

110TH CONGRESS  
2D SESSION

# H. R. 6186

To direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2008

Mr. MARKEY introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Science and Technology, Natural Resources, Agriculture, Foreign Affairs, Education and Labor, Transportation and Infrastructure, Oversight and Government Reform, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes.

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 “Investing in Climate Action and Protection Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—CAPPING GREENHOUSE GAS EMISSIONS

- Sec. 101. Amendment of Clean Air Act.

“TITLE VII—GREENHOUSE GAS EMISSIONS

- “Sec. 700. Definitions.

“Subtitle A—Tracking Emissions

- “Sec. 701. Purpose.
- “Sec. 702. Definitions.
- “Sec. 703. Determination of carbon dioxide equivalent value of greenhouse gases.
- “Sec. 704. Designation of greenhouse gases.
- “Sec. 705. Reporting requirements.
- “Sec. 706. Data quality and verification.
- “Sec. 707. Federal greenhouse gas registry.

“Subtitle B—Reducing Emissions

- “Sec. 711. Emission allowance account.
- “Sec. 712. Compliance obligation.
- “Sec. 713. Penalty for noncompliance.

“Subtitle C—Distribution of Allowances

- “Sec. 721. Auctions.
- “Sec. 722. Auction proceeds.
- “Sec. 723. Transitional assistance to manufacturers of trade-exposed primary goods.

“Subtitle D—Trading, Banking, and Borrowing

- “Sec. 731. Trading.
- “Sec. 732. Banking.
- “Sec. 733. Borrowing.

“Subtitle E—Domestic Offsets

- “Sec. 741. Establishment of domestic offset program.
- “Sec. 742. Eligible project types.
- “Sec. 743. Protocols and accounting methods.
- “Sec. 744. Project initiation.
- “Sec. 745. Offset verification and issuance of credits.
- “Sec. 746. Audits.
- “Sec. 747. Timing and the provision of offset credits.
- “Sec. 748. Environmental considerations.
- “Sec. 749. Ownership and transfer of offset credits.

“Subtitle F—International Emission Allowances and Offset Credits

- “Sec. 751. International emission allowances.
- “Sec. 752. International offset credits.
- “Sec. 753. Retirement.

“Subtitle G—Global Effort To Reduce Greenhouse Gas Emissions

- “Sec. 761. Definitions.
- “Sec. 762. Purposes.
- “Sec. 763. International negotiations.
- “Sec. 764. Determination of comparable action.
- “Sec. 765. International reserve allowance program.
- “Sec. 766. Adjustment of international reserve allowance requirements.

“Subtitle H—Standards for Noncovered Facilities and Coal-Fired Power Plants

- “Sec. 771. Performance standards for certain sources that are not covered entities.
- “Sec. 772. Performance standards for new coal-fired power plants.
- Sec. 102. Conforming amendments.
- Sec. 103. Complementary policies for hydrofluorocarbons.
- Sec. 104. Waiver of preemption for California greenhouse gas emission standards for vehicles.
- Sec. 105. Low-carbon fuel standard.

TITLE II—CARBON MARKET OVERSIGHT

- Sec. 201. Amendment of Federal Power Act.

“PART IV—REGULATION OF CARBON MARKETS

- “Sec. 401. Purposes.
- “Sec. 402. Definitions.
- “Sec. 403. Office of Carbon Market Oversight; jurisdiction.
- “Sec. 404. Regulation of carbon trading.
- “Sec. 405. Registration of carbon trading facilities, brokers, dealers, and carbon clearing organizations.
- “Sec. 406. Administrative enforcement.
- “Sec. 407. Civil judicial enforcement.
- “Sec. 408. Criminal enforcement.
- “Sec. 409. Market reports.
- “Sec. 410. Application of other provisions.

TITLE III—INVESTING IN AMERICA’S LOW-CARBON FUTURE

Subtitle A—Climate Trust Tax Credits and Rebates

- Sec. 301. Purpose.
- Sec. 302. Climate Trust tax credit for working families and senior citizens.
- Sec. 303. Climate Trust rebates for low-income households.

Subtitle B—Low-Carbon Technology Fund

- Sec. 311. Purposes.
- Sec. 312. Funding.

- Sec. 313. Renewable energy and energy efficiency research, development, and demonstration.
- Sec. 314. Renewable energy deployment incentives.
- Sec. 315. Carbon capture and sequestration demonstration and deployment.
- Sec. 316. Fiscal years 2021 through 2050.

#### Subtitle C—National Energy Efficiency Fund

- Sec. 321. Purposes.
- Sec. 322. Definitions.
- Sec. 323. Funding.
- Sec. 324. Electricity consumers.
- Sec. 325. Natural gas consumers.
- Sec. 326. Building efficiency.
- Sec. 327. Smart growth and mass transit.
- Sec. 328. Weatherization Assistance Program and Low-Income Home Energy Assistance Program.
- Sec. 329. Recycling.

#### Subtitle D—Agriculture and Forestry Carbon Fund

- Sec. 331. Purpose.
- Sec. 332. Definitions.
- Sec. 333. Funding.
- Sec. 334. Agricultural and forestry greenhouse gas management research.
- Sec. 335. Incentive program.
- Sec. 336. Outreach initiative on revenue enhancement for agricultural producers and foresters.

#### Subtitle E—Green Jobs Training and Worker Transition Assistance

##### CHAPTER 1—GENERAL PROVISIONS

- Sec. 341. Purposes.
- Sec. 342. Definitions.
- Sec. 343. Funding.
- Sec. 344. Establishment of worker transition assistance program.
- Sec. 345. Petition and certification of eligibility.
- Sec. 346. Group eligibility requirements.
- Sec. 347. Benefit information for workers.

##### CHAPTER 2—PROGRAM BENEFITS

- Sec. 351. Income support assistance.
- Sec. 352. Training and other adjustment assistance.
- Sec. 353. Reemployment adjustment assistance program.
- Sec. 354. Health coverage tax credits.
- Sec. 355. Administration.

#### Subtitle F—National Climate Change Adaptation Program

- Sec. 361. Findings and purpose.
- Sec. 362. Definitions.
- Sec. 363. Funding.
- Sec. 364. National Climate Change Adaptation Council.
- Sec. 365. National Climate Change Adaptation Program.
- Sec. 366. National Climate Change Vulnerability Assessments.
- Sec. 367. Climate change adaptation services.

- Sec. 368. Federal agency climate change adaptation plans.
- Sec. 369. Federal funding for State, local, and tribal adaptation projects.

#### Subtitle G—Natural Resource Conservation Fund

- Sec. 371. Purposes.
- Sec. 372. Definitions.
- Sec. 373. Use of amounts in Natural Resource Conservation Fund.

#### Subtitle H—Climate Change Education and Centers for Excellence

- Sec. 381. Purposes.
- Sec. 382. Funding.
- Sec. 383. National Science Foundation climate change education programs.
- Sec. 384. Environmental Protection Agency climate change education program.
- Sec. 385. Climate change centers for excellence.

### TITLE IV—ENCOURAGING GLOBAL ACTION

#### Subtitle A—International Forest Protection Fund

- Sec. 401. Findings and purposes.
- Sec. 402. Definitions.
- Sec. 403. Funding.
- Sec. 404. Eligibility requirements and standards for forest carbon activities.
- Sec. 405. Assistance for forest carbon activities.
- Sec. 406. Capacity-building grants.
- Sec. 407. Annual reports.

#### Subtitle B—International Clean Technology Fund

- Sec. 411. Purposes.
- Sec. 412. Definitions.
- Sec. 413. Interagency group.
- Sec. 414. Determination of eligible countries.
- Sec. 415. Funding.
- Sec. 416. Annual reports.

#### Subtitle C—International Climate Change Adaptation Program

- Sec. 421. Findings and purposes.
- Sec. 422. Definitions.
- Sec. 423. Establishment.
- Sec. 424. Functions of program.
- Sec. 425. Funding.
- Sec. 426. Monitoring and evaluation of program.

### TITLE V—LEGAL FRAMEWORK FOR GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE

- Sec. 501. National regulations.
- Sec. 502. Liabilities for closed geological sequestration sites.

### TITLE VI—BUILDING EFFICIENCY STANDARDS

- Sec. 601. Updating State building energy efficiency codes.
- Sec. 602. Conforming amendment.

### TITLE VII—REVIEWS AND RECOMMENDATIONS

Sec. 701. National Academy of Sciences review and recommendations.

Sec. 702. Government Accountability Office review and recommendations.

Sec. 703. Presidential recommendations.

Sec. 704. Expedited congressional action on certain Presidential recommendations.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) unchecked global warming poses a signifi-  
4 cant threat to—

5 (A) the national security and economy of  
6 the United States;

7 (B) public health and welfare in the  
8 United States;

9 (C) the well-being of other countries; and

10 (D) the global environment;

11 (2) according to the Fourth Assessment Report  
12 of the Intergovernmental Panel on Climate Change,  
13 global warming is unequivocal and attributable to  
14 human activities, and evidence from all continents  
15 and most oceans shows that impacts from climate  
16 change are already occurring;

17 (3) under the United Nations Framework Con-  
18 vention on Climate Change, done at New York on  
19 May 9, 1992, the United States is committed to sta-  
20 bilizing greenhouse gas concentrations in the atmos-  
21 phere at a level that will prevent dangerous anthro-  
22 pogenic interference with with climate system;

1           (4) according to the Fourth Assessment Report  
2 of the Intergovernmental Panel on Climate Change,  
3 stabilizing greenhouse gas concentrations in the at-  
4 mosphere at a level that will prevent dangerous in-  
5 terference with the climate system, including pre-  
6 venting global mean surface temperature from in-  
7 creasing to more than 3.6 degrees Fahrenheit (2 de-  
8 grees Celsius) above preindustrial levels, will require  
9 a global effort to reduce anthropogenic greenhouse  
10 gas emissions worldwide by 50 to 85 percent below  
11 2000 levels by 2050;

12           (5) the costs of policies to achieve such levels of  
13 reduction are 5 to 20 times lower than the costs of  
14 unchecked global warming, according to the Stern  
15 Review of the Economics of Climate Change;

16           (6) prompt, decisive action is critical, since  
17 global warming pollutants can persist in the atmos-  
18 phere for more than a century;

19           (7) the ingenuity of the people of the United  
20 States will allow the United States to become a lead-  
21 er in curbing global warming;

22           (8) it is possible and desirable to cap green-  
23 house gas emissions, from sources that together ac-  
24 count for the majority of those emissions in the  
25 United States, at the 2005 level in 2012, and to

1 lower the cap each year between 2012 and 2050, on  
2 the condition that the system includes—

3 (A) robust programs to assist American  
4 workers and middle- and low-income consumers  
5 with the transition to a low-carbon economy;

6 (B) significant investment in energy effi-  
7 ciency policies and research, development, dem-  
8 onstration, and deployment of zero- and low-  
9 carbon energy technologies;

10 (C) cost containment measures;

11 (D) measures to avoid windfall profits to  
12 polluters;

13 (E) measures to promote a strong global  
14 effort to combat climate change, including  
15 measures to encourage major developing coun-  
16 tries to reduce greenhouse gas emissions;

17 (F) programs to assist communities in the  
18 United States and in the developing world to  
19 adapt to any impacts of unavoidable climate  
20 change; and

21 (G) periodic review of requirements and  
22 programs;

23 (9) Congress may need to update the emissions  
24 caps in order to account for continuing scientific



1 data and steps taken, or not taken, by foreign coun-  
2 tries;

3 (10) accurate emission data and timely compli-  
4 ance with the requirements of the greenhouse gas  
5 emission reduction and trading program established  
6 under this Act are needed to ensure that reductions  
7 are achieved in a fair and efficient manner;

8 (11) Federal oversight of the markets for  
9 tradable allowances and credits subject to the pro-  
10 gram, and for derivatives thereof, is necessary to en-  
11 sure transparency, fairness, and stability in such  
12 markets; and

13 (12) further policies external to a cap-and-trade  
14 program may be required, including with respect  
15 to—

16 (A) the transportation sector, where reduc-  
17 ing greenhouse gas emissions requires changes  
18 in vehicles, fuels, and consumer behavior; and

19 (B) the built environment, where reducing  
20 direct and indirect greenhouse gas emissions re-  
21 quires changes in buildings, appliances, light-  
22 ing, heating, cooling, and consumer behavior.

23 **SEC. 3. PURPOSES.**

24 The purposes of this Act are—

1           (1) to establish the core of a Federal program  
2 that will reduce United States greenhouse gas emis-  
3 sions substantially enough between 2008 and 2050  
4 to avert the catastrophic impacts of global climate  
5 change; and

6           (2) to accomplish that purpose while preserving  
7 robust growth in the United States economy, cre-  
8 ating new jobs, and avoiding the imposition of undue  
9 hardship on United States citizens.

10 **SEC. 4. DEFINITIONS.**

11 As used in this Act:

12           (1) **ADDITIONAL; ADDITIONALITY.**—The terms  
13 “additional” and “additionality”, except in subtitle  
14 E of title III, mean the extent to which reductions  
15 in greenhouse gas emissions or increases in seques-  
16 tration are incremental to business-as-usual, meas-  
17 ured as the difference between—

18                   (A) the baseline; and

19                   (B) net greenhouse gas emissions or se-  
20 questration resulting from an offset project.

21           (2) **ADMINISTRATOR.**—The term “Adminis-  
22 trator” means the Administrator of the Environ-  
23 mental Protection Agency.

24           (3) **BASELINE.**—The term “baseline” means  
25 the net greenhouse gas emissions or sequestration

1 that would have occurred in the absence of an offset  
2 project.

3 (4) BIOLOGICAL SEQUESTRATION.—The term  
4 “biological sequestration” means—

5 (A) the removal of carbon dioxide from the  
6 atmosphere by biological means, such as by  
7 growing plants; and

8 (B) the storage of carbon from that carbon  
9 dioxide in the plants or related soils.

10 (5) CARBON DIOXIDE EQUIVALENT.—The term  
11 “carbon dioxide equivalent” means, for each green-  
12 house gas, the quantity of the greenhouse gas that  
13 the Administrator determines, pursuant to section  
14 703 or 704 of the Clean Air Act (as added by sec-  
15 tion 101 of this Act), makes the same contribution  
16 to global warming as 1 metric ton of carbon dioxide.

17 (6) DEVELOPING COUNTRY.—The term “devel-  
18 oping country” means a country eligible to receive fi-  
19 nancial assistance from the International Bank for  
20 Reconstruction and Development (commonly known  
21 as the World Bank).

22 (7) EMISSION ALLOWANCE.—The term “emis-  
23 sion allowance” means an authorization, established  
24 by the Administrator under section 711(a) of the  
25 Clean Air Act (as added by section 101 of this Act),

1 to emit 1 carbon dioxide equivalent of greenhouse  
2 gas.

3 (8) GEOLOGICAL SEQUESTRATION.—The term  
4 “geological sequestration” means the isolation of  
5 greenhouse gases, without reversal, in geological for-  
6 mations, in accordance with section 1421(d) of the  
7 Safe Drinking Water Act (42 U.S.C. 300h(d)) (as  
8 added by section 501 of this Act), as determined by  
9 the Administrator.

10 (9) GREENHOUSE GAS.—The term “greenhouse  
11 gas” means any of—

12 (A) carbon dioxide;

13 (B) methane;

14 (C) nitrous oxide;

15 (D) sulfur hexafluoride;

16 (E) a hydrofluorocarbon;

17 (F) a perfluorocarbon;

18 (G) nitrogen trifluoride; or

19 (H) any other anthropogenic gas des-  
20 ignated by the Administrator as a greenhouse  
21 gas under section 704 of the Clean Air Act (as  
22 added by section 101 of this Act).

23 (10) OFFSET CREDIT.—The term “offset cred-  
24 it” means a credit issued by the Administrator  
25 under subtitle E of title VII of the Clean Air Act (as

1 added by section 101 of this Act) which represents  
2 1 carbon dioxide equivalent of—

3 (A) reduction in greenhouse gas emissions  
4 that are not covered by the requirements of sec-  
5 tion 712(a) of the Clean Air Act (as added by  
6 section 101 of this Act); or

7 (B) increase in biological sequestration.

8 (11) OFFSET PROJECT.—The term “offset  
9 project” means a project that reduces greenhouse  
10 gas emissions not covered by the requirements of  
11 section 712(a) of the Clean Air Act (as added by  
12 section 101 of this Act) or increases biological se-  
13 questration.

14 (12) REVERSAL.—The term “reversal” means  
15 an intentional or unintentional release to the atmos-  
16 phere of a significant quantity, as determined by the  
17 Administrator, of greenhouse gas that was bio-  
18 logically or geologically sequestered in order to ac-  
19 complish the purposes of title VII of the Clean Air  
20 Act (as added by section 101 of this Act).

21 (13) SEQUESTERED AND SEQUESTRATION.—  
22 The terms “sequestered” and “sequestration” mean  
23 the separation, isolation, or removal of greenhouse  
24 gases from the atmosphere, as determined by the  
25 Administrator.

1 **TITLE I—CAPPING GREENHOUSE**  
2 **GAS EMISSIONS**

3 **SEC. 101. AMENDMENT OF CLEAN AIR ACT.**

4 The Clean Air Act (42 U.S.C. 7401 and following)  
5 is amended by adding the following new title at the end  
6 thereof:

7 **“TITLE VII—GREENHOUSE GAS**  
8 **EMISSIONS**

9 **“SEC. 700. DEFINITIONS.**

10 “In this title:

11 “(1) **ADDITIONAL; ADDITIONALITY.**—The terms  
12 ‘additional’ and ‘additionality’ mean the extent to  
13 which reductions in greenhouse gas emissions or in-  
14 creases in sequestration are incremental to business-  
15 as-usual, measured as the difference between—

16 “(A) the baseline; and

17 “(B) net greenhouse gas emissions or se-  
18 questration resulting from an offset project.

19 “(2) **BASELINE.**—The term ‘baseline’ means  
20 the net greenhouse gas emissions or sequestration  
21 that would have occurred in the absence of an offset  
22 project.

23 “(3) **BIOLOGICAL SEQUESTRATION.**—The term  
24 ‘biological sequestration’ means—

1           “(A) the removal of carbon dioxide from  
2           the atmosphere by biological means, such as by  
3           growing plants; and

4           “(B) the storage of carbon from that car-  
5           bon dioxide in the plants or related soils.

6           “(4) CARBON DIOXIDE EQUIVALENT.—The  
7           term ‘carbon dioxide equivalent’ means, for each  
8           greenhouse gas, the quantity of the greenhouse gas  
9           that the Administrator determines, pursuant to sec-  
10          tion 703 or 704, makes the same contribution to  
11          global warming as 1 metric ton of carbon dioxide.

12          “(5) COVERED ENTITY.—The term ‘covered en-  
13          tity’ means, for each calendar year—

14                 “(A) a facility within the electric power  
15                 sector that contains a fossil fuel-fired electricity  
16                 generating unit or units that together emit  
17                 more than 10,000 carbon dioxide equivalents of  
18                 greenhouse gas in that year;

19                 “(B) an industrial facility that emits more  
20                 than 10,000 carbon dioxide equivalents of  
21                 greenhouse gas in that year;

22                 “(C) a facility that produces, or an entity  
23                 that imports, in that year petroleum- or coal-  
24                 based liquid or gaseous fuel, the combustion of

1 which will emit more than 10,000 carbon diox-  
2 ide equivalents of greenhouse gas;

3 “(D) a local distribution company that in  
4 that year delivers natural gas, the combustion  
5 of which will emit more than 10,000 carbon di-  
6 oxide equivalents of greenhouse gas;

7 “(E) a facility that produces for sale or  
8 distribution, or an entity that imports, in that  
9 year more than 10,000 carbon dioxide equiva-  
10 lents of hydrofluorocarbons, perfluorocarbons,  
11 sulfur hexafluoride, nitrogen trifluoride, or any  
12 other fluorinated gas that is a greenhouse gas,  
13 as designated by the Administrator under sec-  
14 tion 704, or any combination thereof; and

15 “(F) a site at which carbon dioxide is geo-  
16 logically sequestered on a commercial scale.

17 “(6) DESTRUCTION CREDIT.—The term ‘de-  
18 struction credit’ means a credit issued by the Ad-  
19 ministrator under section 712(f).

20 “(7) DEVELOPING COUNTRY.—The term ‘devel-  
21 oping country’ means a country eligible to receive fi-  
22 nancial assistance from the International Bank for  
23 Reconstruction and Development (commonly known  
24 as the World Bank).



1           “(8) EMISSION ALLOWANCE.—The term ‘emis-  
2           sion allowance’ means an authorization, established  
3           by the Administrator under section 711(a), to emit  
4           1 carbon dioxide equivalent of greenhouse gas.

5           “(9) FACILITY.—The term ‘facility’ means 1 or  
6           more buildings, structures, or installations of an en-  
7           tity on 1 or more contiguous or adjacent properties  
8           located in the United States.

9           “(10) FAIR MARKET VALUE.—The term ‘fair  
10          market value’ means the average market price, dur-  
11          ing a specified time period, of an emission allowance.

12          “(11) GEOLOGICAL SEQUESTRATION; GEOLOGI-  
13          CALLY SEQUESTERED.—The terms ‘geological se-  
14          questration’ and ‘geologically sequestered’ mean the  
15          isolation of greenhouse gases, without reversal, in  
16          geological formations, in accordance with section  
17          1421(d) of the Safe Drinking Water Act (42 U.S.C.  
18          300h(d)) (as added by section 501 of the Investing  
19          in Climate Action and Protection Act), as deter-  
20          mined by the Administrator.

21          “(12) GREENHOUSE GAS.—The term ‘green-  
22          house gas’ means any of—

23                  “(A) carbon dioxide;

24                  “(B) methane;

25                  “(C) nitrous oxide;

1 “(D) sulfur hexafluoride;

2 “(E) a hydrofluorocarbon;

3 “(F) a perfluorocarbon;

4 “(G) nitrogen trifluoride; or

5 “(H) any other anthropogenic gas des-  
6 ignated by the Administrator as a greenhouse  
7 gas under section 704.

8 “(13) INDUSTRIAL FACILITY.—The term ‘in-  
9 dustrial facility’ means—

10 “(A) any facility in the manufacturing sec-  
11 tor (as defined in North American Industrial  
12 Classification System codes 31, 32, and 33);

13 “(B) any natural gas processing plant; and

14 “(C) any other facility that produces  
15 petroleum- or coal-based liquid or gaseous fuel.

16 “(14) INTERNATIONAL EMISSION ALLOW-  
17 ANCE.—The term ‘international emission allowance’  
18 means a tradable authorization to emit 1 carbon di-  
19 oxide equivalent of greenhouse gas that—

20 “(A) is issued by a national or supra-  
21 national foreign government pursuant to a gov-  
22 ernmental program that imposes a mandatory  
23 absolute tonnage limit on greenhouse gas emis-  
24 sions from 1 or more foreign countries, or from  
25 1 or more economic sectors in such country or

1 countries, pursuant to protocols adopted in ac-  
2 cordance with the United Nations Framework  
3 Convention on Climate Change, done at New  
4 York on May 9, 1992; and

5 “(B) is not in the nature of an offset cred-  
6 it or allowance awarded based on the achieve-  
7 ment of an increase in biological sequestration  
8 or a reduction in greenhouse gas emissions that  
9 are not subject to the mandatory absolute ton-  
10 nage limits referred to in subparagraph (A).

11 “(15) INTERNATIONAL OFFSET CREDIT.—The  
12 term ‘international offset credit’ means—

13 “(A) a Certified Emission Reduction credit  
14 that has been certified under the Clean Devel-  
15 opment Mechanism of the Kyoto Protocol to the  
16 United Nations Framework Convention on Cli-  
17 mate Change, done at Kyoto on December 11,  
18 1997; or

19 “(B) an equivalent tradable credit issued  
20 under a successor protocol to the United Na-  
21 tions Framework on Climate Change, done at  
22 New York on May 9, 1992, provided that—

23 “(i) the credit represents 1 carbon di-  
24 oxide equivalent of increase in biological  
25 sequestration or reduction in greenhouse

1 gas emissions not subject to a govern-  
2 mentally mandated absolute tonnage limit;  
3 and

4 “(ii) such increase in biological se-  
5 questration or reduction in greenhouse gas  
6 emissions is real, verifiable, additional, per-  
7 manent, and enforceable.

8 “(16) INTERNATIONAL RESERVE ALLOW-  
9 ANCE.—The term ‘international reserve allowance’  
10 means an allowance (denominated in carbon dioxide  
11 equivalents) that is established pursuant to section  
12 765(a)(2).

13 “(17) LEAKAGE.—The term ‘leakage’ means—

14 “(A) a significant unaccounted increase in  
15 greenhouse gas emissions by a facility or entity  
16 caused by an offset project that produces an ac-  
17 counted reduction in greenhouse gas emissions,  
18 as determined by the Administrator; or

19 “(B) a significant unaccounted decrease in  
20 sequestration that is caused by an offset project  
21 that results in an accounted increase in seques-  
22 tration, as determined by the Administrator.

23 “(18) LOCAL DISTRIBUTION COMPANY.—The  
24 term ‘local distribution company’ has the meaning

1 given that term in section 2(17) of the Natural Gas  
2 Policy Act of 1978 (15 U.S.C. 3301(17)).

3 “(19) NATURAL GAS PROCESSING PLANT.—The  
4 term ‘natural gas processing plant’ means a facility  
5 in the United States that is designed to separate  
6 natural gas liquids from natural gas.

7 “(20) OFFSET CREDIT.—The term ‘offset cred-  
8 it’ means a credit issued by the Administrator under  
9 subtitle E which represents 1 carbon dioxide equiva-  
10 lent of—

11 “(A) reduction in greenhouse gas emissions  
12 that are not covered by the requirements of sec-  
13 tion 712(a); or

14 “(B) increase in biological sequestration.

15 “(21) OFFSET PROJECT.—The term ‘offset  
16 project’ means a project that reduces greenhouse gas  
17 emissions not covered by the requirements of section  
18 712(a) or increases biological sequestration.

19 “(22) PROJECT DEVELOPER.—The term  
20 ‘project developer’ means an individual or entity im-  
21 plementing an offset project.

22 “(23) REGISTRY.—The term ‘Registry’ means  
23 the Federal greenhouse gas registry established  
24 under section 707(a).

1           “(24) RETIRE.—The term ‘retire’, with respect  
2 to an emission allowance, offset credit, destruction  
3 credit, international emission allowance, inter-  
4 national offset credit, or international reserve allow-  
5 ance, means to disqualify such allowance or credit  
6 for any subsequent use under this title, regardless of  
7 whether the use is a sale, exchange, or submission  
8 of the allowance or credit in satisfying a compliance  
9 obligation.

10           “(25) REVERSAL.—The term ‘reversal’ means  
11 an intentional or unintentional release to the atmos-  
12 phere of a significant quantity, as determined by the  
13 Administrator, of greenhouse gas that was bio-  
14 logically or geologically sequestered in order to ac-  
15 complish the purposes of this title.

16           “(26) SEQUESTERED AND SEQUESTRATION.—  
17 The terms ‘sequestered’ and ‘sequestration’ mean  
18 the separation, isolation, or removal of greenhouse  
19 gases from the atmosphere, as determined by the  
20 Administrator.

## 21   **“Subtitle A—Tracking Emissions**

### 22   **“SEC. 701. PURPOSE.**

23           “The purpose of this subtitle is to establish a Federal  
24 greenhouse gas registry that—

1           “(1) is complete, consistent, transparent, and  
2 accurate;

3           “(2) will collect reliable and accurate data that  
4 can be used by public and private entities to identify  
5 sources of emissions and design efficient and effective  
6 energy security initiatives and greenhouse gas  
7 emission reduction strategies; and

8           “(3) will provide appropriate high-quality data  
9 to be used for implementing greenhouse gas reduction  
10 policies.

11 **“SEC. 702. DEFINITIONS.**

12           “In this subtitle:

13           “(1) AFFECTED ENTITY.—

14           “(A) IN GENERAL.—Except as provided in  
15 subparagraph (B), the term ‘affected entity’  
16 means, for any calendar year—

17           “(i) a covered entity;

18           “(ii) another entity that emits a  
19 greenhouse gas, as determined by the Ad-  
20 ministrator; or

21           “(iii) any vehicle fleet, with emissions  
22 of more than 10,000 carbon dioxide  
23 equivalentents in that year, if the Adminis-  
24 trator determines that the inclusion of  
25 such fleet will help achieve the purposes of

1 the Investing in Climate Action and Pro-  
2 tection Act.

3 “(B) EXCLUSIONS.—The term ‘affected  
4 entity’ does not include any entity that—

5 “(i) is not a covered entity;

6 “(ii) is owned or operated by a small  
7 business (as described in part 121 of title  
8 13, Code of Federal Regulations (or a suc-  
9 cessor regulation)); and

10 “(iii) emits fewer than 10,000 carbon  
11 dioxide equivalents in the year for which  
12 the definition is being applied.

13 “(2) CARBON CONTENT.—The term ‘carbon  
14 content’ means the quantity of carbon (in carbon di-  
15 oxide equivalent) contained in a fuel.

16 “(3) CLIMATE REGISTRY.—The term ‘Climate  
17 Registry’ means the greenhouse gas emissions reg-  
18 istry jointly established and managed by more than  
19 40 States and Indian tribes in 2007 to collect high-  
20 quality greenhouse gas emission data from facilities,  
21 corporations, and other organizations to support var-  
22 ious greenhouse gas emission reporting and reduc-  
23 tion policies for the member States and Indian  
24 tribes.



1           “(4) FEEDSTOCK FOSSIL FUEL.—The term  
2           ‘feedstock fossil fuel’ means fossil fuel used as raw  
3           material in a manufacturing process.

4           “(5) GREENHOUSE GAS EMISSIONS.—The term  
5           ‘greenhouse gas emissions’ means emissions of a  
6           greenhouse gas, including—

7                   “(A) stationary combustion source emis-  
8                   sions emitted as a result of combustion of fuels  
9                   in stationary equipment, such as boilers, fur-  
10                  naces, burners, turbines, heaters, incinerators,  
11                  engines, flares, and other similar sources;

12                  “(B) process emissions consisting of emis-  
13                  sions from chemical or physical processes other  
14                  than combustion;

15                  “(C) fugitive emissions consisting of inten-  
16                  tional and unintentional emissions from equip-  
17                  ment leaks, such as joints, seals, packing, and  
18                  gaskets, or from piles, pits, cooling towers, and  
19                  other similar sources; and

20                  “(D) biogenic emissions resulting from bio-  
21                  logical processes, such as anaerobic decomposi-  
22                  tion, nitrification, denitrification, and enteric  
23                  fermentation.

24           “(6) INDIAN TRIBE.—The term ‘Indian tribe’  
25           has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance  
2 Act (25 U.S.C. 450b).

3 “(7) SOURCE.—The term ‘source’ means any  
4 building, structure, installation, unit, point, oper-  
5 ation, vehicle, land area, or other item that emits or  
6 may emit a greenhouse gas.

7 **“SEC. 703. DETERMINATION OF CARBON DIOXIDE EQUIVA-**  
8 **LENT VALUE OF GREENHOUSE GASES.**

9 “(a) INITIAL DETERMINATION.—Not later than 90  
10 days after the date of enactment of this title, the Adminis-  
11 trator shall—

12 “(1) determine the quantity of each greenhouse  
13 gas that makes the same contribution to global  
14 warming as 1 metric ton of carbon dioxide; and

15 “(2) publish such determination in the Federal  
16 Register.

17 “(b) PERIODIC REVIEW.—

18 “(1) Not later than January 1, 2013, and (ex-  
19 cept as provided in paragraph (3)) not less than  
20 every 5 years thereafter, the Administrator shall—

21 “(A) review and, if necessary, revise the  
22 determinations made under subsection (a); and

23 “(B) publish in the Federal Register the  
24 results of that review and any revisions.

1           “(2) A revised determination published under  
2 this subsection shall take effect on January 1 of the  
3 calendar year immediately after the calendar year in  
4 which the determination was revised.

5           “(3) The Administrator may adjust the fre-  
6 quency of review and revision under paragraph (1)  
7 if the Administrator determines that such adjust-  
8 ment is appropriate in order to synchronize such re-  
9 view and revision with any similar review process  
10 carried out pursuant to the United Nations Frame-  
11 work Convention on Climate Change, done at New  
12 York on May 9, 1992, or to an agreement negotiated  
13 under that convention, except that in no event shall  
14 the Administrator carry out such review and revision  
15 any less frequently than every 10 years.

16           “(c) METHODOLOGY.—In determining the quantity  
17 of a greenhouse gas that makes the same contribution to  
18 global warming as 1 metric ton of carbon dioxide, for pur-  
19 poses of this section or section 704, the Administrator  
20 shall take into account the guidelines established by the  
21 Intergovernmental Panel on Climate Change or a suc-  
22 cessor organization under the United Nations.

