

# DISCUSSION DRAFT

111TH CONGRESS  
1ST SESSION

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

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

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

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

## A BILL

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

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

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

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

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

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

## 2

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 D—TRANSPORTATION EMISSIONS

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

Sec. 113. Transportation grant program.

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. Regulations for geological sequestration sites.

Sec. 123. Studies and reports.

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

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

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

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

## Subtitle C—Nuclear and Advanced Technologies

Sec. 131. Findings and policy.

Sec. 132. Nuclear grants and programs.

Sec. 133. Nuclear energy research and development 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 greenhouse gas reduction and renewable energy program.

Sec. 156. Economic Development Climate Change Fund.

## 3

“Sec. 219. Economic Development Climate Change Fund.

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

Subtitle F—Energy Efficiency and Renewable Energy

Sec. 161. Renewable energy.

Sec. 162. Advanced biofuels.

Sec. 163. Energy efficiency in building codes.

Sec. 164. Retrofit for energy and environmental performance.

Subtitle G—Emission Reductions From Public Transportation Vehicles

Sec. 171. Short title.

Sec. 172. State fuel economy regulation for taxicabs.

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

Subtitle H—Clean Energy and Natural Gas

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

Sec. 182. Advanced natural gas technologies.

TITLE II—RESEARCH

Subtitle A—Energy Research

Sec. 201. Advanced energy research.

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

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

TITLE III—TRANSITION AND ADAPTATION

Subtitle A—Green Jobs and Worker Transition

PART 1—GREEN JOBS

Sec. 301. Clean energy curriculum development grants.

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

Sec. 303. Green construction careers demonstration project.

PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

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

Sec. 312. Program benefits.

Sec. 313. General provisions.

Subtitle B—Consumer Assistance

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

Sec. 322. Emission reductions from reduced deforestation.

“PART V—SUPPLEMENTAL EMISSION REDUCTIONS

“Sec. 751. Definitions.

“Sec. 752. Purposes.

“Sec. 753. Emission reductions through reduced deforestation.

Sec. 323. Assistance for clean technology activities.

## 4

- Sec. 324. International climate change adaptation 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 Fund.
- Sec. 371. National 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 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.

## 5

- “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.

## “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. Strategic reserve.
- “Sec. 727. Permits.
- “Sec. 728. International emission allowances.

## “PART D—OFFSETS

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

## Subtitle B—Disposition of Allowances

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

## “PART H—DISPOSITION OF ALLOWANCES

- “Sec. 782. Allocation of emission allowances.
- “Sec. 783. Electricity consumers.
- “Sec. 784. Natural gas consumers.
- “Sec. 785. Home heating oil and propane consumers.
- “Sec. 786. Allocations to refineries.

## 6

- “Sec. 787. Consumer protection.
- “Sec. 788. Exchange for State-issued allowances.
- “Sec. 789. Auction procedures.
- “Sec. 790. Auctioning allowances for other entities.
- “Sec. 791. Commercial deployment of carbon capture and storage technologies.
- “Sec. 792. Oversight of allocations.
- “Sec. 793. Early action recognition.
- “Sec. 794. Establishment of funds.

## Subtitle C—Additional Greenhouse Gas Standards

- Sec. 121. Greenhouse gas standards.

## “TITLE VIII—ADDITIONAL GREENHOUSE GAS STANDARDS

- “Sec. 801. Definitions.

## “PART A—STATIONARY SOURCE STANDARDS

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

## “PART E—BLACK CARBON

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

## “PART F—MISCELLANEOUS

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

## Subtitle D—Carbon Market Assurance

- Sec. 131. TO BE SUPPLIED.

## TITLE II—PROGRAM ALLOCATIONS

- Sec. 201. Distribution of allowances for investment in clean vehicles.
- Sec. 202. Distribution of allowances to Indian tribes, States, local governments, metropolitan planning organizations, and renewable electricity generations.
- Sec. 203. Energy efficiency in building codes.
- Sec. 204. Building retrofit program.
- Sec. 205. Energy Innovation Hubs.
- Sec. 206. Advanced energy research.
- Sec. 207. International clean technology deployment.
- Sec. 208. International adaptation.
- Sec. 209. International clean technology deployment.
- Sec. 210. Green jobs and worker transition.
- Sec. 211. State programs addressing climate change and related impacts.

- 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.
- Sec. 216. Investment in energy efficiency and renewable energy.

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 to strengthen  
5 economic competitiveness, safeguard the health of  
6 families and the environment, and ensure the na-  
7 tional security, of the United States by increasing  
8 energy independence;

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

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

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

1           (5) the United States is responsible for many of  
2           the initial scientific advances in clean energy tech-  
3           nology, but, as of the date of enactment of this Act,  
4           the United States has only 4 of the top 30 leading  
5           companies in solar, wind, and advanced battery tech-  
6           nology;

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

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

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

21          (9) focusing on clean energy will dramatically  
22          reduce pollution and significantly improve the health  
23          of families in and the environment of the United  
24          States;



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

5           (11) if unchecked, the impact of climate change  
6           will include widespread health effects, including—

7                   (A) increased outbreaks from waterborne  
8                   diseases;

9                   (B) more droughts;

10                  (C) diminished agricultural production;

11                  (D) severe storms and floods;

12                  (E) heat waves;

13                  (F) wildfires; and

14                  (G) a substantial rise in sea levels, due in  
15           part to—

16                   (i) melting mountain glaciers;

17                   (ii) shrinking sea ice; and

18                   (iii) thawing permafrost;

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

22           (13) military officials, including retired admi-  
23           rals and generals, concur with the intelligence com-  
24           munity that climate change acts as a threat multi-

1 plier for instability and presents significant national  
2 security challenges for the United States;

3 (14) massive portions of the infrastructure of  
4 the United States, including critical military infra-  
5 structure, are at risk from the effects of climate  
6 change;

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

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

17 (17) the United States should lead the global  
18 community in combating the threat of global climate  
19 change and reaching a robust international agree-  
20 ment to address global warming under the United  
21 Nations Framework Convention on Climate Change,  
22 done at New York on May 9, 1992 (or a successor  
23 agreement).

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

2 The goals of this Act and the amendments made by  
3 this Act are to reduce steadily the quantity of United  
4 States greenhouse gas emissions such that—

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

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

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

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

21 **SEC. 4. DEFINITIONS.**

22 In this Act:

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

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

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

7           **DIVISION A—AUTHORIZATIONS**  
8           **FOR POLLUTION REDUCTION,**  
9           **TRANSITION, AND ADAPTA-**  
10          **TION**

11          **SEC. 101. STRUCTURE OF ACT.**

12          (a) ALLOCATED PROGRAMS.—The following pro-  
13          grams authorized under this division are eligible to receive  
14          an allocation under title VII of the Clean Air Act:

15               (1) The program for greenhouse gas emission  
16               reductions through transportation efficiency under  
17               section \_\_\_\_\_ of this division.

18               (2) The program for State and local investment  
19               in energy efficiency under section \_\_\_\_\_ of this di-  
20               vision.

21               (3) The program for energy efficiency in build-  
22               ing codes under section \_\_\_\_\_ of this division.

23               (4) The program for retrofit for energy and en-  
24               vironmental performance under section \_\_\_\_\_ of  
25               this division.

1           (5) The program for nuclear worker training  
2 under section \_\_\_\_\_ of this division.

3           (6) The program for agricultural greenhouse  
4 gas reductions under section \_\_\_\_\_ of this division.

5           (7) The Coastal State Adaptation Program  
6 under section \_\_\_\_\_ of this division.

7           (8) The program for water system mitigation  
8 and adaptation partnerships under section \_\_\_\_\_ of  
9 this division.

10          (9) The program for wildfire under section  
11 \_\_\_\_\_ of this division.

12          (10) The program for flood control, protection,  
13 prevention and response under section \_\_\_\_\_ of  
14 this division.

15          (11) The program for international adaptation  
16 under section \_\_\_\_\_ of this division.

17          (12) The program for international clean tech-  
18 nology deployment under section \_\_\_\_\_ of this divi-  
19 sion.

20          (13) The program for supplemental reductions  
21 from reduced deforestation under section \_\_\_\_\_ of  
22 this division.

23          (14) The program for public health and climate  
24 change under section \_\_\_\_\_ of this division.

1           (15) The program for climate change safe-  
2           guards for natural resources conservation under sec-  
3           tion \_\_\_\_\_ of this division.

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

6           (1) The SmartWayTransportation Efficiency  
7           Program under section \_\_\_\_\_ of this division.

8           (2) The Carbon Capture and sequestration  
9           demonstration and early deployment program under  
10          section \_\_\_\_\_ of this division.

11          (3) The program for nuclear waste research  
12          and development under section \_\_\_\_\_ of this divi-  
13          sion.

14          (4) The Clean Energy and Accelerated Emis-  
15          sion Reduction Program under section \_\_\_\_\_ of  
16          this division.

17          (5) The program for natural gas advanced tech-  
18          nology research and development under section  
19          \_\_\_\_\_ of this division.

20          (6) The Clean Technology Business Competi-  
21          tion Grant Program under section \_\_\_\_\_ of this di-  
22          vision.

23          (7) The Product Carbon Disclosure Program  
24          under section \_\_\_\_\_ of this division.

1 (8) The program for renewable energy under  
2 section \_\_\_\_\_ of this division.

3 (9) The program for advanced biofuels under  
4 section \_\_\_\_\_ of this division.

5 (10) The program for drinking water adapta-  
6 tion, technology, education, and research under sec-  
7 tion \_\_\_\_\_ of this division.

8 (11) The program for clean energy curriculum  
9 development grants under section \_\_\_\_\_ of this di-  
10 vision.

11 (12) The Energy Worker Training Program  
12 under section \_\_\_\_\_ of this division.

13 (13) The Green Construction Careers Dem-  
14 onstration Project under section \_\_\_\_\_ of this divi-  
15 sion.

16 (14) The Economic Development Climate  
17 Change Fund under section \_\_\_\_\_ of this division.

## 18 **TITLE I—GREENHOUSE GAS**

### 19 **REDUCTION PROGRAMS**

#### 20 **Subtitle A—Clean Transportation**

##### 21 **SEC. 111. EMISSION STANDARDS.**

22 **【Title VIII of the Clean Air Act, as added by section**  
23 **121 of division B, is amended by inserting after part A**  
24 **the following new part:】**

1                                   **“PART B—MOBILE SOURCES**  
2   **“SEC. 821. GREENHOUSE GAS EMISSION STANDARDS FOR**  
3                                   **MOBILE SOURCES.**

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

14           “(2) Regulations issued under section 202(a)(1) ap-  
15 plicable to emissions of greenhouse gases from new heavy-  
16 duty motor vehicles or new heavy-duty motor vehicle en-  
17 gines, excluding such motor vehicles covered by the Tier  
18 II standards (as established by the Administrator as of  
19 the date of enactment of this section), shall contain stand-  
20 ards that reflect the greatest degree of emission reduction  
21 achievable through the application of technology which the  
22 Administrator determines will be available for the model  
23 year to which such standards apply, giving appropriate  
24 consideration to cost, energy, and safety factors associated  
25 with the application of such technology. Any such regula-  
26 tions shall take effect after such period as the Adminis-



1 trator finds necessary to permit the development and ap-  
2 plication of the requisite technology, and, at a minimum,  
3 shall apply for a period no less than 3 model years begin-  
4 ning no earlier than the model year commencing 4 years  
5 after such regulations are promulgated.

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

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

21 “(b) NONROAD VEHICLES AND ENGINES.—(1) Pur-  
22 suant to section 213(a)(4) and (5), the Administrator  
23 shall identify those classes or categories of new nonroad  
24 vehicles or engines, or combinations of such classes or cat-  
25 egories, that, in the judgment of the Administrator, both

1 contribute significantly to the total emissions of green-  
2 house gases from nonroad engines and vehicles, and pro-  
3 vide the greatest potential for significant and cost-effective  
4 reductions in emissions of greenhouse gases. The Adminis-  
5 trator shall promulgate standards applicable to emissions  
6 of greenhouse gases from these new nonroad engines or  
7 vehicles by December 31, 2012. The Administrator shall  
8 also promulgate standards applicable to emissions of  
9 greenhouse gases for such other classes and categories of  
10 new nonroad vehicles and engines as the Administrator de-  
11 termines appropriate and in the timeframe the Adminis-  
12 trator determines appropriate. The Administrator shall  
13 base such determination, among other factors, on the rel-  
14 ative contribution of greenhouse gas emissions, and the  
15 costs for achieving reductions, from such classes or cat-  
16 egories of new nonroad engines and vehicles. The Adminis-  
17 trator may revise these standards from time to time.

18       “(2) Standards under section 213(a)(4) and (5) ap-  
19 plicable to emissions of greenhouse gases from those class-  
20 es or categories of new nonroad engines or vehicles identi-  
21 fied in the first sentence of paragraph (1) of this sub-  
22 section, shall achieve the greatest degree of emission re-  
23 duction achievable based on the application of technology  
24 which the Administrator determines will be available at  
25 the time such standards take effect, taking into consider-

1 ation cost, energy, and safety factors associated with the  
2 application of such technology. Any such regulations shall  
3 take effect after such period as the Administrator finds  
4 necessary to permit the development and application of the  
5 requisite technology.

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

15 “(c) AIRCRAFT AND AIRCRAFT ENGINES.—

16 “(1) Pursuant to section 231(a), the Adminis-  
17 trator shall promulgate standards applicable to emis-  
18 sions of greenhouse gases from new aircraft and new  
19 engines used in aircraft by December 31, 2012. Not-  
20 withstanding any requirement in section 231(a), the  
21 Administrator, in consultation with the Adminis-  
22 trator of the Federal Aviation Administration, shall  
23 also promulgate standards applicable to emissions of  
24 greenhouse gases from other classes and categories  
25 of aircraft and aircraft engines for such classes and

1 categories as the Administrator determines appro-  
2 priate and in the timeframe the Administrator deter-  
3 mines appropriate. The Administrator may revise  
4 these standards from time to time.

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

18 “(d) AVERAGING, BANKING, AND TRADING OF EMIS-  
19 SIONS CREDITS.—In establishing standards applicable to  
20 emissions of greenhouse gases pursuant to this section and  
21 sections 202(a), 213(a)(4) and (5), and 231(a), the Ad-  
22 ministrator may establish provisions for averaging, bank-  
23 ing, and trading of greenhouse gas emissions credits with-  
24 in or across classes or categories of motor vehicles and  
25 motor vehicle engines, nonroad vehicles and engines (in-

1 cluding marine vessels), and aircraft and aircraft engines,  
2 to the extent the Administrator determines appropriate  
3 and considering the factors appropriate in setting stand-  
4 ards under those sections. Such provisions may include  
5 reasonable and appropriate provisions concerning genera-  
6 tion, banking, trading, duration, and use of credits.

7 “(e) **REPORTS.**—The Administrator shall, from time  
8 to time, submit a report to Congress that projects the  
9 amount of greenhouse gas emissions from the transpor-  
10 tation sector, including transportation fuels, for the years  
11 2030 and 2050, based on the standards adopted under  
12 this section.

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

16 **SEC. 112. GREENHOUSE GAS EMISSION REDUCTIONS**  
17 **THROUGH TRANSPORTATION EFFICIENCY.**

18 (a) **IN GENERAL.**—[Title VIII of the Clean Air Act,  
19 as added by section 121 of division B, is further amended  
20 by inserting after part C the following new part]:

21 **“PART D—TRANSPORTATION EMISSIONS**  
22 **“SEC. 841. GREENHOUSE GAS EMISSION REDUCTIONS**  
23 **THROUGH TRANSPORTATION EFFICIENCY.**

24 “(a) **IN GENERAL.**—The Administrator, in consulta-  
25 tion with the Secretary of Transportation (referred to in

1 this part as the ‘Secretary’), shall promulgate, and update  
2 from time to time, regulations to establish—

3 “(1) national transportation-related greenhouse  
4 gas emission reduction goals that are commensurate  
5 with the emission reduction goals established under  
6 the [\_\_\_\_\_ Act] and amendments made by  
7 that Act;

8 “(2) standardized emission models and related  
9 methods, to be used by States, metropolitan plan-  
10 ning organizations, and air quality agencies to ad-  
11 dress emission reduction goals, including—

12 “(A) the development of surface transpor-  
13 tation-related greenhouse gas emission reduc-  
14 tion targets pursuant to sections 134 and 135  
15 of title 23, and sections 5303 and 5304 of title  
16 49, United States Code;

17 “(B) the assessment of projected surface  
18 transportation-related greenhouse gas emissions  
19 from transportation strategies;

20 “(C) the assessment of projected surface  
21 transportation-related greenhouse gas emissions  
22 from State and regional transportation plans;

23 “(D) the establishment of surface trans-  
24 portation-related greenhouse gas emission base-

1 lines at a national, State, and regional level;  
2 and

3 “(E) the measurement and assessment of  
4 actual surface transportation-related emissions  
5 to assess progress toward achievement of emis-  
6 sion targets at the State and regional level;

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

9 “(4) publication and distribution of successful  
10 strategies employed by States, metropolitan planning  
11 organizations, and other entities to reduce transpor-  
12 tation-related greenhouse gas emissions.

13 “(b) ROLE OF DEPARTMENT OF TRANSPOR-  
14 TATION.—The Secretary, in consultation with the Admin-  
15 istrator, shall promulgate, and update from time to time,  
16 regulations—

17 “(1) to improve the ability of transportation  
18 planning models and tools, including travel demand  
19 models, to address greenhouse gas emissions;

20 “(2) to assess projected surface transportation-  
21 related travel activity and transportation strategies  
22 from State and regional transportation plans; and

23 “(3) to update transportation planning require-  
24 ments and approval of transportation plans as nec-  
25 essary to carry out this section.

1       “(c) CONSULTATION AND MODELS.—In promul-  
2 gating the regulations, the Administrator and the Sec-  
3 retary—

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

6           “(2) may use existing models and methodolo-  
7 gies if the models and methodologies are widely con-  
8 sidered to reflect the best practicable modeling or  
9 methodological approach for assessing actual and  
10 projected transportation-related greenhouse gas  
11 emissions from transportation plans and projects;  
12 and

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

17       “(d) TIMING.—The Administrator and the Secretary  
18 shall—

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

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

25       “(e) ASSESSMENT.—



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

7           “(2) REQUIREMENTS.—The assessment shall  
8 examine the contributions to emission reductions at-  
9 tributable to—

10                   “(A) improvements in vehicle efficiency;

11                   “(B) greenhouse gas performance of trans-  
12 portation fuels;

13                   “(C) reductions in vehicle miles traveled;

14                   “(D) changes in consumer demand and use  
15 of transportation management systems; and

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

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

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

22                   “(B) based on those results, whether tech-  
23 nical or other updates to regulations required  
24 under this section and sections 134 and 135 of

1 title 23, and sections 5303 and 5304 of title 49,  
2 United States Code, are necessary.”.

3 (b) METROPOLITAN PLANNING ORGANIZATIONS.—

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

6 (A) in subsection (a)(1)—

7 (i) by striking “minimizing” and in-  
8 serting “reducing”; and

9 (ii) by inserting “, reliance on oil, im-  
10 pacts on the environment, transportation-  
11 related greenhouse gas emissions,” after  
12 “consumption”;

13 (B) in subsection (h)(1)(E)—

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

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

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

24 (C) in subsection (i)—

25 (i) in paragraph (4)(A)—

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

3 (II) by inserting “transportation,  
4 public transportation, air quality, and  
5 housing, and shall consult, as appro-  
6 priate, with State and local agencies  
7 responsible for” after “responsible  
8 for” and

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

11 (ii) in paragraph (5)(C)(iii), by insert-  
12 ing “and through the website of the metro-  
13 politan planning organization, including  
14 emission reduction targets and strategies  
15 developed under subsection (k)(6), includ-  
16 ing an analysis of the anticipated effects of  
17 the targets and strategies,” after “World  
18 Wide Web”; and

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

21 “(6) TRANSPORTATION GREENHOUSE GAS RE-  
22 Duction EFFORTS.—

23 “(A) IN GENERAL.—Within a metropolitan  
24 planning area serving a transportation manage-  
25 ment area, the transportation planning process

1 under this section shall address transportation-  
2 related greenhouse gas emissions by including  
3 emission reduction targets and strategies to  
4 meet those targets.

5 “(B) ELIGIBLE ORGANIZATIONS.—

6 “(i) MPOS WITHIN TMAS.—All provi-  
7 sions and requirements of this section, in-  
8 cluding the requirements of the transpor-  
9 tation greenhouse gas reduction efforts,  
10 shall apply to metropolitan planning orga-  
11 nizations that also serve as transportation  
12 management areas.

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

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

20 “(II) if those targets and strate-  
21 gies are developed, shall be subject to  
22 all provisions and requirements of this  
23 section [and section \_\_\_\_\_ of the  
24 [\_\_\_\_\_ Act]], including re-

1                    requirements of the transportation  
2                    greenhouse gas reduction efforts.

3                    “(C) ESTABLISHMENT OF TARGETS AND  
4                    CRITERIA.—

5                    “(i) IN GENERAL.—Not later than 2  
6                    years after the promulgation of the final  
7                    regulations required under [section 841 of  
8                    the Clean Air Act], each metropolitan  
9                    planning organization that also serves as a  
10                    transportation management area shall de-  
11                    velop surface transportation-related green-  
12                    house gas emission reduction targets, as  
13                    well as strategies to meet those targets, in  
14                    consultation with State air agencies as  
15                    part of the metropolitan transportation  
16                    planning process under this section.

17                    “(ii) MULTIPLE DESIGNATIONS.—If  
18                    more than 1 metropolitan planning organi-  
19                    zation has been designated within a metro-  
20                    politan area, each metropolitan planning  
21                    organization shall coordinate with other  
22                    metropolitan planning organizations in the  
23                    same metropolitan area to develop the tar-  
24                    gets and strategies described in clause (i).

1 “(iii) MINIMUM REQUIREMENTS.—

2 Each metropolitan transportation plan de-  
3 veloped by a metropolitan planning organi-  
4 zation under clause (i) shall, within the  
5 plan, demonstrate progress in stabilizing  
6 and reducing transportation-related green-  
7 house gas emissions so as to contribute to  
8 the achievement of State targets pursuant  
9 to section 135(f)(9).

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

14 “(I) be based on the emission  
15 and travel demand models and related  
16 methodologies established in the final  
17 regulations required under [section  
18 841 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 con-  
2                   sistent with regional transportation  
3                   plans and transportation improvement  
4                   programs; and

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

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

19                   “(bb) efforts to increase  
20                   walking, bicycling, and other  
21                   forms of nonmotorized transpor-  
22                   tation;

23                   “(cc) implementation of zon-  
24                   ing and other land use regula-  
25                   tions and plans to support infill,

1 transit-oriented development, re-  
2 development, or mixed use devel-  
3 opment;

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

12 “(ee) surface transportation  
13 system operation improvements,  
14 including intelligent transpor-  
15 tation systems or other oper-  
16 ational improvements to reduce  
17 long-term greenhouse gas emis-  
18 sions through reduced congestion  
19 and improved system manage-  
20 ment;

21 “(ff) intercity passenger rail  
22 improvements;

23 “(gg) intercity bus improve-  
24 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 in each met-  
15                  ropolitan planning organization  
16                  under this subsection.

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

20                         “(i) the Secretary and the Adminis-  
21                         trator shall review the plan; and

22                         “(ii) the Secretary shall approve a  
23                         plan developed by a metropolitan planning  
24                         organization pursuant to subparagraph (C)  
25                         if—

1                   “(I) the Secretary finds that a  
2                   metropolitan planning organization  
3                   has developed, submitted, and pub-  
4                   lished the plan of the metropolitan  
5                   planning organization pursuant to this  
6                   section;

7                   “(II) the Secretary, in consulta-  
8                   tion with the Administrator, deter-  
9                   mines that the plan is likely to achieve  
10                  the targets established by the metro-  
11                  politan planning organization under  
12                  this subsection; and

13                  “(III) the development of the  
14                  plan complies with the minimum re-  
15                  quirements established under clauses  
16                  (iii) and (iv) of subparagraph (C).

17                  “(E) CERTIFICATION.—Failure to comply  
18                  with the requirements under subparagraph (C)  
19                  shall not impact certification standards under  
20                  paragraph (5).

21                  “(7) DEFINITION OF METROPOLITAN PLANNING  
22                  ORGANIZATION.—In this subsection, the term ‘met-  
23                  ropolitan planning organization’ means a metropoli-  
24                  tan planning organization described in clause (i) or  
25                  (ii) of paragraph (6)(B).



1                   “(ii) determination of patterns of  
2 interaction;

3                   “(iii) creation of scenarios for discus-  
4 sion purposes;

5                   “(iv) analysis of implications;

6                   “(v) evaluation of scenarios; and

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

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

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

11                   (i) by striking “minimizing” and in-  
12 sserting “reducing”; and

13                   (ii) by inserting “, reliance on oil, im-  
14 pacts on the environment, transportation-  
15 related greenhouse gas emissions,” after  
16 “consumption”;

17                   (B) in subsection (h)(1)(E)—

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

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

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

4 (C) in subsection (i)—

5 (i) in paragraph (4)(A)—

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

8 (II) by inserting “transportation,  
9 public transportation, air quality, and  
10 housing, and shall consult, as appro-  
11 priate, with State and local agencies  
12 responsible for” after “responsible  
13 for” and

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

16 (ii) in paragraph (5)(C)(iii), by insert-  
17 ing “and through the website of the metro-  
18 politan planning organization, including  
19 emission reduction targets and strategies  
20 developed under subsection (k)(6), includ-  
21 ing an analysis of the anticipated effects of  
22 the targets and strategies,” after “World  
23 Wide Web”; and

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

25 the following:

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

3           “(A) IN GENERAL.—Within a metropolitan  
4           planning area serving a transportation manage-  
5           ment area, the transportation planning process  
6           under this section shall address transportation-  
7           related greenhouse gas emissions by including  
8           emission reduction targets and strategies to  
9           meet those targets.

10           “(B) ELIGIBLE ORGANIZATIONS.—

11           “(i) IN GENERAL.—The requirements  
12           of the transportation greenhouse gas re-  
13           duction efforts shall apply only to metro-  
14           politan planning organizations within a  
15           transportation management area.

16           “(ii) DEVELOPMENT OF PLAN.—A  
17           metropolitan planning organization that  
18           does not serve as a transportation manage-  
19           ment area—

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

24           “(II) if those targets and strate-  
25           gies are developed, shall be subject to

1 all provisions and requirements of this  
2 section, including requirements of the  
3 transportation greenhouse gas reduc-  
4 tion efforts.

5 “(C) ESTABLISHMENT OF TARGETS AND  
6 CRITERIA.—

7 “(i) IN GENERAL.—Not later than 2  
8 years after the promulgation of the final  
9 regulations required under [section 841 of  
10 the Clean Air Act], each metropolitan  
11 planning organization shall develop surface  
12 transportation-related greenhouse gas  
13 emission reduction targets, as well as  
14 strategies to meet those targets, in con-  
15 sultation with State air agencies as part of  
16 the metropolitan transportation planning  
17 process under this section.

18 “(ii) MULTIPLE DESIGNATIONS.—If  
19 more than 1 metropolitan planning organi-  
20 zation has been designated within a metro-  
21 politan area, each metropolitan planning  
22 organization shall coordinate with other  
23 metropolitan planning organizations in the  
24 same metropolitan area to develop the tar-  
25 gets and strategies described in clause (i).

1 “(iii) MINIMUM REQUIREMENTS.—

2 Each metropolitan transportation plan de-  
3 veloped by a metropolitan planning organi-  
4 zation under clause (i) shall, within the  
5 plan, demonstrate progress in stabilizing  
6 and reducing transportation-related green-  
7 house gas emissions so as to contribute to  
8 the achievement of State targets pursuant  
9 to section 135(f)(9) of title 23.

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

14 “(I) be based on the emission  
15 models and related methodologies es-  
16 tablished in the final regulations re-  
17 quired under [section 841 of the  
18 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 con-  
2                   sistent with regional transportation  
3                   plans and transportation improvement  
4                   programs; and

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

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

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

24                   “(cc) implementation of zon-  
25                   ing and other land use regula-

1 tions and plans to support infill,  
2 transit-oriented development, re-  
3 development, or mixed use devel-  
4 opment;

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

13 “(ee) surface transportation  
14 system operation improvements,  
15 including intelligent transpor-  
16 tation systems or other oper-  
17 ational improvements to reduce  
18 long-term greenhouse gas emis-  
19 sions through reduced congestion  
20 and improved system manage-  
21 ment;

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 in each met-  
15                  ropolitan planning organization  
16                  under this subsection.

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

20                         “(i) the Secretary and the Adminis-  
21                         trator shall review the plan; and

22                         “(ii) the Secretary shall approve a  
23                         plan developed by a metropolitan planning  
24                         organization pursuant to subparagraph (C)  
25                         if—

1                   “(I) the Secretary finds that a  
2                   metropolitan planning organization  
3                   has developed, submitted, and pub-  
4                   lished the plan of the metropolitan  
5                   planning organization pursuant to this  
6                   section;

7                   “(II) the Secretary, in consulta-  
8                   tion with the Administrator, deter-  
9                   mines that the plan is likely to achieve  
10                  the targets established by the metro-  
11                  politan planning organization under  
12                  this subsection; and

13                  “(III) the development of the  
14                  plan complies with the minimum re-  
15                  quirements established under clauses  
16                  (iii) and (iv) of subparagraph (C).

17                  “(E) CERTIFICATION.—Failure to comply  
18                  with the requirements under subparagraph (C)  
19                  shall not impact certification standards under  
20                  paragraph (5).

21                  “(7) DEFINITION OF METROPOLITAN PLANNING  
22                  ORGANIZATION.—In this subsection, the term ‘met-  
23                  ropolitan planning organization’ means a metropoli-  
24                  tan planning organization described in clause (i) or  
25                  (ii) of paragraph (6)(B).”.

1 (c) STATES.—

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

4 (A) in subsection (d)(1)(E)—

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

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

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

15 (B) in subsection (f)—

16 (i) in paragraph (2)(D)(i)—

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

20 (II) by inserting “State and local  
21 agencies responsible for transpor-  
22 tation, public transportation, air qual-  
23 ity, and housing and in consultation  
24 with” before “State, tribal”; and

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

3 (ii) in paragraph (3)(B)(iii), by insert-  
4 ing “and through the website of the State,  
5 including emission reduction targets and  
6 strategies developed under paragraph (9)  
7 and an analysis of the anticipated effects  
8 of the targets and strategies” after “World  
9 Wide Web”; and

10 (iii) by adding at the end the fol-  
11 lowing:

12 “(9) TRANSPORTATION GREENHOUSE GAS RE-  
13 DUCION EFFORTS.—

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

20 “(B) 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 841 of  
25 the Clean Air Act], each State shall de-

1           velop 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 transportation planning process  
6           under this section.

7           “(ii) MINIMUM REQUIREMENTS.—  
8           Each transportation plan developed by a  
9           State under clause (i) shall, within the  
10          plan, demonstrate progress in stabilizing  
11          and reducing transportation-related green-  
12          house gas emissions in the State so as to  
13          contribute to the achievement of national  
14          targets pursuant to section **【841(a)(1) of**  
15          **the Clean Air Act】**.

16          “(iii) REQUIREMENTS FOR TARGETS  
17          AND STRATEGIES.—The targets and strat-  
18          egies developed under this subparagraph  
19          shall, at a minimum—

20                  “(I) be based on the emission  
21                  models and related methodologies es-  
22                  tablished in the final regulations re-  
23                  quired under **【section 841 of the**  
24                  **Clean Air Act】**;

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

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

8                   “(IV) be integrated and con-  
9 sistent with statewide transportation  
10 plans and statewide transportation  
11 improvement programs; and

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

22                   “(aa) efforts to increase  
23 public transportation ridership,  
24 including through service im-



1                   provements, capacity expansions,  
2                   and access enhancement;

3                   “(bb) efforts to increase  
4                   walking, bicycling, and other  
5                   forms of nonmotorized transpor-  
6                   tation;

7                   “(cc) implementation of zon-  
8                   ing and other land use regula-  
9                   tions and plans to support infill,  
10                  transit-oriented development, re-  
11                  development, or mixed use devel-  
12                  opment;

13                  “(dd) travel demand man-  
14                  agement programs (including  
15                  carpool, vanpool, or car-share  
16                  projects), transportation pricing  
17                  measures, parking policies, and  
18                  programs to promote telecom-  
19                  muting, flexible work schedules,  
20                  and satellite work centers;

21                  “(ee) surface transportation  
22                  system operation improvements,  
23                  including intelligent transpor-  
24                  tation systems or other oper-  
25                  ational improvements to reduce

1 congestion and improve system  
2 management;

3 “(ff) intercity passenger rail  
4 improvements;

5 “(gg) intercity bus improve-  
6 ments;

7 “(hh) freight rail improve-  
8 ments;

9 “(ii) use of materials or  
10 equipment associated with the  
11 construction or maintenance of  
12 transportation projects that re-  
13 duce greenhouse gas emissions;

14 “(jj) public facilities for sup-  
15 plying electricity to electric or  
16 plug-in hybrid-electric vehicles; or

17 “(kk) any other effort that  
18 demonstrates progress in reduc-  
19 ing transportation-related green-  
20 house gas emissions.

21 “(C) COORDINATION AND CONSULTATION  
22 WITH PUBLIC AGENCIES.—Transportation  
23 greenhouse gas targets and plans pursuant to  
24 this section shall be developed—

25 “(i) in coordination with—

1                   “(I) all metropolitan planning or-  
2                   ganizations covered by this section  
3                   within the State; and

4                   “(II) transportation and air qual-  
5                   ity agencies within the State; and

6                   “(ii) in consultation with representa-  
7                   tives of State and local housing, economic  
8                   development, and land use agencies.

9                   “(D) ENFORCEMENT.—Not later than 180  
10                  days after the date of submission of a plan  
11                  under this section—

12                  “(i) the Secretary and the Adminis-  
13                  trator shall review the plan; and

14                  “(ii) the Secretary shall approve a  
15                  plan developed by a State pursuant to sub-  
16                  paragraph (B) if—

17                         “(I) the Secretary finds that a  
18                         State has developed, submitted, and  
19                         published the plan pursuant to this  
20                         section;

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

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

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

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

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

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

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

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

22                  (B) in subsection (f)—

23                   (i) in paragraph (2)(D)(i)—

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

4 (II) by inserting “State and local  
5 agencies responsible for transpor-  
6 tation, public transportation, air qual-  
7 ity, and housing and in consultation  
8 with” before “State, tribal”; and

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

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

18 (iii) by adding at the end the fol-  
19 lowing:

20 “(9) TRANSPORTATION GREENHOUSE GAS RE-  
21 Duction EFFORTS.—

22 “(A) IN GENERAL.—Within a State, the  
23 transportation planning process under this sec-  
24 tion, shall address transportation-related green-  
25 house gas emissions by including emission re-

1           duction targets and strategies to meet those  
2           targets.

3                   “(B) ESTABLISHMENT OF TARGETS AND  
4           CRITERIA.—

5                   “(i) IN GENERAL.—Not later than 2  
6           years after the promulgation of the final  
7           regulations required under [section 841 of  
8           the Clean Air Act], each State shall de-  
9           velop surface transportation-related green-  
10          house gas emission reduction targets, as  
11          well as strategies to meet those targets, in  
12          consultation with State air agencies as  
13          part of the transportation planning process  
14          under this section.

15                   “(ii) MINIMUM REQUIREMENTS.—  
16          Each transportation plan developed by a  
17          State under clause (i) shall, within the  
18          plan, demonstrate progress in stabilizing  
19          and reducing transportation-related green-  
20          house gas emissions in the State so as to  
21          contribute to the achievement of national  
22          targets pursuant to section [841(a)(1) of  
23          the Clean Air Act].

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

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

3                   “(I) be based on the emission  
4 models and related methodologies es-  
5 tablished in the final regulations re-  
6 quired under [section 841 of the  
7 Clean Air Act];

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

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

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

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

1 house gas emissions from the trans-  
2 portation sector over the life of the  
3 plan, such as—

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

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

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

19 “(dd) travel demand man-  
20 agement programs (including  
21 carpool, 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 congestion and improve system  
9 management;

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.

3 “(C) COORDINATION AND CONSULTATION  
4 WITH PUBLIC AGENCIES.—Transportation  
5 greenhouse gas targets and plans pursuant to  
6 this section shall be developed—

7 “(i) in coordination with—

8 “(I) all metropolitan planning or-  
9 ganizations covered by this section  
10 within the State; and

11 “(II) transportation and air qual-  
12 ity agencies within the State; and

13 “(ii) in consultation with representa-  
14 tives of State and local housing, economic  
15 development, and land use agencies.

16 “(D) ENFORCEMENT.—Not later than 180  
17 days after the date of submission of a plan  
18 under this section—

19 “(i) the Secretary and the Adminis-  
20 trator shall review the plan; and

21 “(ii) the Secretary shall approve a  
22 plan developed by a State pursuant to sub-  
23 paragraph (B) if—

24 “(I) the Secretary finds that a  
25 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  
9 plan complies with the minimum re-  
10 quirements established under clauses  
11 (ii) and (iii) of subparagraph (B).

12 “(E) PLANNING FINDING.—Failure to  
13 comply with the requirements under subpara-  
14 graph (B) shall not impact the planning finding  
15 under subsection (g)(7).”.

16 (d) APPLICABILITY.—Section 304 of the Clean Air  
17 Act (42 U.S.C. 7604) shall not apply to the planning pro-  
18 visions of this section.

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

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

23 (2) provides or transfers authority over land  
24 use to any other entity.

1 **SEC. 113. TRANSPORTATION GRANT PROGRAM.**

2 (a) IN GENERAL.—The Secretary of Transportation  
3 (referred to in this section as the “Secretary”) shall pro-  
4 vide grants to States and metropolitan planning organiza-  
5 tions to carry out the purposes of this section for each  
6 fiscal year—

7 (1) to support the developing and updating of  
8 transportation greenhouse gas reduction targets and  
9 strategies; and

10 (2) to provide financial assistance to implement  
11 plans approved pursuant to—

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

14 (B) sections 5305(k)(6) and 5304(f)(9) of  
15 title 49, United States Code.

16 (b) PLANNING GRANTS.—

17 (1) IN GENERAL.—Subject to paragraph (2),  
18 the Secretary shall allocate not more than \_\_\_\_\_  
19 percent of the funds available pursuant to [section  
20 131(b)] for a fiscal year for metropolitan planning  
21 organizations to develop and update transportation  
22 plans, including targets and strategies for green-  
23 house gas emission reduction under—

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

1 (B) sections 5305(k)(6) and 5304(f)(9) of  
2 title 49, United States Code.

3 (2) ELIGIBLE ORGANIZATIONS.—The Secretary  
4 shall distribute the funds available in (1) to metro-  
5 politan planning organizations (as defined in section  
6 134(k)(7) of title 23, United States Code) in the  
7 proportion that—

8 (A) the population within such a metropoli-  
9 tan planning organization; bears to

10 (B) the total population of all such metro-  
11 politan planning organizations.

12 (c) PERFORMANCE GRANTS.—

13 (1) IN GENERAL.—The Secretary shall dis-  
14 tribute **【\_\_\_\_\_ percent】** of the amounts available  
15 pursuant to **【section 131(b)】** for a fiscal year as  
16 grants to States and metropolitan planning organi-  
17 zations.

18 (2) CRITERIA.—In providing grants under this  
19 subsection, the Secretary, in consultation with the  
20 Administrator, shall develop criteria for providing  
21 the grants, taking into consideration, with respect to  
22 areas to be covered by the grants—

23 (A) the quantity of total greenhouse gas  
24 emissions to be reduced as a result of imple-  
25 mentation of a plan, within a covered area, as

1           determined by methods established under **【sec-**  
2           **tion 841(a) of the Clean Air Act】**;

3           (B) the quantity of total greenhouse gas  
4           emissions to be reduced per capita as a result  
5           of implementation of a plan, within the covered  
6           area, as determined by methods established  
7           under **【section 841(a) of the Clean Air Act】**;

8           (C) the cost-effectiveness of reducing  
9           greenhouse gas emissions during the life of the  
10          plan;

11          (D) progress toward achieving emission re-  
12          ductions target established under—

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

15                 (ii) sections 5305(k)(6) and  
16                 5304(f)(9) of title 49, United States Code;

17          (E) reductions in greenhouse gas emissions  
18          previously achieved by States and metropolitan  
19          planning organizations during the 5-year period  
20          beginning on the date of enactment of this Act;

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

1           (G) other factors, including innovative ap-  
2           proaches, minimization of costs, and consider-  
3           ation of economic development, revenue genera-  
4           tion, consumer fuel cost-savings, and other eco-  
5           nomic, environmental and health benefits, as  
6           the Secretary determines to be appropriate.

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

12          (e) COST-SHARING.—The Federal share of the costs  
13          of a project receiving Federal financial assistance under  
14          this section shall be 80 percent.

15          (f) COMPLIANCE WITH APPLICABLE LAWS.—

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

20                    (A) subchapter IV of chapter 31 of title  
21                    40, United States Code; and

22                    (B) applicable requirements of titles 23  
23                    and 49, United States Code.

24                (2) ELIGIBILITY.—Project eligibility shall be  
25                determined in accordance with this section.

1           (3) DETERMINATION OF APPLICABLE MODAL  
2 REQUIREMENTS.—The Secretary shall—

3           (A) have the discretion to designate the  
4 specific modal requirements that shall apply to  
5 a project; and

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

9 (g) ADDITIONAL REQUIREMENTS.—

10           (1) IN GENERAL.—As a condition on the receipt  
11 of financial assistance under this section, the inter-  
12 ests of public transportation employees affected by  
13 the assistance shall be protected under arrangements  
14 that the Secretary of Labor determines—

15           (A) to be fair and equitable; and

16           (B) to provide benefits equal to the bene-  
17 fits established under section 5333(b) of title  
18 49, United States Code.

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



1 (h) MISCELLANEOUS.—

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

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

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

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

22 (B) sections 5305(k)(6) and 5304(f)(9) of  
23 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 added  
4 by section 111 of this Act, is amended by adding after  
5 section 821 the following:

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

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

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

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

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

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

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

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

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

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

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

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

4 “(3) Development of tools for—

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

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

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

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

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

3 “(e) ESTABLISHMENT OF FINANCING PROGRAM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (1) identify those regulatory, legal, and other  
2           gaps and barriers that could be addressed by a Fed-  
3           eral agency using existing statutory authority, those,  
4           if any, that require Federal legislation, and those  
5           that would be best addressed at the State or re-  
6           gional level;

7           (2) identify regulatory implementation chal-  
8           lenges, including those related to approval of State  
9           programs and delegation of authority for permitting;  
10          and

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

14 **SEC. 122. REGULATIONS FOR GEOLOGICAL SEQUESTRA-**  
15 **TION SITES.**

16          (a) COORDINATED CERTIFICATION AND PERMITTING  
17 PROCESS.—Title VIII of the Clean Air Act, as added by  
18 section 421 of this Act, is amended by adding after section  
19 812 (as added by section 125 of this division) the fol-  
20 lowing:

21 **“SEC. 813. REGULATIONS FOR GEOLOGICAL SEQUESTRA-**  
22 **TION SITES.**

23          “(a) COORDINATED PROCESS.—The Administrator  
24 shall establish a coordinated approach to certifying and  
25 permitting geological sequestration, taking into consider-



1 ation all relevant statutory authorities. In establishing  
2 such approach, the Administrator shall—

3 “(1) take into account, and reduce redundancy  
4 with, the requirements of section 1421 of the Safe  
5 Drinking Water Act (42 U.S.C. 300h), including the  
6 rulemaking for geological sequestration wells de-  
7 scribed at 73 Fed. Reg. 43492–43541 (July 25,  
8 2008); and

9 “(2) to the extent practicable, reduce the bur-  
10 den on certified entities and implementing authori-  
11 ties.

12 “(b) REGULATIONS.—Not later than 2 years after  
13 the date of enactment of this title, the Administrator shall  
14 promulgate regulations to protect human health and the  
15 environment by minimizing the risk of escape to the at-  
16 mosphere of carbon dioxide injected for purposes of geo-  
17 logical sequestration.

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

20 “(1) a process to obtain certification for geo-  
21 logical sequestration under this section; and

22 “(2) requirements for—

23 “(A) monitoring, record keeping, and re-  
24 porting for emissions associated with injection  
25 into, and escape from, geological sequestration

1 sites, taking into account any requirements or  
2 protocols developed under section 713;

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

5 “(C) the sharing of data between States,  
6 Indian tribes, and the Environmental Protec-  
7 tion Agency; and

8 “(D) other elements or safeguards nec-  
9 essary to achieve the purpose set forth in sub-  
10 section (b).

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

20 “(1) data regarding injection, emissions to the  
21 atmosphere, if any, and performance of active and  
22 closed geological sequestration sites, including those  
23 where enhanced hydrocarbon recovery operations  
24 occur;

1           “(2) an evaluation of the performance of rel-  
2           evant Federal environmental regulations and pro-  
3           grams in ensuring environmentally protective geo-  
4           logical sequestration practices;

5           “(3) recommendations on how such programs  
6           and regulations should be improved or made more  
7           effective; and

8           “(4) other relevant information.”.

9           (b) SAFE DRINKING WATER ACT STANDARDS.—Sec-  
10          tion 1421 of the Safe Drinking Water Act (42 U.S.C.  
11          300h) is amended by inserting after subsection (d) the fol-  
12          lowing:

13          “(e) CARBON DIOXIDE GEOLOGICAL SEQUESTRA-  
14          TION WELLS.—

15                 “(1) IN GENERAL.—Not later than 1 year after  
16                 the date of enactment of this subsection, the Admin-  
17                 istrator shall promulgate regulations under sub-  
18                 section (a) for carbon dioxide geological sequestra-  
19                 tion wells.

20                 “(2) FINANCIAL RESPONSIBILITY.—The regula-  
21                 tions referred to in paragraph (1) shall include re-  
22                 quirements for maintaining evidence of financial re-  
23                 sponsibility, including financial responsibility for  
24                 emergency and remedial response, well plugging, site  
25                 closure, and post-injection site care. Financial re-

1       sponsibility may be established for carbon dioxide  
2       geological sequestration wells in accordance with  
3       regulations promulgated by the Administrator by  
4       any one, or any combination, of the following: insur-  
5       ance, guarantee, trust, standby trust, surety bond,  
6       letter of credit, qualification as a self-insurer, or any  
7       other method satisfactory to the Administrator.”.

8       **SEC. 123. STUDIES AND REPORTS.**

9       (a) STUDY OF LEGAL FRAMEWORK FOR GEOLOGICAL  
10      SEQUESTRATION SITES.—

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

22           (A) existing Federal environmental stat-  
23      utes, State environmental statutes, and State  
24      common law that apply to geological sequestra-  
25      tion sites for carbon dioxide, including the abil-

1           ity of such laws to serve as risk management  
2           tools;

3           (B) the existing statutory framework, in-  
4           cluding Federal and State laws, that apply to  
5           harm and damage to the environment or public  
6           health at closed sites where carbon dioxide in-  
7           jection has been used for enhanced hydrocarbon  
8           recovery;

9           (C) the statutory framework, environ-  
10          mental health and safety considerations, imple-  
11          mentation issues, and financial implications of  
12          potential models for Federal, State, or private  
13          sector assumption of liabilities and financial re-  
14          sponsibilities with respect to closed geological  
15          sequestration sites;

16          (D) private sector mechanisms, including  
17          insurance and bonding, that may be available to  
18          manage environmental, health and safety risks  
19          from closed geological sequestration sites; and

20          (E) the subsurface mineral rights, water  
21          rights, or property rights issues associated with  
22          geological sequestration of carbon dioxide.

23          (2) REPORT.—Not later than 18 months after  
24          the date of enactment of this Act, the task force es-  
25          tablished under paragraph (1) shall submit to Con-

1       gress a report describing the results of the study  
2       conducted under that paragraph including any con-  
3       sensus recommendations of the task force.

4       (b) ENVIRONMENTAL STATUTES.—

5           (1) STUDY.—The Administrator shall conduct a  
6       study examining how, and under what cir-  
7       cumstances, the environmental statutes for which  
8       the Environmental Protection Agency has responsi-  
9       bility would apply to carbon dioxide injection and ge-  
10      ological sequestration activities.

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

15   **SEC. 124. DISTRIBUTION OF ASSISTANCE FOR COMMERCIAL**  
16                   **DEPLOYMENT OF CARBON CAPTURE**  
17                   **AND SEQUESTRATION.**

18       **[PLACEHOLDER FOR AUTHORIZING LAN-**  
19      **GUAGE].**

20   **SEC. 125. PERFORMANCE STANDARDS FOR COAL-FUELED**  
21                   **POWER PLANTS.**

22          (a) IN GENERAL.—Title VIII of the Clean Air Act  
23      (as added by section 121 of division B) is amended by  
24      adding the following new section after section 811:

1 **“SEC. 812. PERFORMANCE STANDARDS FOR NEW COAL-**  
2 **FIRED POWER PLANTS.**

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

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

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

23 “(b) STANDARDS.—(1) A covered EGU that is ini-  
24 tially permitted on or after January 1, 2020, shall achieve  
25 an emission limit that is a 65 percent reduction in emis-  
26 sions of the carbon dioxide produced by the unit, as

1 measured on an annual basis, or meet such more stringent  
2 standard as the Administrator may establish pursuant to  
3 subsection (c).

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

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

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

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

22 “(II) up to 1 gigawatt may be indus-  
23 trial applications, for which capture and  
24 sequestration of 3,000,000 tons of carbon  
25 dioxide per year on an aggregate



1           annualized basis shall be considered equiv-  
2           alent to 1 gigawatt;

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

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

13          “(B) January 1, 2025.

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

24          “(c) REVIEW AND REVISION OF STANDARDS.—Not  
25          later than 2025 and at 5-year intervals thereafter, the Ad-

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

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

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

1 promulgate regulations to carry out the requirements of  
2 this section.”.

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

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

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

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

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

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

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

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

1           **[(7) QUALIFIED INDUSTRY ORGANIZATION.—**

2           The term “qualified industry organization” means  
3           the Edison Electric Institute, the American Public  
4           Power Association, the National Rural Electric Co-  
5           operative Association, a successor organization of  
6           such organizations, or a group of owners or opera-  
7           tors of distribution utilities delivering fossil fuel-  
8           based electricity who collectively represent at least  
9           20 percent of the volume of fossil fuel-based elec-  
10          tricity delivered by distribution utilities to consumers  
11          in the United States.]

12          **[(8) RETAIL CONSUMER.—**The term “retail  
13          consumer” means an end-user of electricity.]

14          **[(b) CARBON STORAGE RESEARCH CORPORATION.—**  
15          **]**

16          **[(1) ESTABLISHMENT.—**

17                 **[(A) REFERENDUM.—**Qualified industry  
18                 organizations may conduct, at their own ex-  
19                 pense, a referendum among the owners or opera-  
20                 tors of distribution utilities delivering fossil  
21                 fuel-based electricity for the creation of a Car-  
22                 bon Storage Research Corporation. Such ref-  
23                 erendum shall be conducted by an independent  
24                 auditing firm agreed to by the qualified indus-  
25                 try organizations. Voting rights in such ref-

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

15 【(B) STATE REGULATORY AUTHORITIES.—  
16 Upon its own motion or the petition of a quali-  
17 fied industry organization, each State regu-  
18 latory authority shall consider its support or op-  
19 position to the creation of the Corporation  
20 under subparagraph (A). State regulatory au-  
21 thorities may notify the independent auditing  
22 firm referred to in subparagraph (A) of their  
23 views on the creation of the Corporation within  
24 180 days after the date of enactment of this  
25 Act. If 40 percent or more of the State regu-

1           latory authorities submit to the independent au-  
2           diting firm written notices of opposition, the  
3           Corporation shall not be established notwith-  
4           standing the approval of the qualified industry  
5           organizations as provided in subparagraph  
6           (A).】

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

16          【(3) GOVERNANCE.—The Corporation shall op-  
17          erate as a division or affiliate of the Electric Power  
18          Research 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 oper-  
21          ations, including compliance with this section. EPRI,  
22          in consultation with the Edison Electric Institute,  
23          the American Public Power Association and the Na-  
24          tional Rural Electric Cooperative Association shall  
25          appoint the Board members under clauses (i), (ii),

1 and (iii) of subparagraph (A) from among can-  
2 didates recommended by those organizations. At  
3 least a majority of the Board members appointed by  
4 EPRI shall be representatives of distribution utilities  
5 subject to assessments under subsection (d).】

6 【(A) MEMBERS.—The Board shall include  
7 at least 1 representative of each of the fol-  
8 lowing:】

9 【(i) Investor-owned utilities.】

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

12 【(iii) Rural electric cooperatives.】

13 【(iv) Fossil fuel producers.】

14 【(v) Nonprofit environmental organi-  
15 zations.】

16 【(vi) Independent generators or  
17 wholesale power providers.】

18 【(vii) Consumer groups.】

19 (viii) The National Energy Tech-  
20 nology laboratory of the Department of  
21 Energy.

22 (ix) The Environmental Protection  
23 Agency.

24 【(B) NONVOTING MEMBERS.—The Board  
25 shall also include as additional nonvoting Mem-

1           bers the Secretary of Energy or his designee  
2           and 2 representatives of State regulatory au-  
3           thorities as defined in section 3(17) of the Pub-  
4           lic Utility Regulatory Policies Act of 1978 (16  
5           U.S.C. 2602(17)), each designated by the Na-  
6           tional Association of State Regulatory Utility  
7           Commissioners from States that are not within  
8           the same transmission interconnection.】

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

13          【(5)    TERMS.—Corporation    Board    members  
14          shall serve terms of 4 years and may serve not more  
15          than 2 full consecutive terms. Members filling unex-  
16          pired terms may serve not more than a total of 8  
17          consecutive years. Former members of the Corpora-  
18          tion Board may be reappointed to the Corporation  
19          Board if they have not been members for a period  
20          of 2 years. Initial appointments to the Corporation  
21          Board shall be for terms of 1, 2, 3, and 4 years,  
22          staggered to provide for the selection of 3 members  
23          each year.】

24          【(6)    STATUS OF CORPORATION.—The Corpora-  
25          tion shall not be considered to be an agency, depart-



1       ment, or instrumentality of the United States, and  
2       no officer or director or employee of the Corporation  
3       shall be considered to be an officer or employee of  
4       the United States Government, for purposes of title  
5       5 or title 31 of the United States Code, or for any  
6       other purpose, and no funds of the Corporation shall  
7       be treated as public money for purposes of chapter  
8       33 of title 31, United States Code, or for any other  
9       purpose.】

10       **【(c) FUNCTIONS AND ADMINISTRATION OF THE COR-**  
11       **PORATION.—】**

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

24               **【(2) PURPOSE.—**The purposes of the grants,  
25       contracts, and assistance under this subsection shall

1 be to support commercial-scale demonstrations of  
2 carbon capture or storage technology projects capa-  
3 ble of advancing the technologies to commercial  
4 readiness. Such projects should encompass a range  
5 of different coal and other fossil fuel varieties, be  
6 geographically diverse, involve diverse storage media,  
7 and employ capture or storage, or capture and con-  
8 version, technologies potentially suitable either for  
9 new or for retrofit applications. The Corporation  
10 shall seek, to the extent feasible, to support at least  
11 5 commercial-scale demonstration projects inte-  
12 grating carbon capture and sequestration or conver-  
13 sion technologies.】

14 【(3) ELIGIBLE ENTITIES.—Entities eligible for  
15 grants, contracts or assistance under this subsection  
16 may include distribution utilities, electric utilities  
17 and other private entities, academic institutions, na-  
18 tional laboratories, Federal research agencies, State  
19 and tribal research agencies, nonprofit organizations,  
20 or consortiums of 2 or more entities. Pilot-scale and  
21 similar small-scale projects are not eligible for sup-  
22 port by the Corporation. Owners or developers of  
23 projects supported by the Corporation shall, where  
24 appropriate, share in the costs of such projects.  
25 Projects supported by the Corporation shall meet the

1 eligibility criteria of section 786(b) of the Clean Air  
2 Act (as added by **section 124 of this Act**).

3 **[(4) GRANTS FOR EARLY MOVERS.—**Fifty per-  
4 cent of the funds raised under this section shall be  
5 provided in the form of grants to electric utilities  
6 that had, prior to the award of any grant under this  
7 section, committed resources to deploy a large scale  
8 electricity generation unit with integrated carbon  
9 capture and sequestration or conversion applied to a  
10 substantial portion of the unit's carbon dioxide emis-  
11 sions. Grant funds shall be provided to defray costs  
12 incurred by such electricity utilities for at least 5  
13 such electricity generation units.]

14 **[(5) ADMINISTRATION.—**The members of the  
15 Board of Directors of the Corporation shall elect a  
16 Chairman and other officers as necessary, may es-  
17 tablish committees and subcommittees of the Cor-  
18 poration, and shall adopt rules and bylaws for the  
19 conduct of business and the implementation of this  
20 section. The Board shall appoint an Executive Di-  
21 rector and professional support staff who may be  
22 employees of the Electric Power Research Institute  
23 (EPRI). After consultation with the Technical Advi-  
24 sory Committee established under subsection (j), the  
25 Secretary, and the Director of the National Energy

1 Technology Laboratory to obtain advice and rec-  
2 ommendations on plans, programs, and project selec-  
3 tion criteria, the Board shall establish priorities for  
4 grants, contracts, and assistance; publish requests  
5 for proposals for grants, contracts, and assistance;  
6 and award grants, contracts, and assistance competi-  
7 tively, on the basis of merit, after the establishment  
8 of procedures that provide for scientific peer review  
9 by the Technical Advisory Committee. The Board  
10 shall give preference to applications that reflect the  
11 best overall value and prospect for achieving the  
12 purposes of the section, such as those which dem-  
13 onstrate an integrated approach for capture and  
14 storage or capture and conversion technologies. The  
15 Board members shall not participate in making  
16 grants or awards to entities with whom they are af-  
17 filiated.】

18 【(6) USES OF GRANTS, CONTRACTS, AND AS-  
19 SISTANCE.—A grant, contract, or other assistance  
20 provided under this subsection may be used to pur-  
21 chase carbon dioxide when needed to conduct tests  
22 of carbon dioxide storage sites, in the case of estab-  
23 lished projects that are storing carbon dioxide emis-  
24 sions, or for other purposes consistent with the pur-  
25 poses of this section. The Corporation shall make

1 publicly available at no cost information learned as  
2 a result of projects which it supports financially.】

3 【(7) INTELLECTUAL PROPERTY.—The Board  
4 shall establish policies regarding the ownership of in-  
5 tellectual property developed as a result of Corpora-  
6 tion grants and other forms of technology support.  
7 Such policies shall encourage individual ingenuity  
8 and invention.】

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

16 【(9) PROGRAMS AND BUDGET.—Before August  
17 1 each year, the Corporation, after consulting with  
18 the Technical Advisory Committee and the Secretary  
19 and the Director of the Department's National En-  
20 ergy Technology Laboratory and other interested  
21 parties to obtain advice and recommendations, shall  
22 publish for public review and comment its proposed  
23 plans, programs, project selection criteria, and  
24 projects to be funded by the Corporation for the  
25 next calendar year. The Corporation shall also pub-

1       lish for public review and comment a budget plan for  
2       the next calendar year, including the probable costs  
3       of all programs, projects, and contracts and a rec-  
4       ommended rate of assessment sufficient to cover  
5       such costs. The Secretary may recommend programs  
6       and activities the Secretary considers appropriate.  
7       The Corporation shall include in the first publication  
8       it issues under this paragraph a strategic plan or  
9       roadmap for the achievement of the purposes of the  
10      Corporation, as set forth in paragraph (2).】

11           【(10) RECORDS; AUDITS.—The Corporation  
12      shall keep minutes, books, and records that clearly  
13      reflect all of the acts and transactions of the Cor-  
14      poration and make public such information. The  
15      books of the Corporation shall be audited by a cer-  
16      tified public accountant at least once each fiscal year  
17      and at such other times as the Corporation may des-  
18      ignate. Copies of each audit shall be provided to the  
19      Congress, all Corporation board members, all quali-  
20      fied industry organizations, each State regulatory  
21      authority and, upon request, to other members of  
22      the industry. If the audit determines that the Cor-  
23      poration’s practices fail to meet generally accepted  
24      accounting principles the assessment collection au-  
25      thority of the Corporation under subsection (d) shall

1 be suspended until a certified public accountant ren-  
2 ders a subsequent opinion that the failure has been  
3 corrected. The Corporation shall make its books and  
4 records available for review by the Secretary or the  
5 Comptroller General of the United States.】

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

17 【(12) ANNUAL REPORT.—Each year the Cor-  
18 poration shall prepare and make publicly available a  
19 report which includes an identification and descrip-  
20 tion of all programs and projects undertaken by the  
21 Corporation during the previous year. The report  
22 shall also detail the allocation or planned allocation  
23 of Corporation resources for each such program and  
24 project. The Corporation shall provide its annual re-  
25 port to the Congress, the Secretary, each State regu-

1 latory authority, and upon request to the public. The  
 2 Secretary shall, not less than 60 days after receiving  
 3 such report, provide to the President and Congress  
 4 a report assessing the progress of the Corporation in  
 5 meeting the objectives of this section.】

6 【(d) ASSESSMENTS.—】

7 【(1) AMOUNT.—(A) In all calendar years fol-  
 8 lowing its establishment, the Corporation shall col-  
 9 lect an assessment on distribution utilities for all  
 10 fossil fuel-based electricity delivered directly to retail  
 11 consumers (as determined under subsection (f)). The  
 12 assessments shall reflect the relative carbon dioxide  
 13 emission rates of different fossil fuel-based elec-  
 14 tricity, and initially shall be not less than the fol-  
 15 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.

16 【(B) The Corporation is authorized to adjust  
 17 the assessments on fossil fuel-based electricity to re-  
 18 flect changes in the expected quantities of such elec-  
 19 tricity from different fuel types, such that the as-  
 20 sessments generate not less than \$1.0 billion and  
 21 not more than \$1.1 billion annually. The Corpora-



1       tion is authorized to supplement assessments  
2       through additional financial commitments.】

3           【(2) INVESTMENT OF FUNDS.—Pending dis-  
4       bursement pursuant to a program, plan, or project,  
5       the Corporation may invest funds collected through  
6       assessments under this subsection, and any other  
7       funds received by the Corporation, only in obliga-  
8       tions of the United States or any agency thereof, in  
9       general obligations of any State or any political sub-  
10      division thereof, in any interest-bearing account or  
11      certificate of deposit of a bank that is a member of  
12      the Federal Reserve System, or in obligations fully  
13      guaranteed as to principal and interest by the  
14      United States.】

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

1 **[(e) ERCOT.—]**

2 **[(1) ASSESSMENT, COLLECTION, AND REMIT-**  
3 **TANCE.—(A) Notwithstanding any other provision of**  
4 **this section, within ERCOT, the assessment pro-**  
5 **vided for in subsection (d) shall be—]**

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

8 **[(ii) charged consistent with other charges**  
9 **imposed on qualified scheduling entities as a fee**  
10 **on energy used by the load-serving entities;**  
11 **and]**

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

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

17 **[(i) determined by the amount and types**  
18 **of fossil fuel-based electricity delivered directly**  
19 **to all retail customers in the prior calendar year**  
20 **beginning with the year ending immediately**  
21 **prior to the period described in subsection**  
22 **(b)(2); and]**

23 **[(ii) take into account the number of re-**  
24 **newable energy credits retired by the load-serv-**

1           ing entities represented by a qualified sched-  
2           uling entity within the prior calendar year.】

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

9           【(3) AUDIT.—ERCOT shall provide a copy of  
10          its annual audit pertaining to the administration of  
11          the provisions of this subsection to the Corpora-  
12          tion.】

13          【(4) DEFINITIONS.—For the purposes of this  
14          subsection:】

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

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

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

24                 【(D) The term “renewable energy credit”  
25                 has the meaning as promulgated and adopted

1 by the Public Utility Commission of Texas pur-  
2 suant to section 39.904(b) of the Public Utility  
3 Regulatory Act of 1999, and in effect on the  
4 date of enactment of this Act.】

5 【(f) DETERMINATION OF FOSSIL FUEL-BASED  
6 ELECTRICITY DELIVERIES.—】

7 【(1) FINDINGS.—The Congress finds that:】

8 【(A) The assessments under subsection (d)  
9 are to be collected based on the amount of fossil  
10 fuel-based electricity delivered by each distribu-  
11 tion utility.】

12 【(B) Since many distribution utilities pur-  
13 chase all or part of their retail consumer’s elec-  
14 tricity needs from other entities, it may not be  
15 practical to determine the precise fuel mix for  
16 the power sold by each individual distribution  
17 utility.】

18 【(C) It may be necessary to use average  
19 data, often on a regional basis with reference to  
20 Regional Transmission Organization (“RTO”)  
21 or NERC regions, to make the determinations  
22 necessary for making assessments.】

23 【(2) DOE PROPOSED RULE.—The Secretary,  
24 acting in close consultation with the Energy Infor-  
25 mation Administration, shall issue for notice and

1 comment a proposed rule to determine the level of  
2 fossil fuel electricity delivered to retail customers by  
3 each distribution utility in the United States during  
4 the most recent calendar year or other period deter-  
5 mined to be most appropriate. Such proposed rule  
6 shall balance the need to be efficient, reasonably pre-  
7 cise, and timely, taking into account the nature and  
8 cost of data currently available and the nature of  
9 markets and regulation in effect in various regions  
10 of the country. Different methodologies may be ap-  
11 plied in different regions if appropriate to obtain the  
12 best balance of such factors.】

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

1       modify the methodology for making such determina-  
2       tions.】

3           【(4) ANNUAL DETERMINATIONS.—Pursuant to  
4       the final rule issued under paragraph (3), the Sec-  
5       retary shall make annual determinations of the  
6       amounts and types for each such utility and publish  
7       such determinations in the Federal Register. Such  
8       determinations shall be used to conduct the ref-  
9       erendum under subsection (b) and by the Corpora-  
10      tion in applying any assessment under this sub-  
11      section.】

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

1           **[(g) COMPLIANCE WITH CORPORATION ASSESS-**  
2 **MENTS.—**The Corporation may bring an action in the ap-  
3 propriate court of the United States to compel compliance  
4 with an assessment levied by the Corporation under this  
5 section. A successful action for compliance under this sub-  
6 section may also require payment by the defendant of the  
7 costs incurred by the Corporation in bringing such ac-  
8 tion.]

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

22           **[(i) RECOVERY OF COSTS.—]**

23           **[(1) IN GENERAL.—**A distribution utility whose  
24 transmission, delivery, or sales of electric energy are  
25 subject to any form of rate regulation shall not be

1 denied the opportunity to recover the full amount of  
2 the prudently incurred costs associated with com-  
3 plying with this section, consistent with applicable  
4 State or Federal law.】

5 【(2) RATEPAYER REBATES.—Regulatory au-  
6 thorities that approve cost recovery pursuant to  
7 paragraph (1) may order rebates to ratepayers to  
8 the extent that distribution utilities are reimbursed  
9 undedicated or unassigned balances pursuant to sub-  
10 section (d)(3).】

11 【(j) TECHNICAL ADVISORY COMMITTEE.—】

12 【(1) ESTABLISHMENT.—There is established an  
13 advisory committee, to be known as the “Technical  
14 Advisory Committee”.】

15 【(2) MEMBERSHIP.—The Technical Advisory  
16 Committee shall be comprised of not less than 7  
17 members appointed by the Board from among aca-  
18 demic institutions, national laboratories, independent  
19 research institutions, and other qualified institu-  
20 tions. No member of the Committee shall be affili-  
21 ated with EPRI or with any organization having  
22 members serving on the Board. At least one member  
23 of the Committee shall be appointed from among of-  
24 ficers or employees of the Department of Energy



1 recommended to the Board by the Secretary of En-  
2 ergy.】

3 【(3) CHAIRPERSON AND VICE CHAIRPERSON.—

4 The Board shall designate one member of the Tech-  
5 nical Advisory Committee to serve as Chairperson of  
6 the Committee and one to serve as Vice Chairperson  
7 of the Committee.】

8 【(4) COMPENSATION.—The Board shall provide

9 compensation to members of the Technical Advisory  
10 Committee for travel and other incidental expenses  
11 and such other compensation as the Board deter-  
12 mines to be necessary.】

13 【(5) PURPOSE.—The Technical Advisory Com-

14 mittee shall provide independent assessments and  
15 technical evaluations, as well as make non-binding  
16 recommendations to the Board, concerning Corpora-  
17 tion activities, including but not limited to the fol-  
18 lowing:】

19 【(A) Reviewing and evaluating the Cor-

20 poration's plans and budgets described in sub-  
21 section (c)(9), as well as any other appropriate  
22 areas, which could include approaches to  
23 prioritizing technologies, appropriateness of en-  
24 gineering techniques, monitoring and

1 verification technologies for storage, geological  
2 site selection, and cost control 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, eval-  
10 uations, and other materials of the Technical Advi-  
11 sory Committee shall be made available to the public  
12 by the Board, without charge, at time of receipt by  
13 the Board.】

14 【(k) LOBBYING RESTRICTIONS.—No funds collected  
15 by 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  
18 changes in this section or other statutes that would fur-  
19 ther the purposes 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  
23 project activities authorized by this section are in compli-  
24 ance with subchapter IV of chapter 31 of title 40, United

1 States Code (commonly known as the “Davis-Bacon  
2 Act”).**]**

3 **Subtitle C—Nuclear and Advanced**  
4 **Technologies**

5 **SEC. 131. FINDINGS AND POLICY.**

6 (a) FINDINGS.—Congress finds that—

7 (1) in 2008, 104 nuclear power plants produced  
8 19.6 percent of the electricity generated in the  
9 United States, slightly less than the electricity gen-  
10 erated by natural gas;

11 (2) nuclear energy is the largest provider of  
12 clean, carbon-free, electricity, almost 8 times larger  
13 than all renewable power production combined, ex-  
14 cluding hydroelectric power;

15 (3) unlike other renewable sources, nuclear en-  
16 ergy supplies consistent, base-load electricity, inde-  
17 pendent of environmental conditions;

18 (4) by displacing fossil fuels that would other-  
19 wise be used for electricity production, nuclear power  
20 plants virtually eliminate emissions of greenhouse  
21 gases and criteria pollutants associated with acid  
22 rain, smog, or ozone;

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

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

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

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

11          (9) translating theoretical cost reduction poten-  
12          tial into actual reduced construction costs remains a  
13          significant industry challenge that can be overcome  
14          only through demonstrated performance;

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

19          (11) those proposed reactors will use the latest  
20          in nuclear technology for efficiency and safety, more  
21          advanced than the technology of the 1960s and  
22          1970s found in the reactors currently operating in  
23          the United States;

24          (12) increased resources for the Nuclear Regu-  
25          latory Commission and reform of the licensing proc-

1       ess have improved the safety and timeliness of the  
2       regulatory environment;

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

10          (14) those new reactors will launch a new era  
11       for the nuclear industry, and translate into tens of  
12       thousands of jobs

13       (b) STATEMENT OF POLICY.—It is the policy of the  
14       United States, given the importance of transitioning to a  
15       clean energy, low-carbon economy, to facilitate the contin-  
16       ued development and growth of a safe and clean nuclear  
17       energy industry, through—

18           (1) reductions in financial and technical bar-  
19       riers to construction and operation; and

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

23       **SEC. 132. NUCLEAR GRANTS AND PROGRAMS.**

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

1           (1) the 5-year period beginning on January 1,  
2           2012; and

3           (2) each 5-year period beginning on each Janu-  
4           ary 1 thereafter.

5           (b) USE OF FUNDS.—Of amounts made available  
6           under for the calendar years in each applicable period—

7           (1) the Secretary of Energy shall use such  
8           amounts for each applicable period as the Secretary  
9           of Energy determines to be necessary to increase the  
10          number and amounts of nuclear science talent ex-  
11          pansion grants and nuclear science competitiveness  
12          grants provided under section 5004 of the America  
13          COMPETES Act (42 U.S.C. 16532); and

14          (2) the Secretary of Labor, in consultation with  
15          nuclear energy entities and organized labor, [shall  
16          use such amounts for each applicable period as the  
17          Secretary of Labor determines to be necessary to  
18          carry out programs] expanding workforce training  
19          to meet the high demand for workers skilled in nu-  
20          clear power plant construction and operation, includ-  
21          ing programs for—

22                   (A) electrical craft certification;

23                   (B) preapprenticeship career technical edu-  
24                   cation for industrialized skilled crafts that are

1 useful in the construction of nuclear power  
2 plants;

3 (C) community college and skill center  
4 training for nuclear power plant technicians;

5 (D) training of construction management  
6 personnel for nuclear power plant construction  
7 projects; and

8 (E) regional grants for integrated nuclear  
9 energy workforce development programs.

10 **SEC. 133. NUCLEAR ENERGY RESEARCH AND DEVELOP-**  
11 **MENT PROGRAMS.**

12 (a) NUCLEAR FACILITY LONG-TERM OPERATIONS  
13 RESEARCH AND DEVELOPMENT PROGRAM.—

14 (1) ESTABLISHMENT.—As soon as practicable  
15 after the date of enactment of this Act, the Sec-  
16 retary of Energy (referred to in this section as the  
17 “Secretary”), in consultation with the Chairman of  
18 the Nuclear Regulatory Commission, shall establish  
19 a research and development program—

20 (A) to address the reliability, availability,  
21 productivity, component aging, safety, and secu-  
22 rity of nuclear power plants;

23 (B) to improve the performance of nuclear  
24 power plants;

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

3 (D) to assess the feasibility of nuclear  
4 power plants to continue to provide clean and  
5 economic electricity safely, substantially beyond  
6 the first license extension period of the nuclear  
7 power plants, which will—

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

10 (ii) help protect the environment of  
11 the United States; and

12 (E) to support significant carbon reduc-  
13 tions, lower overall costs that are required to  
14 reduce carbon emissions, and increase energy  
15 security.

16 (2) CONDUCT OF PROGRAM.—

17 (A) IN GENERAL.—In carrying out the  
18 program established under paragraph (1), the  
19 Secretary shall—

20 (i) build a fundamental scientific basis  
21 to understand, predict, and measure  
22 changes in materials, systems, structures,  
23 equipment, and components as the mate-  
24 rials, systems, structures, equipment, and



1 components age through continued oper-  
2 ations in long-term service environments;

3 (ii) develop new safety analysis tools  
4 and methods to enhance the performance  
5 and safety of nuclear power plants;

6 (iii) develop advanced online moni-  
7 toring, control, and diagnostics tech-  
8 nologies to prevent equipment failures and  
9 improve the safety of nuclear power plants;

10 (iv) establish a technical basis for ad-  
11 vanced fuel designs (including silicon car-  
12 bide fuel cladding) to increase the safety  
13 margins of nuclear power plants; and

14 (v) examine issues, including—

15 (I) issues relating to material  
16 degradation, plant aging, and tech-  
17 nology upgrades; and

18 (II) any other issue that would  
19 impact decisions to extend the lifespan  
20 of nuclear power plants.

21 (B) TECHNICAL SUPPORT.—In carrying  
22 out the program established under paragraph  
23 (1), the Secretary shall provide to the Chairman  
24 of the Nuclear Regulatory Commission informa-  
25 tion collected under the program—

1 (i) to help ensure informed decisions  
2 regarding the extension of the life of nu-  
3 clear power plants beyond a 60-year life-  
4 span; and

5 (ii) for the licensing and long-term  
6 management, and safe and economical op-  
7 eration, of nuclear power plants.

8 (b) SPENT NUCLEAR WASTE DISPOSAL RESEARCH  
9 AND DEVELOPMENT PROGRAM.—

10 (1) ESTABLISHMENT.—As soon as practicable  
11 after the date of enactment of this Act, the Sec-  
12 retary shall establish a research and development  
13 program to improve the understanding of nuclear  
14 spent fuel management and the entire nuclear fuel  
15 cycle life.

16 (2) CONDUCT OF PROGRAM.—In carrying out  
17 the program established under paragraph (1), the  
18 Secretary shall carry out science-based research and  
19 development activities through the development of  
20 advanced technologies with the potential to produce  
21 dramatic improvements in a range of nuclear spent  
22 fuel management options including short-term and  
23 long-term disposal, and proliferation-resistant nu-  
24 clear spent fuel recycling.

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

## 4 **Subtitle D—Water Efficiency**

### 5 **SEC. 141. WATERSENSE.**

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

10 (1) to reduce water use;

11 (2) to reduce the strain on water, wastewater,  
12 and stormwater infrastructure;

13 (3) to conserve energy used to pump, heat,  
14 transport, and treat water; and

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

21 (b) DUTIES.—The Administrator shall—

22 (1) establish—

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

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

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

7 (A) reducing water use; and

8 (B) ensuring product and service perform-  
9 ance;

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

13 (4) preserve the integrity of the WaterSense  
14 label by—

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

20 (B) overseeing WaterSense certifications  
21 made by third parties;

22 (C) conducting reviews of the use of the  
23 WaterSense label in the marketplace and taking  
24 corrective action in any case in which misuse of  
25 the label is identified; and

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

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

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

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

21 (8) provide reasonable notice to interested par-  
22 ties and the public of any changes (including effec-  
23 tive dates), on the adoption of a new or revised cat-  
24 egory, specification, installation criterion, or other  
25 criterion, along with—

1 (A) an explanation of the changes; and

2 (B) as appropriate, responses to comments

3 submitted by interested parties and the public;

4 (9) provide appropriate lead time (as deter-

5 mined by the Administrator) prior to the applicable

6 effective date for a new or significant revision to a

7 category, specification, installation criterion, or other

8 criterion, taking into account the timing require-

9 ments of the manufacturing, marketing, training,

10 and distribution process for the specific product,

11 building and landscape, or service category ad-

12 dressed;

13 (10) identify and, if appropriate, implement

14 other voluntary approaches in commercial, institu-

15 tional, residential, industrial, and municipal sectors

16 to encourage recycling and reuse technologies to im-

17 prove water efficiency or lower water use; and

18 (11) where appropriate, apply the WaterSense

19 label to water-using products that are labeled by the

20 Energy Star program implemented by the Adminis-

21 trator and the Secretary of Energy.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There

23 are authorized to be appropriated to carry out this sec-

24 tion—

25 (1) \$7,500,000 for fiscal year 2010;

- 1           (2) \$10,000,000 for fiscal year 2011;  
2           (3) \$20,000,000 for fiscal year 2012;  
3           (4) \$50,000,000 for fiscal year 2013; and  
4           (5) for each subsequent fiscal year, the applica-  
5           ble amount during the preceding fiscal year, as ad-  
6           justed to reflect changes for the 12-month period  
7           ending the preceding November 30 in the Consumer  
8           Price Index for All Urban Consumers published by  
9           the Bureau of Labor Statistics of the Department of  
10          Labor.

11 **SEC. 142. FEDERAL PROCUREMENT OF WATER-EFFICIENT**  
12 **PRODUCTS.**

13           (a) DEFINITIONS.—In this section:

14                 (1) AGENCY.—The term “Agency” has the  
15                 meaning given the term in section 7902(a) of title  
16                 5, United States Code.

17                 (2) FEMP-DESIGNATED PRODUCT.—The term  
18                 “FEMP-designated product” means a product that  
19                 is designated under the Federal Energy Manage-  
20                 ment Program of the Department of Energy as  
21                 being among the highest 25 percent of equivalent  
22                 products for efficiency.

23                 (3) PRODUCT, BUILDING, LANDSCAPE, FACIL-  
24                 ITY, PROCESS, AND SERVICE.—The terms “product”,

1 “building”, “landscape”, “facility”, “process”, and  
2 “service” do not include—

3 (A) any water-using product, building,  
4 landscape, facility, process, or service designed  
5 or procured for combat or combat-related mis-  
6 sions; or

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

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

18 (5) WATERSENSE PROGRAM.—The term  
19 “WaterSense program” means the program estab-  
20 lished by **[section 141]**.

21 (b) PROCUREMENT OF WATER EFFICIENT PROD-  
22 UCTS.—

23 (1) REQUIREMENT.—

24 (A) IN GENERAL.—To meet the require-  
25 ments of an agency for a water-using product,



1 building, landscape, facility, process, or service,  
2 the head of an Agency shall, except as provided  
3 in paragraph (2), procure—

4 (i) a WaterSense product, building,  
5 landscape, facility, process, or service; or

6 (ii) a FEMP-designated product.

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

14 (2) EXCEPTIONS.—The head of an Agency shall  
15 not be required to procure a WaterSense product,  
16 building, landscape, facility, process, or service or  
17 FEMP-designated product under paragraph (1) if  
18 the head of the Agency finds in writing that—

19 (A) a WaterSense product, building, land-  
20 scape, facility, process, or service or FEMP-des-  
21 ignated product is not cost-effective over the life  
22 of the product, building, landscape, facility,  
23 process, or service, taking energy, water, and  
24 wastewater service cost savings into account; or

1 (B) no WaterSense product, building, land-  
2 scape, facility, process, or service or FEMP-des-  
3 igned product is reasonably available that  
4 meets the functional requirements of the Agen-  
5 cy.

6 (3) PROCUREMENT PLANNING.—

7 (A) IN GENERAL.—The head of an Agency  
8 shall incorporate criteria used for evaluating  
9 WaterSense products, buildings, landscapes, fa-  
10 cilities, processes, and services and FEMP-des-  
11 igned products into—

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

21 (ii) the factors for the evaluation of  
22 offers received for the procurement.

23 (B) LISTING OF WATER-EFFICIENT PROD-  
24 UCTS IN FEDERAL CATALOGS.—WaterSense  
25 products, buildings, landscapes, facilities, proc-

1           esses, and systems and FEMP-designated prod-  
2           ucts shall be clearly identified and prominently  
3           displayed in any inventory or listing of products  
4           by the General Services Administration or the  
5           Defense Logistics Agency.

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

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

19               (1) EVALUATION OF PRODUCTS AND SYS-  
20               TEMS.—Not later than 270 days after the date of  
21               enactment of this Act, each Agency shall evaluate  
22               water-consuming products and systems in buildings  
23               operated by such Agency and identify opportunities  
24               for retrofit and replacement of such products and  
25               systems with high-efficiency equipment, such as

1       **【zero-water-consumption urinals, high-efficiency toi-**  
 2       **lets, high-efficiency shower heads, and high-effi-**  
 3       **ciency faucets】**, and other products that are certified  
 4       as Watersense products or FEMP-designated prod-  
 5       ucts.

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

14       (d) **REGULATIONS.**—Not later than 180 days after  
 15       the date of enactment of this Act, the Administrator,  
 16       working in coordination with the Secretary of Energy and  
 17       the heads of such other Agencies as the President may  
 18       designate, shall issue guidelines to carry out this section.

19       **SEC. 143. STATE RESIDENTIAL WATER EFFICIENCY AND**  
 20       **CONSERVATION INCENTIVES PROGRAM.**

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

22           (1) **ELIGIBLE ENTITY.**—The term “eligible enti-  
 23       ty” means a State government, local or county gov-  
 24       ernment, tribal government, wastewater or sewerage  
 25       utility, municipal water authority, energy utility,

1 water utility, or nonprofit organization that meets  
2 the requirements of subsection (b).

3 (2) INCENTIVE PROGRAM.—The term “incentive  
4 program” means a program for administering finan-  
5 cial incentives for consumer purchase and installa-  
6 tion of water-efficient products, buildings (including  
7 New Water-Efficient Homes), landscapes, processes,  
8 or services described in subsection (b)(1).

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

11 (A) IN GENERAL.—The term “residential  
12 water-efficient product, building, landscape,  
13 process, or service” means a product, building,  
14 landscape, process, or service for a residence or  
15 its landscape that is rated for water efficiency  
16 and performance—

17 (i) by the WaterSense program; or

18 (ii) if a WaterSense specification does  
19 not exist, by the Energy Star program or  
20 an incentive program approved by the Ad-  
21 ministrator.

22 (B) INCLUSIONS.—The term “residential  
23 water-efficient product, building, landscape,  
24 process, or service” includes—

25 (i) faucets;

- 1 (ii) irrigation technologies and serv-  
2 ices;
- 3 (iii) point-of-use water treatment de-  
4 vices;
- 5 (iv) reuse and recycling technologies;
- 6 (v) toilets;
- 7 (vi) clothes washers;
- 8 (vii) dishwashers;
- 9 (viii) showerheads;
- 10 (ix) xeriscaping and other landscape  
11 conversions that replace irrigated turf; and
- 12 (x) New Water Efficient Homes cer-  
13 tified by the WaterSense program.

14 (4) WATERSENSE PROGRAM.—The term  
15 “WaterSense program” means the program estab-  
16 lished by **[section 141]**.

17 (b) ELIGIBLE ENTITIES.—An entity shall be eligible  
18 to receive an allocation under subsection (c) if the entity—  
19 (1) establishes (or has established) an incentive  
20 program to provide financial incentives to residential  
21 consumers for the purchase of residential water-effi-  
22 cient products, buildings, landscapes, processes, or  
23 services;

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

4           (3) provides assurances satisfactory to the Ad-  
5 ministrator that the entity will use the allocation to  
6 supplement, but not supplant, funds made available  
7 to carry out the incentive program.

8           (c) AMOUNT OF ALLOCATIONS.—For each fiscal year,  
9 the Administrator shall determine the amount to allocate  
10 to each eligible entity to carry out subsection (d), taking  
11 into consideration—

12           (1) the population served by the eligible entity  
13 during the most recent calendar year for which data  
14 are available;

15           (2) the targeted population of the incentive pro-  
16 gram of the eligible entity, such as general house-  
17 holds, low-income households, or first-time home-  
18 owners, and the probable effectiveness of the incen-  
19 tive program for that population;

20           (3) for existing programs, the effectiveness of  
21 the program in encouraging the adoption of water-  
22 efficient products, buildings, landscapes, facilities,  
23 processes, and services;

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





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

4                   (A) the amount of any Federal or State  
5           tax incentive available for the purchase of the  
6           residential water-efficient product or service;

7                   (B) the amount necessary to change con-  
8           sumer behavior to purchase water-efficient  
9           products and services; and

10                   (C) the consumer expenditures for onsite  
11           preparation, assembly, and original installation  
12           of the product.

13           (g) AUTHORIZATION OF APPROPRIATIONS.—There  
14           are authorized to be appropriated to the Administrator to  
15           carry out this section—

16                   (1) \$100,000,000 for fiscal year 2010;

17                   (2) \$150,000,000 for fiscal year 2011;

18                   (3) \$200,000,000 for fiscal year 2012;

19                   (4) \$150,000,000 for fiscal year 2013;

20                   (5) \$100,000,000 for fiscal year 2014; and

21                   (6) for each subsequent fiscal year, the applica-  
22           ble amount during the preceding fiscal year, as ad-  
23           justed to reflect changes for the 12-month period  
24           ending the preceding November 30 in the Consumer  
25           Price Index for All Urban Consumers published by

1 the Bureau of Labor Statistics of the Department of  
2 Labor.

3 **Subtitle E—Miscellaneous**

4 **SEC. 151. OFFICE OF CONSUMER ADVOCACY.**

5 (a) OFFICE.—

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

9 (2) DIRECTOR.—The Office shall be headed by  
10 a Director to be appointed by the President, who is  
11 admitted to the Federal Bar, with experience in pub-  
12 lic utility proceedings, and by and with the advice  
13 and consent of the Senate.

14 (3) DUTIES.—The Office may—

15 (A) represent, and appeal on behalf of, en-  
16 ergy customers on matters concerning rates or  
17 service of public utilities and natural gas com-  
18 panies under the jurisdiction of the Commis-  
19 sion—

20 (i) at hearings of the Commission;

21 (ii) in judicial proceedings in the  
22 courts of the United States; and

23 (iii) at hearings or proceedings of  
24 other Federal regulatory agencies and com-  
25 missions;

1 (B) monitor and review energy customer  
2 complaints and grievances on matters con-  
3 cerning rates or service of public utilities and  
4 natural gas companies under the jurisdiction of  
5 the Commission;

6 (C) investigate independently, or within the  
7 context of formal proceedings, the services pro-  
8 vided by, the rates charged by, and the valu-  
9 ation of the properties of, public utilities and  
10 natural gas companies under the jurisdiction of  
11 the Commission;

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

19 (E) collect data concerning rates or service  
20 of public utilities and natural gas companies  
21 under the jurisdiction of the Commission; and

22 (F) prepare and issue reports and rec-  
23 ommendations.

24 (4) COMPENSATION AND POWERS.—The Direc-  
25 tor may—

1           (A) employ and fix the compensation of  
2           such staff personnel as is deemed necessary;  
3           and

4           (B) procure temporary and intermittent  
5           services as needed.

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

12          (b) CONSUMER ADVOCACY ADVISORY COMMITTEE.—

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

19           (2) COMPOSITION.—The Director shall appoint  
20          5 members to the Advisory Committee including—

21           (A) 2 individuals representing State Utility  
22          Consumer Advocates; and

23           (B) 1 individual, from a nongovernmental  
24          organization, representing consumers.

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

4           (4) REPORTS.—The Director shall provide for  
5 publication of recommendations of the Advisory  
6 Committee on the public website established for the  
7 Office.

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

12           (6) APPLICATION OF FACCA.—Except as other-  
13 wise specifically provided, the Advisory Committee  
14 shall be subject to the Federal Advisory Committee  
15 Act.

16 (c) DEFINITIONS.—In this section:

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

19           (2) ENERGY CUSTOMER.—The term “energy  
20 customer” means a residential customer or a small  
21 commercial customer that receives products or serv-  
22 ices from a public utility or natural gas company  
23 under the jurisdiction of the Commission.

24           (3) NATURAL GAS COMPANY.—The term “nat-  
25 ural gas company” has the meaning given the term

1 in section 2 of the Natural Gas Act (15 U.S.C.  
2 717a), as modified by section 601(a) of the Natural  
3 Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

4 (4) OFFICE.—The term “Office” means the Of-  
5 fice of Consumer Advocacy established by subsection  
6 (a)(1).

7 (5) PUBLIC UTILITY.—The term “public util-  
8 ity” has the meaning given the term in section  
9 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

10 (6) SMALL COMMERCIAL CUSTOMER.—The term  
11 “small commercial customer” means a commercial  
12 customer that has a peak demand of not more than  
13 1,000 kilowatts per hour.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized such sums as necessary to carry out this  
16 section.

17 (e) SAVINGS CLAUSE.—Nothing in this section af-  
18 fects the rights or obligations of State Utility Consumer  
19 Advocates.

20 **SEC. 152. CLEAN TECHNOLOGY BUSINESS COMPETITION**  
21 **GRANT PROGRAM.**

22 (a) IN GENERAL.—The Administrator may provide  
23 grants to organizations to conduct business competitions  
24 that provide incentives, training, and mentorship to entre-  
25 preneurs and early stage start-up companies throughout

1 the United States to meet high-priority economic, environ-  
2 mental, and energy goals in areas including air quality,  
3 energy efficiency and renewable energy, transportation,  
4 water quality and conservation, green buildings, and waste  
5 management.

