

1 **TITLE IV—TRANSITIONING TO A**  
2 **CLEAN ENERGY ECONOMY**  
3 **Subtitle A—Ensuring Real**  
4 **Reductions in Industrial Emissions**

5 **SEC. 401. ENSURING REAL REDUCTIONS IN INDUSTRIAL**  
6 **EMISSIONS.**

7 Title VII of the Clean Air Act is amended by insert-  
8 ing after part E the following new part:

9 **“PART F—ENSURING REAL REDUCTIONS IN**  
10 **INDUSTRIAL EMISSIONS**

11 **“SEC. 761. PURPOSES.**

12 “The purposes of this part are—

13 “(1) to promote a strong global effort to signifi-  
14 cantly reduce greenhouse gas emissions, and,  
15 through this global effort, stabilize greenhouse gas  
16 concentrations in the atmosphere at a level that will  
17 prevent dangerous anthropogenic interference with  
18 the climate system;

19 “(2) to prevent an increase in greenhouse gas  
20 emissions in countries other than the United States  
21 as a result of direct and indirect compliance costs in-  
22 curred under this title;

1           “(3) to provide a rebate to the owners and op-  
2           erators of entities in domestic eligible industrial sec-  
3           tors for their greenhouse gas emission costs incurred  
4           under this title, but not for costs associated with  
5           other related or unrelated market dynamics;

6           “(4) to design such rebates in a way that will  
7           prevent carbon leakage while also rewarding innova-  
8           tion and facility-level investments in energy effi-  
9           ciency performance improvements; and

10          “(5) to eliminate or reduce distribution of emis-  
11          sion allowances under this part when such distribu-  
12          tion is no longer necessary to prevent carbon leakage  
13          from eligible industrial sectors.

14 **“SEC. 762. DEFINITIONS.**

15          “In this part:

16                 “(1) CARBON LEAKAGE.—The term ‘carbon  
17                 leakage’ means any substantial increase (as deter-  
18                 mined by the Administrator) in greenhouse gas  
19                 emissions by industrial entities located in other  
20                 countries if an incremental cost of production in-  
21                 crease in the United States resulting from the imple-  
22                 mentation of this title contributes materially to  
23                 cause such increase.

24                 “(2) ELIGIBLE INDUSTRIAL SECTOR.—The  
25                 term ‘eligible industrial sector’ means an industrial

1 sector determined by the Administrator under sec-  
2 tion 763(b) to be eligible to receive emission allow-  
3 ance rebates under this part.

4 “(3) INDUSTRIAL SECTOR.—The term ‘indus-  
5 trial sector’ means any sector that is in the manu-  
6 facturing sector (as defined in NAICS codes 31, 32,  
7 and 33).

8 “(4) NAICS.—The term ‘NAICS’ means the  
9 North American Industrial Classification System of  
10 2002.

11 “(5) OUTPUT.—The term ‘output’ means the  
12 total tonnage or other standard unit of production  
13 (as determined by the Administrator) produced by  
14 an entity in an industrial sector. The output of the  
15 cement sector is hydraulic cement, and not clinker.

16 **“SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.**

17 “(a) LIST.—

18 “(1) INITIAL LIST.—Not later than June 30,  
19 2011, the Administrator shall publish in the Federal  
20 Register a list of eligible industrial sectors pursuant  
21 to subsection (b). Such list shall include the amount  
22 of the emission allowance rebate per unit of produc-  
23 tion for which entities in each eligible industrial sec-  
24 tor are eligible in the following two calendar years  
25 pursuant to section 764.



1 “(I) an energy intensity of at  
2 least 5 percent, calculated by dividing  
3 the cost of purchased electricity and  
4 fuel costs of the sector by the value of  
5 the shipments of the sector, based on  
6 data described in subparagraph (E);  
7 or

8 “(II) a greenhouse gas intensity  
9 of at least 5 percent, calculated by di-  
10 viding—

11 “(aa) the number 20 multi-  
12 plied by the number of tons of  
13 carbon dioxide equivalent green-  
14 house gas emissions (including  
15 direct emissions from fuel com-  
16 bustion, process emissions, and  
17 indirect emissions from the gen-  
18 eration of electricity used to  
19 produce the output of the sector)  
20 of the sector based on data de-  
21 scribed in subparagraph (E); by

22 “(bb) the value of the ship-  
23 ments of the sector, based on  
24 data described in subparagraph  
25 (E). **【Q:** Should the 20 be made

1 flexible (i.e., 20 or such higher  
2 number as reflects the average  
3 market price for an allowance  
4 during the preceding 12  
5 months.】

6 “(iii) TRADE INTENSITY.—As deter-  
7 mined by the Administrator, the industrial  
8 sector had a trade intensity of at least 15  
9 percent, calculated by dividing the value of  
10 the total imports and exports of such sec-  
11 tor by the value of the shipments plus the  
12 value of imports of such sector, based on  
13 data described in subparagraph (E).

14 “(iv) VERY HIGH ENERGY OR GREEN-  
15 HOUSE GAS INTENSITY.—As determined by  
16 the Administrator, the industrial sector  
17 had an energy or greenhouse gas intensity,  
18 as calculated under clause (ii)(I) or (II), of  
19 at least 20 percent.

