

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

(no.) _____

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the following:
2

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

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

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. Findings.
- Sec. 3. Economywide emission reduction goals.
- Sec. 4. Definitions.

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

- Sec. 101. Structure of Act.
- Sec. 102. Requirements relating to Federal advisory committees.
- Sec. 103. Voluntary renewable energy markets.

TITLE I—GREENHOUSE GAS REDUCTION PROGRAMS

Subtitle A—Clean Transportation

- Sec. 111. Emission standards.

“PART B—MOBILE SOURCES

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

“PART C—TRANSPORTATION EMISSIONS

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

Subtitle B—Carbon Capture and Sequestration

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

Subtitle C—Nuclear and Advanced Technologies

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

Subtitle D—Water Efficiency

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

Subtitle E—Miscellaneous

- Sec. 151. Office of Consumer Advocacy.
- Sec. 152. Clean technology business competition grant program.
- Sec. 153. Product carbon disclosure program.
- Sec. 154. State recycling programs.

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- Sec. 155. Supplemental agriculture, abandoned mine land, and forestry greenhouse gas reduction and renewable energy program.
- Sec. 156. Economic Development Climate Change Fund.
“Sec. 219. Economic Development Climate Change Fund.
- Sec. 157. Study of risk-based programs addressing vulnerable areas.
- Sec. 158. Efficient Buildings Program.

Subtitle F—Energy Efficiency and Renewable Energy

- Sec. 161. Renewable energy.
- Sec. 162. Advanced biofuels.
- Sec. 163. Energy efficiency in building codes.
- Sec. 164. Retrofit for energy and environmental performance.
- Sec. 165. Certified stoves program.
- Sec. 166. Renewable fuel standard.
- Sec. 167. Tree planting programs.

Subtitle G—Emission Reductions From Public Transportation Vehicles

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

Subtitle H—Clean Energy and Natural Gas

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

TITLE II—RESEARCH

Subtitle A—Energy Research

- Sec. 201. Advanced energy research.

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

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

TITLE III—TRANSITION AND ADAPTATION

Subtitle A—Green Jobs and Worker Transition

PART 1—GREEN JOBS

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

PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

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

Subtitle B—International Climate Change Programs

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

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Sec. 322. Emission reductions from reduced deforestation.

“PART E—SUPPLEMENTAL EMISSION REDUCTIONS

“Sec. 751. Definitions.

“Sec. 752. Purposes.

“Sec. 753. Emission reductions from reduced deforestation.

Sec. 323. International Clean Energy Deployment Program.

Sec. 324. International climate change adaptation and global security program.

Sec. 325. Evaluation and reports.

Sec. 326. Report on climate actions of major economies.

Subtitle C—Adapting to Climate Change

PART 1—DOMESTIC ADAPTATION

SUBPART A—NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM

Sec. 341. National Climate Change Adaptation Program.

Sec. 342. Climate services.

SUBPART B—PUBLIC HEALTH AND CLIMATE CHANGE

Sec. 351. Sense of Congress on public health and climate change.

Sec. 352. Relationship to other laws.

Sec. 353. National strategic action plan.

Sec. 354. Advisory board.

Sec. 355. Reports.

Sec. 356. Definitions.

SUBPART C—CLIMATE CHANGE SAFEGUARDS FOR NATURAL RESOURCES
CONSERVATION

Sec. 361. Purposes.

Sec. 362. Natural resources climate change adaptation policy.

Sec. 363. Definitions.

Sec. 364. Council on Environmental Quality.

Sec. 365. Natural Resources Climate Change Adaptation Panel.

Sec. 366. Natural Resources Climate Change Adaptation Strategy.

Sec. 367. Natural resources adaptation science and information.

Sec. 368. Federal natural resource agency adaptation plans.

Sec. 369. State natural resources adaptation plans.

Sec. 370. Natural Resources Climate Change Adaptation Account.

Sec. 371. National Fish and Wildlife Habitat and Corridors Information Program.

Sec. 372. Additional provisions regarding Indian tribes.

SUBPART D—ADDITIONAL CLIMATE CHANGE ADAPTATION PROGRAMS

Sec. 381. Water system mitigation and adaptation partnerships.

Sec. 382. Flood control, protection, prevention, and response.

Sec. 383. Wildfire.

Sec. 384. Coastal and Great Lakes State adaptation program.

DIVISION B—POLLUTION REDUCTION AND INVESTMENT

TITLE I—REDUCING GLOBAL WARMING POLLUTION

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Subtitle A—Reducing Global Warming Pollution

Sec. 101. Reducing global warming pollution.

“TITLE VII—GLOBAL WARMING POLLUTION REDUCTION AND
INVESTMENT PROGRAM

“PART A—GLOBAL WARMING POLLUTION REDUCTION GOALS AND TARGETS

- “Sec. 701. Findings.
- “Sec. 702. Economywide reduction goals.
- “Sec. 703. Reduction targets for specified sources.
- “Sec. 704. Supplemental pollution reductions.
- “Sec. 705. Review and program recommendations.
- “Sec. 706. National Academy review.
- “Sec. 707. Presidential response and recommendations.
- “Sec. 708. Consultation with States.

“PART B—DESIGNATION AND REGISTRATION OF GREENHOUSE GASES

- “Sec. 711. Designation of greenhouse gases.
- “Sec. 712. Carbon dioxide equivalent value of greenhouse gases.
- “Sec. 713. Greenhouse gas registry.
- “Sec. 714. Perfluorocarbon and other nonhydrofluorocarbon fluorinated substance production regulation.

“PART C—PROGRAM RULES

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

“PART D—OFFSETS

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

Subtitle B—Disposition of Allowances

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

“PART G—DISPOSITION OF ALLOWANCES

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

Subtitle C—Additional Greenhouse Gas Standards

Sec. 121. Greenhouse gas standards.

“TITLE VIII—ADDITIONAL GREENHOUSE GAS STANDARDS

“Sec. 801. Definitions.

“PART A—STATIONARY SOURCE STANDARDS

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

“PART E—BLACK CARBON

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

“PART F—MISCELLANEOUS

- “Sec. 861. State programs.
- “Sec. 862. Grants for support of air pollution control programs.
- “Sec. 863. Reducing acid rain and mercury pollution.
- Sec. 126. Enforcement.
- Sec. 127. Forestry sector greenhouse gas accounting.
- Sec. 128. Conforming amendments.
- “Sec. 508. Emissions of greenhouse gases.
- Sec. 129. Davis-Bacon compliance.

Subtitle D—Carbon Market Assurance

Sec. 131. Carbon market assurance.

Subtitle E—Ensuring Real Reductions in Industrial Emissions

Sec. 141. Ensuring real reductions in industrial emissions.

“PART F—ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS

“Sec. 761. Purposes.

“Sec. 762. Definitions.

“Sec. 763. Eligible industrial sectors.

“Sec. 764. Distribution of emission allowance rebates.

“Sec. 765. International trade.

TITLE II—PROGRAM ALLOCATIONS

Sec. 201. Distribution of allowances for investment in clean vehicles.

“Sec. 795A. Black carbon reduction grant program.

Sec. 202. State and local investment in energy efficiency and renewable energy.

Sec. 203. Energy efficiency in building codes.

Sec. 204. Energy Innovation Hubs.

Sec. 205. ARPA–E research.

Sec. 206. International clean energy deployment program.

Sec. 207. International climate change adaptation and global security.

Sec. 208. Energy efficiency and renewable energy worker training.

Sec. 209. Worker transition.

Sec. 210. State programs for greenhouse gas reduction and climate adaptation.

Sec. 211. Climate Change Health Protection and Promotion Fund.

Sec. 212. Climate change safeguards for natural resources conservation.

Sec. 213. Nuclear worker training.

Sec. 214. Supplemental agriculture, abandoned mine land, renewable energy, and forestry.

Sec. 215. Investment in greenhouse gas reductions from the transportation sector.

Sec. 216. State programs for natural resource adaptation activities.

1 SEC. 2. FINDINGS.**2 Congress finds that—**

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

9 (2) creating a clean energy future requires a
10 comprehensive approach that includes support for
11 the improvement of all energy sources, including

1 coal, natural gas, nuclear power, and renewable gen-
2 eration;

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

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

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

18 (6) investment in the clean energy sector will
19 allow companies in the United States to retake a
20 leadership position, and the jobs created by those in-
21 vestments will significantly accelerate growth in do-
22 mestic manufacturing;

23 (7) those opportunities also will result in sub-
24 stantial employment gains in construction, a sector

1 in which the median hourly wage is 17 percent high-
2 er than the national median;

3 (8) those jobs are distributed throughout the
4 United States, and the highest clean energy economy
5 employment growth rates in the last 10 years were
6 in the States of Idaho, Nebraska, South Dakota, Or-
7 egon, and New Mexico;

8 (9) focusing on clean energy will dramatically
9 reduce pollution and significantly improve the health
10 of families in and the environment of the United
11 States;

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

16 (11) if unchecked, the impact of climate change
17 will include widespread effects on health and welfare,
18 including—

19 (A) increased outbreaks from waterborne
20 diseases;

21 (B) more droughts;

22 (C) diminished agricultural production;

23 (D) severe storms and floods;

24 (E) heat waves;

25 (F) wildfires; and

1 (G) a substantial rise in sea levels, due in
2 part to—

3 (i) melting mountain glaciers;

4 (ii) shrinking sea ice; and

5 (iii) thawing permafrost;

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

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

14 (14) massive portions of the infrastructure of
15 the United States, including critical military infra-
16 structure, are at risk from the effects of climate
17 change;

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

21 (16) the Declaration of the Leaders from the
22 Major Economies Forum on Energy and Climate,
23 representing 17 of the largest economies in the
24 world, recognizes the need to limit the increase in
25 global average temperatures to within 2 degrees

1 Centigrade, as a necessary step to prevent the cata-
2 strophic consequences of climate change; and

3 (17) the United States should lead the global
4 community in combating the threat of global climate
5 change and reaching a robust international agree-
6 ment to address global warming under the United
7 Nations Framework Convention on Climate Change,
8 done at New York on May 9, 1992 (or a successor
9 agreement).

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

11 The goals of this Act and the amendments made by
12 this Act are to reduce steadily the quantity of United
13 States greenhouse gas emissions such that—

14 (1) in 2012, the quantity of United States
15 greenhouse gas emissions does not exceed 97 percent
16 of the quantity of United States greenhouse gas
17 emissions in 2005;

18 (2) in 2020, the quantity of United States
19 greenhouse gas emissions does not exceed 80 percent
20 of the quantity of United States greenhouse gas
21 emissions in 2005;

22 (3) in 2030, the quantity of United States
23 greenhouse gas emissions does not exceed 58 percent
24 of the quantity of United States greenhouse gas
25 emissions in 2005; and

1 (4) in 2050, the quantity of United States
2 greenhouse gas emissions does not exceed 17 percent
3 of the quantity of United States greenhouse gas
4 emissions in 2005.

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Environ-
9 mental Protection Agency.

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

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

16 **DIVISION A—AUTHORIZATIONS**
17 **FOR POLLUTION REDUCTION,**
18 **TRANSITION, AND ADAPTA-**
19 **TION**

20 **SEC. 101. STRUCTURE OF ACT.**

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

1 (1) The program for greenhouse gas emission
2 reductions through transportation efficiency under
3 part C of title VIII the Clean Air Act (as added by
4 sections 112 and 113 of this division) and section
5 215 of division B.

6 (2) The program for nuclear worker training
7 under section 132 of this division and 213 of divi-
8 sion B.

9 (3) State recycling programs under section 154
10 of this division and section 210 of division B.

11 (4) The supplemental agriculture and forestry
12 greenhouse gas reduction and renewable energy pro-
13 gram under section 155 of this division and section
14 214 of division B.

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

18 (6) The program for retrofit for energy and en-
19 vironmental performance under section 164 of this
20 division.

21 (7) The program for worker transition under
22 part 2 of subtitle A of title III of this division and
23 section 209 of division B.

24 (8) The program for public health and climate
25 change under subpart B of part 1 of subtitle C of

1 title III of this division and section 211 of division
2 B.

3 (9) The program for climate change safeguards
4 for natural resources conservation under subpart C
5 of part 1 of subtitle C of title III of this division and
6 section 212 of division B, including—

7 (A) State programs for natural resource
8 adaptation under section 370(a)(1) of division
9 A, and section 216 of division B; and

10 (B) the Natural Resources Climate Change
11 Adaptation Account section 370(a)(2) of divi-
12 sion A, and section 212 of division B.

13 (10) The program for emission reductions from
14 reduced deforestation under section 753 of the Clean
15 Air Act (as added by section 322 of this division).

16 (11) The International Clean Energy Deploy-
17 ment Program under section 323 of this division and
18 section 206 of division B.

19 (12) The international climate change adapta-
20 tion and global security program under 324 of this
21 division and section 207 of division B.

22 (13) The program for water system mitigation
23 and adaptation partnerships under section 381 of
24 this division and section 210 of division B.

1 (14) The program for flood control, protection,
2 prevention, and response under section 382 of this
3 division and section 210 of division B.

4 (15) The program for wildfire under section
5 383 of this division and section 210 of division B.

6 (16) The Coastal and Great Lakes State Adap-
7 tation Program under section 384 of this division
8 and section 210 of division B.

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

11 (1) The Market Stability Reserve Fund under
12 section 726 of the Clean Air Act (as added by sec-
13 tion 101 of division B).

14 (2) The program to ensure real reductions in
15 industrial emissions under part F of title VII of the
16 Clean Air Act (as added by section 141 of division
17 B).

18 (3) The program for electricity consumers pur-
19 suant to section 772 of the Clean Air Act (as added
20 by section 111 of division B).

21 (4) The program for natural gas consumers
22 pursuant to section 773 of the Clean Air Act (as
23 added by section 111 of division B).

24 (5) The program for home heating oil and pro-
25 pane consumers pursuant to section 774 of the

1 Clean Air Act (as added by section 111 of division
2 B).

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

7 (7) The program for climate change consumer
8 refunds and low- and moderate-income consumers
9 pursuant to section 776 of the Clean Air Act (as
10 added by section 111 of division B), including—

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

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

15 (8) The program for commercial deployment of
16 carbon capture and storage technology under section
17 780 of the Clean Air Act (as added by section 111
18 of division B).

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

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

1 (11) The program for State and local invest-
2 ment in energy efficiency and renewable energy
3 under section 202 of division B.

4 (12) The program for Energy Innovation Hubs
5 pursuant to section 204 of division B.

6 (13) The program for ARPA-E research pursu-
7 ant to section 205 of division B.

8 (14) The program for energy efficiency and re-
9 newable energy worker training under section 208 of
10 division B.

11 (15) The State programs for greenhouse gas re-
12 duction and climate adaptation pursuant to section
13 210 of division B.

14 (16) The program for greenhouse gas emission
15 reductions from the transportation sector under sec-
16 tion 215 of division B.

17 (c) NONALLOCATED PROGRAMS.—The following pro-
18 grams are authorized under this division:

19 (1) The SmartWay Transportation Efficiency
20 Program under section 822 of the Clean Air Act (as
21 added by section 114 of this division).

22 (2) The carbon capture and sequestration dem-
23 onstration and early deployment program under sec-
24 tion 125 of this division.

1 (3) The nuclear safety and waste management
2 programs under section 133 of this division.

3 (4) Water efficiency programs under subtitle D
4 of title I of this division.

5 (5) The Office of Consumer Advocacy under
6 section 151 of this division.

7 (6) The clean technology business competition
8 grant program under section 152 of this division.

9 (7) The product carbon disclosure program
10 under section 153 of this division.

11 (8) The Economic Development Climate
12 Change Fund under section 219 of the Public Works
13 and Economic Development Act of 1965 (as added
14 by section 156 of this division).

15 (9) The program for renewable energy under
16 section 161 of this division.

17 (10) The program for advanced biofuels under
18 section 162 of this division.

19 (11) The program for emission reductions from
20 public transportation vehicles under subtitle G of
21 title I of this division.

22 (12) The Clean Energy and Accelerated Emis-
23 sion Reduction Program under section 181 of this
24 division.

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

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

5 (15) The program for drinking water adapta-
6 tion, technology, education, and research under sub-
7 title B of title II of this division.

8 (16) The program for clean energy curriculum
9 development grants under section 301 of this divi-
10 sion.

11 (17) The program for Development of Informa-
12 tion and Resources clearinghouse for vocational edu-
13 cation and job training in renewable energy sectors
14 under section 302 of this division.

15 (18) The green construction careers demonstra-
16 tion project under section 303 of this division.

17 **SEC. 102. REQUIREMENTS RELATING TO FEDERAL ADVI-**
18 **SORY COMMITTEES.**

19 (a) APPOINTMENT QUALIFICATIONS.—Each appoint-
20 ment of a member to an advisory committee established
21 under this Act or an amendment made by this Act shall
22 be—

23 (1) based on the qualifications, competence, and
24 experience of the member; and

1 (2) except as otherwise required by Federal law
2 (including regulations), made without regard to the
3 political affiliation of the member.

4 (b) DESIGNATION OF MEMBERS.—

5 (1) IN GENERAL.—An individual appointed to
6 serve on an advisory committee established under
7 this Act or an amendment made by this Act who is
8 not a full-time or permanent part-time officer or em-
9 ployee of the Federal Government shall be des-
10 ignated by the Federal department or agency to
11 which the relevant advisory committee reports as—

12 (A) a special employee of the Federal Gov-
13 ernment, if the individual is providing advice
14 based substantially on the expertise or experi-
15 ence of the individual; or

16 (B) a representative, if the individual is
17 substantially representing the views of individ-
18 uals or entities outside the Federal Govern-
19 ment.

20 (2) REVIEWS.—

21 (A) IN GENERAL.—The head of each Fed-
22 eral department or agency shall review the
23 membership of each advisory committee that re-
24 ports to the department or agency—

1 (i) to determine whether the designa-
2 tion of the members is appropriate; and

3 (ii) if the designation of any member
4 is not appropriate, to redesignate the mem-
5 ber.

6 (B) TIMING.—A review under subpara-
7 graph (A) shall be conducted—

8 (i) on the date on which the charter
9 of the relevant advisory committee expires;
10 or

11 (ii) for any advisory committee with
12 an indefinite charter, not less frequently
13 than once every 2 years.

14 (c) ENSURING INDEPENDENT ADVICE AND EXPER-
15 TISE.—

16 (1) APPOINTMENT.—To the maximum extent
17 practicable, except as provided in subsection
18 (b)(1)(B), the head of each Federal department and
19 agency shall appoint members of advisory commit-
20 tees established under this Act or an amendment
21 made by this Act as special employees of the Federal
22 Government.

23 (2) ACTION BY AGENCY HEADS.—The head of
24 each Federal department or agency shall ensure, to
25 the maximum extent practicable, that—

1 (A) no individual appointed to serve on an
2 applicable advisory committee has a conflict of
3 interest that is relevant to the functions to be
4 performed by the individual, unless—

5 (i) the conflict is promptly and pub-
6 licly disclosed; and

7 (ii) the head of the department or
8 agency determines that the conflict is un-
9 avoidable; and

10 (B) each report of an applicable advisory
11 committee—

12 (i) is the result of the independent
13 judgment of the advisory committee; and

14 (ii) includes a statement indicating
15 the process used by the advisory committee
16 in formulating the recommendations or
17 conclusions contained in the report.

18 (3) REQUIREMENT.—The head of each Federal
19 department or agency shall require that individuals
20 appointed or considered for appointment to serve on
21 an applicable advisory committee shall inform the
22 head of any conflict of interest of the individual that
23 is relevant to the advisory committee functions to be
24 performed by the individual.

1 (4) REPRESENTATIVE MEMBERS.—If the head
2 of a Federal department or agency determines that
3 a member described in subsection (b)(1)(B) is re-
4 quired to serve on an applicable advisory committee,
5 the advisory committee management officer of the
6 department or agency shall consult with the des-
7 ignated ethics official of the department or agency
8 to ensure that the designation of the member is ap-
9 propriate and necessary to fulfilling the purpose of
10 the advisory committee.

11 (5) ACTION BY ETHICS OFFICIALS.—The des-
12 ignated ethics official of each applicable Federal de-
13 partment or agency shall issue guidance to ensure
14 that the applicable advisory committees are pro-
15 viding sufficiently independent advice and expertise.

16 (6) REPORTS.—The Administrator of General
17 Services shall—

18 (A) conduct an annual review of compli-
19 ance by Federal departments and agencies with
20 the requirements of this subsection; and

21 (B) submit to the Committee on Environ-
22 ment and Public Works of the Senate and the
23 Committee on Energy and Commerce of the
24 House of Representatives annual reports de-
25 scribing the results of the reviews.

1 (d) DISCLOSURE OF INFORMATION.—

2 (1) ITEMS REQUIRED TO BE DISCLOSED.—The
3 head of each Federal department or agency to which
4 an advisory committee established under this Act or
5 an amendment made by this Act reports shall make
6 available as described in paragraph (2) the following
7 information, at a minimum:

8 (A) The charter of the advisory committee.

9 (B) A description of the formation process
10 of the advisory committee, including—

11 (i) the process for identifying prospec-
12 tive members;

13 (ii) the process of selecting members
14 for balance of viewpoints or expertise; and

15 (iii) a justification of the need for rep-
16 resentative members, if any.

17 (C) A list of all current members of the
18 advisory committee, updated regularly, includ-
19 ing, for each member—

20 (i) the name of any individual or enti-
21 ty that nominated the member;

22 (ii) whether the member is designated
23 as a special employee of the Federal Gov-
24 ernment or a representative member; and

1 (iii) in the case of a representative
2 member, the individuals or entity the view-
3 point of which the member represents.

4 (D) A list of all special employees of the
5 Federal Government who have received conflict
6 of interest waivers under section 208(b) of title
7 18, United States Code, pursuant to regulations
8 promulgated by the Office of Government Eth-
9 ics, a description of the conflict necessitating
10 the waiver, and the reason for granting the
11 waiver.

12 (E) A summary of the decisionmaking
13 process of the advisory committee.

14 (F) A complete report of all meetings of
15 the advisory committee.

16 (G) Notices of future meetings of the advi-
17 sory committee.

18 (2) METHODS OF DISCLOSURE.—

19 (A) AVAILABILITY.—

20 (i) IN GENERAL.—Subject to clause
21 (ii), the information required to be dis-
22 closed by a Federal department or agency
23 under this subsection shall be made avail-
24 able electronically, including on the official
25 public Internet website of the department

1 or agency, not later than 7 calendar days
2 before the applicable meeting of the advi-
3 sory committee.

4 (ii) COMPLETE REPORTS.—Each com-
5 plete report of a meeting of an advisory
6 committee established under this Act or an
7 amendment made by this Act—

8 (I) shall be disclosed by the rel-
9 evant Federal department or agency
10 under this subsection by not later
11 than 7 calendar days after the date of
12 the meeting; and

13 (II) may take the form of an
14 electronic recording of the meeting, a
15 transcript, or any other substantively
16 complete accounting of the meeting.

17 (B) ACTION BY GSA.—The Administrator
18 of General Services shall provide, on the official
19 public Internet website of the General Services
20 Administration, electronic access to the infor-
21 mation made available by each Federal depart-
22 ment or agency under subparagraph (A).

23 **SEC. 103. VOLUNTARY RENEWABLE ENERGY MARKETS.**

24 (a) FINDINGS.—Congress finds that—

1 (1) voluntary renewable energy markets can be
2 efficient and effective programs for allowing con-
3 sumers and businesses to voluntarily use or support
4 renewable energy;

5 (2) more than 1,000,000 businesses, house-
6 holds, government agencies, farms, and others volun-
7 tarily purchase renewable electricity or renewable en-
8 ergy certificates; and

9 (3) according to the Department of Energy—

10 (A) voluntary renewable energy purchases
11 totaled 24,000,000,000 kilowatt-hours during
12 calendar year 2008, representing 0.6 percent of
13 total United States electricity sales; and

14 (B) voluntary renewable energy purchases
15 have increased at an average annual rate of 32
16 percent since calendar year 2004.

17 (b) STATEMENT OF POLICY.—It is the policy of the
18 United States—

19 (1) to support the continued growth of vol-
20 untary renewable energy markets; and

21 (2) that nothing in this Act or the amendments
22 made by this Act is intended to interfere with or
23 prevent the continued operation and growth of the
24 voluntary renewable energy market.

1 (c) REPORT TO CONGRESS.—Not later than 2 years
2 after the date of enactment of this Act, the Comptroller
3 General of the United States shall submit to Congress a
4 report describing the efficacy of the voluntary renewable
5 energy market in the context of the pollution reduction
6 and investment programs under this Act and the amend-
7 ments made by this Act, including—

8 (1) whether meaningful reductions in carbon di-
9 oxide emissions have occurred in response to invest-
10 ments in the voluntary renewable energy market;

11 (2) whether the voluntary market continues to
12 grow; and

13 (3) a list of recommended strategies for ensur-
14 ing that—

15 (A) meaningful emissions reductions may
16 occur; and

17 (B) the voluntary renewable energy market
18 may continue to grow.

19 **TITLE I—GREENHOUSE GAS**
20 **REDUCTION PROGRAMS**

21 **Subtitle A—Clean Transportation**

22 **SEC. 111. EMISSION STANDARDS.**

23 Title VIII of the Clean Air Act (as added by section
24 121 of division B) is amended by adding at the end the
25 following:

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 the enactment of this sec-
12 tion). The Administrator may revise these standards from
13 time 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 the enactment of this section), shall contain
20 standards that reflect the greatest degree of emissions re-
21 duction achievable through the application of technology
22 which the Administrator determines will be available for
23 the model year to which such standards apply, giving ap-
24 propriate consideration to cost, energy, and safety factors
25 associated with the application of such technology. Any
26 such regulations shall take effect after such period as the

1 Administrator finds necessary to permit the development
2 and application of the requisite technology, and, at a min-
3 imum, shall apply for a period no less than 3 model years
4 beginning no earlier than the model year commencing 4
5 years 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 the enactment of this section), shall supersede
12 and satisfy any and all of the rulemaking and compliance
13 requirements of section 32902(k) of title 49, United
14 States 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 emissions 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 at the earliest possible date after such period
4 as the Administrator finds necessary to permit the devel-
5 opment and application of the requisite technology, giving
6 appropriate consideration to the cost of compliance within
7 such period, the applicable compliance dates for other
8 standards, and other appropriate factors, including the pe-
9 riod of time appropriate for the transfer of applicable tech-
10 nology from other applications, including motor vehicles,
11 and the period of time in which previously promulgated
12 regulations have been in effect.

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

22 “(c) AVERAGING, BANKING, AND TRADING OF EMIS-
23 SIONS CREDITS.—In establishing standards applicable to
24 emissions of greenhouse gases pursuant to this section and
25 sections 202(a), 213(a)(4) and (5), and 231(a), the Ad-

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

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

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

20 **SEC. 112. GREENHOUSE GAS EMISSION REDUCTIONS**
21 **THROUGH TRANSPORTATION EFFICIENCY.**

22 (a) ENVIRONMENTAL PROTECTION AGENCY.—Title
23 VIII of the Clean Air Act (as amended by section 111
24 of this division) is amended by adding at the end the fol-
25 lowing:

1 **“PART C—TRANSPORTATION EMISSIONS**

2 **“SEC. 831. GREENHOUSE GAS EMISSION REDUCTIONS**
3 **THROUGH TRANSPORTATION EFFICIENCY.**

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

8 “(1) national transportation-related greenhouse
9 gas emission reduction goals that are commensurate
10 with the emission reduction goals established under
11 the Clean Energy Jobs and American Power Act
12 and amendments made by that Act;

13 “(2) standardized emission models and related
14 methods, to be used by States, metropolitan plan-
15 ning organizations, and air quality agencies to ad-
16 dress emission reduction goals, including—

17 “(A) the development of surface transpor-
18 tation-related greenhouse gas emission reduc-
19 tion targets pursuant to sections 134 and 135
20 of title 23, and sections 5303 and 5304 of title
21 49, United States Code;

22 “(B) the assessment of projected surface
23 transportation-related greenhouse gas emissions
24 from transportation strategies;

1 “(C) the assessment of projected surface
2 transportation-related greenhouse gas emissions
3 from State and regional transportation plans;

4 “(D) the establishment of surface trans-
5 portation-related greenhouse gas emission base-
6 lines at a national, State, and regional levels;
7 and

8 “(E) the measurement and assessment of
9 actual surface transportation-related emissions
10 to assess progress toward achievement of emis-
11 sion targets at the State and regional levels;

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

14 “(4) publication and distribution of successful
15 strategies employed by States, Indian tribes, metro-
16 politan planning organizations, and other entities to
17 reduce transportation-related greenhouse gas emis-
18 sions.

19 “(b) ROLE OF DEPARTMENT OF TRANSPOR-
20 TATION.—The Secretary, in consultation with the Admin-
21 istrator, shall promulgate, and update from time to time,
22 regulations—

23 “(1) to improve the ability of transportation
24 planning models and tools, including travel demand
25 models, to address greenhouse gas emissions;

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

4 “(3) to update transportation planning require-
5 ments and approval of transportation plans as nec-
6 essary to carry out this section.

7 “(c) CONSULTATION AND MODELS.—In promul-
8 gating the regulations, the Administrator and the Sec-
9 retary—

10 “(1) shall consult with States, Indian tribes,
11 metropolitan planning organizations, and air quality
12 agencies;

13 “(2) may use existing models and methodolo-
14 gies if the models and methodologies are widely con-
15 sidered to reflect the best practicable modeling or
16 methodological approach for assessing actual and
17 projected transportation-related greenhouse gas
18 emissions from transportation plans and projects;
19 and

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

24 “(d) TIMING.—The Administrator and the Secretary
25 shall—

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

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

7 “(e) ASSESSMENT.—

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

14 “(2) REQUIREMENTS.—The assessment shall
15 examine the contributions to emission reductions at-
16 tributable to—

17 “(A) improvements in vehicle efficiency;

18 “(B) greenhouse gas performance of trans-
19 portation fuels;

20 “(C) reductions in vehicle miles traveled;

21 “(D) changes in consumer demand and use
22 of transportation management systems; and

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

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

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

6 (C) in subsection (i)—

7 (i) in paragraph (4)(A)—

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

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

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

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

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

3 “(6) TRANSPORTATION GREENHOUSE GAS RE-
4 Duction efforts.—

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

12 “(B) ELIGIBLE ORGANIZATIONS.—

13 “(i) MPOS WITHIN TMAS.—All provi-
14 sions and requirements of this section, in-
15 cluding the requirements of the transpor-
16 tation greenhouse gas reduction efforts,
17 shall apply to metropolitan planning orga-
18 nizations that also serve as transportation
19 management areas.

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

23 “(I) may develop transportation
24 greenhouse gas emission reduction

1 targets and strategies to meet those
2 targets; and

3 “(II) if those targets and strate-
4 gies are developed, shall be subject to
5 all applicable provisions and require-
6 ments of this section and the Clean
7 Energy Jobs and American Power
8 Act, including requirements of the
9 transportation greenhouse gas reduc-
10 tion efforts.

11 “(C) ESTABLISHMENT OF TARGETS AND
12 CRITERIA.—

13 “(i) IN GENERAL.—Not later than 2
14 years after the promulgation of the final
15 regulations required under section 831 of
16 the Clean Air Act, each metropolitan plan-
17 ning organization that also serves as a
18 transportation management area shall de-
19 velop surface transportation-related green-
20 house gas emission reduction targets, as
21 well as strategies to meet those targets, in
22 consultation with State air agencies and
23 Indian tribes as part of the metropolitan
24 transportation planning process under this
25 section.

1 regulations required under section
2 831 of the Clean Air Act;

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

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

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

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

23 “(aa) efforts to increase
24 public transportation ridership,
25 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 long-term greenhouse gas emis-
2 sions through reduced congestion
3 and improved system manage-
4 ment;
5 “(ff) intercity passenger rail
6 improvements;
7 “(gg) intercity bus improve-
8 ments;
9 “(hh) freight rail improve-
10 ments;
11 “(ii) use of materials or
12 equipment associated with the
13 construction or maintenance of
14 transportation projects that re-
15 duce greenhouse gas emissions;
16 “(jj) public facilities for sup-
17 plying electricity to electric or
18 plug-in hybrid-electric vehicles; or
19 “(kk) any other effort that
20 demonstrates progress in reduc-
21 ing transportation-related green-
22 house gas emissions in each met-
23 ropolitan planning organization
24 under this subsection.

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

4 “(i) the Secretary and the Adminis-
5 trator shall review the plan; and

6 “(ii) the Secretary shall make a deter-
7 mination that the plan submitted by a met-
8 ropolitan planning organization meets the
9 requirements of subparagraph (C) if—

10 “(I) the Secretary finds that a
11 metropolitan planning organization
12 has developed, submitted, and pub-
13 lished the plan of the metropolitan
14 planning organization pursuant to this
15 section;

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

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

1 “(E) CERTIFICATION.—

2 “ (i) IN GENERAL.—Only metropolitan
3 planning organizations that meet the re-
4 quirements of subparagraph (C) shall be
5 eligible to receive performance grants
6 under section 113(c).

7 “ (ii) FAILURE TO COMPLY.—Failure
8 to comply with the requirements under
9 subparagraph (C) shall not impact certifi-
10 cation standards under paragraph (5).

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

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

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

1 vironmental factors, and land use) that affect
2 growth;

3 “(B) may include features such as—

4 “(i) the involvement of the general
5 public, key stakeholders, and elected offi-
6 cials on a broad scale;

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

12 “(iii) the use of continuing efforts and
13 ongoing processes; and

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

15 “(i) identification of the driving forces
16 behind planning decisions and outcomes;

17 “(ii) determination of patterns of
18 interaction;

19 “(iii) creation of scenarios for discus-
20 sion purposes;

21 “(iv) analysis of implications;

22 “(v) evaluation of scenarios; and

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

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

1 (A) in subsection (a)(1)—

2 (i) by striking “minimizing” and in-
3 sserting “reducing”; and

4 (ii) by inserting “, reliance on oil, im-
5 pacts on the environment, transportation-
6 related greenhouse gas emissions,” after
7 “consumption”;

8 (B) in subsection (h)(1)(E)—

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

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

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

19 (C) in subsection (i)—

20 (i) in paragraph (4)(A)—

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

23 (II) by inserting “transportation,
24 public transportation, air quality, and
25 housing, and shall consult, as appro-

1 priate, with State and local agencies
2 and Indian tribes responsible for”
3 after “responsible for” and

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

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

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

16 “(6) TRANSPORTATION GREENHOUSE GAS RE-
17 DUCTION EFFORTS.—

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

25 “(B) ELIGIBLE ORGANIZATIONS.—

1 “(i) IN GENERAL.—The requirements
2 of the transportation greenhouse gas re-
3 duction efforts shall apply only to metro-
4 politan planning organizations within a
5 transportation management area.

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

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

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

20 “(C) ESTABLISHMENT OF TARGETS AND
21 CRITERIA.—

22 “(i) IN GENERAL.—Not later than 2
23 years after the promulgation of the final
24 regulations required under section 831 of
25 the Clean Air Act, each metropolitan plan-

1 ning organization shall develop surface
2 transportation-related greenhouse gas
3 emission reduction targets, as well as
4 strategies to meet those targets, in con-
5 sultation with State air agencies and In-
6 dian tribes as part of the metropolitan
7 transportation planning process under this
8 section.

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

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

1 “(iv) REQUIREMENTS FOR TARGETS
2 AND STRATEGIES.—The targets and strat-
3 egies developed under this subparagraph
4 shall, at a minimum—

5 “(I) be based on the emission
6 models and related methodologies es-
7 tablished in the final regulations re-
8 quired under section 831 of the Clean
9 Air Act;

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

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

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

21 “(V) be selected through scenario
22 analysis (as defined in section 134(k)
23 of title 23), and include, pursuant to
24 the requirements of the transportation
25 planning process under this section,

1 transportation investment and man-
2 agement strategies that reduce green-
3 house gas emissions from the trans-
4 portation sector over the life of the
5 plan, such as—

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

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

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

21 “(dd) travel demand man-
22 agement programs (including
23 carpool, vanpool, or car-share
24 projects), transportation pricing
25 measures, parking policies, and

1 programs to promote telecom-
2 muting, flexible work schedules,
3 and satellite work centers;

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

13 “(ff) intercity passenger rail
14 improvements;

15 “(gg) intercity bus improve-
16 ments;

17 “(hh) freight rail improve-
18 ments;

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

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

4 “(kk) any other effort that
5 demonstrates progress in reduc-
6 ing transportation-related green-
7 house gas emissions in each met-
8 ropolitan planning organization
9 under this subsection.

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

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

15 “(ii) the Secretary shall make a deter-
16 mination that the plan submitted by a met-
17 ropolitan planning organization meets the
18 requirements of subparagraph (C) if—

19 “(I) the Secretary finds that a
20 metropolitan planning organization
21 has developed, submitted, and pub-
22 lished the plan of the metropolitan
23 planning organization pursuant to this
24 section;

1 “(II) the Secretary, in consulta-
2 tion with the Administrator, deter-
3 mines that the plan is likely to achieve
4 the targets established by the metro-
5 politan planning organization under
6 this subsection; and

7 “(III) the development of the
8 plan complies with the minimum re-
9 quirements established under clauses
10 (iii) and (iv) of subparagraph (C).

11 “(E) CERTIFICATION.—

12 “(i) IN GENERAL.—Only metropolitan
13 planning organizations that meet the re-
14 quirements of subparagraph (C) shall be
15 eligible to receive performance grants
16 under section 113(c).

17 “(ii) FAILURE TO COMPLY.—Failure
18 to comply with the requirements under
19 subparagraph (C) shall not impact certifi-
20 cation standards under 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 and Indian tribes responsible
22 for transportation, public transpor-
23 tation, air quality, and housing and in
24 consultation with” before “State, trib-
25 al”; 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 DUCATION 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 831 of
25 the Clean Air Act, each State shall develop

1 surface transportation-related greenhouse
2 gas emission reduction targets, as well as
3 strategies to meet those targets, in con-
4 sultation with State air agencies and In-
5 dian tribes as part of the transportation
6 planning process 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 goals pursuant to section 831(a)(1) of the
15 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 831 of the Clean
24 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;

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

9 “(iii) in consultation with Indian
10 tribes contiguous to the State.

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

14 “(i) the Secretary and the Adminis-
15 trator shall review the plan; and

16 “(ii) the Secretary shall make a deter-
17 mination that the plan submitted by a
18 State meets the requirements of subpara-
19 graph (B) if—

20 “(I) the Secretary finds that a
21 State has developed, submitted, and
22 published the plan pursuant to this
23 section;

24 “(II) the Secretary, in consulta-
25 tion with the Administrator, deter-

1 mines that the plan is likely to achieve
2 the targets established by the State
3 under this subsection; and

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

8 “(E) PLANNING FINDING.—

9 “(i) IN GENERAL.—Only States that
10 meet the requirements of subparagraph
11 (B) shall be eligible to receive performance
12 grants under section 113(c).

13 “(ii) FAILURE TO COMPLY.—Failure
14 to comply with the requirements under
15 subparagraph (B) shall not impact the
16 planning finding under subsection (g)(7).”.

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

19 (A) in subsection (d)(1)(E)—

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

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

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

6 (B) in subsection (f)—

7 (i) in paragraph (2)(D)(i)—

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

11 (II) by inserting “State and local
12 agencies and Indian tribes responsible
13 for transportation, public transpor-
14 tation, air quality, and housing and in
15 consultation with” before “State, trib-
16 al”; and

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

19 (ii) in paragraph (3)(B)(iii), by insert-
20 ing “and through the website of the State,
21 including emission reduction targets and
22 strategies developed under paragraph (9)
23 and an analysis of the anticipated effects
24 of the targets and strategies” after “World
25 Wide Web”; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(9) TRANSPORTATION GREENHOUSE GAS RE-
4 Duction Efforts.—

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

11 “(B) ESTABLISHMENT OF TARGETS AND
12 CRITERIA.—

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

23 “(ii) MINIMUM REQUIREMENTS.—
24 Each transportation plan developed by a
25 State under clause (i) shall, within the

1 plan, demonstrate progress in stabilizing
2 and reducing transportation-related green-
3 house gas emissions in the State so as to
4 contribute to the achievement of national
5 targets pursuant to section 831(a)(1) of
6 the Clean Air Act.

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

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

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

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

23 “(IV) be integrated and con-
24 sistent with statewide transportation

1 plans and statewide transportation
2 improvement programs; and

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

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

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

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

1 development, or mixed use devel-
2 opment;

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

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

18 “(ff) intercity passenger rail
19 improvements;

20 “(gg) intercity bus improve-
21 ments;

22 “(hh) freight rail improve-
23 ments;

24 “(ii) use of materials or
25 equipment associated with the

1 construction or maintenance of
2 transportation projects that re-
3 duce greenhouse gas emissions;

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

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

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

15 “(i) in coordination with—

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

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

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

24 “(iii) in consultation with Indian
25 tribes contiguous to the State.

1 “(D) ENFORCEMENT.—Not later than 180
2 days after the date of submission of a plan
3 under this section—

4 “(i) the Secretary and the Adminis-
5 trator shall review the plan; and

6 “(ii) the Secretary shall make a deter-
7 mination that the plan submitted by a
8 State meets the requirements of subpara-
9 graph (B) if—

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

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

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

23 “(E) PLANNING FINDING.—

24 “(i) IN GENERAL.—Only States that
25 meet the requirements of subparagraph

1 (B) shall be eligible to receive performance
2 grants under section 113(c).

3 “(ii) FAILURE TO COMPLY.—Failure
4 to comply with the requirements under
5 subparagraph (B) shall not impact the
6 planning finding under subsection (g)(7).”.

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

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

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

15 (2) provides or transfers authority over land
16 use to any other entity.

17 **SEC. 113. TRANSPORTATION GREENHOUSE GAS EMISSION**
18 **REDUCTION PROGRAM GRANTS.**

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

22 **“SEC. 832. TRANSPORTATION GREENHOUSE GAS EMISSION**
23 **REDUCTION PROGRAM GRANTS.**

24 “(a) IN GENERAL.—The Secretary of Transportation
25 (referred to in this section as the ‘Secretary’) shall provide

1 grants to States and metropolitan planning organizations
2 to carry out the purposes of this section for each fiscal
3 year—

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

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

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

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

13 “(b) PLANNING GRANTS.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
15 the Secretary shall allocate not more than 10 per-
16 cent of the funds available to carry out this section
17 for a fiscal year for metropolitan planning organiza-
18 tions to develop and update transportation plans, in-
19 cluding targets and strategies for greenhouse gas
20 emission reduction under—

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

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

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

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

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

10 “(c) PERFORMANCE GRANTS.—

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

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

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

1 determined by methods established under sec-
2 tion 831(a);

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 831(a);

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

11 “(D) progress toward achieving emission
12 reductions target established under—

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

15 “(ii) sections 5303(k)(6) and
16 5304(f)(9) of title 49, United States Code;

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

22 “(F) plans that increase transportation op-
23 tions and mobility, particularly for low-income
24 individuals, minorities, the elderly, households

1 without motor vehicles, cost-burdened house-
2 holds, and the disabled; and

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

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

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

17 “(f) COMPLIANCE WITH APPLICABLE LAWS.—

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

22 “(A) subchapter IV of chapter 31 of title
23 40, United States Code; and

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

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

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

5 “(A) have the discretion to designate the
6 specific modal requirements that shall apply to
7 a project; and

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

11 “(g) ADDITIONAL REQUIREMENTS.—

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

17 “(A) to be fair and equitable; and

18 “(B) to provide benefits equal to the bene-
19 fits established under section 5333(b) of title
20 49, United States Code.

21 “(2) WAGES AND BENEFITS.—Laborers and
22 mechanics employed on projects funded with
23 amounts made available under this section shall be
24 paid wages and benefits not less than those deter-
25 mined by the Secretary of Labor under subchapter

1 IV of chapter 31 of title 40, United States Code, to
2 be prevailing in the same locality.

3 “(h) ADMINISTRATIVE EXPENSES.—Not more than 5
4 percent of the funds made available to carry out this sec-
5 tion may be used by the Secretary to pay the administra-
6 tive expenses necessary to carry out this section for a fis-
7 cal year.

8 “(i) MISCELLANEOUS.—

9 “(1) ROAD-USE AND CONGESTION PRICING
10 MEASURES.—All projects funded by amounts made
11 available under this section shall be eligible to re-
12 ceive amounts collected through road-use and con-
13 gestion pricing measures.

14 “(2) LIMITATIONS.—The Administrator may
15 not approve any transportation plan for a project
16 that would be inconsistent with existing design, pro-
17 curement, and construction guidelines established by
18 the Department of Transportation.

19 “(3) SUBGRANTEES.—With the approval of the
20 Secretary, recipients of funding under this section
21 may enter into agreements providing for the transfer
22 of funds to private transportation providers or non-
23 eligible public entities (such as local governments,
24 air quality agencies, zoning commissions, special dis-
25 tricts and transit agencies) that have statutory re-

1 sponsibility or authority for actions necessary to im-
2 plement the strategies pursuant to—

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

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

7 **SEC. 114. SMARTWAY TRANSPORTATION EFFICIENCY PRO-**
8 **GRAM.**

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

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

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

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

24 “(1) Development of measurement protocols to
25 evaluate the energy consumption and greenhouse gas

1 impacts from technologies and strategies in the mo-
2 bile source sector, including those for passenger
3 transport and goods movement.

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

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

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

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

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

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

11 “(3) Development of tools for—

12 “(A) carriers to calculate their energy and
13 greenhouse gas performance; and

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

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

23 “(d) IMPROVING FREIGHT GREENHOUSE GAS PER-
24 FORMANCE DATABASES.—The Secretary of Transpor-
25 tation shall, in coordination with other appropriate agen-

1 cies, define and collect data on the physical and oper-
2 ational characteristics of the Nation's truck population,
3 with special emphasis on data related to energy efficiency
4 and greenhouse gas performance to inform the perform-
5 ance index published under subsection (c)(2) of this sec-
6 tion, and other means of goods transport as necessary, at
7 least every 5 years.

8 “(e) SMARTWAY PASSENGER TRANSPORT STUDY.—

9 “(1) IN GENERAL.—Not later than 1 year after
10 the date of enactment of this section, the Adminis-
11 trator shall submit to the Committee on Environ-
12 ment and Public Works of the Senate and the Com-
13 mittee on Energy and Commerce of the House of
14 Representatives a report that describes the results of
15 a study of the commercial passenger carrier indus-
16 try, including tour, charter, intercity, commuter, and
17 other passenger operations.

18 “(2) INCLUSIONS.—The study under paragraph
19 (1) shall include—

20 “(A) an identification of options for com-
21 mercial passenger carriers to promote energy-
22 efficient, low-greenhouse gas emission transpor-
23 tation; and

24 “(B) at the discretion of the Adminis-
25 trator, support for a partnership and recogni-

1 tion program for those commercial passenger
2 carrier companies that demonstrate and achieve
3 superior levels of greenhouse gas emissions per-
4 formance.

5 “(f) ESTABLISHMENT OF FINANCING PROGRAM.—

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

10 “(g) PURPOSES.—Under the SmartWay Financing
11 Program, eligible entities shall—

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

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

22 “(3) use funds provided by the Administrator
23 for electrification of freight transportation systems
24 in major national goods movement corridors, giving
25 priority to electrification of transportation systems

1 in areas that are gateways for high volumes of inter-
2 national and national freight transport and require
3 substantial criteria pollutant emission reductions in
4 order to attain national ambient air quality stand-
5 ards.

6 “(h) PROGRAM REQUIREMENTS.—The Administrator
7 shall determine program design elements and require-
8 ments, including—

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

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

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

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

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

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

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

7 “(B) the total number of applications and
8 number of approved applications; and

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

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

15 **Subtitle B—Carbon Capture and**
16 **Sequestration**

17 **SEC. 121. NATIONAL STRATEGY.**

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

1 other barriers to the commercial-scale deployment of car-
2 bon capture and storage.

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

5 (1) identify the regulatory, legal, and other
6 gaps and barriers that—

7 (A) could be addressed by a Federal agen-
8 cy using existing statutory authority;

9 (B) require Federal legislation, if any; or

10 (C) would be best addressed at the State,
11 tribal, or regional level;

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

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

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

1 **SEC. 122. REGULATIONS FOR GEOLOGICAL SEQUESTRA-**
2 **TION SITES.**

3 (a) COORDINATED CERTIFICATION AND PERMITTING
4 PROCESS.—Part A of title VIII of the Clean Air Act (as
5 amended by section 124 of this division) is amended by
6 adding at the end the following:

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

8 “(a) COORDINATED PROCESS.—

9 “(1) IN GENERAL.—The Administrator shall es-
10 tablish a coordinated approach to certifying and per-
11 mitting geological storage, taking into consideration
12 all relevant statutory authorities.

13 “(2) REQUIREMENTS.—In establishing such ap-
14 proach, the Administrator shall—

15 “(A) take into account, and reduce redun-
16 dancy with, the requirements of section 1421 of
17 the Safe Drinking Water Act (42 U.S.C. 300h),
18 including the rulemaking for geological storage
19 wells described in the proposed rule entitled
20 ‘Federal Requirements Under the Underground
21 Injection Control (UIC) Program for Carbon
22 Dioxide (CO₂) Geologic Sequestration (GS)
23 Wells’ (73 Fed. Reg. 43492 (July 25, 2008));
24 and

1 “(B) to the maximum extent practicable,
2 reduce the burden on certified entities and im-
3 plementing authorities.

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

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

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

14 “(2) requirements for—

15 “(A) monitoring, recordkeeping, and re-
16 porting for emissions associated with injection
17 into, and escape from, geological storage sites,
18 taking into account any requirements or proto-
19 cols developed under section 713;

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

22 “(C) the sharing of data among States, In-
23 dian tribes, and the Environmental Protection
24 Agency; and

1 “(D) other elements or safeguards nec-
2 essary to achieve the purpose described in sub-
3 section (b).

4 “(d) REPORT.—

5 “(1) IN GENERAL.—Not later than 2 years
6 after the date of promulgation of regulations pursu-
7 ant to subsection (b), and not less frequently than
8 once every 3 years thereafter, the Administrator
9 shall submit to the Committee on Energy and Com-
10 merce of the House of Representatives and the Com-
11 mittee on Environment and Public Works of the
12 Senate a report describing geological storage in the
13 United States, and, to the extent relevant, other
14 countries in North America.

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

17 “(A) data regarding injection, emissions to
18 the atmosphere, if any, and performance of ac-
19 tive and closed geological storage sites, includ-
20 ing those at which enhanced hydrocarbon recov-
21 ery operations occur;

22 “(B) an evaluation of the performance of
23 relevant Federal environmental regulations and
24 programs in ensuring environmentally protec-
25 tive geological storage practices;

1 “(C) recommendations on how those pro-
2 grams and regulations should be improved or
3 made more effective; and

4 “(D) other relevant information.”.

5 (b) SAFE DRINKING WATER ACT STANDARDS.—Sec-
6 tion 1421 of the Safe Drinking Water Act (42 U.S.C.
7 300h) is amended by adding at the end the following:

8 “(e) CARBON DIOXIDE GEOLOGICAL STORAGE
9 WELLS.—

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

15 “(2) FINANCIAL RESPONSIBILITY.—

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

22 “(B) REGULATIONS.—Financial responsi-
23 bility may be established for carbon dioxide geo-
24 logical wells in accordance with regulations pro-

1 mulgated by the Administrator by any 1, or any
2 combination, of the following:

3 “(i) Insurance.

4 “(ii) Guarantee.

5 “(iii) Trust.

6 “(iv) Standby trust.

7 “(v) Surety bond.

8 “(vi) Letter of credit.

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

10 “(viii) Any other method satisfactory
11 to the Administrator.”.

12 **SEC. 123. STUDIES AND REPORTS.**

13 (a) STUDY OF LEGAL FRAMEWORK FOR GEOLOGICAL
14 STORAGE SITES.—

15 (1) ESTABLISHMENT OF TASK FORCE.—

16 (A) IN GENERAL.—As soon as practicable,
17 but not later than 180 days after the date of
18 enactment of this Act, the Administrator shall
19 establish a task force, to be composed of an
20 equal number of—

21 (i) subject matter experts;

22 (ii) nongovernmental organizations
23 with expertise regarding environmental pol-
24 icy;

1 (iii) academic experts with expertise in
2 environmental law;

3 (iv) State and tribal officials with en-
4 vironmental expertise;

5 (v) representatives of State and tribal
6 attorneys general;

7 (vi) representatives of the Environ-
8 mental Protection Agency, the Department
9 of the Interior, the Department of Energy,
10 the Department of Transportation, and
11 other relevant Federal agencies; and

12 (vii) members of the private sector.

13 (B) STUDY.—The task force established
14 under subparagraph (A) shall conduct a study
15 of—

16 (i) existing Federal environmental
17 statutes, State environmental statutes, and
18 State common law that apply to geological
19 storage sites for carbon dioxide, including
20 the ability of those laws to serve as risk
21 management tools;

22 (ii) the existing statutory framework,
23 including Federal and State laws, that
24 apply to harm and damage to the environ-
25 ment or public health at closed sites at

1 which carbon dioxide injection has been
2 used for enhanced hydrocarbon recovery;

3 (iii) the statutory framework, environ-
4 mental health and safety considerations,
5 implementation issues, and financial impli-
6 cations of potential models for Federal,
7 State, or private sector assumption of li-
8 abilities and financial responsibilities with
9 respect to closed geological storage sites;

10 (iv) private sector mechanisms, includ-
11 ing insurance and bonding, that may be
12 available to manage environmental, health,
13 and safety risks from closed geological
14 storage sites; and

15 (v) the subsurface mineral rights,
16 water rights, and property rights issues as-
17 sociated with geological storage of carbon
18 dioxide, including issues specific to Federal
19 land.

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

1 (b) ENVIRONMENTAL STATUTES.—

2 (1) STUDY.—The Administrator shall conduct a
3 study of the means by which, and under what cir-
4 cumstances, the environmental statutes for which
5 the Environmental Protection Agency has responsi-
6 bility would apply to carbon dioxide injection and ge-
7 ological storage activities.

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

12 **SEC. 124. PERFORMANCE STANDARDS FOR NEW COAL-**
13 **FUELED POWER PLANTS.**

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

17 **“SEC. 812. PERFORMANCE STANDARDS FOR NEW COAL-**
18 **FIRED POWER PLANTS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COVERED EGU.—The term ‘covered EGU’
21 means a utility unit that is—

22 “(A) required to have a permit under sec-
23 tion 503(a); and

1 “(B) authorized under State or Federal
2 law to derive at least 30 percent of the annual
3 heat input of the unit from—

4 “(i) coal;

5 “(ii) petroleum coke; or

6 “(iii) any combination of those fuels.

7 “(2) INITIALLY PERMITTED.—

8 “(A) IN GENERAL.—The term ‘initially
9 permitted’, with respect to a covered EGU,
10 means that—

11 “(i) the owner or operator of the cov-
12 ered EGU has received a preconstruction
13 approval or permit under this Act as a new
14 (not modified) source; but

15 “(ii) administrative review or appeal
16 of the approval or permit has not been ex-
17 hausted.

18 “(B) CALCULATION.—A subsequent modi-
19 fication of any approval or permit described in
20 subparagraph (A), ongoing administrative or
21 court review, appeals, challenges, or the exist-
22 ence or tolling of any time to pursue additional
23 review, appeals, or challenges shall not affect
24 the date on which a covered EGU is considered

1 to be initially permitted for purposes of this
2 paragraph.

3 “(b) STANDARDS.—

4 “(1) IN GENERAL.—A covered EGU that is ini-
5 tially permitted on or after January 1, 2020, shall—

6 “(A) achieve an emission limitation that
7 represents a 65-percent reduction in emissions
8 of the carbon dioxide produced by the covered
9 EGU, as measured on an annual basis; or

10 “(B) meet such more-stringent standard as
11 the Administrator may establish pursuant to
12 subsection (c).

13 “(2) CERTAIN COVERED EGUS.—

14 “(A) IN GENERAL.—A covered EGU that
15 is initially permitted during the period begin-
16 ning on January 1, 2009, and ending on De-
17 cember 31, 2019, shall achieve, by the applica-
18 ble compliance date established under this para-
19 graph, an emission limitation that represents a
20 50-percent reduction in emissions of the carbon
21 dioxide produced by the covered EGU, as meas-
22 ured on an annual basis.

23 “(B) DATE OF REQUIREMENT.—Compli-
24 ance with the requirement described in subpara-
25 graph (A) shall be required by the earlier of—

1 “(i) the date that is 4 years after the
2 date on which the Administrator has pub-
3 lished pursuant to subsection (d) a report
4 that there are in commercial operation in
5 the United States electric generating units
6 or other stationary sources equipped with
7 carbon capture and permanent sequestra-
8 tion technology that, in the aggregate—

9 “(I) have a total of at least 10
10 gigawatts of capacity (including at
11 least 3 gigawatts which shall be
12 through electric generating units, and
13 up to 1 gigawatt which may be
14 through industrial applications (for
15 which capture and permanent seques-
16 tration of 3,000,000 tons of carbon
17 dioxide per year on an aggregate
18 annualized basis shall be considered
19 equivalent to 1 gigawatt)), measured
20 as the sum of—

21 “(aa) the treated generating
22 capacity (as defined in section
23 780(a)) for electric generating
24 unit retrofits and industrial
25 sources; and

1 “(bb) the nameplate capac-
2 ity for new electric generating
3 units;

4 “(II) include at least 3 electric
5 generating units, each with a name-
6 plate generating capacity of 250
7 megawatts or greater, that capture,
8 inject, and sequester carbon dioxide
9 into geological formations other than
10 oil and gas fields; and

11 “(III) are capturing and seques-
12 tering at least 12,000,000 tons of car-
13 bon dioxide per year, calculated on an
14 aggregate annualized basis; or

15 “(ii) January 1, 2020.

16 “(3) PROGRESS REVIEW.—

17 “(A) IN GENERAL.—Not later than June
18 30, 2017, the Administrator and the Secretary
19 of Energy shall jointly prepare and submit to
20 Congress a review of the status of commercial
21 deployment of carbon capture and permanent
22 sequestration technology that specifies—

23 “(i) the number of and size of units in
24 the United States that are capturing and
25 permanently sequestering carbon dioxide;

1 “(ii) the tons of carbon dioxide being
2 captured and permanently sequestered by
3 those units; and

4 “(iii) the geographical and techno-
5 logical diversity represented by those units
6 and that technology.

7 “(B) FINDING.—To accompany the report
8 under subparagraph (A), the Administrator and
9 the Secretary of Energy shall make a finding
10 that, in light of the status of commercial de-
11 ployment of carbon capture and permanent se-
12 questration technology, the date set forth in
13 paragraph (2)(B)(ii) should—

14 “(i) remain in effect; or

15 “(ii) in accordance with subparagraph
16 (C), be extended to January 1, 2022.

17 “(C) CONDITIONS FOR EXTENSION.—The
18 date set forth in paragraph (2)(B)(ii) shall be
19 extended to January 1, 2022, only if—

20 “(i) the Administrator and the Sec-
21 retary jointly find, pursuant to subpara-
22 graph (B), that the extension should occur;
23 and

24 “(ii) Congress acts to approve the
25 finding by not later than January 1, 2018.

1 “(4) UNIT-SPECIFIC EXTENSION.—

2 “(A) IN GENERAL.—If the deadline for
3 compliance with paragraph (2) is the date spec-
4 ified in paragraph (2)(B), the Administrator
5 may extend the deadline for compliance by a
6 covered EGU by not more than 18 months if
7 the Administrator makes a determination,
8 based on a showing by the owner or operator of
9 the covered EGU, that it will be technically in-
10 feasible for the covered EGU to meet the stand-
11 ard by that date.

12 “(B) REQUEST.—An owner or operator of
13 a covered EGU shall submit to the Adminis-
14 trator a request for an extension under sub-
15 paragraph (A) by not later than June 1, 2018.

16 “(C) PUBLIC COMMENT.—The Adminis-
17 trator shall provide for public notice and com-
18 ment on each extension request submitted
19 under subparagraph (B).

20 “(c) REVIEW AND REVISION OF STANDARDS.—Not
21 later than the date specified in subsection (b)(2)(B), and
22 not less frequently than once every 5 years thereafter, the
23 Administrator shall—

24 “(1) review the standards for new covered
25 EGUs under this section; and

1 “(2) by rule, reduce the maximum carbon diox-
2 ide emission rate for new covered EGUs to a rate
3 that reflects the degree of emission limitation achiev-
4 able through the application of the best system of
5 emission reduction that (taking into account the cost
6 of achieving the reduction and any nonair quality
7 health and environmental impact and energy re-
8 quirements) the Administrator determines has been
9 adequately demonstrated.

10 “(d) REPORTS.—Not later than the date that is 18
11 months after the date of enactment of this title, and semi-
12 annually thereafter, the Administrator shall publish a re-
13 port on the nameplate capacity of units (determined pur-
14 suant to subsection (b)(2)(A)) in commercial operation in
15 the United States equipped with carbon capture and stor-
16 age technology, including the information described in
17 subsection (b)(2)(A) (including the cumulative generating
18 capacity to which carbon capture and storage retrofit
19 projects meeting the criteria described in section
20 780(c)(1)(A) has been applied and the quantities of car-
21 bon dioxide captured and sequestered by those projects).

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

1 **SEC. 125. CARBON CAPTURE AND SEQUESTRATION DEM-**
2 **ONSTRATION AND EARLY DEPLOYMENT PRO-**
3 **GRAM.**

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

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

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

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

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

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

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

23 (7) QUALIFIED INDUSTRY ORGANIZATION.—The
24 term “qualified industry organization” means the
25 Edison Electric Institute, the American Public
26 Power Association, the National Rural Electric Co-

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

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

10 (b) CARBON STORAGE RESEARCH CORPORATION.—

11 (1) ESTABLISHMENT.—

12 (A) REFERENDUM.—Qualified industry or-
13 ganizations may conduct, at their own expense,
14 a referendum among the owners or operators of
15 distribution utilities delivering fossil fuel-based
16 electricity for the creation of a Carbon Storage
17 Research Corporation. Such referendum shall
18 be conducted by an independent auditing firm
19 agreed to by the qualified industry organiza-
20 tions. Voting rights in such referendum shall be
21 based on the quantity of fossil fuel-based elec-
22 tricity delivered to consumers in the previous
23 calendar year or other representative period as
24 determined by the Secretary pursuant to sub-
25 section (f). Upon approval of those persons rep-

1 representing two-thirds of the total quantity of fos-
2 sil fuel-based electricity delivered to retail con-
3 sumers, the Corporation shall be established un-
4 less opposed by the State regulatory authorities
5 pursuant to subparagraph (B). All distribution
6 utilities voting in the referendum shall certify to
7 the independent auditing firm the quantity of
8 fossil fuel-based electricity represented by their
9 vote.

10 (B) STATE REGULATORY AUTHORITIES.—

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

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

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

1 (A) MEMBERS.—The Board shall include
2 at least 1 representative of each of the fol-
3 lowing:

4 (i) Investor-owned utilities.

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

7 (iii) Rural electric cooperatives.

8 (iv) Fossil fuel producers.

9 (v) Nonprofit environmental organiza-
10 tions.

11 (vi) Independent generators or whole-
12 sale power providers.

13 (vii) Consumer groups.

14 (viii) The National Energy Tech-
15 nology laboratory of the Department of
16 Energy.

17 (ix) The Environmental Protection
18 Agency.

19 (B) NONVOTING MEMBERS.—The Board
20 shall also include as additional nonvoting Mem-
21 bers the Secretary of Energy or his designee
22 and 2 representatives of State regulatory au-
23 thorities as defined in section 3 of the Public
24 Utility Regulatory Policies Act of 1978 (16
25 U.S.C. 2602), each designated by the National

1 Association of State Regulatory Utility Com-
2 missioners from States that are not within the
3 same transmission interconnection.

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

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

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

1 be treated as public money for purposes of chapter
2 33 of title 31, United States Code, or for any other
3 purpose.

4 (c) FUNCTIONS AND ADMINISTRATION OF THE COR-
5 PORATION.—

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

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

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

8 (3) ELIGIBLE ENTITIES.—Entities eligible for
9 grants, contracts or assistance under this subsection
10 may include distribution utilities, electric utilities
11 and other private entities, academic institutions, na-
12 tional laboratories, Federal research agencies, State
13 and tribal research agencies, nonprofit organizations,
14 or consortiums of 2 or more entities. Pilot-scale and
15 similar small-scale projects are not eligible for sup-
16 port by the Corporation. Owners or developers of
17 projects supported by the Corporation shall, where
18 appropriate, share in the costs of such projects.
19 Projects supported by the Corporation shall meet the
20 eligibility criteria of section 780(b) of the Clean Air
21 Act.

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

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

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

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

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

22 (7) ADMINISTRATIVE EXPENSES.—Up to 5 per-
23 cent of the funds collected in any fiscal year under
24 subsection (d) may be used for the administrative
25 expenses of operating the Corporation (not including

1 costs incurred in the determination and collection of
2 the assessments pursuant to subsection (d)).

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

23 (9) RECORDS; AUDITS.—The Corporation shall
24 keep minutes, books, and records that clearly reflect
25 all of the acts and transactions of the Corporation

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

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

1 minutes of all meetings of the Corporation shall be
2 made available to and readily accessible by the pub-
3 lic.

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

18 (d) ASSESSMENTS.—

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

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

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

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

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

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

12 (e) ERCOT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the power sold by each individual distribution
2 utility.

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

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

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

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

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

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

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

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

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

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

5 (i) RECOVERY OF COSTS.—

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

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

19 (j) TECHNICAL ADVISORY COMMITTEE.—

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

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

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

10 (3) CHAIRPERSON AND VICE CHAIRPERSON.—
11 The Board shall designate one member of the Tech-
12 nical Advisory Committee to serve as Chairperson of
13 the Committee and one to serve as Vice Chairperson
14 of the Committee.

15 (4) COMPENSATION.—The Board shall provide
16 compensation to members of the Technical Advisory
17 Committee for travel and other incidental expenses
18 and such other compensation as the Board deter-
19 mines to be necessary.

20 (5) PURPOSE.—The Technical Advisory Com-
21 mittee shall provide independent assessments and
22 technical evaluations, as well as make non-binding
23 recommendations to the Board, concerning Corpora-
24 tion activities, including but not limited to the fol-
25 lowing:

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

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

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

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

1 (l) DAVIS-BACON COMPLIANCE.—The Corporation
2 shall ensure that entities receiving grants, contracts, or
3 other financial support from the Corporation for the
4 project activities authorized by this section are in compli-
5 ance with subchapter IV of chapter 31 of title 40, United
6 States Code (commonly known as the “Davis-Bacon
7 Act”).

8 **Subtitle C—Nuclear and Advanced** 9 **Technologies**

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

11 (a) FINDINGS.—Congress finds that—

12 (1) in 2008, 104 nuclear power plants produced
13 19.6 percent of the electricity generated in the
14 United States, slightly less than the electricity gen-
15 erated by natural gas;

16 (2) nuclear energy is the largest provider of
17 clean, low-carbon, electricity, almost 8 times larger
18 than all renewable power production combined, ex-
19 cluding hydroelectric power;

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

22 (4) by displacing fossil fuels that would other-
23 wise be used for electricity production, nuclear power
24 plants virtually eliminate emissions of greenhouse

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (A) electrical craft certification;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) CONDUCT OF PROGRAM.—

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

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

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

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

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

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

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

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

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

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

7 **Subtitle D—Water Efficiency**

8 **SEC. 141. WATERSENSE.**

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

13 (1) to reduce water use;

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

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

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

24 (b) DUTIES.—The Administrator shall—

25 (1) establish—

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

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

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

9 (A) reducing water use; and

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (A) an explanation of the changes; and

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

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

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

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

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

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

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

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

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

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

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

17 (a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

3 (1) REQUIREMENT.—

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

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

11 (ii) a FEMP-designated product.

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

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

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

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

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

10 (3) PROCUREMENT PLANNING.—

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

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

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

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

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

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

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

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

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

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

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

3 (a) DEFINITIONS.—In this section:

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

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

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

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

24 (i) by the WaterSense program; or

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

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

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

6 (i) faucets;

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

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

11 (iv) reuse and recycling technologies;

12 (v) toilets;

13 (vi) clothes washers;

14 (vii) dishwashers;

15 (viii) showerheads;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (f) ISSUANCE OF INCENTIVES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **Subtitle E—Miscellaneous**

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

12 (a) DEFINITIONS.—In this section:

13 (1) ADVISORY COMMITTEE.—The term “Advi-

14 sory Committee” means the Consumer Advocacy Ad-

15 visory Committee established under subsection

16 (c)(1).

17 (2) COMMISSION.—The term “Commission”

18 means the Federal Energy Regulatory Commission.

19 (3) 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 (4) 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).

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

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

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

13 (b) OFFICE.—

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

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

22 (3) DUTIES.—The Office may—

23 (A) represent, and appeal on behalf of, en-
24 ergy customers on matters concerning rates or
25 service of public utilities and natural gas com-

1 panies under the jurisdiction of the Commis-
2 sion—

3 (i) at hearings of the Commission;

4 (ii) in judicial proceedings in the
5 courts of the United States; and

6 (iii) at hearings or proceedings of
7 other Federal regulatory agencies and com-
8 missions;

9 (B) monitor and review energy customer
10 complaints and grievances on matters con-
11 cerning rates or service of public utilities and
12 natural gas companies under the jurisdiction of
13 the Commission;

14 (C) investigate independently, or within the
15 context of formal proceedings, the services pro-
16 vided by, the rates charged by, and the valu-
17 ation of the properties of, public utilities and
18 natural gas companies under the jurisdiction of
19 the Commission;

20 (D) develop means, such as public dissemi-
21 nation of information, consultative services, and
22 technical assistance, to ensure, to the maximum
23 extent practicable, that the interests of energy
24 consumers are adequately represented in the

1 course of any hearing or proceeding described
2 in subparagraph (A);

3 (E) collect data concerning rates or service
4 of public utilities and natural gas companies
5 under the jurisdiction of the Commission; and

6 (F) prepare and issue reports and rec-
7 ommendations.

8 (4) COMPENSATION AND POWERS.—The Direc-
9 tor may—

10 (A) employ and fix the compensation of
11 such staff personnel as is deemed necessary;
12 and

13 (B) procure temporary and intermittent
14 services as needed.

15 (5) ACCESS TO INFORMATION.—Each depart-
16 ment, agency, and instrumentality of the Federal
17 Government is authorized and directed to furnish to
18 the Director such reports and other information as
19 he deems necessary to carry out his functions under
20 this section.

21 (c) CONSUMER ADVOCACY ADVISORY COMMITTEE.—

22 (1) ESTABLISHMENT.—The Director shall es-
23 tablish an advisory committee, to be known as Con-
24 sumer Advocacy Advisory Committee, to review

1 rates, services, and disputes and to make rec-
2 ommendations to the Director.

3 (2) COMPOSITION.—The Director shall appoint
4 5 members to the Advisory Committee including—

5 (A) 2 individuals representing State Utility
6 Consumer Advocates; and

7 (B) 1 individual, from a nongovernmental
8 organization, representing consumers.

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

12 (4) REPORTS.—The Director shall provide for
13 publication of recommendations of the Advisory
14 Committee on the public website established for the
15 Office.

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

20 (6) APPLICATION OF FACA.—Except as other-
21 wise specifically provided, the Advisory Committee
22 shall be subject to the Federal Advisory Committee
23 Act.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized such sums as necessary to carry out this
3 section.

4 (e) SAVINGS CLAUSE.—Nothing in this section af-
5 fects the rights or obligations of State Utility Consumer
6 Advocates.

7 **SEC. 152. CLEAN TECHNOLOGY BUSINESS COMPETITION**
8 **GRANT PROGRAM.**

9 (a) IN GENERAL.—The Administrator may provide
10 grants to organizations to conduct business competitions
11 that provide incentives, training, and mentorship to entre-
12 preneurs and early stage start-up companies throughout
13 the United States to meet high-priority economic, environ-
14 mental, and energy goals in areas including air quality,
15 energy efficiency and renewable energy, transportation,
16 water quality and conservation, green buildings, and waste
17 management.

18 (b) PURPOSES.—

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

21 (A) accelerating the development and de-
22 ployment of clean technology businesses and
23 green jobs;

24 (B) stimulating green economic develop-
25 ment;

1 (C) providing business training and men-
2 toring to early stage clean technology compa-
3 nies; and

4 (D) strengthening the competitiveness of
5 United States clean technology industry in
6 world trade markets.

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

9 (A) are led by the private sector;

10 (B) encourage regional and interregional
11 cooperation; and

12 (C) can demonstrate market-driven prac-
13 tices and the creation of cost-effective green
14 jobs through an annual publication of competi-
15 tion activities and directory of companies.

16 (c) ELIGIBILITY.—

17 (1) IN GENERAL.—To be eligible for a grant
18 under this section, an organization shall be any
19 sponsored entity of an organization described in sub-
20 paragraph (A) that is operated as a nonprofit entity.

21 (2) PRIORITY.—In making grants under this
22 section, the Administrator shall give priority to orga-
23 nizations that can demonstrate broad funding sup-
24 port from private and other non-Federal funding
25 sources to leverage Federal investment.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$20,000,000.

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

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

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

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

22 (3) An identification of products, processes, or
23 sectors whose inclusion could have a substantial car-
24 bon impact (prioritizing industrial products such as
25 iron and steel, aluminum, cement, chemicals, and

1 paper products, and also including food, beverage,
2 hygiene, cleaning, household cleaners, construction,
3 metals, clothing, semiconductor, and consumer elec-
4 tronics).

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

10 (5) A review of existing greenhouse gas product
11 accounting standards, methodologies, and practices
12 including the Greenhouse Gas Protocol, ISO 14040/
13 44, ISO 14067, and Publically Available Specifica-
14 tion 2050, and including a review of the strengths
15 and weaknesses of each.

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

1 (7) An assessment of the utility of comparing
2 products and the appropriateness of product carbon
3 standards.

4 (8) An evaluation of the information needed on
5 a label for clear and accurate communication, in-
6 cluding what pieces of quantitative and qualitative
7 information need to be disclosed.

8 (9) An evaluation of the appropriate boundaries
9 of the carbon lifecycle analysis for different sectors
10 and products.

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

17 (11) A recommendation of certification and
18 verification options necessary to assure the quality
19 of the information and avoid greenwashing or the
20 use of insubstantial or meaningless environmental
21 claims to promote a product.

22 (12) An assessment of options for educating
23 consumers about product carbon content and the
24 product carbon disclosure program and product car-
25 bon labeling program.

1 (13) An analysis of the costs and timelines as-
2 sociated with establishing a national product carbon
3 disclosure program and product carbon labeling pro-
4 gram, including options for a phased approach.
5 Costs should include those for businesses associated
6 with the measurement of carbon footprints and
7 those associated with creating a product carbon label
8 and managing and operating a product carbon label-
9 ing program, and options for minimizing these costs.

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

17 (b) DEVELOPMENT OF NATIONAL CARBON DISCLO-
18 SURE PROGRAM.—Upon conclusion of the study, and not
19 later than 3 years after the date of enactment of this Act,
20 the Administrator shall establish a national product car-
21 bon disclosure program, participation in which shall be
22 voluntary, and which may involve a product carbon label
23 with broad applicability to the wholesale and consumer
24 markets to enable and encourage knowledge about carbon
25 content by producers and consumers and to inform efforts

1 to reduce energy consumption (carbon dioxide equivalent
2 emissions) nationwide. In developing such a program, the
3 Administrator shall—

4 (1) consider the results of the study conducted
5 under subsection (a);

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

14 (3) consider the compatibility of a national
15 product carbon disclosure program with existing pro-
16 grams;

17 (4) utilize incentives and other means to spur
18 the adoption of product carbon disclosure and prod-
19 uct carbon labeling;

20 (5) develop protocols and parameters for a
21 product carbon disclosure program, including a
22 methodology and formula for assessing, verifying,
23 and potentially labeling a product's greenhouse gas
24 content, and for data quality requirements to allow
25 for product comparison;

- 1 (6) create a means to—
 - 2 (A) document best practices;
 - 3 (B) ensure clarity and consistency;
 - 4 (C) work with suppliers, manufacturers,
5 and retailers to encourage participation;
 - 6 (D) ensure that protocols are consistent
7 and comparable across like products; and
 - 8 (E) evaluate the effectiveness of the pro-
9 gram;
- 10 (7) make publicly available information on
11 product carbon content to ensure transparency;
- 12 (8) provide for public outreach, including a con-
13 sumer education program to increase awareness;
- 14 (9) develop training and education programs to
15 help businesses learn how to measure and commu-
16 nicate their carbon footprint and easy tools and tem-
17 plates for businesses to use to reduce cost and time
18 to measure their products' carbon lifecycle;
- 19 (10) consult with the Secretary of Energy, the
20 Secretary of Commerce, the Federal Trade Commis-
21 sion, and other Federal agencies, as necessary;
- 22 (11) gather input from stakeholders through
23 consultations, public workshops, or hearings with
24 representatives of consumer product manufacturers,
25 consumer groups, and environmental groups;

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

4 (13) create a process for reviewing the accuracy
5 of product carbon label information and protecting
6 the product carbon label in the case of a change in
7 the product's energy source, supply chain, ingredi-
8 ents, or other factors, and specify the frequency to
9 which data should be updated; and

10 (14) develop a standardized, easily understand-
11 able carbon label, if appropriate, and create a proc-
12 ess for responding to inaccuracies and misuses of
13 such a label.

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

20 (d) DEFINITIONS.—In this section:

21 (1) The term “carbon content” means the
22 quantity of greenhouse gas emissions and the warm-
23 ing impact of those emissions on the atmosphere ex-
24 pressed in carbon dioxide equivalent associated with
25 a product's value chain.

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

4 (3) The term “carbon lifecycle” means the
5 greenhouse gas emissions that are released as part
6 of the processes of creating, producing, processing,
7 manufacturing, modifying, transporting, distrib-
8 uting, storing, using, recycling, or disposing of goods
9 and services.

10 (e) **AUTHORIZATION OF APPROPRIATIONS.**—There is
11 authorized to be appropriated to the Administrator—

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

14 (2) to carry out the program required under
15 subsection (b), \$25,000,000 for each of fiscal years
16 2010 through 2025.

17 **SEC. 154. STATE RECYCLING PROGRAMS.**

18 (a) **ESTABLISHMENT.**—The Administrator shall es-
19 tablish a State Recycling Program governing the use of
20 funds by States in accordance with this Act.

21 (b) **USE OF FUNDING.**—

22 (1) **IN GENERAL.**—States receiving funding to
23 carry out this section shall use the proceeds to carry
24 out recycling programs, including reuse programs, in
25 accordance with this section.

1 (2) COUNTY AND MUNICIPAL PROGRAMS.—Sub-
2 ject to subsection (d), not less than $\frac{1}{4}$ of the fund-
3 ing made available to a State to carry out this sec-
4 tion shall be distributed by the State to county and
5 municipal recycling and reuse programs (or to State
6 recycling and reuse programs, if that State does not
7 have a county or municipal program) as described in
8 subsection (c)(1), to be used exclusively to support
9 recycling and reuse purposes and associated source
10 reduction purposes, including to provide incentives—

11 (A) for recycling- and reuse-related tech-
12 nology that—

13 (i) reduces or avoids greenhouse gas
14 emissions;

15 (ii) increases collection rates;

16 (iii) improves the quality of recyclable
17 material that is separated from solid
18 waste; or

19 (iv) increases the reuse of products
20 that would otherwise be disposed;

21 (B) for energy-efficiency projects for trans-
22 portation fleets and recycling equipment used to
23 collect and sort recyclable material and reusable
24 products separated from solid waste;

1 (C) for recycling and reuse program-re-
2 lated expenses, including—

3 (i) education and job training;

4 (ii) development and implementation
5 of variable rate (commonly referred to as
6 “pay-as-you-throw”) funding programs and
7 composting, including anaerobic digestion
8 programs;

9 (iii) promotion of public space recy-
10 cling programs;

11 (iv) approaches for assuring compli-
12 ance with recycling and reuse require-
13 ments; and

14 (v) development or implementation of
15 best practices for municipal solid waste re-
16 duction and reuse programs; and

17 (vi) incentives for the deployment of
18 reuse technology and equipment that re-
19 duces or avoids greenhouse gas emissions;
20 and

21 (D) to ensure that recyclable materials and
22 reusable products are not sent for disposal or
23 incineration during fluctuating markets.

24 (3) RECYCLING AND REUSE FACILITIES.—Sub-
25 ject to subsection (d), not less than $\frac{1}{4}$ of the fund-

1 ing made available to a State to carry out this sec-
2 tion shall be distributed by the State to eligible recy-
3 cling and reuse facilities as described in subsection
4 (c)(2) to be used exclusively to support the recycling
5 purposes and associated source reduction purposes
6 of the facilities, including to provide—

7 (A) incentives for the demonstration or de-
8 ployment of recycling- and reuse-related tech-
9 nology and equipment that reduce or avoid
10 greenhouse gas emissions;

11 (B) incentives to facilities that increase the
12 quantity and quality of recyclable material or
13 reusable products that are recycled or reused
14 versus sent for disposal or incineration;

15 (C) funding for research, management,
16 and removal of impediments to recycling and
17 reuse, including—

18 (i) radioactive material;

19 (ii) devices or materials that contain
20 polychlorinated biphenyls, mercury, or
21 chlorofluorocarbons;

22 (iii) improved collection systems; and

23 (iv) production of products that are
24 reusable;

1 (D) funding for research on, and develop-
2 ment and deployment of, new technologies to
3 more efficiently and effectively recycle items
4 and reuse products such as automobile shredder
5 residue, cathode ray tubes, plastics, and tires;
6 and

7 (E) incentives to recycle materials and
8 reuse products identified by the Administrator
9 that are not being recycled at a recycling facil-
10 ity.

11 (4) MANUFACTURING FACILITIES.—Subject to
12 subsection (d), not less than $\frac{1}{4}$ of the funding made
13 available to a State to carry out this section shall be
14 distributed by the State to eligible manufacturing fa-
15 cilities as described in subsection (c)(3) to be used
16 exclusively to support recycling and reuse purposes,
17 including to provide incentives for the demonstration
18 or deployment of—

19 (A) manufacturing-related technology and
20 equipment that would increase the use of recy-
21 clable material and the reuse of products and
22 avoid or reduce greenhouse 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 product reuse; and

7 (E) strategies and technologies to improve
8 the energy efficiency of technology and equip-
9 ment used to manufacture recyclable and reus-
10 able products.

11 (5) REUSE FACILITIES.—Not more than $\frac{1}{4}$ of
12 the funding made available to a State to carry out
13 this section may be distributed by the State to eligi-
14 ble reuse facilities described in subsection (c)(4), to
15 be used exclusively to support the reuse purposes
16 and associated source reduction purposes of the fa-
17 cilities, including to provide—

18 (A) incentives for the demonstration or de-
19 ployment of reuse-related technology and equip-
20 ment that reduces or avoids greenhouse gas
21 emissions;

22 (B) incentives to facilities that increase the
23 quantity and quality of products and materials
24 that are reused versus sent for disposal or in-
25 cineration;

1 (C) funding for research, management,
2 and removal of impediments to reuse, includ-
3 ing—

4 (i) improved collection systems; and

5 (ii) production of products that are
6 reusable;

7 (D) funding for research on, and develop-
8 ment and deployment of, new technologies to
9 more efficiently and effectively reuse products;
10 and

11 (E) other incentives to reuse products, as
12 identified by the Administrator.

13 (c) ELIGIBILITY REQUIREMENTS.—

14 (1) COUNTY AND MUNICIPALITY PROGRAMS.—

15 Funds provided under subsection (b)(2) shall be pro-
16 vided on a competitive basis to county and municipal
17 recycling and reuse programs that—

18 (A) have within the solid waste manage-
19 ment plans of the programs a recycling and
20 reuse management plan that includes an edu-
21 cation outreach program for the individuals and
22 entities served by the program constituency
23 that highlights the lifecycle benefits of recy-
24 cling; and

1 (B) collect at least 5 types of recyclable or
2 reusable materials, such as—

- 3 (i) ferrous and nonferrous metal;
4 (ii) aluminum;
5 (iii) plastic;
6 (iv) tires and rubber;
7 (v) household electronic equipment;
8 (vi) glass;
9 (vii) scrap food;
10 (viii) recoverable fiber or paper;
11 (ix) textiles; and
12 (x) consumer packing;

13 (C) demonstrate, not later than 3 years
14 after the date of receipt of funds under this
15 subtitle, reasonable progress toward achieving—

16 (i) a collection rate goal of at least 30
17 percent of the total recyclable or reusable
18 materials available from the solid waste
19 stream in the requesting State, county, or
20 municipal program; or

21 (ii) a 10-percent increase of collected
22 recyclable materials compared to the total
23 solid waste stream in the requesting State,
24 county, or municipal program; and

1 (D)(i) own, operate, or contract to handle,
2 operate, or sell 1 or more of—

3 (I) a curbside recyclables collection
4 program;

5 (II) a redemption center or drop-off
6 facility for recyclables or reusable prod-
7 ucts; or

8 (III) a materials recovery facility; and

9 (ii) have in place a quality, environmental,
10 health, and safety management system (such as
11 that of the International Standards Organiza-
12 tion or an equivalent) that includes goals to re-
13 duce the operational carbon baselines of the
14 programs.

15 (2) RECYCLING AND REUSE FACILITIES.—

16 Funds provided under subsection (b)(3) shall be pro-
17 vided on a competitive basis to an existing recycling
18 facility that—

19 (A) processes recyclable material into com-
20 mercial specification-grade commodities for use
21 as raw material feed stock at recovery facilities,
22 including for use as—

23 (i) a replacement or substitute for a
24 virgin raw material; or

1 (ii) a replacement or substitute for a
2 product made, in whole or in part, from a
3 virgin raw material;

4 (B) has a verifiable carbon baseline; and

5 (C) has an environmental, health and safe-
6 ty, and quality management system (such as
7 that of the International Standards Organiza-
8 tion or an equivalent) that includes goals to re-
9 duce the operational carbon baseline of the re-
10 cycling facility per unit of material processed.

11 (3) MANUFACTURING FACILITY.—Funds pro-
12 vided under subsection (b)(4) shall be provided on a
13 competitive basis to a manufacturing facility that—

14 (A) recovers significant recyclable or reus-
15 able material;

16 (B) can report on a verifiable carbon base-
17 line that is consistent with applicable reporting
18 requirements; and

19 (C) has an environmental, health and safe-
20 ty, and quality management system (such as
21 that of the International Standards Organiza-
22 tion or an equivalent) that includes—

23 (i) goals to reduce the operational car-
24 bon baseline of the manufacturing facility
25 per unit of material processed; or

1 (ii) evidence that the reuse of prod-
2 ucts processed serves to reduce carbon
3 emissions.

4 (4) REUSE FACILITIES.—Funds under sub-
5 section (b)(5) may be provided on a competitive
6 basis to an existing reuse facility that—

7 (A) processes reusable material to be used
8 as a replacement or substitute for a new prod-
9 uct;

10 (B) can report on a verifiable carbon base-
11 line; and

12 (C) has an environmental, health and safe-
13 ty, and quality management system (such as
14 that of the International Standards Organiza-
15 tion or an equivalent) that includes goals to re-
16 duce the operational carbon baseline of the
17 reuse facility per unit of material processed, or
18 evidence that the reuse of products processed
19 serves to reduce carbon emissions.

20 (d) REPORTING.—Each State that distributes funds
21 under this section shall submit to the Administrator, in
22 accordance with such requirements as the Administrator
23 may prescribe, a report that includes—

24 (1) a list of entities receiving funding under
25 this section, including entities receiving such funding

1 from units of local government pursuant to sub-
2 section (b)(2);

3 (2) the amount of funding received by each
4 such recipient;

5 (3) the specific purposes for which the funding
6 was conveyed to each such recipient; and

7 (4) documentation of the quantity of net recy-
8 clable materials and reusable products that were col-
9 lected and processed and greenhouse gas emissions
10 that were reduced or avoided accordingly, through
11 use of the funding, based on a lifecycle calculation
12 developed by the Administrator.

13 (e) METHODOLOGY AND DECISIONMAKING.—The Ad-
14 ministrator, as appropriate—

15 (1) shall develop and periodically update
16 lifecycle methods to quantify the relationship be-
17 tween waste management decisions, including recy-
18 cling, reuse, and waste reduction, greenhouse gas re-
19 ductions, and energy use reductions, for purposes
20 that include—

21 (A) helping to support decisions under
22 Federal, State, and municipal recycling, reuse,
23 and waste management programs, including—

1 (i) estimating greenhouse gas and en-
2 ergy benefits of expanding recycling and
3 reuse programs;

4 (ii) comparing the benefits of recy-
5 cling, reuse, and waste reduction to other
6 greenhouse gas and energy use reduction
7 strategies;

8 (iii) optimizing waste management
9 strategies to maximize greenhouse gas re-
10 ductions and energy use reductions; and

11 (iv) public education; and

12 (B) designing products to optimize waste
13 reduction, reuse, and recycling opportunities
14 and use of recycled materials in the manufac-
15 turing process;

16 (2) may collect data to support the development
17 of the methods described in paragraph (1); and

18 (3) to improve national consistency, shall, in
19 consultation with appropriate State and local rep-
20 resentatives and municipal recycling programs, iden-
21 tify best practices to promote improvement in, and
22 support State efforts in improving, municipal recy-
23 cling, reuse, and resource recovery programs.

1 **SEC. 155. SUPPLEMENTAL AGRICULTURE, ABANDONED**
2 **MINE LAND, AND FORESTRY GREENHOUSE**
3 **GAS REDUCTION AND RENEWABLE ENERGY**
4 **PROGRAM.**

5 (a) AGRICULTURAL GREENHOUSE GAS REDUC-
6 TIONS.—

7 (1) ESTABLISHMENT.—

8 (A) IN GENERAL.—The Secretary of Agri-
9 culture (referred to in this section as the “Sec-
10 retary”), in coordination with the Secretary of
11 the Interior, shall establish a Greenhouse Gas
12 Reduction Incentives Program (referred to in
13 this section as the “program”) to provide finan-
14 cial assistance to owners and operators of agri-
15 cultural land (including land on which specialty
16 crops are produced and private or public land
17 used for grazing), private or public abandoned
18 mine land, and forest land for projects and ac-
19 tivities that measurably increase carbon seques-
20 tration or reduce greenhouse gas emissions.

21 (B) SHARED AUTHORITY.—The Secretary
22 shall delegate to the Secretary of the Interior
23 the authority to carry out projects on land
24 under the jurisdiction of or operated by the De-
25 partment of the Interior.

1 (2) PRIORITY.—In carrying out the program,
2 the Secretary shall give priority to projects or activi-
3 ties that—

4 (A) reduce greenhouse gas emissions or in-
5 crease sequestration of greenhouse gases, and
6 achieve significant other environmental benefits,
7 such as the improvements of water or air qual-
8 ity or natural resources in agricultural, aban-
9 doned mine land, and forestry operations; and

10 (B) reduce greenhouse gas emissions or se-
11 quester carbon in agricultural and forestry op-
12 erations where there are limited recognized op-
13 portunities to achieve such emission reductions
14 or sequestration.

15 (3) ELIGIBLE PROJECTS AND ACTIVITIES.—Eli-
16 gible projects and payments shall include those
17 that—

18 (A) reflect the comparable amount that the
19 owners or operators would receive in the offset
20 market if not for compliance with environ-
21 mental laws that preclude the owners and oper-
22 ators from being eligible for receiving an offset
23 credit under a Federal law enacted for the pur-
24 pose of regulating greenhouse gas emissions;

1 (B) provide greenhouse gas emission bene-
2 fits, but do not receive an offset credit or qual-
3 ify for an early action allowance under a Fed-
4 eral law enacted for the purpose of regulating
5 greenhouse gas emissions, including projects
6 and activities that provide an opportunity to
7 demonstrate and test new or uncertain methods
8 to reduce or sequester emissions;

9 (C) reward early adopters, including pro-
10 ducers that practice no-till agriculture, and en-
11 sure that individuals and entities that took ac-
12 tion prior to the implementation of a Federal
13 law enacted for the purpose of regulating green-
14 house gas emissions are not placed at a com-
15 petitive disadvantage, including giving consider-
16 ation to owners or operators located in jurisdic-
17 tions with more stringent environmental laws
18 (including regulations), compliance with which
19 precludes the owners or operators from partici-
20 pating such an offset market;

21 (D) provide incentives for supplemental
22 greenhouse gas emission reductions on private
23 and public forest land of the United States;

24 (E) prevent conversion of land, including
25 native grassland, native prairie, rangeland,

1 cropland, or forested land, that would increase
2 greenhouse gas emissions or a loss of carbon se-
3 questration;

4 (F) promote the recovery and reuse of
5 abandoned mine land that otherwise would in-
6 crease greenhouse gas emissions or cause a loss
7 of carbon sequestration, provided that not more
8 than 5 percent of the total value of the forms
9 of assistance provided under the program for
10 each year shall be used for the projects and ac-
11 tivities described in this subparagraph; or

12 (G) support action on Federal, State, or
13 tribal land that encourages improvements and
14 management practices that include carbon se-
15 questration benefits.

16 (4) REQUIREMENT.—Financial incentives and
17 support provided by the Secretary for a project or
18 activity under this section shall, to the maximum ex-
19 tent practicable, be directly proportional to the
20 quantity and duration of greenhouse gas emissions
21 reduced or carbon sequestered.

22 (5) OTHER PROJECTS.—The Secretary shall
23 consider projects and activities that complement and
24 leverage existing conservation, forestry, and energy
25 program expenditures to provide measurable emis-

1 sion reduction and sequestration benefits that other-
2 wise may not take place or continue to exist.

3 (6) ELIGIBILITY.—An owner or operator shall
4 not be prohibited from participating in the program
5 established under this section due to participation of
6 the owner or operator in other Federal or State con-
7 servation or agricultural assistance programs.

8 (7) FORMS OF ASSISTANCE.—The Secretary
9 may use any of the following to provide assistance
10 under this section:

11 (A) Permanent conservation easements, for
12 which the Secretary shall give priority in pro-
13 viding assistance under this section.

14 (B) Carbon sequestration or carbon miti-
15 gation contracts between the owner or operator
16 and the Secretary for the performance of
17 projects or activities that provide a measurable
18 reduction in greenhouse gas emissions or se-
19 quester carbon.

20 (C) Financial incentives through land man-
21 agement contracts or agreements, including
22 timber sale, service, or stewardship contracts.

23 (D) Financial incentives through grazing
24 contracts.

25 (E) Grants.

1 (F) Such other forms of assistance as the
2 Secretary determines to be appropriate.

3 (8) REVERSALS.—The Secretary shall specify
4 methods to address intentional or unintentional re-
5 versal of carbon sequestration or greenhouse gas
6 emission reductions that occur during the term of a
7 contract or easement under this section.

8 (9) ACCOUNTING SYSTEMS.—In carrying out
9 this section, the Secretary shall develop and imple-
10 ment—

11 (A) a national accounting system for car-
12 bon stocks, sequestration, and greenhouse gas
13 emissions that may be used to assess progress
14 in implementing this section at a national level;
15 and

16 (B) credible reporting and accounting sys-
17 tems to ensure that incentives provided under
18 this section are achieving stated objectives.

19 (10) PROGRAM MEASUREMENT, MONITORING,
20 AND VERIFICATION.—The Secretary, in consultation
21 with the Administrator—

22 (A) shall establish and implement protocols
23 that provide reasonable monitoring and
24 verification of compliance with terms associated
25 with assistance provided under this section, in-

1 including field sampling of actual performance, to
2 develop annual estimates of emission reductions
3 achieved under the program;

4 (B) shall report annually the total number
5 of tons of carbon dioxide sequestered or the
6 total number of tons of emissions avoided
7 through incentives provided under this section;
8 and

9 (C) not later than 2 years after the date
10 of enactment of this Act, and at least every 18
11 months thereafter, submit to Congress and
12 make available to the public on the website of
13 the Department of Agriculture a report that in-
14 cludes—

15 (i) an estimate of annual and cumu-
16 lative reductions generated through the
17 program under this section, determined
18 using standardized measures (including
19 economic efficiency); and

20 (ii) a summary of any changes to the
21 program, in accordance with this section,
22 that will be made as a result of program
23 measurement, monitoring, and verification
24 conducted under this section.

1 (b) RESEARCH PROGRAM.—The Secretary shall es-
2 tablish by rule a program to conduct research to develop
3 additional projects and activities for crops to find addi-
4 tional techniques and methods to reduce greenhouse gas
5 emissions or sequester greenhouse gases that may or may
6 not meet criteria for a Federal law enacted for the purpose
7 of regulating greenhouse gas emissions.

8 **SEC. 156. ECONOMIC DEVELOPMENT CLIMATE CHANGE**
9 **FUND.**

10 (a) IN GENERAL.—Title II of the Public Works and
11 Economic Development Act of 1965 (42 U.S.C. 3141 et
12 seq.) is amended by adding at the end the following:

13 **“SEC. 219. ECONOMIC DEVELOPMENT CLIMATE CHANGE**
14 **FUND.**

15 “(a) IN GENERAL.—On the application of an eligible
16 recipient, the Secretary may provide technical assistance,
17 make grants, enter into contracts, or otherwise provide
18 amounts for projects—

19 “(1) to promote energy efficiency to enhance
20 economic competitiveness;

21 “(2) to increase the use of renewable energy re-
22 sources to support sustainable economic development
23 and job growth;

1 “(3) to support the development of conventional
2 energy resources to produce alternative transpor-
3 tation fuels, electricity and heat;

4 “(4) to develop energy efficient or environ-
5 mentally sustainable infrastructure;

6 “(5) to promote environmentally sustainable
7 economic development practices and models;

8 “(6) to support development of energy effi-
9 ciency and alternative energy development plans,
10 studies or analysis, including enhancement of new
11 and existing Comprehensive Economic Development
12 Strategies funded under this Act; and

13 “(7) to supplement other Federal grants, loans,
14 or loan guarantees for purposes described in para-
15 graphs (1) through (6).

16 “(b) FEDERAL SHARE.—The Federal share of the
17 cost of any project carried out under this section shall not
18 exceed 80 percent, except that the Federal share of a Fed-
19 eral grant, loan, or loan guarantee provided under sub-
20 section (a)(7) may be 100 percent.

21 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
22 is authorized to be appropriated to carry out this section
23 \$50,000,000 for each of fiscal years 2009 through 2013,
24 to remain available until expended.”.

1 (b) CONFORMING AMENDMENT.—The table of con-
2 tents contained in section 1(b) of the Public Works and
3 Economic Development Act of 1965 (42 U.S.C. 3141 et
4 seq.) is amended by inserting after the item relating to sec-
5 tion 218 the following:

“Sec. 219. Economic Development Climate Change Fund.”.

6 **SEC. 157. STUDY OF RISK-BASED PROGRAMS ADDRESSING**
7 **VULNERABLE AREAS.**

8 (a) IN GENERAL.—The Administrator, or the heads
9 of such other Federal agencies as the President may des-
10 ignate, shall conduct a study and, not later than 2 years
11 after the date of enactment of this Act, submit to Con-
12 gress a report regarding risk-based policies and programs
13 addressing vulnerable areas.