23 **“SEC. 704. DESIGNATION OF GREENHOUSE GASES.**

24           “(a) DETERMINATION ON ADMINISTRATOR’S INITIA-  
25 TIVE.—The Administrator shall—

1           “(1) designate as a greenhouse gas, for pur-  
2           poses of section 700(12) of this title and section  
3           4(9) of the Investing in Climate Action and Protec-  
4           tion Act, any anthropogenic gas 1 metric ton of  
5           which makes the same or greater contribution to  
6           global warming as 1 metric ton of carbon dioxide, as  
7           determined by the Administrator; and

8           “(2) publish in the Federal Register such des-  
9           ignation, including the quantity of the gas that the  
10          Administrator determines makes the same contribu-  
11          tion to global warming as 1 metric ton of carbon di-  
12          oxide.

13          “(b) PETITIONS TO DESIGNATE A GREENHOUSE  
14          GAS.—

15                 “(1) IN GENERAL.—Any person may petition  
16                 the Administrator to designate as a greenhouse gas  
17                 any anthropogenic gas 1 metric ton of which makes  
18                 the same or greater contribution to global warming  
19                 as 1 metric ton of carbon dioxide.

20                 “(2) AVAILABILITY OF DATA.—Any such peti-  
21                 tion shall include a showing by the petitioner that  
22                 there are data on the gas adequate to support the  
23                 petition.

24                 “(3) DETERMINATION.—Within one year after  
25                 receipt of a petition, the Administrator shall deter-

1 mine the quantity of the gas that makes the same  
2 contribution to global warming as 1 metric ton of  
3 carbon dioxide and shall take one of the following  
4 actions:

5 “(A) If the Administrator determines that  
6 1 metric ton of the gas makes a contribution to  
7 global warming that is equal to or greater than  
8 that made by 1 metric ton of carbon dioxide,  
9 the Administrator shall grant the petition and  
10 shall take the actions described in subsection  
11 (a).

12 “(B) If the Administrator determines that  
13 1 metric ton of the gas does not make a con-  
14 tribution to global warming that is equal to or  
15 greater than that made by 1 metric ton of car-  
16 bon dioxide, the Administrator shall deny the  
17 petition and shall publish in the Federal Reg-  
18 ister a written explanation of the reasons for  
19 the Administrator’s decision.

20 “(4) GROUNDS FOR DENIAL.—The Adminis-  
21 trator may not deny a petition solely on the basis of  
22 inadequate resources or time for review.

23 “(5) ACQUISITION OF INFORMATION.—If the  
24 Administrator determines that information on the  
25 gas is not sufficient to make a determination, the

1 Administrator shall use any authority available to  
2 the Administrator, under any law administered by  
3 the Administrator, to acquire such information.

4 “(c) MANUFACTURING NOTICES.—

5 “(1) NOTICE REQUIREMENT.—No person may  
6 manufacture or import into the United States a  
7 fluorinated gas after the date of enactment of this  
8 title unless—

9 “(A) such gas is already designated as a  
10 greenhouse gas for purposes of section 700(12)  
11 of this title and section 4(9) of the Investing in  
12 Climate Action and Protection Act;

13 “(B) the Administrator has determined  
14 that 1 metric ton of such gas does not make a  
15 contribution to global warming that is equal to  
16 or greater than that made by 1 metric ton of  
17 carbon dioxide; or

18 “(C) such person has submitted to the Ad-  
19 ministrator, at least 90 days before such manu-  
20 facture or import, a notice of such person’s in-  
21 tent to manufacture or import such gas, includ-  
22 ing the common or trade name, the chemical  
23 identity, and the molecular structure of the gas.

24 “(2) REVIEW AND ACTION BY THE ADMINIS-  
25 TRATOR.—Within one year after receipt of a notice

1 under paragraph (1)(C), the Administrator shall de-  
2 termine the quantity of the relevant gas that makes  
3 the same contribution to global warming as 1 metric  
4 ton of carbon dioxide and shall take one of the fol-  
5 lowing actions:

6 “(A) If the Administrator determines that  
7 1 metric ton of the gas makes a contribution to  
8 global warming that is equal to or greater than  
9 that made by 1 metric ton of carbon dioxide,  
10 the Administrator shall take the actions de-  
11 scribed in subsection (a).

12 “(B) If the Administrator determines that  
13 1 metric ton of the gas does not make a con-  
14 tribution to global warming that is equal to or  
15 greater than that made by 1 metric ton of car-  
16 bon dioxide, the Administrator shall publish in  
17 the Federal Register a written explanation of  
18 the reasons for the Administrator’s decision.

19 “(d) EFFECT OF AFFIRMATIVE DETERMINATION.—  
20 A determination published pursuant to subsection (a),  
21 subsection (b)(3)(A), or subsection (c)(2)(A) shall—

22 “(1) be deemed to constitute the initial deter-  
23 mination for the greenhouse gas for purposes of sec-  
24 tion 703(a); and

1           “(2) take effect on January 1 of the calendar  
2           year immediately following the calendar year in  
3           which the determination is published.

4           “(e) REGULATIONS.—Not later than one year after  
5           the date of enactment of this title, the Administrator shall  
6           promulgate regulations to carry out this section.

7           **“SEC. 705. REPORTING REQUIREMENTS.**

8           “(a) IN GENERAL.—Subject to this section, each af-  
9           fected entity shall submit to the Administrator, for inclu-  
10          sion in the Registry, periodic reports, including annual  
11          and quarterly data, that—

12           “(1) include—

13           “(A) the quantity and type of fossil fuels,  
14           including feedstock fossil fuels, that are ex-  
15           tracted, produced, refined, imported, exported,  
16           or consumed by the entity; and

17           “(B) in the case of a local distribution  
18           company, the quantity of natural gas delivered  
19           by the local distribution company, including a  
20           separate accounting of the quantity delivered to  
21           entities that are not covered entities;

22           “(2) include the quantity of greenhouse gas  
23           generated, produced, imported, exported, or con-  
24           sumed by the entity;



1           “(3) include the quantity of greenhouse gas  
2 that has been captured and sequestered by the enti-  
3 ty;

4           “(4) include the quantity of electricity gen-  
5 erated or exported by the entity, and information on  
6 the quantity of greenhouse gases emitted when the  
7 electricity was generated, as determined by the  
8 methodology published by the Administrator under  
9 section 706(a)(3);

10           “(5) include the quantity of electricity imported  
11 or consumed by the entity, and information on the  
12 quantity of greenhouse gases emitted when the im-  
13 ported or consumed electricity was generated, as de-  
14 termined by the methodology published by the Ad-  
15 ministrator under section 706(a)(3);

16           “(6) include the aggregate quantity of all green-  
17 house gas emissions from sources at the entity;

18           “(7) include greenhouse gas emissions ex-  
19 pressed in metric tons of each greenhouse gas emit-  
20 ted and in the quantity of carbon dioxide equivalents  
21 of each greenhouse gas emitted;

22           “(8) include a list and description of sources of  
23 greenhouse gas emissions at the entity;

1           “(9) include information about the entity, as  
2           determined by the Administrator, which shall include  
3           corporate ownership of the entity;

4           “(10) quantify greenhouse gas emissions in ac-  
5           cordance with the measurement standards estab-  
6           lished under section 706;

7           “(11) include other data necessary for accurate  
8           and complete accounting of greenhouse gas emis-  
9           sions, as determined by the Administrator;

10          “(12) include an appropriate certification re-  
11          garding the accuracy and completeness of reported  
12          data, as determined by the Administrator; and

13          “(13) are submitted electronically to the Ad-  
14          ministrator, in such form and to such extent as may  
15          be required by the Administrator.

16          “(b) DE MINIMIS EXEMPTIONS.—

17                 “(1) IN GENERAL.—The Administrator may de-  
18                 termine—

19                         “(A) whether certain sources at an af-  
20                         fected entity should be considered to be eligible  
21                         for a de minimis exemption from a requirement  
22                         for reporting under subsection (a); and

23                         “(B) the level of greenhouse gases emitted  
24                         from a source that would qualify for such an  
25                         exemption.

1           “(2) FACTORS.—In making a determination  
2           under paragraph (1), the Administrator shall con-  
3           sider the availability and suitability of simplified  
4           techniques and tools for quantifying emissions and  
5           the cost to measure those emissions relative to the  
6           purposes of this title, including the goal of collecting  
7           complete and consistent entity-wide data.

8           “(c) VERIFICATION OF REPORT REQUIRED.—Before  
9           including the information from a report required under  
10          this section in the Registry, the Administrator shall verify  
11          the completeness and accuracy of the report using infor-  
12          mation provided under this section, obtained under section  
13          114 or 307(a), or obtained under other provisions of law.

14          “(d) TIMING.—

15                 “(1) CALENDAR YEARS 2007 THROUGH 2010.—  
16          For a base period of calendar years 2007 through  
17          2010, each affected entity shall submit required an-  
18          nual data described in this section to the Adminis-  
19          trator not later than March 31, 2011. The Adminis-  
20          trator may waive reporting requirements for cal-  
21          endar years 2007 through 2010 for an affected enti-  
22          ty if the Administrator determines that the affected  
23          entity did not keep data or records necessary to  
24          meet reporting requirements.

1           “(2) SUBSEQUENT CALENDAR YEARS.—For cal-  
2           endar year 2011 and each subsequent calendar year,  
3           each affected entity shall submit quarterly data de-  
4           scribed in this section to the Administrator not later  
5           than 60 days after the end of the applicable quarter.

6           “(e) NO EFFECT ON OTHER REQUIREMENTS.—  
7           Nothing in this subtitle affects any requirement in effect  
8           as of the date of enactment of this title relating to the  
9           reporting of—

10           “(1) fossil fuel production, refining, importa-  
11           tion, exportation, or consumption data;

12           “(2) greenhouse gas emission data; or

13           “(3) other relevant data.

14   **“SEC. 706. DATA QUALITY AND VERIFICATION.**

15           “(a) PROTOCOLS AND METHODS.—

16           “(1) IN GENERAL.—The Administrator shall es-  
17           tablish by regulation, taking into account the work  
18           done by the Climate Registry, comprehensive proto-  
19           cols and methods to ensure the accuracy, complete-  
20           ness, consistency, and transparency of data on  
21           greenhouse gas emissions and fossil fuel production,  
22           refining, importation, exportation, and consumption  
23           submitted to the Registry that include—

1           “(A) accounting and reporting standards  
2 for fossil fuel production, refining, importation,  
3 exportation, and consumption;

4           “(B) a requirement that, where technically  
5 and economically feasible, submitted data are  
6 monitored using monitoring systems for fuel  
7 flow or emissions, such as continuous emission  
8 monitoring systems or equivalent systems of  
9 similar rigor, accuracy, quality, and timeliness;

10           “(C) a requirement that, if an affected en-  
11 tity has already been directed to monitor emis-  
12 sions of a greenhouse gas using a continuous  
13 emission monitoring system under existing law,  
14 that system be used in complying with this title  
15 with respect to the greenhouse gas;

16           “(D) for cases in which the Administrator  
17 determines that monitoring emissions with the  
18 precision, reliability, accessibility, and timeli-  
19 ness similar to that provided by a continuous  
20 emission monitoring system is not techno-  
21 logically or economically feasible, standardized  
22 methods for calculating greenhouse gas emis-  
23 sions in specific industries using other readily  
24 available and reliable information, such as fuel  
25 consumption, materials consumption, produc-

1           tion, or other relevant activity data, on the con-  
2           dition that those methods do not underreport  
3           emissions, as compared with the continuous  
4           emission monitoring system;

5           “(E) information on the accuracy of meas-  
6           urement and calculation methods;

7           “(F) methods to avoid double-counting of  
8           greenhouse gas emissions;

9           “(G) protocols to prevent an affected enti-  
10          ty from avoiding the reporting requirements of  
11          this subtitle (such as by reorganizing into mul-  
12          tiple entities or outsourcing activities that re-  
13          sult in greenhouse gas emissions); and

14          “(H) protocols for verification of data sub-  
15          mitted by affected entities.

16          “(2) BEST PRACTICES.—The protocols and  
17          methods developed under paragraph (1) shall incor-  
18          porate and conform to the best practices from the  
19          most recent Federal, State, and international proto-  
20          cols for the measurement, accounting, reporting, and  
21          verification of greenhouse gas emissions to ensure  
22          the accuracy, completeness, and consistency of the  
23          data.

24          “(3) ELECTRICITY GENERATION EMISSIONS.—  
25          The Administrator shall establish and publish in the

1 Federal Register a methodology for calculating the  
2 greenhouse gas emissions from the generation of  
3 electricity, taking into account the location of the en-  
4 tity and any regional variations in fuels used for  
5 electric power generation.

6 “(b) VERIFICATION; INFORMATION BY REPORTING  
7 ENTITIES.—Each affected entity shall—

8 “(1) provide information sufficient for the Ad-  
9 ministrator to verify, in accordance with the proto-  
10 cols and methods developed under subsection (a),  
11 that the fossil fuel data and greenhouse gas emission  
12 data of the affected entity have been completely and  
13 accurately reported; and

14 “(2) ensure the submission or retention, for the  
15 5-year period beginning on the date of provision of  
16 the information, of—

17 “(A) data sources;

18 “(B) information on internal control activi-  
19 ties;

20 “(C) information on assumptions used in  
21 reporting emissions and fuels;

22 “(D) uncertainty analyses; and

23 “(E) other relevant data and information  
24 to facilitate the verification of reports submitted  
25 to the Registry.

1       “(c) WAIVER OF REPORTING REQUIREMENTS.—The  
2 Administrator may waive reporting requirements for spe-  
3 cific entities if the Administrator determines that suffi-  
4 cient and equally or more reliable data are available under  
5 other provisions of law.

6       “(d) MISSING DATA.—If information, satisfactory to  
7 the Administrator, is not provided for an affected entity,  
8 the Administrator shall—

9           “(1) prescribe methods to estimate emissions  
10 for the entity for each period for which data are  
11 missing, reflecting the highest emission levels that  
12 may reasonably have occurred during the period for  
13 which data are missing; and

14           “(2) take appropriate enforcement action pur-  
15 suant to this section and section 113.

16 **“SEC. 707. FEDERAL GREENHOUSE GAS REGISTRY.**

17       “(a) ESTABLISHMENT.—The Administrator shall es-  
18 tablish a Federal greenhouse gas registry.

19       “(b) ADMINISTRATION.—In establishing the Reg-  
20 istry, the Administrator shall—

21           “(1) design and operate the Registry;

22           “(2) provide coordination and technical assist-  
23 ance for the development of proposed protocols and  
24 methods, taking into account the duties carried out



1 by the Climate Registry, to be published by the Ad-  
2 ministrator;

3 “(3)(A) develop an electronic format for report-  
4 ing under guidelines established under section  
5 706(a)(1); and

6 “(B) make the electronic format available to re-  
7 porting entities;

8 “(4) verify and audit the data submitted by af-  
9 fected entities;

10 “(5) establish consistent policies for calculating  
11 carbon content and greenhouse gas emissions for  
12 each type of fossil fuel reported under section 705;

13 “(6) calculate carbon content and greenhouse  
14 gas emissions associated with the combustion of fos-  
15 sil fuel data reported by affected entities; and

16 “(7) promptly publish on the Internet all infor-  
17 mation contained in the Registry, except in any case  
18 in which publishing the information would result in  
19 a disclosure of—

20 “(A) information vital to national security,  
21 as determined by the President; or

22 “(B) confidential business information that  
23 cannot be derived from information that is oth-  
24 erwise publicly available and that would cause  
25 significant calculable competitive harm if pub-

1           lished (except that information on total green-  
2           house gas emissions shall not be considered to  
3           be confidential business information).

4           “(c) THIRD-PARTY VERIFICATION.—The Adminis-  
5           trator may use the services of third parties that have no  
6           conflicts of interest to verify reports required under sec-  
7           tion 705.

8           “(d) REGULATIONS.—Not later than December 31,  
9           2009, the Administrator shall promulgate final regulations  
10          to carry out this section.

## 11          **“Subtitle B—Reducing Emissions**

### 12          **“SEC. 711. EMISSION ALLOWANCE ACCOUNT.**

13          “(a) IN GENERAL.—The Administrator shall estab-  
14          lish a separate quantity of emission allowances for each  
15          of calendar years 2012 through 2050, in accordance with  
16          subsection (d).

17          “(b) IDENTIFICATION NUMBERS.—The Adminis-  
18          trator shall assign to each emission allowance established  
19          under subsection (a) a unique identification number that  
20          includes the calendar year for which that emission allow-  
21          ance was established.

22          “(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

23                  “(1) IN GENERAL.—An emission allowance does  
24          not constitute a property right.

1           “(2) TERMINATION OR LIMITATION.—Nothing  
 2           in this Act or any other provision of law shall be  
 3           construed to limit or alter the authority of the  
 4           United States to terminate or limit an emission al-  
 5           lowance.

6           “(3) OTHER PROVISIONS UNAFFECTED.—Noth-  
 7           ing in this Act relating to emission allowances shall  
 8           affect the application of, or the responsibility for  
 9           compliance with, any other provision of law to or of  
 10          a covered entity.

11          “(d) ALLOWANCES FOR EACH CALENDAR YEAR.—  
 12          The numbers of emission allowances established by the  
 13          Administrator under subsection (a) for each of calendar  
 14          years 2012 through 2050 shall be as follows:

“Calendar year	Number of emission allowances (in millions)
2012	6,098
2013	5,946
2014	5,794
2015	5,642
2016	5,490
2017	5,338
2018	5,186
2019	5,034
2020	4,983
2021	4,848
2022	4,713

“Calendar year	Number of emission allowances (in millions)
2023	4,578
2024	4,443
2025	4,308
2026	4,173
2027	4,038
2028	3,903
2029	3,768
2030	3,633
2031	3,498
2032	3,363
2033	3,228
2034	3,093
2035	2,958
2036	2,823
2037	2,688
2038	2,553
2039	2,418
2040	2,283
2041	2,148
2042	2,013
2043	1,878
2044	1,743
2045	1,608
2046	1,473
2047	1,338
2048	1,203
2049	1,068

“Calendar year	Number of emission allowances (in millions)
2050	930

1 **“SEC. 712. COMPLIANCE OBLIGATION.**

2 “(a) IN GENERAL.—Not later than 90 days after the  
3 end of each of calendar years 2012 through 2050, the  
4 owner or operator of a covered entity shall submit to the  
5 Administrator a quantity of emission allowances calculated  
6 as follows:

7 “(1) For a covered entity that is a facility with-  
8 in the electric power sector, 1 emission allowance for  
9 each carbon dioxide equivalent of greenhouse gas  
10 that such facility emitted in the calendar year, ex-  
11 cluding—

12 “(A) emissions resulting from the use at  
13 that facility of petroleum- or coal-based liquid  
14 or gaseous fuel (other than petroleum coke);  
15 and

16 “(B) any greenhouse gas that is captured  
17 and geologically sequestered.

18 “(2) For a covered entity that is an industrial  
19 facility, 1 emission allowance for each carbon dioxide  
20 equivalent of greenhouse gas that such facility emit-  
21 ted in the calendar year, excluding—

1           “(A) emissions resulting from the use at  
2           that facility of petroleum- or coal-based liquid  
3           or gaseous fuel (other than petroleum coke);

4           “(B) emissions resulting from the use of  
5           hydrofluorocarbons, perfluorocarbons, sulfur  
6           hexafluoride, nitrogen trifluoride, or any other  
7           fluorinated gas that is a greenhouse gas, as  
8           designated by the Administrator under section  
9           704, purchased for use at that facility; and

10           “(C) any greenhouse gas that is captured  
11           and geologically sequestered.

12           “(3) For a covered entity that produced or im-  
13           ported petroleum- or coal-based liquid or gaseous  
14           fuel (other than petroleum coke), 1 emission allow-  
15           ance for each carbon dioxide equivalent of green-  
16           house gas that will be emitted from the combustion  
17           of any such fuel produced for use in the United  
18           States or imported during the calendar year, assum-  
19           ing no capture or sequestration of any greenhouse  
20           gas emissions.

21           “(4) For a covered entity that is a local dis-  
22           tribution company, 1 emission allowance for each  
23           carbon dioxide equivalent of greenhouse gas that will  
24           be emitted from the combustion of the natural gas  
25           such entity delivered during the calendar year, as-

1 suming no capture or sequestration of that green-  
2 house gas, and excluding any natural gas that is de-  
3 livered to a covered entity that is a facility described  
4 in paragraph (1) or (2).

5 “(5) For a covered entity that produced for sale  
6 or distribution, or imported, hydrofluorocarbons,  
7 perfluorocarbons, sulfur hexafluoride, nitrogen  
8 trifluoride, or any other fluorinated gas that is a  
9 greenhouse gas, as designated by the Administrator  
10 under section 704, 1 emission allowance for each  
11 carbon dioxide equivalent of such greenhouse gas  
12 produced for sale or distribution in the United  
13 States, or imported, during the calendar year, except  
14 that this paragraph shall not apply to  
15 hydrofluorocarbons produced or imported for sale or  
16 distribution during calendar years 2012 through  
17 2019.

18 “(6) For a covered entity that is a geological  
19 sequestration site, 1 emission allowance for each car-  
20 bon dioxide equivalent of greenhouse gas that such  
21 site emitted in the calendar year.

22 “(7) A covered entity to which more than 1 of  
23 paragraphs (1) through (6) apply shall submit emis-  
24 sion allowances in compliance with all applicable  
25 paragraphs, except that a covered entity shall not be

1 required to submit more than 1 emission allowance  
2 for the same emissions.

3 “(b) NOTICE REQUIREMENT FOR COVERED ENTI-  
4 TIES RECEIVING NATURAL GAS FROM LOCAL DISTRIBUTION COMPANIES.—The owner or operator of a covered  
5 entity that is an industrial facility and that takes delivery  
6 of natural gas from a local distribution company shall, not  
7 later than September 1 of each calendar year, notify such  
8 local distribution company in writing that such industrial  
9 facility will qualify as a covered entity under this title for  
10 that calendar year.

12 “(c) ALTERNATIVE COMPLIANCE.—A covered entity  
13 may—

14 “(1) satisfy up to 15 percent of its compliance  
15 obligations under subsection (a) by submitting in  
16 lieu of an emission allowance an offset credit issued  
17 pursuant to subtitle E;

18 “(2) satisfy up to 15 percent of its compliance  
19 obligations under subsection (a) by submitting in  
20 lieu of an emission allowance an international emis-  
21 sion allowance or an international offset credit ap-  
22 proved by the Administrator under subtitle F;

23 “(3) submit in lieu of an emission allowance a  
24 destruction credit obtained under subsection (f) of  
25 this section.



1       “(d) RETIREMENT OF ALLOWANCES AND CRED-  
2 ITS.—Immediately upon receipt of an emission allowance,  
3 offset credit, or destruction credit under subsection (a),  
4 the Administrator shall retire the emission allowance, off-  
5 set credit, or destruction credit. Treatment of inter-  
6 national emission allowances and international offset cred-  
7 its submitted under this section shall be governed by sec-  
8 tion 753.

9       “(e) DETERMINATION OF COMPLIANCE.—Not later  
10 than July 1 of each year, the Administrator shall deter-  
11 mine whether the owners and operators of all covered enti-  
12 ties are in full compliance with subsection (a) for the pre-  
13 ceding year.

14       “(f) DESTRUCTION CREDIT.—If the Administrator  
15 determines that an entity has, during any of calendar  
16 years 2012 through 2050, converted a greenhouse gas  
17 other than methane by thermal, chemical, or other means  
18 to another gas with a low- or zero-global warming poten-  
19 tial, the Administrator shall establish and distribute to  
20 that entity a quantity of destruction credits that is equal  
21 to the number of carbon dioxide equivalents of reduction  
22 in global warming potential achieved through such conver-  
23 sion.

24       **“SEC. 713. PENALTY FOR NONCOMPLIANCE.**

25       “(a) EXCESS EMISSIONS PENALTY.—

1           “(1) IN GENERAL.—The owner or operator of  
2 any covered entity that fails for any year to submit  
3 to the Administrator by the deadline described in  
4 section 712(a) or 733(c), 1 or more of the emission  
5 allowances due pursuant to either of those sections  
6 shall be liable for the payment to the Administrator  
7 of an excess emissions penalty.

8           “(2) AMOUNT.—The amount of an excess emis-  
9 sions penalty required to be paid under paragraph  
10 (1) shall be an amount equal to the product obtained  
11 by multiplying—

12                   “(A) the number of emission allowances  
13 that the owner or operator failed to submit; and

14                   “(B) the greater of—

15                           “(i) \$200; or

16                           “(ii) 3 times the fair market value of  
17 an emission allowance during the calendar  
18 year for which the emission allowances  
19 were due.

20           “(3) TIMING.—An excess emissions penalty re-  
21 quired under this subsection shall be immediately  
22 due and payable to the Administrator, without de-  
23 mand, in accordance with such regulations as shall  
24 be promulgated by the Administrator by the date

1 that is 1 year after the date of enactment of this  
2 title.

3 “(4) DEPOSIT.—The Administrator shall de-  
4 posit each excess emissions penalty paid under this  
5 subsection in the Treasury of the United States.

6 “(5) NO EFFECT ON LIABILITY.—An excess  
7 emissions penalty due and payable by the owner or  
8 operator of a covered entity under this subsection  
9 shall not diminish the liability of the owner or oper-  
10 ator for any fine, penalty, or assessment against the  
11 owner or operator for the same violation under any  
12 other provision of this Act or any other law.

13 “(b) EXCESS EMISSION ALLOWANCE.—The owner or  
14 operator of a covered entity that fails for any year to sub-  
15 mit to the Administrator, by the deadline described in sec-  
16 tion 712(a) or 733(c), 1 or more of the emission allow-  
17 ances due pursuant to either of those sections shall be lia-  
18 ble to offset the excess emissions by an equal quantity of  
19 emission allowances during—

20 “(1) the following calendar year; or

21 “(2) such longer period as the Administrator  
22 may prescribe.

1           **“Subtitle C—Distribution of**  
2                                   **Allowances**

3   **“SEC. 721. AUCTIONS.**

4           “(a) IN GENERAL.—The Administrator shall, pursu-  
5   ant to regulations promulgated under this section, auction  
6   all emission allowances established under section 711, ex-  
7   cept as provided in section 723.

8           “(b) INITIAL REGULATIONS.—Not later than 180  
9   days after the date of enactment of this title, the Adminis-  
10   trator shall promulgate regulations governing the auction  
11   of allowances under this section. Such regulations shall in-  
12   clude the following requirements:

13                 “(1) FREQUENCY; FIRST AUCTION.—Auctions  
14                 shall be held four times per year at regular intervals,  
15                 with the first auction to be held no later than March  
16                 31, 2010.

17                 “(2) AUCTION SCHEDULE; CURRENT AND FU-  
18                 TURE VINTAGES.—The Administrator shall, at each  
19                 quarterly auction, offer for sale both a portion of the  
20                 allowances with the same vintage as the year in  
21                 which the auction is being conducted and a portion  
22                 of the allowances with vintages from future years.  
23                 The preceding sentence shall not apply to auctions  
24                 held in 2010 and 2011, during which, by necessity,  
25                 the Administrator shall auction only allowances with

1 a vintage year that is later than the year in which  
2 the auction is held. Beginning with the first auction  
3 and at each quarterly auction held thereafter, the  
4 Administrator may offer for sale allowances with  
5 vintages of up to four years in advance of the year  
6 in which the auction is being conducted.

7 “(3) AUCTION FORMAT.—Auctions shall follow  
8 a single-round, sealed-bid, uniform price format.

9 “(4) PARTICIPATION; FINANCIAL ASSURANCE.—  
10 Auctions shall be open to any person, except that  
11 the Administrator may establish financial assurance  
12 requirements to ensure that auction participants can  
13 and will perform on their bids.

14 “(5) DISCLOSURE OF BENEFICIAL OWNER-  
15 SHIP.—Each bidder in the auction shall be required  
16 to disclose the person or entity sponsoring or bene-  
17 fitting from the bidder’s participation in the auction  
18 if such person or entity is, in whole or in part, other  
19 than the bidder or the bidder’s employer.

20 “(6) BIDDING LIMITS.—No person may, di-  
21 rectly or in concert with another participant, pur-  
22 chase more than 33 percent of the allowances of-  
23 fered for sale at any quarterly auction.

24 “(7) PUBLICATION OF INFORMATION.—After  
25 the auction, the Administrator shall, in a timely

1 fashion, publish the identities of winning bidders,  
2 the quantity of allowances obtained by each winning  
3 bidder, and the auction clearing price.

4 “(8) OTHER REQUIREMENTS.—The Adminis-  
5 trator may include in the regulations such other re-  
6 quirements or provisions as the Administrator deems  
7 necessary to promote effective, efficient, transparent,  
8 and fair administration of auctions under this sec-  
9 tion.

10 “(c) REVISION OF REGULATIONS.—The Adminis-  
11 trator may, at any time, revise the initial regulations pro-  
12 mulgated under subsection (b) based on the Administra-  
13 tor’s experience in administering allowance auctions. Such  
14 revised regulations need not meet the requirements identi-  
15 fied in subsection (b) if the Administrator determines that  
16 an alternative auction design would be more effective, tak-  
17 ing into account factors including costs of administration,  
18 transparency, fairness, and risks of collusion or manipula-  
19 tion.

20 **“SEC. 722. AUCTION PROCEEDS.**

21 “(a) FUNDS ESTABLISHED.—There are established  
22 in the Treasury of the United States the following funds:

23 “(1) The Investing in Climate Action and Pro-  
24 tection Act Management Fund.

1           “(2) The Climate Change Education and Out-  
2 reach Fund.

3           “(3) The Climate Trust Rebate Fund.

4           “(4) The Low-Carbon Technology Fund.

5           “(5) The National Energy Efficiency Fund.

6           “(6) The Agriculture and Forestry Carbon  
7 Fund.

8           “(7) The Climate Change Worker Transition  
9 Fund.

10          “(8) The National Climate Change Adaptation  
11 Fund.

12          “(9) The Natural Resource Conservation Fund.

13          “(10) The International Forest Protection  
14 Fund.

15          “(11) The International Clean Technology  
16 Fund.

17          “(12) The International Climate Change Adap-  
18 tation Fund.

19          “(b) AMOUNTS IN FUNDS.—Each Fund established  
20 by subsection (a) shall consist of such amounts as are de-  
21 posited into the respective Fund under this section.

22          “(c) INVESTING IN CLIMATE ACTION AND PROTEC-  
23 TION ACT MANAGEMENT FUND.—

24           “(1) IN GENERAL.—For each of fiscal years  
25       2010 through 2050, the Administrator shall deposit

1 into the Investing in Climate Action and Protection  
2 Act Management Fund such percentage of the pro-  
3 ceeds of the auctions conducted by the Adminis-  
4 trator for such fiscal year under this section, not to  
5 exceed 0.5 percent of the total value of the proceeds  
6 from auctions conducted in that fiscal year, as the  
7 President determines to be sufficient to efficiently  
8 and effectively administer this title and title II of  
9 the Investing in Climate Action and Protection Act.

10 “(2) USE OF FUNDS.—Funds from the Invest-  
11 ing in Climate Action and Protection Act Manage-  
12 ment Fund may be used by—

13 “(A) the Administrator for—

14 “(i) the costs of carrying out this  
15 title, including the costs of promulgation of  
16 regulations, development of policy guid-  
17 ance, development and operation of infor-  
18 mation systems, certification of monitoring  
19 equipment, conducting facilities audits and  
20 inspections, monitoring and modeling,  
21 quality assurance and verification func-  
22 tions, enforcement, administration, out-  
23 reach, training, field audits, and financial  
24 management; and



1                   “(ii) contracting with the National  
2                   Academy of Sciences for periodic review  
3                   under the Investing in Climate Action and  
4                   Protection Act; and

5                   “(B) the Federal Energy Regulatory Com-  
6                   mission for the costs of carrying out title II of  
7                   the Investing in Climate Action and Protection  
8                   Act.

9                   “(3) TREATMENT.—Amounts in the Investing  
10                  in Climate Action and Protection Act Management  
11                  Fund—

12                   “(A) shall be used only to advance the pur-  
13                   poses described in section 3 of the Investing in  
14                   Climate Action and Protection Act;

15                   “(B) are subject to the availability of ap-  
16                   propriations; and

17                   “(C) shall remain available until expended.

18                  “(d) CLIMATE CHANGE EDUCATION AND OUTREACH  
19                  FUND.—For each of the fiscal years 2010 through 2050,  
20                  the Administrator shall deposit \$50,000,000 from the auc-  
21                  tion proceeds for such fiscal year in the Climate Change  
22                  Education and Outreach Fund.

