To direct the President to enter into an arrangement with the National Academy of Sciences to evaluate certain Federal rules and regulations for potentially harmful impacts on public health, air quality, water quality, plant and animal wildlife, global climate, or the environment; and to direct Federal departments and agencies to create plans to reverse those impacts that are determined to be harmful by the National Academy of Sciences.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Environment and Pub-
lic Health Restoration Act of 2006”.

SEC. 2. FINDINGS.

(a) GENERAL FINDINGS.—The Congress finds as fol-
lows:

(1) Our natural environment encompasses a
wide variety of habitats and ecosystems that nurture
and sustain a diversity of species, including the
human race.

(2) The abundance of natural resources in our
environment forms the basis for our economy and
has greatly contributed to human development
throughout history.

(3) The accelerated pace of human development
over the last several hundred years has significantly
impacted our natural environment and its resources,
the health and diversity of plant and animal wildlife,
the availability of critical habitats, the quality of our
air and our water, and our global climate.

(4) The intervention of the Federal Government
is necessary to minimize and mitigate human impact
on the environment for the benefit of public health,
maintain air quality and water quality, sustain the
diversity of plants and animals, combat global cli-
mate change, and protect the environment.

(5) Laws and regulations in the United States
have been created and promulgated to minimize and
mitigate human impact on the environment for the
benefit of public health, maintain air quality and
water quality, sustain wildlife, and protect the envi-
ronment.

(6) Such laws include the Antiquities Act of
1906 (16 U.S.C. 431 et seq.) initiated by President
Theodore Roosevelt to create the national park sys-
tem, the National Environmental Policy Act of 1969
(42 U.S.C. 4321 et seq.), the Clean Air Act (42
U.S.C. 7401 et seq.), the Federal Water Pollution
Control Act Amendments of 1972 (Public Law 92–
500), the Clean Water Act of 1977 (Public Law 95–
217), the Comprehensive Environmental Response,
Compensation, and Liability Act of 1980 (Public
Law 96–510), the Endangered Species Act of 1973
(Public Law 93–205), and the National Forest Man-

(7) Attempts to repeal or weaken key environ-
mental safeguards pose dangers to the public health,
air quality, water quality, wildlife, and the environment.

(b) FINDINGS ON CHANGES AND PROPOSED CHANGE IN LAW.—The Congress finds that, since 2001, the following changes and proposed changes to existing law or regulations have or will negatively impact the environment and public health:

(1) CLEAN WATER.—

(A) On May 9, 2002, the Environmental Protection Agency and the United States Army Corps of Engineers put forth a final rule that reconciled section 404 regulations of the Clean Water Act by redefining the term “fill material” and amending the definition of the term “discharge of fill material”, reversing a 25-year-old Clean Water Act regulation. The new rule fails to restrict the dumping of hardrock mining waste, construction debris, and other industrial wastes into rivers, streams, lakes, and wetlands. The rule further allows destructive mountaintop removal coal mining companies to dump waste into streams and lakes, polluting the surrounding natural habitat and poisoning plants and animals that depend on those water sources.
(B) On February 12, 2003, the Environmental Protection Agency published the rule “National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations”—new livestock waste regulations that aimed to control factory farm pollution but which would severely undermine existing Clean Water Act protections. This regulation allows large-scale animal factories to foul the Nation’s waters with animal waste, allows livestock owners to draft their own pollution-management plans and avoid groundwater monitoring, legalizes the discharge of contaminated runoff water rich in nitrogen, phosphorus, bacteria, and metals, and ensures that large factory farms are not held liable for the environmental damage they cause.

(C) On March 19, 2003, the Environmental Protection Agency published a new rule regarding the Total Maximum Daily Load program of the Clean Water Act, which regulates the maximum amount of a particular pollutant that can be present in a body of water and still meet water quality standards. The new rule
withdrew the existing regulation put forth on July 13, 2000, and halted momentum in cleaning up polluted waterways throughout the country. By abandoning the existing rule, the Environmental Protection Agency is undermining the effectiveness of clean-up plans and is allowing States to avoid cleaning polluted waters entirely by dropping them from their clean-up lists. Waterways play a crucial role in the lives of Americans and are critical to the livelihood of fish and wildlife. By dropping the July 2000 rule, cleanup of existing polluted rivers, shorelines, and lakes will be delayed, harming more fish and wildlife and worsening the quality of drinking water.