6 (b) PURPOSES.—

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

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

12 (B) stimulating green economic develop-  
13 ment;

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

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

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

22 (A) are led by the private sector;

23 (B) encourage regional and interregional  
24 cooperation; and

1 (C) can demonstrate market-driven prac-  
2 tices and the creation of cost-effective green  
3 jobs through an annual publication of competi-  
4 tion activities and directory of companies.

5 (c) ELIGIBILITY.—

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

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

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

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

20 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
21 authorized to be appropriated to carry out this section  
22 \$20,000,000.

23 **SEC. 153. PRODUCT CARBON DISCLOSURE PROGRAM.**

24 (a) EPA STUDY.—The Administrator shall conduct  
25 a study to determine the feasibility of establishing a na-



1 tional program for measuring, reporting, publicly dis-  
2 closing, and labeling products or materials sold in the  
3 United States for their carbon content, and shall, not later  
4 than 18 months after the date of enactment of this Act,  
5 transmit a report to Congress which shall include the fol-  
6 lowing:

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

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

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

24           (4) Suggested methodology and protocols for  
25 measuring the carbon content of the products across

1 the entire carbon lifecycle of such products for use  
2 in a carbon disclosure program and labeling pro-  
3 gram.

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

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

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

22 (8) An evaluation of the information needed on  
23 a label for clear and accurate communication, in-  
24 cluding what pieces of quantitative and qualitative  
25 information need to be disclosed.

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

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

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

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

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

1 and managing and operating a product carbon label-  
2 ing program, and options for minimizing these costs.

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

10 (b) DEVELOPMENT OF NATIONAL CARBON DISCLO-  
11 SURE PROGRAM.—Upon conclusion of the study, and not  
12 later than 3 years after the date of enactment of this Act,  
13 the Administrator shall establish a national product car-  
14 bon disclosure program, participation in which shall be  
15 voluntary, and which may involve a product carbon label  
16 with broad applicability to the wholesale and consumer  
17 markets to enable and encourage knowledge about carbon  
18 content by producers and consumers and to inform efforts  
19 to reduce energy consumption (carbon dioxide equivalent  
20 emissions) nationwide. In developing such a program, the  
21 Administrator shall—

22 (1) consider the results of the study conducted  
23 under subsection (a);

24 (2) consider existing and planned programs and  
25 proposals and measurement standards (including the

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

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

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

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

19 (6) create a means to—

20 (A) document best practices;

21 (B) ensure clarity and consistency;

22 (C) work with suppliers, manufacturers,  
23 and retailers to encourage participation;

24 (D) ensure that protocols are consistent  
25 and comparable across like products; and

1 (E) evaluate the effectiveness of the pro-  
2 gram;

3 (7) make publicly available information on  
4 product carbon content to ensure transparency;

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

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

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

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

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

22 (13) create a process for reviewing the accuracy  
23 of product carbon label information and protecting  
24 the product carbon label in the case of a change in  
25 the product's energy source, supply chain, ingredi-

1       ents, or other factors, and specify the frequency to  
2       which data should be updated; and

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

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

13      (d) DEFINITIONS.—In this section:

14           (1) The term “carbon content” means the  
15      quantity of greenhouse gas emissions and the warm-  
16      ing impact of those emissions on the atmosphere ex-  
17      pressed in carbon dioxide equivalent associated with  
18      a product’s value chain.

19           (2) The term “carbon footprint” means the  
20      level of greenhouse gas emissions produced by a par-  
21      ticular activity, service, or entity.

22           (3) The term “carbon lifecycle” means the  
23      greenhouse gas emissions that are released as part  
24      of the processes of creating, producing, processing,  
25      manufacturing, modifying, transporting, distrib-

1       uting, storing, using, recycling, or disposing of goods  
2       and services.

3       (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
4 authorized to be appropriated to the Administrator—

5           (1) to carry out the study required by sub-  
6       section (a), \$5,000,000; and

7           (2) to carry out the program required under  
8       subsection (b), \$25,000,000 for each of fiscal years  
9       2010 through 2025.

10 **SEC. 154. STATE RECYCLING PROGRAMS.**

11       (a) ESTABLISHMENT.—The Administrator shall es-  
12 tablish a State Recycling Program to provide funds [in  
13 accordance with section 2\_\_\_\_ of division B\*\*] to States  
14 for use in carrying out recycling programs.

15       (b) USE OF FUNDING.—

16           (1) IN GENERAL.—States receiving funding  
17 pursuant to this section shall use the proceeds to  
18 carry out recycling programs in accordance with this  
19 section.

20           (2) COUNTY AND MUNICIPAL PROGRAMS.—Not  
21 less than  $\frac{1}{3}$  of the funding provided to a State  
22 under this section shall be distributed by the State  
23 to county and municipal recycling programs as de-  
24 scribed in subsection (c)(1), to be used exclusively to



1 support recycling purposes and associated source re-  
2 duction 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  $\frac{1}{3}$   
8 of the funding provided to a State under this section  
9 shall be distributed by the State to eligible recycling  
10 facilities as described in subsection (c)(2) to be used  
11 exclusively to support the recycling purposes and as-  
12 sociated source reduction purposes of the facilities,  
13 including to provide—

14 (A) incentives for the demonstration or de-  
15 ployment of recycling-related technology and  
16 equipment that reduce or avoid greenhouse gas  
17 emissions;

18 (B) incentives to facilities that increase the  
19 quantity and quality of recyclable material that  
20 is recycled versus sent for disposal or inciner-  
21 ation;

22 (C) funding for research, management,  
23 and removal of impediments to recycling, in-  
24 cluding—

25 (i) radioactive material; and

1 (ii) devices or materials that contain  
2 polychlorinated biphenyls, mercury, or  
3 chlorofluorocarbons;

4 (D) funding for research on, and develop-  
5 ment and deployment of, new technologies to  
6 more efficiently and effectively recycle items  
7 such as automobile shredder residue, cathode  
8 ray tubes, plastics, and tires; and

9 (E) incentives to recycle materials identi-  
10 fied by the Administrator that are not being re-  
11 cycled at a recycling facility.

12 (4) MANUFACTURING FACILITIES.—Not less  
13 than  $\frac{1}{3}$  of the funding provided to a State under  
14 this section shall be distributed by the State to eligi-  
15 ble manufacturing facilities as described in sub-  
16 section (c)(3) to be used exclusively to support recy-  
17 cling purposes, including to provide incentives for  
18 the demonstration or deployment of—

19 (A) manufacturing-related technology and  
20 equipment that would increase the use of recy-  
21 clable material and avoid or reduce greenhouse  
22 gas emissions;

23 (B) radiation detection equipment and the  
24 costs associated with recovery of detected radi-  
25 ated recyclable material;

1 (C) technologies that will detect and sepa-  
2 rate contaminants, including mercury-, lead-,  
3 and cadmium-containing devices;

4 (D) strategies and technologies to remove  
5 impediments to recovering recyclable material;  
6 and

7 (E) strategies and technologies to improve  
8 the energy efficiency of technology and equip-  
9 ment used to manufacture recyclable material.

10 (c) ELIGIBILITY REQUIREMENTS.—

11 (1) COUNTY AND MUNICIPALITY PROGRAMS.—  
12 Funds provided under subsection (b)(2) shall be pro-  
13 vided on a competitive basis to county and municipal  
14 recycling programs that—

15 (A) have within the solid waste manage-  
16 ment plans of the programs a recycling man-  
17 agement plan that includes an education out-  
18 reach program for the individuals and entities  
19 served by the program constituency that high-  
20 lights the lifecycle benefits of recycling; and

21 (B) collect at least 5 recyclable materials,  
22 such as—

23 (i) ferrous and nonferrous metal;

24 (ii) aluminum;

25 (iii) plastic;

- 1 (iv) tires and rubber;
- 2 (v) household electronic equipment;
- 3 (vi) glass;
- 4 (vii) scrap food;
- 5 (viii) recoverable fiber or paper; and
- 6 (ix) textiles;

7 (C) demonstrate, not later than 3 years  
8 after the date of receipt of funds under this  
9 subtitle, reasonable progress toward achieving—

10 (i) a collection rate goal of at least 30  
11 percent of the total recyclable materials  
12 available from the solid waste stream in  
13 the requesting State, county, or municipal  
14 program; or

15 (ii) a 10-percent increase of collected  
16 recyclable materials compared to the total  
17 solid waste stream in the requesting State,  
18 county, or municipal program;

19 (D)(i) own, operate, or contract to oper-  
20 ate—

21 (I) a curbside recyclables collection  
22 program;

23 (II) a redemption center or drop-off  
24 facility for recyclables; and

25 (III) a materials recovery facility; and

1           (ii) have in place a quality, environmental,  
2 health, and safety management system (such as  
3 that of the International Standards Organiza-  
4 tion or an equivalent) that includes goals to re-  
5 duce the operational carbon baselines of the  
6 programs; and

7           (E) have in effect a performance standard  
8 that gives a purchasing preference to products  
9 that are manufactured with quantities of recy-  
10 clable material that meet or exceed sizeable  
11 quantity and product standards as described in  
12 **【subsection (b)(2)】**.

13       (2) RECYCLING FACILITY.—Funds provided  
14 under subsection (b)(3) shall be provided on a com-  
15 petitive basis to a recycling facility that—

16           (A) processes recyclable material into com-  
17 mercial specification-grade commodities for use  
18 as raw material feed stock at recovery facilities,  
19 including for use as—

20               (i) a replacement or substitute for a  
21 virgin raw material; or

22               (ii) a replacement or substitute for a  
23 product made, in whole or in part, from a  
24 virgin raw material;

25           (B) has a verifiable carbon baseline; and

1 (C) has an environmental, health and safe-  
2 ty, and quality management system (such as  
3 that of the International Standards Organiza-  
4 tion or an equivalent) that includes goals to re-  
5 duce the operational carbon baseline of the re-  
6 cycling facility per unit of material processed.

7 (3) MANUFACTURING FACILITY.—Funds pro-  
8 vided under subsection (b)(4) shall be provided on a  
9 competitive basis to a manufacturing facility that—

10 (A) can report on a verifiable carbon base-  
11 line that is consistent with reporting require-  
12 ments **【**under section 713 of the Clean Air  
13 Act**】**; and

14 (B) has an environmental, health and safe-  
15 ty, and quality management system (such as  
16 that of the International Standards Organiza-  
17 tion or an equivalent) that includes goals to re-  
18 duce the operational carbon baseline of the  
19 manufacturing facility per unit of material  
20 processed.

21 (d) REPORTING.—Each State, county, or munici-  
22 pality receiving funding under this section shall include  
23 in the **【**biennial**】** reports required **【**under section  
24 \_\_\_\_\_**】**, in accordance with such requirements as the Ad-  
25 ministrator may prescribe—

1           (1) a list of entities receiving funding under  
2 this section, including entities receiving such funding  
3 from units of local government pursuant to sub-  
4 section (b)(2);

5           (2) the amount of funding received by each  
6 such recipient;

7           (3) the specific purposes for which the funding  
8 was conveyed to each such recipient; and

9           (4) documentation of the quantity of net recy-  
10 clable material that was collected and processed and  
11 greenhouse gas emissions that were reduced or  
12 avoided accordingly, through use of the funding,  
13 based on a lifecycle calculation developed by the Ad-  
14 ministrator.

15       (e) **METHODOLOGY AND DECISIONMAKING.**—The Ad-  
16 ministrator, as appropriate—

17           (1) shall develop and periodically update  
18 lifecycle methods to quantify the relationship be-  
19 tween waste management decisions, including recy-  
20 cling and waste reduction, greenhouse gas reduc-  
21 tions, and energy use reductions, for purposes that  
22 include—

23           (A) helping to support decisions under  
24 Federal, State, and municipal recycling and  
25 waste management programs, including—



1 (i) estimating greenhouse gas and en-  
2 ergy benefits of increasing collection or  
3 adding new materials to recycling pro-  
4 grams;

5 (ii) comparing the benefits of recy-  
6 cling and waste reduction to other green-  
7 house gas and energy use reduction strate-  
8 gies;

9 (iii) optimizing waste management  
10 strategies to maximize greenhouse gas re-  
11 ductions and energy use reductions; and

12 (iv) public education;

13 (B) designing products to optimize waste  
14 reduction and recycling opportunities and use of  
15 recycled materials in the manufacturing proc-  
16 ess; and

17 (C) supporting other analyses required  
18 under this Act;

19 (2) may collect data to support the development  
20 of the methods described in paragraph (1); and

21 (3) to improve national consistency and to fa-  
22 cilitate decisionmaking under this **【title】**, shall, in  
23 consultation with appropriate State and local rep-  
24 resentatives and municipal recycling programs, iden-  
25 tify best practices to promote improvement in, and

1 support State efforts in improving, municipal recy-  
2 cling and resource recovery programs.

3 **SEC. 155. SUPPLEMENTAL AGRICULTURE GREENHOUSE**  
4 **GAS REDUCTION AND RENEWABLE ENERGY**  
5 **PROGRAM.**

6 (a) AGRICULTURAL GREENHOUSE GAS REDUC-  
7 TIONS.—

8 (1) IN GENERAL.—The Secretary of Agriculture  
9 (referred to in this section as the “Secretary”) shall  
10 establish a Greenhouse Gas Reduction Incentives  
11 Program (referred to in this section as the “pro-  
12 gram”) to provide financial assistance to owners and  
13 operators of agricultural land (including land on  
14 which specialty crops are produced and private or  
15 public land used for grazing) and forest land for  
16 projects and activities that measurably increase car-  
17 bon sequestration or reduce greenhouse gas emis-  
18 sions.

19 (2) PRIORITY.—In carrying out the program,  
20 the Secretary shall give priority to projects or activi-  
21 ties that—

22 (A) reduce greenhouse gas emissions or se-  
23 quester carbon in agricultural operations where  
24 there are limited recognized opportunities to

1           achieve such emission reductions or sequestra-  
2           tion; and

3                   (B) reduce greenhouse gas emissions or in-  
4           crease sequestration of greenhouse gases, and  
5           achieve significant other environmental benefits,  
6           such as the improvements of water or air qual-  
7           ity.

8           (3) ELIGIBLE PROJECTS AND ACTIVITIES.—Eli-  
9           gible projects and payments shall include those  
10          that—

11                   (A) reflect the comparable amount that the  
12          owners or operators would receive in the offset  
13          market if not for compliance with environ-  
14          mental laws that preclude the owners and oper-  
15          ators from being eligible for receiving an offset  
16          credit under **【section 737 of the Clean Air Act】**  
17          *【If we're eliminating references to allowances/off-*  
18          *sets in division A, perhaps these references*  
19          *should be something like “a Federal law enacted*  
20          *for the purpose of regulating greenhouse gas*  
21          *emissions”?】*;

22                   (B) provide greenhouse gas emission bene-  
23          fits, but do not receive an offset credit under  
24          **【section 737 of the Clean Air Act】** or qualify  
25          for **【an early action allowance under section**

1           794 of that Act】 【receive an offset credit or  
2           qualify for an early action allowance under a  
3           Federal law enacted for the purpose of regu-  
4           lating greenhouse gas emissions?】， including  
5           projects and activities that provide an oppor-  
6           tunity to demonstrate and test new or uncertain  
7           methods to reduce or sequester emissions;

8           (C) reward early adopters, including pro-  
9           ducers that practice no-till agriculture, and en-  
10          sure that individuals and entities that took ac-  
11          tion prior to the implementation of 【the offset  
12          program under title VII of the Clean Air Act】  
13          【use language suggested above?】 are not placed  
14          at a competitive disadvantage, including giving  
15          special consideration to owners or operators lo-  
16          cated in jurisdictions with more stringent envi-  
17          ronmental laws (including regulations), compli-  
18          ance with which precludes the owners or opera-  
19          tors from participating such an offset market;

20          (D) prevent any conversion of land that  
21          would result in an increase of greenhouse gas  
22          emissions or a loss of carbon sequestration;

23          (E) provide incentives for supplemental  
24          greenhouse gas emission reductions on private  
25          forest land of the United States;

1 (F) prevent any conversion of land, includ-  
2 ing native grassland, native prairie, rangeland,  
3 cropland, or forested land, that would increase  
4 greenhouse gas emissions; or

5 (G) support action on Federal, State, or  
6 tribal land.

7 (4) REQUIREMENTS.—Financial incentives and  
8 support provided by the Secretary for a project or  
9 activity under this section shall, to the maximum ex-  
10 tent practicable—

11 (A) be directly proportional to the quantity  
12 and duration of greenhouse gas emissions re-  
13 duced or carbon sequestered (except with re-  
14 spect to projects and activities that provide ad-  
15 aptation benefits); and

16 (B) complement and leverage existing con-  
17 servation, forestry, and energy program expend-  
18 itures to provide measurable emission reduction  
19 and sequestration benefits that otherwise may  
20 not take place or continue to exist.

21 (5) ELIGIBILITY.—An owner or operator shall  
22 not be prohibited from participating in the program  
23 established under this section due to participation of  
24 the owner or operator in other Federal or State con-  
25 servation or agricultural assistance programs.

1           (6) FORMS OF ASSISTANCE.—The Secretary  
2           may use any of the following to provide assistance  
3           under this section:

4                   (A) Conservation easements.

5                   (B) Carbon sequestration and mitigation  
6           contracts between the owner or operator and  
7           the Secretary for the performance of projects or  
8           activities that reduce greenhouse gas emissions  
9           or sequester carbon.

10                  (C) Financial incentives through timber  
11           harvest contracts.

12                  (D) Financial incentives through grazing  
13           contracts.

14                  (E) Grants.

15                  (F) Such other forms of assistance as the  
16           Secretary determines to be appropriate.

17           (7) REVERSALS.—The Secretary shall specify  
18           methods to address intentional or unintentional re-  
19           versal of carbon sequestration or greenhouse gas  
20           emission reductions that occur during the term of a  
21           contract or easement under this section.

22           (8) ACCOUNTING SYSTEMS.—In carrying out  
23           this section, the Secretary shall develop and imple-  
24           ment—

1 (A) a national accounting system for car-  
2 bon stocks, sequestration, and greenhouse gas  
3 emissions that may be used to assess progress  
4 in implementing this section at a national level;  
5 and

6 (B) credible reporting and accounting sys-  
7 tems to ensure that incentives provided under  
8 this section are achieving stated objectives.

9 (9) PROGRAM MEASUREMENT, MONITORING,  
10 AND VERIFICATION.—The Secretary—

11 (A) shall establish and implement protocols  
12 that provide reasonable monitoring and  
13 verification of compliance with terms associated  
14 with assistance provided under this section, in-  
15 cluding field sampling of actual performance, to  
16 develop annual estimates of emission reductions  
17 achieved under the program;

18 (B) shall report annually to the Adminis-  
19 trator the total number of tons of carbon diox-  
20 ide sequestered or the total number of tons of  
21 emissions avoided through incentives provided  
22 under this section; and

23 (C) not later than 2 years after the date  
24 of enactment of this Act, and at least every 18  
25 months thereafter, submit to Congress and

1           make available to the public on the website of  
2           the Department of Agriculture a report that in-  
3           cludes—

4                   (i) an estimate of annual and cumu-  
5                   lative reductions generated through the  
6                   program under this section, determined  
7                   using standardized measures (including  
8                   economic efficiency); and

9                   (ii) a summary of any changes to the  
10                  program that will be made as a result of  
11                  program measurement, monitoring, and  
12                  verification conducted under **【this para-**  
13                  **graph】**.

14           **【(10) IN GENERAL.—**In developing regulations  
15           for climate mitigation contracts, the Secretary shall  
16           specify requirements in accordance with this section  
17           to address intentional or unintentional reversal of  
18           carbon sequestration during the contract period.**】**

19           (b) **RESEARCH PROGRAM.—**The Secretary shall es-  
20           tablish by rule a program to conduct research to develop  
21           additional projects and activities for crops to find addi-  
22           tional techniques and methods to reduce greenhouse gas  
23           emissions or sequester greenhouse gases that may or may  
24           not meet criteria for **【**offset credits established under title



1 VII of the Clean Air Act】 【a Federal law enacted for the  
2 purpose of regulating greenhouse gas emissions?】.

3 **SEC. 156. ECONOMIC DEVELOPMENT CLIMATE CHANGE**  
4 **FUND.**

5 (a) IN GENERAL.—Title II of the Public Works and  
6 Economic Development Act of 1965 (42 U.S.C. 3141 et  
7 seq.) is amended by adding at the end the following:

8 **“SEC. 219. ECONOMIC DEVELOPMENT CLIMATE CHANGE**  
9 **FUND.**

10 “(a) IN GENERAL.—On the application of an eligible  
11 recipient, the Secretary may provide technical assistance,  
12 make grants, enter into contracts, or otherwise provide  
13 amounts for projects—

14 “(1) to promote energy efficiency to enhance  
15 economic competitiveness;

16 “(2) to increase the use of renewable energy re-  
17 sources to support sustainable economic development  
18 and job growth;

19 “(3) to support the development of conventional  
20 energy resources to produce alternative transpor-  
21 tation fuels, electricity and heat;

22 “(4) to develop energy efficient or environ-  
23 mentally sustainable infrastructure;

24 “(5) to promote environmentally sustainable  
25 economic development practices and models;

1           “(6) to support development of energy effi-  
2           ciency and alternative energy development plans,  
3           studies or analysis, including enhancement of new  
4           and existing Comprehensive Economic Development  
5           Strategies funded under this Act; and

6           “(7) to supplement other Federal grants, loans,  
7           or loan guarantees for purposes described in para-  
8           graphs (1) through (6).

9           “(b) FEDERAL SHARE.—The Federal share of the  
10          cost of any project carried out under this section shall not  
11          exceed 80 percent, except that the Federal share of a Fed-  
12          eral grant, loan, or loan guarantee provided under sub-  
13          section (a)(7) may be 100 percent.

14          “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
15          is authorized to be appropriated to carry out this section  
16          \$50,000,000 for each of fiscal years 2009 through 2013,  
17          to remain available until expended.”.

18          (b) CONFORMING AMENDMENT.—The table of con-  
19          tents contained in section 1(b) of the Public Works and  
20          Economic Development Act of 1965 (42 U.S.C. 3141 et  
21          seq.) is amended by inserting after the item relating to sec-  
22          tion 218 the following:

“Sec. 219. Economic Development Climate Change Fund.”.

1 **SEC. 157. STUDY OF RISK-BASED PROGRAMS ADDRESSING**  
2 **VULNERABLE AREAS.**

3 (a) IN GENERAL.—The Administrator, or the heads  
4 of such other Federal agencies as the President may des-  
5 ignate, shall conduct a study and, not later than 2 years  
6 after the date of enactment of this Act, submit to Con-  
7 gress a report regarding risk-based policies and programs  
8 addressing vulnerable areas.

9 (b) REQUIREMENTS.—The report shall

10 (1) review and assess Federal predisaster miti-  
11 gation, emergency response, and flood insurance  
12 policies and programs that affect areas vulnerable to  
13 the impacts of climate change;

14 (2) describe strategies for better addressing  
15 such vulnerabilities and provide implementation rec-  
16 ommendations;

17 (3) assess whether the policies and programs  
18 described in paragraph (1) support the State re-  
19 sponse and adaptation goals and objectives identified  
20 in [section \_\_\_\_\_];

21 (4) identify, and make recommendations to re-  
22 solve, inconsistencies in Federal policies and pro-  
23 grams in effect as of the date of enactment of this  
24 Act that address areas vulnerable to climate change;  
25 and

1           (5) identify annual cost savings to the Federal  
2           Government associated with the implementation of  
3           the strategies and recommendations contained in the  
4           report.

## 5       **Subtitle F—Energy Efficiency and** 6       **Renewable Energy**

### 7       **SEC. 161. RENEWABLE ENERGY.**

8           (a) DEFINITIONS.—In this section:

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

17          (2) RENEWABLE PORTFOLIO STANDARD.—The  
18          term “‘renewable portfolio standard’” means a state  
19          statute that requires electricity providers to obtain a  
20          minimum percentage of their power from renewable  
21          energy resources by a certain date.

22          (b) GRANTS.—The Administrator, in consultation  
23          with the Secretaries of Energy, Interior, and Agriculture,  
24          may provide grants for projects to increase the quantity

1 of energy a State uses from renewable sources under State  
2 renewable portfolio standard laws.

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

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

10 (2) submitted by State and local governments,  
11 Indian tribes, public utilities, or regional energy co-  
12 operatives from states with nonbinding goals for  
13 adoption of renewable energy requirements.

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

16 (1) submitted by States with a binding renew-  
17 able portfolio standard;

18 (2) cost-effective in achieving greater renewable  
19 energy production in each State.

20 (e) CERTIFICATION.—

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

1           (2) CERTIFICATION.—The Governor shall cer-  
2           tify in writing within 30 days of receipt of the Ad-  
3           ministrator’s notification described in subsection (1)  
4           that the project application—

5                   (A) will assist the State in reaching renew-  
6                   able portfolio standard targets under applicable  
7                   state laws; and

8                   (B) has secured non-Federal funding  
9                   sources that, in conjunction with the requested  
10                  grant amount, will be sufficient to complete the  
11                  renewable energy project.

12          (f) RULEMAKING.—

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

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

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

24                   (B) begin accepting project applications for  
25                   review.

1 (g) REPORTING.—Not later than 180 days after the  
2 date of enactment of this Act, and every 180 days there-  
3 after, the Administrator shall submit to the Committee on  
4 Energy and Commerce of the House of Representatives  
5 and the Committee on Environment and Public Works of  
6 the Senate a report specifying, with respect to the pro-  
7 gram under this section—

8 (1) the project applications received;

9 (2) the project applications approved;

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

11 and

12 (4) the cumulative benefits of the grant pro-  
13 gram.

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

18 (i) AUTHORIZATION.—There are authorized to be ap-  
19 propriated such sums as are necessary to carry out this  
20 section.

21 **SEC. 162. ADVANCED BIOFUELS.**

22 (a) DEFINITIONS.—In this section:

23 (1) ADVANCED BIOFUEL.—The term “advanced  
24 biofuel” shall have such meaning as is given the

1 term by the Administrator in regulations promul-  
2 gated under subsection (c).

3 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
4 ty” means an individual, corporate entity, unit of  
5 State or local government, Indian tribe, farm cooper-  
6 ative, institution of higher learning, rural electric co-  
7 operative, or public utility.

8 (b) GRANTS.—The Administrator, in consultation  
9 with the Secretary of Agriculture and the Secretary of En-  
10 ergy, may provide grants to support research and develop-  
11 ment of advanced biofuels.

12 (c) REGULATIONS.—

13 (1) IN GENERAL.—Not later than 18 months  
14 after the date of enactment of this Act, the Adminis-  
15 trator shall promulgate regulations to carry out this  
16 section (including a definition of the term “advanced  
17 biofuel” for the purpose of providing assistance  
18 under this section).

19 (2) REQUIREMENTS.—The regulations promul-  
20 gated under paragraph (1) shall—

21 (A) provide that the Administrator shall  
22 make grants available to eligible entities to sup-  
23 port—

24 (i) research regarding the production  
25 of advanced biofuels;



1 (ii) the development of new advanced  
2 biofuel production and capacity-building  
3 technologies;

4 (iii) the development and construction  
5 of commercial-scale advanced biofuel pro-  
6 duction facilities; and

7 (iv) the expanded production of ad-  
8 vanced biofuels;

9 (B) provide that, to receive a grant under  
10 this section, an eligible entity shall submit to  
11 the Administrator—

12 (i) a project proposal with detailed  
13 project information, as determined by the  
14 Administrator; and

15 (ii) such records as the Administrator  
16 may require as evidence of the production  
17 of advanced biofuels or the importance and  
18 necessity of advanced biofuels research and  
19 new technologies; and

20 (C) include appropriate cost-sharing re-  
21 quirements developed by the Administrator for  
22 grant awards for authorized uses of funds  
23 under this section.

24 (3) PRIORITY.—The Administrator shall give  
25 priority to eligible entities based on—

- 1 (A) technical and economic feasibility of a  
2 project proposal;
- 3 (B) cost-effectiveness of a project proposal;
- 4 (C) the use of innovative technologies in a  
5 project proposal;
- 6 (D) the availability of non-Federal re-  
7 sources, including private resources, to fund the  
8 project proposal; and
- 9 (E) whether the project proposed can be  
10 replicated.

11 **SEC. 163. ENERGY EFFICIENCY IN BUILDING CODES.**

12 (a) ENERGY EFFICIENCY TARGETS.—

13 (1) RULEMAKING TO ESTABLISH TARGETS.—

14 The Administrator, or such other agency head or  
15 heads as may be designated by the President, in  
16 consultation with the Director of the National Insti-  
17 tute of Standards and Technology, shall promulgate  
18 regulations establishing building code energy effi-  
19 ciency targets for the national average percentage  
20 improvement of buildings' energy performance. Such  
21 regulations shall establish a national building code  
22 energy efficiency target for residential buildings and  
23 commercial buildings when built to a code meeting  
24 the target, beginning not later than January 1, 2014

1 and applicable each calendar year through December  
2 31, 2030.

3 (b) NATIONAL ENERGY EFFICIENCY BUILDING  
4 CODES.—

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

16 (c) ANNUAL REPORTS.—The Administrator, or such  
17 other agency head or heads as may be designated by the  
18 President, shall annually submit to Congress, and publish  
19 in the Federal Register, a report on—

20 (1) the status of national energy efficiency  
21 building codes;

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

24 (3) the implementation of and compliance with  
25 regulations promulgated under this section;

1 (4) the status of Federal and State enforcement  
2 of building codes; and

3 (5) impacts of action under this section, and  
4 potential impacts of further action, on lifetime en-  
5 ergy use by buildings, including resulting energy and  
6 cost savings.

7 **SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL**  
8 **PERFORMANCE.**

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

10 (1) ASSISTED HOUSING.—The term “assisted  
11 housing” means those properties receiving project-  
12 based assistance pursuant to section 202 of the  
13 Housing Act of 1959 (12 U.S.C. 1701q), section  
14 811 of the Cranston-Gonzalez National Affordable  
15 Housing Act (42 U.S.C. 8013), section 8 of the  
16 United States Housing Act of 1937 (42 U.S.C.  
17 1437f), or similar programs.

18 (2) NONRESIDENTIAL BUILDING.—The term  
19 “nonresidential building” means a building with a  
20 primary use or purpose other than residential hous-  
21 ing, including any building used for commercial of-  
22 fices, schools, academic and other public and private  
23 institutions, nonprofit organizations including faith-  
24 based organizations, hospitals, hotels, and other non-  
25 residential purposes. Such buildings shall include

1 mixed-use properties used for both residential and  
2 nonresidential purposes in which more than half of  
3 building floor space is nonresidential.

4 (3) PERFORMANCE-BASED BUILDING RETROFIT  
5 PROGRAM.—The term “performance-based building  
6 retrofit program” means a program that determines  
7 building energy efficiency success based on actual  
8 measured savings after a retrofit is complete, as evi-  
9 denced by energy invoices or evaluation protocols.

10 (4) PRESCRIPTIVE BUILDING RETROFIT PRO-  
11 GRAM.—The term “prescriptive building retrofit pro-  
12 gram” means a program that projects building ret-  
13 rofit energy efficiency success based on the known  
14 effectiveness of measures prescribed to be included  
15 in a retrofit.

16 (5) PUBLIC HOUSING.—The term “public hous-  
17 ing” means properties receiving assistance under  
18 section 9 of the United States Housing Act of 1937  
19 (42 U.S.C. 1437g).

20 (6) RECOMMISSIONING;  
21 RETROCOMMISSIONING.—The terms “recommis-  
22 sioning” and “retrocommissioning” have the mean-  
23 ing given those terms in section 543(f)(1) of the Na-  
24 tional Energy Conservation Policy Act (42 U.S.C.  
25 8253(f)(1)).

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

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

16          (b) ESTABLISHMENT.—The Administrator shall de-  
17          velop and implement, in consultation with the Secretary  
18          of Energy, standards for a national energy and environ-  
19          mental building retrofit policy for single-family and multi-  
20          family residences. The Administrator shall develop and  
21          implement, in consultation with the Secretary of Energy  
22          and the Director of Commercial High-Performance Green  
23          Buildings, standards for a national energy and environ-  
24          mental building retrofit policy for nonresidential buildings.  
25          The programs to implement the residential and nonresi-

1 denial policies based on the standards developed under  
2 this section shall together be known as the Retrofit for  
3 Energy and Environmental Performance (REEP) pro-  
4 gram.

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

10 (d) FEDERAL ADMINISTRATION.—

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

13 (A) the Administrator shall make appro-  
14 priate use of existing programs, including the  
15 Energy Star program and in particular the En-  
16 vironmental Protection Agency Energy Star for  
17 Buildings program; and

18 (B) the Administrator shall consult with  
19 the Secretary of Energy regarding appropriate  
20 use of existing programs, including delegating  
21 authority to the Director of Commercial High-  
22 Performance Green Buildings appointed under  
23 section 421 of the Energy Independence and  
24 Security Act of 2007 (42 U.S.C. 17081).

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

22           (3) ASSISTANCE.—The Administrator shall pro-  
23 vide consultation and assistance to State and local  
24 agencies for the establishment of revolving loan



1 funds, loan guarantees, or other forms of financial  
2 assistance under this section.

3 (e) STATE AND LOCAL ADMINISTRATION.—

4 (1) DESIGNATION AND DELEGATION.—A State  
5 may designate one or more agencies or entities, in-  
6 cluding those regulated by the State, to carry out  
7 the purposes of this section, but shall designate one  
8 entity or individual as the principal point of contact  
9 for the Administrator regarding the REEP Pro-  
10 gram. The designated State agency, agencies, or en-  
11 tities may delegate performance of appropriate ele-  
12 ments of the REEP program, upon their request  
13 and subject to State law, to counties, municipalities,  
14 appropriate public agencies, and other divisions of  
15 local government, as well as to entities regulated by  
16 the State. In making any such designation or delega-  
17 tion, a State shall give priority to entities that ad-  
18 minister existing comprehensive retrofit programs,  
19 including those under the supervision of State utility  
20 regulators. States shall maintain responsibility for  
21 meeting the standards and requirements of the  
22 REEP program. In any State that elects not to ad-  
23 minister the REEP program, a unit of local govern-  
24 ment may propose to do so within its jurisdiction,  
25 and if the Administrator finds that such local gov-

1       ernment is capable of administering the program,  
2       the Administrator may provide assistance to that  
3       local government, prorated according to the popu-  
4       lation of the local jurisdiction relative to the popu-  
5       lation of the State, for purposes of the REEP pro-  
6       gram.

7               (2) EMPLOYMENT.—States and local govern-  
8       ment entities may administer a REEP program in  
9       a manner that authorizes public or regulated inves-  
10      tor-owned utilities, building auditors and inspectors,  
11      contractors, nonprofit organizations, for-profit com-  
12      panies, and other entities to perform audits and ret-  
13      rofit services under this section. A State may pro-  
14      vide incentives for retrofits without direct participa-  
15      tion by the State or its agents, so long as the result-  
16      ing savings are measured and verified. A State or  
17      local administrator of a REEP program shall seek  
18      to ensure that sufficient qualified entities are avail-  
19      able to support retrofit activities so that building  
20      owners have a competitive choice among qualified  
21      auditors, raters, contractors, and providers of serv-  
22      ices related to retrofits. Nothing in this section is in-  
23      tended to deny the right of a building owner to  
24      choose the specific providers of retrofit services to  
25      engage for a retrofit project in that owner's building.

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

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

16               (1) Residential Energy Services Network  
17               (RESNET) or Building Performance Institute  
18               (BPI) analyst certification of residential building en-  
19               ergy and environment auditors, inspectors, and rat-  
20               ers, or an equivalent certification system as deter-  
21               mined by the Administrator.

22               (2) BPI certification or licensing by States of  
23               residential building energy and environmental ret-  
24               rofit contractors, or an equivalent certification or li-  
25               censing system as determined by the Administrator.

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

8           (4) Provision of clear and effective materials to  
9           describe the testing and retrofit processes for typical  
10          buildings.

11          (5) Guidelines for offering and managing pre-  
12          scriptive building retrofit programs and perform-  
13          ance-based building retrofit programs for residential  
14          and nonresidential buildings.

15          (6) Guidelines for applying recommissioning  
16          and retrocommissioning principles to improve a  
17          building's operations and maintenance procedures.

18          (7) A requirement that building retrofits con-  
19          ducted pursuant to a REEP program utilize, espe-  
20          cially in all air-conditioned buildings, roofing mate-  
21          rials with high solar energy reflectance, unless inap-  
22          propriate due to green roof management, solar en-  
23          ergy production, or for other reasons identified by  
24          the Administrator, in order to reduce energy con-  
25          sumption within the building, increase the albedo of

1 the building's roof, and decrease the heat island ef-  
2 fect in the area of the building, without reduction of  
3 otherwise applicable ceiling insulation standards.

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

6 (A) for residential buildings, comparison of  
7 before and after retrofit scores on the Home  
8 Energy Rating System (HERS) Index, where  
9 the final score is produced by an objective third  
10 party;

11 (B) for nonresidential buildings, Environ-  
12 mental Protection Agency Portfolio Manager  
13 benchmarks; or

14 (C) for either residential or nonresidential  
15 buildings, use of an Administrator-approved  
16 simulation program by a contractor with the  
17 appropriate certification, subject to appropriate  
18 software standards and verification of at least  
19 15 percent of all work done, or such other per-  
20 centage as the Administrator may determine.

21 (9) Guidelines for utilizing the Energy Star  
22 Portfolio Manager, the Home Energy Rating System  
23 (HERS) rating system, Home Performance with En-  
24 ergy Star program approvals, and any other tools  
25 associated with the retrofit program.

1           (10) Requirements and guidelines for post-ret-  
2           rofit inspection and confirmation of work and energy  
3           savings.

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

8           (12) Guidance on opportunities for—

9                 (A) rating or certifying retrofitted build-  
10                ings as Energy Star buildings, or as green  
11                buildings under a recognized green building rat-  
12                ing system;

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

15               (C) completing any applicable building per-  
16                formance labels.

17           (13) Sample materials for publicizing the pro-  
18           gram to building owners, including public service an-  
19           nouncements and advertisements.

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

1 (g) REQUIREMENTS.—As a condition of receiving as-  
2 sistance for the REEP program pursuant to this Act, a  
3 State or qualifying local government shall—

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

13 (2) establish fiscal controls and accounting pro-  
14 cedures (which conform to generally accepted gov-  
15 ernment accounting principles) sufficient to ensure  
16 proper accounting during appropriate accounting pe-  
17 riods for payments received and disbursements, and  
18 for fund balances; and

19 (3) agree to make not less than 10 percent of  
20 assistance received pursuant to **【section 132(c)(2)】**  
21 for dedicated funding of its REEP program avail-  
22 able on a preferential basis for retrofit projects pro-  
23 posed for public housing and assisted housing, pro-  
24 vided that—

1 (A) none of such funds shall be used for  
2 demolition of such housing;

3 (B) such retrofits not shall not be used to  
4 justify any increase in rents charged to resi-  
5 dents of such housing; and

6 (C) owners of such housing shall agree to  
7 continue to provide affordable housing con-  
8 sistent with the provisions of the authorizing  
9 legislation governing each program for an addi-  
10 tional period commensurate with the funding  
11 received.

12 (4) the Administrator shall conduct or require  
13 each State to have such independent financial audits  
14 of REEP-related funding as the Administrator con-  
15 siders necessary or appropriate to carry out the pur-  
16 poses of this section.

17 (h) OPTIONS TO SUPPORT REEP PROGRAM.—The as-  
18 sistance provided **【under this section】** shall support the  
19 implementation through State REEP programs of alter-  
20 nate means of creating incentives for, or reducing financial  
21 barriers to, improved energy and environmental perform-  
22 ance in buildings, consistent with this section, including—

23 (1) implementing prescriptive building retrofit  
24 programs and performance-based building retrofit  
25 programs;



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

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

8           (4) providing funds to support utility-operated  
9           retrofit programs with repayments over time  
10          through utility rates, calibrated to create net positive  
11          cash flow to the building owner, and transferable  
12          from one building owner to the next with the build-  
13          ing's utility services;

14          (5) providing funds to local government pro-  
15          grams to provide REEP services and financial as-  
16          sistance; and

17          (6) other means proposed by State and local  
18          agencies, subject to the approval of the Adminis-  
19          trator.

20          (i) SUPPORT FOR PROGRAM.—

21           (1) INITIAL AWARD LIMITS.—Except as pro-  
22           vided in paragraph (2), State and local REEP pro-  
23           grams may make per-building direct expenditures  
24           for retrofit improvements, or their equivalent in indi-  
25           rect or other forms of financial support, from funds

1       made available to carry out this section, in amounts  
2       not to exceed the following amounts per unit:

3               (A) RESIDENTIAL BUILDING PROGRAM.—

4                   (i) AWARDS.—For residential build-  
5                   ings—

6                           (I) support for a free or low-cost  
7                           detailed building energy audit that  
8                           prescribes measures sufficient to  
9                           achieve at least a 20 percent reduc-  
10                           tion in energy use, by providing an in-  
11                           centive equal to the documented cost  
12                           of such audit, but not more than  
13                           \$200, in addition to any earned by  
14                           achieving a 20 percent or greater effi-  
15                           ciency improvement;

16                           (II) a total of \$1,000 for a com-  
17                           bination of measures, prescribed in an  
18                           audit conducted under subclause (I),  
19                           designed to reduce energy consump-  
20                           tion by more than 10 percent, and  
21                           \$2,000 for a combination of measures  
22                           prescribed in such an audit, designed  
23                           to reduce energy consumption by more  
24                           than 20 percent;

1 (III) \$3,000 for demonstrated  
2 savings of 20 percent, pursuant to a  
3 performance-based building retrofit  
4 program; and

5 (IV) \$1,000 for each additional 5  
6 percentage points of energy savings  
7 achieved beyond savings for which  
8 funding is provided under subclause  
9 (II) or (III).

10 Funding shall not be provided under  
11 clauses (II) and (III) for the same energy  
12 savings.

13 (ii) MAXIMUM PERCENTAGE.—Awards  
14 under clause (i) shall not exceed 50 per-  
15 cent of retrofit costs for each building. For  
16 buildings with multiple residential units,  
17 awards under clause (i) shall not be great-  
18 er than 50 percent of the total cost of ret-  
19 rofitting the building, prorated among indi-  
20 vidual residential units on the basis of rel-  
21 ative costs of the retrofit. In the case of  
22 public housing and assisted housing, the  
23 50 percent contribution matching the con-  
24 tribution from REEP program funds may



1 ing measures sufficient to achieve at  
2 least a 20 percent reduction in energy  
3 use, by providing an incentive equal to  
4 the documented cost of such audit,  
5 but not more than \$500, in addition  
6 to any award earned by achieving a  
7 20 percent or greater efficiency im-  
8 provement;

9 (II) \$0.15 per square foot of ret-  
10 rofit area for demonstrated energy use  
11 reductions from 20 percent to 30 per-  
12 cent;

13 (III) \$0.75 per square foot for  
14 demonstrated energy use reductions  
15 from 30 percent to 40 percent;

16 (IV) \$1.60 per square foot for  
17 demonstrated energy use reductions  
18 from 40 percent to 50 percent; and

19 (V) \$2.50 per square foot for  
20 demonstrated energy use reductions  
21 exceeding 50 percent.

22 (ii) MAXIMUM PERCENTAGE.—  
23 Amounts provided under subclauses (II)  
24 through (V) of clause (i) combined shall  
25 not exceed 50 percent of the total retrofit

1 cost of a building. In nonresidential build-  
2 ings with multiple units, such awards shall  
3 be prorated among individual units on the  
4 basis of relative costs of the retrofit.

5 (iii) ADDITIONAL AWARDS.—Addi-  
6 tional awards may be provided, for build-  
7 ings achieving at least 20 percent energy  
8 savings using funding provided under  
9 clause (i), as follows:

10 (I) WATER.—For purposes of in-  
11 creasing energy efficiency, grants may  
12 be made for whole building potable  
13 water use reduction (using an appro-  
14 priate method approved by the Ad-  
15 ministrator) for up to 50 percent of  
16 the total retrofit cost, including  
17 amounts up to—

18 (aa) \$24.00 per thousand  
19 gallons per year of potable water  
20 savings of 40 percent or more;

21 (bb) \$27.00 per thousand  
22 gallons per year of potable water  
23 savings of 50 percent or more;  
24 and

1 (cc) \$30.00 per thousand  
2 gallons per year of potable water  
3 savings of 60 percent or more.

4 (II) ENVIRONMENTAL IMPROVE-  
5 MENTS.—Additional awards of up to  
6 \$1,000 may be granted for the inclu-  
7 sion of other environmental attributes  
8 that the Administrator, in consulta-  
9 tion with the Secretary, identifies as  
10 contributing to energy efficiency. Such  
11 attributes may include, but are not  
12 limited to waste diversion and the use  
13 of environmentally preferable mate-  
14 rials (including salvaged, renewable,  
15 or recycled materials, and materials  
16 with no or low-VOC content). The Ad-  
17 ministrator may recommend that  
18 States develop such standards as are  
19 necessary to account for local or re-  
20 gional conditions that may affect the  
21 feasibility or availability of identified  
22 resources and attributes.

23 (iv) INDOOR AIR QUALITY MINIMUM.—  
24 Nonresidential buildings receiving incen-  
25 tives under this section must satisfy at a

1           minimum the most recent version of  
2           ASHRAE Standard 62.1 for ventilation, or  
3           the equivalent as determined by the Ad-  
4           ministrator. A State may issue a waiver  
5           from this requirement to a building project  
6           on a showing that such compliance is in-  
7           feasible due to the physical constraints of  
8           the building's existing ventilation system,  
9           or such other limitations as may be speci-  
10          fied by the Administrator.

11           (C) DISASTER DAMAGED BUILDINGS.—Any  
12          source of funds, including Federal funds pro-  
13          vided through the Robert T. Stafford Disaster  
14          Relief and Emergency Assistance Act, shall  
15          qualify as the building owner's 50 percent con-  
16          tribution, in order to match the contribution of  
17          REEP funds, so long as the REEP funds are  
18          only used to improve the energy efficiency of  
19          the buildings being reconstructed. In addition,  
20          the appropriate Federal agencies providing as-  
21          sistance to building owners through the Robert  
22          T. Stafford Disaster Relief and Emergency As-  
23          sistance Act shall make information available,  
24          following a disaster, to building owners rebuild-  
25          ing disaster damaged buildings with assistance



1 from the Act, that REEP funds may be used  
2 for energy efficiency improvements.

3 (D) HISTORIC BUILDINGS.—Notwith-  
4 standing subparagraphs (A) and (B), a building  
5 in or eligible for the National Register of His-  
6 toric Places shall be eligible for awards under  
7 this paragraph in amounts up to 120 percent of  
8 the amounts set forth in subparagraphs (A) and  
9 (B).

10 (E) SUPPLEMENTAL SUPPORT.—State and  
11 local governments may supplement the per-  
12 building expenditures under this paragraph  
13 with funding from other sources.

14 (2) ADJUSTMENT.—The Administrator may ad-  
15 just the specific dollar amounts provided under para-  
16 graph (1) in years subsequent to the second year  
17 after the date of enactment of this Act, and every  
18 2 years thereafter, as the Administrator determines  
19 necessary to achieve optimum cost-effectiveness and  
20 to maximize incentives to achieve energy efficiency  
21 within the total building award amounts provided in  
22 that paragraph, and shall publish and hold constant  
23 such revised limits for at least 2 years.

24 (j) REPORT TO CONGRESS.—The Administrator shall  
25 conduct an annual assessment of the achievements of the

1 REEP program in each State, shall prepare an annual re-  
2 port of such achievements and any recommendations for  
3 program modifications, and shall provide such report to  
4 Congress at the end of each fiscal year during which fund-  
5 ing or other resources were made available to the States  
6 for the REEP Program.

7 **Subtitle G—Emission Reductions**  
8 **From Public Transportation Ve-**  
9 **hicles**

10 **SEC. 171. SHORT TITLE.**

11 This subtitle may be cited as the “Green Taxis Act  
12 of 2009”.

13 **SEC. 172. STATE FUEL ECONOMY REGULATION FOR TAXI-**  
14 **CABS.**

15 Section 32919 of title 49, United States Code, is  
16 amended by adding at the end the following new sub-  
17 section:

18 “(d) TAXICABS.—Notwithstanding subsection (a), a  
19 State or political subdivision of a State may prescribe re-  
20 quirements for fuel economy for taxicabs and other auto-  
21 mobiles if such requirements are at least as stringent as  
22 applicable Federal requirements and if such taxicabs and  
23 other automobiles—

1           “(1) are automobiles that are capable of trans-  
2           porting not more than 10 individuals, including the  
3           driver;

4           “(2) are commercially available or are designed  
5           and manufactured pursuant to a contract with such  
6           State or political subdivision of such State;

7           “(3) are operated for hire pursuant to an oper-  
8           ating or regulatory license, permit, or other author-  
9           ization issued by such State or political subdivision  
10          of such State;

11          “(4) provide local transportation for a fare de-  
12          termined on the basis of the time or distance trav-  
13          eled or a combination of time and distance traveled;  
14          and

15          “(5) do not exclusively provide transportation to  
16          and from airports.”.

17 **SEC. 173. STATE REGULATION OF MOTOR VEHICLE EMIS-**  
18 **SIONS FOR TAXICABS.**

19          Section 209 of the Clean Air Act (42 U.S.C. 7543)  
20 is amended by adding at the end the following new sub-  
21 section:

22          “(f) TAXICABS.—(1) Notwithstanding subsection (a),  
23 a State or political subdivision thereof may adopt and en-  
24 force standards for the control of emissions from new  
25 motor vehicles that are taxicabs and other vehicles if such

1 standards will be, in the aggregate, at least as protective  
2 of public health and welfare as applicable Federal stand-  
3 ards and if such taxicabs and other vehicles—

4           “(A) are passenger motor vehicles that are  
5           capable of transporting not more than 10 indi-  
6           viduals, including the driver;

7           “(B) are commercially available or are de-  
8           signed and manufactured pursuant to a con-  
9           tract with such State or political subdivision  
10          thereof;

11          “(C) are operated for hire pursuant to an  
12          operating or regulatory license, permit, or other  
13          authorization issued by such State or political  
14          subdivision thereof;

15          “(D) provide local transportation for a fare  
16          determined on the basis of the time or distance  
17          traveled or a combination of time and distance  
18          traveled; and

19          “(E) do not exclusively provide transpor-  
20          tation to and from airports.

21          “(2) If each standard of a State or political subdivi-  
22          sion thereof is at least as stringent as the comparable ap-  
23          plicable Federal standard, such standard of such State or  
24          political subdivision thereof shall be deemed at least as

1 protective of health and welfare as such Federal standards  
2 for purposes of this subsection.”.

3 **Subtitle H—Clean Energy and**  
4 **Natural Gas**

5 **SEC. 181. CLEAN ENERGY AND ACCELERATED EMISSION**  
6 **REDUCTION PROGRAM.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—The Administrator shall es-  
9 tablish a program to promote dispatchable power  
10 generation projects that can accelerate the reduction  
11 of power sector carbon dioxide and other greenhouse  
12 gas emissions.

13 (2) USE OF FUNDS.—Funds provided under  
14 this section shall be used by the Administrator to  
15 make incentive payments to owners or operators of  
16 eligible projects.

17 (b) REGULATIONS.—Not later than 90 days after the  
18 date of enactment of this Act, the Administrator shall pro-  
19 mulgate regulations providing for incentives, pursuant to  
20 the requirements of this section.

21 (c) GOAL.—Not later than 3 years after the date of  
22 enactment of this Act, the Administrator shall provide in-  
23 centives for eligible projects that generate 300,000  
24 gigawatt-hours of electricity per year.

1 (d) CRITERIA FOR ELIGIBLE PROJECTS.—To be eli-  
2 gible for funding under this section a project must—

3 (1)(A) 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 (B) after calendar year 2015, reduce emissions  
8 by at least 50 percent below the 2007 average green-  
9 house gas emissions per megawatt-hour of the  
10 United States electric power sector; and

11 (2) not receive an investment or production tax credit  
12 in—

13 (A) the year in which the project is placed in  
14 service; or

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

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

19 (1) Power generation projects that replace or  
20 retire power units with emission rates that exceed  
21 the 2007 average greenhouse gas emissions per  
22 megawatt-hour of the United States electric power  
23 sector.

1           (2) Power generation projects designed to inte-  
2           grate intermittent renewable power into the bulk-  
3           power system.

4           (3) Energy storage projects used to support re-  
5           newable energy.

6           (4) Power generation projects with carbon cap-  
7           ture and sequestration that are not eligible under  
8           **【section 124】**.

9           (5) Projects that achieve the greatest reduction  
10          in greenhouse gas emissions per dollar of incentive  
11          payment.

12          (f) **EMISSION REDUCTION CRITERIA.**—For the pur-  
13          poses of subsection (d), the applicable emission reduction  
14          quantity shall be determined in accordance with the fol-  
15          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

16          (g) **AUTHORIZATION OF APPROPRIATIONS.**—There  
17          are authorized to be appropriated to the Administrator  
18          such sums as are necessary to carry out this section for  
19          each of fiscal years 2010 through 2030.

20          **SEC. 182. ADVANCED NATURAL GAS TECHNOLOGIES.**

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

22                 (1) **CORPORATION.**—

## 200

1 (A) IN GENERAL.—The term “corpora-  
2 tion” means any corporation, joint-stock com-  
3 pany, partnership, limited liability company, as-  
4 sociation, business trust, or other organized  
5 group of persons, regardless of incorporation.

6 (B) EXCLUSION.—The term “corporation”  
7 does not include a municipality.

8 (2) ELIGIBLE ENTITY.—

9 (A) IN GENERAL.—The term “eligible enti-  
10 ty” means an entity that is eligible to receive a  
11 grant under subsection (b).

12 (B) INCLUSIONS.—The term “eligible enti-  
13 ty” includes a corporation, an eligible research  
14 entity, an industry entity, a municipality, a mu-  
15 nicipal natural gas distribution system, and a  
16 natural gas distribution company.

17 (3) ELIGIBLE RESEARCH ENTITY.—

18 (A) IN GENERAL.—The term “eligible re-  
19 search entity” means an entity that is experi-  
20 enced in planning, conducting, and imple-  
21 menting natural gas research, development,  
22 demonstration, and deployment projects.

23 (B) INCLUSIONS.—The term “eligible re-  
24 search entity” includes a research institution  
25 and an institution of higher education.



1 (4) INDUSTRY ENTITY.—

2 (A) IN GENERAL.—The term “industry en-  
3 tity” means the persons and municipalities col-  
4 lectively engaged in the delivery of natural gas  
5 for consumption in the United States (such as  
6 natural gas distribution companies and munic-  
7 ipal natural gas distribution systems).

8 (B) EXCLUSION.—The term “industry en-  
9 tity” does not include any natural gas cus-  
10 tomer.

11 (5) MUNICIPALITY.—The term “municipality”  
12 means a city, county, or other political subdivision or  
13 agency of a State.

14 (6) MUNICIPAL NATURAL GAS DISTRIBUTION  
15 SYSTEM.—The term “municipal natural gas distribu-  
16 tion system” means a municipality engaged in the  
17 business of delivering natural gas for consumption to  
18 residential, commercial, industrial, and other natural  
19 gas customers.

20 (7) NATURAL GAS.—

21 (A) IN GENERAL.—The term “natural  
22 gas” means a mixture of hydrocarbon and non-  
23 hydrocarbon gases, primarily methane, that  
24 have been produced from geological formations  
25 or by any other means.

1 (B) INCLUSION.—The term “natural gas”  
2 includes renewable biogas.

3 (8) NATURAL GAS DISTRIBUTION COMPANY.—  
4 The term “natural gas distribution company” means  
5 a person engaged in the business of distributing nat-  
6 ural gas for consumption to residential, commercial,  
7 industrial, or other natural gas customers.

8 (b) GRANT PROGRAMS.—

9 (1) NATURAL GAS ELECTRICITY GENERATION  
10 GRANTS.—The Administrator, in consultation with  
11 Secretary of Energy, may provide **【to eligible enti-**  
12 **ties?】** research and development grants to support  
13 the deployment of low greenhouse-gas-emitting end-  
14 use technologies, including carbon capture and se-  
15 questration technologies, for natural gas electricity  
16 generation.

17 (2) NATURAL GAS RESIDENTIAL AND COMMER-  
18 CIAL TECHNOLOGY GRANTS.—The Administrator  
19 shall establish a program to provide to eligible enti-  
20 ties grants to advance the commercial demonstration  
21 or early development of low greenhouse-gas-emitting  
22 end-use technologies fueled by natural gas, including  
23 carbon capture and storage, for residential and com-  
24 mercial purposes, through research, development,

1 demonstration, and deployment of those tech-  
2 nologies.

3 (c) REPORTING.—Not later than 180 days after the  
4 date of enactment of this Act, and every 180 days there-  
5 after, the Secretary of Energy shall submit to the Com-  
6 mittee on Energy and Commerce of the House of Rep-  
7 resentatives and the Senate Committees on Energy and  
8 Natural Resources and Environment and Public Works of  
9 the Senate a report that describes the status and results  
10 of activities carried out under subsection (b).

11 (d) AUTHORIZATION.—There are authorized to be ap-  
12 propriated such sums as are necessary to carry out this  
13 section.

## 14 **TITLE II—RESEARCH**

### 15 **Subtitle A—Energy Research**

#### 16 **SEC. 201. ADVANCED ENERGY RESEARCH.**

17 (a) IN GENERAL.—The Administrator shall establish  
18 a program to provide grants for advanced energy research.

19 (b) DISTRIBUTION.—The Administrator shall dis-  
20 tribute grants on a competitive basis to institutions of  
21 higher education, companies, research foundations, trade  
22 and industry research collaborations, or consortia of such  
23 entities, or other appropriate research and development  
24 entities.

1           (c) SELECTION OF PROPOSALS.—In selecting pro-  
2   posals for funding under this section, the Administrator  
3   shall prioritize applications that—

4           (1) enhance the economic and energy security  
5       of the United States through the development of en-  
6       ergy technologies that result in—

7           (A) reductions of imports of energy from  
8       foreign sources;

9           (B) reductions of energy-related emissions,  
10       including greenhouse gases; and

11          (C) improvements in the energy efficiency  
12       of all economic sectors; and

13          (2) ensure that the United States maintains a  
14       technological lead in developing and deploying ad-  
15       vanced energy technologies.

16       (d) RESPONSIBILITIES.—The Administrator shall be  
17   responsible for assessing the success of programs and ter-  
18   minating programs carried out under this section that are  
19   not achieving the goals of the programs.

20       (e) ASSISTANCE.—Assistance provided under this  
21   section shall be used to supplement, and not to supplant,  
22   any other Federal resources available to carry out activi-  
23   ties described in this section.

1 (f) AUTHORIZATION.—There are authorized to be ap-  
2 propriated such sums as are necessary to carry out this  
3 section.

4 **Subtitle B—Drinking Water Adap-**  
5 **tation, Technology, Education,**  
6 **and Research**

7 **SEC. 211. EFFECTS OF CLIMATE CHANGE ON DRINKING**  
8 **WATER UTILITIES.**

9 (a) FINDINGS.—Congress finds that—

10 (1) the consensus among climate scientists is  
11 overwhelming that climate change is occurring more  
12 rapidly than can be attributed to natural causes, and  
13 that significant impacts to the water supply are al-  
14 ready occurring;

15 (2) among the first and most critical of those  
16 impacts will be change to patterns of precipitation  
17 around the world, which will affect water availability  
18 for the most basic drinking water and domestic  
19 water needs of populations in many areas of the  
20 United States;

21 (3) drinking water utilities throughout the  
22 United States, as well as those in Europe, Australia,  
23 and Asia, are concerned that extended changes in  
24 precipitation will lead to extended droughts;

1           (4) supplying water is highly energy-intensive  
2           and will become more so as climate change forces  
3           more utilities to turn to alternative supplies;

4           (5) energy production consumes a significant  
5           percentage of the fresh water resources of the  
6           United States;

7           (6) since 2003, the drinking water industry of  
8           the United States has sponsored, through a non-  
9           profit water research foundation, various studies to  
10          assess the impacts of climate change on drinking  
11          water supplies;

12          (7) those studies demonstrate the need for a  
13          comprehensive program of research into the full  
14          range of impacts on drinking water utilities, includ-  
15          ing impacts on water supplies, facilities, and cus-  
16          tomers;

17          (8) that nonprofit water research foundation is  
18          also coordinating internationally with other drinking  
19          water utilities on shared research projects and has  
20          hosted international workshops with counterpart Eu-  
21          ropean and Asian water research organizations to  
22          develop a unified research agenda for applied re-  
23          search on adaptive strategies to address climate  
24          change impacts;

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;  
10 and

11          (10) given uncertainties about specific climate  
12 changes in particular areas, drinking water utilities  
13 need to prepare for a wider range of likely possibili-  
14 ties in managing and delivery of water.

15          (b) IN GENERAL.—The Administrator, in cooperation  
16 with the Secretary of Commerce, the Secretary of Energy,  
17 and the Secretary of the Interior, shall establish and pro-  
18 vide funding for a program of directed and applied re-  
19 search, to be conducted through a nonprofit drinking  
20 water research foundation and sponsored by water utili-  
21 ties, to assist the utilities in adapting to the effects of cli-  
22 mate change.

23          (c) RESEARCH AREAS.—The research conducted in  
24 accordance with subsection (b) shall include research  
25 into—

1           (1) water quality impacts and solutions, includ-  
2           ing research—

3                   (A) to address probable impacts on raw  
4           water quality resulting from—

5                           (i) erosion and turbidity from extreme  
6                           precipitation events;

7                           (ii) watershed vegetation changes; and

8                           (iii) increasing ranges of pathogens,  
9                           algae, and nuisance organisms resulting  
10                          from warmer temperatures; and

11                   (B) on mitigating increasing damage to  
12           watersheds and water quality by evaluating ex-  
13           treme events, such as wildfires and hurricanes,  
14           to learn and develop management approaches to  
15           mitigate—

16                           (i) permanent watershed damage;

17                           (ii) quality and yield impacts on  
18                           source waters; and

19                           (iii) increased costs of water treat-  
20                           ment;

21           (2) impacts on groundwater supplies from car-  
22           bon sequestration, including research to evaluate po-  
23           tential water quality consequences of carbon seques-  
24           tration in various regional aquifers, soil conditions,  
25           and mineral deposits;



1           (3) water quantity impacts and solutions, in-  
2           cluding research—

3                   (A) to evaluate climate change impacts on  
4           water resources throughout hydrological basins  
5           of the United States;

6                   (B) to improve the accuracy and resolution  
7           of climate change models at a regional level;

8                   (C) to identify and explore options for in-  
9           creasing conjunctive use of aboveground and  
10          underground storage of water; and

11                  (D) to optimize operation of existing and  
12          new reservoirs in diminished and erratic periods  
13          of precipitation and runoff;

14          (4) infrastructure impacts and solutions for  
15          water treatment and wastewater treatment facilities  
16          and underground pipelines, including research—

17                  (A) to evaluate and mitigate the impacts of  
18          sea level rise on—

19                          (i) near-shore facilities;

20                          (ii) soil drying and subsidence;

21                          (iii) reduced flows in water and waste-  
22          water pipelines; and

23                          (iv) extreme flows in wastewater sys-  
24          tems; and

1 (B) on ways of increasing the resilience of  
2 existing infrastructure, planning cost-effective  
3 responses to adapt to climate change, and de-  
4 veloping new design standards for future infra-  
5 structure that include the use of energy con-  
6 servation measures and renewable energy in  
7 new construction to the maximum extent prac-  
8 ticable;

9 (5) desalination, water reuse, and alternative  
10 supply technologies, including research—

11 (A) to improve and optimize existing mem-  
12 brane technologies, and to identify and develop  
13 breakthrough technologies, to enable the use of  
14 seawater, brackish groundwater, treated waste-  
15 water, and other impaired sources;

16 (B) into new sources of water through  
17 more cost-effective water treatment practices in  
18 recycling and desalination; and

19 (C) to improve technologies for use in—

20 (i) managing and minimizing the vol-  
21 ume of desalination and reuse concentrate  
22 streams; and

23 (ii) minimizing the environmental im-  
24 pacts of seawater intake at desalination fa-  
25 cilities;

1           (6) energy efficiency and greenhouse gas mini-  
2           mization, including research—

3                   (A) on optimizing the energy efficiency of  
4           water supply and wastewater operations and  
5           improving water efficiency in energy production  
6           and management; and

7                   (B) to identify and develop renewable, car-  
8           bon-neutral energy options for the water supply  
9           and wastewater industry;

10          (7) regional and hydrological basin cooperative  
11          water management solutions, including research  
12          into—

13                   (A) institutional mechanisms for greater  
14          regional cooperation and use of water ex-  
15          changes, banking, and transfers; and

16                   (B) the economic benefits of sharing risks  
17          of shortage across wider areas;

18          (8) utility management, decision support sys-  
19          tems, and water management models, including re-  
20          search—

21                   (A) into improved decision support systems  
22          and modeling tools for use by water utility  
23          managers to assist with increased water supply  
24          uncertainty and adaptation strategies posed by  
25          climate change;

1 (B) to provide financial tools, including  
2 new rate structures, to manage financial re-  
3 sources and investments, because increased con-  
4 servation practices may diminish revenue and  
5 increase investments in infrastructure; and

6 (C) to develop improved systems and mod-  
7 els for use in evaluating—

8 (i) successful alternative methods for  
9 conservation and demand management;  
10 and

11 (ii) climate change impacts on  
12 groundwater resources;

13 (9) reducing greenhouse gas emissions and im-  
14 proving energy demand management, including re-  
15 search to improve energy efficiency in water collec-  
16 tion, production, transmission, treatment, distribu-  
17 tion, and disposal to provide more sustainability and  
18 means to assist drinking water utilities in reducing  
19 the production of greenhouse gas emissions in the  
20 collection, production, transmission, treatment, dis-  
21 tribution, and disposal of drinking water;

22 (10) water conservation and demand manage-  
23 ment, including research—

24 (A) to develop strategic approaches to  
25 water demand management that offer the low-

1 est-cost, noninfrastructural options to serve  
2 growing populations or manage declining sup-  
3 plies, primarily through—

4 (i) efficiencies in water use and re-  
5 allocation of the saved water;

6 (ii) demand management tools;

7 (iii) economic incentives; and

8 (iv) water-saving technologies; and

9 (B) into efficiencies in water management  
10 through integrated water resource management  
11 that incorporates—

12 (i) supply-side and demand-side proc-  
13 esses;

14 (ii) continuous adaptive management;

15 and

16 (iii) the inclusion of stakeholders in  
17 decisionmaking processes; and

18 (11) communications, education, and public ac-  
19 ceptance, including research—

20 (A) into improved strategies and ap-  
21 proaches for communicating with customers, de-  
22 cisionmakers, and other stakeholders about the  
23 implications of climate change on water supply  
24 and water management;

1 (B) to develop effective communication ap-  
2 proaches—

3 (i) to gain public acceptance of alter-  
4 native water supplies and new policies and  
5 practices, including conservation and de-  
6 mand management; and

7 (ii) to gain public recognition and ac-  
8 ceptance of increased costs; and

9 (C) to create and maintain a clearinghouse  
10 of climate change information for water utili-  
11 ties, academic researchers, stakeholders, gov-  
12 ernment agencies, and research organizations.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
14 authorized to be appropriated to carry out this section  
15 \$25,000,000 for each of fiscal years 2010 through 2020.

16 **TITLE III—TRANSITION AND**  
17 **ADAPTATION**

18 **Subtitle A—Green Jobs and Worker**  
19 **Transition**

20 **PART 1—GREEN JOBS**

21 **SEC. 301. CLEAN ENERGY CURRICULUM DEVELOPMENT**  
22 **GRANTS.**

23 (a) AUTHORIZATION.—The Secretary of Education is  
24 authorized to award grants, on a competitive basis, to eli-  
25 gible partnerships to develop programs of study (con-

1 taining the information described in section 122(c)(1)(A)  
2 of the Carl D. Perkins Career and Technical Education  
3 Act of 2006 (20 U.S.C. 2342)), that are focused on emerg-  
4 ing careers and jobs in the fields of clean energy, renew-  
5 able energy, energy efficiency, climate change mitigation,  
6 and climate change adaptation. The Secretary of Edu-  
7 cation shall consult with the Secretary of Labor and the  
8 Secretary of Energy prior to the issuance of a solicitation  
9 for grant applications.

10 (b) ELIGIBLE PARTNERSHIPS.—For purposes of this  
11 section, an eligible partnership shall include—

12 (1) at least 1 local educational agency eligible  
13 for funding under section 131 of the Carl D. Per-  
14 kins Career and Technical Education Act of 2006  
15 (20 U.S.C. 2351) or an area career and technical  
16 education school or education service agency de-  
17 scribed in such section;

18 (2) at least 1 postsecondary institution eligible  
19 for funding under section 132 of such Act (20  
20 U.S.C. 2352); and

21 (3) representatives of the community including  
22 business, labor organizations, and industry that have  
23 experience in fields as described in subsection (a).

24 (c) APPLICATION.—An eligible partnership seeking a  
25 grant under this section shall submit an application to the

1 Secretary at such time and in such manner as the Sec-  
2 retary may require. Applications shall include—

3 (1) a description of the eligible partners and  
4 partnership, the roles and responsibilities of each  
5 partner, and a demonstration of each partner's ca-  
6 pacity to support the program;

7 (2) a description of the career area or areas  
8 within the fields as described in subsection (a) to be  
9 developed, the reason for the choice, and evidence of  
10 the labor market need to prepare students in that  
11 area;

12 (3) a description of the new or existing program  
13 of study and both secondary and postsecondary com-  
14 ponents;

15 (4) a description of the students to be served by  
16 the new program of study;

17 (5) a description of how the program of study  
18 funded by the grant will be replicable and dissemi-  
19 nated to schools outside of the partnership, including  
20 urban and rural areas;

21 (6) a description of applied learning that will be  
22 incorporated into the program of study and how it  
23 will incorporate or reinforce academic learning;

24 (7) a description of how the program of study  
25 will be delivered;



1           (8) a description of how the program will pro-  
2           vide accessibility to students, especially economically  
3           disadvantaged, low performing, and urban and rural  
4           students;

5           (9) a description of how the program will ad-  
6           dress placement of students in nontraditional fields  
7           as described in section 3(20) of the Carl D. Perkins  
8           Career and Technical Education Act of 2006 (20  
9           U.S.C. 2302(20)); and

10          (10) a description of how the applicant proposes  
11          to consult or has consulted with a labor organiza-  
12          tion, labor management partnership, apprenticeship  
13          program, or joint apprenticeship and training pro-  
14          gram that provides education and training in the  
15          field of study for which the applicant proposes to de-  
16          velop a curriculum.

17          (d) PRIORITY.—The Secretary shall give priority to  
18          applications that—

19               (1) use online learning or other innovative  
20               means to deliver the program of study to students,  
21               educators, and instructors outside of the partner-  
22               ship; and

23               (2) focus on low performing students and spe-  
24               cial populations as defined in section 3(29) of the

1 Carl D. Perkins Career and Technical Education  
2 Act of 2006 (20 U.S.C. 2302(29)).

3 (e) PEER REVIEW.—The Secretary shall convene a  
4 peer review process to review applications for grants under  
5 this section and to make recommendations regarding the  
6 selection of grantees. Members of the peer review com-  
7 mittee shall include—

8 (1) educators who have experience imple-  
9 menting curricula with comparable purposes; and

10 (2) business and industry experts in fields as  
11 described in subsection (a).

12 (f) USES OF FUNDS.—Grants awarded under this  
13 section shall be used for the development, implementation,  
14 and dissemination of programs of study (as described in  
15 section 122(c)(1)(A) of the Carl D. Perkins Career and  
16 Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in  
17 career areas related to clean energy, renewable energy, en-  
18 ergy efficiency, climate change mitigation, and climate  
19 change adaptation.

20 **SEC. 302. DEVELOPMENT OF INFORMATION AND RE-**  
21 **SOURCES CLEARINGHOUSE FOR VOCA-**  
22 **TIONAL EDUCATION AND JOB TRAINING IN**  
23 **RENEWABLE ENERGY SECTORS.**

24 (a) DEVELOPMENT OF CLEARINGHOUSE.—Not later  
25 than 18 months after the date of enactment of this Act,

1 the Secretary of Labor, in collaboration with the Secretary  
2 of Energy and the Secretary of Education, shall develop  
3 an internet based information and resources clearinghouse  
4 to aid career and technical education and job training pro-  
5 grams for the renewable energy sectors. In establishing  
6 the clearinghouse, the Secretary shall—

7           (1) collect and provide information that ad-  
8 dresses the consequences of rapid changes in tech-  
9 nology and regional disparities for renewable energy  
10 training programs and provides best practices for  
11 training and education in light of such changes and  
12 disparities;

13           (2) place an emphasis on facilitating collabora-  
14 tion between the renewable energy industry and job  
15 training programs and on identifying industry and  
16 technological trends and best practices, to better  
17 help job training programs maintain quality and rel-  
18 evance; and

19           (3) place an emphasis on assisting programs  
20 that cater to high-demand middle-skill, trades, man-  
21 ufacturing, contracting, and consulting careers.

22           (b) SOLICITATION AND CONSULTATION.—In devel-  
23 oping the clearinghouse pursuant to subsection (a), the  
24 Secretary shall solicit information and expertise from busi-  
25 nesses and organizations in the renewable energy sector

1 and from institutions of higher education, career and tech-  
2 nical schools, and community colleges that provide train-  
3 ing in the renewable energy sectors. The Secretary shall  
4 solicit a comprehensive peer review of the clearinghouse  
5 by such entities not less than once every 2 years. Nothing  
6 in this subsection should be interpreted to require the di-  
7 vulgence of proprietary or competitive information.

8 (c) CONTENTS OF CLEARINGHOUSE.—

9 (1) SEPARATE SECTION FOR EACH RENEWABLE  
10 ENERGY SECTOR.—The clearinghouse shall contain  
11 separate sections developed for each of the following  
12 renewable energy sectors:

13 (A) Solar energy systems.

14 (B) Wind energy systems.

15 (C) Energy transmission systems.

16 (D) Geothermal systems of energy and  
17 heating.

18 (E) Energy efficiency technical training.

19 (2) ADDITIONAL REQUIREMENTS.—In addition  
20 to the information required in subsection (a), each  
21 section of the clearinghouse shall include information  
22 on basic environmental science and processes needed  
23 to understand renewable energy systems, Federal  
24 government and industry resources, and points of  
25 contact to aid institutions in the development of

1 placement programs for apprenticeships and post  
2 graduation opportunities, and information and tips  
3 about a green workplace, energy efficiency, and rel-  
4 evant environmental topics and information on avail-  
5 able industry recognized certifications in each area.

6 (d) DISSEMINATION.—The clearinghouse shall be  
7 made available via the Internet to the general public. No-  
8 tice of the completed clearinghouse and any major revi-  
9 sions thereto shall also be provided—

10 (1) to each Member of Congress; and

11 (2) on the websites of the Departments of Edu-  
12 cation, Energy, and Labor.

13 (e) REVISION.—The Secretary of Labor shall revise  
14 and update the clearinghouse on a regular basis to ensure  
15 its relevance.

16 **SEC. 303. GREEN CONSTRUCTION CAREERS DEMONSTRATION PROJECT.**  
17

18 (a) ESTABLISHMENT AND AUTHORITY.—The Sec-  
19 retary of Labor, in consultation with the Secretary of En-  
20 ergy, shall, not later than 180 days after the enactment  
21 of this Act, establish a Green Construction Careers dem-  
22 onstration project by rules, regulations, and guidance in  
23 accordance with the provisions of this section. The purpose  
24 of the demonstration project shall be to promote middle  
25 class careers and quality employment practices in the

1 green construction sector among targeted workers and to  
2 advance efficiency and performance on construction  
3 projects related to this Act. In order to advance these pur-  
4 poses, the Secretary shall identify projects, including resi-  
5 dential retrofitting projects, funded directly by or assisted  
6 in whole or in part by or through the Federal Government  
7 pursuant to this Act or by any other entity established  
8 in accordance with this Act, to which all of the following  
9 shall apply.

10 (b) REQUIREMENTS.—The Secretaries may establish  
11 such terms and conditions for the demonstration projects  
12 as the Secretaries determine are necessary to meet the  
13 purposes of subsection (a), including establishing min-  
14 imum proportions of hours to be worked by targeted work-  
15 ers on such projects. The Secretaries may require the con-  
16 tractors and subcontractors performing construction serv-  
17 ices on the project to comply with the terms and conditions  
18 as a condition of receiving funding or assistance from the  
19 Federal Government under this Act.

20 (c) EVALUATION.—The Secretaries shall evaluate the  
21 demonstration projects against the purposes of this section  
22 at the end of 3 years from initiation of the demonstration  
23 project. If the Secretaries determine that the demonstra-  
24 tion projects have been successful, the Secretaries may

1 identify further projects to which of the provisions of this  
2 section shall apply.

3 (d) GAO REPORT.—The Comptroller General shall  
4 prepare and submit a report to the Committee on Health,  
5 Education, Labor, and Pensions and the Committee on  
6 Energy and Natural Resources of the Senate and the  
7 Committee on Education and Labor and the Committee  
8 on Energy and Commerce of the House of Representatives  
9 not later than 5 years after the date of enactment of this  
10 Act, which shall advise the committees of the results of  
11 the demonstration projects and make appropriate rec-  
12 ommendations.

13 (e) DEFINITION AND DESIGNATION OF TARGETED  
14 WORKERS.—As used in this section, the term “targeted  
15 worker” means an individual who resides in the same  
16 labor market area (as defined in section 101(18) of the  
17 Workforce Investment Act of 1998 (29 U.S.C. 2801(18)))  
18 as the project and who—

19 (1) is a member of a targeted group, within the  
20 meaning of section 51 of the Internal Revenue Code  
21 of 1986, other than an individual described in sub-  
22 section (d)(1)(C) of such section;

23 (2)(A) resides in a census tract in which not  
24 less than 20 percent of the households have incomes  
25 below the Federal poverty guidelines; or

1           (B) is a member of a family that received a  
2           total family income that, during the 2-year period  
3           prior to employment on the project or admission to  
4           the pre-apprenticeship program, did not exceed 200  
5           percent of the Federal poverty guidelines (exclusive  
6           of unemployment compensation, child support pay-  
7           ments, payments described in section 101(25)(A) of  
8           the Workforce Investment Act (29 U.S.C.  
9           2801(25)(A)), and old-age and survivors insurance  
10          benefits received under section 202 of the Social Se-  
11          curity Act (42 U.S.C. 402); or

12          (3) is a displaced homemaker, as such term is  
13          defined in section 3(10) of the Carl D. Perkins Ca-  
14          reer and Technical Education Act of 2006 (20  
15          U.S.C. 2302(10)).

16          (f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A  
17          qualified pre-apprenticeship program is a pre-apprentice-  
18          ship program that has demonstrated an ability to recruit,  
19          train, and prepare for admission to apprenticeship pro-  
20          grams individuals who are targeted workers.

21          (g) QUALIFIED APPRENTICESHIP AND OTHER  
22          TRAINING PROGRAMS.—

23                  (1) PARTICIPATION BY EACH CONTRACTOR RE-  
24                  QUIRED.—Each contractor and subcontractor that  
25                  seeks to provide construction services on projects



1 identified by the Secretaries pursuant to subsection  
2 (a) shall submit adequate assurances with its bid or  
3 proposal that it participates in a qualified appren-  
4 ticeship or other training program, with a written  
5 arrangement with a qualified pre-apprenticeship pro-  
6 gram, for each craft or trade classification of worker  
7 that it intends to employ to perform work on the  
8 project.

9 (2) DEFINITION OF QUALIFIED APPRENTICE  
10 SHIP OR OTHER TRAINING PROGRAM.—

11 (A) IN GENERAL.—For purposes of this  
12 section, the term “qualified apprenticeship or  
13 other training program” means an apprentice-  
14 ship or other training program that qualifies as  
15 an employee welfare benefit plan, as defined in  
16 section 3(1) of the Employee Retirement In-  
17 come Security Act of 1974 (29 U.S.C.  
18 1002(1)).

19 (B) CERTIFICATION OF OTHER PROGRAMS  
20 IN CERTAIN LOCALITIES.—In the event that the  
21 Secretary of Labor certifies that a qualified ap-  
22 prenticeship or other training program (as de-  
23 fined in subparagraph (A)) for a craft or trade  
24 classification of workers that a prospective con-  
25 tractor or subcontractor intends to employ, is

1           not operated in the locality where the project  
2           will be performed, an apprenticeship or other  
3           training program that is not an employee wel-  
4           fare benefit plan (as defined in such section)  
5           may be certified by the Secretary as a qualified  
6           apprenticeship or other training program pro-  
7           vided it is registered with the Office of Appren-  
8           ticeship of the Department of Labor, or a State  
9           apprenticeship agency recognized by the Office  
10          of Apprenticeship for Federal purposes.

11          (h) FACILITATING COMPLIANCE.—The Secretary  
12          may require Federal contracting agencies, recipients of  
13          Federal assistance, and any other entity established in ac-  
14          cordance with this Act to require contractors to enter into  
15          an agreement in a manner comparable with the standards  
16          set forth in sections 3 and 4 of Executive Order 13502  
17          in order to achieve the purposes of this section, including  
18          any requirements established by subsection (b).

19          (i) LIMITATION.—The requirements of this section  
20          shall not apply to any project funded under this Act in  
21          American Samoa, Guam, the Commonwealth of the North-  
22          ern Mariana Islands, the Commonwealth of Puerto Rico,  
23          or the United States Virgin Islands, unless participation  
24          is requested by the governor of such territories within 1  
25          year of the promulgation of rules under this Act.

1                   **PART 2—CLIMATE CHANGE WORKER**  
2                   **ADJUSTMENT ASSISTANCE**  
3 **SEC. 311. PETITIONS, ELIGIBILITY REQUIREMENTS, AND**  
4                   **DETERMINATIONS.**

5           (a) PETITIONS.—

6               (1) FILING.—A petition for certification of eli-  
7           gibility to apply for adjustment assistance for a  
8           group of workers under this part may be filed by  
9           any of the following:

10                   (A) The group of workers.

11                   (B) The certified or recognized union or  
12           other duly authorized representative of such  
13           workers.

14                   (C) Employers of such workers, one-stop  
15           operators or one-stop partners (as defined in  
16           section 101 of the Workforce Investment Act of  
17           1998 (29 U.S.C. 2801)), including State em-  
18           ployment security agencies, or the State dis-  
19           located worker unit established under title I of  
20           such Act, on behalf of such workers.

21           The petition shall be filed simultaneously with the  
22           Secretary of Labor and with the Governor of the  
23           State in which such workers' employment site is lo-  
24           cated.

1           (2) ACTION BY GOVERNORS.—Upon receipt of a  
2 petition filed under paragraph (1), the Governor  
3 shall—

4           (A) ensure that rapid response activities  
5 and appropriate core and intensive services (as  
6 described in section 134 of the Workforce In-  
7 vestment Act of 1998 (29 U.S.C. 2864)) au-  
8 thorized under other Federal laws are made  
9 available to the workers covered by the petition  
10 to the extent authorized under such laws; and

11           (B) assist the Secretary in the review of  
12 the petition by verifying such information and  
13 providing such other assistance as the Secretary  
14 may request.

15           (3) ACTION BY THE SECRETARY.—Upon receipt  
16 of the petition, the Secretary shall promptly publish  
17 notice in the Federal Register and on the website of  
18 the Department of Labor that the Secretary has re-  
19 ceived the petition and initiated an investigation.

20           (4) HEARINGS.—If the petitioner, or any other  
21 person found by the Secretary to have a substantial  
22 interest in the proceedings, submits not later than  
23 10 days after the date of the Secretary's publication  
24 under paragraph (3) a request for a hearing, the  
25 Secretary shall provide for a public hearing and af-

1       ford such interested persons an opportunity to be  
2       present, to produce evidence, and to be heard.

3       (b) ELIGIBILITY.—

4           (1) IN GENERAL.—A group of workers shall be  
5       certified by the Secretary as eligible to apply for ad-  
6       justment assistance under this part pursuant to a  
7       petition filed under subsection (a) if—

8           (A) the group of workers is employed in—

9               (i) energy producing and transforming  
10           industries;

11               (ii) industries dependent upon energy  
12           industries;

13               (iii) energy-intensive manufacturing  
14           industries;

15               (iv) consumer goods manufacturing;

16           or

17               (v) other industries whose employment  
18           the Secretary determines has been ad-  
19           versely affected by any requirement of title  
20           VII of the Clean Air Act;

21           (B) the Secretary determines that a sig-  
22           nificant number or proportion of the workers in  
23           such workers' employment site have become to-  
24           tally or partially separated, or are threatened to

1           become totally or partially separated from em-  
2           ployment; and

3           (C) the sales, production, or delivery of  
4           goods or services have decreased as a result of  
5           any requirement of title VII of the Clean Air  
6           Act, including—

7                   (i) the shift from reliance upon fossil  
8                   fuels to other sources of energy, including  
9                   renewable energy, that results in the clos-  
10                  ing of a facility or layoff of employees at  
11                  a facility that mines, produces, processes,  
12                  or utilizes fossil fuels to generate elec-  
13                  tricity;

14                  (ii) a substantial increase in the cost  
15                  of energy required for a manufacturing fa-  
16                  cility to produce items whose prices are  
17                  competitive in the marketplace, to the ex-  
18                  tent the cost is not offset by **allowance al-**  
19                  location to the facility pursuant to title VII  
20                  of the Clean Air Act **the allocation of al-**  
21                  lowances to the facility under any Federal  
22                  law enacted for the purpose of regulating  
23                  greenhouse gas emissions? **];** or

24                  (iii) other documented occurrences  
25                  that the Secretary determines are indica-

1           tors of an adverse impact on an industry  
2           described in subparagraph (A) as a result  
3           of any requirement of title VII of the  
4           Clean Air Act.

5           (2) WORKERS IN PUBLIC AGENCIES.—A group  
6           of workers in a public agency shall be certified by  
7           the Secretary as eligible to apply for climate change  
8           adjustment assistance pursuant to a petition filed if  
9           the Secretary determines that a significant number  
10          or proportion of the workers in the public agency  
11          have become totally or partially separated from em-  
12          ployment, or are threatened to become totally or  
13          partially separated as a result of any requirement of  
14          title VII of the Clean Air Act.

15          (3) ADVERSELY AFFECTED SERVICE WORK-  
16          ERS.—A group of workers shall be certified as eligi-  
17          ble to apply for climate change adjustment assist-  
18          ance pursuant to a petition filed if the Secretary de-  
19          termines that—

20                 (A) a significant number or proportion of  
21                 the service workers at an employment site  
22                 where a group of workers has been certified by  
23                 the Secretary as eligible to apply for adjustment  
24                 assistance under this part pursuant to para-  
25                 graph (1) have become totally or partially sepa-

1           rated from employment, or are threatened to  
2           become totally or partially separated; and

3                   (B) a loss of business in the firm providing  
4           service workers to an employment site is di-  
5           rectly attributable to one or more of the docu-  
6           mented occurrences listed in paragraph (1)(C).

7           (c) **AUTHORITY TO INVESTIGATE AND COLLECT IN-**  
8 **FORMATION.—**

9                   (1) **IN GENERAL.—**The Secretary shall, in de-  
10          termining whether to certify a group of workers  
11          under subsection (d), obtain information the Sec-  
12          retary determines to be necessary to make the cer-  
13          tification, through questionnaires and in such other  
14          manner as the Secretary determines appropriate  
15          from—

16                   (A) the workers' employer;

17                   (B) officials of certified or recognized  
18          unions or other duly authorized representatives  
19          of the group of workers; or

20                   (C) one-stop operators or one-stop partners  
21          (as defined in section 101 of the Workforce In-  
22          vestment Act of 1998 (29 U.S.C. 2801)).

23                   (2) **VERIFICATION OF INFORMATION.—**The Sec-  
24          retary shall require an employer, union, or one-stop  
25          operator or partner to certify all information ob-



1       tained under paragraph (1) from the employer,  
2       union, or one-stop operator or partner (as the case  
3       may be) on which the Secretary relies in making a  
4       determination under subsection (d), unless the Sec-  
5       retary has a reasonable basis for determining that  
6       such information is accurate and complete without  
7       being certified.

8               (3) PROTECTION OF CONFIDENTIAL INFORMA-  
9       TION.—The Secretary may not release information  
10      obtained under paragraph (1) that the Secretary  
11      considers to be confidential business information un-  
12      less the employer submitting the confidential busi-  
13      ness information had notice, at the time of submis-  
14      sion, that the information would be released by the  
15      Secretary, or the employer subsequently consents to  
16      the release of the information. Nothing in this para-  
17      graph shall be construed to prohibit the Secretary  
18      from providing such confidential business informa-  
19      tion to a court in camera or to another party under  
20      a protective order issued by a court.

21      (d) DETERMINATION BY THE SECRETARY OF  
22      LABOR.—

23               (1) IN GENERAL.—As soon as possible after the  
24      date on which a petition is filed under subsection  
25      (a), but in any event not later than 40 days after

1       that date, the Secretary, in consultation with the  
2       Secretary of Energy and the Administrator, as nec-  
3       essary, shall determine whether the petitioning  
4       group meets the requirements of subsection (b) and  
5       shall issue a certification of eligibility to apply for  
6       assistance under this part covering workers in any  
7       group which meets such requirements. Each certifi-  
8       cation shall specify the date on which the total or  
9       partial separation began or threatened to begin.  
10      Upon reaching a determination on a petition, the  
11      Secretary shall promptly publish a summary of the  
12      determination in the Federal Register and on the  
13      website of the Department of Labor, together with  
14      the Secretary's reasons for making such determina-  
15      tion.

16           (2) ONE YEAR LIMITATION.—A certification  
17      under this section shall not apply to any worker  
18      whose last total or partial separation from the em-  
19      ployment site before the worker's application under  
20      section 312(a) occurred more than 1 year before the  
21      date of the petition on which such certification was  
22      granted.

23           (3) REVOCATION OF CERTIFICATION.—When-  
24      ever the Secretary determines, with respect to any  
25      certification of eligibility of the workers of an em-

1       ployment site, that total or partial separations from  
2       such site are no longer a result of the factors speci-  
3       fied in subsection (b)(1), the Secretary shall termi-  
4       nate such certification and promptly have notice of  
5       such termination published in the Federal Register  
6       and on the website of the Department of Labor, to-  
7       gether with the Secretary's reasons for making such  
8       determination. Such termination shall apply only  
9       with respect to total or partial separations occurring  
10      after the termination date specified by the Secretary.