23                  “(e) USE OF REMAINING PROCEEDS.—

24                   “(1) FISCAL YEARS 2010 THROUGH 2019.—For  
25                   each of fiscal years 2010 through 2019, the Admin-

1            Administrator shall allocate the remaining proceeds of the  
 2            auctions conducted by the Administrator during the  
 3            fiscal year as follows:

“Fund	Percentage
General Fund of the Treasury	51
Climate Trust Rebate Fund	7.5
Low-Carbon Technology Fund	12.5
National Energy Efficiency Fund	12.5
Agriculture and Forestry Carbon Fund	4.5
Climate Change Worker Transition Fund	1.5
National Climate Change Adaptation Fund	2
Natural Resource Conservation Fund	1.5
International Forest Protection Fund	1.5
International Clean Technology Fund	3.5
International Climate Change Adaptation Fund	2

4            “(2) FISCAL YEARS 2020 THROUGH 2050.—For  
 5            each of fiscal years 2020 through 2050, the Admin-  
 6            istrator shall allocate the remaining proceeds of the  
 7            auctions conducted by the Administrator during the  
 8            fiscal year as follows:

“Fund	Percentage
General Fund of the Treasury	48
Climate Trust Rebate Fund	7
Low-Carbon Technology Fund	12.5
National Energy Efficiency Fund	12.5
Agriculture and Forestry Carbon Fund	5

“Fund	Percentage
Climate Change Worker Transition Fund	2
National Climate Change Adaptation Fund	2.5
Natural Resource Conservation Fund	2
International Forest Protection Fund	2
International Clean Technology Fund	4
International Climate Change Adaptation Fund	2.5

1 **“SEC. 723. TRANSITIONAL ASSISTANCE TO MANUFACTUR-**  
2 **ERS OF TRADE-EXPOSED PRIMARY GOODS.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) CURRENTLY OPERATING MANUFACTURING  
5 FACILITY.—The term ‘currently operating manufac-  
6 turing facility’ means an eligible manufacturing fa-  
7 cility that had significant operations during the cal-  
8 endar year preceding the calendar year for which  
9 emission allowances are being distributed under this  
10 section.

11 “(2) ELIGIBLE MANUFACTURING FACILITY.—  
12 The term ‘eligible manufacturing facility’ means an  
13 industrial facility described in section 700(13)(A)  
14 that is located in the United States and that prin-  
15 cipally manufactures trade-exposed primary goods.

16 “(3) NEW ENTRANT MANUFACTURING FACIL-  
17 ITY.—The term ‘new entrant manufacturing facility’  
18 means an eligible manufacturing facility that will  
19 begin operation during the calendar year for which

1 emission allowances are being distributed under this  
2 section.

3 “(4) PRIMARY GOOD.—The term ‘primary good’  
4 means—

5 “(A) a manufactured product (other than  
6 fuel) that is sold in bulk for purposes of further  
7 manufacture, such as aluminum, cement, iron  
8 and steel, and bulk glass; and

9 “(B) paper.

10 “(5) PRODUCTION AMOUNT.—The term ‘pro-  
11 duction amount’ means—

12 “(A) for a currently operating manufac-  
13 turing facility, the quantity of the trade-exposed  
14 primary good the facility produced, on average,  
15 during the most recent 3 calendar years for  
16 which data is available, or such shorter histor-  
17 ical period as the facility has been in operation;  
18 and

19 “(B) for a new entrant manufacturing fa-  
20 cility, the expected production capacity for the  
21 trade-exposed primary good by the facility for  
22 the calendar year.

23 “(6) TRADE-EXPOSED PRIMARY GOOD.—The  
24 term ‘trade-exposed primary good’ means a primary  
25 good that the Administrator determines is likely to

1 be significantly disadvantaged in internationally  
2 competitive markets as a result of direct and indi-  
3 rect costs of compliance with this title.

4 “(b) CATEGORIES OF TRADE-EXPOSED PRIMARY  
5 GOODS.—Not later than 180 days after the date of enact-  
6 ment of this title, the Administrator shall publish in the  
7 Federal Register a list of categories and subcategories of  
8 trade-exposed primary goods for the purposes of this sec-  
9 tion and subtitle G.

10 “(c) ELIGIBLE MANUFACTURING FACILITIES.—

11 “(1) LIST.—Not later than 120 days prior to  
12 the start of each of calendar years 2012 through  
13 2019, the Administrator shall publish in the Federal  
14 Register a list of eligible manufacturing facilities for  
15 each category and subcategory of trade-exposed pri-  
16 mary goods listed under subsection (b). The list pub-  
17 lished under this paragraph shall include informa-  
18 tion on the production amount for each listed cat-  
19 egory and subcategory of goods.

20 “(2) ALLOWANCE ALLOCATION.—In addition to  
21 the list under paragraph (1), the publication under  
22 this subsection shall specify the quantity of emission  
23 allowances to be allocated to each eligible manufac-  
24 turing facility pursuant to subsections (d) through  
25 (i).

1           “(3) OBTAINING INFORMATION.—The Adminis-  
2           trator shall issue regulations to provide the Adminis-  
3           trator access to the information necessary to publish  
4           the list required under paragraph (1). Such regula-  
5           tions shall not require manufacturing facilities to  
6           submit information available to the Administrator  
7           from other Federal agencies or public sources of in-  
8           formation.

9           “(d) TOTAL ALLOCATION.—For each of calendar  
10          years 2012 through 2019, the Administrator shall allocate  
11          6 percent of the quantity of emission allowances estab-  
12          lished under section 711 for the relevant year to eligible  
13          manufacturing facilities in accordance with this section.

14          “(e) DISTRIBUTION SYSTEM.—Not later than 1 year  
15          after the date of enactment of this title, the Administrator  
16          shall promulgate a regulation establishing a system for  
17          distributing to the owners or operators of eligible manu-  
18          facturing facilities the emission allowances described in  
19          subsection (d). Such distribution shall occur by January  
20          1 of the year for which the allowances are being distrib-  
21          uted.

22          “(f) TOTAL ALLOCATION FOR EACH CATEGORY AND  
23          SUBCATEGORY OF ELIGIBLE MANUFACTURING FACILI-  
24          TIES.—The proportion of total emission allowances dis-  
25          tributed by the Administrator for each calendar year to

1 each category and subcategory of eligible manufacturing  
2 facilities shall be determined by the Administrator based  
3 upon the relative predicted adverse impact of direct and  
4 indirect costs of compliance with this title on each cat-  
5 egory or subcategory. The Administrator shall establish  
6 such proportion not later than January 1, 2011, and shall  
7 revise such proportion by January 1 of each year there-  
8 after only to reflect the predicted changes in production  
9 levels of each category or subcategory.

10       “(g) INDIVIDUAL ALLOCATIONS TO ELIGIBLE MANU-  
11       FACTURING FACILITIES.—The quantity of emission allow-  
12       ances distributed by the Administrator for a calendar year  
13       to an eligible manufacturing facility shall be a quantity  
14       equal to the product obtained by multiplying—

15               “(1) the total quantity of emission allowances  
16               available for distribution to all eligible manufac-  
17               turing facilities in the appropriate category or sub-  
18               category for the calendar year as determined under  
19               subsection (f); and

20               “(2) the ratio that the production amount of  
21               the facility bears to the sum of—

22                       “(A) the total quantity of the trade-ex-  
23                       posed primary good produced, on average, over  
24                       the 3 preceding calendar years, by currently op-  
25                       erating manufacturing facilities; and

1           “(B) the expected production capacity for  
2           the trade-exposed primary good of all new en-  
3           trant manufacturing facilities for the calendar  
4           year.

5           “(h) NEW ENTRANT MANUFACTURING FACILI-  
6 TIES.—The system established pursuant to subsection (e)  
7 shall authorize the Administrator to require the return to  
8 the Administrator of an appropriate portion of the emis-  
9 sion allowances distributed to a new entrant manufac-  
10 turing facility if actual production by such facility is lower  
11 than the production amount used to calculate the distribu-  
12 tion to the facility.

13           “(i) FACILITIES THAT SHUT DOWN.—The system es-  
14 tablished pursuant to subsection (e) shall ensure that—

15           “(1) emission allowances are not distributed to  
16           an owner or operator for any facility that has been  
17           permanently shut down at the time of the distribu-  
18           tion;

19           “(2) if a facility receives a distribution of emis-  
20           sion allowances under this section for a calendar  
21           year and subsequently permanently shuts down dur-  
22           ing that calendar year, the owner or operator of  
23           such facility promptly returns to the Administrator  
24           a quantity of emission allowances equal to the quan-  
25           tity that the Administrator determines is the portion



1 that the owner or operator will no longer need to  
2 meet its submission obligations for such facility  
3 under section 712; and

4 “(3) the owner or operator of any facility that  
5 permanently shuts down in a calendar year promptly  
6 returns to the Administrator any emission allow-  
7 ances that the Administrator has distributed for that  
8 facility for any subsequent calendar year.

## 9 **“Subtitle D—Trading, Banking, and** 10 **Borrowing**

### 11 **“SEC. 731. TRADING.**

12 “(a) SALE, EXCHANGE, AND RETIREMENT OF EMIS-  
13 SION ALLOWANCES.—Except as otherwise provided in this  
14 title, the lawful holder of an emission allowance may, with-  
15 out restriction, sell, exchange, transfer, submit for compli-  
16 ance in accordance with section 712, or request that the  
17 Administrator retire the emission allowance.

18 “(b) NO RESTRICTION ON TRANSACTIONS.—The  
19 privilege of purchasing, holding, selling, exchanging, and  
20 requesting retirement of emission allowances shall not be  
21 restricted to the owners and operators of covered entities.

22 “(c) ALLOWANCE TRANSFER SYSTEM.—Not later  
23 than 18 months after the date of enactment of this title,  
24 the Administrator shall promulgate regulations to carry  
25 out the provisions of this title relating to emission allow-

1 ances, including regulations providing that the transfer of  
2 emission allowances shall not be effective until such date  
3 as a written certification of the transfer, signed by a re-  
4 sponsible official of each party to the transfer, is received  
5 and recorded by the Administrator in accordance with  
6 those regulations.

7 “(d) ALLOWANCE TRACKING SYSTEM.—The regula-  
8 tions promulgated under subsection (c) shall include a sys-  
9 tem for issuing, recording, and tracking emission allow-  
10 ances that shall specify all necessary procedures and re-  
11 quirements for an orderly and competitive functioning of  
12 the emission allowance system.

13 **“SEC. 732. BANKING.**

14 “(a) IN GENERAL.—An emission allowance may be  
15 used to meet the requirements of section 712 in the cal-  
16 endar year for which the allowance is issued, as indicated  
17 in the identification number of the emission allowance, or  
18 any subsequent calendar year.

19 “(b) EFFECT OF TIME.—The passage of time shall  
20 not, by itself, cause an emission allowance to be retired  
21 or otherwise diminish the compliance value of the emission  
22 allowance.

23 **“SEC. 733. BORROWING.**

24 “(a) REGULATIONS.—Not later than 3 years after  
25 the date of enactment of this title, the Administrator shall

1 promulgate regulations under which, subject to the re-  
2 quirements of this section, the owner or operator of a cov-  
3 ered entity may—

4           “(1) borrow emission allowances from the Ad-  
5 ministrator; and

6           “(2) for a calendar year, submit borrowed emis-  
7 sion allowances to the Administrator in satisfaction  
8 of up to 15 percent of the compliance obligation  
9 under section 712(a).

10          “(b) LIMITATIONS.—An emission allowance borrowed  
11 pursuant to this section shall be an emission allowance es-  
12 tablished by the Administrator for a specific future cal-  
13 endar year under section 711(a). The Administrator shall  
14 not lend an emission allowance drawn from a calendar  
15 year (as indicated in the identification number of the emis-  
16 sion allowance) that is more than 5 years later than the  
17 calendar year in which such loan is made.

18          “(c) REPAYMENT WITH INTEREST.—For each emis-  
19 sion allowance that an owner or operator of a covered enti-  
20 ty borrows pursuant to this section, such owner or oper-  
21 ator shall, not later than December 31 of the calendar  
22 year from which the borrowed emission allowance was  
23 drawn (as indicated in the identification number of the  
24 borrowed emission allowance), submit to the Adminis-

1 trator a quantity of emission allowances that is equal to  
 2 the sum of—

3 “(1) 1; and

4 “(2) the product obtained by multiplying—

5 “(A) 0.1; and

6 “(B) the number of years, including pro-  
 7 rated portions of years, between the date on  
 8 which the emission allowance was borrowed and  
 9 the date on which the loan is repaid.

## 10 **“Subtitle E—Domestic Offsets**

### 11 **“SEC. 741. ESTABLISHMENT OF DOMESTIC OFFSET PRO-** 12 **GRAM.**

13 “(a) REGULATIONS.—Not later than 18 months after  
 14 the date of enactment of this title, the Administrator shall  
 15 promulgate regulations establishing a program for the  
 16 issuance of offset credits in accordance with the require-  
 17 ments of this subtitle.

18 “(b) REQUIREMENTS.—The regulations described in  
 19 subsection (a) shall, at minimum—

20 “(1) authorize the issuance of offset credits  
 21 generated through qualifying offset projects within  
 22 the United States that achieve greenhouse gas emis-  
 23 sion reductions below, or increases in biological se-  
 24 questration above, the project baseline;

1           “(2) ensure that such offset credits represent  
2           real, verifiable, additional, permanent, and enforce-  
3           able reductions in greenhouse gas emissions or in-  
4           creases in biological sequestration; and

5           “(3) provide for the implementation of the re-  
6           quirements of this subtitle.

7           “(c) PERIODIC REVIEW.—Not later than 5 years  
8           after the date of enactment of this title, and periodically  
9           thereafter, the Administrator shall review and revise, as  
10          necessary, the regulations promulgated under this subtitle.

11          **“SEC. 742. ELIGIBLE PROJECT TYPES.**

12          “(a) ELIGIBLE PROJECT TYPES.—The types of  
13          projects eligible to generate offset credits under this sub-  
14          title shall be limited to projects that—

15                 “(1) reduce greenhouse gas emissions, from ag-  
16                 ricultural facilities in the United States that are not  
17                 subject to performance standards issued under sec-  
18                 tion 771, resulting from enteric fermentation or ma-  
19                 nure management and disposal;

20                 “(2) increase biological sequestration of carbon  
21                 through afforestation or reforestation of acreage in  
22                 the United States that was not forested as of June  
23                 3, 2008;

1           “(3) reduce fugitive greenhouse gas emissions  
2           from petroleum and natural gas systems in the  
3           United States; or

4           “(4) reduce greenhouse gas emissions from coal  
5           mines in the United States that are not subject to  
6           performance standards issued under section 771.

7           “(b) EXCLUSIONS.—The Administrator shall ensure  
8           that no offset credits shall be generated under this subtitle  
9           by—

10           “(1) any reduction of greenhouse gas emissions  
11           that are covered by the compliance obligations set  
12           forth in section 712(a); or

13           “(2) any activity receiving support under sub-  
14           title D of title III of the Investing in Climate Action  
15           and Protection Act.

16   **“SEC. 743. PROTOCOLS AND ACCOUNTING METHODS.**

17           “(a) DEVELOPMENT OF MONITORING AND QUAN-  
18           TIFICATION TOOLS FOR OFFSET PROJECTS.—

19           “(1) IN GENERAL.—The Administrator shall  
20           develop standardized tools for use in the monitoring  
21           and quantification of net reductions in greenhouse  
22           gas emissions or net increases in biological seques-  
23           tration for each eligible offset project type.

1           “(2) TOOL DEVELOPMENT.—The tools de-  
2           scribed in paragraph (1) shall, for each eligible off-  
3           set project type, include applicable—

4                   “(A) statistically sound field and remote  
5                   sensing sampling methods, procedures, tech-  
6                   niques, protocols, or programs;

7                   “(B) models, factors, equations, or look-up  
8                   tables; and

9                   “(C) any other process or tool considered  
10                  to be acceptable by the Administrator.

11          “(b) DEVELOPMENT OF ACCOUNTING AND DIS-  
12          COUNTING METHODS.—

13           “(1) IN GENERAL.—The Administrator shall—

14                   “(A) develop standardized methods for use  
15                   in estimating the baseline, accounting for  
16                   additionality and uncertainty, and discounting  
17                   for leakage for each eligible offset project type;  
18                   and

19                   “(B) require that leakage be subtracted  
20                   from reductions in greenhouse gas emissions or  
21                   increases in biological sequestration attributable  
22                   to a project.

23          “(2) BASELINE ESTIMATION AND  
24          ADDITIONALITY DETERMINATION.—The standard-  
25          ized methods used to establish baselines and deter-

1 mine additionality shall, for each project type, at a  
2 minimum—

3 “(A) in the case of an afforestation or re-  
4 forestation project, determine the greenhouse  
5 gas flux and carbon stock on comparable land  
6 identified on the basis of—

7 “(i) similarity in current management  
8 practices;

9 “(ii) similarity of regional, State, or  
10 local policies or programs; and

11 “(iii) similarity in geographical and  
12 biophysical characteristics;

13 “(B) in the case of an emission reduction  
14 project, use as a basis emissions from com-  
15 parable facilities; and

16 “(C) specify a selected time period and  
17 provide for regular updating of baselines and  
18 additionality standards to take account of  
19 changes in business-as-usual practices; and

20 “(D) ensure that emission reductions or  
21 increases in biological sequestration are not  
22 considered additional that are the result of ac-  
23 tivities that—



1                   “(i) are required by or undertaken to  
2                   comply with any law, including any regula-  
3                   tion; or

4                   “(ii) were commenced prior to the ini-  
5                   tiation of the offset project.

6                   “(3) LEAKAGE.—The standardized methods  
7                   used to determine and discount for leakage shall, at  
8                   a minimum, take into consideration—

9                   “(A) the scope of the offset project in  
10                  terms of activities and geography covered;

11                  “(B) the markets relevant to the offset  
12                  project;

13                  “(C) emission intensity per unit of produc-  
14                  tion, both inside and outside of the offset  
15                  project; and

16                  “(D) a time period sufficient in length to  
17                  yield a stable leakage rate.

18                  “(c) STANDARDS ADDRESSING PERMANENCE IN  
19                  AFFORESTATION AND REFORESTATION PROJECTS.—The  
20                  Administrator shall prescribe specific standards ensuring  
21                  that each offset allowance generated through an  
22                  afforestation or reforestation project represents a perma-  
23                  nent net increase in biological sequestration, and that full  
24                  account is taken of any actual or potential reversal of such  
25                  sequestration, with an adequate margin of safety. In pre-

1 scribing such standards, the Administrator shall seek to  
2 maximize the certainty that the overall cap on greenhouse  
3 gas emissions established by this title is not compromised.

4 “(d) UNCERTAINTY.—

5 “(1) IN GENERAL.—The Administrator shall  
6 develop standardized methods for use in determining  
7 and discounting for uncertainty for each offset  
8 project type.

9 “(2) BASIS.—The standardized methods used  
10 to determine and discount for uncertainty shall be  
11 based on—

12 “(A) the robustness and rigor of the meth-  
13 ods used by a project developer to monitor and  
14 quantify reductions in greenhouse gas emissions  
15 or net biological sequestration;

16 “(B) the robustness and rigor of methods  
17 used to determine additionality, leakage, and  
18 permanence; and

19 “(C) a proportional discount that increases  
20 relative to uncertainty, as determined by the  
21 Administrator to encourage better measurement  
22 and accounting.

23 “(e) ACQUISITION OF NEW DATA AND REVIEW OF  
24 METHODS.—The Administrator shall—

1           “(1) establish a comprehensive field sampling  
2           program to improve the scientific bases on which the  
3           standardized tools and methods developed under this  
4           section are based; and

5           “(2) not less frequently than every five years,  
6           review and, as appropriate, revise the standardized  
7           tools and methods developed under this section,  
8           based on—

9                   “(A) validation of existing methods, proto-  
10                   cols, procedures, techniques, factors, equations,  
11                   or models;

12                   “(B) development of new methods, proto-  
13                   cols, procedures, techniques, factors, equations,  
14                   or models;

15                   “(C) increased availability of field data or  
16                   other datasets; and

17                   “(D) any other information identified by  
18                   the Administrator that is necessary to meet the  
19                   objectives of this subtitle.

20 **“SEC. 744. PROJECT INITIATION.**

21           “(a) IN GENERAL.—The Administrator may pre-  
22           scribe rules requiring project developers for such project  
23           types as the Administrator considers appropriate, prior to  
24           initiation of an offset project, to—

1           “(1) submit a petition for project initiation, in-  
2           cluding—

3                   “(A) a plan for monitoring and quantifying  
4                   reductions in emissions or net increases in bio-  
5                   logical sequestration resulting from the project;

6                   “(B) a certification that the project will  
7                   not have significant adverse effects on the envi-  
8                   ronment; and

9                   “(C) such other information as the Admin-  
10                  istrator considers necessary to meet the objec-  
11                  tives of this subtitle; and

12               “(2) obtain the Administrator’s approval of the  
13               offset project, pursuant to subsection (b).

14               “(b) APPROVAL AND NOTIFICATION.—

15                   “(1) IN GENERAL.—If the Administrator estab-  
16                   lishes project initiation requirements under sub-  
17                   section (a), the Administrator shall, not later than  
18                   60 days after the submission of a complete petition  
19                   under subsection (a)(1)—

20                           “(A) determine whether the petition satis-  
21                           fies the applicable requirements of this subtitle;  
22                           and

23                           “(B) notify the project developer of such  
24                           determination.

1           “(2) APPEAL.—The Administrator shall estab-  
2           lish mechanisms for appeal and review of negative  
3           determinations made under this subsection.

4   **“SEC. 745. OFFSET VERIFICATION AND ISSUANCE OF CRED-**  
5           **ITS.**

6           “(a) IN GENERAL.—Offset credits may be claimed  
7           for net emission reductions or increases in biological se-  
8           questration annually, after accounting for any necessary  
9           discounts in accordance with section 743, by submitting  
10          a verification report for an offset project to the Adminis-  
11          trator.

12          “(b) OFFSET VERIFICATION.—

13                  “(1) SCOPE OF VERIFICATION.—A verification  
14          report for an offset project—

15                          “(A) shall be completed by a verifier ac-  
16                          credited in accordance with paragraph (3); and

17                          “(B) shall be developed taking into consid-  
18                          eration—

19                                  “(i) the information and methodology  
20                                  contained within any monitoring and quan-  
21                                  tification plan submitted under section  
22                                  744(a)(1)(A);

23                                  “(ii) data and subsequent analysis of  
24                                  the offset project, including—

1                   “(I) quantification of net emis-  
2                   sion reductions or increases in biologi-  
3                   cal sequestration;

4                   “(II)           determination           of  
5                   additionality;

6                   “(III) calculation of leakage;

7                   “(IV) assessment of permanence;

8                   “(V) discounting for uncertainty;

9                   and

10                  “(VI) the adjustment of net  
11                  emission reductions or increases in bi-  
12                  ological sequestration by the discounts  
13                  determined under clauses (II) through  
14                  (V); and

15                  “(iii) subject to the requirements of  
16                  this subtitle, any other information identi-  
17                  fied by the Administrator as being nec-  
18                  essary to achieve the purposes of this sub-  
19                  title.

20                  “(2) VERIFICATION REPORT REQUIREMENTS.—

21                  The Administrator shall specify the required compo-  
22                  nents of a verification report, including—

23                         “(A) the quantity of offsets generated;

24                         “(B) the amount of discounts applied;

1           “(C) an assessment of methods (and the  
2           appropriateness of those methods);

3           “(D) an assessment of quantitative errors  
4           or omissions (and the effect of the errors or  
5           omissions on offsets);

6           “(E) any potential conflicts of interest be-  
7           tween a verifier and project developer; and

8           “(F) any other provision that the Adminis-  
9           trator considers to be necessary to achieve the  
10          purposes of this subtitle.

11         “(3) VERIFIER ACCREDITATION.—

12           “(A) IN GENERAL.—Not later than 18  
13          months after the date of enactment of this title,  
14          the Administrator shall promulgate regulations  
15          establishing a process and requirements for ac-  
16          creditation of third-party verifiers to ensure  
17          that such verifiers are professionally qualified  
18          and have no conflicts of interest.

19           “(B) PUBLIC ACCESSIBILITY.—Each  
20          verifier meeting the requirements for accredita-  
21          tion in accordance with this paragraph shall be  
22          listed in a publicly accessible database, which  
23          shall be maintained and updated by the Admin-  
24          istrator.

25         “(c) REGISTRATION AND AWARDING OF OFFSETS.—

1           “(1) IN GENERAL.—Not later than 90 days  
2 after the date on which the Administrator receives a  
3 verification report required under subsection (b), the  
4 Administrator shall—

5                   “(A) determine whether the offsets satisfy  
6 the applicable requirements of this subtitle; and

7                   “(B) notify the project developer of that  
8 determination.

9           “(2) AFFIRMATIVE DETERMINATION.—In the  
10 case of an affirmative determination under para-  
11 graph (1), the Administrator shall—

12                   “(A) assign a unique serial number to each  
13 offset credit to be issued;

14                   “(B) register the offset credits, together  
15 with—

16                           “(i) a verification report issued pursu-  
17 ant to this section; and

18                           “(ii) any other information identified  
19 by the Administrator as being necessary to  
20 achieve the purposes of this subtitle; and

21                   “(C) issue the offset credits.

22           “(3) APPEAL AND REVIEW.—The Administrator  
23 shall establish mechanisms for the appeal and review  
24 of determinations made under this subsection.



1 **“SEC. 746. AUDITS.**

2 “(a) REGULATIONS.—Not later than 2 years after  
3 the date of enactment of this title, the Administrator shall  
4 promulgate regulations governing the auditing of offset  
5 projects and credits.

6 “(b) REQUIREMENTS.—The regulations promulgated  
7 under this section shall specifically consider—

8 “(1) principles for initiating and conducting au-  
9 dits;

10 “(2) the type or scope of audits, including—

11 “(A) reporting and recordkeeping; and

12 “(B) site review or visitation;

13 “(3) the rights and privileges of an audited  
14 party; and

15 “(4) the establishment of an appeal process.

16 **“SEC. 747. TIMING AND THE PROVISION OF OFFSET CRED-  
17 ITS.**

18 “(a) INITIATION OF OFFSET PROJECTS.—An offset  
19 project that commences operation on or after the effective  
20 date of regulations promulgated under section 741(a) shall  
21 be eligible to generate offset credits under this subtitle  
22 only if the offset project meets the other applicable re-  
23 quirements of this subtitle.

24 “(b) PRE-EXISTING PROJECTS.—

25 “(1) IN GENERAL.—Subject to paragraph (2),  
26 the Administrator may issue offset credits under this

1 subtitle for offset projects that, as of the effective  
2 date of regulations promulgated under section  
3 741(a), are registered under or meet the standards  
4 of the Climate Registry, the California Action Reg-  
5 istry, the GHG Registry, the Chicago Climate Ex-  
6 change, the GHG CleanProjects Registry, or any  
7 other Federal, State, or private reporting programs  
8 or registries if the Administrator determines that  
9 such offset projects satisfy the applicable require-  
10 ments of this subtitle.

11 “(2) LIMITATION.—Offset credits shall be  
12 issued under this subtitle only for reductions in  
13 emissions or increases in biological sequestration  
14 that occur after the date of promulgation of regula-  
15 tions under section 741(a).

16 **“SEC. 748. ENVIRONMENTAL CONSIDERATIONS.**

17 “(a) COORDINATION TO MINIMIZE NEGATIVE EF-  
18 FECTS.—In promulgating and implementing regulations  
19 under this subtitle, the Administrator shall act (including  
20 by rejecting projects, if necessary) to avoid or minimize,  
21 to the maximum extent practicable, adverse effects on  
22 human health or the environment resulting from the im-  
23 plementation of offset projects under this subtitle.

24 “(b) USE OF NATIVE TREE SPECIES IN  
25 AFFORESTATION AND REFORESTATION PROJECTS.—Not

1 later than 18 months after the date of enactment of this  
2 title, the Administrator shall promulgate regulations for  
3 the selection and use of tree species in afforestation and  
4 reforestation offset projects—

5 “(1) to ensure native species are given primary  
6 consideration in such projects;

7 “(2) to prohibit the use of federally-designated  
8 or State-designated noxious weeds; and

9 “(3) to prohibit the use of a species listed by  
10 a regional or State invasive plant council within the  
11 applicable region or State.

12 **“SEC. 749. OWNERSHIP AND TRANSFER OF OFFSET CRED-**  
13 **ITS.**

14 “(a) OWNERSHIP.—Initial ownership of an offset  
15 credit shall lie with a project developer, unless otherwise  
16 specified in a legally-binding contract or agreement.

17 “(b) TRANSFERABILITY.—An offset credit generated  
18 pursuant to this subtitle may be sold, traded, or trans-  
19 ferred, on the conditions that—

20 “(1) the offset credit has not expired or been  
21 retired or canceled; and

22 “(2) liability and responsibility for mitigating  
23 and compensating for reversals of registered offset  
24 credits is specified in accordance with such rules as  
25 the Administrator may prescribe.

1 **“Subtitle F—International Emission Allowances and Offset Credits**  
2  
3

4 **“SEC. 751. INTERNATIONAL EMISSION ALLOWANCES.**

5 “(a) REGULATIONS.—Not later than 2 years after  
6 the date of enactment of this title, the Administrator shall  
7 promulgate regulations providing for the approval of quali-  
8 fying international emission allowances for submission  
9 under section 712 or section 765.

10 “(b) REQUIREMENTS.—The regulations promulgated  
11 under subsection (a) shall require that, in order to be ap-  
12 proved for use under this title, an international emission  
13 allowance must be issued by a governmental program that  
14 is at least as stringent as the program established by this  
15 title, including comparable monitoring, compliance, and  
16 enforcement.

17 **“SEC. 752. INTERNATIONAL OFFSET CREDITS.**

18 “(a) REGULATIONS.—The Administrator shall, fol-  
19 lowing the promulgation of regulations governing domestic  
20 offset allowances under subtitle E of this title, promulgate  
21 regulations providing for the approval of categories or sub-  
22 categories of qualifying international offset credits for sub-  
23 mission under section 712 or section 765.

24 “(b) REQUIREMENTS.—The regulations promulgated  
25 under subsection (a) shall require that, in order for a cat-

1 egory or subcategory of international offset credits to be  
2 approved for use under this title—

3 “(1) such international offset credits shall not  
4 have been awarded based on land use, land use  
5 change, or forestry activities;

6 “(2) such international offset credits have not  
7 been awarded based on the destruction of  
8 hydrofluorocarbons;

9 “(3) the methods, protocols, and standards for  
10 approval of such international offset credits shall be  
11 at least as stringent as the methods, protocols, and  
12 standards applicable to offset allowances issued  
13 under subtitle E of this title, except that the listing  
14 of eligible project types in section 742 shall not  
15 apply to this section; and

16 “(4) the foreign country in which the project  
17 that generated the international offset credits was  
18 carried out—

19 “(A) has taken comparable action to re-  
20 duce greenhouse gas emissions within that  
21 country, as determined by the President pursu-  
22 ant to section 764(b);

23 “(B) was responsible, in the most recent  
24 calendar year for which emissions data is avail-

1           able, for less than 0.5 percent of total global  
2           greenhouse gas emissions; or

3                   “(C) is identified by the United Nations as  
4           among the least developed of developing coun-  
5           tries.

6 **“SEC. 753. RETIREMENT.**

7           “(a) ENTITY CERTIFICATION.—The owner or oper-  
8           ator of an entity that submits an international emission  
9           allowance or international offset credit under section 712  
10          or section 765 shall certify to the Administrator that such  
11          international emission allowance or international offset  
12          credit has not previously been used to comply with any  
13          foreign or international greenhouse gas regulatory pro-  
14          gram.

15          “(b) RETIREMENT.—

16                  “(1) FOREIGN AND INTERNATIONAL REGU-  
17          LATORY ENTITIES.—The Administrator shall seek,  
18          by whatever means appropriate, to ensure that any  
19          relevant foreign and international regulatory enti-  
20          ties—

21                          “(A) are notified of the submission, for  
22          purposes of compliance with this title, of any  
23          international emission allowance or inter-  
24          national offset credit; and

1           “(B) provide for the disqualification of  
2           such international emission allowance or inter-  
3           national offset credit for any subsequent use  
4           under the 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           “(2) DISQUALIFICATION FROM FURTHER  
9           USE.—The Administrator shall ensure that, once an  
10          international emission allowance or international off-  
11          set credit has been submitted for purposes of compli-  
12          ance with this title, such allowance or credit shall be  
13          disqualified from any further use under this title.

14           **“Subtitle G—Global Effort To**  
15          **Reduce Greenhouse Gas Emissions**

16          **“SEC. 761. DEFINITIONS.**

17          “In this subtitle:

18           “(1) COMPARABLE ACTION.—The term ‘com-  
19          parable action’ means any greenhouse gas regulatory  
20          programs, requirements, and other measures adopt-  
21          ed by a foreign country that, in combination, are at  
22          least comparable in effect to actions carried out by  
23          the United States to limit greenhouse gas emissions  
24          pursuant to this Act, as determined by the Presi-

1 dent, taking into consideration the level of economic  
2 development of the foreign country.

