111TH CONGRESS 1ST SESSION	S	
181 81881011	<b>.</b>	

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

# IN THE SENATE OF THE UNITED STATES

Mr. Kerry (for himself and Mrs. Boxer) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

# A BILL

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

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
- 4 (a) Short Title.—This Act may be cited as the
- 5 "Clean Energy Jobs and American Power Act".
- 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.

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

Sec. 101. Structure of Act.

## TITLE I—GREENHOUSE GAS REDUCTION PROGRAMS

## Subtitle A—Clean Transportation

Sec. 111. Emission standards.

#### "PART B-MOBILE SOURCES

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

### "PART C—Transportation Emissions

- "Sec. 831. Greenhouse gas emission reductions through transportation 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 coal-fueled power plants.
  - "Sec. 812. Performance standards for new coal-fired power plants.
- Sec. 125. Carbon capture and sequestration demonstration and early deployment program.

## Subtitle C—Nuclear and Advanced Technologies

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

## Subtitle D-Water Efficiency

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

## Subtitle E—Miscellaneous

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

"Sec. 219. Economic Development Climate Change Fund.

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

## Subtitle F—Energy Efficiency and Renewable Energy

Sec. 161. Renewable energy.

Sec. 162. Advanced biofuels.

Sec. 163. Energy efficiency in building codes.

Sec. 164. Retrofit for energy and environmental performance.

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

Sec. 171. Short title.

Sec. 172. State fuel economy regulation for taxicabs.

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

## Subtitle H—Clean Energy and Natural Gas

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

Sec. 182. Advanced natural gas technologies.

### TITLE II—RESEARCH

## Subtitle A—Energy Research

Sec. 201. Advanced energy research.

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

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

### TITLE III—TRANSITION AND ADAPTATION

### Subtitle A—Green Jobs and Worker Transition

## PART 1—Green Jobs

Sec. 301. Clean energy curriculum development grants.

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

Sec. 303. Green construction careers demonstration project.

## PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

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

Sec. 312. Program benefits.

Sec. 313. General provisions.

## Subtitle B—International Climate Change Programs

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

Sec. 322. Emission reductions from reduced deforestation.

# "PART E—Supplemental Emission Reductions

"Sec. 751. Definitions.

"Sec. 752. Purposes.

"Sec. 753. Emission reductions from reduced deforestation.

Sec. 323. International Clean Energy Deployment Program.

- Sec. 324. International climate change adaptation and global security program.
- Sec. 325. Evaluation and reports.
- Sec. 326. Report on climate actions of major economies.

## Subtitle C—Adapting to Climate Change

### PART 1—Domestic Adaptation

### SUBPART A—NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM

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

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

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

# SUBPART C—CLIMATE CHANGE SAFEGUARDS FOR NATURAL RESOURCES CONSERVATION

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

## SUBPART D—ADDITIONAL CLIMATE CHANGE ADAPTATION PROGRAMS

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

## DIVISION B—POLLUTION REDUCTION AND INVESTMENT

## TITLE I—REDUCING GLOBAL WARMING POLLUTION

Subtitle A—Reducing Global Warming Pollution

Sec. 101. Reducing global warming pollution.

# "TITLE VII—GLOBAL WARMING POLLUTION REDUCTION AND INVESTMENT PROGRAM

"PART A—GLOBAL WARMING POLLUTION REDUCTION GOALS AND TARGETS

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

### "PART B—Designation and Registration of Greenhouse Gases

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

### "PART C—PROGRAM RULES

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

### "PART D—Offsets

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

## Subtitle B—Disposition of Allowances

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

## "PART H—DISPOSITION OF ALLOWANCES

- "Sec. 771. Allocation of emission allowances.
- "Sec. 772. Electricity consumers.
- "Sec. 773. Natural gas consumers.
- "Sec. 774. Home heating oil and propane consumers.

- "Sec. 775. Domestic fuel production.
- "Sec. 776. Consumer protection.
- "Sec. 777. Exchange for State-issued allowances.
- "Sec. 778. Auction procedures.
- "Sec. 779. Auctioning allowances for other entities.
- "Sec. 780. Commercial deployment of carbon capture and sequestration technologies.
- "Sec. 781. Oversight of allocations.
- "Sec. 782. Early action recognition.
- "Sec. 783. Establishment of Deficit Reduction Fund.

## Subtitle C—Additional Greenhouse Gas Standards

### Sec. 121. Greenhouse gas standards.

### "TITLE VIII—ADDITIONAL GREENHOUSE GAS STANDARDS

"Sec. 801. Definitions.

# "PART A—STATIONARY SOURCE STANDARDS

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

### "PART E—BLACK CARBON

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

## "PART F—MISCELLANEOUS

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

### Subtitle D—Carbon Market Assurance

## Sec. 131. 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. Investment in clean vehicle technology.

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

## l 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
- the improvement of all energy sources, including
- 12 coal, natural gas, nuclear power, and renewable gen-
- eration;
- 14 (3) efficiency in the energy sector also rep-
- resents a critical avenue to reduce energy consump-
- tion and carbon pollution, and those benefits can be
- captured while generating additional savings for con-
- 18 sumers;

egon, and New Mexico;

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1	(4) substantially increasing the investment in
2	the clean energy future of the United States will
3	provide economic opportunities to millions of people
4	in the United States and drive future economic
5	growth in this country;
6	(5) the United States is responsible for many of
7	the initial scientific advances in clean energy tech-
8	nology, but, as of September 2009, the United
9	States has only 5 of the top 30 leading companies
10	in solar, wind, and advanced battery technology;
11	(6) investment in the clean energy sector will
12	allow companies in the United States to retake a
13	leadership position, and the jobs created by those in-
14	vestments will significantly accelerate growth in do-
15	mestic manufacturing;
16	(7) those opportunities also will result in sub-
17	stantial employment gains in construction, a sector
18	in which the median hourly wage is 17 percent high-
19	er than the national median;
20	(8) those jobs are distributed throughout the
21	United States, and the highest clean energy economy
22	employment growth rates in the last 10 years were
23	in the States of Idaho, Nebraska, South Dakota, Or-

1	(9) focusing on clean energy will dramatically
2	reduce pollution and significantly improve the health
3	of families in and the environment of the United
4	States;
5	(10) moving to a low-carbon economy must pro-
6	tect the most vulnerable populations in the United
7	States, including low-income families that are par-
8	ticularly affected by volatility in energy prices;
9	(11) if unchecked, the impact of climate change
10	will include widespread effects on health and welfare,
11	including—
12	(A) increased outbreaks from waterborne
13	diseases;
14	(B) more droughts;
15	(C) diminished agricultural production;
16	(D) severe storms and floods;
17	(E) heat waves;
18	(F) wildfires; and
19	(G) a substantial rise in sea levels, due in
20	part to—
21	(i) melting mountain glaciers;
22	(ii) shrinking sea ice; and
23	(iii) thawing permafrost;

1 (12) the most recent science indicates that the 2 changes described in paragraph (11)(G) are occur-3 ring faster and with greater intensity than expected; 4 (13) military officials, including retired admi-5 rals and generals, concur with the intelligence com-6 munity that climate change acts as a threat multi-7 plier for instability and presents significant national 8 security challenges for the United States; 9 (14) massive portions of the infrastructure of 10 the United States, including critical military infra-11 structure, are at risk from the effects of climate 12 change; 13 (15) impacts are already being felt in local com-14 munities within the United States as well as by at-15 risk populations abroad; 16 (16) the Declaration of the Leaders from the 17 Major Economies Forum on Energy and Climate, 18 representing 17 of the largest economies in the 19 world, recognizes the need to limit the increase in 20 global average temperatures to within 2 degrees 21 Centigrade, as a necessary step to prevent the cata-22 strophic consequences of climate change; and 23 (17) the United States should lead the global 24 community in combating the threat of global climate 25 change and reaching a robust international agree-

emissions in 2005.

1 ment to address global warming under the United 2 Nations Framework Convention on Climate Change, 3 done at New York on May 9, 1992 (or a successor 4 agreement). 5 SEC. 3. ECONOMYWIDE EMISSION REDUCTION GOALS. 6 The goals of this Act and the amendments made by this Act are to reduce steadily the quantity of United 8 States greenhouse gas emissions such that— 9 (1) in 2012, the quantity of United States 10 greenhouse gas emissions does not exceed 97 percent 11 of the quantity of United States greenhouse gas 12 emissions in 2005; 13 (2) in 2020, the quantity of United States 14 greenhouse gas emissions does not exceed 80 percent 15 of the quantity of United States greenhouse gas 16 emissions in 2005; 17 (3) in 2030, the quantity of United States 18 greenhouse gas emissions does not exceed 58 percent 19 of the quantity of United States greenhouse gas 20 emissions in 2005; and 21 (4) in 2050, the quantity of United States 22 greenhouse gas emissions does not exceed 17 percent 23 of the quantity of United States greenhouse gas

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1	SEC. 4. DEFINITIONS.
2	In this Act:
3	(1) Administrator.—The term "Adminis-
4	trator" means the Administrator of the Environ-
5	mental Protection Agency.
6	(2) Indian tribe.—The term "Indian tribe"
7	has the meaning given the term in section 302 of the
8	Clean Air Act (42 U.S.C. 7602).
9	(3) State.—The term "State" has the mean-
10	ing given that term in section 302 of the Clean Air
11	Act (42 U.S.C. 7602).
12	DIVISION A—AUTHORIZATIONS
13	FOR POLLUTION REDUCTION,
14	TRANSITION, AND ADAPTA-
15	TION
16	SEC. 101. STRUCTURE OF ACT.
17	(a) Authorized and Allocated Programs.—The
18	following programs authorized under this division are eli-
19	gible to receive an allocation under title VII of the Clean
20	Air Act:

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

1	(2) The program for nuclear worker training
2	under section 132 of this division and 214 of divi-
3	sion B.
4	(3) State recycling programs under section 154
5	of this division and section 211 of division B.
6	(4) The supplemental agriculture and forestry
7	greenhouse gas reduction and renewable energy pro-
8	gram under section 155 of this division and section
9	215 of division B.
10	(5) The program for energy efficiency in build-
11	ing codes under section 163 of this division and sec-
12	tion 203 of division B.
13	(6) The program for retrofit for energy and en-
14	vironmental performance under section 164 of this
15	division and section 204 of division B.
16	(7) The program for worker transition under
17	part 2 of subtitle A of title III of this division and
18	section 210 of division B.
19	(8) The program for public health and climate
20	change under subpart B of part 1 of subtitle C of
21	title III of this division and section 212 of division
22	В.
23	(9) The program for climate change safeguards
24	for natural resources conservation under subpart C

1 of part 1 of subtitle C of title III of this division and 2 section 213 of division B. 3 (10) The program for emission reductions from 4 reduced deforestation under section 753 of the Clean 5 Air Act (as added by section 322 of this division) 6 and section 771(d) of the Clean Air Act (as added 7 by section 111 of division B. 8 (11) The International Clean Energy Deploy-9 ment Program under section 323 of this division and section 207 of division B. 10 11 (12) The international climate change adapta-12 tion and global security program under 324 of this 13 division and section 208 of division B. 14 (13) The program for water system mitigation and adaptation partnerships under section 381 of 15 16 this division and section 211 of division B. 17 (14) The program for flood control, protection, 18 prevention, and response under section 382 of this 19 division and section 211 of division B. 20 (15) The program for wildfire under section 21 383 of this division and section 211 of division B. 22 (16) The Coastal and Great Lakes State Adap-23 tation Program under section 384 of this division 24 and section 211 of division B.

1 (b) Allocated Programs.—The following alloca-2 tions are provided under title VII of the Clean Air Act: 3 (1) The Market Stability Reserve Fund under 4 section 726 of the Clean Air Act (as added by sec-5 tion 101 of division B). 6 (2) The program to ensure real reductions in 7 industrial emissions under part F of title VII of the 8 Clean Air Act (as added by section 141 of division 9 B). 10 (3) The program for electricity consumers pur-11 suant to section 772 of the Clean Air Act (as added 12 by section 111 of division B). 13 (4) The program for natural gas consumers 14 pursuant to section 773 of the Clean Air Act (as 15 added by section 111 of division B). 16 (5) The program for home heating oil and pro-17 pane consumers pursuant to section 774 of the 18 Clean Air Act (as added by section 111 of division 19 B). 20 (6) The program for domestic fuel production, 21 including petroleum refiners and small business re-22 finers, under section 775 of the Clean Air Act (as 23 added by section 111 of division B). 24 (7) The program for climate change consumer 25 refunds and low- and moderate-income consumers

1	pursuant to section 776 of the Clean Air Act (as
2	added by section 111 of division B), including—
3	(A) consumer rebates under section 776(a)
4	of the Clean Air Act (as so added); and
5	(B) energy refunds under section 776(b) of
6	the Clean Air Act (as so added).
7	(8) [The program for commercial deployment
8	of carbon capture and storage technology under sec-
9	tion 780 of the Clean Air Act (as added by section
10	111 of division B).
11	(9) The program for early action recognition
12	pursuant to section 782 of the Clean Air Act (as
13	added by section 111 of division B).
14	(10) The program for investment in clean vehi-
15	cle technology under section 201 of division B.
16	(11) The program for State and local invest-
17	ment in energy efficiency and renewable energy
18	under section 202 of division B.
19	(12) The program for Energy Innovation Hubs
20	pursuant to section 205 of division B.
21	(13) The program for ARPA–E research pursu-
22	ant to section 206 of division B.
23	(14) The program for energy efficiency and re-
24	newable energy worker training under section 209 of
25	division B.

1	(15) The State programs for greenhouse gas re-
2	duction and climate adaptation pursuant to section
3	211 of division B.
4	(c) Nonallocated Programs.—The following pro-
5	grams are authorized under this division:
6	(1) The SmartWay Transportation Efficiency
7	Program under section 822 of the Clean Air Act (as
8	added by section 114 of this division).
9	(2) The carbon capture and sequestration dem-
10	onstration and early deployment program under sec-
11	tion 125 of this division.
12	(3) The nuclear safety and waste management
13	programs under section 133 of this division.
14	(4) Water efficiency programs under subtitle D
15	of title I of this division.
16	(5) The Office of Consumer Advocacy under
17	section 151 of this division.
18	(6) The clean technology business competition
19	grant program under section 152 of this division.
20	(7) The product carbon disclosure program
21	under section 153 of this division.
22	(8) The Economic Development Climate
23	Change Fund under section 219 of the Public Works
24	and Economic Development Act of 1965 (as added
25	by section 156 of this division).

1	(9) The program for renewable energy under
2	section 161 of this division.
3	(10) The program for advanced biofuels under
4	section 162 of this division.
5	(11) The program for emission reductions from
6	public transportation vehicles under subtitle G of
7	title I of this division.
8	(12) The Clean Energy and Accelerated Emis-
9	sion Reduction Program under section 181 of this
10	division.
11	(13) The program for advanced natural gas
12	technologies under section 182 of this division.
13	(14) The program for advanced energy research
14	under subtitle A of title II of this division.
15	(15) The program for drinking water adapta-
16	tion, technology, education, and research under sub-
17	title B of title II of this division.
18	(16) The program for clean energy curriculum
19	development grants under section 301 of this divi-
20	sion.
21	(17) The program for Development of Informa-
22	tion and Resources clearinghouse for vocational edu-
23	cation and job training in renewable energy sectors
24	under section 302 of this division.

1	(18) The green construction careers demonstra-
2	tion project under section 303 of this division.
3	TITLE I—GREENHOUSE GAS
4	REDUCTION PROGRAMS
5	Subtitle A—Clean Transportation
6	SEC. 111. EMISSION STANDARDS.
7	Title VIII of the Clean Air Act (as added by section
8	121 of division B) is amended by adding at the end the
9	following:
10	"PART B—MOBILE SOURCES
11	"SEC. 821. GREENHOUSE GAS EMISSION STANDARDS FOR
12	MOBILE SOURCES.
13	"(a) New Motor Vehicles and New Motor Ve-
14	HICLE ENGINES.—(1) Pursuant to section 202(a)(1), by
15	December 31, 2010, the Administrator shall promulgate
16	standards applicable to emissions of greenhouse gases
17	from new heavy-duty motor vehicles or new heavy-duty
18	motor vehicle engines, excluding such motor vehicles cov-
19	ered by the Tier II standards (as established by the Ad-
20	ministrator as of the date of the enactment of this sec-
21	tion). The Administrator may revise these standards from
22	time to time.
23	"(2) Regulations issued under section 202(a)(1) ap-
24	plicable to emissions of greenhouse gases from new heavy-
25	duty motor vehicles or new heavy-duty motor vehicle en-

- 1 gines, excluding such motor vehicles covered by the Tier
- 2 II standards (as established by the Administrator as of
- 3 the date of the enactment of this section), shall contain
- 4 standards that reflect the greatest degree of emissions re-
- 5 duction achievable through the application of technology
- 6 which the Administrator determines will be available for
- 7 the model year to which such standards apply, giving ap-
- 8 propriate consideration to cost, energy, and safety factors
- 9 associated with the application of such technology. Any
- 10 such regulations shall take effect after such period as the
- 11 Administrator finds necessary to permit the development
- 12 and application of the requisite technology, and, at a min-
- 13 imum, shall apply for a period no less than 3 model years
- 14 beginning no earlier than the model year commencing 4
- 15 years after such regulations are promulgated.
- 16 "(3) Regulations issued under section 202(a)(1) ap-
- 17 plicable to emissions of greenhouse gases from new heavy-
- 18 duty motor vehicles or new heavy-duty motor vehicle en-
- 19 gines, excluding such motor vehicles covered by the Tier
- 20 II standards (as established by the Administrator as of
- 21 the date of the enactment of this section), shall supersede
- 22 and satisfy any and all of the rulemaking and compliance
- 23 requirements of section 32902(k) of title 49, United
- 24 States Code.

- 1 "(4) Other than as specifically set forth in paragraph
- 2 (3) of this subsection, nothing in this section shall affect
- 3 or otherwise increase or diminish the authority of the Sec-
- 4 retary of Transportation to adopt regulations to improve
- 5 the overall fuel efficiency of the commercial goods move-
- 6 ment system.
- 7 "(b) Nonroad Vehicles and Engines.—(1) Pur-
- 8 suant to section 213(a)(4) and (5), the Administrator
- 9 shall identify those classes or categories of new nonroad
- 10 vehicles or engines, or combinations of such classes or cat-
- 11 egories, that, in the judgment of the Administrator, both
- 12 contribute significantly to the total emissions of green-
- 13 house gases from nonroad engines and vehicles, and pro-
- 14 vide the greatest potential for significant and cost-effective
- 15 reductions in emissions of greenhouse gases. The Adminis-
- 16 trator shall promulgate standards applicable to emissions
- 17 of greenhouse gases from these new nonroad engines or
- 18 vehicles by December 31, 2012. The Administrator shall
- 19 also promulgate standards applicable to emissions of
- 20 greenhouse gases for such other classes and categories of
- 21 new nonroad vehicles and engines as the Administrator de-
- 22 termines appropriate and in the timeframe the Adminis-
- 23 trator determines appropriate. The Administrator shall
- 24 base such determination, among other factors, on the rel-
- 25 ative contribution of greenhouse gas emissions, and the

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

- 1 greenhouse gases, the term 'nonroad engines and vehicles'
- 2 shall include non-internal combustion engines and the ve-
- 3 hicles these engines power (such as electric engines and
- 4 electric vehicles), for those non-internal combustion en-
- 5 gines and vehicles which would be in the same category
- 6 and have the same uses as nonroad engines and vehicles
- 7 that are powered by internal combustion engines.
- 8 "(c) Averaging, Banking, and Trading of Emis-
- 9 SIONS CREDITS.—In establishing standards applicable to
- 10 emissions of greenhouse gases pursuant to this section and
- 11 sections 202(a), 213(a)(4) and (5), and 231(a), the Ad-
- 12 ministrator may establish provisions for averaging, bank-
- 13 ing, and trading of greenhouse gas emissions credits with-
- 14 in or across classes or categories of motor vehicles and
- 15 motor vehicle engines, nonroad vehicles and engines (in-
- 16 cluding marine vessels), and aircraft and aircraft engines,
- 17 to the extent the Administrator determines appropriate
- 18 and considering the factors appropriate in setting stand-
- 19 ards under those sections. Such provisions may include
- 20 reasonable and appropriate provisions concerning genera-
- 21 tion, banking, trading, duration, and use of credits.
- 22 "(d) Reports.—The Administrator shall, from time
- 23 to time, submit a report to Congress that projects the
- 24 amount of greenhouse gas emissions from the transpor-
- 25 tation sector, including transportation fuels, for the years

- 1 2030 and 2050, based on the standards adopted under
- 2 this section.
- 3 "(e) Greenhouse Gases.—Notwithstanding the
- 4 provisions of section 711, hydrofluorocarbons shall be con-
- 5 sidered a greenhouse gas for purposes of this section.".
- 6 SEC. 112. GREENHOUSE GAS EMISSION REDUCTIONS
- 7 THROUGH TRANSPORTATION EFFICIENCY.
- 8 (a) Environmental Protection Agency.—Title
- 9 VIII of the Clean Air Act (as amended by section 111
- 10 of this division) is amended by adding at the end the fol-
- 11 lowing:
- 12 "PART C—TRANSPORTATION EMISSIONS
- 13 "SEC. 831. GREENHOUSE GAS EMISSION REDUCTIONS
- 14 THROUGH TRANSPORTATION EFFICIENCY.
- 15 "(a) IN GENERAL.—The Administrator, in consulta-
- 16 tion with the Secretary of Transportation (referred to in
- 17 this part as the 'Secretary'), shall promulgate, and update
- 18 from time to time, regulations to establish—
- 19 "(1) national transportation-related greenhouse
- gas emission reduction goals that are commensurate
- 21 with the emission reduction goals established under
- the Clean Energy Jobs and American Power Act
- and amendments made by that Act;
- 24 "(2) standardized emission models and related
- 25 methods, to be used by States, metropolitan plan-

1	ning organizations, and air quality agencies to ad-
2	dress emission reduction goals, including—
3	"(A) the development of surface transpor-
4	tation-related greenhouse gas emission reduc-
5	tion targets pursuant to sections 134 and 135
6	of title 23, and sections 5303 and 5304 of title
7	49, United States Code;
8	"(B) the assessment of projected surface
9	transportation-related greenhouse gas emissions
10	from transportation strategies;
11	"(C) the assessment of projected surface
12	transportation-related greenhouse gas emissions
13	from State and regional transportation plans;
14	"(D) the establishment of surface trans-
15	portation-related greenhouse gas emission base-
16	lines at a national, State, and regional level;
17	and
18	"(E) the measurement and assessment of
19	actual surface transportation-related emissions
20	to assess progress toward achievement of emis-
21	sion targets at the State and regional level;
22	"(3) methods for collection of data on transpor-
23	tation-related greenhouse gas emissions; and
24	"(4) publication and distribution of successful
25	strategies employed by States, metropolitan planning

projected

1 organizations, and other entities to reduce transpor-2 tation-related greenhouse gas emissions. 3 "(b) ROLE OFDepartment of Transpor-4 TATION.—The Secretary, in consultation with the Admin-5 istrator, shall promulgate, and update from time to time, 6 regulations— "(1) to improve the ability of transportation 7 8 planning models and tools, including travel demand 9 models, to address greenhouse gas emissions; 10 "(2) to assess projected surface transportation-11 related travel activity and transportation strategies 12 from State and regional transportation plans; and 13 "(3) to update transportation planning require-14 ments and approval of transportation plans as nec-15 essary to carry out this section. 16 "(c) Consultation and Models.—In promul-17 gating the regulations, the Administrator and the Sec-18 retary— 19 "(1) shall consult with States, metropolitan 20 planning organizations, and air quality agencies; 21 "(2) may use existing models and methodolo-22 gies if the models and methodologies are widely con-23 sidered to reflect the best practicable modeling or 24 methodological approach for assessing actual and

transportation-related

greenhouse

gas

1	emissions from transportation plans and projects;
2	and
3	"(3) shall consider previously developed plans
4	that were based on models and methodologies for re-
5	ducing greenhouse gas emissions in applying those
6	regulations to the first approvals after promulgation.
7	"(d) TIMING.—The Administrator and the Secretary
8	shall—
9	"(1) publish proposed regulations under sub-
10	sections (a) and (b) not later than 1 year after the
11	date of enactment of this section; and
12	"(2) promulgate final regulations under sub-
13	sections (a) and (b) not later than 18 months after
14	the date of enactment of this section.
15	"(e) Assessment.—
16	"(1) IN GENERAL.—At least every 6 years after
17	promulgating final regulations under subsections (a)
18	and (b), the Administrator and the Secretary shall
19	jointly assess current and projected progress in re-
20	ducing national transportation-related greenhouse
21	gas emissions.
22	"(2) Requirements.—The assessment shall
23	examine the contributions to emission reductions at-
24	tributable to—
25	"(A) improvements in vehicle efficiency;

1	"(B) greenhouse gas performance of trans-
2	portation fuels;
3	"(C) reductions in vehicle miles traveled;
4	"(D) changes in consumer demand and use
5	of transportation management systems; and
6	"(E) any other greenhouse gas-related
7	transportation policies enacted by Congress.
8	"(3) RESULTS OF ASSESSMENT.—The Sec-
9	retary and the Administrator shall consider—
10	"(A) the results of the assessment con-
11	ducted under this subsection; and
12	"(B) based on those results, whether tech-
13	nical or other updates to regulations required
14	under this section and sections 134 and 135 of
15	title 23, and sections 5303 and 5304 of title 49,
16	United States Code, are necessary.".
17	(b) Metropolitan Planning Organizations.—
18	(1) Title 23.—Section 134 of title 23, United
19	States Code, is amended—
20	(A) in subsection (a)(1)—
21	(i) by striking "minimizing" and in-
22	serting "reducing"; and
23	(ii) by inserting ", reliance on oil, im-
24	pacts on the environment, transportation-

1	related greenhouse gas emissions," after
2	"consumption";
3	(B) in subsection (h)(1)(E)—
4	(i) by inserting "sustainability, and
5	livability, reduce surface transportation-re-
6	lated greenhouse gas emissions and reli-
7	ance on oil, adapt to the effects of climate
8	change," after "energy conservation,";
9	(ii) by inserting "and public health"
10	after "quality of life"; and
11	(iii) by inserting ", including housing
12	and land use patterns" after "development
13	patterns";
14	(C) in subsection (i)—
15	(i) in paragraph (4)(A)—
16	(I) by striking "consult, as ap-
17	propriate," and inserting "cooperate";
18	(II) by inserting "transportation,
19	public transportation, air quality, and
20	housing, and shall consult, as appro-
21	priate, with State and local agencies
22	responsible for' after "responsible
23	for" and
24	(III) by inserting "public
25	health," after "conservation,"; and

1	(ii) in paragraph (5)(C)(iii), by insert-
2	ing "and through the website of the metro-
3	politan planning organization, including
4	emission reduction targets and strategies
5	developed under subsection (k)(6), includ-
6	ing an analysis of the anticipated effects of
7	the targets and strategies," after "World
8	Wide Web"; and
9	(D) in subsection (k), by adding at the end
10	the following:
11	"(6) Transportation greenhouse gas re-
12	DUCTION EFFORTS.—
13	"(A) IN GENERAL.—Within a metropolitan
14	planning area serving a transportation manage-
15	ment area, the transportation planning process
16	under this section shall address transportation-
17	related greenhouse gas emissions by including
18	emission reduction targets and strategies to
19	meet those targets.
20	"(B) Eligible organizations.—
21	"(i) MPOS within tmas.—All provi-
22	sions and requirements of this section, in-
23	cluding the requirements of the transpor-
24	tation greenhouse gas reduction efforts,
25	shall apply to metropolitan planning orga-

1	nizations that also serve as transportation
2	management areas.
3	"(ii) Other Mpos.—A metropolitan
4	planning organization that does not serve
5	as a transportation management area—
6	"(I) may develop transportation
7	greenhouse gas emission reduction
8	targets and strategies to meet those
9	targets; and
10	"(II) if those targets and strate-
11	gies are developed, shall be subject to
12	all applicable provisions and require-
13	ments of this section and the Clean
14	Energy Jobs and American Power
15	Act, including requirements of the
16	transportation greenhouse gas reduc-
17	tion efforts.
18	"(C) ESTABLISHMENT OF TARGETS AND
19	CRITERIA.—
20	"(i) In general.—Not later than 2
21	years after the promulgation of the final
22	regulations required under section 831 of
23	the Clean Air Act, each metropolitan plan-
24	ning organization that also serves as a
25	transportation management area shall de-

1	velop surface transportation-related green-
2	house gas emission reduction targets, as
3	well as strategies to meet those targets, in
4	consultation with State air agencies as
5	part of the metropolitan transportation
6	planning process under this section.
7	"(ii) Multiple designations.—If
8	more than 1 metropolitan planning organi-
9	zation has been designated within a metro-
10	politan area, each metropolitan planning
11	organization shall coordinate with other
12	metropolitan planning organizations in the
13	same metropolitan area to develop the tar-
14	gets and strategies described in clause (i).
15	"(iii) Minimum requirements.—
16	Each metropolitan transportation plan de-
17	veloped by a metropolitan planning organi-
18	zation under clause (i) shall, within the
19	plan, demonstrate progress in stabilizing
20	and reducing transportation-related green-
21	house gas emissions so as to contribute to
22	the achievement of State targets pursuant
23	to section $135(f)(9)$ .
24	"(iv) Requirements for targets
25	AND STRATEGIES.—The targets and strat-

1	egies developed under this subparagraph
2	shall, at a minimum—
3	"(I) be based on the emission
4	and travel demand models and related
5	methodologies established in the final
6	regulations required under section
7	831 of the Clean Air Act;
8	"(II) inventory all sources of sur-
9	face transportation-related greenhouse
10	gas emissions;
11	"(III) apply to those modes of
12	surface transportation that are ad-
13	dressed in the planning process under
14	this section;
15	"(IV) be integrated and con-
16	sistent with regional transportation
17	plans and transportation improvement
18	programs; and
19	"(V) be selected through scenario
20	analysis, and include, pursuant to the
21	requirements of the transportation
22	planning process under this section,
23	transportation investment and man-
24	agement strategies that reduce green-
25	house gas emissions from the trans-

1	portation sector over the life of the
2	plan, such as—
3	"(aa) efforts to increase
4	public transportation ridership,
5	including through service im-
6	provements, capacity expansions,
7	and access enhancement;
8	"(bb) efforts to increase
9	walking, bicycling, and other
10	forms of nonmotorized transpor-
11	tation;
12	"(cc) implementation of zon-
13	ing and other land use regula-
14	tions and plans to support infill,
15	transit-oriented development, re-
16	development, or mixed use devel-
17	opment;
18	"(dd) travel demand man-
19	agement programs (including
20	carpool, vanpool, or car-share
21	projects), transportation pricing
22	measures, parking policies, and
23	programs to promote telecom-
24	muting, flexible work schedules,
25	and satellite work centers;

1	"(ee) surface transportation
2	system operation improvements,
3	including intelligent transpor-
4	tation systems or other oper-
5	ational improvements to reduce
6	long-term greenhouse gas emis-
7	sions through reduced congestion
8	and improved system manage-
9	ment;
10	"(ff) intercity passenger rail
11	improvements;
12	"(gg) intercity bus improve-
13	ments;
14	"(hh) freight rail improve-
15	ments;
16	"(ii) use of materials or
17	equipment associated with the
18	construction or maintenance of
19	transportation projects that re-
20	duce greenhouse gas emissions;
21	"(jj) public facilities for sup-
22	plying electricity to electric or
23	plug-in hybrid-electric vehicles; or
24	"(kk) any other effort that
25	demonstrates progress in reduc-

1	ing transportation-related green-
2	house gas emissions in each met-
3	ropolitan planning organization
4	under this subsection.
5	"(D) REVIEW AND APPROVAL.—Not later
6	than 180 days after the date of submission of
7	a plan under this section—
8	"(i) the Secretary and the Adminis-
9	trator shall review the plan; and
10	"(ii) the Secretary shall approve a
11	plan developed by a metropolitan planning
12	organization pursuant to subparagraph (C)
13	if—
14	"(I) the Secretary finds that a
15	metropolitan planning organization
16	has developed, submitted, and pub-
17	lished the plan of the metropolitan
18	planning organization pursuant to this
19	section;
20	"(II) the Secretary, in consulta-
21	tion with the Administrator, deter-
22	mines that the plan is likely to achieve
23	the targets established by the metro-
24	politan planning organization under
25	this subsection; and

1	(111) the development of the
2	plan complies with the minimum re-
3	quirements established under clauses
4	(iii) and (iv) of subparagraph (C).
5	"(E) CERTIFICATION.—Failure to comply
6	with the requirements under subparagraph (C)
7	shall not impact certification standards under
8	paragraph (5).
9	"(7) Definition of metropolitan planning
10	ORGANIZATION.—In this subsection, the term 'met-
11	ropolitan planning organization' means a metropoli-
12	tan planning organization described in clause (i) or
13	(ii) of paragraph (6)(B).
14	"(8) Scenario analysis.—The term 'scenario
15	analysis' means the use of a planning tool that—
16	"(A) develops a range of scenarios rep-
17	resenting various combinations of transpor-
18	tation and land use strategies, and estimates of
19	how each of those scenarios would perform in
20	meeting the greenhouse gas emission reduction
21	targets based on analysis of various forces
22	(such as health, transportation, economic or en-
23	vironmental factors, and land use) that affect
24	growth;
25	"(B) may include features such as—

1	"(1) the involvement of the general
2	public, key stakeholders, and elected offi-
3	cials on a broad scale;
4	"(ii) the creation of an opportunity
5	for those participants to educate each
6	other as to growth trends and trade-offs,
7	as a means to incorporate values and feed-
8	back into future plans; and
9	"(iii) the use of continuing efforts and
10	ongoing processes; and
11	"(C) may include key elements such as—
12	"(i) identification of the driving forces
13	behind planning decisions and outcomes;
14	"(ii) determination of patterns of
15	interaction;
16	"(iii) creation of scenarios for discus-
17	sion purposes;
18	"(iv) analysis of implications;
19	"(v) evaluation of scenarios; and
20	"(vi) use of monitoring indicators.".
21	(2) Title 49.—Section 5303 of title 49, United
22	States Code, is amended—
23	(A) in subsection (a)(1)—
24	(i) by striking "minimizing" and in-
25	serting "reducing"; and

1	(ii) by inserting ", reliance on oil, im-
2	pacts on the environment, transportation-
3	related greenhouse gas emissions," after
4	"consumption";
5	(B) in subsection $(h)(1)(E)$ —
6	(i) by inserting "sustainability, and
7	livability, reduce surface transportation-re-
8	lated greenhouse gas emissions and reli-
9	ance on oil, adapt to the effects of climate
10	change," after "energy conservation,";
11	(ii) by inserting "and public health"
12	after "quality of life"; and
13	(iii) by inserting ", including housing
14	and land use patterns" after "development
15	patterns";
16	(C) in subsection (i)—
17	(i) in paragraph (4)(A)—
18	(I) by striking "consult, as ap-
19	propriate," and inserting "cooperate";
20	(II) by inserting "transportation,
21	public transportation, air quality, and
22	housing, and shall consult, as appro-
23	priate, with State and local agencies
24	responsible for" after "responsible
25	for" and

1	(III) by inserting "public
2	health," after "conservation,"; and
3	(ii) in paragraph (5)(C)(iii), by insert-
4	ing "and through the website of the metro-
5	politan planning organization, including
6	emission reduction targets and strategies
7	developed under subsection (k)(6), includ-
8	ing an analysis of the anticipated effects of
9	the targets and strategies," after "World
10	Wide Web''; and
11	(D) in subsection (k), by adding at the end
12	the following:
13	"(6) Transportation greenhouse gas re-
14	DUCTION EFFORTS.—
15	"(A) IN GENERAL.—Within a metropolitan
16	planning area serving a transportation manage-
17	ment area, the transportation planning process
18	under this section shall address transportation-
19	related greenhouse gas emissions by including
20	emission reduction targets and strategies to
21	meet those targets.
22	"(B) Eligible organizations.—
23	"(i) In general.—The requirements
24	of the transportation greenhouse gas re-
25	duction efforts shall apply only to metro-

1	politan planning organizations within a
2	transportation management area.
3	"(ii) Development of Plan.—A
4	metropolitan planning organization that
5	does not serve as a transportation manage-
6	ment area—
7	"(I) may develop transportation
8	greenhouse gas emission reduction
9	targets and strategies to meet those
10	targets; and
11	"(II) if those targets and strate-
12	gies are developed, shall be subject to
13	all provisions and requirements of this
14	section, including requirements of the
15	transportation greenhouse gas reduc-
16	tion efforts.
17	"(C) ESTABLISHMENT OF TARGETS AND
18	CRITERIA.—
19	"(i) In general.—Not later than 2
20	years after the promulgation of the final
21	regulations required under section 831 of
22	the Clean Air Act, each metropolitan plan-
23	ning organization shall develop surface
24	transportation-related greenhouse gas
25	emission reduction targets, as well as

1 strategies to meet those targets, in con-2 sultation with State air agencies as part of 3 the metropolitan transportation planning 4 process under this section. Multiple designations.—If 6 more than 1 metropolitan planning organi-7 zation has been designated within a metro-8 politan area, each metropolitan planning 9 organization shall coordinate with other metropolitan planning organizations in the 10 11 same metropolitan area to develop the tar-12 gets and strategies described in clause (i). 13 "(iii) MINIMUM REQUIREMENTS.— 14 Each metropolitan transportation plan de-15 veloped by a metropolitan planning organi-16 zation under clause (i) shall, within the 17 plan, demonstrate progress in stabilizing 18 and reducing transportation-related green-19 house gas emissions so as to contribute to 20 the achievement of State targets pursuant 21 to section 135(f)(9) of title 23. 22 "(iv) REQUIREMENTS FOR TARGETS 23 AND STRATEGIES.—The targets and strat-24 egies developed under this subparagraph 25 shall, at a minimum—

1	"(I) be based on the emission
2	models and related methodologies es-
3	tablished in the final regulations re-
4	quired under section 831 of the Clean
5	Air Act;
6	"(II) inventory all sources of sur-
7	face transportation-related greenhouse
8	gas emissions;
9	"(III) apply to those modes of
10	surface transportation that are ad-
11	dressed in the planning process under
12	this section;
13	"(IV) be integrated and con-
14	sistent with regional transportation
15	plans and transportation improvement
16	programs; and
17	"(V) be selected through scenario
18	analysis (as defined in section 134(k)
19	of title 23), and include, pursuant to
20	the requirements of the transportation
21	planning process under this section,
22	transportation investment and man-
23	agement strategies that reduce green-
24	house gas emissions from the trans-

1	portation sector over the life of the
2	plan, such as—
3	"(aa) efforts to increase
4	public transportation ridership,
5	including through service im-
6	provements, capacity expansions,
7	and access enhancement;
8	"(bb) efforts to increase
9	walking, bicycling, and other
10	forms of nonmotorized transpor-
11	tation;
12	"(cc) implementation of zon-
13	ing and other land use regula-
14	tions and plans to support infill,
15	transit-oriented development, re-
16	development, or mixed use devel-
17	opment;
18	"(dd) travel demand man-
19	agement programs (including
20	carpool, vanpool, or car-share
21	projects), transportation pricing
22	measures, parking policies, and
23	programs to promote telecom-
24	muting, flexible work schedules,
25	and satellite work centers;

1	"(ee) surface transportation
2	system operation improvements,
3	including intelligent transpor-
4	tation systems or other oper-
5	ational improvements to reduce
6	long-term greenhouse gas emis-
7	sions through reduced congestion
8	and improved system manage-
9	ment;
10	"(ff) intercity passenger rail
11	improvements;
12	"(gg) intercity bus improve-
13	ments;
14	"(hh) freight rail improve-
15	ments;
16	"(ii) use of materials or
17	equipment associated with the
18	construction or maintenance of
19	transportation projects that re-
20	duce greenhouse gas emissions;
21	"(jj) public facilities for sup-
22	plying electricity to electric or
23	plug-in hybrid-electric vehicles; or
24	"(kk) any other effort that
25	demonstrates progress in reduc-

1	ing transportation-related green-
2	house gas emissions in each met-
3	ropolitan planning organization
4	under this subsection.
5	"(D) REVIEW AND APPROVAL.—Not later
6	than 180 days after the date of submission of
7	a plan under this section—
8	"(i) the Secretary and the Adminis-
9	trator shall review the plan; and
10	"(ii) the Secretary shall approve a
11	plan developed by a metropolitan planning
12	organization pursuant to subparagraph (C)
13	if—
14	"(I) the Secretary finds that a
15	metropolitan planning organization
16	has developed, submitted, and pub-
17	lished the plan of the metropolitar
18	planning organization pursuant to this
19	section;
20	"(II) the Secretary, in consulta-
21	tion with the Administrator, deter-
22	mines that the plan is likely to achieve
23	the targets established by the metro-
24	politan planning organization under
25	this subsection; and

1	"(III) the development of the
2	plan complies with the minimum re-
3	quirements established under clauses
4	(iii) and (iv) of subparagraph (C).
5	"(E) Certification.—Failure to comply
6	with the requirements under subparagraph (C)
7	shall not impact certification standards under
8	paragraph (5).
9	"(7) Definition of metropolitan planning
10	ORGANIZATION.—In this subsection, the term 'met-
11	ropolitan planning organization' means a metropoli-
12	tan planning organization described in clause (i) or
13	(ii) of paragraph (6)(B).".
14	(e) States.—
15	(1) Title 23.—Section 135 of title 23, United
16	States Code, is amended—
17	(A) in subsection $(d)(1)(E)$ —
18	(i) by inserting "sustainability, and
19	livability, reduce surface transportation-re-
20	lated greenhouse gas emissions and reli-
21	ance on oil, adapt to the effects of climate
22	change," after "energy conservation,";
23	(ii) by inserting "and public health"
24	after "quality of life"; and

1	(iii) by inserting ", including housing
2	and land use patterns" after "development
3	patterns"; and
4	(B) in subsection (f)—
5	(i) in paragraph (2)(D)(i)—
6	(I) by striking ", as appropriate,
7	in consultation" and inserting "in co-
8	operation";
9	(II) by inserting "State and local
10	agencies responsible for transpor-
11	tation, public transportation, air qual-
12	ity, and housing and in consultation
13	with" before "State, tribal"; and
14	(III) by inserting "public
15	health," after "conservation,";
16	(ii) in paragraph (3)(B)(iii), by insert-
17	ing "and through the website of the State,
18	including emission reduction targets and
19	strategies developed under paragraph (9)
20	and an analysis of the anticipated effects
21	of the targets and strategies" after "World
22	Wide Web"; and
23	(iii) by adding at the end the fol-
24	lowing:

1	"(9) Transportation greenhouse gas re-
2	DUCTION EFFORTS.—
3	"(A) IN GENERAL.—Within a State, the
4	transportation planning process under this sec-
5	tion, shall address transportation-related green-
6	house gas emissions by including emission re-
7	duction targets and strategies to meet those
8	targets.
9	"(B) Establishment of targets and
10	CRITERIA.—
11	"(i) In general.—Not later than 2
12	years after the promulgation of the final
13	regulations required under section 831 of
14	the Clean Air Act, each State shall develop
15	surface transportation-related greenhouse
16	gas emission reduction targets, as well as
17	strategies to meet those targets, in con-
18	sultation with State air agencies as part of
19	the transportation planning process under
20	this section.
21	"(ii) Minimum requirements.—
22	Each transportation plan developed by a
23	State under clause (i) shall, within the
24	plan, demonstrate progress in stabilizing
25	and reducing transportation-related green-

1	house gas emissions in the State so as to
2	contribute to the achievement of national
3	targets pursuant to section 831(a)(1) of
4	the Clean Air Act.
5	"(iii) Requirements for targets
6	AND STRATEGIES.—The targets and strat-
7	egies developed under this subparagraph
8	shall, at a minimum—
9	"(I) be based on the emission
10	models and related methodologies es-
11	tablished in the final regulations re-
12	quired under section 831 of the Clean
13	Air Act;
14	"(II) inventory all sources of sur-
15	face transportation-related greenhouse
16	gas emissions;
17	"(III) apply to those modes of
18	surface transportation that are ad-
19	dressed in the planning process under
20	this section;
21	"(IV) be integrated and con-
22	sistent with statewide transportation
23	plans and statewide transportation
24	improvement programs; and

1	"(V) be selected through scenario
2	analysis (as defined in section
3	134(k)), and include, pursuant to the
4	requirements of the transportation
5	planning process under this section,
6	transportation investment and man-
7	agement strategies that reduce green-
8	house gas emissions from the trans-
9	portation sector over the life of the
10	plan, such as—
11	"(aa) efforts to increase
12	public transportation ridership,
13	including through service im-
14	provements, capacity expansions,
15	and access enhancement;
16	"(bb) efforts to increase
17	walking, bicycling, and other
18	forms of nonmotorized transpor-
19	tation;
20	"(cc) implementation of zon-
21	ing and other land use regula-
22	tions and plans to support infill,
23	transit-oriented development, re-
24	development, or mixed use devel-
25	opment;

1	"(dd) travel demand man-
2	agement programs (including
3	carpool, vanpool, or car-share
4	projects), transportation pricing
5	measures, parking policies, and
6	programs to promote telecom-
7	muting, flexible work schedules,
8	and satellite work centers;
9	"(ee) surface transportation
10	system operation improvements,
11	including intelligent transpor-
12	tation systems or other oper-
13	ational improvements to reduce
14	congestion and improve system
15	management;
16	"(ff) intercity passenger rail
17	improvements;
18	"(gg) intercity bus improve-
19	ments;
20	"(hh) freight rail improve-
21	ments;
22	"(ii) use of materials or
23	equipment associated with the
24	construction or maintenance of

1	transportation projects that re-
2	duce greenhouse gas emissions;
3	"(jj) public facilities for sup-
4	plying electricity to electric or
5	plug-in hybrid-electric vehicles; or
6	"(kk) any other effort that
7	demonstrates progress in reduc-
8	ing transportation-related green-
9	house gas emissions.
10	"(C) COORDINATION AND CONSULTATION
11	WITH PUBLIC AGENCIES.—Transportation
12	greenhouse gas targets and plans pursuant to
13	this section shall be developed—
14	"(i) in coordination with—
15	"(I) all metropolitan planning or-
16	ganizations covered by this section
17	within the State; and
18	"(II) transportation and air qual-
19	ity agencies within the State; and
20	"(ii) in consultation with representa-
21	tives of State and local housing, economic
22	development, and land use agencies.
23	"(D) Enforcement.—Not later than 180
24	days after the date of submission of a plan
25	under this section—

1	"(i) the Secretary and the Adminis-
2	trator shall review the plan; and
3	"(ii) the Secretary shall approve a
4	plan developed by a State pursuant to sub-
5	paragraph (B) if—
6	"(I) the Secretary finds that a
7	State has developed, submitted, and
8	published the plan pursuant to this
9	section;
10	"(II) the Secretary, in consulta-
11	tion with the Administrator, deter-
12	mines that the plan is likely to achieve
13	the targets established by the State
14	under this subsection; and
15	"(III) the development of the
16	plan complies with the minimum re-
17	quirements established under clauses
18	(ii) and (iii) of subparagraph (B).
19	"(E) Planning finding.—Failure to
20	comply with the requirements under subpara-
21	graph (B) shall not impact the planning finding
22	under subsection $(g)(7)$ .".
23	(2) Title 49.—Section 5304 of title 49, United
24	States Code is amended—
25	(A) in subsection (d)(1)(E)—

1	(i) by inserting "sustainability, and
2	livability, reduce surface transportation-re-
3	lated greenhouse gas emissions and reli-
4	ance on oil, adapt to the effects of climate
5	change," after "energy conservation,";
6	(ii) by inserting "and public health"
7	after "quality of life"; and
8	(iii) by inserting ", including housing
9	and land use patterns" after "development
10	patterns"; and
11	(B) in subsection (f)—
12	(i) in paragraph (2)(D)(i)—
13	(I) by striking ", as appropriate,
14	in consultation" and inserting "in co-
15	operation";
16	(II) by inserting "State and local
17	agencies responsible for transpor-
18	tation, public transportation, air qual-
19	ity, and housing and in consultation
20	with" before "State, tribal"; and
21	(III) by inserting "public
22	health," after "conservation,";
23	(ii) in paragraph (3)(B)(iii), by insert-
24	ing "and through the website of the State,
25	including emission reduction targets and

1	strategies developed under paragraph (9)
2	and an analysis of the anticipated effects
3	of the targets and strategies" after "World
4	Wide Web"; and
5	(iii) by adding at the end the fol-
6	lowing:
7	"(9) Transportation greenhouse gas re-
8	DUCTION EFFORTS.—
9	"(A) In General.—Within a State, the
10	transportation planning process under this sec-
11	tion, shall address transportation-related green-
12	house gas emissions by including emission re-
13	duction targets and strategies to meet those
14	targets.
15	"(B) ESTABLISHMENT OF TARGETS AND
16	CRITERIA.—
17	"(i) In general.—Not later than 2
18	years after the promulgation of the fina
19	regulations required under section 831 of
20	the Clean Air Act, each State shall develop
21	surface transportation-related greenhouse
22	gas emission reduction targets, as well as
23	strategies to meet those targets, in con-
24	sultation with State air agencies as part or

1	the transportation planning process under
2	this section.
3	"(ii) Minimum requirements.—
4	Each transportation plan developed by a
5	State under clause (i) shall, within the
6	plan, demonstrate progress in stabilizing
7	and reducing transportation-related green-
8	house gas emissions in the State so as to
9	contribute to the achievement of national
10	targets pursuant to section 831(a)(1) of
11	the Clean Air Act.
12	"(iii) Requirements for targets
13	AND STRATEGIES.—The targets and strat-
14	egies developed under this subparagraph
15	shall, at a minimum—
16	"(I) be based on the emission
17	models and related methodologies es-
18	tablished in the final regulations re-
19	quired under section 831 of the Clear
20	Air Act;
21	"(II) inventory all sources of sur-
22	face transportation-related greenhouse
23	gas emissions;
24	"(III) apply to those modes of
25	surface transportation that are ad-

1	dressed in the planning process under
2	this section;
3	"(IV) be integrated and con-
4	sistent with statewide transportation
5	plans and statewide transportation
6	improvement programs; and
7	"(V) be selected through scenario
8	analysis (as defined in section 134(k)
9	of title 23), and include, pursuant to
10	the requirements of the transportation
11	planning process under this section,
12	transportation investment and man-
13	agement strategies that reduce green-
14	house gas emissions from the trans-
15	portation sector over the life of the
16	plan, such as—
17	"(aa) efforts to increase
18	public transportation ridership,
19	including through service im-
20	provements, capacity expansions,
21	and access enhancement;
22	"(bb) efforts to increase
23	walking, bicycling, and other
24	forms of nonmotorized transpor-
25	tation;

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1	"(hh) freight rail improve-
2	ments;
3	"(ii) use of materials or
4	equipment associated with the
5	construction or maintenance of
6	transportation projects that re-
7	duce greenhouse gas emissions;
8	"(jj) public facilities for sup-
9	plying electricity to electric or
10	plug-in hybrid-electric vehicles; or
11	"(kk) any other effort that
12	demonstrates progress in reduc-
13	ing transportation-related green-
14	house gas emissions.
15	"(C) COORDINATION AND CONSULTATION
16	WITH PUBLIC AGENCIES.—Transportation
17	greenhouse gas targets and plans pursuant to
18	this section shall be developed—
19	"(i) in coordination with—
20	"(I) all metropolitan planning or-
21	ganizations covered by this section
22	within the State; and
23	"(II) transportation and air qual-
24	ity agencies within the State; and

1	"(ii) in consultation with representa-
2	tives of State and local housing, economic
3	development, and land use agencies.
4	"(D) Enforcement.—Not later than 180
5	days after the date of submission of a plan
6	under this section—
7	"(i) the Secretary and the Adminis-
8	trator shall review the plan; and
9	"(ii) the Secretary shall approve a
10	plan developed by a State pursuant to sub-
11	paragraph (B) if—
12	"(I) the Secretary finds that a
13	State has developed, submitted, and
14	published the plan pursuant to this
15	section;
16	"(II) the Secretary, in consulta-
17	tion with the Administrator, deter-
18	mines that the plan is likely to achieve
19	the targets established by the State
20	under this subsection; and
21	"(III) the development of the
22	plan complies with the minimum re-
23	quirements established under clauses
24	(ii) and (iii) of subparagraph (B).

1	"(E) Planning finding.—Failure to
2	comply with the requirements under subpara-
3	graph (B) shall not impact the planning finding
4	under subsection $(g)(7)$ .".
5	(d) Applicability.—Section 304 of the Clean Air
6	Act (42 U.S.C. 7604) shall not apply to the planning pro-
7	visions of this section or any amendment made by this
8	section.
9	(e) Land Use Authority.—Nothing in this section
10	or an amendment made by this section—
11	(1) infringes on the existing authority of local
12	governments to plan or control land use; or
13	(2) provides or transfers authority over land
14	use to any other entity.
15	SEC. 113. TRANSPORTATION GREENHOUSE GAS EMISSION
16	REDUCTION PROGRAM GRANTS.
17	Part C of title VIII of the Clean Air Act (as amended
18	by section 112) is amended by adding at the end the fol-
19	lowing:
20	"SEC. 832. TRANSPORTATION GREENHOUSE GAS EMISSION
21	REDUCTION PROGRAM GRANTS.
22	"(a) In General.—The Secretary of Transportation
23	(referred to in this section as the 'Secretary') shall provide
24	grants to States and metropolitan planning organizations

1	to carry out the purposes of this section for each fiscal
2	year—
3	"(1) to support the developing and updating of
4	transportation greenhouse gas reduction targets and
5	strategies; and
6	"(2) to provide financial assistance to imple-
7	ment plans approved pursuant to—
8	"(A) sections $134(k)(6)$ and $135(f)(9)$ of
9	title 23, United States Code; and
10	"(B) sections $5303(k)(6)$ and $5304(f)(9)$ of
11	title 49, United States Code.
12	"(b) Planning Grants.—
13	"(1) In General.—Subject to paragraph (2),
14	the Secretary shall allocate not more than 5 percent
15	of the funds available to carry out this section for
16	a fiscal year for metropolitan planning organizations
17	to develop and update transportation plans, includ-
18	ing targets and strategies for greenhouse gas emis-
19	sion reduction under—
20	"(A) sections $134(k)(6)$ and $135(f)(9)$ of
21	title 23, United States Code; and
22	"(B) sections $5303(k)(6)$ and $5304(f)(9)$ of
23	title 49, United States Code.
24	"(2) ELIGIBLE ORGANIZATIONS.—The Sec-
25	retary shall distribute the funds available in (1) to

1	metropolitan planning organizations (as defined in
2	section 134(k)(7) of title 23, United States Code) in
3	the proportion that—
4	"(A) the population within such a metro-
5	politan planning organization; bears to
6	"(B) the total population of all such met-
7	ropolitan planning organizations.
8	"(c) Performance Grants.—
9	"(1) In general.—After allocating funds pur-
10	suant to subsection (b)(1), the Secretary shall use
11	the remainder of amounts made available to carry
12	out this section to provide grants to States and met-
13	ropolitan planning organizations.
14	"(2) Criteria.—In providing grants under this
15	subsection, the Secretary, in consultation with the
16	Administrator, shall develop criteria for providing
17	the grants, taking into consideration, with respect to
18	areas to be covered by the grants—
19	"(A) the quantity of total greenhouse gas
20	emissions to be reduced as a result of imple-
21	mentation of a plan, within a covered area, as
22	determined by methods established under sec-
23	tion 831(a);
24	"(B) the quantity of total greenhouse gas
25	emissions to be reduced per capita as a result

1	of implementation of a plan, within the covered
2	area, as determined by methods established
3	under section 831(a);
4	"(C) the cost-effectiveness of reducing
5	greenhouse gas emissions during the life of the
6	plan;
7	"(D) progress toward achieving emission
8	reductions target established under—
9	"(i) sections $134(k)(6)$ and $135(f)(9)$
10	of title 23, United States Code; and
11	"(ii) sections $5303(k)(6)$ and
12	5304(f)(9) of title 49, United States Code;
13	"(E) reductions in greenhouse gas emis-
14	sions previously achieved by States and metro-
15	politan planning organizations during the 5-
16	year period beginning on the date of enactment
17	of this Act;
18	"(F) plans that increase transportation op-
19	tions and mobility, particularly for low-income
20	individuals, minorities, the elderly, households
21	without motor vehicles, cost-burdened house-
22	holds, and the disabled; and
23	"(G) other factors, including innovative ap-
24	proaches, minimization of costs, and consider-
25	ation of economic development, revenue genera-

1	tion, consumer fuel cost-savings, and other eco-
2	nomic, environmental and health benefits, as
3	the Secretary determines to be appropriate.
4	"(d) Requirement for Reduced Emissions.—A
5	performance grant under subsection (c) may be used only
6	to fund strategies that demonstrate a reduction in green-
7	house gas emissions that is sustainable over the life of the
8	applicable transportation plan.
9	"(e) Cost-sharing.—The Federal share of the costs
10	of a project receiving Federal financial assistance under
11	this section shall be 80 percent.
12	"(f) Compliance With Applicable Laws.—
13	"(1) In general.—Subject to paragraph (2), a
14	project receiving funds under this section shall com-
15	ply with all applicable Federal laws (including regu-
16	lations), including—
17	"(A) subchapter IV of chapter 31 of title
18	40, United States Code; and
19	"(B) applicable requirements of titles 23
20	and 49, United States Code.
21	"(2) Eligibility.—Project eligibility shall be
22	determined in accordance with this section.
23	"(3) Determination of applicable modal
24	REQUIREMENTS.—The Secretary shall—

1	"(A) have the discretion to designate the
2	specific modal requirements that shall apply to
3	a project; and
4	"(B) be guided by the predominant modal
5	characteristics of the project in the event that
6	a project has cross-modal application.
7	"(g) Additional Requirements.—
8	"(1) In general.—As a condition on the re-
9	ceipt of financial assistance under this section, the
10	interests of public transportation employees affected
11	by the assistance shall be protected under arrange-
12	ments that the Secretary of Labor determines—
13	"(A) to be fair and equitable; and
14	"(B) to provide benefits equal to the bene-
15	fits established under section 5333(b) of title
16	49, United States Code.
17	"(2) Wages and Benefits.—Laborers and
18	mechanics employed on projects funded with
19	amounts made available under this section shall be
20	paid wages and benefits not less than those deter-
21	mined by the Secretary of Labor under subchapter
22	IV of chapter 31 of title 40, United States Code, to
23	be prevailing in the same locality.
24	"(h) Miscellaneous.—

1	"(1) Road-use and congestion pricing
2	MEASURES.—All projects funded by amounts made
3	available under this section shall be eligible to re-
4	ceive amounts collected through road-use and con-
5	gestion pricing measures.
6	"(2) Limitations.—The Administrator may
7	not approve any transportation plan for a project
8	that would be inconsistent with existing design, pro-
9	curement, and construction guidelines established by
10	the Department of Transportation.
11	"(3) Subgrantees.—With the approval of the
12	Secretary, recipients of funding under this section
13	may enter into agreements providing for the transfer
14	of funds to noneligible public entities (such as local
15	governments, air quality agencies, zoning commis-
16	sions, special districts and transit agencies) that
17	have statutory responsibility or authority for actions
18	necessary to implement the strategies pursuant to—
19	"(A) sections $134(k)(6)$ and $135(f)(9)$ of
20	title 23, United States Code; and
21	"(B) sections $5303(k)(6)$ and $5304(f)(9)$ of
22	title 49, United States Code.".

1	SEC. 114. SMARTWAY TRANSPORTATION EFFICIENCY PRO-
2	GRAM.
3	Part B of title VIII of the Clean Air Act (as amended
4	by section 111) is amended by adding at the end the fol-
5	lowing:
6	"SEC. 822. SMARTWAY TRANSPORTATION EFFICIENCY PRO-
7	GRAM.
8	"(a) In General.—There is established within the
9	Environmental Protection Agency a SmartWay Transpor-
10	tation Efficiency Program to quantify, demonstrate, and
11	promote the benefits of technologies, products, fuels, and
12	operational strategies that reduce petroleum consumption,
13	air pollution, and greenhouse gas emissions from the mo-
14	bile source sector.
15	"(b) General Duties.—Under the program estab-
16	lished under this section, the Administrator shall carry out
17	each of the following:
18	"(1) Development of measurement protocols to
19	evaluate the energy consumption and greenhouse gas
20	impacts from technologies and strategies in the mo-
21	bile source sector, including those for passenger
22	transport and goods movement.
23	"(2) Development of qualifying thresholds for
24	certifying, verifying, or designating energy-efficient,
25	low-greenhouse gas SmartWay technologies and

1 strategies for each mode of passenger transportation 2 and goods movement. 3 "(3) Development of partnership and recogni-4 tion programs to promote best practices and drive 5 demand for energy-efficient, low-greenhouse gas 6 transportation performance. "(4) Promotion of the availability of, and en-7 8 couragement of the adoption of, SmartWay certified 9 or verified technologies and strategies, and publica-10 tion of the availability of financial incentives, such 11 as assistance from loan programs and other Federal 12 and State incentives. 13 "(c) Smartway Transport Freight Partner-14 SHIP.—The Administrator shall establish a SmartWay 15 Transport Partnership program with shippers and carriers of goods to promote energy-efficient, low-greenhouse gas 16 17 transportation. In carrying out such partnership, the Ad-18 ministrator shall undertake each of the following: 19 "(1) Verification of the energy and greenhouse 20 gas performance of participating freight carriers, in-21 cluding those operating rail, trucking, marine, and 22 other goods movement operations. 23 "(2) Publication of a comprehensive energy and 24 greenhouse gas performance index of freight modes 25 (including rail, trucking, marine, and other modes of

1	transporting goods) and individual freight companies
2	so that shippers can choose to deliver their goods
3	more efficiently.
4	"(3) Development of tools for—
5	"(A) carriers to calculate their energy and
6	greenhouse gas performance; and
7	"(B) shippers to calculate the energy and
8	greenhouse gas impacts of moving their prod-
9	ucts and to evaluate the relative impacts from
10	transporting their goods by different modes and
11	corporate carriers.
12	"(4) Provision of recognition opportunities for
13	participating shipper and carrier companies dem-
14	onstrating advanced practices and achieving superior
15	levels of greenhouse gas performance.
16	"(d) Improving Freight Greenhouse Gas Per-
17	FORMANCE DATABASES.—The Administrator shall, in co-
18	ordination with the Secretary of Commerce and other ap-
19	propriate agencies, define and collect data on the physical
20	and operational characteristics of the Nation's truck popu-
21	lation, with special emphasis on data related to energy ef-
22	ficiency and greenhouse gas performance to inform the
23	performance index published under subsection (c)(2) of
24	this section, and other means of goods transport as nec-

- 1 essary, at least every 5 years as part of the economic cen-
- 2 sus required under title 13, United States Code.
- 3 "(e) Establishment of Financing Program.—
- 4 The Administrator shall establish a SmartWay Financing
- 5 Program to competitively award funding to eligible entities
- 6 identified by the Administrator in accordance with the
- 7 program requirements in subsection (g).
- 8 "(f) Purposes.—Under the SmartWay Financing
- 9 Program, eligible entities shall—
- 10 "(1) use funds awarded by the Administrator to
- provide flexible loan and/or lease terms that increase
- approval rates or lower the costs of loans and/or
- leases in accordance with guidance developed by the
- 14 Administrator;
- 15 "(2) make such loans and/or leases available to
- public and private entities for the purpose of adopt-
- ing low-greenhouse gas technologies or strategies for
- the mobile source sector that are designated by the
- 19 Administrator; and
- 20 "(3) use funds provided by the Administrator
- 21 for electrification of freight transportation systems
- in major national goods movement corridors, giving
- priority to electrification of transportation systems
- in areas that are gateways for high volumes of inter-
- 25 national and national freight transport and require

1	substantial criteria pollutant emission reductions in
2	order to attain national ambient air quality stand-
3	ards.
4	"(g) Program Requirements.—The Administrator
5	shall determine program design elements and require-
6	ments, including—
7	"(1) the type of financial mechanism with
8	which to award funding, in the form of grants and/
9	or contracts;
10	"(2) the designation of eligible entities to re-
11	ceive funding, such as State, tribal, and local gov-
12	ernments, regional organizations comprised of gov-
13	ernmental units, nonprofit organizations, or for-prof-
14	it companies;
15	"(3) criteria for evaluating applications from el-
16	igible entities, including anticipated—
17	"(A) cost-effectiveness of loan or lease pro-
18	gram on a metric-ton-of-greenhouse gas-saved-
19	per-dollar basis; and
20	"(B) ability to promote the loan or lease
21	program and associated technologies and strate-
22	gies to the target audience; and
23	"(4) reporting requirements for entities that re-
24	ceive awards, including—

1	"(A) actual cost-effectiveness and green-
2	house gas savings from the loan or lease pro-
3	gram based on a methodology designated by the
4	Administrator;
5	"(B) the total number of applications and
6	number of approved applications; and
7	"(C) terms granted to loan and lease re-
8	cipients compared to prevailing market prac-
9	tices and/or rates.
10	"(h) Authorization of Appropriations.—Such
11	sums as necessary are authorized to be appropriated to
12	the Administrator to carry out this section.".
12	·
13	Subtitle B—Carbon Capture and
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13	Subtitle B—Carbon Capture and
13 14	Subtitle B—Carbon Capture and Sequestration
<ul><li>13</li><li>14</li><li>15</li></ul>	Subtitle B—Carbon Capture and Sequestration SEC. 121. NATIONAL STRATEGY.
13 14 15 16 17	Subtitle B—Carbon Capture and Sequestration  SEC. 121. NATIONAL STRATEGY.  (a) IN GENERAL.—Not later than 1 year after the
13 14 15 16 17	Subtitle B—Carbon Capture and Sequestration  SEC. 121. NATIONAL STRATEGY.  (a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in con-
13 14 15 16 17 18	Subtitle B—Carbon Capture and Sequestration  SEC. 121. NATIONAL STRATEGY.  (a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, the Secretary of
13 14 15 16 17 18 19	Subtitle B—Carbon Capture and Sequestration  SEC. 121. NATIONAL STRATEGY.  (a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, the Secretary of the Interior, and the heads of such other relevant Federal
13 14 15 16 17 18 19 20	Subtitle B—Carbon Capture and Sequestration  SEC. 121. NATIONAL STRATEGY.  (a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, the Secretary of the Interior, and the heads of such other relevant Federal agencies as the President may designate, shall submit to
13 14 15 16 17 18 19 20 21	Subtitle B—Carbon Capture and Sequestration  SEC. 121. NATIONAL STRATEGY.  (a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, the Secretary of the Interior, and the heads of such other relevant Federal agencies as the President may designate, shall submit to Congress a report establishing a unified and comprehen-

1	(b) Barriers.—The report under this section
2	shall—
3	(1) identify the regulatory, legal, and other
4	gaps and barriers that—
5	(A) could be addressed by a Federal agen-
6	cy using existing statutory authority;
7	(B) require Federal legislation, if any; or
8	(C) would be best addressed at the State,
9	tribal, or regional level;
10	(2) identify regulatory implementation chal-
11	lenges, including challenges relating to approval of
12	State and tribal programs and delegation of author-
13	ity for permitting; and
14	(3) recommend rulemakings, Federal legisla-
15	tion, or other actions that should be taken to further
16	evaluate and address those barriers.
17	(c) FINDING.—Congress finds that it is in the public
18	interest to achieve widespread, commercial-scale deploy-
19	ment of carbon capture and storage in the United States
20	and throughout Asia before January 1, 2030.
21	SEC. 122. REGULATIONS FOR GEOLOGICAL SEQUESTRA-
22	TION SITES.
23	(a) Coordinated Certification and Permitting
24	Process.—Part A of title VIII of the Clean Air Act (as

1	amended by section 124 of this division) is amended by
2	adding at the end the following:
3	"SEC. 813. GEOLOGICAL STORAGE SITES.
4	"(a) Coordinated Process.—
5	"(1) In general.—The Administrator shall es-
6	tablish a coordinated approach to certifying and per-
7	mitting geological storage, taking into consideration
8	all relevant statutory authorities.
9	"(2) Requirements.—In establishing such ap-
10	proach, the Administrator shall—
11	"(A) take into account, and reduce redun-
12	dancy with, the requirements of section 1421 of
13	the Safe Drinking Water Act (42 U.S.C. 300h),
14	including the rulemaking for geological storage
15	wells described in the proposed rule entitled
16	'Federal Requirements Under the Underground
17	Injection Control (UIC) Program for Carbon
18	Dioxide (CO2) Geologic Sequestration (GS)
19	Wells' (73 Fed. Reg. 43492 (July 25, 2008));
20	and
21	"(B) to the maximum extent practicable,
22	reduce the burden on certified entities and im-
23	plementing authorities.
24	"(b) Regulations.—Not later than 2 years after

25 the date of enactment of this title, the Administrator shall

1	promulgate regulations to protect human health and the
2	environment by minimizing the risk of escape to the at-
3	mosphere of carbon dioxide injected for purposes of geo-
4	logical storage.
5	"(c) Requirements.—The regulations under sub-
6	section (b) shall include—
7	"(1) a process to obtain certification for geo-
8	logical storage under this section; and
9	"(2) requirements for—
10	"(A) monitoring, recordkeeping, and re-
11	porting for emissions associated with injection
12	into, and escape from, geological storage sites,
13	taking into account any requirements or proto-
14	cols developed under section 713;
15	"(B) public participation in the certifi-
16	cation process that maximizes transparency;
17	"(C) the sharing of data among States, In-
18	dian tribes, and the Environmental Protection
19	Agency; and
20	"(D) other elements or safeguards nec-
21	essary to achieve the purpose described in sub-
22	section (b).
23	"(d) Report.—
24	"(1) In general.—Not later than 2 years
25	after the date of promulgation of regulations pursu-

1	ant to subsection (b), and not less frequently than
2	once every 3 years thereafter, the Administrator
3	shall submit to the Committee on Energy and Com-
4	merce of the House of Representatives and the Com-
5	mittee on Environment and Public Works of the
6	Senate a report describing geological storage in the
7	United States, and, to the extent relevant, other
8	countries in North America.
9	"(2) Inclusions.—Each report under para-
10	graph (1) shall include—
11	"(A) data regarding injection, emissions to
12	the atmosphere, if any, and performance of ac-
13	tive and closed geological storage sites, includ-
14	ing those at which enhanced hydrocarbon recov-
15	ery operations occur;
16	"(B) an evaluation of the performance of
17	relevant Federal environmental regulations and
18	programs in ensuring environmentally protec-
19	tive geological storage practices;
20	"(C) recommendations on how those pro-
21	grams and regulations should be improved or
22	made more effective; and
23	"(D) other relevant information.".

1	(b) Safe Drinking Water Act Standards.—Sec-
2	tion 1421 of the Safe Drinking Water Act (42 U.S.C.
3	300h) is amended by adding at the end the following:
4	"(e) Carbon Dioxide Geological Storage
5	Wells.—
6	"(1) IN GENERAL.—Not later than 1 year after
7	the date of enactment of this subsection, the Admin-
8	istrator shall promulgate regulations under sub-
9	section (a) for carbon dioxide geological storage
10	wells.
11	"(2) Financial responsibility.—
12	"(A) In general.—The regulations under
13	paragraph (1) shall include requirements for
14	maintaining evidence of financial responsibility,
15	including financial responsibility for emergency
16	and remedial response, well plugging, site clo-
17	sure, and post-injection site care.
18	"(B) Regulations.—Financial responsi-
19	bility may be established for carbon dioxide geo-
20	logical wells in accordance with regulations pro-
21	mulgated by the Administrator by any 1, or any
22	combination, of the following:
23	"(i) Insurance.
24	"(ii) Guarantee.
25	"(iii) Trust.

1	"(iv) Standby trust.
2	"(v) Surety bond.
3	"(vi) Letter of credit.
4	"(vii) Qualification as a self-insurer.
5	"(viii) Any other method satisfactory
6	to the Administrator.".
7	SEC. 123. STUDIES AND REPORTS.
8	(a) Study of Legal Framework for Geological
9	STORAGE SITES.—
10	(1) Establishment of task force.—
11	(A) In general.—As soon as practicable,
12	but not later than 180 days after the date of
13	enactment of this Act, the Administrator shall
14	establish a task force, to be composed of an
15	equal number of—
16	(i) subject matter experts;
17	(ii) nongovernmental organizations
18	with expertise regarding environmental pol-
19	icy;
20	(iii) academic experts with expertise in
21	environmental law;
22	(iv) State and tribal officials with en-
23	vironmental expertise;
24	(v) representatives of State and tribal
25	attorneys general;

1	(vi) representatives of the Environ-
2	mental Protection Agency, the Department
3	of the Interior, the Department of Energy,
4	the Department of Transportation, and
5	other relevant Federal agencies; and
6	(vii) members of the private sector.
7	(B) STUDY.—The task force established
8	under subparagraph (A) shall conduct a study
9	of—
10	(i) existing Federal environmental
11	statutes, State environmental statutes, and
12	State common law that apply to geological
13	storage sites for carbon dioxide, including
14	the ability of those laws to serve as risk
15	management tools;
16	(ii) the existing statutory framework
17	including Federal and State laws, that
18	apply to harm and damage to the environ-
19	ment or public health at closed sites at
20	which carbon dioxide injection has been
21	used for enhanced hydrocarbon recovery;
22	(iii) the statutory framework, environ-
23	mental health and safety considerations,
24	implementation issues, and financial impli-
25	cations of potential models for Federal

1	State, or private sector assumption of li-
2	abilities and financial responsibilities with
3	respect to closed geological storage sites;
4	(iv) private sector mechanisms, includ-
5	ing insurance and bonding, that may be
6	available to manage environmental, health,
7	and safety risks from closed geological
8	storage sites; and
9	(v) the subsurface mineral rights,
10	water rights, and property rights issues as-
11	sociated with geological storage of carbon
12	dioxide, including issues specific to Federal
13	land.
14	(2) Report.—Not later than 18 months after
15	the date of enactment of this Act, the task force es-
16	tablished under paragraph (1)(A) shall submit to
17	Congress a report describing the results of the study
18	conducted under that paragraph, including any con-
19	sensus recommendations of the task force.
20	(b) Environmental Statutes.—
21	(1) Study.—The Administrator shall conduct a
22	study of the means by which, and under what cir-
23	cumstances, the environmental statutes for which
24	the Environmental Protection Agency has responsi-

1 bility would apply to carbon dioxide injection and ge-2 ological storage activities. 3 (2) Report.—Not later than 1 year after the date of enactment of this Act, the Administrator 4 5 shall submit to Congress a report describing the re-6 sults of the study conducted under paragraph (1). 7 SEC. 124. PERFORMANCE STANDARDS FOR COAL-FUELED 8 POWER PLANTS. 9 (a) IN GENERAL.—Part A of title VIII of the Clean 10 Air Act (as added by section 121 of division B) is amended 11 by adding at the end the following: 12 "SEC. 812. PERFORMANCE STANDARDS FOR NEW COAL-13 FIRED POWER PLANTS. 14 "(a) Definitions.—For purposes of this section: 15 "(1) Covered Egu.—The term 'covered EGU' 16 means a utility unit that is required to have a per-17 mit under section 503(a) and is authorized under 18 State or Federal law to derive at least 30 percent of 19 its annual heat input from coal, petroleum coke, or 20 any combination of these fuels. 21 "(2) Initially permitted.—The term ini-22 tially permitted' means that the owner or operator 23 has received a preconstruction approval or permit 24 under this Act, for the covered EGU as a new (not 25 a modified) source, but administrative review or ap-

- 1 peal of such approval or permit has not been ex-
- 2 hausted. A subsequent modification of any such ap-
- 3 proval or permits, ongoing administrative or court
- 4 review, appeals, or challenges, or the existence or
- 5 tolling of any time to pursue further review, appeals,
- 6 or challenges shall not affect the date on which a
- 7 covered EGU is considered to be initially permitted
- 8 under this paragraph.
- 9 "(b) STANDARDS.—(1) A covered EGU that is ini-
- 10 tially permitted on or after January 1, 2020, shall achieve
- 11 an emission limit that is a 65 percent reduction in emis-
- 12 sions of the carbon dioxide produced by the unit, as
- 13 measured on an annual basis, or meet such more stringent
- 14 standard as the Administrator may establish pursuant to
- 15 subsection (c).
- 16 "(2) A covered EGU that is initially permitted after
- 17 January 1, 2009, and before January 1, 2020, shall, by
- 18 the applicable compliance date established under this
- 19 paragraph, achieve an emission limit that is a 50 percent
- 20 reduction in emissions of the carbon dioxide produced by
- 21 the unit, as measured on an annual basis. Compliance
- 22 with the requirement set forth in this paragraph shall be
- 23 required by the earliest of the following:
- 24 "(A) Four years after the date the Adminis-
- trator has published pursuant to subsection (d) a re-

1	port that there are in commercial operation in the
2	United States electric generating units or other sta-
3	tionary sources equipped with carbon capture and
4	sequestration technology that, in the aggregate—
5	"(i) have a total of at least 4 gigawatts of
6	nameplate generating capacity of which—
7	"(I) at least 3 gigawatts must be elec-
8	tric generating units; and
9	"(II) up to 1 gigawatt may be indus-
10	trial applications, for which capture and
11	sequestration of 3,000,000 tons of carbon
12	dioxide per year on an aggregate
13	annualized basis shall be considered equiv-
14	alent to 1 gigawatt;
15	"(ii) include at least 2 electric generating
16	units, each with a nameplate generating capac-
17	ity of 250 megawatts or greater, that capture,
18	inject, and sequester carbon dioxide into geo-
19	logic formations other than oil and gas fields;
20	and
21	"(iii) are capturing and sequestering in the
22	aggregate at least 12,000,000 tons of carbon
23	dioxide per year, calculated on an aggregate
24	annualized basis.
25	"(B) January 1, 2025.

- 1 "(3) If the deadline for compliance with paragraph
- 2 (2) is January 1, 2025, the Administrator may extend the
- 3 deadline for compliance by a covered EGU by up to 18
- 4 months if the Administrator makes a determination, based
- 5 on a showing by the owner or operator of the unit, that
- 6 it will be technically infeasible for the unit to meet the
- 7 standard by the deadline. The owner or operator must
- 8 submit a request for such an extension by no later than
- 9 January 1, 2022, and the Administrator shall provide for
- 10 public notice and comment on the extension request.
- 11 "(c) Review and Revision of Standards.—Not
- 12 later than 2025 and at 5-year intervals thereafter, the Ad-
- 13 ministrator shall review the standards for new covered
- 14 EGUs under this section and shall, by rule, reduce the
- 15 maximum carbon dioxide emission rate for new covered
- 16 EGUs to a rate which reflects the degree of emission limi-
- 17 tation achievable through the application of the best sys-
- 18 tem of emission reduction which (taking into account the
- 19 cost of achieving such reduction and any nonair quality
- 20 health and environmental impact and energy require-
- 21 ments) the Administrator determines has been adequately
- 22 demonstrated.
- "(d) Reports.—Not later than 18 months after the
- 24 date of enactment of this title and semiannually there-
- 25 after, the Administrator shall publish a report on the

- 1 nameplate capacity of units (determined pursuant to sub-
- 2 section (b)(2)(A)) in commercial operation in the United
- 3 States equipped with carbon capture and sequestration
- 4 technology, including the information described in sub-
- 5 section (b)(2)(A) (including the cumulative generating ca-
- 6 pacity to which carbon capture and sequestration retrofit
- 7 projects meeting the criteria described in section
- 8 775(b)(1)(A)(ii) and (b)(1)(A)(iv)(II) has been applied
- 9 and the quantities of carbon dioxide captured and seques-
- 10 tered by such projects).
- 11 "(e) REGULATIONS.—Not later than 2 years after the
- 12 date of enactment of this title, the Administrator shall
- 13 promulgate regulations to carry out the requirements of
- 14 this section.".
- 15 SEC. 125. CARBON CAPTURE AND SEQUESTRATION DEM-
- 16 ONSTRATION AND EARLY DEPLOYMENT PRO-
- 17 **GRAM.**
- 18 (a) Definitions.—For purposes of this section:
- (1) SECRETARY.—The term "Secretary" meansthe Secretary of Energy.
- 21 (2) DISTRIBUTION UTILITY.—The term "dis-
- tribution utility" means an entity that distributes
- electricity directly to retail consumers under a legal,
- regulatory, or contractual obligation to do so.

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1	(3) Electric utility.—The term "electric
2	utility" has the meaning provided by section 3 of the
3	Federal Power Act (16 U.S.C. 796).
4	(4) Fossil fuel-based electricity.—The
5	term "fossil fuel-based electricity" means electricity
6	that is produced from the combustion of fossil fuels
7	(5) Fossil fuel.—The term "fossil fuel"
8	means coal, petroleum, natural gas or any derivative
9	of coal, petroleum, or natural gas.
10	(6) Corporation.—The term "Corporation"
11	means the Carbon Storage Research Corporation es-
12	tablished in accordance with this section.
13	(7) QUALIFIED INDUSTRY ORGANIZATION.—The
14	term "qualified industry organization" means the
15	Edison Electric Institute, the American Public
16	Power Association, the National Rural Electric Co-
17	operative Association, a successor organization of
18	such organizations, or a group of owners or opera-
19	tors of distribution utilities delivering fossil fuel-
20	based electricity who collectively represent at least
21	20 percent of the volume of fossil fuel-based elec-
22	tricity delivered by distribution utilities to consumers
23	in the United States.
24	(8) Retail consumer.—The term "retail con-

sumer" means an end-user of electricity.

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## (b) Carbon Storage Research Corporation.—

## (1) Establishment.—

(A) Referendum.—Qualified industry organizations may conduct, at their own expense, a referendum among the owners or operators of distribution utilities delivering fossil fuel-based electricity for the creation of a Carbon Storage Research Corporation. Such referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations. Voting rights in such referendum shall be based on the quantity of fossil fuel-based electricity delivered to consumers in the previous calendar vear or other representative period as determined by the Secretary pursuant to subsection (f). Upon approval of those persons representing two-thirds of the total quantity of fossil fuel-based electricity delivered to retail consumers, the Corporation shall be established unless opposed by the State regulatory authorities pursuant to subparagraph (B). All distribution utilities voting in the referendum shall certify to the independent auditing firm the quantity of fossil fuel-based electricity represented by their vote.

(B) STATE REGULATORY AUTHORITIES.—

2 Upon its own motion or the petition of a quali-3 fied industry organization, each State regu-4 latory authority shall consider its support or op-5 position to the creation of the Corporation 6 under subparagraph (A). State regulatory au-7 thorities may notify the independent auditing 8 firm referred to in subparagraph (A) of their 9 views on the creation of the Corporation within 10 180 days after the date of enactment of this 11 Act. If 40 percent or more of the State regu-12 latory authorities submit to the independent au-13 diting firm written notices of opposition, the 14 Corporation shall not be established notwith-15 standing the approval of the qualified industry 16 organizations as provided in subparagraph (A). 17 (2) TERMINATION.—The Corporation shall be 18 authorized to collect assessments and conduct oper-19 ations pursuant to this section for a 10-year period 20 from the date 6 months after the date of enactment 21 of this Act. After such 10-year period, the Corpora-22 tion is no longer authorized to collect assessments 23 and shall be dissolved on the date 15 years after 24 such date of enactment, unless the period is ex-25 tended by an Act of Congress.

1	(3) GOVERNANCE.—The Corporation shall oper-
2	ate as a division or affiliate of the Electric Power
3	Research Institute (referred to in this section as
4	"EPRI") and be managed by a Board of not more
5	than 15 voting members responsible for its oper-
6	ations, including compliance with this section. EPRI,
7	in consultation with the Edison Electric Institute,
8	the American Public Power Association and the Na-
9	tional Rural Electric Cooperative Association shall
10	appoint the Board members under clauses (i), (ii),
11	and (iii) of subparagraph (A) from among can-
12	didates recommended by those organizations. At
13	least a majority of the Board members appointed by
14	EPRI shall be representatives of distribution utilities
15	subject to assessments under subsection (d).
16	(A) Members.—The Board shall include
17	at least 1 representative of each of the fol-
18	lowing:
19	(i) Investor-owned utilities.
20	(ii) Utilities owned by a State agency,
21	a municipality, and an Indian tribe.
22	(iii) Rural electric cooperatives.
23	(iv) Fossil fuel producers.
24	(v) Nonprofit environmental organiza-
25	tions.

1	(vi) Independent generators or whole-
2	sale power providers.
3	(vii) Consumer groups.
4	(viii) The National Energy Tech-
5	nology laboratory of the Department of
6	Energy.
7	(ix) The Environmental Protection
8	Agency.
9	(B) Nonvoting members.—The Board
10	shall also include as additional nonvoting Mem-
11	bers the Secretary of Energy or his designed
12	and 2 representatives of State regulatory au-
13	thorities as defined in section 3 of the Public
14	Utility Regulatory Policies Act of 1978 (16
15	U.S.C. 2602), each designated by the National
16	Association of State Regulatory Utility Com-
17	missioners from States that are not within the
18	same transmission interconnection.
19	(4) Compensation.—Corporation Board mem-
20	bers shall receive no compensation for their services.
21	nor shall Corporation Board members be reimbursed
22	for expenses relating to their service.
23	(5) Terms.—Corporation Board members shall
24	serve terms of 4 years and may serve not more than
25	2 full consecutive terms. Members filling unexpired

- terms may serve not more than a total of 8 consecutive years. Former members of the Corporation
  Board may be reappointed to the Corporation Board
  if they have not been members for a period of 2
  years. Initial appointments to the Corporation Board
  shall be for terms of 1, 2, 3, and 4 years, staggered
  to provide for the selection of 3 members each year.
- 8 (6) STATUS OF CORPORATION.—The Corpora-9 tion shall not be considered to be an agency, depart-10 ment, or instrumentality of the United States, and 11 no officer or director or employee of the Corporation 12 shall be considered to be an officer or employee of 13 the United States Government, for purposes of title 14 5 or title 31 of the United States Code, or for any 15 other purpose, and no funds of the Corporation shall 16 be treated as public money for purposes of chapter 17 33 of title 31, United States Code, or for any other 18 purpose.
- 19 (c) Functions and Administration of the Cor-20 poration.—

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(1) IN GENERAL.—The Corporation shall establish and administer a program to accelerate the commercial availability of carbon dioxide capture and storage technologies and methods, including technologies which capture and store, or capture and

convert, carbon dioxide. Under such program competitively awarded grants, contracts, and financial assistance shall be provided and entered into with eligible entities. Except as provided in paragraph (8), the Corporation shall use all funds derived from assessments under subsection (d) to issue grants and contracts to eligible entities.

- (2) Purpose.—The purposes of the grants, contracts, and assistance under this subsection shall be to support commercial-scale demonstrations of carbon capture or storage technology projects capable of advancing the technologies to commercial readiness. Such projects should encompass a range of different coal and other fossil fuel varieties, be geographically diverse, involve diverse storage media, and employ capture or storage, or capture and conversion, technologies potentially suitable either for new or for retrofit applications. The Corporation shall seek, to the extent feasible, to support at least 5 commercial-scale demonstration projects integrating carbon capture and sequestration or conversion technologies.
- (3) ELIGIBLE ENTITIES.—Entities eligible for grants, contracts or assistance under this subsection may include distribution utilities, electric utilities

and other private entities, academic institutions, national laboratories, Federal research agencies, State and tribal research agencies, nonprofit organizations, or consortiums of 2 or more entities. Pilot-scale and similar small-scale projects are not eligible for support by the Corporation. Owners or developers of projects supported by the Corporation shall, where appropriate, share in the costs of such projects. Projects supported by the Corporation shall meet the eligibility criteria of section 780(b) of the Clean Air Act.

- (4) Grants for early movers.—Fifty percent of the funds raised under this section shall be provided in the form of grants to electric utilities that had, prior to the award of any grant under this section, committed resources to deploy a large scale electricity generation unit with integrated carbon capture and sequestration or conversion applied to a substantial portion of the unit's carbon dioxide emissions. Grant funds shall be provided to defray costs incurred by such electricity utilities for at least 5 such electricity generation units.
- (5) ADMINISTRATION.—The members of the Board of Directors of the Corporation shall elect a Chairman and other officers as necessary, may es-

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tablish committees and subcommittees of the Corporation, and shall adopt rules and bylaws for the conduct of business and the implementation of this section. The Board shall appoint an Executive Director and professional support staff who may be employees of the Electric Power Research Institute (EPRI). After consultation with the Technical Advisory Committee established under subsection (j), the Secretary, and the Director of the National Energy Technology Laboratory to obtain advice and recommendations on plans, programs, and project selection criteria, the Board shall establish priorities for grants, contracts, and assistance; publish requests for proposals for grants, contracts, and assistance; and award grants, contracts, and assistance competitively, on the basis of merit, after the establishment of procedures that provide for scientific peer review by the Technical Advisory Committee. The Board shall give preference to applications that reflect the best overall value and prospect for achieving the purposes of the section, such as those which demonstrate an integrated approach for capture and storage or capture and conversion technologies. The Board members shall not participate in making

- grants or awards to entities with whom they are affiliated.
  - (6) USES OF GRANTS, CONTRACTS, AND ASSIST-ANCE.—A grant, contract, or other assistance provided under this subsection may be used to purchase carbon dioxide when needed to conduct tests of carbon dioxide storage sites, in the case of established projects that are storing carbon dioxide emissions, or for other purposes consistent with the purposes of this section. The Corporation shall make publicly available at no cost information learned as a result of projects which it supports financially.
    - (7) Intellectual property.—The Board shall establish policies regarding the ownership of intellectual property developed as a result of Corporation grants and other forms of technology support. Such policies shall encourage individual ingenuity and invention.
    - (8) Administrative expenses.—Up to 5 percent of the funds collected in any fiscal year under subsection (d) may be used for the administrative expenses of operating the Corporation (not including costs incurred in the determination and collection of the assessments pursuant to subsection (d)).