11      (e) INDUSTRY NOTIFICATION OF ASSISTANCE.—

12      Upon receiving a notification of a determination under  
13      subsection (d) with respect to a domestic industry the Sec-  
14      retary of Labor shall notify the representatives of the do-  
15      mestic industry affected by the determination, employers  
16      publicly identified by name during the course of the pro-  
17      ceeding relating to the determination, and any certified  
18      or recognized union or, to the extent practicable, other  
19      duly authorized representative of workers employed by  
20      such representatives of the domestic industry, of—

21              (1) the adjustment allowances, training, and  
22              other benefits available under this part;

23              (2) the manner in which to file a petition and  
24              apply for such benefits;

1           (3) the availability of assistance in filing such  
2 petitions;

3           (4) notify the Governor of each State in which  
4 one or more employers in such industry are located  
5 of the Secretary's determination and the identity of  
6 the employers; and

7           (5) upon request, provide any assistance that is  
8 necessary to file a petition under subsection (a).

9           (f) BENEFIT INFORMATION TO WORKERS, PRO-  
10 VIDERS OF TRAINING.—

11           (1) IN GENERAL.—The Secretary shall provide  
12 full information to workers about the adjustment al-  
13 lowances, training, and other benefits available  
14 under this part and about the petition and applica-  
15 tion procedures, and the appropriate filing dates, for  
16 such allowances, training and services. The Sec-  
17 retary shall provide whatever assistance is necessary  
18 to enable groups of workers to prepare petitions or  
19 applications for program benefits. The Secretary  
20 shall make every effort to insure that cooperating  
21 State agencies fully comply with the agreements en-  
22 tered into under section 312(a) and shall periodically  
23 review such compliance. The Secretary shall inform  
24 the State Board for Vocational Education or equiva-  
25 lent agency, the one-stop operators or one-stop part-

1       ners (as defined in section 101 of the Workforce In-  
2       vestment Act of 1998 (29 U.S.C. 2801)), and other  
3       public or private agencies, institutions, and employ-  
4       ers, as appropriate, of each certification issued  
5       under subsection (d) and of projections, if available,  
6       of the needs for training under as a result of such  
7       certification.

8           (2) NOTICE BY MAIL.—The Secretary shall pro-  
9       vide written notice through the mail of the benefits  
10      available under this part to each worker whom the  
11      Secretary has reason to believe is covered by a cer-  
12      tification made under subsection (d)—

13           (A) at the time such certification is made,  
14           if the worker was partially or totally separated  
15           from the adversely affected employment before  
16           such certification; or

17           (B) at the time of the total or partial sepa-  
18           ration of the worker from the adversely affected  
19           employment, if subparagraph (A) does not  
20           apply.

21           (3) NEWSPAPERS; WEBSITE.—The Secretary  
22      shall publish notice of the benefits available under  
23      this part to workers covered by each certification  
24      made under subsection (d) in newspapers of general  
25      circulation in the areas in which such workers reside

1 and shall make such information available on the  
2 website of the Department of Labor.

3 **SEC. 312. PROGRAM BENEFITS.**

4 (a) CLIMATE CHANGE ADJUSTMENT ALLOWANCE.—

5 (1) ELIGIBILITY.—Payment of a climate change  
6 adjustment allowance shall be made to an adversely  
7 affected worker covered by a certification under sec-  
8 tion 311(b) who files an application for such allow-  
9 ance for any week of unemployment which begins on  
10 or after the date of such certification, if the fol-  
11 lowing conditions are met:

12 (A) Such worker's total or partial separa-  
13 tion before the worker's application under this  
14 part occurred—

15 (i) on or after the date, as specified in  
16 the certification under which the worker is  
17 covered, on which total or partial separa-  
18 tion began or threatened to begin in the  
19 adversely affected employment;

20 (ii) before the expiration of the 2-year  
21 period beginning on the date on which the  
22 determination under section 311(d) was  
23 made; and

1 (iii) before the termination date, if  
2 any, determined pursuant to section  
3 311(d)(3).

4 (B) Such worker had, in the 52-week pe-  
5 riod ending with the week in which such total  
6 or partial separation occurred, at least 26  
7 weeks of full-time employment or 1,040 hours  
8 of part time employment in adversely affected  
9 employment, or, if data with respect to weeks of  
10 employment are not available, equivalent  
11 amounts of employment computed under regu-  
12 lations prescribed by the Secretary. For the  
13 purposes of this paragraph, any week in which  
14 such worker—

15 (i) is on employer-authorized leave for  
16 purposes of vacation, sickness, injury, ma-  
17 ternity, or inactive duty or active duty  
18 military service for training;

19 (ii) does not work because of a dis-  
20 ability that is compensable under a work-  
21 men's compensation law or plan of a State  
22 or the United States;

23 (iii) had his employment interrupted  
24 in order to serve as a full-time representa-  
25 tive of a labor organization in such firm; or

1 (iv) is on call-up for purposes of active  
2 duty in a reserve status in the Armed  
3 Forces of the United States, provided such  
4 active duty is “Federal service” as defined  
5 in section 8521(a)(1) of title 5, United  
6 States Code,

7 shall be treated as a week of employment.

8 (C) Such worker is enrolled in a training  
9 program approved by the Secretary under sub-  
10 section (b)(2).

11 (2) INELIGIBILITY FOR CERTAIN OTHER BENE-  
12 FITS.—An adversely affected worker receiving a pay-  
13 ment under this section shall be ineligible to receive  
14 any other form of unemployment insurance for the  
15 period in which such worker is receiving a climate  
16 change adjustment allowance under this section.

17 (3) REVOCATION.—If—

18 (A) the Secretary determines that—

19 (i) the adversely affected worker—

20 (I) has failed to begin partici-  
21 pation in the training program the en-  
22 rollment in which meets the require-  
23 ment of paragraph (1)(C); or



1 (II) has ceased to participate in  
2 such training program before com-  
3 pleting such training program; and

4 (ii) there is no justifiable cause for  
5 such failure or cessation; or

6 (B) the certification made with respect to  
7 such worker under section 311(d) is revoked  
8 under paragraph (3) of such section,  
9 no adjustment allowance may be paid to the ad-  
10 versely affected worker under this part for the week  
11 in which such failure, cessation, or revocation oc-  
12 curred, or any succeeding week, until the adversely  
13 affected worker begins or resumes participation in a  
14 training program approved by the Secretary under  
15 subsection (b)(2).

16 (4) WAIVERS OF TRAINING REQUIREMENTS.—  
17 The Secretary may issue a written statement to an  
18 adversely affected worker waiving the requirement to  
19 be enrolled in training described in subsection (b)(2)  
20 if the Secretary determines that it is not feasible or  
21 appropriate for the worker, because of 1 or more of  
22 the following reasons:

23 (A) RECALL.—The worker has been noti-  
24 fied that the worker will be recalled by the em-  
25 ployer from which the separation occurred.

1 (B) MARKETABLE SKILLS.—

2 (i) IN GENERAL.—The worker pos-  
3 sses marketable skills for suitable em-  
4 ployment (as determined pursuant to an  
5 assessment of the worker, which may in-  
6 clude the profiling system under section  
7 303(j) of the Social Security Act (42  
8 U.S.C. 503(j)), carried out in accordance  
9 with guidelines issued by the Secretary)  
10 and there is a reasonable expectation of  
11 employment at equivalent wages in the  
12 foreseeable future.

13 (ii) MARKETABLE SKILLS DEFINED.—

14 For purposes of clause (i), the term “mar-  
15 ketable skills” may include the possession  
16 of a postgraduate degree from an institu-  
17 tion of higher education (as defined in sec-  
18 tion 102 of the Higher Education Act of  
19 1965 (20 U.S.C. 1002)) or an equivalent  
20 institution, or the possession of an equiva-  
21 lent postgraduate certification in a special-  
22 ized field.

23 (C) RETIREMENT.—The worker is within 2  
24 years of meeting all requirements for entitle-  
25 ment to either—

1 (i) old-age insurance benefits under  
2 title II of the Social Security Act (42  
3 U.S.C. 401 et seq.) (except for application  
4 therefor); or

5 (ii) a private pension sponsored by an  
6 employer or labor organization.

7 (D) HEALTH.—The worker is unable to  
8 participate in training due to the health of the  
9 worker, except that a waiver under this sub-  
10 paragraph shall not be construed to exempt a  
11 worker from requirements relating to the avail-  
12 ability for work, active search for work, or re-  
13 fusal to accept work under Federal or State un-  
14 employment compensation laws.

15 (E) ENROLLMENT UNAVAILABLE.—The  
16 first available enrollment date for the training  
17 of the worker is within 60 days after the date  
18 of the determination made under this para-  
19 graph, or, if later, there are extenuating cir-  
20 cumstances for the delay in enrollment, as de-  
21 termined pursuant to guidelines issued by the  
22 Secretary.

23 (F) TRAINING NOT AVAILABLE.—Training  
24 described in subsection (b)(2) is not reasonably  
25 available to the worker from either govern-

1           mental agencies or private sources (which may  
2           include area career and technical education  
3           schools, as defined in section 3 of the Carl D.  
4           Perkins Career and Technical Education Act of  
5           2006 (20 U.S.C. 2302), and employers), no  
6           training that is suitable for the worker is avail-  
7           able at a reasonable cost, or no training funds  
8           are available.

9           (5) WEEKLY AMOUNTS.—The climate change  
10          adjustment allowance payable to an adversely af-  
11          fected worker for a week of unemployment shall be  
12          an amount equal to 70 percent of the average weekly  
13          wage of such worker, but in no case shall such  
14          amount exceed the average weekly wage for all work-  
15          ers in the State where the adversely affected worker  
16          resides.

17          (6) MAXIMUM DURATION OF BENEFITS.—An el-  
18          igible worker may receive a climate change adjust-  
19          ment allowance under this subsection for a period of  
20          not longer than 156 weeks.

21          (b) EMPLOYMENT SERVICES AND TRAINING.—

22                 (1) INFORMATION AND EMPLOYMENT SERV-  
23                 ICES.—The Secretary shall make available, directly  
24                 or through agreements with the States under section  
25                 313(a) to adversely affected workers covered by a

1 certification under section 311(a) the following in-  
2 formation and employment services:

3 (A) Comprehensive and specialized assess-  
4 ment of skill levels and service needs, including  
5 through—

6 (i) diagnostic testing and use of other  
7 assessment tools; and

8 (ii) in-depth interviewing and evalua-  
9 tion to identify employment barriers and  
10 appropriate employment goals.

11 (B) Development of an individual employ-  
12 ment plan to identify employment goals and ob-  
13 jectives, and appropriate training to achieve  
14 those goals and objectives.

15 (C) Information on training available in  
16 local and regional areas, information on indi-  
17 vidual counseling to determine which training is  
18 suitable training, and information on how to  
19 apply for such training.

20 (D) Information on training programs and  
21 other services provided by a State pursuant to  
22 title I of the Workforce Investment Act of 1998  
23 (29 U.S.C. 2801 et seq.) and available in local  
24 and regional areas, information on individual  
25 counseling to determine which training is suit-

1           able training, and information on how to apply  
2           for such training.

3           (E) Information on how to apply for finan-  
4           cial aid, including referring workers to edu-  
5           cational opportunity centers described in section  
6           402F of the Higher Education Act of 1965 (20  
7           U.S.C. 1070a–16), where applicable, and noti-  
8           fying workers that the workers may request fi-  
9           nancial aid administrators at institutions of  
10          higher education (as defined in section 102 of  
11          such Act (20 U.S.C. 1002)) to use the adminis-  
12          trators' discretion under section 479A of such  
13          Act (20 U.S.C. 1087tt) to use current year in-  
14          come data, rather than preceding year income  
15          data, for determining the amount of need of the  
16          workers for Federal financial assistance under  
17          title IV of such Act (20 U.S.C. 1070 et seq.).

18          (F) Short-term prevocational services, in-  
19          cluding development of learning skills, commu-  
20          nications skills, interviewing skills, punctuality,  
21          personal maintenance skills, and professional  
22          conduct to prepare individuals for employment  
23          or training.

24          (G) Individual career counseling, including  
25          job search and placement counseling, during the

1 period in which the individual is receiving a cli-  
2 mate change adjustment allowance or training  
3 under this part, and after receiving such train-  
4 ing for purposes of job placement.

5 (H) Provision of employment statistics in-  
6 formation, including the provision of accurate  
7 information relating to local, regional, and na-  
8 tional labor market areas, including—

9 (i) job vacancy listings in such labor  
10 market areas;

11 (ii) information on jobs skills nec-  
12 essary to obtain jobs identified in job va-  
13 cancy listings described in subparagraph  
14 (A);

15 (iii) information relating to local occu-  
16 pations that are in demand and earnings  
17 potential of such occupations; and

18 (iv) skills requirements for local occu-  
19 pations described in subparagraph (C).

20 (I) Information relating to the availability  
21 of supportive services, including services relat-  
22 ing to child care, transportation, dependent  
23 care, housing assistance, and need-related pay-  
24 ments that are necessary to enable an indi-  
25 vidual to participate in training.

1           (2) TRAINING.—

2                   (A) APPROVAL OF AND PAYMENT FOR  
3 TRAINING.—If the Secretary determines, with  
4 respect to an adversely affected worker that—

5                   (i) there is no suitable employment  
6                   (which may include technical and profes-  
7                   sional employment) available for an ad-  
8                   versely affected worker;

9                   (ii) the worker would benefit from ap-  
10                   propriate training;

11                   (iii) there is a reasonable expectation  
12                   of employment following completion of  
13                   such training;

14                   (iv) training approved by the Sec-  
15                   retary is reasonably available to the worker  
16                   from either governmental agencies or pri-  
17                   vate sources (including area career and  
18                   technical education schools, as defined in  
19                   section 3 of the Carl D. Perkins Career  
20                   and Technical Education Act of 2006 (20  
21                   U.S.C. 2302), and employers);

22                   (v) the worker is qualified to under-  
23                   take and complete such training; and

24                   (vi) such training is suitable for the  
25                   worker and available at a reasonable cost,



1           the Secretary shall approve such training for  
2           the worker. Upon such approval, the worker  
3           shall be entitled to have payment of the costs  
4           of such training (subject to the limitations im-  
5           posed by this section) paid on the worker's be-  
6           half by the Secretary directly or through a  
7           voucher system.

8           (B) DISTRIBUTION.—The Secretary shall  
9           establish procedures for the distribution of the  
10          funds to States to carry out the training pro-  
11          grams approved under this paragraph, and shall  
12          make an initial distribution of the funds made  
13          available as soon as practicable after the begin-  
14          ning of each fiscal year.

15          (C) ADDITIONAL RULES REGARDING AP-  
16          PROVAL OF AND PAYMENT FOR TRAINING.—

17                 (i) For purposes of applying subpara-  
18                 graph (A)(iii), a reasonable expectation of  
19                 employment does not require that employ-  
20                 ment opportunities for a worker be avail-  
21                 able, or offered, immediately upon the  
22                 completion of training approved under  
23                 such subparagraph.

24                 (ii) If the costs of training an ad-  
25                 versely affected worker are paid by the

1 Secretary under subparagraph (A), no  
2 other payment for such costs may be made  
3 under any other provision of Federal law.  
4 No payment may be made under subpara-  
5 graph (A) of the costs of training an ad-  
6 versely affected worker or an adversely af-  
7 fected incumbent worker if such costs—

8 (I) have already been paid under  
9 any other provision of Federal law; or

10 (II) are reimbursable under any  
11 other provision of Federal law and a  
12 portion of such costs have already  
13 been paid under such other provision  
14 of Federal law.

15 The provisions of this clause shall not  
16 apply to, or take into account, any funds  
17 provided under any other provision of Fed-  
18 eral law which are used for any purpose  
19 other than the direct payment of the costs  
20 incurred in training a particular adversely  
21 affected worker, even if such use has the  
22 effect of indirectly paying or reducing any  
23 portion of the costs involved in training the  
24 adversely affected worker.

1 (D) TRAINING PROGRAMS.—The training  
2 programs that may be approved under subpara-  
3 graph (A) include—

4 (i) employer-based training, includ-  
5 ing—

6 (I) on-the-job training if ap-  
7 proved by the Secretary under sub-  
8 section (c); and

9 (II) joint labor-management ap-  
10 prenticeship programs;

11 (ii) any training program provided by  
12 a State pursuant to title I of the Work-  
13 force Investment Act of 1998 (29 U.S.C.  
14 2801 et seq.);

15 (iii) any programs in career and tech-  
16 nical education described in section 3(5) of  
17 the Carl D. Perkins Career and Technical  
18 Education Act of 2006 (20 U.S.C.  
19 2302(5));

20 (iv) any program of remedial edu-  
21 cation;

22 (v) any program of prerequisite edu-  
23 cation or coursework required to enroll in  
24 training that may be approved under this  
25 paragraph;

1                   (vi) any training program for which  
2                   all, or any portion, of the costs of training  
3                   the worker are paid—

4                               (I) under any Federal or State  
5                               program other than this part; or

6                               (II) from any source other than  
7                               this part;

8                   (vii) any training program or  
9                   coursework at an accredited institution of  
10                   higher education (described in section 102  
11                   of the Higher Education Act of 1965 (20  
12                   U.S.C. 1002)), including a training pro-  
13                   gram or coursework for the purpose of—

14                               (I) obtaining a degree or certifi-  
15                               cation; or

16                               (II) completing a degree or cer-  
17                               tification that the worker had pre-  
18                               viously begun at an accredited institu-  
19                               tion of higher education; and

20                   (viii) any other training program ap-  
21                   proved by the Secretary.

22                   (3) SUPPLEMENTAL ASSISTANCE.—The Sec-  
23                   retary may, as appropriate, authorize supplemental  
24                   assistance that is necessary to defray reasonable  
25                   transportation and subsistence expenses for separate

1 maintenance in a case in which training for a worker  
2 is provided in a facility that is not within commuting  
3 distance of the regular place of residence of the  
4 worker.

5 (c) ON-THE-JOB TRAINING REQUIREMENTS.—

6 (1) IN GENERAL.—The Secretary may approve  
7 on-the-job training for any adversely affected worker  
8 if—

9 (A) the Secretary determines that on-the-  
10 job training—

11 (i) can reasonably be expected to lead  
12 to suitable employment with the employer  
13 offering the on-the-job training;

14 (ii) is compatible with the skills of the  
15 worker;

16 (iii) includes a curriculum through  
17 which the worker will gain the knowledge  
18 or skills to become proficient in the job for  
19 which the worker is being trained; and

20 (iv) can be measured by benchmarks  
21 that indicate that the worker is gaining  
22 such knowledge or skills; and

23 (B) the State determines that the on-the-  
24 job training program meets the requirements of  
25 clauses (iii) and (iv) of subparagraph (A).

1           (2) MONTHLY PAYMENTS.—The Secretary shall  
2 pay the costs of on-the-job training approved under  
3 paragraph (1) in monthly installments.

4           (3) CONTRACTS FOR ON-THE-JOB TRAINING.—

5           (A) IN GENERAL.—The Secretary shall en-  
6 sure, in entering into a contract with an em-  
7 ployer to provide on-the-job training to a work-  
8 er under this subsection, that the skill require-  
9 ments of the job for which the worker is being  
10 trained, the academic and occupational skill  
11 level of the worker, and the work experience of  
12 the worker are taken into consideration.

13           (B) TERM OF CONTRACT.—Training under  
14 any such contract shall be limited to the period  
15 of time required for the worker receiving on-  
16 the-job training to become proficient in the job  
17 for which the worker is being trained, but may  
18 not exceed 156 weeks in any case.

19           (4) EXCLUSION OF CERTAIN EMPLOYERS.—The  
20 Secretary shall not enter into a contract for on-the-  
21 job training with an employer that exhibits a pattern  
22 of failing to provide workers receiving on-the-job  
23 training from the employer with—

24           (A) continued, long-term employment as  
25 regular employees; and

1           (B) wages, benefits, and working condi-  
2           tions that are equivalent to the wages, benefits,  
3           and working conditions provided to regular em-  
4           ployees who have worked a similar period of  
5           time and are doing the same type of work as  
6           workers receiving on-the-job training from the  
7           employer.

8           (d) ADMINISTRATIVE AND EMPLOYMENT SERVICES  
9           FUNDING.—

10           (1) ADMINISTRATIVE FUNDING.—In addition to  
11           any funds made available to a State to carry out this  
12           section for a fiscal year, the State shall receive for  
13           the fiscal year a payment in an amount that is equal  
14           to 15 percent of the amount of such funds and  
15           shall—

16           (A) use not more than  $\frac{2}{3}$  of such payment  
17           for the administration of the climate change ad-  
18           justment assistance for workers program under  
19           this part, including for—

20           (i) processing waivers of training re-  
21           quirements under subsection (a)(4); and

22           (ii) collecting, validating, and report-  
23           ing data required under this part; and

1 (B) use not less than  $\frac{1}{3}$  of such payment  
2 for information and employment services under  
3 subsection (b)(1).

4 (2) EMPLOYMENT SERVICES FUNDING.—

5 (A) IN GENERAL.—In addition to any  
6 funds made available to a State to carry out  
7 subsection (b)(2) and the payment under para-  
8 graph (1) for a fiscal year, the Secretary shall  
9 provide to the State for the fiscal year a reason-  
10 able payment for the purpose of providing em-  
11 ployment and services under subsection (b)(1).

12 (B) VOLUNTARY RETURN OF FUNDS.—A  
13 State that receives a payment under subpara-  
14 graph (A) may decline or otherwise return such  
15 payment to the Secretary.

16 (e) JOB SEARCH ALLOWANCES.—The Secretary of  
17 Labor may provide adversely affected workers a one-time  
18 job search allowance in accordance with regulations pre-  
19 scribed by the Secretary. Any job search allowance pro-  
20 vided shall be available only under the following cir-  
21 cumstances and conditions:

22 (1) The worker is no longer eligible for the cli-  
23 mate change adjustment allowance under subsection  
24 (a) and has completed the training program required  
25 by subsection (b)(1)(E).



1           (2) The Secretary determines that the worker  
2 cannot reasonably be expected to secure suitable em-  
3 ployment in the commuting area in which the worker  
4 resides.

5           (3) An allowance granted shall provide reim-  
6 bursement to the worker of all necessary job search  
7 expenses as prescribed by the Secretary in regula-  
8 tions. Such reimbursement under this subsection  
9 may not exceed \$1,500 for any worker.

10 (f) RELOCATION ALLOWANCE AUTHORIZED.—

11           (1) IN GENERAL.—Any adversely affected work-  
12 er covered by a certification issued under section  
13 311 may file an application for a relocation allow-  
14 ance with the Secretary, and the Secretary may  
15 grant the relocation allowance, subject to the terms  
16 and conditions of this subsection.

17           (2) CONDITIONS FOR GRANTING ALLOWANCE.—  
18 A relocation allowance may be granted if all of the  
19 following terms and conditions are met:

20           (A) ASSIST AN ADVERSELY AFFECTED  
21 WORKER.—The relocation allowance will assist  
22 an adversely affected worker in relocating with-  
23 in the United States.

24           (B) LOCAL EMPLOYMENT NOT AVAIL-  
25 ABLE.—The Secretary determines that the

1 worker cannot reasonably be expected to secure  
2 suitable employment in the commuting area in  
3 which the worker resides.

4 (C) TOTAL SEPARATION.—The worker is  
5 totally separated from employment at the time  
6 relocation commences.

7 (D) SUITABLE EMPLOYMENT OBTAINED.—  
8 The worker—

9 (i) has obtained suitable employment  
10 affording a reasonable expectation of long-  
11 term duration in the area in which the  
12 worker wishes to relocate; or

13 (ii) has obtained a bona fide offer of  
14 such employment.

15 (E) APPLICATION.—The worker filed an  
16 application with the Secretary at such time and  
17 in such manner as the Secretary shall specify  
18 by regulation.

19 (3) AMOUNT OF ALLOWANCE.—The relocation  
20 allowance granted to a worker under paragraph (1)  
21 includes—

22 (A) all reasonable and necessary expenses  
23 (including, subsistence and transportation ex-  
24 penses at levels not exceeding amounts pre-  
25 scribed by the Secretary in regulations) in-

1 curred in transporting the worker, the worker's  
2 family, and household effects; and

3 (B) a lump sum equivalent to 3 times the  
4 worker's average weekly wage, up to a max-  
5 imum payment of \$1,500.

6 (4) LIMITATIONS.—A relocation allowance may  
7 not be granted to a worker unless—

8 (A) the relocation occurs within 182 days  
9 after the filing of the application for relocation  
10 assistance; or

11 (B) the relocation occurs within 182 days  
12 after the conclusion of training, if the worker  
13 entered a training program approved by the  
14 Secretary under subsection (b)(2).

15 (g) HEALTH INSURANCE CONTINUATION.—Not later  
16 than 1 year after the date of enactment of this Act, the  
17 Secretary of Labor shall prescribe regulations to provide,  
18 for the period in which an adversely affected worker is  
19 participating in a training program described in sub-  
20 section (b)(2), 80 percent of the monthly premium of any  
21 health insurance coverage that an adversely affected work-  
22 er was receiving from such worker's employer prior to the  
23 separation from employment described in section 311(b),  
24 to be paid to any health care insurance plan designated

1 by the adversely affected worker receiving an allowance  
2 under this section.

3 **SEC. 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  
7 agreement with any State, or with any State agency  
8 (referred to in this section as “cooperating States”  
9 and “cooperating State agencies” respectively).  
10 Under such an agreement, the cooperating State or  
11 cooperating State agency—

12 (A) as agent of the United States, shall re-  
13 ceive applications for, and shall provide, pay-  
14 ments on the basis provided in this part;

15 (B) in accordance with paragraph (6),  
16 shall make available to adversely affected work-  
17 ers covered by a certification under section  
18 311(d) the employment services described in  
19 section 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 agen-  
24 cies in providing payments and services under  
25 this part.

1 Each agreement under this section shall provide the  
2 terms and conditions upon which the agreement may  
3 be amended, suspended, or terminated.

4 (2) FORM AND MANNER OF DATA.—Each  
5 agreement under this section shall—

6 (A) provide the Secretary with the author-  
7 ity to collect any data the Secretary determines  
8 necessary to meet the requirements of this part;  
9 and

10 (B) specify the form and manner in which  
11 any such data requested by the Secretary shall  
12 be reported.

13 (3) RELATIONSHIP TO UNEMPLOYMENT INSUR-  
14 ANCE.—Each agreement under this section shall  
15 provide that an adversely affected worker receiving  
16 a climate change adjustment allowance under this  
17 part shall not be eligible for unemployment insur-  
18 ance otherwise payable to such worker under the  
19 laws of the State.

20 (4) REVIEW.—A determination by a cooper-  
21 ating State agency with respect to entitlement to  
22 program benefits under an agreement is subject to  
23 review in the same manner and to the same extent  
24 as determinations under the applicable State law  
25 and only in that manner and to that extent.

1           (5) COORDINATION.—Any agreement entered  
2 into under this section shall provide for the coordi-  
3 nation of the administration of the provisions for  
4 employment services, training, and supplemental as-  
5 sistance under section 312 and under title I of the  
6 Workforce Investment Act of 1998 (29 U.S.C. 2801  
7 et seq.) upon such terms and conditions as are es-  
8 tablished by the Secretary in consultation with the  
9 States and set forth in such agreement. Any agency  
10 of the State jointly administering such provisions  
11 under such agreement shall be considered to be a co-  
12 operating State agency for purposes of this part.

13           (6) RESPONSIBILITIES OF COOPERATING AGEN-  
14 CIES.—Each cooperating State agency shall, in car-  
15 rying out paragraph (1)(B)—

16           (A) advise each worker who applies for un-  
17 employment insurance of the benefits under this  
18 part and the procedures and deadlines for ap-  
19 plying for such benefits;

20           (B) facilitate the early filing of petitions  
21 under section 311(a) for any workers that the  
22 agency considers are likely to be eligible for  
23 benefits under this part;

24           (C) advise each adversely affected worker  
25 to apply for training under section 312(b) be-

1 fore, or at the same time, the worker applies for  
2 climate change adjustment allowances under  
3 section 312(a);

4 (D) perform outreach to, intake of, and  
5 orientation for adversely affected workers and  
6 adversely affected incumbent workers covered  
7 by a certification under section 312(a) with re-  
8 spect to assistance and benefits available under  
9 this part;

10 (E) make employment services described in  
11 section 312(b)(1) available to adversely affected  
12 workers and adversely affected incumbent work-  
13 ers covered by a certification under section  
14 311(d) and, if funds provided to carry out this  
15 part are insufficient to make such services  
16 available, make arrangements to make such  
17 services available through other Federal pro-  
18 grams; and

19 (F) provide the benefits and reemployment  
20 services under this part in a manner that is  
21 necessary for the proper and efficient adminis-  
22 tration of this part, including the use of state  
23 agency personnel employed in accordance with a  
24 merit system of personnel administration stand-  
25 ards, including—

1 (i) making determinations of eligibility  
2 for, and payment of, climate change read-  
3 justment allowances and health care ben-  
4 efit replacement amounts;

5 (ii) developing recommendations re-  
6 garding payments as a bridge to retire-  
7 ment and lump sum payments to pension  
8 plans in accordance with this subsection;  
9 and

10 (iii) the provision of reemployment  
11 services to eligible workers, including refer-  
12 ral to training services.

13 (7) SUBMISSION OF CERTAIN INFORMATION.—

14 In order to promote the coordination of workforce  
15 investment activities in each State with activities  
16 carried out under this part, any agreement entered  
17 into under this section shall provide that the State  
18 shall submit to the Secretary, in such form as the  
19 Secretary may require, the description and informa-  
20 tion described in paragraphs (8) and (14) of section  
21 112(b) of the Workforce Investment Act of 1998 (29  
22 U.S.C. 2822(b)) and a description of the State's  
23 rapid response activities under section 134(a)(2)(A)  
24 of that Act (29 U.S.C. 2864(a)(2)(A)).

25 (8) CONTROL MEASURES.—



1           (A) IN GENERAL.—The Secretary shall re-  
2           quire each cooperating State and cooperating  
3           State agency to implement effective control  
4           measures and to effectively oversee the oper-  
5           ation and administration of the climate change  
6           adjustment assistance program under this part,  
7           including by means of monitoring the operation  
8           of control measures to improve the accuracy  
9           and timeliness of the data being collected and  
10          reported.

11          (B) DEFINITION.—For purposes of sub-  
12          paragraph (A), the term “control measures”  
13          means measures that—

14                 (i) are internal to a system used by a  
15                 State to collect data; and

16                 (ii) are designed to ensure the accu-  
17                 racy and verifiability of such data.

18          (9) DATA REPORTING.—

19                 (A) IN GENERAL.—Any agreement entered  
20                 into under this section shall require the cooper-  
21                 ating State or cooperating State agency to re-  
22                 port to the Secretary on a quarterly basis com-  
23                 prehensive performance accountability data, to  
24                 consist of—

1 (i) the core indicators of performance  
2 described in subparagraph (B)(i);

3 (ii) the additional indicators of per-  
4 formance described in subparagraph  
5 (B)(ii), if any; and

6 (iii) a description of efforts made to  
7 improve outcomes for workers under the  
8 climate change adjustment assistance pro-  
9 gram.

10 (B) CORE INDICATORS DESCRIBED.—

11 (i) IN GENERAL.—The core indicators  
12 of performance described in this subpara-  
13 graph are—

14 (I) the percentage of workers re-  
15 ceiving benefits under this part who  
16 are employed during the second cal-  
17 endar quarter following the calendar  
18 quarter in which the workers cease re-  
19 ceiving such benefits;

20 (II) the percentage of such work-  
21 ers who are employed in each of the  
22 third and fourth calendar quarters fol-  
23 lowing the calendar quarter in which  
24 the workers cease receiving such bene-  
25 fits; and

1 (III) the earnings of such work-  
2 ers in each of the third and fourth  
3 calendar quarters following the cal-  
4 endar quarter in which the workers  
5 cease receiving such benefits.

6 (ii) ADDITIONAL INDICATORS.—The  
7 Secretary and a cooperating State or co-  
8 operating State agency may agree upon  
9 additional indicators of performance for  
10 the climate change adjustment assistance  
11 program under this part, as appropriate.

12 (C) STANDARDS WITH RESPECT TO RELI-  
13 ABILITY OF DATA.—In preparing the quarterly  
14 report required by subparagraph (A), each co-  
15 operating State or cooperating State agency  
16 shall establish procedures that are consistent  
17 with guidelines to be issued by the Secretary to  
18 ensure that the data reported are valid and reli-  
19 able.

20 (10) VERIFICATION OF ELIGIBILITY FOR PRO-  
21 GRAM BENEFITS.—

22 (A) IN GENERAL.—An agreement under  
23 this section shall provide that the State shall  
24 periodically redetermine that a worker receiving  
25 benefits under this part who is not a citizen or

1 national of the United States remains in a sat-  
2 isfactory immigration status. Once satisfactory  
3 immigration status has been initially verified  
4 through the immigration status verification sys-  
5 tem described in section 1137(d) of the Social  
6 Security Act (42 U.S.C. 1320b-7(d)) for pur-  
7 poses of establishing a worker's eligibility for  
8 unemployment compensation, the State shall  
9 reverify the worker's immigration status if the  
10 documentation provided during initial  
11 verification will expire during the period in  
12 which that worker is potentially eligible to re-  
13 ceive benefits under this part. The State shall  
14 conduct such redetermination in a timely man-  
15 ner, utilizing the immigration status verification  
16 system described in section 1137(d) of the So-  
17 cial Security Act (42 U.S.C. 1320b-7(d)).

18 (B) PROCEDURES.—The Secretary shall  
19 establish procedures to ensure the uniform ap-  
20 plication by the States of the requirements of  
21 this paragraph.

22 (b) ADMINISTRATION ABSENT STATE AGREE-  
23 MENT.—

24 (1) In any State where there is no agreement  
25 in force between a State or its agency under sub-

1 section (a), the Secretary shall promulgate regula-  
2 tions for the performance of all necessary functions  
3 under section 312, including provision for a fair  
4 hearing for any worker whose application for pay-  
5 ments is denied.

6 (2) A final determination under paragraph (1)  
7 with respect to entitlement to program benefits  
8 under section 312 is subject to review by the courts  
9 in the same manner and to the same extent as is  
10 provided by section 205(g) of the Social Security Act  
11 (42 U.S.C. 405(g)).

12 (c) PROHIBITION ON CONTRACTING WITH PRIVATE  
13 ENTITIES.—Neither the Secretary nor a State may con-  
14 tract with any private for-profit or nonprofit entity for the  
15 administration of the climate change adjustment assist-  
16 ance program under this part.

17 (d) PAYMENT TO THE STATES.—

18 (1) IN GENERAL.—The Secretary shall from  
19 time to time certify to the Secretary of the Treasury  
20 for payment to each cooperating State the sums nec-  
21 essary to enable such State as agent of the United  
22 States to make payments provided for by this part.

23 (2) RESTRICTION.—All money paid a State  
24 under this subsection shall be used solely for the  
25 purposes for which it is paid; and money so paid

1       which is not used for such purposes shall be re-  
2       turned, at the time specified in the agreement under  
3       this section, to the Secretary of the Treasury.

4           (3) BONDS.—Any agreement under this section  
5       may require any officer or employee of the State cer-  
6       tifying payments or disbursing funds under the  
7       agreement or otherwise participating in the perform-  
8       ance of the agreement, to give a surety bond to the  
9       United States in such amount as the Secretary may  
10      deem necessary, and may provide for the payment of  
11      the cost of such bond from funds for carrying out  
12      the purposes of this part.

13      (e) LABOR STANDARDS.—

14           (1) PROHIBITION ON DISPLACEMENT.—An indi-  
15      vidual in an apprenticeship program or on-the-job  
16      training program under this part shall not displace  
17      (including a partial displacement, such as a reduc-  
18      tion in the hours of non-overtime work, wages, or  
19      employment benefits) any employed employee.

20           (2) PROHIBITION ON IMPAIRMENT OF CON-  
21      TRACTS.—An apprenticeship program or on-the-job  
22      training program under this Act shall not impair an  
23      existing contract for services or collective bargaining  
24      agreement, and no such activity that would be incon-  
25      sistent with the terms of a collective bargaining

1 agreement shall be undertaken without the written  
2 concurrence of the labor organization and employer  
3 concerned.

4 (3) ADDITIONAL STANDARDS.—The Secretary,  
5 or a State acting under an agreement described in  
6 subsection (a) may pay the costs of on-the-job train-  
7 ing, notwithstanding any other provision of this sec-  
8 tion, only if—

9 (A) in the case of training which would be  
10 inconsistent with the terms of a collective bar-  
11 gaining agreement, the written concurrence of  
12 the labor organization concerned has been ob-  
13 tained;

14 (B) the job for which such adversely af-  
15 fected worker is being trained is not being cre-  
16 ated in a promotional line that will infringe in  
17 any way upon the promotional opportunities of  
18 currently employed individuals;

19 (C) such training is not for the same occu-  
20 pation from which the worker was separated  
21 and with respect to which such worker's group  
22 was certified pursuant to section 311(d);

23 (D) the employer is provided reimburse-  
24 ment of not more than 50 percent of the wage  
25 rate of the participant, for the cost of providing

1           the training and additional supervision related  
2           to the training; and

3           (E) the employer has not received payment  
4           under with respect to any other on-the-job  
5           training provided by such employer which failed  
6           to meet the requirements of subparagraphs (A)  
7           through (D).

8           (f) DEFINITIONS.—As used in this part the following  
9           definitions apply:

10           (1) The term “adversely affected employment”  
11           means employment at an employment site, if work-  
12           ers at such site are eligible to apply for adjustment  
13           assistance under this part.

14           (2) The term “adversely affected worker”  
15           means an individual who has been totally or partially  
16           separated from employment and is eligible to apply  
17           for adjustment assistance under this part.

18           (3) The term “average weekly wage” means  $\frac{1}{13}$   
19           of the total wages paid to an individual in the quar-  
20           ter in which the individual’s total wages were highest  
21           among the first 4 of the last 5 completed calendar  
22           quarters immediately before the quarter in which oc-  
23           curs the week with respect to which the computation  
24           is made. Such week shall be the week in which total  
25           separation occurred, or, in cases where partial sepa-



1       ration is claimed, an appropriate week, as defined in  
2       regulations prescribed by the Secretary.

3           (4) The term “average weekly hours” means  
4       the average hours worked by the individual (exclud-  
5       ing overtime) in the employment from which he has  
6       been or claims to have been separated in the 52  
7       weeks (excluding weeks during which the individual  
8       was sick or on vacation) preceding the week speci-  
9       fied in the last sentence of paragraph (4).

10          (5) The term “benefit period” means, with re-  
11       spect to an individual—

12           (A) the benefit year and any ensuing pe-  
13       riod, as determined under applicable State law,  
14       during which the individual is eligible for reg-  
15       ular compensation, additional compensation, or  
16       extended compensation; or

17           (B) the equivalent to such a benefit year  
18       or ensuing period provided for under the appli-  
19       cable Federal unemployment insurance law.

20          (6) The term “consumer goods manufacturing”  
21       means the electrical equipment, appliance, and com-  
22       ponent manufacturing industry and transportation  
23       equipment manufacturing.

24          (7) The term “employment site” means a single  
25       facility or site of employment.

1           (8) The term “energy-intensive manufacturing  
2 industries” means all industrial sectors, entities, or  
3 groups of entities that meet the energy or green-  
4 house gas intensity criteria in section  
5 765(b)(2)(A)(i) of the Clean Air Act based on the  
6 most recent data available.

7           (9) The term “energy producing and trans-  
8 forming industries” means the coal mining industry,  
9 oil and gas extraction, electricity power generation,  
10 transmission and distribution, and natural gas dis-  
11 tribution.

12           (10) The term “on-the-job training” means  
13 training provided by an employer to an individual  
14 who is employed by the employer.

15           (11) The terms “partial separation” and “par-  
16 tially separated” refer, with respect to an individual  
17 who has not been totally separated, that such indi-  
18 vidual has had—

19                   (A) his or her hours of work reduced to 80  
20 percent or less of his average weekly hours in  
21 adversely affected employment; and

22                   (B) his or her wages reduced to 80 percent  
23 or less of his average weekly wage in such ad-  
24 versely affected employment.

1           (12) The term “public agency” means a depart-  
2           ment or agency of a State or political subdivision of  
3           a State or of the Federal Government.

4           (13) The term “Secretary” means the Secretary  
5           of Labor.

6           (14) The term “service workers” means work-  
7           ers supplying support or auxiliary services to an em-  
8           ployment site.

9           (15) The term “State” includes the District of  
10          Columbia and the Commonwealth of Puerto Rico:  
11          and the term “United States” when used in the geo-  
12          graphical sense includes such Commonwealth.

13          (16) The term “State agency” means the agen-  
14          cy of the State which administers the State law.

15          (17) The term “State law” means the unem-  
16          ployment insurance law of the State approved by the  
17          Secretary of Labor under section 3304 of the Inter-  
18          nal Revenue Code of 1986.

19          (18) The terms “total separation” and “totally  
20          separated” refer to the layoff or severance of an in-  
21          dividual from employment with an employer in which  
22          adversely affected employment exists.

23          (19) The term “unemployment insurance”  
24          means the unemployment compensation payable to  
25          an individual under any State law or Federal unem-

1       employment compensation law, including chapter 85 of  
2       title 5, United States Code, and the Railroad Unem-  
3       ployment Insurance Act (45 U.S.C. 351 et seq.).  
4       The terms “regular compensation”, “additional com-  
5       pensation”, and “extended compensation” have the  
6       same respective meanings that are given them in  
7       section 205(2), (3), and (4) of the Federal-State Ex-  
8       tended Unemployment Compensation Act of 1970  
9       (26 U.S.C. 3304 note; Public Law 91–373).

10           (20) The term “week” means a week as defined  
11       in the applicable State law.

12           (21) The term “week of unemployment” means  
13       a week of total, part-total, or partial unemployment  
14       as determined under the applicable State law or  
15       Federal unemployment insurance law.

16       (g) SPECIAL RULE WITH RESPECT TO MILITARY  
17       SERVICE.—

18           (1) IN GENERAL.—Notwithstanding any other  
19       provision of this part, the Secretary may waive any  
20       requirement of this part that the Secretary deter-  
21       mines is necessary to ensure that an adversely af-  
22       fected worker who is a member of a reserve compo-  
23       nent of the Armed Forces and serves a period of  
24       duty described in paragraph (2) is eligible to receive  
25       a climate change adjustment allowance, training,

1 and other benefits under this part in the same man-  
2 ner and to the same extent as if the worker had not  
3 served the period of duty.

4 (2) PERIOD OF DUTY DESCRIBED.—An ad-  
5 versely affected worker serves a period of duty de-  
6 scribed in this paragraph if, before completing train-  
7 ing under this part, the worker—

8 (A) serves on active duty for a period of  
9 more than 30 days under a call or order to ac-  
10 tive duty of more than 30 days; or

11 (B) in the case of a member of the Army  
12 National Guard of the United States or Air Na-  
13 tional Guard of the United States, performs  
14 full-time National Guard duty under section  
15 502(f) of title 32, United States Code, for 30  
16 consecutive days or more when authorized by  
17 the President or the Secretary of Defense for  
18 the purpose of responding to a national emer-  
19 gency declared by the President and supported  
20 by Federal funds.

21 (h) FRAUD AND RECOVERY OF OVERPAYMENTS.—

22 (1) RECOVERY OF PAYMENTS TO WHICH AN IN-  
23 DIVIDUAL WAS NOT ENTITLED.—If the Secretary or  
24 a court of competent jurisdiction determines that  
25 any person has received any payment under this

1 part to which the individual was not entitled, such  
2 individual shall be liable to repay such amount to  
3 the Secretary, as the case may be, except that the  
4 Secretary shall waive such repayment if such agency  
5 or the Secretary determines that—

6 (A) the payment was made without fault  
7 on the part of such individual; and

8 (B) requiring such repayment would cause  
9 a financial hardship for the individual (or the  
10 individual's household, if applicable) when tak-  
11 ing into consideration the income and resources  
12 reasonably available to the individual (or house-  
13 hold) and other ordinary living expenses of the  
14 individual (or household).

15 (2) MEANS OF RECOVERY.—Unless an overpay-  
16 ment is otherwise recovered, or waived under para-  
17 graph (1), the Secretary shall recover the overpay-  
18 ment by deductions from any sums payable to such  
19 person under this part, under any Federal unem-  
20 ployment compensation law or other Federal law ad-  
21 ministered by the Secretary which provides for the  
22 payment of assistance or an allowance with respect  
23 to unemployment. Any amount recovered under this  
24 section shall be returned to the Treasury of the  
25 United States.

1           (3) PENALTIES FOR FRAUD.—Any person  
2           who—

3                   (A) makes a false statement of a material  
4                   fact knowing it to be false, or knowingly fails  
5                   to disclose a material fact, for the purpose of  
6                   obtaining or increasing for that person or for  
7                   any other person any payment authorized to be  
8                   furnished under this part; or

9                   (B) makes a false statement of a material  
10                  fact knowing it to be false, or knowingly fails  
11                  to disclose a material fact, when providing in-  
12                  formation to the Secretary during an investiga-  
13                  tion of a petition under section 311(c);

14 shall be imprisoned for not more than one year, or fined  
15 under title 18, United States Code, or both, and be ineli-  
16 gible for any further payments under this part.

17           (i) REGULATIONS.—The Secretary shall prescribe  
18 such regulations as may be necessary to carry out the pro-  
19 visions of this part.

20           (j) STUDY ON OLDER WORKERS.—The Secretary  
21 shall conduct a study examine the circumstances of older  
22 adversely affected workers and the ability of such workers  
23 to access their retirement benefits. The Secretary shall  
24 transmit a report to Congress not later than 2 years after  
25 the date of enactment of this Act on the findings of the

1 study and the Secretary’s recommendations on how to en-  
2 sure that adversely affected workers within 2 years of re-  
3 tirement are able to access their retirement benefits.

## 4 **Subtitle B—Consumer Assistance**

### 5 **SEC. 321. STRATEGIC INTERAGENCY BOARD ON INTER-** 6 **NATIONAL CLIMATE INVESTMENT.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—Not later than 90 days after  
9 the date of the enactment of this Act, the President  
10 shall establish the “Strategic Interagency Board on  
11 International Climate Investment” (referred to in  
12 this subtitle as the “Board”).

13 (2) COMPOSITION.—The Board shall be com-  
14 posed of—

15 (A) the Secretary of State;

16 (B) the Administrator of United States  
17 Agency for International Development;

18 (C) the Secretary of Energy;

19 (D) the Secretary of the Treasury;

20 (E) the Secretary of Commerce;

21 (F) the Administrator; and

22 (G) such other relevant officials [as the  
23 President may designate].

24 (b) DUTIES.—The duties of the Board shall include  
25 assessing, monitoring, and evaluating the progress and



1 contributions of relevant departments and agencies of the  
2 Federal Government in supporting financing for inter-  
3 national climate change activities.

4 **SEC. 322. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
5 **ESTATION.**

6 **【Title VII of the Clean Air Act is amended by insert-**  
7 **ing after Part D the following:】**

8 **“PART V—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 THROUGH REDUCED DE-**  
2 **FORESTATION.**

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 720  
15 million tons of carbon dioxide equivalent in 2020,  
16 and a cumulative quantity of at least 6 billion tons  
17 of carbon dioxide equivalent by December 31, 2025,  
18 with additional reductions in subsequent years;

19 “(2) to assist developing countries in preparing  
20 to participate in international markets for inter-  
21 national offset credits for reduced emissions from  
22 deforestation; and

23 “(3) to preserve existing forest carbon stocks in  
24 countries where such forest carbon may be vulner-  
25 able to international leakage.”.

1 **SEC. 323. ASSISTANCE FOR CLEAN TECHNOLOGY ACTIVI-**  
2 **TIES.**

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 TECHNOLOGY 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 Technology 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 pur-  
5               suant to the requirements under **【section 495】**;

6               (B) to multilateral funds or international  
7               institutions pursuant to the Convention or an  
8               agreement negotiated under the Convention; or

9               (C) through a combination of the mecha-  
10              nisms identified under subparagraphs (A) and  
11              (B).

12       (c) **DETERMINATION OF QUALIFYING ACTIVITIES.**—  
13       Assistance under this **【section?】** may be provided only to  
14       qualifying entities for clean technology activities (includ-  
15       ing building relevant technical and institutional capacity)  
16       that contribute to substantial, measurable, reportable, and  
17       verifiable reductions, sequestration, or avoidance of green-  
18       house gas emissions.

19       **SEC. 324. INTERNATIONAL CLIMATE CHANGE ADAPTATION**  
20               **PROGRAM.**

21       (a) **PURPOSES.**—The purposes of this section are—

22               (1) to provide assistance to the most vulnerable  
23               developing countries; and

24               (2) to support the development and implemen-  
25               tation of climate change adaptation programs in a

1 way that protects and promotes interests of the  
2 United States, to the extent those interests may be  
3 advanced by minimizing, averting, or increasing re-  
4 siliance to climate change impacts.

5 (b) INTERNATIONAL CLIMATE CHANGE ADAPTATION  
6 PROGRAM.—

7 (1) ESTABLISHMENT.—The Secretary of State,  
8 in consultation with the Administrator of the United  
9 States Agency for International Development, the  
10 Secretary of the Treasury, and the Administrator,  
11 shall establish an International Climate Change Ad-  
12 aptation Program in accordance with this section.

13 (2) DISTRIBUTION OF ASSISTANCE.—The Sec-  
14 retary of State, or the head of such other Federal  
15 agency as the President may designate, after con-  
16 sultation with the Secretary of the Treasury, the Ad-  
17 ministrator of the United States Agency for Inter-  
18 national Development, and the Administrator, shall  
19 direct the distribution of funding to carry out the  
20 International Climate Change Adaptation Pro-  
21 gram—

22 (A) in the form of bilateral assistance pur-  
23 suant to the requirements under **【section 495】**;

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 **【Act】 【subtitle?】**  
12 by including evaluation criteria, such as performance indi-  
13 cators.

14 (b) REPORTS AND REVIEW.—

15 (1) ANNUAL REPORT.—Not later than 1 year  
16 after the date of enactment of this Act, and annually  
17 thereafter, the Board shall submit to the appropriate  
18 committees of Congress a report that describes—

19 (A) the steps Federal agencies have taken,  
20 and the progress made, toward accomplishing  
21 the objectives of this section; and

22 (B) the ramifications of any potentially de-  
23 stabilizing impacts climate change may have on  
24 the interests of the United States.

1           (2) **REVIEWS.**—Not later than 3 years after the  
2           date of enactment of this Act, and triennially there-  
3           after, the Board, in cooperation with the National  
4           Academy of Sciences and other appropriate research  
5           and development institutions, shall—

6                   (A) review the global needs and opportuni-  
7                   ties for climate change investment in developing  
8                   countries; and

9                   (B) submit to Congress a report that de-  
10                  scribes the findings of the review.

11 **SEC. 326. REPORT ON CLIMATE ACTIONS OF MAJOR**  
12 **ECONOMIES.**

13           (a) **IN GENERAL.**—Not later than 180 days after the  
14           date of enactment of this Act, and every 180 days there-  
15           after, the Secretary of State, in cooperation with the  
16           Board, shall prepare an interagency report on climate  
17           change and energy policy of the 5 countries that, of the  
18           countries that are not members of the Organisation for  
19           Economic Co-Operation and Development, emit the great-  
20           est annual quantity of greenhouse gases.

21           (b) **PURPOSES.**—The purposes of the report shall  
22           be—

23                   (1) to provide to Congress and the public of the  
24           United States a better understanding of the steps



1 the countries described in subsection (a) are taking  
2 to reduce greenhouse gas emissions;

3 (2) to identify the means by which the United  
4 States can assist those countries in achieving such  
5 a reduction; and

6 (3) to assess the climate change and energy pol-  
7 icy commitments and actions of those countries.

8 (c) SUBMISSION TO CONGRESS.—Not later than 15  
9 months after the date of enactment of this Act, the Sec-  
10 retary of State shall submit to the appropriate committees  
11 of Congress the report prepared under this section.

## 12 **Subtitle C—Adapting to Climate** 13 **Change**

### 14 **PART 1—DOMESTIC ADAPTATION**

#### 15 **Subpart A—National Climate Change Adaptation** 16 **Program**

#### 17 **SEC. 341. NATIONAL CLIMATE CHANGE ADAPTATION PRO-** 18 **GRAM.**

19 The President shall establish within the United  
20 States Global Change Research Program a National Cli-  
21 mate Change Adaptation Program for the purpose of in-  
22 creasing the overall effectiveness of Federal climate  
23 change adaptation 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,  
6 data, forecasts, and warnings at national and regional  
7 scales, and to distribute information related to climate im-  
8 pacts to State, local, and tribal governments and the pub-  
9 lic to facilitate the development and implementation of  
10 strategies to reduce society's vulnerability to climate varia-  
11 bility and change.

12 **Subpart B—Public Health and Climate Change**

13 **SEC. 351. SENSE OF CONGRESS ON PUBLIC HEALTH AND**  
14 **CLIMATE CHANGE.**

15 It is the sense of the Congress that the Federal Gov-  
16 ernment, in cooperation with international, State, tribal,  
17 and local governments, Indian tribes, concerned public and  
18 private organizations, and citizens, should use all prac-  
19 ticable means and measures—

20 (1) to assist the efforts of public health and  
21 health care professionals, first responders, States,  
22 Indian tribes, municipalities, and local communities  
23 to incorporate measures to prepare health systems to  
24 respond to the impacts of climate change;

25 (2) to ensure—

1 (A) that the Nation's health professionals  
2 have sufficient information to prepare for and  
3 respond to the adverse health impacts of cli-  
4 mate change;

5 (B) the utility and value of scientific re-  
6 search in advancing understanding of—

7 (i) the health impacts of climate  
8 change; and

9 (ii) strategies to prepare for and re-  
10 spond to the health impacts of climate  
11 change;

12 (C) the identification of communities vul-  
13 nerable to the health effects of climate change  
14 and the development of strategic response plans  
15 to be carried out by health professionals for  
16 those communities;

17 (D) the improvement of health status and  
18 health equity through efforts to prepare for and  
19 respond to climate change; and

20 (E) the inclusion of health policy in the de-  
21 velopment of climate change responses;

22 (3) to encourage further research, interdiscipli-  
23 nary partnership, and collaboration among stake-  
24 holders in order to—

1 (A) understand and monitor the health im-  
2 pacts of climate change; and

3 (B) improve public health knowledge and  
4 response strategies to climate change;

5 (4) to enhance preparedness activities, and pub-  
6 lic health infrastructure, relating to climate change  
7 and health;

8 (5) to encourage each and every American to  
9 learn about the impacts of climate change on health;  
10 and

11 (6) to assist the efforts of developing nations to  
12 incorporate measures to prepare health systems to  
13 respond to the impacts of climate change.

14 **SEC. 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  
18 (including regulations) or authorizes any violation of any  
19 provision of any law (including regulations), including any  
20 health, energy, environmental, transportation, or any  
21 other law or regulation.

22 **SEC. 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 sist health professionals in preparing for and re-  
5 sponding to the impacts of climate change on public  
6 health in the United States and other nations, par-  
7 ticularly developing nations.

8 (2) CONSULTATION.—In developing or making  
9 any revision to the national strategic action plan, the  
10 Secretary shall—

11 (A) consult with the Director of the Cen-  
12 ters for Disease Control and Prevention, the  
13 Administrator of the Environmental Protection  
14 Agency, the Director of the National Institutes  
15 of Health, the Director of the Indian Health  
16 Service, the Secretary of Energy, other appro-  
17 priate Federal agencies, Indian tribes, State  
18 and local governments, public health organiza-  
19 tions, scientists, and other interested stake-  
20 holders; and

21 (B) provide opportunity for public input.

22 (b) CONTENTS.—

23 (1) IN GENERAL.—The Secretary shall assist  
24 health professionals in preparing for and responding

1 effectively and efficiently to the health effects of cli-  
2 mate change through measures including—

3 (A) developing, improving, integrating, and  
4 maintaining domestic and international disease  
5 surveillance systems and monitoring capacity to  
6 respond to health-related effects of climate  
7 change, including on topics addressing—

8 (i) water, food, and vector borne infec-  
9 tious diseases and climate change;

10 (ii) pulmonary effects, including re-  
11 sponses to aeroallergens;

12 (iii) cardiovascular effects, including  
13 impacts of temperature extremes;

14 (iv) air pollution health effects, includ-  
15 ing heightened sensitivity to air pollution;

16 (v) hazardous algal blooms;

17 (vi) mental and behavioral health im-  
18 pacts of climate change;

19 (vii) the health of refugees, displaced  
20 persons, and vulnerable communities;

21 (viii) the implications for communities  
22 vulnerable to health effects of climate  
23 change, as well as strategies for responding  
24 to climate change within these commu-  
25 nities; and

1 (ix) local and community-based health  
2 interventions for climate-related health im-  
3 pacts;

4 (B) creating tools for predicting and moni-  
5 toring the public health effects of climate  
6 change on the international, national, regional,  
7 State, tribal, and local levels, and providing  
8 technical support to assist in their implementa-  
9 tion;

10 (C) developing public health communica-  
11 tions strategies and interventions for extreme  
12 weather events and disaster response situations;

13 (D) identifying and prioritizing commu-  
14 nities and populations vulnerable to the health  
15 effects of climate change, and determining ac-  
16 tions and communication strategies that should  
17 be taken to inform and protect these commu-  
18 nities and populations from the health effects of  
19 climate change;

20 (E) developing health communication, pub-  
21 lic education, and outreach programs aimed at  
22 public health and health care professionals, as  
23 well as the general public, to promote prepared-  
24 ness and response strategies relating to climate  
25 change and public health, including the identi-

1           fication of greenhouse gas reduction behaviors  
2           that are health-promoting; and

3           (F) developing academic and regional cen-  
4           ters of excellence devoted to—

5           (i) researching relationships between  
6           climate change and health;

7           (ii) expanding and training the public  
8           health workforce to strengthen the capacity  
9           of such workforce to respond to and pre-  
10          pare for the health effects of climate  
11          change;

12          (iii) creating and supporting academic  
13          fellowships focusing on the health effects  
14          of climate change; and

15          (iv) training senior health ministry of-  
16          ficials from developing nations to strength-  
17          en the capacity of such nations to—

18           (I) prepare for and respond to  
19           the health effects of climate change;  
20           and

21           (II) build an international net-  
22           work of public health professionals  
23           with the necessary climate change  
24           knowledge base;



1           (G) using techniques, including health im-  
2           pact assessments, to assess various climate  
3           change public health preparedness and response  
4           strategies on international, national, State, re-  
5           gional, tribal, and local levels, and make rec-  
6           ommendations as to those strategies that best  
7           protect the public health;

8           (H)(i) assisting in the development, imple-  
9           mentation, and support of State, regional, trib-  
10          al, and local preparedness, communication, and  
11          response plans (including with respect to the  
12          health departments of such entities) to antici-  
13          pate and reduce the health threats of climate  
14          change; and

15          (ii) pursuing collaborative efforts to de-  
16          velop, integrate, and implement such plans;

17          (I) creating a program to advance research  
18          as it relates to the effects of climate change on  
19          public health across Federal agencies, including  
20          research to—

21                  (i) identify and assess climate change  
22                  health effects preparedness and response  
23                  strategies;

24                  (ii) prioritize critical public health in-  
25                  frastructure projects related to potential

1 climate change impacts that affect public  
2 health; and

3 (iii) coordinate preparedness for cli-  
4 mate change health impacts, including the  
5 development of modeling and forecasting  
6 tools;

7 (J) providing technical assistance for the  
8 development, implementation, and support of  
9 preparedness and response plans to anticipate  
10 and reduce the health threats of climate change  
11 in developing nations; and

12 (K) carrying out other activities deter-  
13 mined appropriate by the Secretary to plan for  
14 and respond to the impacts of climate change  
15 on public health.

16 (c) REVISION.—The Secretary shall revise the na-  
17 tional strategic action plan not later than July 1, 2014,  
18 and every 4 years thereafter, to reflect new information  
19 collected pursuant to implementation of the national stra-  
20 tegic action plan and otherwise, including information  
21 on—

22 (1) the status of critical environmental health  
23 parameters and related human health impacts;

24 (2) the impacts of climate change on public  
25 health; and

1           (3) advances in the development of strategies  
2           for preparing for and responding to the impacts of  
3           climate change on public health.

4           (d) IMPLEMENTATION.—

5           (1) IMPLEMENTATION THROUGH HHS.—The  
6           Secretary shall exercise the Secretary's authority  
7           under this subpart and other provisions of Federal  
8           law to achieve the goals and measures of the na-  
9           tional strategic action plan.

10          (2) OTHER PUBLIC HEALTH PROGRAMS AND  
11          INITIATIVES.—The Secretary and Federal officials of  
12          other relevant Federal agencies shall administer  
13          public health programs and initiatives authorized by  
14          provisions of law other than this subpart, subject to  
15          the requirements of such statutes, in a manner de-  
16          signed to achieve the goals of the national strategic  
17          action plan.

18          (3) SPECIFIC ACTIVITIES.—In furtherance of  
19          the national strategic action plan, the Secretary  
20          shall—

21                (A) conduct scientific research to assist  
22                health professionals in preparing for and re-  
23                sponding to the impacts of climate change on  
24                public health; and

25                (B) provide funding for—

1 (i) research on the health effects of  
2 climate change; and

3 (ii) preparedness planning on the  
4 international, national, State, tribal, re-  
5 gional, and local levels to respond to or re-  
6 duce the burden of health effects of climate  
7 change; and

8 (C) carry out other activities determined  
9 appropriate by the Secretary to prepare for and  
10 respond to the impacts of climate change on  
11 public health.

12 **SEC. 354. ADVISORY BOARD.**

13 (a) ESTABLISHMENT.—The Secretary shall establish  
14 a permanent science advisory board comprised of not less  
15 than 10 and not more than 20 members.

16 (b) APPOINTMENT OF MEMBERS.—The Secretary  
17 shall appoint the members of the science advisory board  
18 from among individuals—

19 (1) who have expertise in public health and  
20 human services, climate change, and other relevant  
21 disciplines; and

22 (2) at least  $\frac{1}{2}$  of whom are recommended by  
23 the President of the National Academy of Sciences.

24 (c) FUNCTIONS.—The science advisory board shall—

1           (1) provide scientific and technical advice and  
2           recommendations to the Secretary on the domestic  
3           and international impacts of climate change on pub-  
4           lic health, populations and regions particularly vul-  
5           nerable to the effects of climate change, and strate-  
6           gies and mechanisms to prepare for and respond to  
7           the impacts of climate change on public health; and

8           (2) advise the Secretary regarding the best  
9           science available for purposes of issuing the national  
10          strategic action plan.

11 **SEC. 355. REPORTS.**

12          (a) **NEEDS ASSESSMENT.**—

13           (1) **IN GENERAL.**—The Secretary shall seek to  
14          enter into, by not later than 6 months after the date  
15          of the enactment of this Act, an agreement with the  
16          National Research Council and the Institute of Med-  
17          icine to complete a report that—

18           (A) assesses the needs for health profes-  
19          sionals to prepare for and respond to climate  
20          change impacts on public health; and

21           (B) recommends programs to meet those  
22          needs.

23          (2) **SUBMISSION.**—The agreement under para-  
24          graph (1) shall require the completed report to be  
25          submitted to the Congress and the Secretary and

1       made publicly available not later than 1 year after  
2       the date of the agreement.

3       (b) CLIMATE CHANGE HEALTH PROTECTION AND  
4 PROMOTION REPORTS.—

5           (1) IN GENERAL.—The Secretary, in consulta-  
6       tion with the advisory board established under sec-  
7       tion 354, shall ensure the issuance of reports to aid  
8       health professionals in preparing for and responding  
9       to the adverse health effects of climate change  
10      that—

11           (A) review scientific developments on  
12      health impacts of climate change; and

13           (B) recommend changes to the national  
14      strategic action plan.

15           (2) SUBMISSION.—The Secretary shall submit  
16      the reports required by paragraph (1) to the Con-  
17      gress and make such reports publicly available not  
18      later than July 1, 2013, and every 4 years there-  
19      after.

20 **SEC. 356. DEFINITIONS.**

21      In this subpart:

22           (1) HEALTH IMPACT ASSESSMENT.—The term  
23      “health impact assessment” means a combination of  
24      procedures, methods, and tools by which a policy,  
25      program, or project may be judged as to its potential

1 effects on the health of a population, and the dis-  
2 tribution of those effects within the population.

3 (2) NATIONAL STRATEGIC ACTION PLAN.—The  
4 term “national strategic action plan” means the  
5 plan issued and revised under section 353.

6 (3) SECRETARY.—Unless otherwise specified,  
7 the term “Secretary” means the Secretary of Health  
8 and Human Services.

9 **Subpart C—Climate Change Safeguards for Natural**  
10 **Resources Conservation**

11 **SEC. 361. PURPOSES.**

12 The purposes of this subpart are—

13 (1) to establish an integrated Federal program  
14 that responds to ongoing and expected impacts of  
15 climate change, including, where applicable, ocean  
16 acidification, drought, and wildfire, by protecting,  
17 restoring, and conserving the natural resources of  
18 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, and wildfire, by  
23 protecting, restoring, and conserving the natural re-  
24 sources 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, and wildfire.

11 **SEC. 363. DEFINITIONS.**

12 In this subpart:

13 (1) ACCOUNT.—The term “Account” means the  
14 Natural Resources Climate Change Adaption Ac-  
15 count established by section 370(a).

16 (2) ADMINISTRATORS.—The term “Administra-  
17 tors” means—

18 (A) the Administrator of the National Oce-  
19 anic and Atmospheric Administration; and

20 (B) the Director of the United States Geo-  
21 logical Survey.

22 (3) BOARD.—The term “Board” means the  
23 Science Advisory Board established by section  
24 367(f)(1).



1           (4) CENTER.—The term “Center” means the  
2           National Climate Change and Wildlife Science Cen-  
3           ter described by section 367(e)(1).

4           (5) COASTAL STATE.—The term “coastal  
5           State” has the meaning given the term “coastal  
6           state” in section 304 of the Coastal Zone Manage-  
7           ment Act of 1972 (16 U.S.C. 1453).

8           (6) CORRIDORS.—The term “corridors” means  
9           areas that—

10           (A) provide connectivity, over different  
11           time scales, of habitats or potential habitats;  
12           and

13           (B) facilitate terrestrial, marine, estuarine,  
14           and freshwater fish, wildlife, or plant movement  
15           necessary for migration, gene flow, or dispersal,  
16           or to respond to the ongoing and expected im-  
17           pacts of climate change, including, where appli-  
18           cable, ocean acidification, drought, and wildfire.

19           (7) ECOLOGICAL PROCESSES.—The term “eco-  
20           logical processes” means biological, chemical, or  
21           physical interaction between the biotic and abiotic  
22           components of an ecosystem, including—

23           (A) nutrient cycling;

24           (B) pollination;

25           (C) predator-prey relationships;

- 1 (D) soil formation;  
2 (E) gene flow;  
3 (F) disease epizootiology;  
4 (G) larval dispersal and settlement;  
5 (H) hydrological cycling;  
6 (I) decomposition; and  
7 (J) disturbance regimes, such as fire and  
8 flooding.

9 (8) HABITAT.—The term “habitat” means the  
10 physical, chemical, and biological properties that  
11 fish, wildlife, or plants use for growth, reproduction,  
12 survival, food, water, or cover (whether on land, in  
13 water, or in an area or region).

14 (9) INDIAN TRIBE.—The term “Indian tribe”  
15 has the meaning given the term in section 4 of the  
16 Indian Self-Determination and Education Assistance  
17 Act (25 U.S.C. 450b).

18 (10) NATURAL RESOURCES.—The term “nat-  
19 ural resources” means land, wildlife, fish, air, water,  
20 estuaries, plants, habitats, and ecosystems of the  
21 United States.

22 (11) NATURAL RESOURCES ADAPTATION.—The  
23 term “natural resources adaptation” means the pro-  
24 tection, restoration, and conservation of natural re-  
25 sources so that natural resources become more resil-

1       ient, adapt to, and withstand the ongoing and ex-  
2       pected impacts of climate change, including, where  
3       applicable, ocean acidification, drought, and wildfire.

4           (12) PANEL.—The term “Panel” means the  
5       Natural Resources Climate Change Adaptation  
6       Panel established under section 365(a).

7           (13) RESILIENCE; RESILIENT.—The terms “re-  
8       silience” and “resilient” mean—

9           (A) the ability to resist or recover from  
10       disturbance; and

11          (B) the ability to preserve diversity, pro-  
12       ductivity, and sustainability.

13          (14) STATE.—The term “State” means—

14           (A) a State of the United States;

15           (B) the District of Columbia;

16           (C) American Samoa;

17           (D) Guam;

18           (E) the Commonwealth of the Northern  
19       Mariana Islands;

20           (F) the Commonwealth of Puerto Rico;

21       and

22           (G) the United States Virgin Islands.

23          (15) STRATEGY.—The term “Strategy” means  
24       the Natural Resources Climate Change Adaptation  
25       Strategy developed under section 366(a).

1 **SEC. 364. COUNCIL ON ENVIRONMENTAL QUALITY.**

2 The Chair of the Council on Environmental Quality  
3 shall—

4 (1) advise the President on implementing and  
5 developing—

6 (A) the Natural Resources Climate Change  
7 Adaptation Strategy required by section 366;  
8 and

9 (B) the Federal natural resource agency  
10 adaptation plans required by section 368;

11 (2) serve as the Chair of the Natural Resources  
12 Climate Change Adaptation Panel established under  
13 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 Natural Resources  
4 Climate Change Adaptation Strategy required by section  
5 366.

6           (c) MEMBERSHIP.—The Panel shall be composed  
7 of—

8                 (1) the Administrator of the National Oceanic  
9                 and Atmospheric Administration (or a designee);

10                (2) the Chief of the Forest Service (or a des-  
11                ignee);

12                (3) the Director of the National Park Service  
13                (or a designee);

14                (4) the Director of the United States Fish and  
15                Wildlife Service (or a designee);

16                (5) the Director of the Bureau of Land Man-  
17                agement (or a designee);

18                (6) the Director of the United States Geological  
19                Survey (or a designee);

20                (7) the Commissioner of Reclamation (or a des-  
21                ignee); and

22                (8) the Director of the Bureau of Indian Affairs  
23                (or a designee);

24                (9) the Administrator of the Environmental  
25                Protection Agency (or a designee);

1 (10) the Chief of Engineers (or a designee);

2 (11) the Chair of the Council on Environmental  
3 Quality (or a designee); and

4 (12) the heads of such other Federal agencies  
5 or departments with jurisdiction over natural re-  
6 sources of the United States, as determined by the  
7 President.

8 (d) CHAIRPERSON.—The Chair of the Council on En-  
9 vironmental Quality shall serve as the Chairperson of the  
10 Panel.

11 **SEC. 366. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
12 **TATION STRATEGY.**

13 (a) IN GENERAL.—Not later than 1 year after the  
14 date of enactment of this Act, the Panel shall develop a  
15 Natural Resources Climate Change Adaptation Strategy—

16 (1) to protect, restore, and conserve natural re-  
17 sources so that natural resources become more resil-  
18 ient, adapt to, and withstand the ongoing and ex-  
19 pected impacts of climate change; and

20 (2) to identify opportunities to mitigate the on-  
21 going and expected impacts of climate change.

22 (b) DEVELOPMENT.—In developing and revising the  
23 Strategy, the Panel shall—

24 (1) base the strategy on the best available  
25 science;

1           (2) develop the strategy in close cooperation  
2 with States and Indian tribes;

3           (3) coordinate with other Federal agencies, as  
4 appropriate;

5           (4) consult with local governments, conservation  
6 organizations, scientists, and other interested stake-  
7 holders; and

8           (5) provide public notice and opportunity for  
9 comment.

10       (c) REVISION.—After the Panel adopts the initial  
11 Strategy, the Panel shall review and revise the Strategy  
12 every 5 years to incorporate—

13           (1) new information regarding the ongoing and  
14 expected impacts of climate change on natural re-  
15 sources; and

16           (2) new advances in the development of strate-  
17 gies that make natural resources more resilient or  
18 able to adapt to the ongoing and expected impacts  
19 of climate change.

20       (d) CONTENTS.—The Strategy shall—

21           (1) assess the vulnerability of natural resources  
22 to climate change, including short-term, medium-  
23 term, long-term, cumulative, and synergistic im-  
24 pacts;

1           (2) describe current research, observation, and  
2           monitoring activities at the Federal, State, tribal,  
3           and local level related to the ongoing and expected  
4           impacts of climate change on natural resources;

5           (3) identify and prioritize research and data  
6           needs;

7           (4) identify natural resources likely to have the  
8           greatest need for protection, restoration, and con-  
9           servation due to the ongoing and expanding impacts  
10          of climate change;

11          (5) include specific protocols for integrating  
12          natural resources adaptation strategies and activities  
13          into the conservation and management of natural re-  
14          sources by Federal departments and agencies to en-  
15          sure consistency across agency jurisdictions;

16          (6) include specific actions that Federal depart-  
17          ments and agencies shall take to protect, conserve,  
18          and restore natural resources to become more resil-  
19          ient, adapt to, and withstand the ongoing and ex-  
20          pected impacts of climate change, including a  
21          timeline to implement those actions;

22          (7) include specific mechanisms for ensuring  
23          communication and coordination—

24                 (A) among Federal departments and agen-  
25                 cies; and



1 (B) between Federal departments and  
2 agencies and State natural resource agencies,  
3 United States territories, Indian tribes, private  
4 landowners, conservation organizations, and  
5 other countries that share jurisdiction over nat-  
6 ural resources with the United States;

7 (8) include specific actions to develop and im-  
8 plement consistent natural resources inventory and  
9 monitoring protocols through interagency coordina-  
10 tion and collaboration; and

11 (9) include procedures for guiding the develop-  
12 ment of detailed agency- and department-specific ad-  
13 aptation plans required under section 368.

14 (e) IMPLEMENTATION.—Consistent with other laws  
15 and Federal trust responsibilities concerning Indian land,  
16 each Federal department or agency represented on the  
17 Panel shall integrate the elements of the Strategy that re-  
18 late to conservation, restoration, and management of nat-  
19 ural resources into agency plans, environmental reviews,  
20 programs, and activities.

21 **SEC. 367. NATURAL RESOURCES ADAPTATION SCIENCE**  
22 **AND INFORMATION.**

23 (a) COORDINATION.—Not later than 90 days after  
24 the date of enactment of this Act, the Administrators shall  
25 establish coordinated procedures for developing and pro-

1 viding science and information necessary to address the  
2 ongoing and expected impacts of climate change on nat-  
3 ural resources.

4 (b) OVERSIGHT.—The National Climate Change and  
5 Wildlife Science Center established under subsection (e)  
6 and the National Climate Service of the National Oceanic  
7 and Atmospheric Administration shall oversee develop-  
8 ment of the procedures.

9 (c) FUNCTIONS.—The Administrators shall—

10 (1) ensure that the procedures required under  
11 subsection (a) avoid duplication; and

12 (2) ensure that the National Oceanic and At-  
13 mospheric Administration and the United States Ge-  
14 ological Survey—

15 (A) provide technical assistance to Federal  
16 departments and agencies, State and local gov-  
17 ernments, Indian tribes, and interested private  
18 landowners that are pursuing the goals of ad-  
19 dressing the ongoing and expected impacts of  
20 climate change on natural resources;

21 (B) conduct and sponsor research to de-  
22 velop strategies that increase the ability of nat-  
23 ural resources to become more resilient, adapt  
24 to, and withstand the ongoing and expected im-  
25 pacts of climate change;

1           (C) provide Federal departments and agen-  
2           cies, State and local governments, Indian tribes,  
3           and interested private landowners with research  
4           products, decision and monitoring tools, and in-  
5           formation to develop strategies that increase  
6           the ability of natural resources to become more  
7           resilient, adapt to, and withstand the ongoing  
8           and expected impacts of climate change; and

9           (D) assist Federal departments and agen-  
10          cies in the development of adaptation plans re-  
11          quired by section 368.

12         (d) SURVEY.—Not later than 1 year after the date  
13         of enactment of this Act, and every 5 years thereafter,  
14         the Secretary of Commerce and the Secretary of the Inte-  
15         rior shall conduct a climate change impact survey that—

16           (1) identifies natural resources considered likely  
17           to be adversely affected by climate change;

18           (2) includes baseline monitoring and ongoing  
19           trend analysis;

20           (3) with input from stakeholders, identifies and  
21           prioritizes necessary monitoring and research that is  
22           most relevant to the needs of natural resource man-  
23           agers to address the ongoing and expected impacts  
24           of climate change and to promote resilience; and

1           (4) identifies the decision tools necessary to de-  
2        velop strategies that increase the ability of natural  
3        resources to become more resilient, adapt to, and  
4        withstand the ongoing and expected impacts of cli-  
5        mate change.

6        (e) NATIONAL CLIMATE CHANGE AND WILDLIFE  
7        SCIENCE CENTER.—

8           (1) ESTABLISHMENT.—The Secretary of the In-  
9        terior shall establish the National Climate Change  
10       and Wildlife Center within the United States Geo-  
11       logical Survey.

12          (2) FUNCTIONS.—In collaboration with Federal  
13        and State natural resources agencies and depart-  
14        ments, Indian tribes, universities, and other partner  
15        organizations, the Center shall—

16                (A) assess and synthesize current physical  
17                and biological knowledge;

18                (B) prioritize scientific gaps in such knowl-  
19                edge in order to forecast the ecological impacts  
20                of climate change, including, where applicable,  
21                ocean acidification, drought, and wildfire on  
22                fish and wildlife at the ecosystem, habitat, com-  
23                munity, population, and species levels;

24                (C) develop and improve tools to identify,  
25                evaluate, and link scientific approaches and

1 models that forecast the impacts of climate  
2 change, including, where applicable, ocean acidi-  
3 fication, drought, and wildfire on fish, wildlife,  
4 plants, and associated habitats, including—

- 5 (i) monitoring;
- 6 (ii) predictive models;
- 7 (iii) vulnerability analyses;
- 8 (iv) risk assessments; and
- 9 (v) decision support systems that help  
10 managers make informed decisions;

11 (D) develop and evaluate tools to adapt-  
12 ively manage and monitor the effects of climate  
13 change (including tools for the collection of  
14 data) on fish and wildlife on the national, re-  
15 gional, and local level; and

16 (E) develop capacities for sharing stand-  
17 ardized data and the synthesis of the data de-  
18 scribed in subparagraph (D).

19 (f) SCIENCE ADVISORY BOARD.—

20 (1) ESTABLISHMENT.—Not later than 180 days  
21 after the date of enactment of this Act, the Sec-  
22 retary of Commerce and the Secretary of the Inte-  
23 rior shall establish and appoint the members of the  
24 Science Advisory Board.

1           (2) MEMBERSHIP.—The Board shall be com-  
2           prised of not fewer than 10 and not more than 20  
3           members—

4                   (A) who have expertise in fish, wildlife,  
5                   plant, aquatic, and coastal and marine biology,  
6                   ecology, climate change, including, where appli-  
7                   cable, ocean acidification, drought, and wildfire,  
8                   and other relevant scientific disciplines;

9                   (B) who represent a balanced membership  
10                  among Federal, State, tribal, and local rep-  
11                  resentatives, universities, and conservation or-  
12                  ganizations; and

13                  (C) at least  $\frac{1}{2}$  of whom are recommended  
14                  by the President of the National Academy of  
15                  Sciences.

16           (3) DUTIES.—The Board shall—

17                   (A) advise the Secretary of Commerce and  
18                   the Secretary of the Interior on the state of the  
19                   science regarding—

20                           (i) the ongoing and expected impacts  
21                           of climate change, including, where appli-  
22                           cable, ocean acidification, drought, and  
23                           wildfire on natural resources; and

24                           (ii) scientific strategies and mecha-  
25                           nisms for protecting, restoring, and con-

1 serving natural resources so natural re-  
2 sources become more resilient, adapt to,  
3 and withstand the ongoing and expected  
4 impacts of climate change, including,  
5 where applicable, ocean acidification,  
6 drought, and wildfire; and

7 (B) identify and recommend priorities for  
8 ongoing research needs on the issues described  
9 in subparagraph (A).

10 (4) COLLABORATION.—The Board shall collabo-  
11 rate with climate change and ecosystem research en-  
12 tities in other Federal agencies and departments.

13 (5) AVAILABILITY TO PUBLIC.—The advice and  
14 recommendations of the Board shall be made avail-  
15 able to the public.

16 **SEC. 368. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-**  
17 **TION PLANS.**

18 (a) DEVELOPMENT.—Not later than 1 year after the  
19 date of development of the Strategy, each department or  
20 agency with representation on the Panel shall—

21 (1) complete an adaptation plan for that de-  
22 partment or agency that—

23 (A) implements the Strategy and is con-  
24 sistent with the natural resources climate

1 change adaptation policy required by section  
2 362;

3 (B) details the ongoing and expanding ac-  
4 tions of the department or agency, and any  
5 changes in decisionmaking processes necessary  
6 to increase the ability of resources under the ju-  
7 risdiction of the department or agency and, to  
8 the maximum extent practicable, resources  
9 under the jurisdiction of other departments and  
10 agencies that may be significantly affected by  
11 decisions of the department or agency, to be-  
12 come more resilient, adapt to, and withstand  
13 the ongoing and expected impacts of climate  
14 change, including, where applicable, ocean acidi-  
15 fication, drought, and wildfire; and

16 (C) includes a timeline for implementation;  
17 (2) provide opportunities for public review and  
18 comment on the adaptation plan, and in the case of  
19 a plan by the Bureau of Indian Affairs, review by  
20 Indian tribes; and

21 (3) submit the plan to the President for ap-  
22 proval.

23 (b) REVIEW BY PRESIDENT AND SUBMISSION TO  
24 CONGRESS.—



1           (1) REVIEW BY PRESIDENT.—The President  
2 shall—

3           (A) approve an adaptation plan submitted  
4 under subsection (a)(3) if the plan meets the  
5 requirements of subsection (c) and is consistent  
6 with the Strategy; and

7           (B) decide whether to approve the plan  
8 within 60 days of submission.

9           (2) DISAPPROVAL.—If the President dis-  
10 approves an adaptation plan, the President shall di-  
11 rect the department or agency to submit a revised  
12 plan within 60 days of that disapproval.

13           (3) SUBMISSION TO CONGRESS.—Not later than  
14 30 days after the date of approval of an adaptation  
15 plan by the President, the department or agency  
16 shall submit the plan to—

17           (A) the Committee on Natural Resources  
18 of the House of Representatives;

19           (B) the Committee on Energy and Natural  
20 Resources of the Senate;

21           (C) the Committee on Environment and  
22 Public Works of the Senate; and

23           (D) any other committees of the House of  
24 Representatives or the Senate with principal ju-  
25 risdiction over the department or agency.

1 (c) REQUIREMENTS.—Each adaptation plan shall—

2 (1) establish programs for assessing the ongoing  
3 ing and expected impacts of climate change, including,  
4 where applicable, ocean acidification, drought,  
5 and wildfire on natural resources under the jurisdiction  
6 tion of the department or agency preparing the plan,  
7 including—

8 (A) assessment of cumulative and synergistic  
9 gistic effects; and

10 (B) programs that identify and monitor  
11 natural resources likely to be adversely affected  
12 and that have need for conservation;

13 (2) identify and prioritize—

14 (A) the strategies of the department or  
15 agency preparing the plan;

16 (B) the specific conservation actions that  
17 address the ongoing and expected impacts of  
18 climate change, including, where applicable,  
19 ocean acidification, drought, and wildfire on  
20 natural resources under jurisdiction of the department  
21 or agency preparing the plan;

22 (C) strategies to protect, restore, and conserve  
23 such resources to become more resilient,  
24 adapt to, and better withstand those impacts,  
25 including—

1 (i) protection, restoration, and con-  
2 servation of terrestrial, marine, estuarine,  
3 and freshwater habitats and ecosystems;

4 (ii) establishment of terrestrial, ma-  
5 rine, estuarine, and freshwater habitat  
6 linkages and corridors;

7 (iii) restoration and conservation of  
8 ecological processes;

9 (iv) protection of a broad diversity of  
10 native species of fish, wildlife, and plant  
11 populations across the ranges of those spe-  
12 cies; and

13 (v) protection of fish, wildlife, and  
14 plant health, recognizing that climate can  
15 alter the distribution and ecology of  
16 parasites, pathogens, and vectors;

17 (3) describe how the department or agency  
18 will—

19 (A) integrate the strategies and conserva-  
20 tion activities into plans, programs, activities,  
21 and actions of the department or agency relat-  
22 ing to the conservation and management of nat-  
23 ural resources; and

24 (B) establish new plans, programs, activi-  
25 ties, and actions, if necessary;

1 (4) establish methods—

2 (A) to assess the effectiveness of strategies  
3 and conservation actions the department or  
4 agency takes to protect, restore, and conserve  
5 natural resources so natural resources become  
6 more resilient, adapt to, and withstand the on-  
7 going and expected impacts of climate change;  
8 and

9 (B) to update those strategies and actions  
10 to respond to new information and changing  
11 conditions;

12 (5) describe current and proposed mechanisms  
13 to enhance cooperation and coordination of natural  
14 resources adaptation efforts with other Federal  
15 agencies, State and local governments, Indian tribes,  
16 and nongovernmental stakeholders;

17 (6) include written guidance to resource man-  
18 agers that—

19 (A) explains how managers are expected to  
20 address the ongoing and expected effects of cli-  
21 mate change, including, where applicable, ocean  
22 acidification, drought, and wildfire;

23 (B) identifies how managers shall obtain  
24 any necessary site-specific information; and

1 (C) reflects best practices shared among  
2 relevant agencies, but recognizes the unique  
3 missions, objectives, and responsibilities of each  
4 agency;

5 (7) identify and assess data and information  
6 gaps necessary to develop natural resources adapta-  
7 tion plans and strategies; and

8 (8) consider strategies that engage youth and  
9 young adults (including youth and young adults  
10 working in full-time or part-time youth service or  
11 conservation corps programs) to provide the youth  
12 and young adults with opportunities for meaningful  
13 conservation and community service and to encour-  
14 age opportunities for employment in the private sec-  
15 tor through partnerships with employers.

16 (d) IMPLEMENTATION.—

17 (1) IN GENERAL.—Upon approval by the Presi-  
18 dent, each department or agency with representation  
19 on the Panel shall, consistent with existing author-  
20 ity, implement the adaptation plan of the depart-  
21 ment or agency through existing and new plans,  
22 policies, programs, activities, and actions.

23 (2) CONSIDERATION OF IMPACTS.—

24 (A) IN GENERAL.—To the maximum ex-  
25 tent practicable and consistent with existing au-

1           thority, natural resource management decisions  
2           made by the department or agency shall—

3                   (i) consider the ongoing and expected  
4                   impacts of climate change, including,  
5                   where applicable, ocean acidification,  
6                   drought, and wildfire on natural resources;  
7                   and

8                   (ii) choose alternatives that will avoid  
9                   and minimize those impacts and promote  
10                  resilience.

11                  (B) GUIDANCE.—The Council on Environ-  
12                  mental Quality shall provide guidance for Fed-  
13                  eral departments and agencies considering those  
14                  impacts and choosing alternatives that will  
15                  avoid and minimize those impacts and promote  
16                  resilience.

17                  (e) REVISION AND REVIEW.—Not less than every 5  
18                  years, each department or agency shall review and revise  
19                  the adaptation plan of the department or agency to incor-  
20                  porate the best available science, and other information,  
21                  regarding the ongoing and expected impacts of climate  
22                  change on natural resources.

1 **SEC. 369. STATE NATURAL RESOURCES ADAPTATION**  
2 **PLANS.**

3 (a) REQUIREMENT.—In order to be eligible for funds  
4 under section 370, not later than 1 year after the develop-  
5 ment of the Strategy, each State shall prepare a State nat-  
6 ural resources adaptation plan detailing current and fu-  
7 ture efforts of the State to address the ongoing and ex-  
8 pected impacts of climate change on natural resources and  
9 coastal areas within the jurisdiction of the State.

10 (b) REVIEW OR APPROVAL.—

11 (1) IN GENERAL.—The Secretary of the Inte-  
12 rior and, as applicable, the Secretary of Commerce  
13 shall review each State adaptation plan, and approve  
14 the plan if the plan—

15 (A) meets the requirements of subsection

16 (c); and

17 (B) is consistent with the Strategy.

18 (2) APPROVAL OR DISAPPROVAL.—The Sec-  
19 retary of the Interior and, as applicable, the Sec-  
20 retary of Commerce shall approve or disapprove the  
21 plan by written notice not later than 180 days after  
22 the date of submission of the plan (or a revised  
23 plan).

24 (3) RESUBMISSION.—Not later than 90 days  
25 after the date of resubmission of an adaptation plan  
26 that has been disapproved under paragraph (2), the

1 Secretary of the Interior and, as applicable, the Sec-  
2 retary of Commerce, shall approve or disapprove the  
3 plan by written notice.