3 “(2) COMPLIANCE YEAR.—The term ‘compli-  
4 ance year’ means each calendar year for which the  
5 requirements of this title apply to a category or sub-  
6 category of trade-exposed primary goods produced in  
7 a covered foreign country that is imported into the  
8 United States.

9 “(3) COVERED FOREIGN COUNTRY.—The term  
10 ‘covered foreign country’ means a foreign country  
11 that is included on the covered list prepared under  
12 section 765(b)(3).

13 “(4) FOREIGN COUNTRY.—The term ‘foreign  
14 country’ means a member of, or observer govern-  
15 ment to, the World Trade Organization, other than  
16 the United States.

17 “(5) INDIRECT GREENHOUSE GAS EMISSIONS.—  
18 The term ‘indirect greenhouse gas emissions’ means  
19 any emissions of a greenhouse gas resulting from  
20 the generation of electricity that is consumed during  
21 the manufacture of a good.

22 “(6) INTERNATIONAL AGREEMENT.—The term  
23 ‘international agreement’ means any international  
24 agreement to which the United States is a party, in-  
25 cluding the Marrakesh agreement establishing the



1 World Trade Organization, done at Marrakesh on  
2 April 15, 1994.

3 “(7) TRADE-EXPOSED PRIMARY GOOD.—The  
4 term ‘trade-exposed primary good’ has the meaning  
5 given that term in section 723(a)(6).

6 “(8) UNITED STATES IMPORTER.—The term  
7 ‘United States importer’ means an entity that im-  
8 ports into the United States a trade-exposed primary  
9 good produced in a covered foreign country.

10 **“SEC. 762. PURPOSES.**

11 “The purposes of this subtitle are—

12 “(1) to promote a strong global effort to signifi-  
13 cantly reduce greenhouse gas emissions;

14 “(2) to ensure, to the maximum extent prac-  
15 ticable, that greenhouse gas emissions occurring out-  
16 side the United States do not undermine the envi-  
17 ronmental objectives of the United States in ad-  
18 dressing global climate change; and

19 “(3) to encourage effective international action  
20 to achieve those objectives through—

21 “(A) agreements negotiated between the  
22 United States and foreign countries; and

23 “(B) measures carried out by the United  
24 States that comply with applicable international  
25 agreements.

1 **“SEC. 763. INTERNATIONAL NEGOTIATIONS.**

2       “(a) FINDING.—Congress finds that the purposes de-  
3 scribed in section 762 can be most effectively addressed  
4 and achieved through agreements negotiated between the  
5 United States and foreign countries.

6       “(b) NEGOTIATING OBJECTIVE.—

7           “(1) STATEMENT OF POLICY.—It is the policy  
8 of the United States to work proactively under the  
9 United Nations Framework Convention on Climate  
10 Change and in other appropriate forums to establish  
11 binding agreements committing all major greenhouse  
12 gas-emitting nations to contribute equitably to the  
13 reduction of global greenhouse gas emissions.

14           “(2) INTENT OF CONGRESS REGARDING OBJEC-  
15 TIVE.—To the extent that the agreements described  
16 in subsection (a) involve measures that will affect  
17 international trade in any good or service, it is the  
18 intent of Congress that the negotiating objective of  
19 the United States shall be to focus multilateral and  
20 bilateral international agreements on the reduction  
21 of greenhouse gas emissions to advance achievement  
22 of the purposes described in section 762.

23       “(c) NOTIFICATION TO FOREIGN COUNTRIES.—

24           “(1) REQUIREMENT.—Immediately upon enact-  
25 ment of this Act, the President shall notify each for-

1        foreign country of the negotiating objective under sub-  
2        section (b).

3               “(2) REQUEST FOR COMPARABLE ACTION.—No-  
4        tification shall include a request that any foreign  
5        country that would not otherwise be excluded under  
6        subparagraph (B) or (C) of section 765(b)(2) take  
7        comparable action to limit greenhouse gas emissions  
8        of the foreign country.

9        **“SEC. 764. DETERMINATION OF COMPARABLE ACTION.**

10       “(a) INTERAGENCY REVIEW.—

11               “(1) INTERAGENCY GROUP.—

12                       “(A) ESTABLISHMENT.—The President  
13        shall establish an interagency group to carry  
14        out this subsection.

15                       “(B) CHAIRPERSON.—The chairperson of  
16        the interagency group established under sub-  
17        paragraph (A) shall be the Secretary of State.

18                       “(C) REQUIREMENT.—The Administrator  
19        shall be a member of the interagency group.

20               “(2) DETERMINATIONS.—The interagency  
21        group established under paragraph (1)(A) shall de-  
22        termine whether, and the extent to which, each for-  
23        eign country has taken comparable action to limit  
24        the greenhouse gas emissions of the foreign country.

1           “(3) REPORT TO PRESIDENT.—Not later than  
2           January 1, 2010, and annually thereafter, the inter-  
3           agency group shall submit to the President a report  
4           describing the determinations of the interagency  
5           group under paragraph (2).

6           “(b) PRESIDENTIAL DETERMINATIONS.—Not later  
7           than January 1, 2011, and annually thereafter, the Presi-  
8           dent shall—

9           “(1) determine whether each foreign country  
10          has taken comparable action to limit the greenhouse  
11          gas emissions of the foreign country, taking into  
12          consideration applicable reports submitted under  
13          subsection (a)(3);

14          “(2) submit to Congress an annual report de-  
15          scribing the determinations of the President under  
16          paragraph (1); and

17          “(3) publish the determinations in the Federal  
18          Register.

19   **“SEC. 765. INTERNATIONAL RESERVE ALLOWANCE PRO-**  
20                           **GRAM.**

21          “(a) ESTABLISHMENT.—

22          “(1) IN GENERAL.—The Administrator shall es-  
23          tablish a program under which the Administrator,  
24          during the 1-year period beginning on January 1,  
25          2019, and annually thereafter, shall offer for sale to

1 United States importers international reserve allow-  
2 ances in accordance with this subsection.

3 “(2) SOURCE.—International reserve allowances  
4 under paragraph (1) shall be issued from a special  
5 reserve of allowances that is separate from, and es-  
6 tablished in addition to, the quantity of allowances  
7 established under section 711.

8 “(3) PRICE.—The price of international reserve  
9 allowances shall be the fair market value of emission  
10 allowances during the previous 12 months, as deter-  
11 mined by the Administrator.

12 “(4) SERIAL NUMBER.—The Administrator  
13 shall assign a unique serial number to each inter-  
14 national reserve allowance issued under this sub-  
15 section.

16 “(5) TRADING SYSTEM.—The Administrator  
17 may establish, by rule, a system for the sale, ex-  
18 change, purchase, and transfer of international re-  
19 serve allowances.

20 “(6) COVERED ENTITIES.—International re-  
21 serve allowances may not be submitted by covered  
22 entities to comply with the allowance submission re-  
23 quirements of section 712.

24 “(7) PROCEEDS.—All proceeds from the sale of  
25 international reserve allowances under this sub-

1 section shall be deposited in the International Clean  
2 Technology Fund established under section 722(a).

3 “(b) FOREIGN COUNTRY LISTS.—

4 “(1) IN GENERAL.—Not later than January 1,  
5 2019, and annually thereafter, the President shall  
6 develop and publish in the Federal Register, to-  
7 gether with the determinations under section 764(b),  
8 2 lists of foreign countries, in accordance with this  
9 subsection.

10 “(2) EXCLUDED LIST.—The President shall  
11 identify and publish in a list, to be known as the ‘ex-  
12 cluded list’—

13 “(A) each foreign country determined by  
14 the President under section 764(b)(1) to have  
15 taken comparable action to limit the greenhouse  
16 gas emissions of the foreign country;

17 “(B) each foreign country determined by  
18 the President to be responsible for less than 0.5  
19 percent of total global greenhouse gas emissions  
20 for the most recent calendar year for which  
21 emissions and other relevant data are available;  
22 and

23 “(C) each foreign country the United Na-  
24 tions has identified as among the least-devel-  
25 oped of developing countries.

1           “(3) COVERED LIST.—The President shall iden-  
2           tify and publish in a list, to be known as the ‘cov-  
3           ered list’, each foreign country that is not included  
4           on the excluded list under paragraph (2).

5           “(c) WRITTEN DECLARATIONS.—

6           “(1) IN GENERAL.—Effective beginning Janu-  
7           ary 1, 2020, a United States importer shall, as a  
8           condition of importation or withdrawal for consump-  
9           tion from a warehouse of a trade-exposed primary  
10          good, submit to the Administrator and the appro-  
11          priate office of U.S. Customs and Border Protection  
12          a written declaration with respect to each such im-  
13          portation or withdrawal.

14          “(2) CONTENTS.—A written declaration under  
15          paragraph (1) shall contain a statement that—

16                 “(A) the applicable trade-exposed primary  
17                 good is accompanied by a sufficient number of  
18                 international reserve allowances, as determined  
19                 under subsection (d); or

20                 “(B) the trade-exposed primary good was  
21                 produced in a foreign country on the excluded  
22                 list published under subsection (b)(2).

23          “(3) INCLUSION.—A written declaration under  
24          paragraph (1) shall include the unique serial number  
25          of each international reserve allowance associated

1 with the importation of the applicable trade-exposed  
2 primary good.

3 “(4) FAILURE TO DECLARE.—An imported  
4 trade-exposed primary good produced in a covered  
5 foreign country that is not accompanied by a written  
6 declaration under this subsection shall not be per-  
7 mitted to enter the customs territory of the United  
8 States.

9 “(5) CORRECTED DECLARATION.—

10 “(A) IN GENERAL.—If, after making a  
11 declaration required under this subsection, an  
12 importer has reason to believe that the declara-  
13 tion contains information that is not correct,  
14 the importer shall provide a corrected declara-  
15 tion by not later than 30 days after the date of  
16 discovery of the error, in accordance with sub-  
17 paragraph (B).

18 “(B) METHOD.—A corrected declaration  
19 under subparagraph (A) shall be in the form of  
20 a letter or other written statement to the Ad-  
21 ministrator and the office of U.S. Customs and  
22 Border Protection to which the original declara-  
23 tion was submitted.

24 “(d) QUANTITY OF ALLOWANCES REQUIRED.—



1           “(1) METHODOLOGY.—Not later than January  
2           1, 2018, the Administrator shall establish, by rule,  
3           a method for calculating the required number of  
4           international reserve allowances per unit of trade-ex-  
5           posed primary good that a United States importer  
6           must submit, together with a written declaration  
7           under subsection (c), for each category or sub-  
8           category of trade-exposed primary goods produced in  
9           each covered foreign country.

10           “(2) INITIAL COMPLIANCE YEAR.—

11           “(A) IN GENERAL.—Subject to subpara-  
12           graph (B), the methodology under paragraph  
13           (1) shall establish an international reserve al-  
14           lowance requirement (per unit imported into the  
15           United States) for the initial compliance year  
16           for each category or subcategory of trade-ex-  
17           posed primary goods produced in each covered  
18           foreign country that is equal to the quotient ob-  
19           tained by dividing—

20           “(i) the total greenhouse gas emis-  
21           sions (including indirect greenhouse gas  
22           emissions) from the covered foreign coun-  
23           try that are attributable to the category or  
24           subcategory of trade-exposed primary  
25           goods produced in that country during the

1           most recent year for which data are avail-  
2           able; by

3           “(ii) the total quantity of the category  
4           or subcategory of trade-exposed primary  
5           good produced in the covered foreign coun-  
6           try during the same calendar year.

7           “(B) ADJUSTMENTS.—The Administrator  
8           shall adjust the requirement under subpara-  
9           graph (A) to take into account the level of eco-  
10          nomic development of the covered foreign coun-  
11          try in which the trade-exposed primary goods  
12          were produced.

13          “(3) SUBSEQUENT COMPLIANCE YEARS.—For  
14          each subsequent compliance year, the Administrator  
15          shall revise the international reserve allowance re-  
16          quirement applicable to each category or subcategory  
17          of imported trade-exposed primary goods produced  
18          in each covered foreign country to reflect changes in  
19          the factors described in paragraph (2).

20          “(4) PUBLICATION.—Not later than 90 days  
21          before the beginning of each compliance year, the  
22          Administrator shall publish in the Federal Register  
23          a schedule describing the required number of inter-  
24          national reserve allowances for each category or sub-  
25          category of imported trade-exposed primary goods

1 produced in each covered foreign country, as cal-  
2 culated under this subsection.

3 “(e) INTERNATIONAL EMISSION ALLOWANCES AND  
4 OFFSET CREDITS.—A United States importer may satisfy  
5 up to 15 percent of its obligation under this section by  
6 submitting, in lieu of an international reserve allowance,  
7 an international emission allowance approved by the Ad-  
8 ministrator under section 751 or an international offset  
9 credit approved by the Administrator under section 752.

10 “(f) RETIREMENT OF ALLOWANCES.—The Adminis-  
11 trator shall retire each international reserve allowance  
12 submitted to achieve compliance with this section. Treat-  
13 ment of international allowances and international offset  
14 credits submitted under this section shall be governed by  
15 section 753.

16 “(g) CONSISTENCY WITH INTERNATIONAL AGREE-  
17 MENTS.—The Administrator, in consultation with the Sec-  
18 retary of State, shall adjust the international reserve al-  
19 lowance requirements established under this section (in-  
20 cluding the quantity of international reserve allowances re-  
21 quired for each category or subcategory of trade-exposed  
22 primary goods produced in a covered foreign country) as  
23 the Administrator determines to be necessary to ensure  
24 that the United States complies with all applicable inter-  
25 national agreements.



1       “(c) EFFECTIVE DATE.—An adjustment under sub-  
2 section (b)(1) shall take effect beginning on January 1  
3 of a compliance year, as determined by the President.

4       **“Subtitle H—Standards for Non-**  
5       **covered Facilities and Coal-**  
6       **Fired Power Plants**

7       **“SEC. 771. PERFORMANCE STANDARDS FOR CERTAIN**  
8               **SOURCES THAT ARE NOT COVERED ENTITIES.**

9       “(a) DEFINITION.—For purposes of this section, the  
10 term ‘performance standard source’ means a stationary  
11 source of methane or nitrous oxide emissions that are not  
12 covered by the compliance requirements of section 712 and  
13 that exceed 10,000 carbon dioxide equivalents per year,  
14 including coal mines, landfills, wastewater treatment oper-  
15 ations, and animal feeding operations. Such term shall not  
16 include sources of emissions from agricultural soil man-  
17 agement, rice cultivation, field burning of agricultural resi-  
18 dues, or management of forest lands.

19       “(b) LIST OF CATEGORIES.—Not later than 90 days  
20 after the date of enactment of this title, the Administrator  
21 shall publish a list of all categories or subcategories of per-  
22 formance standard sources subject to the requirements of  
23 this section. The Administrator shall review such list at  
24 least once every 5 years, and shall revise the list as nec-  
25 essary.

1       “(c) RULEMAKING.—Not later than 2 years after ini-  
2 tial publication of the list under subsection (b), the Ad-  
3 ministrator shall issue a final rule for each category or  
4 subcategory of performance standard sources requiring  
5 such sources to operate in conformance with the standards  
6 established under subsection (d). Such rules shall establish  
7 compliance dates for each category or subcategory listed  
8 under subsection (b), which shall be no later than 3 years  
9 after the issuance of the rule under this subsection. The  
10 Administrator shall, not less often than every 8 years, re-  
11 view and, as necessary, revise the rules issued under this  
12 subsection, taking into account developments in practices,  
13 processes, and control technologies.

14       “(d) STANDARDS.—

15               “(1) ESTABLISHMENT.—The rules issued under  
16 subsection (c) shall establish, for each category or  
17 subcategory of performance standard sources listed  
18 under subsection (b), standards for the best avail-  
19 able control technologies and practices for reducing  
20 methane or nitrous oxide emissions from sources in  
21 that category or subcategory.

22               “(2) CONSIDERATIONS.—In establishing stand-  
23 ards under paragraph (1), the Administrator shall  
24 consider—

25                       “(A) compliance costs;

1           “(B) health and environmental impacts not  
2           associated with methane and nitrous oxide  
3           emissions;

4           “(C) energy requirements; and

5           “(D) technologies and practices developed  
6           or used outside the United States.

7           “(3) NEW SOURCES.—In establishing standards  
8           under paragraph (1), the Administrator may impose  
9           stricter requirements for new sources than for  
10          sources in existence before the issuance of the rule  
11          under subsection (c).

12          “(4) ALTERNATIVE COMPLIANCE THRESH-  
13          OLD.—The Administrator may establish an optional  
14          alternative compliance threshold for a category or  
15          subcategory of performance standard sources based  
16          on the volume or size of the source’s operations,  
17          where such alternative threshold is demonstrated to  
18          be an accurate indicator of the mass of methane and  
19          nitrous oxide emissions from the source and is equiv-  
20          alent to a 10,000 carbon dioxide equivalent per year  
21          threshold.

22          “(5) ALTERNATIVE MEANS OF COMPLIANCE.—  
23          The Administrator may approve a request by an  
24          owner or operator of a performance standard source  
25          to use an alternative means of compliance with the

1 requirements for such source under the applicable  
2 rule issued under subsection (c) if such alternative  
3 will achieve a reduction in emissions at least equal  
4 to reductions achieved under the performance stand-  
5 ards in the applicable rule.

6 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-  
7 tion shall be construed to limit the Administrator’s duties  
8 or authority under section 111 or any other section of this  
9 Act.

10 **“SEC. 772. PERFORMANCE STANDARDS FOR NEW COAL-**  
11 **FIRED POWER PLANTS.**

12 “(a) COVERED EGUS DEFINED.—For purposes of  
13 this section, the term ‘covered EGU’ means an electric  
14 generating unit that—

15 “(1) has a rated capacity of 25 megawatts or  
16 more;

17 “(2) derives at least 50 percent of its annual  
18 fuel input from coal, petroleum coke, or any com-  
19 bination of these fuels; and

20 “(3) commences construction on or after Janu-  
21 ary 1, 2009.

22 “(b) STANDARDS OF EMISSION PERFORMANCE FOR  
23 COVERED ELECTRIC GENERATING UNITS.—



1           “(1) OBLIGATIONS OF COVERED EGUS.—Each  
2 covered EGU shall achieve, on the compliance sched-  
3 ule set forth in paragraph (2), either—

4           “(A) the capture and geological sequestra-  
5 tion of not less than 85 percent of the total car-  
6 bon dioxide emissions produced by the covered  
7 EGU on an annual average basis; or

8           “(B) a greater rate of capture and geologi-  
9 cal sequestration as established by regulations  
10 promulgated by the Administrator under sub-  
11 section (c), provided that such regulations were  
12 promulgated prior to commencement of con-  
13 struction of the covered EGU.

14           “(2) COMPLIANCE SCHEDULE.—(A) Covered  
15 EGUs that commence operation prior to January 1,  
16 2020, must be in compliance with the emission per-  
17 formance standard applicable under regulations pro-  
18 mulgated under subsection (c) by either—

19           “(i) January 1, 2016; or

20           “(ii) four years after the covered EGU  
21 commences operation,

22 whichever occurs later.

23           “(B) Any other covered EGU must be in com-  
24 pliance with the emission performance standard on  
25 the date when it commences operation except that,

1 prior to January 1, 2025, such EGU may obtain a  
2 compliance date extension of up to 18 months if the  
3 owner or operator can demonstrate to the Adminis-  
4 trator’s satisfaction that it is unable to meet the  
5 emission performance standard because of technical  
6 infeasibility.

7 “(c) REGULATIONS.—

8 “(1) INITIAL REGULATIONS.—Not later than  
9 180 days after the date of enactment of this title,  
10 the Administrator shall promulgate regulations im-  
11 plementing the requirements of this section.

12 “(2) REVISED REGULATIONS.—Not later than  
13 January 1, 2012, and at 5-year intervals thereafter,  
14 the Administrator shall, by rule, increase the min-  
15 imum rate of capture and geological sequestration of  
16 carbon dioxide emissions under subsection (b)(1)(A)  
17 if the Administrator determines that a greater rate  
18 of capture and geological sequestration is achievable  
19 through the application of the best available control  
20 technology, taking into account the cost of achieving  
21 such increase, energy impacts, and any health and  
22 environmental impacts not associated with carbon  
23 dioxide emissions.”.

1 **SEC. 102. CONFORMING AMENDMENTS.**

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, or title VII,”.

6 (2) In subsection (b), by striking “or a major  
7 stationary source” and inserting “a major stationary  
8 source, or a covered entity under title VII,” in the  
9 material preceding paragraph (1).

10 (3) In paragraph (2), by striking “or title VI”  
11 and inserting “title VI, or title VII”.

12 (4) In subsection (c)—

13 (A) in the first sentence of paragraph (1),  
14 by striking “or title VI (relating to strato-  
15 spheric ozone control),” and inserting “title VI  
16 (relating to stratospheric ozone control), or title  
17 VII (relating to reduction of greenhouse gas  
18 emissions),”; and

19 (B) in the first sentence of paragraph (3),  
20 by striking “or VI” and inserting “VI, or VII”.

21 (5) In subsection (d)(1)(B), by striking “or VI”  
22 and inserting “VI, or VII”.

23 (6) In subsection (f), in the first sentence, by  
24 striking “or VI” and inserting “VI, or VII”.

25 (b) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
26 tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is

1 amended by striking “section 112,” and all that follows  
 2 through “(ii)” and inserting the following: “section 112,  
 3 any regulation of solid waste combustion under section  
 4 129, or any regulation of greenhouse gas emissions under  
 5 title VII, (ii)”.

6 (c) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL  
 7 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.  
 8 7607) is amended as follows:

9 (1) In subsection (a), by striking “, or section  
 10 306” and inserting “section 306,or title VII”.

11 (2) In subsection (b)(1)—

12 (A) by striking “,,” and inserting “,” in  
 13 each place such punctuation appears; and

14 (B) by striking “section 120,” in the first  
 15 sentence and inserting “section 120, any final  
 16 action under title VII,”.

17 (3) In subsection (d)(1) by amending subpara-  
 18 graph (S) to read as follows:

19 “(S) the promulgation or revision of any  
 20 regulation under title VII,”.

21 **SEC. 103. COMPLEMENTARY POLICIES FOR**  
 22 **HYDROFLUOROCARBONS.**

23 (a) NATIONAL RECYCLING AND EMISSION REDUC-  
 24 TION PROGRAM.—Section 608 of the Clean Air Act (42  
 25 U.S.C. 7671g) is amended as follows:

1 (1) By adding at the end the following:

2 “(d) DEFINITION OF HYDROFLUOROCARBON SUB-  
3 STITUTE.—In this section, the term ‘hydrofluorocarbon  
4 substitute’ means a hydrofluorocarbon or other green-  
5 house gas that has a global warming potential of more  
6 than 150 and that is used in or for types of equipment,  
7 appliances, or processes that previously relied on class I  
8 or class II substances.”.

9 (2) In subsection (a), by adding the following  
10 new paragraph at the end:

11 “(4)(A) Not later than 1 year after the date of  
12 enactment of this paragraph, the Administrator shall  
13 promulgate regulations establishing standards and  
14 requirements regarding the sale or distribution, or  
15 offer for sale and distribution in interstate com-  
16 merce, use, and disposal of hydrofluorocarbon sub-  
17 stitutes for class I and class II substances not cov-  
18 ered by paragraph (1), including the use, recycling,  
19 and disposal of those hydrofluorocarbon substitutes  
20 during the maintenance, service, repair, or disposal  
21 of appliances and industrial process refrigeration  
22 equipment.

23 “(B) The standards and requirements estab-  
24 lished under subparagraph (A) shall take effect not

1 later than 1 year after the date of promulgation of  
2 the regulations.”.

3 (3) In subsection (b), by inserting “and  
4 hydrofluorocarbon substitutes for those substances”  
5 after “substances” in the matter preceding para-  
6 graph (1), by inserting “(or hydrofluorocarbon sub-  
7 stitutes for those substances)” after “substances” in  
8 paragraph (1), and by inserting “(or a  
9 hydrofluorocarbon substitute for such substance)”  
10 after “substance” in paragraphs (2) and (3) in each  
11 place such term appears.

12 (b) SERVICING OF MOTOR VEHICLE AIR CONDI-  
13 TIONERS.—Section 609 of the Clean Air Act (42 U.S.C.  
14 7671h) is amended as follows:

15 (1) In subsection (b), by adding at the end the  
16 following:

17 “(5) The term ‘hydrofluorocarbon substitute’  
18 means a hydrofluorocarbon or other greenhouse gas  
19 that has a global warming potential of more than  
20 150 and that is used in or for types of equipment,  
21 appliances, or processes that previously relied on  
22 class I or class II substances.”.

23 (2) In subsection (e)—

24 (A) by striking “OF CLASS I OR CLASS II  
25 SUBSTANCES” in the subsection heading; and

1 (B) by adding at the end the following:  
2 “Effective beginning January 1, 2010, it shall  
3 be unlawful for any person to sell or distribute,  
4 or offer for sale or distribution, in interstate  
5 commerce to any person (other than a person  
6 performing service for consideration on motor  
7 vehicle air-conditioning systems in compliance  
8 with this section) any hydrofluorocarbon sub-  
9 stitute that is suitable for use in a motor vehi-  
10 cle air-conditioning system and that is in a con-  
11 tainer that contains less than 20 pounds of the  
12 hydrofluorocarbon substitute.”.

13 **SEC. 104. WAIVER OF PREEMPTION FOR CALIFORNIA**  
14 **GREENHOUSE GAS EMISSION STANDARDS**  
15 **FOR VEHICLES.**

16 Section 209 of the Clean Air Act (42 U.S.C. 7543)  
17 is amended by adding at the end the following:

18 “(f) WAIVER.—Notwithstanding subsection (b) or  
19 any other provision of law, the application for a waiver  
20 of preemption dated December 21, 2005, submitted to the  
21 Administrator pursuant to subsection (b) by the State of  
22 California for regulations of that State to control green-  
23 house gas emissions from motor vehicles shall be consid-  
24 ered to be approved.”.

1 **SEC. 105. LOW-CARBON FUEL STANDARD.**

2 (a) DEFINITIONS.—Section 211(o)(1) of the Clean  
3 Air Act (42 U.S.C. 7545(o)(1)) is amended—

4 (1) by redesignating subparagraphs (G)  
5 through (L) as subparagraphs (J) through (O), re-  
6 spectively;

7 (2) by inserting after subparagraph (F) the fol-  
8 lowing:

9 “(G) CULTIVATED NOXIOUS PLANT.—The  
10 term ‘cultivated noxious plant’ means a plant  
11 that is included on—

12 “(i) the Federal noxious weed list  
13 maintained by the Animal and Plant  
14 Health Inspection Service; or

15 “(ii) any comparable State list.

16 “(H) FUEL EMISSION BASELINE.—The  
17 term ‘fuel emission baseline’ means the average  
18 lifecycle greenhouse gas emissions per unit of  
19 energy of the aggregate of all transportation  
20 fuels sold or introduced into commerce in cal-  
21 endar year 2005, as determined by the Admin-  
22 istrator under paragraph (13).

23 “(I) FUEL PROVIDER.—The term ‘fuel  
24 provider’ includes, as the Administrator deter-  
25 mines to be appropriate, any individual or enti-  
26 ty that produces, refines, blends, or imports any



1 transportation fuel in commerce in, or into, the  
2 United States.”; and

3 (3) by striking subparagraph (O) (as redesign-  
4 nated by paragraph (1)) and inserting the following:

5 “(O) TRANSPORTATION FUEL.—The term  
6 ‘transportation fuel’ means fuel for use in  
7 motor vehicles, nonroad vehicles, nonroad en-  
8 gines, or aircraft.”.

9 (b) ESTABLISHMENT.—Section 211(o) of the Clean  
10 Air Act (42 U.S.C. 7545(o)) is amended by adding at the  
11 end the following:

12 “(13) ADVANCED CLEAN FUEL PERFORMANCE  
13 STANDARD.—

14 “(A) METHODOLOGY AND BASELINE.—Not  
15 later than January 1, 2010, the Administrator  
16 shall, by regulation—

17 “(i) establish a methodology for use in  
18 determining the lifecycle greenhouse gas  
19 emissions per unit of energy of all trans-  
20 portation fuels in commerce for which the  
21 Administrator has not already established  
22 such a methodology; and

23 “(ii) determine the fuel emission base-  
24 line.

1           “(B) PERFORMANCE STANDARD.—Not  
2 later than January 1, 2010, the Administrator  
3 shall, by regulation, establish a requirement ap-  
4 plicable to transportation fuel providers to re-  
5 duce, on an annual average basis, the average  
6 lifecycle greenhouse gas emissions per unit of  
7 energy of the aggregate quantity of transpor-  
8 tation fuel produced, refined, blended, or im-  
9 ported by the fuel provider to a level that is, to  
10 the maximum extent practicable—

11                   “(i) by not later than calendar year  
12 2011 and in subsequent calendar years  
13 thereafter, at least equal to or less than  
14 the fuel emission baseline;

15                   “(ii) by not later than calendar year  
16 2012, equivalent to the difference between  
17 the fuel emission baseline and the lifecycle  
18 greenhouse gas emissions per unit of en-  
19 ergy reduced by the volumetric renewable  
20 fuel requirements of paragraph (2)(B);

21                   “(iii) by not later than calendar year  
22 2023, at least 5 percent less than the fuel  
23 emission baseline; and

1           “(iv) by not later than calendar year  
2           2028, at least 10 percent less than the fuel  
3           emission baseline.

4           “(C) PREVENTION OF AIR QUALITY DETE-  
5           RIORATION.—

6           “(i) STUDY.—Not later than 18  
7           months after the date of enactment of this  
8           paragraph, the Administrator shall com-  
9           plete a study to determine whether the  
10          greenhouse gas emission reductions re-  
11          quired under subparagraph (B) will ad-  
12          versely impact air quality as a result of  
13          changes in vehicle and engine emissions of  
14          air pollutants regulated under this Act.

15          “(ii) CONSIDERATIONS.—The study  
16          shall include consideration of different  
17          blend levels, types of transportation fuels,  
18          and available vehicle technologies and ap-  
19          propriate national, regional, and local air  
20          quality control measures.

21          “(iii) REGULATIONS.—Not later than  
22          3 years after the date of enactment of this  
23          paragraph, the Administrator shall ei-  
24          ther—

1           “(I) promulgate fuel regulations  
2           to implement appropriate measures to  
3           mitigate, to the maximum extent  
4           practicable and taking into consider-  
5           ation the results of the study con-  
6           ducted under this clause, any adverse  
7           impacts on air quality as a result of  
8           the greenhouse gas emission reduc-  
9           tions required by this subsection; or

10           “(II) make a determination that  
11           no such measures are necessary.

12           “(D) PERFORMANCE STANDARD FOR CAL-  
13           ENDAR YEAR 2033 AND THEREAFTER.—For cal-  
14           endar year 2033, and every 5 years thereafter,  
15           the Administrator, in consultation with the Sec-  
16           retary of Agriculture and the Secretary of En-  
17           ergy, shall revise the applicable performance  
18           standard under subparagraph (B) to reduce, to  
19           the maximum extent practicable, the average  
20           lifecycle greenhouse gas emissions per unit of  
21           energy of the aggregate quantity of transpor-  
22           tation fuel sold or introduced into commerce in  
23           the United States.

24           “(E) REVISION OF REGULATIONS.—In ac-  
25           cordance with the purposes of the Investing in

1 Climate Action and Protection Act, the Admin-  
2 istrator may, as appropriate, revise the regula-  
3 tions promulgated under subparagraphs (A)  
4 and (B) as necessary to reflect or respond to  
5 changes in the transportation fuel market or  
6 other relevant circumstances.

7 “(F) METHOD OF CALCULATION FOR HY-  
8 DROGEN AND ELECTRICITY.—In calculating  
9 under subparagraph (A)(i) the lifecycle green-  
10 house gas emissions of hydrogen or electricity  
11 (when used as a transportation fuel), the Ad-  
12 ministrator shall—

13 “(i) include emission resulting from  
14 the production of the hydrogen or elec-  
15 tricity; and

16 “(ii) consider the energy delivered  
17 by—

18 “(I) 6.4 kilowatt-hours of elec-  
19 tricity;

20 “(II) 32 standard cubic feet of  
21 hydrogen; or

22 “(III) 1.25 gallons of liquid hy-  
23 drogen,

24 to be equivalent to the energy delivered by  
25 1 gallon of ethanol.