14 (b) REQUIREMENTS.—The report shall

15 (1) review and assess Federal predisaster miti-
16 gation, emergency response, and flood insurance
17 policies and programs that affect areas vulnerable to
18 the impacts of climate change;

19 (2) describe strategies for better addressing
20 such vulnerabilities and provide implementation rec-
21 ommendations;

22 (3) assess whether the policies and programs
23 described in paragraph (1) support the State and
24 tribal response and adaptation goals and objectives
25 identified under this Act;

1 (4) identify, and make recommendations to re-
2 solve, inconsistencies in Federal policies and pro-
3 grams in effect as of the date of enactment of this
4 Act that address areas vulnerable to climate change;
5 and

6 (5) identify annual cost savings to the Federal
7 Government associated with the implementation of
8 the strategies and recommendations contained in the
9 report.

10 **SEC. 158. EFFICIENT BUILDINGS PROGRAM.**

11 (a) **IN GENERAL.**—The Administrator shall establish
12 and carry out a program, to be known as the “Efficient
13 Buildings Program”, to achieve greenhouse gas reductions
14 by providing assistance to owners of buildings in the
15 United States as a reward for—

16 (1) constructing highly efficient buildings in the
17 United States; or

18 (2) increasing the efficiency of existing build-
19 ings in the United States.

20 (b) **REQUIREMENTS.**—The Administrator shall pro-
21 vide assistance under this section to owners of buildings
22 in the United States based on the extent to which projects
23 relating to the buildings of the owners result in verifiable,
24 additional, and enforceable improvements in energy per-
25 formance—

1 (1) in new or renovated buildings that dem-
2 onstrate exemplary performance by achieving—

3 (A) a minimum score of 75 on the
4 benchmarking tool of the Energy Star program
5 established by section 324A of the Energy Pol-
6 icy and Conservation Act (42 U.S.C. 6294a); or

7 (B) an equivalent score on an established
8 energy performance benchmarking metric se-
9 lected by the Administrator; and

10 (2) in retrofitted existing buildings that dem-
11 onstrate—

12 (A) substantial improvement in the score
13 or rating on the benchmarking tool described in
14 paragraph (1)(A) by a minimum of 30 points;
15 or

16 (B) an equivalent improvement using an
17 established performance benchmarking metric
18 selected by the Administrator.

19 (c) PRIORITY.—In providing assistance under this
20 section, the Administrator shall give priority to projects—

21 (1) completed by building owners with a proven
22 track record of building energy performance; or

23 (2) that result in measurable greenhouse gas
24 reduction benefits not encompassed within the

1 metrics of the Energy Star program described in
2 subsection (b)(1)(A).

3 **Subtitle F—Energy Efficiency and**
4 **Renewable Energy**

5 **SEC. 161. RENEWABLE ENERGY.**

6 (a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

14 (1) submitted by States with a binding renew-
15 able portfolio standard;

16 (2) cost-effective in achieving greater renewable
17 energy production in each State.

18 (e) CERTIFICATION.—

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

24 (2) CERTIFICATION.—The Governor shall cer-
25 tify in writing within 30 days of receipt of the Ad-

1 administrator's notification described in subsection (1)
2 that the project application—

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

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

10 (f) RULEMAKING.—

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

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

20 (A) promulgate final regulations to carry
21 out this section; and

22 (B) begin accepting project applications for
23 review.

24 (g) REPORTING.—Not later than 180 days after the
25 date of enactment of this Act, and every 180 days there-

1 after, the Administrator shall submit to the Committee on
2 Energy and Commerce of the House of Representatives
3 and the Committee on Environment and Public Works of
4 the Senate a report specifying, with respect to the pro-
5 gram under this section—

6 (1) the project applications received;

7 (2) the project applications approved;

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

9 and

10 (4) the cumulative benefits of the grant pro-
11 gram.

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

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

19 **SEC. 162. ADVANCED BIOFUELS.**

20 (a) FINDINGS.—Congress finds that—

21 (1) advanced, environmentally sustainable
22 biofuels can help promote a safe, secure, and domes-
23 tic source of low-carbon fuel;

24 (2) such biofuels can—

25 (A) benefit consumers and farmers;

1 (B) assist in maintaining fuel supplies; and

2 (C) help to keep commodity prices afford-
3 able;

4 (3) a coordinated research and development ef-
5 fort is needed to help accelerate commercial-scale de-
6 velopment of advanced, environmentally sustainable
7 biofuels; and

8 (4) facilitating the commercial production of
9 advanced, environmentally sustainable biofuels can
10 help to make the United States a leader in devel-
11 oping new fuel technologies.

12 (b) DEFINITIONS.—In this section:

13 (1) ADVANCED GREEN BIOFUEL.—The term
14 “advanced green biofuel” means an advanced biofuel
15 (as defined in section 211(o)(1) of the Clean Air Act
16 (42 U.S.C. 7545(o)(1))) that the Administrator de-
17 termines—

18 (A) has lifecycle greenhouse gas emissions
19 that are at least 60 percent less than the base-
20 line lifecycle greenhouse gas emissions;

21 (B) is made from advanced renewable bio-
22 mass; and

23 (C) minimizes biorefinery water require-
24 ments to the maximum extent achievable, tak-

1 ing into consideration costs and other appro-
2 priate factors.

3 (2) **ADVANCED RENEWABLE BIOMASS.**—The
4 term “advanced renewable biomass” means renew-
5 able biomass that is produced using sustainable
6 practices, as determined by the Administrator, in
7 consultation with the Secretary of Agriculture, tak-
8 ing into consideration factors such as—

9 (A) the maintenance and enhancement of
10 the quality and productivity of the soil;

11 (B) the conservation of soil, water, energy,
12 natural resources, and fish and wildlife habitat;

13 (C) the maintenance and enhancement of
14 the quality of surface water and groundwater;

15 (D) the protection of the health and safety
16 of individuals involved in the production system;

17 (E) the promotion of the well-being of ani-
18 mals;

19 (F) the increase in employment opportuni-
20 ties in the agricultural sector; and

21 (G) prevention of the introduction of
22 invasive species, including consideration of a re-
23 view by the Invasive Species Council established
24 by Executive Order 13112 (64 Fed. Reg. 6183
25 (February 3, 1999)).

1 (3) PROGRAM.—The term “Program” means
2 the 1,000,000,000-Gallon Challenge Grant Program
3 established under subsection (c)(1).

4 (4) RENEWABLE BIOMASS.—The term “renew-
5 able biomass” has the meaning given the term in
6 section 211(o)(1) of the Clean Air Act (42 U.S.C.
7 7545(o)(1)).

8 (c) 1,000,000,000-GALLON CHALLENGE GRANT
9 PROGRAM.—

10 (1) ESTABLISHMENT.—The Administrator shall
11 establish within the Environmental Protection Agen-
12 cy a program, to be known as the “1,000,000,000-
13 Gallon Challenge Grant Program”, under which the
14 Administrator shall provide grants in accordance
15 with this subsection.

16 (2) APPLICATIONS.—

17 (A) IN GENERAL.—During each calendar
18 year for the period described in subparagraph
19 (B), the Administrator shall solicit applications
20 for grants under the Program from owners and
21 operators of projects that, as determined by the
22 Administrator, have the potential, in the aggre-
23 gate, to produce up to 500,000,000 gallons in
24 annual domestic production capacity of ad-
25 vanced green biofuels.

1 (B) DESCRIPTION OF PERIOD.—The period
2 referred to in subparagraph (A) is the period
3 that—

4 (i) begins on the date of establishment
5 of the Program; and

6 (ii) ends on the date on which, as de-
7 termined by the Administrator, the Pro-
8 gram supports projects that have the po-
9 tential to produce, or are producing, not
10 less than 1,000,000,000 gallons in annual
11 domestic production capacity of advanced
12 green biofuels.

13 (C) ADJUSTMENTS.—

14 (i) DEFINITION OF ADJUSTMENT PE-
15 RIOD.—In this subparagraph, the term
16 “adjustment period” means the period
17 that—

18 (I) begins on the date of estab-
19 lishment of the Program; and

20 (II) ends on the earlier of, as de-
21 termined by the Administrator—

22 (aa) the date on which the
23 Program supports projects that
24 have the potential to produce, or
25 are producing, not less than

1 1,000,000,000 gallons in annual
2 domestic production capacity of
3 advanced green biofuels; and

4 (bb) the date on which the
5 Program achieves the annual do-
6 mestic production capacity tar-
7 gets of the Program.

8 (ii) SOLICITATION OF APPLICA-
9 TIONS.—For any calendar year during the
10 adjustment period for which an application
11 for a grant under the Program is with-
12 drawn, or for which a recipient of a grant
13 under the Program fails to meet the do-
14 mestic production capacity targets of the
15 recipient (as determined by the Adminis-
16 trator), the Administrator shall solicit ad-
17 ditional applications for grants under the
18 Program.

19 (D) APPLICATION POLICY.—The grant so-
20 licitation process of the Program shall provide
21 for, as determined by the Administrator—

22 (i) simplified, standardized, and time-
23 ly solicitation of applications; and

24 (ii) a simplified, standardized funding
25 process that requires—

1 (I) timely receipt and review of
2 applications; and

3 (II) protection of proprietary in-
4 formation provided in applications.

5 (3) TYPES OF GRANTS.—In carrying out the
6 Program, the Administrator shall provide 4 types of
7 grants, as follows:

8 (A) RESEARCH AND DEVELOPMENT
9 GRANTS.—

10 (i) IN GENERAL.—A research and de-
11 velopment grant may be provided under
12 the Program to a project that, as deter-
13 mined by the Administrator, will assist
14 biofuel developers in producing advanced
15 green biofuels by facilitating—

16 (I) the development of tech-
17 nologies to produce advanced green
18 biofuels;

19 (II) the creation of technologies
20 used in facilities that produce ad-
21 vanced green biofuels; or

22 (III) the production of advanced
23 green biofuels, including renewable
24 biomass.

1 (ii) LIMITATION.—The amount of a
2 research and development grant provided
3 under the Program shall not exceed the
4 lesser of—

5 (I) an amount equal to 80 per-
6 cent of the cost of the project; or

7 (II) \$2,000,000.

8 (B) PLANNING GRANTS.—

9 (i) IN GENERAL.—A planning grant
10 may be provided under the Program to a
11 project that, as determined by the Admin-
12 istrator, will assist biofuel developers in
13 producing advanced green biofuels by fa-
14 cilitating the development and finalization
15 of project plans and contracts that dem-
16 onstrate that—

17 (I) the project has the potential
18 for commercial viability; and

19 (II) the project is likely to be
20 operational by not later than 3 years
21 after the date on which the planning
22 grant is provided.

23 (ii) LIMITATION.—The amount of a
24 planning grant provided under the Pro-
25 gram shall not exceed the lesser of—

1 (I) an amount equal to 80 per-
2 cent of the cost of the project; or

3 (II) \$2,000,000.

4 (C) TRANSLATIONAL GRANTS.—

5 (i) IN GENERAL.—A translational
6 grant, which helps to create successful
7 technological innovations and the commer-
8 cial use of those innovations, may be pro-
9 vided under the Program to a project that,
10 as determined by the Administrator will
11 assist biofuel developers in producing ad-
12 vanced green biofuels, including from the
13 development of a basic proof-of-concept for
14 the project to the establishment of a pilot-
15 scale advanced green biofuel production fa-
16 cility through a phased process, as de-
17 scribed in clause (ii).

18 (ii) PHASES.—The phases referred to
19 in clause (i) are the following:

20 (I) PHASE I.—A project shall be
21 considered to be in phase I for pur-
22 poses of this subparagraph if the pur-
23 pose of the project is to determine the
24 scientific and technical merit and fea-
25 sibility of ideas that appear to have

1 commercial potential, as described in
2 subclause (II).

3 (II) PHASE II.—A project shall
4 be considered to be in phase II for
5 purposes of this subparagraph if the
6 purpose of the project is to advance
7 the development of a project that
8 meets particular Program needs,
9 based on the scientific and technical
10 merit and feasibility demonstrated in
11 the application for the project (as evi-
12 denced by phase I of the project), tak-
13 ing into consideration, among other
14 things, the commercial potential of the
15 project, as evidenced by—

16 (aa) the record of success of
17 the applicable biofuel developer in
18 commercializing the results of re-
19 search;

20 (bb) the existence of phase
21 II-appropriate funding commit-
22 ments from the private sector or
23 a funding source other than the
24 Program;

1 (cc) the existence of commit-
2 ments for phase III of the
3 project; and

4 (dd) the presence of other
5 indicators of the commercial po-
6 tential of the project.

7 (III) PHASE III.—A project shall
8 be considered to be in phase III for
9 purposes of this clause if—

10 (aa) the project has com-
11 pleted phases I and II; and

12 (bb) commercial application
13 of, or the continuation of work
14 on, the project will be funded by
15 the private sector or a funding
16 source other than the Program.

17 (iii) LIMITATION.—The amount of a
18 translational grant provided under the Pro-
19 gram shall not exceed the lesser of—

20 (I) an amount equal to 80 per-
21 cent of the cost of the project; or

22 (II) \$8,000,000.

23 (D) CONSTRUCTION GRANTS.—

24 (i) IN GENERAL.—A construction
25 grant may be provided under the Program

1 to a project that, as determined by the Ad-
2 ministrator—

3 (I) will assist biofuel developers
4 in producing advanced green biofuels
5 by paying construction costs and
6 other costs;

7 (II) demonstrates the potential
8 for commercial success; and

9 (III) will commence construction
10 by not later than 1 year after the date
11 on which the construction grant is
12 provided.

13 (ii) LIMITATION.—The amount of a
14 construction grant provided under the Pro-
15 gram shall not exceed an amount equal to
16 60 percent of the cost of the project.

17 (4) SELECTION.—

18 (A) RESEARCH AND DEVELOPMENT
19 GRANTS.—In evaluating applications for re-
20 search and development grants under the Pro-
21 gram, the Administrator shall take into consid-
22 eration—

23 (i) the potential of a project for com-
24 mercial viability;

1 (ii) the potential of the project to pro-
2 vide environmental and public health bene-
3 fits;

4 (iii) the potential of the project to use
5 existing fuel delivery and distribution sys-
6 tems; and

7 (iv) such other factors as the Admin-
8 istrator determines to be appropriate.

9 (B) PLANNING GRANTS.—In evaluating ap-
10 plications for planning grants under the Pro-
11 gram, the Administrator shall take into consid-
12 eration—

13 (i) the potential of a project for com-
14 mercial viability;

15 (ii) the potential of the project to pro-
16 vide environmental and public health bene-
17 fits;

18 (iii) the potential of the project to use
19 existing fuel delivery and distribution sys-
20 tems;

21 (iv) the scalability of the project; and

22 (v) such other factors as the Adminis-
23 trator determines to be appropriate.

24 (C) TRANSLATIONAL GRANTS.—In evalu-
25 ating applications for translational grants under

1 the Program, the Administrator shall take into
2 consideration—

3 (i) the potential of a project for com-
4 mercial viability;

5 (ii) the potential of the project to pro-
6 vide environmental and public health bene-
7 fits;

8 (iii) the potential of the project to use
9 existing fuel delivery and distribution sys-
10 tems;

11 (iv) the scalability of the project; and

12 (v) such other factors as the Adminis-
13 trator determines to be appropriate.

14 (D) CONSTRUCTION GRANTS.—In evalu-
15 ating applications for construction grants under
16 the Program, the Administrator shall take into
17 consideration—

18 (i) the potential of a project for com-
19 mercial success;

20 (ii) the potential of the project to pro-
21 vide environmental and public health bene-
22 fits;

23 (iii) the potential of the project to use
24 existing fuel delivery and distribution sys-
25 tems;

- 1 (iv) the scalability of the project;
- 2 (v) the readiness of the project to
- 3 commence construction by not later than 1
- 4 year after the date on which the construc-
- 5 tion grant is provided; and
- 6 (vi) such other factors as the Admin-
- 7 istrator determines to be appropriate.

8 (E) EXERCISE OF DISCRETION IN FUND-

9 ING PROJECTS.—The Administrator shall not

10 exclude an application from consideration under

11 this paragraph solely on the basis that the

12 project that is the subject of the application

13 uses, or proposes to use, any item described in

14 section 211(o)(1)(I) of the Clean Air Act (42

15 U.S.C. 7545(o)(1)(I)).

16 (5) COORDINATION WITH COMPLEMENTARY

17 PROGRAMS.—

18 (A) DEFINITION OF COMPLEMENTARY

19 PROGRAM.—In this paragraph, the term “com-

20plementary program” means a grant program

21under any other provision of law (including a

22regulation) under which a recipient of a grant

23under the Program receives, or has the poten-

24tial to receive, funds to assist the project of the

25recipient to achieve environmental performance

1 standards equivalent to, or greater than, the
2 standards required under the Program.

3 (B) EFFECT OF PROGRAM.—

4 (i) IN GENERAL.—A grant provided to
5 a recipient under the Program—

6 (I) shall be provided in addition
7 to any grant provided to the recipient
8 under a complementary program; and

9 (II) shall not be diminished as a
10 result of receipt by the recipient of
11 funds under any complementary pro-
12 gram.

13 (ii) AMOUNT OF OTHER GRANTS.—Re-
14 ceipt of a grant under the Program shall
15 not affect the amount the recipient is oth-
16 erwise eligible to receive under any com-
17plementary program.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section
20 \$500,000,000 for the period of fiscal years 2010 through
21 2014.

22 **SEC. 163. ENERGY EFFICIENCY IN BUILDING CODES.**

23 (a) ENERGY EFFICIENCY TARGETS.—

24 (1) RULEMAKING TO ESTABLISH TARGETS.—

25 The Administrator, or such other agency head or

1 heads as may be designated by the President, in
2 consultation with the Director of the National Insti-
3 tute of Standards and Technology, shall promulgate
4 regulations establishing building code energy effi-
5 ciency targets for the national average percentage
6 improvement of buildings' energy performance. Such
7 regulations shall establish a national building code
8 energy efficiency target for residential buildings and
9 commercial buildings when built to a code meeting
10 the target, beginning not later than January 1, 2014
11 and applicable each calendar year through December
12 31, 2030.

13 (b) NATIONAL ENERGY EFFICIENCY BUILDING
14 CODES.—

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

1 (c) ANNUAL REPORTS.—The Administrator, or such
2 other agency head or heads as may be designated by the
3 President, shall annually submit to Congress, and publish
4 in the Federal Register, a report on—

5 (1) the status of national energy efficiency
6 building codes;

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

9 (3) the implementation of and compliance with
10 regulations promulgated under this section;

11 (4) the status of Federal and State enforcement
12 of building codes; and

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

17 **SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL**
18 **PERFORMANCE.**

19 (a) DEFINITIONS.—In this section:

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

1 United States Housing Act of 1937 (42 U.S.C.
2 1437f), or similar programs.

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

14 (3) OPERATIONS AND MAINTENANCE.—The
15 term “operations and maintenance” means any serv-
16 ice performed by staff within a building to upgrade
17 and maintain the building in order to reduce the en-
18 ergy demand of the building while maintaining or
19 improving building comfort, health, safety, and per-
20 formance.

21 (4) PERFORMANCE-BASED BUILDING RETROFIT
22 PROGRAM.—The term “performance-based building
23 retrofit program” means a program that determines
24 building energy efficiency success based on actual

1 measured savings after a retrofit is complete, as evi-
2 denced by energy invoices or evaluation protocols.

3 (5) PRESCRIPTIVE BUILDING RETROFIT PRO-
4 GRAM.—The term “prescriptive building retrofit pro-
5 gram” means a program that projects building ret-
6 rofit energy efficiency success based on the known
7 effectiveness of measures prescribed to be included
8 in a retrofit.

9 (6) PUBLIC HOUSING.—The term “public hous-
10 ing” means properties receiving assistance under
11 section 9 of the United States Housing Act of 1937
12 (42 U.S.C. 1437g).

13 (7) RECOMMISSIONING;
14 RETROCOMMISSIONING.—The terms “recommis-
15 sioning” and “retrocommissioning” have the mean-
16 ing given those terms in section 543(f)(1) of the Na-
17 tional Energy Conservation Policy Act (42 U.S.C.
18 8253(f)(1)).

19 (8) REEP PROGRAM.—The term “REEP pro-
20 gram” means, collectively, the programs to imple-
21 ment the residential and nonresidential policies
22 based on the standards developed under this section,
23 as described in subsection (b).

24 (9) RESIDENTIAL BUILDING.—The term “resi-
25 dential building” means a building whose primary

1 use is residential. Such buildings shall include sin-
2 gle-family homes (both attached and detached),
3 owner-occupied units in larger buildings with their
4 own dedicated space-conditioning systems, apart-
5 ment buildings, multi-unit condominium buildings,
6 public housing, assisted housing, and buildings used
7 for both residential and nonresidential purposes in
8 which more than half of building floor space is resi-
9 dential.

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

14 (b) ESTABLISHMENT.—The Administrator shall de-
15 velop and implement, in consultation with the Secretary
16 of Energy, standards for a national energy and environ-
17 mental building retrofit policy for single-family and multi-
18 family residences. The Administrator shall develop and
19 implement, in consultation with the Secretary of Energy
20 and the Director of Commercial High-Performance Green
21 Buildings, standards for a national energy and environ-
22 mental building retrofit policy for nonresidential buildings.

23 (c) PURPOSE.—The purpose of the REEP program
24 is to facilitate the retrofitting of existing buildings across
25 the United States to achieve maximum cost-effective en-

1 ergy efficiency improvements and significant improve-
2 ments in water use and other environmental attributes.

3 (d) FEDERAL ADMINISTRATION.—

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

6 (A) the Administrator shall make appro-
7 priate use of existing programs, including the
8 Energy Star program and in particular the En-
9 vironmental Protection Agency Energy Star for
10 Buildings program; and

11 (B) the Administrator shall consult with
12 the Secretary of Energy regarding appropriate
13 use of existing programs, including delegating
14 authority to the Director of Commercial High-
15 Performance Green Buildings appointed under
16 section 421 of the Energy Independence and
17 Security Act of 2007 (42 U.S.C. 17081).

18 (2) CONSULTATION AND COORDINATION.—The
19 Administrator shall consult with and coordinate with
20 the and the Secretary of Energy and the Secretary
21 of Housing and Urban Development in carrying out
22 the REEP program with regard to retrofitting of
23 public housing and assisted housing. As a result of
24 such consultation, the Administrator shall establish
25 standards to ensure that retrofits of public housing

1 and assisted housing funded pursuant to this section
2 are cost-effective, including opportunities to address
3 the potential co-performance of repair and replace-
4 ment needs that may be supported with other forms
5 of Federal assistance. Owners of public housing or
6 assisted housing receiving funding through the
7 REEP program shall agree to continue to provide
8 affordable housing consistent with the provisions of
9 the authorizing legislation governing each program
10 for an additional period commensurate with the
11 funding received, as determined in accordance with
12 guidelines established by the Secretary of Housing
13 and Urban Development.

14 (3) ASSISTANCE.—The Administrator shall pro-
15 vide consultation and assistance to State and local
16 agencies for the establishment of revolving loan
17 funds, loan guarantees, or other forms of financial
18 assistance under this section.

19 (e) STATE AND LOCAL ADMINISTRATION.—

20 (1) DESIGNATION AND DELEGATION.—A State
21 may designate one or more agencies or entities, in-
22 cluding those regulated by the State, to carry out
23 the purposes of this section, but shall designate one
24 entity or individual as the principal point of contact
25 for the Administrator regarding the REEP Pro-

1 gram. The designated State agency, agencies, or en-
2 tities may delegate performance of appropriate ele-
3 ments of the REEP program, upon their request
4 and subject to State law, to counties, municipalities,
5 appropriate public agencies, and other divisions of
6 local government, as well as to entities regulated by
7 the State. In making any such designation or delega-
8 tion, a State shall give priority to entities that ad-
9 minister existing comprehensive retrofit programs,
10 including those under the supervision of State utility
11 regulators. States shall maintain responsibility for
12 meeting the standards and requirements of the
13 REEP program. In any State that elects not to ad-
14 minister the REEP program, a unit of local govern-
15 ment may propose to do so within its jurisdiction,
16 and if the Administrator finds that such local gov-
17 ernment is capable of administering the program,
18 the Administrator may provide assistance to that
19 local government, prorated according to the popu-
20 lation of the local jurisdiction relative to the popu-
21 lation of the State, for purposes of the REEP pro-
22 gram.

23 (2) EMPLOYMENT.—States and local govern-
24 ment entities may administer a REEP program in
25 a manner that authorizes public or regulated inves-

1 tor-owned utilities, building auditors and inspectors,
2 contractors, nonprofit organizations, for-profit com-
3 panies, and other entities to perform audits and ret-
4 rofit services under this section. A State may pro-
5 vide incentives for retrofits without direct participa-
6 tion by the State or its agents, so long as the result-
7 ing savings are measured and verified. A State or
8 local administrator of a REEP program shall seek
9 to ensure that sufficient qualified entities are avail-
10 able to support retrofit activities so that building
11 owners have a competitive choice among qualified
12 auditors, raters, contractors, and providers of serv-
13 ices related to retrofits. Nothing in this section is in-
14 tended to deny the right of a building owner to
15 choose the specific providers of retrofit services to
16 engage for a retrofit project in that owner's building.

17 (3) EQUAL INCENTIVES FOR EQUAL IMPROVE-
18 MENT.—In general, the States should strive to offer
19 the same levels of incentives for retrofits that meet
20 the same efficiency improvement goals, regardless of
21 whether the State, its agency or entity, or the build-
22 ing owner has conducted the retrofit achieving the
23 improvement, provided the improvement is measured
24 and verified.

25 (f) ADMINISTRATION OF INDIAN HOUSING.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Sec-
3 retary of Energy, in consultation with Indian tribes,
4 the Department of Housing and Urban Develop-
5 ment, the Department of the Interior, and the De-
6 partment of Health and Human Services, shall es-
7 tablish a program and promulgate such regulations
8 as are necessary to assist Indian tribes in carrying
9 out energy efficiency retrofit programs in accordance
10 with this section.

11 (2) REVIEW OF EXISTING PROGRAMS.—In car-
12 rying out paragraph (1), to determine the extent to
13 which programs in effect as of the date of enactment
14 of this Act may be used to further the REEP pro-
15 gram for the benefit of Indian tribes, the Secretary
16 of Energy shall review those programs, including—

17 (A) the Weatherization Assistance Pro-
18 gram for Low-Income Persons established
19 under part A of title IV of the Energy Con-
20 servation and Production Act (42 U.S.C. 6861
21 et seq.);

22 (B) programs under the Native American
23 Housing Assistance and Self-Determination Act
24 of 1996 (25 U.S.C. 4101 et seq.);

1 (C) the Housing Improvement Program of
2 the Department of the Interior; and

3 (D) the low-income home energy assistance
4 program established under the Low-Income
5 Home Energy Assistance Act of 1981 (42
6 U.S.C. 8621 et seq.).

7 (g) ELEMENTS OF REEP PROGRAM.—The Adminis-
8 trator, in consultation with the Secretary of Energy, shall
9 establish goals, guidelines, practices, and standards for ac-
10 complishing the purpose stated in subsection (c), and shall
11 annually review and, as appropriate, revise such goals,
12 guidelines, practices, and standards. The program under
13 this section shall include the following:

14 (1) Residential Energy Services Network
15 (RESNET) or Building Performance Institute
16 (BPI) analyst certification of residential building en-
17 ergy and environment auditors, inspectors, and rat-
18 ers, or an equivalent certification system as deter-
19 mined by the Administrator.

20 (2) BPI certification or licensing by States of
21 residential building energy and environmental ret-
22 rofit contractors, or an equivalent certification or li-
23 censing system as determined by the Administrator.

24 (3) BPI or Building Operator Certification or
25 licensing of residential and nonresidential building

1 operators, superintendents, and handypersons, or an
2 equivalent certification or licensing system, as deter-
3 mined by the Administrator.

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

11 (5) Provision of clear and effective materials to
12 describe the testing and retrofit processes for typical
13 buildings.

14 (6) Guidelines for offering and managing pre-
15 scriptive building retrofit programs and perform-
16 ance-based building retrofit programs for residential
17 and nonresidential buildings.

18 (7) Guidelines for applying recommissioning,
19 retrocommissioning, and operations and maintenance
20 principles to continuously improve the energy per-
21 formance of a building.

22 (8) A requirement that building retrofits con-
23 ducted pursuant to a REEP program utilize, espe-
24 cially in all air-conditioned buildings, roofing mate-
25 rials with high solar energy reflectance, unless inap-

1 appropriate due to green roof management, solar en-
2 ergy production, or for other reasons identified by
3 the Administrator, in order to reduce energy con-
4 sumption within the building, increase the albedo of
5 the building's roof, and decrease the heat island ef-
6 fect in the area of the building, without reduction of
7 otherwise applicable ceiling insulation standards.

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

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

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

18 (C) for either residential or nonresidential
19 buildings, use of an Administrator-approved
20 simulation program by a contractor with the
21 appropriate certification, subject to appropriate
22 software standards and verification of at least
23 15 percent of all work done, or such other per-
24 centage as the Administrator may determine.

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

6 (11) Requirements and guidelines for post-ret-
7 rofit inspection and confirmation of work and energy
8 savings.

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

13 (13) Guidance on opportunities for—

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

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

20 (C) completing any applicable building per-
21 formance labels.

22 (14) Sample materials for publicizing the pro-
23 gram to building owners, including public service an-
24 nouncements and advertisements.

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

5 (h) REQUIREMENTS.—As a condition of receiving as-
6 sistance for the REEP program pursuant to this Act, a
7 State or qualifying local government shall—

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

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

23 (3) agree to make 10 percent of assistance re-
24 ceived to carry out this section available on a pref-

1 erential basis for retrofit projects proposed for pub-
2 lic housing and assisted housing, provided that—

3 (A) none of such funds shall be used for
4 demolition of such housing;

5 (B) such retrofits not shall not be used to
6 justify any increase in rents charged to resi-
7 dents of such housing; and

8 (C) owners of such housing shall agree to
9 continue to provide affordable housing con-
10 sistent with the provisions of the authorizing
11 legislation governing each program for an addi-
12 tional period commensurate with the funding
13 received; and

14 (4) the Administrator shall conduct or require
15 each State to have such independent financial audits
16 of REEP-related funding as the Administrator con-
17 siders necessary or appropriate to carry out the pur-
18 poses of this section.

19 (i) **OPTIONS TO SUPPORT REEP PROGRAM.**—The as-
20 sistance provided under this section shall support the im-
21 plementation through State REEP programs of alternate
22 means of creating incentives for, or reducing financial bar-
23 riers to, improved energy and environmental performance
24 in buildings, consistent with this section, including—

1 (1) implementing prescriptive building retrofit
2 programs and performance-based building retrofit
3 programs;

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

6 (3) providing initial capital for public revolving
7 fund financing of retrofits;

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 (j) 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 ministrators. 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 (k) 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 (l) OPERATIONS AND MAINTENANCE.—Notwith-
8 standing any other provision of this section, REEP funds
9 may be used to provide training to building staff relating
10 to energy-efficient operations and maintenance of residen-
11 tial and nonresidential buildings.

12 **SEC. 165. CERTIFIED STOVES PROGRAM.**

13 (a) DEFINITIONS.—In this section:

14 (1) AGENCY.—The term “Agency” means the
15 Environmental Protection Agency.

16 (2) CERTIFIED STOVE.—

17 (A) IN GENERAL.—The term “certified
18 stove” means a wood stove or pellet stove that
19 meets the standards of performance for new
20 residential wood heaters under subpart AAA of
21 part 60 of subchapter C of chapter I of title 40,
22 Code of Federal Regulations (or successor regu-
23 lations), as certified by the Administrator.

24 (B) INCLUSION.—The term “certified
25 stove” includes a pellet stove or fireplace insert

1 that uses pellets for fuel that are exempt from
2 testing by the Administrator but meet the same
3 standards of performance as wood stoves.

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

6 (A) a State, a local government, or a feder-
7 ally recognized Indian tribe;

8 (B) an Alaskan Native village or regional
9 or village corporation (as defined in, or estab-
10 lished under, the Alaskan Native Claims Settle-
11 ment Act (43 U.S.C. 1601 et seq.)); and

12 (C) a nonprofit organization or institution
13 that—

14 (i) represents or provides pollution re-
15 duction or educational services relating to
16 wood smoke minimization to persons, orga-
17 nizations, or communities; or

18 (ii) has, as the principal purpose of
19 the organization or institution, the pro-
20 motion of air quality or energy efficiency.

21 (4) WOOD STOVE OR PELLETT STOVE.—The
22 term “wood stove or pellet stove” means a wood
23 stove, pellet stove, or fireplace insert that uses wood
24 or pellets for fuel.

1 (b) ESTABLISHMENT.—The Administrator shall es-
2 tablish and carry out a program to assist in the replace-
3 ment of wood stoves or pellet stoves that do not meet the
4 standards of performance described in subsection (a)(2)
5 by—

6 (1) requiring that each wood stove or pellet
7 stove sold in the United States on and after the date
8 of enactment of this Act meet the standards of per-
9 formance described in subsection (a)(2);

10 (2) requiring that no wood stove or pellet stove
11 replaced under the program is sold or returned to
12 active service, but that it is instead destroyed and
13 recycled, to the maximum extent practicable;

14 (3) providing funds to an eligible entity to re-
15 place a wood stove or pellet stove that does not meet
16 the standards of performance described in subsection
17 (a)(2) with a certified stove, including funds to pay
18 for—

19 (A) installation of a replacement certified
20 stove; and

21 (B) necessary replacement of or repairs to
22 ventilation, flues, chimneys, or other applicable
23 items necessary for safe installation of a re-
24 placement certified stove;

1 (4) in addition to any funds that may be appro-
2 priated for the program under this section, using ex-
3 isting Federal, State, and local programs and incen-
4 tives, to the maximum extent practicable;

5 (5) prioritizing the replacement of wood stoves
6 or pellet stoves manufactured before July 1, 1990;
7 and

8 (6) carrying out such other activities as the Ad-
9 ministrator determines appropriate to facilitate the
10 replacement of wood stoves or pellet stoves that do
11 not meet the standards of performance described in
12 subsection (a)(2).

13 (c) EPA AUTHORITY TO ACCEPT WOOD STOVE OR
14 PELLET STOVE REPLACEMENT SUPPLEMENTAL ENVI-
15 RONMENTAL PROJECTS.—

16 (1) IN GENERAL.—Notwithstanding sections
17 1301 and 3302 of title 31, United States Code, the
18 Administrator may accept a wood stove or pellet
19 stove replacement supplemental environmental
20 project as part of a settlement of any alleged viola-
21 tion of environmental law if the project—

22 (A) protects human health or the environ-
23 ment;

24 (B) is related to the underlying alleged vio-
25 lation;

1 (C) does not constitute activities that the
2 defendant would otherwise be legally required to
3 perform; and

4 (D) does not provide funds for the staff of
5 the Agency or for contractors to carry out the
6 internal operations of the Agency.

7 (2) CERTIFICATION.—

8 (A) IN GENERAL.—In any settlement
9 agreement regarding an alleged violation of en-
10 vironmental law under which a defendant
11 agrees to perform a wood stove or pellet stove
12 replacement supplemental environmental
13 project, the Administrator shall require the de-
14 fendant to include in the settlement documents
15 a certification under penalty of law that the de-
16 fendant would have agreed to perform a com-
17 parably valued, alternative project other than a
18 wood stove or pellet stove replacement supple-
19 mental environmental project if the Adminis-
20 trator were precluded by law from accepting a
21 wood stove or pellet stove replacement supple-
22 mental environmental project.

23 (B) EFFECT OF OMISSION.—A failure by
24 the Administrator to include the certification

1 described in subparagraph (A) in a settlement
2 agreement shall not—

3 (i) create a cause of action against the
4 United States under the Clean Air Act (42
5 U.S.C. 7401 et seq.) or any other law; or

6 (ii) create a basis for overturning a
7 settlement agreement entered into by the
8 United States.

9 (d) REGULATIONS.—The Administrator may promul-
10 gate such regulations as are necessary to carry out the
11 program established under subsection (b).

12 (e) FUNDING.—

13 (1) AUTHORIZATION OF APPROPRIATIONS.—
14 There are authorized to be appropriated to carry out
15 the program established under subsection (b)
16 \$20,000,000 for the period of fiscal years 2010
17 through 2014.

18 (2) DESIGNATED USE.—Of amounts appro-
19 priated pursuant to this subsection—

20 (A) 25 percent shall be designated for use
21 to carry out the program established under sub-
22 section (b) on land held in trust for the benefit
23 of a federally recognized Indian tribe;

24 (B) 3 percent shall be designated for use
25 to carry out the program in Alaskan Native vil-

1 lages or regional or village corporations (as de-
2 fined in, or established under, the Alaskan Na-
3 tive Claims Settlement Act (43 U.S.C. 1601 et
4 seq.)); and

5 (C) 72 percent shall be designated for use
6 to carry out the program nationwide.

7 (3) REGULATORY PROGRAMS.—

8 (A) IN GENERAL.—No grant or loan pro-
9 vided under subsection (b) shall be used to fund
10 the costs of emission reductions that are man-
11 dated under Federal, State, or local law.

12 (B) MANDATED MEASURES.—For purposes
13 of subparagraph (A), voluntary or elective emis-
14 sion reduction measures shall not be considered
15 mandated, regardless of whether the reductions
16 are included in the implementation plan of a
17 State.

18 **SEC. 166. RENEWABLE FUEL STANDARD.**

19 (a) DEFINITIONS.—Section 211(o)(1) of the Clean
20 Air Act (42 U.S.C. 7545(o)(1)) is amended—

21 (1) in subparagraph (B)(ii)(VII), by striking
22 “cellulosic” and inserting “advanced green”;

23 (2) by striking subparagraph (E);

24 (3) by redesignating subparagraphs (C) and
25 (D) as subparagraphs (D) and (E), respectively; and

1 (III) in the heading of the right
2 column, by striking “**cellulosic**”
3 and inserting “**advanced green**”;

4 (ii) in clause (ii)(III), by striking “cel-
5 lulosic” and inserting “advanced green”;

6 and

7 (iii) in clause (iv)—

8 (I) in the clause heading, by
9 striking “CELLULOSIC” and inserting
10 “ADVANCED GREEN”; and

11 (II) by striking “cellulosic” and
12 inserting “advanced green”;

13 (2) in paragraphs (3)(A), (4)(A), and (4)(B),
14 by striking “cellulosic” each place it appears and in-
15 serting “advanced green”; and

16 (3) in paragraph (7)(D)—

17 (A) in the subparagraph heading, by strik-
18 ing “CELLULOSIC” and inserting “ADVANCED
19 GREEN”; and

20 (B) by striking “cellulosic” each place it
21 appears and inserting “advanced green”.

22 **SEC. 167. TREE PLANTING PROGRAMS.**

23 (a) FINDINGS.—Congress finds that—

24 (1) the utility sector is the largest single source
25 of greenhouse gas emissions in the United States,

1 producing approximately $\frac{1}{3}$ of the emissions of the
2 United States;

3 (2) heating and cooling of homes accounts for
4 nearly 60 percent of residential electricity usage in
5 the United States;

6 (3) shade trees planted in strategic locations
7 can reduce residential cooling costs by as much as
8 30 percent;

9 (4) shade trees are associated with significant
10 clean air benefits;

11 (5) every group of 100 healthy large trees re-
12 moves approximately 300 pounds of air pollution (in-
13 cluding particulate matter and ozone) and approxi-
14 mately 15 tons of carbon dioxide from the air each
15 year;

16 (6) tree cover on private property and on newly
17 developed land has declined since the 1970s, even
18 while emissions from transportation and industry
19 have been rising; and

20 (7) in more than 12 test cities across the
21 United States, increasing urban tree cover has gen-
22 erated between \$2 and \$5 in savings for every dollar
23 invested in such tree planting.

24 (b) DEFINITIONS.—In this section:

1 (1) RETAIL POWER PROVIDER.—The term “re-
2 tail power provider” means any entity authorized
3 under applicable Federal or State law to generate,
4 distribute, or provide retail electricity, natural gas,
5 or fuel oil service.

6 (2) SMALL.—The term “small”, with respect to
7 an office, means a nonresidential building or struc-
8 ture that is—

9 (A) zoned for business purposes; and

10 (B) not more than 20,000 square feet in
11 total area.

12 (3) TREE PLANTING ORGANIZATION.—The term
13 “tree planting organization” means any nonprofit
14 group that exists, in whole or in part—

15 (A) to expand urban and residential tree
16 cover;

17 (B) to distribute trees for planting;

18 (C) to increase awareness of the environ-
19 mental and energy-related benefits of trees;

20 (D) to educate the public regarding proper
21 tree planting, care, and maintenance strategies;

22 or

23 (E) to carry out any combination of the
24 activities described in subparagraphs (A)
25 through (D).

1 (4) TREE SITING GUIDELINES.—The term “tree
2 siting guidelines” means a comprehensive list of
3 science-based measurements outlining—

4 (A) applicable species;

5 (B) the minimum distance required be-
6 tween trees planted pursuant to this section;
7 and

8 (C) the minimum required distance to be
9 maintained between those trees and—

10 (i) building foundations;

11 (ii) air conditioning units;

12 (iii) driveways and walkways;

13 (iv) property fences;

14 (v) preexisting utility infrastructure;

15 (vi) septic systems;

16 (vii) swimming pools; and

17 (viii) other infrastructure, as appro-
18 priate.

19 (c) PURPOSE.—The purpose of this section is to es-
20 tablish a grant program to assist retail power providers
21 in establishing and operating tree planting programs in
22 residential and small office settings—

23 (1) to reduce the peak load demand for elec-
24 tricity from residences and small office buildings

1 during the summer months through direct shading
2 of buildings provided by strategically planted trees;

3 (2) to reduce wintertime demand for energy
4 from residences and small office buildings by—

5 (A) blocking cold winds from reaching
6 those structures;

7 (B) lowering interior temperatures; and

8 (C) driving heating demand;

9 (3) to protect public health by removing harm-
10 ful pollution from the air;

11 (4) to use the natural photosynthetic and tran-
12 spiration process of trees to lower ambient tempera-
13 tures and absorb carbon dioxide, mitigating the ef-
14 fects of climate change;

15 (5) to decrease the amounts of electric bills for
16 residential and small office ratepayers by limiting
17 electricity consumption without reducing benefits;

18 (6) to relieve financial and demand pressure on
19 retail power providers that stems from large peak
20 load energy demand;

21 (7) to protect water quality and public health
22 by reducing stormwater runoff and keeping harmful
23 pollutants from entering waterways; and

1 (8) to ensure that trees are planted in locations
2 that limit the amount of public funds required to
3 maintain public and electric infrastructure.

4 (d) ASSISTANCE PROGRAM.—

5 (1) IN GENERAL.—The Administrator may pro-
6 vide financial, technical, and related assistance to el-
7 igible retail power providers to assist in establishing
8 new, or operating existing, tree planting programs
9 for residences and small office buildings.

10 (2) PUBLIC RECOGNITION INITIATIVE.—In car-
11 rying out this section, the Administrator shall estab-
12 lish a national public recognition initiative to encour-
13 age participation in tree planting programs by retail
14 power providers.

15 (3) ELIGIBILITY.—Only tree planting programs
16 that use targeted, strategic tree siting guidelines to
17 plant trees in relation to building location, sunlight,
18 and prevailing wind direction shall be eligible to re-
19 ceive assistance under this section.

20 (4) REQUIREMENTS.—To be eligible to receive
21 assistance under this section, a tree planting pro-
22 gram shall—

23 (A) provide free or discounted shade-pro-
24 viding or wind-reducing trees to residential and

1 small office consumers interested in lowering
2 energy costs;

3 (B) optimize the electricity consumption
4 reduction benefit of each tree by planting in
5 strategic locations around a given residence or
6 small office;

7 (C)(i) provide a maximum quantity of
8 shade during summer intervals, when residences
9 and small offices are exposed to the most sun
10 intensity; or

11 (ii) provide a maximum quantity of wind
12 protection during fall and winter intervals,
13 when residences and small offices are exposed
14 to the most wind intensity;

15 (D) use the best available science to create
16 tree siting guidelines that establish where opti-
17 mum tree species are best planted in locations
18 that achieve maximum reductions in consumer
19 energy demand while causing the least disrup-
20 tion to public infrastructure, taking into consid-
21 eration overhead and underground facilities;
22 and

23 (E) be certified by the Administrator, in
24 collaboration with the head of the Urban and
25 Community Forestry Program of the Forest

1 Service, as designed to achieve the goals de-
2 scribed in subparagraphs (A) through (D).

3 (5) NEW PROGRAM FUNDING SHARE.—Not less
4 than 30 percent of the amounts made available to
5 carry out this section shall be distributed to retail
6 power providers that—

7 (A) have not previously established or op-
8 erated qualified tree planting programs; or

9 (B) are operating qualified tree planting
10 programs established not more than 3 years be-
11 fore the date of enactment of this Act.

12 (e) AGREEMENTS BETWEEN ELECTRICITY PRO-
13 VIDERS AND TREE PLANTING ORGANIZATIONS.—

14 (1) IN GENERAL.—In providing assistance
15 under this section, the Administrator may award
16 grants only to retail power providers that have en-
17 tered into binding legal agreements with tree plant-
18 ing organizations.

19 (2) CONDITIONS OF AGREEMENT.—An agree-
20 ment under paragraph (1) shall establish the condi-
21 tions under which the tree planting organization
22 shall provide a tree planting program, including a
23 requirement that the tree planting organization
24 shall—

1 (A) participate in local technical advisory
2 committees responsible for drafting general tree
3 siting guidelines and choosing the most effective
4 species of trees to plant in given locations;

5 (B) coordinate volunteer recruitment to as-
6 sist with the physical act of planting trees in
7 residential locations;

8 (C) carry out public awareness campaigns
9 to educate local residents regarding the bene-
10 fits, cost savings, and availability of free shade
11 trees;

12 (D) establish education and information
13 campaigns to encourage recipients to maintain
14 shade trees over the long term;

15 (E) serve as the point of contact for exist-
16 ing and potential residential participants who
17 have questions or concerns regarding the tree
18 planting program;

19 (F) require tree recipients to sign agree-
20 ments committing to voluntary stewardship and
21 care of provided trees;

22 (G) monitor and report on the survival,
23 growth, overall health, and estimated energy
24 savings of provided trees throughout the initial

1 establishment period of the tree planting pro-
2 gram, which shall be not less than 5 years; and

3 (H) ensure that—

4 (i) trees planted near existing power
5 lines will not interfere with energized elec-
6 tricity distribution lines when mature; and

7 (ii) no new trees will be planted under
8 or adjacent to high-voltage electric trans-
9 mission lines without prior consultation
10 with the applicable retail power provider
11 receiving assistance under this section.

12 (3) LACK OF NONPROFIT ORGANIZATION.—If
13 no tree planting organization exists or operates with-
14 in an area served by a retail power provider applying
15 for assistance under this section, the requirements of
16 this subsection shall apply to a binding legal agree-
17 ment entered into by the retail power providers and
18 1 or more of—

19 (A) a local municipal government with ju-
20 risdiction over the applicable urban or suburban
21 forest;

22 (B) the State forester for the State in
23 which the tree planting program will operate;

1 (C) the Urban and Community Forestry
2 representative for the State in which the tree
3 planting program will operate; or

4 (D) a landscaping services company that
5 is—

6 (i) identified in consultation with a
7 national or State nonprofit tree planting
8 organization;

9 (ii) licensed to operate in the State in
10 which the tree planting program will oper-
11 ate; and

12 (iii) a business (as defined in 2007
13 North American Industry Classification
14 System Code 561730 of the United States
15 Census Bureau).

16 (f) TECHNICAL ADVISORY COMMITTEES.—

17 (1) IN GENERAL.—To be eligible to receive as-
18 sistance under this section, a retail power provider
19 shall establish and consult with a local technical ad-
20 visory committee, which—

21 (A) shall provide advice and consultation
22 to the program; and

23 (B) may—

24 (i) design and adopt an approved
25 plant list that emphasizes the use of hardy,

1 noninvasive tree species and, where geo-
2 graphically appropriate, the use of native
3 (or site-adapted) or low water-use shade
4 trees;

5 (ii) design and adopt planting, instal-
6 lation, and maintenance specifications and
7 establish a process for inspection and qual-
8 ity control;

9 (iii) ensure that tree recipients are
10 educated to care for and maintain trees
11 over the long term;

12 (iv) help the public become more en-
13 gaged and educated in the planting and
14 care of shade trees;

15 (v) prioritize the sites that will receive
16 trees, giving preference to locations with
17 the highest potential for energy conserva-
18 tion and secondary preference to areas in
19 which the average annual income is below
20 the regional median; and

21 (vi) assist with monitoring and collec-
22 tion of data on tree health, tree survival,
23 and energy conservation benefits generated
24 under this section.

1 (2) COMPENSATION.—An individual serving on
2 a local technical advisory committee under this sub-
3 section shall not receive compensation for that serv-
4 ice.

5 (3) COMPOSITION.—Each local technical advi-
6 sory committee under this subsection shall be com-
7 posed of representatives of public, private, and non-
8 governmental agencies with expertise regarding de-
9 mand-side energy efficiency management, urban for-
10 estry, or arboriculture, including—

11 (A) not more than 4, and not less than 1,
12 individuals representing the retail power pro-
13 vider receiving assistance under this section;

14 (B) not more than 4, and not less than 1,
15 individuals representing the local tree planting
16 organization that will partner with the retail
17 power provider to carry out this section;

18 (C)(i) not more than 3 individuals rep-
19 resenting local nonprofit conservation or envi-
20 ronmental organizations, with preference given
21 to entities that—

22 (I) are described in section 501(c)(3)
23 of the Internal Revenue Code of 1986; and

24 (II) have demonstrated expertise en-
25 gaging the public in energy conservation,

1 energy efficiency, or green building prac-
2 tices (or a combination thereof); but

3 (ii) not more than 1 individual rep-
4 resenting each organization described in clause
5 (i);

6 (D) not more than 2 individuals rep-
7 resenting a local affordable housing agency, af-
8 fordable housing builder, or community develop-
9 ment corporation;

10 (E) not more than 3, and not less than 1,
11 individuals representing the local city or county
12 government for each municipality in which a
13 shade tree planting program will take place, at
14 least 1 of whom shall be the city or county for-
15 ester, city or county arborist, or functional
16 equivalent;

17 (F) not more than 1 individual rep-
18 resenting the local government agency respon-
19 sible for management of roads, sewers, and in-
20 frastructure, including public works depart-
21 ments, transportation agencies, or equivalent
22 entities;

23 (G) not more than 3 individuals rep-
24 resenting the nursery and landscaping industry;
25 and

1 (H) not more than 3 individuals rep-
2 resenting the research community or academia,
3 with expertise regarding natural resources or
4 energy management issues.

5 (4) CHAIRPERSON.—Each local technical advi-
6 sory committee shall elect, from the members de-
7 scribed in subparagraph (A) or (B) of paragraph
8 (3), a chairperson, who shall—

9 (A) preside over committee meetings;

10 (B) act as a liaison to governmental and
11 other entities; and

12 (C) direct the general operation of the
13 committee.

14 (5) CREDENTIALS.—At least 1 member of each
15 local technical advisory committee shall be certified
16 with 1 or more of the following credentials:

17 (A) International Society of Arboriculture.

18 (B) Certified Arborist, ISA.

19 (C) Certified Arborist Municipal Specialist,
20 ISA.

21 (D) Certified Arborist Utility Specialist,
22 ISA.

23 (E) Board Certified Master Arborist.

1 (F) Registered Landscape Architect rec-
2 ommended by the American Society of Land-
3 scape Architects.

4 (g) COST SHARING.—

5 (1) FEDERAL SHARE.—The Federal share of
6 the cost of a project under this section shall be not
7 more than 50 percent.

8 (2) NON-FEDERAL SHARE.—The non-Federal
9 share of the cost of a project under this section may
10 be paid by any entity from any funds not derived di-
11 rectly or indirectly from an agency or instrumen-
12 tality of the United States.

13 (h) RULEMAKING.—

14 (1) RULEMAKING PERIOD.—The Administrator
15 may solicit comments and initiate a rulemaking pe-
16 riod of not more than 2 years after the date of en-
17 actment of this section.

18 (2) COMPETITIVE GRANT RULE.—At the conclu-
19 sion of the rulemaking period under paragraph (1),
20 the Administrator shall promulgate a rule governing
21 a public, competitive grant process through which
22 retail power providers may apply for assistance
23 under this section.

24 (i) NONDUPLICITY.—Nothing in this section super-
25 sedes, duplicates, cancels, or negates any program or au-

1 thority under section 9 of the Cooperative Forestry Assist-
2 ance Act of 1978 (16 U.S.C. 2105).

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

6 **Subtitle G—Emission Reductions**
7 **From Public Transportation Ve-**
8 **hicles**

9 **SEC. 171. SHORT TITLE.**

10 This subtitle may be cited as the “Green Taxis Act
11 of 2009”.

12 **SEC. 172. STATE FUEL ECONOMY REGULATION FOR TAXI-**
13 **CABS.**

14 Section 32919 of title 49, United States Code, is
15 amended by adding at the end the following new sub-
16 section:

17 “(d) TAXICABS.—Notwithstanding subsection (a), a
18 State or political subdivision of a State may prescribe re-
19 quirements for fuel economy for taxicabs and other auto-
20 mobiles if such requirements are at least as stringent as
21 applicable Federal requirements and if such taxicabs and
22 other automobiles—

23 “(1) are automobiles that are capable of trans-
24 porting not more than 10 individuals, including the
25 driver;

1 “(2) are commercially available or are designed
2 and manufactured pursuant to a contract with such
3 State or political subdivision of such State;

4 “(3) are operated for hire pursuant to an oper-
5 ating or regulatory license, permit, or other author-
6 ization issued by such State or political subdivision
7 of such State;

8 “(4) provide local transportation for a fare de-
9 termined on the basis of the time or distance trav-
10 eled or a combination of time and distance traveled;
11 and

12 “(5) do not exclusively provide transportation to
13 and from airports.”.

14 **SEC. 173. STATE REGULATION OF MOTOR VEHICLE EMIS-**
15 **SIONS FOR TAXICABS.**

16 Section 209 of the Clean Air Act (42 U.S.C. 7543)
17 is amended by adding at the end the following new sub-
18 section:

19 “(f) TAXICABS.—(1) Notwithstanding subsection (a),
20 a State or political subdivision thereof may adopt and en-
21 force standards for the control of emissions from new
22 motor vehicles that are taxicabs and other vehicles if such
23 standards will be, in the aggregate, at least as protective
24 of public health and welfare as applicable Federal stand-
25 ards and if such taxicabs and other vehicles—

1 “(A) are passenger motor vehicles that are
2 capable of transporting not more than 10 indi-
3 viduals, including the driver;

4 “(B) are commercially available or are de-
5 signed and manufactured pursuant to a con-
6 tract with such State or political subdivision
7 thereof;

8 “(C) are operated for hire pursuant to an
9 operating or regulatory license, permit, or other
10 authorization issued by such State or political
11 subdivision thereof;

12 “(D) provide local transportation for a fare
13 determined on the basis of the time or distance
14 traveled or a combination of time and distance
15 traveled; and

16 “(E) do not exclusively provide transpor-
17 tation to and from airports.

18 “(2) If each standard of a State or political subdivi-
19 sion thereof is at least as stringent as the comparable ap-
20 plicable Federal standard, such standard of such State or
21 political subdivision thereof shall be deemed at least as
22 protective of health and welfare as such Federal standards
23 for purposes of this subsection.”.

1 **Subtitle H—Clean Energy and**
2 **Natural Gas**

3 **SEC. 181. CLEAN ENERGY AND ACCELERATED EMISSION**
4 **REDUCTION PROGRAM.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—The Administrator shall es-
7 tablish a program to promote dispatchable power
8 generation projects that can accelerate the reduction
9 of power sector carbon dioxide and other greenhouse
10 gas emissions.

11 (2) USE OF FUNDS.—Funds provided under
12 this section shall be used by the Administrator to
13 make incentive payments to owners or operators of
14 eligible projects.

15 (b) REGULATIONS.—Not later than 90 days after the
16 date of enactment of this Act, the Administrator shall pro-
17 mulgate regulations providing for incentives, pursuant to
18 the requirements of this section.

19 (c) GOAL.—Not later than 3 years after the date of
20 enactment of this Act, the Administrator shall provide in-
21 centives for eligible projects that generate 300,000
22 gigawatt-hours of electricity per year.

23 (d) CRITERIA FOR ELIGIBLE PROJECTS.—To be eli-
24 gible for funding under this section a project must—

1 (1) reduce emissions below the 2007 average
2 greenhouse gas emissions per megawatt-hour of the
3 United States electric power sector by the quantity
4 specified in subsection (f); and

5 (2) not receive an investment or production
6 credit in—

7 (A) the year in which the project is placed
8 in service; or

9 (B) calendar year 2009, notwithstanding
10 the year in which the project was placed in
11 service.

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

14 (1) Power generation projects designed to inte-
15 grate intermittent renewable power into the bulk-
16 power system.

17 (2) Energy storage projects used to support re-
18 newable energy.

19 (3) Power generation projects with carbon cap-
20 ture and sequestration that are not eligible for other
21 assistance under this Act.

22 (4) Projects that achieve the greatest reduction
23 in greenhouse gas emissions per dollar of incentive
24 payment.

1 (f) EMISSION REDUCTION CRITERIA.—For the pur-
 2 poses of subsection (d), the applicable emission reduction
 3 quantity shall be determined in accordance with the fol-
 4 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

5 (g) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to the Administrator
 7 such sums as are necessary to carry out this section for
 8 each of fiscal years 2010 through 2030.

9 **SEC. 182. ADVANCED NATURAL GAS TECHNOLOGIES.**

10 (a) DEFINITIONS.—In this section:

11 (1) CORPORATION.—

12 (A) IN GENERAL.—The term “corpora-
 13 tion” means any corporation, joint-stock com-
 14 pany, partnership, limited liability company, as-
 15 sociation, business trust, or other organized
 16 group of persons, regardless of incorporation.

17 (B) EXCLUSION.—The term “corporation”
 18 does not include a municipality.

19 (2) ELIGIBLE ENTITY.—

20 (A) IN GENERAL.—The term “eligible enti-
 21 ty” means an entity that is eligible to receive a
 22 grant under subsection (b).

1 (B) INCLUSIONS.—The term “eligible enti-
2 ty” includes a corporation, an eligible research
3 entity, an industry entity, a municipality, a mu-
4 nicipal natural gas distribution system, and a
5 natural gas distribution company.

6 (3) ELIGIBLE RESEARCH ENTITY.—

7 (A) IN GENERAL.—The term “eligible re-
8 search entity” means an entity that is experi-
9 enced in planning, conducting, and imple-
10 menting natural gas research, development,
11 demonstration, and deployment projects.

12 (B) INCLUSIONS.—The term “eligible re-
13 search entity” includes a research institution
14 and an institution of higher education.

15 (4) INDUSTRY ENTITY.—

16 (A) IN GENERAL.—The term “industry en-
17 tity” means the persons and municipalities col-
18 lectively engaged in the delivery of natural gas
19 for consumption in the United States (such as
20 natural gas distribution companies and munic-
21 ipal natural gas distribution systems).

22 (B) EXCLUSION.—The term “industry en-
23 tity” does not include any natural gas cus-
24 tomer.

1 (5) MUNICIPALITY.—The term “municipality”
2 means a city, county, or other political subdivision or
3 agency of a State.

4 (6) MUNICIPAL NATURAL GAS DISTRIBUTION
5 SYSTEM.—The term “municipal natural gas distribu-
6 tion system” means a municipality engaged in the
7 business of delivering natural gas for consumption to
8 residential, commercial, industrial, and other natural
9 gas customers.

10 (7) NATURAL GAS.—

11 (A) IN GENERAL.—The term “natural
12 gas” means a mixture of hydrocarbon and non-
13 hydrocarbon gases, primarily methane, that
14 have been produced from geological formations
15 or by any other means.

16 (B) INCLUSION.—The term “natural gas”
17 includes renewable biogas.

18 (8) NATURAL GAS DISTRIBUTION COMPANY.—
19 The term “natural gas distribution company” means
20 a person engaged in the business of distributing nat-
21 ural gas for consumption to residential, commercial,
22 industrial, or other natural gas customers.

23 (b) GRANT PROGRAMS.—

24 (1) NATURAL GAS ELECTRICITY GENERATION
25 GRANTS.—The Administrator, in consultation with

1 Secretary of Energy, may provide to eligible entities
2 research and development grants to support the de-
3 ployment of low greenhouse-gas-emitting end-use
4 technologies, including carbon capture and seques-
5 tration technologies, for natural gas electricity gen-
6 eration.

7 (2) NATURAL GAS RESIDENTIAL AND COMMER-
8 CIAL TECHNOLOGY GRANTS.—The Administrator
9 shall establish a program to provide to eligible enti-
10 ties grants to advance the commercial demonstration
11 or early development of low greenhouse-gas-emitting
12 end-use technologies fueled by natural gas, including
13 carbon capture and storage, for residential and com-
14 mercial purposes, through research, development,
15 demonstration, and deployment of those tech-
16 nologies.

17 (c) REPORTING.—Not later than 180 days after the
18 date of enactment of this Act, and every 180 days there-
19 after, the Secretary of Energy shall submit to the Com-
20 mittee on Energy and Commerce of the House of Rep-
21 resentatives and the Senate Committees on Energy and
22 Natural Resources and Environment and Public Works of
23 the Senate a report that describes the status and results
24 of activities carried out under subsection (b).

1 (d) AUTHORIZATION.—There are authorized to be ap-
2 propriated such sums as are necessary to carry out this
3 section.

4 **TITLE II—RESEARCH**
5 **Subtitle A—Energy Research**

6 **SEC. 201. ADVANCED ENERGY RESEARCH.**

7 (a) IN GENERAL.—The Administrator shall establish
8 a program to provide grants for advanced energy research.

9 (b) DISTRIBUTION.—The Administrator shall dis-
10 tribute grants on a competitive basis to institutions of
11 higher education, companies, research foundations, trade
12 and industry research collaborations, or consortia of such
13 entities, or other appropriate research and development
14 entities.

15 (c) SELECTION OF PROPOSALS.—In selecting pro-
16 posals for funding under this section, the Administrator
17 shall prioritize applications that—

18 (1) enhance the economic and energy security
19 of the United States through the development of en-
20 ergy technologies that result in—

21 (A) reductions of imports of energy from
22 foreign sources;

23 (B) reductions of energy-related emissions,
24 including greenhouse gases; and

1 (C) improvements in the energy efficiency
2 of all economic sectors; and

3 (2) ensure that the United States maintains a
4 technological lead in developing and deploying ad-
5 vanced energy technologies.

6 (d) RESPONSIBILITIES.—The Administrator shall be
7 responsible for assessing the success of programs and ter-
8 minating programs carried out under this section that are
9 not achieving the goals of the programs.

10 (e) ASSISTANCE.—Assistance provided under this
11 section shall be used to supplement, and not to supplant,
12 any other Federal resources available to carry out activi-
13 ties described in this section.

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

17 **Subtitle B—Drinking Water Adap-**
18 **tation, Technology, Education,**
19 **and Research**

20 **SEC. 211. EFFECTS OF CLIMATE CHANGE ON DRINKING**
21 **WATER UTILITIES.**

22 (a) FINDINGS.—Congress finds that—

23 (1) the consensus among climate scientists is
24 overwhelming that climate change is occurring more
25 rapidly than can be attributed to natural causes, and

1 that significant impacts to the water supply are al-
2 ready occurring;

3 (2) among the first and most critical of those
4 impacts will be change to patterns of precipitation
5 around the world, which will affect water availability
6 for the most basic drinking water and domestic
7 water needs of populations in many areas of the
8 United States;

9 (3) drinking water utilities throughout the
10 United States, as well as those in Europe, Australia,
11 and Asia, are concerned that extended changes in
12 precipitation will lead to extended droughts;

13 (4) supplying water is highly energy-intensive
14 and will become more so as climate change forces
15 more utilities to turn to alternative supplies;

16 (5) energy production consumes a significant
17 percentage of the fresh water resources of the
18 United States;

19 (6) since 2003, the drinking water industry of
20 the United States has sponsored, through a non-
21 profit water research foundation, various studies to
22 assess the impacts of climate change on drinking
23 water supplies;

24 (7) those studies demonstrate the need for a
25 comprehensive program of research into the full

1 range of impacts on drinking water utilities, includ-
2 ing impacts on water supplies, facilities, and cus-
3 tomers;

4 (8) that nonprofit water research foundation is
5 also coordinating internationally with other drinking
6 water utilities on shared research projects and has
7 hosted international workshops with counterpart Eu-
8 ropean and Asian water research organizations to
9 develop a unified research agenda for applied re-
10 search on adaptive strategies to address climate
11 change impacts;

12 (9) research data in existence as of the date of
13 enactment of this Act—

14 (A) summarize the best available scientific
15 evidence on climate change;

16 (B) identify the implications of climate
17 change for the water cycle and the availability
18 and quality of water resources; and

19 (C) provide general guidance on planning
20 and adaptation strategies for water utilities;
21 and

22 (10) given uncertainties about specific climate
23 changes in particular areas, drinking water utilities
24 need to prepare for a wider range of likely possibili-
25 ties in managing and delivery of water.

1 (b) IN GENERAL.—The Administrator, in cooperation
2 with the Secretary of Commerce, the Secretary of Energy,
3 and the Secretary of the Interior, shall establish and pro-
4 vide funding for a program of directed and applied re-
5 search, to be conducted through a nonprofit drinking
6 water research foundation and sponsored by water utili-
7 ties, to assist the utilities in adapting to the effects of cli-
8 mate change.

9 (c) RESEARCH AREAS.—The research conducted in
10 accordance with subsection (b) shall include research
11 into—

12 (1) water quality impacts and solutions, includ-
13 ing research—

14 (A) to address probable impacts on raw
15 water quality resulting from—

16 (i) erosion and turbidity from extreme
17 precipitation events;

18 (ii) watershed vegetation changes; and

19 (iii) increasing ranges of pathogens,
20 algae, and nuisance organisms resulting
21 from warmer temperatures; and

22 (B) on mitigating increasing damage to
23 watersheds and water quality by evaluating ex-
24 treme events, such as wildfires and hurricanes,

1 to learn and develop management approaches to
2 mitigate—

3 (i) permanent watershed damage;

4 (ii) quality and yield impacts on
5 source waters; and

6 (iii) increased costs of water treat-
7 ment;

8 (2) impacts on groundwater supplies from car-
9 bon sequestration, including research to evaluate po-
10 tential water quality consequences of carbon seques-
11 tration in various regional aquifers, soil conditions,
12 and mineral deposits;

13 (3) water quantity impacts and solutions, in-
14 cluding research—

15 (A) to evaluate climate change impacts on
16 water resources throughout hydrological basins
17 of the United States;

18 (B) to improve the accuracy and resolution
19 of climate change models at a regional level;

20 (C) to identify and explore options for in-
21 creasing conjunctive use of aboveground and
22 underground storage of water; and

23 (D) to optimize operation of existing and
24 new reservoirs in diminished and erratic periods
25 of precipitation and runoff;

1 (4) infrastructure impacts and solutions for
2 water treatment and wastewater treatment facilities
3 and underground pipelines, including research—

4 (A) to evaluate and mitigate the impacts of
5 sea level rise on—

6 (i) near-shore facilities;

7 (ii) soil drying and subsidence;

8 (iii) reduced flows in water and waste-
9 water pipelines; and

10 (iv) extreme flows in wastewater sys-
11 tems; and

12 (B) on ways of increasing the resilience of
13 existing infrastructure, planning cost-effective
14 responses to adapt to climate change, and de-
15 veloping new design standards for future infra-
16 structure that include the use of energy con-
17 servation measures and renewable energy in
18 new construction to the maximum extent prac-
19 ticable;

20 (5) desalination, water reuse, and alternative
21 supply technologies, including research—

22 (A) to improve and optimize existing mem-
23 brane technologies, and to identify and develop
24 breakthrough technologies, to enable the use of

1 seawater, brackish groundwater, treated waste-
2 water, and other impaired sources;

3 (B) into new sources of water through
4 more cost-effective water treatment practices in
5 recycling and desalination; and

6 (C) to improve technologies for use in—

7 (i) managing and minimizing the vol-
8 ume of desalination and reuse concentrate
9 streams; and

10 (ii) minimizing the environmental im-
11 pacts of seawater intake at desalination fa-
12 cilities;

13 (6) energy efficiency and greenhouse gas mini-
14 mization, including research—

15 (A) on optimizing the energy efficiency of
16 water supply and wastewater operations and
17 improving water efficiency in energy production
18 and management; and

19 (B) to identify and develop renewable, car-
20 bon-neutral energy options for the water supply
21 and wastewater industry;

22 (7) regional and hydrological basin cooperative
23 water management solutions, including research
24 into—

1 (A) institutional mechanisms for greater
2 regional cooperation and use of water ex-
3 changes, banking, and transfers; and

4 (B) the economic benefits of sharing risks
5 of shortage across wider areas;

6 (8) utility management, decision support sys-
7 tems, and water management models, including re-
8 search—

9 (A) into improved decision support systems
10 and modeling tools for use by water utility
11 managers to assist with increased water supply
12 uncertainty and adaptation strategies posed by
13 climate change;

14 (B) to provide financial tools, including
15 new rate structures, to manage financial re-
16 sources and investments, because increased con-
17 servation practices may diminish revenue and
18 increase investments in infrastructure; and

19 (C) to develop improved systems and mod-
20 els for use in evaluating—

21 (i) successful alternative methods for
22 conservation and demand management;
23 and

24 (ii) climate change impacts on
25 groundwater resources;

1 (9) reducing greenhouse gas emissions and im-
2 proving energy demand management, including re-
3 search to improve energy efficiency in water collec-
4 tion, production, transmission, treatment, distribu-
5 tion, and disposal to provide more sustainability and
6 means to assist drinking water utilities in reducing
7 the production of greenhouse gas emissions in the
8 collection, production, transmission, treatment, dis-
9 tribution, and disposal of drinking water;

10 (10) water conservation and demand manage-
11 ment, including research—

12 (A) to develop strategic approaches to
13 water demand management that offer the low-
14 est-cost, noninfrastructural options to serve
15 growing populations or manage declining sup-
16 plies, primarily through—

17 (i) efficiencies in water use and re-
18 allocation of the saved water;

19 (ii) demand management tools;

20 (iii) economic incentives; and

21 (iv) water-saving technologies; and

22 (B) into efficiencies in water management
23 through integrated water resource management
24 that incorporates—

1 (i) supply-side and demand-side proc-
2 esses;

3 (ii) continuous adaptive management;
4 and

5 (iii) the inclusion of stakeholders in
6 decisionmaking processes; and

7 (11) communications, education, and public ac-
8 ceptance, including research—

9 (A) into improved strategies and ap-
10 proaches for communicating with customers, de-
11 cisionmakers, and other stakeholders about the
12 implications of climate change on water supply
13 and water management;

14 (B) to develop effective communication ap-
15 proaches—

16 (i) to gain public acceptance of alter-
17 native water supplies and new policies and
18 practices, including conservation and de-
19 mand management; and

20 (ii) to gain public recognition and ac-
21 ceptance of increased costs; and

22 (C) to create and maintain a clearinghouse
23 of climate change information for water utili-
24 ties, academic researchers, stakeholders, gov-
25 ernment agencies, and research organizations.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$25,000,000 for each of fiscal years 2010 through 2020.

4 **TITLE III—TRANSITION AND**
5 **ADAPTATION**
6 **Subtitle A—Green Jobs and Worker**
7 **Transition**

8 **PART 1—GREEN JOBS**

9 **SEC. 301. CLEAN ENERGY CURRICULUM DEVELOPMENT**
10 **GRANTS.**

11 (a) AUTHORIZATION.—The Secretary of Education is
12 authorized to award grants, on a competitive basis, to eli-
13 gible partnerships to develop programs of study (con-
14 taining the information described in section 122(c)(1)(A)
15 of the Carl D. Perkins Career and Technical Education
16 Act of 2006 (20 U.S.C. 2342)), that are focused on emerg-
17 ing careers and jobs in the fields of clean energy, renew-
18 able energy, energy efficiency, climate change mitigation,
19 and climate change adaptation. The Secretary of Edu-
20 cation shall consult with the Secretary of Labor and the
21 Secretary of Energy prior to the issuance of a solicitation
22 for grant applications.

23 (b) ELIGIBLE PARTNERSHIPS.—For purposes of this
24 section, an eligible partnership shall include—

1 (1) at least 1 local educational agency eligible
2 for funding under section 131 of the Carl D. Per-
3 kins Career and Technical Education Act of 2006
4 (20 U.S.C. 2351) or an area career and technical
5 education school or education service agency de-
6 scribed in such section;

7 (2) at least 1 postsecondary institution eligible
8 for funding under section 132 of such Act (20
9 U.S.C. 2352); and

10 (3) representatives of the community including
11 business, labor organizations, and industry that have
12 experience in fields as described in subsection (a).

13 (c) APPLICATION.—An eligible partnership seeking a
14 grant under this section shall submit an application to the
15 Secretary at such time and in such manner as the Sec-
16 retary may require. Applications shall include—

17 (1) a description of the eligible partners and
18 partnership, the roles and responsibilities of each
19 partner, and a demonstration of each partner's ca-
20 pacity to support the program;

21 (2) a description of the career area or areas
22 within the fields as described in subsection (a) to be
23 developed, the reason for the choice, and evidence of
24 the labor market need to prepare students in that
25 area;

1 (3) a description of the new or existing program
2 of study and both secondary and postsecondary com-
3 ponents;

4 (4) a description of the students to be served by
5 the new program of study;

6 (5) a description of how the program of study
7 funded by the grant will be replicable and dissemi-
8 nated to schools outside of the partnership, including
9 urban and rural areas;

10 (6) a description of applied learning that will be
11 incorporated into the program of study and how it
12 will incorporate or reinforce academic learning;

13 (7) a description of how the program of study
14 will be delivered;

15 (8) a description of how the program will pro-
16 vide accessibility to students, especially economically
17 disadvantaged, low performing, and urban and rural
18 students;

19 (9) a description of how the program will ad-
20 dress placement of students in nontraditional fields
21 as described in section 3(20) of the Carl D. Perkins
22 Career and Technical Education Act of 2006 (20
23 U.S.C. 2302(20)); and

24 (10) a description of how the applicant proposes
25 to consult or has consulted with a labor organiza-

1 tion, labor management partnership, apprenticeship
2 program, or joint apprenticeship and training pro-
3 gram that provides education and training in the
4 field of study for which the applicant proposes to de-
5 velop a curriculum.

6 (d) PRIORITY.—The Secretary shall give priority to
7 applications that—

8 (1) use online learning or other innovative
9 means to deliver the program of study to students,
10 educators, and instructors outside of the partner-
11 ship; and

12 (2) focus on low performing students and spe-
13 cial populations as defined in section 3(29) of the
14 Carl D. Perkins Career and Technical Education
15 Act of 2006 (20 U.S.C. 2302(29)).

16 (e) PEER REVIEW.—The Secretary shall convene a
17 peer review process to review applications for grants under
18 this section and to make recommendations regarding the
19 selection of grantees. Members of the peer review com-
20 mittee shall include—

21 (1) educators who have experience imple-
22 menting curricula with comparable purposes; and

23 (2) business and industry experts in fields as
24 described in subsection (a).

1 (f) USES OF FUNDS.—Grants awarded under this
2 section shall be used for the development, implementation,
3 and dissemination of programs of study (as described in
4 section 122(c)(1)(A) of the Carl D. Perkins Career and
5 Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in
6 career areas related to clean energy, renewable energy, en-
7 ergy efficiency, climate change mitigation, and climate
8 change adaptation.

9 **SEC. 302. DEVELOPMENT OF INFORMATION AND RE-**
10 **SOURCES CLEARINGHOUSE FOR VOCA-**
11 **TIONAL EDUCATION AND JOB TRAINING IN**
12 **RENEWABLE ENERGY SECTORS.**

13 (a) DEVELOPMENT OF CLEARINGHOUSE.—Not later
14 than 18 months after the date of enactment of this Act,
15 the Secretary of Labor, in collaboration with the Secretary
16 of Energy and the Secretary of Education, shall develop
17 an internet based information and resources clearinghouse
18 to aid career and technical education and job training pro-
19 grams for the renewable energy sectors. In establishing
20 the clearinghouse, the Secretary shall—

21 (1) collect and provide information that ad-
22 dresses the consequences of rapid changes in tech-
23 nology and regional disparities for renewable energy
24 training programs and provides best practices for

1 training and education in light of such changes and
2 disparities;

3 (2) place an emphasis on facilitating collabora-
4 tion between the renewable energy industry and job
5 training programs and on identifying industry and
6 technological trends and best practices, to better
7 help job training programs maintain quality and rel-
8 evance; and

9 (3) place an emphasis on assisting programs
10 that cater to high-demand middle-skill, trades, man-
11 ufacturing, contracting, and consulting careers.

12 (b) SOLICITATION AND CONSULTATION.—In devel-
13 oping the clearinghouse pursuant to subsection (a), the
14 Secretary shall solicit information and expertise from busi-
15 nesses and organizations in the renewable energy sector
16 and from institutions of higher education, career and tech-
17 nical schools, and community colleges that provide train-
18 ing in the renewable energy sectors. The Secretary shall
19 solicit a comprehensive peer review of the clearinghouse
20 by such entities not less than once every 2 years. Nothing
21 in this subsection should be interpreted to require the di-
22 vulgence of proprietary or competitive information.

23 (c) CONTENTS OF CLEARINGHOUSE.—

24 (1) SEPARATE SECTION FOR EACH RENEWABLE
25 ENERGY SECTOR.—The clearinghouse shall contain

1 separate sections developed for each of the following
2 renewable energy sectors:

3 (A) Solar energy systems.

4 (B) Wind energy systems.

5 (C) Energy transmission systems.

6 (D) Geothermal systems of energy and
7 heating.

8 (E) Energy efficiency technical training.

9 (2) **ADDITIONAL REQUIREMENTS.**—In addition
10 to the information required in subsection (a), each
11 section of the clearinghouse shall include information
12 on basic environmental science and processes needed
13 to understand renewable energy systems, Federal
14 government and industry resources, and points of
15 contact to aid institutions in the development of
16 placement programs for apprenticeships and post
17 graduation opportunities, and information and tips
18 about a green workplace, energy efficiency, and rel-
19 evant environmental topics and information on avail-
20 able industry recognized certifications in each area.

21 (d) **DISSEMINATION.**—The clearinghouse shall be
22 made available via the Internet to the general public. No-
23 tice of the completed clearinghouse and any major revi-
24 sions thereto shall also be provided—

25 (1) to each Member of Congress; and

1 (2) on the websites of the Departments of Edu-
2 cation, Energy, and Labor.

3 (e) REVISION.—The Secretary of Labor shall revise
4 and update the clearinghouse on a regular basis to ensure
5 its relevance.

6 **SEC. 303. GREEN CONSTRUCTION CAREERS DEMONSTRATION PROJECT.**
7

8 (a) ESTABLISHMENT AND AUTHORITY.—The Sec-
9 retary of Labor, in consultation with the Secretary of En-
10 ergy, shall, not later than 180 days after the enactment
11 of this Act, establish a Green Construction Careers dem-
12 onstration project by rules, regulations, and guidance in
13 accordance with the provisions of this section. The purpose
14 of the demonstration project shall be to promote middle
15 class careers and quality employment practices in the
16 green construction sector among targeted workers and to
17 advance efficiency and performance on construction
18 projects related to this Act. In order to advance these pur-
19 poses, the Secretary shall identify projects, including resi-
20 dential retrofitting projects, funded directly by or assisted
21 in whole or in part by or through the Federal Government
22 pursuant to this Act or by any other entity established
23 in accordance with this Act, to which all of the following
24 shall apply.

1 (b) REQUIREMENTS.—The Secretaries may establish
2 such terms and conditions for the demonstration projects
3 as the Secretaries determine are necessary to meet the
4 purposes of subsection (a), including establishing min-
5 imum proportions of hours to be worked by targeted work-
6 ers on such projects. The Secretaries may require the con-
7 tractors and subcontractors performing construction serv-
8 ices on the project to comply with the terms and conditions
9 as a condition of receiving funding or assistance from the
10 Federal Government under this Act.

11 (c) EVALUATION.—The Secretaries shall evaluate the
12 demonstration projects against the purposes of this section
13 at the end of 3 years from initiation of the demonstration
14 project. If the Secretaries determine that the demonstra-
15 tion projects have been successful, the Secretaries may
16 identify further projects to which of the provisions of this
17 section shall apply.

18 (d) GAO REPORT.—The Comptroller General shall
19 prepare and submit a report to the Committee on Health,
20 Education, Labor, and Pensions and the Committee on
21 Energy and Natural Resources of the Senate and the
22 Committee on Education and Labor and the Committee
23 on Energy and Commerce of the House of Representatives
24 not later than 5 years after the date of enactment of this
25 Act, which shall advise the committees of the results of

1 the demonstration projects and make appropriate rec-
2 ommendations.

3 (e) DEFINITION AND DESIGNATION OF TARGETED
4 WORKERS.—As used in this section, the term “targeted
5 worker” means an individual who resides in the same
6 labor market area (as defined in section 101(18) of the
7 Workforce Investment Act of 1998 (29 U.S.C. 2801(18)))
8 as the project and who—

9 (1) is a member of a targeted group, within the
10 meaning of section 51 of the Internal Revenue Code
11 of 1986, other than an individual described in sub-
12 section (d)(1)(C) of such section;

13 (2)(A) resides in a census tract in which not
14 less than 20 percent of the households have incomes
15 below the Federal poverty guidelines; or

16 (B) is a member of a family that received a
17 total family income that, during the 2-year period
18 prior to employment on the project or admission to
19 the pre-apprenticeship program, did not exceed 200
20 percent of the Federal poverty guidelines (exclusive
21 of unemployment compensation, child support pay-
22 ments, payments described in section 101(25)(A) of
23 the Workforce Investment Act (29 U.S.C.
24 2801(25)(A)), and old-age and survivors insurance

1 benefits received under section 202 of the Social Se-
2 curity Act (42 U.S.C. 402); or

3 (3) is a displaced homemaker, as such term is
4 defined in section 3(10) of the Carl D. Perkins Ca-
5 reer and Technical Education Act of 2006 (20
6 U.S.C. 2302(10)).

7 (f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A
8 qualified pre-apprenticeship program is a pre-apprentice-
9 ship program that has demonstrated an ability to recruit,
10 train, and prepare for admission to apprenticeship pro-
11 grams individuals who are targeted workers.

12 (g) QUALIFIED APPRENTICESHIP AND OTHER
13 TRAINING PROGRAMS.—

14 (1) PARTICIPATION BY EACH CONTRACTOR RE-
15 QUIRED.—Each contractor and subcontractor that
16 seeks to provide construction services on projects
17 identified by the Secretaries pursuant to subsection
18 (a) shall submit adequate assurances with its bid or
19 proposal that it participates in a qualified appren-
20 ticeship or other training program, with a written
21 arrangement with a qualified pre-apprenticeship pro-
22 gram, for each craft or trade classification of worker
23 that it intends to employ to perform work on the
24 project.

1 (2) DEFINITION OF QUALIFIED APPRENTICE
2 SHIP OR OTHER TRAINING PROGRAM.—

3 (A) IN GENERAL.—For purposes of this
4 section, the term “qualified apprenticeship or
5 other training program” means an apprentice-
6 ship or other training program that qualifies as
7 an employee welfare benefit plan, as defined in
8 section 3(1) of the Employee Retirement In-
9 come Security Act of 1974 (29 U.S.C.
10 1002(1)).

11 (B) CERTIFICATION OF OTHER PROGRAMS
12 IN CERTAIN LOCALITIES.—In the event that the
13 Secretary of Labor certifies that a qualified ap-
14 prenticeship or other training program (as de-
15 fined in subparagraph (A)) for a craft or trade
16 classification of workers that a prospective con-
17 tractor or subcontractor intends to employ, is
18 not operated in the locality where the project
19 will be performed, an apprenticeship or other
20 training program that is not an employee wel-
21 fare benefit plan (as defined in such section)
22 may be certified by the Secretary as a qualified
23 apprenticeship or other training program pro-
24 vided it is registered with the Office of Appren-
25 ticeship of the Department of Labor, or a State

1 apprenticeship agency recognized by the Office
2 of Apprenticeship for Federal purposes.

3 (h) FACILITATING COMPLIANCE.—The Secretary
4 may require Federal contracting agencies, recipients of
5 Federal assistance, and any other entity established in ac-
6 cordance with this Act to require contractors to enter into
7 an agreement in a manner comparable with the standards
8 set forth in sections 3 and 4 of Executive Order 13502
9 in order to achieve the purposes of this section, including
10 any requirements established by subsection (b).

11 (i) LIMITATION.—The requirements of this section
12 shall not apply to any project funded under this Act in
13 American Samoa, Guam, the Commonwealth of the North-
14 ern Mariana Islands, the Commonwealth of Puerto Rico,
15 or the United States Virgin Islands, unless participation
16 is requested by the governor of such territories within 1
17 year of the promulgation of rules under this Act.

18 **PART 2—CLIMATE CHANGE WORKER**

19 **ADJUSTMENT ASSISTANCE**

20 **SEC. 311. PETITIONS, ELIGIBILITY REQUIREMENTS, AND**
21 **DETERMINATIONS.**

22 (a) PETITIONS.—

23 (1) FILING.—A petition for certification of eli-
24 gibility to apply for adjustment assistance for a

1 group of workers under this part may be filed by
2 any of the following:

3 (A) The group of workers.

4 (B) The certified or recognized union or
5 other duly authorized representative of such
6 workers.

7 (C) Employers of such workers, one-stop
8 operators or one-stop partners (as defined in
9 section 101 of the Workforce Investment Act of
10 1998 (29 U.S.C. 2801)), including State em-
11 ployment security agencies, or the State dis-
12 located worker unit established under title I of
13 such Act, on behalf of such workers.

14 The petition shall be filed simultaneously with the
15 Secretary of Labor and with the Governor of the
16 State in which such workers' employment site is lo-
17 cated.

18 (2) ACTION BY GOVERNORS.—Upon receipt of a
19 petition filed under paragraph (1), the Governor
20 shall—

21 (A) ensure that rapid response activities
22 and appropriate core and intensive services (as
23 described in section 134 of the Workforce In-
24 vestment Act of 1998 (29 U.S.C. 2864)) au-
25 thorized under other Federal laws are made

1 available to the workers covered by the petition
2 to the extent authorized under such laws; and

3 (B) assist the Secretary in the review of
4 the petition by verifying such information and
5 providing such other assistance as the Secretary
6 may request.

7 (3) ACTION BY THE SECRETARY.—Upon receipt
8 of the petition, the Secretary shall promptly publish
9 notice in the Federal Register and on the website of
10 the Department of Labor that the Secretary has re-
11 ceived the petition and initiated an investigation.

12 (4) HEARINGS.—If the petitioner, or any other
13 person found by the Secretary to have a substantial
14 interest in the proceedings, submits not later than
15 10 days after the date of the Secretary's publication
16 under paragraph (3) a request for a hearing, the
17 Secretary shall provide for a public hearing and af-
18 ford such interested persons an opportunity to be
19 present, to produce evidence, and to be heard.

20 (b) ELIGIBILITY.—

21 (1) IN GENERAL.—A group of workers shall be
22 certified by the Secretary as eligible to apply for ad-
23 justment assistance under this part pursuant to a
24 petition filed under subsection (a) if—

25 (A) the group of workers is employed in—

1 (i) energy producing and transforming
2 industries;

3 (ii) industries dependent upon energy
4 industries;

5 (iii) energy-intensive manufacturing
6 industries;

7 (iv) consumer goods manufacturing;

8 or

9 (v) other industries whose employment
10 the Secretary determines has been ad-
11 versely affected by any requirement of title
12 VII of the Clean Air Act;

13 (B) the Secretary determines that a sig-
14 nificant number or proportion of the workers in
15 such workers' employment site have become to-
16 tally or partially separated, or are threatened to
17 become totally or partially separated from em-
18 ployment; and

19 (C) the sales, production, or delivery of
20 goods or services have decreased as a result of
21 any requirement of title VII of the Clean Air
22 Act, including—

23 (i) the shift from reliance upon fossil
24 fuels to other sources of energy, including
25 renewable energy, that results in the clos-

1 ing of a facility or layoff of employees at
2 a facility that mines, produces, processes,
3 or utilizes fossil fuels to generate elec-
4 tricity;

5 (ii) a substantial increase in the cost
6 of energy required for a manufacturing fa-
7 cility to produce items whose prices are
8 competitive in the marketplace, to the ex-
9 tent the cost is not offset by assistance
10 provided to the facility pursuant to title
11 VII of the Clean Air Act; or

12 (iii) other documented occurrences
13 that the Secretary determines are indica-
14 tors of an adverse impact on an industry
15 described in subparagraph (A) as a result
16 of any requirement of title VII of the
17 Clean Air Act.

18 (2) WORKERS IN PUBLIC AGENCIES.—A group
19 of workers in a public agency shall be certified by
20 the Secretary as eligible to apply for climate change
21 adjustment assistance pursuant to a petition filed if
22 the Secretary determines that a significant number
23 or proportion of the workers in the public agency
24 have become totally or partially separated from em-
25 ployment, or are threatened to become totally or

1 partially separated as a result of any requirement of
2 title VII of the Clean Air Act.

3 (3) ADVERSELY AFFECTED SERVICE WORK-
4 ERS.—A group of workers shall be certified as eligi-
5 ble to apply for climate change adjustment assist-
6 ance pursuant to a petition filed if the Secretary de-
7 termines that—

8 (A) a significant number or proportion of
9 the service workers at an employment site
10 where a group of workers has been certified by
11 the Secretary as eligible to apply for adjustment
12 assistance under this part pursuant to para-
13 graph (1) have become totally or partially sepa-
14 rated from employment, or are threatened to
15 become totally or partially separated; and

16 (B) a loss of business in the firm providing
17 service workers to an employment site is di-
18 rectly attributable to one or more of the docu-
19 mented occurrences listed in paragraph (1)(C).

20 (c) AUTHORITY TO INVESTIGATE AND COLLECT IN-
21 FORMATION.—

22 (1) IN GENERAL.—The Secretary shall, in de-
23 termining whether to certify a group of workers
24 under subsection (d), obtain information the Sec-
25 retary determines to be necessary to make the cer-

1 tification, through questionnaires and in such other
2 manner as the Secretary determines appropriate
3 from—

4 (A) the workers' employer;

5 (B) officials of certified or recognized
6 unions or other duly authorized representatives
7 of the group of workers; or

8 (C) one-stop operators or one-stop partners
9 (as defined in section 101 of the Workforce In-
10 vestment Act of 1998 (29 U.S.C. 2801)).

11 (2) VERIFICATION OF INFORMATION.—The Sec-
12 retary shall require an employer, union, or one-stop
13 operator or partner to certify all information ob-
14 tained under paragraph (1) from the employer,
15 union, or one-stop operator or partner (as the case
16 may be) on which the Secretary relies in making a
17 determination under subsection (d), unless the Sec-
18 retary has a reasonable basis for determining that
19 such information is accurate and complete without
20 being certified.

21 (3) PROTECTION OF CONFIDENTIAL INFORMA-
22 TION.—The Secretary may not release information
23 obtained under paragraph (1) that the Secretary
24 considers to be confidential business information un-
25 less the employer submitting the confidential busi-

1 ness information had notice, at the time of submis-
2 sion, that the information would be released by the
3 Secretary, or the employer subsequently consents to
4 the release of the information. Nothing in this para-
5 graph shall be construed to prohibit the Secretary
6 from providing such confidential business informa-
7 tion to a court in camera or to another party under
8 a protective order issued by a court.

9 (d) DETERMINATION BY THE SECRETARY OF
10 LABOR.—

11 (1) IN GENERAL.—As soon as possible after the
12 date on which a petition is filed under subsection
13 (a), but in any event not later than 40 days after
14 that date, the Secretary, in consultation with the
15 Secretary of Energy and the Administrator, as nec-
16 essary, shall determine whether the petitioning
17 group meets the requirements of subsection (b) and
18 shall issue a certification of eligibility to apply for
19 assistance under this part covering workers in any
20 group which meets such requirements. Each certifi-
21 cation shall specify the date on which the total or
22 partial separation began or threatened to begin.
23 Upon reaching a determination on a petition, the
24 Secretary shall promptly publish a summary of the
25 determination in the Federal Register and on the

1 website of the Department of Labor, together with
2 the Secretary's reasons for making such determina-
3 tion.

4 (2) ONE YEAR LIMITATION.—A certification
5 under this section shall not apply to any worker
6 whose last total or partial separation from the em-
7 ployment site before the worker's application under
8 section 312(a) occurred more than 1 year before the
9 date of the petition on which such certification was
10 granted.

11 (3) REVOCATION OF CERTIFICATION.—When-
12 ever the Secretary determines, with respect to any
13 certification of eligibility of the workers of an em-
14 ployment site, that total or partial separations from
15 such site are no longer a result of the factors speci-
16 fied in subsection (b)(1), the Secretary shall termi-
17 nate such certification and promptly have notice of
18 such termination published in the Federal Register
19 and on the website of the Department of Labor, to-
20 gether with the Secretary's reasons for making such
21 determination. Such termination shall apply only
22 with respect to total or partial separations occurring
23 after the termination date specified by the Secretary.

24 (e) INDUSTRY NOTIFICATION OF ASSISTANCE.—
25 Upon receiving a notification of a determination under

1 subsection (d) with respect to a domestic industry the Sec-
2 retary of Labor shall notify the representatives of the do-
3 mestic industry affected by the determination, employers
4 publicly identified by name during the course of the pro-
5 ceeding relating to the determination, and any certified
6 or recognized union or, to the extent practicable, other
7 duly authorized representative of workers employed by
8 such representatives of the domestic industry, of—

9 (1) the adjustment assistance, training, and
10 other benefits available under this part;

11 (2) the manner in which to file a petition and
12 apply for such benefits;

13 (3) the availability of assistance in filing such
14 petitions;

15 (4) notify the Governor of each State in which
16 one or more employers in such industry are located
17 of the Secretary's determination and the identity of
18 the employers; and

19 (5) upon request, provide any assistance that is
20 necessary to file a petition under subsection (a).

21 (f) BENEFIT INFORMATION TO WORKERS, PRO-
22 VIDERS OF TRAINING.—

23 (1) IN GENERAL.—The Secretary shall provide
24 full information to workers about the adjustment as-
25 sistance, training, and other benefits available under

1 this part and about the petition and application pro-
2 cedures, and the appropriate filing dates, for such
3 assistance, training and services. The Secretary shall
4 provide whatever assistance is necessary to enable
5 groups of workers to prepare petitions or applica-
6 tions for program benefits. The Secretary shall make
7 every effort to insure that cooperating State agen-
8 cies fully comply with the agreements entered into
9 under section 312(a) and shall periodically review
10 such compliance. The Secretary shall inform the
11 State Board for Vocational Education or equivalent
12 agency, the one-stop operators or one-stop partners
13 (as defined in section 101 of the Workforce Invest-
14 ment Act of 1998 (29 U.S.C. 2801)), and other pub-
15 lic or private agencies, institutions, and employers,
16 as appropriate, of each certification issued under
17 subsection (d) and of projections, if available, of the
18 needs for training under as a result of such certifi-
19 cation.

20 (2) NOTICE BY MAIL.—The Secretary shall pro-
21 vide written notice through the mail of the benefits
22 available under this part to each worker whom the
23 Secretary has reason to believe is covered by a cer-
24 tification made under subsection (d)—

1 (A) at the time such certification is made,
2 if the worker was partially or totally separated
3 from the adversely affected employment before
4 such certification; or

5 (B) at the time of the total or partial sepa-
6 ration of the worker from the adversely affected
7 employment, if subparagraph (A) does not
8 apply.

9 (3) NEWSPAPERS; WEBSITE.—The Secretary
10 shall publish notice of the benefits available under
11 this part to workers covered by each certification
12 made under subsection (d) in newspapers of general
13 circulation in the areas in which such workers reside
14 and shall make such information available on the
15 website of the Department of Labor.

16 **SEC. 312. PROGRAM BENEFITS.**

17 (a) CLIMATE CHANGE ADJUSTMENT ASSISTANCE.—

18 (1) ELIGIBILITY.—Payment of climate change
19 adjustment assistance shall be made to an adversely
20 affected worker covered by a certification under sec-
21 tion 311(b) who files an application for such assist-
22 ance for any week of unemployment which begins on
23 or after the date of such certification, if the fol-
24 lowing conditions are met:

1 (A) Such worker's total or partial separa-
2 tion before the worker's application under this
3 part occurred—

4 (i) on or after the date, as specified in
5 the certification under which the worker is
6 covered, on which total or partial separa-
7 tion began or threatened to begin in the
8 adversely affected employment;

9 (ii) before the expiration of the 2-year
10 period beginning on the date on which the
11 determination under section 311(d) was
12 made; and

13 (iii) before the termination date, if
14 any, determined pursuant to section
15 311(d)(3).

16 (B) Such worker had, in the 52-week pe-
17 riod ending with the week in which such total
18 or partial separation occurred, at least 26
19 weeks of full-time employment or 1,040 hours
20 of part time employment in adversely affected
21 employment, or, if data with respect to weeks of
22 employment are not available, equivalent
23 amounts of employment computed under regu-
24 lations prescribed by the Secretary. For the

1 purposes of this paragraph, any week in which
2 such worker—

3 (i) is on employer-authorized leave for
4 purposes of vacation, sickness, injury, ma-
5 ternity, or inactive duty or active duty
6 military service for training;

7 (ii) does not work because of a dis-
8 ability that is compensable under a work-
9 men's compensation law or plan of a State
10 or the United States;

11 (iii) had his employment interrupted
12 in order to serve as a full-time representa-
13 tive of a labor organization in such firm; or

14 (iv) is on call-up for purposes of active
15 duty in a reserve status in the Armed
16 Forces of the United States, provided such
17 active duty is "Federal service" as defined
18 in section 8521(a)(1) of title 5, United
19 States Code,

20 shall be treated as a week of employment.

21 (C) Such worker is enrolled in a training
22 program approved by the Secretary under sub-
23 section (b)(2).

24 (2) INELIGIBILITY FOR CERTAIN OTHER BENE-
25 FITS.—An adversely affected worker receiving a pay-

1 ment under this section shall be ineligible to receive
2 any other form of unemployment insurance for the
3 period in which such worker is receiving climate
4 change adjustment assistance under this section.

5 (3) REVOCATION.—If—

6 (A) the Secretary determines that—

7 (i) the adversely affected worker—

8 (I) has failed to begin partici-
9 tion in the training program the en-
10 rollment in which meets the require-
11 ment of paragraph (1)(C); or

12 (II) has ceased to participate in
13 such training program before com-
14 pleting such training program; and

15 (ii) there is no justifiable cause for
16 such failure or cessation; or

17 (B) the certification made with respect to
18 such worker under section 311(d) is revoked
19 under paragraph (3) of such section,

20 no adjustment assistance may be paid to the ad-
21 versely affected worker under this part for the week
22 in which such failure, cessation, or revocation oc-
23 curred, or any succeeding week, until the adversely
24 affected worker begins or resumes participation in a

1 training program approved by the Secretary under
2 subsection (b)(2).

3 (4) WAIVERS OF TRAINING REQUIREMENTS.—

4 The Secretary may issue a written statement to an
5 adversely affected worker waiving the requirement to
6 be enrolled in training described in subsection (b)(2)
7 if the Secretary determines that it is not feasible or
8 appropriate for the worker, because of 1 or more of
9 the following reasons:

10 (A) RECALL.—The worker has been noti-
11 fied that the worker will be recalled by the em-
12 ployer from which the separation occurred.