4 (c) CONTENTS.—A State natural resources adapta-  
5 tion plan shall—

6 (1) include strategies for addressing the ongo-  
7 ing and expected impacts of climate change, includ-  
8 ing, where applicable, ocean acidification, drought,  
9 and wildfire on terrestrial, marine, estuarine, and  
10 freshwater fish, wildlife, plants, habitats, ecosystems,  
11 wildlife health, and ecological processes that—

12 (A) describe the ongoing and expected im-  
13 pacts of climate change, including, where appli-  
14 cable, ocean acidification, drought, and wildfire  
15 on the diversity and health of fish, wildlife and  
16 plant populations, habitats, ecosystems, and as-  
17 sociated ecological processes;

18 (B) establish programs for monitoring the  
19 ongoing and expected impacts of climate  
20 change, including, where applicable, ocean acidi-  
21 fication, drought, and wildfire on fish, wildlife,  
22 and plant populations, habitats, ecosystems,  
23 and associated ecological processes;

24 (C) describe and prioritize proposed con-  
25 servation actions that increase the ability of



1 fish, wildlife, plant populations, habitats, eco-  
2 systems, and associated ecological processes to  
3 become more resilient, adapt to, and better  
4 withstand those impacts;

5 (D) consider strategies that engage youth  
6 and young adults (including youth and young  
7 adults working in full-time or part-time youth  
8 service or conservation corps programs) to pro-  
9 vide the youth and young adults with opportu-  
10 nities for meaningful conservation and commu-  
11 nity service and to encourage opportunities for  
12 employment in the private sector through part-  
13 nerships with employers;

14 (E) integrate protection and restoration of  
15 resource resilience into agency decision making  
16 and specific conservation actions;

17 (F) include a time frame for implementing  
18 conservation actions for fish, wildlife, and plant  
19 populations, habitats, ecosystems, and associ-  
20 ated ecological processes;

21 (G) establish methods—

22 (i) for assessing the effectiveness of  
23 strategies and conservation actions taken  
24 to increase the ability of fish, wildlife, and  
25 plant populations, habitats, ecosystems,

1 and associated ecological processes to be-  
2 come more resilient, adapt to, and better  
3 withstand the ongoing and expected im-  
4 pacts of climate changes, including, where  
5 applicable, ocean acidification, drought,  
6 and wildfire; and

7 (ii) for updating strategies and ac-  
8 tions to respond appropriately to new in-  
9 formation or changing conditions;

10 (H) are incorporated into a revision of the  
11 State wildlife action plan (also known as the  
12 State comprehensive wildlife strategy) that has  
13 been—

14 (i) submitted to the United States  
15 Fish and Wildlife Service; and

16 (ii) approved, or is pending approval,  
17 by the United States Fish and Wildlife  
18 Service; and

19 (I) are developed—

20 (i) with the participation of the State  
21 fish and wildlife agency, the State coastal  
22 agency, the State agency responsible for  
23 administration of Land and Water Con-  
24 servation Fund grants, the State Forest  
25 Legacy program coordinator, and other

1 State agencies considered appropriate by  
2 the Governor of the State;

3 (ii) in coordination with the Secretary  
4 of the Interior, and where applicable, the  
5 Secretary of Commerce; and

6 (iii) in coordination with other States  
7 that share jurisdiction over natural re-  
8 sources with the State; and

9 (2) in the case of a coastal State, include strat-  
10 egies for addressing the ongoing and expected im-  
11 pacts of climate change, including, where applicable,  
12 ocean acidification, drought, and wildfire on a coast-  
13 al zone that—

14 (A) identify natural resources likely to be  
15 impacted by climate change, and describe the  
16 impacts;

17 (B) identify and prioritize continuing re-  
18 search and data collection needed to address  
19 the impacts, including—

20 (i) acquisition of high-resolution  
21 coastal elevation and nearshore bathymetry  
22 data;

23 (ii) historic shoreline position maps,  
24 erosion rates, and inventories of shoreline  
25 features and structures;

1 (iii) measures and models of relative  
2 rates of sea level rise or lake level changes,  
3 including effects on flooding, storm surge,  
4 inundation, and coastal geological pro-  
5 cesses;

6 (iv) measures and models of habitat  
7 loss, including projected losses of coastal  
8 wetlands and potentials for inland migra-  
9 tion of natural shoreline habitats;

10 (v) measures and models of ocean and  
11 coastal species and ecosystem migrations,  
12 and changes in species population dynam-  
13 ics;

14 (vi) changes in storm frequency, in-  
15 tensity, or rainfall patterns;

16 (vii) measures and models of saltwater  
17 intrusion into coastal rivers and aquifers;

18 (viii) changes in chemical or physical  
19 characteristics of marine and estuarine  
20 systems, including the presence, extent,  
21 and timing of hypoxic and anoxic condi-  
22 tions;

23 (ix) measures and models of increased  
24 harmful algal blooms; and

1 (x) measures and models of the  
2 spread of invasive species;

3 (C) identify and prioritize adaptation strat-  
4 egies to protect, restore, and conserve natural  
5 resources to enable natural resources to become  
6 more resilient, adapt to, and withstand the on-  
7 going and expected impacts of climate change,  
8 including, where applicable, ocean acidification,  
9 drought, and wildfire, including—

10 (i) protection, maintenance, and res-  
11 toration of ecologically important coastal  
12 lands, coastal and ocean ecosystems, and  
13 species biodiversity and the establishment  
14 of habitat buffer zones, migration cor-  
15 ridors, and climate refugia; and

16 (ii) improved planning, siting policies,  
17 and hazard mitigation strategies;

18 (D) establish programs—

19 (i) for the long-term monitoring of the  
20 ongoing and expected impacts of climate  
21 change, including, where applicable, ocean  
22 acidification, drought, and wildfire on the  
23 ocean and coastal zone; and

24 (ii) assess and adjust, when necessary,  
25 the adaptive management strategies;

1 (E) establish performance measures that—

2 (i) assess the effectiveness of adapta-  
3 tion strategies intended to improve resil-  
4 ience and the ability of natural resources  
5 to adapt to and withstand the ongoing and  
6 expected impacts of climate change, includ-  
7 ing, where applicable, ocean acidification,  
8 drought, and wildfire;

9 (ii) assess the effectiveness of adapta-  
10 tion strategies intended to minimize those  
11 impacts on the coastal zone; and

12 (iii) update the strategies to respond  
13 to new information or changing conditions;  
14 and

15 (F) are developed—

16 (i) with the participation of the State  
17 coastal agency and other appropriate State  
18 agencies; and

19 (ii) in coordination with the Secretary  
20 of Commerce and other appropriate Fed-  
21 eral agencies.

22 (d) PUBLIC INPUT.—In developing the adaptation  
23 plan, a State shall provide for solicitation and consider-  
24 ation of public input and independent scientific input.

1 (e) COORDINATION WITH OTHER PLANS.—The State  
2 adaptation plan shall review research and information  
3 and, where appropriate, integrate the goals and measures  
4 set forth in other natural resources conservation strate-  
5 gies, including—

6 (1) the National Fish Habitat Action Plan;

7 (2) plans under the North American Wetlands  
8 Conservation Act (16 U.S.C. 4401 et seq.);

9 (3) the Federal, State, and local partnership  
10 known as “Partners in Flight”;

11 (4) federally approved coastal zone management  
12 plans under the Coastal Zone Management Act of  
13 1972 (16 U.S.C. 1451 et seq.);

14 (5) federally approved regional fishery manage-  
15 ment plans and habitat conservation activities  
16 under the Magnuson-Stevens Fishery Conservation  
17 and Management Act (16 U.S.C. 1801 et seq.);

18 (6) the National Coral Reef Action Plan;

19 (7) recovery plans for threatened species and  
20 endangered species under section 4(f) of the Endan-  
21 gered Species Act of 1973 (16 U.S.C. 1533(f));

22 (8) habitat conservation plans under section 10  
23 of that Act (16 U.S.C. 1539);

24 (9) other Federal, State, and tribal plans for  
25 imperiled species;

1 (10) State or tribal hazard mitigation plans;

2 (11) State or tribal water management plans;

3 and

4 (12) other State-based strategies that com-  
5 prehensively implement adaptation activities to re-  
6 mediate the ongoing and expected effects of climate  
7 change, including, where applicable, ocean acidifica-  
8 tion, drought, and wildfire, on terrestrial, marine,  
9 and freshwater fish, wildlife, plants, and other nat-  
10 ural resources.

11 (f) UPDATING.—Each State plan shall be updated at  
12 least every 5 years.

13 (g) FUNDING.—

14 (1) IN GENERAL.—Funds allocated to States  
15 under section 370 shall be used only for activities  
16 consistent with a State natural resources adaptation  
17 plan approved by the Secretary of the Interior and,  
18 as appropriate, the Secretary of Commerce.

19 (2) FUNDING PRIOR TO THE APPROVAL OF A  
20 STATE PLAN.—Until the earlier of the date that is  
21 3 years after the date of enactment of this Act or  
22 the date on which a State adaptation plan is ap-  
23 proved, a State shall be eligible to receive funding  
24 under section 370 for adaptation activities that  
25 are—



1 (A) consistent with the comprehensive  
2 wildlife strategy of the State and, where appro-  
3 priate, other natural resources conservation  
4 strategies; and

5 (B) in accordance with a work plan devel-  
6 oped in coordination with—

7 (i) the Secretary of the Interior; and

8 (ii) the Secretary of Commerce.

9 (3) COASTAL STATE.—In developing a work  
10 plan under paragraph (2)(B), a coastal State shall  
11 coordinate with the Secretary of Commerce only for  
12 those portions of the strategy relating to activities  
13 affecting the coastal zone.

14 (4) PENDING APPROVAL.—During the period  
15 for which approval by the applicable Secretary is  
16 pending, the State may continue to receive funds  
17 under section 370 pursuant to the work plan de-  
18 scribed in paragraph (2)(B).

19 **SEC. 370. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
20 **TATION FUND.**

21 (a) DISTRIBUTION OF AMOUNTS.—

22 (1) STATES.—Of the amounts made available  
23 for each fiscal year to carry out this subpart, 38.5  
24 percent shall be provided to States to carry out nat-  
25 ural resources adaptation activities in accordance

1 with adaptation plans approved under section 369,  
2 and shall be distributed as follows:

3 (A) 32.5 percent shall be available to State  
4 wildlife agencies in accordance with the appor-  
5 tionment formula established under the second  
6 subsection (c) (relating to the apportionment of  
7 the Wildlife Conservation and Restoration Ac-  
8 count) of section 4 of the Pittman-Robertson  
9 Wildlife Restoration Act (16 U.S.C. 669c); and

10 (B) 6 percent shall be available to State  
11 coastal agencies pursuant to the formula estab-  
12 lished by the Secretary of Commerce under sec-  
13 tion 306(c) of the Coastal Management Act of  
14 1972 (16 U.S.C. 1455(c)).

15 (2) NATURAL RESOURCE ADAPTATION.—Of the  
16 amounts made available for each fiscal year to carry  
17 out this subpart—

18 (A) 17 percent shall be allocated to the  
19 Secretary of the Interior for use in funding—

20 (i) natural resources adaptation activi-  
21 ties carried out—

22 (I) under endangered species, mi-  
23 gratory species, and other fish and  
24 wildlife programs administered by the  
25 National Park Service, the United

1 States Fish and Wildlife Service, the  
2 Bureau of Indian Affairs, and the Bu-  
3 reau of Land Management;

4 (II) on wildlife refuges, National  
5 Park Service land, and other public  
6 land under the jurisdiction of the  
7 United States Fish and Wildlife Serv-  
8 ice, the Bureau of Land Management,  
9 the Bureau of Indian Affairs, or the  
10 National Park Service; and

11 (III) within Federal water man-  
12 aged by the Bureau of Reclamation  
13 and the National Park Service; and

14 (ii) the implementation of the Na-  
15 tional Fish and Wildlife Habitat and Cor-  
16 ridors Identification Program required by  
17 section 371;

18 (B) 5 percent shall be allocated to the Sec-  
19 retary of the Interior for natural resources ad-  
20 aptation activities carried out under cooperative  
21 grant programs, including—

22 (i) the cooperative endangered species  
23 conservation fund authorized under section  
24 6 of the Endangered Species Act of 1973  
25 (16 U.S.C. 1535);

1 (ii) programs under the North Amer-  
2 ican Wetlands Conservation Act (16  
3 U.S.C. 4401 et seq.);

4 (iii) the Neotropical Migratory Bird  
5 Conservation Fund established by section  
6 9(a) of the Neotropical Migratory Bird  
7 Conservation Act (16 U.S.C. 6108(a));

8 (iv) the Coastal Program of the  
9 United States Fish and Wildlife Service;

10 (v) the National Fish Habitat Action  
11 Plan;

12 (vi) the Partners for Fish and Wildlife  
13 Program;

14 (vii) the Landowner Incentive Pro-  
15 gram;

16 (viii) the Wildlife Without Borders  
17 Program of the United States Fish and  
18 Wildlife Service; and

19 (ix) the Migratory Species Program  
20 and Park Flight Migratory Bird Program  
21 of the National Park Service; and

22 (C) 3 percent shall be allocated to the Sec-  
23 retary of the Interior to provide financial assist-  
24 ance to Indian tribes to carry out natural re-  
25 sources adaptation activities through the Tribal

1 Wildlife Grants Program of the United States  
2 Fish and Wildlife Service.

3 (3) LAND AND WATER CONSERVATION.—

4 (A) DEPOSITS.—

5 (i) IN GENERAL.—Of the amounts  
6 made available for each fiscal year to carry  
7 out this subpart, 12 percent shall be de-  
8 posited in the Land and Water Conserva-  
9 tion Fund established under section 2 of  
10 the Land and Water Conservation Fund  
11 Act of 1965 (16 U.S.C. 460l-5).

12 (ii) USE OF DEPOSITS.—Deposits in  
13 the Land and Water Conservation Fund  
14 under this paragraph shall—

15 (I) be supplemental to authoriza-  
16 tions provided under section 3 of the  
17 Land and Water Conservation Fund  
18 Act of 1965 (16 U.S.C. 460l-6),  
19 which shall remain available for non-  
20 adaptation needs; and

21 (II) be available to carry out this  
22 subpart without further appropriation  
23 or fiscal year limitation.

1 (B) DISTRIBUTION OF AMOUNTS.—Of the  
2 amounts deposited under this paragraph in the  
3 Land and Water Conservation Fund—

4 (i) for the purposes of carrying out  
5 the natural resources adaptation activities  
6 through the acquisition of land and inter-  
7 ests in land under section 6 of the Land  
8 and Water Conservation Fund Act of 1965  
9 (16 U.S.C. 4601–8),  $\frac{1}{6}$  shall be allocated  
10 to the Secretary of the Interior and made  
11 available on a competitive basis—

12 (I) to States, in accordance with  
13 the natural resources adaptation plans  
14 of States, and to Indian tribes;

15 (II) notwithstanding section 5 of  
16 that Act (16 U.S.C. 4601–7); and

17 (III) in addition to any funds  
18 provided pursuant to annual appro-  
19 priations Acts, the Energy Policy Act  
20 of 2005 (42 U.S.C. 15801 et seq.), or  
21 any other authorization for non-  
22 adaptation needs;

23 (ii)  $\frac{1}{3}$  shall be allocated to the Sec-  
24 retary of the Interior to carry out natural  
25 resources adaptation activities through the

1 acquisition of lands and interests in land  
2 under section 7 of the Land and Water  
3 Conservation Fund Act of 1965 (16 U.S.C.  
4 460l-9);

5 (iii)  $\frac{1}{6}$  shall be allocated to the Sec-  
6 retary of Agriculture and made available to  
7 the States and Indian tribes to carry out  
8 natural resources adaptation activities  
9 through the acquisition of land and inter-  
10 ests in land under section 7 of the Cooper-  
11 ative Forestry Assistance Act of 1978 (16  
12 U.S.C. 2103c); and

13 (iv)  $\frac{1}{3}$  shall be allocated to the Sec-  
14 retary of Agriculture to carry out natural  
15 resources adaptation activities through the  
16 acquisition of land and interests in land  
17 under section 7 of the Land and Water  
18 Conservation Fund Act of 1965 (16 U.S.C.  
19 460l-9).

20 (C) EXPENDITURE OF FUNDS.—In allo-  
21 cating funds under subparagraph (B), the Sec-  
22 retary of the Interior and the Secretary of Agri-  
23 culture shall take into consideration factors in-  
24 cluding—

1 (i) the availability of non-Federal con-  
2 tributions from State, local, or private  
3 sources;

4 (ii) opportunities to protect fish and  
5 wildlife corridors or otherwise to link or  
6 consolidate fragmented habitats;

7 (iii) opportunities to reduce the risk of  
8 catastrophic wildfires, drought, extreme  
9 flooding, or other climate-related events  
10 that are harmful to fish and wildlife and  
11 people; and

12 (iv) the potential for conservation of  
13 species or habitat types at serious risk due  
14 to climate change, including, where appli-  
15 cable, ocean acidification, drought, and  
16 wildfire, or other stressors.

17 (4) NATIONAL FOREST AND GRASSLAND ADAP-  
18 TATION.—Of the amounts made available for each  
19 fiscal year to carry out this subpart, 5 percent shall  
20 be allocated to the Forest Service, through the Sec-  
21 retary of Agriculture—

22 (A) to fund natural resources adaptation  
23 activities carried out in national forests and na-  
24 tional grasslands under the jurisdiction of the  
25 Forest Service; and



1 (B) to carry out natural resource adapta-  
2 tion activities on State and private forest land  
3 carried out under the Cooperative Forestry As-  
4 sistance Act of 1978 (16 U.S.C. 2101 et seq.).

5 (5) COASTAL AND MARINE SYSTEM ADAPTA-  
6 TION.—Of the amounts made available for each fis-  
7 cal year to carry out this subpart, 7 percent shall be  
8 allocated to the Secretary of Commerce to fund nat-  
9 ural resources adaptation activities that protect,  
10 maintain, and restore coastal, estuarine, and marine  
11 resources, habitats, and ecosystems, including such  
12 activities carried out under—

13 (A) the coastal and estuarine land con-  
14 servation program administered by the National  
15 Oceanic and Atmospheric Administration;

16 (B) the community-based restoration pro-  
17 gram for fishery and coastal habitats estab-  
18 lished under section 117 of the Magnuson-Ste-  
19 vens Fishery Conservation and Management  
20 Reauthorization Act of 2006 (16 U.S.C.  
21 1891a);

22 (C) the Coastal Zone Management Act of  
23 1972 (16 U.S.C. 1451 et seq.) that are specifi-  
24 cally designed to strengthen the ability of coast-  
25 al, estuarine, and marine resources, habitats,

1 and ecosystems to adapt to and withstand the  
2 ongoing and expected impacts of climate  
3 change, including, where applicable, ocean acidi-  
4 fication, drought, and wildfire;

5 (D) the Open Rivers Initiative;

6 (E) the Magnuson-Stevens Fishery Con-  
7 servation and Management Act (16 U.S.C.  
8 1801 et seq.);

9 (F) the Marine Mammal Protection Act of  
10 1972 (16 U.S.C. 1361 et seq.);

11 (G) the Endangered Species Act of 1973  
12 (16 U.S.C. 1531 et seq.);

13 (H) the Marine Protection, Research, and  
14 Sanctuaries Act of 1972 (33 U.S.C. 1401 et  
15 seq.);

16 (I) the Coral Reef Conservation Act of  
17 2000 (16 U.S.C. 6401 et seq.); and

18 (J) the Estuary Restoration Act of 2000  
19 (33 U.S.C. 2901 et seq.).

20 (6) ESTUARINE AND FRESHWATER ECOSYSTEM  
21 ADAPTATION.—Of the amounts made available for  
22 each fiscal year to carry out this subpart, 7.5 per-  
23 cent shall be allocated to the Administrator of the  
24 Environmental Protection Agency and 5 percent  
25 shall be available to the Secretary of the Army for

1 use by the Corps of Engineers for use in natural re-  
2 sources adaptation activities restoring and pro-  
3 tecting—

4 (A) large-scale freshwater aquatic eco-  
5 systems, such as the Everglades, the Great  
6 Lakes, Flathead Lake, the Missouri River, the  
7 Mississippi River, the Colorado River, the Sac-  
8 ramento-San Joaquin Rivers, the Ohio River,  
9 the Columbia-Snake River System, the Apa-  
10 lachicola, Chattahoochee, and Flint River Sys-  
11 tem, the Connecticut River, and the Yellowstone  
12 River;

13 (B) large-scale estuarine ecosystems, such  
14 as Chesapeake Bay, Long Island Sound, Puget  
15 Sound, the Mississippi River Delta, the San  
16 Francisco Bay Delta, Narragansett Bay, and  
17 Albemarle-Pamlico Sound;

18 (C) freshwater and estuarine ecosystems,  
19 watersheds, and basins identified and  
20 prioritized by the Administrator of the Environ-  
21 mental Protection Agency or the Corps of Engi-  
22 neers, working in cooperation with other Fed-  
23 eral agencies, States, tribal governments, local  
24 governments, scientists, and other conservation  
25 partners; and

1 (D)(i) habitats and ecosystems through es-  
2 tuary habitat restoration projects authorized by  
3 the Estuary Restoration Act of 2000 (33  
4 U.S.C. 2901 et seq.);

5 (ii) project modifications for improvement  
6 of the environment;

7 (iii) aquatic restoration and protection  
8 projects authorized by section 206 of the Water  
9 Resources Development Act of 1996 (33 U.S.C.  
10 2330); and

11 (iv) other appropriate programs and activi-  
12 ties.

13 (b) USE OF FUNDS BY FEDERAL DEPARTMENTS AND  
14 AGENCIES.—Funds allocated to Federal departments and  
15 agencies under this section shall only be used for natural  
16 resources adaptation activities consistent with an adapta-  
17 tion plan approved under section 368.

18 (c) STATE COST-SHARING.—Notwithstanding any  
19 other provision of law, a State that receives a grant under  
20 this section shall use funds from non-Federal sources to  
21 pay 10 percent of the costs of each activity carried out  
22 under the grant.

23 **SEC. 371. NATIONAL WILDLIFE HABITAT AND CORRIDORS**  
24 **INFORMATION PROGRAM.**

25 (a) DEFINITIONS.—In this section:

1           (1) GEOSPATIAL INTEROPERABILITY FRAME-  
2           WORK.—The term “Geospatial Interoperability  
3           Framework” means the strategy used by the Na-  
4           tional Biological Information Infrastructure (based  
5           on accepted standards, specifications, and protocols  
6           adopted through the International Standards Orga-  
7           nization, the Open Geospatial Consortium, and the  
8           Federal Geographic Data Committee) to manage, ar-  
9           chive, integrate, analyze, and make geospatial and  
10          biological data and metadata accessible.

11          (2) PROGRAM.—The term “Program” means  
12          the National Fish and Wildlife Habitat and Cor-  
13          ridors Information Program established under sub-  
14          section (b).

15          (3) SECRETARY.—The term “Secretary” means  
16          the Secretary of the Interior.

17          (4) SYSTEM.—The term “System” means the  
18          Habitat and Corridors Information System estab-  
19          lished under subsection (d)(1).

20          (b) ESTABLISHMENT.—Not later than 180 days after  
21          the date of enactment of this Act, the Secretary, in co-  
22          operation with the States and Indian tribes, shall establish  
23          a National Fish and Wildlife Habitat and Corridors Infor-  
24          mation Program.

25          (c) PURPOSE.—The purposes of the Program are—

1           (1) to support States and Indian tribes in devel-  
2           oping geographical information system databases of  
3           fish and wildlife habitats and corridors that—

4                   (A) inform planning and development deci-  
5                   sions within each State;

6                   (B) enable each State to model climate im-  
7                   pacts and adaptation; and

8                   (C) provide geographically specific en-  
9                   hancements of State wildlife action plans;

10           (2) to ensure the collaborative development of a  
11           comprehensive national geographic information sys-  
12           tem database of maps, models, data, surveys, infor-  
13           mational products, and other geospatial information  
14           regarding fish and wildlife habitat and corridors  
15           that—

16                   (A) is based on consistent protocols for  
17                   sampling and mapping across landscapes;

18                   (B) takes into account regional differences;

19           and

20                   (C) uses—

21                           (i) existing and planned State- and  
22                           tribal-based geographical information sys-  
23                           tem databases; and

24                           (ii) existing databases, analytical  
25                           tools, metadata activities, and other infor-

1                   mation products available through the Na-  
2                   tional Biological Information Infrastruc-  
3                   ture maintained by the Secretary and non-  
4                   governmental organizations; and

5                   (3) to facilitate the use of those databases by  
6                   Federal, State, local, and tribal decisionmakers to  
7                   incorporate qualitative information on fish and wild-  
8                   life habitats and corridors at the earliest practicable  
9                   stage for use in—

10                   (A) prioritizing and targeting natural re-  
11                   sources adaptation strategies and activities;

12                   (B) avoiding, minimizing, and mitigating  
13                   the impacts on fish and wildlife habitat and cor-  
14                   ridors when locating energy development, water,  
15                   transmission, transportation, and other land  
16                   use projects;

17                   (C) assessing the impacts of existing devel-  
18                   opment on habitats and corridors; and

19                   (D) developing management strategies that  
20                   enhance the ability of fish, wildlife, and plant  
21                   species to migrate or respond to shifting habi-  
22                   tats within existing habitats and corridors.

23                   (d) HABITAT AND CORRIDORS INFORMATION SYS-  
24                   TEM.—

1           (1) IN GENERAL.—The Secretary, in coopera-  
2           tion with States and Indian tribes, shall establish a  
3           Habitat and Corridors Information System.

4           (2) CONTENTS.—The System shall—

5                 (A) include maps, data, and descriptions of  
6                 fish and wildlife habitat and corridors that—

7                         (i) have been developed by Federal  
8                         agencies, State wildlife agencies, and nat-  
9                         ural heritage programs, Indian tribes, local  
10                        governments, nongovernmental organiza-  
11                        tions, and industry; and

12                       (ii) meet accepted geospatial inter-  
13                       operability framework data and metadata  
14                       protocols and standards;

15                 (B) include maps and descriptions of pro-  
16                 jected shifts in habitats and corridors of fish  
17                 and wildlife species in response to climate  
18                 change;

19                 (C) ensure data quality;

20                 (D) at scales useful to decisionmakers,  
21                 make data, models, and analyses included in  
22                 the System available—

23                       (i) to prioritize and target natural re-  
24                       sources adaptation strategies and activi-  
25                       ties;



1 (ii) to assess the impacts of existing  
2 development on habitats and corridors;

3 (iii) to assess the impacts of proposed  
4 energy development, water, transmission,  
5 transportation, and other land use projects  
6 and to avoid, minimize, or mitigate those  
7 impacts on habitats and corridors; and

8 (iv) to develop management strategies  
9 that enhance the ability of fish, wildlife,  
10 and plant species to migrate or respond to  
11 shifting habitats within existing habitats  
12 and corridors;

13 (E) update maps and other information as  
14 landscapes, habitats, corridors, and wildlife pop-  
15 ulations change, or as new information becomes  
16 available;

17 (F) encourage development of collaborative  
18 plans by Federal and State agencies and Indian  
19 tribes that monitor and evaluate the ability of  
20 the System to meet the needs of decision-  
21 makers;

22 (G) identify gaps in habitat and corridor  
23 information, mapping, and research needed to  
24 fully assess current data and metadata;

1 (H) prioritize research and future data col-  
2 lection activities for use in updating the System  
3 and provide support for those activities;

4 (I) include mechanisms to support collabo-  
5 rative research, mapping, and planning of habi-  
6 tats and corridors by Federal and State agen-  
7 cies, Indian tribes, and other interested stake-  
8 holders;

9 (J) incorporate biological and geospatial  
10 data on species and corridors found in energy  
11 development and transmission plans, including  
12 renewable energy initiatives, transportation, and  
13 other land use plans;

14 (K) identify, prioritize, and describe key  
15 parcels of non-Federal land that—

16 (i) are located within units of the Na-  
17 tional Park System, National Wildlife Ref-  
18 uge System, National Forest System, or  
19 National Grassland System; and

20 (ii) are critical to maintenance of  
21 wildlife habitat and migration corridors;  
22 and

23 (L) be based on the best scientific informa-  
24 tion available.

1           (e) FINANCIAL AND OTHER SUPPORT.—The Sec-  
2 retary may provide support to the States and Indian  
3 tribes, including financial and technical assistance, for ac-  
4 tivities that support the development and implementation  
5 of the System.

6           (f) COORDINATION.—In cooperation with States and  
7 Indian tribes, the Secretary shall recommend how the in-  
8 formation in the System may be incorporated into relevant  
9 State and Federal plans that affect fish and wildlife, in-  
10 cluding—

- 11           (1) land management plans;
- 12           (2) the State Comprehensive Wildlife Conserva-  
13 tion Strategies; and
- 14           (3) appropriate tribal conservation plans.

15           (g) PURPOSE OF INCORPORATION.—The Secretary  
16 shall make the recommendations required by subsection  
17 (f) to ensure that relevant State and Federal plans that  
18 affect fish and wildlife—

- 19           (1) prevent unnecessary habitat fragmentation  
20 and disruption of corridors;
- 21           (2) promote the landscape connectivity nec-  
22 essary to allow wildlife to move as necessary to meet  
23 biological needs, adjust to shifts in habitat, and  
24 adapt to climate change; and

1           (3) minimize the impacts of energy, develop-  
2           ment, water, transportation, and transmission  
3           projects and other activities expected to impact habi-  
4           tat and corridors.

5   **SEC. 372. ADDITIONAL PROVISIONS REGARDING INDIAN**  
6                                   **TRIBES.**

7           (a) FEDERAL TRUST RESPONSIBILITY.—Nothing in  
8           this subpart amends, alters, or gives priority over the Fed-  
9           eral trust responsibility to any Indian tribe.

10          (b) EXEMPTION FROM FOIA.—If a Federal depart-  
11          ment or agency receives any information relating to sacred  
12          sites or cultural activities identified by an Indian tribe as  
13          confidential, such information shall be exempt from disclo-  
14          sure under section 552 of title 5, United States Code  
15          (commonly referred to as the Freedom of Information  
16          Act).

17          (c) APPLICATION OF OTHER LAW.—The Secretary of  
18          the Interior may apply the provisions of the Indian Self-  
19          Determination and Education Assistance Act (25 U.S.C.  
20          450 et seq.) in the implementation of this subpart.

21   **Subpart D—Additional Climate Change Adaptation**  
22                                   **Programs**

23   **SEC. 381. WATER SYSTEM MITIGATION AND ADAPTION**  
24                                   **PARTNERSHIPS.**

25          (a) DEFINITIONS.—In this section:

1 (1) OWNER OR OPERATOR.—

2 (A) IN GENERAL.—The term “owner or  
3 operator” means a person (including a regional,  
4 local, municipal, or private entity) that owns or  
5 operates a water system.

6 (B) INCLUSION.—The term “owner or op-  
7 erator” includes—

8 (i) a non-Federal entity that has oper-  
9 ational responsibilities for a federally or  
10 State owned water system; and

11 (ii) an entity formed pursuant to any  
12 State’s joint exercise of powers statutes  
13 that includes one or more of the entities in  
14 paragraph (A).

15 (2) WATER SYSTEM.—The term “water sys-  
16 tem” means—

17 (A) a community water system (as defined  
18 in section 1401 of the Safe Drinking Water Act  
19 (42 U.S.C. 300f));

20 (B) a treatment works (as defined in sec-  
21 tion 212 of the Federal Water Pollution Control  
22 Act (33 U.S.C. 1292)), including a municipal  
23 separate storm sewer system;

24 (C) a decentralized wastewater treatment  
25 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 es-  
6           tablish a water system mitigation and adaptation partner-  
7           ship program to provide funds to States for water system  
8           adaptation projects.

9           (c) GRANTS.—Beginning in fiscal year 2010, each  
10          State receiving funds pursuant to this section shall make  
11          grants to owners or operators of water systems to address  
12          any ongoing or forecasted (based on the best available re-  
13          search and data) climate-related impact on the water qual-  
14          ity, water supply or reliability of a region of the United  
15          States, for the purposes of mitigating or adapting to the  
16          impacts of climate change.

17          (d) ELIGIBLE USES.—The funds made available to  
18          each State pursuant to this section shall be used exclu-  
19          sively to assist in the planning, design, construction, im-  
20          plementation, or operation or maintenance of any program  
21          or project to respond or increase the resilience of a water  
22          system to climate change by—

23                  (1) conserving water or enhancing water use ef-  
24                  ficiency, including through the use of water metering

1 and electronic sensing and control systems to meas-  
2 ure 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,  
8 or reuse municipal stormwater, wastewater, or  
9 drinking water;

10 (4) investigating, designing, or constructing  
11 groundwater remediation, recycled water, or desali-  
12 nation 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 in-  
17 frastructure in the management, conveyance, or  
18 treatment 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 ad-  
24 vanced water treatment, water supply management  
25 (such as reservoir reoperation and water banking),

1 or water demand management technologies, projects,  
2 or processes (such as water reuse and recycling,  
3 adaptive conservation pricing, and groundwater  
4 banking) that maintain or increase water supply or  
5 improve water quality;

6 (8) modifying or replacing existing systems or  
7 constructing new systems for existing communities  
8 or land currently in agricultural production to im-  
9 prove water supply, reliability, storage, or convey-  
10 ance in a 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  
20 other forms of water transactions, groundwater re-  
21 charge, stormwater capture, groundwater conjunc-  
22 tive use, and reuse or recycling of drainage water,  
23 to improve water quality or promote more efficient  
24 water use on land currently in agricultural produc-  
25 tion; or



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.

5           (e) APPLICATION.—To be eligible to receive a grant  
6           from the State under this section, the owner or operator  
7           of a water system shall submit to the State an application  
8           that—

9           (1) includes a proposal of the program, strat-  
10          egy, or infrastructure improvement to be planned,  
11          designed, constructed, implemented, or maintained  
12          by the water system;

13          (2) cites the best available research or data that  
14          demonstrate—

15                (A) the risk to the water resources or in-  
16                frastructure of the water system as a result of  
17                ongoing or forecasted changes to the  
18                hydrological system brought about by factors  
19                arising from climate change, including rising  
20                sea levels and changes in precipitation levels;  
21                and

22                (B) how the proposed program, strategy,  
23                or infrastructure improvement would perform  
24                under the anticipated climate conditions; and

1           (3) explains how the proposed program, strat-  
2           egy, or infrastructure improvement is expected to  
3           enhance the resiliency of the water system, including  
4           source water protection for community water sys-  
5           tems, to these risks or reduce the direct or indirect  
6           greenhouse gas emissions of the water system.

7           (f) COMPETITIVE PROCESS.—

8           (1) IN GENERAL.—Each calendar year, each  
9           State shall conduct a competitive process to select  
10          and fund applications under this section.

11          (2) PRIORITY REQUIREMENTS AND  
12          WEIGHTING.—In carrying out the process, the  
13          States shall—

14                (A) prioritize funding of applications that  
15                are submitted by the owners or operators of  
16                water systems that are, based on the best avail-  
17                able research and data, at the greatest and  
18                most immediate risk of facing significant cli-  
19                mate-related negative impacts on water quality  
20                or quantity; and

21                (B) in selecting among the priority applica-  
22                tions determined under subparagraph (A), en-  
23                sure that, to the maximum extent practicable,  
24                the final list of applications funded for each

1 year includes a substantial number meeting one  
2 or more of each of the following goals—

3 (i) promote more efficient water use,  
4 water conservation, water reuse, or recy-  
5 cling;

6 (ii) use decentralized, low-impact de-  
7 velopment technologies and nonstructural  
8 approaches, including practices that use,  
9 enhance, or mimic the natural hydrological  
10 cycle or protect natural flows;

11 (iii) reduce stormwater runoff by pro-  
12 tecting or enhancing natural ecosystem  
13 functions;

14 (iv) modify, upgrade, enhance, or re-  
15 place existing water system infrastructure  
16 in response to ongoing or forecasted cli-  
17 mate-related impacts;

18 (v) promote the sustainability and re-  
19 liability of water supplies used for agricul-  
20 tural purposes;

21 (vi) improve water quality or quantity  
22 for agricultural and municipal uses, includ-  
23 ing through salinity reduction; and

24 (vii) provide multiple benefits, includ-  
25 ing to water supply enhancement or de-

1           mand reduction, water quality protection  
2           or improvement, increased flood protection,  
3           and ecosystem protection or improvement;  
4           and

5           (C) provide for solicitation and consider-  
6           ation of public input in the development of cri-  
7           teria used in evaluating applications.

8           (g) COST-SHARING.—

9           (1) FEDERAL SHARE.—The share of the cost of  
10          any program, strategy, or infrastructure improve-  
11          ment that is the subject of a grant awarded by a  
12          State to the owner or operator of a water system  
13          under subsection (b) paid through funds distributed  
14          under this section shall not exceed 50 percent of the  
15          cost of the program, strategy, and infrastructure im-  
16          provement.

17          (2) CALCULATION OF NON-FEDERAL SHARE.—

18          In calculating the non-Federal share of the cost of  
19          a program, strategy, or infrastructure improvement  
20          proposed by a water system through an application  
21          submitted by the water system under subsection (d),  
22          the State shall—

23                 (A) include the value of any in-kind serv-  
24                 ices that are integral to the completion of the  
25                 program, strategy, or infrastructure improve-

1           ment, including reasonable administrative and  
2           overhead costs; and

3                   (B) not include any other amount that the  
4           water system receives from a Federal agency.

5       (h) LABOR STANDARDS.—

6           (1) IN GENERAL.—Other than with respect to  
7       employees of State and local agencies, or other pub-  
8       lic entities, all laborers and mechanics employed on  
9       infrastructure improvements funded directly by or  
10      assisted in whole or in part by this section shall be  
11      paid wages at rates not less than those prevailing for  
12      the same type of work on similar construction in the  
13      immediate locality, as determined by the Secretary  
14      of Labor in accordance with subchapter IV of chap-  
15      ter 31 of part A of subtitle II of title 40, United  
16      States Code.

17           (2) AUTHORITY AND FUNCTIONS.—With re-  
18      spect to the labor standards in this subsection, the  
19      Secretary of Labor shall have the authority and  
20      functions set forth in Reorganization Plan Num-  
21      bered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.)  
22      and section 3145 of title 40, United States Code.

1 **SEC. 382. FLOOD CONTROL, PROTECTION, PREVENTION,**  
2 **AND RESPONSE.**

3 (a) **ESTABLISHMENT.**—The Administrator shall es-  
4 tablish a Flood Control, Protection, Prevention and Re-  
5 sponse Program to provide funds to states for flood con-  
6 trol, protection, prevention and response projects.

7 (b) **ELIGIBLE USES.**—

8 (1) **IN GENERAL.**—States receiving funding  
9 pursuant to section may use such funding on flood  
10 control, protection, prevention and response pro-  
11 grams and projects addressing the projected impacts  
12 of climate change in accordance with this section.

13 (2) **OBJECTIVES.**—Such projects and activities  
14 shall seek to mitigate or adapt to the destructive im-  
15 pacts of climate related increases in the duration,  
16 frequency, or magnitude of rainfall or runoff, includ-  
17 ing snowmelt runoff, as well as hurricanes, including  
18 projects and programs that—

19 (A) reduce flood damage, risk, and vulner-  
20 ability;

21 (B) identify, maintain and restore eco-  
22 systems and natural barriers integral to flood  
23 control, protection, prevention and response;

24 (C) update the available data, technologies,  
25 and scientific knowledge used in estimating,  
26 identifying and mitigating flood hazards;

1 (D) highlight, update and remediate  
2 vulnerabilities in emergency response;

3 (E) incorporate risk analysis and a risk-re-  
4 duction approach to flood-related investments;

5 (F) incorporate and identify changes in  
6 risk due to processes such as land loss, subsid-  
7 ence, sea-level rise, reduced natural buffers,  
8 urban development and infrastructure aging;  
9 and

10 (G) identify and incorporate innovative ap-  
11 proaches to land use management, water re-  
12 source planning, and ecosystem restoration.

13 (3) PRIORITY.—Priority in projects to reduce  
14 flood events shall be given to those projects that di-  
15 rectly assist local governments and communities in  
16 flood control, protection, prevention and response ac-  
17 tivities.

18 **SEC. 383. WILDFIRE.**

19 (a) FINDINGS.—Congress finds that—

20 (1) since 1980, wildfires in the United States  
21 have burned almost twice as many acres per year on  
22 average than the average burned acreage during the  
23 period beginning on January 1, 1920, and ending on  
24 December 31, 1979;

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

5           (3) researchers predict that the area subject to  
6 wildfire damage will increase during the 21st cen-  
7 tury by up to 118 percent as a result of climate  
8 change;

9           (4) of the annual budget of the Forest Service,  
10 the Forest Service used for wildfire suppression ac-  
11 tivities—

12                   (A) 13 percent in 1991; and

13                   (B) 45 percent in 2007; and

14           (5) 1 percent of the largest escaped fires—

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

16                   and

17                   (B) consume 85 percent of all wildfire  
18 fighting costs.

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

22           (c) DEFINITIONS.—In this section:

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



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

3 (B) has a cooperative fire agreement that  
4 articulates the roles and responsibilities for  
5 Federal, State and local government entities in  
6 local wildfire suppression and protection;

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

9 (D) has a community wildfire protection  
10 plan (as defined in section 101 of the Healthy  
11 Forests Restoration Act of 2003 (16 U.S.C.  
12 6502)); and

13 (E) is engaged in a successful collaborative  
14 process that includes multiple interested per-  
15 sons representing diverse interests and is trans-  
16 parent and nonexclusive, such as a resource ad-  
17 visory committee established under section 205  
18 of the Secure Rural Schools and Community  
19 Self-Determination Act of 2000 (Public Law  
20 106-393; 16 U.S.C. 500 note).

21 (2) SECRETARIES.—The term “Secretaries”  
22 means the Secretary of Agriculture and the Sec-  
23 retary of the Interior.

24 (d) FIRE RISK MAPPING.—As soon as is practicable  
25 after the date of the enactment of this Act, the Secretaries

1 shall develop regional maps of communities most at risk  
2 of wildfire and in need of hazardous fuel treatment and  
3 maintenance. The maps shall identify priority areas for  
4 hazardous fuels reduction projects, including—

5 (1) at-risk communities in fire-prone areas of  
6 the wildland-urban interface (as defined in section  
7 101 of the Healthy Forests Restoration Act of 2003  
8 (16 U.S.C. 6502));

9 (2) watersheds and municipal drinking water  
10 sources;

11 (3) emergency evacuation corridors;

12 (4) electricity transmission corridors; and

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

14 (e) LOCAL WILDLAND FIREFIGHTING CAPABILITY  
15 GRANTS.—

16 (1) GRANTS AVAILABLE.—The Secretaries may  
17 provide cost-share grants to fire-ready communities  
18 to assist such communities in carrying out activities  
19 authorized by paragraph (2).

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

22 (A) Education programs to raise aware-  
23 ness of homeowners and citizens about wildland  
24 fire protection practices, including FireWise or  
25 similar programs.

1           (B) Training programs for local fire-  
2           fighters on wildland firefighting techniques and  
3           approaches.

4           (C) Equipment acquisition to facilitate  
5           wildland fire preparedness.

6           (D) Implementation of a community wild-  
7           fire protection plan.

8           (E) Forest restoration that accomplishes  
9           fuels reduction

10       (f) WILDLAND FIRE COST-SHARE AGREEMENTS.—In  
11       developing any wildland fire cost-share agreement with a  
12       State Forester or equivalent official, the Secretaries shall,  
13       to the maximum extent practicable, encourage the State  
14       and local communities involved to become fire-ready com-  
15       munities.

16       **SEC. 384. COASTAL STATE ADAPTATION PROGRAM.**

17       (a) FINDINGS.—According to the National Ocean Ec-  
18       onomics Program, coastal and Great Lakes States account  
19       for 81.4 percent of the population of the United States  
20       and generate 83 percent of the economic output of the  
21       United States.

22       (b) DEFINITIONS.—In this section:

23           (1) COASTAL STATE.—The term “coastal  
24       State” has the meaning given the term “coastal

1 state” in section 304 of the Coastal Zone Manage-  
2 ment Act of 1972 (16 U.S.C. 1453).

3 (2) COASTAL WATERSHED.—The term “coastal  
4 watershed” means a geographical area drained into  
5 or contributing water to an estuarine area, an ocean,  
6 or a Great Lake, all or a portion of which is within  
7 the coastal zone (as defined in section 304 of the  
8 Coastal Zone Management Act of 1972 (16 U.S.C.  
9 1453)).

10 (3) SHORELINE MILES.—The term “shoreline  
11 miles”, with respect to a coastal State, means the  
12 mileage of tidal shoreline or Great Lake shoreline of  
13 the coastal State, based on the most recently avail-  
14 able data from or accepted by the National Ocean  
15 Service of the National Oceanic and Atmospheric  
16 Administration.

17 (c) DISTRIBUTION.—

18 (1) IN GENERAL.—Not later than September  
19 30 of each of calendar years 2011 through 2049, the  
20 Administrator shall distribute, in accordance with  
21 this section, funding for coastal State economic pro-  
22 tection under subsection.

23 (2) ALLOCATION.—The funding available for al-  
24 location under subsection (b) for a calendar year  
25 shall be distributed among coastal States, as follows:

1 (A) 25 percent based on the proportion  
2 that—

3 (i) the number of shoreline miles of a  
4 coastal State; bears to

5 (ii) the total number of shoreline  
6 miles of all coastal States.

7 (B) 25 percent based on the proportion  
8 that—

9 (i) the population of a coastal State;  
10 bears to

11 (ii) the total population of all coastal  
12 States.

13 (C) 50 percent divided equally among all  
14 coastal States.

15 (d) USE OF FUNDING.—

16 (1) IN GENERAL.—During any calendar year, a  
17 coastal State receiving funding under this section  
18 may use the funding only for projects and activities  
19 to plan for and address the impacts of climate  
20 change in the coastal watershed, including—

21 (A) to address the impacts of climate  
22 change with respect to—

23 (i) accelerated sea level rise and lake  
24 level changes;

25 (ii) shoreline erosion;

1 (iii) increased storm frequency or in-  
2 tensity;

3 (iv) changes in rainfall or other pre-  
4 cipitation; and

5 (v) related flooding;

6 (B) to identify and develop plans to pro-  
7 tect, or, as necessary or applicable, to relocate  
8 public facilities and infrastructure, coastal re-  
9 sources of national significance, public energy  
10 facilities, or other public water uses located in  
11 the coastal watershed that are affected by cli-  
12 mate change, including strategies that use nat-  
13 ural resources, such as natural buffer zones,  
14 natural shorelines, and habitat protection or  
15 restoration;

16 (C) to research and collect data using, or  
17 on matters such as—

18 (i) historical shoreline position maps;

19 (ii) historical shoreline erosion rates;

20 (iii) inventories of shoreline features  
21 and conditions;

22 (iv) acquisition of high-resolution to-  
23 pography and bathymetry;

24 (v) sea level rise inundation models;

1 (vi) storm surge sea level rise linked  
2 inundation models;

3 (vii) shoreline change modeling based  
4 on sea level rise projections;

5 (viii) sea level rise vulnerability anal-  
6 yses and socioeconomic studies; and

7 (ix) environmental and habitat  
8 changes associated with sea level rise; and  
9 (D) to respond to—

10 (i) changes in chemical characteristics  
11 (including ocean acidification) and physical  
12 characteristics (including thermal strati-  
13 fication) of marine systems;

14 (ii) saltwater intrusion into ground-  
15 water aquifers;

16 (iii) increased harmful algae blooms;

17 (iv) spread of invasive species;

18 (v) coastal habitat loss;

19 (vi) species migrations; and

20 (vii) marine, estuarine, and freshwater  
21 ecosystem changes associated with climate  
22 change.

23 (2) EXECUTION.—Priority to plan and carry  
24 out projects and activities under this subsection shall

1 be given to State coastal agencies, as determined in  
2 accordance with State law.

3 (3) COORDINATION.—In carrying out this sub-  
4 section, a coastal State shall coordinate with other  
5 statewide climate change efforts in order to avoid  
6 duplication of such efforts.

7 (e) REPORT.—Not later than 1 year after the date  
8 on which a State receives funds under this section, and  
9 biennially thereafter until such time as the funding is fully  
10 expended, the State shall submit to the Administrator, or  
11 the heads of such other Federal agencies as the President  
12 may designate, a report that—

13 (1) provides a full accounting for the State's  
14 use of funding distributed under this section, includ-  
15 ing a description of the projects and activities fund-  
16 ed; and

17 (2) may be independent or included within the  
18 report established under [section 203(f) of division  
19 B].



1           **DIVISION B—POLLUTION**  
2           **REDUCTION AND INVESTMENT**  
3           **TITLE I—REDUCING GLOBAL**  
4           **WARMING POLLUTION**  
5           **Subtitle A—Reducing Global**  
6           **Warming Pollution**

7   **SEC. 101. REDUCING GLOBAL WARMING POLLUTION.**

8           The Clean Air Act is amended by adding after title  
9   VI (42 U.S.C. 7671 et seq.) the following new title:

10   **“TITLE VII—GLOBAL WARMING**  
11   **POLLUTION REDUCTION AND**  
12   **INVESTMENT PROGRAM**

13   **“PART A—GLOBAL WARMING POLLUTION**  
14   **REDUCTION GOALS AND TARGETS**

15   **“SEC. 701. FINDINGS.**

16           “Congress finds that—

17               “(1) global warming poses a significant threat  
18           to the national security, economy, public health and  
19           welfare, and environment of the United States, as  
20           well as of other countries;

21               “(2) reviews of scientific studies, including by  
22           the Intergovernmental Panel on Climate Change and  
23           the National Academy of Sciences, demonstrate that  
24           global warming is the result of the combined anthro-

1 pogenic greenhouse gas emissions from numerous  
2 sources of all types and sizes;

3 “(3) each increment of emission, when com-  
4 bined with other emissions, causes or contributes  
5 materially to the acceleration and extent of global  
6 warming and its adverse effects for the lifetime of  
7 such gas in the atmosphere;

8 “(4) accordingly, controlling emissions in small  
9 as well as large quantities is essential to prevent,  
10 slow the pace of, reduce the threats from, and miti-  
11 gate global warming and its adverse effects;

12 “(5) because they induce global warming,  
13 greenhouse gas emissions cause or contribute to in-  
14 juries to persons in the United States, including—

15 “(A) adverse health effects, such as disease  
16 and loss of life;

17 “(B) displacement of human populations;

18 “(C) damage to property and other inter-  
19 ests relating to ocean levels, acidification, and  
20 ice changes;

21 “(D) severe weather and seasonal changes;

22 “(E) disruption, costs, and losses to busi-  
23 ness, trade, employment, farms, subsistence,  
24 aesthetic enjoyment of the environment, recre-  
25 ation, culture, and tourism;

1                   “(F) damage to plants, forests, lands, and  
2                   waters;

3                   “(G) harm to wildlife and habitat;

4                   “(H) scarcity of water and the decreased  
5                   abundance of other natural resources;

6                   “(I) worsening of tropospheric air pollu-  
7                   tion;

8                   “(J) substantial threats of similar damage;  
9                   and

10                  “(K) other harm;

11                  “(6) the fact that many of those effects and  
12                  risks of future effects of global warming are widely  
13                  shared does not minimize the adverse effects indi-  
14                  vidual persons have suffered, will suffer, and are at  
15                  risk of suffering because of global warming;

16                  “(7) the fact that some of the adverse and po-  
17                  tentially catastrophic effects of global warming are  
18                  at risk of occurring and not a certainty does not ne-  
19                  gate the harm persons suffer from actions that in-  
20                  crease the likelihood, extent, and severity of such fu-  
21                  ture impacts;

22                  “(8) countries of the world look to the United  
23                  States for leadership in addressing the threat of and  
24                  harm from global warming;

1           “(9) full implementation of **【this title】** is crit-  
2           ical to engage other countries in an international ef-  
3           fort to mitigate the threat of and harm from global  
4           warming; and

5           “(10) global warming and its adverse effects  
6           are occurring and are likely to continue and increase  
7           in magnitude, and to do so at a greater and more  
8           harmful rate, unless the **【this title】** is fully imple-  
9           mented and enforced in an expeditious manner.

10 **“SEC. 702. ECONOMYWIDE REDUCTION GOALS.**

11           “The goals of this title, and the  
12 **【**\_\_\_\_\_ **Act】** (and the amendments  
13 made by that Act) are to reduce steadily the quantity of  
14 United States greenhouse gas emissions such that—

15           “(1) in 2012, the quantity of United States  
16 greenhouse gas emissions does not exceed 97 percent  
17 of the quantity of United States greenhouse gas  
18 emissions in 2005;

19           “(2) in 2020, the quantity of United States  
20 greenhouse gas emissions does not exceed 80 percent  
21 of the quantity of United States greenhouse gas  
22 emissions in 2005;

23           “(3) in 2030, the quantity of United States  
24 greenhouse gas emissions does not exceed 58 percent

1 of the quantity of United States greenhouse gas  
2 emissions in 2005; and

3 “(4) in 2050, the quantity of United States  
4 greenhouse gas emissions does not exceed 17 percent  
5 of the quantity of United States greenhouse gas  
6 emissions in 2005.

7 **“SEC. 703. REDUCTION TARGETS FOR SPECIFIED SOURCES.**

8 “(a) IN GENERAL.—The regulations issued under  
9 section 721 shall cap and reduce annually the greenhouse  
10 gas emissions of capped sources each calendar year begin-  
11 ning in 2012 such that—

12 “(1) in 2012, the quantity of greenhouse gas  
13 emissions from capped sources does not exceed 97  
14 percent of the quantity of greenhouse gas emissions  
15 from such sources in 2005;

16 “(2) in 2020, the quantity of greenhouse gas  
17 emissions from capped sources does not exceed 80  
18 percent of the quantity of greenhouse gas emissions  
19 from such sources in 2005;

20 “(3) in 2030, the quantity of greenhouse gas  
21 emissions from capped sources does not exceed 58  
22 percent of the quantity of greenhouse gas emissions  
23 from such sources in 2005; and

24 “(4) in 2050, the quantity of greenhouse gas  
25 emissions from capped sources does not exceed 17

1           percent of the quantity of greenhouse gas emissions  
2           from such sources in 2005.

3           “(b) DEFINITION.—For purposes of this section, the  
4 term ‘greenhouse gas emissions from such sources in  
5 2005’ means emissions to which section 722 would have  
6 applied if the requirements of this title for the specified  
7 year had been in effect for 2005.

8           **“SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.**

9           “For the purposes of decreasing the likelihood of cat-  
10 astrophic climate change, preserving tropical forests,  
11 building capacity to generate offset credits, and facili-  
12 tating international action on global warming, the Admin-  
13 istrator shall set aside the percentage specified in section  
14 781 of the quantity of emission allowances established  
15 under section 721(a) for each year, to be used to achieve  
16 a reduction of greenhouse gas emissions from deforest-  
17 ation in developing countries in accordance with part E.  
18 In 2020, activities supported under part E shall provide  
19 greenhouse gas reductions in an amount equal to an addi-  
20 tional 10 percentage points of reductions from United  
21 States greenhouse gas emissions in 2005. The Adminis-  
22 trator shall distribute these allowances with respect to ac-  
23 tivities in countries that enter into and implement agree-  
24 ments or arrangements relating to reduced deforestation  
25 as described in section 753(a)(2).

1 **“SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.**

2 “(a) IN GENERAL.—The Administrator shall, in con-  
3 sultation with appropriate Federal agencies, submit to  
4 Congress a report not later than July 1, 2013, and every  
5 4 years thereafter, that includes—

6 “(1) an analysis of key findings based on the  
7 latest scientific information and data relevant to  
8 global climate change;

9 “(2) an analysis of capabilities to monitor and  
10 verify greenhouse gas reductions on a worldwide  
11 basis, including for the United States, as required  
12 under the \_\_\_\_\_ Act (and the  
13 amendments made by that Act); and

14 “(3) an analysis of the status of worldwide  
15 greenhouse gas reduction efforts, including imple-  
16 mentation of the \_\_\_\_\_ Act and  
17 other policies, both domestic and international, for  
18 reducing greenhouse gas emissions, preventing dan-  
19 gerous atmospheric concentrations of greenhouse  
20 gases, preventing significant irreversible con-  
21 sequences of climate change, and reducing vulner-  
22 ability to the impacts of climate change.

23 “(b) EXCEPTION.—Paragraph (3) of subsection (a)  
24 shall not apply to the first report submitted under such  
25 subsection.

1           “(c) LATEST SCIENTIFIC INFORMATION.—The anal-  
2 ysis required under subsection (a)(1) shall—

3           “(1) address existing scientific information and  
4 reports, considering, to the greatest extent possible,  
5 the most recent assessment report of the Intergov-  
6 ernmental Panel on Climate Change, reports by the  
7 United States Global Change Research Program, the  
8 Natural Resources Climate Change Adaptation  
9 Panel established under section 375 of the  
10 \_\_\_\_\_ Act, and Federal agencies,  
11 and the European Union’s global temperature data  
12 assessment;

13           “(2) review trends and projections for—

14           “(A) global and country-specific annual  
15 emissions of greenhouse gases, and cumulative  
16 greenhouse gas emissions produced between  
17 1850 and the present, including—

18           “(i) global cumulative emissions of an-  
19 thropogenic greenhouse gases;

20           “(ii) global annual emissions of an-  
21 thropogenic greenhouse gases; and

22           “(iii) by country, annual total, annual  
23 per capita, and cumulative anthropogenic  
24 emissions of greenhouse gases for the top  
25 50 emitting nations;



1           “(B) significant changes, both globally and  
2           by region, in annual net non-anthropogenic  
3           greenhouse gas emissions from natural sources,  
4           including permafrost, forests, or oceans;

5           “(C) global atmospheric concentrations of  
6           greenhouse gases, expressed in annual con-  
7           centration units as well as carbon dioxide  
8           equivalents based on 100-year global warming  
9           potentials;

10           “(D) major climate forcing factors, such as  
11           aerosols;

12           “(E) global average temperature, expressed  
13           as seasonal and annual averages in land, ocean,  
14           and land-plus-ocean averages; and

15           “(F) sea level rise;

16           “(3) assess the current and potential impacts of  
17           global climate change on—

18           “(A) human populations, including impacts  
19           on public health, economic livelihoods, subsist-  
20           ence, tribal culture, human infrastructure, and  
21           displacement or permanent relocation due to  
22           flooding, severe weather, extended drought, ero-  
23           sion, or other ecosystem changes;

24           “(B) freshwater systems, including water  
25           resources for human consumption and agri-

1 culture and natural and managed ecosystems,  
2 flood and drought risks, and relative humidity;

3 “(C) the carbon cycle, including impacts  
4 related to the thawing of permafrost, the fre-  
5 quency and intensity of wildfire, and terrestrial  
6 and ocean carbon sinks;

7 “(D) ecosystems and animal and plant  
8 populations, including impacts on species abun-  
9 dance, phenology, and distribution;

10 “(E) oceans and ocean ecosystems, includ-  
11 ing effects on sea level, ocean acidity, ocean  
12 temperatures, coral reefs, ocean circulation,  
13 fisheries, and other indicators of ocean eco-  
14 system health;

15 “(F) the cryosphere, including effects on  
16 ice sheet mass balance, mountain glacier mass  
17 balance, and sea-ice extent and volume;

18 “(G) changes in the intensity, frequency,  
19 or distribution of severe weather events, includ-  
20 ing precipitation, tropical cyclones, tornadoes,  
21 and severe heat waves;

22 “(H) agriculture and forest systems; and

23 “(I) any other indicators the Administrator  
24 deems appropriate;

1           “(4) summarize any significant socioeconomic  
2 impacts of climate change in the United States, in-  
3 cluding the territories of the United States, drawing  
4 on work by Federal agencies and the academic lit-  
5 erature, including impacts on—

6           “(A) public health;

7           “(B) economic livelihoods, subsistence, and  
8 tribal culture;

9           “(C) displacement or permanent relocation  
10 due to flooding, severe weather, extended  
11 drought, or other ecosystem changes;

12           “(D) human infrastructure, including  
13 coastal infrastructure vulnerability to extreme  
14 events and sea level rise, river floodplain infra-  
15 structure, and sewer and water management  
16 systems;

17           “(E) agriculture and forests, including ef-  
18 fects on potential growing season, distribution,  
19 and yield;

20           “(F) water resources for human consump-  
21 tion, agriculture and natural and managed eco-  
22 systems, flood and drought risks, and relative  
23 humidity;

24           “(G) energy supply and use; and

25           “(H) transportation;

1           “(5) in assessing risks and impacts, use a risk  
2 management framework, including both qualitative  
3 and quantitative measures, to assess the observed  
4 and projected impacts of current and future climate  
5 change, accounting for—

6           “(A) both monetized and non-monetized  
7 losses;

8           “(B) potential nonlinear, abrupt, or essen-  
9 tially irreversible changes in the climate system;

10           “(C) potential nonlinear increases in the  
11 cost of impacts;

12           “(D) potential low-probability, high impact  
13 events; and

14           “(E) whether impacts are transitory or es-  
15 sentially permanent; and

16           “(6) based on the findings of the Administrator  
17 under this section, as well as assessments produced  
18 by the Intergovernmental Panel on Climate Change,  
19 the United States Global Change Research program,  
20 and other relevant scientific entities—

21           “(A) describe increased risks to natural  
22 systems and society that would result from an  
23 increase in global average temperature 3.6 de-  
24 grees Fahrenheit (2 degrees Celsius) above the  
25 pre-industrial average or an increase in atmos-

1           pheric greenhouse gas concentrations above 450  
2           parts per million carbon dioxide equivalent; and

3           “(B) identify and assess—

4                 “(i) significant residual risks not  
5                 avoided by the thresholds described in sub-  
6                 paragraph (A);

7                 “(ii) alternative thresholds or targets  
8                 that may more effectively limit the risks  
9                 identified pursuant to clause (i); and

10                “(iii) thresholds above those described  
11                in subparagraph (A) which significantly in-  
12                crease the risk of certain impacts or render  
13                them essentially permanent.

14           “(d) STATUS OF MONITORING AND VERIFICATION  
15           CAPABILITIES TO EVALUATE GREENHOUSE GAS REDUC-  
16           TION EFFORTS.—The analysis required under subsection  
17           (a)(2) shall evaluate the capabilities of the monitoring, re-  
18           porting, and verification systems used to quantify progress  
19           in achieving reductions in greenhouse gas emissions both  
20           globally and in the United States (as described in section  
21           **[702]**), including—

22                “(1) quantification of emissions and emission  
23                reductions by entities participating in the cap and  
24                trade program under this title;

1           “(2) quantification of emissions and emission  
2 reductions by entities participating in the offset pro-  
3 gram under this title;

4           “(3) quantification of emission and emissions  
5 reductions by entities regulated by performance  
6 standards;

7           “(4) quantification of aggregate net emissions  
8 and emissions reductions by the United States; and

9           “(5) quantification of global changes in net  
10 emissions and in sources and sinks of greenhouse  
11 gases.

12       “(e) STATUS OF GREENHOUSE GAS REDUCTION EF-  
13 FORTS.—The analysis required under subsection (a)(3)  
14 shall address—

15           “(1) whether the programs under the  
16 \_\_\_\_\_ Act (and the amendments  
17 made by that Act) and other Federal statutes are re-  
18 sulting in sufficient United States greenhouse gas  
19 emissions reductions to meet the emissions reduction  
20 goals described in section **[702]**, taking into ac-  
21 count the use of offsets; and

22           “(2) whether United States actions, taking into  
23 account international actions, commitments, and  
24 trends, and considering the range of plausible emis-  
25 sions scenarios, are sufficient to avoid—

1           “(A) atmospheric greenhouse gas con-  
2           centrations above 450 parts per million carbon  
3           dioxide equivalent;

4           “(B) global average surface temperature  
5           3.6 degrees Fahrenheit (2 degrees Celsius)  
6           above the pre-industrial average, or such other  
7           temperature thresholds as the Administrator  
8           deems appropriate; and

9           “(C) other temperature or greenhouse gas  
10          thresholds identified pursuant to subsection  
11          (c)(6)(B).

12         “(f) RECOMMENDATIONS.—

13           “(1) LATEST SCIENTIFIC INFORMATION.—  
14         Based on the analysis described in subsection (a)(1),  
15         each report under subsection (a) shall identify ac-  
16         tions that could be taken to—

17           “(A) improve the characterization of  
18           changes in the earth-climate system and im-  
19           pacts of global climate change;

20           “(B) better inform decision making and  
21           actions related to global climate change;

22           “(C) mitigate risks to natural and social  
23           systems; and

24           “(D) design policies to better account for  
25           climate risks.

1           “(2)     MONITORING,     REPORTING     AND  
2     VERIFICATION.—Based on the analysis described in  
3     subsection (a)(2), each report under subsection (a)  
4     shall identify key gaps in measurement, reporting,  
5     and verification capabilities and make recommenda-  
6     tions to improve the accuracy and reliability of those  
7     capabilities.

8           “(3)     STATUS OF GREENHOUSE GAS REDUCTION  
9     EFFORTS.—Based on the analysis described in sub-  
10    section (a)(3), taking into account international ac-  
11    tions, commitments, and trends, and considering the  
12    range of plausible emissions scenarios, each report  
13    under subsection (a) shall identify—

14           “(A) the quantity of additional reductions  
15           required to meet the emissions reduction goals  
16           in section **[702]**;

17           “(B) the quantity of additional reductions  
18           in global greenhouse gas emissions needed to  
19           avoid the concentration and temperature  
20           thresholds identified in subsection (e); and

21           “(C) possible strategies and approaches for  
22           achieving additional reductions.

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



1 **“SEC. 706. NATIONAL ACADEMY REVIEW.**

2 “(a) IN GENERAL.—Not later than 1 year after the  
3 date of enactment of this title, the Administrator shall  
4 offer to enter into a contract with the National Academy  
5 of Sciences (in this section referred to as the ‘Academy’)  
6 under which the Academy shall, not later than July 1,  
7 2014, and every 4 years thereafter, submit to Congress  
8 and the Administrator a report that includes—

9 “(1) a review of the most recent report and rec-  
10 ommendations issued under section 703; and

11 “(2) an analysis of technologies to achieve re-  
12 ductions in greenhouse gas emissions.

13 “(b) FAILURE TO ISSUE A REPORT.—In the event  
14 that the Administrator has not issued all or part of the  
15 most recent report required under section 703, the Acad-  
16 emy shall conduct its own review and analysis of the re-  
17 quired information.

18 “(c) TECHNOLOGICAL INFORMATION.—The analysis  
19 required under subsection (a)(2) shall—

20 “(1) review existing technological information  
21 and reports, including the most recent reports by the  
22 Department of Energy, the United States Global  
23 Change Research Program, the Intergovernmental  
24 Panel on Climate Change, and the International En-  
25 ergy Agency and any other relevant information on

1 technologies or practices that reduce or limit green-  
2 house gas emissions;

3 “(2) include the participation of technical ex-  
4 perts from relevant private industry sectors;

5 “(3) review the current and future projected de-  
6 ployment of technologies and practices in the United  
7 States that reduce or limit greenhouse gas emis-  
8 sions, including—

9 “(A) technologies for capture and seques-  
10 tration of greenhouse gases;

11 “(B) technologies to improve energy effi-  
12 ciency;

13 “(C) low- or zero-greenhouse gas emitting  
14 energy technologies;

15 “(D) low- or zero-greenhouse gas emitting  
16 fuels;

17 “(E) biological sequestration practices and  
18 technologies; and

19 “(F) any other technologies the Academy  
20 deems relevant; and

21 “(4) review and compare the emissions reduc-  
22 tion potential, commercial viability, market penetra-  
23 tion, investment trends, and deployment of the tech-  
24 nologies described in paragraph (3), including—

1           “(A) the need for additional research and  
2           development, including publicly funded research  
3           and development;

4           “(B) the extent of commercial deployment,  
5           including, where appropriate, a comparison to  
6           the cost and level of deployment of conventional  
7           fossil fuel-fired energy technologies and devices;  
8           and

9           “(C) an evaluation of any substantial tech-  
10          nological, legal, or market-based barriers to  
11          commercial deployment.

12         “(d) RECOMMENDATIONS.—

13           “(1) LATEST SCIENTIFIC INFORMATION.—  
14          Based on the review described in subsection (a)(1),  
15          the Academy shall identify actions that could be  
16          taken to—

17           “(A) improve the characterization of  
18           changes in the earth-climate system and im-  
19           pacts of global climate change;

20           “(B) better inform decision making and  
21           actions related to global climate change;

22           “(C) mitigate risks to natural and social  
23           systems;

24           “(D) design policies to better account for  
25           climate risks; and

1           “(E) improve the accuracy and reliability  
2           of capabilities to monitor, report, and verify  
3           greenhouse gas emissions reduction efforts.

4           “(2) TECHNOLOGICAL INFORMATION.—Based  
5           on the analysis described in subsection (a)(2), the  
6           Academy shall identify—

7           “(A) additional emissions reductions that  
8           may be possible as a result of technologies de-  
9           scribed in the analysis;

10           “(B) barriers to the deployment of such  
11           technologies; and

12           “(C) actions that could be taken to speed  
13           deployment of such technologies.

14           “(3) STATUS OF GREENHOUSE GAS REDUCTION  
15           EFFORTS.—Based on the review described in sub-  
16           section (a)(1), the Academy shall identify—

17           “(A) the quantity of additional reductions  
18           required to meet the emissions reduction goals  
19           described in section **702**; and

20           “(B) the quantity of additional reductions  
21           in global greenhouse gas emissions needed to  
22           avoid the concentration and temperature  
23           thresholds described in section 703(c)(6)(A) or  
24           identified pursuant to section 703(c)(6)(B).

1       “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 such sums as may be necessary.

4       **“SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDA-**  
5                                   **TIONS.**

6       “Not later than July 1, 2015, and every 4 years  
7 thereafter—

8               “(1) the President shall direct relevant Federal  
9 agencies to use existing statutory authority to take  
10 appropriate actions identified in the reports sub-  
11 mitted under sections 703 and 704 and to address  
12 any shortfalls identified in such reports; and

13               “(2) in the event that the National Academy of  
14 Sciences has concluded, in the most recent report  
15 submitted under section 704, that the United States  
16 will not achieve the necessary domestic greenhouse  
17 gas emissions reductions, or that global actions will  
18 not maintain safe global average surface tempera-  
19 ture and atmospheric greenhouse gas concentration  
20 thresholds, the President shall submit to Congress a  
21 plan identifying domestic and international actions  
22 that will achieve necessary additional greenhouse gas  
23 reductions, including any recommendations for legis-  
24 lative action.

1 **“PART B—DESIGNATION AND REGISTRATION OF**  
2 **GREENHOUSE GASES**

3 **“SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

4 “(a) GREENHOUSE GASES.—For purposes of this  
5 title, the following are greenhouse gases:

6 “(1) Carbon dioxide.

7 “(2) Methane.

8 “(3) Nitrous oxide.

9 “(4) Sulfur hexafluoride.

10 “(5) Hydrofluorocarbons from a chemical man-  
11 ufacturing process at an industrial stationary  
12 source.

13 “(6) Any perfluorocarbon, except as otherwise  
14 provided in section 714.

15 “(7) Nitrogen trifluoride.

16 “(8) Any other anthropogenic gas designated as  
17 a greenhouse gas by the Administrator under this  
18 section.

19 “(b) DETERMINATION ON ADMINISTRATOR’S INITIA-  
20 TIVE.—The Administrator shall, by rule—

21 “(1) determine whether 1 metric ton of another  
22 anthropogenic gas makes the same or greater con-  
23 tribution to global warming over 100 years as 1 met-  
24 ric ton of carbon dioxide;

25 “(2) determine the carbon dioxide equivalent  
26 value for each gas with respect to which the Admin-

1        istrator makes an affirmative determination under  
2        paragraph (1);

3               “(3) for each gas with respect to which the Ad-  
4        ministrators makes an affirmative determination  
5        under paragraph (1) and that is used as a substitute  
6        for a class I or class II substance under title VI, de-  
7        termine the extent to which to regulate that gas  
8        under section 619 and specify appropriate compli-  
9        ance obligations under section 619;

10              “(4) designate as a greenhouse gas for purposes  
11        of this title each gas for which the Administrator  
12        makes an affirmative determination under para-  
13        graph (1), to the extent that it is not regulated  
14        under section 619; and

15              “(5) specify the appropriate compliance obliga-  
16        tions under this title for each gas designated as a  
17        greenhouse gas under paragraph (4).

18        “(c) PETITIONS TO DESIGNATE A GREENHOUSE  
19        GAS.—

20              “(1) IN GENERAL.—Any person may petition  
21        the Administrator to designate as a greenhouse gas  
22        any anthropogenic gas 1 metric ton of which makes  
23        the same or greater contribution to global warming  
24        over 100 years as 1 metric ton of carbon dioxide.

1           “(2) CONTENTS OF PETITION.—The petitioner  
2 shall provide sufficient data, as specified by rule by  
3 the Administrator, to demonstrate that the gas is  
4 likely to be a greenhouse gas and is likely to be pro-  
5 duced, imported, used, or emitted in the United  
6 States. To the extent practicable, the petitioner shall  
7 also identify producers, importers, distributors,  
8 users, and emitters of the gas in the United States.

9           “(3) REVIEW AND ACTION BY THE ADMINIS-  
10 TRATOR.—Not later than 90 days after receipt of a  
11 petition under paragraph (2), the Administrator  
12 shall determine whether the petition is complete and  
13 notify the petitioner and the public of the decision.

14           “(4) ADDITIONAL INFORMATION.—The Admin-  
15 istrator may require producers, importers, distribu-  
16 tors, users, or emitters of the gas to provide infor-  
17 mation on the contribution of the gas to global  
18 warming over 100 years compared to carbon dioxide.

19           “(5) TREATMENT OF PETITION.—For any sub-  
20 stance used as a substitute for a class I or class II  
21 substance under title VI, the Administrator may  
22 elect to treat a petition under this subsection as a  
23 petition to list the substance as a class II, group II  
24 substance under section 619, and may require the



1 petition to be amended to address listing criteria  
2 promulgated under that section.

3 “(6) DETERMINATION.—Not later than 2 years  
4 after receipt of a complete petition, the Adminis-  
5 trator shall, after notice and an opportunity for com-  
6 ment—

7 “(A) issue and publish in the Federal Reg-  
8 ister—

9 “(i) a determination that 1 metric ton  
10 of the gas does not make a contribution to  
11 global warming over 100 years that is  
12 equal to or greater than that made by 1  
13 metric ton of carbon dioxide; and

14 “(ii) an explanation of the decision; or

15 “(B) determine that 1 metric ton of the  
16 gas makes a contribution to global warming  
17 over 100 years that is equal to or greater than  
18 that made by 1 metric ton of carbon dioxide,  
19 and take the actions described in subsection (b)  
20 with respect to such gas.

21 “(7) GROUNDS FOR DENIAL.—The Adminis-  
22 trator may not deny a petition under this subsection  
23 solely on the basis of inadequate Environmental Pro-  
24 tection Agency resources or time for review.

25 “(d) SCIENCE ADVISORY BOARD CONSULTATION.—

1           “(1) CONSULTATION.—The Administrator  
2 shall—

3           “(A) give notice to the Science Advisory  
4 Board prior to making a determination under  
5 subsection (b)(1), (c)(6), or (e)(2)(B);

6           “(B) consider the written recommendations  
7 of the Science Advisory Board under paragraph  
8 (2) regarding the determination; and

9           “(C) consult with the Science Advisory  
10 Board regarding such determination, including  
11 consultation subsequent to receipt of such writ-  
12 ten recommendations.

13           “(2) FORMULATION OF RECOMMENDATIONS.—  
14 Upon receipt of notice under paragraph (1)(A) re-  
15 garding a pending determination under subsection  
16 (b)(1), (c)(6), or (e)(2)(B), the Science Advisory  
17 Board shall—

18           “(A) formulate recommendations regarding  
19 such determination, subject to a peer review  
20 process; and

21           “(B) submit such recommendations in  
22 writing to the Administrator.

23           “(e) MANUFACTURING AND EMISSION NOTICES.—

24           “(1) NOTICE REQUIREMENT.—

1           “(A) IN GENERAL.—Except as otherwise  
2 provided in section 714, effective 24 months  
3 after the date of enactment of this title, no per-  
4 son may manufacture or introduce into inter-  
5 state commerce a fluorinated gas, or emit a sig-  
6 nificant quantity, as determined by the Admin-  
7 istrator, of any fluorinated gas that is gen-  
8 erated as a byproduct during the production or  
9 use of another fluorinated gas, unless—

10           “(i) the gas is designated as a green-  
11 house gas under this section or is an  
12 ozone-depleting substance listed as a class  
13 I or class II substance under title VI;

14           “(ii) the Administrator has deter-  
15 mined that 1 metric ton of such gas does  
16 not make a contribution to global warming  
17 that is equal to or greater than that made  
18 by 1 metric ton of carbon dioxide; or

19           “(iii) the person manufacturing or im-  
20 porting the gas for distribution into inter-  
21 state commerce, or emitting the gas, has  
22 submitted to the Administrator, at least 90  
23 days before the start of such manufacture,  
24 introduction into commerce, or emission, a  
25 notice of such person’s manufacture, intro-

1           duction into commerce, or emission of such  
2           gas, and the Administrator has not deter-  
3           mined that notice or a substantially similar  
4           notice is incomplete.

5           “(B) ALTERNATIVE COMPLIANCE.—For a  
6           gas that is a substitute for a class I or class II  
7           substance under title VI and either has been  
8           listed as acceptable for use under section 612  
9           or is currently subject to evaluation under sec-  
10          tion 612, the Administrator may accept the no-  
11          tice and information provided pursuant to that  
12          section as fulfilling the obligation under clause  
13          (iii) of subparagraph (A).

14          “(2) REVIEW AND ACTION BY THE ADMINIS-  
15          TRATOR.—

16                 “(A) COMPLETENESS.—Not later than 90  
17                 days after receipt of notice under paragraph  
18                 (1)(A)(iii) or (B), the Administrator shall deter-  
19                 mine whether the notice is complete.

20                 “(B) DETERMINATION.—If the Adminis-  
21                 trator determines that the notice is complete,  
22                 the Administrator shall, after notice and an op-  
23                 portunity for comment, not later than 12  
24                 months after receipt of the notice—

1                   “(i) issue and publish in the Federal  
2                   Register a determination that 1 metric ton  
3                   of the gas does not make a contribution to  
4                   global warming over 100 years that is  
5                   equal to or greater than that made by 1  
6                   metric ton of carbon dioxide and an expla-  
7                   nation of the decision; or

8                   “(ii) determine that 1 metric ton of  
9                   the gas makes a contribution to global  
10                  warming over 100 years that is equal to or  
11                  greater than that made by 1 metric ton of  
12                  carbon dioxide, and take the actions de-  
13                  scribed in subsection (b) with respect to  
14                  such gas.

15                  “(f) REGULATIONS.—Not later than one year after  
16                  the date of enactment of this title, the Administrator shall  
17                  promulgate regulations to carry out this section. Such reg-  
18                  ulations shall include—

19                         “(1) requirements for the contents of a petition  
20                         submitted under subsection (c);

21                         “(2) requirements for the contents of a notice  
22                         required under subsection (e); and

23                         “(3) methods and standards for evaluating the  
24                         carbon dioxide equivalent value of a gas.

1 “(g) GASES REGULATED UNDER TITLE VI.—The  
 2 Administrator shall not designate a gas as a greenhouse  
 3 gas under this section to the extent that the gas is regu-  
 4 lated under title VI.

5 “(h) SAVINGS CLAUSE.—Nothing in this section shall  
 6 be interpreted to relieve any person from complying with  
 7 the requirements of section 612.

8 **“SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF**  
 9 **GREENHOUSE GASES.**

10 “(a) MEASURE OF QUANTITY OF GREENHOUSE  
 11 GASES.—Any provision of this title or title VIII that refers  
 12 to a quantity or percentage of a quantity of greenhouse  
 13 gases shall mean the quantity or percentage of the green-  
 14 house gases expressed in carbon dioxide equivalents.

15 “(b) INITIAL VALUE.—Except as provided by the Ad-  
 16 ministrator under this section or section 711—

17 “(1) the carbon dioxide equivalent value of  
 18 greenhouse gases for purposes of this Act shall be as  
 19 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

**“ 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>
HFC-125	3,500
HFC-134a	1,430
HFC-143a	4,470
HFC-152a	124
HFC-227ea	3,220
HFC-236fa	9,810
HFC-4310mcc	1,640
CF <sub>4</sub>	7,390
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—

1           “(A) review and, if appropriate, revise the  
2           carbon dioxide equivalent values established  
3           under this section or section 711(b)(2), based  
4           on a determination of the number of metric  
5           tons of carbon dioxide that makes the same  
6           contribution to global warming over 100 years  
7           as 1 metric ton of each greenhouse gas; and

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

10          “(2) A revised determination published in the  
11          Federal Register under paragraph (1)(B) shall take  
12          effect for greenhouse gas emissions starting on Jan-  
13          uary 1 of the first calendar year starting at least 9  
14          months after the date on which the revised deter-  
15          mination was published.

16          “(3) The Administrator may decrease the fre-  
17          quency of review and revision under paragraph (1)  
18          if the Administrator determines that such decrease  
19          is appropriate in order to synchronize such review  
20          and revision with any similar review process carried  
21          out pursuant to the United Nations Framework  
22          Convention on Climate Change, done at New York  
23          on May 9, 1992, or to an agreement negotiated  
24          under that convention, except that in no event shall



1 the Administrator carry out such review and revision  
2 any less frequently than every 10 years.

3 “(d) METHODOLOGY.—In setting carbon dioxide  
4 equivalent values, for purposes of this section or section  
5 711, the Administrator shall take into account publica-  
6 tions by the Intergovernmental Panel on Climate Change  
7 or a successor organization under the auspices of the  
8 United Nations Environmental Programme and the World  
9 Meteorological Organization.

10 **“SEC. 713. GREENHOUSE GAS REGISTRY.**

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

12 “(1) CLIMATE REGISTRY.—The term ‘Climate  
13 Registry’ means the greenhouse gas emissions reg-  
14 istry jointly established and managed by more than  
15 40 States and Indian tribes in 2007 to collect high-  
16 quality greenhouse gas emission data from facilities,  
17 corporations, and other organizations to support var-  
18 ious greenhouse gas emission reporting and reduc-  
19 tion policies for the member States and Indian  
20 tribes.

21 “(2) REPORTING ENTITY.—The term ‘reporting  
22 entity’ means—

23 “(A) a covered entity;

24 “(B) an entity that—

1           “(i) would be a covered entity if it had  
2           emitted, produced, imported, manufac-  
3           tured, or delivered in 2008 or any subse-  
4           quent year more than the applicable  
5           threshold level in the definition of covered  
6           entity in paragraph (13) of section 700;  
7           and

8           “(ii) has emitted, produced, imported,  
9           manufactured, or delivered in 2008 or any  
10          subsequent year more than the applicable  
11          threshold level in the definition of covered  
12          entity in paragraph (13) of section 700,  
13          provided that the figure of 25,000 tons of  
14          carbon dioxide equivalent is read instead  
15          as 10,000 tons of carbon dioxide equivalent  
16          and the figure of 460,000,000 cubic feet is  
17          read instead as 184,000,000 cubic feet;

18          “(C) any other entity that emits a green-  
19          house gas, or produces, imports, manufactures,  
20          or delivers material whose use results or may  
21          result in greenhouse gas emissions if the Ad-  
22          ministrator determines that reporting under  
23          this section by such entity will help achieve the  
24          purposes of this title or title VIII;

1           “(D) any vehicle fleet with emissions of  
2           more than 25,000 tons of carbon dioxide equiv-  
3           alent on an annual basis, if the Administrator  
4           determines that the inclusion of such fleet will  
5           help achieve the purposes of this title or title  
6           VIII; or

7           “(E) any entity that delivers electricity to  
8           an energy-intensive facility in an industrial sec-  
9           tor that meets the energy or greenhouse gas in-  
10          tensity criteria in section 764(b)(2)(A)(i).

11          “(b) REGULATIONS.—

12           “(1) IN GENERAL.—Not later than 6 months  
13          after the date of enactment of this title, the Admin-  
14          istrator shall issue regulations establishing a Federal  
15          greenhouse gas registry. Such regulations shall—

16           “(A) require reporting entities to submit to  
17          the Administrator data on—

18           “(i) greenhouse gas emissions in the  
19          United States;

20           “(ii) the production and manufacture  
21          in the United States, importation into the  
22          United States, and, at the discretion of the  
23          Administrator, exportation from the  
24          United States, of fuels and industrial gases

1 the uses of which result or may result in  
2 greenhouse gas emissions;

3 “(iii) deliveries in the United States of  
4 natural gas, and any other gas meeting the  
5 specifications for commingling with natural  
6 gas for purposes of delivery, the combus-  
7 tion of which result or may result in green-  
8 house gas emissions; and

9 “(iv) the capture and sequestration of  
10 greenhouse gases;

11 “(B) require covered entities and, where  
12 appropriate, other reporting entities to submit  
13 to the Administrator data sufficient to ensure  
14 compliance with or implementation of the re-  
15 quirements of this title;

16 “(C) require reporting of electricity deliv-  
17 ered to industrial sources in energy-intensive in-  
18 dustries;

19 “(D) ensure the completeness, consistency,  
20 transparency, accuracy, precision, and reliability  
21 of such data;

22 “(E) take into account the best practices  
23 from the most recent Federal, State, tribal, and  
24 international protocols for the measurement, ac-  
25 counting, reporting, and verification of green-

1 house gas emissions, including protocols from  
2 the Climate Registry and other mandatory  
3 State or multistate authorized programs;

4 “(F) take into account the latest scientific  
5 research;

6 “(G) require that, for covered entities with  
7 respect to greenhouse gases to which section  
8 722 applies, and, to the extent determined to be  
9 appropriate by the Administrator, for covered  
10 entities with respect to other greenhouse gases  
11 and for other reporting entities, submitted data  
12 are based on—

13 “(i) continuous monitoring systems  
14 for fuel flow or emissions, such as contin-  
15 uous emission monitoring systems;

16 “(ii) alternative systems that are dem-  
17 onstrated as providing data with the same  
18 precision, reliability, accessibility, and  
19 timeliness, or, to the extent the Adminis-  
20 trator determines is appropriate for report-  
21 ing small amounts of emissions, the same  
22 precision, reliability, and accessibility and  
23 similar timeliness, as data provided by con-  
24 tinuous monitoring systems for fuel flow or  
25 emissions; or

1                   “(iii) alternative methodologies that  
2                   are demonstrated to provide data with pre-  
3                   cision, reliability, accessibility, and timeli-  
4                   ness, or, to the extent the Administrator  
5                   determines is appropriate for reporting  
6                   small amounts of emissions, precision, reli-  
7                   ability, and accessibility, as similar as is  
8                   technically feasible to that of data gen-  
9                   erally provided by continuous monitoring  
10                  systems for fuel flow or emissions, if the  
11                  Administrator determines that, with re-  
12                  spect to a reporting entity, there is no con-  
13                  tinuous monitoring system or alternative  
14                  system described in clause (i) or (ii) that  
15                  is technically feasible;

16                  “(H) require that the Administrator, in de-  
17                  termining the extent to which the requirement  
18                  to use systems or methodologies in accordance  
19                  with subparagraph (G) is appropriate for re-  
20                  porting entities other than covered entities or  
21                  for greenhouse gases to which section 722 does  
22                  not apply, consider the cost of using such sys-  
23                  tems and methodologies, and of using other sys-  
24                  tems and methodologies that are available and  
25                  suitable, for quantifying the emissions involved

1 in light of the purposes of this title, including  
2 the goal of collecting consistent entity-wide  
3 data;

4 “(I) include methods for minimizing double  
5 reporting and avoiding irreconcilable double re-  
6 porting of greenhouse gas emissions;

7 “(J) establish measurement protocols for  
8 carbon capture and sequestration systems, tak-  
9 ing into consideration the regulations promul-  
10 gated under section 813;

11 “(K) require that reporting entities provide  
12 the data required under this paragraph in re-  
13 ports submitted electronically to the Adminis-  
14 trator, in such form and containing such infor-  
15 mation as may be required by the Adminis-  
16 trator;

17 “(L) include requirements for keeping  
18 records supporting or related to, and protocols  
19 for auditing, submitted data;

20 “(M) establish consistent policies for calcu-  
21 lating carbon content and greenhouse gas emis-  
22 sions for each type of fossil fuel with respect to  
23 which reporting is required;

24 “(N) subsequent to implementation of poli-  
25 cies developed under subparagraph (M), provide





1 is located, if the Administrator deter-  
2 mines that such State or Indian tribe  
3 has in effect protections for confiden-  
4 tial business information that are  
5 equivalent to protections applicable to  
6 the Federal Government;

7 “(O) prescribe methods by which the Ad-  
8 ministrator shall, in cases in which satisfactory  
9 data are not submitted to the Administrator for  
10 any period of time, estimate emission, produc-  
11 tion, importation, manufacture, or delivery lev-  
12 els—

13 “(i) for covered entities with respect  
14 to greenhouse gas emissions, production,  
15 importation, manufacture, or delivery regu-  
16 lated under this title to ensure that emis-  
17 sions, production, importation, manufac-  
18 ture, or deliveries are not underreported,  
19 and to create a strong incentive for meet-  
20 ing data monitoring and reporting require-  
21 ments—

22 “(I) with a conservative estimate  
23 of the highest emission, production,  
24 importation, manufacture, or delivery  
25 levels that may have occurred during

1 the period for which data are missing;  
2 or

3 “(II) to the extent the Adminis-  
4 trator considers appropriate, with an  
5 estimate of such levels assuming the  
6 unit is emitting, producing, importing,  
7 manufacturing, or delivering at a  
8 maximum potential level during the  
9 period, in order to ensure that such  
10 levels are not underreported and to  
11 create a strong incentive for meeting  
12 data monitoring and reporting re-  
13 quirements; and

14 “(ii) for covered entities with respect  
15 to greenhouse gas emissions to which sec-  
16 tion 722 does not apply and for other re-  
17 porting entities, with a reasonable estimate  
18 of the emission, production, importation,  
19 manufacture, or delivery levels that may  
20 have occurred during the period for which  
21 data are missing;

22 “(P) require the designation of a des-  
23 ignated representative for each reporting entity;

24 “(Q) require an appropriate certification,  
25 by the designated representative for the report-

1           ing entity, of accurate and complete accounting  
2           of greenhouse gas emissions, as determined by  
3           the Administrator; and

4           “(R) include requirements for other data  
5           necessary for accurate and complete accounting  
6           of greenhouse gas emissions, as determined by  
7           the Administrator, including data for quality  
8           assurance of monitoring systems, monitors and  
9           other measurement devices, and other data  
10          needed to verify reported emissions, production,  
11          importation, manufacture, or delivery.

12          “(2) TIMING.—

13           “(A) CALENDAR YEARS 2007 THROUGH  
14           2010.—For a base period of calendar years  
15           2007 through 2010, each reporting entity shall  
16           submit annual data required under this section  
17           to the Administrator not later than March 31,  
18           2011. The Administrator may waive or modify  
19           reporting requirements for calendar years 2007  
20           through 2010 for categories of reporting enti-  
21           ties to the extent that the Administrator deter-  
22           mines that the reporting entities did not keep  
23           data or records necessary to meet reporting re-  
24           quirements. The Administrator may, in addition

1 to or in lieu of such requirements, collect infor-  
2 mation on energy consumption and production.

3 “(B) SUBSEQUENT CALENDAR YEARS.—  
4 For calendar year 2011 and each subsequent  
5 calendar year, each reporting entity shall sub-  
6 mit quarterly data required under this section  
7 to the Administrator not later than 60 days  
8 after the end of the applicable quarter, except  
9 when the data is already being reported to the  
10 Administrator on an earlier timeframe for an-  
11 other program.

12 “(3) WAIVER OF REPORTING REQUIREMENTS.—  
13 The Administrator may waive reporting require-  
14 ments under this section for specific entities to the  
15 extent that the Administrator determines that suffi-  
16 cient and equally or more reliable verified and timely  
17 data are available to the Administrator and the pub-  
18 lic on the Internet under other mandatory statutory  
19 requirements.

20 “(4) ALTERNATIVE THRESHOLD.—The Admin-  
21 istrator may, by rule, establish applicability thresh-  
22 olds for reporting under this section using alter-  
23 native metrics and levels, provided that such metrics  
24 and levels are easier to administer and cover the

1 same size and type of sources as the threshold de-  
2 fined in this section.

3 “(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—

4 In developing the regulations issued under subsection (b),  
5 the Administrator shall take into account the work done  
6 by the Climate Registry and other mandatory State or  
7 multistate programs. Such regulations shall include an ex-  
8 planation of any major differences in approach between  
9 the system established under the regulations and such reg-  
10 istries and programs.

11 **“SEC. 714. PERFLUOROCARBON REGULATION.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) CONSUMPTION.—The term ‘consumption’  
14 means, with respect to perflouorocarbon, the quantity  
15 of that substance produced in the United States,  
16 plus the quantity imported, minus the quantity ex-  
17 ported.