1           “(G) DETERMINATION OF LIFECYCLE  
2 GREENHOUSE GAS EMISSIONS.—In carrying out  
3 this paragraph, the Administrator shall use the  
4 best available scientific and technical informa-  
5 tion to determine the lifecycle greenhouse gas  
6 emissions per unit of energy of transportation  
7 fuels derived from—

8                   “(i) renewable biomass;

9                   “(ii) electricity, including the entire  
10 lifecycle of the fuel;

11                   “(iii) 1 or more fossil fuels, including  
12 the entire lifecycle of the fuels; and

13                   “(iv) hydrogen, including the entire  
14 lifecycle of the fuel.

15           “(H) EQUIVALENT EMISSIONS.—In car-  
16 rying out this subparagraph, the Administrator  
17 shall consider transportation fuel derived from  
18 cultivated noxious plants, and transportation  
19 fuel derived from biomass sources other than  
20 renewable biomass, to have emissions per unit  
21 of energy equivalent to the greater of—

22                   “(i) the lifecycle greenhouse gas emis-  
23 sions of such transportation fuel; or

24                   “(ii) the fuel emission baseline.

1           “(I) ELECTION TO PARTICIPATE.—An elec-  
2           tricity provider may elect to participate in the  
3           program under this paragraph if the electricity  
4           provider provides and separately tracks elec-  
5           tricity for transportation through a meter  
6           that—

7                   “(i) measures the electricity used for  
8                   transportation separately from electricity  
9                   used for other purposes; and

10                   “(ii) allows for load management and  
11                   time-of-use rates.

12           “(J) CREDITS.—

13                   “(i) IN GENERAL.—The regulations  
14                   promulgated to carry out this paragraph  
15                   shall permit fuel providers to generate  
16                   credits for achieving, during a calendar  
17                   year, greater reductions in lifecycle green-  
18                   house gas emissions of the fuel provided,  
19                   blended, or imported by the fuel provider  
20                   than are required under subparagraph (B).

21                   “(ii) METHOD OF CALCULATION.—  
22                   The number of credits received by a fuel  
23                   provider under clause (i) for a calendar  
24                   year shall be the product obtained by mul-  
25                   tiplying the aggregate quantity of fuel pro-

1           duced, distributed, or imported by the fuel  
2           provider during the calendar year by the  
3           difference between—

4                   “(I) the lifecycle greenhouse gas  
5                   emissions per unit of energy of that  
6                   quantity of fuel; and

7                   “(II) the maximum lifecycle  
8                   greenhouse gas emissions per unit of  
9                   energy of that quantity of fuel per-  
10                  mitted for the calendar year under  
11                  subparagraph (B).

12           “(K) COMPLIANCE.—

13                   “(i) IN GENERAL.—Each fuel provider  
14                   subject to this paragraph shall dem-  
15                   onstrate compliance with this paragraph,  
16                   including, as necessary, through the use of  
17                   credits generated, banked, or purchased.

18                   “(ii) NO LIMITATION ON TRADING OR  
19                   BANKING.—There shall be no limit on the  
20                   ability of any fuel provider to trade or  
21                   bank credits pursuant to this subpara-  
22                   graph.

23                   “(iii) USE OF BANKED CREDITS.—A  
24                   fuel provider may use banked credits under



1 this subparagraph with no discount or  
2 other adjustment to the credits.

3 “(iv) INABILITY TO GENERATE OR  
4 PURCHASE SUFFICIENT CREDITS.—A fuel  
5 provider that is unable to generate or pur-  
6 chase sufficient credits to meet the require-  
7 ments of subparagraph (B) may carry the  
8 compliance deficit forward, subject to the  
9 condition that the fuel provider, for the  
10 calendar year following the year for which  
11 the deficit is created—

12 “(I) achieves compliance with  
13 subparagraph (B); and

14 “(II) generates or purchases ad-  
15 ditional credits to offset the deficit  
16 from the preceding calendar year.

17 “(v) TYPES OF CREDITS.—To encour-  
18 age innovation in transportation fuels—

19 “(I) only credits created in the  
20 production of transportation fuels  
21 may be used for the purpose of com-  
22 pliance described in clause (i); and

23 “(II) credits created by or in  
24 other sectors, such as manufacturing,  
25 may not be used for that purpose.

1           “(L) IMPACT ON FOOD PRODUCTION.—Not  
2 later than 18 months after the date of enact-  
3 ment of this paragraph, the Administrator shall  
4 evaluate and consider promulgating regulations  
5 to address any significant impacts on access to,  
6 and production of, food due to the sourcing and  
7 production of fuels used to comply with this  
8 Act.

9           “(M) NO EFFECT ON STATE AUTHOR-  
10 ITY.—Nothing in this paragraph affects the au-  
11 thority of any State to establish, or to maintain  
12 in effect, any transportation fuel standard that  
13 reduces greenhouse gas emissions.”.

## 14           **TITLE II—CARBON MARKET** 15           **OVERSIGHT**

### 16           **SEC. 201. AMENDMENT OF FEDERAL POWER ACT.**

17           The Federal Power Act (16 U.S.C. 791a and fol-  
18 lowing) is amended by adding the following new part at  
19 the end thereof:

### 20           **“PART IV—REGULATION OF CARBON MARKETS**

#### 21           **“SEC. 401. PURPOSES.**

22           “The purposes of this part are to—

23           “(1) provide for the establishment of markets  
24 for emission allowances, offset credits, and deriva-  
25 tives based on such allowances and credits (including

1 futures and options markets), through a system of  
2 effective self-regulation of trading facilities, clearing  
3 systems, and market participants;

4 “(2) ensure transparency and fair competition  
5 in those markets; and

6 “(3) ensure that those markets will function in  
7 a stable and efficient manner so as to avoid harm  
8 to the environmental objectives of title I of the In-  
9 vesting in Climate Action and Protection Act or the  
10 United States economy.

11 **“SEC. 402. DEFINITIONS.**

12 “In this part:

13 “(1) CARBON CLEARING ORGANIZATION.—

14 “(A) IN GENERAL.—The term ‘carbon  
15 clearing organization’ means a clearinghouse,  
16 clearing association, clearing corporation, or  
17 similar entity, facility, system, or organization  
18 that—

19 “(i) enables each party to an agree-  
20 ment, contract, or transaction involving a  
21 regulated instrument to substitute,  
22 through novation or otherwise, the credit  
23 of the organization for the credit of the  
24 parties;

1           “(ii) arranges or provides, on a multi-  
2 lateral basis, for the settlement or netting  
3 of obligations resulting from agreements,  
4 contracts, or transactions involving regu-  
5 lated instruments executed by participants  
6 in the organization; or

7           “(iii) otherwise provides clearing serv-  
8 ices or arrangements that mutualize or  
9 transfer among participants in the organi-  
10 zation the credit risk arising from agree-  
11 ments, contracts, or transactions involving  
12 regulated instruments executed by the par-  
13 ticipants.

14           “(B) EXCLUSIONS.—The term ‘carbon  
15 clearing organization’ does not include an enti-  
16 ty, facility, system, or organization solely be-  
17 cause it arranges or provides for—

18           “(i) settlement, netting, or novation of  
19 obligations resulting from agreements, con-  
20 tracts, or transactions, on a bilateral basis  
21 and without a central counterparty; or

22           “(ii) settlement or netting of cash  
23 payments through an interbank payment  
24 system.

1           “(2) COMMISSION.—The term ‘Commission’  
2 means the Federal Energy Regulatory Commission.

3           “(3) CONTRACT OF SALE.—The term ‘contract  
4 of sale’ includes a sale, an agreement of sale, and an  
5 agreement to sell.

6           “(4) DEALER.—The term ‘dealer’ means an in-  
7 dividual, association, partnership, corporation, or  
8 trust that—

9                   “(A) is engaged in soliciting or in accept-  
10 ing orders for the purchase or sale of a regu-  
11 lated instrument on or subject to the rules of  
12 a registered carbon trading facility; and

13                   “(B) in or in connection with the sollicita-  
14 tion or acceptance of such an order, accepts  
15 money, securities, or property (or extends credit  
16 in lieu thereof) to margin, guarantee, or secure  
17 any trade or contract that results or may result  
18 therefrom.

19           “(5) DIRECTOR.—The term ‘Director’ means  
20 the Director of the Office of Carbon Market Over-  
21 sight.

22           “(6) ELIGIBLE CONTRACT PARTICIPANT.—The  
23 term ‘eligible contract participant’ has the meaning  
24 given the term in section 1a(12) of the Commodity  
25 Exchange Act (7 U.S.C. 1a(12)).

1           “(7) EMISSION ALLOWANCE.—The term ‘emis-  
2           sion allowance’ has the meaning given that term in  
3           section 700(8) of the Clean Air Act.

4           “(8) FLOOR BROKER.—The term ‘floor broker’  
5           means any person who, in or surrounding any pit,  
6           ring, post, or other place provided by a registered  
7           carbon trading facility for the meeting of persons  
8           similarly engaged, purchases or sells for any other  
9           person a regulated instrument on or subject to the  
10          rules of the trading facility.

11          “(9) FLOOR TRADER.—The term ‘floor trader’  
12          means any person who, in or surrounding any pit,  
13          ring, post, or other place provided by a registered  
14          carbon trading facility for the meeting of persons  
15          similarly engaged, purchases, or sells solely for the  
16          person’s own account, a regulated instrument on or  
17          subject to the rules of the trading facility.

18          “(10) INTRODUCING BROKER.—The term ‘in-  
19          troducing broker’ means any person (except an indi-  
20          vidual who elects to be and is registered as an asso-  
21          ciated person of a dealer) engaged in soliciting or in  
22          accepting orders for the purchase or sale of a regu-  
23          lated instrument on or subject to the rules of a reg-  
24          istered carbon trading facility, who does not accept  
25          money, securities, or property (or extend credit in

1 lieu thereof) to margin, guarantee, or secure any  
2 trade or contract that results or may result from  
3 such a solicitation or acceptance.

4 “(11) MEMBER.—The term ‘member’ means,  
5 with respect to a trading facility or a carbon clearing  
6 organization, an individual, association, partnership,  
7 corporation, or trust owning or holding membership  
8 in, admitted to membership representation on, or  
9 having trading privileges on the trading facility or  
10 carbon clearing organization.

11 “(12) OFFSET CREDIT.—The term ‘offset cred-  
12 it’ has the meaning given that term in section  
13 700(20) of the Clean Air Act.

14 “(13) REGULATED ALLOWANCE.—The term  
15 ‘regulated allowance’ means an emission allowance  
16 or an offset credit.

17 “(14) REGULATED ALLOWANCE DERIVATIVE.—  
18 The term ‘regulated allowance derivative’ means an  
19 instrument that is or includes an instrument—

20 “(A) which—

21 “(i) is of the character of, or is com-  
22 monly known to the trade as, an ‘option’,  
23 ‘privilege’, ‘indemnity’, ‘bid’, ‘offer’, ‘put’,  
24 ‘call’, ‘advance guaranty’, or ‘decline guar-  
25 anty’; or

1                   “(ii) is a contract of sale for future  
2                   delivery; and

3                   “(B) the value of which, in whole or in  
4                   part, is directly linked to the price of a regu-  
5                   lated allowance or another regulated allowance  
6                   derivative.

7                   “(15) REGULATED INSTRUMENT.—The term  
8                   ‘regulated instrument’ means a regulated allowance  
9                   or a regulated allowance derivative.

10                  “(16) TRADING FACILITY.—The term ‘trading  
11                  facility’ means a person or group of persons that  
12                  constitutes, maintains, or provides a physical or elec-  
13                  tronic facility or system in which multiple partici-  
14                  pants have the ability to execute or trade agree-  
15                  ments, contracts, or transactions involving a regu-  
16                  lated instrument by accepting bids and offers made  
17                  by other participants that are open to multiple par-  
18                  ticipants in the facility or system.

19                  “(17) UNITED STATES.—The term ‘United  
20                  States’ includes the territories and possessions of the  
21                  United States.

22                  **“SEC. 403. OFFICE OF CARBON MARKET OVERSIGHT; JURIS-**  
23                  **DICTION.**

24                  “(a) ESTABLISHMENT OF OFFICE OF CARBON MAR-  
25                  KET OVERSIGHT.—



1           “(1) IN GENERAL.—There is established in the  
2           Federal Energy Regulatory Commission an Office of  
3           Carbon Market Oversight, which shall be headed by  
4           a Director for Carbon Market Oversight. The posi-  
5           tion of Director for Carbon Market Oversight shall  
6           be in addition to the Directors of other offices at the  
7           Commission.

8           “(2) APPOINTMENT OF DIRECTOR.—The Direc-  
9           tor for Carbon Market Oversight shall be appointed  
10          by the Commission and shall be an individual who  
11          is, by reason of background and experience in the  
12          regulation of commodities, securities, or other finan-  
13          cial markets, especially qualified to direct a program  
14          of oversight of the market in regulated instruments.

15          “(b) ADMINISTRATION OF THIS PART.—The Com-  
16          mission, acting through the Director for Carbon Market  
17          Oversight, shall administer this part.

18          “(c) EXCLUSIVE JURISDICTION OVER REGULATED  
19          INSTRUMENTS NOT SUBJECT TO THE SECURITIES  
20          LAWS.—

21                 “(1) IN GENERAL.—The Commission shall have  
22                 exclusive jurisdiction over accounts, agreements, and  
23                 transactions involving a regulated instrument,  
24                 whether inside or outside the United States, that are  
25                 not subject to the jurisdiction of the Securities and

1 Exchange Commission. The preceding sentence shall  
2 not supersede or limit the jurisdiction conferred on  
3 courts of the United States or any State.

4 “(2) EXCEPTION.—Notwithstanding paragraph  
5 (1), nothing in this part shall be construed to limit  
6 any authority of the Administrator of the Environ-  
7 mental Protection Agency under the Clean Air Act  
8 (42 U.S.C. 7401 and following).

9 “(d) REGULATIONS.—The Commission shall promul-  
10 gate regulations governing the implementation of this part  
11 not later than 1 year after the date of the enactment of  
12 this title, and shall revise the regulations from time to  
13 time thereafter.

14 **“SEC. 404. REGULATION OF CARBON TRADING.**

15 “(a) LIMITATION OF CERTAIN ACTIVITIES TO ENTI-  
16 TIES REGISTERED UNDER THIS PART.—

17 “(1) CARBON TRADING FACILITY ACTIVITIES.—

18 “(A) IN GENERAL.—It shall be unlawful  
19 for a person to offer to enter into, execute, con-  
20 firm the execution of, or conduct an office or a  
21 business for the purpose of soliciting, accepting  
22 an order for, or otherwise dealing in, an agree-  
23 ment, contract, or transaction involving a con-  
24 tract for the purchase or sale of a regulated in-  
25 strument, unless—

1           “(i) the transaction is conducted on or  
2           subject to the rules of a trading facility  
3           designated as a registered carbon trading  
4           facility under section 405(a);

5           “(ii) the contract for the purchase or  
6           sale is executed or consummated by or  
7           through such a trading facility; and

8           “(iii) the contract for the purchase or  
9           sale is evidenced by a record in writing  
10          which shows the date, the parties to the  
11          contract and their addresses, the property  
12          covered and its price, and the terms of de-  
13          livery.

14          “(B) EXCEPTION FOR DERIVATIVE TRANS-  
15          ACTIONS BETWEEN ELIGIBLE CONTRACT PAR-  
16          TICIPANTS.—Subparagraph (A) shall not apply  
17          to an agreement, contract, or transaction in-  
18          volving only a regulated allowance derivative be-  
19          tween persons who are eligible contract partici-  
20          pants at the time at which the persons enter  
21          into the agreement, contract, or transaction.

22          “(2) BROKER OR DEALER ACTIVITIES.—It shall  
23          be unlawful for a person to act in the capacity of an  
24          introducing broker, a dealer, a floor broker, or a  
25          floor trader, in connection with the purchase or sale

1 of a regulated instrument, unless the person is reg-  
2 istered in that capacity with the Commission, and  
3 the registration is not suspended, revoked, or ex-  
4 pired.

5 “(3) CARBON CLEARING ORGANIZATION ACTIVI-  
6 TIES.—

7 “(A) IN GENERAL.—It shall be unlawful  
8 for an entity, directly or indirectly, to perform  
9 the functions described in section 402(1) with  
10 respect to a regulated instrument, unless the  
11 entity is registered with the Commission as a  
12 carbon clearing organization under section  
13 405(c), and the registration is not suspended,  
14 revoked, or expired.

15 “(B) EXCEPTION FOR CLEARING OF DE-  
16 RIVATIVE TRANSACTIONS BETWEEN ELIGIBLE  
17 CONTRACT PARTICIPANTS.—Subparagraph (A)  
18 shall not apply to functions performed with re-  
19 spect to an agreement, contract, or transaction  
20 involving only a regulated allowance derivative  
21 between persons who are eligible contract par-  
22 ticipants at the time at which the persons enter  
23 into the agreement, contract, or transaction.

24 “(b) PROHIBITION ON PRICE OR MARKET MANIPU-  
25 LATION, FRAUD, AND FALSE OR MISLEADING STATE-

1 MENTS OR REPORTS.—It shall be unlawful for a person,  
2 directly or indirectly—

3 “(1) in connection with a transaction involving  
4 a regulated instrument, to—

5 “(A) use any manipulative or deceptive de-  
6 vice or contrivance in violation of such regula-  
7 tions as the Commission may prescribe to pro-  
8 tect the public interest or consumers;

9 “(B) corner or attempt to corner the in-  
10 strument; or

11 “(C) cheat or defraud, or attempt to cheat  
12 or defraud, any other person;

13 “(2) for the purpose of creating a false or mis-  
14 leading appearance of active trading in a regulated  
15 instrument, or a false or misleading appearance with  
16 respect to the market for such an instrument, to—

17 “(A) effect any transaction in the instru-  
18 ment which involves no change in the beneficial  
19 ownership of the instrument;

20 “(B) enter an order for the purchase of  
21 the instrument, with the knowledge that an  
22 order or orders of substantially the same size,  
23 at substantially the same time, and at substan-  
24 tially the same price, for the sale of any such

1 instrument, has been or will be entered by or  
2 for the same or different parties; or

3 “(C) enter an order for the sale of the in-  
4 strument with the knowledge that an order or  
5 orders of substantially the same size, at sub-  
6 stantially the same time, and at substantially  
7 the same price, for the purchase of the instru-  
8 ment, has been or will be entered by or for the  
9 same or different parties;

10 “(3) to deliver or cause to be delivered a know-  
11 ingly false, misleading, or inaccurate report con-  
12 cerning information or conditions that affect or tend  
13 to affect the price of a regulated instrument;

14 “(4) to make, or cause to be made, in an appli-  
15 cation, report, or document required to be filed  
16 under this part or any rule or regulation prescribed  
17 under this part, a statement which is false or mis-  
18 leading with respect to a material fact, or to omit  
19 any material fact required to be stated therein or  
20 necessary to make the statements therein not mis-  
21 leading; or

22 “(5) to falsify, conceal, or cover up by any  
23 trick, scheme, or artifice a material fact, make any  
24 false, fictitious, or fraudulent statements or rep-  
25 resentations, or make or use any false writing or

1 document that contains a false, fictitious, or fraudu-  
2 lent statement or entry, to an entity registered  
3 under this part acting in furtherance of its official  
4 duties under this part.

5 “(c) PREVENTION OF EXCESSIVE SPECULATION.—

6 “(1) IN GENERAL.—To prevent, decrease, or  
7 eliminate burdens associated with excessive specula-  
8 tion relating to regulated instruments, the Commis-  
9 sion shall prescribe regulations establishing such po-  
10 sition or transaction limitations and position ac-  
11 countability requirements as the Commission deter-  
12 mines to be necessary with respect to any regulated  
13 instrument.

14 “(2) INAPPLICABILITY TO BONA FIDE HEDGING  
15 TRANSACTIONS AND POSITIONS.—The limitations  
16 and requirements prescribed under paragraph (1)  
17 shall not apply to a position or transaction that is  
18 a bona fide hedging position or transaction, as de-  
19 fined by the Commission consistent with the pur-  
20 poses of this part.

21 “(d) LARGE TRADER REPORTING.—

22 “(1) IDENTIFICATION REQUIREMENTS FOR  
23 LARGE TRADERS.—For the purpose of monitoring  
24 the effect on the markets of transactions involving a  
25 substantial volume or a large fair market value or

1 exercise value and for the purpose of otherwise as-  
2 sisting the Commission in the enforcement of this  
3 part, each large trader shall—

4 “(A) provide such information to the Com-  
5 mission as the Commission may by regulation  
6 prescribe as necessary or appropriate, identi-  
7 fying the large trader and all accounts in or  
8 through which the large trader effects such a  
9 transaction; and

10 “(B) identify, in accordance with such reg-  
11 ulations as the Commission may prescribe as  
12 necessary or appropriate, to any broker or deal-  
13 er registered under this part, by or through  
14 whom the large trader directly or indirectly ef-  
15 fects transactions in regulated instruments, the  
16 large trader and all accounts directly or indi-  
17 rectly maintained with the broker or dealer by  
18 the large trader in or through which the trans-  
19 actions are effected.

20 “(2) RECORDKEEPING AND REPORTING RE-  
21 QUIREMENTS FOR BROKERS AND DEALERS.—

22 “(A) RECORDKEEPING.—Each broker or  
23 dealer registered under this part shall make  
24 and keep for prescribed periods such records as  
25 the Commission, by regulation, deems necessary



1 or appropriate with respect to transactions in  
2 regulated instruments that—

3 “(i) equal or exceed the reporting ac-  
4 tivity level; and

5 “(ii) are effected, directly or indi-  
6 rectly—

7 “(I) by or through the registered  
8 broker or dealer of a large trader;

9 “(II) for any person that the  
10 broker or dealer knows is a large  
11 trader; or

12 “(III) for any person that the  
13 broker or dealer has reason to know is  
14 a large trader on the basis of trans-  
15 actions effected by or through the  
16 broker or dealer.

17 “(B) REPORTING.—The records required  
18 under subparagraph (A) shall be available for  
19 reporting to the Commission on the morning of  
20 the day following the day the transactions are  
21 effected, and shall be reported to the Commis-  
22 sion immediately on request by the Director.

23 “(3) AGGREGATION RULES.—The Commission  
24 may prescribe regulations governing the manner in  
25 which transactions and accounts shall be aggregated

1 for the purpose of this subsection, including aggrega-  
2 tion on the basis of common ownership or control.

3 “(4) EXAMINATION OF BROKER AND DEALER  
4 RECORDS.—All records required to be made and  
5 kept pursuant to this subsection by brokers and  
6 dealers registered under this part, with respect to  
7 transactions effected by large traders, are subject at  
8 any time, or from time to time, to such reasonable  
9 periodic, special, or other examinations by represent-  
10 atives of the Commission as the Commission deems  
11 necessary or appropriate in the public interest, for  
12 the protection of investors, or otherwise in further-  
13 ance of the purposes of this part.

14 “(5) FACTORS TO BE CONSIDERED IN COMMIS-  
15 SION ACTIONS.—In carrying out this subsection, the  
16 Commission shall take into account—

17 “(A) existing reporting systems;

18 “(B) the costs associated with maintaining  
19 information with respect to transactions ef-  
20 fected by large traders and reporting the infor-  
21 mation to the Commission; and

22 “(C) the relationship between the United  
23 States and international markets in regulated  
24 instruments.

1           “(6) EXEMPTIONS.—The Commission, by regu-  
2           lation or order, consistent with the purposes of this  
3           part, may exempt any person or class of persons or  
4           any transaction or class of transactions, condi-  
5           tionally, on specified terms and conditions, or for  
6           stated periods, from the operation of this subsection  
7           and the regulations prescribed under this subsection.

8           “(7) AUTHORITY OF COMMISSION TO LIMIT DIS-  
9           CLOSURE OF INFORMATION.—Notwithstanding any  
10          other provision of law, the Commission shall not be  
11          compelled to disclose any information required to be  
12          kept or reported under this subsection. Nothing in  
13          this subsection shall authorize the Commission to  
14          withhold information from Congress, or prevent the  
15          Commission from complying with a request for infor-  
16          mation from any other Federal department or agen-  
17          cy requesting information for purposes within the  
18          scope of its jurisdiction, or complying with an order  
19          of a court of the United States in an action brought  
20          by the United States or the Commission. For pur-  
21          poses of section 552 of title 5, United States Code,  
22          this subsection shall be considered a statute de-  
23          scribed in section 552(b)(3)(B).

24          “(8) DEFINITIONS.—In this subsection:

1           “(A) LARGE TRADER.—The term ‘large  
2 trader’ means every person who, for the per-  
3 son’s own account or an account for which the  
4 person exercises investment discretion, effects  
5 transactions for the purchase or sale of a regu-  
6 lated instrument, directly or indirectly by or  
7 through a broker or dealer registered under this  
8 part, in an aggregate amount equal to or in ex-  
9 cess of the identifying activity level.

10           “(B) IDENTIFYING ACTIVITY LEVEL.—The  
11 term ‘identifying activity level’ means trans-  
12 actions in regulated instruments at or above a  
13 level of volume, fair market value, or exercise  
14 value as shall be fixed from time to time by the  
15 Commission by regulation, specifying the time  
16 interval during which the transactions shall be  
17 aggregated.

18           “(C) REPORTING ACTIVITY LEVEL.—The  
19 term ‘reporting activity level’ means trans-  
20 actions in regulated instruments at or above a  
21 level of volume, fair market value, or exercise  
22 value as shall be fixed from time to time by the  
23 Commission by regulation or order, specifying  
24 the time interval during which the transactions  
25 shall be aggregated.

1           “(D) PERSON.—The term ‘person’ means  
2           a natural person, company, government, or po-  
3           litical subdivision, agency, or instrumentality of  
4           a government, and includes 2 or more persons  
5           acting as a partnership, limited partnership,  
6           syndicate, or other group, but does not include  
7           a foreign central bank.

8           “(e) RECORDKEEPING; REPORTING; ACCESS TO  
9           BOOKS AND RECORDS.—

10           “(1) MEMBERS OF REGISTERED ENTITIES.—

11           Each member of an entity registered under this part  
12           shall—

13           “(A) keep books and records, and make  
14           such reports as are required by the Commis-  
15           sion, regarding the transactions and positions  
16           of the member, and the transactions and posi-  
17           tions of the customer involved, in regulated in-  
18           struments, in such form and manner, and for  
19           such period, as may be required by the Com-  
20           mission; and

21           “(B) make the books and records available  
22           for inspection by any representative of the Com-  
23           mission or the Department of Justice.

24           “(2) REGISTERED ENTITIES.—Each entity reg-  
25           istered under this part shall—

1           “(A) maintain daily trading records (in-  
2           cluding a time-stamped audit trail), that in-  
3           clude such information, in such form, and for  
4           such period as the Commission may require by  
5           regulation; and

6           “(B) make such reports from the records,  
7           at such times and places, and in such form, as  
8           the Commission may require by regulation to  
9           protect the public interest and the interest of  
10          persons trading in regulated instruments.

11 **“SEC. 405. REGISTRATION OF CARBON TRADING FACILI-**  
12 **TIES, BROKERS, DEALERS, AND CARBON**  
13 **CLEARING ORGANIZATIONS.**

14          “(a) CARBON TRADING FACILITIES.—

15           “(1) APPLICATION.—A trading facility may  
16           apply to the Commission for designation as a reg-  
17           istered carbon trading facility by submitting to the  
18           Commission an application that contains such infor-  
19           mation and commitments as the Commission may  
20           require.

21           “(2) REQUIREMENTS FOR DESIGNATION.—To  
22           be designated as a registered carbon trading facility,  
23           the trading facility shall demonstrate to the Com-  
24           mission the following:

1           “(A) PREVENTION OF MARKET MANIPULA-  
2           TION.—The trading facility is capable of pre-  
3           venting market manipulation through market  
4           surveillance, compliance, and enforcement prac-  
5           tices and procedures, including methods for  
6           conducting real-time monitoring of trading and  
7           comprehensive and accurate trade reconstruc-  
8           tions.

9           “(B) FAIR AND EQUITABLE TRADING.—  
10          The trading facility has established, and is ca-  
11          pable of enforcing, rules to ensure fair and eq-  
12          uitable trading through the trading facility, and  
13          the capacity to detect, investigate, and dis-  
14          cipline any person that violates the rules.

15          “(C) ESTABLISHMENT AND ENFORCEMENT  
16          OF RULES GOVERNING OPERATION OF TRADE  
17          EXECUTION FACILITY.—The trading facility has  
18          established, and is capable of enforcing, rules  
19          governing the manner of operation of the trade  
20          execution facility maintained by the trading fa-  
21          cility, including the operation of any electronic  
22          matching platform.

23          “(D) FINANCIAL INTEGRITY OF TRANS-  
24          ACTIONS.—The trading facility has established,  
25          and is capable of enforcing, rules and proce-

1           dures for ensuring the financial integrity of  
2           transactions entered into by or through the  
3           trading facility, including the clearance and set-  
4           tlement of the transactions.

5           “(E) DISCIPLINARY PROCEDURES.—The  
6           trading facility has established, and is capable  
7           of enforcing procedures that authorize the trad-  
8           ing facility to discipline, suspend, or expel mem-  
9           bers or market participants that violate the  
10          rules of the trading facility, or similar methods  
11          for performing the same functions, including  
12          delegation of the functions to third parties.

13          “(F) PUBLIC ACCESS.—The trading facil-  
14          ity is capable of providing the public with ac-  
15          cess to the rules, regulations, and contract spec-  
16          ifications of the trading facility.

17          “(G) ABILITY TO OBTAIN INFORMATION.—  
18          The trading facility has established, and is ca-  
19          pable of enforcing rules that allow the trading  
20          facility to obtain any necessary information to  
21          perform any of the functions described in this  
22          paragraph, including the capacity to carry out  
23          such international information-sharing agree-  
24          ments as the Commission may require.



1           “(3) MAINTENANCE OF DESIGNATION.—To  
2 maintain the designation of a trading facility as a  
3 registered carbon trading facility, the trading facility  
4 shall comply (and shall have reasonable discretion in  
5 establishing the manner in which it complies) with  
6 the following:

7           “(A) COMPLIANCE WITH RULES OF THE  
8 TRADING FACILITY.—The trading facility shall  
9 monitor and enforce compliance with the rules  
10 of the trading facility, including the terms and  
11 conditions of any contracts to be traded on or  
12 through the trading facility and any limitations  
13 on access to the trading facility.

14           “(B) CONTRACTS NOT READILY SUBJECT  
15 TO MANIPULATION.—The trading facility shall  
16 list on the trading facility only contracts that  
17 are not readily susceptible to manipulation.

18           “(C) MONITORING OF TRADING.—The  
19 trading facility shall monitor trading on or  
20 through the facility to prevent manipulation,  
21 price distortion, and disruptions of the delivery  
22 or cash-settlement process.

23           “(D) POSITION LIMITATIONS OR ACCOUNT-  
24 ABILITY.—To reduce the potential threat of  
25 market manipulation, the trading facility shall

1 adopt position limitations or position account-  
2 ability for speculators, where necessary and ap-  
3 propriate.

4 “(E) EMERGENCY AUTHORITY.—The trad-  
5 ing facility shall adopt rules to provide for the  
6 exercise of emergency authority, in consultation  
7 or cooperation with the Commission, where nec-  
8 essary and appropriate, including the authority  
9 to—

10 “(i) liquidate or transfer open posi-  
11 tions in any contract;

12 “(ii) suspend or curtail trading in any  
13 regulated instrument; and

14 “(iii) require market participants to  
15 meet special margin requirements.

16 “(F) AVAILABILITY OF GENERAL INFOR-  
17 MATION.—The trading facility shall make avail-  
18 able to market authorities, market participants,  
19 and the public information concerning—

20 “(i) the terms and conditions of the  
21 contracts traded on or through the trading  
22 facility; and

23 “(ii) the mechanisms for executing  
24 transactions on or through the trading fa-  
25 cility.

1           “(G) DAILY PUBLICATION OF TRADING IN-  
2           FORMATION.—The trading facility shall make  
3           public daily information on settlement prices,  
4           volume, open interest, and opening and closing  
5           ranges for all regulated instruments traded on  
6           the trading facility.

7           “(H) EXECUTION OF TRANSACTIONS.—  
8           The trading facility shall provide a competitive,  
9           open, and efficient market and mechanism for  
10          executing transactions on or through the trad-  
11          ing facility.

12          “(I) SECURITY OF TRADE INFORMATION.—  
13          The trading facility shall maintain rules and  
14          procedures to provide for the recording and safe  
15          storage of all identifying trade information in a  
16          manner that enables the trading facility to use  
17          the information to assist the prevention of cus-  
18          tomer and market abuses and provide evidence  
19          of violations of the rules of the trading facility.

20          “(J) FINANCIAL INTEGRITY OF CON-  
21          TRACTS.—The trading facility shall establish  
22          and enforce rules providing for the financial in-  
23          tegrity of any contract traded on or through the  
24          trading facility (including the clearance and set-  
25          tlement of the transactions), and rules to en-

1           sure the financial integrity of introducing bro-  
2           kers, dealers, floor brokers, and floor traders  
3           doing business on or through the trading facil-  
4           ity, and the protection of customer funds.