20 “(B) IRON AND STEEL SECTOR.—For pur-  
21 poses of this part, in carrying out this section  
22 and section 764, the Administrator shall con-  
23 sider as in different industrial sectors—

24 “(i) entities using integrated iron and  
25 steelmaking technologies (including coke

1 ovens, blast furnaces, and other iron-mak-  
2 ing technologies); and

3 “(ii) entities using electric arc furnace  
4 technologies.

5 “(C) METAL AND PHOSPHATE PRODUC-  
6 TION CLASSIFIED UNDER MORE THAN ONE  
7 NAICS CODE.—For purposes of this part, in car-  
8 rying out this section and section 764, the Ad-  
9 ministrator shall—

10 “(i) aggregate data for the  
11 beneficiation or other processing of iron  
12 and copper ores and phosphate with subse-  
13 quent steps in the process of metal and  
14 phosphate manufacturing regardless of the  
15 NAICS code under which such activity is  
16 classified; and

17 “(ii) aggregate data for the manufac-  
18 turing of steel with the manufacturing of  
19 steel pipe and tube made from purchased  
20 steel in a nonintegrated process.

21 “(D) EXCLUSION.—The petroleum refining  
22 sector shall not be an eligible industrial sector.

23 “(E) DATA SOURCES.—

24 “(i) ELECTRICITY AND FUEL COSTS,  
25 VALUE OF SHIPMENTS.—The Adminis-

1 trator shall determine electricity and fuel  
2 costs and the value of shipments under  
3 this subsection from data from the United  
4 States Census of Mineral Industries and  
5 the United States Census Annual Survey  
6 of Manufacturers. The Administrator shall  
7 take the average of data from as many of  
8 the years of 2004, 2005, and 2006 for  
9 which such data are available. If such data  
10 are unavailable, the Administrator shall  
11 make a determination based upon 2002 or  
12 2006 data from the most detailed indus-  
13 trial classification level of the Energy In-  
14 formation Agency's Manufacturing Energy  
15 Consumption Survey (using 2006 data if it  
16 is available) and the 2002 or 2007 Eco-  
17 nomic Census of the United States (using  
18 2007 data if it is available). If data from  
19 the Manufacturing Energy Consumption  
20 Survey are unavailable for any sector at  
21 the six-digit classification level in the  
22 NAICS, then the Administrator may ex-  
23 trapolate the information necessary to de-  
24 termine the eligibility of a sector under  
25 this paragraph from available Manufac-

1 turing Energy Consumption Survey data  
2 pertaining to a broader industrial category  
3 classified in the NAICS. Fuel cost data  
4 shall not include the cost of fuel used as  
5 feedstock by an industrial sector.

6 “(ii) IMPORTS AND EXPORTS.—The  
7 Administrator shall base the value of im-  
8 ports and exports under this subsection on  
9 United States International Trade Com-  
10 mission data. The Administrator shall take  
11 the average of data from as many of the  
12 years of 2004, 2005, and 2006 for which  
13 such data are available.

14 “(iii) PERCENTAGES.—The Adminis-  
15 trator shall round the energy intensity,  
16 greenhouse gas intensity, and trade inten-  
17 sity percentages under subparagraph (A)  
18 to the nearest whole number.

19 “(iv) GREENHOUSE GAS EMISSION  
20 CALCULATIONS.—When calculating the  
21 tons of carbon dioxide equivalent green-  
22 house gas emissions for each sector under  
23 subparagraph (A)(i)(II)(aa), the Adminis-  
24 trator—

1                   “(I) shall use the best available  
2                   data from as many of the years 2004,  
3                   2005, and 2006 for which such data  
4                   is available; and

5                   “(II) may, to the extent nec-  
6                   essary with respect to a sector, use  
7                   economic and engineering models and  
8                   the best available information on tech-  
9                   nology performance levels for such  
10                  sector.

11                  “(3) ADMINISTRATIVE DETERMINATION OF AD-  
12                  DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

13                  “(A) INDIVIDUAL SHOWING PETITION.—

14                  “(i) PETITION.—The owner or oper-  
15                  ator of an entity in an industrial sector  
16                  may petition the Administrator to des-  
17                  ignate as an eligible industrial sector under  
18                  this part an entity or a group of entities  
19                  that—

20                  “(I) represent a subsector of a  
21                  six-digit section of the NAICS code;  
22                  and

23                  “(II) meet the eligibility criteria  
24                  in both clauses (i) and (ii) of para-

1 graph (2)(A), or the eligibility criteria  
2 in clause (iii) of paragraph (2)(A).

3 “(ii) DATA.—In making a determina-  
4 tion under this subparagraph, the Admin-  
5 istrator shall consider data submitted by  
6 the petitioner that is specific to the entity,  
7 data solicited by the Administrator from  
8 other entities in the subsector, if such  
9 other entities exist, and data specified in  
10 paragraph (2)(E).

11 “(iii) BASIS OF SUBSECTOR DETER-  
12 MINATION.—The Administrator shall de-  
13 termine an entity or group of entities to be  
14 a subsector of a six-digit section of the  
15 NAICS code based only upon the products  
16 manufactured and not the industrial proc-  
17 ess by which the products are manufac-  
18 tured, except that the Administrator may  
19 determine an entity or group of entities  
20 that manufacture a product from a virgin  
21 material to be a separate subsector from  
22 another entity or group of entities that  
23 manufacture the same product from recy-  
24 cled material.

1                   “(iv) FINAL ACTION.—The Adminis-  
2                   trator shall take final action on such peti-  
3                   tion no later than 6 months after the peti-  
4                   tion is received by the Administrator.