18 “(2) PRODUCE; PRODUCED; PRODUCTION.—

19 “(A) IN GENERAL.—The terms ‘produce’,  
20 ‘produced’, and ‘production’ mean the manufac-  
21 ture of perfluorocarbon, or the emission of  
22 perfluorocarbon from other industrial sources.

23 “(B) EXCLUSIONS.—The terms ‘produce’,  
24 ‘produced’, and ‘production’ do not include—

1                   “(i)       the       manufacture       of  
2                   perfluorocarbon that is used and entirely  
3                   consumed (except for trace quantities) in  
4                   the manufacture of other chemicals or  
5                   products;

6                   “(ii)     the reuse or recycling of  
7                   perfluorocarbon; or

8                   “(iii) the emission of perfluorocarbon  
9                   from use in production processes, such as  
10                  electronics manufacturing.

11                  “(C) OFFSET CREDIT.—The term ‘offset  
12                  credit’ means reduction of perfluorocarbon  
13                  emissions by destruction or conversionary use of  
14                  perfluorocarbons during production processes,  
15                  such as electronics manufacturing.

16                  “(b) DETERMINATION BY ADMINISTRATOR.—As soon  
17                  as practicable after the date of enactment of this section,  
18                  the Administrator shall determine, based on such criteria  
19                  as the Administrator determines to be appropriate, wheth-  
20                  er emissions from the production and consumption of  
21                  perfluorocarbon should be regulated in accordance with—

22                   “(1) this section; or

23                   “(2) the other applicable provisions of this title.

24                  “(c) EFFECT OF DETERMINATION.—On a determina-  
25                  tion by the Administrator under subsection (a)(1) that

1 perfluorocarbon emissions described in subsection (b)  
2 should be regulated in accordance with this section—

3 “(1) emissions from the production of  
4 perfluorocarbon shall be subject to the best available  
5 control technology (as defined in section 169) for  
6 each greenhouse gas designated in section 711 at fa-  
7 cilities emitting 25,000 metric tons of carbon dioxide  
8 equivalent perfluorocarbon emissions or more; and

9 “(2) the consumption of perfluorocarbon shall  
10 be phased down in accordance with this section.

11 “(d) USE AND CONSUMPTION.—

12 “(1) PHASE-DOWNS.—

13 “(A) CONSUMPTION.—

14 “(i) IN GENERAL.—With respect to  
15 perfluorocarbon, not later than 18 months  
16 after the date of enactment of this section,  
17 the Administrator shall promulgate regula-  
18 tions phasing down, in accordance with  
19 this section—

20 “(I) the consumption of  
21 perfluorocarbon in the United States;  
22 and

23 “(II) the importation into the  
24 United States of products containing  
25 any perfluorocarbon.

1                   “(ii) PROHIBITION.—Effective begin-  
2                   ning on January 1, 2014, it shall be un-  
3                   lawful for any person to produce any  
4                   perfluorocarbon,           import           any  
5                   perfluorocarbon, or import any product  
6                   containing perfluorocarbon, unless the per-  
7                   son holds 1 consumption allowance or 1  
8                   offset credit for each carbon dioxide equiv-  
9                   alent ton of the perfluorocarbon destroyed.

10                   “(iii) RETIRED ALLOWANCES.—Any  
11                   person who exports a perfluorocarbon for  
12                   which a use allowance was retired may re-  
13                   ceive a refund of that allowance from the  
14                   Administrator after the date of export.

15                   “(B) INTEGRITY OF CAP.—To maintain  
16                   the integrity of the perfluorocarbon cap under  
17                   this paragraph, the Administrator may limit, by  
18                   regulation, the percentage of the compliance ob-  
19                   ligation of any person that may be met through  
20                   the consumption of offset credits or banked al-  
21                   lowances.

22                   “(C) COUNTING OF VIOLATIONS.—Each  
23                   consumption allowance or offset credit not held  
24                   as required by this subsection shall be a sepa-  
25                   rate violation of this section.



1           “(2) SCHEDULE.—Pursuant to the regulations  
2           promulgated under paragraph (1)(A), the number of  
3           perfluorocarbon consumption allowances available for  
4           distribution for each calendar year beginning in cal-  
5           endar year 2014 shall be established by the Adminis-  
6           trator.

7           “(3) BASELINE.—

8                   “(A) IN GENERAL.—Not later than 1 year  
9                   after the date of enactment of this section, the  
10                  Administrator shall promulgate regulations to  
11                  establish the baseline for purposes of paragraph  
12                  (2).

13                  “(B) CALCULATION.—The baseline shall  
14                  be—

15                          “(i) the sum, expressed in metric tons  
16                          of carbon dioxide equivalents, of—

17                                  “(I) the average of the annual  
18                                  consumption of all perfluorocarbon in  
19                                  each of calendar years 2004, 2005,  
20                                  and 2006; and

21                                  “(II) the annual average quantity  
22                                  of all perfluorocarbon contained in im-  
23                                  ported products during the period of  
24                                  calendar years 2004, 2005, and 2006;  
25                                  or

1                   “(ii) such alternative quantity of car-  
2                   bon dioxide equivalents that, as determined  
3                   by the Administrator, more accurately re-  
4                   flects the average annual quantity of  
5                   perfluorocarbon consumed in and imported  
6                   into the United States (including in prod-  
7                   ucts), as based on information compiled by  
8                   the Administrator.

9                   “(4) DISTRIBUTION OF ALLOWANCES.—The  
10                  Administrator shall determine an allocation, and  
11                  procedures for the distribution, transfer, and ex-  
12                  change of allowances for the consumption of  
13                  perfluorocarbon under this section, including a de-  
14                  termination of whether allowances may be auctioned,  
15                  sold, or allocated and distributed at no cost, trans-  
16                  ferred, or exchanged for domestic or international  
17                  consumption, in accordance with such criteria as the  
18                  Administrator considers to be appropriate.

19                  “(e) IMPLEMENTATION.—To the maximum extent  
20                  practicable, the Administrator shall implement this section  
21                  in accordance with the procedures described in section  
22                  619.

23                  “(f) DEADLINES FOR COMPLIANCE.—The Adminis-  
24                  trator shall promulgate regulations for perfluorocarbon in

1 accordance with this section by not later than October 31,  
2 2013.

3 **“PART C—PROGRAM RULES**

4 **“SEC. 721. EMISSION ALLOWANCES.**

5 “(a) IN GENERAL.—The Administrator shall estab-  
6 lish a separate quantity of emission allowances for each  
7 calendar year starting in 2012, in the amounts prescribed  
8 under subsection (e).

9 “(b) IDENTIFICATION NUMBERS.—The Adminis-  
10 trator shall assign to each emission allowance established  
11 under subsection (a) a unique identification number that  
12 includes the vintage year for that emission allowance.

13 “(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

14 “(1) IN GENERAL.—An allowance established  
15 by the Administrator under this title does not con-  
16 stitute a property right.

17 “(2) TERMINATION OR LIMITATION.—Nothing  
18 in this Act or any other provision of law shall be  
19 construed to limit or alter the authority of the  
20 United States, including the Administrator acting  
21 pursuant to statutory authority, to terminate or  
22 limit allowances or offset credits.

23 “(3) OTHER PROVISIONS UNAFFECTED.—Ex-  
24 cept as otherwise specified in this Act, nothing in  
25 this Act relating to allowances or offset credits es-

1        established or issued under this title shall affect the  
2        application of any other provision of law to a covered  
3        entity, or the responsibility for a covered entity to  
4        comply with any such provision of law.

5        “(d) SAVINGS PROVISION.—Nothing in this part shall  
6        be construed as requiring a change of any kind in any  
7        State law regulating electric utility rates and charges, or  
8        as affecting any State law regarding such State regula-  
9        tion, or as limiting State regulation (including any  
10       prudency review) under such a State law. Nothing in this  
11       part shall be construed as modifying the Federal Power  
12       Act (16 U.S.C. 791a et seq.) or as affecting the authority  
13       of the Federal Energy Regulatory Commission under that  
14       Act. Nothing in this part shall be construed to interfere  
15       with or impair any program for competitive bidding for  
16       power supply in a State in which such program is estab-  
17       lished.

18       “(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

19                “(1) IN GENERAL.—Except as provided in para-  
20       graph (2), the number of emission allowances estab-  
21       lished by the Administrator under subsection (a) for  
22       each calendar year shall be as provided in the fol-  
23       lowing table:

<b>“Calendar year</b>	<b>Emission allowances (in mil- lions)</b>
2012	4,627
2013	4,544
2014	5,099
2015	5,003
2016	5,482
2017	5,375
2018	5,269
2019	5,162
2020	5,056
2021	4,903
2022	4,751
2023	4,599
2024	4,446
2025	4,294
2026	4,142
2027	3,990
2028	3,837
2029	3,685
2030	3,533
2031	3,408
2032	3,283
2033	3,158
2034	3,033
2035	2,908
2036	2,784
2037	2,659
2038	2,534

<b>“Calendar year</b>	<b>Emission allowances (in millions)</b>
2039	2,409
2040	2,284
2041	2,159
2042	2,034
2043	1,910
2044	1,785
2045	1,660
2046	1,535
2047	1,410
2048	1,285
2049	1,160
2050 and each year thereafter	1,035

1           “(2) REVISION.—

2           “(A) IN GENERAL.—The Administrator  
3           may adjust, in accordance with subparagraph  
4           (B), the number of emission allowances estab-  
5           lished pursuant to paragraph (1) if, after notice  
6           and an opportunity for public comment, the Ad-  
7           ministrator determines that—

8           “(i) United States greenhouse gas  
9           emissions in 2005 were other than 7,206  
10          million metric tons carbon dioxide equiva-  
11          lent;

12          “(ii) if the requirements of this title  
13          for 2012 had been in effect in 2005, sec-

1           tion 722 would have required emission al-  
2           lowances to be held for other than 66.2  
3           percent of United States greenhouse gas  
4           emissions in 2005;

5           “(iii) if the requirements of this title  
6           for 2014 had been in effect in 2005, sec-  
7           tion 722 would have required emission al-  
8           lowances to be held for other than 75.7  
9           percent of United States greenhouse gas  
10          emissions in 2005; or

11          “(iv) if the requirements of this title  
12          for 2016 had been in effect in 2005, sec-  
13          tion 722 would have required emission al-  
14          lowances to be held for other than 84.5  
15          percent United States greenhouse gas  
16          emissions in 2005.

17          “(B) ADJUSTMENT FORMULA.—

18           “(i) IN GENERAL.—If the Adminis-  
19           trator adjusts under this paragraph the  
20           number of emission allowances established  
21           pursuant to paragraph (1), the number of  
22           emission allowances the Administrator es-  
23           tablishes for any given calendar year shall  
24           equal the product of—

1                   “(I) United States greenhouse  
2 gas emissions in 2005, expressed in  
3 tons of carbon dioxide equivalent;

4                   “(II) the percent of United  
5 States greenhouse gas emissions in  
6 2005, expressed in tons of carbon di-  
7 oxide equivalent, that would have been  
8 subject to section 722 if the require-  
9 ments of this title for the given cal-  
10 endar year had been in effect in 2005;  
11 and

12                   “(III) the percentage set forth  
13 for that calendar year in section  
14 701(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 701(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 or gas derived from  
20                 petroleum coke.

21           “(2) FUEL PRODUCERS AND IMPORTERS.—For  
22          a covered entity described in section 700(13)(B), 1  
23          emission allowance for each ton of carbon dioxide  
24          equivalent of greenhouse gas that would be emitted  
25          from the combustion of any petroleum-based or coal-

1 based liquid fuel, petroleum coke, or natural gas liq-  
2 uid, produced or imported by such covered entity  
3 during the previous calendar year for sale or dis-  
4 tribution in interstate commerce, assuming no cap-  
5 ture and sequestration of any greenhouse gas emis-  
6 sions.

7 “(3) INDUSTRIAL GAS PRODUCERS AND IM-  
8 PORTERS.—For a covered entity described in section  
9 700(13)(C), 1 emission allowance for each ton of  
10 carbon dioxide equivalent of fossil fuel-based carbon  
11 dioxide, nitrous oxide, or any other fluorinated gas  
12 that is a greenhouse gas (except for nitrogen  
13 trifluoride), or any combination thereof, produced or  
14 imported by such covered entity during the previous  
15 calendar year for sale or distribution in interstate  
16 commerce or released as fugitive emissions in the  
17 production of fluorinated gas.

18 “(4) NITROGEN TRIFLUORIDE SOURCES.—For  
19 a covered entity described in section 700(13)(D), 1  
20 emission allowance for each ton of carbon dioxide  
21 equivalent of nitrogen trifluoride that such covered  
22 entity emitted in the previous calendar year.

23 “(5) GEOLOGICAL SEQUESTRATION SITES.—For  
24 a covered entity described in section 700(13)(E), 1  
25 emission allowance for each ton of carbon dioxide



1 equivalent of greenhouse gas that such covered enti-  
2 ty emitted in the previous calendar year.

3 “(6) INDUSTRIAL STATIONARY SOURCES.—For  
4 a covered entity described in section 700(13)(F),  
5 (G), or (H), 1 emission allowance for each ton of  
6 carbon dioxide equivalent of greenhouse gas that  
7 such covered entity emitted in the previous calendar  
8 year, excluding emissions resulting from—

9 “(A) the combustion of petroleum-based or  
10 coal-based liquid fuel;

11 “(B) the combustion of natural gas liquid;

12 “(C) the combustion of renewable biomass  
13 or gas derived from renewable biomass;

14 “(D) the combustion of petroleum coke or  
15 gas derived from petroleum coke; or

16 “(E) the use of any fluorinated gas that is  
17 a greenhouse gas purchased for use at that cov-  
18 ered entity, except for nitrogen trifluoride.

19 “(7) INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-  
20 TION DEVICES.—For a covered entity described in  
21 section 700(13)(I), 1 emission allowance for each  
22 ton of carbon dioxide equivalent of greenhouse gas  
23 that the devices emitted in the previous calendar  
24 year, excluding emissions resulting from the combus-  
25 tion of—

1           “(A) petroleum-based or coal-based liquid  
2           fuel;

3           “(B) natural gas liquid;

4           “(C) renewable biomass or gas derived  
5           from renewable biomass; or

6           “(D) petroleum coke or gas derived from  
7           petroleum coke.

8           “(8) NATURAL GAS LOCAL DISTRIBUTION COM-  
9           PANIES.—For a covered entity described in section  
10          700(13)(J), 1 emission allowance for each ton of  
11          carbon dioxide equivalent of greenhouse gas that  
12          would be emitted from the combustion of the natural  
13          gas, and any other gas meeting the specifications for  
14          commingling with natural gas for purposes of deliv-  
15          ery, that such entity delivered during the previous  
16          calendar year to customers that are not covered enti-  
17          ties, assuming no capture and sequestration of that  
18          greenhouse gas.

19          “(9) R&D FACILITIES.—

20                 “(A) IN GENERAL.—For a qualified R&D  
21                 facility that emitted 25,000 tons per year or  
22                 more carbon dioxide equivalent in the previous  
23                 calendar year, 1 emission allowance for each  
24                 ton of carbon dioxide equivalent of greenhouse

1 gas that such facility emitted in the previous  
2 calendar year.

3 “(B) TREATMENT.—A qualified R&D facil-  
4 ity shall be treated as a separate covered entity  
5 solely for purposes of applying the requirements  
6 of this subsection.

7 “(10) ALGAE-BASED FUELS.—Where carbon di-  
8 oxide (or another greenhouse gas) is used as an  
9 input in the production of algae-based fuels, the Ad-  
10 ministrator shall ensure that allowances are required  
11 to be held either for the carbon dioxide used to grow  
12 the algae or for the carbon dioxide emitted from  
13 combustion of the fuel produced from such algae,  
14 but not for both.

15 “(11) FUGITIVE EMISSIONS.—The greenhouse  
16 gas emissions to which paragraphs (1), (4), (6), and  
17 (7) apply shall not include fugitive emissions of  
18 greenhouse gas, except to the extent the Adminis-  
19 trator determines that data on the carbon dioxide  
20 equivalent value of greenhouse gas in the fugitive  
21 emissions can be provided with sufficient precision,  
22 reliability, accessibility, and timeliness to ensure the  
23 integrity of emission allowances, the allowance track-  
24 ing system, and the cap on emissions.

1           “(12) EXPORT EXEMPTION.—This section shall  
2 not apply to any petroleum-based or coal-based liq-  
3 uid fuel, petroleum coke, natural gas liquid, fossil  
4 fuel-based carbon dioxide, nitrous oxide, or  
5 fluorinated gas that is exported for sale or use.

6           “(13) NATURAL GAS LIQUIDS.—Notwith-  
7 standing subsection (a), if the owner or operator of  
8 a covered entity described in section 700(13)(B)  
9 that produces natural gas liquids does not take own-  
10 ership of the liquids, and is not responsible for the  
11 distribution or use of the liquids in commerce, the  
12 owner of the liquids shall be responsible for compli-  
13 ance with this section, section 723, and other rel-  
14 evant sections of this title with respect to such liq-  
15 uids. In the regulations promulgated under section  
16 721, the Administrator shall include such provisions  
17 with respect to such liquids as the Administrator de-  
18 termines are appropriate to determine and ensure  
19 compliance, and to penalize noncompliance. In such  
20 a case, the owner of the covered entity shall provide  
21 to the Administrator, in a manner to be determined  
22 by the Administrator, information regarding the  
23 quantity and ownership of liquids produced at the  
24 covered entity.





1 section (b)(1), subparagraphs (A)  
2 through (E) of subsection (b)(6),  
3 and subparagraphs (A) through  
4 (D) of subsection (b)(7)) and at-  
5 tributable greenhouse gas emis-  
6 sions for the year before the pre-  
7 ceding calendar year; by

8 “(bb) the sum of the tons of  
9 carbon dioxide equivalent of  
10 greenhouse gas emissions of all  
11 covered entities (except for the  
12 types of emissions excluded under  
13 subparagraphs (A) through (D)  
14 of subsection (b)(1), subpara-  
15 graphs (A) through (E) of sub-  
16 section (b)(6), and subpara-  
17 graphs (A) through (D) of sub-  
18 section (b)(7)) and attributable  
19 greenhouse gas emissions for the  
20 year before the preceding cal-  
21 endar year; and

22 “(II) multiplying the quotient ob-  
23 tained under subclause (I) by  
24 2,000,000,000.

1                   “(ii) APPLICABILITY.—Clause (i) shall  
2                   apply to a covered entity (including a cov-  
3                   ered entity that commenced operation dur-  
4                   ing the preceding calendar year) even if  
5                   the covered entity had no greenhouse gas  
6                   emissions or attributable greenhouse gas  
7                   emissions described in that clause.

8                   “(iii) OFFSET CREDITS.—Not more  
9                   than  $\frac{3}{4}$  of the applicable percentage under  
10                  this paragraph may be used by holding do-  
11                  mestic offset credits, and not more than  $\frac{1}{4}$   
12                  of the applicable percentage under this  
13                  paragraph may be used by holding inter-  
14                  national offset credits, except as provided  
15                  in subparagraph (C).

16                  “(C) MODIFIED PERCENTAGES.—If the  
17                  Administrator determines that domestic offset  
18                  credits available for use in demonstrating com-  
19                  pliance in any calendar year at domestic offset  
20                  prices generally equal to or less than allowance  
21                  prices, are likely to offset less than 900,000,000  
22                  tons of greenhouse gas emissions (measured in  
23                  tons of carbon dioxide equivalents), the Admin-  
24                  istrator shall increase the percent of emissions  
25                  that can be offset through the use of inter-



1 national offset credits (and decrease the percent  
2 of emissions that can be allowed through the  
3 use of domestic offset credits by the same  
4 amount) to reflect the amount that  
5 1,500,000,000 exceeds the number of domestic  
6 offset credits the Administrator determines is  
7 available for that year, up to a maximum of  
8 750,000,000 tons of greenhouse gas emissions.

9 “(D) INTERNATIONAL OFFSET CREDITS.—  
10 Notwithstanding subparagraph (A), to dem-  
11 onstrate compliance prior to calendar year  
12 2018, a covered entity may use 1 international  
13 offset credit in lieu of an emission allowance up  
14 to the amount permitted under this paragraph.

15 “(E) PRESIDENT’S RECOMMENDATION.—  
16 The President may make a recommendation to  
17 Congress as to whether the number  
18 2,000,000,000 specified in subparagraphs (A)  
19 and (B) should be increased or decreased.

20 “(2) INTERNATIONAL EMISSION ALLOW-  
21 ANCES.—To demonstrate compliance, a covered enti-  
22 ty may hold an international emission allowance in  
23 lieu of an emission allowance, except as modified  
24 under section 728(d).

1           “(3) COMPENSATORY ALLOWANCES.—To dem-  
2           onstrate compliance, a covered entity may hold a  
3           compensatory allowance obtained under section  
4           721(f) in lieu of an emission allowance.

5           “(e) RETIREMENT OF ALLOWANCES AND CREDITS.—  
6           As soon as practicable after a deadline established for cov-  
7           ered entities to demonstrate compliance with this title, the  
8           Administrator shall retire the quantity of allowances or  
9           credits required to be held under this title.

10          “(f) ALTERNATIVE METRICS.—For categories of cov-  
11          ered entities described in subparagraph (B), (C), (D), (G),  
12          (H), or (I) of section 700(13), the Administrator may, by  
13          rule, establish an applicability threshold for inclusion  
14          under those subparagraphs using an alternative metric  
15          and level, provided that such metric and level are easier  
16          to administer and cover the same size and type of sources  
17          as the threshold defined in such subparagraphs.

18          “(g) THRESHOLD REVIEW.—For each category of  
19          covered entities described in subparagraph (B), (C), (D),  
20          (G), (H), or (I) of section 700(13), the Administrator  
21          shall, in 2020 and once every 8 years thereafter, review  
22          the carbon dioxide equivalent emission thresholds that are  
23          used to define covered entities. After consideration of—

24                 “(1) emissions from covered entities in each  
25                 such category, and from other entities of the same

1 type that emit less than the threshold amount for  
2 the category (including emission sources that com-  
3 mence operation after the date of enactment of this  
4 title that are not covered entities); and

5 “(2) whether greater greenhouse gas emission  
6 reductions can be cost-effectively achieved by low-  
7 ering the applicable threshold,

8 the Administrator may by rule lower such threshold to not  
9 less than 10,000 tons of carbon dioxide equivalent emis-  
10 sions. In determining the cost effectiveness of potential re-  
11 ductions from lowering the threshold for covered entities,  
12 the Administrator shall consider alternative regulatory  
13 greenhouse gas programs, including setting standards  
14 under other titles of this Act.

15 “(h) DESIGNATED REPRESENTATIVES.—The regula-  
16 tions promulgated under section 721(h) shall require that  
17 each covered entity, and each entity holding allowances or  
18 credits or receiving allowances or credits from the Admin-  
19 istrator under this title, select a designated representative.

20 “(i) EDUCATION AND OUTREACH.—

21 “(1) IN GENERAL.—The Administrator shall es-  
22 tablish and carry out a program of education and  
23 outreach to assist covered entities, especially entities  
24 having little experience with environmental regu-  
25 latory requirements similar or comparable to those

1 under this title, in preparing to meet the compliance  
2 obligations of this title. Such program shall include  
3 education with respect to using markets to effec-  
4 tively achieve such compliance.

5 “(2) FAILURE TO RECEIVE INFORMATION.—A  
6 failure to receive information or assistance under  
7 this subsection may not be used as a defense against  
8 an allegation of any violation of this title.

9 “(j) ADJUSTMENT OF DEADLINE.—The Adminis-  
10 trator may, by rule, establish a deadline for demonstrating  
11 compliance, for a calendar year, later than the date pro-  
12 vided in subsection (a), as necessary to ensure the avail-  
13 ability of emissions data, but in no event shall the deadline  
14 be later than June 1.

15 “(k) NOTICE REQUIREMENT FOR COVERED ENTI-  
16 TIES RECEIVING NATURAL GAS FROM NATURAL GAS  
17 LOCAL DISTRIBUTION COMPANIES.—The owner or oper-  
18 ator of a covered entity that takes delivery of natural gas  
19 from a natural gas local distribution company shall, not  
20 later than September 1 of each calendar year, notify such  
21 natural gas local distribution company in writing that  
22 such entity will qualify as a covered entity under this title  
23 for that calendar year.

24 “(l) COMPLIANCE OBLIGATION.—For purposes of  
25 this title, the year of a compliance obligation is the year

1 in which compliance is determined, not the year in which  
2 the greenhouse gas emissions occur or the covered entity  
3 has attributable greenhouse gas emissions.

4 **“SEC. 723. PENALTY FOR NONCOMPLIANCE.**

5 “(a) ENFORCEMENT.—A violation of any prohibition  
6 of, requirement of, or regulation promulgated pursuant to  
7 this title shall be a violation of this Act. It shall be a viola-  
8 tion of this Act for a covered entity to emit greenhouse  
9 gases, and have attributable greenhouse gas emissions, in  
10 combination, in excess of its allowable emissions level as  
11 provided in section 722(a). Each ton of carbon dioxide  
12 equivalent for which a covered entity fails to demonstrate  
13 compliance under section 722(b) shall be a separate viola-  
14 tion.

15 “(b) EXCESS EMISSIONS PENALTY.—

16 “(1) IN GENERAL.—The owner or operator of  
17 any covered entity that fails for any year to comply,  
18 on the deadline described in section 722(a) or (j),  
19 shall be liable for payment to the Administrator of  
20 an excess emissions penalty in the amount described  
21 in paragraph (2).

22 “(2) AMOUNT.—The amount of an excess emis-  
23 sions penalty required to be paid under paragraph  
24 (1) shall be equal to the product obtained by multi-  
25 plying—

1           “(A) the tons of carbon dioxide equivalent  
2           of greenhouse gas emissions or attributable  
3           greenhouse gas emissions for which the owner  
4           or operator of a covered entity failed to comply  
5           under section 722(b) on the deadline; by

6           “(B) twice the fair market value of emis-  
7           sion allowances established for emissions occur-  
8           ring in the calendar year for which the emission  
9           allowances were due.

10          “(3) TIMING.—An excess emissions penalty re-  
11          quired under this subsection shall be immediately  
12          due and payable to the Administrator, without de-  
13          mand, in accordance with regulations promulgated  
14          by the Administrator, which shall be issued not later  
15          than 2 years after the date of enactment of this  
16          title.

17          “(4) NO EFFECT ON LIABILITY.—An excess  
18          emissions penalty due and payable by the owners or  
19          operators of a covered entity under this subsection  
20          shall not diminish the liability of the owners or oper-  
21          ators for any fine, penalty, or assessment against  
22          the owners or operators for the same violation under  
23          any other provision of this Act or any other law.

24          “(c) EXCESS EMISSIONS ALLOWANCES.—The owner  
25          or operator of a covered entity that fails for any year to

1 comply on the deadline described in section 722(a) or (j)  
2 shall be liable to offset the covered entity's excess com-  
3 bination of greenhouse gases emitted and attributable  
4 greenhouse gas emissions by an equal quantity of emission  
5 allowances during the following calendar year, or such  
6 longer period as the Administrator may prescribe. During  
7 the year in which the covered entity failed to comply, or  
8 any year thereafter, the Administrator may deduct the  
9 emission allowances required under this subsection to off-  
10 set the covered entity's excess actual or attributable emis-  
11 sions.

12 **“SEC. 724. TRADING.**

13       “(a) PERMITTED TRANSACTIONS.—Except as other-  
14 wise provided in this title, the lawful holder of an emission  
15 allowance, compensatory allowance, or offset credit may,  
16 without restriction, sell, exchange, transfer, hold for com-  
17 pliance in accordance with section 722, or request that the  
18 Administrator retire the emission allowance, compensatory  
19 allowance, or offset credit.

20       “(b) NO RESTRICTION ON TRANSACTIONS.—The  
21 privilege of purchasing, holding, selling, exchanging,  
22 transferring, and requesting retirement of emission allow-  
23 ances, compensatory allowances, or offset credits shall not  
24 be restricted to the owners and operators of covered enti-  
25 ties, except as otherwise provided in this title.

1           “(c) EFFECTIVENESS OF ALLOWANCE TRANS-  
2 FERS.—No transfer of an allowance or offset credit shall  
3 be effective for purposes of this title until a certification  
4 of the transfer, signed by the designated representative of  
5 the transferor, is received and recorded by the Adminis-  
6 trator in accordance with regulations promulgated under  
7 section 721(h).

8           “(d) ALLOWANCE TRACKING SYSTEM.—The regula-  
9 tions promulgated under section 721(h) shall include a  
10 system for issuing, recording, holding, and tracking allow-  
11 ances and offset credits that shall specify all necessary  
12 procedures and requirements for an orderly and competi-  
13 tive functioning of the allowance and offset credit markets.  
14 Such regulations shall provide for appropriate publication  
15 of the information in the system on the Internet.

16 **“SEC. 725. BANKING AND BORROWING.**

17           “(a) BANKING.—An emission allowance may be used  
18 to comply with section 722 or section 723 for emissions  
19 in—

20                   “(1) the vintage year for the allowance; or

21                   “(2) any calendar year subsequent to the vin-  
22 tage year for the allowance.

23           “(b) EXPIRATION.—

24                   “(1) REGULATIONS.—The Administrator may  
25 establish by regulation criteria and procedures for



1 determining whether, and for implementing a deter-  
2 mination that, the expiration of an allowance or  
3 credit established or issued by the Administrator  
4 under this title, or expiration of the ability to use an  
5 international emission allowance to comply with sec-  
6 tion 722, is necessary to ensure the authenticity and  
7 integrity of allowances or credits or the allowance  
8 tracking system.

9 “(2) GENERAL RULE.—An allowance or credit  
10 established or issued by the Administrator under  
11 this title shall not expire unless—

12 “(A) it is retired by the Administrator as  
13 required under this title; or

14 “(B) it is determined to expire or to have  
15 expired by a specific date by the Administrator  
16 in accordance with regulations promulgated  
17 under paragraph (1).

18 “(3) INTERNATIONAL EMISSION ALLOW-  
19 ANCES.—The ability to use an international emission  
20 allowance to comply with section 722 shall not ex-  
21 pire unless—

22 “(A) the allowance is retired by the Ad-  
23 ministrator as required by this title; or

24 “(B) the ability to use such allowance to  
25 meet such compliance obligation requirements is

1           determined to expire or to have expired by a  
2           specific date by the Administrator in accord-  
3           ance with regulations promulgated under para-  
4           graph (1).

5           “(c) BORROWING FUTURE VINTAGE YEAR ALLOW-  
6           ANCES.—

7           “(1) BORROWING WITHOUT INTEREST.—In ad-  
8           dition to the uses described in subsection (a), an  
9           emission allowance may be used to comply with sec-  
10          tion 722(a) or section 723 for emissions, production,  
11          importation, manufacture, or deliveries in the cal-  
12          endar year immediately preceding the vintage year  
13          for the allowance.

14          “(2) BORROWING WITH INTEREST.—

15                 “(A) IN GENERAL.—A covered entity may  
16                 demonstrate compliance under subsection (b) in  
17                 a specific calendar year for up to 15 percent of  
18                 its emissions by holding emission allowances  
19                 with a vintage year 1 to 5 years later than that  
20                 calendar year.

21                 “(B) LIMITATIONS.—An emission allow-  
22                 ance borrowed pursuant to this paragraph shall  
23                 be an emission allowance that is established by  
24                 the Administrator for a specific future calendar

1 year under section 721(a) and that is held by  
2 the borrower.

3 “(C) PREPAYMENT OF INTEREST.—For  
4 each emission allowance that an owner or oper-  
5 ator of a covered entity borrows pursuant to  
6 this paragraph, such owner or operator shall, at  
7 the time it borrows the allowance, hold for re-  
8 tirement by the Administrator a quantity of  
9 emission allowances that is equal to the product  
10 obtained by multiplying—

11 “(i) 0.08; by

12 “(ii) the number of years between the  
13 calendar year in which the allowance is  
14 being used to satisfy a compliance obliga-  
15 tion and the vintage year of the allowance.

16 **“SEC. 726. STRATEGIC RESERVE.**

17 “(a) STRATEGIC RESERVE AUCTIONS.—

18 “(1) IN GENERAL.—Once each quarter of each  
19 calendar year for which allowances are established  
20 under section 721(a), the Administrator shall auc-  
21 tion strategic reserve allowances.

22 “(2) RESTRICTION TO COVERED ENTITIES.—In  
23 each auction conducted under paragraph (1), only  
24 covered entities that the Administrator expects will  
25 be required to comply with section 722 in the fol-

1       lowing calendar year shall be eligible to make pur-  
2       chases.

3       “(b) POOL OF EMISSION ALLOWANCES FOR STRA-  
4       TEGIC RESERVE AUCTIONS.—

5               “(1) FILLING THE STRATEGIC RESERVE INI-  
6       TIALLY.—

7               “(A) IN GENERAL.—The Administrator  
8       shall, not later than 2 years after the date of  
9       enactment of this title, establish a strategic re-  
10      serve account, and shall place in that account  
11      an amount of emission allowances established  
12      under section 721(a) for each calendar year  
13      from 2012 through 2050 in the amounts speci-  
14      fied in subparagraph (B) of this paragraph.

15              “(B) AMOUNT.—The amount referred to in  
16      subparagraph (A) shall be—

17              “(i) for each of calendar years 2012  
18      through 2019, 1 percent of the quantity of  
19      emission allowances established for that  
20      year pursuant to section 721(e)(1);

21              “(ii) for each of calendar years 2020  
22      through 2029, 2 percent of the quantity of  
23      emission allowances established for that  
24      year pursuant to section 721(e)(1); and

1                   “(iii) for each of calendar years 2030  
2                   through 2050, 3 percent of the quantity of  
3                   emission allowances established for that  
4                   year pursuant to section 721(e)(1).

5                   “(C) EFFECT ON OTHER PROVISIONS.—  
6                   Any provision in this title (except for subpara-  
7                   graph (B) of this paragraph) that refers to a  
8                   quantity or percentage of the emission allow-  
9                   ances established for a calendar year under sec-  
10                  tion 721(a) shall be considered to refer to the  
11                  amount of emission allowances as determined  
12                  pursuant to section 721(e), less any emission  
13                  allowances established for that year that are  
14                  placed in the strategic reserve account under  
15                  this paragraph.

16                  “(2) SUPPLEMENTING THE STRATEGIC RE-  
17                  SERVE.—The Administrator shall also—

18                         “(A) at the end of each calendar year,  
19                         transfer to the strategic reserve account each  
20                         emission allowance that was offered for sale but  
21                         not sold at any auction conducted under section  
22                         789; and

23                         “(B) transfer emission allowances estab-  
24                         lished under subsection (g) from auction pro-  
25                         ceeds, and deposit them into the strategic re-

1           serve, to the extent necessary to maintain the  
2           reserve at its original size.

3           “(c) MINIMUM STRATEGIC RESERVE AUCTION  
4 PRICE.—

5           “(1) IN GENERAL.—At each strategic reserve  
6           auction, the Administrator shall offer emission al-  
7           lowances for sale beginning at a minimum price per  
8           emission allowance, which shall be known as the  
9           ‘minimum strategic reserve auction price’.

10           “(2) INITIAL MINIMUM STRATEGIC RESERVE  
11           AUCTION PRICES.—The minimum strategic reserve  
12           auction price shall be \$28 (in constant 2009 dollars)  
13           for the strategic reserve auctions held in 2012. For  
14           the strategic reserve auctions held in 2013 through  
15           2017, the minimum strategic reserve auction price  
16           shall be the strategic reserve auction price for the  
17           previous year increased by 5 percent plus the rate of  
18           inflation (as measured by the Consumer Price Index  
19           for All Urban Consumers).

20           “(3) MINIMUM STRATEGIC RESERVE AUCTION  
21           PRICE IN SUBSEQUENT YEARS.—For each strategic  
22           reserve auction held in 2018 and each year there-  
23           after, the minimum strategic reserve auction price  
24           shall be the strategic reserve auction price for the  
25           previous year increased by 7 percent, plus the rate

1 of inflation (as measured by the Consumer Price  
2 Index for All Urban Consumers).

3 “(d) QUANTITY OF EMISSION ALLOWANCES RE-  
4 LEASED FROM THE STRATEGIC RESERVE.—

5 “(1) INITIAL LIMITS.—Subject to paragraph  
6 (4), for each of calendar years 2012 through 2016,  
7 the annual limit on the number of emission allow-  
8 ances from the strategic reserve account that may be  
9 auctioned is an amount equal to 15 percent of the  
10 emission allowances established for that calendar  
11 year under section 721(a). This limit does not apply  
12 to offset credits sold on consignment pursuant to  
13 subsection (h).

14 “(2) LIMITS IN SUBSEQUENT YEARS.—Subject  
15 to paragraph (4), for calendar year 2017 and each  
16 year thereafter, the annual limit on the number of  
17 emission allowances from the strategic reserve ac-  
18 count that may be auctioned is an amount equal to  
19 25 percent of the emission allowances established for  
20 that calendar year under section 721(a). This limit  
21 does not apply to offset credits sold on consignment  
22 pursuant to subsection (h).

23 “(3) ALLOCATION OF LIMITATION.—One-fourth  
24 of each year’s annual strategic reserve auction limit  
25 under this subsection shall be made available for

1 auction in each quarter. Any allowances from the  
2 strategic reserve account that are made available for  
3 sale in a quarterly auction and not sold shall be  
4 rolled over and added to the quantity available for  
5 sale in the following quarter, except that allowances  
6 not sold at auction in the fourth quarter of a year  
7 shall not be rolled over to the following calendar  
8 year's auctions, but shall be returned to the stra-  
9 tegic reserve account.

10 “(4) AUTHORITY TO ADJUST LIMITATION.—The  
11 Administrator may adjust the limits in paragraphs  
12 (1) or (2) if the Administrator determines an adjust-  
13 ment is required to prevent disruptively high prices  
14 or to preserve the integrity of the strategic reserve.

15 “(e) PURCHASE LIMIT.—

16 “(1) IN GENERAL.—Except as provided in para-  
17 graph (2) or (3), the annual number of emission al-  
18 lowances that a covered entity may purchase at the  
19 strategic reserve auctions in each calendar year shall  
20 not exceed 20 percent of the covered entity's emis-  
21 sions during the most recent year for which allow-  
22 ances or credits were retired under section 722.

23 “(2) 2012 LIMIT.—For calendar year 2012, the  
24 maximum aggregate number of emission allowances  
25 that a covered entity may purchase from that year's



1 strategic reserve auctions shall be 20 percent of the  
2 covered entity's greenhouse gas emissions that the  
3 covered entity reported to the registry established  
4 under section 713 for 2011 and that would be sub-  
5 ject to section 722(a) if occurring in later calendar  
6 years.

7 “(3) NEW ENTRANTS.—The Administrator  
8 shall, by regulation, establish a separate purchase  
9 limit applicable to entities that expect to become a  
10 covered entity in the year of the auction, permitting  
11 them to purchase emission allowances at the stra-  
12 tegic reserve auctions in their first calendar year of  
13 operation in an amount of at least 20 percent of  
14 their expected combined emissions and attributable  
15 greenhouse gas emissions for that year.

16 “(f) DELEGATION OR CONTRACT.—Pursuant to regu-  
17 lations under this section, the Administrator may, by dele-  
18 gation or contract, provide for the conduct of strategic re-  
19 serve auctions under the Administrator's supervision by  
20 other departments or agencies of the Federal Government  
21 or by nongovernmental agencies, groups, or organizations.

22 “(g) USE OF AUCTION PROCEEDS.—

23 “(1) DEPOSIT IN STRATEGIC RESERVE FUND.—  
24 The proceeds from strategic reserve auctions shall be  
25 placed in the Strategic Reserve Fund established

1 under section **【793(1)】**, and shall be available with-  
2 out further appropriation or fiscal year limitation for  
3 the purposes described in this subsection.

4 “(2) **OFFSET CREDITS.**—The Administrator  
5 shall use the proceeds from each strategic reserve  
6 auction to purchase offset credits, including domes-  
7 tic offset credits and international offset credits  
8 **【issued for reduced deforestation activities pursuant**  
9 **to section 753】**. The Administrator shall retire those  
10 offset credits and establish a number of emission al-  
11 lowances equal to the number of international offset  
12 credits so retired. Emission allowances established  
13 under this paragraph shall be in addition to those  
14 established under section 721(a).

15 “(3) **EMISSION ALLOWANCES.**—The Adminis-  
16 trator shall deposit emission allowances established  
17 under paragraph (2) in the strategic reserve, except  
18 that, with respect to any such emission allowances in  
19 excess of the amount necessary to fill the strategic  
20 reserve to its original size, the Administrator shall—

21 “(A) except as provided in subparagraph  
22 (B), assign a vintage year to the emission al-  
23 lowance, which shall be no earlier than the year  
24 in which the allowance is established under  
25 paragraph (2) and shall treat such allowances

1 as ones that are not designated for distribution  
2 or auction; and

3 “(B) to the extent any such allowances  
4 cannot be assigned a vintage year because of  
5 the limitation in paragraph (4), retire the allow-  
6 ances.

7 “(4) LIMITATION.—In no case may the Admin-  
8 istrator assign under paragraph (3)(A) more emis-  
9 sion allowances to a vintage year than the number  
10 of emission allowances from that vintage year that  
11 were placed in the strategic reserve account under  
12 subsection (b)(1).

13 “(h) AVAILABILITY OF OFFSET CREDITS FOR AUC-  
14 TION.—

15 “(1) IN GENERAL.—The regulations promul-  
16 gated under section 721(h) shall allow any entity  
17 holding offset credits to request that the Adminis-  
18 trator include such offset credits in an upcoming  
19 strategic reserve auction. The regulations shall pro-  
20 vide that—

21 “(A) upon sale of such offset credits, the  
22 Administrator shall retire those offset credits,  
23 and establish and provide to the purchasers a  
24 number of emission allowances equal to the  
25 number of offset credits so retired, which allow-

1           ances shall be in addition to those established  
2           under section 721(a); and

3           “(B) for offset credits sold pursuant to  
4           this subsection, the proceeds for the entity that  
5           offered the offset credits for sale shall be the  
6           lesser of—

7                   “(i) the average daily closing price for  
8                   offset credits sold on registered exchanges  
9                   (or if such price is unavailable, the average  
10                  price as determined by the Administrator)  
11                  during the six months prior to the stra-  
12                  tegic reserve auction at which they were  
13                  auctioned, with the remaining funds col-  
14                  lected upon the sale of the offset credits  
15                  deposited in the Treasury; and

16                   “(ii) the amount received for the off-  
17                  set credits at the auction.

18           “(2) PROCEEDS.—For offset credits sold pursu-  
19           ant to this subsection, notwithstanding section 3302  
20           of title 31, United States Code, or any other provi-  
21           sion of law, within 90 days of receipt, the United  
22           States shall transfer the proceeds from the auction,  
23           as defined in paragraph (1)(D), to the entity that  
24           offered the offset credits for sale. No funds trans-  
25           ferred from a purchaser to a seller of offset credits

1 under this paragraph shall be held by any officer or  
2 employee of the United States or treated for any  
3 purpose as public monies.

4 “(3) PRICING.—When the Administrator acts  
5 under this subsection as the agent of an entity in  
6 possession of offset credits, the Administrator is not  
7 obligated to obtain the highest price possible for the  
8 offset credits, and instead shall auction such offset  
9 credits in the same manner and pursuant to the  
10 same rules (except as modified in paragraph (1)) as  
11 set forth for auctioning strategic reserve allowances.  
12 Entities requesting that such offset credits be of-  
13 fered for sale at a strategic reserve auction may not  
14 set a minimum reserve price for their offset credits  
15 that is different than the minimum strategic reserve  
16 auction price set pursuant to subsection (c).

17 “(i) INITIAL REGULATIONS.—Not later than 24  
18 months after the date of enactment of this title, the Ad-  
19 ministrator shall promulgate regulations, in consultation  
20 with other appropriate agencies, governing the auction of  
21 allowances under this section. Such regulations shall in-  
22 clude the following requirements:

23 “(1) FREQUENCY; FIRST AUCTION.—Auctions  
24 shall be held four times per year at regular intervals,

1 with the first auction to be held no later than March  
2 31, 2012.

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

5 “(3) PARTICIPATION; FINANCIAL ASSURANCE.—  
6 Auctions shall be open to any covered entity eligible  
7 to purchase emission allowances at the auction  
8 under subsection (a)(2), except that the [Adminis-  
9 trator] may establish financial assurance require-  
10 ments to ensure that auction participants can and  
11 will perform on their bids.

12 “(4) DISCLOSURE OF BENEFICIAL OWNER-  
13 SHIP.—Each bidder in an auction shall be required  
14 to disclose the person or entity sponsoring or bene-  
15 fitting from the bidder’s participation in the auction  
16 if such person or entity is, in whole or in part, other  
17 than the bidder.

18 “(5) PURCHASE LIMITS.—No person may, di-  
19 rectly or in concert with another participant, pur-  
20 chase more than 20 percent of the allowances of-  
21 fered for sale at any quarterly auction.

22 “(6) PUBLICATION OF INFORMATION.—After  
23 the auction, the Administrator shall, in a timely  
24 fashion, publish the identities of winning bidders,

1 the quantity of allowances obtained by each winning  
2 bidder, and the auction clearing price.

3 “(7) OTHER REQUIREMENTS.—The Adminis-  
4 trator may include in the regulations such other re-  
5 quirements or provisions as the Administrator, in  
6 consultation with other agencies as appropriate, con-  
7 siders appropriate to promote effective, efficient,  
8 transparent, and fair administration of auctions  
9 under this section.

10 “(j) REVISION OF REGULATIONS.—The Adminis-  
11 trator may, at any time, in consultation with other agen-  
12 cies as appropriate, revise the initial regulations promul-  
13 gated under subsection (i). Such revised regulations need  
14 not meet the requirements identified in subsection (i) if  
15 the Administrator determines that an alternative auction  
16 design would be more effective, taking into account factors  
17 including costs of administration, transparency, fairness,  
18 and risks of collusion or manipulation. In determining  
19 whether and how to revise the initial regulations under  
20 this subsection, the Administrator shall not consider maxi-  
21 mization of revenues to the Federal Government.

22 **“SEC. 727. PERMITS.**

23 “(a) PERMIT PROGRAM.—For stationary sources  
24 subject to title V of this Act, that are covered entities,  
25 the provisions of this title shall be implemented by permits

1 issued to such covered entities (and enforced) in accord-  
2 ance with the provisions of title V, as modified by this  
3 title. Any such permit issued by the Administrator, or by  
4 a State with an approved permit program, shall require  
5 the owner or operator of a covered entity to hold emission  
6 allowances or offset credits at least equal to the total an-  
7 nual amount of carbon dioxide equivalents for its com-  
8 bined emissions and attributable greenhouse gas emissions  
9 to which section 722 applies. No such permit shall be  
10 issued that is inconsistent with the requirements of this  
11 title, and title V as applicable. Nothing in this section re-  
12 garding compliance plans or in title V shall be construed  
13 as affecting allowances or offset credits. Submission of a  
14 statement by the owner or operator, or the designated rep-  
15 resentative of the owners and operators, of a covered enti-  
16 ty that the owners and operators will hold emission allow-  
17 ances or offset credits for the entity's combined emissions  
18 and attributable greenhouse gas emissions to which sec-  
19 tion 722 applies shall be deemed to meet the proposed and  
20 approved planning requirements of title V. Recordation by  
21 the Administrator of transfers of emission allowances shall  
22 amend automatically all applicable proposed or approved  
23 permit applications, compliance plans, and permits.

24       “(b) MULTIPLE OWNERS.—No permit shall be issued  
25 under this section and no allowances or offset credits shall



1 be disbursed under this title to a covered entity or any  
2 other person until the designated representative of the  
3 owners or operators has filed a certificate of representa-  
4 tion with regard to matters under this title, including the  
5 holding and distribution of emission allowances and the  
6 proceeds of transactions involving emission allowances.  
7 Where there are multiple holders of a legal or equitable  
8 title to, or a leasehold interest in, such a covered entity  
9 or other entity or where a utility or industrial customer  
10 purchases power under a long-term power purchase con-  
11 tract from an independent power production facility that  
12 is a covered entity, the certificate shall state—

13           “(1) that emission allowances and the proceeds  
14           of transactions involving emission allowances will be  
15           deemed to be held or distributed in proportion to  
16           each holder’s legal, equitable, leasehold, or contrac-  
17           tual reservation or entitlement; or

18           “(2) if such multiple holders have expressly pro-  
19           vided for a different distribution of emission allow-  
20           ances by contract, that emission allowances and the  
21           proceeds of transactions involving emission allow-  
22           ances will be deemed to be held or distributed in ac-  
23           cordance with the contract.

24 A passive lessor, or a person who has an equitable interest  
25 through such lessor, whose rental payments are not based,

1 either directly or indirectly, upon the revenues or income  
2 from the covered entity or other entity shall not be deemed  
3 to be a holder of a legal, equitable, leasehold, or contrac-  
4 tual interest for the purpose of holding or distributing  
5 emission allowances as provided in this subsection, during  
6 either the term of such leasehold or thereafter, unless ex-  
7 pressly provided for in the leasehold agreement. Except  
8 as otherwise provided in this subsection, where all legal  
9 or equitable title to or interest in a covered entity, or other  
10 entity, is held by a single person, the certificate shall state  
11 that all emission allowances received by the entity are  
12 deemed to be held for that person.

13       “(c) PROHIBITION.—It shall be unlawful for any per-  
14 son to operate any stationary source subject to the re-  
15 quirements of this section except in compliance with the  
16 terms and requirements of a permit issued by the Admin-  
17 istrator or a State with an approved permit program in  
18 accordance with this section. For purposes of this sub-  
19 section, compliance, as provided in section 504(f), with a  
20 permit issued under title V which complies with this title  
21 for covered entities shall be deemed compliance with this  
22 subsection as well as section 502(a).

23       “(d) RELIABILITY.—Nothing in this section or title  
24 V shall be construed as requiring termination of oper-  
25 ations of a stationary source that is a covered entity for

1 failure to have an approved permit, or compliance plan,  
2 that is consistent with the requirements in the second and  
3 fifth sentences of subsection (a) concerning the holding  
4 of emission allowances, compensatory allowances, inter-  
5 national emission allowances, or offset allowances, except  
6 that any such covered entity may be subject to the applica-  
7 ble enforcement provision of section 113.

8 “(e) REGULATIONS.—The Administrator shall pro-  
9 mulgate regulations to implement this section. To provide  
10 for permits required under this section, each State in  
11 which one or more stationary sources and that are covered  
12 entities are located shall submit, in accordance with this  
13 section and title V, revised permit programs for approval.

14 **“SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.**

15 “(a) QUALIFYING PROGRAMS.—The Administrator,  
16 in consultation with the Secretary of State, may by rule  
17 designate an international climate change program as a  
18 qualifying international program if—

19 “(1) the program is run by a national or supra-  
20 national foreign government, and imposes a manda-  
21 tory absolute tonnage limit on greenhouse gas emis-  
22 sions from 1 or more foreign countries, or from 1 or  
23 more economic sectors in such a country or coun-  
24 tries; and

1           “(2) the program is at least as stringent as the  
2           program established by this title, including provi-  
3           sions to ensure at least comparable monitoring, com-  
4           pliance, enforcement, quality of offsets, and restric-  
5           tions on the use of offsets.

6           “(b) DISQUALIFIED ALLOWANCES.—An international  
7           emission allowance may not be held under section  
8           722(d)(2) if it is in the nature of an offset instrument  
9           or allowance awarded based on the achievement of green-  
10          house gas emission reductions or avoidance, or greenhouse  
11          gas sequestration, that are not subject to the mandatory  
12          absolute tonnage limits referred to in subsection (a)(1).

13          “(c) RETIREMENT.—

14                 “(1) ENTITY CERTIFICATION.—The owner or  
15                 operator of an entity that holds an international  
16                 emission allowance under section 722(d)(2) shall  
17                 certify to the Administrator that such international  
18                 emission allowance has not previously been used to  
19                 comply with any foreign, international, or domestic  
20                 greenhouse gas regulatory program.

21                 “(2) RETIREMENT.—

22                         “(A) FOREIGN AND INTERNATIONAL REG-  
23                         ULATORY ENTITIES.—The Administrator, in  
24                         consultation with the Secretary of State, shall  
25                         seek, by whatever means appropriate, including

1 agreements and technical cooperation on allow-  
2 ance tracking, to ensure that any relevant for-  
3 eign, international, and domestic regulatory en-  
4 tities—

5 “(i) are notified of the use, for pur-  
6 poses of compliance with this title, of any  
7 international emission allowance; and

8 “(ii) provide for the disqualification of  
9 such international emission allowance for  
10 any subsequent use under the relevant for-  
11 eign, international, or domestic greenhouse  
12 gas regulatory program, regardless of  
13 whether such use is a sale, exchange, or  
14 submission to satisfy a compliance obliga-  
15 tion.

16 “(B) DISQUALIFICATION FROM FURTHER  
17 USE.—The Administrator shall ensure that,  
18 once an international emission allowance has  
19 been disqualified or otherwise used for purposes  
20 of compliance with this title, such allowance  
21 shall be disqualified from any further use under  
22 this title.

23 “(d) USE LIMITATIONS.—The Administrator may, by  
24 rule, modify the percentage applicable to international

1 emission allowances under section 722(d)(2), consistent  
2 with the purposes of the \_\_\_\_\_ Act.

3 **“PART D—OFFSETS**

4 **“SEC. 731. OFFSETS INTEGRITY ADVISORY BOARD.**

5 “(a) ESTABLISHMENT.—Not later than 30 days after  
6 the date of enactment of this title, the Administrator shall  
7 establish an independent Offsets Integrity Advisory  
8 Board. The Advisory Board shall make recommendations  
9 to the Administrator for use in promulgating and revising  
10 regulations under this part and part E, and for ensuring  
11 the overall environmental integrity of the programs estab-  
12 lished pursuant to those regulations.

13 “(b) MEMBERSHIP.—The Advisory Board shall be  
14 comprised of at least nine members. Each member shall  
15 be qualified by education, training, and experience to  
16 evaluate scientific and technical information on matters  
17 referred to the Board under this section. The Adminis-  
18 trator shall appoint Advisory Board members, including  
19 a chair and vice-chair of the Advisory Board. Terms shall  
20 be 3 years in length, except for initial terms, which may  
21 be up to 5 years in length to allow staggering. Members  
22 may be reappointed only once for an additional 3-year  
23 term, and such second term may follow directly after a  
24 first term.

1       “(c) ACTIVITIES.—The Advisory Board established  
2 pursuant to subsection (a) shall—

3           “(1) provide recommendations, not later than  
4 90 days after the Advisory Board’s establishment  
5 and periodically thereafter, to the Administrator re-  
6 garding offset project types that should be consid-  
7 ered for eligibility under section 733, taking into  
8 consideration relevant scientific and other issues, in-  
9 cluding—

10           “(A) the availability of a representative  
11 data set for use in developing the activity base-  
12 line;

13           “(B) the potential for accurate quantifica-  
14 tion of greenhouse gas reduction, avoidance, or  
15 sequestration for an offset project type;

16           “(C) the potential level of scientific and  
17 measurement uncertainty associated with an  
18 offset project type;

19           “(D) any beneficial or adverse environ-  
20 mental, public health, welfare, social, economic,  
21 or energy effects associated with an offset  
22 project type;

23           “(E) the extent to which, as of the date of  
24 submission of the report, the project or activity  
25 types within each category—

1                   “(i) are required by law (including a  
2                   regulation); or

3                   “(ii) represent business-as-usual (ab-  
4                   sent funding from offset credits) practices  
5                   for a relevant land area, industry sector, or  
6                   forest, soil or facility type;

7                   “(2) make available to the Administrator its ad-  
8                   vice and comments on offset methodologies that  
9                   should be considered under regulations promulgated  
10                  pursuant to subsection (a) and (b) of section 734,  
11                  including methodologies to address the issues of  
12                  additionality, activity baselines, measurement, leak-  
13                  age, uncertainty, permanence, and environmental in-  
14                  tegrity;

15                  “(3) make available to the Administrator, and  
16                  other relevant Federal agencies, its advice and com-  
17                  ments regarding scientific, technical, and methodo-  
18                  logical issues specific to the issuance of international  
19                  offset credits under section 744;

20                  “(4) make available to the Administrator, and  
21                  other relevant Federal agencies, its advice and com-  
22                  ments regarding scientific, technical, and methodo-  
23                  logical issues associated with the implementation of  
24                  part E;



1           “(5) make available to the Administrator its ad-  
2 vice and comments on areas in which further knowl-  
3 edge is required to appraise the adequacy of exist-  
4 ing, revised, or proposed methodologies for use  
5 under this part and part E, and describe the re-  
6 search efforts necessary to provide the required in-  
7 formation; and

8           “(6) make available to the Administrator its ad-  
9 vice and comments on other ways to improve or  
10 safeguard the environmental integrity of programs  
11 established under this part and part E.

12       “(d) SCIENTIFIC REVIEW OF OFFSET AND DEFOR-  
13 ESTATION REDUCTION PROGRAMS.—Not later than Janu-  
14 ary 1, 2017, and at five-year intervals thereafter, the Ad-  
15 visory Board shall submit to the Administrator and make  
16 available to the public an analysis of relevant scientific and  
17 technical information related to this part and part E. The  
18 Advisory Board shall review approved and potential meth-  
19 odologies, scientific studies, offset project monitoring, off-  
20 set project verification reports, and audits related to this  
21 part and part E, and evaluate the net emissions effects  
22 of implemented offset projects. The Advisory Board shall  
23 recommend changes to offset methodologies, protocols, or  
24 project types, or to the overall offset program under this  
25 part, to ensure that offset credits issued by the Adminis-

1 trator do not compromise the integrity of the annual emis-  
2 sion reductions established under section 701, and to  
3 avoid or minimize adverse effects to human health or the  
4 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 Administrator, in  
8 consultation 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 Administrator shall pe-  
13 riodically revise these regulations as necessary to meet the  
14 requirements 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  
10          chlorofluorocarbons or other ozone depleting sub-  
11          stances, if permitted by the Administrator under  
12          section 619(b)(9) and subject to the conditions spec-  
13          ified in section 619(b)(9), based on the carbon diox-  
14          ide equivalent value of the substance destroyed; 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 Administrator shall act (including by  
21          rejecting projects, if necessary) to avoid or minimize, to  
22          the 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 Administrator shall  
2 establish within the allowance tracking system established  
3 under section 724(d) an Offset Registry for qualifying off-  
4 set projects and offset credits issued with respect thereto  
5 under this part.

6           “(e) LEGAL STATUS OF OFFSET CREDIT.—An offset  
7 credit does not constitute a property right.

8           “(f) FEES.—The Administrator shall assess fees pay-  
9 able by offset project developers in an amount necessary  
10 to cover the administrative costs and the enforcement  
11 costs to the Environmental Protection Agency and the De-  
12 partment of Justice of carrying out the activities under  
13 this part. Amounts collected for such fees shall be avail-  
14 able to the Administrator and the Attorney General for  
15 carrying out the activities under this part to the extent  
16 provided in advance in appropriations Acts.

17           【“(g) DELEGATION OF AUTHORITY.—In addition to  
18 the authority provided to the Administrator under this  
19 part, the President may delegate authority to the Sec-  
20 retary of Agriculture for the purposes of implementing the  
21 requirements of this part for agricultural or forestry offset  
22 projects.】

23           **“SEC. 733. ELIGIBLE PROJECT TYPES.**

24           “(a) LIST OF ELIGIBLE PROJECT TYPES.—

1           “(1) IN GENERAL.—As part of the regulations  
2 promulgated under section 732(a), the Adminis-  
3 trator shall establish, and may periodically revise, a  
4 list of types of projects eligible to generate offset  
5 credits, including international offset credits, under  
6 this part.

7           “(2) ADVISORY BOARD RECOMMENDATIONS.—  
8 In determining the eligibility of project types, the  
9 Administrator shall take into consideration the rec-  
10 ommendations of the Advisory Board. If a list estab-  
11 lished under this section differs from the rec-  
12 ommendations of the Advisory Board, the regula-  
13 tions promulgated under section 732(a) shall include  
14 a justification for the discrepancy.

15           “(3) INITIAL DETERMINATION.—The Adminis-  
16 trator shall establish the initial eligibility list under  
17 paragraph (1) not later than one year after the date  
18 of enactment of this title for which there are well de-  
19 veloped methodologies that the Administrator deter-  
20 mines would meet the criteria of section 734.

21           “(4) PROJECT TYPES TO BE CONSIDERED FOR  
22 INITIAL LIST.—In determining the initial list, the  
23 Administrator shall give priority to consideration of  
24 offset project types that are recommended by the  
25 Advisory Board and for which there are well devel-

1       oped methodologies that the Administrator deter-  
2       mines would meet the criteria of section 734, and  
3       shall consider—

4               “(A) methane collection and combustion  
5       projects at active underground coal mines;

6               “(B) methane collection and combustion  
7       projects at landfills;

8               “(C) capture of venting, flaring, and fugi-  
9       tive emissions from oil and natural gas systems;

10              “(D) nonlandfill methane collection, com-  
11       bustion and avoidance projects involving organic  
12       waste streams that would have otherwise emit-  
13       ted methane in the atmosphere, including ma-  
14       nure management and biogas capture and com-  
15       bustion;

16              “(E) projects involving afforestation or re-  
17       forestation of acreage not forested as of Janu-  
18       ary 1, 2009;

19              “(F) forest management resulting in an in-  
20       crease in forest carbon stores, including har-  
21       vested wood products;

22              “(G) agricultural, grassland, and range-  
23       land sequestration and management practices,  
24       including—

1           “(i) altered tillage practices, including  
2           avoided abandonment of such practices;

3           “(ii) winter cover cropping, contin-  
4           uous cropping, and other means to in-  
5           crease biomass returned to soil in lieu of  
6           planting followed by fallowing;

7           “(iii) reduction of nitrogen fertilizer  
8           use or increase in nitrogen use efficiency;

9           “(iv) reduction in the frequency and  
10          duration of flooding of rice paddies;

11          “(v) reduction in carbon emissions  
12          from organic soils;

13          “(vi) reduction in greenhouse gas  
14          emissions from manure and effluent;

15          “(vii) reduction in greenhouse gas  
16          emissions due to changes in animal man-  
17          agement practices, including dietary modi-  
18          fications;

19          “(viii) planting and cultivation of per-  
20          manent tree crops;

21          “(ix) greenhouse gas emission reduc-  
22          tions from improvements and upgrades to  
23          mobile or stationary equipment (including  
24          engines);

1                   “(x) practices to reduce and eliminate  
2                   soil tillage;

3                   “(xi) reductions in greenhouse gas  
4                   emissions through restoration of wetlands,  
5                   forestland, and grassland; and

6                   “(xii) sequestration of greenhouse  
7                   gases through management of tree crops;  
8                   and

9                   “(H) changes in carbon stocks attributed  
10                  to land use change and forestry activities, in-  
11                  cluding—

12                  “(i) management of peatland or wet-  
13                  land;

14                  “(ii) conservation of grassland and  
15                  forested land;

16                  “(iii) improved forest management,  
17                  including accounting for carbon stored in  
18                  wood products;

19                  “(iv) reduced deforestation or avoided  
20                  forest conversion;

21                  “(v) urban tree-planting and mainte-  
22                  nance;

23                  “(vi) agroforestry; and



1                   “(vii) adaptation of plant traits or  
2                   new technologies that increase sequestra-  
3                   tion by forests.

4                   “(5) METHODOLOGIES.—In issuing methodolo-  
5                   gies pursuant to section 734, the Administrator shall  
6                   give priority to methodologies for offset types in-  
7                   cluded on the initial eligibility list.

8                   “(b) MODIFICATION OF LIST.—The Administrator—  
9                   “(1) shall add additional project types to the  
10                  list not later than 2 years after the date of enact-  
11                  ment of this title;

12                  “(2) may at any time, by rule, add a project  
13                  type to the list established under subsection (a) if  
14                  the Administrator, in consultation with appropriate  
15                  Federal agencies and taking into consideration the  
16                  recommendations of the Advisory Board, determines  
17                  that the project type can generate additional reduc-  
18                  tions or avoidance of greenhouse gas emissions, or  
19                  sequestration of greenhouse gases, subject to the re-  
20                  quirements of 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 Adminis-  
6 trator—

7 “(A) by petition pursuant to subsection  
8 (c); or

9 “(B) by the Advisory Board.

10 “(c) PETITION PROCESS.—Any person may petition  
11 the Administrator to modify the list established under sub-  
12 section (a) by adding or removing a project type pursuant  
13 to subsection (b). Any such petition shall include a show-  
14 ing by the petitioner that there is adequate data to estab-  
15 lish that the project type does or does not meet the re-  
16 quirements of this part. Not later than 12 months after  
17 receipt of such a petition, the Administrator shall either  
18 grant or deny the petition and publish a written expla-  
19 nation of the reasons for the Administrator’s decision. The  
20 Administrator may not deny a petition under this sub-  
21 section on the basis of inadequate Environmental Protec-  
22 tion Agency resources or time for review.

23 **“SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS.**

24 “(a) METHODOLOGIES.—As part of the regulations  
25 promulgated under section 732(a), the Administrator shall

1 establish, for each type of offset project listed as eligible  
2 under section 733, the following:

3           “(1) ADDITIONALITY.—A standardized method-  
4 ology for determining the additionality of greenhouse  
5 gas emission reductions or avoidance, or greenhouse  
6 gas sequestration, achieved by an offset project of  
7 that type. Such methodology shall ensure, at a min-  
8 imum, that any greenhouse gas emission reduction  
9 or avoidance, or any greenhouse gas sequestration, is  
10 considered additional only to the extent that it re-  
11 sults from activities that—

12                   “(A) are not required by or undertaken to  
13 comply with any law, including any regulation  
14 or consent order;

15                   “(B) were not commenced prior to Janu-  
16 ary 1, 2009, except in the case of—

17                           “(i) offset project activities that com-  
18 menced after January 1, 2001, and were  
19 registered as of the date of enactment of  
20 this title under an offset program with re-  
21 spect to which the Administrator has made  
22 an affirmative determination under section  
23 740(a)(2); or

24                           “(ii) activities that are readily revers-  
25 ible, with respect to which the Adminis-

1           trator may set an alternative earlier date  
2           under this subparagraph that is not earlier  
3           than January 1, 2001, where the Adminis-  
4           trator determines that setting such an al-  
5           ternative date may produce an environ-  
6           mental benefit by removing an incentive to  
7           cease and then reinitiate activities that  
8           began prior to January 1, 2009;

9           “(C) are not receiving support under part  
10          E of this title or subtitle D of title IV of the  
11          **【\_\_\_\_\_ Act】**; and

12          “(D) exceed the activity baseline estab-  
13          lished under paragraph (2).

14          “(2) **ACTIVITY BASELINES.**—A standardized  
15          methodology for establishing activity baselines for  
16          offset projects of that type. The Administrator shall  
17          set activity baselines to reflect a conservative esti-  
18          mate of business-as-usual performance or practices  
19          for the relevant type of activity such that the base-  
20          line provides an adequate margin of safety to ensure  
21          the environmental integrity of offsets calculated in  
22          reference to such baseline.

23          “(3) **QUANTIFICATION METHODS.**—A standard-  
24          ized methodology for determining the extent to  
25          which greenhouse gas emission reductions or avoid-

1       ance, or greenhouse gas sequestration, achieved by  
2       an offset project of that type exceed a relevant activ-  
3       ity baseline, including protocols for monitoring and  
4       accounting for uncertainty.

5           “(4) LEAKAGE.—A standardized methodology  
6       for accounting for and mitigating potential leakage,  
7       if any, from an offset project of that type, taking  
8       uncertainty into account.

9       “(b) ACCOUNTING FOR REVERSALS.—

10           “(1) IN GENERAL.—As part of the regulations  
11       promulgated under section 732(a), for each type of  
12       sequestration project listed under section 733, the  
13       Administrator shall establish requirements to ac-  
14       count for and address reversals, including—

15           “(A) a requirement to report any reversal  
16       with respect to an offset project for which offset  
17       credits have been issued under this part;

18           “(B) provisions to require emission allow-  
19       ances to be held in amounts to fully compensate  
20       for greenhouse gas emissions attributable to re-  
21       versals, and to assign responsibility for holding  
22       such emission allowances;

23           “(C) provisions to discourage repeated in-  
24       tentional reversals by offset project developers,  
25       including but not limited to the assessment of

1 administrative fees, temporary suspension, or  
2 disqualification of an offset project developer  
3 from the program; and

4 “(D) any other provisions the Adminis-  
5 trator determines necessary to account for and  
6 address reversals.

7 “(2) MECHANISMS.—The Administrator shall  
8 prescribe mechanisms to ensure that any sequestra-  
9 tion with respect to which an offset credit is issued  
10 under this part results in a permanent net increase  
11 in sequestration, and that full account is taken of  
12 any actual or potential reversal of such sequestra-  
13 tion, with an adequate margin of safety. The Admin-  
14 istrator shall prescribe at least one of the following  
15 mechanisms to meet the requirements of this para-  
16 graph:

17 “(A) An offsets reserve, pursuant to para-  
18 graph (3).

19 “(B) Insurance that provides for purchase  
20 and provision to the Administrator for retire-  
21 ment of an amount of offset credits or emission  
22 allowances equal in number to the tons of car-  
23 bon dioxide equivalents of greenhouse gas emis-  
24 sions released due to reversal.

1           “(C) Another mechanism that the Admin-  
2           istrator determines satisfies the requirements of  
3           this part.

4           “(3) OFFSETS RESERVE.—

5           “(A) IN GENERAL.—An offsets reserve re-  
6           ferred to in paragraph (2)(A) is a program  
7           under which, before issuance of offset credits  
8           under this part, the Administrator shall sub-  
9           tract and reserve from the quantity to be issued  
10          a quantity of offset credits based on the risk of  
11          reversal. The Administrator shall—

12                   “(i) hold these reserved offset credits  
13                   in the offsets reserve; and

14                   “(ii) register the holding of the re-  
15                   served offset credits in the Offset Registry  
16                   established under section 732(d).

17          “(B) PROJECT REVERSAL.—

18                   “(i) IN GENERAL.—If a reversal has  
19                   occurred with respect an offset project for  
20                   which offset credits are reserved under this  
21                   paragraph, the Administrator shall remove  
22                   offset credits or emission allowances from  
23                   the offsets reserve and cancel them to fully  
24                   account for the tons of carbon dioxide  
25                   equivalent that are no longer sequestered.

1                   “(ii) INTENTIONAL REVERSALS.—If  
2                   the Administrator determines that a rever-  
3                   sal was intentional, the offset project devel-  
4                   oper for the relevant offset project shall  
5                   place into the offsets reserve a quantity of  
6                   offset credits, or combination of offset  
7                   credits and emission allowances, equal in  
8                   number to the number of reserve offset  
9                   credits that were canceled due to the rever-  
10                  sal pursuant to clause (i).

11                  “(iii) UNINTENTIONAL REVERSALS.—  
12                  If the Administrator determines that a re-  
13                  versal was unintentional, the offset project  
14                  developer for the relevant offset project  
15                  shall place into the offsets reserve a quan-  
16                  tity of offset credits, or combination of off-  
17                  set credits and emission allowances, equal  
18                  in number to half the number of offset  
19                  credits that were reserved for that offset  
20                  project, or half the number of reserve off-  
21                  set credits that were canceled due to the  
22                  reversal pursuant to clause (i), whichever  
23                  is less.

24                  “(iv) PETITION.—Any person may pe-  
25                  tition the Administrator for a determina-



1                   tion that an offsets reversal has occurred.  
2                   Any such petition shall include a showing  
3                   by the petitioner that there is adequate  
4                   data or other evidence to support the peti-  
5                   tion. Not later than 90 days after the date  
6                   of receipt of the petition, the Adminis-  
7                   trator shall take final action determining  
8                   either that the reversal has occurred or  
9                   that the reversal has not occurred. Such  
10                  determination shall be accompanied by a  
11                  statement of the basis for the determina-  
12                  tion.

13                  “(C) USE OF RESERVED OFFSET CRED-  
14                  ITS.—Offset credits placed into the offsets re-  
15                  serve under this paragraph may not be used to  
16                  comply with section 722.

17                  “(4) TERM OFFSET CREDITS.—

18                  “(A) APPLICABILITY.—With respect to a  
19                  practice listed under section 733 that seques-  
20                  ters greenhouse gases and has a crediting pe-  
21                  riod of not more than 5 years, the Adminis-  
22                  trator may address reversals pursuant to this  
23                  paragraph in lieu of permanently accounting for  
24                  reversals pursuant to paragraphs (1) and (2).



1           “(B) 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  
8           eligible to generate offset credits under this part  
9           only during the project’s crediting period. During  
10          such crediting period, the project shall remain eligi-  
11          ble to generate offset credits, subject to the meth-  
12          odologies and project type eligibility list that applied  
13          as of the date of project approval under section 735,  
14          except as 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  
21          submitted under this paragraph more than 18  
22          months before the end of the pending crediting pe-  
23          riod. The Administrator may grant such petition  
24          after public notice and opportunity for comment.  
25          The Administrator may limit the number of new

1       crediting periods available for projects of particular  
2       project types.

3       “(d) ENVIRONMENTAL INTEGRITY.—In establishing  
4 the requirements under this section, the Administrator  
5 shall apply conservative assumptions or methods to maxi-  
6 mize the certainty that the environmental integrity of the  
7 cap established under section 701 is not compromised.

8       “(e) PRE-EXISTING METHODOLOGIES.—In promul-  
9 gating requirements under this section, the Administrator  
10 shall give due consideration to methodologies for offset  
11 projects existing as of the date of enactment of this title.

12       “(f) ADDED PROJECT TYPES.—The Administrator  
13 shall establish methodologies described in subsection (a),  
14 and, as applicable, requirements and mechanisms for re-  
15 versals as described in subsection (b), for any project type  
16 that is added to the list pursuant to section 733.

17 **“SEC. 735. APPROVAL OF OFFSET PROJECTS.**

18       “(a) APPROVAL PETITION.—An offset project devel-  
19 oper shall submit an offset project approval petition signed  
20 by a responsible official (who shall certify the accuracy of  
21 the information submitted) and providing such informa-  
22 tion as the Administrator requires to determine whether  
23 the offset project is eligible for issuance of offset credits  
24 under rules promulgated pursuant to this part.

1           “(b) TIMING.—An approval petition shall be sub-  
2       mitted to the Administrator under subsection (a) not later  
3       than the time at which an offset project’s first verification  
4       report is submitted under section 736.

5           “(c) APPROVAL PETITION REQUIREMENTS.—As part  
6       of the regulations promulgated under section 732, the Ad-  
7       ministrator shall include provisions for, and shall specify,  
8       the required components of an offset project approval peti-  
9       tion required 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 Adminis-  
15       trator considers to be necessary to achieve the pur-  
16       poses of this part.

17           “(d) APPROVAL AND NOTIFICATION.—Not later than  
18       90 days after receiving a complete approval petition under  
19       subsection (a), the Administrator shall make the approval  
20       petition publicly available on the internet, approve or deny  
21       the petition in writing, and, if the petition is denied, make  
22       the Administrator’s decision publicly available on the  
23       internet. After an offset project is approved, the offset  
24       project developer shall not be required to resubmit an ap-

1 proval petition during the offset project's crediting period,  
2 except as provided in section 734(c)(4).

3 “(e) APPEAL.—The Administrator shall establish  
4 procedures for appeal and review of determinations made  
5 under subsection (d).

6 “(f) VOLUNTARY PREAPPROVAL REVIEW.—The Ad-  
7 ministrator may establish a voluntary preapproval review  
8 procedure, to allow an offset project developer to request  
9 the Administrator to conduct a preliminary eligibility re-  
10 view for an offset project. Findings of such reviews shall  
11 not be binding upon the Administrator. The voluntary  
12 preapproval review procedure—

13 “(1) shall require the offset project developer to  
14 submit such basic project information as the Admin-  
15 istrator requires to provide a meaningful review; and

16 “(2) shall require a response from the Adminis-  
17 trator not later than 6 weeks after receiving a re-  
18 quest for review under this subsection.

19 **“SEC. 736. VERIFICATION OF OFFSET PROJECTS.**

20 “(a) IN GENERAL.—As part of the regulations pro-  
21 mulgated under section 732(a), the Administrator shall es-  
22 tablish requirements, including protocols, for verification  
23 of the quantity of greenhouse gas emission reductions or  
24 avoidance, or sequestration of greenhouse gases, resulting  
25 from an offset project. The regulations shall require that

1 an offset project developer shall submit a report, prepared  
2 by a third-party verifier accredited under subsection (d),  
3 providing such information as the Administrator requires  
4 to determine the quantity of greenhouse gas emission re-  
5 ductions or avoidance, or sequestration of greenhouse gas,  
6 resulting from the offset project.

7 “(b) SCHEDULE.—The Administrator shall prescribe  
8 a schedule for the submission of verification reports under  
9 subsection (a).

10 “(c) VERIFICATION REPORT REQUIREMENTS.—The  
11 Administrator 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  
15 designated representative for the offset project devel-  
16 oper;

17 “(2) the quantity of greenhouse gas reduced,  
18 avoided, or sequestered;

19 “(3) the methodologies applicable to the project  
20 pursuant to section 734;

21 “(4) a certification that the project meets the  
22 applicable requirements;

23 “(5) a certification establishing that the conflict  
24 of interest requirements in the regulations promul-

1 gated under subsection (d)(1) have been complied  
2 with; and

3 “(6) any other information that the Adminis-  
4 trator considers to be necessary to achieve the pur-  
5 poses of this part.

6 “(d) VERIFIER ACCREDITATION.—

7 “(1) IN GENERAL.—As part of the regulations  
8 promulgated under section 732(a), the Adminis-  
9 trator shall establish a process and requirements for  
10 periodic accreditation of third-party verifiers to en-  
11 sure that such verifiers are professionally qualified  
12 and have no conflicts of interest.

13 “(2) STANDARDS.—

14 “(A) AMERICAN NATIONAL STANDARDS IN-  
15 STITUTE ACCREDITATION.—The Administrator  
16 may accredit, or accept for purposes of accredi-  
17 tation under this subsection, verifiers accredited  
18 under the American National Standards Insti-  
19 tute (ANSI) accreditation program in accord-  
20 ance with ISO 14065. The Administrator shall  
21 accredit, or accept for accreditation, verifiers  
22 under this subparagraph only if the Adminis-  
23 trator finds that the American National Stand-  
24 ards Institute accreditation program provides



1 sufficient assurance that the requirements of  
2 this part will be met.

3 “(B) EPA ACCREDITATION.—As part of  
4 the regulations promulgated under section  
5 732(a), the Administrator may establish accred-  
6 itation standards for verifiers under this sub-  
7 section, and may establish related training and  
8 testing programs and requirements.

9 “(3) PUBLIC ACCESSIBILITY.—Each verifier  
10 meeting the requirements for accreditation in ac-  
11 cordance with this subsection shall be listed in a  
12 publicly accessible database, which shall be main-  
13 tained and updated by the Administrator.

14 “(4) REVOCATION.—The regulations concerning  
15 accreditation of third-party verifiers required under  
16 paragraph (1) shall establish a process for the Ad-  
17 ministrator to revoke the accreditation of any third-  
18 party verifier that the Administrator finds fails to  
19 maintain professional qualifications or to avoid a  
20 conflict of interest, or for other good cause.

21 **“SEC. 737. ISSUANCE OF OFFSET CREDITS.**

22 “(a) DETERMINATION AND NOTIFICATION.—Not  
23 later than 90 days after receiving a complete verification  
24 report under section 736, the Administrator shall—

1           “(1) make the report publicly available on the  
2 Internet;

3           “(2) make a determination of the quantity of  
4 greenhouse gas emissions reduced or avoided, or  
5 greenhouse gases sequestered, resulting from an off-  
6 set project approved under section 735; and

7           “(3) notify the offset project developer in writ-  
8 ing of such determination and make such determina-  
9 tion publicly available on the Internet.

10          “(b) ISSUANCE OF OFFSET CREDITS.—The Adminis-  
11 trator shall issue one offset credit to an offset project de-  
12 veloper for each ton of carbon dioxide equivalent that the  
13 Administrator has determined has been reduced, avoided,  
14 or sequestered during the period covered by a verification  
15 report submitted in accordance with section 736, only if—

16           “(1) the Administrator has approved the offset  
17 project pursuant to section 735; and

18           “(2) the relevant emissions reduction, avoid-  
19 ance, or sequestration has—

20                   “(A) already occurred, during the offset  
21 project’s crediting period; and

22                   “(B) occurred after January 1, 2009.

23          “(c) APPEAL.—The Administrator shall establish  
24 procedures for appeal and review of determinations made  
25 under subsection (a).

1           “(d) **TIMING.**—Offset credits meeting the criteria es-  
2     tablished in subsection (b) shall be issued not later than  
3     2 weeks following the verification determination made by  
4     the Administrator under subsection (a).

5           “(e) **REGISTRATION.**—The Administrator shall as-  
6     sign a unique serial number to and register each offset  
7     credit to be issued in the Offset Registry established under  
8     section 732(d).

9     **“SEC. 738. AUDITS.**

10          “(a) **IN GENERAL.**—The Administrator shall, on an  
11     ongoing basis, conduct random audits of offset projects  
12     and offset credits. The Administrator shall conduct audits  
13     of the practices of third-party verifiers. In each year, the  
14     Administrator shall conduct audits, at minimum, for a  
15     representative sample of project types and geographic  
16     areas.

17          “(b) **DELEGATION.**—The Administrator may delegate  
18     to a State or tribal government the responsibility for con-  
19     ducting audits under this section if the Administrator  
20     finds that the program proposed by the State or tribal  
21     government provides assurances equivalent to those pro-  
22     vided by the auditing program of the Administrator, and  
23     that the integrity of the offset program under this part  
24     will be maintained. Nothing in this subsection shall pre-

1 vent the Administrator from conducting any audit the Ad-  
2 ministrator considers necessary and appropriate.

3 “(c) AUDIT REQUIREMENTS.—As part of the regula-  
4 tions promulgated under section 732(a), the appropriate  
5 officials shall establish requirements and protocols for an  
6 auditing program, whether undertaken by the appropriate  
7 officials or an authorized representative, concerning  
8 project developers, third party verifiers, and various com-  
9 ponents of the offsets program. Such regulations shall in-  
10 clude—

11 “(1) the components of the offset project, which  
12 shall be evaluated against the offset approval peti-  
13 tion and the verification report;

14 “(2) the minimum experience or training of the  
15 auditors;

16 “(3) the form in which reports shall be com-  
17 pleted;

18 “(4) requirements for delegating auditing func-  
19 tions to States or tribal governments, including re-  
20 quiring periodic reports from State or tribal govern-  
21 ments on their auditing activities and findings; and

22 “(5) any other information that the appropriate  
23 officials considers to be necessary to achieve the pur-  
24 pose of the Act.

1 **“SEC. 739. PROGRAM REVIEW AND REVISION.**

2 “At least once every 5 years, the Administrator shall  
3 review and, based on new or updated information and tak-  
4 ing into consideration the recommendations of the Advi-  
5 sory Board, update and revise—

6 “(1) the list of eligible project types established  
7 under section 733;

8 “(2) the methodologies established, including  
9 specific activity baselines, under section 734(a);

10 “(3) the reversal requirements and mechanisms  
11 established or prescribed under section 734(b);

12 “(4) measures to improve the accountability of  
13 the offsets program; and

14 “(5) any other requirements established under  
15 this part to ensure the environmental integrity and  
16 effective operation of this part.

17 **“SEC. 740. EARLY OFFSET SUPPLY.**

18 “(a) PROJECTS REGISTERED UNDER OTHER GOV-  
19 ERNMENT-RECOGNIZED PROGRAMS.—Except as provided  
20 in subsection (b) or (c), after public notice and oppor-  
21 tunity for comment, the Administrator shall issue one off-  
22 set credit for each ton of carbon dioxide equivalent emis-  
23 sions reduced, avoided, or sequestered—

24 “(1) under an offset project that was started  
25 after January 1, 2001;

1           “(2) for which a credit was issued under any  
2 regulatory or voluntary greenhouse gas emission off-  
3 set program that the Administrator determines—

4           “(A) was established under State or tribal  
5 law or regulation prior to January 1, 2009, or  
6 has been approved by the Administrator pursu-  
7 ant to subsection (e);

8           “(B) has developed offset project type  
9 standards, methodologies, and protocols  
10 through a public consultation process or a peer  
11 review process;

12           “(C) has made available to the public  
13 standards, methodologies, and protocols that re-  
14 quire that credited emission reductions, avoid-  
15 ance, or sequestration are permanent, addi-  
16 tional, verifiable, and enforceable;

17           “(D) requires that all emission reductions,  
18 avoidance, or sequestration be verified by a  
19 State regulatory agency or an accredited third-  
20 party independent verification body;

21           “(E) requires that all credits issued are  
22 registered in a publicly accessible registry, with  
23 individual serial numbers assigned for each ton  
24 of carbon dioxide equivalent emission reduc-  
25 tions, avoidance, or sequestration; and

1           “(F) ensures that no credits are issued for  
2           activities for which the entity administering the  
3           program, or a program administrator or rep-  
4           resentative, has funded, solicited, or served as a  
5           fund administrator for the development of, the  
6           project or activity that caused the emission re-  
7           duction, avoidance, or sequestration; and

8           “(3) for which the credit described in para-  
9           graph (2) is transferred to the Administrator.

10          “(b) INELIGIBLE CREDITS.—Subsection (a) shall not  
11          apply to offset credits that have expired or have been re-  
12          tired, canceled, or used for compliance under a program  
13          established under State or tribal law or regulation.

14          “(c) LIMITATION.—Notwithstanding subsection  
15          (a)(1), offset credits shall be issued under this section—

16                 “(1) only for reductions or avoidance of green-  
17                 house gas emissions, or sequestration of greenhouse  
18                 gases, that occur after January 1, 2009; and

19                 “(2) only until the date that is 3 years after the  
20                 date of enactment of this title, or the date that regu-  
21                 lations promulgated under section 732(a) take ef-  
22                 fect, whichever occurs sooner.

23          “(d) RETIREMENT OF CREDITS.—The Administrator  
24          shall seek to ensure that offset credits described in sub-

1 section (a)(2) are retired for purposes of use under a pro-  
2 gram described in subsection (b).

3 “(e) OTHER PROGRAMS.—

4 “(1) IN GENERAL.—Offset programs that ei-  
5 ther—

6 “(A) were not established under State or  
7 tribal law; or

8 “(B) were not established prior to January  
9 1, 2009;

10 but that otherwise meet all of the criteria of sub-  
11 section (a)(2) may apply to the Administrator to be  
12 approved under this subsection as an eligible pro-  
13 gram for early offset credits under this section.

14 “(2) APPROVAL.—The Administrator shall ap-  
15 prove any such program that the Administrator de-  
16 termines has criteria and methodologies of at least  
17 equal stringency to the criteria and methodologies of  
18 the programs established under State or tribal law  
19 that the Administrator determines meet the criteria  
20 of subsection (a)(2). The Administrator may approve  
21 types of offsets under any such program that are  
22 subject to criteria and methodologies of at least  
23 equal stringency to the criteria and methodologies  
24 for such types of offsets applied under the programs  
25 established under State or tribal law that the Ad-



1 administrator determines meet the criteria of sub-  
2 section (a)(2). The Administrator shall make a de-  
3 termination on any application received under this  
4 subsection by not later than 180 days from the date  
5 of receipt of the application.

6 **“SEC. 741. ENVIRONMENTAL CONSIDERATIONS.**

7 “If the Administrator lists forestry or other relevant  
8 land management-related offset projects as eligible offset  
9 project types under section 733, the Administrator, in con-  
10 sultation with appropriate Federal agencies, shall promul-  
11 gate regulations to establish criteria for such offset  
12 projects—

13 “(1) to ensure that native species are given pri-  
14 mary consideration in such projects;

15 “(2) to enhance biological diversity in such  
16 projects;

17 “(3) to prohibit the use of federally designated  
18 or State-designated noxious weeds;

19 “(4) to prohibit the use of a species listed by  
20 a regional or State invasive plant authority within  
21 the applicable region or State;

22 “(5) in the case of forestry offset projects, in  
23 accordance with widely accepted, environmentally  
24 sustainable forestry practices;

1           “(6) to ensure that the offset project area was  
2 not converted from native ecosystems, such as a for-  
3 est, grassland, scrubland or wetland, to generate off-  
4 sets, unless such conversation took place at least 10  
5 years prior to the date of enactment of this title or  
6 before January 1, 2009, whichever date is earlier;  
7 and

8           “(7) to the maximum extent practicable, ensure  
9 that the use of offset credits would be eligible to sat-  
10 isfy emission reduction commitments made by the  
11 United States in multilateral agreements, such as  
12 the United Nations Framework Convention on Cli-  
13 mate Change, done at New York on May 9, 1992 (or  
14 any successor agreement).

15 **“SEC. 742. TRADING.**

16           “Section 724 shall apply to the trading of offset cred-  
17 its.

18 **“SEC. 743. OFFICE OF OFFSETS INTEGRITY.**

19           “(a) ESTABLISHMENT.—There is established within  
20 the Office of the Assistant Attorney General of the Envi-  
21 ronment and Natural Resources Division in the Depart-  
22 ment of Justice a Carbon Offsets Integrity Unit, to be  
23 headed by a Special Counsel (hereinafter referred to as  
24 the ‘Special Counsel’). The Carbon Offsets Integrity Unit  
25 and the Special Counsel shall be responsible to and shall

1 report directly to the Assistant Attorney General of the  
2 Environment and Natural Resources Division.

3 “(b) APPOINTMENT.—The Special Counsel shall be  
4 appointed by the President, by and with the advice and  
5 consent of the Senate.

6 “(c) RESPONSIBILITIES.—The Special Counsel  
7 shall—

8 “(1) supervise and coordinate investigations  
9 and civil enforcement within the Department of Jus-  
10 tice of the carbon offsets program set forth in **[IN-**  
11 **SERT CITE]**;

12 “(2) ensure that Federal law relating to civil  
13 enforcement of the carbon offsets program is used to  
14 the fullest extent authorized; and

15 “(3) ensure that adequate resources are made  
16 available for the investigation and enforcement of  
17 civil violations of the carbon offsets program.

18 “(d) COMPENSATION.—The Special Counsel shall be  
19 paid at the basic pay payable for level V of the Executive  
20 Schedule under section 5316 of title 5, United States  
21 Code.

22 “(e) ASSIGNMENT OF PERSONNEL.—There shall be  
23 assigned to the Carbon Offsets Integrity Unit such per-  
24 sonnel as the Attorney General determines to be necessary

1 to provide an appropriate level of enforcement activity in  
2 the area of carbon offsets.