5           “(K) PROTECTION OF MARKET PARTICI-  
6           PANTS.—The trading facility shall establish and  
7           enforce rules to protect market participants  
8           from abusive practices committed by any party  
9           acting as an agent for the participants.

10          “(L) DISPUTE RESOLUTION.—The trading  
11          facility shall establish and enforce rules regard-  
12          ing and provide facilities for alternative dispute  
13          resolution as appropriate for market partici-  
14          pants and any market intermediaries.

15          “(M) GOVERNANCE FITNESS STAND-  
16          ARDS.—The trading facility shall establish and  
17          enforce appropriate fitness standards for direc-  
18          tors, members of any disciplinary committee,  
19          members of the trading facility, and any other  
20          person with direct access to the trading facility  
21          (including any parties affiliated with any of the  
22          persons described in this subparagraph).

23          “(N) CONFLICTS OF INTEREST.—The  
24          trading facility shall establish and enforce rules  
25          to minimize conflicts of interest in the decision-

1 making process of the trading facility and es-  
2 tablish a process for resolving any such conflict  
3 of interest.

4 “(O) COMPOSITION OF BOARDS OF MUTU-  
5 ALLY OWNED TRADING FACILITIES.—In the  
6 case of a mutually owned trading facility, the  
7 trading facility shall ensure that the composi-  
8 tion of the governing board reflects market par-  
9 ticipants.

10 “(P) RECORDKEEPING.—The trading facil-  
11 ity shall maintain records of all activities re-  
12 lated to the business of the trading facility in  
13 a form and manner acceptable to the Commis-  
14 sion for a period of 5 years.

15 “(Q) ANTITRUST CONSIDERATIONS.—Un-  
16 less necessary or appropriate to achieve the  
17 purposes of this part, the trading facility shall  
18 endeavor to avoid—

19 “(i) adopting any rules or taking any  
20 actions that result in any unreasonable re-  
21 straints of trade; or

22 “(ii) imposing any material anti-  
23 competitive burden on trading on or  
24 through the trading facility.

1       “(b) BROKERS, DEALERS, AND THEIR ASSOCI-  
2 ATES.—The Commission may prescribe regulations gov-  
3 erning—

4               “(1) the eligibility of a person to act in the ca-  
5 pacity of an introducing broker, a dealer, or a floor  
6 broker, or a floor trader in the United States;

7               “(2) the registration of introducing brokers,  
8 dealers, floor brokers, and floor traders with the  
9 Commission; and

10              “(3) the conduct of a person registered pursu-  
11 ant to regulations prescribed under paragraph (2),  
12 and of a partner, officer, employee, or agent of the  
13 registered person, in connection with transactions in-  
14 volving a regulated instrument.

15       “(c) CARBON CLEARING ORGANIZATIONS.—

16              “(1) APPLICATION.—An entity may apply to  
17 the Commission for registration as a carbon clearing  
18 organization by submitting to the Director an appli-  
19 cation that contains such information and commit-  
20 ments as the Commission may require for the pur-  
21 pose of making the determinations required for ap-  
22 proval under paragraph (2).

23              “(2) REQUIREMENTS FOR REGISTRATION.—To  
24 be registered and to maintain registration as a car-  
25 bon clearing organization, an applicant shall dem-

1       onstrate to the Commission that the applicant com-  
2       plies (and shall have reasonable discretion in estab-  
3       lishing the manner in which it complies) with the  
4       following core principles:

5               “(A) FINANCIAL RESOURCES.—The appli-  
6       cant shall demonstrate that the applicant has  
7       adequate financial, operational, and managerial  
8       resources to discharge the responsibilities of a  
9       carbon clearing organization.

10              “(B) PARTICIPANT AND PRODUCT ELIGI-  
11       BILITY.—The applicant shall establish—

12                   “(i) appropriate admission and con-  
13       tinuing eligibility standards (including ap-  
14       propriate minimum financial requirements)  
15       for members of and participants in the ap-  
16       plicant; and

17                   “(ii) appropriate standards for deter-  
18       mining eligibility of agreements, contracts,  
19       or transactions submitted to the applicant.

20              “(C) RISK MANAGEMENT.—The applicant  
21       shall have the ability to manage the risks asso-  
22       ciated with discharging the responsibilities of a  
23       carbon clearing organization through the use of  
24       appropriate tools and procedures.

1           “(D) SETTLEMENT PROCEDURES.—The  
2 applicant shall have the ability to—

3           “(i) complete settlements on a timely  
4 basis under varying circumstances;

5           “(ii) maintain an adequate record of  
6 the flow of funds associated with each  
7 transaction that the applicant clears; and

8           “(iii) comply with the terms and con-  
9 ditions of any permitted netting or offset  
10 arrangements with other carbon clearing  
11 organizations.

12           “(E) TREATMENT OF FUNDS.—The appli-  
13 cant shall have standards and procedures de-  
14 signed to protect and ensure the safety of mem-  
15 ber and participant funds.

16           “(F) DEFAULT RULES AND PROCE-  
17 DURES.—The applicant shall have rules and  
18 procedures designed to allow for efficient, fair,  
19 and safe management of events when members  
20 or participants become insolvent or otherwise  
21 default on their obligations to the applicant.

22           “(G) RULE ENFORCEMENT.—The appli-  
23 cant shall—

24           “(i) maintain adequate arrangements  
25 and resources for the effective monitoring



1 and enforcement of compliance with rules  
2 of the applicant and for resolution of dis-  
3 putes; and

4 “(ii) have the authority and ability to  
5 discipline, limit, suspend, or terminate the  
6 activities of a member or participant for  
7 violations of rules of the applicant.

8 “(H) SYSTEM SAFEGUARDS.—The appli-  
9 cant shall demonstrate that the applicant—

10 “(i) has established and will maintain  
11 a program of oversight and risk analysis to  
12 ensure that the automated systems of the  
13 applicant function properly and have ade-  
14 quate capacity and security; and

15 “(ii) has established and will maintain  
16 emergency procedures and a plan for dis-  
17 aster recovery, and will periodically test  
18 backup facilities sufficient to ensure daily  
19 processing, clearing, and settlement of  
20 transactions.

21 “(I) REPORTING.—The applicant shall pro-  
22 vide to the Director all information necessary  
23 for the Commission to conduct oversight of the  
24 activities of the applicant.

1           “(J) RECORDKEEPING.—The applicant  
2 shall maintain for a period of 5 years records  
3 of all activities related to the activities of the  
4 applicant as a carbon clearing organization in a  
5 form and manner acceptable to the Commis-  
6 sion.

7           “(K) PUBLIC INFORMATION.—The appli-  
8 cant shall make information concerning the  
9 rules and operating procedures governing the  
10 clearing and settlement systems (including de-  
11 fault procedures) available to market partici-  
12 pants.

13           “(L) INFORMATION-SHARING.—The appli-  
14 cant shall—

15                   “(i) enter into and abide by the terms  
16 of all appropriate and applicable domestic  
17 and international information-sharing  
18 agreements; and

19                   “(ii) use relevant information obtained  
20 from the agreements in carrying out the  
21 risk management program of the applicant.

22           “(M) ANTITRUST CONSIDERATIONS.—Un-  
23 less appropriate to achieve the purposes of this  
24 part, the applicant shall avoid—

1           “(i) adopting any rule or taking any  
2           action that results in any unreasonable re-  
3           straint of trade; or

4           “(ii) imposing any material anti-  
5           competitive burden on trading on a reg-  
6           istered carbon trading facility.

7   **“SEC. 406. ADMINISTRATIVE ENFORCEMENT.**

8           “(a) INVESTIGATIONS.—

9           “(1) IN GENERAL.—The Commission may make  
10          such investigations as the Commission deems nec-  
11          essary to determine whether any person has violated,  
12          is violating, or is about to violate this part, a regula-  
13          tion or order issued under this part, or a rule of an  
14          entity registered under this part, or to secure infor-  
15          mation which may serve as a basis for recom-  
16          mending legislation concerning matters to which this  
17          part relates. In conducting any such investigation,  
18          the Commission may request the assistance of ap-  
19          propriate Federal agencies.

20          “(2) PUBLICATION OF RESULTS.—The Commis-  
21          sion may publish the results of any such investiga-  
22          tion and such general statistical information gath-  
23          ered in the investigation as the Commission deems  
24          of interest to the public.

1           “(3) PUBLIC DISCLOSURE OF INFORMATION  
2           AND DATA.—

3                   “(A) IN GENERAL.—The Commission may  
4                   not publish data and information that would  
5                   separately disclose a transaction or market po-  
6                   sition of any person, a trade secret, or the  
7                   names of a customer, except where the disclo-  
8                   sure is made in connection with a congressional  
9                   proceeding or in an administrative or judicial  
10                  proceeding brought under this part.

11                  “(B) AUTHORITY TO WITHHOLD INFORMA-  
12                  TION.—The Commission may withhold from  
13                  public disclosure any data or information con-  
14                  cerning or obtained in connection with any  
15                  pending investigation of any person under this  
16                  part.

17                  “(4) DISCLOSURE OF REGISTRATION INFORMA-  
18                  TION TO OTHER GOVERNMENT ENTITIES.—The  
19                  Commission shall provide any registration informa-  
20                  tion maintained by the Commission under this part  
21                  on any registrant on reasonable request made by any  
22                  department or agency of any State or any political  
23                  subdivision of a State. Whenever the Administrator  
24                  determines that such information may be appro-  
25                  priate for use by any department or agency of a

1 State or political subdivision of a State, the Commis-  
2 sion shall provide such information without request.

3 “(b) REVIEW OF ADVERSE ACTION BY REGISTERED  
4 CARBON TRADING FACILITY.—

5 “(1) IN GENERAL.—

6 “(A) DISCIPLINARY ACTIONS.—The Com-  
7 mission may, in accordance with such standards  
8 and procedures as the Commission deems ap-  
9 propriate, review a decision by a registered car-  
10 bon trading facility to suspend, expel, otherwise  
11 discipline a member of the trading facility, or  
12 deny access to the trading facility.

13 “(B) OTHER ACTIONS.—On application of  
14 any person who is adversely affected by any  
15 other registered carbon trading facility decision,  
16 the Commission may review the decision and  
17 issue such order with respect to the decision as  
18 the Commission deems appropriate to protect  
19 the public interest.

20 “(2) SCOPE OF AUTHORITY.—The Commission  
21 may affirm, modify, set aside, or remand a trading  
22 facility decision reviewed under paragraph (1), after  
23 a determination on the record as to whether the de-  
24 cision was made in accordance with the rules of the  
25 trading facility.

1       “(c) ENFORCEMENT PROCEEDINGS AGAINST CER-  
2 TAIN PERSONS.—

3               “(1) SERVICE OF COMPLAINT.—If the Commis-  
4 sion has reason to believe that a person (other than  
5 a registered carbon trading facility or carbon clear-  
6 ing organization) has violated this part or a regula-  
7 tion or order issued under this part, the Commission  
8 may serve upon the person a complaint stating the  
9 charges of the Commission in that respect, which  
10 complaint shall have attached or contain a notice of  
11 hearing, specifying a day and place not less than 3  
12 days after the service of the complaint, requiring the  
13 person to show cause why an order should not be  
14 made prohibiting the person from trading on or sub-  
15 ject to the rules of any registered carbon trading fa-  
16 cility, and directing that all such trading facilities  
17 refuse all privileges to the person, until further no-  
18 tice of the Commission and to show cause why the  
19 registration of the person, if registered with the  
20 Commission in any capacity, should not be sus-  
21 pended or revoked.

22               “(2) INVESTIGATORY POWERS.—

23                       “(A) IN GENERAL.—For the purpose of se-  
24 curing effective enforcement of this part, and  
25 for the purpose of any investigation or pro-

1           ceeding under this part, the Commission (ex-  
2           cept as provided in subparagraph (C)) may ad-  
3           minister oaths and affirmations, subpoena wit-  
4           nesses, compel their attendance, take evidence,  
5           and require the production of any books, pa-  
6           pers, correspondence, memoranda, or other  
7           records that the Commission deems relevant or  
8           material to the inquiry.

9           “(B) AUTHORITY TO COMPEL ATTEND-  
10          ANCE OF WITNESSES, AND PRODUCTION OF  
11          RECORDS.—The attendance of witnesses and  
12          the production of records may be required from  
13          any place in the United States, any State or  
14          any foreign country or jurisdiction at any des-  
15          ignated place of hearing.

16          “(C) EFFECT OF FAILURE TO OBEY SUB-  
17          POENA.—

18                 “(i) AUTHORITY TO SEEK COURT AS-  
19                 SISTANCE.—In case of contumacy by, or  
20                 refusal to obey a subpoena issued to, any  
21                 person, the Commission may invoke the aid  
22                 of any court of the United States in the ju-  
23                 risdiction in which the investigation or pro-  
24                 ceeding is conducted, or where the person  
25                 resides or transacts business, in requiring

1 the attendance and testimony of witnesses  
2 and the production of books, papers, cor-  
3 respondence, memoranda, and other  
4 records.

5 “(ii) REMEDIES.—

6 “(I) IN GENERAL.—The court  
7 may issue an order requiring the per-  
8 son to appear before the Commission  
9 or an Administrative Law Judge or  
10 other officer designated by the Com-  
11 mission, there to produce records, if  
12 so ordered, or to give testimony touch-  
13 ing the matter under investigation or  
14 in question.

15 “(II) EFFECT OF FAILURE TO  
16 OBEY COURT ORDER.—Any failure to  
17 obey the order of the court may be  
18 punished by the court as a contempt  
19 of the court.

20 “(3) PENALTIES.—

21 “(A) Upon evidence received in a pro-  
22 ceeding under paragraph (1), the Commission  
23 may issue an order—

24 “(i) prohibiting the person from trad-  
25 ing on or subject to the rules of any reg-



1           istered carbon trading facility, and requir-  
2           ing all such facilities to refuse the person  
3           all privileges for such period as may be  
4           specified in the order;

5           “(ii) if the person is registered with  
6           the Commission in any capacity, sus-  
7           pending, for a period of not more than 6  
8           months, or revoking, the registration of the  
9           person;

10           “(iii) assessing the person, in accord  
11           with the gravity of the violation, a civil  
12           penalty of not more than the greater of  
13           \$100,000 or triple the monetary gain to  
14           the person for each such violation; and

15           “(iv) requiring restitution to cus-  
16           tomers of damages proximately caused by  
17           the violation.

18           “(B) AMOUNT OF CIVIL PENALTY BASED  
19           ON GRAVITY OF VIOLATION.—In determining  
20           the amount of the money penalty, if any, to be  
21           assessed under subparagraph (A)(iii), the Com-  
22           mission shall consider the appropriateness of  
23           the penalty to the gravity of the violation.

24           “(C) NOTICE OF ORDER.—The Commis-  
25           sion shall send notice of the order forthwith by

1 registered mail or by certified mail, or deliver  
2 the notice to the offending person and the gov-  
3 erning board of each registered carbon trading  
4 facility.

5 “(4) APPEALS.—A petition for review of an  
6 order issued under paragraph (3) of this subsection  
7 may be filed in the Court of Appeals for the District  
8 of Columbia Circuit.

9 “(d) AUTHORITY TO SUSPEND OR REVOKE REG-  
10 ISTERED CARBON TRADING FACILITY DESIGNATION OR  
11 CARBON CLEARING ORGANIZATION REGISTRATION.—The  
12 Commission may suspend for a period of not more than  
13 6 months, or revoke, the designation of a trading facility  
14 as a registered carbon trading facility, or the registration  
15 of an entity as a carbon clearing organization, if, after  
16 notice and opportunity for a hearing on the record, the  
17 Commission finds that—

18 “(1) the trading facility or the entity, as the  
19 case may be, has not complied with a requirement  
20 of section 405(a)(3), or section 405(c)(2), as the  
21 case may be; or

22 “(2) a director, officer, employee, or agent of  
23 the trading facility or entity, as the case may be, has  
24 violated this part or a regulation or order issued  
25 under this part.

1       “(e) CEASE AND DESIST ORDERS.—If the Commis-  
2 sion finds that a person has violated this part or a regula-  
3 tion or order issued under this part, the Commission may,  
4 in conjunction with an order issued against the person  
5 under subsection (c)(1), after notice and opportunity for  
6 a hearing on the record, and subject to appeal as provided  
7 for in subsection (c)(4), issue an order directing the per-  
8 son to cease and desist from the violation.

9       “(f) TRADING SUSPENSIONS; EMERGENCY AUTHOR-  
10 ITY.—

11           “(1) TRADING SUSPENSIONS.—If the Commis-  
12 sion determines that the public interest so requires,  
13 the Commission may, by order, summarily suspend  
14 all trading of regulated instruments on any trading  
15 facility or otherwise, for a period not exceeding 90  
16 calendar days. The action described in the preceding  
17 sentence shall not take effect unless the Commission  
18 notifies the President of the decision of the Commis-  
19 sion, and the President notifies the Commission that  
20 the President does not disapprove of the decision.

21           “(2) EMERGENCY ORDERS.—

22           “(A) IN GENERAL.—The Commission, in  
23 an emergency, may by order summarily take  
24 such action to alter, supplement, suspend, or  
25 impose requirements or restrictions with respect

1 to any matter or action subject to regulation by  
2 the Commission or an entity registered under  
3 this part, as the Commission determines is nec-  
4 essary in the public interest—

5 “(i) to maintain or restore fair and  
6 orderly markets in regulated instruments;  
7 or

8 “(ii) to ensure prompt, accurate, and  
9 safe clearance and settlement of trans-  
10 actions in regulated instruments.

11 “(B) EFFECTIVE PERIOD.—An order of  
12 the Commission under this paragraph shall con-  
13 tinue in effect for the period specified by the  
14 Commission, and may be extended. Except as  
15 provided in subparagraph (C), an order of the  
16 Commission under this paragraph may not con-  
17 tinue in effect for more than 10 business days,  
18 including extensions.

19 “(C) EXTENSION.—An order of the Com-  
20 mission under this paragraph may be extended  
21 to continue in effect for more than 10 business  
22 days if, at the time of the extension, the Com-  
23 mission finds that the emergency still exists and  
24 determines that the continuation of the order  
25 beyond 10 business days is necessary in the

1 public interest and for the protection of inves-  
2 tors to attain an objective described in clause  
3 (i) or (ii) of subparagraph (A). In no event  
4 shall an order of the Commission under this  
5 paragraph continue in effect for more than 30  
6 calendar days.

7 “(D) EXEMPTION.—In exercising the au-  
8 thority provided by this paragraph, the Com-  
9 mission shall not be required to comply with  
10 section 553 of title 5, United States Code.

11 “(3) TERMINATION OF EMERGENCY ACTIONS  
12 BY PRESIDENT.—The President may direct that ac-  
13 tion taken by the Commission under paragraph (2)  
14 shall not continue in effect.

15 “(4) COMPLIANCE WITH ORDERS.—A member  
16 of a trading facility, introducing broker, dealer, floor  
17 broker, or floor trader shall not effect any trans-  
18 action in, or induce the purchase or sale of, any reg-  
19 ulated instrument in contravention of an order of  
20 the Commission under this subsection, unless the  
21 order has been stayed, modified, or set aside as pro-  
22 vided in paragraph (5) or has ceased to be effective  
23 on direction of the President as provided in para-  
24 graph (3).

1           “(5) LIMITATIONS ON REVIEW OF ORDERS.—

2           An order of the Commission pursuant to this sub-  
3           section shall be subject to review by the United  
4           States Court of Appeals for the District of Columbia  
5           Circuit. Review shall be based on an examination of  
6           all the information before the Commission at the  
7           time the order was issued. The reviewing court shall  
8           not enter a stay, writ of mandamus, or similar relief  
9           unless the court finds, after notice and hearing be-  
10          fore a panel of the court, that the Commission’s ac-  
11          tion is arbitrary, capricious, an abuse of discretion,  
12          or otherwise not in accordance with law.

13          “(6) EMERGENCY DEFINED.—In this sub-  
14          section, the term ‘emergency’ means—

15                 “(A) a major market disturbance charac-  
16                 terized by or constituting—

17                         “(i) sudden and excessive fluctuations  
18                         of prices of regulated instruments gen-  
19                         erally, or a substantial threat thereof, that  
20                         threaten fair and orderly markets; or

21                         “(ii) a substantial disruption of the  
22                         safe or efficient operation of the national  
23                         system for clearance and settlement of  
24                         transactions in regulated instruments, or a  
25                         substantial threat thereof; or

1           “(B) a major disturbance that substan-  
2           tially disrupts, or threatens to substantially dis-  
3           rupt—

4                   “(i) the functioning of markets in reg-  
5                   ulated instruments, or any significant por-  
6                   tion or segment of the markets; or

7                   “(ii) the transmission or processing of  
8                   transactions in regulated instruments.

9           “(g) OTHER AUTHORITY TO ISSUE ORDERS.—The  
10          Commission may issue such other orders as may be nec-  
11          essary to ensure compliance with this part or a regulation  
12          prescribed under this part.

13          **“SEC. 407. CIVIL JUDICIAL ENFORCEMENT.**

14          “(a) IN GENERAL.—If it appears to the Commission  
15          that a person has engaged, is engaging, or is about to en-  
16          gage in any act or practice constituting a violation of this  
17          part or a regulation or order issued under this part, the  
18          Commission may bring an action in the appropriate dis-  
19          trict court of the United States or United States court  
20          of any territory or other place subject to the jurisdiction  
21          of the United States, to enjoin the act or practice, or to  
22          enforce compliance with this part or a regulation or order  
23          issued under this part.

24          “(b) FORMS OF RELIEF.—

1           “(1) INJUNCTIVE RELIEF; RESTRAINING  
2 ORDER.—On a proper showing, the court shall grant  
3 a permanent or temporary injunction or issue a re-  
4 straining order, without bond.

5           “(2) CIVIL MONEY PENALTY.—

6           “(A) IN GENERAL.—The Commission may  
7 seek and the court, on a proper showing, shall  
8 have jurisdiction to impose on any person found  
9 in the action brought under this section to have  
10 committed a violation a civil penalty in an  
11 amount that is not more than the greater of  
12 \$100,000 or triple the monetary gain to the  
13 person for the violation.

14           “(B) ENFORCEMENT OF PENALTY BY THE  
15 ATTORNEY GENERAL.—If a person on whom  
16 such a penalty is imposed fails to pay the pen-  
17 alty within the time prescribed in the order of  
18 the court, the Commission may refer the matter  
19 to the Attorney General who shall recover the  
20 penalty by action in the appropriate United  
21 States district court.

22 **“SEC. 408. CRIMINAL ENFORCEMENT.**

23           “(a) VIOLATIONS GENERALLY.—Whoever knowingly  
24 violates section 404 or any regulation promulgated under  
25 section 404, or willfully violates any other provision of this



1 part or a regulation issued under this part the violation  
2 of which is made unlawful or the observance of which is  
3 required by or under this part, shall be fined not more  
4 than \$1,000,000 (or not more than \$500,000, if the viola-  
5 tor is an individual), imprisoned not more than 5 years,  
6 or both, and shall pay the costs of prosecution.

7 “(b) FAILURE TO COMPLY WITH CEASE AND DESIST  
8 ORDER.—

9 “(1) IN GENERAL.—If, after the period allowed  
10 for appeal of an order issued under section 406(e)  
11 or after the affirmance of such an order, a person  
12 subject to the order fails or refuses to comply with  
13 the order, the person shall be—

14 “(A) fined not more than the greater of  
15 \$100,000 or triple the monetary gain to the  
16 person, imprisoned not less than 6 months nor  
17 more than 1 year, or both; or

18 “(B) if the failure or refusal to comply in-  
19 volves a violation referred to in subsection (a)  
20 of this section, shall be subject to the penalties  
21 provided in such subsection for the violation.

22 “(2) SPECIAL RULE.—Each day during which a  
23 failure or refusal to comply with such an order con-  
24 tinues is deemed a separate offense for purposes of  
25 paragraph (1).

1 **“SEC. 409. MARKET REPORTS.**

2       “(a) COLLECTION AND ANALYSIS OF INFORMA-  
3 TION.—The Commission shall, on a continuous basis, col-  
4 lect and analyze the following information on the func-  
5 tioning of the markets for regulated instruments estab-  
6 lished under this part:

7           “(1) The status of, and trends in, the markets,  
8 including prices, trading volumes, transaction types,  
9 and trading channels and mechanisms.

10          “(2) Spikes, collapses, and volatility in prices of  
11 regulated instruments, and the causes therefor.

12          “(3) The relationship between the market for  
13 emission allowances, offset credits, and allowance de-  
14 rivatives, and the spot and futures markets for en-  
15 ergy commodities, including electricity.

16          “(4) Evidence of fraud or manipulation in any  
17 such market, the effects on any such market of any  
18 such fraud or manipulation (or threat of fraud or  
19 manipulation) that the Commission has identified,  
20 and the effectiveness of corrective measures under-  
21 taken by the Commission to address the fraud or  
22 manipulation, or threat.

23          “(5) The economic effects of the markets, in-  
24 cluding to macro- and micro-economic effects of un-  
25 expected significant increases and decreases in the  
26 price of regulated instruments.

1           “(6) Any changes in the roles, activities, or  
2 strategies of various market participants.

3           “(7) Regional, industrial, and consumer re-  
4 sponses to the market, and energy investment re-  
5 sponses to the markets.

6           “(8) Any other issue related to the markets  
7 that the Commission deems appropriate.

8           “(b) QUARTERLY REPORTS TO THE CONGRESS.—  
9 Not later than 1 month after the end of each calendar  
10 quarter, the Commission shall submit to the President, the  
11 Committee on Energy and Commerce of the House of  
12 Representatives, and the Committee on Environment and  
13 Public Works of the Senate, and make available to the  
14 public, a report on the matters described in subsection (a)  
15 with respect to the quarter, including recommendations  
16 for any administrative or statutory measures the Commis-  
17 sion considers necessary to address any threats to the  
18 transparency, fairness, or integrity of the markets in regu-  
19 lated instruments.

20 **“SEC. 410. APPLICATION OF OTHER PROVISIONS.**

21           “The provisions of sections 3, 306 through 308, and  
22 313 through 317 of this Act shall not apply to the admin-  
23 istration or enforcement of this part.”.

1 **TITLE III—INVESTING IN AMER-**  
2 **ICA’S LOW-CARBON FUTURE**  
3 **Subtitle A—Climate Trust Tax**  
4 **Credits and Rebates**

5 **SEC. 301. PURPOSE.**

6 The purpose of this subtitle is to distribute proceeds  
7 from emission allowance auctions under title VII of the  
8 Clean Air Act (as added by section 101 of this Act) to  
9 middle- and low-income households, through refundable  
10 tax credits for wage earners and senior citizens and  
11 monthly rebates to low-income citizens, to offset any in-  
12 creased direct or indirect energy costs such households  
13 may experience as a result of the regulation of greenhouse  
14 gas emissions.

15 **SEC. 302. CLIMATE TRUST TAX CREDIT FOR WORKING FAM-**  
16 **ILIES AND SENIOR CITIZENS.**

17 (a) **IN GENERAL.**—Subpart C of part IV of sub-  
18 chapter A of chapter 1 of the Internal Revenue Code of  
19 1986 (relating to refundable credits) is amended by redес-  
20 ignating section 36 as section 37 and by inserting after  
21 section 35 the following new section:

22 **“SEC. 36. CLIMATE TRUST TAX CREDIT.**

23 “(a) **IN GENERAL.**—In the case of an eligible indi-  
24 vidual, there shall be allowed as a credit against the tax  
25 imposed by this subtitle for the taxable year an amount

1 equal to the energy cost increase attributable to carbon  
 2 regulation.

3 “(b) ENERGY COST INCREASE ATTRIBUTABLE TO  
 4 CARBON REGULATION.—For purposes of this section—

5 “(1) IN GENERAL.—The energy cost increase  
 6 attributable to carbon regulation for any taxable  
 7 year shall be an amount equal to the applicable per-  
 8 centage of the base projected energy cost increase.

9 “(2) APPLICABLE PERCENTAGE.—The applica-  
 10 ble percentage shall be determined in accordance  
 11 with the following table:

“In the case of:	With:	The ap- plicable percent- age is:
An eligible individual making a joint return .....	No qualifying children .....	140
	1 qualifying child .....	170
	2 or more qualifying children ..	200
An eligible individual not mak- ing a joint return .....	No qualifying children .....	90
	1 qualifying child .....	140
	2 qualifying children .....	170

12 “(3) BASE PROJECTED ENERGY COST IN-  
 13 CREASE.—The term ‘base projected energy cost in-  
 14 crease’ means the base projected cost increase in ef-  
 15 fect under the Climate Trust Rebate Program (sec-  
 16 tion 303 of the Investing in Climate Action and Pro-  
 17 tection Act) for the calendar in which the taxable  
 18 year of the taxpayer begins.

1 “(c) LIMITATIONS.—

2 “(1) PHASE-IN.—In the case of a taxpayer with  
3 earned income for the taxable year of less than  
4 \$8,000, the amount allowed as a credit under sub-  
5 section (a) shall not exceed the amount which bears  
6 the same ratio to the amount which would be so al-  
7 lowed as—

8 “(A) the earned income of the taxpayer for  
9 the taxable year, bears to

10 “(B) \$8,000.

11 “(2) PHASE-OUT.—

12 “(A) IN GENERAL.—The amount which  
13 would (but for this paragraph) be allowed as a  
14 credit under subsection (a) shall be reduced  
15 (but not below zero) by the amount determined  
16 under subparagraph (B).

17 “(B) AMOUNT OF REDUCTION.—The  
18 amount determined under this subparagraph is  
19 the amount which bears the same ratio to the  
20 amount which would be so allowed as—

21 “(i) the excess of—

22 “(I) the taxpayer’s adjusted  
23 gross income (or, if greater, earned  
24 income) for the taxable year, over

1                   “(II) the applicable amount,  
 2                   bears to

3                   “(ii) the applicable denominator.

4                   “(C) APPLICABLE AMOUNT; APPLICABLE  
 5                   NUMERATOR.—The applicable amount and ap-  
 6                   plicable denominator shall be determined in ac-  
 7                   cordance with the following table:

“In the case of:	The ap- plicable amount is:	The ap- plicable denomi- nator is:
An eligible individual making a joint return .....	\$70,000	\$40,000
An eligible individual with one or more qualifying children and not making a joint return .....	\$50,000	\$30,000
Any other eligible individual .....	\$30,000	\$20,000

8                   “(d) DEFINITIONS AND SPECIAL RULES.—

9                   “(1) ELIGIBLE INDIVIDUAL.—For purposes of  
 10                  this section—

11                  “(A) IN GENERAL.—The term ‘eligible in-  
 12                  dividual’ means, with respect to a taxable year,  
 13                  any individual who—

14                         “(i) has earned income for such tax-  
 15                         able year, and

16                         “(ii) is not a dependent for whom a  
 17                         deduction is allowable under section 151 to  
 18                         another taxpayer for any taxable year be-  
 19                         ginning in the same calendar year as such  
 20                         taxable year.

1           “(B) CERTAIN ELIGIBLE INDIVIDUAL  
2           RULES MADE APPLICABLE.—Rules similar to  
3           the rules of subparagraphs (B) through (F) of  
4           section 32(c)(1) shall apply.

5           “(2) EARNED INCOME QUALIFYING CHILD.—  
6           For purposes of this section, the term ‘earned in-  
7           come’ shall have the meaning given such term by  
8           section 32(c).

9           “(3) QUALIFYING CHILD.—For purposes of this  
10          section, the term ‘qualifying child’ shall have the  
11          meaning given such term by section 24.

12          “(4) MARRIED INDIVIDUALS.—In the case of an  
13          individual who is married (within the meaning of  
14          section 7703), this section shall apply only if a joint  
15          return is filed for the taxable year under section  
16          6103.

17          “(5) COORDINATION WITH CLIMATE TRUST RE-  
18          BATE PROGRAM.—

19                 “(A) IN GENERAL.—The amount which  
20                 would be allowed as a credit to a taxpayer  
21                 under subsection (a) shall, before the applica-  
22                 tion of subsection (c), be reduced (but not  
23                 below zero) by the amounts received by the tax-  
24                 payer under the Climate Trust Rebate Program  
25                 under section 303 of the Investing in Climate



1           Action and Protection Act for months beginning  
2           in the taxable year.

3           “(B) ALLOCATION OF CLIMATE TRUST RE-  
4           BATES.—For purposes of this subparagraph, in  
5           the case of 2 or more eligible individuals who  
6           are members of the same household (as defined  
7           for purposes of the Climate Trust Rebate Pro-  
8           gram) with respect to which an amount is re-  
9           ceived under such program for any month, for  
10          each such month beginning in the taxable year  
11          such an individual shall be treated as receiving  
12          an amount equal to—

13                   “(i) the amount received with respect  
14                   to such household for such month, divided  
15                   by

16                   “(ii) the number of eligible individuals  
17                   who are members of such household at the  
18                   beginning of such month.