5                   “(B) UPDATED TRADE INTENSITY DATA.—  
6                   The Administrator shall designate as eligible to  
7                   receive emission allowance rebates under this  
8                   part an industrial sector that—

9                   “(i) met the energy or greenhouse gas  
10                  intensity criteria in paragraph (2)(A)(i) as  
11                  of the date of promulgation of the rule  
12                  under paragraph (1); and

13                  “(ii) meets the trade intensity criteria  
14                  in paragraph (2)(A)(ii), using data from  
15                  any year after 2006. **【Q: again, is this**  
16                  **right – this doesn’t say anything about the**  
17                  **“most recent data” – so, if qualified at be-**  
18                  **ginning and in some year thereafter, for-**  
19                  **ever qualify. How is this consistent with**  
20                  **the next subparagraph (C)?】**

21                  “(C) USE OF MOST RECENT DATA.—In de-  
22                  termining whether to designate a sector or sub-  
23                  sector as an eligible industrial sector under this  
24                  paragraph, the Administrator shall use the  
25                  most recent data available from the sources de-

1           scribed in paragraph (2)(E), rather than the  
2           data from the years specified in paragraph  
3           (2)(E), to determine the trade intensity of such  
4           sector or subsector, but only for determining  
5           such trade intensity.

6   **“SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE RE-**  
7                           **BATES.**

8           “(a) DISTRIBUTION SCHEDULE.—

9                   “(1) IN GENERAL.—For each vintage year, the  
10           Administrator shall distribute allowances pursuant  
11           to this section no later than October 31 of the pre-  
12           ceding calendar year. The Administrator shall make  
13           such annual distributions to the owners and opera-  
14           tors of each entity in an eligible industrial sector in  
15           the amount of emission allowances calculated under  
16           subsection (b), except that—

17                   “(A) for vintage years 2012 and 2013, the  
18           distribution for a covered entity shall be pursu-  
19           ant to the entity’s indirect carbon factor as cal-  
20           culated under subsection (b)(3);

21                   “(B) for vintage year 2026 and thereafter,  
22           the distribution shall be pursuant to the  
23           amount calculated under subsection (b) multi-  
24           plied by, except as modified by the President

1           pursuant to section 904(d)(3)(A) of the Tariff  
2           Act of 1930 for a sector—

3                   “(i) 90 percent for vintage year 2026;

4                   “(ii) 80 percent for vintage year  
5                   2027;

6                   “(iii) 70 percent for vintage year  
7                   2028;

8                   “(iv) 60 percent for vintage year  
9                   2029;

10                   “(v) 50 percent for vintage year 2030;

11                   “(vi) 40 percent for vintage year  
12                   2031;

13                   “(vii) 30 percent for vintage year  
14                   2032;

15                   “(viii) 20 percent for vintage year  
16                   2033;

17                   “(ix) 10 percent for vintage year  
18                   2034; and

19                   “(x) 0 percent for vintage year 2035  
20                   and thereafter.

21                   “(2) RESUMPTION OF REDUCTION.—If the  
22           President has modified the percentage stated in  
23           paragraph (1)(B) under section 904(d)(3)(A) of the  
24           Tariff Act of 1930, and the President subsequently  
25           makes a determination under section 904(c) of such

1 Act for an eligible industrial sector that more than  
2 85 percent of United States imports for that sector  
3 are produced or manufactured in countries that have  
4 met at least one of the criteria in that section, then  
5 the reduction schedule set forth in paragraph (1)(B)  
6 of this subsection shall begin in the next vintage  
7 year, with the percentage reduction based on the  
8 amount of the distribution of emission allowances  
9 under this section in the previous year.

10 “(3) NEWLY ELIGIBLE SECTORS.—In addition  
11 to receiving a distribution of emission allowances  
12 under this section in the first distribution occurring  
13 after an industrial sector is designated as eligible  
14 under section 763(b)(3), the owner or operator of an  
15 entity in that eligible industrial sector may receive a  
16 prorated share of any emission allowances made  
17 available for distribution under this section that  
18 were not distributed for the year in which the peti-  
19 tion for eligibility was granted under section  
20 763(b)(3)(A).

21 “(b) CALCULATION OF DIRECT AND INDIRECT CAR-  
22 BON FACTORS.—

23 “(1) IN GENERAL.—

24 “(A) COVERED ENTITIES.—Except as pro-  
25 vided in subsection (a), for covered entities that

1 are in an eligible industrial sector, the amount  
2 of emission allowance rebates shall be based on  
3 the sum of the covered entity's direct and indi-  
4 rect carbon factors.

5 “(B) OTHER ELIGIBLE ENTITIES.—For  
6 entities that are in an eligible industrial sector  
7 but are not covered entities, the amount of  
8 emission allowance rebates shall be based on  
9 the entity's indirect carbon factor.

10 “(C) NEW ENTITIES.—Not later than 2  
11 years after the date of enactment of this title,  
12 the Administrator shall issue regulations gov-  
13 erning the distribution of emission allowance re-  
14 bates for the first and second years of operation  
15 of a new entity in an eligible industrial sector.  
16 These regulations shall provide for—

17 “(i) the distribution of emission allow-  
18 ance rebates to such entities based on com-  
19 parable entities in the same sector; and

20 “(ii) an adjustment in the third and  
21 fourth years of operation to reconcile the  
22 total amount of emission allowance rebates  
23 received during the first and second years  
24 of operation to the amount the entity  
25 would have received during the first and

1                   second years of operation had the appro-  
2                   priate data been available.