3 **“SEC. 744. INTERNATIONAL OFFSET CREDITS.**

4 “(a) IN GENERAL.—The Administrator, in consulta-  
5 tion with the Secretary of State and the Administrator  
6 of the United States Agency for International Develop-  
7 ment, may issue, in accordance with this section, inter-  
8 national offset credits based on activities that reduce or  
9 avoid greenhouse gas emissions, or increase sequestration  
10 of greenhouse gases, in a developing country. Such credits  
11 may be issued for projects pursuant to the requirements  
12 of this part or as provided in subsection (c), (d), or (e).

13 “(b) ISSUANCE.—

14 “(1) REGULATIONS.—Not later than 2 years  
15 after the date of enactment of this title, the Admin-  
16 istrator, in consultation with the Secretary of State,  
17 the Administrator of the United States Agency for  
18 International Development, and any other appro-  
19 priate Federal agency, and taking into consideration  
20 the recommendations of the Advisory Board, shall  
21 promulgate regulations for implementing this sec-  
22 tion, taking into consideration specific factors rel-  
23 evant to the determination of eligible international  
24 offset project types and the implementation of inter-  
25 national methodologies for each offset type ap-

1       proved. Except as otherwise provided in this section,  
2       the issuance of international offset credits under this  
3       section shall be subject to the requirements of this  
4       part.

5           “(2) REQUIREMENTS FOR INTERNATIONAL  
6       OFFSET CREDITS.—The Administrator may issue  
7       international offset credits only if—

8           “(A) the United States is a party to a bi-  
9       lateral or multilateral agreement or arrange-  
10      ment that includes the country in which the  
11      project or measure achieving the relevant green-  
12      house gas emission reduction or avoidance, or  
13      greenhouse gas sequestration, has occurred;

14           “(B) such country is a developing country;  
15      and

16           “(C) such agreement or arrangement—

17           “(i) ensures that all of the require-  
18      ments of this part apply to the issuance of  
19      international offset credits under this sec-  
20      tion;

21           “(ii) provides for the appropriate dis-  
22      tribution of international offset credits  
23      issued; and

24           “(iii) requires the offset project devel-  
25      oper to designate a registered agent in the

1 United States to receive, and be eligible to  
2 receive, service of process in the United  
3 States for the purpose of all civil and regu-  
4 latory actions in Federal courts, if such  
5 service is made in accordance with the  
6 Federal rules for service of process in the  
7 States in which the case or regulatory ac-  
8 tion is brought. A foreign offset project de-  
9 veloper that designates an agent under this  
10 section thereby consents to the personal ju-  
11 risdiction of the Federal courts of the  
12 State in which the registered agent is lo-  
13 cated for the purpose of any civil or regu-  
14 latory proceeding.

15 “(3) SUPPLEMENTAL INTERNATIONAL OFFSET  
16 CATEGORIES.—

17 “(A) IN GENERAL.—In order to ensure a  
18 sufficient supply of international offsets and to  
19 reduce the cost of compliance with this title, the  
20 Administrator may establish categories of inter-  
21 national offsets in addition to those described in  
22 subsections (c), (d), and (e), if—

23 “(i) for 2 consecutive years, the auc-  
24 tion price for allowances reaches the  
25 amount necessary to trigger the auction

1 of allowances in the strategic reserve under  
2 section 726】; and

3 “(ii) the Administrator determines  
4 that the total amount of international off-  
5 sets held by covered entities for each of the  
6 2 years referred to in clause (i) does not  
7 exceed the limit on international offsets es-  
8 tablished under 【section 722(d)】.

9 “(B) SUPPLEMENTAL CATEGORIES.—

10 “(i) IN GENERAL.—Any supplemental  
11 categories of international offsets estab-  
12 lished pursuant to subparagraph (A)  
13 shall—

14 “(I) satisfy all applicable provi-  
15 sions of this part, including subsection  
16 (b)(2) of this section and sections 733  
17 and 734; and

18 “(II) meet the criteria described  
19 in clause (ii).

20 “(ii) CRITERIA.—The criteria referred  
21 to in clause (i)(II) are that—

22 “(I) the country in which the ac-  
23 tivities in the offset category would  
24 take place has developed and is imple-  
25 menting a low carbon development

1 plan that includes provisions for the  
2 activities described in the offset cat-  
3 egory;

4 “(II) the activities in the offset  
5 category are not activities included  
6 under subsection (c), (d) or (e); and

7 “(III) the activities in the offset  
8 category satisfy specific criteria rel-  
9 evant to methodologies and institu-  
10 tional and technical capacities associ-  
11 ated with developing country contexts  
12 to ensure adequate treatment of leak-  
13 age, additionality, and permanence.

14 “(c) SECTOR-BASED CREDITS.—

15 “(1) IN GENERAL.—In order to minimize the  
16 potential for leakage and to encourage countries to  
17 take nationally appropriate mitigation actions to re-  
18 duce or avoid greenhouse gas emissions, or sequester  
19 greenhouse gases, the Administrator, in consultation  
20 with the Secretary of State and the Administrator of  
21 the United States Agency for International Develop-  
22 ment, shall—

23 “(A) identify sectors, or combinations of  
24 sectors, within specific countries with respect to



1           which the issuance of international offset cred-  
2           its on a sectoral basis is appropriate; and

3           “(B) issue international offset credits for  
4           such sectors only on a sectoral basis.

5           “(2) IDENTIFICATION OF SECTORS.—

6           “(A) GENERAL RULE.—For purposes of  
7           paragraph (1)(A), a sectoral basis shall be ap-  
8           propriate for activities—

9           “(i) in countries that have compara-  
10           tively high greenhouse gas emissions, or  
11           comparatively greater levels of economic  
12           development; and

13           “(ii) that, if located in the United  
14           States, would be within a sector subject to  
15           the compliance obligation under section  
16           722.

17           “(B) FACTORS.—In determining the sec-  
18           tors and countries for which international offset  
19           credits should be awarded only on a sectoral  
20           basis, the Administrator, in consultation with  
21           the Secretary of State and the Administrator of  
22           the United States Agency for International De-  
23           velopment, shall consider the following factors:

24           “(i) The country’s gross domestic  
25           product.

1                   “(ii) The country’s total greenhouse  
2 gas emissions.

3                   “(iii) Whether the comparable sector  
4 of the United States economy is covered by  
5 the compliance obligation under section  
6 722.

7                   “(iv) The heterogeneity or homo-  
8 geneity of sources within the relevant sec-  
9 tor.

10                  “(v) Whether the relevant sector pro-  
11 vides products or services that are sold in  
12 internationally competitive markets.

13                  “(vi) The risk of leakage if inter-  
14 national offset credits were issued on a  
15 project-level basis, instead of on a sectoral  
16 basis, for activities within the relevant sec-  
17 tor.

18                  “(vii) The capability of accurately  
19 measuring, monitoring, reporting, and  
20 verifying the performance of sources across  
21 the relevant sector.

22                  “(viii) Such other factors as the Ad-  
23 ministrator, in consultation with the Sec-  
24 retary of State and the Administrator of  
25 the United States Agency for International

1           Development, determines are appropriate  
2           to—

3                   “(I) ensure the integrity of the  
4                   United States greenhouse gas emis-  
5                   sions cap established under section  
6                   701; and

7                   “(II) encourage countries to take  
8                   nationally appropriate mitigation ac-  
9                   tions to reduce or avoid greenhouse  
10                  gas emissions, or sequester green-  
11                  house gases.

12                  “(ix) The issuance of offsets for ac-  
13                  tivities that are—

14                   “(I) in addition to nationally ap-  
15                   propriate mitigation actions taken by  
16                   developing countries pursuant to the  
17                   low-carbon development plans of the  
18                   countries; and

19                   “(II) on a sectoral basis.

20                  “(3) **SECTORAL BASIS.**—

21                   “(A) **DEFINITION.**—In this subsection, the  
22                   term ‘sectoral basis’ means the issuance of  
23                   international offset credits only for the quantity  
24                   of sector-wide reductions or avoidance of green-  
25                   house gas emissions, or sector-wide increases in

1           sequestration of greenhouse gases, achieved  
2           across the relevant sector or sectors of the econ-  
3           omy relative to a baseline level of emissions es-  
4           tablished in an agreement or arrangement de-  
5           scribed in subsection (b)(2)(A) for the sector.

6           “(B) BASELINE.—The baseline for a sec-  
7           tor shall—

8                   “(i) be established at levels of green-  
9                   house gas emissions lower than would  
10                  occur under a business-as-usual scenario,  
11                  taking into account relevant domestic or  
12                  international policies or incentives to re-  
13                  duce greenhouse gas emissions;

14                  “(ii) be used to determine  
15                  additionality and performance;

16                  “(iii) account for all significant  
17                  sources of emissions from a sector;

18                  “(iv) be adjusted over time to reflect  
19                  changing circumstances;

20                  “(v) be developed taking into consid-  
21                  eration such factors as—

22                          “(I) any established emissions  
23                          performance level for the sector;

24                          “(II) the current performance of  
25                          the sector in the country;

1                   “(III) expected future trends of  
2                   the sector in the country; and

3                   “(IV) historical data and other  
4                   factors to ensure additionality; and

5                   “(vi) be designed to produce signifi-  
6                   cant deviations from business-as-usual  
7                   emissions, consistent with nationally appro-  
8                   priate mitigation commitments or actions,  
9                   in a way that equitably contributes to  
10                  meeting thresholds identified in section  
11                  705(e)(2).

12                  “(d) CREDITS ISSUED BY AN INTERNATIONAL  
13 BODY.—

14                  “(1) IN GENERAL.—The Administrator, in con-  
15                  sultation with the Secretary of State, may issue  
16                  international offset credits in exchange for instru-  
17                  ments in the nature of offset credits that are issued  
18                  by an international body established pursuant to the  
19                  United Nations Framework Convention on Climate  
20                  Change, to a protocol to such Convention, or to a  
21                  treaty that succeeds such Convention. The Adminis-  
22                  trator may issue international offset credits under  
23                  this subsection only if, in addition to the require-  
24                  ments of subsection (b), the Administrator has de-  
25                  termined that the international body that issued the

1 instruments has implemented substantive and proce-  
2 dural requirements for the relevant project type that  
3 provide equal or greater assurance of the integrity of  
4 such instruments as is provided by the requirements  
5 of this part. Beginning on January 1, 2016, the Ad-  
6 ministrator shall issue no offset credit pursuant to  
7 this subsection if the activity generating the green-  
8 house gas emissions reductions or avoidance, or  
9 greenhouse gas sequestration, occurs in a country  
10 and sector identified by the Administrator under  
11 subsection (c), unless the offset credit issued by the  
12 international body is consistent with 743(c).

13 “(2) RETIREMENT.—The Administrator, in  
14 consultation with the Secretary of State, shall seek,  
15 by whatever means appropriate, including agree-  
16 ments, arrangements, or technical cooperation with  
17 the international issuing body described in para-  
18 graph (1), to 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  
24 the disqualification of the instrument issued by  
25 such international body for subsequent use

1 under any relevant foreign or international  
2 greenhouse gas regulatory program, regardless  
3 of whether such use is a sale, exchange, or sub-  
4 mission to satisfy 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  
11 reductions achieved through activities to reduce de-  
12 forestation only if, in addition to the requirements of  
13 subsection (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)  
23 or (6), the quantity of the international offset  
24 credits 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 de-  
6           forestation has occurred before the issuance of  
7           the international offset credit and, taking into  
8           consideration relevant international standards,  
9           has been demonstrated using ground-based in-  
10          ventories, 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  
20          that the country within which the activity oc-  
21          curs has in place a publicly available strategic  
22          plan that includes the criteria listed in para-  
23          graph (2)(C);

24          “(F) the activity is designed, carried out,  
25          and managed—



1 “(i) in accordance with forest manage-  
2 ment practices that—

3 “(I) improve the livelihoods of  
4 forest 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  
9 the permanence of forest carbon  
10 stocks or emission reductions;

11 “(ii) to promote or restore native for-  
12 est species and ecosystems where prac-  
13 ticable, and to avoid the introduction of  
14 invasive nonnative species;

15 “(iii) in a manner that gives due re-  
16 gard to the rights and interests of local  
17 communities, indigenous peoples, forest-de-  
18 pendent 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 com-  
23 munities, in affected areas, as partners  
24 and primary stakeholders, prior to and  
25 during the design, planning, implementa-

1                   tion, and monitoring and evaluation of ac-  
2                   tivities;

3                   “(v) with transparent and equitable  
4                   sharing of profits and benefits derived  
5                   from offset credits with local communities,  
6                   indigenous peoples, and forest-dependent  
7                   communities;

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  
19                  is consistent with any relevant requirements es-  
20                  tablished by an agreement reached under the  
21                  auspices of the United Nations Framework  
22                  Convention on Climate Change, done at New  
23                  York on May 9, 1992; and

24                  “(H) in the case that offsets are deter-  
25                  mined by comparing the national emissions

1 from deforestation relative to a national, state-  
2 level, or province-level deforestation baseline as  
3 provided in paragraph (4) or (5)—

4 “(i) a list of activities to reduce defor-  
5 estation is provided to the Administrator  
6 and made publicly available;

7 “(ii) the social and environmental im-  
8 pacts of these activities are monitored and  
9 reported in sufficient detail to allow the  
10 Administrator to determine compliance  
11 with the requirements of this section; and

12 “(iii) the distribution of revenues for  
13 activities to reduce deforestation is trans-  
14 parent, subject to independent third-party  
15 oversight, and publicly disseminated.

16 “(2) ELIGIBLE COUNTRIES.—The Adminis-  
17 trator, in consultation with the Secretary of State  
18 and the Administrator of the United States Agency  
19 for International Development, and in accordance  
20 with an agreement or arrangement described in sub-  
21 section (b)(2)(A), shall establish, and periodically re-  
22 view and update, a list of the developing countries  
23 that have the capacity to participate in deforestation  
24 reduction activities 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  
4           emissions from deforestation with an acceptable  
5           level of uncertainty, as determined taking into  
6           account relevant internationally accepted meth-  
7           odologies, such as those established by the  
8           Intergovernmental 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  
8 forest-based economies to low-emissions de-  
9 velopment pathways with respect to emis-  
10 sions 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 de-  
15 sign, planning, and implementation of ac-  
16 tivities, whether at the national or local  
17 level, to reduce deforestation in the country  
18 (including a national process for address-  
19 ing grievances if stakeholders have been  
20 caused social, environmental, or economic  
21 harm);

22 “(vi) provides for the distribution of  
23 revenues for activities to reduce deforest-  
24 ation transparently and publicly, subject to  
25 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  
6                   reporting of the social and environmental  
7                   impacts of those activities.

8                   “(3) PROTECTION OF INTERESTS.—With re-  
9                   spect to an agreement or arrangement described in  
10                  subsection (b)(2)(A) with a country that addresses  
11                  international offset credits under this subsection, the  
12                  Administrator, 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  
16                  enforcement by such country of legal regimes, proc-  
17                  esses, 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  
21                  social 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 consider-  
15 ation the average annual historical deforestation  
16 rates of the country during a period of at least  
17 5 years, the applicable drivers of deforestation,  
18 and other factors to ensure that only reductions  
19 that are in addition to such commitments or ac-  
20 tions will generate offsets;

21 “(C) establish a trajectory that would re-  
22 sult in zero net deforestation by not later than  
23 20 years after the national deforestation base-  
24 line has been established, including a spatially  
25 explicit land use plan that identifies intact and

1 primary forest areas and managed forest areas  
2 that are to remain while the country is reaching  
3 the zero net deforestation trajectory;

4 “(D) be adjusted over time to take account  
5 of changing national circumstances;

6 “(E) be designed to account for all signifi-  
7 cant sources of greenhouse gas emissions from  
8 deforestation in the country; and

9 “(F) be consistent with the national defor-  
10 estation baseline, if any, established for such  
11 country under section 754(d)(1).

12 “(5) STATE-LEVEL OR PROVINCE-LEVEL AC-  
13 TIVITIES.—

14 “(A) ELIGIBLE STATES OR PROVINCES.—  
15 The Administrator, in consultation with the  
16 Secretary of State and the Administrator of the  
17 United States Agency for International Devel-  
18 opment, shall establish, and periodically review  
19 and update, a list of states or provinces in de-  
20 veloping countries where—

21 “(i) the developing country is not in-  
22 cluded on the list of countries established  
23 pursuant to paragraph (6)(A);

24 “(ii) the State or province is under-  
25 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 defor-  
9                   estation 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  
19                  and mechanisms to deliver forest con-  
20                  servation 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  
2                   are underway to transition to a na-  
3                   tional 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  
22                   (C) of this paragraph.

23                   “(C) STATE-LEVEL OR PROVINCE-LEVEL  
24                   DEFORESTATION BASELINE.—A state-level or  
25                   province-level deforestation baseline shall—

1           “(i) be consistent with any existing  
2           nationally appropriate mitigation commit-  
3           ments or actions for the country in which  
4           the activity is occurring, so that only re-  
5           ductions that are in addition to those com-  
6           mitments or actions will generate offsets;

7           “(ii) be developed taking into consid-  
8           eration the average annual historical defor-  
9           estation rates of the state or province dur-  
10          ing a period of at least 5 years, relevant  
11          drivers of deforestation, and other factors  
12          to ensure 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  
17          established; and

18          “(iv) be designed to account for all  
19          significant sources of greenhouse gas emis-  
20          sions from deforestation in the state or  
21          province and adjusted to fully account for  
22          emissions leakage outside the state or  
23          province through monitoring of major for-  
24          ested areas in the host country and other

1 areas of the host country susceptible to  
2 leakage.

3 “(D) PHASE OUT.—Beginning 5 years  
4 after the first calendar year for which a covered  
5 entity must demonstrate compliance with sec-  
6 tion 722(a), the Administrator shall issue no  
7 further international offset credits for eligible  
8 state-level or province-level activities to reduce  
9 deforestation pursuant to this paragraph.

10 “(6) PROJECTS AND PROGRAMS TO REDUCE  
11 DEFORESTATION.—

12 “(A) ELIGIBLE COUNTRIES.—The Admin-  
13 istrator, in consultation with the Secretary of  
14 State and the Administrator of the United  
15 States Agency for International Development,  
16 shall establish, and periodically review and up-  
17 date, a list of developing countries that—

18 “(i) the Administrator determines,  
19 based on recent, credible, and reliable  
20 emissions data, account for less than 1  
21 percent of global greenhouse gas emissions  
22 and less than 3 percent of global forest-  
23 sector and land use change greenhouse gas  
24 emissions;

1           “(ii) have, or in the determination of  
2           the Administrator are making a good faith  
3           effort to develop, a land use or forest sec-  
4           tor strategic plan that meets the criteria  
5           described in paragraph (2)(C); and

6           “(iii) has made, or in the determina-  
7           tion of the Administrator, is making, a  
8           good-faith effort to develop, through the  
9           implementation of activities under this sec-  
10          tion, a monitoring program for major for-  
11          ested areas in a host country and other  
12          areas in a host country susceptible to leak-  
13          age, including a spatially explicit land use  
14          plan that identifies intact and primary for-  
15          est areas and managed forest areas that  
16          are to remain while country is reaching the  
17          zero net deforestation trajectory.

18          “(B) ACTIVITIES.—The Administrator may  
19          issue international offset credits for greenhouse  
20          gas emission reductions achieved through  
21          project or program level activities to reduce de-  
22          forestation in countries listed under subpara-  
23          graph (A) that meet the requirements of this  
24          section. The quantity of international offset  
25          credits shall be determined by comparing the

1 project-level or program-level emissions from  
2 deforestation to a deforestation baseline for  
3 such project or program established pursuant to  
4 subparagraph (C).

5 “(C) PROJECT-LEVEL OR PROGRAM-LEVEL  
6 BASELINE.—A project-level or program-level de-  
7 forestation baseline shall—

8 “(i) be consistent with any existing  
9 nationally appropriate mitigation commit-  
10 ments or actions for the country in which  
11 the project or program is occurring, so  
12 that only reductions that are in addition to  
13 such commitments or actions will generate  
14 offsets;

15 “(ii) be developed taking into consid-  
16 eration the average annual historical defor-  
17 estation rates in the project or program  
18 boundary during a period of at least 5  
19 years, applicable drivers of deforestation,  
20 and other factors to ensure additionality;

21 “(iii) be designed to account for all  
22 significant sources of greenhouse gas emis-  
23 sions from deforestation in the project or  
24 program boundary; and

1           “(iv) be adjusted to fully account for  
2 emissions leakage outside the project or  
3 program boundary, including—

4           “(I) estimation through moni-  
5 toring of major forested areas in a  
6 host country and other areas in a host  
7 country susceptible to leakage, pursu-  
8 ant to section 743(e)(5); and

9           “(II) a spatially explicit land use  
10 plan that identifies intact and primary  
11 forest areas and managed forest areas  
12 that are to remain while country is  
13 reaching the zero net deforestation  
14 trajectory

15           “(D) PHASE-OUT.—

16           “(i) IN GENERAL.—Beginning on the  
17 date that is 8 years after the first calendar  
18 year for which a covered entity must dem-  
19 onstrate compliance with section 722(a),  
20 the Administrator shall issue no further  
21 international offset credits for project-level  
22 or program-level activities as described in  
23 this paragraph, except as provided in  
24 clause (ii).

1                   “(ii) EXTENSION.—The Administrator  
2                   may extend the phase out deadline for the  
3                   issuance of international offset credits  
4                   under this section by up to 5 years with re-  
5                   spect to eligible activities taking place in a  
6                   least developed country, which is a foreign  
7                   country that the United Nations has iden-  
8                   tified as among the least developed of de-  
9                   veloping countries at the time that the Ad-  
10                  ministrator determines to provide an exten-  
11                  sion, provided that the Administrator, in  
12                  consultation with the Secretary of State  
13                  and the Administrator of the United States  
14                  Agency for International Development, de-  
15                  termines the country—

16                   “(I) lacks sufficient capacity to  
17                   adopt and implement effective pro-  
18                   grams to achieve reductions in defor-  
19                   estation measured against national  
20                   baselines;

21                   “(II) is receiving support under  
22                   part E to develop such capacity; and

23                   “(III) has developed and is work-  
24                   ing to implement a credible national



1 strategy or plan to reduce deforest-  
2 ation.

3 “(7) EXPANSION OF SCOPE.—In implementing  
4 this subsection, the Administrator, taking into con-  
5 sideration the recommendations of the Advisory  
6 Board, may—

7 “(A) expand credible activities to include  
8 forest degradation; and

9 “(B) include soil carbon losses associated  
10 with forested wetlands or peatlands.

11 “(f) MODIFICATION OF REQUIREMENTS.—In promul-  
12 gating regulations under subsection (b)(1) with respect to  
13 the issuance of international offset credits under sub-  
14 section (c), (d), or (e), the Administrator, in consultation  
15 with the Secretary of State and the Administrator of the  
16 United States Agency for International Development, may  
17 modify or omit a requirement of this part (excluding the  
18 requirements of this section) if the Administrator deter-  
19 mines that the application of that requirement to such  
20 subsection is not feasible or would result in the creation  
21 of offset credits that would not be eligible to satisfy emis-  
22 sions reduction commitments made by the United States  
23 pursuant to the United Nations Framework Convention  
24 on Climate Change, done at New York on May 9, 1992  
25 (or any successor agreement). In modifying or omitting

1 such a requirement on the basis of infeasibility, the Ad-  
2 ministrator, in consultation with the Secretary of State  
3 and the Administrator of the United States Agency for  
4 International Development, shall ensure, with an adequate  
5 margin of safety, the integrity of international offset cred-  
6 its issued under this section and of the greenhouse gas  
7 emissions cap established pursuant to section 701.

8       “(g) AVOIDING DOUBLE COUNTING.—The Adminis-  
9 trator, in consultation with the Secretary of State, shall  
10 seek, by whatever means appropriate, including agree-  
11 ments, arrangements, or technical cooperation, to ensure  
12 that activities on the basis of which international offset  
13 credits are issued under this section are not used for com-  
14 pliance with an obligation to reduce or avoid greenhouse  
15 gas emissions, or increase greenhouse gas sequestration,  
16 under a foreign or international regulatory system. In ad-  
17 dition, no international offset credits shall be issued for  
18 emission reductions from activities with respect to which  
19 emission allowances were allocated under section 781 for  
20 distribution under part E.

21       “(h) LIMITATION.—The Administrator shall not issue  
22 international offset credits generated by projects based on  
23 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 new section:

5 **“SEC. 700. DEFINITIONS.**

6 “In this title:

7 “(1) **ADDITIONAL.**—The term ‘additional’,  
8 when used with respect to reductions or avoidance of  
9 greenhouse gas emissions, or to sequestration of  
10 greenhouse gases, means reductions, avoidance, or  
11 sequestration that result in a lower level of net  
12 greenhouse gas emissions or atmospheric concentra-  
13 tions than would occur in the absence of an offset  
14 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.—The term  
25           ‘biological sequestration’ means the removal of

1 greenhouse gases from the atmosphere by terrestrial  
2 biological means, such as by growing plants, and the  
3 storage of those greenhouse gases in plants or soils.

4 “(8) CAPPED EMISSIONS.—The term ‘capped  
5 emissions’ means greenhouse gas emissions to which  
6 section 722 applies, including emissions from the  
7 combustion of natural gas, petroleum-based or coal-  
8 based liquid fuel, petroleum coke, or natural gas liq-  
9 uid to which section 722(b)(2) or (8) applies.

10 “(9) CAPPED SOURCE.—The term ‘capped  
11 source’ means a source that directly emits capped  
12 emissions.

13 “(10) CARBON DIOXIDE EQUIVALENT.—The  
14 term ‘carbon dioxide equivalent’ means the unit of  
15 measure, expressed in metric tons, of greenhouse  
16 gases as provided under section 711 or 712.

17 “(11) CARBON STOCK.—The term ‘carbon  
18 stock’ means the quantity of carbon contained in a  
19 biological reservoir or system which has the capacity  
20 to accumulate or release carbon.

21 “(12) COMPENSATORY ALLOWANCE.—The term  
22 ‘compensatory allowance’ means an allowance issued  
23 under section 721(f).

24 “(13) COVERED ENTITY.—The term ‘covered  
25 entity’ means each of the following:

1           “(A) Any electricity source.

2           “(B)(i) Any stationary source that pro-  
3           duces petroleum-based or coal-based liquid fuel,  
4           petroleum coke, or natural gas liquid, the com-  
5           bustion of which would emit 25,000 or more  
6           tons of carbon dioxide equivalent, as determined  
7           by the Administrator.

8           “(ii) Any entity that (or any group of 2 or  
9           more affiliated entities that, in the aggregate)  
10          imports petroleum-based or coal-based liquid  
11          fuel, petroleum coke, or natural gas liquid, the  
12          combustion of which would emit 25,000 or more  
13          tons of carbon dioxide equivalent, as determined  
14          by the Administrator.

15          “(C) Any stationary source that produces,  
16          and any entity that (or any group of two or  
17          more affiliated entities that, in the aggregate)  
18          imports, for sale or distribution in interstate  
19          commerce, in bulk, or in products designated by  
20          the Administrator, in 2008 or any subsequent  
21          year more than 25,000 tons of carbon dioxide  
22          equivalent of—

23                   “(i) fossil fuel-based carbon dioxide;

24                   “(ii) nitrous oxide;

1 “(iii) except as otherwise provided in  
2 section 714, perfluorocarbons;

3 “(iv) sulfur hexafluoride;

4 “(v) any other fluorinated gas, except  
5 for nitrogen trifluoride, that is a green-  
6 house gas, as designated by the Adminis-  
7 trator under section 711(b) or (c); or

8 “(vi) any combination of greenhouse  
9 gases described in clauses (i) through (v).

10 “(D) Any stationary source that has emit-  
11 ted 25,000 or more tons of carbon dioxide  
12 equivalent of nitrogen trifluoride in 2008 or any  
13 subsequent year.

14 “(E) Any geologic sequestration site.

15 “(F) Any stationary source in the following  
16 industrial sectors:

17 “(i) Adipic acid production.

18 “(ii) Primary aluminum production.

19 “(iii) Ammonia manufacturing.

20 “(iv) Cement production, excluding  
21 grinding-only operations.

22 “(v) Hydrochlorofluorocarbon produc-  
23 tion.

24 “(vi) Lime manufacturing.

25 “(vii) Nitric acid production.



1 “(viii) Petroleum refining.

2 “(ix) Phosphoric acid production.

3 “(x) Silicon carbide production.

4 “(xi) Soda ash production.

5 “(xii) Titanium dioxide production.

6 “(xiii) Coal-based liquid or gaseous  
7 fuel production.

8 “(G) Any stationary source in the chemical  
9 or petrochemical sector that, in 2008 or any  
10 subsequent year—

11 “(i) produces acrylonitrile, carbon  
12 black, ethylene, ethylene dichloride, ethyl-  
13 ene oxide, or methanol; or

14 “(ii) produces a chemical or petro-  
15 chemical product if producing that product  
16 results in annual combustion plus process  
17 emissions of 25,000 or more tons of carbon  
18 dioxide equivalent.

19 “(H) Any stationary source that—

20 “(i) is in one of the following indus-  
21 trial sectors: ethanol production; ferroalloy  
22 production; fluorinated gas production;  
23 food processing; glass production; hydrogen  
24 production; metal ore production or other  
25 processing; iron and steel production; lead

1 production; pulp and paper manufacturing;  
2 and zinc production; and

3 “(ii) has emitted 25,000 or more tons  
4 of carbon dioxide equivalent in 2008 or  
5 any subsequent year.

6 “(I) Any fossil fuel-fired combustion device  
7 (such as a boiler) or grouping of such devices  
8 that—

9 “(i) is all or part of an industrial  
10 source not specified in subparagraph (D),  
11 (F), (G), or (H); and

12 “(ii) has emitted 25,000 or more tons  
13 of carbon dioxide equivalent in 2008 or  
14 any subsequent year.

15 “(J) Any natural gas local distribution  
16 company that (or any group of 2 or more affili-  
17 ated natural gas local distribution companies  
18 that, in the aggregate) in 2008 or any subse-  
19 quent year, delivers 460,000,000 cubic feet or  
20 more of natural gas to customers that are not  
21 covered entities.

22 “(14) CREDITING PERIOD.—The term ‘crediting  
23 period’ means the period with respect to which an  
24 offset project is eligible to earn offset credits under  
25 part D, as determined under section 734(c).

1           “(15) DESIGNATED REPRESENTATIVE.—The  
2 term ‘designated representative’ means, with respect  
3 to a covered entity, a reporting entity, an offset  
4 project developer, or any other entity receiving or  
5 holding allowances or offset credits under this title,  
6 an individual authorized, through a certificate of  
7 representation submitted to the Administrator by  
8 the owners and operators or similar entity official, to  
9 represent the owners and operators or similar entity  
10 official in all matters pertaining to this title (includ-  
11 ing the holding, transfer, or disposition of allowances  
12 or offset credits), and to make all submissions to the  
13 Administrator under this title.

14           “(16) DEVELOPING COUNTRY.—The term ‘de-  
15 veloping country’ means a country eligible to receive  
16 official development assistance according to the in-  
17 come guidelines of the Development Assistance Com-  
18 mittee of the Organization for Economic Coopera-  
19 tion and Development.

20           “(17) DOMESTIC OFFSET CREDIT.—The term  
21 ‘domestic offset credit’ means an offset credit issued  
22 under part D, other than an international offset  
23 credit.

1           “(18) ELECTRICITY SOURCE.—The term ‘elec-  
2           tricity source’ means a stationary source that in-  
3           cludes one or more utility units.

4           “(19) EMISSION.—The term ‘emission’ means  
5           the release of a greenhouse gas into the ambient air.  
6           Such term does not include gases that are captured  
7           and sequestered, except to the extent that they are  
8           later released into the atmosphere, in which case  
9           compliance must be demonstrated pursuant to sec-  
10          tion 722(b)(5).

11          “(20) EMISSION ALLOWANCE.—The term ‘emis-  
12          sion allowance’ means an allowance established  
13          under section 721(a) or section 726(g)(2) or  
14          (h)(1)(C).

15          “(21) FAIR MARKET VALUE.—The term ‘fair  
16          market value’ means the average daily closing price  
17          on registered exchanges or, if such a price is un-  
18          available, the average price as determined by the Ad-  
19          ministrator, during a specified time period, of an  
20          emission allowance.

21          “(22) FEDERAL LAND.—The term ‘Federal  
22          land’ means land that is owned by the United  
23          States, other than land held in trust for an Indian  
24          or Indian tribe.

1           “(23) FOSSIL FUEL.—The term ‘fossil fuel’  
2           means natural gas, petroleum, or coal, or any form  
3           of solid, liquid, or gaseous fuel derived from such  
4           material, including consumer products that are de-  
5           rived from such materials and are combusted.

6           “(24) FOSSIL FUEL-FIRED.—The term ‘fossil  
7           fuel-fired’ means powered by combustion of fossil  
8           fuel, alone or in combination with any other fuel, re-  
9           gardless of the percentage of fossil fuel consumed.

10           “(25) FUGITIVE EMISSIONS.—The term ‘fugi-  
11           tive emissions’ means emissions from leaks, valves,  
12           joints, or other small openings in pipes, ducts, or  
13           other equipment, or from vents.

14           “(26) GEOLOGIC SEQUESTRATION; GEOLOGI-  
15           CALLY SEQUESTERED.—The terms ‘geologic seques-  
16           tration’ and ‘geologically sequestered’ mean the se-  
17           questration of greenhouse gases in subsurface geo-  
18           logic formations for purposes of permanent storage.

19           “(27) GEOLOGIC SEQUESTRATION SITE.—The  
20           term ‘geologic sequestration site’ means a site where  
21           carbon dioxide is geologically sequestered.

22           “(28) GREENHOUSE GAS.—The term ‘green-  
23           house gas’ means any gas described in section  
24           711(a) or designated under section 711(b), (c), or

1 (e), except to the extent that it is regulated under  
2 title VI.

3 “(29) HIGH CONSERVATION PRIORITY LAND.—  
4 The term ‘high conservation priority land’ means  
5 land that is not Federal land and is—

6 “(A) globally or State ranked as critically  
7 imperiled or imperiled under a State Natural  
8 Heritage Program; or

9 “(B) old-growth or late-successional forest,  
10 as identified by the office of the State Forester  
11 or relevant State agency with regulatory juris-  
12 diction over forestry activities.

13 “(30) HOLD.—The term ‘hold’ means, with re-  
14 spect to an allowance or offset credit, to have in the  
15 appropriate account in the allowance tracking sys-  
16 tem, or submit to the Administrator for recording in  
17 such account.

18 “(31) INDUSTRIAL SOURCE.—The term ‘indus-  
19 trial source’ means any stationary source that—

20 “(A) is not an electricity source; and

21 “(B) is in—

22 “(i) the manufacturing sector (as de-  
23 fined in North American Industrial Classi-  
24 fication System codes 31, 32, and 33); or

1                   “(ii) the natural gas processing or  
2                   natural gas pipeline transportation sector  
3                   (as defined in North American Industrial  
4                   Classification System codes 211112 or  
5                   486210).

6                   “(32) INTERNATIONAL EMISSION ALLOW-  
7                   ANCE.—The term ‘international emission allowance’  
8                   means a tradable authorization to emit 1 ton of car-  
9                   bon dioxide equivalent of greenhouse gas that is  
10                  issued by a national or supranational foreign govern-  
11                  ment pursuant to a qualifying international program  
12                  designated by the Administrator pursuant to section  
13                  728(a).

14                  “(33) INTERNATIONAL OFFSET CREDIT.—The  
15                  term ‘international offset credit’ means an offset  
16                  credit issued by the Administrator under section  
17                  743.

18                  “(34) LEAKAGE.—The term ‘leakage’ means a  
19                  significant increase in greenhouse gas emissions, or  
20                  significant decrease in sequestration, which is caused  
21                  by an offset project and occurs outside the bound-  
22                  aries of the offset project.

23                  “(35) MINERAL SEQUESTRATION.—The term  
24                  ‘mineral sequestration’ means sequestration of car-  
25                  bon dioxide from the atmosphere by capturing car-

1       bon dioxide into a permanent mineral, such as the  
2       aqueous precipitation of carbonate minerals that re-  
3       sults in the storage of carbon dioxide in a mineral  
4       form.

5           “(36) NATURAL GAS LIQUID.—The term ‘nat-  
6       ural gas liquid’ means ethane, butane, isobutane,  
7       natural gasoline, and propane which is ready for  
8       commercial sale or use.

9           “(37) NATURAL GAS LOCAL DISTRIBUTION  
10       COMPANY.—The term ‘natural gas local distribution  
11       company’ has the meaning given the term ‘local dis-  
12       tribution company’ in section 2(17) of the Natural  
13       Gas Policy Act of 1978 (15 U.S.C. 3301(17)).

14           “(38) OFFSET CREDIT.—The term ‘offset cred-  
15       it’ means a credit issued under part D.

16           “(39) OFFSET PROJECT.—The term ‘offset  
17       project’ means a project or activity that reduces or  
18       avoids greenhouse gas emissions, or sequesters  
19       greenhouse gases, and for which offset credits are  
20       issued under part D.

21           “(40) OFFSET PROJECT DEVELOPER.—The  
22       term ‘offset project developer’ means the individual  
23       or entity designated as the offset project developer  
24       in an offset project approval petition under section  
25       735(c)(1).



1           “(41) QUALIFIED R&D FACILITY.—The term  
2           ‘qualified R&D facility’ means a facility that con-  
3           ducts research and development, that was in oper-  
4           ation as of the date of enactment of this title, and  
5           that is part of a covered entity subject to paragraphs  
6           (1) through (8) of section 722(b).

7           “(42) PETROLEUM.—The term ‘petroleum’ in-  
8           cludes crude oil, tar sands, oil shale, and heavy oils.

9           “(43) REPEATED INTENTIONAL REVERSALS.—  
10          The term ‘repeated intentional reversals’ means at  
11          least 3 intentional reversals, as determined by the  
12          Administrator or a court under section  
13          734(b)(3)(B)(ii).

14          “(44) RESEARCH AND DEVELOPMENT.—The  
15          term ‘research and development’ means activities—

16                 “(A) that are conducted in process units or  
17                 at laboratory bench-scale settings;

18                 “(B) whose purpose is to conduct research  
19                 and development for new processes, tech-  
20                 nologies, or products that contribute to lower  
21                 greenhouse gas emissions; and

22                 “(C) that do not manufacture products for  
23                 sale.

24          “(45) RENEWABLE BIOMASS.—The term ‘re-  
25          newable biomass’ means any of the following:

1           “(A) Plant material, including waste mate-  
2           rial, harvested or collected from actively man-  
3           aged agricultural land that was in cultivation,  
4           cleared, or fallow and nonforested on January  
5           1, 2009.

6           “(B) Plant material, including waste mate-  
7           rial, harvested or collected from pastureland  
8           that was nonforested on January 1, 2009.

9           “(C) Nonhazardous vegetative matter de-  
10          rived from waste, including separated yard  
11          waste, landscape right-of-way trimmings, con-  
12          struction and demolition debris, or food waste  
13          (but not municipal solid waste, recyclable waste  
14          paper, painted, treated or pressurized wood, or  
15          wood contaminated with plastic or metals).

16          “(D) Animal waste or animal byproducts,  
17          including products of animal waste digesters.

18          “(E) Algae.

19          “(F) Trees, brush, slash, residues, or any  
20          other vegetative matter removed from within  
21          600 feet of any building, campground, or route  
22          designated for evacuation by a public official  
23          with responsibility for emergency preparedness,  
24          or from within 300 feet of a paved road, electric

1 transmission line, utility tower, or water supply  
2 line.

3 “(G) Residues from or byproducts of  
4 milled logs.

5 “(H) Any of the following removed from  
6 forested land that is not Federal and is not  
7 high conservation priority land:

8 “(i) Trees, brush, slash, residues,  
9 interplanted energy crops, or any other  
10 vegetative matter removed from an actively  
11 managed tree plantation established—

12 “(I) prior to January 1, 2009; or

13 “(II) on land that, as of January  
14 1, 2009, was cultivated or fallow and  
15 non-forested.

16 “(ii) Trees, logging residue, thinnings,  
17 cull trees, pulpwood, and brush removed  
18 from naturally regenerated forests or other  
19 non-plantation forests, including for the  
20 purposes of hazardous fuel reduction or  
21 preventative treatment for reducing or con-  
22 taining insect or disease infestation.

23 “(iii) Logging residue, thinnings, cull  
24 trees, pulpwood, brush, and species that  
25 are non-native and noxious, from stands

1           that were planted and managed after Jan-  
2           uary 1, 2009, to restore or maintain native  
3           forest types.

4           “(iv) Dead or severely damaged trees  
5           removed within 5 years of fire, blowdown,  
6           or other natural disaster, and badly in-  
7           fested trees.

8           “(I) Materials, pre-commercial thinnings,  
9           or removed invasive species from National For-  
10          est System land and public lands (as defined in  
11          section 103 of the Federal Land Policy and  
12          Management Act of 1976 (43 U.S.C. 1702)),  
13          including those that are byproducts of preven-  
14          tive treatments (such as trees, wood, brush,  
15          thinnings, chips, and slash), that are removed  
16          as part of a federally recognized timber sale, or  
17          that are removed to reduce hazardous fuels, to  
18          reduce or contain disease or insect infestation,  
19          or to restore ecosystem health, and that are—

20               “(i) not from components of the Na-  
21               tional Wilderness Preservation System,  
22               Wilderness Study Areas, Inventoried  
23               Roadless Areas, old growth or mature for-  
24               est stands, components of the National  
25               Landscape Conservation System, National

1                   Monuments, National Conservation Areas,  
2                   Designated Primitive Areas; or Wild and  
3                   Scenic Rivers corridors;

4                   “(ii) harvested in environmentally sus-  
5                   tainable quantities, as determined by the  
6                   appropriate Federal land manager; and

7                   “(iii) are harvested in accordance with  
8                   Federal and State law, and applicable land  
9                   management plans.

10                  “(46) RETIRE.—The term ‘retire’, with respect  
11                  to an allowance or offset credit established or issued  
12                  under this title, means to disqualify such allowance  
13                  or offset credit for any subsequent use under this  
14                  title, regardless of whether the use is a sale, ex-  
15                  change, or submission of the allowance or offset  
16                  credit to satisfy a compliance obligation.

17                  “(47) REVERSAL.—The term ‘reversal’ means  
18                  an intentional or unintentional loss of sequestered  
19                  greenhouse gases to the atmosphere.

20                  “(48) SEQUESTERED AND SEQUESTRATION.—  
21                  The terms ‘sequestered’ and ‘sequestration’ mean  
22                  the separation, isolation, or removal of greenhouse  
23                  gases from the atmosphere, as determined by the  
24                  Administrator. The terms include biological, geo-

1 logic, and mineral sequestration, but do not include  
2 ocean fertilization techniques.

3 “(49) STATIONARY SOURCE.—The term ‘sta-  
4 tionary source’ means any integrated operation com-  
5 prising any plant, building, structure, or stationary  
6 equipment, including support buildings and equip-  
7 ment, that is located within one or more contiguous  
8 or adjacent properties, is under common control of  
9 the same person or persons, and emits or may emit  
10 a greenhouse gas.

11 “(50) STRATEGIC RESERVE ALLOWANCE.—The  
12 term ‘strategic reserve allowance’ means an emission  
13 allowance reserved for, transferred to, or deposited  
14 in the strategic reserve, or established, under section  
15 726.

16 “(51) UNCAPPED EMISSIONS.—The term ‘un-  
17 capped emissions’ means emissions of greenhouse  
18 gases emitted after December 31, 2011, that are not  
19 capped emissions.

20 “(52) UNITED STATES GREENHOUSE GAS EMIS-  
21 SIONS.—The term ‘United States greenhouse gas  
22 emissions’ means the total quantity of annual green-  
23 house gas emissions from the United States, as cal-  
24 culated by the Administrator and reported to the

1 United Nations Framework Convention on Climate  
2 Change Secretariat.

3 “(53) UTILITY UNIT.—The term ‘utility unit’  
4 means a combustion device that, on January 1,  
5 2009, or any date thereafter, is fossil fuel-fired and  
6 serves a generator that produces electricity for sale,  
7 unless such combustion device, during the 12-month  
8 period starting the later of January 1, 2009, or the  
9 commencement of commercial operation and each  
10 calendar year starting after such later date—

11 “(A) is part of an integrated cycle system  
12 that cogenerates steam and electricity during  
13 normal operation and that supplies one-third or  
14 less of its potential electric output capacity and  
15 25 MW or less of electrical output for sale; or

16 “(B) combusts materials of which more  
17 than 95 percent is municipal solid waste on a  
18 heat input basis.

19 “(54) VINTAGE YEAR.—The term ‘vintage year’  
20 means the calendar year for which an emission al-  
21 lowance is established under section 721(a) or which  
22 is assigned to an emission allowance under section  
23 726(g)(3)(A), except that the vintage year for a  
24 strategic reserve allowance shall be the year in which  
25 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 off-  
6 sets program set forth in subtitle D of title VII, the Ad-  
7 ministrator shall require any person who is an offset  
8 project developer, and may require any person who is a  
9 third party verifier, to establish and maintain records, for  
10 a period of not less than the crediting period under section  
11 734(e) plus 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  
15 an offset project;

16 “(3) any verification reports; and

17 “(4) any other aspect of the offset project that  
18 the appropriate officials determines is appropriate.”.

19 **Subtitle B—Disposition of**  
20 **Allowances**

21 **SEC. 111. DISPOSITION OF ALLOWANCES FOR GLOBAL**  
22 **WARMING POLLUTION REDUCTION PRO-**  
23 **GRAM.**

24 Title VII of the Clean Air Act, as added by section  
25 101 of this division, is amended by adding at the end the  
26 following part:



1           **“PART H—DISPOSITION OF ALLOWANCES**

2           **“SEC. 782. ALLOCATION OF EMISSION ALLOWANCES.**

3           “(a) ALLOCATION.—The Administrator shall allocate  
4 emission allowances for the following purposes:

5           “(1) Supplemental reductions from reduced de-  
6 forestation pursuant to section 753.

7           “(2) Electricity consumers pursuant to section  
8 783.

9           “(3) Natural gas consumers pursuant to section  
10 784.

11           “(4) **【Home heating oil and propane consumers**  
12 **pursuant to section 785.】**

13           “(5) Low-income consumers pursuant to section  
14 **【4\_\_\_\_】**.

15           “(6) Trade-vulnerable industries pursuant to  
16 section 765.

17           “(7) Deployment of carbon capture and seques-  
18 tration technology pursuant to section \_\_\_\_\_.

19           “(8) Investment in energy efficiency and renew-  
20 able energy pursuant to section **【4\_\_\_\_】**.

21           “(9) Building code updates pursuant to section  
22 **【163 of division A of the \_\_\_\_\_ Act】**.

23           “(10) Building retrofit program pursuant to  
24 section **【164 of division A of the \_\_\_\_\_ Act】**.

25           “(11) Advanced energy research pursuant to  
26 section **【4\_\_\_\_】**.

1           “(12) Energy Innovation Hubs pursuant to sec-  
2           tion **[4\_\_\_\_\_]**.

3           “(13) Domestic fuel production pursuant to sec-  
4           tion 787.

5           “(14) Compensation for early actors pursuant  
6           to section 795.

7           “(15) International climate change adaptation  
8           pursuant to section **[334(b) of the \_\_\_\_\_ Act]**.

9           “(16) International clean energy technology de-  
10          ployment pursuant to section **[333(b) of the \_\_\_\_\_**  
11          **Act]**.

12          “(b) AUCTIONS.—The Administrator shall auction,  
13          pursuant to section 789, emission allowances for the fol-  
14          lowing purposes:

15                 “(1) Market Stability Reserve Fund pursuant  
16                 to section 726.

17                 “(2) Investment in workers pursuant to section  
18                 793.

19                 “(3) Nuclear worker training pursuant to sec-  
20                 tion **[4\_\_\_\_\_]**.

21                 “(4) Investment in clean vehicle technology pur-  
22                 suant to section **[4\_\_\_\_\_]**.

23                 “(5) Green jobs training pursuant to section  
24                 **[4\_\_]**.

1           “(6) Domestic adaptation pursuant to section  
2       **【4\_\_\_\_】**.

3           “(7) Climate change health protection pursuant  
4       to section **【4\_\_\_\_】**.

5           “(8) Wildlife and natural resource adaptation  
6       pursuant to section **【4\_\_\_\_】**.

7           “(9) Supplemental agriculture and renewable  
8       energy pursuant to section **【4\_\_\_\_】**.

9           “(10) Climate change consumer refunds pursu-  
10       ant to section **【\_\_\_\_\_】**.

11       “(c) DEFICIT REDUCTION.—

12           “(1) IN GENERAL.—The Administrator shall—

13               “(A) auction, pursuant to section 789,  
14               emission allowances for deficit reduction, pursu-  
15               ant to **【section 796】**, in the amounts described  
16               in paragraph (2); and

17               “(B) deposit those proceeds immediately  
18               on receipt in the Deficit Reduction Fund estab-  
19               lished in **【section 796】**.

20           “(2) AMOUNTS.—For vintage years 2012  
21       through 2050, 25.0 percent of emission allowances  
22       established for each year under section 721(a) shall  
23       be auctioned and the proceeds deposited pursuant to  
24       paragraph (1) to ensure that this title does not con-

1       tribute to the deficit for that particular calendar  
2       year.

3       **“SEC. 783. ELECTRICITY CONSUMERS.**

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

5               “(1) COAL-FUELED UNIT.—The term ‘coal-  
6       fueled unit’ means a utility unit that derives at least  
7       85 percent of its heat input from coal, petroleum  
8       coke, or any combination of those 2 fuels.

9               “(2) COST-EFFECTIVE.—The term ‘cost-effec-  
10      tive’, with respect to an energy efficiency program,  
11      means that the program meets the total resource  
12      cost test, which requires that the net present value  
13      of economic benefits over the life of the program, in-  
14      cluding avoided supply and delivery costs and de-  
15      ferred or avoided investments, is greater than the  
16      net present value of the economic costs over the life  
17      of the program, including program costs and incre-  
18      mental costs borne by the energy consumer.

19              “(3) ELECTRICITY LOCAL DISTRIBUTION COM-  
20      PANY.—The term ‘electricity local distribution com-  
21      pany’ means an electric utility—

22                      “(A) that has a legal, regulatory, or con-  
23                      tractual obligation to deliver electricity directly  
24                      to retail consumers in the United States, re-  
25                      gardless of whether that entity or another enti-

1           ty sells the electricity as a commodity to those  
2           retail consumers; and

3           “(B) the retail rates of which, except in  
4           the case of an electric cooperative, are regulated  
5           or set by—

6                   “(i) a State regulatory authority;

7                   “(ii) a State or political subdivision  
8                   thereof (or an agency or instrumentality  
9                   of, or corporation wholly owned by, either  
10                  of the foregoing); or

11                  “(iii) an Indian tribe pursuant to trib-  
12                  al law.

13           “(4) ELECTRICITY SAVINGS; RENEWABLE EN-  
14           ERGY RESOURCE.—The terms ‘electricity savings’  
15           and ‘renewable energy resource’ shall have the  
16           meaning given those terms in section 610 of the  
17           Public Utility Regulatory Policies Act of 1978  
18           **【Legis. Counsel note: This section (which was added**  
19           **by section 101 of the House-passed bill) is not in-**  
20           **cluded in this draft, so this reference should be**  
21           **modified.】**.

22           “(5) INDEPENDENT POWER PRODUCTION FA-  
23           CILITY.—The term ‘independent power production  
24           facility’ means a facility—

1           “(A) that is used for the generation of  
2           electric energy, at least 80 percent of which is  
3           sold at wholesale; and

4           “(B) the sales of the output of which are  
5           not subject to retail rate regulation or setting  
6           of retail rates by—

7                   “(i) a State regulatory authority;

8                   “(ii) a State or political subdivision  
9                   thereof (or an agency or instrumentality  
10                   of, or corporation wholly owned by, either  
11                   of the foregoing);

12                   “(iii) an electric cooperative; or

13                   “(iv) an Indian tribe pursuant to trib-  
14                   al law.

15           “(6) LONG-TERM CONTRACT GENERATOR.—The  
16           term ‘long-term contract generator’ means a quali-  
17           fying small power production facility, a qualifying  
18           cogeneration facility ), an independent power pro-  
19           duction facility, or a facility for the production of  
20           electric energy for sale to others that is owned and  
21           operated by an electric cooperative that is—

22                   “(A) a covered entity; and

23                   “(B) as of the date of enactment of this  
24           title—

1           “(i) a facility with 1 or more sales or  
2 tolling agreements executed before March  
3 1, 2007, that govern the facility’s elec-  
4 tricity sales and provide for sales at a price  
5 (whether a fixed price or a price formula)  
6 for electricity that does not allow for recov-  
7 ery of the costs of compliance with the lim-  
8 itation on greenhouse gas emissions under  
9 this title, provided that such agreements  
10 are not between entities that are affiliates  
11 of one another; or

12           “(ii) a facility consisting of 1 or more  
13 cogeneration units that makes useful ther-  
14 mal energy available to an industrial or  
15 commercial process with 1 or more sales  
16 agreements executed before March 1,  
17 2007, that govern the facility’s useful ther-  
18 mal energy sales and provide for sales at  
19 a price (whether a fixed price or price for-  
20 mula) for useful thermal energy that does  
21 not allow for recovery of the costs of com-  
22 pliance with the limitation on greenhouse  
23 gas emissions under this title, provided  
24 that such agreements are not between enti-  
25 ties that are affiliates of one another.

1           “(7) MERCHANT COAL UNIT.—The term ‘mer-  
2           chant coal unit’ means a coal-fueled unit that—

3                   “(A) is or is part of a covered entity;

4                   “(B) is not owned by a Federal, State, or  
5           regional agency or power authority; and

6                   “(C) generates electricity solely for sale to  
7           others, provided that all or a portion of such  
8           sales are made by a separate legal entity that—

9                   “(i) has a full or partial ownership or  
10           leasehold interest in the unit, as certified  
11           in accordance with such requirements as  
12           the Administrator shall prescribe; and

13                   “(ii) is not subject to retail rate regu-  
14           lation or setting of retail rates by—

15                   “(I) a State regulatory authority;

16                   “(II) a State or political subdivi-  
17           sion thereof (or an agency or instru-  
18           mentality of, or corporation wholly  
19           owned by, either of the foregoing);

20                   “(III) an electric cooperative; or

21                   “(IV) an Indian tribe pursuant  
22           to tribal law.

23           “(8) MERCHANT COAL UNIT SALES.—The term  
24           ‘merchant coal unit sales’ means sales to others of  
25           electricity generated by a merchant coal unit that



1 are made by the owner or leaseholder described in  
2 paragraph (6)(C).

3 “(9) NEW COAL-FUELED UNIT.—The term ‘new  
4 coal-fueled unit’ means a coal-fueled unit that com-  
5 menced operation on or after January 1, 2009 and  
6 before January 1, 2013.

7 “(10) NEW MERCHANT COAL UNIT.—The term  
8 ‘new merchant coal unit’ means a merchant coal  
9 unit—

10 “(A) that commenced operation on or after  
11 January 1, 2009 and before January 1, 2013;  
12 and

13 “(B) the actual, on-site construction of  
14 which commenced prior to January 1, 2009.

15 “(11) QUALIFYING SMALL POWER PRODUCTION  
16 FACILITY; QUALIFYING COGENERATION FACILITY.—  
17 The terms ‘qualifying small power production facil-  
18 ity’ and ‘qualifying cogeneration facility’ have the  
19 meanings given those terms in section 3(17)(C) and  
20 3(18)(B) of the Federal Power Act (16 U.S.C.  
21 796(17)(C) and 796(18)(B)).

22 “(12) SMALL LDC.—The term ‘small LDC’  
23 means, for any given year, an electricity local dis-  
24 tribution company that delivered less than 4,000,000

1 megawatt hours of electric energy directly to retail  
2 consumers in the preceding year.

3 “(13) STATE REGULATORY AUTHORITY.—The  
4 term ‘State regulatory authority’ has the meaning  
5 given that term in section 3(17) of the Public Utility  
6 Regulatory Policies Act of 1978 (16 U.S.C.  
7 2602(17)).

8 “(14) USEFUL THERMAL ENERGY.—The term  
9 ‘useful thermal energy’ has the meaning given that  
10 term in section 371(7) of the Energy Policy and  
11 Conservation Act (42 U.S.C. 6341(7)).

12 “(b) ELECTRICITY LOCAL DISTRIBUTION COMPA-  
13 NIES.—

14 “(1) DISTRIBUTION OF ALLOWANCES.—Not  
15 later than September 30, 2011, and each calendar  
16 year thereafter through 2028, the Administrator  
17 shall distribute to electricity local distribution com-  
18 panies for the benefit of retail ratepayers the quan-  
19 tity of emission allowances allocated for the fol-  
20 lowing vintage year pursuant to section 782(a)(1).  
21 Notwithstanding the preceding sentence, the Admin-  
22 istrator shall withhold from distribution under this  
23 subsection a quantity of emission allowances equal to  
24 the lesser of 14.3 percent of the quantity of emission  
25 allowances allocated under section 782(a)(1) for the

1 relevant vintage year, or 105 percent of the emission  
2 allowances for the relevant vintage year that the Ad-  
3 ministrator anticipates will be distributed to mer-  
4 chant coal units and to long-term contract genera-  
5 tors, respectively, under subsections (c) and (d). If  
6 not required by subsections (c) and (d) to distribute  
7 all of these reserved allowances, the Administrator  
8 shall distribute any remaining emission allowances  
9 to electricity local distribution companies in accord-  
10 ance with this subsection.

11 “(2) DISTRIBUTION BASED ON EMISSIONS.—

12 “(A) IN GENERAL.—For each vintage year,  
13 50 percent of the emission allowances available  
14 for distribution under paragraph (1), after re-  
15 serving allowances for distribution under sub-  
16 sections (c) and (d), shall be distributed by the  
17 Administrator among individual electricity local  
18 distribution companies ratably based on the an-  
19 nual average carbon dioxide emissions attrib-  
20 utable to generation of electricity delivered at  
21 retail by each such company during the base  
22 period determined under subparagraph (B).

23 “(B) BASE PERIOD.—

24 “(i) VINTAGE YEARS 2012 AND 2013.—

25 For vintage years 2012 and 2013, an elec-



1 “(C) DETERMINATION OF EMISSIONS.—

2 “(i) DETERMINATION FOR 1999–  
3 2008.—As part of the regulations promul-  
4 gated pursuant to subsection (g), the Ad-  
5 ministrator, after consultation with the  
6 Energy Information Administration, shall  
7 determine the average amount of carbon  
8 dioxide emissions attributable to genera-  
9 tion of electricity delivered at retail by  
10 each electricity local distribution company  
11 for each of the years 1999 through 2008,  
12 taking into account entities’ electricity gen-  
13 eration, electricity purchases, and elec-  
14 tricity sales. In the case of any electricity  
15 local distribution company that owns, co-  
16 owns, or purchases through a power pur-  
17 chase agreement (whether directly or  
18 through a cooperative arrangement) a sub-  
19 stantial portion of the electricity generated  
20 by, a coal-fueled unit that commenced op-  
21 eration after January 1, 2006, and before  
22 December 31, 2008, the Administrator  
23 shall adjust the emissions attributable to  
24 such company’s retail deliveries in calendar  
25 years 2006 through 2008 to reflect the

1 emissions that would have occurred if the  
2 relevant unit were in operation during the  
3 entirety of such 3-year period.

4 “(ii) ADJUSTMENTS FOR NEW COAL-  
5 FUELED UNITS.—

6 “(I) VINTAGE YEARS 2012 AND  
7 2013.—For purposes of emission al-  
8 lowance distributions for vintage years  
9 2012 and 2013, in the case of any  
10 electricity local distribution company  
11 that owns, co-owns, or purchases  
12 through a power purchase agreement  
13 (whether directly or through a cooper-  
14 ative arrangement) a substantial por-  
15 tion of the electricity generated by, a  
16 new coal-fueled unit, the Adminis-  
17 trator shall adjust the emissions at-  
18 tributable to such company’s retail de-  
19 liveries in the applicable base period  
20 to reflect the emissions that would  
21 have occurred if the new coal-fueled  
22 unit were in operation during such pe-  
23 riod.

24 “(II) VINTAGE YEAR 2014 AND  
25 THEREAFTER.—Not later than nec-

1           essary for use in making emission al-  
2           lowance distributions under this sub-  
3           section for vintage year 2014, the Ad-  
4           ministrator shall, for any electricity  
5           local distribution company that owns,  
6           co-owns, or purchases through a  
7           power purchase agreement (whether  
8           directly or through a cooperative ar-  
9           rangement) a substantial portion of  
10          the electricity generated by a new  
11          coal-fueled unit and has selected cal-  
12          endar year 2012 as its base period  
13          pursuant to subparagraph (B)(ii)(II),  
14          determine the amount of carbon diox-  
15          ide emissions attributable to genera-  
16          tion of electricity delivered at retail by  
17          such company in calendar year 2012.  
18          If the relevant new coal-fueled unit  
19          was not yet operational by January 1,  
20          2012, the Administrator shall adjust  
21          such determination to reflect the  
22          emissions that would have occurred if  
23          such unit were in operation for all of  
24          calendar year 2012.

1                   “(iii)    REQUIREMENTS.—Determina-  
2                   tions under this paragraph shall be as pre-  
3                   cise as practicable, taking into account the  
4                   nature of data currently available and the  
5                   nature of markets and regulation in effect  
6                   in various regions of the country. The fol-  
7                   lowing requirements shall apply to such de-  
8                   terminations:

9                   “(I) The Administrator shall de-  
10                  termine the amount of fossil fuel-  
11                  based electricity delivered at retail by  
12                  each electricity local distribution com-  
13                  pany, and shall use appropriate emis-  
14                  sion factors to calculate carbon diox-  
15                  ide emissions associated with the gen-  
16                  eration of such electricity.

17                  “(II) Where it is not practical to  
18                  determine the precise fuel mix for the  
19                  electricity delivered at retail by an in-  
20                  dividual electricity local distribution  
21                  company, the Administrator may use  
22                  the best available data, including aver-  
23                  age data on a regional basis with ref-  
24                  erence to Regional Transmission Or-  
25                  ganizations or regional entities (as



1                   that term is defined in section  
2                   215(a)(7) of the Federal Power Act  
3                   (16 U.S.C. 824o(a)(7)), to estimate  
4                   fuel mix and emissions. Different  
5                   methodologies may be applied in dif-  
6                   ferent regions if appropriate to obtain  
7                   the most accurate estimate.

8                   “(3) DISTRIBUTION BASED ON DELIVERIES.—

9                   “(A) INITIAL FORMULA.—Except as pro-  
10                  vided in subparagraph (B), for each vintage  
11                  year, the Administrator shall distribute 50 per-  
12                  cent of the emission allowances available for  
13                  distribution under paragraph (1), after reserv-  
14                  ing allowances for distribution under sub-  
15                  sections (c) and (d), among individual elec-  
16                  tricity local distribution companies ratably  
17                  based on each electricity local distribution com-  
18                  pany’s annual average retail electricity deliv-  
19                  eries for calendar years 2006 through 2008, un-  
20                  less the owner or operator of the company se-  
21                  lects 3 other consecutive years between 1999  
22                  and 2008, inclusive, and timely notifies the Ad-  
23                  ministrator of its selection.

24                  “(B) UPDATING.—Prior to distributing  
25                  2015 vintage year emission allowances under

1           this paragraph and at 3-year intervals there-  
2           after, the Administrator shall update the dis-  
3           tribution formula under this paragraph to re-  
4           flect changes in each electricity local distribu-  
5           tion company's service territory since the most  
6           recent formula was established. For each suc-  
7           cessive 3-year period, the Administrator shall  
8           distribute allowances ratably among individual  
9           electricity local distribution companies based on  
10          the product of—

11                   “(i) each electricity local distribution  
12                   company's average annual deliveries per  
13                   customer during calendar years 2006  
14                   through 2008, or during the 3 alternative  
15                   consecutive years selected by such company  
16                   under subparagraph (A); and

17                   “(ii) the number of customers of such  
18                   electricity local distribution company in the  
19                   most recent year in which the formula is  
20                   updated under this subparagraph.

21                   “(4) PROHIBITION AGAINST EXCESS DISTRIBUTIONS.—The regulations promulgated under sub-  
22                   section (g) shall ensure that, notwithstanding para-  
23                   graphs (2) and (3), no electricity local distribution  
24                   company shall receive a greater quantity of allow-  
25



1                   “(i) among ratepayer classes ratably  
2                   based on electricity deliveries to each class;  
3                   and

4                   “(ii) equitably among individual rate-  
5                   payers within each ratepayer class, includ-  
6                   ing entities that receive emission allow-  
7                   ances pursuant to part F.

8                   “(C) LIMITATION.—In general, an elec-  
9                   tricity local distribution company shall not use  
10                  the value of emission allowances distributed  
11                  under this subsection to provide to any rate-  
12                  payer a rebate that is based solely on the quan-  
13                  tity of electricity delivered to such ratepayer.  
14                  To the extent an electricity local distribution  
15                  company uses the value of emission allowances  
16                  distributed under this subsection to provide re-  
17                  bates, it shall, to the maximum extent prac-  
18                  ticable, provide such rebates with regard to the  
19                  fixed portion of ratepayers’ bills or as a fixed  
20                  credit or rebate on electricity bills.

21                  “(D) RESIDENTIAL AND INDUSTRIAL  
22                  RATEPAYERS.—Notwithstanding subparagraph  
23                  (C), if compliance with the requirements of this  
24                  title results (or would otherwise result) in an  
25                  increase in electricity costs for residential or in-

1 industrial retail ratepayers of any given electricity  
2 local distribution company (including entities  
3 that receive emission allowances pursuant to  
4 part F), such electricity local distribution com-  
5 pany—

6 “(i) shall pass through to residential  
7 retail ratepayers as a class their ratable  
8 share (based on deliveries to each rate-  
9 payer class) of the value of the emission al-  
10 lowances that reduce electricity cost im-  
11 pacts on such ratepayers; and

12 “(ii) shall pass through to industrial  
13 ratepayers as a class their ratable share  
14 (based on deliveries to each ratepayer  
15 class) of the value of the emission allow-  
16 ances that reduce electricity cost impacts  
17 on such ratepayers. The electricity local  
18 distribution company may do so based on  
19 the quantity of electricity delivered to indi-  
20 vidual industrial retail ratepayers.

21 “(E) GUIDELINES.—As part of the regula-  
22 tions promulgated under subsection (g), the Ad-  
23 ministrator shall, after consultation with State  
24 regulatory authorities, prescribe guidelines for

1 the implementation of the requirements of this  
2 paragraph. Such guidelines shall include—

3 “(i) requirements to ensure that resi-  
4 dential and industrial retail ratepayers (in-  
5 cluding entities that receive emission allow-  
6 ances under part F) receive their ratable  
7 share of the value of the allowances dis-  
8 tributed to each electricity local distribu-  
9 tion company pursuant to this subsection;  
10 and

11 “(ii) requirements for measurement,  
12 verification, reporting, and approval of  
13 methods used to assure the use of allow-  
14 ance values to benefit retail ratepayers.

15 “(6) REGULATORY PROCEEDINGS.—

16 “(A) REQUIREMENT.—No electricity local  
17 distribution company shall be eligible to receive  
18 emission allowances under this subsection or  
19 subsection (e) unless the State regulatory au-  
20 thority with authority over such company’s re-  
21 tail rates, or the entity with authority to regu-  
22 late or set retail electricity rates of an elec-  
23 tricity local distribution company not regulated  
24 by a State regulatory authority, has—

1           “(i) after public notice and an oppor-  
2           tunity for comment, promulgated a regula-  
3           tion or completed a rate proceeding (or the  
4           equivalent, in the case of a ratemaking en-  
5           tity other than a State regulatory author-  
6           ity) that provides for the full implementa-  
7           tion of the requirements of paragraph (5)  
8           of this subsection and the requirements of  
9           subsection (e); and

10           “(ii) made available to the Adminis-  
11           trator and the public a report describing,  
12           in adequate detail, the manner in which  
13           the requirements of paragraph (5) and the  
14           requirements of subsection (e) will be im-  
15           plemented.

16           “(B) UPDATING.—The Administrator shall  
17           require, as a condition of continued receipt of  
18           emission allowances under this subsection by an  
19           electricity local distribution company, that a  
20           new regulation be promulgated or rate pro-  
21           ceeding be completed , after public notice and  
22           an opportunity for comment, and a new report  
23           be made available to the Administrator and the  
24           public, pursuant to subparagraph (A), not less  
25           frequently than every 5 years.

1           “(7) PLANS AND REPORTING.—

2                   “(A) REGULATIONS.—As part of the regu-  
3 lations promulgated under subsection (g), the  
4 Administrator shall prescribe requirements gov-  
5 erning plans and reports to be submitted in ac-  
6 cordance with this paragraph.

7                   “(B) PLANS.—Not later than April 30 of  
8 2011 and every 5 years thereafter through  
9 2026, each electricity local distribution com-  
10 pany shall submit to the Administrator a plan,  
11 approved by the State regulatory authority or  
12 other entity charged with regulating tor setting  
13 the retail rates of such company, describing  
14 such company’s plans for the disposition of the  
15 value of emission allowances to be received pur-  
16 suant to this subsection and subsection (e), in  
17 accordance with the requirements of this sub-  
18 section and subsection (e). Such plan shall in-  
19 clude a description of the manner in which the  
20 company will provide to industrial retail rate-  
21 payers (including entities that receive emission  
22 allowances under part F) their ratable share of  
23 the value of such allowances.

24                   “(C) REPORTS.—Not later than June 30,  
25 2013, and each calendar year thereafter



1 through 2031, each electricity local distribution  
2 company shall submit a report to the Adminis-  
3 trator, and to the relevant State regulatory au-  
4 thority or other entity charged with regulating  
5 or setting the retail electricity rates of such  
6 company, describing the disposition of the value  
7 of any emission allowances received by such  
8 company in the prior calendar year pursuant to  
9 this subsection and subsection (e), including—

10 “(i) a description of sales, transfer,  
11 exchange, or use by the company for com-  
12 pliance with obligations under this title, of  
13 any such emission allowances;

14 “(ii) the monetary value received by  
15 the company, whether in money or in some  
16 other form, from the sale, transfer, or ex-  
17 change of any such emission allowances;

18 “(iii) the manner in which the com-  
19 pany’s disposition of any such emission al-  
20 lowances complies with the requirements of  
21 this subsection and of subsection (e), in-  
22 cluding each of the requirements of para-  
23 graph (5) of this subsection, including the  
24 requirement that industrial retail rate-  
25 payers (including entities that receive

1 emission allowances under part F) receive  
2 their ratable share of the value of such al-  
3 lowances; and

4 “(iv) such other information as the  
5 Administrator may require pursuant to  
6 subparagraph (A).

7 “(D) PUBLICATION.—The Administrator  
8 shall make available to the public all plans and  
9 reports submitted under this subsection, includ-  
10 ing by publishing such plans and reports on the  
11 Internet.

12 “(8) ADMINISTRATOR AUDIT REPORTS.—

13 “(A) IN GENERAL.—Each year, the Ad-  
14 ministrator shall audit a representative sample  
15 of electricity local distribution companies to en-  
16 sure that emission allowances distributed under  
17 this subsection have been used exclusively for  
18 the benefit of retail ratepayers and that such  
19 companies are complying with the requirements  
20 of this subsection and of subsection (e), includ-  
21 ing the requirement that residential and indus-  
22 trial retail ratepayers (including entities that  
23 receive emission allowances under part F) re-  
24 ceive their ratable share of the value of such al-  
25 lowances. The Administrator shall assess the

1 degree to which electric local distribution com-  
2 panies have maintained a marginal electric  
3 price signal while protecting consumers on total  
4 cost using the value of emissions allowances. In  
5 selecting companies for audit, the Adminis-  
6 trator shall take into account any credible evi-  
7 dence of noncompliance with such requirements.  
8 The Administrator shall make available to the  
9 public a report describing the results of each  
10 such audit, including by publishing such report  
11 on the Internet.

12 “(B) GAO AUDIT REPORT.—Not later  
13 than April 30, 2015, and every 3 years there-  
14 after through 2026, the Comptroller General of  
15 the United States, incorporating results from  
16 the Administrators’ audit report and other rel-  
17 evant information including distribution com-  
18 pany reports, shall conduct an in-depth evalua-  
19 tion and make available to the public a report  
20 on the investments made pursuant to paragraph  
21 (5). Said report shall be made available to the  
22 State regulatory authority, or the entity with  
23 authority to regulate or set retail electricity  
24 rates in the case of an electricity distribution  
25 company that is not regulated by a State regu-

1 latory authority, and shall include a description  
2 of how the distribution companies in the audit  
3 meet or fail to meet the requirement of para-  
4 graph (5), including for investments made in  
5 cost-effective end-use energy efficiency pro-  
6 grams, the lifetime and annual energy saving  
7 benefits, and capacity benefits of said pro-  
8 grams.

9 “(C) ADMINISTRATOR COST CONTAINMENT  
10 REPORT.—Not later than April 30, 2015 and  
11 every 3 years thereafter through 2026, the Ad-  
12 ministrator shall transmit a report to Congress  
13 containing an evaluation of the disposition of  
14 the value of emission allowances received pursu-  
15 ant to this subsection and subsection (e) and  
16 recommendations of ways to more effectively di-  
17 rect the value of allowances to reduce costs for  
18 consumers, contain the overall costs of the  
19 greenhouse gas emissions reduction program,  
20 and meet the pollution reduction targets of the  
21 Act. The Administrator shall make available to  
22 the public such report, including by publishing  
23 such report on the Internet.

24 “(9) ENFORCEMENT.—A violation of any re-  
25 quirement of this subsection or of subsection (e), ir-

1       respective of approval by a State regulatory author-  
2       ity, shall be a violation of this Act. Each emission  
3       allowance the value of which is used in violation of  
4       the requirements of this subsection or of subsection  
5       (e) shall be a separate violation.

6       “(c) MERCHANT COAL UNITS.—

7             “(1) QUALIFYING EMISSIONS.—The qualifying  
8       emissions for a merchant coal unit for a given cal-  
9       endar year shall be the product of the number of  
10      megawatt hours of merchant coal unit sales gen-  
11      erated by such unit in such calendar year and the  
12      average carbon dioxide emissions per megawatt hour  
13      generated by such unit during the base period under  
14      paragraph (2), provided that the number of mega-  
15      watt hours in a given calendar year for purposes of  
16      such calculation shall be reduced in proportion to  
17      the portion of such unit’s carbon dioxide emissions  
18      that are either—

19             “(A) captured and sequestered in such cal-  
20      endar year; or

21             “(B) attributable to the combustion or gas-  
22      ification of biomass, to the extent that the  
23      owner or operator of the unit is not required to  
24      hold emission allowances for such emissions.

1           “(2) BASE PERIOD.—For purposes of this sub-  
2           section, the base period for a merchant coal unit  
3           shall be—

4                   “(A) calendar years 2006 through 2008; or

5                   “(B) in the case of a new merchant coal  
6           unit—

7                           “(i) the first full calendar year of op-  
8                           eration of such unit, if such unit com-  
9                           mences operation before January 1, 2012;

10                           “(ii) calendar year 2012, if such unit  
11                           commences operation on or after January  
12                           1, 2012, and before October 1, 2012; or

13                           “(iii) calendar year 2013, if such unit  
14                           commences operation on or after October  
15                           1, 2012, and before January 1, 2013.

16           “(3) PHASE-DOWN SCHEDULE.—The Adminis-  
17           trator shall identify an annual phase-down factor,  
18           applicable to distributions to merchant coal units for  
19           each of vintage years 2012 through 2029, that cor-  
20           responds to the overall decline in the amount of  
21           emission allowances allocated to the electricity sector  
22           in such years pursuant to section 782(a)(1). Such  
23           factor shall—

24                   “(A) for vintage year 2012, be equal to  
25                   1.0;

1           “(B) for each of vintage years 2013  
2 through 2029, correspond to the quotient of—

3           “(i) the quantity of emission allow-  
4 ances allocated under section 782(a)(1) for  
5 such vintage year; divided by

6           “(ii) the quantity of emission allow-  
7 ances allocated under section 782(a)(1) for  
8 vintage year 2012.

9           “(4) DISTRIBUTION OF EMISSION ALLOW-  
10 ANCES.—Not later than March 1 of 2013 and each  
11 calendar year through 2030, the Administrator shall  
12 distribute emission allowances of the preceding vin-  
13 tage year to the owner or operator of each merchant  
14 coal unit described in subsection (a)(6)(C) in an  
15 amount equal to the product of—

16           “(A) 0.5;

17           “(B) the qualifying emissions for such  
18 merchant coal unit for the preceding year, as  
19 determined under paragraph (1); and

20           “(C) the phase-down factor for the pre-  
21 ceding calendar year, as identified under para-  
22 graph (3).

23           “(5) ADJUSTMENT.—

24           “(A) STUDY.—Not later than July 1,  
25 2014, the Administrator, in consultation with

1 the Federal Energy Regulatory Commission,  
2 shall complete a study to determine whether the  
3 allocation formula under paragraph (3) is re-  
4 sulting in, or is likely to result in, windfall prof-  
5 its to merchant coal generators or substantially  
6 disparate treatment of merchant coal genera-  
7 tors operating in different markets or regions.

8 “(B) REGULATION.—If the Administrator,  
9 in consultation with the Federal Energy Regu-  
10 latory Commission, makes an affirmative find-  
11 ing of windfall profits or disparate treatment  
12 under subparagraph (A), the Administrator  
13 shall, not later than 18 months after the com-  
14 pletion of the study described in subparagraph  
15 (A), promulgate regulations providing for the  
16 adjustment of the allocation formula under  
17 paragraph (3) to mitigate, to the extent prac-  
18 ticable, such windfall profits, if any, and such  
19 disparate treatment, if any.

20 “(6) LIMITATION ON ALLOWANCES.—Notwith-  
21 standing paragraph (4) or (5), for each vintage year  
22 the Administrator shall distribute under this sub-  
23 section no more than 10 percent of the total quan-  
24 tity of emission allowances available for such vintage  
25 year for distribution to the electricity sector under



1 section 782(a)(1). If the quantity of emission allow-  
2 ances that would otherwise be distributed pursuant  
3 to paragraph (4) or (5) for any vintage year would  
4 exceed such limit, the Administrator shall distribute  
5 10 percent of the total emission allowances available  
6 for distribution under section 782(a)(1) for such vin-  
7 tage year ratably among merchant coal generators  
8 based on the applicable formula under paragraph (4)  
9 or (5).

10 “(7) ELIGIBILITY.—The owner or operator of a  
11 merchant coal unit shall not be eligible to receive  
12 emission allowances under this subsection for any  
13 vintage year for which such owner or operator has  
14 elected to receive emission allowances for the same  
15 unit under subsection (d).

16 “(d) LONG-TERM CONTRACT GENERATORS.—

17 “(1) DISTRIBUTION.—Not later than March 1,  
18 2013, and each calendar year through 2030, the Ad-  
19 ministrator shall distribute to the owner or operator  
20 of each long-term contract generator a quantity of  
21 emission allowances of the preceding vintage year  
22 that is equal to the sum of—

23 “(A) the number of tons of carbon dioxide  
24 emitted as a result of a qualifying electricity

1 sales agreement referred to in subsection  
2 (a)(5)(B)(i); and

3 “(B) the incremental number of tons of  
4 carbon dioxide emitted solely as a result of a  
5 qualifying thermal sales agreement referred to  
6 in subsection (a)(5)(B)(ii), provided that in no  
7 event shall the Administrator distribute more  
8 than 1 emission allowance for the same ton of  
9 emissions.

10 “(2) LIMITATION ON ALLOWANCES.—Notwith-  
11 standing paragraph (1), for each vintage year the  
12 Administrator shall distribute under this subsection  
13 no more than 4.3 percent of the total quantity of  
14 emission allowances available for such vintage year  
15 for distribution to the electricity sector under section  
16 782(a)(1). If the quantity of emission allowances  
17 that would otherwise be distributed pursuant to  
18 paragraph (1) for any vintage year would exceed  
19 such limit, the Administrator shall distribute 4.3  
20 percent of the total emission allowances available for  
21 distribution under section 782(a)(1) for such vintage  
22 year ratably among long-term contract generators  
23 based on paragraph (1).

24 “(3) ELIGIBILITY.—

1           “(A) FACILITY ELIGIBILITY.—The owner  
2 or operator of a facility shall cease to be eligible  
3 to receive emission allowances under this sub-  
4 section upon the earliest date on which the fa-  
5 cility no longer meets each and every element of  
6 the definition of a long-term contract generator  
7 under subsection (a)(5).

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)(5)(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  
18 price (whether a fixed price or price for-  
19 mula) for electricity or thermal energy sold  
20 under such agreement, the quantity of  
21 electricity or thermal energy sold under the  
22 agreement, or the expiration or termi-  
23 nation date of the 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  
2 contract generator shall submit each of the following  
3 in writing to the Administrator within 180 days  
4 after the date of enactment of this title, and not  
5 later than September 30 of each vintage year for  
6 which such generator wishes to receive emission al-  
7 lowances:

8 “(A) A certificate of representation de-  
9 scribed in section 700(15).

10 “(B) An identification of each owner and  
11 each operator of the facility.

12 “(C) An identification of the units at the  
13 facility and the location of the facility.

14 “(D) A written certification by the des-  
15 igned representative that the facility meets all  
16 the requirements of the definition of a long-  
17 term contract generator.

18 “(E) The expiration date of each quali-  
19 fying electricity or thermal sales agreement re-  
20 ferred to in subsection (a)(5)(B).

21 “(F) A copy of each qualifying electricity  
22 or thermal sales agreement referred to in sub-  
23 section (a)(5)(B).

24 “(5) NOTIFICATION.—Not later than 30 days  
25 after, in accordance with paragraph (3), a facility or

1 an agreement ceases to meet the eligibility require-  
2 ments for distribution of emission allowances pursu-  
3 ant to this subsection, the designated representative  
4 of such facility shall notify the Administrator in  
5 writing when, and on what basis, such facility or  
6 agreement ceased to meet such requirements.

7 “(e) SMALL LDCs.—

8 “(1) DISTRIBUTION.—Not later than Sep-  
9 tember 30 of each calendar year from 2011 through  
10 2028, the Administrator shall, in accordance with  
11 this subsection, distribute emission allowances allo-  
12 cated pursuant to section 782(a)(2) for the following  
13 vintage year. Such allowances shall be distributed  
14 ratably among small LDCs based on historic emis-  
15 sions in accordance with the same measure of such  
16 emissions applied to each such small LDC for the  
17 relevant vintage year under subsection (b)(2) of this  
18 section.

19 “(2) USES.—A small LDC receiving allowances  
20 under this section shall use such allowances exclu-  
21 sively for the following purposes:

22 “(A) Cost-effective programs to achieve  
23 electricity savings, provided that such savings  
24 shall not be transferred or used for compliance  
25 with section 610 of the Public Utility Regu-

1 latory Policies Act of 1978 [see above Legis.  
2 Counsel note].

3 “(B) Deployment of technologies to gen-  
4 erate electricity from renewable energy re-  
5 sources, provided that any Federal renewable  
6 electricity credits issued based on generation  
7 supported under this section shall be submitted  
8 to the Federal Energy Regulatory Commission  
9 for voluntary retirement and shall not be used  
10 for compliance with section 610 of the Public  
11 Utility Regulatory Policies Act of 1978 [see  
12 above note].

13 “(C) Assistance programs to reduce elec-  
14 tricity costs for low-income residential rate-  
15 payers of such small LDC, provided that such  
16 assistance is made available equitably to all res-  
17 idential ratepayers below a certain income level,  
18 which shall not be higher than 200 percent of  
19 the poverty line (as that term is defined in sec-  
20 tion 673(2) of the Community Services Block  
21 Grant Act (42 U.S.C. 9902(2)).

22 “(3) REQUIREMENTS.—As part of the regula-  
23 tions promulgated under subsection (g), the Admin-  
24 istrator shall prescribe—

1           “(A) after consultation with the Federal  
2           Energy Regulatory Commission, requirements  
3           to ensure that programs and projects under  
4           paragraph (2)(A) and (B) are consistent with  
5           the standards established by, and effectively  
6           supplement electricity savings and generation of  
7           electricity from renewable energy resources  
8           achieved by, the Combined Efficiency and Re-  
9           newable Electricity Standard established under  
10          section 610 of the Public Utility Regulatory  
11          Policies Act of 1978 [see above note];

12           “(B) eligibility criteria and guidelines for  
13          consumer assistance programs for low-income  
14          residential ratepayers under paragraph (2)(C);  
15          and

16           “(C) such other requirements as the Ad-  
17          ministrator determines appropriate to ensure  
18          compliance with the requirements of this sub-  
19          section.

20          “(4) REPORTING.—Reports submitted under  
21          subsection (b)(7) shall include, in accordance with  
22          such requirements as the Administrator may pre-  
23          scribe—

24           “(A) a description of any facilities de-  
25          ployed under paragraph (2)(A), the quantity of

1 resulting electricity generation from renewable  
2 energy resources;

3 “(B) an assessment demonstrating the  
4 cost-effectiveness of, and electricity savings  
5 achieved by, programs supported under para-  
6 graph (2)(B); and

7 “(C) a description of assistance provided to  
8 low-income retail ratepayers under paragraph  
9 (2)(C).

10 “(f) CERTAIN COGENERATION FACILITIES.—

11 “(1) ELIGIBLE COGENERATION FACILITIES.—

12 For purposes of this subsection, an ‘eligible cogen-  
13 eration facility’ is a facility that—

14 “(A) is a qualifying co-generation facility  
15 (as that term is defined in section 3(18)(B) of  
16 the Federal Power Act (16 U.S.C. 796(18)(B));

17 “(B) derives 80 percent or more of its heat  
18 input from coal, petroleum coke, or any com-  
19 bination of these 2 fuels;

20 “(C) has a nameplate capacity of 100  
21 megawatts or greater;

22 “(D) was in operation as of January 1,  
23 2009, and remains in operation as of the date  
24 of any distribution of emission allowances under  
25 this subsection;



1           “(E) in calendar years 2006 through 2008  
2 sold, and as of the date of any distribution of  
3 emission allowances under this section sells,  
4 steam or electricity directly and solely to mul-  
5 tiple, separately-owned industrial or commercial  
6 facilities co-located at the same site with the co-  
7 generation facility; and

8           “(F) is not eligible to receive allowances  
9 under any other subsection of this section or  
10 under part F of this title.

11           “(2) DISTRIBUTION.—The Administrator shall  
12 distribute the emission allowances allocated pursuant  
13 to section 782(a)(3) to owners or operators of eligi-  
14 ble cogeneration facilities ratably based on the car-  
15 bon dioxide emissions of each such facility in cal-  
16 endar years 2006 through 2008. The Adminis-  
17 trator—

18           “(A) shall not, in any year, distribute  
19 emission allowances under this subsection to the  
20 owner or operator of any eligible cogeneration  
21 facility in excess of the amount necessary to  
22 offset such facility’s cost of compliance with the  
23 requirements of this title in that year; and

24           “(B) may distribute such allowances over a  
25 period of years if annual distributions under

1           this subsection would otherwise exceed the limi-  
2           tation in subparagraph (A), provided that in no  
3           event shall distributions be made under this  
4           subsection after calendar year 2025.

5           “(3) REQUIREMENTS.—The Administrator  
6           shall, by regulation, establish requirements to ensure  
7           that the value of any emission allowances distributed  
8           pursuant to this subsection are passed through, on  
9           an equitable basis, to the facilities to which the rel-  
10          evant cogeneration facility provides electricity or  
11          steam deliveries, including any facility owned or op-  
12          erated by the owner or operator of the cogeneration  
13          facility.

14          “(g) REGULATIONS.—Not later than 2 years after  
15          the date of enactment of this title, the Administrator, in  
16          consultation with the Federal Energy Regulatory Commis-  
17          sion, shall promulgate regulations to implement the re-  
18          quirements of this section.

19          **“SEC. 784. NATURAL GAS CONSUMERS.**

20          “(a) DEFINITION.—For purposes of this section, the  
21          term ‘cost-effective’, with respect to an energy efficiency  
22          program, means that the program meets the Total Re-  
23          source Cost Test, which requires that the net present  
24          value of economic benefits over the life of the program,  
25          including avoided supply and delivery costs and deferred

1 or avoided investments, is greater than the net present  
2 value of the economic costs over the life of the program,  
3 including program costs and incremental costs borne by  
4 the energy consumer.

5 “(b) ALLOCATION.—Not later than June 30, 2015,  
6 and each calendar year thereafter through 2028, the Ad-  
7 ministrator shall distribute to natural gas local distribu-  
8 tion companies for the benefit of retail ratepayers the  
9 quantity of emission allowances allocated for the following  
10 vintage year pursuant to section 782(b). Such allowances  
11 shall be distributed among local natural gas distribution  
12 companies based on the following formula:

13 “(1) INITIAL FORMULA.—Except as provided in  
14 paragraph (2), for each vintage year, the Adminis-  
15 trator shall distribute emission allowances among  
16 natural gas local distribution companies on a pro  
17 rata basis based on each such company’s annual av-  
18 erage retail natural gas deliveries for 2006 through  
19 2008, unless the owner or operator of the company  
20 selects 3 other consecutive years between 1999 and  
21 2008, inclusive, and timely notifies the Adminis-  
22 trator of its selection.

23 “(2) UPDATING.—Prior to distributing 2019  
24 vintage emission allowances and at 3-year intervals  
25 thereafter, the Administrator shall update the dis-

1       tribution formula under this subsection to reflect  
2       changes in each natural gas local distribution com-  
3       pany's service territory since the most recent for-  
4       mula was established. For each successive 3-year pe-  
5       riod, the Administrator shall distribute allowances  
6       on a pro rata basis among natural gas local distribu-  
7       tion companies based on the product of—

8               “(A) each natural gas local distribution  
9               company's average annual natural gas deliveries  
10              per customer during calendar years 2006  
11              through 2008, or during the 3 alternative con-  
12              secutive years selected by such company under  
13              paragraph (1); and

14             “(B) the number of customers of such nat-  
15             ural gas local distribution company in the most  
16             recent year in which the formula is updated  
17             under this paragraph.

18       “(c) USE OF ALLOWANCES.—

19             “(1) RATEPAYER BENEFIT.—Emission allow-  
20             ances distributed to a natural gas local distribution  
21             company under this section shall be used exclusively  
22             for the benefit of retail ratepayers of such natural  
23             gas local distribution company and may not be used  
24             to support natural gas sales or deliveries to entities  
25             or persons other than such ratepayers.

1           “(2) RATEPAYER CLASSES.—In using emission  
2 allowances distributed under this section for the ben-  
3 efit of ratepayers, a natural gas local distribution  
4 company shall ensure that ratepayer benefits are  
5 distributed—

6           “(A) among ratepayer classes on a pro  
7 rata basis based on natural gas deliveries to  
8 each class; and

9           “(B) equitably among individual ratepayers  
10 within each ratepayer class.