19          “(e) SENIOR CITIZENS CLIMATE TRUST CREDIT.—

20                   “(1) IN GENERAL.—In the case of an individual  
21                   with qualifying retirement income for the taxable  
22                   year, the taxpayer may elect to apply subsections (c)  
23                   and (d)(1) by substituting ‘qualifying retirement in-  
24                   come’ for ‘earned income’.

1           “(2) LIMITATION.—If the taxpayer makes the  
2 election described in paragraph (1) for the taxable  
3 year, the amount allowed as a credit under sub-  
4 section (a) for such taxable year shall not exceed an  
5 amount equal to 55 percent of the amount which  
6 would (but for this paragraph) be so allowed.

7           “(3) QUALIFYING INCOME.—For purposes of  
8 this section, the term ‘qualifying retirement income’  
9 means—

10                   “(A) a distribution (other than a rollover)

11                   from—

12                           “(i) a plan described in section 401(a)  
13                           which includes a trust exempt from tax  
14                           under section 501(a),

15                           “(ii) an annuity plan described in sec-  
16                           tion 403(a),

17                           “(iii) an annuity contract described in  
18                           section 403(b),

19                           “(iv) an individual retirement account  
20                           described in section 408(a),

21                           “(v) an individual retirement annuity  
22                           described in section 408(b),

23                           “(vi) a Roth IRA (as defined in  
24                           408A(b)),

1 “(vii) an eligible deferred compensa-  
2 tion plan (as defined in section 457),

3 “(viii) a governmental plan (as de-  
4 fined in section 414(d)),

5 “(ix) a trust described in section  
6 501(c)(18), or

7 “(x) any other plan, contract, account,  
8 annuity, or trust which, at any time, has  
9 been determined by the Secretary to be  
10 such a plan, contract, account, annuity, or  
11 trust,

12 “(B) social security benefits (within the  
13 meaning of section 86(d)),

14 “(C) any compensation or pension received  
15 under chapter 11, chapter 13, or chapter 15 of  
16 title 38, United States Code, and

17 “(D) any other amount received which is  
18 in the nature of a retirement benefit payment.”.

19 (b) APPROPRIATIONS FOR REFUND.—Section  
20 1324(b)(2) of title 31, United States Code, is amended  
21 by striking “or 53(e)” and inserting “, 53(e), or 36”.

22 (c) CLERICAL AMENDMENT.—The table of sections  
23 for subpart C of part IV of subchapter A of chapter 1  
24 of such Code is amended by striking the item relating to  
25 section 36 and inserting the following new items:

“Sec. 36. Climate trust tax credit.

“Sec. 37. Overpayments of tax.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2009.

4 **SEC. 303. CLIMATE TRUST REBATES FOR LOW-INCOME**  
5 **HOUSEHOLDS.**

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

7 (1) ADMINISTRATOR.—The term “Adminis-  
8 trator” means the Administrator of the Environ-  
9 mental Protection Agency or, if the President des-  
10 ignates an alternative agency under subsection  
11 (b)(1), the head of such agency.

12 (2) BASE PROJECTED COST INCREASE.—The  
13 term “base projected cost increase” means an  
14 amount equal to the projected average annual in-  
15 crease, for a year in direct and indirect energy costs  
16 for a 1-person household in the middle quintile of  
17 the income scale, that results from the regulation of  
18 greenhouse gas emissions under title VII of the  
19 Clean Air Act (as added by section 101 of this Act),  
20 provided that each quintile shall—

21 (A) be based on income adjusted for house-  
22 hold size; and

23 (B) have an equal aggregate number of in-  
24 dividuals.

1           (3) ELDERLY OR DISABLED MEMBER.—The  
2 term “elderly or disabled member” has the meaning  
3 given such term in section 3 of the Food Stamp Act  
4 of 1977 (7 U.S.C. 2012).

5           (4) ELECTRONIC BENEFIT TRANSFER CARD.—  
6 The term “electronic benefit transfer card” means a  
7 card that makes a rebate provided under the Pro-  
8 gram accessible to a household through an Elec-  
9 tronic Benefits Transfer System.

10           (5) ELECTRONIC BENEFIT TRANSFER SYS-  
11 TEM.—The term “Electronic Benefit Transfer Sys-  
12 tem” means a system by which rebates provided  
13 under the Program are issued from and stored in a  
14 central databank by means of electronic benefit  
15 transfer cards.

16           (6) HOUSEHOLD.—The term “household”  
17 means—

18                   (A) an individual who lives alone; or

19                   (B) a group of individuals who live to-  
20 gether.

21           (7) STATE.—The term “State” means any of  
22 the several States, the District of Columbia, the  
23 Commonwealth of Puerto Rico, American Samoa,  
24 the United States Virgin Islands, Guam, or the  
25 Commonwealth of the Northern Mariana Islands.

1           (8) STATE AGENCY.—The term “State agency”  
2 means—

3           (A) an agency of a State (including the  
4 local offices of such agency) that has the re-  
5 sponsibility for the administration of federally  
6 aided public assistance programs in such State;  
7 or

8           (B) in a State in which such programs are  
9 operated on a decentralized basis, the cor-  
10 responding local agencies that administer such  
11 programs.

12 (b) CLIMATE TRUST REBATE PROGRAM.—

13           (1) FORMULATION AND ADMINISTRATION OF  
14 PROGRAM.—The Administrator of the Environ-  
15 mental Protection Agency, or the head of such other  
16 Executive agency (as defined in section 105 of title  
17 5 of the United States Code) as the President may  
18 designate, shall formulate and administer in accord-  
19 ance with this section a program to be known as the  
20 “Climate Trust Rebate Program” (in this section re-  
21 ferred to as the “Program”).

22           (2) STATE PARTICIPATION IN THE PROGRAM.—  
23 At the request of a State, eligible households in such  
24 State shall be provided an opportunity to receive  
25 compensation through the issuance of a rebate in ac-

1 cordance with this section for increased energy re-  
2 lated costs resulting from compliance with the re-  
3 quirements of title VII of the Clean Air Act.

4 (3) FUNDING.—Rebates under this section shall  
5 be funded from the Climate Trust Rebate Fund es-  
6 tablished under section 722(a) of the Clean Air Act.  
7 Such funds shall be available for expenditure, with-  
8 out further appropriation or fiscal year limitation, to  
9 carry out this section.

10 (c) ELIGIBILITY.—Subject to subsection (d), a house-  
11 hold shall be eligible to participate in the Program if the  
12 State agency designated by the chief executive officer of  
13 such State to carry out the Program in such State deter-  
14 mines that—

15 (1) such household contains 1 or more individ-  
16 uals who participate in the food stamp program  
17 under the Food Stamp Act of 1977 (7 U.S.C. 2011  
18 et seq.); or

19 (2) such household, without regard to whether  
20 such household includes an elderly or disabled mem-  
21 ber, meets—

22 (A) the gross income standard described in  
23 section 5(c)(2) of the Food Stamp Act of 1977  
24 (7 U.S.C. 2014(c)(2)); and

1 (B) the financial resources limit described  
2 in section 5(g) the Food Stamp Act of 1977 (7  
3 U.S.C. 2014(g)).

4 (d) LIMITATIONS.—The Administrator shall establish  
5 procedures to ensure that—

6 (1) individuals who are not—

7 (A) citizens or nationals of the United  
8 States; or

9 (B) immigrants lawfully residing in the  
10 United States;

11 are excluded for the purpose of calculating rebates  
12 under subsection (e); and

13 (2) households do not receive more than 1 re-  
14 bate per month.

15 (e) REBATE CALCULATION.—

16 (1) BASE PROJECTED COST INCREASE.—Not  
17 later than October 1 of 2009, and of each subse-  
18 quent calendar year, the Administrator of the En-  
19 ergy Information Administration shall calculate and  
20 publish the base projected cost increase for the fol-  
21 lowing year.

22 (2) MAXIMUM REBATE AMOUNT.—The max-  
23 imum rebate amount for each month of a calendar  
24 year shall be—

25 (A) set by the Administrator; and



1 (B) equal to  $\frac{1}{12}$  of—

2 (i) 90 percent of the base projected  
3 cost increase for a household containing 1  
4 individual;

5 (ii) 140 percent of the base projected  
6 cost increase for a household containing 2  
7 individuals;

8 (iii) 170 percent of the base projected  
9 cost increase for a household containing 3  
10 individuals; and

11 (iv) 200 percent of the base projected  
12 cost increase for a household containing 4  
13 or more individuals.

14 (3) MONTHLY REBATE AMOUNTS.—Eligible  
15 households shall receive a monthly rebate calculated  
16 in the following manner:

17 (A) A household with gross income, as de-  
18 termined in the manner provided in section 5 of  
19 the Food Stamp Act of 1977 (7 U.S.C. 2014),  
20 that is less than 50 percent of the poverty line  
21 shall receive the maximum rebate amount for a  
22 household of equal size.

23 (B) A household with gross income, as de-  
24 termined in the manner provided in section 5 of  
25 the Food Stamp Act of 1977 (7 U.S.C. 2014),

1 that is not less than 50 percent of the poverty  
2 line and not more than 130 percent of the pov-  
3 erty line shall receive a rebate in an amount de-  
4 termined in accordance with a schedule of  
5 phase-down rates based on household size, es-  
6 tablished by the Administrator and specifying  
7 the amount by which the otherwise applicable  
8 maximum rebate amount shall be reduced for  
9 each dollar by which such gross income exceeds  
10 50 percent of the poverty line. The phase-down  
11 rate shall be—

12 (i) for household sizes of 4 or fewer  
13 individuals, equal to the maximum rebate  
14 amount divided by 80 percent of the pov-  
15 erty line applicable to the particular house-  
16 hold size involved; and

17 (ii) for household sizes of 5 or more  
18 individuals, equal to a rate determined in  
19 accordance with a methodology established  
20 by the Administrator.

21 (C) Households with gross income exceed-  
22 ing 130 percent of the poverty line shall not be  
23 eligible to receive a rebate under the Program.

24 (f) SCHEDULE AND STANDARDS FOR IMPLEMENTA-  
25 TION OF PROGRAM.—The Administrator shall establish by

1 rule a schedule and standards to implement the Program.

2 Such standards shall—

3 (1) specify the required level of household pro-  
4 tection regarding privacy, ease of rebate use, and ac-  
5 cess to the rebates under the Program;

6 (2) prohibit the imposition of any fee on a  
7 household for the withdrawal or expenditure of any  
8 part of such rebates;

9 (3) require States participating in the Program  
10 to provide such rebates to recipient households  
11 through an Electronic Benefit Transfer System or  
12 by direct deposits into accounts established by  
13 household members at financial institutions; and

14 (4) provide for the interoperability of the Pro-  
15 gram among States and among law enforcement au-  
16 thorities that monitor compliance with the Program.

17 (g) STATE ADMINISTRATION OF PROGRAM.—A par-  
18 ticipating State, and the State agency designated under  
19 subsection (b), shall be responsible for—

20 (1) certifying the eligibility of households to re-  
21 ceive rebates under the Program; and

22 (2) issuance and control of rebates, and ac-  
23 countability therefor.

24 (h) REIMBURSEMENT OF STATE ADMINISTRATIVE  
25 COSTS.—Subject to standards established by the Adminis-

1 trator, the Administrator shall reimburse each partici-  
2 pating State as follows for administrative costs incurred  
3 by the designated State agency to carry out the Program:

4 (1) For 3 years such costs shall be reimbursed  
5 at the rate of—

6 (A) 90 percent of any automated data  
7 processing improvement, and Electronic Benefit  
8 Transfer contract amendment, necessary to pro-  
9 vide rebates under the Program; and

10 (B) 75 percent of such costs remaining.

11 (2) For subsequent years such costs shall be re-  
12 imbursed at the rate of 50 percent.

13 (i) TREATMENT OF REBATES.—The amount of any  
14 rebate received under the Program shall not be considered  
15 to be income or resources for any purpose under any Fed-  
16 eral, State, or local law, including any law relating to tax-  
17 ation (including income tax) or public assistance (includ-  
18 ing programs that provide health care, cash aid, child care,  
19 nutrition assistance, and housing assistance). No partici-  
20 pating State (or political subdivision thereof) shall de-  
21 crease any assistance otherwise provided to an individual  
22 or a household based on the fact that a household applied  
23 for or received a rebate under the Program.

1                   **Subtitle B—Low-Carbon**  
2                   **Technology Fund**

3 **SEC. 311. PURPOSES.**

4           The purposes of this subtitle are—

5                   (1) to encourage rapid, sustained, and cost-ef-  
6           fective development, demonstration, and deployment  
7           of advanced low-carbon energy and efficiency tech-  
8           nologies that substantially reduce greenhouse gas  
9           emissions; and

10                   (2) to do so in a manner that encourages eco-  
11           nomic growth and job creation in the United States,  
12           establishes the United States as a global leader in  
13           low-carbon energy technology innovation and produc-  
14           tion, and minimizes the cost of meeting the climate  
15           protection objectives of this Act.

16 **SEC. 312. FUNDING.**

17           The Secretary of Energy shall utilize the Low-Carbon  
18           Technology Fund established under section 722(a) of the  
19           Clean Air Act (as added by section 101 of this Act) to  
20           carry out a comprehensive program of research, develop-  
21           ment, demonstration, and deployment of low-carbon en-  
22           ergy and efficiency technologies as provided in this sub-  
23           title. Funds deposited in the Low-Carbon Technology  
24           Fund shall be available for expenditure, without further

1 appropriation or fiscal year limitation, to carry out this  
2 subtitle.

3 **SEC. 313. RENEWABLE ENERGY AND ENERGY EFFICIENCY**  
4 **RESEARCH, DEVELOPMENT, AND DEM-**  
5 **ONSTRATION.**

6 (a) IN GENERAL.—In each of fiscal years 2010  
7 through 2020, the Secretary of Energy shall use 35 per-  
8 cent of the funds deposited in the Low-Carbon Technology  
9 Fund for renewable energy and energy efficiency tech-  
10 nology programs in accordance with this section. In addi-  
11 tion to amounts otherwise authorized to be appropriated  
12 for the programs described in subsection (b), there are au-  
13 thorized to be appropriated such sums as may be nec-  
14 essary for carrying out such programs for fiscal years  
15 2010 through 2020.

16 (b) ALLOCATION OF FUNDS.—Funds available under  
17 this section shall be distributed as follows:

18 (1) RENEWABLE ELECTRICITY.— $\frac{1}{4}$  of such  
19 funds shall be used to carry out—

20 (A) renewable energy programs under sec-  
21 tion 931 of the Energy Policy Act of 2005 (42  
22 U.S.C. 16231);

23 (B) solar thermal energy storage programs  
24 under section 602 of the Energy Independence  
25 and Security Act of 2007 (42 U.S.C. 17171);

1 (C) photovoltaic technology demonstration  
2 programs under section 607 of the Energy  
3 Independence and Security Act of 2007 (42  
4 U.S.C. 17175);

5 (D) hydrothermal and geothermal energy  
6 programs under sections 613 through 616 of  
7 the Energy Independence and Security Act of  
8 2007 (42 U.S.C. 17192–95); and

9 (E) marine and hydrokinetic renewable en-  
10 ergy programs under sections 633 and 634 of  
11 the Energy Independence and Security Act of  
12 2007 (42 U.S.C. 17212 and 17213).

13 (2) ELECTRIC TRANSMISSION AND DISTRIBUTION EFFICIENCY.— $\frac{1}{8}$  of such funds shall be used  
14 to carry out—

16 (A) electric transmission and distribution  
17 programs under section 925 of the Energy Pol-  
18 icy Act of 2005 (42 U.S.C. 16215); and

19 (B) smart grid technology programs under  
20 sections 1304 and 1306 of the Energy Inde-  
21 pendence and Security Act of 2007 (42 U.S.C.  
22 17384 and 17386).

23 (3) LOW-CARBON RENEWABLE FUELS AND BIO-  
24 ENERGY.— $\frac{1}{8}$  of such funds shall be used to carry  
25 out—

1 (A) biofuels and bioenergy programs under  
2 section 932 of the Energy Policy Act of 2005  
3 (42 U.S.C. 16232);

4 (B) biofuels distribution and advanced  
5 biofuels infrastructure programs under section  
6 248 of the Energy Independence and Security  
7 Act of 2007 (42 U.S.C. 17054); and

8 (C) biomass programs under section 307 of  
9 the Biomass Research and Development Act of  
10 2000 (7 U.S.C. 8606).

11 (4) LOW-EMISSION VEHICLES.—<sup>3</sup>/<sub>16</sub> of such  
12 funds shall be used to carry out—

13 (A) advanced vehicle efficiency technologies  
14 programs under section 911(a)(2)(A) of the  
15 Energy Policy Act of 2005 (42 U.S.C.  
16 16191(a)(2)(A));

17 (B) efficient hybrid and advanced diesel  
18 vehicles and components programs under sec-  
19 tion 712 of the Energy Policy Act of 2005 (42  
20 U.S.C. 16062); and

21 (C) lightweight vehicle materials programs  
22 under section 651 of the Energy Independence  
23 and Security Act of 2007 (42 U.S.C. 17241).

24 (5) BUILDING EFFICIENCY.—<sup>1</sup>/<sub>8</sub> of such funds  
25 shall be used to carry out—



1 (A) the Zero-Net-Energy Commercial  
2 Buildings Initiative under section 422 of the  
3 Energy Independence and Security Act of 2007  
4 (42 U.S.C. 17082); and

5 (B) building efficiency technology pro-  
6 grams under section 911(a)(2)(B) of the En-  
7 ergy Policy Act of 2005 (42 U.S.C. 16191).

8 (6) INDUSTRIAL EFFICIENCY.— $\frac{1}{16}$  of such  
9 funds shall be used to carry out—

10 (A) the energy-intensive industries effi-  
11 ciency program under section 452 of the En-  
12 ergy Independence and Security Act of 2007  
13 (42 U.S.C. 17111); and

14 (B) the waste energy recovery incentive  
15 grant program under section 373 of the Energy  
16 Policy and Conservation Act (42 U.S.C. 6343).

17 (7) ENERGY STORAGE TECHNOLOGIES.— $\frac{1}{16}$  of  
18 such funds shall be used to carry out the energy  
19 storage technology programs under section 641 of  
20 the Energy Independence and Security Act of 2007  
21 (42 U.S.C. 17231).

22 (8) ADVANCED RESEARCH PROJECTS AGENCY-  
23 ENERGY.— $\frac{1}{16}$  of such funds shall be used to fund  
24 programs carried out by the Advanced Research  
25 Projects Agency-Energy (ARPA-E) under section

1 5012 of the America COMPETES Act of 2007 (42  
2 U.S.C. 16538), for research and development of en-  
3 ergy technologies to achieve reductions in green-  
4 house gas emissions.

5 **SEC. 314. RENEWABLE ENERGY DEPLOYMENT INCENTIVES.**

6 (a) RENEWABLE ELECTRICITY PRODUCTION PAY-  
7 MENTS.—

8 (1) ALLOCATION.—In each of fiscal years 2010  
9 through 2030, the Secretary of Energy shall use 40  
10 percent of funds deposited in the Low-Carbon Tech-  
11 nology Fund, in accordance with this subsection, to  
12 encourage deployment of renewable electricity gen-  
13 eration technologies.

14 (2) REGULATIONS.—Not later than 180 days  
15 after the date of enactment of this Act, the Sec-  
16 retary shall promulgate regulations establishing a  
17 program to competitively distribute funds allocated  
18 under paragraph (1) to producers of renewable elec-  
19 tricity through reverse auctions, in accordance with  
20 the requirements of this subsection.

21 (3) ELIGIBILITY CRITERIA.—The Secretary  
22 shall provide incentives only for the domestic produc-  
23 tion of electricity from—

24 (A) generation units placed into service  
25 after the date of enactment of this Act that

1 generate electricity exclusively from solar, wind,  
2 biomass, ocean (including tidal, wave, current,  
3 and thermal), or geothermal resources; or

4 (B) additions of new capacity or increased  
5 efficiency that leads to increased generation at  
6 hydroelectric projects that commenced operation  
7 prior to the date of enactment of this Act.

8 (4) REVERSE AUCTIONS.—The Secretary shall  
9 distribute funds among producers of eligible renew-  
10 able electricity, on a competitive basis, through re-  
11 verse auctions, based on the bids from producers in  
12 terms of dollars per megawatt-hour of electricity  
13 generated. In deciding among bids, the Secretary  
14 shall give preference to the lowest price bids, with  
15 the following exceptions:

16 (A) The Secretary shall seek to ensure that  
17 the categories of renewable electricity tech-  
18 nologies receiving funding under this subsection  
19 are diverse and that the distribution of funding  
20 is reasonably balanced among different tech-  
21 nologies.

22 (B) The Secretary shall require each bid-  
23 der to notify the Secretary of any other finan-  
24 cial assistance the bidder may reasonably be an-  
25 ticipated to receive through other Federal,

1 State, or local government programs for the  
2 same production, and shall seek to avoid pro-  
3 viding payments under this subsection where  
4 the Secretary determines that such payments  
5 are likely, in light of other Federal, State, or  
6 local financial assistance, to provide the bidder  
7 with an unreasonably high rate of return.

8 (5) FORM OF ASSISTANCE.—Funds shall be dis-  
9 tributed under this subsection pursuant to contracts  
10 to provide production payments to producers of re-  
11 newable electricity for each year during the first 10  
12 years of commercial service of the generating unit.  
13 The Secretary shall not award new contracts under  
14 this subsection after December 31, 2020.

15 (6) AMOUNT OF PAYMENTS.—Production pay-  
16 ments made pursuant to this subsection shall be dis-  
17 tributed to each producer at the end of each year of  
18 operation in an amount equal to the product ob-  
19 tained by multiplying—

20 (A) the price bid by the producer per  
21 megawatt-hour of electricity generated; by

22 (B) the lesser of—

23 (i) the number of megawatt-hours  
24 generated and sold by the electricity gen-  
25 eration unit during the preceding year; and

1 (ii) the number of megawatt-hours bid  
2 for that year by the producer.

3 (b) DISTRIBUTED RENEWABLE ENERGY TECH-  
4 NOLOGY REBATES.—

5 (1) DEFINITION OF DISTRIBUTED RENEWABLE  
6 ENERGY TECHNOLOGY.—For purposes of this sub-  
7 section, the term “distributed renewable energy tech-  
8 nology” means a technology that is designed to gen-  
9 erate electric or thermal energy from solar, wind, or  
10 geothermal resources to serve energy consumers at  
11 or near the site at which the technology is installed.

12 (2) ALLOCATION.—For each of fiscal years  
13 2010 through 2030, the Secretary of Energy shall  
14 use 5 percent of funds deposited in the Low-Carbon  
15 Technology Fund, in accordance with this sub-  
16 section, to encourage deployment of distributed re-  
17 newable energy technologies.

18 (3) REGULATIONS.—Not later than 180 days  
19 after the date of enactment of this Act, the Sec-  
20 retary of Energy shall promulgate regulations estab-  
21 lishing a program to distribute funds made available  
22 under paragraph (2), in accordance with this sub-  
23 section, through rebates to persons or entities that  
24 purchase, install, and operate distributed renewable  
25 energy technologies.

1           (4) DISTRIBUTION OF ASSISTANCE.—The Sec-  
2           retary shall distribute rebates to persons or entities  
3           that purchase, install, and operate distributed re-  
4           newable energy technologies either—

5                   (A) directly;

6                   (B) through utilities or manufacturers of  
7           distributed renewable energy technologies; or

8                   (C) through such other entities as the Sec-  
9           retary of Energy determines will provide a cost-  
10          effective channel of distribution.

11          (5) ELIGIBILITY CRITERIA.—

12               (A) ELIGIBLE EQUIPMENT.—The Sec-  
13          retary of Energy shall provide incentives only to  
14          persons or entities that, after the date of enact-  
15          ment of this Act, purchase, install, and operate  
16          distributed renewable energy technology that  
17          is—

18                   (i) new equipment which uses solar  
19                  energy to generate electricity, to heat or  
20                  cool (or provide hot water for use in) a  
21                  structure, or to provide solar process heat,  
22                  except equipment that is used to generate  
23                  energy for the purposes of heating a swim-  
24                  ming pool;

1 (ii) new equipment which uses solar  
2 energy to illuminate the inside of a struc-  
3 ture using fiber-optic distributed sunlight;

4 (iii) new equipment used to produce,  
5 distribute, or use energy derived from a  
6 geothermal deposit; or

7 (iv) a new wind turbine which has a  
8 nameplate capacity of not greater than 100  
9 kilowatts.

10 (B) LIMITATION.—Persons or entities shall  
11 not be eligible for rebates under this section for  
12 the purchase, installation, and operation of  
13 equipment for which they have received, or will  
14 receive, other financial incentives provided by a  
15 Federal, State, or local government.

16 (6) AMOUNT OF REBATES.—Rebates under this  
17 section shall not exceed the lesser of—

18 (A) 30 percent of cost of purchase and in-  
19 stallation of eligible equipment; or

20 (B) \$5,000 per site.

21 **SEC. 315. CARBON CAPTURE AND SEQUESTRATION DEM-**  
22 **ONSTRATION AND DEPLOYMENT.**

23 (a) ALLOCATION.—In each of fiscal years 2010  
24 through 2020, the Secretary of Energy shall use 20 per-  
25 cent of funds deposited in the Low-Carbon Technology

1 Fund to encourage large-scale demonstration of carbon  
2 capture and geological sequestration technologies and  
3 early commercial deployment of such technologies at quali-  
4 fying electric generating units.

5 (b) DEMONSTRATION OF CARBON CAPTURE AND SE-  
6 QUESTRATION.—The Secretary of Energy shall use funds  
7 allocated under subsection (a) to complete the carbon cap-  
8 ture and sequestration programs established under section  
9 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293)  
10 and section 703 of the Energy Independence and Security  
11 Act of 2007 (42 U.S.C. 17251). For each of fiscal years  
12 2010 through 2013, the Secretary shall fund those pro-  
13 grams at the full level of authorization provided by those  
14 sections.

15 (c) EARLY DEPLOYMENT INCENTIVES FOR CARBON  
16 CAPTURE AND SEQUESTRATION.—

17 (1) ALLOCATION.—In each of fiscal years 2010  
18 through 2020, the Secretary shall use the remaining  
19 funds available under subsection (a), after funding  
20 the programs under subsection (b), to encourage  
21 commercial deployment of carbon capture and se-  
22 questration technologies at qualifying electric gener-  
23 ating units.

24 (2) REGULATIONS.—Not later than 180 days  
25 after the date of enactment of this Act, the Sec-



1       retary shall promulgate regulations establishing a  
2       program to distribute funds allocated under para-  
3       graph (1), in the form of cost-sharing grants, to  
4       owners or operators of electric generating units in  
5       accordance with the requirements of this subsection.

6           (3) ELIGIBILITY CRITERIA.—The Secretary  
7       shall provide incentives under this section only to  
8       projects—

9           (A) at electric generating units—

10           (i) with a rated capacity of 250  
11           megawatts or more; and

12           (ii) that derive at least 50 percent of  
13           their annual fuel input from coal, petro-  
14           leum coke, or any combination of these  
15           fuels;

16           (B) that will achieve the capture and geo-  
17           logical sequestration of not less than 85 percent  
18           of the total carbon dioxide emissions produced  
19           by the electric generating unit on an annual av-  
20           erage basis;

21           (C) the construction of which commences  
22           no later than December 31, 2020; and

23           (D) that do not receive other Federal or  
24           State financial incentives, including loans, loan  
25           guarantees, grants, or tax credits.

1           (4) LEVEL OF FUNDING.—The level of assist-  
2           ance provided to owners or operators of eligible elec-  
3           tric generating units under this subsection shall be  
4           no greater than is necessary to permit recovery of  
5           reasonable incremental capital and operating costs of  
6           the project that are specifically attributable to imple-  
7           mentation of carbon capture and sequestration, tak-  
8           ing into account the reduced cost of compliance with  
9           section 712 of the Clean Air Act (as added by sec-  
10          tion 101 of this Act). For purposes of this para-  
11          graph, reasonable incremental capital and operating  
12          costs shall be determined based on the most cost-ef-  
13          fective reasonably available technology for capturing  
14          and sequestering carbon dioxide emissions, taking  
15          into account the location of the electric generating  
16          unit and the type of fuel (including coal type) used  
17          to power the unit.

18          (5) SELECTION CRITERIA.—As part of the reg-  
19          ulations promulgated under this subsection, the Sec-  
20          retary shall establish objective criteria for the selec-  
21          tion of projects, in the event that there are more  
22          grant applicants that meet the eligibility criteria in  
23          paragraph (3) than can be funded. Such criteria  
24          shall, at minimum—

1           (A) give preference to projects that most  
2           cost-effectively capture and sequester carbon di-  
3           oxide, so as to maximize the tonnage of carbon  
4           dioxide sequestered per dollar of assistance pro-  
5           vided; and

6           (B) seek to ensure funding for projects  
7           representing a diverse range of coal types, cap-  
8           ture technologies, and geographic regions.

9   **SEC. 316. FISCAL YEARS 2021 THROUGH 2050.**

10       (a) **RECOMMENDATIONS TO THE PRESIDENT AND**  
11 **CONGRESS.**—The reports developed under section 703(d)  
12 and (e) of this Act shall contain recommendations on the  
13 allocation of funds from the Low Carbon Technology Fund  
14 in future fiscal years, beginning with fiscal year 2021.

15       (b) **EXCEPTION.**—Subsection (a) shall not apply to  
16 the first report delivered under section 703(d) or the first  
17 report delivered under section 703(e) of this Act.

18       (c) **PRESIDENTIAL AUTHORITY.**—If, after the 1-year  
19 period beginning on the date of submission of each report  
20 to which subsection (a) applies, Congress has not enacted  
21 a statute codifying the recommendations on the allocation  
22 of funds from the Low Carbon Technology Fund in future  
23 fiscal years or an alternative to such recommendations, the  
24 President is authorized to allocate funds from that Fund

1 pursuant to the recommendations for the next 5 fiscal  
2 years.

### 3 **Subtitle C—National Energy** 4 **Efficiency Fund**

#### 5 **SEC. 321. PURPOSES.**

6 The purposes of this subtitle are—

7 (1) to encourage widespread adoption of energy  
8 efficiency policies and measures, including programs  
9 to—

10 (A) increase efficiency in electricity and  
11 natural gas consumption;

12 (B) encourage the adoption and enforce-  
13 ment of robust building efficiency codes;

14 (C) develop and implement policies and  
15 projects that will reduce vehicle miles traveled;

16 (D) provide weatherization and home en-  
17 ergy assistance to low-income persons; and

18 (E) encourage recycling of energy intensive  
19 consumer goods; and

20 (2) by means of such programs to—

21 (A) achieve substantial negative- or low-  
22 cost reductions in greenhouse gas emissions;

23 (B) greatly reduce the overall cost to  
24 American consumers and businesses of achiev-

1           ing the climate protection objectives of this Act;  
2           and

3                   (C) spur innovation, job creation, and eco-  
4           nomic growth in the United States through in-  
5           vestment in energy efficiency technologies.

6 **SEC. 322. DEFINITIONS.**

7           For purposes of this subtitle:

8                   (1) NATIONAL ENERGY EFFICIENCY FUND.—

9           The term “National Energy Efficiency Fund” means  
10          the National Energy Efficiency Fund established  
11          under section 722 of the Clean Air Act (as added by  
12          section 101 of this Act).

13                   (2) SECRETARY.—The term “Secretary” means  
14          the Secretary of Energy.

15                   (3) STATE.—The term “State” means—

16                           (A) a State; and

17                           (B) the District of Columbia.

18 **SEC. 323. FUNDING.**

19          Funds deposited in the National Energy Efficiency  
20          Fund shall be available for expenditure, without further  
21          appropriation or fiscal year limitation, in accordance with  
22          the requirements of this subtitle.

23 **SEC. 324. ELECTRICITY CONSUMERS.**

24           (a) DEFINITION OF ELECTRICITY SAVINGS.—

1           (1) IN GENERAL.—The term “electricity sav-  
2           ings” means a net reduction in statewide end-use  
3           electricity consumption that is achieved through con-  
4           sumer energy efficiency measures and programs over  
5           a specified time period, relative to projected con-  
6           sumption for the same time period, as determined by  
7           the Secretary.

8           (2) INCLUSIONS.—The term “electricity sav-  
9           ings” includes savings achieved as a result of—

10                   (A) electricity-saving practices; and

11                   (B) installation of energy-saving tech-  
12           nologies and devices.

13           (3) EXCLUSION.—The term “electricity sav-  
14           ings” does not include savings from measures that  
15           would likely be adopted in the absence of consumer  
16           energy efficiency measures and programs, as deter-  
17           mined by the Secretary.