13 (B) MARKETABLE SKILLS.—

14 (i) IN GENERAL.—The worker pos-
15 sesses marketable skills for suitable em-
16 ployment (as determined pursuant to an
17 assessment of the worker, which may in-
18 clude the profiling system under section
19 303(j) of the Social Security Act (42
20 U.S.C. 503(j)), carried out in accordance
21 with guidelines issued by the Secretary)
22 and there is a reasonable expectation of
23 employment at equivalent wages in the
24 foreseeable future.

1 (ii) MARKETABLE SKILLS DEFINED.—

2 For purposes of clause (i), the term “mar-
3 ketable skills” may include the possession
4 of a postgraduate degree from an institu-
5 tion of higher education (as defined in sec-
6 tion 102 of the Higher Education Act of
7 1965 (20 U.S.C. 1002)) or an equivalent
8 institution, or the possession of an equiva-
9 lent postgraduate certification in a special-
10 ized field.

11 (C) RETIREMENT.—The worker is within 2
12 years of meeting all requirements for entitle-
13 ment to either—

14 (i) old-age insurance benefits under
15 title II of the Social Security Act (42
16 U.S.C. 401 et seq.) (except for application
17 therefor); or

18 (ii) a private pension sponsored by an
19 employer or labor organization.

20 (D) HEALTH.—The worker is unable to
21 participate in training due to the health of the
22 worker, except that a waiver under this sub-
23 paragraph shall not be construed to exempt a
24 worker from requirements relating to the avail-
25 ability for work, active search for work, or re-

1 fusal to accept work under Federal or State un-
2 employment compensation laws.

3 (E) ENROLLMENT UNAVAILABLE.—The
4 first available enrollment date for the training
5 of the worker is within 60 days after the date
6 of the determination made under this para-
7 graph, or, if later, there are extenuating cir-
8 cumstances for the delay in enrollment, as de-
9 termined pursuant to guidelines issued by the
10 Secretary.

11 (F) TRAINING NOT AVAILABLE.—Training
12 described in subsection (b)(2) is not reasonably
13 available to the worker from either govern-
14 mental agencies or private sources (which may
15 include area career and technical education
16 schools, as defined in section 3 of the Carl D.
17 Perkins Career and Technical Education Act of
18 2006 (20 U.S.C. 2302), and employers), no
19 training that is suitable for the worker is avail-
20 able at a reasonable cost, or no training funds
21 are available.

22 (5) WEEKLY AMOUNTS.—The climate change
23 adjustment assistance payable to an adversely af-
24 fected worker for a week of unemployment shall be
25 an amount equal to 70 percent of the average weekly

1 wage of such worker, but in no case shall such
2 amount exceed the average weekly wage for all work-
3 ers in the State where the adversely affected worker
4 resides.

5 (6) MAXIMUM DURATION OF BENEFITS.—An el-
6 igible worker may receive a climate change adjust-
7 ment assistance under this subsection for a period of
8 not longer than 156 weeks.

9 (b) EMPLOYMENT SERVICES AND TRAINING.—

10 (1) INFORMATION AND EMPLOYMENT SERV-
11 ICES.—The Secretary shall make available, directly
12 or through agreements with the States under section
13 313(a) to adversely affected workers covered by a
14 certification under section 311(a) the following in-
15 formation and employment services:

16 (A) Comprehensive and specialized assess-
17 ment of skill levels and service needs, including
18 through—

19 (i) diagnostic testing and use of other
20 assessment tools; and

21 (ii) in-depth interviewing and evalua-
22 tion to identify employment barriers and
23 appropriate employment goals.

24 (B) Development of an individual employ-
25 ment plan to identify employment goals and ob-

1 jectives, and appropriate training to achieve
2 those goals and objectives.

3 (C) Information on training available in
4 local and regional areas, information on indi-
5 vidual counseling to determine which training is
6 suitable training, and information on how to
7 apply for such training.

8 (D) Information on training programs and
9 other services provided by a State pursuant to
10 title I of the Workforce Investment Act of 1998
11 (29 U.S.C. 2801 et seq.) and available in local
12 and regional areas, information on individual
13 counseling to determine which training is suit-
14 able training, and information on how to apply
15 for such training.

16 (E) Information on how to apply for finan-
17 cial aid, including referring workers to edu-
18 cational opportunity centers described in section
19 402F of the Higher Education Act of 1965 (20
20 U.S.C. 1070a–16), where applicable, and noti-
21 fying workers that the workers may request fi-
22 nancial aid administrators at institutions of
23 higher education (as defined in section 102 of
24 such Act (20 U.S.C. 1002)) to use the adminis-
25 trators' discretion under section 479A of such

1 Act (20 U.S.C. 1087tt) to use current year in-
2 come data, rather than preceding year income
3 data, for determining the amount of need of the
4 workers for Federal financial assistance under
5 title IV of such Act (20 U.S.C. 1070 et seq.).

6 (F) Short-term prevocational services, in-
7 cluding development of learning skills, commu-
8 nications skills, interviewing skills, punctuality,
9 personal maintenance skills, and professional
10 conduct to prepare individuals for employment
11 or training.

12 (G) Individual career counseling, including
13 job search and placement counseling, during the
14 period in which the individual is receiving cli-
15 mate change adjustment assistance or training
16 under this part, and after receiving such train-
17 ing for purposes of job placement.

18 (H) Provision of employment statistics in-
19 formation, including the provision of accurate
20 information relating to local, regional, and na-
21 tional labor market areas, including—

22 (i) job vacancy listings in such labor
23 market areas;

24 (ii) information on jobs skills nec-
25 essary to obtain jobs identified in job va-

1 cancy listings described in subparagraph
2 (A);

3 (iii) information relating to local occu-
4 pations that are in demand and earnings
5 potential of such occupations; and

6 (iv) skills requirements for local occu-
7 pations described in subparagraph (C).

8 (I) Information relating to the availability
9 of supportive services, including services relat-
10 ing to child care, transportation, dependent
11 care, housing assistance, and need-related pay-
12 ments that are necessary to enable an indi-
13 vidual to participate in training.

14 (2) TRAINING.—

15 (A) APPROVAL OF AND PAYMENT FOR
16 TRAINING.—If the Secretary determines, with
17 respect to an adversely affected worker that—

18 (i) there is no suitable employment
19 (which may include technical and profes-
20 sional employment) available for an ad-
21 versely affected worker;

22 (ii) the worker would benefit from ap-
23 propriate training;

1 (iii) there is a reasonable expectation
2 of employment following completion of
3 such training;

4 (iv) training approved by the Sec-
5 retary is reasonably available to the worker
6 from either governmental agencies or pri-
7 vate sources (including area career and
8 technical education schools, as defined in
9 section 3 of the Carl D. Perkins Career
10 and Technical Education Act of 2006 (20
11 U.S.C. 2302), and employers);

12 (v) the worker is qualified to under-
13 take and complete such training; and

14 (vi) such training is suitable for the
15 worker and available at a reasonable cost,
16 the Secretary shall approve such training for
17 the worker. Upon such approval, the worker
18 shall be entitled to have payment of the costs
19 of such training (subject to the limitations im-
20 posed by this section) paid on the worker's be-
21 half by the Secretary directly or through a
22 voucher system.

23 (B) DISTRIBUTION.—The Secretary shall
24 establish procedures for the distribution of the
25 funds to States to carry out the training pro-

1 (II) are reimbursable under any
2 other provision of Federal law and a
3 portion of such costs have already
4 been paid under such other provision
5 of Federal law.

6 The provisions of this clause shall not
7 apply to, or take into account, any funds
8 provided under any other provision of Fed-
9 eral law which are used for any purpose
10 other than the direct payment of the costs
11 incurred in training a particular adversely
12 affected worker, even if such use has the
13 effect of indirectly paying or reducing any
14 portion of the costs involved in training the
15 adversely affected worker.

16 (D) TRAINING PROGRAMS.—The training
17 programs that may be approved under subpara-
18 graph (A) include—

19 (i) employer-based training, includ-
20 ing—

21 (I) on-the-job training if ap-
22 proved by the Secretary under sub-
23 section (c); and

24 (II) joint labor-management ap-
25 prenticeship programs;

1 (ii) any training program provided by
2 a State pursuant to title I of the Work-
3 force Investment Act of 1998 (29 U.S.C.
4 2801 et seq.);

5 (iii) any programs in career and tech-
6 nical education described in section 3(5) of
7 the Carl D. Perkins Career and Technical
8 Education Act of 2006 (20 U.S.C.
9 2302(5));

10 (iv) any program of remedial edu-
11 cation;

12 (v) any program of prerequisite edu-
13 cation or coursework required to enroll in
14 training that may be approved under this
15 paragraph;

16 (vi) any training program for which
17 all, or any portion, of the costs of training
18 the worker are paid—

19 (I) under any Federal or State
20 program other than this part; or

21 (II) from any source other than
22 this part;

23 (vii) any training program or
24 coursework at an accredited institution of
25 higher education (described in section 102

1 of the Higher Education Act of 1965 (20
2 U.S.C. 1002)), including a training pro-
3 gram or coursework for the purpose of—

4 (I) obtaining a degree or certifi-
5 cation; or

6 (II) completing a degree or cer-
7 tification that the worker had pre-
8 viously begun at an accredited institu-
9 tion of higher education; and

10 (viii) any other training program ap-
11 proved by the Secretary.

12 (3) SUPPLEMENTAL ASSISTANCE.—The Sec-
13 retary may, as appropriate, authorize supplemental
14 assistance that is necessary to defray reasonable
15 transportation and subsistence expenses for separate
16 maintenance in a case in which training for a worker
17 is provided in a facility that is not within commuting
18 distance of the regular place of residence of the
19 worker.

20 (c) ON-THE-JOB TRAINING REQUIREMENTS.—

21 (1) IN GENERAL.—The Secretary may approve
22 on-the-job training for any adversely affected worker
23 if—

24 (A) the Secretary determines that on-the-
25 job training—

1 (i) can reasonably be expected to lead
2 to suitable employment with the employer
3 offering the on-the-job training;

4 (ii) is compatible with the skills of the
5 worker;

6 (iii) includes a curriculum through
7 which the worker will gain the knowledge
8 or skills to become proficient in the job for
9 which the worker is being trained; and

10 (iv) can be measured by benchmarks
11 that indicate that the worker is gaining
12 such knowledge or skills; and

13 (B) the State determines that the on-the-
14 job training program meets the requirements of
15 clauses (iii) and (iv) of subparagraph (A).

16 (2) MONTHLY PAYMENTS.—The Secretary shall
17 pay the costs of on-the-job training approved under
18 paragraph (1) in monthly installments.

19 (3) CONTRACTS FOR ON-THE-JOB TRAINING.—

20 (A) IN GENERAL.—The Secretary shall en-
21 sure, in entering into a contract with an em-
22 ployer to provide on-the-job training to a work-
23 er under this subsection, that the skill require-
24 ments of the job for which the worker is being
25 trained, the academic and occupational skill

1 level of the worker, and the work experience of
2 the worker are taken into consideration.

3 (B) TERM OF CONTRACT.—Training under
4 any such contract shall be limited to the period
5 of time required for the worker receiving on-
6 the-job training to become proficient in the job
7 for which the worker is being trained, but may
8 not exceed 156 weeks in any case.

9 (4) EXCLUSION OF CERTAIN EMPLOYERS.—The
10 Secretary shall not enter into a contract for on-the-
11 job training with an employer that exhibits a pattern
12 of failing to provide workers receiving on-the-job
13 training from the employer with—

14 (A) continued, long-term employment as
15 regular employees; and

16 (B) wages, benefits, and working condi-
17 tions that are equivalent to the wages, benefits,
18 and working conditions provided to regular em-
19 ployees who have worked a similar period of
20 time and are doing the same type of work as
21 workers receiving on-the-job training from the
22 employer.

23 (d) ADMINISTRATIVE AND EMPLOYMENT SERVICES
24 FUNDING.—

1 (1) ADMINISTRATIVE FUNDING.—In addition to
2 any funds made available to a State to carry out this
3 section for a fiscal year, the State shall receive for
4 the fiscal year a payment in an amount that is equal
5 to 15 percent of the amount of such funds and
6 shall—

7 (A) use not more than $\frac{2}{3}$ of such payment
8 for the administration of the climate change ad-
9 justment assistance for workers program under
10 this part, including for—

11 (i) processing waivers of training re-
12 quirements under subsection (a)(4); and

13 (ii) collecting, validating, and report-
14 ing data required under this part; and

15 (B) use not less than $\frac{1}{3}$ of such payment
16 for information and employment services under
17 subsection (b)(1).

18 (2) EMPLOYMENT SERVICES FUNDING.—

19 (A) IN GENERAL.—In addition to any
20 funds made available to a State to carry out
21 subsection (b)(2) and the payment under para-
22 graph (1) for a fiscal year, the Secretary shall
23 provide to the State for the fiscal year a reason-
24 able payment for the purpose of providing em-
25 ployment and services under subsection (b)(1).

1 (B) VOLUNTARY RETURN OF FUNDS.—A

2 State that receives a payment under subpara-
3 graph (A) may decline or otherwise return such
4 payment to the Secretary.

5 (e) JOB SEARCH ASSISTANCE.—The Secretary of
6 Labor may provide adversely affected workers one-time
7 job search assistance in accordance with regulations pre-
8 scribed by the Secretary. Any job search assistance pro-
9 vided shall be available only under the following cir-
10 cumstances and conditions:

11 (1) The worker is no longer eligible for the cli-
12 mate change adjustment assistance under subsection
13 (a) and has completed the training program required
14 by subsection (b)(1)(E).

15 (2) The Secretary determines that the worker
16 cannot reasonably be expected to secure suitable em-
17 ployment in the commuting area in which the worker
18 resides.

19 (3) Assistance granted shall provide reimburse-
20 ment to the worker of all necessary job search ex-
21 penses as prescribed by the Secretary in regulations.
22 Such reimbursement under this subsection may not
23 exceed \$1,500 for any worker.

24 (f) RELOCATION ASSISTANCE AUTHORIZED.—

1 (1) IN GENERAL.—Any adversely affected work-
2 er covered by a certification issued under section
3 311 may file an application for relocation assistance
4 with the Secretary, and the Secretary may grant the
5 relocation assistance, subject to the terms and condi-
6 tions of this subsection.

7 (2) CONDITIONS FOR GRANTING ASSISTANCE.—
8 Relocation assistance may be granted if all of the
9 following terms and conditions are met:

10 (A) ASSIST AN ADVERSELY AFFECTED
11 WORKER.—The relocation assistance will assist
12 an adversely affected worker in relocating with-
13 in the United States.

14 (B) LOCAL EMPLOYMENT NOT AVAIL-
15 ABLE.—The Secretary determines that the
16 worker cannot reasonably be expected to secure
17 suitable employment in the commuting area in
18 which the worker resides.

19 (C) TOTAL SEPARATION.—The worker is
20 totally separated from employment at the time
21 relocation commences.

22 (D) SUITABLE EMPLOYMENT OBTAINED.—
23 The worker—

24 (i) has obtained suitable employment
25 affording a reasonable expectation of long-

1 term duration in the area in which the
2 worker wishes to relocate; or

3 (ii) has obtained a bona fide offer of
4 such employment.

5 (E) APPLICATION.—The worker filed an
6 application with the Secretary at such time and
7 in such manner as the Secretary shall specify
8 by regulation.

9 (3) AMOUNT OF ASSISTANCE.—Relocation as-
10 sistance granted to a worker under paragraph (1)
11 includes—

12 (A) all reasonable and necessary expenses
13 (including, subsistence and transportation ex-
14 penses at levels not exceeding amounts pre-
15 scribed by the Secretary in regulations) in-
16 curred in transporting the worker, the worker's
17 family, and household effects; and

18 (B) a lump sum equivalent to 3 times the
19 worker's average weekly wage, up to a max-
20 imum payment of \$1,500.

21 (4) LIMITATIONS.—Relocation assistance may
22 not be granted to a worker unless—

23 (A) the relocation occurs within 182 days
24 after the filing of the application for relocation
25 assistance; or

1 (B) the relocation occurs within 182 days
2 after the conclusion of training, if the worker
3 entered a training program approved by the
4 Secretary under subsection (b)(2).

5 (g) HEALTH INSURANCE CONTINUATION.—Not later
6 than 1 year after the date of enactment of this Act, the
7 Secretary of Labor shall prescribe regulations to provide,
8 for the period in which an adversely affected worker is
9 participating in a training program described in sub-
10 section (b)(2), 80 percent of the monthly premium of any
11 health insurance coverage that an adversely affected work-
12 er was receiving from such worker’s employer prior to the
13 separation from employment described in section 311(b),
14 to be paid to any health care insurance plan designated
15 by the adversely affected worker receiving assistance
16 under this section.

17 **SEC. 313. GENERAL PROVISIONS.**

18 (a) AGREEMENTS WITH STATES.—

19 (1) IN GENERAL.—The Secretary is authorized
20 on behalf of the United States to enter into an
21 agreement with any State, or with any State agency
22 (referred to in this section as “cooperating States”
23 and “cooperating State agencies” respectively).
24 Under such an agreement, the cooperating State or
25 cooperating State agency—

1 (A) as agent of the United States, shall re-
2 ceive applications for, and shall provide, pay-
3 ments on the basis provided in this part;

4 (B) in accordance with paragraph (6),
5 shall make available to adversely affected work-
6 ers covered by a certification under section
7 311(d) the employment services described in
8 section 312(b)(1);

9 (C) shall make any certifications required
10 under section 311(d); and

11 (D) shall otherwise cooperate with the Sec-
12 retary and with other State and Federal agen-
13 cies in providing payments and services under
14 this part.

15 Each agreement under this section shall provide the
16 terms and conditions upon which the agreement may
17 be amended, suspended, or terminated.

18 (2) FORM AND MANNER OF DATA.—Each
19 agreement under this section shall—

20 (A) provide the Secretary with the author-
21 ity to collect any data the Secretary determines
22 necessary to meet the requirements of this part;
23 and

1 (B) specify the form and manner in which
2 any such data requested by the Secretary shall
3 be reported.

4 (3) RELATIONSHIP TO UNEMPLOYMENT INSUR-
5 ANCE.—Each agreement under this section shall
6 provide that an adversely affected worker receiving
7 climate change adjustment assistance under this
8 part shall not be eligible for unemployment insur-
9 ance otherwise payable to such worker under the
10 laws of the State.

11 (4) REVIEW.—A determination by a cooper-
12 ating State agency with respect to entitlement to
13 program benefits under an agreement is subject to
14 review in the same manner and to the same extent
15 as determinations under the applicable State law
16 and only in that manner and to that extent.

17 (5) COORDINATION.—Any agreement entered
18 into under this section shall provide for the coordi-
19 nation of the administration of the provisions for
20 employment services, training, and supplemental as-
21 sistance under section 312 and under title I of the
22 Workforce Investment Act of 1998 (29 U.S.C. 2801
23 et seq.) upon such terms and conditions as are es-
24 tablished by the Secretary in consultation with the
25 States and set forth in such agreement. Any agency

1 of the State jointly administering such provisions
2 under such agreement shall be considered to be a co-
3 operating State agency for purposes of this part.

4 (6) RESPONSIBILITIES OF COOPERATING AGEN-
5 CIES.—Each cooperating State agency shall, in car-
6 rying out paragraph (1)(B)—

7 (A) advise each worker who applies for un-
8 employment insurance of the benefits under this
9 part and the procedures and deadlines for ap-
10 plying for such benefits;

11 (B) facilitate the early filing of petitions
12 under section 311(a) for any workers that the
13 agency considers are likely to be eligible for
14 benefits under this part;

15 (C) advise each adversely affected worker
16 to apply for training under section 312(b) be-
17 fore, or at the same time, the worker applies for
18 climate change adjustment assistance under
19 section 312(a);

20 (D) perform outreach to, intake of, and
21 orientation for adversely affected workers and
22 adversely affected incumbent workers covered
23 by a certification under section 312(a) with re-
24 spect to assistance and benefits available under
25 this part;

1 (E) make employment services described in
2 section 312(b)(1) available to adversely affected
3 workers and adversely affected incumbent work-
4 ers covered by a certification under section
5 311(d) and, if funds provided to carry out this
6 part are insufficient to make such services
7 available, make arrangements to make such
8 services available through other Federal pro-
9 grams; and

10 (F) provide the benefits and reemployment
11 services under this part in a manner that is
12 necessary for the proper and efficient adminis-
13 tration of this part, including the use of state
14 agency personnel employed in accordance with a
15 merit system of personnel administration stand-
16 ards, including—

17 (i) making determinations of eligibility
18 for, and payment of, climate change read-
19 justment assistance and health care benefit
20 replacement amounts;

21 (ii) developing recommendations re-
22 garding payments as a bridge to retire-
23 ment and lump sum payments to pension
24 plans in accordance with this subsection;
25 and

1 (iii) the provision of reemployment
2 services to eligible workers, including refer-
3 ral to training services.

4 (7) SUBMISSION OF CERTAIN INFORMATION.—

5 In order to promote the coordination of workforce
6 investment activities in each State with activities
7 carried out under this part, any agreement entered
8 into under this section shall provide that the State
9 shall submit to the Secretary, in such form as the
10 Secretary may require, the description and informa-
11 tion described in paragraphs (8) and (14) of section
12 112(b) of the Workforce Investment Act of 1998 (29
13 U.S.C. 2822(b)) and a description of the State's
14 rapid response activities under section 134(a)(2)(A)
15 of that Act (29 U.S.C. 2864(a)(2)(A)).

16 (8) CONTROL MEASURES.—

17 (A) IN GENERAL.—The Secretary shall re-
18 quire each cooperating State and cooperating
19 State agency to implement effective control
20 measures and to effectively oversee the oper-
21 ation and administration of the climate change
22 adjustment assistance program under this part,
23 including by means of monitoring the operation
24 of control measures to improve the accuracy

1 and timeliness of the data being collected and
2 reported.

3 (B) DEFINITION.—For purposes of sub-
4 paragraph (A), the term “control measures”
5 means measures that—

6 (i) are internal to a system used by a
7 State to collect data; and

8 (ii) are designed to ensure the accu-
9 racy and verifiability of such data.

10 (9) DATA REPORTING.—

11 (A) IN GENERAL.—Any agreement entered
12 into under this section shall require the cooper-
13 ating State or cooperating State agency to re-
14 port to the Secretary on a quarterly basis com-
15 prehensive performance accountability data, to
16 consist of—

17 (i) the core indicators of performance
18 described in subparagraph (B)(i);

19 (ii) the additional indicators of per-
20 formance described in subparagraph
21 (B)(ii), if any; and

22 (iii) a description of efforts made to
23 improve outcomes for workers under the
24 climate change adjustment assistance pro-
25 gram.

1 (B) CORE INDICATORS DESCRIBED.—

2 (i) IN GENERAL.—The core indicators
3 of performance described in this subpara-
4 graph are—

5 (I) the percentage of workers re-
6 ceiving benefits under this part who
7 are employed during the second cal-
8 endar quarter following the calendar
9 quarter in which the workers cease re-
10 ceiving such benefits;

11 (II) the percentage of such work-
12 ers who are employed in each of the
13 third and fourth calendar quarters fol-
14 lowing the calendar quarter in which
15 the workers cease receiving such bene-
16 fits; and

17 (III) the earnings of such work-
18 ers in each of the third and fourth
19 calendar quarters following the cal-
20 endar quarter in which the workers
21 cease receiving such benefits.

22 (ii) ADDITIONAL INDICATORS.—The
23 Secretary and a cooperating State or co-
24 operating State agency may agree upon
25 additional indicators of performance for

1 the climate change adjustment assistance
2 program under this part, as appropriate.

3 (C) STANDARDS WITH RESPECT TO RELI-
4 ABILITY OF DATA.—In preparing the quarterly
5 report required by subparagraph (A), each co-
6 operating State or cooperating State agency
7 shall establish procedures that are consistent
8 with guidelines to be issued by the Secretary to
9 ensure that the data reported are valid and reli-
10 able.

11 (10) VERIFICATION OF ELIGIBILITY FOR PRO-
12 GRAM BENEFITS.—

13 (A) IN GENERAL.—An agreement under
14 this section shall provide that the State shall
15 periodically redetermine that a worker receiving
16 benefits under this part who is not a citizen or
17 national of the United States remains in a sat-
18 isfactory immigration status. Once satisfactory
19 immigration status has been initially verified
20 through the immigration status verification sys-
21 tem described in section 1137(d) of the Social
22 Security Act (42 U.S.C. 1320b-7(d)) for pur-
23 poses of establishing a worker's eligibility for
24 unemployment compensation, the State shall
25 reverify the worker's immigration status if the

1 documentation provided during initial
2 verification will expire during the period in
3 which that worker is potentially eligible to re-
4 ceive benefits under this part. The State shall
5 conduct such redetermination in a timely man-
6 ner, utilizing the immigration status verification
7 system described in section 1137(d) of the So-
8 cial Security Act (42 U.S.C. 1320b-7(d)).

9 (B) PROCEDURES.—The Secretary shall
10 establish procedures to ensure the uniform ap-
11 plication by the States of the requirements of
12 this paragraph.

13 (b) ADMINISTRATION ABSENT STATE AGREE-
14 MENT.—

15 (1) In any State where there is no agreement
16 in force between a State or its agency under sub-
17 section (a), the Secretary shall promulgate regula-
18 tions for the performance of all necessary functions
19 under section 312, including provision for a fair
20 hearing for any worker whose application for pay-
21 ments is denied.

22 (2) A final determination under paragraph (1)
23 with respect to entitlement to program benefits
24 under section 312 is subject to review by the courts
25 in the same manner and to the same extent as is

1 provided by section 205(g) of the Social Security Act
2 (42 U.S.C. 405(g)).

3 (c) PROHIBITION ON CONTRACTING WITH PRIVATE
4 ENTITIES.—Neither the Secretary nor a State may con-
5 tract with any private for-profit or nonprofit entity for the
6 administration of the climate change adjustment assist-
7 ance program under this part.

8 (d) PAYMENT TO THE STATES.—

9 (1) IN GENERAL.—The Secretary shall from
10 time to time certify to the Secretary of the Treasury
11 for payment to each cooperating State the sums nec-
12 essary to enable such State as agent of the United
13 States to make payments provided for by this part.

14 (2) RESTRICTION.—All money paid a State
15 under this subsection shall be used solely for the
16 purposes for which it is paid; and money so paid
17 which is not used for such purposes shall be re-
18 turned, at the time specified in the agreement under
19 this section, to the Secretary of the Treasury.

20 (3) BONDS.—Any agreement under this section
21 may require any officer or employee of the State cer-
22 tifying payments or disbursing funds under the
23 agreement or otherwise participating in the perform-
24 ance of the agreement, to give a surety bond to the
25 United States in such amount as the Secretary may

1 deem necessary, and may provide for the payment of
2 the cost of such bond from funds for carrying out
3 the purposes of this part.

4 (e) LABOR STANDARDS.—

5 (1) PROHIBITION ON DISPLACEMENT.—An indi-
6 vidual in an apprenticeship program or on-the-job
7 training program under this part shall not displace
8 (including a partial displacement, such as a reduc-
9 tion in the hours of non-overtime work, wages, or
10 employment benefits) any employed employee.

11 (2) PROHIBITION ON IMPAIRMENT OF CON-
12 TRACTS.—An apprenticeship program or on-the-job
13 raining program under this Act shall not impair an
14 existing contract for services or collective bargaining
15 agreement, and no such activity that would be incon-
16 sistent with the terms of a collective bargaining
17 agreement shall be undertaken without the written
18 concurrence of the labor organization and employer
19 concerned.

20 (3) ADDITIONAL STANDARDS.—The Secretary,
21 or a State acting under an agreement described in
22 subsection (a) may pay the costs of on-the-job train-
23 ing, notwithstanding any other provision of this sec-
24 tion, only if—

1 (A) in the case of training which would be
2 inconsistent with the terms of a collective bar-
3 gaining agreement, the written concurrence of
4 the labor organization concerned has been ob-
5 tained;

6 (B) the job for which such adversely af-
7 fected worker is being trained is not being cre-
8 ated in a promotional line that will infringe in
9 any way upon the promotional opportunities of
10 currently employed individuals;

11 (C) such training is not for the same occu-
12 pation from which the worker was separated
13 and with respect to which such worker's group
14 was certified pursuant to section 311(d);

15 (D) the employer is provided reimburse-
16 ment of not more than 50 percent of the wage
17 rate of the participant, for the cost of providing
18 the training and additional supervision related
19 to the training; and

20 (E) the employer has not received payment
21 under with respect to any other on-the-job
22 training provided by such employer which failed
23 to meet the requirements of subparagraphs (A)
24 through (D).

1 (f) DEFINITIONS.—As used in this part the following
2 definitions apply:

3 (1) The term “adversely affected employment”
4 means employment at an employment site, if work-
5 ers at such site are eligible to apply for adjustment
6 assistance under this part.

7 (2) The term “adversely affected worker”
8 means an individual who has been totally or partially
9 separated from employment and is eligible to apply
10 for adjustment assistance under this part.

11 (3) The term “average weekly wage” means $\frac{1}{13}$
12 of the total wages paid to an individual in the quar-
13 ter in which the individual’s total wages were highest
14 among the first 4 of the last 5 completed calendar
15 quarters immediately before the quarter in which oc-
16 curs the week with respect to which the computation
17 is made. Such week shall be the week in which total
18 separation occurred, or, in cases where partial sepa-
19 ration is claimed, an appropriate week, as defined in
20 regulations prescribed by the Secretary.

21 (4) The term “average weekly hours” means
22 the average hours worked by the individual (exclud-
23 ing overtime) in the employment from which he has
24 been or claims to have been separated in the 52
25 weeks (excluding weeks during which the individual

1 was sick or on vacation) preceding the week speci-
2 fied in the last sentence of paragraph (4).

3 (5) The term “benefit period” means, with re-
4 spect to an individual—

5 (A) the benefit year and any ensuing pe-
6 riod, as determined under applicable State law,
7 during which the individual is eligible for reg-
8 ular compensation, additional compensation, or
9 extended compensation; or

10 (B) the equivalent to such a benefit year
11 or ensuing period provided for under the appli-
12 cable Federal unemployment insurance law.

13 (6) The term “consumer goods manufacturing”
14 means the electrical equipment, appliance, and com-
15 ponent manufacturing industry and transportation
16 equipment manufacturing.

17 (7) The term “employment site” means a single
18 facility or site of employment.

19 (8) The term “energy-intensive manufacturing
20 industries” means all industrial sectors, entities, or
21 groups of entities that meet the energy or green-
22 house gas intensity criteria in section 763(b)(2)(A)
23 of the Clean Air Act based on the most recent data
24 available.

1 (9) The term “energy producing and trans-
2 forming industries” means the coal mining industry,
3 oil and gas extraction, electricity power generation,
4 transmission and distribution, and natural gas dis-
5 tribution.

6 (10) The term “industries dependent upon en-
7 ergy industries” means rail transportation and pipe-
8 line transportation industries.

9 (11) The term “on-the-job training” means
10 training provided by an employer to an individual
11 who is employed by the employer.

12 (12) The terms “partial separation” and “par-
13 tially separated” refer, with respect to an individual
14 who has not been totally separated, that such indi-
15 vidual has had—

16 (A) his or her hours of work reduced to 80
17 percent or less of his average weekly hours in
18 adversely affected employment; and

19 (B) his or her wages reduced to 80 percent
20 or less of his average weekly wage in such ad-
21 versely affected employment.

22 (13) The term “public agency” means a depart-
23 ment or agency of a State or political subdivision of
24 a State or of the Federal Government.

1 (14) The term “Secretary” means the Secretary
2 of Labor.

3 (15) The term “service workers” means work-
4 ers supplying support or auxiliary services to an em-
5 ployment site.

6 (16) The term “State” includes the District of
7 Columbia and the Commonwealth of Puerto Rico:
8 and the term “United States” when used in the geo-
9 graphical sense includes such Commonwealth.

10 (17) The term “State agency” means the agen-
11 cy of the State which administers the State law.

12 (18) The term “State law” means the unem-
13 ployment insurance law of the State approved by the
14 Secretary of Labor under section 3304 of the Inter-
15 nal Revenue Code of 1986.

16 (19) The terms “total separation” and “totally
17 separated” refer to the layoff or severance of an in-
18 dividual from employment with an employer in which
19 adversely affected employment exists.

20 (20) The term “unemployment insurance”
21 means the unemployment compensation payable to
22 an individual under any State law or Federal unem-
23 ployment compensation law, including chapter 85 of
24 title 5, United States Code, and the Railroad Unem-
25 ployment Insurance Act (45 U.S.C. 351 et seq.).

1 The terms “regular compensation”, “additional com-
2 pensation”, and “extended compensation” have the
3 same respective meanings that are given them in
4 section 205(2), (3), and (4) of the Federal-State Ex-
5 tended Unemployment Compensation Act of 1970
6 (26 U.S.C. 3304 note; Public Law 91–373).

7 (21) The term “week” means a week as defined
8 in the applicable State law.

9 (22) The term “week of unemployment” means
10 a week of total, part-total, or partial unemployment
11 as determined under the applicable State law or
12 Federal unemployment insurance law.

13 (g) SPECIAL RULE WITH RESPECT TO MILITARY
14 SERVICE.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of this part, the Secretary may waive any
17 requirement of this part that the Secretary deter-
18 mines is necessary to ensure that an adversely af-
19 fected worker who is a member of a reserve compo-
20 nent of the Armed Forces and serves a period of
21 duty described in paragraph (2) is eligible to receive
22 climate change adjustment assistance, training, and
23 other benefits under this part in the same manner
24 and to the same extent as if the worker had not
25 served the period of duty.

1 (2) PERIOD OF DUTY DESCRIBED.—An ad-
2 versely affected worker serves a period of duty de-
3 scribed in this paragraph if, before completing train-
4 ing under this part, the worker—

5 (A) serves on active duty for a period of
6 more than 30 days under a call or order to ac-
7 tive duty of more than 30 days; or

8 (B) in the case of a member of the Army
9 National Guard of the United States or Air Na-
10 tional Guard of the United States, performs
11 full-time National Guard duty under section
12 502(f) of title 32, United States Code, for 30
13 consecutive days or more when authorized by
14 the President or the Secretary of Defense for
15 the purpose of responding to a national emer-
16 gency declared by the President and supported
17 by Federal funds.

18 (h) FRAUD AND RECOVERY OF OVERPAYMENTS.—

19 (1) RECOVERY OF PAYMENTS TO WHICH AN IN-
20 DIVIDUAL WAS NOT ENTITLED.—If the Secretary or
21 a court of competent jurisdiction determines that
22 any person has received any payment under this
23 part to which the individual was not entitled, such
24 individual shall be liable to repay such amount to
25 the Secretary, as the case may be, except that the

1 Secretary shall waive such repayment if such agency
2 or the Secretary determines that—

3 (A) the payment was made without fault
4 on the part of such individual; and

5 (B) requiring such repayment would cause
6 a financial hardship for the individual (or the
7 individual's household, if applicable) when tak-
8 ing into consideration the income and resources
9 reasonably available to the individual (or house-
10 hold) and other ordinary living expenses of the
11 individual (or household).

12 (2) MEANS OF RECOVERY.—Unless an overpay-
13 ment is otherwise recovered, or waived under para-
14 graph (1), the Secretary shall recover the overpay-
15 ment by deductions from any sums payable to such
16 person under this part, under any Federal unem-
17 ployment compensation law or other Federal law ad-
18 ministered by the Secretary which provides for the
19 payment of assistance with respect to unemploy-
20 ment. Any amount recovered under this section shall
21 be returned to the Treasury of the United States.

22 (3) PENALTIES FOR FRAUD.—Any person
23 who—

24 (A) makes a false statement of a material
25 fact knowing it to be false, or knowingly fails

1 to disclose a material fact, for the purpose of
2 obtaining or increasing for that person or for
3 any other person any payment authorized to be
4 furnished under this part; or

5 (B) makes a false statement of a material
6 fact knowing it to be false, or knowingly fails
7 to disclose a material fact, when providing in-
8 formation to the Secretary during an investiga-
9 tion of a petition under section 311(c);

10 shall be imprisoned for not more than one year, or fined
11 under title 18, United States Code, or both, and be ineli-
12 gible for any further payments under this part.

13 (i) REGULATIONS.—The Secretary shall prescribe
14 such regulations as may be necessary to carry out the pro-
15 visions of this part.

16 (j) STUDY ON OLDER WORKERS.—The Secretary
17 shall conduct a study examine the circumstances of older
18 adversely affected workers and the ability of such workers
19 to access their retirement benefits. The Secretary shall
20 transmit a report to Congress not later than 2 years after
21 the date of enactment of this Act on the findings of the
22 study and the Secretary's recommendations on how to en-
23 sure that adversely affected workers within 2 years of re-
24 tirement are able to access their retirement benefits.

25 (k) SPENDING LIMIT.—

1 (1) IN GENERAL.—For each fiscal year, the
2 total amount of funds disbursed for the purposes de-
3 scribed in section 312 shall not exceed the amount
4 deposited in that fiscal year into the Worker Transi-
5 tion Fund established under section 209 of division
6 B.

7 (2) SUBSEQUENT FISCAL YEARS.—The annual
8 spending limit for any succeeding fiscal year shall be
9 increased by the difference, if any, between the
10 amount of the disbursements for the prior fiscal year
11 and the spending limitation for that fiscal year.

12 (3) ADMINISTRATION.—

13 (A) IN GENERAL.—The Secretary shall
14 promulgate rules to ensure that the spending
15 limit established under this subsection is not ex-
16 ceeded.

17 (B) RULES.—The rules shall—

18 (i) provide that workers who receive
19 any of the benefits described in section 312
20 receive full benefits; and

21 (ii) include the establishment of a
22 waiting list for workers in the event that
23 the requests for assistance exceed the
24 spending limit.

1 **Subtitle B—International Climate**
2 **Change Programs**

3 **SEC. 321. STRATEGIC INTERAGENCY BOARD ON INTER-**
4 **NATIONAL CLIMATE INVESTMENT.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date of the enactment of this Act, the President
8 shall establish the “Strategic Interagency Board on
9 International Climate Investment” (referred to in
10 this subtitle as the “Board”).

11 (2) COMPOSITION.—The Board shall be com-
12 posed of—

13 (A) the Secretary of State;

14 (B) the Administrator of United States
15 Agency for International Development;

16 (C) the Secretary of Energy;

17 (D) the Secretary of the Treasury;

18 (E) the Secretary of Commerce;

19 (F) the Secretary of Agriculture;

20 (G) the Administrator; and

21 (H) such other relevant officials as the
22 President may designate.

23 (b) DUTIES.—The duties of the Board shall include
24 assessing, monitoring, and evaluating the progress and
25 contributions of relevant departments and agencies of the

1 Federal Government in supporting financing for inter-
2 national climate change activities.

3 **SEC. 322. EMISSION REDUCTIONS FROM REDUCED DEFOR-**
4 **ESTATION.**

5 Title VII of the Clean Air Act (as amended by section
6 101 of division B) is amended by adding at the end the
7 following:

8 **“PART E—SUPPLEMENTAL EMISSION**
9 **REDUCTIONS**

10 **“SEC. 751. DEFINITIONS.**

11 “In this part:

12 “(1) ADMINISTRATOR.—The term ‘Adminis-
13 trator’ means the Administrator of the United
14 States Agency for International Development.

15 “(2) DEFORESTATION.—The term ‘deforest-
16 ation’ means a change in land use from a forest to
17 any other land use.

18 “(3) DEGRADATION.—The term ‘degradation’,
19 with respect to a forest, is any reduction in the car-
20 bon stock of a forest due to the impact of human
21 land-use activities.

22 “(4) EMISSION REDUCTIONS.—The term ‘emis-
23 sion reductions’ means greenhouse gas emission re-
24 ductions achieved from reduced or avoided deforest-
25 ation under this title.

1 “(5) LEAKAGE PREVENTION ACTIVITIES.—The
2 term ‘leakage prevention activities’ means activities
3 in developing countries that are directed at pre-
4 serving existing forest carbon stocks, including for-
5 ested wetlands and peatlands, that might, absent
6 such activities, be lost through leakage.

7 **“SEC. 752. PURPOSES.**

8 “The purposes of this part are to provide United
9 States assistance to developing countries—

10 “(1) to develop, implement and improve nation-
11 ally appropriate greenhouse gas mitigation policies
12 and actions that reduce deforestation and forest deg-
13 radation or conserve or restore forest ecosystems, in
14 a measurable, reportable, and verifiable manner; and

15 “(2) in a manner that is consistent with and
16 enhances the implementation of complementary
17 United States policies that support the good govern-
18 ance of forests, biodiversity conservation, and envi-
19 ronmentally sustainable development, while taking
20 local communities, most vulnerable populations and
21 communities, particularly forest-dependent commu-
22 nities and indigenous peoples into consideration.

1 **“SEC. 753. EMISSION REDUCTIONS FROM REDUCED DEFOR-**
2 **ESTATION.**

3 “(a) IN GENERAL.—Not later than 2 years after the
4 date of the enactment of this part, the Administrator, in
5 consultation with the Administrator of the Environmental
6 Protection Agency, the Secretary of Agriculture, and the
7 head of any other appropriate agency, shall establish a
8 program to provide assistance to reduce greenhouse gas
9 emissions from deforestation in developing countries, in
10 accordance with this title.

11 “(b) OBJECTIVES.—The objectives of the program es-
12 tablished under this section shall be—

13 “(1) to reduce greenhouse gas emissions from
14 deforestation in developing countries by at least
15 720,000,000 tons of carbon dioxide equivalent in
16 2020, and a cumulative quantity of at least
17 6,000,000,000 tons of carbon dioxide equivalent by
18 December 31, 2025, with additional reductions in
19 subsequent years;

20 “(2) to assist developing countries in preparing
21 to participate in international markets for inter-
22 national offset credits for reduced emissions from
23 deforestation; and

24 “(3) to preserve existing forest carbon stocks in
25 countries where such forest carbon may be vulner-
26 able to international leakage.

1 “(c) NOT ELIGIBLE FOR OFFSET CREDIT.—Activi-
2 ties that receive support under this part shall not be issued
3 offset credits for the greenhouse gas emissions reductions
4 or avoidance, or greenhouse gas sequestration, produced
5 by such activities.”.

6 **SEC. 323. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**
7 **PROGRAM.**

8 (a) PURPOSES.—The purposes of this section are—

9 (1) to assist developing countries in activities
10 that reduce, sequester, or avoid greenhouse gas
11 emissions;

12 (2) to encourage those countries to shift toward
13 low-carbon development, and promote a successful
14 global agreement under the United Nations Frame-
15 work Convention on Climate Change, done at New
16 York on May 9, 1992 (or a successor agreement)
17 (referred to in this subtitle as the “Convention”);
18 and

19 (3) to promote robust compliance with and en-
20 forcement of existing international legal require-
21 ments for the protection of intellectual property
22 rights.

23 (b) ESTABLISHMENT OF INTERNATIONAL CLEAN EN-
24 ERGY DEPLOYMENT PROGRAM.—

1 (1) ESTABLISHMENT.—The Secretary of State,
2 in consultation with an interagency group designated
3 by the President, shall establish an International
4 Clean Energy Deployment Program in accordance
5 with this section.

6 (2) DISTRIBUTION OF ASSISTANCE.—The Sec-
7 retary of State, or the head of such other Federal
8 agency as the President may designate, shall direct
9 the distribution of funding to carry out the Clean
10 Energy Technology Program—

11 (A) in the form of bilateral assistance;

12 (B) to multilateral funds or international
13 institutions pursuant to the Convention or an
14 agreement negotiated under the Convention; or

15 (C) through a combination of the mecha-
16 nisms identified under subparagraphs (A) and
17 (B).

18 (c) DETERMINATION OF QUALIFYING ACTIVITIES.—
19 Assistance under this subtitle may be provided only to
20 qualifying entities for clean technology activities (includ-
21 ing building relevant technical and institutional capacity)
22 that contribute to substantial, measurable, reportable, and
23 verifiable reductions, sequestration, or avoidance of green-
24 house gas emissions.

1 **SEC. 324. INTERNATIONAL CLIMATE CHANGE ADAPTATION**
2 **AND GLOBAL SECURITY PROGRAM.**

3 (a) PURPOSES.—The purposes of this section are—

4 (1) to provide assistance to the most vulnerable
5 developing countries, particularly to the most vulner-
6 able communities and populations in those countries;
7 and

8 (2) to support the development and implemen-
9 tation of climate change adaptation programs in a
10 way that protects and promotes interests of the
11 United States, to the extent those interests may be
12 advanced by minimizing, averting, or increasing re-
13 siliance to climate change impacts.

14 (b) INTERNATIONAL CLIMATE CHANGE ADAPTATION
15 AND GLOBAL SECURITY PROGRAM.—

16 (1) ESTABLISHMENT.—The Secretary of State,
17 in consultation with the Administrator of the United
18 States Agency for International Development, the
19 Secretary of the Treasury, and the Administrator,
20 shall establish an International Climate Change Ad-
21 aptation and Global Security Program in accordance
22 with this section.

23 (2) DISTRIBUTION OF ASSISTANCE.—The Sec-
24 retary of State, or the head of such other Federal
25 agency as the President may designate, after con-
26 sultation with the Secretary of the Treasury, the Ad-

1 administrator of the United States Agency for Inter-
2 national Development, and the Administrator, shall
3 direct the distribution of funding to carry out the
4 International Climate Change Adaptation and Global
5 Security Program—

6 (A) in the form of bilateral assistance;

7 (B) to multilateral funds or international
8 institutions pursuant to the Convention or an
9 agreement negotiated under the Convention; or

10 (C) through a combination of the mecha-
11 nisms identified under subparagraphs (A) and
12 (B).

13 **SEC. 325. EVALUATION AND REPORTS.**

14 (a) MONITORING, EVALUATION, AND ENFORCE-
15 MENT.—The Board shall establish and implement a sys-
16 tem to monitor and evaluate the effectiveness and effi-
17 ciency of assistance provided under this subtitle by includ-
18 ing evaluation criteria, such as performance indicators.

19 (b) REPORTS AND REVIEW.—

20 (1) ANNUAL REPORT.—Not later than 1 year
21 after the date of enactment of this Act, and annually
22 thereafter, the Board shall submit to the appropriate
23 committees of Congress a report that describes—

1 (A) the steps Federal agencies have taken,
2 and the progress made, toward accomplishing
3 the objectives of this section; and

4 (B) the ramifications of any potentially de-
5 stabilizing impacts climate change may have on
6 the interests of the United States.

7 (2) **REVIEWS.**—Not later than 3 years after the
8 date of enactment of this Act, and triennially there-
9 after, the Board, in cooperation with the National
10 Academy of Sciences and other appropriate research
11 and development institutions, shall—

12 (A) review the global needs and opportuni-
13 ties for climate change investment in developing
14 countries; and

15 (B) submit to Congress a report that de-
16 scribes the findings of the review.

17 **SEC. 326. REPORT ON CLIMATE ACTIONS OF MAJOR**
18 **ECONOMIES.**

19 (a) **IN GENERAL.**—The Secretary of State, in co-
20 operation with the Board, shall prepare an interagency re-
21 port on climate change and energy policy of the 5 coun-
22 tries that, of the countries that are not members of the
23 Organisation for Economic Co-Operation and Develop-
24 ment, emit the greatest annual quantity of greenhouse
25 gases.

1 (b) PURPOSES.—The purposes of the report shall
2 be—

3 (1) to provide to Congress and the public of the
4 United States—

5 (A) a better understanding of the actions
6 the countries described in subsection (a) are
7 taking to reduce greenhouse gas emissions; and

8 (B) an assessment of the climate change
9 and energy policy commitments and actions of
10 those countries; and

11 (2) to identify the means by which the United
12 States can assist those countries in achieving such
13 a reduction.

14 (c) SUBMISSION TO CONGRESS.—Not later than 15
15 months after the date of enactment of this Act, the Sec-
16 retary of State shall submit to the appropriate committees
17 of Congress the report prepared under this section.

1 **Subtitle C—Adapting to Climate**
2 **Change**

3 **PART 1—DOMESTIC ADAPTATION**

4 **Subpart A—National Climate Change Adaptation**
5 **Program**

6 **SEC. 341. NATIONAL CLIMATE CHANGE ADAPTATION PRO-**
7 **GRAM.**

8 The President shall establish within the United
9 States Global Change Research Program a National Cli-
10 mate Change Adaptation Program for the purpose of in-
11 creasing the overall effectiveness of Federal climate
12 change adaptation efforts.

13 **SEC. 342. CLIMATE SERVICES.**

14 The Secretary of Commerce, acting through the Ad-
15 ministrator of the National Oceanic and Atmospheric Ad-
16 ministration (NOAA), shall establish within NOAA a Na-
17 tional Climate Service to develop climate information,
18 data, forecasts, and warnings at national and regional
19 scales, and to distribute information related to climate im-
20 pacts to State, local, and tribal governments and the pub-
21 lic to facilitate the development and implementation of
22 strategies to reduce society's vulnerability to climate varia-
23 bility and change.

1 **Subpart B—Public Health and Climate Change**

2 **SEC. 351. SENSE OF CONGRESS ON PUBLIC HEALTH AND**
3 **CLIMATE CHANGE.**

4 It is the sense of the Congress that the Federal Gov-
5 ernment, in cooperation with international, State, and
6 local governments, Indian tribes, concerned public and pri-
7 vate organizations, and citizens, should use all practicable
8 means and measures—

9 (1) to assist the efforts of public health and
10 health care professionals, first responders, States,
11 Indian tribes, municipalities, and local communities
12 to incorporate measures to prepare health systems to
13 respond to the impacts of climate change;

14 (2) to ensure—

15 (A) that the Nation's health professionals
16 have sufficient information to prepare for and
17 respond to the adverse health impacts of cli-
18 mate change;

19 (B) the utility and value of scientific re-
20 search in advancing understanding of—

21 (i) the health impacts of climate
22 change; and

23 (ii) strategies to prepare for and re-
24 spond to the health impacts of climate
25 change;

1 (C) the identification of communities vul-
2 nerable to the health effects of climate change
3 and the development of strategic response plans
4 to be carried out by health professionals for
5 those communities;

6 (D) the improvement of health status and
7 health equity through efforts to prepare for and
8 respond to climate change; and

9 (E) the inclusion of health policy in the de-
10 velopment of climate change responses;

11 (3) to encourage further research, interdiscipli-
12 nary partnership, and collaboration among stake-
13 holders in order to—

14 (A) understand and monitor the health im-
15 pacts of climate change; and

16 (B) improve public health knowledge and
17 response strategies to climate change;

18 (4) to enhance preparedness activities, and pub-
19 lic health infrastructure, relating to climate change
20 and health;

21 (5) to encourage each and every American to
22 learn about the impacts of climate change on health;
23 and

1 (6) to assist the efforts of developing nations to
2 incorporate measures to prepare health systems to
3 respond to the impacts of climate change.

4 **SEC. 352. RELATIONSHIP TO OTHER LAWS.**

5 Nothing in this subpart in any manner limits the au-
6 thority provided to or responsibility conferred on any Fed-
7 eral department or agency by any provision of any law
8 (including regulations) or authorizes any violation of any
9 provision of any law (including regulations), including any
10 health, energy, environmental, transportation, or any
11 other law or regulation.

12 **SEC. 353. NATIONAL STRATEGIC ACTION PLAN.**

13 (a) REQUIREMENT.—

14 (1) IN GENERAL.—The Secretary of Health and
15 Human Services, within 2 years after the date of the
16 enactment of this Act, on the basis of the best avail-
17 able science, and in consultation pursuant to para-
18 graph (2), shall publish a strategic action plan to as-
19 sist health professionals in preparing for and re-
20 sponding to the impacts of climate change on public
21 health in the United States and other nations, par-
22 ticularly developing nations.

23 (2) CONSULTATION.—In developing or making
24 any revision to the national strategic action plan, the
25 Secretary shall—

1 (A) consult with the Director of the Cen-
2 ters for Disease Control and Prevention, the
3 Administrator of the Environmental Protection
4 Agency, the Director of the National Institutes
5 of Health, the Director of the Indian Health
6 Service, the Secretary of Energy, other appro-
7 priate Federal agencies, Indian tribes, State
8 and local governments, public health organiza-
9 tions, scientists, and other interested stake-
10 holders; and

11 (B) provide opportunity for public input.

12 (b) CONTENTS.—

13 (1) IN GENERAL.—The Secretary shall assist
14 health professionals in preparing for and responding
15 effectively and efficiently to the health effects of cli-
16 mate change through measures including—

17 (A) developing, improving, integrating, and
18 maintaining domestic and international disease
19 surveillance systems and monitoring capacity to
20 respond to health-related effects of climate
21 change, including on topics addressing—

22 (i) water, food, and vector borne infec-
23 tious diseases and climate change;

24 (ii) pulmonary effects, including re-
25 sponses to aeroallergens;

- 1 (iii) cardiovascular effects, including
2 impacts of temperature extremes;
- 3 (iv) air pollution health effects, includ-
4 ing heightened sensitivity to air pollution;
- 5 (v) hazardous algal blooms;
- 6 (vi) mental and behavioral health im-
7 pacts of climate change;
- 8 (vii) the health of refugees, displaced
9 persons, and vulnerable communities;
- 10 (viii) the implications for communities
11 vulnerable to health effects of climate
12 change, as well as strategies for responding
13 to climate change within these commu-
14 nities; and
- 15 (ix) local and community-based health
16 interventions for climate-related health im-
17 pacts;
- 18 (B) creating tools for predicting and moni-
19 toring the public health effects of climate
20 change on the international, national, regional,
21 State, tribal, and local levels, and providing
22 technical support to assist in their implementa-
23 tion;

1 (C) developing public health communica-
2 tions strategies and interventions for extreme
3 weather events and disaster response situations;

4 (D) identifying and prioritizing commu-
5 nities and populations vulnerable to the health
6 effects of climate change, and determining ac-
7 tions and communication strategies that should
8 be taken to inform and protect these commu-
9 nities and populations from the health effects of
10 climate change;

11 (E) developing health communication, pub-
12 lic education, and outreach programs aimed at
13 public health and health care professionals, as
14 well as the general public, to promote prepared-
15 ness and response strategies relating to climate
16 change and public health, including the identi-
17 fication of greenhouse gas reduction behaviors
18 that are health-promoting; and

19 (F) developing academic and regional cen-
20 ters of excellence devoted to—

21 (i) researching relationships between
22 climate change and health;

23 (ii) expanding and training the public
24 health workforce to strengthen the capacity
25 of such workforce to respond to and pre-

1 pare for the health effects of climate
2 change;

3 (iii) creating and supporting academic
4 fellowships focusing on the health effects
5 of climate change; and

6 (iv) training senior health ministry of-
7 ficials from developing nations to strength-
8 en the capacity of such nations to—

9 (I) prepare for and respond to
10 the health effects of climate change;
11 and

12 (II) build an international net-
13 work of public health professionals
14 with the necessary climate change
15 knowledge base;

16 (G) using techniques, including health im-
17 pact assessments, to assess various climate
18 change public health preparedness and response
19 strategies on international, national, State, re-
20 gional, tribal, and local levels, and make rec-
21 ommendations as to those strategies that best
22 protect the public health;

23 (H)(i) assisting in the development, imple-
24 mentation, and support of State, regional, trib-
25 al, and local preparedness, communication, and

1 response plans (including with respect to the
2 health departments of such entities) to antici-
3 pate and reduce the health threats of climate
4 change; and

5 (ii) pursuing collaborative efforts to de-
6 velop, integrate, and implement such plans;

7 (I) creating a program to advance research
8 as it relates to the effects of climate change on
9 public health across Federal agencies, including
10 research to—

11 (i) identify and assess climate change
12 health effects preparedness and response
13 strategies;

14 (ii) prioritize critical public health in-
15 frastructure projects related to potential
16 climate change impacts that affect public
17 health; and

18 (iii) coordinate preparedness for cli-
19 mate change health impacts, including the
20 development of modeling and forecasting
21 tools;

22 (J) providing technical assistance for the
23 development, implementation, and support of
24 preparedness and response plans to anticipate

1 and reduce the health threats of climate change
2 in developing nations; and

3 (K) carrying out other activities deter-
4 mined appropriate by the Secretary to plan for
5 and respond to the impacts of climate change
6 on public health.

7 (c) REVISION.—The Secretary shall revise the na-
8 tional strategic action plan not later than July 1, 2014,
9 and every 4 years thereafter, to reflect new information
10 collected pursuant to implementation of the national stra-
11 tegic action plan and otherwise, including information
12 on—

13 (1) the status of critical environmental health
14 parameters and related human health impacts;

15 (2) the impacts of climate change on public
16 health; and

17 (3) advances in the development of strategies
18 for preparing for and responding to the impacts of
19 climate change on public health.

20 (d) IMPLEMENTATION.—

21 (1) IMPLEMENTATION THROUGH HHS.—The
22 Secretary shall exercise the Secretary's authority
23 under this subpart and other provisions of Federal
24 law to achieve the goals and measures of the na-
25 tional strategic action plan.

1 (2) OTHER PUBLIC HEALTH PROGRAMS AND
2 INITIATIVES.—The Secretary and Federal officials of
3 other relevant Federal agencies shall administer
4 public health programs and initiatives authorized by
5 provisions of law other than this subpart, subject to
6 the requirements of such statutes, in a manner de-
7 signed to achieve the goals of the national strategic
8 action plan.

9 (3) SPECIFIC ACTIVITIES.—In furtherance of
10 the national strategic action plan, the Secretary
11 shall—

12 (A) conduct scientific research to assist
13 health professionals in preparing for and re-
14 sponding to the impacts of climate change on
15 public health; and

16 (B) provide funding for—

17 (i) research on the health effects of
18 climate change; and

19 (ii) preparedness planning on the
20 international, national, State, tribal, re-
21 gional, and local levels to respond to or re-
22 duce the burden of health effects of climate
23 change; and

24 (C) carry out other activities determined
25 appropriate by the Secretary to prepare for and

1 respond to the impacts of climate change on
2 public health.

3 **SEC. 354. ADVISORY BOARD.**

4 (a) ESTABLISHMENT.—The Secretary shall establish
5 a permanent science advisory board comprised of not less
6 than 10 and not more than 20 members.

7 (b) APPOINTMENT OF MEMBERS.—The Secretary
8 shall appoint the members of the science advisory board
9 from among individuals—

10 (1) who have expertise in public health and
11 human services, climate change, and other relevant
12 disciplines; and

13 (2) at least ½ of whom are recommended by
14 the President of the National Academy of Sciences.

15 (c) FUNCTIONS.—The science advisory board shall—

16 (1) provide scientific and technical advice and
17 recommendations to the Secretary on the domestic
18 and international impacts of climate change on pub-
19 lic health, populations and regions particularly vul-
20 nerable to the effects of climate change, and strate-
21 gies and mechanisms to prepare for and respond to
22 the impacts of climate change on public health; and

23 (2) advise the Secretary regarding the best
24 science available for purposes of issuing the national
25 strategic action plan.

1 **SEC. 355. REPORTS.**

2 (a) **NEEDS ASSESSMENT.**—

3 (1) **IN GENERAL.**—The Secretary shall seek to
4 enter into, by not later than 6 months after the date
5 of the enactment of this Act, an agreement with the
6 National Research Council and the Institute of Med-
7 icine to complete a report that—

8 (A) assesses the needs for health profes-
9 sionals to prepare for and respond to climate
10 change impacts on public health; and

11 (B) recommends programs to meet those
12 needs.

13 (2) **SUBMISSION.**—The agreement under para-
14 graph (1) shall require the completed report to be
15 submitted to the Congress and the Secretary and
16 made publicly available not later than 1 year after
17 the date of the agreement.

18 (b) **CLIMATE CHANGE HEALTH PROTECTION AND**
19 **PROMOTION REPORTS.**—

20 (1) **IN GENERAL.**—The Secretary, in consulta-
21 tion with the advisory board established under sec-
22 tion 354, shall ensure the issuance of reports to aid
23 health professionals in preparing for and responding
24 to the adverse health effects of climate change
25 that—

1 (A) review scientific developments on
2 health impacts of climate change; and

3 (B) recommend changes to the national
4 strategic action plan.

5 (2) SUBMISSION.—The Secretary shall submit
6 the reports required by paragraph (1) to the Con-
7 gress and make such reports publicly available not
8 later than July 1, 2013, and every 4 years there-
9 after.

10 **SEC. 356. DEFINITIONS.**

11 In this subpart:

12 (1) HEALTH IMPACT ASSESSMENT.—The term
13 “health impact assessment” means a combination of
14 procedures, methods, and tools by which a policy,
15 program, or project may be judged as to its potential
16 effects on the health of a population, and the dis-
17 tribution of those effects within the population.

18 (2) NATIONAL STRATEGIC ACTION PLAN.—The
19 term “national strategic action plan” means the
20 plan issued and revised under section 353.

21 (3) SECRETARY.—Unless otherwise specified,
22 the term “Secretary” means the Secretary of Health
23 and Human Services.

1 **Subpart C—Climate Change Safeguards for Natural**
2 **Resources Conservation**

3 **SEC. 361. PURPOSES.**

4 The purposes of this subpart are—

5 (1) to establish an integrated Federal program
6 that responds to ongoing and expected impacts of
7 climate change, including, where applicable, ocean
8 acidification, drought, flooding, and wildfire, by pro-
9 tecting, restoring, and conserving the natural re-
10 resources of the United States; and

11 (2) to provide financial support and incentives
12 for programs, strategies, and activities that respond
13 to threats of climate change, including, where appli-
14 cable, ocean acidification, drought, flooding, and
15 wildfire, by protecting, restoring, and conserving the
16 natural resources of the United States.

17 **SEC. 362. NATURAL RESOURCES CLIMATE CHANGE ADAP-**
18 **TATION POLICY.**

19 It is the policy of the Federal Government, in co-
20 operation with State and local governments, Indian tribes,
21 and other interested stakeholders, to use all practicable
22 means to protect, restore, and conserve natural resources
23 so that natural resources become more resilient, adapt to,
24 and withstand the ongoing and expected impacts of cli-
25 mate change, including, where applicable, ocean acidifica-
26 tion, drought, flooding, and wildfire.

1 **SEC. 363. DEFINITIONS.**

2 In this subpart:

3 (1) ACCOUNT.—The term “Account” means the
4 Natural Resources Climate Change Adaption Ac-
5 count established by section 370(a).

6 (2) ADMINISTRATORS.—The term “Administra-
7 tors” means—

8 (A) the Administrator of the National Oce-
9 anic and Atmospheric Administration; and

10 (B) the Director of the United States Geo-
11 logical Survey.

12 (3) BOARD.—The term “Board” means the
13 Science Advisory Board established by section
14 367(f)(1).

15 (4) CENTER.—The term “Center” means the
16 National Climate Change and Wildlife Science Cen-
17 ter described by section 367(e)(1).

18 (5) COASTAL STATE.—The term “coastal
19 State” has the meaning given the term “coastal
20 state” in section 304 of the Coastal Zone Manage-
21 ment Act of 1972 (16 U.S.C. 1453).

22 (6) CORRIDORS.—The term “corridors” means
23 areas that—

24 (A) provide connectivity, over different
25 time scales, of habitats or potential habitats;
26 and

1 (B) facilitate terrestrial, marine, estuarine,
2 and freshwater fish, wildlife, or plant movement
3 necessary for migration, gene flow, or dispersal,
4 or to respond to the ongoing and expected im-
5 pacts of climate change, including, where appli-
6 cable, ocean acidification, drought, flooding,
7 and wildfire.

8 (7) ECOLOGICAL PROCESSES.—The term “eco-
9 logical processes” means biological, chemical, or
10 physical interaction between the biotic and abiotic
11 components of an ecosystem, including—

- 12 (A) nutrient cycling;
13 (B) pollination;
14 (C) predator-prey relationships;
15 (D) soil formation;
16 (E) gene flow;
17 (F) disease epizootiology;
18 (G) larval dispersal and settlement;
19 (H) hydrological cycling;
20 (I) decomposition; and
21 (J) disturbance regimes, such as fire and
22 flooding.

23 (8) HABITAT.—The term “habitat” means the
24 physical, chemical, and biological properties that
25 fish, wildlife, or plants use for growth, reproduction,

1 survival, food, water, or cover (whether on land, in
2 water, or in an area or region).

3 (9) INDIAN TRIBE.—The term “Indian tribe”
4 has the meaning given the term in section 4 of the
5 Indian Self-Determination and Education Assistance
6 Act (25 U.S.C. 450b).

7 (10) NATURAL RESOURCES.—The term “nat-
8 ural resources” means fish, wildlife, plants, habitats,
9 and terrestrial, freshwater, estuarine, and marine
10 ecosystems of the United States.

11 (11) NATURAL RESOURCES ADAPTATION.—The
12 term “natural resources adaptation” means the pro-
13 tection, restoration, and conservation of natural re-
14 sources so that natural resources become more resil-
15 ient, adapt to, and withstand the ongoing and ex-
16 pected impacts of climate change, including, where
17 applicable, ocean acidification, drought, flooding,
18 and wildfire.

19 (12) PANEL.—The term “Panel” means the
20 Natural Resources Climate Change Adaptation
21 Panel established under section 365(a).

22 (13) RESILIENCE; RESILIENT.—The terms “re-
23 silience” and “resilient” mean—

24 (A) the ability to resist or recover from
25 disturbance; and

1 (B) the ability to preserve diversity, pro-
2 ductivity, and sustainability.

3 (14) STATE.—The term “State” means—

4 (A) a State of the United States;

5 (B) the District of Columbia;

6 (C) American Samoa;

7 (D) Guam;

8 (E) the Commonwealth of the Northern
9 Mariana Islands;

10 (F) the Commonwealth of Puerto Rico;

11 and

12 (G) the United States Virgin Islands.

13 (15) STRATEGY.—The term “Strategy” means
14 the Natural Resources Climate Change Adaptation
15 Strategy developed under section 366(a).

16 **SEC. 364. COUNCIL ON ENVIRONMENTAL QUALITY.**

17 The Chair of the Council on Environmental Quality
18 shall—

19 (1) advise the President on implementing and
20 developing—

21 (A) the Strategy; and

22 (B) the Federal natural resource agency
23 adaptation plans required by section 368;

24 (2) serve as the Chair of the Panel established
25 under section 365; and

1 (3) coordinate Federal agency strategies, plans,
2 programs, and activities relating to protecting, re-
3 storing, and maintaining natural resources so that
4 natural resources become more resilient, adapt to,
5 and withstand the ongoing and expected impacts of
6 climate change.

7 **SEC. 365. NATURAL RESOURCES CLIMATE CHANGE ADAP-**
8 **TATION PANEL.**

9 (a) ESTABLISHMENT.—Not later than 90 days after
10 the date of enactment of this Act, the President shall es-
11 tablish a Natural Resources Climate Change Adaptation
12 Panel.

13 (b) DUTIES.—The Panel shall serve as a forum for
14 interagency consultation on, and the coordination of, the
15 development and implementation of the Strategy.

16 (c) MEMBERSHIP.—The Panel shall be composed
17 of—

18 (1) the Administrator of the National Oceanic
19 and Atmospheric Administration (or a designee);

20 (2) the Chief of the Forest Service (or a des-
21 ignee);

22 (3) the Director of the National Park Service
23 (or a designee);

24 (4) the Director of the United States Fish and
25 Wildlife Service (or a designee);

1 (5) the Director of the Bureau of Land Man-
2 agement (or a designee);

3 (6) the Director of the United States Geological
4 Survey (or a designee);

5 (7) the Commissioner of Reclamation (or a des-
6 ignee); and

7 (8) the Director of the Bureau of Indian Affairs
8 (or a designee);

9 (9) the Administrator of the Environmental
10 Protection Agency (or a designee);

11 (10) the Chief of Engineers (or a designee);

12 (11) the Chair of the Council on Environmental
13 Quality (or a designee);

14 (12) the Administrator of the Federal Emer-
15 gency Management Agency (or a designee); and

16 (13) the heads of such other Federal agencies
17 or departments with jurisdiction over natural re-
18 sources of the United States, as determined by the
19 President.

20 (d) CHAIRPERSON.—The Chair of the Council on En-
21 vironmental Quality shall serve as the Chairperson of the
22 Panel.

1 **SEC. 366. NATURAL RESOURCES CLIMATE CHANGE ADAP-**
2 **TATION STRATEGY.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act, the Panel shall develop a
5 Natural Resources Climate Change Adaptation Strategy—

6 (1) to protect, restore, and conserve natural re-
7 sources so that natural resources become more resil-
8 ient, adapt to, and withstand the ongoing and ex-
9 pected impacts of climate change; and

10 (2) to identify opportunities to mitigate the on-
11 going and expected impacts of climate change.

12 (b) DEVELOPMENT.—In developing and revising the
13 Strategy, the Panel shall—

14 (1) base the strategy on the best available
15 science;

16 (2) develop the strategy in close cooperation
17 with States and Indian tribes;

18 (3) coordinate with other Federal agencies, as
19 appropriate;

20 (4) consult with local governments, conservation
21 organizations, scientists, and other interested stake-
22 holders; and

23 (5) provide public notice and opportunity for
24 comment.

1 (c) REVISION.—After the Panel adopts the initial
2 Strategy, the Panel shall review and revise the Strategy
3 every 5 years to incorporate—

4 (1) new information regarding the ongoing and
5 expected impacts of climate change on natural re-
6 sources; and

7 (2) new advances in the development of strate-
8 gies that make natural resources more resilient or
9 able to adapt to the ongoing and expected impacts
10 of climate change.

11 (d) CONTENTS.—The Strategy shall—

12 (1) assess the vulnerability of natural resources
13 to climate change, including short-term, medium-
14 term, long-term, cumulative, and synergistic im-
15 pacts;

16 (2) describe current research, observation, and
17 monitoring activities at the Federal, State, tribal,
18 and local level related to the ongoing and expected
19 impacts of climate change on natural resources;

20 (3) identify and prioritize research and data
21 needs;

22 (4) identify natural resources likely to have the
23 greatest need for protection, restoration, and con-
24 servation due to the ongoing and expanding impacts
25 of climate change;

1 (5) include specific protocols for integrating
2 natural resources adaptation strategies and activities
3 into the conservation and management of natural re-
4 sources by Federal departments and agencies to en-
5 sure consistency across agency jurisdictions;

6 (6) include specific actions that Federal depart-
7 ments and agencies shall take to protect, conserve,
8 and restore natural resources to become more resil-
9 ient, adapt to, and withstand the ongoing and ex-
10 pected impacts of climate change, including a
11 timeline to implement those actions;

12 (7) include specific mechanisms for ensuring
13 communication and coordination—

14 (A) among Federal departments and agen-
15 cies; and

16 (B) between Federal departments and
17 agencies and State natural resource agencies,
18 United States territories, Indian tribes, private
19 landowners, conservation organizations, and
20 other countries that share jurisdiction over nat-
21 ural resources with the United States;

22 (8) include specific actions to develop and im-
23 plement consistent natural resources inventory and
24 monitoring protocols through interagency coordina-
25 tion and collaboration; and

1 (9) include procedures for guiding the develop-
2 ment of detailed agency- and department-specific ad-
3 aptation plans required under section 368.

4 (e) IMPLEMENTATION.—Consistent with other laws
5 and Federal trust responsibilities concerning land of In-
6 dian tribes, each Federal department or agency rep-
7 resented on the Panel shall integrate the elements of the
8 Strategy that relate to conservation, restoration, and man-
9 agement of natural resources into agency plans, environ-
10 mental reviews, programs, and activities.

11 **SEC. 367. NATURAL RESOURCES ADAPTATION SCIENCE**
12 **AND INFORMATION.**

13 (a) COORDINATION.—Not later than 90 days after
14 the date of enactment of this Act, the Administrators shall
15 establish coordinated procedures for developing and pro-
16 viding science and information necessary to address the
17 ongoing and expected impacts of climate change on nat-
18 ural resources.

19 (b) OVERSIGHT.—The National Climate Change and
20 Wildlife Science Center established under subsection (e)
21 and the National Climate Service of the National Oceanic
22 and Atmospheric Administration shall oversee develop-
23 ment of the procedures.

24 (c) FUNCTIONS.—The Administrators shall—

1 (1) ensure that the procedures required under
2 subsection (a) avoid duplication; and

3 (2) ensure that the National Oceanic and At-
4 mospheric Administration and the United States Ge-
5 ological Survey—

6 (A) provide technical assistance to Federal
7 departments and agencies, State and local gov-
8 ernments, Indian tribes, and interested private
9 landowners that are pursuing the goals of ad-
10 dressing the ongoing and expected impacts of
11 climate change on natural resources;

12 (B) conduct and sponsor research to de-
13 velop strategies that increase the ability of nat-
14 ural resources to become more resilient, adapt
15 to, and withstand the ongoing and expected im-
16 pacts of climate change;

17 (C) provide Federal departments and agen-
18 cies, State and local governments, Indian tribes,
19 and interested private landowners with research
20 products, decision and monitoring tools, and in-
21 formation to develop strategies that increase
22 the ability of natural resources to become more
23 resilient, adapt to, and withstand the ongoing
24 and expected impacts of climate change; and

1 (D) assist Federal departments and agen-
2 cies in the development of adaptation plans re-
3 quired by section 368.

4 (d) SURVEY.—Not later than 1 year after the date
5 of enactment of this Act, and every 5 years thereafter,
6 the Secretary of Commerce and the Secretary of the Inte-
7 rior shall conduct a climate change impact survey that—

8 (1) identifies natural resources considered likely
9 to be adversely affected by climate change;

10 (2) includes baseline monitoring and ongoing
11 trend analysis;

12 (3) with input from stakeholders, identifies and
13 prioritizes necessary monitoring and research that is
14 most relevant to the needs of natural resource man-
15 agers to address the ongoing and expected impacts
16 of climate change and to promote resilience; and

17 (4) identifies the decision tools necessary to de-
18 velop strategies that increase the ability of natural
19 resources to become more resilient, adapt to, and
20 withstand the ongoing and expected impacts of cli-
21 mate change.

22 (e) NATIONAL CLIMATE CHANGE AND WILDLIFE
23 SCIENCE CENTER.—

24 (1) ESTABLISHMENT.—The Secretary of the In-
25 terior shall establish the National Climate Change

1 and Wildlife Science Center within the United States
2 Geological Survey.

3 (2) FUNCTIONS.—In collaboration with Federal
4 and State natural resources agencies and depart-
5 ments, Indian tribes, universities, and other partner
6 organizations, the Center shall—

7 (A) assess and synthesize current physical
8 and biological knowledge;

9 (B) prioritize scientific gaps in such knowl-
10 edge in order to forecast the ecological impacts
11 of climate change, including, where applicable,
12 ocean acidification, drought, flooding, and wild-
13 fire on fish and wildlife at the ecosystem, habi-
14 tat, community, population, and species levels;

15 (C) develop and improve tools to identify,
16 evaluate, and link scientific approaches and
17 models that forecast the impacts of climate
18 change, including, where applicable, ocean acidi-
19 fication, drought, flooding, and wildfire on fish,
20 wildlife, plants, and associated habitats, includ-
21 ing—

22 (i) monitoring;

23 (ii) predictive models;

24 (iii) vulnerability analyses;

25 (iv) risk assessments; and

1 (v) decision support systems that help
2 managers make informed decisions;

3 (D) develop and evaluate tools to adapt-
4 ively manage and monitor the effects of climate
5 change (including tools for the collection of
6 data) on fish and wildlife on the national, re-
7 gional, and local level; and

8 (E) develop capacities for sharing stand-
9 ardized data and the synthesis of the data de-
10 scribed in subparagraph (D).

11 (f) SCIENCE ADVISORY BOARD.—

12 (1) ESTABLISHMENT.—Not later than 180 days
13 after the date of enactment of this Act, the Sec-
14 retary of Commerce and the Secretary of the Inte-
15 rior shall establish and appoint the members of the
16 Science Advisory Board.

17 (2) MEMBERSHIP.—The Board shall be com-
18 prised of not fewer than 10 and not more than 20
19 members—

20 (A) who have expertise in fish, wildlife,
21 plant, aquatic, and coastal and marine biology,
22 ecology, climate change, including, where appli-
23 cable, ocean acidification, drought, flooding,
24 and wildfire, and other relevant scientific dis-
25 ciplines;

1 (B) who represent a balanced membership
2 among Federal, State, tribal, and local rep-
3 resentatives, universities, and conservation or-
4 ganizations; and

5 (C) at least $\frac{1}{2}$ of whom are recommended
6 by the President of the National Academy of
7 Sciences.

8 (3) DUTIES.—The Board shall—

9 (A) advise the Secretary of Commerce and
10 the Secretary of the Interior on the state of the
11 science regarding—

12 (i) the ongoing and expected impacts
13 of climate change, including, where appli-
14 cable, ocean acidification, drought, flood-
15 ing, and wildfire on natural resources; and

16 (ii) scientific strategies and mecha-
17 nisms for protecting, restoring, and con-
18 serving natural resources so natural re-
19 sources become more resilient, adapt to,
20 and withstand the ongoing and expected
21 impacts of climate change, including,
22 where applicable, ocean acidification,
23 drought, flooding, and wildfire; and

1 (B) identify and recommend priorities for
2 ongoing research needs on the issues described
3 in subparagraph (A).

4 (4) COLLABORATION.—The Board shall collabo-
5 rate with climate change and ecosystem research en-
6 tities in other Federal agencies and departments.

7 (5) AVAILABILITY TO PUBLIC.—The advice and
8 recommendations of the Board shall be made avail-
9 able to the public.

10 **SEC. 368. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-**
11 **TION PLANS.**

12 (a) DEVELOPMENT.—Not later than 1 year after the
13 date of development of the Strategy, each department or
14 agency with representation on the Panel shall—

15 (1) complete an adaptation plan for that de-
16 partment or agency that—

17 (A) implements the Strategy and is con-
18 sistent with the natural resources climate
19 change adaptation policy required by section
20 362;

21 (B) details the ongoing and expanding ac-
22 tions of the department or agency, and any
23 changes in decisionmaking processes necessary
24 to increase the ability of resources under the ju-
25 risdiction of the department or agency and, to

1 the maximum extent practicable, resources
2 under the jurisdiction of other departments and
3 agencies that may be significantly affected by
4 decisions of the department or agency, to be-
5 come more resilient, adapt to, and withstand
6 the ongoing and expected impacts of climate
7 change, including, where applicable, ocean acidi-
8 fication, drought, flooding, and wildfire; and

9 (C) includes a timeline for implementation;

10 (2) provide opportunities for public review and
11 comment on the adaptation plan, and in the case of
12 a plan by the Bureau of Indian Affairs, review by
13 Indian tribes; and

14 (3) submit the plan to the President for ap-
15 proval.

16 (b) REVIEW BY PRESIDENT AND SUBMISSION TO
17 CONGRESS.—

18 (1) REVIEW BY PRESIDENT.—The President
19 shall—

20 (A) approve an adaptation plan submitted
21 under subsection (a)(3) if the plan meets the
22 requirements of subsection (c) and is consistent
23 with the Strategy; and

24 (B) decide whether to approve the plan
25 within 60 days of submission.

1 (2) DISAPPROVAL.—If the President dis-
2 approves an adaptation plan, the President shall di-
3 rect the department or agency to submit a revised
4 plan within 60 days of that disapproval.

5 (3) SUBMISSION TO CONGRESS.—Not later than
6 30 days after the date of approval of an adaptation
7 plan by the President, the department or agency
8 shall submit the plan to—

9 (A) the Committee on Natural Resources
10 of the House of Representatives;

11 (B) the Committee on Energy and Natural
12 Resources of the Senate;

13 (C) the Committee on Environment and
14 Public Works of the Senate; and

15 (D) any other committees of the House of
16 Representatives or the Senate with principal ju-
17 risdiction over the department or agency.

18 (c) REQUIREMENTS.—Each adaptation plan shall—

19 (1) establish programs for assessing the ongo-
20 ing and expected impacts of climate change, includ-
21 ing, where applicable, ocean acidification, drought,
22 flooding, and wildfire on natural resources under the
23 jurisdiction of the department or agency preparing
24 the plan, including—

1 (A) assessment of cumulative and syner-
2 gistic effects; and

3 (B) programs that identify and monitor
4 natural resources likely to be adversely affected
5 and that have need for conservation;

6 (2) identify and prioritize—

7 (A) the strategies of the department or
8 agency preparing the plan;

9 (B) the specific conservation actions that
10 address the ongoing and expected impacts of
11 climate change, including, where applicable,
12 ocean acidification, drought, flooding, and wild-
13 fire on natural resources under jurisdiction of
14 the department or agency preparing the plan;

15 (C) strategies to protect, restore, and con-
16 serve such resources to become more resilient,
17 adapt to, and better withstand those impacts,
18 including—

19 (i) protection, restoration, and con-
20 servation of terrestrial, marine, estuarine,
21 and freshwater habitats and ecosystems;

22 (ii) establishment of terrestrial, ma-
23 rine, estuarine, and freshwater habitat
24 linkages and corridors;

1 (iii) restoration and conservation of
2 ecological processes;

3 (iv) protection of a broad diversity of
4 native species of fish, wildlife, and plant
5 populations across the ranges of those spe-
6 cies; and

7 (v) protection of fish, wildlife, and
8 plant health, recognizing that climate can
9 alter the distribution and ecology of
10 parasites, pathogens, and vectors;

11 (3) describe how the department or agency
12 will—

13 (A) integrate the strategies and conserva-
14 tion activities into plans, programs, activities,
15 and actions of the department or agency relat-
16 ing to the conservation and management of nat-
17 ural resources; and

18 (B) establish new plans, programs, activi-
19 ties, and actions, if necessary;

20 (4) establish methods—

21 (A) to assess the effectiveness of strategies
22 and conservation actions the department or
23 agency takes to protect, restore, and conserve
24 natural resources so natural resources become
25 more resilient, adapt to, and withstand the on-

1 going and expected impacts of climate change;
2 and

3 (B) to update those strategies and actions
4 to respond to new information and changing
5 conditions;

6 (5) describe current and proposed mechanisms
7 to enhance cooperation and coordination of natural
8 resources adaptation efforts with other Federal
9 agencies, State and local governments, Indian tribes,
10 and nongovernmental stakeholders;

11 (6) include written guidance to resource man-
12 agers that—

13 (A) explains how managers are expected to
14 address the ongoing and expected effects of cli-
15 mate change, including, where applicable, ocean
16 acidification, drought, flooding, and wildfire;

17 (B) identifies how managers shall obtain
18 any necessary site-specific information; and

19 (C) reflects best practices shared among
20 relevant agencies, but recognizes the unique
21 missions, objectives, and responsibilities of each
22 agency;

23 (7) identify and assess data and information
24 gaps necessary to develop natural resources adapta-
25 tion plans and strategies; and

1 (8) consider strategies that engage youth and
2 young adults (including youth and young adults
3 working in full-time or part-time youth service or
4 conservation corps programs) to provide the youth
5 and young adults with opportunities for meaningful
6 conservation and community service and to encour-
7 age opportunities for employment in the private sec-
8 tor through partnerships with employers.

9 (d) IMPLEMENTATION.—

10 (1) IN GENERAL.—Upon approval by the Presi-
11 dent, each department or agency with representation
12 on the Panel shall, consistent with existing author-
13 ity, implement the adaptation plan of the depart-
14 ment or agency through existing and new plans,
15 policies, programs, activities, and actions.

16 (2) CONSIDERATION OF IMPACTS.—To the max-
17 imum extent practicable and consistent with existing
18 authority, natural resource management decisions
19 made by the department or agency shall consider the
20 ongoing and expected impacts of climate change, in-
21 cluding, where applicable, ocean acidification,
22 drought, flooding, and wildfire on natural resources.

23 (e) REVISION AND REVIEW.—Not less than every 5
24 years, each department or agency shall review and revise
25 the adaptation plan of the department or agency to incor-

1 porate the best available science, and other information,
2 regarding the ongoing and expected impacts of climate
3 change on natural resources.

4 **SEC. 369. STATE NATURAL RESOURCES ADAPTATION**
5 **PLANS.**

6 (a) **REQUIREMENT.**—In order to be eligible for funds
7 under section 370, not later than 1 year after the develop-
8 ment of the Strategy, each State shall prepare a State nat-
9 ural resources adaptation plan detailing current and fu-
10 ture efforts of the State to address the ongoing and ex-
11 pected impacts of climate change on natural resources and
12 coastal areas within the jurisdiction of the State.

13 (b) **REVIEW OR APPROVAL.**—

14 (1) **IN GENERAL.**—The Secretary of the Inte-
15 rior and, as applicable, the Secretary of Commerce
16 shall review each State adaptation plan, and approve
17 the plan if the plan—

18 (A) meets the requirements of subsection

19 (c); and

20 (B) is consistent with the Strategy.

21 (2) **APPROVAL OR DISAPPROVAL.**—The Sec-
22 retary of the Interior and, as applicable, the Sec-
23 retary of Commerce shall approve or disapprove the
24 plan by written notice not later than 180 days after

1 the date of submission of the plan (or a revised
2 plan).

3 (3) RESUBMISSION.—Not later than 90 days
4 after the date of resubmission of an adaptation plan
5 that has been disapproved under paragraph (2), the
6 Secretary of the Interior and, as applicable, the Sec-
7 retary of Commerce, shall approve or disapprove the
8 plan by written notice.

9 (c) CONTENTS.—A State natural resources adapta-
10 tion plan shall—

11 (1) include strategies for addressing the ongo-
12 ing and expected impacts of climate change, includ-
13 ing, where applicable, ocean acidification, drought,
14 flooding, and wildfire on terrestrial, marine, estua-
15 rine, and freshwater fish, wildlife, plants, habitats,
16 ecosystems, wildlife health, and ecological processes
17 that—

18 (A) describe the ongoing and expected im-
19 pacts of climate change, including, where appli-
20 cable, ocean acidification, drought, flooding,
21 and wildfire on the diversity and health of fish,
22 wildlife and plant populations, habitats, eco-
23 systems, and associated ecological processes;

24 (B) establish programs for monitoring the
25 ongoing and expected impacts of climate

1 change, including, where applicable, ocean acidi-
2 fication, drought, flooding, and wildfire on fish,
3 wildlife, and plant populations, habitats, eco-
4 systems, and associated ecological processes;

5 (C) describe and prioritize proposed con-
6 servation actions that increase the ability of
7 fish, wildlife, plant populations, habitats, eco-
8 systems, and associated ecological processes to
9 become more resilient, adapt to, and better
10 withstand those impacts;

11 (D) consider strategies that engage youth
12 and young adults (including youth and young
13 adults working in full-time or part-time youth
14 service or conservation corps programs) to pro-
15 vide the youth and young adults with opportu-
16 nities for meaningful conservation and commu-
17 nity service and to encourage opportunities for
18 employment in the private sector through part-
19 nerships with employers;

20 (E) integrate protection and restoration of
21 resource resilience into agency decision making
22 and specific conservation actions;

23 (F) include a time frame for implementing
24 conservation actions for fish, wildlife, and plant

1 populations, habitats, ecosystems, and associ-
2 ated ecological processes;

3 (G) establish methods—

4 (i) for assessing the effectiveness of
5 strategies and conservation actions taken
6 to increase the ability of fish, wildlife, and
7 plant populations, habitats, ecosystems,
8 and associated ecological processes to be-
9 come more resilient, adapt to, and better
10 withstand the ongoing and expected im-
11 pacts of climate changes, including, where
12 applicable, ocean acidification, drought,
13 flooding, and wildfire; and

14 (ii) for updating strategies and ac-
15 tions to respond appropriately to new in-
16 formation or changing conditions;

17 (H) are incorporated into a revision of the
18 State wildlife action plan (also known as the
19 State comprehensive wildlife strategy) that has
20 been—

21 (i) submitted to the United States
22 Fish and Wildlife Service; and

23 (ii) approved, or is pending approval,
24 by the United States Fish and Wildlife
25 Service; and

1 (I) are developed—

2 (i) with the participation of the State
3 fish and wildlife agency, the State coastal
4 agency, the State agency responsible for
5 administration of Land and Water Con-
6 servation Fund grants, the State Forest
7 Legacy program coordinator, and other
8 State agencies considered appropriate by
9 the Governor of the State;

10 (ii) in coordination with the Secretary
11 of the Interior, and where applicable, the
12 Secretary of Commerce;

13 (iii) in coordination with other States
14 that share jurisdiction over natural re-
15 sources with the State; and

16 (iv) in coordination with—

17 (I) Indian tribes that located
18 within the State; and

19 (II) Indian tribes having treaty
20 rights to natural resources within the
21 State; and

22 (2) in the case of a coastal State, include strat-
23 egies for addressing the ongoing and expected im-
24 pacts of climate change, including, where applicable,

1 ocean acidification, drought, flooding, and wildfire
2 on a coastal zone that—

3 (A) identify natural resources likely to be
4 impacted by climate change, and describe the
5 impacts;

6 (B) identify and prioritize continuing re-
7 search and data collection needed to address
8 the impacts, including—

9 (i) acquisition of high-resolution
10 coastal elevation and nearshore bathymetry
11 data;

12 (ii) historic shoreline position maps,
13 erosion rates, and inventories of shoreline
14 features and structures;

15 (iii) measures and models of relative
16 rates of sea level rise or lake level changes,
17 including effects on flooding, storm surge,
18 inundation, and coastal geological proc-
19 esses;

20 (iv) measures and models of habitat
21 loss, including projected losses of coastal
22 wetlands and potentials for inland migra-
23 tion of natural shoreline habitats;

24 (v) measures and models of ocean and
25 coastal species and ecosystem migrations,

1 and changes in species population dynam-
2 ics;

3 (vi) changes in storm frequency, in-
4 tensity, or rainfall patterns;

5 (vii) measures and models of saltwater
6 intrusion into coastal rivers and aquifers;

7 (viii) changes in chemical or physical
8 characteristics of marine and estuarine
9 systems, including the presence, extent,
10 and timing of hypoxic and anoxic condi-
11 tions;

12 (ix) measures and models of increased
13 harmful algal blooms; and

14 (x) measures and models of the
15 spread of invasive species;

16 (C) identify and prioritize adaptation strat-
17 egies to protect, restore, and conserve natural
18 resources to enable natural resources to become
19 more resilient, adapt to, and withstand the on-
20 going and expected impacts of climate change,
21 including, where applicable, ocean acidification,
22 drought, flooding, and wildfire, including—

23 (i) protection, maintenance, and res-
24 toration of ecologically important coastal
25 lands, coastal and ocean ecosystems, and

1 species biodiversity and the establishment
2 of habitat buffer zones, migration cor-
3 ridors, and climate refugia; and

4 (ii) improved planning, siting policies,
5 hazard mitigation strategies, and State
6 property insurance programs;

7 (D) establish programs—

8 (i) for the long-term monitoring of the
9 ongoing and expected impacts of climate
10 change, including, where applicable, ocean
11 acidification, drought, flooding, and wild-
12 fire on the ocean and coastal zone; and

13 (ii) assess and adjust, when necessary,
14 the adaptive management strategies;

15 (E) establish performance measures that—

16 (i) assess the effectiveness of adapta-
17 tion strategies intended to improve resil-
18 ience and the ability of natural resources
19 to adapt to and withstand the ongoing and
20 expected impacts of climate change, includ-
21 ing, where applicable, ocean acidification,
22 drought, flooding, and wildfire;

23 (ii) assess the effectiveness of adapta-
24 tion strategies intended to minimize those
25 impacts on the coastal zone; and

1 (iii) update the strategies to respond
2 to new information or changing conditions;
3 and

4 (F) are developed—

5 (i) with the participation of the State
6 coastal agency and other appropriate State
7 agencies; and

8 (ii) in coordination with the Secretary
9 of Commerce and other appropriate Fed-
10 eral agencies.

11 (d) PUBLIC INPUT.—In developing the adaptation
12 plan, a State shall provide for solicitation and consider-
13 ation of public input and independent scientific input.

14 (e) COORDINATION WITH OTHER PLANS.—The State
15 adaptation plan shall review research and information
16 and, where appropriate, integrate the goals and measures
17 set forth in other natural resources conservation strate-
18 gies, including—

19 (1) the National Fish Habitat Action Plan;

20 (2) plans under the North American Wetlands
21 Conservation Act (16 U.S.C. 4401 et seq.);

22 (3) the Federal, State, and local partnership
23 known as “Partners in Flight”;

1 (4) federally approved coastal zone management
2 plans under the Coastal Zone Management Act of
3 1972 (16 U.S.C. 1451 et seq.);

4 (5) federally approved regional fishery manage-
5 ment plans and habitat conservation activities
6 under the Magnuson-Stevens Fishery Conservation
7 and Management Act (16 U.S.C. 1801 et seq.);

8 (6) the National Coral Reef Action Plan;

9 (7) recovery plans for threatened species and
10 endangered species under section 4(f) of the Endan-
11 gered Species Act of 1973 (16 U.S.C. 1533(f));

12 (8) habitat conservation plans under section 10
13 of that Act (16 U.S.C. 1539);

14 (9) other Federal, State, and tribal plans for
15 imperiled species;

16 (10) State or tribal hazard mitigation plans;

17 (11) State or tribal water management plans;

18 (12) State property insurance programs; and

19 (13) other State-based strategies that com-
20 prehensively implement adaptation activities to re-
21 mediate the ongoing and expected effects of climate
22 change, including, where applicable, ocean acidifica-
23 tion, drought, flooding, and wildfire, on terrestrial,
24 marine, and freshwater fish, wildlife, plants, and
25 other natural resources.

1 (f) UPDATING.—Each State plan shall be updated at
2 least every 5 years.

3 (g) FUNDING.—

4 (1) IN GENERAL.—Funds allocated to States
5 under section 370 shall be used only for activities
6 consistent with a State natural resources adaptation
7 plan approved by the Secretary of the Interior and,
8 as appropriate, the Secretary of Commerce.

9 (2) FUNDING PRIOR TO THE APPROVAL OF A
10 STATE PLAN.—Until the earlier of the date that is
11 3 years after the date of enactment of this Act or
12 the date on which a State adaptation plan is ap-
13 proved, a State shall be eligible to receive funding
14 under section 370 for adaptation activities that
15 are—

16 (A) consistent with the comprehensive
17 wildlife strategy of the State and, where appro-
18 priate, other natural resources conservation
19 strategies; and

20 (B) in accordance with a work plan devel-
21 oped in coordination with—

22 (i) the Secretary of the Interior; and

23 (ii) the Secretary of Commerce.

24 (3) COASTAL STATE.—In developing a work
25 plan under paragraph (2)(B), a coastal State shall

1 coordinate with the Secretary of Commerce only for
2 those portions of the strategy relating to activities
3 affecting the coastal zone.

4 (4) PENDING APPROVAL.—During the period
5 for which approval by the applicable Secretary is
6 pending, the State may continue to receive funds
7 under section 370 pursuant to the work plan de-
8 scribed in paragraph (2)(B).

9 **SEC. 370. NATURAL RESOURCES CLIMATE CHANGE ADAP-**
10 **TATION ACCOUNT.**

11 (a) DISTRIBUTION.—

12 (1) STATES.—The assistance made available
13 pursuant to section 771(a)(16) of the Clean Air Act
14 and section 216 of division B for each fiscal year
15 shall be provided to States to carry out natural re-
16 sources adaptation activities in accordance with ad-
17 aptation plans approved under section 369, and shall
18 be distributed as follows:

19 (A) 84 percent shall be available to State
20 wildlife agencies in accordance with the appor-
21 tionment formula established under the second
22 subsection (c) (relating to the apportionment of
23 the Wildlife Conservation and Restoration Ac-
24 count) of section 4 of the Pittman-Robertson
25 Wildlife Restoration Act (16 U.S.C. 669e).

1 (B) 16 percent shall be available to State
2 coastal agencies pursuant to the formula estab-
3 lished by the Secretary of Commerce under sec-
4 tion 306(c) of the Coastal Management Act of
5 1972 (16 U.S.C. 1455(c)).

6 (2) NATURAL RESOURCE ADAPTATION.—Of the
7 amounts made available pursuant to section
8 771(b)(7) of the Clean Air Act and section 212 of
9 division B for each fiscal year to carry out this sub-
10 part—

11 (A) 28 percent shall be allocated to the
12 Secretary of the Interior for use in funding—

13 (i) natural resources adaptation activi-
14 ties carried out—

15 (I) under endangered species, mi-
16 gratory species, and other fish and
17 wildlife programs administered by the
18 National Park Service, the United
19 States Fish and Wildlife Service, the
20 Bureau of Indian Affairs, and the Bu-
21 reau of Land Management;

22 (II) on wildlife refuges, National
23 Park Service land, and other public
24 land under the jurisdiction of the
25 United States Fish and Wildlife Serv-

1 ice, the Bureau of Land Management,
2 the Bureau of Indian Affairs, or the
3 National Park Service; and

4 (III) within Federal water man-
5 aged by the Bureau of Reclamation
6 and the National Park Service; and

7 (ii) the implementation of the Na-
8 tional Fish and Wildlife Habitat and Cor-
9 ridors Information Program required by
10 section 371;

11 (B) 8 percent shall be allocated to the Sec-
12 retary of the Interior for natural resources ad-
13 aptation activities carried out under cooperative
14 grant programs, including—

15 (i) the cooperative endangered species
16 conservation fund authorized under section
17 6 of the Endangered Species Act of 1973
18 (16 U.S.C. 1535);

19 (ii) programs under the North Amer-
20 ican Wetlands Conservation Act (16
21 U.S.C. 4401 et seq.);

22 (iii) the Neotropical Migratory Bird
23 Conservation Fund established by section
24 9(a) of the Neotropical Migratory Bird
25 Conservation Act (16 U.S.C. 6108(a));

1 (iv) the Coastal Program of the
2 United States Fish and Wildlife Service;

3 (v) the National Fish Habitat Action
4 Plan;

5 (vi) the Partners for Fish and Wildlife
6 Program;

7 (vii) the Landowner Incentive Pro-
8 gram;

9 (viii) the Wildlife Without Borders
10 Program of the United States Fish and
11 Wildlife Service; and

12 (ix) the Migratory Species Program
13 and Park Flight Migratory Bird Program
14 of the National Park Service; and

15 (C) 5 percent shall be allocated to the Sec-
16 retary of the Interior to provide financial assist-
17 ance to Indian tribes to carry out natural re-
18 sources adaptation activities through—

19 (i) the Trust Natural Resources Pro-
20 gram of the Bureau of Indian Affairs; and

21 (ii) the Tribal Wildlife Grants Pro-
22 gram of the United States Fish and Wild-
23 life Service.

24 (3) LAND AND WATER CONSERVATION.—

25 (A) DEPOSITS.—

1 (i) IN GENERAL.—Of the amounts
2 made available pursuant to section
3 771(b)(7) of the Clean Air Act and section
4 212 of division B for each fiscal year to
5 carry out this subpart, 20 percent shall be
6 deposited in the Land and Water Con-
7 servation Fund established under section 2
8 of the Land and Water Conservation Fund
9 Act of 1965 (16 U.S.C. 460l–5).

10 (ii) USE OF DEPOSITS.—Deposits in
11 the Land and Water Conservation Fund
12 under this paragraph shall—

13 (I) be supplemental to authoriza-
14 tions provided under section 3 of the
15 Land and Water Conservation Fund
16 Act of 1965 (16 U.S.C. 460l–6),
17 which shall remain available for non-
18 adaptation needs; and

19 (II) be available to carry out this
20 subpart without further appropriation
21 or fiscal year limitation.