3                   “(2) DIRECT CARBON FACTOR.—The direct car-  
4                   bon factor for a covered entity for a vintage year is  
5                   the product of—

6                   “(A) the average **【annual?】** output of the  
7                   covered entity for the two years preceding the  
8                   year of the distribution; and

9                   “(B) the most recent calculation of the av-  
10                  erage direct greenhouse gas emissions (ex-  
11                  pressed in tons of carbon dioxide equivalent)  
12                  per unit of output for all covered entities in the  
13                  sector, as determined by the Administrator  
14                  under paragraph (4).

15                  “(3) INDIRECT CARBON FACTOR.—

16                  “(A) IN GENERAL.—The indirect carbon  
17                  factor for an entity for a vintage year is the  
18                  product obtained by multiplying the average  
19                  **【annual?】** output of the entity for the two  
20                  years preceding the years of the distribution by  
21                  both the electricity emissions intensity factor  
22                  determined pursuant to subparagraph (B) and  
23                  the electricity efficiency factor determined pur-  
24                  suant to subparagraph (C) for the year con-  
25                  cerned.

1           “(B) ELECTRICITY EMISSIONS INTENSITY  
2 FACTOR.—Each person selling electricity to the  
3 owner or operator of an entity in any sector  
4 designated as an eligible industrial sector under  
5 section 763(b) shall provide the owner or oper-  
6 ator of the entity and the Administrator, on an  
7 annual basis, the electricity emissions intensity  
8 factor for the entity. The electricity emissions  
9 intensity factor for the entity, expressed in tons  
10 of carbon dioxide equivalents per kilowatt hour,  
11 is determined by dividing—

12                   “(i) the annual sum of the hourly  
13 product of—

14                           “(I) the electricity purchased by  
15 the entity from that person in each  
16 hour (expressed in kilowatt hours),  
17 multiplied by

18                                   “(II) the marginal or weighted  
19 average tons of carbon dioxide equiva-  
20 lent per kilowatt hour that the person  
21 selling the electricity charges to the  
22 entity, taking into account the entity’s  
23 retail rate arrangements, by

1                   “(ii) the total kilowatt hours of elec-  
2                   tricity purchased by the entity from that  
3                   person during that year.

4                   “(C) ELECTRICITY EFFICIENCY FACTOR.—  
5                   The electricity efficiency factor is the average  
6                   amount of electricity (in kilowatt hours) used  
7                   per unit of output for all entities in the relevant  
8                   sector, as determined by the Administrator  
9                   based on the best available data, including data  
10                  provided under paragraph (6).

11                  “(D) INDIRECT CARBON FACTOR REDUC-  
12                  TION.—If an electricity provider received a free  
13                  allocation of emission allowances pursuant to  
14                  section 782(a), the Administrator shall adjust  
15                  the indirect carbon factor to avoid rebates to  
16                  the eligible entity for costs that the Adminis-  
17                  trator determines were not incurred by the in-  
18                  dustrial entity **【Q: is this industrial entity dif-  
19                  ferent from the eligible entity?】** because the al-  
20                  lowances were freely allocated to the eligible en-  
21                  tity’s electricity provider and used for the ben-  
22                  efit of industrial consumers.

23                  “(4) GREENHOUSE GAS INTENSITY CALCULA-  
24                  TIONS.—The Administrator shall calculate the aver-  
25                  age direct greenhouse gas emissions (expressed in

1 tons of carbon dioxide equivalent) per unit of output  
2 for all covered entities in each eligible industrial sec-  
3 tor every four years using the best available data for  
4 the two most recent years.

5 “(5) ENSURING EFFICIENCY IMPROVEMENTS.—  
6 When making greenhouse gas calculations, the Ad-  
7 ministrator shall—

8 “(A) limit the average direct greenhouse  
9 gas emissions per unit of output, calculated  
10 under paragraph (4), for any eligible industrial  
11 sector to an amount that is not greater than it  
12 was in any previous calculation under this sub-  
13 section for that eligible industrial sector; and

14 “(B) limit the electricity emissions inten-  
15 sity factor, calculated under paragraph (3)(B)  
16 and resulting from a change in electricity sup-  
17 ply, for any entity to an amount that is not  
18 greater than it was during any previous year  
19 for that entity.

20 “(6) DATA SOURCES.—For the purposes of this  
21 subsection—

22 “(A) the Administrator shall use data from  
23 the greenhouse gas registry, established under  
24 section 713, where it is available; and



1 **“TITLE IX—PROMOTING INTER-**  
2 **NATIONAL REDUCTIONS IN**  
3 **INDUSTRIAL EMISSIONS**

“TITLE IX—PROMOTING INTERNATIONAL REDUCTIONS IN  
INDUSTRIAL EMISSIONS

“Sec. 901. Purposes.

“Sec. 902. International negotiations.

“Sec. 903. United States negotiating objectives with respect to multilateral environmental negotiations.

“Sec. 904. Presidential reports and determinations.

“Sec. 905. International reserve allowance program.

“Sec. 906. Iron and steel sector.

“Sec. 907. Definitions.