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(9) Programs and Budget.—Before August 1 each year, the Corporation, after consulting with the Technical Advisory Committee and the Secretary and the Director of the Department's National Energy Technology Laboratory and other interested parties to obtain advice and recommendations, shall publish for public review and comment its proposed plans, programs, project selection criteria, projects to be funded by the Corporation for the next calendar year. The Corporation shall also publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover such costs. The Secretary may recommend programs and activities the Secretary considers appropriate. The Corporation shall include in the first publication it issues under this paragraph a strategic plan or roadmap for the achievement of the purposes of the Corporation, as set forth in paragraph (2).

(10) Records; Audits.—The Corporation shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the Corporation and make public such information. The books of the Corporation shall be audited by a certified public ac-

countant at least once each fiscal year and at such other times as the Corporation may designate. Copies of each audit shall be provided to the Congress, all Corporation board members, all qualified industry organizations, each State regulatory authority and, upon request, to other members of the industry. If the audit determines that the Corporation's practices fail to meet generally accepted accounting principles the assessment collection authority of the Corporation under subsection (d) shall be suspended until a certified public accountant renders a subsequent opinion that the failure has been corrected. The Corporation shall make its books and records available for review by the Secretary or the Comptroller General of the United States.

(11) Public access.—The Corporation Board's meetings shall be open to the public and shall occur after at least 30 days advance public notice. Meetings of the Board of Directors may be closed to the public where the agenda of such meetings includes only confidential matters pertaining to project selection, the award of grants or contracts, personnel matters, or the receipt of legal advice. The minutes of all meetings of the Corporation shall be

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

(12) Annual Report.—Each year the Corporation shall prepare and make publicly available a report which includes an identification and description of all programs and projects undertaken by the Corporation during the previous year. The report shall also detail the allocation or planned allocation of Corporation resources for each such program and project. The Corporation shall provide its annual report to the Congress, the Secretary, each State regulatory authority, and upon request to the public. The Secretary shall, not less than 60 days after receiving such report, provide to the President and Congress a report assessing the progress of the Corporation in meeting the objectives of this section.

## (d) Assessments.—

(1) Amount.—(A) In all calendar years following its establishment, the Corporation shall collect an assessment on distribution utilities for all fossil fuel-based electricity delivered directly to retail consumers (as determined under subsection (f)). The assessments shall reflect the relative carbon dioxide 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

- (B) The Corporation is authorized to adjust the assessments on fossil fuel-based electricity to reflect changes in the expected quantities of such electricity from different fuel types, such that the assessments generate not less than \$1.0 billion and not more than \$1.1 billion annually. The Corporation is authorized to supplement assessments through additional financial commitments.
- (2) Investment of funds.—Pending disbursement pursuant to a program, plan, or project, the Corporation may invest funds collected through assessments under this subsection, and any other funds received by the Corporation, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the 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 fossi
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

- the power sold by each individual distribution utility.
  - (C) It may be necessary to use average data, often on a regional basis with reference to Regional Transmission Organization ("RTO") or NERC regions, to make the determinations necessary for making assessments.
    - (2) DOE PROPOSED RULE.—The Secretary, acting in close consultation with the Energy Information Administration, shall issue for notice and comment a proposed rule to determine the level of fossil fuel electricity delivered to retail customers by each distribution utility in the United States during the most recent calendar year or other period determined to be most appropriate. Such proposed rule shall balance the need to be efficient, reasonably precise, and timely, taking into account the nature and cost of data currently available and the nature of markets and regulation in effect in various regions of the country. Different methodologies may be applied in different regions if appropriate to obtain the best balance of such factors.
    - (3) FINAL RULE.—Within 6 months after the date of enactment of this Act, and after opportunity for comment, the Secretary shall issue a final rule

under this subsection for determining the level and type of fossil fuel-based electricity delivered to retail customers by each distribution utility in the United States during the appropriate period. In issuing such rule, the Secretary may consider opportunities and costs to develop new data sources in the future and issue recommendations for the Energy Information Administration or other entities to collect such data. After notice and opportunity for comment the Secretary may, by rule, subsequently update and modify the methodology for making such determinations.

- (4) Annual determinations.—Pursuant to the final rule issued under paragraph (3), the Secretary shall make annual determinations of the amounts and types for each such utility and publish such determinations in the Federal Register. Such determinations shall be used to conduct the referendum under subsection (b) and by the Corporation in applying any assessment under this subsection.
- (5) Rehearing and Judicial Review.—The owner or operator of any distribution utility that believes that the Secretary has misapplied the methodology 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  $(\mathfrak{g})$ COMPLIANCE WITH CORPORATION Assess-MENTS.—The Corporation may bring an action in the ap-11 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 costs incurred by the Corporation in bringing such action. 16 17 (h) MIDCOURSE REVIEW.—Not later than 5 years 18 following establishment of the Corporation, the Comp-
- 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

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.

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- 5 (i) Recovery of Costs.—
- (1) IN GENERAL.—A distribution utility whose transmission, delivery, or sales of electric energy are subject to any form of rate regulation shall not be denied the opportunity to recover the full amount of the prudently incurred costs associated with complying with this section, consistent with applicable State or Federal law.
  - (2) RATEPAYER REBATES.—Regulatory authorities that approve cost recovery pursuant to paragraph (1) may order rebates to ratepayers to the extent that distribution utilities are reimbursed undedicated or unassigned balances pursuant to subsection (d)(3).
- 19 (j) Technical Advisory Committee.—
  - (1) Establishment.—There is established an advisory committee, to be known as the "Technical 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-

- demic institutions, national laboratories, independent research institutions, and other qualified institu-tions. No member of the Committee shall be affili-ated with EPRI or with any organization having members serving on the Board. At least one member of the Committee shall be appointed from among of-ficers or employees of the Department of Energy recommended to the Board by the Secretary of En-ergy.
  - (3) CHAIRPERSON AND VICE CHAIRPERSON.—
    The Board shall designate one member of the Technical Advisory Committee to serve as Chairperson of the Committee and one to serve as Vice Chairperson of the Committee.
  - (4) Compensation.—The Board shall provide compensation to members of the Technical Advisory Committee for travel and other incidental expenses and such other compensation as the Board determines to be necessary.
  - (5) Purpose.—The Technical Advisory Committee shall provide independent assessments and technical evaluations, as well as make non-binding recommendations to the Board, concerning Corporation activities, including but not limited to the following:

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 technologies for storage, geological site selection, 7 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 changes in this section or other statutes that would further the purposes of this section.

1	(1) 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	<b>Technologies</b>
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 Nuclean
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-

egory, specification, installation criterion, or other
criterion, along with—
(A) an explanation of the changes; and
(B) as appropriate, responses to comments
submitted by interested parties and the public;
(9) provide appropriate lead time (as deter-
mined by the Administrator) prior to the applicable
effective date for a new or significant revision to a
category, specification, installation criterion, or other
criterion, taking into account the timing require-
ments of the manufacturing, marketing, training,
and distribution process for the specific product,
building and landscape, or service category ad-
dressed;
(10) identify and, if appropriate, implement
other voluntary approaches in commercial, institu-
tional, residential, industrial, and municipal sectors
to encourage recycling and reuse technologies to im-
prove water efficiency or lower water use; and
(11) where appropriate, apply the WaterSense
label to water-using products that are labeled by the
Energy Star program implemented by the Adminis-
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 of
22	FEMP-designated product under paragraph (1) i
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

enactment of this Act, each Agency shall evaluate water-consuming products and systems in buildings operated by such Agency and identify opportunities for retrofit and replacement of such products and systems with high-efficiency equipment, such as zero-water-consumption equipment, high-efficiency toilets, high-efficiency shower heads, and high-efficiency faucets, and other products that are certified as Watersense products or FEMP-designated products.

- (2) Retrofit plan.—Not later than 360 days after the date of enactment of this Act, each Agency shall, in coordination with other appropriate Agencies and officials, prepare a water efficiency retrofit plan that shall, to the maximum extent practicable, maximize retrofitting of water-consuming products and systems and replacement with high-efficiency equipment described in paragraph (1).
- (d) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Administrator, working in coordination with the Secretary of Energy and the heads of such other Agencies as the President may designate, 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 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 "residentia
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 residentia
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 a
7	such time, in such form, and containing such infor
8	mation as the Administrator may require; and
9	(3) provides assurances satisfactory to the Ad
10	ministrator that the entity will use the allocation to
11	supplement, but not supplant, funds made available
12	to carry out the incentive program.
13	(c) Amount of Allocations.—For each fiscal year
14	the Administrator shall determine the amount to allocate
15	to each eligible entity to carry out subsection (d), taking
16	into consideration—
17	(1) the population served by the eligible entity
18	during the most recent calendar year for which data
19	are available;
20	(2) the targeted population of the incentive pro
21	gram of the eligible entity, such as general house
22	holds, low-income households, or first-time home
23	owners, and the probable effectiveness of the incen
24	tive program for that population;

1	(3) for existing programs, the effectiveness of
2	the program in encouraging the adoption of water-
3	efficient products, buildings, landscapes, facilities
4	processes, and services;
5	(4) any allocation to the eligible entity for a
6	preceding fiscal year that remains unused; and
7	(5) the per capita water demand of the popu-
8	lation served by the eligible entity during the most
9	recent calendar year for which data are available
10	and the accessibility of water supplies to such entity.
11	(d) USE OF ALLOCATED FUNDS.—Funds allocated to
12	an eligible entity under subsection (c) may be used to pay
13	up to 50 percent of the cost of establishing and carrying
14	out an incentive program.
15	(e) FIXTURE RECYCLING.—Eligible entities are en-
16	couraged to promote or implement fixture recycling pro-
17	grams to manage the disposal of older fixtures replaced
18	due to the incentive program under this section.
19	(f) Issuance of Incentives.—
20	(1) In general.—Financial incentives may be
21	provided to residential consumers that meet the re-
22	quirements of the applicable incentive program.
23	(2) Manner of Issuance.—An eligible entity
24	may—

1	(A) issue all financial incentives directly to
2	residential consumers; or
3	(B) with approval of the Administrator,
4	delegate all or part of financial incentive admin-
5	istration to other organizations, including local
6	governments, municipal water authorities, water
7	utilities, and non-profit organizations.
8	(3) Amount.—The amount of a financial in-
9	centive shall be determined by the eligible entity,
10	taking into consideration—
11	(A) the amount of any Federal or State in-
12	centive available for the purchase of the resi-
13	dential water-efficient product or service;
14	(B) the amount necessary to change con-
15	sumer behavior to purchase water-efficient
16	products and services; and
17	(C) the consumer expenditures for onsite
18	preparation, assembly, and original installation
19	of the product.
20	(g) Authorization of Appropriations.—There
21	are authorized to be appropriated to the Administrator to
22	carry out this section—
23	(1) \$100,000,000 for fiscal year 2010;
24	(2) \$150,000,000 for fiscal year 2011;
25	(3) \$200,000,000 for fiscal year 2012;

1	(4) \$150,000,000 for fiscal year 2013;
2	(5) \$100,000,000 for fiscal year 2014; and
3	(6) for each subsequent fiscal year, the applica-
4	ble amount during the preceding fiscal year, as ad-
5	justed to reflect changes for the 12-month period
6	ending the preceding November 30 in the Consumer
7	Price Index for All Urban Consumers published by
8	the Bureau of Labor Statistics of the Department of
9	Labor.
10	Subtitle E—Miscellaneous
11	SEC. 151. OFFICE OF CONSUMER ADVOCACY.
12	(a) Office.—
13	(1) Establishment.—There is established an
14	Office of Consumer Advocacy to serve as an advo-
15	cate for the public interest.
16	(2) DIRECTOR.—The Office shall be headed by
17	a Director to be appointed by the President, who is
18	admitted to the Federal Bar, with experience in pub-
19	lic utility proceedings, and by and with the advice
20	and consent of the Senate.
21	(3) Duties.—The Office may—
22	(A) represent, and appeal on behalf of, en-
23	ergy customers on matters concerning rates or

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	(b) Consumer Advocacy Advisory Committee.—
22	(1) Establishment.—The Director shall es-
23	tablish an advisory committee to be known as Con-
24	sumer Advocacy Advisory Committee (in this section
25	referred to as the "Advisory Committee") to review

1	rates, services, and disputes and to make rec-
2	ommendations to the Director.
3	(2) Composition.—The Director shall appoint
4	5 members to the Advisory Committee including—
5	(A) 2 individuals representing State Utility
6	Consumer Advocates; and
7	(B) 1 individual, from a nongovernmental
8	organization, representing consumers.
9	(3) Meetings.—The Advisory Committee shall
10	meet at such frequency as may be required to carry
11	out its duties.
12	(4) Reports.—The Director shall provide for
13	publication of recommendations of the Advisory
14	Committee on the public website established for the
15	Office.
16	(5) Duration.—Notwithstanding any other
17	provision of law, the Advisory Committee shall con-
18	tinue in operation during the period in which the Of-
19	fice exists.
20	(6) Application of faca.—Except as other-
21	wise specifically provided, the Advisory Committee
22	shall be subject to the Federal Advisory Committee
23	Act.
24	(c) Definitions.—In this section:

1 Commission.—The term "Commission" (1)2 means the Federal Energy Regulatory Commission. 3 (2) Energy customer.—The term "energy customer" means a residential customer or a small 4 5 commercial customer that receives products or serv-6 ices from a public utility or natural gas company 7 under the jurisdiction of the Commission. 8 (3) Natural gas company.—The term "nat-9 ural gas company" has the meaning given the term 10 in section 2 of the Natural Gas Act (15 U.S.C. 11 717a). 12 (4) Office.—The term "Office" means the Of-13 fice of Consumer Advocacy established by subsection 14 (a)(1). 15 (5) Public utility.—The term "public util-16 ity" has the meaning given the term in section 17 201(e) of the Federal Power Act (16 U.S.C. 824(e)). 18 (6) SMALL COMMERCIAL CUSTOMER.—The term 19 "small commercial customer" means a commercial 20 customer that has a peak demand of not more than 21 1,000 kilowatts per hour. 22 (d) AUTHORIZATION OF APPROPRIATIONS.—There 23 are authorized such sums as necessary to carry out this section. 24

1	(e) Savings Clause.—Nothing in this section af-
2	fects the rights or obligations of State Utility Consumer
3	Advocates.
4	SEC. 152. CLEAN TECHNOLOGY BUSINESS COMPETITION
5	GRANT PROGRAM.
6	(a) In General.—The Administrator may provide
7	grants to organizations to conduct business competitions
8	that provide incentives, training, and mentorship to entre-
9	preneurs and early stage start-up companies throughout
10	the United States to meet high-priority economic, environ-
11	mental, and energy goals in areas including air quality,
12	energy efficiency and renewable energy, transportation,
13	water quality and conservation, green buildings, and waste
14	management.
15	(b) Purposes.—
16	(1) In general.—The competitions described
17	in subsection (a) shall have the purposes of—
18	(A) accelerating the development and de-
19	ployment of clean technology businesses and
20	green jobs;
21	(B) stimulating green economic develop-
22	ment;
23	(C) providing business training and men-
24	toring to early stage clean technology compa-
25	nies; and

1	(D) strengthening the competitiveness of
2	United States clean technology industry in
3	world trade markets.
4	(2) Priority shall be given to busi-
5	ness competitions that—
6	(A) are led by the private sector;
7	(B) encourage regional and interregional
8	cooperation; and
9	(C) can demonstrate market-driven prac-
10	tices and the creation of cost-effective green
11	jobs through an annual publication of competi-
12	tion activities and directory of companies.
13	(c) Eligibility.—
14	(1) In general.—To be eligible for a grant
15	under this section, an organization shall be any
16	sponsored entity of an organization described in sub-
17	paragraph (A) that is operated as a nonprofit entity
18	(2) Priority.—In making grants under this
19	section, the Administrator shall give priority to orga-
20	nizations that can demonstrate broad funding sup-
21	port from private and other non-Federal funding
22	sources to leverage Federal investment.
23	(d) Authorization of Appropriations.—There is
24	authorized to be appropriated to carry out this section
25	\$20,000,000.

## 1 SEC. 153. PRODUCT CARBON DISCLOSURE PROGRAM.

- 2 (a) EPA STUDY.—The Administrator shall conduct
- 3 a study to determine the feasibility of establishing a na-
- 4 tional program for measuring, reporting, publicly dis-
- 5 closing, and labeling products or materials sold in the
- 6 United States for their carbon content, and shall, not later
- 7 than 18 months after the date of enactment of this Act,
- 8 transmit a report to Congress which shall include the fol-
- 9 lowing:
- 10 (1) A determination of whether a national prod-
- 11 uct carbon disclosure program and labeling program
- would be effective in achieving the intended goals of
- achieving greenhouse gas reductions and an exam-
- ination of existing programs globally and their
- strengths and weaknesses.
- 16 (2) Criteria for identifying and prioritizing sec-
- tors and products and processes that should be cov-
- 18 ered in such program or programs.
- 19 (3) An identification of products, processes, or
- sectors whose inclusion could have a substantial car-
- bon impact (prioritizing industrial products such as
- iron and steel, aluminum, cement, chemicals, and
- paper products, and also including food, beverage,
- 24 hygiene, cleaning, household cleaners, construction,
- 25 metals, clothing, semiconductor, and consumer elec-
- 26 tronics).

- 1 (4) Suggested methodology and protocols for 2 measuring the carbon content of the products across 3 the entire carbon lifecycle of such products for use 4 in a carbon disclosure program and labeling pro-5 gram. 6 (5) A review of existing greenhouse gas product 7 accounting standards, methodologies, and practices 8 including the Greenhouse Gas Protocol, ISO 14040/ 9 44, ISO 14067, and Publically Available Specifica-10 tion 2050, and including a review of the strengths 11 and weaknesses of each. 12 (6) A survey of secondary databases including 13 the Manufacturing Energy Consumption Survey, an 14 evaluation of the quality of data for use in a product 15 carbon disclosure program and product carbon label-16 ing program, an identification of gaps in the data 17 relative to the potential purposes of a national prod-18 uct carbon disclosure program and product carbon 19 labeling program, and development of recommenda-20 tions for addressing these data gaps. 21 (7) An assessment of the utility of comparing 22 products and the appropriateness of product carbon 23 standards.
  - (8) An evaluation of the information needed on a label for clear and accurate communication, in-

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1	cluding what pieces of quantitative and qualitative
2	information need to be disclosed.
3	(9) An evaluation of the appropriate boundaries
4	of the carbon lifecycle analysis for different sectors
5	and products.
6	(10) An analysis of whether default values
7	should be developed for products whose producer
8	does not participate in the program or does not have
9	data to support a disclosure or label and a deter-
10	mination of the best ways to develop such default
11	values.
12	(11) A recommendation of certification and
13	verification options necessary to assure the quality
14	of the information and avoid greenwashing or the
15	use of insubstantial or meaningless environmental
16	claims to promote a product.
17	(12) An assessment of options for educating
18	consumers about product carbon content and the
19	product carbon disclosure program and product car-
20	bon labeling program.
21	(13) An analysis of the costs and timelines as-
22	sociated with establishing a national product carbon
23	disclosure program and product carbon labeling pro-

gram, including options for a phased approach.

Costs should include those for businesses associated

1	with the measurement of carbon footprints and
2	those associated with creating a product carbon label
3	and managing and operating a product carbon label-
4	ing program, and options for minimizing these costs.
5	(14) An evaluation of incentives (such as finan-
6	cial incentives, brand reputation, and brand loyalty)
7	to determine whether reductions in emissions can be
8	accelerated through encouraging more efficient man-
9	ufacturing or by encouraging preferences for lower-
10	emissions products to substitute for higher-emissions
11	products whose level of performance is no better.
12	(b) Development of National Carbon Disclo-
13	SURE PROGRAM.—Upon conclusion of the study, and not
14	later than 3 years after the date of enactment of this Act,
15	the Administrator shall establish a national product car-
16	bon disclosure program, participation in which shall be
17	voluntary, and which may involve a product carbon label
18	with broad applicability to the wholesale and consumer
19	markets to enable and encourage knowledge about carbon
20	content by producers and consumers and to inform efforts
21	to reduce energy consumption (carbon dioxide equivalent
22	emissions) nationwide. In developing such a program, the
23	Administrator shall—
24	(1) consider the results of the study conducted
25	under subsection (a);

1	(2) consider existing and planned programs and
2	proposals and measurement standards (including the
3	Publicly Available Specification 2050, standards to
4	be developed by the World Resource Institute/World
5	Business Council for Sustainable Development, the
6	International Standards Organization, and the bill
7	AB19 pending in the California legislature as of the
8	date of enactment of this Act);
9	(3) consider the compatibility of a national
10	product carbon disclosure program with existing pro-
11	grams;
12	(4) utilize incentives and other means to spur
13	the adoption of product carbon disclosure and prod-
14	uct earbon labeling;
15	(5) develop protocols and parameters for a
16	product carbon disclosure program, including a
17	methodology and formula for assessing, verifying,
18	and potentially labeling a product's greenhouse gas
19	content, and for data quality requirements to allow
20	for product comparison;
21	(6) create a means to—
22	(A) document best practices;
23	(B) ensure clarity and consistency;
24	(C) work with suppliers, manufacturers,
25	and retailers to encourage participation;

1	(D) ensure that protocols are consistent
2	and comparable across like products; and
3	(E) evaluate the effectiveness of the pro-
4	gram;
5	(7) make publicly available information or
6	product carbon content to ensure transparency;
7	(8) provide for public outreach, including a con-
8	sumer education program to increase awareness;
9	(9) develop training and education programs to
10	help businesses learn how to measure and commu-
11	nicate their carbon footprint and easy tools and tem-
12	plates for businesses to use to reduce cost and time
13	to measure their products' carbon lifecycle;
14	(10) consult with the Secretary of Energy, the
15	Secretary of Commerce, the Federal Trade Commis-
16	sion, and other Federal agencies, as necessary;
17	(11) gather input from stakeholders through
18	consultations, public workshops, or hearings with
19	representatives of consumer product manufacturers
20	consumer groups, and environmental groups;
21	(12) utilize systems for verification and product
22	certification that will ensure that claims manufactur-
23	ers make about their products are valid;
24	(13) create a process for reviewing the accuracy
25	of product carbon label information and protecting

1 the product carbon label in the case of a change in 2 the product's energy source, supply chain, ingredi-3 ents, or other factors, and specify the frequency to 4 which data should be updated; and 5 (14) develop a standardized, easily understand-6 able carbon label, if appropriate, and create a process for responding to inaccuracies and misuses of 7 8 such a label. 9 (c) Report to Congress.—Not later than 5 years 10 after the program is established pursuant to subsection 11 (b), the Administrator shall report to Congress on the effectiveness and impact of the program, the level of vol-12 13 untary participation, and any recommendations for addi-14 tional measures. 15 (d) Definitions.—In this section: The term "carbon content" means the 16 (1)17 quantity of greenhouse gas emissions and the warm-18 ing impact of those emissions on the atmosphere ex-19 pressed in carbon dioxide equivalent associated with 20 a product's value chain. 21 (2) The term "carbon footprint" means the 22 level of greenhouse gas emissions produced by a par-23 ticular activity, service, or entity. 24 (3) The term "carbon lifecycle" means the

greenhouse gas emissions that are released as part

1 of the processes of creating, producing, processing, 2 modifying, manufacturing, transporting, distrib-3 uting, storing, using, recycling, or disposing of goods 4 and services. 5 (e) AUTHORIZATION OF APPROPRIATIONS.—There is 6 authorized to be appropriated to the Administrator— 7 (1) to carry out the study required by sub-8 section (a), \$5,000,000; and 9 (2) to carry out the program required under 10 subsection (b), \$25,000,000 for each of fiscal years 11 2010 through 2025. 12 SEC. 154. STATE RECYCLING PROGRAMS. 13 (a) Establishment.—The Administrator shall es-14 tablish a State Recycling Program governing the use of 15 funds by States in accordance with this Act. 16 (b) Use of Funding.— 17 (1) IN GENERAL.—States receiving funding to 18 carry out this section shall use the proceeds to carry 19 out recycling programs in accordance with this sec-20 tion. 21 (2) County and municipal programs.—Not 22 less than ¼ of the funding made available to a State 23 to carry out this section shall be distributed by the 24 State to county and municipal recycling programs as

described in subsection (c)(1), to be used exclusively

1	to support recycling purposes and associated source
2	reduction purposes, including to provide incentives—
3	(A) for recycling-related technology that—
4	(i) reduces or avoids greenhouse gas
5	emissions;
6	(ii) increases collection rates; and
7	(iii) improves the quality of recyclable
8	material that is separated from solid
9	waste;
10	(B) for energy-efficiency projects for trans-
11	portation fleets and recycling equipment used to
12	collect and sort recyclable material separated
13	from solid waste;
14	(C) for recycling program-related expenses,
15	including—
16	(i) education and job training;
17	(ii) development and implementation
18	of variable rate (commonly referred to as
19	"pay-as-you-throw") recycling programs
20	and anaerobic digestion programs;
21	(iii) promotion of public space recy-
22	cling programs;
23	(iv) approaches for assuring compli-
24	ance with recycling requirements; and

1	(v) development or implementation of
2	best practices for municipal solid waste re-
3	duction programs; and
4	(D) to ensure that recyclable material is
5	not sent for disposal or incineration during fluc-
6	tuating markets.
7	(3) Recycling facilities.—Not less than ½
8	of the funding made available to a State to carry out
9	this section shall be distributed by the State to eligi-
10	ble recycling facilities as described in subsection
11	(c)(2) to be used exclusively to support the recycling
12	purposes and associated source reduction purposes
13	of the facilities, including to provide—
14	(A) incentives for the demonstration or de-
15	ployment of recycling-related technology and
16	equipment that reduce or avoid greenhouse gas
17	emissions;
18	(B) incentives to facilities that increase the
19	quantity and quality of recyclable material that
20	is recycled versus sent for disposal or inciner-
21	ation;
22	(C) funding for research, management,
23	and removal of impediments to recycling, in-
24	cluding—
25	(i) radioactive material: and

1	(ii) devices or materials that contain
2	polychlorinated biphenyls, mercury, or
3	chlorofluorocarbons;
4	(D) funding for research on, and develop-
5	ment and deployment of, new technologies to
6	more efficiently and effectively recycle items
7	such as automobile shredder residue, cathode
8	ray tubes, plastics, and tires; and
9	(E) incentives to recycle materials identi-
10	fied by the Administrator that are not being re-
11	cycled at a recycling facility.
12	(4) Manufacturing facilities.—Not less
13	than $\frac{1}{4}$ of the funding made available to a State to
14	carry out this section shall be distributed by the
15	State to eligible manufacturing facilities as described
16	in subsection (c)(3) to be used exclusively to support
17	recycling purposes, including to provide incentives
18	for the demonstration or deployment of—
19	(A) manufacturing-related technology and
20	equipment that would increase the use of recy-
21	clable material and avoid or reduce greenhouse
22	gas emissions;
23	(B) radiation detection equipment and the
24	costs associated with recovery of detected radi-
25	ated recyclable material;

1	(C) technologies that will detect and sepa-
2	rate contaminants, including mercury-, lead-,
3	and cadmium-containing devices;
4	(D) strategies and technologies to remove
5	impediments to recovering recyclable material;
6	and
7	(E) strategies and technologies to improve
8	the energy efficiency of technology and equip-
9	ment used to manufacture recyclable material.
10	(c) Eligibility Requirements.—
11	(1) County and municipality programs.—
12	Funds provided under subsection (b)(2) shall be pro-
13	vided on a competitive basis to county and municipal
14	recycling programs that—
15	(A) have within the solid waste manage-
16	ment plans of the programs a recycling man-
17	agement plan that includes an education out-
18	reach program for the individuals and entities
19	served by the program constituency that high-
20	lights the lifecycle benefits of recycling; and
21	(B) collect at least 5 recyclable materials,
22	such as—
23	(i) ferrous and nonferrous metal;
24	(ii) aluminum;
25	(iii) plastic;

1	(iv) tires and rubber;
2	(v) household electronic equipment;
3	(vi) glass;
4	(vii) scrap food;
5	(viii) recoverable fiber or paper; and
6	(ix) textiles;
7	(C) demonstrate, not later than 3 years
8	after the date of receipt of funds under this
9	subtitle, reasonable progress toward achieving—
10	(i) a collection rate goal of at least 30
11	percent of the total recyclable materials
12	available from the solid waste stream in
13	the requesting State, county, or municipal
14	program; or
15	(ii) a 10-percent increase of collected
16	recyclable materials compared to the total
17	solid waste stream in the requesting State
18	county, or municipal program; and
19	(D)(i) own, operate, or contract to oper-
20	ate—
21	(I) a curbside recyclables collection
22	program;
23	(II) a redemption center or drop-off
24	facility for recyclables; and
25	(III) a materials recovery facility; and

1	(ii) have in place a quality, environmental,
2	health, and safety management system (such as
3	that of the International Standards Organiza-
4	tion or an equivalent) that includes goals to re-
5	duce the operational carbon baselines of the
6	programs.
7	(2) Recycling facility.—Funds provided
8	under subsection (b)(3) shall be provided on a com-
9	petitive basis to a recycling facility that—
10	(A) processes recyclable material into com-
11	mercial specification-grade commodities for use
12	as raw material feed stock at recovery facilities,
13	including for use as—
14	(i) a replacement or substitute for a
15	virgin raw material; or
16	(ii) a replacement or substitute for a
17	product made, in whole or in part, from a
18	virgin raw material;
19	(B) has a verifiable carbon baseline; and
20	(C) has an environmental, health and safe-
21	ty, and quality management system (such as
22	that of the International Standards Organiza-
23	tion or an equivalent) that includes goals to re-
24	duce the operational carbon baseline of the re-
25	cycling facility per unit of material processed.

1	(3) Manufacturing facility.—Funds pro-
2	vided under subsection (b)(4) shall be provided on a
3	competitive basis to a manufacturing facility that—
4	(A) can report on a verifiable carbon base-
5	line that is consistent with applicable reporting
6	requirements; and
7	(B) has an environmental, health and safe-
8	ty, and quality management system (such as
9	that of the International Standards Organiza-
10	tion or an equivalent) that includes goals to re-
11	duce the operational carbon baseline of the
12	manufacturing facility per unit of material
13	processed.
14	(d) Reporting.—Each State that distributes funds
15	under this section shall submit to the Administrator, in
16	accordance with such requirements as the Administrator
17	may prescribe, a report that includes—
18	(1) a list of entities receiving funding under
19	this section, including entities receiving such funding
20	from units of local government pursuant to sub-
21	section $(b)(2)$ ;
22	(2) the amount of funding received by each
23	such recipient;
24	(3) the specific purposes for which the funding
25	was conveyed to each such recipient; and

1	(4) documentation of the quantity of net recy-
2	clable material that was collected and processed and
3	greenhouse gas emissions that were reduced or
4	avoided accordingly, through use of the funding,
5	based on a lifecycle calculation developed by the Ad-
6	ministrator.
7	(e) Methodology and Decisionmaking.—The Ad-
8	ministrator, as appropriate—
9	(1) shall develop and periodically update
10	lifecycle methods to quantify the relationship be-
11	tween waste management decisions, including recy-
12	cling and waste reduction, greenhouse gas reduc-
13	tions, and energy use reductions, for purposes that
14	include—
15	(A) helping to support decisions under
16	Federal, State, and municipal recycling and
17	waste management programs, including—
18	(i) estimating greenhouse gas and en-
19	ergy benefits of increasing collection or
20	adding new materials to recycling pro-
21	grams;
22	(ii) comparing the benefits of recy-
23	cling and waste reduction to other green-
24	house gas and energy use reduction strate-
25	${ m gies};$

1	(iii) optimizing waste management
2	strategies to maximize greenhouse gas re-
3	ductions and energy use reductions; and
4	(iv) public education; and
5	(B) designing products to optimize waste
6	reduction and recycling opportunities and use of
7	recycled materials in the manufacturing proc-
8	ess;
9	(2) may collect data to support the development
10	of the methods described in paragraph (1); and
11	(3) to improve national consistency, shall, in
12	consultation with appropriate State and local rep-
13	resentatives and municipal recycling programs, iden-
14	tify best practices to promote improvement in, and
15	support State efforts in improving, municipal recy-
16	cling and resource recovery programs.
17	SEC. 155. SUPPLEMENTAL AGRICULTURE AND FORESTRY
18	GREENHOUSE GAS REDUCTION AND RENEW-
19	ABLE ENERGY PROGRAM.
20	(a) Agricultural Greenhouse Gas Reduc-
21	TIONS.—
22	(1) Establishment.—
23	(A) IN GENERAL.—The Secretary of Agri-
24	culture (referred to in this section as the "Sec-
25	retary"), in coordination with the Secretary of

1	the Interior, shall establish a Greenhouse Gas
2	Reduction Incentives Program (referred to in
3	this section as the "program") to provide finan-
4	cial assistance to owners and operators of agri-
5	cultural land (including land on which specialty
6	crops are produced and private or public land
7	used for grazing) and forest land for projects
8	and activities that measurably increase carbon
9	sequestration or reduce greenhouse gas emis-
10	sions.
11	(B) Shared Authority.—The Secretary
12	shall delegate to the Secretary of the Interior
13	the authority to carry out projects on land
14	under the jurisdiction of or operated by the De-
15	partment of the Interior.
16	(2) Priority.—In carrying out the program,
17	the Secretary shall give priority to projects or activi-
18	ties that—
19	(A) reduce greenhouse gas emissions or in-
20	crease sequestration of greenhouse gases, and
21	achieve significant other environmental benefits,
22	such as the improvements of water or air qual-
23	ity or natural resources; and
24	(B) reduce greenhouse gas emissions or se-
25	quester carbon in agricultural and forestry op-

1	erations where there are limited recognized op-
2	portunities to achieve such emission reductions
3	or sequestration.
4	(3) Eligible projects and activities.—Eli-
5	gible projects and payments shall include those
6	that—
7	(A) reflect the comparable amount that the
8	owners or operators would receive in the offset
9	market if not for compliance with environ-
10	mental laws that preclude the owners and oper-
11	ators from being eligible for receiving an offset
12	credit under a Federal law enacted for the pur-
13	pose of regulating greenhouse gas emissions;
14	(B) provide greenhouse gas emission bene-
15	fits, but do not receive an offset credit or qual-
16	ify for an early action allowance under a Fed-
17	eral law enacted for the purpose of regulating
18	greenhouse gas emissions, including projects
19	and activities that provide an opportunity to
20	demonstrate and test new or uncertain methods
21	to reduce or sequester emissions;
22	(C) reward early adopters, including pro-
23	ducers that practice no-till agriculture, and en-
24	sure that individuals and entities that took ac-
25	tion prior to the implementation of a Federal

1	law enacted for the purpose of regulating green-
2	house gas emissions are not placed at a com-
3	petitive disadvantage, including giving special
4	consideration to owners or operators located in
5	jurisdictions with more stringent environmental
6	laws (including regulations), compliance with
7	which precludes the owners or operators from
8	participating such an offset market;
9	(D) provide incentives for supplemental
10	greenhouse gas emission reductions on private
11	forest land of the United States;
12	(E) prevent any conversion of land, includ-
13	ing native grassland, native prairie, rangeland,
14	cropland, or forested land, that would increase
15	greenhouse gas emissions or a loss of carbon se-
16	questration; or
17	(F) support action on Federal, State, or
18	tribal land.
19	(4) Requirements.—Financial incentives and
20	support provided by the Secretary for a project or
21	activity under this section shall, to the maximum ex-
22	tent practicable—
23	(A) be directly proportional to the quantity
24	and duration of greenhouse gas emissions re-
25	duced or carbon sequestered (except with re-

1	spect to projects and activities that provide ad-
2	aptation benefits); and
3	(B) complement and leverage existing con-
4	servation, forestry, and energy program expend-
5	itures to provide measurable emission reduction
6	and sequestration benefits that otherwise may
7	not take place or continue to exist.
8	(5) Eligibility.—An owner or operator shall
9	not be prohibited from participating in the program
10	established under this section due to participation of
11	the owner or operator in other Federal or State con-
12	servation or agricultural assistance programs.
13	(6) Forms of Assistance.—The Secretary
14	may use any of the following to provide assistance
15	under this section:
16	(A) Conservation easements.
17	(B) Carbon sequestration and mitigation
18	contracts between the owner or operator and
19	the Secretary for the performance of projects or
20	activities that reduce greenhouse gas emissions
21	or sequester carbon.
22	(C) Financial incentives through timber
23	harvest contracts.
24	(D) Financial incentives through grazing
25	contracts.

1	(E) Grants.
2	(F) Such other forms of assistance as the
3	Secretary determines to be appropriate.
4	(7) Reversals.—The Secretary shall specify
5	methods to address intentional or unintentional re-
6	versal of carbon sequestration or greenhouse gas
7	emission reductions that occur during the term of a
8	contract or easement under this section.
9	(8) Accounting systems.—In carrying out
10	this section, the Secretary shall develop and imple-
11	ment—
12	(A) a national accounting system for car-
13	bon stocks, sequestration, and greenhouse gas
14	emissions that may be used to assess progress
15	in implementing this section at a national level;
16	and
17	(B) credible reporting and accounting sys-
18	tems to ensure that incentives provided under
19	this section are achieving stated objectives.
20	(9) Program measurement, monitoring,
21	AND VERIFICATION.—The Secretary, in consultation
22	with the Administrator—
23	(A) shall establish and implement protocols
24	that provide reasonable monitoring and
25	verification of compliance with terms associated

1	with assistance provided under this section, in-
2	cluding field sampling of actual performance, to
3	develop annual estimates of emission reductions
4	achieved under the program;
5	(B) shall report annually the total number
6	of tons of carbon dioxide sequestered or the
7	total number of tons of emissions avoided
8	through incentives provided under this section;
9	and
10	(C) not later than 2 years after the date
11	of enactment of this Act, and at least every 18
12	months thereafter, submit to Congress and
13	make available to the public on the website of
14	the Department of Agriculture a report that in-
15	cludes—
16	(i) an estimate of annual and cumu-
17	lative reductions generated through the
18	program under this section, determined
19	using standardized measures (including
20	economic efficiency); and
21	(ii) a summary of any changes to the
22	program, in accordance with this section,
23	that will be made as a result of program
24	measurement, monitoring, and verification
25	conducted under this section.

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 re-
24	sponse and adaptation goals and objectives identified
25	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	Subtitle F—Energy Efficiency and
11	Renewable Energy
12	SEC. 161. RENEWABLE ENERGY.
13	(a) Definitions.—In this section:
14	(1) Renewable energy.—The term "renew-
15	able energy" means electric energy generated from
16	solar, wind, biomass, landfill gas, ocean (including
17	tidal, wave, current, and thermal), geothermal, mu-
18	nicipal solid waste, or new hydroelectric generation
19	capacity achieved from increased efficiency or addi-
20	tions of new capacity at an existing hydroelectric
21	project.
22	(2) Renewable Portfolio Standard.—The
23	term "'renewable portfolio standard" means a state

statute that requires electricity providers to obtain a

1	minimum percentage of their power from renewable
2	energy resources by a certain date.
3	(b) Grants.—The Administrator, in consultation
4	with the Secretaries of Energy, Interior, and Agriculture,
5	may provide grants for projects to increase the quantity
6	of energy a State uses from renewable sources under State
7	renewable portfolio standard laws.
8	(c) Eligibility.—The Administrator shall review for
9	approval projects applications that are—
10	(1) submitted by State and local governments,
11	Indian tribes, public utilities, regional energy co-
12	operatives, or individual energy producers from
13	states with a binding Renewable Portfolio Standard;
14	or
15	(2) submitted by State and local governments,
16	Indian tribes, public utilities, or regional energy co-
17	operatives from states with nonbinding goals for
18	adoption of renewable energy requirements.
19	(d) Priority.—The Administrator shall give priority
20	to project applications that are—
21	(1) submitted by States with a binding renew-
22	able portfolio standard;
23	(2) cost-effective in achieving greater renewable
24	energy production in each State.
25	(e) Certification.—

1	(1) In General.—The Administrator shall no-
2	tify in writing the Governor of each eligible State as
3	described in section (c) at the time at which the Ad-
4	ministrator begins review of a project application re-
5	ceived from an eligible entity within the State.
6	(2) Certification.—The Governor shall cer-
7	tify in writing within 30 days of receipt of the Ad-
8	ministrator's notification described in subsection (1)
9	that the project application—
10	(A) will assist the State in reaching renew-
11	able portfolio standard targets under applicable
12	state laws; and
13	(B) has secured non-Federal funding
14	sources that, in conjunction with the requested
15	grant amount, will be sufficient to complete the
16	renewable energy project.
17	(f) Rulemaking.—
18	(1) IN GENERAL.—Not later than 90 days after
19	the date of enactment of this Act, the Administrator
20	shall initiate rulemaking procedures necessary to im-
21	plement this section.
22	(2) Final rules; acceptance of applica-
23	TIONS.—Not later than 90 days after the close of
24	the public comment period relating to the rule-

1	making described in paragraph (1), the Adminis-
2	trator shall—
3	(A) promulgate final regulations to carry
4	out this section; and
5	(B) begin accepting project applications for
6	review.
7	(g) Reporting.—Not later than 180 days after the
8	date of enactment of this Act, and every 180 days there-
9	after, the Administrator shall submit to the Committee or
10	Energy and Commerce of the House of Representatives
11	and the Committee on Environment and Public Works of
12	the Senate a report specifying, with respect to the pro-
13	gram under this section—
14	(1) the project applications received;
15	(2) the project applications approved;
16	(3) the amount of funding allocated per project
17	and
18	(4) the cumulative benefits of the grant pro-
19	gram.
20	(h) GRANT AMOUNT.—A grant provided under this
21	section may be in an amount that does not exceed 50 per-
22	cent of the total cost of the renewable energy project to
23	be funded by the grant.

1	(i) AUTHORIZATION.—There are authorized to be ap-
2	propriated such sums as are necessary to carry out this
3	section.
4	SEC. 162. ADVANCED BIOFUELS.
5	(a) DEFINITIONS.—In this section:
6	(1) ADVANCED BIOFUEL.—The term "advanced
7	biofuel" shall have such meaning as is given the
8	term by the Administrator in regulations promul-
9	gated under subsection (c).
10	(2) ELIGIBLE ENTITY.—The term "eligible enti-
11	ty" means an individual, corporate entity, unit of
12	State or local government, Indian tribe, farm cooper-
13	ative, institution of higher learning, rural electric co-
14	operative, or public utility.
15	(b) Grants.—The Administrator, in consultation
16	with the Secretary of Agriculture and the Secretary of En-
17	ergy, may provide grants to support research and develop-
18	ment of advanced biofuels.
19	(c) REGULATIONS.—
20	(1) In general.—Not later than 18 months
21	after the date of enactment of this Act, the Adminis-
22	trator shall promulgate regulations to carry out this
23	section (including a definition of the term "advanced
24	biofuel" for the purpose of providing assistance
25	under this section).

1	(2) REQUIREMENTS.—The regulations promul-
2	gated under paragraph (1) shall—
3	(A) provide that the Administrator shall
4	make grants available to eligible entities to sup-
5	port—
6	(i) research regarding the production
7	of advanced biofuels;
8	(ii) the development of new advanced
9	biofuel production and capacity-building
10	technologies;
11	(iii) the development and construction
12	of commercial-scale advanced biofuel pro-
13	duction facilities; and
14	(iv) the expanded production of ad-
15	vanced biofuels;
16	(B) provide that, to receive a grant under
17	this section, an eligible entity shall submit to
18	the Administrator—
19	(i) a project proposal with detailed
20	project information, as determined by the
21	Administrator; and
22	(ii) such records as the Administrator
23	may require as evidence of the production
24	of advanced biofuels or the importance and

1	necessity of advanced biofuels research and
2	new technologies; and
3	(C) include appropriate cost-sharing re-
4	quirements developed by the Administrator for
5	grant awards for authorized uses of funds
6	under this section.
7	(3) Priority.—The Administrator shall give
8	priority to eligible entities based on—
9	(A) technical and economic feasibility of a
10	project proposal;
11	(B) cost-effectiveness of a project proposal;
12	(C) the use of innovative technologies in a
13	project proposal;
14	(D) the availability of non-Federal re-
15	sources, including private resources, to fund the
16	project proposal; and
17	(E) whether the project proposed can be
18	replicated.
19	SEC. 163. ENERGY EFFICIENCY IN BUILDING CODES.
20	(a) Energy Efficiency Targets.—
21	(1) Rulemaking to establish targets.—
22	The Administrator, or such other agency head or
23	heads as may be designated by the President, in
24	consultation with the Director of the National Insti-
25	tute of Standards and Technology, shall promulgate

- 1 regulations establishing building code energy effi-2 ciency targets for the national average percentage 3 improvement of buildings' energy performance. Such 4 regulations shall establish a national building code 5 energy efficiency target for residential buildings and 6 commercial buildings when built to a code meeting 7 the target, beginning not later than January 1, 2014 8 and applicable each calendar year through December 9 31, 2030.
- 10 (b) National Energy Efficiency Building 11 Codes.—
- 12 Rulemaking to establish national 13 CODES.—The Administrator, or such other agency 14 head or heads as may be designated by the Presi-15 dent, shall promulgate regulations establishing na-16 tional energy efficiency building codes for residential 17 and commercial buildings. Such regulations shall be 18 sufficient to meet the national building code energy 19 efficiency targets established under subsection (a) in 20 the most cost-effective manner, and may include pro-21 visions for State adoption of the national building 22 code standards and certification of State programs 23 (c) Annual Reports.—The Administrator, or such other agency head or heads as may be designated by the

1	President, shall annually submit to Congress, and publish
2	in the Federal Register, a report on—
3	(1) the status of national energy efficiency
4	building codes;
5	(2) the status of energy efficiency building code
6	adoption and compliance in the States;
7	(3) the implementation of and compliance with
8	regulations promulgated under this section;
9	(4) the status of Federal and State enforcement
10	of building codes; and
11	(5) impacts of action under this section, and
12	potential impacts of further action, on lifetime en-
	anore was bee buildings in shading negative an anore and
13	ergy use by buildings, including resulting energy and
13 14	cost savings.
14	cost savings.
14 15	cost savings.  SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL
14 15 16	cost savings.  SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL PERFORMANCE.
14 15 16 17	cost savings.  SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL  PERFORMANCE.  (a) DEFINITIONS.—For purposes of this section:
14 15 16 17	cost savings.  SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL  PERFORMANCE.  (a) DEFINITIONS.—For purposes of this section:  (1) Assisted Housing.—The term "assisted"
114 115 116 117 118	cost savings.  SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL  PERFORMANCE.  (a) DEFINITIONS.—For purposes of this section:  (1) Assisted Housing.—The term "assisted housing" means those properties receiving project-
114 115 116 117 118 119 220	cost savings.  SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL  PERFORMANCE.  (a) DEFINITIONS.—For purposes of this section:  (1) Assisted Housing.—The term "assisted housing" means those properties receiving project-based assistance pursuant to section 202 of the
14 15 16 17 18 19 20 21	cost savings.  SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL  PERFORMANCE.  (a) DEFINITIONS.—For purposes of this section:  (1) Assisted Housing.—The term "assisted housing" means those properties receiving project-based assistance pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), section
14 15 16 17 18 19 20 21	cost savings.  SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL  PERFORMANCE.  (a) DEFINITIONS.—For purposes of this section:  (1) Assisted Housing.—The term "assisted housing" means those properties receiving project-based assistance pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), section 811 of the Cranston-Gonzalez National Affordable

- "nonresidential building" means a building with a primary use or purpose other than residential housing, including any building used for commercial offices, schools, academic and other public and private institutions, nonprofit organizations including faithbased organizations, hospitals, hotels, and other non-residential purposes. Such buildings shall include mixed-use properties used for both residential and nonresidential purposes in which more than half of building floor space is nonresidential.
  - (3) Performance-based building Program.—The term "performance-based building retrofit program" means a program that determines building energy efficiency success based on actual measured savings after a retrofit is complete, as evidenced by energy invoices or evaluation protocols.
  - (4) Prescriptive building retrofit pro-GRAM.—The term "prescriptive building retrofit program" means a program that projects building retrofit energy efficiency success based on the known effectiveness of measures prescribed to be included in a retrofit.
- (5) Public Housing.—The term "public housing" means properties receiving assistance under

- section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).
- 3 (6) Recommissioning;
- 4 RETROCOMMISSIONING.—The terms "recommis-
- 5 sioning" and "retrocommissioning" have the mean-
- 6 ing given those terms in section 543(f)(1) of the Na-
- 7 tional Energy Conservation Policy Act (42 U.S.C.
- 8 8253(f)(1).
- 9 (7) Residential building.—The term "resi-
- dential building" means a building whose primary
- use is residential. Such buildings shall include sin-
- gle-family homes (both attached and detached),
- owner-occupied units in larger buildings with their
- own dedicated space-conditioning systems, apart-
- ment buildings, multi-unit condominium buildings,
- public housing, assisted housing, and buildings used
- 17 for both residential and nonresidential purposes in
- which more than half of building floor space is resi-
- dential.
- 20 (8) State energy program.—The term
- 21 "State Energy Program" means the program under
- part D of title III of the Energy Policy and Con-
- 23 servation Act (42 U.S.C. 6321 et seq.).
- 24 (b) Establishment.—The Administrator shall de-
- 25 velop and implement, in consultation with the Secretary

1	of Energy, standards for a national energy and environ-
2	mental building retrofit policy for single-family and multi-
3	family residences. The Administrator shall develop and
4	implement, in consultation with the Secretary of Energy
5	and the Director of Commercial High-Performance Green
6	Buildings, standards for a national energy and environ-
7	mental building retrofit policy for nonresidential buildings.
8	The programs to implement the residential and nonresi-
9	dential policies based on the standards developed under
10	this section shall together be known as the Retrofit for
11	Energy and Environmental Performance (REEP) pro-
12	gram.
13	(c) Purpose.—The purpose of the REEP program
14	is to facilitate the retrofitting of existing buildings across
15	the United States to achieve maximum cost-effective en-
16	ergy efficiency improvements and significant improve-
17	ments in water use and other environmental attributes.
18	(d) Federal Administration.—
19	(1) Existing programs.—In creating and op-
20	erating the REEP program—
21	(A) the Administrator shall make appro-
22	priate use of existing programs, including the
23	Energy Star program and in particular the En-
24	vironmental Protection Agency Energy Star for
25	Buildings program; and

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

> (2) Consultation and coordination.—The Administrator shall consult with and coordinate with the and the Secretary of Energy and the Secretary of Housing and Urban Development in carrying out the REEP program with regard to retrofitting of public housing and assisted housing. As a result of such consultation, the Administrator shall establish standards to ensure that retrofits of public housing and assisted housing funded pursuant to this section are cost-effective, including opportunities to address the potential co-performance of repair and replacement needs that may be supported with other forms of Federal assistance. Owners of public housing or assisted housing receiving funding through the REEP program shall agree to continue to provide affordable housing consistent with the provisions of the authorizing legislation governing each program for an additional period commensurate with the

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- funding received, as determined in accordance with guidelines established by the Secretary of Housing and Urban Development.
  - (3) Assistance.—The Administrator shall provide consultation and assistance to State and local agencies for the establishment of revolving loan funds, loan guarantees, or other forms of financial assistance under this section.

## (e) STATE AND LOCAL ADMINISTRATION.—

(1) Designation and Delegation.—A State may designate one or more agencies or entities, including those regulated by the State, to carry out the purposes of this section, but shall designate one entity or individual as the principal point of contact for the Administrator regarding the REEP Program. The designated State agency, agencies, or entities may delegate performance of appropriate elements of the REEP program, upon their request and subject to State law, to counties, municipalities, appropriate public agencies, and other divisions of local government, as well as to entities regulated by the State. In making any such designation or delegation, a State shall give priority to entities that administer existing comprehensive retrofit programs, including those under the supervision of State utility

regulators. States shall maintain responsibility for meeting the standards and requirements of the REEP program. In any State that elects not to administer the REEP program, a unit of local government may propose to do so within its jurisdiction, and if the Administrator finds that such local government is capable of administering the program, the Administrator may provide assistance to that local government, prorated according to the population of the local jurisdiction relative to the population of the State, for purposes of the REEP program.

(2) EMPLOYMENT.—States and local government entities may administer a REEP program in a manner that authorizes public or regulated investor-owned utilities, building auditors and inspectors, contractors, nonprofit organizations, for-profit companies, and other entities to perform audits and retrofit services under this section. A State may provide incentives for retrofits without direct participation by the State or its agents, so long as the resulting savings are measured and verified. A State or local administrator of a REEP program shall seek to ensure that sufficient qualified entities are available to support retrofit activities so that building

- owners have a competitive choice among qualified auditors, raters, contractors, and providers of services related to retrofits. Nothing in this section is intended to deny the right of a building owner to choose the specific providers of retrofit services to engage for a retrofit project in that owner's building. (3) EQUAL INCENTIVES FOR EQUAL IMPROVE-
- MENT.—In general, the States should strive to offer the same levels of incentives for retrofits that meet the same efficiency improvement goals, regardless of whether the State, its agency or entity, or the building owner has conducted the retrofit achieving the improvement, provided the improvement is measured and verified.
- (f) Elements of Reep Program.—The Administrator, in consultation with the Secretary of Energy, shall establish goals, guidelines, practices, and standards for accomplishing the purpose stated in subsection (c), and shall annually review and, as appropriate, revise such goals, guidelines, practices, and standards. The program under this section shall include the following:
- 22 (1) Residential Energy Services Network 23 (RESNET) or Building Performance Institute 24 (BPI) analyst certification of residential building en-25 ergy and environment auditors, inspectors, and rat-

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1	ers, or an equivalent certification system as deter-
2	mined by the Administrator.
3	(2) BPI certification or licensing by States of
4	residential building energy and environmental ret-
5	rofit contractors, or an equivalent certification or li-
6	censing system as determined by the Administrator.
7	(3) Provision of BPI, RESNET, or other ap-
8	propriate information on equipment and procedures,
9	as determined by the Administrator, that contractors
10	can use to test the energy and environmental effi-
11	ciency of buildings effectively (such as infrared pho-
12	tography and pressurized testing, and tests for water
13	use and indoor air quality).
14	(4) Provision of clear and effective materials to
15	describe the testing and retrofit processes for typical
16	buildings.
17	(5) Guidelines for offering and managing pre-
18	scriptive building retrofit programs and perform-
19	ance-based building retrofit programs for residential
20	and nonresidential buildings.
21	(6) Guidelines for applying recommissioning
22	and retrocommissioning principles to improve a
23	building's operations and maintenance procedures.

(7) A requirement that building retrofits con-

ducted pursuant to a REEP program utilize, espe-

1	cially in all air-conditioned buildings, roofing mate-
2	rials with high solar energy reflectance, unless inap-
3	propriate due to green roof management, solar en-
4	ergy production, or for other reasons identified by
5	the Administrator, in order to reduce energy con-
6	sumption within the building, increase the albedo of
7	the building's roof, and decrease the heat island ef-
8	fect in the area of the building, without reduction of
9	otherwise applicable ceiling insulation standards.
10	(8) Determination of energy savings in a per-
11	formance-based building retrofit program through—
12	(A) for residential buildings, comparison of
13	before and after retrofit scores on the Home
14	Energy Rating System (HERS) Index, where
15	the final score is produced by an objective third
16	party;
17	(B) for nonresidential buildings, Environ-
18	mental Protection Agency Portfolio Manager
19	benchmarks; or
20	(C) for either residential or nonresidential
21	buildings, use of an Administrator-approved
22	simulation program by a contractor with the
23	appropriate certification, subject to appropriate
24	software standards and verification of at least

1	15 percent of all work done, or such other per-
2	centage as the Administrator may determine.
3	(9) Guidelines for utilizing the Energy Star
4	Portfolio Manager, the Home Energy Rating System
5	(HERS) rating system, Home Performance with En-
6	ergy Star program approvals, and any other tools
7	associated with the retrofit program.
8	(10) Requirements and guidelines for post-ret-
9	rofit inspection and confirmation of work and energy
10	savings.
11	(11) Detailed descriptions of funding options
12	for the benefit of State and local governments, along
13	with model forms, accounting aids, agreements, and
14	guides to best practices.
15	(12) Guidance on opportunities for—
16	(A) rating or certifying retrofitted build-
17	ings as Energy Star buildings, or as green
18	buildings under a recognized green building rat-
19	ing system;
20	(B) assigning Home Energy Rating Sys-
21	tem (HERS) or similar ratings; and
22	(C) completing any applicable building per-
23	formance labels.

1	(13) Sample materials for publicizing the pro-
2	gram to building owners, including public service an-
3	nouncements and advertisements.
4	(14) Processes for tracking the numbers and lo-
5	cations of buildings retrofitted under the REEP pro-
6	gram, with information on projected and actual sav-
7	ings of energy and its value over time.
8	(g) Requirements.—As a condition of receiving as-
9	sistance for the REEP program pursuant to this Act, a
10	State or qualifying local government shall—
11	(1) adopt the standards for training, certifi-
12	cation of contractors, certification of buildings, and
13	post-retrofit inspection as developed by the Adminis-
14	trator for residential and nonresidential buildings
15	respectively, except as necessary to match local con-
16	ditions, needs, efficiency opportunities, or other local
17	factors, or to accord with State laws or regulations
18	and then only after the Administrator approves such
19	a variance;
20	(2) establish fiscal controls and accounting pro-
21	cedures (which conform to generally accepted gov-
22	ernment accounting principles) sufficient to ensure
23	proper accounting during appropriate accounting pe-
24	riods for payments received and disbursements, and
25	for fund balances; and

1	(3) agree to make 10 percent of assistance re-
2	ceived to carry out this section available on a pref-
3	erential basis for retrofit projects proposed for pub-
4	lic housing and assisted housing, provided that—
5	(A) none of such funds shall be used for
6	demolition of such housing;
7	(B) such retrofits not shall not be used to
8	justify any increase in rents charged to resi-
9	dents of such housing; and
10	(C) owners of such housing shall agree to
11	continue to provide affordable housing con-
12	sistent with the provisions of the authorizing
13	legislation governing each program for an addi-
14	tional period commensurate with the funding
15	received; and
16	(4) the Administrator shall conduct or require
17	each State to have such independent financial audits
18	of REEP-related funding as the Administrator con-
19	siders necessary or appropriate to carry out the pur-
20	poses of this section.
21	(h) Options to Support Reep Program.—The as-
22	sistance provided under this section shall support the im-
23	plementation through State REEP programs of alternate
24	means of creating incentives for, or reducing financial bar-

1	riers to, improved energy and environmental performance
2	in buildings, consistent with this section, including—
3	(1) implementing prescriptive building retrofit
4	programs and performance-based building retrofit
5	programs;
6	(2) providing credit enhancement, interest rate
7	subsidies, loan guarantees, or other credit support;
8	(3) providing initial capital for public revolving
9	fund financing of retrofits;
10	(4) providing funds to support utility-operated
11	retrofit programs with repayments over time
12	through utility rates, calibrated to create net positive
13	cash flow to the building owner, and transferable
14	from one building owner to the next with the build-
15	ing's utility services;
16	(5) providing funds to local government pro-
17	grams to provide REEP services and financial as-
18	sistance; and
19	(6) other means proposed by State and local
20	agencies, subject to the approval of the Adminis-
21	trator.
22	(i) Support for Program.—
23	(1) Initial award limits.—Except as pro-
24	vided in paragraph (2), State and local REEP pro-
25	grams may make per-building direct expenditures

1	for retrofit improvements, or their equivalent in indi-
2	rect or other forms of financial support, from funds
3	made available to carry out this section, in amounts
4	not to exceed the following amounts per unit:
5	(A) Residential building program.—
6	(i) Awards.—For residential build-
7	ings—
8	(I) support for a free or low-cost
9	detailed building energy audit that
10	prescribes measures sufficient to
11	achieve at least a 20 percent reduc-
12	tion in energy use, by providing an in-
13	centive equal to the documented cost
14	of such audit, but not more than
15	\$200, in addition to any earned by
16	achieving a 20 percent or greater effi-
17	ciency improvement;
18	(II) a total of \$1,000 for a com-
19	bination of measures, prescribed in an
20	audit conducted under subclause (I),
21	designed to reduce energy consump-
22	tion by more than 10 percent, and
23	\$2,000 for a combination of measures
24	prescribed in such an audit, designed

1	to reduce energy consumption by more
2	than 20 percent;
3	(III) \$3,000 for demonstrated
4	savings of 20 percent, pursuant to a
5	performance-based building retrofit
6	program; and
7	(IV) $$1,000$ for each additional $5$
8	percentage points of energy savings
9	achieved beyond savings for which
10	funding is provided under subclause
11	(II) or (III).
12	Funding shall not be provided under
13	clauses (II) and (III) for the same energy
14	savings.
15	(ii) Maximum percentage.—Awards
16	under clause (i) shall not exceed 50 per-
17	cent of retrofit costs for each building. For
18	buildings with multiple residential units,
19	awards under clause (i) shall not be great-
20	er than 50 percent of the total cost of ret-
21	rofitting the building, prorated among indi-
22	vidual residential units on the basis of rel-
23	ative costs of the retrofit. In the case of
24	public housing and assisted housing, the
25	50 percent contribution matching the con-

1	tribution from REEP program funds may
2	come from any other source, including
3	other Federal funds.
4	(iii) Additional awards.—Addi-
5	tional awards may be provided for pur-
6	poses of increasing energy efficiency, for
7	buildings achieving at least 20 percent en-
8	ergy savings using funding provided under
9	clause (i), in the form of grants of not
10	more than \$600 for measures projected or
11	measured (using an appropriate method
12	approved by the Administrator) to achieve
13	at least 35 percent potable water savings
14	through equipment or systems with an es-
15	timated service life of not less than 7
16	years, and not more than an additional
17	\$20 may be provided for each additional
18	one percent of such savings, up to a max-
19	imum total grant of \$1,200.
20	(B) Nonresidential building pro-
21	GRAM.—
22	(i) Awards.—For nonresidential
23	buildings—
24	(I) support for a free or low-cost
25	detailed building energy audit that

1	prescribes, as part of a energy-reduc-
2	ing measures sufficient to achieve at
3	least a 20 percent reduction in energy
4	use, by providing an incentive equal to
5	the documented cost of such audit,
6	but not more than \$500, in addition
7	to any award earned by achieving a
8	20 percent or greater efficiency im-
9	provement;
10	(II) \$0.15 per square foot of ret-
11	rofit area for demonstrated energy use
12	reductions from 20 percent to 30 per-
13	cent;
14	(III) \$0.75 per square foot for
15	demonstrated energy use reductions
16	from 30 percent to 40 percent;
17	(IV) \$1.60 per square foot for
18	demonstrated energy use reductions
19	from 40 percent to 50 percent; and
20	(V) \$2.50 per square foot for
21	demonstrated energy use reductions
22	exceeding 50 percent.
23	(ii) Maximum percentage.—
24	Amounts provided under subclauses (II)
25	through (V) of clause (i) combined shall

1	not exceed 50 percent of the total retrofit
2	cost of a building. In nonresidential build-
3	ings with multiple units, such awards shall
4	be prorated among individual units on the
5	basis of relative costs of the retrofit.
6	(iii) Additional Awards.—Addi-
7	tional awards may be provided, for build-
8	ings achieving at least 20 percent energy
9	savings using funding provided under
10	clause (i), as follows:
11	(I) Water.—For purposes of in-
12	creasing energy efficiency, grants may
13	be made for whole building potable
14	water use reduction (using an appro-
15	priate method approved by the Ad-
16	ministrator) for up to 50 percent of
17	the total retrofit cost, including
18	amounts up to—
19	(aa) \$24.00 per thousand
20	gallons per year of potable water
21	savings of 40 percent or more;
22	(bb) \$27.00 per thousand
23	gallons per year of potable water
24	savings of 50 percent or more;
25	and

1	(ce) \$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

minimum the most recent version of ASHRAE Standard 62.1 for ventilation, or the equivalent as determined by the Administrator. A State may issue a waiver from this requirement to a building project on a showing that such compliance is infeasible due to the physical constraints of the building's existing ventilation system, or such other limitations as may be specified by the Administrator.

(C) Disaster damaged buildings.—Any source of funds, including Federal funds provided through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, shall qualify as the building owner's 50 percent contribution, in order to match the contribution of REEP funds, so long as the REEP funds are only used to improve the energy efficiency of the buildings being reconstructed. In addition, the appropriate Federal agencies providing assistance to building owners through the Robert T. Stafford Disaster Relief and Emergency Assistance Act shall make information available, following a disaster, to building owners rebuilding disaster damaged buildings with assistance

1	from the Act, that REEP funds may be used
2	for energy efficiency improvements.
3	(D) HISTORIC BUILDINGS.—Notwith-
4	standing subparagraphs (A) and (B), a building
5	in or eligible for the National Register of His-
6	toric Places shall be eligible for awards under
7	this paragraph in amounts up to 120 percent of
8	the amounts set forth in subparagraphs (A) and
9	(B).
10	(E) Supplemental support.—State and
11	local governments may supplement the per-
12	building expenditures under this paragraph
13	with funding from other sources.
14	(2) Adjustment.—The Administrator may ad-
15	just the specific dollar amounts provided under para-
16	graph (1) in years subsequent to the second year
17	after the date of enactment of this Act, and every
18	2 years thereafter, as the Administrator determines
19	necessary to achieve optimum cost-effectiveness and
20	to maximize incentives to achieve energy efficiency
21	within the total building award amounts provided in
22	that paragraph, and shall publish and hold constant
23	such revised limits for at least 2 years.
24	(j) Report to Congress.—The Administrator shall
25	conduct an annual assessment of the achievements of the

- 1 REEP program in each State, shall prepare an annual re-
- 2 port of such achievements and any recommendations for
- 3 program modifications, and shall provide such report to
- 4 Congress at the end of each fiscal year during which fund-
- 5 ing or other resources were made available to the States
- 6 for the REEP Program.

### 7 Subtitle G—Emission Reductions

## 8 From Public Transportation Ve-

- 9 hicles
- 10 **SEC. 171. SHORT TITLE.**
- This subtitle may be cited as the "Green Taxis Act
- 12 of 2009".
- 13 SEC. 172. STATE FUEL ECONOMY REGULATION FOR TAXI-
- 14 CABS.
- 15 Section 32919 of title 49, United States Code, is
- 16 amended by adding at the end the following new sub-
- 17 section:
- 18 "(d) Taxicabs.—Notwithstanding subsection (a), a
- 19 State or political subdivision of a State may prescribe re-
- 20 quirements for fuel economy for taxicabs and other auto-
- 21 mobiles if such requirements are at least as stringent as
- 22 applicable Federal requirements and if such taxicabs and
- 23 other automobiles—

1	"(1) are automobiles that are capable of trans-
2	porting not more than 10 individuals, including the
3	driver;
4	"(2) are commercially available or are designed
5	and manufactured pursuant to a contract with such
6	State or political subdivision of such State;
7	"(3) are operated for hire pursuant to an oper-
8	ating or regulatory license, permit, or other author-
9	ization issued by such State or political subdivision
10	of such State;
11	"(4) provide local transportation for a fare de-
12	termined on the basis of the time or distance trav-
13	eled or a combination of time and distance traveled;
14	and
15	"(5) do not exclusively provide transportation to
16	and from airports.".
17	SEC. 173. STATE REGULATION OF MOTOR VEHICLE EMIS-
18	SIONS FOR TAXICABS.
19	Section 209 of the Clean Air Act (42 U.S.C. 7543)
20	is amended by adding at the end the following new sub-
21	section:
22	"(f) Taxicabs.—(1) Notwithstanding subsection (a),
23	a State or political subdivision thereof may adopt and en-
24	force standards for the control of emissions from new
25	motor vehicles that are taxicabs and other vehicles if such

1	standards will be, in the aggregate, at least as protective
2	of public health and welfare as applicable Federal stand-
3	ards and if such taxicabs and other vehicles—
4	"(A) are passenger motor vehicles that are
5	capable of transporting not more than 10 indi-
6	viduals, including the driver;
7	"(B) are commercially available or are de-
8	signed and manufactured pursuant to a con-
9	tract with such State or political subdivision
10	thereof;
11	"(C) are operated for hire pursuant to an
12	operating or regulatory license, permit, or other
13	authorization issued by such State or political
14	subdivision thereof;
15	"(D) provide local transportation for a fare
16	determined on the basis of the time or distance
17	traveled or a combination of time and distance
18	traveled; and
19	"(E) do not exclusively provide transpor-
20	tation to and from airports.
21	"(2) If each standard of a State or political subdivi-
22	sion thereof is at least as stringent as the comparable ap-
23	plicable Federal standard, such standard of such State or
24	nolitical subdivision thereof shall be deemed at least as

1	protective of health and welfare as such Federal standards
2	for purposes of this subsection.".
3	Subtitle H—Clean Energy and
4	Natural Gas
5	SEC. 181. CLEAN ENERGY AND ACCELERATED EMISSION
6	REDUCTION PROGRAM.
7	(a) Establishment.—
8	(1) In general.—The Administrator shall es-
9	tablish a program to promote dispatchable power
10	generation projects that can accelerate the reduction
11	of power sector carbon dioxide and other greenhouse
12	gas emissions.
13	(2) Use of funds.—Funds provided under
14	this section shall be used by the Administrator to
15	make incentive payments to owners or operators of
16	eligible projects.
17	(b) REGULATIONS.—Not later than 90 days after the
18	date of enactment of this Act, the Administrator shall pro-
19	mulgate regulations providing for incentives, pursuant to
20	the requirements of this section.
21	(c) Goal.—Not later than 3 years after the date of
22	enactment of this Act, the Administrator shall provide in-
23	centives for eligible projects that generate 300,000
24	gigawatt-hours of electricity per year

1	(d) Criteria for Eligible Projects.—To be eli-
2	gible for funding under this section a project must—
3	(1) reduce emissions below the 2007 average
4	greenhouse gas emissions per megawatt-hour of the
5	United States electric power sector by the quantity
6	specified in subsection (f); and
7	(2) not receive an investment or production
8	credit in—
9	(A) the year in which the project is placed
10	in service; or
11	(B) calendar year 2009, notwithstanding
12	the year in which the project was placed in
13	service.
14	(e) Priority.—The Administrator shall give priority
15	to eligible projects from the following categories:
16	(1) Power generation projects designed to inte-
17	grate intermittent renewable power into the bulk-
18	power system.
19	(2) Energy storage projects used to support re-
20	newable energy.
21	(3) Power generation projects with carbon cap-
22	ture and sequestration that are not eligible for other
23	assistance under this Act.

1	(4) Projects that achieve the greatest reduction
2	in greenhouse gas emissions per dollar of incentive
3	payment.
4	(f) Emission Reduction Criteria.—For the pur-
5	poses of subsection (d), the applicable emission reduction
6	quantity shall be determined in accordance with the fol-
7	lowing table:
	Calendar years  Percentage below 2007 average greenhouse gas emissions per MWh of United States electric power sector
	2010 through 2020       25 percent         2021 through 2025       40 percent         2026 through 2030       65 percent
8	(g) Authorization of Appropriations.—There
9	are authorized to be appropriated to the Administrator
10	such sums as are necessary to carry out this section for
11	each of fiscal years 2010 through 2030.
12	SEC. 182. ADVANCED NATURAL GAS TECHNOLOGIES.
13	(a) Definitions.—In this section:
14	(1) Corporation.—
15	(A) In General.—The term "corpora-
16	tion" means any corporation, joint-stock com-
17	pany, partnership, limited liability company, as-
18	sociation, business trust, or other organized
19	group of persons, regardless of incorporation.
20	(B) Exclusion.—The term "corporation"
21	does not include a municipality.
22	(2) Eligible entity.—

1	(A) In General.—The term "eligible enti-
2	ty" means an entity that is eligible to receive a
3	grant under subsection (b).
4	(B) Inclusions.—The term "eligible enti-
5	ty" includes a corporation, an eligible research
6	entity, an industry entity, a municipality, a mu-
7	nicipal natural gas distribution system, and a
8	natural gas distribution company.
9	(3) Eligible research entity.—
10	(A) IN GENERAL.—The term "eligible re-
11	search entity" means an entity that is experi-
12	enced in planning, conducting, and imple-
13	menting natural gas research, development,
14	demonstration, and deployment projects.
15	(B) Inclusions.—The term "eligible re-
16	search entity" includes a research institution
17	and an institution of higher education.
18	(4) Industry entity.—
19	(A) IN GENERAL.—The term "industry en-
20	tity" means the persons and municipalities col-
21	lectively engaged in the delivery of natural gas
22	for consumption in the United States (such as
23	natural gas distribution companies and munic-
24	ipal natural gas distribution systems).

1	(B) Exclusion.—The term "industry en-
2	tity" does not include any natural gas cus-
3	tomer.
4	(5) Municipality.—The term "municipality"
5	means a city, county, or other political subdivision or
6	agency of a State.
7	(6) Municipal natural gas distribution
8	SYSTEM.—The term "municipal natural gas distribu-
9	tion system" means a municipality engaged in the
10	business of delivering natural gas for consumption to
11	residential, commercial, industrial, and other natural
12	gas customers.
13	(7) Natural Gas.—
14	(A) IN GENERAL.—The term "natural
15	gas" means a mixture of hydrocarbon and non-
16	hydrocarbon gases, primarily methane, that
17	have been produced from geological formations
18	or by any other means.
19	(B) Inclusion.—The term "natural gas"
20	includes renewable biogas.
21	(8) Natural gas distribution company.—
22	The term "natural gas distribution company" means
23	a person engaged in the business of distributing nat-
24	ural gas for consumption to residential, commercial,
25	industrial, or other natural gas customers.

#### (b) Grant Programs.—

(1) Natural gas electricity generation Grants.—The Administrator, in consultation with Secretary of Energy, may provide to eligible entities research and development grants to support the deployment of low greenhouse-gas-emitting end-use technologies, including carbon capture and sequestration technologies, for natural gas electricity generation.

- (2) Natural gas residential and commercial ties grants to advance the commercial demonstration or early development of low greenhouse-gas-emitting end-use technologies fueled by natural gas, including carbon capture and storage, for residential and commercial purposes, through research, development, demonstration, and deployment of those technologies.
- 20 (c) Reporting.—Not later than 180 days after the 21 date of enactment of this Act, and every 180 days there-22 after, the Secretary of Energy shall submit to the Com-23 mittee on Energy and Commerce of the House of Rep-24 resentatives and the Senate Committees on Energy and 25 Natural Resources and Environment and Public Works of

1	the Senate a report that describes the status and results
2	of activities carried out under subsection (b).
3	(d) AUTHORIZATION.—There are authorized to be ap-
4	propriated such sums as are necessary to carry out this
5	section.
6	TITLE II—RESEARCH
7	Subtitle A—Energy Research
8	SEC. 201. ADVANCED ENERGY RESEARCH.
9	(a) In General.—The Administrator shall establish
10	a program to provide grants for advanced energy research
11	(b) DISTRIBUTION.—The Administrator shall dis-
12	tribute grants on a competitive basis to institutions of
13	higher education, companies, research foundations, trade
14	and industry research collaborations, or consortia of such
15	entities, or other appropriate research and development
16	entities.
17	(c) Selection of Proposals.—In selecting pro-
18	posals for funding under this section, the Administrator
19	shall prioritize applications that—
20	(1) enhance the economic and energy security
21	of the United States through the development of en-
22	ergy technologies that result in—
23	(A) reductions of imports of energy from
24	foreign sources;

1	(B) reductions of energy-related emissions,
2	including greenhouse gases; and
3	(C) improvements in the energy efficiency
4	of all economic sectors; and
5	(2) ensure that the United States maintains a
6	technological lead in developing and deploying ad-
7	vanced energy technologies.
8	(d) Responsibilities.—The Administrator shall be
9	responsible for assessing the success of programs and ter-
10	minating programs carried out under this section that are
11	not achieving the goals of the programs.
12	(e) Assistance provided under this
13	section shall be used to supplement, and not to supplant,
14	any other Federal resources available to carry out activi-
15	ties described in this section.
16	(f) AUTHORIZATION.—There are authorized to be ap-
17	propriated such sums as are necessary to carry out this
18	section.
19	Subtitle B—Drinking Water Adap-
20	tation, Technology, Education,
21	and Research
22	SEC. 211. EFFECTS OF CLIMATE CHANGE ON DRINKING
23	WATER UTILITIES.
24	(a) FINDINGS.—Congress finds that—

1	(1) the consensus among climate scientists is
2	overwhelming that climate change is occurring more
3	rapidly than can be attributed to natural causes, and
4	that significant impacts to the water supply are al-
5	ready occurring;
6	(2) among the first and most critical of those
7	impacts will be change to patterns of precipitation
8	around the world, which will affect water availability
9	for the most basic drinking water and domestic
10	water needs of populations in many areas of the
11	United States;
12	(3) drinking water utilities throughout the
13	United States, as well as those in Europe, Australia,
14	and Asia, are concerned that extended changes in
15	precipitation will lead to extended droughts;
16	(4) supplying water is highly energy-intensive
17	and will become more so as climate change forces
18	more utilities to turn to alternative supplies;
19	(5) energy production consumes a significant
20	percentage of the fresh water resources of the
21	United States;
22	(6) since 2003, the drinking water industry of
23	the United States has sponsored, through a non-
24	profit water research foundation, various studies to

1	assess the impacts of climate change on drinking
2	water supplies;
3	(7) those studies demonstrate the need for a
4	comprehensive program of research into the full
5	range of impacts on drinking water utilities, includ-
6	ing impacts on water supplies, facilities, and cus-
7	tomers;
8	(8) that nonprofit water research foundation is
9	also coordinating internationally with other drinking
10	water utilities on shared research projects and has
11	hosted international workshops with counterpart Eu-
12	ropean and Asian water research organizations to
13	develop a unified research agenda for applied re-
14	search on adaptive strategies to address climate
15	change impacts;
16	(9) research data in existence as of the date of
17	enactment of this Act—
18	(A) summarize the best available scientific
19	evidence on climate change;
20	(B) identify the implications of climate
21	change for the water cycle and the availability
22	and quality of water resources; and
23	(C) provide general guidance on planning
24	and adaptation strategies for water utilities;
25	and

1	(10) given uncertainties about specific climate
2	changes in particular areas, drinking water utilities
3	need to prepare for a wider range of likely possibili-
4	ties in managing and delivery of water.
5	(b) In General.—The Administrator, in cooperation
6	with the Secretary of Commerce, the Secretary of Energy,
7	and the Secretary of the Interior, shall establish and pro-
8	vide funding for a program of directed and applied re-
9	search, to be conducted through a nonprofit drinking
10	water research foundation and sponsored by water utili-
11	ties, to assist the utilities in adapting to the effects of cli-
12	mate change.
13	(c) Research Areas.—The research conducted in
14	accordance with subsection (b) shall include research
15	into—
16	(1) water quality impacts and solutions, includ-
17	ing research—
18	(A) to address probable impacts on raw
19	water quality resulting from—
20	(i) erosion and turbidity from extreme
21	precipitation events;
22	(ii) watershed vegetation changes; and
23	(iii) increasing ranges of pathogens,
24	algae, and nuisance organisms resulting
25	from warmer temperatures; and

1	(B) on mitigating increasing damage to
2	watersheds and water quality by evaluating ex-
3	treme events, such as wildfires and hurricanes,
4	to learn and develop management approaches to
5	mitigate—
6	(i) permanent watershed damage;
7	(ii) quality and yield impacts on
8	source waters; and
9	(iii) increased costs of water treat-
10	ment;
11	(2) impacts on groundwater supplies from car-
12	bon sequestration, including research to evaluate po-
13	tential water quality consequences of carbon seques-
14	tration in various regional aquifers, soil conditions,
15	and mineral deposits;
16	(3) water quantity impacts and solutions, in-
17	cluding research—
18	(A) to evaluate climate change impacts on
19	water resources throughout hydrological basins
20	of the United States;
21	(B) to improve the accuracy and resolution
22	of climate change models at a regional level;
23	(C) to identify and explore options for in-
24	creasing conjunctive use of aboveground and
25	underground storage of water; and

1	(D) to optimize operation of existing and
2	new reservoirs in diminished and erratic periods
3	of precipitation and runoff;
4	(4) infrastructure impacts and solutions for
5	water treatment and wastewater treatment facilities
6	and underground pipelines, including research—
7	(A) to evaluate and mitigate the impacts of
8	sea level rise on—
9	(i) near-shore facilities;
10	(ii) soil drying and subsidence;
11	(iii) reduced flows in water and waste-
12	water pipelines; and
13	(iv) extreme flows in wastewater sys-
14	tems; and
15	(B) on ways of increasing the resilience of
16	existing infrastructure, planning cost-effective
17	responses to adapt to climate change, and de-
18	veloping new design standards for future infra-
19	structure that include the use of energy con-
20	servation measures and renewable energy in
21	new construction to the maximum extent prac-
22	ticable;
23	(5) desalination, water reuse, and alternative
24	supply technologies, including research—

1	(A) to improve and optimize existing mem-
2	brane technologies, and to identify and develop
3	breakthrough technologies, to enable the use of
4	seawater, brackish groundwater, treated waste-
5	water, and other impaired sources;
6	(B) into new sources of water through
7	more cost-effective water treatment practices in
8	recycling and desalination; and
9	(C) to improve technologies for use in—
10	(i) managing and minimizing the vol-
11	ume of desalination and reuse concentrate
12	streams; and
13	(ii) minimizing the environmental im-
14	pacts of seawater intake at desalination fa-
15	cilities;
16	(6) energy efficiency and greenhouse gas mini-
17	mization, including research—
18	(A) on optimizing the energy efficiency of
19	water supply and wastewater operations and
20	improving water efficiency in energy production
21	and management; and
22	(B) to identify and develop renewable, car-
23	bon-neutral energy options for the water supply
24	and wastewater industry;

1	(7) regional and hydrological basin cooperative
2	water management solutions, including research
3	into—
4	(A) institutional mechanisms for greater
5	regional cooperation and use of water ex-
6	changes, banking, and transfers; and
7	(B) the economic benefits of sharing risks
8	of shortage across wider areas;
9	(8) utility management, decision support sys-
10	tems, and water management models, including re-
11	search—
12	(A) into improved decision support systems
13	and modeling tools for use by water utility
14	managers to assist with increased water supply
15	uncertainty and adaptation strategies posed by
16	climate change;
17	(B) to provide financial tools, including
18	new rate structures, to manage financial re-
19	sources and investments, because increased con-
20	servation practices may diminish revenue and
21	increase investments in infrastructure; and
22	(C) to develop improved systems and mod-
23	els for use in evaluating—

1	(1) successful alternative methods for
2	conservation and demand management;
3	and
4	(ii) climate change impacts on
5	groundwater resources;
6	(9) reducing greenhouse gas emissions and im-
7	proving energy demand management, including re-
8	search to improve energy efficiency in water collec-
9	tion, production, transmission, treatment, distribu-
10	tion, and disposal to provide more sustainability and
11	means to assist drinking water utilities in reducing
12	the production of greenhouse gas emissions in the
13	collection, production, transmission, treatment, dis-
14	tribution, and disposal of drinking water;
15	(10) water conservation and demand manage-
16	ment, including research—
17	(A) to develop strategic approaches to
18	water demand management that offer the low-
19	est-cost, noninfrastructural options to serve
20	growing populations or manage declining sup-
21	plies, primarily through—
22	(i) efficiencies in water use and re-
23	allocation of the saved water;
24	(ii) demand management tools;
25	(iii) economic incentives; and

1	(iv) water-saving technologies; and
2	(B) into efficiencies in water management
3	through integrated water resource management
4	that incorporates—
5	(i) supply-side and demand-side proc-
6	esses;
7	(ii) continuous adaptive management;
8	and
9	(iii) the inclusion of stakeholders in
10	decisionmaking processes; and
11	(11) communications, education, and public ac-
12	ceptance, including research—
13	(A) into improved strategies and ap-
14	proaches for communicating with customers, de-
15	cisionmakers, and other stakeholders about the
16	implications of climate change on water supply
17	and water management;
18	(B) to develop effective communication ap-
19	proaches—
20	(i) to gain public acceptance of alter-
21	native water supplies and new policies and
22	practices, including conservation and de-
23	mand management; and
24	(ii) to gain public recognition and ac-
25	ceptance of increased costs; and

1	(C) to create and maintain a clearinghouse
2	of climate change information for water utili-
3	ties, academic researchers, stakeholders, gov-
4	ernment agencies, and research organizations.
5	(d) Authorization of Appropriations.—There is
6	authorized to be appropriated to carry out this section
7	\$25,000,000 for each of fiscal years 2010 through 2020.
8	TITLE III—TRANSITION AND
9	ADAPTATION
10	Subtitle A—Green Jobs and Worker
11	Transition
12	PART 1—GREEN JOBS
13	SEC. 301. CLEAN ENERGY CURRICULUM DEVELOPMENT
14	GRANTS.
15	(a) Authorization.—The Secretary of Education is
16	authorized to award grants, on a competitive basis, to eli-
17	gible partnerships to develop programs of study (con-
18	taining the information described in section 122(c)(1)(A)
19	of the Carl D. Perkins Career and Technical Education
20	Act of 2006 (20 U.S.C. 2342)), that are focused on emerg-
21	ing careers and jobs in the fields of clean energy, renew-
22	able energy, energy efficiency, climate change mitigation
22	
23	and climate change adaptation. The Secretary of Edu-

Secretary of Energy prior to the issuance of a solicitation 1 2 for grant applications. 3 (b) ELIGIBLE PARTNERSHIPS.—For purposes of this 4 section, an eligible partnership shall include— 5 (1) at least 1 local educational agency eligible 6 for funding under section 131 of the Carl D. Per-7 kins Career and Technical Education Act of 2006 8 (20 U.S.C. 2351) or an area career and technical 9 education school or education service agency de-10 scribed in such section; 11 (2) at least 1 postsecondary institution eligible 12 for funding under section 132 of such Act (20 13 U.S.C. 2352); and 14 (3) representatives of the community including 15 business, labor organizations, and industry that have 16 experience in fields as described in subsection (a). 17 (c) APPLICATION.—An eligible partnership seeking a 18 grant under this section shall submit an application to the Secretary at such time and in such manner as the Sec-19 20 retary may require. Applications shall include— 21 (1) a description of the eligible partners and 22 partnership, the roles and responsibilities of each 23 partner, and a demonstration of each partner's ca-24 pacity to support the program;

1	(2) a description of the career area or areas
2	within the fields as described in subsection (a) to be
3	developed, the reason for the choice, and evidence of
4	the labor market need to prepare students in that
5	area;
6	(3) a description of the new or existing program
7	of study and both secondary and postsecondary com-
8	ponents;
9	(4) a description of the students to be served by
10	the new program of study;
11	(5) a description of how the program of study
12	funded by the grant will be replicable and dissemi-
13	nated to schools outside of the partnership, including
14	urban and rural areas;
15	(6) a description of applied learning that will be
16	incorporated into the program of study and how it
17	will incorporate or reinforce academic learning;
18	(7) a description of how the program of study
19	will be delivered;
20	(8) a description of how the program will pro-
21	vide accessibility to students, especially economically
22	disadvantaged, low performing, and urban and rural
23	students;
24	(9) a description of how the program will ad-
25	dress placement of students in nontraditional fields

1 as described in section 3(20) of the Carl D. Perkins 2 Career and Technical Education Act of 2006 (20 3 U.S.C. 2302(20); and 4 (10) a description of how the applicant proposes 5 to consult or has consulted with a labor organiza-6 tion, labor management partnership, apprenticeship 7 program, or joint apprenticeship and training pro-8 gram that provides education and training in the 9 field of study for which the applicant proposes to de-10 velop a curriculum. 11 (d) Priority.—The Secretary shall give priority to 12 applications that— 13 (1) use online learning or other innovative 14 means to deliver the program of study to students, 15 educators, and instructors outside of the partner-16 ship; and 17 (2) focus on low performing students and spe-18 cial populations as defined in section 3(29) of the 19 Carl D. Perkins Career and Technical Education 20 Act of 2006 (20 U.S.C. 2302(29)). 21 (e) Peer Review.—The Secretary shall convene a 22 peer review process to review applications for grants under 23 this section and to make recommendations regarding the selection of grantees. Members of the peer review committee shall include— 25

1 educators who have experience imple-(1)2 menting curricula with comparable purposes; and 3 (2) business and industry experts in fields as 4 described in subsection (a). 5 (f) USES OF FUNDS.—Grants awarded under this section shall be used for the development, implementation, 6 7 and dissemination of programs of study (as described in 8 section 122(c)(1)(A) of the Carl D. Perkins Career and Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in 10 career areas related to clean energy, renewable energy, energy efficiency, climate change mitigation, and climate 11 12 change adaptation. 13 302. DEVELOPMENT OF INFORMATION AND 14 SOURCES CLEARINGHOUSE **FOR** VOCA-15 TIONAL EDUCATION AND JOB TRAINING IN 16 RENEWABLE ENERGY SECTORS. 17 (a) Development of Clearinghouse.—Not later 18 than 18 months after the date of enactment of this Act, the Secretary of Labor, in collaboration with the Secretary 19 of Energy and the Secretary of Education, shall develop 20 21 an internet based information and resources clearinghouse 22 to aid career and technical education and job training programs for the renewable energy sectors. In establishing the clearinghouse, the Secretary shall—

1	(1) collect and provide information that ad-
2	dresses the consequences of rapid changes in tech-
3	nology and regional disparities for renewable energy
4	training programs and provides best practices for
5	training and education in light of such changes and
6	disparities;
7	(2) place an emphasis on facilitating collabora-
8	tion between the renewable energy industry and job
9	training programs and on identifying industry and
10	technological trends and best practices, to better
11	help job training programs maintain quality and rel-
12	evance; and
13	(3) place an emphasis on assisting programs
14	that cater to high-demand middle-skill, trades, man-
15	ufacturing, contracting, and consulting careers.
16	(b) Solicitation and Consultation.—In devel-
17	oping the clearinghouse pursuant to subsection (a), the
18	Secretary shall solicit information and expertise from busi-
19	nesses and organizations in the renewable energy sector
20	and from institutions of higher education, career and tech-
21	nical schools, and community colleges that provide train-
22	ing in the renewable energy sectors. The Secretary shall

23 solicit a comprehensive peer review of the clearinghouse

24 by such entities not less than once every 2 years. Nothing

1	in this subsection should be interpreted to require the di-
2	vulgence of proprietary or competitive information.
3	(c) Contents of Clearinghouse.—
4	(1) Separate section for each renewable
5	ENERGY SECTOR.—The clearinghouse shall contain
6	separate sections developed for each of the following
7	renewable energy sectors:
8	(A) Solar energy systems.
9	(B) Wind energy systems.
10	(C) Energy transmission systems.
11	(D) Geothermal systems of energy and
12	heating.
13	(E) Energy efficiency technical training.
14	(2) Additional requirements.—In addition
15	to the information required in subsection (a), each
16	section of the clearinghouse shall include information
17	on basic environmental science and processes needed
18	to understand renewable energy systems, Federal
19	government and industry resources, and points of
20	contact to aid institutions in the development of
21	placement programs for apprenticeships and post
22	graduation opportunities, and information and tips
23	about a green workplace, energy efficiency, and rel-
24	evant environmental topics and information on avail-
25	able industry recognized certifications in each area.