11           “(3) LIMITATION.—A natural gas local dis-  
12 tribution company shall not use the value of emis-  
13 sion allowances distributed under this section to pro-  
14 vide to any ratepayer a rebate that is based solely  
15 on the quantity of natural gas delivered to such  
16 ratepayer. To the extent a natural gas local distribu-  
17 tion company uses the value of emission allowances  
18 distributed under this section to provide rebates, it  
19 shall, to the maximum extent practicable, provide  
20 such rebates with regard to the fixed portion of rate-  
21 payers’ bills or as a fixed creditor rebate on natural  
22 gas bills.

23           “(4) ENERGY EFFICIENCY PROGRAMS.—The  
24 value of no less than one-third of the emission allow-  
25 ances distributed to natural gas local distribution

1 companies pursuant to this section in any calendar  
2 year shall be used for cost-effective energy efficiency  
3 programs for natural gas consumers. Such programs  
4 must be authorized and overseen by the State regu-  
5 latory authority, or by the entity with regulatory au-  
6 thority over retail natural gas rates in the case of  
7 a natural gas local distribution company that is not  
8 regulated by a State regulatory authority.

9 “(5) GUIDELINES.—As part of the regulations  
10 promulgated under subsection (h), the Administrator  
11 shall prescribe specific guidelines for the implemen-  
12 tation of the requirements of this subsection.

13 “(d) REGULATORY PROCEEDINGS.—

14 “(1) REQUIREMENT.—No natural gas local dis-  
15 tribution company shall be eligible to receive emis-  
16 sion allowances under this section unless the State  
17 regulatory authority with authority over such com-  
18 pany, or the entity with authority to regulate retail  
19 rates of a natural gas local distribution company not  
20 regulated by a State regulatory authority, has—

21 “(A) promulgated a regulation or com-  
22 pleted a rate proceeding (or the equivalent, in  
23 the case of a ratemaking entity other than a  
24 State regulatory authority) that provides for

1 the full implementation of the requirements of  
2 subsection (c); and

3 “(B) made available to the Administrator  
4 and the public a report describing, in adequate  
5 detail, the manner in which the requirements of  
6 subsection (c) will be implemented.

7 “(2) UPDATING.—The Administrator shall re-  
8 quire, as a condition of continued receipt of emission  
9 allowances under this section, that a new regulation  
10 be promulgated or rule proceeding be completed, and  
11 a new report be made available to the Administrator  
12 and the public, pursuant to paragraph (1), not less  
13 frequently than every 5 years.

14 “(e) PLANS AND REPORTING.—

15 “(1) REGULATIONS.—As part of the regulations  
16 promulgated under subsection (h), the Administrator  
17 shall prescribe requirements governing plans and re-  
18 ports to be submitted in accordance with this sub-  
19 section.

20 “(2) PLANS.—Not later than April 30, 2015,  
21 and every 5 years thereafter through 2025, each  
22 natural gas local distribution company shall submit  
23 to the Administrator a plan, approved by the State  
24 regulatory authority or other entity charged with  
25 regulating the retail rates of such company, describ-

1       ing such company’s plans for the disposition of the  
2       value of emission allowances to be received pursuant  
3       to this section, in accordance with the requirements  
4       of this section.

5           “(3) REPORTS.—Not later than June 30, 2017,  
6       and each calendar year thereafter through 2031,  
7       each natural gas local distribution company shall  
8       submit a report to the Administrator, approved by  
9       the relevant State regulatory authority or other enti-  
10      ty charged with regulating the retail natural gas  
11      rates of such company, describing the disposition of  
12      the value of any emission allowances received by  
13      such company in the prior calendar year pursuant to  
14      this subsection, including—

15           “(A) a description of sales, transfer, ex-  
16      change, or use by the company for compliance  
17      with obligations under this title, of any such  
18      emission allowances;

19           “(B) the monetary value received by the  
20      company, whether in money or in some other  
21      form, from the sale, transfer, or exchange of  
22      emission allowances received by the company  
23      under this section;

24           “(C) the manner in which the company’s  
25      disposition of emission allowances received



1 under this subsection complies with the require-  
2 ments of this section, including each of the re-  
3 quirements of subsection (c);

4 “(D) the cost-effectiveness of, and energy  
5 savings achieved by, energy efficiency programs  
6 supported through such emission allowances;  
7 and

8 “(E) such other information as the Admin-  
9 istrator may require pursuant to paragraph (1).

10 “(4) PUBLICATION.—The Administrator shall  
11 make available to the public all plans and reports  
12 submitted by natural gas local distribution compa-  
13 nies under this subsection, including by publishing  
14 such plans and reports on the Internet.

15 “(f) AUDITING.—

16 “(1) ADMINISTRATOR AUDIT REPORT.—Each  
17 year, the Administrator shall audit a significant rep-  
18 resentative sample of natural gas local distribution  
19 companies to ensure that emission allowances dis-  
20 tributed under this section have been used exclu-  
21 sively for the benefit of retail ratepayers and that  
22 such companies are complying with the requirements  
23 of this section. In selecting companies for audit, the  
24 Administrator shall take into account any credible  
25 evidence of noncompliance with such requirements.

1       The Administrator shall make available to the public  
2       a report describing the results of each such audit,  
3       including by publishing such report on the Internet.

4           “(2) GAO AUDIT REPORT.—Not later April 30,  
5       2015 and every 3 years thereafter through April 30,  
6       2026, the Comptroller General of the United States,  
7       incorporating results from the Administrators’ audit  
8       report and other relevant information including dis-  
9       tribution company reports, shall conduct an in-depth  
10      evaluation and make available to the public a report  
11      on the investments made pursuant to subsection (c).  
12      Said report shall be made available to the State reg-  
13      ulatory authority, or the entity with authority to  
14      regulate or set retail natural gas rates in the case  
15      of a natural gas distribution company that is not  
16      regulated by a State regulatory authority, and shall  
17      include a description how the distribution companies  
18      in the audit meet or fail to meet the requirement of  
19      subsection (c), including for investments made in  
20      cost-effective end-use energy efficiency programs, the  
21      lifetime and annual energy saving benefits, and ca-  
22      pacity benefits of said programs.

23           “(3) ADMINISTRATOR COST CONTAINMENT RE-  
24      PORT.—Not later April 30, 2015, and every 3 years  
25      thereafter through April 30, 2026, the Adminis-

1 trator shall transmit a report to Congress containing  
2 an evaluation of the disposition of the value of emis-  
3 sion allowances received pursuant to this subsection  
4 and recommendations of ways to more effectively di-  
5 rect the value of allowances to reduce costs for con-  
6 sumers, contain the overall costs of the greenhouse  
7 gas emissions reduction program, and meet the pol-  
8 lution reduction targets of the Act. The Adminis-  
9 trator shall make available to the public such report,  
10 including by publishing such report on the Internet.

11 “(g) ENFORCEMENT.—A violation of any require-  
12 ment of this section, irrespective of approval by a State  
13 regulatory authority, shall be a violation of this Act. Each  
14 emission allowance the value of which is used in violation  
15 of the requirements of this section shall be a separate vio-  
16 lation.

17 “(h) REGULATIONS.—Not later than January 1,  
18 2014, the Administrator, in consultation with the Federal  
19 Energy Regulatory Commission, shall promulgate regula-  
20 tions to implement the requirements of this section.

21 **“SEC. 785. HOME HEATING OIL AND PROPANE CONSUMERS.**

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

23 “(1) CARBON CONTENT.—The term ‘carbon  
24 content’ means the amount of carbon dioxide that

1 would be emitted as a result of the combustion of a  
2 fuel.

3 “(2) COST-EFFECTIVE.—The term ‘cost-effec-  
4 tive’ has the meaning given that term in section  
5 784(a)(2).

6 “(b) ALLOCATION.—Not later than September 30 of  
7 each of calendar years 2012 through 2029, the Adminis-  
8 trator shall distribute among the States, in accordance  
9 with this section, the quantity of emission allowances allo-  
10 cated pursuant to section 782(c). The Administrator shall  
11 distribute a percentage of such allowances determined by  
12 the Administrator, after consultation with the Secretary  
13 of the Interior, pursuant to subsection (f).

14 “(c) DISTRIBUTION AMONG STATES.—The Adminis-  
15 trator shall distribute emission allowances among the  
16 States under this section each year on a pro rata basis  
17 based on the ratio of—

18 “(1) the carbon content of home heating oil and  
19 propane sold to consumers within each State in the  
20 preceding year for residential or commercial uses; to

21 “(2) the carbon content of home heating oil and  
22 propane sold to consumers within the United States  
23 in the preceding year for residential or commercial  
24 uses.

25 “(d) USE OF ALLOWANCES.—

1           “(1) IN GENERAL.—States shall use emission  
2 allowances distributed under this section exclusively  
3 for the benefit of consumers of home heating oil or  
4 propane for residential or commercial purposes.  
5 Such proceeds shall be used exclusively for—

6           “(A) cost-effective energy efficiency pro-  
7 grams for consumers that use home heating oil  
8 or propane for residential or commercial pur-  
9 poses; or

10           “(B) rebates or other direct financial as-  
11 sistance programs for consumers of home heat-  
12 ing oil or propane used for residential or com-  
13 mercial purposes.

14           “(2) ADMINISTRATION AND DELIVERY MECHA-  
15 NISMS.—In administering programs supported by  
16 this section, States shall—

17           “(A) use no less than 50 percent of the  
18 value of emission allowances received under this  
19 section for cost-effective energy efficiency pro-  
20 grams to reduce consumers’ overall fuel costs;

21           “(B) to the extent practicable, deliver con-  
22 sumer support under this section through exist-  
23 ing energy efficiency and consumer energy as-  
24 sistance programs or delivery mechanisms, in-  
25 cluding, where appropriate, programs or mecha-

1 nisms administered by parties other than the  
2 State; and

3 “(C) seek to coordinate the administration  
4 and delivery of energy efficiency and consumer  
5 energy assistance programs supported under  
6 this section, with one another and with existing  
7 programs for various fuel types, so as to deliver  
8 comprehensive, fuel-blind, coordinated programs  
9 to consumers.

10 “(e) REPORTING.—Each State receiving emission al-  
11 lowances under this section shall submit to the Adminis-  
12 trator, within 12 months of each receipt of such allow-  
13 ances, a report, in accordance with such requirements as  
14 the Administrator may prescribe, that—

15 “(1) describes the State’s use of emission allow-  
16 ances distributed under this section, including a de-  
17 scription of the energy efficiency and consumer as-  
18 sistance programs supported with such allowances;

19 “(2) demonstrates the cost-effectiveness of, and  
20 the energy savings achieved by, energy efficiency  
21 programs supported under this section; and

22 “(3) includes a report prepared by an inde-  
23 pendent third party, in accordance with such regula-  
24 tions as the Administrator may promulgate, evalu-  
25 ating the performance of the energy efficiency and

1 consumer assistance programs supported under this  
2 section.

3 “(f) ENFORCEMENT.—If the Administrator deter-  
4 mines that a State is not in compliance with this section,  
5 the Administrator may withhold a portion of the emission  
6 allowances, the quantity of which is equal to up to twice  
7 the quantity of the allowances that the State failed to use  
8 in accordance with the requirements of this section, that  
9 such State would otherwise be eligible to receive under this  
10 section in later years. Allowances withheld pursuant to  
11 this subsection shall be distributed among the remaining  
12 States on a pro rata basis in accordance with the formula  
13 in subsection (c).

14 **“SEC. 786. ALLOCATIONS TO REFINERIES.**

15 “(a) PURPOSE.—The purpose of this section is to  
16 provide emission allowance rebates to petroleum refiners  
17 in the United States in a manner that promotes energy  
18 efficiency and a reduction in greenhouse gas emissions at  
19 such facilities.

20 “(b) DEFINITIONS.—In this section:

21 “(1) EMISSIONS.—The term ‘emissions’ means  
22 the greenhouse gas emissions in the calendar year  
23 preceding the calendar year in which emission allow-  
24 ances are being distributed. The term includes direct  
25 emissions from fuel combustion, process emissions,

1 and indirect emissions from the generation of elec-  
2 tricity used to produce the output of the petroleum  
3 refinery or sector.

4 “(2) INTENSITY.—The term ‘intensity’ means  
5 tons of carbon dioxide equivalent emissions per unit  
6 of output in a given year.

7 “(3) INTENSITY FACTOR.—The term ‘intensity  
8 factor’ means the intensity of the petroleum refining  
9 sector divided by the intensity for an individual pe-  
10 troleum refinery.

11 “(4) OUTPUT.—The term ‘output’ means the  
12 average annual number of gallons of refined fuel  
13 produced in the three calendar years preceding the  
14 calendar year in which emission allowances are being  
15 distributed.

16 “(5) PETROLEUM REFINERY.—The term ‘petro-  
17 leum refinery’ means a facility classified under  
18 324110 of the North American Industrial Classifica-  
19 tion System of 2002.

20 “(6) PRODUCTION FACTOR.—The term ‘produc-  
21 tion factor’ means the output of an individual petro-  
22 leum refinery divided by the output of the petroleum  
23 refining sector.

24 “(c) DISTRIBUTION OF ALLOWANCES.—For each vin-  
25 tage year between 2014 and 2026, the Administrator shall



1 distribute allowances pursuant to this section to owners  
2 and operators of petroleum refineries in the United States.

3 “(d) DISTRIBUTION SCHEDULE.—The Administrator  
4 shall distribute emission allowances of each vintage year  
5 no later than October 31 of the preceding calendar year.

6 “(e) CALCULATION OF EMISSION ALLOWANCE RE-  
7 BATES.—

8 “(1) For each petroleum refinery, the Adminis-  
9 trator shall calculate an individual allocation factor  
10 for each vintage year, based upon the product of the  
11 intensity factor for such refinery multiplied by the  
12 production factor for such refinery.

13 “(2) The Administrator shall also calculate a  
14 total allocation factor for each vintage year, based  
15 upon the sum of all of the individual allocation fac-  
16 tors.

17 “(3) The Administrator shall calculate the  
18 number of emission allowances to be provided to  
19 each petroleum refinery in each vintage year by di-  
20 viding the individual allocation factor for such refin-  
21 ery by the total allocation factor, then multiplying  
22 the result by the number of emission allowances allo-  
23 cated to the program under this section for that vin-  
24 tage year.

25 “(f) DATA SOURCES.—

1           “(1) The Administrator shall use data from the  
2 greenhouse gas registry, established under section  
3 713, where it is available.

4           “(2) The Administrator shall determine, by  
5 rule, the methodology by which to calculate indirect  
6 emissions for a refinery. The Administrator shall  
7 also determine, by rule, the methodology by which to  
8 take into account the value of allowances provided at  
9 no cost to local distribution companies that is passed  
10 through to a refinery. Each person selling electricity  
11 to the owner or operator of a petroleum refinery  
12 shall provide the owner or operator and the Adminis-  
13 trator, on an annual basis, such data as the Admin-  
14 istrator determines is necessary to implement this  
15 section.

16 **“SEC. 787. CONSUMER PROTECTION.**

17           “(a) CLIMATE CHANGE CONSUMER REBATES.—

18           “(1) ESTABLISHMENT OF FUND.—There is es-  
19 tablished in the Treasury a separate account, to be  
20 known as the ‘Climate Change Consumer Fund’ (re-  
21 ferred to in this subsection as the ‘Fund’).

22           “(2) AVAILABILITY OF AMOUNTS.—All amounts  
23 deposited in the Fund shall be available without fur-  
24 ther appropriation or fiscal year limitation.

1           “(3) DISTRIBUTION OF AMOUNTS.—For each  
2 year after deposits are made to the Consumer Cli-  
3 mate Rebate Fund Account pursuant to section  
4 782(b)(\_\_\_), the Secretary of the Treasury shall use  
5 the funds to provide relief to consumers and others  
6 affected by the enactment of the  
7 **【\_\_\_\_\_ Act (and amendments made**  
8 **by that Act)】**.

9           “(b) ENERGY REFUND PROGRAM.—

10           “(1) ESTABLISHMENT OF FUND.—There is es-  
11 tablished in the Treasury a separate account, to be  
12 known as the ‘Low-Income Consumer Fund’ (re-  
13 ferred to in this subsection as the ‘Fund’).

14           “(2) AVAILABILITY OF AMOUNTS.—All amounts  
15 deposited in the Fund shall be available without fur-  
16 ther appropriation or fiscal year limitation.

17           “(3) DISTRIBUTION OF AMOUNTS.—For each  
18 year after deposits are made to the Consumer Cli-  
19 mate Rebate Fund Account pursuant to section  
20 782(b)(\_\_\_), the Administrator, or the head of such  
21 other agency as the President may designate, shall  
22 use the funds to alleviate energy cost impacts on  
23 low-income households.

1 **“SEC. 788. EXCHANGE FOR STATE-ISSUED ALLOWANCES.**

2 “(a) IN GENERAL.—Not later than 1 year after the  
3 date of enactment of this title, the Administrator shall  
4 issue regulations allowing any person in the United States  
5 to exchange greenhouse gas emission allowances issued be-  
6 fore the later of December 31, 2011, or the date that is  
7 9 months after the first auction under section 789, by the  
8 State of California or for the Regional Greenhouse Gas  
9 Initiative, or the Western Climate Initiative (in this sec-  
10 tion referred to as ‘State allowances’) for emission allow-  
11 ances established by the Administrator under section  
12 721(a).

13 “(b) REGULATIONS.—Regulations issued under sub-  
14 section (a) shall—

15 “(1) provide that a person exchanging State al-  
16 lowances under this section receive emission allow-  
17 ances established under section 721(a) in the  
18 amount that is sufficient to compensate for the cost  
19 of obtaining and holding such State allowances;

20 “(2) establish a deadline by which persons must  
21 exchange the State allowances;

22 “(3) provide that the Federal emission allow-  
23 ances disbursed pursuant to this section shall be de-  
24 ducted from the allowances to be auctioned pursuant  
25 to section 782(d); and

1           “(4) require that, once exchanged, the credit or  
2           other instrument be retired for purposes of use  
3           under the program by or for which it was originally  
4           issued.

5           “(c) COST OF OBTAINING STATE ALLOWANCE.—For  
6           purposes of this section, the cost of obtaining a State al-  
7           lowance shall be the average auction price, for emission  
8           allowances issued in the year in which the State allowance  
9           was issued, under the program under which the State al-  
10          lowance was issued.

11       **“SEC. 789. AUCTION PROCEDURES.**

12          “(a) IN GENERAL.—To the extent that auctions of  
13          emission allowances by the Administrator are authorized  
14          by this part, such auctions shall be carried out pursuant  
15          to this section and the regulations established hereunder.

16          “(b) INITIAL REGULATIONS.—Not later than 12  
17          months after the date of enactment of this title, the Ad-  
18          ministrator, in consultation with other agencies, as appro-  
19          priate, shall promulgate regulations governing the auction  
20          of allowances under this section. Such regulations shall in-  
21          clude the following requirements:

22               “(1) FREQUENCY; FIRST AUCTION.—Auctions  
23               shall be held four times per year at regular intervals,  
24               with the first auction to be held no later than March  
25               31, 2011.

1           “(2) AUCTION SCHEDULE; CURRENT AND FU-  
2           TURE VINTAGES.—The Administrator shall, at each  
3           quarterly auction under this section, offer for sale  
4           both a portion of the allowances with the same vin-  
5           tage year as the year in which the auction is being  
6           conducted and a portion of the allowances with vin-  
7           tage years from future years. The preceding sen-  
8           tence shall not apply to auctions held before 2012,  
9           during which period, by necessity, the Administrator  
10          shall auction only allowances with a vintage year  
11          that is later than the year in which the auction is  
12          held. Beginning with the first auction and at each  
13          quarterly auction held thereafter, the Administrator  
14          may offer for sale allowances with vintage years of  
15          up to four years after the year in which the auction  
16          is being conducted.

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

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

24          “(5) DISCLOSURE OF BENEFICIAL OWNER-  
25          SHIP.—Each bidder in the auction shall be required

1 to disclose the person or entity sponsoring or bene-  
2 fitting from the bidder's participation in the auction  
3 if such person or entity is, in whole or in part, other  
4 than the bidder.

5 “(6) PURCHASE LIMITS.—No person may, di-  
6 rectly or in concert with another participant, pur-  
7 chase more than 5 percent of the allowances offered  
8 for sale at any quarterly auction.

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

14 “(8) 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,  
18 considers appropriate to promote effective, efficient,  
19 transparent, and fair administration of auctions  
20 under this section.

21 “(c) REVISION OF REGULATIONS.—The Adminis-  
22 trator may, in consultation with other agencies, as appro-  
23 priate, at any time, revise the initial regulations promul-  
24 gated under subsection (b). Such revised regulations need  
25 not meet the requirements identified in subsection (b) if

1 the Administrator determines that an alternative auction  
2 design would be more effective, taking into account factors  
3 including costs of administration, transparency, fairness,  
4 and risks of collusion or manipulation. In determining  
5 whether and how to revise the initial regulations under  
6 this subsection, the Administrator shall not consider maxi-  
7 mization of revenues to the Federal Government.

8 “(d) RESERVE AUCTION PRICE.—The minimum re-  
9 serve auction price shall be \$10 (in constant 2009 dollars)  
10 for auctions occurring in 2012. The minimum reserve  
11 price for auctions occurring in years after 2012 shall be  
12 the minimum reserve auction price for the previous year  
13 increased by 5 percent plus the rate of inflation (as meas-  
14 ured by the Consumer Price Index for all urban con-  
15 sumers).

16 “(e) DELEGATION OR CONTRACT.—Pursuant to reg-  
17 ulations under this section, the Administrator may by del-  
18 egation or contract provide for the conduct of auctions  
19 under the Administrator’s supervision by other depart-  
20 ments or agencies of the Federal Government or by non-  
21 governmental agencies, groups, or organizations.

22 **“SEC. 790. AUCTIONING ALLOWANCES FOR OTHER ENTI-**  
23 **TIES.**

24 “(a) CONSIGNMENT.—Any entity holding emission al-  
25 lowances or compensatory allowances may request that the



1 Administrator auction, pursuant to section 789, the allow-  
2 ances on consignment.

3 “(b) PRICING.—When the Administrator acts under  
4 this section as the agent of an entity in possession of emis-  
5 sion allowances, the Administrator is not obligated to ob-  
6 tain the highest price possible for the emission allowances,  
7 and instead shall auction consignment allowances in the  
8 same manner and pursuant to the same rules as auctions  
9 of other allowances under section 789. The Administrator  
10 may permit the entity offering the allowance for sale to  
11 condition the sale of its allowances pursuant to this section  
12 on a minimum reserve price that is different than the re-  
13 serve auction price set pursuant to section 789(d).

14 “(c) PROCEEDS.—For emission allowances and com-  
15 pensatory allowances auctioned pursuant to this section,  
16 notwithstanding section 3302 of title 31, United States  
17 Code, or any other provision of law, within 90 days of re-  
18 ceipt, the United States shall transfer the proceeds from  
19 the auction to the entity which held the allowances auc-  
20 tioned. No funds transferred from a purchaser to a seller  
21 of emission allowances or compensatory allowances under  
22 this subsection shall be held by any officer or employee  
23 of the United States or treated for any purpose as public  
24 monies.

1           “(d) REGULATIONS.—The Administrator shall issue  
2 regulations within 24 months after the date of enactment  
3 of this title to implement this section.

4   **“SEC. 791. COMMERCIAL DEPLOYMENT OF CARBON CAP-**  
5                           **TURE AND STORAGE TECHNOLOGIES.**

6           “(a) DEFINITIONS.—In this section:

7                   “(1) CARBON CAPTURE AND STORAGE.—The  
8 term ‘carbon capture and storage’ shall—

9                           “(A) have such term as Administrator  
10 shall determine by regulation; and

11                           “(B) include—

12                                   “(i) geological sequestration; and

13                                   “(ii) alternative uses of captured car-  
14 bon dioxide.

15                   “(2) QUALIFYING ELECTRIC GENERATING  
16 UNIT.—The term ‘qualifying electric generating unit’  
17 means an electric utility unit that—

18                           “(A) derives at least 50 percent of the an-  
19 nual fuel input of the unit from—

20                                   “(i) coal or waste coal;

21                                   “(ii) petroleum coke; or

22                                   “(iii) any combination of those 2  
23 fuels; and

24                           “(B)(i) has a nameplate capacity of 200  
25 megawatts or more; or

1           “(ii) in the case of retrofit applications, the  
2 carbon capture and storage technology is ap-  
3 plied to the flue gas or fuel gas stream from at  
4 least 200 megawatts of the total nameplate  
5 generating capacity of the unit.

6           “(3) QUALIFYING INDUSTRIAL SOURCE.—The  
7 term ‘qualifying industrial source’ means a source  
8 that—

9           “(A) is not a qualifying electric generating  
10 unit; and

11           “(B) absent carbon capture and storage,  
12 would emit greater than 50,000 tons per year  
13 of carbon dioxide.

14           “(4) TREATED GENERATING CAPACITY.—

15           “(A) IN GENERAL.—The term ‘treated  
16 generating capacity’ means the portion of the  
17 total generating capacity of an electric gener-  
18 ating unit (or industrial source, measured by  
19 such method as the Administrator may des-  
20 ignate to be equivalent to the calculation under  
21 subparagraph (B)) for which the flue gas or  
22 fuel gas is treated by the carbon capture and  
23 storage technology.

24           “(B) CALCULATION.—In determining the  
25 treated portion of flue gas or fuel gas of an

1 electric generating unit under subparagraph  
2 (A), the Administrator shall multiply the name-  
3 plate capacity of the unit by the ratio that—

4 “(i) the mass of flue gas or fuel gas  
5 that is treated by the carbon capture and  
6 storage technology; bears to

7 “(ii) the total mass of the flue gas or  
8 fuel gas that is produced when the unit is  
9 operating at maximum capacity.

10 “(b) REGULATIONS.—Not later than 2 years after  
11 the date of enactment of this title, the Administrator shall  
12 promulgate regulations providing for the distribution of  
13 emission allowances allocated under section 782(f), pursu-  
14 ant to the requirements of this section, to support the  
15 commercial deployment of carbon capture and storage  
16 technologies in electric power generation and industrial  
17 operations.

18 “(c) ELIGIBILITY CRITERIA AND METHOD OF DIS-  
19 TRIBUTION.—

20 “(1) ELIGIBILITY.—For an owner or operator  
21 of a project to be eligible to receive emission allow-  
22 ances under this section, the project shall—

23 “(A) implement carbon capture and stor-  
24 age technology—

1                   “(i) at a qualifying electric generating  
2                   unit that, upon implementation of the car-  
3                   bon capture and storage technology, will  
4                   achieve an emission limitation that is at  
5                   least a 50-percent reduction in emissions  
6                   of the carbon dioxide produced by—

7                                 “(I) the unit, measured on an  
8                                 annual basis, as determined by the  
9                                 Administrator; or

10                                “(II) in the case of retrofit appli-  
11                                cations described in subsection  
12                                (a)(2)(B)(ii), the treated portion of  
13                                flue gas from the unit, measured on  
14                                an annual basis, as determined by the  
15                                Administrator; or

16                                “(ii) at a qualifying industrial source  
17                                that, upon implementation, will achieve an  
18                                emission limitation that is at least a 50-  
19                                percent reduction in emissions of the car-  
20                                bon dioxide produced by the emission  
21                                point, measured on an annual basis, as de-  
22                                termined by the Administrator;

23                                “(B)(i) geologically sequester carbon diox-  
24                                ide at a site that meets all applicable permitting

1 and certification requirements for geological  
2 storage; or

3 “(ii) pursuant to such requirements as the  
4 Administrator may prescribe by regulation, con-  
5 vert captured carbon dioxide to a stable form  
6 that will safely and permanently sequester the  
7 carbon dioxide;

8 “(C) meet all other applicable State, tribal,  
9 and Federal permitting requirements; and

10 “(D) be located in the United States.

11 “(2) METHOD OF DISTRIBUTION.—

12 “(A) PERIOD.—The Administrator shall  
13 distribute emission allowances allocated under  
14 section 782(f) to eligible projects for each of the  
15 first 10 calendar years for which each eligible  
16 project is in commercial operation.

17 “(B) BONUS ALLOWANCE FORMULA FOR  
18 ELECTRIC GENERATING UNITS.—

19 “(i) PHASE I DISTRIBUTION.—For  
20 each project that is certified under sub-  
21 section (h), the quantity of emission allow-  
22 ances that the Administrator shall dis-  
23 tribute for a calendar year to the owner or  
24 operator of the eligible project shall be

1 equal to the quotient obtained by divid-  
2 ing—

3 “(I) the product obtained by mul-  
4 tipling—

5 “(aa) the number of metric  
6 tons of carbon dioxide emissions  
7 avoided through capture and  
8 storage of emissions by the  
9 project for a particular year, as  
10 determined pursuant to such  
11 methodology as the Adminis-  
12 trator shall prescribe by regula-  
13 tion; and

14 “(bb) a bonus allowance  
15 value that is assigned to the  
16 project under subsection (d)(2);  
17 by

18 “(II) the average fair market  
19 value of an emission allowance during  
20 the calendar year preceding the earlier  
21 of—

22 “(aa) the year during which  
23 the project captured and stored  
24 the carbon dioxide emissions; or

1                   “(bb) the year in which the  
2                   project receives an advanced dis-  
3                   tribution of emissions allowances  
4                   under subsection (h)(3)(B).

5                   “(ii) PHASE II DISTRIBUTION.—For  
6                   each project that qualifies under subsection  
7                   (e), the quantity of emission allowances  
8                   that the Administrator shall distribute for  
9                   a calendar year to the owner or operator of  
10                  the eligible project shall be determined  
11                  through—

12                  “(I) reverse auction, as pre-  
13                  scribed by regulation under subsection  
14                  (e)(3); or

15                  “(II) if the Administrator decides  
16                  not to distribute allowances through a  
17                  reverse auction, an alternate distribu-  
18                  tion method established by regulation  
19                  under subsection (e)(4).

20                  “(C) FORMULA FOR INDUSTRIAL  
21                  SOURCES.—For each project that qualifies  
22                  under subsection (g), the quantity of emission  
23                  allowances that the Administrator shall dis-  
24                  tribute for a calendar year to the owner or op-



1 erator of the eligible project shall be determined  
2 in accordance with subsection (g)(2).

3 “(D) CONSISTENCY.—The Administrator  
4 shall develop a method of distribution for each  
5 category of eligible projects under this para-  
6 graph in a manner that is consistent with the  
7 certification and distribution requirements  
8 under subsection (h).

9 “(d) PHASE I DISTRIBUTION TO ELECTRIC GENER-  
10 ATING UNITS.—

11 “(1) APPLICABILITY.—

12 “(A) IN GENERAL.—Subject to subpara-  
13 graph (B), this subsection shall apply to  
14 projects that are undertaken at qualifying elec-  
15 tric generating units that the Administrator de-  
16 termines to be eligible to receive emission allow-  
17 ances under this section.

18 “(B) CAPACITY.—The total cumulative  
19 generating capacity of the projects described in  
20 subparagraph (A) shall be equal to approxi-  
21 mately 20 gigawatts of the treated generating  
22 capacity.

23 “(2) BONUS ALLOWANCE VALUES.—

24 “(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 storage of 90  
9                   percent or more of the carbon dioxide that  
10                  otherwise would be emitted by the unit, the  
11                  bonus allowance value shall be \$96 per ton  
12                  **【of carbon dioxide emitted by the unit】**.

13                  “(iii) BONUS ALLOWANCE VALUE.—  
14                  The Administrator shall establish, by regu-  
15                  lation, a bonus allowance value for each  
16                  rate of capture and storage achieved by an  
17                  eligible project—

18                         “(I) beginning at a minimum of  
19                         \$50 per ton for a 50-percent rate; and

20                         “(II) varying in direct proportion  
21                         with increasing rates of capture and  
22                         storage up to \$96 per ton for an 90-  
23                         percent rate.

24                   “(B) SECOND TRANCHE.—

1                   “(i) IN GENERAL.—The second  
2                   tranche shall include the second 10  
3                   gigawatts of treated generating capacity  
4                   undertaken at qualifying electric gener-  
5                   ating units that receive emission allow-  
6                   ances under this section.

7                   “(ii) CERTAIN UNITS.—For an eligible  
8                   project achieving the capture and storage  
9                   of 90 percent or more of the carbon diox-  
10                  ide that otherwise would be emitted by the  
11                  eligible project, the bonus allowance value  
12                  shall be \$85 per ton [of carbon dioxide  
13                  emitted by the eligible project].

14                  “(iii) BONUS ALLOWANCE VALUE.—  
15                  The Administrator shall establish, by regu-  
16                  lation, a bonus allowance value for each  
17                  rate of capture and storage achieved by an  
18                  eligible project—

19                         “(I) beginning at a minimum of  
20                         \$50 per ton for a 50-percent rate; and

21                         “(II) varying in direct proportion  
22                         with increasing rates of capture and  
23                         storage up to \$85 per ton for a 90-  
24                         percent rate.

1           “(C) INCREASE IN BONUS ALLOWANCE  
2           VALUE.—For an eligible project that com-  
3           mences commercial operation by not later than  
4           January 1, 2017, and that meets the eligibility  
5           criteria under subsection (c), the otherwise-ap-  
6           plicable bonus allowance value under this para-  
7           graph shall be increased by \$10, if the owner  
8           or operator of the eligible project submits to the  
9           Administrator by not later than January 1,  
10          2012, a notification of the intent to implement  
11          carbon capture and storage technology at a  
12          qualifying electric generating unit in accordance  
13          with subsection (c).

14          “(D) REDUCTION.—

15                 “(i) IN GENERAL.—For a carbon cap-  
16                 ture and storage project sequestering in a  
17                 geological formation for purposes of en-  
18                 hanced hydrocarbon recovery, the Adminis-  
19                 trator, by regulation, shall reduce the ap-  
20                 plicable bonus allowance value under this  
21                 paragraph to reflect the lower net cost of  
22                 the project, as compared to storage into  
23                 geological formations solely for purposes of  
24                 storage.

1                   “(ii) ASSESSMENT OF NET COST.—

2                   For the purpose of this subparagraph, an  
3                   assessment of net cost of a project shall  
4                   account for the cost of the injection of car-  
5                   bon dioxide, or other method of enhanced  
6                   hydrocarbon recovery, that would have oth-  
7                   erwise been undertaken in the absence of  
8                   the carbon capture and storage project  
9                   under consideration.

10                  “(E) ADJUSTMENTS.—The Administrator  
11                  shall annually adjust for monetary inflation the  
12                  bonus allowance values established under this  
13                  paragraph.

14                  “(F) MEASUREMENT.—The Administrator  
15                  shall measure the tranches and capture levels  
16                  for assigning the bonus allowance values under  
17                  this subsection based on the treated of gener-  
18                  ating capacity of the qualifying electric gener-  
19                  ating units and qualifying industrial sources  
20                  that receive emission allowances under this sub-  
21                  section.

22                  “(G) AVERAGE FAIR MARKET VALUE.—

23                  “(i) IN GENERAL.—The Administrator  
24                  and the Secretary of Energy may jointly  
25                  determine that the average fair market

1 value for emission allowances or the bonus  
2 allowances have been too low or too high to  
3 achieve efficient and cost-effective commer-  
4 cial deployment of carbon capture and  
5 storage technology in a given calendar  
6 year.

7 “(ii) ACTION ON DETERMINATION.—  
8 On making a determination under clause  
9 (i), the Administrator may—

10 “(I) promulgate regulations to  
11 adjust the bonus allowance value  
12 under this paragraph; or

13 “(II) distribute an appropriate  
14 quantity of emission allowances allo-  
15 cated under section 782(f) from any  
16 future vintage year.

17 “(e) PHASE II DISTRIBUTION TO ELECTRIC GENER-  
18 ATING UNITS.—

19 “(1) APPLICATION.—This subsection shall  
20 apply only to the distribution of emission allowances  
21 for carbon capture and storage projects undertaken  
22 at qualifying electric generating units and qualifying  
23 industrial sources after the treated generating ca-  
24 pacity threshold identified under subsection (d)(1) is  
25 reached.

1           “(2) REGULATIONS.—Not later than 2 years  
2 before the date on which the capacity threshold iden-  
3 tified in subsection (d)(1) is projected to be reached,  
4 the Administrator shall promulgate regulations to  
5 govern the distribution of emission allowances to the  
6 owners or operators of eligible projects under this  
7 subsection.

8           “(3) REVERSE AUCTIONS.—

9           “(A) IN GENERAL.—Except as provided in  
10 paragraph (4), the regulations promulgated  
11 pursuant to paragraph (2) shall provide for the  
12 distribution of emission allowances to the own-  
13 ers or operators of eligible projects under this  
14 subsection through at least 2 reverse auctions,  
15 each of which shall be held not less frequently  
16 than once each calendar year.

17           “(B) REQUIREMENTS.—

18           “(i) PROJECTS AT INDUSTRIAL  
19 SOURCES.—The Administrator shall annu-  
20 ally establish a reverse auction for projects  
21 at industrial sources, which may not par-  
22 ticipate in other auctions.

23           “(ii) OTHER AUCTIONS.—The Admin-  
24 istrator may establish a separate auction

1 for each of not more than 5 different  
2 project categories, as defined based on—

3 “(I) coal type;

4 “(II) capture technology;

5 “(III) geological formation type;

6 “(IV) new unit versus retrofit ap-  
7 plication;

8 “(V) such other factors as the  
9 Administrator may prescribe; or

10 “(VI) any combination of the fac-  
11 tors described in subclauses (I)  
12 through (V).

13 “(iii) EFFICIENT DISTRIBUTION.—  
14 The Administrator shall establish proce-  
15 dures for the auction of emission allow-  
16 ances under this subparagraph to ensure  
17 that the establishment of separate auctions  
18 for different project categories will not un-  
19 duly impede the efficient and expeditious  
20 distribution of emission allowances to eligi-  
21 ble projects under this subsection.

22 “(iv) MINIMUM RATES.—The Admin-  
23 istrator may establish appropriate min-  
24 imum rates of capture and storage for the



1 treated generating capacity of a project in  
2 implementing this subparagraph.

3 “(C) AUCTION PROCESS.—At each reverse  
4 auction under this paragraph—

5 “(i) the Administrator shall solicit  
6 bids from eligible projects;

7 “(ii) owners or operators of eligible  
8 projects participating in the auction shall  
9 submit a bid, including the desired level of  
10 carbon dioxide storage incentive per ton  
11 and the estimated quantity of carbon diox-  
12 ide that the project will permanently se-  
13 quester during a 10-year period; and

14 “(iii) the Administrator shall select  
15 bids within each auction for the storage  
16 quantity submitted, beginning with the eli-  
17 gible project for which the bid is submitted  
18 for the lowest level of storage incentive on  
19 a per-ton basis and meeting such other re-  
20 quirements as the Administrator may  
21 specify, until the amounts available for the  
22 reverse auction are committed.

23 “(D) FORM OF DISTRIBUTION.—The Ad-  
24 ministrator shall distribute emission allowances  
25 to the owners or operators of eligible projects

1           selected through a reverse auction under this  
2           paragraph pursuant to a formula equivalent to  
3           the formula contained in subsection (c)(2)(B),  
4           except that the bonus allowance value that is  
5           bid by the applicable entity shall be substituted  
6           for the bonus allowance values described in sub-  
7           section (c)(2).

8           “(4) ALTERNATIVE DISTRIBUTION METHOD.—

9                   “(A) IN GENERAL.—If the Administrator  
10           determines that a reverse auction will not result  
11           in efficient and cost-effective commercial de-  
12           ployment of carbon capture and storage tech-  
13           nologies, the Administrator, pursuant to regula-  
14           tions under paragraph (2) or (5), shall pre-  
15           scribe a schedule for the provision of bonus al-  
16           lowances to the owners or operators of eligible  
17           projects under this subsection, in accordance  
18           with the requirements of this paragraph.

19                   “(B) MULTIPLE TRANCHES.—The Admin-  
20           istrator shall divide emission allowances avail-  
21           able for distribution to the owners or operators  
22           of eligible projects into a series of tranches,  
23           each of which—

24                           “(i) shall support the deployment of a  
25                           specified quantity of cumulative electric

1           generating capacity using carbon capture  
2           and storage technology; and

3           “(ii) shall not be greater than 10  
4           gigawatts of treated generating capacity.

5           “(C) METHOD OF DISTRIBUTION.—The  
6           Administrator shall distribute emission allow-  
7           ances within each tranche, on a first-come,  
8           first-served basis—

9           “(i) based on the date of full-scale op-  
10          eration of capture and storage technology;  
11          and

12          “(ii) pursuant to a formula that—

13                 “(I) is similar to the formula  
14                 contained in subsection (c)(2)(C), ex-  
15                 cept that the Administrator may pre-  
16                 scribe bonus allowance values dif-  
17                 ferent than those described in sub-  
18                 section (c)(2) based on the criteria es-  
19                 tablished under subparagraph (E);  
20                 and

21                 “(II) establishes the number of  
22                 emission allowances to be distributed  
23                 per ton of carbon dioxide sequestered  
24                 by the project.

1           “(D) REQUIREMENTS.—For each tranche  
2 established pursuant to subparagraph (B), the  
3 Administrator shall establish a schedule for dis-  
4 tributing emission allowances that—

5           “(i) is based on a sliding scale that  
6 provides higher bonus allowance values for  
7 projects achieving higher rates of capture  
8 and storage for the treated generation ca-  
9 pacity at the unit;

10           “(ii) for each capture and storage  
11 rate, establishes a bonus allowance value  
12 that is lower than that established for the  
13 applicable rate for the previous tranche  
14 (or, in the case of the first tranche, than  
15 that established for the applicable rate  
16 under subsection (d)(2)); and

17           “(iii) may establish different bonus al-  
18 lowance levels for not more than 5 dif-  
19 ferent project categories, as defined based  
20 on—

21           “(I) coal type;

22           “(II) capture and transportation  
23 technology;

24           “(III) geological formation type;

1 “(IV) new unit versus retrofit ap-  
2 plication;

3 “(V) such other factors as the  
4 Administrator may prescribe; or

5 “(VI) any combination of the fac-  
6 tors described in subclauses (I)  
7 through (V).

8 “(E) CRITERIA FOR ESTABLISHING BONUS  
9 ALLOWANCE VALUES.—In establishing bonus al-  
10 lowance values under this paragraph, the Ad-  
11 ministrator shall seek to cover not more than  
12 the reasonable incremental capital and oper-  
13 ating costs of a project that are attributable to  
14 implementation of carbon capture, transpor-  
15 tation, and storage technologies, taking into ac-  
16 count—

17 “(i) the reduced cost of compliance  
18 with section 722;

19 “(ii) the reduced cost associated with  
20 sequestering in a geological formation for  
21 purposes of enhanced hydrocarbon recov-  
22 ery, as compared to storage into geological  
23 formations solely for purposes of storage;

24 “(iii) the relevant factors defining the  
25 project category; and

1                   “(iv) such other factors as the Admin-  
2                   istrator determines to be appropriate.

3                   “(5) REVISION OF REGULATIONS.—The Admin-  
4                   istrator shall review and, as appropriate, revise the  
5                   applicable regulations under this subsection not less  
6                   frequently than once every 8 years.

7                   “(f) LIMITS FOR CERTAIN ELECTRIC GENERATING  
8                   UNITS.—

9                   “(1) DEFINITIONS.—In this subsection, the  
10                  terms ‘covered EGU’ and ‘initially permitted’ have  
11                  the meanings given those terms in section 812.

12                  “(2) COVERED EGUS INITIALLY PERMITTED  
13                  FROM 2009 THROUGH 2014.—For a covered EGU  
14                  that is initially permitted during the period begin-  
15                  ning on January 1, 2009, and ending on December  
16                  31, 2014, the Administrator shall reduce the quan-  
17                  tity of emission allowances that the owner or oper-  
18                  ator of the covered EGU would otherwise be eligible  
19                  to receive under this section as follows:

20                  “(A) In the case of a covered EGU com-  
21                  mencing operation on or before January 1,  
22                  2019, if the date in clause (ii)(I) is earlier than  
23                  the date in clause (ii)(II), by the product ob-  
24                  tained by multiplying—

25                  “(i) 20 percent; and

655

1                   “(ii) the number of years, if any, that  
2                   have elapsed between—

3                   “(I) the earlier of—

4                   “(aa) January 1, 2020; and

5                   “(bb) the date that is 5  
6                   years after the commencement of  
7                   operation of the covered EGU;  
8                   and

9                   “(II) the first year that the cov-  
10                  ered EGU achieves (and thereafter  
11                  maintains) an emission limitation that  
12                  is at least a 50-percent reduction in  
13                  emissions of carbon dioxide produced  
14                  by the unit, measured on an annual  
15                  basis, as determined in accordance  
16                  with section 812(b)(2).

17                  “(B) In the case of a covered EGU com-  
18                  mencing operation after January 1, 2019, by  
19                  the product obtained by multiplying—

20                  “(i) 20 percent; and

21                  “(ii) the number of years, if any, that  
22                  have elapsed between—

23                  “(I) the commencement of oper-  
24                  ation of the covered EGU; and

1                   “(II) the first year that the cov-  
2                   ered EGU achieves (and thereafter  
3                   maintains) an emission limitation that  
4                   is at least a 50-percent reduction in  
5                   emissions of carbon dioxide produced  
6                   by the unit, measured on an annual  
7                   basis, as determined in accordance  
8                   with section 812(b)(2).

9                   “(3) COVERED EGUS INITIALLY PERMITTED  
10                  FROM 2015 THROUGH 2019.—The owner or operator  
11                  of a covered EGU that is initially permitted during  
12                  the period beginning on January 1, 2015, and end-  
13                  ing on December 31, 2019, shall be ineligible to re-  
14                  ceive emission allowances under this section if the  
15                  covered EGU, on commencement of operations (and  
16                  thereafter), does not achieve and maintain an emis-  
17                  sion limitation that is at least a 50-percent reduction  
18                  in emissions of carbon dioxide produced by the cov-  
19                  ered EGU, measured on an annual basis, as deter-  
20                  mined in accordance with section 812(b)(2).

21                  “(g) INDUSTRIAL SOURCES.—

22                  “(1) EMISSION ALLOWANCES.—The Adminis-  
23                  trator—

24                         “(A) may distribute not more than 15 per-  
25                         cent of the emission allowances allocated under



1 section 782(f) for any vintage year to the own-  
2 ers or operators of eligible industrial sources to  
3 support the commercial-scale deployment of car-  
4 bon capture and storage technologies at those  
5 sources; and

6 “(B) notwithstanding any other provision  
7 of law—

8 “(i) may distribute to eligible indus-  
9 trial sources not more than 15 percent of  
10 the emission allowances allocated under  
11 section 782(f) for any vintage year in the  
12 second tranche of phase I; but

13 “(ii) may not distribute those allow-  
14 ances for any vintage year in the first  
15 tranche of phase I.

16 “(2) DISTRIBUTION.—

17 “(A) IN GENERAL.—The Administrator  
18 shall prescribe, by regulation, requirements for  
19 the distribution of emission allowances to the  
20 owners or operators of industrial sources under  
21 this subsection, based on a bonus allowance for-  
22 mula that awards emission allowances to quali-  
23 fying projects on the basis of tons of carbon di-  
24 oxide 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  
6                   (e)(3), including the use of separate auc-  
7                   tions for 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 es-  
11                  tablished so as to satisfy the requirement  
12                  described in subsection (e)(4)(E).

13           “(3) REVISION OF REGULATIONS.—The Admin-  
14           istrator 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 DIS-  
21                                   TRIBUTION METHOD.—In the case of a  
22                                   qualifying project that is eligible to receive  
23                                   allowances under phase I or under sub-  
24                                   section (e)(4), at any time prior to placing  
25                                   a carbon capture and storage project into

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  
5 allowances under this section.

6 “(ii) REVERSE AUCTIONS.—In the  
7 case of a qualifying project that wins a re-  
8 verse auction under subsection (e) or (g),  
9 within a reasonably brief period following  
10 completion of the auction (as specified by  
11 the Administrator), the owner or operator  
12 of the qualifying project shall request from  
13 the Administrator a certification that the  
14 project is eligible to receive emission allow-  
15 ances 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.—The Administrator  
20 shall issue a certification described in this  
21 subparagraph if the owner or operator  
22 demonstrates a commitment to construct  
23 and operate a project that satisfies—

24 “(I) the eligibility criteria of sub-  
25 section (c); and

660

1                   “(II) the requirements of this  
2                   paragraph.

3                   “(B) DOCUMENTATION.—

4                   “(i) IN GENERAL.—The Administrator  
5                   shall prescribe, by regulation, the docu-  
6                   mentation necessary for making a deter-  
7                   mination of project eligibility for the cer-  
8                   tification under subparagraph (A), includ-  
9                   ing—

10                   “(I) technical information re-  
11                   garding the capture and storage tech-  
12                   nology, coal type, geological formation  
13                   type (if applicable), and other relevant  
14                   design features that are planned for  
15                   the project;

16                   “(II) the annual reductions in  
17                   carbon dioxide emissions that the cap-  
18                   ture and storage technology is pro-  
19                   jected to achieve during each of the  
20                   first 10 years that the project  
21                   achieves commercial operation;

22                   “(III) a demonstration that the  
23                   owner or operator is committed to  
24                   both constructing and operating the  
25                   planned project on a timeline marked

1 by reasonable milestones, through the  
2 completion of 1 of the actions speci-  
3 fied in subparagraph (C)(iii); and

4 “(IV) an assessment of the costs  
5 of constructing the project, which  
6 shall serve as the basis for the deter-  
7 mination of the Administrator regard-  
8 ing advanced distributions under  
9 paragraph (3)(C).

10 “(ii) NONRETROFIT APPLICATION.—  
11 In the case of a project that is not a ret-  
12 rofit application, the assessment of costs  
13 shall include an assessment of the costs for  
14 constructing the electric generating unit or  
15 industrial source that will produce the flue  
16 gas or fuel gas to be treated by the carbon  
17 capture and storage technology.

18 “(C) COMMITMENT.—

19 “(i) IN GENERAL.—Subject to clause  
20 (ii), the completion of any 1 of the quali-  
21 fying actions specified under clause (iii)  
22 shall constitute a commitment to construct  
23 and operate a planned carbon capture and  
24 storage project.



663

1 Administrator issues the certifi-  
2 cation for the project; or

3 “(II) an authorization by a State  
4 regulatory authority to allow recovery,  
5 from the retail customers of such elec-  
6 tric utility, of the costs of the project  
7 by a State-regulated electric utility  
8 that plans to construct the project.

9 “(D) FAILURE TO REQUEST CERTIFI-  
10 CATION.—

11 “(i) IN GENERAL.—An owner or oper-  
12 ator may elect not to request a certifi-  
13 cation on the eligibility of a planned  
14 project under subparagraph (A) prior to  
15 the commercial operation of the project.

16 “(ii) DETERMINATION BY ADMINIS-  
17 TRATOR.—If an owner or operator elects  
18 not to request a certification under clause  
19 (i), the Administrator shall make a deter-  
20 mination regarding whether the project  
21 satisfies the eligibility requirements of sub-  
22 section (c) at the time that the Adminis-  
23 trator makes a determination regarding  
24 the annual distribution of emission allow-  
25 ances under paragraph (3)(A).





1 captured and stored each calendar  
2 year under paragraph (1)(B)(i)(II);  
3 and

4 “(III) a discount rate to account  
5 for the monetary inflation that may  
6 be expected to occur during each of  
7 the relevant 10 calendar years, as de-  
8 termined by the Administrator.

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 owner or operator fails to achieve rea-  
14 sonable milestones for commencing con-  
15 struction or commercial operation of the  
16 project, as specified under paragraph  
17 (1)(B)(i)(III).

18 “(ii) REDUCED QUANTITY OF CARBON  
19 DIOXIDE CAPTURED AND STORED.—If the  
20 quantity of carbon dioxide captured and  
21 stored by a project on average over 3 con-  
22 secutive vintage years is less than the  
23 quantity estimated for those vintage years  
24 under subparagraph (A), the reservation of  
25 emission allowances for the project under





1                   accordance with regulations to be pro-  
2                   mulgated by the Administrator.

3                   “(B) ADVANCED DISTRIBUTION.—

4                   “(i) IN GENERAL.—The Administrator  
5                   may provide an advanced distribution of  
6                   emission allowances to the projects—

7                   “(I) that receive emission allow-  
8                   ances under the phase I distributions  
9                   authorized by subsection (d); and

10                  “(II) for which the Administrator  
11                  has issued a certification of eligibility  
12                  under paragraph (1).

13                  “(ii) REQUIREMENTS.—An advanced  
14                  distribution of emission allowances for a  
15                  particular project shall be provided—

16                  “(I) prior to the operational  
17                  phase of the project, at an appro-  
18                  priate milestone that best ensures the  
19                  expeditious deployment of the carbon  
20                  capture and storage technology;

21                  “(II) in a quantity that equals a  
22                  percentage, as specified in subpara-  
23                  graph (C), of the total number of  
24                  emission allowances that the Adminis-  
25                  trator has reserved for that project

669

1 during the 10-year period of commer-  
2 cial operation; and

3 “(III) using allowances that are  
4 drawn—

5 “(aa) from the current vin-  
6 tage year; or

7 “(bb) if the allowances are  
8 exhausted from the current vin-  
9 tage year, in order from succes-  
10 sive vintage years, beginning with  
11 the most proximate future vin-  
12 tage year.

13 “(C) PERCENTAGES.—

14 “(i) IN GENERAL.—Subject to clauses  
15 (ii) and (iii), the Administrator shall apply  
16 the following percentages for determining  
17 the advanced distribution of emission al-  
18 lowances:

19 “(I) 70 percent of the emission  
20 allowance reservation for the first  
21 tranche under subsection (d)(2)(A).

22 “(II) 50 percent of the emission  
23 allowance reservation for the second  
24 tranche under subsection (d)(2)(B).

1           “(ii) COSTS LESS THAN VALUE OF AL-  
2           LOWANCES.—If the costs described in  
3           clause (iii) are less than the monetary  
4           value of allowances represented by the per-  
5           centages described in clause (i) at the time  
6           of advanced distribution, the advanced dis-  
7           tribution shall be limited to an amount  
8           that is equivalent to the costs described in  
9           clause (iii).

10           “(iii) COSTS.—

11                   “(I) IN GENERAL.—Subject to  
12                   subclause (II), for retrofit projects  
13                   and for projects at new electric gener-  
14                   ating units or industrial sources, the  
15                   advanced distribution shall equate to  
16                   100 percent of the costs of labor, ma-  
17                   terials, and equipment associated with  
18                   the construction and installation of  
19                   the system to capture, compress,  
20                   transport, and store carbon dioxide.

21                   “(II) NEW ELECTRIC GENER-  
22                   ATING UNITS.—For projects at new  
23                   electric generating units, the advanced  
24                   distribution shall equate to the sum of  
25                   the costs described in subclause (I)

1 and a portion of the costs of con-  
2 structing a project, as documented  
3 under paragraph (1)(B)(i)(IV), but in  
4 no case shall the advanced distribu-  
5 tion under this subclause equate to a  
6 dollar value that exceeds [80] percent  
7 of the construction costs of a new  
8 electric generating unit.

9 “(D) RECONCILIATION.—

10 “(i) IN GENERAL.—In the case of a  
11 project that receives an advanced distribu-  
12 tion of emission allowances under this  
13 paragraph, the Administrator shall dis-  
14 tribute annually the remainder of emission  
15 allowances reserved under subsection  
16 (h)(2) once the carbon capture and storage  
17 technology begins commercial operation.

18 “(ii) TIMING OF DISTRIBUTION.—The  
19 annual distribution of emission allowances  
20 under clause (i) shall take place not later  
21 than 60 days after the end of each cal-  
22 endar year.

23 “(iii) AMOUNT OF REDUCTION.—Sub-  
24 ject to clause (iv), the distribution shall an-

1 nually be reduced by the difference be-  
2 tween—

3 “(I) the number of allowances  
4 that were reserved for the project in  
5 the relevant calendar year under para-  
6 graph (2)(A)(ii)(II); and

7 “(II) the number of allowances  
8 that the project would be eligible to  
9 receive under the bonus allowance for-  
10 mula described in subsection  
11 (c)(2)(B)(i) based on the tons of car-  
12 bon dioxide emissions that were actu-  
13 ally captured and stored by each  
14 project during the relevant calendar  
15 year.

16 “(iv) NUMBER OF ALLOWANCES.—For  
17 purposes of clauses (iii)(II) and (viii)(I),  
18 for the purposes of calculating the number  
19 of allowances under subsection  
20 (c)(2)(B)(i), the Administrator shall enter  
21 the average fair market value of emission  
22 allowances in the year specified under sub-  
23 section (c)(2)(B)(i)(II)(bb)).

24 “(v) REPAYMENT BY OWNER OR OP-  
25 ERATOR OF PROJECT.—



1                   “(I) IN GENERAL.—If, in any  
2                   calendar year, the number of tons of  
3                   carbon dioxide emissions projected to  
4                   be captured and stored for that year  
5                   under paragraph (1)(B)(i)(II) is  
6                   greater than the number of tons of  
7                   carbon dioxide emissions that were ac-  
8                   tually captured and stored by a  
9                   project during that year, the owner or  
10                  operator of the project may repay the  
11                  difference by—

12                               “(aa) repaying in accordance  
13                               with clause (vi); or

14                               “(bb) capturing and storing  
15                               an additional quantity of emis-  
16                               sions that cumulatively exceeds  
17                               the difference between—

18                                       “(AA) the number of  
19                                       tons of carbon dioxide emis-  
20                                       sions that were projected to  
21                                       be captured and stored for  
22                                       the relevant calendar year  
23                                       under                   paragraph  
24                                       (1)(B)(i)(II); and

1                   “(BB) the number of  
2                   tons of carbon dioxide emis-  
3                   sions that were actually cap-  
4                   tured and stored by the  
5                   project during that year.

6                   “(II)        PERIOD.—Repayment  
7                   under this clause shall occur over a  
8                   period to be specified by the Adminis-  
9                   trator, but not to exceed 18 months.

10                  “(III) ALTERNATIVE METHOD.—  
11                  The owner or operator may elect to  
12                  forego the method of repayment under  
13                  this clause and alternatively make re-  
14                  payment in accordance with clause  
15                  (viii).

16                  “(vi) REPAYMENT BY ALLOWANCES  
17                  OR CASH.—If the owner or operator of the  
18                  project elects to comply by repaying in ac-  
19                  cordance with clause (v)(I), following the  
20                  period specified by the Administrator  
21                  under clause (v)(II), the owner or operator  
22                  shall repay the Administrator an amount  
23                  of allowances or cash (as calculated under  
24                  clause (viii)) if—

1                   “(I) the number of tons of car-  
2                   bon dioxide emissions that were actu-  
3                   ally captured and stored by a project  
4                   during that period is less than the  
5                   number necessary to rectify the dif-  
6                   ference described under clause (v)(I);  
7                   or

8                   “(II) the number of allowances  
9                   remaining reserved for a project is in-  
10                  sufficient to adjust for the difference  
11                  under clause (iii).

12                  “(vii) MILESTONES.—If the Adminis-  
13                  trator determines that the owner or oper-  
14                  ator failed to achieve reasonable milestones  
15                  for commencing construction or commer-  
16                  cial operation of the project (as specified  
17                  under paragraph (1)(B), the owner or op-  
18                  erator shall repay the Administrator an  
19                  amount of allowances or cash calculated  
20                  under clause (viii).

21                  “(viii) CALCULATION.—The repay-  
22                  ments required under clauses (vi)(I)(aa)  
23                  and (vii) shall be equal to, at the option of  
24                  the owner or operator of the project—

676

1 “(I) the difference between sub-  
2 clauses (I) and (II) of clause (iii); or

3 “(II) a cash payment in an  
4 amount equal to the product obtained  
5 by multiplying—

6 “(aa) the quotient obtained  
7 by dividing the bonus allowance  
8 value that was originally assigned  
9 under subsection (d) (in accord-  
10 ance with paragraph  
11 (1)(B)(i)(II)) by the average fair  
12 market value of an emission al-  
13 lowance during the year specified  
14 under subsection  
15 (c)(2)(B)(i)(II)(bb);

16 “(bb) the average fair mar-  
17 ket value of an emission allow-  
18 ance during the year in which the  
19 repayment would be made under  
20 clause (vi); and

21 “(cc) the difference between  
22 the number of tons of carbon di-  
23 oxide emissions capture and stor-  
24 age that was projected for the  
25 relevant calendar year under

677

1 paragraph (1)(B)(i)(II) and the  
2 number of tons of carbon dioxide  
3 emissions that was actually cap-  
4 tured and stored by a project  
5 during that year.

6 “(ix) USE OF REPAID AMOUNTS.—The  
7 Administrator shall use amounts received  
8 as repayments under this clause to support  
9 the deployment of carbon capture and stor-  
10 age.

11 “(i) LIMITATIONS.—

12 “(1) IN GENERAL.—Emission allowances shall  
13 be distributed under this section only for tons of car-  
14 bon dioxide emissions that are captured and seques-  
15 tered in accordance with this section.

16 “(2) PERIOD.—A qualifying project may receive  
17 annual emission allowances under this section only  
18 for the first 10 years of operation.

19 “(3) CAPACITY.—

20 “(A) IN GENERAL.—Approximately 72  
21 gigawatts of total cumulative treated generating  
22 capacity may receive emission allowances under  
23 this section.

24 “(B) ALLOWANCE SURPLUS.—On reaching  
25 the cumulative capacity described in subpara-

1 graph (A), any emission allowances that are al-  
2 located for carbon capture and storage deploy-  
3 ment under section 782(f) and are not yet obli-  
4 gated under this section shall be treated as  
5 emission allowances not designated for distribu-  
6 tion for purposes of section 782(r).

7 “(j) EXHAUSTION OF ACCOUNT AND ANNUAL ROLL-  
8 OVER OF SURPLUS EMISSION ALLOWANCES.—

9 “(1) IN GENERAL.—In distributing emission al-  
10 lowances under this section, the Administrator shall  
11 ensure that eligible projects receive distributions of  
12 emission allowances for the first 10 years of com-  
13 mercial operation.

14 “(2) DIFFERENT VINTAGE YEARS.—

15 “(A) DETERMINATION.—If the Adminis-  
16 trator determines that the emission allowances  
17 allocated under section 782(f) with a vintage  
18 year that matches the year of distribution will  
19 be exhausted once the estimated full 10-year  
20 distributions will be provided to current eligible  
21 participants, the Administrator shall provide to  
22 new eligible projects emission allowances from  
23 vintage years after the year of the distribution.

24 “(B) DIVERSITY FACTORS.—If the Admin-  
25 istrator provides allowances to new eligible

1 projects under subparagraph (A), the Adminis-  
2 trator shall promulgate regulations to prioritize  
3 new eligible projects that are distinguished from  
4 prior recipients of allowances by 1 or more of  
5 the following diversity factors (without regard  
6 to order):

7 “(i) Location in a coal-producing re-  
8 gion that provides a majority of coal to the  
9 project.

10 “(ii) Coal type, including waste coal.

11 “(iii) Capture and transportation  
12 technologies.

13 “(iv) Geological formations.

14 “(v) New units and retrofit applica-  
15 tions.

16 “(k) ALLOCATION OF ALLOWANCES FOR DEPLOY-  
17 MENT OF CARBON CAPTURE AND STORAGE TECH-  
18 NOLOGY.—

19 “(1) ANNUAL ALLOCATION.—The Adminis-  
20 trator shall allocate emission allowances for the de-  
21 ployment of carbon capture and storage technology  
22 in accordance with this section in the following  
23 quantities:

24 “(A) For **[each of]** vintage years 2014  
25 through 2017, 1.75 percent of the emission al-

1 allowances established for each year under section  
2 721(a).

3 “(B) For **【each of】** vintage years 2018  
4 and 2019, 4.75 percent of the emission allow-  
5 ances established for each year under section  
6 721(a).

7 “(C) For **【each of】** vintage years 2020  
8 through 2050, 5 percent of the emission allow-  
9 ances established for each year under section  
10 721(a).

11 “(2) CARRYOVER.—If the Administrator has  
12 not distributed all of the allowances allocated pursu-  
13 ant to this subsection for a given vintage year by the  
14 end of that year, the Administrator shall—

15 “(A) auction those emission allowances in  
16 accordance with section 791 by not later than  
17 March 31 of the year following that vintage  
18 year; and

19 “(B) increase the allocation under this  
20 subsection for the vintage year after the vintage  
21 year for which emission allowances were  
22 undisbursed by the quantity of undisbursed  
23 emission allowances, but only to the extent that  
24 allowances for that later year are to be auc-  
25 tioned.



1 “(1) DAVIS-BACON COMPLIANCE.—

2 “(1) IN GENERAL.—All laborers and mechanics  
3 employed on projects funded directly by or assisted  
4 in whole or in part by this section through the use  
5 of emission allowances shall be paid wages at rates  
6 not less than those prevailing on projects of a char-  
7 acter similar in the locality as determined by the  
8 Secretary of Labor in accordance with subchapter  
9 IV of chapter 31 of title 40, United States Code.

10 “(2) AUTHORITY.—With respect to the labor  
11 standards specified in this subsection, the Secretary  
12 of Labor shall have the authority and functions set  
13 forth in Reorganization Plan Numbered 14 of 1950  
14 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of  
15 title 40, United States Code.

16 **“SEC. 792. OVERSIGHT OF ALLOCATIONS.**

17 “(a) IN GENERAL.—Not later than January 1, 2014,  
18 and every 2 years thereafter, the Comptroller General of  
19 the United States shall carry out a review of programs  
20 administered by the Federal Government that distribute  
21 emission allowances or funds from any Federal auction of  
22 allowances.

23 “(b) CONTENTS.—Each such report shall include a  
24 comprehensive evaluation of the administration and effec-  
25 tiveness of each program, including—

1           “(1) the efficiency, transparency, and sound-  
2           ness of the administration of each program;

3           “(2) the performance of activities receiving as-  
4           sistance under each program;

5           “(3) the cost-effectiveness of each program in  
6           achieving the stated purposes of the program; and

7           “(4) recommendations, if any, for regulatory or  
8           administrative changes to each program to improve  
9           its effectiveness.

10          “(c) FOCUS.—In evaluating program performance,  
11          each review under this section review shall address the ef-  
12          fectiveness of such programs in—

13           “(1) creating and preserving jobs;

14           “(2) ensuring a manageable transition for  
15           working families and workers;

16           “(3) reducing the emissions, or enhancing se-  
17           questration, of greenhouse gases;

18           “(4) developing clean technologies; and

19           “(5) building resilience to the impacts of cli-  
20           mate change.

21          **“SEC. 793. EARLY ACTION RECOGNITION.**

22           “(a) IN GENERAL.—Emission allowances allocated  
23           pursuant to **【section 782(t)】** shall be distributed by the  
24           Administrator in accordance with this section. Not later

1 than 1 year after the date of enactment of this title, the  
2 Administrator shall issue regulations allowing—

3 “(1) any person in the United States to ex-  
4 change instruments in the nature of offset credits  
5 issued before January 1, 2009, by a State, local, or  
6 voluntary offset program with respect to which the  
7 Administrator has made an affirmative determina-  
8 tion under [section 740(a)(2)], for emission allow-  
9 ances established by the Administrator under [sec-  
10 tion 721(a)(\_\_)]]; and

11 “(2) the Administrator to provide compensation  
12 in the form of emission allowances to entities that  
13 do not meet the criteria of paragraph (1) and meet  
14 the criteria of this paragraph for documented early  
15 reductions or avoidance of greenhouse gas emissions  
16 or greenhouse gases sequestered before January 1,  
17 2009, from projects or process improvements begun  
18 before January 1, 2009, where—

19 “(A) the entity publicly stated greenhouse  
20 gas reduction goals and publicly reported  
21 against those goals;

22 “(B) the entity demonstrated entity-wide  
23 net greenhouse gas reductions; and

24 “(C) the entity demonstrates the actual  
25 projects or process improvements undertaken to

1           make reductions and documents the reductions  
2           (such as through documentation of engineering  
3           projects).

4           “(b) REGULATIONS.—Regulations issued under sub-  
5 section (a) shall—

6           “(1) provide that a person exchanging credits  
7           under subsection (a)(1) receive emission allowances  
8           established under **【section 721(a)(\_\_)** in an  
9           amount for which the monetary value is equivalent  
10          to the average monetary value of the credits during  
11          the period from January 1, 2006, to January 1,  
12          2009, as adjusted for inflation to reflect current dol-  
13          lar values at the time of the exchange;

14          “(2) provide that a person receiving compensa-  
15          tion for documented early action under subsection  
16          (a)(2) shall receive emission allowances established  
17          under **【section 721(a)** in an amount that is ap-  
18          proximately equivalent in value to the carbon dioxide  
19          equivalent per ton value received by entities in ex-  
20          change for credits under paragraph (1) (as adjusted  
21          for inflation to reflect current dollar values at the  
22          time of the exchange), as determined by the Admin-  
23          istrator;

24          “(3) provide that only reductions or avoidance  
25          of greenhouse gas emissions, or sequestration of

1 greenhouse gases, achieved by activities in the  
2 United States between January 1, 2001, and Janu-  
3 ary 1, 2009, may be compensated under this section,  
4 and only credits issued for such activities may be ex-  
5 changed under this section;

6 “(4) provide that only credits that have not  
7 been retired or otherwise used to meet a voluntary  
8 or mandatory commitment, and have not expired,  
9 may be exchanged under subsection (a)(1);

10 “(5) require that, once exchanged, the credit be  
11 retired for purposes of use under the program by or  
12 for which it was originally issued; and

13 “(6) establish a deadline by which persons must  
14 exchange the credits or request compensation for  
15 early action under this section.

16 “(c) PARTICIPATION.—Participation in an exchange  
17 of credits for allowances or compensation for early action  
18 authorized by this section shall not preclude any person  
19 from participation in an offset credit program established  
20 under the \_\_\_\_\_ Act.

21 “(d) DISTRIBUTION.—Of the emission allowances  
22 distributed under this section, a quantity equal to 0.75  
23 percent of vintage year 2012 emission allowances estab-  
24 lished under **【section 721(a)】** shall be distributed pursu-  
25 ant to subsection (a)(1), and a quantity equal to 0.25 per-

1 cent of vintage year 2012 emission allowances established  
2 under **section 721(a)** shall be distributed pursuant to  
3 subsection (a)(2).

4 **“SEC. 794. ESTABLISHMENT OF FUNDS.**

5 “(a) DEFICIT REDUCTION.—

6 “(1) DEFICIT REDUCTION FUND.—There is es-  
7 tablished in the Treasury of the United States a  
8 fund, to be known as the ‘Deficit Reduction Fund’.

9 “(2) DISBURSEMENTS.—No disbursement shall  
10 be made from the Deficit Reduction Fund except  
11 pursuant to an appropriation Act.

12 “(b) MARKET STABILITY RESERVE FUND.—There  
13 are established in the Treasury of the United States a  
14 fund to be known as the ‘Market Stability Reserve  
15 Fund’.”.

16 **Subtitle C—Additional Greenhouse**  
17 **Gas Standards**

18 **SEC. 121. GREENHOUSE GAS STANDARDS.**

19 The Clean Air Act (42 U.S.C. 7401 et seq.), as  
20 amended by subtitles A and B of this title, is further  
21 amended by adding the following new title after title VII:

1           **“TITLE VIII—ADDITIONAL**  
2           **GREENHOUSE GAS STANDARDS**

3           **“SEC. 801. DEFINITIONS.**

4           “For purposes of this title, terms that are defined  
5 in title VII, except for the term ‘stationary source’, shall  
6 have the meanings given those terms in title VII.

7           **“PART A—STATIONARY SOURCE STANDARDS**

8           **[“SEC. 811. STANDARDS OF PERFORMANCE.]**

9           “(a) STANDARDS.—In promulgating standards of  
10 performance under section 111, the Administrator shall—

11                   “(1) give priority to the setting of performance  
12 standards for the largest stationary sources of  
13 greenhouse gas emissions;

14                   “(2) take into account the greenhouse gas re-  
15 ductions achievable through the application of en-  
16 ergy efficiency measures, carbon capture and storage  
17 technologies, and measures available to achieve off-  
18 sets from methane sources under section 733;

19                   “(3) consider the findings of the report required  
20 under subsection (b).

21           “(b) REPORT.—Not later than 3 years after the date  
22 of enactment of this title, the Administrator shall issue  
23 a report on achievable reductions in methane from sta-  
24 tionary sources that individually had greenhouse gas emis-  
25 sions of greater than 10,000 tons of carbon dioxide equiva-

1 lent and that in the aggregate were responsible for emit-  
2 ting at least 20 percent annually of the uncapped green-  
3 house gas emissions, taking into account measures avail-  
4 able to achieve offsets from methane sources, as provided  
5 under section 733.”.

6 **SEC. 122. HFC REGULATION.**

7 (a) IN GENERAL.—Title VI of the Clean Air Act (42  
8 U.S.C. 7671 et seq.) (relating to stratospheric ozone pro-  
9 tection) is amended by adding at the end the following:

10 **“SEC. 619. HYDROFLUOROCARBONS (HFCs).**

11 “(a) TREATMENT AS CLASS II, GROUP II SUB-  
12 STANCES.—Except as otherwise provided in this section,  
13 hydrofluorocarbons shall be treated as class II substances  
14 for purposes of applying the provisions of this title. The  
15 Administrator shall establish two groups of class II sub-  
16 stances. Class II, group I substances shall include all  
17 hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-  
18 tion 602(b). Class II, group II substances shall include  
19 each of the following:

20 “(1) Hydrofluorocarbon-23 (HFC-23).

21 “(2) Hydrofluorocarbon-32 (HFC-32).

22 “(3) Hydrofluorocarbon-41 (HFC-41).

23 “(4) Hydrofluorocarbon-125 (HFC-125).

24 “(5) Hydrofluorocarbon-134 (HFC-134).

25 “(6) Hydrofluorocarbon-134a (HFC-134a).



- 1           “(7) Hydrofluorocarbon-143 (HFC-143).
- 2           “(8) Hydrofluorocarbon-143a (HFC-143a).
- 3           “(9) Hydrofluorocarbon-152 (HFC-152).
- 4           “(10) Hydrofluorocarbon-152a (HFC-152a).
- 5           “(11) Hydrofluorocarbon-227ea (HFC-227ea).
- 6           “(12) Hydrofluorocarbon-236cb (HFC-236cb).
- 7           “(13) Hydrofluorocarbon-236ea (HFC-236ea).
- 8           “(14) Hydrofluorocarbon-236fa (HFC-236fa).
- 9           “(15) Hydrofluorocarbon-245ca (HFC-245ca).
- 10          “(16) Hydrofluorocarbon-245fa (HFC-245fa).
- 11          “(17) Hydrofluorocarbon-365mfc (HFC-
- 12          365mfc).
- 13          “(18) Hydrofluorocarbon-43-10mee (HFC-43-
- 14          10mee).
- 15          “(19) Hydrofluoroolefin-1234yf (HFO-1234yf).
- 16          “(20) Hydrofluoroolefin-1234ze (HFO-1234ze).
- 17 Not later than 6 months after the date of enactment of
- 18 this title, the Administrator shall publish an initial list of
- 19 class II, group II substances, which shall include the sub-
- 20 stances listed in this subsection. The Administrator may
- 21 add to the list of class II, group II substances any other
- 22 substance used as a substitute for a class I or II substance
- 23 if the Administrator determines that 1 metric ton of the
- 24 substance makes the same or greater contribution to glob-
- 25 al warming over 100 years as 1 metric ton of carbon diox-

1 ide. Within 24 months after the date of enactment of this  
2 section, the Administrator shall amend the regulations  
3 under this title (including the regulations referred to in  
4 sections 603, 608, 609, 610, 611, 612, and 613) to apply  
5 to class II, group II substances.

6 “(b) CONSUMPTION AND PRODUCTION OF CLASS II,  
7 GROUP II SUBSTANCES.—

8 “(1) IN GENERAL.—

9 “(A) CONSUMPTION PHASE DOWN.—In the  
10 case of class II, group II substances, in lieu of  
11 applying section 605 and the regulations there-  
12 under, the Administrator shall promulgate reg-  
13 ulations phasing down the consumption of class  
14 II, group II substances in the United States,  
15 and the importation of products containing any  
16 class II, group II substance, in accordance with  
17 this subsection within 18 months after the date  
18 of enactment of this section. Effective January  
19 1, 2012, it shall be unlawful for any person to  
20 produce any class II, group II substance, im-  
21 port any class II, group II substance, or import  
22 any product containing any class II, group II  
23 substance without holding one consumption al-  
24 lowance or one destruction offset credit for each  
25 carbon dioxide equivalent ton of the class II,

1 group II substance. Any person who exports a  
2 class II, group II substance for which a con-  
3 sumption allowance was retired may receive a  
4 refund of that allowance from the Adminis-  
5 trator following the export.

6 “(B) PRODUCTION.—If the United States  
7 becomes a party or otherwise adheres to a mul-  
8 tilateral agreement, including any amendment  
9 to the Montreal Protocol on Substances That  
10 Deplete the Ozone Layer, that restricts the pro-  
11 duction of class II, group II substances, the Ad-  
12 ministrator shall promulgate regulations estab-  
13 lishing a baseline for the production of class II,  
14 group II substances in the United States and  
15 phasing down the production of class II, group  
16 II substances in the United States, in accord-  
17 ance with such multilateral agreement and sub-  
18 ject to the same exceptions and other provisions  
19 as are applicable to the phase down of con-  
20 sumption of class II, group II substances under  
21 this section (except that the Administrator shall  
22 not require a person who obtains production al-  
23 lowances from the Administrator to make pay-  
24 ment for such allowances if the person is mak-  
25 ing payment for a corresponding quantity of

1 consumption allowances of the same vintage  
2 year). Upon the effective date of such regula-  
3 tions, it shall be unlawful for any person to  
4 produce any class II, group II substance with-  
5 out holding one consumption allowance and one  
6 production allowance, or one destruction offset  
7 credit, for each carbon dioxide equivalent ton of  
8 the class II, group II substance.

9 “(C) INTEGRITY OF CAP.—To maintain  
10 the integrity of the class II, group II cap, the  
11 Administrator may, through rulemaking, limit  
12 the percentage of each person’s compliance obli-  
13 gation that may be met through the use of de-  
14 struction offset credits or banked allowances.

15 “(D) COUNTING OF VIOLATIONS.—Each  
16 consumption allowance, production allowance,  
17 or destruction offset credit not held as required  
18 by this section shall be a separate violation of  
19 this section.

20 “(2) SCHEDULE.—Pursuant to the regulations  
21 promulgated pursuant to paragraph (1)(A), the  
22 number of class II, group II consumption allowances  
23 established by the Administrator for each calendar  
24 year beginning in 2012 shall be the following per-

1           centage of the baseline, as established by the Admin-  
2           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
2031	21
2032	17
after 2032	15

3           “(3) BASELINE.—(A) Within 12 months after  
4           the date of enactment of this section, the Adminis-

1 trator shall promulgate regulations to establish the  
2 baseline for purposes of paragraph (2). The baseline  
3 shall be the sum, expressed in metric tons of carbon  
4 dioxide equivalents, of—

5 “(i) the annual average consumption of all  
6 class II substances in calendar years 2004,  
7 2005, and 2006; plus

8 “(ii) the annual average quantity of all  
9 class II substances contained in imported prod-  
10 ucts in calendar years 2004, 2005, and 2006.

11 “(B) Notwithstanding subparagraph (A), if the  
12 Administrator determines that the baseline is higher  
13 than 370 million metric tons of carbon dioxide  
14 equivalents, then the Administrator shall establish  
15 the baseline at 370 million metric tons of carbon di-  
16 oxide equivalents.

17 “(C) Notwithstanding subparagraph (A), if the  
18 Administrator determines that the baseline is lower  
19 than 280 million metric tons of carbon dioxide  
20 equivalents, then the Administrator shall establish  
21 the baseline at 280 million metric tons of carbon di-  
22 oxide equivalents.

23 “(4) DISTRIBUTION OF ALLOWANCES.—

24 “(A) IN GENERAL.—Pursuant to the regu-  
25 lations promulgated under paragraph (1)(A),

1           for each calendar year beginning in 2012, the  
 2           Administrator shall sell consumption allowances  
 3           in accordance with this paragraph.

4           “(B) ESTABLISHMENT OF POOLS.—The  
 5           Administrator shall establish two allowance  
 6           pools. Eighty percent of the consumption allow-  
 7           ances available for a calendar year shall be  
 8           placed in the producer-importer pool, and 20  
 9           percent of the consumption allowances available  
 10          for a calendar year shall be placed in the sec-  
 11          ondary pool.

12          “(C) PRODUCER-IMPORTER POOL.—

13                 “(i) AUCTION.—(I) For each calendar  
 14                 year, the Administrator shall offer for sale  
 15                 at auction the following percentage of the  
 16                 consumption allowances in the producer-  
 17                 importer pool:

“Calendar Year	Percent Available for Auction
2012	10
2013	20
2014	30
2015	40
2016	50
2017	60
2018	70
2019	80

“Calendar Year	Percent Available for Auction
2020 and thereafter	90

1                   “(II) Any person who produced or im-  
2                   ported any class II substance during cal-  
3                   endar year 2004, 2005, or 2006 may par-  
4                   ticipate in the auction. No other persons  
5                   may participate in the auction unless per-  
6                   mitted to do so pursuant to subclause  
7                   (III).

8                   “(III) Not later than 3 years after the  
9                   date of the initial auction and from time to  
10                  time thereafter, the Administrator shall de-  
11                  termine through rulemaking whether any  
12                  persons who did not produce or import a  
13                  class II substance during calendar year  
14                  2004, 2005, or 2006 will be permitted to  
15                  participate in future auctions. The Admin-  
16                  istrator shall base this determination on  
17                  the duration, consistency, and scale of such  
18                  person’s purchases of consumption allow-  
19                  ances in the secondary pool under subpara-  
20                  graph (D)(ii)(III), as well as economic or  
21                  technical hardship and other factors  
22                  deemed relevant by the Administrator.



697

1           “(IV) The Administrator shall set a  
2           minimum bid per consumption allowance of  
3           the following:

4                   “(aa) For vintage year 2012,  
5                   \$1.00.

6                   “(bb) For vintage year 2013,  
7                   \$1.20.

8                   “(cc) For vintage year 2014,  
9                   \$1.40.

10                   “(dd) For vintage year 2015,  
11                   \$1.60.

12                   “(ee) For vintage year 2016,  
13                   \$1.80.

14                   “(ff) For vintage year 2017,  
15                   \$2.00.

16                   “(gg) For vintage year 2018 and  
17                   thereafter, \$2.00 adjusted for infla-  
18                   tion after vintage year 2017 based  
19                   upon the producer price index as pub-  
20                   lished by the Department of Com-  
21                   merce.

22                   “(ii) NON-AUCTION SALE.—(I) For  
23                   each calendar year, as soon as practicable  
24                   after auction, the Administrator shall offer  
25                   for sale the remaining consumption allow-

1                   ances in the producer-importer pool at the  
2                   following prices:

3                   “(aa) A fee of \$1.00 per vintage  
4                   year 2012 allowance.

5                   “(bb) A fee of \$1.20 per vintage  
6                   year 2013 allowance.

7                   “(cc) A fee of \$1.40 per vintage  
8                   year 2014 allowance.

9                   “(dd) For each vintage year  
10                  2015 allowance, a fee equal to the av-  
11                  erage of \$1.10 and the auction clear-  
12                  ing price for vintage year 2014 allow-  
13                  ances.

14                  “(ee) For each vintage year 2016  
15                  allowance, a fee equal to the average  
16                  of \$1.30 and the auction clearing  
17                  price for vintage year 2015 allow-  
18                  ances.

19                  “(ff) For each vintage year 2017  
20                  allowance, a fee equal to the average  
21                  of \$1.40 and the auction clearing  
22                  price for vintage year 2016 allow-  
23                  ances.

24                  “(gg) For each allowance of vin-  
25                  tage year 2018 and subsequent vin-





1 ceeds supply of such consumption allow-  
2 ances, the Administrator shall develop and  
3 utilize criteria for the sale of such con-  
4 sumption allowances that may include pro  
5 rata shares, historic production and impor-  
6 tation, economic or technical hardship, or  
7 other factors deemed relevant by the Ad-  
8 ministrator. If the supply of such con-  
9 sumption allowances exceeds demand, the  
10 Administrator may offer such consumption  
11 allowances for sale in the secondary pool as  
12 set forth in subparagraph (D).

13 “(D) SECONDARY POOL.—(i) For each cal-  
14 endar year, as soon as practicable after the auc-  
15 tion required in subparagraph (C), the Adminis-  
16 trator shall offer for sale the consumption al-  
17 lowances in the secondary pool at the prices  
18 listed in subparagraph (C)(ii).

19 “(ii) The Administrator shall accept appli-  
20 cations for purchase of secondary pool con-  
21 sumption allowances from—

22 “(I) importers of products containing  
23 class II, group II substances;

24 “(II) persons who purchased any class  
25 II, group II substance directly from a pro-

1           ducer or importer of class II, group II sub-  
2           stances for use in a product containing a  
3           class II, group II substance, a manufac-  
4           turing process, or a reclamation process;

5           “(III) persons who did not produce or  
6           import a class II substance during cal-  
7           endar year 2004, 2005, or 2006, but who  
8           the Administrator determines have subse-  
9           quently taken significant steps to produce  
10          or import a substantial quantity of any  
11          class II, group II substance; and

12          “(IV) persons who produced or im-  
13          ported any class II substance during cal-  
14          endar year 2004, 2005, or 2006.

15          “(iii) If the supply of consumption allow-  
16          ances in the secondary pool equals or exceeds  
17          the demand for consumption allowances in the  
18          secondary pool as presented in the applications  
19          for purchase, the Administrator shall sell the  
20          consumption allowances in the secondary pool  
21          to the applicants in the amounts requested in  
22          the applications for purchase. Any consumption  
23          allowances in the secondary pool not purchased  
24          in a calendar year may be rolled over and added

1 to the quantity available in the secondary pool  
2 in the following year.

3 “(iv) If the demand for consumption allow-  
4 ances in the secondary pool as presented in the  
5 applications for purchase exceeds the supply of  
6 consumption allowances in the secondary pool,  
7 the Administrator shall sell the consumption al-  
8 lowances as follows:

9 “(I) The Administrator shall first sell  
10 the consumption allowances in the sec-  
11 ondary pool to any importers of products  
12 containing class II, group II substances in  
13 the amounts requested in their applications  
14 for purchase. If the demand for such con-  
15 sumption allowances exceeds supply of  
16 such consumption allowances, the Adminis-  
17 trator shall develop and utilize criteria for  
18 the sale of such consumption allowances  
19 among importers of products containing  
20 class II, group II substances that may in-  
21 clude pro rata shares, historic importation,  
22 economic or technical hardship, or other  
23 factors deemed relevant by the Adminis-  
24 trator.

1           “(II) The Administrator shall next  
2           sell any remaining consumption allowances  
3           to persons identified in subclauses (II) and  
4           (III) of clause (ii) in the amounts re-  
5           quested in their applications for purchase.  
6           If the demand for such consumption allow-  
7           ances exceeds remaining supply of such  
8           consumption allowances, the Administrator  
9           shall develop and utilize criteria for the  
10          sale of such consumption allowances  
11          among subclauses (II) and (III) applicants  
12          that may include pro rata shares, historic  
13          use, economic or technical hardship, or  
14          other factors deemed relevant by the Ad-  
15          ministrator.

16          “(III) The Administrator shall then  
17          sell any remaining consumption allowances  
18          to persons who produced or imported any  
19          class II substance during calendar year  
20          2004, 2005, or 2006 in the amounts re-  
21          quested in their applications for purchase.  
22          If demand for such consumption allow-  
23          ances exceeds remaining supply of such  
24          consumption allowances, the Administrator  
25          shall develop and utilize criteria for the



1 sale of such consumption allowances that  
2 may include pro rata shares, historic pro-  
3 duction and importation, economic or tech-  
4 nical hardship, or other factors deemed rel-  
5 evant by the Administrator.

6 “(IV) Each person who purchases  
7 consumption allowances in a non-auction  
8 sale under this subparagraph shall be re-  
9 quired to disclose the person or entity  
10 sponsoring or benefitting from the pur-  
11 chases if such person or entity is, in whole  
12 or in part, other than the purchaser or the  
13 purchaser’s employer.

14 “(E) DISCRETION TO WITHHOLD ALLOW-  
15 ANCES.—Nothing in this paragraph prevents  
16 the Administrator from exercising discretion to  
17 withhold and retire consumption allowances  
18 that would otherwise be available for auction or  
19 nonauction sale. Not later than 18 months after  
20 the date of enactment of this section, the Ad-  
21 ministrator shall promulgate regulations estab-  
22 lishing criteria for withholding and retiring con-  
23 sumption allowances.

24 “(5) BANKING.—A consumption allowance or  
25 destruction offset credit may be used to meet the

1 compliance obligation requirements of paragraph (1)  
2 in—

3 “(A) the vintage year for the allowance or  
4 destruction offset credit; or

5 “(B) any calendar year subsequent to the  
6 vintage year for the allowance or destruction  
7 offset credit.

8 “(6) AUCTIONS.—

9 “(A) INITIAL REGULATIONS.—Not later  
10 than 18 months after the date of enactment of  
11 this section, the Administrator shall promulgate  
12 regulations governing the auction of allowances  
13 under this section. Such regulations shall in-  
14 clude the following requirements:

15 “(i) FREQUENCY; FIRST AUCTION.—  
16 Auctions shall be held one time per year at  
17 regular intervals, with the first auction to  
18 be held no later than October 31, 2011.

19 “(ii) AUCTION FORMAT.—Auctions  
20 shall follow a single-round, sealed-bid, uni-  
21 form price format.

22 “(iii) FINANCIAL ASSURANCE.—The  
23 Administrator may establish financial as-  
24 surance requirements to ensure that auc-





1 the producer-importer pool non-auc-  
2 tion sale to the total number of vin-  
3 tage year 2012 allowances in the pro-  
4 ducer-importer pool; and

5 “(II) the number of vintage year  
6 2013 allowances offered at auction.

7 “(viii) BIDDING LIMITS IN SUBSE-  
8 QUENT YEARS.—In the auctions for vin-  
9 tage year 2014 and subsequent vintage  
10 years, no auction participant may, directly  
11 or in concert with another participant, bid  
12 for or purchase more allowances offered  
13 for sale at the auction than the product  
14 of—

15 “(I) 1.15 multiplied by the ratio  
16 of the highest number of allowances  
17 required to be held by the participant  
18 in any of the three prior vintage years  
19 to meet its compliance obligation  
20 under paragraph (1) to the total num-  
21 ber of allowances in the producer-im-  
22 porter pool for such vintage year; and

23 “(II) the number of allowances  
24 offered at auction for that vintage  
25 year.

1                   “(ix) OTHER REQUIREMENTS.—The  
2                   Administrator may include in the regula-  
3                   tions such other requirements or provisions  
4                   as the Administrator considers necessary  
5                   to promote effective, efficient, transparent,  
6                   and fair administration of auctions under  
7                   this section.