22 (B) DISTRIBUTION OF AMOUNTS.—Of the
23 amounts deposited under this paragraph in the
24 Land and Water Conservation Fund—

1 (i) for the purposes of carrying out
2 the natural resources adaptation activities
3 through the acquisition of land and inter-
4 ests in land under section 6 of the Land
5 and Water Conservation Fund Act of 1965
6 (16 U.S.C. 4601–8), $\frac{1}{6}$ shall be allocated
7 to the Secretary of the Interior and made
8 available on a competitive basis—

9 (I) to States, in accordance with
10 the natural resources adaptation plans
11 of States, and to Indian tribes;

12 (II) notwithstanding section 5 of
13 that Act (16 U.S.C. 4601–7); and

14 (III) in addition to any funds
15 provided pursuant to annual appro-
16 priations Acts, the Energy Policy Act
17 of 2005 (42 U.S.C. 15801 et seq.), or
18 any other authorization for non-
19 adaptation needs;

20 (ii) $\frac{1}{3}$ shall be allocated to the Sec-
21 retary of the Interior to carry out natural
22 resources adaptation activities through the
23 acquisition of lands and interests in land
24 under section 7 of the Land and Water

1 Conservation Fund Act of 1965 (16 U.S.C.
2 460l-9);

3 (iii) $\frac{1}{6}$ shall be allocated to the Sec-
4 retary of Agriculture and made available to
5 the States and Indian tribes to carry out
6 natural resources adaptation activities
7 through the acquisition of land and inter-
8 ests in land under section 7 of the Cooper-
9 ative Forestry Assistance Act of 1978 (16
10 U.S.C. 2103c); and

11 (iv) $\frac{1}{3}$ shall be allocated to the Sec-
12 retary of Agriculture to carry out natural
13 resources adaptation activities through the
14 acquisition of land and interests in land
15 under section 7 of the Land and Water
16 Conservation Fund Act of 1965 (16 U.S.C.
17 460l-9).

18 (C) EXPENDITURE OF FUNDS.—In allo-
19 cating funds under subparagraph (B), the Sec-
20 retary of the Interior and the Secretary of Agri-
21 culture shall take into consideration factors in-
22 cluding—

23 (i) the availability of non-Federal con-
24 tributions from State, local, or private
25 sources;

1 (ii) opportunities to protect fish and
2 wildlife corridors or otherwise to link or
3 consolidate fragmented habitats;

4 (iii) opportunities to reduce the risk of
5 catastrophic wildfires, drought, extreme
6 flooding, or other climate-related events
7 that are harmful to fish and wildlife and
8 people; and

9 (iv) the potential for conservation of
10 species or habitat types at serious risk due
11 to climate change, including, where appli-
12 cable, ocean acidification, drought, flood-
13 ing, and wildfire, or other stressors.

14 (4) NATIONAL FOREST AND GRASSLAND ADAP-
15 TATION.—Of the amounts made available pursuant
16 to section 771(b)(7) of the Clean Air Act and sec-
17 tion 212 of division B for each fiscal year to carry
18 out this subpart, 8 percent shall be allocated to the
19 Forest Service, through the Secretary of Agri-
20 culture—

21 (A) to fund natural resources adaptation
22 activities carried out in national forests and na-
23 tional grasslands under the jurisdiction of the
24 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 pursuant to
7 section 771(b)(7) of the Clean Air Act and section
8 212 of division B for each fiscal year to carry out
9 this subpart, 11 percent shall be allocated to the
10 Secretary of Commerce to fund natural resources
11 adaptation activities that protect, maintain, and re-
12 store coastal, estuarine, and marine resources, habi-
13 tats, and ecosystems, including such activities car-
14 ried out under—

15 (A) the coastal and estuarine land con-
16 servation program administered by the National
17 Oceanic and Atmospheric Administration;

18 (B) the community-based restoration pro-
19 gram for fishery and coastal habitats estab-
20 lished under section 117 of the Magnuson-Ste-
21 vens Fishery Conservation and Management
22 Reauthorization Act of 2006 (16 U.S.C.
23 1891a);

24 (C) the Coastal Zone Management Act of
25 1972 (16 U.S.C. 1451 et seq.) that are specifi-

1 cally designed to strengthen the ability of coast-
2 al, estuarine, and marine resources, habitats,
3 and ecosystems to adapt to and withstand the
4 ongoing and expected impacts of climate
5 change, including, where applicable, ocean acidi-
6 fication, drought, flooding, and wildfire;

7 (D) the Open Rivers Initiative;

8 (E) the Magnuson-Stevens Fishery Con-
9 servation and Management Act (16 U.S.C.
10 1801 et seq.);

11 (F) the Marine Mammal Protection Act of
12 1972 (16 U.S.C. 1361 et seq.);

13 (G) the Endangered Species Act of 1973
14 (16 U.S.C. 1531 et seq.);

15 (H) the Marine Protection, Research, and
16 Sanctuaries Act of 1972 (33 U.S.C. 1401 et
17 seq.);

18 (I) the Coral Reef Conservation Act of
19 2000 (16 U.S.C. 6401 et seq.); and

20 (J) the Estuary Restoration Act of 2000
21 (33 U.S.C. 2901 et seq.).

22 (6) ESTUARINE AND FRESHWATER ECOSYSTEM
23 ADAPTATION.—Of the amounts made available pur-
24 suant to section 771(b)(7) of the Clean Air Act and
25 section 212 of division B for each fiscal year to

1 carry out this subpart, 12 percent shall be allocated
2 to the Administrator of the Environmental Protec-
3 tion Agency and 8 percent shall be available to the
4 Secretary of the Army for use by the Corps of Engi-
5 neers for use in natural resources adaptation activi-
6 ties restoring and protecting—

7 (A) large-scale freshwater aquatic eco-
8 systems, such as the Everglades, the Great
9 Lakes, Flathead Lake, the Missouri River, the
10 Mississippi River, the Colorado River, the Sac-
11 ramento-San Joaquin Rivers, the Ohio River,
12 the Columbia-Snake River System, the Apa-
13 lachicola, Chattahoochee, and Flint River Sys-
14 tem, the Connecticut River, the Rio Grande
15 River, and the Yellowstone River;

16 (B) large-scale estuarine ecosystems, such
17 as Chesapeake Bay, Long Island Sound, Puget
18 Sound, the Mississippi River Delta, the San
19 Francisco Bay Delta, Narragansett Bay, and
20 Albemarle-Pamlico Sound;

21 (C) freshwater and estuarine ecosystems,
22 watersheds, and basins identified and
23 prioritized by the Administrator of the Environ-
24 mental Protection Agency or the Corps of Engi-
25 neers, working in cooperation with other Fed-

1 eral agencies, States, Indian tribes, local gov-
2 ernments, scientists, and other conservation
3 partners; and

4 (D)(i) habitats and ecosystems through es-
5 tuary habitat restoration projects authorized by
6 the Estuary Restoration Act of 2000 (33
7 U.S.C. 2901 et seq.);

8 (ii) project modifications for improvement
9 of the environment;

10 (iii) aquatic restoration and protection
11 projects authorized by section 206 of the Water
12 Resources Development Act of 1996 (33 U.S.C.
13 2330); and

14 (iv) other appropriate programs and activi-
15 ties.

16 (b) USE OF FUNDS BY FEDERAL DEPARTMENTS AND
17 AGENCIES.—Funds allocated to Federal departments and
18 agencies under this section shall only be used for natural
19 resources adaptation activities consistent with an adapta-
20 tion plan approved under section 368.

21 (c) STATE COST-SHARING.—Notwithstanding any
22 other provision of law, a State that receives a grant under
23 this section shall use funds from non-Federal sources to
24 pay 10 percent of the costs of each activity carried out
25 under the grant.

1 **SEC. 371. NATIONAL FISH AND WILDLIFE HABITAT AND**
2 **CORRIDORS INFORMATION PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) GEOSPATIAL INTEROPERABILITY FRAME-
5 WORK.—The term “Geospatial Interoperability
6 Framework” means the strategy used by the Na-
7 tional Biological Information Infrastructure (based
8 on accepted standards, specifications, and protocols
9 adopted through the International Standards Orga-
10 nization, the Open Geospatial Consortium, and the
11 Federal Geographic Data Committee) to manage, ar-
12 chive, integrate, analyze, and make geospatial and
13 biological data and metadata accessible.

14 (2) PROGRAM.—The term “Program” means
15 the National Fish and Wildlife Habitat and Cor-
16 ridors Information Program established under sub-
17 section (b).

18 (3) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 (4) SYSTEM.—The term “System” means the
21 Habitat and Corridors Information System estab-
22 lished under subsection (d)(1).

23 (b) ESTABLISHMENT.—Not later than 180 days after
24 the date of enactment of this Act, the Secretary, in co-
25 operation with the States and Indian tribes, shall establish

1 a National Fish and Wildlife Habitat and Corridors Infor-
2 mation Program.

3 (c) PURPOSE.—The purposes of the Program are—

4 (1) to support States and Indian tribes in devel-
5 oping geographical information system databases of
6 fish and wildlife habitats and corridors that—

7 (A) inform planning and development deci-
8 sions within each State and Indian tribe;

9 (B) enable each State and Indian tribe to
10 model climate impacts and adaptation; and

11 (C) provide geographically specific en-
12 hancements of State wildlife action plans and
13 conservation or natural resource management
14 plans of Indian tribes;

15 (2) to ensure the collaborative development of a
16 comprehensive national geographic information sys-
17 tem database of maps, models, data, surveys, infor-
18 mational products, and other geospatial information
19 regarding fish and wildlife habitat and corridors
20 that—

21 (A) is based on consistent protocols for
22 sampling and mapping across landscapes;

23 (B) takes into account regional differences;

24 and

25 (C) uses—

1 (i) existing and planned State- and
2 tribal-based geographical information sys-
3 tem databases; and

4 (ii) existing databases, analytical
5 tools, metadata activities, and other infor-
6 mation products available through the Na-
7 tional Biological Information Infrastruc-
8 ture maintained by the Secretary and non-
9 governmental organizations; and

10 (3) to facilitate the use of those databases by
11 Federal, State, local, and tribal decisionmakers to
12 incorporate qualitative information on fish and wild-
13 life habitats and corridors at the earliest practicable
14 stage for use in—

15 (A) prioritizing and targeting natural re-
16 sources adaptation strategies and activities;

17 (B) avoiding, minimizing, and mitigating
18 the impacts on fish and wildlife habitat and cor-
19 ridors when locating energy development, water,
20 transmission, transportation, and other land
21 use projects;

22 (C) assessing the impacts of existing devel-
23 opment on habitats and corridors; and

24 (D) developing management strategies that
25 enhance the ability of fish, wildlife, and plant

1 species to migrate or respond to shifting habi-
2 tats within existing habitats and corridors.

3 (d) HABITAT AND CORRIDORS INFORMATION SYS-
4 TEM.—

5 (1) IN GENERAL.—The Secretary, in coopera-
6 tion with States and Indian tribes, shall establish a
7 Habitat and Corridors Information System.

8 (2) CONTENTS.—The System shall—

9 (A) include maps, data, and descriptions of
10 fish and wildlife habitat and corridors that—

11 (i) have been developed by Federal
12 agencies, State wildlife agencies, and nat-
13 ural heritage programs, Indian tribes, local
14 governments, nongovernmental organiza-
15 tions, and industry; and

16 (ii) meet accepted geospatial inter-
17 operability framework data and metadata
18 protocols and standards;

19 (B) include maps and descriptions of pro-
20 jected shifts in habitats and corridors of fish
21 and wildlife species in response to climate
22 change;

23 (C) ensure data quality;

1 (D) at scales useful to decisionmakers,
2 make data, models, and analyses included in
3 the System available—

4 (i) to prioritize and target natural re-
5 sources adaptation strategies and activi-
6 ties;

7 (ii) to assess the impacts of existing
8 development on habitats and corridors;

9 (iii) to assess the impacts of proposed
10 energy development, water, transmission,
11 transportation, and other land use projects
12 and to avoid, minimize, or mitigate those
13 impacts on habitats and corridors; and

14 (iv) to develop management strategies
15 that enhance the ability of fish, wildlife,
16 and plant species to migrate or respond to
17 shifting habitats within existing habitats
18 and corridors;

19 (E) update maps and other information as
20 landscapes, habitats, corridors, and wildlife pop-
21 ulations change, or as new information becomes
22 available;

23 (F) encourage development of collaborative
24 plans by Federal and State agencies and Indian
25 tribes that monitor and evaluate the ability of

1 the System to meet the needs of decision-
2 makers;

3 (G) identify gaps in habitat and corridor
4 information, mapping, and research needed to
5 fully assess current data and metadata;

6 (H) prioritize research and future data col-
7 lection activities for use in updating the System
8 and provide support for those activities;

9 (I) include mechanisms to support collabo-
10 rative research, mapping, and planning of habi-
11 tats and corridors by Federal and State agen-
12 cies, Indian tribes, and other interested stake-
13 holders;

14 (J) incorporate biological and geospatial
15 data on species and corridors found in energy
16 development and transmission plans, including
17 renewable energy initiatives, transportation, and
18 other land use plans;

19 (K) identify, prioritize, and describe key
20 parcels of non-Federal land that—

21 (i) are located within units of the Na-
22 tional Park System, National Wildlife Ref-
23 uge System, National Forest System, or
24 National Grassland System; and

1 (ii) are critical to maintenance of
2 wildlife habitat and migration corridors;
3 and

4 (L) be based on the best scientific informa-
5 tion available.

6 (e) FINANCIAL AND OTHER SUPPORT.—The Sec-
7 retary may provide support to the States and Indian
8 tribes, including financial and technical assistance, for ac-
9 tivities that support the development and implementation
10 of the System.

11 (f) COORDINATION.—In cooperation with States and
12 Indian tribes, the Secretary shall recommend how the in-
13 formation in the System may be incorporated into relevant
14 State and Federal plans that affect fish and wildlife, in-
15 cluding—

16 (1) land management plans;

17 (2) the State Comprehensive Wildlife Conserva-
18 tion Strategies; and

19 (3) appropriate tribal conservation plans.

20 (g) PURPOSE OF INCORPORATION.—The Secretary
21 shall make the recommendations required by subsection
22 (f) to ensure that relevant State and Federal plans that
23 affect fish and wildlife—

24 (1) prevent unnecessary habitat fragmentation
25 and disruption of corridors;

1 (2) promote the landscape connectivity nec-
2 essary to allow wildlife to move as necessary to meet
3 biological needs, adjust to shifts in habitat, and
4 adapt to climate change; and

5 (3) minimize the impacts of energy, develop-
6 ment, water, transportation, and transmission
7 projects and other activities expected to impact habi-
8 tat and corridors.

9 **SEC. 372. ADDITIONAL PROVISIONS REGARDING INDIAN**
10 **TRIBES.**

11 (a) **FEDERAL TRUST RESPONSIBILITY.**—Nothing in
12 this subpart amends, alters, or gives priority over the Fed-
13 eral trust responsibility to any Indian tribe.

14 (b) **EXEMPTION FROM FOIA.**—If a Federal depart-
15 ment or agency receives any information relating to sacred
16 sites or cultural activities identified by an Indian tribe as
17 confidential, such information shall be exempt from disclo-
18 sure under section 552 of title 5, United States Code
19 (commonly referred to as the Freedom of Information
20 Act).

21 (c) **APPLICATION OF OTHER LAW.**—The Secretary of
22 the Interior may apply the provisions of the Indian Self-
23 Determination and Education Assistance Act (25 U.S.C.
24 450 et seq.) in the implementation of this subpart.

1 (d) PROTECTION OF RIGHT AND ACCESS OF INDIAN
2 TRIBES TO FIRST FOODS.—

3 (1) DEFINITION OF FIRST FOODS.—In this sub-
4 section, the term “first foods” means roots, berries,
5 and plants.

6 (2) PROTECTION.—Consistent with the Natural
7 Resources Climate Change Adaptation Policy under
8 section 362 and the Strategy, Federal departments
9 and agencies, States, and Indian tribes shall ensure
10 communication and coordination to protect treaty-re-
11 served rights of Indian tribes to gather first foods.

12 **Subpart D—Additional Climate Change Adaptation**
13 **Programs**

14 **SEC. 381. WATER SYSTEM MITIGATION AND ADAPTATION**
15 **PARTNERSHIPS.**

16 (a) DEFINITIONS.—In this section:

17 (1) OWNER OR OPERATOR.—

18 (A) IN GENERAL.—The term “owner or
19 operator” means a person (including a regional,
20 tribal, local, municipal, or private entity) that
21 owns or operates a water system.

22 (B) INCLUSION.—The term “owner or op-
23 erator” includes—

1 (i) a non-Federal entity that has oper-
2 ational responsibilities for a federally or
3 State owned water system; and

4 (ii) an entity formed pursuant to any
5 State's joint exercise of powers statutes
6 that includes one or more of the entities in
7 paragraph (A).

8 (2) WATER SYSTEM.—The term “water sys-
9 tem” means—

10 (A) a community water system (as defined
11 in section 1401 of the Safe Drinking Water Act
12 (42 U.S.C. 300f));

13 (B) a treatment works (as defined in sec-
14 tion 212 of the Federal Water Pollution Control
15 Act (33 U.S.C. 1292)), including a municipal
16 separate storm sewer system;

17 (C) a decentralized wastewater treatment
18 system for domestic sewage;

19 (D) a groundwater storage and replenish-
20 ment system; or

21 (E) a system for transport and delivery of
22 water for irrigation or conservation.

23 (b) ESTABLISHMENT.—The Administrator shall es-
24 tablish a water system mitigation and adaptation partner-

1 ship program to provide funds to States and Indian tribes
2 for water system adaptation projects.

3 (c) GRANTS.—Beginning in fiscal year 2010, each
4 State or Indian tribe receiving funds pursuant to this sec-
5 tion shall make grants to owners or operators of water
6 systems to address any ongoing or forecasted (based on
7 the best available research and data) climate-related im-
8 pact on the water quality, water supply or reliability of
9 a region of the United States, for the purposes of miti-
10 gating or adapting to the impacts of climate change.

11 (d) ELIGIBLE USES.—The funds made available to
12 each State or Indian tribe pursuant to this section shall
13 be used exclusively to assist in the planning, design, con-
14 struction, implementation, or operation or maintenance of
15 any program or project to respond or increase the resil-
16 ience of a water system to climate change by—

17 (1) conserving water or enhancing water use ef-
18 ficiency, including through the use of water metering
19 and electronic sensing and control systems to meas-
20 ure the effectiveness of a water efficiency program;

21 (2) modifying or relocating existing water sys-
22 tem infrastructure made or projected to be signifi-
23 cantly impaired by climate change impacts;

24 (3) preserving or improving water quality, in-
25 cluding through measures to manage, reduce, treat,

1 or reuse municipal stormwater, wastewater, or
2 drinking water;

3 (4) investigating, designing, or constructing
4 groundwater remediation, recycled water, or desali-
5 nation facilities or systems to serve existing commu-
6 nities;

7 (5) enhancing water management by increasing
8 watershed preservation and protection, such as
9 through the use of natural or engineered green in-
10 frastructure in the management, conveyance, or
11 treatment of water, wastewater, or stormwater;

12 (6) enhancing energy efficiency or the use and
13 generation of renewable energy in the management,
14 conveyance, or treatment of water, wastewater, or
15 stormwater;

16 (7) supporting the adoption and use of ad-
17 vanced water treatment, water supply management
18 (such as reservoir reoperation and water banking),
19 or water demand management technologies, projects,
20 or processes (such as water reuse and recycling,
21 adaptive conservation pricing, and groundwater
22 banking) that maintain or increase water supply or
23 improve water quality;

24 (8) modifying or replacing existing systems or
25 constructing new systems for existing communities

1 or land currently in agricultural production to im-
2 prove water supply, reliability, storage, or convey-
3 ance in a manner that—

4 (A) promotes conservation or improves the
5 efficiency of utilization of available water sup-
6 plies; and

7 (B) does not further exacerbate stresses on
8 ecosystems or cause redirected impacts by de-
9 grading water quality or increasing net green-
10 house gas emissions;

11 (9) supporting practices and projects, such as
12 improved irrigation systems, water banking and
13 other forms of water transactions, groundwater re-
14 charge, stormwater capture, groundwater conjunc-
15 tive use, and reuse or recycling of drainage water,
16 to improve water quality or promote more efficient
17 water use on land currently in agricultural produc-
18 tion;

19 (10) conducting and completing studies or as-
20 sessments to project how climate change may impact
21 the future operations and sustainability of water sys-
22 tems; or

23 (11) developing and implementing mitigation
24 and adaptation measures to rapidly address impacts
25 from climate change on water systems and regional

1 and hydrological basins through cooperative activi-
2 ties with other States that share the same regional
3 or hydrological basin (such as the Colorado River
4 Basin), water system, or shoreline.

5 (e) APPLICATION.—To be eligible to receive a grant
6 from the State of Indian tribe under this section, the
7 owner or operator of a water system shall submit to the
8 State or Indian tribe an application 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 (c) 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 (e),
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, in con-
4 sultation with the Assistant Secretary of the Army for
5 Civil Works and the Administrator of the Federal Emer-
6 gency Management Agency, shall establish a Flood Con-
7 trol, Protection, Prevention and Response Program to pro-
8 vide funds to States and Indian tribes for flood control,
9 protection, prevention and response projects.

10 (b) **ELIGIBLE USES.**—

11 (1) **IN GENERAL.**—States and Indian tribes re-
12 ceiving funding pursuant to this section may use
13 such funding on flood control, protection, prevention
14 and response programs and projects addressing the
15 projected impacts of climate change in accordance
16 with this section.

17 (2) **OBJECTIVES.**—Such projects and activities
18 shall seek to mitigate or adapt to the destructive im-
19 pacts of climate related increases in the duration,
20 frequency, or magnitude of rainfall or runoff, includ-
21 ing snowmelt runoff, as well as hurricanes, including
22 projects and programs that—

23 (A) reduce flood damage, risk, and vulner-
24 ability;

1 (B) identify, maintain and restore eco-
2 systems and natural barriers integral to flood
3 control, protection, prevention and response;

4 (C) update the available data, technologies,
5 and scientific knowledge used in estimating,
6 identifying and mitigating flood hazards;

7 (D) highlight, update and remediate
8 vulnerabilities in emergency response;

9 (E) incorporate risk analysis and a risk-re-
10 duction approach to flood-related investments;

11 (F) incorporate and identify changes in
12 risk due to processes such as land loss, subsid-
13 ence, sea-level rise, reduced natural buffers,
14 urban development and infrastructure aging;

15 (G) identify and incorporate innovative ap-
16 proaches to land use management, water re-
17 source planning, and ecosystem restoration;

18 (H) provide for acquisition and easement
19 of floodways and flood-prone properties in order
20 to prevent urban areas from flooding, or move
21 people out of harm's way; and

22 (I) promote land use planning that pre-
23 vents future floodplain development.

24 (3) PRIORITY.—Priority in projects to reduce
25 flood events shall be given to those projects that—

1 (A) directly assist local governments and
2 communities in flood control, protection, pre-
3 vention and response activities;

4 (B) are part of a larger State or watershed
5 plan to reduce flood risk;

6 (C) are specifically designed to accommo-
7 date forecasted climate change scenarios;

8 (D) advance multiple objectives, including
9 public safety, water quality, fish and wildlife
10 conservation, water supply, and recreation;

11 (E) protect or enhance natural ecosystem
12 functions, including protection, maintenance, or
13 restoration of natural infrastructure, natural
14 buffer zones, or natural shorelines, to buffer
15 communities from floodwaters or storms, water-
16 shed protection to maintain water quality and
17 groundwater recharge, or floodplain restoration
18 to improve natural flood control capacity;

19 (F) use nonstructural approaches, includ-
20 ing practices that use, enhance, or mimic the
21 natural hydrologic cycle; and

22 (G) reduce the frequency and consequences
23 of flooding in densely populated urban areas.

24 **SEC. 383. WILDFIRE.**

25 (a) FINDINGS.—Congress finds that—

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

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

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

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

17 (A) 13 percent in 1991; and

18 (B) 45 percent in 2007; and

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

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

21 and

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

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

4 (c) DEFINITIONS.—In this section:

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

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

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

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

16 (D) has a community wildfire protection
17 plan (as defined in section 101 of the Healthy
18 Forests Restoration Act of 2003 (16 U.S.C.
19 6502)); and

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

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

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

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

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

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

18 (3) emergency evacuation corridors;

19 (4) electricity transmission corridors;

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

21 and

22 (6) communities in fire-prone areas due to the
23 impact of pest infestation on forest resources.

24 (e) LOCAL WILDLAND FIREFIGHTING CAPABILITY
25 GRANTS.—

1 (1) GRANTS AVAILABLE.—The Secretaries may
2 provide cost-share grants to—

3 (A) fire-ready communities, to assist those
4 communities in carrying out activities author-
5 ized by paragraph (2); and

6 (B) communities that are not fire-ready, to
7 assist those communities in carrying out plan-
8 ning activities to become fire-ready communities
9 consistent with the requirements of this section.

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

12 (A) Education programs to raise aware-
13 ness of homeowners and citizens about wildland
14 fire protection practices, including FireWise or
15 similar programs.

16 (B) Training programs for local fire-
17 fighters on wildland firefighting techniques and
18 approaches.

19 (C) Equipment acquisition to facilitate
20 wildland fire preparedness.

21 (D) Implementation of a community wild-
22 fire protection plan.

23 (E) Forest restoration that accomplishes
24 fuels reduction

1 (f) WILDLAND FIRE COST-SHARE AGREEMENTS.—In
2 developing any wildland fire cost-share agreement with a
3 State Forester or equivalent official, the Secretaries shall,
4 to the maximum extent practicable, encourage the State
5 and local communities involved to become fire-ready com-
6 munities.

7 **SEC. 384. COASTAL AND GREAT LAKES STATE ADAPTATION**
8 **PROGRAM.**

9 (a) FINDINGS.—Congress finds that, according to the
10 National Ocean Economics Program, coastal and Great
11 Lakes States account for 81.4 percent of the population
12 of the United States and generate 83 percent of the eco-
13 nomic output of the United States.

14 (b) DEFINITIONS.—In this section:

15 (1) COASTAL STATE.—The term “coastal
16 State” has the meaning given the term “coastal
17 state” in section 304 of the Coastal Zone Manage-
18 ment Act of 1972 (16 U.S.C. 1453).

19 (2) COASTAL WATERSHED.—The term “coastal
20 watershed” means a geographical area drained into
21 or contributing water to an estuarine area, an ocean,
22 or a Great Lake, all or a portion of which is within
23 the coastal zone (as defined in section 304 of the
24 Coastal Zone Management Act of 1972 (16 U.S.C.
25 1453)).

1 (3) SHORELINE MILES.—The term “shoreline
2 miles”, with respect to a coastal State, means the
3 mileage of tidal shoreline or Great Lake shoreline of
4 the coastal State, based on the most recently avail-
5 able data from or accepted by the National Ocean
6 Service of the National Oceanic and Atmospheric
7 Administration.

8 (c) DISTRIBUTION.—

9 (1) IN GENERAL.—The Administrator shall dis-
10 tribute, in accordance with this section, funding for
11 coastal State adaptation under subsection (d).

12 (2) ALLOCATION.—The funding available for al-
13 location under subsection (b) for a calendar year
14 shall be distributed among coastal States, as follows:

15 (A) 25 percent based on the proportion
16 that—

17 (i) the number of shoreline miles of a
18 coastal State; bears to

19 (ii) the total number of shoreline
20 miles of all coastal States.

21 (B) 25 percent based on the proportion
22 that—

23 (i) the population of a coastal State;
24 bears to

1 (ii) the total population of all coastal
2 States.

3 (C) 50 percent divided equally among all
4 coastal States.

5 (d) USE OF FUNDING.—

6 (1) IN GENERAL.—During any calendar year, a
7 coastal State receiving funding under this section
8 may use the funding only for projects and activities
9 to plan for and address the impacts of climate
10 change in the coastal watershed, including—

11 (A) to address the impacts of climate
12 change with respect to—

13 (i) accelerated sea level rise and lake
14 level changes;

15 (ii) shoreline erosion;

16 (iii) increased storm frequency or in-
17 tensity;

18 (iv) changes in rainfall or other pre-
19 cipitation; and

20 (v) related flooding;

21 (B) to identify and develop plans to pro-
22 tect, or, as necessary or applicable, to relocate
23 public facilities and infrastructure, coastal re-
24 sources of national significance, public energy
25 facilities, or other public water uses located in

1 the coastal watershed that are affected by cli-
2 mate change, including strategies that protect
3 or restore natural infrastructure, if the plans—

4 (i) ensure full consideration and un-
5 dertake, to the maximum extent prac-
6 ticable, initiatives that—

7 (I) protect or enhance natural
8 ecosystem functions, including protec-
9 tion, maintenance, or restoration of
10 natural infrastructure, natural buffer
11 zones, or natural shorelines (such as
12 wetlands, reefs, and barrier islands) to
13 buffer communities from floodwaters
14 or storms, watershed protection to
15 maintain water quality and ground-
16 water recharge, or floodplain restora-
17 tion to improve natural flood control
18 capacity; or

19 (II) use nonstructural ap-
20 proaches, including practices that uti-
21 lize, enhance, or mimic the natural
22 hydrologic cycle processes of infiltra-
23 tion, evapotranspiration, and reuse;
24 and

1 (ii) are consistent with Federal con-
2 servation and environmental laws and, to
3 the maximum extent practicable, avoid en-
4 vironmental degradation;

5 (C) to research and collect data using, or
6 on matters such as—

7 (i) historical shoreline position maps;

8 (ii) historical shoreline erosion rates;

9 (iii) inventories of shoreline features
10 and conditions;

11 (iv) acquisition of high-resolution to-
12 pography and bathymetry;

13 (v) sea level rise inundation models;

14 (vi) storm surge sea level rise linked
15 inundation models;

16 (vii) shoreline change modeling based
17 on sea level rise projections;

18 (viii) sea level rise vulnerability anal-
19 yses and socioeconomic studies; and

20 (ix) environmental and habitat
21 changes associated with sea level rise; and

22 (D) to respond to—

23 (i) changes in chemical characteristics
24 (including ocean acidification) and physical

1 characteristics (including thermal strati-
2 fication) of marine systems;
3 (ii) sea level rise threats to ground-
4 water aquifers, including—
5 (I) saltwater intrusion; and
6 (II) unsaturated zone thinning;
7 (iii) increased harmful algae blooms;
8 (iv) spread of invasive species;
9 (v) coastal habitat loss;
10 (vi) species migrations; and
11 (vii) marine, estuarine, and freshwater
12 ecosystem changes associated with climate
13 change.

14 (2) EXECUTION.—Priority to plan and carry
15 out projects and activities under this subsection shall
16 be given to State coastal agencies, as determined in
17 accordance with State law.

18 (3) COORDINATION.—In carrying out this sub-
19 section, a coastal State shall coordinate with other
20 statewide or tribal climate change efforts and cli-
21 mate change efforts to promote cooperation and in
22 order to avoid duplication of such efforts.

23 (e) REPORT.—Not later than 1 year after the date
24 on which a State receives funds under this section, and
25 biennially thereafter until such time as the funding is fully

1 expended, the State shall submit to the Administrator, or
2 the heads of such other Federal agencies as the President
3 may designate, a report that—

4 (1) provides a full accounting for the State's
5 use of funding distributed under this section, includ-
6 ing a description of the projects and activities fund-
7 ed;

8 (2) may be independent or included within any
9 report required for any State programs for green-
10 house gas reduction and climate adaptation; and

11 (3) is available to the public on request.

12 **DIVISION B—POLLUTION**
13 **REDUCTION AND INVESTMENT**
14 **TITLE I—REDUCING GLOBAL**
15 **WARMING POLLUTION**
16 **Subtitle A—Reducing Global**
17 **Warming Pollution**

18 **SEC. 101. REDUCING GLOBAL WARMING POLLUTION.**

19 The Clean Air Act is amended by adding after title
20 VI (42 U.S.C. 7671 et seq.) the following:

1 **“TITLE VII—GLOBAL WARMING**
2 **POLLUTION REDUCTION AND**
3 **INVESTMENT PROGRAM**

4 **“PART A—GLOBAL WARMING POLLUTION**
5 **REDUCTION GOALS AND TARGETS**

6 **“SEC. 701. FINDINGS.**

7 “Congress finds that—

8 “(1) global warming poses a significant threat
9 to the national security, economy, public health and
10 welfare, and environment of the United States, as
11 well as of other countries;

12 “(2) reviews of scientific studies, including by
13 the Intergovernmental Panel on Climate Change and
14 the National Academy of Sciences, demonstrate that
15 global warming is the result of the combined anthro-
16 pogenic greenhouse gas emissions from numerous
17 sources of all types and sizes;

18 “(3) each increment of emission, when com-
19 bined with other emissions, causes or contributes
20 materially to the acceleration and extent of global
21 warming and its adverse effects for the lifetime of
22 such gas in the atmosphere;

23 “(4) accordingly, controlling emissions in small
24 as well as large quantities is essential to prevent,

1 slow the pace of, reduce the threats from, and miti-
2 gate global warming and its adverse effects;

3 “(5) because they induce global warming,
4 greenhouse gas emissions cause or contribute to in-
5 juries to persons in the United States, including—

6 “(A) adverse health effects, such as disease
7 and loss of life;

8 “(B) displacement of human populations;

9 “(C) damage to property and other inter-
10 ests relating to ocean levels, acidification, and
11 ice changes;

12 “(D) severe weather and seasonal changes;

13 “(E) disruption, costs, and losses to busi-
14 ness, trade, employment, farms, subsistence,
15 aesthetic enjoyment of the environment, recre-
16 ation, culture, and tourism;

17 “(F) damage to plants, forests, lands, and
18 waters;

19 “(G) harm to wildlife and habitat;

20 “(H) scarcity of water and the decreased
21 abundance of other natural resources;

22 “(I) worsening of tropospheric air pollu-
23 tion;

24 “(J) substantial threats of similar damage;

25 and

1 “(K) other harm;

2 “(6) the fact that many of those effects and
3 risks of future effects of global warming are widely
4 shared does not minimize the adverse effects indi-
5 vidual persons have suffered, will suffer, and are at
6 risk of suffering because of global warming;

7 “(7) the fact that some of the adverse and po-
8 tentially catastrophic effects of global warming are
9 at risk of occurring and not a certainty does not ne-
10 gate the harm persons suffer from actions that in-
11 crease the likelihood, extent, and severity of such fu-
12 ture impacts;

13 “(8) countries of the world look to the United
14 States for leadership in addressing the threat of and
15 harm from global warming;

16 “(9) full implementation of this title is critical
17 to engage other countries in an international effort
18 to mitigate the threat of and harm from global
19 warming; and

20 “(10) global warming and its adverse effects
21 are occurring and are likely to continue and increase
22 in magnitude, and to do so at a greater and more
23 harmful rate, unless the this title is fully imple-
24 mented and enforced in an expeditious manner.

1 **“SEC. 702. ECONOMYWIDE REDUCTION GOALS.**

2 “The goals of this title, and the Clean Energy Jobs
3 and American Power Act (and the amendments made by
4 that Act), are to reduce steadily the quantity of United
5 States greenhouse gas emissions such that—

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

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

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

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

22 **“SEC. 703. REDUCTION TARGETS FOR SPECIFIED SOURCES.**

23 “(a) IN GENERAL.—The regulations issued under
24 section 721 shall limit and reduce annually the greenhouse
25 gas emissions of capped sources each calendar year begin-
26 ning in 2012 such that—

1 “(1) in 2012, the quantity of greenhouse gas
2 emissions from capped sources does not exceed 97
3 percent of the quantity of greenhouse gas emissions
4 from such sources in 2005;

5 “(2) in 2020, the quantity of greenhouse gas
6 emissions from capped sources does not exceed 80
7 percent of the quantity of greenhouse gas emissions
8 from such sources in 2005;

9 “(3) in 2030, the quantity of greenhouse gas
10 emissions from capped sources does not exceed 58
11 percent of the quantity of greenhouse gas emissions
12 from such sources in 2005; and

13 “(4) in 2050, the quantity of greenhouse gas
14 emissions from capped sources does not exceed 17
15 percent of the quantity of greenhouse gas emissions
16 from such sources in 2005.

17 “(b) DEFINITION OF GREENHOUSE GAS EMISSIONS
18 FROM SUCH SOURCES IN 2005.—For purposes of this sec-
19 tion, the term ‘greenhouse gas emissions from such
20 sources in 2005’ means emissions to which section 722
21 would have applied if the requirements of this title for the
22 specified year had been in effect for 2005.

23 **“SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.**

24 “For the purposes of decreasing the likelihood of cat-
25 astrophic climate change, preserving tropical forests,

1 building capacity to generate offset credits, and facili-
2 tating international action on global warming, the Admin-
3 istrator shall set aside a percentage specified in section
4 771(c) of the quantity of emission allowances established
5 under section 721(a) for each year, to be used to achieve
6 a reduction of greenhouse gas emissions from deforest-
7 ation in developing countries in accordance with part E.
8 In 2020, activities supported under part E shall provide
9 greenhouse gas reductions in an amount equal to an addi-
10 tional 10 percentage points of reductions from United
11 States greenhouse gas emissions in 2005. The Adminis-
12 trator shall distribute these allowances with respect to ac-
13 tivities in countries that enter into and implement agree-
14 ments or arrangements relating to reduced deforestation
15 as described in section 753(a)(2).

16 **“SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.**

17 “(a) IN GENERAL.—The Administrator shall, in con-
18 sultation with appropriate Federal agencies, submit to
19 Congress a report not later than July 1, 2013, and every
20 4 years thereafter, that includes—

21 “(1) an analysis of key findings based on up-
22 to-date scientific information and data relevant to
23 global climate change;

24 “(2) an analysis of capabilities to monitor and
25 verify greenhouse gas reductions on a worldwide

1 basis, including for the United States, as required
2 under the Clean Energy Jobs and American Power
3 Act (and the amendments made by that Act);

4 “(3) an analysis of the status of worldwide
5 greenhouse gas reduction efforts, including imple-
6 mentation of the Clean Energy Jobs and American
7 Power Act and other policies, both domestic and
8 international, for reducing greenhouse gas emissions,
9 preventing dangerous atmospheric concentrations of
10 greenhouse gases, preventing significant irreversible
11 consequences of climate change, and reducing vul-
12 nerability to the impacts of climate change; and

13 “(4) an analysis, to be conducted by the Sec-
14 retary of Energy in accordance with subsection (f)
15 and submitted to the Administrator for inclusion in
16 each report under this subsection, of the techno-
17 logical feasibility of achieving additional reductions
18 in greenhouse gas emissions.

19 “(b) EXCEPTION.—Subsection (a)(3) shall not apply
20 to the first report submitted under subsection (a).

21 “(c) LATEST SCIENTIFIC INFORMATION.—The anal-
22 ysis required under subsection (a)(1) shall—

23 “(1) address existing scientific information and
24 reports, considering, to the greatest extent possible,
25 the most recent assessment report of the Intergov-

1 ernmental Panel on Climate Change, reports by the
2 United States Global Change Research Program, the
3 Natural Resources Climate Change Adaptation
4 Panel established under section 365 of the Clean
5 Energy Jobs and American Power Act, and Federal
6 agencies, and the European Union’s global tempera-
7 ture data assessment;

8 “(2) review trends and projections for—

9 “(A) global and country-specific annual
10 emissions of greenhouse gases, and cumulative
11 greenhouse gas emissions produced between
12 1850 and the present, including—

13 “(i) global cumulative emissions of an-
14 thropogenic greenhouse gases;

15 “(ii) global annual emissions of an-
16 thropogenic greenhouse gases; and

17 “(iii) by country, annual total, annual
18 per capita, and cumulative anthropogenic
19 emissions of greenhouse gases for the top
20 50 emitting nations;

21 “(B) significant changes, both globally and
22 by region, in annual net non-anthropogenic
23 greenhouse gas emissions from natural sources,
24 including permafrost, forests, or oceans;

1 “(C) global atmospheric concentrations of
2 greenhouse gases, expressed in annual con-
3 centration units as well as carbon dioxide
4 equivalents based on 100-year global warming
5 potentials;

6 “(D) major climate forcing factors, such as
7 aerosols;

8 “(E) global average temperature, expressed
9 as seasonal and annual averages in land, ocean,
10 and land-plus-ocean averages; and

11 “(F) sea level rise;

12 “(3) assess the current and potential impacts of
13 global climate change on—

14 “(A) human populations, including impacts
15 on public health, economic livelihoods, subsist-
16 ence, tribal culture, human infrastructure, and
17 displacement or permanent relocation due to
18 flooding, severe weather, extended drought, ero-
19 sion, or other ecosystem changes;

20 “(B) freshwater systems, including water
21 resources for human consumption and agri-
22 culture and natural and managed ecosystems,
23 flood and drought risks, and relative humidity;

24 “(C) the carbon cycle, including impacts
25 related to the thawing of permafrost, the fre-

1 quency and intensity of wildfire, and terrestrial
2 and ocean carbon sinks;

3 “(D) ecosystems and animal and plant
4 populations, including impacts on species abun-
5 dance, phenology, and distribution;

6 “(E) oceans and ocean ecosystems, includ-
7 ing effects on sea level, ocean acidity, ocean
8 temperatures, coral reefs, ocean circulation,
9 fisheries, and other indicators of ocean eco-
10 system health;

11 “(F) the cryosphere, including effects on
12 ice sheet mass balance, mountain glacier mass
13 balance, and sea-ice extent and volume;

14 “(G) changes in the intensity, frequency,
15 or distribution of severe weather events, includ-
16 ing precipitation, tropical cyclones, tornadoes,
17 and severe heat waves;

18 “(H) agriculture and forest systems; and

19 “(I) any other indicators the Administrator
20 deems appropriate;

21 “(4) summarize any significant socioeconomic
22 impacts of climate change in the United States, in-
23 cluding the territories of the United States, drawing
24 on work by Federal agencies and the academic lit-
25 erature, including impacts on—

1 “(A) public health;

2 “(B) economic livelihoods, subsistence, and
3 tribal culture;

4 “(C) displacement or permanent relocation
5 due to flooding, severe weather, extended
6 drought, or other ecosystem changes;

7 “(D) human infrastructure, including
8 coastal infrastructure vulnerability to extreme
9 events and sea level rise, river floodplain infra-
10 structure, and sewer and water management
11 systems;

12 “(E) agriculture and forests, including ef-
13 fects on potential growing season, distribution,
14 and yield;

15 “(F) water resources for human consump-
16 tion, agriculture and natural and managed eco-
17 systems, flood and drought risks, and relative
18 humidity;

19 “(G) energy supply and use; and

20 “(H) transportation;

21 “(5) in assessing risks and impacts, use a risk
22 management framework, including both qualitative
23 and quantitative measures, to assess the observed
24 and projected impacts of current and future climate
25 change, accounting for—

1 “(A) both monetized and non-monetized
2 losses;

3 “(B) potential nonlinear, abrupt, or essen-
4 tially irreversible changes in the climate system;

5 “(C) potential nonlinear increases in the
6 cost of impacts;

7 “(D) potential low-probability, high impact
8 events; and

9 “(E) whether impacts are transitory or es-
10 sentially permanent; and

11 “(6) based on the findings of the Administrator
12 under this section, as well as assessments produced
13 by the Intergovernmental Panel on Climate Change,
14 the United States Global Change Research program,
15 and other relevant scientific entities—

16 “(A) describe increased risks to natural
17 systems and society that would result from an
18 increase in global average temperature 3.6 de-
19 grees Fahrenheit (2 degrees Celsius) above the
20 pre-industrial average or an increase in atmos-
21 pheric greenhouse gas concentrations above 450
22 parts per million carbon dioxide equivalent; and

23 “(B) identify and assess—

1 “(i) significant residual risks not
2 avoided by the thresholds described in sub-
3 paragraph (A);

4 “(ii) alternative thresholds or targets
5 that may more effectively limit the risks
6 identified pursuant to clause (i); and

7 “(iii) thresholds above those described
8 in subparagraph (A) which significantly in-
9 crease the risk of certain impacts or render
10 them essentially permanent.

11 “(d) STATUS OF MONITORING AND VERIFICATION
12 CAPABILITIES TO EVALUATE GREENHOUSE GAS REDUC-
13 TION EFFORTS.—The analysis required under subsection
14 (a)(2) shall evaluate the capabilities of the monitoring, re-
15 porting, and verification systems used to quantify progress
16 in achieving reductions in greenhouse gas emissions both
17 globally and in the United States (as described in section
18 702), including—

19 “(1) quantification of emissions and emission
20 reductions by entities participating in the pollution
21 reduction and investment program under this title;

22 “(2) quantification of emissions and emission
23 reductions by entities participating in the offset pro-
24 gram under this title;

1 “(3) quantification of emission and emission re-
2 ductions by entities regulated by performance stand-
3 ards;

4 “(4) quantification of aggregate net emissions
5 and emission reductions by the United States; and

6 “(5) quantification of global changes in net
7 emissions and in sources and sinks of greenhouse
8 gases.

9 “(e) STATUS OF GREENHOUSE GAS REDUCTION EF-
10 FORTS.—The analysis required under subsection (a)(3)
11 shall address—

12 “(1) whether the programs under the Clean En-
13 ergy Jobs and American Power Act (and the amend-
14 ments made by that Act) and other Federal statutes
15 are resulting in sufficient United States greenhouse
16 gas emission reductions to meet the emissions reduc-
17 tion goals described in section 702, taking into ac-
18 count the use of offsets; and

19 “(2) whether United States actions, taking into
20 account international actions, commitments, and
21 trends, and considering the range of plausible emis-
22 sions scenarios, are sufficient to avoid—

23 “(A) atmospheric greenhouse gas con-
24 centrations above 450 parts per million carbon
25 dioxide equivalent;

1 “(B) global average surface temperature
2 3.6 degrees Fahrenheit (2 degrees Celsius)
3 above the pre-industrial average, or such other
4 temperature thresholds as the Administrator
5 deems appropriate; and

6 “(C) other temperature or greenhouse gas
7 thresholds identified pursuant to subsection
8 (c)(6)(B).

9 “(f) TECHNOLOGICAL INFORMATION.—The analysis
10 required under subsection (a)(4) shall—

11 “(1) review existing technological information
12 and reports, including the most recent reports by the
13 Department of Energy, the United States Global
14 Change Research Program, the Intergovernmental
15 Panel on Climate Change, and the International En-
16 ergy Agency, and any other relevant information on
17 technologies or practices that reduce or limit green-
18 house gas emissions;

19 “(2) include the participation of technical ex-
20 perts from relevant private industry sectors;

21 “(3) review the current and future projected de-
22 ployment of technologies and practices in the United
23 States that reduce or limit greenhouse gas emis-
24 sions, including—

1 “(A) technologies for capture and seques-
2 tration of greenhouse gases;

3 “(B) technologies to improve energy effi-
4 ciency;

5 “(C) low- or zero-greenhouse gas emitting
6 energy technologies;

7 “(D) low- or zero-greenhouse gas emitting
8 fuels;

9 “(E) biological sequestration practices and
10 technologies; and

11 “(F) any other technologies the Secretary
12 determines to be relevant; and

13 “(4) review and compare the emission reduction
14 potential, commercial viability, market penetration,
15 investment trends, and deployment of the tech-
16 nologies described in paragraph (3), including—

17 “(A) the need for additional research and
18 development, including publicly funded research
19 and development;

20 “(B) the extent of commercial deployment,
21 including, where appropriate, a comparison to
22 the cost and level of deployment of conventional
23 fossil fuel-fired energy technologies and devices;
24 and

1 “(C) an evaluation of any substantial tech-
2 nological, legal, or market-based barriers to
3 commercial deployment.

4 “(g) RECOMMENDATIONS.—

5 “(1) LATEST SCIENTIFIC INFORMATION.—

6 Based on the analysis described in subsection (a)(1),
7 each report under subsection (a) shall identify ac-
8 tions that could be taken to—

9 “(A) improve the characterization of
10 changes in the earth-climate system and im-
11 pacts of global climate change;

12 “(B) better inform decision making and
13 actions related to global climate change;

14 “(C) mitigate risks to natural and social
15 systems; and

16 “(D) design policies to better account for
17 climate risks.

18 “(2) MONITORING, REPORTING AND
19 VERIFICATION.—Based on the analysis described in
20 subsection (a)(2), each report under subsection (a)
21 shall identify key gaps in measurement, reporting,
22 and verification capabilities and make recommenda-
23 tions to improve the accuracy and reliability of those
24 capabilities.

1 “(3) STATUS OF GREENHOUSE GAS REDUCTION
2 EFFORTS.—Based on the analysis described in sub-
3 section (a)(3), taking into account international ac-
4 tions, commitments, and trends, and considering the
5 range of plausible emissions scenarios, each report
6 under subsection (a) shall identify—

7 “(A) the quantity of additional reductions
8 required to meet the emissions reduction goals
9 in section 702;

10 “(B) the quantity of additional reductions
11 in global greenhouse gas emissions needed to
12 avoid the concentration and temperature
13 thresholds identified in subsection (e); and

14 “(C) possible strategies and approaches for
15 achieving additional reductions.

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

19 **“SEC. 706. NATIONAL ACADEMY REVIEW.**

20 “(a) IN GENERAL.—Not later than 1 year after the
21 date of enactment of this title, the Administrator shall
22 offer to enter into a contract with the National Academy
23 of Sciences (in this section referred to as the ‘Academy’)
24 under which the Academy shall, not later than July 1,

1 2014, and every 4 years thereafter, submit to Congress
2 and the Administrator a report that includes—

3 “(1) a review of the most recent report and rec-
4 ommendations issued under section 705; and

5 “(2) an analysis of technologies to achieve re-
6 ductions in greenhouse gas emissions.

7 “(b) FAILURE TO ISSUE A REPORT.—In the event
8 that the Administrator has not issued all or part of the
9 most recent report required under section 705, the Acad-
10 emy shall conduct its own review and analysis of the re-
11 quired information.

12 “(c) 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 emission 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 705(c)(6)(A) or
24 identified pursuant to section 705(c)(6)(B).

1 “(d) 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 705 and 706 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 706, that the United States
16 will not achieve the necessary domestic greenhouse
17 gas emission 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 **“SEC. 708. CONSULTATION WITH STATES.**

2 “In the development of any regulations required to
3 implement the global warming pollution and reduction in-
4 vestment program pursuant to this title, and in the imple-
5 mentation of that program, the Administrator shall con-
6 sult with the States in the Regional Greenhouse Gas Ini-
7 tiative, the Western Climate Initiative, and the Mid-West
8 Governors Accord.

9 **“PART B—DESIGNATION AND REGISTRATION OF**
10 **GREENHOUSE GASES**

11 **“SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

12 “(a) GREENHOUSE GASES.—For purposes of this
13 title, the following are greenhouse gases:

14 “(1) Carbon dioxide.

15 “(2) Methane.

16 “(3) Nitrous oxide.

17 “(4) Sulfur hexafluoride.

18 “(5) Hydrofluorocarbons from a chemical man-
19 ufacturing process at an industrial stationary
20 source.

21 “(6) Any perfluorocarbon that is an anthropo-
22 genic gas 1 metric ton of which makes the same or
23 greater contribution to global warming over 100
24 years as 1 metric ton of carbon dioxide.

25 “(7) Nitrogen trifluoride.

1 “(8) Any other anthropogenic gas designated as
2 a greenhouse gas by the Administrator under this
3 section.

4 “(b) DETERMINATION ON ADMINISTRATOR’S INITIA-
5 TIVE.—The Administrator shall, by rule—

6 “(1) determine whether 1 metric ton of another
7 anthropogenic gas makes the same or greater con-
8 tribution to global warming over 100 years as 1 met-
9 ric ton of carbon dioxide;

10 “(2) determine the carbon dioxide equivalent
11 value for each gas with respect to which the Admin-
12 istrator makes an affirmative determination under
13 paragraph (1);

14 “(3) for each gas with respect to which the Ad-
15 ministrator makes an affirmative determination
16 under paragraph (1) and that is used as a substitute
17 for a class I or class II substance under title VI, de-
18 termine the extent to which to regulate that gas
19 under section 619 and specify appropriate compli-
20 ance obligations under section 619;

21 “(4) designate as a greenhouse gas for purposes
22 of this title each gas for which the Administrator
23 makes an affirmative determination under para-
24 graph (1), to the extent that it is not regulated
25 under section 619; and

1 “(5) specify the appropriate compliance obliga-
2 tions under this title for each gas designated as a
3 greenhouse gas under paragraph (4).

4 “(c) PETITIONS TO DESIGNATE A GREENHOUSE
5 GAS.—

6 “(1) IN GENERAL.—Any person may petition
7 the Administrator to designate as a greenhouse gas
8 any anthropogenic gas 1 metric ton of which makes
9 the same or greater contribution to global warming
10 over 100 years as 1 metric ton of carbon dioxide.

11 “(2) CONTENTS OF PETITION.—The petitioner
12 shall provide sufficient data, as specified by rule by
13 the Administrator, to demonstrate that the gas is
14 likely to be a greenhouse gas and is likely to be pro-
15 duced, imported, used, or emitted in the United
16 States. To the extent practicable, the petitioner shall
17 also identify producers, importers, distributors,
18 users, and emitters of the gas in the United States.

19 “(3) REVIEW AND ACTION BY THE ADMINIS-
20 TRATOR.—Not later than 90 days after receipt of a
21 petition under paragraph (2), the Administrator
22 shall determine whether the petition is complete and
23 notify the petitioner and the public of the decision.

24 “(4) ADDITIONAL INFORMATION.—The Admin-
25 istrator may require producers, importers, distribu-

1 tors, users, or emitters of the gas to provide infor-
2 mation on the contribution of the gas to global
3 warming over 100 years compared to carbon dioxide.

4 “(5) TREATMENT OF PETITION.—For any sub-
5 stance used as a substitute for a class I or class II
6 substance under title VI, the Administrator may
7 elect to treat a petition under this subsection as a
8 petition to list the substance as a class II, group II
9 substance under section 619, and may require the
10 petition to be amended to address listing criteria
11 promulgated under that section.

12 “(6) DETERMINATION.—Not later than 2 years
13 after receipt of a complete petition, the Adminis-
14 trator shall, after notice and an opportunity for com-
15 ment—

16 “(A) issue and publish in the Federal Reg-
17 ister—

18 “(i) a determination that 1 metric ton
19 of the gas does not make a contribution to
20 global warming over 100 years that is
21 equal to or greater than that made by 1
22 metric ton of carbon dioxide; and

23 “(ii) an explanation of the decision; or

24 “(B) determine that 1 metric ton of the
25 gas makes a contribution to global warming

1 over 100 years that is equal to or greater than
2 that made by 1 metric ton of carbon dioxide,
3 and take the actions described in subsection (b)
4 with respect to such gas.

5 “(7) GROUNDS FOR DENIAL.—The Adminis-
6 trator may not deny a petition under this subsection
7 solely on the basis of inadequate Environmental Pro-
8 tection Agency resources or time for review.

9 “(d) SCIENCE ADVISORY BOARD CONSULTATION.—
10 “(1) CONSULTATION.—The Administrator
11 shall—

12 “(A) give notice to the Science Advisory
13 Board prior to making a determination under
14 subsection (b)(1), (c)(6), or (e)(2)(B);

15 “(B) consider the written recommendations
16 of the Science Advisory Board under paragraph
17 (2) regarding the determination; and

18 “(C) consult with the Science Advisory
19 Board regarding such determination, including
20 consultation subsequent to receipt of such writ-
21 ten recommendations.

22 “(2) FORMULATION OF RECOMMENDATIONS.—
23 Upon receipt of notice under paragraph (1)(A) re-
24 garding a pending determination under subsection

1 (b)(1), (c)(6), or (e)(2)(B), the Science Advisory
2 Board shall—

3 “(A) formulate recommendations regarding
4 such determination, subject to a peer review
5 process; and

6 “(B) submit such recommendations in
7 writing to the Administrator.

8 “(e) MANUFACTURING AND EMISSION NOTICES.—

9 “(1) NOTICE REQUIREMENT.—

10 “(A) IN GENERAL.—Effective 24 months
11 after the date of enactment of this title, no per-
12 son may manufacture or introduce into inter-
13 state commerce a fluorinated gas, or emit in a
14 calendar year a significant quantity, as deter-
15 mined by the Administrator (which in no case
16 shall be less than $\frac{1}{2}$ ton of such fluorinated
17 gas), of any fluorinated gas that is generated as
18 a byproduct during the production or use of an-
19 other fluorinated gas, unless—

20 “(i) the gas is designated as a green-
21 house gas under this section or is an
22 ozone-depleting substance listed as a class
23 I or class II substance under title VI;

24 “(ii) the Administrator has deter-
25 mined that 1 metric ton of such gas does

1 not make a contribution to global warming
2 that is equal to or greater than that made
3 by 1 metric ton of carbon dioxide; or

4 “(iii) the person manufacturing or im-
5 porting the gas for distribution into inter-
6 state commerce, or emitting the gas, has
7 submitted to the Administrator, at least 90
8 days before the start of such manufacture,
9 introduction into commerce, or emission, a
10 notice of such person’s manufacture, intro-
11 duction into commerce, or emission of such
12 gas, and the Administrator has not deter-
13 mined that notice or a substantially similar
14 notice is incomplete.

15 “(B) ALTERNATIVE COMPLIANCE.—For a
16 gas that is a substitute for a class I or class II
17 substance under title VI and either has been
18 listed as acceptable for use under section 612
19 or is currently subject to evaluation under sec-
20 tion 612, the Administrator may accept the no-
21 tice and information provided pursuant to that
22 section as fulfilling the obligation under clause
23 (iii) of subparagraph (A).

24 “(2) REVIEW AND ACTION BY THE ADMINIS-
25 TRATOR.—

1 “(A) COMPLETENESS.—Not later than 90
2 days after receipt of notice under paragraph
3 (1)(A)(iii) or (B), the Administrator shall deter-
4 mine whether the notice is complete.

5 “(B) DETERMINATION.—If the Adminis-
6 trator determines that the notice is complete,
7 the Administrator shall, after notice and an op-
8 portunity for comment, not later than 12
9 months after receipt of the notice—

10 “(i) issue and publish in the Federal
11 Register a determination that 1 metric ton
12 of the gas does not make a contribution to
13 global warming over 100 years that is
14 equal to or greater than that made by 1
15 metric ton of carbon dioxide and an expla-
16 nation of the decision; or

17 “(ii) determine that 1 metric ton of
18 the gas makes a contribution to global
19 warming over 100 years that is equal to or
20 greater than that made by 1 metric ton of
21 carbon dioxide, and take the actions de-
22 scribed in subsection (b) with respect to
23 such gas.

24 “(f) REGULATIONS.—Not later than one year after
25 the date of enactment of this title, the Administrator shall

1 promulgate regulations to carry out this section. Such reg-
2 ulations shall include—

3 “(1) requirements for the contents of a petition
4 submitted under subsection (c);

5 “(2) requirements for the contents of a notice
6 required under subsection (e); and

7 “(3) methods and standards for evaluating the
8 carbon dioxide equivalent value of a gas.

9 “(g) GASES REGULATED UNDER TITLE VI.—The
10 Administrator shall not designate a gas as a greenhouse
11 gas under this section to the extent that the gas is regu-
12 lated under title VI.

13 “(h) SAVINGS CLAUSE.—Nothing in this section shall
14 be interpreted to relieve any person from complying with
15 the requirements of section 612.

16 **“SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF**
17 **GREENHOUSE GASES.**

18 “(a) MEASURE OF QUANTITY OF GREENHOUSE
19 GASES.—Any provision of this title or title VIII that refers
20 to a quantity or percentage of a quantity of greenhouse
21 gases shall mean the quantity or percentage of the green-
22 house gases expressed in carbon dioxide equivalents.

23 “(b) INITIAL VALUE.—Except as provided by the Ad-
24 ministrator under this section or section 711—

475

1 “(1) the carbon dioxide equivalent value of
 2 greenhouse gases for purposes of this Act shall be as
 3 follows:

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED
 GREENHOUSE GASES**

Greenhouse gas (1 metric ton)	Carbon dioxide equivalent (metric tons)
Carbon dioxide	1
Methane	25
Nitrous oxide	298
HFC-23	14,800
HFC-125	3,500
HFC-134a	1,430
HFC-143a	4,470
HFC-152a	124
HFC-227ea	3,220
HFC-236fa	9,810
HFC-4310mee	1,640
CF ₄	7,390
C ₂ F ₆	12,200
C ₄ F ₁₀	8,860
C ₆ F ₁₄	9,300
SF ₆	22,800
NF ₃	17,200

4 ; and

5 “(2) the carbon dioxide equivalent value for
 6 purposes of this Act for any greenhouse gas not list-
 7 ed in the table under paragraph (1) shall be the

1 100-year Global Warming Potentials provided in the
2 Intergovernmental Panel on Climate Change Fourth
3 Assessment Report.

4 “(c) PERIODIC REVIEW.—

5 “(1) Not later than February 1, 2017, and (ex-
6 cept as provided in paragraph (3)) not less than
7 every 5 years thereafter, the Administrator shall—

8 “(A) review and, if appropriate, revise the
9 carbon dioxide equivalent values established
10 under this section or section 711(b)(2), based
11 on a determination of the number of metric
12 tons of carbon dioxide that makes the same
13 contribution to global warming over 100 years
14 as 1 metric ton of each greenhouse gas; and

15 “(B) publish in the Federal Register the
16 results of that review and any revisions.

17 “(2) A revised determination published in the
18 Federal Register under paragraph (1)(B) shall take
19 effect for greenhouse gas emissions starting on Jan-
20 uary 1 of the first calendar year starting at least 9
21 months after the date on which the revised deter-
22 mination was published.

23 “(3) The Administrator may decrease the fre-
24 quency of review and revision under paragraph (1)
25 if the Administrator determines that such decrease

1 is appropriate in order to synchronize such review
2 and revision with any similar review process carried
3 out pursuant to the United Nations Framework
4 Convention on Climate Change, done at New York
5 on May 9, 1992, or to an agreement negotiated
6 under that convention, except that in no event shall
7 the Administrator carry out such review and revision
8 any less frequently than every 10 years.

9 “(d) METHODOLOGY.—In setting carbon dioxide
10 equivalent values, for purposes of this section or section
11 711, the Administrator shall take into account publica-
12 tions by the Intergovernmental Panel on Climate Change
13 or a successor organization under the auspices of the
14 United Nations Environmental Programme and the World
15 Meteorological Organization.

16 **“SEC. 713. GREENHOUSE GAS REGISTRY.**

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

18 “(1) CLIMATE REGISTRY.—The term ‘Climate
19 Registry’ means the greenhouse gas emissions reg-
20 istry jointly established and managed by more than
21 40 States and Indian tribes in 2007 to collect high-
22 quality greenhouse gas emission data from facilities,
23 corporations, and other organizations to support var-
24 ious greenhouse gas emission reporting and reduc-

1 tion policies for the member States and Indian
2 tribes.

3 “(2) REPORTING ENTITY.—The term ‘reporting
4 entity’ means—

5 “(A) a covered entity;

6 “(B) an entity that—

7 “(i) would be a covered entity if it had
8 emitted, produced, imported, manufac-
9 tured, or delivered in 2008 or any subse-
10 quent year more than the applicable
11 threshold level in the definition of covered
12 entity in paragraph (13) of section 700;
13 and

14 “(ii) has emitted, produced, imported,
15 manufactured, or delivered in 2008 or any
16 subsequent year more than the applicable
17 threshold level in the definition of covered
18 entity in paragraph (13) of section 700,
19 provided that the figure of 25,000 tons of
20 carbon dioxide equivalent is read instead
21 as 10,000 tons of carbon dioxide equivalent
22 and the figure of 460,000,000 cubic feet is
23 read instead as 184,000,000 cubic feet;

24 “(C) any other entity that emits a green-
25 house gas, or produces, imports, manufactures,

1 or delivers material whose use results or may
2 result in greenhouse gas emissions if the Ad-
3 ministrator determines that reporting under
4 this section by such entity will help achieve the
5 purposes of this title or title VIII;

6 “(D) any vehicle fleet with emissions of
7 more than 25,000 tons of carbon dioxide equiv-
8 alent on an annual basis, if the Administrator
9 determines that the inclusion of such fleet will
10 help achieve the purposes of this title or title
11 VIII; or

12 “(E) any entity that delivers electricity to
13 an energy-intensive facility in an industrial sec-
14 tor that meets the energy or greenhouse gas in-
15 tensity criteria in section 764(b)(3)(B)(i).

16 “(b) REGULATIONS.—

17 “(1) IN GENERAL.—Not later than 6 months
18 after the date of enactment of this title, the Admin-
19 istrator shall issue regulations establishing a Federal
20 greenhouse gas registry. Such regulations shall—

21 “(A) require reporting entities to submit to
22 the Administrator data on—

23 “(i) greenhouse gas emissions in the
24 United States;

1 “(ii) the production and manufacture
2 in the United States, importation into the
3 United States, and, at the discretion of the
4 Administrator, exportation from the
5 United States, of fuels and industrial gases
6 the uses of which result or may result in
7 greenhouse gas emissions;

8 “(iii) deliveries in the United States of
9 natural gas, and any other gas meeting the
10 specifications for commingling with natural
11 gas for purposes of delivery, the combus-
12 tion of which result or may result in green-
13 house gas emissions; and

14 “(iv) the capture and sequestration of
15 greenhouse gases;

16 “(B) require covered entities and, where
17 appropriate, other reporting entities to submit
18 to the Administrator data sufficient to ensure
19 compliance with or implementation of the re-
20 quirements of this title;

21 “(C) require reporting of electricity deliv-
22 ered to industrial sources in energy-intensive in-
23 dustries;

1 “(D) ensure the completeness, consistency,
2 transparency, accuracy, precision, and reliability
3 of such data;

4 “(E) take into account the best practices
5 from the most recent Federal, State, tribal, and
6 international protocols for the measurement, ac-
7 counting, reporting, and verification of green-
8 house gas emissions, including protocols from
9 the Climate Registry and other mandatory
10 State or multistate authorized programs;

11 “(F) take into account the latest scientific
12 research;

13 “(G) require that, for covered entities with
14 respect to greenhouse gases to which section
15 722 applies, and, to the extent determined to be
16 appropriate by the Administrator, for covered
17 entities with respect to other greenhouse gases
18 and for other reporting entities, submitted data
19 are based on—

20 “(i) continuous monitoring systems
21 for fuel flow or emissions, such as contin-
22 uous emission monitoring systems;

23 “(ii) alternative systems that are dem-
24 onstrated as providing data with the same
25 precision, reliability, accessibility, and

1 timeliness, or, to the extent the Adminis-
2 trator determines is appropriate for report-
3 ing small amounts of emissions, the same
4 precision, reliability, and accessibility and
5 similar timeliness, as data provided by con-
6 tinuous monitoring systems for fuel flow or
7 emissions; or

8 “(iii) alternative methodologies that
9 are demonstrated to provide data with pre-
10 cision, reliability, accessibility, and timeli-
11 ness, or, to the extent the Administrator
12 determines is appropriate for reporting
13 small amounts of emissions, precision, reli-
14 ability, and accessibility, as similar as is
15 technically feasible to that of data gen-
16 erally provided by continuous monitoring
17 systems for fuel flow or emissions, if the
18 Administrator determines that, with re-
19 spect to a reporting entity, there is no con-
20 tinuous monitoring system or alternative
21 system described in clause (i) or (ii) that
22 is technically feasible;

23 “(H) require that the Administrator, in de-
24 termining the extent to which the requirement
25 to use systems or methodologies in accordance

1 with subparagraph (G) is appropriate for re-
2 porting entities other than covered entities or
3 for greenhouse gases to which section 722 does
4 not apply, consider the cost of using such sys-
5 tems and methodologies, and of using other sys-
6 tems and methodologies that are available and
7 suitable, for quantifying the emissions involved
8 in light of the purposes of this title, including
9 the goal of collecting consistent entity-wide
10 data;

11 “(I) include methods for minimizing double
12 reporting and avoiding irreconcilable double re-
13 porting of greenhouse gas emissions;

14 “(J) establish measurement protocols for
15 carbon capture and sequestration systems, tak-
16 ing into consideration the regulations promul-
17 gated under section 813;

18 “(K) require that reporting entities provide
19 the data required under this paragraph in re-
20 ports submitted electronically to the Adminis-
21 trator, in such form and containing such infor-
22 mation as may be required by the Adminis-
23 trator;

1 “(L) include requirements for keeping
2 records supporting or related to, and protocols
3 for auditing, submitted data;

4 “(M) establish consistent policies for calcu-
5 lating carbon content and greenhouse gas emis-
6 sions for each type of fossil fuel with respect to
7 which reporting is required;

8 “(N) subsequent to implementation of poli-
9 cies developed under subparagraph (M), provide
10 for immediate dissemination, to States, Indian
11 tribes, and on the Internet, of all data reported
12 under this section as soon as practicable after
13 electronic audit by the Administrator and any
14 resulting correction of data, except that data
15 shall not be disseminated under this subpara-
16 graph if—

17 “(i) its nondissemination is vital to
18 the national security of the United States,
19 as determined by the President; or

20 “(ii) it is confidential business infor-
21 mation that cannot be derived from infor-
22 mation that is otherwise publicly available
23 and disclosure of which would likely cause
24 substantial harm to the competitive posi-

1 tion of the person from which the informa-
2 tion was obtained, except that—

3 “(I) data relating to greenhouse
4 gas emissions, including any upstream
5 or verification data from reporting en-
6 tities, shall not be considered to be
7 confidential business information; and

8 “(II) data that is confidential
9 business information shall be provided
10 to a State or Indian tribe within
11 whose jurisdiction the reporting entity
12 is located, if—

13 “(aa) the State or Indian
14 tribe has first provided to the
15 Administrator a written opinion
16 from the chief legal officer or
17 counsel of the requesting State
18 agency, or comparable tribal legal
19 counsel, stating that under appli-
20 cable State or tribal law, the
21 State or Indian tribe has the au-
22 thority to compel a business that
23 possesses such information to
24 disclose the information to the
25 State or Indian tribe; or

1 ture, or deliveries are not underreported,
2 and to create a strong incentive for meet-
3 ing data monitoring and reporting require-
4 ments—

5 “(I) with a conservative estimate
6 of the highest emission, production,
7 importation, manufacture, or delivery
8 levels that may have occurred during
9 the period for which data are missing;
10 or

11 “(II) to the extent the Adminis-
12 trator considers appropriate, with an
13 estimate of such levels assuming the
14 unit is emitting, producing, importing,
15 manufacturing, or delivering at a
16 maximum potential level during the
17 period, in order to ensure that such
18 levels are not underreported and to
19 create a strong incentive for meeting
20 data monitoring and reporting re-
21 quirements; and

22 “(ii) for covered entities with respect
23 to greenhouse gas emissions to which sec-
24 tion 722 does not apply and for other re-
25 porting entities, with a reasonable estimate

1 of the emission, production, importation,
2 manufacture, or delivery levels that may
3 have occurred during the period for which
4 data are missing;

5 “(P) require the designation of a des-
6 igned representative for each reporting entity;

7 “(Q) require an appropriate certification,
8 by the designated representative for the report-
9 ing entity, of accurate and complete accounting
10 of greenhouse gas emissions, as determined by
11 the Administrator; and

12 “(R) include requirements for other data
13 necessary for accurate and complete accounting
14 of greenhouse gas emissions, as determined by
15 the Administrator, including data for quality
16 assurance of monitoring systems, monitors and
17 other measurement devices, and other data
18 needed to verify reported emissions, production,
19 importation, manufacture, or delivery.

20 “(2) TIMING.—

21 “(A) CALENDAR YEARS 2007 THROUGH
22 2010.—For a base period of calendar years
23 2007 through 2010, each reporting entity shall
24 submit annual data required under this section
25 to the Administrator not later than March 31,

1 2011. The Administrator may waive or modify
2 reporting requirements for calendar years 2007
3 through 2010 for categories of reporting enti-
4 ties to the extent that the Administrator deter-
5 mines that the reporting entities did not keep
6 data or records necessary to meet reporting re-
7 quirements. The Administrator may, in addition
8 to or in lieu of such requirements, collect infor-
9 mation on energy consumption and production.

10 “(B) SUBSEQUENT CALENDAR YEARS.—
11 For calendar year 2011 and each subsequent
12 calendar year, each reporting entity shall sub-
13 mit quarterly data required under this section
14 to the Administrator not later than 60 days
15 after the end of the applicable quarter, except
16 when the data is already being reported to the
17 Administrator on an earlier timeframe for an-
18 other program.

19 “(3) WAIVER OF REPORTING REQUIREMENTS.—
20 The Administrator may waive reporting require-
21 ments under this section for specific entities to the
22 extent that the Administrator determines that suffi-
23 cient and equally or more reliable verified and timely
24 data are available to the Administrator and the pub-

1 lic on the Internet under other mandatory statutory
2 requirements.

3 “(4) ALTERNATIVE THRESHOLD.—The Admin-
4 istrator may, by rule, establish applicability thresh-
5 olds for reporting under this section using alter-
6 native metrics and levels, provided that such metrics
7 and levels are easier to administer and cover the
8 same size and type of sources as the threshold de-
9 fined in this section.

10 “(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—
11 In developing the regulations issued under subsection (b),
12 the Administrator shall take into account the work done
13 by the Climate Registry and other mandatory State or
14 multistate programs. Such regulations shall include an ex-
15 planation of any major differences in approach between
16 the system established under the regulations and such reg-
17 istries and programs.

18 **“SEC. 714. PERFLUOROCARBON AND OTHER**
19 **NONHYDROFLUOROCARBON FLUORINATED**
20 **SUBSTANCE PRODUCTION REGULATION.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) BEST ACHIEVABLE PERFORMANCE STAND-
23 ARD.—The term ‘best achievable performance stand-
24 ard’ means a limitation on total emissions based on
25 the maximum degree of reduction of fluorinated

1 gases that are greenhouse gases subject to regula-
2 tion under this Act emitted during the production of
3 nonhydrofluorocarbon fluorinated substances at cov-
4 ered entities that the Administrator, taking into con-
5 sideration energy, environmental, economic impacts,
6 and other costs, determines to be achievable for cov-
7 ered entities through application of production proc-
8 ess optimization and available methods, control tech-
9 nologies or systems, and management techniques or
10 practices.

11 “(2) NONHYDROFLUOROCARBON FLUORINATED
12 SUBSTANCE.—The term ‘nonhydrofluorocarbon
13 fluorinated substance’ means a substance included
14 on the list under subsection (d) that—

15 “(A) is not listed as a class I or class II
16 substance under title VI; and

17 “(B) is not—

18 “(i) sulfur hexafluoride; or

19 “(ii) nitrogen trifluoride.

20 “(b) DETERMINATION BY ADMINISTRATOR.—

21 “(1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this section, the Adminis-
23 trator shall determine, based on the criteria de-
24 scribed in paragraph (2), whether fluorinated gases
25 that are greenhouse gases emitted during the pro-

1 duction of nonhydrofluorocarbon fluorinated sub-
2 stances should be regulated in accordance with—

3 “(A) subsection (c); or

4 “(B) the applicable requirements of section
5 722 relating to emissions of greenhouse gases
6 during fluorinated substance production at cov-
7 ered entities.

8 “(2) CRITERIA FOR DETERMINATION.—In mak-
9 ing the determination under paragraph (1), the Ad-
10 ministrators shall take into consideration—

11 “(A) whether an equivalent or greater level
12 of total emissions reductions could be achieved
13 under subsection (c), as compared to the emis-
14 sions reductions that would be achieved under
15 the applicable requirements of section 722 re-
16 lating to emissions of greenhouse gases during
17 fluorinated substance production at covered en-
18 tities; and

19 “(B) such other criteria as the Adminis-
20 trator determines to be appropriate.

21 “(c) GREENHOUSE GAS EMISSIONS FROM
22 NONHYDROFLUOROCARBON FLUORINATED SUBSTANCE
23 PRODUCTION.—

24 “(1) IN GENERAL.—If the Administrator makes
25 the determination described in subsection (b)(1)(A),

1 not later than 18 months after the date of enact-
2 ment of this section, the Administrator shall promul-
3 gate regulations applicable to covered entities that
4 require fluorinated gases that are greenhouse gases
5 emitted during the production of
6 nonhydrofluorocarbon fluorinated substances at
7 those covered entities to meet the best achievable
8 performance standard.

9 “(2) BEST ACHIEVABLE PERFORMANCE STAND-
10 ARD REVIEW.—The Administrator shall, at the dis-
11 cretion of the Administrator—

12 “(A) not later than 2 years after the date
13 of establishment of a best achievable perform-
14 ance standard, and every 2 years thereafter—

15 “(i) review the best achievable per-
16 formance standard; and

17 “(ii) as necessary, establish a more
18 stringent best available performance stand-
19 ard that reduces emissions, to the max-
20 imum extent practicable, in accordance
21 with the economy-wide reduction goals re-
22 ferred to in section 702; or

23 “(B) not later than 2 years after the date
24 of establishment of a best achievable perform-
25 ance standard, and every 10 years thereafter,

1 establish a 10-year schedule under which each
2 applicable covered entity shall incrementally im-
3 plement a more stringent best achievable per-
4 formance standard that reduces, to the max-
5 imum extent practicable, emissions in accord-
6 ance with the economy-wide reduction goals re-
7 ferred to in section 702.

8 “(3) EXCLUSIVITY.—If the Administrator
9 makes the determination described in subsection
10 (b)(1)(A), the requirements of this subsection relat-
11 ing to control of emissions of fluorinated gases that
12 are greenhouse gases during the production of
13 nonhydrofluorocarbon fluorinated substances shall
14 apply in lieu of the requirements of section 722 re-
15 lating to emissions of fluorinated gases that are
16 greenhouse gases during fluorinated substance pro-
17 duction at covered entities.

18 “(d) LIST OF NONHYDROFLUOROCARBON
19 FLUORINATED SUBSTANCES.—

20 “(1) INITIAL LIST.—If the Administrator
21 makes the determination described in subsection
22 (b)(1)(A), not later than 2 years after the date of
23 enactment of this section, the Administrator shall
24 publish a list of nonhydrofluorocarbon fluorinated
25 substances subject to regulation under this section.

1 “(2) ADDITIONS TO LIST.—The Administrator
2 may include on the list published under paragraph
3 (1) any substance that meets the requirements de-
4 scribed in subsection (a)(2).

5 **“PART C—PROGRAM RULES**

6 **“SEC. 721. EMISSION ALLOWANCES.**

7 “(a) IN GENERAL.—The Administrator shall estab-
8 lish a separate quantity of emission allowances for each
9 calendar year starting in 2012, in the quantities pre-
10 scribed under subsection (e).

11 “(b) IDENTIFICATION NUMBERS.—The Adminis-
12 trator shall assign to each emission allowance established
13 under subsection (a) a unique identification number that
14 includes the vintage year for that emission allowance.

15 “(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

16 “(1) IN GENERAL.—An allowance established
17 by the Administrator under this title does not con-
18 stitute a property right.

19 “(2) TERMINATION OR LIMITATION.—Nothing
20 in this Act or any other provision of law shall be
21 construed to limit or alter the authority of the
22 United States, including the Administrator acting
23 pursuant to statutory authority, to terminate or
24 limit allowances, offset credits, or term offset cred-
25 its.

1 “(3) OTHER PROVISIONS UNAFFECTED.—Ex-
2 cept as otherwise specified in this Act, nothing in
3 this Act relating to allowances, offset credits, or
4 term offset credits established or issued under this
5 title shall affect the application of any other provi-
6 sion of law to a covered entity, or the responsibility
7 for a covered entity to comply with any such provi-
8 sion of law.

9 “(d) SAVINGS PROVISION.—Nothing in this part shall
10 be construed as requiring a change of any kind in any
11 State or tribal law regulating electric utility rates and
12 charges, or as affecting any State or tribal law regarding
13 such State regulation, or as limiting State or tribal regula-
14 tion (including any prudency review) under such a State
15 or tribal law. Nothing in this part shall be construed as
16 modifying the Federal Power Act (16 U.S.C. 791a et seq.)
17 or as affecting the authority of the Federal Energy Regu-
18 latory Commission under that Act. Nothing in this part
19 shall be construed to interfere with or impair any program
20 for competitive bidding for power supply in a State in
21 which such program is established.

22 “(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), the number of emission allowances estab-
25 lished by the Administrator under subsection (a) for

1 each calendar year shall be as provided in the fol-
 2 lowing table:

“Calendar Year	Emission Allow- ances (MtCO2e)
2012	4,627
2013	4,544
2014	5,053
2015	5,003
2016	5,482
2017	5,261
2018	5,132
2019	5,002
2020	4,873
2021	4,739
2022	4,605
2023	4,471
2024	4,337
2025	4,203
2026	4,069
2027	3,935
2028	3,801
2029	3,667
2030	3,533
2031	3,408
2032	3,283
2033	3,158
2034	3,033
2035	2,908
2036	2,784
2037	2,659
2038	2,534
2039	2,409
2040	2,284
2041	2,159
2042	2,034
2043	1,910
2044	1,785
2045	1,660
2046	1,535
2047	1,410
2048	1,285
2049	1,160
2050 and each calendar year thereafter	1,035

3 “(2) REVISION.—

4 “(A) IN GENERAL.—The Administrator
 5 may adjust, in accordance with subparagraph
 6 (B), the number of emission allowances estab-

1 lished pursuant to paragraph (1) if, after notice
2 and an opportunity for public comment, the Ad-
3 ministrators determine that—

4 “(i) United States greenhouse gas
5 emissions in 2005 were other than 7,206
6 million metric tons carbon dioxide equiva-
7 lent;

8 “(ii) if the requirements of this title
9 for 2012 had been in effect in 2005, sec-
10 tion 722 would have required emission al-
11 lowances to be held for other than 66.2
12 percent of United States greenhouse gas
13 emissions in 2005;

14 “(iii) if the requirements of this title
15 for 2014 had been in effect in 2005, sec-
16 tion 722 would have required emission al-
17 lowances to be held for other than 75.7
18 percent of United States greenhouse gas
19 emissions in 2005; or

20 “(iv) if the requirements of this title
21 for 2016 had been in effect in 2005, sec-
22 tion 722 would have required emission al-
23 lowances to be held for other than 84.5
24 percent United States greenhouse gas
25 emissions in 2005.

1 “(B) ADJUSTMENT FORMULA.—

2 “(i) IN GENERAL.—If the Adminis-
3 trator adjusts under this paragraph the
4 number of emission allowances established
5 pursuant to paragraph (1), the number of
6 emission allowances the Administrator es-
7 tablishes for any given calendar year shall
8 equal the product of—

9 “(I) United States greenhouse
10 gas emissions in 2005, expressed in
11 tons of carbon dioxide equivalent;

12 “(II) the percent of United
13 States greenhouse gas emissions in
14 2005, expressed in tons of carbon di-
15 oxide equivalent, that would have been
16 subject to section 722 if the require-
17 ments of this title for the given cal-
18 endar year had been in effect in 2005;
19 and

20 “(III) the percentage set forth
21 for that calendar year in section
22 703(a), or determined under clause
23 (ii) of this subparagraph.

24 “(ii) TARGETS.—In applying the por-
25 tion of the formula in clause (i)(III) of this

1 subparagraph, for calendar years for which
2 a percentage is not listed in section 703(a),
3 the Administrator shall use a uniform an-
4 nual decline in the amount of emissions be-
5 tween the years that are specified.

6 “(iii) CARBON DIOXIDE EQUIVALENT
7 VALUE.—If the Administrator adjusts
8 under this paragraph the number of emis-
9 sion allowances established pursuant to
10 paragraph (1), the Administrator shall use
11 the carbon dioxide equivalent values estab-
12 lished pursuant to section 712.

13 “(iv) LIMITATION ON ADJUSTMENT
14 TIMING.—Once a calendar year has start-
15 ed, the Administrator may not adjust the
16 number of emission allowances to be estab-
17 lished for that calendar year.

18 “(C) LIMITATION ON ADJUSTMENT AU-
19 THORITY.—The Administrator may adjust
20 under this paragraph the number of emission
21 allowances to be established pursuant to para-
22 graph (1) only once.

23 “(f) COMPENSATORY ALLOWANCE.—

24 “(1) IN GENERAL.—The regulations promul-
25 gated under subsection (h) shall provide for the es-

1 tablishment and distribution of compensatory allow-
2 ances for—

3 “(A) the destruction, in 2012 or later, of
4 fluorinated gases that are greenhouse gases if—

5 “(i) allowances or offset credits were
6 retired for their production or importation;
7 and

8 “(ii) such gases are not required to be
9 destroyed under any other provision of law;

10 “(B) the nonemissive use, in 2012 or later,
11 of petroleum-based or coal-based liquid or gas-
12 eous fuel, petroleum coke, natural gas liquid, or
13 natural gas as a feedstock, if allowances or off-
14 set credits were retired for the greenhouse
15 gases that would have been emitted from their
16 combustion; and

17 “(C) the conversionary use, in 2012 or
18 later, of fluorinated gases in a manufacturing
19 process, including semiconductor research or
20 manufacturing, if allowances or offset credits
21 were retired for the production or importation
22 of such gas.

23 “(2) ESTABLISHMENT AND DISTRIBUTION.—

24 “(A) IN GENERAL.—Not later than 90
25 days after the end of each calendar year, the

1 Administrator shall establish and distribute to
2 the entity taking the actions described in sub-
3 paragraph (A), (B), or (C) of paragraph (1) a
4 quantity of compensatory allowances equivalent
5 to the number of tons of carbon dioxide equiva-
6 lent of avoided emissions achieved through such
7 actions. In establishing the quantity of compen-
8 satory allowances, the Administrator shall take
9 into account the carbon dioxide equivalent value
10 of any greenhouse gas resulting from such ac-
11 tion.

12 “(B) SOURCE OF ALLOWANCES.—Compen-
13 satory allowances established under this sub-
14 section shall not be emission allowances estab-
15 lished under subsection (a).

16 “(C) IDENTIFICATION NUMBERS.—The
17 Administrator shall assign to each compen-
18 satory allowance established under subpara-
19 graph (A) a unique identification number.

20 “(3) DEFINITIONS.—For purposes of this sub-
21 section—

22 “(A) the term ‘destruction’ means the con-
23 version of a greenhouse gas by thermal, chem-
24 ical, or other means to another gas or set of

1 gases with little or no carbon dioxide equivalent
2 value;

3 “(B) the term ‘nonemissive use’ means the
4 use of fossil fuel as a feedstock in an industrial
5 or manufacturing process to the extent that
6 greenhouse gases are not emitted from such
7 process, and to the extent that the products of
8 such process are not intended for use as, or to
9 be contained in, a fuel; and

10 “(C) the term ‘conversionary use’ means
11 the conversion during research or manufac-
12 turing of a fluorinated gas into another green-
13 house gas or set of gases with a lower carbon
14 dioxide equivalent value.

15 “(4) FEEDSTOCK EMISSIONS STUDY.—

16 “(A) The Administrator may conduct a
17 study to determine the extent to which petro-
18 leum-based or coal-based liquid or gaseous fuel,
19 petroleum coke, natural gas liquid, or natural
20 gas are used as feedstocks in manufacturing
21 processes to produce products and the green-
22 house gas emissions resulting from such uses.

23 “(B) If as a result of such a study, the Ad-
24 ministrator determines that the use of such
25 products by noncovered sources results in sub-

1 stantial emissions of greenhouse gases or their
2 precursors and that such emissions have not
3 been adequately addressed under other require-
4 ments of this Act, the Administrator may, after
5 notice and comment rulemaking, promulgate a
6 regulation reducing compensatory allowances
7 commensurately if doing so will not result in
8 leakage.

9 “(g) FLUORINATED GASES ASSESSMENT.—

10 “(1) IN GENERAL.—Not later than March 31,
11 2014, the Administrator shall conduct an assess-
12 ment of the regulation of non-hydrofluorocarbon
13 fluorinated gases under this title to determine
14 whether the most appropriate point of regulation of
15 those gases is at—

16 “(A) the gas manufacturer or importer
17 level; or

18 “(B) the downstream source of the emis-
19 sions.

20 “(2) MODIFICATION OF DEFINITION.—If the
21 Administrator determines, based on consideration of
22 environmental effectiveness, cost-effectiveness, ad-
23 ministrative feasibility, extent of coverage of emis-
24 sions, and competitiveness considerations, that emis-
25 sions of non-hydrofluorocarbon fluorinated gases can

1 best be regulated by designating downstream emis-
2 sion sources as covered entities with compliance obli-
3 gations under section 722, the Administrator shall—

4 “(A) after providing notice and an oppor-
5 tunity for comment, modify the definition of the
6 term ‘covered entity’ with respect to fluorinated
7 gases (other than hydrofluorocarbons) accord-
8 ingly; and

9 “(B) establish such requirements as are
10 necessary to ensure compliance by the covered
11 entities with the requirements of this title.

12 “(h) REGULATIONS.—Not later than 24 months after
13 the date of enactment of this title, the Administrator shall
14 promulgate regulations to carry out the provisions of this
15 title.

16 **“SEC. 722. PROHIBITION OF EXCESS EMISSIONS.**

17 “(a) PROHIBITION.—Except as provided in sub-
18 section (c), effective January 1, 2012, each covered entity
19 is prohibited from emitting greenhouse gases, and having
20 attributable greenhouse gas emissions, in combination, in
21 excess of its allowable emissions level. A covered entity’s
22 allowable emissions level for each calendar year is the
23 number of emission allowances (or credits or other allow-
24 ances as provided in subsection (d)) it holds as of 12:01
25 a.m. on April 1 (or a later date established by the Admin-

1 istrator under subsection (j)) of the following calendar
2 year.

3 “(b) METHODS OF DEMONSTRATING COMPLIANCE.—

4 Except as otherwise provided in this section, the owner
5 or operator of a covered entity shall not be considered to
6 be in compliance with the prohibition in subsection (a) un-
7 less, as of 12:01 a.m. on April 1 (or a later date estab-
8 lished by the Administrator under subsection (j)) of each
9 calendar year starting in 2013, the owner or operator
10 holds a quantity of emission allowances (or credits or other
11 allowances as provided in subsection (d)) at least as great
12 as the quantity calculated as follows:

13 “(1) ELECTRICITY SOURCES.—For a covered
14 entity described in section 700(13)(A), 1 emission
15 allowance for each ton of carbon dioxide equivalent
16 of greenhouse gas that such covered entity emitted
17 in the previous calendar year, excluding emissions
18 resulting from the combustion of—

19 “(A) petroleum-based or coal-based liquid
20 fuel;

21 “(B) natural gas liquid;

22 “(C) renewable biomass or gas derived
23 from renewable biomass; or

24 “(D) petroleum coke.

1 “(2) FUEL PRODUCERS AND IMPORTERS.—For
2 a covered entity described in section 700(13)(B), 1
3 emission allowance for each ton of carbon dioxide
4 equivalent of greenhouse gas that would be emitted
5 from the combustion of any petroleum-based or coal-
6 based liquid fuel, petroleum coke, or natural gas liq-
7 uid, produced or imported by such covered entity
8 during the previous calendar year for sale or dis-
9 tribution in interstate commerce, assuming no cap-
10 ture and sequestration of any greenhouse gas emis-
11 sions.

12 “(3) INDUSTRIAL GAS PRODUCERS AND IM-
13 PORTERS.—For a covered entity described in section
14 700(13)(C), 1 emission allowance for each ton of
15 carbon dioxide equivalent of fossil fuel-based carbon
16 dioxide, nitrous oxide, or any other fluorinated gas
17 that is a greenhouse gas (except for nitrogen
18 trifluoride), or any combination thereof, produced or
19 imported by such covered entity during the previous
20 calendar year for sale or distribution in interstate
21 commerce.

22 “(4) NITROGEN TRIFLUORIDE SOURCES.—For
23 a covered entity described in section 700(13)(D), 1
24 emission allowance for each ton of carbon dioxide

1 equivalent of nitrogen trifluoride that such covered
2 entity emitted in the previous calendar year.

3 “(5) GEOLOGICAL SEQUESTRATION SITES.—For
4 a covered entity described in section 700(13)(E), 1
5 emission allowance for each ton of carbon dioxide
6 equivalent of greenhouse gas that such covered enti-
7 ty emitted in the previous calendar year.

8 “(6) INDUSTRIAL STATIONARY SOURCES.—For
9 a covered entity described in section 700(13)(F),
10 (G), or (H), 1 emission allowance for each ton of
11 carbon dioxide equivalent of greenhouse gas that
12 such covered entity emitted in the previous calendar
13 year, excluding emissions resulting from—

14 “(A) the combustion of petroleum-based or
15 coal-based liquid fuel;

16 “(B) the combustion of natural gas liquid;

17 “(C) the combustion of renewable biomass
18 or gas derived from renewable biomass;

19 “(D) the combustion of petroleum coke; or

20 “(E) the use of any fluorinated gas that is
21 a greenhouse gas purchased for use at that cov-
22 ered entity, except for nitrogen trifluoride.

23 “(7) INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-
24 TION DEVICES.—For a covered entity described in
25 section 700(13)(I), 1 emission allowance for each

1 ton of carbon dioxide equivalent of greenhouse gas
2 that the devices emitted in the previous calendar
3 year, excluding emissions resulting from the combus-
4 tion of—

5 “(A) petroleum-based or coal-based liquid
6 fuel;

7 “(B) natural gas liquid;

8 “(C) renewable biomass or gas derived
9 from renewable biomass; or

10 “(D) petroleum coke.

11 “(8) NATURAL GAS LOCAL DISTRIBUTION COM-
12 PANIES.—For a covered entity described in section
13 700(13)(J), 1 emission allowance for each ton of
14 carbon dioxide equivalent of greenhouse gas that
15 would be emitted from the combustion of the natural
16 gas, and any other gas meeting the specifications for
17 commingling with natural gas for purposes of deliv-
18 ery, that such entity delivered during the previous
19 calendar year to customers that are not covered enti-
20 ties, assuming no capture and sequestration of that
21 greenhouse gas.

22 “(9) R&D FACILITIES.—

23 “(A) IN GENERAL.—For a qualified R&D
24 facility that emitted 25,000 tons per year or
25 more carbon dioxide equivalent in the previous

1 calendar year, 1 emission allowance for each
2 ton of carbon dioxide equivalent of greenhouse
3 gas that such facility emitted in the previous
4 calendar year.

5 “(B) TREATMENT.—A qualified R&D facil-
6 ity shall be treated as a separate covered entity
7 solely for purposes of applying the requirements
8 of this subsection.

9 “(10) ALGAE-BASED FUELS.—Where carbon di-
10 oxide (or another greenhouse gas) generated by a
11 covered entity is used as an input in the production
12 of algae-based fuels, the Administrator shall ensure
13 that emission allowances are required to be held ei-
14 ther for the carbon dioxide generated by a covered
15 entity used to grow the algae or for the portion of
16 the carbon dioxide emitted from combustion of the
17 fuel produced from such algae that is attributable to
18 carbon dioxide generated by a covered entity, but
19 not for both.

20 “(11) FUGITIVE EMISSIONS.—The greenhouse
21 gas emissions to which paragraphs (1), (4), (6), and
22 (7) apply shall not include fugitive emissions of
23 greenhouse gas, except to the extent the Adminis-
24 trator determines that data on the carbon dioxide
25 equivalent value of greenhouse gas in the fugitive

1 emissions can be provided with sufficient precision,
2 reliability, accessibility, and timeliness to ensure the
3 integrity of emission allowances, the allowance track-
4 ing system, and the limits on emissions.

5 “(12) EXPORT EXEMPTION.—This section shall
6 not apply to any petroleum-based or coal-based liq-
7 uid fuel, petroleum coke, natural gas liquid, fossil
8 fuel-based carbon dioxide, nitrous oxide, or
9 fluorinated gas that is exported for sale or use.

10 “(13) NATURAL GAS LIQUIDS.—Notwith-
11 standing subsection (a), if the owner or operator of
12 a covered entity described in section 700(13)(B)
13 that produces natural gas liquids does not take own-
14 ership of the liquids, and is not responsible for the
15 distribution or use of the liquids in commerce, the
16 owner of the liquids shall be responsible for compli-
17 ance with this section, section 723, and other rel-
18 evant sections of this title with respect to such liq-
19 uids. In the regulations promulgated under section
20 721, the Administrator shall include such provisions
21 with respect to such liquids as the Administrator de-
22 termines are appropriate to determine and ensure
23 compliance, and to penalize noncompliance. In such
24 a case, the owner of the covered entity shall provide
25 to the Administrator, in a manner to be determined

1 by the Administrator, information regarding the
2 quantity and ownership of liquids produced at the
3 covered entity.

4 “(14) APPLICATION OF MULTIPLE PARA-
5 GRAPHS.—For a covered entity to which more than
6 1 of paragraphs (1) through (8) apply, all applicable
7 paragraphs shall apply, except that not more than 1
8 emission allowance shall be required for the same
9 emission.

10 “(c) PHASE-IN OF PROHIBITION.—

11 “(1) INDUSTRIAL STATIONARY SOURCES.—The
12 prohibition under subsection (a) shall first apply to
13 a covered entity described in section 700(13)(D),
14 (F), (G), (H), or (I), with respect to emissions oc-
15 ccurring during calendar year 2014.

16 “(2) SMALL BUSINESS REFINERS.—The prohi-
17 bition under subsection (a) shall first apply to a cov-
18 ered entity described in section 700(13)(F)(viii) that
19 is a small business refiner with respect to emissions
20 during calendar year 2015.

21 “(3) NATURAL GAS LOCAL DISTRIBUTION COM-
22 PANIES.—The prohibition under subsection (a) shall
23 first apply to a covered entity described in section
24 700(13)(J) with respect to deliveries occurring dur-
25 ing calendar year 2016.

1 “(d) ADDITIONAL METHODS.—In addition to using
2 the method of compliance described in subsection (b), a
3 covered entity may do the following:

4 “(1) OFFSET CREDITS.—

5 “(A) CREDITS.—

6 “(i) IN GENERAL.—Covered entities
7 collectively may, in accordance with this
8 paragraph, use offset credits to dem-
9 onstrate compliance for up to a maximum
10 of 2,000,000,000 tons of greenhouse gas
11 emissions annually.

12 “(ii) DEMONSTRATION OF COMPLI-
13 ANCE.—In any calendar year, a covered
14 entity may demonstrate compliance by
15 holding 1 domestic offset credit or 1.25
16 international offset credits in lieu of an
17 emission allowance, except as provided in
18 subparagraph (D), up to a total number of
19 offset credits described in subparagraph
20 (B).

21 “(B) APPLICABLE PERCENTAGE.—

22 “(i) IN GENERAL.—The total number
23 of offset credits referred to in subpara-
24 graph (A)(ii) for a covered entity for a

1 graphs (A) through (D) of sub-
2 section (b)(7)) and attributable
3 greenhouse gas emissions for the
4 year before the preceding cal-
5 endar year; and

6 “(II) multiplying the quotient ob-
7 tained under subclause (I) by
8 2,000,000,000.

9 “(ii) APPLICABILITY.—Clause (i) shall
10 apply to a covered entity (including a cov-
11 ered entity that commenced operation dur-
12 ing the preceding calendar year) even if
13 the covered entity had no greenhouse gas
14 emissions or attributable greenhouse gas
15 emissions described in that clause.

16 “(iii) OFFSET CREDITS.—Not more
17 than $\frac{3}{4}$ of the applicable percentage under
18 this paragraph may be used by holding do-
19 mestic offset credits, and not more than $\frac{1}{4}$
20 of the applicable percentage under this
21 paragraph may be used by holding inter-
22 national offset credits, except as provided
23 in subparagraph (C).

