Advisory*  
 11        *Committee for travel and other incidental expenses*  
 12        *and such other compensation as the Board determines*  
 13        *to be necessary.*

14           (5) *PURPOSE.—The Technical Advisory Com-*  
 15        *mittee shall provide independent assessments and*  
 16        *technical evaluations, as well as make non-binding*  
 17        *recommendations to the Board, concerning Corpora-*  
 18        *tion activities, including but not limited to the fol-*  
 19        *lowing:*

20                (A) *Reviewing and evaluating the Corpora-*  
 21        *tion's plans and budgets described in subsection*  
 22        *(c)(9), as well as any other appropriate areas,*  
 23        *which could include approaches to prioritizing*  
 24        *technologies, appropriateness of engineering tech-*  
 25        *niques, monitoring and verification technologies*

1           *for storage, geological site selection, and cost con-*  
 2           *trol measures.*

3                   *(B) Making annual non-binding rec-*  
 4           *ommendations to the Board concerning any of*  
 5           *the matters referred to in subparagraph (A), as*  
 6           *well as what types of investments, scientific re-*  
 7           *search, or engineering practices would best fur-*  
 8           *ther the goals of the Corporation.*

9           *(6) PUBLIC AVAILABILITY.—All reports, evalua-*  
 10          *tions, and other materials of the Technical Advisory*  
 11          *Committee shall be made available to the public by*  
 12          *the Board, without charge, at time of receipt by the*  
 13          *Board.*

14          *(k) LOBBYING RESTRICTIONS.—No funds collected by*  
 15          *the Corporation shall be used in any manner for influ-*  
 16          *encing legislation or elections, except that the Corporation*  
 17          *may recommend to the Secretary and the Congress changes*  
 18          *in this section or other statutes that would further the pur-*  
 19          *poses of this section.*

20          *(l) DAVIS-BACON COMPLIANCE.—The Corporation*  
 21          *shall ensure that entities receiving grants, contracts, or*  
 22          *other financial support from the Corporation for the project*  
 23          *activities authorized by this section are in compliance with*  
 24          *subchapter IV of chapter 31 of title 40, United States Code*  
 25          *(commonly known as the “Davis-Bacon Act”).*

1    ***Subtitle C—Nuclear and Advanced***  
2                   ***Technologies***

3    ***SEC. 131. FINDINGS AND POLICY.***

4           (a) *FINDINGS.—Congress finds that—*

5               (1) *in 2008, 104 nuclear power plants produced*  
6               *19.6 percent of the electricity generated in the United*  
7               *States, slightly less than the electricity generated by*  
8               *natural gas;*

9               (2) *nuclear energy is the largest provider of*  
10              *clean, low-carbon, electricity, almost 8 times larger*  
11              *than all renewable power production combined, ex-*  
12              *cluding hydroelectric power;*

13              (3) *nuclear energy supplies consistent, base-load*  
14              *electricity, independent of environmental conditions;*

15              (4) *by displacing fossil fuels that would other-*  
16              *wise be used for electricity production, nuclear power*  
17              *plants virtually eliminate emissions of greenhouse*  
18              *gases and criteria pollutants associated with acid*  
19              *rain, smog, or ozone;*

20              (5) *nuclear power generation continues to re-*  
21              *quire robust efforts to address issues of safety, waste,*  
22              *and proliferation;*

23              (6) *even if every nuclear plant is granted a 20-*  
24              *year extension, all currently operating nuclear plants*  
25              *will be retired by 2055;*



1           (7) long lead times for nuclear power plant con-  
2           struction indicate that action to stimulate the nuclear  
3           power industry should not be delayed;

4           (8) the high upfront capital costs of nuclear  
5           plant construction remain a substantial obstacle, de-  
6           spite theoretical potential for significant cost reduc-  
7           tion;

8           (9) translating theoretical cost reduction poten-  
9           tial into actual reduced construction costs remains a  
10          significant industry challenge that can be overcome  
11          only through demonstrated performance;

12          (10) as of January 2009, 17 companies and con-  
13          sortia have submitted applications to the Nuclear  
14          Regulatory Commission for 26 new reactors in the  
15          United States;

16          (11) those proposed reactors will use the latest in  
17          nuclear technology for efficiency and safety, more ad-  
18          vanced than the technology of the 1960s and 1970s  
19          found in the reactors currently operating in the  
20          United States;

21          (12) increased resources for the Nuclear Regu-  
22          latory Commission and reform of the licensing process  
23          have improved the safety and timeliness of the regu-  
24          latory environment;

1           (13) *the United States has not built a new reac-*  
 2           *tor since the 1970s and, as a result, will need to revi-*  
 3           *talize and retool the institutions and infrastructure*  
 4           *necessary to construct, maintain, and support new re-*  
 5           *actors, including improvements in manufacturing of*  
 6           *nuclear components and training for the next genera-*  
 7           *tion nuclear workforce; and*

8           (14) *those new reactors will launch a new era for*  
 9           *the nuclear industry, and translate into tens of thou-*  
 10          *sands of jobs*

11          (b) *STATEMENT OF POLICY.—It is the policy of the*  
 12          *United States, given the importance of transitioning to a*  
 13          *clean energy, low-carbon economy, to facilitate the contin-*  
 14          *ued development and growth of a safe and clean nuclear*  
 15          *energy industry, through—*

16               (1) *reductions in financial and technical bar-*  
 17               *riers to construction and operation; and*

18               (2) *incentives for the development of a well-*  
 19               *trained workforce and the growth of safe domestic nu-*  
 20               *clear and nuclear-related industries.*

21          **SEC. 132. NUCLEAR WORKER TRAINING.**

22               (a) *DEFINITION OF APPLICABLE PERIOD.—In this sec-*  
 23               *tion, the term “applicable period” means—*

24                       (1) *the 5-year period beginning on January 1,*  
 25                       *2012; and*

1           (2) *each 5-year period beginning on each Janu-*  
2       *ary 1 thereafter.*

3       (b) *USE OF FUNDS.—Of amounts made available to*  
4       *carry out this section for the calendar years in each appli-*  
5       *cable period—*

6           (1) *the Secretary of Energy shall use such*  
7       *amounts for each applicable period as the Secretary*  
8       *of Energy determines to be necessary to increase the*  
9       *number and amounts of nuclear science talent expan-*  
10       *sion grants and nuclear science competitiveness*  
11       *grants provided under section 5004 of the America*  
12       *COMPETES Act (42 U.S.C. 16532); and*

13          (2) *the Secretary of Labor, in consultation with*  
14       *nuclear energy entities and organized labor, shall use*  
15       *such amounts for each applicable period as the Sec-*  
16       *retary of Labor determines to be necessary to carry*  
17       *out programs expanding workforce training to meet*  
18       *the high demand for workers skilled in nuclear power*  
19       *plant construction and operation, including programs*  
20       *for—*

21                (A) *electrical craft certification;*

22                (B) *preapprenticeship career technical edu-*  
23       *cation for industrialized skilled crafts that are*  
24       *useful in the construction of nuclear power*  
25       *plants;*

1           (C) community college and skill center  
2           training for nuclear power plant technicians;

3           (D) training of construction management  
4           personnel for nuclear power plant construction  
5           projects; and

6           (E) regional grants for integrated nuclear  
7           energy workforce development programs.

8   **SEC. 133. NUCLEAR SAFETY AND WASTE MANAGEMENT PRO-**  
9           **GRAMS.**

10       (a) *NUCLEAR FACILITY LONG-TERM OPERATIONS RE-*  
11       *SEARCH AND DEVELOPMENT PROGRAM.—*

12           (1) *ESTABLISHMENT.—As soon as practicable*  
13       *after the date of enactment of this Act, the Secretary*  
14       *of Energy (referred to in this section as the “Sec-*  
15       *retary”) shall establish a research and development*  
16       *program—*

17           (A) *to address the reliability, availability,*  
18       *productivity, component aging, safety, and secu-*  
19       *rity of nuclear power plants;*

20           (B) *to improve the performance of nuclear*  
21       *power plants;*

22           (C) *to sustain the health and safety of em-*  
23       *ployees of nuclear power plants;*

24           (D) *to assess the feasibility of nuclear power*  
25       *plants to continue to provide clean and economic*

1       *electricity safely, substantially beyond the first*  
2       *license extension period of the nuclear power*  
3       *plants, which will—*

4               *(i) significantly contribute to the en-*  
5               *ergy security of the United States; and*

6               *(ii) help protect the environment of the*  
7               *United States; and*

8               *(E) to support significant carbon reduc-*  
9       *tions, lower overall costs that are required to re-*  
10       *duce carbon emissions, and increase energy secu-*  
11       *rity.*

12       *(2) CONDUCT OF PROGRAM.—*

13               *(A) IN GENERAL.—In carrying out the pro-*  
14       *gram established under paragraph (1), the Sec-*  
15       *retary shall—*

16               *(i) build a fundamental scientific basis*  
17               *to understand, predict, and measure*  
18               *changes in materials, systems, structures,*  
19               *equipment, and components as the mate-*  
20               *rials, systems, structures, equipment, and*  
21               *components age through continued oper-*  
22               *ations in long-term service environments;*

23               *(ii) develop new safety analysis tools*  
24               *and methods to enhance the performance*  
25               *and safety of nuclear power plants;*

1                   (iii) develop advanced online moni-  
2                   toring, control, and diagnostics technologies  
3                   to prevent equipment failures and improve  
4                   the safety of nuclear power plants;

5                   (iv) establish a technical basis for ad-  
6                   vanced fuel designs (including silicon car-  
7                   bide fuel cladding) to increase the safety  
8                   margins of nuclear power plants; and

9                   (v) examine issues, including—

10                   (I) issues relating to material deg-  
11                   radation, plant aging, and technology  
12                   upgrades; and

13                   (II) any other issue that would  
14                   impact decisions to extend the lifespan  
15                   of nuclear power plants.

16                   (B) *TECHNICAL SUPPORT.*—In carrying out  
17                   the program established under paragraph (1),  
18                   the Secretary shall provide to the Chairman of  
19                   the Nuclear Regulatory Commission information  
20                   collected under the program—

21                   (i) to help ensure informed decisions  
22                   regarding the extension of the life of nuclear  
23                   power plants beyond a 60-year lifespan;  
24                   and

1                   (ii) *for the licensing and long-term*  
 2                   *management, and safe and economical oper-*  
 3                   *ation, of nuclear power plants.*

4           (b) *SPENT NUCLEAR WASTE DISPOSAL RESEARCH*  
 5 *AND DEVELOPMENT PROGRAM.—*

6                   (1) *ESTABLISHMENT.—As soon as practicable*  
 7                   *after the date of enactment of this Act, the Secretary*  
 8                   *shall establish a research and development program to*  
 9                   *improve the understanding of nuclear spent fuel man-*  
 10                   *agement and the entire nuclear fuel cycle life.*

11                  (2) *CONDUCT OF PROGRAM.—In carrying out the*  
 12                  *program established under paragraph (1), the Sec-*  
 13                  *retary shall carry out science-based research and de-*  
 14                  *velopment activities to pursue dramatic improve-*  
 15                  *ments in a range of nuclear spent fuel management*  
 16                  *options, including short-term and long-term storage*  
 17                  *and disposal, and proliferation-resistant nuclear*  
 18                  *spent fuel recycling.*

19                  (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
 20                  *authorized to be appropriated such sums as are necessary*  
 21                  *to carry out this section.*

## 22                   ***Subtitle D—Water Efficiency***

### 23           ***SEC. 141. WATERSENSE.***

24                  (a) *IN GENERAL.—There is established within the En-*  
 25                  *vironmental Protection Agency a WaterSense program to*

1 *identify and promote water-efficient products, buildings,*  
 2 *landscapes, facilities, processes, and services, so as—*

3 *(1) to reduce water use;*

4 *(2) to reduce the strain on water, wastewater,*  
 5 *and stormwater infrastructure;*

6 *(3) to conserve energy used to pump, heat, trans-*  
 7 *port, and treat water; and*

8 *(4) to preserve water resources for future genera-*  
 9 *tions, through voluntary labeling of, or other forms of*  
 10 *communications about, products, buildings, land-*  
 11 *scapes, facilities, processes, and services that meet the*  
 12 *highest water efficiency and performance criteria.*

13 *(b) DUTIES.—The Administrator shall—*

14 *(1) establish—*

15 *(A) a WaterSense label to be used for cer-*  
 16 *tain items; and*

17 *(B) the procedure by which an item may be*  
 18 *certified to display the WaterSense label;*

19 *(2) promote WaterSense-labeled products, build-*  
 20 *ings, landscapes, facilities, processes, and services in*  
 21 *the market place as the preferred technologies and*  
 22 *services for—*

23 *(A) reducing water use; and*

24 *(B) ensuring product and service perform-*  
 25 *ance;*



1           (3) *work to enhance public awareness of the*  
2           *WaterSense label through public outreach, education,*  
3           *and other means;*

4           (4) *preserve the integrity of the WaterSense label*  
5           *by—*

6                   (A) *establishing and maintaining perform-*  
7                   *ance criteria so that products, buildings, land-*  
8                   *scapes, facilities, processes, and services labeled*  
9                   *with the WaterSense label perform as well or bet-*  
10                  *ter than less water-efficient counterparts;*

11                  (B) *overseeing WaterSense certifications*  
12                  *made by third parties;*

13                  (C) *conducting reviews of the use of the*  
14                  *WaterSense label in the marketplace and taking*  
15                  *corrective action in any case in which misuse of*  
16                  *the label is identified; and*

17                  (D) *carrying out such other measures as the*  
18                  *Administrator determines to be appropriate;*

19           (5) *regularly review and, if appropriate, update*  
20           *WaterSense criteria for categories of products, build-*  
21           *ings, landscapes, facilities, processes, and services, at*  
22           *least once every 4 years;*

23           (6) *to the maximum extent practicable, regularly*  
24           *estimate and make available to the public the produc-*  
25           *tion and relative market shares of, and the savings of*

1     *water, energy, and capital costs of water, wastewater,*  
 2     *and stormwater infrastructure attributable to the use*  
 3     *of WaterSense-labeled products, buildings, landscapes,*  
 4     *facilities, processes, and services, at least annually;*

5             *(7) solicit comments from interested parties and*  
 6     *the public prior to establishing or revising a*  
 7     *WaterSense category, specification, installation cri-*  
 8     *terion, or other criterion (or prior to effective dates*  
 9     *for any such category, specification, installation cri-*  
 10    *terion, or other criterion);*

11            *(8) provide reasonable notice to interested parties*  
 12    *and the public of any changes (including effective*  
 13    *dates), on the adoption of a new or revised category,*  
 14    *specification, installation criterion, or other criterion,*  
 15    *along with—*

16                    *(A) an explanation of the changes; and*

17                    *(B) as appropriate, responses to comments*  
 18                    *submitted by interested parties and the public;*

19             *(9) provide appropriate lead time (as determined*  
 20    *by the Administrator) prior to the applicable effective*  
 21    *date for a new or significant revision to a category,*  
 22    *specification, installation criterion, or other criterion,*  
 23    *taking into account the timing requirements of the*  
 24    *manufacturing, marketing, training, and distribution*

1     *process for the specific product, building and land-*  
2     *scape, or service category addressed;*

3             *(10) identify and, if appropriate, implement*  
4     *other voluntary approaches in commercial, institu-*  
5     *tional, residential, industrial, and municipal sectors*  
6     *to encourage recycling and reuse technologies to im-*  
7     *prove water efficiency or lower water use; and*

8             *(11) where appropriate, apply the WaterSense*  
9     *label to water-using products that are labeled by the*  
10    *Energy Star program implemented by the Adminis-*  
11    *trator and the Secretary of Energy.*

12    *(c) AUTHORIZATION OF APPROPRIATIONS.—There are*  
13    *authorized to be appropriated to carry out this section—*

14             *(1) \$7,500,000 for fiscal year 2010;*

15             *(2) \$10,000,000 for fiscal year 2011;*

16             *(3) \$20,000,000 for fiscal year 2012;*

17             *(4) \$50,000,000 for fiscal year 2013; and*

18             *(5) for each subsequent fiscal year, the applicable*  
19     *amount during the preceding fiscal year, as adjusted*  
20     *to reflect changes for the 12-month period ending the*  
21     *preceding November 30 in the Consumer Price Index*  
22     *for All Urban Consumers published by the Bureau of*  
23     *Labor Statistics of the Department of Labor.*

1 **SEC. 142. FEDERAL PROCUREMENT OF WATER-EFFICIENT**  
2 **PRODUCTS.**

3 (a) *DEFINITIONS.—In this section:*

4 (1) *AGENCY.—The term “Agency” has the mean-*  
5 *ing given the term in section 7902(a) of title 5,*  
6 *United States Code.*

7 (2) *FEMP-DESIGNATED PRODUCT.—The term*  
8 *“FEMP-designated product” means a product that is*  
9 *designated under the Federal Energy Management*  
10 *Program of the Department of Energy as being*  
11 *among the highest 25 percent of equivalent products*  
12 *for efficiency.*

13 (3) *PRODUCT, BUILDING, LANDSCAPE, FACILITY,*  
14 *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 or*  
19 *procured for combat or combat-related missions;*  
20 *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 141.*

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 an 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 the*  
7           *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 Agency.*

18           (3) *PROCUREMENT PLANNING.—*

19                    (A) *IN GENERAL.—The head of an Agency*  
20                    *shall incorporate criteria used for evaluating*  
21                    *WaterSense products, buildings, landscapes, fa-*  
22                    *cilities, processes, and services and FEMP-des-*  
23                    *ignated products into—*

24                             (i) *the specifications for all procure-*  
25                             *ments involving water-using products,*

1           *buildings, landscapes, facilities, processes,*  
 2           *and systems, including guide specifications,*  
 3           *project specifications, and construction, ren-*  
 4           *ovation, and services contracts that include*  
 5           *provision of water-using products, build-*  
 6           *ings, landscapes, facilities, processes, and*  
 7           *systems; and*

8                   (ii) *the factors for the evaluation of of-*  
 9           *fers received for the procurement.*

10           (B) *LISTING OF WATER-EFFICIENT PROD-*  
 11           *UCTS IN FEDERAL CATALOGS.*—*WaterSense prod-*  
 12           *ucts, buildings, landscapes, facilities, processes,*  
 13           *and systems and FEMP-designated products*  
 14           *shall be clearly identified and prominently dis-*  
 15           *played in any inventory or listing of products by*  
 16           *the General Services Administration or the De-*  
 17           *fense Logistics Agency.*

18           (C) *ADDITIONAL MEASURES.*—*The head of*  
 19           *an Agency shall consider, to the maximum extent*  
 20           *practicable, additional measures for reducing*  
 21           *Agency water use, including water reuse tech-*  
 22           *nologies, leak detection and repair, and use of*  
 23           *waterless products that perform similar func-*  
 24           *tions to existing water-using products.*

1       (c) *RETROFIT PROGRAMS.*—*The head of each Agency,*  
2 *working in coordination with the Administrator and the*  
3 *heads of such other Agencies as the President may designate,*  
4 *shall develop standards and implementation procedures for*  
5 *a building water efficiency retrofit program, which shall*  
6 *include the following elements:*

7           (1) *EVALUATION OF PRODUCTS AND SYSTEMS.*—  
8 *Not later than 270 days after the date of enactment*  
9 *of this Act, each Agency shall evaluate water-con-*  
10 *suming products and systems in buildings operated*  
11 *by such Agency and identify opportunities for retrofit*  
12 *and replacement of such products and systems with*  
13 *high-efficiency equipment, such as zero-water-con-*  
14 *sumption equipment, high-efficiency toilets, high-effi-*  
15 *ciency shower heads, and high-efficiency faucets, and*  
16 *other products that are certified as Watersense prod-*  
17 *ucts or FEMP-designated products.*

18           (2) *RETROFIT PLAN.*—*Not later than 360 days*  
19 *after the date of enactment of this Act, each Agency*  
20 *shall, in coordination with other appropriate Agencies*  
21 *and officials, prepare a water efficiency retrofit plan*  
22 *that shall, to the maximum extent practicable, maxi-*  
23 *mize retrofitting of water-consuming products and*  
24 *systems and replacement with high-efficiency equip-*  
25 *ment described in paragraph (1).*



1       (d) *GUIDELINES.*—Not later than 180 days after the  
 2       date of enactment of this Act, the Administrator, working  
 3       in coordination with the Secretary of Energy and the heads  
 4       of such other Agencies as the President may designate, shall  
 5       issue guidelines to carry out this section.

6       **SEC. 143. STATE RESIDENTIAL WATER EFFICIENCY AND**  
 7               **CONSERVATION INCENTIVES PROGRAM.**

8       (a) *DEFINITIONS.*—In this section:

9               (1) *ELIGIBLE ENTITY.*—The term “eligible enti-  
 10       ty” means a State government, local or county gov-  
 11       ernment, tribal government, wastewater or sewerage  
 12       utility, municipal water authority, energy utility,  
 13       water utility, or nonprofit organization that meets  
 14       the requirements of subsection (b).

15              (2) *INCENTIVE PROGRAM.*—The term “incentive  
 16       program” means a program for administering finan-  
 17       cial incentives for consumer purchase and installation  
 18       of water-efficient products, buildings (including New  
 19       Water-Efficient Homes), landscapes, processes, or  
 20       services described in subsection (b)(1).

21              (3) *RESIDENTIAL WATER-EFFICIENT PRODUCT,*  
 22       *BUILDING, LANDSCAPE, PROCESS, OR SERVICE.*—

23                      (A) *IN GENERAL.*—The term “residential  
 24       water-efficient product, building, landscape,  
 25       process, or service” means a product, building,

1           *landscape, process, or service for a residence or*  
 2           *its landscape that is rated for water efficiency*  
 3           *and performance—*

4                     *(i) by the WaterSense program; or*

5                     *(ii) if a WaterSense specification does*  
 6           *not exist, by the Energy Star program or*  
 7           *an incentive program approved by the Ad-*  
 8           *ministrator.*

9           *(B) INCLUSIONS.—The term “residential*  
 10          *water-efficient product, building, landscape,*  
 11          *process, or service” includes—*

12                    *(i) faucets;*

13                    *(ii) irrigation technologies and serv-*  
 14           *ices;*

15                    *(iii) point-of-use water treatment de-*  
 16           *vices;*

17                    *(iv) reuse and recycling technologies;*

18                    *(v) toilets;*

19                    *(vi) clothes washers;*

20                    *(vii) dishwashers;*

21                    *(viii) showerheads;*

22                    *(ix) xeriscaping and other landscape*  
 23           *conversions that replace irrigated turf; and*

24                    *(x) New Water Efficient Homes cer-*  
 25           *tified by the WaterSense program.*

1           (4) *WATERSENSE PROGRAM.*—*The term*  
 2           *“WaterSense program” means the program estab-*  
 3           *lished by section 141.*

4           (b) *ELIGIBLE ENTITIES.*—*An entity shall be eligible*  
 5           *to receive an allocation under subsection (c) if the entity—*

6                 (1) *establishes (or has established) an incentive*  
 7                 *program to provide financial incentives to residential*  
 8                 *consumers for the purchase of residential water-effi-*  
 9                 *cient products, buildings, landscapes, processes, or*  
 10                *services;*

11               (2) *submits an application for the allocation at*  
 12               *such time, in such form, and containing such infor-*  
 13               *mation as the Administrator may require; and*

14               (3) *provides assurances satisfactory to the Ad-*  
 15               *ministrator that the entity will use the allocation to*  
 16               *supplement, but not supplant, funds made available*  
 17               *to carry out the incentive program.*

18           (c) *AMOUNT OF ALLOCATIONS.*—*For each fiscal year,*  
 19           *the Administrator shall determine the amount to allocate*  
 20           *to each eligible entity to carry out subsection (d), taking*  
 21           *into consideration—*

22               (1) *the population served by the eligible entity*  
 23               *during the most recent calendar year for which data*  
 24               *are available;*

1           (2) *the targeted population of the incentive pro-*  
 2           *gram of the eligible entity, such as general households,*  
 3           *low-income households, or first-time homeowners, and*  
 4           *the probable effectiveness of the incentive program for*  
 5           *that population;*

6           (3) *for existing programs, the effectiveness of the*  
 7           *program in encouraging the adoption of water-effi-*  
 8           *cient products, buildings, landscapes, facilities, proc-*  
 9           *esses, and services;*

10          (4) *any allocation to the eligible entity for a pre-*  
 11          *ceding fiscal year that remains unused; and*

12          (5) *the per capita water demand of the popu-*  
 13          *lation served by the eligible entity during the most re-*  
 14          *cent calendar year for which data are available and*  
 15          *the accessibility of water supplies to such entity.*

16          (d) *USE OF ALLOCATED FUNDS.—Funds allocated to*  
 17          *an eligible entity under subsection (c) may be used to pay*  
 18          *up to 50 percent of the cost of establishing and carrying*  
 19          *out an incentive program.*

20          (e) *FIXTURE RECYCLING.—Eligible entities are en-*  
 21          *couraged to promote or implement fixture recycling pro-*  
 22          *grams to manage the disposal of older fixtures replaced due*  
 23          *to the incentive program under this section.*

24          (f) *ISSUANCE OF INCENTIVES.—*

1           (1) *IN GENERAL.*—*Financial incentives may be*  
2           *provided to residential consumers that meet the re-*  
3           *quirements of the applicable incentive program.*

4           (2) *MANNER OF ISSUANCE.*—*An eligible entity*  
5           *may—*

6                     (A) *issue all financial incentives directly to*  
7                     *residential consumers; or*

8                     (B) *with approval of the Administrator,*  
9                     *delegate all or part of financial incentive admin-*  
10                    *istration to other organizations, including local*  
11                    *governments, municipal water authorities, water*  
12                    *utilities, and non-profit organizations.*

13           (3) *AMOUNT.*—*The amount of a financial incen-*  
14           *tive shall be determined by the eligible entity, taking*  
15           *into consideration—*

16                    (A) *the amount of any Federal or State in-*  
17                    *centive available for the purchase of the residen-*  
18                    *tial water-efficient product or service;*

19                    (B) *the amount necessary to change con-*  
20                    *sumer behavior to purchase water-efficient prod-*  
21                    *ucts and services; and*

22                    (C) *the consumer expenditures for onsite*  
23                    *preparation, assembly, and original installation*  
24                    *of the product.*

1       (g) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
 2 *authorized to be appropriated to the Administrator to carry*  
 3 *out this section—*

4           (1) *\$100,000,000 for fiscal year 2010;*

5           (2) *\$150,000,000 for fiscal year 2011;*

6           (3) *\$200,000,000 for fiscal year 2012;*

7           (4) *\$150,000,000 for fiscal year 2013;*

8           (5) *\$100,000,000 for fiscal year 2014; and*

9           (6) *for each subsequent fiscal year, the applicable*  
 10 *amount during the preceding fiscal year, as adjusted*  
 11 *to reflect changes for the 12-month period ending the*  
 12 *preceding November 30 in the Consumer Price Index*  
 13 *for All Urban Consumers published by the Bureau of*  
 14 *Labor Statistics of the Department of Labor.*

## 15           ***Subtitle E—Miscellaneous***

### 16   ***SEC. 151. OFFICE OF CONSUMER ADVOCACY.***

17       (a) *DEFINITIONS.*—*In this section:*

18           (1) *ADVISORY COMMITTEE.*—*The term “Advisory*  
 19 *Committee” means the Consumer Advocacy Advisory*  
 20 *Committee established under subsection (c)(1).*

21           (2) *COMMISSION.*—*The term “Commission”*  
 22 *means the Federal Energy Regulatory Commission.*

23           (3) *ENERGY CUSTOMER.*—*The term “energy cus-*  
 24 *tomers” means a residential customer or a small com-*  
 25 *mmercial customer that receives products or services*

1     *from a public utility or natural gas company under*  
 2     *the jurisdiction of the Commission.*

3           (4) *NATURAL GAS COMPANY.*—*The term “natural*  
 4     *gas company” has the meaning given the term in sec-*  
 5     *tion 2 of the Natural Gas Act (15 U.S.C. 717a).*

6           (5) *OFFICE.*—*The term “Office” means the Office*  
 7     *of Consumer Advocacy established by subsection*  
 8     *(b)(1).*

9           (6) *PUBLIC UTILITY.*—*The term “public utility”*  
 10    *has the meaning given the term in section 201(e) of*  
 11    *the Federal Power Act (16 U.S.C. 824(e)).*

12          (7) *SMALL COMMERCIAL CUSTOMER.*—*The term*  
 13    *“small commercial customer” means a commercial*  
 14    *customer that has a peak demand of not more than*  
 15    *1,000 kilowatts per hour.*

16    (b) *OFFICE.*—

17          (1) *ESTABLISHMENT.*—*There is established an*  
 18    *Office of Consumer Advocacy to serve as an advocate*  
 19    *for the public interest.*

20          (2) *DIRECTOR.*—*The Office shall be headed by a*  
 21    *Director to be appointed by the President, who is ad-*  
 22    *mitted to the Federal Bar, with experience in public*  
 23    *utility proceedings, and by and with the advice and*  
 24    *consent of the Senate.*

25          (3) *DUTIES.*—*The Office may—*

1           (A) represent, and appeal on behalf of, en-  
2           ergy customers on matters concerning rates or  
3           service of public utilities and natural gas compa-  
4           nies under the jurisdiction of the Commission—

5                   (i) at hearings of the Commission;

6                   (ii) in judicial proceedings in the  
7                   courts of the United States; and

8                   (iii) at hearings or proceedings of other  
9                   Federal regulatory agencies and commis-  
10                  sions;

11          (B) monitor and review energy customer  
12          complaints and grievances on matters concerning  
13          rates or service of public utilities and natural  
14          gas companies under the jurisdiction of the Com-  
15          mission;

16          (C) investigate independently, or within the  
17          context of formal proceedings, the services pro-  
18          vided by, the rates charged by, and the valuation  
19          of the properties of, public utilities and natural  
20          gas companies under the jurisdiction of the Com-  
21          mission;

22          (D) develop means, such as public dissemi-  
23          nation of information, consultative services, and  
24          technical assistance, to ensure, to the maximum  
25          extent practicable, that the interests of energy



1        *consumers are adequately represented in the*  
 2        *course of any hearing or proceeding described in*  
 3        *subparagraph (A);*

4                *(E) collect data concerning rates or service*  
 5        *of public utilities and natural gas companies*  
 6        *under the jurisdiction of the Commission; and*

7                *(F) prepare and issue reports and rec-*  
 8        *ommendations.*

9        *(4) COMPENSATION AND POWERS.—The Director*  
 10       *may—*

11                *(A) employ and fix the compensation of*  
 12        *such staff personnel as is deemed necessary; and*

13                *(B) procure temporary and intermittent*  
 14        *services as needed.*

15        *(5) ACCESS TO INFORMATION.—Each depart-*  
 16        *ment, agency, and instrumentality of the Federal*  
 17        *Government is authorized and directed to furnish to*  
 18        *the Director such reports and other information as he*  
 19        *deems necessary to carry out his functions under this*  
 20        *section.*

21        *(c) CONSUMER ADVOCACY ADVISORY COMMITTEE.—*

22                *(1) ESTABLISHMENT.—The Director shall estab-*  
 23        *lish an advisory committee, to be known as Consumer*  
 24        *Advocacy Advisory Committee, to review rates, serv-*

1        *ices, and disputes and to make recommendations to*  
2        *the Director.*

3                (2) *COMPOSITION.—The Director shall appoint 5*  
4        *members to the Advisory Committee including—*

5                        (A) *2 individuals representing State Utility*  
6        *Consumer Advocates; and*

7                        (B) *1 individual, from a nongovernmental*  
8        *organization, representing consumers.*

9                (3) *MEETINGS.—The Advisory Committee shall*  
10        *meet at such frequency as may be required to carry*  
11        *out its duties.*

12                (4) *REPORTS.—The Director shall provide for*  
13        *publication of recommendations of the Advisory Com-*  
14        *mittee on the public website established for the Office.*

15                (5) *DURATION.—Notwithstanding any other pro-*  
16        *vision of law, the Advisory Committee shall continue*  
17        *in operation during the period in which the Office ex-*  
18        *ists.*

19                (6) *APPLICATION OF FACa.—Except as otherwise*  
20        *specifically provided, the Advisory Committee shall be*  
21        *subject to the Federal Advisory Committee Act.*

22                (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
23        *authorized such sums as necessary to carry out this section.*

1       (e) *SAVINGS CLAUSE.*—*Nothing in this section affects*  
 2 *the rights or obligations of State Utility Consumer Advo-*  
 3 *cates.*

4       **SEC. 152. CLEAN TECHNOLOGY BUSINESS COMPETITION**  
 5               **GRANT PROGRAM.**

6       (a) *IN GENERAL.*—*The Administrator may provide*  
 7 *grants to organizations to conduct business competitions*  
 8 *that provide incentives, training, and mentorship to entre-*  
 9 *preneurs and early stage start-up companies throughout the*  
 10 *United States to meet high-priority economic, environ-*  
 11 *mental, and energy goals in areas including air quality,*  
 12 *energy efficiency and renewable energy, transportation,*  
 13 *water quality and conservation, green buildings, and waste*  
 14 *management.*

15       (b) *PURPOSES.*—

16               (1) *IN GENERAL.*—*The competitions described in*  
 17 *subsection (a) shall have the purposes of—*

18                       (A) *accelerating the development and de-*  
 19 *ployment of clean technology businesses and*  
 20 *green jobs;*

21                       (B) *stimulating green economic develop-*  
 22 *ment;*

23                       (C) *providing business training and men-*  
 24 *toring to early stage clean technology companies;*  
 25 *and*

1                   (D) *strengthening the competitiveness of*  
 2                   *United States clean technology industry in world*  
 3                   *trade markets.*

4                   (2) *PRIORITY.—Priority shall be given to busi-*  
 5                   *ness competitions that—*

6                   (A) *are led by the private sector;*

7                   (B) *encourage regional and interregional*  
 8                   *cooperation; and*

9                   (C) *can demonstrate market-driven prac-*  
 10                   *tices and the creation of cost-effective green jobs*  
 11                   *through an annual publication of competition*  
 12                   *activities and directory of companies.*

13                  (c) *ELIGIBILITY.—*

14                   (1) *IN GENERAL.—To be eligible for a grant*  
 15                   *under this section, an organization shall be any spon-*  
 16                   *sored entity of an organization described in subpara-*  
 17                   *graph (A) that is operated as a nonprofit entity.*

18                   (2) *PRIORITY.—In making grants under this sec-*  
 19                   *tion, the Administrator shall give priority to organi-*  
 20                   *zations that can demonstrate broad funding support*  
 21                   *from private and other non-Federal funding sources*  
 22                   *to leverage Federal investment.*

23                  (d) *AUTHORIZATION OF APPROPRIATIONS.—There is*  
 24                   *authorized to be appropriated to carry out this section*  
 25                   *\$20,000,000.*

1 **SEC. 153. PRODUCT CARBON DISCLOSURE PROGRAM.**

2       (a) *EPA STUDY.*—*The Administrator shall conduct a*  
3 *study to determine the feasibility of establishing a national*  
4 *program for measuring, reporting, publicly disclosing, and*  
5 *labeling products or materials sold in the United States for*  
6 *their carbon content, and shall, not later than 18 months*  
7 *after the date of enactment of this Act, transmit a report*  
8 *to Congress which shall include the following:*

9           (1) *A determination of whether a national prod-*  
10 *uct carbon disclosure program and labeling program*  
11 *would be effective in achieving the intended goals of*  
12 *achieving greenhouse gas reductions and an examina-*  
13 *tion of existing programs globally and their strengths*  
14 *and weaknesses.*

15           (2) *Criteria for identifying and prioritizing sec-*  
16 *tors and products and processes that should be covered*  
17 *in such program or programs.*

18           (3) *An identification of products, processes, or*  
19 *sectors whose inclusion could have a substantial car-*  
20 *bon impact (prioritizing industrial products such as*  
21 *iron and steel, aluminum, cement, chemicals, and*  
22 *paper products, and also including food, beverage, hy-*  
23 *giene, cleaning, household cleaners, construction, met-*  
24 *als, clothing, semiconductor, and consumer elec-*  
25 *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 in*  
4           *a carbon disclosure program and labeling program.*

5           (5) *A review of existing greenhouse gas product*  
6           *accounting standards, methodologies, and practices*  
7           *including the Greenhouse Gas Protocol, ISO 14040/*  
8           *44, ISO 14067, and Publically Available Specifica-*  
9           *tion 2050, and including a review of the strengths*  
10          *and weaknesses of each.*

11          (6) *A survey of secondary databases including*  
12          *the Manufacturing Energy Consumption Survey, an*  
13          *evaluation of the quality of data for use in a product*  
14          *carbon disclosure program and product carbon label-*  
15          *ing program, an identification of gaps in the data*  
16          *relative to the potential purposes of a national prod-*  
17          *uct carbon disclosure program and product carbon la-*  
18          *beling program, and development of recommendations*  
19          *for addressing these data gaps.*

20          (7) *An assessment of the utility of comparing*  
21          *products and the appropriateness of product carbon*  
22          *standards.*

23          (8) *An evaluation of the information needed on*  
24          *a label for clear and accurate communication, includ-*

1        *ing what pieces of quantitative and qualitative infor-*  
2        *mation 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 should*  
7        *be developed for products whose producer does not*  
8        *participate in the program or does not have data to*  
9        *support a disclosure or label and a determination of*  
10       *the best ways to develop such default values.*

11           (11) *A recommendation of certification and*  
12        *verification options necessary to assure the quality of*  
13        *the information and avoid greenwashing or the use of*  
14        *insubstantial or meaningless environmental claims to*  
15        *promote a product.*

16           (12) *An assessment of options for educating con-*  
17        *sumers about product carbon content and the product*  
18        *carbon disclosure program and product carbon label-*  
19        *ing program.*

20           (13) *An analysis of the costs and timelines asso-*  
21        *ciated with establishing a national product carbon*  
22        *disclosure program and product carbon labeling pro-*  
23        *gram, including options for a phased approach. Costs*  
24        *should include those for businesses associated with the*  
25        *measurement of carbon footprints and those associated*

1       *with creating a product carbon label and managing*  
2       *and operating a product carbon labeling program,*  
3       *and options for minimizing these costs.*

4           (14) *An evaluation of incentives (such as finan-*  
5       *cial incentives, brand reputation, and brand loyalty)*  
6       *to determine whether reductions in emissions can be*  
7       *accelerated through encouraging more efficient manu-*  
8       *facturing or by encouraging preferences for lower-*  
9       *emissions products to substitute for higher-emissions*  
10       *products whose level of performance is no better.*

11       (b) *DEVELOPMENT OF NATIONAL CARBON DISCLO-*  
12       *SURE PROGRAM.—Upon conclusion of the study, and not*  
13       *later than 3 years after the date of enactment of this Act,*  
14       *the Administrator shall establish a national product carbon*  
15       *disclosure program, participation in which shall be vol-*  
16       *untary, and which may involve a product carbon label with*  
17       *broad applicability to the wholesale and consumer markets*  
18       *to enable and encourage knowledge about carbon content by*  
19       *producers and consumers and to inform efforts to reduce*  
20       *energy consumption (carbon dioxide equivalent emissions)*  
21       *nationwide. In developing such a program, the Adminis-*  
22       *trator shall—*

23           (1) *consider the results of the study conducted*  
24       *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 be*  
4           *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 product*  
14          *carbon labeling;*

15          (5) *develop protocols and parameters for a prod-*  
16          *uct carbon disclosure program, including a method-*  
17          *ology and formula for assessing, verifying, and poten-*  
18          *tially labeling a product's greenhouse gas content, and*  
19          *for data quality requirements to allow for product*  
20          *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 and  
2           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 to  
13          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 con-  
18          sultations, public workshops, or hearings with rep-  
19          resentatives of consumer product manufacturers, con-  
20          sumer 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, ingredients,*  
 3        *or other factors, and specify the frequency to which*  
 4        *data should be updated; and*

5            *(14) develop a standardized, easily understand-*  
 6        *able carbon label, if appropriate, and create a process*  
 7        *for responding to inaccuracies and misuses of such a*  
 8        *label.*

9        *(c) REPORT TO CONGRESS.—Not later than 5 years*  
 10       *after the program is established pursuant to subsection (b),*  
 11       *the Administrator shall report to Congress on the effective-*  
 12       *ness and impact of the program, the level of voluntary par-*  
 13       *ticipation, and any recommendations for additional meas-*  
 14       *ures.*

15       *(d) DEFINITIONS.—In this section:*

16            *(1) The term “carbon content” means the quan-*  
 17        *tity of greenhouse gas emissions and the warming im-*  
 18        *pect of those emissions on the atmosphere expressed in*  
 19        *carbon 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 particular*  
 23        *activity, service, or entity.*

24            *(3) The term “carbon lifecycle” means the green-*  
 25        *house gas emissions that are released as part of the*

1        *processes of creating, producing, processing, manufac-*  
 2        *turing, modifying, transporting, distributing, storing,*  
 3        *using, recycling, or disposing of goods and services.*

4        *(e) AUTHORIZATION OF APPROPRIATIONS.—There is*  
 5        *authorized to be appropriated to the Administrator—*

6                *(1) to carry out the study required by subsection*  
 7        *(a), \$5,000,000; and*

8                *(2) to carry out the program required under sub-*  
 9        *section (b), \$25,000,000 for each of fiscal years 2010*  
 10        *through 2025.*

11    **SEC. 154. STATE RECYCLING PROGRAMS.**

12        *(a) ESTABLISHMENT.—The Administrator shall estab-*  
 13        *lish a State Recycling Program governing the use of funds*  
 14        *by States in accordance with this Act.*

15        *(b) USE OF FUNDING.—*

16                *(1) IN GENERAL.—States receiving funding to*  
 17        *carry out this section shall use the proceeds to carry*  
 18        *out recycling programs, including reuse programs, in*  
 19        *accordance with this section.*

20                *(2) COUNTY AND MUNICIPAL PROGRAMS.—Sub-*  
 21        *ject to subsection (d), not less than  $\frac{1}{4}$  of the funding*  
 22        *made available to a State to carry out this section*  
 23        *shall be distributed by the State to county and munic-*  
 24        *ipal recycling and reuse programs (or to State recy-*  
 25        *cling and reuse programs, if that State does not have*

1        *a county or municipal program) as described in sub-*  
2        *section (c)(1), to be used exclusively to support recy-*  
3        *cling and reuse purposes and associated source reduc-*  
4        *tion purposes, including to provide incentives—*

5                *(A) for recycling- and reuse-related tech-*  
6                *nology that—*

7                        *(i) reduces or avoids greenhouse gas*  
8                        *emissions;*

9                        *(ii) increases collection rates;*

10                      *(iii) improves the quality of recyclable*  
11                      *material that is separated from solid waste;*

12                      *or*

13                      *(iv) increases the reuse of products that*  
14                      *would otherwise be disposed;*

15                *(B) for energy-efficiency projects for trans-*  
16                *portation fleets and recycling equipment used to*  
17                *collect and sort recyclable material and reusable*  
18                *products separated from solid waste;*

19                *(C) for recycling and reuse program-related*  
20                *expenses, including—*

21                      *(i) education and job training;*

22                      *(ii) development and implementation*  
23                      *of variable rate (commonly referred to as*  
24                      *“pay-as-you-throw”) funding programs and*

1                    *composting, including anaerobic digestion*  
 2                    *programs;*

3                    *(iii) promotion of public space recy-*  
 4                    *cling programs;*

5                    *(iv) approaches for assuring compli-*  
 6                    *ance with recycling and reuse requirements;*  
 7                    *and*

8                    *(v) development or implementation of*  
 9                    *best practices for municipal solid waste re-*  
 10                    *duction and reuse programs; and*

11                    *(vi) incentives for the deployment of*  
 12                    *reuse technology and equipment that re-*  
 13                    *duces or avoids greenhouse gas emissions;*  
 14                    *and*

15                    *(D) to ensure that recyclable materials and*  
 16                    *reusable products are not sent for disposal or in-*  
 17                    *cineration during fluctuating markets.*

18                    *(3) RECYCLING AND REUSE FACILITIES.—Subject*  
 19                    *to subsection (d), not less than 1/4 of the funding made*  
 20                    *available to a State to carry out this section shall be*  
 21                    *distributed by the State to eligible recycling and reuse*  
 22                    *facilities as described in subsection (c)(2) to be used*  
 23                    *exclusively to support the recycling purposes and as-*  
 24                    *sociated source reduction purposes of the facilities, in-*  
 25                    *cluding to provide—*

1           (A) incentives for the demonstration or de-  
2           ployment of recycling- and reuse-related tech-  
3           nology and equipment that reduce or avoid  
4           greenhouse gas emissions;

5           (B) incentives to facilities that increase the  
6           quantity and quality of recyclable material or  
7           reusable products that are recycled or reused  
8           versus sent for disposal or incineration;

9           (C) funding for research, management, and  
10          removal of impediments to recycling and reuse,  
11          including—

12               (i) radioactive material;

13               (ii) devices or materials that contain  
14               polychlorinated biphenyls, mercury, or  
15               chlorofluorocarbons;

16               (iii) improved collection systems; and

17               (iv) production of products that are re-  
18               usable;

19          (D) funding for research on, and develop-  
20          ment and deployment of, new technologies to  
21          more efficiently and effectively recycle items and  
22          reuse products such as automobile shredder res-  
23          idue, cathode ray tubes, plastics, and tires; and

24          (E) incentives to recycle materials and  
25          reuse products identified by the Administrator

1           *that are not being recycled at a recycling facil-*  
 2           *ity.*

3           (4) *MANUFACTURING FACILITIES.*—Subject to  
 4           subsection (d), not less than  $\frac{1}{4}$  of the funding made  
 5           available to a State to carry out this section shall be  
 6           distributed by the State to eligible manufacturing fa-  
 7           cilities as described in subsection (c)(3) to be used ex-  
 8           clusively to support recycling and reuse purposes, in-  
 9           cluding to provide incentives for the demonstration or  
 10          deployment of—

11                 (A) *manufacturing-related technology and*  
 12                 *equipment that would increase the use of recycla-*  
 13                 *ble material and the reuse of products and avoid*  
 14                 *or reduce greenhouse gas emissions;*

15                 (B) *radiation detection equipment and the*  
 16                 *costs associated with recovery of detected radi-*  
 17                 *ated recyclable material;*

18                 (C) *technologies that will detect and sepa-*  
 19                 *rate contaminants, including mercury-, lead-,*  
 20                 *and cadmium-containing devices;*

21                 (D) *strategies and technologies to remove*  
 22                 *impediments to recovering recyclable material*  
 23                 *and product reuse; and*

24                 (E) *strategies and technologies to improve*  
 25                 *the energy efficiency of technology and equip-*



1           *ment used to manufacture recyclable and reus-*  
2           *able products.*

3           (5) *REUSE FACILITIES.*—*Not more than 1/4 of the*  
4           *funding made available to a State to carry out this*  
5           *section may be distributed by the State to eligible*  
6           *reuse facilities described in subsection (c)(4), to be*  
7           *used exclusively to support the reuse purposes and as-*  
8           *sociated source reduction purposes of the facilities, in-*  
9           *cluding to provide—*

10                (A) *incentives for the demonstration or de-*  
11                *ployment of reuse-related technology and equip-*  
12                *ment that reduces or avoids greenhouse gas emis-*  
13                *sions;*

14                (B) *incentives to facilities that increase the*  
15                *quantity and quality of products and materials*  
16                *that are reused versus sent for disposal or incin-*  
17                *eration;*

18                (C) *funding for research, management, and*  
19                *removal of impediments to reuse, including—*

20                        (i) *improved collection systems; and*

21                        (ii) *production of products that are re-*  
22                        *usable;*

23                (D) *funding for research on, and develop-*  
24                *ment and deployment of, new technologies to*

1           *more efficiently and effectively reuse products;*  
 2           *and*

3           *(E) other incentives to reuse products, as*  
 4           *identified by the Administrator.*

5       *(c) ELIGIBILITY REQUIREMENTS.—*

6           *(1) COUNTY AND MUNICIPALITY PROGRAMS.—*  
 7       *Funds provided under subsection (b)(2) shall be pro-*  
 8       *vided on a competitive basis to county and municipal*  
 9       *recycling and reuse programs that—*

10           *(A) have within the solid waste manage-*  
 11           *ment plans of the programs a recycling and*  
 12           *reuse management plan that includes an edu-*  
 13           *cation outreach program for the individuals and*  
 14           *entities served by the program constituency that*  
 15           *highlights the lifecycle benefits of recycling; and*

16           *(B) collect at least 5 types of recyclable or*  
 17           *reusable materials, such as—*

18                   *(i) ferrous and nonferrous metal;*

19                   *(ii) aluminum;*

20                   *(iii) plastic;*

21                   *(iv) tires and rubber;*

22                   *(v) household electronic equipment;*

23                   *(vi) glass;*

24                   *(vii) scrap food;*

25                   *(viii) recoverable fiber or paper;*

1                   *(ix) textiles; and*

2                   *(x) consumer packing;*

3                   *(C) demonstrate, not later than 3 years*  
4 *after the date of receipt of funds under this sub-*  
5 *title, reasonable progress toward achieving—*

6                   *(i) a collection rate goal of at least 30*  
7 *percent of the total recyclable or reusable*  
8 *materials available from the solid waste*  
9 *stream in the requesting State, county, or*  
10 *municipal program; or*

11                   *(ii) a 10-percent increase of collected*  
12 *recyclable materials compared to the total*  
13 *solid waste stream in the requesting State,*  
14 *county, or municipal program; and*

15                   *(D)(i) own, operate, or contract to handle,*  
16 *operate, or sell 1 or more of—*

17                   *(I) a curbside recyclables collection*  
18 *program;*

19                   *(II) a redemption center or drop-off fa-*  
20 *cility for recyclables or reusable products; or*

21                   *(III) a materials recovery facility; and*

22                   *(ii) have in place a quality, environmental,*  
23 *health, and safety management system (such as*  
24 *that of the International Standards Organiza-*  
25 *tion or an equivalent) that includes goals to re-*

1           *duce the operational carbon baselines of the pro-*  
 2           *grams.*

3           (2) *RECYCLING AND REUSE FACILITIES.*—*Funds*  
 4           *provided under subsection (b)(3) shall be provided on*  
 5           *a competitive basis to an existing recycling facility*  
 6           *that—*

7                   (A) *processes recyclable material into com-*  
 8                   *mercial specification-grade commodities for use*  
 9                   *as raw material feed stock at recovery facilities,*  
 10                  *including for use as—*

11                           (i) *a replacement or substitute for a*  
 12                           *virgin raw material; or*

13                           (ii) *a replacement or substitute for a*  
 14                           *product made, in whole or in part, from a*  
 15                           *virgin raw material;*

16                   (B) *has a verifiable carbon baseline; and*

17                   (C) *has an environmental, health and safe-*  
 18                   *ty, and quality management system (such as*  
 19                   *that of the International Standards Organiza-*  
 20                   *tion or an equivalent) that includes goals to re-*  
 21                   *duce the operational carbon baseline of the recy-*  
 22                   *cling facility per unit of material processed.*

23           (3) *MANUFACTURING FACILITY.*—*Funds provided*  
 24           *under subsection (b)(4) shall be provided on a com-*  
 25           *petitive basis to a manufacturing facility that—*

1           (A) recovers significant recyclable or reus-  
2           able material;

3           (B) can report on a verifiable carbon base-  
4           line that is consistent with applicable reporting  
5           requirements; and

6           (C) has an environmental, health and safe-  
7           ty, and quality management system (such as  
8           that of the International Standards Organiza-  
9           tion or an equivalent) that includes—

10           (i) goals to reduce the operational car-  
11           bon baseline of the manufacturing facility  
12           per unit of material processed; or

13           (ii) evidence that the reuse of products  
14           processed serves to reduce carbon emissions.

15           (4) REUSE FACILITIES.—Funds under subsection  
16           (b)(5) may be provided on a competitive basis to an  
17           existing reuse facility that—

18           (A) processes reusable material to be used as  
19           a replacement or substitute for a new product;

20           (B) can report on a verifiable carbon base-  
21           line; and

22           (C) has an environmental, health and safe-  
23           ty, and quality management system (such as  
24           that of the International Standards Organiza-  
25           tion or an equivalent) that includes goals to re-

1           *duce the operational carbon baseline of the reuse*  
 2           *facility per unit of material processed, or evi-*  
 3           *dence that the reuse of products processed serves*  
 4           *to reduce carbon emissions.*

5           *(d) REPORTING.—Each State that distributes funds*  
 6           *under this section shall submit to the Administrator, in ac-*  
 7           *cordance with such requirements as the Administrator may*  
 8           *prescribe, a report that includes—*

9                   *(1) a list of entities receiving funding under this*  
 10           *section, including entities receiving such funding from*  
 11           *units of local government pursuant to subsection*  
 12           *(b)(2);*

13                   *(2) the amount of funding received by each such*  
 14           *recipient;*

15                   *(3) the specific purposes for which the funding*  
 16           *was conveyed to each such recipient; and*

17                   *(4) documentation of the quantity of net recycla-*  
 18           *ble materials and reusable products that were col-*  
 19           *lected and processed and greenhouse gas emissions*  
 20           *that were reduced or avoided accordingly, through use*  
 21           *of the funding, based on a lifecycle calculation devel-*  
 22           *oped by the Administrator.*

23           *(e) METHODOLOGY AND DECISIONMAKING.—The Ad-*  
 24           *ministrator, as appropriate—*

1           (1) shall develop and periodically update  
2       lifecycle methods to quantify the relationship between  
3       waste management decisions, including recycling,  
4       reuse, and waste reduction, greenhouse gas reductions,  
5       and energy use reductions, for purposes that in-  
6       clude—

7           (A) helping to support decisions under Fed-  
8       eral, State, and municipal recycling, reuse, and  
9       waste management programs, including—

10           (i) estimating greenhouse gas and en-  
11       ergy benefits of expanding recycling and  
12       reuse programs;

13           (ii) comparing the benefits of recycling,  
14       reuse, and waste reduction to other green-  
15       house gas and energy use reduction strate-  
16       gies;

17           (iii) optimizing waste management  
18       strategies to maximize greenhouse gas re-  
19       ductions and energy use reductions; and

20           (iv) public education; and

21           (B) designing products to optimize waste  
22       reduction, reuse, and recycling opportunities and  
23       use of recycled materials in the manufacturing  
24       process;

(2) may collect data to support the development of the methods described in paragraph (1); and

(3) to improve national consistency, shall, in consultation with appropriate State and local representatives and municipal recycling programs, identify best practices to promote improvement in, and support State efforts in improving, municipal recycling, reuse, and resource recovery programs.

**SEC. 155. SUPPLEMENTAL AGRICULTURE, ABANDONED MINE LAND, AND FORESTRY GREENHOUSE GAS REDUCTION AND RENEWABLE ENERGY PROGRAM.**

(a) AGRICULTURAL GREENHOUSE GAS REDUCTIONS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the “Secretary”), in coordination with the Secretary of the Interior, shall establish a Greenhouse Gas Reduction Incentives Program (referred to in this section as the “program”) to provide financial assistance to owners and operators of agricultural land (including land on which specialty crops are produced and private or public land used for grazing), private or public abandoned



1        *mine land, and forest land for projects and ac-*  
 2        *tivities that measurably increase carbon seques-*  
 3        *tration or reduce greenhouse gas emissions.*

4                (B) *SHARED AUTHORITY.*—*The Secretary*  
 5        *shall delegate to the Secretary of the Interior the*  
 6        *authority to carry out projects on land under the*  
 7        *jurisdiction of or operated by the Department of*  
 8        *the Interior.*

9                (2) *PRIORITY.*—*In carrying out the program, the*  
 10       *Secretary shall give priority to projects or activities*  
 11       *that—*

12                (A) *reduce greenhouse gas emissions or in-*  
 13        *crease sequestration of greenhouse gases, and*  
 14        *achieve significant other environmental benefits,*  
 15        *such as the improvements of water or air quality*  
 16        *or natural resources in agricultural, abandoned*  
 17        *mine land, and forestry operations; and*

18                (B) *reduce greenhouse gas emissions or se-*  
 19        *quester carbon in agricultural and forestry oper-*  
 20        *ations where there are limited recognized oppor-*  
 21        *tunities to achieve such emission reductions or*  
 22        *sequestration.*

23                (3) *ELIGIBLE PROJECTS AND ACTIVITIES.*—*Eli-*  
 24        *gible projects and payments shall include those that—*

1           (A) reflect the comparable amount that the  
2           owners or operators would receive in the offset  
3           market if not for compliance with environmental  
4           laws that preclude the owners and operators  
5           from being eligible for receiving an offset credit  
6           under a Federal law enacted for the purpose of  
7           regulating greenhouse gas emissions;

8           (B) provide greenhouse gas emission bene-  
9           fits, but do not receive an offset credit or qualify  
10          for an early action allowance under a Federal  
11          law enacted for the purpose of regulating green-  
12          house gas emissions, including projects and ac-  
13          tivities that provide an opportunity to dem-  
14          onstrate and test new or uncertain methods to  
15          reduce or sequester emissions;

16          (C) reward early adopters, including pro-  
17          ducers that practice no-till agriculture, and en-  
18          sure that individuals and entities that took ac-  
19          tion prior to the implementation of a Federal  
20          law enacted for the purpose of regulating green-  
21          house gas emissions are not placed at a competi-  
22          tive disadvantage, including giving consideration  
23          to owners or operators located in jurisdictions  
24          with more stringent environmental laws (includ-  
25          ing regulations), compliance with which pre-

1 *cludes the owners or operators from partici-*  
2 *pating such an offset market;*

3 *(D) provide incentives for supplemental*  
4 *greenhouse gas emission reductions on private*  
5 *and public forest land of the United States;*

6 *(E) prevent conversion of land, including*  
7 *native grassland, native prairie, rangeland,*  
8 *cropland, or forested land, that would increase*  
9 *greenhouse gas emissions or a loss of carbon se-*  
10 *questration;*

11 *(F) promote the recovery and reuse of aban-*  
12 *doned mine land that otherwise would increase*  
13 *greenhouse gas emissions or cause a loss of car-*  
14 *bon sequestration, provided that not more than 5*  
15 *percent of the total value of the forms of assist-*  
16 *ance provided under the program for each year*  
17 *shall be used for the projects and activities de-*  
18 *scribed in this subparagraph; or*

19 *(G) support action on Federal, State, or*  
20 *tribal land that encourages improvements and*  
21 *management practices that include carbon se-*  
22 *questration benefits.*

23 *(4) REQUIREMENT.—Financial incentives and*  
24 *support provided by the Secretary for a project or ac-*  
25 *tivity under this section shall, to the maximum extent*

1     *practicable, be directly proportional to the quantity*  
 2     *and duration of greenhouse gas emissions reduced or*  
 3     *carbon sequestered.*

4           (5) *OTHER PROJECTS.*—*The Secretary shall con-*  
 5     *sider projects and activities that complement and le-*  
 6     *verage existing conservation, forestry, and energy pro-*  
 7     *gram expenditures to provide measurable emission re-*  
 8     *duction and sequestration benefits that otherwise may*  
 9     *not take place or continue to exist.*

10          (6) *ELIGIBILITY.*—*An owner or operator shall*  
 11     *not be prohibited from participating in the program*  
 12     *established under this section due to participation of*  
 13     *the owner or operator in other Federal or State con-*  
 14     *servation or agricultural assistance programs.*

15          (7) *FORMS OF ASSISTANCE.*—*The Secretary may*  
 16     *use any of the following to provide assistance under*  
 17     *this section:*

18           (A) *Permanent conservation easements, for*  
 19     *which the Secretary shall give priority in pro-*  
 20     *viding assistance under this section.*

21           (B) *Carbon sequestration or carbon mitiga-*  
 22     *tion contracts between the owner or operator and*  
 23     *the Secretary for the performance of projects or*  
 24     *activities that provide a measurable reduction in*  
 25     *greenhouse gas emissions or sequester carbon.*

1                   (C) *Financial incentives through land man-*  
 2                   *agement contracts or agreements, including tim-*  
 3                   *ber sale, service, or stewardship contracts.*

4                   (D) *Financial incentives through grazing*  
 5                   *contracts.*

6                   (E) *Grants.*

7                   (F) *Such other forms of assistance as the*  
 8                   *Secretary determines to be appropriate.*

9                   (8) *REVERSALS.—The Secretary shall specify*  
 10                  *methods to address intentional or unintentional rever-*  
 11                  *sal of carbon sequestration or greenhouse gas emission*  
 12                  *reductions that occur during the term of a contract or*  
 13                  *easement under this section.*

14                  (9) *ACCOUNTING SYSTEMS.—In carrying out this*  
 15                  *section, the Secretary shall develop and implement—*

16                       (A) *a national accounting system for carbon*  
 17                       *stocks, sequestration, and greenhouse gas emis-*  
 18                       *sions that may be used to assess progress in im-*  
 19                       *plementing this section at a national level; and*

20                       (B) *credible reporting and accounting sys-*  
 21                       *tems to ensure that incentives provided under*  
 22                       *this section are achieving stated objectives.*

23                  (10) *PROGRAM MEASUREMENT, MONITORING,*  
 24                  *AND VERIFICATION.—The Secretary, in consultation*  
 25                  *with the Administrator—*

1           (A) shall establish and implement protocols  
2           that provide reasonable monitoring and  
3           verification of compliance with terms associated  
4           with assistance provided under this section, in-  
5           cluding field sampling of actual performance, to  
6           develop annual estimates of emission reductions  
7           achieved under the program;

8           (B) shall report annually the total number  
9           of tons of carbon dioxide sequestered or the total  
10          number of tons of emissions avoided through in-  
11          centives provided under this section; and

12          (C) not later than 2 years after the date of  
13          enactment of this Act, and at least every 18  
14          months thereafter, submit to Congress and make  
15          available to the public on the website of the De-  
16          partment of Agriculture a report that includes—

17               (i) an estimate of annual and cumu-  
18               lative reductions generated through the pro-  
19               gram under this section, determined using  
20               standardized measures (including economic  
21               efficiency); and

22               (ii) a summary of any changes to the  
23               program, in accordance with this section,  
24               that will be made as a result of program

1                    *measurement, monitoring, and verification*  
 2                    *conducted under this section.*

3            *(b) RESEARCH PROGRAM.—The Secretary shall estab-*  
 4 *lish by rule a program to conduct research to develop addi-*  
 5 *tional projects and activities for crops to find additional*  
 6 *techniques and methods to reduce greenhouse gas emissions*  
 7 *or sequester greenhouse gases that may or may not meet*  
 8 *criteria for a Federal law enacted for the purpose of regu-*  
 9 *lating greenhouse gas emissions.*

10 **SEC. 156. ECONOMIC DEVELOPMENT CLIMATE CHANGE**  
 11 **FUND.**

12            *(a) IN GENERAL.—Title II of the Public Works and*  
 13 *Economic Development Act of 1965 (42 U.S.C. 3141 et seq.)*  
 14 *is amended by adding at the end the following:*

15 **“SEC. 219. ECONOMIC DEVELOPMENT CLIMATE CHANGE**  
 16 **FUND.**

17            *“(a) IN GENERAL.—On the application of an eligible*  
 18 *recipient, the Secretary may provide technical assistance,*  
 19 *make grants, enter into contracts, or otherwise provide*  
 20 *amounts for projects—*

21                    *“(1) to promote energy efficiency to enhance eco-*  
 22 *nomie competitiveness;*

23                    *“(2) to increase the use of renewable energy re-*  
 24 *sources to support sustainable economic development*  
 25 *and job growth;*

1           “(3) to support the development of conventional  
2           energy resources to produce alternative transportation  
3           fuels, electricity and heat;

4           “(4) to develop energy efficient or environ-  
5           mentally sustainable infrastructure;

6           “(5) to promote environmentally sustainable eco-  
7           nomic development practices and models;

8           “(6) to support development of energy efficiency  
9           and alternative energy development plans, studies or  
10          analysis, including enhancement of new and existing  
11          Comprehensive Economic Development Strategies  
12          funded under this Act; and

13          “(7) to supplement other Federal grants, loans,  
14          or loan guarantees for purposes described in para-  
15          graphs (1) through (6).

16          “(b) *FEDERAL SHARE*.—The Federal share of the cost  
17          of any project carried out under this section shall not exceed  
18          80 percent, except that the Federal share of a Federal grant,  
19          loan, or loan guarantee provided under subsection (a)(7)  
20          may be 100 percent.

21          “(c) *AUTHORIZATION OF APPROPRIATIONS*.—There is  
22          authorized to be appropriated to carry out this section  
23          \$50,000,000 for each of fiscal years 2009 through 2013, to  
24          remain available until expended.”.



1       (b) *CONFORMING AMENDMENT.*—*The table of contents*  
 2   *contained in section 1(b) of the Public Works and Economic*  
 3   *Development Act of 1965 (42 U.S.C. 3141 et seq.) is amend-*  
 4   *ed by inserting after the item relating to section 218 the*  
 5   *following:*

      “Sec. 219. *Economic Development Climate Change Fund.*”.

6   **SEC. 157. STUDY OF RISK-BASED PROGRAMS ADDRESSING**  
 7               **VULNERABLE AREAS.**

8       (a) *IN GENERAL.*—*The Administrator, or the heads of*  
 9   *such other Federal agencies as the President may designate,*  
 10   *shall conduct a study and, not later than 2 years after the*  
 11   *date of enactment of this Act, submit to Congress a report*  
 12   *regarding risk-based policies and programs addressing vul-*  
 13   *nerable areas.*

14       (b) *REQUIREMENTS.*—*The report shall*

15               (1) *review and assess Federal predisaster mitiga-*  
 16       *tion, emergency response, and flood insurance policies*  
 17       *and programs that affect areas vulnerable to the im-*  
 18       *pacts of climate change;*

19               (2) *describe strategies for better addressing such*  
 20       *vulnerabilities and provide implementation rec-*  
 21       *ommendations;*

22               (3) *assess whether the policies and programs de-*  
 23       *scribed in paragraph (1) support the State and tribal*  
 24       *response and adaptation goals and objectives identi-*  
 25       *fied under this Act;*

1           (4) *identify, and make recommendations to re-*  
 2           *solve, inconsistencies in Federal policies and pro-*  
 3           *grams in effect as of the date of enactment of this Act*  
 4           *that address areas vulnerable to climate change; and*  
 5           (5) *identify annual cost savings to the Federal*  
 6           *Government associated with the implementation of the*  
 7           *strategies and recommendations contained in the re-*  
 8           *port.*

9   **SEC. 158. EFFICIENT BUILDINGS PROGRAM.**

10       (a) *IN GENERAL.*—*The Administrator shall establish*  
 11       *and carry out a program, to be known as the “Efficient*  
 12       *Buildings Program”, to achieve greenhouse gas reductions*  
 13       *by providing assistance to owners of buildings in the United*  
 14       *States as a reward for—*

15           (1) *constructing highly efficient buildings in the*  
 16       *United States; or*  
 17           (2) *increasing the efficiency of existing buildings*  
 18       *in the United States.*

19       (b) *REQUIREMENTS.*—*The Administrator shall provide*  
 20       *assistance under this section to owners of buildings in the*  
 21       *United States based on the extent to which projects relating*  
 22       *to the buildings of the owners result in verifiable, addi-*  
 23       *tional, and enforceable improvements in energy perform-*  
 24       *ance—*

1           (1) *in new or renovated buildings that dem-*  
 2           *onstrate exemplary performance by achieving—*

3                   (A) *a minimum score of 75 on the*  
 4                   *benchmarking tool of the Energy Star program*  
 5                   *established by section 324A of the Energy Policy*  
 6                   *and Conservation Act (42 U.S.C. 6294a); or*

7                   (B) *an equivalent score on an established*  
 8                   *energy performance benchmarking metric selected*  
 9                   *by the Administrator; and*

10          (2) *in retrofitted existing buildings that dem-*  
 11          *onstrate—*

12                   (A) *substantial improvement in the score or*  
 13                   *rating on the benchmarking tool described in*  
 14                   *paragraph (1)(A) by a minimum of 30 points;*  
 15                   *or*

16                   (B) *an equivalent improvement using an es-*  
 17                   *tablished performance benchmarking metric se-*  
 18                   *lected by the Administrator.*

19          (c) *PRIORITY.—In providing assistance under this sec-*  
 20          *tion, the Administrator shall give priority to projects—*

21                   (1) *completed by building owners with a proven*  
 22                   *track record of building energy performance; or*

23                   (2) *that result in measurable greenhouse gas re-*  
 24                   *duction benefits not encompassed within the metrics*

1       of the Energy Star program described in subsection  
2       (b)(1)(A).

3       ***Subtitle F—Energy Efficiency and***  
4       ***Renewable Energy***

5       ***SEC. 161. RENEWABLE ENERGY.***

6       (a) *DEFINITIONS.—In this section:*

7               (1) *RENEWABLE ENERGY.—The term “renewable*  
8       *energy” means electric energy generated from solar,*  
9       *wind, biomass, landfill gas, ocean (including tidal,*  
10       *wave, current, and thermal), geothermal, municipal*  
11       *solid waste, or new hydroelectric generation capacity*  
12       *achieved from increased efficiency or additions of new*  
13       *capacity at an existing hydroelectric project.*

14              (2) *RENEWABLE PORTFOLIO STANDARD.—The*  
15       *term “‘renewable portfolio standard’” means a state*  
16       *statute that requires electricity providers to obtain a*  
17       *minimum percentage of their power from renewable*  
18       *energy resources by a certain date.*

19       (b) *GRANTS.—The Administrator, in consultation*  
20       *with the Secretaries of Energy, Interior, and Agriculture,*  
21       *may provide grants for projects to increase the quantity of*  
22       *energy a State uses from renewable sources under State re-*  
23       *newable portfolio standard laws.*

24       (c) *ELIGIBILITY.—The Administrator shall review for*  
25       *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 states*  
 4           *with a binding Renewable Portfolio Standard; or*

5           (2) *submitted by State and local governments,*  
 6           *Indian tribes, public utilities, or regional energy co-*  
 7           *operatives from states with nonbinding goals for*  
 8           *adoption of renewable energy requirements.*

9           (d) *PRIORITY.—The Administrator shall give priority*  
 10   *to project applications that are—*

11           (1) *submitted by States with a binding renew-*  
 12           *able portfolio standard;*

13           (2) *cost-effective in achieving greater renewable*  
 14           *energy production in each State.*

15           (e) *CERTIFICATION.—*

16           (1) *IN GENERAL.—The Administrator shall no-*  
 17           *tify in writing the Governor of each eligible State as*  
 18           *described in section (c) at the time at which the Ad-*  
 19           *ministrator begins review of a project application re-*  
 20           *ceived from an eligible entity within the State.*

21           (2) *CERTIFICATION.—The Governor shall certify*  
 22           *in writing within 30 days of receipt of the Adminis-*  
 23           *trator's notification described in subsection (1) that*  
 24           *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 sources  
 5           that, in conjunction with the requested grant  
 6           amount, will be sufficient to complete the renew-  
 7           able 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 the  
 15          public comment period relating to the rulemaking de-  
 16          scribed in paragraph (1), the Administrator shall—

17               (A) promulgate final regulations to carry  
 18               out this section; and

19               (B) begin accepting project applications for  
 20               review.

21       (g) REPORTING.—Not later than 180 days after the  
 22       date of enactment of this Act, and every 180 days thereafter,  
 23       the Administrator shall submit to the Committee on Energy  
 24       and Commerce of the House of Representatives and the  
 25       Committee on Environment and Public Works of the Senate

1 *a report specifying, with respect to the program under this*  
 2 *section—*

3 *(1) the project applications received;*

4 *(2) the project applications approved;*

5 *(3) the amount of funding allocated per project;*

6 *and*

7 *(4) the cumulative benefits of the grant program.*

8 *(h) GRANT AMOUNT.—A grant provided under this sec-*  
 9 *tion may be in an amount that does not exceed 50 percent*  
 10 *of the total cost of the renewable energy project to be funded*  
 11 *by the grant.*

12 *(i) AUTHORIZATION.—There are authorized to be ap-*  
 13 *propriated such sums as are necessary to carry out this sec-*  
 14 *tion.*

15 **SEC. 162. ADVANCED BIOFUELS.**

16 *(a) FINDINGS.—Congress finds that—*

17 *(1) advanced, environmentally sustainable*  
 18 *biofuels can help promote a safe, secure, and domestic*  
 19 *source of low-carbon fuel;*

20 *(2) such biofuels can—*

21 *(A) benefit consumers and farmers;*

22 *(B) assist in maintaining fuel supplies; and*

23 *(C) help to keep commodity prices afford-*  
 24 *able;*

1           (3) *a coordinated research and development ef-*  
 2 *fort is needed to help accelerate commercial-scale de-*  
 3 *velopment of advanced, environmentally sustainable*  
 4 *biofuels; and*

5           (4) *facilitating the commercial production of ad-*  
 6 *vanced, environmentally sustainable biofuels can help*  
 7 *to make the United States a leader in developing new*  
 8 *fuel technologies.*

9       (b) *DEFINITIONS.—In this section:*

10           (1) *ADVANCED GREEN BIOFUEL.—The term “ad-*  
 11 *vanced green biofuel” means an advanced biofuel (as*  
 12 *defined in section 211(o)(1) of the Clean Air Act (42*  
 13 *U.S.C. 7545(o)(1))) that the Administrator deter-*  
 14 *mines—*

15                   (A) *has lifecycle greenhouse gas emissions*  
 16 *that are at least 60 percent less than the baseline*  
 17 *lifecycle greenhouse gas emissions;*

18                   (B) *is made from advanced renewable bio-*  
 19 *mass; and*

20                   (C) *minimizes biorefinery water require-*  
 21 *ments to the maximum extent achievable, taking*  
 22 *into consideration costs and other appropriate*  
 23 *factors.*

24           (2) *ADVANCED RENEWABLE BIOMASS.—The term*  
 25 *“advanced renewable biomass” means renewable bio-*



1        *mass that is produced using sustainable practices, as*  
 2        *determined by the Administrator, in consultation*  
 3        *with the Secretary of Agriculture, taking into consid-*  
 4        *eration factors such as—*

5                *(A) the maintenance and enhancement of*  
 6                *the quality and productivity of the soil;*

7                *(B) the conservation of soil, water, energy,*  
 8                *natural resources, and fish and wildlife habitat;*

9                *(C) the maintenance and enhancement of*  
 10                *the quality of surface water and groundwater;*

11                *(D) the protection of the health and safety*  
 12                *of individuals involved in the production system;*

13                *(E) the promotion of the well-being of ani-*  
 14                *mals;*

15                *(F) the increase in employment opportuni-*  
 16                *ties in the agricultural sector; and*

17                *(G) prevention of the introduction of*  
 18                *invasive species, including consideration of a re-*  
 19                *view by the Invasive Species Council established*  
 20                *by Executive Order 13112 (64 Fed. Reg. 6183*  
 21                *(February 3, 1999)).*

22                *(3) PROGRAM.—The term “Program” means the*  
 23                *1,000,000,000-Gallon Challenge Grant Program estab-*  
 24                *lished under subsection (c)(1).*

1           (4) *RENEWABLE BIOMASS.*—*The term “renewable*  
 2       *biomass” has the meaning given the term in section*  
 3       *211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)).*

4       (c) *1,000,000,000-GALLON CHALLENGE GRANT PRO-*  
 5       *GRAM.*—

6           (1) *ESTABLISHMENT.*—*The Administrator shall*  
 7       *establish within the Environmental Protection Agency*  
 8       *a program, to be known as the “1,000,000,000-Gallon*  
 9       *Challenge Grant Program”, under which the Admin-*  
 10      *istrator shall provide grants in accordance with this*  
 11      *subsection.*

12          (2) *APPLICATIONS.*—

13           (A) *IN GENERAL.*—*During each calendar*  
 14      *year for the period described in subparagraph*  
 15      *(B), the Administrator shall solicit applications*  
 16      *for grants under the Program from owners and*  
 17      *operators of projects that, as determined by the*  
 18      *Administrator, have the potential, in the aggre-*  
 19      *gate, to produce up to 500,000,000 gallons in an-*  
 20      *ual domestic production capacity of advanced*  
 21      *green biofuels.*

22           (B) *DESCRIPTION OF PERIOD.*—*The period*  
 23      *referred to in subparagraph (A) is the period*  
 24      *that—*

1                   (i) begins on the date of establishment  
2 of the Program; and

3                   (ii) ends on the date on which, as de-  
4 termined by the Administrator, the Pro-  
5 gram supports projects that have the poten-  
6 tial to produce, or are producing, not less  
7 than 1,000,000,000 gallons in annual do-  
8 mestic production capacity of advanced  
9 green biofuels.

10 (C) ADJUSTMENTS.—

11                   (i) DEFINITION OF ADJUSTMENT PE-  
12 RIOD.—In this subparagraph, the term “ad-  
13 justment period” means the period that—

14                   (I) begins on the date of establish-  
15 ment of the Program; and

16                   (II) ends on the earlier of, as de-  
17 termined by the Administrator—

18                   (aa) the date on which the  
19 Program supports projects that  
20 have the potential to produce, or  
21 are producing, not less than  
22 1,000,000,000 gallons in annual  
23 domestic production capacity of  
24 advanced green biofuels; and

1                                    (bb) the date on which the  
 2                                    Program achieves the annual do-  
 3                                    mestic production capacity targets  
 4                                    of the Program.

5                                    (ii) SOLICITATION OF APPLICATIONS.—  
 6                                    For any calendar year during the adjust-  
 7                                    ment period for which an application for a  
 8                                    grant under the Program is withdrawn, or  
 9                                    for which a recipient of a grant under the  
 10                                    Program fails to meet the domestic produc-  
 11                                    tion capacity targets of the recipient (as de-  
 12                                    termined by the Administrator), the Admin-  
 13                                    istrator shall solicit additional applications  
 14                                    for grants under the Program.

15                                    (D) APPLICATION POLICY.—The grant solic-  
 16                                    itation process of the Program shall provide for,  
 17                                    as determined by the Administrator—

18                                    (i) simplified, standardized, and time-  
 19                                    ly solicitation of applications; and

20                                    (ii) a simplified, standardized funding  
 21                                    process that requires—

22                                    (I) timely receipt and review of  
 23                                    applications; and

24                                    (II) protection of proprietary in-  
 25                                    formation provided in applications.

1           (3) *TYPES OF GRANTS.*—*In carrying out the*  
 2           *Program, the Administrator shall provide 4 types of*  
 3           *grants, as follows:*

4                   (A)   *RESEARCH     AND     DEVELOPMENT*  
 5           *GRANTS.*—

6                   (i) *IN GENERAL.*—*A research and de-*  
 7                   *velopment grant may be provided under the*  
 8                   *Program to a project that, as determined by*  
 9                   *the Administrator, will assist biofuel devel-*  
 10                   *opers in producing advanced green biofuels*  
 11                   *by facilitating—*

12                           (I) *the development of technologies*  
 13                           *to produce advanced green biofuels;*

14                           (II) *the creation of technologies*  
 15                           *used in facilities that produce ad-*  
 16                           *vanced green biofuels; or*

17                           (III) *the production of advanced*  
 18                           *green biofuels, including renewable bio-*  
 19                           *mass.*

20                   (ii) *LIMITATION.*—*The amount of a re-*  
 21                   *search and development grant provided*  
 22                   *under the Program shall not exceed the less-*  
 23                   *er of—*

24                           (I) *an amount equal to 80 percent*  
 25                           *of the cost of the project; or*

1 (II) \$2,000,000.

2 (B) *PLANNING GRANTS.*—

3 (i) *IN GENERAL.*—A planning grant  
4 may be provided under the Program to a  
5 project that, as determined by the Adminis-  
6 trator, will assist biofuel developers in pro-  
7 ducing advanced green biofuels by facili-  
8 tating the development and finalization of  
9 project plans and contracts that dem-  
10 onstrate that—

11 (I) the project has the potential  
12 for commercial viability; and

13 (II) the project is likely to be  
14 operational by not later than 3 years  
15 after the date on which the planning  
16 grant is provided.

17 (ii) *LIMITATION.*—The amount of a  
18 planning grant provided under the Pro-  
19 gram shall not exceed the lesser of—

20 (I) an amount equal to 80 percent  
21 of the cost of the project; or

22 (II) \$2,000,000.

23 (C) *TRANSLATIONAL GRANTS.*—

24 (i) *IN GENERAL.*—A translational  
25 grant, which helps to create successful tech-

1            *nological innovations and the commercial*  
2            *use of those innovations, may be provided*  
3            *under the Program to a project that, as de-*  
4            *termined by the Administrator will assist*  
5            *biofuel developers in producing advanced*  
6            *green biofuels, including from the develop-*  
7            *ment of a basic proof-of-concept for the*  
8            *project to the establishment of a pilot-scale*  
9            *advanced green biofuel production facility*  
10           *through a phased process, as described in*  
11           *clause (ii).*

12           *(ii) PHASES.—The phases referred to*  
13           *in clause (i) are the following:*

14           *(I) PHASE I.—A project shall be*  
15           *considered to be in phase I for pur-*  
16           *poses of this subparagraph if the pur-*  
17           *pose of the project is to determine the*  
18           *scientific and technical merit and fea-*  
19           *sibility of ideas that appear to have*  
20           *commercial potential, as described in*  
21           *subclause (II).*

22           *(II) PHASE II.—A project shall be*  
23           *considered to be in phase II for pur-*  
24           *poses of this subparagraph if the pur-*  
25           *pose of the project is to advance the de-*

1            *velopment of a project that meets par-*  
2            *ticular Program needs, based on the*  
3            *scientific and technical merit and fea-*  
4            *sibility demonstrated in the applica-*  
5            *tion for the project (as evidenced by*  
6            *phase I of the project), taking into con-*  
7            *sideration, among other things, the*  
8            *commercial potential of the project, as*  
9            *evidenced by—*

10                    *(aa) the record of success of*  
11                    *the applicable biofuel developer in*  
12                    *commercializing the results of re-*  
13                    *search;*

14                    *(bb) the existence of phase II-*  
15                    *appropriate funding commitments*  
16                    *from the private sector or a fund-*  
17                    *ing source other than the Pro-*  
18                    *gram;*

19                    *(cc) the existence of commit-*  
20                    *ments for phase III of the project;*  
21                    *and*

22                    *(dd) the presence of other in-*  
23                    *dicators of the commercial poten-*  
24                    *tial of the project.*



1                   (III) *PHASE III*.—A project shall  
 2                   be considered to be in phase III for  
 3                   purposes of this clause if—

4                           (aa) the project has com-  
 5                           pleted phases I and II; and

6                           (bb) commercial application  
 7                           of, or the continuation of work on,  
 8                           the project will be funded by the  
 9                           private sector or a funding source  
 10                          other than the Program.

11                   (iii) *LIMITATION*.—The amount of a  
 12                   translational grant provided under the Pro-  
 13                   gram shall not exceed the lesser of—

14                           (I) an amount equal to 80 percent  
 15                           of the cost of the project; or

16                           (II) \$8,000,000.

17                   (D) *CONSTRUCTION GRANTS*.—

18                           (i) *IN GENERAL*.—A construction grant  
 19                           may be provided under the Program to a  
 20                           project that, as determined by the Adminis-  
 21                           trator—

22                                   (I) will assist biofuel developers in  
 23                                   producing advanced green biofuels by  
 24                                   paying construction costs and other  
 25                                   costs;

1                   (II) demonstrates the potential for  
2                   commercial success; and

3                   (III) will commence construction  
4                   by not later than 1 year after the date  
5                   on which the construction grant is pro-  
6                   vided.

7                   (ii) *LIMITATION.*—The amount of a  
8                   construction grant provided under the Pro-  
9                   gram shall not exceed an amount equal to  
10                  60 percent of the cost of the project.

11               (4) *SELECTION.*—

12               (A)   *RESEARCH    AND    DEVELOPMENT*  
13               *GRANTS.*—In evaluating applications for re-  
14               search and development grants under the Pro-  
15               gram, the Administrator shall take into consider-  
16               ation—

17                   (i) the potential of a project for com-  
18                   mercial viability;

19                   (ii) the potential of the project to pro-  
20                   vide environmental and public health bene-  
21                   fits;

22                   (iii) the potential of the project to use  
23                   existing fuel delivery and distribution sys-  
24                   tems; and

1                   (iv) such other factors as the Adminis-  
2                   trator determines to be appropriate.

3                   (B) *PLANNING GRANTS.*—In evaluating ap-  
4                   plications for planning grants under the Pro-  
5                   gram, the Administrator shall take into consider-  
6                   ation—

7                   (i) the potential of a project for com-  
8                   mercial viability;

9                   (ii) the potential of the project to pro-  
10                  vide environmental and public health bene-  
11                  fits;

12                  (iii) the potential of the project to use  
13                  existing fuel delivery and distribution sys-  
14                  tems;

15                  (iv) the scalability of the project; and

16                  (v) such other factors as the Adminis-  
17                  trator determines to be appropriate.

18                  (C) *TRANSLATIONAL GRANTS.*—In evalu-  
19                  ating applications for translational grants under  
20                  the Program, the Administrator shall take into  
21                  consideration—

22                  (i) the potential of a project for com-  
23                  mercial viability;

1                   (ii) the potential of the project to pro-  
 2                   vide environmental and public health bene-  
 3                   fits;

4                   (iii) the potential of the project to use  
 5                   existing fuel delivery and distribution sys-  
 6                   tems;

7                   (iv) the scalability of the project; and

8                   (v) such other factors as the Adminis-  
 9                   trator determines to be appropriate.

10                  (D) CONSTRUCTION GRANTS.—In evalu-  
 11                  ating applications for construction grants under  
 12                  the Program, the Administrator shall take into  
 13                  consideration—

14                   (i) the potential of a project for com-  
 15                   mercial success;

16                   (ii) the potential of the project to pro-  
 17                   vide environmental and public health bene-  
 18                   fits;

19                   (iii) the potential of the project to use  
 20                   existing fuel delivery and distribution sys-  
 21                   tems;

22                   (iv) the scalability of the project;

23                   (v) the readiness of the project to com-  
 24                   mence construction by not later than 1 year

1           *after the date on which the construction*  
 2           *grant is provided; and*

3           *(vi) such other factors as the Adminis-*  
 4           *trator determines to be appropriate.*

5           *(E) EXERCISE OF DISCRETION IN FUNDING*  
 6           *PROJECTS.—The Administrator shall not exclude*  
 7           *an application from consideration under this*  
 8           *paragraph solely on the basis that the project*  
 9           *that is the subject of the application uses, or pro-*  
 10           *poses to use, any item described in section*  
 11           *211(o)(1)(I) of the Clean Air Act (42 U.S.C.*  
 12           *7545(o)(1)(I)).*

13           *(5) COORDINATION WITH COMPLEMENTARY PRO-*  
 14           *GRAMS.—*

15           *(A) DEFINITION OF COMPLEMENTARY PRO-*  
 16           *GRAM.—In this paragraph, the term “com-*  
 17           *plementary program” means a grant program*  
 18           *under any other provision of law (including a*  
 19           *regulation) under which a recipient of a grant*  
 20           *under the Program receives, or has the potential*  
 21           *to receive, funds to assist the project of the re-*  
 22           *cipient to achieve environmental performance*  
 23           *standards equivalent to, or greater than, the*  
 24           *standards required under the Program.*

25           *(B) EFFECT OF PROGRAM.—*

1                   (i) *IN GENERAL.*—A grant provided to  
2                   a recipient under the Program—

3                   (I) shall be provided in addition  
4                   to any grant provided to the recipient  
5                   under a complementary program; and

6                   (II) shall not be diminished as a  
7                   result of receipt by the recipient of  
8                   funds under any complementary pro-  
9                   gram.

10                  (ii) *AMOUNT OF OTHER GRANTS.*—Re-  
11                  ceipt of a grant under the Program shall  
12                  not affect the amount the recipient is other-  
13                  wise eligible to receive under any com-  
14                  plementary program.

15                  (d) *AUTHORIZATION OF APPROPRIATIONS.*—There is  
16                  authorized to be appropriated to carry out this section  
17                  \$500,000,000 for the period of fiscal years 2010 through  
18                  2014.

19                  **SEC. 163. ENERGY EFFICIENCY IN BUILDING CODES.**

20                  (a) *ENERGY EFFICIENCY TARGETS.*—

21                   (1) *RULEMAKING TO ESTABLISH TARGETS.*—The  
22                   Administrator, or such other agency head or heads as  
23                   may be designated by the President, in consultation  
24                   with the Director of the National Institute of Stand-  
25                   ards and Technology, shall promulgate regulations es-

1     *tablishing building code energy efficiency targets for*  
 2     *the national average percentage improvement of*  
 3     *buildings' energy performance. Such regulations shall*  
 4     *establish a national building code energy efficiency*  
 5     *target for residential buildings and commercial build-*  
 6     *ings when built to a code meeting the target, begin-*  
 7     *ning not later than January 1, 2014 and applicable*  
 8     *each calendar year through December 31, 2030.*

9     **(b) NATIONAL ENERGY EFFICIENCY BUILDING**  
 10  **CODES.—**

11           **(1) RULEMAKING TO ESTABLISH NATIONAL**  
 12     **CODES.—***The Administrator, or such other agency*  
 13     *head or heads as may be designated by the President,*  
 14     *shall promulgate regulations establishing national en-*  
 15     *ergy efficiency building codes for residential and com-*  
 16     *mercial buildings. Such regulations shall be sufficient*  
 17     *to meet the national building code energy efficiency*  
 18     *targets established under subsection (a) in the most*  
 19     *cost-effective manner, and may include provisions for*  
 20     *State adoption of the national building code stand-*  
 21     *ards and certification of State programs*

22     **(c) ANNUAL REPORTS.—***The Administrator, or such*  
 23     *other agency head or heads as may be designated by the*  
 24     *President, shall annually submit to Congress, and publish*  
 25     *in the Federal Register, a report on—*

1           (1) *the status of national energy efficiency build-*  
2           *ing codes;*

3           (2) *the status of energy efficiency building code*  
4           *adoption and compliance in the States;*

5           (3) *the implementation of and compliance with*  
6           *regulations promulgated under this section;*

7           (4) *the status of Federal and State enforcement*  
8           *of building codes; and*

9           (5) *impacts of action under this section, and po-*  
10          *tential impacts of further action, on lifetime energy*  
11          *use by buildings, including resulting energy and cost*  
12          *savings.*

13 **SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL**  
14           **PERFORMANCE.**

15          (a) *DEFINITIONS.—In this section:*

16           (1) *ASSISTED HOUSING.—The term “assisted*  
17           *housing” means those properties receiving project-*  
18           *based assistance pursuant to section 202 of the Hous-*  
19           *ing Act of 1959 (12 U.S.C. 1701q), section 811 of the*  
20           *Cranston-Gonzalez National Affordable Housing Act*  
21           *(42 U.S.C. 8013), section 8 of the United States*  
22           *Housing Act of 1937 (42 U.S.C. 1437f), or similar*  
23           *programs.*

24           (2) *NONRESIDENTIAL BUILDING.—The term*  
25           *“nonresidential building” means a building with a*



1     *primary use or purpose other than residential hous-*  
2     *ing, including any building used for commercial of-*  
3     *fices, schools, academic and other public and private*  
4     *institutions, nonprofit organizations including faith-*  
5     *-based organizations, hospitals, hotels, and other non-*  
6     *residential purposes. Such buildings shall include*  
7     *mixed-use properties used for both residential and*  
8     *nonresidential purposes in which more than half of*  
9     *building floor space is nonresidential.*

10           (3) *OPERATIONS AND MAINTENANCE.—The term*  
11     *“operations and maintenance” means any service*  
12     *performed by staff within a building to upgrade and*  
13     *maintain the building in order to reduce the energy*  
14     *demand of the building while maintaining or improv-*  
15     *ing building comfort, health, safety, and performance.*

16           (4) *PERFORMANCE-BASED BUILDING RETROFIT*  
17     *PROGRAM.—The term “performance-based building*  
18     *retrofit program” means a program that determines*  
19     *building energy efficiency success based on actual*  
20     *measured savings after a retrofit is complete, as evi-*  
21     *denced by energy invoices or evaluation protocols.*

22           (5) *PRESCRIPTIVE BUILDING RETROFIT PRO-*  
23     *GRAM.—The term “prescriptive building retrofit pro-*  
24     *gram” means a program that projects building ret-*  
25     *rofit energy efficiency success based on the known ef-*

1     *fectiveness of measures prescribed to be included in a*  
 2     *retrofit.*

3           (6) *PUBLIC HOUSING.*—*The term “public hous-*  
 4     *ing” means properties receiving assistance under sec-*  
 5     *tion 9 of the United States Housing Act of 1937 (42*  
 6     *U.S.C. 1437g).*

7           (7) *RECOMMISSIONING; RETROCOMMISSIONING.*—  
 8     *The terms “recommissioning” and*  
 9     *“retrocommissioning” have the meaning given those*  
 10    *terms in section 543(f)(1) of the National Energy*  
 11    *Conservation Policy Act (42 U.S.C. 8253(f)(1)).*

12          (8) *REEP PROGRAM.*—*The term “REEP pro-*  
 13    *gram” means, collectively, the programs to implement*  
 14    *the residential and nonresidential policies based on*  
 15    *the standards developed under this section, as de-*  
 16    *scribed in subsection (b).*

17          (9) *RESIDENTIAL BUILDING.*—*The term “resi-*  
 18    *dential building” means a building whose primary*  
 19    *use is residential. Such buildings shall include single-*  
 20    *family homes (both attached and detached), owner-oc-*  
 21    *cupied units in larger buildings with their own dedi-*  
 22    *cated space-conditioning systems, apartment build-*  
 23    *ings, multi-unit condominium buildings, public hous-*  
 24    *ing, assisted housing, and buildings used for both res-*

1        *idential and nonresidential purposes in which more*  
 2        *than half of building floor space is residential.*

3            (10) *STATE ENERGY PROGRAM.*—*The term*  
 4        *“State Energy Program” means the program under*  
 5        *part D of title III of the Energy Policy and Con-*  
 6        *servation Act (42 U.S.C. 6321 et seq.).*

7        (b) *ESTABLISHMENT.*—*The Administrator shall de-*  
 8        *velop and implement, in consultation with the Secretary*  
 9        *of Energy, standards for a national energy and environ-*  
 10       *mental building retrofit policy for single-family and multi-*  
 11       *family residences. The Administrator shall develop and im-*  
 12       *plement, in consultation with the Secretary of Energy and*  
 13       *the Director of Commercial High-Performance Green Build-*  
 14       *ings, standards for a national energy and environmental*  
 15       *building retrofit policy for nonresidential buildings.*

16       (c) *PURPOSE.*—*The purpose of the REEP program is*  
 17       *to facilitate the retrofitting of existing buildings across the*  
 18       *United States to achieve maximum cost-effective energy effi-*  
 19       *ciency improvements and significant improvements in*  
 20       *water use and other environmental attributes.*

21       (d) *FEDERAL ADMINISTRATION.*—

22            (1) *EXISTING PROGRAMS.*—*In creating and oper-*  
 23        *ating the REEP program—*

24                    (A) *the Administrator shall make appro-*  
 25                    *priate use of existing programs, including the*

1       *Energy Star program and in particular the En-*  
2       *vironmental Protection Agency Energy Star for*  
3       *Buildings program; and*

4               *(B) the Administrator shall consult with the*  
5       *Secretary of Energy regarding appropriate use*  
6       *of existing programs, including delegating au-*  
7       *thority to the Director of Commercial High-Per-*  
8       *formance Green Buildings appointed under sec-*  
9       *tion 421 of the Energy Independence and Secu-*  
10       *rity Act of 2007 (42 U.S.C. 17081).*

11       (2) *CONSULTATION AND COORDINATION.—The*  
12       *Administrator shall consult with and coordinate with*  
13       *the and the Secretary of Energy and the Secretary of*  
14       *Housing and Urban Development in carrying out the*  
15       *REEP program with regard to retrofitting of public*  
16       *housing and assisted housing. As a result of such con-*  
17       *sultation, the Administrator shall establish standards*  
18       *to ensure that retrofits of public housing and assisted*  
19       *housing funded pursuant to this section are cost-effec-*  
20       *tive, including opportunities to address the potential*  
21       *co-performance of repair and replacement needs that*  
22       *may be supported with other forms of Federal assist-*  
23       *ance. Owners of public housing or assisted housing re-*  
24       *ceiving funding through the REEP program shall*  
25       *agree to continue to provide affordable housing con-*

1        *sistent with the provisions of the authorizing legisla-*  
 2        *tion governing each program for an additional period*  
 3        *commensurate with the funding received, as deter-*  
 4        *mined in accordance with guidelines established by*  
 5        *the Secretary of Housing and Urban Development.*

6            (3) *ASSISTANCE.—The Administrator shall pro-*  
 7        *vide consultation and assistance to State and local*  
 8        *agencies for the establishment of revolving loan funds,*  
 9        *loan guarantees, or other forms of financial assistance*  
 10       *under this section.*

11       (e) *STATE AND LOCAL ADMINISTRATION.—*

12            (1) *DESIGNATION AND DELEGATION.—A State*  
 13        *may designate one or more agencies or entities, in-*  
 14        *cluding those regulated by the State, to carry out the*  
 15        *purposes of this section, but shall designate one entity*  
 16        *or individual as the principal point of contact for the*  
 17        *Administrator regarding the REEP Program. The*  
 18        *designated State agency, agencies, or entities may del-*  
 19        *egate performance of appropriate elements of the*  
 20        *REEP program, upon their request and subject to*  
 21        *State law, to counties, municipalities, appropriate*  
 22        *public agencies, and other divisions of local govern-*  
 23        *ment, as well as to entities regulated by the State. In*  
 24        *making any such designation or delegation, a State*  
 25        *shall give priority to entities that administer existing*

1        *comprehensive retrofit programs, including those*  
2        *under the supervision of State utility regulators.*  
3        *States shall maintain responsibility for meeting the*  
4        *standards and requirements of the REEP program.*  
5        *In any State that elects not to administer the REEP*  
6        *program, a unit of local government may propose to*  
7        *do so within its jurisdiction, and if the Administrator*  
8        *finds that such local government is capable of admin-*  
9        *istering the program, the Administrator may provide*  
10       *assistance to that local government, prorated accord-*  
11       *ing to the population of the local jurisdiction relative*  
12       *to the population of the State, for purposes of the*  
13       *REEP program.*

14                (2) *EMPLOYMENT.—States and local government*  
15        *entities may administer a REEP program in a man-*  
16        *ner that authorizes public or regulated investor-owned*  
17        *utilities, building auditors and inspectors, contrac-*  
18        *tors, nonprofit organizations, for-profit companies,*  
19        *and other entities to perform audits and retrofit serv-*  
20        *ices under this section. A State may provide incen-*  
21        *tives for retrofits without direct participation by the*  
22        *State or its agents, so long as the resulting savings*  
23        *are measured and verified. A State or local adminis-*  
24        *trator of a REEP program shall seek to ensure that*  
25        *sufficient qualified entities are available to support*

1     *retrofit activities so that building owners have a com-*  
 2     *petitive choice among qualified auditors, raters, con-*  
 3     *tractors, and providers of services related to retrofits.*  
 4     *Nothing in this section is intended to deny the right*  
 5     *of a building owner to choose the specific providers of*  
 6     *retrofit services to engage for a retrofit project in that*  
 7     *owner's building.*

8             (3) *EQUAL INCENTIVES FOR EQUAL IMPROVE-*  
 9     *MENT.—In general, the States should strive to offer*  
 10    *the same levels of incentives for retrofits that meet the*  
 11    *same efficiency improvement goals, regardless of*  
 12    *whether the State, its agency or entity, or the build-*  
 13    *ing owner has conducted the retrofit achieving the im-*  
 14    *provement, provided the improvement is measured*  
 15    *and verified.*

16    (f) *ADMINISTRATION OF INDIAN HOUSING.—*

17             (1) *IN GENERAL.—Not later than 180 days after*  
 18    *the date of enactment of this Act, the Secretary of En-*  
 19    *ergy, in consultation with Indian tribes, the Depart-*  
 20    *ment of Housing and Urban Development, the De-*  
 21    *partment of the Interior, and the Department of*  
 22    *Health and Human Services, shall establish a pro-*  
 23    *gram and promulgate such regulations as are nec-*  
 24    *essary to assist Indian tribes in carrying out energy*

1       *efficiency retrofit programs in accordance with this*  
2       *section.*

3               (2) *REVIEW OF EXISTING PROGRAMS.*—*In car-*  
4       *rying out paragraph (1), to determine the extent to*  
5       *which programs in effect as of the date of enactment*  
6       *of this Act may be used to further the REEP program*  
7       *for the benefit of Indian tribes, the Secretary of En-*  
8       *ergy shall review those programs, including—*

9               (A) *the Weatherization Assistance Program*  
10       *for Low-Income Persons established under part A*  
11       *of title IV of the Energy Conservation and Pro-*  
12       *duction Act (42 U.S.C. 6861 et seq.);*

13              (B) *programs under the Native American*  
14       *Housing Assistance and Self-Determination Act*  
15       *of 1996 (25 U.S.C. 4101 et seq.);*

16              (C) *the Housing Improvement Program of*  
17       *the Department of the Interior; and*

18              (D) *the low-income home energy assistance*  
19       *program established under the Low-Income*  
20       *Home Energy Assistance Act of 1981 (42 U.S.C.*  
21       *8621 et seq.).*

22              (g) *ELEMENTS OF REEP PROGRAM.*—*The Adminis-*  
23       *trator, in consultation with the Secretary of Energy, shall*  
24       *establish goals, guidelines, practices, and standards for ac-*  
25       *complishing the purpose stated in subsection (c), and shall*



1 *annually review and, as appropriate, revise such goals,*  
2 *guidelines, practices, and standards. The program under*  
3 *this section shall include the following:*

4           (1) *Residential Energy Services Network*  
5           *(RESNET) or Building Performance Institute (BPI)*  
6           *analyst certification of residential building energy*  
7           *and environment auditors, inspectors, and raters, or*  
8           *an equivalent certification system as determined by*  
9           *the Administrator.*

10           (2) *BPI certification or licensing by States of*  
11           *residential building energy and environmental retrofit*  
12           *contractors, or an equivalent certification or licensing*  
13           *system as determined by the Administrator.*

14           (3) *BPI or Building Operator Certification or li-*  
15           *censing of residential and nonresidential building op-*  
16           *erators, superintendents, and handypersons, or an*  
17           *equivalent certification or licensing system, as deter-*  
18           *mined by the Administrator.*

19           (4) *Provision of BPI, RESNET, or other appro-*  
20           *priate information on equipment and procedures, as*  
21           *determined by the Administrator, that contractors can*  
22           *use to test the energy and environmental efficiency of*  
23           *buildings effectively (such as infrared photography*  
24           *and pressurized testing, and tests for water use and*  
25           *indoor air quality).*

1           (5) *Provision of clear and effective materials to*  
2           *describe the testing and retrofit processes for typical*  
3           *buildings.*

4           (6) *Guidelines for offering and managing pre-*  
5           *scriptive building retrofit programs and performance-*  
6           *based building retrofit programs for residential and*  
7           *nonresidential buildings.*

8           (7) *Guidelines for applying recommissioning,*  
9           *retrocommissioning, and operations and maintenance*  
10          *principles to continuously improve the energy per-*  
11          *formance of a building.*

12          (8) *A requirement that building retrofits con-*  
13          *ducted pursuant to a REEP program utilize, espe-*  
14          *cially in all air-conditioned buildings, roofing mate-*  
15          *rials with high solar energy reflectance, unless inap-*  
16          *propriate due to green roof management, solar energy*  
17          *production, or for other reasons identified by the Ad-*  
18          *ministrator, in order to reduce energy consumption*  
19          *within the building, increase the albedo of the build-*  
20          *ing's roof, and decrease the heat island effect in the*  
21          *area of the building, without reduction of otherwise*  
22          *applicable ceiling insulation standards.*

23          (9) *Determination of energy savings in a per-*  
24          *formance-based building retrofit program through—*

1           (A) for residential buildings, comparison of  
2           before and after retrofit scores on the Home En-  
3           ergy Rating System (HERS) Index, where the  
4           final score is produced by an objective third  
5           party;

6           (B) for nonresidential buildings, Environ-  
7           mental Protection Agency Portfolio Manager  
8           benchmarks; or

9           (C) for either residential or nonresidential  
10          buildings, use of an Administrator-approved  
11          simulation program by a contractor with the ap-  
12          propriate certification, subject to appropriate  
13          software standards and verification of at least 15  
14          percent of all work done, or such other percent-  
15          age as the Administrator may determine.

16          (10) Guidelines for utilizing the Energy Star  
17          Portfolio Manager, the Home Energy Rating System  
18          (HERS) rating system, Home Performance with En-  
19          ergy Star program approvals, and any other tools as-  
20          sociated with the retrofit program.

21          (11) Requirements and guidelines for post-ret-  
22          rofit inspection and confirmation of work and energy  
23          savings.

24          (12) Detailed descriptions of funding options for  
25          the benefit of State and local governments, along with

1        *model forms, accounting aids, agreements, and guides*  
 2        *to best practices.*

3            (13) *Guidance on opportunities for—*

4                    (A) *rating or certifying retrofitted buildings*  
 5                    *as Energy Star buildings, or as green buildings*  
 6                    *under a recognized green building rating system;*

7                    (B) *assigning Home Energy Rating System*  
 8                    *(HERS) or similar ratings; and*

9                    (C) *completing any applicable building per-*  
 10                   *formance labels.*

11            (14) *Sample materials for publicizing the pro-*  
 12            *gram to building owners, including public service an-*  
 13            *nouncements and advertisements.*

14            (15) *Processes for tracking the numbers and loca-*  
 15            *tions of buildings retrofitted under the REEP pro-*  
 16            *gram, with information on projected and actual sav-*  
 17            *ings of energy and its value over time.*

18            (h) *REQUIREMENTS.—As a condition of receiving as-*  
 19            *sistance for the REEP program pursuant to this Act, a*  
 20            *State or qualifying local government shall—*

21                    (1) *adopt the standards for training, certifi-*  
 22                    *cation of contractors, certification of buildings, and*  
 23                    *post-retrofit inspection as developed by the Adminis-*  
 24                    *trator for residential and nonresidential buildings, re-*  
 25                    *spectively, except as necessary to match local condi-*

1        *tions, needs, efficiency opportunities, or other local*  
2        *factors, or to accord with State laws or regulations,*  
3        *and then only after the Administrator approves such*  
4        *a variance;*

5            *(2) establish fiscal controls and accounting pro-*  
6        *cedures (which conform to generally accepted govern-*  
7        *ment accounting principles) sufficient to ensure prop-*  
8        *er accounting during appropriate accounting periods*  
9        *for payments received and disbursements, and for*  
10       *fund balances; and*

11           *(3) agree to make 10 percent of assistance re-*  
12        *ceived to carry out this section available on a pref-*  
13        *erential basis for retrofit projects proposed for public*  
14        *housing and assisted housing, provided that—*

15            *(A) none of such funds shall be used for*  
16        *demolition of such housing;*

17            *(B) such retrofits not shall not be used to*  
18        *justify any increase in rents charged to residents*  
19        *of such housing; and*

20            *(C) owners of such housing shall agree to*  
21        *continue to provide affordable housing consistent*  
22        *with the provisions of the authorizing legislation*  
23        *governing each program for an additional period*  
24        *commensurate with the funding received; and*

1           (4) *the Administrator shall conduct or require*  
2       *each State to have such independent financial audits*  
3       *of REEP-related funding as the Administrator con-*  
4       *siders necessary or appropriate to carry out the pur-*  
5       *poses of this section.*

6       (i) *OPTIONS TO SUPPORT REEP PROGRAM.—The as-*  
7       *sistance provided under this section shall support the imple-*  
8       *mentation through State REEP programs of alternate*  
9       *means of creating incentives for, or reducing financial bar-*  
10      *riers to, improved energy and environmental performance*  
11      *in buildings, consistent with this section, including—*

12           (1) *implementing prescriptive building retrofit*  
13       *programs and performance-based building retrofit*  
14       *programs;*

15           (2) *providing credit enhancement, interest rate*  
16       *subsidies, loan guarantees, or other credit support;*

17           (3) *providing initial capital for public revolving*  
18       *fund financing of retrofits;*

19           (4) *providing funds to support utility-operated*  
20       *retrofit programs with repayments over time through*  
21       *utility rates, calibrated to create net positive cash*  
22       *flow to the building owner, and transferable from one*  
23       *building owner to the next with the building's utility*  
24       *services;*

1           (5) *providing funds to local government pro-*  
 2           *grams to provide REEP services and financial assist-*  
 3           *ance; and*

4           (6) *other means proposed by State and local*  
 5           *agencies, subject to the approval of the Administrator.*

6           (j) *SUPPORT FOR PROGRAM.—*

7           (1) *INITIAL AWARD LIMITS.—Except as provided*  
 8           *in paragraph (2), State and local REEP programs*  
 9           *may make per-building direct expenditures for ret-*  
 10           *rofit improvements, or their equivalent in indirect or*  
 11           *other forms of financial support, from funds made*  
 12           *available to carry out this section, in amounts not to*  
 13           *exceed the following amounts per unit:*

14           (A) *RESIDENTIAL BUILDING PROGRAM.—*

15           (i) *AWARDS.—For residential build-*  
 16           *ings—*

17                   (I) *support for a free or low-cost*  
 18                   *detailed building energy audit that*  
 19                   *prescribes measures sufficient to*  
 20                   *achieve at least a 20 percent reduction*  
 21                   *in energy use, by providing an incen-*  
 22                   *tive equal to the documented cost of*  
 23                   *such audit, but not more than \$200, in*  
 24                   *addition to any earned by achieving a*

1           20 percent or greater efficiency im-  
2           provement;

3                   (II) a total of \$1,000 for a com-  
4           bination of measures, prescribed in an  
5           audit conducted under subclause (I),  
6           designed to reduce energy consumption  
7           by more than 10 percent, and \$2,000  
8           for a combination of measures pre-  
9           scribed in such an audit, designed to  
10          reduce energy consumption by more  
11          than 20 percent;

12                   (III) \$3,000 for demonstrated sav-  
13          ings of 20 percent, pursuant to a per-  
14          formance-based building retrofit pro-  
15          gram; and

16                   (IV) \$1,000 for each additional 5  
17          percentage points of energy savings  
18          achieved beyond savings for which  
19          funding is provided under subclause  
20          (II) or (III).

21          *Funding shall not be provided under clauses*  
22          *(II) and (III) for the same energy savings.*

23                   (ii) *MAXIMUM PERCENTAGE.*—Awards  
24          under clause (i) shall not exceed 50 percent  
25          of retrofit costs for each building. For build-



1            *ings with multiple residential units, awards*  
2            *under clause (i) shall not be greater than 50*  
3            *percent of the total cost of retrofitting the*  
4            *building, prorated among individual resi-*  
5            *dential units on the basis of relative costs of*  
6            *the retrofit. In the case of public housing*  
7            *and assisted housing, the 50 percent con-*  
8            *tribution matching the contribution from*  
9            *REEP program funds may come from any*  
10           *other source, including other Federal funds.*

11           *(iii) ADDITIONAL AWARDS.—Addi-*  
12           *tional awards may be provided for purposes*  
13           *of increasing energy efficiency, for buildings*  
14           *achieving at least 20 percent energy savings*  
15           *using funding provided under clause (i), in*  
16           *the form of grants of not more than \$600*  
17           *for measures projected or measured (using*  
18           *an appropriate method approved by the Ad-*  
19           *ministrator) to achieve at least 35 percent*  
20           *potable water savings through equipment or*  
21           *systems with an estimated service life of not*  
22           *less than 7 years, and not more than an ad-*  
23           *ditional \$20 may be provided for each addi-*  
24           *tional one percent of such savings, up to a*  
25           *maximum total grant of \$1,200.*

1                   (B)   NONRESIDENTIAL   BUILDING   PRO-  
2                   GRAM.—

3                   (i)   AWARDS.—*For   nonresidential*  
4                   *buildings—*

5                   (I) *support for a free or low-cost*  
6                   *detailed building energy audit that*  
7                   *prescribes, as part of a energy-reducing*  
8                   *measures sufficient to achieve at least a*  
9                   *20 percent reduction in energy use, by*  
10                  *providing an incentive equal to the*  
11                  *documented cost of such audit, but not*  
12                  *more than \$500, in addition to any*  
13                  *award earned by achieving a 20 per-*  
14                  *cent or greater efficiency improvement;*

15                  (II) *\$0.15 per square foot of ret-*  
16                  *rofit area for demonstrated energy use*  
17                  *reductions from 20 percent to 30 per-*  
18                  *cent;*

19                  (III) *\$0.75 per square foot for*  
20                  *demonstrated energy use reductions*  
21                  *from 30 percent to 40 percent;*

22                  (IV) *\$1.60 per square foot for*  
23                  *demonstrated energy use reductions*  
24                  *from 40 percent to 50 percent; and*

1                   (V) \$2.50 per square foot for dem-  
 2                   onstrated energy use reductions exceed-  
 3                   ing 50 percent.

4                   (ii)       MAXIMUM       PERCENTAGE.—  
 5                   Amounts provided under subclauses (II)  
 6                   through (V) of clause (i) combined shall not  
 7                   exceed 50 percent of the total retrofit cost of  
 8                   a building. In nonresidential buildings with  
 9                   multiple units, such awards shall be pro-  
 10                  rated among individual units on the basis  
 11                  of relative costs of the retrofit.

12                  (iii)   ADDITIONAL   AWARDS.—Addi-  
 13                  tional awards may be provided, for build-  
 14                  ings achieving at least 20 percent energy  
 15                  savings using funding provided under  
 16                  clause (i), as follows:

17                       (I) WATER.—For purposes of in-  
 18                       creasing energy efficiency, grants may  
 19                       be made for whole building potable  
 20                       water use reduction (using an appro-  
 21                       priate method approved by the Admin-  
 22                       istrator) for up to 50 percent of the  
 23                       total retrofit cost, including amounts  
 24                       up to—

1                   (aa) \$24.00 per thousand  
2                   gallons per year of potable water  
3                   savings of 40 percent or more;

4                   (bb) \$27.00 per thousand gal-  
5                   lons per year of potable water sav-  
6                   ings of 50 percent or more; and

7                   (cc) \$30.00 per thousand gal-  
8                   lons per year of potable water sav-  
9                   ings of 60 percent or more.

10               (II) ENVIRONMENTAL IMPROVE-  
11               MENTS.—Additional awards of up to  
12               \$1,000 may be granted for the inclu-  
13               sion of other environmental attributes  
14               that the Administrator, in consultation  
15               with the Secretary, identifies as con-  
16               tributing to energy efficiency. Such at-  
17               tributes may include, but are not lim-  
18               ited to waste diversion and the use of  
19               environmentally preferable materials  
20               (including salvaged, renewable, or re-  
21               cycled materials, and materials with  
22               no or low-VOC content). The Adminis-  
23               trator may recommend that States de-  
24               velop such standards as are necessary  
25               to account for local or regional condi-

1            *tions that may affect the feasibility or*  
 2            *availability of identified resources and*  
 3            *attributes.*

4            *(iv) INDOOR AIR QUALITY MINIMUM.—*

5            *Nonresidential buildings receiving incen-*  
 6            *tives under this section must satisfy at a*  
 7            *minimum the most recent version of*  
 8            *ASHRAE Standard 62.1 for ventilation, or*  
 9            *the equivalent as determined by the Admin-*  
 10           *istrator. A State may issue a waiver from*  
 11           *this requirement to a building project on a*  
 12           *showing that such compliance is infeasible*  
 13           *due to the physical constraints of the build-*  
 14           *ing's existing ventilation system, or such*  
 15           *other limitations as may be specified by the*  
 16           *Administrator.*

17           *(C) DISASTER DAMAGED BUILDINGS.—Any*

18           *source of funds, including Federal funds pro-*  
 19           *vided through the Robert T. Stafford Disaster*  
 20           *Relief and Emergency Assistance Act, shall qual-*  
 21           *ify as the building owner's 50 percent contribu-*  
 22           *tion, in order to match the contribution of*  
 23           *REEP funds, so long as the REEP funds are*  
 24           *only used to improve the energy efficiency of the*  
 25           *buildings being reconstructed. In addition, the*

1        *appropriate Federal agencies providing assist-*  
2        *ance to building owners through the Robert T.*  
3        *Stafford Disaster Relief and Emergency Assist-*  
4        *ance Act shall make information available, fol-*  
5        *lowing a disaster, to building owners rebuilding*  
6        *disaster damaged buildings with assistance from*  
7        *the Act, that REEP funds may be used for en-*  
8        *ergy efficiency improvements.*

9                (D)    *HISTORIC    BUILDINGS.*—*Notwith-*  
10        *standing subparagraphs (A) and (B), a building*  
11        *in or eligible for the National Register of His-*  
12        *toric Places shall be eligible for awards under*  
13        *this paragraph in amounts up to 120 percent of*  
14        *the amounts set forth in subparagraphs (A) and*  
15        *(B).*

16                (E)    *SUPPLEMENTAL SUPPORT.*—*State and*  
17        *local governments may supplement the per-build-*  
18        *ing expenditures under this paragraph with*  
19        *funding from other sources.*

20                (2)    *ADJUSTMENT.*—*The Administrator may ad-*  
21        *just the specific dollar amounts provided under para-*  
22        *graph (1) in years subsequent to the second year after*  
23        *the date of enactment of this Act, and every 2 years*  
24        *thereafter, as the Administrator determines necessary*  
25        *to achieve optimum cost-effectiveness and to maximize*

1        *incentives to achieve energy efficiency within the total*  
 2        *building award amounts provided in that paragraph,*  
 3        *and shall publish and hold constant such revised lim-*  
 4        *its for at least 2 years.*

5        *(k) REPORT TO CONGRESS.—The Administrator shall*  
 6        *conduct an annual assessment of the achievements of the*  
 7        *REEP program in each State, shall prepare an annual re-*  
 8        *port of such achievements and any recommendations for*  
 9        *program modifications, and shall provide such report to*  
 10       *Congress at the end of each fiscal year during which fund-*  
 11       *ing or other resources were made available to the States for*  
 12       *the REEP program.*

13       *(l) OPERATIONS AND MAINTENANCE.—Notwith-*  
 14       *standing any other provision of this section, REEP funds*  
 15       *may be used to provide training to building staff relating*  
 16       *to energy-efficient operations and maintenance of residen-*  
 17       *tial and nonresidential buildings.*

18       **SEC. 165. CERTIFIED STOVES PROGRAM.**

19       *(a) DEFINITIONS.—In this section:*

20                *(1) AGENCY.—The term “Agency” means the En-*  
 21        *vironmental Protection Agency.*

22                *(2) CERTIFIED STOVE.—*

23                        *(A) IN GENERAL.—The term “certified*  
 24        *stove” means a wood stove or pellet stove that*  
 25        *meets the standards of performance for new resi-*

1        *dential wood heaters under subpart AAA of part*  
 2        *60 of subchapter C of chapter I of title 40, Code*  
 3        *of Federal Regulations (or successor regulations),*  
 4        *as certified by the Administrator.*

5                (B) *INCLUSION.—The term “certified stove”*  
 6        *includes a pellet stove or fireplace insert that*  
 7        *uses pellets for fuel that are exempt from testing*  
 8        *by the Administrator but meet the same stand-*  
 9        *ards of performance as wood stoves.*

10              (3) *ELIGIBLE ENTITY.—The term “eligible enti-*  
 11        *ty” means—*

12                      (A) *a State, a local government, or a feder-*  
 13        *ally recognized Indian tribe;*

14                      (B) *an Alaskan Native village or regional*  
 15        *or village corporation (as defined in, or estab-*  
 16        *lished under, the Alaskan Native Claims Settle-*  
 17        *ment Act (43 U.S.C. 1601 et seq.)); and*

18                      (C) *a nonprofit organization or institution*  
 19        *that—*

20                              (i) *represents or provides pollution re-*  
 21        *duction or educational services relating to*  
 22        *wood smoke minimization to persons, orga-*  
 23        *nizations, or communities; or*



1                   (ii) has, as the principal purpose of the  
2                   organization or institution, the promotion  
3                   of air quality or energy efficiency.