- 1 (d) DISSEMINATION.—The clearinghouse shall be
- 2 made available via the Internet to the general public. No-
- 3 tice of the completed clearinghouse and any major revi-
- 4 sions thereto shall also be provided—
- 5 (1) to each Member of Congress; and
- 6 (2) on the websites of the Departments of Edu-
- 7 cation, Energy, and Labor.
- 8 (e) Revision.—The Secretary of Labor shall revise
- 9 and update the clearinghouse on a regular basis to ensure
- 10 its relevance.
- 11 SEC. 303. GREEN CONSTRUCTION CAREERS DEMONSTRA-
- 12 TION PROJECT.
- 13 (a) Establishment and Authority.—The Sec-
- 14 retary of Labor, in consultation with the Secretary of En-
- 15 ergy, shall, not later than 180 days after the enactment
- 16 of this Act, establish a Green Construction Careers dem-
- 17 onstration project by rules, regulations, and guidance in
- 18 accordance with the provisions of this section. The purpose
- 19 of the demonstration project shall be to promote middle
- 20 class careers and quality employment practices in the
- 21 green construction sector among targeted workers and to
- 22 advance efficiency and performance on construction
- 23 projects related to this Act. In order to advance these pur-
- 24 poses, the Secretary shall identify projects, including resi-
- 25 dential retrofitting projects, funded directly by or assisted

- 1 in whole or in part by or through the Federal Government
- 2 pursuant to this Act or by any other entity established
- 3 in accordance with this Act, to which all of the following
- 4 shall apply.
- 5 (b) REQUIREMENTS.—The Secretaries may establish
- 6 such terms and conditions for the demonstration projects
- 7 as the Secretaries determine are necessary to meet the
- 8 purposes of subsection (a), including establishing min-
- 9 imum proportions of hours to be worked by targeted work-
- 10 ers on such projects. The Secretaries may require the con-
- 11 tractors and subcontractors performing construction serv-
- 12 ices on the project to comply with the terms and conditions
- 13 as a condition of receiving funding or assistance from the
- 14 Federal Government under this Act.
- 15 (c) EVALUATION.—The Secretaries shall evaluate the
- 16 demonstration projects against the purposes of this section
- 17 at the end of 3 years from initiation of the demonstration
- 18 project. If the Secretaries determine that the demonstra-
- 19 tion projects have been successful, the Secretaries may
- 20 identify further projects to which of the provisions of this
- 21 section shall apply.
- 22 (d) GAO REPORT.—The Comptroller General shall
- 23 prepare and submit a report to the Committee on Health,
- 24 Education, Labor, and Pensions and the Committee on
- 25 Energy and Natural Resources of the Senate and the

- 1 Committee on Education and Labor and the Committee
- 2 on Energy and Commerce of the House of Representatives
- 3 not later than 5 years after the date of enactment of this
- 4 Act, which shall advise the committees of the results of
- 5 the demonstration projects and make appropriate rec-
- 6 ommendations.
- 7 (e) Definition and Designation of Targeted
- 8 Workers.—As used in this section, the term "targeted
- 9 worker" means an individual who resides in the same
- 10 labor market area (as defined in section 101(18) of the
- 11 Workforce Investment Act of 1998 (29 U.S.C. 2801(18)))
- 12 as the project and who—
- 13 (1) is a member of a targeted group, within the
- meaning of section 51 of the Internal Revenue Code
- of 1986, other than an individual described in sub-
- section (d)(1)(C) of such section;
- 17 (2)(A) resides in a census tract in which not
- less than 20 percent of the households have incomes
- below the Federal poverty guidelines; or
- (B) is a member of a family that received a
- 21 total family income that, during the 2-year period
- 22 prior to employment on the project or admission to
- 23 the pre-apprenticeship program, did not exceed 200
- 24 percent of the Federal poverty guidelines (exclusive
- of unemployment compensation, child support pay-

- 1 ments, payments described in section 101(25)(A) of
- the Workforce Investment Act (29 U.S.C.
- 3 2801(25)(A)), and old-age and survivors insurance
- 4 benefits received under section 202 of the Social Se-
- 5 curity Act (42 U.S.C. 402); or
- 6 (3) is a displaced homemaker, as such term is
- 7 defined in section 3(10) of the Carl D. Perkins Ca-
- 8 reer and Technical Education Act of 2006 (20
- 9 U.S.C. 2302(10)).
- 10 (f) Qualified Pre-apprenticeship Program.—A
- 11 qualified pre-apprenticeship program is a pre-apprentice-
- 12 ship program that has demonstrated an ability to recruit,
- 13 train, and prepare for admission to apprenticeship pro-
- 14 grams individuals who are targeted workers.
- 15 (g) Qualified Apprenticeship and Other
- 16 Training Programs.—
- 17 (1) Participation by each contractor re-
- 18 QUIRED.—Each contractor and subcontractor that
- seeks to provide construction services on projects
- 20 identified by the Secretaries pursuant to subsection
- 21 (a) shall submit adequate assurances with its bid or
- 22 proposal that it participates in a qualified appren-
- 23 ticeship or other training program, with a written
- 24 arrangement with a qualified pre-apprenticeship pro-
- 25 gram, for each craft or trade classification of worker

1	that it intends to employ to perform work on the
2	project.
3	(2) DEFINITION OF QUALIFIED APPRENTICE

SHIP OR OTHER TRAINING PROGRAM.—

- (A) IN GENERAL.—For purposes of this section, the term "qualified apprenticeship or other training program" means an apprenticeship or other training program that qualifies as an employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).
- (B) CERTIFICATION OF OTHER PROGRAMS IN CERTAIN LOCALITIES.—In the event that the Secretary of Labor certifies that a qualified apprenticeship or other training program (as defined in subparagraph (A)) for a craft or trade classification of workers that a prospective contractor or subcontractor intends to employ, is not operated in the locality where the project will be performed, an apprenticeship or other training program that is not an employee welfare benefit plan (as defined in such section) may be certified by the Secretary as a qualified apprenticeship or other training program pro-

1	vided it is registered with the Office of Appren-
2	ticeship of the Department of Labor, or a State
3	apprenticeship agency recognized by the Office
4	of Apprenticeship for Federal purposes.
5	(h) Facilitating Compliance.—The Secretary
6	may require Federal contracting agencies, recipients of
7	Federal assistance, and any other entity established in ac-
8	cordance with this Act to require contractors to enter into
9	an agreement in a manner comparable with the standards
10	set forth in sections 3 and 4 of Executive Order 13502
11	in order to achieve the purposes of this section, including
12	any requirements established by subsection (b).
13	(i) Limitation.—The requirements of this section
14	shall not apply to any project funded under this Act in
15	American Samoa, Guam, the Commonwealth of the North-
16	ern Mariana Islands, the Commonwealth of Puerto Rico,
17	or the United States Virgin Islands, unless participation
18	is requested by the governor of such territories within 1
19	year of the promulgation of rules under this Act.
20	PART 2—CLIMATE CHANGE WORKER
21	ADJUSTMENT ASSISTANCE
22	SEC. 311. PETITIONS, ELIGIBILITY REQUIREMENTS, AND
23	DETERMINATIONS.
24	(a) Petitions.—

1	(1) FILING.—A petition for certification of eli-
2	gibility to apply for adjustment assistance for a
3	group of workers under this part may be filed by
4	any of the following:
5	(A) The group of workers.
6	(B) The certified or recognized union or
7	other duly authorized representative of such
8	workers.
9	(C) Employers of such workers, one-stop
10	operators or one-stop partners (as defined in
11	section 101 of the Workforce Investment Act of
12	1998 (29 U.S.C. 2801)), including State em-
13	ployment security agencies, or the State dis-
14	located worker unit established under title I of
15	such Act, on behalf of such workers.
16	The petition shall be filed simultaneously with the
17	Secretary of Labor and with the Governor of the
18	State in which such workers' employment site is lo-
19	cated.
20	(2) ACTION BY GOVERNORS.—Upon receipt of a
21	petition filed under paragraph (1), the Governor
22	shall—
23	(A) ensure that rapid response activities
24	and appropriate core and intensive services (as
25	described in section 134 of the Workforce In-

1	vestment Act of 1998 (29 U.S.C. 2864)) au-
2	thorized under other Federal laws are made
3	available to the workers covered by the petition
4	to the extent authorized under such laws; and
5	(B) assist the Secretary in the review of
6	the petition by verifying such information and
7	providing such other assistance as the Secretary
8	may request.
9	(3) ACTION BY THE SECRETARY.—Upon receipt
10	of the petition, the Secretary shall promptly publish
11	notice in the Federal Register and on the website of
12	the Department of Labor that the Secretary has re-
13	ceived the petition and initiated an investigation.
14	(4) Hearings.—If the petitioner, or any other
15	person found by the Secretary to have a substantial
16	interest in the proceedings, submits not later than
17	10 days after the date of the Secretary's publication
18	under paragraph (3) a request for a hearing, the
19	Secretary shall provide for a public hearing and af-
20	ford such interested persons an opportunity to be
21	present, to produce evidence, and to be heard.
22	(b) Eligibility.—
23	(1) In general.—A group of workers shall be
24	certified by the Secretary as eligible to apply for ad-

1	justment assistance under this part pursuant to a
2	petition filed under subsection (a) if—
3	(A) the group of workers is employed in—
4	(i) energy producing and transforming
5	industries;
6	(ii) industries dependent upon energy
7	industries;
8	(iii) energy-intensive manufacturing
9	industries;
10	(iv) consumer goods manufacturing;
11	or
12	(v) other industries whose employment
13	the Secretary determines has been ad-
14	versely affected by any requirement of title
15	VII of the Clean Air Act;
16	(B) the Secretary determines that a sig-
17	nificant number or proportion of the workers in
18	such workers' employment site have become to-
19	tally or partially separated, or are threatened to
20	become totally or partially separated from em-
21	ployment; and
22	(C) the sales, production, or delivery of
23	goods or services have decreased as a result of
24	any requirement of title VII of the Clean Air
25	Act, including—

1	(i) the shift from reliance upon fossi
2	fuels to other sources of energy, including
3	renewable energy, that results in the clos-
4	ing of a facility or layoff of employees at
5	a facility that mines, produces, processes
6	or utilizes fossil fuels to generate elec-
7	tricity;
8	(ii) a substantial increase in the cost
9	of energy required for a manufacturing fa-
10	cility to produce items whose prices are
11	competitive in the marketplace, to the ex-
12	tent the cost is not offset by assistance
13	provided to the facility pursuant to title
14	VII of the Clean Air Act; or
15	(iii) other documented occurrences
16	that the Secretary determines are indica-
17	tors of an adverse impact on an industry
18	described in subparagraph (A) as a result
19	of any requirement of title VII of the
20	Clean Air Act.
21	(2) Workers in public agencies.—A group
22	of workers in a public agency shall be certified by
23	the Secretary as eligible to apply for climate change
24	adjustment assistance pursuant to a petition filed it
25	the Secretary determines that a significant number

1	or proportion of the workers in the public agency
2	have become totally or partially separated from em-
3	ployment, or are threatened to become totally or
4	partially separated as a result of any requirement of
5	title VII of the Clean Air Act.
6	(3) Adversely affected service work-
7	ERS.—A group of workers shall be certified as eligi-
8	ble to apply for climate change adjustment assist-
9	ance pursuant to a petition filed if the Secretary de-
10	termines that—
11	(A) a significant number or proportion of
12	the service workers at an employment site
13	where a group of workers has been certified by
14	the Secretary as eligible to apply for adjustment
15	assistance under this part pursuant to para-
16	graph (1) have become totally or partially sepa-
17	rated from employment, or are threatened to
18	become totally or partially separated; and
19	(B) a loss of business in the firm providing
20	service workers to an employment site is di-
21	rectly attributable to one or more of the docu-
22	mented occurrences listed in paragraph (1)(C).
23	(c) Authority to Investigate and Collect In-
24	FORMATION.—

1	(1) In General.—The Secretary shall, in de-
2	termining whether to certify a group of workers
3	under subsection (d), obtain information the Sec-
4	retary determines to be necessary to make the cer-
5	tification, through questionnaires and in such other
6	manner as the Secretary determines appropriate
7	from—
8	(A) the workers' employer;
9	(B) officials of certified or recognized
10	unions or other duly authorized representatives
11	of the group of workers; or
12	(C) one-stop operators or one-stop partners
13	(as defined in section 101 of the Workforce In-
14	vestment Act of 1998 (29 U.S.C. 2801)).
15	(2) Verification of information.—The Sec-
16	retary shall require an employer, union, or one-stop
17	operator or partner to certify all information ob-
18	tained under paragraph (1) from the employer,
19	union, or one-stop operator or partner (as the case
20	may be) on which the Secretary relies in making a
21	determination under subsection (d), unless the Sec-
22	retary has a reasonable basis for determining that
23	such information is accurate and complete without
24	being certified.

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1 (3) Protection of Confidential Informa-2 TION.—The Secretary may not release information 3 obtained under paragraph (1) that the Secretary 4 considers to be confidential business information un-5 less the employer submitting the confidential busi-6 ness information had notice, at the time of submis-7 sion, that the information would be released by the 8 Secretary, or the employer subsequently consents to 9 the release of the information. Nothing in this para-10 graph shall be construed to prohibit the Secretary 11 from providing such confidential business informa-12 tion to a court in camera or to another party under 13 a protective order issued by a court.

14 (d) Determination by the Secretary of 15 Labor.—

(1) IN GENERAL.—As soon as possible after the date on which a petition is filed under subsection (a), but in any event not later than 40 days after that date, the Secretary, in consultation with the Secretary of Energy and the Administrator, as necessary, shall determine whether the petitioning group meets the requirements of subsection (b) and shall issue a certification of eligibility to apply for assistance under this part covering workers in any group which meets such requirements. Each certifi-

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- 1 cation shall specify the date on which the total or 2 partial separation began or threatened to begin. 3 Upon reaching a determination on a petition, the 4 Secretary shall promptly publish a summary of the 5 determination in the Federal Register and on the 6 website of the Department of Labor, together with 7 the Secretary's reasons for making such determina-8 tion.
  - (2) ONE YEAR LIMITATION.—A certification under this section shall not apply to any worker whose last total or partial separation from the employment site before the worker's application under section 312(a) occurred more than 1 year before the date of the petition on which such certification was granted.
    - (3) Revocation of Certification.—Whenever the Secretary determines, with respect to any certification of eligibility of the workers of an employment site, that total or partial separations from such site are no longer a result of the factors specified in subsection (b)(1), the Secretary shall terminate such certification and promptly have notice of such termination published in the Federal Register and on the website of the Department of Labor, together with the Secretary's reasons for making such

1	determination. Such termination shall apply only
2	with respect to total or partial separations occurring
3	after the termination date specified by the Secretary.
4	(e) Industry Notification of Assistance.—
5	Upon receiving a notification of a determination under
6	subsection (d) with respect to a domestic industry the Sec-
7	retary of Labor shall notify the representatives of the do-
8	mestic industry affected by the determination, employers
9	publicly identified by name during the course of the pro-
10	ceeding relating to the determination, and any certified
11	or recognized union or, to the extent practicable, other
12	duly authorized representative of workers employed by
13	such representatives of the domestic industry, of—
14	(1) the adjustment assistance, training, and
15	other benefits available under this part;
16	(2) the manner in which to file a petition and
17	apply for such benefits;
18	(3) the availability of assistance in filing such
19	petitions;
20	(4) notify the Governor of each State in which
21	one or more employers in such industry are located
22	of the Secretary's determination and the identity of
23	the employers; and
24	(5) upon request, provide any assistance that is
25	necessary to file a petition under subsection (a).

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1 (f) Benefit Information to Workers, Pro-2 viders of Training.—

(1) IN GENERAL.—The Secretary shall provide full information to workers about the adjustment assistance, training, and other benefits available under this part and about the petition and application procedures, and the appropriate filing dates, for such assistance, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 312(a) and shall periodically review such compliance. The Secretary shall inform the State Board for Vocational Education or equivalent agency, the one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under subsection (d) and of projections, if available, of the needs for training under as a result of such certification.

1	(2) Notice by Mail.—The Secretary shall pro-
2	vide written notice through the mail of the benefits
3	available under this part to each worker whom the
4	Secretary has reason to believe is covered by a cer-
5	tification made under subsection (d)—
6	(A) at the time such certification is made,
7	if the worker was partially or totally separated
8	from the adversely affected employment before
9	such certification; or
10	(B) at the time of the total or partial sepa-
11	ration of the worker from the adversely affected
12	employment, if subparagraph (A) does not
13	apply.
14	(3) Newspapers; website.—The Secretary
15	shall publish notice of the benefits available under
16	this part to workers covered by each certification
17	made under subsection (d) in newspapers of general
18	circulation in the areas in which such workers reside
19	and shall make such information available on the
20	website of the Department of Labor.
21	SEC. 312. PROGRAM BENEFITS.
22	(a) CLIMATE CHANGE ADJUSTMENT ASSISTANCE.—
23	(1) Eligibility.—Payment of climate change
24	adjustment assistance shall be made to an adversely
25	affected worker covered by a certification under sec-

1	tion 311(b) who files an application for such assist-
2	ance for any week of unemployment which begins on
3	or after the date of such certification, if the fol-
4	lowing conditions are met:
5	(A) Such worker's total or partial separa-
6	tion before the worker's application under this
7	part occurred—
8	(i) on or after the date, as specified in
9	the certification under which the worker is
10	covered, on which total or partial separa-
11	tion began or threatened to begin in the
12	adversely affected employment;
13	(ii) before the expiration of the 2-year
14	period beginning on the date on which the
15	determination under section 311(d) was
16	made; and
17	(iii) before the termination date, if
18	any, determined pursuant to section
19	311(d)(3).
20	(B) Such worker had, in the 52-week pe-
21	riod ending with the week in which such total
22	or partial separation occurred, at least 26
23	weeks of full-time employment or 1,040 hours
24	of part time employment in adversely affected
25	employment, or, if data with respect to weeks of

1	employment are not available, equivalent
2	amounts of employment computed under regu-
3	lations prescribed by the Secretary. For the
4	purposes of this paragraph, any week in which
5	such worker—
6	(i) is on employer-authorized leave for
7	purposes of vacation, sickness, injury, ma-
8	ternity, or inactive duty or active duty
9	military service for training;
10	(ii) does not work because of a dis-
11	ability that is compensable under a work-
12	men's compensation law or plan of a State
13	or the United States;
14	(iii) had his employment interrupted
15	in order to serve as a full-time representa-
16	tive of a labor organization in such firm; or
17	(iv) is on call-up for purposes of active
18	duty in a reserve status in the Armed
19	Forces of the United States, provided such
20	active duty is "Federal service" as defined
21	in section 8521(a)(1) of title 5, United
22	States Code,
23	shall be treated as a week of employment.

1	(C) Such worker is enrolled in a training
2	program approved by the Secretary under sub-
3	section $(b)(2)$ .
4	(2) Ineligibility for certain other bene-
5	FITS.—An adversely affected worker receiving a pay-
6	ment under this section shall be ineligible to receive
7	any other form of unemployment insurance for the
8	period in which such worker is receiving climate
9	change adjustment assistance under this section.
10	(3) Revocation.—If—
11	(A) the Secretary determines that—
12	(i) the adversely affected worker—
13	(I) has failed to begin participa-
14	tion in the training program the en-
15	rollment in which meets the require-
16	ment of paragraph (1)(C); or
17	(II) has ceased to participate in
18	such training program before com-
19	pleting such training program; and
20	(ii) there is no justifiable cause for
21	such failure or cessation; or
22	(B) the certification made with respect to
23	such worker under section 311(d) is revoked
24	under paragraph (3) of such section,

no adjustment assistance may be paid to the ad-
versely affected worker under this part for the week
in which such failure, cessation, or revocation oc-
curred, or any succeeding week, until the adversely
affected worker begins or resumes participation in a
training program approved by the Secretary under
subsection $(b)(2)$ .
(4) Waivers of training requirements.—

- (4) WAIVERS OF TRAINING REQUIREMENTS.—
  The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (b)(2) if the Secretary determines that it is not feasible or appropriate for the worker, because of 1 or more of the following reasons:
  - (A) RECALL.—The worker has been notified that the worker will be recalled by the employer from which the separation occurred.

## (B) Marketable skills.—

(i) IN GENERAL.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance

1	with guidelines issued by the Secretary)
2	and there is a reasonable expectation of
3	employment at equivalent wages in the
4	foreseeable future.
5	(ii) Marketable skills defined.—
6	For purposes of clause (i), the term "mar-
7	ketable skills" may include the possession
8	of a postgraduate degree from an institu-
9	tion of higher education (as defined in sec-
10	tion 102 of the Higher Education Act of
11	1965 (20 U.S.C. 1002)) or an equivalent
12	institution, or the possession of an equiva-
13	lent postgraduate certification in a special-
14	ized field.
15	(C) Retirement.—The worker is within 2
16	years of meeting all requirements for entitle-
17	ment to either—
18	(i) old-age insurance benefits under
19	title II of the Social Security Act (42
20	U.S.C. 401 et seq.) (except for application
21	therefor); or
22	(ii) a private pension sponsored by an
23	employer or labor organization.
24	(D) Health.—The worker is unable to
25	participate in training due to the health of the

worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

- (E) Enrollment unavailable.—The first available enrollment date for the training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.
- (F) Training Not available.—Training described in subsection (b)(2) is not reasonably available to the worker from either governmental agencies or private sources (which may include area career and technical education schools, as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

(5) WEEKLY AMOUNTS.—The climate change
adjustment assistance payable to an adversely af-
fected worker for a week of unemployment shall be
an amount equal to 70 percent of the average weekly
wage of such worker, but in no case shall such
amount exceed the average weekly wage for all work-
ers in the State where the adversely affected worker
resides.
(6) Maximum duration of benefits.—An el-
igible worker may receive a climate change adjust-
ment assistance under this subsection for a period of
not longer than 156 weeks.
(b) Employment Services and Training.—
(1) Information and employment serv-
ICES.—The Secretary shall make available, directly
or through agreements with the States under section
313(a) to adversely affected workers covered by a
certification under section 311(a) the following in-
formation and employment services:
(A) Comprehensive and specialized assess-
ment of skill levels and service needs, including
through—
(i) diagnostic testing and use of other
assessment tools; and

1	(ii) in-depth interviewing and evalua-
2	tion to identify employment barriers and
3	appropriate employment goals.
4	(B) Development of an individual employ-
5	ment plan to identify employment goals and ob-
6	jectives, and appropriate training to achieve
7	those goals and objectives.
8	(C) Information on training available in
9	local and regional areas, information on indi-
10	vidual counseling to determine which training is
11	suitable training, and information on how to
12	apply for such training.
13	(D) Information on training programs and
14	other services provided by a State pursuant to
15	title I of the Workforce Investment Act of 1998
16	(29 U.S.C. 2801 et seq.) and available in local
17	and regional areas, information on individual
18	counseling to determine which training is suit-
19	able training, and information on how to apply
20	for such training.
21	(E) Information on how to apply for finan-
22	cial aid, including referring workers to edu-
23	cational opportunity centers described in section
24	402F of the Higher Education Act of 1965 (20
25	U.S.C. 1070a-16), where applicable, and noti-

fying workers that the workers may request fi-
nancial aid administrators at institutions of
higher education (as defined in section 102 of
such Act (20 U.S.C. 1002)) to use the adminis-
trators' discretion under section 479A of such
Act (20 U.S.C. 1087tt) to use current year in-
come data, rather than preceding year income
data, for determining the amount of need of the
workers for Federal financial assistance under
title IV of such Act (20 U.S.C. $1070$ et seq.).
(F) Short-term prevocational services, in-
cluding development of learning skills, commu-
nications skills, interviewing skills, punctuality,
personal maintenance skills, and professional
conduct to prepare individuals for employment
or training.
(G) Individual career counseling, including
job search and placement counseling, during the
period in which the individual is receiving cli-
mate change adjustment assistance or training
under this part, and after receiving such train-
ing for purposes of job placement.
(H) Provision of employment statistics in-
formation, including the provision of accurate

1	information relating to local, regional, and na-
2	tional labor market areas, including—
3	(i) job vacancy listings in such labor
4	market areas;
5	(ii) information on jobs skills nec-
6	essary to obtain jobs identified in job va-
7	cancy listings described in subparagraph
8	(A);
9	(iii) information relating to local occu-
10	pations that are in demand and earnings
11	potential of such occupations; and
12	(iv) skills requirements for local occu-
13	pations described in subparagraph (C).
14	(I) Information relating to the availability
15	of supportive services, including services relat-
16	ing to child care, transportation, dependent
17	care, housing assistance, and need-related pay-
18	ments that are necessary to enable an indi-
19	vidual to participate in training.
20	(2) Training.—
21	(A) APPROVAL OF AND PAYMENT FOR
22	TRAINING.—If the Secretary determines, with
23	respect to an adversely affected worker that—
24	(i) there is no suitable employment
25	(which may include technical and profes-

1	sional employment) available for an ad-
2	versely affected worker;
3	(ii) the worker would benefit from ap-
4	propriate training;
5	(iii) there is a reasonable expectation
6	of employment following completion of
7	such training;
8	(iv) training approved by the Sec-
9	retary is reasonably available to the worker
10	from either governmental agencies or pri-
11	vate sources (including area career and
12	technical education schools, as defined in
13	section 3 of the Carl D. Perkins Career
14	and Technical Education Act of 2006 (20
15	U.S.C. 2302), and employers);
16	(v) the worker is qualified to under-
17	take and complete such training; and
18	(vi) such training is suitable for the
19	worker and available at a reasonable cost,
20	the Secretary shall approve such training for
21	the worker. Upon such approval, the worker
22	shall be entitled to have payment of the costs
23	of such training (subject to the limitations im-
24	posed by this section) paid on the worker's be-

1	half by the Secretary directly or through a
2	voucher system.
3	(B) DISTRIBUTION.—The Secretary shall
4	establish procedures for the distribution of the
5	funds to States to carry out the training pro-
6	grams approved under this paragraph, and shall
7	make an initial distribution of the funds made
8	available as soon as practicable after the begin-
9	ning of each fiscal year.
10	(C) Additional rules regarding ap-
11	PROVAL OF AND PAYMENT FOR TRAINING.—
12	(i) For purposes of applying subpara-
13	graph (A)(iii), a reasonable expectation of
14	employment does not require that employ-
15	ment opportunities for a worker be avail-
16	able, or offered, immediately upon the
17	completion of training approved under
18	such subparagraph.
19	(ii) If the costs of training an ad-
20	versely affected worker are paid by the
21	Secretary under subparagraph (A), no
22	other payment for such costs may be made
23	under any other provision of Federal law.
24	No payment may be made under subpara-
25	graph (A) of the costs of training an ad-

1	versely affected worker or an adversely af-
2	fected incumbent worker if such costs—
3	(I) have already been paid under
4	any other provision of Federal law; or
5	(II) are reimbursable under any
6	other provision of Federal law and a
7	portion of such costs have already
8	been paid under such other provision
9	of Federal law.
10	The provisions of this clause shall not
11	apply to, or take into account, any funds
12	provided under any other provision of Fed-
13	eral law which are used for any purpose
14	other than the direct payment of the costs
15	incurred in training a particular adversely
16	affected worker, even if such use has the
17	effect of indirectly paying or reducing any
18	portion of the costs involved in training the
19	adversely affected worker.
20	(D) Training Programs.—The training
21	programs that may be approved under subpara-
22	graph (A) include—
23	(i) employer-based training, includ-
24	ing—

1	(I) on-the-job training if ap-
2	proved by the Secretary under sub-
3	section (c); and
4	(II) joint labor-management ap-
5	prenticeship programs;
6	(ii) any training program provided by
7	a State pursuant to title I of the Work-
8	force Investment Act of 1998 (29 U.S.C.
9	2801 et seq.);
10	(iii) any programs in career and tech-
11	nical education described in section 3(5) of
12	the Carl D. Perkins Career and Technical
13	Education Act of 2006 (20 U.S.C.
14	2302(5));
15	(iv) any program of remedial edu-
16	cation;
17	(v) any program of prerequisite edu-
18	cation or coursework required to enroll in
19	training that may be approved under this
20	paragraph;
21	(vi) any training program for which
22	all, or any portion, of the costs of training
23	the worker are paid—
24	(I) under any Federal or State
25	program other than this part; or

1	(II) from any source other than
2	this part;
3	(vii) any training program or
4	coursework at an accredited institution of
5	higher education (described in section 102
6	of the Higher Education Act of 1965 (20
7	U.S.C. 1002)), including a training pro-
8	gram or coursework for the purpose of—
9	(I) obtaining a degree or certifi-
10	cation; or
11	(II) completing a degree or cer-
12	tification that the worker had pre-
13	viously begun at an accredited institu-
14	tion of higher education; and
15	(viii) any other training program ap-
16	proved by the Secretary.
17	(3) Supplemental assistance.—The Sec-
18	retary may, as appropriate, authorize supplemental
19	assistance that is necessary to defray reasonable
20	transportation and subsistence expenses for separate
21	maintenance in a case in which training for a worker
22	is provided in a facility that is not within commuting
23	distance of the regular place of residence of the
24	worker.
25	(c) On-the-job Training Requirements.—

1	(1) IN GENERAL.—The Secretary may approve
2	on-the-job training for any adversely affected worker
3	if—
4	(A) the Secretary determines that on-the-
5	job training—
6	(i) can reasonably be expected to lead
7	to suitable employment with the employer
8	offering the on-the-job training;
9	(ii) is compatible with the skills of the
10	worker;
11	(iii) includes a curriculum through
12	which the worker will gain the knowledge
13	or skills to become proficient in the job for
14	which the worker is being trained; and
15	(iv) can be measured by benchmarks
16	that indicate that the worker is gaining
17	such knowledge or skills; and
18	(B) the State determines that the on-the-
19	job training program meets the requirements of
20	clauses (iii) and (iv) of subparagraph (A).
21	(2) Monthly payments.—The Secretary shall
22	pay the costs of on-the-job training approved under
23	paragraph (1) in monthly installments.
24	(3) Contracts for on-the-job training.—

1	(A) IN GENERAL.—The Secretary shall en-
2	sure, in entering into a contract with an em-
3	ployer to provide on-the-job training to a work-
4	er under this subsection, that the skill require-
5	ments of the job for which the worker is being
6	trained, the academic and occupational skill
7	level of the worker, and the work experience of
8	the worker are taken into consideration.
9	(B) TERM OF CONTRACT.—Training under
10	any such contract shall be limited to the period
11	of time required for the worker receiving on-
12	the-job training to become proficient in the job
13	for which the worker is being trained, but may
14	not exceed 156 weeks in any case.
15	(4) Exclusion of Certain Employers.—The
16	Secretary shall not enter into a contract for on-the-
17	job training with an employer that exhibits a pattern
18	of failing to provide workers receiving on-the-job
19	training from the employer with—
20	(A) continued, long-term employment as
21	regular employees; and
22	(B) wages, benefits, and working condi-
23	tions that are equivalent to the wages, benefits,
24	and working conditions provided to regular em-
25	ployees who have worked a similar period of

1	time and are doing the same type of work as
2	workers receiving on-the-job training from the
3	employer.
4	(d) Administrative and Employment Services
5	Funding.—
6	(1) Administrative funding.—In addition to
7	any funds made available to a State to carry out this
8	section for a fiscal year, the State shall receive for
9	the fiscal year a payment in an amount that is equal
10	to 15 percent of the amount of such funds and
11	shall—
12	(A) use not more than 2/3 of such payment
13	for the administration of the climate change ad-
14	justment assistance for workers program under
15	this part, including for—
16	(i) processing waivers of training re-
17	quirements under subsection (a)(4); and
18	(ii) collecting, validating, and report-
19	ing data required under this part; and
20	(B) use not less than ½ of such payment
21	for information and employment services under
22	subsection (b)(1).
23	(2) Employment services funding.—
24	(A) In general.—In addition to any
25	funds made available to a State to carry out

1	subsection $(b)(2)$ and the payment under para-
2	graph (1) for a fiscal year, the Secretary shall
3	provide to the State for the fiscal year a reason-
4	able payment for the purpose of providing em-
5	ployment and services under subsection $(b)(1)$ .
6	(B) Voluntary return of funds.—A
7	State that receives a payment under subpara-
8	graph (A) may decline or otherwise return such
9	payment to the Secretary.
10	(e) Job Search Assistance.—The Secretary of
11	Labor may provide adversely affected workers one-time
12	job search assistance in accordance with regulations pre-
13	scribed by the Secretary. Any job search assistance pro-
14	vided shall be available only under the following cir-
15	cumstances and conditions:
16	(1) The worker is no longer eligible for the cli-
17	mate change adjustment assistance under subsection
18	(a) and has completed the training program required
19	by subsection $(b)(1)(E)$ .
20	(2) The Secretary determines that the worker
21	cannot reasonably be expected to secure suitable em-
22	ployment in the commuting area in which the worker
23	resides.
24	(3) Assistance granted shall provide reimburse-
25	ment to the worker of all necessary job search ex-

1	penses as prescribed by the Secretary in regulations.
2	Such reimbursement under this subsection may not
3	exceed \$1,500 for any worker.
4	(f) Relocation Assistance Authorized.—
5	(1) IN GENERAL.—Any adversely affected work-
6	er covered by a certification issued under section
7	311 may file an application for relocation assistance
8	with the Secretary, and the Secretary may grant the
9	relocation assistance, subject to the terms and condi-
10	tions of this subsection.
11	(2) Conditions for granting assistance.—
12	Relocation assistance may be granted if all of the
13	following terms and conditions are met:
14	(A) Assist an adversely affected
15	WORKER.—The relocation assistance will assist
16	an adversely affected worker in relocating with-
17	in the United States.
18	(B) Local employment not avail-
19	ABLE.—The Secretary determines that the
20	worker cannot reasonably be expected to secure
21	suitable employment in the commuting area in
22	which the worker resides.
23	(C) TOTAL SEPARATION.—The worker is
24	totally separated from employment at the time
25	relocation commences.

1	(D) Suitable employment obtained.—
2	The worker—
3	(i) has obtained suitable employment
4	affording a reasonable expectation of long-
5	term duration in the area in which the
6	worker wishes to relocate; or
7	(ii) has obtained a bona fide offer of
8	such employment.
9	(E) APPLICATION.—The worker filed an
10	application with the Secretary at such time and
11	in such manner as the Secretary shall specify
12	by regulation.
13	(3) Amount of assistance.—Relocation as-
14	sistance granted to a worker under paragraph (1)
15	includes—
16	(A) all reasonable and necessary expenses
17	(including, subsistence and transportation ex-
18	penses at levels not exceeding amounts pre-
19	scribed by the Secretary in regulations) in-
20	curred in transporting the worker, the worker's
21	family, and household effects; and
22	(B) a lump sum equivalent to 3 times the
23	worker's average weekly wage, up to a max-
24	imum payment of \$1,500.

1	(4) Limitations.—Relocation assistance may
2	not be granted to a worker unless—
3	(A) the relocation occurs within 182 days
4	after the filing of the application for relocation
5	assistance; or
6	(B) the relocation occurs within 182 days
7	after the conclusion of training, if the worker
8	entered a training program approved by the
9	Secretary under subsection $(b)(2)$ .
10	(g) HEALTH INSURANCE CONTINUATION.—Not later
11	than 1 year after the date of enactment of this Act, the
12	Secretary of Labor shall prescribe regulations to provide,
13	for the period in which an adversely affected worker is
14	participating in a training program described in sub-
15	section (b)(2), 80 percent of the monthly premium of any
16	health insurance coverage that an adversely affected work-
17	er was receiving from such worker's employer prior to the
18	separation from employment described in section 311(b),
19	to be paid to any health care insurance plan designated
20	by the adversely affected worker receiving assistance
21	under this section.
22	SEC. 313. GENERAL PROVISIONS.
23	(a) AGREEMENTS WITH STATES.—
24	(1) In general.—The Secretary is authorized
25	on behalf of the United States to enter into an

1	agreement with any State, or with any State agency
2	(referred to in this section as "cooperating States"
3	and "cooperating State agencies" respectively).
4	Under such an agreement, the cooperating State or
5	cooperating State agency—
6	(A) as agent of the United States, shall re-
7	ceive applications for, and shall provide, pay-
8	ments on the basis provided in this part;
9	(B) in accordance with paragraph (6),
10	shall make available to adversely affected work-
11	ers covered by a certification under section
12	311(d) the employment services described in
13	section 312(b)(1);
14	(C) shall make any certifications required
15	under section 311(d); and
16	(D) shall otherwise cooperate with the Sec-
17	retary and with other State and Federal agen-
18	cies in providing payments and services under
19	this part.
20	Each agreement under this section shall provide the
21	terms and conditions upon which the agreement may
22	be amended, suspended, or terminated.
23	(2) FORM AND MANNER OF DATA.—Each
24	agreement under this section shall—

1	(A) provide the Secretary with the author-
2	ity to collect any data the Secretary determines
3	necessary to meet the requirements of this part;
4	and
5	(B) specify the form and manner in which
6	any such data requested by the Secretary shall
7	be reported.
8	(3) Relationship to unemployment insur-
9	ANCE.—Each agreement under this section shall
10	provide that an adversely affected worker receiving
11	climate change adjustment assistance under this
12	part shall not be eligible for unemployment insur-
13	ance otherwise payable to such worker under the
14	laws of the State.
15	(4) Review.—A determination by a cooper-
16	ating State agency with respect to entitlement to
17	program benefits under an agreement is subject to
18	review in the same manner and to the same extent
19	as determinations under the applicable State law
20	and only in that manner and to that extent.
21	(5) Coordination.—Any agreement entered
22	into under this section shall provide for the coordi-
23	nation of the administration of the provisions for
24	employment services, training, and supplemental as-
25	sistance under section 312 and under title I of the

1	Workforce Investment Act of 1998 (29 U.S.C. 2801
2	et seq.) upon such terms and conditions as are es-
3	tablished by the Secretary in consultation with the
4	States and set forth in such agreement. Any agency
5	of the State jointly administering such provisions
6	under such agreement shall be considered to be a co-
7	operating State agency for purposes of this part.
8	(6) Responsibilities of cooperating agen-
9	CIES.—Each cooperating State agency shall, in car-
10	rying out paragraph (1)(B)—
11	(A) advise each worker who applies for un-
12	employment insurance of the benefits under this
13	part and the procedures and deadlines for ap-
14	plying for such benefits;
15	(B) facilitate the early filing of petitions
16	under section 311(a) for any workers that the
17	agency considers are likely to be eligible for
18	benefits under this part;
19	(C) advise each adversely affected worker
20	to apply for training under section 312(b) be-
21	fore, or at the same time, the worker applies for
22	climate change adjustment assistance under
23	section 312(a);
24	(D) perform outreach to, intake of, and
25	orientation for adversely affected workers and

1	adversely affected incumbent workers covered
2	by a certification under section 312(a) with re-
3	spect to assistance and benefits available under
4	this part;
5	(E) make employment services described in
6	section 312(b)(1) available to adversely affected
7	workers and adversely affected incumbent work-
8	ers covered by a certification under section
9	311(d) and, if funds provided to carry out this
10	part are insufficient to make such services
11	available, make arrangements to make such
12	services available through other Federal pro-
13	grams; and
14	(F) provide the benefits and reemployment
15	services under this part in a manner that is
16	necessary for the proper and efficient adminis-
17	tration of this part, including the use of state
18	agency personnel employed in accordance with a
19	merit system of personnel administration stand-
20	ards, including—
21	(i) making determinations of eligibility
22	for, and payment of, climate change read-
23	justment assistance and health care benefit
24	replacement amounts;

1	(ii) developing recommendations re-
2	garding payments as a bridge to retire-
3	ment and lump sum payments to pension
4	plans in accordance with this subsection;
5	and
6	(iii) the provision of reemployment
7	services to eligible workers, including refer-
8	ral to training services.
9	(7) Submission of Certain Information.—
10	In order to promote the coordination of workforce
11	investment activities in each State with activities
12	carried out under this part, any agreement entered
13	into under this section shall provide that the State
14	shall submit to the Secretary, in such form as the
15	Secretary may require, the description and informa-
16	tion described in paragraphs (8) and (14) of section
17	112(b) of the Workforce Investment Act of 1998 (29
18	U.S.C. 2822(b)) and a description of the State's
19	rapid response activities under section $134(a)(2)(A)$
20	of that Act (29 U.S.C. 2864(a)(2)(A)).
21	(8) Control measures.—
22	(A) IN GENERAL.—The Secretary shall re-
23	quire each cooperating State and cooperating
24	State agency to implement effective control
25	measures and to effectively oversee the oper-

1	ation and administration of the climate change
2	adjustment assistance program under this part,
3	including by means of monitoring the operation
4	of control measures to improve the accuracy
5	and timeliness of the data being collected and
6	reported.
7	(B) Definition.—For purposes of sub-
8	paragraph (A), the term "control measures"
9	means measures that—
10	(i) are internal to a system used by a
11	State to collect data; and
12	(ii) are designed to ensure the accu-
13	racy and verifiability of such data.
14	(9) Data reporting.—
15	(A) IN GENERAL.—Any agreement entered
16	into under this section shall require the cooper-
17	ating State or cooperating State agency to re-
18	port to the Secretary on a quarterly basis com-
19	prehensive performance accountability data, to
20	consist of—
21	(i) the core indicators of performance
22	described in subparagraph (B)(i);
23	(ii) the additional indicators of per-
24	formance described in subparagraph
25	(B)(ii), if any; and

I	(iii) a description of efforts made to
2	improve outcomes for workers under the
3	climate change adjustment assistance pro-
4	gram.
5	(B) Core indicators described.—
6	(i) In general.—The core indicators
7	of performance described in this subpara-
8	graph are—
9	(I) the percentage of workers re-
10	ceiving benefits under this part who
11	are employed during the second cal-
12	endar quarter following the calendar
13	quarter in which the workers cease re-
14	ceiving such benefits;
15	(II) the percentage of such work-
16	ers who are employed in each of the
17	third and fourth calendar quarters fol-
18	lowing the calendar quarter in which
19	the workers cease receiving such bene-
20	fits; and
21	(III) the earnings of such work-
22	ers in each of the third and fourth
23	calendar quarters following the cal-
24	endar quarter in which the workers
25	cease receiving such benefits.

1	(ii) Additional indicators.—The
2	Secretary and a cooperating State or co-
3	operating State agency may agree upon
4	additional indicators of performance for
5	the climate change adjustment assistance
6	program under this part, as appropriate.
7	(C) STANDARDS WITH RESPECT TO RELI-
8	ABILITY OF DATA.—In preparing the quarterly
9	report required by subparagraph (A), each co-
10	operating State or cooperating State agency
11	shall establish procedures that are consistent
12	with guidelines to be issued by the Secretary to
13	ensure that the data reported are valid and reli-
14	able.
15	(10) Verification of eligibility for pro-
16	GRAM BENEFITS.—
17	(A) IN GENERAL.—An agreement under
18	this section shall provide that the State shall
19	periodically redetermine that a worker receiving
20	benefits under this part who is not a citizen or
21	national of the United States remains in a sat-
22	isfactory immigration status. Once satisfactory
23	immigration status has been initially verified
24	through the immigration status verification sys-
25	tem described in section 1137(d) of the Social

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1 Security Act (42 U.S.C. 1320b-7(d)) for pur-2 poses of establishing a worker's eligibility for 3 unemployment compensation, the State shall 4 reverify the worker's immigration status if the 5 documentation provided during initial 6 verification will expire during the period in 7 which that worker is potentially eligible to re-8 ceive benefits under this part. The State shall 9 conduct such redetermination in a timely man-10 ner, utilizing the immigration status verification 11 system described in section 1137(d) of the So-12 cial Security Act (42 U.S.C. 1320b-7(d)). 13 (B) PROCEDURES.—The Secretary shall 14 establish procedures to ensure the uniform ap-15 plication by the States of the requirements of 16 this paragraph. (b) ADMINISTRATION ABSENT STATE AGREE-MENT.— 19

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> (1) In any State where there is no agreement in force between a State or its agency under subsection (a), the Secretary shall promulgate regulations for the performance of all necessary functions under section 312, including provision for a fair hearing for any worker whose application for payments is denied.

(2) A final determination under paragraph (1) 1 2 with respect to entitlement to program benefits 3 under section 312 is subject to review by the courts 4 in the same manner and to the same extent as is 5 provided by section 205(g) of the Social Security Act 6 (42 U.S.C. 405(g)).7 (c) Prohibition on Contracting With Private 8 Entities.—Neither the Secretary nor a State may contract with any private for-profit or nonprofit entity for the 10 administration of the climate change adjustment assist-11 ance program under this part. 12 (d) Payment to the States.— 13 (1) In General.—The Secretary shall from 14 time to time certify to the Secretary of the Treasury 15 for payment to each cooperating State the sums nec-16 essary to enable such State as agent of the United 17 States to make payments provided for by this part. 18 (2) Restriction.—All money paid a State 19 under this subsection shall be used solely for the 20 purposes for which it is paid; and money so paid 21 which is not used for such purposes shall be re-22 turned, at the time specified in the agreement under 23 this section, to the Secretary of the Treasury. 24 (3) Bonds.—Any agreement under this section

may require any officer or employee of the State cer-

tifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this part.

## (e) Labor Standards.—

- (1) Prohibition on displacement.—An individual in an apprenticeship program or on-the-job training program under this part shall not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any employed employee.
- (2) Prohibition on impairment of contracts.—An apprenticeship program or on-the-job raining program under this Act shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.
- (3) Additional standards.—The Secretary, or a State acting under an agreement described in

1	subsection (a) may pay the costs of on-the-job train-
2	ing, notwithstanding any other provision of this sec-
3	tion, only if—
4	(A) in the case of training which would be
5	inconsistent with the terms of a collective bar-
6	gaining agreement, the written concurrence of
7	the labor organization concerned has been ob-
8	tained;
9	(B) the job for which such adversely af-
10	fected worker is being trained is not being cre-
11	ated in a promotional line that will infringe in
12	any way upon the promotional opportunities of
13	currently employed individuals;
14	(C) such training is not for the same occu-
15	pation from which the worker was separated
16	and with respect to which such worker's group
17	was certified pursuant to section 311(d);
18	(D) the employer is provided reimburse-
19	ment of not more than 50 percent of the wage
20	rate of the participant, for the cost of providing
21	the training and additional supervision related
22	to the training; and
23	(E) the employer has not received payment
24	under with respect to any other on-the-job
25	training provided by such employer which failed

1	to meet the requirements of subparagraphs (A)
2	through (D).
3	(f) DEFINITIONS.—As used in this part the following
4	definitions apply:
5	(1) The term "adversely affected employment"
6	means employment at an employment site, if work-
7	ers at such site are eligible to apply for adjustment
8	assistance under this part.
9	(2) The term "adversely affected worker"
10	means an individual who has been totally or partially
11	separated from employment and is eligible to apply
12	for adjustment assistance under this part.
13	(3) The term "average weekly wage" means $\frac{1}{13}$
14	of the total wages paid to an individual in the quar-
15	ter in which the individual's total wages were highest
16	among the first 4 of the last 5 completed calendar
17	quarters immediately before the quarter in which oc-
18	curs the week with respect to which the computation
19	is made. Such week shall be the week in which total
20	separation occurred, or, in cases where partial sepa-
21	ration is claimed, an appropriate week, as defined in
22	regulations prescribed by the Secretary.
23	(4) The term "average weekly hours" means
24	the average hours worked by the individual (exclud-
25	ing overtime) in the employment from which he has

1	been or claims to have been separated in the 52
2	weeks (excluding weeks during which the individual
3	was sick or on vacation) preceding the week speci-
4	fied in the last sentence of paragraph (4).
5	(5) The term "benefit period" means, with re-
6	spect to an individual—
7	(A) the benefit year and any ensuing pe-
8	riod, as determined under applicable State law,
9	during which the individual is eligible for reg-
10	ular compensation, additional compensation, or
11	extended compensation; or
12	(B) the equivalent to such a benefit year
13	or ensuing period provided for under the appli-
14	cable Federal unemployment insurance law.
15	(6) The term "consumer goods manufacturing"
16	means the electrical equipment, appliance, and com-
17	ponent manufacturing industry and transportation
18	equipment manufacturing.
19	(7) The term "employment site" means a single
20	facility or site of employment.
21	(8) The term "energy-intensive manufacturing
22	industries" means all industrial sectors, entities, or
23	groups of entities that meet the energy or green-
24	house gas intensity criteria in section 763(b)(2)(A)

1	of the Clean Air Act based on the most recent data
2	available.
3	(9) The term "energy producing and trans-
4	forming industries" means the coal mining industry,
5	oil and gas extraction, electricity power generation,
6	transmission and distribution, and natural gas dis-
7	tribution.
8	(10) The term "on-the-job training" means
9	training provided by an employer to an individual
10	who is employed by the employer.
11	(11) The terms "partial separation" and "par-
12	tially separated" refer, with respect to an individual
13	who has not been totally separated, that such indi-
14	vidual has had—
15	(A) his or her hours of work reduced to 80
16	percent or less of his average weekly hours in
17	adversely affected employment; and
18	(B) his or her wages reduced to 80 percent
19	or less of his average weekly wage in such ad-
20	versely affected employment.
21	(12) The term "public agency" means a depart-
22	ment or agency of a State or political subdivision of
23	a State or of the Federal Government.
24	(13) The term "Secretary" means the Secretary
25	of Labor.

1 (14) The term "service workers" means work-2 ers supplying support or auxiliary services to an em-3 ployment site. (15) The term "State" includes the District of 4 5 Columbia and the Commonwealth of Puerto Rico: 6 and the term "United States" when used in the geo-7 graphical sense includes such Commonwealth. (16) The term "State agency" means the agen-8 9 cy of the State which administers the State law. 10 (17) The term "State law" means the unem-11 ployment insurance law of the State approved by the 12 Secretary of Labor under section 3304 of the Inter-13 nal Revenue Code of 1986. 14 (18) The terms "total separation" and "totally 15 separated" refer to the layoff or severance of an in-16 dividual from employment with an employer in which 17 adversely affected employment exists. 18 (19)The term "unemployment insurance" 19 means the unemployment compensation payable to 20 an individual under any State law or Federal unem-21 ployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unem-22 23 ployment Insurance Act (45 U.S.C. 351 et seq.). The terms "regular compensation", "additional com-24

pensation", and "extended compensation" have the

1 same respective meanings that are given them in 2 section 205(2), (3), and (4) of the Federal-State Ex-3 tended Unemployment Compensation Act of 1970 4 (26 U.S.C. 3304 note; Public Law 91–373). (20) The term "week" means a week as defined 5 6 in the applicable State law. 7 (21) The term "week of unemployment" means 8 a week of total, part-total, or partial unemployment 9 as determined under the applicable State law or 10 Federal unemployment insurance law. 11 (g) Special Rule With Respect to Military 12 Service.— 13 (1) IN GENERAL.—Notwithstanding any other 14 provision of this part, the Secretary may waive any 15 requirement of this part that the Secretary deter-16 mines is necessary to ensure that an adversely af-17 fected worker who is a member of a reserve compo-18 nent of the Armed Forces and serves a period of 19 duty described in paragraph (2) is eligible to receive 20 climate change adjustment assistance, training, and 21 other benefits under this part in the same manner 22 and to the same extent as if the worker had not 23 served the period of duty. 24 (2) Period of Duty Described.—An ad-25 versely affected worker serves a period of duty de-

1	scribed in this paragraph if, before completing train-
2	ing under this part, the worker—
3	(A) serves on active duty for a period of
4	more than 30 days under a call or order to ac-
5	tive duty of more than 30 days; or
6	(B) in the case of a member of the Army
7	National Guard of the United States or Air Na-
8	tional Guard of the United States, performs
9	full-time National Guard duty under section
10	502(f) of title 32, United States Code, for 30
11	consecutive days or more when authorized by
12	the President or the Secretary of Defense for
13	the purpose of responding to a national emer-
14	gency declared by the President and supported
15	by Federal funds.
16	(h) Fraud and Recovery of Overpayments.—
17	(1) Recovery of payments to which an in-
18	DIVIDUAL WAS NOT ENTITLED.—If the Secretary or
19	a court of competent jurisdiction determines that
20	any person has received any payment under this
21	part to which the individual was not entitled, such
22	individual shall be liable to repay such amount to
23	the Secretary, as the case may be, except that the
24	Secretary shall waive such repayment if such agency
25	or the Secretary determines that—

1	(A) the payment was made without fault
2	on the part of such individual; and
3	(B) requiring such repayment would cause
4	a financial hardship for the individual (or the
5	individual's household, if applicable) when tak-
6	ing into consideration the income and resources
7	reasonably available to the individual (or house-
8	hold) and other ordinary living expenses of the
9	individual (or household).
10	(2) Means of recovery.—Unless an overpay-
11	ment is otherwise recovered, or waived under para-
12	graph (1), the Secretary shall recover the overpay-
13	ment by deductions from any sums payable to such
14	person under this part, under any Federal unem-
15	ployment compensation law or other Federal law ad-
16	ministered by the Secretary which provides for the
17	payment of assistance with respect to unemploy-
18	ment. Any amount recovered under this section shall
19	be returned to the Treasury of the United States.
20	(3) Penalties for fraud.—Any person
21	who—
22	(A) makes a false statement of a material
23	fact knowing it to be false, or knowingly fails
24	to disclose a material fact, for the purpose of
25	obtaining or increasing for that person or for

1 any other person any payment authorized to be 2 furnished under this part; or 3 (B) makes a false statement of a material 4 fact knowing it to be false, or knowingly fails 5 to disclose a material fact, when providing in-6 formation to the Secretary during an investiga-7 tion of a petition under section 311(c); 8 shall be imprisoned for not more than one year, or fined 9 under title 18, United States Code, or both, and be ineli-10 gible for any further payments under this part. 11 (i) REGULATIONS.—The Secretary shall prescribe 12 such regulations as may be necessary to carry out the pro-13 visions of this part. (j) STUDY ON OLDER WORKERS.—The Secretary 14 15 shall conduct a study examine the circumstances of older adversely affected workers and the ability of such workers 16 17 to access their retirement benefits. The Secretary shall transmit a report to Congress not later than 2 years after 18 19 the date of enactment of this Act on the findings of the 20 study and the Secretary's recommendations on how to en-21 sure that adversely affected workers within 2 years of re-22 tirement are able to access their retirement benefits.

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—

"(1) to develop, implement and improve nationally appropriate greenhouse gas mitigation policies and actions that reduce deforestation and forest degradation or conserve or restore forest ecosystems, in a measurable, reportable, and verifiable manner; and

"(2) in a manner that is consistent with and enhances the implementation of complementary United States policies that support the good governance of forests, biodiversity conservation, and environmentally sustainable development, while taking local communities, most vulnerable populations and communities, particularly forest-dependent communities and indigenous peoples into consideration.

1	"SEC. 753. EMISSION REDUCTIONS FROM REDUCED DEFOR-
2	ESTATION.
3	"(a) In General.—Not later than 2 years after the
4	date of the enactment of this part, the Administrator, in
5	consultation with the Administrator of the Environmental
6	Protection Agency, the Secretary of Agriculture, and the
7	head of any other appropriate agency, shall establish a
8	program to provide assistance to reduce greenhouse gas
9	emissions from deforestation in developing countries, in
10	accordance with this title.
11	"(b) Objectives.—The objectives of the program es-
12	tablished under this section shall be—
13	"(1) to reduce greenhouse gas emissions from
14	deforestation in developing countries by at least
15	720,000,000 tons of carbon dioxide equivalent in
16	2020, and a cumulative quantity of at least
17	6,000,000,000 tons of carbon dioxide equivalent by
18	December 31, 2025, with additional reductions in
19	subsequent years;
20	"(2) to assist developing countries in preparing
21	to participate in international markets for inter-
22	national offset credits for reduced emissions from
23	deforestation; and
24	"(3) to preserve existing forest carbon stocks in
25	countries where such forest carbon may be vulner-
26	able to international leakage.".

1	SEC. 323. INTERNATIONAL CLEAN ENERGY DEPLOYMENT
2	PROGRAM.
3	(a) Purposes.—The purposes of this section are—
4	(1) to assist developing countries in activities
5	that reduce, sequester, or avoid greenhouse gas
6	emissions;
7	(2) to encourage those countries to shift toward
8	low-carbon development, and promote a successful
9	global agreement under the United Nations Frame-
10	work Convention on Climate Change, done at New
11	York on May 9, 1992 (or a successor agreement)
12	(referred to in this subtitle as the "Convention");
13	and
14	(3) to promote robust compliance with and en-
15	forcement of existing international legal require-
16	ments for the protection of intellectual property
17	rights.
18	(b) Establishment of International Clean En-
19	ERGY DEPLOYMENT PROGRAM.—
20	(1) Establishment.—The Secretary of State,
21	in consultation with an interagency group designated
22	by the President, shall establish an International
23	Clean Energy Deployment Program in accordance
24	with this section.
25	(2) DISTRIBUTION OF ASSISTANCE.—The Sec-
26	retary of State, or the head of such other Federal

1	agency as the President may designate, shall direct
2	the distribution of funding to carry out the Clean
3	Energy Technology Program—
4	(A) in the form of bilateral assistance;
5	(B) to multilateral funds or international
6	institutions pursuant to the Convention or an
7	agreement negotiated under the Convention; or
8	(C) through a combination of the mecha-
9	nisms identified under subparagraphs (A) and
10	(B).
11	(c) Determination of Qualifying Activities.—
12	Assistance under this subtitle may be provided only to
13	qualifying entities for clean technology activities (includ-
14	ing building relevant technical and institutional capacity)
15	that contribute to substantial, measurable, reportable, and
16	verifiable reductions, sequestration, or avoidance of green-
17	house gas emissions.
18	SEC. 324. INTERNATIONAL CLIMATE CHANGE ADAPTATION
19	AND GLOBAL SECURITY PROGRAM.
20	(a) Purposes.—The purposes of this section are—
21	(1) to provide assistance to the most vulnerable
22	developing countries, particularly to the most vulner-
23	able communities and populations in those countries;
24	and

1	(2) to support the development and implemen-
2	tation of climate change adaptation programs in a
3	way that protects and promotes interests of the
4	United States, to the extent those interests may be
5	advanced by minimizing, averting, or increasing re-
6	silience to climate change impacts.
7	(b) International Climate Change Adaptation
8	AND GLOBAL SECURITY PROGRAM.—
9	(1) Establishment.—The Secretary of State,
10	in consultation with the Administrator of the United
11	States Agency for International Development, the
12	Secretary of the Treasury, and the Administrator,
13	shall establish an International Climate Change Ad-
14	aptation and Global Security Program in accordance
15	with this section.
16	(2) Distribution of Assistance.—The Sec-
17	retary of State, or the head of such other Federal
18	agency as the President may designate, after con-
19	sultation with the Secretary of the Treasury, the Ad-
20	ministrator of the United States Agency for Inter-
21	national Development, and the Administrator, shall
22	direct the distribution of funding to carry out the
23	International Climate Change Adaptation and Global
24	Security Program—
25	(A) in the form of bilateral assistance;

1	(B) to multilateral funds or international
2	institutions pursuant to the Convention or an
3	agreement negotiated under the Convention; or
4	(C) through a combination of the mecha-
5	nisms identified under subparagraphs (A) and
6	(B).
7	SEC. 325. EVALUATION AND REPORTS.
8	(a) Monitoring, Evaluation, and Enforce-
9	MENT.—The Board shall establish and implement a sys-
10	tem to monitor and evaluate the effectiveness and effi-
11	ciency of assistance provided under this subtitle by includ-
12	ing evaluation criteria, such as performance indicators.
13	(b) Reports and Review.—
14	(1) Annual report.—Not later than 1 year
15	after the date of enactment of this Act, and annually
16	thereafter, the Board shall submit to the appropriate
17	committees of Congress a report that describes—
18	(A) the steps Federal agencies have taken,
19	and the progress made, toward accomplishing
20	the objectives of this section; and
21	(B) the ramifications of any potentially de-
22	stabilizing impacts climate change may have on
23	the interests of the United States.
24	(2) Reviews.—Not later than 3 years after the
25	date of enactment of this Act, and triennially there-

1	after, the Board, in cooperation with the National
2	Academy of Sciences and other appropriate research
3	and development institutions, shall—
4	(A) review the global needs and opportuni-
5	ties for climate change investment in developing
6	countries; and
7	(B) submit to Congress a report that de-
8	scribes the findings of the review.
9	SEC. 326. REPORT ON CLIMATE ACTIONS OF MAJOR
10	ECONOMIES.
11	(a) In General.—The Secretary of State, in co-
12	operation with the Board, shall prepare an interagency re-
13	port on climate change and energy policy of the 5 coun-
14	tries that, of the countries that are not members of the
15	Organisation for Economic Co-Operation and Develop-
16	ment, emit the greatest annual quantity of greenhouse
17	gases.
18	(b) Purposes.—The purposes of the report shall
19	be—
20	(1) to provide to Congress and the public of the
21	United States—
22	(A) a better understanding of the actions
23	
۷)	the countries described in subsection (a) are

1	(B) an assessment of the climate change
2	and energy policy commitments and actions of
3	those countries; and
4	(2) to identify the means by which the United
5	States can assist those countries in achieving such
6	a reduction.
7	(c) Submission to Congress.—Not later than 15
8	months after the date of enactment of this Act, the Sec-
9	retary of State shall submit to the appropriate committees
10	of Congress the report prepared under this section.
11	Subtitle C—Adapting to Climate
12	Change
13	PART 1—DOMESTIC ADAPTATION
14	Subpart A—National Climate Change Adaptation
15	Program
16	SEC. 341. NATIONAL CLIMATE CHANGE ADAPTATION PRO-
<ul><li>16</li><li>17</li></ul>	SEC. 341. NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM.
17 18	GRAM.
17 18	GRAM.  The President shall establish within the United
17 18 19	GRAM.  The President shall establish within the United States Global Change Research Program a National Cli-
17 18 19 20	GRAM.  The President shall establish within the United States Global Change Research Program a National Climate Change Adaptation Program for the purpose of in-
17 18 19 20 21	GRAM.  The President shall establish within the United States Global Change Research Program a National Climate Change Adaptation Program for the purpose of increasing the overall effectiveness of Federal climate
17 18 19 20 21 22	GRAM.  The President shall establish within the United States Global Change Research Program a National Climate Change Adaptation Program for the purpose of increasing the overall effectiveness of Federal climate change adaptation efforts.

	ministration (NOAA), shall establish within NOAA a Na-
2	tional Climate Service to develop climate information,
3	data, forecasts, and warnings at national and regional
4	scales, and to distribute information related to climate im-
5	pacts to State, local, and tribal governments and the pub-
6	lic to facilitate the development and implementation of
7	strategies to reduce society's vulnerability to climate varia-
8	bility and change.
9	Subpart B—Public Health and Climate Change
10	SEC. 351. SENSE OF CONGRESS ON PUBLIC HEALTH AND
11	CLIMATE CHANGE.
12	It is the sense of the Congress that the Federal Gov-
13	ernment, in cooperation with international, State, tribal,
14	and local governments, Indian tribes, concerned public and
15	private organizations, and citizens, should use all prac-
15 16	private organizations, and citizens, should use all practicable means and measures—
16	ticable means and measures—
16 17	ticable means and measures—  (1) to assist the efforts of public health and
16 17 18	ticable means and measures—  (1) to assist the efforts of public health and health care professionals, first responders, States,
16 17 18	ticable means and measures—  (1) to assist the efforts of public health and health care professionals, first responders, States, Indian tribes, municipalities, and local communities
16 17 18 19 20	ticable means and measures—  (1) to assist the efforts of public health and health care professionals, first responders, States, Indian tribes, municipalities, and local communities to incorporate measures to prepare health systems to
116 117 118 119 220 221	ticable means and measures—  (1) to assist the efforts of public health and health care professionals, first responders, States, Indian tribes, municipalities, and local communities to incorporate measures to prepare health systems to respond to the impacts of climate change;

1	respond to the adverse health impacts of ch-
2	mate change;
3	(B) the utility and value of scientific re-
4	search in advancing understanding of—
5	(i) the health impacts of climate
6	change; and
7	(ii) strategies to prepare for and re-
8	spond to the health impacts of climate
9	change;
10	(C) the identification of communities vul-
11	nerable to the health effects of climate change
12	and the development of strategic response plans
13	to be carried out by health professionals for
14	those communities;
15	(D) the improvement of health status and
16	health equity through efforts to prepare for and
17	respond to climate change; and
18	(E) the inclusion of health policy in the de-
19	velopment of climate change responses;
20	(3) to encourage further research, interdiscipli-
21	nary partnership, and collaboration among stake-
22	holders in order to—
23	(A) understand and monitor the health im-
24	pacts of climate change; and

1	(B) improve public health knowledge and
2	response strategies to climate change;
3	(4) to enhance preparedness activities, and pub-
4	lic health infrastructure, relating to climate change
5	and health;
6	(5) to encourage each and every American to
7	learn about the impacts of climate change on health;
8	and
9	(6) to assist the efforts of developing nations to
10	incorporate measures to prepare health systems to
11	respond to the impacts of climate change.
12	SEC. 352. RELATIONSHIP TO OTHER LAWS.
13	Nothing in this subpart in any manner limits the au-
14	thority provided to or responsibility conferred on any Fed-
15	eral department or agency by any provision of any law
16	(including regulations) or authorizes any violation of any
17	provision of any law (including regulations), including any
18	health, energy, environmental, transportation, or any
19	other law or regulation.
20	SEC. 353. NATIONAL STRATEGIC ACTION PLAN.
21	(a) Requirement.—
22	(1) IN GENERAL.—The Secretary of Health and
23	Human Services, within 2 years after the date of the
24	enactment of this Act, on the basis of the best avail-
25	able science, and in consultation pursuant to para-

1	graph (2), shall publish a strategic action plan to as-
2	sist health professionals in preparing for and re-
3	sponding to the impacts of climate change on public
4	health in the United States and other nations, par-
5	ticularly developing nations.
6	(2) Consultation.—In developing or making
7	any revision to the national strategic action plan, the
8	Secretary shall—
9	(A) consult with the Director of the Cen-
10	ters for Disease Control and Prevention, the
11	Administrator of the Environmental Protection
12	Agency, the Director of the National Institutes
13	of Health, the Director of the Indian Health
14	Service, the Secretary of Energy, other appro-
15	priate Federal agencies, Indian tribes, State
16	and local governments, public health organiza-
17	tions, scientists, and other interested stake-
18	holders; and
19	(B) provide opportunity for public input.
20	(b) Contents.—
21	(1) In general.—The Secretary shall assist
22	health professionals in preparing for and responding
23	effectively and efficiently to the health effects of cli-
24	mate change through measures including—

1	(A) developing, improving, integrating, and
2	maintaining domestic and international disease
3	surveillance systems and monitoring capacity to
4	respond to health-related effects of climate
5	change, including on topics addressing—
6	(i) water, food, and vector borne infec-
7	tious diseases and climate change;
8	(ii) pulmonary effects, including re-
9	sponses to aeroallergens;
10	(iii) cardiovascular effects, including
11	impacts of temperature extremes;
12	(iv) air pollution health effects, includ-
13	ing heightened sensitivity to air pollution
14	(v) hazardous algal blooms;
15	(vi) mental and behavioral health im-
16	pacts of climate change;
17	(vii) the health of refugees, displaced
18	persons, and vulnerable communities;
19	(viii) the implications for communities
20	vulnerable to health effects of climate
21	change, as well as strategies for responding
22	to climate change within these commu-
23	nities; and

1	(ix) local and community-based health
2	interventions for climate-related health im-
3	pacts;
4	(B) creating tools for predicting and moni-
5	toring the public health effects of climate
6	change on the international, national, regional,
7	State, tribal, and local levels, and providing
8	technical support to assist in their implementa-
9	tion;
10	(C) developing public health communica-
11	tions strategies and interventions for extreme
12	weather events and disaster response situations;
13	(D) identifying and prioritizing commu-
14	nities and populations vulnerable to the health
15	effects of climate change, and determining ac-
16	tions and communication strategies that should
17	be taken to inform and protect these commu-
18	nities and populations from the health effects of
19	climate change;
20	(E) developing health communication, pub-
21	lic education, and outreach programs aimed at
22	public health and health care professionals, as
23	well as the general public, to promote prepared-
24	ness and response strategies relating to climate
25	change and public health, including the identi-

1	fication of greenhouse gas reduction behaviors
2	that are health-promoting; and
3	(F) developing academic and regional cen-
4	ters of excellence devoted to—
5	(i) researching relationships between
6	climate change and health;
7	(ii) expanding and training the public
8	health workforce to strengthen the capacity
9	of such workforce to respond to and pre-
10	pare for the health effects of climate
11	change;
12	(iii) creating and supporting academic
13	fellowships focusing on the health effects
14	of climate change; and
15	(iv) training senior health ministry of-
16	ficials from developing nations to strength-
17	en the capacity of such nations to—
18	(I) prepare for and respond to
19	the health effects of climate change;
20	and
21	(II) build an international net-
22	work of public health professionals
23	with the necessary climate change
24	knowledge base;

1	(G) using techniques, including health im-
2	pact assessments, to assess various climate
3	change public health preparedness and response
4	strategies on international, national, State, re-
5	gional, tribal, and local levels, and make rec-
6	ommendations as to those strategies that best
7	protect the public health;
8	(H)(i) assisting in the development, imple-
9	mentation, and support of State, regional, trib-
10	al, and local preparedness, communication, and
11	response plans (including with respect to the
12	health departments of such entities) to antici-
13	pate and reduce the health threats of climate
14	change; and
15	(ii) pursuing collaborative efforts to de-
16	velop, integrate, and implement such plans;
17	(I) creating a program to advance research
18	as it relates to the effects of climate change or
19	public health across Federal agencies, including
20	research to—
21	(i) identify and assess climate change
22	health effects preparedness and response
23	strategies;
24	(ii) prioritize critical public health in-
25	frastructure projects related to potential

1	climate change impacts that affect public
2	health; and
3	(iii) coordinate preparedness for cli-
4	mate change health impacts, including the
5	development of modeling and forecasting
6	tools;
7	(J) providing technical assistance for the
8	development, implementation, and support of
9	preparedness and response plans to anticipate
10	and reduce the health threats of climate change
11	in developing nations; and
12	(K) carrying out other activities deter-
13	mined appropriate by the Secretary to plan for
14	and respond to the impacts of climate change
15	on public health.
16	(c) REVISION.—The Secretary shall revise the na-
17	tional strategic action plan not later than July 1, 2014
18	and every 4 years thereafter, to reflect new information
19	collected pursuant to implementation of the national stra-
20	tegic action plan and otherwise, including information
21	on—
22	(1) the status of critical environmental health
23	parameters and related human health impacts;
24	(2) the impacts of climate change on public
25	health; and

1	(3) advances in the development of strategies
2	for preparing for and responding to the impacts of
3	climate change on public health.
4	(d) Implementation.—
5	(1) Implementation through hhs.—The
6	Secretary shall exercise the Secretary's authority
7	under this subpart and other provisions of Federal
8	law to achieve the goals and measures of the na-
9	tional strategic action plan.
10	(2) Other public health programs and
11	INITIATIVES.—The Secretary and Federal officials of
12	other relevant Federal agencies shall administer
13	public health programs and initiatives authorized by
14	provisions of law other than this subpart, subject to
15	the requirements of such statutes, in a manner de-
16	signed to achieve the goals of the national strategic
17	action plan.
18	(3) Specific activities.—In furtherance of
19	the national strategic action plan, the Secretary
20	shall—
21	(A) conduct scientific research to assist
22	health professionals in preparing for and re-
23	sponding to the impacts of climate change on
24	public health; and
25	(B) provide funding for—

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1	(i) research on the health effects of
2	climate change; and
3	(ii) preparedness planning on the
4	international, national, State, tribal, re-
5	gional, and local levels to respond to or re-
6	duce the burden of health effects of climate
7	change; and
8	(C) carry out other activities determined
9	appropriate by the Secretary to prepare for and
10	respond to the impacts of climate change on
11	public health.
12	SEC. 354. ADVISORY BOARD.
13	(a) Establishment.—The Secretary shall establish
14	a permanent science advisory board comprised of not less
15	than 10 and not more than 20 members.
16	(b) Appointment of Members.—The Secretary
17	shall appoint the members of the science advisory board
18	from among individuals—
19	(1) who have expertise in public health and
20	human services, climate change, and other relevant
21	disciplines; and
22	(2) at least $\frac{1}{2}$ of whom are recommended by
23	the President of the National Academy of Sciences.
24	(c) Functions.—The science advisory board shall—

1	(1) provide scientific and technical advice and
2	recommendations to the Secretary on the domestic
3	and international impacts of climate change on pub-
4	lic health, populations and regions particularly vul-
5	nerable to the effects of climate change, and strate-
6	gies and mechanisms to prepare for and respond to
7	the impacts of climate change on public health; and
8	(2) advise the Secretary regarding the best
9	science available for purposes of issuing the national
10	strategic action plan.
11	SEC. 355. REPORTS.
12	(a) Needs Assessment.—
13	(1) IN GENERAL.—The Secretary shall seek to
14	enter into, by not later than 6 months after the date
15	of the enactment of this Act, an agreement with the
16	National Research Council and the Institute of Med-
17	icine to complete a report that—
18	(A) assesses the needs for health profes-
19	sionals to prepare for and respond to climate
20	change impacts on public health; and
21	(B) recommends programs to meet those
22	needs.
23	(2) Submission.—The agreement under para-
24	graph (1) shall require the completed report to be
25	submitted to the Congress and the Secretary and

1	made publicly available not later than 1 year after
2	the date of the agreement.
3	(b) CLIMATE CHANGE HEALTH PROTECTION AND
4	Promotion Reports.—
5	(1) In General.—The Secretary, in consulta-
6	tion with the advisory board established under sec-
7	tion 354, shall ensure the issuance of reports to aid
8	health professionals in preparing for and responding
9	to the adverse health effects of climate change
10	that—
11	(A) review scientific developments on
12	health impacts of climate change; and
13	(B) recommend changes to the national
14	strategic action plan.
15	(2) Submission.—The Secretary shall submit
16	the reports required by paragraph (1) to the Con-
17	gress and make such reports publicly available not
18	later than July 1, 2013, and every 4 years there-
19	after.
20	SEC. 356. DEFINITIONS.
21	In this subpart:
22	(1) HEALTH IMPACT ASSESSMENT.—The term
23	"health impact assessment" means a combination of
24	procedures, methods, and tools by which a policy,
25	program, or project may be judged as to its potential

1	effects on the health of a population, and the dis-
2	tribution of those effects within the population.
3	(2) NATIONAL STRATEGIC ACTION PLAN.—The
4	term "national strategic action plan" means the
5	plan issued and revised under section 353.
6	(3) Secretary.—Unless otherwise specified
7	the term "Secretary" means the Secretary of Health
8	and Human Services.
9	Subpart C—Climate Change Safeguards for Natural
10	Resources Conservation
11	SEC. 361. PURPOSES.
12	The purposes of this subpart are—
13	(1) to establish an integrated Federal program
14	that responds to ongoing and expected impacts of
15	climate change, including, where applicable, ocean
16	acidification, drought, flooding, and wildfire, by pro-
17	tecting, restoring, and conserving the natural re-
18	sources of the United States; and
18 19	sources of the United States; and (2) to provide financial support and incentives
19	(2) to provide financial support and incentives
19 20	(2) to provide financial support and incentives for programs, strategies, and activities that respond
19 20 21	(2) to provide financial support and incentives for programs, strategies, and activities that respond to threats of climate change, including, where appli-

1	SEC. 362. NATURAL RESOURCES CLIMATE CHANGE ADAP-
2	TATION POLICY.
3	It is the policy of the Federal Government, in co-
4	operation with State and local governments, Indian tribes,
5	and other interested stakeholders, to use all practicable
6	means to protect, restore, and conserve natural resources
7	so that natural resources become more resilient, adapt to,
8	and withstand the ongoing and expected impacts of cli-
9	mate change, including, where applicable, ocean acidifica-
10	tion, drought, flooding, and wildfire.
11	SEC. 363. DEFINITIONS.
12	In this subpart:
13	(1) ACCOUNT.—The term "Account" means the
14	Natural Resources Climate Change Adaption Ac-
15	count established by section 370(a).
16	(2) Administrators.—The term "Administra-
17	tors" means—
18	(A) the Administrator of the National Oce-
19	anic and Atmospheric Administration; and
20	(B) the Director of the United States Geo-
21	logical Survey.
22	(3) Board.—The term "Board" means the
23	Science Advisory Board established by section
24	367(f)(1).

1	(4) CENTER.—The term "Center" means the
2	National Climate Change and Wildlife Science Cen-
3	ter described by section 367(e)(1).
4	(5) Coastal state.—The term "coastal
5	State" has the meaning given the term "coastal
6	state" in section 304 of the Coastal Zone Manage-
7	ment Act of 1972 (16 U.S.C. 1453).
8	(6) Corridors.—The term "corridors" means
9	areas that—
10	(A) provide connectivity, over different
11	time scales, of habitats or potential habitats;
12	and
13	(B) facilitate terrestrial, marine, estuarine,
14	and freshwater fish, wildlife, or plant movement
15	necessary for migration, gene flow, or dispersal,
16	or to respond to the ongoing and expected im-
17	pacts of climate change, including, where appli-
18	cable, ocean acidification, drought, flooding,
19	and wildfire.
20	(7) Ecological processes.—The term "eco-
21	logical processes" means biological, chemical, or
22	physical interaction between the biotic and abiotic
23	components of an ecosystem, including—
24	(A) nutrient cycling;
25	(B) pollination;

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1	(C) predator-prey relationships;
2	(D) soil formation;
3	(E) gene flow;
4	(F) disease epizootiology;
5	(G) larval dispersal and settlement;
6	(H) hydrological cycling;
7	(I) decomposition; and
8	(J) disturbance regimes, such as fire and
9	flooding.
10	(8) Habitat.—The term "habitat" means the
11	physical, chemical, and biological properties that
12	fish, wildlife, or plants use for growth, reproduction
13	survival, food, water, or cover (whether on land, in
14	water, or in an area or region).
15	(9) Indian tribe.—The term "Indian tribe"
16	has the meaning given the term in section 4 of the
17	Indian Self-Determination and Education Assistance
18	Act (25 U.S.C. 450b).
19	(10) Natural resources.—The term "nat-
20	ural resources" means land, wildlife, fish, air, water
21	estuaries, plants, habitats, and ecosystems of the
22	United States.
23	(11) NATURAL RESOURCES ADAPTATION.—The
24	term "natural resources adaptation" means the pro-
25	tection, restoration, and conservation of natural re-

1	sources so that natural resources become more resil-
2	ient, adapt to, and withstand the ongoing and ex-
3	pected impacts of climate change, including, where
4	applicable, ocean acidification, drought, flooding
5	and wildfire.
6	(12) PANEL.—The term "Panel" means the
7	Natural Resources Climate Change Adaptation
8	Panel established under section 365(a).
9	(13) RESILIENCE; RESILIENT.—The terms "re-
10	silience" and "resilient" mean—
11	(A) the ability to resist or recover from
12	disturbance; and
13	(B) the ability to preserve diversity, pro-
14	ductivity, and sustainability.
15	(14) State.—The term "State" means—
16	(A) a State of the United States;
17	(B) the District of Columbia;
18	(C) American Samoa;
19	(D) Guam;
20	(E) the Commonwealth of the Northern
21	Mariana Islands;
22	(F) the Commonwealth of Puerto Rico
23	and
24	(G) the United States Virgin Islands.

1	(15) Strategy.—The term "Strategy" means
2	the Natural Resources Climate Change Adaptation
3	Strategy developed under section 366(a).
4	SEC. 364. COUNCIL ON ENVIRONMENTAL QUALITY.
5	The Chair of the Council on Environmental Quality
6	shall—
7	(1) advise the President on implementing and
8	developing—
9	(A) the Strategy; and
10	(B) the Federal natural resource agency
11	adaptation plans required by section 368;
12	(2) serve as the Chair of the Panel established
13	under section 365; and
14	(3) coordinate Federal agency strategies, plans
15	programs, and activities relating to protecting, re-
16	storing, and maintaining natural resources so that
17	natural resources become more resilient, adapt to
18	and withstand the ongoing and expected impacts of
19	climate change.
20	SEC. 365. NATURAL RESOURCES CLIMATE CHANGE ADAP
21	TATION PANEL.
22	(a) Establishment.—Not later than 90 days after
23	the date of enactment of this Act, the President shall es-
24	tablish a Natural Resources Climate Change Adaptation
25	Panel.

1	(b) Duties.—The Panel shall serve as a forum for
2	interagency consultation on, and the coordination of, the
3	development and implementation of the Strategy.
4	(c) Membership.—The Panel shall be composed
5	of—
6	(1) the Administrator of the National Oceanic
7	and Atmospheric Administration (or a designee);
8	(2) the Chief of the Forest Service (or a des-
9	ignee);
10	(3) the Director of the National Park Service
11	(or a designee);
12	(4) the Director of the United States Fish and
13	Wildlife Service (or a designee);
14	(5) the Director of the Bureau of Land Man-
15	agement (or a designee);
16	(6) the Director of the United States Geological
17	Survey (or a designee);
18	(7) the Commissioner of Reclamation (or a des-
19	ignee); and
20	(8) the Director of the Bureau of Indian Affairs
21	(or a designee);
22	(9) the Administrator of the Environmental
23	Protection Agency (or a designee);
24	(10) the Chief of Engineers (or a designee);

1	(11) the Chair of the Council on Environmental
2	Quality (or a designee);
3	(12) the Administrator of the Federal Emer-
4	gency Management Agency (or a designee); and
5	(13) the heads of such other Federal agencies
6	or departments with jurisdiction over natural re-
7	sources of the United States, as determined by the
8	President.
9	(d) Chairperson.—The Chair of the Council on En-
10	vironmental Quality shall serve as the Chairperson of the
11	Panel.
12	SEC. 366. NATURAL RESOURCES CLIMATE CHANGE ADAP-
13	TATION STRATEGY.
13 14	TATION STRATEGY.  (a) IN GENERAL.—Not later than 1 year after the
14	(a) In General.—Not later than 1 year after the
14 15	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Panel shall develop a
<ul><li>14</li><li>15</li><li>16</li></ul>	(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Panel shall develop a Natural Resources Climate Change Adaptation Strategy—
<ul><li>14</li><li>15</li><li>16</li><li>17</li></ul>	(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Panel shall develop a Natural Resources Climate Change Adaptation Strategy— (1) to protect, restore, and conserve natural re-
14 15 16 17 18	(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Panel shall develop a Natural Resources Climate Change Adaptation Strategy—  (1) to protect, restore, and conserve natural resources so that natural resources become more resil-
14 15 16 17 18 19	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Panel shall develop a Natural Resources Climate Change Adaptation Strategy—  (1) to protect, restore, and conserve natural resources so that natural resources become more resilient, adapt to, and withstand the ongoing and ex-
<ul><li>14</li><li>15</li><li>16</li><li>17</li><li>18</li><li>19</li><li>20</li></ul>	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Panel shall develop a Natural Resources Climate Change Adaptation Strategy—  (1) to protect, restore, and conserve natural resources so that natural resources become more resilient, adapt to, and withstand the ongoing and expected impacts of climate change; and
14 15 16 17 18 19 20 21	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Panel shall develop a Natural Resources Climate Change Adaptation Strategy—  (1) to protect, restore, and conserve natural resources so that natural resources become more resilient, adapt to, and withstand the ongoing and expected impacts of climate change; and  (2) to identify opportunities to mitigate the on-

1	(1) base the strategy on the best available
2	science;
3	(2) develop the strategy in close cooperation
4	with States and Indian tribes;
5	(3) coordinate with other Federal agencies, as
6	appropriate;
7	(4) consult with local governments, conservation
8	organizations, scientists, and other interested stake-
9	holders; and
10	(5) provide public notice and opportunity for
11	comment.
12	(c) REVISION.—After the Panel adopts the initial
13	Strategy, the Panel shall review and revise the Strategy
14	every 5 years to incorporate—
15	(1) new information regarding the ongoing and
16	expected impacts of climate change on natural re-
17	sources; and
18	(2) new advances in the development of strate-
19	gies that make natural resources more resilient or
20	able to adapt to the ongoing and expected impacts
21	of climate change.
22	(d) Contents.—The Strategy shall—
23	(1) assess the vulnerability of natural resources

1	term, long-term, cumulative, and synergistic im-
2	pacts;
3	(2) describe current research, observation, and
4	monitoring activities at the Federal, State, tribal,
5	and local level related to the ongoing and expected
6	impacts of climate change on natural resources;
7	(3) identify and prioritize research and data
8	needs;
9	(4) identify natural resources likely to have the
10	greatest need for protection, restoration, and con-
11	servation due to the ongoing and expanding impacts
12	of climate change;
13	(5) include specific protocols for integrating
14	natural resources adaptation strategies and activities
15	into the conservation and management of natural re-
16	sources by Federal departments and agencies to en-
17	sure consistency across agency jurisdictions;
18	(6) include specific actions that Federal depart-
19	ments and agencies shall take to protect, conserve,
20	and restore natural resources to become more resil-
21	ient, adapt to, and withstand the ongoing and ex-
22	pected impacts of climate change, including a
23	timeline to implement those actions;
24	(7) include specific mechanisms for ensuring
25	communication and coordination—

1	(A) among Federal departments and agen-
2	cies; and
3	(B) between Federal departments and
4	agencies and State natural resource agencies,
5	United States territories, Indian tribes, private
6	landowners, conservation organizations, and
7	other countries that share jurisdiction over nat-
8	ural resources with the United States;
9	(8) include specific actions to develop and im-
10	plement consistent natural resources inventory and
11	monitoring protocols through interagency coordina-
12	tion and collaboration; and
13	(9) include procedures for guiding the develop-
14	ment of detailed agency- and department-specific ad-
15	aptation plans required under section 368.
16	(e) Implementation.—Consistent with other laws
17	and Federal trust responsibilities concerning Indian land,
18	each Federal department or agency represented on the
19	Panel shall integrate the elements of the Strategy that re-
20	late to conservation, restoration, and management of nat-
21	ural resources into agency plans, environmental reviews,
22	programs, and activities.

1	SEC. 367. NATURAL RESOURCES ADAPTATION SCIENCE
2	AND INFORMATION.
3	(a) Coordination.—Not later than 90 days after
4	the date of enactment of this Act, the Administrators shall
5	establish coordinated procedures for developing and pro-
6	viding science and information necessary to address the
7	ongoing and expected impacts of climate change on nat-
8	ural resources.
9	(b) Oversight.—The National Climate Change and
10	Wildlife Science Center established under subsection (e)
11	and the National Climate Service of the National Oceanic
12	and Atmospheric Administration shall oversee develop-
13	ment of the procedures.
14	(c) Functions.—The Administrators shall—
15	(1) ensure that the procedures required under
16	subsection (a) avoid duplication; and
17	(2) ensure that the National Oceanic and At-
18	mospheric Administration and the United States Ge-
19	ological Survey—
20	(A) provide technical assistance to Federal
21	departments and agencies, State and local gov-
22	ernments, Indian tribes, and interested private
23	landowners that are pursuing the goals of ad-
24	dressing the ongoing and expected impacts of
25	climate change on natural resources;

1	(B) conduct and sponsor research to de-
2	velop strategies that increase the ability of nat-
3	ural resources to become more resilient, adapt
4	to, and withstand the ongoing and expected im-
5	pacts of climate change;
6	(C) provide Federal departments and agen-
7	cies, State and local governments, Indian tribes,
8	and interested private landowners with research
9	products, decision and monitoring tools, and in-
10	formation to develop strategies that increase
11	the ability of natural resources to become more
12	resilient, adapt to, and withstand the ongoing
13	and expected impacts of climate change; and
14	(D) assist Federal departments and agen-
15	cies in the development of adaptation plans re-
16	quired by section 368.
17	(d) Survey.—Not later than 1 year after the date
18	of enactment of this Act, and every 5 years thereafter,
19	the Secretary of Commerce and the Secretary of the Inte-
20	rior shall conduct a climate change impact survey that—
21	(1) identifies natural resources considered likely
22	to be adversely affected by climate change;
23	(2) includes baseline monitoring and ongoing
24	trend analysis;

1	(3) with input from stakeholders, identifies and
2	prioritizes necessary monitoring and research that is
3	most relevant to the needs of natural resource man-
4	agers to address the ongoing and expected impacts
5	of climate change and to promote resilience; and
6	(4) identifies the decision tools necessary to de-
7	velop strategies that increase the ability of natural
8	resources to become more resilient, adapt to, and
9	withstand the ongoing and expected impacts of cli-
10	mate change.
11	(e) National Climate Change and Wildlife
12	Science Center.—
13	(1) Establishment.—The Secretary of the In-
14	terior shall establish the National Climate Change
15	and Wildlife Science Center within the United States
16	Geological Survey.
17	(2) Functions.—In collaboration with Federal
18	and State natural resources agencies and depart-
19	ments, Indian tribes, universities, and other partner
20	organizations, the Center shall—
21	(A) assess and synthesize current physical
22	and biological knowledge;
23	(B) prioritize scientific gaps in such knowl-
24	edge in order to forecast the ecological impacts
25	of climate change, including, where applicable,

1	ocean acidification, drought, flooding, and wild-
2	fire on fish and wildlife at the ecosystem, habi-
3	tat, community, population, and species levels;
4	(C) develop and improve tools to identify,
5	evaluate, and link scientific approaches and
6	models that forecast the impacts of climate
7	change, including, where applicable, ocean acidi-
8	fication, drought, flooding, and wildfire on fish,
9	wildlife, plants, and associated habitats, includ-
10	ing—
11	(i) monitoring;
12	(ii) predictive models;
13	(iii) vulnerability analyses;
14	(iv) risk assessments; and
15	(v) decision support systems that help
16	managers make informed decisions;
17	(D) develop and evaluate tools to adapt-
18	ively manage and monitor the effects of climate
19	change (including tools for the collection of
20	data) on fish and wildlife on the national, re-
21	gional, and local level; and
22	(E) develop capacities for sharing stand-
23	ardized data and the synthesis of the data de-
24	scribed in subparagraph (D).
25	(f) Science Advisory Board.—

1	(1) Establishment.—Not later than 180 days
2	after the date of enactment of this Act, the Sec-
3	retary of Commerce and the Secretary of the Inte-
4	rior shall establish and appoint the members of the
5	Science Advisory Board.
6	(2) Membership.—The Board shall be com-
7	prised of not fewer than 10 and not more than 20
8	members—
9	(A) who have expertise in fish, wildlife
10	plant, aquatic, and coastal and marine biology,
11	ecology, climate change, including, where appli-
12	cable, ocean acidification, drought, flooding
13	and wildfire, and other relevant scientific dis-
14	ciplines;
15	(B) who represent a balanced membership
16	among Federal, State, tribal, and local rep-
17	resentatives, universities, and conservation or-
18	ganizations; and
19	(C) at least ½ of whom are recommended
20	by the President of the National Academy of
21	Sciences.
22	(3) Duties.—The Board shall—
23	(A) advise the Secretary of Commerce and
24	the Secretary of the Interior on the state of the
25	science regarding—

1	(i) the ongoing and expected impacts
2	of climate change, including, where appli-
3	cable, ocean acidification, drought, flood-
4	ing, and wildfire on natural resources; and
5	(ii) scientific strategies and mecha-
6	nisms for protecting, restoring, and con-
7	serving natural resources so natural re-
8	sources become more resilient, adapt to
9	and withstand the ongoing and expected
10	impacts of climate change, including
11	where applicable, ocean acidification
12	drought, flooding, and wildfire; and
13	(B) identify and recommend priorities for
14	ongoing research needs on the issues described
15	in subparagraph (A).
16	(4) Collaboration.—The Board shall collaboration.
17	rate with climate change and ecosystem research en-
18	tities in other Federal agencies and departments.
19	(5) AVAILABILITY TO PUBLIC.—The advice and
20	recommendations of the Board shall be made avail-
21	able to the public.