24 “(C) MODIFIED PERCENTAGES.—If the
25 Administrator determines that domestic offset

1 credits available for use in demonstrating com-
2 pliance in any calendar year at domestic offset
3 prices generally equal to or less than allowance
4 prices, are likely to offset less than 900,000,000
5 tons of greenhouse gas emissions (measured in
6 tons of carbon dioxide equivalents), the Admin-
7 istrator shall increase the percent of emissions
8 that can be offset through the use of inter-
9 national offset credits (and decrease the percent
10 of emissions that can be allowed through the
11 use of domestic offset credits by the same
12 amount) to reflect the amount that
13 1,500,000,000 exceeds the number of domestic
14 offset credits the Administrator determines is
15 available for that year, up to a maximum of
16 750,000,000 tons of greenhouse gas emissions.

17 “(D) INTERNATIONAL OFFSET CREDITS.—
18 Notwithstanding subparagraph (A), to dem-
19 onstrate compliance prior to calendar year
20 2018, a covered entity may use 1 international
21 offset credit in lieu of an emission allowance up
22 to the amount permitted under this paragraph.

23 “(E) PRESIDENT’S RECOMMENDATION.—
24 The President may make a recommendation to
25 Congress as to whether the number

1 2,000,000,000 specified in subparagraphs (A)
2 and (B) should be increased or decreased.

3 “(2) TERM OFFSET CREDITS.—

4 “(A) IN GENERAL.—Covered entities may,
5 in accordance with this paragraph, use non-ex-
6 pired term offset credits instead of domestic
7 offset credits for purposes of temporarily dem-
8 onstrating compliance with this section.

9 “(B) AMOUNT.—The combined quantity of
10 term offset credits and domestic offset credits
11 used by a covered entity to demonstrate compli-
12 ance for its emissions or attributable green-
13 house gas emissions in any given year shall not
14 exceed the quantity of domestic offset credits
15 that a covered entity is entitled to use for that
16 year to demonstrate compliance in accordance
17 with paragraph (1).

18 “(C) EXPIRATION.—A term offset credit
19 shall expire in the year after its term ends. The
20 term of a term offset credit shall be calculated
21 by adding to the year of issuance the number
22 of years equal to the length of the crediting pe-
23 riod for the practice or project for which the
24 term offset credit was issued, but in no case

1 shall be later than the date 5 years from the
2 date of issuance.

3 “(D) DEMONSTRATING COMPLIANCE UPON
4 EXPIRATION OF TERM OFFSET CREDIT.—With
5 respect to the emissions for which a covered en-
6 tity is using term offset credits to demonstrate
7 compliance temporarily with this section, the
8 owner or operator of a covered entity shall not
9 be considered to be in compliance with the pro-
10 hibition in subsection (a) unless, as of 12:01
11 a.m. on April 1 (or a later date established by
12 the Administrator under subsection (j)) of the
13 calendar year in which a term offset credit ex-
14 pires, the owner or operator holds—

15 “(i) for purposes of finally dem-
16 onstrating compliance, an allowance or a
17 domestic offset credit; or

18 “(ii) for purposes of temporarily dem-
19 onstrating compliance, a non-expired term
20 offset credit.

21 “(E) INAPPLICABILITY OF PERCENTAGE
22 LIMITATIONS.—Domestic offset credits used for
23 purposes of finally demonstrating compliance
24 under this subparagraph shall not be subject to
25 the percentage limitations in subparagraph (B).

1 “(F) FINANCIAL ASSURANCE.—A covered
2 entity may not use a term offset credit to dem-
3 onstrate compliance temporarily unless it simul-
4 taneously provides to the Administrator finan-
5 cial assurance that, at the end of the term off-
6 set credit’s crediting term, the covered entity
7 will have sufficient resources to obtain the
8 quantity of allowances or credits necessary to
9 demonstrate final compliance. The Adminis-
10 trator shall issue regulations establishing re-
11 quirements for such financial assurance, which
12 shall take into account the increased risk asso-
13 ciated with longer crediting terms. These regu-
14 lations shall take into account the total number
15 of tons of carbon dioxide equivalent of green-
16 house gas emissions for which a covered entity
17 is demonstrating compliance temporarily, and
18 may set a limit on this amount. In the event
19 that a covered entity that used term offset cred-
20 its to demonstrate compliance temporarily fails
21 to meet the requirements of subparagraph (D)
22 at the end of the term offset credits’ crediting
23 term, if the financial assurance mechanism fails
24 to provide to the Administrator the number of
25 allowances or offset credits for which the cred-

1 iting term has expired, then the Administrator
2 shall retire that number of allowances with the
3 vintage year 2 years after the year in which the
4 term offset credit expires in the same amount.
5 Allowances so retired shall not be counted as
6 emission allowances established for that cal-
7 endar year under section 721(a).

8 “(3) INTERNATIONAL EMISSION ALLOW-
9 ANCES.—To demonstrate compliance, a covered enti-
10 ty may hold an international emission allowance in
11 lieu of an emission allowance, except as modified
12 under section 728(d).

13 “(4) COMPENSATORY ALLOWANCES.—To dem-
14 onstrate compliance, a covered entity may hold a
15 compensatory allowance obtained under section
16 721(f) in lieu of an emission allowance.

17 “(e) RETIREMENT OF ALLOWANCES AND CREDITS.—
18 As soon as practicable after a deadline established for cov-
19 ered entities to demonstrate compliance with this title, the
20 Administrator shall retire the quantity of allowances or
21 credits required to be held under this title.

22 “(f) ALTERNATIVE METRICS.—For categories of cov-
23 ered entities described in subparagraph (B), (C), (D), (G),
24 (H), or (I) of section 700(13), the Administrator may, by
25 rule, establish an applicability threshold for inclusion

1 under those subparagraphs using an alternative metric
2 and level, provided that such metric and level are easier
3 to administer and cover the same size and type of sources
4 as the threshold defined in such subparagraphs.

5 “(g) THRESHOLD REVIEW.—For each category of
6 covered entities described in subparagraph (B), (C), (D),
7 (G), (H), or (I) of section 700(13), the Administrator
8 shall, in 2020 and once every 8 years thereafter, review
9 the carbon dioxide equivalent emission thresholds that are
10 used to define covered entities. After consideration of—

11 “(1) emissions from covered entities in each
12 such category, and from other entities of the same
13 type that emit less than the threshold amount for
14 the category (including emission sources that com-
15 mence operation after the date of enactment of this
16 title that are not covered entities); and

17 “(2) whether greater greenhouse gas emission
18 reductions can be cost-effectively achieved by low-
19 ering the applicable threshold,

20 the Administrator may by rule lower such threshold to not
21 less than 10,000 tons of carbon dioxide equivalent emis-
22 sions. In determining the cost effectiveness of potential re-
23 ductions from lowering the threshold for covered entities,
24 the Administrator shall consider alternative regulatory

1 greenhouse gas programs, including setting standards
2 under other titles of this Act.

3 “(h) DESIGNATED REPRESENTATIVES.—The regula-
4 tions promulgated under section 721(h) shall require that
5 each covered entity, and each entity holding allowances or
6 credits or receiving allowances or credits from the Admin-
7 istrator under this title, select a designated representative.

8 “(i) EDUCATION AND OUTREACH.—

9 “(1) IN GENERAL.—The Administrator shall es-
10 tablish and carry out a program of education and
11 outreach to assist covered entities, especially entities
12 having little experience with environmental regu-
13 latory requirements similar or comparable to those
14 under this title, in preparing to meet the compliance
15 obligations of this title. Such program shall include
16 education with respect to using markets to effec-
17 tively achieve such compliance.

18 “(2) FAILURE TO RECEIVE INFORMATION.—A
19 failure to receive information or assistance under
20 this subsection may not be used as a defense against
21 an allegation of any violation of this title.

22 “(j) ADJUSTMENT OF DEADLINE.—The Adminis-
23 trator may, by rule, establish a deadline for demonstrating
24 compliance, for a calendar year, later than the date pro-
25 vided in subsection (a), as necessary to ensure the avail-

1 ability of emissions data, but in no event shall the deadline
2 be later than June 1.

3 “(k) NOTICE REQUIREMENT FOR COVERED ENTI-
4 TIES RECEIVING NATURAL GAS FROM NATURAL GAS
5 LOCAL DISTRIBUTION COMPANIES.—The owner or oper-
6 ator of a covered entity that takes delivery of natural gas
7 from a natural gas local distribution company shall, not
8 later than September 1 of each calendar year, notify such
9 natural gas local distribution company in writing that
10 such entity will qualify as a covered entity under this title
11 for that calendar year.

12 “(l) COMPLIANCE OBLIGATION.—For purposes of
13 this title, the year of a compliance obligation is the year
14 in which compliance is determined, not the year in which
15 the greenhouse gas emissions occur or the covered entity
16 has attributable greenhouse gas emissions.

17 **“SEC. 723. PENALTY FOR NONCOMPLIANCE.**

18 “(a) ENFORCEMENT.—A violation of any prohibition
19 of, requirement of, or regulation promulgated pursuant to
20 this title shall be a violation of this Act. It shall be a viola-
21 tion of this Act for a covered entity to emit greenhouse
22 gases, and have attributable greenhouse gas emissions, in
23 combination, in excess of its allowable emissions level as
24 provided in section 722(a). Each ton of carbon dioxide
25 equivalent for which a covered entity fails to demonstrate

1 compliance under section 722(b) shall be a separate viola-
2 tion. In the event that a covered entity fails to dem-
3 onstrate compliance at the expiration of a term of offset
4 credits crediting term as required by section 722(d)(2)(D),
5 the year of the violation shall be the year in which the
6 term offset credit expires.

7 “(b) EXCESS EMISSIONS PENALTY.—

8 “(1) IN GENERAL.—The owner or operator of
9 any covered entity that fails for any year to comply,
10 on the deadline described in section 722(a) or (j),
11 shall be liable for payment to the Administrator of
12 an excess emissions penalty in the amount described
13 in paragraph (2).

14 “(2) AMOUNT.—The amount of an excess emis-
15 sions penalty required to be paid under paragraph
16 (1) shall be equal to the product obtained by multi-
17 plying—

18 “(A) the tons of carbon dioxide equivalent
19 of greenhouse gas emissions or attributable
20 greenhouse gas emissions for which the owner
21 or operator of a covered entity failed to comply
22 under section 722(b) on the deadline; by

23 “(B) twice the fair market value of emis-
24 sion allowances established for emissions occur-

1 ring in the calendar year for which the emission
2 allowances were due.

3 “(3) TIMING.—An excess emissions penalty re-
4 quired under this subsection shall be immediately
5 due and payable to the Administrator, without de-
6 mand, in accordance with regulations promulgated
7 by the Administrator, which shall be issued not later
8 than 2 years after the date of enactment of this
9 title.

10 “(4) NO EFFECT ON LIABILITY.—An excess
11 emissions penalty due and payable by the owners or
12 operators of a covered entity under this subsection
13 shall not diminish the liability of the owners or oper-
14 ators for any fine, penalty, or assessment against
15 the owners or operators for the same violation under
16 any other provision of this Act or any other law.

17 “(c) EXCESS EMISSIONS ALLOWANCES.—The owner
18 or operator of a covered entity that fails for any year to
19 comply on the deadline described in section 722(a) or (j)
20 shall be liable to offset the covered entity’s excess com-
21 bination of greenhouse gases emitted and attributable
22 greenhouse gas emissions by an equal quantity of emission
23 allowances during the following calendar year, or such
24 longer period as the Administrator may prescribe. During
25 the year in which the covered entity failed to comply, or

1 any year thereafter, the Administrator may deduct the
2 emission allowances required under this subsection to off-
3 set the covered entity's excess actual or attributable emis-
4 sions.

5 **“SEC. 724. TRADING.**

6 “(a) PERMITTED TRANSACTIONS.—Except as other-
7 wise provided in this title, the lawful holder of an emission
8 allowance, compensatory allowance, or offset credit may,
9 without restriction, sell, exchange, transfer, hold for com-
10 pliance in accordance with section 722, or request that the
11 Administrator retire the emission allowance, compensatory
12 allowance, or offset credit.

13 “(b) NO RESTRICTION ON TRANSACTIONS.—The
14 privilege of purchasing, holding, selling, exchanging,
15 transferring, and requesting retirement of emission allow-
16 ances, compensatory allowances, or offset credits shall not
17 be restricted to the owners and operators of covered enti-
18 ties, except as otherwise provided in this title.

19 “(c) EFFECTIVENESS OF ALLOWANCE TRANS-
20 FERS.—No transfer of an allowance or offset credit shall
21 be effective for purposes of this title until a certification
22 of the transfer, signed by the designated representative of
23 the transferor, is received and recorded by the Adminis-
24 trator in accordance with regulations promulgated under
25 section 721(h).

1 “(d) ALLOWANCE TRACKING SYSTEM.—The regula-
2 tions promulgated under section 721(h) shall include a
3 system for issuing, recording, holding, and tracking allow-
4 ances, offset credits, and term offset credits that shall
5 specify all necessary procedures and requirements for an
6 orderly and competitive functioning of the allowance and
7 offset credit markets. Such regulations shall provide for
8 appropriate publication of the information in the system
9 on the Internet.

10 **“SEC. 725. BANKING AND BORROWING.**

11 “(a) BANKING.—An emission allowance may be used
12 to comply with section 722 or 723 for emissions in—

13 “(1) the vintage year for the allowance; or

14 “(2) any calendar year subsequent to the vin-
15 tage year for the allowance.

16 “(b) EXPIRATION.—

17 “(1) REGULATIONS.—The Administrator may
18 establish by regulation criteria and procedures for
19 determining whether, and for implementing a deter-
20 mination that, the expiration of an allowance, credit,
21 or term offset credit established or issued by the Ad-
22 ministrator under this title, or expiration of the abil-
23 ity to use an international emission allowance to
24 comply with section 722, is necessary to ensure the

1 authenticity and integrity of allowances, credits, or
2 term offset credits or the allowance tracking system.

3 “(2) GENERAL RULE.—An allowance, credit, or
4 term offset credit established or issued by the Ad-
5 ministrator under this title shall not expire unless—

6 “(A) it is retired by the Administrator as
7 required under this title; or

8 “(B) it is determined to expire or to have
9 expired by a specific date by the Administrator
10 in accordance with regulations promulgated
11 under paragraph (1).

12 “(3) INTERNATIONAL EMISSION ALLOW-
13 ANCES.—The ability to use an international emission
14 allowance to comply with section 722 shall not ex-
15 pire unless—

16 “(A) the allowance is retired by the Ad-
17 ministrator as required by this title; or

18 “(B) the ability to use such allowance to
19 meet such compliance obligation requirements is
20 determined to expire or to have expired by a
21 specific date by the Administrator in accord-
22 ance with regulations promulgated under para-
23 graph (1).

24 “(c) BORROWING FUTURE VINTAGE YEAR ALLOW-
25 ANCES.—

1 “(1) BORROWING WITHOUT INTEREST.—In ad-
2 dition to the uses described in subsection (a), an
3 emission allowance may be used to comply with sec-
4 tion 722(a) or 723 for emissions, production, impor-
5 tation, manufacture, or deliveries in the calendar
6 year immediately preceding the vintage year for the
7 allowance.

8 “(2) BORROWING WITH INTEREST.—

9 “(A) IN GENERAL.—A covered entity may
10 demonstrate compliance under subsection (b) in
11 a specific calendar year for up to 15 percent of
12 its emissions by holding emission allowances
13 with a vintage year 1 to 5 years later than that
14 calendar year.

15 “(B) LIMITATIONS.—An emission allow-
16 ance borrowed pursuant to this paragraph shall
17 be an emission allowance that is established by
18 the Administrator for a specific future calendar
19 year under section 721(a) and that is held by
20 the borrower.

21 “(C) PREPAYMENT OF INTEREST.—For
22 each emission allowance that an owner or oper-
23 ator of a covered entity borrows pursuant to
24 this paragraph, such owner or operator shall, at
25 the time it borrows the allowance, hold for re-

1 tirement by the Administrator a quantity of
2 emission allowances that is equal to the product
3 obtained by multiplying—

4 “(i) 0.08; by

5 “(ii) the number of years between the
6 calendar year in which the allowance is
7 being used to satisfy a compliance obliga-
8 tion and the vintage year of the allowance.

9 **“SEC. 726. MARKET STABILITY RESERVE.**

10 “(a) MARKET STABILITY RESERVE AUCTIONS.—

11 “(1) IN GENERAL.—Once each quarter of each
12 calendar year for which allowances are established
13 under section 721(a), the Administrator shall auc-
14 tion market stability reserve allowances.

15 “(2) RESTRICTION TO COVERED ENTITIES.—In
16 each auction conducted under paragraph (1), only
17 covered entities that the Administrator expects will
18 be required to comply with section 722 in the fol-
19 lowing calendar year shall be eligible to make pur-
20 chases.

21 “(b) POOL OF EMISSION ALLOWANCES FOR MARKET
22 STABILITY RESERVE AUCTIONS.—

23 “(1) FILLING THE MARKET STABILITY RE-
24 SERVE INITIALLY.—The Administrator shall, not
25 later than 2 years after the date of enactment of

1 this title, establish a market stability reserve ac-
2 count, and shall place in that account a quantity of
3 emission allowances established under section
4 771(d)(9).

5 “(2) SUPPLEMENTING THE MARKET STABILITY
6 RESERVE.—The Administrator shall also—

7 “(A) at the end of each calendar year,
8 transfer to the market stability reserve account
9 each emission allowance that was offered for
10 sale but not sold at any auction conducted
11 under section 778; and

12 “(B) transfer emission allowances estab-
13 lished under subsection (g) from auction pro-
14 ceeds, and deposit them into the market sta-
15 bility reserve, to the extent necessary to main-
16 tain the reserve at its original size.

17 “(c) MINIMUM MARKET STABILITY RESERVE AUC-
18 TION PRICE.—

19 “(1) IN GENERAL.—At each market stability re-
20 serve auction, the Administrator shall offer emission
21 allowances for sale beginning at a minimum price
22 per emission allowance, which shall be known as the
23 ‘minimum market stability reserve auction price’.

24 “(2) INITIAL MINIMUM MARKET STABILITY RE-
25 SERVE AUCTION PRICES.—The minimum market

1 stability reserve auction price shall be \$28 (in con-
2 stant 2005 dollars) for the market stability reserve
3 auctions held in 2012. For the market stability re-
4 serve auctions held in 2013 through 2017, the min-
5 imum market stability reserve auction price shall be
6 the market stability reserve auction price for the
7 previous year increased by 5 percent plus the rate of
8 inflation (as measured by the Consumer Price Index
9 for All Urban Consumers).

10 “(3) MINIMUM MARKET STABILITY RESERVE
11 AUCTION PRICE IN SUBSEQUENT YEARS.—For each
12 market stability reserve auction held in 2018 and
13 each year thereafter, the minimum market stability
14 reserve auction price shall be the market stability re-
15 serve auction price for the previous year increased
16 by 7 percent, plus the rate of inflation (as measured
17 by the Consumer Price Index for All Urban Con-
18 sumers).

19 “(d) QUANTITY OF EMISSION ALLOWANCES RE-
20 LEASED FROM THE MARKET STABILITY RESERVE.—

21 “(1) INITIAL LIMITS.—Subject to paragraph
22 (4), for each of calendar years 2012 through 2016,
23 the annual limit on the number of emission allow-
24 ances from the market stability reserve account that
25 may be auctioned is an amount equal to 15 percent

1 of the emission allowances established for that cal-
2 endar year under section 721(a). This limit does not
3 apply to offset credits sold on consignment pursuant
4 to subsection (h).

5 “(2) LIMITS IN SUBSEQUENT YEARS.—Subject
6 to paragraph (4), for calendar year 2017 and each
7 year thereafter, the annual limit on the number of
8 emission allowances from the market stability re-
9 serve account that may be auctioned is an amount
10 equal to 25 percent of the emission allowances estab-
11 lished for that calendar year under section 721(a).
12 This limit does not apply to offset credits sold on
13 consignment pursuant to subsection (h).

14 “(3) ALLOCATION OF LIMITATION.—One-fourth
15 of each year’s annual market stability reserve auc-
16 tion limit under this subsection shall be made avail-
17 able for auction in each quarter. Any allowances
18 from the market stability reserve account that are
19 made available for sale in a quarterly auction and
20 not sold shall be rolled over and added to the quan-
21 tity available for sale in the following quarter, except
22 that allowances not sold at auction in the fourth
23 quarter of a year shall not be rolled over to the fol-
24 lowing calendar year’s auctions, but shall be re-
25 turned to the market stability reserve account.

1 “(4) AUTHORITY TO ADJUST LIMITATION.—The
2 Administrator may adjust the limits in paragraphs
3 (1) or (2) if the Administrator determines an adjust-
4 ment is required to prevent disruptively high prices
5 or to preserve the integrity of the market stability
6 reserve.

7 “(e) PURCHASE LIMIT.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2) or (3), the annual number of emission al-
10 lowances that a covered entity may purchase at the
11 market stability reserve auctions in each calendar
12 year shall not exceed 20 percent of the covered enti-
13 ty’s emissions during the most recent year for which
14 allowances or credits were retired under section 722.

15 “(2) 2012 LIMIT.—For calendar year 2012, the
16 maximum aggregate number of emission allowances
17 that a covered entity may purchase from that year’s
18 market stability reserve auctions shall be 20 percent
19 of the covered entity’s greenhouse gas emissions that
20 the covered entity reported to the registry estab-
21 lished under section 713 for 2011 and that would be
22 subject to section 722(a) if occurring in later cal-
23 endar years.

24 “(3) NEW ENTRANTS.—The Administrator
25 shall, by regulation, establish a separate purchase

1 limit applicable to entities that expect to become a
2 covered entity in the year of the auction, permitting
3 them to purchase emission allowances at the market
4 stability reserve auctions in their first calendar year
5 of operation in an amount of at least 20 percent of
6 their expected combined emissions and attributable
7 greenhouse gas emissions for that year.

8 “(f) DELEGATION OR CONTRACT.—Pursuant to regu-
9 lations under this section, the Administrator may, by dele-
10 gation or contract, provide for the conduct of market sta-
11 bility reserve auctions under the Administrator’s super-
12 vision by other departments or agencies of the Federal
13 Government or by nongovernmental agencies, groups, or
14 organizations.

15 “(g) USE OF AUCTION PROCEEDS.—

16 “(1) DEPOSIT IN MARKET STABILITY RESERVE
17 FUND.—The proceeds from market stability reserve
18 auctions shall be placed in the Market Stability Re-
19 serve Fund established by subsection (j), and shall
20 be available without further appropriation or fiscal
21 year limitation for the purposes described in this
22 subsection.

23 “(2) OFFSET CREDITS.—The Administrator
24 shall use the proceeds from each market stability re-
25 serve auction to purchase offset credits, including

1 domestic offset credits and international offset cred-
2 its issued pursuant to section 744. The Adminis-
3 trator shall retire those offset credits and establish
4 a number of emission allowances equal to the num-
5 ber of international offset credits so retired. Emis-
6 sion allowances established under this paragraph
7 shall be in addition to those established under sec-
8 tion 721(a).

9 “(3) EMISSION ALLOWANCES.—The Adminis-
10 trator shall deposit emission allowances established
11 under paragraph (2) in the market stability reserve,
12 except that, with respect to any such emission allow-
13 ances in excess of the amount necessary to fill the
14 market stability reserve to its original size, the Ad-
15 ministrator shall—

16 “(A) except as provided in subparagraph
17 (B), assign a vintage year to the emission al-
18 lowance, which shall be no earlier than the year
19 in which the allowance is established under
20 paragraph (2) and shall treat such allowances
21 as ones that are not designated for distribution
22 or auction; and

23 “(B) to the extent any such allowances
24 cannot be assigned a vintage year because of

1 the limitation in paragraph (4), retire the allow-
2 ances.

3 “(4) LIMITATION.—In no case may the Admin-
4 istrator assign under paragraph (3)(A) more emis-
5 sion allowances to a vintage year than the number
6 of emission allowances from that vintage year that
7 were placed in the market stability reserve account
8 under subsection (b)(1).

9 “(h) AVAILABILITY OF OFFSET CREDITS FOR AUC-
10 TION.—

11 “(1) IN GENERAL.—The regulations promul-
12 gated under section 721(h) shall allow any entity
13 holding offset credits to request that the Adminis-
14 trator include such offset credits in an upcoming
15 market stability reserve auction. The regulations
16 shall provide that—

17 “(A) upon sale of such offset credits, the
18 Administrator shall retire those offset credits,
19 and establish and provide to the purchasers a
20 number of emission allowances equal to the
21 number of offset credits so retired, which allow-
22 ances shall be in addition to those established
23 under section 721(a); and

24 “(B) for offset credits sold pursuant to
25 this subsection, the proceeds for the entity that

1 offered the offset credits for sale shall be the
2 lesser of—

3 “(i) the average daily closing price for
4 offset credits sold on registered exchanges
5 (or if such price is unavailable, the average
6 price as determined by the Administrator)
7 during the six months prior to the market
8 stability reserve auction at which they were
9 auctioned, with the remaining funds col-
10 lected upon the sale of the offset credits
11 deposited in the Treasury; and

12 “(ii) the amount received for the off-
13 set credits at the auction.

14 “(2) PROCEEDS.—For offset credits sold pursu-
15 ant to this subsection, notwithstanding section 3302
16 of title 31, United States Code, or any other provi-
17 sion of law, within 90 days of receipt, the United
18 States shall transfer the proceeds from the auction,
19 as defined in paragraph (1)(D), to the entity that
20 offered the offset credits for sale. No funds trans-
21 ferred from a purchaser to a seller of offset credits
22 under this paragraph shall be held by any officer or
23 employee of the United States or treated for any
24 purpose as public monies.

1 “(3) PRICING.—When the Administrator acts
2 under this subsection as the agent of an entity in
3 possession of offset credits, the Administrator is not
4 obligated to obtain the highest price possible for the
5 offset credits, and instead shall auction such offset
6 credits in the same manner and pursuant to the
7 same rules (except as modified in paragraph (1)) as
8 set forth for auctioning market stability reserve al-
9 lowances. Entities requesting that such offset credits
10 be offered for sale at a market stability reserve auc-
11 tion may not set a minimum reserve price for their
12 offset credits that is different than the minimum
13 market stability reserve auction price set pursuant
14 to subsection (c).

15 “(i) INITIAL REGULATIONS.—Not later than 24
16 months after the date of enactment of this title, the Ad-
17 ministrator shall promulgate regulations, in consultation
18 with other appropriate agencies, governing the auction of
19 allowances under this section. Such regulations shall in-
20 clude the following requirements:

21 “(1) FREQUENCY; FIRST AUCTION.—Auctions
22 shall be held four times per year at regular intervals,
23 with the first auction to be held no later than March
24 31, 2012.

1 “(2) AUCTION FORMAT.—Auctions shall follow
2 a single-round, sealed-bid, uniform price format.

3 “(3) PARTICIPATION; FINANCIAL ASSURANCE.—
4 Auctions shall be open to any covered entity eligible
5 to purchase emission allowances at the auction
6 under subsection (a)(2), except that the Adminis-
7 trator may establish financial assurance require-
8 ments to ensure that auction participants can and
9 will perform on their bids.

10 “(4) DISCLOSURE OF BENEFICIAL OWNER-
11 SHIP.—Each bidder in an auction shall be required
12 to disclose the person or entity sponsoring or bene-
13 fitting from the bidder’s participation in the auction
14 if such person or entity is, in whole or in part, other
15 than the bidder.

16 “(5) PURCHASE LIMITS.—No person may, di-
17 rectly or in concert with another participant, pur-
18 chase more than 20 percent of the allowances of-
19 fered for sale at any quarterly auction.

20 “(6) PUBLICATION OF INFORMATION.—After
21 the auction, the Administrator shall, in a timely
22 fashion, publish the identities of winning bidders,
23 the quantity of allowances obtained by each winning
24 bidder, and the auction clearing price.

1 “(7) OTHER REQUIREMENTS.—The Adminis-
2 trator may include in the regulations such other re-
3 quirements or provisions as the Administrator, in
4 consultation with other agencies as appropriate, con-
5 siders appropriate to promote effective, efficient,
6 transparent, and fair administration of auctions
7 under this section.

8 “(j) MARKET STABILITY RESERVE FUND.—There
9 are established in the Treasury of the United States a
10 fund to be known as the ‘Market Stability Reserve Fund’.

11 “(k) REVISION OF REGULATIONS.—The Adminis-
12 trator may, at any time, in consultation with other agen-
13 cies as appropriate, revise the initial regulations promul-
14 gated under subsection (i). Such revised regulations need
15 not meet the requirements identified in subsection (i) if
16 the Administrator determines that an alternative auction
17 design would be more effective, taking into account factors
18 including costs of administration, transparency, fairness,
19 and risks of collusion or manipulation. In determining
20 whether and how to revise the initial regulations under
21 this subsection, the Administrator shall not consider maxi-
22 mization of revenues to the Federal Government.

23 **“SEC. 727. PERMITS.**

24 “(a) PERMIT PROGRAM.—For stationary sources
25 subject to title V of this Act, that are covered entities,

1 the provisions of this title shall be implemented by permits
2 issued to such covered entities (and enforced) in accord-
3 ance with the provisions of title V, as modified by this
4 title. Any such permit issued by the Administrator, or by
5 a State with an approved permit program, shall require
6 the owner or operator of a covered entity to hold emission
7 allowances or offset credits at least equal to the total an-
8 nual amount of carbon dioxide equivalents for its com-
9 bined emissions and attributable greenhouse gas emissions
10 to which section 722 applies. No such permit shall be
11 issued that is inconsistent with the requirements of this
12 title, and title V as applicable. Nothing in this section re-
13 garding compliance plans or in title V shall be construed
14 as affecting allowances or offset credits. Submission of a
15 statement by the owner or operator, or the designated rep-
16 resentative of the owners and operators, of a covered enti-
17 ty that the owners and operators will hold emission allow-
18 ances or offset credits for the entity's combined emissions
19 and attributable greenhouse gas emissions to which sec-
20 tion 722 applies shall be deemed to meet the proposed and
21 approved planning requirements of title V. Recordation by
22 the Administrator of transfers of emission allowances shall
23 amend automatically all applicable proposed or approved
24 permit applications, compliance plans, and permits.

1 “(b) MULTIPLE OWNERS.—No permit shall be issued
2 under this section and no allowances or offset credits shall
3 be disbursed under this title to a covered entity or any
4 other person until the designated representative of the
5 owners or operators has filed a certificate of representa-
6 tion with regard to matters under this title, including the
7 holding and distribution of emission allowances and the
8 proceeds of transactions involving emission allowances.
9 Where there are multiple holders of a legal or equitable
10 title to, or a leasehold interest in, such a covered entity
11 or other entity or where a utility or industrial customer
12 purchases power under a long-term power purchase con-
13 tract from an independent power production facility that
14 is a covered entity, the certificate shall state—

15 “(1) that emission allowances and the proceeds
16 of transactions involving emission allowances will be
17 deemed to be held or distributed in proportion to
18 each holder’s legal, equitable, leasehold, or contrac-
19 tual reservation or entitlement; or

20 “(2) if such multiple holders have expressly pro-
21 vided for a different distribution of emission allow-
22 ances by contract, that emission allowances and the
23 proceeds of transactions involving emission allow-
24 ances will be deemed to be held or distributed in ac-
25 cordance with the contract.

1 A passive lessor, or a person who has an equitable interest
2 through such lessor, whose rental payments are not based,
3 either directly or indirectly, upon the revenues or income
4 from the covered entity or other entity shall not be deemed
5 to be a holder of a legal, equitable, leasehold, or contrac-
6 tual interest for the purpose of holding or distributing
7 emission allowances as provided in this subsection, during
8 either the term of such leasehold or thereafter, unless ex-
9 pressly provided for in the leasehold agreement. Except
10 as otherwise provided in this subsection, where all legal
11 or equitable title to or interest in a covered entity, or other
12 entity, is held by a single person, the certificate shall state
13 that all emission allowances received by the entity are
14 deemed to be held for that person.

15 “(c) PROHIBITION.—It shall be unlawful for any per-
16 son to operate any stationary source subject to the re-
17 quirements of this section except in compliance with the
18 terms and requirements of a permit issued by the Admin-
19 istrator or a State with an approved permit program in
20 accordance with this section. For purposes of this sub-
21 section, compliance, as provided in section 504(f), with a
22 permit issued under title V which complies with this title
23 for covered entities shall be deemed compliance with this
24 subsection as well as section 502(a).

1 “(d) **RELIABILITY.**—Nothing in this section or title
2 V shall be construed as requiring termination of oper-
3 ations of a stationary source that is a covered entity for
4 failure to have an approved permit, or compliance plan,
5 that is consistent with the requirements in the second and
6 fifth sentences of subsection (a) concerning the holding
7 of emission allowances, compensatory allowances, inter-
8 national emission allowances, or offset allowances, except
9 that any such covered entity may be subject to the applica-
10 ble enforcement provision of section 113.

11 “(e) **REGULATIONS.**—The Administrator shall pro-
12 mulgate regulations to implement this section. To provide
13 for permits required under this section, each State in
14 which one or more stationary sources and that are covered
15 entities are located shall submit, in accordance with this
16 section and title V, revised permit programs for approval.

17 **“SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.**

18 “(a) **QUALIFYING PROGRAMS.**—The Administrator,
19 in consultation with the Secretary of State, may by rule
20 designate an international climate change program as a
21 qualifying international program if—

22 “(1) the program is run by a national or supra-
23 national foreign government, and imposes a manda-
24 tory absolute tonnage limit on greenhouse gas emis-
25 sions from 1 or more foreign countries, or from 1 or

1 more economic sectors in such a country or coun-
2 tries; and

3 “(2) the program is at least as stringent as the
4 program established by this title, including provi-
5 sions to ensure at least comparable monitoring, com-
6 pliance, enforcement, quality of offsets, and restric-
7 tions on the use of offsets.

8 “(b) DISQUALIFIED ALLOWANCES.—An international
9 emission allowance may not be held under section
10 722(d)(3) if it is in the nature of an offset instrument
11 or allowance awarded based on the achievement of green-
12 house gas emission reductions or avoidance, or greenhouse
13 gas sequestration, that are not subject to the mandatory
14 absolute tonnage limits referred to in subsection (a)(1).

15 “(c) RETIREMENT.—

16 “(1) ENTITY CERTIFICATION.—The owner or
17 operator of an entity that holds an international
18 emission allowance under section 722(d)(3) shall
19 certify to the Administrator that such international
20 emission allowance has not previously been used to
21 comply with any foreign, international, or domestic
22 greenhouse gas regulatory program.

23 “(2) RETIREMENT.—

24 “(A) FOREIGN AND INTERNATIONAL REG-
25 ULATORY ENTITIES.—The Administrator, in

1 consultation with the Secretary of State, shall
2 seek, by whatever means appropriate, including
3 agreements and technical cooperation on allow-
4 ance tracking, to ensure that any relevant for-
5 eign, international, and domestic regulatory en-
6 tities—

7 “(i) are notified of the use, for pur-
8 poses of compliance with this title, of any
9 international emission allowance; and

10 “(ii) provide for the disqualification of
11 such international emission allowance for
12 any subsequent use under the relevant for-
13 eign, international, or domestic greenhouse
14 gas regulatory program, regardless of
15 whether such use is a sale, exchange, or
16 submission to satisfy a compliance obliga-
17 tion.

18 “(B) DISQUALIFICATION FROM FURTHER
19 USE.—The Administrator shall ensure that,
20 once an international emission allowance has
21 been disqualified or otherwise used for purposes
22 of compliance with this title, such allowance
23 shall be disqualified from any further use under
24 this title.

1 “(d) USE LIMITATIONS.—The Administrator may, by
2 rule, modify the percentage applicable to international
3 emission allowances under section 722(d)(3), consistent
4 with the purposes of the Clean Energy Jobs and American
5 Power Act.

6 **“PART D—OFFSETS**

7 **“SEC. 731. OFFSETS INTEGRITY ADVISORY BOARD.**

8 “(a) ESTABLISHMENT.—Not later than 30 days after
9 the date of enactment of this title, the President shall es-
10 tablish an independent Offsets Integrity Advisory Board.
11 The Advisory Board shall make recommendations to the
12 President for use in promulgating and revising regulations
13 under this part, and for ensuring the overall environ-
14 mental integrity of the programs established pursuant to
15 those regulations.

16 “(b) MEMBERSHIP.—The Advisory Board shall be
17 comprised of at least nine members. Each member shall
18 be qualified by education, training, and experience to
19 evaluate scientific and technical information on matters
20 referred to the Board under this section. The President
21 shall appoint Advisory Board members, including a chair
22 and vice-chair of the Advisory Board. Terms shall be 3
23 years in length, except for initial terms, which may be up
24 to 5 years in length to allow staggering. Members may
25 be reappointed only once for an additional 3-year term,

1 and such second term may follow directly after a first
2 term.

3 “(c) ACTIVITIES.—The Advisory Board established
4 pursuant to subsection (a) shall—

5 “(1) provide recommendations, not later than
6 90 days after the Advisory Board’s establishment
7 and periodically thereafter, to the President regard-
8 ing offset project types that should be considered for
9 eligibility under section 733, taking into consider-
10 ation relevant scientific and other issues, including—

11 “(A) the availability of a representative
12 data set for use in developing the activity base-
13 line;

14 “(B) the potential for accurate quantifica-
15 tion of greenhouse gas reduction, avoidance, or
16 sequestration for an offset project type;

17 “(C) the potential level of scientific and
18 measurement uncertainty associated with an
19 offset project type;

20 “(D) any beneficial or adverse environ-
21 mental, public health, welfare, social, economic,
22 or energy effects associated with an offset
23 project type;

1 “(E) the extent to which, as of the date of
2 submission of the report, the project or activity
3 types within each category—

4 “(i) are required by law (including a
5 regulation); or

6 “(ii) represent business-as-usual (ab-
7 sent funding from offset credits) practices
8 for a relevant land area, industry sector, or
9 forest, soil or facility type;

10 “(2) make available to the President its advice
11 and comments on offset methodologies that should
12 be considered under regulations promulgated pursu-
13 ant to subsection (a) and (b) of section 734, includ-
14 ing methodologies to address the issues of
15 additionality, activity baselines, measurement, leak-
16 age, uncertainty, permanence, and environmental in-
17 tegrity;

18 “(3) make available to the President, and other
19 relevant Federal agencies, its advice and comments
20 regarding scientific, technical, and methodological
21 issues specific to the issuance of international offset
22 credits under section 744;

23 “(4) make available to the President, and other
24 relevant Federal agencies, its advice and comments
25 regarding scientific, technical, and methodological

1 issues associated with the implementation of this
2 part;

3 “(5) make available to the President its advice
4 and comments on areas in which further knowledge
5 is required to appraise the adequacy of existing, re-
6 vised, or proposed methodologies for use under this
7 part, and describe the research efforts necessary to
8 provide the required information; and

9 “(6) make available to the President its advice
10 and comments on other ways to improve or safe-
11 guard the environmental integrity of programs es-
12 tablished under this part.

13 “(d) SCIENTIFIC REVIEW OF OFFSET AND DEFOR-
14 ESTATION REDUCTION PROGRAMS.—Not later than Janu-
15 ary 1, 2017, and at five-year intervals thereafter, the Ad-
16 visory Board shall submit to the President and make avail-
17 able to the public an analysis of relevant scientific and
18 technical information related to this part. The Advisory
19 Board shall review approved and potential methodologies,
20 scientific studies, offset project monitoring, offset project
21 verification reports, and audits related to this part, and
22 evaluate the net emissions effects of implemented offset
23 projects. The Advisory Board shall recommend changes to
24 offset methodologies, protocols, or project types, or to the
25 overall offset program under this part, to ensure that off-

1 set credits issued by the President do not compromise the
2 integrity of the annual emission reductions established
3 under section 703, and to avoid or minimize adverse ef-
4 fects to human health or the environment.

5 **“SEC. 732. ESTABLISHMENT OF OFFSETS PROGRAM.**

6 “(a) REGULATIONS.—Not later than 2 years after
7 the date of enactment of this title, the President, in con-
8 sultation with appropriate Federal agencies and taking
9 into consideration the recommendations of the Advisory
10 Board, shall promulgate regulations establishing a pro-
11 gram for the issuance of offset credits in accordance with
12 the requirements of this part. The President shall periodi-
13 cally revise these regulations as necessary to meet the re-
14 quirements of this part.

15 “(b) REQUIREMENTS.—The regulations described in
16 subsection (a) shall—

17 “(1) authorize the issuance of offset credits
18 with respect to qualifying offset projects that result
19 in reductions or avoidance of greenhouse gas emis-
20 sions, or sequestration of greenhouse gases;

21 “(2) ensure that such offset credits represent
22 verifiable and additional greenhouse gas emission re-
23 ductions or avoidance, or increases in sequestration;

1 “(3) ensure that offset credits issued for se-
2 questration offset projects are only issued for green-
3 house gas reductions that are permanent;

4 “(4) provide for the implementation of the re-
5 quirements of this part;

6 “(5) include as reductions in greenhouse gases
7 reductions achieved through the destruction of meth-
8 ane and its conversion to carbon dioxide, and reduc-
9 tions achieved through destruction of
10 chlorofluorocarbons or other ozone depleting sub-
11 stances, if permitted by the President under section
12 619(b)(9) and subject to the conditions specified in
13 section 619(b)(9), based on the carbon dioxide
14 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 President shall act (including by re-
21 jecting projects, if necessary) to avoid or minimize, to the
22 maximum extent practicable, adverse effects on human
23 health or the environment resulting from the implementa-
24 tion of offset projects under this part.

1 “(d) OFFSET REGISTRY.—The President shall estab-
2 lish within the allowance tracking system established
3 under section 724(d) an Offset Registry for qualifying off-
4 set projects and offset credits issued with respect thereto
5 under this part.

6 “(e) LEGAL STATUS OF OFFSET CREDIT.—An offset
7 credit does not constitute a property right.

8 “(f) FEES.—The President shall assess fees payable
9 by offset project developers in an amount necessary to
10 cover the administrative costs and the enforcement costs
11 to the Environmental Protection Agency and the Depart-
12 ment of Justice of carrying out the activities under this
13 part. Amounts collected for such fees shall be available
14 to the President and the Attorney General for carrying
15 out the activities under this part to the extent provided
16 in advance in appropriations Acts.

17 “(g) SECRETARY OF AGRICULTURE.—The President
18 shall designate the Secretary of Agriculture to serve as
19 the lead agency in—

20 “(1) the implementation of elements of the off-
21 set program, in coordination with the Administrator,
22 for agriculture and forestry projects in the United
23 States authorized under this part, including project
24 types and methodologies; and

1 “(2) working directly with farmers, ranchers,
2 and foresters to implement agriculture and forestry
3 projects.

4 **“SEC. 733. ELIGIBLE PROJECT TYPES.**

5 “(a) LIST OF ELIGIBLE PROJECT TYPES.—

6 “(1) IN GENERAL.—As part of the regulations
7 promulgated under section 732(a), the President
8 shall establish, and may periodically revise, a list of
9 types of projects eligible to generate offset credits,
10 including international offset credits, under this
11 part.

12 “(2) ADVISORY BOARD RECOMMENDATIONS.—

13 In determining the eligibility of project types, the
14 President shall take into consideration the rec-
15 ommendations of the Advisory Board. If a list estab-
16 lished under this section differs from the rec-
17 ommendations of the Advisory Board, the regula-
18 tions promulgated under section 732(a) shall include
19 a justification for the discrepancy.

20 “(3) INITIAL DETERMINATION.—The President

21 shall establish the initial eligibility list under para-
22 graph (1) not later than one year after the date of
23 enactment of this title for which there are well devel-
24 oped methodologies that the President determines
25 would meet the criteria of section 734.

1 “(4) PROJECT TYPES TO BE CONSIDERED FOR
2 INITIAL LIST.—In determining the initial list, the
3 President shall give priority to consideration of off-
4 set project types that are recommended by the Advi-
5 sory Board, and shall consider—

6 “(A) methane collection and combustion
7 projects at active coal mines;

8 “(B) methane collection and combustion
9 projects at landfills;

10 “(C) capture of venting, flaring, and fugi-
11 tive emissions from oil and natural gas systems;

12 “(D) nonlandfill methane collection, com-
13 bustion and avoidance projects involving organic
14 waste streams that would have otherwise emit-
15 ted methane in the atmosphere, including ma-
16 nure management and biogas capture and com-
17 bustion;

18 “(E) projects involving afforestation or re-
19 forestation of acreage not forested as of Janu-
20 ary 1, 2009;

21 “(F) forest management resulting in an in-
22 crease in forest carbon stores, including har-
23 vested wood products;

1 mobile or stationary equipment (including
2 engines);

3 “(x) practices to reduce and eliminate
4 soil tillage;

5 “(xi) reductions in greenhouse gas
6 emissions through restoration of wetlands,
7 forestland, and grassland; and

8 “(xii) sequestration of greenhouse
9 gases through management of tree crops;
10 and

11 “(H) changes in carbon stocks attributed
12 to land use change and forestry activities, in-
13 cluding—

14 “(i) management of peatland or wet-
15 land;

16 “(ii) conservation of grassland and
17 forested land;

18 “(iii) improved forest management,
19 including accounting for carbon stored in
20 wood products;

21 “(iv) reduced deforestation or avoided
22 forest conversion;

23 “(v) urban tree-planting and mainte-
24 nance;

25 “(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 President shall
6 give priority to methodologies for offset types in-
7 cluded on the initial eligibility list.

8 “(b) MODIFICATION OF LIST.—The President—

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 President, in consultation with appropriate Fed-
15 eral agencies and taking into consideration the rec-
16 ommendations 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 President—

6 “(A) by petition pursuant to subsection
7 (c); or

8 “(B) by the Advisory Board.

9 “(c) PETITION PROCESS.—Any person may petition
10 the President to modify the list established under sub-
11 section (a) by adding or removing a project type pursuant
12 to subsection (b). Any such petition shall include a show-
13 ing by the petitioner that there is adequate data to estab-
14 lish that the project type does or does not meet the re-
15 quirements of this part. Not later than 12 months after
16 receipt of such a petition, the President shall either grant
17 or deny the petition and publish a written explanation of
18 the reasons for the President’s decision. The President
19 may not deny a petition under this subsection on the basis
20 of inadequate agency resources or time for review.

21 **“SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS.**

22 “(a) METHODOLOGIES.—As part of the regulations
23 promulgated under section 732(a), the President shall es-
24 tablish, for each type of offset project listed as eligible
25 under section 733, the following:

1 “(1) ADDITIONALITY.—A standardized method-
2 ology for determining the additionality of greenhouse
3 gas emission reductions or avoidance, or greenhouse
4 gas sequestration, achieved by an offset project of
5 that type. Such methodology shall ensure, at a min-
6 imum, that any greenhouse gas emission reduction
7 or avoidance, or any greenhouse gas sequestration, is
8 considered additional only to the extent that it re-
9 sults from activities that—

10 “(A) are not required by or undertaken to
11 comply with any law, including any regulation
12 or consent order;

13 “(B) were not commenced prior to Janu-
14 ary 1, 2009, except in the case of—

15 “(i) offset project activities that com-
16 menced after January 1, 2001, and were
17 registered as of the date of enactment of
18 this title under an offset program with re-
19 spect to which the President has made an
20 affirmative determination under section
21 740(a)(2); or

22 “(ii) activities that are readily revers-
23 ible, with respect to which the President
24 may set an alternative earlier date under
25 this subparagraph that is not earlier than

1 January 1, 2001, where the President de-
2 termines that setting such an alternative
3 date may produce an environmental benefit
4 by removing an incentive to cease and then
5 reinitiate activities that began prior to
6 January 1, 2009;

7 “(C) are not receiving support under sec-
8 tion 323 of division A, or section 206 of divi-
9 sion B, of the Clean Energy Jobs and American
10 Power Act; and

11 “(D) exceed the activity baseline estab-
12 lished under paragraph (2).

13 “(2) ACTIVITY BASELINES.—A standardized
14 methodology for establishing activity baselines for
15 offset projects of that type. The President shall set
16 activity baselines to reflect a conservative estimate of
17 business-as-usual performance or practices for the
18 relevant type of activity such that the baseline pro-
19 vides an adequate margin of safety to ensure the en-
20 vironmental integrity of offsets calculated in ref-
21 erence to such baseline.

22 “(3) QUANTIFICATION METHODS.—A standard-
23 ized methodology for determining the extent to
24 which greenhouse gas emission reductions or avoid-
25 ance, or greenhouse gas sequestration, achieved by

1 an offset project of that type exceed a relevant activ-
2 ity baseline, including protocols for monitoring and
3 accounting for uncertainty.

4 “(4) LEAKAGE.—A standardized methodology
5 for accounting for and mitigating potential leakage,
6 if any, from an offset project of that type, taking
7 uncertainty into account.

8 “(b) ACCOUNTING FOR REVERSALS.—

9 “(1) ACCOUNTING.—

10 “(A) IN GENERAL.—After issuance of off-
11 set credits for a project, pursuant to section
12 733, the offset project developer shall, in a
13 timely manner, report any reversal that occurs.

14 “(B) INTENTIONAL REVERSALS.—An off-
15 set project developer shall not engage in re-
16 peated intentional reversals.

17 “(2) REGULATIONS.—As part of the regulations
18 promulgated under section 732(a), for each type of
19 sequestration project listed under section 733, the
20 President shall establish requirements to account for
21 and address reversals, including—

22 “(A) a requirement to report any reversal
23 with respect to an offset project for which offset
24 credits have been issued under this part;

1 “(B) provisions to require emission allow-
2 ances to be held in amounts to fully compensate
3 for greenhouse gas emissions attributable to re-
4 versals, and to assign responsibility for holding
5 such emission allowances;

6 “(C) provisions to discourage repeated in-
7 tentional reversals by offset project developers,
8 including but not limited to the assessment of
9 administrative fees, temporary suspension, or
10 disqualification of an offset project developer
11 from the program; and

12 “(D) any other provisions the President
13 determines necessary to account for and ad-
14 dress reversals.

15 “(3) MECHANISMS.—The President shall pre-
16 scribe mechanisms to ensure that any sequestration
17 with respect to which an offset credit is issued under
18 this part results in a permanent net increase in se-
19 questration, and that full account is taken of any ac-
20 tual or potential reversal of such sequestration, with
21 an adequate margin of safety. The President shall
22 prescribe at least one of the following mechanisms to
23 meet the requirements of this paragraph:

24 “(A) An offsets reserve, pursuant to para-
25 graph (4).

1 “(B) Insurance that provides for purchase
2 and provision to the President for retirement of
3 an amount of offset credits or emission allow-
4 ances equal in number to the tons of carbon di-
5 oxide equivalents of greenhouse gas emissions
6 released due to reversal.

7 “(C) Another mechanism that the Presi-
8 dent determines satisfies the requirements of
9 this part.

10 “(4) OFFSETS RESERVE.—

11 “(A) IN GENERAL.—An offsets reserve re-
12 ferred to in paragraph (3)(A) is a program
13 under which, before issuance of offset credits
14 under this part, the President shall subtract
15 and reserve from the quantity to be issued a
16 quantity of offset credits based on the risk of
17 reversal. The President shall—

18 “(i) hold these reserved offset credits
19 in the offsets reserve; and

20 “(ii) register the holding of the re-
21 served offset credits in the Offset Registry
22 established under section 732(d).

23 “(B) PROJECT REVERSAL.—

24 “(i) IN GENERAL.—If a reversal has
25 occurred with respect an offset project for

1 which offset credits are reserved under this
2 paragraph, the President shall remove off-
3 set credits or emission allowances from the
4 offsets reserve and cancel them to fully ac-
5 count for the tons of carbon dioxide equiv-
6 alent that are no longer sequestered.

7 “(ii) INTENTIONAL REVERSALS.—If
8 the President determines that a reversal
9 was intentional, the offset project developer
10 for the relevant offset project shall place
11 into the offsets reserve a quantity of offset
12 credits, or combination of offset credits
13 and emission allowances, equal in number
14 to the number of reserve offset credits that
15 were canceled due to the reversal pursuant
16 to clause (i).

17 “(iii) UNINTENTIONAL REVERSALS.—
18 If the President determines that a reversal
19 was unintentional, the offset project devel-
20 oper for the relevant offset project shall
21 place into the offsets reserve a quantity of
22 offset credits, or combination of offset
23 credits and emission allowances, equal in
24 number to half the number of offset credits
25 that were reserved for that offset project,

1 or half the number of reserve offset credits
2 that were canceled due to the reversal pur-
3 suant to clause (i), whichever is less.

4 “(iv) PETITION.—Any person may pe-
5 tition the President for a determination
6 that an offsets reversal has occurred. Any
7 such petition shall include a showing by
8 the petitioner that there is adequate data
9 or other evidence to support the petition.
10 Not later than 90 days after the date of
11 receipt of the petition, the President shall
12 take final action determining either that
13 the reversal has occurred or that the rever-
14 sal has not occurred. Such determination
15 shall be accompanied by a statement of the
16 basis for the determination.

17 “(C) USE OF RESERVED OFFSET CRED-
18 ITS.—Offset credits placed into the offsets re-
19 serve under this paragraph may not be used to
20 comply with section 722.

21 “(5) TERM OFFSET CREDITS.—

22 “(A) APPLICABILITY.—With respect to a
23 practice listed under section 733 that seques-
24 ters greenhouse gases and has a crediting pe-
25 riod of not more than 5 years, the President

1 may address reversals pursuant to this para-
2 graph in lieu of permanently accounting for re-
3 versals pursuant to paragraphs (2) and (3).

4 “(B) ACCOUNTING FOR REVERSALS.—For
5 such practices or projects implementing the
6 practices described in subparagraph (A), the
7 President shall require only reversals that occur
8 during the crediting period to be accounted for
9 and addressed pursuant to paragraphs (2) and
10 (3).

11 “(C) CREDITS ISSUED.—For practices or
12 projects regulated pursuant to subparagraph
13 (B), the President shall issue under section 737
14 a term offset credit, in lieu of an offset credit,
15 for each ton of carbon dioxide equivalent that
16 has been sequestered.

17 “(c) CREDITING PERIODS.—

18 “(1) IN GENERAL.—As part of the regulations
19 promulgated under section 732(a), for each offset
20 project type, the President shall specify a crediting
21 period, and establish provisions for petitions for new
22 crediting periods, in accordance with this subsection.

23 “(2) DURATION.—

24 “(A) IN GENERAL.—The crediting period
25 shall be not less than 5 and not greater than

1 10 years for any project type other than those
2 involving sequestration or term offsets.

3 “(B) FORESTRY PROJECTS.—The crediting
4 period for a forestry offset project shall not ex-
5 ceed 20 years.

6 “(C) TERM OFFSET CREDITS.—The cred-
7 iting period for a term offset credit issued shall
8 not exceed 5 years.

9 “(3) ELIGIBILITY.—An offset project shall be
10 eligible to generate offset credits under this part
11 only during the project’s crediting period. During
12 such crediting period, the project shall remain eligi-
13 ble to generate offset credits, subject to the meth-
14 odologies and project type eligibility list that applied
15 as of the date of project approval under section 735,
16 except as provided in paragraph (4).

17 “(4) PETITION FOR NEW CREDITING PERIOD.—
18 An offset project developer may petition for a new
19 crediting period to commence after termination of a
20 crediting period, subject to the methodologies and
21 project type eligibility list in effect at the time when
22 such petition is submitted. A petition may not be
23 submitted under this paragraph more than 18
24 months before the end of the pending crediting pe-
25 riod. The President may grant such petition after

1 public notice and opportunity for comment. The
2 President may limit the number of new crediting pe-
3 riods available for projects of particular project
4 types.

5 “(d) ENVIRONMENTAL INTEGRITY.—In establishing
6 the requirements under this section, the President shall
7 apply conservative assumptions or methods to maximize
8 the certainty that the environmental integrity of the green-
9 house gas limitations established under section 703 is not
10 compromised.

11 “(e) PRE-EXISTING METHODOLOGIES.—In promul-
12 gating requirements under this section, the President shall
13 give due consideration to methodologies for offset projects
14 existing as of the date of enactment of this title.

15 “(f) ADDED PROJECT TYPES.—The President shall
16 establish methodologies described in subsection (a), and,
17 as applicable, requirements and mechanisms for reversals
18 as described in subsection (b), for any project type that
19 is added to the list pursuant to section 733.

20 **“SEC. 735. APPROVAL OF OFFSET PROJECTS.**

21 “(a) APPROVAL PETITION.—An offset project devel-
22 oper shall submit an offset project approval petition signed
23 by a responsible official (who shall certify the accuracy of
24 the information submitted) and providing such informa-
25 tion as the President requires to determine whether the

1 offset project is eligible for issuance of offset credits under
2 rules promulgated pursuant to this part.

3 “(b) TIMING.—An approval petition shall be sub-
4 mitted to the President under subsection (a) not later than
5 the time at which an offset project’s first verification re-
6 port is submitted under section 736.

7 “(c) APPROVAL PETITION REQUIREMENTS.—As part
8 of the regulations promulgated under section 732, the
9 President shall include provisions for, and shall specify,
10 the required components of an offset project approval peti-
11 tion required under subsection (a), which shall include—

12 “(1) designation of an offset project developer;

13 “(2) designation of a party who is authorized to
14 provide access to the appropriate officials or an au-
15 thorized representative to the offset project; and

16 “(3) any other information that the President
17 considers to be necessary to achieve the purposes of
18 this part.

19 “(d) APPROVAL AND NOTIFICATION.—Not later than
20 90 days after receiving a complete approval petition under
21 subsection (a), the President shall make the approval peti-
22 tion publicly available on the internet, approve or deny the
23 petition in writing, and, if the petition is denied, provide
24 the reasons for the denial and make the President’s deci-
25 sion publicly available on the internet. After an offset

1 project is approved, the offset project developer shall not
2 be required to resubmit an approval petition during the
3 offset project's crediting period, except as provided in sec-
4 tion 734(c)(4).

5 “(e) APPEAL.—The President shall establish proce-
6 dures for appeal and review of determinations made under
7 subsection (d).

8 “(f) VOLUNTARY PREAPPROVAL REVIEW.—The
9 President may establish a voluntary preapproval review
10 procedure, to allow an offset project developer to request
11 the President to conduct a preliminary eligibility review
12 for an offset project. Findings of such reviews shall not
13 be binding upon the President. The voluntary preapproval
14 review procedure—

15 “(1) shall require the offset project developer to
16 submit such basic project information as the Presi-
17 dent requires to provide a meaningful review; and

18 “(2) shall require a response from the President
19 not later than 6 weeks after receiving a request for
20 review under this subsection.

21 **“SEC. 736. VERIFICATION OF OFFSET PROJECTS.**

22 “(a) IN GENERAL.—As part of the regulations pro-
23 mulgated under section 732(a), the President shall estab-
24 lish requirements, including protocols, for verification of
25 the quantity of greenhouse gas emission reductions or

1 avoidance, or sequestration of greenhouse gases, resulting
2 from an offset project. The regulations shall require that
3 an offset project developer shall submit a report, prepared
4 by a third-party verifier accredited under subsection (d),
5 providing such information as the President requires to
6 determine the quantity of greenhouse gas emission reduc-
7 tions or avoidance, or sequestration of greenhouse gas, re-
8 sulting from the offset project.

9 “(b) SCHEDULE.—The President shall prescribe a
10 schedule for the submission of verification reports under
11 subsection (a).

12 “(c) VERIFICATION REPORT REQUIREMENTS.—The
13 President shall specify the required components of a
14 verification report required under subsection (a), which
15 shall include—

16 “(1) the name and contact information for a
17 designated representative for the offset project devel-
18 oper;

19 “(2) the quantity of greenhouse gas reduced,
20 avoided, or sequestered;

21 “(3) the methodologies applicable to the project
22 pursuant to section 734;

23 “(4) a certification that the project meets the
24 applicable requirements;

1 “(5) a certification establishing that the conflict
2 of interest requirements in the regulations promul-
3 gated under subsection (d)(1) have been complied
4 with; and

5 “(6) any other information that the President
6 considers to be necessary to achieve the purposes of
7 this part.

8 “(d) VERIFIER ACCREDITATION.—

9 “(1) IN GENERAL.—As part of the regulations
10 promulgated under section 732(a), the President
11 shall establish a process and requirements for peri-
12 odic accreditation of third-party verifiers to ensure
13 that such verifiers are professionally qualified and
14 have no conflicts of interest with offset project devel-
15 opers.

16 “(2) STANDARDS.—

17 “(A) AMERICAN NATIONAL STANDARDS IN-
18 STITUTE ACCREDITATION.—The President may
19 accredit, or accept for purposes of accreditation
20 under this subsection, verifiers accredited under
21 the American National Standards Institute
22 (ANSI) accreditation program in accordance
23 with ISO 14065. The President shall accredit,
24 or accept for accreditation, verifiers under this
25 subparagraph only if the President finds that

1 the American National Standards Institute ac-
2 creditation program provides sufficient assur-
3 ance that the requirements of this part will be
4 met.

5 “(B) EPA ACCREDITATION.—As part of
6 the regulations promulgated under section
7 732(a), the President may establish accredita-
8 tion standards for verifiers under this sub-
9 section, and may establish related training and
10 testing programs and requirements.

11 “(3) PUBLIC ACCESSIBILITY.—Each verifier
12 meeting the requirements for accreditation in ac-
13 cordance with this subsection shall be listed in a
14 publicly accessible database, which shall be main-
15 tained and updated by the President.

16 “(4) REVOCATION.—The regulations concerning
17 accreditation of third-party verifiers required under
18 paragraph (1) shall establish a process for the Presi-
19 dent to revoke the accreditation of any third-party
20 verifier that the President finds fails to maintain
21 professional qualifications or to avoid a conflict of
22 interest, or for other good cause.

1 **“SEC. 737. ISSUANCE OF OFFSET CREDITS.**

2 “(a) DETERMINATION AND NOTIFICATION.—Not
3 later than 90 days after receiving a complete verification
4 report under section 736, the President shall—

5 “(1) make the report publicly available on the
6 Internet;

7 “(2) make a determination of the quantity of
8 greenhouse gas emissions reduced or avoided, or
9 greenhouse gases sequestered, resulting from an off-
10 set project approved under section 735; and

11 “(3) notify the offset project developer in writ-
12 ing of such determination and make such determina-
13 tion publicly available on the Internet.

14 “(b) ISSUANCE OF OFFSET CREDITS.—The Presi-
15 dent shall issue one offset credit to an offset project devel-
16 oper for each ton of carbon dioxide equivalent that the
17 President has determined has been reduced, avoided, or
18 sequestered during the period covered by a verification re-
19 port submitted in accordance with section 736, only if—

20 “(1) the President has approved the offset
21 project pursuant to section 735; and

22 “(2) the relevant emissions reduction, avoid-
23 ance, or sequestration has—

24 “(A) already occurred, during the offset
25 project’s crediting period; and

26 “(B) occurred after January 1, 2009.

1 “(c) APPEAL.—The President shall establish proce-
2 dures for appeal and review of determinations made under
3 subsection (a).

4 “(d) TIMING.—Offset credits meeting the criteria es-
5 tablished in subsection (b) shall be issued not later than
6 2 weeks following the verification determination made by
7 the President under subsection (a).

8 “(e) REGISTRATION.—The President shall assign a
9 unique serial number to and register each offset credit to
10 be issued in the Offset Registry established under section
11 732(d).

12 **“SEC. 738. AUDITS.**

13 “(a) IN GENERAL.—The President shall, on an ongo-
14 ing basis, conduct random audits of offset projects and
15 offset credits. The President shall conduct audits of the
16 practices of third-party verifiers. In each year, the Presi-
17 dent shall conduct audits, at minimum, for a representa-
18 tive sample of project types and geographic areas.

19 “(b) DELEGATION.—The President may delegate to
20 a State or Indian tribe the responsibility for conducting
21 audits under this section if the President finds that the
22 program proposed by the State or Indian tribe provides
23 assurances equivalent to those provided by the auditing
24 program of the President, and that the integrity of the
25 offset program under this part will be maintained. Noth-

1 ing in this subsection shall prevent the President from
2 conducting any audit the President considers necessary
3 and appropriate.

4 “(c) AUDIT REQUIREMENTS.—As part of the regula-
5 tions promulgated under section 732(a), the President
6 shall establish requirements and protocols for an auditing
7 program, whether undertaken by the President or an au-
8 thorized representative, concerning project developers,
9 third party verifiers, and reports submitted by those per-
10 sons, including the offset project approval petition and
11 verification report. Such regulations shall include—

12 “(1) the components of the offset project, which
13 shall be evaluated against the offset approval peti-
14 tion and the verification report;

15 “(2) the minimum experience or training of the
16 auditors;

17 “(3) the form in which reports shall be com-
18 pleted;

19 “(4) requirements for delegating auditing func-
20 tions to States or Indian tribes, including requiring
21 periodic reports from States or Indian tribes on
22 their auditing activities and findings; and

23 “(5) any other information that the appropriate
24 officials considers to be necessary to achieve the pur-
25 pose of the Act.

1 **“SEC. 739. PROGRAM REVIEW AND REVISION.**

2 “At least once every 5 years, the President shall re-
3 view and, based on new or updated information and taking
4 into consideration the recommendations of the Advisory
5 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 President shall issue one offset
22 credit for each ton of carbon dioxide equivalent emissions
23 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 President 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 President pursuant to
7 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 President.

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, sequestration of greenhouse
18 gases, or destruction of chlorofluorocarbons (subject
19 to the conditions specified in section 619(b)(9) and
20 based on the carbon dioxide equivalent value of the
21 substance destroyed), that occur after January 1,
22 2009; and

23 “(2) only until the date that is 3 years after the
24 date of enactment of this title, or the date that regu-

1 lations promulgated under section 732(a) take ef-
2 fect, whichever occurs sooner.

3 “(d) RETIREMENT OF CREDITS.—The President
4 shall seek to ensure that offset credits described in sub-
5 section (a)(2) are retired for purposes of use under a pro-
6 gram described in subsection (b).

7 “(e) OTHER PROGRAMS.—

8 “(1) IN GENERAL.—Offset programs that ei-
9 ther—

10 “(A) were not established under State or
11 tribal law; or

12 “(B) were not established prior to January
13 1, 2009;

14 but that otherwise meet all of the criteria of sub-
15 section (a)(2) may apply to the President to be ap-
16 proved under this subsection as an eligible program
17 for early offset credits under this section.

18 “(2) APPROVAL.—The President shall approve
19 any such program that the President determines has
20 criteria and methodologies of at least equal strin-
21 gency to the criteria and methodologies of the pro-
22 grams established under State or tribal law that the
23 President determines meet the criteria of subsection
24 (a)(2). The President shall approve types of offsets
25 under any such program that are subject to criteria

1 and methodologies of at least equal stringency to the
2 criteria and methodologies for such types of offsets
3 applied under the programs established under State
4 or tribal law that the President determines meet the
5 criteria of subsection (a)(2). The President shall
6 make a determination on any application received
7 under this subsection by not later than 180 days
8 from the date of receipt of the application.

9 **“SEC. 741. ENVIRONMENTAL CONSIDERATIONS.**

10 “If the President lists forestry or other relevant land
11 management-related offset projects as eligible offset
12 project types under section 733, the President, in con-
13 sultation with appropriate Federal agencies, shall promul-
14 gate regulations to establish criteria for such offset
15 projects—

16 “(1) to ensure that native species are given pri-
17 mary consideration in such projects;

18 “(2) to enhance biological diversity in such
19 projects;

20 “(3) to prohibit the use of federally designated
21 or State-designated noxious weeds;

22 “(4) to prohibit the use of a species listed by
23 a regional, State, or tribal invasive plant authority
24 within the applicable region, State, or land of Indian
25 tribes;

1 “(5) in the case of forestry offset projects, in
2 accordance with widely accepted, environmentally
3 sustainable forestry practices;

4 “(6) to ensure that the offset project area was
5 not converted from native ecosystems, such as a for-
6 est, grassland, scrubland or wetland, to generate off-
7 sets, unless such conversation took place at least 10
8 years prior to the date of enactment of this title or
9 before January 1, 2009, whichever date is earlier;
10 and

11 “(7) to the maximum extent practicable, ensure
12 that the use of offset credits would be eligible to sat-
13 isfy emission reduction commitments made by the
14 United States in multilateral agreements, such as
15 the United Nations Framework Convention on Cli-
16 mate Change, done at New York on May 9, 1992 (or
17 any successor agreement).

18 **“SEC. 742. TRADING.**

19 “Section 724 shall apply to the trading of offset cred-
20 its.

21 **“SEC. 743. OFFICE OF OFFSETS INTEGRITY.**

22 “(a) ESTABLISHMENT.—There is established within
23 the Office of the Assistant Attorney General of the Envi-
24 ronment and Natural Resources Division in the Depart-
25 ment of Justice a Carbon Offsets Integrity Unit, to be

1 headed by a Special Counsel (hereinafter referred to as
2 the ‘Special Counsel’). The Carbon Offsets Integrity Unit
3 and the Special Counsel shall be responsible to and shall
4 report directly to the Assistant Attorney General of the
5 Environment and Natural Resources Division.

6 “(b) APPOINTMENT.—The Special Counsel shall be
7 appointed by the President, by and with the advice and
8 consent of the Senate.

9 “(c) RESPONSIBILITIES.—The Special Counsel
10 shall—

11 “(1) supervise and coordinate investigations
12 and civil enforcement within the Department of Jus-
13 tice of the carbon offsets program under this part;

14 “(2) ensure that Federal law relating to civil
15 enforcement of the carbon offsets program is used to
16 the fullest extent authorized; and

17 “(3) ensure that adequate resources are made
18 available for the investigation and enforcement of
19 civil violations of the carbon offsets program.

20 “(d) COMPENSATION.—The Special Counsel shall be
21 paid at the basic pay payable for level V of the Executive
22 Schedule under section 5316 of title 5, United States
23 Code.

24 “(e) ASSIGNMENT OF PERSONNEL.—There shall be
25 assigned to the Carbon Offsets Integrity Unit such per-

1 sonnel as the Attorney General determines to be necessary
2 to provide an appropriate level of enforcement activity in
3 the area of carbon offsets.

4 **“SEC. 744. INTERNATIONAL OFFSET CREDITS.**

5 “(a) IN GENERAL.—The Administrator, in consulta-
6 tion with the Secretary of State and the Administrator
7 of the United States Agency for International Develop-
8 ment, may issue, in accordance with this section, inter-
9 national offset credits based on activities that reduce or
10 avoid greenhouse gas emissions, or increase sequestration
11 of greenhouse gases, in a developing country. Such credits
12 may be issued for projects pursuant to the requirements
13 of this part or as provided in subsection (c), (d), or (e).

14 “(b) ISSUANCE.—

15 “(1) REGULATIONS.—Not later than 2 years
16 after the date of enactment of this title, the Admin-
17 istrator, in consultation with the Secretary of State,
18 the Administrator of the United States Agency for
19 International Development, and any other appro-
20 priate Federal agency, and taking into consideration
21 the recommendations of the Advisory Board, shall
22 promulgate regulations for implementing this sec-
23 tion, taking into consideration specific factors rel-
24 evant to the determination of eligible international
25 offset project types and the implementation of inter-

1 national methodologies for each offset type ap-
2 proved. Except as otherwise provided in this section,
3 the issuance of international offset credits under this
4 section shall be subject to the requirements of this
5 part.

6 “(2) REQUIREMENTS FOR INTERNATIONAL
7 OFFSET CREDITS.—The Administrator may issue
8 international offset credits only if—

9 “(A) the United States is a party to a bi-
10 lateral or multilateral agreement or arrange-
11 ment that includes the country in which the
12 project or measure achieving the relevant green-
13 house gas emission reduction or avoidance, or
14 greenhouse gas sequestration, has occurred;

15 “(B) such country is a developing country;
16 and

17 “(C) such agreement or arrangement—

18 “(i) ensures that all of the require-
19 ments of this part apply to the issuance of
20 international offset credits under this sec-
21 tion;

22 “(ii) provides for the appropriate dis-
23 tribution of international offset credits
24 issued; and

1 “(iii) provides that the offset project
2 developer be eligible to receive service of
3 process in the United States for the pur-
4 pose of all civil and regulatory actions in
5 Federal courts, if such service is made in
6 accordance with the Federal rules for serv-
7 ice of process in the States in which the
8 case or regulatory action is brought.

9 “(3) SUPPLEMENTAL INTERNATIONAL OFFSET
10 CATEGORIES.—

11 “(A) IN GENERAL.—In order to ensure a
12 sufficient supply of international offsets and to
13 reduce the cost of compliance with this title, the
14 Administrator may establish categories of inter-
15 national offsets in addition to those described in
16 subsections (c), (d), and (e), if—

17 “(i) for 2 consecutive years, the auc-
18 tion price for allowances reaches the mar-
19 ket stability reserve auction price under
20 section 726(c); and

21 “(ii) the Administrator determines
22 that the total amount of international off-
23 sets held by covered entities for each of the
24 2 years referred to in clause (i) does not

1 exceed the limit on international offsets es-
2 tablished under section 722(d)(1)(B)(iii).

3 “(B) SUPPLEMENTAL CATEGORIES.—

4 “(i) IN GENERAL.—Any supplemental
5 categories of international offsets estab-
6 lished pursuant to subparagraph (A)
7 shall—

8 “(I) satisfy all applicable provi-
9 sions of this part, including subsection
10 (b)(2) of this section and sections 733
11 and 734; and

12 “(II) meet the criteria described
13 in clause (ii).

14 “(ii) CRITERIA.—The criteria referred
15 to in clause (i)(II) are that—

16 “(I) the country in which the ac-
17 tivities in the offset category would
18 take place has developed and is imple-
19 menting a low carbon development
20 plan that includes provisions for the
21 activities described in the offset cat-
22 egory;

23 “(II) the activities in the offset
24 category are not activities included
25 under subsection (c), (d) or (e); and

1 “(III) the activities in the offset
2 category satisfy specific criteria rel-
3 evant to methodologies and institu-
4 tional and technical capacities associ-
5 ated with developing country contexts
6 to ensure adequate treatment of leak-
7 age, additionality, and permanence.

8 “(c) SECTOR-BASED CREDITS.—

9 “(1) IN GENERAL.—In order to minimize the
10 potential for leakage and to encourage countries to
11 take nationally appropriate mitigation actions to re-
12 duce or avoid greenhouse gas emissions, or sequester
13 greenhouse gases, the Administrator, in consultation
14 with the Secretary of State and the Administrator of
15 the United States Agency for International Develop-
16 ment, shall—

17 “(A) identify sectors, or combinations of
18 sectors, within specific countries with respect to
19 which the issuance of international offset cred-
20 its on a sectoral basis is appropriate; and

21 “(B) issue international offset credits for
22 such sectors only on a sectoral basis.

23 “(2) IDENTIFICATION OF SECTORS.—

1 “(A) GENERAL RULE.—For purposes of
2 paragraph (1)(A), a sectoral basis shall be ap-
3 propriate for activities—

4 “(i) in countries that have compara-
5 tively high greenhouse gas emissions, or
6 comparatively greater levels of economic
7 development; and

8 “(ii) that, if located in the United
9 States, would be within a sector subject to
10 the compliance obligation under section
11 722.

12 “(B) FACTORS.—In determining the sec-
13 tors and countries for which international offset
14 credits should be awarded only on a sectoral
15 basis, the Administrator, in consultation with
16 the Secretary of State and the Administrator of
17 the United States Agency for International De-
18 velopment, shall consider the following factors:

19 “(i) The country’s gross domestic
20 product.

21 “(ii) The country’s total greenhouse
22 gas emissions.

23 “(iii) Whether the comparable sector
24 of the United States economy is covered by

1 the compliance obligation under section
2 722.

3 “(iv) The heterogeneity or homo-
4 geneity of sources within the relevant sec-
5 tor.

6 “(v) Whether the relevant sector pro-
7 vides products or services that are sold in
8 internationally competitive markets.

9 “(vi) The risk of leakage if inter-
10 national offset credits were issued on a
11 project-level basis, instead of on a sectoral
12 basis, for activities within the relevant sec-
13 tor.

14 “(vii) The capability of accurately
15 measuring, monitoring, reporting, and
16 verifying the performance of sources across
17 the relevant sector.

18 “(viii) Such other factors as the Ad-
19 ministrator, in consultation with the Sec-
20 retary of State and the Administrator of
21 the United States Agency for International
22 Development, determines are appropriate
23 to—

24 “(I) ensure the integrity of the
25 United States greenhouse gas emis-

1 sions limitations established under
2 section 703; and

3 “(II) encourage countries to take
4 nationally appropriate mitigation ac-
5 tions to reduce or avoid greenhouse
6 gas emissions, or sequester green-
7 house gases.

8 “(ix) The issuance of offsets for ac-
9 tivities that are—

10 “(I) in addition to nationally ap-
11 propriate mitigation actions taken by
12 developing countries pursuant to the
13 low-carbon development plans of the
14 countries; and

15 “(II) on a sectoral basis.

16 “(3) **SECTORAL BASIS.**—

17 “(A) **DEFINITION.**—In this subsection, the
18 term ‘sectoral basis’ means the issuance of
19 international offset credits only for the quantity
20 of sector-wide reductions or avoidance of green-
21 house gas emissions, or sector-wide increases in
22 sequestration of greenhouse gases, achieved
23 across the relevant sector or sectors of the econ-
24 omy relative to a baseline level of emissions es-

1 tablISHED in an agreement or arrangement de-
2 scribed in subsection (b)(2)(A) for the sector.

3 “(B) BASELINE.—The baseline for a sec-
4 tor shall—

5 “(i) be established at levels of green-
6 house gas emissions lower than would
7 occur under a business-as-usual scenario,
8 taking into account relevant domestic or
9 international policies or incentives to re-
10 duce greenhouse gas emissions;

11 “(ii) be used to determine
12 additionality and performance;

13 “(iii) account for all significant
14 sources of emissions from a sector;

15 “(iv) be adjusted over time to reflect
16 changing circumstances;

17 “(v) be developed taking into consid-
18 eration such factors as—

19 “(I) any established emissions
20 performance level for the sector;

21 “(II) the current performance of
22 the sector in the country;

23 “(III) expected future trends of
24 the sector in the country; and

1 “(IV) historical data and other
2 factors to ensure additionality; and

3 “(vi) be designed to produce signifi-
4 cant deviations from business-as-usual
5 emissions, consistent with nationally appro-
6 priate mitigation commitments or actions,
7 in a way that equitably contributes to
8 meeting thresholds identified in section
9 705(e)(2).

10 “(d) CREDITS ISSUED BY AN INTERNATIONAL
11 BODY.—

12 “(1) IN GENERAL.—The Administrator, in con-
13 sultation with the Secretary of State, may issue
14 international offset credits in exchange for instru-
15 ments in the nature of offset credits that are issued
16 by an international body established pursuant to the
17 United Nations Framework Convention on Climate
18 Change, to a protocol to such Convention, or to a
19 treaty that succeeds such Convention. The Adminis-
20 trator may issue international offset credits under
21 this subsection only if, in addition to the require-
22 ments of subsection (b), the Administrator has de-
23 termined that the international body that issued the
24 instruments has implemented substantive and proce-
25 dural requirements for the relevant project type that

1 provide equal or greater assurance of the integrity of
2 such instruments as is provided by the requirements
3 of this part. Beginning on January 1, 2016, the Ad-
4 ministrator shall issue no offset credit pursuant to
5 this subsection if the activity generating the green-
6 house gas emission reductions or avoidance, or
7 greenhouse gas sequestration, occurs in a country
8 and sector identified by the Administrator under
9 subsection (c), unless the offset credit issued by the
10 international body is consistent with section 744(c).

11 “(2) RETIREMENT.—The Administrator, in
12 consultation with the Secretary of State, shall seek,
13 by whatever means appropriate, including agree-
14 ments, arrangements, or technical cooperation with
15 the international issuing body described in para-
16 graph (1), to ensure that such body—

17 “(A) is notified of the Administrator’s
18 issuance, under this subsection, of an inter-
19 national offset credit in exchange for an instru-
20 ment issued by such international body; and

21 “(B) provides, to the extent feasible, for
22 the disqualification of the instrument issued by
23 such international body for subsequent use
24 under any relevant foreign or international
25 greenhouse gas regulatory program, regardless

1 of whether such use is a sale, exchange, or sub-
2 mission to satisfy a compliance obligation.

3 “(e) OFFSETS FROM REDUCED DEFORESTATION.—

4 “(1) REQUIREMENTS.—The Administrator, in
5 accordance with the regulations promulgated under
6 subsection (b)(1) and an agreement or arrangement
7 described in subsection (b)(2)(A), shall issue inter-
8 national offset credits for greenhouse gas emission
9 reductions achieved through activities to reduce de-
10 forestation only if, in addition to the requirements of
11 subsection (b)—

12 “(A) the activity occurs in—

13 “(i) a country listed by the Adminis-
14 trator pursuant to paragraph (2);

15 “(ii) a state or province listed by the
16 Administrator pursuant to paragraph (5);

17 or

18 “(iii) a country listed by the Adminis-
19 trator pursuant to paragraph (6);

20 “(B) except as provided in paragraph (5)

21 or (6), the quantity of the international offset
22 credits is determined by comparing the national
23 emissions from deforestation relative to a na-
24 tional deforestation baseline for that country es-
25 tablished, in accordance with an agreement or

1 arrangement described in subsection (b)(2)(A),
2 pursuant to paragraph (4);

3 “(C) the reduction in emissions from de-
4 forestation has occurred before the issuance of
5 the international offset credit and, taking into
6 consideration relevant international standards,
7 has been demonstrated using ground-based in-
8 ventories, remote sensing technology, and other
9 methodologies to ensure that all relevant carbon
10 stocks are accounted;

11 “(D) the Administrator has made appro-
12 priate adjustments, such as discounting for any
13 additional uncertainty, to account for cir-
14 cumstances specific to the country, including its
15 technical capacity described in paragraph
16 (2)(A);

17 “(E) the Administrator has determined
18 that the country within which the activity oc-
19 curs has in place a publicly available strategic
20 plan that includes the criteria listed in para-
21 graph (2)(C);

22 “(F) the activity is designed, carried out,
23 and managed—

24 “(i) in accordance with forest manage-
25 ment practices that—

1 “(I) improve the livelihoods of
2 forest communities;

3 “(II) maintain the natural bio-
4 diversity, resilience, and carbon stor-
5 age capacity of forests; and

6 “(III) do not adversely impact
7 the permanence of forest carbon
8 stocks or emission reductions;

9 “(ii) to promote or restore native for-
10 est species and ecosystems where prac-
11 ticable, and to avoid the introduction of
12 invasive nonnative species;

13 “(iii) in a manner that gives due re-
14 gard to the rights and interests of local
15 communities, indigenous peoples, forest-de-
16 pendent communities, and vulnerable social
17 groups;

18 “(iv) with consultations with, and full
19 participation of, local communities, indige-
20 nous peoples, and forest-dependent com-
21 munities, in affected areas, as partners
22 and primary stakeholders, prior to and
23 during the design, planning, implementa-
24 tion, and monitoring and evaluation of ac-
25 tivities;

1 “(v) with transparent and equitable
2 sharing of profits and benefits derived
3 from offset credits with local communities,
4 indigenous peoples, and forest-dependent
5 communities;

6 “(vi) with full transparency, third-
7 party independent oversight, and public
8 dissemination of related financial and con-
9 tractual arrangements, and

10 “(vii) so that the social and environ-
11 mental impacts of these activities are mon-
12 itored and reported in sufficient detail to
13 allow appropriate officials to determine
14 compliance with the requirements of this
15 section;

16 “(G) the reduction otherwise satisfies and
17 is consistent with any relevant requirements es-
18 tablished by an agreement reached under the
19 auspices of the United Nations Framework
20 Convention on Climate Change, done at New
21 York on May 9, 1992; and

22 “(H) in the case that offsets are deter-
23 mined by comparing the national emissions
24 from deforestation relative to a national, state-

1 level, or province-level deforestation baseline as
2 provided in paragraph (4) or (5)—

3 “(i) a list of activities to reduce defor-
4 estation is provided to the Administrator
5 and made publicly available;

6 “(ii) the social and environmental im-
7 pacts of these activities are monitored and
8 reported in sufficient detail to allow the
9 Administrator to determine compliance
10 with the requirements of this section; and

11 “(iii) the distribution of revenues for
12 activities to reduce deforestation is trans-
13 parent, subject to independent third-party
14 oversight, and publicly disseminated.

15 “(2) ELIGIBLE COUNTRIES.—The Adminis-
16 trator, in consultation with the Secretary of State
17 and the Administrator of the United States Agency
18 for International Development, and in accordance
19 with an agreement or arrangement described in sub-
20 section (b)(2)(A), shall establish, and periodically re-
21 view and update, a list of the developing countries
22 that have the capacity to participate in deforestation
23 reduction activities at a national level, including—

24 “(A) the technical capacity to monitor,
25 measure, report, and verify forest carbon fluxes

1 for all significant sources of greenhouse gas
2 emissions from deforestation with an acceptable
3 level of uncertainty, as determined taking into
4 account relevant internationally accepted meth-
5 odologies, such as those established by the
6 Intergovernmental Panel on Climate Change;

7 “(B) the institutional capacity to reduce
8 emissions from deforestation, including strong
9 forest governance and mechanisms to ensure
10 transparency and third-party independent over-
11 sight of offset activities and revenues, and the
12 transparent and equitable distribution of offset
13 revenues for local actions; and

14 “(C) a land use or forest sector strategic
15 plan that—

16 “(i) assesses national and local drivers
17 of deforestation and forest degradation and
18 identifies reforms to national policies need-
19 ed to address them;

20 “(ii) estimates the country’s emissions
21 from deforestation and forest degradation;

22 “(iii) identifies improvements in and a
23 timeline for data collection, monitoring,
24 and institutional capacity necessary to im-
25 plement an effective national deforestation

1 reduction program that meets the criteria
2 set forth in this section (including a na-
3 tional deforestation baseline);

4 “(iv) establishes a timeline for imple-
5 menting the program and transitioning
6 forest-based economies to low-emissions de-
7 velopment pathways with respect to emis-
8 sions from forest and land use activities;

9 “(v) includes a national policy for con-
10 sultations with, and full participation of,
11 all stakeholders, especially indigenous and
12 forest-dependent communities, in its de-
13 sign, planning, and implementation of ac-
14 tivities, whether at the national or local
15 level, to reduce deforestation in the country
16 (including a national process for address-
17 ing grievances if stakeholders have been
18 caused social, environmental, or economic
19 harm);

20 “(vi) provides for the distribution of
21 revenues for activities to reduce deforest-
22 ation transparently and publicly, subject to
23 independent third-party oversight; and

24 “(vii) includes a national platform or
25 a type of registry for information relating

1 to deforestation and degradation policy and
2 program implementation processes, includ-
3 ing a mechanism for the monitoring and
4 reporting of the social and environmental
5 impacts of those activities.

6 “(3) PROTECTION OF INTERESTS.—With re-
7 spect to an agreement or arrangement described in
8 subsection (b)(2)(A) with a country that addresses
9 international offset credits under this subsection, the
10 Administrator, in consultation with the Secretary of
11 State and the Administrator of the United States
12 Agency for International Development, shall under-
13 take due diligence to ensure the establishment and
14 enforcement by such country of legal regimes, proc-
15 esses, standards, and safeguards that—

16 “(A) give due regard to the rights and in-
17 terests of local communities, indigenous peoples,
18 forest-dependent communities, and vulnerable
19 social groups;

20 “(B) promote consultations with, and full
21 participation of, forest-dependent communities
22 and indigenous peoples in affected areas, as
23 partners and primary stakeholders, prior to and
24 during the design, planning, implementation,
25 and monitoring and evaluation of activities; and

1 “(C) encourage transparent and equitable
2 sharing of profits and benefits derived from
3 international offset credits with local commu-
4 nities, indigenous peoples, and forest-dependent
5 communities.

6 “(4) NATIONAL DEFORESTATION BASELINE.—A
7 national deforestation baseline established under this
8 subsection shall—

9 “(A) be national in scope;

10 “(B) be consistent with nationally appro-
11 priate mitigation commitments or actions with
12 respect to deforestation, taking into consider-
13 ation the average annual historical deforestation
14 rates of the country during a period of at least
15 5 years, the applicable drivers of deforestation,
16 and other factors to ensure that only reductions
17 that are in addition to such commitments or ac-
18 tions will generate offsets;

19 “(C) establish a trajectory that would re-
20 sult in zero net deforestation by not later than
21 20 years after the national deforestation base-
22 line has been established, including a spatially
23 explicit land use plan that identifies intact and
24 primary forest areas and managed forest areas

1 that are to remain while the country is reaching
2 the zero net deforestation trajectory;

3 “(D) be adjusted over time to take account
4 of changing national circumstances;

5 “(E) be designed to account for all signifi-
6 cant sources of greenhouse gas emissions from
7 deforestation in the country; and

8 “(F) be consistent with the national defor-
9 estation baseline, if any, established for such
10 country under section 753.

11 “(5) STATE-LEVEL OR PROVINCE-LEVEL AC-
12 TIVITIES.—

13 “(A) ELIGIBLE STATES OR PROVINCES.—
14 The Administrator, in consultation with the
15 Secretary of State and the Administrator of the
16 United States Agency for International Devel-
17 opment, shall establish, and periodically review
18 and update, a list of states or provinces in de-
19 veloping countries where—

20 “(i) the developing country is not in-
21 cluded on the list of countries established
22 pursuant to paragraph (6)(A);

23 “(ii) the State or province is under-
24 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 744(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) OFFSET CREDIT ISSUANCE.—Require-
4 ments under this subsection to issue international
5 offset credits only if the quantity of the international
6 offset credits is determined by reference to a na-
7 tional, State-level, or province-level deforestation
8 baseline do not preclude the Administrator from
9 issuing a portion of the total quantity of those cred-
10 its directly to an offset project developer for use in
11 carrying out activities in accordance with this sec-
12 tion that contributed to a reduction in emissions, if
13 that issuance is authorized by—

14 “(A) the agreement or arrangement de-
15 scribed in subsection (b)(2)(A); and

16 “(B) if the credits are issued pursuant to
17 paragraph (5), by the State or provincial gov-
18 ernment.

19 “(8) EXPANSION OF SCOPE.—In implementing
20 this subsection, the Administrator, taking into con-
21 sideration the recommendations of the Advisory
22 Board, may expand the scope of creditable activities
23 to include activities that reduce emissions from land
24 use, such as those that address forest degradation or

1 soil carbon losses associated with forested wetlands
2 or peatlands.

3 “(f) MODIFICATION OF REQUIREMENTS.—In promul-
4 gating regulations under subsection (b)(1) with respect to
5 the issuance of international offset credits under sub-
6 section (c), (d), or (e), the Administrator, in consultation
7 with the Secretary of State and the Administrator of the
8 United States Agency for International Development, may
9 modify or omit a requirement of this part (excluding the
10 requirements of this section) if the Administrator deter-
11 mines that the application of that requirement to such
12 subsection is not feasible or would result in the creation
13 of offset credits that would not be eligible to satisfy emis-
14 sions reduction commitments made by the United States
15 pursuant to the United Nations Framework Convention
16 on Climate Change, done at New York on May 9, 1992
17 (or any successor agreement). In modifying or omitting
18 such a requirement on the basis of infeasibility, the Ad-
19 ministrator, in consultation with the Secretary of State
20 and the Administrator of the United States Agency for
21 International Development, shall ensure, with an adequate
22 margin of safety, the integrity of international offset cred-
23 its issued under this section and of the greenhouse gas
24 emissions limitations established pursuant to section 703.

1 “(g) AVOIDING DOUBLE COUNTING.—The Adminis-
2 trator, in consultation with the Secretary of State, shall
3 seek, by whatever means appropriate, including agree-
4 ments, arrangements, or technical cooperation, to ensure
5 that activities on the basis of which international offset
6 credits are issued under this section are not used for com-
7 pliance with an obligation to reduce or avoid greenhouse
8 gas emissions, or increase greenhouse gas sequestration,
9 under a foreign or international regulatory system. In ad-
10 dition, no international offset credits shall be issued for
11 emission reductions from activities with respect to which
12 emission allowances were allocated under section 771(c)
13 for distribution under part E.

14 “(h) LIMITATION.—The Administrator shall not issue
15 international offset credits generated by projects based on
16 the destruction of hydrofluorocarbons.”.

17 **SEC. 102. DEFINITIONS.**

18 Title VII of the Clean Air Act (as added by section
19 101 of this division) is amended by inserting before part
20 A the following:

21 **“SEC. 700. DEFINITIONS.**

22 “In this title:

23 “(1) ADDITIONAL.—The term ‘additional’,
24 when used with respect to reductions or avoidance of
25 greenhouse gas emissions, or to sequestration of

1 greenhouse gases, means reductions, avoidance, or
2 sequestration that result in a lower level of net
3 greenhouse gas emissions or atmospheric concentra-
4 tions than would occur in the absence of an offset
5 credit.

6 “(2) ADDITIONALITY.—The term ‘additionality’
7 means the extent to which reductions or avoidance
8 of greenhouse gas emissions, or sequestration of
9 greenhouse gases, are additional.

10 “(3) ADVISORY BOARD.—The term ‘Advisory
11 Board’ means the Offsets Integrity Advisory Board
12 established under section 731.

13 “(4) AFFILIATED.—The term ‘affiliated’—

14 “(A) when used in relation to an entity,
15 means owned or controlled by, or under com-
16 mon ownership or control with, another entity,
17 as determined by the Administrator; and

18 “(B) when used in relation to a natural
19 gas local distribution company, means owned or
20 controlled by, or under common ownership or
21 control with, another natural gas local distribu-
22 tion company, as determined by the Adminis-
23 trator.

24 “(5) ALLOWANCE.—The term ‘allowance’
25 means a limited authorization to emit, or have at-

1 tributable greenhouse gas emissions in an amount
2 of, 1 ton of carbon dioxide equivalent of a green-
3 house gas in accordance with this title; it includes an
4 emission allowance, a compensatory allowance, or an
5 international emission allowance.

6 “(6) ATTRIBUTABLE GREENHOUSE GAS EMIS-
7 SIONS.—The term ‘attributable greenhouse gas emis-
8 sions’ means—

9 “(A) for a covered entity that is a fuel pro-
10 ducer or importer described in paragraph
11 (13)(B), greenhouse gases that would be emit-
12 ted from the combustion of any petroleum-
13 based or coal-based liquid fuel, petroleum coke,
14 or natural gas liquid, produced or imported by
15 that covered entity for sale or distribution in
16 interstate commerce, assuming no capture and
17 sequestration of any greenhouse gas emissions;

18 “(B) for a covered entity that is an indus-
19 trial gas producer or importer described in
20 paragraph (13)(C), the tons of carbon dioxide
21 equivalent of fossil fuel-based carbon dioxide,
22 nitrous oxide, any fluorinated gas, other than
23 nitrogen trifluoride, that is a greenhouse gas, or
24 any combination thereof—

1 “(i) produced or imported by such
2 covered entity during the previous calendar
3 year for sale or distribution in interstate
4 commerce; or

5 “(ii) released as fugitive emissions in
6 the production of fluorinated gas; and

7 “(C) for a natural gas local distribution
8 company described in paragraph (13)(J), green-
9 house gases that would be emitted from the
10 combustion of the natural gas, and any other
11 gas meeting the specifications for commingling
12 with natural gas for purposes of delivery, that
13 such entity delivered during the previous cal-
14 endar year to customers that are not covered
15 entities, assuming no capture and sequestration
16 of that greenhouse gas.

17 “(7) BIOLOGICAL SEQUESTRATION; BIO-
18 LOGICALLY SEQUESTERED.—The terms ‘biological
19 sequestration’ and ‘biologically sequestered’ mean
20 the removal of greenhouse gases from the atmos-
21 phere by terrestrial biological means, such as by
22 growing plants, and the storage of those greenhouse
23 gases in plants or soils.

24 “(8) CAPPED EMISSIONS.—The term ‘capped
25 emissions’ means greenhouse gas emissions to which

1 section 722 applies, including emissions from the
2 combustion of natural gas, petroleum-based or coal-
3 based liquid fuel, petroleum coke, or natural gas liq-
4 uid to which section 722(b)(2) or (8) applies.

5 “(9) CAPPED SOURCE.—The term ‘capped
6 source’ means a source that directly emits capped
7 emissions.

8 “(10) CARBON DIOXIDE EQUIVALENT.—The
9 term ‘carbon dioxide equivalent’ means the unit of
10 measure, expressed in metric tons, of greenhouse
11 gases as provided under section 711 or 712.

12 “(11) CARBON STOCK.—The term ‘carbon
13 stock’ means the quantity of carbon contained in a
14 biological reservoir or system which has the capacity
15 to accumulate or release carbon.

16 “(12) COMPENSATORY ALLOWANCE.—The term
17 ‘compensatory allowance’ means an allowance issued
18 under section 721(f).

19 “(13) COVERED ENTITY.—The term ‘covered
20 entity’ means each of the following:

21 “(A) Any electricity source.

22 “(B)(i) Any stationary source that pro-
23 duces petroleum-based or coal-based liquid fuel,
24 petroleum coke, or natural gas liquid, the com-
25 bustion of which would emit 25,000 or more

1 tons of carbon dioxide equivalent, as determined
2 by the Administrator.

3 “(ii) Any entity that (or any group of 2 or
4 more affiliated entities that, in the aggregate)
5 imports petroleum-based or coal-based liquid
6 fuel, petroleum coke, or natural gas liquid, the
7 combustion of which would emit 25,000 or more
8 tons of carbon dioxide equivalent, as determined
9 by the Administrator.

10 “(C) Any stationary source that produces,
11 and any entity that (or any group of two or
12 more affiliated entities that, in the aggregate)
13 imports, for sale or distribution in interstate
14 commerce, in bulk, or in products designated by
15 the Administrator, in 2008 or any subsequent
16 year more than 25,000 tons of carbon dioxide
17 equivalent of—

18 “(i) fossil fuel-based carbon dioxide;

19 “(ii) nitrous oxide;

20 “(iii) perfluorocarbons;

21 “(iv) sulfur hexafluoride;

22 “(v) any other fluorinated gas, except
23 for nitrogen trifluoride, that is a green-
24 house gas, as designated by the Adminis-
25 trator under section 711(b) or (c); or

1 “(vi) any combination of greenhouse
2 gases described in clauses (i) through (v).

3 “(D) Any stationary source that has emit-
4 ted 25,000 or more tons of carbon dioxide
5 equivalent of nitrogen trifluoride in 2008 or any
6 subsequent year.

7 “(E) Any geologic sequestration site.

8 “(F) Any stationary source in the following
9 industrial sectors:

10 “(i) Adipic acid production.

11 “(ii) Primary aluminum production.

12 “(iii) Ammonia manufacturing.

13 “(iv) Cement production, excluding
14 grinding-only operations.

15 “(v) Hydrochlorofluorocarbon produc-
16 tion.

17 “(vi) Lime manufacturing.

18 “(vii) Nitric acid production.

19 “(viii) Petroleum refining.

20 “(ix) Phosphoric acid production.

21 “(x) Silicon carbide production.

22 “(xi) Soda ash production.

23 “(xii) Titanium dioxide production.

24 “(xiii) Coal-based liquid or gaseous
25 fuel production.

1 “(G) Any stationary source in the chemical
2 or petrochemical sector that, in 2008 or any
3 subsequent year—

4 “(i) produces acrylonitrile, carbon
5 black, ethylene, ethylene dichloride, ethyl-
6 ene oxide, or methanol; or

7 “(ii) produces a chemical or petro-
8 chemical product if producing that product
9 results in annual combustion plus process
10 emissions of 25,000 or more tons of carbon
11 dioxide equivalent.