4                   (4) WOOD STOVE OR PELLET STOVE.—The term  
5                   “wood stove or pellet stove” means a wood stove, pellet  
6                   stove, or fireplace insert that uses wood or pellets for  
7                   fuel.

8                   (b) ESTABLISHMENT.—The Administrator shall estab-  
9                   lish and carry out a program to assist in the replacement  
10                  of wood stoves or pellet stoves that do not meet the standards  
11                  of performance described in subsection (a)(2) by—

12                  (1) requiring that each wood stove or pellet stove  
13                  sold in the United States on and after the date of en-  
14                  actment of this Act meet the standards of performance  
15                  described in subsection (a)(2);

16                  (2) requiring that no wood stove or pellet stove  
17                  replaced under the program is sold or returned to ac-  
18                  tive service, but that it is instead destroyed and recy-  
19                  cled, to the maximum extent practicable;

20                  (3) providing funds to an eligible entity to re-  
21                  place a wood stove or pellet stove that does not meet  
22                  the standards of performance described in subsection  
23                  (a)(2) with a certified stove, including funds to pay  
24                  for—

1           (A) *installation of a replacement certified*  
 2           *stove; and*

3           (B) *necessary replacement of or repairs to*  
 4           *ventilation, flues, chimneys, or other applicable*  
 5           *items necessary for safe installation of a replace-*  
 6           *ment certified stove;*

7           (4) *in addition to any funds that may be appro-*  
 8           *priated for the program under this section, using ex-*  
 9           *isting Federal, State, and local programs and incen-*  
 10          *tives, to the maximum extent practicable;*

11          (5) *prioritizing the replacement of wood stoves or*  
 12          *pellet stoves manufactured before July 1, 1990; and*

13          (6) *carrying out such other activities as the Ad-*  
 14          *ministrator determines appropriate to facilitate the*  
 15          *replacement of wood stoves or pellet stoves that do not*  
 16          *meet the standards of performance described in sub-*  
 17          *section (a)(2).*

18          (c) *EPA AUTHORITY TO ACCEPT WOOD STOVE OR*  
 19          *PELLET STOVE REPLACEMENT SUPPLEMENTAL ENVIRON-*  
 20          *MENTAL PROJECTS.—*

21          (1) *IN GENERAL.—Notwithstanding sections*  
 22          *1301 and 3302 of title 31, United States Code, the*  
 23          *Administrator may accept a wood stove or pellet stove*  
 24          *replacement supplemental environmental project as*

1       *part of a settlement of any alleged violation of envi-*  
2       *ronmental law if the project—*

3               *(A) protects human health or the environ-*  
4       *ment;*

5               *(B) is related to the underlying alleged vio-*  
6       *lation;*

7               *(C) does not constitute activities that the de-*  
8       *fendant would otherwise be legally required to*  
9       *perform; and*

10              *(D) does not provide funds for the staff of*  
11       *the Agency or for contractors to carry out the in-*  
12       *ternal operations of the Agency.*

13       (2) *CERTIFICATION.—*

14              *(A) IN GENERAL.—In any settlement agree-*  
15       *ment regarding an alleged violation of environ-*  
16       *mental law under which a defendant agrees to*  
17       *perform a wood stove or pellet stove replacement*  
18       *supplemental environmental project, the Admin-*  
19       *istrator shall require the defendant to include in*  
20       *the settlement documents a certification under*  
21       *penalty of law that the defendant would have*  
22       *agreed to perform a comparably valued, alter-*  
23       *native project other than a wood stove or pellet*  
24       *stove replacement supplemental environmental*  
25       *project if the Administrator were precluded by*

1           *law from accepting a wood stove or pellet stove*  
 2           *replacement supplemental environmental project.*

3           *(B) EFFECT OF OMISSION.—A failure by*  
 4           *the Administrator to include the certification de-*  
 5           *scribed in subparagraph (A) in a settlement*  
 6           *agreement shall not—*

7                     *(i) create a cause of action against the*  
 8                     *United States under the Clean Air Act (42*  
 9                     *U.S.C. 7401 et seq.) or any other law; or*

10                    *(ii) create a basis for overturning a*  
 11                    *settlement agreement entered into by the*  
 12                    *United States.*

13           *(d) REGULATIONS.—The Administrator may promul-*  
 14           *gate such regulations as are necessary to carry out the pro-*  
 15           *gram established under subsection (b).*

16           *(e) FUNDING.—*

17                    *(1) AUTHORIZATION OF APPROPRIATIONS.—*  
 18                    *There are authorized to be appropriated to carry out*  
 19                    *the program established under subsection (b)*  
 20                    *\$20,000,000 for the period of fiscal years 2010*  
 21                    *through 2014.*

22                    *(2) DESIGNATED USE.—Of amounts appro-*  
 23                    *priated pursuant to this subsection—*

24                            *(A) 25 percent shall be designated for use to*  
 25                            *carry out the program established under sub-*

1           *section (b) on land held in trust for the benefit*  
 2           *of a federally recognized Indian tribe;*

3           *(B) 3 percent shall be designated for use to*  
 4           *carry out the program in Alaskan Native vil-*  
 5           *lages or regional or village corporations (as de-*  
 6           *finied in, or established under, the Alaskan Na-*  
 7           *tive Claims Settlement Act (43 U.S.C. 1601 et*  
 8           *seq.)); and*

9           *(C) 72 percent shall be designated for use to*  
 10          *carry out the program nationwide.*

11          (3) *REGULATORY PROGRAMS.—*

12           *(A) IN GENERAL.—No grant or loan pro-*  
 13           *vided under subsection (b) shall be used to fund*  
 14           *the costs of emission reductions that are man-*  
 15           *dated under Federal, State, or local law.*

16           *(B) MANDATED MEASURES.—For purposes*  
 17           *of subparagraph (A), voluntary or elective emis-*  
 18           *sion reduction measures shall not be considered*  
 19           *mandated, regardless of whether the reductions*  
 20           *are included in the implementation plan of a*  
 21           *State.*

22   **SEC. 166. RENEWABLE FUEL STANDARD.**

23           *(a) DEFINITIONS.—Section 211(o)(1) of the Clean Air*  
 24           *Act (42 U.S.C. 7545(o)(1)) is amended—*

- 1           (1) in subparagraph (B)(ii)(VII), by striking  
 2           “cellulosic” and inserting “advanced green”;  
 3           (2) by striking subparagraph (E);  
 4           (3) by redesignating subparagraphs (C) and (D)  
 5           as subparagraphs (D) and (E), respectively; and  
 6           (4) by inserting after subparagraph (B) the fol-  
 7           lowing:

8                   “(C) *ADVANCED GREEN BIOFUEL*.—The  
 9                   term ‘advanced green biofuel’ means renewable  
 10                   fuel that—

11                           “(i) is derived from renewable biomass;

12                           and

13                           “(ii) has lifecycle greenhouse gas emis-  
 14                           sions that are at least 60 percent less than  
 15                           the baseline lifecycle greenhouse gas emis-  
 16                           sions.”.

17           (b) *STANDARD*.—Section 211(o) of the Clean Air Act  
 18           (42 U.S.C. 7545(o)) is amended—

19                   (1) in paragraph (2)—

20                           (A) in subparagraph (A)(i), by striking  
 21                           “cellulosic” and inserting “advanced green”; and

22                           (B) in subparagraph (B)—

23                           (i) in clause (i)(III)—

1                   (I) in the subclause heading, by  
2                   striking “CELLULOSIC” and inserting  
3                   “ADVANCED GREEN”;

4                   (II) by striking “cellulosic” and  
5                   inserting “advanced green”; and

6                   (III) in the heading of the right  
7                   column, by striking “**cellulosic**” and  
8                   inserting “**advanced green**”;

9                   (ii) in clause (ii)(III), by striking “cel-  
10                  lulosic” and inserting “advanced green”;  
11                  and

12                 (iii) in clause (iv)—

13                   (I) in the clause heading, by strik-  
14                   ing “CELLULOSIC” and inserting “AD-  
15                   VANCED GREEN”; and

16                   (II) by striking “cellulosic” and  
17                   inserting “advanced green”;

18                 (2) in paragraphs (3)(A), (4)(A), and (4)(B), by  
19                 striking “cellulosic” each place it appears and insert-  
20                 ing “advanced green”; and

21                 (3) in paragraph (7)(D)—

22                   (A) in the subparagraph heading, by strik-  
23                   ing “CELLULOSIC” and inserting “ADVANCED  
24                   GREEN”; and

1                   (B) by striking “cellulosic” each place it  
2                   appears and inserting “advanced green”.

3 **SEC. 167. TREE PLANTING PROGRAMS.**

4           (a) *FINDINGS.*—Congress finds that—

5                   (1) the utility sector is the largest single source  
6                   of greenhouse gas emissions in the United States, pro-  
7                   ducing approximately  $\frac{1}{3}$  of the emissions of the  
8                   United States;

9                   (2) heating and cooling of homes accounts for  
10                  nearly 60 percent of residential electricity usage in  
11                  the United States;

12                  (3) shade trees planted in strategic locations can  
13                  reduce residential cooling costs by as much as 30 per-  
14                  cent;

15                  (4) shade trees are associated with significant  
16                  clean air benefits;

17                  (5) every group of 100 healthy large trees re-  
18                  moves approximately 300 pounds of air pollution (in-  
19                  cluding particulate matter and ozone) and approxi-  
20                  mately 15 tons of carbon dioxide from the air each  
21                  year;

22                  (6) tree cover on private property and on newly  
23                  developed land has declined since the 1970s, even  
24                  while emissions from transportation and industry  
25                  have been rising; and



1           (7) *in more than 12 test cities across the United*  
 2           *States, increasing urban tree cover has generated be-*  
 3           *tween \$2 and \$5 in savings for every dollar invested*  
 4           *in such tree planting.*

5           (b) *DEFINITIONS.—In this section:*

6           (1) *RETAIL POWER PROVIDER.—The term “retail*  
 7           *power provider” means any entity authorized under*  
 8           *applicable Federal or State law to generate, dis-*  
 9           *tribute, or provide retail electricity, natural gas, or*  
 10           *fuel oil service.*

11           (2) *SMALL.—The term “small”, with respect to*  
 12           *an office, means a nonresidential building or struc-*  
 13           *ture that is—*

14                   (A) *zoned for business purposes; and*

15                   (B) *not more than 20,000 square feet in*  
 16                   *total area.*

17           (3) *TREE PLANTING ORGANIZATION.—The term*  
 18           *“tree planting organization” means any nonprofit*  
 19           *group that exists, in whole or in part—*

20                   (A) *to expand urban and residential tree*  
 21                   *cover;*

22                   (B) *to distribute trees for planting;*

23                   (C) *to increase awareness of the environ-*  
 24                   *mental and energy-related benefits of trees;*

1                   (D) to educate the public regarding proper  
 2                   tree planting, care, and maintenance strategies;  
 3                   or

4                   (E) to carry out any combination of the ac-  
 5                   tivities described in subparagraphs (A) through  
 6                   (D).

7                   (4) *TREE SITING GUIDELINES.*—The term “tree  
 8                   siting guidelines” means a comprehensive list of  
 9                   science-based measurements outlining—

10                   (A) applicable species;

11                   (B) the minimum distance required between  
 12                   trees planted pursuant to this section; and

13                   (C) the minimum required distance to be  
 14                   maintained between those trees and—

15                   (i) building foundations;

16                   (ii) air conditioning units;

17                   (iii) driveways and walkways;

18                   (iv) property fences;

19                   (v) preexisting utility infrastructure;

20                   (vi) septic systems;

21                   (vii) swimming pools; and

22                   (viii) other infrastructure, as appro-  
 23                   priate.

24                   (c) *PURPOSE.*—The purpose of this section is to estab-  
 25                   lish a grant program to assist retail power providers in

1 *establishing and operating tree planting programs in resi-*  
2 *dential and small office settings—*

3 *(1) to reduce the peak load demand for electricity*  
4 *from residences and small office buildings during the*  
5 *summer months through direct shading of buildings*  
6 *provided by strategically planted trees;*

7 *(2) to reduce wintertime demand for energy from*  
8 *residences and small office buildings by—*

9 *(A) blocking cold winds from reaching those*  
10 *structures;*

11 *(B) lowering interior temperatures; and*

12 *(C) driving heating demand;*

13 *(3) to protect public health by removing harmful*  
14 *pollution from the air;*

15 *(4) to use the natural photosynthetic and tran-*  
16 *spiration process of trees to lower ambient tempera-*  
17 *tures and absorb carbon dioxide, mitigating the effects*  
18 *of climate change;*

19 *(5) to decrease the amounts of electric bills for*  
20 *residential and small office ratepayers by limiting*  
21 *electricity consumption without reducing benefits;*

22 *(6) to relieve financial and demand pressure on*  
23 *retail power providers that stems from large peak*  
24 *load energy demand;*

1           (7) *to protect water quality and public health by*  
 2           *reducing stormwater runoff and keeping harmful pol-*  
 3           *lutants from entering waterways; and*

4           (8) *to ensure that trees are planted in locations*  
 5           *that limit the amount of public funds required to*  
 6           *maintain public and electric infrastructure.*

7           (d) *ASSISTANCE PROGRAM.—*

8           (1) *IN GENERAL.—The Administrator may pro-*  
 9           *vide financial, technical, and related assistance to eli-*  
 10          *gible retail power providers to assist in establishing*  
 11          *new, or operating existing, tree planting programs for*  
 12          *residences and small office buildings.*

13          (2) *PUBLIC RECOGNITION INITIATIVE.—In car-*  
 14          *rying out this section, the Administrator shall estab-*  
 15          *lish a national public recognition initiative to en-*  
 16          *courage participation in tree planting programs by*  
 17          *retail power providers.*

18          (3) *ELIGIBILITY.—Only tree planting programs*  
 19          *that use targeted, strategic tree siting guidelines to*  
 20          *plant trees in relation to building location, sunlight,*  
 21          *and prevailing wind direction shall be eligible to re-*  
 22          *ceive assistance under this section.*

23          (4) *REQUIREMENTS.—To be eligible to receive*  
 24          *assistance under this section, a tree planting program*  
 25          *shall—*

1           (A) provide free or discounted shade-pro-  
2           viding or wind-reducing trees to residential and  
3           small office consumers interested in lowering en-  
4           ergy costs;

5           (B) optimize the electricity consumption re-  
6           duction benefit of each tree by planting in stra-  
7           tegic locations around a given residence or small  
8           office;

9           (C)(i) provide a maximum quantity of  
10          shade during summer intervals, when residences  
11          and small offices are exposed to the most sun in-  
12          tensity; or

13          (ii) provide a maximum quantity of wind  
14          protection during fall and winter intervals, when  
15          residences and small offices are exposed to the  
16          most wind intensity;

17          (D) use the best available science to create  
18          tree siting guidelines that establish where opti-  
19          mum tree species are best planted in locations  
20          that achieve maximum reductions in consumer  
21          energy demand while causing the least interrup-  
22          tion to public infrastructure, taking into consid-  
23          eration overhead and underground facilities; and

24          (E) be certified by the Administrator, in  
25          collaboration with the head of the Urban and

1           *Community Forestry Program of the Forest*  
 2           *Service, as designed to achieve the goals de-*  
 3           *scribed in subparagraphs (A) through (D).*

4           (5) *NEW PROGRAM FUNDING SHARE.*—*Not less*  
 5           *than 30 percent of the amounts made available to*  
 6           *carry out this section shall be distributed to retail*  
 7           *power providers that—*

8                     *(A) have not previously established or oper-*  
 9                     *ated qualified tree planting programs; or*

10                    *(B) are operating qualified tree planting*  
 11                    *programs established not more than 3 years be-*  
 12                    *fore the date of enactment of this Act.*

13           (e) *AGREEMENTS BETWEEN ELECTRICITY PROVIDERS*  
 14           *AND TREE PLANTING ORGANIZATIONS.*—

15                    (1) *IN GENERAL.*—*In providing assistance under*  
 16                    *this section, the Administrator may award grants*  
 17                    *only to retail power providers that have entered into*  
 18                    *binding legal agreements with tree planting organiza-*  
 19                    *tions.*

20                    (2) *CONDITIONS OF AGREEMENT.*—*An agreement*  
 21                    *under paragraph (1) shall establish the conditions*  
 22                    *under which the tree planting organization shall pro-*  
 23                    *vide a tree planting program, including a require-*  
 24                    *ment that the tree planting organization shall—*

1           (A) participate in local technical advisory  
2 committees responsible for drafting general tree  
3 siting guidelines and choosing the most effective  
4 species of trees to plant in given locations;

5           (B) coordinate volunteer recruitment to as-  
6 sist with the physical act of planting trees in  
7 residential locations;

8           (C) carry out public awareness campaigns  
9 to educate local residents regarding the benefits,  
10 cost savings, and availability of free shade trees;

11          (D) establish education and information  
12 campaigns to encourage recipients to maintain  
13 shade trees over the long term;

14          (E) serve as the point of contact for existing  
15 and potential residential participants who have  
16 questions or concerns regarding the tree planting  
17 program;

18          (F) require tree recipients to sign agree-  
19 ments committing to voluntary stewardship and  
20 care of provided trees;

21          (G) monitor and report on the survival,  
22 growth, overall health, and estimated energy sav-  
23 ings of provided trees throughout the initial es-  
24 tablishment period of the tree planting program,  
25 which shall be not less than 5 years; and

1                   (H) ensure that—

2                   (i) trees planted near existing power  
3                   lines will not interfere with energized elec-  
4                   tricity distribution lines when mature; and

5                   (ii) no new trees will be planted under  
6                   or adjacent to high-voltage electric trans-  
7                   mission lines without prior consultation  
8                   with the applicable retail power provider  
9                   receiving assistance under this section.

10               (3) *LACK OF NONPROFIT ORGANIZATION.*—If no  
11               tree planting organization exists or operates within  
12               an area served by a retail power provider applying  
13               for assistance under this section, the requirements of  
14               this subsection shall apply to a binding legal agree-  
15               ment entered into by the retail power providers and  
16               1 or more of—

17               (A) a local municipal government with ju-  
18               risdiction over the applicable urban or suburban  
19               forest;

20               (B) the State forester for the State in which  
21               the tree planting program will operate;

22               (C) the Urban and Community Forestry  
23               representative for the State in which the tree  
24               planting program will operate; or



1           (D) a landscaping services company that  
2           is—

3                   (i) identified in consultation with a  
4                   national or State nonprofit tree planting  
5                   organization;

6                   (ii) licensed to operate in the State in  
7                   which the tree planting program will oper-  
8                   ate; and

9                   (iii) a business (as defined in 2007  
10                  North American Industry Classification  
11                  System Code 561730 of the United States  
12                  Census Bureau).

13       (f) *TECHNICAL ADVISORY COMMITTEES.*—

14           (1) *IN GENERAL.*—To be eligible to receive assist-  
15           ance under this section, a retail power provider shall  
16           establish and consult with a local technical advisory  
17           committee, which—

18                   (A) shall provide advice and consultation to  
19                   the program; and

20                   (B) may—

21                           (i) design and adopt an approved  
22                           plant list that emphasizes the use of hardy,  
23                           noninvasive tree species and, where geo-  
24                           graphically appropriate, the use of native

1           *(or site-adapted) or low water-use shade*  
2           *trees;*

3           *(ii) design and adopt planting, instal-*  
4           *lation, and maintenance specifications and*  
5           *establish a process for inspection and qual-*  
6           *ity control;*

7           *(iii) ensure that tree recipients are*  
8           *educated to care for and maintain trees over*  
9           *the long term;*

10          *(iv) help the public become more en-*  
11          *gaged and educated in the planting and*  
12          *care of shade trees;*

13          *(v) prioritize the sites that will receive*  
14          *trees, giving preference to locations with the*  
15          *highest potential for energy conservation*  
16          *and secondary preference to areas in which*  
17          *the average annual income is below the re-*  
18          *gional median; and*

19          *(vi) assist with monitoring and collec-*  
20          *tion of data on tree health, tree survival,*  
21          *and energy conservation benefits generated*  
22          *under this section.*

23          (2) *COMPENSATION.*—*An individual serving on a*  
24          *local technical advisory committee under this sub-*  
25          *section shall not receive compensation for that service.*

1           (3) *COMPOSITION.*—*Each local technical advisory*  
 2           *sory committee under this subsection shall be com-*  
 3           *posed of representatives of public, private, and non-*  
 4           *governmental agencies with expertise regarding de-*  
 5           *mand-side energy efficiency management, urban for-*  
 6           *estry, or arboriculture, including—*

7                   (A) *not more than 4, and not less than 1,*  
 8                   *individuals representing the retail power pro-*  
 9                   *vider receiving assistance under this section;*

10                  (B) *not more than 4, and not less than 1,*  
 11                  *individuals representing the local tree planting*  
 12                  *organization that will partner with the retail*  
 13                  *power provider to carry out this section;*

14                  (C)(i) *not more than 3 individuals rep-*  
 15                  *resenting local nonprofit conservation or envi-*  
 16                  *ronmental organizations, with preference given*  
 17                  *to entities that—*

18                           (I) *are described in section 501(c)(3) of*  
 19                           *the Internal Revenue Code of 1986; and*

20                           (II) *have demonstrated expertise engag-*  
 21                           *ing the public in energy conservation, en-*  
 22                           *ergy efficiency, or green building practices*  
 23                           *(or a combination thereof); but*

1           (ii) not more than 1 individual rep-  
2           resenting each organization described in clause  
3           (i);

4           (D) not more than 2 individuals rep-  
5           resenting a local affordable housing agency, af-  
6           fordable housing builder, or community develop-  
7           ment corporation;

8           (E) not more than 3, and not less than 1,  
9           individuals representing the local city or county  
10          government for each municipality in which a  
11          shade tree planting program will take place, at  
12          least 1 of whom shall be the city or county for-  
13          ester, city or county arborist, or functional  
14          equivalent;

15          (F) not more than 1 individual rep-  
16          resenting the local government agency responsible  
17          for management of roads, sewers, and infrastruc-  
18          ture, including public works departments, trans-  
19          portation agencies, or equivalent entities;

20          (G) not more than 3 individuals rep-  
21          resenting the nursery and landscaping industry;  
22          and

23          (H) not more than 3 individuals rep-  
24          resenting the research community or academia,

1           *with expertise regarding natural resources or en-*  
 2           *ergy management issues.*

3           (4) *CHAIRPERSON.*—*Each local technical advi-*  
 4           *sory committee shall elect, from the members described*  
 5           *in subparagraph (A) or (B) of paragraph (3), a*  
 6           *chairperson, who shall—*

7                     (A) *preside over committee meetings;*

8                     (B) *act as a liaison to governmental and*  
 9                     *other entities; and*

10                    (C) *direct the general operation of the com-*  
 11                    *mittee.*

12           (5) *CREDENTIALS.*—*At least 1 member of each*  
 13           *local technical advisory committee shall be certified*  
 14           *with 1 or more of the following credentials:*

15                    (A) *International Society of Arboriculture.*

16                    (B) *Certified Arborist, ISA.*

17                    (C) *Certified Arborist Municipal Specialist,*  
 18                    *ISA.*

19                    (D) *Certified Arborist Utility Specialist,*  
 20                    *ISA.*

21                    (E) *Board Certified Master Arborist.*

22                    (F) *Registered Landscape Architect rec-*  
 23                    *ommended by the American Society of Land-*  
 24                    *scape Architects.*

25           (g) *COST SHARING.*—

1           (1) *FEDERAL SHARE.*—*The Federal share of the*  
 2           *cost of a project under this section shall be not more*  
 3           *than 50 percent.*

4           (2) *NON-FEDERAL SHARE.*—*The non-Federal*  
 5           *share of the cost of a project under this section may*  
 6           *be paid by any entity from any funds not derived di-*  
 7           *rectly or indirectly from an agency or instrumen-*  
 8           *talidity of the United States.*

9           (h) *RULEMAKING.*—

10           (1) *RULEMAKING PERIOD.*—*The Administrator*  
 11           *may solicit comments and initiate a rulemaking pe-*  
 12           *riod of not more than 2 years after the date of enact-*  
 13           *ment of this section.*

14           (2) *COMPETITIVE GRANT RULE.*—*At the conclu-*  
 15           *sion of the rulemaking period under paragraph (1),*  
 16           *the Administrator shall promulgate a rule governing*  
 17           *a public, competitive grant process through which re-*  
 18           *tail power providers may apply for assistance under*  
 19           *this section.*

20           (i) *NONDUPLICITY.*—*Nothing in this section super-*  
 21           *sedes, duplicates, cancels, or negates any program or au-*  
 22           *thority under section 9 of the Cooperative Forestry Assist-*  
 23           *ance Act of 1978 (16 U.S.C. 2105).*

1       (j) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
 2 *authorized to be appropriated such sums as are necessary*  
 3 *to carry out this section.*

4       ***Subtitle G—Emission Reductions***  
 5       ***From Public Transportation Ve-***  
 6       ***hicles***

7       ***SEC. 171. SHORT TITLE.***

8       *This subtitle may be cited as the “Green Taxis Act of*  
 9 *2009”.*

10       ***SEC. 172. STATE FUEL ECONOMY REGULATION FOR TAXI-***  
 11       ***CABS.***

12       *Section 32919 of title 49, United States Code, is*  
 13 *amended by adding at the end the following new subsection:*

14       “(d) *TAXICABS.*—*Notwithstanding subsection (a), a*  
 15 *State or political subdivision of a State may prescribe re-*  
 16 *quirements for fuel economy for taxicabs and other auto-*  
 17 *mobiles if such requirements are at least as stringent as*  
 18 *applicable Federal requirements and if such taxicabs and*  
 19 *other automobiles—*

20               “(1) *are automobiles that are capable of trans-*  
 21 *porting not more than 10 individuals, including the*  
 22 *driver;*

23               “(2) *are commercially available or are designed*  
 24 *and manufactured pursuant to a contract with such*  
 25 *State or political subdivision of such State;*

1           “(3) are operated for hire pursuant to an oper-  
 2           ating or regulatory license, permit, or other author-  
 3           ization issued by such State or political subdivision  
 4           of such State;

5           “(4) provide local transportation for a fare de-  
 6           termined on the basis of the time or distance traveled  
 7           or a combination of time and distance traveled; and

8           “(5) do not exclusively provide transportation to  
 9           and from airports.”.

10 **SEC. 173. STATE REGULATION OF MOTOR VEHICLE EMIS-**  
 11 **SIONS FOR TAXICABS.**

12           Section 209 of the Clean Air Act (42 U.S.C. 7543) is  
 13 amended by adding at the end the following new subsection:

14           “(f) TAXICABS.—(1) Notwithstanding subsection (a), a  
 15 State or political subdivision thereof may adopt and enforce  
 16 standards for the control of emissions from new motor vehi-  
 17 cles that are taxicabs and other vehicles if such standards  
 18 will be, in the aggregate, at least as protective of public  
 19 health and welfare as applicable Federal standards and if  
 20 such taxicabs and other vehicles—

21           “(A) are passenger motor vehicles that are  
 22 capable of transporting not more than 10 indi-  
 23 viduals, including the driver;



1           “(B) are commercially available or are de-  
 2           signed and manufactured pursuant to a contract  
 3           with such State or political subdivision thereof;

4           “(C) are operated for hire pursuant to an  
 5           operating or regulatory license, permit, or other  
 6           authorization issued by such State or political  
 7           subdivision thereof;

8           “(D) provide local transportation for a fare  
 9           determined on the basis of the time or distance  
 10          traveled or a combination of time and distance  
 11          traveled; and

12          “(E) do not exclusively provide transpor-  
 13          tation to and from airports.

14          “(2) If each standard of a State or political subdivi-  
 15          sion thereof is at least as stringent as the comparable appli-  
 16          cable Federal standard, such standard of such State or po-  
 17          litical subdivision thereof shall be deemed at least as protec-  
 18          tive of health and welfare as such Federal standards for  
 19          purposes of this subsection.”.

20           **Subtitle H—Clean Energy and**  
 21           **Natural Gas**

22   **SEC. 181. CLEAN ENERGY AND ACCELERATED EMISSION RE-**  
 23   **DUCTION PROGRAM.**

24          (a) *ESTABLISHMENT.*—

1           (1) *IN GENERAL.*—*The Administrator shall es-*  
2           *tablish a program to promote dispatchable power gen-*  
3           *eration projects that can accelerate the reduction of*  
4           *power sector carbon dioxide and other greenhouse gas*  
5           *emissions.*

6           (2) *USE OF FUNDS.*—*Funds provided under this*  
7           *section shall be used by the Administrator to make in-*  
8           *centive payments to owners or operators of eligible*  
9           *projects.*

10          (b) *REGULATIONS.*—*Not later than 90 days after the*  
11          *date of enactment of this Act, the Administrator shall pro-*  
12          *mulgate regulations providing for incentives, pursuant to*  
13          *the requirements of this section.*

14          (c) *GOAL.*—*Not later than 3 years after the date of*  
15          *enactment of this Act, the Administrator shall provide in-*  
16          *centives for eligible projects that generate 300,000 gigawatt-*  
17          *hours of electricity per year.*

18          (d) *CRITERIA FOR ELIGIBLE PROJECTS.*—*To be eligi-*  
19          *ble for funding under this section a project must—*

20                 (1) *reduce emissions below the 2007 average*  
21                 *greenhouse gas emissions per megawatt-hour of the*  
22                 *United States electric power sector by the quantity*  
23                 *specified in subsection (f); and*

24                 (2) *not receive an investment or production cred-*  
25                 *it in—*

1                   (A) the year in which the project is placed  
2                   in service; or

3                   (B) calendar year 2009, notwithstanding  
4                   the year in which the project was placed in serv-  
5                   ice.

6           (e) *PRIORITY.*—The Administrator shall give priority  
7 to eligible projects from the following categories:

8                   (1) Power generation projects designed to inte-  
9                   grate intermittent renewable power into the bulk-  
10                  power system.

11                  (2) Energy storage projects used to support re-  
12                  newable energy.

13                  (3) Power generation projects with carbon cap-  
14                  ture and sequestration that are not eligible for other  
15                  assistance under this Act.

16                  (4) Projects that achieve the greatest reduction in  
17                  greenhouse gas emissions per dollar of incentive pay-  
18                  ment.

19           (f) *EMISSION REDUCTION CRITERIA.*—For the pur-  
20 poses of subsection (d), the applicable emission reduction  
21 quantity shall be determined in accordance with the fol-  
22 lowing table:

<i>Calendar years</i>	<i>Percentage below 2007 average green- house gas emissions per MWh of United States electric power sector</i>
<i>2010 through 2020 .....</i>	<i>25 percent</i>
<i>2021 through 2025 .....</i>	<i>40 percent</i>
<i>2026 through 2030 .....</i>	<i>65 percent</i>

1       (g) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
 2 *authorized to be appropriated to the Administrator such*  
 3 *sums as are necessary to carry out this section for each of*  
 4 *fiscal years 2010 through 2030.*

5   **SEC. 182. ADVANCED NATURAL GAS TECHNOLOGIES.**

6       (a) *DEFINITIONS.*—*In this section:*

7           (1) *CORPORATION.*—

8               (A) *IN GENERAL.*—*The term “corporation”*  
 9 *means any corporation, joint-stock company,*  
 10 *partnership, limited liability company, associa-*  
 11 *tion, business trust, or other organized group of*  
 12 *persons, regardless of incorporation.*

13           (B) *EXCLUSION.*—*The term “corporation”*  
 14 *does not include a municipality.*

15           (2) *ELIGIBLE ENTITY.*—

16               (A) *IN GENERAL.*—*The term “eligible enti-*  
 17 *ty” means an entity that is eligible to receive a*  
 18 *grant under subsection (b).*

19               (B) *INCLUSIONS.*—*The term “eligible enti-*  
 20 *ty” includes a corporation, an eligible research*  
 21 *entity, an industry entity, a municipality, a*  
 22 *municipal natural gas distribution system, and*  
 23 *a natural gas distribution company.*

24           (3) *ELIGIBLE RESEARCH ENTITY.*—

1           (A) *IN GENERAL.*—*The term “eligible re-*  
 2           *search entity” means an entity that is experi-*  
 3           *enced in planning, conducting, and imple-*  
 4           *menting natural gas research, development, dem-*  
 5           *onstration, and deployment projects.*

6           (B) *INCLUSIONS.*—*The term “eligible re-*  
 7           *search entity” includes a research institution*  
 8           *and an institution of higher education.*

9           (4) *INDUSTRY ENTITY.*—

10           (A) *IN GENERAL.*—*The term “industry enti-*  
 11           *ty” means the persons and municipalities collec-*  
 12           *tively engaged in the delivery of natural gas for*  
 13           *consumption in the United States (such as nat-*  
 14           *ural gas distribution companies and municipal*  
 15           *natural gas distribution systems).*

16           (B) *EXCLUSION.*—*The term “industry enti-*  
 17           *ty” does not include any natural gas customer.*

18           (5) *MUNICIPALITY.*—*The term “municipality”*  
 19           *means a city, county, or other political subdivision or*  
 20           *agency of a State.*

21           (6) *MUNICIPAL NATURAL GAS DISTRIBUTION SYS-*  
 22           *TEM.*—*The term “municipal natural gas distribution*  
 23           *system” means a municipality engaged in the busi-*  
 24           *ness of delivering natural gas for consumption to resi-*

1        *dential, commercial, industrial, and other natural gas*  
 2        *customers.*

3            (7) *NATURAL GAS.*—

4            (A) *IN GENERAL.*—*The term “natural gas”*  
 5        *means a mixture of hydrocarbon and nonhydro-*  
 6        *carbon gases, primarily methane, that have been*  
 7        *produced from geological formations or by any*  
 8        *other means.*

9            (B) *INCLUSION.*—*The term “natural gas”*  
 10        *includes renewable biogas.*

11           (8) *NATURAL GAS DISTRIBUTION COMPANY.*—*The*  
 12        *term “natural gas distribution company” means a*  
 13        *person engaged in the business of distributing natural*  
 14        *gas for consumption to residential, commercial, in-*  
 15        *dustrial, or other natural gas customers.*

16           (b) *GRANT PROGRAMS.*—

17           (1) *NATURAL GAS ELECTRICITY GENERATION*  
 18        *GRANTS.*—*The Administrator, in consultation with*  
 19        *Secretary of Energy, may provide to eligible entities*  
 20        *research and development grants to support the de-*  
 21        *ployment of low greenhouse-gas-emitting end-use tech-*  
 22        *nologies, including carbon capture and sequestration*  
 23        *technologies, for natural gas electricity generation.*

24           (2) *NATURAL GAS RESIDENTIAL AND COMMERCIAL*  
 25        *TECHNOLOGY GRANTS.*—*The Administrator shall*

1        *establish a program to provide to eligible entities*  
 2        *grants to advance the commercial demonstration or*  
 3        *early development of low greenhouse-gas-emitting end-*  
 4        *use technologies fueled by natural gas, including car-*  
 5        *bon capture and storage, for residential and commer-*  
 6        *cial purposes, through research, development, dem-*  
 7        *onstration, and deployment of those technologies.*

8        *(c) REPORTING.—Not later than 180 days after the*  
 9        *date of enactment of this Act, and every 180 days thereafter,*  
 10       *the Secretary of Energy shall submit to the Committee on*  
 11       *Energy and Commerce of the House of Representatives and*  
 12       *the Senate Committees on Energy and Natural Resources*  
 13       *and Environment and Public Works of the Senate a report*  
 14       *that describes the status and results of activities carried out*  
 15       *under subsection (b).*

16       *(d) AUTHORIZATION.—There are authorized to be ap-*  
 17       *propriated such sums as are necessary to carry out this sec-*  
 18       *tion.*

## 19                    ***TITLE II—RESEARCH***

### 20                    ***Subtitle A—Energy Research***

#### 21        ***SEC. 201. ADVANCED ENERGY RESEARCH.***

22        *(a) IN GENERAL.—The Administrator shall establish*  
 23        *a program to provide grants for advanced energy research.*

24        *(b) DISTRIBUTION.—The Administrator shall dis-*  
 25        *tribute grants on a competitive basis to institutions of high-*

1 *er education, companies, research foundations, trade and*  
 2 *industry research collaborations, or consortia of such enti-*  
 3 *ties, or other appropriate research and development entities.*

4 *(c) SELECTION OF PROPOSALS.—In selecting proposals*  
 5 *for funding under this section, the Administrator shall*  
 6 *prioritize applications that—*

7 *(1) enhance the economic and energy security of*  
 8 *the United States through the development of energy*  
 9 *technologies that result in—*

10 *(A) reductions of imports of energy from*  
 11 *foreign sources;*

12 *(B) reductions of energy-related emissions,*  
 13 *including greenhouse gases; and*

14 *(C) improvements in the energy efficiency of*  
 15 *all economic sectors; and*

16 *(2) ensure that the United States maintains a*  
 17 *technological lead in developing and deploying ad-*  
 18 *vanced energy technologies.*

19 *(d) RESPONSIBILITIES.—The Administrator shall be*  
 20 *responsible for assessing the success of programs and termi-*  
 21 *nating programs carried out under this section that are not*  
 22 *achieving the goals of the programs.*

23 *(e) ASSISTANCE.—Assistance provided under this sec-*  
 24 *tion shall be used to supplement, and not to supplant, any*



1 *other Federal resources available to carry out activities de-*  
 2 *scribed in this section.*

3 (f) *AUTHORIZATION.*—*There are authorized to be ap-*  
 4 *propriated such sums as are necessary to carry out this sec-*  
 5 *tion.*

6 ***Subtitle B—Drinking Water Adap-***  
 7 ***tation, Technology, Education,***  
 8 ***and Research***

9 ***SEC. 211. EFFECTS OF CLIMATE CHANGE ON DRINKING***  
 10 ***WATER UTILITIES.***

11 (a) *FINDINGS.*—*Congress finds that—*

12 (1) *the consensus among climate scientists is*  
 13 *overwhelming that climate change is occurring more*  
 14 *rapidly than can be attributed to natural causes, and*  
 15 *that significant impacts to the water supply are al-*  
 16 *ready occurring;*

17 (2) *among the first and most critical of those im-*  
 18 *pacts will be change to patterns of precipitation*  
 19 *around the world, which will affect water availability*  
 20 *for the most basic drinking water and domestic water*  
 21 *needs of populations in many areas of the United*  
 22 *States;*

23 (3) *drinking water utilities throughout the*  
 24 *United States, as well as those in Europe, Australia,*

1       *and Asia, are concerned that extended changes in pre-*  
2       *cipitation will lead to extended droughts;*

3               *(4) supplying water is highly energy-intensive*  
4       *and will become more so as climate change forces*  
5       *more utilities to turn to alternative supplies;*

6               *(5) energy production consumes a significant*  
7       *percentage of the fresh water resources of the United*  
8       *States;*

9               *(6) since 2003, the drinking water industry of*  
10       *the United States has sponsored, through a nonprofit*  
11       *water research foundation, various studies to assess*  
12       *the impacts of climate change on drinking water sup-*  
13       *plies;*

14               *(7) those studies demonstrate the need for a com-*  
15       *prehensive program of research into the full range of*  
16       *impacts on drinking water utilities, including im-*  
17       *pacts on water supplies, facilities, and customers;*

18               *(8) that nonprofit water research foundation is*  
19       *also coordinating internationally with other drinking*  
20       *water utilities on shared research projects and has*  
21       *hosted international workshops with counterpart Eu-*  
22       *ropean and Asian water research organizations to de-*  
23       *velop a unified research agenda for applied research*  
24       *on adaptive strategies to address climate change im-*  
25       *pacts;*

1           (9) *research data in existence as of the date of*  
2           *enactment of this Act—*

3                   (A) *summarize the best available scientific*  
4                   *evidence on climate change;*

5                   (B) *identify the implications of climate*  
6                   *change for the water cycle and the availability*  
7                   *and quality of water resources; and*

8                   (C) *provide general guidance on planning*  
9                   *and adaptation strategies for water utilities; and*

10           (10) *given uncertainties about specific climate*  
11           *changes in particular areas, drinking water utilities*  
12           *need to prepare for a wider range of likely possibili-*  
13           *ties in managing and delivery of water.*

14           (b) *IN GENERAL.—The Administrator, in cooperation*  
15           *with the Secretary of Commerce, the Secretary of Energy,*  
16           *and the Secretary of the Interior, shall establish and pro-*  
17           *vide funding for a program of directed and applied re-*  
18           *search, to be conducted through a nonprofit drinking water*  
19           *research foundation and sponsored by water utilities, to as-*  
20           *sist the utilities in adapting to the effects of climate change.*

21           (c) *RESEARCH AREAS.—The research conducted in ac-*  
22           *cordance with subsection (b) shall include research into—*

23                   (1) *water quality impacts and solutions, includ-*  
24                   *ing research—*

1           (A) to address probable impacts on raw  
2           water quality resulting from—

3                   (i) erosion and turbidity from extreme  
4                   precipitation events;

5                   (ii) watershed vegetation changes; and

6                   (iii) increasing ranges of pathogens,  
7                   algae, and nuisance organisms resulting  
8                   from warmer temperatures; and

9           (B) on mitigating increasing damage to  
10          watersheds and water quality by evaluating ex-  
11          treme events, such as wildfires and hurricanes, to  
12          learn and develop management approaches to  
13          mitigate—

14                   (i) permanent watershed damage;

15                   (ii) quality and yield impacts on  
16                   source waters; and

17                   (iii) increased costs of water treatment;

18          (2) impacts on groundwater supplies from car-  
19          bon sequestration, including research to evaluate po-  
20          tential water quality consequences of carbon seques-  
21          tration in various regional aquifers, soil conditions,  
22          and mineral deposits;

23          (3) water quantity impacts and solutions, in-  
24          cluding research—

1           (A) to evaluate climate change impacts on  
 2           water resources throughout hydrological basins of  
 3           the United States;

4           (B) to improve the accuracy and resolution  
 5           of climate change models at a regional level;

6           (C) to identify and explore options for in-  
 7           creasing conjunctive use of aboveground and un-  
 8           derground storage of water; and

9           (D) to optimize operation of existing and  
 10          new reservoirs in diminished and erratic periods  
 11          of precipitation and runoff;

12          (4) infrastructure impacts and solutions for  
 13          water treatment and wastewater treatment facilities  
 14          and underground pipelines, including research—

15           (A) to evaluate and mitigate the impacts of  
 16           sea level rise on—

17                   (i) near-shore facilities;

18                   (ii) soil drying and subsidence;

19                   (iii) reduced flows in water and waste-  
 20                   water pipelines; and

21                   (iv) extreme flows in wastewater sys-  
 22                   tems; and

23           (B) on ways of increasing the resilience of  
 24           existing infrastructure, planning cost-effective re-  
 25           sponses to adapt to climate change, and devel-

1        *oping new design standards for future infra-*  
 2        *structure that include the use of energy conserva-*  
 3        *tion measures and renewable energy in new con-*  
 4        *struction to the maximum extent practicable;*

5        *(5) desalination, water reuse, and alternative*  
 6        *supply technologies, including research—*

7                *(A) to improve and optimize existing mem-*  
 8                *brane technologies, and to identify and develop*  
 9                *breakthrough technologies, to enable the use of*  
 10              *seawater, brackish groundwater, treated waste-*  
 11              *water, and other impaired sources;*

12              *(B) into new sources of water through more*  
 13              *cost-effective water treatment practices in recy-*  
 14              *cling and desalination; and*

15              *(C) to improve technologies for use in—*

16                      *(i) managing and minimizing the vol-*  
 17                      *ume of desalination and reuse concentrate*  
 18                      *streams; and*

19                      *(ii) minimizing the environmental im-*  
 20                      *pacts of seawater intake at desalination fa-*  
 21                      *cilities;*

22        *(6) energy efficiency and greenhouse gas mini-*  
 23        *mization, including research—*

24              *(A) on optimizing the energy efficiency of*  
 25              *water supply and wastewater operations and im-*

1        *proving water efficiency in energy production*  
 2        *and management; and*

3                *(B) to identify and develop renewable, car-*  
 4        *bon-neutral energy options for the water supply*  
 5        *and wastewater industry;*

6                *(7) regional and hydrological basin cooperative*  
 7        *water management solutions, including research*  
 8        *into—*

9                *(A) institutional mechanisms for greater re-*  
 10        *gional cooperation and use of water exchanges,*  
 11        *banking, and transfers; and*

12                *(B) the economic benefits of sharing risks of*  
 13        *shortage across wider areas;*

14                *(8) utility management, decision support sys-*  
 15        *tems, and water management models, including re-*  
 16        *search—*

17                *(A) into improved decision support systems*  
 18        *and modeling tools for use by water utility man-*  
 19        *agers to assist with increased water supply un-*  
 20        *certainty and adaptation strategies posed by cli-*  
 21        *mate change;*

22                *(B) to provide financial tools, including*  
 23        *new rate structures, to manage financial re-*  
 24        *sources and investments, because increased con-*

1           *ervation practices may diminish revenue and*  
 2           *increase investments in infrastructure; and*

3                   *(C) to develop improved systems and models*  
 4           *for use in evaluating—*

5                           *(i) successful alternative methods for*  
 6                   *conservation and demand management; and*

7                           *(ii) climate change impacts on ground-*  
 8                   *water resources;*

9           *(9) reducing greenhouse gas emissions and im-*  
 10       *proving energy demand management, including re-*  
 11       *search to improve energy efficiency in water collec-*  
 12       *tion, production, transmission, treatment, distribu-*  
 13       *tion, and disposal to provide more sustainability and*  
 14       *means to assist drinking water utilities in reducing*  
 15       *the production of greenhouse gas emissions in the col-*  
 16       *lection, production, transmission, treatment, distribu-*  
 17       *tion, and disposal of drinking water;*

18           *(10) water conservation and demand manage-*  
 19       *ment, including research—*

20                   *(A) to develop strategic approaches to water*  
 21           *demand management that offer the lowest-cost,*  
 22           *noninfrastructural options to serve growing pop-*  
 23           *ulations or manage declining supplies, primarily*  
 24           *through—*



1                   (i) *efficiencies in water use and re-*  
2                   *allocation of the saved water;*

3                   (ii) *demand management tools;*

4                   (iii) *economic incentives; and*

5                   (iv) *water-saving technologies; and*

6                   (B) *into efficiencies in water management*  
7                   *through integrated water resource management*  
8                   *that incorporates—*

9                   (i) *supply-side and demand-side proc-*  
10                  *esses;*

11                  (ii) *continuous adaptive management;*

12                  *and*

13                  (iii) *the inclusion of stakeholders in de-*  
14                  *cisionmaking processes; and*

15                  (11) *communications, education, and public ac-*  
16                  *ceptance, including research—*

17                  (A) *into improved strategies and ap-*  
18                  *proaches for communicating with customers, de-*  
19                  *cisionmakers, and other stakeholders about the*  
20                  *implications of climate change on water supply*  
21                  *and water management;*

22                  (B) *to develop effective communication ap-*  
23                  *proaches—*

24                  (i) *to gain public acceptance of alter-*  
25                  *native water supplies and new policies and*

1 *practices, including conservation and de-*  
 2 *mand management; and*

3 *(ii) to gain public recognition and ac-*  
 4 *ceptance of increased costs; and*

5 *(C) to create and maintain a clearinghouse*  
 6 *of climate change information for water utilities,*  
 7 *academic researchers, stakeholders, government*  
 8 *agencies, and research organizations.*

9 *(d) AUTHORIZATION OF APPROPRIATIONS.—There is*  
 10 *authorized to be appropriated to carry out this section*  
 11 *\$25,000,000 for each of fiscal years 2010 through 2020.*

## 12 ***TITLE III—TRANSITION AND*** 13 ***ADAPTATION***

### 14 ***Subtitle A—Green Jobs and Worker*** 15 ***Transition***

#### 16 ***PART 1—GREEN JOBS***

#### 17 ***SEC. 301. CLEAN ENERGY CURRICULUM DEVELOPMENT*** 18 ***GRANTS.***

19 *(a) AUTHORIZATION.—The Secretary of Education is*  
 20 *authorized to award grants, on a competitive basis, to eligi-*  
 21 *ble partnerships to develop programs of study (containing*  
 22 *the information described in section 122(c)(1)(A) of the*  
 23 *Carl D. Perkins Career and Technical Education Act of*  
 24 *2006 (20 U.S.C. 2342)), that are focused on emerging ca-*  
 25 *reers and jobs in the fields of clean energy, renewable en-*

1 *ergy, energy efficiency, climate change mitigation, and cli-*  
2 *mate change adaptation. The Secretary of Education shall*  
3 *consult with the Secretary of Labor and the Secretary of*  
4 *Energy prior to the issuance of a solicitation for grant ap-*  
5 *plications.*

6       **(b) ELIGIBLE PARTNERSHIPS.**—*For purposes of this*  
7 *section, an eligible partnership shall include—*

8           *(1) at least 1 local educational agency eligible*  
9 *for funding under section 131 of the Carl D. Perkins*  
10 *Career and Technical Education Act of 2006 (20*  
11 *U.S.C. 2351) or an area career and technical edu-*  
12 *cation school or education service agency described in*  
13 *such section;*

14           *(2) at least 1 postsecondary institution eligible*  
15 *for funding under section 132 of such Act (20 U.S.C.*  
16 *2352); and*

17           *(3) representatives of the community including*  
18 *business, labor organizations, and industry that have*  
19 *experience in fields as described in subsection (a).*

20       **(c) APPLICATION.**—*An eligible partnership seeking a*  
21 *grant under this section shall submit an application to the*  
22 *Secretary at such time and in such manner as the Secretary*  
23 *may require. Applications shall include—*

24           *(1) a description of the eligible partners and*  
25 *partnership, the roles and responsibilities of each*

1     *partner, and a demonstration of each partner's ca-*  
2     *capacity to support the program;*

3             *(2) a description of the career area or areas*  
4     *within the fields as described in subsection (a) to be*  
5     *developed, the reason for the choice, and evidence of*  
6     *the labor market need to prepare students in that*  
7     *area;*

8             *(3) a description of the new or existing program*  
9     *of study and both secondary and postsecondary com-*  
10    *ponents;*

11            *(4) a description of the students to be served by*  
12    *the new program of study;*

13            *(5) a description of how the program of study*  
14    *funded by the grant will be replicable and dissemi-*  
15    *nated to schools outside of the partnership, including*  
16    *urban and rural areas;*

17            *(6) a description of applied learning that will be*  
18    *incorporated into the program of study and how it*  
19    *will incorporate or reinforce academic learning;*

20            *(7) a description of how the program of study*  
21    *will be delivered;*

22            *(8) a description of how the program will pro-*  
23    *vide accessibility to students, especially economically*  
24    *disadvantaged, low performing, and urban and rural*  
25    *students;*

1           (9) a description of how the program will ad-  
 2       dress placement of students in nontraditional fields as  
 3       described in section 3(20) of the Carl D. Perkins Ca-  
 4       reer and Technical Education Act of 2006 (20 U.S.C.  
 5       2302(20)); and

6           (10) a description of how the applicant proposes  
 7       to consult or has consulted with a labor organization,  
 8       labor management partnership, apprenticeship pro-  
 9       gram, or joint apprenticeship and training program  
 10      that provides education and training in the field of  
 11      study for which the applicant proposes to develop a  
 12      curriculum.

13       (d) *PRIORITY.*—The Secretary shall give priority to  
 14      applications that—

15           (1) use online learning or other innovative  
 16      means to deliver the program of study to students,  
 17      educators, and instructors outside of the partnership;  
 18      and

19           (2) focus on low performing students and special  
 20      populations as defined in section 3(29) of the Carl D.  
 21      Perkins Career and Technical Education Act of 2006  
 22      (20 U.S.C. 2302(29)).

23       (e) *PEER REVIEW.*—The Secretary shall convene a  
 24      peer review process to review applications for grants under  
 25      this section and to make recommendations regarding the se-

1 *lection of grantees. Members of the peer review committee*  
 2 *shall include—*

3 *(1) educators who have experience implementing*  
 4 *curricula with comparable purposes; and*

5 *(2) business and industry experts in fields as de-*  
 6 *scribed in subsection (a).*

7 *(f) USES OF FUNDS.—Grants awarded under this sec-*  
 8 *tion shall be used for the development, implementation, and*  
 9 *dissemination of programs of study (as described in section*  
 10 *122(c)(1)(A) of the Carl D. Perkins Career and Technical*  
 11 *Education Act (20 U.S.C. 2342(c)(1)(A))) in career areas*  
 12 *related to clean energy, renewable energy, energy efficiency,*  
 13 *climate change mitigation, and climate change adaptation.*

14 **SEC. 302. DEVELOPMENT OF INFORMATION AND RE-**  
 15 **SOURCES CLEARINGHOUSE FOR VOCATIONAL**  
 16 **EDUCATION AND JOB TRAINING IN RENEW-**  
 17 **ABLE ENERGY SECTORS.**

18 *(a) DEVELOPMENT OF CLEARINGHOUSE.—Not later*  
 19 *than 18 months after the date of enactment of this Act, the*  
 20 *Secretary of Labor, in collaboration with the Secretary of*  
 21 *Energy and the Secretary of Education, shall develop an*  
 22 *internet based information and resources clearinghouse to*  
 23 *aid career and technical education and job training pro-*  
 24 *grams for the renewable energy sectors. In establishing the*  
 25 *clearinghouse, the Secretary shall—*

1           (1) *collect and provide information that address-*  
 2           *es the consequences of rapid changes in technology*  
 3           *and regional disparities for renewable energy train-*  
 4           *ing programs and provides best practices for training*  
 5           *and education in light of such changes and dispari-*  
 6           *ties;*

7           (2) *place an emphasis on facilitating collabora-*  
 8           *tion between the renewable energy industry and job*  
 9           *training programs and on identifying industry and*  
 10          *technological trends and best practices, to better help*  
 11          *job training programs maintain quality and rel-*  
 12          *evance; and*

13          (3) *place an emphasis on assisting programs*  
 14          *that cater to high-demand middle-skill, trades, manu-*  
 15          *facturing, contracting, and consulting careers.*

16          (b) *SOLICITATION AND CONSULTATION.*—*In developing*  
 17          *the clearinghouse pursuant to subsection (a), the Secretary*  
 18          *shall solicit information and expertise from businesses and*  
 19          *organizations in the renewable energy sector and from insti-*  
 20          *tutions of higher education, career and technical schools,*  
 21          *and community colleges that provide training in the renew-*  
 22          *able energy sectors. The Secretary shall solicit a comprehen-*  
 23          *sive peer review of the clearinghouse by such entities not*  
 24          *less than once every 2 years. Nothing in this subsection*

1 *should be interpreted to require the divulgence of propri-*  
 2 *etary or competitive information.*

3 *(c) CONTENTS OF CLEARINGHOUSE.—*

4 *(1) SEPARATE SECTION FOR EACH RENEWABLE*  
 5 *ENERGY SECTOR.—The clearinghouse shall contain*  
 6 *separate sections developed for each of the following*  
 7 *renewable energy sectors:*

8 *(A) Solar energy systems.*

9 *(B) Wind energy systems.*

10 *(C) Energy transmission systems.*

11 *(D) Geothermal systems of energy and heat-*  
 12 *ing.*

13 *(E) Energy efficiency technical training.*

14 *(2) ADDITIONAL REQUIREMENTS.—In addition*  
 15 *to the information required in subsection (a), each*  
 16 *section of the clearinghouse shall include information*  
 17 *on basic environmental science and processes needed*  
 18 *to understand renewable energy systems, Federal gov-*  
 19 *ernment and industry resources, and points of contact*  
 20 *to aid institutions in the development of placement*  
 21 *programs for apprenticeships and post graduation op-*  
 22 *portunities, and information and tips about a green*  
 23 *workplace, energy efficiency, and relevant environ-*  
 24 *mental topics and information on available industry*  
 25 *recognized certifications in each area.*



1       (d) *DISSEMINATION.*—*The clearinghouse shall be made*  
 2 *available via the Internet to the general public. Notice of*  
 3 *the completed clearinghouse and any major revisions thereto*  
 4 *shall also be provided—*

5               (1) *to each Member of Congress; and*

6               (2) *on the websites of the Departments of Edu-*  
 7 *cation, Energy, and Labor.*

8       (e) *REVISION.*—*The Secretary of Labor shall revise*  
 9 *and update the clearinghouse on a regular basis to ensure*  
 10 *its relevance.*

11 **SEC. 303. GREEN CONSTRUCTION CAREERS DEMONSTRA-**  
 12 **TION PROJECT.**

13       (a) *ESTABLISHMENT AND AUTHORITY.*—*The Secretary*  
 14 *of Labor, in consultation with the Secretary of Energy,*  
 15 *shall, not later than 180 days after the enactment of this*  
 16 *Act, establish a Green Construction Careers demonstration*  
 17 *project by rules, regulations, and guidance in accordance*  
 18 *with the provisions of this section. The purpose of the dem-*  
 19 *onstration project shall be to promote middle class careers*  
 20 *and quality employment practices in the green construction*  
 21 *sector among targeted workers and to advance efficiency*  
 22 *and performance on construction projects related to this*  
 23 *Act. In order to advance these purposes, the Secretary shall*  
 24 *identify projects, including residential retrofitting projects,*  
 25 *funded directly by or assisted in whole or in part by or*

1 *through the Federal Government pursuant to this Act or*  
2 *by any other entity established in accordance with this Act,*  
3 *to which all of the following shall apply.*

4       (b) *REQUIREMENTS.—The Secretaries may establish*  
5 *such terms and conditions for the demonstration projects*  
6 *as the Secretaries determine are necessary to meet the pur-*  
7 *poses of subsection (a), including establishing minimum*  
8 *proportions of hours to be worked by targeted workers on*  
9 *such projects. The Secretaries may require the contractors*  
10 *and subcontractors performing construction services on the*  
11 *project to comply with the terms and conditions as a condi-*  
12 *tion of receiving funding or assistance from the Federal*  
13 *Government under this Act.*

14       (c) *EVALUATION.—The Secretaries shall evaluate the*  
15 *demonstration projects against the purposes of this section*  
16 *at the end of 3 years from initiation of the demonstration*  
17 *project. If the Secretaries determine that the demonstration*  
18 *projects have been successful, the Secretaries may identify*  
19 *further projects to which of the provisions of this section*  
20 *shall apply.*

21       (d) *GAO REPORT.—The Comptroller General shall*  
22 *prepare and submit a report to the Committee on Health,*  
23 *Education, Labor, and Pensions and the Committee on En-*  
24 *ergy and Natural Resources of the Senate and the Com-*  
25 *mittee on Education and Labor and the Committee on En-*

1 *ergy and Commerce of the House of Representatives not*  
 2 *later than 5 years after the date of enactment of this Act,*  
 3 *which shall advise the committees of the results of the dem-*  
 4 *onstration projects and make appropriate recommenda-*  
 5 *tions.*

6 *(e) DEFINITION AND DESIGNATION OF TARGETED*  
 7 *WORKERS.—As used in this section, the term “targeted*  
 8 *worker” means an individual who resides in the same labor*  
 9 *market area (as defined in section 101(18) of the Workforce*  
 10 *Investment Act of 1998 (29 U.S.C. 2801(18))) as the project*  
 11 *and who—*

12 *(1) is a member of a targeted group, within the*  
 13 *meaning of section 51 of the Internal Revenue Code*  
 14 *of 1986, other than an individual described in sub-*  
 15 *section (d)(1)(C) of such section;*

16 *(2)(A) resides in a census tract in which not less*  
 17 *than 20 percent of the households have incomes below*  
 18 *the Federal poverty guidelines; or*

19 *(B) is a member of a family that received a total*  
 20 *family income that, during the 2-year period prior to*  
 21 *employment on the project or admission to the pre-*  
 22 *apprenticeship program, did not exceed 200 percent of*  
 23 *the Federal poverty guidelines (exclusive of unemploy-*  
 24 *ment compensation, child support payments, pay-*  
 25 *ments described in section 101(25)(A) of the Work-*

1     *force Investment Act (29 U.S.C. 2801(25)(A)), and*  
 2     *old-age and survivors insurance benefits received*  
 3     *under section 202 of the Social Security Act (42*  
 4     *U.S.C. 402); or*

5             *(3) is a displaced homemaker, as such term is*  
 6     *defined in section 3(10) of the Carl D. Perkins Career*  
 7     *and Technical Education Act of 2006 (20 U.S.C.*  
 8     *2302(10)).*

9     *(f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A*  
 10    *qualified pre-apprenticeship program is a pre-apprentice-*  
 11    *ship program that has demonstrated an ability to recruit,*  
 12    *train, and prepare for admission to apprenticeship pro-*  
 13    *grams individuals who are targeted workers.*

14    *(g) QUALIFIED APPRENTICESHIP AND OTHER TRAIN-*  
 15    *ING PROGRAMS.—*

16             *(1) PARTICIPATION BY EACH CONTRACTOR RE-*  
 17    *QUIRED.—Each contractor and subcontractor that*  
 18    *seeks to provide construction services on projects iden-*  
 19    *tified by the Secretaries pursuant to subsection (a)*  
 20    *shall submit adequate assurances with its bid or pro-*  
 21    *posal that it participates in a qualified apprentice-*  
 22    *ship or other training program, with a written ar-*  
 23    *rangement with a qualified pre-apprenticeship pro-*  
 24    *gram, for each craft or trade classification of worker*

1       *that it intends to employ to perform work on the*  
2       *project.*

3               (2) *DEFINITION OF QUALIFIED APPRENTICE SHIP*  
4       *OR OTHER TRAINING PROGRAM.—*

5               (A) *IN GENERAL.—For purposes of this sec-*  
6       *tion, the term “qualified apprenticeship or other*  
7       *training program” means an apprenticeship or*  
8       *other training program that qualifies as an em-*  
9       *ployee welfare benefit plan, as defined in section*  
10       *3(1) of the Employee Retirement Income Secu-*  
11       *rity Act of 1974 (29 U.S.C. 1002(1)).*

12              (B) *CERTIFICATION OF OTHER PROGRAMS*  
13       *IN CERTAIN LOCALITIES.—In the event that the*  
14       *Secretary of Labor certifies that a qualified ap-*  
15       *prenticeship or other training program (as de-*  
16       *finied in subparagraph (A)) for a craft or trade*  
17       *classification of workers that a prospective con-*  
18       *tractor or subcontractor intends to employ, is not*  
19       *operated in the locality where the project will be*  
20       *performed, an apprenticeship or other training*  
21       *program that is not an employee welfare benefit*  
22       *plan (as defined in such section) may be certified*  
23       *by the Secretary as a qualified apprenticeship or*  
24       *other training program provided it is registered*  
25       *with the Office of Apprenticeship of the Depart-*

1           *ment of Labor, or a State apprenticeship agency*  
 2           *recognized by the Office of Apprenticeship for*  
 3           *Federal purposes.*

4           *(h) FACILITATING COMPLIANCE.—The Secretary may*  
 5           *require Federal contracting agencies, recipients of Federal*  
 6           *assistance, and any other entity established in accordance*  
 7           *with this Act to require contractors to enter into an agree-*  
 8           *ment in a manner comparable with the standards set forth*  
 9           *in sections 3 and 4 of Executive Order 13502 in order to*  
 10          *achieve the purposes of this section, including any require-*  
 11          *ments established by subsection (b).*

12          *(i) LIMITATION.—The requirements of this section*  
 13          *shall not apply to any project funded under this Act in*  
 14          *American Samoa, Guam, the Commonwealth of the North-*  
 15          *ern Mariana Islands, the Commonwealth of Puerto Rico,*  
 16          *or the United States Virgin Islands, unless participation*  
 17          *is requested by the governor of such territories within 1 year*  
 18          *of the promulgation of rules under this Act.*

## 19           **PART 2—CLIMATE CHANGE WORKER**

### 20           **ADJUSTMENT ASSISTANCE**

#### 21          **SEC. 311. PETITIONS, ELIGIBILITY REQUIREMENTS, AND DE-** 22          **TERMINATIONS.**

23          *(a) PETITIONS.—*

24                  *(1) FILING.—A petition for certification of eligi-*  
 25          *bility to apply for adjustment assistance for a group*

1       *of workers under this part may be filed by any of the*  
2       *following:*

3               *(A) The group of workers.*

4               *(B) The certified or recognized union or*  
5       *other duly authorized representative of such*  
6       *workers.*

7               *(C) Employers of such workers, one-stop op-*  
8       *erators or one-stop partners (as defined in sec-*  
9       *tion 101 of the Workforce Investment Act of 1998*  
10       *(29 U.S.C. 2801)), including State employment*  
11       *security agencies, or the State dislocated worker*  
12       *unit established under title I of such Act, on be-*  
13       *half of such workers.*

14       *The petition shall be filed simultaneously with the*  
15       *Secretary of Labor and with the Governor of the State*  
16       *in which such workers' employment site is located.*

17               *(2) ACTION BY GOVERNORS.—Upon receipt of a*  
18       *petition filed under paragraph (1), the Governor*  
19       *shall—*

20               *(A) ensure that rapid response activities*  
21       *and appropriate core and intensive services (as*  
22       *described in section 134 of the Workforce Invest-*  
23       *ment Act of 1998 (29 U.S.C. 2864)) authorized*  
24       *under other Federal laws are made available to*

1           *the workers covered by the petition to the extent*  
 2           *authorized under such laws; and*

3                     *(B) assist the Secretary in the review of the*  
 4           *petition by verifying such information and pro-*  
 5           *viding such other assistance as the Secretary*  
 6           *may request.*

7           *(3) ACTION BY THE SECRETARY.—Upon receipt*  
 8           *of the petition, the Secretary shall promptly publish*  
 9           *notice in the Federal Register and on the website of*  
 10          *the Department of Labor that the Secretary has re-*  
 11          *ceived the petition and initiated an investigation.*

12           *(4) HEARINGS.—If the petitioner, or any other*  
 13          *person found by the Secretary to have a substantial*  
 14          *interest in the proceedings, submits not later than 10*  
 15          *days after the date of the Secretary's publication*  
 16          *under paragraph (3) a request for a hearing, the Sec-*  
 17          *retary shall provide for a public hearing and afford*  
 18          *such interested persons an opportunity to be present,*  
 19          *to produce evidence, and to be heard.*

20          *(b) ELIGIBILITY.—*

21                     *(1) IN GENERAL.—A group of workers shall be*  
 22          *certified by the Secretary as eligible to apply for ad-*  
 23          *justment assistance under this part pursuant to a pe-*  
 24          *tition filed under subsection (a) if—*

25                             *(A) the group of workers is employed in—*



1                   (i) *energy producing and transforming*  
2                   *industries;*

3                   (ii) *industries dependent upon energy*  
4                   *industries;*

5                   (iii) *energy-intensive manufacturing*  
6                   *industries;*

7                   (iv) *consumer goods manufacturing; or*

8                   (v) *other industries whose employment*  
9                   *the Secretary determines has been adversely*  
10                  *affected by any requirement of title VII of*  
11                  *the Clean Air Act;*

12                (B) *the Secretary determines that a signifi-*  
13                *cant number or proportion of the workers in*  
14                *such workers' employment site have become to-*  
15                *tally or partially separated, or are threatened to*  
16                *become totally or partially separated from em-*  
17                *ployment; and*

18                (C) *the sales, production, or delivery of*  
19                *goods or services have decreased as a result of*  
20                *any requirement of title VII of the Clean Air*  
21                *Act, including—*

22                   (i) *the shift from reliance upon fossil*  
23                   *fuels to other sources of energy, including*  
24                   *renewable energy, that results in the closing*  
25                   *of a facility or layoff of employees at a fa-*

1            *cility that mines, produces, processes, or*  
 2            *utilizes fossil fuels to generate electricity;*

3            *(ii) a substantial increase in the cost of*  
 4            *energy required for a manufacturing facil-*  
 5            *ity to produce items whose prices are com-*  
 6            *petitive in the marketplace, to the extent the*  
 7            *cost is not offset by assistance provided to*  
 8            *the facility pursuant to title VII of the*  
 9            *Clean Air Act; or*

10           *(iii) other documented occurrences that*  
 11           *the Secretary determines are indicators of*  
 12           *an adverse impact on an industry described*  
 13           *in subparagraph (A) as a result of any re-*  
 14           *quirement of title VII of the Clean Air Act.*

15           *(2) WORKERS IN PUBLIC AGENCIES.—A group of*  
 16           *workers in a public agency shall be certified by the*  
 17           *Secretary as eligible to apply for climate change ad-*  
 18           *justment assistance pursuant to a petition filed if the*  
 19           *Secretary determines that a significant number or*  
 20           *proportion of the workers in the public agency have*  
 21           *become totally or partially separated from employ-*  
 22           *ment, or are threatened to become totally or partially*  
 23           *separated as a result of any requirement of title VII*  
 24           *of the Clean Air Act.*

1           (3) *ADVERSELY AFFECTED SERVICE WORKERS.*—

2       *A group of workers shall be certified as eligible to*  
 3       *apply for climate change adjustment assistance pur-*  
 4       *suant to a petition filed if the Secretary determines*  
 5       *that—*

6                   (A) *a significant number or proportion of*  
 7       *the service workers at an employment site where*  
 8       *a group of workers has been certified by the Sec-*  
 9       *retary as eligible to apply for adjustment assist-*  
 10      *ance under this part pursuant to paragraph (1)*  
 11      *have become totally or partially separated from*  
 12      *employment, or are threatened to become totally*  
 13      *or partially separated; and*

14                  (B) *a loss of business in the firm providing*  
 15      *service workers to an employment site is directly*  
 16      *attributable to one or more of the documented oc-*  
 17      *currences listed in paragraph (1)(C).*

18      (c) *AUTHORITY TO INVESTIGATE AND COLLECT INFOR-*  
 19      *MATION.*—

20                  (1) *IN GENERAL.*—*The Secretary shall, in deter-*  
 21      *mining whether to certify a group of workers under*  
 22      *subsection (d), obtain information the Secretary de-*  
 23      *termines to be necessary to make the certification,*  
 24      *through questionnaires and in such other manner as*  
 25      *the Secretary determines appropriate from—*

1                   (A) *the workers' employer;*

2                   (B) *officials of certified or recognized*  
 3                   *unions or other duly authorized representatives*  
 4                   *of the group of workers; or*

5                   (C) *one-stop operators or one-stop partners*  
 6                   *(as defined in section 101 of the Workforce In-*  
 7                   *vestment Act of 1998 (29 U.S.C. 2801)).*

8                   (2) *VERIFICATION OF INFORMATION.—The Sec-*  
 9                   *retary shall require an employer, union, or one-stop*  
 10                   *operator or partner to certify all information ob-*  
 11                   *tained under paragraph (1) from the employer,*  
 12                   *union, or one-stop operator or partner (as the case*  
 13                   *may be) on which the Secretary relies in making a*  
 14                   *determination under subsection (d), unless the Sec-*  
 15                   *retary has a reasonable basis for determining that*  
 16                   *such information is accurate and complete without*  
 17                   *being certified.*

18                   (3) *PROTECTION OF CONFIDENTIAL INFORMA-*  
 19                   *TION.—The Secretary may not release information*  
 20                   *obtained under paragraph (1) that the Secretary con-*  
 21                   *siders to be confidential business information unless*  
 22                   *the employer submitting the confidential business in-*  
 23                   *formation had notice, at the time of submission, that*  
 24                   *the information would be released by the Secretary, or*  
 25                   *the employer subsequently consents to the release of*

1     *the information. Nothing in this paragraph shall be*  
2     *construed to prohibit the Secretary from providing*  
3     *such confidential business information to a court in*  
4     *camera or to another party under a protective order*  
5     *issued by a court.*

6     *(d) DETERMINATION BY THE SECRETARY OF LABOR.—*

7         *(1) IN GENERAL.—As soon as possible after the*  
8     *date on which a petition is filed under subsection (a),*  
9     *but in any event not later than 40 days after that*  
10    *date, the Secretary, in consultation with the Secretary*  
11    *of Energy and the Administrator, as necessary, shall*  
12    *determine whether the petitioning group meets the re-*  
13    *quirements of subsection (b) and shall issue a certifi-*  
14    *cation of eligibility to apply for assistance under this*  
15    *part covering workers in any group which meets such*  
16    *requirements. Each certification shall specify the date*  
17    *on which the total or partial separation began or*  
18    *threatened to begin. Upon reaching a determination*  
19    *on a petition, the Secretary shall promptly publish a*  
20    *summary of the determination in the Federal Register*  
21    *and on the website of the Department of Labor, to-*  
22    *gether with the Secretary's reasons for making such*  
23    *determination.*

24         *(2) ONE YEAR LIMITATION.—A certification*  
25    *under this section shall not apply to any worker*

1        *whose last total or partial separation from the em-*  
2        *ployment site before the worker's application under*  
3        *section 312(a) occurred more than 1 year before the*  
4        *date of the petition on which such certification was*  
5        *granted.*

6            (3) *REVOCATION OF CERTIFICATION.*—Whenever  
7        *the Secretary determines, with respect to any certifi-*  
8        *cation of eligibility of the workers of an employment*  
9        *site, that total or partial separations from such site*  
10       *are no longer a result of the factors specified in sub-*  
11       *section (b)(1), the Secretary shall terminate such cer-*  
12       *tification and promptly have notice of such termi-*  
13       *nation published in the Federal Register and on the*  
14       *website of the Department of Labor, together with the*  
15       *Secretary's reasons for making such determination.*  
16       *Such termination shall apply only with respect to*  
17       *total or partial separations occurring after the termi-*  
18       *nation date specified by the Secretary.*

19            (e) *INDUSTRY NOTIFICATION OF ASSISTANCE.*—Upon  
20       *receiving a notification of a determination under subsection*  
21       *(d) with respect to a domestic industry the Secretary of*  
22       *Labor shall notify the representatives of the domestic indus-*  
23       *try affected by the determination, employers publicly iden-*  
24       *tified by name during the course of the proceeding relating*  
25       *to the determination, and any certified or recognized union*

1 or, to the extent practicable, other duly authorized rep-  
 2 resentative of workers employed by such representatives of  
 3 the domestic industry, of—

4 (1) the adjustment assistance, training, and  
 5 other benefits available under this part;

6 (2) the manner in which to file a petition and  
 7 apply for such benefits;

8 (3) the availability of assistance in filing such  
 9 petitions;

10 (4) notify the Governor of each State in which  
 11 one or more employers in such industry are located  
 12 of the Secretary's determination and the identity of  
 13 the employers; and

14 (5) upon request, provide any assistance that is  
 15 necessary to file a petition under subsection (a).

16 (f) *BENEFIT INFORMATION TO WORKERS, PROVIDERS*  
 17 *OF TRAINING.*—

18 (1) *IN GENERAL.*—*The Secretary shall provide*  
 19 *full information to workers about the adjustment as-*  
 20 *sistance, training, and other benefits available under*  
 21 *this part and about the petition and application pro-*  
 22 *cedures, and the appropriate filing dates, for such as-*  
 23 *sistance, training and services. The Secretary shall*  
 24 *provide whatever assistance is necessary to enable*  
 25 *groups of workers to prepare petitions or applications*

1     *for program benefits. The Secretary shall make every*  
2     *effort to insure that cooperating State agencies fully*  
3     *comply with the agreements entered into under sec-*  
4     *tion 312(a) and shall periodically review such com-*  
5     *pliance. The Secretary shall inform the State Board*  
6     *for Vocational Education or equivalent agency, the*  
7     *one-stop operators or one-stop partners (as defined in*  
8     *section 101 of the Workforce Investment Act of 1998*  
9     *(29 U.S.C. 2801)), and other public or private agen-*  
10    *cies, institutions, and employers, as appropriate, of*  
11    *each certification issued under subsection (d) and of*  
12    *projections, if available, of the needs for training*  
13    *under as a result of such certification.*

14           (2) *NOTICE BY MAIL.—The Secretary shall pro-*  
15    *vide written notice through the mail of the benefits*  
16    *available under this part to each worker whom the*  
17    *Secretary has reason to believe is covered by a certifi-*  
18    *cation made under subsection (d)—*

19                   (A) *at the time such certification is made,*  
20                   *if the worker was partially or totally separated*  
21                   *from the adversely affected employment before*  
22                   *such certification; or*

23                   (B) *at the time of the total or partial sepa-*  
24                   *ration of the worker from the adversely affected*



1           employment, if subparagraph (A) does not  
2           apply.

3           (3) *NEWSPAPERS; WEBSITE.*—The Secretary  
4           shall publish notice of the benefits available under  
5           this part to workers covered by each certification  
6           made under subsection (d) in newspapers of general  
7           circulation in the areas in which such workers reside  
8           and shall make such information available on the  
9           website of the Department of Labor.

10 **SEC. 312. PROGRAM BENEFITS.**

11           (a) *CLIMATE CHANGE ADJUSTMENT ASSISTANCE.*—

12                   (1) *ELIGIBILITY.*—Payment of climate change  
13           adjustment assistance shall be made to an adversely  
14           affected worker covered by a certification under sec-  
15           tion 311(b) who files an application for such assist-  
16           ance for any week of unemployment which begins on  
17           or after the date of such certification, if the following  
18           conditions are met:

19                           (A) Such worker's total or partial separa-  
20           tion before the worker's application under this  
21           part occurred—

22                                   (i) on or after the date, as specified in  
23           the certification under which the worker is  
24           covered, on which total or partial separa-

1            *tion began or threatened to begin in the ad-*  
2            *versely affected employment;*

3            *(ii) before the expiration of the 2-year*  
4            *period beginning on the date on which the*  
5            *determination under section 311(d) was*  
6            *made; and*

7            *(iii) before the termination date, if*  
8            *any, determined pursuant to section*  
9            *311(d)(3).*

10           *(B) Such worker had, in the 52-week period*  
11           *ending with the week in which such total or par-*  
12           *tial separation occurred, at least 26 weeks of*  
13           *full-time employment or 1,040 hours of part time*  
14           *employment in adversely affected employment,*  
15           *or, if data with respect to weeks of employment*  
16           *are not available, equivalent amounts of employ-*  
17           *ment computed under regulations prescribed by*  
18           *the Secretary. For the purposes of this para-*  
19           *graph, any week in which such worker—*

20           *(i) is on employer-authorized leave for*  
21           *purposes of vacation, sickness, injury, ma-*  
22           *ternity, or inactive duty or active duty*  
23           *military service for training;*

24           *(ii) does not work because of a dis-*  
25           *ability that is compensable under a work-*

1            *men's compensation law or plan of a State*  
 2            *or the United States;*

3            *(iii) had his employment interrupted*  
 4            *in order to serve as a full-time representa-*  
 5            *tive of a labor organization in such firm; or*

6            *(iv) is on call-up for purposes of active*  
 7            *duty in a reserve status in the Armed*  
 8            *Forces of the United States, provided such*  
 9            *active duty is "Federal service" as defined*  
 10           *in section 8521(a)(1) of title 5, United*  
 11           *States Code,*

12           *shall be treated as a week of employment.*

13           *(C) Such worker is enrolled in a training*  
 14           *program approved by the Secretary under sub-*  
 15           *section (b)(2).*

16           *(2) INELIGIBILITY FOR CERTAIN OTHER BENE-*  
 17           *FITS.—An adversely affected worker receiving a pay-*  
 18           *ment under this section shall be ineligible to receive*  
 19           *any other form of unemployment insurance for the*  
 20           *period in which such worker is receiving climate*  
 21           *change adjustment assistance under this section.*

22           *(3) REVOCATION.—If—*

23           *(A) the Secretary determines that—*

24           *(i) the adversely affected worker—*

1                   (I) has failed to begin participa-  
 2                   tion in the training program the en-  
 3                   rollment in which meets the require-  
 4                   ment of paragraph (1)(C); or

5                   (II) has ceased to participate in  
 6                   such training program before com-  
 7                   pleting such training program; and

8                   (ii) there is no justifiable cause for  
 9                   such failure or cessation; or

10                  (B) the certification made with respect to  
 11                  such worker under section 311(d) is revoked  
 12                  under paragraph (3) of such section,

13                  no adjustment assistance may be paid to the ad-  
 14                  versely affected worker under this part for the week in  
 15                  which such failure, cessation, or revocation occurred,  
 16                  or any succeeding week, until the adversely affected  
 17                  worker begins or resumes participation in a training  
 18                  program approved by the Secretary under subsection  
 19                  (b)(2).

20                  (4) WAIVERS OF TRAINING REQUIREMENTS.—The  
 21                  Secretary may issue a written statement to an ad-  
 22                  versely affected worker waiving the requirement to be  
 23                  enrolled in training described in subsection (b)(2) if  
 24                  the Secretary determines that it is not feasible or ap-

1       *appropriate for the worker, because of 1 or more of the*  
2       *following reasons:*

3               *(A) RECALL.—The worker has been notified*  
4               *that the worker will be recalled by the employer*  
5               *from which the separation occurred.*

6               *(B) MARKETABLE SKILLS.—*

7                   *(i) IN GENERAL.—The worker possesses*  
8                   *marketable skills for suitable employment*  
9                   *(as determined pursuant to an assessment*  
10                  *of the worker, which may include the*  
11                  *profiling system under section 303(j) of the*  
12                  *Social Security Act (42 U.S.C. 503(j)), car-*  
13                  *ried out in accordance with guidelines*  
14                  *issued by the Secretary) and there is a rea-*  
15                  *sonable expectation of employment at equiv-*  
16                  *alent wages in the foreseeable future.*

17                  *(ii) MARKETABLE SKILLS DEFINED.—*  
18                  *For purposes of clause (i), the term “mar-*  
19                  *ketable skills” may include the possession of*  
20                  *a postgraduate degree from an institution of*  
21                  *higher education (as defined in section 102*  
22                  *of the Higher Education Act of 1965 (20*  
23                  *U.S.C. 1002)) or an equivalent institution,*  
24                  *or the possession of an equivalent post-*  
25                  *graduate certification in a specialized field.*

1           (C) *RETIREMENT.*—*The worker is within 2*  
2           *years of meeting all requirements for entitlement*  
3           *to either—*

4                   (i) *old-age insurance benefits under*  
5                   *title II of the Social Security Act (42*  
6                   *U.S.C. 401 et seq.) (except for application*  
7                   *therefor); or*

8                   (ii) *a private pension sponsored by an*  
9                   *employer or labor organization.*

10          (D) *HEALTH.*—*The worker is unable to*  
11          *participate in training due to the health of the*  
12          *worker, except that a waiver under this subpara-*  
13          *graph shall not be construed to exempt a worker*  
14          *from requirements relating to the availability for*  
15          *work, active search for work, or refusal to accept*  
16          *work under Federal or State unemployment com-*  
17          *pensation laws.*

18          (E) *ENROLLMENT UNAVAILABLE.*—*The first*  
19          *available enrollment date for the training of the*  
20          *worker is within 60 days after the date of the de-*  
21          *termination made under this paragraph, or, if*  
22          *later, there are extenuating circumstances for the*  
23          *delay in enrollment, as determined pursuant to*  
24          *guidelines issued by the Secretary.*

1                   (F) *TRAINING NOT AVAILABLE.*—*Training*  
 2                   *described in subsection (b)(2) is not reasonably*  
 3                   *available to the worker from either governmental*  
 4                   *agencies or private sources (which may include*  
 5                   *area career and technical education schools, as*  
 6                   *defined in section 3 of the Carl D. Perkins Ca-*  
 7                   *reer and Technical Education Act of 2006 (20*  
 8                   *U.S.C. 2302), and employers), no training that*  
 9                   *is suitable for the worker is available at a rea-*  
 10                   *sonable cost, or no training funds are available.*

11                   (5) *WEEKLY AMOUNTS.*—*The climate change ad-*  
 12                   *justment assistance payable to an adversely affected*  
 13                   *worker for a week of unemployment shall be an*  
 14                   *amount equal to 70 percent of the average weekly*  
 15                   *wage of such worker, but in no case shall such*  
 16                   *amount exceed the average weekly wage for all work-*  
 17                   *ers in the State where the adversely affected worker*  
 18                   *resides.*

19                   (6) *MAXIMUM DURATION OF BENEFITS.*—*An eli-*  
 20                   *gible worker may receive a climate change adjustment*  
 21                   *assistance under this subsection for a period of not*  
 22                   *longer than 156 weeks.*

23                   (b) *EMPLOYMENT SERVICES AND TRAINING.*—

24                   (1) *INFORMATION AND EMPLOYMENT SERV-*  
 25                   *ICES.*—*The Secretary shall make available, directly or*

1       *through agreements with the States under section*  
2       *313(a) to adversely affected workers covered by a cer-*  
3       *tification under section 311(a) the following informa-*  
4       *tion and employment services:*

5               *(A) Comprehensive and specialized assess-*  
6               *ment of skill levels and service needs, including*  
7               *through—*

8                       *(i) diagnostic testing and use of other*  
9                       *assessment tools; and*

10                      *(ii) in-depth interviewing and evalua-*  
11                      *tion to identify employment barriers and*  
12                      *appropriate employment goals.*

13               *(B) Development of an individual employ-*  
14               *ment plan to identify employment goals and ob-*  
15               *jectives, and appropriate training to achieve*  
16               *those goals and objectives.*

17               *(C) Information on training available in*  
18               *local and regional areas, information on indi-*  
19               *vidual counseling to determine which training is*  
20               *suitable training, and information on how to*  
21               *apply for such training.*

22               *(D) Information on training programs and*  
23               *other services provided by a State pursuant to*  
24               *title I of the Workforce Investment Act of 1998*  
25               *(29 U.S.C. 2801 et seq.) and available in local*



1        *and regional areas, information on individual*  
2        *counseling to determine which training is suit-*  
3        *able training, and information on how to apply*  
4        *for such training.*

5                *(E) Information on how to apply for finan-*  
6        *cial aid, including referring workers to edu-*  
7        *cational opportunity centers described in section*  
8        *402F of the Higher Education Act of 1965 (20*  
9        *U.S.C. 1070a–16), where applicable, and noti-*  
10       *fying workers that the workers may request fi-*  
11       *nancial aid administrators at institutions of*  
12       *higher education (as defined in section 102 of*  
13       *such Act (20 U.S.C. 1002)) to use the adminis-*  
14       *trators’ discretion under section 479A of such*  
15       *Act (20 U.S.C. 1087tt) to use current year in-*  
16       *come data, rather than preceding year income*  
17       *data, for determining the amount of need of the*  
18       *workers for Federal financial assistance under*  
19       *title IV of such Act (20 U.S.C. 1070 et seq.).*

20                *(F) Short-term prevocational services, in-*  
21        *cluding development of learning skills, commu-*  
22        *nications skills, interviewing skills, punctuality,*  
23        *personal maintenance skills, and professional*  
24        *conduct to prepare individuals for employment*  
25        *or training.*

1           (G) *Individual career counseling, including*  
2           *job search and placement counseling, during the*  
3           *period in which the individual is receiving cli-*  
4           *mate change adjustment assistance or training*  
5           *under this part, and after receiving such train-*  
6           *ing for purposes of job placement.*

7           (H) *Provision of employment statistics in-*  
8           *formation, including the provision of accurate*  
9           *information relating to local, regional, and na-*  
10          *tional labor market areas, including—*

11               (i) *job vacancy listings in such labor*  
12               *market areas;*

13               (ii) *information on jobs skills nec-*  
14               *essary to obtain jobs identified in job va-*  
15               *cancy listings described in subparagraph*  
16               *(A);*

17               (iii) *information relating to local occu-*  
18               *pations that are in demand and earnings*  
19               *potential of such occupations; and*

20               (iv) *skills requirements for local occu-*  
21               *pations described in subparagraph (C).*

22           (I) *Information relating to the availability*  
23           *of supportive services, including services relating*  
24           *to child care, transportation, dependent care,*  
25           *housing assistance, and need-related payments*

1           *that are necessary to enable an individual to*  
 2           *participate in training.*

3           (2) *TRAINING.*—

4                   (A) *APPROVAL OF AND PAYMENT FOR*  
 5           *TRAINING.*—*If the Secretary determines, with re-*  
 6           *spect to an adversely affected worker that—*

7                           (i) *there is no suitable employment*  
 8                           *(which may include technical and profes-*  
 9                           *sional employment) available for an ad-*  
 10                           *versely affected worker;*

11                           (ii) *the worker would benefit from ap-*  
 12                           *propriate training;*

13                           (iii) *there is a reasonable expectation*  
 14                           *of employment following completion of such*  
 15                           *training;*

16                           (iv) *training approved by the Sec-*  
 17                           *retary is reasonably available to the worker*  
 18                           *from either governmental agencies or pri-*  
 19                           *vate sources (including area career and*  
 20                           *technical education schools, as defined in*  
 21                           *section 3 of the Carl D. Perkins Career and*  
 22                           *Technical Education Act of 2006 (20 U.S.C.*  
 23                           *2302), and employers);*

24                           (v) *the worker is qualified to undertake*  
 25                           *and complete such training; and*

1                   (vi) such training is suitable for the  
2                   worker and available at a reasonable cost,  
3                   the Secretary shall approve such training for the  
4                   worker. Upon such approval, the worker shall be  
5                   entitled to have payment of the costs of such  
6                   training (subject to the limitations imposed by  
7                   this section) paid on the worker's behalf by the  
8                   Secretary directly or through a voucher system.

9                   (B) DISTRIBUTION.—The Secretary shall es-  
10                  tablish procedures for the distribution of the  
11                  funds to States to carry out the training pro-  
12                  grams approved under this paragraph, and shall  
13                  make an initial distribution of the funds made  
14                  available as soon as practicable after the begin-  
15                  ning of each fiscal year.

16                  (C) ADDITIONAL RULES REGARDING AP-  
17                  PROVAL OF AND PAYMENT FOR TRAINING.—

18                  (i) For purposes of applying subpara-  
19                  graph (A)(iii), a reasonable expectation of  
20                  employment does not require that employ-  
21                  ment opportunities for a worker be avail-  
22                  able, or offered, immediately upon the com-  
23                  pletion of training approved under such  
24                  subparagraph.

1           (ii) *If the costs of training an ad-*  
2 *versely affected worker are paid by the Sec-*  
3 *retary under subparagraph (A), no other*  
4 *payment for such costs may be made under*  
5 *any other provision of Federal law. No pay-*  
6 *ment may be made under subparagraph (A)*  
7 *of the costs of training an adversely affected*  
8 *worker or an adversely affected incumbent*  
9 *worker if such costs—*

10                 *(I) have already been paid under*  
11                 *any other provision of Federal law; or*

12                 *(II) are reimbursable under any*  
13                 *other provision of Federal law and a*  
14                 *portion of such costs have already been*  
15                 *paid under such other provision of*  
16                 *Federal law.*

17           *The provisions of this clause shall not apply*  
18 *to, or take into account, any funds provided*  
19 *under any other provision of Federal law*  
20 *which are used for any purpose other than*  
21 *the direct payment of the costs incurred in*  
22 *training a particular adversely affected*  
23 *worker, even if such use has the effect of in-*  
24 *directly paying or reducing any portion of*

1           *the costs involved in training the adversely*  
2           *affected worker.*

3           (D) *TRAINING PROGRAMS.*—*The training*  
4           *programs that may be approved under subpara-*  
5           *graph (A) include—*

6                   (i) *employer-based training, includ-*  
7                   *ing—*

8                           (I) *on-the-job training if approved*  
9                           *by the Secretary under subsection (c);*  
10                           *and*

11                           (II) *joint labor-management ap-*  
12                           *prenticeship programs;*

13                           (ii) *any training program provided by*  
14                           *a State pursuant to title I of the Workforce*  
15                           *Investment Act of 1998 (29 U.S.C. 2801 et*  
16                           *seq.);*

17                           (iii) *any programs in career and tech-*  
18                           *nical education described in section 3(5) of*  
19                           *the Carl D. Perkins Career and Technical*  
20                           *Education Act of 2006 (20 U.S.C. 2302(5));*

21                           (iv) *any program of remedial edu-*  
22                           *cation;*

23                           (v) *any program of prerequisite edu-*  
24                           *cation or coursework required to enroll in*

1           *training that may be approved under this*  
 2           *paragraph;*

3           *(vi) any training program for which*  
 4           *all, or any portion, of the costs of training*  
 5           *the worker are paid—*

6                     *(I) under any Federal or State*  
 7                     *program other than this part; or*

8                     *(II) from any source other than*  
 9                     *this part;*

10           *(vii) any training program or*  
 11           *coursework at an accredited institution of*  
 12           *higher education (described in section 102*  
 13           *of the Higher Education Act of 1965 (20*  
 14           *U.S.C. 1002)), including a training pro-*  
 15           *gram or coursework for the purpose of—*

16                     *(I) obtaining a degree or certifi-*  
 17                     *cation; or*

18                     *(II) completing a degree or certifi-*  
 19                     *cation that the worker had previously*  
 20                     *begun at an accredited institution of*  
 21                     *higher education; and*

22           *(viii) any other training program ap-*  
 23           *proved by the Secretary.*

24           (3) *SUPPLEMENTAL ASSISTANCE.—The Secretary*  
 25           *may, as appropriate, authorize supplemental assist-*

1        *ance that is necessary to defray reasonable transpor-*  
 2        *tation and subsistence expenses for separate mainte-*  
 3        *nance in a case in which training for a worker is*  
 4        *provided in a facility that is not within commuting*  
 5        *distance of the regular place of residence of the work-*  
 6        *er.*

7        *(c) ON-THE-JOB TRAINING REQUIREMENTS.—*

8                *(1) IN GENERAL.—The Secretary may approve*  
 9        *on-the-job training for any adversely affected worker*  
 10        *if—*

11                        *(A) the Secretary determines that on-the-job*  
 12        *training—*

13                                *(i) can reasonably be expected to lead*  
 14        *to suitable employment with the employer*  
 15        *offering the on-the-job training;*

16                                *(ii) is compatible with the skills of the*  
 17        *worker;*

18                                *(iii) includes a curriculum through*  
 19        *which the worker will gain the knowledge or*  
 20        *skills to become proficient in the job for*  
 21        *which the worker is being trained; and*

22                                *(iv) can be measured by benchmarks*  
 23        *that indicate that the worker is gaining*  
 24        *such knowledge or skills; and*



1           (B) the State determines that the on-the-job  
 2           training program meets the requirements of  
 3           clauses (iii) and (iv) of subparagraph (A).

4           (2) MONTHLY PAYMENTS.—The Secretary shall  
 5           pay the costs of on-the-job training approved under  
 6           paragraph (1) in monthly installments.

7           (3) CONTRACTS FOR ON-THE-JOB TRAINING.—

8           (A) IN GENERAL.—The Secretary shall en-  
 9           sure, in entering into a contract with an em-  
 10          ployer to provide on-the-job training to a worker  
 11          under this subsection, that the skill requirements  
 12          of the job for which the worker is being trained,  
 13          the academic and occupational skill level of the  
 14          worker, and the work experience of the worker  
 15          are taken into consideration.

16          (B) TERM OF CONTRACT.—Training under  
 17          any such contract shall be limited to the period  
 18          of time required for the worker receiving on-the-  
 19          job training to become proficient in the job for  
 20          which the worker is being trained, but may not  
 21          exceed 156 weeks in any case.

22          (4) EXCLUSION OF CERTAIN EMPLOYERS.—The  
 23          Secretary shall not enter into a contract for on-the-  
 24          job training with an employer that exhibits a pattern

1       *of failing to provide workers receiving on-the-job*  
 2       *training from the employer with—*

3               *(A) continued, long-term employment as*  
 4       *regular employees; and*

5               *(B) wages, benefits, and working conditions*  
 6       *that are equivalent to the wages, benefits, and*  
 7       *working conditions provided to regular employ-*  
 8       *ees who have worked a similar period of time*  
 9       *and are doing the same type of work as workers*  
 10       *receiving on-the-job training from the employer.*

11       *(d) ADMINISTRATIVE AND EMPLOYMENT SERVICES*  
 12       *FUNDING.—*

13               *(1) ADMINISTRATIVE FUNDING.—In addition to*  
 14       *any funds made available to a State to carry out this*  
 15       *section for a fiscal year, the State shall receive for the*  
 16       *fiscal year a payment in an amount that is equal to*  
 17       *15 percent of the amount of such funds and shall—*

18               *(A) use not more than  $\frac{2}{3}$  of such payment*  
 19       *for the administration of the climate change ad-*  
 20       *justment assistance for workers program under*  
 21       *this part, including for—*

22                       *(i) processing waivers of training re-*  
 23                       *quirements under subsection (a)(4); and*

24                       *(ii) collecting, validating, and report-*  
 25                       *ing data required under this part; and*

1                   (B) use not less than  $\frac{1}{3}$  of such payment for  
 2                   information and employment services under sub-  
 3                   section (b)(1).

4                   (2) *EMPLOYMENT SERVICES FUNDING.*—

5                   (A) *IN GENERAL.*—In addition to any funds  
 6                   made available to a State to carry out subsection  
 7                   (b)(2) and the payment under paragraph (1) for  
 8                   a fiscal year, the Secretary shall provide to the  
 9                   State for the fiscal year a reasonable payment  
 10                  for the purpose of providing employment and  
 11                  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 ASSISTANCE.*—The Secretary of  
 17                  Labor may provide adversely affected workers one-time job  
 18                  search assistance in accordance with regulations prescribed  
 19                  by the Secretary. Any job search assistance provided shall  
 20                  be available only under the following circumstances and  
 21                  conditions:

22                  (1) The worker is no longer eligible for the cli-  
 23                  mate change adjustment assistance 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) *Assistance granted shall provide reimburse-*  
 6           *ment to the worker of all necessary job search expenses*  
 7           *as prescribed by the Secretary in regulations. Such*  
 8           *reimbursement under this subsection may not exceed*  
 9           *\$1,500 for any worker.*

10          (f) *RELOCATION ASSISTANCE AUTHORIZED.—*

11           (1) *IN GENERAL.—Any adversely affected worker*  
 12           *covered by a certification issued under section 311*  
 13           *may file an application for relocation assistance with*  
 14           *the Secretary, and the Secretary may grant the relo-*  
 15           *cation assistance, subject to the terms and conditions*  
 16           *of this subsection.*

17           (2) *CONDITIONS FOR GRANTING ASSISTANCE.—*  
 18           *Relocation assistance may be granted if all of the fol-*  
 19           *lowing terms and conditions are met:*

20           (A) *ASSIST AN ADVERSELY AFFECTED*  
 21           *WORKER.—The relocation assistance will assist*  
 22           *an adversely affected worker in relocating within*  
 23           *the United States.*

24           (B) *LOCAL EMPLOYMENT NOT AVAILABLE.—*  
 25           *The Secretary determines that the worker cannot*

1           *reasonably be expected to secure suitable employ-*  
2           *ment in the commuting area in which the worker*  
3           *resides.*

4           (C) *TOTAL SEPARATION.*—*The worker is to-*  
5           *tally separated from employment at the time re-*  
6           *location 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 ap-*  
16           *plication with the Secretary at such time and in*  
17           *such manner as the Secretary shall specify by*  
18           *regulation.*

19           (3) *AMOUNT OF ASSISTANCE.*—*Relocation assist-*  
20           *ance granted to a worker under paragraph (1) in-*  
21           *cludes—*

22                   (A) *all reasonable and necessary expenses*  
23                  *(including, subsistence and transportation ex-*  
24                  *penses at levels not exceeding amounts prescribed*  
25                  *by the Secretary in regulations) incurred in*

1           *transporting the worker, the worker's family,*  
 2           *and household effects; and*

3                   *(B) a lump sum equivalent to 3 times the*  
 4           *worker's average weekly wage, up to a maximum*  
 5           *payment of \$1,500.*

6           (4) *LIMITATIONS.—Relocation assistance 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 en-*  
 13           *tered a training program approved by the Sec-*  
 14           *retary under subsection (b)(2).*

15           (g) *HEALTH INSURANCE CONTINUATION.—Not later*  
 16           *than 1 year after the date of enactment of this Act, the Sec-*  
 17           *retary of Labor shall prescribe regulations to provide, for*  
 18           *the period in which an adversely affected worker is partici-*  
 19           *pating in a training program described in subsection*  
 20           *(b)(2), 80 percent of the monthly premium of any health*  
 21           *insurance coverage that an adversely affected worker was*  
 22           *receiving from such worker's employer prior to the separa-*  
 23           *tion from employment described in section 311(b), to be*  
 24           *paid to any health care insurance plan designated by the*

1 *adversely affected worker receiving assistance under this*  
 2 *section.*

3 **SEC. 313. 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 agree-*  
 7 *ment with any State, or with any State agency (re-*  
 8 *ferred to in this section as “cooperating States” and*  
 9 *“cooperating State agencies” respectively). Under*  
 10 *such an agreement, the cooperating State or cooper-*  
 11 *ating 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), shall*  
 16 *make available to adversely affected workers cov-*  
 17 *ered by a certification under section 311(d) the*  
 18 *employment services described in section*  
 19 *312(b)(1);*

20 *(C) shall make any certifications required*  
 21 *under section 311(d); and*

22 *(D) shall otherwise cooperate with the Sec-*  
 23 *retary and with other State and Federal agencies*  
 24 *in providing payments and services under this*  
 25 *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 agree-*  
5     *ment under this section shall—*

6                 (A) *provide the Secretary with the authority*  
7             *to collect any data the Secretary determines nec-*  
8             *essary to meet the requirements of this part; and*

9                 (B) *specify the form and manner in which*  
10            *any such data requested by the Secretary shall be*  
11            *reported.*

12            (3) *RELATIONSHIP TO UNEMPLOYMENT INSUR-*  
13     *ANCE.—Each agreement under this section shall pro-*  
14     *vide that an adversely affected worker receiving cli-*  
15     *mate change adjustment assistance under this part*  
16     *shall not be eligible for unemployment insurance oth-*  
17     *erwise payable to such worker under the laws of the*  
18     *State.*

19            (4) *REVIEW.—A determination by a cooperating*  
20     *State agency with respect to entitlement to program*  
21     *benefits under an agreement is subject to review in*  
22     *the same manner and to the same extent as deter-*  
23     *minations under the applicable State law and only in*  
24     *that manner and to that extent.*



1           (5) *COORDINATION.*—Any agreement entered into  
2           under this section shall provide for the coordination  
3           of the administration of the provisions for employ-  
4           ment services, training, and supplemental assistance  
5           under section 312 and under title I of the Workforce  
6           Investment Act of 1998 (29 U.S.C. 2801 et seq.) upon  
7           such terms and conditions as are established by the  
8           Secretary in consultation with the States and set  
9           forth in such agreement. Any agency of the State  
10          jointly administering such provisions under such  
11          agreement shall be considered to be a cooperating  
12          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 apply-  
19                ing for such benefits;

20                (B) facilitate the early filing of petitions  
21                under section 311(a) for any workers that the  
22                agency considers are likely to be eligible for bene-  
23                fits under this part;

24                (C) advise each adversely affected worker to  
25                apply for training under section 312(b) before,

1       or at the same time, the worker applies for cli-  
2       mate change adjustment assistance under section  
3       312(a);

4               (D) perform outreach to, intake of, and ori-  
5       entation for adversely affected workers and ad-  
6       versely affected incumbent workers covered by a  
7       certification under section 312(a) with respect to  
8       assistance and benefits available under this part;

9               (E) make employment services described in  
10       section 312(b)(1) available to adversely affected  
11       workers and adversely affected incumbent work-  
12       ers covered by a certification under section  
13       311(d) and, if funds provided to carry out this  
14       part are insufficient to make such services avail-  
15       able, make arrangements to make such services  
16       available through other Federal programs; and

17               (F) provide the benefits and reemployment  
18       services under this part in a manner that is nec-  
19       essary for the proper and efficient administra-  
20       tion of this part, including the use of state agen-  
21       cy personnel employed in accordance with a  
22       merit system of personnel administration stand-  
23       ards, including—

24                       (i) making determinations of eligibility  
25       for, and payment of, climate change read-

1           *justment assistance and health care benefit*  
 2           *replacement amounts;*

3           (ii) *developing recommendations re-*  
 4           *garding payments as a bridge to retirement*  
 5           *and lump sum payments to pension plans*  
 6           *in accordance with this subsection; and*

7           (iii) *the provision of reemployment*  
 8           *services to eligible workers, including refer-*  
 9           *ral to training services.*

10           (7) *SUBMISSION OF CERTAIN INFORMATION.—In*  
 11           *order to promote the coordination of workforce invest-*  
 12           *ment activities in each State with activities carried*  
 13           *out under this part, any agreement entered into*  
 14           *under this section shall provide that the State shall*  
 15           *submit to the Secretary, in such form as the Secretary*  
 16           *may require, the description and information de-*  
 17           *scribed in paragraphs (8) and (14) of section 112(b)*  
 18           *of the Workforce Investment Act of 1998 (29 U.S.C.*  
 19           *2822(b)) and a description of the State’s rapid re-*  
 20           *sponse activities under section 134(a)(2)(A) of that*  
 21           *Act (29 U.S.C. 2864(a)(2)(A)).*

22           (8) *CONTROL MEASURES.—*

23           (A) *IN GENERAL.—The Secretary shall re-*  
 24           *quire each cooperating State and cooperating*  
 25           *State agency to implement effective control meas-*

ures and to effectively oversee the operation and administration of the climate change adjustment assistance program under this part, including by means of monitoring the operation of control measures to improve the accuracy and timeliness of the data being collected and reported.

(B) *DEFINITION.*—For purposes of subparagraph (A), the term “control measures” means measures that—

(i) are internal to a system used by a State to collect data; and

(ii) are designed to ensure the accuracy and verifiability of such data.

(9) *DATA REPORTING.*—

(A) *IN GENERAL.*—Any agreement entered into under this section shall require the cooperating State or cooperating State agency to report to the Secretary on a quarterly basis comprehensive performance accountability data, to consist of—

(i) the core indicators of performance described in subparagraph (B)(i);

(ii) the additional indicators of performance described in subparagraph (B)(ii), if any; and

1           (iii) a description of efforts made to  
 2           improve outcomes for workers under the cli-  
 3           mate change adjustment assistance pro-  
 4           gram.

5           (B) CORE INDICATORS DESCRIBED.—

6           (i) IN GENERAL.—The core indicators  
 7           of performance described in this subpara-  
 8           graph are—

9                   (I) the percentage of workers re-  
 10           ceiving benefits under this part who  
 11           are employed during the second cal-  
 12           endar quarter following the calendar  
 13           quarter in which the workers cease re-  
 14           ceiving such benefits;

15                   (II) the percentage of such workers  
 16           who are employed in each of the third  
 17           and fourth calendar quarters following  
 18           the calendar quarter in which the  
 19           workers cease receiving such benefits;  
 20           and

21                   (III) the earnings of such workers  
 22           in each of the third and fourth cal-  
 23           endar quarters following the calendar  
 24           quarter in which the workers cease re-  
 25           ceiving such benefits.

1                   (ii) *ADDITIONAL INDICATORS.*—*The*  
 2                   *Secretary and a cooperating State or co-*  
 3                   *operating State agency may agree upon ad-*  
 4                   *ditional indicators of performance for the*  
 5                   *climate change adjustment assistance pro-*  
 6                   *gram under this part, as appropriate.*

7                   (C) *STANDARDS WITH RESPECT TO RELI-*  
 8                   *ABILITY OF DATA.*—*In preparing the quarterly*  
 9                   *report required by subparagraph (A), each co-*  
 10                  *operating State or cooperating State agency*  
 11                  *shall establish procedures that are consistent*  
 12                  *with guidelines to be issued by the Secretary to*  
 13                  *ensure that the data reported are valid and reli-*  
 14                  *able.*

15                  (10) *VERIFICATION OF ELIGIBILITY FOR PRO-*  
 16                  *GRAM BENEFITS.*—

17                   (A) *IN GENERAL.*—*An agreement under this*  
 18                   *section shall provide that the State shall periodi-*  
 19                   *cally redetermine that a worker receiving benefits*  
 20                   *under this part who is not a citizen or national*  
 21                   *of the United States remains in a satisfactory*  
 22                   *immigration status. Once satisfactory immigra-*  
 23                   *tion status has been initially verified through the*  
 24                   *immigration status verification system described*  
 25                   *in section 1137(d) of the Social Security Act (42*

1       *U.S.C. 1320b–7(d)) for purposes of establishing a*  
 2       *worker’s eligibility for unemployment compensa-*  
 3       *tion, the State shall reverify the worker’s immi-*  
 4       *gration status if the documentation provided*  
 5       *during initial verification will expire during the*  
 6       *period in which that worker is potentially eligi-*  
 7       *ble to receive benefits under this part. The State*  
 8       *shall conduct such redetermination in a timely*  
 9       *manner, utilizing the immigration status*  
 10       *verification system described in section 1137(d)*  
 11       *of the Social Security Act (42 U.S.C. 1320b–*  
 12       *7(d)).*

13               *(B) PROCEDURES.—The Secretary shall es-*  
 14       *tablish procedures to ensure the uniform applica-*  
 15       *tion by the States of the requirements of this*  
 16       *paragraph.*

17       *(b) ADMINISTRATION ABSENT STATE AGREEMENT.—*

18               *(1) In any State where there is no agreement in*  
 19       *force between a State or its agency under subsection*  
 20       *(a), the Secretary shall promulgate regulations for the*  
 21       *performance of all necessary functions under section*  
 22       *312, including provision for a fair hearing for any*  
 23       *worker whose application for payments is denied.*

24               *(2) A final determination under paragraph (1)*  
 25       *with respect to entitlement to program benefits under*

1        *section 312 is subject to review by the courts in the*  
2        *same manner and to the same extent as is provided*  
3        *by section 205(g) of the Social Security Act (42*  
4        *U.S.C. 405(g)).*

5        *(c) PROHIBITION ON CONTRACTING WITH PRIVATE*  
6        *ENTITIES.—Neither the Secretary nor a State may contract*  
7        *with any private for-profit or nonprofit entity for the ad-*  
8        *ministration of the climate change adjustment assistance*  
9        *program under this part.*

10       *(d) PAYMENT TO THE STATES.—*

11           *(1) IN GENERAL.—The Secretary shall from time*  
12        *to time certify to the Secretary of the Treasury for*  
13        *payment to each cooperating State the sums necessary*  
14        *to enable such State as agent of the United States to*  
15        *make payments provided for by this part.*

16           *(2) RESTRICTION.—All money paid a State*  
17        *under this subsection shall be used solely for the pur-*  
18        *poses for which it is paid; and money so paid which*  
19        *is not used for such purposes shall be returned, at the*  
20        *time specified in the agreement under this section, to*  
21        *the Secretary of the Treasury.*

22           *(3) BONDS.—Any agreement under this section*  
23        *may require any officer or employee of the State cer-*  
24        *tifying payments or disbursing funds under the agree-*  
25        *ment or otherwise participating in the performance of*



1     *the agreement, to give a surety bond to the United*  
 2     *States in such amount as the Secretary may deem*  
 3     *necessary, and may provide for the payment of the*  
 4     *cost of such bond from funds for carrying out the pur-*  
 5     *poses of this part.*

6     *(e) LABOR STANDARDS.—*

7             *(1) PROHIBITION ON DISPLACEMENT.—An indi-*  
 8     *vidual in an apprenticeship program or on-the-job*  
 9     *training program under this part shall not displace*  
 10    *(including a partial displacement, such as a reduc-*  
 11    *tion in the hours of non-overtime work, wages, or em-*  
 12    *ployment benefits) any employed employee.*

13            *(2) PROHIBITION ON IMPAIRMENT OF CON-*  
 14    *TRACTS.—An apprenticeship program or on-the-job*  
 15    *training program under this Act shall not impair an*  
 16    *existing contract for services or collective bargaining*  
 17    *agreement, and no such activity that would be incon-*  
 18    *sistent with the terms of a collective bargaining agree-*  
 19    *ment shall be undertaken without the written concur-*  
 20    *rence of the labor organization and employer con-*  
 21    *cerned.*

22            *(3) ADDITIONAL STANDARDS.—The Secretary, or*  
 23    *a State acting under an agreement described in sub-*  
 24    *section (a) may pay the costs of on-the-job training,*

1       *notwithstanding any other provision of this section,*  
2       *only if—*

3               *(A) in the case of training which would be*  
4               *inconsistent with the terms of a collective bar-*  
5               *gaining agreement, the written concurrence of*  
6               *the labor organization concerned has been ob-*  
7               *tained;*

8               *(B) the job for which such adversely affected*  
9               *worker is being trained is not being created in*  
10              *a promotional line that will infringe in any way*  
11              *upon the promotional opportunities of currently*  
12              *employed individuals;*

13              *(C) such training is not for the same occu-*  
14              *pation from which the worker was separated and*  
15              *with respect to which such worker's group was*  
16              *certified pursuant to section 311(d);*

17              *(D) the employer is provided reimbursement*  
18              *of not more than 50 percent of the wage rate of*  
19              *the participant, for the cost of providing the*  
20              *training and additional supervision related to*  
21              *the training; and*

22              *(E) the employer has not received payment*  
23              *under with respect to any other on-the-job train-*  
24              *ing provided by such employer which failed to*

1           *meet the requirements of subparagraphs (A)*  
2           *through (D).*

3           (f) *DEFINITIONS.—As used in this part the following*  
4           *definitions apply:*

5           (1) *The term “adversely affected employment”*  
6           *means employment at an employment site, if workers*  
7           *at such site are eligible to apply for adjustment as-*  
8           *sistance under this part.*

9           (2) *The term “adversely affected worker” means*  
10          *an individual who has been totally or partially sepa-*  
11          *rated from employment and is eligible to apply for*  
12          *adjustment assistance under this part.*

13          (3) *The term “average weekly wage” means <sup>1</sup>/<sub>13</sub>*  
14          *of the total wages paid to an individual in the quar-*  
15          *ter in which the individual’s total wages were highest*  
16          *among the first 4 of the last 5 completed calendar*  
17          *quarters immediately before the quarter in which oc-*  
18          *curs the week with respect to which the computation*  
19          *is made. Such week shall be the week in which total*  
20          *separation occurred, or, in cases where partial sepa-*  
21          *ration is claimed, an appropriate week, as defined in*  
22          *regulations prescribed by the Secretary.*

23          (4) *The term “average weekly hours” means the*  
24          *average hours worked by the individual (excluding*  
25          *overtime) in the employment from which he has been*

1        *or claims to have been separated in the 52 weeks (ex-*  
 2        *cluding weeks during which the individual was sick*  
 3        *or on vacation) preceding the week specified in the*  
 4        *last sentence of paragraph (4).*

5            *(5) The term “benefit period” means, with re-*  
 6        *spect to an individual—*

7                    *(A) the benefit year and any ensuing pe-*  
 8                    *riod, as determined under applicable State law,*  
 9                    *during which the individual is eligible for reg-*  
 10                   *ular compensation, additional compensation, or*  
 11                   *extended compensation; or*

12                   *(B) the equivalent to such a benefit year or*  
 13                   *ensuing period provided for under the applicable*  
 14                   *Federal unemployment insurance law.*

15            *(6) The term “consumer goods manufacturing”*  
 16        *means the electrical equipment, appliance, and com-*  
 17        *ponent manufacturing industry and transportation*  
 18        *equipment manufacturing.*

19            *(7) The term “employment site” means a single*  
 20        *facility or site of employment.*

21            *(8) The term “energy-intensive manufacturing*  
 22        *industries” means all industrial sectors, entities, or*  
 23        *groups of entities that meet the energy or greenhouse*  
 24        *gas intensity criteria in section 763(b)(2)(A) of the*

1     *Clean Air Act based on the most recent data avail-*  
2     *able.*

3           (9) *The term “energy producing and trans-*  
4     *forming industries” means the coal mining industry,*  
5     *oil and gas extraction, electricity power generation,*  
6     *transmission and distribution, and natural gas dis-*  
7     *tribution.*

8           (10) *The term “industries dependent upon en-*  
9     *ergy industries” means rail transportation and pipe-*  
10    *line transportation industries.*

11          (11) *The term “on-the-job training” means*  
12    *training provided by an employer to an individual*  
13    *who is employed by the employer.*

14          (12) *The terms “partial separation” and “par-*  
15    *tially separated” refer, with respect to an individual*  
16    *who has not been totally separated, that such indi-*  
17    *vidual has had—*

18                (A) *his or her hours of work reduced to 80*  
19                *percent or less of his average weekly hours in ad-*  
20                *versely affected employment; and*

21                (B) *his or her wages reduced to 80 percent*  
22                *or less of his average weekly wage in such ad-*  
23                *versely affected employment.*

1           (13) *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           (14) *The term “Secretary” means the Secretary*  
5           *of Labor.*

6           (15) *The term “service workers” means workers*  
7           *supplying support or auxiliary services to an employ-*  
8           *ment site.*

9           (16) *The term “State” includes the District of*  
10          *Columbia and the Commonwealth of Puerto Rico; and*  
11          *the term “United States” when used in the geo-*  
12          *graphical sense includes such Commonwealth.*

13          (17) *The term “State agency” means the agency*  
14          *of the State which administers the State law.*

15          (18) *The term “State law” means the unemploy-*  
16          *ment insurance law of the State approved by the Sec-*  
17          *retary of Labor under section 3304 of the Internal*  
18          *Revenue Code of 1986.*

19          (19) *The terms “total separation” and “totally*  
20          *separated” refer to the layoff or severance of an indi-*  
21          *vidual from employment with an employer in which*  
22          *adversely affected employment exists.*

23          (20) *The term “unemployment insurance” means*  
24          *the unemployment compensation payable to an indi-*  
25          *vidual under any State law or Federal unemployment*

1       *compensation law, including chapter 85 of title 5,*  
 2       *United States Code, and the Railroad Unemployment*  
 3       *Insurance Act (45 U.S.C. 351 et seq.). The terms*  
 4       *“regular compensation”, “additional compensation”,*  
 5       *and “extended compensation” have the same respec-*  
 6       *tive meanings that are given them in section 205(2),*  
 7       *(3), and (4) of the Federal-State Extended Unemploy-*  
 8       *ment Compensation Act of 1970 (26 U.S.C. 3304*  
 9       *note; Public Law 91–373).*

10           (21) *The term “week” means a week as defined*  
 11       *in the applicable State law.*

12           (22) *The term “week of unemployment” means a*  
 13       *week of total, part-total, or partial unemployment as*  
 14       *determined under the applicable State law or Federal*  
 15       *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 determines*  
 21       *is necessary to ensure that an adversely affected work-*  
 22       *er who is a member of a reserve component of the*  
 23       *Armed Forces and serves a period of duty described*  
 24       *in paragraph (2) is eligible to receive climate change*  
 25       *adjustment assistance, training, and other benefits*

1     *under this part in the same manner and to the same*  
 2     *extent as if the worker had not served the period of*  
 3     *duty.*

4           (2) *PERIOD OF DUTY DESCRIBED.*—*An adversely*  
 5     *affected worker serves a period of duty described in*  
 6     *this paragraph if, before completing training under*  
 7     *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 full-*  
 14                *time National Guard duty under section 502(f)*  
 15                *of title 32, United States Code, for 30 consecutive*  
 16                *days or more when authorized by the President*  
 17                *or the Secretary of Defense for the purpose of re-*  
 18                *sponding to a national emergency declared by*  
 19                *the President and supported by Federal funds.*

20       (h) *FRAUD AND RECOVERY OF OVERPAYMENTS.*—

21           (1) *RECOVERY OF PAYMENTS TO WHICH AN INDIV-*  
 22     *IDUAL WAS NOT ENTITLED.*—*If the Secretary or a*  
 23     *court of competent jurisdiction determines that any*  
 24     *person has received any payment under this part to*  
 25     *which the individual was not entitled, such indi-*



vidual shall be liable to repay such amount to the Secretary, as the case may be, except that the Secretary shall waive such repayment if such agency or the Secretary determines that—

(A) the payment was made without fault on the part of such individual; and

(B) requiring such repayment would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household).