1	SEC. 368. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-
2	TION PLANS.
3	(a) Development.—Not later than 1 year after the
4	date of development of the Strategy, each department or
5	agency with representation on the Panel shall—
6	(1) complete an adaptation plan for that de-
7	partment or agency that—
8	(A) implements the Strategy and is con-
9	sistent with the natural resources climate
10	change adaptation policy required by section
11	362;
12	(B) details the ongoing and expanding ac-
13	tions of the department or agency, and any
14	changes in decisionmaking processes necessary
15	to increase the ability of resources under the ju-
16	risdiction of the department or agency and, to
17	the maximum extent practicable, resources
18	under the jurisdiction of other departments and
19	agencies that may be significantly affected by
20	decisions of the department or agency, to be-
21	come more resilient, adapt to, and withstand
22	the ongoing and expected impacts of climate
23	change, including, where applicable, ocean acidi-
24	fication, drought, flooding, and wildfire; and
25	(C) includes a timeline for implementation;

1	(2) provide opportunities for public review and
2	comment on the adaptation plan, and in the case of
3	a plan by the Bureau of Indian Affairs, review by
4	Indian tribes; and
5	(3) submit the plan to the President for ap-
6	proval.
7	(b) REVIEW BY PRESIDENT AND SUBMISSION TO
8	Congress.—
9	(1) Review by president.—The President
10	shall—
11	(A) approve an adaptation plan submitted
12	under subsection (a)(3) if the plan meets the
13	requirements of subsection (c) and is consistent
14	with the Strategy; and
15	(B) decide whether to approve the plan
16	within 60 days of submission.
17	(2) DISAPPROVAL.—If the President dis-
18	approves an adaptation plan, the President shall di-
19	rect the department or agency to submit a revised
20	plan within 60 days of that disapproval.
21	(3) Submission to congress.—Not later than
22	30 days after the date of approval of an adaptation
23	plan by the President, the department or agency
24	shall submit the plan to—

1	(A) the Committee on Natural Resources
2	of the House of Representatives;
3	(B) the Committee on Energy and Natural
4	Resources of the Senate;
5	(C) the Committee on Environment and
6	Public Works of the Senate; and
7	(D) any other committees of the House of
8	Representatives or the Senate with principal ju-
9	risdiction over the department or agency.
10	(c) Requirements.—Each adaptation plan shall—
11	(1) establish programs for assessing the ongo-
12	ing and expected impacts of climate change, includ-
13	ing, where applicable, ocean acidification, drought,
14	flooding, and wildfire on natural resources under the
15	jurisdiction of the department or agency preparing
16	the plan, including—
17	(A) assessment of cumulative and syner-
18	gistic effects; and
19	(B) programs that identify and monitor
20	natural resources likely to be adversely affected
21	and that have need for conservation;
22	(2) identify and prioritize—
23	(A) the strategies of the department or
24	agency preparing the plan;

1	(B) the specific conservation actions that
2	address the ongoing and expected impacts of
3	climate change, including, where applicable,
4	ocean acidification, drought, flooding, and wild-
5	fire on natural resources under jurisdiction of
6	the department or agency preparing the plan;
7	(C) strategies to protect, restore, and con-
8	serve such resources to become more resilient,
9	adapt to, and better withstand those impacts,
10	including—
11	(i) protection, restoration, and con-
12	servation of terrestrial, marine, estuarine,
13	and freshwater habitats and ecosystems;
14	(ii) establishment of terrestrial, ma-
15	rine, estuarine, and freshwater habitat
16	linkages and corridors;
17	(iii) restoration and conservation of
18	ecological processes;
19	(iv) protection of a broad diversity of
20	native species of fish, wildlife, and plant
21	populations across the ranges of those spe-
22	cies; and
23	(v) protection of fish, wildlife, and
24	plant health, recognizing that climate can

1	alter the distribution and ecology of
2	parasites, pathogens, and vectors;
3	(3) describe how the department or agency
4	will—
5	(A) integrate the strategies and conserva-
6	tion activities into plans, programs, activities,
7	and actions of the department or agency relat-
8	ing to the conservation and management of nat-
9	ural resources; and
10	(B) establish new plans, programs, activi-
11	ties, and actions, if necessary;
12	(4) establish methods—
13	(A) to assess the effectiveness of strategies
14	and conservation actions the department or
15	agency takes to protect, restore, and conserve
16	natural resources so natural resources become
17	more resilient, adapt to, and withstand the on-
18	going and expected impacts of climate change;
19	and
20	(B) to update those strategies and actions
21	to respond to new information and changing
22	conditions;
23	(5) describe current and proposed mechanisms
24	to enhance cooperation and coordination of natural
25	resources adaptation efforts with other Federal

1	agencies, State and local governments, Indian tribes,
2	and nongovernmental stakeholders;
3	(6) include written guidance to resource man-
4	agers that—
5	(A) explains how managers are expected to
6	address the ongoing and expected effects of cli-
7	mate change, including, where applicable, ocean
8	acidification, drought, flooding, and wildfire;
9	(B) identifies how managers shall obtain
10	any necessary site-specific information; and
11	(C) reflects best practices shared among
12	relevant agencies, but recognizes the unique
13	missions, objectives, and responsibilities of each
14	agency;
15	(7) identify and assess data and information
16	gaps necessary to develop natural resources adapta-
17	tion plans and strategies; and
18	(8) consider strategies that engage youth and
19	young adults (including youth and young adults
20	working in full-time or part-time youth service or
21	conservation corps programs) to provide the youth
22	and young adults with opportunities for meaningful
23	conservation and community service and to encour-
24	age opportunities for employment in the private sec-
25	tor through partnerships with employers.

1	(d) IMPLEMENTATION.—
2	(1) In general.—Upon approval by the Presi-
3	dent, each department or agency with representation
4	on the Panel shall, consistent with existing author-
5	ity, implement the adaptation plan of the depart-
6	ment or agency through existing and new plans,
7	policies, programs, activities, and actions.
8	(2) Consideration of impacts.—
9	(A) In general.—To the maximum ex-
10	tent practicable and consistent with existing au-
11	thority, natural resource management decisions
12	made by the department or agency shall—
13	(i) consider the ongoing and expected
14	impacts of climate change, including,
15	where applicable, ocean acidification,
16	drought, flooding, nd wildfire on natural
17	resources; and
18	(ii) choose alternatives that will avoid
19	and minimize those impacts and promote
20	resilience.
21	(B) GUIDANCE.—The Council on Environ-
22	mental Quality shall provide guidance for Fed-
23	eral departments and agencies considering those
24	impacts and choosing alternatives that will

1	avoid and minimize those impacts and promote
2	resilience.
3	(e) REVISION AND REVIEW.—Not less than every 5
4	years, each department or agency shall review and revise
5	the adaptation plan of the department or agency to incor-
6	porate the best available science, and other information,
7	regarding the ongoing and expected impacts of climate
8	change on natural resources.
9	SEC. 369. STATE NATURAL RESOURCES ADAPTATION
10	PLANS.
11	(a) Requirement.—In order to be eligible for funds
12	under section 370, not later than 1 year after the develop-
13	ment of the Strategy, each State shall prepare a State nat-
14	ural resources adaptation plan detailing current and fu-
15	ture efforts of the State to address the ongoing and ex-
16	pected impacts of climate change on natural resources and
17	coastal areas within the jurisdiction of the State.
18	(b) Review or Approval.—
19	(1) IN GENERAL.—The Secretary of the Inte-
20	rior and, as applicable, the Secretary of Commerce
21	shall review each State adaptation plan, and approve
22	the plan if the plan—
23	(A) meets the requirements of subsection
24	(e); and
25	(B) is consistent with the Strategy.

1	(2) Approval or disapproval.—The Sec-
2	retary of the Interior and, as applicable, the Sec-
3	retary of Commerce shall approve or disapprove the
4	plan by written notice not later than 180 days after
5	the date of submission of the plan (or a revised
6	plan).
7	(3) Resubmission.—Not later than 90 days
8	after the date of resubmission of an adaptation plan
9	that has been disapproved under paragraph (2), the
10	Secretary of the Interior and, as applicable, the Sec-
11	retary of Commerce, shall approve or disapprove the
12	plan by written notice.
13	(c) Contents.—A State natural resources adapta-
14	tion plan shall—
15	(1) include strategies for addressing the ongo-
16	ing and expected impacts of climate change, includ-
17	ing, where applicable, ocean acidification, drought,
18	flooding, and wildfire on terrestrial, marine, estua-
19	rine, and freshwater fish, wildlife, plants, habitats,
20	ecosystems, wildlife health, and ecological processes
21	that—
22	(A) describe the ongoing and expected im-
23	pacts of climate change, including, where appli-
24	cable, ocean acidification, drought, flooding,
25	and wildfire on the diversity and health of fish,

1	wildlife and plant populations, habitats, eco-
2	systems, and associated ecological processes;
3	(B) establish programs for monitoring the
4	ongoing and expected impacts of climate
5	change, including, where applicable, ocean acidi-
6	fication, drought, flooding, and wildfire on fish,
7	wildlife, and plant populations, habitats, eco-
8	systems, and associated ecological processes;
9	(C) describe and prioritize proposed con-
10	servation actions that increase the ability of
11	fish, wildlife, plant populations, habitats, eco-
12	systems, and associated ecological processes to
13	become more resilient, adapt to, and better
14	withstand those impacts;
15	(D) consider strategies that engage youth
16	and young adults (including youth and young
17	adults working in full-time or part-time youth
18	service or conservation corps programs) to pro-
19	vide the youth and young adults with opportu-
20	nities for meaningful conservation and commu-
21	nity service and to encourage opportunities for
22	employment in the private sector through part-
23	nerships with employers:

1	(E) integrate protection and restoration of
2	resource resilience into agency decision making
3	and specific conservation actions;
4	(F) include a time frame for implementing
5	conservation actions for fish, wildlife, and plant
6	populations, habitats, ecosystems, and associ-
7	ated ecological processes;
8	(G) establish methods—
9	(i) for assessing the effectiveness of
10	strategies and conservation actions taken
11	to increase the ability of fish, wildlife, and
12	plant populations, habitats, ecosystems
13	and associated ecological processes to be-
14	come more resilient, adapt to, and better
15	withstand the ongoing and expected im-
16	pacts of climate changes, including, where
17	applicable, ocean acidification, drought
18	flooding, and wildfire; and
19	(ii) for updating strategies and ac-
20	tions to respond appropriately to new in-
21	formation or changing conditions;
22	(H) are incorporated into a revision of the
23	State wildlife action plan (also known as the
24	State comprehensive wildlife strategy) that has
25	been—

1	(i) submitted to the United States
2	Fish and Wildlife Service; and
3	(ii) approved, or is pending approval,
4	by the United States Fish and Wildlife
5	Service; and
6	(I) are developed—
7	(i) with the participation of the State
8	fish and wildlife agency, the State coastal
9	agency, the State agency responsible for
10	administration of Land and Water Con-
11	servation Fund grants, the State Forest
12	Legacy program coordinator, and other
13	State agencies considered appropriate by
14	the Governor of the State;
15	(ii) in coordination with the Secretary
16	of the Interior, and where applicable, the
17	Secretary of Commerce; and
18	(iii) in coordination with other States
19	that share jurisdiction over natural re-
20	sources with the State; and
21	(2) in the case of a coastal State, include strat-
22	egies for addressing the ongoing and expected im-
23	pacts of climate change, including, where applicable,
24	ocean acidification, drought, flooding, and wildfire
25	on a coastal zone that—

1	(A) identify natural resources likely to be
2	impacted by climate change, and describe the
3	impacts;
4	(B) identify and prioritize continuing re-
5	search and data collection needed to address
6	the impacts, including—
7	(i) acquisition of high-resolution
8	coastal elevation and nearshore bathymetry
9	data;
10	(ii) historic shoreline position maps
11	erosion rates, and inventories of shoreline
12	features and structures;
13	(iii) measures and models of relative
14	rates of sea level rise or lake level changes.
15	including effects on flooding, storm surge,
16	inundation, and coastal geological proc-
17	esses;
18	(iv) measures and models of habitat
19	loss, including projected losses of coastal
20	wetlands and potentials for inland migra-
21	tion of natural shoreline habitats;
22	(v) measures and models of ocean and
23	coastal species and ecosystem migrations
24	and changes in species population dynam-
25	ies;

1	(vi) changes in storm frequency, in-
2	tensity, or rainfall patterns;
3	(vii) measures and models of saltwater
4	intrusion into coastal rivers and aquifers;
5	(viii) changes in chemical or physical
6	characteristics of marine and estuarine
7	systems, including the presence, extent,
8	and timing of hypoxic and anoxic condi-
9	tions;
10	(ix) measures and models of increased
11	harmful algal blooms; and
12	(x) measures and models of the
13	spread of invasive species;
14	(C) identify and prioritize adaptation strat-
15	egies to protect, restore, and conserve natural
16	resources to enable natural resources to become
17	more resilient, adapt to, and withstand the on-
18	going and expected impacts of climate change,
19	including, where applicable, ocean acidification,
20	drought, flooding, and wildfire, including—
21	(i) protection, maintenance, and res-
22	toration of ecologically important coastal
23	lands, coastal and ocean ecosystems, and
24	species biodiversity and the establishment

1	of habitat buffer zones, migration cor-
2	ridors, and climate refugia; and
3	(ii) improved planning, siting policies,
4	hazard mitigation strategies, and State
5	property insurance programs;
6	(D) establish programs—
7	(i) for the long-term monitoring of the
8	ongoing and expected impacts of climate
9	change, including, where applicable, ocean
10	acidification, drought, flooding, and wild-
11	fire on the ocean and coastal zone; and
12	(ii) assess and adjust, when necessary,
13	the adaptive management strategies;
14	(E) establish performance measures that—
15	(i) assess the effectiveness of adapta-
16	tion strategies intended to improve resil-
17	ience and the ability of natural resources
18	to adapt to and withstand the ongoing and
19	expected impacts of climate change, includ-
20	ing, where applicable, ocean acidification,
21	drought, flooding, and wildfire;
22	(ii) assess the effectiveness of adapta-
23	tion strategies intended to minimize those
24	impacts on the coastal zone; and

1	(iii) update the strategies to respond
2	to new information or changing conditions
3	and
4	(F) are developed—
5	(i) with the participation of the State
6	coastal agency and other appropriate State
7	agencies; and
8	(ii) in coordination with the Secretary
9	of Commerce and other appropriate Fed-
10	eral agencies.
11	(d) Public Input.—In developing the adaptation
12	plan, a State shall provide for solicitation and consider-
13	ation of public input and independent scientific input.
14	(e) COORDINATION WITH OTHER PLANS.—The State
15	adaptation plan shall review research and information
16	and, where appropriate, integrate the goals and measures
17	set forth in other natural resources conservation strate-
18	gies, including—
19	(1) the National Fish Habitat Action Plan;
20	(2) plans under the North American Wetlands
21	Conservation Act (16 U.S.C. 4401 et seq.);
22	(3) the Federal, State, and local partnership
23	known as "Partners in Flight":

1	(4) federally approved coastal zone management
2	plans under the Coastal Zone Management Act of
3	1972 (16 U.S.C. 1451 et seq.);
4	(5) federally approved regional fishery manage-
5	ment plants and habitat conservation activities
6	under the Magnuson-Stevens Fishery Conservation
7	and Management Act (16 U.S.C. 1801 et seq.);
8	(6) the National Coral Reef Action Plan;
9	(7) recovery plans for threatened species and
10	endangered species under section 4(f) of the Endan-
11	gered Species Act of 1973 (16 U.S.C. 1533(f));
12	(8) habitat conservation plans under section 10
13	of that Act (16 U.S.C. 1539);
14	(9) other Federal, State, and tribal plans for
15	imperiled species;
16	(10) State or tribal hazard mitigation plans;
17	(11) State or tribal water management plans;
18	(12) State property insurance programs; and
19	(13) other State-based strategies that com-
20	prehensively implement adaptation activities to re-
21	mediate the ongoing and expected effects of climate
22	change, including, where applicable, ocean acidifica-
23	tion, drought, flooding, and wildfire, on terrestrial,
24	marine, and freshwater fish, wildlife, plants, and
25	other natural resources.

1	(f) UPDATING.—Each State plan shall be updated at
2	least every 5 years.
3	(g) Funding.—
4	(1) In general.—Funds allocated to States
5	under section 370 shall be used only for activities
6	consistent with a State natural resources adaptation
7	plan approved by the Secretary of the Interior and,
8	as appropriate, the Secretary of Commerce.
9	(2) Funding prior to the approval of a
10	STATE PLAN.—Until the earlier of the date that is
11	3 years after the date of enactment of this Act or
12	the date on which a State adaptation plan is ap-
13	proved, a State shall be eligible to receive funding
14	under section 370 for adaptation activities that
15	are—
16	(A) consistent with the comprehensive
17	wildlife strategy of the State and, where appro-
18	priate, other natural resources conservation
19	strategies; and
20	(B) in accordance with a work plan devel-
21	oped in coordination with—
22	(i) the Secretary of the Interior; and
23	(ii) the Secretary of Commerce.
24	(3) Coastal state.—In developing a work
25	plan under paragraph (2)(B), a coastal State shall

1	coordinate with the Secretary of Commerce only for
2	those portions of the strategy relating to activities
3	affecting the coastal zone.
4	(4) Pending approval.—During the period
5	for which approval by the applicable Secretary is
6	pending, the State may continue to receive funds
7	under section 370 pursuant to the work plan de-
8	scribed in paragraph (2)(B).
9	SEC. 370. NATURAL RESOURCES CLIMATE CHANGE ADAP-
10	TATION ACCOUNT.
11	(a) Distribution of Amounts.—
12	(1) States.—Of the amounts made available
13	for each fiscal year to carry out this subpart, 38.5
14	percent shall be provided to States to carry out nat-
15	ural resources adaptation activities in accordance
16	with adaptation plans approved under section 369,
17	and shall be distributed as follows:
18	(A) 32.5 percent shall be available to State
19	wildlife agencies in accordance with the appor-
20	tionment formula established under the second
21	subsection (c) (relating to the apportionment of
22	the Wildlife Conservation and Restoration Ac-
23	count) of section 4 of the Pittman-Robertson
24	Wildlife Restoration Act (16 U.S.C. 669c); and

1	(B) 6 percent shall be available to State
2	coastal agencies pursuant to the formula estab-
3	lished by the Secretary of Commerce under sec-
4	tion 306(c) of the Coastal Management Act of
5	1972 (16 U.S.C. 1455(e)).
6	(2) NATURAL RESOURCE ADAPTATION.—Of the
7	amounts made available for each fiscal year to carry
8	out this subpart—
9	(A) 17 percent shall be allocated to the
10	Secretary of the Interior for use in funding—
11	(i) natural resources adaptation activi-
12	ties carried out—
13	(I) under endangered species, mi-
14	gratory species, and other fish and
15	wildlife programs administered by the
16	National Park Service, the United
17	States Fish and Wildlife Service, the
18	Bureau of Indian Affairs, and the Bu-
19	reau of Land Management;
20	(II) on wildlife refuges, National
21	Park Service land, and other public
22	land under the jurisdiction of the
23	United States Fish and Wildlife Serv-
24	ice, the Bureau of Land Management,

1	the Bureau of Indian Affairs, or the
2	National Park Service; and
3	(III) within Federal water man-
4	aged by the Bureau of Reclamation
5	and the National Park Service; and
6	(ii) the implementation of the Na-
7	tional Fish and Wildlife Habitat and Cor-
8	ridors Information Program required by
9	section 371;
10	(B) 5 percent shall be allocated to the Sec-
11	retary of the Interior for natural resources ad-
12	aptation activities carried out under cooperative
13	grant programs, including—
14	(i) the cooperative endangered species
15	conservation fund authorized under section
16	6 of the Endangered Species Act of 1973
17	(16 U.S.C. 1535);
18	(ii) programs under the North Amer-
19	ican Wetlands Conservation Act (16
20	U.S.C. 4401 et seq.);
21	(iii) the Neotropical Migratory Bird
22	Conservation Fund established by section
23	9(a) of the Neotropical Migratory Bird
24	Conservation Act (16 U.S.C. 6108(a));

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) 3 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 the Tribal
19	Wildlife Grants Program of the United States
20	Fish and Wildlife Service.
21	(3) Land and water conservation.—
22	(A) Deposits.—
23	(i) In general.—Of the amounts
24	made available for each fiscal year to carry
25	out this subpart, 12 percent shall be de-

posited in the Land and Water Conserva-
tion Fund established under section 2 of
the Land and Water Conservation Fund
Act of 1965 (16 U.S.C. 460 <i>l</i> –5).
(ii) Use of deposits.—Deposits in
the Land and Water Conservation Fund
under this paragraph shall—
(I) be supplemental to authoriza-
tions provided under section 3 of the
Land and Water Conservation Fund
Act of 1965 (16 U.S.C. 460 <i>l</i> -6),
which shall remain available for non-
adaptation needs; and
(II) be available to carry out this
subpart without further appropriation
or fiscal year limitation.
·
(B) DISTRIBUTION OF AMOUNTS.—Of the
amounts deposited under this paragraph in the
Land and Water Conservation Fund—
(i) for the purposes of carrying out
the natural resources adaptation activities
through the acquisition of land and inter-
ests in land under section 6 of the Land
and Water Conservation Fund Act of 1965
(16 U.S.C. 460l–8), ½ shall be allocated

1	to the Secretary of the Interior and made
2	available on a competitive basis—
3	(I) to States, in accordance with
4	the natural resources adaptation plans
5	of States, and to Indian tribes;
6	(II) notwithstanding section 5 of
7	that Act (16 U.S.C. 460 <i>l</i> -7); and
8	(III) in addition to any funds
9	provided pursuant to annual appro-
10	priations Acts, the Energy Policy Act
11	of $2005$ (42 U.S.C. $15801$ et seq.), or
12	any other authorization for non-
13	adaptation needs;
14	(ii) $\frac{1}{3}$ shall be allocated to the Sec-
15	retary of the Interior to carry out natural
16	resources adaptation activities through the
17	acquisition of lands and interests in land
18	under section 7 of the Land and Water
19	Conservation Fund Act of 1965 (16 U.S.C.
20	460 <i>l</i> –9);
21	(iii) ½ shall be allocated to the Sec-
22	retary of Agriculture and made available to
23	the States and Indian tribes to carry out
24	natural resources adaptation activities
25	through the acquisition of land and inter-

1	ests in land under section 7 of the Cooper-
2	ative Forestry Assistance Act of 1978 (16
3	U.S.C. 2103c); and
4	(iv) ½ shall be allocated to the Sec-
5	retary of Agriculture to carry out natural
6	resources adaptation activities through the
7	acquisition of land and interests in land
8	under section 7 of the Land and Water
9	Conservation Fund Act of 1965 (16 U.S.C.
10	460 <i>l</i> –9).
11	(C) Expenditure of funds.—In allo-
12	cating funds under subparagraph (B), the Sec-
13	retary of the Interior and the Secretary of Agri-
14	culture shall take into consideration factors in-
15	cluding—
16	(i) the availability of non-Federal con-
17	tributions from State, local, or private
18	sources;
19	(ii) opportunities to protect fish and
20	wildlife corridors or otherwise to link or
21	consolidate fragmented habitats;
22	(iii) opportunities to reduce the risk of
23	catastrophic wildfires, drought, extreme
24	flooding, or other climate-related events

1	that are harmful to fish and wildlife and
2	people; and
3	(iv) the potential for conservation of
4	species or habitat types at serious risk due
5	to climate change, including, where appli-
6	cable, ocean acidification, drought, flood-
7	ing, and wildfire, or other stressors.
8	(4) NATIONAL FOREST AND GRASSLAND ADAP-
9	TATION.—Of the amounts made available for each
10	fiscal year to carry out this subpart, 5 percent shall
11	be allocated to the Forest Service, through the Sec-
12	retary of Agriculture—
13	(A) to fund natural resources adaptation
14	activities carried out in national forests and na-
15	tional grasslands under the jurisdiction of the
16	Forest Service; and
17	(B) to carry out natural resource adapta-
18	tion activities on State and private forest land
19	carried out under the Cooperative Forestry As-
20	sistance Act of 1978 (16 U.S.C. 2101 et seq.).
21	(5) Coastal and marine system adapta-
22	TION.—Of the amounts made available for each fis-
23	cal year to carry out this subpart, 7 percent shall be
24	allocated to the Secretary of Commerce to fund nat-
25	ural resources adaptation activities that protect,

1	maintain, and restore coastal, estuarine, and marine
2	resources, habitats, and ecosystems, including such
3	activities carried out under—
4	(A) the coastal and estuarine land con-
5	servation program administered by the National
6	Oceanic and Atmospheric Administration;
7	(B) the community-based restoration pro-
8	gram for fishery and coastal habitats estab-
9	lished under section 117 of the Magnuson-Ste-
10	vens Fishery Conservation and Management
11	Reauthorization Act of 2006 (16 U.S.C.
12	1891a);
13	(C) the Coastal Zone Management Act of
14	1972 (16 U.S.C. 1451 et seq.) that are specifi-
15	cally designed to strengthen the ability of coast-
16	al, estuarine, and marine resources, habitats,
17	and ecosystems to adapt to and withstand the
18	ongoing and expected impacts of climate
19	change, including, where applicable, ocean acidi-
20	fication, drought, flooding, and wildfire;
21	(D) the Open Rivers Initiative;
22	(E) the Magnuson-Stevens Fishery Con-
23	servation and Management Act (16 U.S.C.
24	1801 et seq.);

1	(F) the Marine Mammal Protection Act of
2	1972 (16 U.S.C. 1361 et seq.);
3	(G) the Endangered Species Act of 1973
4	(16 U.S.C. 1531 et seq.);
5	(H) the Marine Protection, Research, and
6	Sanctuaries Act of 1972 (33 U.S.C. 1401 et
7	seq.);
8	(I) the Coral Reef Conservation Act of
9	2000 (16 U.S.C. 6401 et seq.); and
10	(J) the Estuary Restoration Act of 2000
11	(33 U.S.C. 2901 et seq.).
12	(6) Estuarine and freshwater ecosystem
13	ADAPTATION.—Of the amounts made available for
14	each fiscal year to carry out this subpart, 7.5 per-
15	cent shall be allocated to the Administrator of the
16	Environmental Protection Agency and 5 percent
17	shall be available to the Secretary of the Army for
18	use by the Corps of Engineers for use in natural re-
19	sources adaptation activities restoring and pro-
20	tecting—
21	(A) large-scale freshwater aquatic eco-
22	systems, such as the Everglades, the Great
23	Lakes, Flathead Lake, the Missouri River, the
24	Mississippi River, the Colorado River, the Sac-
25	ramento-San Joaquin Rivers, the Ohio River,

1	the Columbia-Snake River System, the Apa-
2	lachicola, Chattahoochee, and Flint River Sys-
3	tem, the Connecticut River, and the Yellowstone
4	River;
5	(B) large-scale estuarine ecosystems, such
6	as Chesapeake Bay, Long Island Sound, Puget
7	Sound, the Mississippi River Delta, the San
8	Francisco Bay Delta, Narragansett Bay, and
9	Albemarle-Pamlico Sound;
10	(C) freshwater and estuarine ecosystems
11	watersheds, and basins identified and
12	prioritized by the Administrator of the Environ-
13	mental Protection Agency or the Corps of Engi-
14	neers, working in cooperation with other Fed-
15	eral agencies, States, tribal governments, local
16	governments, scientists, and other conservation
17	partners; and
18	(D)(i) habitats and ecosystems through es-
19	tuary habitat restoration projects authorized by
20	the Estuary Restoration Act of 2000 (33
21	U.S.C. 2901 et seq.);
22	(ii) project modifications for improvement
23	of the environment;
24	(iii) aquatic restoration and protection
25	projects authorized by section 206 of the Water

1	Resources Development Act of 1996 (33 U.S.C.
2	2330); and
3	(iv) other appropriate programs and activi-
4	ties.
5	(b) Use of Funds by Federal Departments and
6	AGENCIES.—Funds allocated to Federal departments and
7	agencies under this section shall only be used for natural
8	resources adaptation activities consistent with an adapta-
9	tion plan approved under section 368.
10	(c) State Cost-sharing.—Notwithstanding any
11	other provision of law, a State that receives a grant under
12	this section shall use funds from non-Federal sources to
13	pay 10 percent of the costs of each activity carried out
14	under the grant.
15	SEC. 371. NATIONAL FISH AND WILDLIFE HABITAT AND
16	CORRIDORS INFORMATION PROGRAM.
17	(a) Definitions.—In this section:
18	(1) Geospatial interoperability frame-
19	WORK.—The term "Geospatial Interoperability
20	Framework" means the strategy used by the Na-
21	tional Biological Information Infrastructure (based
22	on accepted standards, specifications, and protocols
23	adopted through the International Standards Orga-
24	nization, the Open Geospatial Consortium, and the
25	Federal Geographic Data Committee) to manage, ar-

1	chive, integrate, analyze, and make geospatial and
2	biological data and metadata accessible.
3	(2) Program.—The term "Program" means
4	the National Fish and Wildlife Habitat and Cor-
5	ridors Information Program established under sub-
6	section (b).
7	(3) Secretary.—The term "Secretary" means
8	the Secretary of the Interior.
9	(4) System.—The term "System" means the
10	Habitat and Corridors Information System estab-
11	lished under subsection $(d)(1)$ .
12	(b) Establishment.—Not later than 180 days after
13	the date of enactment of this Act, the Secretary, in co-
14	operation with the States and Indian tribes, shall establish
15	a National Fish and Wildlife Habitat and Corridors Infor-
16	mation Program.
17	(c) Purpose.—The purposes of the Program are—
18	(1) to support States and Indian tribes in devel-
19	oping geographical information system databases of
20	fish and wildlife habitats and corridors that—
21	(A) inform planning and development deci-
22	sions within each State;
23	(B) enable each State to model climate im-
24	pacts and adaptation; and

1	(C) provide geographically specific en-
2	hancements of State wildlife action plans;
3	(2) to ensure the collaborative development of a
4	comprehensive national geographic information sys-
5	tem database of maps, models, data, surveys, infor-
6	mational products, and other geospatial information
7	regarding fish and wildlife habitat and corridors
8	that—
9	(A) is based on consistent protocols for
10	sampling and mapping across landscapes;
11	(B) takes into account regional differences;
12	and
13	(C) uses—
14	(i) existing and planned State- and
15	tribal-based geographical information sys-
16	tem databases; and
17	(ii) existing databases, analytical
18	tools, metadata activities, and other infor-
19	mation products available through the Na-
20	tional Biological Information Infrastruc-
21	ture maintained by the Secretary and non-
22	governmental organizations; and
23	(3) to facilitate the use of those databases by
24	Federal, State, local, and tribal decisionmakers to
25	incorporate qualitative information on fish and wild-

1	life habitats and corridors at the earliest practicable
2	stage for use in—
3	(A) prioritizing and targeting natural re-
4	sources adaptation strategies and activities;
5	(B) avoiding, minimizing, and mitigating
6	the impacts on fish and wildlife habitat and cor-
7	ridors when locating energy development, water,
8	transmission, transportation, and other land
9	use projects;
10	(C) assessing the impacts of existing devel-
11	opment on habitats and corridors; and
12	(D) developing management strategies that
13	enhance the ability of fish, wildlife, and plant
14	species to migrate or respond to shifting habi-
15	tats within existing habitats and corridors.
16	(d) Habitat and Corridors Information Sys-
17	TEM.—
18	(1) In General.—The Secretary, in coopera-
19	tion with States and Indian tribes, shall establish a
20	Habitat and Corridors Information System.
21	(2) Contents.—The System shall—
22	(A) include maps, data, and descriptions of
23	fish and wildlife habitat and corridors that—
24	(i) have been developed by Federal
25	agencies, State wildlife agencies, and nat-

1	ural heritage programs, Indian tribes, local
2	governments, nongovernmental organiza-
3	tions, and industry; and
4	(ii) meet accepted geospatial inter-
5	operability framework data and metadata
6	protocols and standards;
7	(B) include maps and descriptions of pro-
8	jected shifts in habitats and corridors of fish
9	and wildlife species in response to climate
10	change;
11	(C) ensure data quality;
12	(D) at scales useful to decisionmakers,
13	make data, models, and analyses included in
14	the System available—
15	(i) to prioritize and target natural re-
16	sources adaptation strategies and activi-
17	ties;
18	(ii) to assess the impacts of existing
19	development on habitats and corridors;
20	(iii) to assess the impacts of proposed
21	energy development, water, transmission,
22	transportation, and other land use projects
23	and to avoid, minimize, or mitigate those
24	impacts on habitats and corridors; and

1	(iv) to develop management strategies
2	that enhance the ability of fish, wildlife,
3	and plant species to migrate or respond to
4	shifting habitats within existing habitats
5	and corridors;
6	(E) update maps and other information as
7	landscapes, habitats, corridors, and wildlife pop-
8	ulations change, or as new information becomes
9	available;
10	(F) encourage development of collaborative
11	plans by Federal and State agencies and Indian
12	tribes that monitor and evaluate the ability of
13	the System to meet the needs of decision-
14	makers;
15	(G) identify gaps in habitat and corridor
16	information, mapping, and research needed to
17	fully assess current data and metadata;
18	(H) prioritize research and future data col-
19	lection activities for use in updating the System
20	and provide support for those activities;
21	(I) include mechanisms to support collabo-
22	rative research, mapping, and planning of habi-
23	tats and corridors by Federal and State agen-
24	cies, Indian tribes, and other interested stake-
25	holders;

1	(J) incorporate biological and geospatial
2	data on species and corridors found in energy
3	development and transmission plans, including
4	renewable energy initiatives, transportation, and
5	other land use plans;
6	(K) identify, prioritize, and describe key
7	parcels of non-Federal land that—
8	(i) are located within units of the Na-
9	tional Park System, National Wildlife Ref-
10	uge System, National Forest System, or
11	National Grassland System; and
12	(ii) are critical to maintenance of
13	wildlife habitat and migration corridors;
14	and
15	(L) be based on the best scientific informa-
16	tion available.
17	(e) Financial and Other Support.—The Sec-
18	retary may provide support to the States and Indian
19	tribes, including financial and technical assistance, for ac-
20	tivities that support the development and implementation
21	of the System.
22	(f) COORDINATION.—In cooperation with States and
23	Indian tribes, the Secretary shall recommend how the in-
24	formation in the System may be incorporated into relevant

1	State and Federal plans that affect fish and wildlife, in-
2	cluding—
3	(1) land management plans;
4	(2) the State Comprehensive Wildlife Conserva-
5	tion Strategies; and
6	(3) appropriate tribal conservation plans.
7	(g) Purpose of Incorporation.—The Secretary
8	shall make the recommendations required by subsection
9	(f) to ensure that relevant State and Federal plans that
10	affect fish and wildlife—
11	(1) prevent unnecessary habitat fragmentation
12	and disruption of corridors;
13	(2) promote the landscape connectivity nec-
14	essary to allow wildlife to move as necessary to meet
15	biological needs, adjust to shifts in habitat, and
16	adapt to climate change; and
17	(3) minimize the impacts of energy, develop-
18	ment, water, transportation, and transmission
19	projects and other activities expected to impact habi-
20	tat and corridors.
21	SEC. 372. ADDITIONAL PROVISIONS REGARDING INDIAN
22	TRIBES.
23	(a) Federal Trust Responsibility.—Nothing in
24	this subpart amends, alters, or gives priority over the Fed-
25	eral trust responsibility to any Indian tribe.

1	(b) EXEMPTION FROM FUIA.—If a Federal depart-
2	ment or agency receives any information relating to sacred
3	sites or cultural activities identified by an Indian tribe as
4	confidential, such information shall be exempt from disclo-
5	sure under section 552 of title 5, United States Code
6	(commonly referred to as the Freedom of Information
7	Act).
8	(c) Application of Other Law.—The Secretary of
9	the Interior may apply the provisions of the Indian Self-
10	Determination and Education Assistance Act (25 U.S.C.
11	450 et seq.) in the implementation of this subpart.
12	Subpart D—Additional Climate Change Adaptation
13	Programs
14	SEC. 381. WATER SYSTEM MITIGATION AND ADAPTION
15	PARTNERSHIPS.
16	(a) Definitions.—In this section:
17	(1) Owner or operator.—
18	(A) IN GENERAL.—The term "owner or
19	operator" means a person (including a regional,
20	local, municipal, or private entity) that owns or
21	operates a water system.
22	(B) Inclusion.—The term "owner or op-
23	erator" includes—

1	(i) a non-Federal entity that has oper-
2	ational responsibilities for a federally or
3	State owned water system; and
4	(ii) an entity formed pursuant to any
5	State's joint exercise of powers statutes
6	that includes one or more of the entities in
7	paragraph (A).
8	(2) Water system.—The term "water sys-
9	tem" means—
10	(A) a community water system (as defined
11	in section 1401 of the Safe Drinking Water Act
12	(42 U.S.C. 300f));
13	(B) a treatment works (as defined in sec-
14	tion 212 of the Federal Water Pollution Control
15	Act (33 U.S.C. 1292)), including a municipal
16	separate storm sewer system;
17	(C) a decentralized wastewater treatment
18	system for domestic sewage;
19	(D) a groundwater storage and replenish-
20	ment system; or
21	(E) a system for transport and delivery of
22	water for irrigation or conservation.
23	(b) Establishment.—The Administrator shall es-
24	tablish a water system mitigation and adaptation partner-

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1 ship program to provide funds to States for water system 2 adaptation projects. 3 (c) Grants.—Beginning in fiscal year 2010, each State receiving funds pursuant to this section shall make 4 5 grants to owners or operators of water systems to address 6 any ongoing or forecasted (based on the best available re-7 search and data) climate-related impact on the water qual-8 ity, water supply or reliability of a region of the United States, for the purposes of mitigating or adapting to the 10 impacts of climate change. 11 (d) Eligible Uses.—The funds made available to 12 each State pursuant to this section shall be used exclu-13 sively to assist in the planning, design, construction, implementation, or operation or maintenance of any program 14 15 or project to respond or increase the resilience of a water system to climate change by— 16 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-

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

I	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 or
8	ecosystems or cause redirected impacts by de
9	grading water quality or increasing net green
10	house gas emissions;
11	(9) supporting practices and projects, such as
12	improved irrigation systems, water banking and
13	other forms of water transactions, groundwater re
14	charge, stormwater capture, groundwater conjunc
15	tive use, and reuse or recycling of drainage water
16	to improve water quality or promote more efficient
17	water use on land currently in agricultural produc
18	tion; or
19	(10) conducting and completing studies or as
20	sessments to project how climate change may impact
21	the future operations and sustainability of water sys
22	tems.
23	(e) APPLICATION.—To be eligible to receive a grant
24	from the State under this section, the owner or operator

1	of a water system shall submit to the State an application
2	that—
3	(1) includes a proposal of the program, strat-
4	egy, or infrastructure improvement to be planned,
5	designed, constructed, implemented, or maintained
6	by the water system;
7	(2) cites the best available research or data that
8	demonstrate—
9	(A) the risk to the water resources or in-
10	frastructure of the water system as a result of
11	ongoing or forecasted changes to the
12	hydrological system brought about by factors
13	arising from climate change, including rising
14	sea levels and changes in precipitation levels;
15	and
16	(B) how the proposed program, strategy,
17	or infrastructure improvement would perform
18	under the anticipated climate conditions; and
19	(3) explains how the proposed program, strat-
20	egy, or infrastructure improvement is expected to
21	enhance the resiliency of the water system, including
22	source water protection for community water sys-
23	tems, to these risks or reduce the direct or indirect
24	greenhouse gas emissions of the water system.
25	(f) Competitive Process.—

1	(1) In general.—Each calendar year, each
2	State shall conduct a competitive process to select
3	and fund applications under this section.
4	(2) Priority requirements and
5	WEIGHTING.—In carrying out the process, the
6	States shall—
7	(A) prioritize funding of applications that
8	are submitted by the owners or operators of
9	water systems that are, based on the best avail-
10	able research and data, at the greatest and
11	most immediate risk of facing significant cli-
12	mate-related negative impacts on water quality
13	or quantity; and
14	(B) in selecting among the priority applica-
15	tions determined under subparagraph (A), en-
16	sure that, to the maximum extent practicable,
17	the final list of applications funded for each
18	year includes a substantial number meeting one
19	or more of each of the following goals—
20	(i) promote more efficient water use,
21	water conservation, water reuse, or recy-
22	cling;
23	(ii) use decentralized, low-impact de-
24	velopment technologies and nonstructural
25	approaches, including practices that use,

1	enhance, or mimic the natural hydrological
2	cycle or protect natural flows;
3	(iii) reduce stormwater runoff by pro-
4	tecting or enhancing natural ecosystem
5	functions;
6	(iv) modify, upgrade, enhance, or re-
7	place existing water system infrastructure
8	in response to ongoing or forecasted cli-
9	mate-related impacts;
10	(v) promote the sustainability and re-
11	liability of water supplies used for agricul-
12	tural purposes;
13	(vi) improve water quality or quantity
14	for agricultural and municipal uses, includ-
15	ing through salinity reduction; and
16	(vii) provide multiple benefits, includ-
17	ing to water supply enhancement or de-
18	mand reduction, water quality protection
19	or improvement, increased flood protection,
20	and ecosystem protection or improvement;
21	and
22	(C) provide for solicitation and consider-
23	ation of public input in the development of cri-
24	teria used in evaluating applications.
25	(a) Cost-sharing —

1	(1) Federal share.—The share of the cost of
2	any program, strategy, or infrastructure improve-
3	ment that is the subject of a grant awarded by a
4	State to the owner or operator of a water system
5	under subsection (c) paid through funds distributed
6	under this section shall not exceed 50 percent of the
7	cost of the program, strategy, and infrastructure im-
8	provement.
9	(2) Calculation of non-federal share.—
10	In calculating the non-Federal share of the cost of
11	a program, strategy, or infrastructure improvement
12	proposed by a water system through an application
13	submitted by the water system under subsection (e),
14	the State shall—
15	(A) include the value of any in-kind serv-
16	ices that are integral to the completion of the
17	program, strategy, or infrastructure improve-
18	ment, including reasonable administrative and
19	overhead costs; and
20	(B) not include any other amount that the
21	water system receives from a Federal agency.
22	(h) Labor Standards.—
23	(1) IN GENERAL.—Other than with respect to
24	employees of State and local agencies, or other pub-
25	lic entities, all laborers and mechanics employed on

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infrastructure improvements funded directly by or 1 2 assisted in whole or in part by this section shall be 3 paid wages at rates not less than those prevailing for 4 the same type of work on similar construction in the 5 immediate locality, as determined by the Secretary 6 of Labor in accordance with subchapter IV of chap-7 ter 31 of part A of subtitle II of title 40, United 8 States Code. 9 (2) AUTHORITY AND FUNCTIONS.—With re-10 spect to the labor standards in this subsection, the 11 Secretary of Labor shall have the authority and 12 functions set forth in Reorganization Plan Num-13 bered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) 14 and section 3145 of title 40, United States Code. 15 SEC. 382. FLOOD CONTROL, PROTECTION, PREVENTION, 16 AND RESPONSE. 17 (a) Establishment.—The Administrator shall es-18 tablish a Flood Control, Protection, Prevention and Re-19 sponse Program to provide funds to States for flood con-20 trol, protection, prevention and response projects. 21 (b) Eligible Uses.— 22 (1) IN GENERAL.—States receiving funding 23 pursuant to this section may use such funding on 24 flood control, protection, prevention and response

programs and projects addressing the projected im-

1	pacts of climate change in accordance with this sec-
2	tion.
3	(2) Objectives.—Such projects and activities
4	shall seek to mitigate or adapt to the destructive im-
5	pacts of climate related increases in the duration
6	frequency, or magnitude of rainfall or runoff, includ-
7	ing snowmelt runoff, as well as hurricanes, including
8	projects and programs that—
9	(A) reduce flood damage, risk, and vulner-
10	ability;
11	(B) identify, maintain and restore eco-
12	systems and natural barriers integral to flood
13	control, protection, prevention and response;
14	(C) update the available data, technologies
15	and scientific knowledge used in estimating
16	identifying and mitigating flood hazards;
17	(D) highlight, update and remediate
18	vulnerabilities in emergency response;
19	(E) incorporate risk analysis and a risk-re-
20	duction approach to flood-related investments;
21	(F) incorporate and identify changes in
22	risk due to processes such as land loss, subsid-
23	ence, sea-level rise, reduced natural buffers
24	urban development and infrastructure aging
25	and

1	(G) identify and incorporate innovative ap-
2	proaches to land use management, water re-
3	source planning, and ecosystem restoration.
4	(3) Priority.—Priority in projects to reduce
5	flood events shall be given to those projects that di-
6	rectly assist local governments and communities in
7	flood control, protection, prevention and response ac-
8	tivities.
9	SEC. 383. WILDFIRE.
10	(a) FINDINGS.—Congress finds that—
11	(1) since 1980, wildfires in the United States
12	have burned almost twice as many acres per year on
13	average than the average burned acreage during the
14	period beginning on January 1, 1920, and ending on
15	December 31, 1979;
16	(2) the wildfire season in the western United
17	States has increased by an average of 78 days dur-
18	ing the 30-year period preceding the date of enact-
19	ment of this Act;
20	(3) researchers predict that the area subject to
21	wildfire damage will increase during the 21st cen-
22	tury by up to 118 percent as a result of climate
23	change;

1	(4) of the annual budget of the Forest Service,
2	the Forest Service used for wildfire suppression ac-
3	tivities—
4	(A) 13 percent in 1991; and
5	(B) 45 percent in 2007; and
6	(5) 1 percent of the largest escaped fires—
7	(A) burn 95 percent of all burned acres;
8	and
9	(B) consume 85 percent of all wildfire
10	fighting costs.
11	(b) Purpose.—The purpose of this section is to au-
12	thorize a program to reduce the risk of wildfires in fire-
13	ready communities.
14	(c) Definitions.—In this section:
15	(1) Fire-ready community.—The term "fire-
16	ready community" means a community that—
17	(A) is located within a priority area identi-
18	fied pursuant to subsection (d);
19	(B) has a cooperative fire agreement that
20	articulates the roles and responsibilities for
21	Federal, State and local government entities in
22	local wildfire suppression and protection;
23	(C) has local codes that require fire-resist-
24	ant home design and building materials;

1	(D) has a community wildfire protection
2	plan (as defined in section 101 of the Healthy
3	Forests Restoration Act of 2003 (16 U.S.C.
4	6502)); and
5	(E) is engaged in a successful collaborative
6	process that includes multiple interested per-
7	sons representing diverse interests and is trans-
8	parent and nonexclusive, such as a resource ad-
9	visory committee established under section 205
10	of the Secure Rural Schools and Community
11	Self-Determination Act of 2000 (Public Law
12	106-393; 16 U.S.C. 500 note).
13	(2) Secretaries.—The term "Secretaries"
14	means the Secretary of Agriculture and the Sec-
15	retary of the Interior.
16	(d) Fire Risk Mapping.—As soon as is practicable
17	after the date of the enactment of this Act, the Secretaries
18	shall develop regional maps of communities most at risk
19	of wildfire and in need of hazardous fuel treatment and
20	maintenance. The maps shall identify priority areas for
21	hazardous fuels reduction projects, including—
22	(1) at-risk communities in fire-prone areas of
23	the wildland-urban interface (as defined in section
24	101 of the Healthy Forests Restoration Act of 2003
25	(16 U.S.C. 6502));

1	(2) watersheds and municipal drinking water
2	sources;
3	(3) emergency evacuation corridors;
4	(4) electricity transmission corridors;
5	(5) low-capacity or low-income communities;
6	and
7	(6) communities in fire-prone areas due to the
8	impact of pest infestation on forest resources.
9	(e) Local Wildland Firefighting Capability
10	Grants.—
11	(1) Grants available.—The Secretaries may
12	provide cost-share grants to fire-ready communities
13	to assist such communities in carrying out activities
14	authorized by paragraph (2).
15	(2) Eligible activities.—Grant funds may
16	be used for the following:
17	(A) Education programs to raise aware-
18	ness of homeowners and citizens about wildland
19	fire protection practices, including FireWise or
20	similar programs.
21	(B) Training programs for local fire-
22	fighters on wildland firefighting techniques and
23	approaches.
24	(C) Equipment acquisition to facilitate
25	wildland fire preparedness.

1	(D) Implementation of a community wild-
2	fire protection plan.
3	(E) Forest restoration that accomplishes
4	fuels reduction
5	(f) WILDLAND FIRE COST-SHARE AGREEMENTS.—In
6	developing any wildland fire cost-share agreement with a
7	State Forester or equivalent official, the Secretaries shall,
8	to the maximum extent practicable, encourage the State
9	and local communities involved to become fire-ready com-
10	munities.
11	SEC. 384. COASTAL AND GREAT LAKES STATE ADAPTATION
12	PROGRAM.
13	(a) FINDINGS.—According to the National Ocean Ec-
14	onomics Program, coastal and Great Lakes States account
15	for 81.4 percent of the population of the United States
16	and generate 83 percent of the economic output of the
17	United States.
18	(b) DEFINITIONS.—In this section:
19	(1) Coastal state.—The term "coastal
20	State" has the meaning given the term "coastal
21	state" in section 304 of the Coastal Zone Manage-
22	ment Act of 1972 (16 U.S.C. 1453).
23	(2) Coastal watershed.—The term "coastal
24	watershed" means a geographical area drained into
25	or contributing water to an estuarine area, an ocean,

1	or a Great Lake, all or a portion of which is within
2	the coastal zone (as defined in section 304 of the
3	Coastal Zone Management Act of 1972 (16 U.S.C.
4	1453)).
5	(3) Shoreline miles.—The term "shoreline
6	miles", with respect to a coastal State, means the
7	mileage of tidal shoreline or Great Lake shoreline of
8	the coastal State, based on the most recently avail-
9	able data from or accepted by the National Ocean
10	Service of the National Oceanic and Atmospheric
11	Administration.
12	(e) Distribution.—
13	(1) In general.—The Administrator shall dis-
14	tribute, in accordance with this section, funding for
15	coastal State economic protection under subsection.
16	(2) Allocation.—The funding available for al-
17	location under subsection (b) for a calendar year
18	shall be distributed among coastal States, as follows:
19	(A) 25 percent based on the proportion
20	that—
21	(i) the number of shoreline miles of a
22	coastal State; bears to
23	(ii) the total number of shoreline
24	miles of all coastal States.

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1	(B) 25 percent based on the proportion
2	that—
3	(i) the population of a coastal States
4	bears to
5	(ii) the total population of all coastal
6	States.
7	(C) 50 percent divided equally among all
8	coastal States.
9	(d) Use of Funding.—
10	(1) In general.—During any calendar year, a
11	coastal State receiving funding under this section
12	may use the funding only for projects and activities
13	to plan for and address the impacts of climate
14	change in the coastal watershed, including—
15	(A) to address the impacts of climate
16	change with respect to—
17	(i) accelerated sea level rise and lake
18	level changes;
19	(ii) shoreline erosion;
20	(iii) increased storm frequency or in-
21	tensity;
22	(iv) changes in rainfall or other pre-
23	cipitation; and
24	(v) related flooding;

1	(B) to identify and develop plans to pro-
2	tect, or, as necessary or applicable, to relocate
3	public facilities and infrastructure, coastal re-
4	sources of national significance, public energy
5	facilities, or other public water uses located in
6	the coastal watershed that are affected by cli-
7	mate change, including strategies that use nat-
8	ural resources, such as natural buffer zones,
9	natural shorelines, and habitat protection or
10	restoration;
11	(C) to research and collect data using, or
12	on matters such as—
13	(i) historical shoreline position maps;
14	(ii) historical shoreline erosion rates;
15	(iii) inventories of shoreline features
16	and conditions;
17	(iv) acquisition of high-resolution to-
18	pography and bathymetry;
19	(v) sea level rise inundation models;
20	(vi) storm surge sea level rise linked
21	inundation models;
22	(vii) shoreline change modeling based
23	on sea level rise projections;
24	(viii) sea level rise vulnerability anal-
25	yses and socioeconomic studies; and

1	(ix) environmental and habitat
2	changes associated with sea level rise; and
3	(D) to respond to—
4	(i) changes in chemical characteristics
5	(including ocean acidification) and physical
6	characteristics (including thermal strati-
7	fication) of marine systems;
8	(ii) saltwater intrusion into ground-
9	water aquifers;
10	(iii) increased harmful algae blooms;
11	(iv) spread of invasive species;
12	(v) coastal habitat loss;
13	(vi) species migrations; and
14	(vii) marine, estuarine, and freshwater
15	ecosystem changes associated with climate
16	change.
17	(2) Execution.—Priority to plan and carry
18	out projects and activities under this subsection shall
19	be given to State coastal agencies, as determined in
20	accordance with State law.
21	(3) Coordination.—In carrying out this sub-
22	section, a coastal State shall coordinate with other
23	statewide climate change efforts in order to avoid
24	duplication of such efforts.

1	(e) REPORT.—Not later than 1 year after the date
2	on which a State receives funds under this section, and
3	biennially thereafter until such time as the funding is fully
4	expended, the State shall submit to the Administrator, or
5	the heads of such other Federal agencies as the President
6	may designate, a report that—
7	(1) provides a full accounting for the State's
8	use of funding distributed under this section, includ-
9	ing a description of the projects and activities fund-
10	ed; and
11	(2) may be independent or included within any
12	report required for any State programs for green-
13	house gas reduction and climate adaptation.
14	DIVISION B—POLLUTION
15	REDUCTION AND INVESTMENT
16	TITLE I—REDUCING GLOBAL
17	WARMING POLLUTION
18	Subtitle A—Reducing Global
19	<b>Warming Pollution</b>
20	SEC. 101. REDUCING GLOBAL WARMING POLLUTION.
21	The Clean Air Act is amended by adding after title
22	VI (42 II S.C. 7671 at 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	"CTC	700	ECONOMYWIDE REDUCTION GOALS	
	"SH:(:	702	RECONOMY WITH: REDITETION GOALS	

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(d) of the quantity of emission allowances established
- 5 under section 721(a) for each year, to be used to achieve
- 6 a reduction of greenhouse gas emissions from deforest-
- 7 ation in developing countries in accordance with part E.
- 8 In 2020, activities supported under part E shall provide
- 9 greenhouse gas reductions in an amount equal to an addi-
- 10 tional 10 percentage points of reductions from United
- 11 States greenhouse gas emissions in 2005. The Adminis-
- 12 trator shall distribute these allowances with respect to ac-
- 13 tivities in countries that enter into and implement agree-
- 14 ments or arrangements relating to reduced deforestation
- 15 as described in section 753(a)(2).
- 16 "SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.
- 17 "(a) IN GENERAL.—The Administrator shall, in con-
- 18 sultation with appropriate Federal agencies, submit to
- 19 Congress a report not later than July 1, 2013, and every
- 20 4 years thereafter, that includes—
- 21 "(1) an analysis of key findings based on up-
- 22 to-date scientific information and data relevant to
- 23 global climate change;
- 24 "(2) an analysis of capabilities to monitor and
- verify greenhouse gas reductions on a worldwide

1	basis, including for the United States, as required
2	under the Clean Energy Jobs and American Power
3	Act (and the amendments made by that Act); and
4	"(3) an analysis of the status of worldwide
5	greenhouse gas reduction efforts, including imple-
6	mentation of the Clean Energy Jobs and American
7	Power Act and other policies, both domestic and
8	international, for reducing greenhouse gas emissions,
9	preventing dangerous atmospheric concentrations of
10	greenhouse gases, preventing significant irreversible
11	consequences of climate change, and reducing vul-
12	nerability to the impacts of climate change.
13	"(b) Exception.—Subsection (a)(3) shall not apply
14	to the first report submitted under subsection (a).
15	"(c) Latest Scientific Information.—The anal-
16	ysis required under subsection (a)(1) shall—
17	"(1) address existing scientific information and
18	reports, considering, to the greatest extent possible,
19	the most recent assessment report of the Intergov-
20	ernmental Panel on Climate Change, reports by the
21	United States Global Change Research Program, the
22	Natural Resources Climate Change Adaptation
23	Panel established under section 365 of the Clean
24	Energy Jobs and American Power Act, and Federal

1	agencies, and the European Union's global tempera-
2	ture data assessment;
3	"(2) review trends and projections for—
4	"(A) global and country-specific annual
5	emissions of greenhouse gases, and cumulative
6	greenhouse gas emissions produced between
7	1850 and the present, including—
8	"(i) global cumulative emissions of an-
9	thropogenic greenhouse gases;
10	"(ii) global annual emissions of an-
11	thropogenic greenhouse gases; and
12	"(iii) by country, annual total, annual
13	per capita, and cumulative anthropogenic
14	emissions of greenhouse gases for the top
15	50 emitting nations;
16	"(B) significant changes, both globally and
17	by region, in annual net non-anthropogenic
18	greenhouse gas emissions from natural sources,
19	including permafrost, forests, or oceans;
20	"(C) global atmospheric concentrations of
21	greenhouse gases, expressed in annual con-
22	centration units as well as carbon dioxide
23	equivalents based on 100-year global warming
24	potentials;

1	"(D) major climate forcing factors, such as
2	aerosols;
3	"(E) global average temperature, expressed
4	as seasonal and annual averages in land, ocean,
5	and land-plus-ocean averages; and
6	"(F) sea level rise;
7	"(3) assess the current and potential impacts of
8	global climate change on—
9	"(A) human populations, including impacts
10	on public health, economic livelihoods, subsist-
11	ence, tribal culture, human infrastructure, and
12	displacement or permanent relocation due to
13	flooding, severe weather, extended drought, ero-
14	sion, or other ecosystem changes;
15	"(B) freshwater systems, including water
16	resources for human consumption and agri-
17	culture and natural and managed ecosystems,
18	flood and drought risks, and relative humidity;
19	"(C) the carbon cycle, including impacts
20	related to the thawing of permafrost, the fre-
21	quency and intensity of wildfire, and terrestrial
22	and ocean carbon sinks;
23	"(D) ecosystems and animal and plant
24	populations, including impacts on species abun-
25	dance, phenology, and distribution;

1	"(E) oceans and ocean ecosystems, includ-
2	ing effects on sea level, ocean acidity, ocean
3	temperatures, coral reefs, ocean circulation,
4	fisheries, and other indicators of ocean eco-
5	system health;
6	"(F) the cryosphere, including effects on
7	ice sheet mass balance, mountain glacier mass
8	balance, and sea-ice extent and volume;
9	"(G) changes in the intensity, frequency,
10	or distribution of severe weather events, includ-
11	ing precipitation, tropical cyclones, tornadoes,
12	and severe heat waves;
13	"(H) agriculture and forest systems; and
14	"(I) any other indicators the Administrator
15	deems appropriate;
16	"(4) summarize any significant socioeconomic
17	impacts of climate change in the United States, in-
18	cluding the territories of the United States, drawing
19	on work by Federal agencies and the academic lit-
20	erature, including impacts on—
21	"(A) public health;
22	"(B) economic livelihoods, subsistence, and
23	tribal culture;

1	"(C) displacement or permanent relocation
2	due to flooding, severe weather, extended
3	drought, or other ecosystem changes;
4	"(D) human infrastructure, including
5	coastal infrastructure vulnerability to extreme
6	events and sea level rise, river floodplain infra-
7	structure, and sewer and water management
8	systems;
9	"(E) agriculture and forests, including ef-
10	fects on potential growing season, distribution,
11	and yield;
12	"(F) water resources for human consump-
13	tion, agriculture and natural and managed eco-
14	systems, flood and drought risks, and relative
15	humidity;
16	"(G) energy supply and use; and
17	"(H) transportation;
18	"(5) in assessing risks and impacts, use a risk
19	management framework, including both qualitative
20	and quantitative measures, to assess the observed
21	and projected impacts of current and future climate
22	change, accounting for—
23	"(A) both monetized and non-monetized
24	losses;

1	"(B) potential nonlinear, abrupt, or essen-
2	tially irreversible changes in the climate system;
3	"(C) potential nonlinear increases in the
4	cost of impacts;
5	"(D) potential low-probability, high impact
6	events; and
7	"(E) whether impacts are transitory or es-
8	sentially permanent; and
9	"(6) based on the findings of the Administrator
10	under this section, as well as assessments produced
11	by the Intergovernmental Panel on Climate Change,
12	the United States Global Change Research program,
13	and other relevant scientific entities—
14	"(A) describe increased risks to natural
15	systems and society that would result from an
16	increase in global average temperature 3.6 de-
17	grees Fahrenheit (2 degrees Celsius) above the
18	pre-industrial average or an increase in atmos-
19	pheric greenhouse gas concentrations above 450
20	parts per million carbon dioxide equivalent; and
21	"(B) identify and assess—
22	"(i) significant residual risks not
23	avoided by the thresholds described in sub-
24	paragraph (A);

1	"(ii) alternative thresholds or targets
2	that may more effectively limit the risks
3	identified pursuant to clause (i); and
4	"(iii) thresholds above those described
5	in subparagraph (A) which significantly in-
6	crease the risk of certain impacts or render
7	them essentially permanent.
8	"(d) Status of Monitoring and Verification
9	Capabilities to Evaluate Greenhouse Gas Reduc-
10	TION EFFORTS.—The analysis required under subsection
11	(a)(2) shall evaluate the capabilities of the monitoring, re-
12	porting, and verification systems used to quantify progress
13	in achieving reductions in greenhouse gas emissions both
14	globally and in the United States (as described in section
15	702), including—
16	"(1) quantification of emissions and emission
17	reductions by entities participating in the pollution
18	reduction and investment program under this title;
19	"(2) quantification of emissions and emission
20	reductions by entities participating in the offset pro-
21	gram under this title;
22	"(3) quantification of emission and emission re-
23	ductions by entities regulated by performance stand-
24	ards;

1	"(4) quantification of aggregate net emissions
2	and emission reductions by the United States; and
3	"(5) quantification of global changes in net
4	emissions and in sources and sinks of greenhouse
5	gases.
6	"(e) Status of Greenhouse Gas Reduction Ef-
7	FORTS.—The analysis required under subsection (a)(3)
8	shall address—
9	"(1) whether the programs under the Clean En-
10	ergy Jobs and American Power Act (and the amend-
11	ments made by that Act) and other Federal statutes
12	are resulting in sufficient United States greenhouse
13	gas emission reductions to meet the emissions reduc-
14	tion goals described in section 702, taking into ac-
15	count the use of offsets; and
16	"(2) whether United States actions, taking into
17	account international actions, commitments, and
18	trends, and considering the range of plausible emis-
19	sions scenarios, are sufficient to avoid—
20	"(A) atmospheric greenhouse gas con-
21	centrations above 450 parts per million carbon
22	dioxide equivalent;
23	"(B) global average surface temperature
24	3.6 degrees Fahrenheit (2 degrees Celsius)
25	above the pre-industrial average, or such other

1	temperature thresholds as the Administrator
2	deems appropriate; and
3	"(C) other temperature or greenhouse gas
4	thresholds identified pursuant to subsection
5	(e)(6)(B).
6	"(f) Recommendations.—
7	"(1) Latest scientific information.—
8	Based on the analysis described in subsection (a)(1)
9	each report under subsection (a) shall identify ac-
10	tions that could be taken to—
11	"(A) improve the characterization of
12	changes in the earth-climate system and im-
13	pacts of global climate change;
14	"(B) better inform decision making and
15	actions related to global climate change;
16	"(C) mitigate risks to natural and social
17	systems; and
18	"(D) design policies to better account for
19	climate risks.
20	"(2) Monitoring, reporting and
21	VERIFICATION.—Based on the analysis described in
22	subsection (a)(2), each report under subsection (a)
23	shall identify key gaps in measurement, reporting
24	and verification capabilities and make recommenda-

1	tions to improve the accuracy and reliability of those
2	capabilities.
3	"(3) Status of greenhouse gas reduction
4	EFFORTS.—Based on the analysis described in sub-
5	section (a)(3), taking into account international ac-
6	tions, commitments, and trends, and considering the
7	range of plausible emissions scenarios, each report
8	under subsection (a) shall identify—
9	"(A) the quantity of additional reductions
10	required to meet the emissions reduction goals
11	in section 702;
12	"(B) the quantity of additional reductions
13	in global greenhouse gas emissions needed to
14	avoid the concentration and temperature
15	thresholds identified in subsection (e); and
16	"(C) possible strategies and approaches for
17	achieving additional reductions.
18	"(g) Authorization of Appropriations.—There
19	are authorized to be appropriated to carry out this section
20	such sums as may be necessary.
21	"SEC. 706. NATIONAL ACADEMY REVIEW.
22	"(a) In General.—Not later than 1 year after the
23	date of enactment of this title, the Administrator shall
24	offer to enter into a contract with the National Academy
25	of Sciences (in this section referred to as the 'Academy')

under which the Academy shall, not later than July 1, 1 2 2014, and every 4 years thereafter, submit to Congress 3 and the Administrator a report that includes— "(1) a review of the most recent report and rec-4 5 ommendations issued under section 705; and 6 "(2) an analysis of technologies to achieve re-7 ductions in greenhouse gas emissions. 8 "(b) Failure to Issue a Report.—In the event that the Administrator has not issued all or part of the 10 most recent report required under section 705, the Acad-11 emy shall conduct its own review and analysis of the re-12 quired information. 13 "(c) TECHNOLOGICAL INFORMATION.—The analysis 14 required under subsection (a)(2) shall— 15 "(1) review existing technological information 16 and reports, including the most recent reports by the 17 Department of Energy, the United States Global 18 Change Research Program, the Intergovernmental 19 Panel on Climate Change, and the International En-20 ergy Agency and any other relevant information on 21 technologies or practices that reduce or limit green-22 house gas emissions; 23 "(2) include the participation of technical ex-24 perts from relevant private industry sectors;

1	"(3) review the current and future projected de-
2	ployment of technologies and practices in the United
3	States that reduce or limit greenhouse gas emis-
4	sions, including—
5	"(A) technologies for capture and seques-
6	tration of greenhouse gases;
7	"(B) technologies to improve energy effi-
8	ciency;
9	"(C) low- or zero-greenhouse gas emitting
10	energy technologies;
11	"(D) low- or zero-greenhouse gas emitting
12	fuels;
13	"(E) biological sequestration practices and
14	technologies; and
15	"(F) any other technologies the Academy
16	deems relevant; and
17	"(4) review and compare the emissions reduc-
18	tion potential, commercial viability, market penetra-
19	tion, investment trends, and deployment of the tech-
20	nologies described in paragraph (3), including—
21	"(A) the need for additional research and
22	development, including publicly funded research
23	and development;
24	"(B) the extent of commercial deployment,
25	including, where appropriate, a comparison to

1	the cost and level of deployment of conventional
2	fossil fuel-fired energy technologies and devices;
3	and
4	"(C) an evaluation of any substantial tech-
5	nological, legal, or market-based barriers to
6	commercial deployment.
7	"(d) Recommendations.—
8	"(1) Latest scientific information.—
9	Based on the review described in subsection (a)(1),
10	the Academy shall identify actions that could be
11	taken to—
12	"(A) improve the characterization of
13	changes in the earth-climate system and im-
14	pacts of global climate change;
15	"(B) better inform decision making and
16	actions related to global climate change;
17	"(C) mitigate risks to natural and social
18	systems;
19	"(D) design policies to better account for
20	climate risks; and
21	"(E) improve the accuracy and reliability
22	of capabilities to monitor, report, and verify
23	greenhouse gas emissions reduction efforts.

1	"(2) Technological information.—Based	
2	on the analysis described in subsection (a)(2), the	
3	Academy shall identify—	
4	"(A) additional emission reductions that	
5	may be possible as a result of technologies de-	
6	scribed in the analysis;	
7	"(B) barriers to the deployment of such	
8	technologies; and	
9	"(C) actions that could be taken to spee	
10	deployment of such technologies.	
11	"(3) Status of greenhouse gas reduction	
12	EFFORTS.—Based on the review described in sub-	
13	section (a)(1), the Academy shall identify—	
14	"(A) the quantity of additional reductions	
15	required to meet the emissions reduction goals	
16	described in section 702; and	
17	"(B) the quantity of additional reductions	
18	in global greenhouse gas emissions needed to	
19	avoid the concentration and temperature	
20	thresholds described in section $705(c)(6)(A)$ or	
21	identified pursuant to section $705(c)(6)(B)$ .	
22	"(e) Authorization of Appropriations.—There	
23	are authorized to be appropriated to carry out this section	
24	such sums as may be necessary.	

1	"SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDA-
2	TIONS.
3	"Not later than July 1, 2015, and every 4 years
4	thereafter—
5	"(1) the President shall direct relevant Federal
6	agencies to use existing statutory authority to take
7	appropriate actions identified in the reports sub-
8	mitted under sections 705 and 706 and to address
9	any shortfalls identified in such reports; and
10	"(2) in the event that the National Academy of
11	Sciences has concluded, in the most recent report
12	submitted under section 706, that the United States
13	will not achieve the necessary domestic greenhouse
14	gas emission reductions, or that global actions will
15	not maintain safe global average surface tempera-
16	ture and atmospheric greenhouse gas concentration
17	thresholds, the President shall submit to Congress a
18	plan identifying domestic and international actions
19	that will achieve necessary additional greenhouse gas
20	reductions, including any recommendations for legis-
21	lative action.
22	"PART B—DESIGNATION AND REGISTRATION OF
23	GREENHOUSE GASES
24	"SEC. 711. DESIGNATION OF GREENHOUSE GASES.
25	"(a) Greenhouse Gases.—For purposes of this
26	title, the following are greenhouse gases:

1	"(1) Carbon dioxide.	
2	"(2) Methane.	
3	"(3) Nitrous oxide.	
4	"(4) Sulfur hexafluoride.	
5	"(5) Hydrofluorocarbons from a chemical man-	
6	ufacturing process at an industrial stationary	
7	source.	
8	"(6) Any perfluorocarbon, except as otherwise	
9	provided in section 714.	
10	"(7) Nitrogen trifluoride.	
11	"(8) Any other anthropogenic gas designated as	
12	a greenhouse gas by the Administrator under the	
13	section.	
14	"(b) Determination on Administrator's Initia-	
15	5 TIVE.—The Administrator shall, by rule—	
16	"(1) determine whether 1 metric ton of another	
17	anthropogenic gas makes the same or greater con-	
18	tribution to global warming over 100 years as 1 met-	
19	ric ton of carbon dioxide;	
20	"(2) determine the carbon dioxide equivalent	
21	value for each gas with respect to which the Admin-	
22	istrator makes an affirmative determination under	
23	paragraph (1);	
24	"(3) for each gas with respect to which the Ad-	
25	ministrator makes an affirmative determination	

1 under paragraph (1) and that is used as a substitute 2 for a class I or class II substance under title VI, de-3 termine the extent to which to regulate that gas 4 under section 619 and specify appropriate compli-5 ance obligations under section 619; "(4) designate as a greenhouse gas for purposes 6 7 of this title each gas for which the Administrator 8 makes an affirmative determination under para-9 graph (1), to the extent that it is not regulated 10 under section 619; and 11 "(5) specify the appropriate compliance obliga-12 tions under this title for each gas designated as a 13 greenhouse gas under paragraph (4). 14 "(c) Petitions to Designate a Greenhouse 15 Gas.— "(1) IN GENERAL.—Any person may petition 16 17 the Administrator to designate as a greenhouse gas 18 any anthropogenic gas 1 metric ton of which makes 19 the same or greater contribution to global warming 20 over 100 years as 1 metric ton of carbon dioxide. 21 "(2) CONTENTS OF PETITION.—The petitioner 22 shall provide sufficient data, as specified by rule by 23 the Administrator, to demonstrate that the gas is 24 likely to be a greenhouse gas and is likely to be pro-25 duced, imported, used, or emitted in the United

1	States. To the extent practicable, the petitioner shall
2	also identify producers, importers, distributors
3	users, and emitters of the gas in the United States
4	"(3) REVIEW AND ACTION BY THE ADMINIS-
5	TRATOR.—Not later than 90 days after receipt of a
6	petition under paragraph (2), the Administrator
7	shall determine whether the petition is complete and
8	notify the petitioner and the public of the decision
9	"(4) Additional information.—The Admin-
10	istrator may require producers, importers, distribu-
11	tors, users, or emitters of the gas to provide infor-
12	mation on the contribution of the gas to global
13	warming over 100 years compared to carbon dioxide.
14	"(5) Treatment of Petition.—For any sub-
15	stance used as a substitute for a class I or class II
16	substance under title VI, the Administrator may
17	elect to treat a petition under this subsection as a
18	petition to list the substance as a class II, group II
19	substance under section 619, and may require the
20	petition to be amended to address listing criteria
21	promulgated under that section.
22	"(6) Determination.—Not later than 2 years
23	after receipt of a complete petition, the Adminis-
24	trator shall, after notice and an opportunity for com-
25	ment—

1	"(A) issue and publish in the Federal Reg-
2	ister—
3	"(i) a determination that 1 metric ton
4	of the gas does not make a contribution to
5	global warming over 100 years that is
6	equal to or greater than that made by 1
7	metric ton of carbon dioxide; and
8	"(ii) an explanation of the decision; or
9	"(B) determine that 1 metric ton of the
10	gas makes a contribution to global warming
11	over 100 years that is equal to or greater than
12	that made by 1 metric ton of carbon dioxide,
13	and take the actions described in subsection (b)
14	with respect to such gas.
15	"(7) Grounds for Denial.—The Adminis-
16	trator may not deny a petition under this subsection
17	solely on the basis of inadequate Environmental Pro-
18	tection Agency resources or time for review.
19	"(d) Science Advisory Board Consultation.—
20	"(1) Consultation.—The Administrator
21	shall—
22	"(A) give notice to the Science Advisory
23	Board prior to making a determination under
24	subsection (b)(1), (c)(6), or (e)(2)(B);

1	"(B) consider the written recommendations	
2	of the Science Advisory Board under paragraph	
3	(2) regarding the determination; and	
4	"(C) consult with the Science Advisory	
5	Board regarding such determination, including	
6	consultation subsequent to receipt of such writ-	
7	ten recommendations.	
8	"(2) Formulation of recommendations.—	
9	Upon receipt of notice under paragraph (1)(A) re-	
10	garding a pending determination under subsection	
11	(b)(1), $(c)(6)$ , or $(e)(2)(B)$ , the Science Advisory	
12	Board shall—	
13	"(A) formulate recommendations regarding	
14	such determination, subject to a peer review	
15	process; and	
16	"(B) submit such recommendations in	
17	writing to the Administrator.	
18	"(e) Manufacturing and Emission Notices.—	
19	"(1) Notice requirement.—	
20	"(A) IN GENERAL.—Except as otherwise	
21	provided in section 714, effective 24 months	
22	after the date of enactment of this title, no per-	
23	son may manufacture or introduce into inter-	
24	state commerce a fluorinated gas, or emit a sig-	
25	nificant quantity, as determined by the Admin-	

1	istrator, of any fluorinated gas that is gen-	
2	erated as a byproduct during the production or	
3	use of another fluorinated gas, unless—	
4	"(i) the gas is designated as a green-	
5	house gas under this section or is an	
6	ozone-depleting substance listed as a class	
7	I or class II substance under title VI;	
8	"(ii) the Administrator has deter-	
9	mined that 1 metric ton of such gas does	
10	not make a contribution to global warming	
11	that is equal to or greater than that made	
12	by 1 metric ton of carbon dioxide; or	
13	"(iii) the person manufacturing or im-	
14	porting the gas for distribution into inter-	
15	state commerce, or emitting the gas, has	
16	submitted to the Administrator, at least 90	
17	days before the start of such manufacture,	
18	introduction into commerce, or emission, a	
19	notice of such person's manufacture, intro-	
20	duction into commerce, or emission of such	
21	gas, and the Administrator has not deter-	
22	mined that notice or a substantially similar	
23	notice is incomplete.	
24	"(B) ALTERNATIVE COMPLIANCE.—For a	
25	gas that is a substitute for a class I or class II	

1	substance under title VI and either has been
2	listed as acceptable for use under section 612
3	or is currently subject to evaluation under sec-
4	tion 612, the Administrator may accept the no-
5	tice and information provided pursuant to that
6	section as fulfilling the obligation under clause
7	(iii) of subparagraph (A).
8	"(2) REVIEW AND ACTION BY THE ADMINIS-
9	TRATOR.—
10	"(A) Completeness.—Not later than 90
11	days after receipt of notice under paragraph
12	(1)(A)(iii) or (B), the Administrator shall deter-
13	mine whether the notice is complete.
14	"(B) Determination.—If the Adminis-
15	trator determines that the notice is complete,
16	the Administrator shall, after notice and an op-
17	portunity for comment, not later than 12
18	months after receipt of the notice—
19	"(i) issue and publish in the Federal
20	Register a determination that 1 metric ton
21	of the gas does not make a contribution to
22	global warming over 100 years that is
23	equal to or greater than that made by 1
24	metric ton of carbon dioxide and an expla-
25	nation of the decision; or

1	"(ii) determine that 1 metric ton of	
2	the gas makes a contribution to global	
3	warming over 100 years that is equal to o	
4	greater than that made by 1 metric ton of	
5	carbon dioxide, and take the actions de-	
6	scribed in subsection (b) with respect to	
7	such gas.	
8	"(f) REGULATIONS.—Not later than one year after	
9	the date of enactment of this title, the Administrator shall	
10	promulgate regulations to carry out this section. Such reg-	
11	ulations shall include—	
12	"(1) requirements for the contents of a petition	
13	submitted under subsection (c);	
14	"(2) requirements for the contents of a notice	
15	required under subsection (e); and	
16	"(3) methods and standards for evaluating the	
17	carbon dioxide equivalent value of a gas.	
18	"(g) Gases Regulated Under Title VI.—The	
19	Administrator shall not designate a gas as a greenhouse	
20	gas under this section to the extent that the gas is regu-	
21	lated under title VI.	
22	"(h) Savings Clause.—Nothing in this section shall	
23	be interpreted to relieve any person from complying with	
24	the requirements of section 612.	

## "SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF GREENHOUSE GASES. "(a) MEASURE OF QUANTITY OF GREENHOUSE GASES.—Any provision of this title or title VIII that refers

- 5 to a quantity or percentage of a quantity of greenhouse
- 6 gases shall mean the quantity or percentage of the green-
- 7 house gases expressed in carbon dioxide equivalents.
- 8 "(b) Initial Value.—Except as provided by the Ad-
- 9 ministrator under this section or section 711—
- 10 "(1) the carbon dioxide equivalent value of 11 greenhouse gases for purposes of this Act shall be as
- 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 <sub>4</sub>	7,390

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"CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED GREENHOUSE GASES—Continued

Greenhouse gas (1 metric ton)	Carbon dioxide equivalent (metric tons)
$C_2F_6$	12,200
$C_4F_{10}$	8,860
$C_6F_{14}$	9,300
SF <sub>6</sub>	22,800
NF <sub>3</sub>	17,200

; and

"(2) the carbon dioxide equivalent value for purposes of this Act for any greenhouse gas not listed in the table under paragraph (1) shall be the 100-year Global Warming Potentials provided in the Intergovernmental Panel on Climate Change Fourth Assessment Report.

## "(c) Periodic Review.—

"(1) Not later than February 1, 2017, and (except as provided in paragraph (3)) not less than every 5 years thereafter, the Administrator shall—

"(A) review and, if appropriate, revise the carbon dioxide equivalent values established under this section or section 711(b)(2), based on a determination of the number of metric tons of carbon dioxide that makes the same contribution to global warming over 100 years as 1 metric ton of each greenhouse gas; and

1 "(B) publish in the Federal Register the 2 results of that review and any revisions. 3 "(2) A revised determination published in the 4 Federal Register under paragraph (1)(B) shall take 5 effect for greenhouse gas emissions starting on Jan-6 uary 1 of the first calendar year starting at least 9 7 months after the date on which the revised deter-8 mination was published. 9 "(3) The Administrator may decrease the fre-10 quency of review and revision under paragraph (1) 11 if the Administrator determines that such decrease 12 is appropriate in order to synchronize such review 13 and revision with any similar review process carried 14 out pursuant to the United Nations Framework 15 Convention on Climate Change, done at New York 16 on May 9, 1992, or to an agreement negotiated 17 under that convention, except that in no event shall 18 the Administrator carry out such review and revision 19 any less frequently than every 10 years. 20 "(d) METHODOLOGY.—In setting carbon dioxide 21 equivalent values, for purposes of this section or section 22 711, the Administrator shall take into account publica-23 tions by the Intergovernmental Panel on Climate Change or a successor organization under the auspices of the

1	United Nations Environmental Programme and the World
2	Meteorological Organization.
3	"SEC. 713. GREENHOUSE GAS REGISTRY.
4	"(a) Definitions.—For purposes of this section:
5	"(1) CLIMATE REGISTRY.—The term 'Climate
6	Registry' means the greenhouse gas emissions reg-
7	istry jointly established and managed by more than
8	40 States and Indian tribes in 2007 to collect high-
9	quality greenhouse gas emission data from facilities,
10	corporations, and other organizations to support var-
11	ious greenhouse gas emission reporting and reduc-
12	tion policies for the member States and Indian
13	tribes.
14	"(2) Reporting entity.—The term reporting
15	entity' means—
16	"(A) a covered entity;
17	"(B) an entity that—
18	"(i) would be a covered entity if it had
19	emitted, produced, imported, manufac-
20	tured, or delivered in 2008 or any subse-
21	quent year more than the applicable
22	threshold level in the definition of covered
23	entity in paragraph (13) of section 700;
24	and

1	"(ii) has emitted, produced, imported,
2	manufactured, or delivered in 2008 or any
3	subsequent year more than the applicable
4	threshold level in the definition of covered
5	entity in paragraph (13) of section 700,
6	provided that the figure of 25,000 tons of
7	carbon dioxide equivalent is read instead
8	as 10,000 tons of carbon dioxide equivalent
9	and the figure of 460,000,000 cubic feet is
10	read instead as 184,000,000 cubic feet;
11	"(C) any other entity that emits a green-
12	house gas, or produces, imports, manufactures,
13	or delivers material whose use results or may
14	result in greenhouse gas emissions if the Ad-
15	ministrator determines that reporting under
16	this section by such entity will help achieve the
17	purposes of this title or title VIII;
18	"(D) any vehicle fleet with emissions of
19	more than 25,000 tons of carbon dioxide equiv-
20	alent on an annual basis, if the Administrator
21	determines that the inclusion of such fleet will
22	help achieve the purposes of this title or title
23	VIII; or
24	"(E) any entity that delivers electricity to
25	an energy-intensive facility in an industrial sec-

1	tor that meets the energy or greenhouse gas in-
2	tensity criteria in section 764(b)(3)(B)(i).
3	"(b) Regulations.—
4	"(1) In General.—Not later than 6 months
5	after the date of enactment of this title, the Admin-
6	istrator shall issue regulations establishing a Federal
7	greenhouse gas registry. Such regulations shall—
8	"(A) require reporting entities to submit to
9	the Administrator data on—
10	"(i) greenhouse gas emissions in the
11	United States;
12	"(ii) the production and manufacture
13	in the United States, importation into the
14	United States, and, at the discretion of the
15	Administrator, exportation from the
16	United States, of fuels and industrial gases
17	the uses of which result or may result in
18	greenhouse gas emissions;
19	"(iii) deliveries in the United States of
20	natural gas, and any other gas meeting the
21	specifications for commingling with natural
22	gas for purposes of delivery, the combus-
23	tion of which result or may result in green-
24	house gas emissions; and

1	"(iv) the capture and sequestration of
2	greenhouse gases;
3	"(B) require covered entities and, where
4	appropriate, other reporting entities to submit
5	to the Administrator data sufficient to ensure
6	compliance with or implementation of the re-
7	quirements of this title;
8	"(C) require reporting of electricity deliv-
9	ered to industrial sources in energy-intensive in-
10	dustries;
11	"(D) ensure the completeness, consistency,
12	transparency, accuracy, precision, and reliability
13	of such data;
14	"(E) take into account the best practices
15	from the most recent Federal, State, tribal, and
16	international protocols for the measurement, ac-
17	counting, reporting, and verification of green-
18	house gas emissions, including protocols from
19	the Climate Registry and other mandatory
20	State or multistate authorized programs;
21	"(F) take into account the latest scientific
22	research;
23	"(G) require that, for covered entities with
24	respect to greenhouse gases to which section
25	722 applies, and, to the extent determined to be

1	appropriate by the Administrator, for covered
2	entities with respect to other greenhouse gases
3	and for other reporting entities, submitted data
4	are based on—
5	"(i) continuous monitoring systems
6	for fuel flow or emissions, such as contin-
7	uous emission monitoring systems;
8	"(ii) alternative systems that are dem-
9	onstrated as providing data with the same
10	precision, reliability, accessibility, and
11	timeliness, or, to the extent the Adminis-
12	trator determines is appropriate for report-
13	ing small amounts of emissions, the same
14	precision, reliability, and accessibility and
15	similar timeliness, as data provided by con-
16	tinuous monitoring systems for fuel flow or
17	emissions; or
18	"(iii) alternative methodologies that
19	are demonstrated to provide data with pre-
20	cision, reliability, accessibility, and timeli-
21	ness, or, to the extent the Administrator
22	determines is appropriate for reporting
23	small amounts of emissions, precision, reli-
24	ability, and accessibility, as similar as is
25	technically feasible to that of data gen-

1 erally provided by continuous monitoring 2 systems for fuel flow or emissions, if the 3 Administrator determines that, with re-4 spect to a reporting entity, there is no con-5 tinuous monitoring system or alternative 6 system described in clause (i) or (ii) that 7 is technically feasible; "(H) require that the Administrator, in de-8 9 termining the extent to which the requirement 10 to use systems or methodologies in accordance 11 with subparagraph (G) is appropriate for re-12 porting entities other than covered entities or 13 for greenhouse gases to which section 722 does 14 not apply, consider the cost of using such sys-15 tems and methodologies, and of using other sys-16 tems and methodologies that are available and 17 suitable, for quantifying the emissions involved 18 in light of the purposes of this title, including 19 the goal of collecting consistent entity-wide 20 data; 21 "(I) include methods for minimizing double 22 reporting and avoiding irreconcilable double re-23 porting of greenhouse gas emissions; "(J) establish measurement protocols for 24 25 carbon capture and sequestration systems, tak-

1	ing into consideration the regulations promul-
2	gated under section 813;
3	"(K) require that reporting entities provide
4	the data required under this paragraph in re-
5	ports submitted electronically to the Adminis-
6	trator, in such form and containing such infor-
7	mation as may be required by the Adminis-
8	trator;
9	"(L) include requirements for keeping
10	records supporting or related to, and protocols
11	for auditing, submitted data;
12	"(M) establish consistent policies for calcu-
13	lating carbon content and greenhouse gas emis-
14	sions for each type of fossil fuel with respect to
15	which reporting is required;
16	"(N) subsequent to implementation of poli-
17	cies developed under subparagraph (M), provide
18	for immediate dissemination, to States, Indian
19	tribes, and on the Internet, of all data reported
20	under this section as soon as practicable after
21	electronic audit by the Administrator and any
22	resulting correction of data, except that data
23	shall not be disseminated under this subpara-
24	graph if—

1	(1) its nondissemination is vital to
2	the national security of the United States,
3	as determined by the President; or
4	"(ii) it is confidential business infor-
5	mation that cannot be derived from infor-
6	mation that is otherwise publicly available
7	and that would cause significant calculable
8	competitive harm if published, except
9	that—
10	"(I) data relating to greenhouse
11	gas emissions, including any upstream
12	or verification data from reporting en-
13	tities, shall not be considered to be
14	confidential business information; and
15	"(II) data that is confidential
16	business information shall be provided
17	to a State or Indian tribe within
18	whose jurisdiction the reporting entity
19	is located, if the Administrator deter-
20	mines that such State or Indian tribe
21	has in effect protections for confiden-
22	tial business information that are
23	equivalent to protections applicable to
24	the Federal Government;

1	"(O) prescribe methods by which the Ad-
2	ministrator shall, in cases in which satisfactory
3	data are not submitted to the Administrator for
4	any period of time, estimate emission, produc-
5	tion, importation, manufacture, or delivery lev-
6	els—
7	"(i) for covered entities with respect
8	to greenhouse gas emissions, production,
9	importation, manufacture, or delivery regu-
10	lated under this title to ensure that emis-
11	sions, production, importation, manufac-
12	ture, or deliveries are not underreported,
13	and to create a strong incentive for meet-
14	ing data monitoring and reporting require-
15	ments—
16	"(I) with a conservative estimate
17	of the highest emission, production,
18	importation, manufacture, or delivery
19	levels that may have occurred during
20	the period for which data are missing;
21	or
22	"(II) to the extent the Adminis-
23	trator considers appropriate, with an
24	estimate of such levels assuming the
25	unit is emitting, producing, importing,

1	manufacturing, or delivering at a
2	maximum potential level during the
3	period, in order to ensure that such
4	levels are not underreported and to
5	create a strong incentive for meeting
6	data monitoring and reporting re-
7	quirements; and
8	"(ii) for covered entities with respect
9	to greenhouse gas emissions to which sec-
10	tion 722 does not apply and for other re-
11	porting entities, with a reasonable estimate
12	of the emission, production, importation,
13	manufacture, or delivery levels that may
14	have occurred during the period for which
15	data are missing;
16	"(P) require the designation of a des-
17	ignated representative for each reporting entity;
18	"(Q) require an appropriate certification,
19	by the designated representative for the report-
20	ing entity, of accurate and complete accounting
21	of greenhouse gas emissions, as determined by
22	the Administrator; and
23	"(R) include requirements for other data
24	necessary for accurate and complete accounting
25	of greenhouse gas emissions, as determined by

the Administrator, including data for quality assurance of monitoring systems, monitors and other measurement devices, and other data needed to verify reported emissions, production, importation, manufacture, or delivery.