12 “(H) Any stationary source that—

13 “(i) is in one of the following indus-
14 trial sectors: ethanol production; ferroalloy
15 production; fluorinated gas production;
16 food processing; glass production; hydrogen
17 production; beneficiation or other proc-
18 essing (including agglomeration) of metal
19 ores; iron and steel production; lead pro-
20 duction; pulp and paper manufacturing;
21 and zinc production; and

22 “(ii) has emitted 25,000 or more tons
23 of carbon dioxide equivalent in 2008 or
24 any subsequent year.

1 “(I) Any fossil fuel-fired combustion device
2 (such as a boiler) or grouping of such devices
3 that—

4 “(i) is all or part of an industrial
5 source not specified in subparagraph (D),
6 (F), (G), or (H); and

7 “(ii) has emitted 25,000 or more tons
8 of carbon dioxide equivalent in 2008 or
9 any subsequent year.

10 “(J) Any natural gas local distribution
11 company that (or any group of 2 or more affili-
12 ated natural gas local distribution companies
13 that, in the aggregate) in 2008 or any subse-
14 quent year, delivers 460,000,000 cubic feet or
15 more of natural gas to customers that are not
16 covered entities.

17 “(14) CREDITING PERIOD.—The term ‘crediting
18 period’ means the period with respect to which an
19 offset project is eligible to earn offset credits under
20 part D, as determined under section 734(c).

21 “(15) DESIGNATED REPRESENTATIVE.—The
22 term ‘designated representative’ means, with respect
23 to a covered entity, a reporting entity, an offset
24 project developer, or any other entity receiving or
25 holding allowances or offset credits under this title,

1 an individual authorized, through a certificate of
2 representation submitted to the Administrator by
3 the owners and operators or similar entity official, to
4 represent the owners and operators or similar entity
5 official in all matters pertaining to this title (includ-
6 ing the holding, transfer, or disposition of allowances
7 or offset credits), and to make all submissions to the
8 Administrator under this title.

9 “(16) DEVELOPING COUNTRY.—The term ‘de-
10 veloping country’ means a country eligible to receive
11 official development assistance according to the in-
12 come guidelines of the Development Assistance Com-
13 mittee of the Organization for Economic Coopera-
14 tion and Development.

15 “(17) DOMESTIC OFFSET CREDIT.—

16 “(A) IN GENERAL.—The term ‘domestic
17 offset credit’ means an offset credit issued
18 under part D, other than an international offset
19 credit.

20 “(B) EXCLUSION.—The term ‘domestic
21 offset credit’ does not include a term offset
22 credit.

23 “(18) ELECTRICITY SOURCE.—The term ‘elec-
24 tricity source’ means a stationary source that in-
25 cludes one or more utility units.

1 “(19) EMISSION.—The term ‘emission’ means
2 the release of a greenhouse gas into the ambient air.
3 Such term does not include gases that are captured
4 and sequestered, except to the extent that they are
5 later released into the atmosphere, in which case
6 compliance must be demonstrated pursuant to sec-
7 tion 722(b)(5).

8 “(20) EMISSION ALLOWANCE.—The term ‘emis-
9 sion allowance’ means an allowance established
10 under section 721(a) or 726(g)(2).

11 “(21) FAIR MARKET VALUE.—The term ‘fair
12 market value’ means the average daily closing price
13 on registered exchanges or, if such a price is un-
14 available, the average price as determined by the Ad-
15 ministrator, during a specified time period, of an
16 emission allowance.

17 “(22) FEDERAL LAND.—The term ‘Federal
18 land’ means land that is owned by the United
19 States, other than land held in trust for an Indian
20 or Indian tribe.

21 “(23) FOSSIL FUEL.—The term ‘fossil fuel’
22 means natural gas, petroleum, or coal, or any form
23 of solid, liquid, or gaseous fuel derived from such
24 material, including consumer products that are de-
25 rived from such materials and are combusted.

1 “(24) FOSSIL FUEL-FIRED.—The term ‘fossil
2 fuel-fired’ means powered by combustion of fossil
3 fuel, alone or in combination with any other fuel, re-
4 gardless of the percentage of fossil fuel consumed.

5 “(25) FUGITIVE EMISSIONS.—The term ‘fugi-
6 tive emissions’ means emissions from leaks, valves,
7 joints, or other small openings in pipes, ducts, or
8 other equipment, or from vents.

9 “(26) GEOLOGIC SEQUESTRATION; GEOLOGI-
10 CALLY SEQUESTERED.—The terms ‘geologic seques-
11 tration’ and ‘geologically sequestered’ mean the se-
12 questration of greenhouse gases in subsurface geo-
13 logic formations for purposes of permanent storage.

14 “(27) GEOLOGIC SEQUESTRATION SITE.—The
15 term ‘geologic sequestration site’ means a site where
16 carbon dioxide is geologically sequestered.

17 “(28) GREENHOUSE GAS.—The term ‘green-
18 house gas’ means any gas described in section
19 711(a) or designated under section 711(b), (c), or
20 (e), except to the extent that it is regulated under
21 title VI.

22 “(29) HIGH CONSERVATION PRIORITY LAND.—
23 The term ‘high conservation priority land’ means
24 land that is not Federal land and is—

1 “(A) globally or State ranked as critically
2 imperiled or imperiled under a State Natural
3 Heritage Program; or

4 “(B) old-growth or late-successional forest,
5 as identified by the office of the State Forester
6 or relevant State agency with regulatory juris-
7 diction over forestry activities.

8 “(30) HOLD.—The term ‘hold’ means, with re-
9 spect to an allowance, offset credit, or term offset
10 credit, to have in the appropriate account in the al-
11 lowance tracking system, or submit to the Adminis-
12 trator for recording in such account.

13 “(31) INDUSTRIAL SOURCE.—The term ‘indus-
14 trial source’ means any stationary source that—

15 “(A) is not an electricity source; and

16 “(B) is in—

17 “(i) the manufacturing sector (as de-
18 fined in North American Industrial Classi-
19 fication System codes 31, 32, and 33); or

20 “(ii) the natural gas processing or
21 natural gas pipeline transportation sector
22 (as defined in North American Industrial
23 Classification System codes 211112 or
24 486210).

1 “(32) INTERNATIONAL EMISSION ALLOW-
2 ANCE.—The term ‘international emission allowance’
3 means a tradable authorization to emit 1 ton of car-
4 bon dioxide equivalent of greenhouse gas that is
5 issued by a national or supranational foreign govern-
6 ment pursuant to a qualifying international program
7 designated by the Administrator pursuant to section
8 728(a).

9 “(33) INTERNATIONAL OFFSET CREDIT.—The
10 term ‘international offset credit’ means an offset
11 credit issued by the Administrator under section
12 744.

13 “(34) LEAKAGE.—The term ‘leakage’ means a
14 significant increase in greenhouse gas emissions, or
15 significant decrease in sequestration, which is caused
16 by an offset project and occurs outside the bound-
17 aries of the offset project.

18 “(35) MARKET STABILITY RESERVE ALLOW-
19 ANCE.—The term ‘market stability reserve allow-
20 ance’ means an emission allowance reserved for,
21 transferred to, or deposited in the market stability
22 reserve, or established, under section 726.

23 “(36) 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 “(37) 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 “(38) 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 “(39) OFFSET CREDIT.—

15 “(A) IN GENERAL.—The term ‘offset cred-
16 it’ means an offset credit issued under part D.

17 “(B) EXCLUSION.—The term ‘offset credit’
18 does not include a term offset credit.

19 “(40) OFFSET PROJECT.—The term ‘offset
20 project’ means a project or activity that reduces or
21 avoids greenhouse gas emissions, or sequesters
22 greenhouse gases, and for which offset credits are or
23 may be issued under part D.

24 “(41) OFFSET PROJECT DEVELOPER.—The
25 term ‘offset project developer’ means the individual

1 or entity designated as the offset project developer
2 in an offset project approval petition under section
3 735(c)(1).

4 “(42) QUALIFIED R&D FACILITY.—The term
5 ‘qualified R&D facility’ means a facility that con-
6 ducts research and development, that was in oper-
7 ation as of the date of enactment of this title, and
8 that is part of a covered entity subject to paragraphs
9 (1) through (8) of section 722(b).

10 “(43) PETROLEUM.—The term ‘petroleum’ in-
11 cludes crude oil, tar sands, oil shale, and heavy oils.

12 “(44) REPEATED INTENTIONAL REVERSALS.—
13 The term ‘repeated intentional reversals’ means at
14 least 3 intentional reversals, as determined by the
15 Administrator or a court under section
16 734(b)(3)(B)(ii).

17 “(45) RESEARCH AND DEVELOPMENT.—The
18 term ‘research and development’ means activities—

19 “(A) that are conducted in process units or
20 at laboratory bench-scale settings;

21 “(B) whose purpose is to conduct research
22 and development for new processes, tech-
23 nologies, or products that contribute to lower
24 greenhouse gas emissions; and

1 “(C) that do not manufacture products for
2 sale.

3 “(46) RENEWABLE BIOMASS.—The term ‘re-
4 newable biomass’ means any of the following:

5 “(A) Plant material, including waste mate-
6 rial, harvested or collected from actively man-
7 aged agricultural land that was in cultivation,
8 cleared, or fallow and nonforested on January
9 1, 2009.

10 “(B) Plant material, including waste mate-
11 rial, harvested or collected from pastureland
12 that was nonforested on January 1, 2009.

13 “(C) Nonhazardous vegetative matter de-
14 rived from waste, including separated yard
15 waste, landscape right-of-way trimmings, con-
16 struction and demolition debris, or food waste
17 (but not municipal solid waste, recyclable waste
18 paper, painted, treated or pressurized wood, or
19 wood contaminated with plastic or metals).

20 “(D) Animal waste or animal byproducts,
21 including products of animal waste digesters.

22 “(E) Algae.

23 “(F) Trees, brush, slash, residues, or any
24 other vegetative matter removed from within
25 600 feet of any building, campground, or route

1 designated for evacuation by a public official
2 with responsibility for emergency preparedness,
3 or from within 300 feet of a paved road, electric
4 transmission line, utility tower, or water supply
5 line.

6 “(G) Residues from or byproducts of
7 milled logs.

8 “(H) Any of the following removed from
9 forested land that is not Federal and is not
10 high conservation priority land:

11 “(i) Trees, brush, slash, residues,
12 interplanted energy crops, or any other
13 vegetative matter removed from an actively
14 managed tree plantation established—

15 “(I) prior to January 1, 2009; or

16 “(II) on land that, as of January
17 1, 2009, was cultivated or fallow and
18 non-forested.

19 “(ii) Trees, logging residue, thinnings,
20 cull trees, pulpwood, and brush removed
21 from naturally regenerated forests or other
22 non-plantation forests, including for the
23 purposes of hazardous fuel reduction or
24 preventative treatment for reducing or con-
25 taining insect or disease infestation.

1 Roadless Areas, old growth or mature for-
2 est stands, components of the National
3 Landscape Conservation System, National
4 Monuments, National Conservation Areas,
5 Designated Primitive Areas; or Wild and
6 Scenic Rivers corridors;

7 “(ii) harvested in environmentally sus-
8 tainable quantities, as determined by the
9 appropriate Federal land manager; and

10 “(iii) are harvested in accordance with
11 Federal and State law, and applicable land
12 management plans.

13 “(47) RETIRE.—The term ‘retire’, with respect
14 to an allowance, offset credit, or term offset credit
15 established or issued under this title, means to dis-
16 qualify such allowance or offset credit for any subse-
17 quent use under this title, regardless of whether the
18 use is a sale, exchange, or submission of the allow-
19 ance, offset credit, or term offset credit to satisfy a
20 compliance obligation.

21 “(48) REVERSAL.—The term ‘reversal’ means
22 an intentional or unintentional loss of sequestered
23 greenhouse gases to the atmosphere.

24 “(49) SEQUESTERED AND SEQUESTRATION.—
25 The terms ‘sequestered’ and ‘sequestration’ mean

1 the separation, isolation, or removal of greenhouse
2 gases from the atmosphere, as determined by the
3 Administrator. The terms include biological, geo-
4 logic, and mineral sequestration, but do not include
5 ocean fertilization techniques.

6 “(50) SMALL BUSINESS REFINER.—

7 “(A) IN GENERAL.—The term ‘small busi-
8 ness refiner’ means a refiner that meets the ap-
9 plicable Federal refinery capacity and employee
10 limitations criteria described in section
11 45H(e)(1) of the Internal Revenue Code of
12 1986 (as in effect on the date of enactment of
13 this section and without regard to section
14 45H(d)).

15 “(B) ELIGIBILITY.—Eligibility of a small
16 business refiner under this paragraph shall not
17 be recalculated or disallowed on account of—

18 “(i) a merger of the small business re-
19 finer with 1 or more other small business
20 refiners after December 31, 2002; or

21 “(ii) the acquisition by a small busi-
22 ness refiner of another small business re-
23 finer (or refinery of such refiner) after De-
24 cember 31, 2002.

1 “(51) STATIONARY SOURCE.—The term ‘sta-
2 tionary source’ means any integrated operation com-
3 prising any plant, building, structure, or stationary
4 equipment, including support buildings and equip-
5 ment, that is located within one or more contiguous
6 or adjacent properties, is under common control of
7 the same person or persons, and emits or may emit
8 a greenhouse gas.

9 “(52) TON.—The term ‘ton’ means a metric
10 ton.

11 “(53) UNCAPPED EMISSIONS.—The term ‘un-
12 capped emissions’ means emissions of greenhouse
13 gases emitted after December 31, 2011, that are not
14 capped emissions.

15 “(54) UNITED STATES GREENHOUSE GAS EMIS-
16 SIONS.—The term ‘United States greenhouse gas
17 emissions’ means the total quantity of annual green-
18 house gas emissions from the United States, as cal-
19 culated by the Administrator and reported to the
20 United Nations Framework Convention on Climate
21 Change Secretariat.

22 “(55) UTILITY UNIT.—The term ‘utility unit’
23 means a combustion device that, on January 1,
24 2009, or any date thereafter, is fossil fuel-fired and
25 serves a generator that produces electricity for sale,

1 unless such combustion device, during the 12-month
2 period starting the later of January 1, 2009, or the
3 commencement of commercial operation and each
4 calendar year starting after such later date—

5 “(A) is part of an integrated cycle system
6 that cogenerates thermal energy and electricity
7 during normal operation and that supplies $\frac{1}{3}$ or
8 less of its potential electric output capacity and
9 25 megawatts or less of electrical output for
10 sale; or

11 “(B) combusts materials of which more
12 than 95 percent is municipal solid waste on a
13 heat input basis.

14 “(56) VINTAGE YEAR.—The term ‘vintage year’
15 means the calendar year for which an emission al-
16 lowance is established under section 721(a) or which
17 is assigned to an emission allowance under section
18 726(g)(3)(A), except that the vintage year for a
19 market stability reserve allowance shall be the year
20 in which such allowance is purchased at auction.”.

21 **SEC. 103. OFFSET REPORTING REQUIREMENTS.**

22 Section 114 of Clean Air Act (42 U.S.C. 7414) is
23 amended by adding at the end the following:

24 “(e) RECORDKEEPING FOR CARBON OFFSETS PRO-
25 GRAM.—For the purpose of implementing the carbon off-

1 sets program set forth in subtitle D of title VII, the Ad-
2 ministrator shall require any person who is an offset
3 project developer, and may require any person who is a
4 third party verifier, to establish and maintain records, for
5 a period of not less than the crediting period under section
6 734(c) plus 5 years, relating to—

7 “(1) any offset project approval petition sub-
8 mitted to the appropriate officials under section 735;

9 “(2) any reversals which occur with respect to
10 an offset project;

11 “(3) any verification reports; and

12 “(4) any other aspect of the offset project that
13 the appropriate officials determines is appropriate.”.

14 **Subtitle B—Disposition of**
15 **Allowances**

16 **SEC. 111. DISPOSITION OF ALLOWANCES FOR GLOBAL**
17 **WARMING POLLUTION REDUCTION PRO-**
18 **GRAM.**

19 Title VII of the Clean Air Act (as amended by section
20 141 of this division) is amended by adding at the end the
21 following:

22 **“PART G—DISPOSITION OF ALLOWANCES**

23 **“SEC. 771. ALLOCATION OF EMISSION ALLOWANCES.**

24 “(a) ALLOCATION.—Subject to subsection (d), of the
25 total quantity of emission allowances established for each

1 vintage year under section 721(a), the Administrator shall
 2 allocate emission allowances for the purposes and for the
 3 vintage years and corresponding percentages specified as
 4 follows:

5 “(1) For the program for electricity consumers
 6 pursuant to section 772, as described in the fol-
 7 lowing tables:

8 “(A) For distribution to electricity con-
 9 sumers in accordance with subsections (b), (c),
 10 and (d) of section 772, the percentages speci-
 11 fied in the following table:

“Electricity consumers

Vintage Year	Percentage of allowances
2012	43.75
2013	43.75
2014	38.89
2015	38.89
2016	35.00
2017	35.00
2018	35.00
2019	35.00
2020	35.00
2021	35.00
2022	35.00
2023	35.00
2024	35.00
2025	35.00
2026	28.00
2027	21.00
2028	14.00
2029	7.00

12 “(B) For distribution to small LDCs under
 13 section 772(e), the percentages specified in the
 14 following table:

“Small LDCs

Vintage Year	Percentage of allowances
---------------------	---------------------------------

“Small LDCs—Continued

2012	0.50
2013	0.50
2014	0.50
2015	0.50
2016	0.50
2017	0.50
2018	0.50
2019	0.50
2020	0.50
2021	0.50
2022	0.50
2023	0.50
2024	0.50
2025	0.50
2026	0.40
2027	0.30
2028	0.20
2029	0.10

1 “(2) For the program for natural gas con-
 2 sumers pursuant to section 773, as described in the
 3 following table:

“Natural gas consumers

Vintage Year	Percentage of allowances
2012	0.00
2013	0.00
2014	0.00
2015	0.00
2016	9.00
2017	9.00
2018	9.00
2019	9.00
2020	9.00
2021	9.00
2022	9.00
2023	9.00
2024	9.00
2025	9.00
2026	7.20
2027	5.40
2028	3.60
2029	1.80

4 “(3) For the program for home heating oil and
 5 propane consumers pursuant to section 774, as de-
 6 scribed in the following table:

“Home heating oil and propane consumers

Vintage Year	Percentage of allowances
2012	1.88
2013	1.88
2014	1.67
2015	1.67
2016	1.50
2017	1.50
2018	1.50
2019	1.50
2020	1.50
2021	1.50
2022	1.50
2023	1.50
2024	1.50
2025	1.50
2026	1.20
2027	0.90
2028	0.60
2029	0.30

1 “(4) For the program for domestic fuel produc-
2 tion, including petroleum refiners and small business
3 refiners, under section 775, for each of vintage years
4 2014 through 2026, for allocation and distribution
5 in accordance with section 775—

6 “(A) 1.25 percent of the emission allow-
7 ances established for each vintage year under
8 section 721(a) to domestic petroleum refineries
9 that are covered entities described in section
10 700(13)(F)(viii); and

11 “(B) an additional 1.0 percent of the emis-
12 sion allowances established for each vintage
13 year under section 721(a) to small business re-
14 finers that are covered entities described in sec-
15 tion 700(13)(F)(viii).

1 “(5) In addition to emission allowances reserved
2 under subsection (d)(5), subject to subparagraph
3 (G), for the program to ensure real reductions in in-
4 dustrial emissions under part F, as follows:

5 “(A) For each of vintage years 2012 and
6 2013, up to 4.0 percent of the emission allow-
7 ances established for each year under section
8 721(a).

9 “(B) For vintage year 2014, up to 15 per-
10 cent of the emission allowances established for
11 that year under section 721(a).

12 “(C) For vintage year 2015, up to the
13 product of—

14 “(i) the quantity specified in subpara-
15 graph (B); multiplied by

16 “(ii) the quantity of emission allow-
17 ances established for 2015 under section
18 721(a) divided by the quantity of emission
19 allowances established for 2014 under sec-
20 tion 721(a).

21 “(D) For vintage year 2016, up to the
22 product obtained by multiplying—

23 “(i) the quantity specified in subpara-
24 graph (C); and

1 “(ii) the quantity of emission allow-
2 ances established for 2015 under section
3 721(a) divided by the quantity of emission
4 allowances established for 2014 under sec-
5 tion 721(a).

6 “(E) For vintage years 2017 through
7 2025, up to the product obtained by multi-
8 plying—

9 “(i) the quantity specified in subpara-
10 graph (D); and

11 “(ii) the quantity of emission allow-
12 ances established for that year under sec-
13 tion 721(a) divided by the quantity of
14 emission allowances established for 2016
15 under section 721(a).

16 “(F) For vintage years 2026 through
17 2050, up to the product of the quantity speci-
18 fied in subparagraph (D)—

19 “(i) multiplied by the quantity of
20 emission allowances established for the ap-
21 plicable year during 2026 through 2050
22 under section 721(a) divided by the quan-
23 tity of emission allowances established for
24 2016 under section 721(a); and

1 “(ii) multiplied by a factor that shall
 2 equal 90 percent for 2026 and decline 10
 3 percent for each year thereafter until
 4 reaching 0.

5 “(G) If the Administrator has not distrib-
 6 uted all of the allowances allocated pursuant to
 7 this paragraph for a given vintage year by the
 8 end of that year, any emission allowances allo-
 9 cated to entities in eligible industrial sectors
 10 pursuant to this paragraph that have not been
 11 so distributed shall, in accordance with sub-
 12 section (e), be exchanged for allowances from
 13 the following vintage year and treated as part
 14 of the allocation to such entities for that later
 15 vintage year.

16 “(6)(A) Subject to subparagraph (B), for the
 17 program for commercial deployment of carbon cap-
 18 ture and sequestration technologies under section
 19 780, as described in the following table:

“Deployment of carbon capture and sequestration technology	
Vintage Year	Percentage of allowances
2012	0.00
2013	0.00
2014	1.75
2015	1.75
2016	1.75
2017	1.75
2018	4.75
2019	4.75
Each of vintage years 2020 through 2050	5.00

1 “(B) If the Administrator has not distributed
2 all of the allowances allocated pursuant to this para-
3 graph for a given vintage year by the end of that
4 year, all such undistributed emission allowances
5 shall, in accordance with subsection (e), be ex-
6 changed for allowances from the following vintage
7 year and treated as part of the allocation for the de-
8 ployment of carbon capture and sequestration tech-
9 nology under this subsection for that later vintage
10 year.

11 “(7) For the program for early action recogni-
12 tion pursuant to section 782, 2.0 percent of the
13 emission allowances for each of vintage years 2012
14 and 2013.

15 “(8) For the program for investment in clean
16 vehicle technology under section 201 of division B of
17 the Clean Energy Jobs and American Power Act—

18 “(A) for each of vintage years 2012
19 through 2017, 2.4 percent of the emission al-
20 lowances; and

21 “(B) for each of vintage years 2018
22 through 2025, 0.8 percent of the emission al-
23 lowances.

24 “(9)(A) In addition to the emission allowances
25 reserved under subsection (d)(6), subject to subpara-

1 graph (B), for the program for State and local in-
 2 vestment in energy efficiency and renewable energy
 3 under section 202 of division B of the Clean Energy
 4 Jobs and American Power Act, as described in the
 5 following table:

“Investment in energy efficiency and renewable energy	
Vintage Year	Percentage of allowances
2012	10.35
2013	10.35
2014	8.55
2015	8.55
2016	5.85
2017	6.12
2018	5.22
2019	5.22
2020	4.95
2021	4.95
2022	0.90
2023	0.90
2024	0.90
2025	0.90
Each of vintage years 2026 through 2050	4.05

6 “(B) At the time at which allowances are dis-
 7 tributed under subparagraph (A) for each of vintage
 8 years 2022 through 2025, 3.2 percent of emission
 9 allowances established under section 721(a) for the
 10 vintage year that is 4 years after that vintage year
 11 shall also be distributed (which shall be in addition
 12 to the emission allowances distributed under sub-
 13 paragraph (A) for vintage years 2026 through 2050.

14 “(10) For the program for energy efficiency in
 15 building codes under section 163 of division A, and
 16 section 203 of division B, of the Clean Energy Jobs
 17 and American Power Act, 0.50 percent of the emis-

1 sion allowances for each of vintage years 2012
2 through 2050.

3 “(11) For the program for Energy Innovation
4 Hubs pursuant to section 204 of division B of the
5 Clean Energy Jobs and American Power Act—

6 “(A) for each of vintage years 2012
7 through 2015, 0.75 percent of the emission al-
8 lowances; and

9 “(B) for each of vintage years 2016
10 through 2050, 0.45 percent of the emission al-
11 lowances.

12 “(12) For the program for ARPA–E research
13 pursuant to section 205 of division B of the Clean
14 Energy Jobs and American Power Act—

15 “(A) for each of vintage years 2012 and
16 2013, 3.25 percent of the emission allowances;
17 and

18 “(B) for each of vintage years 2014
19 through 2050, 1.25 percent of the emission al-
20 lowances.

21 “(13) For the International Clean Energy De-
22 ployment Program under section 323 of division A,
23 and section 206 of division B, of the Clean Energy
24 Jobs and American Power Act—

1 “(A) for each of vintage years 2012
2 through 2021, 1.0 percent of the emission al-
3 lowances;

4 “(B) for each of vintage years 2022
5 through 2026, 2.0 percent of the emission al-
6 lowances; and

7 “(C) for each of vintage years 2027
8 through 2050, 3.0 percent of the emission al-
9 lowances.

10 “(14) In addition to the emission allowances re-
11 served under subsection (d)(8), for the international
12 climate change adaptation and global security pro-
13 gram under section 324 of division A, and section
14 207 of division B, of the Clean Energy Jobs and
15 American Power Act—

16 “(A) for each of vintage years 2012
17 through 2021, 1.0 percent of the emission al-
18 lowances;

19 “(B) for each of vintage years 2022
20 through 2026, 2.0 percent of the emission al-
21 lowances; and

22 “(C) for each of vintage years 2027
23 through 2050, 5.0 percent of the emission al-
24 lowances.

1 “(15) For State programs for greenhouse gas
 2 reduction and climate adaptation pursuant to section
 3 210(d) of division B of the Clean Energy Jobs and
 4 American Power Act, as described in the following
 5 table:

“State programs for greenhouse gas reduction and adaptation

Vintage Year	Percentage of allowances
2012	1.34
2013	1.34
2014	0.50
2015	0.50
2016	0.50
2017	0.50
2018	0.50
2019	0.50
2020	0.50
2021	0.50
2022	1.06
2023	1.06
2024	1.06
2025	1.06
2026	1.06
Each of vintage years 2027 through 2050	2.18

6 “(16) For State programs for natural resource
 7 adaptation activities under the program for climate
 8 change safeguards for natural resources conservation
 9 under section 370(a)(1) of division A, and section
 10 216 of division B, of the Clean Energy Jobs and
 11 American Power Act, as described in the following
 12 table:

“State programs for natural resource adaptation

Vintage Year	Percentage of allowances
2012	0.39
2013	0.39
2014	0.39
2015	0.39
2016	0.39
2017	0.39

“State programs for natural resource adaptation—Continued

2018	0.39
2019	0.39
2020	0.39
2021	0.39
2022	0.77
2023	0.77
2024	0.77
2025	0.77
2026	0.77
Each of vintage years 2027 through 2050	1.54

1 “(b) AUCTIONS.—Subject to subsection (d), of the
2 total quantity of emission allowances established for each
3 calendar year under section 721(a), the Administrator
4 shall auction, pursuant to section 778, emission allow-
5 ances for the purposes and for the vintage or calendar
6 years and corresponding percentages specified as follows:

7 “(1) Emission allowances reserved under sub-
8 section (d)(9) for the Market Stability Reserve Fund
9 under section 726.

10 “(2) For the program for climate change con-
11 sumer refunds and low- and moderate-income con-
12 sumers pursuant to section 776—

13 “(A) emission allowances for consumer re-
14 bates under section 776(a), pursuant to sub-
15 section (e)(2); and

16 “(B) emission allowances for energy re-
17 funds under section 776(b), as follows:

18 “(i) For each of calendar years 2012
19 through 2029, 15.00 percent of the emis-
20 sion allowances.

1 “(ii) For each of calendar years 2030
2 through 2050, 18.50 percent of the emis-
3 sion allowances.

4 “(iii) For calendar year 2051 and
5 each calendar year thereafter, 15.00 per-
6 cent of the emission allowances.

7 “(3) For the program for investment in clean
8 vehicle technology under section 201 of division B of
9 the Clean Energy Jobs and American Power Act—

10 “(A) for each of calendar years 2012
11 through 2017, 0.6 percent of the emission al-
12 lowances; and

13 “(B) for each of calendar years 2018
14 through 2025, 0.2 percent of the emission al-
15 lowances.

16 “(4) For the program for energy efficiency and
17 renewable energy worker training under section 208
18 of division B of the Clean Energy Jobs and Amer-
19 ican Power Act—

20 “(A) for each of calendar years 2012 and
21 2013, 1.0 percent of the emission allowances;
22 and

23 “(B) for each of calendar years 2014 and
24 2015, 0.05 percent of the emission allowances.

1 “(5) For the program for worker transition
2 under part 2 of subtitle A of title III of division A,
3 and section 209 of division B, of the Clean Energy
4 Jobs and American Power Act—

5 “(A) for each of calendar years 2012
6 through 2021, 0.5 percent of the emission al-
7 lowances; and

8 “(B) for each of calendar years 2022
9 through 2050, 1.0 percent of the emission al-
10 lowances.

11 “(6) For the program for public health and cli-
12 mate change under subpart B of part 1 of subtitle
13 C of title III of division A, and section 211 of divi-
14 sion B, of the Clean Energy Jobs and American
15 Power Act, 0.10 percent of the emission allowances
16 for each of calendar years 2012 through 2050.

17 “(7) For the Natural Resources Climate
18 Change Adaptation Account under the program for
19 climate change safeguards for natural resources con-
20 servation under section 370(a)(2) of division A, and
21 section 212 of division B, of the Clean Energy Jobs
22 and American Power Act, as described in the fol-
23 lowing table:

“Natural Resources Climate Change Adaptation Account

Calendar Year	Percentage of allowances
2012	0.62
2013	0.62

“Natural Resources Climate Change Adaptation Account—

Continued

2014	0.62
2015	0.62
2016	0.62
2017	0.62
2018	0.62
2019	0.62
2020	0.62
2021	0.62
2022	1.23
2023	1.23
2024	1.23
2025	1.23
2026	1.23
Each of calendar years 2027 through 2050	2.46

1 “(8) For nuclear worker training under section
 2 132 of division A, and section 213 of division B, of
 3 the Clean Energy Jobs and American Power Act—

4 “(A) for each of calendar years 2012 and
 5 2013, 0.5 percent of the emission allowances;
 6 and

7 “(B) for each of calendar years 2014 and
 8 2015, 0.05 percent of the emission allowances.

9 “(9) In addition to the emission allowances re-
 10 served under subsection (d)(3), for the supplemental
 11 agriculture, abandoned mine land, renewable energy,
 12 and forestry greenhouse gas reduction and renewable
 13 energy program under section 155 of division A, and
 14 section 214 of division B, of the Clean Energy Jobs
 15 and American Power Act—

16 “(A) for each of calendar years 2012 and
 17 2013, 1.0 percent of the emission allowances;
 18 and

1 “(B) for each of calendar years 2014
2 through 2016, 0.28 percent of the emission al-
3 lowances.

4 “(10) TRANSPORTATION GREENHOUSE GAS RE-
5 DUCTION.—In addition to the emission allowances
6 reserved under subsection (d)(4), for the transpor-
7 tation greenhouse gas reduction program under sec-
8 tions 831 and 832 of this Act, and 215 of division
9 B, of the Clean Energy Jobs and American Power
10 Act, as described in the following table:

“Transportation greenhouse gas reduction	
Calendar Year	Percentage of allowances
2012	2.21
2013	2.21
2014	1.35
2015	1.35
2016	1.05
2017	1.08
2018	0.98
2019	0.98
2020	0.95
2021	0.95
2022	0.94
2023	0.94
2024	0.94
2025	0.94
2026	1.64
2027	2.52
2028	2.52
2029	2.52
Each of calendar years 2030 through 2050	2.17

11 “(c) SUPPLEMENTAL REDUCTIONS.—

12 “(1) IN GENERAL.—Subject to subsection (d)
13 and paragraphs (2) and (3), the Administrator shall
14 allocate allowances for each vintage year to achieve

1 supplemental reductions pursuant to section 753, as
2 follows:

3 “(A) For each of calendar years 2012
4 through 2025, 5.0 percent of the emission al-
5 lowances.

6 “(B) For each of calendar years 2026
7 through 2030, 3.0 percent of the emission al-
8 lowances.

9 “(C) For each of calendar years 2031
10 through 2050, 2.0 percent of the emission al-
11 lowances.

12 “(2) ADJUSTMENT.—The Administrator shall
13 modify the allowances allocated under paragraph (1)
14 as necessary to ensure the achievement of the an-
15 nual supplemental emissions reduction objective for
16 2020 and the cumulative reduction objective through
17 2025 set forth in section 753(b)(1).

18 “(3) CARRYOVER.—If the Administrator has
19 not distributed all of the allowances allocated pursu-
20 ant to this subsection for a given vintage year by the
21 end of that year, all such undistributed emission al-
22 lowances shall, in accordance with subsection (e), be
23 exchanged for allowances from the following vintage
24 year and treated as part of the allocation for supple-

1 mental reductions under this section for that later
2 vintage year.

3 “(d) INITIAL RESERVATION OF ALLOWANCES.—

4 “(1) IN GENERAL.—Before allocating emission
5 allowances under subsections (a) through (c) for
6 each calendar year, the Administrator shall reserve
7 from the total quantity of emission allowances estab-
8 lished for the calendar year under section 721(a) the
9 percentages of allowances specified in paragraphs
10 (2) through (9), for use for the purposes described
11 in those paragraphs.

12 “(2) DEFICIT REDUCTION.—For auction pursu-
13 ant to section 778 to ensure that this title does not
14 contribute to the deficit for a calendar year, with
15 proceeds of the auction to be deposited immediately
16 upon receipt in the Deficit Reduction Fund estab-
17 lished by section 783, the Administrator shall re-
18 serve—

19 “(A) for each of calendar years 2012
20 through 2029, 10 percent of the emission allow-
21 ances;

22 “(B) for each of calendar years 2030
23 through 2039, 22 percent of the emission allow-
24 ances; and

1 “(C) for each of calendar years 2040
2 through 2050, 25 percent of the emission allow-
3 ances.

4 “(3) SUPPLEMENTAL AGRICULTURE, ABAN-
5 DONED MINE LAND, RENEWABLE ENERGY, AND FOR-
6 ESTRY.—For the supplemental agriculture, aban-
7 doned mine land, renewable energy, and forestry
8 greenhouse gas reduction and renewable energy pro-
9 gram under section 155 of division A, and section
10 214 of division B, of the Clean Energy Jobs and
11 American Power Act, the Administrator shall reserve
12 1.0 percent of the emission allowances for each of
13 calendar years 2012 through 2050.

14 “(4) TRANSPORTATION GREENHOUSE GAS RE-
15 DUCTION.—For the transportation greenhouse gas
16 reduction program under sections 831 and 832 of
17 this Act, and section 215 of division B of the Clean
18 Energy Jobs and American Power Act, the Adminis-
19 trator shall reserve for each of calendar years 2012
20 through 2050, 1.0 percent of the emission allow-
21 ances.

22 “(5) INDUSTRIAL EMISSIONS.—For the pro-
23 gram to ensure real reductions in industrial emis-
24 sions under part F, the Administrator shall reserve

1 0.50 percent of the emission allowances for each of
2 calendar years 2012 through 2050.

3 “(6) STATE AND LOCAL INVESTMENT IN EN-
4 ERGY EFFICIENCY AND RENEWABLE ENERGY.—For
5 the program for State and local investment in en-
6 ergy efficiency and renewable energy under section
7 202 of division B of the Clean Energy Jobs and
8 American Power Act, the Administrator shall reserve
9 0.50 percent of the emission allowances for each of
10 calendar years 2012 through 2050.

11 “(7) ELECTRICITY CONSUMERS; SMALL LDCS.—
12 For distribution to small LDCs under the program
13 for electricity consumers under section 772(e), the
14 Administrator shall reserve—

15 “(A) for each of calendar years 2012
16 through 2025, 0.50 percent of the emission al-
17 lowances;

18 “(B) for calendar year 2026, 0.40 percent
19 of the emission allowances;

20 “(C) for calendar year 2027, 0.30 percent
21 of the emission allowances;

22 “(D) for calendar year 2028, 0.20 percent
23 of the emission allowances; and

24 “(E) for calendar year 2029, 0.10 percent
25 of the emission allowances.

1 “(8) INTERNATIONAL CLIMATE CHANGE ADAP-
2 TATION AND GLOBAL SECURITY PROGRAM.—For the
3 international climate change adaptation and global
4 security program under section 324 of division A,
5 and section 207 of division B, of the Clean Energy
6 Jobs and American Power Act, the Administrator
7 shall reserve 0.25 percent of the emission allowances
8 for each of calendar years 2012 through 2026.

9 “(9) MARKET STABILITY RESERVE FUND.—For
10 the Market Stability Reserve Fund under section
11 726, the Administrator shall reserve—

12 “(A) for each of calendar years 2012
13 through 2019, 2.0 percent of the emission al-
14 lowances; and

15 “(B) for each of calendar years 2020
16 through 2050, 3.0 percent of the emission al-
17 lowances.

18 “(e) TREATMENT OF CARRYOVER ALLOWANCES.—

19 “(1) IN GENERAL.—If there are undistributed
20 allowances from a vintage year for eligible industrial
21 sectors pursuant to subsection (a)(5), deployment of
22 carbon capture and sequestration technology pursu-
23 ant to subsection (a)(6), or supplemental reductions
24 pursuant to subsection (c), the Administrator
25 shall—

1 “(A) use the undistributed allowances to
2 increase for the same vintage year—

3 “(i) the allocation of allowances to be
4 auctioned, with the proceeds to be depos-
5 ited immediately upon receipt in the Def-
6 icit Reduction Fund established by section
7 783;

8 “(ii) the allocation of allowances for
9 the program for climate change consumer
10 refunds and low- and moderate-income
11 consumers pursuant to subsection (b)(2);
12 or

13 “(iii) a combination the purposes de-
14 scribed in clauses (i) and (ii); and

15 “(B) except as provided in paragraph
16 (2)—

17 “(i) decrease by the same quantity for
18 the following vintage year the allocation for
19 the purpose for which the allocation was
20 increased pursuant to subparagraph (A);
21 and

22 “(ii) increase by the same quantity for
23 the following vintage year the allocation for
24 the purpose for which the undistributed al-
25 lowances were originally allocated.

1 “(2) EXCESS UNDISTRIBUTED ALLOWANCES.—

2 “(A) IN GENERAL.—For each vintage year
3 for which this subsection applies, the Adminis-
4 trator shall determine whether—

5 “(i) the total quantity of undistrib-
6 uted allowances for that vintage year that
7 were allocated pursuant to paragraphs
8 (5)(G) and (6)(B) of subsection (a), and
9 subsection (c); exceeds

10 “(ii) the total quantity of allowances
11 allocated pursuant to subsections (b)(2)
12 and (d)(2) for the following vintage year,
13 decreased by the quantity of allowances for
14 that following vintage year set aside for
15 the reserve established by section 778(f).

16 “(B) DETERMINATION OF EXCEEDANCE.—
17 If the Administrator determines under subpara-
18 graph (A) that the quantity described in sub-
19 paragraph (A)(i) exceeds the quantity described
20 in subparagraph (A)(ii)—

21 “(i) paragraph (1)(B)(ii) shall not
22 apply; and

23 “(ii) for each purpose described in
24 paragraphs (5)(G) and (6)(B) of sub-
25 section (a), and subsection (c), for which

1 undistributed allowances for a given vin-
2 tage year were allocated, the Administrator
3 shall increase the allocation for the fol-
4 lowing vintage year by the quantity that
5 equals the product obtained by multi-
6 plying—

7 “(iii) the number of undistributed al-
8 lowances for that purpose; and

9 “(iv) the quantity described in sub-
10 paragraph (A)(ii) divided by the quantity
11 described in subparagraph (A)(i).

12 “(f) REMAINING ALLOWANCES.—After making the
13 allocations of emission allowances under subsections (a)
14 through (e) for a calendar year, the Administrator shall
15 allocate any emission allowances remaining from the total
16 quantity of emission allowances established for the cal-
17 endar year under section 721(a)—

18 “(1) for each of calendar years 2012 through
19 2025, for auction in accordance with section 778
20 and deposit in the Deficit Reduction Fund estab-
21 lished by section 783; and

22 “(2) for each of calendar years 2026 through
23 2050, for the program for climate change consumer
24 refunds and low- and moderate-income consumers
25 pursuant to section 776.

1 **“SEC. 772. ELECTRICITY CONSUMERS.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) CHP SAVINGS.—The term ‘CHP savings’
4 means—

5 “(A) CHP system savings from a combined
6 heat and power system that commences oper-
7 ation after the date of enactment of this sec-
8 tion; and

9 “(B) the increase in CHP system savings
10 from, at any time after the date of the enact-
11 ment of this section, upgrading, replacing, ex-
12 panding, or increasing the utilization of a com-
13 bined heat and power system that commenced
14 operation on or before the date of enactment of
15 this section.

16 “(2) CHP SYSTEM SAVINGS.—The term ‘CHP
17 system savings’ means the increment of electric out-
18 put of a combined heat and power system that is at-
19 tributable to the higher efficiency of the combined
20 system (as compared to the efficiency of separate
21 production of the electric and thermal outputs).

22 “(3) COAL-FUELED UNIT.—The term ‘coal-
23 fueled unit’ means a utility unit that derives at least
24 85 percent of its heat input from coal, petroleum
25 coke, or any combination of those 2 fuels.

1 of, or corporation wholly owned by, either
2 of the foregoing); or

3 “(iii) an Indian tribe pursuant to trib-
4 al law.

5 “(6) ELECTRICITY SAVINGS.—The term ‘elec-
6 tricity savings’ means reductions in electricity con-
7 sumption, relative to business-as-usual projections,
8 achieved through measures implemented after the
9 date of enactment of this section, limited to—

10 “(A) customer facility savings of elec-
11 tricity, adjusted to reflect any associated in-
12 crease in fuel consumption at the facility;

13 “(B) reductions in distribution system
14 losses of electricity achieved by a retail elec-
15 tricity distributor, as compared to losses attrib-
16 utable to new or replacement distribution sys-
17 tem equipment of average efficiency;

18 “(C) CHP savings; and

19 “(D) fuel cell savings.

20 “(7) FUEL CELL.—The term ‘fuel cell’ means a
21 device that directly converts the chemical energy of
22 a fuel and an oxidant into electricity by electro-
23 chemical processes occurring at separate electrodes
24 in the device.

1 “(8) FUEL CELL SAVINGS.—The term ‘fuel cell
2 savings’ means the electricity saved by a fuel cell
3 that is installed after the date of enactment of this
4 section, or by upgrading a fuel cell that commenced
5 operation on or before the date of enactment of this
6 section, as a result of the greater efficiency with
7 which the fuel cell transforms fuel into electricity as
8 compared with sources of electricity delivered
9 through the grid, provided that—

10 “(A) the fuel cell meets such requirements
11 relating to efficiency and other operating char-
12 acteristics as the Federal Energy Regulatory
13 Commission may promulgate by regulation; and

14 “(B) the net sales of electricity from the
15 fuel cell to customers not consuming the ther-
16 mal output from the fuel cell, if any, do not ex-
17 ceed 50 percent of the total annual electricity
18 generation by the fuel cell.

19 “(9) INDEPENDENT POWER PRODUCTION FA-
20 CILITY.—The term ‘independent power production
21 facility’ means a facility—

22 “(A) that is used for the generation of
23 electric energy, at least 80 percent of which is
24 sold at wholesale; and

1 “(B) the sales of the output of which are
2 not subject to retail rate regulation or setting
3 of retail rates by—

4 “(i) a State regulatory authority;

5 “(ii) a State or political subdivision
6 thereof (or an agency or instrumentality
7 of, or corporation wholly owned by, either
8 of the foregoing);

9 “(iii) an electric cooperative; or

10 “(iv) an Indian tribe pursuant to trib-
11 al law.

12 “(10) LONG-TERM CONTRACT GENERATOR.—

13 “(A) IN GENERAL.—The term ‘long-term
14 contract generator’ means a qualifying small
15 power production facility, a qualifying cogenera-
16 tion facility), an independent power production
17 facility, or a facility for the production of elec-
18 tric energy for sale to others that is owned and
19 operated by an electric cooperative that is—

20 “(i) a covered entity; and

21 “(ii) as of the date of enactment of
22 this title—

23 “(I) a facility with 1 or more
24 sales or tolling agreements executed
25 before March 1, 2007, that govern the

1 facility's electricity sales and provide
2 for sales at a price (whether a fixed
3 price or a price formula) for electricity
4 that does not allow for recovery of the
5 costs of compliance with the limitation
6 on greenhouse gas emissions under
7 this title, provided that such agree-
8 ments are not between entities that
9 were affiliates of one another at the
10 time at which the agreements were
11 entered into; or

12 “(II) a facility consisting of 1 or
13 more cogeneration units that makes
14 useful thermal energy available to an
15 industrial or commercial process with
16 1 or more sales agreements executed
17 before March 1, 2007, that govern the
18 facility's useful thermal energy sales
19 and provide for sales at a price
20 (whether a fixed price or price for-
21 mula) for useful thermal energy that
22 does not allow for recovery of the
23 costs of compliance with the limitation
24 on greenhouse gas emissions under
25 this title, provided that such agree-

1 “(I) a State regulatory authority;

2 “(II) a State or political subdivi-
3 sion thereof (or an agency or instru-
4 mentality of, or corporation wholly
5 owned by, either of the foregoing);

6 “(III) an electric cooperative; or

7 “(IV) an Indian tribe pursuant
8 to tribal law.

9 “(12) MERCHANT COAL UNIT SALES.—The
10 term ‘merchant coal unit sales’ means sales to oth-
11 ers of electricity generated by a merchant coal unit
12 that are made by the owner or leaseholder described
13 in paragraph (11)(C).

14 “(13) NEW COAL-FUELED UNIT.—The term
15 ‘new coal-fueled unit’ means a coal-fueled unit that
16 commenced operation on or after January 1, 2009
17 and before January 1, 2013.

18 “(14) NEW MERCHANT COAL UNIT.—The term
19 ‘new merchant coal unit’ means a merchant coal
20 unit—

21 “(A) that commenced operation on or after
22 January 1, 2009 and before January 1, 2013;
23 and

24 “(B) the actual, on-site construction of
25 which commenced prior to January 1, 2009.

1 cense or exemption, and with other appli-
2 cable legal requirements for the protection
3 of environmental quality, including applica-
4 ble fish passage requirements; and

5 “(iii) the hydroelectric project in-
6 stalled on the dam is operated so that the
7 water surface elevation at any given loca-
8 tion and time that would have occurred in
9 the absence of the hydroelectric project is
10 maintained, subject to any license or ex-
11 emption requirements that require changes
12 in water surface elevation for the purpose
13 of improving the environmental quality of
14 the affected waterway.

15 “(16) 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 “(17) RENEWABLE ENERGY RESOURCE.—The
23 term ‘renewable energy resource’ means each of the
24 following:

25 “(A) Wind energy.

1 “(B) Solar energy.

2 “(C) Geothermal energy.

3 “(D) Renewable biomass.

4 “(E) Biogas derived exclusively from re-
5 newable biomass.

6 “(F) Biofuels derived exclusively from re-
7 newable biomass.

8 “(G) Qualified hydropower.

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

13 “(18) SMALL LDC.—The term ‘small LDC’
14 means, for any given year, an electricity local dis-
15 tribution company that delivered less than 4,000,000
16 megawatt hours of electric energy directly to retail
17 consumers in the preceding year.

18 “(19) STATE REGULATORY AUTHORITY.—The
19 term ‘State regulatory authority’ has the meaning
20 given that term in section 3(17) of the Public Utility
21 Regulatory Policies Act of 1978 (16 U.S.C.
22 2602(17)).

23 “(20) USEFUL THERMAL ENERGY.—The term
24 ‘useful thermal energy’ has the meaning given that

1 term in section 371(7) of the Energy Policy and
2 Conservation Act (42 U.S.C. 6341(7)).

3 “(b) ELECTRICITY LOCAL DISTRIBUTION COMPA-
4 NIES.—

5 “(1) DISTRIBUTION OF ALLOWANCES.—The
6 Administrator shall distribute to electricity local dis-
7 tribution companies for the benefit of retail rate-
8 payers the quantity of emission allowances allocated
9 for the following vintage year pursuant to section
10 771(a)(1)(A). Notwithstanding the preceding sen-
11 tence, the Administrator shall withhold from dis-
12 tribution under this subsection a quantity of emis-
13 sion allowances equal to the lesser of 14.3 percent
14 of the quantity of emission allowances allocated
15 under section 771(a)(1) for the relevant vintage
16 year, or 105 percent of the emission allowances for
17 the relevant vintage year that the Administrator an-
18 ticipates will be distributed to merchant coal units
19 and to long-term contract generators, respectively,
20 under subsections (c) and (d), on the condition that
21 the Administrator shall be authorized to distribute
22 future vintage year allowances available to long-term
23 contract generators under subsection (d) in the case
24 of a shortfall of allowances in any vintage year, sub-
25 ject to section 772(d)(2). If not required by sub-

1 sections (c) and (d) to distribute all of these re-
2 served allowances, the Administrator shall distribute
3 any remaining emission allowances to electricity local
4 distribution companies in accordance with this sub-
5 section.

6 “(2) DISTRIBUTION BASED ON EMISSIONS.—

7 “(A) IN GENERAL.—For each vintage year,
8 50 percent of the emission allowances available
9 for distribution under paragraph (1), after re-
10 serving allowances for distribution under sub-
11 sections (c) and (d), shall be distributed by the
12 Administrator among individual electricity local
13 distribution companies ratably based on the an-
14 nual average carbon dioxide emissions attrib-
15 utable to generation of electricity delivered at
16 retail by each such company during the base
17 period determined under subparagraph (B).

18 “(B) BASE PERIOD.—

19 “(i) VINTAGE YEARS 2012 AND 2013.—

20 For vintage years 2012 and 2013, an elec-
21 tricity local distribution company’s base
22 period shall be—

23 “(I) calendar years 2006 through
24 2008;

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1 “(II) any 3 consecutive calendar
2 years between 1999 and 2008, inclu-
3 sive, that such company selects, pro-
4 vided that the company timely informs
5 the Administrator of such selection; or

6 “(III) calendar year 2012, in the
7 case of a local distribution company
8 that—

9 “(aa) is located outside of
10 the Pacific Northwest (as defined
11 in section 3 of the Pacific North-
12 west Electric Power Planning
13 and Conservation Act (16 U.S.C.
14 839a)), and purchased long-term
15 excess Federal power and Hun-
16 gry Horse Reservation power
17 from the Bonneville Power Ad-
18 ministration; and

19 “(bb) will no longer have
20 long-term excess Federal power
21 or Hungry Horse Reservation
22 power from the Bonneville Power
23 Administration after October 1,
24 2011.

1 “(ii) VINTAGE YEARS 2014 AND
2 THEREAFTER.—For vintage years 2014
3 and thereafter, the base period shall be—

4 “(I) the base period selected
5 under clause (i); or

6 “(II) calendar year 2012, in the
7 case of—

8 “(aa) an electricity local dis-
9 tribution company that owns, co-
10 owns, or purchases through a
11 power purchase agreement
12 (whether directly or through a
13 cooperative arrangement) a sub-
14 stantial portion of the electricity
15 generated by a new coal-fueled
16 unit, on the condition that such
17 company timely informs the Ad-
18 ministrator of its election to use
19 2012 as its base period; or

20 “(bb) any small local dis-
21 tribution company that is located
22 outside of the Pacific Northwest
23 (as defined in section 3 of the
24 Pacific Northwest Electric Power
25 Planning and Conservation Act

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1 (16 U.S.C. 839a)), that pur-
2 chased long-term excess Federal
3 power and Hungry Horse Res-
4 ervation power from the Bonne-
5 ville Power Administration, and
6 that will no longer have long-
7 term excess Federal power or
8 Hungry Horse Reservation power
9 from the Bonneville Power Ad-
10 ministration after October 1,
11 2011, on the condition that such
12 company timely informs the Ad-
13 ministrator of its election to use
14 2012 as its base period.

15 “(C) DETERMINATION OF EMISSIONS.—

16 “(i) DETERMINATION FOR 1999–
17 2008.—As part of the regulations promul-
18 gated pursuant to subsection (g), the Ad-
19 ministrator, after consultation with the
20 Energy Information Administration, shall
21 determine the average amount of carbon
22 dioxide emissions attributable to genera-
23 tion of electricity delivered at retail by
24 each electricity local distribution company
25 for each of the years 1999 through 2008,

1 taking into account entities' electricity gen-
2 eration, electricity purchases, and elec-
3 tricity sales. In the case of any electricity
4 local distribution company that owns, co-
5 owns, or purchases through a power pur-
6 chase agreement (whether directly or
7 through a cooperative arrangement) a sub-
8 stantial portion of the electricity generated
9 by, a coal-fueled unit that commenced op-
10 eration after January 1, 2006, and before
11 December 31, 2008, the Administrator
12 shall adjust the emissions attributable to
13 such company's retail deliveries in calendar
14 years 2006 through 2008 to reflect the
15 emissions that would have occurred if the
16 relevant unit were in operation during the
17 entirety of such 3-year period.

18 “(ii) ADJUSTMENTS FOR NEW COAL-
19 FUELED UNITS.—

20 “(I) VINTAGE YEARS 2012 AND
21 2013.—For purposes of emission al-
22 lowance distributions for vintage years
23 2012 and 2013, in the case of any
24 electricity local distribution company
25 that owns, co-owns, or purchases

1 through a power purchase agreement
2 (whether directly or through a cooper-
3 ative arrangement) a substantial por-
4 tion of the electricity generated by, a
5 new coal-fueled unit, the Adminis-
6 trator shall adjust the emissions at-
7 tributable to such company's retail de-
8 liveries in the applicable base period
9 to reflect the emissions that would
10 have occurred if the new coal-fueled
11 unit were in operation during such pe-
12 riod.

13 “(II) VINTAGE YEAR 2014 AND
14 THEREAFTER.—Not later than nec-
15 essary for use in making emission al-
16 lowance distributions under this sub-
17 section for vintage year 2014, the Ad-
18 ministrator shall, for any electricity
19 local distribution company that owns,
20 co-owns, or purchases through a
21 power purchase agreement (whether
22 directly or through a cooperative ar-
23 rangement) a substantial portion of
24 the electricity generated by a new
25 coal-fueled unit and has selected cal-

1 pany, and shall use appropriate emis-
2 sion factors to calculate carbon diox-
3 ide emissions associated with the gen-
4 eration of such electricity.

5 “(II) Where it is not practical to
6 determine the precise fuel mix for the
7 electricity delivered at retail by an in-
8 dividual electricity local distribution
9 company, the Administrator may use
10 the best available data, including aver-
11 age data on a regional basis with ref-
12 erence to Regional Transmission Or-
13 ganizations or regional entities (as
14 that term is defined in section
15 215(a)(7) of the Federal Power Act
16 (16 U.S.C. 824o(a)(7)), to estimate
17 fuel mix and emissions. Different
18 methodologies may be applied in dif-
19 ferent regions if appropriate to obtain
20 the most accurate estimate.

21 “(3) DISTRIBUTION BASED ON DELIVERIES.—

22 “(A) INITIAL FORMULA.—Except as pro-
23 vided in subparagraph (B), for each vintage
24 year, the Administrator shall distribute 50 per-
25 cent of the emission allowances available for

1 distribution under paragraph (1), after reserv-
2 ing allowances for distribution under sub-
3 sections (c) and (d), among individual elec-
4 tricity local distribution companies ratably
5 based on each electricity local distribution com-
6 pany's annual average retail electricity deliv-
7 eries for calendar years 2006 through 2008, un-
8 less the owner or operator of the company se-
9 lects 3 other consecutive years between 1999
10 and 2008, inclusive, and timely notifies the Ad-
11 ministrator of its selection.

12 “(B) UPDATING.—Prior to distributing
13 2015 vintage year emission allowances under
14 this paragraph and at 3-year intervals there-
15 after, the Administrator shall update the dis-
16 tribution formula under this paragraph to re-
17 flect changes in each electricity local distribu-
18 tion company's service territory since the most
19 recent formula was established. For each suc-
20 cessive 3-year period, the Administrator shall
21 distribute allowances ratably among individual
22 electricity local distribution companies based on
23 the product of—

24 “(i) each electricity local distribution
25 company's average annual deliveries per

1 customer during calendar years 2006
2 through 2008, or during the 3 alternative
3 consecutive years selected by such company
4 under subparagraph (A); and

5 “(ii) the number of customers of such
6 electricity local distribution company in the
7 most recent year in which the formula is
8 updated under this subparagraph.

9 “(4) PROHIBITION AGAINST EXCESS DISTRIBUTIONS.—
10 The regulations promulgated under sub-
11 section (g) shall ensure that, notwithstanding para-
12 graphs (2) and (3), no electricity local distribution
13 company shall receive a greater quantity of allow-
14 ances under this subsection than is necessary to off-
15 set any increased electricity costs to such company’s
16 retail ratepayers, including increased costs attrib-
17 utable to purchased power costs, due to enactment
18 of this title. Any emission allowances withheld from
19 distribution to an electricity local distribution com-
20 pany pursuant to this paragraph shall be distributed
21 among all remaining electricity local distribution
22 companies ratably based on emissions pursuant to
23 paragraph (2).

24 “(5) USE OF ALLOWANCES.—

1 “(A) RATEPAYER BENEFIT.—Emission al-
2 lowances distributed to an electricity local dis-
3 tribution company under this subsection shall
4 be used exclusively for the benefit of retail rate-
5 payers of such electricity local distribution com-
6 pany and may not be used to support electricity
7 sales or deliveries to entities or persons other
8 than such ratepayers.

9 “(B) RATEPAYER CLASSES.—In using
10 emission allowances distributed under this sub-
11 section for the benefit of ratepayers, an elec-
12 tricity local distribution company shall ensure
13 that ratepayer benefits are distributed—

14 “(i) among ratepayer classes ratably
15 based on electricity deliveries to each class;
16 and

17 “(ii) equitably among individual rate-
18 payers within each ratepayer class, includ-
19 ing entities that receive emission allow-
20 ances pursuant to part F.

21 “(C) LIMITATION.—In general, an elec-
22 tricity local distribution company shall not use
23 the value of emission allowances distributed
24 under this subsection to provide to any rate-
25 payer a rebate that is based solely on the quan-

1 tity of electricity delivered to such ratepayer.
2 To the extent an electricity local distribution
3 company uses the value of emission allowances
4 distributed under this subsection to provide re-
5 bates, it shall, to the maximum extent prac-
6 ticable, provide such rebates with regard to the
7 fixed portion of ratepayers' bills or as a fixed
8 credit or rebate on electricity bills.

9 “(D) RESIDENTIAL AND INDUSTRIAL
10 RATEPAYERS.—Notwithstanding subparagraph
11 (C), if compliance with the requirements of this
12 title results (or would otherwise result) in an
13 increase in electricity costs for residential or in-
14 dustrial retail ratepayers of any given electricity
15 local distribution company (including entities
16 that receive emission allowances pursuant to
17 part F), such electricity local distribution com-
18 pany—

19 “(i) shall pass through to residential
20 retail ratepayers as a class their ratable
21 share (based on deliveries to each rate-
22 payer class) of the value of the emission al-
23 lowances that reduce electricity cost im-
24 pacts on such ratepayers; and

1 “(ii) shall pass through to industrial
2 ratepayers as a class their ratable share
3 (based on deliveries to each ratepayer
4 class) of the value of the emission allow-
5 ances that reduce electricity cost impacts
6 on such ratepayers. The electricity local
7 distribution company may do so based on
8 the quantity of electricity delivered to indi-
9 vidual industrial retail ratepayers.

10 “(E) GUIDELINES.—As part of the regula-
11 tions promulgated under subsection (g), the Ad-
12 ministrators shall, after consultation with State
13 and tribal regulatory authorities, prescribe
14 guidelines for the implementation of the re-
15 quirements of this paragraph. Such guidelines
16 shall include—

17 “(i) requirements to ensure that resi-
18 dential and industrial retail ratepayers (in-
19 cluding entities that receive emission allow-
20 ances under part F) receive their ratable
21 share of the value of the allowances dis-
22 tributed to each electricity local distribu-
23 tion company pursuant to this subsection;
24 and

1 “(ii) requirements for measurement,
2 verification, reporting, and approval of
3 methods used to assure the use of allow-
4 ance values to benefit retail ratepayers.

5 “(6) REGULATORY PROCEEDINGS.—

6 “(A) REQUIREMENT.—No electricity local
7 distribution company shall be eligible to receive
8 emission allowances under this subsection or
9 subsection (e) unless the State regulatory au-
10 thority with authority over such company’s re-
11 tail rates, or the entity with authority to regu-
12 late or set retail electricity rates of an elec-
13 tricity local distribution company not regulated
14 by a State regulatory authority, has—

15 “(i) after public notice and an oppor-
16 tunity for comment, promulgated a regula-
17 tion or completed a rate proceeding (or the
18 equivalent, in the case of a ratemaking en-
19 tity other than a State regulatory author-
20 ity) that provides for the full implementa-
21 tion of the requirements of paragraph (5)
22 of this subsection and the requirements of
23 subsection (e); and

24 “(ii) made available to the Adminis-
25 trator and the public a report describing,

1 in adequate detail, the manner in which
2 the requirements of paragraph (5) and the
3 requirements of subsection (e) will be im-
4 plemented.

5 “(B) UPDATING.—The Administrator shall
6 require, as a condition of continued receipt of
7 emission allowances under this subsection by an
8 electricity local distribution company, that a
9 new regulation be promulgated or rate pro-
10 ceeding be completed , after public notice and
11 an opportunity for comment, and a new report
12 be made available to the Administrator and the
13 public, pursuant to subparagraph (A), not less
14 frequently than every 5 years.

15 “(7) PLANS AND REPORTING.—

16 “(A) REGULATIONS.—As part of the regu-
17 lations promulgated under subsection (g), the
18 Administrator shall prescribe requirements gov-
19 erning plans and reports to be submitted in ac-
20 cordance with this paragraph.

21 “(B) PLANS.—Not later than April 30 of
22 2011 and every 5 years thereafter through
23 2026, each electricity local distribution com-
24 pany shall submit to the Administrator a plan,
25 approved by the State regulatory authority or

1 other entity charged with regulating tor setting
2 the retail rates of such company, describing
3 such company’s plans for the disposition of the
4 value of emission allowances to be received pur-
5 suant to this subsection and subsection (e), in
6 accordance with the requirements of this sub-
7 section and subsection (e). Such plan shall in-
8 clude a description of the manner in which the
9 company will provide to industrial retail rate-
10 payers (including entities that receive emission
11 allowances under part F) their ratable share of
12 the value of such allowances.

13 “(C) REPORTS.—Not later than June 30,
14 2013, and each calendar year thereafter
15 through 2031, each electricity local distribution
16 company shall submit a report to the Adminis-
17 trator, and to the relevant State regulatory au-
18 thority or other entity charged with regulating
19 or setting the retail electricity rates of such
20 company, describing the disposition of the value
21 of any emission allowances received by such
22 company in the prior calendar year pursuant to
23 this subsection and subsection (e), including—

24 “(i) a description of sales, transfer,
25 exchange, or use by the company for com-

1 pliance with obligations under this title, of
2 any such emission allowances;

3 “(ii) the monetary value received by
4 the company, whether in money or in some
5 other form, from the sale, transfer, or ex-
6 change of any such emission allowances;

7 “(iii) the manner in which the com-
8 pany’s disposition of any such emission al-
9 lowances complies with the requirements of
10 this subsection and of subsection (e), in-
11 cluding each of the requirements of para-
12 graph (5) of this subsection, including the
13 requirement that industrial retail rate-
14 payers (including entities that receive
15 emission allowances under part F) receive
16 their ratable share of the value of such al-
17 lowances; and

18 “(iv) such other information as the
19 Administrator may require pursuant to
20 subparagraph (A).

21 “(D) PUBLICATION.—The Administrator
22 shall make available to the public all plans and
23 reports submitted under this subsection, includ-
24 ing by publishing such plans and reports on the
25 Internet.

1 “(8) ADMINISTRATOR AUDIT REPORTS.—

2 “(A) IN GENERAL.—Each year, the Ad-
3 ministrator shall audit a representative sample
4 of electricity local distribution companies to en-
5 sure that emission allowances distributed under
6 this subsection have been used exclusively for
7 the benefit of retail ratepayers and that such
8 companies are complying with the requirements
9 of this subsection and of subsection (e), includ-
10 ing the requirement that residential and indus-
11 trial retail ratepayers (including entities that
12 receive emission allowances under part F) re-
13 ceive their ratable share of the value of such al-
14 lowances. The Administrator shall assess the
15 degree to which electric local distribution com-
16 panies have maintained a marginal electric
17 price signal while protecting consumers on total
18 cost using the value of emissions allowances. In
19 selecting companies for audit, the Adminis-
20 trator shall take into account any credible evi-
21 dence of noncompliance with such requirements.
22 The Administrator shall make available to the
23 public a report describing the results of each
24 such audit, including by publishing such report
25 on the Internet.

1 “(B) GAO AUDIT REPORT.—Not later
2 than April 30, 2015, and every 3 years there-
3 after through 2026, the Comptroller General of
4 the United States, incorporating results from
5 the Administrators’ audit report and other rel-
6 evant information including distribution com-
7 pany reports, shall conduct an in-depth evalua-
8 tion and make available to the public a report
9 on the investments made pursuant to paragraph
10 (5). Said report shall be made available to the
11 State regulatory authority, or the entity with
12 authority to regulate or set retail electricity
13 rates in the case of an electricity distribution
14 company that is not regulated by a State regu-
15 latory authority, and shall include a description
16 of how the distribution companies in the audit
17 meet or fail to meet the requirement of para-
18 graph (5), including for investments made in
19 cost-effective end-use energy efficiency pro-
20 grams, the lifetime and annual energy saving
21 benefits, and capacity benefits of said pro-
22 grams.

23 “(C) ADMINISTRATOR COST CONTAINMENT
24 REPORT.—Not later than April 30, 2015 and
25 every 3 years thereafter through 2026, the Ad-

1 administrator shall transmit a report to Congress
2 containing an evaluation of the disposition of
3 the value of emission allowances received pursu-
4 ant to this subsection and subsection (e) and
5 recommendations of ways to more effectively di-
6 rect the value of allowances to reduce costs for
7 consumers, contain the overall costs of the
8 greenhouse gas emissions reduction program,
9 and meet the pollution reduction targets of the
10 Act. The Administrator shall make available to
11 the public such report, including by publishing
12 such report on the Internet.

13 “(9) ENFORCEMENT.—A violation of any re-
14 quirement of this subsection or of subsection (e), ir-
15 respective of approval by a State regulatory author-
16 ity, shall be a violation of this Act. Each emission
17 allowance the value of which is used in violation of
18 the requirements of this subsection or of subsection
19 (e) shall be a separate violation.

20 “(c) MERCHANT COAL UNITS.—

21 “(1) QUALIFYING EMISSIONS.—The qualifying
22 emissions for a merchant coal unit for a given cal-
23 endar year shall be the product of the number of
24 megawatt hours of merchant coal unit sales gen-
25 erated by such unit in such calendar year and the

1 average carbon dioxide emissions per megawatt hour
2 generated by such unit during the base period under
3 paragraph (2), provided that the number of mega-
4 watt hours in a given calendar year for purposes of
5 such calculation shall be reduced in proportion to
6 the portion of such unit's carbon dioxide emissions
7 that are either—

8 “(A) captured and sequestered in such cal-
9 endar year; or

10 “(B) attributable to the combustion or gas-
11 ification of biomass, to the extent that the
12 owner or operator of the unit is not required to
13 hold emission allowances for such emissions.

14 “(2) BASE PERIOD.—For purposes of this sub-
15 section, the base period for a merchant coal unit
16 shall be—

17 “(A) calendar years 2006 through 2008; or

18 “(B) in the case of a new merchant coal
19 unit—

20 “(i) the first full calendar year of op-
21 eration of such unit, if such unit com-
22 mences operation before January 1, 2012;

23 “(ii) calendar year 2012, if such unit
24 commences operation on or after January
25 1, 2012, and before October 1, 2012; or

1 “(iii) calendar year 2013, if such unit
2 commences operation on or after October
3 1, 2012, and before January 1, 2013.

4 “(3) PHASE-DOWN SCHEDULE.—The Adminis-
5 trator shall identify an annual phase-down factor,
6 applicable to distributions to merchant coal units for
7 each of vintage years 2012 through 2029, that cor-
8 responds to the overall decline in the amount of
9 emission allowances allocated to the electricity sector
10 in such years pursuant to section 771(a)(1). Such
11 factor shall—

12 “(A) for vintage year 2012, be equal to
13 1.0;

14 “(B) for each of vintage years 2013
15 through 2029, correspond to the quotient of—

16 “(i) the quantity of emission allow-
17 ances allocated under section 771(a)(1) for
18 such vintage year; divided by

19 “(ii) the quantity of emission allow-
20 ances allocated under section 771(a)(1) for
21 vintage year 2012.

22 “(4) DISTRIBUTION OF EMISSION ALLOW-
23 ANCES.—Not later than March 1 of 2013 and each
24 calendar year through 2030, the Administrator shall
25 distribute emission allowances of the preceding vin-

1 tage year to the owner or operator of each merchant
2 coal unit described in subsection (a)(11)(C) in an
3 amount equal to the product of—

4 “(A) 0.5;

5 “(B) the qualifying emissions for such
6 merchant coal unit for the preceding year, as
7 determined under paragraph (1); and

8 “(C) the phase-down factor for the pre-
9 ceding calendar year, as identified under para-
10 graph (3).

11 “(5) ADJUSTMENT.—

12 “(A) STUDY.—Not later than 5 years after
13 the date of enactment of the Clean Energy Jobs
14 and American Power Act, the Administrator, in
15 consultation with the Federal Energy Regu-
16 latory Commission, shall issue a study to deter-
17 mine whether the allocation formula under
18 paragraph (3) is resulting in windfall profits to
19 merchant coal generators or substantially dis-
20 parate treatment of merchant coal generators
21 operating in different markets or regions.

22 “(B) REGULATION.—If the Administrator,
23 in consultation with the Federal Energy Regu-
24 latory Commission, makes an affirmative find-
25 ing of windfall profits or disparate treatment

1 under subparagraph (A), the Administrator
2 shall, not later than 18 months after the com-
3 pletion of the study described in subparagraph
4 (A), promulgate regulations providing for the
5 adjustment of the allocation formula under
6 paragraph (3) to mitigate, to the extent prac-
7 ticable, such windfall profits, if any, and such
8 disparate treatment, if any.

9 “(6) LIMITATION ON ALLOWANCES.—Notwith-
10 standing paragraph (4) or (5), for each vintage year
11 the Administrator shall distribute under this sub-
12 section no more than 10 percent of the total quan-
13 tity of emission allowances available for such vintage
14 year for distribution to the electricity sector under
15 section 771(a)(1). If the quantity of emission allow-
16 ances that would otherwise be distributed pursuant
17 to paragraph (4) or (5) for any vintage year would
18 exceed such limit, the Administrator shall distribute
19 10 percent of the total emission allowances available
20 for distribution under section 771(a)(1) for such vin-
21 tage year ratably among merchant coal generators
22 based on the applicable formula under paragraph (4)
23 or (5).

24 “(7) ELIGIBILITY.—The owner or operator of a
25 merchant coal unit shall not be eligible to receive

1 emission allowances under this subsection for any
2 vintage year for which such owner or operator has
3 elected to receive emission allowances for the same
4 unit under subsection (d).

5 “(d) LONG-TERM CONTRACT GENERATORS.—

6 “(1) DISTRIBUTION.—Not later than March 1,
7 2013, and each calendar year through 2030, the Ad-
8 ministrator shall distribute to the owner or operator
9 of each long-term contract generator a quantity of
10 emission allowances of the preceding vintage year
11 that is equal to the sum of—

12 “(A) the number of tons of carbon dioxide
13 emitted as a result of a qualifying electricity
14 sales agreement referred to in subsection
15 (a)(10)(B)(i); and

16 “(B) the incremental number of tons of
17 carbon dioxide emitted solely as a result of a
18 qualifying thermal sales agreement referred to
19 in subsection (a)(10)(B)(ii), provided that in no
20 event shall the Administrator distribute more
21 than 1 emission allowance for the same ton of
22 emissions.

23 “(2) LIMITATION ON ALLOWANCES.—

24 “(A) IN GENERAL.—Notwithstanding para-
25 graph (1), for each vintage year the Adminis-

1 trator shall distribute under this subsection no
2 more than 4.3 percent of the total quantity of
3 emission allowances available for such vintage
4 year for distribution to the electricity sector
5 under section 771(a)(1).

6 “(B) FUTURE VINTAGE YEAR ALLOW-
7 ANCES.—

8 “(i) IN GENERAL.—To the extent that
9 any quantity of allowances that would oth-
10 erwise be distributed pursuant to para-
11 graph (1) would exceed 4.3 percent in any
12 vintage year, the Administrator shall dis-
13 tribute future vintage year allowances re-
14 served for long-term contract generators
15 under this section to satisfy any such
16 shortfall in available allowances, subject to
17 projections by the Administrator of re-
18 quired allowance needs for long-term con-
19 tract generators in future vintage years.

20 “(ii) MAINTENANCE OF YEAR.—Fu-
21 ture vintage year allowances distributed
22 pursuant to this subsection shall maintain
23 the future vintage year assigned to those
24 allowances.

1 “(C) SHORTFALL.—If the quantity of
2 emission allowances that would otherwise be
3 distributed pursuant to paragraph (1) for any
4 vintage year would result in a shortfall based on
5 a consideration of available allowances under
6 this subsection over the entire allocation period,
7 as determined by the Administrator, the Ad-
8 ministrators shall distribute the emission allow-
9 ances available for distribution under section
10 771(a)(1) for such vintage year ratably among
11 long-term contract generators in accordance
12 with paragraph (1).

13 “(3) ELIGIBILITY.—

14 “(A) FACILITY ELIGIBILITY.—The owner
15 or operator of a facility shall cease to be eligible
16 to receive emission allowances under this sub-
17 section upon the earliest date on which the fa-
18 cility no longer meets each and every element of
19 the definition of a long-term contract generator
20 under subsection (a)(10).

21 “(B) CONTRACT ELIGIBILITY.—The owner
22 or operator of a facility shall cease to be eligible
23 to receive emission allowances under this sub-
24 section based on an electricity or thermal sales

1 agreement referred to in subsection (a)(10)(B)
2 upon the earliest date that such agreement—

3 “(i) expires;

4 “(ii) is terminated; or

5 “(iii) is amended in any way that
6 changes the location of the facility, the
7 price (whether a fixed price or price for-
8 mula) for electricity or thermal energy sold
9 under such agreement, the quantity of
10 electricity or thermal energy sold under the
11 agreement, or the expiration or termi-
12 nation date of the agreement.

13 “(4) DEMONSTRATION OF ELIGIBILITY.—To be
14 eligible to receive allowance distributions under this
15 subsection, the owner or operator of a long-term
16 contract generator shall submit each of the following
17 in writing to the Administrator within 180 days
18 after the date of enactment of this title, and not
19 later than September 30 of each vintage year for
20 which such generator wishes to receive emission al-
21 lowances:

22 “(A) A certificate of representation de-
23 scribed in section 700(15).

24 “(B) An identification of each owner and
25 each operator of the facility.

1 “(C) An identification of the units at the
2 facility and the location of the facility.

3 “(D) A written certification by the des-
4 igned representative that the facility meets all
5 the requirements of the definition of a long-
6 term contract generator.

7 “(E) The expiration date of each quali-
8 fying electricity or thermal sales agreement re-
9 ferred to in subsection (a)(10)(B).

10 “(F) A copy of each qualifying electricity
11 or thermal sales agreement referred to in sub-
12 section (a)(10)(B).

13 “(5) NOTIFICATION.—Not later than 30 days
14 after, in accordance with paragraph (3), a facility or
15 an agreement ceases to meet the eligibility require-
16 ments for distribution of emission allowances pursu-
17 ant to this subsection, the designated representative
18 of such facility shall notify the Administrator in
19 writing when, and on what basis, such facility or
20 agreement ceased to meet such requirements.

21 “(e) SMALL LDCs.—

22 “(1) DISTRIBUTION.—The Administrator shall,
23 in accordance with this subsection, distribute emis-
24 sion allowances allocated pursuant to section
25 771(a)(1)(B) for the following vintage year. Such al-

1 allowances shall be distributed ratably among small
2 LDCs based on historic emissions in accordance with
3 the same measure of such emissions applied to each
4 such small LDC for the relevant vintage year under
5 subsection (b)(2) of this section.

6 “(2) USES.—A small LDC receiving allowances
7 under this section shall use such allowances exclu-
8 sively for the following purposes:

9 “(A) Cost-effective programs to achieve
10 electricity savings, provided that such savings
11 shall not be transferred or used for compliance
12 with any renewable electricity standard estab-
13 lished under the Public Utility Regulatory Poli-
14 cies Act of 1978 (16 U.S.C. 2601 et seq.).

15 “(B) Deployment of technologies to gen-
16 erate electricity from renewable energy re-
17 sources, provided that any Federal renewable
18 electricity credits issued based on generation
19 supported under this section shall be submitted
20 to the Federal Energy Regulatory Commission
21 for voluntary retirement and shall not be used
22 for compliance with the Public Utility Regu-
23 latory Policies Act of 1978 (16 U.S.C. 2601 et
24 seq.).

1 “(C) Assistance programs to reduce elec-
2 tricity costs for low-income residential rate-
3 payers of such small LDC, provided that such
4 assistance is made available equitably to all res-
5 idential ratepayers below a certain income level,
6 which shall not be higher than 200 percent of
7 the poverty line (as that term is defined in sec-
8 tion 673(2) of the Community Services Block
9 Grant Act (42 U.S.C. 9902(2)).

10 “(D) Costs of compliance associated with
11 the enactment of this title.

12 “(3) REQUIREMENTS.—As part of the regula-
13 tions promulgated under subsection (g), the Admin-
14 istrator shall prescribe—

15 “(A) after consultation with the Federal
16 Energy Regulatory Commission, requirements
17 to ensure that programs and projects under
18 paragraph (2)(A) and (B) are consistent with
19 the standards established by, and effectively
20 supplement electricity savings and generation of
21 electricity from renewable energy resources
22 achieved by, the Combined Efficiency and Re-
23 newable Electricity Standard established by
24 law;

1 “(B) eligibility criteria and guidelines for
2 consumer assistance programs for low-income
3 residential ratepayers under paragraph (2)(C);
4 and

5 “(C) such other requirements as the Ad-
6 ministrator determines appropriate to ensure
7 compliance with the requirements of this sub-
8 section.

9 “(4) REPORTING.—Reports submitted under
10 subsection (b)(7) shall include, in accordance with
11 such requirements as the Administrator may pre-
12 scribe—

13 “(A) a description of any facilities de-
14 ployed under paragraph (2)(A), the quantity of
15 resulting electricity generation from renewable
16 energy resources;

17 “(B) an assessment demonstrating the
18 cost-effectiveness of, and electricity savings
19 achieved by, programs supported under para-
20 graph (2)(B); and

21 “(C) a description of assistance provided to
22 low-income retail ratepayers under paragraph
23 (2)(C).

24 “(f) RURAL ELECTRIC COOPERATIVES, CONSUMER,
25 OR PUBLICLY OWNED SMALL LDCs.—

1 “(1) DISTRIBUTION.—

2 “(A) IN GENERAL.—The Administrator
3 shall, in accordance with this subsection, dis-
4 tribute emission allowances allocated pursuant
5 to section 771(d)(7) for the following vintage
6 year.

7 “(B) METHOD.—Allowances described in
8 subparagraph (A) shall be distributed ratably,
9 among rural electric cooperatives and con-
10 sumer-owned or publicly owned electricity local
11 distribution companies that meet the definition
12 of the term ‘small LDC’ based on historic emis-
13 sions, in accordance with the same measure of
14 those emissions applied to each such rural elec-
15 tric cooperative for the relevant vintage year
16 under subsection (b)(2).

17 “(2) USES.—A small LDC receiving allowances
18 under this section shall use the allowances only
19 for—

20 “(A) cost-effective programs to achieve
21 electricity savings, on the condition that such
22 savings shall not be transferred or used for
23 compliance with any renewable electricity stand-
24 ard established under the Public Utility Regu-

1 latory Policies Act of 1978 (16 U.S.C. 2601 et
2 seq.);

3 “(B) deployment of technologies to gen-
4 erate electricity from renewable energy re-
5 sources, on the condition that any Federal re-
6 newable electricity credits issued based on gen-
7 eration supported under this section shall—

8 “(i) be submitted to the Federal En-
9 ergy Regulatory Commission for voluntary
10 retirement; and

11 “(ii) not be used for compliance with
12 the Public Utility Regulatory Policies Act
13 of 1978 (16 U.S.C. 2601 et seq.); and

14 “(C) assistance programs to reduce elec-
15 tricity costs for low-income residential rate-
16 payers of the small LDC, on the condition that
17 the assistance is made available equitably to all
18 residential ratepayers below a certain income
19 level, which shall not be higher than 200 per-
20 cent of the poverty line (as defined in section
21 673 of the Community Services Block Grant
22 Act (42 U.S.C. 9902).

23 “(g) REGULATIONS.—Not later than 2 years after
24 the date of enactment of this title, the Administrator, in
25 consultation with the Federal Energy Regulatory Commis-

1 sion, shall promulgate regulations to implement the re-
2 quirements of this section.

3 **“SEC. 773. NATURAL GAS CONSUMERS.**

4 “(a) DEFINITION.—For purposes of this section, the
5 term ‘cost-effective’, with respect to an energy efficiency
6 program, means that the program meets the Total Re-
7 source Cost Test, which requires that the net present
8 value of economic benefits over the life of the program,
9 including avoided supply and delivery costs and deferred
10 or avoided investments, is greater than the net present
11 value of the economic costs over the life of the program,
12 including program costs and incremental costs borne by
13 the energy consumer.

14 “(b) ALLOCATION.—Not later than June 30, 2015,
15 and each calendar year thereafter through 2028, the Ad-
16 ministrator shall distribute to natural gas local distribu-
17 tion companies for the benefit of retail ratepayers the
18 quantity of emission allowances allocated for the following
19 vintage year pursuant to section 771(a)(2). Such allow-
20 ances shall be distributed among local natural gas dis-
21 tribution companies based on the following formula:

22 “(1) INITIAL FORMULA.—Except as provided in
23 paragraph (2), for each vintage year, the Adminis-
24 trator shall distribute emission allowances among
25 natural gas local distribution companies on a pro

1 rata basis based on each such company's annual av-
2 erage retail natural gas deliveries for 2006 through
3 2008, unless the owner or operator of the company
4 selects 3 other consecutive years between 1999 and
5 2008, inclusive, and timely notifies the Adminis-
6 trator of its selection.

7 “(2) UPDATING.—Prior to distributing 2019
8 vintage emission allowances and at 3-year intervals
9 thereafter, the Administrator shall update the dis-
10 tribution formula under this subsection to reflect
11 changes in each natural gas local distribution com-
12 pany's service territory since the most recent for-
13 mula was established. For each successive 3-year pe-
14 riod, the Administrator shall distribute allowances
15 on a pro rata basis among natural gas local distribu-
16 tion companies based on the product of—

17 “(A) each natural gas local distribution
18 company's average annual natural gas deliveries
19 per customer during calendar years 2006
20 through 2008, or during the 3 alternative con-
21 secutive years selected by such company under
22 paragraph (1); and

23 “(B) the number of customers of such nat-
24 ural gas local distribution company in the most

1 recent year in which the formula is updated
2 under this paragraph.

3 “(c) USE OF ALLOWANCES.—

4 “(1) RATEPAYER BENEFIT.—Emission allow-
5 ances distributed to a natural gas local distribution
6 company under this section shall be used exclusively
7 for the benefit of retail ratepayers of such natural
8 gas local distribution company and may not be used
9 to support natural gas sales or deliveries to entities
10 or persons other than such ratepayers.

11 “(2) RATEPAYER CLASSES.—In using emission
12 allowances distributed under this section for the ben-
13 efit of ratepayers, a natural gas local distribution
14 company shall ensure that ratepayer benefits are
15 distributed—

16 “(A) among ratepayer classes on a pro
17 rata basis based on natural gas deliveries to
18 each class; and

19 “(B) equitably among individual ratepayers
20 within each ratepayer class.

21 “(3) LIMITATION.—A natural gas local dis-
22 tribution company shall not use the value of emis-
23 sion allowances distributed under this section to pro-
24 vide to any ratepayer a rebate that is based solely
25 on the quantity of natural gas delivered to such

1 ratepayer. To the extent a natural gas local distribu-
2 tion company uses the value of emission allowances
3 distributed under this section to provide rebates, it
4 shall, to the maximum extent practicable, provide
5 such rebates with regard to the fixed portion of rate-
6 payers' bills or as a fixed creditor rebate on natural
7 gas bills.

8 “(4) ENERGY EFFICIENCY PROGRAMS.—The
9 value of no less than one-third of the emission allow-
10 ances distributed to natural gas local distribution
11 companies pursuant to this section in any calendar
12 year shall be used for cost-effective energy efficiency
13 programs for natural gas consumers. Such programs
14 must be authorized and overseen by the State regu-
15 latory authority, or by the entity with regulatory au-
16 thority over retail natural gas rates in the case of
17 a natural gas local distribution company that is not
18 regulated by a State regulatory authority.

19 “(5) CERTAIN INTRACOMPANY DELIVERIES.—If
20 a natural gas local distribution company makes an
21 intracompany delivery of natural gas to a customer
22 that is not a covered entity, for which such company
23 is required to hold emission allowances under section
24 722, such customer shall, for purposes of this sec-
25 tion, be considered to be a retail ratepayer and a

1 member of a ratepayer class to be determined by the
2 relevant State regulatory authority (or other entity
3 with authority to regulate or set natural gas rates,
4 in the case of a company not regulated by a State
5 regulatory authority).

6 “(6) GUIDELINES.—As part of the regulations
7 promulgated under subsection (h), the Administrator
8 shall prescribe specific guidelines for the implemen-
9 tation of the requirements of this subsection.

10 “(d) REGULATORY PROCEEDINGS.—

11 “(1) REQUIREMENT.—No natural gas local dis-
12 tribution company shall be eligible to receive emis-
13 sion allowances under this section unless the State
14 regulatory authority with authority over such com-
15 pany, or the entity with authority to regulate retail
16 rates of a natural gas local distribution company not
17 regulated by a State regulatory authority, has—

18 “(A) promulgated a regulation or com-
19 pleted a rate proceeding (or the equivalent, in
20 the case of a ratemaking entity other than a
21 State regulatory authority) that provides for
22 the full implementation of the requirements of
23 subsection (c); and

24 “(B) made available to the Administrator
25 and the public a report describing, in adequate

1 detail, the manner in which the requirements of
2 subsection (c) will be implemented.

3 “(2) UPDATING.—The Administrator shall re-
4 quire, as a condition of continued receipt of emission
5 allowances under this section, that a new regulation
6 be promulgated or rule proceeding be completed, and
7 a new report be made available to the Administrator
8 and the public, pursuant to paragraph (1), not less
9 frequently than every 5 years.

10 “(e) PLANS AND REPORTING.—

11 “(1) REGULATIONS.—As part of the regulations
12 promulgated under subsection (h), the Administrator
13 shall prescribe requirements governing plans and re-
14 ports to be submitted in accordance with this sub-
15 section.

16 “(2) PLANS.—Not later than April 30, 2015,
17 and every 5 years thereafter through 2025, each
18 natural gas local distribution company shall submit
19 to the Administrator a plan, approved by the State
20 regulatory authority or other entity charged with
21 regulating the retail rates of such company, describ-
22 ing such company’s plans for the disposition of the
23 value of emission allowances to be received pursuant
24 to this section, in accordance with the requirements
25 of this section.

1 “(3) REPORTS.—Not later than June 30, 2017,
2 and each calendar year thereafter through 2031,
3 each natural gas local distribution company shall
4 submit a report to the Administrator, approved by
5 the relevant State regulatory authority or other enti-
6 ty charged with regulating the retail natural gas
7 rates of such company, describing the disposition of
8 the value of any emission allowances received by
9 such company in the prior calendar year pursuant to
10 this subsection, including—

11 “(A) a description of sales, transfer, ex-
12 change, or use by the company for compliance
13 with obligations under this title, of any such
14 emission allowances;

15 “(B) the monetary value received by the
16 company, whether in money or in some other
17 form, from the sale, transfer, or exchange of
18 emission allowances received by the company
19 under this section;

20 “(C) the manner in which the company’s
21 disposition of emission allowances received
22 under this subsection complies with the require-
23 ments of this section, including each of the re-
24 quirements of subsection (c);

1 “(D) the cost-effectiveness of, and energy
2 savings achieved by, energy efficiency programs
3 supported through such emission allowances;
4 and

5 “(E) such other information as the Admin-
6 istrator may require pursuant to paragraph (1).

7 “(4) PUBLICATION.—The Administrator shall
8 make available to the public all plans and reports
9 submitted by natural gas local distribution compa-
10 nies under this subsection, including by publishing
11 such plans and reports on the Internet.

12 “(f) AUDITING.—

13 “(1) ADMINISTRATOR AUDIT REPORT.—Each
14 year, the Administrator shall audit a significant rep-
15 resentative sample of natural gas local distribution
16 companies to ensure that emission allowances dis-
17 tributed under this section have been used exclu-
18 sively for the benefit of retail ratepayers and that
19 such companies are complying with the requirements
20 of this section. In selecting companies for audit, the
21 Administrator shall take into account any credible
22 evidence of noncompliance with such requirements.
23 The Administrator shall make available to the public
24 a report describing the results of each such audit,
25 including by publishing such report on the Internet.

1 “(2) GAO AUDIT REPORT.—Not later April 30,
2 2015 and every 3 years thereafter through April 30,
3 2026, the Comptroller General of the United States,
4 incorporating results from the Administrators’ audit
5 report and other relevant information including dis-
6 tribution company reports, shall conduct an in-depth
7 evaluation and make available to the public a report
8 on the investments made pursuant to subsection (c).
9 Said report shall be made available to the State reg-
10 ulatory authority, or the entity with authority to
11 regulate or set retail natural gas rates in the case
12 of a natural gas distribution company that is not
13 regulated by a State regulatory authority, and shall
14 include a description how the distribution companies
15 in the audit meet or fail to meet the requirement of
16 subsection (c), including for investments made in
17 cost-effective end-use energy efficiency programs, the
18 lifetime and annual energy saving benefits, and ca-
19 pacity benefits of said programs.

20 “(3) ADMINISTRATOR COST CONTAINMENT RE-
21 PORT.—Not later April 30, 2015, and every 3 years
22 thereafter through April 30, 2026, the Adminis-
23 trator shall transmit a report to Congress containing
24 an evaluation of the disposition of the value of emis-
25 sion allowances received pursuant to this subsection

1 and recommendations of ways to more effectively di-
2 rect the value of allowances to reduce costs for con-
3 sumers, contain the overall costs of the greenhouse
4 gas emissions reduction program, and meet the pol-
5 lution reduction targets of the Act. The Adminis-
6 trator shall make available to the public such report,
7 including by publishing such report on the Internet.

8 “(g) ENFORCEMENT.—A violation of any require-
9 ment of this section, irrespective of approval by a State
10 regulatory authority, shall be a violation of this Act. Each
11 emission allowance the value of which is used in violation
12 of the requirements of this section shall be a separate vio-
13 lation.

14 “(h) REGULATIONS.—Not later than January 1,
15 2014, the Administrator, in consultation with the Federal
16 Energy Regulatory Commission, shall promulgate regula-
17 tions to implement the requirements of this section.

18 **“SEC. 774. HOME HEATING OIL AND PROPANE CONSUMERS.**

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

20 “(1) CARBON CONTENT.—The term ‘carbon
21 content’ means the amount of carbon dioxide that
22 would be emitted as a result of the combustion of a
23 fuel.

1 “(2) COST-EFFECTIVE.—The term ‘cost-effec-
2 tive’ has the meaning given that term in section
3 773(a).

4 “(b) ALLOCATION.—The Administrator shall dis-
5 tribute among the States, in accordance with this section,
6 the quantity of emission allowances allocated pursuant to
7 section 771(a)(3). The Administrator shall distribute a
8 percentage of such allowances determined by the Adminis-
9 trator, after consultation with the Secretary of the Inte-
10 rior, pursuant to subsection (f).

11 “(c) DISTRIBUTION AMONG STATES.—The Adminis-
12 trator shall distribute emission allowances among the
13 States under this section each year on a pro rata basis
14 based on the ratio of—

15 “(1) the carbon content of home heating oil and
16 propane sold to consumers within each State in the
17 preceding year for residential or commercial uses; to

18 “(2) the carbon content of home heating oil and
19 propane sold to consumers within the United States
20 in the preceding year for residential or commercial
21 uses.

22 “(d) USE OF ALLOWANCES.—

23 “(1) IN GENERAL.—States shall use emission
24 allowances distributed under this section exclusively
25 for the benefit of consumers of home heating oil or

1 propane for residential or commercial purposes.

2 Such proceeds shall be used exclusively for—

3 “(A) cost-effective energy efficiency pro-
4 grams for consumers that use home heating oil
5 or propane for residential or commercial pur-
6 poses; or

7 “(B) rebates or other direct financial as-
8 sistance programs for consumers of home heat-
9 ing oil or propane used for residential or com-
10 mercial purposes.

11 “(2) ADMINISTRATION AND DELIVERY MECHA-
12 NISMS.—In administering programs supported by
13 this section, States shall—

14 “(A) use no less than 50 percent of the
15 value of emission allowances received under this
16 section for cost-effective energy efficiency pro-
17 grams to reduce consumers’ overall fuel costs;

18 “(B) to the extent practicable, deliver con-
19 sumer support under this section through exist-
20 ing energy efficiency and consumer energy as-
21 sistance programs or delivery mechanisms, in-
22 cluding, where appropriate, programs or mecha-
23 nisms administered by parties other than the
24 State; and

1 “(C) seek to coordinate the administration
2 and delivery of energy efficiency and consumer
3 energy assistance programs supported under
4 this section, with one another and with existing
5 programs for various fuel types, so as to deliver
6 comprehensive, fuel-blind, coordinated programs
7 to consumers.

8 “(e) REPORTING.—Each State receiving emission al-
9 lowances under this section shall submit to the Adminis-
10 trator, within 12 months of each receipt of such allow-
11 ances, a report, in accordance with such requirements as
12 the Administrator may prescribe, that—

13 “(1) describes the State’s use of emission allow-
14 ances distributed under this section, including a de-
15 scription of the energy efficiency and consumer as-
16 sistance programs supported with such allowances;

17 “(2) demonstrates the cost-effectiveness of, and
18 the energy savings achieved by, energy efficiency
19 programs supported under this section; and

20 “(3) includes a report prepared by an inde-
21 pendent third party, in accordance with such regula-
22 tions as the Administrator may promulgate, evalu-
23 ating the performance of the energy efficiency and
24 consumer assistance programs supported under this
25 section.

1 “(f) DISTRIBUTION TO INDIAN TRIBES.—Not later
2 than 18 months after the date of enactment of this title,
3 the Administrator shall, in consultation with the Secretary
4 of the Interior and Indian tribes, promulgate regulations
5 establishing a program to distribute the emission allow-
6 ances made available to Indian tribes under this section.

7 “(g) ENFORCEMENT.—

8 “(1) IN GENERAL.—If the Administrator deter-
9 mines that a State or Indian tribe is not in compli-
10 ance with this section, the Administrator may with-
11 hold a portion of the emission allowances, the quan-
12 tity of which is equal to up to twice the quantity of
13 the allowances that the State or Indian tribe failed
14 to use in accordance with the requirements of this
15 section, that such State or Indian tribe would other-
16 wise be eligible to receive under this section in later
17 years.

18 “(2) WITHHELD ALLOWANCES.—

19 “(A) STATES.—Allowances withheld from
20 States pursuant to this subsection shall be dis-
21 tributed among the remaining States on a pro
22 rata basis in accordance with the formula in
23 subsection (c).

24 “(B) INDIAN TRIBES.—Allowances with-
25 held from Indian tribes pursuant to this sub-

1 section shall be distributed among the remain-
2 ing Indian tribes on a pro rata basis in accord-
3 ance with the program established under sub-
4 section (f).

5 **“SEC. 775. DOMESTIC FUEL PRODUCTION.**

6 “(a) PURPOSE.—The purpose of this section is to
7 provide emission allowance rebates to petroleum refineries
8 in the United States in a manner that promotes energy
9 efficiency and a reduction in greenhouse gas emissions at
10 such facilities.

11 “(b) DEFINITIONS.—In this section:

12 “(1) EMISSIONS.—The term ‘emissions’ in-
13 cludes direct emissions from fuel combustion, proc-
14 ess emissions, and indirect emissions from the gen-
15 eration of electricity, steam, and hydrogen used to
16 produce the output of a petroleum refinery or the
17 petroleum refinery sector.

18 “(2) PETROLEUM REFINERY.—The term ‘petro-
19 leum refinery’ means a facility classified under code
20 324110 of the North American Industrial Classifica-
21 tion System of 2002.

22 “(3) SMALL BUSINESS REFINER.—The term
23 ‘small business refiner’ means a refiner that meets
24 the applicable Federal refinery capacity and em-
25 ployee limitations criteria described in section

1 45H(c)(1) of the Internal Revenue Code of 1986 (as
2 in effect on the date of enactment of this section and
3 without regard to section 45H(d)). Eligibility of a
4 small business refiner under this paragraph shall not
5 be recalculated or disallowed on account of (i) its
6 merger with another small business refiner or refin-
7 ers after December 31, 2002 or (ii) its acquisition
8 of another small business refiner (or refinery of such
9 refiner) after December 31, 2002.

10 “(c) DISTRIBUTION OF ALLOWANCES.—The Admin-
11 istrator shall distribute allowances pursuant to this section
12 to owners and operators of petroleum refineries, including
13 small business refiners, in the United States.

14 “(d) DISTRIBUTION SCHEDULE.—The Administrator
15 shall distribute emission allowances pursuant to the regu-
16 lations issued under subsection (e) for each vintage year
17 no later than October 31 of the preceding calendar year.

18 “(e) REGULATIONS.—

19 “(1) IN GENERAL.—Not later than 3 years
20 after the date of enactment of this title, the Admin-
21 istrator, in consultation with the Administrator of
22 the Energy Information Administration, shall pro-
23 mulgate regulations in accordance with the purpose
24 of this section that establish separate formulas for
25 distribution of emission allowances provided to—

1 “(A) petroleum refineries pursuant to sec-
2 tion 771(a)(4)(A); and

3 “(B) small business refiners pursuant to
4 section 771(a)(4)(B).

5 “(2) CONSIDERATIONS.—In establishing the
6 formulas under paragraph (1), the Administrator
7 shall consider—

8 “(A) the relative complexity of refinery
9 processes and appropriate mechanisms to take
10 energy efficiency and greenhouse gas reductions
11 into account;

12 “(B) direct emissions from fuel combus-
13 tion;

14 “(C) process emissions;

15 “(D) indirect emissions for the generation
16 of electricity, steam, and hydrogen used to
17 produce the output of a petroleum refinery; and

18 “(E) emissions from the combustion of
19 products produced at a petroleum refinery or by
20 the petroleum refinery sector.