4 **“SEC. 901. PURPOSES.**

5 “The purposes of this title are—

6 “(1) to promote a strong global effort to signifi-  
7 cantly reduce greenhouse gas emissions, and,  
8 through this global effort, stabilize greenhouse gas  
9 concentrations in the atmosphere at a level that will  
10 prevent dangerous anthropogenic interference with  
11 the climate system;

12 “(2) to prevent an increase in greenhouse gas  
13 emissions in countries other than the United States  
14 as a result of direct and indirect compliance costs in-  
15 curred under this title;

16 “(3) to induce foreign countries, and in par-  
17 ticular, fast-growing developing countries, to take  
18 action with respect to their greenhouse gas emissions  
19 that is comparable in effect to that achieved in the

1 United States, including through the implementation  
2 of this title; and

3 “(4) to ensure that the measures described in  
4 this title are designed and implemented in a manner  
5 consistent with applicable international agreements  
6 to which the United States is a party.

7 **“SEC. 902. INTERNATIONAL NEGOTIATIONS.**

8 “(a) FINDING.—Congress finds that the purposes of  
9 this title, as set forth in section 901, can be most effec-  
10 tively addressed and achieved through agreements nego-  
11 tiated between the United States and foreign countries.

12 “(b) STATEMENT OF POLICY.—It is the policy of the  
13 United States to work proactively under the United Na-  
14 tions Framework Convention on Climate Change, and in  
15 other appropriate fora, to establish binding agreements,  
16 including sectoral agreements, committing all major  
17 greenhouse gas-emitting nations to contribute equitably to  
18 the reduction of global greenhouse gas emissions.

19 “(c) NOTIFICATION OF FOREIGN COUNTRIES.—

20 “(1) IN GENERAL.—As soon as practicable  
21 after the date of the enactment of this title, the  
22 President shall provide a notification on climate  
23 change described in paragraph (2) to each foreign  
24 country the products of which are not exempted  
25 under section 905(a)(1)(E).

1           “(2) NOTIFICATION DESCRIBED.—A notifica-  
2           tion described in this paragraph is a notification  
3           that consists of—

4                   “(A) a statement of the policy of the  
5           United States described in subsection (b);

6                   “(B) a declaration—

7                           “(i) requesting the foreign country to  
8                           take appropriate measures to limit the  
9                           greenhouse gas emissions of the foreign  
10                           country in order to achieve the purposes of  
11                           this title, as set forth in section 901; and

12                           “(ii) indicating that, beginning on  
13                           January 1, 2020, or such earlier date if  
14                           necessary to avoid carbon leakage in an eli-  
15                           gible industrial sector, the international re-  
16                           serve requirements of this title may apply  
17                           to a covered good; and

18                   “(C) an estimate of the percentage change  
19           in greenhouse gas emissions that the United  
20           States expects to achieve annually through Fed-  
21           eral, State, and local measures during the 10-  
22           year period beginning on January 1, 2012, as  
23           compared to nationwide emissions levels during  
24           calendar year 2005.

1 **“SEC. 903. UNITED STATES NEGOTIATING OBJECTIVES**  
2 **WITH RESPECT TO MULTILATERAL ENVIRON-**  
3 **MENTAL NEGOTIATIONS.**

4 “(a) IN GENERAL.—The negotiating objectives of the  
5 United States with respect to multilateral environmental  
6 negotiations described in this title are to—

7 “(1) reach an internationally binding and en-  
8 forceable agreement in which all major greenhouse  
9 gas-emitting nations contribute equitably to the re-  
10 duction of global greenhouse gas emissions;

11 “(2) include in such international agreement  
12 provisions that recognize and address the competi-  
13 tive imbalances that may be created in domestic and  
14 export markets between countries signatory to the  
15 agreement and non-signatory countries, as well as  
16 among signatory countries at least until such coun-  
17 tries have undertaken and implemented sufficiently  
18 comparable environmental obligations;

19 “(3) include in such international agreement  
20 provisions by which countries signatory to the agree-  
21 ment agree to apply, with respect to imports from  
22 countries not signatories to the agreement, border  
23 measures designed to minimize or avoid any carbon  
24 leakage from the signatory countries to the non-sig-  
25 natory countries, including border measures that  
26 may—

1           “(A) require the purchase of allowances (or  
2           the agreement-country equivalent thereof) in a  
3           volume based upon the industry-specific average  
4           volume of emissions per unit of output for the  
5           country of origin; and

6           “(B) require the purchase of allowances  
7           (or the agreement-country equivalent thereof)  
8           at a price equal to the highest market price for  
9           such allowances in any agreement country;

10          “(4) include in such international agreement  
11          provisions by which countries signatory to the agree-  
12          ment confirm that, until such time as the signatory  
13          countries have undertaken and implemented suffi-  
14          ciently comparable environmental obligations—

15               “(A) signatory countries may maintain do-  
16               mestic programs providing rebates or free al-  
17               lowances to energy intensive industries in order  
18               to minimize any migration of such industries to  
19               agreement countries that have not yet fully im-  
20               plemented their domestic greenhouse gas emis-  
21               sion reduction programs; and

22               “(B) ensure that such rebates or free al-  
23               lowances do not exceed the cost or number of  
24               allowances required to meet the direct and indi-  
25               rect cost of compliance with the greenhouse gas

1 emission reduction requirements in the signa-  
2 tory country; and

3 “(5) include in such international agreement  
4 agreed remedies for any country signatory to the  
5 agreement that fails to meet its greenhouse gas re-  
6 duction obligations in the agreement.

7 “(b) RULE OF CONSTRUCTION.—Nothing in sub-  
8 section (a)(4) shall be construed to require the United  
9 States to alter the provisions of section 764 of the Clean  
10 Air Act.