(2) *MEANS OF RECOVERY.*—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this part, under any Federal unemployment compensation law or other Federal law administered by the Secretary which provides for the payment of assistance with respect to unemployment. Any amount recovered under this section shall be returned to the Treasury of the United States.

(3) *PENALTIES FOR FRAUD.*—Any person who—

1           (A) makes a false statement of a material  
2           fact knowing it to be false, or knowingly fails to  
3           disclose a material fact, for the purpose of ob-  
4           taining or increasing for that person or for any  
5           other person any payment authorized to be fur-  
6           nished under this part; or

7           (B) makes a false statement of a material  
8           fact knowing it to be false, or knowingly fails to  
9           disclose a material fact, when providing infor-  
10          mation to the Secretary during an investigation  
11          of a petition under section 311(c);

12 shall be imprisoned for not more than one year, or fined  
13 under title 18, United States Code, or both, and be ineligible  
14 for any further payments under this part.

15       (i) *REGULATIONS.*—The Secretary shall prescribe such  
16 regulations as may be necessary to carry out the provisions  
17 of this part.

18       (j) *STUDY ON OLDER WORKERS.*—The Secretary shall  
19 conduct a study examine the circumstances of older ad-  
20 versely affected workers and the ability of such workers to  
21 access their retirement benefits. The Secretary shall trans-  
22 mit a report to Congress not later than 2 years after the  
23 date of enactment of this Act on the findings of the study  
24 and the Secretary's recommendations on how to ensure that

1 *adversely affected workers within 2 years of retirement are*  
 2 *able to access their retirement benefits.*

3 *(k) SPENDING LIMIT.—*

4 *(1) IN GENERAL.—For each fiscal year, the total*  
 5 *amount of funds disbursed for the purposes described*  
 6 *in section 312 shall not exceed the amount deposited*  
 7 *in that fiscal year into the Worker Transition Fund*  
 8 *established under section 209 of division B.*

9 *(2) SUBSEQUENT FISCAL YEARS.—The annual*  
 10 *spending limit for any succeeding fiscal year shall be*  
 11 *increased by the difference, if any, between the*  
 12 *amount of the disbursements for the prior fiscal year*  
 13 *and the spending limitation for that fiscal year.*

14 *(3) ADMINISTRATION.—*

15 *(A) IN GENERAL.—The Secretary shall pro-*  
 16 *mulgate rules to ensure that the spending limit*  
 17 *established under this subsection is not exceeded.*

18 *(B) RULES.—The rules shall—*

19 *(i) provide that workers who receive*  
 20 *any of the benefits described in section 312*  
 21 *receive full benefits; and*

22 *(ii) include the establishment of a*  
 23 *waiting list for workers in the event that the*  
 24 *requests for assistance exceed the spending*  
 25 *limit.*

1     ***Subtitle B—International Climate***  
 2                     ***Change Programs***

3     ***SEC. 321. STRATEGIC INTERAGENCY BOARD ON INTER-***  
 4                     ***NATIONAL CLIMATE INVESTMENT.***

5             *(a) ESTABLISHMENT.—*

6                     *(1) IN GENERAL.—Not later than 90 days after*  
 7             *the date of the enactment of this Act, the President*  
 8             *shall establish the “Strategic Interagency Board on*  
 9             *International Climate Investment” (referred to in this*  
 10            *subtitle as the “Board”).*

11                    *(2) COMPOSITION.—The Board shall be composed*  
 12            *of—*

13                             *(A) the Secretary of State;*

14                             *(B) the Administrator of United States*  
 15             *Agency for International Development;*

16                             *(C) the Secretary of Energy;*

17                             *(D) the Secretary of the Treasury;*

18                             *(E) the Secretary of Commerce;*

19                             *(F) the Secretary of Agriculture;*

20                             *(G) the Administrator; and*

21                             *(H) such other relevant officials as the*  
 22             *President may designate.*

23             *(b) DUTIES.—The duties of the Board shall include as-*  
 24             *sessing, monitoring, and evaluating the progress and con-*  
 25             *tributions of relevant departments and agencies of the Fed-*

1 eral Government in supporting financing for international  
 2 climate change activities.

3 **SEC. 322. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
 4 **ESTATION.**

5 *Title VII of the Clean Air Act (as amended by section*  
 6 *101 of division B) is amended by adding at the end the*  
 7 *following:*

8 **“PART E—SUPPLEMENTAL EMISSION**  
 9 **REDUCTIONS**

10 **“SEC. 751. DEFINITIONS.**

11 *“In this part:*

12 *“(1) ADMINISTRATOR.—The term ‘Adminis-*  
 13 *trator’ means the Administrator of the United States*  
 14 *Agency for International Development.*

15 *“(2) DEFORESTATION.—The term ‘deforestation’*  
 16 *means a change in land use from a forest to any other*  
 17 *land use.*

18 *“(3) DEGRADATION.—The term ‘degradation’,*  
 19 *with respect to a forest, is any reduction in the car-*  
 20 *bon stock of a forest due to the impact of human land-*  
 21 *use activities.*

22 *“(4) EMISSION REDUCTIONS.—The term ‘emis-*  
 23 *sion reductions’ means greenhouse gas emission reduc-*  
 24 *tions achieved from reduced or avoided deforestation*  
 25 *under this title.*

1           “(5) *LEAKAGE PREVENTION ACTIVITIES.*—The  
2       term ‘leakage prevention activities’ means activities  
3       in developing countries that are directed at preserving  
4       existing forest carbon stocks, including forested wet-  
5       lands and peatlands, that might, absent such activi-  
6       ties, be lost through leakage.

7       **“SEC. 752. PURPOSES.**

8           “The purposes of this part are to provide United States  
9       assistance to developing countries—

10           “(1) to develop, implement and improve nation-  
11       ally appropriate greenhouse gas mitigation policies  
12       and actions that reduce deforestation and forest deg-  
13       radation or conserve or restore forest ecosystems, in a  
14       measurable, reportable, and verifiable manner; and

15           “(2) in a manner that is consistent with and en-  
16       hances the implementation of complementary United  
17       States policies that support the good governance of  
18       forests, biodiversity conservation, and environ-  
19       mentally sustainable development, while taking local  
20       communities, most vulnerable populations and com-  
21       munities, particularly forest-dependent communities  
22       and indigenous peoples into consideration.

1   **“SEC. 753. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
 2                                   **ESTATION.**

3           “(a) *IN GENERAL.*—Not later than 2 years after the  
 4   date of the enactment of this part, the Administrator, in  
 5   consultation with the Administrator of the Environmental  
 6   Protection Agency, the Secretary of Agriculture, and the  
 7   head of any other appropriate agency, shall establish a pro-  
 8   gram to provide assistance to reduce greenhouse gas emis-  
 9   sions from deforestation in developing countries, in accord-  
 10   ance with this title.

11          “(b) *OBJECTIVES.*—The objectives of the program es-  
 12   tablished under this section shall be—

13               “(1) *to reduce greenhouse gas emissions from de-*  
 14   *forestation in developing countries by at least*  
 15   *720,000,000 tons of carbon dioxide equivalent in*  
 16   *2020, and a cumulative quantity of at least*  
 17   *6,000,000,000 tons of carbon dioxide equivalent by*  
 18   *December 31, 2025, with additional reductions in*  
 19   *subsequent years;*

20               “(2) *to assist developing countries in preparing*  
 21   *to participate in international markets for inter-*  
 22   *national offset credits for reduced emissions from de-*  
 23   *forestation; and*

24               “(3) *to preserve existing forest carbon stocks in*  
 25   *countries where such forest carbon may be vulnerable*  
 26   *to international leakage.*

1       “(c) *NOT ELIGIBLE FOR OFFSET CREDIT.*—Activities  
 2   that receive support under this part shall not be issued offset  
 3   credits for the greenhouse gas emissions reductions or avoid-  
 4   ance, or greenhouse gas sequestration, produced by such ac-  
 5   tivities.”.

6   **SEC. 323. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**  
 7                   **PROGRAM.**

8       (a) *PURPOSES.*—The purposes of this section are—

9               (1) *to assist developing countries in activities*  
 10   that reduce, sequester, or avoid greenhouse gas emis-  
 11   sions;

12              (2) *to encourage those countries to shift toward*  
 13   low-carbon development, and promote a successful  
 14   global agreement under the United Nations Frame-  
 15   work Convention on Climate Change, done at New  
 16   York on May 9, 1992 (or a successor agreement) (re-  
 17   ferred to in this subtitle as the “Convention”); and

18              (3) *to promote robust compliance with and en-*  
 19   forcement of existing international legal requirements  
 20   for the protection of intellectual property rights.

21       (b) *ESTABLISHMENT OF INTERNATIONAL CLEAN EN-*  
 22   *ERGY DEPLOYMENT PROGRAM.*—

23              (1) *ESTABLISHMENT.*—The Secretary of State,  
 24   in consultation with an interagency group designated  
 25   by the President, shall establish an International



1       *Clean Energy Deployment Program in accordance*  
 2       *with this section.*

3               (2) *DISTRIBUTION OF ASSISTANCE.—The Sec-*  
 4       *retary of State, or the head of such other Federal*  
 5       *agency as the President may designate, shall direct*  
 6       *the distribution of funding to carry out the Clean En-*  
 7       *ergy Technology Program—*

8                       (A) *in the form of bilateral assistance;*

9                       (B) *to multilateral funds or international*  
 10       *institutions pursuant to the Convention or an*  
 11       *agreement negotiated under the Convention; or*

12                      (C) *through a combination of the mecha-*  
 13       *nisms identified under subparagraphs (A) and*  
 14       *(B).*

15       (c) *DETERMINATION OF QUALIFYING ACTIVITIES.—As-*  
 16       *sistance under this subtitle may be provided only to quali-*  
 17       *fying entities for clean technology activities (including*  
 18       *building relevant technical and institutional capacity) that*  
 19       *contribute to substantial, measurable, reportable, and*  
 20       *verifiable reductions, sequestration, or avoidance of green-*  
 21       *house gas emissions.*

22       **SEC. 324. INTERNATIONAL CLIMATE CHANGE ADAPTATION**  
 23       **AND GLOBAL SECURITY PROGRAM.**

24       (a) *PURPOSES.—The purposes of this section are—*

1           (1) *to provide assistance to the most vulnerable*  
2           *developing countries, particularly to the most vulner-*  
3           *able communities and populations in those countries;*  
4           *and*

5           (2) *to support the development and implementa-*  
6           *tion of climate change adaptation programs in a way*  
7           *that protects and promotes interests of the United*  
8           *States, to the extent those interests may be advanced*  
9           *by minimizing, averting, or increasing resilience to*  
10          *climate change impacts.*

11          (b) *INTERNATIONAL CLIMATE CHANGE ADAPTATION*  
12          *AND GLOBAL SECURITY PROGRAM.—*

13           (1) *ESTABLISHMENT.—The Secretary of State,*  
14           *in consultation with the Administrator of the United*  
15           *States Agency for International Development, the Sec-*  
16           *retary of the Treasury, and the Administrator, shall*  
17           *establish an International Climate Change Adapta-*  
18           *tion and Global Security Program in accordance with*  
19           *this section.*

20           (2) *DISTRIBUTION OF ASSISTANCE.—The Sec-*  
21           *retary of State, or the head of such other Federal*  
22           *agency as the President may designate, after consulta-*  
23           *tion with the Secretary of the Treasury, the Adminis-*  
24           *trator of the United States Agency for International*  
25           *Development, and the Administrator, shall direct the*

1 *distribution of funding to carry out the International*  
 2 *Climate Change Adaptation and Global Security Pro-*  
 3 *gram—*

4 *(A) in the form of bilateral assistance;*

5 *(B) to multilateral funds or international*  
 6 *institutions pursuant to the Convention or an*  
 7 *agreement negotiated under the Convention; or*

8 *(C) through a combination of the mecha-*  
 9 *nisms identified under subparagraphs (A) and*  
 10 *(B).*

11 **SEC. 325. EVALUATION AND REPORTS.**

12 *(a) MONITORING, EVALUATION, AND ENFORCEMENT.—*

13 *The Board shall establish and implement a system to mon-*  
 14 *itor and evaluate the effectiveness and efficiency of assist-*  
 15 *ance provided under this subtitle by including evaluation*  
 16 *criteria, such as performance indicators.*

17 *(b) REPORTS AND REVIEW.—*

18 *(1) ANNUAL REPORT.—Not later than 1 year*  
 19 *after the date of enactment of this Act, and annually*  
 20 *thereafter, the Board shall submit to the appropriate*  
 21 *committees of Congress a report that describes—*

22 *(A) the steps Federal agencies have taken,*  
 23 *and the progress made, toward accomplishing the*  
 24 *objectives of this section; and*

1                   (B) the ramifications of any potentially de-  
 2                   stabilizing impacts climate change may have on  
 3                   the interests of the United States.

4                   (2) *REVIEWS*.—Not later than 3 years after the  
 5                   date of enactment of this Act, and triennially there-  
 6                   after, the Board, in cooperation with the National  
 7                   Academy of Sciences and other appropriate research  
 8                   and development institutions, shall—

9                   (A) review the global needs and opportuni-  
 10                  ties for climate change investment in developing  
 11                  countries; and

12                  (B) submit to Congress a report that de-  
 13                  scribes the findings of the review.

14 **SEC. 326. REPORT ON CLIMATE ACTIONS OF MAJOR ECONO-**  
 15 **MIES.**

16           (a) *IN GENERAL*.—The Secretary of State, in coopera-  
 17           tion with the Board, shall prepare an interagency report  
 18           on climate change and energy policy of the 5 countries that,  
 19           of the countries that are not members of the Organisation  
 20           for Economic Co-Operation and Development, emit the  
 21           greatest annual quantity of greenhouse gases.

22           (b) *PURPOSES*.—The purposes of the report shall be—  
 23                   (1) to provide to Congress and the public of the  
 24                   United States—

(c) *SUBMISSION TO CONGRESS.*—Not later than 15 months after the date of enactment of this Act, the Secretary of State shall submit to the appropriate committees of Congress the report prepared under this section.

16 *PART 1—DOMESTIC ADAPTATION*

19 *SEC. 341. NATIONAL CLIMATE CHANGE ADAPTATION PRO-*  
20 *GRAM.*

21       *The President shall establish within the United States*  
22   *Global Change Research Program a National Climate*  
23   *Change Adaptation Program for the purpose of increasing*  
24   *the overall effectiveness of Federal climate change adapta-*  
25   *tion efforts.*

1 **SEC. 342. 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, data,*  
 6 *forecasts, and warnings at national and regional scales,*  
 7 *and to distribute information related to climate impacts to*  
 8 *State, local, and tribal governments and the public to facili-*  
 9 *tate the development and implementation of strategies to*  
 10 *reduce society's vulnerability to climate variability and*  
 11 *change.*

12       **Subpart B—Public Health and Climate Change**

13 **SEC. 351. SENSE OF CONGRESS ON PUBLIC HEALTH AND**  
 14 **CLIMATE CHANGE.**

15       *It is the sense of the Congress that the Federal Govern-*  
 16 *ment, in cooperation with international, State, and local*  
 17 *governments, Indian tribes, concerned public and private*  
 18 *organizations, and citizens, should use all practicable*  
 19 *means and measures—*

20               *(1) to assist the efforts of public health and*  
 21 *health care professionals, first responders, States, In-*  
 22 *dian tribes, municipalities, and local communities to*  
 23 *incorporate 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 climate  
 4           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 those  
 16           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 re-  
 13                  spond to the impacts of climate change.

14 **SEC. 352. 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 (in-  
 18           cluding regulations) or authorizes any violation of any pro-  
 19           vision of any law (including regulations), including any  
 20           health, energy, environmental, transportation, or any other  
 21           law or regulation.

22 **SEC. 353. 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 *assist 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 Centers*  
 12 *for Disease Control and Prevention, the Admin-*  
 13 *istrator of the Environmental Protection Agency,*  
 14 *the Director of the National Institutes of Health,*  
 15 *the Director of the Indian Health Service, the*  
 16 *Secretary of Energy, other appropriate Federal*  
 17 *agencies, Indian tribes, State and local govern-*  
 18 *ments, public health organizations, scientists,*  
 19 *and other interested stakeholders; 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 communities;*  
 23                  *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 change*  
6                   *on the international, national, regional, State,*  
7                   *tribal, 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 communities*  
17                  *and populations from the health effects of climate*  
18                  *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 prepare*  
 10        *for the health effects of climate change;*

11                        *(iii) creating and supporting academic*  
 12        *fellowships focusing on the health effects of*  
 13        *climate change; and*

14                        *(iv) training senior health ministry of-*  
 15        *ficials from developing nations to strengthen*  
 16        *the capacity of such nations to—*

17                                *(I) prepare for and respond to the*  
 18        *health effects of climate change; and*

19                                *(II) build an international net-*  
 20        *work of public health professionals*  
 21        *with the necessary climate change*  
 22        *knowledge base;*

23                        *(G) using techniques, including health im-*  
 24        *pact assessments, to assess various climate*  
 25        *change public health preparedness and response*

1 *strategies on international, national, State, re-*  
 2 *gional, tribal, and local levels, and make rec-*  
 3 *ommendations as to those strategies that best*  
 4 *protect the public health;*

5 *(H)(i) assisting in the development, imple-*  
 6 *mentation, and support of State, regional, tribal,*  
 7 *and local preparedness, communication, and re-*  
 8 *sponse plans (including with respect to the*  
 9 *health departments of such entities) to anticipate*  
 10 *and reduce the health threats of climate change;*  
 11 *and*

12 *(ii) pursuing collaborative efforts to develop,*  
 13 *integrate, and implement such plans;*

14 *(I) creating a program to advance research*  
 15 *as it relates to the effects of climate change on*  
 16 *public health across Federal agencies, including*  
 17 *research to—*

18 *(i) identify and assess climate change*  
 19 *health effects preparedness and response*  
 20 *strategies;*

21 *(ii) prioritize critical public health in-*  
 22 *frastructure projects related to potential cli-*  
 23 *mate change impacts that affect public*  
 24 *health; and*

1                   (iii) coordinate preparedness for cli-  
2                   mate change health impacts, including the  
3                   development of modeling and forecasting  
4                   tools;

5                   (J) providing technical assistance for the  
6                   development, implementation, and support of  
7                   preparedness and response plans to anticipate  
8                   and reduce the health threats of climate change  
9                   in developing nations; and

10                  (K) carrying out other activities determined  
11                  appropriate by the Secretary to plan for and re-  
12                  spond to the impacts of climate change on public  
13                  health.

14                  (c) *REVISION.*—The Secretary shall revise the national  
15                  strategic action plan not later than July 1, 2014, and every  
16                  4 years thereafter, to reflect new information collected pur-  
17                  suant to implementation of the national strategic action  
18                  plan and otherwise, including information on—

19                   (1) the status of critical environmental health  
20                   parameters and related human health impacts;

21                   (2) the impacts of climate change on public  
22                   health; and

23                   (3) advances in the development of strategies for  
24                   preparing for and responding to the impacts of cli-  
25                   mate change on public health.

1       (d) *IMPLEMENTATION.*—

2               (1) *IMPLEMENTATION THROUGH HHS.*—*The Sec-*  
 3       *retary shall exercise the Secretary’s authority under*  
 4       *this subpart and other provisions of Federal law to*  
 5       *achieve the goals and measures of the national stra-*  
 6       *tegic action plan.*

7               (2) *OTHER PUBLIC HEALTH PROGRAMS AND INI-*  
 8       *TIATIVES.*—*The Secretary and Federal officials of*  
 9       *other relevant Federal agencies shall administer pub-*  
 10       *lic health programs and initiatives authorized by pro-*  
 11       *visions of law other than this subpart, subject to the*  
 12       *requirements of such statutes, in a manner designed*  
 13       *to achieve the goals of the national strategic action*  
 14       *plan.*

15              (3) *SPECIFIC ACTIVITIES.*—*In furtherance of the*  
 16       *national strategic action plan, the Secretary shall—*

17                      (A) *conduct scientific research to assist*  
 18                      *health professionals in preparing for and re-*  
 19                      *sponding to the impacts of climate change on*  
 20                      *public health; and*

21                      (B) *provide funding for—*

22                              (i) *research on the health effects of cli-*  
 23                              *mate change; and*

24                              (ii) *preparedness planning on the*  
 25                              *international, national, State, tribal, re-*

1                   gional, and local levels to respond to or re-  
 2                   duce the burden of health effects of climate  
 3                   change; and

4                   (C) carry out other activities determined  
 5                   appropriate by the Secretary to prepare for and  
 6                   respond to the impacts of climate change on pub-  
 7                   lic health.

8 **SEC. 354. ADVISORY BOARD.**

9           (a) *ESTABLISHMENT.*—The Secretary shall establish a  
 10 permanent science advisory board comprised of not less  
 11 than 10 and not more than 20 members.

12          (b) *APPOINTMENT OF MEMBERS.*—The Secretary shall  
 13 appoint the members of the science advisory board from  
 14 among individuals—

15               (1) who have expertise in public health and  
 16 human services, climate change, and other relevant  
 17 disciplines; and

18               (2) at least  $\frac{1}{2}$  of whom are recommended by the  
 19 President of the National Academy of Sciences.

20          (c) *FUNCTIONS.*—The science advisory board shall—

21               (1) provide scientific and technical advice and  
 22 recommendations to the Secretary on the domestic  
 23 and international impacts of climate change on pub-  
 24 lic health, populations and regions particularly vul-  
 25 nerable to the effects of climate change, and strategies



1       *and mechanisms to prepare for and respond to the*  
 2       *impacts of climate change on public health; and*

3               *(2) advise the Secretary regarding the best*  
 4       *science available for purposes of issuing the national*  
 5       *strategic action plan.*

6   **SEC. 355. REPORTS.**

7       *(a) NEEDS ASSESSMENT.—*

8               *(1) IN GENERAL.—The Secretary shall seek to*  
 9       *enter into, by not later than 6 months after the date*  
 10       *of the enactment of this Act, an agreement with the*  
 11       *National Research Council and the Institute of Medi-*  
 12       *cine to complete a report that—*

13                       *(A) assesses the needs for health profes-*  
 14                       *sionals to prepare for and respond to climate*  
 15                       *change impacts on public health; and*

16                       *(B) recommends programs to meet those*  
 17                       *needs.*

18               *(2) SUBMISSION.—The agreement under para-*  
 19       *graph (1) shall require the completed report to be sub-*  
 20       *mitted to the Congress and the Secretary and made*  
 21       *publicly available not later than 1 year after the date*  
 22       *of the agreement.*

23       *(b) CLIMATE CHANGE HEALTH PROTECTION AND PRO-*  
 24       *MOTION REPORTS.—*

1           (1) *IN GENERAL.*—*The Secretary, in consultation*  
 2           *with the advisory board established under section 354,*  
 3           *shall ensure the issuance of reports to aid health pro-*  
 4           *fessionals in preparing for and responding to the ad-*  
 5           *verse health effects of climate change that—*

6                     (A) *review scientific developments on health*  
 7                     *impacts of climate change; and*

8                     (B) *recommend changes to the national*  
 9                     *strategic action plan.*

10           (2) *SUBMISSION.*—*The Secretary shall submit*  
 11           *the reports required by paragraph (1) to the Congress*  
 12           *and make such reports publicly available not later*  
 13           *than July 1, 2013, and every 4 years thereafter.*

14 **SEC. 356. DEFINITIONS.**

15       *In this subpart:*

16           (1) *HEALTH IMPACT ASSESSMENT.*—*The term*  
 17           *“health impact assessment” means a combination of*  
 18           *procedures, methods, and tools by which a policy, pro-*  
 19           *gram, or project may be judged as to its potential ef-*  
 20           *fects on the health of a population, and the distribu-*  
 21           *tion of those effects within the population.*

22           (2) *NATIONAL STRATEGIC ACTION PLAN.*—*The*  
 23           *term “national strategic action plan” means the plan*  
 24           *issued and revised under section 353.*

1           (3) *SECRETARY*.—Unless otherwise specified, the  
 2       term “Secretary” means the Secretary of Health and  
 3       Human Services.

4       ***Subpart C—Climate Change Safeguards for Natural***  
 5                               ***Resources Conservation***

6       ***SEC. 361. PURPOSES.***

7       *The purposes of this subpart are—*

8           (1) *to establish an integrated Federal program*  
 9       *that responds to ongoing and expected impacts of cli-*  
 10      *mate change, including, where applicable, ocean*  
 11      *acidification, drought, flooding, and wildfire, by pro-*  
 12      *tecting, restoring, and conserving the natural re-*  
 13      *sources of the United States; and*

14          (2) *to provide financial support and incentives*  
 15      *for programs, strategies, and activities that respond*  
 16      *to threats of climate change, including, where appli-*  
 17      *cable, ocean acidification, drought, flooding, and*  
 18      *wildfire, by protecting, restoring, and conserving the*  
 19      *natural resources of the United States.*

20      ***SEC. 362. NATURAL RESOURCES CLIMATE CHANGE ADAPTA-***  
 21                               ***TION POLICY.***

22      *It is the policy of the Federal Government, in coopera-*  
 23      *tion with State and local governments, Indian tribes, and*  
 24      *other interested stakeholders, to use all practicable means*  
 25      *to protect, restore, and conserve natural resources so that*

1 *natural resources become more resilient, adapt to, and with-*  
 2 *stand the ongoing and expected impacts of climate change,*  
 3 *including, where applicable, ocean acidification, drought,*  
 4 *flooding, and wildfire.*

5 **SEC. 363. DEFINITIONS.**

6 *In this subpart:*

7 (1) *ACCOUNT.*—*The term “Account” means the*  
 8 *Natural Resources Climate Change Adaption Account*  
 9 *established by section 370(a).*

10 (2) *ADMINISTRATORS.*—*The term “Administra-*  
 11 *tors” means—*

12 (A) *the Administrator of the National Oce-*  
 13 *anic and Atmospheric Administration; and*

14 (B) *the Director of the United States Geo-*  
 15 *logical Survey.*

16 (3) *BOARD.*—*The term “Board” means the*  
 17 *Science Advisory Board established by section*  
 18 *367(f)(1).*

19 (4) *CENTER.*—*The term “Center” means the Na-*  
 20 *tional Climate Change and Wildlife Science Center*  
 21 *described by section 367(e)(1).*

22 (5) *COASTAL STATE.*—*The term “coastal State”*  
 23 *has the meaning given the term “coastal state” in sec-*  
 24 *tion 304 of the Coastal Zone Management Act of 1972*  
 25 *(16 U.S.C. 1453).*

1           (6) *CORRIDORS*.—*The term “corridors” means*  
 2     *areas that—*

3                 (A) *provide connectivity, over different time*  
 4                 *scales, of habitats or potential habitats; and*

5                 (B) *facilitate terrestrial, marine, estuarine,*  
 6                 *and freshwater fish, wildlife, or plant movement*  
 7                 *necessary for migration, gene flow, or dispersal,*  
 8                 *or to respond to the ongoing and expected im-*  
 9                 *pacts of climate change, including, where appli-*  
 10                 *cable, ocean acidification, drought, flooding, and*  
 11                 *wildfire.*

12           (7) *ECOLOGICAL PROCESSES*.—*The term “eco-*  
 13     *logical processes” means biological, chemical, or phys-*  
 14     *ical interaction between the biotic and abiotic compo-*  
 15     *nents of an ecosystem, including—*

16                 (A) *nutrient cycling;*

17                 (B) *pollination;*

18                 (C) *predator-prey relationships;*

19                 (D) *soil formation;*

20                 (E) *gene flow;*

21                 (F) *disease epizootiology;*

22                 (G) *larval dispersal and settlement;*

23                 (H) *hydrological cycling;*

24                 (I) *decomposition; and*

1                   *(J) disturbance regimes, such as fire and*  
2                   *flooding.*

3                   (8) *HABITAT.*—*The term “habitat” means the*  
4                   *physical, chemical, and biological properties that fish,*  
5                   *wildlife, or plants use for growth, reproduction, sur-*  
6                   *vival, food, water, or cover (whether on land, in*  
7                   *water, or in an area or region).*

8                   (9) *INDIAN TRIBE.*—*The term “Indian tribe” has*  
9                   *the meaning given the term in section 4 of the Indian*  
10                  *Self-Determination and Education Assistance Act (25*  
11                  *U.S.C. 450b).*

12                  (10) *NATURAL RESOURCES.*—*The term “natural*  
13                  *resources” means fish, wildlife, plants, habitats, and*  
14                  *terrestrial, freshwater, estuarine, and marine eco-*  
15                  *systems of the United States.*

16                  (11) *NATURAL RESOURCES ADAPTATION.*—*The*  
17                  *term “natural resources adaptation” means the pro-*  
18                  *tection, restoration, and conservation of natural re-*  
19                  *sources so that natural resources become more resil-*  
20                  *ient, adapt to, and withstand the ongoing and ex-*  
21                  *pected impacts of climate change, including, where*  
22                  *applicable, ocean acidification, drought, flooding, and*  
23                  *wildfire.*

1           (12) *PANEL*.—The term “Panel” means the Nat-  
 2           ural Resources Climate Change Adaptation Panel es-  
 3           tablished under section 365(a).

4           (13) *RESILIENCE; RESILIENT*.—The terms “resil-  
 5           ience” and “resilient” mean—

6                   (A) the ability to resist or recover from dis-  
 7           turbance; and

8                   (B) the ability to preserve diversity, produc-  
 9           tivity, and sustainability.

10          (14) *STATE*.—The term “State” means—

11                   (A) a State of the United States;

12                   (B) the District of Columbia;

13                   (C) American Samoa;

14                   (D) Guam;

15                   (E) the Commonwealth of the Northern  
 16          Mariana Islands;

17                   (F) the Commonwealth of Puerto Rico; and

18                   (G) the United States Virgin Islands.

19          (15) *STRATEGY*.—The term “Strategy” means  
 20          the Natural Resources Climate Change Adaptation  
 21          Strategy developed under section 366(a).

22   **SEC. 364. COUNCIL ON ENVIRONMENTAL QUALITY.**

23          The Chair of the Council on Environmental Quality  
 24          shall—

1           (1) *advise the President on implementing and*  
 2     *developing—*

3                 *(A) the Strategy; and*

4                 *(B) the Federal natural resource agency ad-*  
 5     *aptation plans required by section 368;*

6           (2) *serve as the Chair of the Panel established*  
 7     *under section 365; and*

8           (3) *coordinate Federal agency strategies, plans,*  
 9     *programs, and activities relating to protecting, restor-*  
 10    *ing, and maintaining natural resources so that nat-*  
 11    *ural resources become more resilient, adapt to, and*  
 12    *withstand the ongoing and expected impacts of cli-*  
 13    *mate change.*

14   **SEC. 365. NATURAL RESOURCES CLIMATE CHANGE ADAPTA-**  
 15                 **TION PANEL.**

16       (a) *ESTABLISHMENT.*—*Not later than 90 days after*  
 17    *the date of enactment of this Act, the President shall estab-*  
 18    *lish a Natural Resources Climate Change Adaptation*  
 19    *Panel.*

20       (b) *DUTIES.*—*The Panel shall serve as a forum for*  
 21    *interagency consultation on, and the coordination of, the*  
 22    *development and implementation of the Strategy.*

23       (c) *MEMBERSHIP.*—*The Panel shall be composed of—*

24                 (1) *the Administrator of the National Oceanic*  
 25     *and Atmospheric Administration (or a designee);*



1           (2) *the Chief of the Forest Service (or a des-*  
2 *ignee);*

3           (3) *the Director of the National Park Service (or*  
4 *a designee);*

5           (4) *the Director of the United States Fish and*  
6 *Wildlife Service (or a designee);*

7           (5) *the Director of the Bureau of Land Manage-*  
8 *ment (or a designee);*

9           (6) *the Director of the United States Geological*  
10 *Survey (or a designee);*

11           (7) *the Commissioner of Reclamation (or a des-*  
12 *ignee); and*

13           (8) *the Director of the Bureau of Indian Affairs*  
14 *(or a designee);*

15           (9) *the Administrator of the Environmental Pro-*  
16 *tection Agency (or a designee);*

17           (10) *the Chief of Engineers (or a designee);*

18           (11) *the Chair of the Council on Environmental*  
19 *Quality (or a designee);*

20           (12) *the Administrator of the Federal Emergency*  
21 *Management Agency (or a designee); and*

22           (13) *the heads of such other Federal agencies or*  
23 *departments with jurisdiction over natural resources*  
24 *of the United States, as determined by the President.*

1       (d) *CHAIRPERSON.*—*The Chair of the Council on En-*  
 2 *vironmental Quality shall serve as the Chairperson of the*  
 3 *Panel.*

4       **SEC. 366. NATURAL RESOURCES CLIMATE CHANGE ADAPTA-**  
 5                                   **TION STRATEGY.**

6       (a) *IN GENERAL.*—*Not later than 1 year after the date*  
 7 *of enactment of this Act, the Panel shall develop a Natural*  
 8 *Resources Climate Change Adaptation Strategy—*

9               (1) *to protect, restore, and conserve natural re-*  
 10 *sources so that natural resources become more resil-*  
 11 *ient, adapt to, and withstand the ongoing and ex-*  
 12 *pected impacts of climate change; and*

13              (2) *to identify opportunities to mitigate the on-*  
 14 *going and expected impacts of climate change.*

15       (b) *DEVELOPMENT.*—*In developing and revising the*  
 16 *Strategy, the Panel shall—*

17              (1) *base the strategy on the best available science;*

18              (2) *develop the strategy in close cooperation with*  
 19 *States and Indian tribes;*

20              (3) *coordinate with other Federal agencies, as*  
 21 *appropriate;*

22              (4) *consult with local governments, conservation*  
 23 *organizations, scientists, and other interested stake-*  
 24 *holders; and*

1           (5) *provide public notice and opportunity for*  
2       *comment.*

3       (c) *REVISION.*—*After the Panel adopts the initial*  
4       *Strategy, the Panel shall review and revise the Strategy*  
5       *every 5 years to incorporate—*

6           (1) *new information regarding the ongoing and*  
7       *expected impacts of climate change on natural re-*  
8       *sources; and*

9           (2) *new advances in the development of strategies*  
10       *that make natural resources more resilient or able to*  
11       *adapt to the ongoing and expected impacts of climate*  
12       *change.*

13       (d) *CONTENTS.*—*The Strategy shall—*

14           (1) *assess the vulnerability of natural resources*  
15       *to climate change, including short-term, medium-*  
16       *term, long-term, cumulative, and synergistic impacts;*

17           (2) *describe current research, observation, and*  
18       *monitoring activities at the Federal, State, tribal,*  
19       *and local level related to the ongoing and expected*  
20       *impacts of climate change on natural resources;*

21           (3) *identify and prioritize research and data*  
22       *needs;*

23           (4) *identify natural resources likely to have the*  
24       *greatest need for protection, restoration, and conserva-*

1        *tion due to the ongoing and expanding impacts of cli-*  
2        *mate change;*

3            *(5) include specific protocols for integrating nat-*  
4        *ural resources adaptation strategies and activities*  
5        *into the conservation and management of natural re-*  
6        *sources by Federal departments and agencies to en-*  
7        *sure consistency across agency jurisdictions;*

8            *(6) include specific actions that Federal depart-*  
9        *ments and agencies shall take to protect, conserve,*  
10       *and restore natural resources to become more resil-*  
11       *ient, adapt to, and withstand the ongoing and ex-*  
12       *pected impacts of climate change, including a*  
13       *timeline to implement those actions;*

14           *(7) include specific mechanisms for ensuring*  
15       *communication and coordination—*

16                *(A) among Federal departments and agen-*  
17       *cies; and*

18                *(B) between Federal departments and agen-*  
19       *cies and State natural resource agencies, United*  
20       *States territories, Indian tribes, private land-*  
21       *owners, conservation organizations, and other*  
22       *countries that share jurisdiction over natural re-*  
23       *sources with the United States;*

24            *(8) include specific actions to develop and imple-*  
25       *ment consistent natural resources inventory and mon-*

(e) **IMPLEMENTATION.**—Consistent with other laws and Federal trust responsibilities concerning land of Indian tribes, each Federal department or agency represented on the Panel shall integrate the elements of the Strategy that relate to conservation, restoration, and management of natural resources into agency plans, environmental reviews, programs, and activities.

(a) *COORDINATION.*—Not later than 90 days after the date of enactment of this Act, the Administrators shall establish coordinated procedures for developing and providing science and information necessary to address the ongoing and expected impacts of climate change on natural resources.

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1       (c) *FUNCTIONS.—The Administrators shall—*

2               (1) *ensure that the procedures required under*  
3       *subsection (a) avoid duplication; and*

4               (2) *ensure that the National Oceanic and Atmos-*  
5       *pheric Administration and the United States Geologi-*  
6       *cal Survey—*

7                       (A) *provide technical assistance to Federal*  
8       *departments and agencies, State and local gov-*  
9       *ernments, Indian tribes, and interested private*  
10      *landowners that are pursuing the goals of ad-*  
11      *dressing the ongoing and expected impacts of cli-*  
12      *mate change on natural resources;*

13                      (B) *conduct and sponsor research to develop*  
14      *strategies that increase the ability of natural re-*  
15      *sources to become more resilient, adapt to, and*  
16      *withstand the ongoing and expected impacts of*  
17      *climate change;*

18                      (C) *provide Federal departments and agen-*  
19      *cies, State and local governments, Indian tribes,*  
20      *and interested private landowners with research*  
21      *products, decision and monitoring tools, and in-*  
22      *formation to develop strategies that increase the*  
23      *ability of natural resources to become more resil-*  
24      *ient, adapt to, and withstand the ongoing and*  
25      *expected impacts of climate change; and*

1                   (D) assist Federal departments and agencies  
2                   in the development of adaptation plans required  
3                   by section 368.

4           (d) SURVEY.—Not later than 1 year after the date of  
5 enactment of this Act, and every 5 years thereafter, the Sec-  
6 retary of Commerce and the Secretary of the Interior shall  
7 conduct a climate change impact survey that—

8                   (1) identifies natural resources considered likely  
9                   to be adversely affected by climate change;

10                  (2) includes baseline monitoring and ongoing  
11 trend analysis;

12                  (3) with input from stakeholders, identifies and  
13 prioritizes necessary monitoring and research that is  
14 most relevant to the needs of natural resource man-  
15 agers to address the ongoing and expected impacts of  
16 climate change and to promote resilience; and

17                  (4) identifies the decision tools necessary to de-  
18 velop strategies that increase the ability of natural re-  
19 sources to become more resilient, adapt to, and with-  
20 stand the ongoing and expected impacts of climate  
21 change.

22           (e) NATIONAL CLIMATE CHANGE AND WILDLIFE  
23 SCIENCE CENTER.—

24                   (1) ESTABLISHMENT.—The Secretary of the Inte-  
25 rior shall establish the National Climate Change and

1 *Wildlife Science Center within the United States Geo-*  
 2 *logical Survey.*

3 (2) *FUNCTIONS.—In collaboration with Federal*  
 4 *and State natural resources agencies and depart-*  
 5 *ments, Indian tribes, universities, and other partner*  
 6 *organizations, the Center shall—*

7 (A) *assess and synthesize current physical*  
 8 *and biological knowledge;*

9 (B) *prioritize scientific gaps in such knowl-*  
 10 *edge in order to forecast the ecological impacts of*  
 11 *climate change, including, where applicable,*  
 12 *ocean acidification, drought, flooding, and wild-*  
 13 *fire on fish and wildlife at the ecosystem, habi-*  
 14 *tat, community, population, and species levels;*

15 (C) *develop and improve tools to identify,*  
 16 *evaluate, and link scientific approaches and*  
 17 *models that forecast the impacts of climate*  
 18 *change, including, where applicable, ocean acidi-*  
 19 *fication, drought, flooding, and wildfire on fish,*  
 20 *wildlife, plants, and associated habitats, includ-*  
 21 *ing—*

22 (i) *monitoring;*

23 (ii) *predictive models;*

24 (iii) *vulnerability analyses;*

25 (iv) *risk assessments; and*



1                   (v) decision support systems that help  
2                   managers make informed decisions;

3                   (D) develop and evaluate tools to adaptively  
4                   manage and monitor the effects of climate change  
5                   (including tools for the collection of data) on fish  
6                   and wildlife on the national, regional, and local  
7                   level; and

8                   (E) develop capacities for sharing standard-  
9                   ized data and the synthesis of the data described  
10                  in subparagraph (D).

11               (f) SCIENCE ADVISORY BOARD.—

12               (1) ESTABLISHMENT.—Not later than 180 days  
13               after the date of enactment of this Act, the Secretary  
14               of Commerce and the Secretary of the Interior shall  
15               establish and appoint the members of the Science Ad-  
16               visory Board.

17               (2) MEMBERSHIP.—The Board shall be com-  
18               prised of not fewer than 10 and not more than 20  
19               members—

20               (A) who have expertise in fish, wildlife,  
21               plant, aquatic, and coastal and marine biology,  
22               ecology, climate change, including, where appli-  
23               cable, ocean acidification, drought, flooding, and  
24               wildfire, and other relevant scientific disciplines;

1           (B) who represent a balanced membership  
2 among Federal, State, tribal, and local rep-  
3 resentatives, universities, and conservation orga-  
4 nizations; and

5           (C) at least  $\frac{1}{2}$  of whom are recommended  
6 by the President of the National Academy of  
7 Sciences.

8 (3) DUTIES.—The Board shall—

9           (A) advise the Secretary of Commerce and  
10 the Secretary of the Interior on the state of the  
11 science regarding—

12           (i) the ongoing and expected impacts of  
13 climate change, including, where applicable,  
14 ocean acidification, drought, flooding, and  
15 wildfire on natural resources; and

16           (ii) scientific strategies and mecha-  
17 nisms for protecting, restoring, and con-  
18 serving natural resources so natural re-  
19 sources become more resilient, adapt to, and  
20 withstand the ongoing and expected impacts  
21 of climate change, including, where applica-  
22 ble, ocean acidification, drought, flooding,  
23 and wildfire; and

1                   (B) identify and recommend priorities for  
 2                   ongoing research needs on the issues described in  
 3                   subparagraph (A).

4                   (4) *COLLABORATION.*—The Board shall collabo-  
 5                   rate with climate change and ecosystem research enti-  
 6                   ties in other Federal agencies and departments.

7                   (5) *AVAILABILITY TO PUBLIC.*—The advice and  
 8                   recommendations of the Board shall be made avail-  
 9                   able to the public.

10 **SEC. 368. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-**  
 11 **TION PLANS.**

12                   (a) *DEVELOPMENT.*—Not later than 1 year after the  
 13                   date of development of the Strategy, each department or  
 14                   agency with representation on the Panel shall—

15                   (1) complete an adaptation plan for that depart-  
 16                   ment or agency that—

17                   (A) implements the Strategy and is con-  
 18                   sistent with the natural resources climate change  
 19                   adaptation policy required by section 362;

20                   (B) details the ongoing and expanding ac-  
 21                   tions of the department or agency, and any  
 22                   changes in decisionmaking processes necessary to  
 23                   increase the ability of resources under the juris-  
 24                   diction of the department or agency and, to the  
 25                   maximum extent practicable, resources under the

1       *jurisdiction of other departments and agencies*  
 2       *that may be significantly affected by decisions of*  
 3       *the department or agency, to become more resil-*  
 4       *ient, adapt to, and withstand the ongoing and*  
 5       *expected impacts of climate change, including,*  
 6       *where applicable, ocean acidification, drought,*  
 7       *floodings, and wildfire; and*

8               *(C) includes a timeline for implementation;*

9               *(2) provide opportunities for public review and*  
 10       *comment on the adaptation plan, and in the case of*  
 11       *a plan by the Bureau of Indian Affairs, review by In-*  
 12       *dian tribes; and*

13               *(3) submit the plan to the President for ap-*  
 14       *proval.*

15       *(b) REVIEW BY PRESIDENT AND SUBMISSION TO CON-*  
 16       *GRESS.—*

17               *(1) REVIEW BY PRESIDENT.—The President*  
 18       *shall—*

19               *(A) approve an adaptation plan submitted*  
 20       *under subsection (a)(3) if the plan meets the re-*  
 21       *quirements of subsection (c) and is consistent*  
 22       *with the Strategy; and*

23               *(B) decide whether to approve the plan*  
 24       *within 60 days of submission.*

1           (2) *DISAPPROVAL.*—*If the President disapproves*  
 2           *an adaptation plan, the President shall direct the de-*  
 3           *partment or agency to submit a revised plan within*  
 4           *60 days of that disapproval.*

5           (3) *SUBMISSION TO CONGRESS.*—*Not later than*  
 6           *30 days after the date of approval of an adaptation*  
 7           *plan by the President, the department or agency shall*  
 8           *submit the plan to—*

9                     *(A) the Committee on Natural Resources of*  
 10                    *the House of Representatives;*

11                    *(B) the Committee on Energy and Natural*  
 12                    *Resources of the Senate;*

13                    *(C) the Committee on Environment and*  
 14                    *Public Works of the Senate; and*

15                    *(D) any other committees of the House of*  
 16                    *Representatives or the Senate with principal ju-*  
 17                    *risdiction over the department or agency.*

18           (c) *REQUIREMENTS.*—*Each adaptation plan shall—*

19                    (1) *establish programs for assessing the ongoing*  
 20                    *and expected impacts of climate change, including,*  
 21                    *where applicable, ocean acidification, drought, flood-*  
 22                    *ing, and wildfire on natural resources under the ju-*  
 23                    *risdiction of the department or agency preparing the*  
 24                    *plan, including—*

1           (A) *assessment of cumulative and syner-*  
 2           *gistic effects; and*

3           (B) *programs that identify and monitor*  
 4           *natural resources likely to be adversely affected*  
 5           *and that have need for conservation;*

6           (2) *identify and prioritize—*

7           (A) *the strategies of the department or agen-*  
 8           *cy preparing the plan;*

9           (B) *the specific conservation actions that*  
 10          *address the ongoing and expected impacts of cli-*  
 11          *mate change, including, where applicable, ocean*  
 12          *acidification, drought, flooding, and wildfire on*  
 13          *natural resources under jurisdiction of the de-*  
 14          *partment or agency preparing the plan;*

15          (C) *strategies to protect, restore, and con-*  
 16          *serve such resources to become more resilient,*  
 17          *adapt to, and better withstand those impacts, in-*  
 18          *cluding—*

19               (i) *protection, restoration, and con-*  
 20               *servation of terrestrial, marine, estuarine,*  
 21               *and freshwater habitats and ecosystems;*

22               (ii) *establishment of terrestrial, ma-*  
 23               *rine, estuarine, and freshwater habitat link-*  
 24               *ages and corridors;*

1                   (iii) restoration and conservation of ec-  
2                   ological processes;

3                   (iv) protection of a broad diversity of  
4                   native species of fish, wildlife, and plant  
5                   populations across the ranges of those spe-  
6                   cies; and

7                   (v) protection of fish, wildlife, and  
8                   plant health, recognizing that climate can  
9                   alter the distribution and ecology of  
10                  parasites, pathogens, and vectors;

11               (3) describe how the department or agency  
12               will—

13                   (A) integrate the strategies and conservation  
14                   activities into plans, programs, activities, and  
15                   actions of the department or agency relating to  
16                   the conservation and management of natural re-  
17                   sources; and

18                   (B) establish new plans, programs, activi-  
19                   ties, and actions, if necessary;

20               (4) establish methods—

21                   (A) to assess the effectiveness of strategies  
22                   and conservation actions the department or  
23                   agency takes to protect, restore, and conserve  
24                   natural resources so natural resources become

1           *more resilient, adapt to, and withstand the ongoing and expected impacts of climate change; and*

2                           *(B) to update those strategies and actions to*  
 3           *respond to new information and changing conditions;*

4           *(5) describe current and proposed mechanisms to*  
 5           *enhance cooperation and coordination of natural resources*  
 6           *adaptation efforts with other Federal agencies,*  
 7           *State and local governments, Indian tribes, and non-*  
 8           *governmental stakeholders;*

9           *(6) include written guidance to resource managers that—*

10                           *(A) explains how managers are expected to*  
 11           *address the ongoing and expected effects of climate change,*  
 12           *including, where applicable, ocean acidification, drought, flooding, and wildfire;*

13                           *(B) identifies how managers shall obtain*  
 14           *any necessary site-specific information; and*

15                           *(C) reflects best practices shared among relevant*  
 16           *agencies, but recognizes the unique missions, objectives, and responsibilities of each*  
 17           *agency;*

18           *(7) identify and assess data and information*  
 19           *gaps necessary to develop natural resources adaptation plans and strategies; and*



1           (8) *consider strategies that engage youth and*  
2           *young adults (including youth and young adults*  
3           *working in full-time or part-time youth service or*  
4           *conservation corps programs) to provide the youth*  
5           *and young adults with opportunities for meaningful*  
6           *conservation and community service and to encourage*  
7           *opportunities for employment in the private sector*  
8           *through partnerships with employers.*

9           (d) *IMPLEMENTATION.—*

10           (1) *IN GENERAL.—Upon approval by the Presi-*  
11           *dent, each department or agency with representation*  
12           *on the Panel shall, consistent with existing authority,*  
13           *implement the adaptation plan of the department or*  
14           *agency through existing and new plans, policies, pro-*  
15           *grams, activities, and actions.*

16           (2) *CONSIDERATION OF IMPACTS.—To the max-*  
17           *imum extent practicable and consistent with existing*  
18           *authority, natural resource management decisions*  
19           *made by the department or agency shall consider the*  
20           *ongoing and expected impacts of climate change, in-*  
21           *cluding, where applicable, ocean acidification,*  
22           *drought, flooding, and wildfire on natural resources.*

23           (e) *REVISION AND REVIEW.—Not less than every 5*  
24           *years, each department or agency shall review and revise*  
25           *the adaptation plan of the department or agency to incor-*

1 *porate the best available science, and other information, re-*  
 2 *garding the ongoing and expected impacts of climate change*  
 3 *on natural resources.*

4 **SEC. 369. STATE NATURAL RESOURCES ADAPTATION**  
 5 **PLANS.**

6 *(a) REQUIREMENT.—In order to be eligible for funds*  
 7 *under section 370, not later than 1 year after the develop-*  
 8 *ment of the Strategy, each State shall prepare a State nat-*  
 9 *ural resources adaptation plan detailing current and future*  
 10 *efforts of the State to address the ongoing and expected im-*  
 11 *pacts of climate change on natural resources and coastal*  
 12 *areas within the jurisdiction of the State.*

13 *(b) REVIEW OR APPROVAL.—*

14 *(1) IN GENERAL.—The Secretary of the Interior*  
 15 *and, as applicable, the Secretary of Commerce shall*  
 16 *review each State adaptation plan, and approve the*  
 17 *plan if the plan—*

18 *(A) meets the requirements of subsection (c);*

19 *and*

20 *(B) is consistent with the Strategy.*

21 *(2) APPROVAL OR DISAPPROVAL.—The Secretary*  
 22 *of the Interior and, as applicable, the Secretary of*  
 23 *Commerce shall approve or disapprove the plan by*  
 24 *written notice not later than 180 days after the date*  
 25 *of submission of the plan (or a revised plan).*

1           (3) *RESUBMISSION*.—Not later than 90 days  
 2       after the date of resubmission of an adaptation plan  
 3       that has been disapproved under paragraph (2), the  
 4       Secretary of the Interior and, as applicable, the Sec-  
 5       retary of Commerce, shall approve or disapprove the  
 6       plan by written notice.

7       (c) *CONTENTS*.—A State natural resources adaptation  
 8       plan shall—

9           (1) include strategies for addressing the ongoing  
 10       and expected impacts of climate change, including,  
 11       where applicable, ocean acidification, drought, flood-  
 12       ing, and wildfire on terrestrial, marine, estuarine,  
 13       and freshwater fish, wildlife, plants, habitats, eco-  
 14       systems, wildlife health, and ecological processes  
 15       that—

16           (A) describe the ongoing and expected im-  
 17       pacts of climate change, including, where appli-  
 18       cable, ocean acidification, drought, flooding, and  
 19       wildfire on the diversity and health of fish, wild-  
 20       life and plant populations, habitats, ecosystems,  
 21       and associated ecological processes;

22           (B) establish programs for monitoring the  
 23       ongoing and expected impacts of climate change,  
 24       including, where applicable, ocean acidification,  
 25       drought, flooding, and wildfire on fish, wildlife,

1           *and plant populations, habitats, ecosystems, and*  
2           *associated ecological processes;*

3           *(C) describe and prioritize proposed con-*  
4           *servation actions that increase the ability of fish,*  
5           *wildlife, plant populations, habitats, ecosystems,*  
6           *and associated ecological processes to become*  
7           *more resilient, adapt to, and better withstand*  
8           *those impacts;*

9           *(D) consider strategies that engage youth*  
10          *and young adults (including youth and young*  
11          *adults working in full-time or part-time youth*  
12          *service or conservation corps programs) to pro-*  
13          *vide the youth and young adults with opportuni-*  
14          *ties for meaningful conservation and community*  
15          *service and to encourage opportunities for em-*  
16          *ployment in the private sector through partner-*  
17          *ships with employers;*

18          *(E) integrate protection and restoration of*  
19          *resource resilience into agency decision making*  
20          *and specific conservation actions;*

21          *(F) include a time frame for implementing*  
22          *conservation actions for fish, wildlife, and plant*  
23          *populations, habitats, ecosystems, and associated*  
24          *ecological processes;*

25          *(G) establish methods—*

1           (i) for assessing the effectiveness of  
 2           strategies and conservation actions taken to  
 3           increase the ability of fish, wildlife, and  
 4           plant populations, habitats, ecosystems, and  
 5           associated ecological processes to become  
 6           more resilient, adapt to, and better with-  
 7           stand the ongoing and expected impacts of  
 8           climate changes, including, where applica-  
 9           ble, ocean acidification, drought, flooding,  
 10          and wildfire; and

11          (ii) for updating strategies and actions  
 12          to respond appropriately to new informa-  
 13          tion or changing conditions;

14          (H) are incorporated into a revision of the  
 15          State wildlife action plan (also known as the  
 16          State comprehensive wildlife strategy) that has  
 17          been—

18               (i) submitted to the United States Fish  
 19               and Wildlife Service; and

20               (ii) approved, or is pending approval,  
 21               by the United States Fish and Wildlife  
 22               Service; and

23          (I) are developed—

24               (i) with the participation of the State  
 25               fish and wildlife agency, the State coastal

1           *agency, the State agency responsible for ad-*  
 2           *ministration of Land and Water Conserva-*  
 3           *tion Fund grants, the State Forest Legacy*  
 4           *program coordinator, and other State agen-*  
 5           *cies considered appropriate by the Governor*  
 6           *of the State;*

7           *(ii) in coordination with the Secretary*  
 8           *of the Interior, and where applicable, the*  
 9           *Secretary of Commerce;*

10          *(iii) in coordination with other States*  
 11          *that share jurisdiction over natural re-*  
 12          *sources with the State; and*

13          *(iv) in coordination with—*

14               *(I) Indian tribes that located*  
 15               *within the State; and*

16               *(II) Indian tribes having treaty*  
 17               *rights to natural resources within the*  
 18               *State; and*

19          *(2) in the case of a coastal State, include strate-*  
 20          *gies for addressing the ongoing and expected impacts*  
 21          *of climate change, including, where applicable, ocean*  
 22          *acidification, drought, flooding, and wildfire on a*  
 23          *coastal zone that—*

1           (A) *identify natural resources likely to be*  
 2           *impacted by climate change, and describe the*  
 3           *impacts;*

4           (B) *identify and prioritize continuing re-*  
 5           *search and data collection needed to address the*  
 6           *impacts, including—*

7                   (i) *acquisition of high-resolution coast-*  
 8                   *al elevation and nearshore bathymetry data;*

9                   (ii) *historic shoreline position maps,*  
 10                  *erosion rates, and inventories of shoreline*  
 11                  *features and structures;*

12                  (iii) *measures and models of relative*  
 13                  *rates of sea level rise or lake level changes,*  
 14                  *including effects on flooding, storm surge,*  
 15                  *inundation, and coastal geological processes;*

16                  (iv) *measures and models of habitat*  
 17                  *loss, including projected losses of coastal*  
 18                  *wetlands and potentials for inland migra-*  
 19                  *tion of natural shoreline habitats;*

20                  (v) *measures and models of ocean and*  
 21                  *coastal species and ecosystem migrations,*  
 22                  *and changes in species population dynam-*  
 23                  *ics;*

24                  (vi) *changes in storm frequency, inten-*  
 25                  *sity, or rainfall patterns;*

- 1                   (vii) measures and models of saltwater
- 2                   intrusion into coastal rivers and aquifers;
- 3                   (viii) changes in chemical or physical
- 4                   characteristics of marine and estuarine sys-
- 5                   tems, including the presence, extent, and
- 6                   timing of hypoxic and anoxic conditions;
- 7                   (ix) measures and models of increased
- 8                   harmful algal blooms; and
- 9                   (x) measures and models of the spread
- 10                  of invasive species;
- 11                  (C) identify and prioritize adaptation
- 12                  strategies to protect, restore, and conserve nat-
- 13                  ural resources to enable natural resources to be-
- 14                  come more resilient, adapt to, and withstand the
- 15                  ongoing and expected impacts of climate change,
- 16                  including, where applicable, ocean acidification,
- 17                  drought, flooding, and wildfire, including—
- 18                   (i) protection, maintenance, and res-
- 19                   toration of ecologically important coastal
- 20                   lands, coastal and ocean ecosystems, and
- 21                   species biodiversity and the establishment of
- 22                   habitat buffer zones, migration corridors,
- 23                   and climate refugia; and



1           (ii) improved planning, siting policies,  
 2           hazard mitigation strategies, and State  
 3           property insurance programs;

4           (D) establish programs—

5           (i) for the long-term monitoring of the  
 6           ongoing and expected impacts of climate  
 7           change, including, where applicable, ocean  
 8           acidification, drought, flooding, and wild-  
 9           fire on the ocean and coastal zone; and

10          (ii) assess and adjust, when necessary,  
 11          the adaptive management strategies;

12          (E) establish performance measures that—

13          (i) assess the effectiveness of adaptation  
 14          strategies intended to improve resilience  
 15          and the ability of natural resources to  
 16          adapt to and withstand the ongoing and ex-  
 17          pected impacts of climate change, including,  
 18          where applicable, ocean acidification,  
 19          drought, flooding, and wildfire;

20          (ii) assess the effectiveness of adapta-  
 21          tion strategies intended to minimize those  
 22          impacts on the coastal zone; and

23          (iii) update the strategies to respond to  
 24          new information or changing conditions;  
 25          and

1                   (F) are developed—

2                   (i) with the participation of the State  
3                   coastal agency and other appropriate State  
4                   agencies; and

5                   (ii) in coordination with the Secretary  
6                   of Commerce and other appropriate Federal  
7                   agencies.

8           (d) *PUBLIC INPUT.*—In developing the adaptation  
9   plan, a State shall provide for solicitation and consider-  
10 ation of public input and independent scientific input.

11          (e) *COORDINATION WITH OTHER PLANS.*—The State  
12 adaptation plan shall review research and information and,  
13 where appropriate, integrate the goals and measures set  
14 forth in other natural resources conservation strategies, in-  
15 cluding—

16                   (1) the National Fish Habitat Action Plan;

17                   (2) plans under the North American Wetlands  
18 Conservation Act (16 U.S.C. 4401 et seq.);

19                   (3) the Federal, State, and local partnership  
20 known as “Partners in Flight”;

21                   (4) federally approved coastal zone management  
22 plans under the Coastal Zone Management Act of  
23 1972 (16 U.S.C. 1451 et seq.);

24                   (5) federally approved regional fishery manage-  
25 ment plants and habitat conservation activities under

1        *the Magnuson-Stevens Fishery Conservation and*  
2        *Management Act (16 U.S.C. 1801 et seq.);*

3                *(6) the National Coral Reef Action Plan;*

4                *(7) recovery plans for threatened species and en-*  
5        *dangered species under section 4(f) of the Endangered*  
6        *Species Act of 1973 (16 U.S.C. 1533(f));*

7                *(8) habitat conservation plans under section 10*  
8        *of that Act (16 U.S.C. 1539);*

9                *(9) other Federal, State, and tribal plans for im-*  
10       *periled species;*

11               *(10) State or tribal hazard mitigation plans;*

12               *(11) State or tribal water management plans;*

13               *(12) State property insurance programs; and*

14               *(13) other State-based strategies that comprehen-*  
15       *sively implement adaptation activities to remediate*  
16       *the ongoing and expected effects of climate change, in-*  
17       *cluding, where applicable, ocean acidification,*  
18       *drought, flooding, and wildfire, on terrestrial, marine,*  
19       *and freshwater fish, wildlife, plants, and other nat-*  
20       *ural resources.*

21        *(f) UPDATING.—Each State plan shall be updated at*  
22       *least every 5 years.*

23        *(g) FUNDING.—*

24               *(1) IN GENERAL.—Funds allocated to States*  
25       *under section 370 shall be used only for activities con-*

1        *sistent with a State natural resources adaptation*  
 2        *plan approved by the Secretary of the Interior and,*  
 3        *as appropriate, the Secretary of Commerce.*

4            (2) *FUNDING PRIOR TO THE APPROVAL OF A*  
 5        *STATE PLAN.*—*Until the earlier of the date that is 3*  
 6        *years after the date of enactment of this Act or the*  
 7        *date on which a State adaptation plan is approved,*  
 8        *a State shall be eligible to receive funding under sec-*  
 9        *tion 370 for adaptation activities that are—*

10            (A) *consistent with the comprehensive wild-*  
 11        *life strategy of the State and, where appropriate,*  
 12        *other natural resources conservation strategies;*  
 13        *and*

14            (B) *in accordance with a work plan devel-*  
 15        *oped in coordination with—*

16                    (i) *the Secretary of the Interior; and*

17                    (ii) *the Secretary of Commerce.*

18            (3) *COASTAL STATE.*—*In developing a work plan*  
 19        *under paragraph (2)(B), a coastal State shall coordi-*  
 20        *nate with the Secretary of Commerce only for those*  
 21        *portions of the strategy relating to activities affecting*  
 22        *the coastal zone.*

23            (4) *PENDING APPROVAL.*—*During the period for*  
 24        *which approval by the applicable Secretary is pend-*  
 25        *ing, the State may continue to receive funds under*

1        *section 370 pursuant to the work plan described in*  
 2        *paragraph (2)(B).*

3    **SEC. 370. NATURAL RESOURCES CLIMATE CHANGE ADAPTA-**  
 4        **TION ACCOUNT.**

5        *(a) DISTRIBUTION.—*

6            *(1) STATES.—The assistance made available*  
 7        *pursuant to section 771(a)(16) of the Clean Air Act*  
 8        *and section 216 of division B for each fiscal year*  
 9        *shall be provided to States to carry out natural re-*  
 10       *sources adaptation activities in accordance with ad-*  
 11       *aptation plans approved under section 369, and shall*  
 12       *be distributed as follows:*

13            *(A) 84 percent shall be available to State*  
 14        *wildlife agencies in accordance with the appor-*  
 15        *tionment formula established under the second*  
 16        *subsection (c) (relating to the apportionment of*  
 17        *the Wildlife Conservation and Restoration Ac-*  
 18        *count) of section 4 of the Pittman-Robertson*  
 19        *Wildlife Restoration Act (16 U.S.C. 669c).*

20            *(B) 16 percent shall be available to State*  
 21        *coastal agencies pursuant to the formula estab-*  
 22        *lished by the Secretary of Commerce under sec-*  
 23        *tion 306(c) of the Coastal Management Act of*  
 24        *1972 (16 U.S.C. 1455(c)).*

1           (2) *NATURAL RESOURCE ADAPTATION.*—Of the  
2           amounts made available pursuant to section 771(b)(7)  
3           of the Clean Air Act and section 212 of division B  
4           for each fiscal year to carry out this subpart—

5                   (A) 28 percent shall be allocated to the Sec-  
6           retary of the Interior for use in funding—

7                           (i) natural resources adaptation activi-  
8           ties carried out—

9                                   (I) under endangered species, mi-  
10           gratory species, and other fish and  
11           wildlife programs administered by the  
12           National Park Service, the United  
13           States Fish and Wildlife Service, the  
14           Bureau of Indian Affairs, and the Bu-  
15           reau of Land Management;

16                                  (II) on wildlife refuges, National  
17           Park Service land, and other public  
18           land under the jurisdiction of the  
19           United States Fish and Wildlife Serv-  
20           ice, the Bureau of Land Management,  
21           the Bureau of Indian Affairs, or the  
22           National Park Service; and

23                                  (III) within Federal water man-  
24           aged by the Bureau of Reclamation  
25           and the National Park Service; and

1                   (ii) the implementation of the National  
2                   Fish and Wildlife Habitat and Corridors  
3                   Information Program required by section  
4                   371;

5                   (B) 8 percent shall be allocated to the Sec-  
6                   retary of the Interior for natural resources adap-  
7                   tation activities carried out under cooperative  
8                   grant programs, including—

9                   (i) the cooperative endangered species  
10                  conservation fund authorized under section  
11                  6 of the Endangered Species Act of 1973 (16  
12                  U.S.C. 1535);

13                  (ii) programs under the North Amer-  
14                  ican Wetlands Conservation Act (16 U.S.C.  
15                  4401 et seq.);

16                  (iii) the Neotropical Migratory Bird  
17                  Conservation Fund established by section  
18                  9(a) of the Neotropical Migratory Bird Con-  
19                  servation Act (16 U.S.C. 6108(a));

20                  (iv) the Coastal Program of the United  
21                  States Fish and Wildlife Service;

22                  (v) the National Fish Habitat Action  
23                  Plan;

24                  (vi) the Partners for Fish and Wildlife  
25                  Program;

1                   (vii) *the Landowner Incentive Pro-*  
2                   *gram;*

3                   (viii) *the Wildlife Without Borders*  
4                   *Program of the United States Fish and*  
5                   *Wildlife Service; and*

6                   (ix) *the Migratory Species Program*  
7                   *and Park Flight Migratory Bird Program*  
8                   *of the National Park Service; and*

9                   (C) *5 percent shall be allocated to the Sec-*  
10                  *retary of the Interior to provide financial assist-*  
11                  *ance to Indian tribes to carry out natural re-*  
12                  *sources adaptation activities through—*

13                  (i) *the Trust Natural Resources Pro-*  
14                  *gram of the Bureau of Indian Affairs; and*

15                  (ii) *the Tribal Wildlife Grants Pro-*  
16                  *gram of the United States Fish and Wildlife*  
17                  *Service.*

18                  (3) *LAND AND WATER CONSERVATION.—*

19                  (A) *DEPOSITS.—*

20                  (i) *IN GENERAL.—Of the amounts*  
21                  *made available pursuant to section*  
22                  *771(b)(7) of the Clean Air Act and section*  
23                  *212 of division B for each fiscal year to*  
24                  *carry out this subpart, 20 percent shall be*  
25                  *deposited in the Land and Water Conserva-*



1            *tion Fund established under section 2 of the*  
 2            *Land and Water Conservation Fund Act of*  
 3            *1965 (16 U.S.C. 460l-5).*

4            *(ii) USE OF DEPOSITS.—Deposits in*  
 5            *the Land and Water Conservation Fund*  
 6            *under this paragraph shall—*

7                    *(I) be supplemental to authoriza-*  
 8                    *tions provided under section 3 of the*  
 9                    *Land and Water Conservation Fund*  
 10                  *Act of 1965 (16 U.S.C. 460l-6), which*  
 11                  *shall remain available for nonadapta-*  
 12                  *tion needs; and*

13                   *(II) be available to carry out this*  
 14                   *subpart without further appropriation*  
 15                   *or fiscal year limitation.*

16            *(B) DISTRIBUTION OF AMOUNTS.—Of the*  
 17            *amounts deposited under this paragraph in the*  
 18            *Land and Water Conservation Fund—*

19                   *(i) for the purposes of carrying out the*  
 20                   *natural resources adaptation activities*  
 21                   *through the acquisition of land and inter-*  
 22                   *ests in land under section 6 of the Land*  
 23                   *and Water Conservation Fund Act of 1965*  
 24                   *(16 U.S.C. 460l-8),  $\frac{1}{6}$  shall be allocated to*

1           *the Secretary of the Interior and made*  
2           *available on a competitive basis—*

3                     *(I) to States, in accordance with*  
4                     *the natural resources adaptation plans*  
5                     *of States, and to Indian tribes;*

6                     *(II) notwithstanding section 5 of*  
7                     *that Act (16 U.S.C. 460l–7); and*

8                     *(III) in addition to any funds*  
9                     *provided pursuant to annual appro-*  
10                    *priations Acts, the Energy Policy Act*  
11                    *of 2005 (42 U.S.C. 15801 et seq.), or*  
12                    *any other authorization for non-*  
13                    *adaptation needs;*

14                    *(ii)  $\frac{1}{3}$  shall be allocated to the Sec-*  
15                    *retary of the Interior to carry out natural*  
16                    *resources adaptation activities through the*  
17                    *acquisition of lands and interests in land*  
18                    *under section 7 of the Land and Water Con-*  
19                    *servation Fund Act of 1965 (16 U.S.C.*  
20                    *460l–9);*

21                    *(iii)  $\frac{1}{6}$  shall be allocated to the Sec-*  
22                    *retary of Agriculture and made available to*  
23                    *the States and Indian tribes to carry out*  
24                    *natural resources adaptation activities*  
25                    *through the acquisition of land and inter-*

1            *ests in land under section 7 of the Coopera-*  
 2            *tive Forestry Assistance Act of 1978 (16*  
 3            *U.S.C. 2103c); and*

4            *(iv)  $\frac{1}{3}$  shall be allocated to the Sec-*  
 5            *retary of Agriculture to carry out natural*  
 6            *resources adaptation activities through the*  
 7            *acquisition of land and interests in land*  
 8            *under section 7 of the Land and Water Con-*  
 9            *servation Fund Act of 1965 (16 U.S.C.*  
 10           *460l–9).*

11           *(C) EXPENDITURE OF FUNDS.—In allo-*  
 12           *cating funds under subparagraph (B), the Sec-*  
 13           *retary of the Interior and the Secretary of Agri-*  
 14           *culture shall take into consideration factors in-*  
 15           *cluding—*

16           *(i) the availability of non-Federal con-*  
 17           *tributions from State, local, or private*  
 18           *sources;*

19           *(ii) opportunities to protect fish and*  
 20           *wildlife corridors or otherwise to link or*  
 21           *consolidate fragmented habitats;*

22           *(iii) opportunities to reduce the risk of*  
 23           *catastrophic wildfires, drought, extreme*  
 24           *flooding, or other climate-related events that*

1                   *are harmful to fish and wildlife and people;*

2                   *and*

3                   *(iv) the potential for conservation of*  
 4                   *species or habitat types at serious risk due*  
 5                   *to climate change, including, where applica-*  
 6                   *ble, ocean acidification, drought, flooding,*  
 7                   *and wildfire, or other stressors.*

8                   (4) *NATIONAL FOREST AND GRASSLAND ADAPTA-*  
 9                   *TION.—Of the amounts made available pursuant to*  
 10                  *section 771(b)(7) of the Clean Air Act and section 212*  
 11                  *of division B for each fiscal year to carry out this*  
 12                  *subpart, 8 percent shall be allocated to the Forest*  
 13                  *Service, through the Secretary of Agriculture—*

14                  (A) *to fund natural resources adaptation*  
 15                  *activities carried out in national forests and na-*  
 16                  *tional grasslands under the jurisdiction of the*  
 17                  *Forest Service; and*

18                  (B) *to carry out natural resource adapta-*  
 19                  *tion activities on State and private forest land*  
 20                  *carried out under the Cooperative Forestry As-*  
 21                  *sistance Act of 1978 (16 U.S.C. 2101 et seq.).*

22                  (5) *COASTAL AND MARINE SYSTEM ADAPTA-*  
 23                  *TION.—Of the amounts made available pursuant to*  
 24                  *section 771(b)(7) of the Clean Air Act and section 212*  
 25                  *of division B for each fiscal year to carry out this*

1       subpart, 11 percent shall be allocated to the Secretary  
2       of Commerce to fund natural resources adaptation ac-  
3       tivities that protect, maintain, and restore coastal, es-  
4       tuarine, and marine resources, habitats, and eco-  
5       systems, including such activities carried out under—

6               (A) the coastal and estuarine land conserva-  
7               tion program administered by the National Oce-  
8               anic and Atmospheric Administration;

9               (B) the community-based restoration pro-  
10              gram for fishery and coastal habitats established  
11              under section 117 of the Magnuson-Stevens Fish-  
12              ery Conservation and Management Reauthoriza-  
13              tion Act of 2006 (16 U.S.C. 1891a);

14             (C) the Coastal Zone Management Act of  
15             1972 (16 U.S.C. 1451 et seq.) that are specifi-  
16             cally designed to strengthen the ability of coastal,  
17             estuarine, and marine resources, habitats, and  
18             ecosystems to adapt to and withstand the ongo-  
19             ing and expected impacts of climate change, in-  
20             cluding, where applicable, ocean acidification,  
21             drought, flooding, and wildfire;

22             (D) the Open Rivers Initiative;

23             (E) the Magnuson-Stevens Fishery Con-  
24             servation and Management Act (16 U.S.C. 1801  
25             et seq.);

1                   (F) the Marine Mammal Protection Act of  
2                   1972 (16 U.S.C. 1361 et seq.);

3                   (G) the Endangered Species Act of 1973 (16  
4                   U.S.C. 1531 et seq.);

5                   (H) the Marine Protection, Research, and  
6                   Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);

7                   (I) the Coral Reef Conservation Act of 2000  
8                   (16 U.S.C. 6401 et seq.); and

9                   (J) the Estuary Restoration Act of 2000 (33  
10                  U.S.C. 2901 et seq.).

11               (6) *ESTUARINE AND FRESHWATER ECOSYSTEM*  
12               *ADAPTATION.*—Of the amounts made available pursu-  
13               ant to section 771(b)(7) of the Clean Air Act and sec-  
14               tion 212 of division B for each fiscal year to carry  
15               out this subpart, 12 percent shall be allocated to the  
16               Administrator of the Environmental Protection Agen-  
17               cy and 8 percent shall be available to the Secretary  
18               of the Army for use by the Corps of Engineers for use  
19               in natural resources adaptation activities restoring  
20               and protecting—

21               (A) large-scale freshwater aquatic eco-  
22               systems, such as the Everglades, the Great Lakes,  
23               Flathead Lake, the Missouri River, the Mis-  
24               sissippi River, the Colorado River, the Sac-  
25               ramento-San Joaquin Rivers, the Ohio River,

1        *the Columbia-Snake River System, the Apalachi-*  
 2        *cola, Chattahoochee, and Flint River System, the*  
 3        *Connecticut River, the Rio Grande River, and*  
 4        *the Yellowstone River;*

5            *(B) large-scale estuarine ecosystems, such as*  
 6        *Chesapeake Bay, Long Island Sound, Puget*  
 7        *Sound, the Mississippi River Delta, the San*  
 8        *Francisco Bay Delta, Narragansett Bay, and Al-*  
 9        *bemarle-Pamlico Sound;*

10           *(C) freshwater and estuarine ecosystems,*  
 11        *watersheds, and basins identified and prioritized*  
 12        *by the Administrator of the Environmental Pro-*  
 13        *tection Agency or the Corps of Engineers, work-*  
 14        *ing in cooperation with other Federal agencies,*  
 15        *States, Indian tribes, local governments, sci-*  
 16        *entists, and other conservation partners; and*

17           *(D)(i) habitats and ecosystems through estu-*  
 18        *ary habitat restoration projects authorized by the*  
 19        *Estuary Restoration Act of 2000 (33 U.S.C.*  
 20        *2901 et seq.);*

21           *(ii) project modifications for improvement*  
 22        *of the environment;*

23           *(iii) aquatic restoration and protection*  
 24        *projects authorized by section 206 of the Water*

1           *Resources Development Act of 1996 (33 U.S.C.*  
 2           *2330); and*

3                     *(iv) other appropriate programs and activi-*  
 4           *ties.*

5           ***(b) USE OF FUNDS BY FEDERAL DEPARTMENTS AND***  
 6   ***AGENCIES.—Funds allocated to Federal departments and***  
 7   ***agencies under this section shall only be used for natural***  
 8   ***resources adaptation activities consistent with an adapta-***  
 9   ***tion plan approved under section 368.***

10          ***(c) STATE COST-SHARING.—Notwithstanding any***  
 11   ***other provision of law, a State that receives a grant under***  
 12   ***this section shall use funds from non-Federal sources to pay***  
 13   ***10 percent of the costs of each activity carried out under***  
 14   ***the grant.***

15   **SEC. 371. NATIONAL FISH AND WILDLIFE HABITAT AND**  
 16                     **CORRIDORS INFORMATION PROGRAM.**

17          ***(a) DEFINITIONS.—In this section:***

18                     ***(1) GEOSPATIAL INTEROPERABILITY FRAME-***  
 19   ***WORK.—The term “Geospatial Interoperability***  
 20   ***Framework” means the strategy used by the National***  
 21   ***Biological Information Infrastructure (based on ac-***  
 22   ***cepted standards, specifications, and protocols adopt-***  
 23   ***ed through the International Standards Organization,***  
 24   ***the Open Geospatial Consortium, and the Federal Ge-***  
 25   ***ographic Data Committee) to manage, archive, inte-***



1        *grate, analyze, and make geospatial and biological*  
2        *data and metadata accessible.*

3            (2) *PROGRAM.*—*The term “Program” means the*  
4        *National Fish and Wildlife Habitat and Corridors*  
5        *Information Program established under subsection*  
6        *(b).*

7            (3) *SECRETARY.*—*The term “Secretary” means*  
8        *the Secretary of the Interior.*

9            (4) *SYSTEM.*—*The term “System” means the*  
10       *Habitat and Corridors Information System estab-*  
11       *lished under subsection (d)(1).*

12        (b) *ESTABLISHMENT.*—*Not later than 180 days after*  
13       *the date of enactment of this Act, the Secretary, in coopera-*  
14       *tion with the States and Indian tribes, shall establish a Na-*  
15       *tional Fish and Wildlife Habitat and Corridors Informa-*  
16       *tion Program.*

17        (c) *PURPOSE.*—*The purposes of the Program are—*

18            (1) *to support States and Indian tribes in devel-*  
19        *oping geographical information system databases of*  
20        *fish and wildlife habitats and corridors that—*

21            (A) *inform planning and development deci-*  
22        *sions within each State and Indian tribe;*

23            (B) *enable each State and Indian tribe to*  
24        *model climate impacts and adaptation; and*

1           (C) provide geographically specific enhance-  
 2           ments of State wildlife action plans and con-  
 3           servation or natural resource management plans  
 4           of Indian tribes;

5           (2) to ensure the collaborative development of a  
 6           comprehensive national geographic information sys-  
 7           tem database of maps, models, data, surveys, informa-  
 8           tional products, and other geospatial information re-  
 9           garding fish and wildlife habitat and corridors that—

10           (A) is based on consistent protocols for sam-  
 11           pling and mapping across landscapes;

12           (B) takes into account regional differences;

13           and

14           (C) uses—

15           (i) existing and planned State- and  
 16           tribal-based geographical information sys-  
 17           tem databases; and

18           (ii) existing databases, analytical tools,  
 19           metadata activities, and other information  
 20           products available through the National Bi-  
 21           ological Information Infrastructure main-  
 22           tained by the Secretary and nongovern-  
 23           mental organizations; and

24           (3) to facilitate the use of those databases by  
 25           Federal, State, local, and tribal decisionmakers to in-

1        *corporate qualitative information on fish and wildlife*  
 2        *habitats and corridors at the earliest practicable stage*  
 3        *for use in—*

4                (A) *prioritizing and targeting natural re-*  
 5                *sources adaptation strategies and activities;*

6                (B) *avoiding, minimizing, and mitigating*  
 7                *the impacts on fish and wildlife habitat and cor-*  
 8                *ridors when locating energy development, water,*  
 9                *transmission, transportation, and other land use*  
 10               *projects;*

11               (C) *assessing the impacts of existing devel-*  
 12               *opment on habitats and corridors; and*

13               (D) *developing management strategies that*  
 14               *enhance the ability of fish, wildlife, and plant*  
 15               *species to migrate or respond to shifting habitats*  
 16               *within existing habitats and corridors.*

17        (d) *HABITAT AND CORRIDORS INFORMATION SYS-*  
 18        *TEM.—*

19               (1) *IN GENERAL.—The Secretary, in cooperation*  
 20               *with States and Indian tribes, shall establish a Habi-*  
 21               *tat and Corridors Information System.*

22               (2) *CONTENTS.—The System shall—*

23                        (A) *include maps, data, and descriptions of*  
 24                        *fish and wildlife habitat and corridors that—*

1                   (i) have been developed by Federal  
 2                   agencies, State wildlife agencies, and nat-  
 3                   ural heritage programs, Indian tribes, local  
 4                   governments, nongovernmental organiza-  
 5                   tions, and industry; and

6                   (ii) meet accepted geospatial interoper-  
 7                   ability framework data and metadata pro-  
 8                   tocols and standards;

9                   (B) include maps and descriptions of pro-  
 10                  jected shifts in habitats and corridors of fish and  
 11                  wildlife species in response to climate change;

12                  (C) ensure data quality;

13                  (D) at scales useful to decisionmakers, make  
 14                  data, models, and analyses included in the Sys-  
 15                  tem available—

16                   (i) to prioritize and target natural re-  
 17                   sources adaptation strategies and activities;

18                   (ii) to assess the impacts of existing de-  
 19                   velopment on habitats and corridors;

20                   (iii) to assess the impacts of proposed  
 21                   energy development, water, transmission,  
 22                   transportation, and other land use projects  
 23                   and to avoid, minimize, or mitigate those  
 24                   impacts on habitats and corridors; and

1                   (iv) to develop management strategies  
 2                   that enhance the ability of fish, wildlife,  
 3                   and plant species to migrate or respond to  
 4                   shifting habitats within existing habitats  
 5                   and corridors;

6                   (E) update maps and other information as  
 7                   landscapes, habitats, corridors, and wildlife pop-  
 8                   ulations change, or as new information becomes  
 9                   available;

10                  (F) encourage development of collaborative  
 11                  plans by Federal and State agencies and Indian  
 12                  tribes that monitor and evaluate the ability of  
 13                  the System to meet the needs of decisionmakers;

14                  (G) identify gaps in habitat and corridor  
 15                  information, mapping, and research needed to  
 16                  fully assess current data and metadata;

17                  (H) prioritize research and future data col-  
 18                  lection activities for use in updating the System  
 19                  and provide support for those activities;

20                  (I) include mechanisms to support collabo-  
 21                  rative research, mapping, and planning of habi-  
 22                  tats and corridors by Federal and State agencies,  
 23                  Indian tribes, and other interested stakeholders;

24                  (J) incorporate biological and geospatial  
 25                  data on species and corridors found in energy

development and transmission plans, including  
renewable energy initiatives, transportation, and  
other land use plans;

(K) identify, prioritize, and describe key  
parcels of non-Federal land that—

(i) are located within units of the Na-  
tional Park System, National Wildlife Ref-  
uge System, National Forest System, or Na-  
tional Grassland System; and

(ii) are critical to maintenance of  
wildlife habitat and migration corridors;  
and

(L) be based on the best scientific informa-  
tion available.

(e) *FINANCIAL AND OTHER SUPPORT.*—The Secretary  
may provide support to the States and Indian tribes, in-  
cluding financial and technical assistance, for activities  
that support the development and implementation of the  
System.

(f) *COORDINATION.*—In cooperation with States and  
Indian tribes, the Secretary shall recommend how the infor-  
mation in the System may be incorporated into relevant  
State and Federal plans that affect fish and wildlife, in-  
cluding—

(1) land management plans;

1           (2) *the State Comprehensive Wildlife Conserva-*  
 2           *tion Strategies; and*

3           (3) *appropriate tribal conservation plans.*

4           (g) *PURPOSE OF INCORPORATION.—The Secretary*  
 5           *shall make the recommendations required by subsection (f)*  
 6           *to ensure that relevant State and Federal plans that affect*  
 7           *fish and wildlife—*

8           (1) *prevent unnecessary habitat fragmentation*  
 9           *and disruption of corridors;*

10          (2) *promote the landscape connectivity necessary*  
 11          *to allow wildlife to move as necessary to meet biologi-*  
 12          *cal needs, adjust to shifts in habitat, and adapt to cli-*  
 13          *mate change; and*

14          (3) *minimize the impacts of energy, development,*  
 15          *water, transportation, and transmission projects and*  
 16          *other activities expected to impact habitat and cor-*  
 17          *ridors.*

18 **SEC. 372. ADDITIONAL PROVISIONS REGARDING INDIAN**  
 19                                   **TRIBES.**

20          (a) *FEDERAL TRUST RESPONSIBILITY.—Nothing in*  
 21          *this subpart amends, alters, or gives priority over the Fed-*  
 22          *eral trust responsibility to any Indian tribe.*

23          (b) *EXEMPTION FROM FOIA.—If a Federal depart-*  
 24          *ment or agency receives any information relating to sacred*  
 25          *sites or cultural activities identified by an Indian tribe as*

1 *confidential, such information shall be exempt from disclo-*  
 2 *sure under section 552 of title 5, United States Code (com-*  
 3 *monly referred to as the Freedom of Information Act).*

4 *(c) APPLICATION OF OTHER LAW.—The Secretary of*  
 5 *the Interior may apply the provisions of the Indian Self-*  
 6 *Determination and Education Assistance Act (25 U.S.C.*  
 7 *450 et seq.) in the implementation of this subpart.*

8 *(d) PROTECTION OF RIGHT AND ACCESS OF INDIAN*  
 9 *TRIBES TO FIRST FOODS.—*

10 *(1) DEFINITION OF FIRST FOODS.—In this sub-*  
 11 *section, the term “first foods” means roots, berries,*  
 12 *and plants.*

13 *(2) PROTECTION.—Consistent with the Natural*  
 14 *Resources Climate Change Adaptation Policy under*  
 15 *section 362 and the Strategy, Federal departments*  
 16 *and agencies, States, and Indian tribes shall ensure*  
 17 *communication and coordination to protect treaty-re-*  
 18 *served rights of Indian tribes to gather first foods.*

19 ***Subpart D—Additional Climate Change Adaptation***  
 20 ***Programs***

21 ***SEC. 381. WATER SYSTEM MITIGATION AND ADAPTATION***  
 22 ***PARTNERSHIPS.***

23 *(a) DEFINITIONS.—In this section:*

24 *(1) OWNER OR OPERATOR.—*



1           (A) *IN GENERAL.*—The term “owner or op-  
2           erator” means a person (including a regional,  
3           tribal, local, municipal, or private entity) that  
4           owns or operates a water system.

5           (B) *INCLUSION.*—The term “owner or oper-  
6           ator” includes—

7                   (i) a non-Federal entity that has oper-  
8                   ational responsibilities for a federally or  
9                   State owned water system; and

10                   (ii) an entity formed pursuant to any  
11                   State’s joint exercise of powers statutes that  
12                   includes one or more of the entities in para-  
13                   graph (A).

14           (2) *WATER SYSTEM.*—The term “water system”  
15           means—

16                   (A) a community water system (as defined  
17                   in section 1401 of the Safe Drinking Water Act  
18                   (42 U.S.C. 300f));

19                   (B) a treatment works (as defined in section  
20                   212 of the Federal Water Pollution Control Act  
21                   (33 U.S.C. 1292)), including a municipal sepa-  
22                   rate storm sewer system;

23                   (C) a decentralized wastewater treatment  
24                   system for domestic sewage;

1                   (D) a groundwater storage and replenish-  
2                   ment system; or

3                   (E) a system for transport and delivery of  
4                   water for irrigation or conservation.

5           (b) *ESTABLISHMENT.*—*The Administrator shall estab-*  
6           *lish a water system mitigation and adaptation partnership*  
7           *program to provide funds to States and Indian tribes for*  
8           *water system adaptation projects.*

9           (c) *GRANTS.*—*Beginning in fiscal year 2010, each*  
10          *State or Indian tribe receiving funds pursuant to this sec-*  
11          *tion shall make grants to owners or operators of water sys-*  
12          *tems to address any ongoing or forecasted (based on the best*  
13          *available research and data) climate-related impact on the*  
14          *water quality, water supply or reliability of a region of the*  
15          *United States, for the purposes of mitigating or adapting*  
16          *to the impacts of climate change.*

17          (d) *ELIGIBLE USES.*—*The funds made available to*  
18          *each State or Indian tribe pursuant to this section shall*  
19          *be used exclusively to assist in the planning, design, con-*  
20          *struction, implementation, or operation or maintenance of*  
21          *any program or project to respond or increase the resilience*  
22          *of a water system to climate change by—*

23                  (1) *conserving water or enhancing water use effi-*  
24                  *ciency, including through the use of water metering*

1       *and electronic sensing and control systems to measure*  
2       *the effectiveness of a water efficiency program;*

3               *(2) modifying or relocating existing water sys-*  
4       *tem infrastructure made or projected to be signifi-*  
5       *cantly impaired by climate change impacts;*

6               *(3) preserving or improving water quality, in-*  
7       *cluding through measures to manage, reduce, treat, or*  
8       *reuse municipal stormwater, wastewater, or drinking*  
9       *water;*

10              *(4) investigating, designing, or constructing*  
11       *groundwater remediation, recycled water, or desalina-*  
12       *tion facilities or systems to serve existing commu-*  
13       *nities;*

14              *(5) enhancing water management by increasing*  
15       *watershed preservation and protection, such as*  
16       *through the use of natural or engineered green infra-*  
17       *structure in the management, conveyance, or treat-*  
18       *ment of water, wastewater, or stormwater;*

19              *(6) enhancing energy efficiency or the use and*  
20       *generation of renewable energy in the management,*  
21       *conveyance, or treatment of water, wastewater, or*  
22       *stormwater;*

23              *(7) supporting the adoption and use of advanced*  
24       *water treatment, water supply management (such as*  
25       *reservoir reoperation and water banking), or water*

1     *demand management technologies, projects, or proc-*  
2     *esses (such as water reuse and recycling, adaptive*  
3     *conservation pricing, and groundwater banking) that*  
4     *maintain or increase water supply or improve water*  
5     *quality;*

6             *(8) modifying or replacing existing systems or*  
7     *constructing new systems for existing communities or*  
8     *land currently in agricultural production to improve*  
9     *water supply, reliability, storage, or conveyance in a*  
10    *manner that—*

11                *(A) promotes conservation or improves the*  
12                *efficiency of utilization of available water sup-*  
13                *plies; and*

14                *(B) does not further exacerbate stresses on*  
15                *ecosystems or cause redirected impacts by de-*  
16                *grading water quality or increasing net green-*  
17                *house gas emissions;*

18             *(9) supporting practices and projects, such as*  
19     *improved irrigation systems, water banking and other*  
20     *forms of water transactions, groundwater recharge,*  
21     *stormwater capture, groundwater conjunctive use, and*  
22     *reuse or recycling of drainage water, to improve*  
23     *water quality or promote more efficient water use on*  
24     *land currently in agricultural production;*

1           (10) *conducting and completing studies or as-*  
2           *sessments to project how climate change may impact*  
3           *the future operations and sustainability of water sys-*  
4           *tems; or*

5           (11) *developing and implementing mitigation*  
6           *and adaptation measures to rapidly address impacts*  
7           *from climate change on water systems and regional*  
8           *and hydrological basins through cooperative activities*  
9           *with other States that share the same regional or*  
10          *hydrological basin (such as the Colorado River*  
11          *Basin), water system, or shoreline.*

12          (e) *APPLICATION.—To be eligible to receive a grant*  
13          *from the State of Indian tribe under this section, the owner*  
14          *or operator of a water system shall submit to the State or*  
15          *Indian tribe an application that—*

16               (1) *includes a proposal of the program, strategy,*  
17               *or infrastructure improvement to be planned, de-*  
18               *signed, constructed, implemented, or maintained by*  
19               *the water system;*

20               (2) *cites the best available research or data that*  
21               *demonstrate—*

22                       (A) *the risk to the water resources or infra-*  
23                       *structure of the water system as a result of ongo-*  
24                       *ing or forecasted changes to the hydrological sys-*  
25                       *tem brought about by factors arising from cli-*

1            *mate change, including rising sea levels and*  
 2            *changes in precipitation levels; and*

3            *(B) how the proposed program, strategy, or*  
 4            *infrastructure improvement would perform*  
 5            *under the anticipated climate conditions; and*

6            *(3) explains how the proposed program, strategy,*  
 7            *or infrastructure improvement is expected to enhance*  
 8            *the resiliency of the water system, including source*  
 9            *water protection for community water systems, to*  
 10           *these risks or reduce the direct or indirect greenhouse*  
 11           *gas emissions of the water system.*

12           *(f) COMPETITIVE PROCESS.—*

13           *(1) IN GENERAL.—Each calendar year, each*  
 14           *State shall conduct a competitive process to select and*  
 15           *fund applications under this section.*

16           *(2) PRIORITY REQUIREMENTS AND*  
 17           *WEIGHTING.—In carrying out the process, the States*  
 18           *shall—*

19           *(A) prioritize funding of applications that*  
 20           *are submitted by the owners or operators of*  
 21           *water systems that are, based on the best avail-*  
 22           *able research and data, at the greatest and most*  
 23           *immediate risk of facing significant climate-re-*  
 24           *lated negative impacts on water quality or quan-*  
 25           *tity; and*

1           *(B) in selecting among the priority applica-*  
2           *tions determined under subparagraph (A), en-*  
3           *sure that, to the maximum extent practicable, the*  
4           *final list of applications funded for each year in-*  
5           *cludes a substantial number meeting one or more*  
6           *of each of the following goals—*

7                     *(i) promote more efficient water use,*  
8                     *water conservation, water reuse, or recy-*  
9                     *cling;*

10                    *(ii) use decentralized, low-impact de-*  
11                    *velopment technologies and nonstructural*  
12                    *approaches, including practices that use,*  
13                    *enhance, or mimic the natural hydrological*  
14                    *cycle or protect natural flows;*

15                    *(iii) reduce stormwater runoff by pro-*  
16                    *tecting or enhancing natural ecosystem*  
17                    *functions;*

18                    *(iv) modify, upgrade, enhance, or re-*  
19                    *place existing water system infrastructure*  
20                    *in response to ongoing or forecasted climate-*  
21                    *related impacts;*

22                    *(v) promote the sustainability and reli-*  
23                    *ability of water supplies used for agricul-*  
24                    *tural purposes;*

1                   (vi) improve water quality or quantity  
 2                   for agricultural and municipal uses, includ-  
 3                   ing through salinity reduction; and

4                   (vii) provide multiple benefits, includ-  
 5                   ing to water supply enhancement or de-  
 6                   mand reduction, water quality protection or  
 7                   improvement, increased flood protection,  
 8                   and ecosystem protection or improvement;  
 9                   and

10                  (C) provide for solicitation and consider-  
 11                  ation of public input in the development of cri-  
 12                  teria used in evaluating applications.

13                  (g) *COST-SHARING.*—

14                   (1) *FEDERAL SHARE.*—The share of the cost of  
 15                   any program, strategy, or infrastructure improvement  
 16                   that is the subject of a grant awarded by a State to  
 17                   the owner or operator of a water system under sub-  
 18                   section (c) paid through funds distributed under this  
 19                   section shall not exceed 50 percent of the cost of the  
 20                   program, strategy, and infrastructure improvement.

21                   (2) *CALCULATION OF NON-FEDERAL SHARE.*—In  
 22                   calculating the non-Federal share of the cost of a pro-  
 23                   gram, strategy, or infrastructure improvement pro-  
 24                   posed by a water system through an application sub-



1       mitted by the water system under subsection (e), the  
2       State shall—

3               (A) include the value of any in-kind services  
4               that are integral to the completion of the pro-  
5               gram, strategy, or infrastructure improvement,  
6               including reasonable administrative and over-  
7               head costs; and

8               (B) not include any other amount that the  
9               water system receives from a Federal agency.

10       (h) LABOR STANDARDS.—

11               (1) IN GENERAL.—Other than with respect to  
12               employees of State and local agencies, or other public  
13               entities, all laborers and mechanics employed on in-  
14               frastructure improvements funded directly by or as-  
15               sisted in whole or in part by this section shall be paid  
16               wages at rates not less than those prevailing for the  
17               same type of work on similar construction in the im-  
18               mediate locality, as determined by the Secretary of  
19               Labor in accordance with subchapter IV of chapter 31  
20               of part A of subtitle II of title 40, United States Code.

21               (2) AUTHORITY AND FUNCTIONS.—With respect  
22               to the labor standards in this subsection, the Sec-  
23               retary of Labor shall have the authority and functions  
24               set forth in Reorganization Plan Numbered 14 of

1       1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145  
2       of title 40, United States Code.

3   **SEC. 382. FLOOD CONTROL, PROTECTION, PREVENTION,**  
4       **AND RESPONSE.**

5       (a) *ESTABLISHMENT.*—The Administrator, in con-  
6       sultation with the Assistant Secretary of the Army for Civil  
7       Works and the Administrator of the Federal Emergency  
8       Management Agency, shall establish a Flood Control, Pro-  
9       tection, Prevention and Response Program to provide funds  
10      to States and Indian tribes for flood control, protection, pre-  
11      vention and response projects.

12      (b) *ELIGIBLE USES.*—

13          (1) *IN GENERAL.*—States and Indian tribes re-  
14      ceiving funding pursuant to this section may use such  
15      funding on flood control, protection, prevention and  
16      response programs and projects addressing the pro-  
17      jected impacts of climate change in accordance with  
18      this section.

19          (2) *OBJECTIVES.*—Such projects and activities  
20      shall seek to mitigate or adapt to the destructive im-  
21      pacts of climate related increases in the duration, fre-  
22      quency, or magnitude of rainfall or runoff, including  
23      snowmelt runoff, as well as hurricanes, including  
24      projects and programs that—

1           (A) reduce flood damage, risk, and vulner-  
2           ability;

3           (B) identify, maintain and restore eco-  
4           systems and natural barriers integral to flood  
5           control, protection, prevention and response;

6           (C) update the available data, technologies,  
7           and scientific knowledge used in estimating,  
8           identifying and mitigating flood hazards;

9           (D) highlight, update and remediate  
10          vulnerabilities in emergency response;

11          (E) incorporate risk analysis and a risk-re-  
12          duction approach to flood-related investments;

13          (F) incorporate and identify changes in risk  
14          due to processes such as land loss, subsidence,  
15          sea-level rise, reduced natural buffers, urban de-  
16          velopment and infrastructure aging;

17          (G) identify and incorporate innovative ap-  
18          proaches to land use management, water resource  
19          planning, and ecosystem restoration;

20          (H) provide for acquisition and easement of  
21          floodways and flood-prone properties in order to  
22          prevent urban areas from flooding, or move peo-  
23          ple out of harm's way; and

24          (I) promote land use planning that prevents  
25          future floodplain development.

1           (3) *PRIORITY.—Priority in projects to reduce*  
2           *flood events shall be given to those projects that—*

3                   (A) *directly assist local governments and*  
4                   *communities in flood control, protection, preven-*  
5                   *tion and response activities;*

6                   (B) *are part of a larger State or watershed*  
7                   *plan to reduce flood risk;*

8                   (C) *are specifically designed to accommo-*  
9                   *date forecasted climate change scenarios;*

10                  (D) *advance multiple objectives, including*  
11                  *public safety, water quality, fish and wildlife*  
12                  *conservation, water supply, and recreation;*

13                  (E) *protect or enhance natural ecosystem*  
14                  *functions, including protection, maintenance, or*  
15                  *restoration of natural infrastructure, natural*  
16                  *buffer zones, or natural shorelines, to buffer com-*  
17                  *munities from floodwaters or storms, watershed*  
18                  *protection to maintain water quality and*  
19                  *groundwater recharge, or floodplain restoration*  
20                  *to improve natural flood control capacity;*

21                  (F) *use nonstructural approaches, including*  
22                  *practices that use, enhance, or mimic the natural*  
23                  *hydrologic cycle; and*

24                  (G) *reduce the frequency and consequences*  
25                  *of flooding in densely populated urban areas.*

1 **SEC. 383. WILDFIRE.**

2 (a) *FINDINGS.*—Congress finds that—

3 (1) *since 1980, wildfires in the United States*  
4 *have burned almost twice as many acres per year on*  
5 *average than the average burned acreage during the*  
6 *period beginning on January 1, 1920, and ending on*  
7 *December 31, 1979;*

8 (2) *the wildfire season in the western United*  
9 *States has increased by an average of 78 days during*  
10 *the 30-year period preceding the date of enactment of*  
11 *this Act;*

12 (3) *researchers predict that the area subject to*  
13 *wildfire damage will increase during the 21st century*  
14 *by up to 118 percent as a result of climate change;*

15 (4) *of the annual budget of the Forest Service,*  
16 *the Forest Service used for wildfire suppression ac-*  
17 *tivities—*

18 (A) *13 percent in 1991; and*

19 (B) *45 percent in 2007; and*

20 (5) *1 percent of the largest escaped fires—*

21 (A) *burn 95 percent of all burned acres; and*

22 (B) *consume 85 percent of all wildfire fight-*  
23 *ing costs.*

24 (b) *PURPOSE.*—The purpose of this section is to au-  
25 *thorize a program to reduce the risk of wildfires in fire-*  
26 *ready communities.*

1       (c) *DEFINITIONS.—In this section:*

2               (1) *FIRE-READY COMMUNITY.—The term “fire-*  
3 *ready community” means a community that—*

4                       (A) *is located within a priority area identi-*  
5 *fied pursuant to subsection (d);*

6                       (B) *has a cooperative fire agreement that*  
7 *articulates the roles and responsibilities for Fed-*  
8 *eral, State, and local government entities, and,*  
9 *where applicable, Indian tribes, in local wildfire*  
10 *suppression and protection;*

11                      (C) *has local codes that require fire-resist-*  
12 *ant home design and building materials;*

13                      (D) *has a community wildfire protection*  
14 *plan (as defined in section 101 of the Healthy*  
15 *Forests Restoration Act of 2003 (16 U.S.C.*  
16 *6502)); and*

17                      (E) *is engaged in a successful collaborative*  
18 *process that includes multiple interested persons*  
19 *representing diverse interests and is transparent*  
20 *and nonexclusive, such as a resource advisory*  
21 *committee established under section 205 of the*  
22 *Secure Rural Schools and Community Self-De-*  
23 *termination Act of 2000 (Public Law 106-393;*  
24 *16 U.S.C. 500 note).*

1           (2) *SECRETARIES.*—*The term “Secretaries”*  
 2           *means the Secretary of Agriculture and the Secretary*  
 3           *of the Interior.*

4           (d) *FIRE RISK MAPPING.*—*As soon as is practicable*  
 5           *after the date of the enactment of this Act, the Secretaries*  
 6           *shall develop regional maps of communities most at risk*  
 7           *of wildfire and in need of hazardous fuel treatment and*  
 8           *maintenance. The maps shall identify priority areas for*  
 9           *hazardous fuels reduction projects, including—*

10           (1) *at-risk communities in fire-prone areas of the*  
 11           *wildland-urban interface (as defined in section 101 of*  
 12           *the Healthy Forests Restoration Act of 2003 (16*  
 13           *U.S.C. 6502));*

14           (2) *watersheds and municipal drinking water*  
 15           *sources;*

16           (3) *emergency evacuation corridors;*

17           (4) *electricity transmission corridors;*

18           (5) *low-capacity or low-income communities;*

19           *and*

20           (6) *communities in fire-prone areas due to the*  
 21           *impact of pest infestation on forest resources.*

22           (e) *LOCAL WILDLAND FIREFIGHTING CAPABILITY*  
 23           *GRANTS.*—

24           (1) *GRANTS AVAILABLE.*—*The Secretaries may*  
 25           *provide cost-share grants to—*

1           (A) *fire-ready communities, to assist those*  
 2           *communities in carrying out activities author-*  
 3           *ized by paragraph (2); and*

4           (B) *communities that are not fire-ready, to*  
 5           *assist those communities in carrying out plan-*  
 6           *ning activities to become fire-ready communities*  
 7           *consistent with the requirements of this section.*

8           (2) *ELIGIBLE ACTIVITIES.*—*Grant funds may be*  
 9           *used for the following:*

10           (A) *Education programs to raise awareness*  
 11           *of homeowners and citizens about wildland fire*  
 12           *protection practices, including FireWise or simi-*  
 13           *lar programs.*

14           (B) *Training programs for local firefighters*  
 15           *on wildland firefighting techniques and ap-*  
 16           *proaches.*

17           (C) *Equipment acquisition to facilitate*  
 18           *wildland fire preparedness.*

19           (D) *Implementation of a community wild-*  
 20           *fire protection plan.*

21           (E) *Forest restoration that accomplishes*  
 22           *fuels reduction*

23           (f) *WILDLAND FIRE COST-SHARE AGREEMENTS.*—*In*  
 24           *developing any wildland fire cost-share agreement with a*  
 25           *State Forester or equivalent official, the Secretaries shall,*



1 *to the maximum extent practicable, encourage the State and*  
 2 *local communities involved to become fire-ready commu-*  
 3 *nities.*

4 **SEC. 384. COASTAL AND GREAT LAKES STATE ADAPTATION**  
 5 **PROGRAM.**

6 (a) *FINDINGS.*—Congress finds that, according to the  
 7 *National Ocean Economics Program, coastal and Great*  
 8 *Lakes States account for 81.4 percent of the population of*  
 9 *the United States and generate 83 percent of the economic*  
 10 *output of the United States.*

11 (b) *DEFINITIONS.*—In this section:

12 (1) *COASTAL STATE.*—The term “coastal State”  
 13 *has the meaning given the term “coastal state” in sec-*  
 14 *tion 304 of the Coastal Zone Management Act of 1972*  
 15 *(16 U.S.C. 1453).*

16 (2) *COASTAL WATERSHED.*—The term “coastal  
 17 *watershed” means a geographical area drained into*  
 18 *or contributing water to an estuarine area, an ocean,*  
 19 *or a Great Lake, all or a portion of which is within*  
 20 *the coastal zone (as defined in section 304 of the*  
 21 *Coastal Zone Management Act of 1972 (16 U.S.C.*  
 22 *1453)).*

23 (3) *SHORELINE MILES.*—The term “shoreline  
 24 *miles”, with respect to a coastal State, means the*  
 25 *mileage of tidal shoreline or Great Lake shoreline of*

1 *the coastal State, based on the most recently available*  
 2 *data from or accepted by the National Ocean Service*  
 3 *of the National Oceanic and Atmospheric Administra-*  
 4 *tion.*

5 *(c) DISTRIBUTION.—*

6 *(1) IN GENERAL.—The Administrator shall dis-*  
 7 *tribute, in accordance with this section, funding for*  
 8 *coastal State adaptation under subsection (d).*

9 *(2) ALLOCATION.—The funding available for al-*  
 10 *location under subsection (b) for a calendar year shall*  
 11 *be distributed among coastal States, as follows:*

12 *(A) 25 percent based on the proportion*  
 13 *that—*

14 *(i) the number of shoreline miles of a*  
 15 *coastal State; bears to*

16 *(ii) the total number of shoreline miles*  
 17 *of all coastal States.*

18 *(B) 25 percent based on the proportion*  
 19 *that—*

20 *(i) the population of a coastal State;*  
 21 *bears to*

22 *(ii) the total population of all coastal*  
 23 *States.*

24 *(C) 50 percent divided equally among all*  
 25 *coastal States.*

1       (d) *USE OF FUNDING.*—

2           (1) *IN GENERAL.*—During any calendar year, a  
3       coastal State receiving funding under this section  
4       may use the funding only for projects and activities  
5       to plan for and address the impacts of climate change  
6       in the coastal watershed, including—

7           (A) to address the impacts of climate change  
8       with respect to—

9           (i) accelerated sea level rise and lake  
10       level changes;

11          (ii) shoreline erosion;

12          (iii) increased storm frequency or in-  
13       tensity;

14          (iv) changes in rainfall or other pre-  
15       cipitation; and

16          (v) related flooding;

17       (B) to identify and develop plans to protect,  
18       or, as necessary or applicable, to relocate public  
19       facilities and infrastructure, coastal resources of  
20       national significance, public energy facilities, or  
21       other public water uses located in the coastal wa-  
22       tershed that are affected by climate change, in-  
23       cluding strategies that protect or restore natural  
24       infrastructure, if the plans—

1                   (i) *ensure full consideration and un-*  
2                   *dertake, to the maximum extent practicable,*  
3                   *initiatives that—*

4                   (I) *protect or enhance natural eco-*  
5                   *system functions, including protection,*  
6                   *maintenance, or restoration of natural*  
7                   *infrastructure, natural buffer zones, or*  
8                   *natural shorelines (such as wetlands,*  
9                   *reefs, and barrier islands) to buffer*  
10                  *communities from floodwaters or*  
11                  *storms, watershed protection to main-*  
12                  *tain water quality and groundwater*  
13                  *recharge, or floodplain restoration to*  
14                  *improve natural flood control capacity;*  
15                  *or*

16                  (II) *use nonstructural approaches,*  
17                  *including practices that utilize, en-*  
18                  *hance, or mimic the natural hydrologic*  
19                  *cycle processes of infiltration,*  
20                  *evapotranspiration, and reuse; and*

21                  (ii) *are consistent with Federal con-*  
22                  *servation and environmental laws and, to*  
23                  *the maximum extent practicable, avoid en-*  
24                  *vironmental degradation;*

1                   (C) to research and collect data using, or on  
2                   matters such as—

3                   (i) historical shoreline position maps;  
4                   (ii) historical shoreline erosion rates;  
5                   (iii) inventories of shoreline features  
6                   and conditions;

7                   (iv) acquisition of high-resolution to-  
8                   pography and bathymetry;

9                   (v) sea level rise inundation models;

10                  (vi) storm surge sea level rise linked  
11                  inundation models;

12                  (vii) shoreline change modeling based  
13                  on sea level rise projections;

14                  (viii) sea level rise vulnerability anal-  
15                  yses and socioeconomic studies; and

16                  (ix) environmental and habitat  
17                  changes associated with sea level rise; and

18                  (D) to respond to—

19                  (i) changes in chemical characteristics  
20                  (including ocean acidification) and phys-  
21                  ical characteristics (including thermal  
22                  stratification) of marine systems;

23                  (ii) sea level rise threats to ground-  
24                  water aquifers, including—

25                         (I) saltwater intrusion; and

1                   (II) *unsaturated zone thinning;*  
 2                   (iii) *increased harmful algae blooms;*  
 3                   (iv) *spread of invasive species;*  
 4                   (v) *coastal habitat loss;*  
 5                   (vi) *species migrations; and*  
 6                   (vii) *marine, estuarine, and freshwater*  
 7                   *ecosystem changes associated with climate*  
 8                   *change.*

9                   (2) *EXECUTION.*—*Priority to plan and carry out*  
 10                   *projects and activities under this subsection shall be*  
 11                   *given to State coastal agencies, as determined in ac-*  
 12                   *cordance with State law.*

13                   (3) *COORDINATION.*—*In carrying out this sub-*  
 14                   *section, a coastal State shall coordinate with other*  
 15                   *statewide or tribal climate change efforts and climate*  
 16                   *change efforts to promote cooperation and in order to*  
 17                   *avoid duplication of such efforts.*

18                   (e) *REPORT.*—*Not later than 1 year after the date on*  
 19                   *which a State receives funds under this section, and bienni-*  
 20                   *ally thereafter until such time as the funding is fully ex-*  
 21                   *pendended, the State shall submit to the Administrator, or the*  
 22                   *heads of such other Federal agencies as the President may*  
 23                   *designate, a report that—*

(1) provides a full accounting for the State’s use of funding distributed under this section, including a description of the projects and activities funded;

(2) may be independent or included within any report required for any State programs for greenhouse gas reduction and climate adaptation; and

(3) is available to the public on request.