21 “(3) EXCESS DISTRIBUTION.—If the electricity
22 provider for a petroleum refinery received a free allo-
23 cation of emission allowances pursuant to section
24 771(a)(1), the Administrator shall take the free allo-
25 cation into account when establishing the applicable

1 formula under this subsection to avoid rebates to a
2 petroleum refinery for costs that the Administrator
3 determines were not incurred by the petroleum refin-
4 ery because the allowances were—

5 “(A) freely allocated to the electricity pro-
6 vider of the petroleum refinery; and

7 “(B) used for the benefit of the petroleum
8 refinery.

9 **“SEC. 776. CONSUMER PROTECTION.**

10 “(a) CONSUMER REBATES.—

11 “(1) ESTABLISHMENT OF FUND.—There is es-
12 tablished in the Treasury a separate account, to be
13 known as the ‘Consumer Rebate Fund’).

14 “(2) AVAILABILITY OF AMOUNTS.—All amounts
15 deposited in the Consumer Rebate Fund shall be
16 available without further appropriation or fiscal year
17 limitation.

18 “(3) DISTRIBUTION OF AMOUNTS.—Beginning
19 in 2026, for each year after deposits are made in the
20 Consumer Rebate Fund pursuant to section
21 771(b)(2)(A), the President shall use the funds in
22 accordance with Federal statutory authority to pro-
23 vide relief to consumers and others affected by the
24 enactment of the Clean Energy Jobs and American
25 Power Act (and amendments made by that Act).

1 “(b) ENERGY REFUND PROGRAM.—

2 “(1) ESTABLISHMENT OF FUND.—There is es-
3 tablished in the Treasury a separate account, to be
4 known as the ‘Energy Refund Account’).

5 “(2) AVAILABILITY OF AMOUNTS.—All amounts
6 deposited in the Energy Refund Account shall be
7 available without further appropriation or fiscal year
8 limitation.

9 “(3) DISTRIBUTION OF AMOUNTS.—For each
10 year after deposits are made to the Energy Refund
11 Account pursuant to section 771(b)(2)(B), the
12 President shall use the funds in accordance with
13 Federal statutory authority to offset energy cost im-
14 pacts on low- and moderate-income households.

15 **“SEC. 777. EXCHANGE FOR STATE-ISSUED ALLOWANCES.**

16 “(a) IN GENERAL.—Not later than 1 year after the
17 date of enactment of this title, the Administrator shall
18 issue regulations allowing any person in the United States
19 to exchange greenhouse gas emission allowances issued be-
20 fore the later of December 31, 2011, or the date that is
21 9 months after the first auction under section 778, by the
22 State of California or for the Regional Greenhouse Gas
23 Initiative, or the Western Climate Initiative (in this sec-
24 tion referred to as ‘State allowances’) for emission allow-

1 ances established by the Administrator under section
2 721(a).

3 “(b) REGULATIONS.—Regulations issued under sub-
4 section (a) shall—

5 “(1) provide that a person exchanging State al-
6 lowances under this section receive emission allow-
7 ances established under section 721(a) in the
8 amount that is sufficient to compensate for the cost
9 of obtaining and holding such State allowances;

10 “(2) establish a deadline by which persons must
11 exchange the State allowances;

12 “(3) provide that the Federal emission allow-
13 ances disbursed pursuant to this section shall be de-
14 ducted from the allowances to be auctioned pursuant
15 to section 771(b); and

16 “(4) require that, once exchanged, the credit or
17 other instrument be retired for purposes of use
18 under the program by or for which it was originally
19 issued.

20 “(c) COST OF OBTAINING STATE ALLOWANCE.—For
21 purposes of this section, the cost of obtaining a State al-
22 lowance shall be the average auction price, for emission
23 allowances issued in the year in which the State allowance
24 was issued, under the program under which the State al-
25 lowance was issued.

1 **“SEC. 778. AUCTION PROCEDURES.**

2 “(a) IN GENERAL.—To the extent that auctions of
3 emission allowances by the Administrator are authorized
4 by this part, such auctions shall be carried out pursuant
5 to this section and the regulations established hereunder.

6 “(b) INITIAL REGULATIONS.—Not later than 12
7 months after the date of enactment of this title, the Ad-
8 ministrator, in consultation with other agencies, as appro-
9 priate, shall promulgate regulations governing the auction
10 of allowances under this section. Such regulations shall in-
11 clude the following requirements:

12 “(1) FREQUENCY; FIRST AUCTION.—Auctions
13 shall be held four times per year at regular intervals,
14 with the first auction to be held no later than March
15 31, 2011.

16 “(2) AUCTION SCHEDULE; CURRENT AND FU-
17 TURE VINTAGES.—The Administrator shall, at each
18 quarterly auction under this section, offer for sale
19 both a portion of the allowances with the same vin-
20 tage year as the year in which the auction is being
21 conducted and a portion of the allowances with vin-
22 tage years from future years. The preceding sen-
23 tence shall not apply to auctions held before 2012,
24 during which period, by necessity, the Administrator
25 shall auction only allowances with a vintage year
26 that is later than the year in which the auction is

1 held. Beginning with the first auction and at each
2 quarterly auction held thereafter, the Administrator
3 may offer for sale allowances with vintage years of
4 up to 4 years after the year in which the auction is
5 being conducted.

6 “(3) AUCTION FORMAT.—Auctions shall follow
7 a single-round, sealed-bid, uniform price format.

8 “(4) PARTICIPATION; FINANCIAL ASSURANCE.—
9 Auctions shall be open to any person, except that
10 the Administrator may establish financial assurance
11 requirements to ensure that auction participants can
12 and will perform on their bids.

13 “(5) DISCLOSURE OF BENEFICIAL OWNER-
14 SHIP.—Each bidder in the auction shall be required
15 to disclose the person or entity sponsoring or bene-
16 fitting from the bidder’s participation in the auction
17 if such person or entity is, in whole or in part, other
18 than the bidder.

19 “(6) PURCHASE LIMITS.—No person may, di-
20 rectly or in concert with another participant, pur-
21 chase more than 5 percent of the allowances offered
22 for sale at any quarterly auction.

23 “(7) PUBLICATION OF INFORMATION.—After
24 the auction, the Administrator shall, in a timely
25 fashion, publish the identities of winning bidders,

1 the quantity of allowances obtained by each winning
2 bidder, and the auction clearing price.

3 “(8) OTHER REQUIREMENTS.—The Adminis-
4 trator may include in the regulations such other re-
5 quirements or provisions as the Administrator, in
6 consultation with other agencies, as appropriate,
7 considers appropriate to promote effective, efficient,
8 transparent, and fair administration of auctions
9 under this section.

10 “(c) REVISION OF REGULATIONS.—The Adminis-
11 trator may, in consultation with other agencies, as appro-
12 priate, at any time, revise the initial regulations promul-
13 gated under subsection (b) by promulgating new regula-
14 tions. Such revised regulations need not meet the require-
15 ments identified in subsection (b) if the Administrator de-
16 termines that an alternative auction design would be more
17 effective, taking into account factors including costs of ad-
18 ministration, transparency, fairness, and risks of collusion
19 or manipulation. In determining whether and how to re-
20 vise the initial regulations under this subsection, the Ad-
21 ministrator shall not consider maximization of revenues to
22 the Federal Government.

23 “(d) RESERVE AUCTION PRICE.—The minimum re-
24 serve auction price shall be \$10 (in constant 2005 dollars)
25 for auctions occurring in 2012. The minimum reserve

1 price for auctions occurring in years after 2012 shall be
2 the minimum reserve auction price for the previous year
3 increased by 5 percent plus the rate of inflation (as meas-
4 ured by the Consumer Price Index for all urban con-
5 sumers).

6 “(e) DELEGATION OR CONTRACT.—Pursuant to reg-
7 ulations under this section, the Administrator may by del-
8 egation or contract provide for the conduct of auctions
9 under the Administrator’s supervision by other depart-
10 ments or agencies of the Federal Government or by non-
11 governmental agencies, groups, or organizations.

12 “(f) SMALL BUSINESS REFINER RESERVE.—The Ad-
13 ministrator shall, in accordance with this subsection, issue
14 regulations setting aside a specified number of allowances,
15 as determined by the Administrator, that small business
16 refiners may purchase at the average auction price and
17 may use to demonstrate compliance pursuant to section
18 722. These regulations shall provide the following:

19 “(1) AMOUNT.—The Administrator shall place
20 in the small business refiner reserve account allow-
21 ances that are to be sold at auction pursuant to the
22 allocations under section 771 in an amount equal
23 to—

1 “(A) for each of vintage years 2012 and
2 2013, 6.2 percent of the emission allowances es-
3 tablished under section 721(a);

4 “(B) for each of vintage years 2014 and
5 2015, 5.4 percent of the emission allowances es-
6 tablished under section 721(a); and

7 “(C) for each of vintage years 2016
8 through 2024, 4.9 percent of the emission al-
9 lowances established under section 721(a).

10 “(2) ALLOWED PURCHASES.—From January 1
11 of the calendar year that matches the vintage year
12 for which allowances have been placed in the reserve,
13 through January 14 of the following year, small
14 business refiners (as defined in section 775(b)) may
15 purchase allowances from this reserve at the price
16 determined pursuant to paragraph (3).

17 “(3) PRICE.—The price for allowances pur-
18 chased from this reserve shall be the average auction
19 price for allowances of the same vintage year pur-
20 chased at auctions conducted pursuant to this sec-
21 tion during the 12 months preceding the purchase of
22 the allowances.

23 “(4) USE OF ALLOWANCES.—Allowances pur-
24 chased from this reserve shall only be used by the
25 purchaser to demonstrate compliance pursuant to

1 section 722 for attributable greenhouse gas emis-
2 sions in the calendar year that matches the vintage
3 year of the purchased allowance. Allowances pur-
4 chased from this reserve may not be banked, traded
5 or borrowed.

6 “(5) LIMITATIONS ON PURCHASE AMOUNT.—
7 The Administrator, by regulation adopted after pub-
8 lic notice and an opportunity for comment, shall es-
9 tablish procedures to distribute the ability to pur-
10 chase allowances from the reserve fairly among all
11 small business refiners interested in purchasing al-
12 lowances from this reserve so as to address the po-
13 tential that requests to purchase allowances exceed
14 the number of allowances available in the reserve.
15 This regulation may place limits on the number of
16 allowances a small business refiner may purchase
17 from the reserve.

18 “(6) UNSOLD ALLOWANCES.—Vintage year al-
19 lowances not sold from the reserve on or before Jan-
20 uary 15 of the calendar year following the vintage
21 year shall be sold at an auction conducted pursuant
22 to this section no later than March 31 of the cal-
23 endar year following the vintage year. If significantly
24 more allowances are being placed in the reserve than
25 are being purchased from the reserve several years

1 in a row, the Administrator may adjust either the
2 percent of allowances placed in the reserve or the
3 date by which allowances may be purchased from the
4 reserve.

5 **“SEC. 779. AUCTIONING ALLOWANCES FOR OTHER ENTI-**
6 **TIES.**

7 “(a) CONSIGNMENT.—Any entity holding emission al-
8 lowances or compensatory allowances may request that the
9 Administrator auction, pursuant to section 778, the allow-
10 ances on consignment.

11 “(b) PRICING.—When the Administrator acts under
12 this section as the agent of an entity in possession of emis-
13 sion allowances, the Administrator is not obligated to ob-
14 tain the highest price possible for the emission allowances,
15 and instead shall auction consignment allowances in the
16 same manner and pursuant to the same rules as auctions
17 of other allowances under section 778. The Administrator
18 may permit the entity offering the allowance for sale to
19 condition the sale of its allowances pursuant to this section
20 on a minimum reserve price that is different than the re-
21 serve auction price set pursuant to section 778(d).

22 “(c) PROCEEDS.—For emission allowances and com-
23 pensatory allowances auctioned pursuant to this section,
24 notwithstanding section 3302 of title 31, United States
25 Code, or any other provision of law, within 90 days of re-

1 ceipt, the United States shall transfer the proceeds from
2 the auction to the entity which held the allowances auc-
3 tioned. No funds transferred from a purchaser to a seller
4 of emission allowances or compensatory allowances under
5 this subsection shall be held by any officer or employee
6 of the United States or treated for any purpose as public
7 monies.

8 “(d) REGULATIONS.—The Administrator shall issue
9 regulations within 24 months after the date of enactment
10 of this title to implement this section.

11 **“SEC. 780. COMMERCIAL DEPLOYMENT OF CARBON CAP-**
12 **TURE AND PERMANENT SEQUESTRATION**
13 **TECHNOLOGIES.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) CARBON CAPTURE AND PERMANENT SE-
16 QUESTRATION.—The term ‘carbon capture and per-
17 manent sequestration’ shall—

18 “(A) have such meaning as the Adminis-
19 trator shall determine by regulation; and

20 “(B) include—

21 “(i) permanent geological sequestra-
22 tion; and

23 “(ii) conversion of captured carbon di-
24 oxide to a stable form that will safely and
25 permanently sequester the carbon dioxide.

1 “(2) ENHANCED HYDROCARBON RECOVERY.—

2 “(A) IN GENERAL.—The term ‘enhanced
3 hydrocarbon recovery’ means a process by
4 which oil, methane, or other natural gases are
5 recovered by the injection of carbon dioxide into
6 a geologic formation.

7 “(B) EXCLUSION.—The term ‘enhanced
8 hydrocarbon recovery’ does not include the in
9 situ generation of a new hydrocarbon.

10 “(3) QUALIFYING ELECTRIC GENERATING
11 UNIT.—The term ‘qualifying electric generating unit’
12 means an electric utility unit—

13 “(A) that derives at least 50 percent of the
14 annual fuel input of the unit from—

15 “(i) coal or waste coal;

16 “(ii) petroleum coke; or

17 “(iii) any combination of those 2
18 fuels; and

19 “(B)(i) that has a nameplate capacity of
20 200 megawatts or more; or

21 “(ii) in the case of retrofit applications, the
22 carbon capture and permanent sequestration
23 technology of which is applied to the flue gas or
24 fuel gas stream from at least 200 megawatts of

1 the total nameplate generating capacity of the
2 unit.

3 “(4) QUALIFYING INDUSTRIAL SOURCE.—The
4 term ‘qualifying industrial source’ means a source
5 that—

6 “(A) is not a qualifying electric generating
7 unit;

8 “(B) absent carbon capture and permanent
9 sequestration, would emit greater than 50,000
10 tons per year of carbon dioxide; and

11 “(C) does not produce a liquid transpor-
12 tation fuel from a solid fossil-based feedstock.

13 “(5) TREATED GENERATING CAPACITY.—

14 “(A) IN GENERAL.—The term ‘treated
15 generating capacity’ means the portion of the
16 total generating capacity of an electric gener-
17 ating unit (or industrial source, measured by
18 such method as the Administrator may des-
19 ignate to be equivalent to the calculation under
20 subparagraph (B)) for which the flue gas or
21 fuel gas is treated by the carbon capture and
22 permanent sequestration technology.

23 “(B) CALCULATION.—In determining the
24 treated portion of flue gas or fuel gas of an
25 electric generating unit under subparagraph

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1 (A), the Administrator shall multiply the name-
2 plate capacity of the unit by the ratio that—

3 “(i) the mass of flue gas or fuel gas
4 that is treated by the carbon capture and
5 permanent sequestration technology; bears
6 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 771(a)(6),
14 pursuant to the requirements of this section, to support
15 the commercial deployment of carbon capture and perma-
16 nent sequestration technologies in electric power genera-
17 tion and industrial 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 per-
24 manent sequestration technology—

1 “(i) at a qualifying electric generating
2 unit that, upon implementation of the car-
3 bon capture and permanent sequestration
4 technology, will achieve an emission limita-
5 tion that is at least a 50-percent reduction
6 in emissions of the carbon dioxide pro-
7 duced by—

8 “(I) the unit, measured on an
9 annual basis, as determined by the
10 Administrator; or

11 “(II) in the case of retrofit appli-
12 cations described in subsection
13 (a)(2)(B)(ii), the treated portion of
14 flue gas from the unit, measured on
15 an annual basis, as determined by the
16 Administrator; or

17 “(ii) at a qualifying industrial source
18 that, upon implementation, will achieve an
19 emission limitation that is at least a 50-
20 percent reduction in emissions of the car-
21 bon dioxide produced by the emission
22 point, measured on an annual basis, as de-
23 termined by the Administrator;

24 “(B)(i) geologically sequester carbon diox-
25 ide at a site that meets all applicable permitting

1 and certification requirements for permanent
2 geological sequestration; 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 771(a)(6) to eligible projects for each of
15 the first 10 calendar years for which each eligi-
16 ble 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 carbon capture
8 and permanent sequestration of
9 emissions by the project for a
10 particular year, as determined
11 pursuant to such methodology as
12 the Administrator shall prescribe
13 by regulation; 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 seques-
24 tered the carbon dioxide emis-
25 sions; or

1 “(bb) the year in which the
2 project receives an advanced dis-
3 tribution of emission 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 ture and permanent sequestration up
2 to \$96 per ton for an 90-percent rate.

3 “(B) SECOND TRANCHE.—

4 “(i) IN GENERAL.—The second
5 tranche shall include the second 10
6 gigawatts of treated generating capacity
7 undertaken at qualifying electric gener-
8 ating units that receive emission allow-
9 ances under this section.

10 “(ii) CERTAIN UNITS.—For an eligible
11 project achieving the carbon capture and
12 permanent sequestration of 90 percent or
13 more of the carbon dioxide that otherwise
14 would be emitted by the eligible project,
15 the bonus allowance value shall be \$85 per
16 ton of carbon dioxide emissions avoided
17 through the use of capture and permanent
18 sequestration.

19 “(iii) BONUS ALLOWANCE VALUE.—
20 The Administrator shall establish, by regu-
21 lation, a bonus allowance value for each
22 rate of carbon capture and permanent se-
23 questration achieved by an eligible
24 project—

1 “(I) beginning at a minimum of
2 \$50 per ton for a 50-percent rate; and

3 “(II) varying in direct proportion
4 with increasing rates of carbon cap-
5 ture and permanent sequestration up
6 to \$85 per ton for a 90-percent rate.

7 “(C) INCREASE IN BONUS ALLOWANCE
8 VALUE.—For an eligible project that com-
9 mences commercial operation by not later than
10 January 1, 2017, and that meets the eligibility
11 criteria under subsection (c), the otherwise-ap-
12 plicable bonus allowance value under this para-
13 graph shall be increased by \$10, if the owner
14 or operator of the eligible project submits to the
15 Administrator by not later than January 1,
16 2012, a notification of the intent to implement
17 carbon capture and permanent sequestration
18 technology at a qualifying electric generating
19 unit in accordance with subsection (c).

20 “(D) REDUCTION.—

21 “(i) IN GENERAL.—For a carbon cap-
22 ture and permanent sequestration project
23 sequestering in a geological formation for
24 purposes of enhanced hydrocarbon recov-
25 ery, the Administrator, by regulation, shall

1 reduce the applicable bonus allowance
2 value under this paragraph to reflect the
3 lower net cost of the project, as compared
4 to permanent sequestration into geological
5 formations solely for purposes of seques-
6 tration.

7 “(ii) ASSESSMENT OF NET COST.—
8 For the purpose of this subparagraph, an
9 assessment of net cost of a project shall
10 account for the cost of the injection of car-
11 bon dioxide, or other method of enhanced
12 hydrocarbon recovery, that would have oth-
13 erwise been undertaken in the absence of
14 the carbon capture and permanent seques-
15 tration project under consideration.

16 “(E) ADJUSTMENTS.—The Administrator
17 shall annually adjust for monetary inflation the
18 bonus allowance values established under this
19 paragraph.

20 “(F) MEASUREMENT.—The Administrator
21 shall measure the tranches and capture levels
22 for assigning the bonus allowance values under
23 this subsection based on the treated generating
24 capacity of the qualifying electric generating

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1 units and qualifying industrial sources that re-
2 ceive emission allowances under this subsection.

3 “(G) AVERAGE FAIR MARKET VALUE.—

4 “(i) IN GENERAL.—The Administrator
5 and the Secretary of Energy may jointly
6 determine that the average fair market
7 value for emission allowances or the bonus
8 allowances have been too low or too high to
9 achieve efficient and cost-effective commer-
10 cial deployment of carbon capture and per-
11 manent sequestration technology in a given
12 calendar year.

13 “(ii) ACTION ON DETERMINATION.—
14 On making a determination under clause
15 (i), the Administrator may—

16 “(I) promulgate regulations to
17 adjust the bonus allowance value
18 under this paragraph; or

19 “(II) distribute an appropriate
20 quantity of emission allowances allo-
21 cated under section 771(a)(6) from
22 any future vintage year.

23 “(e) PHASE II DISTRIBUTION TO ELECTRIC GENER-
24 ATING UNITS.—

1 “(1) APPLICATION.—This subsection shall
2 apply only to the distribution of emission allowances
3 for carbon capture and permanent sequestration
4 projects undertaken at qualifying electric generating
5 units and qualifying industrial sources after the
6 treated generating capacity threshold identified
7 under subsection (d)(1) is reached.

8 “(2) REGULATIONS.—Not later than 2 years
9 before the date on which the capacity threshold iden-
10 tified in subsection (d)(1) is projected to be reached,
11 the Administrator shall promulgate regulations to
12 govern the distribution of emission allowances to the
13 owners or operators of eligible projects under this
14 subsection.

15 “(3) REVERSE AUCTIONS.—

16 “(A) IN GENERAL.—Except as provided in
17 paragraph (4), the regulations promulgated
18 pursuant to paragraph (2) shall provide for the
19 distribution of emission allowances to the own-
20 ers or operators of eligible projects under this
21 subsection through at least 2 reverse auctions,
22 each of which shall be held not less frequently
23 than once each calendar year.

24 “(B) REQUIREMENTS.—

1 “(i) PROJECTS AT INDUSTRIAL
2 SOURCES.—The Administrator shall annu-
3 ally establish a reverse auction for projects
4 at industrial sources, which may not par-
5 ticipate in other auctions.

6 “(ii) OTHER AUCTIONS.—The Admin-
7 istrator may establish a separate auction
8 for each of not more than 5 different
9 project categories, as defined based on—

10 “(I) coal type;

11 “(II) capture technology;

12 “(III) geological formation type;

13 “(IV) new unit versus retrofit ap-
14 plication;

15 “(V) such other factors as the
16 Administrator may prescribe; or

17 “(VI) any combination of the fac-
18 tors described in subclauses (I)
19 through (V).

20 “(iii) EFFICIENT DISTRIBUTION.—
21 The Administrator shall establish proce-
22 dures for the auction of emission allow-
23 ances under this subparagraph to ensure
24 that the establishment of separate auctions
25 for different project categories will not un-

1 duly impede the efficient and expeditious
2 distribution of emission allowances to eligi-
3 ble projects under this subsection.

4 “(iv) MINIMUM RATES.—The Admin-
5 istrator may establish appropriate min-
6 imum rates of carbon capture and perma-
7 nent sequestration for the treated gener-
8 ating capacity of a project in implementing
9 this subparagraph.

10 “(C) AUCTION PROCESS.—At each reverse
11 auction under this paragraph—

12 “(i) the Administrator shall solicit
13 bids from eligible projects;

14 “(ii) owners or operators of eligible
15 projects participating in the auction shall
16 submit a bid, including the desired level of
17 carbon dioxide permanent sequestration in-
18 centive per ton and the estimated quantity
19 of carbon dioxide that the project will per-
20 manently sequester during a 10-year pe-
21 riod; and

22 “(iii) the Administrator shall select
23 bids within each auction for the permanent
24 sequestration quantity submitted, begin-
25 ning with the eligible project for which the

1 bid is submitted for the lowest level of per-
2 manent sequestration incentive on a per-
3 ton basis and meeting such other require-
4 ments as the Administrator may specify,
5 until the amounts available for the reverse
6 auction are committed.

7 “(D) FORM OF DISTRIBUTION.—The Ad-
8 ministrator shall distribute emission allowances
9 to the owners or operators of eligible projects
10 selected through a reverse auction under this
11 paragraph pursuant to a formula equivalent to
12 the formula contained in subsection (c)(2)(B),
13 except that the bonus allowance value that is
14 bid by the applicable entity shall be substituted
15 for the bonus allowance values described in sub-
16 section (c)(2).

17 “(4) ALTERNATIVE DISTRIBUTION METHOD.—

18 “(A) IN GENERAL.—If the Administrator
19 determines that a reverse auction will not result
20 in efficient and cost-effective commercial de-
21 ployment of carbon capture and permanent se-
22 questration technologies, the Administrator,
23 pursuant to regulations under paragraph (2) or
24 (5), shall prescribe a schedule for the provision
25 of bonus allowances to the owners or operators

1 of eligible projects under this subsection, in ac-
2 cordance with the requirements of this para-
3 graph.

4 “(B) MULTIPLE TRANCHES.—The Admin-
5 istrator shall divide emission allowances avail-
6 able for distribution to the owners or operators
7 of eligible projects into a series of tranches,
8 each of which—

9 “(i) shall support the deployment of a
10 specified quantity of cumulative electric
11 generating capacity using carbon capture
12 and permanent sequestration technology;
13 and

14 “(ii) shall not be greater than 10
15 gigawatts of treated generating capacity.

16 “(C) METHOD OF DISTRIBUTION.—The
17 Administrator shall distribute emission allow-
18 ances within each tranche, on a first-come,
19 first-served basis—

20 “(i) based on the date of full-scale op-
21 eration of carbon capture and permanent
22 sequestration technology; and

23 “(ii) pursuant to a formula that—

24 “(I) is similar to the formula
25 contained in subsection (c)(2)(C), ex-

1 cept that the Administrator may pre-
2 scribe bonus allowance values dif-
3 ferent than those described in sub-
4 section (c)(2) based on the criteria es-
5 tablished under subparagraph (E);
6 and

7 “(II) establishes the number of
8 emission allowances to be distributed
9 per ton of carbon dioxide sequestered
10 by the project.

11 “(D) REQUIREMENTS.—For each tranche
12 established pursuant to subparagraph (B), the
13 Administrator shall establish a schedule for dis-
14 tributing emission allowances that—

15 “(i) is based on a sliding scale that
16 provides higher bonus allowance values for
17 projects achieving higher rates of carbon
18 capture and permanent sequestration for
19 the treated generation capacity at the unit;

20 “(ii) for each carbon capture and per-
21 manent sequestration rate, establishes a
22 bonus allowance value that is lower than
23 that established for the applicable rate for
24 the previous tranche (or, in the case of the
25 first tranche, than that established for the

1 applicable rate under subsection (d)(2));

2 and

3 “(iii) may establish different bonus al-
4 lowance levels for not more than 5 dif-
5 ferent project categories, as defined based
6 on—

7 “(I) coal type;

8 “(II) capture and transportation
9 technology;

10 “(III) geological formation type;

11 “(IV) new unit versus retrofit ap-
12 plication;

13 “(V) such other factors as the
14 Administrator may prescribe; or

15 “(VI) any combination of the fac-
16 tors described in subclauses (I)
17 through (V).

18 “(E) CRITERIA FOR ESTABLISHING BONUS
19 ALLOWANCE VALUES.—In establishing bonus al-
20 lowance values under this paragraph, the Ad-
21 ministrator shall seek to cover not more than
22 the reasonable incremental capital and oper-
23 ating costs of a project that are attributable to
24 implementation of carbon capture and perma-
25 nent sequestration technologies and carbon

1 transportation technologies, taking into ac-
2 count—

3 “(i) the reduced cost of compliance
4 with section 722;

5 “(ii) the reduced cost associated with
6 sequestering in a geological formation for
7 purposes of enhanced hydrocarbon recov-
8 ery, as compared to permanent sequestra-
9 tion into geological formations solely for
10 purposes of sequestration;

11 “(iii) the relevant factors defining the
12 project category; and

13 “(iv) such other factors as the Admin-
14 istrator determines to be appropriate.

15 “(5) REVISION OF REGULATIONS.—The Admin-
16 istrator shall review and, as appropriate, revise the
17 applicable regulations under this subsection not less
18 frequently than once every 8 years.

19 “(f) LIMITS FOR CERTAIN ELECTRIC GENERATING
20 UNITS.—

21 “(1) DEFINITIONS.—In this subsection, the
22 terms ‘covered EGU’ and ‘initially permitted’ have
23 the meanings given those terms in section 812.

24 “(2) COVERED EGUS INITIALLY PERMITTED
25 FROM 2009 THROUGH 2014.—For a covered EGU

1 that is initially permitted during the period begin-
2 ning on January 1, 2009, and ending on December
3 31, 2014, the Administrator shall reduce the quan-
4 tity of emission allowances that the owner or oper-
5 ator of the covered EGU would otherwise be eligible
6 to receive under this section as follows:

7 “(A) In the case of a covered EGU com-
8 mencing operation on or before January 1,
9 2019, if the date in clause (ii)(I) is earlier than
10 the date in clause (ii)(II), by the product ob-
11 tained by multiplying—

12 “(i) 20 percent; and

13 “(ii) the number of years, if any, that
14 have elapsed between—

15 “(I) the earlier of—

16 “(aa) January 1, 2020; and

17 “(bb) the date that is 5
18 years after the commencement of
19 operation of the covered EGU;
20 and

21 “(II) the first year that the cov-
22 ered EGU achieves (and thereafter
23 maintains) an emission limitation that
24 is at least a 50-percent reduction in
25 emissions of carbon dioxide produced

1 by the unit, measured on an annual
2 basis, as determined in accordance
3 with section 812(b)(2).

4 “(B) In the case of a covered EGU com-
5 mencing operation after January 1, 2019, by
6 the product obtained by multiplying—

7 “(i) 20 percent; and

8 “(ii) the number of years, if any, that
9 have elapsed between—

10 “(I) the commencement of oper-
11 ation of the covered EGU; and

12 “(II) the first year that the cov-
13 ered EGU achieves (and thereafter
14 maintains) an emission limitation that
15 is at least a 50-percent reduction in
16 emissions of carbon dioxide produced
17 by the unit, measured on an annual
18 basis, as determined in accordance
19 with section 812(b)(2).

20 “(3) COVERED EGUS INITIALLY PERMITTED
21 FROM 2015 THROUGH 2019.—The owner or operator
22 of a covered EGU that is initially permitted during
23 the period beginning on January 1, 2015, and end-
24 ing on December 31, 2019, shall be ineligible to re-
25 ceive emission allowances under this section if the

1 covered EGU, on commencement of operations (and
2 thereafter), does not achieve and maintain an emis-
3 sion limitation that is at least a 50-percent reduction
4 in emissions of carbon dioxide produced by the cov-
5 ered EGU, measured on an annual basis, as deter-
6 mined in accordance with section 812(b)(2).

7 “(4) EGUS RECEIVING ADVANCED DISTRIBUTION.—
8 TION.—

9 “(A) IN GENERAL.—For an EGU that re-
10 ceives an advanced distribution of emission al-
11 lowances, the Administrator shall reduce and
12 recover, as applicable, the quantity of emission
13 allowances that the owner or operator of the
14 EGU has received and remains eligible to re-
15 ceive under this section, which shall be equal to
16 the product obtained by multiplying—

17 “(i) 20 percent; and

18 “(ii) the number of years, if any, that
19 have elapsed between—

20 “(I) the date that is 18 months
21 after—

22 “(aa) in the case of an EGU
23 that was initially permitted dur-
24 ing the period beginning on Jan-
25 uary 1, 2009, and ending on De-

1 annual basis, by the date specified in sub-
2 paragraph (A)(ii)(I), the owner or operator
3 may petition the Administrator to extend
4 that date by not more than 18 months.

5 “(ii) TIME OF SUBMISSION OF PETI-
6 TION.—The owner or operator shall submit
7 a petition described in clause (i) to the Ad-
8 ministrator as soon as practicable after the
9 date on which the basis for the petition
10 arises.

11 “(iii) CONDITIONS FOR EXTENSION.—
12 The Administrator shall prescribe, by regu-
13 lation, the conditions under which an ex-
14 tension under clause (i) may be granted,
15 including—

16 “(I) an inability of an EGU to
17 sequester at the site, despite due dili-
18 gence having been undertaken; and

19 “(II) legal challenges to the im-
20 plementation of the carbon capture
21 and permanent sequestration tech-
22 nology.

23 “(g) INDUSTRIAL SOURCES.—

24 “(1) EMISSION ALLOWANCES.—The Adminis-
25 trator—

1 “(A) may distribute not more than 15 per-
2 cent of the emission allowances allocated under
3 section 771(a)(6) for any vintage year to the
4 owners or operators of eligible industrial
5 sources to support the commercial-scale deploy-
6 ment of carbon capture and permanent seques-
7 tration technologies at those sources; and

8 “(B) notwithstanding any other provision
9 of law—

10 “(i) may distribute to eligible indus-
11 trial sources not more than 15 percent of
12 the emission allowances allocated under
13 section 771(a)(6) for any vintage year in
14 the second tranche of phase I; but

15 “(ii) may not distribute those allow-
16 ances for any vintage year in the first
17 tranche of phase I.

18 “(2) DISTRIBUTION.—

19 “(A) IN GENERAL.—The Administrator
20 shall prescribe, by regulation, requirements for
21 the distribution of emission allowances to the
22 owners or operators of industrial sources under
23 this subsection, based on a bonus allowance for-
24 mula that awards emission allowances to quali-

1 section (e)(4), at any time prior to placing
2 a carbon capture and permanent seques-
3 tration project into commercial operation,
4 the owner or operator of the planned
5 project may request from the Adminis-
6 trator a certification that the project is eli-
7 gible to receive emission allowances under
8 this section.

9 “(ii) REVERSE AUCTIONS.—In the
10 case of a qualifying project that wins a re-
11 verse auction under subsection (e) or (g),
12 within a reasonably brief period following
13 completion of the auction (as specified by
14 the Administrator), the owner or operator
15 of the qualifying project shall request from
16 the Administrator a certification that the
17 project is eligible to receive emission allow-
18 ances under this section.

19 “(iii) ELIGIBLE PROJECTS.—Eligible
20 projects in phase I and phase II may re-
21 ceive certification under this paragraph.

22 “(iv) ISSUANCE.—Not later than 90
23 days after the date on which the Adminis-
24 trator determines that the owner or oper-
25 ator of the planned project has submitted

1 complete documentation pursuant to sub-
2 paragraph (B), the Administrator shall
3 issue a certification described in this sub-
4 paragraph—

5 “(I) if the owner or operator
6 demonstrates a commitment to con-
7 struct and operate a project that sat-
8 isfies—

9 “(aa) the eligibility criteria
10 of subsection (c); and

11 “(bb) the requirements of
12 this paragraph; and

13 “(II) that is based on the consid-
14 eration by the Administrator of the
15 documentation submitted pursuant to
16 subparagraph (B), as well as other
17 relevant information, as determined
18 by the Administrator, in consultation
19 with the owner or operator.

20 “(B) DOCUMENTATION.—

21 “(i) IN GENERAL.—The Administrator
22 shall prescribe, by regulation, the docu-
23 mentation necessary for making a deter-
24 mination of project eligibility for the cer-

1 tification under subparagraph (A), includ-
2 ing—

3 “(I) in the case of a planned
4 project receiving an advanced dis-
5 tribution of emission allowances, a
6 commitment to implement carbon and
7 permanent sequestration technology
8 upon commencement of operation, to
9 meet the eligibility requirements of
10 (c)(1) by not later than 18 months
11 after the date of commencement of
12 operation;

13 “(II) technical information re-
14 garding the carbon capture and per-
15 manent sequestration technology, coal
16 type, geological formation type (if ap-
17 plicable), and other relevant design
18 features that are planned for the
19 project;

20 “(III) the annual reductions in
21 carbon dioxide emissions that the car-
22 bon capture and permanent sequestra-
23 tion technology is projected to achieve
24 during each of the first 10 years that

1 the project achieves commercial oper-
2 ation;

3 “(IV) a demonstration that the
4 owner or operator is committed to
5 both constructing and operating the
6 planned project on a timeline marked
7 by reasonable milestones, through the
8 completion of 1 of the actions speci-
9 fied in subparagraph (C)(iii);

10 “(V) the amount of Federal
11 funding the project owner has re-
12 ceived, if any, to cover the costs of
13 constructing a project that is eligible
14 under this paragraph; and

15 “(VI) an assessment of the costs
16 of constructing the project, which
17 shall serve as a basis for the deter-
18 mination of the Administrator regard-
19 ing advanced distributions under
20 paragraph (3)(C).

21 “(ii) NONRETROFIT APPLICATION.—

22 In the case of a project that is not a ret-
23 rofit application, the assessment of costs
24 described in clause (i)(VI) shall include an
25 assessment of the costs of constructing the

1 electric generating unit or industrial source
2 that will produce the flue gas or fuel gas
3 to be treated by the carbon capture and
4 permanent sequestration technology.

5 “(C) COMMITMENT.—

6 “(i) IN GENERAL.—Subject to clause
7 (ii), the completion of any 1 of the quali-
8 fying actions specified under clause (iii)
9 shall constitute a commitment to construct
10 and operate a planned carbon capture and
11 permanent sequestration project.

12 “(ii) CONDITION.—In the case of a
13 qualifying action specified in subclause (I)
14 or (II) of clause (iii), the completion of
15 such an action may be subject to a condi-
16 tion that the Administrator will issue a
17 certification under this paragraph for the
18 distribution of emission allowances to the
19 project.

20 “(iii) QUALIFYING ACTIONS.—Quali-
21 fying actions under this subparagraph
22 shall include—

23 “(I) the execution of—

24 “(aa) a commitment by
25 lenders or other appropriate enti-

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1 ties to finance the project, which
2 may be subject to customary
3 closing conditions that are associ-
4 ated with the execution of the
5 commitment;

6 “(bb) an authorization by a
7 State regulatory authority to
8 allow recovery, from the retail
9 customers of such electric utility,
10 of the costs of the project by a
11 State-regulated electric utility
12 that plans to construct the
13 project; or

14 “(cc) an authorization by a
15 State legislature to allow recov-
16 ery, from the retail customers of
17 electric utilities that are required
18 to purchase some or all of the
19 electricity from the project pursu-
20 ant to State law, of the costs of
21 the project, on the conditions
22 that the project has been ap-
23 proved by the legislature and,
24 under State law, retail electric
25 providers are required collectively

1 to purchase all of the net electric
2 output from the project; and

3 “(II) a commitment by the owner
4 or operator of the project to execute a
5 surety bond in sufficient amounts by
6 not later than 2 years after the date
7 on which the Administrator issues the
8 certification for the project.

9 “(D) CONTENT OF CERTIFICATION.—The
10 Administrator shall prescribe, by regulation, the
11 required content of each certification issued
12 under this paragraph, including—

13 “(i) the annual reductions in carbon
14 dioxide emissions that the carbon capture
15 and sequestration technology the owner or
16 operator of the planned project commits to
17 achieve during each of the first 10 years
18 that the project is in commercial operation,
19 as specified in section 812;

20 “(ii) the construction and operating
21 milestones to which the owner or operator
22 of the planned project commits;

23 “(iii) a certification that the docu-
24 mentation submitted under subparagraph
25 (B) is true and accurate;

1 “(iv) for those sources that have re-
2 ceived advanced distribution of emission al-
3 lowances under paragraph (3)(B), the re-
4 payment periods that the Administrator
5 has specified pursuant to paragraph
6 (3)(D)(v) as of the effective date of the
7 certification; and

8 “(v) such other requirements as may
9 be necessary to govern the advanced dis-
10 tribution of emission allowances between
11 the Administrator and the owner or oper-
12 ator of the planned project, subject to the
13 requirements of this subsection.

14 “(E) FAILURE TO REQUEST CERTIFI-
15 CATION.—

16 “(i) IN GENERAL.—An owner or oper-
17 ator may elect not to request a certifi-
18 cation on the eligibility of a planned
19 project under subparagraph (A) prior to
20 the commercial operation of the project.

21 “(ii) DETERMINATION BY ADMINIS-
22 TRATOR.—If an owner or operator elects
23 not to request a certification under clause
24 (i), the Administrator shall make a deter-
25 mination regarding whether the project

1 satisfies the eligibility requirements of sub-
2 section (c) at the time that the Adminis-
3 trator makes a determination regarding
4 the annual distribution of emission allow-
5 ances under paragraph (3)(A).

6 “(2) RESERVATION OF EMISSION ALLOW-
7 ANCES.—

8 “(A) AMOUNT.—

9 “(i) IN GENERAL.—For each project
10 that receives a certification of eligibility
11 under paragraph (1), the Administrator
12 shall reserve on a first-come, first-served
13 basis a portion of the emission allowances
14 that are allocated for the deployment of
15 carbon capture and permanent sequestra-
16 tion technology under section 771(a)(6).

17 “(ii) DETERMINATION.—The reserva-
18 tion of emission allowances for a particular
19 eligible project under this paragraph shall
20 be equal to the number of emission allow-
21 ances that the project would be entitled to
22 receive under the applicable distribution
23 method under this section upon commer-
24 cial operation of the carbon capture and

1 permanent sequestration technology, as de-
2 termined by the Administrator based on—

3 “(I) the applicable bonus allow-
4 ance value;

5 “(II) the number of tons of car-
6 bon dioxide emissions projected to be
7 avoided through the use of carbon
8 capture and permanent sequestration
9 technologies during each calendar
10 year under paragraph (1)(B)(i)(II);
11 and

12 “(III) a discount rate to account
13 for the increase in the monetary infla-
14 tion that may be expected to occur
15 during each of the relevant 10 cal-
16 endar years, as determined by the Ad-
17 ministrator.

18 “(B) TERMINATION OF RESERVATION.—

19 “(i) IN GENERAL.—A reservation of
20 emission allowances for a particular project
21 under subparagraph (A) shall terminate if
22 the Administrator determines that the
23 owner or operator has failed to achieve a
24 reasonable number of milestones for com-
25 mencing construction or commercial oper-

1 ation of the project, as specified under
2 paragraph (1)(B)(i)(III).

3 “(ii) REDUCED QUANTITY OF CARBON
4 DIOXIDE CAPTURED AND SEQUESTERED.—
5 If the quantity of carbon dioxide emissions
6 avoided through the operation of the car-
7 bon capture and permanent sequestration
8 project on average over 3 consecutive cal-
9 endar years is less than the quantity speci-
10 fied for those calendar years under sub-
11 paragraph (A), the reservation of emission
12 allowances for the project under subpara-
13 graph (A) shall be reduced in future years
14 by the difference between—

15 “(I) the quantity of carbon diox-
16 ide emissions avoided through oper-
17 ation of the carbon capture and per-
18 manent sequestration project on aver-
19 age over the applicable 3 consecutive
20 years; and

21 “(II) the quantity specified under
22 subparagraph (A) for the applicable
23 years.

24 “(iii) AVAILABILITY.—The Adminis-
25 trator shall immediately make available to

1 other eligible projects emission allowances
2 for which the Administrator has termi-
3 nated an emission allowance reservation
4 for a particular project under this subpara-
5 graph.

6 “(3) DISTRIBUTION PROCESS.—

7 “(A) ANNUAL DISTRIBUTION.—

8 “(i) IN GENERAL.—The Administrator
9 shall distribute the emission allowances to
10 eligible projects on an annual basis.

11 “(ii) BASIS.—The annual distribution
12 of emission allowances shall be based on
13 the total tons of carbon dioxide emissions
14 avoided through operation of the carbon
15 capture and permanent sequestration
16 project during each of the first 10 years of
17 commercial operation, in accordance with
18 subsection (c)(2).

19 “(iii) TOTAL DISTRIBUTION
20 AMOUNT.—The total amount of emission
21 allowances distributed to an eligible project
22 for each of the first 10 years of commer-
23 cial operation may be greater than, or less
24 than, the quantity of emissions allowances

1 that the Administrator has reserved for the
2 eligible project under paragraph (2).

3 “(iv) REPORTS.—

4 “(I) IN GENERAL.—Except as
5 provided in subparagraph (B), the Ad-
6 ministrator shall make each annual
7 distribution of emission allowances by
8 not later than 90 days after the date
9 on which the owner or operator of a
10 project submits to the Administrator
11 a report regarding the tons of carbon
12 dioxide emissions avoided for that
13 year through operation of the carbon
14 capture and permanent sequestration
15 project.

16 “(II) REQUIREMENT.—A report
17 under subclause (I) shall be verified in
18 accordance with regulations to be pro-
19 mulgated by the Administrator.

20 “(B) ADVANCED DISTRIBUTION.—

21 “(i) IN GENERAL.—The Administrator
22 may provide an advanced distribution of
23 emission allowances to the projects—

1 “(I) that receive emission allow-
2 ances under the phase I distributions
3 authorized by subsection (d); and

4 “(II) for which the Administrator
5 has issued a certification of eligibility
6 under paragraph (1).

7 “(ii) REQUIREMENTS.—An advanced
8 distribution of emission allowances for a
9 particular project shall be provided—

10 “(I) prior to the operational
11 phase of the project, at an appro-
12 priate milestone that best ensures the
13 expeditious deployment of the carbon
14 capture and permanent sequestration
15 technology, as determined by the Ad-
16 ministrator;

17 “(II) in a quantity that equals a
18 percentage, as specified in subpara-
19 graph (C), of the total number of
20 emission allowances that the Adminis-
21 trator has reserved for that project
22 during the 10-year period of commer-
23 cial operation; and

24 “(III) using allowances that are
25 drawn—

1 accordance with regulations promul-
2 gated by the Administrator.

3 “(III) AVOIDANCE OF DUPLICA-
4 TIVE REPORTING.—If the unit on
5 which a planned project is imple-
6 mented already submits the informa-
7 tion required by subclause (I) to the
8 Administrator pursuant to another re-
9 porting requirement, the owner or op-
10 erator of the planned project may
11 refer the Administrator to the other
12 submission in which the required in-
13 formation is provided.

14 “(C) PERCENTAGES.—

15 “(i) IN GENERAL.—Subject to clauses
16 (ii) and (iii), the Administrator shall apply
17 the following percentages for determining
18 the advanced distribution of emission al-
19 lowances:

20 “(I) 70 percent of the emission
21 allowance reservation for the first
22 tranche under subsection (d)(2)(A).

23 “(II) 50 percent of the emission
24 allowance reservation for the second
25 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.—For retrofit
12 projects, the advanced distribution
13 shall equate to 100 percent of the
14 costs of permitting, design or engi-
15 neering, labor, materials, land, and
16 equipment associated with the con-
17 struction and installation of the sys-
18 tem to capture, compress, transport,
19 and store carbon dioxide (including
20 design changes to the associated gen-
21 erating unit needed to accommodate
22 the carbon dioxide capture and com-
23 pression system).

24 “(II) NEW ELECTRIC GENER-
25 ATING UNITS.—For new projects—

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1 “(aa) the advanced distribu-
2 tion shall equate to 100 percent
3 of the incremental permitting, de-
4 sign or engineering, labor, mate-
5 rials, land, and equipment cost
6 differences between—

7 “(AA) a new coal power
8 plant with carbon capture
9 and storage; and

10 “(BB) a new coal
11 power plant without carbon
12 capture and storage in the
13 location where the new coal
14 power plant is being con-
15 structed, and for the same
16 intended service territory ab-
17 sent carbon capture and
18 storage; and

19 “(bb) it shall be the respon-
20 sibility of the organization that is
21 requesting advanced distributions
22 to provide to the Administrator a
23 cost estimate for both the new
24 coal power plant with carbon cap-
25 ture and storage and a new coal

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1 power plant without carbon cap-
2 ture and storage.

3 “(III) REDUCTION.—For the
4 purposes of this subparagraph, the
5 costs under this clause shall be re-
6 duced by the amounts documented
7 under paragraph (1)(B)(i)(V).

8 “(D) RECONCILIATION FOR ADVANCED
9 PAYMENTS.—

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 paragraph (2)
16 once the carbon capture and permanent se-
17 questration technology begins commercial
18 operation.

19 “(ii) TIMING OF DISTRIBUTION.—The
20 annual distribution of emission allowances
21 under clause (i) shall take place not later
22 than 60 days after the end of each cal-
23 endar year.

24 “(iii) CALCULATION OF REMAINING
25 DISTRIBUTION.—Subject to clauses (iv)

1 and (v), the remaining distribution re-
2 ferred to in clause (i) shall annually be cal-
3 culated upward or downward as the dif-
4 ference between—

5 “(I) the number of allowances
6 that were reserved for the project in
7 the relevant calendar year under para-
8 graph (2)(A)(ii)(II); and

9 “(II) the number of allowances
10 that the project would be eligible to
11 receive under the bonus allowance for-
12 mula described in subsection
13 (c)(2)(B)(i) based on the tons of car-
14 bon dioxide emissions that were avoid-
15 ed through operation of the carbon
16 capture and permanent sequestration
17 project during the relevant calendar
18 year.

19 “(iv) NUMBER OF ALLOWANCES.—For
20 purposes of clauses (iii)(II) and (viii)(I),
21 for the purposes of calculating the number
22 of allowances under subsection
23 (c)(2)(B)(i), the Administrator shall enter
24 the average fair market value of emission

1 allowances in the year specified under sub-
2 section (c)(2)(B)(i)(II)(bb)).

3 “(v) METHODS OF RECONCILI-
4 ATION.—

5 “(I) IN GENERAL.—If, in any
6 calendar year, the number of tons of
7 carbon dioxide emissions projected to
8 be avoided for that year under para-
9 graph (1)(B)(i)(III) is greater than
10 the number of tons of carbon dioxide
11 emissions that were actually avoided
12 by a project during that year, based
13 on the report submitted to the Admin-
14 istrator under paragraph (3)(B)(iii),
15 the difference may be accounted for
16 by—

17 “(aa) the owner or operator
18 of the project capturing and stor-
19 ing an additional quantity of
20 emissions that cumulatively ex-
21 ceeds the difference between—

22 “(AA) the number of
23 tons of carbon dioxide emis-
24 sions that were projected to
25 be avoided for the relevant

1 calendar year under para-
2 graph (1)(B)(i)(II); and

3 “(BB) the number of
4 tons of carbon dioxide emis-
5 sions that were actually
6 avoided through operation of
7 the project during that year;

8 “(bb) the Administrator ad-
9 justing the annual distributions
10 under clause (iii), on the condi-
11 tion that the reduction shall be
12 sufficient to account for the dif-
13 ference described in this sub-
14 clause within the period specified
15 by the Administrator in sub-
16 clause (II); or

17 “(cc) the owner or operator
18 of the project making a repay-
19 ment in accordance with clause
20 (vi).

21 “(II) PERIOD.—Compliance with
22 subclause (I)(aa) shall occur over a
23 period to be specified by the Adminis-
24 trator, but not to exceed 18 months.

1 “(III) INTEREST.—The Adminis-
2 trator may apply an appropriate rate
3 of interest to the repayment require-
4 ment under this clause.

5 “(vi) ALTERNATE REPAYMENT BY AL-
6 LOWANCES OR CASH.—If the owner or op-
7 erator of the project elects to comply by re-
8 paying in accordance with clause
9 (v)(I)(aa), during the period specified by
10 the Administrator under clause (v)(II), the
11 owner or operator shall repay the Adminis-
12 trator an amount of allowances or cash (as
13 calculated under clause (viii)) if—

14 “(I) the number of tons of car-
15 bon dioxide emissions that were actu-
16 ally avoided through operation of the
17 project during that period is less than
18 the number necessary to rectify the
19 difference described in clause (v)(I);
20 and

21 “(II) the number of allowances
22 remaining reserved for a project is in-
23 sufficient to adjust for the difference
24 under clause (iii).

1 “(vii) MILESTONES.—If the Adminis-
2 trator determines that the owner or oper-
3 ator failed to achieve a milestone for com-
4 mencing construction or commercial oper-
5 ation of the project (as specified in para-
6 graph (1)(B)), the owner or operator shall
7 repay the Administrator an amount of al-
8 lowances or cash calculated under clause
9 (viii).

10 “(viii) CALCULATION.—The repay-
11 ments required under clauses (vi)(I) and
12 (vii) shall be equal to, at the option of the
13 owner or operator of the project—

14 “(I) the difference between the
15 numbers of allowances described in
16 subclauses (I) and (II) of clause (iii);
17 or

18 “(II) a cash payment in an
19 amount equal to the product obtained
20 by multiplying—

21 “(aa) the difference between
22 the numbers of allowances de-
23 scribed in subclauses (I) and (II)
24 of clause (iii); and

1 “(bb) the average fair mar-
2 ket value of an emission allow-
3 ance during the year in which the
4 repayment would be made under
5 clause (vi).

6 “(ix) USE OF REPAID AMOUNTS.—The
7 Administrator shall use amounts received
8 as repayments under this subparagraph to
9 support the deployment of carbon capture
10 and permanent sequestration.

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 permanent se-
3 questration deployment under section 771(a)(6)
4 and are not yet obligated under this section
5 shall be treated as emission allowances not des-
6 ignated for distribution for purposes of section
7 771(b)(2).

8 “(j) EXHAUSTION OF ACCOUNT AND ANNUAL ROLL-
9 OVER OF SURPLUS EMISSION ALLOWANCES.—

10 “(1) IN GENERAL.—In distributing emission al-
11 lowances under this section, the Administrator shall
12 ensure that eligible projects receive distributions of
13 emission allowances for the first 10 years of com-
14 mercial operation.

15 “(2) DIFFERENT VINTAGE YEARS.—

16 “(A) DETERMINATION.—If the Adminis-
17 trator determines that the emission allowances
18 allocated under section 771(a)(6) with a vintage
19 year that matches the year of distribution will
20 be exhausted once the estimated full 10-year
21 distributions will be provided to current eligible
22 participants, the Administrator shall provide to
23 new eligible projects emission allowances from
24 vintage years after the year of the distribution.

1 “(B) DIVERSITY FACTORS.—If the Admin-
2 istrator provides allowances to new eligible
3 projects under subparagraph (A), the Adminis-
4 trator shall promulgate regulations to prioritize
5 new eligible projects that are distinguished from
6 prior recipients of allowances by 1 or more of
7 the following diversity factors (without regard
8 to order):

9 “(i) Location in a coal-producing re-
10 gion that provides a majority of coal to the
11 project.

12 “(ii) Coal type, including waste coal.

13 “(iii) Capture and transportation
14 technologies.

15 “(iv) Geological formations.

16 “(v) New units and retrofit applica-
17 tions.

18 “(k) DAVIS-BACON COMPLIANCE.—

19 “(1) IN GENERAL.—All laborers and mechanics
20 employed on projects funded directly by or assisted
21 in whole or in part by this section through the use
22 of emission allowances shall be paid wages at rates
23 not less than those prevailing on projects of a char-
24 acter similar in the locality as determined by the

1 Secretary of Labor in accordance with subchapter
2 IV of chapter 31 of title 40, United States Code.

3 “(2) **AUTHORITY.**—With respect to the labor
4 standards specified in this subsection, the Secretary
5 of Labor shall have the authority and functions set
6 forth in Reorganization Plan Numbered 14 of 1950
7 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of
8 title 40, United States Code.

9 **“SEC. 781. OVERSIGHT OF ALLOCATIONS.**

10 “(a) **IN GENERAL.**—Not later than January 1, 2014,
11 and every 2 years thereafter, the Comptroller General of
12 the United States shall carry out a review of programs
13 administered by the Federal Government that distribute
14 emission allowances or funds from any Federal auction of
15 allowances.

16 “(b) **CONTENTS.**—Each such report shall include a
17 comprehensive evaluation of the administration and effec-
18 tiveness of each program, including—

19 “(1) the efficiency, transparency, and sound-
20 ness of the administration of each program;

21 “(2) the performance of activities receiving as-
22 sistance under each program;

23 “(3) the cost-effectiveness of each program in
24 achieving the stated purposes of the program; and

1 “(4) recommendations, if any, for regulatory or
2 administrative changes to each program to improve
3 its effectiveness.

4 “(c) FOCUS.—In evaluating program performance,
5 each review under this section review shall address the ef-
6 fectiveness of such programs in—

7 “(1) creating and preserving jobs;

8 “(2) ensuring a manageable transition for
9 working families and workers;

10 “(3) reducing the emissions, or enhancing se-
11 questration, of greenhouse gases;

12 “(4) developing clean technologies; and

13 “(5) building resilience to the impacts of cli-
14 mate change.

15 **“SEC. 782. EARLY ACTION RECOGNITION.**

16 “(a) IN GENERAL.—Emission allowances allocated
17 pursuant to section 771(a)(7) shall be distributed by the
18 Administrator in accordance with this section. Not later
19 than 1 year after the date of enactment of this title, the
20 Administrator shall issue regulations allowing—

21 “(1) any person in the United States to ex-
22 change instruments in the nature of offset credits
23 issued before January 1, 2009, by a State, local, or
24 voluntary offset program with respect to which the
25 Administrator has made an affirmative determina-

1 tion under section 740(a)(2), for emission allowances
2 established by the Administrator under section
3 721(a); and

4 “(2) the Administrator to provide compensation
5 in the form of emission allowances to entities, in-
6 cluding units of local government, that do not meet
7 the criteria of paragraph (1) and meet the criteria
8 of this paragraph for documented early reductions or
9 avoidance of greenhouse gas emissions or greenhouse
10 gases sequestered before January 1, 2009, from
11 projects or process improvements begun before Jan-
12 uary 1, 2009, where—

13 “(A) the entity publicly stated greenhouse
14 gas reduction goals and publicly reported
15 against those goals;

16 “(B) the entity demonstrated entity-wide
17 net greenhouse gas reductions; and

18 “(C) the entity demonstrates the actual
19 projects or process improvements undertaken to
20 make reductions and documents the reductions
21 (such as through documentation of engineering
22 projects).

23 “(b) REGULATIONS.—Regulations issued under sub-
24 section (a) shall—

1 “(1) provide that a person exchanging credits
2 under subsection (a)(1) receive emission allowances
3 established under section 721(a) in an amount for
4 which the monetary value is equivalent to the aver-
5 age monetary value of the credits during the period
6 from January 1, 2006, to January 1, 2009, as ad-
7 justed for inflation to reflect current dollar values at
8 the time of the exchange;

9 “(2) provide that a person receiving compensa-
10 tion for documented early action under subsection
11 (a)(2) shall receive emission allowances established
12 under section 721(a) in an amount that is approxi-
13 mately equivalent in value to the carbon dioxide
14 equivalent per ton value received by entities in ex-
15 change for credits under paragraph (1) (as adjusted
16 for inflation to reflect current dollar values at the
17 time of the exchange), as determined by the Admin-
18 istrator;

19 “(3) provide that only reductions or avoidance
20 of greenhouse gas emissions, or sequestration of
21 greenhouse gases, achieved by activities in the
22 United States between January 1, 2001, and Janu-
23 ary 1, 2009, may be compensated under this section,
24 and only credits issued for such activities may be ex-
25 changed under this section;

1 “(4) provide that only credits that have not
2 been retired or otherwise used to meet a voluntary
3 or mandatory commitment, and have not expired,
4 may be exchanged under subsection (a)(1);

5 “(5) require that, once exchanged, the credit be
6 retired for purposes of use under the program by or
7 for which it was originally issued; and

8 “(6) establish a deadline by which persons must
9 exchange the credits or request compensation for
10 early action under this section.

11 “(c) PARTICIPATION.—Participation in an exchange
12 of credits for allowances or compensation for early action
13 authorized by this section shall not preclude any person
14 from participation in an offset credit program established
15 under part D.

16 **“SEC. 783. ESTABLISHMENT OF DEFICIT REDUCTION FUND.**

17 “(a) DEFICIT REDUCTION FUND.—There is estab-
18 lished in the Treasury of the United States a fund, to be
19 known as the ‘Deficit Reduction Fund’.

20 “(b) DISBURSEMENTS.—No disbursement shall be
21 made from the Deficit Reduction Fund except pursuant
22 to an appropriation Act.”.

1 **Subtitle C—Additional Greenhouse**
2 **Gas Standards**

3 **SEC. 121. GREENHOUSE GAS STANDARDS.**

4 The Clean Air Act (42 U.S.C. 7401 et seq.), as
5 amended by subtitles A and B of this title, is further
6 amended by adding the following new title after title VII:

7 **“TITLE VIII—ADDITIONAL**
8 **GREENHOUSE GAS STANDARDS**

9 **“SEC. 801. DEFINITIONS.**

10 “For purposes of this title, terms that are defined
11 in title VII, except for the term ‘stationary source’, shall
12 have the meanings given those terms in title VII.

13 **“PART A—STATIONARY SOURCE STANDARDS**

14 **“SEC. 811. STANDARDS OF PERFORMANCE.**

15 “(a) DEFINITION OF UNCAPPED GREENHOUSE GAS
16 EMISSIONS.—In this section, the term ‘uncapped green-
17 house gas emissions’ means those greenhouse gas emis-
18 sions to which section 722 does not apply.

19 “(b) STANDARDS.—Before January 1, 2020, the Ad-
20 ministrator shall not promulgate new source performance
21 standards for greenhouse gases under section 111 that are
22 applicable to any stationary source that—

23 “(1) emits uncapped greenhouse gas emissions;

24 and

1 “(2) qualifies as an eligible offset project pursu-
2 ant to section 733 that is eligible to receive an offset
3 credit pursuant to section 737.”.

4 **SEC. 122. HFC REGULATION.**

5 (a) IN GENERAL.—Title VI of the Clean Air Act (42
6 U.S.C. 7671 et seq.) (relating to stratospheric ozone pro-
7 tection) is amended by adding at the end the following:

8 **“SEC. 619. HYDROFLUOROCARBONS (HFCs).**

9 “(a) TREATMENT AS CLASS II, GROUP II SUB-
10 STANCES.—Except as otherwise provided in this section,
11 hydrofluorocarbons shall be treated as class II substances
12 for purposes of applying the provisions of this title. The
13 Administrator shall establish two groups of class II sub-
14 stances. Class II, group I substances shall include all
15 hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-
16 tion 602(b). Class II, group II substances shall include
17 each of the following:

18 “(1) Hydrofluorocarbon-23 (HFC-23).

19 “(2) Hydrofluorocarbon-32 (HFC-32).

20 “(3) Hydrofluorocarbon-41 (HFC-41).

21 “(4) Hydrofluorocarbon-125 (HFC-125).

22 “(5) Hydrofluorocarbon-134 (HFC-134).

23 “(6) Hydrofluorocarbon-134a (HFC-134a).

24 “(7) Hydrofluorocarbon-143 (HFC-143).

25 “(8) Hydrofluorocarbon-143a (HFC-143a).

- 1 “(9) Hydrofluorocarbon-152 (HFC–152).
- 2 “(10) Hydrofluorocarbon-152a (HFC–152a).
- 3 “(11) Hydrofluorocarbon-227ea (HFC–227ea).
- 4 “(12) Hydrofluorocarbon-236cb (HFC–236cb).
- 5 “(13) Hydrofluorocarbon-236ea (HFC–236ea).
- 6 “(14) Hydrofluorocarbon-236fa (HFC–236fa).
- 7 “(15) Hydrofluorocarbon-245ca (HFC–245ca).
- 8 “(16) Hydrofluorocarbon-245fa (HFC–245fa).
- 9 “(17) Hydrofluorocarbon-365mfc (HFC–
- 10 365mfc).
- 11 “(18) Hydrofluorocarbon-43-10mee (HFC–43–
- 12 10mee).
- 13 “(19) Hydrofluoroolefin-1234yf (HFO–1234yf).
- 14 “(20) Hydrofluoroolefin-1234ze (HFO–1234ze).

15 Not later than 6 months after the date of enactment of

16 this title, the Administrator shall publish an initial list of

17 class II, group II substances, which shall include the sub-

18 stances listed in this subsection. The Administrator may

19 add to the list of class II, group II substances any other

20 substance used as a substitute for a class I or II substance

21 if the Administrator determines that 1 metric ton of the

22 substance makes the same or greater contribution to glob-

23 al warming over 100 years as 1 metric ton of carbon diox-

24 ide. Within 24 months after the date of enactment of this

25 section, the Administrator shall amend the regulations

1 under this title (including the regulations referred to in
2 sections 603, 608, 609, 610, 611, 612, and 613) to apply
3 to class II, group II substances.

4 “(b) CONSUMPTION AND PRODUCTION OF CLASS II,
5 GROUP II SUBSTANCES.—

6 “(1) IN GENERAL.—

7 “(A) CONSUMPTION PHASE DOWN.—In the
8 case of class II, group II substances, in lieu of
9 applying section 605 and the regulations there-
10 under, the Administrator shall promulgate reg-
11 ulations phasing down the consumption of class
12 II, group II substances in the United States,
13 and the importation of products containing any
14 class II, group II substance, in accordance with
15 this subsection within 18 months after the date
16 of enactment of this section. Effective January
17 1, 2012, it shall be unlawful for any person to
18 produce any class II, group II substance, im-
19 port any class II, group II substance, or import
20 any product containing any class II, group II
21 substance without holding one consumption al-
22 lowance or one destruction offset credit for each
23 carbon dioxide equivalent ton of the class II,
24 group II substance. Any person who exports a
25 class II, group II substance for which a con-

1 sumption allowance was retired may receive a
2 refund of that allowance from the Adminis-
3 trator following the export.

4 “(B) PRODUCTION.—If the United States
5 becomes a party or otherwise adheres to a mul-
6 tilateral agreement, including any amendment
7 to the Montreal Protocol on Substances That
8 Deplete the Ozone Layer, that restricts the pro-
9 duction of class II, group II substances, the Ad-
10 ministrator shall promulgate regulations estab-
11 lishing a baseline for the production of class II,
12 group II substances in the United States and
13 phasing down the production of class II, group
14 II substances in the United States, in accord-
15 ance with such multilateral agreement and sub-
16 ject to the same exceptions and other provisions
17 as are applicable to the phase down of con-
18 sumption of class II, group II substances under
19 this section (except that the Administrator shall
20 not require a person who obtains production al-
21 lowances from the Administrator to make pay-
22 ment for such allowances if the person is mak-
23 ing payment for a corresponding quantity of
24 consumption allowances of the same vintage
25 year). Upon the effective date of such regula-

1 tions, it shall be unlawful for any person to
2 produce any class II, group II substance with-
3 out holding one consumption allowance and one
4 production allowance, or one destruction offset
5 credit, for each carbon dioxide equivalent ton of
6 the class II, group II substance.

7 “(C) INTEGRITY OF LIMITS.—To maintain
8 the integrity of the class II, group II limits, the
9 Administrator may, through rulemaking, limit
10 the percentage of each person’s compliance obli-
11 gation that may be met through the use of de-
12 struction offset credits or banked allowances.

13 “(D) COUNTING OF VIOLATIONS.—Each
14 consumption allowance, production allowance,
15 or destruction offset credit not held as required
16 by this section shall be a separate violation of
17 this section.

18 “(2) SCHEDULE.—Pursuant to the regulations
19 promulgated pursuant to paragraph (1)(A), the
20 number of class II, group II consumption allowances
21 established by the Administrator for each calendar
22 year beginning in 2012 shall be the following per-
23 centage of the baseline, as established by the Admin-
24 istrator pursuant to paragraph (3):

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“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

1 “(3) BASELINE.—(A) Not later than 1 year
2 after the date of enactment of this section, the Ad-
3 ministratoꝛ shall promulgate regulations to establish
4 the baseline for purposes of paragraph (2). The

1 baseline shall be the sum, expressed in metric tons
2 of carbon dioxide equivalents, of—

3 “(i) the annual average consumption of all
4 class II substances in calendar years 2004,
5 2005, and 2006; plus

6 “(ii) the annual average quantity of all
7 class II substances contained in imported prod-
8 ucts in calendar years 2004, 2005, and 2006.

9 “(B) Notwithstanding subparagraph (A), if the
10 Administrator determines that the baseline is higher
11 than 370 million metric tons of carbon dioxide
12 equivalents, then the Administrator shall establish
13 the baseline at 370 million metric tons of carbon di-
14 oxide equivalents.

15 “(C) Notwithstanding subparagraph (A), if the
16 Administrator determines that the baseline is lower
17 than 280 million metric tons of carbon dioxide
18 equivalents, then the Administrator shall establish
19 the baseline at 280 million metric tons of carbon di-
20 oxide equivalents.

21 “(4) DISTRIBUTION OF ALLOWANCES.—

22 “(A) IN GENERAL.—Pursuant to the regu-
23 lations promulgated under paragraph (1)(A),
24 for each calendar year beginning in 2012, the

1 Administrator shall sell consumption allowances
2 in accordance with this paragraph.

3 “(B) ESTABLISHMENT OF POOLS.—The
4 Administrator shall establish two allowance
5 pools. Eighty percent of the consumption allow-
6 ances available for a calendar year shall be
7 placed in the producer-importer pool, and 20
8 percent of the consumption allowances available
9 for a calendar year shall be placed in the sec-
10 ondary pool.

11 “(C) PRODUCER-IMPORTER POOL.—

12 “(i) AUCTION.—(I) For each calendar
13 year, the Administrator shall offer for sale
14 at auction the following percentage of the
15 consumption allowances in the producer-
16 importer pool:

“Calendar Year	Percent Available for Auction
2012	10
2013	20
2014	30
2015	40
2016	50
2017	60
2018	70
2019	80
2020 and thereafter	90

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.

23 “(IV) The Administrator shall set a
24 minimum bid per consumption allowance of
25 the following:

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1 “(aa) For vintage year 2012,
2 \$1.00.

3 “(bb) For vintage year 2013,
4 \$1.20.

5 “(cc) For vintage year 2014,
6 \$1.40.

7 “(dd) For vintage year 2015,
8 \$1.60.

9 “(ee) For vintage year 2016,
10 \$1.80.

11 “(ff) For vintage year 2017,
12 \$2.00.

13 “(gg) For vintage year 2018 and
14 thereafter, \$2.00 adjusted for infla-
15 tion after vintage year 2017 based
16 upon the producer price index as pub-
17 lished by the Department of Com-
18 merce.

19 “(ii) NON-AUCTION SALE.—(I) For
20 each calendar year, as soon as practicable
21 after auction, the Administrator shall offer
22 for sale the remaining consumption allow-
23 ances in the producer-importer pool at the
24 following prices:

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1 “(aa) A fee of \$1.00 per vintage
2 year 2012 allowance.

3 “(bb) A fee of \$1.20 per vintage
4 year 2013 allowance.

5 “(cc) A fee of \$1.40 per vintage
6 year 2014 allowance.

7 “(dd) For each vintage year
8 2015 allowance, a fee equal to the av-
9 erage of \$1.10 and the auction clear-
10 ing price for vintage year 2014 allow-
11 ances.

12 “(ee) For each vintage year 2016
13 allowance, a fee equal to the average
14 of \$1.30 and the auction clearing
15 price for vintage year 2015 allow-
16 ances.

17 “(ff) For each vintage year 2017
18 allowance, a fee equal to the average
19 of \$1.40 and the auction clearing
20 price for vintage year 2016 allow-
21 ances.

22 “(gg) For each allowance of vin-
23 tage year 2018 and subsequent vin-
24 tage years, a fee equal to the auction
25 clearing price for that vintage year.

1 “(II) The Administrator shall offer to
2 sell the remaining consumption allowances
3 in the producer-importer pool to producers
4 of class II, group II substances and im-
5 porters of class II, group II substances in
6 proportion to their relative allocation
7 share.

8 “(III) Such allocation share for such
9 sale shall be determined by the Adminis-
10 trator using such producer’s or importer’s
11 annual average data on class II substances
12 from calendar years 2004, 2005, and
13 2006, on a carbon dioxide equivalent basis,
14 and—

15 “(aa) shall be based on a pro-
16 ducer’s production, plus importation,
17 plus acquisitions and purchases from
18 persons who produced class II sub-
19 stances in the United States during
20 calendar year 2004, 2005, or 2006,
21 less exportation, less transfers and
22 sales to persons who produced class II
23 substances in the United States dur-
24 ing calendar year 2004, 2005, or
25 2006; and

1 “(bb) for an importer of class II
2 substances that did not produce in the
3 United States any class II substance
4 during calendar years 2004, 2005,
5 and 2006, shall be based on the im-
6 porter’s importation less exportation.

7 For purposes of item (aa), the Adminis-
8 trator shall account for 100 percent of
9 class II, group II substances and 60 per-
10 cent of class II, group I substances. For
11 purposes of item (bb), the Administrator
12 shall account for 100 percent of class II,
13 group II substances and 100 percent of
14 class II, group I substances.

15 “(IV) Any consumption allowances
16 made available for nonauction sale to a
17 specific producer or importer of class II,
18 group II substances but not purchased by
19 the specific producer or importer shall be
20 made available for sale to any producer or
21 importer of class II substances during cal-
22 endar year 2004, 2005, or 2006. If de-
23 mand for such consumption allowances ex-
24 ceeds supply of such consumption allow-
25 ances, the Administrator shall develop and

1 utilize criteria for the sale of such con-
2 sumption allowances that may include pro
3 rata shares, historic production and impor-
4 tation, economic or technical hardship, or
5 other factors deemed relevant by the Ad-
6 ministrator. If the supply of such con-
7 sumption allowances exceeds demand, the
8 Administrator may offer such consumption
9 allowances for sale in the secondary pool as
10 set forth in subparagraph (D).

11 “(D) SECONDARY POOL.—(i) For each cal-
12 endar year, as soon as practicable after the auc-
13 tion required in subparagraph (C), the Adminis-
14 trator shall offer for sale the consumption al-
15 lowances in the secondary pool at the prices
16 listed in subparagraph (C)(ii).

17 “(ii) The Administrator shall accept appli-
18 cations for purchase of secondary pool con-
19 sumption allowances from—

20 “(I) importers of products containing
21 class II, group II substances;

22 “(II) persons who purchased any class
23 II, group II substance directly from a pro-
24 ducer or importer of class II, group II sub-
25 stances for use in a product containing a

1 class II, group II substance, a manufac-
2 turing process, or a reclamation process;

3 “(III) persons who did not produce or
4 import a class II substance during cal-
5 endar year 2004, 2005, or 2006, but who
6 the Administrator determines have subse-
7 quently taken significant steps to produce
8 or import a substantial quantity of any
9 class II, group II substance; and

10 “(IV) persons who produced or im-
11 ported any class II substance during cal-
12 endar year 2004, 2005, or 2006.

13 “(iii) If the supply of consumption allow-
14 ances in the secondary pool equals or exceeds
15 the demand for consumption allowances in the
16 secondary pool as presented in the applications
17 for purchase, the Administrator shall sell the
18 consumption allowances in the secondary pool
19 to the applicants in the amounts requested in
20 the applications for purchase. Any consumption
21 allowances in the secondary pool not purchased
22 in a calendar year may be rolled over and added
23 to the quantity available in the secondary pool
24 in the following year.

1 “(iv) If the demand for consumption allow-
2 ances in the secondary pool as presented in the
3 applications for purchase exceeds the supply of
4 consumption allowances in the secondary pool,
5 the Administrator shall sell the consumption al-
6 lowances as follows:

7 “(I) The Administrator shall first sell
8 the consumption allowances in the sec-
9 ondary pool to any importers of products
10 containing class II, group II substances in
11 the amounts requested in their applications
12 for purchase. If the demand for such con-
13 sumption allowances exceeds supply of
14 such consumption allowances, the Adminis-
15 trator shall develop and utilize criteria for
16 the sale of such consumption allowances
17 among importers of products containing
18 class II, group II substances that may in-
19 clude pro rata shares, historic importation,
20 economic or technical hardship, or other
21 factors deemed relevant by the Adminis-
22 trator.

23 “(II) The Administrator shall next
24 sell any remaining consumption allowances
25 to persons identified in subclauses (II) and

1 (III) of clause (ii) in the amounts re-
2 quested in their applications for purchase.
3 If the demand for such consumption allow-
4 ances exceeds remaining supply of such
5 consumption allowances, the Administrator
6 shall develop and utilize criteria for the
7 sale of such consumption allowances
8 among subclauses (II) and (III) applicants
9 that may include pro rata shares, historic
10 use, economic or technical hardship, or
11 other factors deemed relevant by the Ad-
12 ministrator.

13 “(III) The Administrator shall then
14 sell any remaining consumption allowances
15 to persons who produced or imported any
16 class II substance during calendar year
17 2004, 2005, or 2006 in the amounts re-
18 quested in their applications for purchase.
19 If demand for such consumption allow-
20 ances exceeds remaining supply of such
21 consumption allowances, the Administrator
22 shall develop and utilize criteria for the
23 sale of such consumption allowances that
24 may include pro rata shares, historic pro-
25 duction and importation, economic or tech-

1 nical hardship, or other factors deemed rel-
2 evant by the Administrator.

3 “(IV) Each person who purchases
4 consumption allowances in a non-auction
5 sale under this subparagraph shall be re-
6 quired to disclose the person or entity
7 sponsoring or benefitting from the pur-
8 chases if such person or entity is, in whole
9 or in part, other than the purchaser or the
10 purchaser’s employer.

11 “(E) DISCRETION TO WITHHOLD ALLOW-
12 ANCES.—Nothing in this paragraph prevents
13 the Administrator from exercising discretion to
14 withhold and retire consumption allowances
15 that would otherwise be available for auction or
16 nonauction sale, or to allocate such allowances
17 for essential uses pursuant to subsection (d).
18 Not later than 18 months after the date of en-
19 actment of this section, the Administrator shall
20 promulgate regulations establishing criteria for
21 withholding and retiring consumption allow-
22 ances and governing the allocation of withheld
23 allowances for essential uses subject to the cri-
24 teria under subsection (d).

1 “(5) BANKING.—A consumption allowance or
2 destruction offset credit may be used to meet the
3 compliance obligation requirements of paragraph (1)
4 in—

5 “(A) the vintage year for the allowance or
6 destruction offset credit; or

7 “(B) any calendar year subsequent to the
8 vintage year for the allowance or destruction
9 offset credit.

10 “(6) AUCTIONS.—

11 “(A) INITIAL REGULATIONS.—Not later
12 than 18 months after the date of enactment of
13 this section, the Administrator shall promulgate
14 regulations governing the auction of allowances
15 under this section. Such regulations shall in-
16 clude the following requirements:

17 “(i) FREQUENCY; FIRST AUCTION.—
18 Auctions shall be held one time per year at
19 regular intervals, with the first auction to
20 be held no later than October 31, 2011.

21 “(ii) AUCTION FORMAT.—Auctions
22 shall follow a single-round, sealed-bid, uni-
23 form price format.

24 “(iii) FINANCIAL ASSURANCE.—The
25 Administrator may establish financial as-

1 surance requirements to ensure that auc-
2 tion participants can and will perform on
3 their bids.

4 “(iv) DISCLOSURE OF BENEFICIAL
5 OWNERSHIP.—Each bidder in the auction
6 shall be required to disclose the person or
7 entity sponsoring or benefitting from the
8 bidder’s participation in the auction if such
9 person or entity is, in whole or in part,
10 other than the bidder.

11 “(v) PUBLICATION OF INFORMA-
12 TION.—After the auction, the Adminis-
13 trator shall, in a timely fashion, publish
14 the number of bidders, number of winning
15 bidders, the quantity of allowances sold,
16 and the auction clearing price.

17 “(vi) BIDDING LIMITS IN 2012.—In
18 the vintage year 2012 auction, no auction
19 participant may, directly or in concert with
20 another participant, bid for or purchase
21 more allowances offered for sale at the
22 auction than the greater of—

23 “(I) the number of allowances
24 which, when added to the number of
25 allowances available for purchase by

1 the participant in the producer-im-
2 porter pool non-auction sale, would
3 equal the participant's annual average
4 consumption of class II, group II sub-
5 stances in calendar years 2004, 2005,
6 and 2006; or

7 “(II) the number of allowances
8 equal to the product of—

9 “(aa) 1.20 multiplied by the
10 participant's allocation share of
11 the producer-importer pool non-
12 auction sale as determined under
13 paragraph (4)(C)(ii); and

14 “(bb) the number of vintage
15 year 2012 allowances offered at
16 auction.

17 “(vii) BIDDING LIMITS IN 2013.—In
18 the vintage year 2013 auction, no auction
19 participant may, directly or in concert with
20 another participant, bid for or purchase
21 more allowances offered for sale at the
22 auction than the product of—

23 “(I) 1.15 multiplied by the ratio
24 of the total number of vintage year
25 2012 allowances purchased by the

1 participant from the auction and from
2 the producer-importer pool non-auc-
3 tion sale to the total number of vin-
4 tage year 2012 allowances in the pro-
5 ducer-importer pool; and

6 “(II) the number of vintage year
7 2013 allowances offered at auction.

8 “(viii) BIDDING LIMITS IN SUBSE-
9 QUENT YEARS.—In the auctions for vin-
10 tage year 2014 and subsequent vintage
11 years, no auction participant may, directly
12 or in concert with another participant, bid
13 for or purchase more allowances offered
14 for sale at the auction than the product
15 of—

16 “(I) 1.15 multiplied by the ratio
17 of the highest number of allowances
18 required to be held by the participant
19 in any of the three prior vintage years
20 to meet its compliance obligation
21 under paragraph (1) to the total num-
22 ber of allowances in the producer-im-
23 porter pool for such vintage year; and

1 “(II) the number of allowances
2 offered at auction for that vintage
3 year.

4 “(ix) OTHER REQUIREMENTS.—The
5 Administrator may include in the regula-
6 tions such other requirements or provisions
7 as the Administrator considers necessary
8 to promote effective, efficient, transparent,
9 and fair administration of auctions under
10 this section.

11 “(B) REVISION OF REGULATIONS.—The
12 Administrator may, at any time, revise the ini-
13 tial regulations promulgated under subpara-
14 graph (A) based on the Administrator’s experi-
15 ence in administering allowance auctions by
16 promulgating new regulations. Such revised reg-
17 ulations need not meet the requirements identi-
18 fied in subparagraph (A) if the Administrator
19 determines that an alternative auction design
20 would be more effective, taking into account
21 factors including costs of administration, trans-
22 parency, fairness, and risks of collusion or ma-
23 nipulation. In determining whether and how to
24 revise the initial regulations under this para-
25 graph, the Administrator shall not consider

1 maximization of revenues to the Federal Gov-
2 ernment.

3 “(C) DELEGATION OR CONTRACT.—Pursu-
4 ant to regulations under this section, the Ad-
5 ministrator may, by delegation or contract, pro-
6 vide for the conduct of auctions under the Ad-
7 ministrator’s supervision by other departments
8 or agencies of the Federal Government or by
9 nongovernmental agencies, groups, or organiza-
10 tions.

11 “(7) PAYMENTS FOR ALLOWANCES.—

12 “(A) INITIAL REGULATIONS.—Not later
13 than 18 months after the date of enactment of
14 this section, the Administrator shall promulgate
15 regulations governing the payment for allow-
16 ances purchased in auction and non-auction
17 sales under this section. Such regulations shall
18 include the requirement that, in the event that
19 full payment for purchased allowances is not
20 made on the date of purchase, equal payments
21 shall be made one time per calendar quarter
22 with all payments for allowances of a vintage
23 year made by the end of that vintage year.

24 “(B) REVISION OF REGULATIONS.—The
25 Administrator may, at any time, revise the ini-

1 tial regulations promulgated under subpara-
2 graph (A) based on the Administrator’s experi-
3 ence in administering collection of payments by
4 promulgating new regulations. Such revised reg-
5 ulations need not meet the requirements identi-
6 fied in subparagraph (A) if the Administrator
7 determines that an alternative payment struc-
8 ture or frequency would be more effective, tak-
9 ing into account factors including cost of ad-
10 ministration, transparency, and fairness. In de-
11 termining whether and how to revise the initial
12 regulations under this paragraph, the Adminis-
13 trator shall not consider maximization of reve-
14 nues to the Federal Government.

15 “(C) PENALTIES FOR NON-PAYMENT.—
16 Failure to pay for purchased allowances in ac-
17 cordance with the regulations promulgated pur-
18 suant to this paragraph shall be a violation of
19 the requirements of subsection (b). Section
20 113(c)(3) shall apply in the case of any person
21 who knowingly fails to pay for purchased allow-
22 ances in accordance with the regulations pro-
23 mulgated pursuant to this paragraph.

24 “(8) IMPORTED PRODUCTS.—If the United
25 States becomes a party or otherwise adheres to a

1 multilateral agreement, including any amendment to
2 the Montreal Protocol on Substances That Deplete
3 the Ozone Layer, which restricts the production or
4 consumption of class II, group II substances—

5 “(A) as of the date on which such agree-
6 ment or amendment enters into force, it shall
7 no longer be unlawful for any person to import
8 from a party to such agreement or amendment
9 any product containing any class II, group II
10 substance whose production or consumption is
11 regulated by such agreement or amendment
12 without holding one consumption allowance or
13 one destruction offset credit for each carbon di-
14 oxide equivalent ton of the class II, group II
15 substance;

16 “(B) the Administrator shall promulgate
17 regulations within 12 months of the date the
18 United States becomes a party or otherwise ad-
19 heres to such agreement or amendment, or the
20 date on which such agreement or amendment
21 enters into force, whichever is later, to establish
22 a new baseline for purposes of paragraph (2),
23 which new baseline shall be the original baseline
24 less the carbon dioxide equivalent of the annual
25 average quantity of any class II substances reg-

1 ulated by such agreement or amendment con-
2 tained in products imported from parties to
3 such agreement or amendment in calendar
4 years 2004, 2005, and 2006;

5 “(C) as of the date on which such agree-
6 ment or amendment enters into force, no per-
7 son importing any product containing any class
8 II, group II substance may, directly or in con-
9 cert with another person, purchase any con-
10 sumption allowances for sale by the Adminis-
11 trator for the importation of products from a
12 party to such agreement or amendment that
13 contain any class II, group II substance re-
14 stricted by such agreement or amendment; and

15 “(D) the Administrator may adjust the
16 two allowance pools established in paragraph
17 (4) such that up to 90 percent of the consump-
18 tion allowances available for a calendar year are
19 placed in the producer-importer pool with the
20 remaining consumption allowances placed in the
21 secondary pool.

22 “(9) OFFSETS.—

23 “(A) CHLOROFLUOROCARBON DESTRUC-
24 TION.—Within 18 months after the date of en-
25 actment of this section, the Administrator shall

1 promulgate regulations to provide for the
2 issuance of offset credits for the destruction, in
3 the calendar year 2012 or later, of
4 chlorofluorocarbons in the United States. The
5 Administrator shall establish and distribute to
6 the destroying entity a quantity of destruction
7 offset credits equal to 0.8 times the number of
8 metric tons of carbon dioxide equivalents of re-
9 duction achieved through the destruction. No
10 destruction offset credits shall be established
11 for the destruction of a class II, group II sub-
12 stance.

13 “(B) DEFINITION.—For purposes of this
14 paragraph, the term ‘destruction’ means the
15 conversion of a substance by thermal, chemical,
16 or other means to another substance with little
17 or no carbon dioxide equivalent value and no
18 ozone depletion potential.

19 “(C) REGULATIONS.—The regulations pro-
20 mulgated under this paragraph shall include
21 standards and protocols for project eligibility,
22 certification of destroyers, monitoring, tracking,
23 destruction efficiency, quantification of project
24 and baseline emissions and carbon dioxide
25 equivalent value, and verification. The Adminis-

1 trator shall ensure that destruction offset cred-
2 its represent real and verifiable destruction of
3 chlorofluorocarbons or other class I or class II,
4 group I, substances authorized under subpara-
5 graph (D).

6 “(D) OTHER SUBSTANCES.—The Adminis-
7 trator may promulgate regulations to add to the
8 list of class I and class II, group I, substances
9 that may be destroyed for destruction offset
10 credits, taking into account a candidate sub-
11 stance’s carbon dioxide equivalent value, ozone
12 depletion potential, prevalence in banks in the
13 United States, and emission rates, as well as
14 the need for additional cost containment under
15 the class II, group II limits and the integrity of
16 the class II, group II limits. The Administrator
17 shall not add a class I or class II, group I sub-
18 stance to the list if the consumption of the sub-
19 stance has not been completely phased-out
20 internationally (except for essential use exemp-
21 tions or other similar exemptions) pursuant to
22 the Montreal Protocol.

23 “(E) EXTENSION OF OFFSETS.—(i) At any
24 time after the Administrator promulgates regu-
25 lations pursuant to subparagraph (A), the Ad-

1 administrator may, pursuant to the requirements
2 of part D of title VII and based on the carbon
3 dioxide equivalent value of the substance de-
4 stroyed, add the types of destruction projects
5 authorized to receive destruction offset credits
6 under this paragraph to the list of types of
7 projects eligible for offset credits under section
8 733. If such projects are added to the list under
9 section 733, the issuance of offset credits for
10 such projects under part D of title VII shall be
11 governed by the requirements of such part D,
12 while the issuance of offset credits for such
13 projects under this paragraph shall be governed
14 by the requirements of this paragraph. Nothing
15 in this paragraph shall affect the issuance of
16 offset credits under section 740.

17 “(ii) The Administrator shall not make the
18 addition under clause (i) unless the Adminis-
19 trator finds that insufficient destruction is oc-
20 curring or is projected to occur under this para-
21 graph and that the addition would increase de-
22 struction.

23 “(iii) In no event shall more than one de-
24 struction offset credit be issued under title VII

1 and this section for the destruction of the same
2 quantity of a substance.

3 “(10) LEGAL STATUS OF ALLOWANCES AND
4 CREDITS.—None of the following constitutes a prop-
5 erty right:

6 “(A) A production or consumption allow-
7 ance.

8 “(B) A destruction offset credit.

9 “(c) DEADLINES FOR COMPLIANCE.—Notwith-
10 standing the deadlines specified for class II substances in
11 sections 608, 609, 610, 612, and 613 that occur prior to
12 January 1, 2009, the deadline for promulgating regula-
13 tions under those sections for class II, group II substances
14 shall be January 1, 2012.

15 “(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwith-
16 standing the provisions of this section regarding auction
17 and nonauction sale of allowances, to the extent consistent
18 with any applicable multilateral agreement to which the
19 United States is a party or otherwise adheres, the Admin-
20 istrator may allocate (and in the case of medical devices,
21 shall determine whether to allocate) allowances withheld
22 from auction or nonauction sale under subsection
23 (b)(4)(E) for essential uses pursuant to the following re-
24 quirements:

1 “(1) MEDICAL DEVICES.—The Administrator,
2 after notice and opportunity for public comment,
3 and in consultation with the Commissioner of Food
4 and Drugs, shall determine whether to allocate with-
5 held allowances for the production and consumption
6 of class II, group II substances solely for use in
7 medical devices approved and determined to be es-
8 sential by the Commissioner. Not later than 20
9 months after the date of enactment of this title, the
10 Commissioner shall approve and determine essential
11 medical devices. For purposes of this section, section
12 601(8)(A) shall not apply to metered dose inhalers.

13 “(2) AVIATION AND SPACE VEHICLE SAFETY.—
14 The Administrator, after notice and opportunity for
15 public comment, and in consultation with the Ad-
16 ministrator of the Federal Aviation Administration
17 or the Administrator of the National Aeronautics
18 and Space Administration, may allocate withheld al-
19 lowances for the production and consumption of
20 class II, group II substances solely for aviation and
21 space flight safety purposes.

22 “(3) FIRE SUPPRESSION.—The Administrator,
23 after notice and opportunity for public comment,
24 may allocate withheld allowances for the production
25 and consumption of class II, group II substances

1 solely for fire suppression purposes. Paragraphs (1)
2 and (2) of subsection (g) of section 604 shall apply
3 to class II, group II substances in the same manner
4 and to the same extent as such provisions apply to
5 the substances specified in such subsection.

6 “(4) NATIONAL SECURITY.—The Administrator,
7 after notice and opportunity for public comment,
8 and in consultation with the Secretary of Defense,
9 may allocate withheld allowances for the production
10 and consumption of class II, group II substances for
11 use as may be necessary to protect the national se-
12 curity interests of the United States if the Adminis-
13 trator, in consultation with the Secretary of Defense,
14 finds that adequate substitutes are not available and
15 that the production or consumption of such sub-
16 stance is necessary to protect such national security
17 interest.

18 “(e) DEVELOPING COUNTRIES.—Notwithstanding
19 any phase down of production required by this section, the
20 Administrator, after notice and opportunity for public
21 comment, may authorize the production of limited quan-
22 tities of class II, group II substances in excess of the
23 amounts otherwise allowable under this section solely for
24 export to, and use in, developing countries. Any produc-
25 tion authorized under this subsection shall be solely for

1 purposes of satisfying the basic domestic needs of such
2 countries as provided in applicable international agree-
3 ments, if any, to which the United States is a party or
4 otherwise adheres.

5 “(f) NATIONAL SECURITY; FIRE SUPPRESSION,
6 ETC.—The provisions of subsection (f) and paragraphs (1)
7 and (2) of subsection (g) of section 604 shall apply to any
8 consumption and production phase down of class II, group
9 II substances in the same manner and to the same extent,
10 consistent with any applicable international agreement to
11 which the United States is a party or otherwise adheres,
12 as such provisions apply to the substances specified in
13 such subsection.

14 “(g) ACCELERATED SCHEDULE.—In lieu of section
15 606, the provisions of paragraphs (1), (2), and (3) of this
16 subsection shall apply in the case of class II, group II sub-
17 stances.

18 “(1) IN GENERAL.—The Administrator shall
19 promulgate initial regulations not later than 18
20 months after the date of enactment of this section,
21 and revised regulations any time thereafter, which
22 establish a schedule for phasing down the consump-
23 tion (and, if the condition in subsection (b)(1)(B) is
24 met, the production) of class II, group II substances
25 that is more stringent than the schedule set forth in

1 this section if, based on the availability of sub-
2 stitutes, the Administrator determines that such
3 more stringent schedule is practicable, taking into
4 account technological achievability, safety, and other
5 factors the Administrator deems relevant, or if the
6 Montreal Protocol, or any applicable international
7 agreement to which the United States is a party or
8 otherwise adheres, is modified or established to in-
9 clude a schedule or other requirements to control or
10 reduce production, consumption, or use of any class
11 II, group II substance more rapidly than the appli-
12 cable schedule under this section.

13 “(2) PETITION.—Any person may submit a pe-
14 tition to promulgate regulations under this sub-
15 section in the same manner and subject to the same
16 procedures as are provided in section 606(b).

17 “(3) INCONSISTENCY.—If the Administrator de-
18 termines that the provisions of this section regarding
19 banking, allowance rollover, or destruction offset
20 credits create a significant potential for inconsis-
21 tency with the requirements of any applicable inter-
22 national agreement to which the United States is a
23 party or otherwise adheres, the Administrator may
24 promulgate regulations restricting the availability of
25 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 ministrator; 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 use funds
22 to establish a program to incentivize the recov-
23 ery, recycling, and reclamation of any Class II
24 substances in order to reduce emissions of such
25 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 use funds to meet any related contribution obli-
9 gation of the United States to the Multilateral
10 Fund for the Implementation of the Montreal
11 Protocol or similar multilateral fund established
12 under such multilateral agreement.

13 “(C) BEST-IN-CLASS APPLIANCES DEPLOY-
14 MENT PROGRAM.—The Secretary of Energy
15 may use funds to establish and carry out a pro-
16 gram, to be known as the ‘Best-in-Class Appli-
17 ances Deployment Program’—

18 “(i) to provide bonus payments to re-
19 tailers or distributors for sales of best-in-
20 class high-efficiency household appliance
21 models, high-efficiency installed building
22 equipment, and high-efficiency consumer
23 electronics, with the goals of—

24 “(I) accelerating the reduction in
25 consumption of

1 hydrochlorofluorocarbons (measured
2 on a global warming potential-weight-
3 ed basis);

4 “(II) reducing life-cycle costs for
5 consumers;

6 “(III) encouraging innovation;
7 and

8 “(IV) maximizing energy savings
9 and public benefit;

10 “(ii) to provide bounties to retailers
11 and manufacturers for the replacement, re-
12 tirement, and recycling of old, inefficient,
13 and environmentally harmful products; and

14 “(iii) to provide premium awards to
15 manufacturers for developing and pro-
16 ducing new super-efficient best-in-class
17 products.

18 “(D) LOW GLOBAL WARMING PRODUCT
19 TRANSITION ASSISTANCE PROGRAM.—

20 “(i) IN GENERAL.—The Adminis-
21 trator, in consultation with the Secretary
22 of Energy, may utilize funds in fiscal years
23 2012 through 2022 to establish a program
24 to provide financial assistance to manufac-
25 turers of products containing class II,

1 group II substances to facilitate the transi-
2 tion to products that contain or utilize al-
3 ternative substances with no or low carbon
4 dioxide equivalent value and no ozone de-
5 pletion potential.

6 “(ii) DEFINITION OF PRODUCTS.—In
7 this subparagraph, the term ‘products’
8 means refrigerators, freezers, dehumidi-
9 fiers, air conditioners, foam insulation,
10 technical aerosols, fire protection systems,
11 and semiconductors.

12 “(iii) FINANCIAL ASSISTANCE.—The
13 Administrator may provide financial assist-
14 ance to manufacturers pursuant to clause
15 (i) for—

16 “(I) the design and configuration
17 of new products that use alternative
18 substances with no or low carbon di-
19 oxide equivalent value and no ozone
20 depletion potential; and

21 “(II) the redesign and retooling
22 of facilities for the manufacture of
23 products in the United States that use
24 alternative substances with no or low

1 carbon dioxide equivalent value and
2 no ozone depletion potential.

3 “(iv) REPORTS.—For any fiscal year
4 during which the Administrator provides
5 financial assistance pursuant to this sub-
6 paragraph, the Administrator shall submit
7 a report to the Congress within 3 months
8 of the end of such fiscal year detailing the
9 amounts, recipients, specific purposes, and
10 results of the financial assistance pro-
11 vided.”.

12 (b) TABLE OF CONTENTS.—The table of contents of
13 title VI of the Clean Air Act (42 U.S.C. 7671 et seq.)
14 is amended by adding the following new item at the end
15 thereof:

“Sec. 619. Hydrofluorocarbons (HFCs).”.

16 (c) FIRE SUPPRESSION AGENTS.—Section 605(a) of
17 the Clean Air Act (42 U.S.C. 7671(a)) is amended—

18 (1) by striking “or” at the end of paragraph

19 (2);

20 (2) by striking the period at the end of para-
21 graph (3) and inserting “; or”; and

22 (3) by adding the following new paragraph after
23 paragraph (3):

1 “(4) is listed as acceptable for use as a fire sup-
2 pression agent for nonresidential applications in ac-
3 cordance with section 612(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 amended by section 113 of division A)
14 is amended by adding at the end the following:

15 **“PART E—BLACK CARBON**

16 **“SEC. 851. BLACK CARBON.**

17 **“(a) DOMESTIC BLACK CARBON MITIGATION.—**

18 **“(1) IN GENERAL.—**Taking into consideration
19 the public health and environmental impacts of black
20 carbon emissions, including the effects on global and
21 regional warming, the Arctic, and other snow and
22 ice-covered surfaces, the Administrator shall—

23 **“(A) not later than 2 years after the date**
24 **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 ministrator finds are subject to adequate regulation.

10 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as are nec-
12 essary to carry out this section.”.

13 **SEC. 124. STATES.**

14 Section 116 of the Clean Air Act (42 U.S.C. 7416)
15 is amended by adding the following at the end thereof:
16 “For the purposes of this section, the phrases ‘standard
17 or limitation respecting emissions of air pollutants’ and
18 ‘requirements respecting control or abatement of air pollu-
19 tion’ shall include any provision to: limit greenhouse gas
20 emissions, require surrender to the State or a political
21 subdivision thereof of emission allowances or offset credits
22 established or issued under this Act, and require the use
23 of such allowances or credits as a means of demonstrating
24 compliance with requirements established by a State or
25 political subdivision thereof.”.