## "(2) TIMING.—

"(A) Calendar years 2007 through 2010.—For a base period of calendar years 2007 through 2010, each reporting entity shall submit annual data required under this section to the Administrator not later than March 31, 2011. The Administrator may waive or modify reporting requirements for calendar years 2007 through 2010 for categories of reporting entities to the extent that the Administrator determines that the reporting entities did not keep data or records necessary to meet reporting requirements. The Administrator may, in addition to or in lieu of such requirements, collect information on energy consumption and production.

"(B) Subsequent calendar year 2011 and each subsequent calendar year, each reporting entity shall submit quarterly data required under this section to the Administrator not later than 60 days

1 after the end of the applicable quarter, except 2 when the data is already being reported to the 3 Administrator on an earlier timeframe for an-4 other program. 5 "(3) Waiver of reporting requirements.— 6 The Administrator may waive reporting require-7 ments under this section for specific entities to the extent that the Administrator determines that suffi-8 9 cient and equally or more reliable verified and timely 10 data are available to the Administrator and the pub-11 lic on the Internet under other mandatory statutory 12 requirements. 13 "(4) Alternative threshold.—The Admin-14 istrator may, by rule, establish applicability thresh-15 olds for reporting under this section using alter-16 native metrics and levels, provided that such metrics 17 and levels are easier to administer and cover the 18 same size and type of sources as the threshold de-19 fined in this section. 20 "(c) Interrelationship With Other Systems.— 21 In developing the regulations issued under subsection (b), 22 the Administrator shall take into account the work done 23 by the Climate Registry and other mandatory State or multistate programs. Such regulations shall include an explanation of any major differences in approach between

1	the system established under the regulations and such reg-
2	istries and programs.
3	"SEC. 714. PERFLUOROCARBON REGULATION.
4	"(a) Definitions.—In this section:
5	"(1) Consumption.—The term 'consumption'
6	means, with respect to perfluorocarbon, the quantity
7	of that substance produced in the United States,
8	plus the quantity imported, minus the quantity ex-
9	ported.
10	"(2) Produce; produced; production.—
11	"(A) IN GENERAL.—The terms 'produce',
12	'produced', and 'production' mean the manufac-
13	ture of perfluorocarbon, or the emission of
14	perfluorocarbon from other industrial sources.
15	"(B) Exclusions.—The terms 'produce',
16	'produced', and 'production' do not include—
17	"(i) the manufacture of
18	perfluorocarbon that is used and entirely
19	consumed (except for trace quantities) in
20	the manufacture of other chemicals or
21	products;
22	"(ii) the reuse or recycling of
23	perfluorocarbon; or

1	"(iii) the emission of perfluorocarbon
2	from use in production processes, such as
3	electronics manufacturing.
4	"(C) Offset Credit.—The term offset
5	credit' means reduction of perfluorocarbon
6	emissions by destruction or conversionary use of
7	perfluorocarbons during production processes.
8	such as electronics manufacturing.
9	"(b) Determination by Administrator.—As soon
10	as practicable after the date of enactment of this section
11	the Administrator shall determine, based on such criteria
12	as the Administrator determines to be appropriate, wheth-
13	er emissions from the production and consumption of
14	perfluorocarbon should be regulated in accordance with—
15	"(1) this section; or
16	"(2) the other applicable provisions of this title
17	"(c) Effect of Determination.—On a determina-
18	tion by the Administrator under subsection (a)(1) that
19	perfluorocarbon emissions described in subsection (b)
20	should be regulated in accordance with this section—
21	"(1) emissions from the production of
22	perfluorocarbon shall be subject to the best available
23	control technology (as defined in section 169) for
24	each greenhouse gas designated in section 711 at fa-

1	cilities emitting 25,000 metric tons of carbon dioxide
2	equivalent perfluorocarbon emissions or more; and
3	"(2) the consumption of perfluorocarbon shall
4	be phased down in accordance with this section.
5	"(d) USE AND CONSUMPTION.—
6	"(1) Phase-downs.—
7	"(A) Consumption.—
8	"(i) In general.—With respect to
9	perfluorocarbon, not later than 18 months
10	after the date of enactment of this section,
11	the Administrator shall promulgate regula-
12	tions phasing down, in accordance with
13	this section—
14	(I) the consumption of
15	perfluorocarbon in the United States;
16	and
17	"(II) the importation into the
18	United States of products containing
19	any perfluorocarbon.
20	"(ii) Prohibition.—Effective begin-
21	ning on January 1, 2014, it shall be un-
22	lawful for any person to produce any
23	perfluorocarbon, import any
24	perfluorocarbon, or import any product
25	containing perfluorocarbon, unless the per-

1	son holds 1 consumption allowance or 1
2	offset credit for each carbon dioxide equiv-
3	alent ton of the perfluorocarbon destroyed.
4	"(iii) Retired allowances.—Any
5	person who exports a perfluorocarbon for
6	which a use allowance was retired may re-
7	ceive a refund of that allowance from the
8	Administrator after the date of export.
9	"(B) Integrity of Limits.—To maintain
10	the integrity of the perfluorocarbon limits under
11	this paragraph, the Administrator may limit, by
12	regulation, the percentage of the compliance ob-
13	ligation of any person that may be met through
14	the consumption of offset credits or banked al-
15	lowances.
16	"(C) Counting of violations.—Each
17	consumption allowance or offset credit not held
18	as required by this subsection shall be a sepa-
19	rate violation of this section.
20	"(2) Schedule.—Pursuant to the regulations
21	promulgated under paragraph (1)(A), the number of
22	perfluorocarbon consumption allowances available for
23	distribution for each calendar year beginning in cal-
24	endar year 2014 shall be established by the Adminis-
25	trator.

1	"(3) Baseline.—
2	"(A) IN GENERAL.—Not later than 1 year
3	after the date of enactment of this section, the
4	Administrator shall promulgate regulations to
5	establish the baseline for purposes of paragraph
6	(2).
7	"(B) Calculation.—The baseline shall
8	be—
9	"(i) the sum, expressed in metric tons
10	of carbon dioxide equivalents, of—
11	"(I) the average of the annual
12	consumption of all perfluorocarbon in
13	each of calendar years 2004, 2005
14	and 2006; and
15	"(II) the annual average quantity
16	of all perfluorocarbon contained in im-
17	ported products during the period of
18	calendar years 2004, 2005, and 2006
19	or
20	"(ii) such alternative quantity of car-
21	bon dioxide equivalents that, as determined
22	by the Administrator, more accurately re-
23	flects the average annual quantity of
24	perfluorocarbon consumed in and imported
25	into the United States (including in prod-

1	ucts), as based on information compiled by
2	the Administrator.
3	"(4) Distribution of Allowances.—The
4	Administrator shall determine an allocation, and
5	procedures for the distribution, transfer, and ex-
6	change of allowances for the consumption of
7	perfluorocarbon under this section, including a de-
8	termination of whether allowances may be auctioned,
9	sold, or allocated and distributed at no cost, trans-
10	ferred, or exchanged for domestic or international
11	consumption, in accordance with such criteria as the
12	Administrator considers to be appropriate.
13	"(e) Implementation.—To the maximum extent
14	practicable, the Administrator shall implement this section
15	in accordance with the procedures described in section
16	619.
17	"(f) Deadlines for Compliance.—The Adminis-
18	trator shall promulgate regulations for perfluorocarbon in
19	accordance with this section by not later than October 31,
20	2013.
21	"PART C—PROGRAM RULES
22	"SEC. 721. EMISSION ALLOWANCES.
23	"(a) In General.—The Administrator shall estab-
24	lish a separate quantity of emission allowances for each

- 1 calendar year starting in 2012, in the amounts prescribed
- 2 under subsection (e).
- 3 "(b) IDENTIFICATION NUMBERS.—The Adminis-
- 4 trator shall assign to each emission allowance established
- 5 under subsection (a) a unique identification number that
- 6 includes the vintage year for that emission allowance.
- 7 "(c) Legal Status of Emission Allowances.—
- 8 "(1) IN GENERAL.—An allowance established
- 9 by the Administrator under this title does not con-
- stitute a property right.
- 11 "(2) TERMINATION OR LIMITATION.—Nothing
- in this Act or any other provision of law shall be
- 13 construed to limit or alter the authority of the
- 14 United States, including the Administrator acting
- pursuant to statutory authority, to terminate or
- limit allowances, offset credits, or term offset cred-
- 17 its.
- 18 "(3) OTHER PROVISIONS UNAFFECTED.—Ex-
- cept as otherwise specified in this Act, nothing in
- 20 this Act relating to allowances, offset credits, or
- 21 term offset credits established or issued under this
- 22 title shall affect the application of any other provi-
- sion of law to a covered entity, or the responsibility
- for a covered entity to comply with any such provi-
- sion of law.

I	"(d) SAVINGS PROVISION.—Nothing in this part shall
2	be construed as requiring a change of any kind in any
3	State law regulating electric utility rates and charges, or
4	as affecting any State law regarding such State regula-
5	tion, or as limiting State regulation (including any
6	prudency review) under such a State law. Nothing in this
7	part shall be construed as modifying the Federal Power
8	Act (16 U.S.C. 791a et seq.) or as affecting the authority
9	of the Federal Energy Regulatory Commission under that
10	Act. Nothing in this part shall be construed to interfere
11	with or impair any program for competitive bidding for
12	power supply in a State in which such program is estab-
13	lished.
14	"(e) Allowances for Each Calendar Year.—
15	"(1) In general.—Except as provided in para-
16	graph (2), the number of emission allowances estab-
17	lished by the Administrator under subsection (a) for
18	each calendar year shall be as provided in the fol-
19	lowing table:

"Calendar Year	Emissions Allow- ances (MtCO2e)
2012	4,627
2013	4,544
2014	5,099
2015	5,003
2016	5,482
2017	5,261
2018	5,132
2019	5,002
2020	4,873
2021	4,739
2022	4,605
2023	4,471

2024		4,337
2025		4,203
2026		4,069
2027		3,935
2028		,
2029		3,667
2030		3,533
2031		3,408
2032		$3,\!283$
2033		· · · · · · · · · · · · · · · · · · ·
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2050		1,035
	"(2) REVISION.— "(A) IN GENERAL.—Th	ne Administrator
	. ,	
	may adjust, in accordance w	un subparagraph
	(B), the number of emission	allowances estab-
	lished pursuant to paragraph (	(1) if, after notice
	and an opportunity for public	comment, the Ad-
	ministrator determines that—	
	"(i) United States	greenhouse gas
	emissions in 2005 were	other than 7,206
	million metric tons carbo	
	lent;	3.47
	10110,	
	"(ii) if the requirem	ents of this title

for 2012 had been in effect in 2005, sec-

1	tion 722 would have required emission al-
2	lowances to be held for other than 66.2
3	percent of United States greenhouse gas
4	emissions in 2005;
5	"(iii) if the requirements of this title
6	for 2014 had been in effect in 2005, sec-
7	tion 722 would have required emission al-
8	lowances to be held for other than 75.7
9	percent of United States greenhouse gas
10	emissions in 2005; or
11	"(iv) if the requirements of this title
12	for 2016 had been in effect in 2005, sec-
13	tion 722 would have required emission al-
14	lowances to be held for other than 84.5
15	percent United States greenhouse gas
16	emissions in 2005.
17	"(B) Adjustment formula.—
18	"(i) In General.—If the Adminis-
19	trator adjusts under this paragraph the
20	number of emission allowances established
21	pursuant to paragraph (1), the number of
22	emission allowances the Administrator es-
23	tablishes for any given calendar year shall
24	equal the product of—

1	"(I) United States greenhouse
2	gas emissions in 2005, expressed in
3	tons of carbon dioxide equivalent;
4	"(II) the percent of United
5	States greenhouse gas emissions in
6	2005, expressed in tons of carbon di-
7	oxide equivalent, that would have been
8	subject to section 722 if the require-
9	ments of this title for the given cal-
10	endar year had been in effect in 2005;
11	and
12	"(III) the percentage set forth
13	for that calendar year in section
14	703(a), or determined under clause
15	(ii) of this subparagraph.
16	"(ii) Targets.—In applying the por-
17	tion of the formula in clause (i)(III) of this
18	subparagraph, for calendar years for which
19	a percentage is not listed in section 703(a).
20	the Administrator shall use a uniform an-
21	nual decline in the amount of emissions be-
22	tween the years that are specified.
23	"(iii) Carbon dioxide equivalent
24	VALUE.—If the Administrator adjusts
25	under this paragraph the number of emis-

1	sion allowances established pursuant to
2	paragraph (1), the Administrator shall use
3	the carbon dioxide equivalent values estab-
4	lished pursuant to section 712.
5	"(iv) Limitation on adjustment
6	TIMING.—Once a calendar year has start-
7	ed, the Administrator may not adjust the
8	number of emission allowances to be estab-
9	lished for that calendar year.
10	"(C) Limitation on adjustment au-
11	THORITY.—The Administrator may adjust
12	under this paragraph the number of emission
13	allowances to be established pursuant to para-
14	graph (1) only once.
15	"(f) Compensatory Allowance.—
16	"(1) In general.—The regulations promul-
17	gated under subsection (h) shall provide for the es-
18	tablishment and distribution of compensatory allow-
19	ances for—
20	"(A) the destruction, in 2012 or later, of
21	fluorinated gases that are greenhouse gases if—
22	"(i) allowances or offset credits were
23	retired for their production or importation;
24	and

1	"(ii) such gases are not required to be
2	destroyed under any other provision of law;
3	"(B) the nonemissive use, in 2012 or later,
4	of petroleum-based or coal-based liquid or gas-
5	eous fuel, petroleum coke, natural gas liquid, or
6	natural gas as a feedstock, if allowances or off-
7	set credits were retired for the greenhouse
8	gases that would have been emitted from their
9	combustion; and
10	"(C) the conversionary use, in 2012 or
11	later, of fluorinated gases in a manufacturing
12	process, including semiconductor research or
13	manufacturing, if allowances or offset credits
14	were retired for the production or importation
15	of such gas.
16	"(2) Establishment and distribution.—
17	"(A) In general.—Not later than 90
18	days after the end of each calendar year, the
19	Administrator shall establish and distribute to
20	the entity taking the actions described in sub-
21	paragraph (A), (B), or (C) of paragraph (1) a
22	quantity of compensatory allowances equivalent
23	to the number of tons of carbon dioxide equiva-
24	lent of avoided emissions achieved through such
25	actions. In establishing the quantity of compen-

1	satory allowances, the Administrator shall take
2	into account the carbon dioxide equivalent value
3	of any greenhouse gas resulting from such ac-
4	tion.
5	"(B) Source of Allowances.—Compen-
6	satory allowances established under this sub-
7	section shall not be emission allowances estab-
8	lished under subsection (a).
9	"(C) IDENTIFICATION NUMBERS.—The
10	Administrator shall assign to each compen-
11	satory allowance established under subpara-
12	graph (A) a unique identification number.
13	"(3) Definitions.—For purposes of this sub-
14	section—
15	"(A) the term 'destruction' means the con-
16	version of a greenhouse gas by thermal, chem-
17	ical, or other means to another gas or set of
18	gases with little or no carbon dioxide equivalent
19	value;
20	"(B) the term 'nonemissive use' means the
21	use of fossil fuel as a feedstock in an industrial
22	or manufacturing process to the extent that
23	greenhouse gases are not emitted from such
24	process, and to the extent that the products of

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1 such process are not intended for use as, or to 2 be contained in, a fuel; and 3 "(C) the term 'conversionary use' means 4 the conversion during research or manufac-5 turing of a fluorinated gas into another green-6 house gas or set of gases with a lower carbon dioxide equivalent value. 7 "(4) FEEDSTOCK EMISSIONS STUDY.— 8 9 "(A) The Administrator may conduct a 10 study to determine the extent to which petro-11 leum-based or coal-based liquid or gaseous fuel, 12 petroleum coke, natural gas liquid, or natural 13 gas are used as feedstocks in manufacturing 14 processes to produce products and the green-15 house gas emissions resulting from such uses. "(B) If as a result of such a study, the Ad-16 17 ministrator determines that the use of such 18 products by noncovered sources results in sub-19 stantial emissions of greenhouse gases or their 20 precursors and that such emissions have not 21 been adequately addressed under other require-22 ments of this Act, the Administrator may, after

notice and comment rulemaking, promulgate a

regulation reducing compensatory allowances

1	commensurately if doing so will not result in
2	leakage.
3	"(g) Fluorinated Gases Assessment.—
4	"(1) IN GENERAL.—Not later than March 31,
5	2014, the Administrator shall conduct an assess-
6	ment of the regulation of non-hydrofluorocarbon
7	fluorinated gases under this title (excluding
8	perfluorocarbon) to determine whether the most ap-
9	propriate point of regulation of those gases is at—
10	"(A) the gas manufacturer or importer
11	level; or
12	"(B) the downstream source of the emis-
13	sions.
14	"(2) Modification of Definition.—If the
15	Administrator determines, based on consideration of
16	environmental effectiveness, cost-effectiveness, ad-
17	ministrative feasibility, extent of coverage of emis-
18	sions, and competitiveness considerations, that emis-
19	sions of non-hydrofluorocarbon fluorinated gases (ex-
20	cluding perfluorocarbons) can best be regulated by
21	designating downstream emission sources as covered
22	entities with compliance obligations under section
23	722, the Administrator shall—
24	"(A) after providing notice and an oppor-
25	tunity for comment, modify the definition of the

1 term 'covered entity' with respect to fluorinated 2 than hydrofluorocarbons (other 3 perfluorocarbons) accordingly; and 4 "(B) establish such requirements as are 5 necessary to ensure compliance by the covered 6 entities with the requirements of this title. 7 "(h) REGULATIONS.—Not later than 24 months after 8 the date of enactment of this title, the Administrator shall promulgate regulations to carry out the provisions of this 10 title. "SEC. 722. PROHIBITION OF EXCESS EMISSIONS. 12 "(a) Prohibition.—Except as provided in sub-13 section (c), effective January 1, 2012, each covered entity is prohibited from emitting greenhouse gases, and having 14 15 attributable greenhouse gas emissions, in combination, in excess of its allowable emissions level. A covered entity's 16 17 allowable emissions level for each calendar year is the 18 number of emission allowances (or credits or other allow-19 ances as provided in subsection (d)) it holds as of 12:01 20 a.m. on April 1 (or a later date established by the Admin-21 istrator under subsection (j)) of the following calendar 22 year. 23 "(b) METHODS OF DEMONSTRATING COMPLIANCE.— Except as otherwise provided in this section, the owner

or operator of a covered entity shall not be considered to

1	be in compliance with the prohibition in subsection (a) un-
2	less, as of 12:01 a.m. on April 1 (or a later date estab-
3	lished by the Administrator under subsection (j)) of each
4	calendar year starting in 2013, the owner or operator
5	holds a quantity of emission allowances (or credits or other
6	allowances as provided in subsection (d)) at least as great
7	as the quantity calculated as follows:
8	"(1) Electricity sources.—For a covered
9	entity described in section $700(13)(A)$ , 1 emission
10	allowance for each ton of carbon dioxide equivalent
11	of greenhouse gas that such covered entity emitted
12	in the previous calendar year, excluding emissions
13	resulting from the combustion of—
14	"(A) petroleum-based or coal-based liquid
15	fuel;
16	"(B) natural gas liquid;
17	"(C) renewable biomass or gas derived
18	from renewable biomass; or
19	"(D) petroleum coke.
20	"(2) Fuel producers and importers.—For
21	a covered entity described in section $700(13)(B)$ , 1
22	emission allowance for each ton of carbon dioxide
23	equivalent of greenhouse gas that would be emitted
24	from the combustion of any petroleum-based or coal-
25	based liquid fuel, petroleum coke, or natural gas liq-

- uid, produced or imported by such covered entity during the previous calendar year for sale or distribution in interstate commerce, assuming no capture and sequestration of any greenhouse gas emissions.
  - "(3) Industrial gas producers and imported by such covered entity described in section trifluoride), or any combination thereof, produced or imported by such covered entity during the previous calendar year for sale or distribution in interstate commerce or released as fugitive emissions in the production of fluorinated gas.
    - "(4) NITROGEN TRIFLUORIDE SOURCES.—For a covered entity described in section 700(13)(D), 1 emission allowance for each ton of carbon dioxide equivalent of nitrogen trifluoride that such covered entity emitted in the previous calendar year.
    - "(5) Geological sequestration sites.—For a covered entity described in section 700(13)(E), 1 emission allowance for each ton of carbon dioxide

I	equivalent of greenhouse gas that such covered enti-
2	ty emitted in the previous calendar year.
3	"(6) Industrial stationary sources.—For
4	a covered entity described in section 700(13)(F)
5	(G), or (H), 1 emission allowance for each ton of
6	carbon dioxide equivalent of greenhouse gas that
7	such covered entity emitted in the previous calendar
8	year, excluding emissions resulting from—
9	"(A) the combustion of petroleum-based or
10	coal-based liquid fuel;
11	"(B) the combustion of natural gas liquid
12	"(C) the combustion of renewable biomass
13	or gas derived from renewable biomass;
14	"(D) the combustion of petroleum coke; or
15	"(E) the use of any fluorinated gas that is
16	a greenhouse gas purchased for use at that cov-
17	ered entity, except for nitrogen trifluoride.
18	"(7) Industrial fossil fuel-fired combus-
19	TION DEVICES.—For a covered entity described in
20	section 700(13)(I), 1 emission allowance for each
21	ton of carbon dioxide equivalent of greenhouse gas
22	that the devices emitted in the previous calendar
23	year, excluding emissions resulting from the combus-
24	tion of—

1	"(A) petroleum-based or coal-based liquid
2	fuel;
3	"(B) natural gas liquid;
4	"(C) renewable biomass or gas derived
5	from renewable biomass; or
6	"(D) petroleum coke.
7	"(8) Natural gas local distribution com-
8	PANIES.—For a covered entity described in section
9	700(13)(J), 1 emission allowance for each ton of
10	carbon dioxide equivalent of greenhouse gas that
11	would be emitted from the combustion of the natural
12	gas, and any other gas meeting the specifications for
13	commingling with natural gas for purposes of deliv-
14	ery, that such entity delivered during the previous
15	calendar year to customers that are not covered enti-
16	ties, assuming no capture and sequestration of that
17	greenhouse gas.
18	"(9) R&D FACILITIES.—
19	"(A) In general.—For a qualified R&D
20	facility that emitted 25,000 tons per year or
21	more carbon dioxide equivalent in the previous
22	calendar year, 1 emission allowance for each
23	ton of carbon dioxide equivalent of greenhouse
24	gas that such facility emitted in the previous
25	calendar year.

1 "(B) Treatment.—A qualified R&D facil-2 ity shall be treated as a separate covered entity 3 solely for purposes of applying the requirements 4 of this subsection. 5 "(10) Algae-based fuels.—Where carbon di-6 oxide (or another greenhouse gas) is used as an 7 input in the production of algae-based fuels, the Ad-8 ministrator shall ensure that allowances are required 9 to be held either for the carbon dioxide used to grow 10 the algae or for the carbon dioxide emitted from 11 combustion of the fuel produced from such algae, 12 but not for both. 13 "(11) Fugitive emissions.—The greenhouse 14 gas emissions to which paragraphs (1), (4), (6), and 15 (7) apply shall not include fugitive emissions of 16 greenhouse gas, except to the extent the Adminis-17 trator determines that data on the carbon dioxide 18 equivalent value of greenhouse gas in the fugitive 19 emissions can be provided with sufficient precision, 20 reliability, accessibility, and timeliness to ensure the 21 integrity of emission allowances, the allowance track-22 ing system, and the limits on emissions. 23 "(12) Export exemption.—This section shall 24 not apply to any petroleum-based or coal-based liq-25 uid fuel, petroleum coke, natural gas liquid, fossil

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fuel-based carbon dioxide, nitrous oxide, or
 fluorinated gas that is exported for sale or use.

"(13) Natural GAS LIQUIDS.—Notwithstanding subsection (a), if the owner or operator of a covered entity described in section 700(13)(B) that produces natural gas liquids does not take ownership of the liquids, and is not responsible for the distribution or use of the liquids in commerce, the owner of the liquids shall be responsible for compliance with this section, section 723, and other relevant sections of this title with respect to such liquids. In the regulations promulgated under section 721, the Administrator shall include such provisions with respect to such liquids as the Administrator determines are appropriate to determine and ensure compliance, and to penalize noncompliance. In such a case, the owner of the covered entity shall provide to the Administrator, in a manner to be determined by the Administrator, information regarding the quantity and ownership of liquids produced at the covered entity.

"(14) APPLICATION OF MULTIPLE PARA-GRAPHS.—For a covered entity to which more than 1 of paragraphs (1) through (8) apply, all applicable paragraphs shall apply, except that not more than 1

1	emission allowance shall be required for the same
2	emission.
3	"(c) Phase-in of Prohibition.—
4	"(1) Industrial stationary sources.—The
5	prohibition under subsection (a) shall first apply to
6	a covered entity described in section 700(13)(D),
7	(F), (G), (H), or (I), with respect to emissions oc-
8	curring during calendar year 2014.
9	"(2) Natural gas local distribution com-
10	PANIES.—The prohibition under subsection (a) shall
11	first apply to a covered entity described in section
12	700(13)(J) with respect to deliveries occurring dur-
13	ing calendar year 2016.
14	"(d) Additional Methods.—In addition to using
15	the method of compliance described in subsection (b), a
16	covered entity may do the following:
17	"(1) Offset credits.—
18	"(A) Credits.—
19	"(i) In General.—Covered entities
20	collectively may, in accordance with this
21	paragraph, use offset credits to dem-
22	onstrate compliance for up to a maximum
23	of 2,000,000,000 tons of greenhouse gas
24	emissions annually.

1	"(ii) Demonstration of compli-
2	ANCE.—In any calendar year, a covered
3	entity may demonstrate compliance by
4	holding 1 domestic offset credit or 1.25
5	international offset credits in lieu of an
6	emission allowance, except as provided in
7	subparagraph (D), up to a total number of
8	offset credits described in subparagraph
9	(B).
10	"(B) Applicable percentage.—
11	"(i) In general.—The total number
12	of offset credits referred to in subpara-
13	graph (A)(ii) for a covered entity for a
14	given calendar year shall be determined
15	by—
16	"(I) dividing—
17	"(aa) the tons of carbon di-
18	oxide equivalent of greenhouse
19	gas emissions of the covered enti-
20	ty (except for the types of emis-
21	sions excluded under subpara-
22	graphs (A) through (D) of sub-
23	section (b)(1), subparagraphs (A)
24	through (E) of subsection (b)(6),
25	and subparagraphs (A) through

1	(D) of subsection $(b)(7)$ and at-
2	tributable greenhouse gas emis-
3	sions for the year before the pre-
4	ceding calendar year; by
5	"(bb) the sum of the tons of
6	carbon dioxide equivalent of
7	greenhouse gas emissions of all
8	covered entities (except for the
9	types of emissions excluded under
10	subparagraphs (A) through (D)
11	of subsection (b)(1), subpara-
12	graphs (A) through (E) of sub-
13	section (b)(6), and subpara-
14	graphs (A) through (D) of sub-
15	section (b)(7)) and attributable
16	greenhouse gas emissions for the
17	year before the preceding cal-
18	endar year; and
19	"(II) multiplying the quotient ob-
20	tained under subclause (I) by
21	2,000,000,000.
22	"(ii) Applicability.—Clause (i) shall
23	apply to a covered entity (including a cov-
24	ered entity that commenced operation dur-
25	ing the preceding calendar year) even if

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451 the covered entity had no greenhouse gas 1 2 emissions or attributable greenhouse gas 3 emissions described in that clause. 4 "(iii) Offset credits.—Not more 5 than <sup>3</sup>/<sub>4</sub> of the applicable percentage under 6 this paragraph may be used by holding do-7 mestic offset credits, and not more than ½ 8 of the applicable percentage under this 9 paragraph may be used by holding inter-10 national offset credits, except as provided 11 in subparagraph (C). 12 Modified percentages.—If the 13 Administrator determines that domestic offset

credits available for use in demonstrating compliance in any calendar year at domestic offset prices generally equal to or less than allowance prices, are likely to offset less than 900,000,000 tons of greenhouse gas emissions (measured in tons of carbon dioxide equivalents), the Administrator shall increase the percent of emissions that can be offset through the use of international offset credits (and decrease the percent of emissions that can be allowed through the use of domestic offset credits by the same reflect amount) to the amount that

1	1,500,000,000 exceeds the number of domestic
2	offset credits the Administrator determines is
3	available for that year, up to a maximum of
4	750,000,000 tons of greenhouse gas emissions.
5	"(D) International offset credits.—
6	Notwithstanding subparagraph (A), to dem-
7	onstrate compliance prior to calendar year
8	2018, a covered entity may use 1 international
9	offset credit in lieu of an emission allowance up
10	to the amount permitted under this paragraph.
11	"(E) President's recommendation.—
12	The President may make a recommendation to
13	Congress as to whether the number
14	2,000,000,000 specified in subparagraphs (A)
15	and (B) should be increased or decreased.
16	"(2) Term offset credits.—
17	"(A) In general.—Covered entities may,
18	in accordance with this paragraph, use non-ex-
19	pired term offset credits instead of domestic
20	offset credits for purposes of temporarily dem-
21	onstrating compliance with this section.
22	"(B) Amount.—The combined quantity of
23	term offset credits and domestic offset credits
24	used by a covered entity to demonstrate compli-
25	ance for its emissions or attributable green-

house gas emissions in any given year shall not exceed the quantity of domestic offset credits that a covered entity is entitled to use for that year to demonstrate compliance in accordance with paragraph (1).

"(C) Expiration.—A term offset credit shall expire in the year after its term ends. The term of a term offset credit shall be calculated by adding to the year of issuance the number of years equal to the length of the crediting period for the practice or project for which the term offset credit was issued, but in no case shall be later than the date 5 years from the date of issuance.

"(D) Demonstrating compliance upon Expiration of term offset credit.—With respect to the emissions for which a covered entity is using term offset credits to demonstrate compliance temporarily with this section, the owner or operator of a covered entity shall not be considered to be in compliance with the prohibition in subsection (a) unless, as of 12:01 a.m. on April 1 (or a later date established by the Administrator under subsection (j)) of the

1	calendar year in which a term offset credit ex-
2	pires, the owner or operator holds—
3	"(i) for purposes of finally dem-
4	onstrating compliance, an allowance or a
5	domestic offset credit; or
6	"(ii) for purposes of temporarily dem-
7	onstrating compliance, a non-expired term
8	offset credit.
9	"(E) Inapplicability of percentage
10	LIMITATIONS.—Domestic offset credits used for
11	purposes of finally demonstrating compliance
12	under this subparagraph shall not be subject to
13	the percentage limitations in subparagraph (B).
14	"(F) FINANCIAL ASSURANCE.—A covered
15	entity may not use a term offset credit to dem-
16	onstrate compliance temporarily unless it simul-
17	taneously provides to the Administrator finan-
18	cial assurance that, at the end of the term off-
19	set credit's crediting term, the covered entity
20	will have sufficient resources to obtain the
21	quantity of allowances or credits necessary to
22	demonstrate final compliance. The Adminis-
23	trator shall issue regulations establishing re-
24	quirements for such financial assurance, which
25	shall take into account the increased risk asso-

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ciated with longer crediting terms. These regulations shall take into account the total number of tons of carbon dioxide equivalent of greenhouse gas emissions for which a covered entity is demonstrating compliance temporarily, and may set a limit on this amount. In the event that a covered entity that used term offset credits to demonstrate compliance temporarily fails to meet the requirements of subparagraph (D) at the end of the term offset credits' crediting term, if the financial assurance mechanism fails to provide to the Administrator the number of allowances or offset credits for which the crediting term has expired, then the Administrator shall retire that number of allowances with the vintage year 2 years after the year in which the term offset credit expires in the same amount. Allowances so retired shall not be counted as emission allowances established for that calendar year under section 721(a). "(3) International **EMISSION** ALLOW-

"(3) International Emission allowance and an international emission allowance in lieu of an emission allowance, except as modified under section 728(d).

1 "(4) Compensatory allowances.—To dem-2 onstrate compliance, a covered entity may hold a 3 compensatory allowance obtained under section 4 721(f) in lieu of an emission allowance. 5 "(e) Retirement of Allowances and Credits.— As soon as practicable after a deadline established for cov-6 7 ered entities to demonstrate compliance with this title, the 8 Administrator shall retire the quantity of allowances or 9 credits required to be held under this title. 10 "(f) ALTERNATIVE METRICS.—For categories of covered entities described in subparagraph (B), (C), (D), (G), 12 (H), or (I) of section 700(13), the Administrator may, by rule, establish an applicability threshold for inclusion 13 under those subparagraphs using an alternative metric 14 15 and level, provided that such metric and level are easier to administer and cover the same size and type of sources 16 17 as the threshold defined in such subparagraphs. 18 "(g) Threshold Review.—For each category of 19 covered entities described in subparagraph (B), (C), (D), 20 (G), (H), or (I) of section 700(13), the Administrator 21 shall, in 2020 and once every 8 years thereafter, review 22 the carbon dioxide equivalent emission thresholds that are 23 used to define covered entities. After consideration of— 24 "(1) emissions from covered entities in each

such category, and from other entities of the same

1	type that emit less than the threshold amount for
2	the category (including emission sources that com-
3	mence operation after the date of enactment of this
4	title that are not covered entities); and
5	"(2) whether greater greenhouse gas emission
6	reductions can be cost-effectively achieved by low-
7	ering the applicable threshold,
8	the Administrator may by rule lower such threshold to not
9	less than 10,000 tons of carbon dioxide equivalent emis-
10	sions. In determining the cost effectiveness of potential re-
11	ductions from lowering the threshold for covered entities,
12	the Administrator shall consider alternative regulatory
13	greenhouse gas programs, including setting standards
14	under other titles of this Act.
15	"(h) Designated Representatives.—The regula-
16	tions promulgated under section 721(h) shall require that
17	each covered entity, and each entity holding allowances or
18	credits or receiving allowances or credits from the Admin-
19	istrator under this title, select a designated representative.
20	"(i) Education and Outreach.—
21	"(1) IN GENERAL.—The Administrator shall es-
22	tablish and carry out a program of education and
23	outreach to assist covered entities, especially entities
24	having little experience with environmental regu-
25	latory requirements similar or comparable to those

- 1 under this title, in preparing to meet the compliance
- 2 obligations of this title. Such program shall include
- 3 education with respect to using markets to effec-
- 4 tively achieve such compliance.
- 5 "(2) Failure to receive information.—A
- 6 failure to receive information or assistance under
- 7 this subsection may not be used as a defense against
- 8 an allegation of any violation of this title.
- 9 "(j) Adjustment of Deadline.—The Adminis-
- 10 trator may, by rule, establish a deadline for demonstrating
- 11 compliance, for a calendar year, later than the date pro-
- 12 vided in subsection (a), as necessary to ensure the avail-
- 13 ability of emissions data, but in no event shall the deadline
- 14 be later than June 1.
- 15 "(k) Notice Requirement for Covered Enti-
- 16 TIES RECEIVING NATURAL GAS FROM NATURAL GAS
- 17 LOCAL DISTRIBUTION COMPANIES.—The owner or oper-
- 18 ator of a covered entity that takes delivery of natural gas
- 19 from a natural gas local distribution company shall, not
- 20 later than September 1 of each calendar year, notify such
- 21 natural gas local distribution company in writing that
- 22 such entity will qualify as a covered entity under this title
- 23 for that calendar year.
- 24 "(1) Compliance Obligation.—For purposes of
- 25 this title, the year of a compliance obligation is the year

- 1 in which compliance is determined, not the year in which
- 2 the greenhouse gas emissions occur or the covered entity
- 3 has attributable greenhouse gas emissions.
- 4 "SEC. 723. PENALTY FOR NONCOMPLIANCE.
- 5 "(a) Enforcement.—A violation of any prohibition
- 6 of, requirement of, or regulation promulgated pursuant to
- 7 this title shall be a violation of this Act. It shall be a viola-
- 8 tion of this Act for a covered entity to emit greenhouse
- 9 gases, and have attributable greenhouse gas emissions, in
- 10 combination, in excess of its allowable emissions level as
- 11 provided in section 722(a). Each ton of carbon dioxide
- 12 equivalent for which a covered entity fails to demonstrate
- 13 compliance under section 722(b) shall be a separate viola-
- 14 tion. In the event that a covered entity fails to dem-
- 15 onstrate compliance at the expiration of a term of offset
- 16 credits crediting term as required by section 722(d)(2)(D),
- 17 the year of the violation shall be the year in which the
- 18 term offset credit expires.
- 19 "(b) Excess Emissions Penalty.—
- 20 "(1) In general.—The owner or operator of
- any covered entity that fails for any year to comply,
- on the deadline described in section 722(a) or (j),
- shall be liable for payment to the Administrator of
- an excess emissions penalty in the amount described
- in paragraph (2).

1	"(2) Amount.—The amount of an excess emis-
2	sions penalty required to be paid under paragraph
3	(1) shall be equal to the product obtained by multi-
4	plying—
5	"(A) the tons of carbon dioxide equivalent
6	of greenhouse gas emissions or attributable
7	greenhouse gas emissions for which the owner
8	or operator of a covered entity failed to comply
9	under section 722(b) on the deadline; by
10	"(B) twice the fair market value of emis-
11	sion allowances established for emissions occur-
12	ring in the calendar year for which the emission
13	allowances were due.
14	"(3) Timing.—An excess emissions penalty re-
15	quired under this subsection shall be immediately
16	due and payable to the Administrator, without de-
17	mand, in accordance with regulations promulgated
18	by the Administrator, which shall be issued not later
19	than 2 years after the date of enactment of this
20	title.
21	"(4) No effect on liability.—An excess
22	emissions penalty due and payable by the owners or
23	operators of a covered entity under this subsection
24	shall not diminish the liability of the owners or oper-
25	ators for any fine, penalty, or assessment against

- 1 the owners or operators for the same violation under
- any other provision of this Act or any other law.
- 3 "(c) Excess Emissions Allowances.—The owner
- 4 or operator of a covered entity that fails for any year to
- 5 comply on the deadline described in section 722(a) or (j)
- 6 shall be liable to offset the covered entity's excess com-
- 7 bination of greenhouse gases emitted and attributable
- 8 greenhouse gas emissions by an equal quantity of emission
- 9 allowances during the following calendar year, or such
- 10 longer period as the Administrator may prescribe. During
- 11 the year in which the covered entity failed to comply, or
- 12 any year thereafter, the Administrator may deduct the
- 13 emission allowances required under this subsection to off-
- 14 set the covered entity's excess actual or attributable emis-
- 15 sions.

## 16 "SEC. 724. TRADING.

- 17 "(a) Permitted Transactions.—Except as other-
- 18 wise provided in this title, the lawful holder of an emission
- 19 allowance, compensatory allowance, or offset credit may,
- 20 without restriction, sell, exchange, transfer, hold for com-
- 21 pliance in accordance with section 722, or request that the
- 22 Administrator retire the emission allowance, compensatory
- 23 allowance, or offset credit.
- 24 "(b) No Restriction on Transactions.—The
- 25 privilege of purchasing, holding, selling, exchanging,

- 1 transferring, and requesting retirement of emission allow-
- 2 ances, compensatory allowances, or offset credits shall not
- 3 be restricted to the owners and operators of covered enti-
- 4 ties, except as otherwise provided in this title.
- 5 "(c) Effectiveness of Allowance Trans-
- 6 FERS.—No transfer of an allowance or offset credit shall
- 7 be effective for purposes of this title until a certification
- 8 of the transfer, signed by the designated representative of
- 9 the transferor, is received and recorded by the Adminis-
- 10 trator in accordance with regulations promulgated under
- 11 section 721(h).
- 12 "(d) Allowance Tracking System.—The regula-
- 13 tions promulgated under section 721(h) shall include a
- 14 system for issuing, recording, holding, and tracking allow-
- 15 ances, offset credits, and term offset credits that shall
- 16 specify all necessary procedures and requirements for an
- 17 orderly and competitive functioning of the allowance and
- 18 offset credit markets. Such regulations shall provide for
- 19 appropriate publication of the information in the system
- 20 on the Internet.
- 21 "SEC. 725. BANKING AND BORROWING.
- 22 "(a) Banking.—An emission allowance may be used
- 23 to comply with section 722 or 723 for emissions in—
- 24 "(1) the vintage year for the allowance; or

1	"(2) any calendar year subsequent to the vin-
2	tage year for the allowance.
3	"(b) Expiration.—
4	"(1) Regulations.—The Administrator may
5	establish by regulation criteria and procedures for
6	determining whether, and for implementing a deter-
7	mination that, the expiration of an allowance, credit,
8	or term offset credit established or issued by the Ad-
9	ministrator under this title, or expiration of the abil-
10	ity to use an international emission allowance to
11	comply with section 722, is necessary to ensure the
12	authenticity and integrity of allowances, credits, or
13	term offset credits or the allowance tracking system.
14	"(2) GENERAL RULE.—An allowance, credit, or
15	term offset credit established or issued by the Ad-
16	ministrator under this title shall not expire unless—
17	"(A) it is retired by the Administrator as
18	required under this title; or
19	"(B) it is determined to expire or to have
20	expired by a specific date by the Administrator
21	in accordance with regulations promulgated
22	under paragraph (1).
23	"(3) International Emission allow-
24	ANCES.—The ability to use an international emission

1	allowance to comply with section 722 shall not ex-
2	pire unless—
3	"(A) the allowance is retired by the Ad-
4	ministrator as required by this title; or
5	"(B) the ability to use such allowance to
6	meet such compliance obligation requirements is
7	determined to expire or to have expired by a
8	specific date by the Administrator in accord-
9	ance with regulations promulgated under para-
10	graph (1).
11	"(c) Borrowing Future Vintage Year Allow-
12	ANCES.—
13	"(1) Borrowing without interest.—In ad-
14	dition to the uses described in subsection (a), an
15	emission allowance may be used to comply with sec-
16	tion 722(a) or 723 for emissions, production, impor-
17	tation, manufacture, or deliveries in the calendar
18	year immediately preceding the vintage year for the
19	allowance.
20	"(2) Borrowing with interest.—
21	"(A) IN GENERAL.—A covered entity may
22	demonstrate compliance under subsection (b) in
23	a specific calendar year for up to 15 percent of
24	its emissions by holding emission allowances

1	with a vintage year 1 to 5 years later than that
2	calendar year.
3	"(B) Limitations.—An emission allow-
4	ance borrowed pursuant to this paragraph shall
5	be an emission allowance that is established by
6	the Administrator for a specific future calendar
7	year under section 721(a) and that is held by
8	the borrower.
9	"(C) Prepayment of interest.—For
10	each emission allowance that an owner or oper-
11	ator of a covered entity borrows pursuant to
12	this paragraph, such owner or operator shall, at
13	the time it borrows the allowance, hold for re-
14	tirement by the Administrator a quantity of
15	emission allowances that is equal to the product
16	obtained by multiplying—
17	"(i) 0.08; by
18	"(ii) the number of years between the
19	calendar year in which the allowance is
20	being used to satisfy a compliance obliga-
21	tion and the vintage year of the allowance.
22	"SEC. 726. MARKET STABILITY RESERVE.
23	"(a) Market Stability Reserve Auctions.—
24	"(1) IN GENERAL.—Once each quarter of each
25	calendar year for which allowances are established

1	under section 721(a), the Administrator shall auc-
2	tion market stability reserve allowances.
3	"(2) Restriction to covered entities.—In
4	each auction conducted under paragraph (1), only
5	covered entities that the Administrator expects will
6	be required to comply with section 722 in the fol-
7	lowing calendar year shall be eligible to make pur-
8	chases.
9	"(b) Pool of Emission Allowances for Market
10	STABILITY RESERVE AUCTIONS.—
11	"(1) FILLING THE MARKET STABILITY RE-
12	SERVE INITIALLY.—
13	"(A) In General.—The Administrator
14	shall, not later than 2 years after the date of
15	enactment of this title, establish a market sta-
16	bility reserve account, and shall place in that
17	account an amount of emission allowances es-
18	tablished under section 721(a).
19	"(B) Effect on other provisions.—
20	Any provision in this title (except for subpara-
21	graph (B) of this paragraph) that refers to a
22	quantity or percentage of the emission allow-
23	ances established for a calendar year under sec-
24	tion 721(a) shall be considered to refer to the
25	amount of emission allowances as determined

1	pursuant to section 721(e), less any emission
2	allowances established for that year that are
3	placed in the market stability reserve accoun-
4	under this paragraph.
5	"(2) Supplementing the market stability
6	RESERVE.—The Administrator shall also—
7	"(A) at the end of each calendar year
8	transfer to the market stability reserve accoun
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 marke

- 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.—
- "(1) Initial limits.—Subject to paragraph (4), for each of calendar years 2012 through 2016, the annual limit on the number of emission allowances from the market stability reserve account that may be auctioned is an amount equal to 15 percent

of the emission allowances established for that calendar year under section 721(a). This limit does not apply to offset credits sold on consignment pursuant to subsection (h).

"(2) Limits in subsequent years.—Subject to paragraph (4), for calendar year 2017 and each year thereafter, the annual limit on the number of emission allowances from the market stability reserve account that may be auctioned is an amount equal to 25 percent of the emission allowances established for that calendar year under section 721(a). This limit does not apply to offset credits sold on consignment pursuant to subsection (h).

"(3) Allocation of limitation.—One-fourth of each year's annual market stability reserve auction limit under this subsection shall be made available for auction in each quarter. Any allowances from the market stability reserve account that are made available for sale in a quarterly auction and not sold shall be rolled over and added to the quantity available for sale in the following quarter, except that allowances not sold at auction in the fourth quarter of a year shall not be rolled over to the following calendar year's auctions, but shall be returned to the market stability reserve account.

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470 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-

lowances that a covered entity may purchase at the market stability reserve auctions in each calendar year shall not exceed 20 percent of the covered entity's emissions during the most recent year for which allowances or credits were retired under section 722.

"(2) 2012 LIMIT.—For calendar year 2012, the maximum aggregate number of emission allowances that a covered entity may purchase from that year's market stability reserve auctions shall be 20 percent of the covered entity's greenhouse gas emissions that the covered entity reported to the registry established under section 713 for 2011 and that would be subject to section 722(a) if occurring in later calendar years.

ENTRANTS.—The New Administrator shall, by regulation, establish a separate purchase

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subsection.

- 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 regulations under this section, the Administrator may, by dele-10 gation or contract, provide for the conduct of market stability reserve auctions under the Administrator's super-11 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
  - "(2) Offset credits.—The Administrator shall use the proceeds from each market stability reserve auction to purchase offset credits, including

1 domestic offset credits and international offset cred-2 its issued for reduced deforestation activities pursu-3 ant to section 753. The Administrator shall retire 4 those offset credits and establish a number of emis-5 sion allowances equal to the number of international 6 offset credits so retired. Emission allowances estab-7 lished under this paragraph shall be in addition to 8 those established under section 721(a). 9 "(3) Emission allowances.—The Adminis-10 trator shall deposit emission allowances established 11 under paragraph (2) in the market stability reserve, 12 except that, with respect to any such emission allow-13 ances in excess of the amount necessary to fill the 14 market stability reserve to its original size, the Ad-15 ministrator shall— "(A) except as provided in subparagraph 16 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 obligated to obtain the highest price possible for the 4 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 months after the date of enactment of this title, the Ad-16 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: "(1) Frequency; first auction.—Auctions 21 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.

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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. "(5) Purchase limits.—No person may, di-16 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. "(6) Publication of Information.—After 20 21 the auction, the Administrator shall, in a timely 22 fashion, publish the identities of winning bidders,

the quantity of allowances obtained by each winning

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 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 promulgated under subsection (i). Such revised regulations need 14 15 not meet the requirements identified in subsection (i) if the Administrator determines that an alternative auction 16 17 design would be more effective, taking into account factors including costs of administration, transparency, fairness, 18 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 the owner or operator of a covered entity to hold emission 6 7 allowances or offset credits at least equal to the total an-8 nual amount of carbon dioxide equivalents for its combined emissions and attributable greenhouse gas emissions 10 to which section 722 applies. No such permit shall be issued that is inconsistent with the requirements of this 11 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 representative of the owners and operators, of a covered enti-16 17 ty that the owners and operators will hold emission allowances or offset credits for the entity's combined emissions 18 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 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 representation with regard to matters under this title, including the 6 holding and distribution of emission allowances and the 8 proceeds of transactions involving emission allowances. Where there are multiple holders of a legal or equitable 10 title to, or a leasehold interest in, such a covered entity or other entity or where a utility or industrial customer 12 purchases power under a long-term power purchase contract from an independent power production facility that is a covered entity, the certificate shall state— 14 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 of emission allowances, compensatory allowances, inter-7 8 national emission allowances, or offset allowances, except 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 which one or more stationary sources and that are covered 14 15 entities are located shall submit, in accordance with this section and title V, revised permit programs for approval. 16 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-

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 Advisory Board shall submit to the President and make avail-16 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 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
- with respect to qualifying offset projects that result
- in reductions or avoidance of greenhouse gas emis-
- sions, or sequestration of greenhouse gases;
- 21 "(2) ensure that such offset credits represent
- verifiable and additional greenhouse gas emission re-
- 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 "SEC. 733. ELIGIBLE PROJECT TYPES.

- 18 "(a) List of Eligible Project Types.—
- 19 "(1) In general.—As part of the regulations
- promulgated under section 732(a), the President
- 21 shall establish, and may periodically revise, a list of
- 22 types of projects eligible to generate offset credits,
- 23 including international offset credits, under this
- part.

1	"(2) Advisory board recommendations.—
2	In determining the eligibility of project types, the
3	President shall take into consideration the rec-
4	ommendations of the Advisory Board. If a list estab-
5	lished under this section differs from the rec-
6	ommendations of the Advisory Board, the regula-
7	tions promulgated under section 732(a) shall include
8	a justification for the discrepancy.
9	"(3) Initial determination.—The President
10	shall establish the initial eligibility list under para-
11	graph (1) not later than one year after the date of
12	enactment of this title for which there are well devel-
13	oped methodologies that the President determines
14	would meet the criteria of section 734.
15	"(4) Project types to be considered for
16	INITIAL LIST.—In determining the initial list, the
17	President shall give priority to consideration of off-
18	set project types that are recommended by the Advi-
19	sory Board and for which there are well developed
20	methodologies that the President determines would
21	meet the criteria of section 734, and shall con-
22	sider—
23	"(A) methane collection and combustion
24	projects at active underground coal mines;

1	"(B) methane collection and combustion
2	projects at landfills;
3	"(C) capture of venting, flaring, and fugi-
4	tive emissions from oil and natural gas systems;
5	"(D) nonlandfill methane collection, com-
6	bustion and avoidance projects involving organic
7	waste streams that would have otherwise emit-
8	ted methane in the atmosphere, including ma-
9	nure management and biogas capture and com-
10	bustion;
11	"(E) projects involving afforestation or re-
12	forestation of acreage not forested as of Janu-
13	ary 1, 2009;
14	"(F) forest management resulting in an in-
15	crease in forest carbon stores, including har-
16	vested wood products;
17	"(G) agricultural, grassland, and range-
18	land sequestration and management practices,
19	including—
20	"(i) altered tillage practices, including
21	avoided abandonment of such practices;
22	"(ii) winter cover cropping, contin-
23	uous cropping, and other means to in-
24	crease biomass returned to soil in lieu of
25	planting followed by fallowing;

1	"(iii) reduction of nitrogen fertilizer
2	use or increase in nitrogen use efficiency;
3	"(iv) reduction in the frequency and
4	duration of flooding of rice paddies;
5	"(v) reduction in carbon emissions
6	from organic soils;
7	"(vi) reduction in greenhouse gas
8	emissions from manure and effluent;
9	"(vii) reduction in greenhouse gas
10	emissions due to changes in animal man-
11	agement practices, including dietary modi-
12	fications;
13	"(viii) planting and cultivation of per-
14	manent tree crops;
15	"(ix) greenhouse gas emission reduc-
16	tions from improvements and upgrades to
17	mobile or stationary equipment (including
18	engines);
19	"(x) practices to reduce and eliminate
20	soil tillage;
21	"(xi) reductions in greenhouse gas
22	emissions through restoration of wetlands,
23	forestland, and grassland; and

1	"(xii) sequestration of greenhouse
2	gases through management of tree crops;
3	and
4	"(H) changes in carbon stocks attributed
5	to land use change and forestry activities, in-
6	cluding—
7	"(i) management of peatland or wet-
8	land;
9	"(ii) conservation of grassland and
10	forested land;
11	"(iii) improved forest management,
12	including accounting for carbon stored in
13	wood products;
14	"(iv) reduced deforestation or avoided
15	forest conversion;
16	"(v) urban tree-planting and mainte-
17	nance;
18	"(vi) agroforestry; and
19	"(vii) adaptation of plant traits or
20	new technologies that increase sequestra-
21	tion by forests.
22	"(5) Methodologies.—In issuing methodolo-
23	gies pursuant to section 734, the President shall
24	give priority to methodologies for offset types in-
25	cluded on the initial eligibility list.

1	"(b) MODIFICATION OF LIST.—The President—
2	"(1) shall add additional project types to the
3	list not later than 2 years after the date of enact-
4	ment of this title;
5	"(2) may at any time, by rule, add a project
6	type to the list established under subsection (a) if
7	the President, in consultation with appropriate Fed-
8	eral agencies and taking into consideration the rec-
9	ommendations of the Advisory Board, determines
10	that the project type can generate additional reduc-
11	tions or avoidance of greenhouse gas emissions, or
12	sequestration of greenhouse gases, subject to the re-
13	quirements of this part;
14	"(3) may at any time, by rule, determine that
15	a project type on the list does not meet the require-
16	ments of this part, and remove a project type from
17	the list established under subsection (a), in consulta-
18	tion with appropriate Federal agencies and taking
19	into consideration any recommendations of the Advi-
20	sory Board; and
21	"(4) shall consider adding to or removing from
22	the list established under subsection (a), at a min-
23	imum, project types proposed to the President—
24	"(A) by petition pursuant to subsection
25	(e); or

1 "(B) by the Advisory Board. 2 "(c) Petition Process.—Any person may petition 3 the President to modify the list established under sub-4 section (a) by adding or removing a project type pursuant 5 to subsection (b). Any such petition shall include a showing by the petitioner that there is adequate data to estab-6 lish that the project type does or does not meet the re-8 quirements of this part. Not later than 12 months after receipt of such a petition, the President shall either grant 10 or deny the petition and publish a written explanation of the reasons for the President's decision. The President 11 12 may not deny a petition under this subsection on the basis 13 of inadequate Environmental Protection Agency resources 14 or time for review. 15 "SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS. 16 "(a) Methodologies.—As part of the regulations promulgated under section 732(a), the President shall es-17 18 tablish, for each type of offset project listed as eligible under section 733, the following: 19 20 "(1) Additionality.—A standardized method-21 ology for determining the additionality of greenhouse 22 gas emission reductions or avoidance, or greenhouse 23 gas sequestration, achieved by an offset project of 24 that type. Such methodology shall ensure, at a min-25 imum, that any greenhouse gas emission reduction

1	or avoidance, or any greenhouse gas sequestration, is
2	considered additional only to the extent that it re-
3	sults from activities that—
4	"(A) are not required by or undertaken to
5	comply with any law, including any regulation
6	or consent order;
7	"(B) were not commenced prior to Janu-
8	ary 1, 2009, except in the case of—
9	"(i) offset project activities that com-
10	menced after January 1, 2001, and were
11	registered as of the date of enactment of
12	this title under an offset program with re-
13	spect to which the President has made an
14	affirmative determination under section
15	740(a)(2); or
16	"(ii) activities that are readily revers-
17	ible, with respect to which the President
18	may set an alternative earlier date under
19	this subparagraph that is not earlier than
20	January 1, 2001, where the President de-
21	termines that setting such an alternative
22	date may produce an environmental benefit
23	by removing an incentive to cease and then
24	reinitiate activities that began prior to
25	January 1, 2009;

1	"(C) are not receiving support under sec-
2	tion 323 of division A, or section 207 of divi-
3	sion B, of the Clean Energy Jobs and American
4	Power Act; and
5	"(D) exceed the activity baseline estab-
6	lished under paragraph (2).
7	"(2) ACTIVITY BASELINES.—A standardized
8	methodology for establishing activity baselines for
9	offset projects of that type. The President shall set
10	activity baselines to reflect a conservative estimate of
11	business-as-usual performance or practices for the
12	relevant type of activity such that the baseline pro-
13	vides an adequate margin of safety to ensure the en-
14	vironmental integrity of offsets calculated in ref-
15	erence to such baseline.
16	"(3) Quantification methods.—A standard-
17	ized methodology for determining the extent to
18	which greenhouse gas emission reductions or avoid-
19	ance, or greenhouse gas sequestration, achieved by
20	an offset project of that type exceed a relevant activ-
21	ity baseline, including protocols for monitoring and
22	accounting for uncertainty.
23	"(4) Leakage.—A standardized methodology
24	for accounting for and mitigating potential leakage.

1	if any, from an offset project of that type, taking
2	uncertainty into account.
3	"(b) Accounting for Reversals.—
4	"(1) In general.—As part of the regulations
5	promulgated under section 732(a), for each type of
6	sequestration project listed under section 733, the
7	President shall establish requirements to account for
8	and address reversals, including—
9	"(A) a requirement to report any reversal
10	with respect to an offset project for which offset
11	credits have been issued under this part;
12	"(B) provisions to require emission allow-
13	ances to be held in amounts to fully compensate
14	for greenhouse gas emissions attributable to re-
15	versals, and to assign responsibility for holding
16	such emission allowances;
17	"(C) provisions to discourage repeated in-
18	tentional reversals by offset project developers,
19	including but not limited to the assessment of
20	administrative fees, temporary suspension, or
21	disqualification of an offset project developer
22	from the program; and
23	"(D) any other provisions the President
24	determines necessary to account for and ad-
25	dress reversals

1	"(2) MECHANISMS.—The President shall pre-
2	scribe mechanisms to ensure that any sequestration
3	with respect to which an offset credit is issued under
4	this part results in a permanent net increase in se-
5	questration, and that full account is taken of any ac-
6	tual or potential reversal of such sequestration, with
7	an adequate margin of safety. The President shall
8	prescribe at least one of the following mechanisms to
9	meet the requirements of this paragraph:
10	"(A) An offsets reserve, pursuant to para-
11	graph (3).
12	"(B) Insurance that provides for purchase
13	and provision to the President for retirement of
14	an amount of offset credits or emission allow-
15	ances equal in number to the tons of carbon di-
16	oxide equivalents of greenhouse gas emissions
17	released due to reversal.
18	"(C) Another mechanism that the Presi-
19	dent determines satisfies the requirements of
20	this part.
21	"(3) Offsets reserve.—
22	"(A) In general.—An offsets reserve re-
23	ferred to in paragraph (2)(A) is a program
24	under which, before issuance of offset credits
25	under this part, the President shall subtract

1	and reserve from the quantity to be issued a
2	quantity of offset credits based on the risk of
3	reversal. The President shall—
4	"(i) hold these reserved offset credits
5	in the offsets reserve; and
6	"(ii) register the holding of the re-
7	served offset credits in the Offset Registry
8	established under section 732(d).
9	"(B) Project reversal.—
10	"(i) In general.—If a reversal has
11	occurred with respect an offset project for
12	which offset credits are reserved under this
13	paragraph, the President shall remove off-
14	set credits or emission allowances from the
15	offsets reserve and cancel them to fully ac-
16	count for the tons of carbon dioxide equiv-
17	alent that are no longer sequestered.
18	"(ii) Intentional reversals.—If
19	the President determines that a reversal
20	was intentional, the offset project developer
21	for the relevant offset project shall place
22	into the offsets reserve a quantity of offset
23	credits, or combination of offset credits
24	and emission allowances, equal in number
25	to the number of reserve offset credits that

1 were canceled due to the reversal pursuant 2 to clause (i). 3 "(iii) Unintentional reversals.— If the President determines that a reversal was unintentional, the offset project devel-6 oper for the relevant offset project shall 7 place into the offsets reserve a quantity of 8 offset credits, or combination of offset 9 credits and emission allowances, equal in 10 number to half the number of offset credits 11 that were reserved for that offset project, 12 or half the number of reserve offset credits 13 that were canceled due to the reversal pur-14 suant to clause (i), whichever is less. 15 "(iv) Petition.—Any person may pe-16 tition the President for a determination 17 that an offsets reversal has occurred. Any 18 such petition shall include a showing by 19 the petitioner that there is adequate data 20 or other evidence to support the petition. 21 Not later than 90 days after the date of 22 receipt of the petition, the President shall 23 take final action determining either that 24 the reversal has occurred or that the rever-25 sal has not occurred. Such determination

1	shall be accompanied by a statement of the
2	basis for the determination.
3	"(C) Use of reserved offset cred-
4	ITS.—Offset credits placed into the offsets re-
5	serve under this paragraph may not be used to
6	comply with section 722.
7	"(4) Term offset credits.—
8	"(A) Applicability.—With respect to a
9	practice listed under section 733 that seques-
10	ters greenhouse gases and has a crediting pe-
11	riod of not more than 5 years, the President
12	may address reversals pursuant to this para-
13	graph in lieu of permanently accounting for re-
14	versals pursuant to paragraphs (1) and (2).
15	"(B) Accounting for reversals.—For
16	such practices or projects implementing the
17	practices described in subparagraph (A), the
18	President shall require only reversals that occur
19	during the crediting period to be accounted for
20	and addressed pursuant to paragraphs (1) and
21	(2).
22	"(C) Credits issued.—For practices of
23	projects regulated pursuant to subparagraph
24	(B), the Secretary shall issue under section 737
25	a term offset credit, in lieu of an offset credit.

1	for each ton of carbon dioxide equivalent that
2	has been sequestered.
3	"(c) Crediting Periods.—
4	"(1) In general.—As part of the regulations
5	promulgated under section 732(a), for each offset
6	project type, the President shall specify a crediting
7	period, and establish provisions for petitions for new
8	crediting periods, in accordance with this subsection.
9	"(2) Duration.—
10	"(A) In general.—The crediting period
11	shall be not less than 5 and not greater than
12	10 years for any project type other than those
13	involving sequestration or term offsets.
14	"(B) Forestry projects.—The crediting
15	period for a forestry offset project shall not ex-
16	ceed 20 years.
17	"(C) Term offset credits.—The cred-
18	iting period for a term offset credit issued shall
19	not exceed 5 years.
20	"(3) Eligibility.—An offset project shall be
21	eligible to generate offset credits under this part
22	only during the project's crediting period. During
23	such crediting period, the project shall remain eligi-
24	ble to generate offset credits, subject to the meth-
25	odologies and project type eligibility list that applied

- as of the date of project approval under section 735,
  except as provided in paragraph (4).
- 3 "(4) Petition for New Crediting Period.— 4 An offset project developer may petition for a new 5 crediting period to commence after termination of a 6 crediting period, subject to the methodologies and 7 project type eligibility list in effect at the time when 8 such petition is submitted. A petition may not be 9 submitted under this paragraph more than 18 10 months before the end of the pending crediting pe-11 riod. The President may grant such petition after 12 public notice and opportunity for comment. The 13 President may limit the number of new crediting pe-14 riods available for projects of particular project 15 types.
- "(d) Environmental Integrity.—In establishing the requirements under this section, the President shall apply conservative assumptions or methods to maximize the certainty that the environmental integrity of the greenhouse gas limitations established under section 703 is not compromised.
- "(e) Pre-existing Methodologies.—In promul-23 gating requirements under this section, the President shall 24 give due consideration to methodologies for offset projects 25 existing as of the date of enactment of this title.

- 1 "(f) Added Project Types.—The President shall
- 2 establish methodologies described in subsection (a), and,
- 3 as applicable, requirements and mechanisms for reversals
- 4 as described in subsection (b), for any project type that
- 5 is added to the list pursuant to section 733.

## 6 "SEC. 735. APPROVAL OF OFFSET PROJECTS.

- 7 "(a) Approval Petition.—An offset project devel-
- 8 oper shall submit an offset project approval petition signed
- 9 by a responsible official (who shall certify the accuracy of
- 10 the information submitted) and providing such informa-
- 11 tion as the President requires to determine whether the
- 12 offset project is eligible for issuance of offset credits under
- 13 rules promulgated pursuant to this part.
- 14 "(b) Timing.—An approval petition shall be sub-
- 15 mitted to the President under subsection (a) not later than
- 16 the time at which an offset project's first verification re-
- 17 port is submitted under section 736.
- 18 "(c) Approval Petition Requirements.—As part
- 19 of the regulations promulgated under section 732, the
- 20 President shall include provisions for, and shall specify,
- 21 the required components of an offset project approval peti-
- 22 tion required under subsection (a), which shall include—
- "(1) designation of an offset project developer;

1 "(2) designation of a party who is authorized to 2 provide access to the appropriate officials or an au-3 thorized representative to the offset project; and 4 "(3) any other information that the President 5 considers to be necessary to achieve the purposes of 6 this part. 7 "(d) APPROVAL AND NOTIFICATION.—Not later than 8 90 days after receiving a complete approval petition under subsection (a), the President shall make the approval peti-10 tion publicly available on the internet, approve or deny the petition in writing, and, if the petition is denied, make 12 the President's decision publicly available on the internet. After an offset project is approved, the offset project developer shall not be required to resubmit an approval peti-14 15 tion during the offset project's crediting period, except as provided in section 734(c)(4). 16 17 "(e) APPEAL.—The President shall establish proce-18 dures for appeal and review of determinations made under 19 subsection (d). 20 VOLUNTARY Preapproval REVIEW.—The 21 President may establish a voluntary preapproval review procedure, to allow an offset project developer to request 23 the President to conduct a preliminary eligibility review for an offset project. Findings of such reviews shall not

- 1 be binding upon the President. The voluntary preapproval
- 2 review procedure—
- 3 "(1) shall require the offset project developer to
- 4 submit such basic project information as the Presi-
- 5 dent requires to provide a meaningful review; and
- 6 "(2) shall require a response from the President
- 7 not later than 6 weeks after receiving a request for
- 8 review under this subsection.

## 9 "SEC. 736. VERIFICATION OF OFFSET PROJECTS.

- 10 "(a) In General.—As part of the regulations pro-
- 11 mulgated under section 732(a), the President shall estab-
- 12 lish requirements, including protocols, for verification of
- 13 the quantity of greenhouse gas emission reductions or
- 14 avoidance, or sequestration of greenhouse gases, resulting
- 15 from an offset project. The regulations shall require that
- 16 an offset project developer shall submit a report, prepared
- 17 by a third-party verifier accredited under subsection (d),
- 18 providing such information as the President requires to
- 19 determine the quantity of greenhouse gas emission reduc-
- 20 tions or avoidance, or sequestration of greenhouse gas, re-
- 21 sulting from the offset project.
- 22 "(b) Schedule.—The President shall prescribe a
- 23 schedule for the submission of verification reports under
- 24 subsection (a).

1	"(c) Verification Report Requirements.—The
2	President shall specify the required components of a
3	verification report required under subsection (a), which
4	shall include—
5	"(1) the name and contact information for a
6	designated representative for the offset project devel-
7	oper;
8	"(2) the quantity of greenhouse gas reduced,
9	avoided, or sequestered;
10	"(3) the methodologies applicable to the project
11	pursuant to section 734;
12	"(4) a certification that the project meets the
13	applicable requirements;
14	"(5) a certification establishing that the conflict
15	of interest requirements in the regulations promul-
16	gated under subsection $(d)(1)$ have been complied
17	with; and
18	"(6) any other information that the President
19	considers to be necessary to achieve the purposes of
20	this part.
21	"(d) Verifier Accreditation.—
22	"(1) In general.—As part of the regulations
23	promulgated under section 732(a), the President
24	shall establish a process and requirements for peri-
25	odic accreditation of third-party verifiers to ensure

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1 that such verifiers are professionally qualified and 2 have no conflicts of interest with offset project devel-3 opers. 4 "(2) Standards.— 5 "(A) AMERICAN NATIONAL STANDARDS IN-6 STITUTE ACCREDITATION.—The President may 7 accredit, or accept for purposes of accreditation under this subsection, verifiers accredited under 8 9 the American National Standards Institute 10 (ANSI) accreditation program in accordance 11 with ISO 14065. The President shall accredit, 12 or accept for accreditation, verifiers under this 13 subparagraph only if the President finds that 14 the American National Standards Institute ac-15 creditation program provides sufficient assur-16 ance that the requirements of this part will be 17 met. 18 "(B) EPA ACCREDITATION.—As part of 19 regulations promulgated under 20 732(a), the President may establish accredita-21 tion standards for verifiers under this sub-

> "(3) Public Accessibility.—Each verifier meeting the requirements for accreditation in ac-

testing programs and requirements.

section, and may establish related training and

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1 cordance with this subsection shall be listed in a 2 publicly accessible database, which shall be main-3 tained and updated by the President. 4 "(4) Revocation.—The regulations concerning 5 accreditation of third-party verifiers required under 6 paragraph (1) shall establish a process for the Presi-7 dent to revoke the accreditation of any third-party 8 verifier that the President finds fails to maintain 9 professional qualifications or to avoid a conflict of 10 interest, or for other good cause. 11 "SEC. 737. ISSUANCE OF OFFSET CREDITS. 12 DETERMINATION AND NOTIFICATION.—Not "(a) later than 90 days after receiving a complete verification 14 report under section 736, the President shall— 15 "(1) make the report publicly available on the 16 Internet; 17 "(2) make a determination of the quantity of 18 greenhouse gas emissions reduced or avoided, or 19 greenhouse gases sequestered, resulting from an off-20 set project approved under section 735; and 21 "(3) notify the offset project developer in writ-22 ing of such determination and make such determina-23 tion publicly available on the Internet. 24 "(b) Issuance of Offset Credits.—The Presi-

dent shall issue one offset credit to an offset project devel-

- 1 oper for each ton of carbon dioxide equivalent that the
- 2 President has determined has been reduced, avoided, or
- 3 sequestered during the period covered by a verification re-
- 4 port submitted in accordance with section 736, only if—
- 5 "(1) the President has approved the offset
- 6 project pursuant to section 735; and
- 7 "(2) the relevant emissions reduction, avoid-
- 8 ance, or sequestration has—
- 9 "(A) already occurred, during the offset
- 10 project's crediting period; and
- 11 "(B) occurred after January 1, 2009.
- 12 "(c) APPEAL.—The President shall establish proce-
- 13 dures for appeal and review of determinations made under
- 14 subsection (a).
- 15 "(d) TIMING.—Offset credits meeting the criteria es-
- 16 tablished in subsection (b) shall be issued not later than
- 17 2 weeks following the verification determination made by
- 18 the President under subsection (a).
- 19 "(e) Registration.—The President shall assign a
- 20 unique serial number to and register each offset credit to
- 21 be issued in the Offset Registry established under section
- 22 732(d).
- 23 "SEC. 738. AUDITS.
- 24 "(a) IN GENERAL.—The President shall, on an ongo-
- 25 ing basis, conduct random audits of offset projects and

- 1 offset credits. The President shall conduct audits of the
- 2 practices of third-party verifiers. In each year, the Presi-
- 3 dent shall conduct audits, at minimum, for a representa-
- 4 tive sample of project types and geographic areas.
- 5 "(b) Delegation.—The President may delegate to
- 6 a State or tribal government the responsibility for con-
- 7 ducting audits under this section if the President finds
- 8 that the program proposed by the State or tribal govern-
- 9 ment provides assurances equivalent to those provided by
- 10 the auditing program of the President, and that the integ-
- 11 rity of the offset program under this part will be main-
- 12 tained. Nothing in this subsection shall prevent the Presi-
- 13 dent from conducting any audit the President considers
- 14 necessary and appropriate.
- 15 "(c) Audit Requirements.—As part of the regula-
- 16 tions promulgated under section 732(a), the appropriate
- 17 officials shall establish requirements and protocols for an
- 18 auditing program, whether undertaken by the appropriate
- 19 officials or an authorized representative, concerning
- 20 project developers, third party verifiers, and various com-
- 21 ponents of the offsets program. Such regulations shall in-
- 22 clude—
- 23 "(1) the components of the offset project, which
- shall be evaluated against the offset approval peti-
- 25 tion and the verification report;

1	"(2) the minimum experience or training of the
2	auditors;
3	"(3) the form in which reports shall be com-
4	pleted;
5	"(4) requirements for delegating auditing func-
6	tions to States or tribal governments, including re-
7	quiring periodic reports from State or tribal govern-
8	ments on their auditing activities and findings; and
9	"(5) any other information that the appropriate
10	officials considers to be necessary to achieve the pur-
11	pose of the Act.
12	"SEC. 739. PROGRAM REVIEW AND REVISION.
13	"At least once every 5 years, the President shall re-
14	view and, based on new or updated information and taking
15	into consideration the recommendations of the Advisory
16	Board, update and revise—
17	"(1) the list of eligible project types established
18	under section 733;
19	"(2) the methodologies established, including
20	specific activity baselines, under section 734(a);
21	"(3) the reversal requirements and mechanisms
22	established or prescribed under section 734(b);
23	"(4) measures to improve the accountability of
24	the offsets program; and

1	"(5) any other requirements established under
2	this part to ensure the environmental integrity and
3	effective operation of this part.
4	"SEC. 740. EARLY OFFSET SUPPLY.
5	"(a) Projects Registered Under Other Gov-
6	ERNMENT-RECOGNIZED PROGRAMS.—Except as provided
7	in subsection (b) or (c), after public notice and oppor-
8	tunity for comment, the President shall issue one offset
9	credit for each ton of carbon dioxide equivalent emissions
10	reduced, avoided, or sequestered—
11	"(1) under an offset project that was started
12	after January 1, 2001;
13	"(2) for which a credit was issued under any
14	regulatory or voluntary greenhouse gas emission off-
15	set program that the President determines—
16	"(A) was established under State or tribal
17	law or regulation prior to January 1, 2009, or
18	has been approved by the President pursuant to
19	subsection (e);
20	"(B) has developed offset project type
21	standards, methodologies, and protocols
22	through a public consultation process or a peer
23	review process;
24	"(C) has made available to the public
25	standards, methodologies, and protocols that re-

1	quire that credited emission reductions, avoid-
2	ance, or sequestration are permanent, addi-
3	tional, verifiable, and enforceable;
4	"(D) requires that all emission reductions,
5	avoidance, or sequestration be verified by a
6	State regulatory agency or an accredited third-
7	party independent verification body;
8	"(E) requires that all credits issued are
9	registered in a publicly accessible registry, with
10	individual serial numbers assigned for each ton
11	of carbon dioxide equivalent emission reduc-
12	tions, avoidance, or sequestration; and
13	"(F) ensures that no credits are issued for
14	activities for which the entity administering the
15	program, or a program administrator or rep-
16	resentative, has funded, solicited, or served as a
17	fund administrator for the development of, the
18	project or activity that caused the emission re-
19	duction, avoidance, or sequestration; and
20	"(3) for which the credit described in para-
21	graph (2) is transferred to the President.
22	"(b) Ineligible Credits.—Subsection (a) shall not
23	apply to offset credits that have expired or have been re-
24	tired, canceled, or used for compliance under a program
25	established under State or tribal law or regulation.

1	"(c) LIMITATION.—Notwithstanding subsection
2	(a)(1), offset credits shall be issued under this section—
3	"(1) only for reductions or avoidance of green-
4	house gas emissions, or sequestration of greenhouse
5	gases, that occur after January 1, 2009; and
6	"(2) only until the date that is 3 years after the
7	date of enactment of this title, or the date that regu-
8	lations promulgated under section 732(a) take ef-
9	fect, whichever occurs sooner.
10	"(d) Retirement of Credits.—The President
11	shall seek to ensure that offset credits described in sub-
12	section (a)(2) are retired for purposes of use under a pro-
13	gram described in subsection (b).
14	"(e) Other Programs.—
15	"(1) In general.—Offset programs that ei-
16	ther—
17	"(A) were not established under State or
18	tribal law; or
19	"(B) were not established prior to January
20	1, 2009;
21	but that otherwise meet all of the criteria of sub-
22	section (a)(2) may apply to the President to be ap-
23	proved under this subsection as an eligible program
24	for early offset credits under this section.

1 "(2) APPROVAL.—The President shall approve 2 any such program that the President determines has 3 criteria and methodologies of at least equal strin-4 gency to the criteria and methodologies of the pro-5 grams established under State or tribal law that the 6 President determines meet the criteria of subsection 7 (a)(2). The President may approve types of offsets 8 under any such program that are subject to criteria 9 and methodologies of at least equal stringency to the 10 criteria and methodologies for such types of offsets 11 applied under the programs established under State 12 or tribal law that the President determines meet the 13 criteria of subsection (a)(2). The President shall 14 make a determination on any application received 15 under this subsection by not later than 180 days 16 from the date of receipt of the application.

## 17 "SEC. 741. ENVIRONMENTAL CONSIDERATIONS.

"If the President lists forestry or other relevant land management-related offset projects as eligible offset project types under section 733, the President, in consultation with appropriate Federal agencies, shall promulgate regulations to establish criteria for such offset projects—

24 "(1) to ensure that native species are given pri-25 mary consideration in such projects;

1	"(2) to enhance biological diversity in such
2	projects;
3	"(3) to prohibit the use of federally designated
4	or State-designated noxious weeds;
5	"(4) to prohibit the use of a species listed by
6	a regional or State invasive plant authority within
7	the applicable region or State;
8	"(5) in the case of forestry offset projects, in
9	accordance with widely accepted, environmentally
10	sustainable forestry practices;
11	"(6) to ensure that the offset project area was
12	not converted from native ecosystems, such as a for-
13	est, grassland, scrubland or wetland, to generate off-
14	sets, unless such conversation took place at least 10
15	years prior to the date of enactment of this title or
16	before January 1, 2009, whichever date is earlier;
17	and
18	"(7) to the maximum extent practicable, ensure
19	that the use of offset credits would be eligible to sat-
20	isfy emission reduction commitments made by the
21	United States in multilateral agreements, such as
22	the United Nations Framework Convention on Cli-
23	mate Change, done at New York on May 9, 1992 (or
24	any successor agreement).

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- 2 "Section 724 shall apply to the trading of offset cred-
- 3 its.
- 4 "SEC. 743. OFFICE OF OFFSETS INTEGRITY.
- 5 "(a) Establishment.—There is established within
- 6 the Office of the Assistant Attorney General of the Envi-
- 7 ronment and Natural Resources Division in the Depart-
- 8 ment of Justice a Carbon Offsets Integrity Unit, to be
- 9 headed by a Special Counsel (hereinafter referred to as
- 10 the 'Special Counsel'). The Carbon Offsets Integrity Unit
- 11 and the Special Counsel shall be responsible to and shall
- 12 report directly to the Assistant Attorney General of the
- 13 Environment and Natural Resources Division.
- 14 "(b) Appointment.—The Special Counsel shall be
- 15 appointed by the President, by and with the advice and
- 16 consent of the Senate.
- 17 "(c) Responsibilities.—The Special Counsel
- 18 shall—
- 19 "(1) supervise and coordinate investigations
- and civil enforcement within the Department of Jus-
- 21 tice of the carbon offsets program under this part;
- "(2) ensure that Federal law relating to civil
- enforcement of the carbon offsets program is used to
- 24 the fullest extent authorized; and

- 1 "(3) ensure that adequate resources are made
- 2 available for the investigation and enforcement of
- 3 civil violations of the carbon offsets program.
- 4 "(d) Compensation.—The Special Counsel shall be
- 5 paid at the basic pay payable for level V of the Executive
- 6 Schedule under section 5316 of title 5, United States
- 7 Code.
- 8 "(e) Assignment of Personnel.—There shall be
- 9 assigned to the Carbon Offsets Integrity Unit such per-
- 10 sonnel as the Attorney General determines to be necessary
- 11 to provide an appropriate level of enforcement activity in
- 12 the area of carbon offsets.