(2) **FORESTS AND LAND MANAGEMENT.**—

(A) On December 3, 2003, the President signed the Healthy Forests Restoration Act of 2003 (Public law 108–148). Although the law attempts to reduce the risk of catastrophic forest fires, it provides a boon to timber companies by accelerating the aggressive thinning of backcountry forests that are far from at-risk communities. The law allows for increased logging of large, fire-resistant trees that are not in
close proximity of homes and communities; it undermines critical protections for endangered species by exempting Federal land management agencies from consulting with the United States Fish and Wildlife Service before approving any action that could harm endangered plants or wildlife; and it limits public participation by reducing the number of environmental project reviews and exempting projects designed to reduce hazardous fuels from analysis.

(B) On January 5, 2005, the Department of Agriculture published a new national forest system land and resource management planning rule in the Federal Register that replaced the existing rule published on November 9, 2000. The revised rule opens 155 national forests and 20 grasslands (over 192 million acres of public lands) to logging, grazing, drilling, and other commercial activities. The new rule reverses more than 20 years of protection for wildlife and national forests by removing the overall goal of ensuring ecological sustainability in managing the national forest system, weakening the National Forest Management Act of 1976, and effectively ending the review of forest man-
agement plans under the National Environmental Policy Act of 1969.

(C) On May 13, 2005, the Department of Agriculture published the Protection of Inventoryed Roadless Areas rule, replacing the original Roadless Area Conservation Rule issued in January 2001. The new rule gives State Governors 18 months to petition the Federal Government to either restore the previous rule for their States, or submit a new management and development plan for national forest areas inventoried under the rule. As a result of the new rule, 58.5 million acres of wild national forests are now vulnerable to logging, road building, and other development that may fragment natural habitats and negatively impact fish and wildlife.

(3) CLEAN AIR.—

(A) On February 14, 2002, the President announced the Clear Skies Initiative, a limited market based cap and trade system designed to cut down on harmful air pollutants. The legislative proposal was later submitted to the Congress on July 29, 2002, and has since been introduced in various forms through the last
three Congresses. The Clear Skies Initiative would weaken existing emission reduction targets for sulfur dioxide, mercury, and nitrogen oxides under the Clean Air Act by allowing three times more toxic mercury emissions, 50 percent more sulfur emissions, and hundreds of thousands more tons of nitrogen oxides.

(B) On October 27, 2003, the Environmental Protection Agency published the rule “Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Equipment Replacement Provision of the Routine Maintenance, Repair and Replacement Exclusion”, which was slightly clarified on June 6, 2005. The new rule significantly undermines the New Source Review Permitting Program, a key tool of the Clean Air Act which requires owners of industrial facilities to install modern pollution control mechanisms whenever existing equipment is expanded, improved, replaced, or significantly repaired. In clarifying the definition of “routine maintenance,” the new rule exempts more than 17,000 older power plants, oil refineries, and factories across the country from having to install pollution controls
when replacing equipment or carrying out upgrades, even if such activities increase air pollution. Ultimately the new rule undermines the effectiveness of the Clean Air Act and fails to hold the oldest and dirtiest industrial facilities accountable for reducing the amount of pollution they produce, allowing them to continue to emit harmful toxic pollutants that will have a detrimental impact on public health and the environment.

(C) On March 29, 2005, the Environmental Protection Agency formally revised and reversed the regulatory finding that it issued in December 2000 pursuant to section 112(n)(1)(A) of the Clean Air Act, removing coal- and oil-fired electric utility steam generating units from the Clean Air Act section 112(c) source category list. The new rule revokes a decision in 2000 which determined that as the largest domestic source of mercury emissions it is “necessary and appropriate” to require power plants which use coal- and oil-fired utility units to apply technology that would reduce their mercury emissions as those emissions pose a significant public health and environ-
mental hazard. By reversing its previous intent to regulate these power plants and reduce the emissions of a serious hazardous air pollutant, the Environmental Protection Agency is potentially exposing millions of people to continued mercury pollution.