***DIVISION B—POLLUTION  
REDUCTION AND INVESTMENT  
TITLE I—REDUCING GLOBAL  
WARMING POLLUTION  
Subtitle A—Reducing Global  
Warming Pollution***

***SEC. 101. REDUCING GLOBAL WARMING POLLUTION.***

*The Clean Air Act is amended by adding after title VI (42 U.S.C. 7671 et seq.) the following:*

***“TITLE VII—GLOBAL WARMING  
POLLUTION REDUCTION AND  
INVESTMENT PROGRAM***

***“PART A—GLOBAL WARMING POLLUTION  
REDUCTION GOALS AND TARGETS***

***“SEC. 701. FINDINGS.***

*“Congress finds that—*

*“(1) global warming poses a significant threat to the national security, economy, public health and wel-*

1     *fare, and environment of the United States, as well*  
2     *as of other countries;*

3             *“(2) reviews of scientific studies, including by*  
4     *the Intergovernmental Panel on Climate Change and*  
5     *the National Academy of Sciences, demonstrate that*  
6     *global warming is the result of the combined anthro-*  
7     *pogenic greenhouse gas emissions from numerous*  
8     *sources of all types and sizes;*

9             *“(3) each increment of emission, when combined*  
10    *with other emissions, causes or contributes materially*  
11    *to the acceleration and extent of global warming and*  
12    *its adverse effects for the lifetime of such gas in the*  
13    *atmosphere;*

14            *“(4) accordingly, controlling emissions in small*  
15    *as well as large quantities is essential to prevent, slow*  
16    *the pace of, reduce the threats from, and mitigate*  
17    *global warming and its adverse effects;*

18            *“(5) because they induce global warming, green-*  
19    *house gas emissions cause or contribute to injuries to*  
20    *persons in the United States, including—*

21                *“(A) adverse health effects, such as disease*  
22                *and loss of life;*

23                *“(B) displacement of human populations;*



1           “(C) damage to property and other interests  
 2           relating to ocean levels, acidification, and ice  
 3           changes;

4           “(D) severe weather and seasonal changes;

5           “(E) disruption, costs, and losses to busi-  
 6           ness, trade, employment, farms, subsistence, aes-  
 7           thetic enjoyment of the environment, recreation,  
 8           culture, and tourism;

9           “(F) damage to plants, forests, lands, and  
 10          waters;

11          “(G) harm to wildlife and habitat;

12          “(H) scarcity of water and the decreased  
 13          abundance of other natural resources;

14          “(I) worsening of tropospheric air pollution;

15          “(J) substantial threats of similar damage;

16          and

17          “(K) other harm;

18          “(6) the fact that many of those effects and risks  
 19          of future effects of global warming are widely shared  
 20          does not minimize the adverse effects individual per-  
 21          sons have suffered, will suffer, and are at risk of suf-  
 22          fering because of global warming;

23          “(7) the fact that some of the adverse and poten-  
 24          tially catastrophic effects of global warming are at  
 25          risk of occurring and not a certainty does not negate

1       *the harm persons suffer from actions that increase the*  
 2       *likelihood, extent, and severity of such future impacts;*

3               *“(8) countries of the world look to the United*  
 4       *States for leadership in addressing the threat of and*  
 5       *harm from global warming;*

6               *“(9) full implementation of this title is critical*  
 7       *to engage other countries in an international effort to*  
 8       *mitigate the threat of and harm from global warming;*  
 9       *and*

10              *“(10) global warming and its adverse effects are*  
 11       *occurring and are likely to continue and increase in*  
 12       *magnitude, and to do so at a greater and more harm-*  
 13       *ful rate, unless the this title is fully implemented and*  
 14       *enforced in an expeditious manner.*

15   **“SEC. 702. ECONOMYWIDE REDUCTION GOALS.**

16       *“The goals of this title, and the Clean Energy Jobs*  
 17       *and American Power Act (and the amendments made by*  
 18       *that Act), are to reduce steadily the quantity of United*  
 19       *States greenhouse gas emissions such that—*

20              *“(1) in 2012, the quantity of United States*  
 21       *greenhouse gas emissions does not exceed 97 percent*  
 22       *of the quantity of United States greenhouse gas emis-*  
 23       *sions in 2005;*

24              *“(2) in 2020, the quantity of United States*  
 25       *greenhouse gas emissions does not exceed 80 percent*

1       *of the quantity of United States greenhouse gas emis-*  
2       *sions in 2005;*

3           “(3) *in 2030, the quantity of United States*  
4       *greenhouse gas emissions does not exceed 58 percent*  
5       *of the quantity of United States greenhouse gas emis-*  
6       *sions in 2005; and*

7           “(4) *in 2050, the quantity of United States*  
8       *greenhouse gas emissions does not exceed 17 percent*  
9       *of the quantity of United States greenhouse gas emis-*  
10       *sions in 2005.*

11       **“SEC. 703. REDUCTION TARGETS FOR SPECIFIED SOURCES.**

12           “(a) *IN GENERAL.—The regulations issued under sec-*  
13       *tion 721 shall limit and reduce annually the greenhouse gas*  
14       *emissions of capped sources each calendar year beginning*  
15       *in 2012 such that—*

16           “(1) *in 2012, the quantity of greenhouse gas*  
17       *emissions from capped sources does not exceed 97 per-*  
18       *cent of the quantity of greenhouse gas emissions from*  
19       *such sources in 2005;*

20           “(2) *in 2020, the quantity of greenhouse gas*  
21       *emissions from capped sources does not exceed 80 per-*  
22       *cent of the quantity of greenhouse gas emissions from*  
23       *such sources in 2005;*

24           “(3) *in 2030, the quantity of greenhouse gas*  
25       *emissions from capped sources does not exceed 58 per-*

1        *cent of the quantity of greenhouse gas emissions from*  
 2        *such sources in 2005; and*

3            *“(4) in 2050, the quantity of greenhouse gas*  
 4        *emissions from capped sources does not exceed 17 per-*  
 5        *cent of the quantity of greenhouse gas emissions from*  
 6        *such sources in 2005.*

7        *“(b) DEFINITION OF GREENHOUSE GAS EMISSIONS*  
 8        *FROM SUCH SOURCES IN 2005.—For purposes of this sec-*  
 9        *tion, the term ‘greenhouse gas emissions from such sources*  
 10       *in 2005’ means emissions to which section 722 would have*  
 11       *applied if the requirements of this title for the specified year*  
 12       *had been in effect for 2005.*

13       **“SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.**

14       *“For the purposes of decreasing the likelihood of cata-*  
 15       *strophic climate change, preserving tropical forests, build-*  
 16       *ing capacity to generate offset credits, and facilitating*  
 17       *international action on global warming, the Administrator*  
 18       *shall set aside a percentage specified in section 771(c) of*  
 19       *the quantity of emission allowances established under sec-*  
 20       *tion 721(a) for each year, to be used to achieve a reduction*  
 21       *of greenhouse gas emissions from deforestation in developing*  
 22       *countries in accordance with part E. In 2020, activities*  
 23       *supported under part E shall provide greenhouse gas reduc-*  
 24       *tions in an amount equal to an additional 10 percentage*  
 25       *points of reductions from United States greenhouse gas*

1 *emissions in 2005. The Administrator shall distribute these*  
 2 *allowances with respect to activities in countries that enter*  
 3 *into and implement agreements or arrangements relating*  
 4 *to reduced deforestation as described in section 753(a)(2).*

5 **“SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.**

6       “(a) *IN GENERAL.*—*The Administrator shall, in con-*  
 7 *sultation with appropriate Federal agencies, submit to Con-*  
 8 *gress a report not later than July 1, 2013, and every 4*  
 9 *years thereafter, that includes—*

10               “(1) *an analysis of key findings based on up-to-*  
 11 *date scientific information and data relevant to glob-*  
 12 *al climate change;*

13               “(2) *an analysis of capabilities to monitor and*  
 14 *verify greenhouse gas reductions on a worldwide*  
 15 *basis, including for the United States, as required*  
 16 *under the Clean Energy Jobs and American Power*  
 17 *Act (and the amendments made by that Act);*

18               “(3) *an analysis of the status of worldwide*  
 19 *greenhouse gas reduction efforts, including implemen-*  
 20 *tation of the Clean Energy Jobs and American Power*  
 21 *Act and other policies, both domestic and inter-*  
 22 *national, for reducing greenhouse gas emissions, pre-*  
 23 *venting dangerous atmospheric concentrations of*  
 24 *greenhouse gases, preventing significant irreversible*

1       *consequences of climate change, and reducing vulner-*  
2       *ability to the impacts of climate change; and*

3               “(4) *an analysis, to be conducted by the Sec-*  
4       *retary of Energy in accordance with subsection (f)*  
5       *and submitted to the Administrator for inclusion in*  
6       *each report under this subsection, of the technological*  
7       *feasibility of achieving additional reductions in*  
8       *greenhouse gas emissions.*

9               “(b) *EXCEPTION.—Subsection (a)(3) shall not apply*  
10      *to the first report submitted under subsection (a).*

11              “(c) *LATEST SCIENTIFIC INFORMATION.—The analysis*  
12      *required under subsection (a)(1) shall—*

13                      “(1) *address existing scientific information and*  
14      *reports, considering, to the greatest extent possible, the*  
15      *most recent assessment report of the Intergovern-*  
16      *mental Panel on Climate Change, reports by the*  
17      *United States Global Change Research Program, the*  
18      *Natural Resources Climate Change Adaptation Panel*  
19      *established under section 365 of the Clean Energy*  
20      *Jobs and American Power 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 1850*  
 2       *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 50*  
 10              *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 concentra-*  
 17              *tion units as well as carbon dioxide equivalents*  
 18              *based on 100-year global warming potentials;*

19              “(D) *major climate forcing factors, such as*  
 20              *aerosols;*

21              “(E) *global average temperature, expressed*  
 22              *as seasonal and annual averages in land, ocean,*  
 23              *and land-plus-ocean averages; and*

24              “(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, tribal culture, human infrastructure, and*  
6       *displacement or permanent relocation due to*  
7       *flooding, severe weather, extended drought, ero-*  
8       *sion, or other 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 re-*  
14       *lated to the thawing of permafrost, the frequency*  
15       *and intensity of wildfire, and terrestrial and*  
16       *ocean carbon sinks;*

17          “(D) *ecosystems and animal and plant pop-*  
18       *ulations, 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 tem-*  
22       *peratures, coral reefs, ocean circulation, fisheries,*  
23       *and other indicators of ocean ecosystem health;*



1           “(F) the cryosphere, including effects on ice  
2           sheet mass balance, mountain glacier mass bal-  
3           ance, and sea-ice extent and volume;

4           “(G) changes in the intensity, frequency, or  
5           distribution of severe weather events, including  
6           precipitation, tropical cyclones, tornadoes, and  
7           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, subsistence, and  
18          tribal culture;

19               “(C) displacement or permanent relocation  
20          due to flooding, severe weather, extended drought,  
21          or other ecosystem changes;

22               “(D) human infrastructure, including coast-  
23          al infrastructure vulnerability to extreme events  
24          and sea level rise, river floodplain infrastructure,  
25          and sewer and water management 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 hu-  
 7           midity;

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 and  
 13          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 by  
 3           the Intergovernmental Panel on Climate Change, the  
 4           United States Global Change Research program, and  
 5           other relevant scientific entities—

6                   “(A) describe increased risks to natural sys-  
 7                   tems and society that would result from an in-  
 8                   crease in global average temperature 3.6 degrees  
 9                   Fahrenheit (2 degrees Celsius) above the pre-in-  
 10                  dustrial average or an increase in atmospheric  
 11                  greenhouse gas concentrations above 450 parts  
 12                  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 CA-  
 25           PABILITIES TO EVALUATE GREENHOUSE GAS REDUCTION

1 *EFFORTS.—The analysis required under subsection (a)(2)*  
 2 *shall evaluate the capabilities of the monitoring, reporting,*  
 3 *and verification systems used to quantify progress in*  
 4 *achieving reductions in greenhouse gas emissions both glob-*  
 5 *ally and in the United States (as described in section 702),*  
 6 *including—*

7           “(1) quantification of emissions and emission re-

8           ductions by entities participating in the pollution re-

9           duction and investment program under this title;

10           “(2) quantification of emissions and emission re-

11           ductions by entities participating in the offset pro-

12           gram under this title;

13           “(3) quantification of emission and emission re-

14           ductions by entities regulated by performance stand-

15           ards;

16           “(4) quantification of aggregate net emissions

17           and emission reductions by the United States; and

18           “(5) quantification of global changes in net emis-

19           sions and in sources and sinks of greenhouse gases.

20           “(e) *STATUS OF GREENHOUSE GAS REDUCTION EF-*

21 *FORTS.—The analysis required under subsection (a)(3)*  
 22 *shall address—*

23           “(1) whether the programs under the Clean En-

24           ergy Jobs and American Power Act (and the amend-

25           ments made by that Act) and other Federal statutes

1        *are resulting in sufficient United States greenhouse*  
2        *gas emission reductions to meet the emissions reduc-*  
3        *tion goals described in section 702, taking into ac-*  
4        *count the use of offsets; and*

5                *“(2) whether United States actions, taking into*  
6        *account international actions, commitments, and*  
7        *trends, and considering the range of plausible emis-*  
8        *sions scenarios, are sufficient to avoid—*

9                *“(A) atmospheric greenhouse gas concentra-*  
10        *tions above 450 parts per million carbon dioxide*  
11        *equivalent;*

12                *“(B) global average surface temperature 3.6*  
13        *degrees Fahrenheit (2 degrees Celsius) above the*  
14        *pre-industrial average, or such other temperature*  
15        *thresholds as the Administrator deems appro-*  
16        *priate; and*

17                *“(C) other temperature or greenhouse gas*  
18        *thresholds identified pursuant to subsection*  
19        *(c)(6)(B).*

20                *“(f) TECHNOLOGICAL INFORMATION.—The analysis re-*  
21        *quired under subsection (a)(4) shall—*

22                *“(1) review existing technological information*  
23        *and reports, including the most recent reports by the*  
24        *Department of Energy, the United States Global*  
25        *Change Research Program, the Intergovernmental*

1 *Panel on Climate Change, and the International En-*  
2 *ergy Agency, and any other relevant information on*  
3 *technologies or practices that reduce or limit green-*  
4 *house gas emissions;*

5 “(2) *include the participation of technical ex-*  
6 *perts from relevant private industry sectors;*

7 “(3) *review the current and future projected de-*  
8 *ployment of technologies and practices in the United*  
9 *States that reduce or limit greenhouse gas emissions,*  
10 *including—*

11 “(A) *technologies for capture and sequestra-*  
12 *tion of greenhouse gases;*

13 “(B) *technologies to improve energy effi-*  
14 *ciency;*

15 “(C) *low- or zero-greenhouse gas emitting*  
16 *energy technologies;*

17 “(D) *low- or zero-greenhouse gas emitting*  
18 *fuels;*

19 “(E) *biological sequestration practices and*  
20 *technologies; and*

21 “(F) *any other technologies the Secretary*  
22 *determines to be relevant; and*

23 “(4) *review and compare the emission reduction*  
24 *potential, commercial viability, market penetration,*

1 *investment trends, and deployment of the technologies*  
 2 *described in paragraph (3), including—*

3 *“(A) the need for additional research and*  
 4 *development, including publicly funded research*  
 5 *and development;*

6 *“(B) the extent of commercial deployment,*  
 7 *including, where appropriate, a comparison to*  
 8 *the cost and level of deployment of conventional*  
 9 *fossil fuel-fired energy technologies and devices;*  
 10 *and*

11 *“(C) an evaluation of any substantial tech-*  
 12 *nological, legal, or market-based barriers to com-*  
 13 *mercial deployment.*

14 *“(g) RECOMMENDATIONS.—*

15 *“(1) LATEST SCIENTIFIC INFORMATION.—Based*  
 16 *on the analysis described in subsection (a)(1), each re-*  
 17 *port under subsection (a) shall identify actions that*  
 18 *could be taken to—*

19 *“(A) improve the characterization of*  
 20 *changes in the earth-climate system and impacts*  
 21 *of global climate change;*

22 *“(B) better inform decision making and ac-*  
 23 *tions related to global climate change;*

24 *“(C) mitigate risks to natural and social*  
 25 *systems; and*

1           “(D) design policies to better account for  
2           climate risks.

3           “(2)       MONITORING,       REPORTING       AND  
4           VERIFICATION.—Based on the analysis described in  
5           subsection (a)(2), each report under subsection (a)  
6           shall identify key gaps in measurement, reporting,  
7           and verification capabilities and make recommenda-  
8           tions to improve the accuracy and reliability of those  
9           capabilities.

10          “(3) STATUS OF GREENHOUSE GAS REDUCTION  
11          EFFORTS.—Based on the analysis described in sub-  
12          section (a)(3), taking into account international ac-  
13          tions, commitments, and trends, and considering the  
14          range of plausible emissions scenarios, each report  
15          under subsection (a) shall identify—

16               “(A) the quantity of additional reductions  
17               required to meet the emissions reduction goals in  
18               section 702;

19               “(B) the quantity of additional reductions  
20               in global greenhouse gas emissions needed to  
21               avoid the concentration and temperature thresh-  
22               olds identified in subsection (e); and

23               “(C) possible strategies and approaches for  
24               achieving additional reductions.



1       “(h) *AUTHORIZATION OF APPROPRIATIONS.*—There  
 2   *are authorized to be appropriated to carry out this section*  
 3   *such sums as may be necessary.*

4   **“SEC. 706. NATIONAL ACADEMY REVIEW.**

5       “(a) *IN GENERAL.*—Not later than 1 year after the  
 6   *date of enactment of this title, the Administrator shall offer*  
 7   *to enter into a contract with the National Academy of*  
 8   *Sciences (in this section referred to as the ‘Academy’) under*  
 9   *which the Academy shall, not later than July 1, 2014, and*  
 10   *every 4 years thereafter, submit to Congress and the Admin-*  
 11   *istrator a report that includes—*

12               “(1) *a review of the most recent report and rec-*  
 13       *ommendations issued under section 705; and*

14               “(2) *an analysis of technologies to achieve reduc-*  
 15       *tions in greenhouse gas emissions.*

16       “(b) *FAILURE TO ISSUE A REPORT.*—In the event that  
 17   *the Administrator has not issued all or part of the most*  
 18   *recent report required under section 705, the Academy shall*  
 19   *conduct its own review and analysis of the required infor-*  
 20   *mation.*

21       “(c) *RECOMMENDATIONS.*—

22               “(1) *LATEST SCIENTIFIC INFORMATION.*—Based  
 23       *on the review described in subsection (a)(1), the Acad-*  
 24       *emy shall identify actions that could be taken to—*

1           “(A) improve the characterization of  
2           changes in the earth-climate system and impacts  
3           of global climate change;

4           “(B) better inform decision making and ac-  
5           tions related to global climate change;

6           “(C) mitigate risks to natural and social  
7           systems;

8           “(D) design policies to better account for  
9           climate risks; and

10          “(E) improve the accuracy and reliability  
11          of capabilities to monitor, report, and verify  
12          greenhouse gas emissions reduction efforts.

13          “(2) *TECHNOLOGICAL INFORMATION*.—Based on  
14          the analysis described in subsection (a)(2), the Acad-  
15          emy shall identify—

16          “(A) additional emission reductions that  
17          may be possible as a result of technologies de-  
18          scribed in the analysis;

19          “(B) barriers to the deployment of such  
20          technologies; and

21          “(C) actions that could be taken to speed de-  
22          ployment of such technologies.

23          “(3) *STATUS OF GREENHOUSE GAS REDUCTION*  
24          *EFFORTS*.—Based on the review described in sub-  
25          section (a)(1), the Academy shall identify—

1           “(A) the quantity of additional reductions  
2           required to meet the emissions reduction goals  
3           described in section 702; and

4           “(B) the quantity of additional reductions  
5           in global greenhouse gas emissions needed to  
6           avoid the concentration and temperature thresh-  
7           olds described in section 705(c)(6)(A) or identi-  
8           fied pursuant to section 705(c)(6)(B).

9           “(d) *AUTHORIZATION OF APPROPRIATIONS.*—There  
10          are authorized to be appropriated to carry out this section  
11          such sums as may be necessary.

12       **“SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDA-**  
13       **TIONS.**

14       “Not later than July 1, 2015, and every 4 years there-  
15       after—

16           “(1) the President shall direct relevant Federal  
17           agencies to use existing statutory authority to take  
18           appropriate actions identified in the reports sub-  
19           mitted under sections 705 and 706 and to address  
20           any shortfalls identified in such reports; and

21           “(2) in the event that the National Academy of  
22           Sciences has concluded, in the most recent report sub-  
23           mitted under section 706, that the United States will  
24           not achieve the necessary domestic greenhouse gas  
25           emission reductions, or that global actions will not

1       *maintain safe global average surface temperature and*  
 2       *atmospheric greenhouse gas concentration thresholds,*  
 3       *the President shall submit to Congress a plan identi-*  
 4       *fying domestic and international actions that will*  
 5       *achieve necessary additional greenhouse gas reduc-*  
 6       *tions, including any recommendations for legislative*  
 7       *action.*

8       **“SEC. 708. CONSULTATION WITH STATES.**

9       *“In the development of any regulations required to im-*  
 10      *plement the global warming pollution and reduction invest-*  
 11      *ment program pursuant to this title, and in the implemen-*  
 12      *tation of that program, the Administrator shall consult*  
 13      *with the States in the Regional Greenhouse Gas Initiative,*  
 14      *the Western Climate Initiative, and the Mid-West Governors*  
 15      *Accord.*

16      **“PART B—DESIGNATION AND REGISTRATION OF**  
 17                                      **GREENHOUSE GASES**

18      **“SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

19           *“(a) GREENHOUSE GASES.—For purposes of this title,*  
 20      *the following are greenhouse gases:*

21                   *“(1) Carbon dioxide.*

22                   *“(2) Methane.*

23                   *“(3) Nitrous oxide.*

24                   *“(4) Sulfur hexafluoride.*

1           “(5) *Hydrofluorocarbons from a chemical manu-*  
2           *facturing process at an industrial stationary source.*

3           “(6) *Any perfluorocarbon that is an anthropo-*  
4           *genic gas 1 metric ton of which makes the same or*  
5           *greater contribution to global warming over 100 years*  
6           *as 1 metric ton of carbon dioxide.*

7           “(7) *Nitrogen trifluoride.*

8           “(8) *Any other anthropogenic gas designated as*  
9           *a greenhouse gas by the Administrator under this sec-*  
10          *tion.*

11          “(b) *DETERMINATION ON ADMINISTRATOR’S INITIA-*  
12          *TIVE.—The Administrator shall, by rule—*

13           “(1) *determine whether 1 metric ton of another*  
14           *anthropogenic gas makes the same or greater con-*  
15           *tribution to global warming over 100 years as 1 met-*  
16           *ric ton of carbon dioxide;*

17           “(2) *determine the carbon dioxide equivalent*  
18           *value for each gas with respect to which the Adminis-*  
19           *trator makes an affirmative determination under*  
20           *paragraph (1);*

21           “(3) *for each gas with respect to which the Ad-*  
22           *ministrator makes an affirmative determination*  
23           *under paragraph (1) and that is used as a substitute*  
24           *for a class I or class II substance under title VI, de-*  
25           *termine the extent to which to regulate that gas under*

1        *section 619 and specify appropriate compliance obli-*  
 2        *gations under section 619;*

3            *“(4) designate as a greenhouse gas for purposes*  
 4        *of this title each gas for which the Administrator*  
 5        *makes an affirmative determination under paragraph*  
 6        *(1), to the extent that it is not regulated under section*  
 7        *619; and*

8            *“(5) specify the appropriate compliance obliga-*  
 9        *tions under this title for each gas designated as a*  
 10       *greenhouse gas under paragraph (4).*

11       *“(c) PETITIONS TO DESIGNATE A GREENHOUSE*  
 12       *GAS.—*

13            *“(1) IN GENERAL.—Any person may petition the*  
 14        *Administrator to designate as a greenhouse gas any*  
 15        *anthropogenic gas 1 metric ton of which makes the*  
 16        *same or greater contribution to global warming over*  
 17        *100 years as 1 metric ton of carbon dioxide.*

18            *“(2) CONTENTS OF PETITION.—The petitioner*  
 19        *shall provide sufficient data, as specified by rule by*  
 20        *the Administrator, to demonstrate that the gas is like-*  
 21        *ly to be a greenhouse gas and is likely to be produced,*  
 22        *imported, used, or emitted in the United States. To*  
 23        *the extent practicable, the petitioner shall also iden-*  
 24        *tify producers, importers, distributors, users, and*  
 25        *emitters of the gas in the United States.*

1           “(3) *REVIEW AND ACTION BY THE ADMINIS-*  
2           *TRATOR.*—Not later than 90 days after receipt of a  
3           *petition under paragraph (2), the Administrator shall*  
4           *determine whether the petition is complete and notify*  
5           *the petitioner and the public of the decision.*

6           “(4) *ADDITIONAL INFORMATION.*—*The Adminis-*  
7           *trator may require producers, importers, distributors,*  
8           *users, or emitters of the gas to provide information on*  
9           *the contribution of the gas to global warming over*  
10          *100 years compared to carbon dioxide.*

11          “(5) *TREATMENT OF PETITION.*—*For any sub-*  
12          *stance used as a substitute for a class I or class II*  
13          *substance under title VI, the Administrator may elect*  
14          *to treat a petition under this subsection as a petition*  
15          *to list the substance as a class II, group II substance*  
16          *under section 619, and may require the petition to be*  
17          *amended to address listing criteria promulgated*  
18          *under that section.*

19          “(6) *DETERMINATION.*—*Not later than 2 years*  
20          *after receipt of a complete petition, the Administrator*  
21          *shall, after notice and an opportunity for comment—*

22                  “(A) *issue and publish in the Federal Reg-*  
23                  *ister—*

24                          “(i) *a determination that 1 metric ton*  
25                          *of the gas does not make a contribution to*

1           *global warming over 100 years that is equal*  
 2           *to or greater than that made by 1 metric*  
 3           *ton of carbon dioxide; and*

4           “(ii) *an explanation of the decision; or*

5           “(B) *determine that 1 metric ton of the gas*  
 6           *makes a contribution to global warming over 100*  
 7           *years that is equal to or greater than that made*  
 8           *by 1 metric ton of carbon dioxide, and take the*  
 9           *actions described in subsection (b) with respect*  
 10          *to such gas.*

11          “(7) *GROUNDS FOR DENIAL.—The Administrator*  
 12          *may not deny a petition under this subsection solely*  
 13          *on the basis of inadequate Environmental Protection*  
 14          *Agency resources or time for review.*

15          “(d) *SCIENCE ADVISORY BOARD CONSULTATION.—*

16               “(1)     *CONSULTATION.—The     Administrator*  
 17          *shall—*

18               “(A) *give notice to the Science Advisory*  
 19               *Board prior to making a determination under*  
 20               *subsection (b)(1), (c)(6), or (e)(2)(B);*

21               “(B) *consider the written recommendations*  
 22               *of the Science Advisory Board under paragraph*  
 23               *(2) regarding the determination; and*

24               “(C) *consult with the Science Advisory*  
 25               *Board regarding such determination, including*



1           *consultation subsequent to receipt of such written*  
 2           *recommendations.*

3           “(2) *FORMULATION OF RECOMMENDATIONS.*—

4           *Upon receipt of notice under paragraph (1)(A) re-*  
 5           *garding a pending determination under subsection*  
 6           *(b)(1), (c)(6), or (e)(2)(B), the Science Advisory*  
 7           *Board shall—*

8                   “(A) *formulate recommendations regarding*  
 9                   *such determination, subject to a peer review*  
 10                   *process; and*

11                   “(B) *submit such recommendations in writ-*  
 12                   *ing to the Administrator.*

13           “(e) *MANUFACTURING AND EMISSION NOTICES.*—

14                   “(1) *NOTICE REQUIREMENT.*—

15                   “(A) *IN GENERAL.*—*Effective 24 months*  
 16                   *after the date of enactment of this title, no per-*  
 17                   *son may manufacture or introduce into inter-*  
 18                   *state commerce a fluorinated gas, or emit in a*  
 19                   *calendar year a significant quantity, as deter-*  
 20                   *mined by the Administrator (which in no case*  
 21                   *shall be less than 1/2 ton of such fluorinated gas),*  
 22                   *of any fluorinated gas that is generated as a by-*  
 23                   *product during the production or use of another*  
 24                   *fluorinated gas, unless—*

1           “(i) the gas is designated as a green-  
2           house gas under this section or is an ozone-  
3           depleting substance listed as a class I or  
4           class II substance under title VI;

5           “(ii) the Administrator has determined  
6           that 1 metric ton of such gas does not make  
7           a contribution to global warming that is  
8           equal to or greater than that made by 1  
9           metric ton of carbon dioxide; or

10          “(iii) the person manufacturing or im-  
11          porting the gas for distribution into inter-  
12          state commerce, or emitting the gas, has  
13          submitted to the Administrator, at least 90  
14          days before the start of such manufacture,  
15          introduction into commerce, or emission, a  
16          notice of such person’s manufacture, intro-  
17          duction into commerce, or emission of such  
18          gas, and the Administrator has not deter-  
19          mined that notice or a substantially similar  
20          notice is incomplete.

21          “(B) *ALTERNATIVE COMPLIANCE.*—For a  
22          gas that is a substitute for a class I or class II  
23          substance under title VI and either has been list-  
24          ed as acceptable for use under section 612 or is  
25          currently subject to evaluation under section 612,

1        *the Administrator may accept the notice and in-*  
 2        *formation provided pursuant to that section as*  
 3        *fulfilling the obligation under clause (iii) of sub-*  
 4        *paragraph (A).*

5        “(2) *REVIEW AND ACTION BY THE ADMINIS-*  
 6        *TRATOR.*—

7                “(A) *COMPLETENESS.*—*Not later than 90*  
 8        *days after receipt of notice under paragraph*  
 9        *(1)(A)(iii) or (B), the Administrator shall deter-*  
 10        *mine whether the notice is complete.*

11               “(B) *DETERMINATION.*—*If the Adminis-*  
 12        *trator determines that the notice is complete, the*  
 13        *Administrator shall, after notice and an oppor-*  
 14        *tunity for comment, not later than 12 months*  
 15        *after receipt of the notice—*

16               “(i) *issue and publish in the Federal*  
 17        *Register a determination that 1 metric ton*  
 18        *of the gas does not make a contribution to*  
 19        *global warming over 100 years that is equal*  
 20        *to or greater than that made by 1 metric*  
 21        *ton of carbon dioxide and an explanation of*  
 22        *the decision; or*

23               “(ii) *determine that 1 metric ton of the*  
 24        *gas makes a contribution to global warming*  
 25        *over 100 years that is equal to or greater*

1                   *than that made by 1 metric ton of carbon*  
 2                   *dioxide, and take the actions described in*  
 3                   *subsection (b) with respect to such gas.*

4           “(f) *REGULATIONS.*—*Not later than one year after the*  
 5   *date of enactment of this title, the Administrator shall pro-*  
 6   *mulgate regulations to carry out this section. Such regula-*  
 7   *tions shall include—*

8                   “(1) *requirements for the contents of a petition*  
 9                   *submitted under subsection (c);*

10                   “(2) *requirements for the contents of a notice re-*  
 11                   *quired under subsection (e); and*

12                   “(3) *methods and standards for evaluating the*  
 13                   *carbon dioxide equivalent value of a gas.*

14           “(g) *GASES REGULATED UNDER TITLE VI.*—*The Ad-*  
 15   *ministrator shall not designate a gas as a greenhouse gas*  
 16   *under this section to the extent that the gas is regulated*  
 17   *under title VI.*

18           “(h) *SAVINGS CLAUSE.*—*Nothing in this section shall*  
 19   *be interpreted to relieve any person from complying with*  
 20   *the requirements of section 612.*

21   **“SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF**  
 22                   **GREENHOUSE GASES.**

23           “(a) *MEASURE OF QUANTITY OF GREENHOUSE*  
 24   *GASES.*—*Any provision of this title or title VIII that refers*  
 25   *to a quantity or percentage of a quantity of greenhouse*

1 *gases shall mean the quantity or percentage of the green-*  
 2 *house gases expressed in carbon dioxide equivalents.*

3 “(b) *INITIAL VALUE.*—*Except as provided by the Ad-*  
 4 *ministrator under this section or section 711—*

5 “(1) *the carbon dioxide equivalent value of*  
 6 *greenhouse gases for purposes of this Act shall be as*  
 7 *follows:*

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
GREENHOUSE GASES**

<b><i>Greenhouse gas (1 metric ton)</i></b>	<b><i>Carbon dioxide equivalent (metric tons)</i></b>
<i>Carbon dioxide</i>	<i>1</i>
<i>Methane</i>	<i>25</i>
<i>Nitrous oxide</i>	<i>298</i>
<i>HFC-23</i>	<i>14,800</i>
<i>HFC-125</i>	<i>3,500</i>
<i>HFC-134a</i>	<i>1,430</i>
<i>HFC-143a</i>	<i>4,470</i>
<i>HFC-152a</i>	<i>124</i>
<i>HFC-227ea</i>	<i>3,220</i>
<i>HFC-236fa</i>	<i>9,810</i>
<i>HFC-4310mee</i>	<i>1,640</i>
<i>CF<sub>4</sub></i>	<i>7,390</i>
<i>C<sub>2</sub>F<sub>6</sub></i>	<i>12,200</i>
<i>C<sub>4</sub>F<sub>10</sub></i>	<i>8,860</i>
<i>C<sub>6</sub>F<sub>14</sub></i>	<i>9,300</i>
<i>SF<sub>6</sub></i>	<i>22,800</i>
<i>NF<sub>3</sub></i>	<i>17,200</i>

1       ; and

2               “(2) the carbon dioxide equivalent value for pur-  
3       poses of this Act for any greenhouse gas not listed in  
4       the table under paragraph (1) shall be the 100-year  
5       Global Warming Potentials provided in the Intergov-  
6       ernmental Panel on Climate Change Fourth Assess-  
7       ment Report.

8       “(c) *PERIODIC REVIEW*.—

9               “(1) Not later than February 1, 2017, and (ex-  
10       cept as provided in paragraph (3)) not less than  
11       every 5 years thereafter, the Administrator shall—

12               “(A) review and, if appropriate, revise the  
13       carbon dioxide equivalent values established  
14       under this section or section 711(b)(2), based on  
15       a determination of the number of metric tons of  
16       carbon dioxide that makes the same contribution  
17       to global warming over 100 years as 1 metric  
18       ton of each greenhouse gas; and

19               “(B) publish in the Federal Register the re-  
20       sults of that review and any revisions.

21               “(2) A revised determination published in the  
22       Federal Register under paragraph (1)(B) shall take  
23       effect for greenhouse gas emissions starting on Janu-  
24       ary 1 of the first calendar year starting at least 9

1        *months after the date on which the revised determina-*  
 2        *tion was published.*

3                “(3) *The Administrator may decrease the fre-*  
 4        *quency of review and revision under paragraph (1) if*  
 5        *the Administrator determines that such decrease is*  
 6        *appropriate in order to synchronize such review and*  
 7        *revision with any similar review process carried out*  
 8        *pursuant to the United Nations Framework Conven-*  
 9        *tion on Climate Change, done at New York on May*  
 10        *9, 1992, or to an agreement negotiated under that*  
 11        *convention, except that in no event shall the Adminis-*  
 12        *trator carry out such review and revision any less fre-*  
 13        *quently than every 10 years.*

14                “(d) *METHODOLOGY.—In setting carbon dioxide equiv-*  
 15        *alent values, for purposes of this section or section 711, the*  
 16        *Administrator shall take into account publications by the*  
 17        *Intergovernmental Panel on Climate Change or a successor*  
 18        *organization under the auspices of the United Nations En-*  
 19        *vironmental Programme and the World Meteorological Or-*  
 20        *ganization.*

21        **“SEC. 713. GREENHOUSE GAS REGISTRY.**

22                “(a) *DEFINITIONS.—For purposes of this section:*

23                        “(1) *CLIMATE REGISTRY.—The term ‘Climate*  
 24        *Registry’ means the greenhouse gas emissions registry*  
 25        *jointly established and managed by more than 40*

1 *States and Indian tribes in 2007 to collect high-quality*  
 2 *greenhouse gas emission data from facilities, corporations,*  
 3 *and other organizations to support various*  
 4 *greenhouse gas emission reporting and reduction policies*  
 5 *for the member States and Indian tribes.*

6 “(2) *REPORTING ENTITY.*—*The term ‘reporting*  
 7 *entity’ means—*

8 “(A) *a covered entity;*

9 “(B) *an entity that—*

10 “(i) *would be a covered entity if it had*  
 11 *emitted, produced, imported, manufactured,*  
 12 *or delivered in 2008 or any subsequent year*  
 13 *more than the applicable threshold level in*  
 14 *the definition of covered entity in para-*  
 15 *graph (13) of section 700; and*

16 “(ii) *has emitted, produced, imported,*  
 17 *manufactured, or delivered in 2008 or any*  
 18 *subsequent year more than the applicable*  
 19 *threshold level in the definition of covered*  
 20 *entity in paragraph (13) of section 700,*  
 21 *provided that the figure of 25,000 tons of*  
 22 *carbon dioxide equivalent is read instead as*  
 23 *10,000 tons of carbon dioxide equivalent*  
 24 *and the figure of 460,000,000 cubic feet is*  
 25 *read instead as 184,000,000 cubic feet;*



1           “(C) any other entity that emits a green-  
 2           house gas, or produces, imports, manufactures,  
 3           or delivers material whose use results or may re-  
 4           sult in greenhouse gas emissions if the Adminis-  
 5           trator determines that reporting under this sec-  
 6           tion by such entity will help achieve the purposes  
 7           of this title or title VIII;

8           “(D) any vehicle fleet with emissions of  
 9           more than 25,000 tons of carbon dioxide equiva-  
 10          lent on an annual basis, if the Administrator de-  
 11          termines that the inclusion of such fleet will help  
 12          achieve the purposes of this title or title VIII; or

13          “(E) any entity that delivers electricity to  
 14          an energy-intensive facility in an industrial sec-  
 15          tor that meets the energy or greenhouse gas in-  
 16          tensity criteria in section 764(b)(3)(B)(i).

17          “(b) REGULATIONS.—

18                 “(1) IN GENERAL.—Not later than 6 months  
 19          after the date of enactment of this title, the Adminis-  
 20          trator shall issue regulations establishing a Federal  
 21          greenhouse gas registry. Such regulations shall—

22                         “(A) require reporting entities to submit to  
 23                         the Administrator data on—

24                                 “(i) greenhouse gas emissions in the  
 25                                 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 United  
5           States, of fuels and industrial gases the uses  
6           of which result or may result in greenhouse  
7           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 combustion  
12          of which result or may result in greenhouse  
13          gas emissions; and

14          “(iv) the capture and sequestration of  
15          greenhouse gases;

16          “(B) require covered entities and, where ap-  
17          propriate, other reporting entities to submit to  
18          the Administrator data sufficient to ensure com-  
19          pliance with or implementation of the require-  
20          ments 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 reli-  
3           ability 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 the  
9           Climate Registry and other mandatory State or  
10          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 722  
15          applies, and, to the extent determined to be ap-  
16          propriate by the Administrator, for covered enti-  
17          ties with respect to other greenhouse gases and  
18          for other reporting entities, submitted data are  
19          based on—

20               “(i) continuous monitoring systems for  
21               fuel flow or emissions, such as continuous  
22               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 de-*  
12 *termines is appropriate for reporting small*  
13 *amounts of emissions, precision, reliability,*  
14 *and accessibility, as similar as is tech-*  
15 *nically feasible to that of data generally*  
16 *provided by continuous monitoring systems*  
17 *for fuel flow or emissions, if the Adminis-*  
18 *trator determines that, with respect to a re-*  
19 *porting entity, there is no continuous moni-*  
20 *toring system or alternative system de-*  
21 *scribed in clause (i) or (ii) that is tech-*  
22 *nically feasible;*

23 *“(H) require that the Administrator, in de-*  
24 *termining the extent to which the requirement to*  
25 *use systems or methodologies in accordance with*

1        *subparagraph (G) is appropriate for reporting*  
2        *entities other than covered entities or for green-*  
3        *house gases to which section 722 does not apply,*  
4        *consider the cost of using such systems and meth-*  
5        *odologies, and of using other systems and meth-*  
6        *odologies that are available and suitable, for*  
7        *quantifying the emissions involved in light of the*  
8        *purposes of this title, including the goal of col-*  
9        *lecting consistent entity-wide data;*

10        *“(I) include methods for minimizing double*  
11        *reporting and avoiding irreconcilable double re-*  
12        *porting of greenhouse gas emissions;*

13        *“(J) establish measurement protocols for*  
14        *carbon capture and sequestration systems, taking*  
15        *into consideration the regulations promulgated*  
16        *under section 813;*

17        *“(K) require that reporting entities provide*  
18        *the data required under this paragraph in re-*  
19        *ports submitted electronically to the Adminis-*  
20        *trator, in such form and containing such infor-*  
21        *mation as may be required by the Adminis-*  
22        *trator;*

23        *“(L) include requirements for keeping*  
24        *records supporting or related to, and protocols*  
25        *for auditing, submitted data;*

1           “(M) establish consistent policies for calcu-  
 2           lating carbon content and greenhouse gas emis-  
 3           sions for each type of fossil fuel with respect to  
 4           which reporting is required;

5           “(N) subsequent to implementation of poli-  
 6           cies developed under subparagraph (M), provide  
 7           for immediate dissemination, to States, Indian  
 8           tribes, and on the Internet, of all data reported  
 9           under this section as soon as practicable after  
 10          electronic audit by the Administrator and any  
 11          resulting correction of data, except that data  
 12          shall not be disseminated under this subpara-  
 13          graph if—

14               “(i) its nondissemination is vital to  
 15               the national security of the United States,  
 16               as determined by the President; or

17               “(ii) it is confidential business infor-  
 18               mation that cannot be derived from infor-  
 19               mation that is otherwise publicly available  
 20               and disclosure of which would likely cause  
 21               substantial harm to the competitive position  
 22               of the person from which the information  
 23               was obtained, except that—

24               “(I) data relating to greenhouse  
 25               gas emissions, including any upstream

1           *or verification data from reporting en-*  
2           *tities, shall not be considered to be con-*  
3           *fidential business information; and*

4           “(II) *data that is confidential*  
5           *business information shall be provided*  
6           *to a State or Indian tribe within*  
7           *whose jurisdiction the reporting entity*  
8           *is located, if—*

9           “(aa) *the State or Indian*  
10           *tribe has first provided to the Ad-*  
11           *ministrator a written opinion*  
12           *from the chief legal officer or*  
13           *counsel of the requesting State*  
14           *agency, or comparable tribal legal*  
15           *counsel, stating that under appli-*  
16           *cable State or tribal law, the*  
17           *State or Indian tribe has the au-*  
18           *thority to compel a business that*  
19           *possesses such information to dis-*  
20           *close the information to the State*  
21           *or Indian tribe; or*

22           “(bb) *each affected business is*  
23           *informed of disclosures under this*  
24           *part that pertain to the business,*  
25           *and the State or Indian tribe has*

1           *demonstrated to the chief legal of-*  
2           *ficer of the Environmental Protec-*  
3           *tion Agency that the use and dis-*  
4           *closure by the State or Indian*  
5           *tribe, as applicable, of such infor-*  
6           *mation will be governed by State*  
7           *or tribal law and procedures that*  
8           *will provide adequate protection*  
9           *to the interests of affected busi-*  
10          *nesses;*

11           “(O) prescribe methods by which the Ad-  
12          *ministrator shall, in cases in which satisfactory*  
13          *data are not submitted to the Administrator for*  
14          *any period of time, estimate emission, produc-*  
15          *tion, importation, manufacture, or delivery lev-*  
16          *els—*

17           “(i) for covered entities with respect to  
18          *greenhouse gas emissions, production, im-*  
19          *portation, manufacture, or delivery regu-*  
20          *lated under this title to ensure that emis-*  
21          *sions, production, importation, manufac-*  
22          *ture, or deliveries are not underreported,*  
23          *and to create a strong incentive for meeting*  
24          *data monitoring and reporting require-*  
25          *ments—*



1                   “(I) with a conservative estimate  
2                   of the highest emission, production, im-  
3                   portation, manufacture, or delivery  
4                   levels that may have occurred during  
5                   the period for which data are missing;  
6                   or

7                   “(II) to the extent the Adminis-  
8                   trator considers appropriate, with an  
9                   estimate of such levels assuming the  
10                  unit is emitting, producing, importing,  
11                  manufacturing, or delivering at a  
12                  maximum potential level during the  
13                  period, in order to ensure that such  
14                  levels are not underreported and to cre-  
15                  ate a strong incentive for meeting data  
16                  monitoring and reporting require-  
17                  ments; and

18                  “(ii) for covered entities with respect to  
19                  greenhouse gas emissions to which section  
20                  722 does not apply and for other reporting  
21                  entities, with a reasonable estimate of the  
22                  emission, production, importation, manu-  
23                  facture, or delivery levels that may have oc-  
24                  curred during the period for which data are  
25                  missing;

1           “(P) require the designation of a designated  
2           representative for each reporting entity;

3           “(Q) require an appropriate certification,  
4           by the designated representative for the reporting  
5           entity, of accurate and complete accounting of  
6           greenhouse gas emissions, as determined by the  
7           Administrator; and

8           “(R) include requirements for other data  
9           necessary for accurate and complete accounting  
10          of greenhouse gas emissions, as determined by the  
11          Administrator, including data for quality assur-  
12          ance of monitoring systems, monitors and other  
13          measurement devices, and other data needed to  
14          verify reported emissions, production, importa-  
15          tion, manufacture, or delivery.

16          “(2) TIMING.—

17               “(A) CALENDAR YEARS 2007 THROUGH  
18               2010.—For a base period of calendar years 2007  
19               through 2010, each reporting entity shall submit  
20               annual data required under this section to the  
21               Administrator not later than March 31, 2011.  
22               The Administrator may waive or modify report-  
23               ing requirements for calendar years 2007  
24               through 2010 for categories of reporting entities  
25               to the extent that the Administrator determines

1        *that the reporting entities did not keep data or*  
2        *records necessary to meet reporting requirements.*  
3        *The Administrator may, in addition to or in*  
4        *lieu of such requirements, collect information on*  
5        *energy consumption and production.*

6                *“(B) SUBSEQUENT CALENDAR YEARS.—For*  
7        *calendar year 2011 and each subsequent cal-*  
8        *endar year, each reporting entity shall submit*  
9        *quarterly data required under this section to the*  
10       *Administrator not later than 60 days after the*  
11       *end of the applicable quarter, except when the*  
12       *data is already being reported to the Adminis-*  
13       *trator on an earlier timeframe for another pro-*  
14       *gram.*

15               *“(3) WAIVER OF REPORTING REQUIREMENTS.—*  
16       *The Administrator may waive reporting requirements*  
17       *under this section for specific entities to the extent*  
18       *that the Administrator determines that sufficient and*  
19       *equally or more reliable verified and timely data are*  
20       *available to the Administrator and the public on the*  
21       *Internet under other mandatory statutory require-*  
22       *ments.*

23               *“(4) ALTERNATIVE THRESHOLD.—The Adminis-*  
24       *trator may, by rule, establish applicability thresholds*  
25       *for reporting under this section using alternative*

1        *metrics and levels, provided that such metrics and*  
 2        *levels are easier to administer and cover the same size*  
 3        *and type of sources as the threshold defined in this*  
 4        *section.*

5        “(c) *INTERRELATIONSHIP WITH OTHER SYSTEMS.—*  
 6        *In developing the regulations issued under subsection (b),*  
 7        *the Administrator shall take into account the work done by*  
 8        *the Climate Registry and other mandatory State or*  
 9        *multistate programs. Such regulations shall include an ex-*  
 10       *planation of any major differences in approach between the*  
 11       *system established under the regulations and such registries*  
 12       *and programs.*

13       **“SEC.     714.     PERFLUOROCARBON     AND     OTHER**  
 14                                **NONHYDROFLUOROCARBON     FLUORINATED**  
 15                                **SUBSTANCE PRODUCTION REGULATION.**

16        “(a) *DEFINITIONS.—In this section:*

17                “(1) *BEST ACHIEVABLE PERFORMANCE STAND-*  
 18        *ARD.—The term ‘best achievable performance stand-*  
 19        *ard’ means a limitation on total emissions based on*  
 20        *the maximum degree of reduction of fluorinated gases*  
 21        *that are greenhouse gases subject to regulation under*  
 22        *this Act emitted during the production of*  
 23        *nonhydrofluorocarbon fluorinated substances at cov-*  
 24        *ered entities that the Administrator, taking into con-*  
 25        *sideration energy, environmental, economic impacts,*

1      *and other costs, determines to be achievable for cov-*  
 2      *ered entities through application of production proc-*  
 3      *ess optimization and available methods, control tech-*  
 4      *nologies or systems, and management techniques or*  
 5      *practices.*

6           “(2) NONHYDROFLUOROCARBON FLUORINATED  
 7      *SUBSTANCE.—The term ‘nonhydrofluorocarbon*  
 8      *fluorinated substance’ means a substance included on*  
 9      *the list under subsection (d) that—*

10           “(A) *is not listed as a class I or class II*  
 11           *substance under title VI; and*

12           “(B) *is not—*

13                   “(i) *sulfur hexafluoride; or*

14                   “(ii) *nitrogen trifluoride.*

15           “(b) *DETERMINATION BY ADMINISTRATOR.—*

16           “(1) *IN GENERAL.—Not later than 1 year after*  
 17      *the date of enactment of this section, the Adminis-*  
 18      *trator shall determine, based on the criteria described*  
 19      *in paragraph (2), whether fluorinated gases that are*  
 20      *greenhouse gases emitted during the production of*  
 21      *nonhydrofluorocarbon fluorinated substances should be*  
 22      *regulated in accordance with—*

23                   “(A) *subsection (c); or*

24                   “(B) *the applicable requirements of section*

25                   722 *relating to emissions of greenhouse gases*

1           *during fluorinated substance production at cov-*  
 2           *ered entities.*

3           “(2) *CRITERIA FOR DETERMINATION.*—*In mak-*  
 4           *ing the determination under paragraph (1), the Ad-*  
 5           *ministrator shall take into consideration—*

6                   “(A) *whether an equivalent or greater level*  
 7                   *of total emissions reductions could be achieved*  
 8                   *under subsection (c), as compared to the emis-*  
 9                   *sions reductions that would be achieved under*  
 10                   *the applicable requirements of section 722 relat-*  
 11                   *ing to emissions of greenhouse gases during*  
 12                   *fluorinated substance production at covered enti-*  
 13                   *ties; and*

14                   “(B) *such other criteria as the Adminis-*  
 15                   *trator determines to be appropriate.*

16           “(c) *GREENHOUSE GAS EMISSIONS FROM*  
 17           *NONHYDROFLUOROCARBON FLUORINATED SUBSTANCE*  
 18           *PRODUCTION.*—

19                   “(1) *IN GENERAL.*—*If the Administrator makes*  
 20                   *the determination described in subsection (b)(1)(A),*  
 21                   *not later than 18 months after the date of enactment*  
 22                   *of this section, the Administrator shall promulgate*  
 23                   *regulations applicable to covered entities that require*  
 24                   *fluorinated gases that are greenhouse gases emitted*  
 25                   *during the production of nonhydrofluorocarbon*

1     *fluorinated substances at those covered entities to meet*  
 2     *the best achievable performance standard.*

3             “(2) *BEST ACHIEVABLE PERFORMANCE STAND-*  
 4     *ARD REVIEW.*—*The Administrator shall, at the discre-*  
 5     *tion of the Administrator—*

6             “(A) *not later than 2 years after the date*  
 7     *of establishment of a best achievable performance*  
 8     *standard, and every 2 years thereafter—*

9             “(i) *review the best achievable perform-*  
 10     *ance standard; and*

11            “(ii) *as necessary, establish a more*  
 12     *stringent best available performance stand-*  
 13     *ard that reduces emissions, to the maximum*  
 14     *extent practicable, in accordance with the*  
 15     *economy-wide reduction goals referred to in*  
 16     *section 702; or*

17            “(B) *not later than 2 years after the date*  
 18     *of establishment of a best achievable performance*  
 19     *standard, and every 10 years thereafter, establish*  
 20     *a 10-year schedule under which each applicable*  
 21     *covered entity shall incrementally implement a*  
 22     *more stringent best achievable performance*  
 23     *standard that reduces, to the maximum extent*  
 24     *practicable, emissions in accordance with the*

1           *economy-wide reduction goals referred to in sec-*  
 2           *tion 702.*

3           “(3) *EXCLUSIVITY.*—*If the Administrator makes*  
 4           *the determination described in subsection (b)(1)(A),*  
 5           *the requirements of this subsection relating to control*  
 6           *of emissions of fluorinated gases that are greenhouse*  
 7           *gases during the production of nonhydrofluorocarbon*  
 8           *fluorinated substances shall apply in lieu of the re-*  
 9           *quirements of section 722 relating to emissions of*  
 10           *fluorinated gases that are greenhouse gases during*  
 11           *fluorinated substance production at covered entities.*

12           “(d)       *LIST       OF       NONHYDROFLUOROCARBON*  
 13           *FLUORINATED SUBSTANCES.*—

14           “(1) *INITIAL LIST.*—*If the Administrator makes*  
 15           *the determination described in subsection (b)(1)(A),*  
 16           *not later than 2 years after the date of enactment of*  
 17           *this section, the Administrator shall publish a list of*  
 18           *nonhydrofluorocarbon fluorinated substances subject*  
 19           *to regulation under this section.*

20           “(2) *ADDITIONS TO LIST.*—*The Administrator*  
 21           *may include on the list published under paragraph*  
 22           *(1) any substance that meets the requirements de-*  
 23           *scribed in subsection (a)(2).*



1                   **“PART C—PROGRAM RULES**

2   **“SEC. 721. EMISSION ALLOWANCES.**

3           “(a) *IN GENERAL.*—*The Administrator shall establish*  
4 *a separate quantity of emission allowances for each cal-*  
5 *endar year starting in 2012, in the quantities prescribed*  
6 *under subsection (e).*

7           “(b) *IDENTIFICATION NUMBERS.*—*The Administrator*  
8 *shall assign to each emission allowance established under*  
9 *subsection (a) a unique identification number that includes*  
10 *the vintage year for that emission allowance.*

11          “(c) *LEGAL STATUS OF EMISSION ALLOWANCES.*—

12               “(1) *IN GENERAL.*—*An allowance established by*  
13 *the Administrator under this title does not constitute*  
14 *a property right.*

15               “(2) *TERMINATION OR LIMITATION.*—*Nothing in*  
16 *this Act or any other provision of law shall be con-*  
17 *strued to limit or alter the authority of the United*  
18 *States, including the Administrator acting pursuant*  
19 *to statutory authority, to terminate or limit allow-*  
20 *ances, offset credits, or term offset credits.*

21               “(3) *OTHER PROVISIONS UNAFFECTED.*—*Except*  
22 *as otherwise specified in this Act, nothing in this Act*  
23 *relating to allowances, offset credits, or term offset*  
24 *credits established or issued under this title shall af-*  
25 *fect the application of any other provision of law to*

1        *a covered entity, or the responsibility for a covered*  
 2        *entity to comply with any such provision of law.*

3        “(d) *SAVINGS PROVISION.—Nothing in this part shall*  
 4        *be construed as requiring a change of any kind in any State*  
 5        *or tribal law regulating electric utility rates and charges,*  
 6        *or as affecting any State or tribal law regarding such State*  
 7        *regulation, or as limiting State or tribal regulation (includ-*  
 8        *ing any prudency review) under such a State or tribal law.*  
 9        *Nothing in this part shall be construed as modifying the*  
 10       *Federal Power Act (16 U.S.C. 791a et seq.) or as affecting*  
 11       *the authority of the Federal Energy Regulatory Commission*  
 12       *under that Act. Nothing in this part shall be construed to*  
 13       *interfere with or impair any program for competitive bid-*  
 14       *ding for power supply in a State in which such program*  
 15       *is established.*

16       “(e) *ALLOWANCES FOR EACH CALENDAR YEAR.—*

17                “(1) *IN GENERAL.—Except as provided in para-*  
 18        *graph (2), the number of emission allowances estab-*  
 19        *lished by the Administrator under subsection (a) for*  
 20        *each calendar year shall be as provided in the fol-*  
 21        *lowing table:*

<b>“Calendar Year</b>	<b>Emission Allowances (MtCO<sub>2</sub>e)</b>
2012 .....	4,627
2013 .....	4,544
2014 .....	5,053
2015 .....	5,003
2016 .....	5,482
2017 .....	5,261
2018 .....	5,132

2019 .....	5,002
2020 .....	4,873
2021 .....	4,739
2022 .....	4,605
2023 .....	4,471
2024 .....	4,337
2025 .....	4,203
2026 .....	4,069
2027 .....	3,935
2028 .....	3,801
2029 .....	3,667
2030 .....	3,533
2031 .....	3,408
2032 .....	3,283
2033 .....	3,158
2034 .....	3,033
2035 .....	2,908
2036 .....	2,784
2037 .....	2,659
2038 .....	2,534
2039 .....	2,409
2040 .....	2,284
2041 .....	2,159
2042 .....	2,034
2043 .....	1,910
2044 .....	1,785
2045 .....	1,660
2046 .....	1,535
2047 .....	1,410
2048 .....	1,285
2049 .....	1,160
2050 and each calendar 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*

1           *million metric tons carbon dioxide equiva-*  
2           *lent;*

3           “(ii) *if the requirements of this title for*  
4           *2012 had been in effect in 2005, section 722*  
5           *would have required emission allowances to*  
6           *be held for other than 66.2 percent of*  
7           *United States greenhouse gas emissions in*  
8           *2005;*

9           “(iii) *if the requirements of this title*  
10          *for 2014 had been in effect in 2005, section*  
11          *722 would have required emission allow-*  
12          *ances to be held for other than 75.6 percent*  
13          *of United States greenhouse gas emissions*  
14          *in 2005; or*

15          “(iv) *if the requirements of this title*  
16          *for 2016 had been in effect in 2005, section*  
17          *722 would have required emission allow-*  
18          *ances to be held for other than 84.5 percent*  
19          *United States greenhouse gas emissions in*  
20          *2005.*

21          “(B) *ADJUSTMENT FORMULA.—*

22                 “(i) *IN GENERAL.—If the Adminis-*  
23                 *trator adjusts under this paragraph the*  
24                 *number of emission allowances established*  
25                 *pursuant to paragraph (1), the number of*

1           *emission allowances the Administrator es-*  
2           *tablishes for any given calendar year shall*  
3           *equal the product of—*

4                     “(I) *United States greenhouse gas*  
5                     *emissions in 2005, expressed in tons of*  
6                     *carbon dioxide equivalent;*

7                     “(II) *the percent of United States*  
8                     *greenhouse gas emissions in 2005, ex-*  
9                     *pressed in tons of carbon dioxide equiv-*  
10                    *alent, that would have been subject to*  
11                    *section 722 if the requirements of this*  
12                    *title for the given calendar year had*  
13                    *been in effect in 2005; and*

14                    “(III) *the percentage set forth for*  
15                    *that calendar year in section 703(a),*  
16                    *or determined under clause (ii) of this*  
17                    *subparagraph.*

18                    “(ii) *TARGETS.—In applying the por-*  
19                    *tion of the formula in clause (i)(III) of this*  
20                    *subparagraph, for calendar years for which*  
21                    *a percentage is not listed in section 703(a),*  
22                    *the Administrator shall use a uniform an-*  
23                    *ual decline in the amount of emissions be-*  
24                    *tween the years that are specified.*

1                   “(iii) *CARBON DIOXIDE EQUIVALENT*  
 2                   *VALUE.*—*If the Administrator adjusts under*  
 3                   *this paragraph the number of emission al-*  
 4                   *lowances established pursuant to paragraph*  
 5                   *(1), the Administrator shall use the carbon*  
 6                   *dioxide equivalent values established pursu-*  
 7                   *ant to section 712.*

8                   “(iv) *LIMITATION ON ADJUSTMENT*  
 9                   *TIMING.*—*Once a calendar year has started,*  
 10                  *the Administrator may not adjust the num-*  
 11                  *ber of emission allowances to be established*  
 12                  *for that calendar year.*

13                  “(C) *LIMITATION ON ADJUSTMENT AUTHOR-*  
 14                  *ITY.*—*The Administrator may adjust under this*  
 15                  *paragraph the number of emission allowances to*  
 16                  *be established pursuant to paragraph (1) only*  
 17                  *once.*

18                  “(f) *COMPENSATORY ALLOWANCE.*—

19                  “(1) *IN GENERAL.*—*The regulations promulgated*  
 20                  *under subsection (h) shall provide for the establish-*  
 21                  *ment and distribution of compensatory allowances*  
 22                  *for—*

23                  “(A) *the destruction, in 2012 or later, of*  
 24                  *fluorinated gases that are greenhouse gases if—*

1           “(i) allowances or offset credits were  
2           retired for their production or importation;  
3           and

4           “(ii) such gases are not required to be  
5           destroyed under any other provision of law;

6           “(B) the nonemissive use, in 2012 or later,  
7           of petroleum-based or coal-based liquid or gas-  
8           eous fuel, petroleum coke, natural gas liquid, or  
9           natural gas as a feedstock, if allowances or offset  
10          credits were retired for the greenhouse gases that  
11          would have been emitted from their combustion;  
12          and

13          “(C) the conversionary use, in 2012 or  
14          later, of fluorinated gases in a manufacturing  
15          process, including semiconductor research or  
16          manufacturing, if allowances or offset credits  
17          were retired for the production or importation of  
18          such gas.

19          “(2) *ESTABLISHMENT AND DISTRIBUTION.*—

20                 “(A) *IN GENERAL.*—Not later than 90 days  
21                 after the end of each calendar year, the Adminis-  
22                 trator shall establish and distribute to the entity  
23                 taking the actions described in subparagraph  
24                 (A), (B), or (C) of paragraph (1) a quantity of  
25                 compensatory allowances equivalent to the num-

ber of tons of carbon dioxide equivalent of avoided emissions achieved through such actions. In establishing the quantity of compensatory allowances, the Administrator shall take into account the carbon dioxide equivalent value of any greenhouse gas resulting from such action.

“(B) *SOURCE OF ALLOWANCES.*—Compensatory allowances established under this subsection shall not be emission allowances established under subsection (a).

“(C) *IDENTIFICATION NUMBERS.*—The Administrator shall assign to each compensatory allowance established under subparagraph (A) a unique identification number.

“(3) *DEFINITIONS.*—For purposes of this subsection—

“(A) the term ‘destruction’ means the conversion of a greenhouse gas by thermal, chemical, or other means to another gas or set of gases with little or no carbon dioxide equivalent value;

“(B) the term ‘nonemissive use’ means the use of fossil fuel as a feedstock in an industrial or manufacturing process to the extent that greenhouse gases are not emitted from such process, and to the extent that the products of such



1        *process are not intended for use as, or to be con-*  
2        *tained in, a fuel; and*

3                *“(C) the term ‘conversionary use’ means the*  
4        *conversion during research or manufacturing of*  
5        *a fluorinated gas into another greenhouse gas or*  
6        *set of gases with a lower carbon dioxide equiva-*  
7        *lent value.*

8        *“(4) FEEDSTOCK EMISSIONS STUDY.—*

9                *“(A) The Administrator may conduct a*  
10       *study to determine the extent to which petro-*  
11       *leum-based or coal-based liquid or gaseous fuel,*  
12       *petroleum coke, natural gas liquid, or natural*  
13       *gas are used as feedstocks in manufacturing*  
14       *processes to produce products and the greenhouse*  
15       *gas emissions resulting from such uses.*

16                *“(B) If as a result of such a study, the Ad-*  
17       *ministrator determines that the use of such prod-*  
18       *ucts by noncovered sources results in substantial*  
19       *emissions of greenhouse gases or their precursors*  
20       *and that such emissions have not been ade-*  
21       *quately addressed under other requirements of*  
22       *this Act, the Administrator may, after notice*  
23       *and comment rulemaking, promulgate a regula-*  
24       *tion reducing compensatory allowances commen-*  
25       *surately if doing so will not result in leakage.*

1 “(g) *FLUORINATED GASES ASSESSMENT.*—

2 “(1) *IN GENERAL.*—Not later than March 31,  
3 2014, the Administrator shall conduct an assessment  
4 of the regulation of non-hydrofluorocarbon fluorinated  
5 gases under this title to determine whether the most  
6 appropriate point of regulation of those gases is at—

7 “(A) the gas manufacturer or importer  
8 level; or

9 “(B) the downstream source of the emis-  
10 sions.

11 “(2) *MODIFICATION OF DEFINITION.*—If the Ad-  
12 ministrator determines, based on consideration of en-  
13 vironmental effectiveness, cost-effectiveness, adminis-  
14 trative feasibility, extent of coverage of emissions, and  
15 competitiveness considerations, that emissions of non-  
16 hydrofluorocarbon fluorinated gases can best be regu-  
17 lated by designating downstream emission sources as  
18 covered entities with compliance obligations under  
19 section 722, the Administrator shall—

20 “(A) after providing notice and an oppor-  
21 tunity for comment, modify the definition of the  
22 term ‘covered entity’ with respect to fluorinated  
23 gases (other than hydrofluorocarbons) accord-  
24 ingly; and

1                   “(B) *establish such requirements as are nec-*  
 2                   *essary to ensure compliance by the covered enti-*  
 3                   *ties with the requirements of this title.*

4           “(h) *REGULATIONS.—Not later than 24 months after*  
 5           *the date of enactment of this title, the Administrator shall*  
 6           *promulgate regulations to carry out the provisions of this*  
 7           *title.*

8   **“SEC. 722. PROHIBITION OF EXCESS EMISSIONS.**

9           “(a) *PROHIBITION.—Except as provided in subsection*  
 10          *(c), effective January 1, 2012, each covered entity is prohib-*  
 11          *ited from emitting greenhouse gases, and having attrib-*  
 12          *utable greenhouse gas emissions, in combination, in excess*  
 13          *of its allowable emissions level. A covered entity’s allowable*  
 14          *emissions level for each calendar year is the number of emis-*  
 15          *sion allowances (or credits or other allowances as provided*  
 16          *in subsection (d)) it holds as of 12:01 a.m. on April 1 (or*  
 17          *a later date established by the Administrator under sub-*  
 18          *section (j)) of the following calendar year.*

19          “(b) *METHODS OF DEMONSTRATING COMPLIANCE.—*  
 20          *Except as otherwise provided in this section, the owner or*  
 21          *operator of a covered entity shall not be considered to be*  
 22          *in compliance with the prohibition in subsection (a) unless,*  
 23          *as of 12:01 a.m. on April 1 (or a later date established by*  
 24          *the Administrator under subsection (j)) of each calendar*  
 25          *year starting in 2013, the owner or operator holds a quan-*

1 *tity of emission allowances (or credits or other allowances*  
 2 *as provided in subsection (d)) at least as great as the quan-*  
 3 *tity calculated as follows:*

4           “(1) *ELECTRICITY SOURCES.*—*For a covered en-*  
 5 *tity described in section 700(13)(A), 1 emission allow-*  
 6 *ance for each ton of carbon dioxide equivalent of*  
 7 *greenhouse gas that such covered entity emitted in the*  
 8 *previous calendar year, excluding emissions resulting*  
 9 *from the combustion of—*

10               “(A) *petroleum-based or coal-based liquid*  
 11 *fuel;*

12               “(B) *natural gas liquid;*

13               “(C) *renewable biomass or gas derived from*  
 14 *renewable biomass; or*

15               “(D) *petroleum coke.*

16           “(2) *FUEL PRODUCERS AND IMPORTERS.*—*For a*  
 17 *covered entity described in section 700(13)(B), 1*  
 18 *emission allowance for each ton of carbon dioxide*  
 19 *equivalent of greenhouse gas that would be emitted*  
 20 *from the combustion of any petroleum-based or coal-*  
 21 *based liquid fuel, petroleum coke, or natural gas liq-*  
 22 *uid, produced or imported by such covered entity dur-*  
 23 *ing the previous calendar year for sale or distribution*  
 24 *in interstate commerce, assuming no capture and se-*  
 25 *questration of any greenhouse gas emissions.*

1           “(3) *INDUSTRIAL GAS PRODUCERS AND IMPORT-*  
2           *ERS.*—*For a covered entity described in section*  
3           *700(13)(C), 1 emission allowance for each ton of car-*  
4           *bon dioxide equivalent of fossil fuel-based carbon diox-*  
5           *ide, nitrous oxide, or any other fluorinated gas that*  
6           *is a greenhouse gas (except for nitrogen trifluoride),*  
7           *or any combination thereof, produced or imported by*  
8           *such covered entity during the previous calendar year*  
9           *for sale or distribution in interstate commerce.*

10           “(4) *NITROGEN TRIFLUORIDE SOURCES.*—*For a*  
11           *covered entity described in section 700(13)(D), 1*  
12           *emission allowance for each ton of carbon dioxide*  
13           *equivalent of nitrogen trifluoride that such covered*  
14           *entity emitted in the previous calendar year.*

15           “(5) *GEOLOGICAL SEQUESTRATION SITES.*—*For*  
16           *a covered entity described in section 700(13)(E), 1*  
17           *emission allowance for each ton of carbon dioxide*  
18           *equivalent of greenhouse gas that such covered entity*  
19           *emitted in the previous calendar year.*

20           “(6) *INDUSTRIAL STATIONARY SOURCES.*—*For a*  
21           *covered entity described in section 700(13)(F), (G), or*  
22           *(H), 1 emission allowance for each ton of carbon di-*  
23           *oxide equivalent of greenhouse gas that such covered*  
24           *entity emitted in the previous calendar year, exclud-*  
25           *ing emissions resulting from—*

1           “(A) the combustion of petroleum-based or  
2 coal-based liquid fuel;

3           “(B) the combustion of natural gas liquid;

4           “(C) the combustion of renewable biomass  
5 or gas derived from renewable biomass;

6           “(D) the combustion of petroleum coke; or

7           “(E) the use of any fluorinated gas that is  
8 a greenhouse gas purchased for use at that cov-  
9 ered entity, except for nitrogen trifluoride.

10          “(7) *INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-*  
11 *TION DEVICES.*—For a covered entity described in sec-  
12 tion 700(13)(I), 1 emission allowance for each ton of  
13 carbon dioxide equivalent of greenhouse gas that the  
14 devices emitted in the previous calendar year, exclud-  
15 ing emissions resulting from the combustion of—

16           “(A) petroleum-based or coal-based liquid  
17 fuel;

18           “(B) natural gas liquid;

19           “(C) renewable biomass or gas derived from  
20 renewable biomass; or

21           “(D) petroleum coke.

22          “(8) *NATURAL GAS LOCAL DISTRIBUTION COMPA-*  
23 *NIES.*—For a covered entity described in section  
24 700(13)(J), 1 emission allowance for each ton of car-  
25 bon dioxide equivalent of greenhouse gas that would

1 *be emitted from the combustion of the natural gas,*  
 2 *and any other gas meeting the specifications for com-*  
 3 *mingling with natural gas for purposes of delivery,*  
 4 *that such entity delivered during the previous cal-*  
 5 *endar year to customers that are not covered entities,*  
 6 *assuming no capture and sequestration of that green-*  
 7 *house gas.*

8 “(9) *R&D FACILITIES.*—

9 “(A) *IN GENERAL.*—For a qualified R&D  
 10 *facility that emitted 25,000 tons per year or*  
 11 *more carbon dioxide equivalent in the previous*  
 12 *calendar year, 1 emission allowance for each ton*  
 13 *of carbon dioxide equivalent of greenhouse gas*  
 14 *that such facility emitted in the previous cal-*  
 15 *endar year.*

16 “(B) *TREATMENT.*—A qualified R&D facil-  
 17 *ity shall be treated as a separate covered entity*  
 18 *solely for purposes of applying the requirements*  
 19 *of this subsection.*

20 “(10) *ALGAE-BASED FUELS.*—Where carbon di-  
 21 *oxide (or another greenhouse gas) generated by a cov-*  
 22 *ered entity is used as an input in the production of*  
 23 *algae-based fuels, the Administrator shall ensure that*  
 24 *emission allowances are required to be held either for*  
 25 *the carbon dioxide generated by a covered entity used*

1     *to grow the algae or for the portion of the carbon di-*  
 2     *oxide emitted from combustion of the fuel produced*  
 3     *from such algae that is attributable to carbon dioxide*  
 4     *generated by a covered entity, but not for both.*

5             “(11) *FUGITIVE EMISSIONS.*—*The greenhouse gas*  
 6     *emissions to which paragraphs (1), (4), (6), and (7)*  
 7     *apply shall not include fugitive emissions of green-*  
 8     *house gas, except to the extent the Administrator de-*  
 9     *termines that data on the carbon dioxide equivalent*  
 10    *value of greenhouse gas in the fugitive emissions can*  
 11    *be provided with sufficient precision, reliability, ac-*  
 12    *cessibility, and timeliness to ensure the integrity of*  
 13    *emission allowances, the allowance tracking system,*  
 14    *and the limits on emissions.*

15            “(12) *EXPORT EXEMPTION.*—*This section shall*  
 16    *not apply to any petroleum-based or coal-based liquid*  
 17    *fuel, petroleum coke, natural gas liquid, fossil fuel-*  
 18    *based carbon dioxide, nitrous oxide, or fluorinated gas*  
 19    *that is exported for sale or use.*

20            “(13) *NATURAL GAS LIQUIDS.*—*Notwithstanding*  
 21    *subsection (a), if the owner or operator of a covered*  
 22    *entity described in section 700(13)(B) that produces*  
 23    *natural gas liquids does not take ownership of the liq-*  
 24    *uids, and is not responsible for the distribution or use*  
 25    *of the liquids in commerce, the owner of the liquids*



1     *shall be responsible for compliance with this section,*  
 2     *section 723, and other relevant sections of this title*  
 3     *with respect to such liquids. In the regulations pro-*  
 4     *mulgated under section 721, the Administrator shall*  
 5     *include such provisions with respect to such liquids as*  
 6     *the Administrator determines are appropriate to de-*  
 7     *termine and ensure compliance, and to penalize non-*  
 8     *compliance. In such a case, the owner of the covered*  
 9     *entity shall provide to the Administrator, in a man-*  
 10    *ner to be determined by the Administrator, informa-*  
 11    *tion regarding the quantity and ownership of liquids*  
 12    *produced at the covered entity.*

13           “(14) *APPLICATION OF MULTIPLE PARA-*  
 14    *GRAPHS.—For a covered entity to which more than 1*  
 15    *of paragraphs (1) through (8) apply, all applicable*  
 16    *paragraphs shall apply, except that not more than 1*  
 17    *emission allowance shall be required for the same*  
 18    *emission.*

19           “(c) *PHASE-IN OF PROHIBITION.—*

20           “(1) *INDUSTRIAL STATIONARY SOURCES.—The*  
 21    *prohibition under subsection (a) shall first apply to*  
 22    *a covered entity described in section 700(13)(D), (F),*  
 23    *(G), (H), or (I), with respect to emissions occurring*  
 24    *during calendar year 2014.*

1           “(2) *SMALL BUSINESS REFINERS.*—*The prohibi-*  
 2           *tion under subsection (a) shall first apply to a cov-*  
 3           *ered entity described in section 700(13)(F)(viii) that*  
 4           *is a small business refiner with respect to emissions*  
 5           *during calendar year 2015.*

6           “(3) *NATURAL GAS LOCAL DISTRIBUTION COMPA-*  
 7           *NIES.*—*The prohibition under subsection (a) shall*  
 8           *first apply to a covered entity described in section*  
 9           *700(13)(J) with respect to deliveries occurring during*  
 10          *calendar year 2016.*

11          “(d) *ADDITIONAL METHODS.*—*In addition to using the*  
 12          *method of compliance described in subsection (b), a covered*  
 13          *entity may do the following:*

14               “(1) *OFFSET CREDITS.*—

15                   “(A) *CREDITS.*—

16                           “(i) *IN GENERAL.*—*Covered entities*  
 17                           *collectively may, in accordance with this*  
 18                           *paragraph, use offset credits to demonstrate*  
 19                           *compliance for up to a maximum of*  
 20                           *2,000,000,000 tons of greenhouse gas emis-*  
 21                           *sions annually.*

22                           “(ii) *DEMONSTRATION OF COMPLI-*  
 23                           *ANCE.*—*In any calendar year, a covered en-*  
 24                           *tity may demonstrate compliance by hold-*  
 25                           *ing 1 domestic offset credit or 1.25 inter-*

1        *national offset credits in lieu of an emission*  
 2        *allowance, except as provided in subpara-*  
 3        *graph (D), up to a total number of offset*  
 4        *credits described in subparagraph (B).*

5        “(B) *APPLICABLE PERCENTAGE.*—

6                “(i) *IN GENERAL.*—*The total number*  
 7        *of offset credits referred to in subparagraph*  
 8        *(A)(ii) for a covered entity for a given cal-*  
 9        *endar year shall be determined by—*

10               “(I) *dividing—*

11                “(aa) *the tons of carbon diox-*  
 12        *ide equivalent of greenhouse gas*  
 13        *emissions of the covered entity*  
 14        *(except for the types of emissions*  
 15        *excluded under subparagraphs (A)*  
 16        *through (D) of subsection (b)(1),*  
 17        *subparagraphs (A) through (E) of*  
 18        *subsection (b)(6), and subpara-*  
 19        *graphs (A) through (D) of sub-*  
 20        *section (b)(7)) and attributable*  
 21        *greenhouse gas emissions for the*  
 22        *year before the preceding calendar*  
 23        *year; by*

24                “(bb) *the sum of the tons of*  
 25        *carbon dioxide equivalent of*

1                   greenhouse gas emissions of all  
 2                   covered entities (except for the  
 3                   types of emissions excluded under  
 4                   subparagraphs (A) through (D) of  
 5                   subsection (b)(1), subparagraphs  
 6                   (A) through (E) of subsection  
 7                   (b)(6), and subparagraphs (A)  
 8                   through (D) of subsection (b)(7))  
 9                   and attributable greenhouse gas  
 10                  emissions for the year before the  
 11                  preceding calendar year; and

12                  “(II) multiplying the quotient ob-  
 13                  tained under subclause (I) by  
 14                  2,000,000,000.

15                  “(ii) *APPLICABILITY*.—Clause (i) shall  
 16                  apply to a covered entity (including a cov-  
 17                  ered entity that commenced operation dur-  
 18                  ing the preceding calendar year) even if the  
 19                  covered entity had no greenhouse gas emis-  
 20                  sions or attributable greenhouse gas emis-  
 21                  sions described in that clause.

22                  “(iii) *OFFSET CREDITS*.—Not more  
 23                  than  $\frac{3}{4}$  of the applicable percentage under  
 24                  this paragraph may be used by holding do-  
 25                  mestic offset credits, and not more than  $\frac{1}{4}$

1           *of the applicable percentage under this*  
2           *paragraph may be used by holding inter-*  
3           *national offset credits, except as provided in*  
4           *subparagraph (C).*

5           “(C) *MODIFIED PERCENTAGES.—If the Ad-*  
6           *ministrator determines that domestic offset cred-*  
7           *its available for use in demonstrating compli-*  
8           *ance in any calendar year at domestic offset*  
9           *prices generally equal to or less than allowance*  
10          *prices, are likely to offset less than 900,000,000*  
11          *tons of greenhouse gas emissions (measured in*  
12          *tons of carbon dioxide equivalents), the Adminis-*  
13          *trator shall increase the percent of emissions that*  
14          *can be offset through the use of international off-*  
15          *set credits (and decrease the percent of emissions*  
16          *that can be allowed through the use of domestic*  
17          *offset credits by the same amount) to reflect the*  
18          *amount that 1,500,000,000 exceeds the number of*  
19          *domestic offset credits the Administrator deter-*  
20          *mines is available for that year, up to a max-*  
21          *imum of 750,000,000 tons of greenhouse gas*  
22          *emissions.*

23          “(D) *INTERNATIONAL OFFSET CREDITS.—*  
24          *Notwithstanding subparagraph (A), to dem-*  
25          *onstrate compliance prior to calendar year 2018,*

1        *a covered entity may use 1 international offset*  
 2        *credit in lieu of an emission allowance up to the*  
 3        *amount permitted under this paragraph.*

4                *“(E) PRESIDENT’S RECOMMENDATION.—The*  
 5        *President may make a recommendation to Con-*  
 6        *gress as to whether the number 2,000,000,000*  
 7        *specified in subparagraphs (A) and (B) should*  
 8        *be increased or decreased.*

9                *“(2) TERM OFFSET CREDITS.—*

10               *“(A) IN GENERAL.—Covered entities may,*  
 11        *in accordance with this paragraph, use non-ex-*  
 12        *pired term offset credits instead of domestic offset*  
 13        *credits for purposes of temporarily dem-*  
 14        *onstrating compliance with this section.*

15               *“(B) AMOUNT.—The combined quantity of*  
 16        *term offset credits and domestic offset credits*  
 17        *used by a covered entity to demonstrate compli-*  
 18        *ance for its emissions or attributable greenhouse*  
 19        *gas emissions in any given year shall not exceed*  
 20        *the quantity of domestic offset credits that a cov-*  
 21        *ered entity is entitled to use for that year to*  
 22        *demonstrate compliance in accordance with*  
 23        *paragraph (1).*

24               *“(C) EXPIRATION.—A term offset credit*  
 25        *shall expire in the year after its term ends. The*

term of a term offset credit shall be calculated by adding to the year of issuance the number of years equal to the length of the crediting period for the practice or project for which the term offset credit was issued, but in no case shall be later than the date 5 years from the date of issuance.

“(D) DEMONSTRATING COMPLIANCE UPON EXPIRATION OF TERM OFFSET CREDIT.—With respect to the emissions for which a covered entity is using term offset credits to demonstrate compliance temporarily with this section, the owner or operator of a covered entity shall not be considered to be in compliance with the prohibition in subsection (a) unless, as of 12:01 a.m. on April 1 (or a later date established by the Administrator under subsection (j)) of the calendar year in which a term offset credit expires, the owner or operator holds—

“(i) for purposes of finally demonstrating compliance, an allowance or a domestic offset credit; or

“(ii) for purposes of temporarily demonstrating compliance, a non-expired term offset credit.

1           “(E) *INAPPLICABILITY OF PERCENTAGE*  
2           *LIMITATIONS.—Domestic offset credits used for*  
3           *purposes of finally demonstrating compliance*  
4           *under this subparagraph shall not be subject to*  
5           *the percentage limitations in subparagraph (B).*

6           “(F) *FINANCIAL ASSURANCE.—A covered*  
7           *entity may not use a term offset credit to dem-*  
8           *onstrate compliance temporarily unless it simul-*  
9           *taneously provides to the Administrator finan-*  
10          *cial assurance that, at the end of the term offset*  
11          *credit’s crediting term, the covered entity will*  
12          *have sufficient resources to obtain the quantity of*  
13          *allowances or credits necessary to demonstrate*  
14          *final compliance. The Administrator shall issue*  
15          *regulations establishing requirements for such fi-*  
16          *nancial assurance, which shall take into account*  
17          *the increased risk associated with longer cred-*  
18          *iting terms. These regulations shall take into ac-*  
19          *count the total number of tons of carbon dioxide*  
20          *equivalent of greenhouse gas emissions for which*  
21          *a covered entity is demonstrating compliance*  
22          *temporarily, and may set a limit on this*  
23          *amount. In the event that a covered entity that*  
24          *used term offset credits to demonstrate compli-*  
25          *ance temporarily fails to meet the requirements*



1           of subparagraph (D) at the end of the term offset  
2           credits' crediting term, if the financial assurance  
3           mechanism fails to provide to the Administrator  
4           the number of allowances or offset credits for  
5           which the crediting term has expired, then the  
6           Administrator shall retire that number of allow-  
7           ances with the vintage year 2 years after the  
8           year in which the term offset credit expires in  
9           the same amount. Allowances so retired shall not  
10          be counted as emission allowances established for  
11          that calendar year under section 721(a).

12          “(3) *INTERNATIONAL EMISSION ALLOWANCES.*—  
13          *To demonstrate compliance, a covered entity may*  
14          *hold an international emission allowance in lieu of*  
15          *an emission allowance, except as modified under sec-*  
16          *tion 728(d).*

17          “(4) *COMPENSATORY ALLOWANCES.*—*To dem-*  
18          *onstrate compliance, a covered entity may hold a*  
19          *compensatory allowance obtained under section 721(f)*  
20          *in lieu of an emission allowance.*

21          “(e) *RETIREMENT OF ALLOWANCES AND CREDITS.*—  
22          *As soon as practicable after a deadline established for cov-*  
23          *ered entities to demonstrate compliance with this title, the*  
24          *Administrator shall retire the quantity of allowances or*  
25          *credits required to be held under this title.*

1       “(f) *ALTERNATIVE METRICS.*—For categories of cov-  
 2       ered entities described in subparagraph (B), (C), (D), (G),  
 3       (H), or (I) of section 700(13), the Administrator may, by  
 4       rule, establish an applicability threshold for inclusion  
 5       under those subparagraphs using an alternative metric and  
 6       level, provided that such metric and level are easier to ad-  
 7       minister and cover the same size and type of sources as  
 8       the threshold defined in such subparagraphs.

9       “(g) *THRESHOLD REVIEW.*—For each category of cov-  
 10      ered entities described in subparagraph (B), (C), (D), (G),  
 11      (H), or (I) of section 700(13), the Administrator shall, in  
 12      2020 and once every 8 years thereafter, review the carbon  
 13      dioxide equivalent emission thresholds that are used to de-  
 14      fine covered entities. After consideration of—

15               “(1) emissions from covered entities in each such  
 16      category, and from other entities of the same type that  
 17      emit less than the threshold amount for the category  
 18      (including emission sources that commence operation  
 19      after the date of enactment of this title that are not  
 20      covered entities); and

21               “(2) whether greater greenhouse gas emission re-  
 22      ductions can be cost-effectively achieved by lowering  
 23      the applicable threshold,  
 24      the Administrator may by rule lower such threshold to not  
 25      less than 10,000 tons of carbon dioxide equivalent emis-

1 sions. In determining the cost effectiveness of potential re-  
 2 ductions from lowering the threshold for covered entities, the  
 3 Administrator shall consider alternative regulatory green-  
 4 house gas programs, including setting standards under  
 5 other titles of this Act.

6 “(h) *DESIGNATED REPRESENTATIVES.*—The regula-  
 7 tions promulgated under section 721(h) shall require that  
 8 each covered entity, and each entity holding allowances or  
 9 credits or receiving allowances or credits from the Adminis-  
 10 trator under this title, select a designated representative.

11 “(i) *EDUCATION AND OUTREACH.*—

12 “(1) *IN GENERAL.*—The Administrator shall es-  
 13 tablish and carry out a program of education and  
 14 outreach to assist covered entities, especially entities  
 15 having little experience with environmental regu-  
 16 latory requirements similar or comparable to those  
 17 under this title, in preparing to meet the compliance  
 18 obligations of this title. Such program shall include  
 19 education with respect to using markets to effectively  
 20 achieve such compliance.

21 “(2) *FAILURE TO RECEIVE INFORMATION.*—A  
 22 failure to receive information or assistance under this  
 23 subsection may not be used as a defense against an  
 24 allegation of any violation of this title.

1       “(j) *ADJUSTMENT OF DEADLINE.*—*The Administrator*  
 2   *may, by rule, establish a deadline for demonstrating com-*  
 3   *pliance, for a calendar year, later than the date provided*  
 4   *in subsection (a), as necessary to ensure the availability*  
 5   *of emissions data, but in no event shall the deadline be later*  
 6   *than June 1.*

7       “(k) *NOTICE REQUIREMENT FOR COVERED ENTITIES*  
 8   *RECEIVING NATURAL GAS FROM NATURAL GAS LOCAL*  
 9   *DISTRIBUTION COMPANIES.*—*The owner or operator of a*  
 10   *covered entity that takes delivery of natural gas from a nat-*  
 11   *ural gas local distribution company shall, not later than*  
 12   *September 1 of each calendar year, notify such natural gas*  
 13   *local distribution company in writing that such entity will*  
 14   *qualify as a covered entity under this title for that calendar*  
 15   *year.*

16       “(l) *COMPLIANCE OBLIGATION.*—*For purposes of this*  
 17   *title, the year of a compliance obligation is the year in*  
 18   *which compliance is determined, not the year in which the*  
 19   *greenhouse gas emissions occur or the covered entity has at-*  
 20   *tributable greenhouse gas emissions.*

21    **“SEC. 723. PENALTY FOR NONCOMPLIANCE.**

22       “(a) *ENFORCEMENT.*—*A violation of any prohibition*  
 23   *of, requirement of, or regulation promulgated pursuant to*  
 24   *this title shall be a violation of this Act. It shall be a viola-*  
 25   *tion of this Act for a covered entity to emit greenhouse gases,*

1 *and have attributable greenhouse gas emissions, in com-*  
 2 *bination, in excess of its allowable emissions level as pro-*  
 3 *vided in section 722(a). Each ton of carbon dioxide equiva-*  
 4 *lent for which a covered entity fails to demonstrate compli-*  
 5 *ance under section 722(b) shall be a separate violation. In*  
 6 *the event that a covered entity fails to demonstrate compli-*  
 7 *ance at the expiration of a term of offset credits crediting*  
 8 *term as required by section 722(d)(2)(D), the year of the*  
 9 *violation shall be the year in which the term offset credit*  
 10 *expires.*

11       “(b) *EXCESS EMISSIONS PENALTY.*—

12               “(1) *IN GENERAL.*—*The owner or operator of*  
 13 *any covered entity that fails for any year to comply,*  
 14 *on the deadline described in section 722(a) or (j),*  
 15 *shall be liable for payment to the Administrator of an*  
 16 *excess emissions penalty in the amount described in*  
 17 *paragraph (2).*

18               “(2) *AMOUNT.*—*The amount of an excess emis-*  
 19 *sions penalty required to be paid under paragraph*  
 20 *(1) shall be equal to the product obtained by multi-*  
 21 *plying—*

22                       “(A) *the tons of carbon dioxide equivalent of*  
 23 *greenhouse gas emissions or attributable green-*  
 24 *house gas emissions for which the owner or oper-*

1            *ator of a covered entity failed to comply under*  
 2            *section 722(b) on the deadline; by*

3            *“(B) twice the fair market value of emission*  
 4            *allowances established for emissions occurring in*  
 5            *the calendar year for which the emission allow-*  
 6            *ances were due.*

7            *“(3) TIMING.—An excess emissions penalty re-*  
 8            *quired under this subsection shall be immediately due*  
 9            *and payable to the Administrator, without demand,*  
 10           *in accordance with regulations promulgated by the*  
 11           *Administrator, which shall be issued not later than 2*  
 12           *years after the date of enactment of this title.*

13           *“(4) NO EFFECT ON LIABILITY.—An excess emis-*  
 14           *sions penalty due and payable by the owners or oper-*  
 15           *ators of a covered entity under this subsection shall*  
 16           *not diminish the liability of the owners or operators*  
 17           *for any fine, penalty, or assessment against the own-*  
 18           *ers or operators for the same violation under any*  
 19           *other provision of this Act or any other law.*

20           *“(c) EXCESS EMISSIONS ALLOWANCES.—The owner or*  
 21           *operator of a covered entity that fails for any year to com-*  
 22           *ply on the deadline described in section 722(a) or (j) shall*  
 23           *be liable to offset the covered entity’s excess combination of*  
 24           *greenhouse gases emitted and attributable greenhouse gas*  
 25           *emissions by an equal quantity of emission allowances dur-*

1 *ing the following calendar year, or such longer period as*  
 2 *the Administrator may prescribe. During the year in which*  
 3 *the covered entity failed to comply, or any year thereafter,*  
 4 *the Administrator may deduct the emission allowances re-*  
 5 *quired under this subsection to offset the covered entity's*  
 6 *excess actual or attributable emissions.*

7 **“SEC. 724. TRADING.**

8       “(a) *PERMITTED TRANSACTIONS.—Except as other-*  
 9 *wise provided in this title, the lawful holder of an emission*  
 10 *allowance, compensatory allowance, or offset credit may,*  
 11 *without restriction, sell, exchange, transfer, hold for compli-*  
 12 *ance in accordance with section 722, or request that the Ad-*  
 13 *ministrator retire the emission allowance, compensatory al-*  
 14 *lowance, or offset credit.*

15       “(b) *NO RESTRICTION ON TRANSACTIONS.—The privi-*  
 16 *lege of purchasing, holding, selling, exchanging, transfer-*  
 17 *ring, and requesting retirement of emission allowances,*  
 18 *compensatory allowances, or offset credits shall not be re-*  
 19 *stricted to the owners and operators of covered entities, ex-*  
 20 *cept as otherwise provided in this title.*

21       “(c) *EFFECTIVENESS OF ALLOWANCE TRANSFERS.—*  
 22 *No transfer of an allowance or offset credit shall be effective*  
 23 *for purposes of this title until a certification of the transfer,*  
 24 *signed by the designated representative of the transferor, is*

1 *received and recorded by the Administrator in accordance*  
 2 *with regulations promulgated under section 721(h).*

3       “(d) *ALLOWANCE TRACKING SYSTEM.*—*The regula-*  
 4 *tions promulgated under section 721(h) shall include a sys-*  
 5 *tem for issuing, recording, holding, and tracking allow-*  
 6 *ances, offset credits, and term offset credits that shall specify*  
 7 *all necessary procedures and requirements for an orderly*  
 8 *and competitive functioning of the allowance and offset*  
 9 *credit markets. Such regulations shall provide for appro-*  
 10 *priate publication of the information in the system on the*  
 11 *Internet.*

12 **“SEC. 725. BANKING AND BORROWING.**

13       “(a) *BANKING.*—*An emission allowance may be used*  
 14 *to comply with section 722 or 723 for emissions in—*

15               “(1) *the vintage year for the allowance; or*

16               “(2) *any calendar year subsequent to the vintage*  
 17 *year for the allowance.*

18       “(b) *EXPIRATION.*—

19               “(1) *REGULATIONS.*—*The Administrator may es-*  
 20 *tablish by regulation criteria and procedures for de-*  
 21 *termining whether, and for implementing a deter-*  
 22 *mination that, the expiration of an allowance, credit,*  
 23 *or term offset credit established or issued by the Ad-*  
 24 *ministrator under this title, or expiration of the abil-*  
 25 *ity to use an international emission allowance to*



1 *comply with section 722, is necessary to ensure the*  
 2 *authenticity and integrity of allowances, credits, or*  
 3 *term offset credits or the allowance tracking system.*

4 “(2) *GENERAL RULE.—An allowance, credit, or*  
 5 *term offset credit established or issued by the Admin-*  
 6 *istrator under this title shall not expire unless—*

7 “(A) *it is retired by the Administrator as*  
 8 *required under this title; or*

9 “(B) *it is determined to expire or to have*  
 10 *expired by a specific date by the Administrator*  
 11 *in accordance with regulations promulgated*  
 12 *under paragraph (1).*

13 “(3) *INTERNATIONAL EMISSION ALLOWANCES.—*  
 14 *The ability to use an international emission allow-*  
 15 *ance to comply with section 722 shall not expire un-*  
 16 *less—*

17 “(A) *the allowance is retired by the Admin-*  
 18 *istrator as required by this title; or*

19 “(B) *the ability to use such allowance to*  
 20 *meet such compliance obligation requirements is*  
 21 *determined to expire or to have expired by a spe-*  
 22 *cific date by the Administrator in accordance*  
 23 *with regulations promulgated under paragraph*  
 24 *(1).*

1       “(c) *BORROWING FUTURE VINTAGE YEAR ALLOW-*  
2 *ANCES.*—

3               “(1) *BORROWING WITHOUT INTEREST.*—*In addi-*  
4 *tion to the uses described in subsection (a), an emis-*  
5 *sion allowance may be used to comply with section*  
6 *722(a) or 723 for emissions, production, importation,*  
7 *manufacture, or deliveries in the calendar year imme-*  
8 *diately preceding the vintage year for the allowance.*

9               “(2) *BORROWING WITH INTEREST.*—

10               “(A) *IN GENERAL.*—*A covered entity may*  
11 *demonstrate compliance under subsection (b) in*  
12 *a specific calendar year for up to 15 percent of*  
13 *its emissions by holding emission allowances*  
14 *with a vintage year 1 to 5 years later than that*  
15 *calendar year.*

16               “(B) *LIMITATIONS.*—*An emission allowance*  
17 *borrowed pursuant to this paragraph shall be an*  
18 *emission allowance that is established by the Ad-*  
19 *ministrator for a specific future calendar year*  
20 *under section 721(a) and that is held by the bor-*  
21 *rower.*

22               “(C) *PREPAYMENT OF INTEREST.*—*For each*  
23 *emission allowance that an owner or operator of*  
24 *a covered entity borrows pursuant to this para-*  
25 *graph, such owner or operator shall, at the time*

1           it borrows the allowance, hold for retirement by  
 2           the Administrator a quantity of emission allow-  
 3           ances that is equal to the product obtained by  
 4           multiplying—

5                       “(i) 0.08; by

6                       “(ii) the number of years between the  
 7                       calendar year in which the allowance is  
 8                       being used to satisfy a compliance obliga-  
 9                       tion and the vintage year of the allowance.

10 **“SEC. 726. MARKET STABILITY RESERVE.**

11           “(a) *MARKET STABILITY RESERVE AUCTIONS.*—

12                       “(1) *IN GENERAL.*—Once each quarter of each  
 13                       calendar year for which allowances are established  
 14                       under section 721(a), the Administrator shall auction  
 15                       market stability reserve allowances.

16                       “(2) *RESTRICTION TO COVERED ENTITIES.*—In  
 17                       each auction conducted under paragraph (1), only  
 18                       covered entities that the Administrator expects will be  
 19                       required to comply with section 722 in the following  
 20                       calendar year shall be eligible to make purchases.

21           “(b) *POOL OF EMISSION ALLOWANCES FOR MARKET*  
 22 *STABILITY RESERVE AUCTIONS.*—

23                       “(1) *FILLING THE MARKET STABILITY RESERVE*  
 24                       *INITIALLY.*—The Administrator shall, not later than 2  
 25                       years after the date of enactment of this title, establish

1        *a market stability reserve account, and shall place in*  
 2        *that account a quantity of emission allowances estab-*  
 3        *lished under section 771(d)(9).*

4                *“(2) SUPPLEMENTING THE MARKET STABILITY*  
 5        *RESERVE.—The Administrator shall also—*

6                *“(A) at the end of each calendar year,*  
 7        *transfer to the market stability reserve account*  
 8        *each emission allowance that was offered for sale*  
 9        *but not sold at any auction conducted under sec-*  
 10       *tion 778; and*

11               *“(B) transfer emission allowances estab-*  
 12       *lished under subsection (g) from auction pro-*  
 13       *ceeds, and deposit them into the market stability*  
 14       *reserve, to the extent necessary to maintain the*  
 15       *reserve at its original size.*

16               *“(c) MINIMUM MARKET STABILITY RESERVE AUCTION*  
 17       *PRICE.—*

18               *“(1) IN GENERAL.—At each market stability re-*  
 19       *serve auction, the Administrator shall offer emission*  
 20       *allowances for sale beginning at a minimum price*  
 21       *per emission allowance, which shall be known as the*  
 22       *‘minimum market stability reserve auction price’.*

23               *“(2) INITIAL MINIMUM MARKET STABILITY RE-*  
 24       *SERVE AUCTION PRICES.—The minimum market sta-*  
 25       *bility reserve auction price shall be \$28 (in constant*

1     2005 dollars) for the market stability reserve auctions  
 2     held in 2012. For the market stability reserve auc-  
 3     tions held in 2013 through 2017, the minimum mar-  
 4     ket stability reserve auction price shall be the market  
 5     stability reserve auction price for the previous year  
 6     increased by 5 percent plus the rate of inflation (as  
 7     measured by the Consumer Price Index for All Urban  
 8     Consumers).

9             “(3) *MINIMUM MARKET STABILITY RESERVE*  
 10     *AUCTION PRICE IN SUBSEQUENT YEARS.*—For each  
 11     market stability reserve auction held in 2018 and  
 12     each year thereafter, the minimum market stability  
 13     reserve auction price shall be the market stability re-  
 14     serve auction price for the previous year increased by  
 15     7 percent, plus the rate of inflation (as measured by  
 16     the Consumer Price Index for All Urban Consumers).

17             “(d) *QUANTITY OF EMISSION ALLOWANCES RELEASED*  
 18     *FROM THE MARKET STABILITY RESERVE.*—

19             “(1) *INITIAL LIMITS.*—Subject to paragraph (4),  
 20     for each of calendar years 2012 through 2016, the an-  
 21     nual limit on the number of emission allowances from  
 22     the market stability reserve account that may be auc-  
 23     tioned is an amount equal to 15 percent of the emis-  
 24     sion allowances established for that calendar year  
 25     under section 721(a). This limit does not apply to off-

1     *set credits sold on consignment pursuant to subsection*  
2     *(h).*

3             “(2) *LIMITS IN SUBSEQUENT YEARS.*—Subject to  
4     *paragraph (4), for calendar year 2017 and each year*  
5     *thereafter, the annual limit on the number of emis-*  
6     *sion allowances from the market stability reserve ac-*  
7     *count that may be auctioned is an amount equal to*  
8     *25 percent of the emission allowances established for*  
9     *that calendar year under section 721(a). This limit*  
10    *does not apply to offset credits sold on consignment*  
11    *pursuant to subsection (h).*

12            “(3) *ALLOCATION OF LIMITATION.*—One-fourth of  
13    *each year’s annual market stability reserve auction*  
14    *limit under this subsection shall be made available for*  
15    *auction in each quarter. Any allowances from the*  
16    *market stability reserve account that are made avail-*  
17    *able for sale in a quarterly auction and not sold shall*  
18    *be rolled over and added to the quantity available for*  
19    *sale in the following quarter, except that allowances*  
20    *not sold at auction in the fourth quarter of a year*  
21    *shall not be rolled over to the following calendar*  
22    *year’s auctions, but shall be returned to the market*  
23    *stability reserve account.*

24            “(4) *AUTHORITY TO ADJUST LIMITATION.*—The  
25    *Administrator may adjust the limits in paragraphs*

1       (1) or (2) if the Administrator determines an adjust-  
2       ment is required to prevent disruptively high prices  
3       or to preserve the integrity of the market stability re-  
4       serve.

5       “(e) *PURCHASE LIMIT.*—

6               “(1) *IN GENERAL.*—Except as provided in para-  
7       graph (2) or (3), the annual number of emission al-  
8       lowances that a covered entity may purchase at the  
9       market stability reserve auctions in each calendar  
10      year shall not exceed 20 percent of the covered entity’s  
11      emissions during the most recent year for which al-  
12      lowances or credits were retired under section 722.

13              “(2) *2012 LIMIT.*—For calendar year 2012, the  
14      maximum aggregate number of emission allowances  
15      that a covered entity may purchase from that year’s  
16      market stability reserve auctions shall be 20 percent  
17      of the covered entity’s greenhouse gas emissions that  
18      the covered entity reported to the registry established  
19      under section 713 for 2011 and that would be subject  
20      to section 722(a) if occurring in later calendar years.

21              “(3) *NEW ENTRANTS.*—The Administrator shall,  
22      by regulation, establish a separate purchase limit ap-  
23      plicable to entities that expect to become a covered en-  
24      tity in the year of the auction, permitting them to  
25      purchase emission allowances at the market stability

1       *reserve auctions in their first calendar year of oper-*  
2       *ation in an amount of at least 20 percent of their ex-*  
3       *pected combined emissions and attributable green-*  
4       *house gas emissions for that year.*

5       “(f) *DELEGATION OR CONTRACT.*—*Pursuant to regula-*  
6       *tions under this section, the Administrator may, by delega-*  
7       *tion or contract, provide for the conduct of market stability*  
8       *reserve auctions under the Administrator’s supervision by*  
9       *other departments or agencies of the Federal Government*  
10      *or by nongovernmental agencies, groups, or organizations.*

11      “(g) *USE OF AUCTION PROCEEDS.*—

12           “(1) *DEPOSIT IN MARKET STABILITY RESERVE*  
13       *FUND.*—*The proceeds from market stability reserve*  
14       *auctions shall be placed in the Market Stability Re-*  
15       *serve Fund established by subsection (j), and shall be*  
16       *available without further appropriation or fiscal year*  
17       *limitation for the purposes described in this sub-*  
18       *section.*

19           “(2) *OFFSET CREDITS.*—*The Administrator shall*  
20       *use the proceeds from each market stability reserve*  
21       *auction to purchase offset credits, including domestic*  
22       *offset credits and international offset credits issued*  
23       *pursuant to section 744. The Administrator shall re-*  
24       *tire those offset credits and establish a number of*  
25       *emission allowances equal to the number of inter-*



1      *national offset credits so retired. Emission allowances*  
 2      *established under this paragraph shall be in addition*  
 3      *to those established under section 721(a).*

4           “(3) *EMISSION ALLOWANCES.*—*The Adminis-*  
 5      *trator shall deposit emission allowances established*  
 6      *under paragraph (2) in the market stability reserve,*  
 7      *except that, with respect to any such emission allow-*  
 8      *ances in excess of the amount necessary to fill the*  
 9      *market stability reserve to its original size, the Ad-*  
 10     *ministrator shall—*

11           “(A) *except as provided in subparagraph*  
 12      *(B), assign a vintage year to the emission allow-*  
 13      *ance, which shall be no earlier than the year in*  
 14      *which the allowance is established under para-*  
 15      *graph (2) and shall treat such allowances as ones*  
 16      *that are not designated for distribution or auc-*  
 17      *tion; and*

18           “(B) *to the extent any such allowances can-*  
 19      *not be assigned a vintage year because of the*  
 20      *limitation in paragraph (4), retire the allow-*  
 21      *ances.*

22           “(4) *LIMITATION.*—*In no case may the Adminis-*  
 23      *trator assign under paragraph (3)(A) more emission*  
 24      *allowances to a vintage year than the number of*  
 25      *emission allowances from that vintage year that were*

1       *placed in the market stability reserve account under*  
 2       *subsection (b)(1).*

3       “(h) *AVAILABILITY OF OFFSET CREDITS FOR AUC-*  
 4       *TION.—*

5               “(1) *IN GENERAL.—The regulations promulgated*  
 6       *under section 721(h) shall allow any entity holding*  
 7       *offset credits to request that the Administrator include*  
 8       *such offset credits in an upcoming market stability*  
 9       *reserve auction. The regulations shall provide that—*

10               “(A) *upon sale of such offset credits, the Ad-*  
 11       *ministrator shall retire those offset credits, and*  
 12       *establish and provide to the purchasers a number*  
 13       *of emission allowances equal to the number of*  
 14       *offset credits so retired, which allowances shall be*  
 15       *in addition to those established under section*  
 16       *721(a); and*

17               “(B) *for offset credits sold pursuant to this*  
 18       *subsection, the proceeds for the entity that offered*  
 19       *the offset credits for sale shall be the lesser of—*

20               “(i) *the average daily closing price for*  
 21       *offset credits sold on registered exchanges (or*  
 22       *if such price is unavailable, the average*  
 23       *price as determined by the Administrator)*  
 24       *during the six months prior to the market*  
 25       *stability reserve auction at which they were*

1           *auctioned, with the remaining funds col-*  
2           *lected upon the sale of the offset credits de-*  
3           *posited in the Treasury; and*

4           *“(ii) the amount received for the offset*  
5           *credits at the auction.*

6           *“(2) PROCEEDS.—For offset credits sold pursu-*  
7           *ant to this subsection, notwithstanding section 3302*  
8           *of title 31, United States Code, or any other provision*  
9           *of law, within 90 days of receipt, the United States*  
10          *shall transfer the proceeds from the auction, as de-*  
11          *finied in paragraph (1)(D), to the entity that offered*  
12          *the offset credits for sale. No funds transferred from*  
13          *a purchaser to a seller of offset credits under this*  
14          *paragraph shall be held by any officer or employee of*  
15          *the United States or treated for any purpose as public*  
16          *monies.*

17          *“(3) PRICING.—When the Administrator acts*  
18          *under this subsection as the agent of an entity in pos-*  
19          *session of offset credits, the Administrator is not obli-*  
20          *gated to obtain the highest price possible for the offset*  
21          *credits, and instead shall auction such offset credits*  
22          *in the same manner and pursuant to the same rules*  
23          *(except as modified in paragraph (1)) as set forth for*  
24          *auctioning market stability reserve allowances. Enti-*  
25          *ties requesting that such offset credits be offered for*

1       *sale at a market stability reserve auction may not set*  
 2       *a minimum reserve price for their offset credits that*  
 3       *is different than the minimum market stability re-*  
 4       *serve auction price set pursuant to subsection (c).*

5       “(i) *INITIAL REGULATIONS.*—Not later than 24  
 6       months after the date of enactment of this title, the Admin-  
 7       istrator shall promulgate regulations, in consultation with  
 8       other appropriate agencies, governing the auction of allow-  
 9       ances under this section. Such regulations shall include the  
 10      following requirements:

11           “(1) *FREQUENCY; FIRST AUCTION.*—Auctions  
 12       shall be held four times per year at regular intervals,  
 13       with the first auction to be held no later than March  
 14       31, 2012.

15           “(2) *AUCTION FORMAT.*—Auctions shall follow a  
 16       single-round, sealed-bid, uniform price format.

17           “(3) *PARTICIPATION; FINANCIAL ASSURANCE.*—  
 18       Auctions shall be open to any covered entity eligible  
 19       to purchase emission allowances at the auction under  
 20       subsection (a)(2), except that the Administrator may  
 21       establish financial assurance requirements to ensure  
 22       that auction participants can and will perform on  
 23       their bids.

24           “(4) *DISCLOSURE OF BENEFICIAL OWNERSHIP.*—  
 25       Each bidder in an auction shall be required to dis-

1       *close the person or entity sponsoring or benefitting*  
 2       *from the bidder's participation in the auction if such*  
 3       *person or entity is, in whole or in part, other than*  
 4       *the bidder.*

5               “(5) *PURCHASE LIMITS.*—No person may, di-  
 6       *rectly or in concert with another participant, pur-*  
 7       *chase more than 20 percent of the allowances offered*  
 8       *for sale at any quarterly auction.*

9               “(6) *PUBLICATION OF INFORMATION.*—After the  
 10       *auction, the Administrator shall, in a timely fashion,*  
 11       *publish the identities of winning bidders, the quantity*  
 12       *of allowances obtained by each winning bidder, and*  
 13       *the auction clearing price.*

14               “(7) *OTHER REQUIREMENTS.*—The Adminis-  
 15       *trator may include in the regulations such other re-*  
 16       *quirements or provisions as the Administrator, in*  
 17       *consultation with other agencies as appropriate, con-*  
 18       *siders appropriate to promote effective, efficient,*  
 19       *transparent, and fair administration of auctions*  
 20       *under this section.*

21               “(j) *MARKET STABILITY RESERVE FUND.*—There are  
 22       *established in the Treasury of the United States a fund to*  
 23       *be known as the ‘Market Stability Reserve Fund’.*

24               “(k) *REVISION OF REGULATIONS.*—The Administrator  
 25       *may, at any time, in consultation with other agencies as*

1 appropriate, revise the initial regulations promulgated  
2 under subsection (i). Such revised regulations need not meet  
3 the requirements identified in subsection (i) if the Adminis-  
4 trator determines that an alternative auction design would  
5 be more effective, taking into account factors including costs  
6 of administration, transparency, fairness, and risks of col-  
7 lusion or manipulation. In determining whether and how  
8 to revise the initial regulations under this subsection, the  
9 Administrator shall not consider maximization of revenues  
10 to the Federal Government.

11 **“SEC. 727. PERMITS.**

12       “(a) *PERMIT PROGRAM.*—For stationary sources sub-  
13 ject to title V of this Act, that are covered entities, the provi-  
14 sions of this title shall be implemented by permits issued  
15 to such covered entities (and enforced) in accordance with  
16 the provisions of title V, as modified by this title. Any such  
17 permit issued by the Administrator, or by a State with an  
18 approved permit program, shall require the owner or oper-  
19 ator of a covered entity to hold emission allowances or offset  
20 credits at least equal to the total annual amount of carbon  
21 dioxide equivalents for its combined emissions and attrib-  
22 utable greenhouse gas emissions to which section 722 ap-  
23 plies. No such permit shall be issued that is inconsistent  
24 with the requirements of this title, and title V as applicable.  
25 Nothing in this section regarding compliance plans or in

1 *title V shall be construed as affecting allowances or offset*  
 2 *credits. Submission of a statement by the owner or operator,*  
 3 *or the designated representative of the owners and opera-*  
 4 *tors, of a covered entity that the owners and operators will*  
 5 *hold emission allowances or offset credits for the entity's*  
 6 *combined emissions and attributable greenhouse gas emis-*  
 7 *sions to which section 722 applies shall be deemed to meet*  
 8 *the proposed and approved planning requirements of title*  
 9 *V. Recordation by the Administrator of transfers of emis-*  
 10 *sion allowances shall amend automatically all applicable*  
 11 *proposed or approved permit applications, compliance*  
 12 *plans, and permits.*

13       “(b) *MULTIPLE OWNERS.*—No permit shall be issued  
 14 *under this section and no allowances or offset credits shall*  
 15 *be disbursed under this title to a covered entity or any other*  
 16 *person until the designated representative of the owners or*  
 17 *operators has filed a certificate of representation with re-*  
 18 *gard to matters under this title, including the holding and*  
 19 *distribution of emission allowances and the proceeds of*  
 20 *transactions involving emission allowances. Where there are*  
 21 *multiple holders of a legal or equitable title to, or a lease-*  
 22 *hold interest in, such a covered entity or other entity or*  
 23 *where a utility or industrial customer purchases power*  
 24 *under a long-term power purchase contract from an inde-*

1 *pendent power production facility that is a covered entity,*  
 2 *the certificate shall state—*

3           “(1) *that emission allowances and the proceeds of*  
 4           *transactions involving emission allowances will be*  
 5           *deemed to be held or distributed in proportion to each*  
 6           *holder’s legal, equitable, leasehold, or contractual res-*  
 7           *ervation or entitlement; or*

8           “(2) *if such multiple holders have expressly pro-*  
 9           *vided for a different distribution of emission allow-*  
 10           *ances by contract, that emission allowances and the*  
 11           *proceeds of transactions involving emission allow-*  
 12           *ances will be deemed to be held or distributed in ac-*  
 13           *cordance with the contract.*

14 *A passive lessor, or a person who has an equitable interest*  
 15 *through such lessor, whose rental payments are not based,*  
 16 *either directly or indirectly, upon the revenues or income*  
 17 *from the covered entity or other entity shall not be deemed*  
 18 *to be a holder of a legal, equitable, leasehold, or contractual*  
 19 *interest for the purpose of holding or distributing emission*  
 20 *allowances as provided in this subsection, during either the*  
 21 *term of such leasehold or thereafter, unless expressly pro-*  
 22 *vided for in the leasehold agreement. Except as otherwise*  
 23 *provided in this subsection, where all legal or equitable title*  
 24 *to or interest in a covered entity, or other entity, is held*  
 25 *by a single person, the certificate shall state that all emis-*



1 sion allowances received by the entity are deemed to be held  
2 for that person.

3       “(c) *PROHIBITION.*—It shall be unlawful for any per-  
4 son to operate any stationary source subject to the require-  
5 ments of this section except in compliance with the terms  
6 and requirements of a permit issued by the Administrator  
7 or a State with an approved permit program in accordance  
8 with this section. For purposes of this subsection, compli-  
9 ance, as provided in section 504(f), with a permit issued  
10 under title V which complies with this title for covered enti-  
11 ties shall be deemed compliance with this subsection as well  
12 as section 502(a).

13       “(d) *RELIABILITY.*—Nothing in this section or title V  
14 shall be construed as requiring termination of operations  
15 of a stationary source that is a covered entity for failure  
16 to have an approved permit, or compliance plan, that is  
17 consistent with the requirements in the second and fifth sen-  
18 tences of subsection (a) concerning the holding of emission  
19 allowances, compensatory allowances, international emis-  
20 sion allowances, or offset allowances, except that any such  
21 covered entity may be subject to the applicable enforcement  
22 provision of section 113.

23       “(e) *REGULATIONS.*—The Administrator shall promul-  
24 gate regulations to implement this section. To provide for  
25 permits required under this section, each State in which

1 *one or more stationary sources and that are covered entities*  
 2 *are located shall submit, in accordance with this section*  
 3 *and title V, revised permit programs for approval.*

4 **“SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.**

5       “(a) *QUALIFYING PROGRAMS.*—*The Administrator, in*  
 6 *consultation with the Secretary of State, may by rule des-*  
 7 *ignate an international climate change program as a quali-*  
 8 *fying international program if—*

9               “(1) *the program is run by a national or supra-*  
 10 *national foreign government, and imposes a manda-*  
 11 *tory absolute tonnage limit on greenhouse gas emis-*  
 12 *sions from 1 or more foreign countries, or from 1 or*  
 13 *more economic sectors in such a country or countries;*  
 14 *and*

15               “(2) *the program is at least as stringent as the*  
 16 *program established by this title, including provisions*  
 17 *to ensure at least comparable monitoring, compliance,*  
 18 *enforcement, quality of offsets, and restrictions on the*  
 19 *use of offsets.*

20       “(b) *DISQUALIFIED ALLOWANCES.*—*An international*  
 21 *emission allowance may not be held under section 722(d)(3)*  
 22 *if it is in the nature of an offset instrument or allowance*  
 23 *awarded based on the achievement of greenhouse gas emis-*  
 24 *sion reductions or avoidance, or greenhouse gas sequestra-*

1 *tion, that are not subject to the mandatory absolute tonnage*  
 2 *limits referred to in subsection (a)(1).*

3 “(c) *RETIREMENT.*—

4 “(1) *ENTITY CERTIFICATION.*—*The owner or op-*  
 5 *erator of an entity that holds an international emis-*  
 6 *sion allowance under section 722(d)(3) shall certify to*  
 7 *the Administrator that such international emission*  
 8 *allowance has not previously been used to comply*  
 9 *with any foreign, international, or domestic green-*  
 10 *house gas regulatory program.*

11 “(2) *RETIREMENT.*—

12 “(A) *FOREIGN AND INTERNATIONAL REGU-*  
 13 *LATORY ENTITIES.*—*The Administrator, in con-*  
 14 *sultation with the Secretary of State, shall seek,*  
 15 *by whatever means appropriate, including agree-*  
 16 *ments and technical cooperation on allowance*  
 17 *tracking, to ensure that any relevant foreign,*  
 18 *international, and domestic regulatory entities—*

19 “(i) *are notified of the use, for pur-*  
 20 *poses of compliance with this title, of any*  
 21 *international emission allowance; and*

22 “(ii) *provide for the disqualification of*  
 23 *such international emission allowance for*  
 24 *any subsequent use under the relevant for-*  
 25 *eign, international, or domestic greenhouse*

1           gas regulatory program, regardless of  
 2           whether such use is a sale, exchange, or sub-  
 3           mission to satisfy a compliance obligation.

4           “(B) *DISQUALIFICATION FROM FURTHER*  
 5           *USE.*—The Administrator shall ensure that, once  
 6           an international emission allowance has been  
 7           disqualified or otherwise used for purposes of  
 8           compliance with this title, such allowance shall  
 9           be disqualified from any further use under this  
 10          title.

11          “(d) *USE LIMITATIONS.*—The Administrator may, by  
 12          rule, modify the percentage applicable to international  
 13          emission allowances under section 722(d)(3), consistent  
 14          with the purposes of the Clean Energy Jobs and American  
 15          Power Act.

## 16                                   **“PART D—OFFSETS**

### 17   **“SEC. 731. OFFSETS INTEGRITY ADVISORY BOARD.**

18          “(a) *ESTABLISHMENT.*—Not later than 30 days after  
 19          the date of enactment of this title, the President shall estab-  
 20          lish an independent Offsets Integrity Advisory Board. The  
 21          Advisory Board shall make recommendations to the Presi-  
 22          dent for use in promulgating and revising regulations  
 23          under this part, and for ensuring the overall environmental  
 24          integrity of the programs established pursuant to those reg-  
 25          ulations.