## 13 "SEC. 744. INTERNATIONAL OFFSET CREDITS.

- 14 "(a) IN GENERAL.—The Administrator, in consulta-
- 15 tion with the Secretary of State and the Administrator
- 16 of the United States Agency for International Develop-
- 17 ment, may issue, in accordance with this section, inter-
- 18 national offset credits based on activities that reduce or
- 19 avoid greenhouse gas emissions, or increase sequestration
- 20 of greenhouse gases, in a developing country. Such credits
- 21 may be issued for projects pursuant to the requirements
- 22 of this part or as provided in subsection (c), (d), or (e).
- 23 "(b) Issuance.—
- 24 "(1) Regulations.—Not later than 2 years
- after the date of enactment of this title, the Admin-

1	istrator, in consultation with the Secretary of State,
2	the Administrator of the United States Agency for
3	International Development, and any other appro-
4	priate Federal agency, and taking into consideration
5	the recommendations of the Advisory Board, shall
6	promulgate regulations for implementing this sec-
7	tion, taking into consideration specific factors rel-
8	evant to the determination of eligible international
9	offset project types and the implementation of inter-
10	national methodologies for each offset type ap-
11	proved. Except as otherwise provided in this section,
12	the issuance of international offset credits under this
13	section shall be subject to the requirements of this
14	part.
15	"(2) Requirements for international
16	OFFSET CREDITS.—The Administrator may issue
17	international offset credits only if—
18	"(A) the United States is a party to a bi-
19	lateral or multilateral agreement or arrange-
20	ment that includes the country in which the
21	project or measure achieving the relevant green-
22	house gas emission reduction or avoidance, or
23	greenhouse gas sequestration, has occurred;
24	"(B) such country is a developing country;
25	and

1	"(C) such agreement or arrangement—
2	"(i) ensures that all of the require-
3	ments of this part apply to the issuance of
4	international offset credits under this sec-
5	tion;
6	"(ii) provides for the appropriate dis-
7	tribution of international offset credits
8	issued; and
9	"(iii) provides that the offset project
10	developer be eligible to receive service of
11	process in the United States for the pur-
12	pose of all civil and regulatory actions in
13	Federal courts, if such service is made in
14	accordance with the Federal rules for serv-
15	ice of process in the States in which the
16	case or regulatory action is brought.
17	"(3) Supplemental international offset
18	CATEGORIES.—
19	"(A) In general.—In order to ensure a
20	sufficient supply of international offsets and to
21	reduce the cost of compliance with this title, the
22	Administrator may establish categories of inter-
23	national offsets in addition to those described in
24	subsections (c), (d), and (e), if—

1	"(i) for 2 consecutive years, the auc-
2	tion price for allowances reaches the mar-
3	ket stability reserve auction price under
4	section 726(c); and
5	"(ii) the Administrator determines
6	that the total amount of international off-
7	sets held by covered entities for each of the
8	2 years referred to in clause (i) does not
9	exceed the limit on international offsets es-
10	tablished under section 722(d)(3).
11	"(B) Supplemental categories.—
12	"(i) In general.—Any supplemental
13	categories of international offsets estab-
14	lished pursuant to subparagraph (A)
15	shall—
16	"(I) satisfy all applicable provi-
17	sions of this part, including subsection
18	(b)(2) of this section and sections 733
19	and 734; and
20	"(II) meet the criteria described
21	in clause (ii).
22	"(ii) Criteria.—The criteria referred
23	to in clause (i)(II) are that—
24	"(I) the country in which the ac-
25	tivities in the offset category would

1	take place has developed and is imple-
2	menting a low carbon development
3	plan that includes provisions for the
4	activities described in the offset cat-
5	egory;
6	"(II) the activities in the offset
7	category are not activities included
8	under subsection (c), (d) or (e); and
9	"(III) the activities in the offset
10	category satisfy specific criteria rel-
11	evant to methodologies and institu-
12	tional and technical capacities associ-
13	ated with developing country contexts
14	to ensure adequate treatment of leak-
15	age, additionality, and permanence.
16	"(c) Sector-based Credits.—
17	"(1) In general.—In order to minimize the
18	potential for leakage and to encourage countries to
19	take nationally appropriate mitigation actions to re-
20	duce or avoid greenhouse gas emissions, or sequester
21	greenhouse gases, the Administrator, in consultation
22	with the Secretary of State and the Administrator of
23	the United States Agency for International Develop-
24	ment, shall—

1	"(A) identify sectors, or combinations of
2	sectors, within specific countries with respect to
3	which the issuance of international offset cred-
4	its on a sectoral basis is appropriate; and
5	"(B) issue international offset credits for
6	such sectors only on a sectoral basis.
7	"(2) Identification of sectors.—
8	"(A) General Rule.—For purposes of
9	paragraph (1)(A), a sectoral basis shall be ap-
10	propriate for activities—
11	"(i) in countries that have compara-
12	tively high greenhouse gas emissions, or
13	comparatively greater levels of economic
14	development; and
15	"(ii) that, if located in the United
16	States, would be within a sector subject to
17	the compliance obligation under section
18	722.
19	"(B) Factors.—In determining the sec-
20	tors and countries for which international offset
21	credits should be awarded only on a sectoral
22	basis, the Administrator, in consultation with
23	the Secretary of State and the Administrator of
24	the United States Agency for International De-
25	velopment, shall consider the following factors:

1	"(i) The country's gross domestic
2	product.
3	"(ii) The country's total greenhouse
4	gas emissions.
5	"(iii) Whether the comparable sector
6	of the United States economy is covered by
7	the compliance obligation under section
8	722.
9	"(iv) The heterogeneity or homo-
10	geneity of sources within the relevant sec-
11	tor.
12	"(v) Whether the relevant sector pro-
13	vides products or services that are sold in
14	internationally competitive markets.
15	"(vi) The risk of leakage if inter-
16	national offset credits were issued on a
17	project-level basis, instead of on a sectoral
18	basis, for activities within the relevant sec-
19	tor.
20	"(vii) The capability of accurately
21	measuring, monitoring, reporting, and
22	verifying the performance of sources across
23	the relevant sector.
24	"(viii) Such other factors as the Ad-
25	ministrator, in consultation with the Sec-

1	retary of State and the Administrator of
2	the United States Agency for International
3	Development, determines are appropriate
4	to—
5	"(I) ensure the integrity of the
6	United States greenhouse gas emis-
7	sions limitations established under
8	section 703; and
9	"(II) encourage countries to take
10	nationally appropriate mitigation ac-
11	tions to reduce or avoid greenhouse
12	gas emissions, or sequester green-
13	house gases.
14	"(ix) The issuance of offsets for ac-
15	tivities that are—
16	"(I) in addition to nationally ap-
17	propriate mitigation actions taken by
18	developing countries pursuant to the
19	low-carbon development plans of the
20	countries; and
21	"(II) on a sectoral basis.
22	"(3) Sectoral basis.—
23	"(A) DEFINITION.—In this subsection, the
24	term 'sectoral basis' means the issuance of
25	international offset credits only for the quantity

1	of sector-wide reductions or avoidance of green-
2	house gas emissions, or sector-wide increases in
3	sequestration of greenhouse gases, achieved
4	across the relevant sector or sectors of the econ-
5	omy relative to a baseline level of emissions es-
6	tablished in an agreement or arrangement de-
7	scribed in subsection (b)(2)(A) for the sector.
8	"(B) Baseline.—The baseline for a sec-
9	tor shall—
10	"(i) be established at levels of green-
11	house gas emissions lower than would
12	occur under a business-as-usual scenario,
13	taking into account relevant domestic or
14	international policies or incentives to re-
15	duce greenhouse gas emissions;
16	"(ii) be used to determine
17	additionality and performance;
18	"(iii) account for all significant
19	sources of emissions from a sector;
20	"(iv) be adjusted over time to reflect
21	changing circumstances;
22	"(v) be developed taking into consid-
23	eration such factors as—
24	"(I) any established emissions
25	performance level for the sector;

1	"(II) the current performance of
2	the sector in the country;
3	"(III) expected future trends of
4	the sector in the country; and
5	"(IV) historical data and other
6	factors to ensure additionality; and
7	"(vi) be designed to produce signifi-
8	cant deviations from business-as-usual
9	emissions, consistent with nationally appro-
10	priate mitigation commitments or actions,
11	in a way that equitably contributes to
12	meeting thresholds identified in section
13	705(e)(2).
14	"(d) Credits Issued by an International
15	Вору.—
16	"(1) In general.—The Administrator, in con-
17	sultation with the Secretary of State, may issue
18	international offset credits in exchange for instru-
19	ments in the nature of offset credits that are issued
20	by an international body established pursuant to the
21	United Nations Framework Convention on Climate
22	Change, to a protocol to such Convention, or to a
23	treaty that succeeds such Convention. The Adminis-
24	trator may issue international offset credits under
25	this subsection only if, in addition to the require-

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ments of subsection (b), the Administrator has determined that the international body that issued the instruments has implemented substantive and procedural requirements for the relevant project type that provide equal or greater assurance of the integrity of such instruments as is provided by the requirements of this part. Beginning on January 1, 2016, the Administrator shall issue no offset credit pursuant to this subsection if the activity generating the greenhouse gas emission reductions or avoidance, or greenhouse gas sequestration, occurs in a country and sector identified by the Administrator under subsection (c), unless the offset credit issued by the international body is consistent with section 744(c). RETIREMENT.—The Administrator, consultation with the Secretary of State, shall seek, by whatever means appropriate, including agreements, arrangements, or technical cooperation with the international issuing body described in paragraph (1), to ensure that such body— "(A) is notified of the Administrator's issuance, under this subsection, of an international offset credit in exchange for an instrument issued by such international body; and

1	"(B) provides, to the extent feasible, for
2	the disqualification of the instrument issued by
3	such international body for subsequent use
4	under any relevant foreign or international
5	greenhouse gas regulatory program, regardless
6	of whether such use is a sale, exchange, or sub-
7	mission to satisfy a compliance obligation.
8	"(e) Offsets From Reduced Deforestation.—
9	"(1) Requirements.—The Administrator, in
10	accordance with the regulations promulgated under
11	subsection (b)(1) and an agreement or arrangement
12	described in subsection (b)(2)(A), shall issue inter-
13	national offset credits for greenhouse gas emission
14	reductions achieved through activities to reduce de-
15	forestation only if, in addition to the requirements of
16	subsection (b)—
17	"(A) the activity occurs in—
18	"(i) a country listed by the Adminis-
19	trator pursuant to paragraph (2);
20	"(ii) a state or province listed by the
21	Administrator pursuant to paragraph (5);
22	or
23	"(iii) a country listed by the Adminis-
24	trator pursuant to paragraph (6);

1	"(B) except as provided in paragraph (5)
2	or (6), the quantity of the international offset
3	credits is determined by comparing the national
4	emissions from deforestation relative to a na-
5	tional deforestation baseline for that country es-
6	tablished, in accordance with an agreement or
7	arrangement described in subsection (b)(2)(A),
8	pursuant to paragraph (4);
9	"(C) the reduction in emissions from de-
10	forestation has occurred before the issuance of
11	the international offset credit and, taking into
12	consideration relevant international standards,
13	has been demonstrated using ground-based in-
14	ventories, remote sensing technology, and other
15	methodologies to ensure that all relevant carbon
16	stocks are accounted;
17	"(D) the Administrator has made appro-
18	priate adjustments, such as discounting for any
19	additional uncertainty, to account for cir-
20	cumstances specific to the country, including its
21	technical capacity described in paragraph
22	(2)(A);
23	"(E) the Administrator has determined
24	that the country within which the activity oc-
25	curs has in place a publicly available strategic

1	plan that includes the criteria listed in para-
2	graph (2)(C);
3	"(F) the activity is designed, carried out,
4	and managed—
5	"(i) in accordance with forest manage-
6	ment practices that—
7	"(I) improve the livelihoods of
8	forest communities;
9	"(II) maintain the natural bio-
10	diversity, resilience, and carbon stor-
11	age capacity of forests; and
12	"(III) do not adversely impact
13	the permanence of forest carbon
14	stocks or emission reductions;
15	"(ii) to promote or restore native for-
16	est species and ecosystems where prac-
17	ticable, and to avoid the introduction of
18	invasive nonnative species;
19	"(iii) in a manner that gives due re-
20	gard to the rights and interests of local
21	communities, indigenous peoples, forest-de-
22	pendent communities, and vulnerable social
23	groups;
24	"(iv) with consultations with, and full
25	participation of, local communities, indige-

1	nous peoples, and forest-dependent com-
2	munities, in affected areas, as partners
3	and primary stakeholders, prior to and
4	during the design, planning, implementa-
5	tion, and monitoring and evaluation of ac-
6	tivities;
7	"(v) with transparent and equitable
8	sharing of profits and benefits derived
9	from offset credits with local communities
10	indigenous peoples, and forest-dependent
11	communities;
12	"(vi) with full transparency, third-
13	party independent oversight, and public
14	dissemination of related financial and con-
15	tractual arrangements, and
16	"(vii) so that the social and environ-
17	mental impacts of these activities are mon-
18	itored and reported in sufficient detail to
19	allow appropriate officials to determine
20	compliance with the requirements of this
21	section;
22	"(G) the reduction otherwise satisfies and
23	is consistent with any relevant requirements es
24	tablished by an agreement reached under the
25	auspices of the United Nations Framework

1	Convention on Climate Change, done at New
2	York on May 9, 1992; and
3	"(H) in the case that offsets are deter-
4	mined by comparing the national emissions
5	from deforestation relative to a national, state-
6	level, or province-level deforestation baseline as
7	provided in paragraph (4) or (5)—
8	"(i) a list of activities to reduce defor-
9	estation is provided to the Administrator
10	and made publicly available;
11	"(ii) the social and environmental im-
12	pacts of these activities are monitored and
13	reported in sufficient detail to allow the
14	Administrator to determine compliance
15	with the requirements of this section; and
16	"(iii) the distribution of revenues for
17	activities to reduce deforestation is trans-
18	parent, subject to independent third-party
19	oversight, and publicly disseminated.
20	"(2) Eligible countries.—The Adminis-
21	trator, in consultation with the Secretary of State
22	and the Administrator of the United States Agency
23	for International Development, and in accordance
24	with an agreement or arrangement described in sub-
25	section (b)(2)(A), shall establish, and periodically re-

1	view and update, a list of the developing countries
2	that have the capacity to participate in deforestation
3	reduction activities at a national level, including—
4	"(A) the technical capacity to monitor,
5	measure, report, and verify forest carbon fluxes
6	for all significant sources of greenhouse gas
7	emissions from deforestation with an acceptable
8	level of uncertainty, as determined taking into
9	account relevant internationally accepted meth-
10	odologies, such as those established by the
11	Intergovernmental Panel on Climate Change;
12	"(B) the institutional capacity to reduce
13	emissions from deforestation, including strong
14	forest governance and mechanisms to ensure
15	transparency and third-party independent over-
16	sight of offset activities and revenues, and the
17	transparent and equitable distribution of offset
18	revenues for local actions; and
19	"(C) a land use or forest sector strategic
20	plan that—
21	"(i) assesses national and local drivers
22	of deforestation and forest degradation and
23	identifies reforms to national policies need-
24	ed to address them;

1	"(ii) estimates the country's emissions
2	from deforestation and forest degradation;
3	"(iii) identifies improvements in and a
4	timeline for data collection, monitoring,
5	and institutional capacity necessary to im-
6	plement an effective national deforestation
7	reduction program that meets the criteria
8	set forth in this section (including a na-
9	tional deforestation baseline);
10	"(iv) establishes a timeline for imple-
11	menting the program and transitioning
12	forest-based economies to low-emissions de-
13	velopment pathways with respect to emis-
14	sions from forest and land use activities;
15	"(v) includes a national policy for con-
16	sultations with, and full participation of,
17	all stakeholders, especially indigenous and
18	forest-dependent communities, in its de-
19	sign, planning, and implementation of ac-
20	tivities, whether at the national or local
21	level, to reduce deforestation in the country
22	(including a national process for address-
23	ing grievances if stakeholders have been
24	caused social, environmental, or economic
25	harm);

1	"(vi) provides for the distribution of
2	revenues for activities to reduce deforest-
3	ation transparently and publicly, subject to
4	independent third-party oversight; and
5	"(vii) includes a national platform or
6	a type of registry for information relating
7	to deforestation and degradation policy and
8	program implementation processes, includ-
9	ing a mechanism for the monitoring and
10	reporting of the social and environmental
11	impacts of those activities.
12	"(3) Protection of interests.—With re-
13	spect to an agreement or arrangement described in
14	subsection (b)(2)(A) with a country that addresses
15	international offset credits under this subsection, the
16	Administrator, in consultation with the Secretary of
17	State and the Administrator of the United States
18	Agency for International Development, shall under-
19	take due diligence to ensure the establishment and
20	enforcement by such country of legal regimes, proc-
21	esses, standards, and safeguards that—
22	"(A) give due regard to the rights and in-
23	terests of local communities, indigenous peoples
24	forest-dependent communities, and vulnerable
25	social groups;

1	"(B) promote consultations with, and full
2	participation of, forest-dependent communities
3	and indigenous peoples in affected areas, as
4	partners and primary stakeholders, prior to and
5	during the design, planning, implementation,
6	and monitoring and evaluation of activities; and
7	"(C) encourage transparent and equitable
8	sharing of profits and benefits derived from
9	international offset credits with local commu-
10	nities, indigenous peoples, and forest-dependent
11	communities.
12	"(4) National deforestation baseline.—A
13	national deforestation baseline established under this
14	subsection shall—
15	"(A) be national in scope;
16	"(B) be consistent with nationally appro-
17	priate mitigation commitments or actions with
18	respect to deforestation, taking into consider-
19	ation the average annual historical deforestation
20	rates of the country during a period of at least
21	5 years, the applicable drivers of deforestation,
22	and other factors to ensure that only reductions
23	that are in addition to such commitments or ac-
24	tions will generate offsets;

1	"(C) establish a trajectory that would re-
2	sult in zero net deforestation by not later than
3	20 years after the national deforestation base-
4	line has been established, including a spatially
5	explicit land use plan that identifies intact and
6	primary forest areas and managed forest areas
7	that are to remain while the country is reaching
8	the zero net deforestation trajectory;
9	"(D) be adjusted over time to take account
10	of changing national circumstances;
11	"(E) be designed to account for all signifi-
12	cant sources of greenhouse gas emissions from
13	deforestation in the country; and
14	"(F) be consistent with the national defor-
15	estation baseline, if any, established for such
16	country under section 753.
17	"(5) State-level or province-level ac-
18	TIVITIES.—
19	"(A) ELIGIBLE STATES OR PROVINCES.—
20	The Administrator, in consultation with the
21	Secretary of State and the Administrator of the
22	United States Agency for International Devel-
23	opment, shall establish, and periodically review
24	and update, a list of states or provinces in de-
25	veloping countries where—

1	"(i) the developing country is not in-
2	cluded on the list of countries established
3	pursuant to paragraph (6)(A);
4	"(ii) the State or province is under-
5	taking deforestation reduction activities;
6	"(iii) the state or province has the ca-
7	pacity to engage in deforestation reduction
8	activities at the state or province level, in-
9	cluding—
10	"(I) the technical capacity to
11	monitor and measure forest carbon
12	fluxes for all significant sources of
13	greenhouse gas emissions from defor-
14	estation with an acceptable amount of
15	uncertainty, including a spatially ex-
16	plicit land use plan that identifies in-
17	tact and primary forest areas and
18	managed forest areas that are to re-
19	main while the country is reaching the
20	zero net deforestation trajectory; and
21	"(II) the institutional capacity to
22	reduce emissions from deforestation,
23	including strong forest governance
24	and mechanisms to deliver forest con-
25	servation resources for local actions;

1	"(iv) the state or province meets the
2	eligibility criteria in paragraphs (2) and
3	(3) for the geographic area under its juris-
4	diction; and
5	"(v) the country—
6	"(I) demonstrates that efforts
7	are underway to transition to a na-
8	tional program within 5 years; or
9	"(II) in the determination of the
10	Administrator, is making a good-faith
11	effort to develop a land use or forest
12	sector strategic national plan or pro-
13	gram that meets the criteria described
14	in paragraph (2)(C).
15	"(B) Activities.—The Administrator may
16	issue international offset credits for greenhouse
17	gas emission reductions achieved through activi-
18	ties to reduce deforestation at a state or provin-
19	cial level that meet the requirements of this sec-
20	tion. Such credits shall be determined by com-
21	paring the emissions from deforestation within
22	that state or province relative to the state or
23	province deforestation baseline for that state or
24	province established, in accordance with an
25	agreement or arrangement described in sub-

1	section $(b)(2)(A)$ , pursuant to subparagraph
2	(C) of this paragraph.
3	"(C) State-level or province-level
4	DEFORESTATION BASELINE.—A state-level or
5	province-level deforestation baseline shall—
6	"(i) be consistent with any existing
7	nationally appropriate mitigation commit-
8	ments or actions for the country in which
9	the activity is occurring, so that only re-
10	ductions that are in addition to those com-
11	mitments or actions will generate offsets;
12	"(ii) be developed taking into consid-
13	eration the average annual historical defor-
14	estation rates of the state or province dur-
15	ing a period of at least 5 years, relevant
16	drivers of deforestation, and other factors
17	to ensure additionality;
18	"(iii) establish a trajectory that would
19	result in zero net deforestation by not later
20	than 20 years after the state-level or prov-
21	ince-level deforestation baseline has been
22	established; and
23	"(iv) be designed to account for all
24	significant sources of greenhouse gas emis-
25	sions from deforestation in the state or

1	province and adjusted to fully account for
2	emissions leakage outside the state or
3	province through monitoring of major for-
4	ested areas in the host country and other
5	areas of the host country susceptible to
6	leakage.
7	"(D) Phase out.—Beginning 5 years
8	after the first calendar year for which a covered
9	entity must demonstrate compliance with sec-
10	tion 722(a), the Administrator shall issue no
11	further international offset credits for eligible
12	state-level or province-level activities to reduce
13	deforestation pursuant to this paragraph.
14	"(6) Projects and programs to reduce
15	DEFORESTATION.—
16	"(A) ELIGIBLE COUNTRIES.—The Admin-
17	istrator, in consultation with the Secretary of
18	State and the Administrator of the United
19	States Agency for International Development,
20	shall establish, and periodically review and up-
21	date, a list of developing countries that—
22	"(i) the Administrator determines,
23	based on recent, credible, and reliable
24	emissions data, account for less than 1
25	percent of global greenhouse gas emissions

1	and less than 3 percent of global forest-
2	sector and land use change greenhouse gas
3	emissions;
4	"(ii) have, or in the determination of
5	the Administrator are making a good faith
6	effort to develop, a land use or forest sec-
7	tor strategic plan that meets the criteria
8	described in paragraph (2)(C); and
9	"(iii) has made, or in the determina-
10	tion of the Administrator, is making, a
11	good-faith effort to develop, through the
12	implementation of activities under this sec-
13	tion, a monitoring program for major for-
14	ested areas in a host country and other
15	areas in a host country susceptible to leak-
16	age, including a spatially explicit land use
17	plan that identifies intact and primary for-
18	est areas and managed forest areas that
19	are to remain while country is reaching the
20	zero net deforestation trajectory.
21	"(B) ACTIVITIES.—The Administrator may
22	issue international offset credits for greenhouse
23	gas emission reductions achieved through
24	project or program level activities to reduce de-
25	forestation in countries listed under subpara

1	graph (A) that meet the requirements of this
2	section. The quantity of international offset
3	credits shall be determined by comparing the
4	project-level or program-level emissions from
5	deforestation to a deforestation baseline for
6	such project or program established pursuant to
7	subparagraph (C).
8	"(C) Project-level or program-level
9	BASELINE.—A project-level or program-level de-
10	forestation baseline shall—
11	"(i) be consistent with any existing
12	nationally appropriate mitigation commit-
13	ments or actions for the country in which
14	the project or program is occurring, so
15	that only reductions that are in addition to
16	such commitments or actions will generate
17	offsets;
18	"(ii) be developed taking into consid-
19	eration the average annual historical defor-
20	estation rates in the project or program
21	boundary during a period of at least 5
22	years, applicable drivers of deforestation,
23	and other factors to ensure additionality;
24	"(iii) be designed to account for all
25	significant sources of greenhouse gas emis-

1	sions from deforestation in the project or
2	program boundary; and
3	"(iv) be adjusted to fully account for
4	emissions leakage outside the project or
5	program boundary, including—
6	"(I) estimation through moni-
7	toring of major forested areas in a
8	host country and other areas in a host
9	country susceptible to leakage, pursu-
10	ant to section 744(e)(5); and
11	"(II) a spatially explicit land use
12	plan that identifies intact and primary
13	forest areas and managed forest areas
14	that are to remain while country is
15	reaching the zero net deforestation
16	trajectory
17	"(D) Phase-out.—
18	"(i) In general.—Beginning on the
19	date that is 8 years after the first calendar
20	year for which a covered entity must dem-
21	onstrate compliance with section 722(a),
22	the Administrator shall issue no further
23	international offset credits for project-level
24	or program-level activities as described in

this paragraph, except as provided in
clause (ii).
"(ii) Extension.—The Administrator
may extend the phase out deadline for the
issuance of international offset credits
under this section by up to 5 years with re-
spect to eligible activities taking place in a
least developed country, which is a foreign
country that the United Nations has iden-
tified as among the least developed of de-
veloping countries at the time that the Ad-
ministrator determines to provide an exten-
sion, provided that the Administrator, in
consultation with the Secretary of State
and the Administrator of the United States
Agency for International Development, de-
termines the country—
"(I) lacks sufficient capacity to
adopt and implement effective pro-
grams to achieve reductions in defor-
estation measured against national
baselines;
" $(\Pi)$ is receiving support under
part E to develop such capacity; and

1	"(III) has developed and is work-
2	ing to implement a credible national
3	strategy or plan to reduce deforest-
4	ation.
5	"(7) Expansion of scope.—In implementing
6	this subsection, the Administrator, taking into con-
7	sideration the recommendations of the Advisory
8	Board, may—
9	"(A) expand credible activities to include
10	forest degradation; and
11	"(B) include soil carbon losses associated
12	with forested wetlands or peatlands.
13	"(f) Modification of Requirements.—In promul-
14	gating regulations under subsection (b)(1) with respect to
15	the issuance of international offset credits under sub-
16	section (c), (d), or (e), the Administrator, in consultation
17	with the Secretary of State and the Administrator of the
18	United States Agency for International Development, may
19	modify or omit a requirement of this part (excluding the
20	requirements of this section) if the Administrator deter-
21	mines that the application of that requirement to such
22	subsection is not feasible or would result in the creation
23	of offset credits that would not be eligible to satisfy emis-
24	sions reduction commitments made by the United States
25	pursuant to the United Nations Framework Convention

- 1 on Climate Change, done at New York on May 9, 1992
- 2 (or any successor agreement). In modifying or omitting
- 3 such a requirement on the basis of infeasibility, the Ad-
- 4 ministrator, in consultation with the Secretary of State
- 5 and the Administrator of the United States Agency for
- 6 International Development, shall ensure, with an adequate
- 7 margin of safety, the integrity of international offset cred-
- 8 its issued under this section and of the greenhouse gas
- 9 emissions limitations established pursuant to section 703.
- 10 "(g) Avoiding Double Counting.—The Adminis-
- 11 trator, in consultation with the Secretary of State, shall
- 12 seek, by whatever means appropriate, including agree-
- 13 ments, arrangements, or technical cooperation, to ensure
- 14 that activities on the basis of which international offset
- 15 credits are issued under this section are not used for com-
- 16 pliance with an obligation to reduce or avoid greenhouse
- 17 gas emissions, or increase greenhouse gas sequestration,
- 18 under a foreign or international regulatory system. In ad-
- 19 dition, no international offset credits shall be issued for
- 20 emission reductions from activities with respect to which
- 21 emission allowances were allocated under section 771(d)
- 22 for distribution under part E.
- 23 "(h) Limitation.—The Administrator shall not issue
- 24 international offset credits generated by projects based on
- 25 the destruction of hydrofluorocarbons.".

1	CTC	100	<b>DEFINITIONS</b>	
1	SEC.	104.	DELIMITIONS	۰

- 2 Title VII of the Clean Air Act (as added by section
- 3 101 of this division) is amended by inserting before part
- 4 A the following:
- 5 "SEC. 700. DEFINITIONS.
- 6 "In this title:

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- 7 "(1) ADDITIONAL.—The term 'additional', 8 when used with respect to reductions or avoidance of greenhouse gas emissions, or to sequestration of 9 10 greenhouse gases, means reductions, avoidance, or 11 sequestration that result in a lower level of net 12 greenhouse gas emissions or atmospheric concentra-13 tions than would occur in the absence of an offset credit. 14
  - "(2) Additionality.—The term 'additionality' means the extent to which reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, are additional.
  - "(3) ADVISORY BOARD.—The term 'Advisory Board' means the Offsets Integrity Advisory Board established under section 731.
- 22 "(4) Affiliated.—The term 'affiliated'—
- "(A) when used in relation to an entity, means owned or controlled by, or under common ownership or control with, another entity, as determined by the Administrator; and

1	"(B) when used in relation to a natural
2	gas local distribution company, means owned or
3	controlled by, or under common ownership or
4	control with, another natural gas local distribu-
5	tion company, as determined by the Adminis-
6	trator.
7	"(5) Allowance.—The term 'allowance'
8	means a limited authorization to emit, or have at-
9	tributable greenhouse gas emissions in an amount
10	of, 1 ton of carbon dioxide equivalent of a green-
11	house gas in accordance with this title; it includes an
12	emission allowance, a compensatory allowance, or an
13	international emission allowance.
14	"(6) Attributable greenhouse gas emis-
15	SIONS.—The term 'attributable greenhouse gas emis-
16	sions' means—
17	"(A) for a covered entity that is a fuel pro-
18	ducer or importer described in paragraph
19	(13)(B), greenhouse gases that would be emit-
20	ted from the combustion of any petroleum-
21	based or coal-based liquid fuel, petroleum coke,
22	or natural gas liquid, produced or imported by
23	that covered entity for sale or distribution in
24	interstate commerce, assuming no capture and
25	sequestration of any greenhouse gas emissions;

1	"(B) for a covered entity that is an indus-
2	trial gas producer or importer described in
3	paragraph (13)(C), the tons of carbon dioxide
4	equivalent of fossil fuel-based carbon dioxide,
5	nitrous oxide, any fluorinated gas, other than
6	nitrogen trifluoride, that is a greenhouse gas, or
7	any combination thereof—
8	"(i) produced or imported by such
9	covered entity during the previous calendar
10	year for sale or distribution in interstate
11	commerce; or
12	"(ii) released as fugitive emissions in
13	the production of fluorinated gas; and
14	"(C) for a natural gas local distribution
15	company described in paragraph (13)(J), green-
16	house gases that would be emitted from the
17	combustion of the natural gas, and any other
18	gas meeting the specifications for commingling
19	with natural gas for purposes of delivery, that
20	such entity delivered during the previous cal-
21	endar year to customers that are not covered
22	entities, assuming no capture and sequestration
23	of that greenhouse gas.
24	"(7) BIOLOGICAL SEQUESTRATION; BIO-
25	LOGICALLY SEQUESTERED.—The terms 'biological

1	sequestration' and 'biologically sequestered' mean
2	the removal of greenhouse gases from the atmos-
3	phere by terrestrial biological means, such as by
4	growing plants, and the storage of those greenhouse
5	gases in plants or soils.
6	"(8) Capped Emissions.—The term 'capped
7	emissions' means greenhouse gas emissions to which
8	section 722 applies, including emissions from the
9	combustion of natural gas, petroleum-based or coal-
10	based liquid fuel, petroleum coke, or natural gas liq-
11	uid to which section 722(b)(2) or (8) applies.
12	"(9) Capped source.—The term capped
13	source' means a source that directly emits capped
14	emissions.
15	"(10) CARBON DIOXIDE EQUIVALENT.—The
16	term 'carbon dioxide equivalent' means the unit of
17	measure, expressed in metric tons, of greenhouse
18	gases as provided under section 711 or 712.
19	"(11) CARBON STOCK.—The term 'carbon
20	stock' means the quantity of carbon contained in a
21	biological reservoir or system which has the capacity
22	to accumulate or release carbon.
23	"(12) Compensatory allowance.—The term
24	'compensatory allowance' means an allowance issued
25	under section 721(f).

1	"(13) COVERED ENTITY.—The term 'covered
2	entity' means each of the following:
3	"(A) Any electricity source.
4	"(B)(i) Any stationary source that pro-
5	duces petroleum-based or coal-based liquid fuel,
6	petroleum coke, or natural gas liquid, the com-
7	bustion of which would emit 25,000 or more
8	tons of carbon dioxide equivalent, as determined
9	by the Administrator.
10	"(ii) Any entity that (or any group of 2 or
11	more affiliated entities that, in the aggregate)
12	imports petroleum-based or coal-based liquid
13	fuel, petroleum coke, or natural gas liquid, the
14	combustion of which would emit 25,000 or more
15	tons of carbon dioxide equivalent, as determined
16	by the Administrator.
17	"(C) Any stationary source that produces,
18	and any entity that (or any group of two or
19	more affiliated entities that, in the aggregate)
20	imports, for sale or distribution in interstate
21	commerce, in bulk, or in products designated by
22	the Administrator, in 2008 or any subsequent
23	year more than 25,000 tons of carbon dioxide
24	equivalent of—
25	"(i) fossil fuel-based carbon dioxide;

1	"(ii) nitrous oxide;
2	"(iii) except as otherwise provided in
3	section 714, perfluorocarbons;
4	"(iv) sulfur hexafluoride;
5	"(v) any other fluorinated gas, except
6	for nitrogen trifluoride, that is a green-
7	house gas, as designated by the Adminis-
8	trator under section 711(b) or (c); or
9	"(vi) any combination of greenhouse
10	gases described in clauses (i) through (v).
11	"(D) Any stationary source that has emit-
12	ted 25,000 or more tons of carbon dioxide
13	equivalent of nitrogen trifluoride in 2008 or any
14	subsequent year.
15	"(E) Any geologic sequestration site.
16	"(F) Any stationary source in the following
17	industrial sectors:
18	"(i) Adipic acid production.
19	"(ii) Primary aluminum production.
20	"(iii) Ammonia manufacturing.
21	"(iv) Cement production, excluding
22	grinding-only operations.
23	"(v) Hydrochlorofluorocarbon produc-
24	tion.
25	"(vi) Lime manufacturing.

1	"(vii) Nitric acid production.
2	"(viii) Petroleum refining.
3	"(ix) Phosphoric acid production.
4	"(x) Silicon carbide production.
5	"(xi) Soda ash production.
6	"(xii) Titanium dioxide production.
7	"(xiii) Coal-based liquid or gaseous
8	fuel production.
9	"(G) Any stationary source in the chemical
10	or petrochemical sector that, in 2008 or any
11	subsequent year—
12	"(i) produces acrylonitrile, carbon
13	black, ethylene, ethylene dichloride, ethyl-
14	ene oxide, or methanol; or
15	"(ii) produces a chemical or petro-
16	chemical product if producing that product
17	results in annual combustion plus process
18	emissions of 25,000 or more tons of carbon
19	dioxide equivalent.
20	"(H) Any stationary source that—
21	"(i) is in one of the following indus-
22	trial sectors: ethanol production; ferroalloy
23	production; fluorinated gas production;
24	food processing; glass production; hydrogen
25	production; metal ore production or other

1	processing; iron and steel production; lead
2	production; pulp and paper manufacturing;
3	and zine production; and
4	"(ii) has emitted 25,000 or more tons
5	of carbon dioxide equivalent in 2008 or
6	any subsequent year.
7	"(I) Any fossil fuel-fired combustion device
8	(such as a boiler) or grouping of such devices
9	that—
10	"(i) is all or part of an industrial
11	source not specified in subparagraph (D),
12	(F), (G), or (H); and
13	"(ii) has emitted 25,000 or more tons
14	of carbon dioxide equivalent in 2008 or
15	any subsequent year.
16	"(J) Any natural gas local distribution
17	company that (or any group of 2 or more affili-
18	ated natural gas local distribution companies
19	that, in the aggregate) in 2008 or any subse-
20	quent year, delivers 460,000,000 cubic feet or
21	more of natural gas to customers that are not
22	covered entities.
23	"(14) Crediting Period.—The term 'crediting
24	period' means the period with respect to which an

1	offset project is eligible to earn offset credits under
2	part D, as determined under section 734(c).
3	"(15) Designated Representative.—The
4	term 'designated representative' means, with respec-
5	to a covered entity, a reporting entity, an offset
6	project developer, or any other entity receiving or
7	holding allowances or offset credits under this title
8	an individual authorized, through a certificate of
9	representation submitted to the Administrator by
10	the owners and operators or similar entity official, to
11	represent the owners and operators or similar entity
12	official in all matters pertaining to this title (includ-
13	ing the holding, transfer, or disposition of allowances
14	or offset credits), and to make all submissions to the
15	Administrator under this title.
16	"(16) Developing country.—The term 'de
17	veloping country' means a country eligible to receive
18	official development assistance according to the in-
19	come guidelines of the Development Assistance Com-
20	mittee of the Organization for Economic Coopera
21	tion and Development.
22	"(17) Domestic offset credit.—
23	"(A) In General.—The term 'domestic
24	offset credit' means an offset credit issued

1	under part D, other than an international offset
2	credit.
3	"(B) Exclusion.—The term 'domestic
4	offset credit' does not include a term offset
5	credit.
6	"(18) Electricity source.—The term 'elec-
7	tricity source' means a stationary source that in-
8	cludes one or more utility units.
9	"(19) Emission.—The term 'emission' means
10	the release of a greenhouse gas into the ambient air.
11	Such term does not include gases that are captured
12	and sequestered, except to the extent that they are
13	later released into the atmosphere, in which case
14	compliance must be demonstrated pursuant to sec-
15	tion $722(b)(5)$ .
16	"(20) Emission allowance.—The term 'emis-
17	sion allowance' means an allowance established
18	under section $721(a)$ or $726(g)(2)$ .
19	"(21) Fair market value.—The term 'fair
20	market value' means the average daily closing price
21	on registered exchanges or, if such a price is un-
22	available, the average price as determined by the Ad-
23	ministrator, during a specified time period, of an
24	emission allowance.

1 "(22) FEDERAL LAND.—The term 'Federal 2 land' means land that is owned by the United 3 States, other than land held in trust for an Indian 4 or Indian tribe. "(23) Fossil fuel.—The term 'fossil fuel' 5 6 means natural gas, petroleum, or coal, or any form 7 of solid, liquid, or gaseous fuel derived from such 8 material, including consumer products that are de-9 rived from such materials and are combusted. "(24) Fossil fuel-fired.—The term 'fossil 10 11 fuel-fired' means powered by combustion of fossil 12 fuel, alone or in combination with any other fuel, re-13 gardless of the percentage of fossil fuel consumed. 14 "(25) Fugitive emissions.—The term 'fugi-15 tive emissions' means emissions from leaks, valves, 16 joints, or other small openings in pipes, ducts, or 17 other equipment, or from vents. 18 "(26) Geologic sequestration; geologi-19 CALLY SEQUESTERED.—The terms 'geologic seques-20 tration' and 'geologically sequestered' mean the se-21 questration of greenhouse gases in subsurface geo-22 logic formations for purposes of permanent storage. 23 "(27) Geologic sequestration site.—The 24 term 'geologic sequestration site' means a site where 25 carbon dioxide is geologically sequestered.

1	"(28) Greenhouse gas.—The term 'green-
2	house gas' means any gas described in section
3	711(a) or designated under section 711(b), (c), or
4	(e), except to the extent that it is regulated under
5	title VI.
6	"(29) High conservation priority land.—
7	The term 'high conservation priority land' means
8	land that is not Federal land and is—
9	"(A) globally or State ranked as critically
10	imperiled or imperiled under a State Natural
11	Heritage Program; or
12	"(B) old-growth or late-successional forest,
13	as identified by the office of the State Forester
14	or relevant State agency with regulatory juris-
15	diction over forestry activities.
16	"(30) Hold.—The term 'hold' means, with re-
17	spect to an allowance, offset credit, or term offset
18	credit, to have in the appropriate account in the al-
19	lowance tracking system, or submit to the Adminis-
20	trator for recording in such account.
21	"(31) Industrial source.—The term 'indus-
22	trial source' means any stationary source that—
23	"(A) is not an electricity source; and
24	"(B) is in—

1	"(i) the manufacturing sector (as de-
2	fined in North American Industrial Classi-
3	fication System codes 31, 32, and 33); or
4	"(ii) the natural gas processing or
5	natural gas pipeline transportation sector
6	(as defined in North American Industrial
7	Classification System codes 211112 or
8	486210).
9	"(32) International Emission allow-
10	ANCE.—The term 'international emission allowance
11	means a tradable authorization to emit 1 ton of car-
12	bon dioxide equivalent of greenhouse gas that is
13	issued by a national or supranational foreign govern-
14	ment pursuant to a qualifying international program
15	designated by the Administrator pursuant to section
16	728(a).
17	"(33) International offset credit.—The
18	term 'international offset credit' means an offset
19	credit issued by the Administrator under section
20	744.
21	"(34) Leakage.—The term 'leakage' means a
22	significant increase in greenhouse gas emissions, or
23	significant decrease in sequestration, which is caused
24	by an offset project and occurs outside the bound-
25	aries of the offset project.

1	"(35) Market stability reserve allow-
2	ANCE.—The term 'market stability reserve allow-
3	ance' means an emission allowance reserved for,
4	transferred to, or deposited in the market stability
5	reserve, or established, under section 726.
6	"(36) Mineral sequestration.—The term
7	'mineral sequestration' means sequestration of car-
8	bon dioxide from the atmosphere by capturing car-
9	bon dioxide into a permanent mineral, such as the
10	aqueous precipitation of carbonate minerals that re-
11	sults in the storage of carbon dioxide in a mineral
12	form.
13	"(37) Natural gas liquid.—The term 'nat-
14	ural gas liquid' means ethane, butane, isobutane,
15	natural gasoline, and propane which is ready for
16	commercial sale or use.
17	"(38) Natural gas local distribution
18	COMPANY.—The term 'natural gas local distribution
19	company' has the meaning given the term 'local dis-
20	tribution company' in section 2(17) of the Natural
21	Gas Policy Act of 1978 (15 U.S.C. 3301(17)).
22	"(39) Offset credit.—
23	"(A) IN GENERAL.—The term 'offset cred-
24	it' means an offset credit issued under part D.

1	"(B) Exclusion.—The term 'offset credit
2	does not include a term offset credit.
3	"(40) Offset Project.—The term 'offse
4	project' means a project or activity that reduces or
5	avoids greenhouse gas emissions, or sequesters
6	greenhouse gases, and for which offset credits are or
7	may be issued under part D.
8	"(41) Offset Project Developer.—The
9	term 'offset project developer' means the individua
10	or entity designated as the offset project developed
11	in an offset project approval petition under section
12	735(c)(1).
13	"(42) QUALIFIED R&D FACILITY.—The term
14	'qualified R&D facility' means a facility that con
15	ducts research and development, that was in oper
16	ation as of the date of enactment of this title, and
17	that is part of a covered entity subject to paragraphs
18	(1) through (8) of section 722(b).
19	"(43) Petroleum.—The term 'petroleum' in
20	cludes crude oil, tar sands, oil shale, and heavy oils
21	"(44) Repeated intentional reversals.—
22	The term 'repeated intentional reversals' means a
23	least 3 intentional reversals, as determined by the
24	Administrator or a court under section
25	734(b)(3)(B)(ii).

1	"(45) Research and Development.—The
2	term 'research and development' means activities—
3	"(A) that are conducted in process units or
4	at laboratory bench-scale settings;
5	"(B) whose purpose is to conduct research
6	and development for new processes, tech-
7	nologies, or products that contribute to lower
8	greenhouse gas emissions; and
9	"(C) that do not manufacture products for
10	sale.
11	"(46) Renewable biomass.—The term 're-
12	newable biomass' means any of the following:
13	"(A) Plant material, including waste mate-
14	rial, harvested or collected from actively man-
15	aged agricultural land that was in cultivation,
16	cleared, or fallow and nonforested on January
17	1, 2009.
18	"(B) Plant material, including waste mate-
19	rial, harvested or collected from pastureland
20	that was nonforested on January 1, 2009.
21	"(C) Nonhazardous vegetative matter de-
22	rived from waste, including separated yard
23	waste, landscape right-of-way trimmings, con-
24	struction and demolition debris, or food waste
25	(but not municipal solid waste, recyclable waste

1	paper, painted, treated or pressurized wood, or
2	wood contaminated with plastic or metals).
3	"(D) Animal waste or animal byproducts,
4	including products of animal waste digesters.
5	"(E) Algae.
6	"(F) Trees, brush, slash, residues, or any
7	other vegetative matter removed from within
8	600 feet of any building, campground, or route
9	designated for evacuation by a public official
10	with responsibility for emergency preparedness,
11	or from within 300 feet of a paved road, electric
12	transmission line, utility tower, or water supply
13	line.
14	"(G) Residues from or byproducts of
15	milled logs.
16	"(H) Any of the following removed from
17	forested land that is not Federal and is not
18	high conservation priority land:
19	"(i) Trees, brush, slash, residues,
20	interplanted energy crops, or any other
21	vegetative matter removed from an actively
22	managed tree plantation established—
23	"(I) prior to January 1, 2009; or

1	"(II) on land that, as of January
2	1, 2009, was cultivated or fallow and
3	non-forested.
4	"(ii) Trees, logging residue, thinnings,
5	cull trees, pulpwood, and brush removed
6	from naturally regenerated forests or other
7	non-plantation forests, including for the
8	purposes of hazardous fuel reduction or
9	preventative treatment for reducing or con-
10	taining insect or disease infestation.
11	"(iii) Logging residue, thinnings, cull
12	trees, pulpwood, brush, and species that
13	are non-native and noxious, from stands
14	that were planted and managed after Jan-
15	uary 1, 2009, to restore or maintain native
16	forest types.
17	"(iv) Dead or severely damaged trees
18	removed within 5 years of fire, blowdown,
19	or other natural disaster, and badly in-
20	fested trees.
21	"(I) Materials, pre-commercial thinnings,
22	or removed invasive species from National For-
23	est System land and public lands (as defined in
24	section 103 of the Federal Land Policy and
25	Management Act of 1976 (43 U.S.C. 1702)),

1	including those that are byproducts of preven-
2	tive treatments (such as trees, wood, brush,
3	thinnings, chips, and slash), that are removed
4	as part of a federally recognized timber sale, or
5	that are removed to reduce hazardous fuels, to
6	reduce or contain disease or insect infestation,
7	or to restore ecosystem health, and that are—
8	"(i) not from components of the Na-
9	tional Wilderness Preservation System,
10	Wilderness Study Areas, Inventoried
11	Roadless Areas, old growth or mature for-
12	est stands, components of the National
13	Landscape Conservation System, National
14	Monuments, National Conservation Areas,
15	Designated Primitive Areas; or Wild and
16	Scenic Rivers corridors;
17	"(ii) harvested in environmentally sus-
18	tainable quantities, as determined by the
19	appropriate Federal land manager; and
20	"(iii) are harvested in accordance with
21	Federal and State law, and applicable land
22	management plans.
23	"(47) Retire.—The term 'retire', with respect
24	to an allowance, offset credit, or term offset credit
25	established or issued under this title, means to dis-

- 1 qualify such allowance or offset credit for any subse-2 quent use under this title, regardless of whether the 3 use is a sale, exchange, or submission of the allow-4 ance, offset credit, or term offset credit to satisfy a 5 compliance obligation. 6 "(48) Reversal.—The term 'reversal' means 7 an intentional or unintentional loss of sequestered 8 greenhouse gases to the atmosphere. 9 "(49) Sequestered and sequestration.— 10 The terms 'sequestered' and 'sequestration' mean 11 the separation, isolation, or removal of greenhouse 12 gases from the atmosphere, as determined by the 13 Administrator. The terms include biological, geo-14 logic, and mineral sequestration, but do not include 15 ocean fertilization techniques. "(50) STATIONARY SOURCE.—The term 'sta-16 17 tionary source' means any integrated operation com-18 prising any plant, building, structure, or stationary 19 equipment, including support buildings and equip-20 ment, that is located within one or more contiguous 21 or adjacent properties, is under common control of 22 the same person or persons, and emits or may emit 23 a greenhouse gas.
- 24 "(51) Ton.—The term 'ton' means a metric 25 ton.

1	"(52) Uncapped emissions.—The term 'un-
2	capped emissions' means emissions of greenhouse
3	gases emitted after December 31, 2011, that are not
4	capped emissions.
5	"(53) United states greenhouse gas emis-
6	SIONS.—The term 'United States greenhouse gas
7	emissions' means the total quantity of annual green-
8	house gas emissions from the United States, as cal-
9	culated by the Administrator and reported to the
10	United Nations Framework Convention on Climate
11	Change Secretariat.
12	"(54) Utility unit.—The term 'utility unit'
13	means a combustion device that, on January 1,
14	2009, or any date thereafter, is fossil fuel-fired and
15	serves a generator that produces electricity for sale,
16	unless such combustion device, during the 12-month
17	period starting the later of January 1, 2009, or the
18	commencement of commercial operation and each
19	calendar year starting after such later date—
20	"(A) is part of an integrated cycle system
21	that cogenerates steam and electricity during
22	normal operation and that supplies one-third or
23	less of its potential electric output capacity and
24	25 MW or less of electrical output for sale; or

1	"(B) combusts materials of which more
2	than 95 percent is municipal solid waste on a
3	heat input basis.
4	"(55) VINTAGE YEAR.—The term 'vintage year'
5	means the calendar year for which an emission al-
6	lowance is established under section 721(a) or which
7	is assigned to an emission allowance under section
8	726(g)(3)(A), except that the vintage year for a
9	market stability reserve allowance shall be the year
10	in which such allowance is purchased at auction.".
11	SEC. 103. OFFSET REPORTING REQUIREMENTS.
12	Section 114 of Clean Air Act (42 U.S.C. 7414) is
13	amended by adding at the end the following:
14	"(e) Recordkeeping for Carbon Offsets Pro-
15	GRAM.—For the purpose of implementing the carbon off-
16	sets program set forth in subtitle D of title VII, the Ad-
17	ministrator shall require any person who is an offset
18	project developer, and may require any person who is a
19	third party verifier, to establish and maintain records, for
20	a period of not less than the crediting period under section
21	734(c) plus 5 years, relating to—
22	"(1) any offset project approval petition sub-
23	mitted to the appropriate officials under section 735;
24	"(2) any reversals which occur with respect to
25	an offset project;

1	"(3) any verification reports; and
2	"(4) any other aspect of the offset project that
3	the appropriate officials determines is appropriate.".
4	Subtitle B—Disposition of
5	Allowances
6	SEC. 111. DISPOSITION OF ALLOWANCES FOR GLOBAL
7	WARMING POLLUTION REDUCTION PRO-
8	GRAM.
9	Title VII of the Clean Air Act (as amended by section
10	141 of this division) is amended by adding at the end the
11	following:
12	"PART H—DISPOSITION OF ALLOWANCES
13	"SEC. 771. ALLOCATION OF EMISSION ALLOWANCES.
14	"(a) Allocation.—The Administrator shall allocate
15	emission allowances for the following purposes:
16	"(1) The program for electricity consumers pur-
17	suant to section 772.
18	"(2) The program for natural gas consumers
19	pursuant to section 773.
20	"(3) The program for home heating oil and pro-
21	pane consumers pursuant to section 774.
22	"(4) The program for domestic fuel production,
22	including petroleum refiners and small business re-
23	including perforeum refiners and sman business re-

1	"(5) The program to ensure real reductions in
2	industrial emissions under part F.
3	"(6) The program for commercial deployment
4	of carbon capture and sequestration technologies
5	under section 780.
6	"(7) The program for early action recognition
7	pursuant to section 782.
8	"(8) The program for State and local invest-
9	ment in energy efficiency and renewable energy
10	under section 202 of division B of the Clean Energy
11	Jobs and American Power Act.
12	"(9) The program for energy efficiency in build-
13	ing codes under section 163 of division A, and sec-
14	tion 203 of division B, of the Clean Energy Jobs
15	and American Power Act
16	"(10) The program for retrofit for energy and
17	environmental performance under section 164 of di-
18	vision A, and 204 of division B, of the Clean Energy
19	Jobs and American Power Act.
20	"(11) The program for Energy Innovation
21	Hubs pursuant to section 205 of division B of the
22	Clean Energy Jobs and American Power Act.
23	"(12) The program for ARPA–E research pur-
24	suant to section 206 of division B of the Clean En-
25	ergy Jobs and American Power Act.

1	"(13) The International Clean Energy Deploy-
2	ment Program under section 323 of division A, and
3	section 207 of division B, of the Clean Energy Jobs
4	and American Power Act.
5	"(14) The international climate change adapta-
6	tion and global security program under section 324
7	of division A, and section 208 of division B, of the
8	Clean Energy Jobs and American Power Act.
9	"(b) Auctions.—The Administrator shall auction,
10	pursuant to section 778, emission allowances for the fol-
11	lowing purposes:
12	"(1) The Market Stability Reserve Fund under
13	section 726.
14	"(2) The program for climate change consumer
15	refunds and low- and moderate-income consumers
16	pursuant to section 776, including—
17	"(A) consumer rebates under section
18	776(a); and
19	"(B) energy refunds under section 776(b).
20	"(3) The program for investment in clean vehi-
21	cle technology under section 201 of division B of the
22	Clean Energy Jobs and American Power Act.
23	"(4) The program for State and local invest-
24	ment in energy efficiency and renewable energy

1	under section 202 of division B of the Clean Energy
2	Jobs and American Power Act.
3	"(5) The program for energy efficiency and re-
4	newable energy worker training under section 209 of
5	division B of the Clean Energy Jobs and American
6	Power Act.
7	"(6) The program for worker transition under
8	part 2 of subtitle A of title III of division A, and
9	section 210 of division B, of the Clean Energy Jobs
10	and American Power Act.
11	"(7) The State programs for greenhouse gas re-
12	duction and climate adaptation pursuant to section
13	211 of division B of the Clean Energy Jobs and
14	American Power Act.
15	"(8) The program for public health and climate
16	change under subpart B of part 1 of subtitle C of
17	title III of division A, and section 212 of division B
18	of the Clean Energy Jobs and American Power Act
19	"(9) The program for climate change safe-
20	guards for natural resources conservation under sub-
21	part C of part 1 of subtitle C of title III of division
22	A, and section 213 of division B, of the Clean En-
23	ergy Jobs and American Power Act.

1	(10) Nuclear worker training under section
2	132 of division A, and section 214 of division B, of
3	the Clean Energy Jobs and American Power Act.
4	"(11) The supplemental agriculture and for-
5	estry greenhouse gas reduction and renewable en-
6	ergy program under section 155 of division A, and
7	section 215 of division B, of the Clean Energy Jobs
8	and American Power Act.
9	"(c) Deficit Reduction.—
10	"(1) In general.—The Administrator shall—
11	"(A) auction, pursuant to section 778,
12	emission allowances for deficit reduction in the
13	amounts described in paragraph (2); and
14	"(B) deposit those proceeds immediately
15	on receipt in the Deficit Reduction Fund estab-
16	lished by section 783.
17	"(2) Amounts.—For vintage years 2012
18	through 2050, 25.0 percent of emission allowances
19	established for each year under section 721(a) shall
20	be auctioned and the proceeds deposited pursuant to
21	paragraph (1) to ensure that this title does not con-
22	tribute to the deficit for that particular calendar
23	year.
24	"(d) Supplemental Reductions.—

1	"(1) In general.—The Administrator shall al-
2	locate allowances for each vintage year to achieve
3	supplemental reductions pursuant to section 753.
4	"(2) Adjustment.—The Administrator shall
5	modify the allowances allocated under paragraph (1)
6	as necessary to ensure the achievement of the an-
7	nual supplemental emissions reduction objective for
8	2020 set forth in section 704.
9	"SEC. 772. ELECTRICITY CONSUMERS.
10	"(a) Definitions.—For purposes of this section:
11	"(1) CHP savings.—The term 'CHP savings'
12	means—
13	"(A) CHP system savings from a combined
14	heat and power system that commences oper-
15	ation after the date of enactment of this sec-
16	tion; and
17	"(B) the increase in CHP system savings
18	from, at any time after the date of the enact-
19	ment of this section, upgrading, replacing, ex-
20	panding, or increasing the utilization of a com-
21	bined heat and power system that commenced
22	operation on or before the date of enactment of
23	this section.
24	"(2) CHP SYSTEM SAVINGS.—The term 'CHP
25	system savings' means the increment of electric out-

1	put of a combined heat and power system that is at-
2	tributable to the higher efficiency of the combined
3	system (as compared to the efficiency of separate
4	production of the electric and thermal outputs).
5	"(3) Coal-fueled unit.—The term 'coal-
6	fueled unit' means a utility unit that derives at least
7	85 percent of its heat input from coal, petroleum
8	coke, or any combination of those 2 fuels.
9	"(4) Cost-effective.—The term 'cost-effec-
10	tive', with respect to an energy efficiency program,
11	means that the program meets the total resource
12	cost test, which requires that the net present value
13	of economic benefits over the life of the program, in-
14	cluding avoided supply and delivery costs and de-
15	ferred or avoided investments, is greater than the
16	net present value of the economic costs over the life
17	of the program, including program costs and incre-
18	mental costs borne by the energy consumer.
19	"(5) ELECTRICITY LOCAL DISTRIBUTION COM-
20	PANY.—The term 'electricity local distribution com-
21	pany' means an electric utility—
22	"(A) that has a legal, regulatory, or con-
23	tractual obligation to deliver electricity directly
24	to retail consumers in the United States, re-
25	gardless of whether that entity or another enti-

1	ty sells the electricity as a commodity to those
2	retail consumers; and
3	"(B) the retail rates of which, except in
4	the case of an electric cooperative, are regulated
5	or set by—
6	"(i) a State regulatory authority;
7	"(ii) a State or political subdivision
8	thereof (or an agency or instrumentality
9	of, or corporation wholly owned by, either
10	of the foregoing); or
11	"(iii) an Indian tribe pursuant to trib-
12	al law.
13	"(6) Electricity savings.—The term 'elec-
14	tricity savings' means reductions in electricity con-
15	sumption, relative to business-as-usual projections,
16	achieved through measures implemented after the
17	date of enactment of this section, limited to—
18	"(A) customer facility savings of elec-
19	tricity, adjusted to reflect any associated in-
20	crease in fuel consumption at the facility;
21	"(B) reductions in distribution system
22	losses of electricity achieved by a retail elec-
23	tricity distributor, as compared to losses attrib-
24	utable to new or replacement distribution sys-
25	tem equipment of average efficiency;

1	"(C) CHP savings; and
2	"(D) fuel cell savings.
3	"(7) FUEL CELL.—The term 'fuel cell' means a
4	device that directly converts the chemical energy of
5	a fuel and an oxidant into electricity by electro-
6	chemical processes occurring at separate electrodes
7	in the device.
8	"(8) Fuel cell savings.—The term 'fuel cell
9	savings' means the electricity saved by a fuel cell
10	that is installed after the date of enactment of this
11	section, or by upgrading a fuel cell that commenced
12	operation on or before the date of enactment of this
13	section, as a result of the greater efficiency with
14	which the fuel cell transforms fuel into electricity as
15	compared with sources of electricity delivered
16	through the grid, provided that—
17	"(A) the fuel cell meets such requirements
18	relating to efficiency and other operating char-
19	acteristics as the Federal Energy Regulatory
20	Commission may promulgate by regulation; and
21	"(B) the net sales of electricity from the
22	fuel cell to customers not consuming the ther-
23	mal output from the fuel cell, if any, do not ex-
24	ceed 50 percent of the total annual electricity
25	generation by the fuel cell.

1	"(9) INDEPENDENT POWER PRODUCTION FA-
2	CILITY.—The term 'independent power production
3	facility' means a facility—
4	"(A) that is used for the generation of
5	electric energy, at least 80 percent of which is
6	sold at wholesale; and
7	"(B) the sales of the output of which are
8	not subject to retail rate regulation or setting
9	of retail rates by—
10	"(i) a State regulatory authority;
11	"(ii) a State or political subdivision
12	thereof (or an agency or instrumentality
13	of, or corporation wholly owned by, either
14	of the foregoing);
15	"(iii) an electric cooperative; or
16	"(iv) an Indian tribe pursuant to trib-
17	al law.
18	"(10) Long-term contract generator.—
19	The term 'long-term contract generator' means a
20	qualifying small power production facility, a quali-
21	fying cogeneration facility), an independent power
22	production facility, or a facility for the production of
23	electric energy for sale to others that is owned and
24	operated by an electric cooperative that is—
25	"(A) a covered entity; and

1 "(B) as of the date of enactment of this 2 title— "(i) a facility with 1 or more sales or 3 4 tolling agreements executed before March 5 1, 2007, that govern the facility's elec-6 tricity sales and provide for sales at a price 7 (whether a fixed price or a price formula) 8 for electricity that does not allow for recov-9 ery of the costs of compliance with the lim-10 itation on greenhouse gas emissions under 11 this title, provided that such agreements 12 are not between entities that are affiliates 13 of one another; or 14 "(ii) a facility consisting of 1 or more 15 cogeneration units that makes useful ther-16 mal energy available to an industrial or 17 commercial process with 1 or more sales 18 agreements executed before March 1, 19 2007, that govern the facility's useful ther-20 mal energy sales and provide for sales at 21 a price (whether a fixed price or price for-22 mula) for useful thermal energy that does 23 not allow for recovery of the costs of com-24 pliance with the limitation on greenhouse 25 gas emissions under this title, provided

1	that such agreements are not between enti-
2	ties that are affiliates of one another.
3	"(11) MERCHANT COAL UNIT.—The term 'mer-
4	chant coal unit' means a coal-fueled unit that—
5	"(A) is or is part of a covered entity;
6	"(B) is not owned by a Federal, State, or
7	regional agency or power authority; and
8	"(C) generates electricity solely for sale to
9	others, provided that all or a portion of such
10	sales are made by a separate legal entity that—
11	"(i) has a full or partial ownership or
12	leasehold interest in the unit, as certified
13	in accordance with such requirements as
14	the Administrator shall prescribe; and
15	"(ii) is not subject to retail rate regu-
16	lation or setting of retail rates by—
17	"(I) a State regulatory authority;
18	"(II) a State or political subdivi-
19	sion thereof (or an agency or instru-
20	mentality of, or corporation wholly
21	owned by, either of the foregoing);
22	"(III) an electric cooperative; or
23	"(IV) an Indian tribe pursuant
24	to tribal law.

I	"(12) MERCHANT COAL UNIT SALES.—The
2	term 'merchant coal unit sales' means sales to oth-
3	ers of electricity generated by a merchant coal unit
4	that are made by the owner or leaseholder described
5	in paragraph (11)(C).
6	"(13) New Coal-Fueled unit.—The term
7	'new coal-fueled unit' means a coal-fueled unit that
8	commenced operation on or after January 1, 2009
9	and before January 1, 2013.
10	"(14) NEW MERCHANT COAL UNIT.—The term
11	'new merchant coal unit' means a merchant coal
12	unit—
13	"(A) that commenced operation on or after
14	January 1, 2009 and before January 1, 2013;
15	and
16	"(B) the actual, on-site construction of
17	which commenced prior to January 1, 2009.
18	"(15) QUALIFIED HYDROPOWER.—The term
19	'qualified hydropower' means—
20	"(A) energy produced from increased effi-
21	ciency achieved, or additions of capacity made,
22	on or after January 1, 1988, at a hydroelectric
23	facility that was placed in service before that
24	date and does not include additional energy
25	generated as a result of operational changes not

1	directly associated with efficiency improvements
2	or capacity additions; or
3	"(B) energy produced from generating ca-
4	pacity added to a dam on or after January 1,
5	1988, provided that the Federal Energy Regu-
6	latory Commission certifies that—
7	"(i) the dam was placed in service be-
8	fore the date of the enactment of this sec-
9	tion and was operated for flood control,
10	navigation, or water supply purposes and
11	was not producing hydroelectric power
12	prior to the addition of such capacity;
13	"(ii) the hydroelectric project installed
14	on the dam is licensed (or is exempt from
15	licensing) by the Federal Energy Regu-
16	latory Commission and is in compliance
17	with the terms and conditions of the li-
18	cense or exemption, and with other appli-
19	cable legal requirements for the protection
20	of environmental quality, including applica-
21	ble fish passage requirements; and
22	"(iii) the hydroelectric project in-
23	stalled on the dam is operated so that the
24	water surface elevation at any given loca-
25	tion and time that would have occurred in

the absence of the hydroelectric project is
maintained, subject to any license or ex-
emption requirements that require changes
in water surface elevation for the purpose
of improving the environmental quality of
the affected waterway.
"(16) Qualifying small power production
FACILITY; QUALIFYING COGENERATION FACILITY.—
The terms 'qualifying small power production facil-
ity' and 'qualifying cogeneration facility' have the
meanings given those terms in section 3(17)(C) and
3(18)(B) of the Federal Power Act (16 U.S.C.
796(17)(C) and $796(18)(B)$ ).
"(17) Renewable energy resource.—The
term 'renewable energy resource' means each of the
following:
"(A) Wind energy.
"(B) Solar energy.
"(C) Geothermal energy.
"(D) Renewable biomass.
"(E) Biogas derived exclusively from re-
newable biomass.
"(F) Biofuels derived exclusively from re-
newable biomass.
"(G) Qualified hydropower.

1	"(H) Marine and hydrokinetic renewable
2	energy, as that term is defined in section 632
3	of the Energy Independence and Security Act
4	of 2007 (42 U.S.C. 17211).
5	"(18) SMALL LDC.—The term 'small LDC'
6	means, for any given year, an electricity local dis-
7	tribution company that delivered less than 4,000,000
8	megawatt hours of electric energy directly to retail
9	consumers in the preceding year.
10	"(19) State regulatory authority.—The
11	term 'State regulatory authority' has the meaning
12	given that term in section 3(17) of the Public Utility
13	Regulatory Policies Act of 1978 (16 U.S.C.
14	2602(17)).
15	"(20) USEFUL THERMAL ENERGY.—The term
16	'useful thermal energy' has the meaning given that
17	term in section 371(7) of the Energy Policy and
18	Conservation Act (42 U.S.C. 6341(7)).
19	"(b) Electricity Local Distribution Compa-
20	NIES.—
21	"(1) DISTRIBUTION OF ALLOWANCES.—The
22	Administrator shall distribute to electricity local dis-
23	tribution companies for the benefit of retail rate-
24	payers the quantity of emission allowances allocated
25	for the following vintage year nursuant to section

the Administrator shall withhold from distribution under this subsection a quantity of emission allowances equal to the lesser of 14.3 percent of the quantity of emission allowances allocated under section 771(a)(1) for the relevant vintage year, or 105 percent of the emission allowances for the relevant vintage year that the Administrator anticipates will be distributed to merchant coal units and to long-term contract generators, respectively, under subsections (c) and (d). If not required by subsections (c) and (d) to distribute all of these reserved allowances, the Administrator shall distribute any remaining emission allowances to electricity local distribution companies in accordance with this subsection.

### "(2) Distribution based on emissions.—

"(A) IN GENERAL.—For each vintage year, 50 percent of the emission allowances available for distribution under paragraph (1), after reserving allowances for distribution under subsections (c) and (d), shall be distributed by the Administrator among individual electricity local distribution companies ratably based on the annual average carbon dioxide emissions attributable to generation of electricity delivered at

1	retail by each such company during the base
2	period determined under subparagraph (B).
3	"(B) Base Period.—
4	"(i) VINTAGE YEARS 2012 AND 2013.—
5	For vintage years 2012 and 2013, an elec-
6	tricity local distribution company's base
7	period shall be—
8	"(I) calendar years 2006 through
9	2008; or
10	"(II) any 3 consecutive calendar
11	years between 1999 and 2008, inclu-
12	sive, that such company selects, pro-
13	vided that the company timely informs
14	the Administrator of such selection.
15	"(ii) Vintage years 2014 and
16	THEREAFTER.—For vintage years 2014
17	and thereafter, the base period shall be—
18	"(I) the base period selected
19	under clause (i); or
20	"(II) calendar year 2012, in the
21	case of an electricity local distribution
22	company that owns, co-owns, or pur-
23	chases through a power purchase
24	agreement (whether directly or
25	through a cooperative arrangement) a

1 substantial portion of the electricity
2 generated by a new coal-fueled unit
3 provided that such company timely in
4 forms the Administrator of its election
5 to use 2012 as its base period.
6 "(C) Determination of emissions.—
7 "(i) Determination for 1999-
8 2008.—As part of the regulations promul
gated pursuant to subsection (g), the Ad
0 ministrator, after consultation with the
1 Energy Information Administration, shall
2 determine the average amount of carbon
dioxide emissions attributable to genera
4 tion of electricity delivered at retail by
5 each electricity local distribution company
for each of the years 1999 through 2008
7 taking into account entities' electricity gen
8 eration, electricity purchases, and elec
9 tricity sales. In the case of any electricity
local distribution company that owns, co
owns, or purchases through a power pur
chase agreement (whether directly of
through a cooperative arrangement) a sub
stantial portion of the electricity generated
by, a coal-fueled unit that commenced op

1	eration after January 1, 2006, and before
2	December 31, 2008, the Administrator
3	shall adjust the emissions attributable to
4	such company's retail deliveries in calendar
5	years 2006 through 2008 to reflect the
6	emissions that would have occurred if the
7	relevant unit were in operation during the
8	entirety of such 3-year period.
9	"(ii) Adjustments for New Coal-
10	FUELED UNITS.—
11	"(I) VINTAGE YEARS 2012 AND
12	2013.—For purposes of emission al-
13	lowance distributions for vintage years
14	2012 and 2013, in the case of any
15	electricity local distribution company
16	that owns, co-owns, or purchases
17	through a power purchase agreement
18	(whether directly or through a cooper-
19	ative arrangement) a substantial por-
20	tion of the electricity generated by, a
21	new coal-fueled unit, the Adminis-
22	trator shall adjust the emissions at-
23	tributable to such company's retail de-
24	liveries in the applicable base period
25	to reflect the emissions that would

1	have occurred if the new coal-fueled
2	unit were in operation during such pe-
3	riod.
4	"(II) VINTAGE YEAR 2014 AND
5	THEREAFTER.—Not later than nec-
6	essary for use in making emission al-
7	lowance distributions under this sub-
8	section for vintage year 2014, the Ad-
9	ministrator shall, for any electricity
10	local distribution company that owns,
11	co-owns, or purchases through a
12	power purchase agreement (whether
13	directly or through a cooperative ar-
14	rangement) a substantial portion of
15	the electricity generated by a new
16	coal-fueled unit and has selected cal-
17	endar year 2012 as its base period
18	pursuant to subparagraph (B)(ii)(II),
19	determine the amount of carbon diox-
20	ide emissions attributable to genera-
21	tion of electricity delivered at retail by
22	such company in calendar year 2012.
23	If the relevant new coal-fueled unit
24	was not yet operational by January 1,
25	2012, the Administrator shall adjust

1	such determination to reflect the
2	emissions that would have occurred if
3	such unit were in operation for all of
4	calendar year 2012.
5	"(iii) Requirements.—Determina-
6	tions under this paragraph shall be as pre-
7	cise as practicable, taking into account the
8	nature of data currently available and the
9	nature of markets and regulation in effect
10	in various regions of the country. The fol-
11	lowing requirements shall apply to such de-
12	terminations:
13	"(I) The Administrator shall de-
14	termine the amount of fossil fuel-
15	based electricity delivered at retail by
16	each electricity local distribution com-
17	pany, and shall use appropriate emis-
18	sion factors to calculate carbon diox-
19	ide emissions associated with the gen-
20	eration of such electricity.
21	"(II) Where it is not practical to
22	determine the precise fuel mix for the
23	electricity delivered at retail by an in-
24	dividual electricity local distribution
25	company, the Administrator may use

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1 the best available data, including aver-2 age data on a regional basis with ref-3 erence to Regional Transmission Or-4 ganizations or regional entities (as 5 defined  $\operatorname{term}$ is in section 6 215(a)(7) of the Federal Power Act 7 (16 U.S.C. 824o(a)(7)), to estimate8 fuel mix and emissions. Different 9 methodologies may be applied in dif-10 ferent regions if appropriate to obtain the most accurate estimate.

# "(3) Distribution based on deliveries.—

"(A) Initial formula.—Except as provided in subparagraph (B), for each vintage year, the Administrator shall distribute 50 percent of the emission allowances available for distribution under paragraph (1), after reserving allowances for distribution under subsections (c) and (d), among individual elecdistribution companies ratably tricity local based on each electricity local distribution company's annual average retail electricity deliveries for calendar years 2006 through 2008, unless the owner or operator of the company selects 3 other consecutive years between 1999

1	and 2008, inclusive, and timely notifies the Ad-
2	ministrator of its selection.
3	"(B) Updating.—Prior to distributing
4	2015 vintage year emission allowances under
5	this paragraph and at 3-year intervals there-
6	after, the Administrator shall update the dis-
7	tribution formula under this paragraph to re-
8	flect changes in each electricity local distribu-
9	tion company's service territory since the most
10	recent formula was established. For each suc-
11	cessive 3-year period, the Administrator shall
12	distribute allowances ratably among individual
13	electricity local distribution companies based on
14	the product of—
15	"(i) each electricity local distribution
16	company's average annual deliveries per
17	customer during calendar years 2006
18	through 2008, or during the 3 alternative
19	consecutive years selected by such company
20	under subparagraph (A); and
21	"(ii) the number of customers of such
22	electricity local distribution company in the
23	most recent year in which the formula is
24	updated under this subparagraph.

"(4) Prohibition against excess distributions.—The regulations promulgated under subsection (g) shall ensure that, notwithstanding paragraphs (2) and (3), no electricity local distribution company shall receive a greater quantity of allowances under this subsection than is necessary to offset any increased electricity costs to such company's retail ratepayers, including increased costs attributable to purchased power costs, due to enactment of this title. Any emission allowances withheld from distribution to an electricity local distribution company pursuant to this paragraph shall be distributed among all remaining electricity local distribution companies ratably based on emissions pursuant to paragraph (2).

#### "(5) Use of allowances.—

"(A) Ratepayer benefit.—Emission allowances distributed to an electricity local distribution company under this subsection shall be used exclusively for the benefit of retail ratepayers of such electricity local distribution company and may not be used to support electricity sales or deliveries to entities or persons other than such ratepayers.

1	"(B) Ratepayer classes.—In using
2	emission allowances distributed under this sub-
3	section for the benefit of ratepayers, an elec-
4	tricity local distribution company shall ensure
5	that ratepayer benefits are distributed—
6	"(i) among ratepayer classes ratably
7	based on electricity deliveries to each class;
8	and
9	"(ii) equitably among individual rate-
10	payers within each ratepayer class, includ-
11	ing entities that receive emission allow-
12	ances pursuant to part F.
13	"(C) Limitation.—In general, an elec-
14	tricity local distribution company shall not use
15	the value of emission allowances distributed
16	under this subsection to provide to any rate-
17	payer a rebate that is based solely on the quan-
18	tity of electricity delivered to such ratepayer.
19	To the extent an electricity local distribution
20	company uses the value of emission allowances
21	distributed under this subsection to provide re-
22	bates, it shall, to the maximum extent prac-
23	ticable, provide such rebates with regard to the
24	fixed portion of ratepayers' bills or as a fixed
25	credit or rebate on electricity bills.

1	"(D) Residential and industrial
2	RATEPAYERS.—Notwithstanding subparagraph
3	(C), if compliance with the requirements of this
4	title results (or would otherwise result) in an
5	increase in electricity costs for residential or in-
6	dustrial retail ratepayers of any given electricity
7	local distribution company (including entities
8	that receive emission allowances pursuant to
9	part F), such electricity local distribution com-
10	pany—
11	"(i) shall pass through to residential
12	retail ratepayers as a class their ratable
13	share (based on deliveries to each rate-
14	payer class) of the value of the emission al-
15	lowances that reduce electricity cost im-
16	pacts on such ratepayers; and
17	"(ii) shall pass through to industrial
18	ratepayers as a class their ratable share
19	(based on deliveries to each ratepayer
20	class) of the value of the emission allow-
21	ances that reduce electricity cost impacts
22	on such ratepayers. The electricity local
23	distribution company may do so based on
24	the quantity of electricity delivered to indi-
25	vidual industrial retail ratepayers.

1	(E) GUIDELINES.—As part of the regula-
2	tions promulgated under subsection (g), the Ad-
3	ministrator shall, after consultation with State
4	regulatory authorities, prescribe guidelines for
5	the implementation of the requirements of this
6	paragraph. Such guidelines shall include—
7	"(i) requirements to ensure that resi-
8	dential and industrial retail ratepayers (in-
9	cluding entities that receive emission allow-
10	ances under part F) receive their ratable
11	share of the value of the allowances dis-
12	tributed to each electricity local distribu-
13	tion company pursuant to this subsection
14	and
15	"(ii) requirements for measurement
16	verification, reporting, and approval of
17	methods used to assure the use of allow-
18	ance values to benefit retail ratepayers.
19	"(6) Regulatory proceedings.—
20	"(A) REQUIREMENT.—No electricity local
21	distribution company shall be eligible to receive
22	emission allowances under this subsection or
23	subsection (e) unless the State regulatory au-
24	thority with authority over such company's re-
25	tail rates, or the entity with authority to regu-

1	late or set retail electricity rates of an elec-
2	tricity local distribution company not regulated
3	by a State regulatory authority, has—
4	"(i) after public notice and an oppor-
5	tunity for comment, promulgated a regula-
6	tion or completed a rate proceeding (or the
7	equivalent, in the case of a ratemaking en-
8	tity other than a State regulatory author-
9	ity) that provides for the full implementa-
10	tion of the requirements of paragraph (5)
11	of this subsection and the requirements of
12	subsection (e); and
13	"(ii) made available to the Adminis-
14	trator and the public a report describing,
15	in adequate detail, the manner in which
16	the requirements of paragraph (5) and the
17	requirements of subsection (e) will be im-
18	plemented.
19	"(B) UPDATING.—The Administrator shall
20	require, as a condition of continued receipt of
21	emission allowances under this subsection by an
22	electricity local distribution company, that a
23	new regulation be promulgated or rate pro-
24	ceeding be completed, after public notice and
25	an opportunity for comment, and a new report

be made available to the Administrator and the public, pursuant to subparagraph (A), not less frequently than every 5 years.

### "(7) Plans and reporting.—

"(A) REGULATIONS.—As part of the regulations promulgated under subsection (g), the Administrator shall prescribe requirements governing plans and reports to be submitted in accordance with this paragraph.

"(B) Plans.—Not later than April 30 of 2011 and every 5 years thereafter through 2026, each electricity local distribution company shall submit to the Administrator a plan, approved by the State regulatory authority or other entity charged with regulating tor setting the retail rates of such company, describing such company's plans for the disposition of the value of emission allowances to be received pursuant to this subsection and subsection (e), in accordance with the requirements of this subsection and subsection (e). Such plan shall include a description of the manner in which the company will provide to industrial retail rate-payers (including entities that receive emission

1	allowances under part F) their ratable share of
2	the value of such allowances.
3	"(C) Reports.—Not later than June 30,
4	2013, and each calendar year thereafter
5	through 2031, each electricity local distribution
6	company shall submit a report to the Adminis-
7	trator, and to the relevant State regulatory au-
8	thority or other entity charged with regulating
9	or setting the retail electricity rates of such
10	company, describing the disposition of the value
11	of any emission allowances received by such
12	company in the prior calendar year pursuant to
13	this subsection and subsection (e), including—
14	"(i) a description of sales, transfer,
15	exchange, or use by the company for com-
16	pliance with obligations under this title, of
17	any such emission allowances;
18	"(ii) the monetary value received by
19	the company, whether in money or in some
20	other form, from the sale, transfer, or ex-
21	change of any such emission allowances;
22	"(iii) the manner in which the com-
23	pany's disposition of any such emission al-
24	lowances complies with the requirements of
25	this subsection and of subsection (e), in-

1	cluding each of the requirements of para-
2	graph (5) of this subsection, including the
3	requirement that industrial retail rate-
4	payers (including entities that receive
5	emission allowances under part F) receive
6	their ratable share of the value of such al-
7	lowances; and
8	"(iv) such other information as the
9	Administrator may require pursuant to
10	subparagraph (A).
11	"(D) Publication.—The Administrator
12	shall make available to the public all plans and
13	reports submitted under this subsection, includ-
14	ing by publishing such plans and reports on the
15	Internet.
16	"(8) Administrator audit reports.—
17	"(A) IN GENERAL.—Each year, the Ad-
18	ministrator shall audit a representative sample
19	of electricity local distribution companies to en-
20	sure that emission allowances distributed under
21	this subsection have been used exclusively for
22	the benefit of retail ratepayers and that such
23	companies are complying with the requirements
24	of this subsection and of subsection (e), includ-
25	ing the requirement that residential and indus-

trial retail ratepayers (including entities that receive emission allowances under part F) receive their ratable share of the value of such allowances. The Administrator shall assess the degree to which electric local distribution companies have maintained a marginal electric price signal while protecting consumers on total cost using the value of emissions allowances. In selecting companies for audit, the Administrator shall take into account any credible evidence of noncompliance with such requirements. The Administrator shall make available to the public a report describing the results of each such audit, including by publishing such report on the Internet.

"(B) GAO AUDIT REPORT.—Not later than April 30, 2015, and every 3 years thereafter through 2026, the Comptroller General of the United States, incorporating results from the Administrators' audit report and other relevant information including distribution company reports, shall conduct an in-depth evaluation and make available to the public a report on the investments made pursuant to paragraph (5). Said report shall be made available to the

State regulatory authority, or the entity with authority to regulate or set retail electricity rates in the case of an electricity distribution company that is not regulated by a State regulatory authority, and shall include a description of how the distribution companies in the audit meet or fail to meet the requirement of paragraph (5), including for investments made in cost-effective end-use energy efficiency programs, the lifetime and annual energy saving benefits, and capacity benefits of said programs.

"(C) Administrator cost containment Report.—Not later than April 30, 2015 and every 3 years thereafter through 2026, the Administrator shall transmit a report to Congress containing an evaluation of the disposition of the value of emission allowances received pursuant to this subsection and subsection (e) and recommendations of ways to more effectively direct the value of allowances to reduce costs for consumers, contain the overall costs of the greenhouse gas emissions reduction program, and meet the pollution reduction targets of the Act. The Administrator shall make available to

1	the public such report, including by publishing
2	such report on the Internet.
3	"(9) Enforcement.—A violation of any re-

"(9) Enforcement.—A violation of any requirement of this subsection or of subsection (e), irrespective of approval by a State regulatory authority, shall be a violation of this Act. Each emission allowance the value of which is used in violation of the requirements of this subsection or of subsection (e) shall be a separate violation.

# "(c) MERCHANT COAL UNITS.—

"(1) QUALIFYING EMISSIONS.—The qualifying emissions for a merchant coal unit for a given calendar year shall be the product of the number of megawatt hours of merchant coal unit sales generated by such unit in such calendar year and the average carbon dioxide emissions per megawatt hour generated by such unit during the base period under paragraph (2), provided that the number of megawatt hours in a given calendar year for purposes of such calculation shall be reduced in proportion to the portion of such unit's carbon dioxide emissions that are either—

"(A) captured and sequestered in such calendar year; or

1	"(B) attributable to the combustion or gas-
2	ification of biomass, to the extent that the
3	owner or operator of the unit is not required to
4	hold emission allowances for such emissions.
5	"(2) Base Period.—For purposes of this sub-
6	section, the base period for a merchant coal unit
7	shall be—
8	"(A) calendar years 2006 through 2008; or
9	"(B) in the case of a new merchant coal
10	unit—
11	"(i) the first full calendar year of op-
12	eration of such unit, if such unit com-
13	mences operation before January 1, 2012;
14	"(ii) calendar year 2012, if such unit
15	commences operation on or after January
16	1, 2012, and before October 1, 2012; or
17	"(iii) calendar year 2013, if such unit
18	commences operation on or after October
19	1, 2012, and before January 1, 2013.
20	"(3) Phase-down schedule.—The Adminis-
21	trator shall identify an annual phase-down factor,
22	applicable to distributions to merchant coal units for
23	each of vintage years 2012 through 2029, that cor-
24	responds to the overall decline in the amount of
25	emission allowances allocated to the electricity sector

1	in such years pursuant to section $771(a)(1)$ . Such
2	factor shall—
3	"(A) for vintage year 2012, be equal to
4	1.0;
5	"(B) for each of vintage years 2013
6	through 2029, correspond to the quotient of—
7	"(i) the quantity of emission allow-
8	ances allocated under section 771(a)(1) for
9	such vintage year; divided by
10	"(ii) the quantity of emission allow-
11	ances allocated under section 771(a)(1) for
12	vintage year 2012.
13	"(4) Distribution of Emission Allow-
14	ANCES.—Not later than March 1 of 2013 and each
15	calendar year through 2030, the Administrator shall
16	distribute emission allowances of the preceding vin-
17	tage year to the owner or operator of each merchant
18	coal unit described in subsection (a)(11)(C) in an
19	amount equal to the product of—
20	"(A) 0.5;
21	"(B) the qualifying emissions for such
22	merchant coal unit for the preceding year, as
23	determined under paragraph (1). and

1 "(C) the phase-down factor for the pre-2 ceding calendar year, as identified under para-3 graph (3).

### "(5) Adjustment.—

"(A) STUDY.—Not later than July 1, 2014, the Administrator, in consultation with the Federal Energy Regulatory Commission, shall complete a study to determine whether the allocation formula under paragraph (3) is resulting in, or is likely to result in, windfall profits to merchant coal generators or substantially disparate treatment of merchant coal generators operating in different markets or regions.

"(B) Regulation.—If the Administrator, in consultation with the Federal Energy Regulatory Commission, makes an affirmative finding of windfall profits or disparate treatment under subparagraph (A), the Administrator shall, not later than 18 months after the completion of the study described in subparagraph (A), promulgate regulations providing for the adjustment of the allocation formula under paragraph (3) to mitigate, to the extent practicable, such windfall profits, if any, and such disparate treatment, if any.

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"(6) Limitation on allowances.—Notwithstanding paragraph (4) or (5), for each vintage year the Administrator shall distribute under this subsection no more than 10 percent of the total quantity of emission allowances available for such vintage year for distribution to the electricity sector under section 771(a)(1). If the quantity of emission allowances that would otherwise be distributed pursuant to paragraph (4) or (5) for any vintage year would exceed such limit, the Administrator shall distribute 10 percent of the total emission allowances available for distribution under section 771(a)(1) for such vintage year ratably among merchant coal generators based on the applicable formula under paragraph (4) or (5). "(7) ELIGIBILITY.—The owner or operator of a merchant coal unit shall not be eligible to receive emission allowances under this subsection for any vintage year for which such owner or operator has elected to receive emission allowances for the same unit under subsection (d). "(d) Long-term Contract Generators.— "(1) DISTRIBUTION.—Not later than March 1, 2013, and each calendar year through 2030, the Administrator shall distribute to the owner or operator

1	of each long-term contract generator a quantity of
2	emission allowances of the preceding vintage year
3	that is equal to the sum of—
4	"(A) the number of tons of carbon dioxide
5	emitted as a result of a qualifying electricity
6	sales agreement referred to in subsection
7	(a)(10)(B)(i); and
8	"(B) the incremental number of tons of
9	carbon dioxide emitted solely as a result of a
10	qualifying thermal sales agreement referred to
11	in subsection (a)(10)(B)(ii), provided that in no
12	event shall the Administrator distribute more
13	than 1 emission allowance for the same ton of
14	emissions.
15	"(2) Limitation on allowances.—Notwith-
16	standing paragraph (1), for each vintage year the
17	Administrator shall distribute under this subsection
18	no more than 4.3 percent of the total quantity of
19	emission allowances available for such vintage year
20	for distribution to the electricity sector under section
21	771(a)(1). If the quantity of emission allowances
22	that would otherwise be distributed pursuant to
23	paragraph (1) for any vintage year would exceed
24	such limit, the Administrator shall distribute 4.3
25	percent of the total emission allowances available for

1	distribution under section $T/I(a)(1)$ for such vintage
2	year ratably among long-term contract generators
3	based on paragraph (1).
4	"(3) Eligibility.—
5	"(A) FACILITY ELIGIBILITY.—The owner
6	or operator of a facility shall cease to be eligible
7	to receive emission allowances under this sub-
8	section upon the earliest date on which the fa-
9	cility no longer meets each and every element of
10	the definition of a long-term contract generator
11	under subsection (a)(10).
12	"(B) CONTRACT ELIGIBILITY.—The owner
13	or operator of a facility shall cease to be eligible
14	to receive emission allowances under this sub-
15	section based on an electricity or thermal sales
16	agreement referred to in subsection (a)(10)(B)
17	upon the earliest date that such agreement—
18	"(i) expires;
19	"(ii) is terminated; or
20	"(iii) is amended in any way that
21	changes the location of the facility, the
22	price (whether a fixed price or price for-
23	mula) for electricity or thermal energy sold
24	under such agreement, the quantity of
25	electricity or thermal energy sold under the

1	agreement, or the expiration or termi-
2	nation date of the agreement.
3	"(4) Demonstration of eligibility.—To be
4	eligible to receive allowance distributions under this
5	subsection, the owner or operator of a long-term
6	contract generator shall submit each of the following
7	in writing to the Administrator within 180 days
8	after the date of enactment of this title, and not
9	later than September 30 of each vintage year for
10	which such generator wishes to receive emission al-
11	lowances:
12	"(A) A certificate of representation de-
13	scribed in section $700(15)$ .
14	"(B) An identification of each owner and
15	each operator of the facility.
16	"(C) An identification of the units at the
17	facility and the location of the facility.
18	"(D) A written certification by the des-
19	ignated representative that the facility meets all
20	the requirements of the definition of a long-
21	term contract generator.
22	"(E) The expiration date of each quali-
23	fying electricity or thermal sales agreement re-
24	ferred to in subsection (a)(10)(B).

1 "(F) A copy of each qualifying electricity 2 or thermal sales agreement referred to in sub-3 section (a)(10)(B). "(5) Notification.—Not later than 30 days 4 5 after, in accordance with paragraph (3), a facility or 6 an agreement ceases to meet the eligibility require-7 ments for distribution of emission allowances pursu-8 ant to this subsection, the designated representative 9 of such facility shall notify the Administrator in 10 writing when, and on what basis, such facility or 11 agreement ceased to meet such requirements. 12 "(e) SMALL LDCs.— 13 "(1) DISTRIBUTION.—The Administrator shall, 14 in accordance with this subsection, distribute emis-15 sion allowances allocated pursuant to section 16 771(a)(1) for the following vintage year. Such allow-17 ances shall be distributed ratably among small 18 LDCs based on historic emissions in accordance with 19 the same measure of such emissions applied to each 20 such small LDC for the relevant vintage year under 21 subsection (b)(2) of this section. "(2) Uses.—A small LDC receiving allowances 22 23 under this section shall use such allowances exclu-

sively for the following purposes:

"(A) Cost-effective programs to achieve 1 2 electricity savings, provided that such savings shall not be transferred or used for compliance 3 4 with any renewable electricity standard estab-5 lished under the Public Utility Regulatory Poli-6 cies Act of 1978 (16 U.S.C. 2601 et seg.). 7 "(B) Deployment of technologies to gen-8 erate electricity from renewable energy re-9 sources, provided that any Federal renewable 10 electricity credits issued based on generation 11 supported under this section shall be submitted 12 to the Federal Energy Regulatory Commission 13 for voluntary retirement and shall not be used 14 for compliance with the Public Utility Regu-15 latory Policies Act of 1978 (16 U.S.C. 2601 et 16 seq.). 17 "(C) Assistance programs to reduce elec-18 tricity costs for low-income residential rate-19 payers of such small LDC, provided that such 20 assistance is made available equitably to all res-21 idential ratepayers below a certain income level, 22 which shall not be higher than 200 percent of 23 the poverty line (as that term is defined in sec-24 tion 673(2) of the Community Services Block

Grant Act (42 U.S.C. 9902(2)).

1	"(3) REQUIREMENTS.—As part of the regula-
2	tions promulgated under subsection (g), the Admin-
3	istrator shall prescribe—
4	"(A) after consultation with the Federal
5	Energy Regulatory Commission, requirements
6	to ensure that programs and projects under
7	paragraph (2)(A) and (B) are consistent with
8	the standards established by, and effectively
9	supplement electricity savings and generation of
10	electricity from renewable energy resources
11	achieved by, the Combined Efficiency and Re-
12	newable Electricity Standard established by
13	law;
14	"(B) eligibility criteria and guidelines for
15	consumer assistance programs for low-income
16	residential ratepayers under paragraph (2)(C)
17	and
18	"(C) such other requirements as the Ad-
19	ministrator determines appropriate to ensure
20	compliance with the requirements of this sub-
21	section.
22	"(4) Reporting.—Reports submitted under
23	subsection (b)(7) shall include, in accordance with
24	such requirements as the Administrator may pre-
25	scribe—

1	"(A) a description of any facilities de-
2	ployed under paragraph (2)(A), the quantity of
3	resulting electricity generation from renewable
4	energy resources;
5	"(B) an assessment demonstrating the
6	cost-effectiveness of, and electricity savings
7	achieved by, programs supported under para-
8	graph $(2)(B)$ ; and
9	"(C) a description of assistance provided to
10	low-income retail ratepayers under paragraph
11	(2)(C).
12	"(f) Certain Cogeneration Facilities.—
13	"(1) Eligible cogeneration facilities.—
14	For purposes of this subsection, an 'eligible cogen-
15	eration facility' is a facility that—
16	"(A) is a qualifying co-generation facility
17	(as that term is defined in section 3(18)(B) of
18	the Federal Power Act (16 U.S.C. $796(18)(B)$ );
19	"(B) derives 80 percent or more of its heat
20	input from coal, petroleum coke, or any com-
21	bination of these 2 fuels;
22	"(C) has a nameplate capacity of 100
23	megawatts or greater;
24	"(D) was in operation as of January 1,
25	2009, and remains in operation as of the date

1	of any distribution of emission allowances under
2	this subsection;
3	"(E) in calendar years 2006 through 2008
4	sold, and as of the date of any distribution of
5	emission allowances under this section sells
6	steam or electricity directly and solely to mul
7	tiple, separately-owned industrial or commercia
8	facilities co-located at the same site with the co
9	generation facility; and
10	"(F) is not eligible to receive allowances
11	under any other subsection of this section of
12	under part F of this title.
13	"(2) DISTRIBUTION.—The Administrator shall
14	distribute the emission allowances allocated pursuan
15	to section 771(a)(1) to owners or operators of eligi
16	ble cogeneration facilities ratably based on the car
17	bon dioxide emissions of each such facility in cal
18	endar years 2006 through 2008. The Adminis
19	trator—
20	"(A) shall not, in any year, distribute
21	emission allowances under this subsection to the
22	owner or operator of any eligible cogeneration
23	facility in excess of the amount necessary to
24	offset such facility's cost of compliance with the
25	requirements of this title in that year: and

1 "(B) may distribute such allowances over a 2 period of years if annual distributions under 3 this subsection would otherwise exceed the limi-4 tation in subparagraph (A), provided that in no 5 event shall distributions be made under this 6 subsection after calendar year 2025. 7 "(3) REQUIREMENTS.—The Administrator 8 shall, by regulation, establish requirements to ensure 9 that the value of any emission allowances distributed 10 pursuant to this subsection are passed through, on 11 an equitable basis, to the facilities to which the rel-12 evant cogeneration facility provides electricity or 13 steam deliveries, including any facility owned or op-14 erated by the owner or operator of the cogeneration 15 facility. 16 "(g) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in 18 consultation with the Federal Energy Regulatory Commis-19 sion, shall promulgate regulations to implement the re-20 quirements of this section. "SEC. 773. NATURAL GAS CONSUMERS. "(a) DEFINITION.—For purposes of this section, the

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22 23 term 'cost-effective', with respect to an energy efficiency program, means that the program meets the Total Re-25 source Cost Test, which requires that the net present

- 1 value of economic benefits over the life of the program,
- 2 including avoided supply and delivery costs and deferred
- 3 or avoided investments, is greater than the net present
- 4 value of the economic costs over the life of the program,
- 5 including program costs and incremental costs borne by
- 6 the energy consumer.
- 7 "(b) Allocation.—Not later than June 30, 2015,
- 8 and each calendar year thereafter through 2028, the Ad-
- 9 ministrator shall distribute to natural gas local distribu-
- 10 tion companies for the benefit of retail ratepayers the
- 11 quantity of emission allowances allocated for the following
- 12 vintage year pursuant to section 771(a)(2). Such allow-
- 13 ances shall be distributed among local natural gas dis-
- 14 tribution companies based on the following formula:
- 15 "(1) Initial formula.—Except as provided in
- paragraph (2), for each vintage year, the Adminis-
- trator shall distribute emission allowances among
- natural gas local distribution companies on a pro
- rata basis based on each such company's annual av-
- erage retail natural gas deliveries for 2006 through
- 21 2008, unless the owner or operator of the company
- selects 3 other consecutive years between 1999 and
- 23 2008, inclusive, and timely notifies the Adminis-
- 24 trator of its selection.

1	"(2) Updating.—Prior to distributing 2019
2	vintage emission allowances and at 3-year intervals
3	thereafter, the Administrator shall update the dis-
4	tribution formula under this subsection to reflect
5	changes in each natural gas local distribution com-
6	pany's service territory since the most recent for-
7	mula was established. For each successive 3-year pe-
8	riod, the Administrator shall distribute allowances
9	on a pro rata basis among natural gas local distribu-
10	tion companies based on the product of—
11	"(A) each natural gas local distribution
12	company's average annual natural gas deliveries
13	per customer during calendar years 2006
14	through 2008, or during the 3 alternative con-
15	secutive years selected by such company under
16	paragraph (1); and
17	"(B) the number of customers of such nat-
18	ural gas local distribution company in the most
19	recent year in which the formula is updated
20	under this paragraph.
21	"(c) Use of Allowances.—
22	"(1) Ratepayer benefit.—Emission allow-
23	ances distributed to a natural gas local distribution
24	company under this section shall be used exclusively
25	for the benefit of retail ratepayers of such natural

gas bills.