(D) On May 18, 2005, the Environmental Protection Agency issued a new rule entitled “Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units”, also known as the Clean Air Mercury Rule, which implements a cap-and-trade approach that is intended to reduce mercury emissions from coal-fired power plants. The new rule subverts a previous Environmental Protection Agency finding that required power plants to implement maximum achievable controls on mercury emissions by 2008, a decision that would have resulted in a 90 percent cut within 3 years, and further replaces an existing target of achieving an overall 70 percent reduction in emissions by 2018 in favor of a 50 percent reduction by 2020. By delaying the regulation of mercury emissions and reducing the overall targets for reduction the Environmental
Protection Agency further exposes millions of people to continued mercury pollution.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States Government to work in conjunction with States, territories, tribal governments, international organizations, and foreign governments in order to act as a steward of the environment for the benefit of public health, maintain air quality and water quality, sustain the diversity of plant and animal species, combat global climate change, and protect the environment for future generations to enjoy.

SEC. 4. STUDY AND REPORT ON PUBLIC HEALTH OR ENVIRONMENTAL IMPACT OF REVISED RULES, REGULATIONS, LAWS, OR PROPOSED LAWS.

(a) Study.—Not later than 30 days after the date of enactment of this Act, the President shall enter into an arrangement under which the National Academy of Sciences will conduct a study to determine the impact on public health, air quality, water quality, wildlife, and the environment of the following regulations, laws, and proposed laws:

(1) Clean Water.—

(A) Final Revisions to the Clean Water Act Regulatory Definitions of “Fill Material” and “Discharge of Fill Material”, finalized and


(2) Forests and Land Management.—


(B) National Forest System Land and Resource Management Planning Rule, finalized and published in the Federal Register on Janu-


(3) CLEAN AIR.—

(A) Clear Skies Initiative, announced by the President on February 14, 2002, and introduced as legislation in each subsequent Congress.

(B) Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Equipment Replacement Provision of the Routine Maintenance, Repair and Replacement Exclusion, finalized and published in the Federal Register on October 27, 2003 (68 FR 61248), and altered slightly on June 6, 2005.

(C) A rule revoking a 2000 decision that it is “necessary and appropriate” to require that each power plant apply technology to re-

(D) Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, finalized and published in the Federal Register on May 18, 2005 (70 FR 28606), which amended title 40, Code of Federal Regulations, parts 60, 72, and 75.

(b) **METHOD.**—In conducting the study under subsection (a), the National Academy of Sciences may utilize and compare existing scientific studies regarding the regulations, laws, and proposed laws listed in subsection (a).

(c) **REPORT.**—Under the arrangement entered into under subsection (a), not later than 270 days after the date on which such arrangement is entered into, the National Academy of Sciences shall make publicly available and shall submit to the Congress and to the head of each department and agency of the Federal Government that issued, implements, or would implement a regulation, law, or proposed law listed in subsection (a), a report containing—

(1) a description of the impact of all such regulations, laws, and proposed laws on public health, air
quality, water quality, wildlife, and the environment,
compared to the impact of preexisting regulations,
or laws in effect, including—

(A) any negative impacts to air quality or
water quality;

(B) any negative impacts to wildlife;

(C) any delays in hazardous waste cleanup
that are projected to be hazardous to public
health; and

(D) any other negative impact on public
health or the environment; and

(2) any recommendations that the National
Academy of Sciences considers appropriate to main-
tain, restore, or improve in whole or in part protec-
tions for public health, air quality, water quality,
wildlife, and the environment for each of the regula-
tions, laws, and proposed laws listed in subsection
(a), which may include recommendations for the
adoption of any regulation or law in place or pro-
posed prior to January 1, 2001.

SEC. 5. DEPARTMENT AND AGENCY REVISION OF EXISTING
RULES, REGULATIONS, OR LAWS.

Not later than 180 days after the date on which the
report is submitted pursuant to section 4(c), the head of
each department and agency that has issued or imple-
1. A regulation or law listed in section 4(a) shall submit to the Congress a plan describing the steps such department or such agency will take, or has taken, to restore or improve protections for public health and the environment in whole or in part that were in existence prior to the issuance of such regulation or law.