1       “(b) *MEMBERSHIP.*—*The Advisory Board shall be*  
 2 *comprised of at least nine members. Each member shall be*  
 3 *qualified by education, training, and experience to evaluate*  
 4 *scientific and technical information on matters referred to*  
 5 *the Board under this section. The President shall appoint*  
 6 *Advisory Board members, including a chair and vice-chair*  
 7 *of the Advisory Board. Terms shall be 3 years in length,*  
 8 *except for initial terms, which may be up to 5 years in*  
 9 *length to allow staggering. Members may be reappointed*  
 10 *only once for an additional 3-year term, and such second*  
 11 *term may follow directly after a first term.*

12       “(c) *ACTIVITIES.*—*The Advisory Board established*  
 13 *pursuant to subsection (a) shall—*

14               “(1) *provide recommendations, not later than 90*  
 15 *days after the Advisory Board’s establishment and pe-*  
 16 *riodically thereafter, to the President regarding offset*  
 17 *project types that should be considered for eligibility*  
 18 *under section 733, taking into consideration relevant*  
 19 *scientific and other issues, including—*

20                       “(A) *the availability of a representative*  
 21 *data set for use in developing the activity base-*  
 22 *line;*

23                       “(B) *the potential for accurate quantifica-*  
 24 *tion of greenhouse gas reduction, avoidance, or*  
 25 *sequestration for an offset project type;*

1           “(C) the potential level of scientific and  
2           measurement uncertainty associated with an off-  
3           set project type;

4           “(D) any beneficial or adverse environ-  
5           mental, public health, welfare, social, economic,  
6           or energy effects associated with an offset project  
7           type;

8           “(E) the extent to which, as of the date of  
9           submission of the report, the project or activity  
10          types within each category—

11               “(i) are required by law (including a  
12               regulation); or

13               “(ii) represent business-as-usual (ab-  
14               sent funding from offset credits) practices  
15               for a relevant land area, industry sector, or  
16               forest, soil or facility type;

17          “(2) make available to the President its advice  
18          and comments on offset methodologies that should be  
19          considered under regulations promulgated pursuant  
20          to subsection (a) and (b) of section 734, including  
21          methodologies to address the issues of additionality,  
22          activity baselines, measurement, leakage, uncertainty,  
23          permanence, and environmental integrity;

24          “(3) make available to the President, and other  
25          relevant Federal agencies, its advice and comments

1       *regarding scientific, technical, and methodological*  
2       *issues specific to the issuance of international offset*  
3       *credits under section 744;*

4           “(4) *make available to the President, and other*  
5       *relevant Federal agencies, its advice and comments*  
6       *regarding scientific, technical, and methodological*  
7       *issues associated with the implementation of this*  
8       *part;*

9           “(5) *make available to the President its advice*  
10       *and comments on areas in which further knowledge is*  
11       *required to appraise the adequacy of existing, revised,*  
12       *or proposed methodologies for use under this part,*  
13       *and describe the research efforts necessary to provide*  
14       *the required information; and*

15           “(6) *make available to the President its advice*  
16       *and comments on other ways to improve or safeguard*  
17       *the environmental integrity of programs established*  
18       *under this part.*

19       “(d) *SCIENTIFIC REVIEW OF OFFSET AND DEFOREST-*  
20       *ATION REDUCTION PROGRAMS.—Not later than January 1,*  
21       *2017, and at five-year intervals thereafter, the Advisory*  
22       *Board shall submit to the President and make available to*  
23       *the public an analysis of relevant scientific and technical*  
24       *information related to this part. The Advisory Board shall*  
25       *review approved and potential methodologies, scientific*

1 *studies, offset project monitoring, offset project verification*  
 2 *reports, and audits related to this part, and evaluate the*  
 3 *net emissions effects of implemented offset projects. The Ad-*  
 4 *visory Board shall recommend changes to offset methodolo-*  
 5 *gies, protocols, or project types, or to the overall offset pro-*  
 6 *gram under this part, to ensure that offset credits issued*  
 7 *by the President do not compromise the integrity of the an-*  
 8 *nual emission reductions established under section 703, and*  
 9 *to avoid or minimize adverse effects to human health or*  
 10 *the environment.*

11 **“SEC. 732. ESTABLISHMENT OF OFFSETS PROGRAM.**

12       “(a) *REGULATIONS.*—Not later than 2 years after the  
 13 *date of enactment of this title, the President, in consultation*  
 14 *with appropriate Federal agencies and taking into consid-*  
 15 *eration the recommendations of the Advisory Board, shall*  
 16 *promulgate regulations establishing a program for the*  
 17 *issuance of offset credits in accordance with the require-*  
 18 *ments of this part. The President shall periodically revise*  
 19 *these regulations as necessary to meet the requirements of*  
 20 *this part.*

21       “(b) *REQUIREMENTS.*—The regulations described in  
 22 *subsection (a) shall—*

23               “(1) *authorize the issuance of offset credits with*  
 24 *respect to qualifying offset projects that result in re-*



1        *ductions or avoidance of greenhouse gas emissions, or*  
 2        *sequestration of greenhouse gases;*

3            *“(2) ensure that such offset credits represent*  
 4        *verifiable and additional greenhouse gas emission re-*  
 5        *ductions or avoidance, or increases in sequestration;*

6            *“(3) ensure that offset credits issued for seques-*  
 7        *tration offset projects are only issued for greenhouse*  
 8        *gas reductions that are permanent;*

9            *“(4) provide for the implementation of the re-*  
 10       *quirements of this part;*

11           *“(5) include as reductions in greenhouse gases*  
 12        *reductions achieved through the destruction of meth-*  
 13        *ane and its conversion to carbon dioxide, and reduc-*  
 14        *tions achieved through destruction of*  
 15        *chlorofluorocarbons or other ozone depleting sub-*  
 16        *stances, if permitted by the President under section*  
 17        *619(b)(9) and subject to the conditions specified in*  
 18        *section 619(b)(9), based on the carbon dioxide equiva-*  
 19        *lent value of the substance destroyed; and*

20           *“(6) establish a process to accept and respond to*  
 21        *comments from third parties regarding programs es-*  
 22        *tablished under this part in a timely manner.*

23        *“(c) COORDINATION TO MINIMIZE NEGATIVE EF-*  
 24        *FECTS.—In promulgating and implementing regulations*  
 25        *under this part, the President shall act (including by reject-*

1 *ing projects, if necessary) to avoid or minimize, to the max-*  
 2 *imum extent practicable, adverse effects on human health*  
 3 *or the environment resulting from the implementation of*  
 4 *offset projects under this part.*

5       “(d) *OFFSET REGISTRY.*—*The President shall estab-*  
 6 *lish within the allowance tracking system established under*  
 7 *section 724(d) an Offset Registry for qualifying offset*  
 8 *projects and offset credits issued with respect thereto under*  
 9 *this part.*

10       “(e) *LEGAL STATUS OF OFFSET CREDIT.*—*An offset*  
 11 *credit does not constitute a property right.*

12       “(f) *FEES.*—*The President shall assess fees payable by*  
 13 *offset project developers in an amount necessary to cover*  
 14 *the administrative costs and the enforcement costs to the*  
 15 *Environmental Protection Agency and the Department of*  
 16 *Justice of carrying out the activities under this part.*  
 17 *Amounts collected for such fees shall be available to the*  
 18 *President and the Attorney General for carrying out the*  
 19 *activities under this part to the extent provided in advance*  
 20 *in appropriations Acts.*

21       “(g) *SECRETARY OF AGRICULTURE.*—*The President*  
 22 *shall designate the Secretary of Agriculture to serve as the*  
 23 *lead agency in—*

24               “(1) *the implementation of elements of the offset*  
 25 *program, in coordination with the Administrator, for*

1        *agriculture and forestry projects in the United States*  
 2        *authorized under this part, including project types*  
 3        *and methodologies; and*

4                *“(2) working directly with farmers, ranchers,*  
 5        *and foresters to implement agriculture and forestry*  
 6        *projects.*

7        **“SEC. 733. ELIGIBLE PROJECT TYPES.**

8                *“(a) LIST OF ELIGIBLE PROJECT TYPES.—*

9                *“(1) IN GENERAL.—As part of the regulations*  
 10        *promulgated under section 732(a), the President shall*  
 11        *establish, and may periodically revise, a list of types*  
 12        *of projects eligible to generate offset credits, including*  
 13        *international offset credits, under this part.*

14                *“(2) ADVISORY BOARD RECOMMENDATIONS.—In*  
 15        *determining the eligibility of project types, the Presi-*  
 16        *dent shall take into consideration the recommenda-*  
 17        *tions of the Advisory Board. If a list established*  
 18        *under this section differs from the recommendations of*  
 19        *the Advisory Board, the regulations promulgated*  
 20        *under section 732(a) shall include a justification for*  
 21        *the discrepancy.*

22                *“(3) INITIAL DETERMINATION.—The President*  
 23        *shall establish the initial eligibility list under para-*  
 24        *graph (1) not later than one year after the date of en-*  
 25        *actment of this title for which there are well developed*

1        *methodologies that the President determines would*  
2        *meet the criteria of section 734.*

3                *“(4) PROJECT TYPES TO BE CONSIDERED FOR*  
4        *INITIAL LIST.—In determining the initial list, the*  
5        *President shall give priority to consideration of offset*  
6        *project types that are recommended by the Advisory*  
7        *Board, and shall consider—*

8                *“(A) methane collection and combustion*  
9        *projects at active coal mines;*

10               *“(B) methane collection and combustion*  
11       *projects at landfills;*

12               *“(C) capture of venting, flaring, and fugi-*  
13       *tive emissions from oil and natural gas systems;*

14               *“(D) nonlandfill methane collection, com-*  
15       *bustion and avoidance projects involving organic*  
16       *waste streams that would have otherwise emitted*  
17       *methane in the atmosphere, including manure*  
18       *management and biogas capture and combus-*  
19       *tion;*

20               *“(E) projects involving afforestation or re-*  
21       *forestation of acreage not forested as of January*  
22       *1, 2009;*

23               *“(F) forest management resulting in an in-*  
24       *crease in forest carbon stores, including har-*  
25       *vested wood products;*

1           “(G) agricultural, grassland, and rangeland  
 2           sequestration and management practices, includ-  
 3           ing—

4                   “(i) altered tillage practices, including  
 5                   avoided abandonment of such practices;

6                   “(ii) winter cover cropping, continuous  
 7                   cropping, and other means to increase bio-  
 8                   mass returned to soil in lieu of planting fol-  
 9                   lowed by fallowing;

10                  “(iii) reduction of nitrogen fertilizer  
 11                  use or increase in nitrogen use efficiency;

12                  “(iv) reduction in the frequency and  
 13                  duration of flooding of rice paddies;

14                  “(v) reduction in carbon emissions  
 15                  from organic soils;

16                  “(vi) reduction in greenhouse gas emis-  
 17                  sions from manure and effluent;

18                  “(vii) reduction in greenhouse gas  
 19                  emissions due to changes in animal man-  
 20                  agement practices, including dietary modi-  
 21                  fications;

22                  “(viii) planting and cultivation of per-  
 23                  manent tree crops;

24                  “(ix) greenhouse gas emission reduc-  
 25                  tions from improvements and upgrades to

1                   *mobile or stationary equipment (including*  
 2                   *engines);*

3                   “*(x) practices to reduce and eliminate*  
 4                   *soil tillage;*

5                   “*(xi) reductions in greenhouse gas*  
 6                   *emissions through restoration of wetlands,*  
 7                   *forestland, and grassland; and*

8                   “*(xii) sequestration of greenhouse gases*  
 9                   *through management of tree crops; and*

10                  “*(H) changes in carbon stocks attributed to*  
 11                  *land use change and forestry activities, includ-*  
 12                  *ing—*

13                   “*(i) management of peatland or wet-*  
 14                   *land;*

15                   “*(ii) conservation of grassland and for-*  
 16                   *ested land;*

17                   “*(iii) improved forest management, in-*  
 18                   *cluding accounting for carbon stored in*  
 19                   *wood products;*

20                   “*(iv) reduced deforestation or avoided*  
 21                   *forest conversion;*

22                   “*(v) urban tree-planting and mainte-*  
 23                   *nance;*

24                   “*(vi) agroforestry; and*

1                   “(vii) adaptation of plant traits or  
 2                   new technologies that increase sequestration  
 3                   by forests.

4                   “(5) *METHODOLOGIES*.—In issuing methodolo-  
 5                   gies pursuant to section 734, the President shall give  
 6                   priority to methodologies for offset types included on  
 7                   the initial eligibility list.

8                   “(b) *MODIFICATION OF LIST*.—The President—

9                   “(1) shall add additional project types to the list  
 10                  not later than 2 years after the date of enactment of  
 11                  this title;

12                  “(2) may at any time, by rule, add a project  
 13                  type to the list established under subsection (a) if the  
 14                  President, in consultation with appropriate Federal  
 15                  agencies and taking into consideration the rec-  
 16                  ommendations of the Advisory Board, determines that  
 17                  the project type can generate additional reductions or  
 18                  avoidance of greenhouse gas emissions, or sequestra-  
 19                  tion of greenhouse gases, subject to the requirements of  
 20                  this part;

21                  “(3) may at any time, by rule, determine that  
 22                  a project type on the list does not meet the require-  
 23                  ments of this part, and remove a project type from  
 24                  the list established under subsection (a), in consulta-  
 25                  tion with appropriate Federal agencies and taking

1       *into consideration any recommendations of the Advi-*  
 2       *sory Board; and*

3               *“(4) shall consider adding to or removing from*  
 4       *the list established under subsection (a), at a min-*  
 5       *imum, project types proposed to the President—*

6               *“(A) by petition pursuant to subsection (c);*

7               *or*

8               *“(B) by the Advisory Board.*

9       *“(c) PETITION PROCESS.—Any person may petition*  
 10       *the President to modify the list established under subsection*  
 11       *(a) by adding or removing a project type pursuant to sub-*  
 12       *section (b). Any such petition shall include a showing by*  
 13       *the petitioner that there is adequate data to establish that*  
 14       *the project type does or does not meet the requirements of*  
 15       *this part. Not later than 12 months after receipt of such*  
 16       *a petition, the President shall either grant or deny the peti-*  
 17       *tion and publish a written explanation of the reasons for*  
 18       *the President’s decision. The President may not deny a peti-*  
 19       *tion under this subsection on the basis of inadequate agency*  
 20       *resources or time for review.*

21       **“SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS.**

22               *“(a) METHODOLOGIES.—As part of the regulations*  
 23       *promulgated under section 732(a), the President shall estab-*  
 24       *lish, for each type of offset project listed as eligible under*  
 25       *section 733, the following:*



1           “(1) *ADDITIONALITY.*—A standardized method-  
 2           ology for determining the additionality of greenhouse  
 3           gas emission reductions or avoidance, or greenhouse  
 4           gas sequestration, achieved by an offset project of that  
 5           type. Such methodology shall ensure, at a minimum,  
 6           that any greenhouse gas emission reduction or avoid-  
 7           ance, or any greenhouse gas sequestration, is consid-  
 8           ered additional only to the extent that it results from  
 9           activities that—

10                   “(A) are not required by or undertaken to  
 11                   comply with any law, including any regulation  
 12                   or consent order;

13                   “(B) were not commenced prior to January  
 14                   1, 2009, except in the case of—

15                           “(i) offset project activities that com-  
 16                           menced after January 1, 2001, and were  
 17                           registered as of the date of enactment of this  
 18                           title under an offset program with respect to  
 19                           which the President has made an affirma-  
 20                           tive determination under section 740(a)(2);  
 21                           or

22                           “(ii) activities that are readily revers-  
 23                           ible, with respect to which the President  
 24                           may set an alternative earlier date under  
 25                           this subparagraph that is not earlier than

1           *January 1, 2001, where the President deter-*  
2           *mines that setting such an alternative date*  
3           *may produce an environmental benefit by*  
4           *removing an incentive to cease and then re-*  
5           *initiate activities that began prior to Janu-*  
6           *ary 1, 2009;*

7           *“(C) are not receiving support under section*  
8           *323 of division A, or section 206 of division B,*  
9           *of the Clean Energy Jobs and American Power*  
10          *Act; and*

11          *“(D) exceed the activity baseline established*  
12          *under paragraph (2).*

13          *“(2) ACTIVITY BASELINES.—A standardized*  
14          *methodology for establishing activity baselines for off-*  
15          *set projects of that type. The President shall set activ-*  
16          *ity baselines to reflect a conservative estimate of busi-*  
17          *ness-as-usual performance or practices for the relevant*  
18          *type of activity such that the baseline provides an*  
19          *adequate margin of safety to ensure the environ-*  
20          *mental integrity of offsets calculated in reference to*  
21          *such baseline.*

22          *“(3) QUANTIFICATION METHODS.—A standard-*  
23          *ized methodology for determining the extent to which*  
24          *greenhouse gas emission reductions or avoidance, or*  
25          *greenhouse gas sequestration, achieved by an offset*

1     *project of that type exceed a relevant activity baseline,*  
 2     *including protocols for monitoring and accounting for*  
 3     *uncertainty.*

4             “(4) *LEAKAGE.*—*A standardized methodology for*  
 5     *accounting for and mitigating potential leakage, if*  
 6     *any, from an offset project of that type, taking uncer-*  
 7     *tainty into account.*

8             “(b) *ACCOUNTING FOR REVERSALS.*—

9                 “(1) *ACCOUNTING.*—

10                     “(A) *IN GENERAL.*—*After issuance of offset*  
 11     *credits for a project, pursuant to section 733, the*  
 12     *offset project developer shall, in a timely man-*  
 13     *ner, report any reversal that occurs.*

14                     “(B) *INTENTIONAL REVERSALS.*—*An offset*  
 15     *project developer shall not engage in repeated in-*  
 16     *tentional reversals.*

17             “(2) *REGULATIONS.*—*As part of the regulations*  
 18     *promulgated under section 732(a), for each type of se-*  
 19     *questration project listed under section 733, the Presi-*  
 20     *dent shall establish requirements to account for and*  
 21     *address reversals, including—*

22                     “(A) *a requirement to report any reversal*  
 23     *with respect to an offset project for which offset*  
 24     *credits have been issued under this part;*

1           “(B) provisions to require emission allow-  
2           ances to be held in amounts to fully compensate  
3           for greenhouse gas emissions attributable to re-  
4           versals, and to assign responsibility for holding  
5           such emission allowances;

6           “(C) provisions to discourage repeated in-  
7           tentional reversals by offset project developers,  
8           including but not limited to the assessment of  
9           administrative fees, temporary suspension, or  
10          disqualification of an offset project developer  
11          from the program; and

12          “(D) any other provisions the President de-  
13          termines necessary to account for and address re-  
14          versals.

15          “(3) MECHANISMS.—The President shall pre-  
16          scribe mechanisms to ensure that any sequestration  
17          with respect to which an offset credit is issued under  
18          this part results in a permanent net increase in se-  
19          questration, and that full account is taken of any ac-  
20          tual or potential reversal of such sequestration, with  
21          an adequate margin of safety. The President shall  
22          prescribe at least one of the following mechanisms to  
23          meet the requirements of this paragraph:

24                 “(A) An offsets reserve, pursuant to para-  
25                 graph (4).

1           “(B) Insurance that provides for purchase  
 2           and provision to the President for retirement of  
 3           an amount of offset credits or emission allow-  
 4           ances equal in number to the tons of carbon di-  
 5           oxide equivalents of greenhouse gas emissions re-  
 6           leased due to reversal.

7           “(C) Another mechanism that the President  
 8           determines satisfies the requirements of this part.

9           “(4) OFFSETS RESERVE.—

10           “(A) IN GENERAL.—An offsets reserve re-  
 11           ferred to in paragraph (3)(A) is a program  
 12           under which, before issuance of offset credits  
 13           under this part, the President shall subtract and  
 14           reserve from the quantity to be issued a quantity  
 15           of offset credits based on the risk of reversal. The  
 16           President shall—

17           “(i) hold these reserved offset credits in  
 18           the offsets reserve; and

19           “(ii) register the holding of the reserved  
 20           offset credits in the Offset Registry estab-  
 21           lished under section 732(d).

22           “(B) PROJECT REVERSAL.—

23           “(i) IN GENERAL.—If a reversal has  
 24           occurred with respect an offset project for  
 25           which offset credits are reserved under this

1 paragraph, the President shall remove offset  
2 credits or emission allowances from the off-  
3 sets reserve and cancel them to fully account  
4 for the tons of carbon dioxide equivalent  
5 that are no longer sequestered.

6 “(ii) *INTENTIONAL REVERSALS.*—If the  
7 President determines that a reversal was in-  
8 tentional, the offset project developer for the  
9 relevant offset project shall place into the  
10 offsets reserve a quantity of offset credits, or  
11 combination of offset credits and emission  
12 allowances, equal in number to the number  
13 of reserve offset credits that were canceled  
14 due to the reversal pursuant to clause (i).

15 “(iii) *UNINTENTIONAL REVERSALS.*—If  
16 the President determines that a reversal was  
17 unintentional, the offset project developer  
18 for the relevant offset project shall place into  
19 the offsets reserve a quantity of offset cred-  
20 its, or combination of offset credits and  
21 emission allowances, equal in number to  
22 half the number of offset credits that were  
23 reserved for that offset project, or half the  
24 number of reserve offset credits that were

1           *canceled due to the reversal pursuant to*  
 2           *clause (i), whichever is less.*

3           “(iv) *PETITION.*—*Any person may pe-*  
 4           *tition the President for a determination*  
 5           *that an offsets reversal has occurred. Any*  
 6           *such petition shall include a showing by the*  
 7           *petitioner that there is adequate data or*  
 8           *other evidence to support the petition. Not*  
 9           *later than 90 days after the date of receipt*  
 10           *of the petition, the President shall take final*  
 11           *action determining either that the reversal*  
 12           *has occurred or that the reversal has not oc-*  
 13           *curred. Such determination shall be accom-*  
 14           *panied by a statement of the basis for the*  
 15           *determination.*

16           “(C) *USE OF RESERVED OFFSET CRED-*  
 17           *ITS.*—*Offset credits placed into the offsets reserve*  
 18           *under this paragraph may not be used to comply*  
 19           *with section 722.*

20           “(5) *TERM OFFSET CREDITS.*—

21           “(A) *APPLICABILITY.*—*With respect to a*  
 22           *practice listed under section 733 that sequesters*  
 23           *greenhouse gases and has a crediting period of*  
 24           *not more than 5 years, the President may ad-*  
 25           *dress reversals pursuant to this paragraph in*

1       *lieu of permanently accounting for reversals pur-*  
 2       *suant to paragraphs (2) and (3).*

3               “(B) *ACCOUNTING FOR REVERSALS.*—*For*  
 4       *such practices or projects implementing the prac-*  
 5       *tices described in subparagraph (A), the Presi-*  
 6       *dent shall require only reversals that occur dur-*  
 7       *ing the crediting period to be accounted for and*  
 8       *addressed pursuant to paragraphs (2) and (3).*

9               “(C) *CREDITS ISSUED.*—*For practices or*  
 10       *projects regulated pursuant to subparagraph (B),*  
 11       *the President shall issue under section 737 a*  
 12       *term offset credit, in lieu of an offset credit, for*  
 13       *each ton of carbon dioxide equivalent that has*  
 14       *been sequestered.*

15       “(c) *CREDITING PERIODS.*—

16               “(1) *IN GENERAL.*—*As part of the regulations*  
 17       *promulgated under section 732(a), for each offset*  
 18       *project type, the President shall specify a crediting*  
 19       *period, and establish provisions for petitions for new*  
 20       *crediting periods, in accordance with this subsection.*

21               “(2) *DURATION.*—

22               “(A) *IN GENERAL.*—*The crediting period*  
 23       *shall be not less than 5 and not greater than 10*  
 24       *years for any project type other than those in-*  
 25       *volving sequestration or term offsets.*



1           “(B) *FORESTRY PROJECTS.*—*The crediting*  
2           *period for a forestry offset project shall not ex-*  
3           *ceed 20 years.*

4           “(C) *TERM OFFSET CREDITS.*—*The cred-*  
5           *iting period for a term offset credit issued shall*  
6           *not exceed 5 years.*

7           “(3) *ELIGIBILITY.*—*An offset project shall be eli-*  
8           *gible to generate offset credits under this part only*  
9           *during the project’s crediting period. During such*  
10          *crediting period, the project shall remain eligible to*  
11          *generate offset credits, subject to the methodologies*  
12          *and project type eligibility list that applied as of the*  
13          *date of project approval under section 735, except as*  
14          *provided in paragraph (4).*

15          “(4) *PETITION FOR NEW CREDITING PERIOD.*—  
16          *An offset project developer may petition for a new*  
17          *crediting period to commence after termination of a*  
18          *crediting period, subject to the methodologies and*  
19          *project type eligibility list in effect at the time when*  
20          *such petition is submitted. A petition may not be sub-*  
21          *mitted under this paragraph more than 18 months*  
22          *before the end of the pending crediting period. The*  
23          *President may grant such petition after public notice*  
24          *and opportunity for comment. The President may*

1        *limit the number of new crediting periods available*  
 2        *for projects of particular project types.*

3        “(d) *ENVIRONMENTAL INTEGRITY.*—*In establishing the*  
 4        *requirements under this section, the President shall apply*  
 5        *conservative assumptions or methods to maximize the cer-*  
 6        *tainty that the environmental integrity of the greenhouse*  
 7        *gas limitations established under section 703 is not com-*  
 8        *promised.*

9        “(e) *PRE-EXISTING METHODOLOGIES.*—*In promul-*  
 10        *gating requirements under this section, the President shall*  
 11        *give due consideration to methodologies for offset projects*  
 12        *existing as of the date of enactment of this title.*

13        “(f) *ADDED PROJECT TYPES.*—*The President shall es-*  
 14        *tablish methodologies described in subsection (a), and, as*  
 15        *applicable, requirements and mechanisms for reversals as*  
 16        *described in subsection (b), for any project type that is*  
 17        *added to the list pursuant to section 733.*

18        **“SEC. 735. APPROVAL OF OFFSET PROJECTS.**

19        “(a) *APPROVAL PETITION.*—*An offset project developer*  
 20        *shall submit an offset project approval petition signed by*  
 21        *a responsible official (who shall certify the accuracy of the*  
 22        *information submitted) and providing such information as*  
 23        *the President requires to determine whether the offset project*  
 24        *is eligible for issuance of offset credits under rules promul-*  
 25        *gated pursuant to this part.*

1       “(b) *TIMING.*—An approval petition shall be submitted  
 2   to the President under subsection (a) not later than the time  
 3   at which an offset project’s first verification report is sub-  
 4   mitted under section 736.

5       “(c) *APPROVAL PETITION REQUIREMENTS.*—As part  
 6   of the regulations promulgated under section 732, the Presi-  
 7   dent shall include provisions for, and shall specify, the re-  
 8   quired components of an offset project approval petition re-  
 9   quired under subsection (a), which shall include—

10           “(1) designation of an offset project developer;

11           “(2) designation of a party who is authorized to  
 12   provide access to the appropriate officials or an au-  
 13   thorized representative to the offset project; and

14           “(3) any other information that the President  
 15   considers to be necessary to achieve the purposes of  
 16   this part.

17       “(d) *APPROVAL AND NOTIFICATION.*—Not later than  
 18   90 days after receiving a complete approval petition under  
 19   subsection (a), the President shall make the approval peti-  
 20   tion publicly available on the internet, approve or deny the  
 21   petition in writing, and, if the petition is denied, provide  
 22   the reasons for the denial and make the President’s decision  
 23   publicly available on the internet. After an offset project  
 24   is approved, the offset project developer shall not be required

1 *to resubmit an approval petition during the offset project's*  
 2 *crediting period, except as provided in section 734(c)(4).*

3       “(e) *APPEAL.*—*The President shall establish proce-*  
 4 *dures for appeal and review of determinations made under*  
 5 *subsection (d).*

6       “(f) *VOLUNTARY PREAPPROVAL REVIEW.*—*The Presi-*  
 7 *dent may establish a voluntary preapproval review proce-*  
 8 *dure, to allow an offset project developer to request the*  
 9 *President to conduct a preliminary eligibility review for*  
 10 *an offset project. Findings of such reviews shall not be bind-*  
 11 *ing upon the President. The voluntary preapproval review*  
 12 *procedure—*

13               “(1) *shall require the offset project developer to*  
 14 *submit such basic project information as the Presi-*  
 15 *dent requires to provide a meaningful review; and*

16               “(2) *shall require a response from the President*  
 17 *not later than 6 weeks after receiving a request for re-*  
 18 *view under this subsection.*

19 **“SEC. 736. VERIFICATION OF OFFSET PROJECTS.**

20       “(a) *IN GENERAL.*—*As part of the regulations promul-*  
 21 *gated under section 732(a), the President shall establish re-*  
 22 *quirements, including protocols, for verification of the*  
 23 *quantity of greenhouse gas emission reductions or avoid-*  
 24 *ance, or sequestration of greenhouse gases, resulting from*  
 25 *an offset project. The regulations shall require that an offset*

1 *project developer shall submit a report, prepared by a third-*  
 2 *party verifier accredited under subsection (d), providing*  
 3 *such information as the President requires to determine the*  
 4 *quantity of greenhouse gas emission reductions or avoid-*  
 5 *ance, or sequestration of greenhouse gas, resulting from the*  
 6 *offset project.*

7       “(b) *SCHEDULE.—The President shall prescribe a*  
 8 *schedule for the submission of verification reports under*  
 9 *subsection (a).*

10       “(c) *VERIFICATION REPORT REQUIREMENTS.—The*  
 11 *President shall specify the required components of a*  
 12 *verification report required under subsection (a), which*  
 13 *shall include—*

14               “(1) *the name and contact information for a des-*  
 15 *ignated representative for the offset project developer;*

16               “(2) *the quantity of greenhouse gas reduced,*  
 17 *avoided, or sequestered;*

18               “(3) *the methodologies applicable to the project*  
 19 *pursuant to section 734;*

20               “(4) *a certification that the project meets the ap-*  
 21 *plicable requirements;*

22               “(5) *a certification establishing that the conflict*  
 23 *of interest requirements in the regulations promul-*  
 24 *gated under subsection (d)(1) have been complied*  
 25 *with; and*

1           “(6) *any other information that the President*  
 2           *considers to be necessary to achieve the purposes of*  
 3           *this part.*

4           “(d) *VERIFIER ACCREDITATION.*—

5           “(1) *IN GENERAL.*—*As part of the regulations*  
 6           *promulgated under section 732(a), the President shall*  
 7           *establish a process and requirements for periodic ac-*  
 8           *creditation of third-party verifiers to ensure that such*  
 9           *verifiers are professionally qualified and have no con-*  
 10          *licts of interest with offset project developers.*

11          “(2) *STANDARDS.*—

12           “(A) *AMERICAN NATIONAL STANDARDS IN-*  
 13           *STITUTE ACCREDITATION.*—*The President may*  
 14           *accredit, or accept for purposes of accreditation*  
 15           *under this subsection, verifiers accredited under*  
 16           *the American National Standards Institute*  
 17           *(ANSI) accreditation program in accordance*  
 18           *with ISO 14065. The President shall accredit, or*  
 19           *accept for accreditation, verifiers under this sub-*  
 20           *paragraph only if the President finds that the*  
 21           *American National Standards Institute accredi-*  
 22           *tation program provides sufficient assurance*  
 23           *that the requirements of this part will be met.*

24           “(B) *EPA ACCREDITATION.*—*As part of the*  
 25           *regulations promulgated under section 732(a),*

1        *the President may establish accreditation stand-*  
 2        *ards for verifiers under this subsection, and may*  
 3        *establish related training and testing programs*  
 4        *and requirements.*

5        *“(3) PUBLIC ACCESSIBILITY.—Each verifier*  
 6        *meeting the requirements for accreditation in accord-*  
 7        *ance with this subsection shall be listed in a publicly*  
 8        *accessible database, which shall be maintained and*  
 9        *updated by the President.*

10       *“(4) REVOCATION.—The regulations concerning*  
 11       *accreditation of third-party verifiers required under*  
 12       *paragraph (1) shall establish a process for the Presi-*  
 13       *dent to revoke the accreditation of any third-party*  
 14       *verifier that the President finds fails to maintain pro-*  
 15       *fessional qualifications or to avoid a conflict of inter-*  
 16       *est, or for other good cause.*

17       **“SEC. 737. ISSUANCE OF OFFSET CREDITS.**

18       *“(a) DETERMINATION AND NOTIFICATION.—Not later*  
 19       *than 90 days after receiving a complete verification report*  
 20       *under section 736, the President shall—*

21       *“(1) make the report publicly available on the*  
 22       *Internet;*

23       *“(2) make a determination of the quantity of*  
 24       *greenhouse gas emissions reduced or avoided, or*

1       *greenhouse gases sequestered, resulting from an offset*  
 2       *project approved under section 735; and*

3               “(3) *notify the offset project developer in writing*  
 4       *of such determination and make such determination*  
 5       *publicly available on the Internet.*

6       “(b) *ISSUANCE OF OFFSET CREDITS.—The President*  
 7       *shall issue one offset credit to an offset project developer for*  
 8       *each ton of carbon dioxide equivalent that the President has*  
 9       *determined has been reduced, avoided, or sequestered during*  
 10       *the period covered by a verification report submitted in ac-*  
 11       *cordance with section 736, only if—*

12               “(1) *the President has approved the offset project*  
 13       *pursuant to section 735; and*

14               “(2) *the relevant emissions reduction, avoidance,*  
 15       *or sequestration has—*

16                       “(A) *already occurred, during the offset*  
 17       *project’s crediting period; and*

18                       “(B) *occurred after January 1, 2009.*

19       “(c) *APPEAL.—The President shall establish proce-*  
 20       *dures for appeal and review of determinations made under*  
 21       *subsection (a).*

22       “(d) *TIMING.—Offset credits meeting the criteria estab-*  
 23       *lished in subsection (b) shall be issued not later than 2*  
 24       *weeks following the verification determination made by the*  
 25       *President under subsection (a).*



1       “(e) *REGISTRATION.*—*The President shall assign a*  
 2 *unique serial number to and register each offset credit to*  
 3 *be issued in the Offset Registry established under section*  
 4 *732(d).*

5       **“SEC. 738. AUDITS.**

6       “(a) *IN GENERAL.*—*The President shall, on an ongoing*  
 7 *basis, conduct random audits of offset projects and offset*  
 8 *credits. The President shall conduct audits of the practices*  
 9 *of third-party verifiers. In each year, the President shall*  
 10 *conduct audits, at minimum, for a representative sample*  
 11 *of project types and geographic areas.*

12       “(b) *DELEGATION.*—*The President may delegate to a*  
 13 *State or Indian tribe the responsibility for conducting au-*  
 14 *dits under this section if the President finds that the pro-*  
 15 *gram proposed by the State or Indian tribe provides assur-*  
 16 *ances equivalent to those provided by the auditing program*  
 17 *of the President, and that the integrity of the offset program*  
 18 *under this part will be maintained. Nothing in this sub-*  
 19 *section shall prevent the President from conducting any*  
 20 *audit the President considers necessary and appropriate.*

21       “(c) *AUDIT REQUIREMENTS.*—*As part of the regula-*  
 22 *tions promulgated under section 732(a), the President shall*  
 23 *establish requirements and protocols for an auditing pro-*  
 24 *gram, whether undertaken by the President or an author-*  
 25 *ized representative, concerning project developers, third*

1 party verifiers, and reports submitted by those persons, in-  
2 cluding the offset project approval petition and verification  
3 report. Such regulations shall include—

4 “(1) the components of the offset project, which  
5 shall be evaluated against the offset approval petition  
6 and the verification report;

7 “(2) the minimum experience or training of the  
8 auditors;

9 “(3) the form in which reports shall be com-  
10 pleted;

11 “(4) requirements for delegating auditing func-  
12 tions to States or Indian tribes, including requiring  
13 periodic reports from States or Indian tribes on their  
14 auditing activities and findings; and

15 “(5) any other information that the appropriate  
16 officials considers to be necessary to achieve the pur-  
17 pose of the Act.

18 **“SEC. 739. PROGRAM REVIEW AND REVISION.**

19 “At least once every 5 years, the President shall review  
20 and, based on new or updated information and taking into  
21 consideration the recommendations of the Advisory Board,  
22 update and revise—

23 “(1) the list of eligible project types established  
24 under section 733;

1           “(2) the methodologies established, including spe-  
2           cific activity baselines, under section 734(a);

3           “(3) the reversal requirements and mechanisms  
4           established or prescribed under section 734(b);

5           “(4) measures to improve the accountability of  
6           the offsets program; and

7           “(5) any other requirements established under  
8           this part to ensure the environmental integrity and  
9           effective operation of this part.

10   **“SEC. 740. EARLY OFFSET SUPPLY.**

11           “(a) *PROJECTS REGISTERED UNDER OTHER GOVERN-*  
12   *MENT-RECOGNIZED PROGRAMS.—Except as provided in*  
13   *subsection (b) or (c), after public notice and opportunity*  
14   *for comment, the President shall issue one offset credit for*  
15   *each ton of carbon dioxide equivalent emissions reduced,*  
16   *avoided, or sequestered—*

17           “(1) *under an offset project that was started*  
18           *after January 1, 2001;*

19           “(2) *for which a credit was issued under any*  
20           *regulatory or voluntary greenhouse gas emission offset*  
21           *program that the President determines—*

22           “(A) *was established under State or tribal*  
23           *law or regulation prior to January 1, 2009, or*  
24           *has been approved by the President pursuant to*  
25           *subsection (e);*

1           “(B) has developed offset project type stand-  
 2           ards, methodologies, and protocols through a  
 3           public consultation process or a peer review  
 4           process;

5           “(C) has made available to the public  
 6           standards, methodologies, and protocols that re-  
 7           quire that credited emission reductions, avoid-  
 8           ance, or sequestration are permanent, additional,  
 9           verifiable, and enforceable;

10          “(D) requires that all emission reductions,  
 11          avoidance, or sequestration be verified by a State  
 12          regulatory agency or an accredited third-party  
 13          independent verification body;

14          “(E) requires that all credits issued are reg-  
 15          istered in a publicly accessible registry, with in-  
 16          dividual serial numbers assigned for each ton of  
 17          carbon dioxide equivalent emission reductions,  
 18          avoidance, or sequestration; and

19          “(F) ensures that no credits are issued for  
 20          activities for which the entity administering the  
 21          program, or a program administrator or rep-  
 22          resentative, has funded, solicited, or served as a  
 23          fund administrator for the development of, the  
 24          project or activity that caused the emission re-  
 25          duction, avoidance, or sequestration; and

1           “(3) *for which the credit described in paragraph*  
 2           *(2) is transferred to the President.*

3           “(b) *INELIGIBLE CREDITS.—Subsection (a) shall not*  
 4           *apply to offset credits that have expired or have been re-*  
 5           *tired, canceled, or used for compliance under a program*  
 6           *established under State or tribal law or regulation.*

7           “(c) *LIMITATION.—Notwithstanding subsection (a)(1),*  
 8           *offset credits shall be issued under this section—*

9                 “(1) *only for reductions or avoidance of green-*  
 10            *house gas emissions, sequestration of greenhouse gases,*  
 11            *or destruction of chlorofluorocarbons (subject to the*  
 12            *conditions specified in section 619(b)(9) and based on*  
 13            *the carbon dioxide equivalent value of the substance*  
 14            *destroyed), that occur after January 1, 2009; and*

15                 “(2) *only until the date that is 3 years after the*  
 16            *date of enactment of this title, or the date that regula-*  
 17            *tions promulgated under section 732(a) take effect,*  
 18            *whichever occurs sooner.*

19           “(d) *RETIREMENT OF CREDITS.—The President shall*  
 20           *seek to ensure that offset credits described in subsection*  
 21           *(a)(2) are retired for purposes of use under a program de-*  
 22           *scribed in subsection (b).*

23           “(e) *OTHER PROGRAMS.—*

24                 “(1) *IN GENERAL.—Offset programs that ei-*  
 25            *ther—*

1           “(A) were not established under State or  
2           tribal law; or

3           “(B) were not established prior to January  
4           1, 2009;

5           but that otherwise meet all of the criteria of sub-  
6           section (a)(2) may apply to the President to be ap-  
7           proved under this subsection as an eligible program  
8           for early offset credits under this section.

9           “(2) APPROVAL.—The President shall approve  
10          any such program that the President determines has  
11          criteria and methodologies of at least equal stringency  
12          to the criteria and methodologies of the programs es-  
13          tablished under State or tribal law that the President  
14          determines meet the criteria of subsection (a)(2). The  
15          President shall approve types of offsets under any  
16          such program that are subject to criteria and meth-  
17          odologies of at least equal stringency to the criteria  
18          and methodologies for such types of offsets applied  
19          under the programs established under State or tribal  
20          law that the President determines meet the criteria of  
21          subsection (a)(2). The President shall make a deter-  
22          mination on any application received under this sub-  
23          section by not later than 180 days from the date of  
24          receipt of the application.

1 **“SEC. 741. ENVIRONMENTAL CONSIDERATIONS.**

2       *“If the President lists forestry or other relevant land*  
3 *management-related offset projects as eligible offset project*  
4 *types under section 733, the President, in consultation with*  
5 *appropriate Federal agencies, shall promulgate regulations*  
6 *to establish criteria for such offset projects—*

7               *“(1) to ensure that native species are given pri-*  
8 *mary consideration in such projects;*

9               *“(2) to enhance biological diversity in such*  
10 *projects;*

11              *“(3) to prohibit the use of federally designated or*  
12 *State-designated noxious weeds;*

13              *“(4) to prohibit the use of a species listed by a*  
14 *regional, State, or tribal invasive plant authority*  
15 *within the applicable region, State, or land of Indian*  
16 *tribes;*

17              *“(5) in the case of forestry offset projects, in ac-*  
18 *cordance with widely accepted, environmentally sus-*  
19 *tainable forestry practices;*

20              *“(6) to ensure that the offset project area was not*  
21 *converted from native ecosystems, such as a forest,*  
22 *grassland, scrubland or wetland, to generate offsets,*  
23 *unless such conversion took place at least 10 years*  
24 *prior to the date of enactment of this title or before*  
25 *January 1, 2009, whichever date is earlier; and*

1           “(7) to the maximum extent practicable, ensure  
 2           that the use of offset credits would be eligible to sat-  
 3           isfy emission reduction commitments made by the  
 4           United States in multilateral agreements, such as the  
 5           United Nations Framework Convention on Climate  
 6           Change, done at New York on May 9, 1992 (or any  
 7           successor agreement).

8   **“SEC. 742. TRADING.**

9           “Section 724 shall apply to the trading of offset cred-  
 10          its.

11   **“SEC. 743. OFFICE OF OFFSETS INTEGRITY.**

12          “(a) *ESTABLISHMENT.*—There is established within  
 13          the Office of the Assistant Attorney General of the Environ-  
 14          ment and Natural Resources Division in the Department  
 15          of Justice a Carbon Offsets Integrity Unit, to be headed by  
 16          a Special Counsel (hereinafter referred to as the ‘Special  
 17          Counsel’). The Carbon Offsets Integrity Unit and the Spe-  
 18          cial Counsel shall be responsible to and shall report directly  
 19          to the Assistant Attorney General of the Environment and  
 20          Natural Resources Division.

21          “(b) *APPOINTMENT.*—The Special Counsel shall be ap-  
 22          pointed by the President, by and with the advice and con-  
 23          sent of the Senate.

24          “(c) *RESPONSIBILITIES.*—The Special Counsel shall—



1           “(1) supervise and coordinate investigations and  
2           civil enforcement within the Department of Justice of  
3           the carbon offsets program under this part;

4           “(2) ensure that Federal law relating to civil en-  
5           forcement of the carbon offsets program is used to the  
6           fullest extent authorized; and

7           “(3) ensure that adequate resources are made  
8           available for the investigation and enforcement of  
9           civil violations of the carbon offsets program.

10          “(d) *COMPENSATION.*—The Special Counsel shall be  
11          paid at the basic pay payable for level V of the Executive  
12          Schedule under section 5316 of title 5, United States Code.

13          “(e) *ASSIGNMENT OF PERSONNEL.*—There shall be as-  
14          signed to the Carbon Offsets Integrity Unit such personnel  
15          as the Attorney General determines to be necessary to pro-  
16          vide an appropriate level of enforcement activity in the area  
17          of carbon offsets.

18          **“SEC. 744. INTERNATIONAL OFFSET CREDITS.**

19          “(a) *IN GENERAL.*—The Administrator, in consulta-  
20          tion with the Secretary of State and the Administrator of  
21          the United States Agency for International Development,  
22          may issue, in accordance with this section, international  
23          offset credits based on activities that reduce or avoid green-  
24          house gas emissions, or increase sequestration of greenhouse  
25          gases, in a developing country. Such credits may be issued

1 *for projects pursuant to the requirements of this part or*  
 2 *as provided in subsection (c), (d), or (e).*

3 “(b) *ISSUANCE.*—

4 “(1) *REGULATIONS.*—Not later than 2 years  
 5 after the date of enactment of this title, the Adminis-  
 6 trator, in consultation with the Secretary of State, the  
 7 Administrator of the United States Agency for Inter-  
 8 national Development, and any other appropriate  
 9 Federal agency, and taking into consideration the rec-  
 10 ommendations of the Advisory Board, shall promul-  
 11 gate regulations for implementing this section, taking  
 12 into consideration specific factors relevant to the de-  
 13 termination of eligible international offset project  
 14 types and the implementation of international meth-  
 15 odologies for each offset type approved. Except as oth-  
 16 erwise provided in this section, the issuance of inter-  
 17 national offset credits under this section shall be sub-  
 18 ject to the requirements of this part.

19 “(2) *REQUIREMENTS FOR INTERNATIONAL OFF-*  
 20 *SET CREDITS.*—The Administrator may issue inter-  
 21 national offset credits only if—

22 “(A) *the United States is a party to a bilat-*  
 23 *eral or multilateral agreement or arrangement*  
 24 *that includes the country in which the project or*  
 25 *measure achieving the relevant greenhouse gas*

1           *emission reduction or avoidance, or greenhouse*  
 2           *gas sequestration, has occurred;*

3           “(B) *such country is a developing country;*  
 4           *and*

5           “(C) *such agreement or arrangement—*

6           “(i) *ensures that all of the require-*  
 7           *ments of this part apply to the issuance of*  
 8           *international offset credits under this sec-*  
 9           *tion;*

10           “(ii) *provides for the appropriate dis-*  
 11           *tribution of international offset credits*  
 12           *issued; and*

13           “(iii) *provides that the offset project*  
 14           *developer be eligible to receive service of*  
 15           *process in the United States for the purpose*  
 16           *of all civil and regulatory actions in Fed-*  
 17           *eral courts, if such service is made in ac-*  
 18           *cordance with the Federal rules for service*  
 19           *of process in the States in which the case or*  
 20           *regulatory action is brought.*

21           “(3) *SUPPLEMENTAL INTERNATIONAL OFFSET*  
 22           *CATEGORIES.—*

23           “(A) *IN GENERAL.—In order to ensure a*  
 24           *sufficient supply of international offsets and to*  
 25           *reduce the cost of compliance with this title, the*

1        *Administrator may establish categories of inter-*  
 2        *national offsets in addition to those described in*  
 3        *subsections (c), (d), and (e), if—*

4                *“(i) for 2 consecutive years, the auc-*  
 5                *tion price for allowances reaches the market*  
 6                *stability reserve auction price under section*  
 7                *726(c); and*

8                *“(ii) the Administrator determines that*  
 9                *the total amount of international offsets*  
 10               *held by covered entities for each of the 2*  
 11               *years referred to in clause (i) does not ex-*  
 12               *ceed the limit on international offsets estab-*  
 13               *lished under section 722(d)(1)(B)(iii).*

14        *“(B) SUPPLEMENTAL CATEGORIES.—*

15                *“(i) IN GENERAL.—Any supplemental*  
 16                *categories of international offsets established*  
 17                *pursuant to subparagraph (A) shall—*

18                        *“(I) satisfy all applicable provi-*  
 19                        *sions of this part, including subsection*  
 20                        *(b)(2) of this section and sections 733*  
 21                        *and 734; and*

22                        *“(II) meet the criteria described*  
 23                        *in clause (ii).*

24                *“(ii) CRITERIA.—The criteria referred*  
 25                *to in clause (i)(II) are that—*

1                   “(I) the country in which the ac-  
 2                   tivities in the offset category would  
 3                   take place has developed and is imple-  
 4                   menting a low carbon development  
 5                   plan that includes provisions for the  
 6                   activities described in the offset cat-  
 7                   egory;

8                   “(II) the activities in the offset  
 9                   category are not activities included  
 10                  under subsection (c), (d) or (e); and

11                  “(III) the activities in the offset  
 12                  category satisfy specific criteria rel-  
 13                  evant to methodologies and institu-  
 14                  tional and technical capacities associ-  
 15                  ated with developing country contexts  
 16                  to ensure adequate treatment of leak-  
 17                  age, additionality, and permanence.

18                  “(c) *SECTOR-BASED CREDITS.*—

19                         “(1) *IN GENERAL.*—In order to minimize the po-  
 20                         tential for leakage and to encourage countries to take  
 21                         nationally appropriate mitigation actions to reduce  
 22                         or avoid greenhouse gas emissions, or sequester green-  
 23                         house gases, the Administrator, in consultation with  
 24                         the Secretary of State and the Administrator of the

1 *United States Agency for International Development,*  
2 *shall—*

3 “(A) *identify sectors, or combinations of*  
4 *sectors, within specific countries with respect to*  
5 *which the issuance of international offset credits*  
6 *on a sectoral basis is appropriate; and*

7 “(B) *issue international offset credits for*  
8 *such sectors only on a sectoral basis.*

9 “(2) *IDENTIFICATION OF SECTORS.—*

10 “(A) *GENERAL RULE.—For purposes of*  
11 *paragraph (1)(A), a sectoral basis shall be ap-*  
12 *propriate for activities—*

13 “(i) *in countries that have compara-*  
14 *tively high greenhouse gas emissions, or*  
15 *comparatively greater levels of economic de-*  
16 *velopment; and*

17 “(ii) *that, if located in the United*  
18 *States, would be within a sector subject to*  
19 *the compliance obligation under section 722.*

20 “(B) *FACTORS.—In determining the sectors*  
21 *and countries for which international offset cred-*  
22 *its should be awarded only on a sectoral basis,*  
23 *the Administrator, in consultation with the Sec-*  
24 *retary of State and the Administrator of the*

1           *United States Agency for International Develop-*  
2           *ment, shall consider the following factors:*

3                     “(i) *The country’s gross domestic prod-*  
4                     *uct.*

5                     “(ii) *The country’s total greenhouse gas*  
6                     *emissions.*

7                     “(iii) *Whether the comparable sector of*  
8                     *the United States economy is covered by the*  
9                     *compliance obligation under section 722.*

10                    “(iv) *The heterogeneity or homogeneity*  
11                    *of sources within the relevant sector.*

12                    “(v) *Whether the relevant sector pro-*  
13                    *vides products or services that are sold in*  
14                    *internationally competitive markets.*

15                    “(vi) *The risk of leakage if inter-*  
16                    *national offset credits were issued on a*  
17                    *project-level basis, instead of on a sectoral*  
18                    *basis, for activities within the relevant sec-*  
19                    *tor.*

20                    “(vii) *The capability of accurately*  
21                    *measuring, monitoring, reporting, and*  
22                    *verifying the performance of sources across*  
23                    *the relevant sector.*

24                    “(viii) *Such other factors as the Ad-*  
25                    *ministrator, in consultation with the Sec-*

retary of State and the Administrator of the  
United States Agency for International De-  
velopment, determines are appropriate to—

“(I) ensure the integrity of the  
United States greenhouse gas emissions  
limitations established under section  
703; and

“(II) encourage countries to take  
nationally appropriate mitigation ac-  
tions to reduce or avoid greenhouse gas  
emissions, or sequester greenhouse  
gases.

“(ix) The issuance of offsets for activi-  
ties that are—

“(I) in addition to nationally ap-  
propriate mitigation actions taken by  
developing countries pursuant to the  
low-carbon development plans of the  
countries; and

“(II) on a sectoral basis.

“(3) *SECTORAL BASIS.*—

“(A) *DEFINITION.*—In this subsection, the  
term ‘sectoral basis’ means the issuance of inter-  
national offset credits only for the quantity of  
sector-wide reductions or avoidance of greenhouse



1       *gas emissions, or sector-wide increases in seques-*  
 2       *tration of greenhouse gases, achieved across the*  
 3       *relevant sector or sectors of the economy relative*  
 4       *to a baseline level of emissions established in an*  
 5       *agreement or arrangement described in sub-*  
 6       *section (b)(2)(A) for the sector.*

7               “(B) *BASELINE.*—*The baseline for a sector*  
 8       *shall—*

9               “(i) *be established at levels of green-*  
 10       *house gas emissions lower than would occur*  
 11       *under a business-as-usual scenario, taking*  
 12       *into account relevant domestic or inter-*  
 13       *national policies or incentives to reduce*  
 14       *greenhouse gas emissions;*

15              “(ii)   *be used to determine*  
 16       *additionality and performance;*

17              “(iii) *account for all significant*  
 18       *sources of emissions from a sector;*

19              “(iv) *be adjusted over time to reflect*  
 20       *changing circumstances;*

21              “(v) *be developed taking into consider-*  
 22       *ation such factors as—*

23                   “(I) *any established emissions*  
 24       *performance level for the sector;*

1                   “(II) the current performance of  
2                   the sector in the country;

3                   “(III) expected future trends of  
4                   the sector in the country; and

5                   “(IV) historical data and other  
6                   factors to ensure additionality; and

7                   “(vi) be designed to produce significant  
8                   deviations from business-as-usual emissions,  
9                   consistent with nationally appropriate  
10                  mitigation commitments or actions, in a  
11                  way that equitably contributes to meeting  
12                  thresholds identified in section 705(e)(2).

13               “(d) CREDITS ISSUED BY AN INTERNATIONAL BODY.—

14               “(1) IN GENERAL.—The Administrator, in con-  
15               sultation with the Secretary of State, may issue inter-  
16               national offset credits in exchange for instruments in  
17               the nature of offset credits that are issued by an inter-  
18               national body established pursuant to the United Na-  
19               tions Framework Convention on Climate Change, to  
20               a protocol to such Convention, or to a treaty that suc-  
21               ceeds such Convention. The Administrator may issue  
22               international offset credits under this subsection only  
23               if, in addition to the requirements of subsection (b),  
24               the Administrator has determined that the inter-  
25               national body that issued the instruments has imple-

1 *mented substantive and procedural requirements for*  
 2 *the relevant project type that provide equal or greater*  
 3 *assurance of the integrity of such instruments as is*  
 4 *provided by the requirements of this part. Beginning*  
 5 *on January 1, 2016, the Administrator shall issue no*  
 6 *offset credit pursuant to this subsection if the activity*  
 7 *generating the greenhouse gas emission reductions or*  
 8 *avoidance, or greenhouse gas sequestration, occurs in*  
 9 *a country and sector identified by the Administrator*  
 10 *under subsection (c), unless the offset credit issued by*  
 11 *the international body is consistent with section*  
 12 *744(c).*

13 *“(2) RETIREMENT.—The Administrator, in con-*  
 14 *sultation with the Secretary of State, shall seek, by*  
 15 *whatever means appropriate, including agreements,*  
 16 *arrangements, or technical cooperation with the inter-*  
 17 *national issuing body described in paragraph (1), to*  
 18 *ensure that such body—*

19 *“(A) is notified of the Administrator’s*  
 20 *issuance, under this subsection, of an inter-*  
 21 *national offset credit in exchange for an instru-*  
 22 *ment issued by such international body; and*

23 *“(B) provides, to the extent feasible, for the*  
 24 *disqualification of the instrument issued by such*  
 25 *international body for subsequent use under any*

1       *relevant foreign or international greenhouse gas*  
 2       *regulatory program, regardless of whether such*  
 3       *use is a sale, exchange, or submission to satisfy*  
 4       *a compliance obligation.*

5       “(e) *OFFSETS FROM REDUCED DEFORESTATION.*—

6           “(1) *REQUIREMENTS.*—*The Administrator, in*  
 7       *accordance with the regulations promulgated under*  
 8       *subsection (b)(1) and an agreement or arrangement*  
 9       *described in subsection (b)(2)(A), shall issue inter-*  
 10       *national offset credits for greenhouse gas emission re-*  
 11       *ductions achieved through activities to reduce deforest-*  
 12       *ation only if, in addition to the requirements of sub-*  
 13       *section (b)—*

14           “(A) *the activity occurs in—*

15           “(i) *a country listed by the Adminis-*  
 16       *trator pursuant to paragraph (2);*

17           “(ii) *a state or province listed by the*  
 18       *Administrator pursuant to paragraph (5);*

19           *or*

20           “(iii) *a country listed by the Adminis-*  
 21       *trator pursuant to paragraph (6);*

22           “(B) *except as provided in paragraph (5) or*  
 23       *(6), the quantity of the international offset cred-*  
 24       *its is determined by comparing the national*  
 25       *emissions from deforestation relative to a na-*

1        *tional deforestation baseline for that country es-*  
2        *tablished, in accordance with an agreement or*  
3        *arrangement described in subsection (b)(2)(A),*  
4        *pursuant to paragraph (4);*

5                *“(C) the reduction in emissions from defor-*  
6        *estation has occurred before the issuance of the*  
7        *international offset credit and, taking into con-*  
8        *sideration relevant international standards, has*  
9        *been demonstrated using ground-based inven-*  
10       *tories, remote sensing technology, and other*  
11       *methodologies to ensure that all relevant carbon*  
12       *stocks are accounted;*

13               *“(D) the Administrator has made appro-*  
14       *priate adjustments, such as discounting for any*  
15       *additional uncertainty, to account for cir-*  
16       *cumstances specific to the country, including its*  
17       *technical capacity described in paragraph*  
18       *(2)(A);*

19               *“(E) the Administrator has determined that*  
20       *the country within which the activity occurs has*  
21       *in place a publicly available strategic plan that*  
22       *includes the criteria listed in paragraph (2)(C);*

23               *“(F) the activity is designed, carried out,*  
24       *and managed—*

1 “(i) in accordance with forest manage-  
2 ment practices that—

3 “(I) improve the livelihoods of for-  
4 est communities;

5 “(II) maintain the natural bio-  
6 diversity, resilience, and carbon stor-  
7 age capacity of forests; and

8 “(III) do not adversely impact the  
9 permanence of forest carbon stocks or  
10 emission reductions;

11 “(ii) to promote or restore native forest  
12 species and ecosystems where practicable,  
13 and to avoid the introduction of invasive  
14 nonnative species;

15 “(iii) in a manner that gives due re-  
16 gard to the rights and interests of local com-  
17 munities, indigenous peoples, forest-depend-  
18 ent communities, and vulnerable social  
19 groups;

20 “(iv) with consultations with, and full  
21 participation of, local communities, indige-  
22 nous peoples, and forest-dependent commu-  
23 nities, in affected areas, as partners and  
24 primary stakeholders, prior to and during

1           *the design, planning, implementation, and*  
 2           *monitoring and evaluation of activities;*

3           “(v) *with transparent and equitable*  
 4           *sharing of profits and benefits derived from*  
 5           *offset credits with local communities, indig-*  
 6           *enous peoples, and forest-dependent commu-*  
 7           *nities;*

8           “(vi) *with full transparency, third-*  
 9           *party independent oversight, and public*  
 10           *dissemination of related financial and con-*  
 11           *tractual arrangements, and*

12           “(vii) *so that the social and environ-*  
 13           *mental impacts of these activities are mon-*  
 14           *itored and reported in sufficient detail to*  
 15           *allow appropriate officials to determine*  
 16           *compliance with the requirements of this*  
 17           *section;*

18           “(G) *the reduction otherwise satisfies and is*  
 19           *consistent with any relevant requirements estab-*  
 20           *lished by an agreement reached under the aus-*  
 21           *pices of the United Nations Framework Conven-*  
 22           *tion on Climate Change, done at New York on*  
 23           *May 9, 1992; and*

24           “(H) *in the case that offsets are determined*  
 25           *by comparing the national emissions from defor-*

estation relative to a national, state-level, or  
 province-level deforestation baseline as provided  
 in paragraph (4) or (5)—

“(i) a list of activities to reduce defor-  
 estation is provided to the Administrator  
 and made publicly available;

“(ii) the social and environmental im-  
 pacts of these activities are monitored and  
 reported in sufficient detail to allow the Ad-  
 ministrator to determine compliance with  
 the requirements of this section; and

“(iii) the distribution of revenues for  
 activities to reduce deforestation is trans-  
 parent, subject to independent third-party  
 oversight, and publicly disseminated.

“(2) *ELIGIBLE COUNTRIES.*—The Administrator,  
 in consultation with the Secretary of State and the  
 Administrator of the United States Agency for Inter-  
 national Development, and in accordance with an  
 agreement or arrangement described in subsection  
 (b)(2)(A), shall establish, and periodically review and  
 update, a list of the developing countries that have the  
 capacity to participate in deforestation reduction ac-  
 tivities at a national level, including—



1           “(A) the technical capacity to monitor,  
 2           measure, report, and verify forest carbon fluxes  
 3           for all significant sources of greenhouse gas emis-  
 4           sions from deforestation with an acceptable level  
 5           of uncertainty, as determined taking into ac-  
 6           count relevant internationally accepted meth-  
 7           odologies, such as those established by the Inter-  
 8           governmental Panel on Climate Change;

9           “(B) the institutional capacity to reduce  
 10          emissions from deforestation, including strong  
 11          forest governance and mechanisms to ensure  
 12          transparency and third-party independent over-  
 13          sight of offset activities and revenues, and the  
 14          transparent and equitable distribution of offset  
 15          revenues for local actions; and

16          “(C) a land use or forest sector strategic  
 17          plan that—

18               “(i) assesses national and local drivers  
 19               of deforestation and forest degradation and  
 20               identifies reforms to national policies need-  
 21               ed to address them;

22               “(ii) estimates the country’s emissions  
 23               from deforestation and forest degradation;

24               “(iii) identifies improvements in and a  
 25               timeline for data collection, monitoring,

1           *and institutional capacity necessary to im-*  
 2           *plement an effective national deforestation*  
 3           *reduction program that meets the criteria*  
 4           *set forth in this section (including a na-*  
 5           *tional deforestation baseline);*

6           “(iv) establishes a timeline for imple-

7           *menting the program and transitioning for-*  
 8           *est-based economies to low-emissions devel-*  
 9           *opment pathways with respect to emissions*  
 10          *from forest and land use activities;*

11          “(v) includes a national policy for con-

12          *sultations with, and full participation of,*  
 13          *all stakeholders, especially indigenous and*  
 14          *forest-dependent communities, in its design,*  
 15          *planning, and implementation of activities,*  
 16          *whether at the national or local level, to re-*  
 17          *duce deforestation in the country (including*  
 18          *a national process for addressing grievances*  
 19          *if stakeholders have been caused social, envi-*  
 20          *ronmental, or economic harm);*

21          “(vi) provides for the distribution of

22          *revenues for activities to reduce deforest-*  
 23          *ation transparently and publicly, subject to*  
 24          *independent third-party oversight; and*

1                   “(vii) includes a national platform or  
 2                   a type of registry for information relating  
 3                   to deforestation and degradation policy and  
 4                   program implementation processes, includ-  
 5                   ing a mechanism for the monitoring and re-  
 6                   porting of the social and environmental im-  
 7                   pacts of those activities.

8                   “(3) *PROTECTION OF INTERESTS.*—With respect  
 9                   to an agreement or arrangement described in sub-  
 10                  section (b)(2)(A) with a country that addresses inter-  
 11                  national offset credits under this subsection, the Ad-  
 12                  ministrator, in consultation with the Secretary of  
 13                  State and the Administrator of the United States  
 14                  Agency for International Development, shall under-  
 15                  take due diligence to ensure the establishment and en-  
 16                  forcement by such country of legal regimes, processes,  
 17                  standards, and safeguards that—

18                  “(A) give due regard to the rights and in-  
 19                  terests of local communities, indigenous peoples,  
 20                  forest-dependent communities, and vulnerable so-  
 21                  cial groups;

22                  “(B) promote consultations with, and full  
 23                  participation of, forest-dependent communities  
 24                  and indigenous peoples in affected areas, as  
 25                  partners and primary stakeholders, prior to and

1       *during the design, planning, implementation,*  
 2       *and monitoring and evaluation of activities; and*

3               “(C) *encourage transparent and equitable*  
 4       *sharing of profits and benefits derived from*  
 5       *international offset credits with local commu-*  
 6       *nities, indigenous peoples, and forest-dependent*  
 7       *communities.*

8               “(4) *NATIONAL DEFORESTATION BASELINE.—A*  
 9       *national deforestation baseline established under this*  
 10       *subsection shall—*

11               “(A) *be national in scope;*

12               “(B) *be consistent with nationally appro-*  
 13       *priate mitigation commitments or actions with*  
 14       *respect to deforestation, taking into consideration*  
 15       *the average annual historical deforestation rates*  
 16       *of the country during a period of at least 5*  
 17       *years, the applicable drivers of deforestation, and*  
 18       *other factors to ensure that only reductions that*  
 19       *are in addition to such commitments or actions*  
 20       *will generate offsets;*

21               “(C) *establish a trajectory that would result*  
 22       *in zero net deforestation by not later than 20*  
 23       *years after the national deforestation baseline*  
 24       *has been established, including a spatially ex-*  
 25       *plicit land use plan that identifies intact and*

primary forest areas and managed forest areas  
that are to remain while the country is reaching  
the zero net deforestation trajectory;

“(D) be adjusted over time to take account  
of changing national circumstances;

“(E) be designed to account for all signifi-  
cant sources of greenhouse gas emissions from de-  
forestation in the country; and

“(F) be consistent with the national defor-  
estation baseline, if any, established for such  
country under section 753.

“(5) STATE-LEVEL OR PROVINCE-LEVEL ACTIVI-  
TIES.—

“(A) ELIGIBLE STATES OR PROVINCES.—  
The Administrator, in consultation with the Sec-  
retary of State and the Administrator of the  
United States Agency for International Develop-  
ment, shall establish, and periodically review  
and update, a list of states or provinces in devel-  
oping countries where—

“(i) the developing country is not in-  
cluded on the list of countries established  
pursuant to paragraph (6)(A);

“(ii) the State or province is under-  
taking deforestation reduction activities;

1           “(iii) the state or province has the ca-  
 2           pacity to engage in deforestation reduction  
 3           activities at the state or province level, in-  
 4           cluding—

5                   “(I) the technical capacity to  
 6                   monitor and measure forest carbon  
 7                   fluxes for all significant sources of  
 8                   greenhouse gas emissions from deforest-  
 9                   ation with an acceptable amount of  
 10                  uncertainty, including a spatially ex-  
 11                  plicit land use plan that identifies in-  
 12                  tact and primary forest areas and  
 13                  managed forest areas that are to re-  
 14                  main while the country is reaching the  
 15                  zero net deforestation trajectory; and

16                   “(II) the institutional capacity to  
 17                   reduce emissions from deforestation,  
 18                   including strong forest governance and  
 19                   mechanisms to deliver forest conserva-  
 20                  tion resources for local actions;

21           “(iv) the state or province meets the  
 22           eligibility criteria in paragraphs (2) and  
 23           (3) for the geographic area under its juris-  
 24           diction; and

25           “(v) the country—

1                   “(I) demonstrates that efforts are  
2                   underway to transition to a national  
3                   program within 5 years; or

4                   “(II) in the determination of the  
5                   Administrator, is making a good-faith  
6                   effort to develop a land use or forest  
7                   sector strategic national plan or pro-  
8                   gram that meets the criteria described  
9                   in paragraph (2)(C).

10                  “(B) ACTIVITIES.—The Administrator may  
11                  issue international offset credits for greenhouse  
12                  gas emission reductions achieved through activi-  
13                  ties to reduce deforestation at a state or provin-  
14                  cial level that meet the requirements of this sec-  
15                  tion. Such credits shall be determined by com-  
16                  paring the emissions from deforestation within  
17                  that state or province relative to the state or  
18                  province deforestation baseline for that state or  
19                  province established, in accordance with an  
20                  agreement or arrangement described in sub-  
21                  section (b)(2)(A), pursuant to subparagraph (C)  
22                  of this paragraph.

23                  “(C) STATE-LEVEL OR PROVINCE-LEVEL DE-  
24                  FORESTATION BASELINE.—A state-level or prov-  
25                  ince-level deforestation baseline shall—

1           “(i) be consistent with any existing na-  
 2           tionally appropriate mitigation commit-  
 3           ments or actions for the country in which  
 4           the activity is occurring, so that only reduc-  
 5           tions that are in addition to those commit-  
 6           ments or actions will generate offsets;

7           “(ii) be developed taking into consider-  
 8           ation the average annual historical deforest-  
 9           ation rates of the state or province during  
 10          a period of at least 5 years, relevant drivers  
 11          of deforestation, and other factors to ensure  
 12          additionality;

13          “(iii) establish a trajectory that would  
 14          result in zero net deforestation by not later  
 15          than 20 years after the state-level or prov-  
 16          ince-level deforestation baseline has been es-  
 17          tablished; and

18          “(iv) be designed to account for all sig-  
 19          nificant sources of greenhouse gas emissions  
 20          from deforestation in the state or province  
 21          and adjusted to fully account for emissions  
 22          leakage outside the state or province through  
 23          monitoring of major forested areas in the  
 24          host country and other areas of the host  
 25          country susceptible to leakage.



1           “(D) *PHASE OUT.*—Beginning 5 years after  
 2           the first calendar year for which a covered entity  
 3           must demonstrate compliance with section  
 4           722(a), the Administrator shall issue no further  
 5           international offset credits for eligible state-level  
 6           or province-level activities to reduce deforestation  
 7           pursuant to this paragraph.

8           “(6) *PROJECTS AND PROGRAMS TO REDUCE DE-*  
 9           *FORESTATION.*—

10           “(A) *ELIGIBLE COUNTRIES.*—The Adminis-  
 11           trator, in consultation with the Secretary of  
 12           State and the Administrator of the United States  
 13           Agency for International Development, shall es-  
 14           tablish, and periodically review and update, a  
 15           list of developing countries that—

16           “(i) the Administrator determines,  
 17           based on recent, credible, and reliable emis-  
 18           sions data, account for less than 1 percent  
 19           of global greenhouse gas emissions and less  
 20           than 3 percent of global forest-sector and  
 21           land use change greenhouse gas emissions;

22           “(ii) have, or in the determination of  
 23           the Administrator are making a good faith  
 24           effort to develop, a land use or forest sector

1           *strategic plan that meets the criteria de-*  
2           *scribed in paragraph (2)(C); and*

3           “(iii) *has made, or in the determina-*  
4           *tion of the Administrator, is making, a*  
5           *good-faith effort to develop, through the im-*  
6           *plementation of activities under this section,*  
7           *a monitoring program for major forested*  
8           *areas in a host country and other areas in*  
9           *a host country susceptible to leakage, in-*  
10          *cluding a spatially explicit land use plan*  
11          *that identifies intact and primary forest*  
12          *areas and managed forest areas that are to*  
13          *remain while country is reaching the zero*  
14          *net deforestation trajectory.*

15          “(B) *ACTIVITIES.—The Administrator may*  
16          *issue international offset credits for greenhouse*  
17          *gas emission reductions achieved through project*  
18          *or program level activities to reduce deforestation*  
19          *in countries listed under subparagraph (A) that*  
20          *meet the requirements of this section. The quan-*  
21          *tity of international offset credits shall be deter-*  
22          *mined by comparing the project-level or pro-*  
23          *gram-level emissions from deforestation to a de-*  
24          *forestation baseline for such project or program*  
25          *established pursuant to subparagraph (C).*

1           “(C) *PROJECT-LEVEL OR PROGRAM-LEVEL*  
2           *BASELINE.*—*A project-level or program-level de-*  
3           *forestation baseline shall—*

4                   “(i) *be consistent with any existing na-*  
5                   *tionally appropriate mitigation commit-*  
6                   *ments or actions for the country in which*  
7                   *the project or program is occurring, so that*  
8                   *only reductions that are in addition to such*  
9                   *commitments or actions will generate off-*  
10                  *sets;*

11                  “(ii) *be developed taking into consider-*  
12                  *ation the average annual historical deforest-*  
13                  *ation rates in the project or program*  
14                  *boundary during a period of at least 5*  
15                  *years, applicable drivers of deforestation,*  
16                  *and other factors to ensure additionality;*

17                  “(iii) *be designed to account for all sig-*  
18                  *nificant sources of greenhouse gas emissions*  
19                  *from deforestation in the project or program*  
20                  *boundary; and*

21                  “(iv) *be adjusted to fully account for*  
22                  *emissions leakage outside the project or pro-*  
23                  *gram boundary, including—*

24                          “(I) *estimation through moni-*  
25                          *toring of major forested areas in a host*

country and other areas in a host  
country susceptible to leakage, pursu-  
ant to section 744(e)(5); and

“(II) a spatially explicit land use  
plan that identifies intact and pri-  
mary forest areas and managed forest  
areas that are to remain while country  
is reaching the zero net deforestation  
trajectory

“(D) PHASE-OUT.—

“(i) IN GENERAL.—Beginning on the  
date that is 8 years after the first calendar  
year for which a covered entity must dem-  
onstrate compliance with section 722(a), the  
Administrator shall issue no further inter-  
national offset credits for project-level or  
program-level activities as described in this  
paragraph, except as provided in clause  
(ii).

“(ii) EXTENSION.—The Administrator  
may extend the phase out deadline for the  
issuance of international offset credits under  
this section by up to 5 years with respect to  
eligible activities taking place in a least de-  
veloped country, which is a foreign country

1           *that the United Nations has identified as*  
 2           *among the least developed of developing*  
 3           *countries at the time that the Administrator*  
 4           *determines to provide an extension, pro-*  
 5           *vided that the Administrator, in consulta-*  
 6           *tion with the Secretary of State and the Ad-*  
 7           *ministrator of the United States Agency for*  
 8           *International Development, determines the*  
 9           *country—*

10                   *“(I) lacks sufficient capacity to*  
 11                   *adopt and implement effective pro-*  
 12                   *grams to achieve reductions in deforest-*  
 13                   *ation measured against national base-*  
 14                   *lines;*

15                   *“(II) is receiving support under*  
 16                   *part E to develop such capacity; and*

17                   *“(III) has developed and is work-*  
 18                   *ing to implement a credible national*  
 19                   *strategy or plan to reduce deforest-*  
 20                   *ation.*

21           *“(7) OFFSET CREDIT ISSUANCE.—Requirements*  
 22           *under this subsection to issue international offset*  
 23           *credits only if the quantity of the international offset*  
 24           *credits is determined by reference to a national,*  
 25           *State-level, or province-level deforestation baseline do*

1       not preclude the Administrator from issuing a por-  
 2       tion of the total quantity of those credits directly to  
 3       an offset project developer for use in carrying out ac-  
 4       tivities in accordance with this section that contrib-  
 5       uted to a reduction in emissions, if that issuance is  
 6       authorized by—

7               “(A) the agreement or arrangement de-  
 8       scribed in subsection (b)(2)(A); and

9               “(B) if the credits are issued pursuant to  
 10       paragraph (5), by the State or provincial gov-  
 11       ernment.

12              “(8) *EXPANSION OF SCOPE.*—In implementing  
 13       this subsection, the Administrator, taking into consid-  
 14       eration the recommendations of the Advisory Board,  
 15       may expand the scope of creditable activities to in-  
 16       clude activities that reduce emissions from land use,  
 17       such as those that address forest degradation or soil  
 18       carbon losses associated with forested wetlands or  
 19       peatlands.

20              “(f) *MODIFICATION OF REQUIREMENTS.*—In promul-  
 21       gating regulations under subsection (b)(1) with respect to  
 22       the issuance of international offset credits under subsection  
 23       (c), (d), or (e), the Administrator, in consultation with the  
 24       Secretary of State and the Administrator of the United  
 25       States Agency for International Development, may modify

1 *or omit a requirement of this part (excluding the require-*  
2 *ments of this section) if the Administrator determines that*  
3 *the application of that requirement to such subsection is*  
4 *not feasible or would result in the creation of offset credits*  
5 *that would not be eligible to satisfy emissions reduction*  
6 *commitments made by the United States pursuant to the*  
7 *United Nations Framework Convention on Climate Change,*  
8 *done at New York on May 9, 1992 (or any successor agree-*  
9 *ment). In modifying or omitting such a requirement on the*  
10 *basis of infeasibility, the Administrator, in consultation*  
11 *with the Secretary of State and the Administrator of the*  
12 *United States Agency for International Development, shall*  
13 *ensure, with an adequate margin of safety, the integrity of*  
14 *international offset credits issued under this section and of*  
15 *the greenhouse gas emissions limitations established pursu-*  
16 *ant to section 703.*

17       “(g) *AVOIDING DOUBLE COUNTING.—The Adminis-*  
18 *trator, in consultation with the Secretary of State, shall*  
19 *seek, by whatever means appropriate, including agreements,*  
20 *arrangements, or technical cooperation, to ensure that ac-*  
21 *tivities on the basis of which international offset credits are*  
22 *issued under this section are not used for compliance with*  
23 *an obligation to reduce or avoid greenhouse gas emissions,*  
24 *or increase greenhouse gas sequestration, under a foreign*  
25 *or international regulatory system. In addition, no inter-*

1 *national offset credits shall be issued for emission reductions*  
 2 *from activities with respect to which emission allowances*  
 3 *were allocated under section 771(c) for distribution under*  
 4 *part E.*

5 “(h) *LIMITATION.*—*The Administrator shall not issue*  
 6 *international offset credits generated by projects based on*  
 7 *the destruction of hydrofluorocarbons.*”.

8 **SEC. 102. DEFINITIONS.**

9 *Title VII of the Clean Air Act (as added by section*  
 10 *101 of this division) is amended by inserting before part*  
 11 *A the following:*

12 **“SEC. 700. DEFINITIONS.**

13 *“In this title:*

14 *“(1) ADDITIONAL.—The term ‘additional’, when*  
 15 *used with respect to reductions or avoidance of green-*  
 16 *house gas emissions, or to sequestration of greenhouse*  
 17 *gases, means reductions, avoidance, or sequestration*  
 18 *that result in a lower level of net greenhouse gas emis-*  
 19 *sions or atmospheric concentrations than would occur*  
 20 *in the absence of an offset credit.*

21 *“(2) ADDITIONALITY.—The term ‘additionality’*  
 22 *means the extent to which reductions or avoidance of*  
 23 *greenhouse gas emissions, or sequestration of green-*  
 24 *house gases, are additional.*



1           “(3) *ADVISORY BOARD.*—The term ‘Advisory  
2           *Board*’ means the Offsets Integrity Advisory Board es-  
3           *tablished under section 731.*

4           “(4) *AFFILIATED.*—The term ‘affiliated’—

5                   “(A) *when used in relation to an entity,*  
6                   *means owned or controlled by, or under common*  
7                   *ownership or control with, another entity, as de-*  
8                   *termined by the Administrator; and*

9                   “(B) *when used in relation to a natural gas*  
10                  *local distribution company, means owned or con-*  
11                  *trolled by, or under common ownership or con-*  
12                  *trol with, another natural gas local distribution*  
13                  *company, as determined by the Administrator.*

14           “(5) *ALLOWANCE.*—The term ‘allowance’ means  
15           *a limited authorization to emit, or have attributable*  
16           *greenhouse gas emissions in an amount of, 1 ton of*  
17           *carbon dioxide equivalent of a greenhouse gas in ac-*  
18           *cordance with this title; it includes an emission al-*  
19           *lowance, a compensatory allowance, or an inter-*  
20           *national emission allowance.*

21           “(6) *ATTRIBUTABLE GREENHOUSE GAS EMIS-*  
22           *SIONS.*—The term ‘attributable greenhouse gas emis-  
23           *sions’ means—*

24                   “(A) *for a covered entity that is a fuel pro-*  
25                   *ducer or importer described in paragraph*

1       (13)(B), greenhouse gases that would be emitted  
2       from the combustion of any petroleum-based or  
3       coal-based liquid fuel, petroleum coke, or natural  
4       gas liquid, produced or imported by that covered  
5       entity for sale or distribution in interstate com-  
6       merce, assuming no capture and sequestration of  
7       any greenhouse gas emissions;

8               “(B) for a covered entity that is an indus-  
9       trial gas producer or importer described in para-  
10      graph (13)(C), the tons of carbon dioxide equiva-  
11      lent of fossil fuel-based carbon dioxide, nitrous  
12      oxide, any fluorinated gas, other than nitrogen  
13      trifluoride, that is a greenhouse gas, or any com-  
14      bination thereof—

15              “(i) produced or imported by such cov-  
16      ered entity during the previous calendar  
17      year for sale or distribution in interstate  
18      commerce; or

19              “(ii) released as fugitive emissions in  
20      the production of fluorinated gas; and

21              “(C) for a natural gas local distribution  
22      company described in paragraph (13)(J), green-  
23      house gases that would be emitted from the com-  
24      bustion of the natural gas, and any other gas  
25      meeting the specifications for commingling with

1        *natural gas for purposes of delivery, that such*  
 2        *entity delivered during the previous calendar*  
 3        *year to customers that are not covered entities,*  
 4        *assuming no capture and sequestration of that*  
 5        *greenhouse gas.*

6        “(7) *BIOLOGICAL SEQUESTRATION; BIO-*  
 7        *LOGICALLY SEQUESTERED.*—*The terms ‘biological se-*  
 8        *questration’ and ‘biologically sequestered’ mean the*  
 9        *removal of greenhouse gases from the atmosphere by*  
 10        *terrestrial biological means, such as by growing*  
 11        *plants, and the storage of those greenhouse gases in*  
 12        *plants or soils.*

13        “(8) *CAPPED EMISSIONS.*—*The term ‘capped*  
 14        *emissions’ means greenhouse gas emissions to which*  
 15        *section 722 applies, including emissions from the*  
 16        *combustion of natural gas, petroleum-based or coal-*  
 17        *based liquid fuel, petroleum coke, or natural gas liq-*  
 18        *uid to which section 722(b)(2) or (8) applies.*

19        “(9) *CAPPED SOURCE.*—*The term ‘capped source’*  
 20        *means a source that directly emits capped emissions.*

21        “(10) *CARBON DIOXIDE EQUIVALENT.*—*The term*  
 22        *‘carbon dioxide equivalent’ means the unit of meas-*  
 23        *ure, expressed in metric tons, of greenhouse gases as*  
 24        *provided under section 711 or 712.*

1           “(11) *CARBON STOCK*.—*The term ‘carbon stock’*  
 2           *means the quantity of carbon contained in a biologi-*  
 3           *cal reservoir or system which has the capacity to ac-*  
 4           *cumulate or release carbon.*

5           “(12) *COMPENSATORY ALLOWANCE*.—*The term*  
 6           *‘compensatory allowance’ means an allowance issued*  
 7           *under section 721(f).*

8           “(13) *COVERED ENTITY*.—*The term ‘covered enti-*  
 9           *ty’ means each of the following:*

10                   “(A) *Any electricity source.*

11                   “(B)(i) *Any stationary source that produces*  
 12                   *petroleum-based or coal-based liquid fuel, petro-*  
 13                   *leum coke, or natural gas liquid, the combustion*  
 14                   *of which would emit 25,000 or more tons of car-*  
 15                   *bon dioxide equivalent, as determined by the Ad-*  
 16                   *ministrator.*

17                   “(ii) *Any entity that (or any group of 2 or*  
 18                   *more affiliated entities that, in the aggregate)*  
 19                   *imports petroleum-based or coal-based liquid*  
 20                   *fuel, petroleum coke, or natural gas liquid, the*  
 21                   *combustion of which would emit 25,000 or more*  
 22                   *tons of carbon dioxide equivalent, as determined*  
 23                   *by the Administrator.*

24                   “(C) *Any stationary source that produces,*  
 25                   *and any entity that (or any group of two or*

1        *more affiliated entities that, in the aggregate)*  
 2        *imports, for sale or distribution in interstate*  
 3        *commerce, in bulk, or in products designated by*  
 4        *the Administrator, in 2008 or any subsequent*  
 5        *year more than 25,000 tons of carbon dioxide*  
 6        *equivalent of—*

7                *“(i) fossil fuel-based carbon dioxide;*

8                *“(ii) nitrous oxide;*

9                *“(iii) perfluorocarbons;*

10               *“(iv) sulfur hexafluoride;*

11               *“(v) any other fluorinated gas, except*  
 12        *for nitrogen trifluoride, that is a greenhouse*  
 13        *gas, as designated by the Administrator*  
 14        *under section 711(b) or (c); or*

15               *“(vi) any combination of greenhouse*  
 16        *gases described in clauses (i) through (v).*

17               *“(D) Any stationary source that has emit-*  
 18        *ted 25,000 or more tons of carbon dioxide equiv-*  
 19        *alent of nitrogen trifluoride in 2008 or any sub-*  
 20        *sequent year.*

21               *“(E) Any geologic sequestration site.*

22               *“(F) Any stationary source in the following*  
 23        *industrial sectors:*

24               *“(i) Adipic acid production.*

25               *“(ii) Primary aluminum production.*

1 “(iii) *Ammonia manufacturing.*

2 “(iv) *Cement production, excluding*  
3 *grinding-only operations.*

4 “(v) *Hydrochlorofluorocarbon produc-*  
5 *tion.*

6 “(vi) *Lime manufacturing.*

7 “(vii) *Nitric acid production.*

8 “(viii) *Petroleum refining.*

9 “(ix) *Phosphoric acid production.*

10 “(x) *Silicon carbide production.*

11 “(xi) *Soda ash production.*

12 “(xii) *Titanium dioxide production.*

13 “(xiii) *Coal-based liquid or gaseous*  
14 *fuel production.*

15 “(G) *Any stationary source in the chemical*  
16 *or petrochemical sector that, in 2008 or any sub-*  
17 *sequent year—*

18 “(i) *produces acrylonitrile, carbon*  
19 *black, ethylene, ethylene dichloride, ethylene*  
20 *oxide, or methanol; or*

21 “(ii) *produces a chemical or petro-*  
22 *chemical product if producing that product*  
23 *results in annual combustion plus process*  
24 *emissions of 25,000 or more tons of carbon*  
25 *dioxide equivalent.*

1           “(H) *Any stationary source that—*

2                   “(i) *is in one of the following indus-*  
3                   *trial sectors: ethanol production; ferroalloy*  
4                   *production; fluorinated gas production; food*  
5                   *processing; glass production; hydrogen pro-*  
6                   *duction; beneficiation or other processing*  
7                   *(including agglomeration) of metal ores;*  
8                   *iron and steel production; lead production;*  
9                   *pulp and paper manufacturing; and zinc*  
10                  *production; and*

11                  “(ii) *has emitted 25,000 or more tons*  
12                  *of carbon dioxide equivalent in 2008 or any*  
13                  *subsequent year.*

14                  “(I) *Any fossil fuel-fired combustion device*  
15                  *(such as a boiler) or grouping of such devices*  
16                  *that—*

17                       “(i) *is all or part of an industrial*  
18                       *source not specified in subparagraph (D),*  
19                       *(F), (G), or (H); and*

20                       “(ii) *has emitted 25,000 or more tons*  
21                       *of carbon dioxide equivalent in 2008 or any*  
22                       *subsequent year.*

23                  “(J) *Any natural gas local distribution*  
24                  *company that (or any group of 2 or more affili-*  
25                  *ated natural gas local distribution companies*

1           *that, in the aggregate) in 2008 or any subsequent*  
2           *year, delivers 460,000,000 cubic feet or more of*  
3           *natural gas to customers that are not covered en-*  
4           *tities.*

5           “(14) *CREDITING PERIOD.*—*The term ‘crediting*  
6           *period’ means the period with respect to which an off-*  
7           *set project is eligible to earn offset credits under part*  
8           *D, as determined under section 734(c).*

9           “(15) *DESIGNATED REPRESENTATIVE.*—*The term*  
10          *‘designated representative’ means, with respect to a*  
11          *covered entity, a reporting entity, an offset project de-*  
12          *veloper, or any other entity receiving or holding al-*  
13          *lowances or offset credits under this title, an indi-*  
14          *vidual authorized, through a certificate of representa-*  
15          *tion submitted to the Administrator by the owners*  
16          *and operators or similar entity official, to represent*  
17          *the owners and operators or similar entity official in*  
18          *all matters pertaining to this title (including the*  
19          *holding, transfer, or disposition of allowances or offset*  
20          *credits), and to make all submissions to the Adminis-*  
21          *trator under this title.*

22          “(16) *DEVELOPING COUNTRY.*—*The term ‘devel-*  
23          *oping country’ means a country eligible to receive of-*  
24          *ficial development assistance according to the income*  
25          *guidelines of the Development Assistance Committee*



1       *of the Organization for Economic Cooperation and*  
 2       *Development.*

3               “(17) *DOMESTIC OFFSET CREDIT.*—

4                       “(A) *IN GENERAL.*—The term ‘domestic off-  
 5                       *set credit’ means an offset credit issued under*  
 6                       *part D, other than an international offset credit.*

7                       “(B) *EXCLUSION.*—The term ‘domestic off-  
 8                       *set credit’ does not include a term offset credit.*

9               “(18) *ELECTRICITY SOURCE.*—The term ‘elec-  
 10                       *tricity source’ means a stationary source that in-*  
 11                       *cludes one or more utility units.*

12               “(19) *EMISSION.*—The term ‘emission’ means the  
 13                       *release of a greenhouse gas into the ambient air. Such*  
 14                       *term does not include gases that are captured and se-*  
 15                       *questered, except to the extent that they are later re-*  
 16                       *leased into the atmosphere, in which case compliance*  
 17                       *must be demonstrated pursuant to section 722(b)(5).*

18               “(20) *EMISSION ALLOWANCE.*—The term ‘emis-  
 19                       *sion allowance’ means an allowance established under*  
 20                       *section 721(a) or 726(g)(2).*

21               “(21) *FAIR MARKET VALUE.*—The term ‘fair  
 22                       *market value’ means the average daily closing price*  
 23                       *on registered exchanges or, if such a price is unavail-*  
 24                       *able, the average price as determined by the Adminis-*

1        *trator, during a specified time period, of an emission*  
 2        *allowance.*

3            “(22) *FEDERAL LAND.*—*The term ‘Federal land’*  
 4        *means land that is owned by the United States, other*  
 5        *than land held in trust for an Indian or Indian tribe.*

6            “(23) *FOSSIL FUEL.*—*The term ‘fossil fuel’*  
 7        *means natural gas, petroleum, or coal, or any form*  
 8        *of solid, liquid, or gaseous fuel derived from such ma-*  
 9        *terial, including consumer products that are derived*  
 10       *from such materials and are combusted.*

11           “(24) *FOSSIL FUEL-FIRED.*—*The term ‘fossil*  
 12        *fuel-fired’ means powered by combustion of fossil fuel,*  
 13        *alone or in combination with any other fuel, regard-*  
 14        *less of the percentage of fossil fuel consumed.*

15           “(25) *FUGITIVE EMISSIONS.*—*The term ‘fugitive*  
 16        *emissions’ means emissions from leaks, valves, joints,*  
 17        *or other small openings in pipes, ducts, or other*  
 18        *equipment, or from vents.*

19           “(26) *GEOLOGIC SEQUESTRATION; GEOLOGI-*  
 20        *CALLY SEQUESTERED.*—*The terms ‘geologic sequestra-*  
 21        *tion’ and ‘geologically sequestered’ mean the seques-*  
 22        *tration of greenhouse gases in subsurface geologic for-*  
 23        *mations for purposes of permanent storage.*

1           “(27) *GEOLOGIC SEQUESTRATION SITE*.—The  
 2           term ‘geologic sequestration site’ means a site where  
 3           carbon dioxide is geologically sequestered.

4           “(28) *GREENHOUSE GAS*.—The term ‘greenhouse  
 5           gas’ means any gas described in section 711(a) or des-  
 6           ignated under section 711(b), (c), or (e), except to the  
 7           extent that it is regulated under title VI.

8           “(29) *HIGH CONSERVATION PRIORITY LAND*.—  
 9           The term ‘high conservation priority land’ means  
 10          land that is not Federal land and is—

11                 “(A) globally or State ranked as critically  
 12                 imperiled or imperiled under a State Natural  
 13                 Heritage Program; or

14                 “(B) old-growth or late-successional forest,  
 15                 as identified by the office of the State Forester or  
 16                 relevant State agency with regulatory jurisdic-  
 17                 tion over forestry activities.

18           “(30) *HOLD*.—The term ‘hold’ means, with re-  
 19           spect to an allowance, offset credit, or term offset  
 20           credit, to have in the appropriate account in the al-  
 21           lowance tracking system, or submit to the Adminis-  
 22           trator for recording in such account.

23           “(31) *INDUSTRIAL SOURCE*.—The term ‘indus-  
 24           trial source’ means any stationary source that—

25                 “(A) is not an electricity source; and

1 “(B) is in—

2 “(i) the manufacturing sector (as de-  
3 fined in North American Industrial Classi-  
4 fication System codes 31, 32, and 33); or

5 “(ii) the natural gas processing or nat-  
6 ural gas pipeline transportation sector (as  
7 defined in North American Industrial Clas-  
8 sification System codes 211112 or 486210).

9 “(32) *INTERNATIONAL EMISSION ALLOWANCE.*—  
10 *The term ‘international emission allowance’ means a*  
11 *tradable authorization to emit 1 ton of carbon dioxide*  
12 *equivalent of greenhouse gas that is issued by a na-*  
13 *tional or supranational foreign government pursuant*  
14 *to a qualifying international program designated by*  
15 *the Administrator pursuant to section 728(a).*

16 “(33) *INTERNATIONAL OFFSET CREDIT.*—*The*  
17 *term ‘international offset credit’ means an offset cred-*  
18 *it issued by the Administrator under section 744.*

19 “(34) *LEAKAGE.*—*The term ‘leakage’ means a*  
20 *significant increase in greenhouse gas emissions, or*  
21 *significant decrease in sequestration, which is caused*  
22 *by an offset project and occurs outside the boundaries*  
23 *of the offset project.*

24 “(35) *MARKET STABILITY RESERVE ALLOW-*  
25 *ANCE.*—*The term ‘market stability reserve allowance’*

1       *means an emission allowance reserved for, transferred*  
 2       *to, or deposited in the market stability reserve, or es-*  
 3       *tablished, under section 726.*

4               “(36) *MINERAL SEQUESTRATION.*—*The term*  
 5       *‘mineral sequestration’ means sequestration of carbon*  
 6       *dioxide from the atmosphere by capturing carbon di-*  
 7       *oxide into a permanent mineral, such as the aqueous*  
 8       *precipitation of carbonate minerals that results in the*  
 9       *storage of carbon dioxide in a mineral form.*

10              “(37) *NATURAL GAS LIQUID.*—*The term ‘natural*  
 11       *gas liquid’ means ethane, butane, isobutane, natural*  
 12       *gasoline, and propane which is ready for commercial*  
 13       *sale or use.*

14              “(38) *NATURAL GAS LOCAL DISTRIBUTION COM-*  
 15       *PANY.*—*The term ‘natural gas local distribution com-*  
 16       *pany’ has the meaning given the term ‘local distribu-*  
 17       *tion company’ in section 2(17) of the Natural Gas*  
 18       *Policy Act of 1978 (15 U.S.C. 3301(17)).*

19              “(39) *OFFSET CREDIT.*—

20                   “(A) *IN GENERAL.*—*The term ‘offset credit’*  
 21       *means an offset credit issued under part D.*

22                   “(B) *EXCLUSION.*—*The term ‘offset credit’*  
 23       *does not include a term offset credit.*

24              “(40) *OFFSET PROJECT.*—*The term ‘offset*  
 25       *project’ means a project or activity that reduces or*

1        *avoids greenhouse gas emissions, or sequesters green-*  
 2        *house gases, and for which offset credits are or may*  
 3        *be issued under part D.*

4                “(41) *OFFSET PROJECT DEVELOPER.*—*The term*  
 5        *‘offset project developer’ means the individual or enti-*  
 6        *ty designated as the offset project developer in an off-*  
 7        *set project approval petition under section 735(c)(1).*

8                “(42) *QUALIFIED R&D FACILITY.*—*The term*  
 9        *‘qualified R&D facility’ means a facility that con-*  
 10        *ducts research and development, that was in oper-*  
 11        *ation as of the date of enactment of this title, and*  
 12        *that is part of a covered entity subject to paragraphs*  
 13        *(1) through (8) of section 722(b).*

14                “(43) *PETROLEUM.*—*The term ‘petroleum’ in-*  
 15        *cludes crude oil, tar sands, oil shale, and heavy oils.*

16                “(44) *REPEATED INTENTIONAL REVERSALS.*—  
 17        *The term ‘repeated intentional reversals’ means at*  
 18        *least 3 intentional reversals, as determined by the Ad-*  
 19        *ministrator or a court under section 734(b)(3)(B)(ii).*

20                “(45) *RESEARCH AND DEVELOPMENT.*—*The term*  
 21        *‘research and development’ means activities—*

22                        “(A) *that are conducted in process units or*  
 23                        *at laboratory bench-scale settings;*

24                        “(B) *whose purpose is to conduct research*  
 25                        *and development for new processes, technologies,*

1           *or products that contribute to lower greenhouse*  
2           *gas emissions; and*

3           “(C) *that do not manufacture products for*  
4           *sale.*

5           “(46) *RENEWABLE BIOMASS.—The term ‘renew-*  
6           *able biomass’ means any of the following:*

7           “(A) *Plant material, including waste mate-*  
8           *rial, harvested or collected from actively man-*  
9           *aged agricultural land that was in cultivation,*  
10          *cleared, or fallow and nonforested on January 1,*  
11          *2009.*

12          “(B) *Plant material, including waste mate-*  
13          *rial, harvested or collected from pastureland that*  
14          *was nonforested on January 1, 2009.*

15          “(C) *Nonhazardous vegetative matter de-*  
16          *rived from waste, including separated yard*  
17          *waste, landscape right-of-way trimmings, con-*  
18          *struction and demolition debris, or food waste*  
19          *(but not municipal solid waste, recyclable waste*  
20          *paper, painted, treated or pressurized wood, or*  
21          *wood contaminated with plastic or metals).*

22          “(D) *Animal waste or animal byproducts,*  
23          *including products of animal waste digesters.*

24          “(E) *Algae.*

1           “(F) *Trees, brush, slash, residues, or any*  
2           *other vegetative matter removed from within 600*  
3           *feet of any building, campground, or route des-*  
4           *ignated for evacuation by a public official with*  
5           *responsibility for emergency preparedness, or*  
6           *from within 300 feet of a paved road, electric*  
7           *transmission line, utility tower, or water supply*  
8           *line.*

9           “(G) *Residues from or byproducts of milled*  
10          *logs.*

11          “(H) *Any of the following removed from for-*  
12          *ested land that is not Federal and is not high*  
13          *conservation priority land:*

14               “(i) *Trees, brush, slash, residues, inter-*  
15               *planted energy crops, or any other vegeta-*  
16               *tive matter removed from an actively man-*  
17               *aged tree plantation established—*

18                       “(I) *prior to January 1, 2009; or*

19                       “(II) *on land that, as of January*  
20                       *1, 2009, was cultivated or fallow and*  
21                       *non-forested.*

22               “(ii) *Trees, logging residue, thinnings,*  
23               *cull trees, pulpwood, and brush removed*  
24               *from naturally regenerated forests or other*  
25               *non-plantation forests, including for the*



1           *purposes of hazardous fuel reduction or pre-*  
2           *ventative treatment for reducing or con-*  
3           *taining insect or disease infestation.*

4           “(iii) *Logging residue, thinnings, cull*  
5           *trees, pulpwood, brush, and species that are*  
6           *non-native and noxious, from stands that*  
7           *were planted and managed after January 1,*  
8           *2009, to restore or maintain native forest*  
9           *types.*

10          “(iv) *Dead or severely damaged trees*  
11          *removed within 5 years of fire, blowdown,*  
12          *or other natural disaster, and badly infested*  
13          *trees.*

14          “(I) *Materials, pre-commercial thinnings,*  
15          *or removed invasive species from National Forest*  
16          *System land and public lands (as defined in sec-*  
17          *tion 103 of the Federal Land Policy and Man-*  
18          *agement Act of 1976 (43 U.S.C. 1702)), includ-*  
19          *ing those that are byproducts of preventive treat-*  
20          *ments (such as trees, wood, brush, thinnings,*  
21          *chips, and slash), that are removed as part of a*  
22          *federally recognized timber sale, or that are re-*  
23          *moved to reduce hazardous fuels, to reduce or*  
24          *contain disease or insect infestation, or to restore*  
25          *ecosystem health, and that are—*

1           “(i) not from components of the Na-  
 2           tional Wilderness Preservation System, Wil-  
 3           derness Study Areas, Inventoried Roadless  
 4           Areas, old growth or mature forest stands,  
 5           components of the National Landscape Con-  
 6           servation System, National Monuments, Na-  
 7           tional Conservation Areas, Designated  
 8           Primitive Areas; or Wild and Scenic Rivers  
 9           corridors;

10           “(ii) harvested in environmentally sus-  
 11           tainable quantities, as determined by the  
 12           appropriate Federal land manager; and

13           “(iii) are harvested in accordance with  
 14           Federal and State law, and applicable land  
 15           management plans.

16           “(47) RETIRE.—The term ‘retire’, with respect to  
 17           an allowance, offset credit, or term offset credit estab-  
 18           lished or issued under this title, means to disqualify  
 19           such allowance or offset credit for any subsequent use  
 20           under this title, regardless of whether the use is a sale,  
 21           exchange, or submission of the allowance, offset credit,  
 22           or term offset credit to satisfy a compliance obliga-  
 23           tion.

1           “(48) *REVERSAL*.—The term ‘reversal’ means an  
2           intentional or unintentional loss of sequestered green-  
3           house gases to the atmosphere.

4           “(49) *SEQUESTERED AND SEQUESTRATION*.—The  
5           terms ‘sequestered’ and ‘sequestration’ mean the sepa-  
6           ration, isolation, or removal of greenhouse gases from  
7           the atmosphere, as determined by the Administrator.  
8           The terms include biological, geologic, and mineral se-  
9           questration, but do not include ocean fertilization  
10          techniques.

11          “(50) *SMALL BUSINESS REFINER*.—

12               “(A) *IN GENERAL*.—The term ‘small busi-  
13               ness refiner’ means a refiner that meets the ap-  
14               plicable Federal refinery capacity and employee  
15               limitations criteria described in section  
16               45H(c)(1) of the Internal Revenue Code of 1986  
17               (as in effect on the date of enactment of this sec-  
18               tion and without regard to section 45H(d)).

19               “(B) *ELIGIBILITY*.—Eligibility of a small  
20               business refiner under this paragraph shall not  
21               be recalculated or disallowed on account of—

22                       “(i) a merger of the small business re-  
23                       finer with 1 or more other small business  
24                       refiners after December 31, 2002; or

1                   “(ii) the acquisition by a small busi-  
2                   ness refiner of another small business re-  
3                   finer (or refinery of such refiner) after De-  
4                   cember 31, 2002.

5                   “(51) *STATIONARY SOURCE*.—The term ‘sta-  
6                   tionary source’ means any integrated operation com-  
7                   prising any plant, building, structure, or stationary  
8                   equipment, including support buildings and equip-  
9                   ment, that is located within one or more contiguous  
10                  or adjacent properties, is under common control of the  
11                  same person or persons, and emits or may emit a  
12                  greenhouse gas.

13                  “(52) *TON*.—The term ‘ton’ means a metric ton.

14                  “(53) *UNCAPPED EMISSIONS*.—The term ‘un-  
15                  capped emissions’ means emissions of greenhouse  
16                  gases emitted after December 31, 2011, that are not  
17                  capped emissions.

18                  “(54) *UNITED STATES GREENHOUSE GAS EMIS-*  
19                  *SIONS*.—The term ‘United States greenhouse gas emis-  
20                  *sions’ means the total quantity of annual greenhouse*  
21                  *gas emissions from the United States, as calculated by*  
22                  *the Administrator and reported to the United Nations*  
23                  *Framework Convention on Climate Change Secre-*  
24                  *tariat.*

1           “(55) *UTILITY UNIT.*—The term ‘utility unit’  
 2           *means a combustion device that, on January 1, 2009,*  
 3           *or any date thereafter, is fossil fuel-fired and serves*  
 4           *a generator that produces electricity for sale, unless*  
 5           *such combustion device, during the 12-month period*  
 6           *starting the later of January 1, 2009, or the com-*  
 7           *mencement of commercial operation and each cal-*  
 8           *endar year starting after such later date—*

9                   “(A) *is part of an integrated cycle system*  
 10           *that cogenerates thermal energy and electricity*  
 11           *during normal operation and that supplies  $\frac{1}{3}$  or*  
 12           *less of its potential electric output capacity and*  
 13           *25 megawatts or less of electrical output for sale;*  
 14           *or*

15                   “(B) *combusts materials of which more than*  
 16           *95 percent is municipal solid waste on a heat*  
 17           *input basis.*

18           “(56) *VINTAGE YEAR.*—The term ‘vintage year’  
 19           *means the calendar year for which an emission allow-*  
 20           *ance is established under section 721(a) or which is*  
 21           *assigned to an emission allowance under section*  
 22           *726(g)(3)(A), except that the vintage year for a mar-*  
 23           *ket stability reserve allowance shall be the year in*  
 24           *which such allowance is purchased at auction.”.*

1 **SEC. 103. OFFSET REPORTING REQUIREMENTS.**

2       *Section 114 of Clean Air Act (42 U.S.C. 7414) is*  
 3 *amended by adding at the end the following:*

4       “(e) *RECORDKEEPING FOR CARBON OFFSETS PRO-*  
 5 *GRAM.—For the purpose of implementing the carbon offsets*  
 6 *program set forth in subtitle D of title VII, the Adminis-*  
 7 *trator shall require any person who is an offset project de-*  
 8 *veloper, and may require any person who is a third party*  
 9 *verifier, to establish and maintain records, for a period of*  
 10 *not less than the crediting period under section 734(c) plus*  
 11 *5 years, relating to—*

12               “(1) *any offset project approval petition sub-*  
 13 *mitted to the appropriate officials under section 735;*

14               “(2) *any reversals which occur with respect to an*  
 15 *offset project;*

16               “(3) *any verification reports; and*

17               “(4) *any other aspect of the offset project that the*  
 18 *appropriate officials determines is appropriate.”.*

19               ***Subtitle B—Disposition of***  
 20               ***Allowances***

21 **SEC. 111. DISPOSITION OF ALLOWANCES FOR GLOBAL**  
 22 **WARMING POLLUTION REDUCTION PROGRAM.**

23       *Title VII of the Clean Air Act (as amended by section*  
 24 *141 of this division) is amended by adding at the end the*  
 25 *following:*

1       **“PART G—DISPOSITION OF ALLOWANCES**

2       **“SEC. 771. ALLOCATION OF EMISSION ALLOWANCES.**

3       “(a) *ALLOCATION.*—Subject to subsection (d), of the  
 4 *total quantity of emission allowances established for each*  
 5 *vintage year under section 721(a), the Administrator shall*  
 6 *allocate emission allowances for the purposes and for the*  
 7 *vintage years and corresponding percentages specified as*  
 8 *follows:*

9               “(1) *For the program for electricity consumers*  
 10       *pursuant to section 772, as described in the following*  
 11       *tables:*

12               “(A) *For distribution to electricity con-*  
 13       *sumers in accordance with subsections (b), (c),*  
 14       *and (d) of section 772, the percentages specified*  
 15       *in the following table:*

<b>“Electricity consumers</b>	
<b><i>Vintage Year</i></b>	<b><i>Percentage of allowances</i></b>
<i>2012</i> .....	<i>43.75</i>
<i>2013</i> .....	<i>43.75</i>
<i>2014</i> .....	<i>38.89</i>
<i>2015</i> .....	<i>38.89</i>
<i>2016</i> .....	<i>35.00</i>
<i>2017</i> .....	<i>35.00</i>
<i>2018</i> .....	<i>35.00</i>
<i>2019</i> .....	<i>35.00</i>
<i>2020</i> .....	<i>35.00</i>
<i>2021</i> .....	<i>35.00</i>
<i>2022</i> .....	<i>35.00</i>
<i>2023</i> .....	<i>35.00</i>
<i>2024</i> .....	<i>35.00</i>
<i>2025</i> .....	<i>35.00</i>
<i>2026</i> .....	<i>28.00</i>
<i>2027</i> .....	<i>21.00</i>
<i>2028</i> .....	<i>14.00</i>
<i>2029</i> .....	<i>7.00</i>

- 1                   “(B) For distribution to small LDCs under  
 2                   section 772(e), the percentages specified in the  
 3                   following table:

**“Small LDCs**

<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	0.50
2013 .....	0.50
2014 .....	0.50
2015 .....	0.50
2016 .....	0.50
2017 .....	0.50
2018 .....	0.50
2019 .....	0.50
2020 .....	0.50
2021 .....	0.50
2022 .....	0.50
2023 .....	0.50
2024 .....	0.50
2025 .....	0.50
2026 .....	0.40
2027 .....	0.30
2028 .....	0.20
2029 .....	0.10

- 4                   “(2) For the program for natural gas consumers  
 5                   pursuant to section 773, as described in the following  
 6                   table:

**“Natural gas consumers**

<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	0.00
2013 .....	0.00
2014 .....	0.00
2015 .....	0.00
2016 .....	9.00
2017 .....	9.00
2018 .....	9.00
2019 .....	9.00
2020 .....	9.00
2021 .....	9.00
2022 .....	9.00
2023 .....	9.00
2024 .....	9.00
2025 .....	9.00
2026 .....	7.20
2027 .....	5.40
2028 .....	3.60



**“Natural gas consumers—Continued**

2029 ..... 1.80

1           “(3) For the program for home heating oil and  
2           propane consumers pursuant to section 774, as de-  
3           scribed in the following table:

**“Home heating oil and propane consumers**

<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	1.88
2013 .....	1.88
2014 .....	1.67
2015 .....	1.67
2016 .....	1.50
2017 .....	1.50
2018 .....	1.50
2019 .....	1.50
2020 .....	1.50
2021 .....	1.50
2022 .....	1.50
2023 .....	1.50
2024 .....	1.50
2025 .....	1.50
2026 .....	1.20
2027 .....	0.90
2028 .....	0.60
2029 .....	0.30

4           “(4) For the program for domestic fuel produc-  
5           tion, including petroleum refiners and small business  
6           refiners, under section 775, for each of vintage years  
7           2014 through 2026, for allocation and distribution in  
8           accordance with section 775—

9           “(A) 1.25 percent of the emission allowances  
10           established for each vintage year under section  
11           721(a) to domestic petroleum refineries that are  
12           covered entities described in section  
13           700(13)(F)(viii); and

1           “(B) an additional 1.0 percent of the emis-  
2           sion allowances established for each vintage year  
3           under section 721(a) to small business refiners  
4           that are covered entities described in section  
5           700(13)(F)(viii).

6           “(5) In addition to emission allowances reserved  
7           under subsection (d)(5), subject to subparagraph (G),  
8           for the program to ensure real reductions in indus-  
9           trial emissions under part F, as follows:

10           “(A) For each of vintage years 2012 and  
11           2013, up to 4.0 percent of the emission allow-  
12           ances established for each year under section  
13           721(a).

14           “(B) For vintage year 2014, up to 15 per-  
15           cent of the emission allowances established for  
16           that year under section 721(a).

17           “(C) For vintage year 2015, up to the prod-  
18           uct of—

19                   “(i) the quantity specified in subpara-  
20                   graph (B); multiplied by

21                   “(ii) the quantity of emission allow-  
22                   ances established for 2015 under section  
23                   721(a) divided by the quantity of emission  
24                   allowances established for 2014 under sec-  
25                   tion 721(a).

1           “(D) For vintage year 2016, up to the lesser  
2           or 13.45 percent or the product obtained by mul-  
3           tiplying—

4                   “(i) the quantity specified in subpara-  
5                   graph (C); and

6                   “(ii) the quantity of emission allow-  
7                   ances established for 2015 under section  
8                   721(a) divided by the quantity of emission  
9                   allowances established for 2014 under sec-  
10                  tion 721(a).

11           “(E) For vintage years 2017 through 2025,  
12           up to the lesser or 13.45 percent or the product  
13           obtained by multiplying—

14                   “(i) the quantity specified in subpara-  
15                   graph (D); and

16                   “(ii) the quantity of emission allow-  
17                   ances established for that year under section  
18                   721(a) divided by the quantity of emission  
19                   allowances established for 2016 under sec-  
20                  tion 721(a).

21           “(F) For vintage years 2026 through 2050,  
22           up to the product of the quantity specified in  
23           subparagraph (D)—

24                   “(i) multiplied by the quantity of  
25                   emission allowances established for the ap-

1                    *plicable year during 2026 through 2050*  
 2                    *under section 721(a) divided by the quan-*  
 3                    *tity of emission allowances established for*  
 4                    *2016 under section 721(a); and*

5                    *“(ii) multiplied by a factor that shall*  
 6                    *equal 90 percent for 2026 and decline 10*  
 7                    *percent for each year thereafter until reach-*  
 8                    *ing 0.*

9                    *“(G) If the Administrator has not distrib-*  
 10                    *uted all of the allowances allocated pursuant to*  
 11                    *this paragraph for a given vintage year by the*  
 12                    *end of that year, any emission allowances allo-*  
 13                    *cated to entities in eligible industrial sectors*  
 14                    *pursuant to this paragraph that have not been so*  
 15                    *distributed shall, in accordance with subsection*  
 16                    *(e), be exchanged for allowances from the fol-*  
 17                    *lowing vintage year and treated as part of the*  
 18                    *allocation to such entities for that later vintage*  
 19                    *year.*

20                    *“(6)(A) Subject to subparagraph (B), for the*  
 21                    *program for commercial deployment of carbon cap-*  
 22                    *ture and sequestration technologies under section 780,*  
 23                    *as described in the following table:*

<b><i>“Deployment of carbon capture and sequestration technology</i></b>	
<b><i>Vintage Year</i></b>	<b><i>Percentage of allowances</i></b>
<i>2012</i> .....	<i>0.00</i>
<i>2013</i> .....	<i>0.00</i>

**“Deployment of carbon capture and sequestration technology—**  
*Continued*

2014 .....	1.75
2015 .....	1.75
2016 .....	1.75
2017 .....	1.75
2018 .....	4.75
2019 .....	4.75
Each of vintage years 2020 through 2050 .....	5.00

1           “(B) If the Administrator has not distributed all  
2           of the allowances allocated pursuant to this para-  
3           graph for a given vintage year by the end of that  
4           year, all such undistributed emission allowances shall,  
5           in accordance with subsection (e), be exchanged for al-  
6           lowances from the following vintage year and treated  
7           as part of the allocation for the deployment of carbon  
8           capture and sequestration technology under this sub-  
9           section for that later vintage year.

10           “(7) For the program for early action recogni-  
11           tion pursuant to section 782, 2.0 percent of the emis-  
12           sion allowances for each of vintage years 2012 and  
13           2013.

14           “(8) For the program for investment in clean ve-  
15           hicle technology under section 201 of division B of the  
16           Clean Energy Jobs and American Power Act—

17                   “(A) for each of vintage years 2012 through  
18                   2017, 2.4 percent of the emission allowances; and

19                   “(B) for each of vintage years 2018 through  
20                   2025, 0.8 percent of the emission allowances.

1           “(9)(A) *In addition to the emission allowances*  
 2           *reserved under subsection (d)(6), subject to subpara-*  
 3           *graph (B), for the program for State and local invest-*  
 4           *ment in energy efficiency and renewable energy under*  
 5           *section 202 of division B of the Clean Energy Jobs*  
 6           *and American Power Act, as described in the fol-*  
 7           *lowing table:*

<b><i>“Investment in energy efficiency and renewable energy</i></b>	
<b><i>Vintage Year</i></b>	<b><i>Percentage of allowances</i></b>
<i>2012 .....</i>	<i>10.35</i>
<i>2013 .....</i>	<i>10.35</i>
<i>2014 .....</i>	<i>8.55</i>
<i>2015 .....</i>	<i>8.55</i>
<i>2016 .....</i>	<i>5.85</i>
<i>2017 .....</i>	<i>6.12</i>
<i>2018 .....</i>	<i>5.22</i>
<i>2019 .....</i>	<i>5.22</i>
<i>2020 .....</i>	<i>4.95</i>
<i>2021 .....</i>	<i>4.95</i>
<i>2022 .....</i>	<i>0.90</i>
<i>2023 .....</i>	<i>0.90</i>
<i>2024 .....</i>	<i>0.90</i>
<i>2025 .....</i>	<i>0.90</i>
<i>Each of vintage years 2026 through 2050 .....</i>	<i>4.05</i>

8           “(B) *At the time at which allowances are dis-*  
 9           *tributed under subparagraph (A) for each of vintage*  
 10          *years 2022 through 2025, 3.2 percent of emission al-*  
 11          *lowances established under section 721(a) for the vin-*  
 12          *tage year that is 4 years after that vintage year shall*  
 13          *also be distributed (which shall be in addition to the*  
 14          *emission allowances distributed under subparagraph*  
 15          *(A) for vintage years 2026 through 2050.*

16          “(10) *For the program for energy efficiency in*  
 17          *building codes under section 163 of division A, and*

1        *section 203 of division B, of the Clean Energy Jobs*  
2        *and American Power Act, 0.50 percent of the emis-*  
3        *sion allowances for each of vintage years 2012*  
4        *through 2050.*

5                *“(11) For the program for Energy Innovation*  
6        *Hubs pursuant to section 204 of division B of the*  
7        *Clean Energy Jobs and American Power Act—*

8                *“(A) for each of vintage years 2012 through*  
9        *2015, 0.75 percent of the emission allowances;*  
10        *and*

11                *“(B) for each of vintage years 2016 through*  
12        *2050, 0.45 percent of the emission allowances.*

13                *“(12) For the program for ARPA-E research*  
14        *pursuant to section 205 of division B of the Clean*  
15        *Energy Jobs and American Power Act—*

16                *“(A) for each of vintage years 2012 and*  
17        *2013, 3.25 percent of the emission allowances;*  
18        *and*

19                *“(B) for each of vintage years 2014 through*  
20        *2050, 1.25 percent of the emission allowances.*

21                *“(13) For the International Clean Energy De-*  
22        *ployment Program under section 323 of division A,*  
23        *and section 206 of division B, of the Clean Energy*  
24        *Jobs and American Power Act—*

1                   “(A) for each of vintage years 2012 through  
2                   2021, 1.0 percent of the emission allowances;

3                   “(B) for each of vintage years 2022 through  
4                   2026, 2.0 percent of the emission allowances; and

5                   “(C) for each of vintage years 2027 through  
6                   2050, 3.0 percent of the emission allowances.