11 **“SEC. 904. PRESIDENTIAL REPORTS AND DETERMINA-**  
12 **TIONS.**

13 “(a) REPORT.—Not later than January 1, 2016, and  
14 every 2 years thereafter, the President shall submit a re-  
15 port to Congress on the effectiveness of the distribution  
16 of emission allowance rebates under part F of title VII  
17 of the Clean Air Act in mitigating carbon leakage in eligi-  
18 ble industrial sectors. Such report shall also include—

19 “(1) an assessment, for each eligible industrial  
20 sector receiving emission allowance rebates, as to  
21 whether, and by how much, the per unit cost of pro-  
22 duction has increased for that sector as a result of  
23 compliance with section 722 of the Clean Air Act (as  
24 determined in a manner consistent with section  
25 764(b) of such Act), notwithstanding the provision

1 of the emission allowance rebates to that industrial  
2 sector;

3 “(2) recommendations on how to better achieve  
4 the purposes of this title, including an assessment of  
5 the feasibility and usefulness of an international re-  
6 serve allowance program for the eligible industrial  
7 sector under section 905;

8 “(3) to the extent the President determines that  
9 an international reserve allowance program would  
10 not be useful for the eligible industrial sector be-  
11 cause its exposure to carbon leakage is the result of  
12 competition in export markets with goods produced  
13 in countries not implementing similar greenhouse  
14 gas emission reduction policies, an identification of  
15 alternative actions or programs consistent with the  
16 purposes of this title, and the President should im-  
17 plement, to the extent appropriate, such alternative  
18 actions or programs; and

19 “(4) an assessment of the amount and duration  
20 of assistance, including distribution of free allow-  
21 ances, being provided to industrial sectors in other  
22 developed countries to mitigate costs of compliance  
23 with domestic greenhouse gas reduction programs in  
24 such countries.

25 “(b) PRESIDENTIAL DETERMINATION.—

1           “(1) IN GENERAL.—If, by January 1, 2017 (in  
2           a case in which section 905(c)(2)(B) applies by that  
3           date), or by January 1, 2018 (in any other case), a  
4           multilateral agreement consistent with the negoti-  
5           ating objectives set forth in section 903 has not en-  
6           tered into force with respect to the United States,  
7           the President shall establish an international reserve  
8           allowance program to the extent provided under sec-  
9           tion 905 unless—

10                   “(A) the President determines and certifies  
11                   to the Congress that such program would not  
12                   be in the national economic interest or environ-  
13                   mental interest of the United States; and

14                   “(B) not later than 90 days after the  
15                   President transmits the certification described  
16                   in subparagraph (A), a joint resolution is en-  
17                   acted into law that approves the determination  
18                   of the President described in subparagraph (A).

19           “(2) CONTENTS OF JOINT RESOLUTION.—For  
20           purposes of this subsection, the term ‘joint resolu-  
21           tion’ means only a joint resolution of the two Houses  
22           of Congress, the matter after the resolving clause of  
23           which is as follows: ‘That the Congress approves the  
24           determination of the President under section  
25           905(b)(1)(A) of the Tariff Act of 1930 transmitted

1 to the Congress on \_\_\_\_\_.', the blank space  
2 being filled with the appropriate date.

3 “(3) CONGRESSIONAL PROCEDURES.—Sub-  
4 sections (c), (d), (e), and (f) of section 152 of the  
5 Trade Act of 1974 (19 U.S.C. 2192 (c), (d), (e),  
6 and (f)) shall apply to a joint resolution under this  
7 subsection to the same extent as such subsections  
8 apply to a joint resolution under section 152 of such  
9 Act.

10 “(c) DETERMINATIONS WITH RESPECT TO ELIGIBLE  
11 INDUSTRIAL SECTORS.—If the President establishes an  
12 international reserve allowance program pursuant to sub-  
13 section (b), then not later than June 30, 2018, and every  
14 four years thereafter, the President, in consultation with  
15 the Administrator and other appropriate agencies, shall  
16 determine, for each eligible industrial sector, whether or  
17 not more than 85 percent of United States imports of cov-  
18 ered goods with respect to that sector are produced or  
19 manufactured in countries that have met at least one of  
20 the following criteria:

21 “(1) The country is a party to an international  
22 agreement to which the United States is a party  
23 that includes a nationally enforceable greenhouse gas  
24 emissions reduction commitment for that country

1 that is at least as stringent as that of the United  
2 States.

3 “(2) The country has implemented policies, in-  
4 cluding sectoral caps, export tariffs, production fees,  
5 electricity generation regulations, or greenhouse gas  
6 emissions fees, that individually or collectively im-  
7 pose an incremental increase on the cost of produc-  
8 tion associated with greenhouse gas emissions from  
9 a comparable industrial sector that is at least 80  
10 percent of the cost of complying with section 722 of  
11 the Clean Air Act in the United States for such sec-  
12 tor, averaged over a two-year period.