1 **SEC. 125. STATE PROGRAMS.**

2 Title VIII of the Clean Air Act (as amended by sec-
3 tion 123(b)) is amended by adding at the end the fol-
4 lowing:

5 **“PART F—MISCELLANEOUS**

6 **“SEC. 861. STATE PROGRAMS.**

7 “(a) IN GENERAL.—Notwithstanding section 116, if
8 a Federal auction is conducted, by the deadline of March
9 31, 2011, as established in section 778, no State or polit-
10 ical subdivision thereof shall implement or enforce a com-
11 prehensive greenhouse gas emission limitation program
12 that covers any capped emissions emitted during the years
13 2012 through 2017.

14 “(b) DEADLINE.—Notwithstanding section 116, in
15 the event the March 31, 2011 auction is delayed, no State
16 or political subdivision thereof shall enforce a comprehen-
17 sive greenhouse gas emission limitation program that cov-
18 ers any capped emissions emitted during the period that
19 commences at least 9 months after the date of the first
20 auction as set out in section 778, through 2017.

21 “(c) DEFINITION OF COMPREHENSIVE GREENHOUSE
22 GAS EMISSION LIMITATION PROGRAM.—For purposes of
23 this section, the term ‘comprehensive greenhouse gas
24 emission limitation program’ means a system of green-
25 house gas regulation under which a State or political sub-
26 division issues a limited number of tradable instruments

1 in the nature of emission allowances and requires that
2 sources within its jurisdiction surrender such tradable in-
3 struments for each unit of greenhouse gases emitted dur-
4 ing a compliance period. For purposes of this section, a
5 ‘comprehensive greenhouse gas emission limitation pro-
6 gram’ does not include a target or limit on greenhouse
7 gas emissions adopted by a State or political subdivision
8 that is implemented other than through the issuance and
9 surrender of a limited number of tradable instruments in
10 the nature of emission allowances, nor does it include any
11 other standard, limit, regulation, or program to reduce
12 greenhouse gas emissions that is not implemented through
13 the issuance and surrender of a limited number of tradable
14 instruments in the nature of emission allowances. For pur-
15 poses of this section, the term ‘comprehensive greenhouse
16 gas emission limitation program’ does not include, among
17 other things, fleet-wide motor vehicle emission require-
18 ments that allow greater emissions with increased vehicle
19 production, or requirements that fuels, or other products,
20 meet an average pollution emission rate or lifecycle green-
21 house gas standard.

22 **“SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CON-**
23 **TROL PROGRAMS.**

24 “The Administrator is authorized to make grants to
25 air pollution control agencies pursuant to section 105 for

1 purposes of assisting in the implementation of programs
2 to address global warming established under the Clean
3 Energy Jobs and American Power Act.

4 **“SEC. 863. REDUCING ACID RAIN AND MERCURY POLLU-**
5 **TION.**

6 “(a) IN GENERAL.—Not later than 18 months after
7 the date of enactment of this part, the Administrator shall
8 submit to Congress a report that analyzes the effects of
9 different carbon dioxide reduction strategies and tech-
10 nologies on the emissions of mercury, sulfur dioxide, and
11 nitrogen oxide, which cause acid rain, particulate matter,
12 ground-level ozone, mercury contamination, and other en-
13 vironmental problems.

14 “(b) INCLUSIONS.—The report under subsection (a)
15 shall include—

16 “(1) an assessment of a variety of carbon re-
17 duction technologies, including the application of
18 various carbon capture and sequestration tech-
19 nologies for new and existing power plants;

20 “(2) an assessment of the current scientific and
21 technical understanding of the interplay between the
22 various technologies and emissions of air pollutants;

23 “(3) identification of hurdles to strategies that
24 could cost-effectively reduce emissions of multiple
25 pollutants; and

1 “(4) appropriate recommendations of the Ad-
2 ministrator, if any.”.

3 **SEC. 126. ENFORCEMENT.**

4 (a) REMAND.—Section 307(b) of the Clean Air Act
5 (42 U.S.C. 7607(b)) is amended by adding the following
6 new paragraph at the end thereof:

7 “(3) If the court determines that any action of
8 the Administrator is arbitrary, capricious, or other-
9 wise unlawful, the court may remand such action,
10 without vacatur, if vacatur would impair or delay
11 protection of the environment or public health or
12 otherwise undermine the timely achievement of the
13 purposes of this Act.

14 “(4) If the court determines that any action of
15 the Administrator is arbitrary, capricious, or other-
16 wise unlawful, and remands the matter to the Ad-
17 ministrator, the Administrator shall complete final
18 action on remand within an expeditious time period
19 not longer than the time originally allowed for the
20 action or 1 year, whichever is less, unless the court
21 on motion determines that a shorter or longer period
22 is necessary, appropriate, and consistent with the
23 purposes of this Act. The court of appeals shall have
24 jurisdiction to enforce a deadline for action on re-
25 mand under this paragraph.”.

1 (b) PETITION FOR RECONSIDERATION.—Section
2 307(d)(7)(B) of the Clean Air Act (42 U.S.C.
3 7607(d)(7)(B)) is amended as follows:

4 (1) By inserting after the second sentence “If
5 a petition for reconsideration is filed, the Adminis-
6 trator shall take final action on such petition, in-
7 cluding promulgation of final action either revising
8 or determining not to revise the action for which re-
9 consideration is sought, within 150 days after the
10 petition is received by the Administrator or the peti-
11 tion shall be deemed denied for the purpose of judi-
12 cial review.”.

13 (2) By amending the third sentence to read as
14 follows: “Such person may seek judicial review of
15 such denial, or of any other final action, by the Ad-
16 ministrator, in response to a petition for reconsider-
17 ation, in the United States court of appeals for the
18 appropriate circuit (as provided in subsection (b)).”.

19 (c) PETITION FOR REVIEW.—Section 307(b)(1) of
20 the Clean Air Act (42 U.S.C. 7607(b)(1)) is amended by
21 inserting after the second sentence the following: “Any
22 person may file a petition for review of action by the Ad-
23 ministrator as provided in this subsection.”.

1 **SEC. 127. FORESTRY SECTOR GREENHOUSE GAS ACCOUNT-**
2 **ING.**

3 (a) IN GENERAL.—The Administrator, in consulta-
4 tion with the Secretary of Agriculture and the Secretary
5 of the Interior, shall provide an annual accounting of se-
6 questration and emissions of greenhouse gases from for-
7 ests and forest products, including—

8 (1) sequestration, including sequestration re-
9 sulting from natural forest growth or other natural
10 ecosystem processes, forest management practices,
11 afforestation, or reforestation;

12 (2) emissions resulting from forest management
13 practices, timber harvest, deforestation, or conver-
14 sion between forest types or to cropland or other
15 nonforested uses; and

16 (3) transfers of carbon through forest products
17 from the forest sector to other sectors, including the
18 waste, manufacturing and milling, and energy sec-
19 tors.

20 (b) SCALE OF ACCOUNTING.—Accounting under sub-
21 section (a) shall be provided, at a minimum, for—

22 (1) Federal, other public, tribal, and private
23 land of ownerships larger than 5,000 acres on which
24 forestry is regularly practiced; and

25 (2) any forest land on which conversion de-
26 scribed in subsection (a)(2) occurs.

1 (c) BASIS OF ACCOUNTING.—Accounting under sub-
2 section (a) shall be based on information available from
3 existing sources, including information—

4 (1) collected for tax purposes;

5 (2) from the Forest Inventory Analysis of the
6 Forest Service;

7 (3) collected for regulatory purposes; and

8 (4) collected as part of standard industry prac-
9 tices, such as industry updates on inventories of tim-
10 ber.

11 (d) AUTHORITY OF ADMINISTRATOR.—

12 (1) IN GENERAL.—Nothing in this section au-
13 thORIZES the Administrator to require new generation
14 of data by forest land owners.

15 (2) NEED FOR ADDITIONAL INFORMATION.—If
16 the Administrator determines that additional infor-
17 mation not available from current sources is nec-
18 essary to carry out the purposes of this section, the
19 Administrator shall submit to Congress a report that
20 describes the necessary information and new author-
21 ity that would be required to collect that informa-
22 tion.

23 **SEC. 128. CONFORMING AMENDMENTS.**

24 (a) FEDERAL ENFORCEMENT.—Section 113 of the
25 Clean Air Act (42 U.S.C. 7413) is amended as follows:

1 (1) In subsection (a)(3), by striking “or title
2 VI,” and inserting “title VI, title VII, or title VIII”.

3 (2) In subsection (b), by striking “or a major
4 stationary source” and inserting “a major stationary
5 source, or a covered EGU under title VIII” in the
6 material preceding paragraph (1).

7 (3) In paragraph (2) of subsection (b), by strik-
8 ing “or title VI” and inserting “title VI, title VII,
9 or title VIII”.

10 (4) In subsection (c)—

11 (A) in the first sentence of paragraph (1),
12 by striking “or title VI (relating to strato-
13 spheric ozone control),” and inserting “title VI,
14 title VII, or title VIII,”; and

15 (B) in the first sentence of paragraph (3),
16 by striking “or VI” and inserting “VI, VII, or
17 VIII”.

18 (5) In subsection (d)(1)(B), by striking “or VI”
19 and inserting “VI, VII, or VIII”.

20 (6) In subsection (f), in the first sentence, by
21 striking “or VI” and inserting “VI, VII, or VIII”.

22 (b) RETENTION OF STATE AUTHORITY.—Section
23 116 of the Clean Air Act (42 U.S.C. 7416) is amended
24 as follows:

25 (1) By striking “and 233” and inserting “233”.

1 (2) By striking “of moving sources)” and in-
2 serting “of moving sources), and 861 (preempting
3 certain State greenhouse gas programs for a limited
4 time)”.

5 (c) INSPECTIONS, MONITORING, AND ENTRY.—Sec-
6 tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is
7 amended by striking “section 112,” and all that follows
8 through “(ii)” and inserting the following: “section 112,
9 or any regulation of greenhouse gas emissions under title
10 VII or VIII, (ii)”.

11 (d) ENFORCEMENT.—Subsection (f) of section 304 of
12 the Clean Air Act (42 U.S.C. 7604(f)) is amended as fol-
13 lows:

14 (1) By striking “; or” at the end of paragraph
15 (3) thereof and inserting a comma.

16 (2) By striking the period at the end of para-
17 graph (4) thereof and inserting “, or”.

18 (3) By adding the following after paragraph (4)
19 thereof:

20 “(5) any requirement of title VII or VIII.”.

21 (e) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL
22 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.
23 7607) is amended as follows:

1 (1) In subsection (a), by striking “, or section
2 306” and inserting “section 306, or title VII or
3 VIII”.

4 (2) In subsection (b)(1)—

5 (A) by striking “,” and inserting “,” in
6 each place such punctuation appears; and

7 (B) by striking “section 120,” in the first
8 sentence and inserting “section 120, any final
9 action under title VII or VIII,”.

10 (3) In subsection (d)(1) by amending subpara-
11 graph (S) to read as follows:

12 “(S) the promulgation or revision of any
13 regulation under title VII or VIII,”.

14 (f) TECHNICAL AMENDMENT.—Title IV of the Clean
15 Air Act (relating to noise pollution) (42 U.S.C. 7641 et
16 seq.)—

17 (1) is amended by redesignating sections 401
18 through 403 as sections 901 through 903, respec-
19 tively; and

20 (2) is redesignated as title IX and moved to ap-
21 pear at the end of that Act.

22 (g) AMENDMENTS CLARIFYING REGULATION OF
23 GREENHOUSE GASES UNDER CLEAN AIR ACT.—

24 (1) AIR QUALITY CRITERIA AND CONTROL
25 TECHNIQUES.—Section 108(a) of the Clean Air Act

1 (42 U.S.C. 7408(a)) is amended by adding at the
2 end the following:

3 “(3) PROHIBITION ON LISTING OF GREEN-
4 HOUSE GASES.—On and after the date of enactment
5 of this paragraph, the Administrator shall not in-
6 clude on the list of pollutants under this subsection
7 any greenhouse gas on the basis of any effect the
8 greenhouse gas may have on climate change.”.

9 (2) HAZARDOUS AIR POLLUTANTS.—Section
10 112 of the Clean Air Act (42 U.S.C. 7412) is
11 amended by adding at the end the following:

12 “(20) GREENHOUSE GAS LIMITATION.—No
13 greenhouse gas may be added to the list of haz-
14 ardous air pollutants under this section unless the
15 greenhouse gas meets the criteria described in sub-
16 section (b) independent of the effects of the green-
17 house gas on climate change.”.

18 (3) INTERNATIONAL AIR POLLUTION.—Section
19 115(c) of the Clean Air Act (42 U.S.C. 7415(c)) is
20 amended—

21 (A) by striking “(c) This section” and in-
22 serting the following:

23 “(3) APPLICABILITY.—

24 “(A) FOREIGN COUNTRIES.—This sec-
25 tion”; and

1 (B) by adding at the end the following:

2 “(B) GREENHOUSE GASES.—This section
3 does not apply to any greenhouse gas with re-
4 spect to the effects of the greenhouse gas on cli-
5 mate change.”.

6 (4) DEFINITION OF MAJOR EMITTING FACIL-
7 ITY.—Section 169(1) of the Clean Air Act (42
8 U.S.C. 7479(1)) is amended—

9 (A) in the first sentence, by inserting
10 “(other than any greenhouse gas), and 25,000
11 tons per year of carbon dioxide equivalent for
12 any greenhouse gas or combination of green-
13 house gases” after “one hundred tons per year
14 or more of any air pollutant,”; and

15 (B) in the second sentence, by inserting
16 “(other than any greenhouse gas), and 25,000
17 tons per year of carbon dioxide equivalent for
18 any greenhouse gas or combination of green-
19 house gases” after “two hundred fifty tons per
20 year or more of any air pollutant”.

21 (5) PERMITS.—Title V of the Clean Air Act (42
22 U.S.C. 7661 et seq.) is amended by adding at the
23 end the following:

1 **“SEC. 508. EMISSIONS OF GREENHOUSE GASES.**

2 “Notwithstanding any provision of this title or title
3 III, no stationary source shall be required to apply for,
4 or operate pursuant to, a permit under this title solely be-
5 cause the stationary source, including an agricultural
6 source, emits less than 25,000 tons per year of any green-
7 house gas or combination of greenhouse gases that are
8 regulated solely because of the effect of those gases on
9 climate change.”.

10 (h) CONTAINERS OF CLASS I AND CLASS II SUB-
11 STANCES.—Section 608(c) of the Clean Air Act (42
12 U.S.C. 7671g(e)) is amended by adding at the end the
13 following:

14 “(3) CONTAINERS OF CLASS I AND CLASS II
15 SUBSTANCES.—

16 “(A) DEFINITION OF REFILLABLE CON-
17 TAINER.—In this paragraph, the term ‘refillable
18 container’ means a container that is designed to
19 be refilled.

20 “(B) REGULATIONS.—Not later than 2
21 years after the date of enactment of this para-
22 graph, the Administrator shall revise regula-
23 tions promulgated under this section to require
24 that only a refillable container may be used to
25 hold 20 pounds or more of a class I substance
26 or class II substance.”.

1 **SEC. 129. DAVIS-BACON COMPLIANCE.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law and in a manner consistent with other provi-
4 sions in this Act, to receive emission allowances or funding
5 under this Act, or the amendments made by this Act, the
6 recipient shall provide reasonable assurances that all la-
7 borers and mechanics employed by contractors and sub-
8 contractors on projects funded directly by or assisted in
9 whole or in part by and through the Federal Government
10 pursuant to this Act, or the amendments made by this
11 Act, or by any entity established in accordance with this
12 Act, or the amendments made by this Act, including the
13 Carbon Storage Research Corporation, will be paid wages
14 at rates not less than those prevailing on projects of a
15 character similar in the locality as determined by the Sec-
16 retary of Labor in accordance with subchapter IV of chap-
17 ter 31 of title 40, United States Code (commonly known
18 as the “Davis-Bacon Act”). With respect to the labor
19 standards specified in this section, the Secretary of Labor
20 shall have the authority and functions set forth in Reorga-
21 nization Plan Numbered 14 of 1950 (64 Stat. 1267; 5
22 U.S.C. App.) and section 3145 of title 40, United States
23 Code.

24 (b) EXEMPTION.—Neither subsection (a) nor the re-
25 quirements of subchapter IV of chapter 31 of title 40,

1 United States Code, shall apply to retrofitting of the fol-
2 lowing:

3 (1) Single family homes (both attached and de-
4 tached) under section 164 of division A.

5 (2) Owner-occupied residential units in larger
6 buildings that have their own dedicated space-condi-
7 tioning systems under section 164 of division A.

8 (3) Residential buildings (as defined in section
9 164(a) of division A) if designed for residential use
10 by less than 4 families.

11 (4) Nonresidential buildings (as defined in sec-
12 tion 164(a) of division A) if the net interior space
13 of such nonresidential building is less than 6,500
14 square feet.

15 **Subtitle D—Carbon Market** 16 **Assurance**

17 **SEC. 131. CARBON MARKET ASSURANCE.**

18 It is the sense of the Senate that there shall be a
19 single, integrated carbon market oversight program—

20 (1) to provide for effective and comprehensive
21 market oversight and enforcement;

22 (2) to lower systemic risk and protect con-
23 sumers;

24 (3) to ensure market liquidity and allowance
25 availability;

1 (4) to enhance the price discovery function of
2 such markets, ensuring that the price for emission
3 allowances and offset credits reflects the marginal
4 cost of abatement;

5 (5) to prevent excessive speculation that con-
6 tributes to price volatility, including the establish-
7 ment of robust aggregate position limits and margin
8 requirements;

9 (6) to ensure that market mechanisms and as-
10 sociated oversight support the environmental integ-
11 rity of the program established under title VII of the
12 Clean Air Act (as added by section 101 of this divi-
13 sion);

14 (7) to establish provisions for market trans-
15 parency that provide authority, resources, and infor-
16 mation needed to prevent fraud and manipulation in
17 such markets;

18 (8) to establish standards for trading as, and
19 operation of, trading facilities;

20 (9) to ensure a well-functioning, well-regulated
21 market, including a futures market, designed to
22 manage risk and facilitate investment in emission re-
23 ductions;

24 (10) to establish clear, professional standards
25 for dealers, traders, and other market participants;

1 (11) to provide for appropriate criminal and
2 civil penalties; and

3 (12) to prevent any excessive leverage by mar-
4 ket participants that creates risk to the economy.

5 **Subtitle E—Ensuring Real**
6 **Reductions in Industrial Emissions**

7 **SEC. 141. ENSURING REAL REDUCTIONS IN INDUSTRIAL**
8 **EMISSIONS.**

9 Title VII of the Clean Air Act (as amended by section
10 322 of division A) is amended by adding at the end the
11 following:

12 **“PART F—ENSURING REAL REDUCTIONS IN**
13 **INDUSTRIAL EMISSIONS**

14 **“SEC. 761. PURPOSES.**

15 “The purposes of this part are—

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

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

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

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

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

14 **“SEC. 762. DEFINITIONS.**

15 “In this part:

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

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

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.—

5 “(A) IN GENERAL.—The term ‘industrial
6 sector’ means any sector that—

7 “(i) is in the manufacturing sector (as
8 defined in NAICS codes 31, 32, and 33);

9 or

10 “(ii) is part of, or an entire, sector
11 that beneficiates or otherwise processes
12 (including agglomeration) metal ores, in-
13 cluding iron and copper ores, soda ash, or
14 phosphate.

15 “(B) EXCLUSION.—The term ‘industrial
16 sector’ does not include any part of a sector
17 that extracts metal ores, soda ash, or phos-
18 phate.

19 “(4) NAICS.—The term ‘NAICS’ means the
20 North American Industrial Classification System of
21 2002.

22 “(5) OUTPUT.—The term ‘output’ means the
23 total tonnage or other standard unit of production
24 (as determined by the Administrator) produced by

1 an entity in an industrial sector. The output of the
2 cement sector is hydraulic cement, and not clinker.

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

4 “(a) LIST.—

5 “(1) INITIAL LIST.—Not later than June 30,
6 2011, the Administrator shall publish in the Federal
7 Register a list of eligible industrial sectors pursuant
8 to subsection (b). Such list shall include the amount
9 of the emission allowance rebate per unit of produc-
10 tion that shall be provided to entities in each eligible
11 industrial sector in the following two calendar years
12 pursuant to section 764.

13 “(2) SUBSEQUENT LISTS.—Not later than Feb-
14 ruary 1, 2013, and every 4 years thereafter, the Ad-
15 ministrator shall publish in the Federal Register an
16 updated version of the list published under para-
17 graph (1).

18 “(b) ELIGIBLE INDUSTRIAL SECTORS.—

19 “(1) IN GENERAL.—Not later than June 30,
20 2011, the Administrator shall promulgate a rule des-
21 ignating, based on the criteria under paragraph (2),
22 the industrial sectors eligible for emission allowance
23 rebates under this part.

24 “(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL
25 SECTORS.—

1 “(A) ELIGIBILITY CRITERIA.—

2 “(i) IN GENERAL.—An owner or oper-
3 ator of an entity shall be eligible to receive
4 emission allowance rebates under this part
5 if such entity is in an industrial sector that
6 is included in a six-digit classification of
7 the NAICS that meets the criteria in both
8 clauses (ii) and (iii), or the criteria in
9 clause (iv).

10 “(ii) ENERGY OR GREENHOUSE GAS
11 INTENSITY.—As determined by the Admin-
12 istrator, the industrial sector had—

13 “(I) an energy intensity of at
14 least 5 percent, calculated by dividing
15 the cost of purchased electricity and
16 fuel costs of the sector by the value of
17 the shipments of the sector, based on
18 data described in subparagraph (D);
19 or

20 “(II) a greenhouse gas intensity
21 of at least 5 percent, calculated by di-
22 viding—

23 “(aa) the number 20 multi-
24 plied by the number of tons of
25 carbon dioxide equivalent green-

1 house gas emissions (including
2 direct emissions from fuel com-
3 bustion, process emissions, and
4 indirect emissions from the gen-
5 eration of electricity used to
6 produce the output of the sector)
7 of the sector based on data de-
8 scribed in subparagraph (D); by
9 “(bb) the value of the ship-
10 ments of the sector, based on
11 data described in subparagraph
12 (D).

13 “(iii) TRADE INTENSITY.—As deter-
14 mined by the Administrator, the industrial
15 sector had a trade intensity of at least 15
16 percent, calculated by dividing the value of
17 the total imports and exports of such sec-
18 tor by the value of the shipments plus the
19 value of imports of such sector, based on
20 data described in subparagraph (D).

21 “(iv) VERY HIGH ENERGY OR GREEN-
22 HOUSE GAS INTENSITY.—As determined by
23 the Administrator, the industrial sector
24 had an energy or greenhouse gas intensity,

1 as calculated under clause (ii)(I) or (II), of
2 at least 20 percent.

3 “(B) METAL AND PHOSPHATE PRODUC-
4 TION CLASSIFIED UNDER MORE THAN ONE
5 NAICS CODE.—For purposes of this section, the
6 Administrator shall—

7 “(i) aggregate data for the
8 beneficiation or other processing (including
9 agglomeration) of metal ores, including
10 iron and copper ores, soda ash, or phos-
11 phate with subsequent steps in the process
12 of metal and phosphate manufacturing, re-
13 gardless of the NAICS code under which
14 such activity is classified; and

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

19 “(C) EXCLUSION.—The petroleum refining
20 sector shall not be an eligible industrial sector.

21 “(D) DATA SOURCES.—

22 “(i) ELECTRICITY AND FUEL COSTS,
23 VALUE OF SHIPMENTS.—The Adminis-
24 trator shall determine electricity and fuel
25 costs and the value of shipments under

1 this subsection from data from the United
2 States Census Annual Survey of Manufac-
3 turers. The Administrator shall take the
4 average of data from as many of the years
5 of 2004, 2005, and 2006 for which such
6 data are available. If such data are un-
7 available, the Administrator shall make a
8 determination based upon 2002 or 2006
9 data from the most detailed industrial clas-
10 sification level of Energy Information
11 Agency's Manufacturing Energy Consump-
12 tion Survey (using 2006 data if it is avail-
13 able) and the 2002 or 2007 Economic Cen-
14 sus of the United States (using 2007 data
15 if it is available). If data from the Manu-
16 facturing Energy Consumption Survey or
17 Economic Census are unavailable for any
18 sector at the six-digit classification level in
19 the NAICS, then the Administrator may
20 extrapolate the information necessary to
21 determine the eligibility of a sector under
22 this paragraph from available Manufac-
23 turing Energy Consumption Survey or
24 Economic Census data pertaining to a
25 broader industrial category classified in the

1 NAICS. If data relating to the
2 beneficiation or other processing (including
3 agglomeration) of metal ores, including
4 iron and copper ores, soda ash, or phos-
5 phate are not available from the specified
6 data sources, the Administrator shall use
7 the best available Federal or State govern-
8 ment data and may use, to the extent nec-
9 essary, representative data submitted by
10 entities that perform such beneficiation or
11 other processing (including agglomeration),
12 in making a determination. Fuel cost data
13 shall not include the cost of fuel used as
14 feedstock by an industrial sector.

15 “(ii) IMPORTS AND EXPORTS.—The
16 Administrator shall base the value of im-
17 ports and exports under this subsection on
18 United States International Trade Com-
19 mission data. The Administrator shall take
20 the average of data from as many of the
21 years of 2004, 2005, and 2006 for which
22 such data are available. If data from the
23 United States International Trade Com-
24 mission are unavailable for any sector at
25 the six-digit classification level in the

1 NAICS, then the Administrator may ex-
2 trapolate the information necessary to de-
3 termine the eligibility of a sector under
4 this paragraph from available United
5 States International Trade Commission
6 data pertaining to a broader industrial cat-
7 egory classified in the NAICS.

8 “(iii) PERCENTAGES.—The Adminis-
9 trator shall round the energy intensity,
10 greenhouse gas intensity, and trade inten-
11 sity percentages under subparagraph (A)
12 to the nearest whole number.

13 “(iv) GREENHOUSE GAS EMISSION
14 CALCULATIONS.—When calculating the
15 tons of carbon dioxide equivalent green-
16 house gas emissions for each sector under
17 subparagraph (A)(ii)(II)(aa), the Adminis-
18 trator—

19 “(I) shall use the best available
20 data from as many of the years 2004,
21 2005, and 2006 for which such data
22 is available; and

23 “(II) may, to the extent nec-
24 essary with respect to a sector, use
25 economic and engineering models and

1 the best available information on tech-
2 nology performance levels for such
3 sector.

4 “(3) ADMINISTRATIVE DETERMINATION OF AD-
5 DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

6 “(A) UPDATED TRADE INTENSITY DATA.—

7 The Administrator shall designate as eligible to
8 receive emission allowance rebates under this
9 part an industrial sector that—

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

14 “(ii) meets the trade intensity criteria
15 in paragraph (2)(A)(iii), using data from
16 any year after 2006.

17 “(B) INDIVIDUAL SHOWING PETITION.—

18 “(i) PETITION.—In addition to des-
19 ignation under paragraph (2) or subpara-
20 graph (A) of this paragraph, the owner or
21 operator of an entity in an industrial sec-
22 tor may petition the Administrator to des-
23 ignate as eligible industrial sectors under
24 this part an entity or a group of entities
25 that—

1 “(I) represent a subsector of a
2 six-digit section of the NAICS code;
3 and

4 “(II) meet the eligibility criteria
5 in both clauses (ii) and (iii) of para-
6 graph (2)(A), or the eligibility criteria
7 in clause (iv) of paragraph (2)(A).

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

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

1 virgin material to be a separate subsector
2 from another entity or group of entities
3 that manufacture the same product pri-
4 marily from recycled material.

5 “(iv) USE OF MOST RECENT DATA.—
6 In determining whether to designate a sec-
7 tor or subsector as an eligible industrial
8 sector under this subparagraph, the Ad-
9 ministrator shall use the most recent data
10 available from the sources described in
11 paragraph (2)(D), rather than the data
12 from the years specified in paragraph
13 (2)(D), to determine the trade intensity of
14 such sector or subsector, but only for de-
15 termining such trade intensity.

16 “(v) FINAL ACTION.—The Adminis-
17 trator shall take final action on such peti-
18 tion no later than 6 months after the peti-
19 tion is received by the Administrator.

20 **“SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE RE-**
21 **BATES.**

22 “(a) DISTRIBUTION SCHEDULE.—

23 “(1) IN GENERAL.—For each vintage year, the
24 Administrator shall distribute pursuant to this sec-
25 tion emission allowances made available under sec-

1 tion 771(a)(5), not later than October 31 of the pre-
2 ceding calendar year. The Administrator shall make
3 such annual distributions to the owners and opera-
4 tors of each entity in an eligible industrial sector in
5 the amount of emission allowances calculated under
6 subsection (b), except that—

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

11 “(B) for vintage year 2026 and thereafter,
12 the distribution shall be pursuant to the
13 amount calculated under subsection (b) multi-
14 plied by, for a sector—

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

16 “(ii) 80 percent for vintage year
17 2027;

18 “(iii) 70 percent for vintage year
19 2028;

20 “(iv) 60 percent for vintage year
21 2029;

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

23 “(vi) 40 percent for vintage year
24 2031;

1 “(vii) 30 percent for vintage year
2 2032;

3 “(viii) 20 percent for vintage year
4 2033;

5 “(ix) 10 percent for vintage year
6 2034; and

7 “(x) 0 percent for vintage year 2035
8 and thereafter.

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

20 “(3) CESSATION OF QUALIFYING ACTIVITIES.—
21 If, as determined by the Administrator, a facility is
22 no longer in an eligible industrial sector designated
23 under section 763—

1 “(A) the Administrator shall not distribute
2 emission allowances to the owner or operator of
3 such facility under this section; and

4 “(B) the owner or operator of such facility
5 shall return to the Administrator all allowances
6 that have been distributed to it for future vin-
7 tage years and a pro-rated amount of allow-
8 ances distributed to the facility under this sec-
9 tion for the vintage year in which the facility
10 ceases to be in an eligible industrial sector des-
11 ignated under section 763.

12 “(b) CALCULATION OF DIRECT AND INDIRECT CAR-
13 BON FACTORS.—

14 “(1) IN GENERAL.—

15 “(A) COVERED ENTITIES.—Except as pro-
16 vided in subsection (a), for covered entities that
17 are in eligible industrial sectors, the amount of
18 emission allowance rebates shall be based on
19 the sum of the covered entity’s direct and indi-
20 rect carbon factors.

21 “(B) OTHER ELIGIBLE ENTITIES.—For
22 entities that are in eligible industrial sectors
23 but are not covered entities, the amount of
24 emission allowance rebates shall be based on
25 the entity’s indirect carbon factor.

1 “(C) NEW ENTITIES.—Not later than 2
2 years after the date of enactment of this title,
3 the Administrator shall issue regulations gov-
4 erning the distribution of emission allowance re-
5 bates for the first and second years of operation
6 of a new entity in an eligible industrial sector.
7 These regulations shall provide for—

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

11 “(ii) an adjustment in the third and
12 fourth years of operation to reconcile the
13 total amount of emission allowance rebates
14 received during the first and second years
15 of operation to the amount the entity
16 would have received during the first and
17 second years of operation had the appro-
18 priate data been available.

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

22 “(A) the average annual output of the cov-
23 ered entity for the 2 years preceding the year
24 of the distribution; and

1 “(B) the most recent calculation of the av-
2 erage direct greenhouse gas emissions (ex-
3 pressed in tons of carbon dioxide equivalent)
4 per unit of output for all covered entities in the
5 sector, as determined by the Administrator
6 under paragraph (4).

7 “(3) INDIRECT CARBON FACTOR.—

8 “(A) IN GENERAL.—The indirect carbon
9 factor for an entity for a vintage year is the
10 product obtained by multiplying the average an-
11 nual output of the entity for the 2 years pre-
12 ceding the year of the distribution by both the
13 electricity emissions intensity factor determined
14 pursuant to subparagraph (B) and the elec-
15 tricity efficiency factor determined pursuant to
16 subparagraph (C) for the year concerned.

17 “(B) ELECTRICITY EMISSIONS INTENSITY
18 FACTOR.—

19 “(i) IN GENERAL.—Each person sell-
20 ing electricity to the owner or operator of
21 an entity in any sector designated as an el-
22 igible industrial sector under section
23 763(b) shall provide the owner or operator
24 of the entity and the Administrator, on an
25 annual basis, the electricity emissions in-

1 methodology in clause (i), the person sell-
2 ing electricity shall use the monthly aver-
3 age data reported by the Energy Informa-
4 tion Administration or collected and re-
5 ported by the Administrator for the utility
6 serving the entity to determine the elec-
7 tricity emissions intensity factor.

8 “(C) ELECTRICITY EFFICIENCY FACTOR.—

9 The electricity efficiency factor is the average
10 amount of electricity (in kilowatt hours) used
11 per unit of output for all entities in the relevant
12 sector, as determined by the Administrator
13 based on the best available data, including data
14 provided under paragraph (6).

15 “(D) INDIRECT CARBON FACTOR REDUC-
16 TION.—If an electricity provider received a free
17 allocation of emission allowances pursuant to
18 section 771(a)(1), the Administrator shall ad-
19 just the indirect carbon factor to avoid rebates
20 to the eligible entity for costs that the Adminis-
21 trator determines were not incurred by the eli-
22 gible entity because the allowances were freely
23 allocated to the eligible entity’s electricity pro-
24 vider and used for the benefit of industrial con-
25 sumers.

1 “(4) GREENHOUSE GAS INTENSITY CALCULA-
2 TIONS.—The Administrator shall calculate the aver-
3 age direct greenhouse gas emissions (expressed in
4 tons of carbon dioxide equivalent) per unit of output
5 and the electricity efficiency factor for all covered
6 entities in each eligible industrial sector every 4
7 years, using an average of the 5 most recent years
8 of the best available data, from up to 7 years prior
9 to the year in which such calculations are made. For
10 the purpose of determining sector averages that are
11 representative of typical market conditions during
12 the previous 7 years of operations, such averages
13 shall exclude data from individual years with the
14 highest and the lowest direct greenhouse gas emis-
15 sions per unit of output and electricity efficiency fac-
16 tors. For purposes of the lists required to be pub-
17 lished not later than February 1, 2013, the Adminis-
18 trator shall use the best available data for the max-
19 imum number of years, up to 5 years, for which
20 data are available.

21 “(5) DETERMINATION OF SECTORS FOR PUR-
22 POSES OF SECTORAL AVERAGES.—

23 “(A) IN GENERAL.—Notwithstanding the
24 criteria used to determine eligible sectors under
25 paragraphs (2) and (3)(C), not later than June

1 30, 2011, the Administrator shall, by rule, iden-
2 tify sectors or subsectors for purposes of calcu-
3 lating sector averages under paragraphs (2)(B),
4 (3)(C), and (4), based upon, to the extent prac-
5 ticable in achieving the purposes of this part—

6 “(i) product produced;

7 “(ii) process employed, including dis-
8 tinctions based upon the extent of integra-
9 tion or exclusion of process steps; and

10 “(iii) the extent of use of combined
11 heat and power technologies.

12 “(B) CONSIDERATION OF CRITERIA.—In
13 determining what entities are comparable to a
14 new entity under paragraph (1)(C)(i), the Ad-
15 ministrator shall consider, to the extent prac-
16 ticable, the criteria set forth in subparagraph
17 (A).

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

21 “(A) limit the average direct greenhouse
22 gas emissions per unit of output, calculated
23 under paragraph (4), for any eligible industrial
24 sector to an amount that is not greater than it

1 was in any previous calculation under this sub-
2 section;

3 “(B) limit the electricity emissions inten-
4 sity factor, calculated under paragraph (3)(B)
5 and resulting from a change in electricity sup-
6 ply, for any entity to an amount that is not
7 greater than it was during any previous year;
8 and

9 “(C) limit the electricity efficiency factor,
10 calculated under paragraph (3)(C), for any eli-
11 gible industrial sector to an amount that is not
12 greater than it was in any previous calculation
13 under this subsection.

14 “(7) DATA SOURCES.—For the purposes of this
15 subsection—

16 “(A) the Administrator shall use data from
17 the greenhouse gas registry established under
18 section 713, where that data is available; and

19 “(B) each owner or operator of an entity
20 in an eligible industrial sector and each depart-
21 ment, agency, and instrumentality of the
22 United States shall provide the Administrator
23 with such information as the Administrator
24 finds necessary to determine the direct carbon

1 factor and the indirect carbon factor for each
2 entity subject to this section.

3 “(c) TOTAL MAXIMUM DISTRIBUTION.—Notwith-
4 standing subsections (a) and (b), the Administrator shall
5 not distribute more allowances for any vintage year pursu-
6 ant to this section than are allocated for use under this
7 part pursuant to section 765 for that vintage year. For
8 any vintage year for which the total emission allowance
9 rebates calculated pursuant to this section exceed the
10 number of allowances allocated pursuant to section 765,
11 the Administrator shall reduce each entity’s distribution
12 on a pro rata basis so that the total distribution under
13 this section equals the number of allowances allocated
14 under section 765.

15 “(d) IRON AND STEEL SECTOR.—For purposes of
16 this section, the Administrator shall consider as in dif-
17 ferent industrial sectors—

18 “(1) entities using integrated iron and
19 steelmaking technologies (including coke ovens, blast
20 furnaces, and other iron-making technologies); and

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

23 “(e) METAL, SODA ASH, OR PHOSPHATE PRODUC-
24 TION CLASSIFIED UNDER MORE THAN ONE NAICS
25 CODE.—For purposes of this section, the Administrator

1 shall not aggregate data for the beneficiation or other
2 processing (including agglomeration) of metal ores, soda
3 ash, or phosphate with subsequent steps in the process
4 of metal, soda ash, or phosphate manufacturing. The Ad-
5 ministrator shall consider the beneficiation or other proe-
6 cessed (including agglomeration) of metal ores, soda ash,
7 or phosphate to be in separate industrial sectors from the
8 metal, soda ash, or phosphate manufacturing sectors. In-
9 dustrial sectors that beneficiate or otherwise process (in-
10 cluding agglomeration) metal ores, soda ash, or phosphate
11 shall not receive emission allowance rebates under this sec-
12 tion related to the activity of extracting metal ores, soda
13 ash, or phosphate.

14 “(f) COMBINED HEAT AND POWER.—For purposes
15 of this section, and to achieve the purpose set forth in
16 section 761(4), (the Administrator may consider entities to
17 be in different industrial sectors or otherwise take into ac-
18 count the differences among entities in the same industrial
19 sector, based upon the extent to which such entities use
20 combined heat and power technologies.

21 **“SEC. 765. INTERNATIONAL TRADE.**

22 “It is the sense of the Senate that this Act will con-
23 tain a trade title that will include a border measure that
24 is consistent with our international obligations and de-
25 signed to work in conjunction with provisions that allocate

1 allowances to energy-intensive and trade-exposed indus-
2 tries.”.

3 **TITLE II—PROGRAM**
4 **ALLOCATIONS**

5 **SEC. 201. DISTRIBUTION OF ALLOWANCES FOR INVEST-**
6 **MENT IN CLEAN VEHICLES.**

7 (a) DEFINITIONS.—In this section:

8 (1) **ADVANCED TECHNOLOGY VEHICLE.**—The
9 term “advanced technology vehicle” means any light-
10 duty vehicle assembled in the United States that
11 meets—

12 (A) the Tier II Bin 5 emission standard
13 established by regulations promulgated by the
14 Administrator pursuant to section 202(i) of the
15 Clean Air Act (42 U.S. C. 7521(i)), or a lower-
16 numbered Bin emission standard;

17 (B) any new emission standard for fine
18 particulate matter established by the Adminis-
19 trator under that Act (42 U.S.C. 7401 et seq.);
20 and

21 (C) a target fuel economy equal to or
22 greater than 115 percent of the base model
23 year target fuel economy for a vehicle of the
24 same type and footprint, calculated on an en-

1 ergy-equivalent basis for vehicles other than ad-
2 vanced diesel light-duty motor vehicles.

3 (2) **BASE MODEL YEAR.**—The term “base
4 model year” means the model year 4 model years
5 prior to the model year during which an advanced
6 technology vehicle is initially certified for sale in the
7 United States under part 86 of title 40, Code of
8 Federal Regulations (as in effect on the date of en-
9 actment of this Act).

10 (3) **ENGINEERING INTEGRATION COST.**—The
11 term “engineering integration cost” includes the cost
12 of engineering tasks performed in the United States
13 relating to—

14 (A) incorporating qualifying components
15 into the design of advanced technology vehicles;
16 and

17 (B) designing new tooling and equipment
18 for production facilities that produce, in the
19 United States, qualifying components or ad-
20 vanced technology vehicles.

21 (4) **QUALIFYING COMPONENT.**—The term
22 “qualifying component” means a component that the
23 Secretary of Energy determines to be—

24 (A) specially designed for advanced tech-
25 nology vehicles;

1 (B) installed for the purpose of meeting
2 the performance requirements of advanced tech-
3 nology vehicles as specified in subparagraphs
4 (A), (B), and (C) of paragraph (1); and
5 (C) manufactured in the United States.

6 (5) TARGET FUEL ECONOMY.—The term “tar-
7 get fuel economy” means—

8 (A) for a vehicle classified as a passenger
9 automobile pursuant to section 523.4 of title
10 49, Code of Federal Regulations (as in effect on
11 the date of enactment of this Act), the value of
12 T_i , representing the fuel economy target in the
13 formula displayed as Figure 1, calculated for
14 that vehicle in a given model year pursuant to
15 section 531.5(e) of title 49, Code of Federal
16 Regulations (as in effect on the date of enact-
17 ment of this Act); and

18 (B) for a vehicle classified as a light truck
19 pursuant to section 523.5 of title 49, Code of
20 Federal Regulations (as in effect on the date of
21 enactment of this Act), the value of T_i , rep-
22 resenting the fuel economy target in the for-
23 mula displayed as Figure 1, calculated for that
24 vehicle in a given model year pursuant to sec-
25 tion 533.5(a) of title 49, Code of Federal Regu-

1 lations (as in effect on the date of enactment of
2 this Act).

3 (b) ESTABLISHMENT OF FUND.—There is estab-
4 lished in the Treasury a separate account, to be known
5 as the “Clean Vehicle Technology Fund”.

6 (c) AUCTION.—The Administrator shall—

7 (1) auction the quantity of emission allowances
8 allocated pursuant to section 771(b)(3) of the Clean
9 Air Act pursuant to section 778 of that Act; and

10 (2) deposit funds received from the auction in
11 the Clean Vehicle Technology Fund.

12 (d) GRANTS.—The Administrator shall distribute
13 amounts allocated pursuant to section 782(a)(8) of the
14 Clean Air Act, at the direction of the Secretary of Energy,
15 to provide facility conversion funding grants to vehicle
16 manufacturers and component suppliers to pay the costs
17 of—

18 (1) reequipping or expanding an existing manu-
19 facturing facility in the United States to produce—

20 (A) qualifying advanced technology vehi-
21 cles;

22 (B) plug-in electric drive or hybrid-electric,
23 hybrid hydraulic, plug-in hybrid, electric, and
24 fuel cell drive medium- and heavy-duty motor
25 vehicles (including transit vehicles); or

1 (C) qualifying components; and

2 (2) engineering integration, performed in the
3 United States, of qualifying vehicles and qualifying
4 components that are produced in the United States.

5 (e) PERIOD OF AVAILABILITY.—A grant provided
6 under subsection (d) may be used for—

7 (1) facilities and equipment placed in service
8 after the date of enactment of this Act; and

9 (2) engineering integration costs incurred after
10 the date of enactment of this Act.

11 (f) LIMITATIONS.—

12 (1) PLUG-IN ELECTRIC DRIVE VEHICLES.—Not
13 less than 25 percent of the funds provided under
14 subsection (d) shall be used for—

15 (A) reequipping or expanding facilities in
16 the United States to produce plug-in electric
17 drive vehicles or qualifying components for
18 those vehicles; or

19 (B) engineering integration, performed in
20 the United States, relating to those vehicles and
21 components that are produced in the United
22 States.

23 (2) CAFE REQUIREMENTS.—No grant shall be
24 provided under subsection (d) to an automobile man-
25 ufacturer that, directly or through a parent, sub-

1 subsidiary, or affiliated entity, is not in compliance with
2 each applicable corporate average fuel standard
3 under section 32902 of title 49, United States Code,
4 as in effect on the date on which the grant is pro-
5 vided.

6 (g) AVAILABILITY OF AUCTION PROCEEDS.—

7 (1) BLACK CARBON REDUCTION GRANT PRO-
8 GRAM.—Not less than 75 percent of the proceeds of
9 the auction conducted pursuant to subsection (c)
10 shall be used for providing grants under section
11 795A of the Energy Policy Act of 2005.

12 (2) OTHER ASSISTANCE.—Not less than 20 per-
13 cent of the proceeds of the auction conducted pursu-
14 ant to subsection (c) shall be available to the Admin-
15 istrator to provide assistance for the deployment, in-
16 tegration, and use of advanced technology vehicles
17 and plug-in electric drive or hybrid-electric, hybrid
18 hydraulic, plug-in hybrid, electric, and fuel cell drive
19 medium- and heavy-duty motor vehicles (including
20 transit vehicles and over-road buses).

21 (3) NATIONAL TRANSPORTATION LOW-EMISSION
22 ENERGY PLAN; PILOT PROGRAM.—Not less than 5
23 percent of the proceeds of the auction conducted
24 pursuant to subsection (c) shall be available to the
25 Secretary of Energy to carry out subsection (h).

1 (h) NATIONAL TRANSPORTATION LOW-EMISSION EN-
2 ENERGY PLAN; PILOT PROGRAM.—

3 (1) NATIONAL TRANSPORTATION LOW-EMISSION
4 ENERGY PLAN.—Using the amounts described in
5 subsection (g)(3), the Secretary of Energy shall de-
6 velop a national transportation low-emission energy
7 plan that—

8 (A) projects the near- and long-term need
9 for and location of electric drive vehicle refuel-
10 ing infrastructure at strategic locations across
11 all major national highways, roads, and cor-
12 ridors;

13 (B) identifies infrastructure and standard-
14 ization needs for electricity providers, infra-
15 structure providers, vehicle manufacturers, and
16 electricity purchasers;

17 (C) establishes an aspirational goal of
18 achieving strategic deployment of electric vehi-
19 cle infrastructure by January 1, 2020;

20 (D) prioritizes the development of—

21 (i) standardized public charge access
22 ports with wireless or smart card billing
23 capability; and

24 (ii) level I and level II charge port
25 systems (that charge an electric vehicle

1 over a period of 8 to 14 hours and 4 to 8
2 hours, respectively) that will meet the en-
3 ergy requirements of the majority of plug-
4 in hybrid and battery electric vehicles;

5 (E) examines the feasibility of level III
6 charge port systems that can charge an electric
7 vehicle over a period of 10 to 20 minutes;

8 (F) focuses on infrastructure that provides
9 consumers with the lowest cost while providing
10 convenient charge system access; and

11 (G) is developed by the Secretary, with the
12 involvement of all relevant stakeholders.

13 (2) ELECTRIC DRIVE DEMONSTRATION
14 PROJECTS.—

15 (A) IN GENERAL.—The Secretary shall es-
16 tablish pilot projects to demonstrate electric
17 drive vehicles and infrastructure.

18 (B) REQUIREMENTS.—The Secretary
19 shall—

20 (i) establish the pilot projects de-
21 scribed in subparagraph (A) after publica-
22 tion of the plan developed under paragraph
23 (1);

24 (ii) use that plan to determine which
25 regions of the United States are most

1 ready to demonstrate electric vehicle infra-
2 structure;

3 (iii) carry out the pilot projects in dif-
4 ferent regions of the United States; and

5 (iv) ensure that—

6 (I) at least 1 pilot project is car-
7 ried out in a rural region of the
8 United States; and

9 (II) at least 1 pilot project is fo-
10 cused on freight issues.

11 (3) FINANCIAL RESOURCES.—In carrying out
12 the pilot projects under paragraph (2), the Secretary
13 shall coordinate the use of appropriate financial in-
14 centives, grant programs, and other Federal finan-
15 cial resources to ensure that electric infrastructure
16 delivery entities are able to participate in the pilot
17 projects.

18 (4) LEEP COORDINATOR.—The Secretary may
19 designate 1 full-time position within the Department
20 of Transportation, to be known as the “LEEP coor-
21 dinator”, with responsibility to oversee—

22 (A) the development of the plan under
23 paragraph (1); and

24 (B) the implementation of the pilot
25 projects under paragraph (2).

1 (i) DIESEL EMISSIONS REDUCTION.—

2 (1) DEFINITION OF ELIGIBLE ENTITY.—Section
3 791(3) of the Energy Policy Act of 2005 (42 U.S.C.
4 16131(3)) is amended—

5 (A) in subparagraph (A), by striking
6 “and” after the semicolon at the end;

7 (B) in subparagraph (B), by striking the
8 period at the end and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(C) any person that is the owner of
11 record of a diesel fleet.”.

12 (2) USE OF FUNDS.—Section 792(d) of the En-
13 ergy Policy Act of 2005 (42 U.S.C. 16132(d)) is
14 amended—

15 (A) by striking paragraph (2);

16 (B) by striking “FUNDS.—” and all that
17 follows through “An eligible entity” and insert-
18 ing “FUNDS.—An eligible entity”;

19 (C) by redesignating subparagraphs (A)
20 and (B), clauses (i) through (v), and subclauses
21 (I) through (V) as paragraphs (1) and (2), sub-
22 paragraphs (A) through (E), and clauses (i)
23 through (v), respectively, and indenting appro-
24 priately; and

1 (D) in paragraph (2) (as so redesignated),
2 by striking “subparagraph (A)” and inserting
3 “paragraph (1)”.

4 (3) BLACK CARBON REDUCTION GRANT PRO-
5 GRAM.—Subtitle G of title VII of the Energy Policy
6 Act of 2005 is amended by inserting after section
7 795 (42 U.S.C. 16135) the following:

8 **“SEC. 795A. BLACK CARBON REDUCTION GRANT PROGRAM.**

9 “(a) DEFINITIONS.—In this section:

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

13 “(2) BLACK CARBON.—The term ‘black carbon’
14 means a primary light-absorbing aerosol, as deter-
15 mined by the Administrator based on the best avail-
16 able science.

17 “(3) DIESEL PARTICULATE FILTER.—The term
18 ‘diesel particulate filter’ means a pollution control
19 technology that reduces at least 85 percent of black
20 carbon, as verified by the Administrator or the Cali-
21 fornia Air Resources Board.

22 “(4) ELIGIBLE ENTITY.—The term ‘eligible en-
23 tity’ means a person that is the owner of record of
24 a heavy duty vehicle.

1 “(5) HEAVY DUTY VEHICLE.—The term ‘heavy
2 duty vehicle’ has the meaning given the term in sec-
3 tion 202(b)(3) of the Clean Air Act (42 U.S.C.
4 7521(b)(3)).

5 “(6) PROGRAM.—The term ‘program’ means
6 the Black Carbon Reduction Program established
7 under this section.

8 “(b) ESTABLISHMENT.—The Administrator shall es-
9 tablish a voluntary grant program, to be known as the
10 ‘Black Carbon Reduction Program’—

11 “(1) to cost effectively mitigate the adverse con-
12 sequences of global warming by means of early ac-
13 tion to reduce black carbon emissions from diesel-
14 powered heavy-duty vehicles placed in service prior
15 to 2007; and

16 “(2) under which the Administrator, in accord-
17 ance with this section (including regulations promul-
18 gated under subsection (g)), shall authorize the pro-
19 vision of grants in accordance with subsection (c) to
20 cover 100 percent of the cost of purchasing and in-
21 stalling diesel particulate filters on heavy duty vehi-
22 cles.

23 “(c) PROGRAM SPECIFICATIONS.—

24 “(1) IN GENERAL.—A grant may be issued
25 under the program only to cover the costs of the

1 purchase and installation of a diesel particulate fil-
2 ter.

3 “(2) MAXIMUM AMOUNT.—The total amount of
4 grants issued for a fiscal year under the program
5 may not exceed the amounts made available for the
6 program for the fiscal year under subsection (h).

7 “(d) EVALUATION AND REPORT.—

8 “(1) IN GENERAL.—Not later than 2 years
9 after the date of enactment of this section and bien-
10 nially thereafter, the Administrator shall submit to
11 Congress a report evaluating the implementation of
12 the program.

13 “(2) INCLUSIONS.—The report shall include a
14 description of—

15 “(A) the total number of grant applica-
16 tions received;

17 “(B) the total dollar value of all grants
18 issued;

19 “(C) the estimated benefits of grants pro-
20 vided under the program, including estimates of
21 the total number of tons of black carbon re-
22 duced, cost-effectiveness, and cost-benefits; and

23 “(D) any other information the Adminis-
24 trator considers to be appropriate.

1 “(e) EXCLUSION OF GRANTS FROM INCOME.—A
2 grant issued under the program shall not be considered
3 gross income of the purchaser of technology for purposes
4 of the Internal Revenue Code of 1986.

5 “(f) EFFECT OF SECTION.—Nothing in this section
6 affects any authority under the Clean Air Act (42 U.S.C.
7 7401 et seq.) as in existence on the day before the date
8 of enactment of this section.

9 “(g) REGULATIONS.—

10 “(1) IN GENERAL.—As soon as practicable
11 after the date of enactment of this section, the Ad-
12 ministrator shall promulgate regulations to imple-
13 ment the program.

14 “(2) REQUIREMENTS.—The regulations promul-
15 gated under paragraph (1) shall—

16 “(A) establish streamlined procedures for
17 the provision of grants to eligible entities par-
18 ticipating in the program for the amount of the
19 purchase and installation of diesel particulate
20 filters as soon as practicable, but not later than
21 30 days after the date of submission of an ap-
22 plication for a grant;

23 “(B) include a list of diesel particulate fil-
24 ters the purchase and installation of which are
25 eligible to be funded through the program; and

1 “(C) include a list of vehicles by model
2 year that are eligible to be retrofitted under the
3 program.

4 “(h) FUNDING.—The Administrator shall use to
5 carry out the program all of the funding provided for each
6 fiscal year under section 201(g)(1) of division B of the
7 Clean Energy Jobs and American Power Act.”.

8 (4) AUTHORIZATION OF APPROPRIATIONS.—
9 Section 797 of the Energy Policy Act of 2005 (42
10 U.S.C. 16137) is amended by striking “2011” and
11 inserting “2021”.

12 **SEC. 202. STATE AND LOCAL INVESTMENT IN ENERGY EFFI-**
13 **CIENCY AND RENEWABLE ENERGY.**

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

15 (1) ALLOWANCE.—The term “allowance”
16 means an emission allowance established under sec-
17 tion 721 of the Clean Air Act.

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

22 (3) VINTAGE YEAR.—The term “vintage year”
23 has the meaning given the term in section 700 of the
24 Clean Air Act.

1 (b) DISTRIBUTION AMONG INDIAN TRIBES, STATES,
2 LOCAL GOVERNMENTS, AND RENEWABLE ELECTRICITY
3 PROGRAMS.—The Administrator shall, in accordance with
4 this section, distribute allowances allocated pursuant to
5 section 771(a)(9) of the Clean Air Act for the following
6 vintage year. The Administrator, after consultation with
7 the Secretary of the Interior, shall distribute not less than
8 1 percent and not more than 3 percent of such allowances
9 to Indian tribes. The Administrator, after consultation
10 with the Secretary of Energy, shall distribute the remain-
11 ing allowances among the States, local governments, and
12 renewable electricity programs under this section each
13 year in accordance with the following formula:

14 (1) 60 percent of the allowances shall be pro-
15 vided to the States, of which—

16 (A) 30 percent shall be divided equally
17 among the States;

18 (B) 30 percent shall be distributed on a
19 pro rata basis among the States based on the
20 population of each State, as contained in the
21 most recent reliable census data available from
22 the Bureau of the Census for all States at the
23 time at which the Administrator calculates the
24 formula for distribution;

1 (C) 30 percent shall be distributed on a
2 pro rata basis among the States on the basis of
3 the energy consumption of each State, as con-
4 tained in the most recent State Energy Data
5 Report available from the Energy Information
6 Administration (or such alternative reliable
7 source as the Administrator may designate);
8 and

9 (D) 10 percentage shall be provided to the
10 States based on an energy-efficiency formula
11 developed by the Administrator, which formula
12 shall be—

13 (i) based on—

14 (I) weather-adjusted criteria; and

15 (II) performance-based metrics
16 that measure each State's success at
17 decreasing energy consumption or in-
18 creasing energy efficiency—

19 (aa) on a per capita basis in
20 the residential sector;

21 (bb) on an energy consump-
22 tion per square-foot basis in the
23 commercial sector; and

24 (cc) on the basis of installed
25 energy efficiency measures that

1 save energy, measured on a per
2 capita basis for the residential
3 sector and a per square foot
4 basis for the commercial sector;
5 and

6 (ii) updated every 3 years.

7 (2) 25 percent of the allowances shall be pro-
8 vided to local governments for energy conservation
9 and efficiency grants.

10 (3) 15 percent of the allowances shall be pro-
11 vided in accordance with subsection (c)(3) to renew-
12 able energy producers exclusively for the generation
13 of renewable electricity, from facilities that—

14 (A) have a capacity of 10 megawatts or
15 greater; and

16 (B) are placed in service after the date of
17 enactment of this Act.

18 (c) USES.—The allowances distributed to each State
19 and local government pursuant to this section shall be
20 used exclusively in accordance with the following require-
21 ments:

22 (1) ALLOCATION TO STATES.—Allowances allo-
23 cated to the States under subsection (b)(1) shall be
24 for the following purposes and be used in accordance
25 with the following conditions:

1 (A) PURPOSES.—

2 (i) ENERGY EFFICIENCY PRO-
3 GRAMS.—

4 (I) IN GENERAL.—Subject to
5 subclauses (II), (III), and (IV), not
6 less than 40 percent of the amount
7 made available under subsection
8 (b)(1) shall be used exclusively for—

9 (aa) implementation and en-
10 forcement of building codes;

11 (bb) implementation of the
12 energy-efficient manufactured
13 homes program;

14 (cc) implementation of build-
15 ing energy performance labeling;

16 (dd) low-income community
17 energy efficiency programs, in-
18 cluding those administered by
19 private, nonprofit community de-
20 velopment organizations pro-
21 viding technical and financial as-
22 sistance to projects and busi-
23 nesses (including those owned by
24 women and minorities) that im-
25 prove energy efficiency and cre-

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1 ate jobs and business opportuni-
2 ties;

3 (ee) thermal energy effi-
4 ciency;

5 (ff) retrofit for energy and
6 environmental performance; and

7 (gg) cost-effective energy ef-
8 ficiency programs for end-use
9 consumers of electricity, natural
10 gas, home heating oil, or pro-
11 pane, including, where appro-
12 priate, programs or mechanisms
13 administered by local govern-
14 ments and entities other than the
15 State.

16 (II) THERMAL ENERGY EFFI-
17 CIENCY.—

18 (aa) IN GENERAL.—Not less
19 than 10 percent of the amount
20 made available under subclause
21 (I) shall be used for thermal en-
22 ergy efficiency projects that pro-
23 vide district thermal energy
24 through a network of pipes from
25 1 or more central plants to at

1 least 2 or more buildings, com-
2 bined heat and power that pro-
3 duces electricity and thermal en-
4 ergy with a minimum 60 percent
5 overall efficiency on a lower-heat-
6 ing value basis, or recoverable
7 waste energy (including mechan-
8 ical, thermal, or electrical energy)
9 that, if not for recovery, would be
10 wasted and may be recovered or
11 generated through modification
12 of an existing facility or addition
13 of a new facility.

14 (bb) STUDIES, CONSTRU-
15 TION, AND DEVELOPMENT.—Allo-
16 cations under this subclause may
17 be used for planning, engineer-
18 ing, and feasibility studies as well
19 as project construction and devel-
20 opment.

21 (III) REQUIREMENTS FOR THER-
22 MAL ENERGY EFFICIENCY
23 PROJECTS.—Projects carried out
24 under subclause (II) shall—

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1 (aa) reduce or avoid green-
2 house gas emissions; and

3 (bb)(AA) produce thermal
4 energy from renewable energy re-
5 sources or natural cooling
6 sources;

7 (BB) capture and produc-
8 tively use thermal energy from an
9 electric generation facility;

10 (CC) integrate new elec-
11 tricity generation into an existing
12 district energy system;

13 (DD) capture and produc-
14 tively uses surplus thermal en-
15 ergy from an industrial or munic-
16 ipal process (such as wastewater
17 treatment); or

18 (EE) distribute and transfer
19 to buildings the thermal energy
20 from the energy sources de-
21 scribed in subitems (AA) through
22 (DD).

23 (IV) RETROFIT FOR ENERGY
24 AND ENVIRONMENTAL PERFORM-
25 ANCE.—Not less than 5 percent of the

1 amount made available under sub-
2 clause (I) shall be used for the pro-
3 gram for retrofit for energy and envi-
4 ronmental performance under section
5 164.

6 (V) PRIORITY.—In carrying out
7 this section, each State shall give pri-
8 ority to persons of low and moderate
9 income (as defined in section 102(a)
10 of the Housing and Community De-
11 velopment Act of 1974 (42 U.S.C.
12 5302(a))).

13 (VI) PERSONS OF LOW IN-
14 COME.—Each State shall use at least
15 35 percent of the allocations provided
16 pursuant to this clause to benefit per-
17 sons of low income (as defined in sec-
18 tion 102(a) of the Housing and Com-
19 munity Development Act of 1974 (42
20 U.S.C. 5302(a))), using not less than
21 20 percent of such amount made
22 available under this clause for energy
23 retrofits and green investments in
24 subsidized housing based on standards

1 to ensure that investments are cost-ef-
2 fective—

3 (aa) taking into account re-
4 ductions in future use of energy
5 and other utilities, and the extent
6 to which such retrofits and in-
7 vestments address repair and re-
8 placement needs that may other-
9 wise need to be addressed with
10 other forms of assistance; and

11 (bb) on the condition that,
12 to receive such funding, the re-
13 cipient shall commit to an addi-
14 tional period of affordability of
15 not fewer than 15 years, covering
16 all units for which the grants and
17 loans are used.

18 (ii) RENEWABLE ENERGY PRO-
19 GRAMS.—Renewable energy programs for
20 capital grants, production incentives, loans,
21 loan guarantees, forgivable loans, direct
22 provision of allowances, and interest rate
23 buy-downs for—

24 (I) re-equipping, expanding, or
25 establishing a manufacturing facility

1 that receives certification from the
2 Secretary of Energy pursuant to sec-
3 tion 48C of the Internal Revenue
4 Code of 1986 for the production of—

5 (aa) property designed to be
6 used to produce energy from re-
7 newable energy sources; and

8 (bb) electricity storage sys-
9 tems;

10 (II) deployment of a diverse
11 range of technologies to generate elec-
12 tricity from renewable energy sources;
13 and

14 (III) deployment of a diverse
15 range of facilities or equipment, such
16 as solar panels, to generate electricity
17 or thermal energy from renewable en-
18 ergy resources in and on buildings in
19 an urban environment.

20 (iii) OTHER STATE USES.—

21 (I) ELECTRICITY TRANS-
22 MISSION.—Improvement in electricity
23 transmission for—

24 (aa) State or regional imple-
25 mentation of electricity trans-

1 mission planning and siting ac-
2 tivities that facilitate renewable
3 energy development, including fa-
4 cilitation of landowner negotia-
5 tions for transmission of right-of-
6 way leasing or other contractual
7 arrangements;

8 (bb) grants to nonprofit or-
9 ganizations that facilitate nego-
10 tiations for transmission right-of-
11 way leasing or other contractual
12 agreements between affected
13 landowners and developers;

14 (cc) State or regional studies
15 of renewable energy zones and
16 resources with insufficient trans-
17 mission capacity, including geo-
18 graphical identification of poten-
19 tial renewable energy sites, envi-
20 ronmental reviews, and land use
21 or coastal zone constraints;

22 (dd) grants to support land-
23 owner associations' and other
24 nonprofit organizations' partici-
25 pation in State and Federal

1 siting processes, including such
2 associations' studies of renewable
3 energy feasibility and benefits
4 and associated data collection;

5 (ee) grants to affected land-
6 owners or landowner associations
7 or nonprofit organizations for
8 mitigation of impacts on property
9 or ecosystems due to trans-
10 mission projects that are part of
11 an interconnection-wide plan fo-
12 cused on facilitating renewable
13 energy development;

14 (ff) training for State regu-
15 latory authority staff and local
16 workforces relating to renewable
17 energy generation resources and
18 storage, smart grid, or new
19 transmission technologies;

20 (gg) grants to transmission
21 providers for transmission im-
22 provements (including smart grid
23 investments) that facilitate re-
24 newable energy development and
25 benefit consumers;

1 (hh) grants to transmission
2 providers for security upgrades to
3 the transmission system and au-
4 thorized uses under title XIII of
5 the Energy Independence and Se-
6 curity Act of 2007 (42 U.S.C.
7 17381 et seq.); or

8 (ii) grants to develop energy
9 storage, reliability, or distributed
10 renewable generation projects.

11 (II) END-USE CONSUMER PRO-
12 GRAMS.—Cost-effective energy effi-
13 ciency programs for end-use con-
14 sumers of electricity, natural gas,
15 home heating oil, or propane, includ-
16 ing, where appropriate, programs or
17 mechanisms administered by local
18 governments and entities other than
19 the State.

20 (III) SMART GRID.—Enabling the
21 development of a Smart Grid (as de-
22 scribed in section 1301 of the Energy
23 Independence and Security Act of
24 2007 (42 U.S.C. 17381)) for State,
25 local government, and other public

1 buildings and facilities, including inte-
2 gration of renewable energy resources
3 and distributed generation, demand
4 response, demand-side management,
5 and systems analysis.

6 (iv) STATE ENERGY PROGRAM.—The
7 energy program of the State authorized
8 under part D of title III of the Energy
9 Policy and Conservation Act (42 U.S.C.
10 6321 et seq.).

11 (v) WEATHERIZATION ASSISTANCE
12 PROGRAM.—For use in conjunction with
13 the weatherization assistance program of
14 the State authorized under part A of title
15 IV of the Energy Conservation and Pro-
16 duction Act (42 U.S.C. 6861 et seq.).

17 (B) CONDITIONS.—

18 (i) IN GENERAL.—The States shall
19 prioritize expansion of existing energy effi-
20 ciency programs approved and overseen by
21 the State or the appropriate State regu-
22 latory authority.

23 (ii) SUPPLEMENTATION.—The States
24 shall demonstrate that allowances allocated
25 pursuant to subparagraph (A) have been

1 used to supplement, and not to supplant,
2 existing and otherwise available State,
3 local, and ratepayer funding for such pur-
4 pose.

5 (2) ENERGY CONSERVATION AND EFFI-
6 CIENCY.—Allowances allocated to local governments
7 under subsection (b)(2) shall be used exclusively for
8 energy conservation and efficiency purposes specified
9 in subtitle E of the Energy Independence and Secu-
10 rity Act of 2007 (42 U.S.C. 17151 et seq.), on the
11 condition that the allocation for the Secretary of En-
12 ergy under section 543 of that Act (42 U.S.C.
13 17153) is distributed on a pro-rata basis among the
14 other eligible recipients under that section.

15 (3) NATIONAL RENEWABLE ENERGY DEPLOY-
16 MENT PROGRAM.—

17 (A) IN GENERAL.—The Administrator, in
18 consultation with the Secretary of Energy, shall
19 distribute annually the allowances for renewable
20 energy producers under subsection (b)(3)—

21 (i) subject to subparagraph (D), in a
22 quantity that, for each renewable energy
23 facility, is equal to the product obtained by
24 multiplying—

1 (I) the quantity of energy gen-
2 erated by the renewable energy facility
3 during the preceding vintage year;
4 and

5 (II) an incentive rate determined
6 by the Administrator, in consultation
7 with the Secretary of Energy, before
8 the renewable energy facility is placed
9 in service; and

10 (ii) for a period of 10 years after the
11 date on which the renewable energy facility
12 is placed in service.

13 (B) IMPLEMENTATION.—The Adminis-
14 trator shall promulgate such regulations as are
15 appropriate to carry out this paragraph.

16 (C) TECHNOLOGY DIVERSITY.—Not later
17 than 3 years after the date of enactment of this
18 Act, the Administrator, in consultation with the
19 Secretary of Energy—

20 (i) shall review the programs enacted
21 pursuant to this section to assess whether
22 the programs are supporting the develop-
23 ment of a variety of renewable energy tech-
24 nologies; and

1 (ii) may make adjustments to the pro-
2 grams to better support development of
3 such a variety while continuing to maxi-
4 mize the quantity of renewable energy ca-
5 pacity deployed.

6 (D) DISTRIBUTION.—In a case in which
7 there are an insufficient number of allowances
8 to serve all otherwise qualified projects placed
9 in service based on the formula under sub-
10 section (A)(i), the Administrator shall distribute
11 allowances under this paragraph on a pro rata
12 basis among all otherwise qualified projects.

13 (d) REPORTING.—Each Indian tribe, State, local gov-
14 ernment, and renewable electricity generating company di-
15 rectly receiving allowances or allowance value under this
16 section shall submit to the Administrator a report that
17 contains a list of entities receiving allowances or allowance
18 value under this section.

19 (e) ENFORCEMENT.—If the Administrator deter-
20 mines that an Indian tribe, State, local government, or
21 renewable electricity generating company is not in compli-
22 ance with this section, the Administrator may withhold up
23 to twice the number of allowances or allowance value that
24 the Indian tribe, State, local government, or renewable
25 electricity generating company failed to use in accordance

1 with the requirements of this section, that such Indian
2 tribe, State, local government, or renewable electricity
3 generating companies would otherwise be eligible to re-
4 ceive under this section in later years. Allowances withheld
5 pursuant to this subsection shall be distributed among the
6 remaining Indian tribes, States, local governments, and
7 renewable electricity generating companies in accordance
8 with subsection (b).

9 **SEC. 203. ENERGY EFFICIENCY IN BUILDING CODES.**

10 The Administrator shall distribute emission allow-
11 ances allocated for the following vintage year pursuant to
12 section 771(a)(10) of the Clean Air Act among the States
13 in accordance with the formula described in section 202
14 of this division exclusively for the purpose of section 163
15 of division A.

16 **SEC. 204. ENERGY INNOVATION HUBS.**

17 (a) PURPOSE.—The Secretary shall carry out a pro-
18 gram in accordance with this section to establish Energy
19 Innovation Hubs to enhance the economic, environmental,
20 and energy security of the United States by promoting
21 commercial application of clean, indigenous energy alter-
22 natives to oil and other fossil fuels, reducing greenhouse
23 gas emissions, and ensuring that the United States main-
24 tains a technological lead in the development and commer-
25 cial application of state-of-the-art energy technologies.

1 (b) DISTRIBUTION OF ALLOWANCES TO ENERGY IN-
2 NOVATION HUBS.—The Secretary shall, in accordance
3 with the requirements of this section, distribute to eligible
4 consortia allowances allocated for the following vintage
5 year under section 772(a)(11) of the Clean Air Act.

6 **SEC. 205. ARPA-E RESEARCH.**

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

8 (1) ALLOWANCE.—The term “allowance”
9 means an emission allowance established under sec-
10 tion 721 of the Clean Air Act.

11 (2) DIRECTOR.—The term “Director” means
12 Director of the Advanced Research Projects Agency-
13 Energy.

14 (b) DISTRIBUTION OF ALLOWANCES.—The Director,
15 in accordance with this section, shall distribute allowances
16 allocated for the following vintage year under section
17 771(a)(12) of the Clean Air Act. Such allowances shall
18 be distributed on a competitive basis to institutions of
19 higher education, companies, research foundations, trade
20 and industry research collaborations, or consortia of such
21 entities, or other appropriate research and development
22 entities to achieve the goals of the Advanced Research
23 Projects Agency-Energy (as described in section 5012(c)
24 of the America COMPETES Act (42 U.S.C. 16538(c)))
25 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. 206. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**
15 **PROGRAM.**

16 The Secretary of State shall distribute emission al-
17 lowances allocated for the following vintage year pursuant
18 to section 771(a)(13) of the Clean Air Act exclusively for
19 the purpose of section 323 of division A.

20 **SEC. 207. INTERNATIONAL CLIMATE CHANGE ADAPTATION**
21 **AND GLOBAL SECURITY.**

22 The Secretary of State shall distribute emission al-
23 lowances allocated for the following vintage year pursuant
24 to section 771(a)(14) of the Clean Air Act exclusively for
25 the purpose of section 324 of division A.

1 **SEC. 208. ENERGY EFFICIENCY AND RENEWABLE ENERGY**

2 **WORKER TRAINING.**

3 (a) ESTABLISHMENT OF FUND.—There is estab-
4 lished in the Treasury a separate account, to be known
5 as the “Energy Efficiency and Renewable Energy Worker
6 Training Fund”.

7 (b) AUCTION PROCEEDS.—The Administrator shall
8 deposit the proceeds of the auction conducted pursuant
9 to section 771(b)(5) of the Clean Air Act in the Energy
10 Efficiency and Renewable Energy Worker Training Fund.

11 (c) AVAILABILITY OF AMOUNTS.—The Secretary of
12 Labor shall use the amounts deposited in the Energy Effi-
13 ciency and Renewable Energy Worker Training Fund
14 under subsection (b) to carry out section 171(e)(8) of the
15 Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8))
16 without further appropriation or fiscal year limitation.

17 **SEC. 209. WORKER TRANSITION.**

18 (a) ESTABLISHMENT OF FUND.—There is estab-
19 lished in the Treasury a separate account, to be known
20 as the “Worker Transition Fund”.

21 (b) AUCTION PROCEEDS.—The Administrator shall
22 deposit the proceeds of the auction conducted pursuant
23 to section 771(b)(5) of the Clean Air Act in the Worker
24 Transition Fund.

1 (c) AVAILABILITY OF AMOUNTS.—The amounts de-
2 posited in the Worker Transition Fund shall be used to
3 carry out part 2 of subtitle A of title III of division A.

4 **SEC. 210. STATE PROGRAMS FOR GREENHOUSE GAS RE-**
5 **DUCTION AND CLIMATE ADAPTATION.**

6 (a) DEFINITIONS.—In this section:

7 (1) ALASKA NATIVE VILLAGE.—The term
8 “Alaska Native village” means a federally recognized
9 Indian tribe located in the State of Alaska and listed
10 in the Bureau of Indian Affairs publication entitled
11 “Indian Entities Recognized and Eligible to Receive
12 Services from the United States Bureau of Indian
13 Affairs” (74 Fed. Reg. 40218 (Aug. 11, 2009)).

14 (2) ALLOWANCE.—The term “allowance”
15 means an emission allowance established under sec-
16 tion 721 of the Clean Air Act.

17 (3) INDIAN TRIBE.—The term “Indian tribe”
18 has the meaning given the term in section 4 of the
19 Indian Self-Determination and Education Assistance
20 Act (25 U.S.C. 450b).

21 (4) SCCR ACCOUNT.—The term “SCCR Ac-
22 count” means a State Climate Change Response Ac-
23 count established under subsection (c)(5).

1 (5) VINTAGE YEAR.—The term “vintage year”
2 has the meaning given that term in section 700 of
3 the Clean Air Act.

4 (b) REGULATIONS; COORDINATION.—

5 (1) REGULATIONS.—Not later than 2 years
6 after the date of enactment of this Act, the Adminis-
7 trator, or the heads of such Federal agencies as the
8 President may designate, shall promulgate regula-
9 tions to implement this section.

10 (2) COORDINATION.—If the President des-
11 ignates more than 1 Federal agency to implement
12 this section, the President shall require such agen-
13 cies to establish a memorandum of understanding
14 providing for coordination of rulemaking and other
15 implementing activities, in accordance with this sec-
16 tion.

17 (c) DISTRIBUTION OF ALLOWANCES.—

18 (1) IN GENERAL.—Not later than September
19 30 of each calendar year, the Administrator shall
20 distribute, in accordance with this section, allow-
21 ances allocated for the following vintage year pursu-
22 ant to section 771(a)(15) of the Clean Air Act.

23 (2) RESERVATION AND ALLOCATION.—The Ad-
24 ministrator shall—

1 (A) reserve 10 percent of the allowances
2 described in paragraph (1) for distribution
3 among coastal and Great Lakes States in ac-
4 cordance with subsection (e);

5 (B) reserve 10 percent of the allowances
6 described in paragraph (1) for distribution
7 among the States for wildfire programs for the
8 purposes described in subsection (f), with the
9 allowances to be deposited in and administered
10 through the SCCR Accounts;

11 (C) after consultation with the Secretary of
12 the Interior, reserve at least 1 percent of the al-
13 lowances for distribution to Indian tribes in ac-
14 cordance with subsection (d); and

15 (D) distribute the remaining allowances to
16 fund State government programs for green-
17 house gas reduction and climate adaptation
18 pursuant to paragraphs (3) and (5), with the
19 allowances to be deposited in and administered
20 through the SCCR Accounts.

21 (3) FORMULA FOR DISTRIBUTION.—The Ad-
22 ministrator shall distribute the allowances pursuant
23 to paragraph (2)(D) ratably among the States based
24 on the product obtained by multiplying—

25 (A) the population of a State; and

1 (B) the allocation factor for the State de-
2 termined under paragraph (4).

3 (4) STATE ALLOCATION FACTORS.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), the allocation factor for a
6 State shall be the quotient obtained by divid-
7 ing—

8 (i) the per capita income of all indi-
9 viduals in the United States; by

10 (ii) the per capita income of all indi-
11 viduals in the State.

12 (B) LIMITATION.—

13 (i) MAXIMUM.—If the allocation fac-
14 tor for a State as calculated under sub-
15 paragraph (A) would exceed 1.2, the allo-
16 cation factor for such State shall be 1.2.

17 (ii) MINIMUM.—If the allocation fac-
18 tor for a State as calculated under sub-
19 paragraph (A) would be less than 0.8, the
20 allocation factor for such State shall be
21 0.8.

22 (C) PER CAPITA INCOME.—For purposes
23 of this paragraph, per capita income shall be—

24 (i) determined at 2-year intervals; and

1 (ii) subject to subparagraph (D),
2 equal to the average of the annual per cap-
3 ita incomes for the most recent period of
4 3 consecutive years for which satisfactory
5 data are available from the Department of
6 Commerce at the time such determination
7 is made.

8 (D) REVENUE DIRECTLY RESULTING FROM
9 A PRESIDENTIALLY DECLARED MAJOR DIS-
10 ASTER.—

11 (i) IN GENERAL.—For purposes of
12 this paragraph, per capita income from 1
13 or more of the sources described in clause
14 (ii) shall be reduced or excluded if the Sec-
15 retary of Commerce—

16 (I) (in consultation with the Ad-
17 ministrator and the heads of the de-
18 partments or agencies involved) deter-
19 mines that the income accrues to per-
20 sons as the result of a major disaster
21 designated by the President under the
22 Robert T. Stafford Disaster Relief
23 and Emergency Assistance Act (42
24 U.S.C. 5121 et seq.); and

1 (II) finds that the inclusion of 1
2 or more of the income sources, in
3 whole or in part, results in a transi-
4 tory, rather than a sustainable, in-
5 crease in a State's per capita income
6 level relative to the national average.

7 (ii) SOURCES OF INCOME.—The
8 sources of income referred to in clause (i)
9 are the following:

10 (I) Property and casualty insur-
11 ance (including homeowners and rent-
12 ers insurance).

13 (II) The National Flood Insur-
14 ance Program of the Federal Emer-
15 gency Management Agency.

16 (III) The Individual and Family
17 Grants Program of the Federal Emer-
18 gency Management Agency.

19 (IV) The Disaster Housing Pro-
20 gram of the Federal Emergency Man-
21 agement Agency.

22 (V) The Community Develop-
23 ment Block Grant Program of the De-
24 partment of Housing and Urban De-
25 velopment.

1 (VI) The Disaster Unemployment
2 Assistance Program of the Depart-
3 ment of Labor.

4 (VII) Any other source deter-
5 mined appropriate by the Adminis-
6 trator.

7 (5) STATE CLIMATE CHANGE RESPONSE AC-
8 COUNTS.—

9 (A) ESTABLISHMENT.—Each State shall
10 establish a State Climate Change Response Ac-
11 count, to be administered pursuant to State
12 law, to receive and distribute—

13 (i) the allocation of allowances pro-
14 vided under paragraph (2); or

15 (ii) at the election of the State, the
16 proceeds of the auction of those allow-
17 ances.

18 (B) COMPLIANCE.—State regulations and
19 implementing procedures relating to SCCR ac-
20 counts shall require compliance with the provi-
21 sions of this section and all other applicable
22 provisions of Federal law.

23 (d) DISTRIBUTION TO INDIAN TRIBES.—

24 (1) IN GENERAL.—The Administrator, or the
25 heads of such Federal agencies as the President may

1 designate, shall promulgate regulations establishing
2 a program to distribute allowances to Indian tribes,
3 in accordance with the requirements of this section,
4 of which not less than 18 percent shall be allocated
5 to Alaska Native Villages for each year.

6 (2) USE OF ALLOWANCES.—Allowances distrib-
7 uted to Indian tribes shall be used exclusively—

8 (A) in accordance with subsection (g); and

9 (B) in compliance with any approved tribal
10 climate change response plan.

11 (e) DISTRIBUTION TO COASTAL AND GREAT LAKES
12 STATES.—The Administrator, or the heads of such other
13 Federal agencies as the President may designate, shall dis-
14 tribute allowances for coastal State economic protection
15 reserved under subsection (c)(2)(A) each fiscal year, in ac-
16 cordance with section 384 of division A.

17 (f) DISTRIBUTION TO STATES FOR FIRE PRO-
18 GRAMS.—The Administrator, or the heads of such other
19 Federal agencies as the President may designate, shall dis-
20 tribute allowances reserved under subsection (c)(2)(B), to
21 the States' SCCR Accounts for each fiscal year, to be used
22 for wildfire programs in accordance with section 383 of
23 division A.

24 (g) USES OF ALLOWANCES DEPOSITED TO SCCR
25 ACCOUNTS.—

1 (1) IN GENERAL.—States shall use allowances
2 deposited to SCCR Accounts under subsection
3 (c)(2)(D) exclusively for the development and imple-
4 mentation of projects, programs, or measures as de-
5 scribed in this section to address climate change by
6 reducing emissions of greenhouse gases or by build-
7 ing resilience to the impacts of climate change, in-
8 cluding impacts such as—

9 (A) extreme weather events, such as flood-
10 ing and tropical cyclones;

11 (B) more frequent heavy precipitation
12 events;

13 (C) water scarcity and adverse impacts on
14 water quality;

15 (D) stronger and longer heat waves;

16 (E) more frequent and severe droughts;

17 (F) rises in sea level;

18 (G) ecosystem disruption;

19 (H) increased wildfire risk;

20 (I) increased air pollution;

21 (J) effects on public health;

22 (K) impaired transportation systems and
23 infrastructure; and

24 (L) reduced productivity of agricultural or
25 ranching operations.

1 (2) REQUIREMENTS.—The allowances received
2 by each SCCR Account for each fiscal year shall be
3 used by the State exclusively to fund the following
4 categories of activities, in compliance with the provi-
5 sions of approved State climate change response
6 plans:

7 (A) Grants to fund water system mitiga-
8 tion and adaptation partnerships in accordance
9 with section 381 of division A.

10 (B) Flood control, protection, prevention
11 and response programs and projects in accord-
12 ance with section 382 of division A.

13 (C) Programs or projects implemented by
14 State agencies as owners or operators of water
15 systems to address any ongoing or forecasted
16 climate-related impact on water quality, water
17 supply or reliability, for 1 or more of the pur-
18 poses listed in section 381(d) of division A.

19 (D) Programs or projects to reduce green-
20 house gas emissions through recycling or for in-
21 creasing recycling rates in accordance with sec-
22 tion 154 of division A.

23 (E) Programs and projects addressing ad-
24 verse impacts of climate change affecting agri-
25 culture or ranching activities.

1 (F) Programs or projects addressing air
2 pollution or air quality impacts caused or exacer-
3 bated by climate change.

4 (G) Programs or projects to reduce green-
5 house gas emissions that result in a decrease in
6 emissions of other air pollutants.

7 (H) Programs or projects to restore aban-
8 doned mine lands that increase carbon seques-
9 tration or reduce greenhouse gas emissions
10 while providing other benefits, including im-
11 provements in water and air quality.

12 (I) Programs addressing the risk of
13 wildfires for 1 or more of the purposes listed in
14 section 383(e)(2) of division A.

15 (3) DISTRIBUTION FOR LOCAL GOVERN-
16 MENTS.—Not less than 12.5 percent of the allow-
17 ances deposited to SCCR Accounts shall be distrib-
18 uted by each State to units of local government
19 within such State, to be used exclusively to support
20 the categories of climate change response efforts list-
21 ed in paragraph (2).

22 (4) VULNERABLE POPULATIONS.—In deploying
23 allowances under this section, States and units of
24 local government shall ensure that programs and
25 projects are funded responding to impacts affecting

1 socially and economically vulnerable populations, in-
2 cluding—

3 (A) persons of low-income (as defined in
4 title I of the Housing and Community Develop-
5 ment Act of 1974, (42 U.S.C. 5301 et seq.));

6 (B) members of socially disadvantaged
7 groups (as defined in section 2501(e)(2) of the
8 Food, Agriculture, Conservation, and Trade Act
9 of 1990 (7 U.S.C. 2279(e)(2)));

10 (C) individuals over 65 years of age and
11 under 5 years of age; and

12 (D) individuals with disabilities.

13 (5) INTENT OF CONGRESS.—It is the intent of
14 the Congress that allowances distributed to carry
15 out this section should be used to supplement, and
16 not replace, existing sources of funding used to ad-
17 dress and build resilience to the impacts of climate
18 change.

19 (h) STATE AND TRIBAL CLIMATE CHANGE RE-
20 SPONSE PLANS.—

21 (1) IN GENERAL.—The regulations promulgated
22 pursuant to subsection (b) shall include require-
23 ments for submission and approval of State and
24 tribal climate change response plans under this sec-
25 tion. Beginning with vintage year 2012, distribution

1 of allowances to a State pursuant to this section
2 shall be contingent on approval of a State climate
3 change response plan for such State that meets the
4 requirements of such regulations.

5 (2) REQUIREMENTS.—Regulations promulgated
6 under this section shall require, at minimum, that
7 State climate change response plans—

8 (A) assess and prioritize the vulnerability
9 of a State to a broad range of impacts of cli-
10 mate change, based on the best available
11 science;

12 (B) identify and prioritize specific cost-ef-
13 fective projects, programs, and measures to
14 mitigate and build resilience to current and pre-
15 dicted impacts of climate change, including
16 projects, programs, and measures within each
17 of the categories of activities listed in sub-
18 section (h)(2);

19 (C) include an assessment of potential for
20 carbon reduction through changes to land man-
21 agement policies (including enhancement or
22 protection of forest carbon sinks);

23 (D) ensure that the State fully considers
24 and undertakes, to the maximum extent prac-
25 ticable, initiatives that—

1 (i) protect or enhance natural eco-
2 system functions, including protection,
3 maintenance, or restoration of natural in-
4 frastructure such as wetlands, reefs, and
5 barrier islands to buffer communities from
6 floodwaters or storms, watershed protec-
7 tion to maintain water quality and ground-
8 water recharge, or floodplain restoration to
9 improve natural flood control capacity;

10 (ii) where appropriate, use non-
11 structural approaches, including practices
12 that use, enhance, or mimic the natural
13 hydrologic cycle processes of infiltration,
14 evapotranspiration, and use; or

15 (iii) where appropriate, protect for-
16 ested land via scientifically based ecological
17 restoration practices, including by reducing
18 fuel loads, restoring forest diversity, and
19 conducting research on pest mitigation;

20 (E) give consideration to impacts affecting
21 socially and economically vulnerable popu-
22 lations, including—

23 (i) persons of low-income (as defined
24 in title I of the Housing and Community

1 Development Act of 1974 (42 U.S.C. sec.
2 5301 et seq.);

3 (ii) members of socially disadvantaged
4 groups (as defined in section 2501(e)(2) of
5 the Food, Agriculture, Conservation, and
6 Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

7 (iii) persons over 65 years of age and
8 under 5 years of age; and

9 (iv) persons with disabilities;

10 (F) use pre-disaster mitigation, emergency
11 response, and public insurance programs to
12 mitigate the impacts of climate change;

13 (G) be consistent with Federal conserva-
14 tion and environmental laws and, to the max-
15 imum extent practicable, avoid environmental
16 degradation; and

17 (H) be revised and resubmitted for ap-
18 proval not less frequently than every 5 years.

19 (3) TRIBAL CLIMATE CHANGE RESPONSE
20 PLANS.—Requirements for tribal climate change re-
21 sponse plans should include the requirements listed
22 in subparagraphs (A) through (H) of paragraph (2),
23 as appropriate, but may vary from those of State cli-
24 mate change response plans to the extent necessary

1 to account for the special circumstances of Indian
2 tribes.

3 (4) COORDINATION WITH PRIOR PLANNING EF-
4 FORTS.—In implementing this subsection, the Ad-
5 ministrator, or the heads of such Federal agencies
6 as the President may designate, shall—

7 (A) draw upon lessons learned and best
8 practices from preexisting State and tribal cli-
9 mate change response planning efforts;

10 (B) seek to avoid duplication of such ef-
11 forts; and

12 (C) ensure that the plans developed under
13 this section are developed in coordination with
14 State natural resources adaptation plans devel-
15 oped under section 369 of division A.

16 (i) REPORTING.—Not later than 1 year after each
17 date of receipt of allowances under this section, and bien-
18 nially thereafter until the allowances received under this
19 section have been fully expended, each State or Indian
20 tribe receiving allowances under this section shall submit
21 to the Administrator, or the heads of such Federal agen-
22 cies as the President may designate, a report that—

23 (1) provides a full accounting for the use by the
24 State or Indian tribe of allowances distributed under
25 this section, including a description of the projects,

1 programs, or measures supported using such allow-
2 ances;

3 (2) includes a report prepared by an inde-
4 pendent third party, in accordance with such regula-
5 tions as are promulgated by the Administrator or
6 the heads of such other Federal agencies as the
7 President may designate, evaluating the performance
8 of the projects, programs, or measures supported
9 under this section; and

10 (3) identifies any use by the State or Indian
11 tribe of allowances distributed under this section for
12 the reduction of flood and storm damage and the ef-
13 fects of climate change on water and flood protection
14 infrastructure.

15 (j) AUDITING.—The Administrator, or the heads of
16 such Federal agencies as the President may designate,
17 shall have authority to conduct such audits or other review
18 of States implementation of and compliance with this sec-
19 tion as such Federal officials may in their discretion deter-
20 mine to be necessary or appropriate.

21 (k) ENFORCEMENT.—If the Administrator, or the
22 heads of such Federal agencies as the President may des-
23 ignate, determine that a State or Indian tribe is not in
24 compliance with this section, the Administrator or such
25 other agency head may withhold a quantity of the allow-

1 ances equal to up to twice the quantity of allowances that
2 the State or Indian tribe failed to use in accordance with
3 the requirements of this section, that such State or Indian
4 tribe would otherwise be eligible to receive under this sec-
5 tion in 1 or more later years. Allowances withheld pursu-
6 ant to this subsection shall be distributed among the re-
7 maining States or Indian tribes ratably in accordance
8 with—

9 (1) the formula under subsection (c), in the
10 case of allowances withheld from a State; or

11 (2) in accordance with subsection (d), in the
12 case of allowances withheld from an Indian tribe.

13 **SEC. 211. CLIMATE CHANGE HEALTH PROTECTION AND**
14 **PROMOTION FUND.**

15 (a) **ESTABLISHMENT OF FUND.**—There is estab-
16 lished in the Treasury a separate account, to be known
17 as the “Climate Change Health Protection and Promotion
18 Fund”.

19 (b) **AUCTION PROCEEDS.**—The Administrator shall
20 deposit the proceeds of the auction pursuant to section
21 771(b)(6) of the Clean Air Act in the Climate Change
22 Health Protection and Promotion Fund.

23 (c) **AVAILABILITY OF AMOUNTS.**—All amounts depos-
24 ited in the Climate Change Health Protection and Pro-
25 motion Fund shall be available to the Secretary of Health

1 and Human Services to carry out subpart B of subtitle
2 C of title III of division A, without further appropriation
3 or fiscal year limitation.

4 (d) DISTRIBUTION OF FUNDS BY HHS.—In carrying
5 out subpart B of subtitle C of title III of division A, the
6 Secretary of Health and Human Services may make funds
7 deposited in the Climate Change Health Protection and
8 Promotion Fund available to—

9 (1) other departments, agencies, and offices of
10 the Federal Government;

11 (2) foreign, State, tribal, and local govern-
12 ments; and

13 (3) such other entities as the Secretary deter-
14 mines to be appropriate.

15 (e) SUPPLEMENT, NOT REPLACE.—It is the intent
16 of Congress that funds made available to carry out sub-
17 part B of subtitle C of title III of division A should be
18 used to supplement, and not replace, existing sources of
19 funding for public health.

20 **SEC. 212. CLIMATE CHANGE SAFEGUARDS FOR NATURAL**
21 **RESOURCES CONSERVATION.**

22 (a) ESTABLISHMENT OF FUND.—There is estab-
23 lished in the Treasury a separate account, to be known
24 as the “Natural Resources Climate Change Adaptation
25 Account”.

1 (b) AUCTION PROCEEDS.—The Administrator shall
2 deposit the proceeds of the auction conducted pursuant
3 to section 771(b)(7) of the Clean Air Act in the Natural
4 Resources Climate Change Adaptation Account.

5 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-
6 ited in the Natural Resources Climate Change Adaptation
7 Account shall be available without further appropriation
8 or fiscal year limitation solely for the purposes of section
9 370(a)(2) of division A.

10 **SEC. 213. NUCLEAR WORKER TRAINING.**

11 (a) ESTABLISHMENT OF FUND.—There is estab-
12 lished in the Treasury a separate account, to be known
13 as the “Nuclear Worker Training Fund”.

14 (b) AUCTION PROCEEDS.—The Administrator shall
15 deposit the proceeds of the auction conducted pursuant
16 to section 771(b)(8) of the Clean Air Act in the Nuclear
17 Worker Training Fund.

18 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-
19 ited in the Nuclear Worker Training Fund shall be avail-
20 able without further appropriation or fiscal year limitation
21 solely for the purpose of carrying out section 132 of divi-
22 sion A.

1 **SEC. 214. SUPPLEMENTAL AGRICULTURE, ABANDONED**
2 **MINE LAND, RENEWABLE ENERGY, AND FOR-**
3 **ESTRY.**

4 (a) ESTABLISHMENT OF FUND.—There is estab-
5 lished in the Treasury a separate account, to be known
6 as the “Supplemental Agriculture, Abandoned Mine Land,
7 Renewable Energy, and Forestry Fund”.

8 (b) AUCTION PROCEEDS.—The Administrator shall
9 deposit the proceeds of the auction conducted pursuant
10 to section 771(b)(9) of the Clean Air Act in the Supple-
11 mental Agriculture, Abandoned Mine Land, Renewable
12 Energy, and Forestry Fund.

13 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-
14 ited in the Supplemental Agriculture, Renewable Energy,
15 Abandoned Mine Land, and Forestry Fund shall be avail-
16 able without further appropriation or fiscal year limitation
17 solely for the purpose of carrying out section 155 of divi-
18 sion A.

19 **SEC. 215. INVESTMENT IN GREENHOUSE GAS REDUCTIONS**
20 **FROM THE TRANSPORTATION SECTOR.**

21 (a) DEFINITIONS.—In this section:

22 (1) ALLOWANCE.—The term “allowance”
23 means an emission allowance established under sec-
24 tion 721 of the Clean Air Act.

25 (2) SECRETARY.—The term “Secretary” means
26 the Secretary of Transportation.

1 (3) VINTAGE YEAR.—The term “vintage year”
2 has the meaning given the term in section 700 of the
3 Clean Air Act.

4 (b) CLIMATE CHANGE TRANSPORTATION FUND.—

5 (1) ESTABLISHMENT OF FUND.—There is es-
6 tablished in the Treasury a separate account, to be
7 known as the “Climate Change Transportation
8 Fund”.

9 (2) AUCTION PROCEEDS DEPOSITED TO
10 FUND.—The Administrator shall deposit the pro-
11 ceeds of auctions conducted pursuant to section
12 771(b)(10) of the Clean Air Act for the vintage
13 years specified in the Climate Change Transpor-
14 tation Fund.

15 (3) AVAILABILITY OF AMOUNTS.—All amounts
16 deposited in the Climate Change Transportation
17 Fund shall be available, without further appropria-
18 tion or fiscal year limitation, to carry out this sec-
19 tion.

20 (c) DISTRIBUTION OF ALLOWANCES.—For each year,
21 the Secretary shall use the proceeds of allowance auctions
22 deposited in the Climate Change Transportation Fund to
23 reduce emissions from the transportation sector in accord-
24 ance with the following formula:

1 (1) 50 percent of the allowances shall be used
2 exclusively for the Transportation Greenhouse Gas
3 Reduction program in accordance with section 832
4 of the Clean Air Act.

5 (2) 50 percent of the allowances shall be used
6 exclusively for public transportation grants in ac-
7 cordance with subsection (d).

8 (d) DISTRIBUTION OF PUBLIC TRANSPORTATION
9 GRANTS.—

10 (1) IN GENERAL.—The Secretary shall dis-
11 tribute the amounts available for public transpor-
12 tation grants for each fiscal year in accordance with
13 subsection (c)(2) as grants to public transportation
14 agencies (including designated recipients (as defined
15 in section 5307(a) and section 5340 of title 49,
16 United States Code)) and recipients and sub-recipi-
17 ents (as defined in section 5311(a) of title 49,
18 United States Code).

19 (2) FORMULA.—In providing grants under this
20 subsection, the Secretary shall distribute—

21 (A) 80 percent of the funds in accordance
22 with the formula and conditions governing
23 grants under section 5307 of title 49, United
24 States Code;

1 (B) 10 percent of the funds in accordance
2 with the formula and conditions governing
3 grants under section 5311 of title 49, United
4 States Code (including subsection (f) of that
5 section); and

6 (C) 10 percent of the funds in accordance
7 with the formula and conditions governing
8 grants under section 5340 of title 49, United
9 States Code.

10 (e) AGREEMENTS.—No grant may be provided to a
11 public transportation agency under this section for any fis-
12 cal year unless—

13 (1) the grant is limited to a project approved in
14 accordance with the greenhouse gas emission reduc-
15 tion provisions under section 112 of division A; and

16 (2) the public transportation agency enters into
17 such agreements with the Secretary as the Secretary
18 may require to ensure that the public transportation
19 agency will maintain the aggregate expenditures of
20 the public transportation agency from all other
21 sources for programs described in paragraph (1) at
22 or above the average level of those expenditures dur-
23 ing the 2 fiscal years preceding the date of enact-
24 ment of this Act.

1 (f) LIMITATION ON USE OF FUNDS.—Public trans-
2 portation grants funded under this section may be used
3 only to fund strategies that demonstrate a reduction in
4 greenhouse gas emissions.

5 **SEC. 216. STATE PROGRAMS FOR NATURAL RESOURCE AD-**
6 **APTATION ACTIVITIES.**

7 The Administrator shall distribute emission allow-
8 ances allocated for the following vintage year pursuant to
9 section 771(a)(15) of the Clean Air Act among the States
10 in accordance with the formula described in section
11 370(a)(1) of division A, exclusively to carry out natural
12 resources adaptation activities in accordance with adapta-
13 tion plans approved under section 369 of division A.