7                   “(14) In addition to the emission allowances re-  
8                   served under subsection (d)(8), for the international  
9                   climate change adaptation and global security pro-  
10                  gram under section 324 of division A, and section 207  
11                  of division B, of the Clean Energy Jobs and Amer-  
12                  ican Power Act—

13                  “(A) for each of vintage years 2012 through  
14                  2021, 1.0 percent of the emission allowances;

15                  “(B) for each of vintage years 2022 through  
16                  2026, 2.0 percent of the emission allowances; and

17                  “(C) for each of vintage years 2027 through  
18                  2050, 5.0 percent of the emission allowances.

19                  “(15) For State programs for greenhouse gas re-  
20                  duction and climate adaptation pursuant to section  
21                  210(c) of division B of the Clean Energy Jobs and  
22                  American Power Act, as described in the following  
23                  table:

<b>“State programs for greenhouse gas reduction and adaptation</b>	
<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	1.34
2013 .....	1.34



***“State programs for greenhouse gas reduction and adaptation—***  
*Continued*

2014 .....	0.50
2015 .....	0.50
2016 .....	0.50
2017 .....	0.50
2018 .....	0.50
2019 .....	0.50
2020 .....	0.50
2021 .....	0.50
2022 .....	1.06
2023 .....	1.06
2024 .....	1.06
2025 .....	1.06
2026 .....	1.06
Each of vintage years 2027 through 2050 .....	2.18

1           “(16) For State programs for natural resource  
2           adaptation activities under the program for climate  
3           change safeguards for natural resources conservation  
4           under section 370(a)(1) of division A, and section 216  
5           of division B, of the Clean Energy Jobs and Amer-  
6           ican Power Act, as described in the following table:

***“State programs for natural resource adaptation***

<b><i>Vintage Year</i></b>	<b><i>Percentage of allowances</i></b>
2012 .....	0.39
2013 .....	0.39
2014 .....	0.39
2015 .....	0.39
2016 .....	0.39
2017 .....	0.39
2018 .....	0.39
2019 .....	0.39
2020 .....	0.39
2021 .....	0.39
2022 .....	0.77
2023 .....	0.77
2024 .....	0.77
2025 .....	0.77
2026 .....	0.77
Each of vintage years 2027 through 2050 .....	1.54

7           “(b) AUCTIONS.—Subject to subsection (d), of the total  
8           quantity of emission allowances established for each cal-  
9           endar year under section 721(a), the Administrator shall

1 *auction, pursuant to section 778, emission allowances for*  
2 *the purposes and for the vintage or calendar years and cor-*  
3 *responding percentages specified as follows:*

4       “(1) *Emission allowances reserved under sub-*  
5       *section (d)(9) for the Market Stability Reserve Fund*  
6       *under section 726.*

7       “(2) *For the program for climate change con-*  
8       *sumer refunds and low- and moderate-income con-*  
9       *sumers pursuant to section 776—*

10       “(A) *emission allowances for consumer re-*  
11       *bates under section 776(a), pursuant to sub-*  
12       *section (f)(2); and*

13       “(B) *emission allowances for energy refunds*  
14       *under section 776(b), as follows:*

15               “(i) *For each of calendar years 2012*  
16               *through 2029, 15.00 percent of the emission*  
17               *allowances.*

18               “(ii) *For each of calendar years 2030*  
19               *through 2050, 18.50 percent of the emission*  
20               *allowances.*

21               “(iii) *For calendar year 2051 and each*  
22               *calendar year thereafter, 15.00 percent of*  
23               *the emission allowances.*

1           “(3) *For the program for investment in clean ve-*  
2           *hicle technology under section 201 of division B of the*  
3           *Clean Energy Jobs and American Power Act—*

4                   “(A) *for each of calendar years 2012*  
5                   *through 2017, 0.6 percent of the emission allow-*  
6                   *ances; and*

7                   “(B) *for each of calendar years 2018*  
8                   *through 2025, 0.2 percent of the emission allow-*  
9                   *ances.*

10           “(4) *For the program for energy efficiency and*  
11           *renewable energy worker training under section 208*  
12           *of division B of the Clean Energy Jobs and American*  
13           *Power Act—*

14                   “(A) *for each of calendar years 2012 and*  
15                   *2013, 1.0 percent of the emission allowances; and*

16                   “(B) *for each of calendar years 2014 and*  
17                   *2015, 0.05 percent of the emission allowances.*

18           “(5) *For the program for worker transition*  
19           *under part 2 of subtitle A of title III of division A,*  
20           *and section 209 of division B, of the Clean Energy*  
21           *Jobs and American Power Act—*

22                   “(A) *for each of calendar years 2012*  
23                   *through 2021, 0.5 percent of the emission allow-*  
24                   *ances; and*

1                   “(B) for each of calendar years 2022  
 2                   through 2050, 1.0 percent of the emission allow-  
 3                   ances.

4                   “(6) For the program for public health and cli-  
 5                   mate change under subpart B of part 1 of subtitle C  
 6                   of title III of division A, and section 211 of division  
 7                   B, of the Clean Energy Jobs and American Power  
 8                   Act, 0.10 percent of the emission allowances for each  
 9                   of calendar years 2012 through 2050.

10                  “(7) For the Natural Resources Climate Change  
 11                  Adaptation Account under the program for climate  
 12                  change safeguards for natural resources conservation  
 13                  under paragraphs (2) through (6) of section 370(a) of  
 14                  division A, and section 212 of division B, of the  
 15                  Clean Energy Jobs and American Power Act, as de-  
 16                  scribed in the following table:

<b>“Natural Resources Climate Change Adaptation Account</b>	
<b>Calendar Year</b>	<b>Percentage of allowances</b>
2012 .....	0.62
2013 .....	0.62
2014 .....	0.62
2015 .....	0.62
2016 .....	0.62
2017 .....	0.62
2018 .....	0.62
2019 .....	0.62
2020 .....	0.62
2021 .....	0.62
2022 .....	1.23
2023 .....	1.23
2024 .....	1.23
2025 .....	1.23
2026 .....	1.23
Each of calendar years 2027 through 2050 .....	2.46

1           “(8) *For nuclear worker training under section*  
 2           *132 of division A, and section 213 of division B, of*  
 3           *the Clean Energy Jobs and American Power Act—*

4                     “(A) *for each of calendar years 2012 and*  
 5                     *2013, 0.5 percent of the emission allowances; and*

6                     “(B) *for each of calendar years 2014 and*  
 7                     *2015, 0.05 percent of the emission allowances.*

8           “(9) *In addition to the emission allowances re-*  
 9           *served under subsection (d)(3), for the supplemental*  
 10           *agriculture, abandoned mine land, renewable energy,*  
 11           *and forestry greenhouse gas reduction and renewable*  
 12           *energy program under section 155 of division A, and*  
 13           *section 214 of division B, of the Clean Energy Jobs*  
 14           *and American Power Act—*

15                     “(A) *for each of calendar years 2012 and*  
 16                     *2013, 1.0 percent of the emission allowances; and*

17                     “(B) *for each of calendar years 2014*  
 18                     *through 2016, 0.28 percent of the emission allow-*  
 19                     *ances.*

20           “(10) *TRANSPORTATION GREENHOUSE GAS RE-*  
 21           *DUCTION.—In addition to the emission allowances re-*  
 22           *served under subsection (d)(4), for the transportation*  
 23           *greenhouse gas reduction program under sections 831*  
 24           *and 832 of this Act, and 215 of division B, of the*

1        *Clean Energy Jobs and American Power Act, as de-*  
 2        *scribed in the following table:*

***“Transportation greenhouse gas reduction***

<b><i>Calendar Year</i></b>	<b><i>Percentage of allowances</i></b>
<i>2012</i> .....	<i>2.21</i>
<i>2013</i> .....	<i>2.21</i>
<i>2014</i> .....	<i>1.35</i>
<i>2015</i> .....	<i>1.35</i>
<i>2016</i> .....	<i>1.05</i>
<i>2017</i> .....	<i>1.08</i>
<i>2018</i> .....	<i>0.98</i>
<i>2019</i> .....	<i>0.98</i>
<i>2020</i> .....	<i>0.95</i>
<i>2021</i> .....	<i>0.95</i>
<i>2022</i> .....	<i>0.94</i>
<i>2023</i> .....	<i>0.94</i>
<i>2024</i> .....	<i>0.94</i>
<i>2025</i> .....	<i>0.94</i>
<i>2026</i> .....	<i>1.64</i>
<i>2027</i> .....	<i>2.52</i>
<i>2028</i> .....	<i>2.52</i>
<i>2029</i> .....	<i>2.52</i>
<i>Each of calendar years 2030 through 2050</i> .....	<i>2.17</i>

3        *“(c) SUPPLEMENTAL REDUCTIONS.—*

4                *“(1) IN GENERAL.—Subject to subsection (d) and*  
 5        *paragraphs (2) and (3), the Administrator shall allo-*  
 6        *cate allowances for each vintage year to achieve sup-*  
 7        *plemental reductions pursuant to section 753, as fol-*  
 8        *lows:*

9                *“(A) For each of calendar years 2012*  
 10        *through 2025, 5.0 percent of the emission allow-*  
 11        *ances.*

12                *“(B) For each of calendar years 2026*  
 13        *through 2030, 3.0 percent of the emission allow-*  
 14        *ances.*

1           “(C) *For each of calendar years 2031*  
2           *through 2050, 2.0 percent of the emission allow-*  
3           *ances.*

4           “(2) *ADJUSTMENT.—The Administrator shall*  
5           *modify the allowances allocated under paragraph (1)*  
6           *as necessary to ensure the achievement of the annual*  
7           *supplemental emissions reduction objective for 2020*  
8           *and the cumulative reduction objective through 2025*  
9           *set forth in section 753(b)(1).*

10          “(3) *CARRYOVER.—If the Administrator has not*  
11          *distributed all of the allowances allocated pursuant to*  
12          *this subsection for a given vintage year by the end of*  
13          *that year, all such undistributed emission allowances*  
14          *shall, in accordance with subsection (e), be exchanged*  
15          *for allowances from the following vintage year and*  
16          *treated as part of the allocation for supplemental re-*  
17          *ductions under this section for that later vintage year.*

18          “(d) *INITIAL RESERVATION OF ALLOWANCES.—*

19          “(1) *IN GENERAL.—Before allocating emission*  
20          *allowances under subsections (a) through (c) for each*  
21          *calendar year, the Administrator shall reserve from*  
22          *the total quantity of emission allowances established*  
23          *for the calendar year under section 721(a) the per-*  
24          *centages of allowances specified in paragraphs (2)*

1       *through (9), for use for the purposes described in those*  
 2       *paragraphs.*

3               “(2) *DEFICIT REDUCTION.*—*For auction pursu-*  
 4       *ant to section 778 to ensure that this title does not*  
 5       *contribute to the deficit for a calendar year, with pro-*  
 6       *ceeds of the auction to be deposited immediately upon*  
 7       *receipt in the Deficit Reduction Fund established by*  
 8       *section 783, the Administrator shall reserve—*

9               “(A) *for each of calendar years 2012*  
 10       *through 2029, 10 percent of the emission allow-*  
 11       *ances;*

12              “(B) *for each of calendar years 2030*  
 13       *through 2039, 22 percent of the emission allow-*  
 14       *ances; and*

15              “(C) *for each of calendar years 2040*  
 16       *through 2050, 25 percent of the emission allow-*  
 17       *ances.*

18              “(3) *SUPPLEMENTAL AGRICULTURE, ABANDONED*  
 19       *MINE LAND, RENEWABLE ENERGY, AND FORESTRY.*—  
 20       *For the supplemental agriculture, abandoned mine*  
 21       *land, renewable energy, and forestry greenhouse gas*  
 22       *reduction and renewable energy program under sec-*  
 23       *tion 155 of division A, and section 214 of division B,*  
 24       *of the Clean Energy Jobs and American Power Act,*  
 25       *the Administrator shall reserve 1.0 percent of the*



1       *emission allowances for each of calendar years 2012*  
2       *through 2050.*

3               “(4) *TRANSPORTATION GREENHOUSE GAS RE-*  
4       *DUCTION.—For the transportation greenhouse gas re-*  
5       *duction program under sections 831 and 832 of this*  
6       *Act, and section 215 of division B of the Clean En-*  
7       *ergy Jobs and American Power Act, the Adminis-*  
8       *trator shall reserve for each of calendar years 2012*  
9       *through 2050, 1.0 percent of the emission allowances.*

10              “(5) *INDUSTRIAL EMISSIONS.—For the program*  
11       *to ensure real reductions in industrial emissions*  
12       *under part F, the Administrator shall reserve 0.50*  
13       *percent of the emission allowances for each of cal-*  
14       *endar years 2012 through 2050.*

15              “(6) *STATE AND LOCAL INVESTMENT IN ENERGY*  
16       *EFFICIENCY AND RENEWABLE ENERGY.—For the pro-*  
17       *gram for State and local investment in energy effi-*  
18       *ciency and renewable energy under section 202 of di-*  
19       *vision B of the Clean Energy Jobs and American*  
20       *Power Act, the Administrator shall reserve 0.50 per-*  
21       *cent of the emission allowances for each of calendar*  
22       *years 2012 through 2050.*

23              “(7) *ELECTRICITY CONSUMERS; SMALL LDCS.—*  
24       *For distribution to small LDCs under the program*

1     *for electricity consumers under section 772(f), the Ad-*  
2     *ministrator shall reserve—*

3             *“(A) for each of calendar years 2012*  
4             *through 2025, 0.50 percent of the emission allow-*  
5             *ances;*

6             *“(B) for calendar year 2026, 0.40 percent of*  
7             *the emission allowances;*

8             *“(C) for calendar year 2027, 0.30 percent of*  
9             *the emission allowances;*

10            *“(D) for calendar year 2028, 0.20 percent of*  
11            *the emission allowances; and*

12            *“(E) for calendar year 2029, 0.10 percent of*  
13            *the emission allowances.*

14            *“(8) INTERNATIONAL CLIMATE CHANGE ADAPTA-*  
15            *TION AND GLOBAL SECURITY PROGRAM.—For the*  
16            *international climate change adaptation and global*  
17            *security program under section 324 of division A,*  
18            *and section 207 of division B, of the Clean Energy*  
19            *Jobs and American Power Act, the Administrator*  
20            *shall reserve 0.25 percent of the emission allowances*  
21            *for each of calendar years 2012 through 2026.*

22            *“(9) MARKET STABILITY RESERVE FUND.—For*  
23            *the Market Stability Reserve Fund under section 726,*  
24            *the Administrator shall reserve—*

1           “(A) for each of calendar years 2012  
 2           through 2019, 2.0 percent of the emission allow-  
 3           ances; and

4           “(B) for each of calendar years 2020  
 5           through 2050, 3.0 percent of the emission allow-  
 6           ances.

7           “(e) *TREATMENT OF CARRYOVER ALLOWANCES.*—

8           “(1) *IN GENERAL.*—If there are undistributed al-  
 9           lowances from a vintage year for eligible industrial  
 10          sectors pursuant to subsection (a)(5), deployment of  
 11          carbon capture and sequestration technology pursuant  
 12          to subsection (a)(6), or supplemental reductions pur-  
 13          suant to subsection (c), the Administrator shall—

14          “(A) use the undistributed allowances to in-  
 15          crease for the same vintage year—

16               “(i) the allocation of allowances to be  
 17               auctioned, with the proceeds to be deposited  
 18               immediately upon receipt in the Deficit Re-  
 19               duction Fund established by section 783;

20               “(ii) the allocation of allowances for  
 21               the program for climate change consumer  
 22               refunds and low- and moderate-income con-  
 23               sumers pursuant to subsection (b)(2); or

24               “(iii) a combination the purposes de-  
 25               scribed in clauses (i) and (ii); and

1           “(B) except as provided in paragraph (2)—

2                   “(i) decrease by the same quantity for  
3           the following vintage year the allocation for  
4           the purpose for which the allocation was in-  
5           creased pursuant to subparagraph (A); and

6                   “(ii) increase by the same quantity for  
7           the following vintage year the allocation for  
8           the purpose for which the undistributed al-  
9           lowances were originally allocated.

10          “(2) *EXCESS UNDISTRIBUTED ALLOWANCES.*—

11                   “(A) *IN GENERAL.*—For each vintage year  
12          for which this subsection applies, the Adminis-  
13          trator shall determine whether—

14                   “(i) the total quantity of undistributed  
15          allowances for that vintage year that were  
16          allocated pursuant to paragraphs (5)(G)  
17          and (6)(B) of subsection (a), and subsection  
18          (c); exceeds

19                   “(ii) the total quantity of allowances  
20          allocated pursuant to subsections (b)(2) and  
21          (d)(2) for the following vintage year, de-  
22          creased by the quantity of allowances for  
23          that following vintage year set aside for the  
24          reserve established by section 778(f).

1                   “(B) *DETERMINATION OF EXCEEDANCE.*—If  
 2                   *the Administrator determines under subpara-*  
 3                   *graph (A) that the quantity described in sub-*  
 4                   *paragraph (A)(i) exceeds the quantity described*  
 5                   *in subparagraph (A)(ii)—*

6                   “(i) *paragraph (1)(B)(ii) shall not*  
 7                   *apply; and*

8                   “(ii) *for each purpose described in*  
 9                   *paragraphs (5)(G) and (6)(B) of subsection*  
 10                   *(a), and subsection (c), for which undistrib-*  
 11                   *uted allowances for a given vintage year*  
 12                   *were allocated, the Administrator shall in-*  
 13                   *crease the allocation for the following vin-*  
 14                   *tage year by the quantity that equals the*  
 15                   *product obtained by multiplying—*

16                   “(iii) *the number of undistributed al-*  
 17                   *lowances for that purpose; and*

18                   “(iv) *the quantity described in sub-*  
 19                   *paragraph (A)(ii) divided by the quantity*  
 20                   *described in subparagraph (A)(i).*

21                   “(f) *REMAINING ALLOWANCES.*—*After making the allo-*  
 22                   *cations of emission allowances under subsections (a)*  
 23                   *through (e) for a calendar year, the Administrator shall al-*  
 24                   *locate any emission allowances remaining from the total*

1 *quantity of emission allowances established for the calendar*  
 2 *year under section 721(a)—*

3 *“(1) for each of calendar years 2012 through*  
 4 *2025, for auction in accordance with section 778 and*  
 5 *deposit in the Deficit Reduction Fund established by*  
 6 *section 783; and*

7 *“(2) for each of calendar years 2026 through*  
 8 *2050, for the program for climate change consumer*  
 9 *refunds and low- and moderate-income consumers*  
 10 *pursuant to section 776.*

11 **“SEC. 772. *ELECTRICITY CONSUMERS.***

12 *“(a) DEFINITIONS.—In this section:*

13 *“(1) CHP SAVINGS.—The term ‘CHP savings’*  
 14 *means—*

15 *“(A) CHP system savings from a combined*  
 16 *heat and power system that commences operation*  
 17 *after the date of enactment of this section; and*

18 *“(B) the increase in CHP system savings*  
 19 *from, at any time after the date of the enactment*  
 20 *of this section, upgrading, replacing, expanding,*  
 21 *or increasing the utilization of a combined heat*  
 22 *and power system that commenced operation on*  
 23 *or before the date of enactment of this section.*

24 *“(2) CHP SYSTEM SAVINGS.—The term ‘CHP*  
 25 *system savings’ means the increment of electric output*

1       of a combined heat and power system that is attrib-  
 2       utable to the higher efficiency of the combined system  
 3       (as compared to the efficiency of separate production  
 4       of the electric and thermal outputs).

5               “(3) *COAL-FUELED UNIT*.—The term ‘coal-fueled  
 6       unit’ means a utility unit that derives at least 85  
 7       percent of its heat input from coal, petroleum coke, or  
 8       any combination of those 2 fuels.

9               “(4) *COST-EFFECTIVE*.—The term ‘cost-effective’,  
 10       with respect to an energy efficiency program, means  
 11       that the program meets the total resource cost test,  
 12       which requires that the net present value of economic  
 13       benefits over the life of the program, including avoid-  
 14       ed supply and delivery costs and deferred or avoided  
 15       investments, is greater than the net present value of  
 16       the economic costs over the life of the program, in-  
 17       cluding program costs and incremental costs borne by  
 18       the energy consumer.

19               “(5) *ELECTRICITY LOCAL DISTRIBUTION COM-*  
 20       *PANY*.—The term ‘electricity local distribution com-

21       pany’ means an electric utility—  
 22               “(A) that has a legal, regulatory, or con-  
 23       tractual obligation to deliver electricity directly  
 24       to retail consumers in the United States, regard-  
 25       less of whether that entity or another entity sells

1       *the electricity as a commodity to those retail*  
 2       *consumers; and*

3               “(B) *the retail rates of which, except in the*  
 4       *case of an electric cooperative, are regulated or*  
 5       *set by—*

6               “(i) *a State regulatory authority;*

7               “(ii) *a State or political subdivision*  
 8       *thereof (or an agency or instrumentality of,*  
 9       *or corporation wholly owned by, either of*  
 10       *the foregoing); or*

11              “(iii) *an Indian tribe pursuant to trib-*  
 12       *al law.*

13              “(6) *ELECTRICITY SAVINGS.—The term ‘elec-*  
 14       *tricity savings’ means reductions in electricity con-*  
 15       *sumption, relative to business-as-usual projections,*  
 16       *achieved through measures implemented after the date*  
 17       *of enactment of this section, limited to—*

18              “(A) *customer facility savings of electricity,*  
 19       *adjusted to reflect any associated increase in fuel*  
 20       *consumption at the facility;*

21              “(B) *reductions in distribution system*  
 22       *losses of electricity achieved by a retail electricity*  
 23       *distributor, as compared to losses attributable to*  
 24       *new or replacement distribution system equip-*  
 25       *ment of average efficiency;*



1                   “(C) *CHP savings; and*

2                   “(D) *fuel cell savings.*

3                   “(7) *FUEL CELL.—The term ‘fuel cell’ means a*  
4                   *device that directly converts the chemical energy of a*  
5                   *fuel and an oxidant into electricity by electrochemical*  
6                   *processes occurring at separate electrodes in the de-*  
7                   *vice.*

8                   “(8) *FUEL CELL SAVINGS.—The term ‘fuel cell*  
9                   *savings’ means the electricity saved by a fuel cell that*  
10                  *is installed after the date of enactment of this section,*  
11                  *or by upgrading a fuel cell that commenced operation*  
12                  *on or before the date of enactment of this section, as*  
13                  *a result of the greater efficiency with which the fuel*  
14                  *cell transforms fuel into electricity as compared with*  
15                  *sources of electricity delivered through the grid, pro-*  
16                  *vided that—*

17                  “(A) *the fuel cell meets such requirements*  
18                  *relating to efficiency and other operating charac-*  
19                  *teristics as the Federal Energy Regulatory Com-*  
20                  *mission may promulgate by regulation; and*

21                  “(B) *the net sales of electricity from the fuel*  
22                  *cell to customers not consuming the thermal out-*  
23                  *put from the fuel cell, if any, do not exceed 50*  
24                  *percent of the total annual electricity generation*  
25                  *by the fuel cell.*

1           “(9) *INDEPENDENT POWER PRODUCTION FACIL-*  
 2           *ITY.*—*The term ‘independent power production facil-*  
 3           *ity’ means a facility—*

4                   “(A) *that is used for the generation of elec-*  
 5                   *tric energy, at least 80 percent of which is sold*  
 6                   *at wholesale; and*

7                   “(B) *the sales of the output of which are not*  
 8                   *subject to retail rate regulation or setting of re-*  
 9                   *tail rates by—*

10                   “(i) *a State regulatory authority;*

11                   “(ii) *a State or political subdivision*  
 12                   *thereof (or an agency or instrumentality of,*  
 13                   *or corporation wholly owned by, either of*  
 14                   *the foregoing);*

15                   “(iii) *an electric cooperative; or*

16                   “(iv) *an Indian tribe pursuant to trib-*  
 17                   *al law.*

18           “(10) *LONG-TERM CONTRACT GENERATOR.*—

19                   “(A) *IN GENERAL.*—*The term ‘long-term*  
 20                   *contract generator’ means a qualifying small*  
 21                   *power production facility, a qualifying cogenera-*  
 22                   *tion facility ), an independent power production*  
 23                   *facility, or a facility for the production of elec-*  
 24                   *tric energy for sale to others that is owned and*  
 25                   *operated by an electric cooperative that is—*

1 “(i) a covered entity; and

2 “(ii) as of the date of enactment of this

3 title—

4 “(I) a facility with 1 or more  
5 sales or tolling agreements executed be-  
6 fore March 1, 2007, that govern the fa-  
7 cility’s electricity sales and provide for  
8 sales at a price (whether a fixed price  
9 or a price formula) for electricity that  
10 does not allow for recovery of the costs  
11 of compliance with the limitation on  
12 greenhouse gas emissions under this  
13 title, provided that such agreements are  
14 not between entities that were affiliates  
15 of one another at the time at which the  
16 agreements were entered into; or

17 “(II) a facility consisting of 1 or  
18 more cogeneration units that makes  
19 useful thermal energy available to an  
20 industrial or commercial process with  
21 1 or more sales agreements executed be-  
22 fore March 1, 2007, that govern the fa-  
23 cility’s useful thermal energy sales and  
24 provide for sales at a price (whether a  
25 fixed price or price formula) for useful

1           *thermal energy that does not allow for*  
 2           *recovery of the costs of compliance with*  
 3           *the limitation on greenhouse gas emis-*  
 4           *sions under this title, provided that*  
 5           *such agreements are not between enti-*  
 6           *ties that were affiliates of one another*  
 7           *at the time at which the agreements*  
 8           *were entered into.*

9           “(B) *AFFILIATE.*—*In this paragraph, the*  
 10          *term ‘affiliate’, when used in relation to a cov-*  
 11          *ered entity, means another entity that directly or*  
 12          *indirectly owned or controlled, was owned or*  
 13          *controlled by, or that had 50 percent or more of*  
 14          *its equity interests under common ownership or*  
 15          *control with, the covered entity.*

16          “(11) *MERCHANT COAL UNIT.*—*The term ‘mer-*  
 17          *chant coal unit’ means a coal-fueled unit that—*

18               “(A) *is or is part of a covered entity;*

19               “(B) *is not owned by a Federal, State, or*  
 20               *regional agency or power authority; and*

21               “(C) *generates electricity solely for sale to*  
 22               *others, provided that all or a portion of such*  
 23               *sales are made by a separate legal entity that—*

24                   “(i) *has a full or partial ownership or*  
 25                   *leasehold interest in the unit, as certified in*

1                   *accordance with such requirements as the*  
 2                   *Administrator shall prescribe; and*

3                   “(ii) *is not subject to retail rate regu-*  
 4                   *lation or setting of retail rates by—*

5                   “(I) *a State regulatory authority;*

6                   “(II) *a State or political subdivi-*  
 7                   *sion thereof (or an agency or instru-*  
 8                   *mentality of, or corporation wholly*  
 9                   *owned by, either of the foregoing);*

10                  “(III) *an electric cooperative; or*

11                  “(IV) *an Indian tribe pursuant to*  
 12                  *tribal law.*

13                  “(12) *MERCHANT COAL UNIT SALES.—The term*  
 14                  *‘merchant coal unit sales’ means sales to others of*  
 15                  *electricity generated by a merchant coal unit that are*  
 16                  *made by the owner or leaseholder described in para-*  
 17                  *graph (11)(C).*

18                  “(13) *NEW COAL-FUELED UNIT.—The term ‘new*  
 19                  *coal-fueled unit’ means a coal-fueled unit that com-*  
 20                  *menced operation on or after January 1, 2009 and*  
 21                  *before January 1, 2013.*

22                  “(14) *NEW MERCHANT COAL UNIT.—The term*  
 23                  *‘new merchant coal unit’ means a merchant coal*  
 24                  *unit—*

1           “(A) *that commenced operation on or after*  
2           *January 1, 2009 and before January 1, 2013;*  
3           *and*

4           “(B) *the actual, on-site construction of*  
5           *which commenced prior to January 1, 2009.*

6           “(15) *QUALIFIED HYDROPOWER.—The term*  
7           *‘qualified hydropower’ means—*

8           “(A) *energy produced from increased effi-*  
9           *ciency achieved, or additions of capacity made,*  
10          *on or after January 1, 1988, at a hydroelectric*  
11          *facility that was placed in service before that*  
12          *date and does not include additional energy gen-*  
13          *erated as a result of operational changes not di-*  
14          *rectly associated with efficiency improvements or*  
15          *capacity additions; or*

16          “(B) *energy produced from generating ca-*  
17          *capacity added to a dam on or after January 1,*  
18          *1988, provided that the Federal Energy Regu-*  
19          *latory Commission certifies that—*

20               “(i) *the dam was placed in service be-*  
21               *fore the date of the enactment of this section*  
22               *and was operated for flood control, naviga-*  
23               *tion, or water supply purposes and was not*  
24               *producing hydroelectric power prior to the*  
25               *addition of such capacity;*

1           “(ii) the hydroelectric project installed  
 2           on the dam is licensed (or is exempt from  
 3           licensing) by the Federal Energy Regulatory  
 4           Commission and is in compliance with the  
 5           terms and conditions of the license or ex-  
 6           emption, and with other applicable legal re-  
 7           quirements for the protection of environ-  
 8           mental quality, including applicable fish  
 9           passage requirements; and

10           “(iii) the hydroelectric project installed  
 11           on the dam is operated so that the water  
 12           surface elevation at any given location and  
 13           time that would have occurred in the ab-  
 14           sence of the hydroelectric project is main-  
 15           tained, subject to any license or exemption  
 16           requirements that require changes in water  
 17           surface elevation for the purpose of improv-  
 18           ing the environmental quality of the affected  
 19           waterway.

20           “(16) QUALIFYING SMALL POWER PRODUCTION  
 21           FACILITY; QUALIFYING COGENERATION FACILITY.—The  
 22           terms ‘qualifying small power production facility’  
 23           and ‘qualifying cogeneration facility’ have the mean-  
 24           ings given those terms in section 3(17)(C) and

1       3(18)(B) of the Federal Power Act (16 U.S.C.  
2       796(17)(C) and 796(18)(B)).

3               “(17) *RENEWABLE ENERGY RESOURCE*.—The  
4       term ‘renewable energy resource’ means each of the  
5       following:

6               “(A) Wind energy.

7               “(B) Solar energy.

8               “(C) Geothermal energy.

9               “(D) Renewable biomass.

10              “(E) Biogas derived exclusively from renew-  
11       able biomass.

12              “(F) Biofuels derived exclusively from re-  
13       newable biomass.

14              “(G) Qualified hydropower.

15              “(H) Marine and hydrokinetic renewable  
16       energy, as that term is defined in section 632 of  
17       the Energy Independence and Security Act of  
18       2007 (42 U.S.C. 17211).

19              “(18) *SMALL LDC*.—The term ‘small LDC’  
20       means, for any given year, an electricity local dis-  
21       tribution company that delivered less than 4,000,000  
22       megawatt hours of electric energy directly to retail  
23       consumers in the preceding year.

24              “(19) *STATE REGULATORY AUTHORITY*.—The  
25       term ‘State regulatory authority’ has the meaning



1       *given that term in section 3(17) of the Public Utility*  
 2       *Regulatory Policies Act of 1978 (16 U.S.C. 2602(17)).*

3               “(20) *USEFUL THERMAL ENERGY.*—*The term*  
 4       *‘useful thermal energy’ has the meaning given that*  
 5       *term in section 371(7) of the Energy Policy and Con-*  
 6       *servation Act (42 U.S.C. 6341(7)).*

7               “(b) *ELECTRICITY LOCAL DISTRIBUTION COMPA-*  
 8       *NIES.*—

9               “(1) *DISTRIBUTION OF ALLOWANCES.*—*The Ad-*  
 10       *ministrator shall distribute to electricity local dis-*  
 11       *tribution companies for the benefit of retail rate-*  
 12       *payors the quantity of emission allowances allocated*  
 13       *for the following vintage year pursuant to section*  
 14       *771(a)(1)(A). Notwithstanding the preceding sentence,*  
 15       *the Administrator shall withhold from distribution*  
 16       *under this subsection a quantity of emission allow-*  
 17       *ances equal to the lesser of 14.3 percent of the quan-*  
 18       *tity of emission allowances allocated under section*  
 19       *771(a)(1) for the relevant vintage year, or 105 percent*  
 20       *of the emission allowances for the relevant vintage*  
 21       *year that the Administrator anticipates will be dis-*  
 22       *tributed to merchant coal units and to long-term con-*  
 23       *tract generators, respectively, under subsections (c)*  
 24       *and (d), on the condition that the Administrator shall*  
 25       *be authorized to distribute future vintage year allow-*

ances available to long-term contract generators under subsection (d) in the case of a shortfall of allowances in any vintage year, subject to section 772(d)(2). If not required by subsections (c) and (d) to distribute all of these reserved allowances, the Administrator shall distribute any remaining emission allowances to electricity local distribution companies in accordance with this subsection.

“(2) DISTRIBUTION BASED ON EMISSIONS.—

“(A) IN GENERAL.—For each vintage year, 50 percent of the emission allowances available for distribution under paragraph (1), after reserving allowances for distribution under subsections (c) and (d), shall be distributed by the Administrator among individual electricity local distribution companies ratably based on the annual average carbon dioxide emissions attributable to generation of electricity delivered at retail by each such company during the base period determined under subparagraph (B).

“(B) BASE PERIOD.—

“(i) VINTAGE YEARS 2012 AND 2013.—For vintage years 2012 and 2013, an electricity local distribution company’s base period shall be—

1                   “(I) calendar years 2006 through  
2                   2008;

3                   “(II) any 3 consecutive calendar  
4                   years between 1999 and 2008, inclu-  
5                   sive, that such company selects, pro-  
6                   vided that the company timely informs  
7                   the Administrator of such selection; or

8                   “(III) calendar year 2012, in the  
9                   case of a local distribution company  
10                  that—

11                  “(aa) is located outside of the  
12                  Pacific Northwest (as defined in  
13                  section 3 of the Pacific Northwest  
14                  Electric Power Planning and  
15                  Conservation Act (16 U.S.C.  
16                  839a)), and purchased long-term  
17                  excess Federal power and Hungry  
18                  Horse Reservation power from the  
19                  Bonneville Power Administration;  
20                  and

21                  “(bb) will no longer have  
22                  long-term excess Federal power or  
23                  Hungry Horse Reservation power  
24                  from the Bonneville Power Ad-

1                    *ministration after October 1,*  
 2                    *2011.*

3                    “(ii) *VINTAGE YEARS 2014 AND THERE-*  
 4                    *AFTER.—For vintage years 2014 and there-*  
 5                    *after, the base period shall be—*

6                    “(I) *the base period selected under*  
 7                    *clause (i); or*

8                    “(II) *calendar year 2012, in the*  
 9                    *case of—*

10                    “(aa) *an electricity local dis-*  
 11                    *tribution company that owns, co-*  
 12                    *owns, or purchases through a*  
 13                    *power purchase agreement (wheth-*  
 14                    *er directly or through a coopera-*  
 15                    *tive arrangement) a substantial*  
 16                    *portion of the electricity generated*  
 17                    *by a new coal-fueled unit, on the*  
 18                    *condition that such company*  
 19                    *timely informs the Administrator*  
 20                    *of its election to use 2012 as its*  
 21                    *base period; or*

22                    “(bb) *any small local dis-*  
 23                    *tribution company that is located*  
 24                    *outside of the Pacific Northwest*  
 25                    *(as defined in section 3 of the Pa-*

1 *cific Northwest Electric Power*  
2 *Planning and Conservation Act*  
3 *(16 U.S.C. 839a)), that purchased*  
4 *long-term excess Federal power*  
5 *and Hungry Horse Reservation*  
6 *power from the Bonneville Power*  
7 *Administration, and that will no*  
8 *longer have long-term excess Fed-*  
9 *eral power or Hungry Horse Res-*  
10 *ervation power from the Bonne-*  
11 *ville Power Administration after*  
12 *October 1, 2011, on the condition*  
13 *that such company timely informs*  
14 *the Administrator of its election*  
15 *to use 2012 as its base period.*

16 *“(C) DETERMINATION OF EMISSIONS.—*

17 *“(i) DETERMINATION FOR 1999–2008.—*

18 *As part of the regulations promulgated pur-*  
19 *suant to subsection (g), the Administrator,*  
20 *after consultation with the Energy Informa-*  
21 *tion Administration, shall determine the av-*  
22 *erage amount of carbon dioxide emissions*  
23 *attributable to generation of electricity de-*  
24 *livered at retail by each electricity local dis-*  
25 *tribution company for each of the years*

1999 through 2008, taking into account entities' electricity generation, electricity purchases, and electricity sales. In the case of any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by, a coal-fueled unit that commenced operation after January 1, 2006, and before December 31, 2008, the Administrator shall adjust the emissions attributable to such company's retail deliveries in calendar years 2006 through 2008 to reflect the emissions that would have occurred if the relevant unit were in operation during the entirety of such 3-year period.

“(ii) *ADJUSTMENTS FOR NEW COAL-FUELED UNITS.*—

“(I) *VINTAGE YEARS 2012 AND 2013.*—For purposes of emission allowance distributions for vintage years 2012 and 2013, in the case of any electricity local distribution company that owns, co-owns, or purchases through a

1            *power purchase agreement (whether di-*  
2            *rectly or through a cooperative ar-*  
3            *rangement) a substantial portion of the*  
4            *electricity generated by, a new coal-*  
5            *fueled unit, the Administrator shall*  
6            *adjust the emissions attributable to*  
7            *such company's retail deliveries in the*  
8            *applicable base period to reflect the*  
9            *emissions that would have occurred if*  
10           *the new coal-fueled unit were in oper-*  
11           *ation during such period.*

12           “(II) *VINTAGE YEAR 2014 AND*  
13           *THEREAFTER.—Not later than nec-*  
14           *essary for use in making emission al-*  
15           *lowance distributions under this sub-*  
16           *section for vintage year 2014, the Ad-*  
17           *ministrator shall, for any electricity*  
18           *local distribution company that owns,*  
19           *co-owns, or purchases through a power*  
20           *purchase agreement (whether directly*  
21           *or through a cooperative arrangement)*  
22           *a substantial portion of the electricity*  
23           *generated by a new coal-fueled unit*  
24           *and has selected calendar year 2012 as*  
25           *its base period pursuant to subpara-*

1           *graph (B)(ii)(II), determine the*  
2           *amount of carbon dioxide emissions at-*  
3           *tributable to generation of electricity*  
4           *delivered at retail by such company in*  
5           *calendar year 2012. If the relevant new*  
6           *coal-fueled unit was not yet oper-*  
7           *ational by January 1, 2012, the Ad-*  
8           *ministrator shall adjust such deter-*  
9           *mination to reflect the emissions that*  
10          *would have occurred if such unit were*  
11          *in operation for all of calendar year*  
12          *2012.*

13           “(iii)   *REQUIREMENTS.—Determina-*  
14          *tions under this paragraph shall be as pre-*  
15          *cise as practicable, taking into account the*  
16          *nature of data currently available and the*  
17          *nature of markets and regulation in effect*  
18          *in various regions of the country. The fol-*  
19          *lowing requirements shall apply to such de-*  
20          *terminations:*

21           “(I)   *The Administrator shall de-*  
22          *termine the amount of fossil fuel-based*  
23          *electricity delivered at retail by each*  
24          *electricity local distribution company,*  
25          *and shall use appropriate emission fac-*



tors to calculate carbon dioxide emissions associated with the generation of such electricity.

“(II) Where it is not practical to determine the precise fuel mix for the electricity delivered at retail by an individual electricity local distribution company, the Administrator may use the best available data, including average data on a regional basis with reference to Regional Transmission Organizations or regional entities (as that term is defined in section 215(a)(7) of the Federal Power Act (16 U.S.C. 824o(a)(7))), to estimate fuel mix and emissions. Different methodologies may be applied in different regions if appropriate to obtain the most accurate estimate.

“(3) DISTRIBUTION BASED ON DELIVERIES.—

“(A) INITIAL FORMULA.—Except as provided in subparagraph (B), for each vintage year, the Administrator shall distribute 50 percent of the emission allowances available for distribution under paragraph (1), after reserving

1        *allowances for distribution under subsections (c)*  
2        *and (d), among individual electricity local dis-*  
3        *tribution companies ratably based on each elec-*  
4        *tricity local distribution company's annual aver-*  
5        *age retail electricity deliveries for calendar years*  
6        *2006 through 2008, unless the owner or operator*  
7        *of the company selects 3 other consecutive years*  
8        *between 1999 and 2008, inclusive, and timely*  
9        *notifies the Administrator of its selection.*

10        “(B) *UPDATING.—Prior to distributing*  
11        *2015 vintage year emission allowances under*  
12        *this paragraph and at 3-year intervals there-*  
13        *after, the Administrator shall update the dis-*  
14        *tribution formula under this paragraph to reflect*  
15        *changes in each electricity local distribution*  
16        *company's service territory since the most recent*  
17        *formula was established. For each successive 3-*  
18        *year period, the Administrator shall distribute*  
19        *allowances ratably among individual electricity*  
20        *local distribution companies based on the prod-*  
21        *uct of—*

22        “(i) *each electricity local distribution*  
23        *company's average annual deliveries per*  
24        *customer during calendar years 2006*  
25        *through 2008, or during the 3 alternative*

1                   *consecutive years selected by such company*  
 2                   *under subparagraph (A); and*  
 3                   “(ii) *the number of customers of such*  
 4                   *electricity local distribution company in the*  
 5                   *most recent year in which the formula is*  
 6                   *updated under this subparagraph.*

7                   “(4) *PROHIBITION AGAINST EXCESS DISTRIBUTI-*  
 8                   *ONS.—The regulations promulgated under sub-*  
 9                   *section (g) shall ensure that, notwithstanding para-*  
 10                   *graphs (2) and (3), no electricity local distribution*  
 11                   *company shall receive a greater quantity of allow-*  
 12                   *ances under this subsection than is necessary to offset*  
 13                   *any increased electricity costs to such company’s re-*  
 14                   *tail ratepayers, including increased costs attributable*  
 15                   *to purchased power costs, due to enactment of this*  
 16                   *title. Any emission allowances withheld from distribu-*  
 17                   *tion to an electricity local distribution company pur-*  
 18                   *suant to this paragraph shall be distributed among*  
 19                   *all remaining electricity local distribution companies*  
 20                   *ratably based on emissions pursuant to paragraph*  
 21                   *(2).*

22                   “(5) *USE OF ALLOWANCES.—*

23                   “(A) *RATEPAYER BENEFIT.—Emission al-*  
 24                   *lowances distributed to an electricity local dis-*  
 25                   *tribution company under this subsection shall be*

1       *used exclusively for the benefit of retail rate-*  
2       *payers of such electricity local distribution com-*  
3       *pany and may not be used to support electricity*  
4       *sales or deliveries to entities or persons other*  
5       *than such ratepayers.*

6               “(B) *RATEPAYER CLASSES.*—*In using emis-*  
7       *sion allowances distributed under this subsection*  
8       *for the benefit of ratepayers, an electricity local*  
9       *distribution company shall ensure that ratepayer*  
10       *benefits are distributed—*

11               “(i) *among ratepayer classes ratably*  
12       *based on electricity deliveries to each class;*  
13       *and*

14               “(ii) *equitably among individual rate-*  
15       *payers within each ratepayer class, includ-*  
16       *ing entities that receive emission allowances*  
17       *pursuant to part F.*

18               “(C) *LIMITATION.*—*In general, an elec-*  
19       *tricity local distribution company shall not use*  
20       *the value of emission allowances distributed*  
21       *under this subsection to provide to any ratepayer*  
22       *a rebate that is based solely on the quantity of*  
23       *electricity delivered to such ratepayer. To the ex-*  
24       *tent an electricity local distribution company*  
25       *uses the value of emission allowances distributed*

1        *under this subsection to provide rebates, it shall,*  
 2        *to the maximum extent practicable, provide such*  
 3        *rebates with regard to the fixed portion of rate-*  
 4        *payers' bills or as a fixed credit or rebate on*  
 5        *electricity bills.*

6                *“(D) RESIDENTIAL AND INDUSTRIAL RATE-*  
 7        *PAYERS.—Notwithstanding subparagraph (C), if*  
 8        *compliance with the requirements of this title re-*  
 9        *sults (or would otherwise result) in an increase*  
 10        *in electricity costs for residential or industrial*  
 11        *retail ratepayers of any given electricity local*  
 12        *distribution company (including entities that re-*  
 13        *ceive emission allowances pursuant to part F),*  
 14        *such electricity local distribution company—*

15                *“(i) shall pass through to residential*  
 16        *retail ratepayers as a class their ratable*  
 17        *share (based on deliveries to each ratepayer*  
 18        *class) of the value of the emission allow-*  
 19        *ances that reduce electricity cost impacts on*  
 20        *such ratepayers; and*

21                *“(ii) shall pass through to industrial*  
 22        *ratepayers as a class their ratable share*  
 23        *(based on deliveries to each ratepayer class)*  
 24        *of the value of the emission allowances that*  
 25        *reduce electricity cost impacts on such rate-*

1           payers. *The electricity local distribution*  
 2           *company may do so based on the quantity*  
 3           *of electricity delivered to individual indus-*  
 4           *trial retail ratepayers.*

5           “(E) *GUIDELINES.*—As part of the regula-  
 6           tions promulgated under subsection (g), the Ad-  
 7           ministrators shall, after consultation with State  
 8           and tribal regulatory authorities, prescribe  
 9           guidelines for the implementation of the require-  
 10          ments of this paragraph. Such guidelines shall  
 11          include—

12           “(i) requirements to ensure that resi-  
 13          dential and industrial retail ratepayers (in-  
 14          cluding entities that receive emission allow-  
 15          ances under part F) receive their ratable  
 16          share of the value of the allowances distrib-  
 17          uted to each electricity local distribution  
 18          company pursuant to this subsection; and

19           “(ii) requirements for measurement,  
 20          verification, reporting, and approval of  
 21          methods used to assure the use of allowance  
 22          values to benefit retail ratepayers.

23          “(6) *REGULATORY PROCEEDINGS.*—

24           “(A) *REQUIREMENT.*—No electricity local  
 25          distribution company shall be eligible to receive

1       *emission allowances under this subsection or sub-*  
2       *section (e) unless the State regulatory authority*  
3       *with authority over such company's retail rates,*  
4       *or the entity with authority to regulate or set re-*  
5       *tail electricity rates of an electricity local dis-*  
6       *tribution company not regulated by a State reg-*  
7       *ulatory authority, has—*

8               “(i) after public notice and an oppor-  
9               tunity for comment, promulgated a regula-  
10              tion or completed a rate proceeding (or the  
11              equivalent, in the case of a ratemaking enti-  
12              ty other than a State regulatory authority)  
13              that provides for the full implementation of  
14              the requirements of paragraph (5) of this  
15              subsection and the requirements of sub-  
16              section (e); and

17              “(ii) made available to the Adminis-  
18              trator and the public a report describing, in  
19              adequate detail, the manner in which the  
20              requirements of paragraph (5) and the re-  
21              quirements of subsection (e) will be imple-  
22              mented.

23              “(B) *UPDATING.*—The Administrator shall  
24              require, as a condition of continued receipt of  
25              emission allowances under this subsection by an

1       *electricity local distribution company, that a*  
 2       *new regulation be promulgated or rate pro-*  
 3       *ceeding be completed , after public notice and an*  
 4       *opportunity for comment, and a new report be*  
 5       *made available to the Administrator and the*  
 6       *public, pursuant to subparagraph (A), not less*  
 7       *frequently than every 5 years.*

8       “(7) *PLANS AND REPORTING.*—

9               “(A) *REGULATIONS.*—*As part of the regula-*  
 10       *tions promulgated under subsection (g), the Ad-*  
 11       *ministrator shall prescribe requirements gov-*  
 12       *erning plans and reports to be submitted in ac-*  
 13       *cordance with this paragraph.*

14              “(B) *PLANS.*—*Not later than April 30 of*  
 15       *2011 and every 5 years thereafter through 2026,*  
 16       *each electricity local distribution company shall*  
 17       *submit to the Administrator a plan, approved by*  
 18       *the State regulatory authority or other entity*  
 19       *charged with regulating tor setting the retail*  
 20       *rates of such company, describing such com-*  
 21       *pany’s plans for the disposition of the value of*  
 22       *emission allowances to be received pursuant to*  
 23       *this subsection and subsection (e), in accordance*  
 24       *with the requirements of this subsection and sub-*  
 25       *section (e). Such plan shall include a description*



1       *of the manner in which the company will pro-*  
2       *vide to industrial retail ratepayers (including*  
3       *entities that receive emission allowances under*  
4       *part F) their ratable share of the value of such*  
5       *allowances.*

6               “(C) *REPORTS.*—*Not later than June 30,*  
7       *2013, and each calendar year thereafter through*  
8       *2031, each electricity local distribution company*  
9       *shall submit a report to the Administrator, and*  
10       *to the relevant State regulatory authority or*  
11       *other entity charged with regulating or setting*  
12       *the retail electricity rates of such company, de-*  
13       *scribing the disposition of the value of any emis-*  
14       *sion allowances received by such company in the*  
15       *prior calendar year pursuant to this subsection*  
16       *and subsection (e), including—*

17               “(i) *a description of sales, transfer, ex-*  
18       *change, or use by the company for compli-*  
19       *ance with obligations under this title, of*  
20       *any such emission allowances;*

21               “(ii) *the monetary value received by*  
22       *the company, whether in money or in some*  
23       *other form, from the sale, transfer, or ex-*  
24       *change of any such emission allowances;*

1           “(iii) the manner in which the com-  
 2           pany’s disposition of any such emission al-  
 3           lowances complies with the requirements of  
 4           this subsection and of subsection (e), includ-  
 5           ing each of the requirements of paragraph  
 6           (5) of this subsection, including the require-  
 7           ment that industrial retail ratepayers (in-  
 8           cluding entities that receive emission allow-  
 9           ances under part F) receive their ratable  
 10          share of the value of such allowances; and

11          “(iv) such other information as the Ad-  
 12          ministrator may require pursuant to sub-  
 13          paragraph (A).

14          “(D) PUBLICATION.—The Administrator  
 15          shall make available to the public all plans and  
 16          reports submitted under this subsection, includ-  
 17          ing by publishing such plans and reports on the  
 18          Internet.

19          “(8) ADMINISTRATOR AUDIT REPORTS.—

20          “(A) IN GENERAL.—Each year, the Admin-  
 21          istrator shall audit a representative sample of  
 22          electricity local distribution companies to ensure  
 23          that emission allowances distributed under this  
 24          subsection have been used exclusively for the ben-  
 25          efit of retail ratepayers and that such companies

1       are complying with the requirements of this sub-  
2       section and of subsection (e), including the re-  
3       quirement that residential and industrial retail  
4       ratepayers (including entities that receive emis-  
5       sion allowances under part F) receive their rat-  
6       able share of the value of such allowances. The  
7       Administrator shall assess the degree to which  
8       electric local distribution companies have main-  
9       tained a marginal electric price signal while  
10      protecting consumers on total cost using the  
11      value of emissions allowances. In selecting com-  
12      panies for audit, the Administrator shall take  
13      into account any credible evidence of noncompli-  
14      ance with such requirements. The Administrator  
15      shall make available to the public a report de-  
16      scribing the results of each such audit, including  
17      by publishing such report on the Internet.

18           “(B) GAO AUDIT REPORT.—Not later than  
19      April 30, 2015, and every 3 years thereafter  
20      through 2026, the Comptroller General of the  
21      United States, incorporating results from the Ad-  
22      ministrators’ audit report and other relevant in-  
23      formation including distribution company re-  
24      ports, shall conduct an in-depth evaluation and  
25      make available to the public a report on the in-

1        *vestments made pursuant to paragraph (5). Said*  
2        *report shall be made available to the State regu-*  
3        *latory authority, or the entity with authority to*  
4        *regulate or set retail electricity rates in the case*  
5        *of an electricity distribution company that is not*  
6        *regulated by a State regulatory authority, and*  
7        *shall include a description of how the distribu-*  
8        *tion companies in the audit meet or fail to meet*  
9        *the requirement of paragraph (5), including for*  
10       *investments made in cost-effective end-use energy*  
11       *efficiency programs, the lifetime and annual en-*  
12       *ergy saving benefits, and capacity benefits of*  
13       *said programs.*

14        “(C) *ADMINISTRATOR COST CONTAINMENT*  
15        *REPORT.—Not later than April 30, 2015 and*  
16        *every 3 years thereafter through 2026, the Ad-*  
17        *ministrator shall transmit a report to Congress*  
18        *containing an evaluation of the disposition of the*  
19        *value of emission allowances received pursuant*  
20        *to this subsection and subsection (e) and rec-*  
21        *ommendations of ways to more effectively direct*  
22        *the value of allowances to reduce costs for con-*  
23        *sumers, contain the overall costs of the green-*  
24        *house gas emissions reduction program, and*  
25        *meet the pollution reduction targets of the Act.*

1           *The Administrator shall make available to the*  
 2           *public such report, including by publishing such*  
 3           *report on the Internet.*

4           “(9) *ENFORCEMENT.*—*A violation of any re-*  
 5           *quirement of this subsection or of subsection (e), irre-*  
 6           *spective of approval by a State regulatory authority,*  
 7           *shall be a violation of this Act. Each emission allow-*  
 8           *ance the value of which is used in violation of the re-*  
 9           *quirements of this subsection or of subsection (e) shall*  
 10          *be a separate violation.*

11          “(c) *MERCHANT COAL UNITS.*—

12           “(1) *QUALIFYING EMISSIONS.*—*The qualifying*  
 13           *emissions for a merchant coal unit for a given cal-*  
 14           *endar year shall be the product of the number of*  
 15           *megawatt hours of merchant coal unit sales generated*  
 16           *by such unit in such calendar year and the average*  
 17           *carbon dioxide emissions per megawatt hour gen-*  
 18           *erated by such unit during the base period under*  
 19           *paragraph (2), provided that the number of megawatt*  
 20           *hours in a given calendar year for purposes of such*  
 21           *calculation shall be reduced in proportion to the por-*  
 22           *tion of such unit’s carbon dioxide emissions that are*  
 23           *either—*

24                   “(A) *captured and sequestered in such cal-*  
 25                   *endar year; or*

1           “(B) attributable to the combustion or gas-  
 2           ification of biomass, to the extent that the owner  
 3           or operator of the unit is not required to hold  
 4           emission allowances for such emissions.

5           “(2) *BASE PERIOD*.—For purposes of this sub-  
 6           section, the base period for a merchant coal unit shall  
 7           be—

8                   “(A) calendar years 2006 through 2008; or

9                   “(B) in the case of a new merchant coal  
 10           unit—

11                   “(i) the first full calendar year of oper-  
 12                   ation of such unit, if such unit commences  
 13                   operation before January 1, 2012;

14                   “(ii) calendar year 2012, if such unit  
 15                   commences operation on or after January 1,  
 16                   2012, and before October 1, 2012; or

17                   “(iii) calendar year 2013, if such unit  
 18                   commences operation on or after October 1,  
 19                   2012, and before January 1, 2013.

20           “(3) *PHASE-DOWN SCHEDULE*.—The Adminis-  
 21           trator shall identify an annual phase-down factor,  
 22           applicable to distributions to merchant coal units for  
 23           each of vintage years 2012 through 2029, that cor-  
 24           responds to the overall decline in the amount of emis-  
 25           sion allowances allocated to the electricity sector in

1 *such years pursuant to section 771(a)(1). Such factor*  
 2 *shall—*

3 *“(A) for vintage year 2012, be equal to 1.0;*

4 *“(B) for each of vintage years 2013 through*  
 5 *2029, correspond to the quotient of—*

6 *“(i) the quantity of emission allow-*  
 7 *ances allocated under section 771(a)(1) for*  
 8 *such vintage year; divided by*

9 *“(ii) the quantity of emission allow-*  
 10 *ances allocated under section 771(a)(1) for*  
 11 *vintage year 2012.*

12 *“(4) DISTRIBUTION OF EMISSION ALLOW-*  
 13 *ANCES.—Not later than March 1 of 2013 and each*  
 14 *calendar year through 2030, the Administrator shall*  
 15 *distribute emission allowances of the preceding vin-*  
 16 *tage year to the owner or operator of each merchant*  
 17 *coal unit described in subsection (a)(11)(C) in an*  
 18 *amount equal to the product of—*

19 *“(A) 0.5;*

20 *“(B) the qualifying emissions for such mer-*  
 21 *chant coal unit for the preceding year, as deter-*  
 22 *mined under paragraph (1); and*

23 *“(C) the phase-down factor for the preceding*  
 24 *calendar year, as identified under paragraph*  
 25 *(3).*

1 “(5) *ADJUSTMENT.*—

2 “(A) *STUDY.*—Not later than 5 years after  
3 the date of enactment of the Clean Energy Jobs  
4 and American Power Act, the Administrator, in  
5 consultation with the Federal Energy Regulatory  
6 Commission, shall issue a study to determine  
7 whether the allocation formula under paragraph  
8 (3) is resulting in windfall profits to merchant  
9 coal generators or substantially disparate treat-  
10 ment of merchant coal generators operating in  
11 different markets or regions.

12 “(B) *REGULATION.*—If the Administrator,  
13 in consultation with the Federal Energy Regu-  
14 latory Commission, makes an affirmative find-  
15 ing of windfall profits or disparate treatment  
16 under subparagraph (A), the Administrator  
17 shall, not later than 18 months after the comple-  
18 tion of the study described in subparagraph (A),  
19 promulgate regulations providing for the adjust-  
20 ment of the allocation formula under paragraph  
21 (3) to mitigate, to the extent practicable, such  
22 windfall profits, if any, and such disparate  
23 treatment, if any.

24 “(6) *LIMITATION ON ALLOWANCES.*—Notwith-  
25 standing paragraph (4) or (5), for each vintage year



1     *the Administrator shall distribute under this sub-*  
 2     *section no more than 10 percent of the total quantity*  
 3     *of emission allowances available for such vintage year*  
 4     *for distribution to the electricity sector under section*  
 5     *771(a)(1). If the quantity of emission allowances that*  
 6     *would otherwise be distributed pursuant to paragraph*  
 7     *(4) or (5) for any vintage year would exceed such*  
 8     *limit, the Administrator shall distribute 10 percent of*  
 9     *the total emission allowances available for distribu-*  
 10    *tion under section 771(a)(1) for such vintage year*  
 11    *ratably among merchant coal generators based on the*  
 12    *applicable formula under paragraph (4) or (5).*

13           “(7) *ELIGIBILITY.*—*The owner or operator of a*  
 14    *merchant coal unit shall not be eligible to receive*  
 15    *emission allowances under this subsection for any*  
 16    *vintage year for which such owner or operator has*  
 17    *elected to receive emission allowances for the same*  
 18    *unit under subsection (d).*

19           “(d) *LONG-TERM CONTRACT GENERATORS.*—

20           “(1) *DISTRIBUTION.*—*Not later than March 1,*  
 21    *2013, and each calendar year through 2030, the Ad-*  
 22    *ministrator shall distribute to the owner or operator*  
 23    *of each long-term contract generator a quantity of*  
 24    *emission allowances of the preceding vintage year*  
 25    *that is equal to the sum of—*

1           “(A) *the number of tons of carbon dioxide*  
 2           *emitted as a result of a qualifying electricity*  
 3           *sales agreement referred to in subsection*  
 4           *(a)(10)(B)(i); and*

5           “(B) *the incremental number of tons of car-*  
 6           *bon dioxide emitted solely as a result of a quali-*  
 7           *fying thermal sales agreement referred to in sub-*  
 8           *section (a)(10)(B)(ii), provided that in no event*  
 9           *shall the Administrator distribute more than 1*  
 10           *emission allowance for the same ton of emissions.*

11           “(2) *LIMITATION ON ALLOWANCES.—*

12           “(A) *IN GENERAL.—Notwithstanding para-*  
 13           *graph (1), for each vintage year the Adminis-*  
 14           *trator shall distribute under this subsection no*  
 15           *more than 4.3 percent of the total quantity of*  
 16           *emission allowances available for such vintage*  
 17           *year for distribution to the electricity sector*  
 18           *under section 771(a)(1).*

19           “(B) *FUTURE VINTAGE YEAR ALLOW-*  
 20           *ANCES.—*

21           “(i) *IN GENERAL.—To the extent that*  
 22           *any quantity of allowances that would oth-*  
 23           *erwise be distributed pursuant to paragraph*  
 24           *(1) would exceed 4.3 percent in any vintage*  
 25           *year, the Administrator shall distribute fu-*

ture vintage year allowances reserved for long-term contract generators under this section to satisfy any such shortfall in available allowances, subject to projections by the Administrator of required allowance needs for long-term contract generators in future vintage years.

“(ii) *MAINTENANCE OF YEAR.*—Future vintage year allowances distributed pursuant to this subsection shall maintain the future vintage year assigned to those allowances.

“(C) *SHORTFALL.*—If the quantity of emission allowances that would otherwise be distributed pursuant to paragraph (1) for any vintage year would result in a shortfall based on a consideration of available allowances under this subsection over the entire allocation period, as determined by the Administrator, the Administrator shall distribute the emission allowances available for distribution under section 771(a)(1) for such vintage year ratably among long-term contract generators in accordance with paragraph (1).

“(3) *ELIGIBILITY.*—

1           “(A) *FACILITY ELIGIBILITY.*—*The owner or*  
2           *operator of a facility shall cease to be eligible to*  
3           *receive emission allowances under this subsection*  
4           *upon the earliest date on which the facility no*  
5           *longer meets each and every element of the defi-*  
6           *inition of a long-term contract generator under*  
7           *subsection (a)(10).*

8           “(B) *CONTRACT ELIGIBILITY.*—*The owner*  
9           *or operator of a facility shall cease to be eligible*  
10           *to receive emission allowances under this sub-*  
11           *section based on an electricity or thermal sales*  
12           *agreement referred to in subsection (a)(10)(B)*  
13           *upon the earliest date that such agreement—*

14                   “(i) *expires;*

15                   “(ii) *is terminated; or*

16                   “(iii) *is amended in any way that*  
17                   *changes the location of the facility, the price*  
18                   *(whether a fixed price or price formula) for*  
19                   *electricity or thermal energy sold under*  
20                   *such agreement, the quantity of electricity*  
21                   *or thermal energy sold under the agreement,*  
22                   *or the expiration or termination date of the*  
23                   *agreement.*

24           “(4) *DEMONSTRATION OF ELIGIBILITY.*—*To be*  
25           *eligible to receive allowance distributions under this*

1 subsection, the owner or operator of a long-term con-  
2 tract generator shall submit each of the following in  
3 writing to the Administrator within 180 days after  
4 the date of enactment of this title, and not later than  
5 September 30 of each vintage year for which such  
6 generator wishes to receive emission allowances:

7 “(A) A certificate of representation de-  
8 scribed in section 700(15).

9 “(B) An identification of each owner and  
10 each operator of the facility.

11 “(C) An identification of the units at the  
12 facility and the location of the facility.

13 “(D) A written certification by the des-  
14 ignated representative that the facility meets all  
15 the requirements of the definition of a long-term  
16 contract generator.

17 “(E) The expiration date of each qualifying  
18 electricity or thermal sales agreement referred to  
19 in subsection (a)(10)(B).

20 “(F) A copy of each qualifying electricity or  
21 thermal sales agreement referred to in subsection  
22 (a)(10)(B).

23 “(5) NOTIFICATION.—Not later than 30 days  
24 after, in accordance with paragraph (3), a facility or  
25 an agreement ceases to meet the eligibility require-

1        *ments for distribution of emission allowances pursu-*  
 2        *ant to this subsection, the designated representative of*  
 3        *such facility shall notify the Administrator in writing*  
 4        *when, and on what basis, such facility or agreement*  
 5        *ceased to meet such requirements.*

6        “(e) *SMALL LDCs.*—

7                “(1) *DISTRIBUTION.*—*The Administrator shall,*  
 8        *in accordance with this subsection, distribute emis-*  
 9        *sion allowances allocated pursuant to section*  
 10        *771(a)(1)(B) for the following vintage year. Such al-*  
 11        *lowances shall be distributed ratably among small*  
 12        *LDCs based on historic emissions in accordance with*  
 13        *the same measure of such emissions applied to each*  
 14        *such small LDC for the relevant vintage year under*  
 15        *subsection (b)(2) of this section.*

16                “(2) *USES.*—*A small LDC receiving allowances*  
 17        *under this section shall use such allowances exclu-*  
 18        *sively for the following purposes:*

19                        “(A) *Cost-effective programs to achieve elec-*  
 20        *tricity savings, provided that such savings shall*  
 21        *not be transferred or used for compliance with*  
 22        *any renewable electricity standard established*  
 23        *under the Public Utility Regulatory Policies Act*  
 24        *of 1978 (16 U.S.C. 2601 et seq.).*

1           “(B) *Deployment of technologies to generate*  
2           *electricity from renewable energy resources, pro-*  
3           *vided that any Federal renewable electricity*  
4           *credits issued based on generation supported*  
5           *under this section shall be submitted to the Fed-*  
6           *eral Energy Regulatory Commission for vol-*  
7           *untary retirement and shall not be used for com-*  
8           *pliance with the Public Utility Regulatory Poli-*  
9           *cies Act of 1978 (16 U.S.C. 2601 et seq.).*

10           “(C) *Assistance programs to reduce elec-*  
11           *tricity costs for low-income residential rate-*  
12           *payors of such small LDC, provided that such*  
13           *assistance is made available equitably to all resi-*  
14           *dential ratepayers below a certain income level,*  
15           *which shall not be higher than 200 percent of the*  
16           *poverty line (as that term is defined in section*  
17           *673(2) of the Community Services Block Grant*  
18           *Act (42 U.S.C. 9902(2)).*

19           “(D) *Costs of compliance associated with*  
20           *the enactment of this title.*

21           “(3) *REQUIREMENTS.—As part of the regula-*  
22           *tions promulgated under subsection (g), the Adminis-*  
23           *trator shall prescribe—*

24           “(A) *after consultation with the Federal*  
25           *Energy Regulatory Commission, requirements to*

1       *ensure that programs and projects under para-*  
 2       *graph (2)(A) and (B) are consistent with the*  
 3       *standards established by, and effectively supple-*  
 4       *ment electricity savings and generation of elec-*  
 5       *tricity from renewable energy resources achieved*  
 6       *by, the Combined Efficiency and Renewable*  
 7       *Electricity Standard established by law;*

8               *“(B) eligibility criteria and guidelines for*  
 9       *consumer assistance programs for low-income*  
 10       *residential ratepayers under paragraph (2)(C);*  
 11       *and*

12               *“(C) such other requirements as the Admin-*  
 13       *istrator determines appropriate to ensure com-*  
 14       *pliance with the requirements of this subsection.*

15               *“(4) REPORTING.—Reports submitted under sub-*  
 16       *section (b)(7) shall include, in accordance with such*  
 17       *requirements as the Administrator may prescribe—*

18               *“(A) a description of any facilities deployed*  
 19       *under paragraph (2)(A), the quantity of result-*  
 20       *ing electricity generation from renewable energy*  
 21       *resources;*

22               *“(B) an assessment demonstrating the cost-*  
 23       *effectiveness of, and electricity savings achieved*  
 24       *by, programs supported under paragraph (2)(B);*  
 25       *and*



1                   “(C) a description of assistance provided to  
 2                   low-income retail ratepayers under paragraph  
 3                   (2)(C).

4                   “(f) *RURAL ELECTRIC COOPERATIVES, CONSUMER, OR*  
 5                   *PUBLICLY OWNED SMALL LDCs.*—

6                   “(1) *DISTRIBUTION.*—

7                   “(A) *IN GENERAL.*—*The Administrator*  
 8                   *shall, in accordance with this subsection, dis-*  
 9                   *tribute emission allowances allocated pursuant to*  
 10                   *section 771(d)(7) for the following vintage year.*

11                   “(B) *METHOD.*—*Allowances described in*  
 12                   *subparagraph (A) shall be distributed ratably,*  
 13                   *among rural electric cooperatives and consumer-*  
 14                   *owned or publicly owned electricity local dis-*  
 15                   *tribution companies that meet the definition of*  
 16                   *the term ‘small LDC’ based on historic emis-*  
 17                   *sions, in accordance with the same measure of*  
 18                   *those emissions applied to each such rural elec-*  
 19                   *tric cooperative for the relevant vintage year*  
 20                   *under subsection (b)(2).*

21                   “(2) *USES.*—*A small LDC receiving allowances*  
 22                   *under this section shall use the allowances only for—*

23                   “(A) *cost-effective programs to achieve elec-*  
 24                   *tricity savings, on the condition that such sav-*  
 25                   *ings shall not be transferred or used for compli-*

1        *ance with any renewable electricity standard es-*  
 2        *tablished under the Public Utility Regulatory*  
 3        *Policies Act of 1978 (16 U.S.C. 2601 et seq.);*

4                *“(B) deployment of technologies to generate*  
 5        *electricity from renewable energy resources, on*  
 6        *the condition that any Federal renewable elec-*  
 7        *tricity credits issued based on generation sup-*  
 8        *ported under this section shall—*

9                *“(i) be submitted to the Federal En-*  
 10        *ergy Regulatory Commission for voluntary*  
 11        *retirement; and*

12                *“(ii) not be used for compliance with*  
 13        *the Public Utility Regulatory Policies Act*  
 14        *of 1978 (16 U.S.C. 2601 et seq.); and*

15                *“(C) assistance programs to reduce elec-*  
 16        *tricity costs for low-income residential rate-*  
 17        *payers of the small LDC, on the condition that*  
 18        *the assistance is made available equitably to all*  
 19        *residential ratepayers below a certain income*  
 20        *level, which shall not be higher than 200 percent*  
 21        *of the poverty line (as defined in section 673 of*  
 22        *the Community Services Block Grant Act (42*  
 23        *U.S.C. 9902).*

24                *“(g) REGULATIONS.—Not later than 2 years after the*  
 25        *date of enactment of this title, the Administrator, in con-*

1 *sultation with the Federal Energy Regulatory Commission,*  
 2 *shall promulgate regulations to implement the requirements*  
 3 *of this section.*

4 **“SEC. 773. NATURAL GAS CONSUMERS.**

5       “(a) *DEFINITION.*—For purposes of this section, the  
 6 term ‘cost-effective’, with respect to an energy efficiency pro-  
 7 gram, means that the program meets the Total Resource  
 8 Cost Test, which requires that the net present value of eco-  
 9 nomic benefits over the life of the program, including avoid-  
 10 ed supply and delivery costs and deferred or avoided invest-  
 11 ments, is greater than the net present value of the economic  
 12 costs over the life of the program, including program costs  
 13 and incremental costs borne by the energy consumer.

14       “(b) *ALLOCATION.*—Not later than June 30, 2015, and  
 15 each calendar year thereafter through 2028, the Adminis-  
 16 trator shall distribute to natural gas local distribution com-  
 17 panies for the benefit of retail ratepayers the quantity of  
 18 emission allowances allocated for the following vintage year  
 19 pursuant to section 771(a)(2). Such allowances shall be dis-  
 20 tributed among local natural gas distribution companies  
 21 based on the following formula:

22               “(1) *INITIAL FORMULA.*—Except as provided in  
 23 paragraph (2), for each vintage year, the Adminis-  
 24 trator shall distribute emission allowances among  
 25 natural gas local distribution companies on a pro

1        *rata basis based on each such company's annual aver-*  
 2        *age retail natural gas deliveries for 2006 through*  
 3        *2008, unless the owner or operator of the company se-*  
 4        *lects 3 other consecutive years between 1999 and*  
 5        *2008, inclusive, and timely notifies the Administrator*  
 6        *of its selection.*

7            *“(2) UPDATING.—Prior to distributing 2019 vin-*  
 8        *tage emission allowances and at 3-year intervals*  
 9        *thereafter, the Administrator shall update the dis-*  
 10       *tribution formula under this subsection to reflect*  
 11       *changes in each natural gas local distribution com-*  
 12       *pany's service territory since the most recent formula*  
 13       *was established. For each successive 3-year period, the*  
 14       *Administrator shall distribute allowances on a pro*  
 15       *rata basis among natural gas local distribution com-*  
 16       *panies based on the product of—*

17            *“(A) each natural gas local distribution*  
 18        *company's average annual natural gas deliveries*  
 19        *per customer during calendar years 2006*  
 20        *through 2008, or during the 3 alternative con-*  
 21        *secutive years selected by such company under*  
 22        *paragraph (1); and*

23            *“(B) the number of customers of such nat-*  
 24        *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 gas*  
8                 *local distribution company and may not be used to*  
9                 *support natural gas sales or deliveries to entities or*  
10                *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 dis-*  
15                *tributed—*

16                         “(A) *among ratepayer classes on a pro rata*  
17                         *basis based on natural gas deliveries to each*  
18                         *class; and*

19                         “(B) *equitably among individual ratepayers*  
20                         *within each ratepayer class.*

21               “(3) *LIMITATION.*—*A natural gas local distribu-*  
22               *tion company shall not use the value of emission al-*  
23               *lowances distributed under this section to provide to*  
24               *any ratepayer a rebate that is based solely on the*  
25               *quantity of natural gas delivered to such ratepayer.*

1     *To the extent a natural gas local distribution com-*  
2     *pany uses the value of emission allowances distributed*  
3     *under this section to provide rebates, it shall, to the*  
4     *maximum extent practicable, provide such rebates*  
5     *with regard to the fixed portion of ratepayers' bills or*  
6     *as a fixed creditor rebate on natural gas bills.*

7             “(4) *ENERGY EFFICIENCY PROGRAMS.—The*  
8     *value of no less than one-third of the emission allow-*  
9     *ances distributed to natural gas local distribution*  
10    *companies pursuant to this section in any calendar*  
11    *year shall be used for cost-effective energy efficiency*  
12    *programs for natural gas consumers. Such programs*  
13    *must be authorized and overseen by the State regu-*  
14    *latory authority, or by the entity with regulatory au-*  
15    *thority over retail natural gas rates in the case of a*  
16    *natural gas local distribution company that is not*  
17    *regulated by a State regulatory authority.*

18            “(5) *CERTAIN INTRACOMPANY DELIVERIES.—If a*  
19    *natural gas local distribution company makes an*  
20    *intracompany delivery of natural gas to a customer*  
21    *that is not a covered entity, for which such company*  
22    *is required to hold emission allowances under section*  
23    *722, such customer shall, for purposes of this section,*  
24    *be considered to be a retail ratepayer and a member*  
25    *of a ratepayer class to be determined by the relevant*

1     *State regulatory authority (or other entity with au-*  
 2     *thority to regulate or set natural gas rates, in the case*  
 3     *of a company not regulated by a State regulatory au-*  
 4     *thority).*

5             “(6) *GUIDELINES.*—*As part of the regulations*  
 6     *promulgated under subsection (h), the Administrator*  
 7     *shall prescribe specific guidelines for the implementa-*  
 8     *tion of the requirements of this subsection.*

9             “(d) *REGULATORY PROCEEDINGS.*—

10            “(1) *REQUIREMENT.*—*No natural gas local dis-*  
 11     *tribution company shall be eligible to receive emission*  
 12     *allowances under this section unless the State regu-*  
 13     *latory authority with authority over such company,*  
 14     *or the entity with authority to regulate retail rates of*  
 15     *a natural gas local distribution company not regu-*  
 16     *lated by a State regulatory authority, has—*

17            “(A) *promulgated a regulation or completed*  
 18     *a rate proceeding (or the equivalent, in the case*  
 19     *of a ratemaking entity other than a State regu-*  
 20     *latory authority) that provides for the full imple-*  
 21     *mentation of the requirements of subsection (c);*  
 22     *and*

23            “(B) *made available to the Administrator*  
 24     *and the public a report describing, in adequate*

1           *detail, the manner in which the requirements of*  
2           *subsection (c) will be implemented.*

3           “(2) *UPDATING.*—*The Administrator shall re-*  
4           *quire, as a condition of continued receipt of emission*  
5           *allowances under this section, that a new regulation*  
6           *be promulgated or rule proceeding be completed, and*  
7           *a new report be made available to the Administrator*  
8           *and the public, pursuant to paragraph (1), not less*  
9           *frequently than every 5 years.*

10          “(e) *PLANS AND REPORTING.*—

11           “(1) *REGULATIONS.*—*As part of the regulations*  
12           *promulgated under subsection (h), the Administrator*  
13           *shall prescribe requirements governing plans and re-*  
14           *ports to be submitted in accordance with this sub-*  
15           *section.*

16           “(2) *PLANS.*—*Not later than April 30, 2015, and*  
17           *every 5 years thereafter through 2025, each natural*  
18           *gas local distribution company shall submit to the*  
19           *Administrator a plan, approved by the State regu-*  
20           *latory authority or other entity charged with regu-*  
21           *lating the retail rates of such company, describing*  
22           *such company’s plans for the disposition of the value*  
23           *of emission allowances to be received pursuant to this*  
24           *section, in accordance with the requirements of this*  
25           *section.*



1           “(3) *REPORTS.*—Not later than June 30, 2017,  
2           and each calendar year thereafter through 2031, each  
3           natural gas local distribution company shall submit  
4           a report to the Administrator, approved by the rel-  
5           evant State regulatory authority or other entity  
6           charged with regulating the retail natural gas rates  
7           of such company, describing the disposition of the  
8           value of any emission allowances received by such  
9           company in the prior calendar year pursuant to this  
10          subsection, including—

11               “(A) a description of sales, transfer, ex-  
12               change, or use by the company for compliance  
13               with obligations under this title, of any such  
14               emission allowances;

15               “(B) the monetary value received by the  
16               company, whether in money or in some other  
17               form, from the sale, transfer, or exchange of  
18               emission allowances received by the company  
19               under this section;

20               “(C) the manner in which the company’s  
21               disposition of emission allowances received under  
22               this subsection complies with the requirements of  
23               this section, including each of the requirements  
24               of subsection (c);

1           “(D) the cost-effectiveness of, and energy  
2           savings achieved by, energy efficiency programs  
3           supported through such emission allowances; and

4           “(E) such other information as the Admin-  
5           istrator may require pursuant to paragraph (1).

6           “(4) PUBLICATION.—The Administrator shall  
7           make available to the public all plans and reports  
8           submitted by natural gas local distribution companies  
9           under this subsection, including by publishing such  
10          plans and reports on the Internet.

11          “(f) AUDITING.—

12           “(1) ADMINISTRATOR AUDIT REPORT.—Each  
13           year, the Administrator shall audit a significant rep-  
14           resentative sample of natural gas local distribution  
15           companies to ensure that emission allowances distrib-  
16           uted under this section have been used exclusively for  
17           the benefit of retail ratepayers and that such compa-  
18           nies are complying with the requirements of this sec-  
19           tion. In selecting companies for audit, the Adminis-  
20           trator shall take into account any credible evidence of  
21           noncompliance with such requirements. The Adminis-  
22           trator shall make available to the public a report de-  
23           scribing the results of each such audit, including by  
24           publishing such report on the Internet.

1           “(2) *GAO AUDIT REPORT.*—Not later April 30,  
2           2015 and every 3 years thereafter through April 30,  
3           2026, the Comptroller General of the United States,  
4           incorporating results from the Administrators’ audit  
5           report and other relevant information including dis-  
6           tribution company reports, shall conduct an in-depth  
7           evaluation and make available to the public a report  
8           on the investments made pursuant to subsection (c).  
9           Said report shall be made available to the State regu-  
10          latory authority, or the entity with authority to regu-  
11          late or set retail natural gas rates in the case of a  
12          natural gas distribution company that is not regu-  
13          lated by a State regulatory authority, and shall in-  
14          clude a description how the distribution companies in  
15          the audit meet or fail to meet the requirement of sub-  
16          section (c), including for investments made in cost-ef-  
17          fective end-use energy efficiency programs, the lifetime  
18          and annual energy saving benefits, and capacity ben-  
19          efits of said programs.

20           “(3) *ADMINISTRATOR COST CONTAINMENT RE-*  
21          *PORT.*—Not later April 30, 2015, and every 3 years  
22          thereafter through April 30, 2026, the Administrator  
23          shall transmit a report to Congress containing an  
24          evaluation of the disposition of the value of emission  
25          allowances received pursuant to this subsection and

1        *recommendations of ways to more effectively direct*  
 2        *the value of allowances to reduce costs for consumers,*  
 3        *contain the overall costs of the greenhouse gas emis-*  
 4        *sions reduction program, and meet the pollution re-*  
 5        *duction targets of the Act. The Administrator shall*  
 6        *make available to the public such report, including by*  
 7        *publishing such report on the Internet.*

8        *“(g) ENFORCEMENT.—A violation of any requirement*  
 9        *of this section, irrespective of approval by a State regu-*  
 10       *latory authority, shall be a violation of this Act. Each emis-*  
 11       *sion allowance the value of which is used in violation of*  
 12       *the requirements of this section shall be a separate violation.*

13       *“(h) REGULATIONS.—Not later than January 1, 2014,*  
 14       *the Administrator, in consultation with the Federal Energy*  
 15       *Regulatory Commission, shall promulgate regulations to*  
 16       *implement the requirements of this section.*

17       **“SEC. 774. HOME HEATING OIL AND PROPANE CONSUMERS.**

18       *“(a) DEFINITIONS.—For purposes of this section:*

19                *“(1) CARBON CONTENT.—The term ‘carbon con-*  
 20        *tent’ means the amount of carbon dioxide that would*  
 21        *be emitted as a result of the combustion of a fuel.*

22                *“(2) COST-EFFECTIVE.—The term ‘cost-effective’*  
 23        *has the meaning given that term in section 773(a).*

24        *“(b) ALLOCATION.—The Administrator shall distribute*  
 25        *among the States, in accordance with this section, the quan-*

1 *tity of emission allowances allocated pursuant to section*  
 2 *771(a)(3). The Administrator shall distribute a percentage*  
 3 *of such allowances determined by the Administrator, after*  
 4 *consultation with the Secretary of the Interior, pursuant*  
 5 *to subsection (f).*

6 “(c) *DISTRIBUTION AMONG STATES.—The Adminis-*  
 7 *trator shall distribute emission allowances among the States*  
 8 *under this section each year on a pro rata basis based on*  
 9 *the ratio of—*

10 “(1) *the carbon content of home heating oil and*  
 11 *propane sold to consumers within each State in the*  
 12 *preceding year for residential or commercial uses; to*

13 “(2) *the carbon content of home heating oil and*  
 14 *propane sold to consumers within the United States*  
 15 *in the preceding year for residential or commercial*  
 16 *uses.*

17 “(d) *USE OF ALLOWANCES.—*

18 “(1) *IN GENERAL.—States shall use emission al-*  
 19 *lowances distributed under this section exclusively for*  
 20 *the benefit of consumers of home heating oil or pro-*  
 21 *pane for residential or commercial purposes. Such*  
 22 *proceeds shall be used exclusively for—*

23 “(A) *cost-effective energy efficiency pro-*  
 24 *grams for consumers that use home heating oil or*

1        *propane for residential or commercial purposes;*  
2        *or*

3                *“(B) rebates or other direct financial assist-*  
4        *ance programs for consumers of home heating oil*  
5        *or propane used for residential or commercial*  
6        *purposes.*

7                *“(2) ADMINISTRATION AND DELIVERY MECHA-*  
8        *NISMS.—In administering programs supported by*  
9        *this section, States shall—*

10                *“(A) use no less than 50 percent of the value*  
11        *of emission allowances received under this sec-*  
12        *tion for cost-effective energy efficiency programs*  
13        *to reduce consumers’ overall fuel costs;*

14                *“(B) to the extent practicable, deliver con-*  
15        *sumer support under this section through exist-*  
16        *ing energy efficiency and consumer energy as-*  
17        *sistance programs or delivery mechanisms, in-*  
18        *cluding, where appropriate, programs or mecha-*  
19        *nisms administered by parties other than the*  
20        *State; and*

21                *“(C) seek to coordinate the administration*  
22        *and delivery of energy efficiency and consumer*  
23        *energy assistance programs supported under this*  
24        *section, with one another and with existing pro-*  
25        *grams for various fuel types, so as to deliver*

1           *comprehensive, fuel-blind, coordinated programs*  
2           *to consumers.*

3           “(e) *REPORTING.—Each State receiving emission al-*  
4 *lowances under this section shall submit to the Adminis-*  
5 *trator, within 12 months of each receipt of such allowances,*  
6 *a report, in accordance with such requirements as the Ad-*  
7 *ministrator may prescribe, that—*

8           “(1) *describes the State’s use of emission allow-*  
9 *ances distributed under this section, including a de-*  
10 *scription of the energy efficiency and consumer assist-*  
11 *ance programs supported with such allowances;*

12           “(2) *demonstrates the cost-effectiveness of, and*  
13 *the energy savings achieved by, energy efficiency pro-*  
14 *grams supported under this section; and*

15           “(3) *includes a report prepared by an inde-*  
16 *pendent third party, in accordance with such regula-*  
17 *tions as the Administrator may promulgate, evalu-*  
18 *ating the performance of the energy efficiency and*  
19 *consumer assistance programs supported under this*  
20 *section.*

21           “(f) *DISTRIBUTION TO INDIAN TRIBES.—Not later*  
22 *than 18 months after the date of enactment of this title,*  
23 *the Administrator shall, in consultation with the Secretary*  
24 *of the Interior and Indian tribes, promulgate regulations*

1 *establishing a program to distribute the emission allow-*  
 2 *ances made available to Indian tribes under this section.*

3 “(g) *ENFORCEMENT.*—

4 “(1) *IN GENERAL.*—*If the Administrator deter-*  
 5 *mines that a State or Indian tribe is not in compli-*  
 6 *ance with this section, the Administrator may with-*  
 7 *hold a portion of the emission allowances, the quan-*  
 8 *tity of which is equal to up to twice the quantity of*  
 9 *the allowances that the State or Indian tribe failed to*  
 10 *use in accordance with the requirements of this sec-*  
 11 *tion, that such State or Indian tribe would otherwise*  
 12 *be eligible to receive under this section in later years.*

13 “(2) *WITHHELD ALLOWANCES.*—

14 “(A) *STATES.*—*Allowances withheld from*  
 15 *States pursuant to this subsection shall be dis-*  
 16 *tributed among the remaining States on a pro*  
 17 *rata basis in accordance with the formula in*  
 18 *subsection (c).*

19 “(B) *INDIAN TRIBES.*—*Allowances withheld*  
 20 *from Indian tribes pursuant to this subsection*  
 21 *shall be distributed among the remaining Indian*  
 22 *tribes on a pro rata basis in accordance with the*  
 23 *program established under subsection (f).*



1 **“SEC. 775. DOMESTIC FUEL PRODUCTION.**

2       “(a) *PURPOSE.*—*The purpose of this section is to pro-*  
 3 *vide emission allowance rebates to petroleum refineries in*  
 4 *the United States in a manner that promotes energy effi-*  
 5 *ciency and a reduction in greenhouse gas emissions at such*  
 6 *facilities.*

7       “(b) *DEFINITIONS.*—*In this section:*

8               “(1) *EMISSIONS.*—*The term ‘emissions’ includes*  
 9 *direct emissions from fuel combustion, process emis-*  
 10 *sions, and indirect emissions from the generation of*  
 11 *electricity, steam, and hydrogen used to produce the*  
 12 *output of a petroleum refinery or the petroleum refin-*  
 13 *ery sector.*

14              “(2) *PETROLEUM REFINERY.*—*The term ‘petro-*  
 15 *leum refinery’ means a facility classified under code*  
 16 *324110 of the North American Industrial Classifica-*  
 17 *tion System of 2002.*

18              “(3) *SMALL BUSINESS REFINER.*—*The term*  
 19 *‘small business refiner’ means a refiner that meets the*  
 20 *applicable Federal refinery capacity and employee*  
 21 *limitations criteria described in section 45H(c)(1) of*  
 22 *the Internal Revenue Code of 1986 (as in effect on the*  
 23 *date of enactment of this section and without regard*  
 24 *to section 45H(d)). Eligibility of a small business re-*  
 25 *finer under this paragraph shall not be recalculated*  
 26 *or disallowed on account of (i) its merger with an-*

1        *other small business refiner or refiners after December*  
 2        *31, 2002 or (ii) its acquisition of another small busi-*  
 3        *ness refiner (or refinery of such refiner) after Decem-*  
 4        *ber 31, 2002.*

5        “(c) *DISTRIBUTION OF ALLOWANCES.*—*The Adminis-*  
 6        *trator shall distribute allowances pursuant to this section*  
 7        *to owners and operators of petroleum refineries, including*  
 8        *small business refiners, in the United States.*

9        “(d) *DISTRIBUTION SCHEDULE.*—*The Administrator*  
 10        *shall distribute emission allowances pursuant to the regula-*  
 11        *tions issued under subsection (e) for each vintage year no*  
 12        *later than October 31 of the preceding calendar year.*

13        “(e) *REGULATIONS.*—

14                “(1) *IN GENERAL.*—*Not later than 3 years after*  
 15        *the date of enactment of this title, the Administrator,*  
 16        *in consultation with the Administrator of the Energy*  
 17        *Information Administration, shall promulgate regula-*  
 18        *tions in accordance with the purpose of this section*  
 19        *that establish separate formulas for distribution of*  
 20        *emission allowances provided to—*

21                        “(A) *petroleum refineries pursuant to sec-*  
 22                        *tion 771(a)(4)(A); and*

23                        “(B) *small business refiners pursuant to*  
 24                        *section 771(a)(4)(B).*

1           “(2) *CONSIDERATIONS.*—*In establishing the for-*  
2           *mulas under paragraph (1), the Administrator shall*  
3           *consider—*

4                   “(A) *the relative complexity of refinery*  
5                   *processes and appropriate mechanisms to take*  
6                   *energy efficiency and greenhouse gas reductions*  
7                   *into account;*

8                   “(B) *direct emissions from fuel combustion;*

9                   “(C) *process emissions;*

10                   “(D) *indirect emissions for the generation of*  
11                   *electricity, steam, and hydrogen used to produce*  
12                   *the output of a petroleum refinery; and*

13                   “(E) *emissions from the combustion of*  
14                   *products produced at a petroleum refinery or by*  
15                   *the petroleum refinery sector.*

16           “(3) *EXCESS DISTRIBUTION.*—*If the electricity*  
17           *provider for a petroleum refinery received a free allo-*  
18           *cation of emission allowances pursuant to section*  
19           *771(a)(1), the Administrator shall take the free allo-*  
20           *cation into account when establishing the applicable*  
21           *formula under this subsection to avoid rebates to a*  
22           *petroleum refinery for costs that the Administrator*  
23           *determines were not incurred by the petroleum refin-*  
24           *ery because the allowances were—*

1                   “(A) *freely allocated to the electricity pro-*  
 2                   *vider of the petroleum refinery; and*

3                   “(B) *used for the benefit of the petroleum*  
 4                   *refinery.*

5   **“SEC. 776. CONSUMER PROTECTION.**

6           “(a) *CONSUMER REBATES.—*

7                   “(1) *ESTABLISHMENT OF FUND.—There is estab-*  
 8                   *lished in the Treasury a separate account, to be*  
 9                   *known as the ‘Consumer Rebate Fund’).*

10                  “(2) *AVAILABILITY OF AMOUNTS.—All amounts*  
 11                  *deposited in the Consumer Rebate Fund shall be*  
 12                  *available without further appropriation or fiscal year*  
 13                  *limitation.*

14                  “(3) *DISTRIBUTION OF AMOUNTS.—Beginning in*  
 15                  *2026, for each year after deposits are made in the*  
 16                  *Consumer Rebate Fund pursuant to section*  
 17                  *771(b)(2)(A), the President shall use the funds in ac-*  
 18                  *cordance with Federal statutory authority to provide*  
 19                  *relief to consumers and others affected by the enact-*  
 20                  *ment of the Clean Energy Jobs and American Power*  
 21                  *Act (and amendments made by that Act).*

22           “(b) *ENERGY REFUND PROGRAM.—*

23                   “(1) *ESTABLISHMENT OF FUND.—There is estab-*  
 24                   *lished in the Treasury a separate account, to be*  
 25                   *known as the ‘Energy Refund Account’).*

1           “(2) *AVAILABILITY OF AMOUNTS.*—All amounts  
2           deposited in the Energy Refund Account shall be  
3           available without further appropriation or fiscal year  
4           limitation.

5           “(3) *DISTRIBUTION OF AMOUNTS.*—For each  
6           year after deposits are made to the Energy Refund  
7           Account pursuant to section 771(b)(2)(B), the Presi-  
8           dent shall use the funds in accordance with Federal  
9           statutory authority to offset energy cost impacts on  
10          low- and moderate-income households.

11   **“SEC. 777. EXCHANGE FOR STATE-ISSUED ALLOWANCES.**

12          “(a) *IN GENERAL.*—Not later than 1 year after the  
13          date of enactment of this title, the Administrator shall issue  
14          regulations allowing any person in the United States to ex-  
15          change greenhouse gas emission allowances issued before the  
16          later of December 31, 2011, or the date that is 9 months  
17          after the first auction under section 778, by the State of  
18          California or for the Regional Greenhouse Gas Initiative,  
19          or the Western Climate Initiative (in this section referred  
20          to as ‘State allowances’) for emission allowances established  
21          by the Administrator under section 721(a).

22          “(b) *REGULATIONS.*—Regulations issued under sub-  
23          section (a) shall—

24                  “(1) provide that a person exchanging State al-  
25          lowances under this section receive emission allow-

1        *ances established under section 721(a) in the amount*  
 2        *that is sufficient to compensate for the cost of obtain-*  
 3        *ing and holding such State allowances;*

4            *“(2) establish a deadline by which persons must*  
 5        *exchange the State allowances;*

6            *“(3) provide that the Federal emission allow-*  
 7        *ances disbursed pursuant to this section shall be de-*  
 8        *ducted from the allowances to be auctioned pursuant*  
 9        *to section 771(b); and*

10           *“(4) require that, once exchanged, the credit or*  
 11        *other instrument be retired for purposes of use under*  
 12        *the program by or for which it was originally issued.*

13        *“(c) COST OF OBTAINING STATE ALLOWANCE.—For*  
 14        *purposes of this section, the cost of obtaining a State allow-*  
 15        *ance shall be the average auction price, for emission allow-*  
 16        *ances issued in the year in which the State allowance was*  
 17        *issued, under the program under which the State allowance*  
 18        *was issued.*

19        **“SEC. 778. AUCTION PROCEDURES.**

20           *“(a) IN GENERAL.—To the extent that auctions of*  
 21        *emission allowances by the Administrator are authorized*  
 22        *by this part, such auctions shall be carried out pursuant*  
 23        *to this section and the regulations established hereunder.*

24           *“(b) INITIAL REGULATIONS.—Not later than 12*  
 25        *months after the date of enactment of this title, the Admin-*

1 *istrator, in consultation with other agencies, as appro-*  
2 *priate, shall promulgate regulations governing the auction*  
3 *of allowances under this section. Such regulations shall in-*  
4 *clude the following requirements:*

5           “(1) *FREQUENCY; FIRST AUCTION.—Auctions*  
6 *shall be held four times per year at regular intervals,*  
7 *with the first auction to be held no later than March*  
8 *31, 2011.*

9           “(2) *AUCTION SCHEDULE; CURRENT AND FU-*  
10 *TURE VINTAGES.—The Administrator shall, at each*  
11 *quarterly auction under this section, offer for sale*  
12 *both a portion of the allowances with the same vin-*  
13 *tage year as the year in which the auction is being*  
14 *conducted and a portion of the allowances with vin-*  
15 *tage years from future years. The preceding sentence*  
16 *shall not apply to auctions held before 2012, during*  
17 *which period, by necessity, the Administrator shall*  
18 *auction only allowances with a vintage year that is*  
19 *later than the year in which the auction is held. Be-*  
20 *ginning with the first auction and at each quarterly*  
21 *auction held thereafter, the Administrator may offer*  
22 *for sale allowances with vintage years of up to 4*  
23 *years after the year in which the auction is being con-*  
24 *ducted.*

1           “(3) *AUCTION FORMAT.*—Auctions shall follow a  
2           single-round, sealed-bid, uniform price format.

3           “(4) *PARTICIPATION; FINANCIAL ASSURANCE.*—  
4           Auctions shall be open to any person, except that the  
5           Administrator may establish financial assurance re-  
6           quirements to ensure that auction participants can  
7           and will perform on their bids.

8           “(5) *DISCLOSURE OF BENEFICIAL OWNERSHIP.*—  
9           Each bidder in the auction shall be required to dis-  
10          close the person or entity sponsoring or benefitting  
11          from the bidder’s participation in the auction if such  
12          person or entity is, in whole or in part, other than  
13          the bidder.

14          “(6) *PURCHASE LIMITS.*—No person may, di-  
15          rectly or in concert with another participant, pur-  
16          chase more than 5 percent of the allowances offered  
17          for sale at any quarterly auction.

18          “(7) *PUBLICATION OF INFORMATION.*—After the  
19          auction, the Administrator shall, in a timely fashion,  
20          publish the identities of winning bidders, the quantity  
21          of allowances obtained by each winning bidder, and  
22          the auction clearing price.

23          “(8) *OTHER REQUIREMENTS.*—The Adminis-  
24          trator may include in the regulations such other re-  
25          quirements or provisions as the Administrator, in



1       *consultation with other agencies, as appropriate, con-*  
2       *siders appropriate to promote effective, efficient,*  
3       *transparent, and fair administration of auctions*  
4       *under this section.*

5       “(c) *REVISION OF REGULATIONS.—The Administrator*  
6       *may, in consultation with other agencies, as appropriate,*  
7       *at any time, revise the initial regulations promulgated*  
8       *under subsection (b) by promulgating new regulations.*  
9       *Such revised regulations need not meet the requirements*  
10       *identified in subsection (b) if the Administrator determines*  
11       *that an alternative auction design would be more effective,*  
12       *taking into account factors including costs of administra-*  
13       *tion, transparency, fairness, and risks of collusion or ma-*  
14       *nipulation. In determining whether and how to revise the*  
15       *initial regulations under this subsection, the Administrator*  
16       *shall not consider maximization of revenues to the Federal*  
17       *Government.*

18       “(d) *RESERVE AUCTION PRICE.—The minimum re-*  
19       *serve auction price shall be \$10 (in constant 2005 dollars)*  
20       *for auctions occurring in 2012. The minimum reserve price*  
21       *for auctions occurring in years after 2012 shall be the min-*  
22       *imum reserve auction price for the previous year increased*  
23       *by 5 percent plus the rate of inflation (as measured by the*  
24       *Consumer Price Index for all urban consumers).*

1       “(e) *DELEGATION OR CONTRACT.*—Pursuant to regula-  
 2       tions under this section, the Administrator may by delega-  
 3       tion or contract provide for the conduct of auctions under  
 4       the Administrator’s supervision by other departments or  
 5       agencies of the Federal Government or by nongovernmental  
 6       agencies, groups, or organizations.

7       “(f) *SMALL BUSINESS REFINER RESERVE.*—The Ad-  
 8       ministrator shall, in accordance with this subsection, issue  
 9       regulations setting aside a specified number of allowances,  
 10      as determined by the Administrator, that small business re-  
 11      finers may purchase at the average auction price and may  
 12      use to demonstrate compliance pursuant to section 722.  
 13      These regulations shall provide the following:

14               “(1) *AMOUNT.*—The Administrator shall place in  
 15      the small business refiner reserve account allowances  
 16      that are to be sold at auction pursuant to the alloca-  
 17      tions under section 771 in an amount equal to—

18                       “(A) for each of vintage years 2012 and  
 19                       2013, 6.2 percent of the emission allowances es-  
 20                       tablished under section 721(a);

21                       “(B) for each of vintage years 2014 and  
 22                       2015, 5.4 percent of the emission allowances es-  
 23                       tablished under section 721(a); and

1           “(C) for each of vintage years 2016 through  
2           2024, 4.9 percent of the emission allowances es-  
3           tablished under section 721(a).

4           “(2) *ALLOWED PURCHASES.*—From January 1  
5           of the calendar year that matches the vintage year for  
6           which allowances have been placed in the reserve,  
7           through January 14 of the following year, small busi-  
8           ness refiners (as defined in section 775(b)) may pur-  
9           chase allowances from this reserve at the price deter-  
10          mined pursuant to paragraph (3).

11          “(3) *PRICE.*—The price for allowances purchased  
12          from this reserve shall be the average auction price for  
13          allowances of the same vintage year purchased at auc-  
14          tions conducted pursuant to this section during the 12  
15          months preceding the purchase of the allowances.

16          “(4) *USE OF ALLOWANCES.*—Allowances pur-  
17          chased from this reserve shall only be used by the pur-  
18          chaser to demonstrate compliance pursuant to section  
19          722 for attributable greenhouse gas emissions in the  
20          calendar year that matches the vintage year of the  
21          purchased allowance. Allowances purchased from this  
22          reserve may not be banked, traded or borrowed.

23          “(5) *LIMITATIONS ON PURCHASE AMOUNT.*—The  
24          Administrator, by regulation adopted after public no-  
25          tice and an opportunity for comment, shall establish

1        *procedures to distribute the ability to purchase allow-*  
2        *ances from the reserve fairly among all small business*  
3        *refiners interested in purchasing allowances from this*  
4        *reserve so as to address the potential that requests to*  
5        *purchase allowances exceed the number of allowances*  
6        *available in the reserve. This regulation may place*  
7        *limits on the number of allowances a small business*  
8        *refiner may purchase from the reserve.*

9                *“(6) UNSOLD ALLOWANCES.—Vintage year al-*  
10        *lowances not sold from the reserve on or before Janu-*  
11        *ary 15 of the calendar year following the vintage year*  
12        *shall be sold at an auction conducted pursuant to this*  
13        *section no later than March 31 of the calendar year*  
14        *following the vintage year. If significantly more al-*  
15        *lowances are being placed in the reserve than are*  
16        *being purchased from the reserve several years in a*  
17        *row, the Administrator may adjust either the percent*  
18        *of allowances placed in the reserve or the date by*  
19        *which allowances may be purchased from the reserve.*

20        **“SEC. 779. AUCTIONING ALLOWANCES FOR OTHER ENTI-**  
21                **TIES.**

22                *“(a) CONSIGNMENT.—Any entity holding emission al-*  
23        *lowances or compensatory allowances may request that the*  
24        *Administrator auction, pursuant to section 778, the allow-*  
25        *ances on consignment.*

1       “(b) *PRICING.*—When the Administrator acts under  
2 this section as the agent of an entity in possession of emis-  
3 sion allowances, the Administrator is not obligated to ob-  
4 tain the highest price possible for the emission allowances,  
5 and instead shall auction consignment allowances in the  
6 same manner and pursuant to the same rules as auctions  
7 of other allowances under section 778. The Administrator  
8 may permit the entity offering the allowance for sale to con-  
9 dition the sale of its allowances pursuant to this section  
10 on a minimum reserve price that is different than the re-  
11 serve auction price set pursuant to section 778(d).

12       “(c) *PROCEEDS.*—For emission allowances and com-  
13 pensatory allowances auctioned pursuant to this section,  
14 notwithstanding section 3302 of title 31, United States  
15 Code, or any other provision of law, within 90 days of re-  
16 ceipt, the United States shall transfer the proceeds from the  
17 auction to the entity which held the allowances auctioned.  
18 No funds transferred from a purchaser to a seller of emis-  
19 sion allowances or compensatory allowances under this sub-  
20 section shall be held by any officer or employee of the United  
21 States or treated for any purpose as public monies.

22       “(d) *REGULATIONS.*—The Administrator shall issue  
23 regulations within 24 months after the date of enactment  
24 of this title to implement this section.

1 **“SEC. 780. COMMERCIAL DEPLOYMENT OF CARBON CAP-**  
 2 **TURE AND PERMANENT SEQUESTRATION**  
 3 **TECHNOLOGIES.**

4 “(a) *DEFINITIONS.—In this section:*

5 “(1) *CARBON CAPTURE AND PERMANENT SE-*  
 6 *QUESTRATION.—The term ‘carbon capture and per-*  
 7 *manent sequestration’ shall—*

8 “(A) *have such meaning as the Adminis-*  
 9 *trator shall determine by regulation; and*

10 “(B) *include—*

11 “(i) *permanent geological sequestra-*  
 12 *tion; and*

13 “(ii) *conversion of captured carbon di-*  
 14 *oxide to a stable form that will safely and*  
 15 *permanently sequester the carbon dioxide.*

16 “(2) *ENHANCED HYDROCARBON RECOVERY.—*

17 “(A) *IN GENERAL.—The term ‘enhanced hy-*  
 18 *drocarbon recovery’ means a process by which*  
 19 *oil, methane, or other natural gases are recovered*  
 20 *by the injection of carbon dioxide into a geologic*  
 21 *formation.*

22 “(B) *EXCLUSION.—The term ‘enhanced hy-*  
 23 *drocarbon recovery’ does not include the in situ*  
 24 *generation of a new hydrocarbon.*

1           “(3)    *QUALIFYING    ELECTRIC    GENERATING*  
 2           *UNIT.—The term ‘qualifying electric generating unit’*  
 3           *means an electric utility unit—*

4                   “(A) *that derives at least 50 percent of the*  
 5                   *annual fuel input of the unit from—*

6                           “(i) *coal or waste coal;*

7                           “(ii) *petroleum coke; or*

8                           “(iii) *any combination of those 2 fuels;*

9                           *and*

10                   “(B)(i) *that has a nameplate capacity of*  
 11                   *200 megawatts or more; or*

12                           “(ii) *in the case of retrofit applications, the*  
 13                   *carbon capture and permanent sequestration*  
 14                   *technology of which is applied to the flue gas or*  
 15                   *fuel gas stream from at least 200 megawatts of*  
 16                   *the total nameplate generating capacity of the*  
 17                   *unit.*

18           “(4)    *QUALIFYING    INDUSTRIAL    SOURCE.—The*  
 19           *term ‘qualifying industrial source’ means a source*  
 20           *that—*

21                   “(A) *is not a qualifying electric generating*  
 22                   *unit;*

23                   “(B) *absent carbon capture and permanent*  
 24                   *sequestration, would emit greater than 50,000*  
 25                   *tons per year of carbon dioxide; and*

1           “(C) *does not produce a liquid transpor-*  
 2           *tation fuel from a solid fossil-based feedstock.*

3           “(5) *TREATED GENERATING CAPACITY.*—

4           “(A) *IN GENERAL.*—*The term ‘treated gen-*  
 5           *erating capacity’ means the portion of the total*  
 6           *generating capacity of an electric generating*  
 7           *unit (or industrial source, measured by such*  
 8           *method as the Administrator may designate to be*  
 9           *equivalent to the calculation under subparagraph*  
 10           *(B)) for which the flue gas or fuel gas is treated*  
 11           *by the carbon capture and permanent sequestra-*  
 12           *tion technology.*

13           “(B) *CALCULATION.*—*In determining the*  
 14           *treated portion of flue gas or fuel gas of an elec-*  
 15           *tric generating unit under subparagraph (A), the*  
 16           *Administrator shall multiply the nameplate ca-*  
 17           *capacity of the unit by the ratio that—*

18           “(i) *the mass of flue gas or fuel gas*  
 19           *that is treated by the carbon capture and*  
 20           *permanent sequestration technology; bears*  
 21           *to*

22           “(ii) *the total mass of the flue gas or*  
 23           *fuel gas that is produced when the unit is*  
 24           *operating at maximum capacity.*



1       “(b) *REGULATIONS*.—Not later than 2 years after the  
 2   date of enactment of this title, the Administrator shall pro-  
 3   mulgate regulations providing for the distribution of emis-  
 4   sion allowances allocated under section 771(a)(6), pursuant  
 5   to the requirements of this section, to support the commer-  
 6   cial deployment of carbon capture and permanent seques-  
 7   tration technologies in electric power generation and indus-  
 8   trial operations.

9       “(c) *ELIGIBILITY CRITERIA AND METHOD OF DIS-*  
 10   *TRIBUTION*.—

11           “(1) *ELIGIBILITY*.—For an owner or operator of  
 12   a project to be eligible to receive emission allowances  
 13   under this section, the project shall—

14               “(A) implement carbon capture and perma-  
 15           nent sequestration technology—

16                   “(i) at a qualifying electric generating  
 17           unit that, upon implementation of the car-  
 18           bon capture and permanent sequestration  
 19           technology, will achieve an emission limita-  
 20           tion that is at least a 50-percent reduction  
 21           in emissions of the carbon dioxide produced  
 22           by—

23                       “(I) the unit, measured on an an-  
 24           nual basis, as determined by the Ad-  
 25           ministrator; or

1                   “(II) in the case of retrofit appli-  
2                   cations described in subsection  
3                   (a)(2)(B)(ii), the treated portion of flue  
4                   gas from the unit, measured on an an-  
5                   nual basis, as determined by the Ad-  
6                   ministrator; or

7                   “(ii) at a qualifying industrial source  
8                   that, upon implementation, will achieve an  
9                   emission limitation that is at least a 50-  
10                  percent reduction in emissions of the carbon  
11                  dioxide produced by the emission point,  
12                  measured on an annual basis, as deter-  
13                  mined by the Administrator;

14                  “(B)(i) geologically sequester carbon dioxide  
15                  at a site that meets all applicable permitting  
16                  and certification requirements for permanent ge-  
17                  ological sequestration; or

18                  “(ii) pursuant to such requirements as the  
19                  Administrator may prescribe by regulation, con-  
20                  vert captured carbon dioxide to a stable form  
21                  that will safely and permanently sequester the  
22                  carbon dioxide;

23                  “(C) meet all other applicable State, tribal,  
24                  and Federal permitting requirements; and

25                  “(D) be located in the United States.

1 “(2) *METHOD OF DISTRIBUTION.*—

2 “(A) *PERIOD.*—*The Administrator shall*  
 3 *distribute emission allowances allocated under*  
 4 *section 771(a)(6) to eligible projects for each of*  
 5 *the first 10 calendar years for which each eligible*  
 6 *project is in commercial operation.*

7 “(B) *BONUS ALLOWANCE FORMULA FOR*  
 8 *ELECTRIC GENERATING UNITS.*—

9 “(i) *PHASE I DISTRIBUTION.*—*For*  
 10 *each project that is certified under sub-*  
 11 *section (h), the quantity of emission allow-*  
 12 *ances that the Administrator shall dis-*  
 13 *tribute for a calendar year to the owner or*  
 14 *operator of the eligible project shall be equal*  
 15 *to the quotient obtained by dividing—*

16 “(I) *the product obtained by mul-*  
 17 *tiplying—*

18 “(aa) *the number of metric*  
 19 *tons of carbon dioxide emissions*  
 20 *avoided through carbon capture*  
 21 *and permanent sequestration of*  
 22 *emissions by the project for a par-*  
 23 *ticular year, as determined pursu-*  
 24 *ant to such methodology as the*

1           Administrator shall prescribe by  
2           regulation; and

3                   “(bb) a bonus allowance  
4           value that is assigned to the  
5           project under subsection (d)(2); by  
6                   “(II) the average fair market  
7           value of an emission allowance during  
8           the calendar year preceding the earlier  
9           of—

10                   “(aa) the year during which  
11           the project captured and seques-  
12           tered the carbon dioxide emis-  
13           sions; or

14                   “(bb) the year in which the  
15           project receives an advanced dis-  
16           tribution of emission allowances  
17           under subsection (h)(3)(B).

18                   “(ii) *PHASE II DISTRIBUTION*.—For  
19           each project that qualifies under subsection  
20           (e), the quantity of emission allowances that  
21           the Administrator shall distribute for a cal-  
22           endar year to the owner or operator of the  
23           eligible project shall be determined  
24           through—

1                   “(I) reverse auction, as prescribed  
 2                   by regulation under subsection (e)(3);  
 3                   or

4                   “(II) if the Administrator decides  
 5                   not to distribute allowances through a  
 6                   reverse auction, an alternate distribu-  
 7                   tion method established by regulation  
 8                   under subsection (e)(4).

9                   “(C)     *FORMULA     FOR     INDUSTRIAL*  
 10                   *SOURCES.—For each project that qualifies under*  
 11                   *subsection (g), the quantity of emission allow-*  
 12                   *ances that the Administrator shall distribute for*  
 13                   *a calendar year to the owner or operator of the*  
 14                   *eligible project shall be determined in accordance*  
 15                   *with subsection (g)(2).*

16                   “(D)   *CONSISTENCY.—The Administrator*  
 17                   *shall develop a method of distribution for each*  
 18                   *category of eligible projects under this paragraph*  
 19                   *in a manner that is consistent with the certifi-*  
 20                   *cation and distribution requirements under sub-*  
 21                   *section (h).*

22                   “(d) *PHASE I DISTRIBUTION TO ELECTRIC GENER-*  
 23                   *ATING UNITS.—*

24                   “(1) *APPLICABILITY.—*

1           “(A) *IN GENERAL.*—Subject to subpara-  
 2           graph (B), this subsection shall apply to projects  
 3           that are undertaken at qualifying electric gener-  
 4           ating units that the Administrator determines to  
 5           be eligible to receive emission allowances under  
 6           this section.

7           “(B) *CAPACITY.*—The total cumulative gen-  
 8           erating capacity of the projects described in sub-  
 9           paragraph (A) shall be equal to approximately  
 10          20 gigawatts of the treated generating capacity.

11          “(2) *BONUS ALLOWANCE VALUES.*—

12           “(A) *FIRST TRANCHE.*—

13           “(i) *IN GENERAL.*—The first tranche  
 14           shall include the first 10 gigawatts of treat-  
 15           ed generating capacity undertaken at quali-  
 16           fying electric generating units that receive  
 17           emission allowances under this section.

18           “(ii) *CERTAIN UNITS.*—For an eligible  
 19           project achieving carbon capture and per-  
 20           manent sequestration of 90 percent or more  
 21           of the carbon dioxide that otherwise would  
 22           be emitted by the unit, the bonus allowance  
 23           value shall be \$96 per ton of carbon dioxide  
 24           emissions avoided through the use of carbon  
 25           capture and permanent sequestration.