13 “(d) EFFECT OF PRESIDENTIAL DETERMINATION.—  
14 If the President makes a determination under subsection  
15 (c) with respect to an eligible industrial sector that 85 per-  
16 cent or less of United States imports of covered goods with  
17 respect to the sector are produced or manufactured in  
18 countries that have met one or more of the criteria in sub-  
19 section (c), then the President shall, not later than June  
20 30, 2018, and every four years thereafter—

21 “(1) assess the extent to which the emission al-  
22 lowance rebates provided pursuant to part F of title  
23 VII of the Clean Air Act have mitigated or ad-  
24 dressed, or could mitigate or address, carbon leakage  
25 in that sector;

1           “(2) assess the extent to which an international  
2           reserve allowance program has mitigated or ad-  
3           dressed, or could mitigate or address, carbon leakage  
4           in that sector; and

5           “(3) with respect to that sector—

6           “(A) modify the percentage by which direct  
7           and indirect carbon factors will be multiplied  
8           under section 764(a)(1)(B) of the Clean Air  
9           Act; and

10           “(B) apply or continue to apply an inter-  
11           national reserve allowance program under sec-  
12           tion 905 with respect to imports of covered  
13           goods.

14           “(e) REPORT TO CONGRESS.—Not later than June  
15           30, 2018, and every four years thereafter, the President  
16           shall transmit to the Congress a report providing notice  
17           of any determination made under subsection (c), explain-  
18           ing the reasons for such determination, and identifying the  
19           actions taken by the President under subsection (d).

20           **“SEC. 905. INTERNATIONAL RESERVE ALLOWANCE PRO-**  
21           **GRAM.**

22           “(a) ESTABLISHMENT.—

23           “(1) IN GENERAL.—The Administrator, with  
24           the concurrence of Commissioner responsible for

1 U.S. Customs and Border Protection, shall issue  
2 regulations—

3 “(A) establishing an international reserve  
4 allowance program for the sale, exchange, pur-  
5 chase, transfer, and banking of international re-  
6 serve allowances for covered goods with respect  
7 to the eligible industrial sector;

8 “(B) ensuring that the price for pur-  
9 chasing the international reserve allowances  
10 from the United States on a particular day is  
11 equivalent to the arithmetic mean of the market  
12 clearing price for emission allowances under  
13 section 722 of the Clean Air Act under the 3  
14 leading daily prices indices for the sale of such  
15 allowances;

16 “(C) establishing a general methodology  
17 for calculating the quantity of international re-  
18 serve allowances that a United States importer  
19 of any covered good must submit;

20 “(D) requiring the submission of appro-  
21 priate amounts of such allowances as a condi-  
22 tion of entry into the customs territory of the  
23 United States of covered goods with respect to  
24 the eligible industrial sector;

1           “(E) exempting from the requirements of  
2 subparagraph (D) such products that are the  
3 origin of—

4           “(i) any foreign country that the Ad-  
5 ministrator has determined to be achieving  
6 a percentage change in its nationwide  
7 greenhouse gas emissions that is equal to,  
8 or better than, the percentage change in  
9 nationwide greenhouse gas emissions of the  
10 United States, as compared to nationwide  
11 emissions levels that each country achieved  
12 during calendar year 2005;

13           “(ii) any country determined to meet  
14 the standards provided in section  
15 904(c)(2);

16           “(iii) any foreign country that the  
17 United Nations has identified as among  
18 the least developed of developing countries;  
19 or

20           “(iv) any foreign country that the  
21 President has determined to be responsible  
22 for less than 0.5 percent of total global  
23 greenhouse gas emissions and less than 5  
24 percent of United States imports of cov-

1           ered goods with respect to the eligible in-  
2           dustrial sector;

3           “(F) specifying the procedures that U.S.  
4           Customs and Border Protection will apply for  
5           the declaration and entry of covered goods with  
6           respect to the eligible industrial sector into the  
7           customs territory of the United States; and

8           “(G) establishing procedures that prevent  
9           circumvention of the international reserve allow-  
10          ance requirement for covered goods with respect  
11          to the eligible industrial sector that are manu-  
12          factured or processed in more than one foreign  
13          country.

14          “(2) PURPOSE OF PROGRAM.—The Adminis-  
15          trator shall establish the program under paragraph  
16          (1) consistent with international agreements to  
17          which the United States is a party, in a manner that  
18          minimizes the likelihood of carbon leakage as a re-  
19          sult of differences between—

20                 “(A) the direct and indirect costs of com-  
21                 plying with section 722 of the Clean Air Act;  
22                 and

23                 “(B) the direct and indirect costs, if any,  
24                 of complying in other countries with greenhouse  
25                 gas regulatory programs, requirements, export

1 tariffs, or other measures adopted or imposed  
2 to reduce greenhouse gas emissions.

3 “(b) EMISSION ALLOWANCE REBATES.—The Admin-  
4 istrator shall take into account the value of emission allow-  
5 ance rebates distributed under part F of title VII of the  
6 Clean Air Act when making calculations under subsection  
7 (a)(2).

8 “(c) EFFECTIVE DATE.—

9 “(1) IN GENERAL.—Except as provided in para-  
10 graph (2), the international reserve allowance pro-  
11 gram may not apply to imports of covered goods en-  
12 tering the customs territory of the United States be-  
13 fore January 1, 2020.