1	gas local distribution company and may not be used
2	to support natural gas sales or deliveries to entities
3	or persons other than such ratepayers.
4	"(2) Ratepayer classes.—In using emission
5	allowances distributed under this section for the ben-
6	efit of ratepayers, a natural gas local distribution
7	company shall ensure that ratepayer benefits are
8	distributed—
9	"(A) among ratepayer classes on a pro
10	rata basis based on natural gas deliveries to
11	each class; and
12	"(B) equitably among individual ratepayers
13	within each ratepayer class.
14	"(3) Limitation.—A natural gas local dis-
15	tribution company shall not use the value of emis-
16	sion allowances distributed under this section to pro-
17	vide to any ratepayer a rebate that is based solely
18	on the quantity of natural gas delivered to such
19	ratepayer. To the extent a natural gas local distribu-
20	tion company uses the value of emission allowances
21	distributed under this section to provide rebates, it
22	shall, to the maximum extent practicable, provide
23	such rebates with regard to the fixed portion of rate-
24	payers' bills or as a fixed creditor rebate on natural

1	"(4) Energy efficiency programs.—The
2	value of no less than one-third of the emission allow-
3	ances distributed to natural gas local distribution
4	companies pursuant to this section in any calendar
5	year shall be used for cost-effective energy efficiency
6	programs for natural gas consumers. Such programs
7	must be authorized and overseen by the State regu-
8	latory authority, or by the entity with regulatory au-
9	thority over retail natural gas rates in the case of
10	a natural gas local distribution company that is not
11	regulated by a State regulatory authority.
12	"(5) Guidelines.—As part of the regulations
13	promulgated under subsection (h), the Administrator
14	shall prescribe specific guidelines for the implemen-
15	tation of the requirements of this subsection.
16	"(d) REGULATORY PROCEEDINGS.—
17	"(1) Requirement.—No natural gas local dis-
18	tribution company shall be eligible to receive emis-
19	sion allowances under this section unless the State
20	regulatory authority with authority over such com-
21	pany, or the entity with authority to regulate retail
22	rates of a natural gas local distribution company not
23	regulated by a State regulatory authority, has—
24	"(A) promulgated a regulation or com-
25	pleted a rate proceeding (or the equivalent, in

1	the case of a ratemaking entity other than a
2	State regulatory authority) that provides for
3	the full implementation of the requirements of
4	subsection (c); and
5	"(B) made available to the Administrator
6	and the public a report describing, in adequate
7	detail, the manner in which the requirements of
8	subsection (c) will be implemented.
9	"(2) UPDATING.—The Administrator shall re-
10	quire, as a condition of continued receipt of emission
11	allowances under this section, that a new regulation
12	be promulgated or rate proceeding be completed, and
13	a new report be made available to the Administrator
14	and the public, pursuant to paragraph (1), not less
15	frequently than every 5 years.
16	"(e) Plans and Reporting.—
17	"(1) Regulations.—As part of the regulations
18	promulgated under subsection (h), the Administrator
19	shall prescribe requirements governing plans and re-
20	ports to be submitted in accordance with this sub-
21	section.
22	"(2) Plans.—Not later than April 30, 2015,
23	and every 5 years thereafter through 2025, each
24	natural gas local distribution company shall submit
25	to the Administrator a plan, approved by the State

25

1 regulatory authority or other entity charged with 2 regulating the retail rates of such company, describ-3 ing such company's plans for the disposition of the 4 value of emission allowances to be received pursuant 5 to this section, in accordance with the requirements 6 of this section. 7 "(3) Reports.—Not later than June 30, 2017, 8 and each calendar year thereafter through 2031, 9 each natural gas local distribution company shall 10 submit a report to the Administrator, approved by 11 the relevant State regulatory authority or other enti-12 ty charged with regulating the retail natural gas 13 rates of such company, describing the disposition of 14 the value of any emission allowances received by 15 such company in the prior calendar year pursuant to 16 this subsection, including— 17 "(A) a description of sales, transfer, ex-18 change, or use by the company for compliance 19 with obligations under this title, of any such 20 emission allowances; 21 "(B) the monetary value received by the 22 company, whether in money or in some other 23 form, from the sale, transfer, or exchange of

emission allowances received by the company

under this section;

1	"(C) the manner in which the company's
2	disposition of emission allowances received
3	under this subsection complies with the require-
4	ments of this section, including each of the re-
5	quirements of subsection (c);
6	"(D) the cost-effectiveness of, and energy
7	savings achieved by, energy efficiency programs
8	supported through such emission allowances;
9	and
10	"(E) such other information as the Admin-
11	istrator may require pursuant to paragraph (1).
12	"(4) Publication.—The Administrator shall
13	make available to the public all plans and reports
14	submitted by natural gas local distribution compa-
15	nies under this subsection, including by publishing
16	such plans and reports on the Internet.
17	"(f) Auditing.—
18	"(1) Administrator audit report.—Each
19	year, the Administrator shall audit a significant rep-
20	resentative sample of natural gas local distribution
21	companies to ensure that emission allowances dis-
22	tributed under this section have been used exclu-
23	sively for the benefit of retail ratepayers and that
24	such companies are complying with the requirements
25	of this section. In selecting companies for audit, the

1 Administrator shall take into account any credible 2 evidence of noncompliance with such requirements. 3 The Administrator shall make available to the public 4 a report describing the results of each such audit, 5 including by publishing such report on the Internet. 6 "(2) GAO AUDIT REPORT.—Not later April 30, 7 2015 and every 3 years thereafter through April 30, 8 2026, the Comptroller General of the United States, 9 incorporating results from the Administrators' audit 10 report and other relevant information including dis-11 tribution company reports, shall conduct an in-depth 12 evaluation and make available to the public a report 13 on the investments made pursuant to subsection (c). 14 Said report shall be made available to the State reg-15 ulatory authority, or the entity with authority to 16 regulate or set retail natural gas rates in the case 17 of a natural gas distribution company that is not 18 regulated by a State regulatory authority, and shall 19 include a description how the distribution companies 20 in the audit meet or fail to meet the requirement of 21 subsection (c), including for investments made in 22 cost-effective end-use energy efficiency programs, the 23 lifetime and annual energy saving benefits, and ca-24 pacity benefits of said programs.

- 1 "(3) Administrator cost containment re-2 PORT.—Not later April 30, 2015, and every 3 years 3 thereafter through April 30, 2026, the Adminis-4 trator shall transmit a report to Congress containing 5 an evaluation of the disposition of the value of emis-6 sion allowances received pursuant to this subsection 7 and recommendations of ways to more effectively di-8 rect the value of allowances to reduce costs for con-9 sumers, contain the overall costs of the greenhouse 10 gas emissions reduction program, and meet the pol-11 lution reduction targets of the Act. The Adminis-12 trator shall make available to the public such report, 13 including by publishing such report on the Internet. 14 "(g) Enforcement.—A violation of any require-15 ment of this section, irrespective of approval by a State regulatory authority, shall be a violation of this Act. Each 16 17 emission allowance the value of which is used in violation 18 of the requirements of this section shall be a separate violation. 19 20 "(h) REGULATIONS.—Not later than January 1, 21 2014, the Administrator, in consultation with the Federal 22 Energy Regulatory Commission, shall promulgate regula-23 tions to implement the requirements of this section. "SEC. 774. HOME HEATING OIL AND PROPANE CONSUMERS.
- 24
- 25 "(a) Definitions.—For purposes of this section:

1	"(1) CARBON CONTENT.—The term 'carbon
2	content' means the amount of carbon dioxide that
3	would be emitted as a result of the combustion of a
4	fuel.
5	"(2) Cost-effective.—The term 'cost-effec-
6	tive' has the meaning given that term in section
7	773(a).
8	"(b) Allocation.—The Administrator shall dis-
9	tribute among the States, in accordance with this section,
10	the quantity of emission allowances allocated pursuant to
11	section 771(a)(3). The Administrator shall distribute a
12	percentage of such allowances determined by the Adminis-
13	trator, after consultation with the Secretary of the Inte-
14	rior, pursuant to subsection (f).
15	"(c) Distribution Among States.—The Adminis-
16	trator shall distribute emission allowances among the
17	States under this section each year on a pro rata basis
18	based on the ratio of—
19	"(1) the carbon content of home heating oil and
20	propane sold to consumers within each State in the
21	preceding year for residential or commercial uses; to
22	"(2) the carbon content of home heating oil and
23	propane sold to consumers within the United States
24	in the preceding year for residential or commercial
25	uses.

1	"(d) Use of Allowances.—
2	"(1) In general.—States shall use emission
3	allowances distributed under this section exclusively
4	for the benefit of consumers of home heating oil or
5	propane for residential or commercial purposes
6	Such proceeds shall be used exclusively for—
7	"(A) cost-effective energy efficiency pro-
8	grams for consumers that use home heating oi
9	or propane for residential or commercial pur-
10	poses; or
11	"(B) rebates or other direct financial as
12	sistance programs for consumers of home heat
13	ing oil or propane used for residential or com-
14	mercial purposes.
15	"(2) Administration and delivery mecha-
16	NISMS.—In administering programs supported by
17	this section, States shall—
18	"(A) use no less than 50 percent of the
19	value of emission allowances received under this
20	section for cost-effective energy efficiency pro-
21	grams to reduce consumers' overall fuel costs;
22	"(B) to the extent practicable, deliver con-
23	sumer support under this section through exist
24	ing energy efficiency and consumer energy as
25	sistance programs or delivery mechanisms, in

I	cluding, where appropriate, programs or mecha-
2	nisms administered by parties other than the
3	State; and
4	"(C) seek to coordinate the administration
5	and delivery of energy efficiency and consumer
6	energy assistance programs supported under
7	this section, with one another and with existing
8	programs for various fuel types, so as to deliver
9	comprehensive, fuel-blind, coordinated programs
10	to consumers.
11	"(e) Reporting.—Each State receiving emission al-
12	lowances under this section shall submit to the Adminis-
13	trator, within 12 months of each receipt of such allow-
14	ances, a report, in accordance with such requirements as
15	the Administrator may prescribe, that—
16	"(1) describes the State's use of emission allow-
17	ances distributed under this section, including a de-
18	scription of the energy efficiency and consumer as-
19	sistance programs supported with such allowances;
20	"(2) demonstrates the cost-effectiveness of, and
21	the energy savings achieved by, energy efficiency
22	programs supported under this section; and
23	"(3) includes a report prepared by an inde-
24	pendent third party, in accordance with such regula-
25	tions as the Administrator may promulgate, evalu-

- 1 ating the performance of the energy efficiency and
- 2 consumer assistance programs supported under this
- 3 section.
- 4 "(f) Enforcement.—If the Administrator deter-
- 5 mines that a State is not in compliance with this section,
- 6 the Administrator may withhold a portion of the emission
- 7 allowances, the quantity of which is equal to up to twice
- 8 the quantity of the allowances that the State failed to use
- 9 in accordance with the requirements of this section, that
- 10 such State would otherwise be eligible to receive under this
- 11 section in later years. Allowances withheld pursuant to
- 12 this subsection shall be distributed among the remaining
- 13 States on a pro rata basis in accordance with the formula
- 14 in subsection (c).

## 15 "SEC. 775. DOMESTIC FUEL PRODUCTION.

- 16 "(a) Purpose.—The purpose of this section is to
- 17 provide emission allowance rebates to petroleum refineries
- 18 in the United States in a manner that promotes energy
- 19 efficiency and a reduction in greenhouse gas emissions at
- 20 such facilities.
- 21 "(b) Definitions.—In this section:
- "(1) Emissions.—The term 'emissions' in-
- cludes direct emissions from fuel combustion, proc-
- ess emissions, and indirect emissions from the gen-
- eration of electricity, steam, and hydrogen used to

- produce the output of a petroleum refinery or the petroleum refinery sector.
- "(2) Petroleum refinery.—The term 'petroleum refinery' means a facility classified under code
  324110 of the North American Industrial Classification System of 2002.
- "(3) SMALL BUSINESS REFINER.—The term 7 'small business refiner' means a refiner that meets 8 9 the applicable Federal refinery capacity and em-10 ployee limitations criteria described in section 11 45H(c)(1) of the Internal Revenue Code of 1986 (as 12 in effect on the date of enactment of this section and 13 without regard to section 45H(d)). Eligibility of a 14 small business refiner under this paragraph shall not 15 be recalculated or disallowed on account of (i) its 16 merger with another small business refiner or refin-17 ers after December 31, 2002 or (ii) its acquisition 18 of another small business refiner (or refinery of such 19 refiner) after December 31, 2002.
- "(c) IN GENERAL.—The Administrator shall dis-21 tribute allowances pursuant to this section to owners and 22 operators of petroleum refineries, including small business 23 refiners, in the United States.
- 24 "(d) DISTRIBUTION SCHEDULE.—The Administrator25 shall distribute emission allowances pursuant to the regu-

- 1 lations issued under subsection (e) for each vintage year
- 2 no later than October 31 of the preceding calendar year.
- 3 "(e) REGULATIONS.—Not later than 3 years after the
- 4 date of enactment of this title, the Administrator, in con-
- 5 sultation with the Administrator of the Energy Informa-
- 6 tion Administration, shall promulgate regulations that es-
- 7 tablish a formula for distributing emission allowances con-
- 8 sistent with the purpose of this section. In establishing
- 9 such formula, the Administrator shall consider the relative
- 10 complexity of refinery processes and appropriate mecha-
- 11 nisms to take energy efficiency and greenhouse gas reduc-
- 12 tions into account. If a petroleum refinery's electricity pro-
- 13 vider received a free allocation of emission allowances pur-
- 14 suant to section 771(a)(1), the Administrator shall take
- 15 this free allocation into account when establishing such
- 16 formula to avoid rebates to a petroleum refinery for costs
- 17 that the Administrator determines were not incurred by
- 18 the petroleum refinery because the allowances were freely
- 19 allocated to the petroleum refinery's electricity provider
- 20 and used for the benefit of the petroleum refinery. This
- 21 formula shall apply separately to the distribution of allow-
- 22 ances allocated pursuant to section 771(a)(4), including
- 23 for petroleum refiners and small business refiners.
- 24 "SEC. 776. CONSUMER PROTECTION.
- 25 "(a) Consumer Rebates.—

1	"(1) Establishment of fund.—There is es-
2	tablished in the Treasury a separate account, to be
3	known as the 'Consumer Rebate Fund').
4	"(2) AVAILABILITY OF AMOUNTS.—All amounts
5	deposited in the Consumer Rebate Fund shall be
6	available without further appropriation or fiscal year
7	limitation.
8	"(3) Distribution of amounts.—Beginning
9	in 2026, for each year after deposits are made in the
10	Consumer Rebate Fund pursuant to section
11	771(b)(2)(A), the President shall use the funds in
12	accordance with Federal statutory authority to pro-
13	vide relief to consumers and others affected by the
14	enactment of the Clean Energy Jobs and American
15	Power Act (and amendments made by that Act).
16	"(b) Energy Refund Program.—
17	"(1) Establishment of fund.—There is es-
18	tablished in the Treasury a separate account, to be
19	known as the 'Energy Refund Account').
20	"(2) AVAILABILITY OF AMOUNTS.—All amounts
21	deposited in the Energy Refund Account shall be
22	available without further appropriation or fiscal year
23	limitation.
24	"(3) Distribution of amounts.—For each
25	year after deposits are made to the Energy Refund

1 Account pursuant to section 771(b)(2)(B), 2 President shall use the funds in accordance with 3 Federal statutory authority to offset energy cost im-4 pacts on low- and moderate-income households. 5 "SEC. 777. EXCHANGE FOR STATE-ISSUED ALLOWANCES. 6 "(a) IN GENERAL.—Not later than 1 year after the 7 date of enactment of this title, the Administrator shall 8 issue regulations allowing any person in the United States to exchange greenhouse gas emission allowances issued be-10 fore the later of December 31, 2011, or the date that is 11 9 months after the first auction under section 778, by the 12 State of California or for the Regional Greenhouse Gas Initiative, or the Western Climate Initiative (in this section referred to as 'State allowances') for emission allow-14 15 ances established by the Administrator under section 16 721(a). 17 "(b) Regulations.—Regulations issued under sub-18 section (a) shall— 19 "(1) provide that a person exchanging State al-20 lowances under this section receive emission allow-21 ances established under section 721(a) in the 22 amount that is sufficient to compensate for the cost 23 of obtaining and holding such State allowances; 24 "(2) establish a deadline by which persons must

exchange the State allowances;

clude the following requirements:

1 "(3) provide that the Federal emission allow-2 ances disbursed pursuant to this section shall be de-3 ducted from the allowances to be auctioned pursuant 4 to section 771(b); and "(4) require that, once exchanged, the credit or 5 6 other instrument be retired for purposes of use 7 under the program by or for which it was originally 8 issued. 9 "(c) Cost of Obtaining State Allowance.—For 10 purposes of this section, the cost of obtaining a State allowance shall be the average auction price, for emission 12 allowances issued in the year in which the State allowance was issued, under the program under which the State allowance was issued. 14 15 "SEC. 778. AUCTION PROCEDURES. 16 "(a) IN GENERAL.—To the extent that auctions of emission allowances by the Administrator are authorized by this part, such auctions shall be carried out pursuant 18 to this section and the regulations established hereunder. 19 "(b) Initial Regulations.—Not later than 12 20 21 months after the date of enactment of this title, the Ad-22 ministrator, in consultation with other agencies, as appropriate, shall promulgate regulations governing the auction of allowances under this section. Such regulations shall in-

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- 640 1 "(1) Frequency; first auction.—Auctions 2 shall be held four times per year at regular intervals, 3 with the first auction to be held no later than March 4 31, 2011. 5 "(2) Auction schedule; current and fu-6 TURE VINTAGES.—The Administrator shall, at each 7 quarterly auction under this section, offer for sale 8 both a portion of the allowances with the same vin-9 tage year as the year in which the auction is being 10 conducted and a portion of the allowances with vin-11 tage years from future years. The preceding sen-12 tence shall not apply to auctions held before 2012, 13 during which period, by necessity, the Administrator 14 shall auction only allowances with a vintage year 15 that is later than the year in which the auction is
- quarterly auction held thereafter, the Administrator may offer for sale allowances with vintage years of up to 4 years after the year in which the auction is being conducted.
  - "(3) Auction format.—Auctions shall follow a single-round, sealed-bid, uniform price format.

held. Beginning with the first auction and at each

"(4) Participation; financial assurance.—
Auctions shall be open to any person, except that
the Administrator may establish financial assurance

- requirements to ensure that auction participants can and will perform on their bids.
- "(5) DISCLOSURE OF BENEFICIAL OWNERSHIP.—Each bidder in the auction shall be required
  to disclose the person or entity sponsoring or benefitting from the bidder's participation in the auction
  if such person or entity is, in whole or in part, other
  than the bidder.
  - "(6) Purchase limits.—No person may, directly or in concert with another participant, purchase more than 5 percent of the allowances offered for sale at any quarterly auction.
  - "(7) Publication of information.—After the auction, the Administrator shall, in a timely fashion, publish the identities of winning bidders, the quantity of allowances obtained by each winning bidder, and the auction clearing price.
  - "(8) OTHER REQUIREMENTS.—The Administrator may include in the regulations such other requirements or provisions as the Administrator, in consultation with other agencies, as appropriate, considers appropriate to promote effective, efficient, transparent, and fair administration of auctions under this section.

- 1 "(c) REVISION OF REGULATIONS.—The Adminis-
- 2 trator may, in consultation with other agencies, as appro-
- 3 priate, at any time, revise the initial regulations promul-
- 4 gated under subsection (b) by promulgating new regula-
- 5 tions. Such revised regulations need not meet the require-
- 6 ments identified in subsection (b) if the Administrator de-
- 7 termines that an alternative auction design would be more
- 8 effective, taking into account factors including costs of ad-
- 9 ministration, transparency, fairness, and risks of collusion
- 10 or manipulation. In determining whether and how to re-
- 11 vise the initial regulations under this subsection, the Ad-
- 12 ministrator shall not consider maximization of revenues to
- 13 the Federal Government.
- 14 "(d) Reserve Auction Price.—The minimum re-
- 15 serve auction price shall be \$10 (in constant 2005 dollars)
- 16 for auctions occurring in 2012. The minimum reserve
- 17 price for auctions occurring in years after 2012 shall be
- 18 the minimum reserve auction price for the previous year
- 19 increased by 5 percent plus the rate of inflation (as meas-
- 20 ured by the Consumer Price Index for all urban con-
- 21 sumers).
- 22 "(e) Delegation or Contract.—Pursuant to reg-
- 23 ulations under this section, the Administrator may by del-
- 24 egation or contract provide for the conduct of auctions
- 25 under the Administrator's supervision by other depart-

- 1 ments or agencies of the Federal Government or by non-
- 2 governmental agencies, groups, or organizations.
- 3 "(f) SMALL BUSINESS REFINER RESERVE.—The Ad-
- 4 ministrator shall, in accordance with this subsection, issue
- 5 regulations setting aside a specified number of allowances,
- 6 as determined by the Administrator, that small business
- 7 refiners may purchase at the average auction price and
- 8 may use to demonstrate compliance pursuant to section
- 9 722. These regulations shall provide the following:
- 10 "(1) Allowed Purchases.—From January 1
- of the calendar year that matches the vintage year
- for which allowances have been placed in the reserve,
- through January 14 of the following year, small
- business refiners (as defined in section 775(b)) may
- purchase allowances from this reserve at the price
- determined pursuant to paragraph (2).
- 17 "(2) Price.—The price for allowances pur-
- chased from this reserve shall be the average auction
- 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
- the allowances.
- "(3) Use of allowances.—Allowances pur-
- chased from this reserve shall only be used by the
- 25 purchaser to demonstrate compliance pursuant to

section 722 for attributable greenhouse gas emissions in the calendar year that matches the vintage year of the purchased allowance. Allowances purchased from this reserve may not be banked, traded or borrowed.

"(4) Limitations on purchase amount.—
The Administrator, by regulation adopted after public notice and an opportunity for comment, shall establish procedures to distribute the ability to purchase allowances from the reserve fairly among all small business refiners interested in purchasing allowances from this reserve so as to address the potential that requests to purchase allowances exceed the number of allowances available in the reserve. This regulation may place limits on the number of allowances a small business refiner may purchase from the reserve.

"(5) Unsold allowances.—Vintage year allowances not sold from the reserve on or before January 15 of the calendar year following the vintage year shall be sold at an auction conducted pursuant to this section no later than March 31 of the calendar year following the vintage year. If significantly more allowances are being placed in the reserve than are being purchased from the reserve several years

- in a row, the Administrator may adjust either the
- 2 percent of allowances placed in the reserve or the
- 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 SEQUESTRATION TECHNOLOGIES.
13	"(a) Definitions.—In this section:
14	"(1) CARBON CAPTURE AND STORAGE.—The
15	term 'carbon capture and sequestration' shall—
16	"(A) have such term as Administrator
17	shall determine by regulation; and
18	"(B) include—
19	"(i) geological sequestration; and
20	"(ii) conversion of captured carbon di-
21	oxide to a stable form that will safely and
22	permanently sequester the carbon dioxide.
23	"(2) Qualifying electric generating
24	UNIT.—The term 'qualifying electric generating unit'
25	means an electric utility unit that—

1	"(A) derives at least 50 percent of the an-
2	nual fuel input of the unit from—
3	"(i) coal or waste coal;
4	"(ii) petroleum coke; or
5	"(iii) any combination of those 2
6	fuels; and
7	"(B)(i) has a nameplate capacity of 200
8	megawatts or more; or
9	"(ii) in the case of retrofit applications, the
10	carbon capture and sequestration technology is
11	applied to the flue gas or fuel gas stream from
12	at least 200 megawatts of the total nameplate
13	generating capacity of the unit.
14	"(3) Qualifying industrial source.—The
15	term 'qualifying industrial source' means a source
16	that—
17	"(A) is not a qualifying electric generating
18	unit;
19	"(B) absent carbon capture and sequestra-
20	tion, would emit greater than 50,000 tons per
21	year of carbon dioxide; and
22	"(C) does not produce a liquid transpor-
23	tation fuel from a solid fossil-based feedstock.
24	"(4) Treated generating capacity.—

1	"(A) IN GENERAL.—The term 'treated
2	generating capacity' means the portion of the
3	total generating capacity of an electric gener-
4	ating unit (or industrial source, measured by
5	such method as the Administrator may des-
6	ignate to be equivalent to the calculation under
7	subparagraph (B)) for which the flue gas or
8	fuel gas is treated by the carbon capture and
9	sequestration technology.
10	"(B) CALCULATION.—In determining the
11	treated portion of flue gas or fuel gas of an
12	electric generating unit under subparagraph
13	(A), the Administrator shall multiply the name-
14	plate capacity of the unit by the ratio that—
15	"(i) the mass of flue gas or fuel gas
16	that is treated by the carbon capture and
17	sequestration technology; bears to
18	"(ii) the total mass of the flue gas or
19	fuel gas that is produced when the unit is
20	operating at maximum capacity.
21	"(b) REGULATIONS.—Not later than 2 years after
22	the date of enactment of this title, the Administrator shall
23	promulgate regulations providing for the distribution of
24	emission allowances allocated under section 771(a)(6)
25	pursuant to the requirements of this section, to support

1	the commercial deployment of carbon capture and seques-
2	tration technologies in electric power generation and in-
3	dustrial operations.
4	"(c) Eligibility Criteria and Method of Dis-
5	TRIBUTION.—
6	"(1) Eligibility.—For an owner or operator
7	of a project to be eligible to receive emission allow-
8	ances under this section, the project shall—
9	"(A) implement carbon capture and se-
10	questration technology—
11	"(i) at a qualifying electric generating
12	unit that, upon implementation of the car-
13	bon capture and sequestration technology,
14	will achieve an emission limitation that is
15	at least a 50-percent reduction in emis-
16	sions of the carbon dioxide produced by—
17	"(I) the unit, measured on an
18	annual basis, as determined by the
19	Administrator; or
20	"(II) in the case of retrofit appli-
21	cations described in subsection
22	(a)(2)(B)(ii), the treated portion of
23	flue gas from the unit, measured on
24	an annual basis, as determined by the
25	Administrator; or

1	"(ii) at a qualifying industrial source
2	that, upon implementation, will achieve an
3	emission limitation that is at least a 50-
4	percent reduction in emissions of the car-
5	bon dioxide produced by the emission
6	point, measured on an annual basis, as de-
7	termined by the Administrator;
8	"(B)(i) geologically sequester carbon diox-
9	ide at a site that meets all applicable permitting
10	and certification requirements for geological se-
11	questration; or
12	"(ii) pursuant to such requirements as the
13	Administrator may prescribe by regulation, con-
14	vert captured carbon dioxide to a stable form
15	that will safely and permanently sequester the
16	carbon dioxide;
17	"(C) meet all other applicable State, tribal,
18	and Federal permitting requirements; and
19	"(D) be located in the United States.
20	"(2) Method of distribution.—
21	"(A) Period.—The Administrator shall
22	distribute emission allowances allocated under
23	section 771(a)(6) to eligible projects for each of
24	the first 10 calendar years for which each eligi-
25	ble project is in commercial operation.

1	"(B) BONUS ALLOWANCE FORMULA FOR
2	ELECTRIC GENERATING UNITS.—
3	"(i) Phase I distribution.—For
4	each project that is certified under sub-
5	section (h), the quantity of emission allow-
6	ances that the Administrator shall dis-
7	tribute for a calendar year to the owner or
8	operator of the eligible project shall be
9	equal to the quotient obtained by divid-
10	ing—
11	"(I) the product obtained by mul-
12	tiplying—
13	"(aa) the number of metric
14	tons of carbon dioxide emissions
15	avoided through capture and se-
16	questration of emissions by the
17	project for a particular year, as
18	determined pursuant to such
19	methodology as the Adminis-
20	trator shall prescribe by regula-
21	tion; and
22	"(bb) a bonus allowance
23	value that is assigned to the
24	project under subsection $(d)(2)$ ;
25	by

1	"(II) the average fair market
2	value of an emission allowance during
3	the calendar year preceding the year
4	during which the project captured and
5	sequestered the carbon dioxide emis-
6	sions.
7	"(ii) Phase II distribution.—For
8	each project that qualifies under subsection
9	(e), the quantity of emission allowances
10	that the Administrator shall distribute for
11	a calendar year to the owner or operator of
12	the eligible project shall be determined
13	through—
14	"(I) reverse auction, as pre-
15	scribed by regulation under subsection
16	(e)(3); or
17	"(II) if the Administrator decides
18	not to distribute allowances through a
19	reverse auction, an alternate distribu-
20	tion method established by regulation
21	under subsection (e)(4).
22	"(C) Formula for industrial
23	SOURCES.—For each project that qualifies
24	under subsection (g), the quantity of emission
25	allowances that the Administrator shall dis-

1	tribute for a calendar year to the owner or op-
2	erator of the eligible project shall be determined
3	in accordance with subsection $(g)(2)$ .
4	"(D) Consistency.—The Administrator
5	shall develop a method of distribution for each
6	category of eligible projects under this para-
7	graph in a manner that is consistent with the
8	certification and distribution requirements
9	under subsection (h).
10	"(d) Phase I Distribution to Electric Gener-
11	ATING UNITS.—
12	"(1) Applicability.—
13	"(A) In General.—Subject to subpara-
14	graph (B), this subsection shall apply to
15	projects that are undertaken at qualifying elec-
16	tric generating units that the Administrator de-
17	termines to be eligible to receive emission allow-
18	ances under this section.
19	"(B) Capacity.—The total cumulative
20	generating capacity of the projects described in
21	subparagraph (A) shall be equal to approxi-
22	mately 20 gigawatts of the treated generating
23	capacity.
24	"(2) Bonus allowance values.—
25	"(A) First tranche.—

1	"(i) In general.—The first tranche
2	shall include the first 10 gigawatts of
3	treated generating capacity undertaken at
4	qualifying electric generating units that re-
5	ceive emission allowances under this sec-
6	tion.
7	"(ii) CERTAIN UNITS.—For an eligible
8	project achieving capture and sequestration
9	of 90 percent or more of the carbon diox-
10	ide that otherwise would be emitted by the
11	unit, the bonus allowance value shall be
12	\$96 per ton of carbon dioxide emissions
13	avoided through the use of capture and se-
14	questration.
15	"(iii) Bonus allowance value.—
16	The Administrator shall establish, by regu-
17	lation, a bonus allowance value for each
18	rate of capture and sequestration achieved
19	by an eligible project—
20	"(I) beginning at a minimum of
21	\$50 per ton for a 50-percent rate; and
22	"(II) varying in direct proportion
23	with increasing rates of capture and
24	sequestration up to \$96 per ton for an
25	90-percent rate.

1	"(B) SECOND TRANCHE.—
2	"(i) IN GENERAL.—The second
3	tranche shall include the second 10
4	gigawatts of treated generating capacity
5	undertaken at qualifying electric gener-
6	ating units that receive emission allow-
7	ances under this section.
8	"(ii) CERTAIN UNITS.—For an eligible
9	project achieving the capture and seques-
10	tration of 90 percent or more of the carbon
11	dioxide that otherwise would be emitted by
12	the eligible project, the bonus allowance
13	value shall be \$85 per ton of carbon diox-
14	ide emissions avoided through the use of
15	capture and sequestration.
16	"(iii) Bonus allowance value.—
17	The Administrator shall establish, by regu-
18	lation, a bonus allowance value for each
19	rate of capture and sequestration achieved
20	by an eligible project—
21	"(I) beginning at a minimum of
22	\$50 per ton for a 50-percent rate; and
23	"(II) varying in direct proportion
24	with increasing rates of capture and

1	sequestration up to \$85 per ton for a
2	90-percent rate.
3	"(C) Increase in bonus allowance
4	VALUE.—For an eligible project that com-
5	mences commercial operation by not later than
6	January 1, 2017, and that meets the eligibility
7	criteria under subsection (c), the otherwise-ap-
8	plicable bonus allowance value under this para-
9	graph shall be increased by \$10, if the owner
10	or operator of the eligible project submits to the
11	Administrator by not later than January 1,
12	2012, a notification of the intent to implement
13	carbon capture and sequestration technology at
14	a qualifying electric generating unit in accord-
15	ance with subsection (c).
16	"(D) REDUCTION.—
17	"(i) IN GENERAL.—For a carbon cap-
18	ture and sequestration project sequestering
19	in a geological formation for purposes of
20	enhanced hydrocarbon recovery, the Ad-
21	ministrator, by regulation, shall reduce the
22	applicable bonus allowance value under
23	this paragraph to reflect the lower net cost
24	of the project, as compared to sequestra-

1	tion into geological formations solely for
2	purposes of sequestration.
3	"(ii) Assessment of Net Cost.—
4	For the purpose of this subparagraph, an
5	assessment of net cost of a project shall
6	account for the cost of the injection of car-
7	bon dioxide, or other method of enhanced
8	hydrocarbon recovery, that would have oth-
9	erwise been undertaken in the absence of
10	the carbon capture and sequestration
11	project under consideration.
12	"(E) Adjustments.—The Administrator
13	shall annually adjust for monetary inflation the
14	bonus allowance values established under this
15	paragraph.
16	"(F) Measurement.—The Administrator
17	shall measure the tranches and capture levels
18	for assigning the bonus allowance values under
19	this subsection based on the treated generating
20	capacity of the qualifying electric generating
21	units and qualifying industrial sources that re-
22	ceive emission allowances under this subsection.
23	"(G) AVERAGE FAIR MARKET VALUE.—
24	"(i) In General.—The Administrator
25	and the Secretary of Energy may jointly

1	determine that the average fair market
2	value for emission allowances or the bonus
3	allowances have been too low or too high to
4	achieve efficient and cost-effective commer-
5	cial deployment of carbon capture and se-
6	questration technology in a given calendar
7	year.
8	"(ii) Action on Determination.—
9	On making a determination under clause
10	(i), the Administrator may—
11	"(I) promulgate regulations to
12	adjust the bonus allowance value
13	under this paragraph; or
14	"(II) distribute an appropriate
15	quantity of emission allowances allo-
16	cated under section 771(a)(6) from
17	any future vintage year.
18	"(e) Phase II Distribution to Electric Gener-
19	ATING UNITS.—
20	"(1) Application.—This subsection shall
21	apply only to the distribution of emission allowances
22	for carbon capture and sequestration projects under-
23	taken at qualifying electric generating units and
24	qualifying industrial sources after the treated gener-

1	ating capacity threshold identified under subsection
2	(d)(1) is reached.
3	"(2) Regulations.—Not later than 2 years
4	before the date on which the capacity threshold iden-
5	tified in subsection (d)(1) is projected to be reached,
6	the Administrator shall promulgate regulations to
7	govern the distribution of emission allowances to the
8	owners or operators of eligible projects under this
9	subsection.
10	"(3) Reverse auctions.—
11	"(A) In general.—Except as provided in
12	paragraph (4), the regulations promulgated
13	pursuant to paragraph (2) shall provide for the
14	distribution of emission allowances to the own-
15	ers or operators of eligible projects under this
16	subsection through at least 2 reverse auctions,
17	each of which shall be held not less frequently
18	than once each calendar year.
19	"(B) Requirements.—
20	"(i) Projects at industrial
21	SOURCES.—The Administrator shall annu-
22	ally establish a reverse auction for projects
23	at industrial sources, which may not par-
24	ticipate in other auctions.

1	"(ii) OTHER AUCTIONS.—The Admin-
2	istrator may establish a separate auction
3	for each of not more than 5 different
4	project categories, as defined based on—
5	"(I) coal type;
6	"(II) capture technology;
7	"(III) geological formation type;
8	"(IV) new unit versus retrofit ap-
9	plication;
10	"(V) such other factors as the
11	Administrator may prescribe; or
12	"(VI) any combination of the fac-
13	tors described in subclauses (I)
14	through (V).
15	"(iii) Efficient distribution.—
16	The Administrator shall establish proce-
17	dures for the auction of emission allow-
18	ances under this subparagraph to ensure
19	that the establishment of separate auctions
20	for different project categories will not un-
21	duly impede the efficient and expeditious
22	distribution of emission allowances to eligi-
23	ble projects under this subsection.
24	"(iv) MINIMUM RATES.—The Admin-
25	istrator may establish appropriate min-

1	imum rates of capture and sequestration
2	for the treated generating capacity of a
3	project in implementing this subparagraph.
4	"(C) AUCTION PROCESS.—At each reverse
5	auction under this paragraph—
6	"(i) the Administrator shall solicit
7	bids from eligible projects;
8	"(ii) owners or operators of eligible
9	projects participating in the auction shall
10	submit a bid, including the desired level of
11	carbon dioxide sequestration incentive per
12	ton and the estimated quantity of carbon
13	dioxide that the project will permanently
14	sequester during a 10-year period; and
15	"(iii) the Administrator shall select
16	bids within each auction for the sequestra-
17	tion quantity submitted, beginning with
18	the eligible project for which the bid is
19	submitted for the lowest level of sequestra-
20	tion incentive on a per-ton basis and meet-
21	ing such other requirements as the Admin-
22	istrator may specify, until the amounts
23	available for the reverse auction are com-
24	mitted.

1	"(D) FORM OF DISTRIBUTION.—The Ad-
2	ministrator shall distribute emission allowances
3	to the owners or operators of eligible projects
4	selected through a reverse auction under this
5	paragraph pursuant to a formula equivalent to
6	the formula contained in subsection $(c)(2)(B)$ ,
7	except that the bonus allowance value that is
8	bid by the applicable entity shall be substituted
9	for the bonus allowance values described in sub-
10	section $(c)(2)$ .
11	"(4) Alternative distribution method.—
12	"(A) IN GENERAL.—If the Administrator
13	determines that a reverse auction will not result
14	in efficient and cost-effective commercial de-
15	ployment of carbon capture and sequestration
16	technologies, the Administrator, pursuant to
17	regulations under paragraph (2) or (5), shall
18	prescribe a schedule for the provision of bonus
19	allowances to the owners or operators of eligible
20	projects under this subsection, in accordance
21	with the requirements of this paragraph.
22	"(B) Multiple tranches.—The Admin-
23	istrator shall divide emission allowances avail-
24	able for distribution to the owners or operators

1	of eligible projects into a series of tranches,
2	each of which—
3	"(i) shall support the deployment of a
4	specified quantity of cumulative electric
5	generating capacity using carbon capture
6	and sequestration technology; and
7	"(ii) shall not be greater than 10
8	gigawatts of treated generating capacity.
9	"(C) METHOD OF DISTRIBUTION.—The
10	Administrator shall distribute emission allow-
11	ances within each tranche, on a first-come,
12	first-served basis—
13	"(i) based on the date of full-scale op-
14	eration of capture and sequestration tech-
15	nology; and
16	"(ii) pursuant to a formula that—
17	"(I) is similar to the formula
18	contained in subsection $(c)(2)(C)$ , ex-
19	cept that the Administrator may pre-
20	scribe bonus allowance values dif-
21	ferent than those described in sub-
22	section (c)(2) based on the criteria es-
23	tablished under subparagraph (E);
24	and

1	"(II) establishes the number of
2	emission allowances to be distributed
3	per ton of carbon dioxide sequestered
4	by the project.
5	"(D) REQUIREMENTS.—For each tranche
6	established pursuant to subparagraph (B), the
7	Administrator shall establish a schedule for dis-
8	tributing emission allowances that—
9	"(i) is based on a sliding scale that
10	provides higher bonus allowance values for
11	projects achieving higher rates of capture
12	and sequestration for the treated genera-
13	tion capacity at the unit;
14	"(ii) for each capture and sequestra-
15	tion rate, establishes a bonus allowance
16	value that is lower than that established
17	for the applicable rate for the previous
18	tranche (or, in the case of the first
19	tranche, than that established for the ap-
20	plicable rate under subsection (d)(2)); and
21	"(iii) may establish different bonus al-
22	lowance levels for not more than 5 dif-
23	ferent project categories, as defined based
24	on—
25	"(I) coal type;

1	"(II) capture and transportation
2	technology;
3	"(III) geological formation type;
4	"(IV) new unit versus retrofit ap-
5	plication;
6	"(V) such other factors as the
7	Administrator may prescribe; or
8	"(VI) any combination of the fac-
9	tors described in subclauses (I)
10	through (V).
11	"(E) Criteria for establishing bonus
12	ALLOWANCE VALUES.—In establishing bonus al-
13	lowance values under this paragraph, the Ad-
14	ministrator shall seek to cover not more than
15	the reasonable incremental capital and oper-
16	ating costs of a project that are attributable to
17	implementation of carbon capture, transpor-
18	tation, and sequestration technologies, taking
19	into account—
20	"(i) the reduced cost of compliance
21	with section 722;
22	"(ii) the reduced cost associated with
23	sequestering in a geological formation for
24	purposes of enhanced hydrocarbon recov-
25	ery, as compared to sequestration into geo-

1	logical formations solely for purposes of se-
2	questration;
3	"(iii) the relevant factors defining the
4	project category; and
5	"(iv) such other factors as the Admin-
6	istrator determines to be appropriate.
7	"(5) REVISION OF REGULATIONS.—The Admin-
8	istrator shall review and, as appropriate, revise the
9	applicable regulations under this subsection not less
10	frequently than once every 8 years.
11	"(f) Limits for Certain Electric Generating
12	Units.—
13	"(1) Definitions.—In this subsection, the
14	terms 'covered EGU' and 'initially permitted' have
15	the meanings given those terms in section 812.
16	"(2) Covered egus initially permitted
17	FROM 2009 THROUGH 2014.—For a covered EGU
18	that is initially permitted during the period begin-
19	ning on January 1, 2009, and ending on December
20	31, 2014, the Administrator shall reduce the quan-
21	tity of emission allowances that the owner or oper-
22	ator of the covered EGU would otherwise be eligible
23	to receive under this section as follows:
24	"(A) In the case of a covered EGU com-
25	mencing operation on or before January 1,

1	2019, if the date in clause (ii)(I) is earlier than
2	the date in clause (ii)(II), by the product ob-
3	tained by multiplying—
4	"(i) 20 percent; and
5	"(ii) the number of years, if any, that
6	have elapsed between—
7	"(I) the earlier of—
8	"(aa) January 1, 2020; and
9	"(bb) the date that is 5
10	years after the commencement of
11	operation of the covered EGU;
12	and
13	"(II) the first year that the cov-
14	ered EGU achieves (and thereafter
15	maintains) an emission limitation that
16	is at least a 50-percent reduction in
17	emissions of carbon dioxide produced
18	by the unit, measured on an annual
19	basis, as determined in accordance
20	with section $812(b)(2)$ .
21	"(B) In the case of a covered EGU com-
22	mencing operation after January 1, 2019, by
23	the product obtained by multiplying—
24	"(i) 20 percent; and

1	"(ii) the number of years, if any, that
2	have elapsed between—
3	"(I) the commencement of oper-
4	ation of the covered EGU; and
5	"(II) the first year that the cov-
6	ered EGU achieves (and thereafter
7	maintains) an emission limitation that
8	is at least a 50-percent reduction in
9	emissions of carbon dioxide produced
10	by the unit, measured on an annual
11	basis, as determined in accordance
12	with section $812(b)(2)$ .
13	"(3) Covered egus initially permitted
14	FROM 2015 THROUGH 2019.—The owner or operator
15	of a covered EGU that is initially permitted during
16	the period beginning on January 1, 2015, and end-
17	ing on December 31, 2019, shall be ineligible to re-
18	ceive emission allowances under this section if the
19	covered EGU, on commencement of operations (and
20	thereafter), does not achieve and maintain an emis-
21	sion limitation that is at least a 50-percent reduction
22	in emissions of carbon dioxide produced by the cov-
23	ered EGU, measured on an annual basis, as deter-
24	mined in accordance with section 812(b)(2).
25	"(g) Industrial Sources.—

1	"(1) Emission allowances.—The Adminis-
2	trator—
3	"(A) may distribute not more than 15 per-
4	cent of the emission allowances allocated under
5	section 771(a)(6) for any vintage year to the
6	owners or operators of eligible industrial
7	sources to support the commercial-scale deploy-
8	ment of carbon capture and sequestration tech-
9	nologies at those sources; and
10	"(B) notwithstanding any other provision
11	of law—
12	"(i) may distribute to eligible indus-
13	trial sources not more than 15 percent of
14	the emission allowances allocated under
15	section 771(a)(6) for any vintage year in
16	the second tranche of phase I; but
17	"(ii) may not distribute those allow-
18	ances for any vintage year in the first
19	tranche of phase I.
20	"(2) Distribution.—
21	"(A) In General.—The Administrator
22	shall prescribe, by regulation, requirements for
23	the distribution of emission allowances to the
24	owners or operators of industrial sources under
25	this subsection, based on a bonus allowance for-

1	mula that awards emission allowances to quali-
2	fying projects on the basis of tons of carbon di-
3	oxide captured and permanently sequestered.
4	"(B) Method.—The Administrator may
5	provide for the distribution of emission allow-
6	ances pursuant to—
7	"(i) a reverse auction method similar
8	to the method described in subsection
9	(e)(3), including the use of separate auc-
10	tions for different project categories; or
11	"(ii) an incentive schedule similar to
12	the schedule described in subsection (e)(4),
13	which shall ensure that incentives are es-
14	tablished so as to satisfy the requirement
15	described in subsection $(e)(4)(E)$ .
16	"(3) REVISION OF REGULATIONS.—The Admin-
17	istrator shall review and, as appropriate, revise the
18	regulations under this subsection not less frequently
19	than once every 8 years.
20	"(h) CERTIFICATION AND DISTRIBUTION.—
21	"(1) CERTIFICATION.—
22	"(A) Request.—
23	"(i) Phase I; alternative dis-
24	TRIBUTION METHOD.—In the case of a
25	qualifying project that is eligible to receive

1	allowances under phase I or under sub-
2	section (e)(4), the owner or operator of the
3	planned project may request from the Ad-
4	ministrator a certification that the project
5	is eligible to receive emission allowances
6	under this section.
7	"(ii) REVERSE AUCTIONS.—In the
8	case of a qualifying project that wins a re-
9	verse auction under subsection (e) or (g)
10	within a reasonably brief period following
11	completion of the auction (as specified by
12	the Administrator), the owner or operator
13	of the qualifying project shall request from
14	the Administrator a certification that the
15	project is eligible to receive emission allow-
16	ances under this section.
17	"(iii) Eligible projects.—Eligible
18	projects in phase I and phase II may re-
19	ceive certification under this paragraph.
20	"(iv) Issuance.—The Administrator
21	shall issue a certification described in this
22	subparagraph if the owner or operator
23	demonstrates a commitment to construct
24	and operate a project that satisfies—

1	"(I) the eligibility criteria of sub-
2	section (c); and
3	" $(\Pi)$ the requirements of this
4	subsection.
5	"(B) Documentation.—The Adminis-
6	trator shall prescribe, by regulation, the docu-
7	mentation necessary for making a determina-
8	tion of project eligibility for the certification
9	under subparagraph (A), including—
10	"(i) technical information regarding
11	the capture and sequestration technology,
12	coal type, geological formation type (if ap-
13	plicable), and other relevant design fea-
14	tures of the project;
15	"(ii) the annual reductions in carbon
16	dioxide emissions that the capture and se-
17	questration technology is projected to
18	achieve during each of the first 10 years of
19	the project's commercial operation; and
20	"(iii) a demonstration that the owner
21	or operator is committed to both con-
22	structing and operating the planned
23	project on a timeline marked by reasonable
24	capture and sequestration milestones,

1	through the completion of 1 of the actions
2	specified in subparagraph (C)(iii).
3	"(C) COMMITMENT.—
4	"(i) In general.—Subject to clause
5	(ii), the completion of any 1 of the quali-
6	fying actions specified under clause (iii)
7	shall constitute a commitment to construct
8	and operate a planned carbon capture and
9	sequestration project.
10	"(ii) Condition.—In the case of a
11	qualifying action specified in subclause (I)
12	or (II) of clause (iii), the completion of
13	such an action may be subject to a condi-
14	tion that the Administrator will issue a
15	certification under this paragraph for the
16	distribution of emission allowances to the
17	project.
18	"(iii) Qualifying actions.—Quali-
19	fying actions under this subparagraph
20	shall include—
21	"(I) the execution of—
22	"(aa) a commitment by
23	lenders or other appropriate enti-
24	ties to finance the project, which
25	may be subject to customary

1	closing conditions that are associ-
2	ated with the execution of the
3	commitment; and
4	"(bb) a commitment by the
5	owner or operator of the project
6	to execute a surety bond in suffi-
7	cient amounts by not later than 2
8	years after the date on which the
9	Administrator issues the certifi-
10	cation for the project; or
11	"(II) an authorization by a State
12	regulatory authority to allow recovery
13	from the retail customers of such elec-
14	tric utility, of the costs of the project
15	by a State-regulated electric utility
16	that plans to construct the project.
17	"(D) Failure to request certifi-
18	CATION.—
19	"(i) In general.—An owner or oper-
20	ator may elect not to request a certifi-
21	cation on the eligibility of a planned
22	project under subparagraph (A) prior to
23	the commercial operation of the project.
24	"(ii) Determination by adminis-
25	TRATOR.—If an owner or operator elects

1	not to request a certification under clause
2	(i), the Administrator shall make a deter-
3	mination regarding whether the project
4	satisfies the eligibility requirements of sub-
5	section (c) at the time that the Adminis-
6	trator makes a determination regarding
7	the annual distribution of emission allow-
8	ances under paragraph (3)(A).
9	"(2) Reservation of Emission allow-
10	ANCES.—
11	"(A) Amount.—
12	"(i) In general.—For each project
13	that receives a certification of eligibility
14	under paragraph (1), the Administrator
15	shall reserve on a first-come, first-served
16	basis a portion of the emission allowances
17	that are allocated for the deployment of
18	carbon capture and sequestration tech-
19	nology under section 771(a)(6).
20	"(ii) Determination.—The reserva-
21	tion of emission allowances for a particular
22	eligible project under this paragraph shall
23	be equal to the number of emission allow-
24	ances that the project is entitled to receive
25	under the applicable distribution method

1	under this section upon commercial oper-
2	ation of the carbon capture and sequestra-
3	tion technology, as determined by the Ad-
4	ministrator based on—
5	"(I) the applicable bonus allow-
6	ance value;
7	" $(\Pi)$ the number of tons of car-
8	bon dioxide emissions projected to be
9	captured and sequestered each cal-
10	endar year under paragraph
11	(1)(B)(i)(II); and
12	"(III) a discount rate to account
13	for the monetary inflation that may
14	be expected to occur during each of
15	the relevant 10 calendar years, as de-
16	termined by the Administrator.
17	"(B) Termination of Reservation.—
18	"(i) In general.—A reservation of
19	emission allowances for a particular project
20	under subparagraph (A) shall terminate if
21	the owner or operator fails to achieve rea-
22	sonable milestones for commencing con-
23	struction or commercial operation of the
24	project, as specified under paragraph
25	(1)(B)(i)(III).

1	"(ii) Reduced quantity of carbon
2	DIOXIDE CAPTURED AND SEQUESTERED.—
3	If the quantity of carbon dioxide captured
4	and sequestered by a project on average
5	over 3 consecutive vintage years is less
6	than the quantity estimated for those vin-
7	tage years under subparagraph (A), the
8	reservation of emission allowances for the
9	project under subparagraph (A) shall be
10	reduced in future years by the difference
11	between—
12	"(I) the quantity of carbon diox-
13	ide captured and sequestered on aver-
14	age over the applicable 3 consecutive
15	years; and
16	"(II) the quantity estimated
17	under subparagraph (A) for the appli-
18	cable years.
19	"(iii) Availability.—The Adminis-
20	trator shall immediately make available to
21	other eligible projects emission allowances
22	for which the Administrator has termi-
23	nated an emission allowance reservation
24	for a particular project under this subpara-
25	graph.

1	"(3) Distribution process.—
2	"(A) ANNUAL DISTRIBUTION.—The Ad-
3	ministrator shall distribute the emission allow-
4	ances to eligible projects on an annual basis.
5	"(B) Basis.—The annual distribution of
6	emission allowances shall be based on the total
7	tons of carbon dioxide that the project annually
8	captures and sequesters during each of the first
9	10 years of commercial operation, in accordance
10	with subsection $(c)(2)$ .
11	"(C) TOTAL DISTRIBUTION AMOUNT.—The
12	total amount of emission allowances distributed
13	to an eligible project for each of the first 10
14	years of commercial operation may be greater
15	than, or less than, the quantity of emissions al-
16	lowances that the Administrator has reserved
17	for the eligible project under paragraph (2).
18	"(D) Reports.—
19	"(i) In general.—Except as pro-
20	vided in subparagraph (B), the Adminis-
21	trator shall make each annual distribution
22	of emission allowances by not later than 90
23	days after the date on which the owner or
24	operator of a project submits to the Ad-
25	ministrator a report regarding the carbon

1	dioxide emissions captured and sequestered
2	for a particular year by the project.
3	"(ii) Requirement.—A report under
4	subclause (I) shall be verified in accord-
5	ance with regulations to be promulgated by
6	the Administrator.
7	"(i) Limitations.—
8	"(1) In general.—Emission allowances shall
9	be distributed under this section only for tons of car-
10	bon dioxide emissions that have already been cap-
11	tured and sequestered.
12	"(2) Period.—A qualifying project may receive
13	annual emission allowances under this section only
14	for the first 10 years of operation.
15	"(3) Capacity.—
16	"(A) In General.—Approximately 72
17	gigawatts of total cumulative treated generating
18	capacity may receive emission allowances under
19	this section.
20	"(B) Allowance surplus.—On reaching
21	the cumulative capacity described in subpara-
22	graph (A), any emission allowances that are al-
23	located for carbon capture and sequestration
24	deployment under section 771(a)(6) and are not
25	vet obligated under this section shall be treated

1	as emission allowances not designated for dis
2	tribution for purposes of section $771(b)(2)$ .
3	"(j) Exhaustion of Account and Annual Roll
4	OVER OF SURPLUS EMISSION ALLOWANCES.—
5	"(1) In general.—In distributing emission al
6	lowances under this section, the Administrator shall
7	ensure that eligible projects receive distributions of
8	emission allowances for the first 10 years of com
9	mercial operation.
10	"(2) Different vintage years.—
11	"(A) Determination.—If the Adminis
12	trator determines that the emission allowances
13	allocated under section 771(a)(6) with a vintage
14	year that matches the year of distribution wil
15	be exhausted once the estimated full 10-year
16	distributions will be provided to current eligible
17	participants, the Administrator shall provide to
18	new eligible projects emission allowances from
19	vintage years after the year of the distribution
20	"(B) DIVERSITY FACTORS.—If the Admin
21	istrator provides allowances to new eligible
22	projects under subparagraph (A), the Adminis
23	trator shall promulgate regulations to prioritize
24	new eligible projects that are distinguished from
25	prior recipients of allowances by 1 or more of

I	the following diversity factors (without regard
2	to order):
3	"(i) Location in a coal-producing re-
4	gion that provides a majority of coal to the
5	project.
6	"(ii) Coal type, including waste coal.
7	"(iii) Capture and transportation
8	technologies.
9	"(iv) Geological formations.
10	"(v) New units and retrofit applica-
11	tions.
12	"(k) Allocation of Allowances for Deploy-
13	MENT OF CARBON CAPTURE AND SEQUESTRATION TECH-
14	NOLOGY.—
15	"(1) Annual allocation.—The Adminis-
16	trator shall allocate emission allowances for the de-
17	ployment of carbon capture and sequestration tech-
18	nology in accordance with this section in the fol-
19	lowing quantities:
20	"(A) For each of vintage years 2014
21	through 2017, 1.75 percent of the emission al-
22	lowances established for each year under section
23	721(a).

1	"(B) For each of vintage years 2018 and
2	2019, 4.75 percent of the emission allowances
3	established for each year under section 721(a).
4	"(C) For each of vintage years 2020
5	through 2050, 5 percent of the emission allow-
6	ances established for each year under section
7	721(a).
8	"(2) Carryover.—If the Administrator has
9	not distributed all of the allowances allocated pursu-
10	ant to this subsection for a given vintage year by the
11	end of that year, the Administrator shall—
12	"(A) auction those emission allowances in
13	accordance with section 778 by not later than
14	March 31 of the year following that vintage
15	year; and
16	"(B) increase the allocation under this
17	subsection for the vintage year after the vintage
18	year for which emission allowances were
19	undisbursed by the quantity of undisbursed
20	emission allowances, but only to the extent that
21	allowances for that later year are to be auc-
22	tioned.
23	"(l) Davis-Bacon Compliance.—
24	"(1) In general.—All laborers and mechanics
25	employed on projects funded directly by or assisted

- 1 in whole or in part by this section through the use
- 2 of emission allowances shall be paid wages at rates
- 3 not less than those prevailing on projects of a char-
- 4 acter similar in the locality as determined by the
- 5 Secretary of Labor in accordance with subchapter
- 6 IV of chapter 31 of title 40, United States Code.
- 7 "(2) AUTHORITY.—With respect to the labor
- 8 standards specified in this subsection, the Secretary
- 9 of Labor shall have the authority and functions set
- forth in Reorganization Plan Numbered 14 of 1950
- 11 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of
- title 40, United States Code.

## 13 "SEC. 781. OVERSIGHT OF ALLOCATIONS.

- "(a) IN GENERAL.—Not later than January 1, 2014,
- 15 and every 2 years thereafter, the Comptroller General of
- 16 the United States shall carry out a review of programs
- 17 administered by the Federal Government that distribute
- 18 emission allowances or funds from any Federal auction of
- 19 allowances.
- 20 "(b) Contents.—Each such report shall include a
- 21 comprehensive evaluation of the administration and effec-
- 22 tiveness of each program, including—
- "(1) the efficiency, transparency, and sound-
- 24 ness of the administration of each program;

1	"(2) the performance of activities receiving as-
2	sistance under each program;
3	"(3) the cost-effectiveness of each program in
4	achieving the stated purposes of the program; and
5	"(4) recommendations, if any, for regulatory or
6	administrative changes to each program to improve
7	its effectiveness.
8	"(c) Focus.—In evaluating program performance,
9	each review under this section review shall address the ef-
10	fectiveness of such programs in—
11	"(1) creating and preserving jobs;
12	"(2) ensuring a manageable transition for
13	working families and workers;
14	"(3) reducing the emissions, or enhancing se-
15	questration, of greenhouse gases;
16	"(4) developing clean technologies; and
17	"(5) building resilience to the impacts of cli-
18	mate change.
19	"SEC. 782. EARLY ACTION RECOGNITION.
20	"(a) In General.—Emission allowances allocated
21	pursuant to section 771(a)(7) shall be distributed by the
22	Administrator in accordance with this section. Not later
23	than 1 year after the date of enactment of this title, the
24	Administrator shall issue regulations allowing—

1	"(1) any person in the United States to ex-
2	change instruments in the nature of offset credits
3	issued before January 1, 2009, by a State, local, or
4	voluntary offset program with respect to which the
5	Administrator has made an affirmative determina-
6	tion under section 740(a)(2), for emission allowances
7	established by the Administrator under section
8	721(a); and
9	"(2) the Administrator to provide compensation
10	in the form of emission allowances to entities, in-
11	cluding units of local government, that do not meet
12	the criteria of paragraph (1) and meet the criteria
13	of this paragraph for documented early reductions or
14	avoidance of greenhouse gas emissions or greenhouse
15	gases sequestered before January 1, 2009, from
16	projects or process improvements begun before Jan-
17	uary 1, 2009, where—
18	"(A) the entity publicly stated greenhouse
19	gas reduction goals and publicly reported
20	against those goals;
21	"(B) the entity demonstrated entity-wide
22	net greenhouse gas reductions; and
23	"(C) the entity demonstrates the actual
24	projects or process improvements undertaken to
25	make reductions and documents the reductions

1	(such as through documentation of engineering
2	projects).
3	"(b) Regulations.—Regulations issued under sub-
4	section (a) shall—
5	"(1) provide that a person exchanging credits
6	under subsection $(a)(1)$ receive emission allowances
7	established under section 721(a) in an amount for
8	which the monetary value is equivalent to the aver-
9	age monetary value of the credits during the period
10	from January 1, 2006, to January 1, 2009, as ad-
11	justed for inflation to reflect current dollar values at
12	the time of the exchange;
13	"(2) provide that a person receiving compensa-
14	tion for documented early action under subsection
15	(a)(2) shall receive emission allowances established
16	under section 721(a) in an amount that is approxi-
17	mately equivalent in value to the carbon dioxide
18	equivalent per ton value received by entities in ex-
19	change for credits under paragraph (1) (as adjusted
20	for inflation to reflect current dollar values at the
21	time of the exchange), as determined by the Admin-
22	istrator;
23	"(3) provide that only reductions or avoidance
24	of greenhouse gas emissions, or sequestration of
25	greenhouse gases, achieved by activities in the

1 United States between January 1, 2001, and Janu-2 ary 1, 2009, may be compensated under this section, 3 and only credits issued for such activities may be ex-4 changed under this section; 5 "(4) provide that only credits that have not 6 been retired or otherwise used to meet a voluntary 7 or mandatory commitment, and have not expired, 8 may be exchanged under subsection (a)(1); 9 "(5) require that, once exchanged, the credit be 10 retired for purposes of use under the program by or 11 for which it was originally issued; and 12 "(6) establish a deadline by which persons must 13 exchange the credits or request compensation for 14 early action under this section. 15 "(c) Participation.—Participation in an exchange of credits for allowances or compensation for early action 16 17 authorized by this section shall not preclude any person 18 from participation in an offset credit program established 19 under part D. 20 "(d) DISTRIBUTION.—Of the emission allowances 21 distributed under this section, a quantity equal to 0.75 percent of vintage year 2012 emission allowances established under section 721(a) shall be distributed pursuant to subsection (a)(1), and a quantity equal to 0.25 percent of vintage year 2012 emission allowances established

- 1 under section 721(a) shall be distributed pursuant to sub-
- 2 section (a)(2).
- 3 "SEC. 783. ESTABLISHMENT OF DEFICIT REDUCTION FUND.
- 4 "(a) Deficit Reduction Fund.—There is estab-
- 5 lished in the Treasury of the United States a fund, to be
- 6 known as the 'Deficit Reduction Fund'.
- 7 "(b) DISBURSEMENTS.—No disbursement shall be
- 8 made from the Deficit Reduction Fund except pursuant
- 9 to an appropriation Act.".

# 10 Subtitle C—Additional Greenhouse 11 Gas Standards

- 12 SEC. 121. GREENHOUSE GAS STANDARDS.
- 13 The Clean Air Act (42 U.S.C. 7401 et seq.), as
- 14 amended by subtitles A and B of this title, is further
- 15 amended by adding the following new title after title VII:

## 16 "TITLE VIII—ADDITIONAL

## 17 GREENHOUSE GAS STANDARDS

- 18 "SEC. 801. DEFINITIONS.
- 19 "For purposes of this title, terms that are defined
- 20 in title VII, except for the term 'stationary source', shall
- 21 have the meanings given those terms in title VII.

#### 22 "PART A—STATIONARY SOURCE STANDARDS

- 23 "SEC. 811. STANDARDS OF PERFORMANCE.
- 24 "(a) Definition of Uncapped Greenhouse Gas
- 25 Emissions.—In this section, the term 'uncapped green-

- 1 house gas emissions' means those greenhouse gas emis-
- 2 sions to which section 722 does not apply.
- 3 "(b) STANDARDS.—Before January 1, 2020, the Ad-
- 4 ministrator shall not promulgate new source performance
- 5 standards for greenhouse gases under section 111 that are
- 6 applicable to any stationary source that—
- 7 "(1) emits uncapped greenhouse gas emissions;
- 8 and
- 9 "(2) qualifies as an eligible offset project pursu-
- ant to section 733 that is eligible to receive an offset
- 11 credit pursuant to section 737.".
- 12 SEC. 122. HFC REGULATION.
- 13 (a) IN GENERAL.—Title VI of the Clean Air Act (42)
- 14 U.S.C. 7671 et seq.) (relating to stratospheric ozone pro-
- 15 tection) is amended by adding at the end the following:
- 16 "SEC. 619. HYDROFLUOROCARBONS (HFCS).
- 17 "(a) Treatment as Class II, Group II Sub-
- 18 STANCES.—Except as otherwise provided in this section,
- 19 hydrofluorocarbons shall be treated as class II substances
- 20 for purposes of applying the provisions of this title. The
- 21 Administrator shall establish two groups of class II sub-
- 22 stances. Class II, group I substances shall include all
- 23 hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-
- 24 tion 602(b). Class II, group II substances shall include
- 25 each of the following:

1	"(1) Hydrofluorocarbon-23 (HFC-23).
2	"(2) Hydrofluorocarbon-32 (HFC-32).
3	"(3) Hydrofluorocarbon-41 (HFC-41).
4	"(4) Hydrofluorocarbon-125 (HFC-125).
5	"(5) Hydrofluorocarbon-134 (HFC-134).
6	"(6) Hydrofluorocarbon-134a (HFC–134a).
7	"(7) Hydrofluorocarbon-143 (HFC–143).
8	"(8) Hydrofluorocarbon-143a (HFC-143a).
9	"(9) Hydrofluorocarbon-152 (HFC-152).
10	"(10) Hydrofluorocarbon-152a (HFC–152a).
11	"(11) Hydrofluorocarbon-227ea (HFC–227ea).
12	"(12) Hydrofluoroearbon-236cb (HFC–236cb).
13	"(13) Hydrofluorocarbon-236ea (HFC–236ea).
14	"(14) Hydrofluorocarbon-236fa (HFC–236fa).
15	"(15) Hydrofluorocarbon-245ca (HFC–245ca).
16	"(16) Hydrofluorocarbon-245fa (HFC–245fa).
17	"(17) Hydrofluoroearbon-365mfc (HFC-
18	365mfc).
19	"(18) Hydrofluorocarbon-43-10mee (HFC-43-
20	10mee).
21	"(19) Hydrofluoroolefin-1234yf (HFO–1234yf).
22	"(20) Hydrofluoroolefin-1234ze (HFO-1234ze).
23	Not later than 6 months after the date of enactment of
24	this title, the Administrator shall publish an initial list of
25	class II, group II substances, which shall include the sub-

- 1 stances listed in this subsection. The Administrator may
- 2 add to the list of class II, group II substances any other
- 3 substance used as a substitute for a class I or II substance
- 4 if the Administrator determines that 1 metric ton of the
- 5 substance makes the same or greater contribution to glob-
- 6 al warming over 100 years as 1 metric ton of carbon diox-
- 7 ide. Within 24 months after the date of enactment of this
- 8 section, the Administrator shall amend the regulations
- 9 under this title (including the regulations referred to in
- 10 sections 603, 608, 609, 610, 611, 612, and 613) to apply
- 11 to class II, group II substances.
- 12 "(b) Consumption and Production of Class II,
- 13 Group II Substances.—
- 14 "(1) IN GENERAL.—
- 15 "(A) Consumption phase down.—In the
- case of class II, group II substances, in lieu of
- applying section 605 and the regulations there-
- under, the Administrator shall promulgate reg-
- 19 ulations phasing down the consumption of class
- 20 II, group II substances in the United States,
- and the importation of products containing any
- class II, group II substance, in accordance with
- 23 this subsection within 18 months after the date
- of enactment of this section. Effective January
- 25 1, 2012, it shall be unlawful for any person to

produce any class II, group II substance, import any class II, group II substance, or import any product containing any class II, group II substance without holding one consumption allowance or one destruction offset credit for each carbon dioxide equivalent ton of the class II, group II substance. Any person who exports a class II, group II substance for which a consumption allowance was retired may receive a refund of that allowance from the Administrator following the export.

"(B) PRODUCTION.—If the United States becomes a party or otherwise adheres to a multilateral agreement, including any amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer, that restricts the production of class II, group II substances, the Administrator shall promulgate regulations establishing a baseline for the production of class II, group II substances in the United States and phasing down the production of class II, group II substances in the United States, in accordance with such multilateral agreement and subject to the same exceptions and other provisions as are applicable to the phase down of con-

sumption of class II, group II substances under this section (except that the Administrator shall not require a person who obtains production allowances from the Administrator to make payment for such allowances if the person is making payment for a corresponding quantity of consumption allowances of the same vintage year). Upon the effective date of such regulations, it shall be unlawful for any person to produce any class II, group II substance without holding one consumption allowance and one production allowance, or one destruction offset credit, for each carbon dioxide equivalent ton of the class II, group II substance.

- "(C) Integrity of Limits.—To maintain the integrity of the class II, group II limits, the Administrator may, through rulemaking, limit the percentage of each person's compliance obligation that may be met through the use of destruction offset credits or banked allowances.
- "(D) Counting of violations.—Each consumption allowance, production allowance, or destruction offset credit not held as required by this section shall be a separate violation of this section.

"(2) Schedule.—Pursuant to the regulations promulgated pursuant to paragraph (1)(A), the number of class II, group II consumption allowances established by the Administrator for each calendar year beginning in 2012 shall be the following percentage of the baseline, as established by the Administrator pursuant to paragraph (3):

"Calendar Year	Percent of Baseline
2012	90
2013	87.5
2014	85
2015	82.5
2016	80
2017	77.5
2018	75
2019	71
2020	67
2021	63
2022	59
2023	54
2024	50
2025	46
2026	42
2027	38
2028	34
2029	30
2030	25

"Calendar Year	Percent of Baseline
2031	21
2032	17
after 2032	15

- "(3) Baseline.—(A) Within 12 months after the date of enactment of this section, the Administrator shall promulgate regulations to establish the baseline for purposes of paragraph (2). The baseline shall be the sum, expressed in metric tons of carbon dioxide equivalents, of—
  - "(i) the annual average consumption of all class II substances in calendar years 2004, 2005, and 2006; plus
  - "(ii) the annual average quantity of all class II substances contained in imported products in calendar years 2004, 2005, and 2006.
- "(B) Notwithstanding subparagraph (A), if the Administrator determines that the baseline is higher than 370 million metric tons of carbon dioxide equivalents, then the Administrator shall establish the baseline at 370 million metric tons of carbon dioxide equivalents.
- "(C) Notwithstanding subparagraph (A), if the Administrator determines that the baseline is lower than 280 million metric tons of carbon dioxide

1	equivalents, then the Administrator shall establish
2	the baseline at 280 million metric tons of carbon di-
3	oxide equivalents.
4	"(4) Distribution of Allowances.—
5	"(A) IN GENERAL.—Pursuant to the regu-
6	lations promulgated under paragraph (1)(A),
7	for each calendar year beginning in 2012, the
8	Administrator shall sell consumption allowances
9	in accordance with this paragraph.
10	"(B) ESTABLISHMENT OF POOLS.—The
11	Administrator shall establish two allowance
12	pools. Eighty percent of the consumption allow-
13	ances available for a calendar year shall be
14	placed in the producer-importer pool, and 20
15	percent of the consumption allowances available
16	for a calendar year shall be placed in the sec-
17	ondary pool.
18	"(C) Producer-importer pool.—
19	"(i) Auction.—(I) For each calendar
20	year, the Administrator shall offer for sale
21	at auction the following percentage of the
22	consumption allowances in the producer-
23	importer pool:

"Calendar Year	Percent Available for Auction
2012	10

"Calendar Year	Percent Available for Auction
2013	20
2014	30
2015	40
2016	50
2017	60
2018	70
2019	80
2020 and thereafter	90

"(II) Any person who produced or imported any class II substance during calendar year 2004, 2005, or 2006 may participate in the auction. No other persons may participate in the auction unless permitted to do so pursuant to subclause (III).

"(III) Not later than 3 years after the date of the initial auction and from time to time thereafter, the Administrator shall determine through rulemaking whether any persons who did not produce or import a class II substance during calendar year 2004, 2005, or 2006 will be permitted to participate in future auctions. The Administrator shall base this determination on the duration, consistency, and scale of such

1	person's purchases of consumption allow-
2	ances in the secondary pool under subpara-
3	graph (D)(ii)(III), as well as economic or
4	technical hardship and other factors
5	deemed relevant by the Administrator.
6	"(IV) The Administrator shall set a
7	minimum bid per consumption allowance of
8	the following:
9	"(aa) For vintage year 2012,
10	\$1.00.
11	"(bb) For vintage year 2013,
12	\$1.20.
13	"(cc) For vintage year 2014,
14	\$1.40.
15	"(dd) For vintage year 2015,
16	\$1.60.
17	"(ee) For vintage year 2016,
18	\$1.80.
19	"(ff) For vintage year 2017,
20	\$2.00.
21	"(gg) For vintage year 2018 and
22	thereafter, \$2.00 adjusted for infla-
23	tion after vintage year 2017 based
24	upon the producer price index as pub-

1	lished by the Department of Com-
2	merce.
3	"(ii) Non-Auction sale.—(I) For
4	each calendar year, as soon as practicable
5	after auction, the Administrator shall offer
6	for sale the remaining consumption allow-
7	ances in the producer-importer pool at the
8	following prices:
9	"(aa) A fee of \$1.00 per vintage
10	year 2012 allowance.
11	"(bb) A fee of \$1.20 per vintage
12	year 2013 allowance.
13	"(cc) A fee of \$1.40 per vintage
14	year 2014 allowance.
15	"(dd) For each vintage year
16	2015 allowance, a fee equal to the av-
17	erage of \$1.10 and the auction clear-
18	ing price for vintage year 2014 allow-
19	ances.
20	"(ee) For each vintage year 2016
21	allowance, a fee equal to the average
22	of \$1.30 and the auction clearing
23	price for vintage year 2015 allow-
24	ances.

1 "(ff) For each vintage year 20	17
allowance, a fee equal to the avera	age
of \$1.40 and the auction clearing	ing
4 price for vintage year 2016 allo	)W-
5 ances.	
6 "(gg) For each allowance of v	in-
7 tage year 2018 and subsequent v	in-
8 tage years, a fee equal to the aucti	ion
9 clearing price for that vintage year.	
10 "(II) The Administrator shall offer	to
sell the remaining consumption allowand	ces
in the producer-importer pool to produce	ers
of class II, group II substances and i	m-
porters of class II, group II substances	in
proportion to their relative allocation	ion
share.	
17 "(III) Such allocation share for su	ıch
sale shall be determined by the Admin	iis-
19 trator using such producer's or importe	r's
20 annual average data on class II substance	ces
21 from calendar years 2004, 2005, a	ınd
22 2006, on a carbon dioxide equivalent bas	sis,
23 and—	
24 "(aa) shall be based on a p	ro-
25 ducer's production, plus importation	on,

1	plus acquisitions and purchases from
2	persons who produced class II sub-
3	stances in the United States during
4	calendar year 2004, 2005, or 2006,
5	less exportation, less transfers and
6	sales to persons who produced class II
7	substances in the United States dur-
8	ing calendar year 2004, 2005, or
9	2006; and
10	"(bb) for an importer of class II
11	substances that did not produce in the
12	United States any class II substance
13	during calendar years 2004, 2005,
14	and 2006, shall be based on the im-
15	porter's importation less exportation.
16	For purposes of item (aa), the Adminis-
17	trator shall account for 100 percent of
18	class II, group II substances and 60 per-
19	cent of class II, group I substances. For
20	purposes of item (bb), the Administrator
21	shall account for 100 percent of class II,
22	group II substances and 100 percent of
23	class II, group I substances.
24	"(IV) Any consumption allowances
25	made available for nonauction sale to a

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specific producer or importer of class II, group II substances but not purchased by the specific producer or importer shall be made available for sale to any producer or importer of class II substances during calendar year 2004, 2005, or 2006. If demand for such consumption allowances exceeds supply of such consumption allowances, the Administrator shall develop and utilize criteria for the sale of such consumption allowances that may include pro rata shares, historic production and importation, economic or technical hardship, or other factors deemed relevant by the Administrator. If the supply of such consumption allowances exceeds demand, the Administrator may offer such consumption allowances for sale in the secondary pool as set forth in subparagraph (D). "(D) Secondary Pool.—(i) For each calendar year, as soon as practicable after the auction required in subparagraph (C), the Administrator shall offer for sale the consumption allowances in the secondary pool at the prices listed in subparagraph (C)(ii).

1	"(11) The Administrator shall accept appli-
2	cations for purchase of secondary pool con-
3	sumption allowances from—
4	"(I) importers of products containing
5	class II, group II substances;
6	"(II) persons who purchased any class
7	II, group II substance directly from a pro-
8	ducer or importer of class II, group II sub-
9	stances for use in a product containing a
10	class II, group II substance, a manufac-
11	turing process, or a reclamation process;
12	"(III) persons who did not produce or
13	import a class II substance during cal-
14	endar year 2004, 2005, or 2006, but who
15	the Administrator determines have subse-
16	quently taken significant steps to produce
17	or import a substantial quantity of any
18	class II, group II substance; and
19	"(IV) persons who produced or im-
20	ported any class II substance during cal-
21	endar year 2004, 2005, or 2006.
22	"(iii) If the supply of consumption allow-
23	ances in the secondary pool equals or exceeds
24	the demand for consumption allowances in the
25	secondary pool as presented in the applications

for purchase, the Administrator shall sell the consumption allowances in the secondary pool to the applicants in the amounts requested in the applications for purchase. Any consumption allowances in the secondary pool not purchased in a calendar year may be rolled over and added to the quantity available in the secondary pool in the following year.

"(iv) If the demand for consumption allowances in the secondary pool as presented in the applications for purchase exceeds the supply of consumption allowances in the secondary pool, the Administrator shall sell the consumption allowances as follows:

"(I) The Administrator shall first sell the consumption allowances in the secondary pool to any importers of products containing class II, group II substances in the amounts requested in their applications for purchase. If the demand for such consumption allowances exceeds supply of such consumption allowances, the Administrator shall develop and utilize criteria for the sale of such consumption allowances among importers of products containing

1	class II, group II substances that may in-
2	clude pro rata shares, historic importation,
3	economic or technical hardship, or other
4	factors deemed relevant by the Adminis-
5	trator.
6	"(II) The Administrator shall next
7	sell any remaining consumption allowances
8	to persons identified in subclauses (II) and
9	(III) of clause (ii) in the amounts re-
10	quested in their applications for purchase.
11	If the demand for such consumption allow-
12	ances exceeds remaining supply of such
13	consumption allowances, the Administrator
14	shall develop and utilize criteria for the
15	sale of such consumption allowances
16	among subclauses (II) and (III) applicants
17	that may include pro rata shares, historic
18	use, economic or technical hardship, or
19	other factors deemed relevant by the Ad-
20	ministrator.
21	"(III) The Administrator shall then
22	sell any remaining consumption allowances
23	to persons who produced or imported any
24	class II substance during calendar year
25	2004, 2005, or 2006 in the amounts re-

1 quested in their applications for purchase. 2 If demand for such consumption allow-3 ances exceeds remaining supply of such 4 consumption allowances, the Administrator shall develop and utilize criteria for the 6 sale of such consumption allowances that 7 may include pro rata shares, historic pro-8 duction and importation, economic or tech-9 nical hardship, or other factors deemed rel-10 evant by the Administrator. 11 "(IV) Each person who purchases 12 consumption allowances in a non-auction 13 sale under this subparagraph shall be re-14 quired to disclose the person or entity 15 sponsoring or benefitting from the pur-16 chases if such person or entity is, in whole 17 or in part, other than the purchaser or the 18 purchaser's employer. 19 "(E) DISCRETION TO WITHHOLD ALLOW-20 ANCES.—Nothing in this paragraph prevents 21 the Administrator from exercising discretion to 22 withhold and retire consumption allowances that would otherwise be available for auction or 23 24 nonauction sale. Not later than 18 months after 25 the date of enactment of this section, the Ad-

1	ministrator shall promulgate regulations estab-
2	lishing criteria for withholding and retiring con-
3	sumption allowances.
4	"(5) Banking.—A consumption allowance or
5	destruction offset credit may be used to meet the
6	compliance obligation requirements of paragraph (1)
7	in—
8	"(A) the vintage year for the allowance or
9	destruction offset credit; or
10	"(B) any calendar year subsequent to the
11	vintage year for the allowance or destruction
12	offset credit.
13	"(6) Auctions.—
14	"(A) Initial regulations.—Not later
15	than 18 months after the date of enactment of
16	this section, the Administrator shall promulgate
17	regulations governing the auction of allowances
18	under this section. Such regulations shall in-
19	clude the following requirements:
20	"(i) Frequency; first auction.—
21	Auctions shall be held one time per year at
22	regular intervals, with the first auction to
23	be held no later than October 31, 2011.

1	"(ii) Auction format.—Auctions
2	shall follow a single-round, sealed-bid, uni-
3	form price format.
4	"(iii) FINANCIAL ASSURANCE.—The
5	Administrator may establish financial as-
6	surance requirements to ensure that auc-
7	tion participants can and will perform on
8	their bids.
9	"(iv) Disclosure of Beneficial
10	OWNERSHIP.—Each bidder in the auction
11	shall be required to disclose the person or
12	entity sponsoring or benefitting from the
13	bidder's participation in the auction if such
14	person or entity is, in whole or in part,
15	other than the bidder.
16	"(v) Publication of Informa-
17	TION.—After the auction, the Adminis-
18	trator shall, in a timely fashion, publish
19	the number of bidders, number of winning
20	bidders, the quantity of allowances sold,
21	and the auction clearing price.
22	"(vi) Bidding limits in 2012.—In
23	the vintage year 2012 auction, no auction
24	participant may, directly or in concert with
25	another participant, bid for or purchase

1	more allowances offered for sale at the
2	auction than the greater of—
3	"(I) the number of allowances
4	which, when added to the number of
5	allowances available for purchase by
6	the participant in the producer-im-
7	porter pool non-auction sale, would
8	equal the participant's annual average
9	consumption of class II, group II sub-
10	stances in calendar years 2004, 2005,
11	and 2006; or
12	"(II) the number of allowances
13	equal to the product of—
14	"(aa) 1.20 multiplied by the
15	participant's allocation share of
16	the producer-importer pool non-
17	auction sale as determined under
18	paragraph (4)(C)(ii); and
19	"(bb) the number of vintage
20	year 2012 allowances offered at
21	auction.
22	"(vii) Bidding limits in 2013.—In
23	the vintage year 2013 auction, no auction
24	participant may, directly or in concert with
25	another participant, bid for or purchase

1	more allowances offered for sale at the
2	auction than the product of—
3	"(I) 1.15 multiplied by the ratio
4	of the total number of vintage year
5	2012 allowances purchased by the
6	participant from the auction and from
7	the producer-importer pool non-auc-
8	tion sale to the total number of vin-
9	tage year 2012 allowances in the pro-
10	ducer-importer pool; and
11	"(II) the number of vintage year
12	2013 allowances offered at auction.
13	"(viii) Bidding limits in subse-
14	QUENT YEARS.—In the auctions for vin-
15	tage year 2014 and subsequent vintage
16	years, no auction participant may, directly
17	or in concert with another participant, bid
18	for or purchase more allowances offered
19	for sale at the auction than the product
20	of—
21	"(I) 1.15 multiplied by the ratio
22	of the highest number of allowances
23	required to be held by the participant
24	in any of the three prior vintage years
25	to meet its compliance obligation

1	under paragraph (1) to the total num-
2	ber of allowances in the producer-im-
3	porter pool for such vintage year; and
4	"(II) the number of allowances
5	offered at auction for that vintage
6	year.
7	"(ix) Other requirements.—The
8	Administrator may include in the regula-
9	tions such other requirements or provisions
10	as the Administrator considers necessary
11	to promote effective, efficient, transparent,
12	and fair administration of auctions under
13	this section.
14	"(B) REVISION OF REGULATIONS.—The
15	Administrator may, at any time, revise the ini-
16	tial regulations promulgated under subpara-
17	graph (A) based on the Administrator's experi-
18	ence in administering allowance auctions by
19	promulgating new regulations. Such revised reg-
20	ulations need not meet the requirements identi-
21	fied in subparagraph (A) if the Administrator
22	determines that an alternative auction design
23	would be more effective, taking into account
24	factors including costs of administration, trans-
25	parency, fairness, and risks of collusion or ma-

nipulation. In determining whether and how to revise the initial regulations under this paragraph, the Administrator shall not consider maximization of revenues to the Federal Government.

"(C) Delegation or contract.—Pursuant to regulations under this section, the Administrator may, by delegation or contract, provide for the conduct of auctions under the Administrator's supervision by other departments or agencies of the Federal Government or by nongovernmental agencies, groups, or organizations.

#### "(7) Payments for allowances.—

"(A) Initial regulations.—Not later than 18 months after the date of enactment of this section, the Administrator shall promulgate regulations governing the payment for allowances purchased in auction and non-auction sales under this section. Such regulations shall include the requirement that, in the event that full payment for purchased allowances is not made on the date of purchase, equal payments shall be made one time per calendar quarter

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with all payments for allowances of a vintage year made by the end of that vintage year.

"(B) REVISION OF REGULATIONS.—The Administrator may, at any time, revise the initial regulations promulgated under subparagraph (A) based on the Administrator's experience in administering collection of payments by promulgating new regulations. Such revised regulations need not meet the requirements identified in subparagraph (A) if the Administrator determines that an alternative payment structure or frequency would be more effective, taking into account factors including cost of administration, transparency, and fairness. In determining whether and how to revise the initial regulations under this paragraph, the Administrator shall not consider maximization of revenues to the Federal Government.

"(C) PENALTIES FOR NON-PAYMENT.— Failure to pay for purchased allowances in accordance with the regulations promulgated pursuant to this paragraph shall be a violation of the requirements of subsection (b). Section 113(c)(3) shall apply in the case of any person who knowingly fails to pay for purchased allow-

1	ances in accordance with the regulations pro-
2	mulgated pursuant to this paragraph.
3	"(8) Imported products.—If the United
4	States becomes a party or otherwise adheres to a
5	multilateral agreement, including any amendment to
6	the Montreal Protocol on Substances That Deplete
7	the Ozone Layer, which restricts the production or
8	consumption of class II, group II substances—
9	"(A) as of the date on which such agree-
10	ment or amendment enters into force, it shall
11	no longer be unlawful for any person to import
12	from a party to such agreement or amendment
13	any product containing any class II, group II
14	substance whose production or consumption is
15	regulated by such agreement or amendment
16	without holding one consumption allowance or
17	one destruction offset credit for each carbon di-
18	oxide equivalent ton of the class II, group II
19	substance;
20	"(B) the Administrator shall promulgate
21	regulations within 12 months of the date the
22	United States becomes a party or otherwise ad-
23	heres to such agreement or amendment, or the
24	date on which such agreement or amendment
25	enters into force, whichever is later, to establish

a new baseline for purposes of paragraph (2), which new baseline shall be the original baseline less the carbon dioxide equivalent of the annual average quantity of any class II substances regulated by such agreement or amendment contained in products imported from parties to such agreement or amendment in calendar years 2004, 2005, and 2006;

"(C) as of the date on which such agreement or amendment enters into force, no per-

ment or amendment enters into force, no person importing any product containing any class II, group II substance may, directly or in concert with another person, purchase any consumption allowances for sale by the Administrator for the importation of products from a party to such agreement or amendment that contain any class II, group II substance restricted by such agreement or amendment; and

"(D) the Administrator may adjust the two allowance pools established in paragraph (4) such that up to 90 percent of the consumption allowances available for a calendar year are placed in the producer-importer pool with the remaining consumption allowances placed in the secondary pool.

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1 "(9) Offsets.—

"(A) Chlorofluorocarbon DESTRUC-TION.—Within 18 months after the date of enactment of this section, the Administrator shall promulgate regulations to provide for the issuance of offset credits for the destruction, in the calendar year 2012 later. of orchlorofluorocarbons in the United States. The Administrator shall establish and distribute to the destroying entity a quantity of destruction offset credits equal to 0.8 times the number of metric tons of carbon dioxide equivalents of reduction achieved through the destruction. No destruction offset credits shall be established for the destruction of a class II, group II substance.

- "(B) DEFINITION.—For purposes of this paragraph, the term 'destruction' means the conversion of a substance by thermal, chemical, or other means to another substance with little or no carbon dioxide equivalent value and no ozone depletion potential.
- "(C) REGULATIONS.—The regulations promulgated under this paragraph shall include standards and protocols for project eligibility,

certification of destroyers, monitoring, tracking, destruction efficiency, quantification of project and baseline emissions and carbon dioxide equivalent value, and verification. The Administrator shall ensure that destruction offset credits represent real and verifiable destruction of chlorofluorocarbons or other class I or class II, group I, substances authorized under subparagraph (D).

"(D) OTHER SUBSTANCES.—The Administrator may promulgate regulations to add to the list of class I and class II, group I, substances that may be destroyed for destruction offset credits, taking into account a candidate substance's carbon dioxide equivalent value, ozone depletion potential, prevalence in banks in the United States, and emission rates, as well as the need for additional cost containment under the class II, group II limits and the integrity of the class II, group II limits. The Administrator shall not add a class I or class II, group I substance to the list if the consumption of the substance has not been completely phased-out internationally (except for essential use exemp-

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tions or other similar exemptions) pursuant to the Montreal Protocol.

> "(E) Extension of offsets.—(i) At any time after the Administrator promulgates regulations pursuant to subparagraph (A), the Administrator may, pursuant to the requirements of part D of title VII and based on the carbon dioxide equivalent value of the substance destroyed, add the types of destruction projects authorized to receive destruction offset credits under this paragraph to the list of types of projects eligible for offset credits under section 733. If such projects are added to the list under section 733, the issuance of offset credits for such projects under part D of title VII shall be governed by the requirements of such part D, while the issuance of offset credits for such projects under this paragraph shall be governed by the requirements of this paragraph. Nothing in this paragraph shall affect the issuance of offset credits under section 740.