1                   “(iii) *BONUS ALLOWANCE VALUE.*—*The*  
 2                   *Administrator shall establish, by regulation,*  
 3                   *a bonus allowance value for each rate of*  
 4                   *carbon capture and permanent sequestra-*  
 5                   *tion achieved by an eligible project—*

6                   “(I) *beginning at a minimum of*  
 7                   *\$50 per ton for a 50-percent rate; and*

8                   “(II) *varying in direct proportion*  
 9                   *with increasing rates of carbon capture*  
 10                   *and permanent sequestration up to \$96*  
 11                   *per ton for an 90-percent rate.*

12                   “(B) *SECOND TRANCHE.*—

13                   “(i) *IN GENERAL.*—*The second tranche*  
 14                   *shall include the second 10 gigawatts of*  
 15                   *treated generating capacity undertaken at*  
 16                   *qualifying electric generating units that re-*  
 17                   *ceive emission allowances under this section.*

18                   “(ii) *CERTAIN UNITS.*—*For an eligible*  
 19                   *project achieving the carbon capture and*  
 20                   *permanent sequestration of 90 percent or*  
 21                   *more of the carbon dioxide that otherwise*  
 22                   *would be emitted by the eligible project, the*  
 23                   *bonus allowance value shall be \$85 per ton*  
 24                   *of carbon dioxide emissions avoided through*

1           *the use of capture and permanent sequestra-*  
 2           *tion.*

3           “(iii) *BONUS ALLOWANCE VALUE.—The*  
 4           *Administrator shall establish, by regulation,*  
 5           *a bonus allowance value for each rate of*  
 6           *carbon capture and permanent sequestra-*  
 7           *tion achieved by an eligible project—*

8                     *“(I) beginning at a minimum of*  
 9                     *\$50 per ton for a 50-percent rate; and*

10                    *“(II) varying in direct proportion*  
 11                    *with increasing rates of carbon capture*  
 12                    *and permanent sequestration up to \$85*  
 13                    *per ton for a 90-percent rate.*

14           “(C) *INCREASE IN BONUS ALLOWANCE*  
 15           *VALUE.—For an eligible project that commences*  
 16           *commercial operation by not later than January*  
 17           *1, 2017, and that meets the eligibility criteria*  
 18           *under subsection (c), the otherwise-applicable*  
 19           *bonus allowance value under this paragraph*  
 20           *shall be increased by \$10, if the owner or oper-*  
 21           *ator of the eligible project submits to the Admin-*  
 22           *istrator by not later than January 1, 2012, a*  
 23           *notification of the intent to implement carbon*  
 24           *capture and permanent sequestration technology*



1           *at a qualifying electric generating unit in ac-*  
 2           *cordance with subsection (c).*

3           “(D) *REDUCTION.*—

4                   “(i) *IN GENERAL.*—*For a carbon cap-*  
 5                   *ture and permanent sequestration project*  
 6                   *sequestering in a geological formation for*  
 7                   *purposes of enhanced hydrocarbon recovery,*  
 8                   *the Administrator, by regulation, shall re-*  
 9                   *duce the applicable bonus allowance value*  
 10                   *under this paragraph to reflect the lower net*  
 11                   *cost of the project, as compared to perma-*  
 12                   *nent sequestration into geological forma-*  
 13                   *tions solely for purposes of sequestration.*

14                   “(ii) *ASSESSMENT OF NET COST.*—*For*  
 15                   *the purpose of this subparagraph, an assess-*  
 16                   *ment of net cost of a project shall account*  
 17                   *for the cost of the injection of carbon diox-*  
 18                   *ide, or other method of enhanced hydro-*  
 19                   *carbon recovery, that would have otherwise*  
 20                   *been undertaken in the absence of the car-*  
 21                   *bon capture and permanent sequestration*  
 22                   *project under consideration.*

23           “(E) *ADJUSTMENTS.*—*The Administrator*  
 24           *shall annually adjust for monetary inflation the*

1           *bonus allowance values established under this*  
 2           *paragraph.*

3           “(F) *MEASUREMENT.*—*The Administrator*  
 4           *shall measure the tranches and capture levels for*  
 5           *assigning the bonus allowance values under this*  
 6           *subsection based on the treated generating capac-*  
 7           *ity of the qualifying electric generating units*  
 8           *and qualifying industrial sources that receive*  
 9           *emission allowances under this subsection.*

10           “(G) *AVERAGE FAIR MARKET VALUE.*—

11           “(i) *IN GENERAL.*—*The Administrator*  
 12           *and the Secretary of Energy may jointly*  
 13           *determine that the average fair market*  
 14           *value for emission allowances or the bonus*  
 15           *allowances have been too low or too high to*  
 16           *achieve efficient and cost-effective commer-*  
 17           *cial deployment of carbon capture and per-*  
 18           *manent sequestration technology in a given*  
 19           *calendar year.*

20           “(ii) *ACTION ON DETERMINATION.*—*On*  
 21           *making a determination under clause (i),*  
 22           *the Administrator may—*

23                   “(I) *promulgate regulations to ad-*  
 24                   *just the bonus allowance value under*  
 25                   *this paragraph; or*

1                   “(II) *distribute an appropriate*  
 2                   *quantity of emission allowances allo-*  
 3                   *cated under section 771(a)(6) from any*  
 4                   *future vintage year.*

5           “(e) *PHASE II DISTRIBUTION TO ELECTRIC GENER-*  
 6 *ATING UNITS.—*

7                   “(1) *APPLICATION.—This subsection shall apply*  
 8                   *only to the distribution of emission allowances for*  
 9                   *carbon capture and permanent sequestration projects*  
 10                   *undertaken at qualifying electric generating units*  
 11                   *and qualifying industrial sources after the treated*  
 12                   *generating capacity threshold identified under sub-*  
 13                   *section (d)(1) is reached.*

14                   “(2) *REGULATIONS.—Not later than 2 years be-*  
 15                   *fore the date on which the capacity threshold identi-*  
 16                   *fied in subsection (d)(1) is projected to be reached, the*  
 17                   *Administrator shall promulgate regulations to govern*  
 18                   *the distribution of emission allowances to the owners*  
 19                   *or operators of eligible projects under this subsection.*

20                   “(3) *REVERSE AUCTIONS.—*

21                   “(A) *IN GENERAL.—Except as provided in*  
 22                   *paragraph (4), the regulations promulgated pur-*  
 23                   *suant to paragraph (2) shall provide for the dis-*  
 24                   *tribution of emission allowances to the owners or*  
 25                   *operators of eligible projects under this sub-*

1        *section through at least 2 reverse auctions, each*  
 2        *of which shall be held not less frequently than*  
 3        *once each calendar year.*

4                *“(B) REQUIREMENTS.—*

5                    *“(i) PROJECTS AT INDUSTRIAL*  
 6                    *SOURCES.—The Administrator shall annu-*  
 7                    *ally establish a reverse auction for projects*  
 8                    *at industrial sources, which may not par-*  
 9                    *ticipate in other auctions.*

10                   *“(ii) OTHER AUCTIONS.—The Admin-*  
 11                   *istrator may establish a separate auction*  
 12                   *for each of not more than 5 different project*  
 13                   *categories, as defined based on—*

14                            *“(I) coal type;*

15                            *“(II) capture technology;*

16                            *“(III) geological formation type;*

17                            *“(IV) new unit versus retrofit ap-*  
 18                            *plication;*

19                            *“(V) such other factors as the Ad-*  
 20                            *ministrator may prescribe; or*

21                            *“(VI) any combination of the fac-*  
 22                            *tors described in subclauses (I) through*  
 23                            *(V).*

24                   *“(iii) EFFICIENT DISTRIBUTION.—The*  
 25                   *Administrator shall establish procedures for*

1           *the auction of emission allowances under*  
 2           *this subparagraph to ensure that the estab-*  
 3           *lishment of separate auctions for different*  
 4           *project categories will not unduly impede*  
 5           *the efficient and expeditious distribution of*  
 6           *emission allowances to eligible projects*  
 7           *under this subsection.*

8                   “(iv) *MINIMUM RATES.*—*The Adminis-*  
 9                   *trator may establish appropriate minimum*  
 10                   *rates of carbon capture and permanent se-*  
 11                   *questration for the treated generating capac-*  
 12                   *ity of a project in implementing this sub-*  
 13                   *paragraph.*

14                   “(C) *AUCTION PROCESS.*—*At each reverse*  
 15                   *auction under this paragraph—*

16                           “(i) *the Administrator shall solicit bids*  
 17                           *from eligible projects;*

18                           “(ii) *owners or operators of eligible*  
 19                           *projects participating in the auction shall*  
 20                           *submit a bid, including the desired level of*  
 21                           *carbon dioxide permanent sequestration in-*  
 22                           *centive per ton and the estimated quantity*  
 23                           *of carbon dioxide that the project will per-*  
 24                           *manently sequester during a 10-year period;*  
 25                           *and*

1                   “(iii) the Administrator shall select  
 2                   bids within each auction for the permanent  
 3                   sequestration quantity submitted, beginning  
 4                   with the eligible project for which the bid is  
 5                   submitted for the lowest level of permanent  
 6                   sequestration incentive on a per-ton basis  
 7                   and meeting such other requirements as the  
 8                   Administrator may specify, until the  
 9                   amounts available for the reverse auction  
 10                  are committed.

11                  “(D) FORM OF DISTRIBUTION.—The Ad-  
 12                  ministrator shall distribute emission allowances  
 13                  to the owners or operators of eligible projects se-  
 14                  lected through a reverse auction under this para-  
 15                  graph pursuant to a formula equivalent to the  
 16                  formula contained in subsection (c)(2)(B), except  
 17                  that the bonus allowance value that is bid by the  
 18                  applicable entity shall be substituted for the  
 19                  bonus allowance values described in subsection  
 20                  (c)(2).

21                  “(4) ALTERNATIVE DISTRIBUTION METHOD.—

22                  “(A) IN GENERAL.—If the Administrator  
 23                  determines that a reverse auction will not result  
 24                  in efficient and cost-effective commercial deploy-  
 25                  ment of carbon capture and permanent seques-

1        *tration technologies, the Administrator, pursuant*  
 2        *to regulations under paragraph (2) or (5), shall*  
 3        *prescribe a schedule for the provision of bonus al-*  
 4        *lowances to the owners or operators of eligible*  
 5        *projects under this subsection, in accordance*  
 6        *with the requirements of this paragraph.*

7                *“(B) MULTIPLE TRANCHES.—The Adminis-*  
 8        *trator shall divide emission allowances available*  
 9        *for distribution to the owners or operators of eli-*  
 10        *gible projects into a series of tranches, each of*  
 11        *which—*

12                *“(i) shall support the deployment of a*  
 13        *specified quantity of cumulative electric*  
 14        *generating capacity using carbon capture*  
 15        *and permanent sequestration technology;*  
 16        *and*

17                *“(ii) shall not be greater than 10*  
 18        *gigawatts of treated generating capacity.*

19                *“(C) METHOD OF DISTRIBUTION.—The Ad-*  
 20        *ministrator shall distribute emission allowances*  
 21        *within each tranche, on a first-come, first-served*  
 22        *basis—*

23                *“(i) based on the date of full-scale op-*  
 24        *eration of carbon capture and permanent*  
 25        *sequestration technology; and*

1 “(ii) pursuant to a formula that—

2 “(I) is similar to the formula con-  
 3 tained in subsection (c)(2)(C), except  
 4 that the Administrator may prescribe  
 5 bonus allowance values different than  
 6 those described in subsection (c)(2)  
 7 based on the criteria established under  
 8 subparagraph (E); and

9 “(II) establishes the number of  
 10 emission allowances to be distributed  
 11 per ton of carbon dioxide sequestered  
 12 by the project.

13 “(D) *REQUIREMENTS.*—For each tranche  
 14 established pursuant to subparagraph (B), the  
 15 Administrator shall establish a schedule for dis-  
 16 tributing emission allowances that—

17 “(i) is based on a sliding scale that  
 18 provides higher bonus allowance values for  
 19 projects achieving higher rates of carbon  
 20 capture and permanent sequestration for the  
 21 treated generation capacity at the unit;

22 “(ii) for each carbon capture and per-  
 23 manent sequestration rate, establishes a  
 24 bonus allowance value that is lower than  
 25 that established for the applicable rate for



the previous tranche (or, in the case of the first tranche, than that established for the applicable rate under subsection (d)(2)); and

“(iii) may establish different bonus allowance levels for not more than 5 different project categories, as defined based on—

“(I) coal type;

“(II) capture and transportation technology;

“(III) geological formation type;

“(IV) new unit versus retrofit application;

“(V) such other factors as the Administrator may prescribe; or

“(VI) any combination of the factors described in subclauses (I) through (V).

“(E) *CRITERIA FOR ESTABLISHING BONUS ALLOWANCE VALUES.*—In establishing bonus allowance values under this paragraph, the Administrator shall seek to cover not more than the reasonable incremental capital and operating costs of a project that are attributable to implementation of carbon capture and permanent se-

1           *questration technologies and carbon transpor-*  
 2           *tation technologies, taking into account—*

3                   “(i) *the reduced cost of compliance*  
 4                   *with section 722;*

5                   “(ii) *the reduced cost associated with*  
 6                   *sequestering in a geological formation for*  
 7                   *purposes of enhanced hydrocarbon recovery,*  
 8                   *as compared to permanent sequestration*  
 9                   *into geological formations solely for pur-*  
 10                  *poses of sequestration;*

11                  “(iii) *the relevant factors defining the*  
 12                  *project category; and*

13                  “(iv) *such other factors as the Admin-*  
 14                  *istrator determines to be appropriate.*

15                  “(5) *REVISION OF REGULATIONS.—The Adminis-*  
 16                  *trator shall review and, as appropriate, revise the ap-*  
 17                  *plicable regulations under this subsection not less fre-*  
 18                  *quently than once every 8 years.*

19                  “(f) *LIMITS FOR CERTAIN ELECTRIC GENERATING*  
 20                  *UNITS.—*

21                   “(1) *DEFINITIONS.—In this subsection, the terms*  
 22                   *‘covered EGU’ and ‘initially permitted’ have the*  
 23                   *meanings given those terms in section 812.*

24                   “(2) *COVERED EGUS INITIALLY PERMITTED*  
 25                   *FROM 2009 THROUGH 2014.—For a covered EGU that*

1 *is initially permitted during the period beginning on*  
 2 *January 1, 2009, and ending on December 31, 2014,*  
 3 *the Administrator shall reduce the quantity of emis-*  
 4 *sion allowances that the owner or operator of the cov-*  
 5 *ered EGU would otherwise be eligible to receive under*  
 6 *this section as follows:*

7           “(A) *In the case of a covered EGU com-*  
 8 *mencing operation on or before January 1, 2019,*  
 9 *if the date in clause (ii)(I) is earlier than the*  
 10 *date in clause (ii)(II), by the product obtained*  
 11 *by multiplying—*

12                   “(i) *20 percent; and*

13                   “(ii) *the number of years, if any, that*  
 14 *have elapsed between—*

15                           “(I) *the earlier of—*

16                                   “(aa) *January 1, 2020; and*

17                                   “(bb) *the date that is 5 years*  
 18 *after the commencement of oper-*  
 19 *ation of the covered EGU; and*

20                           “(II) *the first year that the cov-*  
 21 *ered EGU achieves (and thereafter*  
 22 *maintains) an emission limitation*  
 23 *that is at least a 50-percent reduction*  
 24 *in emissions of carbon dioxide pro-*  
 25 *duced by the unit, measured on an an-*

1                   nual basis, as determined in accord-  
2                   ance with section 812(b)(2).

3                   “(B) In the case of a covered EGU com-  
4                   mencing operation after January 1, 2019, by the  
5                   product obtained by multiplying—

6                   “(i) 20 percent; and

7                   “(ii) the number of years, if any, that  
8                   have elapsed between—

9                   “(I) the commencement of oper-  
10                  ation of the covered EGU; and

11                  “(II) the first year that the cov-  
12                  ered EGU achieves (and thereafter  
13                  maintains) an emission limitation  
14                  that is at least a 50-percent reduction  
15                  in emissions of carbon dioxide pro-  
16                  duced by the unit, measured on an an-  
17                  nual basis, as determined in accord-  
18                  ance with section 812(b)(2).

19                  “(3) COVERED EGUS INITIALLY PERMITTED  
20                  FROM 2015 THROUGH 2019.—The owner or operator of  
21                  a covered EGU that is initially permitted during the  
22                  period beginning on January 1, 2015, and ending on  
23                  December 31, 2019, shall be ineligible to receive emis-  
24                  sion allowances under this section if the covered EGU,  
25                  on commencement of operations (and thereafter), does

1 *not achieve and maintain an emission limitation that*  
 2 *is at least a 50-percent reduction in emissions of car-*  
 3 *bon dioxide produced by the covered EGU, measured*  
 4 *on an annual basis, as determined in accordance with*  
 5 *section 812(b)(2).*

6 “(4) *EGUS RECEIVING ADVANCED DISTRIBUTION.*—  
 7

8 “(A) *IN GENERAL.*—*For an EGU that re-*  
 9 *ceives an advanced distribution of emission al-*  
 10 *lowances, the Administrator shall reduce and re-*  
 11 *cover, as applicable, the quantity of emission al-*  
 12 *lowances that the owner or operator of the EGU*  
 13 *has received and remains eligible to receive*  
 14 *under this section, which shall be equal to the*  
 15 *product obtained by multiplying—*

16 “(i) *20 percent; and*

17 “(ii) *the number of years, if any, that*  
 18 *have elapsed between—*

19 “(I) *the date that is 18 months*  
 20 *after—*

21 “(aa) *in the case of an EGU*  
 22 *that was initially permitted dur-*  
 23 *ing the period beginning on Janu-*  
 24 *ary 1, 2009, and ending on De-*  
 25 *cember 31, 2014, the date of com-*

1                    *mencement of operation of the*  
2                    *EGU; or*

3                    *“(bb) in the case of an EGU*  
4                    *that was initially permitted prior*  
5                    *to January 1, 2009, the date that*  
6                    *is 3 years after the date on which*  
7                    *the project owner receives an ad-*  
8                    *vanced distribution for that EGU*  
9                    *under subsection (h)(3)(B); and*

10                  *“(II) the first year that the EGU*  
11                  *achieves (and thereafter maintains) an*  
12                  *emission limitation that is at least a*  
13                  *50-percent reduction in emissions of*  
14                  *carbon dioxide produced by the EGU,*  
15                  *measured on an annual basis.*

16                  *“(B) EXTENSION.—*

17                  *“(i) IN GENERAL.—If an owner or op-*  
18                  *erator of an EGU that receives an advanced*  
19                  *distribution of emission allowances deter-*  
20                  *mines that the owner or operator will not be*  
21                  *able to achieve at least a 50-percent reduc-*  
22                  *tion in emissions of carbon dioxide pro-*  
23                  *duced by the EGU, as measured on an an-*  
24                  *ual basis, by the date specified in subpara-*  
25                  *graph (A)(ii)(I), the owner or operator may*

1           *petition the Administrator to extend that*  
 2           *date by not more than 18 months.*

3           “(ii) *TIME OF SUBMISSION OF PETI-*  
 4           *TION.—The owner or operator shall submit*  
 5           *a petition described in clause (i) to the Ad-*  
 6           *ministrator as soon as practicable after the*  
 7           *date on which the basis for the petition*  
 8           *arises.*

9           “(iii) *CONDITIONS FOR EXTENSION.—*  
 10          *The Administrator shall prescribe, by regu-*  
 11          *lation, the conditions under which an exten-*  
 12          *sion under clause (i) may be granted, in-*  
 13          *cluding—*

14               “(I) *an inability of an EGU to*  
 15               *sequester at the site, despite due dili-*  
 16               *gence having been undertaken; and*

17               “(II) *legal challenges to the imple-*  
 18               *mentation of the carbon capture and*  
 19               *permanent sequestration technology.*

20          “(g) *INDUSTRIAL SOURCES.—*

21               “(1) *EMISSION ALLOWANCES.—The Adminis-*  
 22          *trator—*

23               “(A) *may distribute not more than 15 per-*  
 24               *cent of the emission allowances allocated under*  
 25               *section 771(a)(6) for any vintage year to the*

1 *owners or operators of eligible industrial sources*  
 2 *to support the commercial-scale deployment of*  
 3 *carbon capture and permanent sequestration*  
 4 *technologies at those sources; and*

5 *“(B) notwithstanding any other provision*  
 6 *of law—*

7 *“(i) may distribute to eligible indus-*  
 8 *trial sources not more than 15 percent of*  
 9 *the emission allowances allocated under sec-*  
 10 *tion 771(a)(6) for any vintage year in the*  
 11 *second tranche of phase I; but*

12 *“(ii) may not distribute those allow-*  
 13 *ances for any vintage year in the first*  
 14 *tranche of phase I.*

15 *“(2) DISTRIBUTION.—*

16 *“(A) IN GENERAL.—The Administrator*  
 17 *shall prescribe, by regulation, requirements for*  
 18 *the distribution of emission allowances to the*  
 19 *owners or operators of industrial sources under*  
 20 *this subsection, based on a bonus allowance for-*  
 21 *mula that awards emission allowances to quali-*  
 22 *fying projects on the basis of tons of carbon diox-*  
 23 *ide captured and permanently sequestered.*



1           “(B) *METHOD.*—*The Administrator may*  
 2           *provide for the distribution of emission allow-*  
 3           *ances pursuant to—*

4                   “(i) *a reverse auction method similar*  
 5                   *to the method described in subsection (e)(3),*  
 6                   *including the use of separate auctions for*  
 7                   *different project categories; or*

8                   “(ii) *an incentive schedule similar to*  
 9                   *the schedule described in subsection (e)(4),*  
 10                   *which shall ensure that incentives are estab-*  
 11                   *lished so as to satisfy the requirement de-*  
 12                   *scribed in subsection (e)(4)(E).*

13           “(3) *REVISION OF REGULATIONS.*—*The Adminis-*  
 14           *trator shall review and, as appropriate, revise the*  
 15           *regulations under this subsection not less frequently*  
 16           *than once every 8 years.*

17           “(h) *CERTIFICATION AND DISTRIBUTION.*—

18                   “(1) *CERTIFICATION.*—

19                           “(A) *REQUEST.*—

20                                   “(i) *PHASE I; ALTERNATIVE DISTRIBUTION METHOD.*—*In the case of a qualifying*  
 21                                   *project that is eligible to receive allowances*  
 22                                   *under phase I or under subsection (e)(4), at*  
 23                                   *any time prior to placing a carbon capture*  
 24                                   *and permanent sequestration project into*  
 25

1           *commercial operation, the owner or oper-*  
2           *ator of the planned project may request*  
3           *from the Administrator a certification that*  
4           *the project is eligible to receive emission al-*  
5           *lowances under this section.*

6           “(ii) *REVERSE AUCTIONS.*—*In the case*  
7           *of a qualifying project that wins a reverse*  
8           *auction under subsection (e) or (g), within*  
9           *a reasonably brief period following comple-*  
10          *tion of the auction (as specified by the Ad-*  
11          *ministrator), the owner or operator of the*  
12          *qualifying project shall request from the Ad-*  
13          *ministrator a certification that the project*  
14          *is eligible to receive emission allowances*  
15          *under this section.*

16          “(iii) *ELIGIBLE PROJECTS.*—*Eligible*  
17          *projects in phase I and phase II may re-*  
18          *ceive certification under this paragraph.*

19          “(iv) *ISSUANCE.*—*Not later than 90*  
20          *days after the date on which the Adminis-*  
21          *trator determines that the owner or operator*  
22          *of the planned project has submitted com-*  
23          *plete documentation pursuant to subpara-*  
24          *graph (B), the Administrator shall issue a*

1           *certification described in this subpara-*  
 2           *graph—*

3                   “(I) if the owner or operator dem-  
 4                   *onstrates a commitment to construct*  
 5                   *and operate a project that satisfies—*

6                           “(aa) the eligibility criteria  
 7                           *of subsection (c); and*

8                           “(bb) the requirements of this  
 9                           *paragraph; and*

10                   “(II) that is based on the consid-  
 11                   *eration by the Administrator of the*  
 12                   *documentation submitted pursuant to*  
 13                   *subparagraph (B), as well as other rel-*  
 14                   *evant information, as determined by*  
 15                   *the Administrator, in consultation*  
 16                   *with the owner or operator.*

17           “(B) DOCUMENTATION.—

18                   “(i) IN GENERAL.—*The Administrator*  
 19                   *shall prescribe, by regulation, the docu-*  
 20                   *mentation necessary for making a deter-*  
 21                   *mination of project eligibility for the certifi-*  
 22                   *cation under subparagraph (A), includ-*  
 23                   *ing—*

24                           “(I) in the case of a planned  
 25                           *project receiving an advanced distribu-*

1            *tion of emission allowances, a commit-*  
2            *ment to implement carbon and perma-*  
3            *nent sequestration technology upon*  
4            *commencement of operation, to meet*  
5            *the eligibility requirements of (c)(1) by*  
6            *not later than 18 months after the date*  
7            *of commencement of operation;*

8            *“(II) technical information re-*  
9            *garding the carbon capture and per-*  
10           *manent sequestration technology, coal*  
11           *type, geological formation type (if ap-*  
12           *plicable), and other relevant design fea-*  
13           *tures that are planned for the project;*

14           *“(III) the annual reductions in*  
15           *carbon dioxide emissions that the car-*  
16           *bon capture and permanent sequestra-*  
17           *tion technology is projected to achieve*  
18           *during each of the first 10 years that*  
19           *the project achieves commercial oper-*  
20           *ation;*

21           *“(IV) a demonstration that the*  
22           *owner or operator is committed to both*  
23           *constructing and operating the*  
24           *planned project on a timeline marked*  
25           *by reasonable milestones, through the*

1 completion of 1 of the actions specified  
2 in subparagraph (C)(iii);

3 “(V) the amount of Federal fund-  
4 ing the project owner has received, if  
5 any, to cover the costs of constructing  
6 a project that is eligible under this  
7 paragraph; and

8 “(VI) an assessment of the costs of  
9 constructing the project, which shall  
10 serve as a basis for the determination  
11 of the Administrator regarding ad-  
12 vanced distributions under paragraph  
13 (3)(C).

14 “(ii) *NONRETROFIT APPLICATION.*—In  
15 the case of a project that is not a retrofit  
16 application, the assessment of costs de-  
17 scribed in clause (i)(VI) shall include an as-  
18 sessment of the costs of constructing the elec-  
19 tric generating unit or industrial source  
20 that will produce the flue gas or fuel gas to  
21 be treated by the carbon capture and per-  
22 manent sequestration technology.

23 “(C) *COMMITMENT.*—

24 “(i) *IN GENERAL.*—Subject to clause  
25 (ii), the completion of any 1 of the quali-

1 *fying actions specified under clause (iii)*  
 2 *shall constitute a commitment to construct*  
 3 *and operate a planned carbon capture and*  
 4 *permanent sequestration project.*

5 “(ii) *CONDITION.—In the case of a*  
 6 *qualifying action specified in subclause (I)*  
 7 *or (II) of clause (iii), the completion of such*  
 8 *an action may be subject to a condition that*  
 9 *the Administrator will issue a certification*  
 10 *under this paragraph for the distribution of*  
 11 *emission allowances to the project.*

12 “(iii) *QUALIFYING ACTIONS.—Quali-*  
 13 *fying actions under this subparagraph shall*  
 14 *include—*

15 “(I) *the execution of—*

16 “(aa) *a commitment by lend-*  
 17 *ers or other appropriate entities*  
 18 *to finance the project, which may*  
 19 *be subject to customary closing*  
 20 *conditions that are associated*  
 21 *with the execution of the commit-*  
 22 *ment;*

23 “(bb) *an authorization by a*  
 24 *State regulatory authority to*  
 25 *allow recovery, from the retail*

1 *customers of such electric utility,*  
2 *of the costs of the project by a*  
3 *State-regulated electric utility*  
4 *that plans to construct the project;*  
5 *or*

6 *“(cc) an authorization by a*  
7 *State legislature to allow recovery,*  
8 *from the retail customers of elec-*  
9 *tric utilities that are required to*  
10 *purchase some or all of the elec-*  
11 *tricity from the project pursuant*  
12 *to State law, of the costs of the*  
13 *project, on the conditions that the*  
14 *project has been approved by the*  
15 *legislature and, under State law,*  
16 *retail electric providers are re-*  
17 *quired collectively to purchase all*  
18 *of the net electric output from the*  
19 *project; and*

20 *“(II) a commitment by the owner*  
21 *or operator of the project to execute a*  
22 *surety bond in sufficient amounts by*  
23 *not later than 2 years after the date on*  
24 *which the Administrator issues the cer-*  
25 *tification for the project.*

1           “(D) *CONTENT OF CERTIFICATION.*—*The*  
2           *Administrator shall prescribe, by regulation, the*  
3           *required content of each certification issued*  
4           *under this paragraph, including—*

5                   “(i) *the annual reductions in carbon*  
6                   *dioxide emissions that the carbon capture*  
7                   *and sequestration technology the owner or*  
8                   *operator of the planned project commits to*  
9                   *achieve during each of the first 10 years*  
10                  *that the project is in commercial operation,*  
11                  *as specified in section 812;*

12                  “(ii) *the construction and operating*  
13                  *milestones to which the owner or operator of*  
14                  *the planned project commits;*

15                  “(iii) *a certification that the docu-*  
16                  *mentation submitted under subparagraph*  
17                  *(B) is true and accurate;*

18                  “(iv) *for those sources that have re-*  
19                  *ceived advanced distribution of emission al-*  
20                  *lowances under paragraph (3)(B), the re-*  
21                  *payment periods that the Administrator has*  
22                  *specified pursuant to paragraph (3)(D)(v)*  
23                  *as of the effective date of the certification;*  
24                  *and*



1           “(v) *such other requirements as may be*  
 2           *necessary to govern the advanced distribu-*  
 3           *tion of emission allowances between the Ad-*  
 4           *ministrator and the owner or operator of*  
 5           *the planned project, subject to the require-*  
 6           *ments of this subsection.*

7           “(E) *FAILURE TO REQUEST CERTIFI-*  
 8           *CATION.—*

9           “(i) *IN GENERAL.—An owner or oper-*  
 10          *ator may elect not to request a certification*  
 11          *on the eligibility of a planned project under*  
 12          *subparagraph (A) prior to the commercial*  
 13          *operation of the project.*

14          “(ii) *DETERMINATION BY ADMINIS-*  
 15          *TRATOR.—If an owner or operator elects not*  
 16          *to request a certification under clause (i),*  
 17          *the Administrator shall make a determina-*  
 18          *tion regarding whether the project satisfies*  
 19          *the eligibility requirements of subsection (c)*  
 20          *at the time that the Administrator makes a*  
 21          *determination regarding the annual dis-*  
 22          *tribution of emission allowances under*  
 23          *paragraph (3)(A).*

24          “(2) *RESERVATION OF EMISSION ALLOWANCES.—*

25          “(A) *AMOUNT.—*

1           “(i) *IN GENERAL.*—*For each project*  
2           *that receives a certification of eligibility*  
3           *under paragraph (1), the Administrator*  
4           *shall reserve on a first-come, first-served*  
5           *basis a portion of the emission allowances*  
6           *that are allocated for the deployment of car-*  
7           *bon capture and permanent sequestration*  
8           *technology under section 771(a)(6).*

9           “(ii) *DETERMINATION.*—*The reserva-*  
10          *tion of emission allowances for a particular*  
11          *eligible project under this paragraph shall*  
12          *be equal to the number of emission allow-*  
13          *ances that the project would be entitled to*  
14          *receive under the applicable distribution*  
15          *method under this section upon commercial*  
16          *operation of the carbon capture and perma-*  
17          *nent sequestration technology, as determined*  
18          *by the Administrator based on—*

19               “(I) *the applicable bonus allow-*  
20               *ance value;*

21               “(II) *the number of tons of carbon*  
22               *dioxide emissions projected to be avoid-*  
23               *ed through the use of carbon capture*  
24               *and permanent sequestration tech-*

1                    *nologies during each calendar year*  
 2                    *under paragraph (1)(B)(i)(II); and*

3                    *“(III) a discount rate to account*  
 4                    *for the increase in the monetary infla-*  
 5                    *tion that may be expected to occur dur-*  
 6                    *ing each of the relevant 10 calendar*  
 7                    *years, as determined by the Adminis-*  
 8                    *trator.*

9                    *“(B) TERMINATION OF RESERVATION.—*

10                    *“(i) IN GENERAL.—A reservation of*  
 11                    *emission allowances for a particular project*  
 12                    *under subparagraph (A) shall terminate if*  
 13                    *the Administrator determines that the*  
 14                    *owner or operator has failed to achieve a*  
 15                    *reasonable number of milestones for com-*  
 16                    *mencing construction or commercial oper-*  
 17                    *ation of the project, as specified under para-*  
 18                    *graph (1)(B)(i)(III).*

19                    *“(ii) REDUCED QUANTITY OF CARBON*  
 20                    *DIOXIDE CAPTURED AND SEQUESTERED.—If*  
 21                    *the quantity of carbon dioxide emissions*  
 22                    *avoided through the operation of the carbon*  
 23                    *capture and permanent sequestration*  
 24                    *project on average over 3 consecutive cal-*  
 25                    *endar years is less than the quantity speci-*

1 *fied for those calendar years under subpara-*  
 2 *graph (A), the reservation of emission al-*  
 3 *lowances for the project under subparagraph*  
 4 *(A) shall be reduced in future years by the*  
 5 *difference between—*

6 *“(I) the quantity of carbon diox-*  
 7 *ide emissions avoided through oper-*  
 8 *ation of the carbon capture and per-*  
 9 *manent sequestration project on aver-*  
 10 *age over the applicable 3 consecutive*  
 11 *years; and*

12 *“(II) the quantity specified under*  
 13 *subparagraph (A) for the applicable*  
 14 *years.*

15 *“(iii) AVAILABILITY.—The Adminis-*  
 16 *trator shall immediately make available to*  
 17 *other eligible projects emission allowances*  
 18 *for which the Administrator has terminated*  
 19 *an emission allowance reservation for a*  
 20 *particular project under this subparagraph.*

21 *“(3) DISTRIBUTION PROCESS.—*

22 *“(A) ANNUAL DISTRIBUTION.—*

23 *“(i) IN GENERAL.—The Administrator*  
 24 *shall distribute the emission allowances to*  
 25 *eligible projects on an annual basis.*

1           “(ii) *BASIS.*—*The annual distribution*  
 2           *of emission allowances shall be based on the*  
 3           *total tons of carbon dioxide emissions avoid-*  
 4           *ed through operation of the carbon capture*  
 5           *and permanent sequestration project during*  
 6           *each of the first 10 years of commercial op-*  
 7           *eration, in accordance with subsection*  
 8           *(c)(2).*

9           “(iii)       *TOTAL       DISTRIBUTION*  
 10           *AMOUNT.*—*The total amount of emission al-*  
 11           *lowances distributed to an eligible project*  
 12           *for each of the first 10 years of commercial*  
 13           *operation may be greater than, or less than,*  
 14           *the quantity of emissions allowances that*  
 15           *the Administrator has reserved for the eligi-*  
 16           *ble project under paragraph (2).*

17           “(iv) *REPORTS.*—

18                   “(I) *IN GENERAL.*—*Except as pro-*  
 19                   *vided in subparagraph (B), the Ad-*  
 20                   *ministrator shall make each annual*  
 21                   *distribution of emission allowances by*  
 22                   *not later than 90 days after the date*  
 23                   *on which the owner or operator of a*  
 24                   *project submits to the Administrator a*  
 25                   *report regarding the tons of carbon di-*

oxide emissions avoided for that year through operation of the carbon capture and permanent sequestration project.

“(II) *REQUIREMENT.*—A report under subclause (I) shall be verified in accordance with regulations to be promulgated by the Administrator.

“(B) *ADVANCED DISTRIBUTION.*—

“(i) *IN GENERAL.*—The Administrator may provide an advanced distribution of emission allowances to the projects—

“(I) that receive emission allowances under the phase I distributions authorized by subsection (d); and

“(II) for which the Administrator has issued a certification of eligibility under paragraph (1).

“(ii) *REQUIREMENTS.*—An advanced distribution of emission allowances for a particular project shall be provided—

“(I) prior to the operational phase of the project, at an appropriate milestone that best ensures the expeditious deployment of the carbon capture and

1 *permanent sequestration technology, as*  
2 *determined by the Administrator;*

3 *“(II) in a quantity that equals a*  
4 *percentage, as specified in subpara-*  
5 *graph (C), of the total number of emis-*  
6 *sion allowances that the Administrator*  
7 *has reserved for that project during the*  
8 *10-year period of commercial oper-*  
9 *ation; and*

10 *“(III) using allowances that are*  
11 *drawn—*

12 *“(aa) from the current vin-*  
13 *tage year; or*

14 *“(bb) if the allowances are*  
15 *exhausted from the current vin-*  
16 *tage year, in order from successive*  
17 *vintage years, beginning with the*  
18 *most proximate future vintage*  
19 *year.*

20 *“(iii) REPORTS.—*

21 *“(I) IN GENERAL.—The owner or*  
22 *operator of a planned project that re-*  
23 *ceives an advanced distribution of*  
24 *emission allowances shall submit to the*  
25 *Administrator, not later than 90 days*

1           *after the end of each calendar year, a*  
 2           *report describing the tons of carbon di-*  
 3           *oxide emissions avoided for that year*  
 4           *through operation of the carbon cap-*  
 5           *ture and permanent sequestration*  
 6           *project , compared to the total tons of*  
 7           *carbon dioxide emissions generated by*  
 8           *the unit on which the planned project*  
 9           *is implemented.*

10           “(II) *REQUIREMENT.*—*A report*  
 11           *under subclause (I) shall be verified in*  
 12           *accordance with regulations promul-*  
 13           *gated by the Administrator.*

14           “(III) *AVOIDANCE OF DUPLICA-*  
 15           *TIVE REPORTING.*—*If the unit on*  
 16           *which a planned project is imple-*  
 17           *mented already submits the informa-*  
 18           *tion required by subclause (I) to the*  
 19           *Administrator pursuant to another re-*  
 20           *porting requirement, the owner or op-*  
 21           *erator of the planned project may refer*  
 22           *the Administrator to the other submis-*  
 23           *sion in which the required information*  
 24           *is provided.*

25           “(C) *PERCENTAGES.*—



1           “(i) *IN GENERAL.*—*Subject to clauses*  
 2           *(ii) and (iii), the Administrator shall apply*  
 3           *the following percentages for determining*  
 4           *the advanced distribution of emission allow-*  
 5           *ances:*

6                       “(I) *70 percent of the emission al-*  
 7                       *lowance reservation for the first*  
 8                       *tranche under subsection (d)(2)(A).*

9                       “(II) *50 percent of the emission*  
 10                      *allowance reservation for the second*  
 11                      *tranche under subsection (d)(2)(B).*

12           “(ii) *COSTS LESS THAN VALUE OF AL-*  
 13           *LOWANCES.*—*If the costs described in clause*  
 14           *(iii) are less than the monetary value of al-*  
 15           *lowances represented by the percentages de-*  
 16           *scribed in clause (i) at the time of advanced*  
 17           *distribution, the advanced distribution shall*  
 18           *be limited to an amount that is equivalent*  
 19           *to the costs described in clause (iii).*

20           “(iii) *COSTS.*—

21                       “(I) *IN GENERAL.*—*For retrofit*  
 22                       *projects, the advanced distribution*  
 23                       *shall equate to 100 percent of the costs*  
 24                       *of permitting, design or engineering,*  
 25                       *labor, materials, land, and equipment*

1 *associated with the construction and*  
2 *installation of the system to capture,*  
3 *compress, transport, and store carbon*  
4 *dioxide (including design changes to*  
5 *the associated generating unit needed*  
6 *to accommodate the carbon dioxide*  
7 *capture and compression system).*

8 “(II) *NEW ELECTRIC GENERATING*  
9 *UNITS.—For new projects—*

10 “(aa) *the advanced distribu-*  
11 *tion shall equate to 100 percent of*  
12 *the incremental permitting, design*  
13 *or engineering, labor, materials,*  
14 *land, and equipment cost dif-*  
15 *ferences between—*

16 “(AA) *a new coal power*  
17 *plant with carbon capture*  
18 *and storage; and*

19 “(BB) *a new coal power*  
20 *plant without carbon capture*  
21 *and storage in the location*  
22 *where the new coal power*  
23 *plant is being constructed,*  
24 *and for the same intended*

1                    *service territory absent car-*  
 2                    *bon capture and storage; and*  
 3                    *“(bb) it shall be the responsi-*  
 4                    *bility of the organization that is*  
 5                    *requesting advanced distributions*  
 6                    *to provide to the Administrator a*  
 7                    *cost estimate for both the new coal*  
 8                    *power plant with carbon capture*  
 9                    *and storage and a new coal power*  
 10                   *plant without carbon capture and*  
 11                   *storage.*

12                   *“(III) REDUCTION.—For the pur-*  
 13                   *poses of this subparagraph, the costs*  
 14                   *under this clause shall be reduced by*  
 15                   *the amounts documented under para-*  
 16                   *graph (1)(B)(i)(V).*

17                   *“(D) RECONCILIATION FOR ADVANCED PAY-*  
 18                   *MENTS.—*

19                   *“(i) IN GENERAL.—In the case of a*  
 20                   *project that receives an advanced distribu-*  
 21                   *tion of emission allowances under this*  
 22                   *paragraph, the Administrator shall dis-*  
 23                   *tribute annually the remainder of emission*  
 24                   *allowances reserved under paragraph (2)*  
 25                   *once the carbon capture and permanent se-*

1           *questration technology begins commercial*  
2           *operation.*

3           “(ii) *TIMING OF DISTRIBUTION.—The*  
4           *annual distribution of emission allowances*  
5           *under clause (i) shall take place not later*  
6           *than 60 days after the end of each calendar*  
7           *year.*

8           “(iii) *CALCULATION OF REMAINING*  
9           *DISTRIBUTION.—Subject to clauses (iv) and*  
10           *(v), the remaining distribution referred to*  
11           *in clause (i) shall annually be calculated*  
12           *upward or downward as the difference be-*  
13           *tween—*

14                   “(I) *the number of allowances that*  
15                   *were reserved for the project in the rel-*  
16                   *evant calendar year under paragraph*  
17                   *(2)(A)(ii)(II); and*

18                   “(II) *the number of allowances*  
19                   *that the project would be eligible to re-*  
20                   *ceive under the bonus allowance for-*  
21                   *mula described in subsection*  
22                   *(c)(2)(B)(i) based on the tons of carbon*  
23                   *dioxide emissions that were avoided*  
24                   *through operation of the carbon cap-*  
25                   *ture and permanent sequestration*

1                   *project during the relevant calendar*  
 2                   *year.*

3                   “(iv) *NUMBER OF ALLOWANCES.*—*For*  
 4                   *purposes of clauses (iii)(II) and (viii)(I),*  
 5                   *for the purposes of calculating the number*  
 6                   *of allowances under subsection (c)(2)(B)(i),*  
 7                   *the Administrator shall enter the average*  
 8                   *fair market value of emission allowances in*  
 9                   *the year specified under subsection*  
 10                   *(c)(2)(B)(i)(II)(bb)).*

11                   “(v) *METHODS OF RECONCILIATION.*—  
 12                   “(I) *IN GENERAL.*—*If, in any cal-*  
 13                   *endar year, the number of tons of car-*  
 14                   *bon dioxide emissions projected to be*  
 15                   *avoided for that year under paragraph*  
 16                   *(1)(B)(i)(III) is greater than the num-*  
 17                   *ber of tons of carbon dioxide emissions*  
 18                   *that were actually avoided by a project*  
 19                   *during that year, based on the report*  
 20                   *submitted to the Administrator under*  
 21                   *paragraph (3)(B)(iii), the difference*  
 22                   *may be accounted for by—*

23                   “(aa) *the owner or operator*  
 24                   *of the project capturing and stor-*  
 25                   *ing an additional quantity of*

1 *emissions that cumulatively ex-*  
2 *ceeds the difference between—*

3 *“(AA) the number of*  
4 *tons of carbon dioxide emis-*  
5 *sions that were projected to*  
6 *be avoided for the relevant*  
7 *calendar year under para-*  
8 *graph (1)(B)(i)(II); and*

9 *“(BB) the number of*  
10 *tons of carbon dioxide emis-*  
11 *sions that were actually*  
12 *avoided through operation of*  
13 *the project during that year;*

14 *“(bb) the Administrator ad-*  
15 *justing the annual distributions*  
16 *under clause (iii), on the condi-*  
17 *tion that the reduction shall be*  
18 *sufficient to account for the dif-*  
19 *ference described in this subclause*  
20 *within the period specified by the*  
21 *Administrator in subclause (II);*  
22 *or*

23 *“(cc) the owner or operator*  
24 *of the project making a repayment*  
25 *in accordance with clause (vi).*

1                   “(II) *PERIOD.*—Compliance with  
 2                   *subclause (I)(aa) shall occur over a pe-*  
 3                   *riod to be specified by the Adminis-*  
 4                   *trator, but not to exceed 18 months.*

5                   “(III) *INTEREST.*—The Adminis-  
 6                   *trator may apply an appropriate rate*  
 7                   *of interest to the repayment require-*  
 8                   *ment under this clause.*

9                   “(vi) *ALTERNATE REPAYMENT BY AL-*  
 10                  *LOWANCES OR CASH.*—If the owner or oper-  
 11                  *ator of the project elects to comply by re-*  
 12                  *paying in accordance with clause*  
 13                  *(v)(I)(aa), during the period specified by*  
 14                  *the Administrator under clause (v)(II), the*  
 15                  *owner or operator shall repay the Adminis-*  
 16                  *trator an amount of allowances or cash (as*  
 17                  *calculated under clause (viii)) if—*

18                  “(I) *the number of tons of carbon*  
 19                  *dioxide emissions that were actually*  
 20                  *avoided through operation of the*  
 21                  *project during that period is less than*  
 22                  *the number necessary to rectify the dif-*  
 23                  *ference described in clause (v)(I); and*

24                  “(II) *the number of allowances re-*  
 25                  *maining reserved for a project is insuf-*

1                    *ficient to adjust for the difference*  
 2                    *under clause (iii).*

3                    “(vii) *MILESTONES.—If the Adminis-*  
 4                    *trator determines that the owner or operator*  
 5                    *failed to achieve a milestone for com-*  
 6                    *mencing construction or commercial oper-*  
 7                    *ation of the project (as specified in para-*  
 8                    *graph (1)(B)), the owner or operator shall*  
 9                    *repay the Administrator an amount of al-*  
 10                    *lowances or cash calculated under clause*  
 11                    *(viii).*

12                    “(viii) *CALCULATION.—The repay-*  
 13                    *ments required under clauses (vi)(I) and*  
 14                    *(vii) shall be equal to, at the option of the*  
 15                    *owner or operator of the project—*

16                    “(I) *the difference between the*  
 17                    *numbers of allowances described in*  
 18                    *subclauses (I) and (II) of clause (iii);*  
 19                    *or*

20                    “(II) *a cash payment in an*  
 21                    *amount equal to the product obtained*  
 22                    *by multiplying—*

23                    “(aa) *the difference between*  
 24                    *the numbers of allowances de-*



1                   scribed in subclauses (I) and (II)  
2                   of clause (iii); and

3                   “(bb) the average fair market  
4                   value of an emission allowance  
5                   during the year in which the re-  
6                   payment would be made under  
7                   clause (vi).

8                   “(ix) *USE OF REPAID AMOUNTS.*—*The*  
9                   *Administrator shall use amounts received as*  
10                  *repayments under this subparagraph to*  
11                  *support the deployment of carbon capture*  
12                  *and permanent sequestration.*

13               “(i) *LIMITATIONS.*—

14               “(1) *IN GENERAL.*—*Emission allowances shall be*  
15               *distributed under this section only for tons of carbon*  
16               *dioxide emissions that are captured and sequestered*  
17               *in accordance with this section.*

18               “(2) *PERIOD.*—*A qualifying project may receive*  
19               *annual emission allowances under this section only*  
20               *for the first 10 years of operation.*

21               “(3) *CAPACITY.*—

22               “(A) *IN GENERAL.*—*Approximately 72*  
23               *gigawatts of total cumulative treated generating*  
24               *capacity may receive emission allowances under*  
25               *this section.*

1           “(B) *ALLOWANCE SURPLUS.*—On reaching  
 2           the cumulative capacity described in subpara-  
 3           graph (A), any emission allowances that are al-  
 4           located for carbon capture and permanent se-  
 5           questration deployment under section 771(a)(6)  
 6           and are not yet obligated under this section shall  
 7           be treated as emission allowances not designated  
 8           for distribution for purposes of section 771(b)(2).

9           “(j) *EXHAUSTION OF ACCOUNT AND ANNUAL ROLL-*  
 10          *OVER OF SURPLUS EMISSION ALLOWANCES.*—

11           “(1) *IN GENERAL.*—In distributing emission al-  
 12          lowances under this section, the Administrator shall  
 13          ensure that eligible projects receive distributions of  
 14          emission allowances for the first 10 years of commer-  
 15          cial operation.

16           “(2) *DIFFERENT VINTAGE YEARS.*—

17           “(A) *DETERMINATION.*—If the Adminis-  
 18          trator determines that the emission allowances  
 19          allocated under section 771(a)(6) with a vintage  
 20          year that matches the year of distribution will be  
 21          exhausted once the estimated full 10-year dis-  
 22          tributions will be provided to current eligible  
 23          participants, the Administrator shall provide to  
 24          new eligible projects emission allowances from  
 25          vintage years after the year of the distribution.

1           “(B) *DIVERSITY FACTORS.*—*If the Adminis-*  
 2           *trator provides allowances to new eligible*  
 3           *projects under subparagraph (A), the Adminis-*  
 4           *trator shall promulgate regulations to prioritize*  
 5           *new eligible projects that are distinguished from*  
 6           *prior recipients of allowances by 1 or more of the*  
 7           *following diversity factors (without regard to*  
 8           *order):*

9                   “(i) *Location in a coal-producing re-*  
 10                  *gion that provides a majority of coal to the*  
 11                  *project.*

12                  “(ii) *Coal type, including waste coal.*

13                  “(iii) *Capture and transportation tech-*  
 14                  *nologies.*

15                  “(iv) *Geological formations.*

16                  “(v) *New units and retrofit applica-*  
 17                  *tions.*

18           “(k) *DAVIS-BACON COMPLIANCE.*—

19                  “(1) *IN GENERAL.*—*All laborers and mechanics*  
 20                  *employed on projects funded directly by or assisted in*  
 21                  *whole or in part by this section through the use of*  
 22                  *emission allowances shall be paid wages at rates not*  
 23                  *less than those prevailing on projects of a character*  
 24                  *similar in the locality as determined by the Secretary*

1       *of Labor in accordance with subchapter IV of chapter*  
 2       *31 of title 40, United States Code.*

3               “(2) *AUTHORITY.*—*With respect to the labor*  
 4       *standards specified in this subsection, the Secretary of*  
 5       *Labor shall have the authority and functions set forth*  
 6       *in Reorganization Plan Numbered 14 of 1950 (64*  
 7       *Stat. 1267; 5 U.S.C. App.) and section 3145 of title*  
 8       *40, United States Code.*

9       **“SEC. 781. OVERSIGHT OF ALLOCATIONS.**

10       “(a) *IN GENERAL.*—*Not later than January 1, 2014,*  
 11       *and every 2 years thereafter, the Comptroller General of the*  
 12       *United States shall carry out a review of programs admin-*  
 13       *istered by the Federal Government that distribute emission*  
 14       *allowances or funds from any Federal auction of allow-*  
 15       *ances.*

16       “(b) *CONTENTS.*—*Each such report shall include a*  
 17       *comprehensive evaluation of the administration and effec-*  
 18       *tiveness of each program, including—*

19               “(1) *the efficiency, transparency, and soundness*  
 20       *of the administration of each program;*

21               “(2) *the performance of activities receiving as-*  
 22       *sistance under each program;*

23               “(3) *the cost-effectiveness of each program in*  
 24       *achieving the stated purposes of the program; and*

1           “(4) recommendations, if any, for regulatory or  
2       administrative changes to each program to improve  
3       its effectiveness.

4           “(c) *FOCUS*.—In evaluating program performance,  
5       each review under this section review shall address the effec-  
6       tiveness of such programs in—

7           “(1) creating and preserving jobs;

8           “(2) ensuring a manageable transition for work-  
9       ing families and workers;

10          “(3) reducing the emissions, or enhancing seques-  
11       tration, of greenhouse gases;

12          “(4) developing clean technologies; and

13          “(5) building resilience to the impacts of climate  
14       change.

15       **“SEC. 782. EARLY ACTION RECOGNITION.**

16          “(a) *IN GENERAL*.—Emission allowances allocated  
17       pursuant to section 771(a)(7) shall be distributed by the  
18       Administrator in accordance with this section. Not later  
19       than 1 year after the date of enactment of this title, the  
20       Administrator shall issue regulations allowing—

21          “(1) any person in the United States to exchange  
22       instruments in the nature of offset credits issued be-  
23       fore January 1, 2009, by a State, local, or voluntary  
24       offset program with respect to which the Adminis-  
25       trator has made an affirmative determination under

1      *section 740(a)(2), for emission allowances established*  
 2      *by the Administrator under section 721(a); and*

3            *“(2) the Administrator to provide compensation*  
 4      *in the form of emission allowances to entities, includ-*  
 5      *ing units of local government, that do not meet the*  
 6      *criteria of paragraph (1) and meet the criteria of this*  
 7      *paragraph for documented early reductions or avoid-*  
 8      *ance of greenhouse gas emissions or greenhouse gases*  
 9      *sequestered before January 1, 2009, from projects or*  
 10     *process improvements begun before January 1, 2009,*  
 11     *where—*

12            *“(A) the entity publicly stated greenhouse*  
 13      *gas reduction goals and publicly reported*  
 14      *against those goals;*

15            *“(B) the entity demonstrated entity-wide*  
 16      *net greenhouse gas reductions; and*

17            *“(C) the entity demonstrates the actual*  
 18      *projects or process improvements undertaken to*  
 19      *make reductions and documents the reductions*  
 20      *(such as through documentation of engineering*  
 21      *projects).*

22            *“(b) REGULATIONS.—Regulations issued under sub-*  
 23     *section (a) shall—*

24            *“(1) provide that a person exchanging credits*  
 25      *under subsection (a)(1) receive emission allowances*

1       *established under section 721(a) in an amount for*  
2       *which the monetary value is equivalent to the average*  
3       *monetary value of the credits during the period from*  
4       *January 1, 2006, to January 1, 2009, as adjusted for*  
5       *inflation to reflect current dollar values at the time*  
6       *of the exchange;*

7               “(2) provide that a person receiving compensa-  
8       *tion for documented early action under subsection*  
9       *(a)(2) shall receive emission allowances established*  
10       *under section 721(a) in an amount that is approxi-*  
11       *mately equivalent in value to the carbon dioxide*  
12       *equivalent per ton value received by entities in ex-*  
13       *change for credits under paragraph (1) (as adjusted*  
14       *for inflation to reflect current dollar values at the*  
15       *time of the exchange), as determined by the Adminis-*  
16       *trator;*

17               “(3) provide that only reductions or avoidance of  
18       *greenhouse gas emissions, or sequestration of green-*  
19       *house gases, achieved by activities in the United*  
20       *States between January 1, 2001, and January 1,*  
21       *2009, may be compensated under this section, and*  
22       *only credits issued for such activities may be ex-*  
23       *changed under this section;*

24               “(4) provide that only credits that have not been  
25       *retired or otherwise used to meet a voluntary or man-*

1        *datory commitment, and have not expired, may be ex-*  
 2        *changed under subsection (a)(1);*

3            *“(5) require that, once exchanged, the credit be*  
 4        *retired for purposes of use under the program by or*  
 5        *for which it was originally issued; and*

6            *“(6) establish a deadline by which persons must*  
 7        *exchange the credits or request compensation for early*  
 8        *action under this section.*

9        *“(c) PARTICIPATION.—Participation in an exchange of*  
 10       *credits for allowances or compensation for early action au-*  
 11       *thorized by this section shall not preclude any person from*  
 12       *participation in an offset credit program established under*  
 13       *part D.*

14       **“SEC. 783. ESTABLISHMENT OF DEFICIT REDUCTION FUND.**

15            *“(a) DEFICIT REDUCTION FUND.—There is established*  
 16        *in the Treasury of the United States a fund, to be known*  
 17        *as the ‘Deficit Reduction Fund’.*

18            *“(b) DISBURSEMENTS.—No disbursement shall be*  
 19        *made from the Deficit Reduction Fund except pursuant to*  
 20        *an appropriation Act.”.*



1    ***Subtitle C—Additional Greenhouse***  
 2                   ***Gas Standards***

3    ***SEC. 121. GREENHOUSE GAS STANDARDS.***

4           *The Clean Air Act (42 U.S.C. 7401 et seq.), as amend-*  
 5    *ed by subtitles A and B of this title, is further amended*  
 6    *by adding the following new title after title VII:*

7                   ***“TITLE VIII—ADDITIONAL***  
 8                   ***GREENHOUSE GAS STANDARDS***

9    ***“SEC. 801. DEFINITIONS.***

10           *“For purposes of this title, terms that are defined in*  
 11    *title VII, except for the term ‘stationary source’, shall have*  
 12    *the meanings given those terms in title VII.*

13           ***“PART A—STATIONARY SOURCE STANDARDS***

14    ***“SEC. 811. STANDARDS OF PERFORMANCE.***

15           *“(a) DEFINITION OF UNCAPPED GREENHOUSE GAS*  
 16    *EMISSIONS.—In this section, the term ‘uncapped green-*  
 17    *house gas emissions’ means those greenhouse gas emissions*  
 18    *to which section 722 does not apply.*

19           *“(b) STANDARDS.—Before January 1, 2020, the Ad-*  
 20    *ministrator shall not promulgate new source performance*  
 21    *standards for greenhouse gases under section 111 that are*  
 22    *applicable to any stationary source that—*

23                   *“(1) emits uncapped greenhouse gas emissions;*  
 24                   *and*

1           “(2) qualifies as an eligible offset project pursu-  
 2           ant to section 733 that is eligible to receive an offset  
 3           credit pursuant to section 737.”.

4   **SEC. 122. HFC REGULATION.**

5           (a) *IN GENERAL.*—Title VI of the Clean Air Act (42  
 6   U.S.C. 7671 et seq.) (relating to stratospheric ozone protec-  
 7   tion) is amended by adding at the end the following:

8   **“SEC. 619. HYDROFLUOROCARBONS (HFCs).**

9           “(a) *TREATMENT AS CLASS II, GROUP II SUB-*  
 10   *STANCES.*—Except as otherwise provided in this section,  
 11   hydrofluorocarbons shall be treated as class II substances  
 12   for purposes of applying the provisions of this title. The  
 13   Administrator shall establish two groups of class II sub-  
 14   stances. Class II, group I substances shall include all  
 15   hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-  
 16   tion 602(b). Class II, group II substances shall include each  
 17   of the following:

- 18           “(1) Hydrofluorocarbon-23 (HFC-23).
- 19           “(2) Hydrofluorocarbon-32 (HFC-32).
- 20           “(3) Hydrofluorocarbon-41 (HFC-41).
- 21           “(4) Hydrofluorocarbon-125 (HFC-125).
- 22           “(5) Hydrofluorocarbon-134 (HFC-134).
- 23           “(6) Hydrofluorocarbon-134a (HFC-134a).
- 24           “(7) Hydrofluorocarbon-143 (HFC-143).
- 25           “(8) Hydrofluorocarbon-143a (HFC-143a).

1 “(9) *Hydrofluorocarbon-152 (HFC-152)*.

2 “(10) *Hydrofluorocarbon-152a (HFC-152a)*.

3 “(11) *Hydrofluorocarbon-227ea (HFC-227ea)*.

4 “(12) *Hydrofluorocarbon-236cb (HFC-236cb)*.

5 “(13) *Hydrofluorocarbon-236ea (HFC-236ea)*.

6 “(14) *Hydrofluorocarbon-236fa (HFC-236fa)*.

7 “(15) *Hydrofluorocarbon-245ca (HFC-245ca)*.

8 “(16) *Hydrofluorocarbon-245fa (HFC-245fa)*.

9 “(17) *Hydrofluorocarbon-365mfc (HFC-365mfc)*.

10 “(18) *Hydrofluorocarbon-43-10mee (HFC-43-*  
11 *10mee)*.

12 “(19) *Hydrofluoroolefin-1234yf (HFO-1234yf)*.

13 “(20) *Hydrofluoroolefin-1234ze (HFO-1234ze)*.

14 *Not later than 6 months after the date of enactment of this*  
15 *title, the Administrator shall publish an initial list of class*  
16 *II, group II substances, which shall include the substances*  
17 *listed in this subsection. The Administrator may add to the*  
18 *list of class II, group II substances any other substance used*  
19 *as a substitute for a class I or II substance if the Adminis-*  
20 *trator determines that 1 metric ton of the substance makes*  
21 *the same or greater contribution to global warming over*  
22 *100 years as 1 metric ton of carbon dioxide. Within 24*  
23 *months after the date of enactment of this section, the Ad-*  
24 *ministrator shall amend the regulations under this title (in-*  
25 *cluding the regulations referred to in sections 603, 608, 609,*

1 610, 611, 612, and 613) to apply to class II, group II sub-  
2 stances.

3 “(b) CONSUMPTION AND PRODUCTION OF CLASS II,  
4 GROUP II SUBSTANCES.—

5 “(1) IN GENERAL.—

6 “(A) CONSUMPTION PHASE DOWN.—In the  
7 case of class II, group II substances, in lieu of  
8 applying section 605 and the regulations there-  
9 under, the Administrator shall promulgate regu-  
10 lations phasing down the consumption of class  
11 II, group II substances in the United States, and  
12 the importation of products containing any class  
13 II, group II substance, in accordance with this  
14 subsection within 18 months after the date of en-  
15 actment of this section. Effective January 1,  
16 2012, it shall be unlawful for any person to  
17 produce any class II, group II substance, import  
18 any class II, group II substance, or import any  
19 product containing any class II, group II sub-  
20 stance without holding one consumption allow-  
21 ance or one destruction offset credit for each car-  
22 bon dioxide equivalent ton of the class II, group  
23 II substance. Any person who exports a class II,  
24 group II substance for which a consumption al-  
25 lowance was retired may receive a refund of that

1 allowance from the Administrator following the  
2 export.

3 “(B) *PRODUCTION.*—If the United States  
4 becomes a party or otherwise adheres to a multi-  
5 lateral agreement, including any amendment to  
6 the Montreal Protocol on Substances That De-  
7plete the Ozone Layer, that restricts the produc-  
8tion of class II, group II substances, the Admin-  
9istrator shall promulgate regulations establishing  
10 a baseline for the production of class II, group  
11 II substances in the United States and phasing  
12 down the production of class II, group II sub-  
13stances in the United States, in accordance with  
14 such multilateral agreement and subject to the  
15 same exceptions and other provisions as are ap-  
16plicable to the phase down of consumption of  
17 class II, group II substances under this section  
18 (except that the Administrator shall not require  
19 a person who obtains production allowances  
20 from the Administrator to make payment for  
21 such allowances if the person is making payment  
22 for a corresponding quantity of consumption al-  
23lowances of the same vintage year). Upon the ef-  
24fective date of such regulations, it shall be un-  
25lawful for any person to produce any class II,

group II substance without holding one consumption allowance and one production allowance, or one destruction offset credit, for each carbon dioxide equivalent ton of the class II, group II substance.

“(C) *INTEGRITY OF LIMITS.*—To maintain the integrity of the class II, group II limits, the Administrator may, through rulemaking, limit the percentage of each person’s compliance obligation that may be met through the use of destruction offset credits or banked allowances.

“(D) *COUNTING OF VIOLATIONS.*—Each consumption allowance, production allowance, or destruction offset credit not held as required by this section shall be a separate violation of this section.

“(2) *SCHEDULE.*—Pursuant to the regulations promulgated pursuant to paragraph (1)(A), the number of class II, group II consumption allowances established by the Administrator for each calendar year beginning in 2012 shall be the following percentage of the baseline, as established by the Administrator pursuant to paragraph (3):

<i>“Calendar Year</i>	<i>Percent of Baseline</i>
<i>2012</i>	<i>90</i>

<i>“Calendar Year</i>	<i>Percent of Baseline</i>
<i>2013</i>	<i>87.5</i>
<i>2014</i>	<i>85</i>
<i>2015</i>	<i>82.5</i>
<i>2016</i>	<i>80</i>
<i>2017</i>	<i>77.5</i>
<i>2018</i>	<i>75</i>
<i>2019</i>	<i>71</i>
<i>2020</i>	<i>67</i>
<i>2021</i>	<i>63</i>
<i>2022</i>	<i>59</i>
<i>2023</i>	<i>54</i>
<i>2024</i>	<i>50</i>
<i>2025</i>	<i>46</i>
<i>2026</i>	<i>42</i>
<i>2027</i>	<i>38</i>
<i>2028</i>	<i>34</i>
<i>2029</i>	<i>30</i>
<i>2030</i>	<i>25</i>
<i>2031</i>	<i>21</i>
<i>2032</i>	<i>17</i>
<i>after 2032</i>	<i>15</i>

1           “(3) *BASELINE.—(A) Not later than 1 year 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*

1     *shall be the sum, expressed in metric tons of carbon*  
2     *dioxide equivalents, of—*

3             *“(i) the annual average consumption of all*  
4             *class II substances in calendar years 2004, 2005,*  
5             *and 2006; plus*

6             *“(ii) the annual average quantity of all*  
7             *class II substances contained in imported prod-*  
8             *ucts in calendar years 2004, 2005, and 2006.*

9             *“(B) Notwithstanding subparagraph (A), if the*  
10            *Administrator determines that the baseline is higher*  
11            *than 370 million metric tons of carbon dioxide*  
12            *equivalents, then the Administrator shall establish the*  
13            *baseline at 370 million metric tons of carbon dioxide*  
14            *equivalents.*

15            *“(C) Notwithstanding subparagraph (A), if the*  
16            *Administrator determines that the baseline is lower*  
17            *than 280 million metric tons of carbon dioxide*  
18            *equivalents, then the Administrator shall establish the*  
19            *baseline at 280 million metric tons of carbon dioxide*  
20            *equivalents.*

21            *“(4) DISTRIBUTION OF ALLOWANCES.—*

22            *“(A) IN GENERAL.—Pursuant to the regula-*  
23            *tions promulgated under paragraph (1)(A), for*  
24            *each calendar year beginning in 2012, the Ad-*



1           *ministrator shall sell consumption allowances in*  
 2           *accordance with this paragraph.*

3           “(B) *ESTABLISHMENT OF POOLS.—The Ad-*  
 4           *ministrator shall establish two allowance pools.*  
 5           *Eighty percent of the consumption allowances*  
 6           *available for a calendar year shall be placed in*  
 7           *the producer-importer pool, and 20 percent of the*  
 8           *consumption allowances available for a calendar*  
 9           *year shall be placed in the secondary pool.*

10          “(C) *PRODUCER-IMPORTER POOL.—*

11               “(i) *AUCTION.—(I) For each calendar*  
 12               *year, the Administrator shall offer for sale*  
 13               *at auction the following percentage of the*  
 14               *consumption allowances in the producer-im-*  
 15               *porter pool:*

<i>“Calendar Year</i>	<i>Percent Available for Auction</i>
<i>2012</i>	<i>10</i>
<i>2013</i>	<i>20</i>
<i>2014</i>	<i>30</i>
<i>2015</i>	<i>40</i>
<i>2016</i>	<i>50</i>
<i>2017</i>	<i>60</i>
<i>2018</i>	<i>70</i>
<i>2019</i>	<i>80</i>
<i>2020 and thereafter</i>	<i>90</i>

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 (III).

7           “(III) Not later than 3 years after the  
8           date of the initial auction and from time to  
9           time thereafter, the Administrator shall de-  
10          termine through rulemaking whether any  
11          persons who did not produce or import a  
12          class II substance during calendar year  
13          2004, 2005, or 2006 will be permitted to  
14          participate in future auctions. The Admin-  
15          istrator shall base this determination on the  
16          duration, consistency, and scale of such per-  
17          son’s purchases of consumption allowances  
18          in the secondary pool under subparagraph  
19          (D)(ii)(III), as well as economic or tech-  
20          nical hardship and other factors deemed rel-  
21          evant by the Administrator.

22          “(IV) The Administrator shall set a  
23          minimum bid per consumption allowance of  
24          the following:

1 “(aa) *For vintage year 2012,*  
2 *\$1.00.*

3 “(bb) *For vintage year 2013,*  
4 *\$1.20.*

5 “(cc) *For vintage year 2014,*  
6 *\$1.40.*

7 “(dd) *For vintage year 2015,*  
8 *\$1.60.*

9 “(ee) *For vintage year 2016,*  
10 *\$1.80.*

11 “(ff) *For vintage year 2017,*  
12 *\$2.00.*

13 “(gg) *For vintage year 2018 and*  
14 *thereafter, \$2.00 adjusted for inflation*  
15 *after vintage year 2017 based upon the*  
16 *producer price index as published by*  
17 *the Department of Commerce.*

18 “(ii) *NON-AUCTION SALE.—(I) For*  
19 *each calendar year, as soon as practicable*  
20 *after auction, the Administrator shall offer*  
21 *for sale the remaining consumption allow-*  
22 *ances in the producer-importer pool at the*  
23 *following prices:*

24 “(aa) *A fee of \$1.00 per vintage*  
25 *year 2012 allowance.*

1                   “(bb) *A fee of \$1.20 per vintage*  
2                   *year 2013 allowance.*

3                   “(cc) *A fee of \$1.40 per vintage*  
4                   *year 2014 allowance.*

5                   “(dd) *For each vintage year 2015*  
6                   *allowance, a fee equal to the average of*  
7                   *\$1.10 and the auction clearing price*  
8                   *for vintage year 2014 allowances.*

9                   “(ee) *For each vintage year 2016*  
10                  *allowance, a fee equal to the average of*  
11                  *\$1.30 and the auction clearing price*  
12                  *for vintage year 2015 allowances.*

13                  “(ff) *For each vintage year 2017*  
14                  *allowance, a fee equal to the average of*  
15                  *\$1.40 and the auction clearing price*  
16                  *for vintage year 2016 allowances.*

17                  “(gg) *For each allowance of vin-*  
18                  *tage year 2018 and subsequent vintage*  
19                  *years, a fee equal to the auction clear-*  
20                  *ing price for that vintage year.*

21                  “(II) *The Administrator shall offer to*  
22                  *sell the remaining consumption allowances*  
23                  *in the producer-importer pool to producers*  
24                  *of class II, group II substances and import-*

1            *ers of class II, group II substances in pro-*  
2            *portion to their relative allocation share.*

3            *“(III) Such allocation share for such*  
4            *sale shall be determined by the Adminis-*  
5            *trator using such producer’s or importer’s*  
6            *annual average data on class II substances*  
7            *from calendar years 2004, 2005, and 2006,*  
8            *on a carbon dioxide equivalent basis, and—*

9            *“(aa) shall be based on a pro-*  
10           *ducer’s production, plus importation,*  
11           *plus acquisitions and purchases from*  
12           *persons who produced class II sub-*  
13           *stances in the United States during*  
14           *calendar year 2004, 2005, or 2006, less*  
15           *exportation, less transfers and sales to*  
16           *persons who produced class II sub-*  
17           *stances in the United States during*  
18           *calendar year 2004, 2005, or 2006;*  
19           *and*

20           *“(bb) for an importer of class II*  
21           *substances that did not produce in the*  
22           *United States any class II substance*  
23           *during calendar years 2004, 2005, and*  
24           *2006, shall be based on the importer’s*  
25           *importation less exportation.*

1           *For purposes of item (aa), the Adminis-*  
2           *trator shall account for 100 percent of class*  
3           *II, group II substances and 60 percent of*  
4           *class II, group I substances. For purposes of*  
5           *item (bb), the Administrator shall account*  
6           *for 100 percent of class II, group II sub-*  
7           *stances and 100 percent of class II, group*  
8           *I substances.*

9           “(IV) *Any consumption allowances*  
10          *made available for nonauction sale to a spe-*  
11          *cific producer or importer of class II, group*  
12          *II substances but not purchased by the spe-*  
13          *cific producer or importer shall be made*  
14          *available for sale to any producer or im-*  
15          *porter of class II substances during cal-*  
16          *endar year 2004, 2005, or 2006. If demand*  
17          *for such consumption allowances exceeds*  
18          *supply of such consumption allowances, the*  
19          *Administrator shall develop and utilize cri-*  
20          *teria for the sale of such consumption allow-*  
21          *ances that may include pro rata shares, his-*  
22          *toric production and importation, economic*  
23          *or technical hardship, or other factors*  
24          *deemed relevant by the Administrator. If*  
25          *the supply of such consumption allowances*

1           *exceeds demand, the Administrator may*  
 2           *offer such consumption allowances for sale*  
 3           *in the secondary pool as set forth in sub-*  
 4           *paragraph (D).*

5           “(D) SECONDARY POOL.—(i) *For each cal-*  
 6           *endar year, as soon as practicable after the auc-*  
 7           *tion required in subparagraph (C), the Adminis-*  
 8           *trator shall offer for sale the consumption allow-*  
 9           *ances in the secondary pool at the prices listed*  
 10          *in subparagraph (C)(ii).*

11          “(ii) *The Administrator shall accept appli-*  
 12          *cations for purchase of secondary pool consump-*  
 13          *tion allowances from—*

14               “(I) *importers of products containing*  
 15               *class II, group II substances;*

16               “(II) *persons who purchased any class*  
 17               *II, group II substance directly from a pro-*  
 18               *ducer or importer of class II, group II sub-*  
 19               *stances for use in a product containing a*  
 20               *class II, group II substance, a manufac-*  
 21               *turing process, or a reclamation process;*

22               “(III) *persons who did not produce or*  
 23               *import a class II substance during calendar*  
 24               *year 2004, 2005, or 2006, but who the Ad-*  
 25               *ministrator determines have subsequently*

1           *taken significant steps to produce or import*  
2           *a substantial quantity of any class II,*  
3           *group II substance; and*

4           “(IV) *persons who produced or im-*  
5           *ported any class II substance during cal-*  
6           *endar year 2004, 2005, or 2006.*

7           “(iii) *If the supply of consumption allow-*  
8           *ances in the secondary pool equals or exceeds the*  
9           *demand for consumption allowances in the sec-*  
10          *ondary pool as presented in the applications for*  
11          *purchase, the Administrator shall sell the con-*  
12          *sumption allowances in the secondary pool to the*  
13          *applicants in the amounts requested in the ap-*  
14          *plications for purchase. Any consumption allow-*  
15          *ances in the secondary pool not purchased in a*  
16          *calendar year may be rolled over and added to*  
17          *the quantity available in the secondary pool in*  
18          *the following year.*

19          “(iv) *If the demand for consumption allow-*  
20          *ances in the secondary pool as presented in the*  
21          *applications for purchase exceeds the supply of*  
22          *consumption allowances in the secondary pool,*  
23          *the Administrator shall sell the consumption al-*  
24          *lowances as follows:*



1           “(I) The Administrator shall first sell  
2           the consumption allowances in the sec-  
3           ondary pool to any importers of products  
4           containing class II, group II substances in  
5           the amounts requested in their applications  
6           for purchase. If the demand for such con-  
7           sumption allowances exceeds supply of such  
8           consumption allowances, the Administrator  
9           shall develop and utilize criteria for the sale  
10          of such consumption allowances among im-  
11          porters of products containing class II,  
12          group II substances that may include pro  
13          rata shares, historic importation, economic  
14          or technical hardship, or other factors  
15          deemed relevant by the Administrator.

16          “(II) The Administrator shall next sell  
17          any remaining consumption allowances to  
18          persons identified in subclauses (II) and  
19          (III) of clause (ii) in the amounts requested  
20          in their applications for purchase. If the de-  
21          mand for such consumption allowances ex-  
22          ceeds remaining supply of such consump-  
23          tion allowances, the Administrator shall de-  
24          velop and utilize criteria for the sale of such  
25          consumption allowances among subclauses

1           *(II) and (III) applicants that may include*  
2           *pro rata shares, historic use, economic or*  
3           *technical hardship, or other factors deemed*  
4           *relevant by the Administrator.*

5           *“(III) The Administrator shall then*  
6           *sell any remaining consumption allowances*  
7           *to persons who produced or imported any*  
8           *class II substance during calendar year*  
9           *2004, 2005, or 2006 in the amounts re-*  
10          *quested in their applications for purchase.*  
11          *If demand for such consumption allowances*  
12          *exceeds remaining supply of such consump-*  
13          *tion allowances, the Administrator shall de-*  
14          *velop and utilize criteria for the sale of such*  
15          *consumption allowances that may include*  
16          *pro rata shares, historic production and im-*  
17          *portation, economic or technical hardship,*  
18          *or other factors deemed relevant by the Ad-*  
19          *ministrator.*

20          *“(IV) Each person who purchases con-*  
21          *sumption allowances in a non-auction sale*  
22          *under this subparagraph shall be required*  
23          *to disclose the person or entity sponsoring*  
24          *or benefitting from the purchases if such*  
25          *person or entity is, in whole or in part,*

1           *other than the purchaser or the purchaser's*  
 2           *employer.*

3           “(E) *DISCRETION TO WITHHOLD ALLOW-*  
 4           *ANCES.—Nothing in this paragraph prevents the*  
 5           *Administrator from exercising discretion to*  
 6           *withhold and retire consumption allowances that*  
 7           *would otherwise be available for auction or non-*  
 8           *auction sale, or to allocate such allowances for*  
 9           *essential uses pursuant to subsection (d). Not*  
 10          *later than 18 months after the date of enactment*  
 11          *of this section, the Administrator shall promul-*  
 12          *gate regulations establishing criteria for with-*  
 13          *holding and retiring consumption allowances*  
 14          *and governing the allocation of withheld allow-*  
 15          *ances for essential uses subject to the criteria*  
 16          *under subsection (d).*

17          “(5) *BANKING.—A consumption allowance or de-*  
 18          *struction offset credit may be used to meet the compli-*  
 19          *ance obligation requirements of paragraph (1) in—*

20                 “(A) *the vintage year for the allowance or*  
 21                 *destruction offset credit; or*

22                 “(B) *any calendar year subsequent to the*  
 23                 *vintage year for the allowance or destruction off-*  
 24                 *set credit.*

25          “(6) *AUCTIONS.—*

1           “(A) *INITIAL REGULATIONS.*—Not later  
 2           than 18 months after the date of enactment of  
 3           this section, the Administrator shall promulgate  
 4           regulations governing the auction of allowances  
 5           under this section. Such regulations shall include  
 6           the following requirements:

7                   “(i) *FREQUENCY; FIRST AUCTION.*—  
 8                   Auctions shall be held one time per year at  
 9                   regular intervals, with the first auction to  
 10                  be held no later than October 31, 2011.

11                  “(ii) *AUCTION FORMAT.*—Auctions  
 12                  shall follow a single-round, sealed-bid, uni-  
 13                  form price format.

14                  “(iii) *FINANCIAL ASSURANCE.*—The  
 15                  Administrator may establish financial as-  
 16                  surance requirements to ensure that auction  
 17                  participants can and will perform on their  
 18                  bids.

19                  “(iv) *DISCLOSURE OF BENEFICIAL*  
 20                  *OWNERSHIP.*—Each bidder in the auction  
 21                  shall be required to disclose the person or  
 22                  entity sponsoring or benefitting from the  
 23                  bidder’s participation in the auction if such  
 24                  person or entity is, in whole or in part,  
 25                  other than the bidder.

1 “(v) *PUBLICATION OF INFORMATION.*—  
 2 *After the auction, the Administrator shall,*  
 3 *in a timely fashion, publish the number of*  
 4 *bidders, number of winning bidders, the*  
 5 *quantity of allowances sold, and the auction*  
 6 *clearing price.*

7 “(vi) *BIDDING LIMITS IN 2012.*—*In the*  
 8 *vintage year 2012 auction, no auction par-*  
 9 *ticipant may, directly or in concert with*  
 10 *another participant, bid for or purchase*  
 11 *more allowances offered for sale at the auc-*  
 12 *tion than the greater of—*

13 “(I) *the number of allowances*  
 14 *which, when added to the number of*  
 15 *allowances available for purchase by*  
 16 *the participant in the producer-im-*  
 17 *porter pool non-auction sale, would*  
 18 *equal the participant’s annual average*  
 19 *consumption of class II, group II sub-*  
 20 *stances in calendar years 2004, 2005,*  
 21 *and 2006; or*

22 “(II) *the number of allowances*  
 23 *equal to the product of—*

24 “(aa) *1.20 multiplied by the*  
 25 *participant’s allocation share of*

1           the producer-importer pool non-  
2           auction sale as determined under  
3           paragraph (4)(C)(ii); and

4                   “(bb) the number of vintage  
5           year 2012 allowances offered at  
6           auction.

7                   “(vii) *BIDDING LIMITS IN 2013.*—In the  
8           vintage year 2013 auction, no auction par-  
9           ticipant may, directly or in concert with  
10          another participant, bid for or purchase  
11          more allowances offered for sale at the auc-  
12          tion than the product of—

13                   “(I) 1.15 multiplied by the ratio  
14          of the total number of vintage year  
15          2012 allowances purchased by the par-  
16          ticipant from the auction and from the  
17          producer-importer pool non-auction  
18          sale to the total number of vintage year  
19          2012 allowances in the producer-im-  
20          porter pool; and

21                   “(II) the number of vintage year  
22          2013 allowances offered at auction.

23                   “(viii) *BIDDING LIMITS IN SUBSE-*  
24          *QUENT YEARS.*—In the auctions for vintage  
25          year 2014 and subsequent vintage years, no

1            *auction participant may, directly or in*  
 2            *concert with another participant, bid for or*  
 3            *purchase more allowances offered for sale at*  
 4            *the auction than the product of—*

5            *“(I) 1.15 multiplied by the ratio*  
 6            *of the highest number of allowances re-*  
 7            *quired to be held by the participant in*  
 8            *any of the three prior vintage years to*  
 9            *meet its compliance obligation under*  
 10           *paragraph (1) to the total number of*  
 11           *allowances in the producer-importer*  
 12           *pool for such vintage year; and*

13           *“(II) the number of allowances of-*  
 14           *fered at auction for that vintage year.*

15           *“(ix) OTHER REQUIREMENTS.—The*  
 16           *Administrator may include in the regula-*  
 17           *tions such other requirements or provisions*  
 18           *as the Administrator considers necessary to*  
 19           *promote effective, efficient, transparent, and*  
 20           *fair administration of auctions under this*  
 21           *section.*

22           *“(B) REVISION OF REGULATIONS.—The Ad-*  
 23           *ministrator may, at any time, revise the initial*  
 24           *regulations promulgated under subparagraph*  
 25           *(A) based on the Administrator’s experience in*

1       *administering allowance auctions by promul-*  
 2       *gating new regulations. Such revised regulations*  
 3       *need not meet the requirements identified in sub-*  
 4       *paragraph (A) if the Administrator determines*  
 5       *that an alternative auction design would be more*  
 6       *effective, taking into account factors including*  
 7       *costs of administration, transparency, fairness,*  
 8       *and risks of collusion or manipulation. In deter-*  
 9       *mining whether and how to revise the initial*  
 10       *regulations under this paragraph, the Adminis-*  
 11       *trator shall not consider maximization of reve-*  
 12       *nues to the Federal Government.*

13               “(C) *DELEGATION OR CONTRACT.*—*Pursu-*  
 14       *ant to regulations under this section, the Admin-*  
 15       *istrator may, by delegation or contract, provide*  
 16       *for the conduct of auctions under the Adminis-*  
 17       *trator’s supervision by other departments or*  
 18       *agencies of the Federal Government or by non-*  
 19       *governmental agencies, groups, or organizations.*

20               “(7) *PAYMENTS FOR ALLOWANCES.*—

21               “(A) *INITIAL REGULATIONS.*—*Not later*  
 22       *than 18 months after the date of enactment of*  
 23       *this section, the Administrator shall promulgate*  
 24       *regulations governing the payment for allow-*  
 25       *ances purchased in auction and non-auction*



1       *sales under this section. Such regulations shall*  
2       *include the requirement that, in the event that*  
3       *full payment for purchased allowances is not*  
4       *made on the date of purchase, equal payments*  
5       *shall be made one time per calendar quarter*  
6       *with all payments for allowances of a vintage*  
7       *year made by the end of that vintage year.*

8               “(B) *REVISION OF REGULATIONS.—The Ad-*  
9       *ministrator may, at any time, revise the initial*  
10       *regulations promulgated under subparagraph*  
11       *(A) based on the Administrator’s experience in*  
12       *administering collection of payments by promul-*  
13       *gating new regulations. Such revised regulations*  
14       *need not meet the requirements identified in sub-*  
15       *paragraph (A) if the Administrator determines*  
16       *that an alternative payment structure or fre-*  
17       *quency would be more effective, taking into ac-*  
18       *count factors including cost of administration,*  
19       *transparency, and fairness. In determining*  
20       *whether and how to revise the initial regulations*  
21       *under this paragraph, the Administrator shall*  
22       *not consider maximization of revenues to the*  
23       *Federal Government.*

24               “(C) *PENALTIES FOR NON-PAYMENT.—Fail-*  
25       *ure to pay for purchased allowances in accord-*

1        *ance with the regulations promulgated pursuant*  
2        *to this paragraph shall be a violation of the re-*  
3        *quirements of subsection (b). Section 113(c)(3)*  
4        *shall apply in the case of any person who know-*  
5        *ingly fails to pay for purchased allowances in*  
6        *accordance with the regulations promulgated*  
7        *pursuant to this paragraph.*

8        *“(8) IMPORTED PRODUCTS.—If the United States*  
9        *becomes a party or otherwise adheres to a multilateral*  
10       *agreement, including any amendment to the Montreal*  
11       *Protocol on Substances That Deplete the Ozone Layer,*  
12       *which restricts the production or consumption of class*  
13       *II, group II substances—*

14            *“(A) as of the date on which such agreement*  
15            *or amendment enters into force, it shall no*  
16            *longer be unlawful for any person to import*  
17            *from a party to such agreement or amendment*  
18            *any product containing any class II, group II*  
19            *substance whose production or consumption is*  
20            *regulated by such agreement or amendment with-*  
21            *out holding one consumption allowance or one*  
22            *destruction offset credit for each carbon dioxide*  
23            *equivalent ton of the class II, group II substance;*

24            *“(B) the Administrator shall promulgate*  
25            *regulations within 12 months of the date the*

1        *United States becomes a party or otherwise ad-*  
2        *heres to such agreement or amendment, or the*  
3        *date on which such agreement or amendment en-*  
4        *ters into force, whichever is later, to establish a*  
5        *new baseline for purposes of paragraph (2),*  
6        *which new baseline shall be the original baseline*  
7        *less the carbon dioxide equivalent of the annual*  
8        *average quantity of any class II substances regu-*  
9        *lated by such agreement or amendment con-*  
10       *tained in products imported from parties to such*  
11       *agreement or amendment in calendar years*  
12       *2004, 2005, and 2006;*

13            *“(C) as of the date on which such agreement*  
14        *or amendment enters into force, no person im-*  
15        *porting any product containing any class II,*  
16        *group II substance may, directly or in concert*  
17        *with another person, purchase any consumption*  
18        *allowances for sale by the Administrator for the*  
19        *importation of products from a party to such*  
20        *agreement or amendment that contain any class*  
21        *II, group II substance restricted by such agree-*  
22        *ment or amendment; and*

23            *“(D) the Administrator may adjust the two*  
24        *allowance pools established in paragraph (4)*  
25        *such that up to 90 percent of the consumption*

allowances available for a calendar year are placed in the producer-importer pool with the remaining consumption allowances placed in the secondary pool.

“(9) *OFFSETS.*—

“(A) *CHLOROFLUOROCARBON DESTRUCTION.*—Within 18 months after the date of enactment of this section, the Administrator shall promulgate regulations to provide for the issuance of offset credits for the destruction, in the calendar year 2012 or later, of chlorofluorocarbons in the United States. The Administrator shall establish and distribute to the destroying entity a quantity of destruction offset credits equal to 0.8 times the number of metric tons of carbon dioxide equivalents of reduction achieved through the destruction. No destruction offset credits shall be established for the destruction of a class II, group II substance.

“(B) *DEFINITION.*—For purposes of this paragraph, the term ‘destruction’ means the conversion of a substance by thermal, chemical, or other means to another substance with little or no carbon dioxide equivalent value and no ozone depletion potential.

1           “(C) *REGULATIONS.*—*The regulations pro-*  
2           *mulgated under this paragraph shall include*  
3           *standards and protocols for project eligibility,*  
4           *certification of destroyers, monitoring, tracking,*  
5           *destruction efficiency, quantification of project*  
6           *and baseline emissions and carbon dioxide equiv-*  
7           *alent value, and verification. The Administrator*  
8           *shall ensure that destruction offset credits rep-*  
9           *resent real and verifiable destruction of*  
10          *chlorofluorocarbons or other class I or class II,*  
11          *group I, substances authorized under subpara-*  
12          *graph (D).*

13          “(D) *OTHER SUBSTANCES.*—*The Adminis-*  
14          *trator may promulgate regulations to add to the*  
15          *list of class I and class II, group I, substances*  
16          *that may be destroyed for destruction offset cred-*  
17          *its, taking into account a candidate substance’s*  
18          *carbon dioxide equivalent value, ozone depletion*  
19          *potential, prevalence in banks in the United*  
20          *States, and emission rates, as well as the need*  
21          *for additional cost containment under the class*  
22          *II, group II limits and the integrity of the class*  
23          *II, group II limits. The Administrator shall not*  
24          *add a class I or class II, group I substance to*  
25          *the list if the consumption of the substance has*

1       *not been completely phased-out internationally*  
2       *(except for essential use exemptions or other*  
3       *similar exemptions) pursuant to the Montreal*  
4       *Protocol.*

5               “(E) *EXTENSION OF OFFSETS.*—(i) *At any*  
6       *time after the Administrator promulgates regula-*  
7       *tions pursuant to subparagraph (A), the Admin-*  
8       *istrator may, pursuant to the requirements of*  
9       *part D of title VII and based on the carbon diox-*  
10       *ide equivalent value of the substance destroyed,*  
11       *add the types of destruction projects authorized*  
12       *to receive destruction offset credits under this*  
13       *paragraph to the list of types of projects eligible*  
14       *for offset credits under section 733. If such*  
15       *projects are added to the list under section 733,*  
16       *the issuance of offset credits for such projects*  
17       *under part D of title VII shall be governed by the*  
18       *requirements of such part D, while the issuance*  
19       *of offset credits for such projects under this para-*  
20       *graph shall be governed by the requirements of*  
21       *this paragraph. Nothing in this paragraph shall*  
22       *affect the issuance of offset credits under section*  
23       *740.*

24               “(ii) *The Administrator shall not make the*  
25       *addition under clause (i) unless the Adminis-*

1           *trator finds that insufficient destruction is occur-*  
 2           *ring or is projected to occur under this para-*  
 3           *graph and that the addition would increase de-*  
 4           *struction.*

5           *“(iii) In no event shall more than one de-*  
 6           *struction offset credit be issued under title VII*  
 7           *and this section for the destruction of the same*  
 8           *quantity of a substance.*

9           *“(10) LEGAL STATUS OF ALLOWANCES AND*  
 10          *CREDITS.—None of the following constitutes a prop-*  
 11          *erty right:*

12           *“(A) A production or consumption allow-*  
 13          *ance.*

14           *“(B) A destruction offset credit.*

15          *“(c) DEADLINES FOR COMPLIANCE.—Notwithstanding*  
 16          *the deadlines specified for class II substances in sections*  
 17          *608, 609, 610, 612, and 613 that occur prior to January*  
 18          *1, 2009, the deadline for promulgating regulations under*  
 19          *those sections for class II, group II substances shall be Janu-*  
 20          *ary 1, 2012.*

21          *“(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwith-*  
 22          *standing the provisions of this section regarding auction*  
 23          *and nonauction sale of allowances, to the extent consistent*  
 24          *with any applicable multilateral agreement to which the*  
 25          *United States is a party or otherwise adheres, the Adminis-*

1 *trator may allocate (and in the case of medical devices,*  
2 *shall determine whether to allocate) allowances withheld*  
3 *from auction or nonauction sale under subsection (b)(4)(E)*  
4 *for essential uses pursuant to the following requirements:*

5           “(1) *MEDICAL DEVICES.—The Administrator,*  
6 *after notice and opportunity for public comment, and*  
7 *in consultation with the Commissioner of Food and*  
8 *Drugs, shall determine whether to allocate withheld*  
9 *allowances for the production and consumption of*  
10 *class II, group II substances solely for use in medical*  
11 *devices approved and determined to be essential by*  
12 *the Commissioner. Not later than 20 months after the*  
13 *date of enactment of this title, the Commissioner shall*  
14 *approve and determine essential medical devices. For*  
15 *purposes of this section, section 601(8)(A) shall not*  
16 *apply to metered dose inhalers.*

17           “(2) *AVIATION AND SPACE VEHICLE SAFETY.—*  
18 *The Administrator, after notice and opportunity for*  
19 *public comment, and in consultation with the Admin-*  
20 *istrator of the Federal Aviation Administration or the*  
21 *Administrator of the National Aeronautics and Space*  
22 *Administration, may allocate withheld allowances for*  
23 *the production and consumption of class II, group II*  
24 *substances solely for aviation and space flight safety*  
25 *purposes.*



1           “(3) *FIRE SUPPRESSION.*—*The Administrator,*  
2           *after notice and opportunity for public comment, may*  
3           *allocate withheld allowances for the production and*  
4           *consumption of class II, group II substances solely for*  
5           *fire suppression purposes. Paragraphs (1) and (2) of*  
6           *subsection (g) of section 604 shall apply to class II,*  
7           *group II substances in the same manner and to the*  
8           *same extent as such provisions apply to the sub-*  
9           *stances specified in such subsection.*

10           “(4) *NATIONAL SECURITY.*—*The Administrator,*  
11           *after notice and opportunity for public comment, and*  
12           *in consultation with the Secretary of Defense, may al-*  
13           *locate withheld allowances for the production and*  
14           *consumption of class II, group II substances for use*  
15           *as may be necessary to protect the national security*  
16           *interests of the United States if the Administrator, in*  
17           *consultation with the Secretary of Defense, finds that*  
18           *adequate substitutes are not available and that the*  
19           *production or consumption of such substance is nec-*  
20           *essary to protect such national security interest.*

21           “(e) *DEVELOPING COUNTRIES.*—*Notwithstanding any*  
22           *phase down of production required by this section, the Ad-*  
23           *ministrator, after notice and opportunity for public com-*  
24           *ment, may authorize the production of limited quantities*  
25           *of class II, group II substances in excess of the amounts*

1 *otherwise allowable under this section solely for export to,*  
 2 *and use in, developing countries. Any production author-*  
 3 *ized under this subsection shall be solely for purposes of sat-*  
 4 *isfying the basic domestic needs of such countries as pro-*  
 5 *vided in applicable international agreements, if any, to*  
 6 *which the United States is a party or otherwise adheres.*

7       “(f) *NATIONAL SECURITY; FIRE SUPPRESSION, ETC.—*  
 8 *The provisions of subsection (f) and paragraphs (1) and*  
 9 *(2) of subsection (g) of section 604 shall apply to any con-*  
 10 *sumption and production phase down of class II, group II*  
 11 *substances in the same manner and to the same extent, con-*  
 12 *sistent 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 such*  
 15 *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 pro-*  
 21 *mulgate initial regulations not later than 18 months*  
 22 *after the date of enactment of this section, and revised*  
 23 *regulations any time thereafter, which establish a*  
 24 *schedule for phasing down the consumption (and, if*  
 25 *the condition in subsection (b)(1)(B) is met, the pro-*

1       duction) of class II, group II substances that is more  
2       stringent than the schedule set forth in this section if,  
3       based on the availability of substitutes, the Adminis-  
4       trator determines that such more stringent schedule is  
5       practicable, taking into account technological  
6       achievability, safety, and other factors the Adminis-  
7       trator deems relevant, or if the Montreal Protocol, or  
8       any applicable international agreement to which the  
9       United States is a party or otherwise adheres, is  
10      modified or established to include a schedule or other  
11      requirements to control or reduce production, con-  
12      sumption, or use of any class II, group II substance  
13      more rapidly than the applicable schedule under this  
14      section.

15           “(2) *PETITION*.—Any person may submit a peti-  
16      tion to promulgate regulations under this subsection  
17      in the same manner and subject to the same proce-  
18      dures 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 cred-  
22      its create a significant potential for inconsistency  
23      with the requirements of any applicable international  
24      agreement to which the United States is a party or  
25      otherwise adheres, the Administrator may promulgate

1        *regulations restricting the availability of banking, al-*  
2        *lowance rollover, or destruction offset credits to the ex-*  
3        *tent necessary to avoid such inconsistency.*

4        “(h) *EXCHANGE.*—Section 607 shall not apply in the  
5        *case of class II, group II substances. Production and con-*  
6        *sumption allowances for class II, group II substances may*  
7        *be freely exchanged or sold but may not be converted into*  
8        *allowances for class II, group I substances.*

9        “(i) *LABELING.*—(1) *In applying section 611 to prod-*  
10       *ucts containing or manufactured with class II, group II*  
11       *substances, in lieu of the words ‘destroying ozone in the*  
12       *upper atmosphere’ on labels required under section 611*  
13       *there shall be substituted the words ‘contributing to global*  
14       *warming’.*

15       “(2) *The Administrator may, through rulemaking, ex-*  
16       *empt from the requirements of section 611 products con-*  
17       *taining or manufactured with class II, group II substances*  
18       *determined to have little or no carbon dioxide equivalent*  
19       *value compared to other substances used in similar prod-*  
20       *ucts.*

21       “(j) *NONESSENTIAL PRODUCTS.*—*For the purposes of*  
22       *section 610, class II, group II substances shall be regulated*  
23       *under section 610(b), except that in applying section 610(b)*  
24       *the word ‘hydrofluorocarbon’ shall be substituted for the*  
25       *word ‘chlorofluorocarbon’ and the term ‘class II, group II’*

1 *shall be substituted for the term ‘class I’. Class II, group*  
 2 *II substances shall not be subject to the provisions of section*  
 3 *610(d).*

4 “(k) *INTERNATIONAL TRANSFERS.*—*In the case of class*  
 5 *II, group II substances, in lieu of section 616, this sub-*  
 6 *section shall apply. To the extent consistent with any appli-*  
 7 *cable international agreement to which the United States*  
 8 *is a party or otherwise adheres, including any amendment*  
 9 *to the Montreal Protocol, the United States may engage in*  
 10 *transfers with other parties to such agreement or amend-*  
 11 *ment under the following conditions:*

12 “(1) *The United States may transfer production*  
 13 *allowances to another party to such agreement or*  
 14 *amendment if, at the time of the transfer, the Admin-*  
 15 *istrator establishes revised production limits for the*  
 16 *United States accounting for the transfer in accord-*  
 17 *ance with regulations promulgated pursuant to this*  
 18 *subsection.*

19 “(2) *The United States may acquire production*  
 20 *allowances from another party to such agreement or*  
 21 *amendment if, at the time of the transfer, the Admin-*  
 22 *istrator finds that the other party has revised its do-*  
 23 *mestic production limits in the same manner as pro-*  
 24 *vided with respect to transfers by the United States*

1       *in the regulations promulgated pursuant to this sub-*  
2       *section.*

3       “(l) *RELATIONSHIP TO OTHER LAWS.*—

4               “(1) *STATE LAWS.*—*For purposes of section 116,*  
5       *the requirements of this section for class II, group II*  
6       *substances shall be treated as requirements for the*  
7       *control and abatement of air pollution.*

8               “(2) *MULTILATERAL AGREEMENTS.*—*Section 614*  
9       *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 applica-*  
13       *ble multilateral agreement to which the United States*  
14       *is a party or otherwise adheres that restricts the pro-*  
15       *duction or consumption of class II, group II sub-*  
16       *stances,’ and for the words ‘Article 4 of the Montreal*  
17       *Protocol’ there shall be substituted ‘any provision of*  
18       *such multilateral agreement regarding trade with*  
19       *non-parties’.*

20               “(3) *FEDERAL FACILITIES.*—*For purposes of sec-*  
21       *tion 118, the requirements of this section for class II,*  
22       *group II substances and corresponding State, inter-*  
23       *state, and local requirements, administrative author-*  
24       *ity, and process and sanctions shall be treated as re-*

1        *quirements for the control and abatement of air pollu-*  
2        *tion within the meaning of section 118.*

3        “(m) *CARBON DIOXIDE EQUIVALENT VALUE.—(1) In*  
4        *lieu of section 602(e), the provisions of this subsection shall*  
5        *apply in the case of class II, group II substances. Simulta-*  
6        *neously with establishing the list of class II, group II sub-*  
7        *stances, and simultaneously with any addition to that list,*  
8        *the Administrator shall publish the carbon dioxide equiva-*  
9        *lent value of each listed class II, group II substance, based*  
10       *on a determination of the number of metric tons of carbon*  
11       *dioxide that makes the same contribution to global warming*  
12       *over 100 years as 1 metric ton of each class II, group II*  
13       *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 of*  
10 *review and revision under paragraph (2) if the Adminis-*  
11 *trator determines that such decrease is appropriate in order*  
12 *to synchronize such review and revisions with any similar*  
13 *review process carried out pursuant to the United Nations*  
14 *Framework Convention on Climate Change, an agreement*  
15 *negotiated under that convention, The Vienna Convention*  
16 *for the Protection of the Ozone Layer, or an agreement nego-*  
17 *tiated under that convention, except that in no event shall*  
18 *the Administrator carry out such review and revision any*  
19 *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 (2)*  
22 *of this subsection shall apply in the case of class II, group*  
23 *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 sub-  
3       stance, or who imported a product containing a class  
4       II, group II substance, shall file a report with the Ad-  
5       ministrator setting forth the carbon dioxide equiva-  
6       lent amount of the substance that such person pro-  
7       duced, imported, or exported, as well as the amount  
8       that was contained in products imported by that per-  
9       son, during the preceding reporting period. Each such  
10      report shall be signed and attested by a responsible of-  
11      ficer. If all other reporting is complete, no such report  
12      shall be required from a person after April 1 of the  
13      calendar year after such person permanently ceases  
14      production, importation, and exportation of the sub-  
15      stance, as well as importation of products containing  
16      the substance, and so notifies the Administrator in  
17      writing. If the United States becomes a party or oth-  
18      erwise adheres to a multilateral agreement, including  
19      any amendment to the Montreal Protocol on Sub-  
20      stances That Deplete the Ozone Layer, that restricts  
21      the production or consumption of class II, group II  
22      substances, then, if all other reporting is complete, no  
23      such report shall be required from a person with re-  
24      spect to importation from parties to such agreement  
25      or amendment of products containing any class II,

1       *group II substance restricted by such agreement or*  
2       *amendment, after April 1 of the calendar year fol-*  
3       *lowing the year during which such agreement or*  
4       *amendment enters into force.*

5               “(2) *BASELINE REPORTS FOR CLASS II, GROUP II*  
6       *SUBSTANCES.—*

7               “(A) *IN GENERAL.—Unless such informa-*  
8       *tion has been previously reported to the Admin-*  
9       *istrator, on the date on which the first report*  
10       *under paragraph (1) of this subsection is re-*  
11       *quired to be filed, each person who produced, im-*  
12       *ported, or exported a class II, group II sub-*  
13       *stance, or who imported a product containing a*  
14       *class II substance, (other than a substance added*  
15       *to the list of class II, group II substances after*  
16       *the publication of the initial list of such sub-*  
17       *stances under this section), shall file a report*  
18       *with the Administrator setting forth the amount*  
19       *of such substance that such person produced, im-*  
20       *ported, exported, or that was contained in prod-*  
21       *ucts imported by that person, during each of cal-*  
22       *endar years 2004, 2005, and 2006.*

23               “(B) *PRODUCERS.—In reporting under sub-*  
24       *paragraph (A), each person who produced in the*

1       *United States a class II substance during cal-*  
2       *endar year 2004, 2005, or 2006 shall—*

3               “(i) report all acquisitions or pur-  
4               chases of class II substances during each of  
5               calendar years 2004, 2005, and 2006 from  
6               all other persons who produced in the  
7               United States a class II substance during  
8               calendar year 2004, 2005, or 2006, and  
9               supply evidence of such acquisitions and  
10              purchases as deemed necessary by the Ad-  
11              ministrators; and

12              “(ii) report all transfers or sales of  
13              class II substances during each of calendar  
14              years 2004, 2005, and 2006 to all other per-  
15              sons who produced in the United States a  
16              class II substance during calendar year  
17              2004, 2005, or 2006, and supply evidence of  
18              such transfers and sales as deemed nec-  
19              essary by the Administrator.

20              “(C) ADDED SUBSTANCES.—In the case of a  
21              substance added to the list of class II, group II  
22              substances after publication of the initial list of  
23              such substances under this section, each person  
24              who produced, imported, exported, or imported  
25              products containing such substance in calendar

1       year 2004, 2005, or 2006 shall file a report with  
 2       the Administrator within 180 days after the date  
 3       on which such substance is added to the list, set-  
 4       ting forth the amount of the substance that such  
 5       person produced, imported, and exported, as well  
 6       as the amount that was contained in products  
 7       imported by that person, in calendar years 2004,  
 8       2005, and 2006.

9       “(o) *STRATOSPHERIC OZONE AND CLIMATE PROTEC-*  
 10    *TION FUND.*—

11       “(1) *IN GENERAL.*—*There is established in the*  
 12       *Treasury of the United States a Stratospheric Ozone*  
 13       *and Climate Protection Fund.*

14       “(2) *DEPOSITS.*—*The Administrator shall de-*  
 15       *posit all proceeds from the auction and non-auction*  
 16       *sale of allowances under this section into the Strato-*  
 17       *spheric Ozone and Climate Protection Fund.*

18       “(3) *USE.*—*Amounts deposited into the Strato-*  
 19       *spheric Ozone and Climate Protection Fund shall be*  
 20       *available, subject to appropriations, exclusively for*  
 21       *the following purposes:*

22       “(A) *RECOVERY, RECYCLING, AND RECLAMA-*  
 23       *TION.*—*The Administrator may use funds to es-*  
 24       *tablish a program to incentivize the recovery, re-*  
 25       *cycling, and reclamation of any Class II sub-*

stances in order to reduce emissions of such substances.

“(B) *MULTILATERAL FUND.*—If the United States becomes a party or otherwise adheres to a multilateral agreement, including any amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer, which restricts the production or consumption of class II, group II substances, the Administrator may use funds to meet any related contribution obligation of the United States to the Multilateral Fund for the Implementation of the Montreal Protocol or similar multilateral fund established under such multilateral agreement.

“(C) *BEST-IN-CLASS APPLIANCES DEPLOYMENT PROGRAM.*—The Secretary of Energy may use funds to establish and carry out a program, to be known as the ‘Best-in-Class Appliances Deployment Program’—

“(i) to provide bonus payments to retailers or distributors for sales of best-in-class high-efficiency household appliance models, high-efficiency installed building equipment, and high-efficiency consumer electronics, with the goals of—

“(i) *IN GENERAL.*—The Administrator, in consultation with the Secretary of Energy, may utilize funds in fiscal years 2012 through 2022 to establish a program to pro-

1 *vide financial assistance to manufacturers*  
 2 *of products containing class II, group II*  
 3 *substances to facilitate the transition to*  
 4 *products that contain or utilize alternative*  
 5 *substances with no or low carbon dioxide*  
 6 *equivalent value and no ozone depletion po-*  
 7 *tential.*

8 “(ii) *DEFINITION OF PRODUCTS.*—*In*  
 9 *this subparagraph, the term ‘products’*  
 10 *means refrigerators, freezers, dehumidifiers,*  
 11 *air conditioners, foam insulation, technical*  
 12 *aerosols, fire protection systems, and semi-*  
 13 *conductors.*

14 “(iii) *FINANCIAL ASSISTANCE.*—*The*  
 15 *Administrator may provide financial assist-*  
 16 *ance to manufacturers pursuant to clause*  
 17 *(i) for—*

18 “(I) *the design and configuration*  
 19 *of new products that use alternative*  
 20 *substances with no or low carbon diox-*  
 21 *ide equivalent value and no ozone de-*  
 22 *pletion potential; and*

23 “(II) *the redesign and retooling of*  
 24 *facilities for the manufacture of prod-*  
 25 *ucts in the United States that use al-*

1                    *ternative substances with no or low*  
 2                    *carbon dioxide equivalent value and no*  
 3                    *ozone depletion potential.*

4                    “(iv) *REPORTS.*—*For any fiscal year*  
 5                    *during which the Administrator provides fi-*  
 6                    *nancial assistance pursuant to this sub-*  
 7                    *paragraph, the Administrator shall submit*  
 8                    *a report to the Congress within 3 months of*  
 9                    *the end of such fiscal year detailing the*  
 10                    *amounts, recipients, specific purposes, and*  
 11                    *results of the financial assistance pro-*  
 12                    *vided.”.*

13                (b) *TABLE OF CONTENTS.*—*The table of contents of*  
 14                *title VI of the Clean Air Act (42 U.S.C. 7671 et seq.) is*  
 15                *amended by adding the following new item at the end there-*  
 16                *of:*

                  “Sec. 619. *Hydrofluorocarbons (HFCs).*”.

17                (c) *FIRE SUPPRESSION AGENTS.*—*Section 605(a) of*  
 18                *the Clean Air Act (42 U.S.C. 7671(a)) is amended—*

19                    (1) *by striking “or” at the end of paragraph (2);*

20                    (2) *by striking the period at the end of para-*  
 21                    *graph (3) and inserting “; or”; and*

22                    (3) *by adding the following new paragraph after*  
 23                    *paragraph (3):*



1           “(4) is listed as acceptable for use as a fire sup-  
 2           pression agent for nonresidential applications in ac-  
 3           cordance with section 612(c).”.

4           (d) *MOTOR VEHICLE AIR CONDITIONERS.*—

5           (1) Section 609(e) of the Clean Air Act (42  
 6           U.S.C. 7671h(e)) is amended by inserting “, group I”  
 7           after each reference to “class II” in the text and head-  
 8           ing.

9           (2) Section 609 of the Clean Air Act (42 U.S.C.  
 10          7671h) is amended by adding the following new sub-  
 11          section after subsection (e):

12          “(f) *CLASS II, GROUP II SUBSTANCES.*—

13               “(1) *REPAIR.*—The Administrator may promul-  
 14               gate regulations establishing requirements for repair  
 15               of motor vehicle air conditioners prior to adding a  
 16               class II, group II substance.

17               “(2) *SMALL CONTAINERS.*—(A) The Adminis-  
 18               trator may promulgate regulations establishing serv-  
 19               icing practices and procedures for recovery of class II,  
 20               group II substances from containers which contain  
 21               less than 20 pounds of such class II, group II sub-  
 22               stances.

23               “(B) Not later than 18 months after enactment  
 24               of this subsection, the Administrator shall either pro-  
 25               mulgate regulations requiring that containers which

1       *contain less than 20 pounds of a class II, group II*  
2       *substance be equipped with a device or technology*  
3       *that limits refrigerant emissions and leaks from the*  
4       *container and limits refrigerant emissions and leaks*  
5       *during the transfer of refrigerant from the container*  
6       *to the motor vehicle air conditioner or issue a deter-*  
7       *mination that such requirements are not necessary or*  
8       *appropriate.*

9               *“(C) Not later than 18 months after enactment*  
10       *of this subsection, the Administrator shall promulgate*  
11       *regulations establishing requirements for consumer*  
12       *education materials on best practices associated with*  
13       *the use of containers which contain less than 20*  
14       *pounds of a class II, group II substance and prohib-*  
15       *iting the sale or distribution, or offer for sale or dis-*  
16       *tribution, of any class II, group II substance in any*  
17       *container which contains less than 20 pounds of such*  
18       *class II, group II substance, unless consumer edu-*  
19       *cation materials consistent with such requirements*  
20       *are displayed and available at point-of-sale locations,*  
21       *provided to the consumer, or included in or on the*  
22       *packaging of the container which contain less than 20*  
23       *pounds of a class II, group II substance.*

24               *“(D) The Administrator may, through rule-*  
25       *making, extend the requirements established under*

1     *this paragraph to containers which contain 30*  
 2     *pounds or less of a class II, group II substance if the*  
 3     *Administrator determines that such action would*  
 4     *produce significant environmental benefits.*

5             “(3) *RESTRICTION OF SALES.*—*Effective Janu-*  
 6     *ary 1, 2014, no person may sell or distribute or offer*  
 7     *to sell or distribute or otherwise introduce into inter-*  
 8     *state commerce any motor vehicle air conditioner re-*  
 9     *frigerant in any size container unless the substance*  
 10    *has been found acceptable for use in a motor vehicle*  
 11    *air conditioner under section 612.”.*

12            *(e) SAFE ALTERNATIVES POLICY.*—*Section 612(e) of*  
 13    *the Clean Air Act (42 U.S.C. 7671k(e)) is amended by in-*  
 14    *serting “or class II” after each reference to “class I”.*

15    **SEC. 123. BLACK CARBON.**

16            *(a) STUDY OF BLACK CARBON EMISSIONS.*—

17                *(1) DEFINITION OF BLACK CARBON.*—*In this sub-*  
 18     *section, the term “black carbon” means any light-ab-*  
 19     *sorbing graphitic (or elemental) particle produced by*  
 20     *incomplete combustion.*

21                *(2) STUDY.*—*The Administrator, in consultation*  
 22     *with the Secretary of Energy, the Secretary of State,*  
 23     *and the heads of the National Oceanic and Atmos-*  
 24     *pheric Administration, the National Aeronautics and*  
 25     *Space Administration, the United States Agency for*

1 *International Development, the National Institutes of*  
 2 *Health, the Centers for Disease Control and Preven-*  
 3 *tion, National Institute of Standards and Technology,*  
 4 *and other relevant Federal departments and agencies*  
 5 *and representatives of appropriate industry and envi-*  
 6 *ronmental groups, shall conduct a 4-phase study of*  
 7 *black carbon emissions, the phases of which shall be*  
 8 *the following:*

9 (A) *PHASE I—UNIVERSAL DEFINITION.—The*  
 10 *Administrator shall conduct phase I of the study*  
 11 *under this subsection to carry out measures to*  
 12 *establish for the scientific community standard*  
 13 *definitions of the terms—*

14 (i) *black carbon; and*

15 (ii) *organic carbon.*

16 (B) *PHASE II—SOURCES AND TECH-*  
 17 *NOLOGIES.—The Administrator shall conduct*  
 18 *phase II of the study under this subsection to*  
 19 *summarize the available scientific and technical*  
 20 *information concerning—*

21 (i) *the identification of the major*  
 22 *sources of black carbon emissions in the*  
 23 *United States and throughout the world;*

24 (ii) *an estimate of—*

1                   (I) the quantity of current and  
 2                   projected future black carbon emissions  
 3                   from those sources; and

4                   (II) the net climate effects of the  
 5                   emissions;

6                   (iii) the most recent scientific data rel-  
 7                   evant to the public health- and climate-re-  
 8                   lated impacts of black carbon emissions and  
 9                   associated emissions of organic carbon, ni-  
 10                  trogen oxides, and sulfur oxides from the  
 11                  sources identified under clause (i);

12                  (iv) the most effective control strategies  
 13                  for additional domestic and international  
 14                  reductions in black carbon emissions, taking  
 15                  into consideration lifecycle analysis, cost-ef-  
 16                  fectiveness, and the net climate impact of  
 17                  technologies, operations, and strategies, such  
 18                  as—

19                         (I) diesel particulate filters on ex-  
 20                         isting diesel on- and off-road engines;  
 21                         and

22                         (II) particulate emission reduc-  
 23                         tion measures for marine vessels;

24                         (v) carbon dioxide equivalency factors,  
 25                         global/regional modeling, or other metrics to

1           *compare the global warming and other cli-*  
 2           *mate effects of black carbon emissions with*  
 3           *carbon dioxide and other greenhouse gas*  
 4           *emissions; and*

5                     *(vi) the health benefits associated with*  
 6           *additional black carbon emission reduc-*  
 7           *tions.*

8           (C) *PHASE III—INTERNATIONAL FUNDING.—*  
 9           *The Administrator shall conduct phase III of the*  
 10          *study under this subsection—*

11                    *(i) to summarize the amount, type,*  
 12           *and direction of all actual and potential fi-*  
 13           *nancial, technical, and related assistance*  
 14           *provided by the United States to foreign*  
 15           *countries to reduce, mitigate, or otherwise*  
 16           *abate—*

17                             *(I) black carbon emissions; and*

18                             *(II) any health, environmental,*  
 19           *and economic impacts associated with*  
 20           *those emissions; and*

21                    *(ii) to identify opportunities, including*  
 22           *action under existing authority, to achieve*  
 23           *significant black carbon emission reductions*  
 24           *in foreign countries through the provision of*  
 25           *technical assistance or other approaches.*

1           (D) *PHASE IV—RESEARCH AND DEVELOP-*  
2           *MENT OPPORTUNITIES.—The Administrator shall*  
3           *conduct phase IV of the study under this sub-*  
4           *section for the purpose of providing to Congress*  
5           *recommendations regarding—*

6                   (i) *areas of focus for additional re-*  
7                   *search for cost-effective technologies, oper-*  
8                   *ations, and strategies with the highest po-*  
9                   *tential to reduce black carbon emissions and*  
10                  *protect public health in the United States*  
11                  *and internationally; and*

12                  (ii) *actions that the Federal Govern-*  
13                  *ment could take to encourage or require ad-*  
14                  *ditional black carbon emission reductions.*

15           (3) *REPORTS.—The Administrator shall submit*  
16           *to Congress—*

17                   (A) *by not later than 180 days after the*  
18                   *date of enactment of this Act, a report describing*  
19                   *the results of phases I and II of the study under*  
20                   *subparagraphs (A) and (B) of paragraph (2);*

21                   (B) *by not later than 270 days after the*  
22                   *date of enactment of this Act, a report describing*  
23                   *the results of phase III of the study under para-*  
24                   *graph (2)(C); and*

1           (C) by not later than 1 year after the date  
 2           of enactment of this Act, a report describing the  
 3           recommendations developed for phase IV of the  
 4           study under paragraph (2)(D).

5           (4) *AUTHORIZATION OF APPROPRIATIONS.*—  
 6           There are authorized to be appropriated such sums as  
 7           are necessary to carry out this subsection.

8           (b) *BLACK CARBON MITIGATION.*—Title VIII of the  
 9           Clean Air Act (as amended by section 113 of division A)  
 10          is amended by adding at the end the following:

11                           **“PART E—BLACK CARBON**

12          **“SEC. 851. BLACK CARBON.**

13           “(a) *DOMESTIC BLACK CARBON MITIGATION.*—

14                   “(1) *IN GENERAL.*—Taking into consideration  
 15           the public health and environmental impacts of black  
 16           carbon emissions, including the effects on global and  
 17           regional warming, the Arctic, and other snow and  
 18           ice-covered surfaces, the Administrator shall—

19                           “(A) not later than 2 years after the date  
 20           of enactment of this part, propose—

21                                   “(i) regulations applicable to emissions  
 22                           of black carbon under the existing authori-  
 23                           ties of this Act; or

24                                   “(ii) a finding that existing regula-  
 25                           tions promulgated pursuant to this Act ade-



1            *quately regulate black carbon emissions,*  
 2            *which finding may be based on a finding*  
 3            *that existing regulations, in the judgment of*  
 4            *the Administrator—*

5            *“(I) address those sources that*  
 6            *both contribute significantly to the*  
 7            *total emissions of black carbon and*  
 8            *provide the greatest potential for sig-*  
 9            *nificant and cost-effective reductions in*  
 10           *emissions of black carbon, under the*  
 11           *existing authorities; and*

12           *“(II) reflect the greatest degree of*  
 13           *emission reduction achievable through*  
 14           *application of technology that will be*  
 15           *available for such sources, giving ap-*  
 16           *propriate consideration to cost, energy,*  
 17           *and safety factors associated with the*  
 18           *application of such technology; and*

19           *“(B) not later than 3 years after the date*  
 20           *of enactment of this part, promulgate final regu-*  
 21           *lations under the existing authorities of this Act*  
 22           *or finalize the proposed finding.*

23           *“(2) APPLICABILITY OF REGULATIONS.—Regula-*  
 24           *tions promulgated under paragraph (1) shall not*  
 25           *apply to specific types, classes, categories, or other*

1        *suitable groupings of emission sources that the Ad-*  
 2        *ministrator finds are subject to adequate regulation.*

3        “(b) *AUTHORIZATION OF APPROPRIATIONS.—There*  
 4        *are authorized to be appropriated such sums as are nec-*  
 5        *essary to carry out this section.”.*

6        **SEC. 124. STATES.**

7        *Section 116 of the Clean Air Act (42 U.S.C. 7416) is*  
 8        *amended by adding the following at the end thereof: “For*  
 9        *the purposes of this section, the phrases ‘standard or limita-*  
 10        *tion respecting emissions of air pollutants’ and ‘require-*  
 11        *ments respecting control or abatement of air pollution’ shall*  
 12        *include any provision to: limit greenhouse gas emissions,*  
 13        *require surrender to the State or a political subdivision*  
 14        *thereof of emission allowances or offset credits established*  
 15        *or issued under this Act, and require the use of such allow-*  
 16        *ances or credits as a means of demonstrating compliance*  
 17        *with requirements established by a State or political sub-*  
 18        *division thereof.”.*

19        **SEC. 125. STATE PROGRAMS.**

20        *Title VIII of the Clean Air Act (as amended by section*  
 21        *123(b)) is amended by adding at the end the following:*

22                        **“PART F—MISCELLANEOUS**

23        **“SEC. 861. STATE PROGRAMS.**

24        “(a) *IN GENERAL.—Notwithstanding section 116, if a*  
 25        *Federal auction is conducted, by the deadline of March 31,*

1 2011, as established in section 778, no State or political  
2 subdivision thereof shall implement or enforce a comprehen-  
3 sive greenhouse gas emission limitation program that covers  
4 any capped emissions emitted during the years 2012  
5 through 2017.

6 “(b) *DEADLINE.*—Notwithstanding section 116, in the  
7 event the March 31, 2011 auction is delayed, no State or  
8 political subdivision thereof shall enforce a comprehensive  
9 greenhouse gas emission limitation program that covers any  
10 capped emissions emitted during the period that commences  
11 at least 9 months after the date of the first auction as set  
12 out in section 778, through 2017.