8                   “(B) REVISION OF REGULATIONS.—The  
9                   Administrator may, at any time, revise the ini-  
10                  tial regulations promulgated under subpara-  
11                  graph (A) based on the Administrator’s experi-  
12                  ence in administering allowance auctions by  
13                  promulgating new regulations. Such revised reg-  
14                  ulations need not meet the requirements identi-  
15                  fied in subparagraph (A) if the Administrator  
16                  determines that an alternative auction design  
17                  would be more effective, taking into account  
18                  factors including costs of administration, trans-  
19                  parency, fairness, and risks of collusion or ma-  
20                  nipulation. In determining whether and how to  
21                  revise the initial regulations under this para-  
22                  graph, the Administrator shall not consider  
23                  maximization of revenues to the Federal Gov-  
24                  ernment.

1           “(C) DELEGATION OR CONTRACT.—Pursu-  
2 ant to regulations under this section, the Ad-  
3 ministrator may, by delegation or contract, pro-  
4 vide for the conduct of auctions under the Ad-  
5 ministrator’s supervision by other departments  
6 or agencies of the Federal Government or by  
7 nongovernmental agencies, groups, or organiza-  
8 tions.

9           “(7) PAYMENTS FOR ALLOWANCES.—

10           “(A) INITIAL REGULATIONS.—Not later  
11 than 18 months after the date of enactment of  
12 this section, the Administrator shall promulgate  
13 regulations governing the payment for allow-  
14 ances purchased in auction and non-auction  
15 sales under this section. Such regulations shall  
16 include the requirement that, in the event that  
17 full payment for purchased allowances is not  
18 made on the date of purchase, equal payments  
19 shall be made one time per calendar quarter  
20 with all payments for allowances of a vintage  
21 year made by the end of that vintage year.

22           “(B) REVISION OF REGULATIONS.—The  
23 Administrator may, at any time, revise the ini-  
24 tial regulations promulgated under subpara-  
25 graph (A) based on the Administrator’s experi-

1           ence in administering collection of payments by  
2           promulgating new regulations. Such revised reg-  
3           ulations need not meet the requirements identi-  
4           fied in subparagraph (A) if the Administrator  
5           determines that an alternative payment struc-  
6           ture or frequency would be more effective, tak-  
7           ing into account factors including cost of ad-  
8           ministration, transparency, and fairness. In de-  
9           termining 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) PENALTIES FOR NON-PAYMENT.—  
14          Failure to pay for purchased allowances in ac-  
15          cordance with the regulations promulgated pur-  
16          suant to this paragraph shall be a violation of  
17          the requirements of subsection (b). Section  
18          113(c)(3) shall apply in the case of any person  
19          who knowingly fails to pay for purchased allow-  
20          ances in accordance with the regulations pro-  
21          mulgated pursuant to this paragraph.

22                 “(8) IMPORTED PRODUCTS.—If the United  
23          States becomes a party or otherwise adheres to a  
24          multilateral agreement, including any amendment to  
25          the Montreal Protocol on Substances That Deplete



1 the Ozone Layer, which restricts the production or  
2 consumption of class II, group II substances—

3 “(A) as of the date on which such agree-  
4 ment or amendment enters into force, it shall  
5 no longer be unlawful for any person to import  
6 from a party to such agreement or amendment  
7 any product containing any class II, group II  
8 substance whose production or consumption is  
9 regulated by such agreement or amendment  
10 without holding one consumption allowance or  
11 one destruction offset credit for each carbon di-  
12 oxide equivalent ton of the class II, group II  
13 substance;

14 “(B) the Administrator shall promulgate  
15 regulations within 12 months of the date the  
16 United States becomes a party or otherwise ad-  
17 heres to such agreement or amendment, or the  
18 date on which such agreement or amendment  
19 enters into force, whichever is later, to establish  
20 a new baseline for purposes of paragraph (2),  
21 which new baseline shall be the original baseline  
22 less the carbon dioxide equivalent of the annual  
23 average quantity of any class II substances reg-  
24 ulated by such agreement or amendment con-  
25 tained in products imported from parties to

1 such agreement or amendment in calendar  
2 years 2004, 2005, and 2006;

3 “(C) as of the date on which such agree-  
4 ment or amendment enters into force, no per-  
5 son importing any product containing any class  
6 II, group II substance may, directly or in con-  
7 cert with another person, purchase any con-  
8 sumption allowances for sale by the Adminis-  
9 trator for the importation of products from a  
10 party to such agreement or amendment that  
11 contain any class II, group II substance re-  
12 stricted by such agreement or amendment; and

13 “(D) the Administrator may adjust the  
14 two allowance pools established in paragraph  
15 (4) such that up to 90 percent of the consump-  
16 tion allowances available for a calendar year are  
17 placed in the producer-importer pool with the  
18 remaining consumption allowances placed in the  
19 secondary pool.

20 “(9) OFFSETS.—

21 “(A) CHLOROFLUOROCARBON DESTRUC-  
22 TION.—Within 18 months after the date of en-  
23 actment of this section, the Administrator shall  
24 promulgate regulations to provide for the  
25 issuance of offset credits for the destruction, in

1 the calendar year 2012 or later, of  
2 chlorofluorocarbons in the United States. The  
3 Administrator shall establish and distribute to  
4 the destroying entity a quantity of destruction  
5 offset credits equal to 0.8 times the number of  
6 metric tons of carbon dioxide equivalents of re-  
7 duction achieved through the destruction. No  
8 destruction offset credits shall be established  
9 for the destruction of a class II, group II sub-  
10 stance.

11 “(B) DEFINITION.—For purposes of this  
12 paragraph, the term ‘destruction’ means the  
13 conversion of a substance by thermal, chemical,  
14 or other means to another substance with little  
15 or no carbon dioxide equivalent value and no  
16 ozone depletion potential.

17 “(C) REGULATIONS.—The regulations pro-  
18 mulgated under this paragraph shall include  
19 standards and protocols for project eligibility,  
20 certification of destroyers, monitoring, tracking,  
21 destruction efficiency, quantification of project  
22 and baseline emissions and carbon dioxide  
23 equivalent value, and verification. The Adminis-  
24 trator shall ensure that destruction offset cred-  
25 its represent real and verifiable destruction of

1 chlorofluorocarbons or other class I or class II,  
2 group I, substances authorized under subpara-  
3 graph (D).

4 “(D) OTHER SUBSTANCES.—The Adminis-  
5 trator may promulgate regulations to add to the  
6 list of class I and class II, group I, substances  
7 that may be destroyed for destruction offset  
8 credits, taking into account a candidate sub-  
9 stance’s carbon dioxide equivalent value, ozone  
10 depletion potential, prevalence in banks in the  
11 United States, and emission rates, as well as  
12 the need for additional cost containment under  
13 the class II, group II cap and the integrity of  
14 the class II, group II cap. The Administrator  
15 shall not add a class I or class II, group I sub-  
16 stance to the list if the consumption of the sub-  
17 stance has not been completely phased-out  
18 internationally (except for essential use exemp-  
19 tions or other similar exemptions) pursuant to  
20 the Montreal Protocol.

21 “(E) EXTENSION OF OFFSETS.—(i) At any  
22 time after the Administrator promulgates regu-  
23 lations pursuant to subparagraph (A), the Ad-  
24 ministrator may, pursuant to the requirements  
25 of part D of title VII and based on the carbon

1           dioxide equivalent value of the substance de-  
2           stroyed, add the types of destruction projects  
3           authorized to receive destruction offset credits  
4           under this paragraph to the list of types of  
5           projects eligible for offset credits under section  
6           733. If such projects are added to the list under  
7           section 733, the issuance of offset credits for  
8           such projects under part D of title VII shall be  
9           governed by the requirements of such part D,  
10          while the issuance of offset credits for such  
11          projects under this paragraph shall be governed  
12          by the requirements of this paragraph. Nothing  
13          in this paragraph shall affect the issuance of  
14          offset credits under section 740.

15                 “(ii) The Administrator shall not make the  
16                 addition under clause (i) unless the Adminis-  
17                 trator finds that insufficient destruction is oc-  
18                 curring or is projected to occur under this para-  
19                 graph and that the addition would increase de-  
20                 struction.

21                 “(iii) In no event shall more than one de-  
22                 struction offset credit be issued under title VII  
23                 and this section for the destruction of the same  
24                 quantity of a substance.

1           “(10) LEGAL STATUS OF ALLOWANCES AND  
2 CREDITS.—None of the following constitutes a prop-  
3 erty right:

4           “(A) A production or consumption allow-  
5           ance.

6           “(B) A destruction offset credit.

7           “(c) DEADLINES FOR COMPLIANCE.—Notwith-  
8 standing the deadlines specified for class II substances in  
9 sections 608, 609, 610, 612, and 613 that occur prior to  
10 January 1, 2009, the deadline for promulgating regula-  
11 tions under those sections for class II, group II substances  
12 shall be January 1, 2012.

13           “(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwith-  
14 standing any phase down of production and consumption  
15 required by this section, to the extent consistent with any  
16 applicable multilateral agreement to which the United  
17 States is a party or otherwise adheres, the Administrator  
18 shall consider providing exceptions for essential uses under  
19 paragraph (1) and may provide exceptions for essential  
20 uses under paragraph (2), as follows:

21           “(1) MEDICAL DEVICES.—If the Administrator  
22 makes the determination under this subsection that  
23 a medical device is eligible for an exception, after no-  
24 tice and opportunity for public comment, and in con-  
25 sultation with the Commissioner of Food and Drugs,

1 the Administrator shall provide an exception for the  
2 production and consumption of class II, group II  
3 substances solely for use in medical devices, such as  
4 metered dose inhalers.

5 “(2) AVIATION AND SPACE VEHICLE SAFETY.—

6 The Administrator, after notice and opportunity for  
7 public comment, may authorize the production and  
8 consumption of limited quantities of class II, group  
9 II substances solely for the purposes of aviation or  
10 space vehicle safety if either the Administrator of  
11 the Federal Aviation Administration or the Adminis-  
12 trator of the National Aeronautics and Space Ad-  
13 ministration, in consultation with the Administrator,  
14 determines that no safe and effective substitute has  
15 been developed and that such authorization is nec-  
16 essary for aviation or space flight safety purposes.

17 “(e) DEVELOPING COUNTRIES.—Notwithstanding  
18 any phase down of production required by this section, the  
19 Administrator, after notice and opportunity for public  
20 comment, may authorize the production of limited quan-  
21 tities of class II, group II substances in excess of the  
22 amounts otherwise allowable under this section solely for  
23 export to, and use in, developing countries. Any produc-  
24 tion authorized under this subsection shall be solely for  
25 purposes of satisfying the basic domestic needs of such

1 countries as provided in applicable international agree-  
2 ments, if any, to which the United States is a party or  
3 otherwise adheres.

4 “(f) NATIONAL SECURITY; FIRE SUPPRESSION,  
5 ETC.—The provisions of subsection (f) and paragraphs (1)  
6 and (2) of subsection (g) of section 604 shall apply to any  
7 consumption and production phase down of class II, group  
8 II substances in the same manner and to the same extent,  
9 consistent with any applicable international agreement to  
10 which the United States is a party or otherwise adheres,  
11 as such provisions apply to the substances specified in  
12 such subsection.

13 “(g) ACCELERATED SCHEDULE.—In lieu of section  
14 606, the provisions of paragraphs (1), (2), and (3) of this  
15 subsection shall apply in the case of class II, group II sub-  
16 stances.

17 “(1) IN GENERAL.—The Administrator shall  
18 promulgate initial regulations not later than 18  
19 months after the date of enactment of this section,  
20 and revised regulations any time thereafter, which  
21 establish a schedule for phasing down the consump-  
22 tion (and, if the condition in subsection (b)(1)(B) is  
23 met, the production) of class II, group II substances  
24 that is more stringent than the schedule set forth in  
25 this section if, based on the availability of sub-



1       stitutes, the Administrator determines that such  
2       more stringent schedule is practicable, taking into  
3       account technological achievability, safety, and other  
4       factors the Administrator deems relevant, or if the  
5       Montreal Protocol, or any applicable international  
6       agreement to which the United States is a party or  
7       otherwise adheres, is modified or established to in-  
8       clude a schedule or other requirements to control or  
9       reduce production, consumption, or use of any class  
10      II, group II substance more rapidly than the appli-  
11      cable schedule under this section.

12           “(2) PETITION.—Any person may submit a pe-  
13      tition to promulgate regulations under this sub-  
14      section in the same manner and subject to the same  
15      procedures as are provided in section 606(b).

16           “(3) INCONSISTENCY.—If the Administrator de-  
17      termines that the provisions of this section regarding  
18      banking, allowance rollover, or destruction offset  
19      credits create a significant potential for inconsis-  
20      tency with the requirements of any applicable inter-  
21      national agreement to which the United States is a  
22      party or otherwise adheres, the Administrator may  
23      promulgate regulations restricting the availability of  
24      banking, allowance rollover, or destruction offset

1 credits to the extent necessary to avoid such incon-  
2 sistency.

3 “(h) EXCHANGE.—Section 607 shall not apply in the  
4 case of class II, group II substances. Production and con-  
5 sumption allowances for class II, group II substances may  
6 be freely exchanged or sold but may not be converted into  
7 allowances for class II, group I substances.

8 “(i) LABELING.—(1) In applying section 611 to prod-  
9 ucts containing or manufactured with class II, group II  
10 substances, in lieu of the words ‘destroying ozone in the  
11 upper atmosphere’ on labels required under section 611  
12 there shall be substituted the words ‘contributing to global  
13 warming’.

14 “(2) The Administrator may, through rulemaking,  
15 exempt from the requirements of section 611 products  
16 containing or manufactured with class II, group II sub-  
17 stances determined to have little or no carbon dioxide  
18 equivalent value compared to other substances used in  
19 similar products.

20 “(j) NONESSENTIAL PRODUCTS.—For the purposes  
21 of section 610, class II, group II substances shall be regu-  
22 lated under section 610(b), except that in applying section  
23 610(b) the word ‘hydrofluorocarbon’ shall be substituted  
24 for the word ‘chlorofluorocarbon’ and the term ‘class II,  
25 group II’ shall be substituted for the term ‘class I’. Class

1 II, group II substances shall not be subject to the provi-  
2 sions of section 610(d).

3 “(k) INTERNATIONAL TRANSFERS.—In the case of  
4 class II, group II substances, in lieu of section 616, this  
5 subsection shall apply. To the extent consistent with any  
6 applicable international agreement to which the United  
7 States is a party or otherwise adheres, including any  
8 amendment to the Montreal Protocol, the United States  
9 may engage in transfers with other parties to such agree-  
10 ment or amendment under the following conditions:

11 “(1) The United States may transfer produc-  
12 tion allowances to another party to such agreement  
13 or amendment if, at the time of the transfer, the  
14 Administrator establishes revised production limits  
15 for the United States accounting for the transfer in  
16 accordance with regulations promulgated pursuant  
17 to this subsection.

18 “(2) The United States may acquire production  
19 allowances from another party to such agreement or  
20 amendment if, at the time of the transfer, the Ad-  
21 ministrator finds that the other party has revised its  
22 domestic production limits in the same manner as  
23 provided with respect to transfers by the United  
24 States in the regulations promulgated pursuant to  
25 this subsection.

1 “(1) RELATIONSHIP TO OTHER LAWS.—

2 “(1) STATE LAWS.—For purposes of section  
3 116, the requirements of this section for class II,  
4 group II substances shall be treated as requirements  
5 for the control and abatement of air pollution.

6 “(2) MULTILATERAL AGREEMENTS.—Section  
7 614 shall apply to the provisions of this section con-  
8 cerning class II, group II substances, except that for  
9 the words ‘Montreal Protocol’ there shall be sub-  
10 stituted the words ‘Montreal Protocol, or any appli-  
11 cable multilateral agreement to which the United  
12 States is a party or otherwise adheres that restricts  
13 the production or consumption of class II, group II  
14 substances,’ and for the words ‘Article 4 of the Mon-  
15 treal Protocol’ there shall be substituted ‘any provi-  
16 sion of such multilateral agreement regarding trade  
17 with non-parties’.

18 “(3) FEDERAL FACILITIES.—For purposes of  
19 section 118, the requirements of this section for  
20 class II, group II substances and corresponding  
21 State, interstate, and local requirements, administra-  
22 tive authority, and process and sanctions shall be  
23 treated as requirements for the control and abate-  
24 ment of air pollution within the meaning of section  
25 118.

1           “(m) CARBON DIOXIDE EQUIVALENT VALUE.—(1)  
2 In lieu of section 602(e), the provisions of this subsection  
3 shall apply in the case of class II, group II substances.  
4 Simultaneously with establishing the list of class II, group  
5 II substances, and simultaneously with any addition to  
6 that list, the Administrator shall publish the carbon diox-  
7 ide equivalent value of each listed class II, group II sub-  
8 stance, based on a determination of the number of metric  
9 tons of carbon dioxide that makes the same contribution  
10 to global warming over 100 years as 1 metric ton of each  
11 class II, group II substance.

12           “(2) Not later than February 1, 2017, and not less  
13 than every 5 years thereafter, the Administrator shall—

14                 “(A) review, and if appropriate, revise the car-  
15 bon dioxide equivalent values established for class II,  
16 group II substances based on a determination of the  
17 number of metric tons of carbon dioxide that makes  
18 the same contributions to global warming over 100  
19 years as 1 metric ton of each class II, group II sub-  
20 stance; and

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

23           “(3) A revised determination published in the Federal  
24 Register under paragraph (2)(B) shall take effect for pro-  
25 duction of class II, group II substances, consumption of

1 class II, group II substances, and importation of products  
2 containing class II, group II substances starting on Janu-  
3 ary 1 of the first calendar year starting at least 9 months  
4 after the date on which the revised determination was pub-  
5 lished.

6 “(4) The Administrator may decrease the frequency  
7 of review and revision under paragraph (2) if the Adminis-  
8 trator determines that such decrease is appropriate in  
9 order to synchronize such review and revisions with any  
10 similar review process carried out pursuant to the United  
11 Nations Framework Convention on Climate Change, an  
12 agreement negotiated under that convention, The Vienna  
13 Convention for the Protection of the Ozone Layer, or an  
14 agreement negotiated under that convention, except that  
15 in no event shall the Administrator carry out such review  
16 and revision any less frequently than every 10 years.

17 “(n) REPORTING REQUIREMENTS.—In lieu of sub-  
18 sections (b) and (c) of section 603, paragraphs (1) and  
19 (2) of this subsection shall apply in the case of class II,  
20 group II substances:

21 “(1) IN GENERAL.—On a quarterly basis, or  
22 such other basis (not less than annually) as deter-  
23 mined by the Administrator, each person who pro-  
24 duced, imported, or exported a class II, group II  
25 substance, or who imported a product containing a

1 class II, group II substance, shall file a report with  
2 the Administrator setting forth the carbon dioxide  
3 equivalent amount of the substance that such person  
4 produced, imported, or exported, as well as the  
5 amount that was contained in products imported by  
6 that person, during the preceding reporting period.  
7 Each such report shall be signed and attested by a  
8 responsible officer. If all other reporting is complete,  
9 no such report shall be required from a person after  
10 April 1 of the calendar year after such person per-  
11 manently ceases production, importation, and expor-  
12 tation of the substance, as well as importation of  
13 products containing the substance, and so notifies  
14 the Administrator in writing. If the United States  
15 becomes a party or otherwise adheres to a multilat-  
16 eral agreement, including any amendment to the  
17 Montreal Protocol on Substances That Deplete the  
18 Ozone Layer, that restricts the production or con-  
19 sumption of class II, group II substances, then, if all  
20 other reporting is complete, no such report shall be  
21 required from a person with respect to importation  
22 from parties to such agreement or amendment of  
23 products containing any class II, group II substance  
24 restricted by such agreement or amendment, after  
25 April 1 of the calendar year following the year dur-

1           ing which such agreement or amendment enters into  
2           force.

3                   “(2) BASELINE REPORTS FOR CLASS II, GROUP  
4           II SUBSTANCES.—

5                   “(A) IN GENERAL.—Unless such informa-  
6           tion has been previously reported to the Admin-  
7           istrator, on the date on which the first report  
8           under paragraph (1) of this subsection is re-  
9           quired to be filed, each person who produced,  
10          imported, or exported a class II, group II sub-  
11          stance, or who imported a product containing a  
12          class II substance, (other than a substance  
13          added to the list of class II, group II substances  
14          after the publication of the initial list of such  
15          substances under this section), shall file a re-  
16          port with the Administrator setting forth the  
17          amount of such substance that such person pro-  
18          duced, imported, exported, or that was con-  
19          tained in products imported by that person,  
20          during each of calendar years 2004, 2005, and  
21          2006.

22                   “(B) PRODUCERS.—In reporting under  
23          subparagraph (A), each person who produced in  
24          the United States a class II substance during  
25          calendar year 2004, 2005, or 2006 shall—



1           “(i) report all acquisitions or pur-  
2           chases of class II substances during each  
3           of calendar years 2004, 2005, and 2006  
4           from all other persons who produced in the  
5           United States a class II substance during  
6           calendar year 2004, 2005, or 2006, and  
7           supply evidence of such acquisitions and  
8           purchases as deemed necessary by the Ad-  
9           ministrators; and

10           “(ii) report all transfers or sales of  
11           class II substances during each of calendar  
12           years 2004, 2005, and 2006 to all other  
13           persons who produced in the United States  
14           a class II substance during calendar year  
15           2004, 2005, or 2006, and supply evidence  
16           of such transfers and sales as deemed nec-  
17           essary by the Administrator.

18           “(C) ADDED SUBSTANCES.—In the case of  
19           a substance added to the list of class II, group  
20           II substances after publication of the initial list  
21           of such substances under this section, each per-  
22           son who produced, imported, exported, or im-  
23           ported products containing such substance in  
24           calendar year 2004, 2005, or 2006 shall file a  
25           report with the Administrator within 180 days

1           after the date on which such substance is added  
2           to the list, setting forth the amount of the sub-  
3           stance that such person produced, imported,  
4           and exported, as well as the amount that was  
5           contained in products imported by that person,  
6           in calendar years 2004, 2005, and 2006.

7           “(o) STRATOSPHERIC OZONE AND CLIMATE PROTEC-  
8   TION FUND.—

9           “(1) IN GENERAL.—There is established in the  
10          Treasury of the United States a Stratospheric Ozone  
11          and Climate Protection Fund.

12          “(2) DEPOSITS.—The Administrator shall de-  
13          posit all proceeds from the auction and non-auction  
14          sale of allowances under this section into the Strato-  
15          spheric Ozone and Climate Protection Fund.

16          “(3) USE.—Amounts deposited into the Strato-  
17          spheric Ozone and Climate Protection Fund shall be  
18          available, subject to appropriations, exclusively for  
19          the following purposes:

20                  “(A) RECOVERY, RECYCLING, AND REC-  
21          LAMATION.—The Administrator may utilize  
22          funds to establish a program to incentivize the  
23          recovery, recycling, and reclamation of any  
24          Class II substances in order to reduce emissions  
25          of such substances.

1           “(B) MULTILATERAL FUND.—If the  
2           United States becomes a party or otherwise ad-  
3           heres to a multilateral agreement, including any  
4           amendment to the Montreal Protocol on Sub-  
5           stances That Deplete the Ozone Layer, which  
6           restricts the production or consumption of class  
7           II, group II substances, the Administrator may  
8           utilize funds to meet any related contribution  
9           obligation of the United States to the Multilat-  
10          eral Fund for the Implementation of the Mon-  
11          treal Protocol or similar multilateral fund es-  
12          tablished under such multilateral agreement.

13           “(C) BEST-IN-CLASS APPLIANCES DEPLOY-  
14          MENT PROGRAM.—The Secretary of Energy is  
15          authorized to utilize funds to carry out the pur-  
16          poses of **【section 214 of the**  
17          \_\_\_\_\_ *Act.* **【Legis. Counsel**  
18          *note: this references a section of the House-passed*  
19          *bill that is not included in this draft, so this ref-*  
20          *erence should be modified.】】*

21           “(D) LOW GLOBAL WARMING PRODUCT  
22          TRANSITION ASSISTANCE PROGRAM.—

23           “(i) IN GENERAL.—The Adminis-  
24          trator, in consultation with the Secretary  
25          of Energy, may utilize funds in fiscal years

1           2012 through 2022 to establish a program  
2           to provide financial assistance to manufac-  
3           turers of products containing class II,  
4           group II substances to facilitate the transi-  
5           tion to products that contain or utilize al-  
6           ternative substances with no or low carbon  
7           dioxide equivalent value and no ozone de-  
8           pletion potential.

9           “(ii) DEFINITION.—In this subpara-  
10          graph, the term ‘products’ means refrig-  
11          erators, freezers, dehumidifiers, air condi-  
12          tioners, foam insulation, technical aerosols,  
13          fire protection systems, and semiconduc-  
14          tors.

15          “(iii) FINANCIAL ASSISTANCE.—The  
16          Administrator may provide financial assist-  
17          ance to manufacturers pursuant to clause  
18          (i) for—

19                 “(I) the design and configuration  
20                 of new products that use alternative  
21                 substances with no or low carbon di-  
22                 oxide equivalent value and no ozone  
23                 depletion potential; and

24                 “(II) the redesign and retooling  
25                 of facilities for the manufacture of

1 products in the United States that use  
2 alternative substances with no or low  
3 carbon dioxide equivalent value and  
4 no ozone depletion potential.

5 “(iv) REPORTS.—For any fiscal year  
6 during which the Administrator provides  
7 financial assistance pursuant to this sub-  
8 paragraph, the Administrator shall submit  
9 a report to the Congress within 3 months  
10 of the end of such fiscal year detailing the  
11 amounts, recipients, specific purposes, and  
12 results of the financial assistance pro-  
13 vided.”.

14 (b) TABLE OF CONTENTS.—The table of contents of  
15 title VI of the Clean Air Act (42 U.S.C. 7671 et seq.)  
16 is amended by adding the following new item at the end  
17 thereof:

“Sec. 619. Hydrofluorocarbons (HFCs).”.

18 (c) FIRE SUPPRESSION AGENTS.—Section 605(a) of  
19 the Clean Air Act (42 U.S.C. 7671(a)) is amended—

20 (1) by striking “or” at the end of paragraph

21 (2);

22 (2) by striking the period at the end of para-  
23 graph (3) and inserting “; or”; and

24 (3) by adding the following new paragraph after  
25 paragraph (3):

1           “(4) is listed as acceptable for use as a fire sup-  
2           pression agent for nonresidential applications in ac-  
3           cordance with section 612(e).”.

4           (d) MOTOR VEHICLE AIR CONDITIONERS.—

5           (1) Section 609(e) of the Clean Air Act (42  
6           U.S.C. 7671h(e)) is amended by inserting “, group  
7           I” after each reference to “class II” in the text and  
8           heading.

9           (2) Section 609 of the Clean Air Act (42 U.S.C.  
10          7671h) is amended by adding the following new sub-  
11          section after subsection (e):

12          “(f) CLASS II, GROUP II SUBSTANCES.—

13                 “(1) REPAIR.—The Administrator may promul-  
14                 gate regulations establishing requirements for repair  
15                 of motor vehicle air conditioners prior to adding a  
16                 class II, group II substance.

17                 “(2) SMALL CONTAINERS.—(A) The Adminis-  
18                 trator may promulgate regulations establishing serv-  
19                 icing practices and procedures for recovery of class  
20                 II, group II substances from containers which con-  
21                 tain less than 20 pounds of such class II, group II  
22                 substances.

23                 “(B) Not later than 18 months after enactment  
24                 of this subsection, the Administrator shall either  
25                 promulgate regulations requiring that containers

1       which contain less than 20 pounds of a class II,  
2       group II substance be equipped with a device or  
3       technology that limits refrigerant emissions and  
4       leaks from the container and limits refrigerant emis-  
5       sions and leaks during the transfer of refrigerant  
6       from the container to the motor vehicle air condi-  
7       tioner or issue a determination that such require-  
8       ments are not necessary or appropriate.

9               “(C) Not later than 18 months after enactment  
10       of this subsection, the Administrator shall promul-  
11       gate regulations establishing requirements for con-  
12       sumer education materials on best practices associ-  
13       ated with the use of containers which contain less  
14       than 20 pounds of a class II, group II substance and  
15       prohibiting the sale or distribution, or offer for sale  
16       or distribution, of any class II, group II substance  
17       in any container which contains less than 20 pounds  
18       of such class II, group II substance, unless con-  
19       sumer education materials consistent with such re-  
20       quirements are displayed and available at point-of-  
21       sale locations, provided to the consumer, or included  
22       in or on the packaging of the container which con-  
23       tain less than 20 pounds of a class II, group II sub-  
24       stance.

1           “(D) The Administrator may, through rule-  
2           making, extend the requirements established under  
3           this paragraph to containers which contain 30  
4           pounds or less of a class II, group II substance if  
5           the Administrator determines that such action would  
6           produce significant environmental benefits.

7           “(3) RESTRICTION OF SALES.—Effective Janu-  
8           ary 1, 2014, no person may sell or distribute or offer  
9           to sell or distribute or otherwise introduce into inter-  
10          state commerce any motor vehicle air conditioner re-  
11          frigerant in any size container unless the substance  
12          has been found acceptable for use in a motor vehicle  
13          air conditioner under section 612.”.

14          (e) SAFE ALTERNATIVES POLICY.—Section 612(e) of  
15          the Clean Air Act (42 U.S.C. 7671k(e)) is amended by  
16          inserting “or class II” after each reference to “class I”.

17          **SEC. 123. BLACK CARBON.**

18          (a) STUDY OF BLACK CARBON EMISSIONS.—

19                  (1) DEFINITION OF BLACK CARBON.—In this  
20                  subsection, the term “black carbon” means any  
21                  light-absorbing graphitic (or elemental) particle pro-  
22                  duced by incomplete combustion.

23                  (2) STUDY.—The Administrator, in consulta-  
24                  tion with the Secretary of Energy, the Secretary of  
25                  State, and the heads of the National Oceanic and



1 Atmospheric Administration, the National Aero-  
2 nautics and Space Administration, the United States  
3 Agency for International Development, the National  
4 Institutes of Health, the Centers for Disease Control  
5 and Prevention, National Institute of Standards and  
6 Technology, and other relevant Federal departments  
7 and agencies and representatives of appropriate in-  
8 dustry and environmental groups, shall conduct a 4-  
9 phase study of black carbon emissions, the phases of  
10 which shall be the following:

11 (A) PHASE I—UNIVERSAL DEFINITION.—

12 The Administrator shall conduct phase I of the  
13 study under this subsection to carry out meas-  
14 ures to establish for the scientific community  
15 standard definitions of the terms—

16 (i) black carbon; and

17 (ii) organic carbon.

18 (B) PHASE II—SOURCES AND TECH-

19 NOLOGIES.—The Administrator shall conduct  
20 phase II of the study under this subsection to  
21 summarize the available scientific and technical  
22 information concerning—

23 (i) the identification of the major  
24 sources of black carbon emissions in the  
25 United States and throughout the world;

1 (ii) an estimate of—

2 (I) the quantity of current and  
3 projected future black carbon emis-  
4 sions from those sources; and

5 (II) the net climate effects of the  
6 emissions;

7 (iii) the most recent scientific data  
8 relevant to the public health- and climate-  
9 related impacts of black carbon emissions  
10 and associated emissions of organic car-  
11 bon, nitrogen oxides, and sulfur oxides  
12 from the sources identified under clause  
13 (i);

14 (iv) the most effective control strate-  
15 gies for additional domestic and inter-  
16 national reductions in black carbon emis-  
17 sions, taking into consideration lifecycle  
18 analysis, cost-effectiveness, and the net cli-  
19 mate impact of technologies, operations,  
20 and strategies, such as—

21 (I) diesel particulate filters on ex-  
22 isting diesel on- and off-road engines;  
23 and

24 (II) particulate emission reduc-  
25 tion measures for marine vessels;

1 (v) carbon dioxide equivalency factors,  
2 global/regional modeling, or other metrics  
3 to compare the global warming and other  
4 climate effects of black carbon emissions  
5 with carbon dioxide and other greenhouse  
6 gas emissions; and

7 (vi) the health benefits associated with  
8 additional black carbon emission reduc-  
9 tions.

10 (C) PHASE III—INTERNATIONAL FUND-  
11 ING.—The Administrator shall conduct phase  
12 III of the study under this subsection—

13 (i) to summarize the amount, type,  
14 and direction of all actual and potential fi-  
15 nancial, technical, and related assistance  
16 provided by the United States to foreign  
17 countries to reduce, mitigate, or otherwise  
18 abate—

19 (I) black carbon emissions; and

20 (II) any health, environmental,  
21 and economic impacts associated with  
22 those emissions; and

23 (ii) to identify opportunities, including  
24 action under existing authority, to achieve  
25 significant black carbon emission reduc-

1                   tions in foreign countries through the pro-  
2                   vision of technical assistance or other ap-  
3                   proaches.

4                   (D) PHASE IV—RESEARCH AND DEVELOP-  
5                   MENT OPPORTUNITIES.—The Administrator  
6                   shall conduct phase IV of the study under this  
7                   subsection for the purpose of providing to Con-  
8                   gress recommendations regarding—

9                   (i) areas of focus for additional re-  
10                  search for cost-effective technologies, oper-  
11                  ations, and strategies with the highest po-  
12                  tential to reduce black carbon emissions  
13                  and protect public health in the United  
14                  States and internationally; and

15                  (ii) actions that the Federal Govern-  
16                  ment could take to encourage or require  
17                  additional black carbon emission reduc-  
18                  tions.

19                  (3) REPORTS.—The Administrator shall submit  
20                  to Congress—

21                  (A) by not later than 180 days after the  
22                  date of enactment of this Act, a report describ-  
23                  ing the results of phases I and II of the study  
24                  under subparagraphs (A) and (B) of paragraph  
25                  (2);

1 (B) by not later than 270 days after the  
2 date of enactment of this Act, a report describ-  
3 ing the results of phase III of the study under  
4 paragraph (2)(C); and

5 (C) by not later than 1 year after the date  
6 of enactment of this Act, a report describing  
7 the recommendations developed for phase IV of  
8 the study under paragraph (2)(D).

9 (4) AUTHORIZATION OF APPROPRIATIONS.—

10 There are authorized to be appropriated such sums  
11 as are necessary to carry out this subsection.

12 (b) BLACK CARBON MITIGATION.—【Title VIII of the  
13 Clean Air Act (as added by section 121 of this division  
14 and amended by section 112 of division A) is further  
15 amended by adding after part D the following:】

16 **“PART E—BLACK CARBON**

17 **“SEC. 851. BLACK CARBON.**

18 “(a) DOMESTIC BLACK CARBON MITIGATION.—

19 “(1) IN GENERAL.—Taking into consideration  
20 the public health and environmental impacts of black  
21 carbon emissions, including the effects on global and  
22 regional warming, the Arctic, and other snow and  
23 ice-covered surfaces, the Administrator shall—

24 “(A) not later than 2 years after the date  
25 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: cap 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 added by section  
3 121 of this division and amended by several sections of  
4 this Act, is further amended by adding after part E (as  
5 added by section 123(c) of this division) the following new  
6 part:

7 **“PART F—MISCELLANEOUS**

8 **“SEC. 861. STATE PROGRAMS.**

9 “(a) IN GENERAL.—Notwithstanding section 116, if  
10 a Federal auction is conducted, by the deadline of March  
11 31, 2011, as established in section 789, no State or polit-  
12 ical subdivision thereof shall implement or enforce a cap  
13 and trade program that covers any capped emissions emit-  
14 ted during the years 2012 through 2017.

15 “(b) DEADLINE.—Notwithstanding section 116, in  
16 the event the March 31, 2011 auction is delayed, no State  
17 or political subdivision thereof shall enforce a cap and  
18 trade program that covers any capped emissions emitted  
19 during the period that is at least 9 months from the first  
20 auction as set out in section 789, through 2017.

21 “(c) DEFINITION OF CAP AND TRADE PROGRAM.—  
22 For purposes of this section, the term ‘cap and trade pro-  
23 gram’ means a system of greenhouse gas regulation under  
24 which a State or political subdivision issues a limited num-  
25 ber of tradable instruments in the nature of emission al-  
26 lowances and requires that sources within its jurisdiction



1 surrender such tradeable instruments for each unit of  
2 greenhouse gases emitted during a compliance period. For  
3 purposes of this section, a ‘cap-and-trade program’ does  
4 not include a target or limit on greenhouse gas emissions  
5 adopted by a State or political subdivision that is imple-  
6 mented other than through the issuance and surrender of  
7 a limited number of tradable instruments in the nature  
8 of emission allowances, nor does it include any other  
9 standard, limit, regulation, or program to reduce green-  
10 house gas emissions that is not implemented through the  
11 issuance and surrender of a limited number of tradeable  
12 instruments in the nature of emission allowances. For pur-  
13 poses of this section, the term ‘cap and trade program’  
14 does not include, among other things, fleet-wide motor ve-  
15 hicle emission requirements that allow greater emissions  
16 with increased vehicle production, or requirements that  
17 fuels, or other products, meet an average pollution emis-  
18 sion rate or lifecycle greenhouse gas standard.

19 **“SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CON-**  
20 **TROL PROGRAMS.**

21 “The Administrator is authorized to make grants to  
22 air pollution control agencies pursuant to section 105 for  
23 purposes of assisting in the implementation of programs  
24 to address global warming established under the  
25 \_\_\_\_\_ Act.”.

1 **SEC. 126. ENFORCEMENT.**

2 (a) REMAND.—Section 307(b) of the Clean Air Act  
3 (42 U.S.C. 7607(b)) is amended by adding the following  
4 new paragraph at the end thereof:

5 “(3) If the court determines that any action of  
6 the Administrator is arbitrary, capricious, or other-  
7 wise unlawful, the court may remand such action,  
8 without vacatur, if vacatur would impair or delay  
9 protection of the environment or public health or  
10 otherwise undermine the timely achievement of the  
11 purposes of this Act.”.

12 (b) PETITION FOR RECONSIDERATION.—Section  
13 307(d)(7)(B) of the Clean Air Act (42 U.S.C.  
14 7607(d)(7)(B)) is amended as follows:

15 (1) By inserting after the second sentence “If  
16 a petition for reconsideration is filed, the Adminis-  
17 trator shall take final action on such petition, in-  
18 cluding promulgation of final action either revising  
19 or determining not to revise the action for which re-  
20 consideration is sought, within 150 days after the  
21 petition is received by the Administrator or the peti-  
22 tion shall be deemed denied for the purpose of judi-  
23 cial review.”.

24 (2) By amending the third sentence to read as  
25 follows: “Such person may seek judicial review of  
26 such denial, or of any other final action, by the Ad-

1        administrator, in response to a petition for reconsideration,  
2        in the United States court of appeals for the appropriate circuit  
3        (as provided in subsection (b)).”.

4    **SEC. 127. CONFORMING AMENDMENTS.**

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

7            (1) In subsection (a)(3), by striking “or title  
8            VI,” and inserting “title VI, title VII, or title VIII”.

9            (2) In subsection (b), by striking “or a major  
10           stationary source” and inserting “a major stationary  
11           source, or a covered EGU under title VIII” in the  
12           material preceding paragraph (1).

13           (3) In paragraph (2) of subsection (b), by striking  
14           “or title VI” and inserting “title VI, title VII,  
15           or title VIII”.

16           (4) In subsection (c)—

17                    (A) in the first sentence of paragraph (1),  
18                    by striking “or title VI (relating to strato-  
19                    spheric ozone control),” and inserting “title VI,  
20                    title VII, or title VIII,”; and

21                    (B) in the first sentence of paragraph (3),  
22                    by striking “or VI” and inserting “VI, VII, or  
23                    VIII”.

24           (5) In subsection (d)(1)(B), by striking “or VI”  
25           and inserting “VI, VII, or VIII”.

1           (6) In subsection (f), in the first sentence, by  
2           striking “or VI” and inserting “VI, VII, or VIII”.

3           (b) RETENTION OF STATE AUTHORITY.—Section  
4           116 of the Clean Air Act (42 U.S.C. 7416) is amended  
5           as follows:

6           (1) By striking “and 233” and inserting “233”.

7           (2) By striking “of moving sources)” and in-  
8           serting “of moving sources), and 861 (preempting  
9           certain State greenhouse gas programs for a limited  
10          time)”.

11          (c) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
12          tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is  
13          amended by striking “section 112,” and all that follows  
14          through “(ii)” and inserting the following: “section 112,  
15          or any regulation of greenhouse gas emissions under title  
16          VII or VIII, (ii)”.

17          (d) ENFORCEMENT.—Subsection (f) of section 304 of  
18          the Clean Air Act (42 U.S.C. 7604(f)) is amended as fol-  
19          lows:

20           (1) By striking “; or” at the end of paragraph  
21           (3) thereof and inserting a comma.

22           (2) By striking the period at the end of para-  
23           graph (4) thereof and inserting “, or”.

24           (3) By adding the following after paragraph (4)  
25           thereof:

1 “(5) any requirement of title VII or VIII.”.

2 (e) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL  
3 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.  
4 7607) is amended as follows:

5 (1) In subsection (a), by striking “, or section  
6 306” and inserting “section 306, or title VII or  
7 VIII”.

8 (2) In subsection (b)(1)—

9 (A) by striking “,” and inserting “,” in  
10 each place such punctuation appears; and

11 (B) by striking “section 120,” in the first  
12 sentence and inserting “section 120, any final  
13 action under title VII or VIII,”.

14 (3) In subsection (d)(1) by amending subpara-  
15 graph (S) to read as follows:

16 “(S) the promulgation or revision of any  
17 regulation under title VII or VIII,”.

18 (f) TECHNICAL AMENDMENT.—Title IV of the Clean  
19 Air Act (relating to noise pollution) (42 U.S.C. 7641 et  
20 seq.)—

21 (1) is amended by redesignating sections 401  
22 through 403 as sections 901 through 903, respec-  
23 tively; and

24 (2) is redesignated as title IX and moved to ap-  
25 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 202】** *【Legis. Counsel note:*  
5 *section 202 of the House-passed bill is not included in*  
6 *this draft, so this reference should be modified.】*.

7 (2) Owner-occupied residential units in larger  
8 buildings that have their own dedicated space-condi-  
9 tioning systems under section 202 **【see above note】**.

10 (3) Residential buildings (as defined in section  
11 202(a)(5)) **【see above note】** if designed for residen-  
12 tial use by less than 4 families.

13 (4) Nonresidential buildings (as defined in sec-  
14 tion 202(a)(1)) **【see above note】** if the net interior  
15 space of such nonresidential building is less than  
16 6,500 square feet.

1                   **Subtitle D—Carbon Market**  
2                   **Assurance**

3   **SEC. 131. TO BE SUPPLIED.**

4                   **TITLE II—PROGRAM**  
5                   **ALLOCATIONS**

6   **SEC. 201. DISTRIBUTION OF ALLOWANCES FOR INVEST-**  
7                   **MENT IN CLEAN VEHICLES.**

8           (a) ESTABLISHMENT OF FUND.—There is estab-  
9   lished in the Treasury a separate account, which shall be  
10   known as the “Clean Vehicle Technology Fund”.

11          (b) AUCTION PROCEEDS.—The Administrator shall  
12   deposit the proceeds of the auction conducted pursuant  
13   to **[section 782(a)[(\_\_\_\_)]** of the Clean Air Act**]** in the  
14   Clean Vehicle Technology Fund.

15          (c) AVAILABILITY OF AMOUNTS.—Of the amounts  
16   deposited in the Clean Vehicle Technology Fund—

17               (1) 80 percent shall be available to the **[Sec-**  
18   retary of \_\_\_\_\_**]** to support—

19                   (A) the development and demonstration of  
20                   a national transportation low-emissions energy  
21                   plan; and

22                   (B) the use of plug-in electric drive vehi-  
23                   cles, including medium- and heavy-duty motor  
24                   vehicles (including transit vehicles) and other  
25                   advanced technology vehicles (as defined in sec-



1           tions 131 and 136 of the Energy Independence  
2           and Security Act of 2007 (42 U.S.C. 17011,  
3           17013)) that are developed and produced in the  
4           United States; and

5           (2) 20 percent of the amounts shall be available  
6           to the Administrator for use in providing grants au-  
7           thorized under subtitle G of title VII of the Energy  
8           Policy Act of 2005 (42 U.S.C. 16131 et seq.).

9           (d) PILOT PROGRAM.—

10           (1) IN GENERAL.—Of the amounts deposited in  
11           accordance with (c)(1), the Secretary **【of**  
12           \_\_\_\_\_?**】** shall **【use \_\_\_\_\_ percent to?】** de-  
13           velop a national transportation low-emissions energy  
14           plan that shall—

15           (A) project the near- and long-term need  
16           for and location of electric drive vehicle refuel-  
17           ing infrastructure at strategic locations across  
18           all major national highways, roads, and cor-  
19           ridors;

20           (B) identify infrastructure and standard-  
21           ization needs for electricity providers, infra-  
22           structure providers, vehicle manufacturers, and  
23           electricity purchasers;

1 (C) establish an aspirational goal of  
2 achieving strategic deployment of electric vehi-  
3 cle infrastructure by 2020;

4 (D) be developed by the Secretary with the  
5 involvement of all relevant stakeholders; and

6 (E) prioritize the development of—

7 (i) standardized public charge access  
8 ports with wireless or smart card billing  
9 capability; and

10 (ii) level I and level II charge port  
11 systems (that charge an electric vehicle  
12 over a period of 8 to 14 hours and 4 to 8  
13 hours, respectively) that will meet the en-  
14 ergy requirements of the majority of plug-  
15 in hybrid and battery electric vehicles;

16 (F) examine the feasibility of level III  
17 charge port systems that can charge an electric  
18 vehicle over a period of 10 to 20 minutes; and

19 (G) focus on infrastructure that provides  
20 consumers with the lowest cost while providing  
21 convenient charge system access.

22 (2) ELECTRIC DRIVE DEMONSTRATION  
23 PROJECTS.—

1           (A) IN GENERAL.—The Secretary shall es-  
2           tablish pilot projects to demonstrate electric  
3           drive vehicles and infrastructure.

4           (B) REQUIREMENTS.—The Secretary  
5           shall—

6                   (i) establish the pilot projects de-  
7                   scribed in subparagraph (A) after publica-  
8                   tion of the plan developed under paragraph  
9                   (1);

10                   (ii) use the plan to determine which  
11                   regions of the United States are most  
12                   ready to demonstrate electric vehicle infra-  
13                   structure;

14                   (iii) carry out the pilot projects under  
15                   this paragraph in different regions of the  
16                   United States; and

17                   (iv) ensure that—

18                           (I) at least 1 pilot project is car-  
19                           ried out in a rural region of the  
20                           United States; and

21                           (II) at least 1 pilot project is fo-  
22                           cused on freight issues.

23           (3) FINANCIAL RESOURCES.—In carrying out  
24           the pilot projects under paragraph (2), the Secretary  
25           shall coordinate the use of appropriate financial in-

1 centives, grant programs, and other Federal finan-  
2 cial resources to ensure that electric infrastructure  
3 delivery entities are able to participate in the pilot  
4 projects.

5 (4) LEEP COORDINATOR.—The Secretary may  
6 designate 1 full-time position within the Department  
7 of Transportation, to be known as the “LEEP coor-  
8 dinator”, with responsibility to oversee—

9 (A) the development of the plan under  
10 paragraph (1); and

11 (B) the implementation of the pilot  
12 projects under paragraph (2).

13 **SEC. 202. DISTRIBUTION OF ALLOWANCES TO INDIAN**  
14 **TRIBES, STATES, LOCAL GOVERNMENTS,**  
15 **METROPOLITAN PLANNING ORGANIZATIONS,**  
16 **AND RENEWABLE ELECTRICITY GENERA-**  
17 **TIONS.**

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

19 (1) ALLOWANCE.—The term “allowance”  
20 means an emission allowance established under sec-  
21 tion 721 of the Clean Air Act (as added by section  
22 101 of this division).

23 (2) VINTAGE YEAR.—The term “vintage year”  
24 has the meaning given the term in section 700 of the

1 Clean Air Act (as added by section 102 of this divi-  
2 sion).

3 (b) DISTRIBUTION AMONG INDIAN TRIBES, STATES,  
4 LOCAL GOVERNMENTS, METROPOLITAN PLANNING ORGA-  
5 NIZATIONS AND RENEWABLE ELECTRICITY GENERA-  
6 TIONS.—Not later than September 30 of each of calendar  
7 years 2011 through 2049, the Administrator shall, in ac-  
8 cordance with this section, distribute allowances allocated  
9 pursuant to **【section 782(a)(\_\_\_\_)】** of the Clean Air Act  
10 (as added by section 111 of this division) for the following  
11 vintage year. The Administrator, after consultation with  
12 the Secretary of the Interior, shall distribute a percentage  
13 of such allowances pursuant to **【section \_\_\_\_】**. The Ad-  
14 ministrator, after consultation with the Secretary of En-  
15 ergy and the with the assistance of the Secretary of Trans-  
16 portation, shall distribute the remaining allowances among  
17 the States, local governments, metropolitan planning orga-  
18 nizations, and renewable electricity generations under this  
19 section each year in accordance with the following for-  
20 mula: **【\*\*Percentages add up to 101.】**

21 (1) 63.5 percent of the allowances shall be pro-  
22 vided to the States, of which—

23 (A) 30 percent shall be divided equally  
24 among the States;



1 decreasing energy consumption or in-  
2 creasing energy efficiency—

3 (aa) on a per capita basis in  
4 the residential sector; and

5 (bb) on an energy consump-  
6 tion per square-foot basis in the  
7 commercial sector; and

8 (ii) updated every 3 years.

9 (2) 25 percent of the allowances shall be pro-  
10 vided to local governments for energy conservation  
11 and efficiency grants.

12 (3) 10 percent of the allowances shall be re-  
13 served by the Secretary of Transportation for grants  
14 to States and metropolitan planning organizations  
15 for greenhouse gas reduction programs in the trans-  
16 portation sector.

17 (4) 2.5 percent of the allowances shall be pro-  
18 vided to renewable energy generating companies with  
19 a capacity of 20 megawatts or greater exclusively for  
20 the generation of renewable energy. The Adminis-  
21 trator, in consultation with the Secretary of Energy,  
22 shall award allocations to renewable energy genera-  
23 tion companies based on the number of megawatt-  
24 hours the company generates and the technology  
25 used. The Administrator shall promulgate such regu-

1 lations as are appropriate to carry out this para-  
2 graph.

3 (c) USES.—The allowances distributed to each State,  
4 local government, and metropolitan planning organization  
5 pursuant to this section shall be used exclusively in accord-  
6 ance with the following requirements:

7 (1) ALLOCATION TO STATES.—Allowances allo-  
8 cated to the States under subsection (b)(1) shall be  
9 for the following purposes and be used in accordance  
10 with the following conditions:

11 (A) PURPOSES.—

12 (i) ENERGY EFFICIENCY PRO-  
13 GRAMS.—Not less than 35 percent shall be  
14 used exclusively for—

15 (I) implementation and enforce-  
16 ment of building codes;

17 (II) implementation of the en-  
18 ergy-efficient manufactured homes  
19 program;

20 (III) implementation of building  
21 energy performance labeling; and

22 (IV) low-income community en-  
23 ergy efficiency programs.

24 (ii) RENEWABLE ENERGY PRO-  
25 GRAMS.—[Not less than \_\_\_\_ percent



1 shall be used for?】 renewable energy pro-  
2 grams for capital grants, tax credits, pro-  
3 duction incentives, loans, loan guarantees,  
4 forgivable loans, direct provision of allow-  
5 ances, and interest rate buy-downs for—

6 (I) re-equipping, expanding, or  
7 establishing a manufacturing facility  
8 that receives certification from the  
9 Secretary of Energy pursuant to sec-  
10 tion 48C of the Internal Revenue  
11 Code of 1986 for the production of—

12 (aa) property designed to be  
13 used to produce energy from re-  
14 newable energy sources; and

15 (bb) electricity storage sys-  
16 tems;

17 (II) deployment of technologies to  
18 generate electricity from renewable  
19 energy sources; and

20 (III) deployment of facilities or  
21 equipment, such as solar panels, to  
22 generate electricity or thermal energy  
23 from renewable energy resources in  
24 and on buildings in an urban environ-  
25 ment.

## 762

1 (iii) IMPROVEMENT IN ELECTRICITY  
2 TRANSMISSION.—【Not less than \_\_\_\_ per-  
3 cent shall be used for?】 improvement in  
4 electricity transmission for 1 or more of  
5 the following purposes:

6 (I) State implementation of elec-  
7 tricity transmission planning and  
8 siting activities that facilitate renew-  
9 able energy development, including fa-  
10 cilitation of landowner negotiations  
11 for transmission of right-of-way leas-  
12 ing or other contractual arrange-  
13 ments.

14 (II) Grants to nonprofit organi-  
15 zations that facilitate negotiations for  
16 transmission right-of-way leasing or  
17 other contractual agreements between  
18 landowners and developers.

19 (III) State or regional studies of  
20 renewable energy zones and resources  
21 with insufficient transmission capac-  
22 ity, including geographical identifica-  
23 tion of potential renewable energy  
24 sites, environmental reviews, and land  
25 use or coastal zone constraints.

## 763

1 (IV) Grants to support land-  
2 owner associations' and other non-  
3 profit organizations' participation in  
4 State and Federal siting processes, in-  
5 cluding such associations' studies of  
6 renewable energy feasibility and bene-  
7 fits and associated data collection.

8 (V) Grants to landowners or  
9 landowner associations or nonprofit  
10 organizations for mitigation of im-  
11 pacts on property or ecosystems due  
12 to transmission projects that are part  
13 of an interconnection-wide plan fo-  
14 cused on facilitating renewable energy  
15 development.

16 (VI) Training for State regu-  
17 latory authority staff and local  
18 workforces relating to renewable en-  
19 ergy generation resources and storage,  
20 smart grid, or new transmission tech-  
21 nologies.

22 (VII) Grants to transmission pro-  
23 viders for transmission improvements  
24 (including smart grid investments)  
25 that benefit consumers.

1 (VIII) Grants to transmission  
2 providers for security upgrades to the  
3 transmission system and authorized  
4 uses under title XIII of the Energy  
5 Independence and Security Act of  
6 2007 (42 U.S.C. 17381 et seq.).

7 (IX) Grants to develop energy  
8 storage, reliability, or distributed re-  
9 newable generation projects.

10 (iv) ENERGY EFFICIENCY.—【Not less  
11 than \_\_\_\_ percent shall be used for?】 en-  
12 ergy efficiency purposes.

13 (v) RENEWABLE ENERGY.—【Not less  
14 than \_\_\_\_ percent shall be used for?】 re-  
15 newable energy purposes.

16 (vi) END-USE CONSUMERS.—【Not  
17 less than \_\_\_\_ percent shall be used for?】  
18 cost-effective energy efficiency programs  
19 for end-use consumers of electricity, nat-  
20 ural gas, home heating oil, or propane, in-  
21 cluding, where appropriate, programs or  
22 mechanisms administered by local govern-  
23 ments and entities other than the State.

24 (vii) RETROFITS AND HOUSING IN-  
25 VESTMENTS.—【Not less than \_\_\_\_ percent

1 shall be used for?] energy retrofits and  
2 green investments in subsidized housing  
3 based on standards to ensure that invest-  
4 ments are cost-effective, taking into ac-  
5 count reductions in future use of energy  
6 and other utilities, and the extent to which  
7 such retrofits and investments address re-  
8 pair and replacement needs that may oth-  
9 erwise need to be addressed with other  
10 forms of assistance. As a condition of such  
11 funding, the recipient shall commit to an  
12 additional period of affordability of not  
13 fewer than 15 years, covering all units for  
14 which such grants and loans are used.

15 (viii) THERMAL ENERGY EFFI-  
16 CIENCY.—Not less than 2 percent shall be  
17 used for thermal energy efficiency projects  
18 that provide district thermal energy  
19 through a network of pipes from 1 or more  
20 central plants to at least 2 or more build-  
21 ings, combined heat and power that pro-  
22 duces electricity and thermal energy with a  
23 minimum 60 percent overall efficiency on a  
24 lower-heating value basis, or recoverable  
25 waste energy (including mechanical, ther-

## 766

1 mal, or electrical energy) that, if not for  
2 recovery, would be wasted and may be re-  
3 covered or generated through modification  
4 of an existing facility or addition of a new  
5 facility. Allocations may be used for plan-  
6 ning, engineering, and feasibility studies as  
7 well as project construction and develop-  
8 ment. Such projects shall—

9 (I) reduce or avoid greenhouse  
10 gas emissions; and

11 (II)(aa) produce thermal energy  
12 from renewable energy resources or  
13 natural cooling sources;

14 (bb) capture and productively use  
15 thermal energy from an electric gen-  
16 eration facility;

17 (cc) integrate new electricity gen-  
18 eration into an existing district energy  
19 system;

20 (dd) capture and productively  
21 uses surplus thermal energy from an  
22 industrial or municipal process (such  
23 as wastewater treatment); or

24 (ee) distribute and transfer to  
25 buildings the thermal energy from the

1 energy sources described in items (aa)  
2 through (dd).

3 (ix) SMART GRID DEVELOPMENT.—

4 **【Not less than \_\_\_\_ percent shall be used**  
5 **for?】** enabling the development of a Smart  
6 Grid (as described in section 1301 of the  
7 Energy Independence and Security Act of  
8 2007 (42 U.S.C. 17381)) for State, local  
9 government, and other public buildings and  
10 facilities, including integration of renew-  
11 able energy resources and distributed gen-  
12 eration, demand response, demand-side  
13 management, and systems analysis.

14 (x) RETIREMENT.—**【Not less than**  
15 **\_\_\_\_ percent shall be used for?】** retire-  
16 ment of allowances that account for green-  
17 house gas emission reductions resulting  
18 from State-required or State-allowed, util-  
19 ity-run, green-power purchasing programs  
20 that are voluntary for ratepayers.

21 (B) CONDITIONS.—

22 (i) IN GENERAL.—The States shall  
23 prioritize expansion of existing energy effi-  
24 ciency programs approved and overseen by

1 the State or the appropriate State regu-  
2 latory authority.

3 (ii) SUPPLEMENTATION.—The States  
4 shall demonstrate that such allowances  
5 have been used to supplement, and not to  
6 supplant, existing and otherwise available  
7 State, local, and ratepayer funding for  
8 such purpose.

9 (2) ENERGY CONSERVATION AND EFFI-  
10 CIENCY.—Allowances allocated to local governments  
11 under subsection (b)(2) shall be used exclusively for  
12 energy conservation and efficiency purposes specified  
13 under section 543 of the Energy Independence and  
14 Security Act of 2007 (42 U.S.C. 17153).

15 (3) STATE AND MPO GRANTS.—Allocation to  
16 the Secretary of Transportation for grants to States  
17 and metropolitan planning organizations under sub-  
18 section (b)(3) shall be used exclusively for the  
19 Transportation Greenhouse Gas Reduction program  
20 in accordance with section 112 and section 113 of  
21 the \_\_\_\_\_ Act **[this Act?]**.

22 (d) REPORTING.—Each Indian tribe, State, local gov-  
23 ernment, metropolitan planning organization, and renew-  
24 able electricity generating company directly receiving al-  
25 lowances or allowance value under this section shall sub-



1 mit to the Administrator a report that contains a list of  
2 entities receiving allowances or allowance value under this  
3 section.

4 (e) ENFORCEMENT.—If the Administrator deter-  
5 mines that an Indian tribe, State, local government, met-  
6 ropolitan planning organization, or renewable electricity  
7 generation company is not in compliance with this section,  
8 the Administrator may withhold up to twice the number  
9 of allowances or allowance value that the Indian tribe,  
10 State, local government, metropolitan planning organiza-  
11 tion, or renewable electricity generation company failed to  
12 use in accordance with the requirements of this section,  
13 that such Indian tribe, State, local government, metropoli-  
14 tan planning organization, or renewable electricity genera-  
15 tion companies would otherwise be eligible to receive under  
16 this section in later years. Allowances withheld pursuant  
17 to this subsection shall be distributed among the remain-  
18 ing Indian tribes, States, local governments, metropolitan  
19 planning organizations, and renewable electricity genera-  
20 tion companies in accordance with subsection (b).

21 **SEC. 203. ENERGY EFFICIENCY IN BUILDING CODES.**

22 Not later than September 30, 2011, and each cal-  
23 endar year thereafter through calendar year 2049, the Ad-  
24 ministrator shall distribute emission allowances allocated  
25 for the following vintage year pursuant to [section 782

1 (a)(\_\_\_) of the Clean Air Act】 among the States in accord-  
2 ance with the formula described in 【section 1\_\_\_\_(b)(1)  
3 of this division】 exclusively for the purpose of 【section  
4 163 of title I of division A】.

5 **SEC. 204. BUILDING RETROFIT PROGRAM.**

6 Not later than September 30, 2011, and each cal-  
7 endar year thereafter through calendar year 2049, the Ad-  
8 ministrator shall distribute emission allowances allocated  
9 for the following vintage year pursuant to 【section 782  
10 (a)(\_\_\_) of the Clean Air Act】 among the States in accord-  
11 ance with the formula described in 【section 1\_\_\_\_(b)(1)  
12 of this division】 exclusively for the purpose of 【section  
13 164 of title I of division A】.

14 **SEC. 205. ENERGY INNOVATION HUBS.**

15 (a) PURPOSE.—The Secretary shall carry out a pro-  
16 gram in accordance with this section to establish Energy  
17 Innovation Hubs to enhance the economic, environmental,  
18 and energy security of the United States by promoting  
19 commercial application of clean, indigenous energy alter-  
20 natives to oil and other fossil fuels, reducing greenhouse  
21 gas emissions, and ensuring that the United States main-  
22 tains a technological lead in the development and commer-  
23 cial application of state-of-the-art energy technologies.

24 (b) DEFINITIONS.—In this section:

1           (1) ALLOWANCE.—The term “allowance”  
2 means an emission allowance established under sec-  
3 tion 721 of the Clean Air Act (as added by section  
4 111 of this division).

5           (2) CLEAN ENERGY TECHNOLOGY.—The term  
6 “clean energy technology” means a technology that  
7 produces clean energy, including technology that  
8 produces clean energy, including technology that—

9                   (A) produces energy from solar, wind, geo-  
10 thermal, biomass, tidal, wave, ocean, and other  
11 renewable energy resources;

12                   (B) more efficiently transmits, distributes,  
13 or stores energy;

14                   (C) enhances energy efficiency for build-  
15 ings and industry, including combined heat and  
16 power;

17                   (D) enables the development of a Smart  
18 Grid (as described in section 1301 of the En-  
19 ergy Independence and Security Act of 2007  
20 (42 U.S.C. 17381)), including integration of re-  
21 newable energy resources and distributed gen-  
22 eration, demand response, demand side man-  
23 agement, and systems analysis;

1           (E) produces an advanced or sustainable  
2 material with energy or energy efficiency appli-  
3 cations;

4           (F) enhances water security through im-  
5 proved water management, conservation, dis-  
6 tribution, and end use applications; or

7           (G) improves energy efficiency for trans-  
8 portation, including electric vehicles.

9           (3) HUB.—The term “Hub” means an Energy  
10 Innovation Hub established in accordance with this  
11 section.

12           (4) PROJECT.—The term “project” means an  
13 activity with respect to which a Hub provides sup-  
14 port under subsection (e).

15           (5) QUALIFYING ENTITY.—The term “quali-  
16 fying entity” means an entity that is eligible, as de-  
17 termined by the Secretary, to receive assistance  
18 under this section.

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

21           (7) VINTAGE YEAR.—The term “vintage year”  
22 has the meaning given that term in section 700 of  
23 the Clean Air Act (as added by section 112 of this  
24 division).

1 (c) ROLE OF THE SECRETARY.—The Secretary, in  
2 accordance with this section and section 201, shall—

3 (1) have ultimate responsibility for, and over-  
4 sight of, all aspects of the program under this sec-  
5 tion;

6 (2) not later than September 30, 2011, and  
7 each calendar year thereafter through calendar year  
8 2049, provide for the distribution of allowances allo-  
9 cated for the following vintage year under section  
10 782(a) of the Clean Air Act (as added by section  
11 121 of this division) to support the establishment of  
12 8 Hubs, each with a unique designated technology  
13 development focus, pursuant to this section; and

14 (3) coordinate the innovation activities of Hubs  
15 with those occurring through other Department of  
16 Energy entities, including the National Laboratories,  
17 the Advanced Research Projects Agency—Energy,  
18 and Energy Frontier Research Collaborations, and  
19 within industry.

20 (d) ENTITIES ELIGIBLE FOR SUPPORT.—The Sec-  
21 retary shall promulgate regulations listing entities eligible  
22 for support under this section.

23 (e) ENERGY INNOVATION HUBS.—

24 (1) ROLE.—Hubs receiving allowances under  
25 this section shall support translational research ac-

1           activities leading to commercial application of clean en-  
2           ergy technologies, in accordance with the purposes of  
3           this section, through issuance of awards to projects  
4           and other entities meeting the purposes of this sec-  
5           tion.

6           (2) ADVISORY BOARDS.—Each Hub shall estab-  
7           lish an Advisory Board, the members of which shall  
8           have extensive and relevant scientific, technical, in-  
9           dustry, financial, or research management expertise.  
10          The Advisory Board shall review the Hub’s proposed  
11          plans, programs, project selection criteria, and  
12          projects and shall ensure that projects selected for  
13          awards meet the conflict of interest policies of the  
14          Hub. All Advisory Board members shall comply with  
15          the Hub’s conflict of interest policies and proce-  
16          dures.

17          (3) CONFLICT OF INTEREST.—Hubs shall es-  
18          tablish procedures to prevent conflicts of interest for  
19          any employee or consortia designee for Hub activi-  
20          ties who serves in a decisionmaking capacity.

21          (f) DISTRIBUTION OF ALLOWANCES TO ENERGY IN-  
22          NOVATION HUBS.—

23                 (1) DISTRIBUTION OF ALLOWANCES.—Not later  
24                 than September 30, 2011, and each calendar year  
25                 thereafter through calendar year 2049, the Secretary

1 shall, in accordance with the requirements of this  
2 section, distribute to eligible consortia allowances al-  
3 located for the following vintage year under section  
4 782(h)(1) of the Clean Air Act (as added by section  
5 121 of this division).

6 (2) SELECTION AND SCHEDULE.—Allowances to  
7 support the establishment of a Hub shall be distrib-  
8 uted to eligible consortia (as determined by the Sec-  
9 retary) selected through a competitive process.

10 (3) AMOUNT AND TERM OF AWARDS.—For each  
11 Hub selected to receive an award under this sub-  
12 section, the Secretary shall define a quantity of al-  
13 lowances that shall be distributed to such Hub each  
14 year for an initial period as determined by the Sec-  
15 retary.

16 (4) USE OF ALLOWANCES.—Allowances distrib-  
17 uted under this section shall be used exclusively to  
18 support project awards pursuant to subsection  
19 (e)(1), provided that a Hub may use not more than  
20 10 percent of the value of such allowances for its ad-  
21 ministrative expenses related to making such  
22 awards. Allowances distributed under this section  
23 shall not be used for construction of new buildings  
24 or facilities for Hubs, and construction of new build-  
25 ings or facilities shall not be considered as part of

1 the non-Federal share of a cost sharing agreement  
2 under this section.

3 (5) AUDIT.—Each Hub shall conduct, in ac-  
4 cordance with such requirements as the Secretary  
5 may prescribe, an annual audit to determine the ex-  
6 tent to which allowances distributed to the Hub  
7 under this subsection, and awards under subsection  
8 (e), have been utilized in a manner consistent with  
9 this section. The auditor shall transmit a report of  
10 the results of the audit to the Secretary and to the  
11 Government Accountability Office. The Secretary  
12 shall include such report in an annual report to Con-  
13 gress, along with a plan to remedy any deficiencies  
14 cited in the report. The Government Accountability  
15 Office may review such audits as appropriate and  
16 shall have full access to the books, records, and per-  
17 sonnel of the Hub to ensure that allowances distrib-  
18 uted to the Hub under this subsection, and awards  
19 made under subsection (e), have been utilized in a  
20 manner consistent with this section.

21 (6) REVOCATION OF ALLOWANCES.—The Sec-  
22 retary shall have authority to review awards made  
23 under this subsection and to revoke such awards if  
24 the Secretary determines that a Hub has used the



1       award in a manner not consistent with the require-  
2       ments of this section.

3   **SEC. 206. ADVANCED ENERGY RESEARCH.**

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

5           (1) ALLOWANCE.—The term “allowance”  
6       means an emission allowance established under sec-  
7       tion 721 of the Clean Air Act (as added by section  
8       111 of this Act).

9           (2) DIRECTOR.—The term “Director” means  
10       Director of the Advanced Research Projects Agency-  
11       Energy.

12       (b) DISTRIBUTION OF ALLOWANCES.—Not later than  
13       September 30, 2011, and each calendar year thereafter  
14       through calendar year 2049, the Director, in accordance  
15       with this section, shall distribute allowances allocated for  
16       the following vintage year under **【section 782(a)(11)】** of  
17       the Clean Air Act (as added by section 121 of this divi-  
18       sion). Such allowances shall be distributed on a competi-  
19       tive basis to institutions of higher education, companies,  
20       research foundations, trade and industry research collabo-  
21       rations, or consortia of such entities, or other appropriate  
22       research and development entities to achieve the goals of  
23       the Advanced Research Projects Agency-Energy (as de-  
24       scribed in section 5012(c) of the America COMPETES  
25       Act) through targeted acceleration of—

1 (1) novel early-stage energy research with pos-  
2 sible technology applications;

3 (2) development of techniques, processes, and  
4 technologies, and related testing and evaluation;

5 (3) development of manufacturing processes for  
6 technologies; and

7 (4) demonstration and coordination with non-  
8 governmental entities for commercial applications of  
9 technologies and research applications.

10 (c) SUPPLEMENT NOT SUPPLANT.—Assistance pro-  
11 vided under this section shall be used to supplement, and  
12 not to supplant, any other Federal resources available to  
13 carry out activities described in this section.

14 **SEC. 207. INTERNATIONAL CLEAN TECHNOLOGY DEPLOY-**  
15 **MENT.**

16 Not later than September 30, 2011, and each cal-  
17 endar year thereafter through 2049, the Secretary of  
18 State shall distribute emission allowances allocated for the  
19 following vintage year pursuant to section [782 (a)(    )  
20 of the Clean Air Act] exclusively for the purpose of section  
21 [3      of division A].

22 **SEC. 208. INTERNATIONAL ADAPTATION.**

23 Not later than September 30, 2011, and each cal-  
24 endar year thereafter through calendar year 2049, the  
25 Secretary of State shall distribute emission allowances al-

1 located for the following vintage year pursuant to section  
2 **【782 (a)(\_\_)** of the Clean Air Act**】** exclusively for the pur-  
3 pose of section **【3\_\_\_\_\_** of division A**】**.

4 **SEC. 209. INTERNATIONAL CLEAN TECHNOLOGY DEPLOY-**  
5 **MENT.**

6 Not later than September 30, 2011, and each cal-  
7 endar year thereafter through calendar year 2049, the  
8 Secretary of State shall distribute emission allowances al-  
9 located for the following vintage year pursuant to section  
10 **【782 (a)(\_\_)** of the Clean Air Act**】** exclusively for the pur-  
11 pose of section **【3\_\_\_\_\_** of division A**】**.

12 **SEC. 210. GREEN JOBS AND WORKER TRANSITION.**

13 (a) ESTABLISHMENT OF FUND.—There is estab-  
14 lished in the Treasury a separate account, to be known  
15 as the “Energy Efficiency and Renewable Energy Worker  
16 Training Fund”.

17 (b) AUCTION PROCEEDS.—The Administrator shall  
18 deposit the proceeds of the auction conducted pursuant  
19 to **【section 782 (b)(\_\_)** of the Clean Air Act**】** in the En-  
20 ergy Efficiency and Renewable Energy Worker Training  
21 Fund.

22 (c) AVAILABILITY OF AMOUNTS.—Of the amounts  
23 deposited in the Energy Efficiency and Renewable Energy  
24 Worker Training Fund under subsection (b)—



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

5           (4) SCCR ACCOUNT.—The term “SCCR Ac-  
6           count” means a State Climate Change Response Ac-  
7           count established under subsection (d)(4).

8           (5) VINTAGE YEAR.—The term “vintage year”  
9           has the meaning given that term in section 700 of  
10          the Clean Air Act (as added by section 112 of this  
11          division).

12          (b) REGULATIONS; COORDINATION.—

13           (1) REGULATIONS.—Not later than 2 years  
14           after the date of enactment of this Act, the Adminis-  
15           trator, or the heads of such Federal agencies as the  
16           President may designate, shall promulgate regula-  
17           tions to implement this section.

18           (2) COORDINATION.—If the President des-  
19           ignates more than 1 Federal agency to implement  
20           this section, the President shall require such agen-  
21           cies to establish a memorandum of understanding  
22           providing for coordination of rulemaking and other  
23           implementing activities, in accordance with this sec-  
24           tion.

## 782

1 (c) STATE CLIMATE CHANGE RESPONSE AND TRANS-  
2 PORTATION FUND.—

3 (1) ESTABLISHMENT OF FUND.—There is es-  
4 tablished in the Treasury a separate account, to be  
5 known as the “State Climate Change Response and  
6 Transportation Fund”.

7 (2) AUCTION PROCEEDS DEPOSITED TO  
8 FUND.—The Administrator shall deposit the pro-  
9 ceeds of the auction conducted pursuant to section  
10 **【782(b)(\_\_)** of the Clean Air Act (as added by sec-  
11 tion 121 of this division)**】** in the State Climate  
12 Change Response and Transportation Fund.

13 (3) AVAILABILITY OF AMOUNTS.—All amounts  
14 deposited in the State Climate Change Response and  
15 Transportation Fund shall be available, without fur-  
16 ther appropriation or fiscal year limitation, to carry  
17 out this section.

18 (d) DISTRIBUTION OF ALLOWANCE PROCEEDS.—

19 (1) IN GENERAL.—Not later than September  
20 30 of each of calendar years 2011 through 2049, the  
21 Administrator shall distribute, in accordance with  
22 this section, proceeds of the auction of allowances al-  
23 located for the following vintage year conducted pur-  
24 suant to subsection (c)(2) that have been deposited

1 in the State Climate Change Response and Trans-  
2 portation Fund.

3 (2) RESERVATION.—The Administrator shall—

4 (A) reserve 10 percent of the proceeds of  
5 such allowances described in paragraph (1) for  
6 distribution among coastal States in accordance  
7 with subsection (f);

8 (B) after consultation with the Secretary  
9 of the Interior, reserve at least 1 percent of the  
10 proceeds of those allowances for distribution to  
11 Indian tribes in accordance with subsection (e);  
12 and

13 (C) distribute the remaining proceeds of  
14 those allowances to fund State and local govern-  
15 ment programs to address climate change and  
16 related impacts, with such remaining proceeds  
17 divided equally between—

18 (i) funding of transportation grant  
19 programs under subsection (g); and

20 (ii) funding of other programs admin-  
21 istered by the States, with the proceeds to  
22 be deposited in and administered through  
23 the State Climate Change Response Ac-  
24 counts established pursuant to paragraph  
25 (4).

1           (3) FORMULA FOR DISTRIBUTION.—The Ad-  
2           ministrators shall distribute the proceeds to be allo-  
3           cated pursuant to paragraph (4) ratably among the  
4           States based on the product obtained by multi-  
5           plying—

6                   (A) the population of a State; and

7                   (B) the allocation factor for the State de-  
8           termined under paragraph (3).

9           (4) STATE ALLOCATION FACTORS.—

10           (A) IN GENERAL.—Except as provided in  
11           subparagraph (B), the allocation factor for a  
12           State shall be the quotient obtained by divid-  
13           ing—

14                   (i) the per capita income of all indi-  
15           viduals in the United States; by

16                   (ii) the per capita income of all indi-  
17           viduals in the State.

18           (B) LIMITATION.—

19                   (i) MAXIMUM.—If the allocation fac-  
20           tor for a State as calculated under sub-  
21           paragraph (A) would exceed 1.2, the allo-  
22           cation factor for such State shall be 1.2.

23                   (ii) MINIMUM.—If the allocation fac-  
24           tor for a State as calculated under sub-  
25           paragraph (A) would be less than 0.8, the



1 allocation factor for such State shall be  
2 0.8.

3 (C) PER CAPITA INCOME.—For purposes  
4 of this paragraph, per capita income shall be—  
5 (i) determined at 2-year intervals; and  
6 (ii) subject to subparagraph (D),  
7 equal to the average of the annual per cap-  
8 ita incomes for the most recent period of  
9 3 consecutive years for which satisfactory  
10 data are available from the Department of  
11 Commerce at the time such determination  
12 is made.

13 (D) REVENUE DIRECTLY RESULTING FROM  
14 A PRESIDENTIALLY DECLARED MAJOR DIS-  
15 ASTER.—

16 (i) IN GENERAL.—For purposes of  
17 this paragraph, per capita income from 1  
18 or more of the sources described in clause  
19 (ii) shall be reduced or excluded if the Sec-  
20 retary of Commerce—

21 (I) (in consultation with the Ad-  
22 ministrator and the heads of the de-  
23 partments or agencies involved) deter-  
24 mines that the income accrues to per-  
25 sons as the result of a major disaster

1 designated by the President under the  
2 Robert T. Stafford Disaster Relief  
3 and Emergency Assistance Act (42  
4 U.S.C. 5121 et seq.); and

5 (II) finds that the inclusion of 1  
6 or more of the income sources, in  
7 whole or in part, results in a transi-  
8 tory, rather than a sustainable, in-  
9 crease in a State's per capita income  
10 level relative to the national average.

11 (ii) SOURCES OF INCOME.—The  
12 sources of income referred to in clause (i)  
13 are the following:

14 (I) Property and casualty insur-  
15 ance (including homeowners and rent-  
16 ers insurance).

17 (II) The National Flood Insur-  
18 ance Program of the Federal Emer-  
19 gency Management Agency.

20 (III) The Individual and Family  
21 Grants Program of the Federal Emer-  
22 gency Management Agency.

23 (IV) The Disaster Housing Pro-  
24 gram of the Federal Emergency Man-  
25 agement Agency.

1 (V) The Community Develop-  
2 ment Block Grant Program of the De-  
3 partment of Housing and Urban De-  
4 velopment.

5 (VI) The Disaster Unemployment  
6 Assistance Program of the Depart-  
7 ment of Labor.

8 (VII) Any other source deter-  
9 mined appropriate by the Adminis-  
10 trator.

11 (5) STATE CLIMATE CHANGE RESPONSE AC-  
12 COUNTS.—Each State shall establish a State Cli-  
13 mate Change Response Account, to be administered  
14 pursuant to State law, to receive and distribute all  
15 amounts provided under this section. State regula-  
16 tions and implementing procedures relating to such  
17 accounts shall require compliance with the provisions  
18 of this section and all other applicable provisions of  
19 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 STATES.—The Ad-  
10 ministrator, or the heads of such other Federal agencies  
11 as the President may designate, shall distribute proceeds  
12 of emission allowances for coastal State economic protec-  
13 tion each fiscal year, in accordance with **【section \_\_\_\_】**.

14 (g) DISTRIBUTION OF TRANSPORTATION GRANTS.—  
15 Funding provided pursuant to subsection (d)(1) shall be  
16 used exclusively for the Transportation Greenhouse Gas  
17 Reduction Program in accordance with sections 112 and  
18 113 of this Act.

19 (h) USES OF ALLOWANCE PROCEEDS DEPOSITED TO  
20 SCCR ACCOUNTS.—

21 (1) IN GENERAL.—States and Indian tribes  
22 shall use allowance proceeds deposited to SCCR Ac-  
23 counts under subsection (c)(2) exclusively for the de-  
24 velopment and implementation of projects, pro-  
25 grams, or measures as described in this section to

1 address climate change by reducing emissions of  
2 greenhouse gases or by building resilience to the im-  
3 pacts of climate change, including impacts such as—

4 (A) extreme weather events, such as flood-  
5 ing and tropical cyclones;

6 (B) more frequent heavy precipitation  
7 events;

8 (C) water scarcity and adverse impacts on  
9 water quality;

10 (D) stronger and longer heat waves;

11 (E) more frequent and severe droughts;

12 (F) rises in sea level;

13 (G) ecosystem disruption;

14 (H) increased air pollution;

15 (I) effects on public health;

16 (J) impaired transportation systems and  
17 infrastructure; and

18 (K) reduced productivity of agricultural or  
19 ranching operations.

20 (2) REQUIREMENTS FOR EXPENDITURE OF AL-  
21 LOWANCE PROCEEDS DEPOSITED TO SCCR AC-  
22 COUNTS.—The allowance proceeds received by each  
23 SCCR Account pursuant to this section for each fis-  
24 cal year shall be used by the State exclusively to  
25 fund the following categories of activities, in compli-

1           ance with the provisions of approved State climate  
2           change response plans:

3                   (A) Grants to fund water system mitiga-  
4                   tion and adaptation partnerships in accordance  
5                   with section **[\_\_\_\_\_]**.

6                   (B) Flood control, protection, prevention  
7                   and response programs and projects in accord-  
8                   ance with section **[\_\_\_\_\_]**.

9                   (C) Programs or projects implemented by  
10                   State agencies as owners or operators of water  
11                   systems to address any ongoing or forecasted  
12                   climate-related impact on water quality, water  
13                   supply or reliability, for 1 or more of the pur-  
14                   poses listed in section **[\_\_\_\_\_]**.

15                   (D) Programs or projects to reduce green-  
16                   house gas emissions through recycling or for in-  
17                   creasing recycling rates in accordance with sec-  
18                   tion **[\_\_\_\_\_]**.

19                   (E) Programs and projects addressing ad-  
20                   verse impacts of climate change affecting agri-  
21                   culture or ranching activities.

22                   (F) Programs or projects addressing air  
23                   pollution or air quality impacts caused or exae-  
24                   erbated by climate change.

1           (3) DISTRIBUTION FOR LOCAL GOVERN-  
2           MENTS.—Not less than 12.5 percent of the proceeds  
3           deposited to SCCR Accounts shall be distributed by  
4           each State to units of local government within such  
5           State, to be used exclusively to support the cat-  
6           egories of climate change response efforts listed in  
7           paragraph (2).

8           (4) VULNERABLE POPULATIONS.—In deploying  
9           allowance proceeds under this section, States and  
10          units of local government shall ensure that programs  
11          and projects are funded responding to impacts af-  
12          fecting socially and economically vulnerable popu-  
13          lations, including—

14                (A) persons of low-income (as defined in  
15                title I of the Housing and Community Develop-  
16                ment Act of 1974, (42 U.S.C. 5301 et seq.));

17                (B) members of socially disadvantaged  
18                groups (as defined in section 2501(e)(2) of the  
19                Food, Agriculture, Conservation, and Trade Act  
20                of 1990 (7 U.S.C. 2279(e)(2)));

21                (C) individuals over 65 years of age and  
22                under 5 years of age; and

23                (D) individuals with disabilities.

24          (5) INTENT OF CONGRESS.—It is the intent of  
25          the Congress that allowances distributed to carry

1 out this section should be used to supplement, and  
2 not replace, existing sources of funding used to ad-  
3 dress and build resilience to the impacts of climate  
4 change.

5 (i) STATE AND TRIBAL CLIMATE CHANGE RESPONSE  
6 PLANS.—

7 (1) IN GENERAL.—The regulations promulgated  
8 pursuant to subsection (b) shall include require-  
9 ments for submission and approval of State or tribal  
10 climate change response plans under this section.  
11 Beginning with vintage year 2012, distribution of al-  
12 lowance proceeds to a State pursuant to this section  
13 shall be contingent on approval of a State climate  
14 change response plan for such State that meets the  
15 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 or Indian tribe to a broad range of  
21 impacts of climate change, based on the best  
22 available 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 listed in subsection (h)(2);

4           (C) include an assessment of potential for  
5           carbon reduction through changes to land man-  
6           agement policies (including enhancement or  
7           protection of forest carbon sinks);

8           (D) ensure that the State or Indian tribe  
9           fully considers and undertakes, to the maximum  
10          extent practicable, initiatives that—

11           (i) protect or enhance natural eco-  
12          system functions, including protection,  
13          maintenance, or restoration of natural in-  
14          frastructure such as wetlands, reefs, and  
15          barrier islands to buffer communities from  
16          floodwaters or storms, watershed protec-  
17          tion to maintain water quality and ground-  
18          water recharge, or floodplain restoration to  
19          improve natural flood control capacity;

20           (ii) where appropriate, use non-  
21          structural approaches, including practices  
22          that use, enhance, or mimic the natural  
23          hydrologic cycle processes of infiltration,  
24          evapotranspiration, and use; or

1 (iii) where appropriate, protect for-  
2 ested land via scientifically based ecological  
3 restoration practices, including by reducing  
4 fuel loads, restoring forest diversity, and  
5 conducting research on pest mitigation;

6 (E) give consideration to impacts affecting  
7 socially and economically vulnerable popu-  
8 lations, including—

9 (i) persons of low-income (as defined  
10 in title I of the Housing and Community  
11 Development Act of 1974 (42 U.S.C. sec.  
12 5301 et seq.));

13 (ii) members of socially disadvantaged  
14 groups (as defined in section 2501(e)(2) of  
15 the Food, Agriculture, Conservation, and  
16 Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

17 (iii) persons over 65 years of age and  
18 under 5 years of age; and

19 (iv) persons with disabilities;

20 (F) use pre-disaster mitigation, emergency  
21 response, and public insurance programs to  
22 mitigate the impacts of climate change;

23 (G) be consistent with Federal conserva-  
24 tion and environmental laws and, to the max-

1           imum extent practicable, avoid environmental  
2           degradation; and

3                   (H) be revised and resubmitted for ap-  
4           proval not less frequently than every 5 years.

5           (3) TRIBAL CLIMATE CHANGE RESPONSE  
6           PLANS.—Requirements for tribal climate change re-  
7           sponse plans should include the requirements listed  
8           in subparagraphs (A) through (H) of paragraph (2),  
9           as appropriate, but may vary from those of State ad-  
10          aptation plans to the extent necessary to account for  
11          the special circumstances of Indian tribes.

12          (4) COORDINATION WITH PRIOR PLANNING EF-  
13          FORTS.—In implementing this subsection, the Ad-  
14          ministrator, or the heads of such Federal agencies  
15          as the President may designate, shall—

16                   (A) draw upon lessons learned and best  
17                  practices from preexisting State and tribal cli-  
18                  mate change response planning efforts;

19                   (B) seek to avoid duplication of such ef-  
20                  forts; and

21                   (C) ensure that the plans developed under  
22                  this section are developed in coordination with  
23                  State natural resources adaptation plans devel-  
24                  oped under **【section \_\_\_\_】** of this Act.

1           (j) REPORTING.—Not later than 1 year after each  
2 date of receipt of allowances under this section, and bien-  
3 nially thereafter until the value of any allowance proceeds  
4 received under this section has been fully expended, each  
5 State or Indian tribe receiving allowance proceeds under  
6 this section shall submit to the Administrator, or the  
7 heads of such Federal agencies as the President may des-  
8 ignate, 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 **【782(b)(\_\_\_\_) of the Clean Air Act】** in the Climate  
10 Change 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 **E of title III of the \_\_\_\_\_ Act】**, without  
16 further appropriation or fiscal year limitation.

17 (d) DISTRIBUTION OF FUNDS BY HHS.—In carrying  
18 out **【this】** **【that? meaning the subpart referenced under**  
19 **subsection (c)?】** subpart, the Secretary of Health and  
20 Human Services may make funds deposited in the Climate  
21 Change Health Protection and Promotion Fund available  
22 to—

23 (1) other departments, agencies, and offices of  
24 the Federal Government;

25 (2) foreign, State, tribal, and local govern-  
26 ments; and

1           (3) such other entities as the Secretary deter-  
2           mines to be appropriate.

3           (e) SUPPLEMENT, NOT REPLACE.—It is the intent  
4 of Congress that funds made available to carry out this  
5 **【subpart】 【section?】** should be used to supplement, and  
6 not replace, existing sources of funding for public health.

7 **SEC. 213. CLIMATE CHANGE SAFEGUARDS FOR NATURAL**  
8 **RESOURCES CONSERVATION.**

9           (a) ESTABLISHMENT OF FUND.—There is estab-  
10 lished in the Treasury a separate account, to be known  
11 as the “Natural Resources Climate Change Adaptation  
12 Account”.

13           (b) AUCTION PROCEEDS.—The Administrator shall  
14 deposit the proceeds of the auction conducted pursuant  
15 to section **【782(b)(\_\_\_\_) of the Clean Air Act】** in the Nat-  
16 ural Resources Climate Change Adaptation Account.

17           (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
18 ited in the Natural Resources Climate Change Adaptation  
19 Account shall be available without further appropriation  
20 or fiscal year limitation solely for the purposes of **【section**  
21 **380 of division A?】**.

22 **SEC. 214. NUCLEAR WORKER TRAINING.**

23           (a) ESTABLISHMENT OF FUND.—There is estab-  
24 lished in the Treasury a separate account, to be known  
25 as the “Nuclear Worker Training Fund”.

1 (b) AUCTION PROCEEDS.—The Administrator shall  
2 deposit the proceeds of the auction conducted pursuant  
3 to section **【782(b)(\_\_\_\_) of the Clean Air Act】** in the Nu-  
4 clear Worker Training Fund.

5 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
6 ited in the Nuclear Worker Training Fund shall be avail-  
7 able without further appropriation or fiscal year limitation  
8 solely for the purpose of carrying out **【section 141 of this**  
9 **division?】**.

10 **SEC. 215. SUPPLEMENTAL AGRICULTURE, RENEWABLE EN-**  
11 **ERGY, AND FORESTRY.**

12 (a) ESTABLISHMENT OF FUND.—There is estab-  
13 lished in the Treasury a separate account, to be known  
14 as the “Supplemental Agriculture, Renewable Energy, and  
15 Forestry Fund”.

16 (b) AUCTION PROCEEDS.—The Administrator shall  
17 deposit the proceeds of the auction conducted pursuant  
18 to **【section 782(b)(\_\_\_\_) of the Clean Air Act】** in the  
19 Supplemental Agriculture, Renewable Energy, and For-  
20 estry Fund.

21 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
22 ited in the Supplemental Agriculture, Renewable Energy,  
23 and Forestry Fund shall be available without further ap-  
24 propriation or fiscal year limitation solely for the purpose  
25 of carrying out **【section 167 of this division? Division A?】**.



1 **SEC. 216. INVESTMENT IN ENERGY EFFICIENCY AND RE-**  
2 **NEWABLE ENERGY.**

3 **【PLACEHOLDER FOR TEXT PROVIDING AL-**  
4 **LOCATION FOR PROGRAMS UNDER SUB-**  
5 **SECTIONS (a)(8), (b)(6), and (b)(7) of SECTION 782,**  
6 **and SECTION 788, of the Clean Air Act (as added by**  
7 **SECTION 111 of this division).】**