> "(ii) The Administrator shall not make the addition under clause (i) unless the Administrator finds that insufficient destruction is occurring or is projected to occur under this para-

1 graph and that the addition would increase de-2 struction. "(iii) In no event shall more than one de-3 4 struction offset credit be issued under title VII 5 and this section for the destruction of the same 6 quantity of a substance. 7 "(10) Legal status of allowances and 8 CREDITS.—None of the following constitutes a prop-9 erty right: "(A) A production or consumption allow-10 11 ance. 12 "(B) A destruction offset credit. 13 "(c) **DEADLINES** FOR COMPLIANCE.—Notwithstanding the deadlines specified for class II substances in 14 15 sections 608, 609, 610, 612, and 613 that occur prior to January 1, 2009, the deadline for promulgating regula-16 17 tions under those sections for class II, group II substances shall be January 1, 2012. 18 19 "(d) Exceptions for Essential Uses.—Notwithstanding any phase down of production and consumption 20 21 required by this section, to the extent consistent with any 22 applicable multilateral agreement to which the United 23 States is a party or otherwise adheres, the Administrator shall consider providing exceptions for essential uses under

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1 paragraph (1) and may provide exceptions for essential

"(1) MEDICAL DEVICES.—If the Administrator

- 2 uses under paragraph (2), as follows:
- makes the determination under this subsection that
  a medical device is eligible for an exception, after notice and opportunity for public comment, and in consultation with the Commissioner of Food and Drugs,
  the Administrator shall provide an exception for the
- production and consumption of class II, group II
  substances solely for use in medical devices, such as
  metered dose inhalers.
  - "(2) Aviation and space vehicle safety.—
    The Administrator, after notice and opportunity for public comment, may authorize the production and consumption of limited quantities of class II, group II substances solely for the purposes of aviation or space vehicle safety if either the Administrator of the Federal Aviation Administration or the Administrator of the National Aeronautics and Space Administration, in consultation with the Administrator, determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation or space flight safety purposes.
- 24 "(e) DEVELOPING COUNTRIES.—Notwithstanding 25 any phase down of production required by this section, the

- 1 Administrator, after notice and opportunity for public
- 2 comment, may authorize the production of limited quan-
- 3 tities of class II, group II substances in excess of the
- 4 amounts otherwise allowable under this section solely for
- 5 export to, and use in, developing countries. Any produc-
- 6 tion authorized under this subsection shall be solely for
- 7 purposes of satisfying the basic domestic needs of such
- 8 countries as provided in applicable international agree-
- 9 ments, if any, to which the United States is a party or
- 10 otherwise adheres.
- 11 "(f) NATIONAL SECURITY; FIRE SUPPRESSION,
- 12 ETC.—The provisions of subsection (f) and paragraphs (1)
- 13 and (2) of subsection (g) of section 604 shall apply to any
- 14 consumption and production phase down of class II, group
- 15 II substances in the same manner and to the same extent,
- 16 consistent with any applicable international agreement to
- 17 which the United States is a party or otherwise adheres,
- 18 as such provisions apply to the substances specified in
- 19 such subsection.
- 20 "(g) Accelerated Schedule.—In lieu of section
- 21 606, the provisions of paragraphs (1), (2), and (3) of this
- 22 subsection shall apply in the case of class II, group II sub-
- 23 stances.
- 24 "(1) IN GENERAL.—The Administrator shall
- promulgate initial regulations not later than 18

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months after the date of enactment of this section, and revised regulations any time thereafter, which establish a schedule for phasing down the consumption (and, if the condition in subsection (b)(1)(B) is met, the production) of class II, group II substances that is more stringent than the schedule set forth in this section if, based on the availability of substitutes, the Administrator determines that such more stringent schedule is practicable, taking into account technological achievability, safety, and other factors the Administrator deems relevant, or if the Montreal Protocol, or any applicable international agreement to which the United States is a party or otherwise adheres, is modified or established to include a schedule or other requirements to control or reduce production, consumption, or use of any class II, group II substance more rapidly than the applicable schedule under this section.

- "(2) Petition.—Any person may submit a petition to promulgate regulations under this subsection in the same manner and subject to the same procedures as are provided in section 606(b).
- "(3) Inconsistency.—If the Administrator determines that the provisions of this section regarding banking, allowance rollover, or destruction offset

- 1 credits create a significant potential for inconsist-
- 2 ency with the requirements of any applicable inter-
- a national agreement to which the United States is a
- 4 party or otherwise adheres, the Administrator may
- 5 promulgate regulations restricting the availability of
- 6 banking, allowance rollover, or destruction offset
- 7 credits to the extent necessary to avoid such incon-
- 8 sistency.
- 9 "(h) EXCHANGE.—Section 607 shall not apply in the
- 10 case of class II, group II substances. Production and con-
- 11 sumption allowances for class II, group II substances may
- 12 be freely exchanged or sold but may not be converted into
- 13 allowances for class II, group I substances.
- 14 "(i) Labeling.—(1) In applying section 611 to prod-
- 15 ucts containing or manufactured with class II, group II
- 16 substances, in lieu of the words 'destroying ozone in the
- 17 upper atmosphere' on labels required under section 611
- 18 there shall be substituted the words 'contributing to global
- 19 warming'.
- 20 "(2) The Administrator may, through rulemaking,
- 21 exempt from the requirements of section 611 products
- 22 containing or manufactured with class II, group II sub-
- 23 stances determined to have little or no carbon dioxide
- 24 equivalent value compared to other substances used in
- 25 similar products.

1 "(j) Nonessential Products.—For the purposes 2 of section 610, class II, group II substances shall be regu-3 lated under section 610(b), except that in applying section 4 610(b) the word 'hydrofluorocarbon' shall be substituted for the word 'chlorofluorocarbon' and the term 'class II, group II' shall be substituted for the term 'class I'. Class 6 II, group II substances shall not be subject to the provi-8 sions of section 610(d). 9 "(k) International Transfers.—In the case of 10 class II, group II substances, in lieu of section 616, this 11 subsection shall apply. To the extent consistent with any 12 applicable international agreement to which the United 13 States is a party or otherwise adheres, including any 14 amendment to the Montreal Protocol, the United States 15 may engage in transfers with other parties to such agreement or amendment under the following conditions: 16 17 "(1) The United States may transfer produc-18 tion allowances to another party to such agreement 19 or amendment if, at the time of the transfer, the 20 Administrator establishes revised production limits 21 for the United States accounting for the transfer in 22 accordance with regulations promulgated pursuant 23 to this subsection. 24 "(2) The United States may acquire production 25 allowances from another party to such agreement or

- amendment if, at the time of the transfer, the Administrator finds that the other party has revised its domestic production limits in the same manner as provided with respect to transfers by the United States in the regulations promulgated pursuant to this subsection.
  - "(1) Relationship to Other Laws.—
    - "(1) State laws.—For purposes of section 116, the requirements of this section for class II, group II substances shall be treated as requirements for the control and abatement of air pollution.
    - "(2) MULTILATERAL AGREEMENTS.—Section 614 shall apply to the provisions of this section concerning class II, group II substances, except that for the words 'Montreal Protocol' there shall be substituted the words 'Montreal Protocol, or any applicable multilateral agreement to which the United States is a party or otherwise adheres that restricts the production or consumption of class II, group II substances,' and for the words 'Article 4 of the Montreal Protocol' there shall be substituted 'any provision of such multilateral agreement regarding trade with non-parties'.
    - "(3) FEDERAL FACILITIES.—For purposes of section 118, the requirements of this section for

1 class II, group II substances and corresponding 2 State, interstate, and local requirements, administra-3 tive authority, and process and sanctions shall be 4 treated as requirements for the control and abate-5 ment of air pollution within the meaning of section 6 118. 7 "(m) Carbon Dioxide Equivalent Value.—(1) 8 In lieu of section 602(e), the provisions of this subsection 9 shall apply in the case of class II, group II substances. 10 Simultaneously with establishing the list of class II, group II substances, and simultaneously with any addition to 11 12 that list, the Administrator shall publish the carbon dioxide equivalent value of each listed class II, group II substance, based on a determination of the number of metric 14 15 tons of carbon dioxide that makes the same contribution to global warming over 100 years as 1 metric ton of each 16 17 class II, group II substance. 18 "(2) Not later than February 1, 2017, and not less 19 than every 5 years thereafter, the Administrator shall— 20 "(A) review, and if appropriate, revise the car-21 bon dioxide equivalent values established for class II, 22 group II substances based on a determination of the 23 number of metric tons of carbon dioxide that makes 24 the same contributions to global warming over 100

- 1 years as 1 metric ton of each class II, group II sub-
- 2 stance; and
- 3 "(B) publish in the Federal Register the results
- 4 of that review and any revisions.
- 5 "(3) A revised determination published in the Federal
- 6 Register under paragraph (2)(B) shall take effect for pro-
- 7 duction of class II, group II substances, consumption of
- 8 class II, group II substances, and importation of products
- 9 containing class II, group II substances starting on Janu-
- 10 ary 1 of the first calendar year starting at least 9 months
- 11 after the date on which the revised determination was pub-
- 12 lished.
- 13 "(4) The Administrator may decrease the frequency
- 14 of review and revision under paragraph (2) if the Adminis-
- 15 trator determines that such decrease is appropriate in
- 16 order to synchronize such review and revisions with any
- 17 similar review process carried out pursuant to the United
- 18 Nations Framework Convention on Climate Change, an
- 19 agreement negotiated under that convention, The Vienna
- 20 Convention for the Protection of the Ozone Layer, or an
- 21 agreement negotiated under that convention, except that
- 22 in no event shall the Administrator carry out such review
- 23 and revision any less frequently than every 10 years.
- 24 "(n) Reporting Requirements.—In lieu of sub-
- 25 sections (b) and (c) of section 603, paragraphs (1) and

- 1 (2) of this subsection shall apply in the case of class II,
- 2 group II substances:

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3 "(1) IN GENERAL.—On a quarterly basis, or such other basis (not less than annually) as deter-4 5 mined by the Administrator, each person who pro-

6 duced, imported, or exported a class II, group II

7 substance, or who imported a product containing a

class II, group II substance, shall file a report with 9 the Administrator setting forth the carbon dioxide

10 equivalent amount of the substance that such person

11 produced, imported, or exported, as well as the

amount that was contained in products imported by

13 that person, during the preceding reporting period.

14 Each such report shall be signed and attested by a

responsible officer. If all other reporting is complete, 15

16 no such report shall be required from a person after

17 April 1 of the calendar year after such person per-

18 manently ceases production, importation, and expor-

19 tation of the substance, as well as importation of

20 products containing the substance, and so notifies

21 the Administrator in writing. If the United States

22 becomes a party or otherwise adheres to a multilat-

23 eral agreement, including any amendment to the

Montreal Protocol on Substances That Deplete the

25 Ozone Layer, that restricts the production or con-

sumption of class II, group II substances, then, if all other reporting is complete, no such report shall be required from a person with respect to importation from parties to such agreement or amendment of products containing any class II, group II substance restricted by such agreement or amendment, after April 1 of the calendar year following the year during which such agreement or amendment enters into force.

"(2) Baseline reports for class II, group II substances.—

"(A) IN GENERAL.—Unless such information has been previously reported to the Administrator, on the date on which the first report under paragraph (1) of this subsection is required to be filed, each person who produced, imported, or exported a class II, group II substance, or who imported a product containing a class II substance, (other than a substance added to the list of class II, group II substances after the publication of the initial list of such substances under this section), shall file a report with the Administrator setting forth the amount of such substance that such person produced, imported, exported, or that was conduced, imported, exported, or that was con-

1	tained in products imported by that person,
2	during each of calendar years 2004, 2005, and
3	2006.
4	"(B) Producers.—In reporting under
5	subparagraph (A), each person who produced in
6	the United States a class II substance during
7	calendar year 2004, 2005, or 2006 shall—
8	"(i) report all acquisitions or pur-
9	chases of class II substances during each
10	of calendar years 2004, 2005, and 2006
11	from all other persons who produced in the
12	United States a class II substance during
13	calendar year 2004, 2005, or 2006, and
14	supply evidence of such acquisitions and
15	purchases as deemed necessary by the Ad-
16	ministrator; and
17	"(ii) report all transfers or sales of
18	class II substances during each of calendar
19	years 2004, 2005, and 2006 to all other
20	persons who produced in the United States
21	a class II substance during calendar year
22	2004, 2005, or 2006, and supply evidence
23	of such transfers and sales as deemed nec-
24	essary by the Administrator.

1	"(C) Added substances.—In the case of
2	a substance added to the list of class II, group
3	II substances after publication of the initial list
4	of such substances under this section, each per-
5	son who produced, imported, exported, or im-
6	ported products containing such substance in
7	calendar year 2004, 2005, or 2006 shall file a
8	report with the Administrator within 180 days
9	after the date on which such substance is added
10	to the list, setting forth the amount of the sub-
11	stance that such person produced, imported,
12	and exported, as well as the amount that was
13	contained in products imported by that person,
14	in calendar years 2004, 2005, and 2006.
15	"(o) Stratospheric Ozone and Climate Protec-
16	TION FUND.—
17	"(1) IN GENERAL.—There is established in the
18	Treasury of the United States a Stratospheric Ozone
19	and Climate Protection Fund.
20	"(2) Deposits.—The Administrator shall de-
21	posit all proceeds from the auction and non-auction
22	sale of allowances under this section into the Strato-
23	spheric Ozone and Climate Protection Fund.
24	"(3) Use.—Amounts deposited into the Strato-
25	spheric Ozone and Climate Protection Fund shall be

1	available, subject to appropriations, exclusively for
2	the following purposes:
3	"(A) RECOVERY, RECYCLING, AND REC-
4	LAMATION.—The Administrator may utilize
5	funds to establish a program to incentivize the
6	recovery, recycling, and reclamation of any
7	Class II substances in order to reduce emissions
8	of such substances.
9	"(B) MULTILATERAL FUND.—If the
10	United States becomes a party or otherwise ad-
11	heres to a multilateral agreement, including any
12	amendment to the Montreal Protocol on Sub-
13	stances That Deplete the Ozone Layer, which
14	restricts the production or consumption of class
15	II, group II substances, the Administrator may
16	utilize funds to meet any related contribution
17	obligation of the United States to the Multilat-
18	eral Fund for the Implementation of the Mon-
19	treal Protocol or similar multilateral fund es-
20	tablished under such multilateral agreement.
21	"(C) Low Global Warming Product
22	TRANSITION ASSISTANCE PROGRAM.—
23	"(i) In General.—The Adminis-
24	trator, in consultation with the Secretary
25	of Energy, may utilize funds in fiscal years

1	2012 through 2022 to establish a program
2	to provide financial assistance to manufac-
3	turers of products containing class II,
4	group II substances to facilitate the transi-
5	tion to products that contain or utilize al-
6	ternative substances with no or low carbon
7	dioxide equivalent value and no ozone de-
8	pletion potential.
9	"(ii) Definition.—In this subpara-
10	graph, the term 'products' means refrig-
11	erators, freezers, dehumidifiers, air condi-
12	tioners, foam insulation, technical aerosols,
13	fire protection systems, and semiconduc-
14	tors.
15	"(iii) Financial assistance.—The
16	Administrator may provide financial assist-
17	ance to manufacturers pursuant to clause
18	(i) for—
19	"(I) the design and configuration
20	of new products that use alternative
21	substances with no or low carbon di-
22	oxide equivalent value and no ozone
23	depletion potential; and
24	"(II) the redesign and retooling
25	of facilities for the manufacture of

1	products in the United States that use
2	alternative substances with no or low
3	carbon dioxide equivalent value and
4	no ozone depletion potential.
5	"(iv) Reports.—For any fiscal year
6	during which the Administrator provides
7	financial assistance pursuant to this sub-
8	paragraph, the Administrator shall submit
9	a report to the Congress within 3 months
10	of the end of such fiscal year detailing the
11	amounts, recipients, specific purposes, and
12	results of the financial assistance pro-
13	vided.".
14	(b) Table of Contents.—The table of contents of
15	title VI of the Clean Air Act (42 U.S.C. 7671 et seq.)
16	is amended by adding the following new item at the end
17	thereof:
	"Sec. 619. Hydrofluorocarbons (HFCs).".
18	(c) Fire Suppression Agents.—Section 605(a) of
19	the Clean Air Act (42 U.S.C. 7671(a)) is amended—
20	(1) by striking "or" at the end of paragraph
21	(2);
22	(2) by striking the period at the end of para-
23	graph (3) and inserting "; or"; and
24	(3) by adding the following new paragraph after
25	paragraph (3):

1	"(4) is listed as acceptable for use as a fire sup-
2	pression agent for nonresidential applications in ac-
3	cordance with section 612(c).".
4	(d) Motor Vehicle Air Conditioners.—
5	(1) Section 609(e) of the Clean Air Act (42
6	U.S.C. 7671h(e)) is amended by inserting ", group
7	I" after each reference to "class 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

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which contain less than 20 pounds of a class II, group II substance be equipped with a device or technology that limits refrigerant emissions and leaks from the container and limits refrigerant emissions and leaks during the transfer of refrigerant from the container to the motor vehicle air conditioner or issue a determination that such requirements are not necessary or appropriate.

"(C) Not later than 18 months after enactment of this subsection, the Administrator shall promulgate regulations establishing requirements for consumer education materials on best practices associated with the use of containers which contain less than 20 pounds of a class II, group II substance and prohibiting the sale or distribution, or offer for sale or distribution, of any class II, group II substance in any container which contains less than 20 pounds of such class II, group II substance, unless consumer education materials consistent with such requirements are displayed and available at point-ofsale locations, provided to the consumer, or included in or on the packaging of the container which contain less than 20 pounds of a class II, group II substance.

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 inserting "or class II" after each reference to "class I". 16 17 SEC. 123. BLACK CARBON. 18 (a) STUDY OF BLACK CARBON EMISSIONS.— 19 (1) Definition of Black Carbon.—In this subsection, the term "black carbon" means any 20 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 Act or finalize the proposed finding. 4 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
- compliance with requirements established by a State or political subdivision thereof.".

of such allowances or credits as a means of demonstrating

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#### 1 SEC. 125. STATE PROGRAMS.

- 2 Title VIII of the Clean Air Act (as amended by sec-
- 3 tion 123(b)) is amended by adding at the end the fol-
- 4 lowing:

### 5 "PART F—MISCELLANEOUS

## 6 "SEC. 861. STATE PROGRAMS.

- 7 "(a) In General.—Notwithstanding section 116, if
- 8 a Federal auction is conducted, by the deadline of March
- 9 31, 2011, as established in section 778, no State or polit-
- 10 ical subdivision thereof shall implement or enforce a com-
- 11 prehensive greenhouse gas emission limitation program
- 12 that covers any capped emissions emitted during the years
- 13 2012 through 2017.
- 14 "(b) Deadline.—Notwithstanding section 116, in
- 15 the event the March 31, 2011 auction is delayed, no State
- 16 or political subdivision thereof shall enforce a comprehen-
- 17 sive greenhouse gas emission limitation program that cov-
- 18 ers any capped emissions emitted during the period that
- 19 is at least 9 months from the first auction as set out in
- 20 section 778, through 2017.
- 21 "(c) Definition of Comprehensive Greenhouse
- 22 Gas Emission Limitation Program.—For purposes of
- 23 this section, the term 'comprehensive greenhouse gas
- 24 emission limitation program' means a system of green-
- 25 house gas regulation under which a State or political sub-
- 26 division issues a limited number of tradable instruments

- in the nature of emission allowances and requires that 1 2 sources within its jurisdiction surrender such tradeable in-3 struments for each unit of greenhouse gases emitted during a compliance period. For purposes of this section, a 4 5 'comprehensive greenhouse gas emission limitation program' does not include a target or limit on greenhouse 6 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 other standard, limit, regulation, or program to reduce 11 greenhouse gas emissions that is not implemented through 12 the issuance and surrender of a limited number of 13 14 tradeable instruments in the nature of emission allow-15 ances. For purposes of this section, the term 'comprehensive greenhouse gas emission limitation program' does not 16 include, among other things, fleet-wide motor vehicle emis-17 18 sion requirements that allow greater emissions with in-19 creased vehicle production, or requirements that fuels, or 20 other products, meet an average pollution emission rate 21 or lifecycle greenhouse gas standard. 22 "SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CON-23 TROL PROGRAMS.
- 24 "The Administrator is authorized to make grants to
- 25 air pollution control agencies pursuant to section 105 for

- 1 purposes of assisting in the implementation of programs
- 2 to address global warming established under the Clean
- 3 Energy Jobs and American Power Act.".
- 4 SEC. 126. ENFORCEMENT.
- 5 (a) Remand.—Section 307(b) of the Clean Air Act
- 6 (42 U.S.C. 7607(b)) is amended by adding the following
- 7 new paragraph at the end thereof:
- 8 "(3) If the court determines that any action of
- 9 the Administrator is arbitrary, capricious, or other-
- wise unlawful, the court may remand such action,
- 11 without vacatur, if vacatur would impair or delay
- protection of the environment or public health or
- otherwise undermine the timely achievement of the
- purposes of this Act.
- 15 "(4) If the court determines that any action of
- the Administrator is arbitrary, capricious, or other-
- wise unlawful, and remands the matter to the Ad-
- ministrator, the Administrator shall complete final
- action on remand within an expeditious time period
- 20 not longer than the time originally allowed for the
- action or 1 year, whichever is less, unless the court
- on motion determines that a shorter or longer period
- is necessary, appropriate, and consistent with the
- purposes of this Act. The court of appeals shall have

- jurisdiction to enforce a deadline for action on re-
- 2 mand under this paragraph.".
- 3 (b) Petition for Reconsideration.—Section
- 4 307(d)(7)(B) of the Clean Air Act (42 U.S.C.
- 5 7607(d)(7)(B)) is amended as follows:
- 6 (1) By inserting after the second sentence "If
- 7 a petition for reconsideration is filed, the Adminis-
- 8 trator shall take final action on such petition, in-
- 9 cluding promulgation of final action either revising
- or determining not to revise the action for which re-
- 11 consideration is sought, within 150 days after the
- petition is received by the Administrator or the peti-
- tion shall be deemed denied for the purpose of judi-
- cial review.".
- 15 (2) By amending the third sentence to read as
- follows: "Such person may seek judicial review of
- such denial, or of any other final action, by the Ad-
- ministrator, in response to a petition for reconsider-
- ation, in the United States court of appeals for the
- appropriate circuit (as provided in subsection (b)).".
- 21 (c) Petition for Review.—Section 307(b)(1) of
- 22 the Clean Air Act (42 U.S.C. 7607(b)(1)) is amended by
- 23 inserting after the second sentence the following: "Any
- 24 person may file a petition for review of action by the Ad-
- 25 ministrator as provided in this subsection.".

1	CEC	107	CONFORMING	AMENDMENTS
	SHILL	127.	CONFORMING	AIVIENDIVIENTS.

2	(a) Federal Enforcement.—Section 113 of the
3	Clean Air Act (42 U.S.C. 7413) is amended as follows:
4	(1) In subsection (a)(3), by striking "or title
5	VI," and inserting "title VI, title VII, or title VIII".
6	(2) In subsection (b), by striking "or a major
7	stationary source" and inserting "a major stationary
8	source, or a covered EGU under title VIII" in the
9	material preceding paragraph (1).
10	(3) In paragraph (2) of subsection (b), by strik-
11	ing "or title VI" and inserting "title VI, title VII,
12	or title VIII".
13	(4) In subsection (c)—
14	(A) in the first sentence of paragraph (1),
15	by striking "or title VI (relating to strato-
16	spheric ozone control)," and inserting "title VI,
17	title VII, or title VIII,"; and
18	(B) in the first sentence of paragraph (3),
19	by striking "or VI" and inserting "VI, VII, or
20	VIII".
21	(5) In subsection $(d)(1)(B)$ , by striking "or VI"
22	and inserting "VI, VII, or VIII".
23	(6) In subsection (f), in the first sentence, by
24	striking "or VI" and inserting "VI, VII, or VIII".

1 (b) RETENTION OF STATE AUTHORITY.—Section 2 116 of the Clean Air Act (42 U.S.C. 7416) is amended as follows: 3 (1) By striking "and 233" and inserting "233". 4 5 (2) By striking "of moving sources" and in-6 serting "of moving sources), and 861 (preempting 7 certain State greenhouse gas programs for a limited 8 time)". 9 (c) Inspections, Monitoring, and Entry.—Sec-10 tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is 11 amended by striking "section 112," and all that follows 12 through "(ii)" and inserting the following: "section 112, or any regulation of greenhouse gas emissions under title 14 VII or VIII, (ii)". (d) Enforcement.—Subsection (f) of section 304 of 15 the Clean Air Act (42 U.S.C. 7604(f)) is amended as follows: 17 18 (1) By striking "; or" at the end of paragraph 19 (3) thereof and inserting a comma. 20 (2) By striking the period at the end of paragraph (4) thereof and inserting ", or". 21 22 (3) By adding the following after paragraph (4) 23 thereof: "(5) any requirement of title VII or VIII.". 24

1	(e) Administrative Proceedings and Judicial
2	REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.
3	7607) is amended as follows:
4	(1) In subsection (a), by striking ", or section
5	306" and inserting "section 306, or title VII or
6	VIII''.
7	(2) In subsection (b)(1)—
8	(A) by striking ",," and inserting "," in
9	each place such punctuation appears; and
10	(B) by striking "section 120," in the first
11	sentence and inserting "section 120, any final
12	action under title VII or VIII,".
13	(3) In subsection (d)(1) by amending subpara-
14	graph (S) to read as follows:
15	"(S) the promulgation or revision of any
16	regulation under title VII or VIII,".
17	(f) TECHNICAL AMENDMENT.—Title IV of the Clean
18	Air Act (relating to noise pollution) (42 U.S.C. 7641 et
19	seq.)—
20	(1) is amended by redesignating sections 401
21	through 403 as sections 901 through 903, respec-
22	tively; and
23	(2) is redesignated as title IX and moved to ap-
24	pear at the end of that Act.

## 1 SEC. 128. DAVIS-BACON COMPLIANCE.

- 2 (a) IN GENERAL.—Notwithstanding any other provi-3 sion of law and in a manner consistent with other provisions in this Act, to receive emission allowances or funding 4 5 under this Act, or the amendments made by this Act, the recipient shall provide reasonable assurances that all la-6 7 borers and mechanics employed by contractors and sub-8 contractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act, or the amendments made by this Act, or by any entity established in accordance with this 11 Act, or the amendments made by this Act, including the 13 Carbon Storage Research Corporation, will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Sec-15 retary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known 17 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	<b>Reductions in Industrial Emissions</b>
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
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1	sector determined by the Administrator under sec-
2	tion 763(b) to be eligible to receive emission allow-
3	ance rebates under this part.
4	"(3) Industrial Sector.—The term 'indus-
5	trial sector' means any sector that is in the manu-
6	facturing sector (as defined in NAICS codes 31, 32,
7	and 33) or that beneficiates or otherwise processes
8	(including agglomeration) metal ores, including iron
9	and copper ores, soda ash, or phosphate. The extrac-
10	tion of metal ores, soda ash, or phosphate shall not
11	be considered to be an industrial sector.
12	"(4) NAICS.—The term 'NAICS' means the
13	North American Industrial Classification System of
14	2002.
15	"(5) OUTPUT.—The term 'output' means the
16	total tonnage or other standard unit of production
17	(as determined by the Administrator) produced by
18	an entity in an industrial sector. The output of the
19	cement sector is hydraulic cement, and not clinker.
20	"SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.
21	"(a) List.—
22	"(1) Initial list.—Not later than June 30,
23	2011, the Administrator shall publish in the Federal
24	Register a list of eligible industrial sectors pursuant
25	to subsection (b). Such list shall include the amount

1	of the emission allowance rebate per unit of produc-
2	tion that shall be provided to entities in each eligible
3	industrial sector in the following two calendar years
4	pursuant to section 764.
5	"(2) Subsequent lists.—Not later than Feb-
6	ruary 1, 2013, and every 4 years thereafter, the Ad-
7	ministrator shall publish in the Federal Register an
8	updated version of the list published under para-
9	graph (1).
10	"(b) Eligible Industrial Sectors.—
11	"(1) In general.—Not later than June 30,
12	2011, the Administrator shall promulgate a rule des-
13	ignating, based on the criteria under paragraph (2),
14	the industrial sectors eligible for emission allowance
15	rebates under this part.
16	"(2) Presumptively eligible industrial
17	SECTORS.—
18	"(A) ELIGIBILITY CRITERIA.—
19	"(i) In general.—An owner or oper-
20	ator of an entity shall be eligible to receive
21	emission allowance rebates under this part
22	if such entity is in an industrial sector that
23	is included in a six-digit classification of
24	the NAICS that meets the criteria in both

1	clauses (ii) and (iii), or the criteria in
2	clause (iv).
3	"(ii) Energy or greenhouse gas
4	INTENSITY.—As determined by the Admin-
5	istrator, the industrial sector had—
6	"(I) an energy intensity of at
7	least 5 percent, calculated by dividing
8	the cost of purchased electricity and
9	fuel costs of the sector by the value of
10	the shipments of the sector, based on
11	data described in subparagraph (D);
12	or
13	"(II) a greenhouse gas intensity
14	of at least 5 percent, calculated by di-
15	viding—
16	"(aa) the number 20 multi-
17	plied by the number of tons of
18	carbon dioxide equivalent green-
19	house gas emissions (including
20	direct emissions from fuel com-
21	bustion, process emissions, and
22	indirect emissions from the gen-
23	eration of electricity used to
24	produce the output of the sector)

1	of the sector based on data de-
2	scribed in subparagraph (D); by
3	"(bb) the value of the ship-
4	ments of the sector, based on
5	data described in subparagraph
6	(D).
7	"(iii) Trade intensity.—As deter-
8	mined by the Administrator, the industrial
9	sector had a trade intensity of at least 15
10	percent, calculated by dividing the value of
11	the total imports and exports of such sec-
12	tor by the value of the shipments plus the
13	value of imports of such sector, based on
14	data described in subparagraph (D).
15	"(iv) Very high energy or green-
16	HOUSE GAS INTENSITY.—As determined by
17	the Administrator, the industrial sector
18	had an energy or greenhouse gas intensity,
19	as calculated under clause (ii)(I) or (II), of
20	at least 20 percent.
21	"(B) Metal and phosphate produc-
22	TION CLASSIFIED UNDER MORE THAN ONE
23	NAICS CODE.—For purposes of this section, the
24	Administrator shall—

1	"(i) aggregate data for the
2	beneficiation or other processing (including
3	agglomeration) of metal ores, including
4	iron and copper ores, soda ash, or phos-
5	phate with subsequent steps in the process
6	of metal and phosphate manufacturing, re-
7	gardless of the NAICS code under which
8	such activity is classified; and
9	"(ii) aggregate data for the manufac-
10	turing of steel with the manufacturing of
11	steel pipe and tube made from purchased
12	steel in a nonintegrated process.
13	"(C) Exclusion.—The petroleum refining
14	sector shall not be an eligible industrial sector.
15	"(D) Data sources.—
16	"(i) Electricity and fuel costs,
17	VALUE OF SHIPMENTS.—The Adminis-
18	trator shall determine electricity and fuel
19	costs and the value of shipments under
20	this subsection from data from the United
21	States Census Annual Survey of Manufac-
22	turers. The Administrator shall take the
23	average of data from as many of the years
24	of 2004, 2005, and 2006 for which such
25	data are available. If such data are un-

1 available, the Administrator shall make a determination based upon 2002 or 2006 2 3 data from the most detailed industrial clas-4 sification level of Energy Information Agency's Manufacturing Energy Consump-6 tion Survey (using 2006 data if it is avail-7 able) and the 2002 or 2007 Economic Cen-8 sus of the United States (using 2007 data 9 if it is available). If data from the Manu-10 facturing Energy Consumption Survey or 11 Economic Census are unavailable for any 12 sector at the six-digit classification level in 13 the NAICS, then the Administrator may 14 extrapolate the information necessary to 15 determine the eligibility of a sector under 16 this paragraph from available Manufac-17 turing Energy Consumption Survey or 18 Economic Census data pertaining to a 19 broader industrial category classified in the 20 NAICS. If data relating to the 21 beneficiation or other processing (including 22 agglomeration) of metal ores, including 23 iron and copper ores, soda ash, or phos-24 phate are not available from the specified 25 data sources, the Administrator shall use

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the best available Federal or State government data and may use, to the extent necessary, representative data submitted by entities that perform such beneficiation or other processing (including agglomeration), in making a determination. Fuel cost data shall not include the cost of fuel used as feedstock by an industrial sector.

"(ii) Imports and exports.—The Administrator shall base the value of imports and exports under this subsection on United States International Trade Commission data. The Administrator shall take the average of data from as many of the years of 2004, 2005, and 2006 for which such data are available. If data from the United States International Trade Commission are unavailable for any sector at the six-digit classification level in the NAICS, then the Administrator may extrapolate the information necessary to determine the eligibility of a sector under this paragraph from available United States International Trade Commission

1	data pertaining to a broader industrial cat-
2	egory classified in the NAICS.
3	"(iii) Percentages.—The Adminis-
4	trator shall round the energy intensity,
5	greenhouse gas intensity, and trade inten-
6	sity percentages under subparagraph (A)
7	to the nearest whole number.
8	"(iv) Greenhouse gas emission
9	CALCULATIONS.—When calculating the
10	tons of carbon dioxide equivalent green-
11	house gas emissions for each sector under
12	subparagraph (A)(ii)(II)(aa), the Adminis-
13	trator—
14	"(I) shall use the best available
15	data from as many of the years 2004,
16	2005, and 2006 for which such data
17	is available; and
18	"(II) may, to the extent nec-
19	essary with respect to a sector, use
20	economic and engineering models and
21	the best available information on tech-
22	nology performance levels for such
23	sector.
24	"(3) Administrative determination of ad-
25	DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

1	"(A) UPDATED TRADE INTENSITY DATA.—
2	The Administrator shall designate as eligible to
3	receive emission allowance rebates under this
4	part an industrial sector that—
5	"(i) met the energy or greenhouse gas
6	intensity criteria in paragraph (2)(A)(ii) as
7	of the date of promulgation of the rule
8	under paragraph (1); and
9	"(ii) meets the trade intensity criteria
10	in paragraph (2)(A)(iii), using data from
11	any year after 2006.
12	"(B) Individual showing petition.—
13	"(i) Petition.—In addition to des-
14	ignation under paragraph (2) or subpara-
15	graph (A) of this paragraph, the owner or
16	operator of an entity in an industrial sec-
17	tor may petition the Administrator to des-
18	ignate as eligible industrial sectors under
19	this part an entity or a group of entities
20	that—
21	"(I) represent a subsector of a
22	six-digit section of the NAICS code;
23	and
24	"(II) meet the eligibility criteria
25	in both clauses (ii) and (iii) of para-

1	graph $(2)(A)$ , or the eligibility criteria
2	in clause (iv) of paragraph (2)(A).
3	"(ii) Data.—In making a determina-
4	tion under this subparagraph, the Admin-
5	istrator shall consider data submitted by
6	the petitioner that is specific to the entity,
7	data solicited by the Administrator from
8	other entities in the subsector, if such
9	other entities exist, and data specified in
10	paragraph (2)(D).
11	"(iii) Basis of subsector deter-
12	MINATION.—The Administrator shall de-
13	termine an entity or group of entities to be
14	a subsector of a six-digit section of the
15	NAICS code based only upon the products
16	manufactured and not the industrial proc-
17	ess by which the products are manufac-
18	tured, except that the Administrator may
19	determine an entity or group of entities
20	that manufacture a product from primarily
21	virgin material to be a separate subsector
22	from another entity or group of entities
23	that manufacture the same product pri-
24	marily from recycled material.

1	"(iv) Use of most recent data.—
2	In determining whether to designate a sec-
3	tor or subsector as an eligible industrial
4	sector under this subparagraph, the Ad-
5	ministrator shall use the most recent data
6	available from the sources described in
7	paragraph (2)(D), rather than the data
8	from the years specified in paragraph
9	(2)(D), to determine the trade intensity of
10	such sector or subsector, but only for de-
11	termining such trade intensity.
12	"(v) Final action.—The Adminis-
13	trator shall take final action on such peti-
14	tion no later than 6 months after the peti-
15	tion is received by the Administrator.
16	"SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE RE-
17	BATES.
18	"(a) Distribution Schedule.—
19	"(1) In General.—For each vintage year, the
20	Administrator shall distribute pursuant to this sec-
21	tion emission allowances made available under sec-
22	tion 771(a)(5), no later than October 31 of the pre-
23	ceding calendar year. The Administrator shall make
24	such annual distributions to the owners and opera-
25	tors of each entity in an eligible industrial sector in

1	the amount of emission allowances calculated under
2	subsection (b), except that—
3	"(A) for vintage years 2012 and 2013, the
4	distribution for a covered entity shall be pursu-
5	ant to the entity's indirect carbon factor as cal-
6	culated under subsection (b)(3);
7	"(B) for vintage year 2026 and thereafter,
8	the distribution shall be pursuant to the
9	amount calculated under subsection (b) multi-
10	plied by, for a sector—
11	"(i) 90 percent for vintage year 2026;
12	"(ii) 80 percent for vintage year
13	2027;
14	"(iii) 70 percent for vintage year
15	2028;
16	"(iv) 60 percent for vintage year
17	2029;
18	"(v) 50 percent for vintage year 2030;
19	"(vi) 40 percent for vintage year
20	2031;
21	"(vii) 30 percent for vintage year
22	2032;
23	"(viii) 20 percent for vintage year
24	2033;

1	"(ix) 10 percent for vintage year
2	2034; and
3	"(x) 0 percent for vintage year 2035
4	and thereafter.
5	"(2) Newly eligible sectors.—In addition
6	to receiving a distribution of emission allowances
7	under this section in the first distribution occurring
8	after an industrial sector is designated as eligible
9	under section 763(b)(3), the owner or operator of an
10	entity in that eligible industrial sector may receive a
11	prorated share of any emission allowances made
12	available for distribution under this section that
13	were not distributed for the year in which the peti-
14	tion for eligibility was granted under section
15	763(b)(3)(A).
16	"(3) Cessation of qualifying activities.—
17	If, as determined by the Administrator, a facility is
18	no longer in an eligible industrial sector designated
19	under section 763—
20	"(A) the Administrator shall not distribute
21	emission allowances to the owner or operator of
22	such facility under this section; and
23	"(B) the owner or operator of such facility
24	shall return to the Administrator all allowances
25	that have been distributed to it for future vin-

1	tage years and a pro-rated amount of allow-
2	ances distributed to the facility under this sec-
3	tion for the vintage year in which the facility
4	ceases to be in an eligible industrial sector des-
5	ignated under section 763.
6	"(b) Calculation of Direct and Indirect Car-
7	BON FACTORS.—
8	"(1) In general.—
9	"(A) Covered entities.—Except as pro-
10	vided in subsection (a), for covered entities that
11	are in eligible industrial sectors, the amount of
12	emission allowance rebates shall be based on
13	the sum of the covered entity's direct and indi-
14	rect carbon factors.
15	"(B) OTHER ELIGIBLE ENTITIES.—For
16	entities that are in eligible industrial sectors
17	but are not covered entities, the amount of
18	emission allowance rebates shall be based on
19	the entity's indirect carbon factor.
20	"(C) New entities.—Not later than 2
21	years after the date of enactment of this title,
22	the Administrator shall issue regulations gov-
23	erning the distribution of emission allowance re-
24	bates for the first and second years of operation

1	of a new entity in an eligible industrial sector.
2	These regulations shall provide for—
3	"(i) the distribution of emission allow-
4	ance rebates to such entities based on com-
5	parable entities in the same sector; and
6	"(ii) an adjustment in the third and
7	fourth years of operation to reconcile the
8	total amount of emission allowance rebates
9	received during the first and second years
10	of operation to the amount the entity
11	would have received during the first and
12	second years of operation had the appro-
13	priate data been available.
14	"(2) Direct carbon factor.—The direct car-
15	bon factor for a covered entity for a vintage year is
16	the product of—
17	"(A) the average annual output of the cov-
18	ered entity for the 2 years preceding the year
19	of the distribution; and
20	"(B) the most recent calculation of the av-
21	erage direct greenhouse gas emissions (ex-
22	pressed in tons of carbon dioxide equivalent)
23	per unit of output for all covered entities in the
24	sector, as determined by the Administrator
25	under paragraph (4).

1	"(3) Indirect carbon factor.—
2	"(A) In general.—The indirect carbon
3	factor for an entity for a vintage year is the
4	product obtained by multiplying the average an
5	nual output of the entity for the 2 years pre
6	ceding the year of the distribution by both the
7	electricity emissions intensity factor determined
8	pursuant to subparagraph (B) and the elec
9	tricity efficiency factor determined pursuant to
10	subparagraph (C) for the year concerned.
11	"(B) ELECTRICITY EMISSIONS INTENSITY
12	FACTOR.—
13	"(i) In general.—Each person sell
14	ing electricity to the owner or operator o
15	an entity in any sector designated as an el
16	igible industrial sector under section
17	763(b) shall provide the owner or operator
18	of the entity and the Administrator, on an
19	annual basis, the electricity emissions in
20	tensity factor for the entity. The electricity
21	emissions intensity factor for the entity
22	expressed in tons of carbon dioxide equiva
23	lents per kilowatt hour, is determined by
24	dividing—

1	"(I) the annual sum of the hour-
2	ly product of—
3	"(aa) the electricity pur-
4	chased by the entity from that
5	person in each hour (expressed in
6	kilowatt hours); multiplied by
7	"(bb) the marginal or
8	weighted average tons of carbon
9	dioxide equivalent per kilowatt
10	hour that are reflected in the
11	electricity charges to the entity,
12	as determined by the entity's re-
13	tail rate arrangements; by
14	"(II) the total kilowatt hours of
15	electricity purchased by the entity
16	from that person during that year.
17	"(ii) Use of other data to deter-
18	MINE FACTOR.—Where it is not possible to
19	determine the precise electricity emissions
20	intensity factor for an entity using the
21	methodology in clause (i), the person sell-
22	ing electricity shall use the monthly aver-
23	age data reported by the Energy Informa-
24	tion Administration or collected and re-
25	ported by the Administrator for the utility

1	serving the entity to determine the elec
2	tricity emissions intensity factor.
3	"(C) ELECTRICITY EFFICIENCY FACTOR.—
4	The electricity efficiency factor is the average
5	amount of electricity (in kilowatt hours) used
6	per unit of output for all entities in the relevan-
7	sector, as determined by the Administrator
8	based on the best available data, including data
9	provided under paragraph (6).
10	"(D) Indirect carbon factor reduc
11	TION.—If an electricity provider received a free
12	allocation of emission allowances pursuant to
13	section 771(a)(1), the Administrator shall ad
14	just the indirect carbon factor to avoid rebates
15	to the eligible entity for costs that the Adminis
16	trator determines were not incurred by the eli
17	gible entity because the allowances were freely
18	allocated to the eligible entity's electricity pro
19	vider and used for the benefit of industrial con-
20	sumers.
21	"(4) Greenhouse gas intensity calcula
22	TIONS.—The Administrator shall calculate the aver
23	age direct greenhouse gas emissions (expressed in
24	tons of carbon dioxide equivalent) per unit of output
25	and the electricity efficiency factor for all covered

1	entities in each eligible industrial sector every 4
2	years, using an average of the four most recent
3	years of the best available data. For purposes of the
4	lists required to be published no later than February
5	1, 2013, the Administrator shall use the best avail-
6	able data for the maximum number of years, up to
7	4 years, for which data are available.
8	"(5) Ensuring efficiency improvements.—
9	When making greenhouse gas calculations, the Ad-
10	ministrator shall—
11	"(A) limit the average direct greenhouse
12	gas emissions per unit of output, calculated
13	under paragraph (4), for any eligible industrial
14	sector to an amount that is not greater than it
15	was in any previous calculation under this sub-
16	section;
17	"(B) limit the electricity emissions inten-
18	sity factor, calculated under paragraph (3)(B)
19	and resulting from a change in electricity sup-
20	ply, for any entity to an amount that is not
21	greater than it was during any previous year;
22	and
23	"(C) limit the electricity efficiency factor,
24	calculated under paragraph (3)(C), for any eli-
25	gible industrial sector to an amount that is not

1	greater than it was in any previous calculation
2	under this subsection.
3	"(6) Data sources.—For the purposes of this
4	subsection—
5	"(A) the Administrator shall use data from
6	the greenhouse gas registry established under
7	section 713, where it is available; and
8	"(B) each owner or operator of an entity
9	in an eligible industrial sector and each depart-
10	ment, agency, and instrumentality of the
11	United States shall provide the Administrator
12	with such information as the Administrator
13	finds necessary to determine the direct carbon
14	factor and the indirect carbon factor for each
15	entity subject to this section.
16	"(c) Total Maximum Distribution.—Notwith-
17	standing subsections (a) and (b), the Administrator shall
18	not distribute more allowances for any vintage year pursu-
19	ant to this section than are allocated for use under this
20	part pursuant to section 765 for that vintage year. For
21	any vintage year for which the total emission allowance
22	rebates calculated pursuant to this section exceed the
23	number of allowances allocated pursuant to section 765,
24	the Administrator shall reduce each entity's distribution
25	on a pro rata basis so that the total distribution under

- 1 this section equals the number of allowances allocated
- 2 under section 765.
- 3 "(d) Iron and Steel Sector.—For purposes of
- 4 this section, the Administrator shall consider as in dif-
- 5 ferent industrial sectors—
- 6 "(1) entities using integrated iron and
- 7 steelmaking technologies (including coke ovens, blast
- 8 furnaces, and other iron-making technologies); and
- 9 "(2) entities using electric arc furnace tech-
- nologies.
- 11 "(e) Metal, Soda Ash, or Phosphate Produc-
- 12 TION CLASSIFIED UNDER MORE THAN ONE NAICS
- 13 Code.—For purposes of this section, the Administrator
- 14 shall not aggregate data for the beneficiation or other
- 15 processing (including agglomeration) of metal ores, soda
- 16 ash, or phosphate with subsequent steps in the process
- 17 of metal, soda ash, or phosphate manufacturing. The Ad-
- 18 ministrator shall consider the beneficiation or other proc-
- 19 essing (including agglomeration) of metal ores, soda ash,
- 20 or phosphate to be in separate industrial sectors from the
- 21 metal, soda ash, or phosphate manufacturing sectors. In-
- 22 dustrial sectors that beneficiate or otherwise process (in-
- 23 cluding agglomeration) metal ores, soda ash, or phosphate
- 24 shall not receive emission allowance rebates under this sec-

- 1 tion related to the activity of extracting metal ores, soda
- 2 ash, or phosphate.
- 3 "(f) Combined Heat and Power.—For purposes
- 4 of this section, and to achieve the purpose set forth in
- 5 section 761(4), (the Administrator may consider entities to
- 6 be in different industrial sectors or otherwise take into ac-
- 7 count the differences among entities in the same industrial
- 8 sector, based upon the extent to which such entities use
- 9 combined heat and power technologies.
- 10 "SEC. 765. INTERNATIONAL TRADE.
- "It is the sense of the Senate that this Act will con-
- 12 tain a trade title that will include a border measure that
- 13 is consistent with our international obligations and de-
- 14 signed to work in conjunction with provisions that allocate
- 15 allowances to energy-intensive and trade-exposed indus-
- 16 tries.".

# 17 TITLE II—PROGRAM

## 18 **ALLOCATIONS**

- 19 SEC. 201. INVESTMENT IN CLEAN VEHICLE TECHNOLOGY.
- 20 (a) Establishment of Fund.—There is estab-
- 21 lished in the Treasury a separate account, which shall be
- 22 known as the "Clean Vehicle Technology Fund".
- 23 (b) Auction Proceeds.—The Administrator shall
- 24 deposit the proceeds of the auction conducted pursuant

1	to section $771(b)(3)$ of the Clean Air Act in the Clean
2	Vehicle Technology Fund.
3	(c) AVAILABILITY OF AMOUNTS.—Of the amounts
4	deposited in the Clean Vehicle Technology Fund—
5	(1) 80 percent shall be available to the Sec-
6	retary of Energy to support—
7	(A) the development and demonstration of
8	a national transportation low-emissions energy
9	plan; and
10	(B) the use of plug-in electric drive vehi-
11	cles, including medium- and heavy-duty motor
12	vehicles (including transit vehicles) and other
13	advanced technology vehicles (as defined in sec-
14	tions 131 and 136 of the Energy Independence
15	and Security Act of 2007 (42 U.S.C. 17011,
16	17013)) that are developed and produced in the
17	United States; and
18	(2) 20 percent of the amounts shall be available
19	to the Administrator for use in providing grants au-
20	thorized under subtitle G of title VII of the Energy
21	Policy Act of 2005 (42 U.S.C. 16131 et seq.).
22	(d) Pilot Program.—
23	(1) In general.—Of the amounts deposited in
24	accordance with (c)(1), the Secretary of Energy
25	shall use not more than 5 percent to develop a na-

1	tional transportation low-emissions energy plan that
2	shall—
3	(A) project the near- and long-term need
4	for and location of electric drive vehicle refuel-
5	ing infrastructure at strategic locations across
6	all major national highways, roads, and cor-
7	ridors;
8	(B) identify infrastructure and standard-
9	ization needs for electricity providers, infra-
10	structure providers, vehicle manufacturers, and
11	electricity purchasers;
12	(C) establish an aspirational goal of
13	achieving strategic deployment of electric vehi-
14	cle infrastructure by 2020;
15	(D) be developed by the Secretary with the
16	involvement of all relevant stakeholders; and
17	(E) prioritize the development of—
18	(i) standardized public charge access
19	ports with wireless or smart card billing
20	capability; and
21	(ii) level I and level II charge port
22	systems (that charge an electric vehicle
23	over a period of 8 to 14 hours and 4 to 8
24	hours, respectively) that will meet the en-

1	ergy requirements of the majority of plug-
2	in hybrid and battery electric vehicles;
3	(F) examine the feasibility of level III
4	charge port systems that can charge an electric
5	vehicle over a period of 10 to 20 minutes; and
6	(G) focus on infrastructure that provides
7	consumers with the lowest cost while providing
8	convenient charge system access.
9	(2) Electric drive demonstration
10	PROJECTS.—
11	(A) IN GENERAL.—The Secretary shall es-
12	tablish pilot projects to demonstrate electric
13	drive vehicles and infrastructure.
14	(B) REQUIREMENTS.—The Secretary
15	shall—
16	(i) establish the pilot projects de-
17	scribed in subparagraph (A) after publica-
18	tion of the plan developed under paragraph
19	(1);
20	(ii) use the plan to determine which
21	regions of the United States are most
22	ready to demonstrate electric vehicle infra-
23	structure;

1	(iii) carry out the pilot projects under
2	this paragraph in different regions of the
3	United States; and
4	(iv) ensure that—
5	(I) at least 1 pilot project is car-
6	ried out in a rural region of the
7	United States; and
8	(II) at least 1 pilot project is fo-
9	cused on freight issues.
10	(3) Financial resources.—In carrying out
11	the pilot projects under paragraph (2), the Secretary
12	shall coordinate the use of appropriate financial in-
13	centives, grant programs, and other Federal finan-
14	cial resources to ensure that electric infrastructure
15	delivery entities are able to participate in the pilot
16	projects.
17	(4) LEEP COORDINATOR.—The Secretary may
18	designate 1 full-time position within the Department
19	of Transportation, to be known as the "LEEP coor-
20	dinator", with responsibility to oversee—
21	(A) the development of the plan under
22	paragraph (1); and
23	(B) the implementation of the pilot
24	projects under paragraph (2).

1	SEC. 202. STATE AND LOCAL INVESTMENT IN ENERGY EFFI-
2	CIENCY AND RENEWABLE ENERGY.
3	(a) Definitions.—For purposes of this section:
4	(1) Allowance.—The term "allowance"
5	means an emission allowance established under sec-
6	tion 721 of the Clean Air Act.
7	(2) Indian tribe.—The term "Indian tribe"
8	has the meaning given the term in section 4 of the
9	Indian Self-Determination and Education Assistance
10	Act (25 U.S.C. 450b).
11	(3) VINTAGE YEAR.—The term "vintage year"
12	has the meaning given the term in section 700 of the
13	Clean Air Act.
14	(b) Distribution Among Indian Tribes, States,
15	LOCAL GOVERNMENTS, METROPOLITAN PLANNING ORGA-
16	NIZATIONS AND RENEWABLE ELECTRICITY GENERA-
17	TIONS.—The Administrator shall, in accordance with this
18	section, distribute allowances allocated pursuant to section
19	771(a)(8) of the Clean Air Act for the following vintage
20	year. The Administrator, after consultation with the Sec-
21	retary of the Interior, shall distribute not less than 1 per-
22	cent of such allowances to Indian tribes. The Adminis-
23	trator, after consultation with the Secretary of Energy
24	and the with the assistance of the Secretary of Transpor-
25	tation, shall distribute the remaining allowances among
26	the States, local governments, metropolitan planning orga-

1	nizations, and renewable electricity generations under this
2	section each year in accordance with the following for-
3	mula:
4	(1) 62.5 percent of the allowances shall be pro-
5	vided to the States, of which—
6	(A) 30 percent shall be divided equally
7	among the States;
8	(B) 30 percent shall be distributed on a
9	pro rata basis among the States based on the
10	population of each State, as contained in the
11	most recent reliable census data available from
12	the Bureau of the Census for all States at the
13	time at which the Administrator calculates the
14	formula for distribution;
15	(C) 30 percent shall be distributed on a
16	pro rata basis among the States on the basis of
17	the energy consumption of each State, as con-
18	tained in the most recent State Energy Data
19	Report available from the Energy Information
20	Administration (or such alternative reliable
21	source as the Administrator may designate);
22	and
23	(D) 10 percentage shall be provided to the
24	States based on an energy-efficiency formula

1	developed by the Administrator, which formula
2	shall be—
3	(i) based on—
4	(I) weather-adjusted criteria; and
5	(II) performance-based metrics
6	that measure each State's success at
7	decreasing energy consumption or in-
8	creasing energy efficiency—
9	(aa) on a per capita basis in
10	the residential sector; and
11	(bb) on an energy consump-
12	tion per square-foot basis in the
13	commercial sector; and
14	(ii) updated every 3 years.
15	(2) 25 percent of the allowances shall be pro-
16	vided to local governments for energy conservation
17	and efficiency grants.
18	(3) 10 percent of the allowances shall be re-
19	served by the Secretary of Transportation for grants
20	to States and metropolitan planning organizations
21	for greenhouse gas reduction programs in the trans-
22	portation sector.
23	(4) 2.5 percent of the allowances shall be pro-
24	vided to renewable energy generating companies with
25	a capacity of 20 megawatts or greater exclusively for

1	the generation of renewable energy. The Adminis-
2	trator, in consultation with the Secretary of Energy,
3	shall award allocations to renewable energy genera-
4	tion companies based on the number of megawatt-
5	hours the company generates and the technology
6	used. The Administrator shall promulgate such regu-
7	lations as are appropriate to carry out this para-
8	graph.
9	(c) USES.—The allowances distributed to each State,
10	local government, and metropolitan planning organization
11	pursuant to this section shall be used exclusively in accord-
12	ance with the following requirements:
13	(1) Allocation to states.—Allowances allo-
14	cated to the States under subsection $(b)(1)$ shall be
15	for the following purposes and be used in accordance
16	with the following conditions:
17	(A) Purposes.—
18	(i) Energy efficiency pro-
19	GRAMS.—Not less than 35 percent shall be
20	used exclusively for—
21	(I) implementation and enforce-
22	ment of building codes;
23	(II) implementation of the en-
24	ergy-efficient manufactured homes
25	program;

1	(III) implementation of building
2	energy performance labeling; and
3	(IV) low-income community en-
4	ergy efficiency programs.
5	(ii) Renewable energy pro-
6	GRAMS.—Renewable energy programs for
7	capital grants, production incentives, loans,
8	loan guarantees, forgivable loans, direct
9	provision of allowances, and interest rate
10	buy-downs for—
11	(I) re-equipping, expanding, or
12	establishing a manufacturing facility
13	that receives certification from the
14	Secretary of Energy pursuant to sec-
15	tion 48C of the Internal Revenue
16	Code of 1986 for the production of—
17	(aa) property designed to be
18	used to produce energy from re-
19	newable energy sources; and
20	(bb) electricity storage sys-
21	tems;
22	(II) deployment of technologies to
23	generate electricity from renewable
24	energy sources; and

1	(III) deployment of facilities or
2	equipment, such as solar panels, to
3	generate electricity or thermal energy
4	from renewable energy resources in
5	and on buildings in an urban environ-
6	ment.
7	(iii) Improvement in electricity
8	TRANSMISSION.—Improvement in elec-
9	tricity transmission for 1 or more of the
10	following purposes:
11	(I) State implementation of elec-
12	tricity transmission planning and
13	siting activities that facilitate renew-
14	able energy development, including fa-
15	cilitation of landowner negotiations
16	for transmission of right-of-way leas-
17	ing or other contractual arrange-
18	ments.
19	(II) Grants to nonprofit organi-
20	zations that facilitate negotiations for
21	transmission right-of-way leasing or
22	other contractual agreements between
23	landowners and developers.
24	(III) State or regional studies of
25	renewable energy zones and resources

1	with insufficient transmission capac-
2	ity, including geographical identifica-
3	tion of potential renewable energy
4	sites, environmental reviews, and land
5	use or coastal zone constraints.
6	(IV) Grants to support land-
7	owner associations' and other non-
8	profit organizations' participation in
9	State and Federal siting processes, in-
10	cluding such associations' studies of
11	renewable energy feasibility and bene-
12	fits and associated data collection.
13	(V) Grants to landowners or
14	landowner associations or nonprofit
15	organizations for mitigation of im-
16	pacts on property or ecosystems due
17	to transmission projects that are part
18	of an interconnection-wide plan fo-
19	cused on facilitating renewable energy
20	development.
21	(VI) Training for State regu-
22	latory authority staff and local
23	workforces relating to renewable en-
24	ergy generation resources and storage,

1	smart grid, or new transmission tech-
2	nologies.
3	(VII) Grants to transmission pro-
4	viders for transmission improvements
5	(including smart grid investments)
6	that benefit consumers.
7	(VIII) Grants to transmission
8	providers for security upgrades to the
9	transmission system and authorized
10	uses under title XIII of the Energy
11	Independence and Security Act of
12	2007 (42  U.S.C.  17381  et seq.).
13	(IX) Grants to develop energy
14	storage, reliability, or distributed re-
15	newable generation projects.
16	(iv) End-use consumers.—Cost-ef-
17	fective energy efficiency programs for end-
18	use consumers of electricity, natural gas,
19	home heating oil, or propane, including,
20	where appropriate, programs or mecha-
21	nisms administered by local governments
22	and entities other than the State.
23	(v) Retrofits and housing invest-
24	MENTS.—Energy retrofits and green in-
25	vestments in subsidized housing based on

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standards to ensure that investments are cost-effective, taking into account reductions in future use of energy and other utilities, and the extent to which such retrofits and investments address repair and replacement needs that may otherwise need to be addressed with other forms of assistance. As a condition of such funding, the recipient shall commit to an additional period of affordability of not fewer than 15 years, covering all units for which such grants and loans are used.

(vi) THERMAL **ENERGY** EFFI-CIENCY.—Not less than 2 percent shall be used for thermal energy efficiency projects provide district that thermal energy through a network of pipes from 1 or more central plants to at least 2 or more buildings, combined heat and power that produces electricity and thermal energy with a minimum 60 percent overall efficiency on a lower-heating value basis, or recoverable waste energy (including mechanical, thermal, or electrical energy) that, if not for recovery, would be wasted and may be re-

1	covered or generated through modification
2	of an existing facility or addition of a new
3	facility. Allocations may be used for plan-
4	ning, engineering, and feasibility studies as
5	well as project construction and develop-
6	ment. Such projects shall—
7	(I) reduce or avoid greenhouse
8	gas emissions; and
9	(II)(aa) produce thermal energy
10	from renewable energy resources or
11	natural cooling sources;
12	(bb) capture and productively use
13	thermal energy from an electric gen-
14	eration facility;
15	(cc) integrate new electricity gen-
16	eration into an existing district energy
17	system;
18	(dd) capture and productively
19	uses surplus thermal energy from an
20	industrial or municipal process (such
21	as wastewater treatment); or
22	(ee) distribute and transfer to
23	buildings the thermal energy from the
24	energy sources described in items (aa)
25	through (dd).

1	(VII) SMART GRID DEVELOPMENT.—
2	Enabling the development of a Smart Grid
3	(as described in section 1301 of the En-
4	ergy Independence and Security Act of
5	2007 (42 U.S.C. 17381)) for State, local
6	government, and other public buildings and
7	facilities, including integration of renew-
8	able energy resources and distributed gen-
9	eration, demand response, demand-side
10	management, and systems analysis.
11	(B) Conditions.—
12	(i) In general.—The States shall
13	prioritize expansion of existing energy effi-
14	ciency programs approved and overseen by
15	the State or the appropriate State regu-
16	latory authority.
17	(ii) Supplementation.—The States
18	shall demonstrate that such allowances
19	have been used to supplement, and not to
20	supplant, existing and otherwise available
21	State, local, and ratepayer funding for
22	such purpose.
23	(2) Energy conservation and effi-
24	CIENCY.—Allowances allocated to local governments
25	under subsection (b)(2) shall be used exclusively for

- energy conservation and efficiency purposes specified under section 543 of the Energy Independence and
- 3 Security Act of 2007 (42 U.S.C. 17153).
- 4 (3) STATE AND MPO GRANTS.—Allocation to
- 5 the Secretary of Transportation for grants to States
- 6 and metropolitan planning organizations under sub-
- 7 section (b)(3) shall be used exclusively for the
- 8 Transportation Greenhouse Gas Reduction program
- 9 in accordance with sections 831 and 832 of the
- 10 Clean Air Act.
- 11 (d) Reporting.—Each Indian tribe, State, local gov-
- 12 ernment, metropolitan planning organization, and renew-
- 13 able electricity generating company directly receiving al-
- 14 lowances or allowance value under this section shall sub-
- 15 mit to the Administrator a report that contains a list of
- 16 entities receiving allowances or allowance value under this
- 17 section.
- 18 (e) Enforcement.—If the Administrator deter-
- 19 mines that an Indian tribe, State, local government, met-
- 20 ropolitan planning organization, or renewable electricity
- 21 generation company is not in compliance with this section,
- 22 the Administrator may withhold up to twice the number
- 23 of allowances or allowance value that the Indian tribe,
- 24 State, local government, metropolitan planning organiza-
- 25 tion, or renewable electricity generation company failed to

- 1 use in accordance with the requirements of this section,
- 2 that such Indian tribe, State, local government, metropoli-
- 3 tan planning organization, or renewable electricity genera-
- 4 tion companies would otherwise be eligible to receive under
- 5 this section in later years. Allowances withheld pursuant
- 6 to this subsection shall be distributed among the remain-
- 7 ing Indian tribes, States, local governments, metropolitan
- 8 planning organizations, and renewable electricity genera-
- 9 tion companies in accordance with subsection (b).

#### 10 SEC. 203. ENERGY EFFICIENCY IN BUILDING CODES.

- 11 The Administrator shall distribute emission allow-
- 12 ances allocated for the following vintage year pursuant to
- 13 section 771(a)(9) of the Clean Air Act among the States
- 14 in accordance with the formula described in section 202
- 15 of this division exclusively for the purpose of section 163
- 16 of division A.

#### 17 SEC. 204. BUILDING RETROFIT PROGRAM.

- 18 The Administrator shall distribute emission allow-
- 19 ances allocated for the following vintage year pursuant to
- 20 section 771(a)(10) of the Clean Air Act among the States
- 21 in accordance with the formula described in section 202
- 22 of this division exclusively for the purpose of section 164
- 23 of division A.

### 1 SEC. 205. ENERGY INNOVATION HUBS.

- 2 (a) Purpose.—The Secretary shall carry out a pro-
- 3 gram in accordance with this section to establish Energy
- 4 Innovation Hubs to enhance the economic, environmental,
- 5 and energy security of the United States by promoting
- 6 commercial application of clean, indigenous energy alter-
- 7 natives to oil and other fossil fuels, reducing greenhouse
- 8 gas emissions, and ensuring that the United States main-
- 9 tains a technological lead in the development and commer-
- 10 cial application of state-of-the-art energy technologies.
- 11 (b) Distribution of Allowances to Energy In-
- 12 NOVATION HUBS.—The Secretary shall, in accordance
- 13 with the requirements of this section, distribute to eligible
- 14 consortia allowances allocated for the following vintage
- 15 year under section 772(a)(11) of the Clean Air Act.
- 16 SEC. 206. ARPA-E RESEARCH.
- 17 (a) Definitions.—For purposes of this section:
- 18 (1) Allowance.—The term "allowance"
- means an emission allowance established under sec-
- tion 721 of the Clean Air Act.
- 21 (2) DIRECTOR.—The term "Director" means
- 22 Director of the Advanced Research Projects Agency–
- Energy.
- (b) Distribution of Allowances.—The Director,
- 25 in accordance with this section, shall distribute allowances
- 26 allocated for the following vintage year under section

- 1 771(a)(12) of the Clean Air Act. Such allowances shall
- 2 be distributed on a competitive basis to institutions of
- 3 higher education, companies, research foundations, trade
- 4 and industry research collaborations, or consortia of such
- 5 entities, or other appropriate research and development
- 6 entities to achieve the goals of the Advanced Research
- 7 Projects Agency-Energy (as described in section 5012(c)
- 8 of the America COMPETES Act (42 U.S.C. 16538(c)))
- 9 through targeted acceleration of—
- 10 (1) novel early-stage energy research with pos-11 sible technology applications;
- 12 (2) development of techniques, processes, and 13 technologies, and related testing and evaluation;
- (3) development of manufacturing processes for
   technologies; and
- (4) demonstration and coordination with non governmental entities for commercial applications of
   technologies and research applications.
- 19 (c) Supplement Not Supplant.—Assistance pro-
- 20 vided under this section shall be used to supplement, and
- 21 not to supplant, any other Federal resources available to
- 22 carry out activities described in this section.

1	SEC. 207. INTERNATIONAL CLEAN ENERGY DEPLOYMENT
2	PROGRAM.
3	The Secretary of State shall distribute emission al-
4	lowances allocated for the following vintage year pursuant
5	to section 771(a)(13) of the Clean Air Act exclusively for
6	the purpose of section 323 of division A.
7	SEC. 208. INTERNATIONAL CLIMATE CHANGE ADAPTATION
8	AND GLOBAL SECURITY.
9	The Secretary of State shall distribute emission al-
10	lowances allocated for the following vintage year pursuant
11	to section 771(a)(14) of the Clean Air Act exclusively for
12	the purpose of section 324 of division A.
13	SEC. 209. ENERGY EFFICIENCY AND RENEWABLE ENERGY
14	WORKER TRAINING.
	worker training.  (a) Establishment of Fund.—There is estab-
14	
14 15	(a) Establishment of Fund.—There is estab-
14 15 16 17	(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known
14 15 16 17	(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known as the "Energy Efficiency and Renewable Energy Worker
14 15 16 17	(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known as the "Energy Efficiency and Renewable Energy Worker Training Fund".
114 115 116 117 118	<ul> <li>(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known as the "Energy Efficiency and Renewable Energy Worker Training Fund".</li> <li>(b) AUCTION PROCEEDS.—The Administrator shall</li> </ul>
14 15 16 17 18 19 20 21	<ul> <li>(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known as the "Energy Efficiency and Renewable Energy Worker Training Fund".</li> <li>(b) AUCTION PROCEEDS.—The Administrator shall deposit the proceeds of the auction conducted pursuant</li> </ul>
14 15 16 17 18 19 20 21	<ul> <li>(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known as the "Energy Efficiency and Renewable Energy Worker Training Fund".</li> <li>(b) AUCTION PROCEEDS.—The Administrator shall deposit the proceeds of the auction conducted pursuant to section 771(b)(5) of the Clean Air Act in the Energy</li> </ul>
14 15 16 17 18 19 20 21	<ul> <li>(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known as the "Energy Efficiency and Renewable Energy Worker Training Fund".</li> <li>(b) AUCTION PROCEEDS.—The Administrator shall deposit the proceeds of the auction conducted pursuant to section 771(b)(5) of the Clean Air Act in the Energy Efficiency and Renewable Energy Worker Training Fund.</li> </ul>
14 15 16 17 18 19 20 21 22 23 24	<ul> <li>(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known as the "Energy Efficiency and Renewable Energy Worker Training Fund".</li> <li>(b) AUCTION PROCEEDS.—The Administrator shall deposit the proceeds of the auction conducted pursuant to section 771(b)(5) of the Clean Air Act in the Energy Efficiency and Renewable Energy Worker Training Fund.</li> <li>(c) AVAILABILITY OF AMOUNTS.—The Secretary of</li> </ul>

- 1 Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8))
- 2 without further appropriation or fiscal year limitation.
- 3 SEC. 210. WORKER TRANSITION.
- 4 (a) Establishment of Fund.—There is estab-
- 5 lished in the Treasury a separate account, to be known
- 6 as the "Worker Transition Fund".
- 7 (b) Auction Proceeds.—The Administrator shall
- 8 deposit the proceeds of the auction conducted pursuant
- 9 to section 771(b)(6) of the Clean Air Act in the Worker
- 10 Transition Fund.
- 11 (c) AVAILABILITY OF AMOUNTS.—The amounts de-
- 12 posited in the Worker Transition Fund shall be used to
- 13 carry out part 2 of subtitle A of title III of division A.
- 14 SEC. 211. STATE PROGRAMS FOR GREENHOUSE GAS RE-
- 15 DUCTION AND CLIMATE ADAPTATION.
- 16 (a) Definitions.—In this section:
- 17 (1) Alaska native village.—The term
- 18 "Alaska Native village" means a federally recognized
- 19 Indian tribe located in the State of Alaska and listed
- in the Bureau of Indian Affairs publication entitled
- 21 "Indian Entities Recognized and Eligible to Receive
- 22 Services from the United States Bureau of Indian
- 23 Affairs" (74 Fed. Reg. 40218 (Aug. 11, 2009)).

1 (2)ALLOWANCE.—The term "allowance" 2 means an emission allowance established under sec-3 tion 721 of the Clean Air Act. 4 (3) Indian tribe.—The term "Indian tribe" 5 has the meaning given the term in section 4 of the 6 Indian Self-Determination and Education Assistance 7 Act (25 U.S.C. 450b). 8 (4) SCCR ACCOUNT.—The term "SCCR Ac-9 count" means a State Climate Change Response Ac-10 count established under subsection (d)(5). 11 (5) VINTAGE YEAR.—The term "vintage year" 12 has the meaning given that term in section 700 of 13 the Clean Air Act. 14 (b) Regulations; Coordination.— 15 (1) REGULATIONS.—Not later than 2 years 16 after the date of enactment of this Act, the Adminis-17 trator, or the heads of such Federal agencies as the 18 President may designate, shall promulgate regula-19 tions to implement this section. 20 COORDINATION.—If the President des-21 ignates more than 1 Federal agency to implement 22 this section, the President shall require such agen-23 cies to establish a memorandum of understanding 24 providing for coordination of rulemaking and other

1	implementing activities, in accordance with this sec-
2	tion.
3	(c) State Climate Change Response and Trans-
4	PORTATION FUND.—
5	(1) Establishment of fund.—There is es-
6	tablished in the Treasury a separate account, to be
7	known as the "State Climate Change Response and
8	Transportation Fund".
9	(2) Auction proceeds deposited to
10	FUND.—The Administrator shall deposit the pro-
11	ceeds of the auction conducted pursuant to section
12	771(b)(7) of the Clean Air Act in the State Climate
13	Change Response and Transportation Fund.
14	(3) Availability of amounts.—All amounts
15	deposited in the State Climate Change Response and
16	Transportation Fund shall be available, without fur-
17	ther appropriation or fiscal year limitation, to carry
18	out this section.
19	(d) Distribution of Allowance Proceeds.—
20	(1) In general.—The Administrator shall dis-
21	tribute, in accordance with this section, proceeds of
22	the auction of allowances allocated for the following
23	vintage year that have been deposited in the State
24	Climate Change Response and Transportation Fund
25	pursuant to subsection $(c)(2)$ .

1	(2) Reservation and allocation.—The Ad-
2	ministrator shall—
3	(A) reserve 10 percent of the proceeds of
4	such allowances described in paragraph (1) for
5	distribution among coastal and Great Lakes
6	States in accordance with subsection (f);
7	(B) after consultation with the Secretary
8	of the Interior, reserve at least 1 percent of the
9	proceeds of those allowances for distribution to
10	Indian tribes in accordance with subsection (e);
11	and
12	(C) distribute the remaining proceeds of
13	those allowances to fund State and local govern-
14	ment programs for greenhouse gas reduction
15	and climate adaptation, with such remaining
16	proceeds divided equally between—
17	(i) funding of transportation grant
18	programs under subsection (g); and
19	(ii) funding of other programs admin-
20	istered by the States, with the proceeds to
21	be deposited in and administered through
22	the State Climate Change Response Ac-
23	counts established pursuant to paragraph
24	(5).

1	(3) FORMULA FOR DISTRIBUTION.—The Ad-
2	ministrator shall distribute the proceeds to be allo-
3	cated pursuant to paragraph (2)(C)(ii) ratably
4	among the States based on the product obtained by
5	multiplying—
6	(A) the population of a State; and
7	(B) the allocation factor for the State de-
8	termined under paragraph (4).
9	(4) STATE ALLOCATION FACTORS.—
10	(A) In general.—Except as provided in
11	subparagraph (B), the allocation factor for a
12	State shall be the quotient obtained by divid-
13	ing—
14	(i) the per capita income of all indi-
15	viduals in the United States; by
16	(ii) the per capita income of all indi-
17	viduals in the State.
18	(B) Limitation.—
19	(i) Maximum.—If the allocation fac-
20	tor for a State as calculated under sub-
21	paragraph (A) would exceed 1.2, the allo-
22	cation factor for such State shall be 1.2.
23	(ii) MINIMUM.—If the allocation fac-
24	tor for a State as calculated under sub-
25	paragraph (A) would be less than 0.8, the

1	allocation factor for such State shall be
2	0.8.
3	(C) PER CAPITA INCOME.—For purposes
4	of this paragraph, per capita income shall be—
5	(i) determined at 2-year intervals; and
6	(ii) subject to subparagraph (D),
7	equal to the average of the annual per cap-
8	ita incomes for the most recent period of
9	3 consecutive years for which satisfactory
10	data are available from the Department of
11	Commerce at the time such determination
12	is made.
13	(D) REVENUE DIRECTLY RESULTING FROM
14	A PRESIDENTIALLY DECLARED MAJOR DIS-
15	ASTER.—
16	(i) In general.—For purposes of
17	this paragraph, per capita income from 1
18	or more of the sources described in clause
19	(ii) shall be reduced or excluded if the Sec-
20	retary of Commerce—
21	(I) (in consultation with the Ad-
22	ministrator and the heads of the de-
23	partments or agencies involved) deter-
24	mines that the income accrues to per-
25	sons as the result of a major disaster

1	designated by the President under the
2	Robert T. Stafford Disaster Relief
3	and Emergency Assistance Act (42
4	U.S.C. 5121 et seq.); and
5	(II) finds that the inclusion of 1
6	or more of the income sources, in
7	whole or in part, results in a transi-
8	tory, rather than a sustainable, in-
9	crease in a State's per capita income
10	level relative to the national average.
11	(ii) Sources of Income.—The
12	sources of income referred to in clause (i)
13	are the following:
14	(I) Property and casualty insur-
15	ance (including homeowners and rent-
16	ers insurance).
17	(II) The National Flood Insur-
18	ance Program of the Federal Emer-
19	gency Management Agency.
20	(III) The Individual and Family
21	Grants Program of the Federal Emer-
22	gency Management Agency.
23	(IV) The Disaster Housing Pro-
24	gram of the Federal Emergency Man-
25	agement Agency.

1	(V) The Community Develop-
2	ment Block Grant Program of the De-
3	partment of Housing and Urban De-
4	velopment.
5	(VI) The Disaster Unemployment
6	Assistance Program of the Depart-
7	ment of Labor.
8	(VII) Any other source deter-
9	mined appropriate by the Adminis-
10	trator.
11	(5) State climate change response ac-
12	COUNTS.—Each State shall establish a State Cli-
13	mate Change Response Account, to be administered
14	pursuant to State law, to receive and distribute the
15	amounts provided under paragraph (2)(C)(ii). State
16	regulations and implementing procedures relating to
17	such accounts shall require compliance with the pro-
18	visions of this section and all other applicable provi-
19	sions of Federal law.
20	(e) Distribution to Indian Tribes.—
21	(1) In General.—The Administrator, or the
22	heads of such Federal agencies as the President may
23	designate, shall promulgate regulations establishing
24	a program to distribute allowance proceeds to Indian
25	tribes, in accordance with the requirements of this

1	section, of which not less than 18 percent shall be
2	allocated to Alaska Native Villages for each year.
3	(2) Use of proceeds.—Allowance proceeds
4	distributed to Indian tribes shall be used exclu-
5	sively—
6	(A) in accordance with subsection (h); and
7	(B) in compliance with any approved tribal
8	climate change response plan.
9	(f) Distribution to Coastal and Great Lakes
10	STATES.—The Administrator, or the heads of such other
11	Federal agencies as the President may designate, shall dis-
12	tribute proceeds of emission allowances for coastal State
13	economic protection each fiscal year, in accordance with
14	section 384 of division A.
15	(g) Distribution of Transportation Grants.—
16	(1) Distribution of transportation
17	GRANTS.—
18	(A) IN GENERAL.—The Secretary of
19	Transportation, in consultation with the Admin-
20	istrator, shall distribute the amounts allocated
21	for transportation grants each fiscal year in ac-
22	cordance with subsection (d)(2)(C)(i) as grants
23	to public transportation agencies (including des-
24	ignated recipients (as defined in section
25	5307(a) and section 5340 of title 49, United

1	States Code)) and recipients and sub-recipients
2	(as defined in section 5311(a) of title 49
3	United States Code).
4	(B) FORMULA.—In providing grants under
5	this subsection, the Secretary shall distribute—
6	(i) 80 percent of the funds in accord-
7	ance with the formula and conditions gov-
8	erning grants under section 5307 of title
9	49, United States Code;
10	(ii) 10 percent of the funds in accord-
11	ance with the formula and conditions gov-
12	erning grants under section 5311 of title
13	49, United States Code; and
14	(iii) 10 percent of the funds in accord-
15	ance with the formula and conditions gov-
16	erning grants under section 5340 of title
17	49, United States Code.
18	(h) Uses of Allowance Proceeds Deposited to
19	SCCR ACCOUNTS.—
20	(1) In general.—States shall use allowance
21	proceeds deposited to SCCR Accounts under sub-
22	section (d)(2)(C)(ii) exclusively for the development
23	and implementation of projects, programs, or meas-
24	ures as described in this section to address climate
25	change by reducing emissions of greenhouse gases or

1	by building resilience to the impacts of climate
2	change, including impacts such as—
3	(A) extreme weather events, such as flood-
4	ing and tropical cyclones;
5	(B) more frequent heavy precipitation
6	events;
7	(C) water scarcity and adverse impacts on
8	water quality;
9	(D) stronger and longer heat waves;
10	(E) more frequent and severe droughts;
11	(F) rises in sea level;
12	(G) ecosystem disruption;
13	(H) increased wildfire risk;
14	(I) increased air pollution;
15	(J) effects on public health;
16	(K) impaired transportation systems and
17	infrastructure; and
18	(L) reduced productivity of agricultural or
19	ranching operations.
20	(2) Requirements.—The allowance proceeds
21	received by each SCCR Account for each fiscal year
22	shall be used by the State exclusively to fund the fol-
23	lowing categories of activities, in compliance with the
24	provisions of approved State climate change re-
25	sponse plans:

1	(A) Grants to fund water system mitiga-
2	tion and adaptation partnerships in accordance
3	with section 381 of division A.
4	(B) Flood control, protection, prevention
5	and response programs and projects in accord-
6	ance with section 382 of division A.
7	(C) Programs or projects implemented by
8	State agencies as owners or operators of water
9	systems to address any ongoing or forecasted
10	climate-related impact on water quality, water
11	supply or reliability, for 1 or more of the pur-
12	poses listed in section 381(d) of division A.
13	(D) Programs or projects to reduce green-
14	house gas emissions through recycling or for in-
15	creasing recycling rates in accordance with sec-
16	tion 154 of division A.
17	(E) Programs and projects addressing ad-
18	verse impacts of climate change affecting agri-
19	culture or ranching activities.
20	(F) Programs or projects addressing air
21	pollution or air quality impacts caused or exac-
22	erbated by climate change.
23	(G) Programs or projects to reduce green-
24	house gas emissions that result in a decrease in
25	emissions of other air pollutants.

1	(3) Distribution for Local Govern-
2	MENTS.—Not less than 12.5 percent of the proceeds
3	deposited to SCCR Accounts shall be distributed by
4	each State to units of local government within such
5	State, to be used exclusively to support the cat-
6	egories of climate change response efforts listed in
7	paragraph (2).
8	(4) Vulnerable populations.—In deploying
9	allowance proceeds under this section, States and
10	units of local government shall ensure that programs
11	and projects are funded responding to impacts af-
12	fecting socially and economically vulnerable popu-
13	lations, including—
14	(A) persons of low-income (as defined in
15	title I of the Housing and Community Develop-
16	ment Act of 1974, (42 U.S.C. 5301 et seq.));
17	(B) members of socially disadvantaged
18	groups (as defined in section 2501(e)(2) of the
19	Food, Agriculture, Conservation, and Trade Act
20	of 1990 (7 U.S.C. 2279(e)(2)));
21	(C) individuals over 65 years of age and
22	under 5 years of age; and
23	(D) individuals with disabilities.
24	(5) Intent of congress.—It is the intent of
25	the Congress that allowances distributed to carry

1	out this section should be used to supplement, and
2	not replace, existing sources of funding used to ad-
3	dress and build resilience to the impacts of climate
4	change.
5	(i) STATE AND TRIBAL CLIMATE CHANGE RESPONSE
6	Plans.—
7	(1) In general.—The regulations promulgated
8	pursuant to subsection (b) shall include require-
9	ments for submission and approval of State and
10	tribal climate change response plans under this sec-
11	tion. Beginning with vintage year 2012, distribution
12	of allowance proceeds to a State pursuant to this
13	section shall be contingent on approval of a State
14	climate change response plan for such State that
15	meets the requirements of such regulations.
16	(2) Requirements.—Regulations promulgated
17	under this section shall require, at minimum, that
18	State climate change response plans—
19	(A) assess and prioritize the vulnerability
20	of a State to a broad range of impacts of cli-
21	mate change, based on the best available
22	science;
23	(B) identify and prioritize specific cost-ef-
24	fective projects, programs, and measures to
25	mitigate and build resilience to current and pre-

1	dicted impacts of climate change, including
2	projects, programs, and measures within each
3	of the categories of activities listed in sub-
4	section $(h)(2)$ ;
5	(C) include an assessment of potential for
6	carbon reduction through changes to land man-
7	agement policies (including enhancement or
8	protection of forest carbon sinks);
9	(D) ensure that the State fully considers
10	and undertakes, to the maximum extent prac-
11	ticable, initiatives that—
12	(i) protect or enhance natural eco-
13	system functions, including protection,
14	maintenance, or restoration of natural in-
15	frastructure such as wetlands, reefs, and
16	barrier islands to buffer communities from
17	floodwaters or storms, watershed protec-
18	tion to maintain water quality and ground-
19	water recharge, or floodplain restoration to
20	improve natural flood control capacity;
21	(ii) where appropriate, use non-
22	structural approaches, including practices
23	that use, enhance, or mimic the natural
24	hydrologic cycle processes of infiltration,
25	evapotranspiration, and use; or

1	(111) where appropriate, protect for
2	ested land via scientifically based ecological
3	restoration practices, including by reducing
4	fuel loads, restoring forest diversity, and
5	conducting research on pest mitigation;
6	(E) give consideration to impacts affecting
7	socially and economically vulnerable popu-
8	lations, including—
9	(i) persons of low-income (as defined
10	in title I of the Housing and Community
11	Development Act of 1974 (42 U.S.C. sec
12	5301 et seq.));
13	(ii) members of socially disadvantaged
14	groups (as defined in section 2501(e)(2) of
15	the Food, Agriculture, Conservation, and
16	Trade Act of 1990 (7 U.S.C. 2279(e)(2)))
17	(iii) persons over 65 years of age and
18	under 5 years of age; and
19	(iv) persons with disabilities;
20	(F) use pre-disaster mitigation, emergency
21	response, and public insurance programs to
22	mitigate the impacts of climate change;
23	(G) be consistent with Federal conserva-
24	tion and environmental laws and, to the max-

1	imum extent practicable, avoid environmental
2	degradation; and
3	(H) be revised and resubmitted for ap-
4	proval not less frequently than every 5 years.
5	(3) Tribal climate change response
6	PLANS.—Requirements for tribal climate change re-
7	sponse plans should include the requirements listed
8	in subparagraphs (A) through (H) of paragraph (2),
9	as appropriate, but may vary from those of State cli-
10	mate change response plans to the extent necessary
11	to account for the special circumstances of Indian
12	tribes.
13	(4) Coordination with Prior Planning Ef-
14	FORTS.—In implementing this subsection, the Ad-
15	ministrator, or the heads of such Federal agencies
16	as the President may designate, shall—
17	(A) draw upon lessons learned and best
18	practices from preexisting State and tribal cli-
19	mate change response planning efforts;
20	(B) seek to avoid duplication of such ef-
21	forts; and
22	(C) ensure that the plans developed under
23	this section are developed in coordination with
24	State natural resources adaptation plans devel-
25	oped under section 369 of division A.

1	(j) Reporting.—Not later than 1 year after each
2	date of receipt of allowance proceeds under this section,
3	and biennially thereafter until the value of any allowance
4	proceeds received under this section has been fully ex-
5	pended, each State or Indian tribe receiving allowance pro-
6	ceeds under this section shall submit to the Administrator,
7	or the heads of such Federal agencies as the President
8	may designate, a report that—
9	(1) provides a full accounting for the use by the
10	State or Indian tribe of allowance proceeds distrib-
11	uted under this section, including a description of
12	the projects, programs, or measures supported using
13	such proceeds;
14	(2) includes a report prepared by an inde-
15	pendent third party, in accordance with such regula-
16	tions as are promulgated by the Administrator or
17	the heads of such other Federal agencies as the
18	President may designate, evaluating the performance
19	of the projects, programs, or measures supported
20	under this section; and
21	(3) identifies any use by the State or Indian
22	tribe of allowance proceeds distributed under this
23	section for the reduction of flood and storm damage
24	and the effects of climate change on water and flood
25	protection infrastructure.

tribe.

1 (k) AUDITING.—The Administrator, or the heads of 2 such Federal agencies as the President may designate, 3 shall have authority to conduct such audits or other review 4 of States implementation of and compliance with this sec-5 tion as such Federal officials may in their discretion deter-6 mine to be necessary or appropriate. 7 (1) Enforcement.—If the Administrator, or the 8 heads of such Federal agencies as the President may designate, determine that a State or Indian tribe is not in 10 compliance with this section, the Administrator or such 11 other agency head may withhold a quantity of the allow-12 ance proceeds equal to up to twice the quantity of allowance proceeds that the State or Indian tribe failed to use in accordance with the requirements of this section, that 14 15 such State or Indian tribe would otherwise be eligible to receive under this section in 1 or more later years. Allow-16 17 ance proceeds withheld pursuant to this subsection shall be distributed among the remaining States or Indian 18 tribes ratably in accordance with— 19 20 (1) the formula under subsection (d), in the 21 case of allowances withheld from a State; or 22 (2) in accordance with subsection (e), in the 23 case of allowance proceeds withheld from an Indian

1	SEC. 212. CLIMATE CHANGE HEALTH PROTECTION AND
2	PROMOTION FUND.
3	(a) Establishment of Fund.—There is estab-
4	lished in the Treasury a separate account, to be known
5	as the "Climate Change Health Protection and Promotion
6	Fund".
7	(b) Auction Proceeds.—The Administrator shall
8	deposit the proceeds of the auction pursuant to section
9	771(b)(8) of the Clean Air Act in the Climate Change
10	Health Protection and Promotion Fund.
11	(c) AVAILABILITY OF AMOUNTS.—All amounts depos-
12	ited in the Climate Change Health Protection and Pro-
13	motion Fund shall be available to the Secretary of Health
14	and Human Services to carry out subpart B of subtitle
15	C of title III of division A, without further appropriation
16	or fiscal year limitation.
17	(d) Distribution of Funds by HHS.—In carrying
18	out subpart B of subtitle C of title III of division A, the
19	Secretary of Health and Human Services may make funds
20	deposited in the Climate Change Health Protection and
21	Promotion Fund available to—
22	(1) other departments, agencies, and offices of
23	the Federal Government;
24	(2) foreign, State, tribal, and local govern-
25	ments; and

- 1 (3) such other entities as the Secretary deter-2 mines to be appropriate.
- 3 (e) Supplement, Not Replace.—It is the intent
- 4 of Congress that funds made available to carry out sub-
- 5 part B of subtitle C of title III of division A should be
- 6 used to supplement, and not replace, existing sources of
- 7 funding for public health.
- 8 SEC. 213. CLIMATE CHANGE SAFEGUARDS FOR NATURAL
- 9 RESOURCES CONSERVATION.
- 10 (a) Establishment of Fund.—There is estab-
- 11 lished in the Treasury a separate account, to be known
- 12 as the "Natural Resources Climate Change Adaptation
- 13 Account".
- 14 (b) AUCTION PROCEEDS.—The Administrator shall
- 15 deposit the proceeds of the auction conducted pursuant
- 16 to section 771(b)(9) of the Clean Air Act in the Natural
- 17 Resources Climate Change Adaptation Account.
- 18 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-
- 19 ited in the Natural Resources Climate Change Adaptation
- 20 Account shall be available without further appropriation
- 21 or fiscal year limitation solely for the purposes of section
- 22 370 of division A.

### 1 SEC. 214. NUCLEAR WORKER TRAINING.

- 2 (a) Establishment of Fund.—There is estab-
- 3 lished in the Treasury a separate account, to be known
- 4 as the "Nuclear Worker Training Fund".
- 5 (b) AUCTION PROCEEDS.—The Administrator shall
- 6 deposit the proceeds of the auction conducted pursuant
- 7 to section 771(b)(10) of the Clean Air Act in the Nuclear
- 8 Worker Training Fund.
- 9 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-
- 10 ited in the Nuclear Worker Training Fund shall be avail-
- 11 able without further appropriation or fiscal year limitation
- 12 solely for the purpose of carrying out section 132 of divi-
- 13 sion A.
- 14 SEC. 215. SUPPLEMENTAL AGRICULTURE, RENEWABLE EN-
- 15 ERGY, AND FORESTRY.
- 16 (a) Establishment of Fund.—There is estab-
- 17 lished in the Treasury a separate account, to be known
- 18 as the "Supplemental Agriculture, Renewable Energy, and
- 19 Forestry Fund".
- 20 (b) Auction Proceeds.—The Administrator shall
- 21 deposit the proceeds of the auction conducted pursuant
- 22 to section 771(b)(11) of the Clean Air Act in the Supple-
- 23 mental Agriculture, Renewable Energy, and Forestry
- 24 Fund.
- 25 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-
- 26 ited in the Supplemental Agriculture, Renewable Energy,

- 1 and Forestry Fund shall be available without further ap-
- 2 propriation or fiscal year limitation solely for the purpose
- 3 of carrying out section 155 of division A.