13 “(c) *DEFINITION OF COMPREHENSIVE GREENHOUSE*  
14 *GAS EMISSION LIMITATION PROGRAM.*—For purposes of  
15 this section, the term ‘comprehensive greenhouse gas emis-  
16 sion limitation program’ means a system of greenhouse gas  
17 regulation under which a State or political subdivision  
18 issues a limited number of tradable instruments in the na-  
19 ture of emission allowances and requires that sources within  
20 its jurisdiction surrender such tradable instruments for  
21 each unit of greenhouse gases emitted during a compliance  
22 period. For purposes of this section, a ‘comprehensive green-  
23 house gas emission limitation program’ does not include a  
24 target or limit on greenhouse gas emissions adopted by a  
25 State or political subdivision that is implemented other

1 *than through the issuance and surrender of a limited num-*  
 2 *ber of tradable instruments in the nature of emission allow-*  
 3 *ances, nor does it include any other standard, limit, regula-*  
 4 *tion, or program to reduce greenhouse gas emissions that*  
 5 *is not implemented through the issuance and surrender of*  
 6 *a limited number of tradable instruments in the nature of*  
 7 *emission allowances. For purposes of this section, the term*  
 8 *‘comprehensive greenhouse gas emission limitation pro-*  
 9 *gram’ does not include, among other things, fleet-wide*  
 10 *motor vehicle emission requirements that allow greater*  
 11 *emissions with increased vehicle production, or require-*  
 12 *ments that fuels, or other products, meet an average pollu-*  
 13 *tion emission rate or lifecycle greenhouse gas standard.*

14 **“SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CON-**  
 15 **TROL PROGRAMS.**

16 *“The Administrator is authorized to make grants to*  
 17 *air pollution control agencies pursuant to section 105 for*  
 18 *purposes of assisting in the implementation of programs to*  
 19 *address global warming established under the Clean Energy*  
 20 *Jobs and American Power Act.*

21 **“SEC. 863. REDUCING ACID RAIN AND MERCURY POLLU-**  
 22 **TION.**

23 *“(a) IN GENERAL.—Not later than 18 months after the*  
 24 *date of enactment of this part, the Administrator shall sub-*  
 25 *mit to Congress a report that analyzes the effects of different*

1 *carbon dioxide reduction strategies and technologies on the*  
 2 *emissions of mercury, sulfur dioxide, and nitrogen oxide,*  
 3 *which cause acid rain, particulate matter, ground-level*  
 4 *ozone, mercury contamination, and other environmental*  
 5 *problems.*

6 “(b) *INCLUSIONS.*—*The report under subsection (a)*  
 7 *shall include—*

8 “(1) *an assessment of a variety of carbon reduc-*  
 9 *tion technologies, including the application of various*  
 10 *carbon capture and sequestration technologies for new*  
 11 *and existing power plants;*

12 “(2) *an assessment of the current scientific and*  
 13 *technical understanding of the interplay between the*  
 14 *various technologies and emissions of air pollutants;*

15 “(3) *identification of hurdles to strategies that*  
 16 *could cost-effectively reduce emissions of multiple pol-*  
 17 *lutants; and*

18 “(4) *appropriate recommendations of the Admin-*  
 19 *istrator, if any.”*

20 **SEC. 126. ENFORCEMENT.**

21 (a) *REMAND.*—*Section 307(b) of the Clean Air Act (42*  
 22 *U.S.C. 7607(b)) is amended by adding the following new*  
 23 *paragraph at the end thereof:*

24 “(3) *If the court determines that any action of*  
 25 *the Administrator is arbitrary, capricious, or other-*

1        *wise unlawful, the court may remand such action,*  
 2        *without vacatur, if vacatur would impair or delay*  
 3        *protection of the environment or public health or oth-*  
 4        *erwise undermine the timely achievement of the pur-*  
 5        *poses of this Act.*

6            *“(4) If the court determines that any action of*  
 7        *the Administrator is arbitrary, capricious, or other-*  
 8        *wise unlawful, and remands the matter to the Admin-*  
 9        *istrator, the Administrator shall complete final action*  
 10       *on remand within an expeditious time period not*  
 11       *longer than the time originally allowed for the action*  
 12       *or 1 year, whichever is less, unless the court on mo-*  
 13       *tion determines that a shorter or longer period is nec-*  
 14       *essary, appropriate, and consistent with the purposes*  
 15       *of this Act. The court of appeals shall have jurisdic-*  
 16       *tion to enforce a deadline for action on remand under*  
 17       *this paragraph.”.*

18        *(b) PETITION FOR RECONSIDERATION.—Section*  
 19       *307(d)(7)(B) of the Clean Air Act (42 U.S.C.*  
 20       *7607(d)(7)(B)) is amended as follows:*

21            *(1) By inserting after the second sentence “If a*  
 22        *petition for reconsideration is filed, the Administrator*  
 23        *shall take final action on such petition, including*  
 24        *promulgation of final action either revising or deter-*  
 25        *mining not to revise the action for which reconsider-*

1        *ation is sought, within 150 days after the petition is*  
 2        *received by the Administrator or the petition shall be*  
 3        *deemed denied for the purpose of judicial review.”.*

4            *(2) By amending the third sentence to read as*  
 5        *follows: “Such person may seek judicial review of such*  
 6        *denial, or of any other final action, by the Adminis-*  
 7        *trator, in response to a petition for reconsideration,*  
 8        *in the United States court of appeals for the appro-*  
 9        *priate circuit (as provided in subsection (b)).”.*

10        *(c) PETITION FOR REVIEW.—Section 307(b)(1) of the*  
 11        *Clean Air Act (42 U.S.C. 7607(b)(1)) is amended by insert-*  
 12        *ing after the second sentence the following: “Any person*  
 13        *may file a petition for review of action by the Adminis-*  
 14        *trator as provided in this subsection.”.*

15        **SEC. 127. FORESTRY SECTOR GREENHOUSE GAS ACCOUNT-**  
 16            **ING.**

17        *(a) IN GENERAL.—The Administrator, in consultation*  
 18        *with the Secretary of Agriculture and the Secretary of the*  
 19        *Interior, shall provide an annual accounting of sequestra-*  
 20        *tion and emissions of greenhouse gases from forests and for-*  
 21        *est products, including—*

22            *(1) sequestration, including sequestration result-*  
 23        *ing from natural forest growth or other natural eco-*  
 24        *system processes, forest management practices,*  
 25        *afforestation, or reforestation;*

1           (2) *emissions resulting from forest management*  
 2           *practices, timber harvest, deforestation, or conversion*  
 3           *between forest types or to cropland or other nonfor-*  
 4           *ested uses; and*

5           (3) *transfers of carbon through forest products*  
 6           *from the forest sector to other sectors, including the*  
 7           *waste, manufacturing and milling, and energy sec-*  
 8           *tors.*

9           (b) *SCALE OF ACCOUNTING.*—*Accounting under sub-*  
 10          *section (a) shall be provided, at a minimum, for—*

11           (1) *Federal, other public, tribal, and private*  
 12           *land of ownerships larger than 5,000 acres on which*  
 13           *forestry is regularly practiced; and*

14           (2) *any forest land on which conversion de-*  
 15           *scribed in subsection (a)(2) occurs.*

16           (c) *BASIS OF ACCOUNTING.*—*Accounting under sub-*  
 17          *section (a) shall be based on information available from ex-*  
 18          *isting sources, including information—*

19           (1) *collected for tax purposes;*

20           (2) *from the Forest Inventory Analysis of the*  
 21           *Forest Service;*

22           (3) *collected for regulatory purposes; and*

23           (4) *collected as part of standard industry prac-*  
 24           *tices, such as industry updates on inventories of tim-*  
 25           *ber.*



1       (d) *AUTHORITY OF ADMINISTRATOR.*—

2               (1) *IN GENERAL.*—*Nothing in this section au-*  
 3       *thorizes the Administrator to require new generation*  
 4       *of data by forest land owners.*

5               (2) *NEED FOR ADDITIONAL INFORMATION.*—*If*  
 6       *the Administrator determines that additional infor-*  
 7       *mation not available from current sources is nec-*  
 8       *essary to carry out the purposes of this section, the*  
 9       *Administrator shall submit to Congress a report that*  
 10       *describes the necessary information and new author-*  
 11       *ity that would be required to collect that information.*

12   **SEC. 128. CONFORMING AMENDMENTS.**

13       (a) *FEDERAL ENFORCEMENT.*—*Section 113 of the*  
 14       *Clean Air Act (42 U.S.C. 7413) is amended as follows:*

15               (1) *In subsection (a)(3), by striking “or title*  
 16       *VI,” and inserting “title VI, title VII, or title VIII”.*

17               (2) *In subsection (b), by striking “or a major*  
 18       *stationary source” and inserting “a major stationary*  
 19       *source, or a covered EGU under title VIII” in the*  
 20       *material preceding paragraph (1).*

21               (3) *In paragraph (2) of subsection (b), by strik-*  
 22       *ing “or title VI” and inserting “title VI, title VII, or*  
 23       *title VIII”.*

24               (4) *In subsection (c)—*

1           (A) in the first sentence of paragraph (1),  
 2           by striking “or title VI (relating to stratospheric  
 3           ozone control),” and inserting “title VI, title VII,  
 4           or title VIII,”; and

5           (B) in the first sentence of paragraph (3),  
 6           by striking “or VI” and inserting “VI, VII, or  
 7           VIII”.

8           (5) In subsection (d)(1)(B), by striking “or VI”  
 9           and inserting “VI, VII, or VIII”.

10          (6) In subsection (f), in the first sentence, by  
 11          striking “or VI” and inserting “VI, VII, or VIII”.

12          (b) *RETENTION OF STATE AUTHORITY.*—Section 116  
 13          of the Clean Air Act (42 U.S.C. 7416) is amended as fol-  
 14          lows:

15               (1) By striking “and 233” and inserting “233”.

16               (2) By striking “of moving sources)” and insert-  
 17               ing “of moving sources), and 861 (preempting certain  
 18               State greenhouse gas programs for a limited time)”.

19          (c) *INSPECTIONS, MONITORING, AND ENTRY.*—Section  
 20          114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is amended  
 21          by striking “section 112,” and all that follows through  
 22          “(ii)” and inserting the following: “section 112, or any reg-  
 23          ulation of greenhouse gas emissions under title VII or VIII,  
 24          (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 RE-*  
 12   VIEW.—Section 307 of the Clean Air Act (42 U.S.C. 7607)  
 13   is amended as follows:

14           (1) *In subsection (a), by striking “, or section*  
 15       306” *and inserting “section 306, or title VII or VIII.”.*

16           (2) *In subsection (b)(1)—*

17               (A) *by striking “,” and inserting “,” in*  
 18       each place *such punctuation appears; and*

19               (B) *by striking “section 120,” in the first*  
 20       sentence *and inserting “section 120, any final*  
 21       action *under title VII or VIII,”.*

22           (3) *In subsection (d)(1) by amending subpara-*  
 23       graph (S) *to read as follows:*

24               “(S) *the promulgation or revision of any*  
 25       regulation *under title VII or VIII,”.*

1       (f) *TECHNICAL AMENDMENT.—Title IV of the Clean*  
 2 *Air Act (relating to noise pollution) (42 U.S.C. 7641 et*  
 3 *seq.)—*

4           (1) *is amended by redesignating sections 401*  
 5 *through 403 as sections 901 through 903, respectively;*  
 6 *and*

7           (2) *is redesignated as title IX and moved to ap-*  
 8 *pear at the end of that Act.*

9       (g) *AMENDMENTS CLARIFYING REGULATION OF*  
 10 *GREENHOUSE GASES UNDER CLEAN AIR ACT.—*

11           (1) *AIR QUALITY CRITERIA AND CONTROL TECH-*  
 12 *NIQUES.—Section 108(a) of the Clean Air Act (42*  
 13 *U.S.C. 7408(a)) is amended by adding at the end the*  
 14 *following:*

15           “(3) *PROHIBITION ON LISTING OF GREENHOUSE*  
 16 *GASES.—On and after the date of enactment of this*  
 17 *paragraph, the Administrator shall not include on the*  
 18 *list of pollutants under this subsection any greenhouse*  
 19 *gas on the basis of any effect the greenhouse gas may*  
 20 *have on climate change.”.*

21           (2) *HAZARDOUS AIR POLLUTANTS.—Section 112*  
 22 *of the Clean Air Act (42 U.S.C. 7412) is amended by*  
 23 *adding at the end the following:*

24           “(20) *GREENHOUSE GAS LIMITATION.—No green-*  
 25 *house gas may be added to the list of hazardous air*

1 *pollutants under this section unless the greenhouse gas*  
 2 *meets the criteria described in subsection (b) inde-*  
 3 *pendent of the effects of the greenhouse gas on climate*  
 4 *change.”.*

5 (3) *INTERNATIONAL AIR POLLUTION.—Section*  
 6 *115(c) of the Clean Air Act (42 U.S.C. 7415(c)) is*  
 7 *amended—*

8 (A) *by striking “(c) This section” and in-*  
 9 *serting the following:*

10 “(3) *APPLICABILITY.—*

11 “(A) *FOREIGN COUNTRIES.—This section”;*

12 *and*

13 (B) *by adding at the end the following:*

14 “(B) *GREENHOUSE GASES.—This section*  
 15 *does not apply to any greenhouse gas with re-*  
 16 *spect to the effects of the greenhouse gas on cli-*  
 17 *mate change.”.*

18 (4) *DEFINITION OF MAJOR EMITTING FACILITY.—*  
 19 *Section 169(1) of the Clean Air Act (42 U.S.C.*  
 20 *7479(1)) is amended—*

21 (A) *in the first sentence, by inserting*  
 22 *“(other than any greenhouse gas), or 25,000 tons*  
 23 *per year of carbon dioxide equivalent for any*  
 24 *greenhouse gas or combination of greenhouse*

1           gases” after “one hundred tons per year or more  
2           of any air pollutant,”; and

3           (B) in the second sentence, by inserting  
4           “(other than any greenhouse gas), or 25,000 tons  
5           per year of carbon dioxide equivalent for any  
6           greenhouse gas or combination of greenhouse  
7           gases” after “two hundred fifty tons per year or  
8           more of any air pollutant”.

9           (5) *PERMITS*.—Title V of the Clean Air Act (42  
10          U.S.C. 7661 et seq.) is amended by adding at the end  
11          the following:

12       **“SEC. 508. EMISSIONS OF GREENHOUSE GASES.**

13           “Notwithstanding any provision of this title or title  
14       III, no stationary source shall be required to apply for, or  
15       operate pursuant to, a permit under this title solely because  
16       the stationary source, including an agricultural source,  
17       emits less than 25,000 tons per year of any greenhouse gas  
18       or combination of greenhouse gases that are regulated solely  
19       because of the effect of those gases on climate change.”.

20           (h) *CONTAINERS OF CLASS I AND CLASS II SUB-*  
21       *STANCES*.—Section 608(c) of the Clean Air Act (42 U.S.C.  
22       7671g(c)) is amended by adding at the end the following:

23           “(3) *CONTAINERS OF CLASS I AND CLASS II SUB-*  
24       *STANCES*.—

1                   “(A) *DEFINITION OF REFILLABLE CON-*  
 2                   *TAINER.—In this paragraph, the term ‘refillable*  
 3                   *container’ means a container that is designed to*  
 4                   *be refilled.*

5                   “(B) *REGULATIONS.—Not later than 2*  
 6                   *years after the date of enactment of this para-*  
 7                   *graph, the Administrator shall revise regulations*  
 8                   *promulgated under this section to require that*  
 9                   *only a refillable container may be used to hold*  
 10                  *20 pounds or more of a class I substance or class*  
 11                  *II substance.”.*

12 **SEC. 129. DAVIS-BACON COMPLIANCE.**

13           (a) *IN GENERAL.—Notwithstanding any other provi-*  
 14           *sion of law and in a manner consistent with other provi-*  
 15           *sions in this Act, to receive emission allowances or funding*  
 16           *under this Act, or the amendments made by this Act, the*  
 17           *recipient shall provide reasonable assurances that all labor-*  
 18           *ers and mechanics employed by contractors and subcontract-*  
 19           *ors on projects funded directly by or assisted in whole or*  
 20           *in part by and through the Federal Government pursuant*  
 21           *to this Act, or the amendments made by this Act, or by*  
 22           *any entity established in accordance with this Act, or the*  
 23           *amendments made by this Act, including the Carbon Stor-*  
 24           *age Research Corporation, will be paid wages at rates not*  
 25           *less than those prevailing on projects of a character similar*

1 *in the locality as determined by the Secretary of Labor in*  
2 *accordance with subchapter IV of chapter 31 of title 40,*  
3 *United States Code (commonly known as the “Davis-Bacon*  
4 *Act”). With respect to the labor standards specified in this*  
5 *section, the Secretary of Labor shall have the authority and*  
6 *functions set forth in Reorganization Plan Numbered 14 of*  
7 *1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of*  
8 *title 40, United States Code.*

9       (b) *EXEMPTION.*—*Neither subsection (a) nor the re-*  
10 *quirements of subchapter IV of chapter 31 of title 40, United*  
11 *States Code, shall apply to retrofitting of the following:*

12               (1) *Single family homes (both attached and de-*  
13 *tached) under section 164 of division A.*

14               (2) *Owner-occupied residential units in larger*  
15 *buildings that have their own dedicated space-condi-*  
16 *tioning systems under section 164 of division A.*

17               (3) *Residential buildings (as defined in section*  
18 *164(a) of division A) if designed for residential use*  
19 *by less than 4 families.*

20               (4) *Nonresidential buildings (as defined in sec-*  
21 *tion 164(a) of division A) if the net interior space of*  
22 *such nonresidential building is less than 6,500 square*  
23 *feet.*



***Subtitle D—Carbon Market  
Assurance***

***SEC. 131. CARBON MARKET ASSURANCE.***

*It is the sense of the Senate that there shall be a single,  
integrated carbon market oversight program—*

*(1) to provide for effective and comprehensive  
market oversight and enforcement;*

*(2) to lower systemic risk and protect consumers;*

*(3) to ensure market liquidity and allowance  
availability;*

*(4) to enhance the price discovery function of  
such markets, ensuring that the price for emission al-  
lowances and offset credits reflects the marginal cost  
of abatement;*

*(5) to prevent excessive speculation that contrib-  
utes to price volatility, including the establishment of  
robust aggregate position limits and margin require-  
ments;*

*(6) to ensure that market mechanisms and asso-  
ciated oversight support the environmental integrity  
of the program established under title VII of the Clean  
Air Act (as added by section 101 of this division);*

*(7) to establish provisions for market trans-  
parency that provide authority, resources, and infor-*

1        *mation needed to prevent fraud and manipulation in*  
 2        *such markets;*

3            *(8) to establish standards for trading as, and op-*  
 4        *eration of, trading facilities;*

5            *(9) to ensure a well-functioning, well-regulated*  
 6        *market, including a futures market, designed to man-*  
 7        *age risk and facilitate investment in emission reduc-*  
 8        *tions;*

9            *(10) to establish clear, professional standards for*  
 10       *dealers, traders, and other market participants;*

11           *(11) to provide for appropriate criminal and*  
 12       *civil penalties; and*

13           *(12) to prevent any excessive leverage by market*  
 14       *participants that creates risk to the economy.*

15            ***Subtitle E—Ensuring Real***  
 16       ***Reductions in Industrial Emissions***

17       ***SEC. 141. ENSURING REAL REDUCTIONS IN INDUSTRIAL***  
 18                ***EMISSIONS.***

19            *Title VII of the Clean Air Act (as amended by section*  
 20       *322 of division A) is amended by adding at the end the*  
 21       *following:*

22            ***“PART F—ENSURING REAL REDUCTIONS IN***  
 23                ***INDUSTRIAL EMISSIONS***

24       ***“SEC. 761. PURPOSES.***

25            *“The purposes of this part are—*

1           “(1) to promote a strong global effort to signifi-  
2           cantly reduce greenhouse gas emissions, and, through  
3           this global effort, stabilize greenhouse gas concentra-  
4           tions in the atmosphere at a level that will prevent  
5           dangerous anthropogenic interference with the climate  
6           system;

7           “(2) to prevent an increase in greenhouse gas  
8           emissions in countries other than the United States as  
9           a result of direct and indirect compliance costs in-  
10          curred under this title;

11          “(3) to provide a rebate to the owners and opera-  
12          tors of entities in domestic eligible industrial sectors  
13          for their greenhouse gas emission costs incurred under  
14          this title, but not for costs associated with other re-  
15          lated or unrelated market dynamics;

16          “(4) to design such rebates in a way that will  
17          prevent carbon leakage while also rewarding innova-  
18          tion and facility-level investments in energy efficiency  
19          performance improvements; and

20          “(5) to eliminate or reduce distribution of emis-  
21          sion allowances under this part when such distribu-  
22          tion is no longer necessary to prevent carbon leakage  
23          from eligible industrial sectors.

24   **“SEC. 762. DEFINITIONS.**

25          *“In this part:*

1           “(1) *CARBON LEAKAGE*.—The term ‘carbon leak-  
 2           age’ means any substantial increase (as determined  
 3           by the Administrator) in greenhouse gas emissions by  
 4           industrial entities located in other countries if such  
 5           increase is caused by an incremental cost of produc-  
 6           tion increase in the United States resulting from the  
 7           implementation of this title.

8           “(2) *ELIGIBLE INDUSTRIAL SECTOR*.—The term  
 9           ‘eligible industrial sector’ means an industrial sector  
 10          determined by the Administrator under section 763(b)  
 11          to be eligible to receive emission allowance rebates  
 12          under this part.

13          “(3) *INDUSTRIAL SECTOR*.—

14               “(A) *IN GENERAL*.—The term ‘industrial  
 15               sector’ means any sector that—

16                       “(i) is in the manufacturing sector (as  
 17                       defined in NAICS codes 31, 32, and 33); or

18                       “(ii) is part of, or an entire, sector  
 19                       that beneficiates or otherwise processes (in-  
 20                       cluding agglomeration) metal ores, includ-  
 21                       ing iron and copper ores, soda ash, or phos-  
 22                       phate.

23               “(B) *EXCLUSION*.—The term ‘industrial  
 24               sector’ does not include any part of a sector that  
 25               extracts metal ores, soda ash, or phosphate.

1           “(4) *NAICS*.—The term ‘NAICS’ means the  
2           *North American Industrial Classification System of*  
3           *2002.*

4           “(5) *OUTPUT*.—The term ‘output’ means the  
5           *total tonnage or other standard unit of production (as*  
6           *determined by the Administrator) produced by an en-*  
7           *tity in an industrial sector. The output of the cement*  
8           *sector is hydraulic cement, and not clinker.*

9   **“SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.**

10          “(a) *LIST*.—

11               “(1) *INITIAL LIST*.—Not later than June 30,  
12               *2011, the Administrator shall publish in the Federal*  
13               *Register a list of eligible industrial sectors pursuant*  
14               *to subsection (b). Such list shall include the amount*  
15               *of the emission allowance rebate per unit of produc-*  
16               *tion that shall be provided to entities in each eligible*  
17               *industrial sector in the following two calendar years*  
18               *pursuant to section 764.*

19               “(2) *SUBSEQUENT LISTS*.—Not later than Feb-  
20               *ruary 1, 2013, and every 4 years thereafter, the Ad-*  
21               *ministrator shall publish in the Federal Register an*  
22               *updated version of the list published under paragraph*  
23               *(1).*

24          “(b) *ELIGIBLE INDUSTRIAL SECTORS*.—

1           “(1) *IN GENERAL.*—Not later than June 30,  
 2           2011, the Administrator shall promulgate a rule des-  
 3           ignating, based on the criteria under paragraph (2),  
 4           the industrial sectors eligible for emission allowance  
 5           rebates under this part.

6           “(2) *PRESUMPTIVELY ELIGIBLE INDUSTRIAL*  
 7           *SECTORS.*—

8           “(A) *ELIGIBILITY CRITERIA.*—

9           “(i) *IN GENERAL.*—An owner or oper-  
 10          ator of an entity shall be eligible to receive  
 11          emission allowance rebates under this part  
 12          if such entity is in an industrial sector that  
 13          is included in a six-digit classification of  
 14          the NAICS that meets the criteria in both  
 15          clauses (ii) and (iii), or the criteria in  
 16          clause (iv).

17          “(ii) *ENERGY OR GREENHOUSE GAS*  
 18          *INTENSITY.*—As determined by the Adminis-  
 19          trator, the industrial sector had—

20               “(I) an energy intensity of at  
 21               least 5 percent, calculated by dividing  
 22               the cost of purchased electricity and  
 23               fuel costs of the sector by the value of  
 24               the shipments of the sector, based on  
 25               data described in subparagraph (D); or

1 “(II) a greenhouse gas intensity of  
 2 at least 5 percent, calculated by divid-  
 3 ing—

4 “(aa) the number 20 multi-  
 5 plied by the number of tons of  
 6 carbon dioxide equivalent green-  
 7 house gas emissions (including di-  
 8 rect emissions from fuel combus-  
 9 tion, process emissions, and indi-  
 10 rect emissions from the generation  
 11 of electricity used to produce the  
 12 output of the sector) of the sector  
 13 based on data described in sub-  
 14 paragraph (D); by

15 “(bb) the value of the ship-  
 16 ments of the sector, based on data  
 17 described in subparagraph (D).

18 “(iii) *TRADE INTENSITY*.—As deter-  
 19 mined by the Administrator, the industrial  
 20 sector had a trade intensity of at least 15  
 21 percent, calculated by dividing the value of  
 22 the total imports and exports of such sector  
 23 by the value of the shipments plus the value  
 24 of imports of such sector, based on data de-  
 25 scribed in subparagraph (D).

1           “(iv) *VERY HIGH ENERGY OR GREEN-*  
 2           *HOUSE GAS INTENSITY.*—*As determined by*  
 3           *the Administrator, the industrial sector had*  
 4           *an energy or greenhouse gas intensity, as*  
 5           *calculated under clause (ii)(I) or (II), of at*  
 6           *least 20 percent.*

7           “(B) *METAL AND PHOSPHATE PRODUCTION*  
 8           *CLASSIFIED UNDER MORE THAN ONE NAICS*  
 9           *CODE.*—*For purposes of this section, the Admin-*  
 10          *istrator shall—*

11           “(i)   *aggregate data for the*  
 12           *beneficiation or other processing (including*  
 13           *agglomeration) of metal ores, including iron*  
 14           *and copper ores, soda ash, or phosphate*  
 15           *with subsequent steps in the process of metal*  
 16           *and phosphate manufacturing, regardless of*  
 17           *the NAICS code under which such activity*  
 18           *is classified; and*

19           “(ii) *aggregate data for the manufac-*  
 20           *turing of steel with the manufacturing of*  
 21           *steel pipe and tube made from purchased*  
 22           *steel in a nonintegrated process.*

23           “(C) *EXCLUSION.*—*The petroleum refining*  
 24           *sector shall not be an eligible industrial sector.*

25           “(D) *DATA SOURCES.*—



1           “(i) *ELECTRICITY AND FUEL COSTS,*  
2           *VALUE OF SHIPMENTS.*—*The Administrator*  
3           *shall determine electricity and fuel costs*  
4           *and the value of shipments under this sub-*  
5           *section from data from the United States*  
6           *Census Annual Survey of Manufacturers.*  
7           *The Administrator shall take the average of*  
8           *data from as many of the years of 2004,*  
9           *2005, and 2006 for which such data are*  
10           *available. If such data are unavailable, the*  
11           *Administrator shall make a determination*  
12           *based upon 2002 or 2006 data from the*  
13           *most detailed industrial classification level*  
14           *of Energy Information Agency’s Manufac-*  
15           *turing Energy Consumption Survey (using*  
16           *2006 data if it is available) and the 2002*  
17           *or 2007 Economic Census of the United*  
18           *States (using 2007 data if it is available).*  
19           *If data from the Manufacturing Energy*  
20           *Consumption Survey or Economic Census*  
21           *are unavailable for any sector at the six-*  
22           *digit classification level in the NAICS, then*  
23           *the Administrator may extrapolate the in-*  
24           *formation necessary to determine the eligi-*  
25           *bility of a sector under this paragraph from*

1        *available Manufacturing Energy Consump-*  
2        *tion Survey or Economic Census data per-*  
3        *taining to a broader industrial category*  
4        *classified in the NAICS. If data relating to*  
5        *the beneficiation or other processing (in-*  
6        *cluding agglomeration) of metal ores, in-*  
7        *cluding iron and copper ores, soda ash, or*  
8        *phosphate are not available from the speci-*  
9        *fied data sources, the Administrator shall*  
10       *use the best available Federal or State gov-*  
11       *ernment data and may use, to the extent*  
12       *necessary, representative data submitted by*  
13       *entities that perform such beneficiation or*  
14       *other processing (including agglomeration),*  
15       *in making a determination. Fuel cost data*  
16       *shall not include the cost of fuel used as*  
17       *feedstock by an industrial sector.*

18       “(ii) *IMPORTS AND EXPORTS.—The*  
19       *Administrator shall base the value of im-*  
20       *ports and exports under this subsection on*  
21       *United States International Trade Commis-*  
22       *sion data. The Administrator shall take the*  
23       *average of data from as many of the years*  
24       *of 2004, 2005, and 2006 for which such*  
25       *data are available. If data from the United*

1           *States International Trade Commission are*  
 2           *unavailable for any sector at the six-digit*  
 3           *classification level in the NAICS, then the*  
 4           *Administrator may extrapolate the informa-*  
 5           *tion necessary to determine the eligibility of*  
 6           *a sector under this paragraph from avail-*  
 7           *able United States International Trade*  
 8           *Commission data pertaining to a broader*  
 9           *industrial category classified in the NAICS.*

10           “(iii) *PERCENTAGES.*—*The Adminis-*  
 11           *trator shall round the energy intensity,*  
 12           *greenhouse gas intensity, and trade inten-*  
 13           *sity percentages under subparagraph (A) to*  
 14           *the nearest whole number.*

15           “(iv) *GREENHOUSE GAS EMISSION*  
 16           *CALCULATIONS.*—*When calculating the tons*  
 17           *of carbon dioxide equivalent greenhouse gas*  
 18           *emissions for each sector under subpara-*  
 19           *graph (A)(ii)(II)(aa), the Administrator—*

20                   “(I) *shall use the best available*  
 21                   *data from as many of the years 2004,*  
 22                   *2005, and 2006 for which such data is*  
 23                   *available; and*

24                   “(II) *may, to the extent necessary*  
 25                   *with respect to a sector, use economic*

1                   *and engineering models and the best*  
 2                   *available information on technology*  
 3                   *performance levels for such sector.*

4                   “(3) *ADMINISTRATIVE DETERMINATION OF ADDI-*  
 5                   *TIONAL ELIGIBLE INDUSTRIAL SECTORS.—*

6                   “(A) *UPDATED TRADE INTENSITY DATA.—*  
 7                   *The Administrator shall designate as eligible to*  
 8                   *receive emission allowance rebates under this*  
 9                   *part an industrial sector that—*

10                   “(i) *met the energy or greenhouse gas*  
 11                   *intensity criteria in paragraph (2)(A)(ii)*  
 12                   *as of the date of promulgation of the rule*  
 13                   *under paragraph (1); and*

14                   “(ii) *meets the trade intensity criteria*  
 15                   *in paragraph (2)(A)(iii), using data from*  
 16                   *any year after 2006.*

17                   “(B) *INDIVIDUAL SHOWING PETITION.—*

18                   “(i) *PETITION.—In addition to des-*  
 19                   *ignation under paragraph (2) or subpara-*  
 20                   *graph (A) of this paragraph, the owner or*  
 21                   *operator of an entity in an industrial sector*  
 22                   *may petition the Administrator to designate*  
 23                   *as eligible industrial sectors under this part*  
 24                   *an entity or a group of entities that—*

1                   “(I) represent a subsector of a six-  
2                   digit section of the NAICS code; and

3                   “(II) meet the eligibility criteria  
4                   in both clauses (ii) and (iii) of para-  
5                   graph (2)(A), or the eligibility criteria  
6                   in clause (iv) of paragraph (2)(A).

7                   “(ii) DATA.—In making a determina-  
8                   tion under this subparagraph, the Adminis-  
9                   trator shall consider data submitted by the  
10                  petitioner that is specific to the entity, data  
11                  solicited by the Administrator from other  
12                  entities in the subsector, if such other enti-  
13                  ties exist, and data specified in paragraph  
14                  (2)(D).

15                  “(iii) BASIS OF SUBSECTOR DETER-  
16                  MINATION.—The Administrator shall deter-  
17                  mine an entity or group of entities to be a  
18                  subsector of a six-digit section of the NAICS  
19                  code based only upon the products manufac-  
20                  tured and not the industrial process by  
21                  which the products are manufactured, ex-  
22                  cept that the Administrator may determine  
23                  an entity or group of entities that manufac-  
24                  ture a product from primarily virgin mate-  
25                  rial to be a separate subsector from another

entity or group of entities that manufacture the same product primarily from recycled material.

“(iv) *USE OF MOST RECENT DATA.*—In determining whether to designate a sector or subsector as an eligible industrial sector under this subparagraph, the Administrator shall use the most recent data available from the sources described in paragraph (2)(D), rather than the data from the years specified in paragraph (2)(D), to determine the trade intensity of such sector or subsector, but only for determining such trade intensity.

“(v) *FINAL ACTION.*—The Administrator shall take final action on such petition no later than 6 months after the petition is received by the Administrator.

**“SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE REBATES.**

“(a) *DISTRIBUTION SCHEDULE.*—

“(1) *IN GENERAL.*—For each vintage year, the Administrator shall distribute pursuant to this section emission allowances made available under section 771(a)(5), not later than October 31 of the pre-

ceding calendar year. The Administrator shall make such annual distributions to the owners and operators of each entity in an eligible industrial sector in the amount of emission allowances calculated under subsection (b), except that—

“(A) for vintage years 2012 and 2013, the distribution for a covered entity shall be pursuant to the entity’s indirect carbon factor as calculated under subsection (b)(3);

“(B) for vintage year 2026 and thereafter, the distribution shall be pursuant to the amount calculated under subsection (b) multiplied by, for a sector—

“(i) 90 percent for vintage year 2026;

“(ii) 80 percent for vintage year 2027;

“(iii) 70 percent for vintage year 2028;

“(iv) 60 percent for vintage year 2029;

“(v) 50 percent for vintage year 2030;

“(vi) 40 percent for vintage year 2031;

“(vii) 30 percent for vintage year 2032;

“(viii) 20 percent for vintage year 2033;

“(ix) 10 percent for vintage year 2034;

and

1                   “(x) 0 percent for vintage year 2035  
2                   and thereafter.

3                   “(2) *NEWLY ELIGIBLE SECTORS.*—In addition to  
4                   receiving a distribution of emission allowances under  
5                   this section in the first distribution occurring after an  
6                   industrial sector is designated as eligible under sec-  
7                   tion 763(b)(3), the owner or operator of an entity in  
8                   that eligible industrial sector may receive a prorated  
9                   share of any emission allowances made available for  
10                  distribution under this section that were not distrib-  
11                  uted for the year in which the petition for eligibility  
12                  was granted under section 763(b)(3)(A).

13                  “(3) *CESSATION OF QUALIFYING ACTIVITIES.*—If,  
14                  as determined by the Administrator, a facility is no  
15                  longer in an eligible industrial sector designated  
16                  under section 763—

17                         “(A) the Administrator shall not distribute  
18                         emission allowances to the owner or operator of  
19                         such facility under this section; and

20                         “(B) the owner or operator of such facility  
21                         shall return to the Administrator all allowances  
22                         that have been distributed to it for future vintage  
23                         years and a pro-rated amount of allowances dis-  
24                         tributed to the facility under this section for the  
25                         vintage year in which the facility ceases to be in



1           *an eligible industrial sector designated under*  
2           *section 763.*

3           “(b) *CALCULATION OF DIRECT AND INDIRECT CARBON*  
4           *FACTORS.—*

5           “(1) *IN GENERAL.—*

6                   “(A) *COVERED ENTITIES.—Except as pro-*  
7                   *vided in subsection (a), for covered entities that*  
8                   *are in eligible industrial sectors, the amount of*  
9                   *emission allowance rebates shall be based on the*  
10                   *sum of the covered entity’s direct and indirect*  
11                   *carbon factors.*

12                   “(B) *OTHER ELIGIBLE ENTITIES.—For en-*  
13                   *tities that are in eligible industrial sectors but*  
14                   *are not covered entities, the amount of emission*  
15                   *allowance rebates shall be based on the entity’s*  
16                   *indirect carbon factor.*

17                   “(C) *NEW ENTITIES.—Not later than 2*  
18                   *years after the date of enactment of this title, the*  
19                   *Administrator shall issue regulations governing*  
20                   *the distribution of emission allowance rebates for*  
21                   *the first and second years of operation of a new*  
22                   *entity in an eligible industrial sector. These reg-*  
23                   *ulations shall provide for—*

1                   “(i) the distribution of emission allow-  
 2                   ance rebates to such entities based on com-  
 3                   parable entities in the same sector; and

4                   “(ii) an adjustment in the third and  
 5                   fourth years of operation to reconcile the  
 6                   total amount of emission allowance rebates  
 7                   received during the first and second years of  
 8                   operation to the amount the entity would  
 9                   have received during the first and second  
 10                  years of operation had the appropriate data  
 11                  been available.

12                  “(2) *DIRECT CARBON FACTOR.*—The direct car-  
 13                  bon factor for a covered entity for a vintage year is  
 14                  the product of—

15                  “(A) the average annual output of the cov-  
 16                  ered entity for the 2 years preceding the year of  
 17                  the distribution; and

18                  “(B) the most recent calculation of the aver-  
 19                  age direct greenhouse gas emissions (expressed in  
 20                  tons of carbon dioxide equivalent) per unit of  
 21                  output for all covered entities in the sector, as  
 22                  determined by the Administrator under para-  
 23                  graph (4).

24                  “(3) *INDIRECT CARBON FACTOR.*—

1           “(A) *IN GENERAL.*—*The indirect carbon*  
 2           *factor for an entity for a vintage year is the*  
 3           *product obtained by multiplying the average an-*  
 4           *nual output of the entity for the 2 years pre-*  
 5           *ceding the year of the distribution by both the*  
 6           *electricity emissions intensity factor determined*  
 7           *pursuant to subparagraph (B) and the electricity*  
 8           *efficiency factor determined pursuant to sub-*  
 9           *paragraph (C) for the year concerned.*

10           “(B) *ELECTRICITY EMISSIONS INTENSITY*  
 11           *FACTOR.*—

12           “(i) *IN GENERAL.*—*Each person selling*  
 13           *electricity to the owner or operator of an*  
 14           *entity in any sector designated as an eligi-*  
 15           *ble industrial sector under section 763(b)*  
 16           *shall provide the owner or operator of the*  
 17           *entity and the Administrator, on an annual*  
 18           *basis, the electricity emissions intensity fac-*  
 19           *tor for the entity. The electricity emissions*  
 20           *intensity factor for the entity, expressed in*  
 21           *tons of carbon dioxide equivalents per kilo-*  
 22           *watt hour, is determined by dividing—*

23                           “(I) *the annual sum of the hourly*  
 24                           *product of—*

1                   “(aa) the electricity pur-  
2                   chased by the entity from that  
3                   person in each hour (expressed in  
4                   kilowatt hours); multiplied by

5                   “(bb) the marginal or weight-  
6                   ed average tons of carbon dioxide  
7                   equivalent per kilowatt hour that  
8                   are reflected in the electricity  
9                   charges to the entity, as deter-  
10                  mined by the entity’s retail rate  
11                  arrangements; by

12                  “(II) the total kilowatt hours of  
13                  electricity purchased by the entity from  
14                  that person during that year.

15                  “(ii) *USE OF OTHER DATA TO DETER-*  
16                  *MINE FACTOR.*—Where it is not possible to  
17                  determine the precise electricity emissions  
18                  intensity factor for an entity using the  
19                  methodology in clause (i), the person selling  
20                  electricity shall use the monthly average  
21                  data reported by the Energy Information  
22                  Administration or collected and reported by  
23                  the Administrator for the utility serving the  
24                  entity to determine the electricity emissions  
25                  intensity factor.

1           “(C) *ELECTRICITY EFFICIENCY FACTOR.*—

2           *The electricity efficiency factor is the average*  
 3           *amount of electricity (in kilowatt hours) used*  
 4           *per unit of output for all entities in the relevant*  
 5           *sector, as determined by the Administrator based*  
 6           *on the best available data, including data pro-*  
 7           *vided under paragraph (6).*

8           “(D) *INDIRECT CARBON FACTOR REDUC-*

9           *TION.*—*If an electricity provider received a free*  
 10          *allocation of emission allowances pursuant to*  
 11          *section 771(a)(1), the Administrator shall adjust*  
 12          *the indirect carbon factor to avoid rebates to the*  
 13          *eligible entity for costs that the Administrator*  
 14          *determines were not incurred by the eligible enti-*  
 15          *ty because the allowances were freely allocated to*  
 16          *the eligible entity’s electricity provider and used*  
 17          *for the benefit of industrial consumers.*

18          “(4) *GREENHOUSE GAS INTENSITY CALCULA-*

19          *TIONS.*—*The Administrator shall calculate the aver-*  
 20          *age direct greenhouse gas emissions (expressed in tons*  
 21          *of carbon dioxide equivalent) per unit of output and*  
 22          *the electricity efficiency factor for all covered entities*  
 23          *in each eligible industrial sector every 4 years, using*  
 24          *an average of the 5 most recent years of the best*  
 25          *available data, from up to 7 years prior to the year*

1        *in which such calculations are made. For the purpose*  
 2        *of determining sector averages that are representative*  
 3        *of typical market conditions during the previous 7*  
 4        *years of operations, such averages shall exclude data*  
 5        *from individual years with the highest and the lowest*  
 6        *direct greenhouse gas emissions per unit of output*  
 7        *and electricity efficiency factors. For purposes of the*  
 8        *lists required to be published not later than February*  
 9        *1, 2013, the Administrator shall use the best available*  
 10       *data for the maximum number of years, up to 5*  
 11       *years, for which data are available.*

12                *“(5) DETERMINATION OF SECTORS FOR PUR-*  
 13        *POSES OF SECTORAL AVERAGES.—*

14                *“(A) IN GENERAL.—Notwithstanding the*  
 15        *criteria used to determine eligible sectors under*  
 16        *paragraphs (2) and (3)(C), not later than June*  
 17        *30, 2011, the Administrator shall, by rule, iden-*  
 18        *tify sectors or subsectors for purposes of calcu-*  
 19        *lating sector averages under paragraphs (2)(B),*  
 20        *(3)(C), and (4), based upon, to the extent prac-*  
 21        *ticable in achieving the purposes of this part—*

22                *“(i) product produced;*

23                *“(ii) process employed, including dis-*  
 24        *tinctions based upon the extent of integra-*  
 25        *tion or exclusion of process steps; and*

1                   “(iii) the extent of use of combined  
2                   heat and power technologies.

3                   “(B) CONSIDERATION OF CRITERIA.—In de-  
4                   termining what entities are comparable to a new  
5                   entity under paragraph (1)(C)(i), the Adminis-  
6                   trator shall consider, to the extent practicable,  
7                   the criteria set forth in subparagraph (A).

8                   “(6) ENSURING EFFICIENCY IMPROVEMENTS.—  
9                   When making greenhouse gas calculations, the Admin-  
10                  istrator shall—

11                  “(A) limit the average direct greenhouse gas  
12                  emissions per unit of output, calculated under  
13                  paragraph (4), for any eligible industrial sector  
14                  to an amount that is not greater than it was in  
15                  any previous calculation under this subsection;

16                  “(B) limit the electricity emissions intensity  
17                  factor, calculated under paragraph (3)(B) and  
18                  resulting from a change in electricity supply, for  
19                  any entity to an amount that is not greater than  
20                  it was during any previous year; and

21                  “(C) limit the electricity efficiency factor,  
22                  calculated under paragraph (3)(C), for any eligi-  
23                  ble industrial sector to an amount that is not  
24                  greater than it was in any previous calculation  
25                  under this subsection.

1           “(7) *DATA SOURCES.*—*For the purposes of this*  
 2       *subsection—*

3                   “(A) *the Administrator shall use data from*  
 4       *the greenhouse gas registry established under sec-*  
 5       *tion 713, where that data is available; and*

6                   “(B) *each owner or operator of an entity in*  
 7       *an eligible industrial sector and each depart-*  
 8       *ment, agency, and instrumentality of the United*  
 9       *States shall provide the Administrator with such*  
 10      *information as the Administrator finds necessary*  
 11      *to determine the direct carbon factor and the in-*  
 12      *direct carbon factor for each entity subject to this*  
 13      *section.*

14       “(c) *TOTAL MAXIMUM DISTRIBUTION.*—*Notwith-*  
 15      *standing subsections (a) and (b), the Administrator shall*  
 16      *not distribute more allowances for any vintage year pursu-*  
 17      *ant to this section than are allocated for use under this part*  
 18      *pursuant to section 765 for that vintage year. For any vin-*  
 19      *tage year for which the total emission allowance rebates cal-*  
 20      *culated pursuant to this section exceed the number of allow-*  
 21      *ances allocated pursuant to section 765, the Administrator*  
 22      *shall reduce each entity’s distribution on a pro rata basis*  
 23      *so that the total distribution under this section equals the*  
 24      *number of allowances allocated under section 765.*



1       “(d) *IRON AND STEEL SECTOR.*—For purposes of this  
 2   section, the Administrator shall consider as in different in-  
 3   dustrial sectors—

4               “(1) entities using integrated iron and  
 5       steelmaking technologies (including coke ovens, blast  
 6       furnaces, and other iron-making technologies); and

7               “(2) entities using electric arc furnace tech-  
 8       nologies.

9       “(e) *METAL, SODA ASH, OR PHOSPHATE PRODUCTION*  
 10   *CLASSIFIED UNDER MORE THAN ONE NAICS CODE.*—For  
 11   purposes of this section, the Administrator shall not aggre-  
 12   gate data for the beneficiation or other processing (includ-  
 13   ing agglomeration) of metal ores, soda ash, or phosphate  
 14   with subsequent steps in the process of metal, soda ash, or  
 15   phosphate manufacturing. The Administrator shall consider  
 16   the beneficiation or other processing (including agglomer-  
 17   ation) of metal ores, soda ash, or phosphate to be in sepa-  
 18   rate industrial sectors from the metal, soda ash, or phos-  
 19   phate manufacturing sectors. Industrial sectors that bene-  
 20   ficiate or otherwise process (including agglomeration) metal  
 21   ores, soda ash, or phosphate shall not receive emission al-  
 22   lowance rebates under this section related to the activity  
 23   of extracting metal ores, soda ash, or phosphate.

24       “(f) *COMBINED HEAT AND POWER.*—For purposes of  
 25   this section, and to achieve the purpose set forth in section

1 761(4),(the Administrator may consider entities to be in  
 2 different industrial sectors or otherwise take into account  
 3 the differences among entities in the same industrial sector,  
 4 based upon the extent to which such entities use combined  
 5 heat and power technologies.

6 **“SEC. 765. INTERNATIONAL TRADE.**

7       *“It is the sense of the Senate that this Act will contain*  
 8 *a trade title that will include a border measure that is con-*  
 9 *sistent with our international obligations and designed to*  
 10 *work in conjunction with provisions that allocate allow-*  
 11 *ances to energy-intensive and trade-exposed industries.”.*

12                   **TITLE II—PROGRAM**  
 13                   **ALLOCATIONS**

14 **SEC. 201. DISTRIBUTION OF ALLOWANCES FOR INVEST-**  
 15 **MENT IN CLEAN VEHICLES.**

16       (a) *DEFINITIONS.—In this section:*

17               (1) *ADVANCED TECHNOLOGY VEHICLE.—The*  
 18 *term “advanced technology vehicle” means any light-*  
 19 *duty vehicle assembled in the United States that*  
 20 *meets—*

21                   *(A) the Tier II Bin 5 emission standard es-*  
 22 *tablished by regulations promulgated by the Ad-*  
 23 *ministrator pursuant to section 202(i) of the*  
 24 *Clean Air Act (42 U.S. C. 7521(i)), or a lower-*  
 25 *numbered Bin emission standard;*

1           (B) any new emission standard for fine  
 2           particulate matter established by the Adminis-  
 3           trator under that Act (42 U.S.C. 7401 et seq.);  
 4           and

5           (C) a target fuel economy equal to or great-  
 6           er than 115 percent of the base model year target  
 7           fuel economy for a vehicle of the same type and  
 8           footprint, calculated on an energy-equivalent  
 9           basis for vehicles other than advanced diesel  
 10          light-duty motor vehicles.

11          (2) *BASE MODEL YEAR.*—The term “base model  
 12          year” means the model year 4 model years prior to  
 13          the model year during which an advanced technology  
 14          vehicle is initially certified for sale in the United  
 15          States under part 86 of title 40, Code of Federal Reg-  
 16          ulations (as in effect on the date of enactment of this  
 17          Act).

18          (3) *ENGINEERING INTEGRATION COST.*—The  
 19          term “engineering integration cost” includes the cost  
 20          of engineering tasks performed in the United States  
 21          relating to—

22               (A) incorporating qualifying components  
 23               into the design of advanced technology vehicles;  
 24               and

1           (B) designing new tooling and equipment  
2           for production facilities that produce, in the  
3           United States, qualifying components or ad-  
4           vanced technology vehicles.

5           (4) QUALIFYING COMPONENT.—The term “quali-  
6           fying component” means a component that the Sec-  
7           retary of Energy determines to be—

8                 (A) specially designed for advanced tech-  
9                 nology vehicles;

10                (B) installed for the purpose of meeting the  
11                performance requirements of advanced technology  
12                vehicles as specified in subparagraphs (A), (B),  
13                and (C) of paragraph (1); and

14                (C) manufactured in the United States.

15           (5) TARGET FUEL ECONOMY.—The term “target  
16           fuel economy” means—

17                (A) for a vehicle classified as a passenger  
18                automobile pursuant to section 523.4 of title 49,  
19                Code of Federal Regulations (as in effect on the  
20                date of enactment of this Act), the value of  $T_i$ ,  
21                representing the fuel economy target in the for-  
22                mula displayed as Figure 1, calculated for that  
23                vehicle in a given model year pursuant to section  
24                531.5(c) of title 49, Code of Federal Regulations

1           *(as in effect on the date of enactment of this*  
2           *Act); and*

3                     *(B) for a vehicle classified as a light truck*  
4           *pursuant to section 523.5 of title 49, Code of*  
5           *Federal Regulations (as in effect on the date of*  
6           *enactment of this Act), the value of  $T_i$ , rep-*  
7           *resenting the fuel economy target in the formula*  
8           *displayed as Figure 1, calculated for that vehicle*  
9           *in a given model year pursuant to section*  
10          *533.5(a) of title 49, Code of Federal Regulations*  
11          *(as in effect on the date of enactment of this*  
12          *Act).*

13          *(b) ESTABLISHMENT OF FUND.—There is established*  
14          *in the Treasury a separate account, to be known as the*  
15          *“Clean Vehicle Technology Fund”.*

16          *(c) AUCTION.—The Administrator shall—*

17                     *(1) auction the quantity of emission allowances*  
18           *allocated pursuant to section 771(b)(3) of the Clean*  
19           *Air Act pursuant to section 778 of that Act; and*

20                     *(2) deposit funds received from the auction in*  
21           *the Clean Vehicle Technology Fund.*

22          *(d) GRANTS.—The Administrator shall distribute*  
23          *amounts allocated pursuant to section 771(a)(8) of the*  
24          *Clean Air Act, at the direction of the Secretary of Energy,*  
25          *to provide facility conversion funding grants to vehicle*

1 *manufacturers and component suppliers to pay the costs*  
 2 *of—*

3 *(1) reequipping or expanding an existing manu-*  
 4 *facturing facility in the United States to produce—*

5 *(A) qualifying advanced technology vehicles;*

6 *(B) plug-in electric drive or hybrid-electric,*  
 7 *hybrid hydraulic, plug-in hybrid, electric, and*  
 8 *fuel cell drive medium- and heavy-duty motor*  
 9 *vehicles (including transit vehicles); or*

10 *(C) qualifying components; and*

11 *(2) engineering integration, performed in the*  
 12 *United States, of qualifying vehicles and qualifying*  
 13 *components that are produced in the United States.*

14 *(e) PERIOD OF AVAILABILITY.—A grant provided*  
 15 *under subsection (d) may be used for—*

16 *(1) facilities and equipment placed in service*  
 17 *after the date of enactment of this Act; and*

18 *(2) engineering integration costs incurred after*  
 19 *the date of enactment of this Act.*

20 *(f) LIMITATIONS.—*

21 *(1) PLUG-IN ELECTRIC DRIVE VEHICLES.—Not*  
 22 *less than 25 percent of the funds provided under sub-*  
 23 *section (d) shall be used for—*

24 *(A) reequipping or expanding facilities in*  
 25 *the United States to produce plug-in electric*

1        *drive vehicles or qualifying components for those*  
 2        *vehicles; or*

3                *(B) engineering integration, performed in*  
 4        *the United States, relating to those vehicles and*  
 5        *components that are produced in the United*  
 6        *States.*

7        *(2) CAFE REQUIREMENTS.—No grant shall be*  
 8        *provided under subsection (d) to an automobile man-*  
 9        *ufacturer that, directly or through a parent, sub-*  
 10       *sidary, or affiliated entity, is not in compliance with*  
 11       *each applicable corporate average fuel standard under*  
 12       *section 32902 of title 49, United States Code, as in*  
 13       *effect on the date on which the grant is provided.*

14       *(g) AVAILABILITY OF AUCTION PROCEEDS.—*

15                *(1) BLACK CARBON REDUCTION GRANT PRO-*  
 16       *GRAM.—Not less than 75 percent of the proceeds of the*  
 17       *auction conducted pursuant to subsection (c) shall be*  
 18       *used for providing grants under section 795A of the*  
 19       *Energy Policy Act of 2005.*

20                *(2) OTHER ASSISTANCE.—Not less than 20 per-*  
 21       *cent of the proceeds of the auction conducted pursuant*  
 22       *to subsection (c) shall be available to the Adminis-*  
 23       *trator to provide assistance for the deployment, inte-*  
 24       *gration, and use of advanced technology vehicles and*  
 25       *plug-in electric drive or hybrid-electric, hybrid hy-*

1        *draulic, plug-in hybrid, electric, and fuel cell drive*  
 2        *medium- and heavy-duty motor vehicles (including*  
 3        *transit vehicles and over-road buses).*

4                (3) *NATIONAL TRANSPORTATION LOW-EMISSION*  
 5        *ENERGY PLAN; PILOT PROGRAM.—Not less than 5 per-*  
 6        *cent of the proceeds of the auction conducted pursuant*  
 7        *to subsection (c) shall be available to the Secretary of*  
 8        *Energy to carry out subsection (h).*

9        (h) *NATIONAL TRANSPORTATION LOW-EMISSION EN-*  
 10       *ERGY PLAN; PILOT PROGRAM.—*

11               (1) *NATIONAL TRANSPORTATION LOW-EMISSION*  
 12        *ENERGY PLAN.—Using the amounts described in sub-*  
 13        *section (g)(3), the Secretary of Energy shall develop*  
 14        *a national transportation low-emission energy plan*  
 15        *that—*

16                (A) *projects the near- and long-term need*  
 17        *for and location of electric drive vehicle refueling*  
 18        *infrastructure at strategic locations across all*  
 19        *major national highways, roads, and corridors;*

20                (B) *identifies infrastructure and standard-*  
 21        *ization needs for electricity providers, infrastruc-*  
 22        *ture providers, vehicle manufacturers, and elec-*  
 23        *tricity purchasers;*



1           (C) establishes an aspirational goal of  
 2           achieving strategic deployment of electric vehicle  
 3           infrastructure by January 1, 2020;

4           (D) prioritizes the development of—

5                 (i) standardized public charge access  
 6                 ports with wireless or smart card billing ca-  
 7                 pability; and

8                 (ii) level I and level II charge port sys-  
 9                 tems (that charge an electric vehicle over a  
 10                period of 8 to 14 hours and 4 to 8 hours,  
 11                respectively) that will meet the energy re-  
 12                quirements of the majority of plug-in hy-  
 13                brid and battery electric vehicles;

14          (E) examines the feasibility of level III  
 15          charge port systems that can charge an electric  
 16          vehicle over a period of 10 to 20 minutes;

17          (F) focuses on infrastructure that provides  
 18          consumers with the lowest cost while providing  
 19          convenient charge system access; and

20          (G) is developed by the Secretary, with the  
 21          involvement of all relevant stakeholders.

22          (2)     ELECTRIC     DRIVE     DEMONSTRATION

23          PROJECTS.—

1           (A) *IN GENERAL.*—*The Secretary shall es-*  
2           *tablish pilot projects to demonstrate electric drive*  
3           *vehicles and infrastructure.*

4           (B)     *REQUIREMENTS.*—*The Secretary*  
5           *shall—*

6                     (i) *establish the pilot projects described*  
7                     *in subparagraph (A) after publication of*  
8                     *the plan developed under paragraph (1);*

9                     (ii) *use that plan to determine which*  
10                    *regions of the United States are most ready*  
11                    *to demonstrate electric vehicle infrastruc-*  
12                    *ture;*

13                    (iii) *carry out the pilot projects in dif-*  
14                    *ferent regions of the United States; and*

15                    (iv) *ensure that—*

16                             (I) *at least 1 pilot project is car-*  
17                             *ried out in a rural region of the*  
18                             *United States; and*

19                             (II) *at least 1 pilot project is fo-*  
20                             *cused on freight issues.*

21           (3) *FINANCIAL RESOURCES.*—*In carrying out the*  
22           *pilot projects under paragraph (2), the Secretary*  
23           *shall coordinate the use of appropriate financial in-*  
24           *centives, grant programs, and other Federal financial*  
25           *resources to ensure that electric infrastructure deliv-*

1        *ery entities are able to participate in the pilot*  
 2        *projects.*

3            (4) *LEEP COORDINATOR.*—*The Secretary may*  
 4        *designate 1 full-time position within the Department*  
 5        *of Transportation, to be known as the “LEEP coordi-*  
 6        *nator”, with responsibility to oversee—*

7            (A) *the development of the plan under para-*  
 8        *graph (1); and*

9            (B) *the implementation of the pilot projects*  
 10        *under paragraph (2).*

11        (i) *DIESEL EMISSIONS REDUCTION.*—

12            (1) *DEFINITION OF ELIGIBLE ENTITY.*—*Section*  
 13        *791(3) of the Energy Policy Act of 2005 (42 U.S.C.*  
 14        *16131(3)) is amended—*

15            (A) *in subparagraph (A), by striking “and”*  
 16        *after the semicolon at the end;*

17            (B) *in subparagraph (B), by striking the*  
 18        *period at the end and inserting “; and”; and*

19            (C) *by adding at the end the following:*

20            “(C) *any person that is the owner of record*  
 21        *of a diesel fleet.”.*

22            (2) *USE OF FUNDS.*—*Section 792(d) of the En-*  
 23        *ergy Policy Act of 2005 (42 U.S.C. 16132(d)) is*  
 24        *amended—*

25            (A) *by striking paragraph (2);*

1           (B) by striking “FUNDS.—” and all that  
 2 follows through “An eligible entity” and insert-  
 3 ing “FUNDS.—An eligible entity”;

4           (C) by redesignating subparagraphs (A)  
 5 and (B), clauses (i) through (v), and subclauses  
 6 (I) through (V) as paragraphs (1) and (2), sub-  
 7 paragraphs (A) through (E), and clauses (i)  
 8 through (v), respectively, and indenting appro-  
 9 priately; and

10           (D) in paragraph (2) (as so redesignated),  
 11 by striking “subparagraph (A)” and inserting  
 12 “paragraph (1)”.

13           (3) *BLACK CARBON REDUCTION GRANT PRO-*  
 14 *GRAM.—Subtitle G of title VII of the Energy Policy*  
 15 *Act of 2005 is amended by inserting after section 795*  
 16 *(42 U.S.C. 16135) the following:*

17 **“SEC. 795A. BLACK CARBON REDUCTION GRANT PROGRAM.**

18       “(a) *DEFINITIONS.—In this section:*

19           “(1) *ADMINISTRATOR.—The term ‘Adminis-*  
 20 *trator’ means the Administrator of the Environ-*  
 21 *mental Protection Agency.*

22           “(2) *BLACK CARBON.—The term ‘black carbon’*  
 23 *means a primary light-absorbing aerosol, as deter-*  
 24 *mined by the Administrator based on the best avail-*  
 25 *able science.*

1           “(3) *DIESEL PARTICULATE FILTER*.—The term  
 2           ‘diesel particulate filter’ means a pollution control  
 3           technology that reduces at least 85 percent of black  
 4           carbon, as verified by the Administrator or the Cali-  
 5           fornia Air Resources Board.

6           “(4) *ELIGIBLE ENTITY*.—The term ‘eligible enti-  
 7           ty’ means a person that is the owner of record of a  
 8           heavy duty vehicle.

9           “(5) *HEAVY DUTY VEHICLE*.—The term ‘heavy  
 10          duty vehicle’ has the meaning given the term in sec-  
 11          tion 202(b)(3) of the Clean Air Act (42 U.S.C.  
 12          7521(b)(3)).

13          “(6) *PROGRAM*.—The term ‘program’ means the  
 14          Black Carbon Reduction Program established under  
 15          this section.

16          “(b) *ESTABLISHMENT*.—The Administrator shall es-  
 17          tablish a voluntary grant program, to be known as the  
 18          ‘Black Carbon Reduction Program’—

19                 “(1) to cost effectively mitigate the adverse con-  
 20                 sequences of global warming by means of early action  
 21                 to reduce black carbon emissions from diesel-powered  
 22                 heavy-duty vehicles placed in service prior to 2007;  
 23                 and

24                 “(2) under which the Administrator, in accord-  
 25                 ance with this section (including regulations promul-

1 *gated under subsection (g)), shall authorize the provi-*  
 2 *sion of grants in accordance with subsection (c) to*  
 3 *cover 100 percent of the cost of purchasing and in-*  
 4 *stalling diesel particulate filters on heavy duty vehi-*  
 5 *cles.*

6 *“(c) PROGRAM SPECIFICATIONS.—*

7 *“(1) IN GENERAL.—A grant may be issued under*  
 8 *the program only to cover the costs of the purchase*  
 9 *and installation of a diesel particulate filter.*

10 *“(2) MAXIMUM AMOUNT.—The total amount of*  
 11 *grants issued for a fiscal year under the program*  
 12 *may not exceed the amounts made available for the*  
 13 *program for the fiscal year under subsection (h).*

14 *“(d) EVALUATION AND REPORT.—*

15 *“(1) IN GENERAL.—Not later than 2 years after*  
 16 *the date of enactment of this section and biennially*  
 17 *thereafter, the Administrator shall submit to Congress*  
 18 *a report evaluating the implementation of the pro-*  
 19 *gram.*

20 *“(2) INCLUSIONS.—The report shall include a*  
 21 *description of—*

22 *“(A) the total number of grant applications*  
 23 *received;*

24 *“(B) the total dollar value of all grants*  
 25 *issued;*

1           “(C) *the estimated benefits of grants pro-*  
 2           *vided under the program, including estimates of*  
 3           *the total number of tons of black carbon reduced,*  
 4           *cost-effectiveness, and cost-benefits; and*

5           “(D) *any other information the Adminis-*  
 6           *trator considers to be appropriate.*

7           “(e) *EXCLUSION OF GRANTS FROM INCOME.—A grant*  
 8           *issued under the program shall not be considered gross in-*  
 9           *come of the purchaser of technology for purposes of the In-*  
 10          *ternal Revenue Code of 1986.*

11          “(f) *EFFECT OF SECTION.—Nothing in this section af-*  
 12          *fects any authority under the Clean Air Act (42 U.S.C.*  
 13          *7401 et seq.) as in existence on the day before the date of*  
 14          *enactment of this section.*

15          “(g) *REGULATIONS.—*

16               “(1) *IN GENERAL.—As soon as practicable after*  
 17               *the date of enactment of this section, the Adminis-*  
 18               *trator shall promulgate regulations to implement the*  
 19               *program.*

20               “(2) *REQUIREMENTS.—The regulations promul-*  
 21               *gated under paragraph (1) shall—*

22                       “(A) *establish streamlined procedures for*  
 23                       *the provision of grants to eligible entities partici-*  
 24                       *parting in the program for the amount of the*  
 25                       *purchase and installation of diesel particulate*

1        *filters as soon as practicable, but not later than*  
 2        *30 days after the date of submission of an appli-*  
 3        *cation for a grant;*

4                *“(B) include a list of diesel particulate fil-*  
 5        *ters the purchase and installation of which are*  
 6        *eligible to be funded through the program; and*

7                *“(C) include a list of vehicles by model year*  
 8        *that are eligible to be retrofitted under the pro-*  
 9        *gram.*

10        *“(h) FUNDING.—The Administrator shall use to carry*  
 11        *out the program all of the funding provided for each fiscal*  
 12        *year under section 201(g)(1) of division B of the Clean En-*  
 13        *ergy Jobs and American Power Act.”.*

14                *(4) AUTHORIZATION OF APPROPRIATIONS.—Sec-*  
 15        *tion 797 of the Energy Policy Act of 2005 (42 U.S.C.*  
 16        *16137) is amended by striking “2011” and inserting*  
 17        *“2021”.*

18        **SEC. 202. STATE AND LOCAL INVESTMENT IN ENERGY EFFI-**  
 19        **CIENCY AND RENEWABLE ENERGY.**

20        *(a) DEFINITIONS.—For purposes of this section:*

21                *(1) ALLOWANCE.—The term “allowance” means*  
 22        *an emission allowance established under section 721*  
 23        *of the Clean Air Act.*

24                *(2) INDIAN TRIBE.—The term “Indian tribe” has*  
 25        *the meaning given the term in section 4 of the Indian*



1       *Self-Determination and Education Assistance Act* (25  
2       *U.S.C. 450b).*

3               (3) *VINTAGE YEAR.*—*The term “vintage year”*  
4       *has the meaning given the term in section 700 of the*  
5       *Clean Air Act.*

6       (b) *DISTRIBUTION AMONG INDIAN TRIBES, STATES,*  
7       *LOCAL GOVERNMENTS, AND RENEWABLE ELECTRICITY*  
8       *PROGRAMS.*—*The Administrator shall, in accordance with*  
9       *this section, distribute allowances allocated pursuant to sec-*  
10       *tion 771(a)(9) of the Clean Air Act for the following vintage*  
11       *year. The Administrator, after consultation with the Sec-*  
12       *retary of the Interior, shall distribute not less than 1 per-*  
13       *cent and not more than 3 percent of such allowances to In-*  
14       *dian tribes. The Administrator, after consultation with the*  
15       *Secretary of Energy, shall distribute the remaining allow-*  
16       *ances among the States, local governments, and renewable*  
17       *electricity programs under this section each year in accord-*  
18       *ance with the following formula:*

19               (1) *60 percent of the allowances shall be provided*  
20       *to the States, of which—*

21               (A) *30 percent shall be divided equally*  
22       *among the States;*

23               (B) *30 percent shall be distributed on a pro*  
24       *rata basis among the States based on the popu-*  
25       *lation of each State, as contained in the most re-*

1           *cent reliable census data available from the Bu-*  
2           *reau of the Census for all States at the time at*  
3           *which the Administrator calculates the formula*  
4           *for distribution;*

5           *(C) 30 percent shall be distributed on a pro*  
6           *rata basis among the States on the basis of the*  
7           *energy consumption of each State, as contained*  
8           *in the most recent State Energy Data Report*  
9           *available from the Energy Information Adminis-*  
10          *tration (or such alternative reliable source as the*  
11          *Administrator may designate); and*

12          *(D) 10 percentage shall be provided to the*  
13          *States based on an energy-efficiency formula de-*  
14          *veloped by the Administrator, which formula*  
15          *shall be—*

16                 *(i) based on—*

17                         *(I) weather-adjusted criteria; and*

18                         *(II) performance-based metrics*

19                         *that measure each State's success at de-*  
20                         *creasing energy consumption or in-*  
21                         *creasing energy efficiency—*

22                                 *(aa) on a per capita basis in*  
23                                 *the residential sector;*

1                   (bb) on an energy consump-  
 2                   tion per square-foot basis in the  
 3                   commercial sector; and

4                   (cc) on the basis of installed  
 5                   energy efficiency measures that  
 6                   save energy, measured on a per  
 7                   capita basis for the residential  
 8                   sector and a per square foot basis  
 9                   for the commercial sector; and

10                  (ii) updated every 3 years.

11                  (2) 25 percent of the allowances shall be provided  
 12                  to local governments for energy conservation and effi-  
 13                  ciency grants.

14                  (3) 15 percent of the allowances shall be provided  
 15                  in accordance with subsection (c)(3) to renewable en-  
 16                  ergy producers exclusively for the generation of renew-  
 17                  able electricity, from facilities that—

18                         (A) have a capacity of 10 megawatts or  
 19                         greater; and

20                         (B) are placed in service after the date of  
 21                         enactment of this Act.

22                  (c) *USES.*—The allowances distributed to each State  
 23                  and local government pursuant to this section shall be used  
 24                  exclusively in accordance with the following requirements:

1           (1) *ALLOCATION TO STATES.*—*Allowances allo-*  
 2           *cated to the States under subsection (b)(1) shall be for*  
 3           *the following purposes and be used in accordance with*  
 4           *the following conditions:*

5                   (A) *PURPOSES.*—

6                           (i) *ENERGY EFFICIENCY PROGRAMS.*—

7                                   (I) *IN GENERAL.*—*Subject to sub-*  
 8                                   *clauses (II), (III), and (IV), not less*  
 9                                   *than 40 percent of the amount made*  
 10                                   *available under subsection (b)(1) shall*  
 11                                   *be used exclusively for—*

12   (aa) *implementation and en-*  
 13   *forcement of building codes;*

14   (bb) *implementation of the*  
 15   *energy-efficient        manufactured*  
 16   *homes program;*

17   (cc) *implementation of build-*  
 18   *ing energy performance labeling;*

19   (dd) *low-income community*  
 20   *energy efficiency programs, in-*  
 21   *cluding those administered by pri-*  
 22   *rate, nonprofit community devel-*  
 23   *opment organizations providing*  
 24   *technical and financial assistance*  
 25   *to projects and businesses (includ-*

ing those owned by women and  
 minorities) that improve energy  
 efficiency and create jobs and  
 business opportunities;

(ee) thermal energy effi-  
 ciency;

(ff) retrofit for energy and  
 environmental performance; and

(gg) cost-effective energy effi-  
 ciency programs for end-use con-  
 sumers of electricity, natural gas,  
 home heating oil, or propane, in-  
 cluding, where appropriate, pro-  
 grams or mechanisms adminis-  
 tered by local governments and  
 entities other than the State.

(II) THERMAL ENERGY EFFI-  
 CIENCY.—

(aa) IN GENERAL.—Not less  
 than 10 percent of the amount  
 made available under subclause  
 (I) shall be used for thermal en-  
 ergy efficiency projects that pro-  
 vide district thermal energy  
 through a network of pipes from 1

1 *or more central plants to at least*  
2 *2 or more buildings, combined*  
3 *heat and power that produces elec-*  
4 *tricity and thermal energy with a*  
5 *minimum 60 percent overall effi-*  
6 *ciency on a lower-heating value*  
7 *basis, or recoverable waste energy*  
8 *(including mechanical, thermal,*  
9 *or electrical energy) that, if not*  
10 *for recovery, would be wasted and*  
11 *may be recovered or generated*  
12 *through modification of an exist-*  
13 *ing facility or addition of a new*  
14 *facility.*

15 *(bb) STUDIES, CONSTRU-*  
16 *CTION, AND DEVELOPMENT.—Allo-*  
17 *cations under this subclause may*  
18 *be used for planning, engineering,*  
19 *and feasibility studies as well as*  
20 *project construction and develop-*  
21 *ment.*

22 *(III) REQUIREMENTS FOR THER-*  
23 *MAL ENERGY EFFICIENCY PROJECTS.—*  
24 *Projects carried out under subclause*  
25 *(II) shall—*

1                   (aa) reduce or avoid green-  
2                   house gas emissions; and

3                   (bb)(AA) produce thermal en-  
4                   ergy from renewable energy re-  
5                   sources or natural cooling sources;

6                   (BB) capture and produc-  
7                   tively use thermal energy from an  
8                   electric generation facility;

9                   (CC) integrate new electricity  
10                  generation into an existing dis-  
11                  trict energy system;

12                  (DD) capture and produc-  
13                  tively uses surplus thermal energy  
14                  from an industrial or municipal  
15                  process (such as wastewater treat-  
16                  ment); or

17                  (EE) distribute and transfer  
18                  to buildings the thermal energy  
19                  from the energy sources described  
20                  in subitems (AA) through (DD).

21                  (IV) RETROFIT FOR ENERGY AND  
22                  ENVIRONMENTAL PERFORMANCE.—Not  
23                  less than 5 percent of the amount made  
24                  available under subclause (I) shall be  
25                  used for the program for retrofit for en-

1 *ergy and environmental performance*  
2 *under section 164.*

3 (V) *PRIORITY.*—*In carrying out*  
4 *this section, each State shall give pri-*  
5 *ority to persons of low and moderate*  
6 *income (as defined in section 102(a) of*  
7 *the Housing and Community Develop-*  
8 *ment Act of 1974 (42 U.S.C. 5302(a))).*

9 (VI) *PERSONS OF LOW INCOME.*—  
10 *Each State shall use at least 35 per-*  
11 *cent of the allocations provided pursu-*  
12 *ant to this clause to benefit persons of*  
13 *low income (as defined in section*  
14 *102(a) of the Housing and Community*  
15 *Development Act of 1974 (42 U.S.C.*  
16 *5302(a))), using not less than 20 per-*  
17 *cent of such amount made available*  
18 *under this clause for energy retrofits*  
19 *and green investments in subsidized*  
20 *housing based on standards to ensure*  
21 *that investments are cost-effective—*

22 (aa) *taking into account re-*  
23 *ductions in future use of energy*  
24 *and other utilities, and the extent*  
25 *to which such retrofits and invest-*



1                   ments address repair and replace-  
 2                   ment needs that may otherwise  
 3                   need to be addressed with other  
 4                   forms of assistance; and

5                   (bb) on the condition that, to  
 6                   receive such funding, the recipient  
 7                   shall commit to an additional pe-  
 8                   riod of affordability of not fewer  
 9                   than 15 years, covering all units  
 10                  for which the grants and loans are  
 11                  used.

12                  (ii)    RENEWABLE    ENERGY    PRO-  
 13                  GRAMS.—Renewable energy programs for  
 14                  capital grants, production incentives, loans,  
 15                  loan guarantees, forgivable loans, direct  
 16                  provision of allowances, and interest rate  
 17                  buy-downs for—

18                       (I) re-equipping, expanding, or  
 19                       establishing a manufacturing facility  
 20                       that receives certification from the Sec-  
 21                       retary of Energy pursuant to section  
 22                       48C of the Internal Revenue Code of  
 23                       1986 for the production of—

1                   (aa) *property designed to be*  
 2                   *used to produce energy from re-*  
 3                   *newable energy sources; and*

4                   (bb) *electricity storage sys-*  
 5                   *tems;*

6                   (II) *deployment of a diverse range*  
 7                   *of technologies to generate electricity*  
 8                   *from renewable energy sources; and*

9                   (III) *deployment of a diverse*  
 10                   *range of facilities or equipment, such*  
 11                   *as solar panels, to generate electricity*  
 12                   *or thermal energy from renewable en-*  
 13                   *ergy resources in and on buildings in*  
 14                   *an urban environment.*

15                   (iii) *OTHER STATE USES.—*

16                   (I)       *ELECTRICITY       TRANS-*  
 17                   *MISSION.—Improvement in electricity*  
 18                   *transmission for—*

19                   (aa) *State or regional imple-*  
 20                   *mentation of electricity trans-*  
 21                   *mission planning and siting ac-*  
 22                   *tivities that facilitate renewable*  
 23                   *energy development, including fa-*  
 24                   *cilitation of landowner negotia-*  
 25                   *tions for transmission of right-of-*

1 way leasing or other contractual  
2 arrangements;

3 (bb) grants to nonprofit orga-  
4 nizations that facilitate negotia-  
5 tions for transmission right-of-  
6 way leasing or other contractual  
7 agreements between affected land-  
8 owners and developers;

9 (cc) State or regional studies  
10 of renewable energy zones and re-  
11 sources with insufficient trans-  
12 mission capacity, including geo-  
13 graphical identification of poten-  
14 tial renewable energy sites, envi-  
15 ronmental reviews, and land use  
16 or coastal zone constraints;

17 (dd) grants to support land-  
18 owner associations' and other  
19 nonprofit organizations' partici-  
20 pation in State and Federal  
21 siting processes, including such  
22 associations' studies of renewable  
23 energy feasibility and benefits and  
24 associated data collection;

1            $(ee)$  grants to affected land-  
2 owners or landowner associations  
3 or nonprofit organizations for  
4 mitigation of impacts on property  
5 or ecosystems due to transmission  
6 projects that are part of an inter-  
7 connection-wide plan focused on  
8 facilitating renewable energy de-  
9 velopment;

10            $(ff)$  training for State regu-  
11 latory authority staff and local  
12 workforces relating to renewable  
13 energy generation resources and  
14 storage, smart grid, or new trans-  
15 mission technologies;

16            $(gg)$  grants to transmission  
17 providers for transmission im-  
18 provements (including smart grid  
19 investments) that facilitate renew-  
20 able energy development and ben-  
21 efit consumers;

22            $(hh)$  grants to transmission  
23 providers for security upgrades to  
24 the transmission system and au-  
25 thorized uses under title XIII of

1           *the Energy Independence and Se-*  
2           *curity Act of 2007 (42 U.S.C.*  
3           *17381 et seq.); or*

4                     *(ii) grants to develop energy*  
5           *storage, reliability, or distributed*  
6           *renewable generation projects.*

7                     (II) *END-USE CONSUMER PRO-*  
8           *GRAMS.—Cost-effective energy effi-*  
9           *ciency programs for end-use consumers*  
10          *of electricity, natural gas, home heat-*  
11          *ing oil, or propane, including, where*  
12          *appropriate, programs or mechanisms*  
13          *administered by local governments and*  
14          *entities other than the State.*

15                    (III) *SMART GRID.—Enabling the*  
16          *development of a Smart Grid (as de-*  
17          *scribed in section 1301 of the Energy*  
18          *Independence and Security Act of 2007*  
19          *(42 U.S.C. 17381)) for State, local gov-*  
20          *ernment, and other public buildings*  
21          *and facilities, including integration of*  
22          *renewable energy resources and distrib-*  
23          *uted generation, demand response, de-*  
24          *mand-side management, and systems*  
25          *analysis.*

1           (iv) *STATE ENERGY PROGRAM.*—*The*  
 2           *energy program of the State authorized*  
 3           *under part D of title III of the Energy Pol-*  
 4           *icy and Conservation Act (42 U.S.C. 6321*  
 5           *et seq.).*

6           (v) *WEATHERIZATION ASSISTANCE*  
 7           *PROGRAM.*—*For use in conjunction with the*  
 8           *weatherization assistance program of the*  
 9           *State authorized under part A of title IV of*  
 10           *the Energy Conservation and Production*  
 11           *Act (42 U.S.C. 6861 et seq.).*

12           (B) *CONDITIONS.*—

13           (i) *IN GENERAL.*—*The States shall*  
 14           *prioritize expansion of existing energy effi-*  
 15           *ciency programs approved and overseen by*  
 16           *the State or the appropriate State regu-*  
 17           *latory authority.*

18           (ii) *SUPPLEMENTATION.*—*The States*  
 19           *shall demonstrate that allowances allocated*  
 20           *pursuant to subparagraph (A) have been*  
 21           *used to supplement, and not to supplant,*  
 22           *existing and otherwise available State,*  
 23           *local, and ratepayer funding for such pur-*  
 24           *pose.*

1           (2) *ENERGY CONSERVATION AND EFFICIENCY.*—  
 2           *Allowances allocated to local governments under sub-*  
 3           *section (b)(2) shall be used exclusively for energy con-*  
 4           *servation and efficiency purposes specified in subtitle*  
 5           *E of the Energy Independence and Security Act of*  
 6           *2007 (42 U.S.C. 17151 et seq.), on the condition that*  
 7           *the allocation for the Secretary of Energy under sec-*  
 8           *tion 543 of that Act (42 U.S.C. 17153) is distributed*  
 9           *on a pro-rata basis among the other eligible recipients*  
 10          *under that section.*

11           (3) *NATIONAL RENEWABLE ENERGY DEPLOYMENT*  
 12          *PROGRAM.*—

13           (A) *IN GENERAL.*—*The Administrator, in*  
 14           *consultation with the Secretary of Energy, shall*  
 15           *distribute annually the allowances for renewable*  
 16           *energy producers under subsection (b)(3)—*

17                   (i) *subject to subparagraph (D), in a*  
 18                   *quantity that, for each renewable energy fa-*  
 19                   *cility, is equal to the product obtained by*  
 20                   *multiplying—*

21                           (I) *the quantity of energy gen-*  
 22                           *erated by the renewable energy facility*  
 23                           *during the preceding vintage year; and*

24                           (II) *an incentive rate determined*  
 25                           *by the Administrator, in consultation*

1                   *with the Secretary of Energy, before*  
2                   *the renewable energy facility is placed*  
3                   *in service; and*

4                   *(ii) for a period of 10 years after the*  
5                   *date on which the renewable energy facility*  
6                   *is placed in service.*

7                   *(B) IMPLEMENTATION.—The Administrator*  
8                   *shall promulgate such regulations as are appro-*  
9                   *priate to carry out this paragraph.*

10                  *(C) TECHNOLOGY DIVERSITY.—Not later*  
11                  *than 3 years after the date of enactment of this*  
12                  *Act, the Administrator, in consultation with the*  
13                  *Secretary of Energy—*

14                   *(i) shall review the programs enacted*  
15                   *pursuant to this section to assess whether*  
16                   *the programs are supporting the develop-*  
17                   *ment of a variety of renewable energy tech-*  
18                   *nologies; and*

19                   *(ii) may make adjustments to the pro-*  
20                   *grams to better support development of such*  
21                   *a variety while continuing to maximize the*  
22                   *quantity of renewable energy capacity de-*  
23                   *ployed.*

24                  *(D) DISTRIBUTION.—In a case in which*  
25                  *there are an insufficient number of allowances to*



1           *serve all otherwise qualified projects placed in*  
2           *service based on the formula under subsection*  
3           *(A)(i), the Administrator shall distribute allow-*  
4           *ances under this paragraph on a pro rata basis*  
5           *among all otherwise qualified projects.*

6           *(d) REPORTING.—Each Indian tribe, State, local gov-*  
7           *ernment, and renewable electricity generating company di-*  
8           *rectly receiving allowances or allowance value under this*  
9           *section shall submit to the Administrator a report that con-*  
10          *tains a list of entities receiving allowances or allowance*  
11          *value under this section.*

12          *(e) ENFORCEMENT.—If the Administrator determines*  
13          *that an Indian tribe, State, local government, or renewable*  
14          *electricity generating company is not in compliance with*  
15          *this section, the Administrator may withhold up to twice*  
16          *the number of allowances or allowance value that the In-*  
17          *dian tribe, State, local government, or renewable electricity*  
18          *generating company failed to use in accordance with the*  
19          *requirements of this section, that such Indian tribe, State,*  
20          *local government, or renewable electricity generating com-*  
21          *panies would otherwise be eligible to receive under this sec-*  
22          *tion in later years. Allowances withheld pursuant to this*  
23          *subsection shall be distributed among the remaining Indian*  
24          *tribes, States, local governments, and renewable electricity*  
25          *generating companies in accordance with subsection (b).*

1 **SEC. 203. ENERGY EFFICIENCY IN BUILDING CODES.**

2       *The Administrator shall distribute emission allow-*  
 3 *ances allocated for the following vintage year pursuant to*  
 4 *section 771(a)(10) of the Clean Air Act among the States*  
 5 *in accordance with the formula described in section 202 of*  
 6 *this division exclusively for the purpose of section 163 of*  
 7 *division A.*

8 **SEC. 204. ENERGY INNOVATION HUBS.**

9       *(a) PURPOSE.—The Secretary shall carry out a pro-*  
 10 *gram in accordance with this section to establish Energy*  
 11 *Innovation Hubs to enhance the economic, environmental,*  
 12 *and energy security of the United States by promoting com-*  
 13 *mercial application of clean, indigenous energy alternatives*  
 14 *to oil and other fossil fuels, reducing greenhouse gas emis-*  
 15 *sions, and ensuring that the United States maintains a*  
 16 *technological lead in the development and commercial ap-*  
 17 *plication of state-of-the-art energy technologies.*

18       *(b) DISTRIBUTION OF ALLOWANCES TO ENERGY INNO-*  
 19 *VATION HUBS.—The Secretary shall, in accordance with the*  
 20 *requirements of this section, distribute to eligible consortia*  
 21 *allowances allocated for the following vintage year under*  
 22 *section 772(a)(11) of the Clean Air Act.*

23 **SEC. 205. ARPA-E RESEARCH.**

24       *(a) DEFINITIONS.—For purposes of this section:*

1           (1) *ALLOWANCE*.—The term “allowance” means  
2           an emission allowance established under section 721  
3           of the Clean Air Act.

4           (2) *DIRECTOR*.—The term “Director” means Di-  
5           rector of the Advanced Research Projects Agency–En-  
6           ergy.

7           (b) *DISTRIBUTION OF ALLOWANCES*.—The Director, in  
8           accordance with this section, shall distribute allowances al-  
9           located for the following vintage year under section  
10          771(a)(12) of the Clean Air Act. Such allowances shall be  
11          distributed on a competitive basis to institutions of higher  
12          education, companies, research foundations, trade and in-  
13          dustry research collaborations, or consortia of such entities,  
14          or other appropriate research and development entities to  
15          achieve the goals of the Advanced Research Projects Agency-  
16          Energy (as described in section 5012(c) of the America  
17          COMPETES Act (42 U.S.C. 16538(c))) through targeted  
18          acceleration of—

19               (1) novel early-stage energy research with pos-  
20               sible technology applications;

21               (2) development of techniques, processes, and  
22               technologies, and related testing and evaluation;

23               (3) development of manufacturing processes for  
24               technologies; and

1           (4) *demonstration and coordination with non-*  
 2           *governmental entities for commercial applications of*  
 3           *technologies and research applications.*

4           (c) *SUPPLEMENT NOT SUPPLANT.*—Assistance pro-  
 5           *vided under this section shall be used to supplement, and*  
 6           *not to supplant, any other Federal resources available to*  
 7           *carry out activities described in this section.*

8           **SEC. 206. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**  
 9                               **PROGRAM.**

10          *The Secretary of State shall distribute emission allow-*  
 11          *ances allocated for the following vintage year pursuant to*  
 12          *section 771(a)(13) of the Clean Air Act exclusively for the*  
 13          *purpose of section 323 of division A.*

14          **SEC. 207. INTERNATIONAL CLIMATE CHANGE ADAPTATION**  
 15                               **AND GLOBAL SECURITY.**

16          *The Secretary of State shall distribute emission allow-*  
 17          *ances allocated for the following vintage year pursuant to*  
 18          *section 771(a)(14) of the Clean Air Act exclusively for the*  
 19          *purpose of section 324 of division A.*

20          **SEC. 208. ENERGY EFFICIENCY AND RENEWABLE ENERGY**  
 21                               **WORKER TRAINING.**

22          (a) *ESTABLISHMENT OF FUND.*—*There is established*  
 23          *in the Treasury a separate account, to be known as the “En-*  
 24          *ergy Efficiency and Renewable Energy Worker Training*  
 25          *Fund”.*

1       (b) *AUCTION PROCEEDS.*—*The Administrator shall de-*  
 2       *posit the proceeds of the auction conducted pursuant to sec-*  
 3       *tion 771(b)(4) of the Clean Air Act in the Energy Efficiency*  
 4       *and Renewable Energy Worker Training Fund.*

5       (c) *AVAILABILITY OF AMOUNTS.*—*The Secretary of*  
 6       *Labor shall use the amounts deposited in the Energy Effi-*  
 7       *ciency and Renewable Energy Worker Training Fund*  
 8       *under subsection (b) to carry out section 171(e)(8) of the*  
 9       *Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8))*  
 10       *without further appropriation or fiscal year limitation.*

11       **SEC. 209. WORKER TRANSITION.**

12       (a) *ESTABLISHMENT OF FUND.*—*There is established*  
 13       *in the Treasury a separate account, to be known as the*  
 14       *“Worker Transition Fund”.*

15       (b) *AUCTION PROCEEDS.*—*The Administrator shall de-*  
 16       *posit the proceeds of the auction conducted pursuant to sec-*  
 17       *tion 771(b)(5) of the Clean Air Act in the Worker Transi-*  
 18       *tion Fund.*

19       (c) *AVAILABILITY OF AMOUNTS.*—*The amounts depos-*  
 20       *ited in the Worker Transition Fund shall be used to carry*  
 21       *out part 2 of subtitle A of title III of division A.*

22       **SEC. 210. STATE PROGRAMS FOR GREENHOUSE GAS REDUC-**  
 23       **TION AND CLIMATE ADAPTATION.**

24       (a) *DEFINITIONS.*—*In this section:*

1           (1) *ALASKA NATIVE VILLAGE*.—The term “Alaska  
2       *Native village*” means a federally recognized Indian  
3       tribe located in the State of Alaska and listed in the  
4       Bureau of Indian Affairs publication entitled “In-  
5       dian Entities Recognized and Eligible to Receive  
6       Services from the United States Bureau of Indian Af-  
7       fairs” (74 Fed. Reg. 40218 (Aug. 11, 2009)).

8           (2) *ALLOWANCE*.—The term “allowance” means  
9       an emission allowance established under section 721  
10      of the Clean Air Act.

11          (3) *INDIAN TRIBE*.—The term “Indian tribe” has  
12      the meaning given the term in section 4 of the Indian  
13      Self-Determination and Education Assistance Act (25  
14      U.S.C. 450b).

15          (4) *SCCR ACCOUNT*.—The term “SCCR Ac-  
16      count” means a State Climate Change Response Ac-  
17      count established under subsection (c)(5).

18          (5) *VINTAGE YEAR*.—The term “vintage year”  
19      has the meaning given that term in section 700 of the  
20      Clean Air Act.

21      (b) *REGULATIONS; COORDINATION*.—

22          (1) *REGULATIONS*.—Not later than 2 years after  
23      the date of enactment of this Act, the Administrator,  
24      or the heads of such Federal agencies as the President

1        *may designate, shall promulgate regulations to imple-*  
2        *ment this section.*

3            (2) *COORDINATION.—If the President designates*  
4        *more than 1 Federal agency to implement this sec-*  
5        *tion, the President shall require such agencies to es-*  
6        *tablish a memorandum of understanding providing*  
7        *for coordination of rulemaking and other imple-*  
8        *menting activities, in accordance with this section.*

9        (c) *DISTRIBUTION OF ALLOWANCES.—*

10           (1) *IN GENERAL.—Not later than September 30*  
11        *of each calendar year, the Administrator shall dis-*  
12        *tribute, in accordance with this section, allowances*  
13        *allocated for the following vintage year pursuant to*  
14        *section 771(a)(15) of the Clean Air Act.*

15           (2) *RESERVATION AND ALLOCATION.—The Ad-*  
16        *ministrator shall—*

17                (A) *reserve 10 percent of the allowances de-*  
18        *scribed in paragraph (1) for distribution among*  
19        *coastal and Great Lakes States in accordance*  
20        *with subsection (e);*

21                (B) *reserve 10 percent of the allowances de-*  
22        *scribed in paragraph (1) for distribution among*  
23        *the States for wildfire programs for the purposes*  
24        *described in subsection (f), with the allowances to*

1        *be deposited in and administered through the*  
 2        *SCCR Accounts;*

3            *(C) after consultation with the Secretary of*  
 4        *the Interior, reserve at least 1 percent of the al-*  
 5        *lowances for distribution to Indian tribes in ac-*  
 6        *cordance with subsection (d); and*

7            *(D) distribute the remaining allowances to*  
 8        *fund State government programs for greenhouse*  
 9        *gas reduction and climate adaptation pursuant*  
 10       *to paragraphs (3) and (5), with the allowances*  
 11       *to be deposited in and administered through the*  
 12       *SCCR Accounts.*

13        *(3) FORMULA FOR DISTRIBUTION.—The Admin-*  
 14       *istrator shall distribute the allowances pursuant to*  
 15       *paragraph (2)(D) ratably among the States based on*  
 16       *the product obtained by multiplying—*

17            *(A) the population of a State; and*

18            *(B) the allocation factor for the State deter-*  
 19        *mined under paragraph (4).*

20        *(4) STATE ALLOCATION FACTORS.—*

21            *(A) IN GENERAL.—Except as provided in*  
 22        *subparagraph (B), the allocation factor for a*  
 23        *State shall be the quotient obtained by divid-*  
 24        *ing—*



1                   (i) *the per capita income of all indi-*  
 2                   *viduals in the United States; by*

3                   (ii) *the per capita income of all indi-*  
 4                   *viduals in the State.*

5                   (B) *LIMITATION.—*

6                   (i) *MAXIMUM.—If the allocation factor*  
 7                   *for a State as calculated under subpara-*  
 8                   *graph (A) would exceed 1.2, the allocation*  
 9                   *factor for such State shall be 1.2.*

10                  (ii) *MINIMUM.—If the allocation factor*  
 11                  *for a State as calculated under subpara-*  
 12                  *graph (A) would be less than 0.8, the alloca-*  
 13                  *tion factor for such State shall be 0.8.*

14                  (C) *PER CAPITA INCOME.—For purposes of*  
 15                  *this paragraph, per capita income shall be—*

16                   (i) *determined at 2-year intervals; and*

17                   (ii) *subject to subparagraph (D), equal*  
 18                   *to the average of the annual per capita in-*  
 19                   *comes for the most recent period of 3 con-*  
 20                   *secutive years for which satisfactory data*  
 21                   *are available from the Department of Com-*  
 22                   *merce at the time such determination is*  
 23                   *made.*

1                   (D) *REVENUE DIRECTLY RESULTING FROM*  
 2                   A *PRESIDENTIALLY DECLARED MAJOR DIS-*  
 3                   *ASTER.—*

4                   (i) *IN GENERAL.—For purposes of this*  
 5                   *paragraph, per capita income from 1 or*  
 6                   *more of the sources described in clause (ii)*  
 7                   *shall be reduced or excluded if the Secretary*  
 8                   *of Commerce—*

9                   (I) *(in consultation with the Ad-*  
 10                   *ministrator and the heads of the de-*  
 11                   *partments or agencies involved) deter-*  
 12                   *mines that the income accrues to per-*  
 13                   *sons as the result of a major disaster*  
 14                   *designated by the President under the*  
 15                   *Robert T. Stafford Disaster Relief and*  
 16                   *Emergency Assistance Act (42 U.S.C.*  
 17                   *5121 et seq.); and*

18                   (II) *finds that the inclusion of 1*  
 19                   *or more of the income sources, in whole*  
 20                   *or in part, results in a transitory,*  
 21                   *rather than a sustainable, increase in*  
 22                   *a State's per capita income level rel-*  
 23                   *ative to the national average.*

1                   (ii) *SOURCES OF INCOME.*—*The*  
2                   *sources of income referred to in clause (i)*  
3                   *are the following:*

4                   (I) *Property and casualty insur-*  
5                   *ance (including homeowners and rent-*  
6                   *ers insurance).*

7                   (II) *The National Flood Insur-*  
8                   *ance Program of the Federal Emer-*  
9                   *gency Management Agency.*

10                  (III) *The Individual and Family*  
11                  *Grants Program of the Federal Emer-*  
12                  *gency Management Agency.*

13                  (IV) *The Disaster Housing Pro-*  
14                  *gram of the Federal Emergency Man-*  
15                  *agement Agency.*

16                  (V) *The Community Development*  
17                  *Block Grant Program of the Depart-*  
18                  *ment of Housing and Urban Develop-*  
19                  *ment.*

20                  (VI) *The Disaster Unemployment*  
21                  *Assistance Program of the Department*  
22                  *of Labor.*

23                  (VII) *Any other source determined*  
24                  *appropriate by the Administrator.*

1           (5) *STATE CLIMATE CHANGE RESPONSE AC-*  
2 *COUNTS.*—

3           (A) *ESTABLISHMENT.*—*Each State shall es-*  
4 *tablish a State Climate Change Response Ac-*  
5 *count, to be administered pursuant to State law,*  
6 *to receive and distribute—*

7                   (i) *the allocation of allowances pro-*  
8 *vided under paragraph (2); or*

9                   (ii) *at the election of the State, the pro-*  
10 *ceeds of the auction of those allowances.*

11           (B) *COMPLIANCE.*—*State regulations and*  
12 *implementing procedures relating to SCCR ac-*  
13 *counts shall require compliance with the provi-*  
14 *sions of this section and all other applicable pro-*  
15 *visions of Federal law.*

16 (d) *DISTRIBUTION TO INDIAN TRIBES.*—

17           (1) *IN GENERAL.*—*The Administrator, or the*  
18 *heads of such Federal agencies as the President may*  
19 *designate, shall promulgate regulations establishing a*  
20 *program to distribute allowances to Indian tribes, in*  
21 *accordance with the requirements of this section, of*  
22 *which not less than 18 percent shall be allocated to*  
23 *Alaska Native Villages for each year.*

24           (2) *USE OF ALLOWANCES.*—*Allowances distrib-*  
25 *uted to Indian tribes shall be used exclusively—*

1                   (A) in accordance with subsection (g); and

2                   (B) in compliance with any approved tribal

3                   climate change response plan.

4           (e) *DISTRIBUTION TO COASTAL AND GREAT LAKES*

5 *STATES.*—*The Administrator, or the heads of such other*

6 *Federal agencies as the President may designate, shall dis-*

7 *tribute allowances for coastal State economic protection re-*

8 *served under subsection (c)(2)(A) each fiscal year, in ac-*

9 *cordance with section 384 of division A.*

10          (f) *DISTRIBUTION TO STATES FOR FIRE PROGRAMS.*—

11 *The Administrator, or the heads of such other Federal agen-*

12 *cies as the President may designate, shall distribute allow-*

13 *ances reserved under subsection (c)(2)(B), to the States’*

14 *SCCR Accounts for each fiscal year, to be used for wildfire*

15 *programs in accordance with section 383 of division A.*

16          (g) *USES OF ALLOWANCES DEPOSITED TO SCCR AC-*

17 *COUNTS.*—

18               (1) *IN GENERAL.*—*States shall use allowances*

19 *deposited to SCCR Accounts under subsection*

20 *(c)(2)(D) exclusively for the development and imple-*

21 *mentation of projects, programs, or measures as de-*

22 *scribed in this section to address climate change by*

23 *reducing emissions of greenhouse gases or by building*

24 *resilience to the impacts of climate change, including*

25 *impacts such as—*

1           (A) *extreme weather events, such as flooding*  
 2           *and tropical cyclones;*

3           (B) *more frequent heavy precipitation*  
 4           *events;*

5           (C) *water scarcity and adverse impacts on*  
 6           *water quality;*

7           (D) *stronger and longer heat waves;*

8           (E) *more frequent and severe droughts;*

9           (F) *risers in sea level;*

10          (G) *ecosystem disruption;*

11          (H) *increased wildfire risk;*

12          (I) *increased air pollution;*

13          (J) *effects on public health;*

14          (K) *impaired transportation systems and*  
 15          *infrastructure; and*

16          (L) *reduced productivity of agricultural or*  
 17          *ranching operations.*

18          (2) *REQUIREMENTS.—The allowances received by*  
 19          *each SCCR Account for each fiscal year shall be used*  
 20          *by the State exclusively to fund the following cat-*  
 21          *egories of activities, in compliance with the provisions*  
 22          *of approved State climate change response plans:*

23               (A) *Grants to fund water system mitigation*  
 24               *and adaptation partnerships in accordance with*  
 25               *section 381 of division A.*

1           (B) Flood control, protection, prevention  
2           and response programs and projects in accord-  
3           ance with section 382 of division A.

4           (C) Programs or projects implemented by  
5           State agencies as owners or operators of water  
6           systems to address any ongoing or forecasted cli-  
7           mate-related impact on water quality, water  
8           supply or reliability, for 1 or more of the pur-  
9           poses listed in section 381(d) of division A.

10          (D) Programs or projects to reduce green-  
11          house gas emissions through recycling or for in-  
12          creasing recycling rates in accordance with sec-  
13          tion 154 of division A.

14          (E) Programs and projects addressing ad-  
15          verse impacts of climate change affecting agri-  
16          culture or ranching activities.

17          (F) Programs or projects addressing air  
18          pollution or air quality impacts caused or exac-  
19          erbated by climate change.

20          (G) Programs or projects to reduce green-  
21          house gas emissions that result in a decrease in  
22          emissions of other air pollutants.

23          (H) Programs or projects to restore aban-  
24          doned mine lands that increase carbon sequestra-  
25          tion or reduce greenhouse gas emissions while

1        *providing other benefits, including improvements*  
 2        *in water and air quality.*

3            (I) *Programs addressing the risk of*  
 4        *wildfires for 1 or more of the purposes listed in*  
 5        *section 383(e)(2) of division A.*

6            (3) *DISTRIBUTION FOR LOCAL GOVERNMENTS.—*  
 7        *Not less than 12.5 percent of the allowances deposited*  
 8        *to SCCR Accounts shall be distributed by each State*  
 9        *to units of local government within such State, to be*  
 10       *used exclusively to support the categories of climate*  
 11       *change response efforts listed in paragraph (2).*

12           (4) *VULNERABLE POPULATIONS.—In deploying*  
 13        *allowances under this section, States and units of*  
 14        *local government shall ensure that programs and*  
 15        *projects are funded responding to impacts affecting*  
 16        *socially and economically vulnerable populations, in-*  
 17        *cluding—*

18            (A) *persons of low-income (as defined in*  
 19        *title I of the Housing and Community Develop-*  
 20        *ment Act of 1974, (42 U.S.C. 5301 et seq.));*

21            (B) *members of socially disadvantaged*  
 22        *groups (as defined in section 2501(e)(2) of the*  
 23        *Food, Agriculture, Conservation, and Trade Act*  
 24        *of 1990 (7 U.S.C. 2279(e)(2)));*



1                   (C) individuals over 65 years of age and  
 2                   under 5 years of age; and

3                   (D) individuals with disabilities.

4                   (5) *INTENT OF CONGRESS.*—It is the intent of  
 5                   the Congress that allowances distributed to carry out  
 6                   this section should be used to supplement, and not re-  
 7                   place, existing sources of funding used to address and  
 8                   build resilience to the impacts of climate change.

9                   (h) *STATE AND TRIBAL CLIMATE CHANGE RESPONSE*  
 10                  *PLANS.*—

11                  (1) *IN GENERAL.*—The regulations promulgated  
 12                  pursuant to subsection (b) shall include requirements  
 13                  for submission and approval of State and tribal cli-  
 14                  mate change response plans under this section. Begin-  
 15                  ning with vintage year 2012, distribution of allow-  
 16                  ances to a State pursuant to this section shall be con-  
 17                  tingent on approval of a State climate change re-  
 18                  sponse plan for such State that meets the require-  
 19                  ments of such regulations.

20                  (2) *REQUIREMENTS.*—Regulations promulgated  
 21                  under this section shall require, at minimum, that  
 22                  State climate change response plans—

23                         (A) assess and prioritize the vulnerability of  
 24                         a State to a broad range of impacts of climate  
 25                         change, based on the best available science;

1           (B) identify and prioritize specific cost-ef-  
 2           fective projects, programs, and measures to miti-  
 3           gate and build resilience to current and pre-  
 4           dicted impacts of climate change, including  
 5           projects, programs, and measures within each of  
 6           the categories of activities listed in subsection  
 7           (h)(2);

8           (C) include an assessment of potential for  
 9           carbon reduction through changes to land man-  
 10          agement policies (including enhancement or pro-  
 11          tection of forest carbon sinks);

12          (D) ensure that the State fully considers  
 13          and undertakes, to the maximum extent prac-  
 14          ticable, initiatives that—

15               (i) protect or enhance natural eco-  
 16               system functions, including protection,  
 17               maintenance, or restoration of natural in-  
 18               frastructure such as wetlands, reefs, and  
 19               barrier islands to buffer communities from  
 20               floodwaters or storms, watershed protection  
 21               to maintain water quality and groundwater  
 22               recharge, or floodplain restoration to im-  
 23               prove natural flood control capacity;

24               (ii) where appropriate, use non-  
 25               structural approaches, including practices

1           that use, enhance, or mimic the natural hy-  
2           drologic cycle processes of infiltration,  
3           evapotranspiration, and use; or

4           (iii) where appropriate, protect for-  
5           ested land via scientifically based ecological  
6           restoration practices, including by reducing  
7           fuel loads, restoring forest diversity, and  
8           conducting research on pest mitigation;

9           (E) give consideration to impacts affecting  
10          socially and economically vulnerable popu-  
11          lations, including—

12           (i) persons of low-income (as defined  
13           in title I of the Housing and Community  
14           Development Act of 1974 (42 U.S.C. sec.  
15           5301 et seq.));

16           (ii) members of socially disadvantaged  
17           groups (as defined in section 2501(e)(2) of  
18           the Food, Agriculture, Conservation, and  
19           Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

20           (iii) persons over 65 years of age and  
21           under 5 years of age; and

22           (iv) persons with disabilities;

23           (F) use pre-disaster mitigation, emergency  
24           response, and public insurance programs to  
25           mitigate the impacts of climate change;

(G) be consistent with Federal conservation and environmental laws and, to the maximum extent practicable, avoid environmental degradation; and

(H) be revised and resubmitted for approval not less frequently than every 5 years.

(3) *TRIBAL CLIMATE CHANGE RESPONSE PLANS.*—Requirements for tribal climate change response plans should include the requirements listed in subparagraphs (A) through (H) of paragraph (2), as appropriate, but may vary from those of State climate change response plans to the extent necessary to account for the special circumstances of Indian tribes.

(4) *COORDINATION WITH PRIOR PLANNING EFFORTS.*—In implementing this subsection, the Administrator, or the heads of such Federal agencies as the President may designate, shall—

(A) draw upon lessons learned and best practices from preexisting State and tribal climate change response planning efforts;

(B) seek to avoid duplication of such efforts; and

(C) ensure that the plans developed under this section are developed in coordination with

1           *State natural resources adaptation plans devel-*  
2           *oped under section 369 of division A.*

3           *(i) REPORTING.—Not later than 1 year after each date*  
4           *of receipt of allowances under this section, and biennially*  
5           *thereafter until the allowances received under this section*  
6           *have been fully expended, each State or Indian tribe receiv-*  
7           *ing allowances under this section shall submit to the Ad-*  
8           *ministrator, or the heads of such Federal agencies as the*  
9           *President may designate, a report that—*

10           *(1) provides a full accounting for the use by the*  
11           *State or Indian tribe of allowances distributed under*  
12           *this section, including a description of the projects,*  
13           *programs, or measures supported using such allow-*  
14           *ances;*

15           *(2) includes a report prepared by an inde-*  
16           *pendent third party, in accordance with such regula-*  
17           *tions as are promulgated by the Administrator or the*  
18           *heads of such other Federal agencies as the President*  
19           *may designate, evaluating the performance of the*  
20           *projects, programs, or measures supported under this*  
21           *section; and*

22           *(3) identifies any use by the State or Indian*  
23           *tribe of allowances distributed under this section for*  
24           *the reduction of flood and storm damage and the ef-*

1        *fects of climate change on water and flood protection*  
2        *infrastructure.*

3        (j) *AUDITING.*—*The Administrator, or the heads of*  
4        *such Federal agencies as the President may designate, shall*  
5        *have authority to conduct such audits or other review of*  
6        *States implementation of and compliance with this section*  
7        *as such Federal officials may in their discretion determine*  
8        *to be necessary or appropriate.*

9        (k) *ENFORCEMENT.*—*If the Administrator, or the*  
10       *heads of such Federal agencies as the President may des-*  
11       *ignate, determine that a State or Indian tribe is not in*  
12       *compliance with this section, the Administrator or such*  
13       *other agency head may withhold a quantity of the allow-*  
14       *ances equal to up to twice the quantity of allowances that*  
15       *the State or Indian tribe failed to use in accordance with*  
16       *the requirements of this section, that such State or Indian*  
17       *tribe would otherwise be eligible to receive under this section*  
18       *in 1 or more later years. Allowances withheld pursuant to*  
19       *this subsection shall be distributed among the remaining*  
20       *States or Indian tribes ratably in accordance with—*

21                (1) *the formula under subsection (c), in the case*  
22                *of allowances withheld from a State; or*

23                (2) *in accordance with subsection (d), in the case*  
24                *of allowances withheld from an Indian tribe.*

1 **SEC. 211. CLIMATE CHANGE HEALTH PROTECTION AND**  
2 **PROMOTION FUND.**

3 (a) *ESTABLISHMENT OF FUND.*—*There is established*  
4 *in the Treasury a separate account, to be known as the “Cli-*  
5 *mate Change Health Protection and Promotion Fund”.*

6 (b) *AUCTION PROCEEDS.*—*The Administrator shall de-*  
7 *posit the proceeds of the auction pursuant to section*  
8 *771(b)(6) of the Clean Air Act in the Climate Change*  
9 *Health Protection and Promotion Fund.*

10 (c) *AVAILABILITY OF AMOUNTS.*—*All amounts depos-*  
11 *ited in the Climate Change Health Protection and Pro-*  
12 *motion Fund shall be available to the Secretary of Health*  
13 *and Human Services to carry out subpart B of subtitle C*  
14 *of title III of division A, without further appropriation or*  
15 *fiscal year limitation.*

16 (d) *DISTRIBUTION OF FUNDS BY HHS.*—*In carrying*  
17 *out subpart B of subtitle C of title III of division A, the*  
18 *Secretary of Health and Human Services may make funds*  
19 *deposited in the Climate Change Health Protection and*  
20 *Promotion Fund available to—*

21 (1) *other departments, agencies, and offices of the*  
22 *Federal Government;*

23 (2) *foreign, State, tribal, and local governments;*  
24 *and*

25 (3) *such other entities as the Secretary deter-*  
26 *mines to be appropriate.*

1       (e) *SUPPLEMENT, NOT REPLACE.*—*It is the intent of*  
 2 *Congress that funds made available to carry out subpart*  
 3 *B of subtitle C of title III of division A should be used to*  
 4 *supplement, and not replace, existing sources of funding for*  
 5 *public health.*

6   **SEC. 212. CLIMATE CHANGE SAFEGUARDS FOR NATURAL**  
 7                   **RESOURCES CONSERVATION.**

8       (a) *ESTABLISHMENT OF FUND.*—*There is established*  
 9 *in the Treasury a separate account, to be known as the*  
 10 *“Natural Resources Climate Change Adaptation Account”.*

11       (b) *AUCTION PROCEEDS.*—*The Administrator shall de-*  
 12 *posit the proceeds of the auction conducted pursuant to sec-*  
 13 *tion 771(b)(7) of the Clean Air Act in the Natural Resources*  
 14 *Climate Change Adaptation Account.*

15       (c) *AVAILABILITY OF AMOUNTS.*—*All amounts depos-*  
 16 *ited in the Natural Resources Climate Change Adaptation*  
 17 *Account shall be available without further appropriation or*  
 18 *fiscal year limitation solely for the purposes of paragraphs*  
 19 *(2) through (6) of section 370(a) of division A.*

20   **SEC. 213. NUCLEAR WORKER TRAINING.**

21       (a) *ESTABLISHMENT OF FUND.*—*There is established*  
 22 *in the Treasury a separate account, to be known as the “Nu-*  
 23 *clear Worker Training Fund”.*

24       (b) *AUCTION PROCEEDS.*—*The Administrator shall de-*  
 25 *posit the proceeds of the auction conducted pursuant to sec-*



tion 771(b)(8) of the Clean Air Act in the Nuclear Worker Training Fund.

(c) *AVAILABILITY OF AMOUNTS.*—All amounts deposited in the Nuclear Worker Training Fund shall be available without further appropriation or fiscal year limitation solely for the purpose of carrying out section 132 of division A.

**SEC. 214. SUPPLEMENTAL AGRICULTURE, ABANDONED MINE LAND, RENEWABLE ENERGY, AND FORESTRY.**

(a) *ESTABLISHMENT OF FUND.*—There is established in the Treasury a separate account, to be known as the “Supplemental Agriculture, Abandoned Mine Land, Renewable Energy, and Forestry Fund”.

(b) *AUCTION PROCEEDS.*—The Administrator shall deposit the proceeds of the auction conducted pursuant to section 771(b)(9) of the Clean Air Act in the Supplemental Agriculture, Abandoned Mine Land, Renewable Energy, and Forestry Fund.

(c) *AVAILABILITY OF AMOUNTS.*—All amounts deposited in the Supplemental Agriculture, Renewable Energy, Abandoned Mine Land, and Forestry Fund shall be available without further appropriation or fiscal year limitation solely for the purpose of carrying out section 155 of division A.

1 **SEC. 215. INVESTMENT IN GREENHOUSE GAS REDUCTIONS**  
 2 **FROM THE TRANSPORTATION SECTOR.**

3 (a) *DEFINITIONS.—In this section:*

4 (1) *ALLOWANCE.—The term “allowance” means*  
 5 *an emission allowance established under section 721*  
 6 *of the Clean Air Act.*

7 (2) *SECRETARY.—The term “Secretary” means*  
 8 *the Secretary of Transportation.*

9 (3) *VINTAGE YEAR.—The term “vintage year”*  
 10 *has the meaning given the term in section 700 of the*  
 11 *Clean Air Act.*

12 (b) *CLIMATE CHANGE TRANSPORTATION FUND.—*

13 (1) *ESTABLISHMENT OF FUND.—There is estab-*  
 14 *lished in the Treasury a separate account, to be*  
 15 *known as the “Climate Change Transportation*  
 16 *Fund”.*

17 (2) *AUCTION PROCEEDS DEPOSITED TO FUND.—*  
 18 *The Administrator shall deposit the proceeds of auc-*  
 19 *tions conducted pursuant to section 771(b)(10) of the*  
 20 *Clean Air Act for the vintage years specified in the*  
 21 *Climate Change Transportation Fund.*

22 (3) *AVAILABILITY OF AMOUNTS.—All amounts*  
 23 *deposited in the Climate Change Transportation*  
 24 *Fund shall be available, without further appropria-*  
 25 *tion or fiscal year limitation, to carry out this sec-*  
 26 *tion.*

1       (c) *DISTRIBUTION OF ALLOWANCES.*—For each year,  
 2       the Secretary shall use the proceeds of allowance auctions  
 3       deposited in the Climate Change Transportation Fund to  
 4       reduce emissions from the transportation sector in accord-  
 5       ance with the following formula:

6               (1) 50 percent of the allowances shall be used ex-  
 7       clusively for the Transportation Greenhouse Gas Re-  
 8       duction program in accordance with section 832 of  
 9       the Clean Air Act.

10              (2) 50 percent of the allowances shall be used ex-  
 11       clusively for public transportation grants in accord-  
 12       ance with subsection (d).

13       (d) *DISTRIBUTION OF PUBLIC TRANSPORTATION*  
 14       *GRANTS.*—

15              (1) *IN GENERAL.*—The Secretary shall distribute  
 16       the amounts available for public transportation  
 17       grants for each fiscal year in accordance with sub-  
 18       section (c)(2) as grants to public transportation agen-  
 19       cies (including designated recipients (as defined in  
 20       section 5307(a) and section 5340 of title 49, United  
 21       States Code)) and recipients and sub-recipients (as  
 22       defined in section 5311(a) of title 49, United States  
 23       Code).

24              (2) *FORMULA.*—In providing grants under this  
 25       subsection, the Secretary shall distribute—

1           (A) 80 percent of the funds in accordance  
2           with the formula and conditions governing  
3           grants under section 5307 of title 49, United  
4           States Code;

5           (B) 10 percent of the funds in accordance  
6           with the formula and conditions governing  
7           grants under section 5311 of title 49, United  
8           States Code (including subsection (f) of that sec-  
9           tion); and

10          (C) 10 percent of the funds in accordance  
11          with the formula and conditions governing  
12          grants under section 5340 of title 49, United  
13          States Code.

14          (e) AGREEMENTS.—No grant may be provided to a  
15          public transportation agency under this section for any fis-  
16          cal year unless—

17               (1) the grant is limited to a project approved in  
18               accordance with the greenhouse gas emission reduc-  
19               tion provisions under section 112 of division A; and

20               (2) the public transportation agency enters into  
21               such agreements with the Secretary as the Secretary  
22               may require to ensure that the public transportation  
23               agency will maintain the aggregate expenditures of  
24               the public transportation agency from all other  
25               sources for programs described in paragraph (1) at or

1       *above the average level of those expenditures during*  
2       *the 2 fiscal years preceding the date of enactment of*  
3       *this Act.*

4       (f) *LIMITATION ON USE OF FUNDS.—Public transpor-*  
5       *tation grants funded under this section may be used only*  
6       *to fund strategies that demonstrate a reduction in green-*  
7       *house gas emissions.*

8       **SEC. 216. STATE PROGRAMS FOR NATURAL RESOURCE AD-**  
9                   **APTATION ACTIVITIES.**

10       *The Administrator shall distribute emission allow-*  
11       *ances allocated for the following vintage year pursuant to*  
12       *section 771(a)(16) of the Clean Air Act among the States*  
13       *in accordance with the formula described in section*  
14       *370(a)(1) of division A, exclusively to carry out natural*  
15       *resources adaptation activities in accordance with adapta-*  
16       *tion plans approved under section 369 of division A.*

Calendar No. 267

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 1733**

[Report No. 111-121]

**A BILL**

To create clean energy jobs, promote energy independence, reduce global warming pollution, and transition to a clean energy economy.

FEBRUARY 2, 2010

Reported with an amendment