14 “(2) EXCEPTIONS.—The international reserve  
15 allowance program—

16 “(A) may apply to imports of covered  
17 goods entering the customs territory of the  
18 United States before January 1, 2020, if—

19 “(i) the program is established pursu-  
20 ant to the implementation of a multilateral  
21 environmental agreement consistent with  
22 the negotiating objectives set forth in sec-  
23 tion 903; or

24 “(ii)(I) a multilateral environmental  
25 agreement consistent with the negotiating

1 objectives set forth in section 903 has not  
2 entered into force with respect to the  
3 United States; and

4 “(II) the President determines, pursu-  
5 ant to section 904(a)(1), that notwith-  
6 standing the emission allowance rebates  
7 distributed under part F of title VII of the  
8 Clean Air Act, the per unit cost of produc-  
9 tion for an eligible industrial sector has in-  
10 creased by more than 2 percent as a result  
11 of compliance with section 722 of the  
12 Clean Air Act, in which case the program  
13 shall be limited to imports of covered goods  
14 with respect to the eligible industrial sec-  
15 tor; and

16 “(B) shall apply to imports of covered  
17 goods entering the customs territory of the  
18 United States before January 1, 2020, if—

19 “(i) a multilateral agreement con-  
20 sistent with the negotiating objectives set  
21 forth in section 903 has not entered into  
22 force with respect to the United States;  
23 and

24 “(ii) the President determines, pursu-  
25 ant to section 904(a)(1), that notwith-

1 standing the emission allowance rebates  
2 distributed under part F of title VII of the  
3 Clean Air Act, the per unit cost of produc-  
4 tion for an eligible industrial sector has in-  
5 creased by more than 7 percent as a result  
6 of compliance with section 722 of the  
7 Clean Air Act, in which case the program  
8 shall be limited to entries of covered goods  
9 with respect to the eligible industrial sector  
10 and shall apply to entries of such covered  
11 goods that are made on or after the date  
12 that is 12 months after the date of the  
13 President’s determination.

14 “(3) NATIONAL INTEREST EXCEPTION.—

15 “(A) IN GENERAL.—If the President deter-  
16 mines that implementation of the international  
17 reserve allowance program under paragraph  
18 (2)(B) with respect to an eligible industrial sec-  
19 tor is not in the national interest of the United  
20 States, the President may determine not to im-  
21 plement the program with respect to that sec-  
22 tor, but—

23 “(i) only in an extraordinary case; and

24 “(ii) only if the President determines  
25 that implementing the program would

1           cause serious harm to the economic inter-  
2           ests, environmental interests, or national  
3           security of the United States.

4           “(B) NOTIFICATION TO CONGRESS.—Any  
5           such Presidential determination shall be sub-  
6           mitted to the Committee on Finance of the Sen-  
7           ate and the Committee on Ways and Means of  
8           the House of Representatives and shall be pub-  
9           lished in the Federal Register not later than 15  
10          days after the date of the determination. In the  
11          submission to the committees and in publication  
12          in the Federal Register, the President shall in-  
13          clude the reasons for the determination not to  
14          implement the international reserve allowance  
15          program with respect to the eligible industrial  
16          sector.

17          “(d) COVERED ENTITIES.—International reserve al-  
18          lowances may not be used by covered entities to comply  
19          with section 722 of the Clean Air Act.

20          **“SEC. 906. IRON AND STEEL SECTOR.**

21          “For purposes of this title, the Administrator shall  
22          consider to be in the same eligible industrial sector—

23                  “(1) entities using integrated iron and  
24                  steelmaking technologies (including coke ovens, blast  
25                  furnaces, and other iron-making technologies); and

1           “(2) entities using electric arc furnace tech-  
2           nologies.

3 **“SEC. 907. DEFINITIONS.**

4           “In this title:

5           “(1) ADMINISTRATOR.—The term ‘Adminis-  
6           trator’ means the Administrator of the Environ-  
7           mental Protection Agency.

8           “(2) CARBON LEAKAGE.—The term ‘carbon  
9           leakage’ means any substantial increase (as deter-  
10          mined by the Administrator) in greenhouse gas  
11          emissions by industrial entities located in other  
12          countries if an incremental cost of production in-  
13          crease in the United States resulting from the imple-  
14          mentation of this title contributes materially to  
15          cause such increase.

16          “(3) COVERED GOOD.—The term ‘covered good’  
17          means a good that, as identified by the Adminis-  
18          trator by regulation, is either—

19                 “(A) entered pursuant to a subheading or  
20                 heading under the Harmonized Tariff Schedule  
21                 of the United States that corresponds to the  
22                 NAICS code for an eligible industrial sector, as  
23                 established in the concordance between NAICS  
24                 codes and the Harmonized Tariff Schedule of

1 the United States prepared by the United  
2 States Census Bureau; or

3 “(B) a manufactured item for consump-  
4 tion.

5 “(4) ELIGIBLE INDUSTRIAL SECTOR.—The  
6 term ‘eligible industrial sector’ means an industrial  
7 sector determined by the Administrator under sec-  
8 tion 764(b) of the Clean Air Act to be eligible to re-  
9 ceive emission allowance rebates under part F of  
10 title VII of the Clean Air Act.

11 “(5) INDUSTRIAL SECTOR.—The term ‘indus-  
12 trial sector’ means any sector that is in the manu-  
13 facturing sector (as defined in NAICS codes 31, 32,  
14 and 33).

15 “(6) MANUFACTURED ITEM FOR CONSUMP-  
16 TION.—The term ‘manufactured item for consump-  
17 tion’ means any good—

18 “(A) that includes in substantial amounts  
19 one or more goods like the goods produced by  
20 an eligible industrial sector; and

21 “(B) for which the Administrator deter-  
22 mines that the application of the international  
23 reserve allowance program pursuant to this title  
24 is technically and administratively feasible and  
25 appropriate to achieve the purposes of this title.

1           “(7) NAICS.—The term ‘NAICS’ means the  
2           North American Industrial Classification System of  
3           2002.”.