18           (b) ESTABLISHMENT OF PROGRAM.—In each of fiscal  
19           years 2011 through 2050, the Secretary shall distribute  
20           46 percent of the funds deposited in the National Energy  
21           Efficiency Fund to States, in accordance with this section,  
22           to encourage cost-effective investment in consumer energy  
23           efficiency measures and programs.

24           (c) DISTRIBUTION OF FUNDS.—

1           (1) IN GENERAL.—The Secretary shall estab-  
2           lish, by rule, a Start-Up Formula and a Perform-  
3           ance-Based Formula, in accordance with paragraphs  
4           (2) and (3) of this subsection, to govern distribution  
5           of funds under this section.

6           (2) START-UP FORMULA.—The Start-up For-  
7           mula referred to in paragraph (1) shall provide for  
8           the distribution of funds based on the following 2  
9           factors, each given equal weight:

10           (A) The proportion that—

11           (i) the quantity of electricity delivered  
12           to consumers within the State during the  
13           3 calendar years preceding the calendar  
14           year in which the funds are distributed;  
15           bears to

16           (ii) the total quantity of electricity de-  
17           livered to consumers in the United States  
18           during those 3 calendar years.

19           (B) The proportion that—

20           (i) the population of the State in the  
21           most recent year for which data is avail-  
22           able for all States, as determined by the  
23           Secretary; bears to

24           (ii) the population of the United  
25           States in that year.

1           (3) PERFORMANCE-BASED FORMULA.—The  
2 Performance-Based Formula referred to in para-  
3 graph (1) shall provide for the distribution of funds  
4 among States in direct proportion to the quantity of  
5 electricity savings actually achieved within each  
6 State in the prior year as a result of consumer en-  
7 ergy efficiency measures and programs implemented  
8 in the State. Such formula shall—

9           (A) define an appropriate baseline for cal-  
10 culating electricity savings;

11           (B) define a minimum level of annual  
12 statewide electricity savings, which shall not be  
13 less than 0.5 percent, necessary to qualify for  
14 funding under the formula;

15           (C) take account of past performance in  
16 achieving electricity savings so as not to penal-  
17 ize States that have taken early action to im-  
18 prove efficiency; and

19           (D) maximize, to the greatest extent pos-  
20 sible, the incentive for States to achieve cost-ef-  
21 fective electricity savings.

22           (4) ALLOCATION.—The Secretary shall dis-  
23 tribute the funds available under subsection (b) in  
24 accordance with the following table:



Fiscal Year	Percent of Funds Allocated According to Start-Up Formula	Percent of Funds Allocated According to Performance-Based Formula
2010	100	0
2011	100	0
2012	50	50
2013	50	50
2014 through 2050	0	100

1 (d) ELIGIBILITY.—

2 (1) IN GENERAL.—In fiscal years 2012 and  
3 2013, a State shall be eligible to receive funding  
4 pursuant to both the Start-Up Formula and the  
5 Performance-Based Formula.

6 (2) ELIGIBILITY FOR FUNDS DISTRIBUTED  
7 BASED ON START-UP FORMULA.—To be eligible to  
8 receive funds distributed based on the Start-Up For-  
9 mula, a State must adopt a binding statewide elec-  
10 tricity savings target that requires such State to  
11 achieve annual electricity savings of not less than  
12 0.25 percent in 2011 and 2012, and not less than  
13 0.5 percent in 2013 and 2014.

14 (e) USE OF FUNDS.—

15 (1) IN GENERAL.—A State's use of funds dis-  
16 tributed pursuant to this section shall be limited to  
17 measures and programs to—

18 (A) increase consumer energy efficiency;

1 (B) increase transmission and distribution  
2 efficiency; and

3 (C) promote deployment of—

4 (i) renewable electricity generation;

5 (ii) advanced biofuels that meet the  
6 baseline greenhouse gas lifecycle emissions  
7 requirements as defined in section  
8 211(o)(1)(B) of the Clean Air Act (42  
9 U.S.C. 7545(o)(1)(B)); and

10 (iii) low-emission vehicles.

11 (2) CERTIFICATION AND VERIFICATION.—The  
12 Secretary shall establish—

13 (A) guidelines specifying the types of ac-  
14 tivities for which funds distributed pursuant to  
15 this section may be used;

16 (B) procedures requiring States to certify  
17 that funds distributed pursuant to this section  
18 are used in accordance with this subsection;  
19 and

20 (C) procedures for reviewing and verifying  
21 States' compliance with this subsection.

22 (3) PENALTIES.—If the Secretary determines  
23 that a State is not in compliance with this sub-  
24 section, the Secretary may withhold a portion of the  
25 funding, equal to twice the amount of funding re-

1       ceived by the State that was not spent in accordance  
2       with the requirements in this subsection, for which  
3       such State would otherwise be eligible under this  
4       section in later years.

5       (f) MEASUREMENT, MONITORING, CERTIFICATION,  
6       AND VERIFICATION OF ELECTRICITY SAVINGS.—

7               (1) METHODS AND STANDARDS.—The Sec-  
8       retary shall establish national measurement, moni-  
9       toring, certification, and verification methods and  
10       standards to be used to evaluate the quantity of  
11       electricity savings achieved by a State for purposes  
12       of distributing funds based on the Performance-  
13       Based Formula.

14              (2) STATE REQUIREMENTS.—As a condition of  
15       receipt of funds based on the Performance-Based  
16       Formula, States must, in accordance with paragraph  
17       (1)—

18                   (A) quantify and certify the quantity of  
19       electricity savings achieved each year by the  
20       State;

21                   (B) provide data necessary to support and  
22       verify such claim, as determined by the Sec-  
23       retary; and

24                   (C) provide third-party verification of re-  
25       ported electricity savings.

1 (g) REGULATIONS.—Not later than January 1, 2010,  
2 the Secretary shall promulgate regulations governing the  
3 implementation of this section. The Secretary shall review  
4 and, as appropriate, revise such regulations at least every  
5 5 years.

6 **SEC. 325. NATURAL GAS CONSUMERS.**

7 (a) DEFINITION OF NATURAL GAS SAVINGS.—

8 (1) IN GENERAL.—The term “natural gas sav-  
9 ings” means a net reduction in statewide natural gas  
10 consumption by residential and commercial con-  
11 sumers that is achieved through consumer energy ef-  
12 ficiency measures and programs over a specified  
13 time period, relative to projected consumption for  
14 the same time period, as determined by the Sec-  
15 retary.

16 (2) INCLUSIONS.—The term “natural gas sav-  
17 ings” includes savings achieved as a result of—

18 (A) natural gas-saving practices; and

19 (B) installation of energy-saving tech-  
20 nologies and devices.

21 (3) EXCLUSION.—The term “natural gas sav-  
22 ings” does not include savings from measures that  
23 would likely be adopted in the absence of consumer  
24 energy efficiency measures and programs, as deter-  
25 mined by the Secretary.

1           (b) ESTABLISHMENT OF PROGRAM.—In each of fiscal  
2 years 2011 through 2050, the Secretary shall distribute  
3 8 percent of the funds deposited in the National Energy  
4 Efficiency Fund to States, in accordance with this section,  
5 to encourage cost-effective investment in consumer energy  
6 efficiency measures and programs.

7           (c) DISTRIBUTION OF FUNDS.—

8                 (1) IN GENERAL.—The Secretary shall estab-  
9 lish, by rule, a Start-Up Formula and a Perform-  
10 ance-Based Formula, in accordance with paragraphs  
11 (2) and (3) of this subsection, to govern distribution  
12 of funds under this section.

13                 (2) START-UP FORMULA.—The Start-up For-  
14 mula referred to in paragraph (1) shall provide for  
15 the distribution of funds based on the following 2  
16 factors, each given equal weight:

17                     (A) The proportion that—

18                             (i) the quantity of natural gas deliv-  
19 ered to residential and commercial con-  
20 sumers within the State during the 3 cal-  
21 endar years preceding the calendar year in  
22 which the funds are distributed; bears to

23                             (ii) the total quantity of natural gas  
24 delivered to residential and commercial

1 consumers in the United States during  
2 those 3 calendar years.

3 (B) The proportion that—

4 (i) the population of the State in the  
5 most recent year for which data is avail-  
6 able for all States, as determined by the  
7 Secretary; bears to

8 (ii) the population of the United  
9 States in that year.

10 (3) PERFORMANCE-BASED FORMULA.—The  
11 Performance-Based Formula referred to in para-  
12 graph (1) shall provide for the distribution of funds  
13 among States in direct proportion to quantity of  
14 natural gas savings actually achieved within each  
15 State in the prior year as a result of consumer en-  
16 ergy efficiency measures and programs implemented  
17 in the State. Such formula shall—

18 (A) define an appropriate baseline for cal-  
19 culating natural gas savings;

20 (B) define a minimum level of annual  
21 statewide natural gas savings, which shall not  
22 be less than 0.5 percent, necessary to qualify  
23 for funding under the formula;

24 (C) take account of past performance in  
25 achieving natural gas savings so as not to pe-

1           nalize States that have taken early action to im-  
2           prove efficiency; and

3                   (D) maximize, to the greatest extent pos-  
4           sible, the incentive for States to achieve cost-ef-  
5           fective natural gas savings.

6           (4) ALLOCATION.—The Secretary shall dis-  
7           tribute the funds available under subsection (b) in  
8           accordance with the following table:

Fiscal Year	Percent of Funds Allo- cated According to Start-Up Formula	Percent of Funds Allo- cated According to Per- formance-Based For- mula
2010	100	0
2011	100	0
2012	50	50
2013	50	50
2014 through 2050	0	100

9           (d) ELIGIBILITY.—

10           (1) IN GENERAL.—In fiscal years 2012 and  
11           2013, a State shall be eligible to receive funding  
12           pursuant to both the Start-Up Formula and the  
13           Performance-Based Formula.

14           (2) ELIGIBILITY FOR FUNDS DISTRIBUTED  
15           BASED ON START-UP FORMULA.—To be eligible to  
16           receive funds distributed based on the Start-Up For-  
17           mula, a State must adopt a binding statewide nat-  
18           ural gas savings target that requires such State to  
19           achieve annual natural gas savings of not less than

1 0.25 percent of the quantity of natural gas delivered  
2 to residential and commercial consumers in the  
3 State in 2011 and 2012, and not less than 0.5 per-  
4 cent in 2013 and 2014.

5 (e) USE OF FUNDS.—

6 (1) IN GENERAL.—A State’s use of funds dis-  
7 tributed pursuant to this section shall be limited to  
8 measures and programs described in section  
9 324(e)(1).

10 (2) CERTIFICATION AND VERIFICATION.—The  
11 Secretary shall establish—

12 (A) guidelines specifying the types of ac-  
13 tivities for which funds distributed pursuant to  
14 this section may be used;

15 (B) procedures requiring States to certify  
16 that funds distributed pursuant to this section  
17 are used in accordance with this subsection;  
18 and

19 (C) procedures for reviewing and verifying  
20 States’ compliance with this subsection.

21 (3) PENALTIES.—If the Secretary determines  
22 that a State is not in compliance with this sub-  
23 section, the Secretary may withhold a portion of the  
24 funding, equal to twice the amount of funding re-  
25 ceived by the State that was not spent in accordance



1 with the requirements in this subsection, for which  
2 such State would otherwise be eligible under this  
3 section in later years.

4 (f) MEASUREMENT, MONITORING, CERTIFICATION,  
5 AND VERIFICATION OF NATURAL GAS SAVINGS.—

6 (1) METHODS AND STANDARDS.—The Sec-  
7 retary shall establish national measurement, moni-  
8 toring, certification, and verification methods and  
9 standards to be used to evaluate the quantity of nat-  
10 ural gas savings achieved by a State for purposes of  
11 distributing funds based on the Performance-Based  
12 Formula.

13 (2) STATE REQUIREMENTS.—As a condition of  
14 receipt of funds based on the Performance-Based  
15 Formula, States must, in accordance with paragraph  
16 (1)—

17 (A) quantify and certify the quantity of  
18 natural gas savings achieved each year by the  
19 State;

20 (B) provide data necessary to support and  
21 verify such claim, as determined by the Sec-  
22 retary; and

23 (C) provide third-party verification of re-  
24 ported natural gas savings.

1 (g) REGULATIONS.—Not later than January 1, 2010,  
2 the Secretary shall promulgate regulations governing the  
3 implementation of this section. The Secretary shall review  
4 and, as appropriate, revise such regulations at least every  
5 5 years.

6 **SEC. 326. BUILDING EFFICIENCY.**

7 (a) IN GENERAL.—In each of fiscal years 2010  
8 through 2050, the Secretary shall distribute 12 percent  
9 of the funds deposited in the National Energy Efficiency  
10 Fund to States to encourage adoption and enforcement  
11 of statewide commercial and residential building efficiency  
12 codes.

13 (b) DISTRIBUTION OF FUNDS.—Not later than Janu-  
14 ary 1, 2010, the Secretary shall promulgate regulations  
15 governing distribution of funds under this section. Such  
16 regulations shall—

17 (1) provide that a State shall qualify for receipt  
18 of funds under this section only if such State is in  
19 compliance with section 304(c) of the Energy Con-  
20 servation and Production Act (as amended by sec-  
21 tion 601 of this Act);

22 (2) establish a performance-based formula for  
23 distribution of funding under this section that will  
24 reward States that adopt and effectively enforce  
25 statewide building efficiency codes that achieve

1 greater energy savings than those required under  
2 section 304(c) of the Energy Conservation and Pro-  
3 duction Act (as amended by section 601 of this Act),  
4 using multiple tiers of energy savings performance;  
5 and

6 (3) establish a program for periodic review and  
7 verification of State enforcement of building effi-  
8 ciency codes to ensure the energy savings objectives  
9 of the program are being met.

10 (c) PERIODIC UPDATING.—The Secretary shall re-  
11 view and, as appropriate, revise the regulations adopted  
12 under subsection (b) at least every 5 years. Any revised  
13 regulations shall adhere to the requirements set forth in  
14 paragraphs (1) through (3) of subsection (b).

15 **SEC. 327. SMART GROWTH AND MASS TRANSIT.**

16 (a) DEFINITIONS.—In this section:

17 (1) ADMINISTRATOR.—The term “Adminis-  
18 trator” means the Administrator of the Environ-  
19 mental Protection Agency or, if the President des-  
20 ignates an alternative agency under subsection (b),  
21 the head of such agency.

22 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
23 ty” means a State or an eligible unit of local govern-  
24 ment.

1           (3) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—

2           The term “eligible unit of local government”  
3           means—

4                   (A) a city with a population of at least  
5                   35,000; or

6                   (B) a county with a population of at least  
7                   200,000.

8           (4) VMT REDUCTION PLAN.—The term “VMT  
9           reduction plan” means a comprehensive plan to re-  
10          duce vehicle miles traveled within a jurisdiction, de-  
11          veloped pursuant to guidelines issued by the Admin-  
12          istrator under subsection (d) of this section.

13          (b) ESTABLISHMENT OF PROGRAM.—In each of fiscal  
14          years 2010 through 2050, the Administrator, or the head  
15          of such other Executive agency (as defined in section 105  
16          of title 5, United States Code) as the President may des-  
17          ignate, shall distribute 20 percent of the funds deposited  
18          in the National Energy Efficiency Fund to eligible entities  
19          in the form of grants to support the development and im-  
20          plementation of strategies to reduce vehicle miles traveled  
21          within their respective jurisdictions.

22          (c) ALLOCATION OF FUNDS.—Of amounts made  
23          available to provide grants under this section for each fis-  
24          cal year, the Administrator shall allocate—

1           (1) 70 percent to eligible units of local govern-  
2           ment; and

3           (2) 30 percent to States.

4           (d) GUIDELINES FOR VMT REDUCTION PLANS AND  
5 GRANT PROPOSALS.—Not later than 18 months after the  
6 date of enactment of this Act, the Administrator shall pro-  
7 mulgate guidelines for the development, by eligible units  
8 of local government and by States, of—

9           (1) VMT reduction plans for the relevant juris-  
10          diction; and

11          (2) proposals to use funds provided under this  
12          section for the implementation of one or more ele-  
13          ments of such a plan.

14          (e) PLANNING GRANTS.—The Administrator is au-  
15          thorized to make initial grants to eligible entities to sup-  
16          port the development of VMT reduction plans and grant  
17          proposals in accordance with the guidelines issued under  
18          subsection (d), including through the retention of technical  
19          consultants.

20          (f) IMPLEMENTATION GRANTS.—

21                 (1) IN GENERAL.—The Administrator shall  
22                 award grants, on a competitive basis, to eligible enti-  
23                 ties to support the implementation of policies, meas-  
24                 ures, and projects that will substantially reduce vehi-  
25                 cle miles traveled within the relevant jurisdiction.

## 1 (2) REQUIREMENTS.—

2 (A) IN GENERAL.—The Administrator  
3 shall not provide to an eligible entity any grant  
4 under this section until the eligible entity has  
5 submitted a VMT reduction plan and a grant  
6 proposal that satisfy the requirements of the  
7 guidelines established under subsection (d), and  
8 the Administrator has approved such plan and  
9 such proposal under this subsection.

## 10 (B) APPROVAL BY ADMINISTRATOR.—

11 (i) IN GENERAL.—The Administrator  
12 shall approve or disapprove a VMT reduc-  
13 tion plan or grant proposal submitted  
14 under this subsection by not later than  
15 180 days after the date of submission of  
16 the VMT reduction plan and grant pro-  
17 posal.

18 (ii) DISAPPROVAL.—If the Adminis-  
19 trator disapproves a VMT reduction plan  
20 or grant proposal, the Administrator shall  
21 notify the eligible entity of the reasons for  
22 the disapproval and the eligible entity may  
23 revise and resubmit the plan or proposal  
24 for approval.

1           (3) SELECTION CRITERIA.—In awarding grants  
2           under this subsection, the Administrator shall seek  
3           to maximize the reduction in vehicle miles traveled  
4           achieved per dollar of assistance provided.

5           (4) USE OF FUNDS.—Implementation grants  
6           provided under this section may be used to imple-  
7           ment any program or project that the Administrator  
8           determines is likely to result in substantial reduc-  
9           tions in vehicle miles traveled in the relevant juris-  
10          diction, including—

11                   (A) efforts to increase mass transit service  
12                   and ridership, including by adding new mass  
13                   transit systems;

14                   (B) promotion of transit-oriented and  
15                   mixed-infill development, including through the  
16                   updating of relevant zoning or other regula-  
17                   tions;

18                   (C) construction of bicycle and pedestrian  
19                   infrastructure; and

20                   (D) programs to promote telecommuting or  
21                   satellite work centers.

22          (g) LIMITATIONS.—The Administrator is authorized  
23          to establish, by regulation, appropriate limitations on the  
24          proportion of planning grants under subsection (e) or im-  
25          plementation grants under subsection (f) that can be used

1 for administrative expenses, revolving loan funds, or sub-  
2 grants to other governmental or nongovernmental entities.

3 (h) REVIEW AND EVALUATION.—

4 (1) IN GENERAL.—The Administrator may re-  
5 view and evaluate the administration of use of any  
6 grant awarded under this section, including by con-  
7 ducting an audit, as the Administrator determines to  
8 be appropriate.

9 (2) WITHHOLDING OF FUNDS.—The Adminis-  
10 trator may withhold from an eligible entity any por-  
11 tion of a grant to be provided to the eligible entity  
12 under the program if the Administrator determines  
13 that the eligible entity has failed to achieve compli-  
14 ance with any applicable guideline of the Adminis-  
15 trator relating to the program established by this  
16 section, including the misuse of misappropriation of  
17 funds provided under this section.

18 **SEC. 328. WEATHERIZATION ASSISTANCE PROGRAM AND**  
19 **LOW-INCOME HOME ENERGY ASSISTANCE**  
20 **PROGRAM.**

21 (a) WEATHERIZATION ASSISTANCE PROGRAM.—In  
22 each of fiscal years 2010 through 2050, the Secretary  
23 shall use 5 percent of the funds deposited in the National  
24 Energy Efficiency Fund for the Weatherization Assistance  
25 Program for Low-Income Persons established under part



1 A of title IV of the Energy Conservation and Production  
2 Act (42 U.S.C. 6861 et seq.).

3 (b) LOW-INCOME HOME ENERGY ASSISTANCE PRO-  
4 GRAM.—In each of fiscal years 2010 through 2050, the  
5 Secretary of Health and Human Services shall use 5 per-  
6 cent of the funds deposited in the National Energy Effi-  
7 ciency Fund for the Low-Income Home Energy Assistance  
8 Program established under the Low Income Home Energy  
9 Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

10 **SEC. 329. RECYCLING.**

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

12 (1) BEVERAGE.—The term “beverage” means  
13 water, mineral water, soda water, flavored water,  
14 sports drinks, juice, iced tea, wine cooler, beer or  
15 other malt beverage, or a carbonated nonalcoholic  
16 beverage of any variety in liquid form intended for  
17 human consumption, but does not include milk or  
18 other dairy products or dairy-derived products.

19 (2) BEVERAGE CONTAINER.—The term “bev-  
20 erage container” means a container constructed of  
21 metal, glass, plastic, or some combination of these  
22 materials and having a capacity of up to one gallon  
23 of liquid and which is or has been sealed and used  
24 to contain a beverage for sale in interstate com-  
25 merce.

1 (b) ESTABLISHMENT OF PROGRAM.—In each of fiscal  
2 years 2010 through 2050, the Secretary shall distribute  
3 4 percent of the funds deposited in the National Energy  
4 Efficiency Fund to States that adopt and enforce state-  
5 wide programs for the recycling of beverage containers.

6 (c) DISTRIBUTION OF FUNDS.—Not later than Janu-  
7 ary 1, 2010, the Secretary shall promulgate regulations  
8 governing distribution of funds under this section. Such  
9 regulations shall at a minimum—

10 (1) provide that a State shall qualify for receipt  
11 of funds under this section only if such State's recy-  
12 cling programs achieve a rate of recycling of at least  
13 60 percent of the beverage containers sold within the  
14 State each year;

15 (2) establish a performance-based formula for  
16 distribution of funding under this section that will  
17 reward States that adopt and effectively enforce  
18 statewide recycling programs for beverage containers  
19 that achieve greater rates of recycling than are re-  
20 quired under paragraph (1); and

21 (3) establish a program for periodic review and  
22 verification of State programs to ensure that claimed  
23 recycling rates are being achieved in practice.

24 (d) PERIODIC UPDATING.—The Secretary shall re-  
25 view and, as appropriate, revise the regulations adopted

1 under subsection (c) at least every 5 years. Any revised  
2 regulations shall adhere to the requirements set forth in  
3 paragraphs (1) through (3) of subsection (c).

## 4           **Subtitle D—Agriculture and** 5           **Forestry Carbon Fund**

### 6 **SEC. 331. PURPOSE.**

7           The purpose of this subtitle is to achieve real,  
8 verifiable, additional, permanent, and enforceable in-  
9 creases in carbon sequestration by, and reductions in  
10 greenhouse emissions from, agriculture and forest man-  
11 agement activities within the United States through—

12           (1) the establishment of a program to provide  
13 financial incentives to undertake projects that  
14 achieve these objectives; and

15           (2) the implementation of coordinated research,  
16 education, and outreach initiatives in support of  
17 such program.

### 18 **SEC. 332. DEFINITIONS.**

19           In this subtitle—

20           (1) **AGRICULTURE AND FORESTRY CARBON**  
21 **FUND.**—The term “Agriculture and Forestry Carbon  
22 Fund” means the Agriculture and Forestry Carbon  
23 Fund established under section 722 of the Clean Air  
24 Act (as added by section 101 of this Act).

1           (2) SECRETARY.—The term “Secretary” means  
2           the Secretary of Agriculture.

3 **SEC. 333. FUNDING.**

4           (a) IN GENERAL.—Funds deposited in the Agri-  
5 culture and Forestry Carbon Fund shall be available for  
6 expenditure, without further appropriation or fiscal year  
7 limitation, to carry out this subtitle.

8           (b) LIMITATION.—The Secretary shall ensure that  
9 not less than 99 percent of the expenditures under this  
10 subtitle shall be dedicated to the incentive program under  
11 section 335.

12 **SEC. 334. AGRICULTURAL AND FORESTRY GREENHOUSE**  
13 **GAS MANAGEMENT RESEARCH.**

14           (a) REPORT.—Not later than 1 year after the date  
15 of enactment of this Act, the Secretary, in consultation  
16 with scientific and agricultural and forestry experts, shall  
17 prepare and submit to the President and Congress a re-  
18 port that describes the status of research on agricultural  
19 and forestry greenhouse gas management, including a de-  
20 scription of—

21           (1) research on soil carbon sequestration and  
22           other agricultural and forestry greenhouse gas man-  
23           agement that has been carried out;

24           (2) information on techniques to measure and  
25           monitor increases in biological sequestration by, and

1 reductions in greenhouse emissions from, agriculture  
2 and forest management activities;

3 (3) information on large-scale observation and  
4 monitoring of greenhouse gas emissions from and bi-  
5 ological sequestration by the agriculture and forestry  
6 sectors;

7 (4) any further research that is necessary;

8 (5) the proposed priority for further research;  
9 and

10 (6) the most appropriate approaches for con-  
11 ducting the further research.

12 (b) RESEARCH.—After the date of submission of the  
13 report required under subsection (a), the President and  
14 the Secretary (in collaboration with the member institu-  
15 tions of higher education of the Consortium for Agricul-  
16 tural Soil Mitigation of Greenhouse Gases, other institu-  
17 tions of higher education, and research entities) shall ini-  
18 tiate a program to conduct any further research on agri-  
19 cultural and forestry greenhouse gas management that is  
20 necessary.

21 **SEC. 335. INCENTIVE PROGRAM.**

22 (a) AUTHORIZATION.—In each of fiscal years 2010  
23 through 2050, the Secretary shall use the funds deposited  
24 in the Agriculture and Forestry Carbon Fund to provide  
25 incentive payments to entities that carry out projects in

1 the United States that meet the criteria described in this  
2 section.

3 (b) ESTABLISHMENT OF PROGRAM.—

4 (1) REGULATIONS.—Not later than January 1,  
5 2010, the Secretary shall, in consultation with the  
6 Administrator, promulgate regulations establishing a  
7 program to provide assistance to entities that carry  
8 out projects, within eligible project types under sub-  
9 sections (c) and (d), that achieve real, verifiable, ad-  
10 ditional, permanent, and enforceable increases in bi-  
11 ological sequestration by, and reductions in green-  
12 house gas emissions from, agriculture and forest  
13 management activities within the United States.

14 (2) REQUIREMENTS.—In designing the program  
15 under paragraph (1), the Secretary shall—

16 (A) provide for the implementation of the  
17 requirements of this section;

18 (B) take into account the findings of the  
19 report prepared under section 334(a);

20 (C) integrate the program, as appropriate,  
21 with existing Natural Resources Conservation  
22 Service and Forest Service assistance programs,  
23 provided that funds distributed under this sec-  
24 tion shall not be substituted for, or otherwise  
25 used as a basis for reducing, funding authorized

1 or appropriated to be provided under such ex-  
2 isting programs;

3 (D) seek to maximize the reduction of  
4 greenhouse gas emissions and increases in se-  
5 questration per dollar of assistance provided;  
6 and

7 (E) incorporate any environmental safe-  
8 guards the Administrator determines necessary  
9 to ensure that no significant environmental deg-  
10 radation results from projects that receive as-  
11 sistance under this section.

12 (c) ELIGIBLE PROJECT TYPES.—The types of  
13 projects eligible for assistance under this section shall be  
14 limited to—

15 (1) cropland and rangeland management prac-  
16 tices that reduce greenhouse gas emissions (other  
17 than emissions from the combustion of fossil fuels)  
18 or increase biological sequestration, including—

19 (A) altered tillage practices;

20 (B) winter cover cropping, continuous  
21 cropping, and other means to increase biomass  
22 returned to soil in lieu of planting followed by  
23 fallowing;

24 (C) conversion of cropland to rangeland or  
25 grassland, on the condition that the land has

1           been in nonforest use for at least 10 years be-  
2           fore the date of initiation of the project;

3           (D) reduction of nitrogen fertilizer use or  
4           increase in nitrogen use efficiency;

5           (E) reduction in the frequency and dura-  
6           tion of flooding of rice paddies; and

7           (F) reduction in carbon emissions from or-  
8           ganic soils;

9           (2) forest management practices that result in  
10          an increase in forest stand volume; and

11          (3) other activities that the Secretary deter-  
12          mines, in consultation with the Administrator, will  
13          result in net sequestration of carbon in wetlands or  
14          other nonforest natural lands.

15          (d) EXCLUDED ACTIVITIES.—The Secretary, in con-  
16          sultation with the Administrator, shall ensure that no as-  
17          sistance shall be provided under this section for—

18               (1) any activity eligible to receive offset credits  
19               under section 742 of the Clean Air Act (as added by  
20               section 101 of this Act); or

21               (2) any activity that is required by or under-  
22               taken to comply with any law, including any regula-  
23               tion.

24          (e)       MEASUREMENT,       MONITORING,       AND  
25          VERIFICATION PROTOCOLS.—



1           (1) IN GENERAL.—The Secretary shall, in con-  
2           sultation with the Administrator and taking into ac-  
3           count the report developed under section 334(a), de-  
4           velop measurement, monitoring, and verification pro-  
5           tocols and tools for use by applicants and by the  
6           Secretary in administering this program.

7           (2) REQUIREMENTS.—Such protocols and tools  
8           shall be designed to ensure that increases in seques-  
9           tration or reductions in emissions reported by enti-  
10          ties are accurate, real, verifiable, additional, perma-  
11          nent, and enforceable.

12          (3) ACQUISITION OF NEW DATA AND REVIEW  
13          OF METHODS.—The Secretary shall establish a com-  
14          prehensive field sampling program to improve the  
15          scientific bases on which the standardized tools and  
16          methods developed under this section are based.

17          (4) UPDATING.—The Secretary shall review,  
18          and revise if necessary, such protocols every five  
19          years, taking into account research performed under  
20          this subsection, section 334(b), and the reports pre-  
21          pared by the National Academy of Sciences pursuant  
22          to title VII of this Act.

23          (f) ENVIRONMENTAL CONSIDERATIONS.—

24                 (1) COORDINATION TO MINIMIZE NEGATIVE EF-  
25                 FECTS.—In designing and implementing the pro-

1       gram established under this section, the Secretary,  
2       in consultation with the Administrator, shall act to  
3       avoid or minimize, to the maximum extent prac-  
4       ticable, adverse effects on human health or the envi-  
5       ronment resulting from projects or activities receiv-  
6       ing support under this section.

7           (2) USE OF NATIVE PLANT SPECIES.—Not later  
8       than January 1, 2010, the Secretary shall promul-  
9       gate regulations for the selection, use, and storage  
10      of native and nonnative plant materials using assist-  
11      ance provided under this section—

12           (A) to ensure native species are given pri-  
13      mary consideration in projects receiving assist-  
14      ance under this section, in accordance with ap-  
15      plicable Department of Agriculture guidance for  
16      the use of native plant materials;

17           (B) to prohibit the use of federally des-  
18      ignated or State-designated noxious weeds; and

19           (C) to prohibit the use of a species listed  
20      by a regional or State invasive plant council  
21      within the applicable region or State.

1 **SEC. 336. OUTREACH INITIATIVE ON REVENUE ENHANCE-**  
2 **MENT FOR AGRICULTURAL PRODUCERS AND**  
3 **FORESTERS.**

4 (a) ESTABLISHMENT.—The Secretary, acting  
5 through the Chief of the Natural Resources Conservation  
6 Service, the Chief of the Forest Service, the Administrator  
7 of the Cooperative State Research, Education, and Exten-  
8 sion Service, and land-grant colleges and universities, in  
9 consultation with the Administrator and the heads of  
10 other appropriate departments and agencies, shall estab-  
11 lish an outreach initiative to provide information to agri-  
12 cultural producers, agricultural organizations, foresters,  
13 and other landowners about opportunities under this Act  
14 to earn new revenue.

15 (b) COMPONENTS.—The initiative under this sec-  
16 tion—

17 (1) shall be designed to ensure that, to the  
18 maximum extent practicable, agricultural organiza-  
19 tions and individual agricultural producers, for-  
20 esters, and other landowners receive detailed prac-  
21 tical information about—

22 (A) opportunities to receive assistance  
23 under this subtitle and related application, cer-  
24 tification, measurement, monitoring, and  
25 verification protocols, procedures, tools, and re-  
26 quirements;

1 (B) opportunities to earn offset credits  
2 under subtitle E of title VII of the Clean Air  
3 Act (as added by section 101 of this Act) and  
4 related initiation, measurement, and verification  
5 protocols, procedures, tools, and requirements;  
6 and

7 (C) local, regional, and national databases  
8 and aggregation networks to facilitate achieve-  
9 ment, measurement, registration, and sales of  
10 offsets;

11 (2) shall provide—

12 (A) outreach materials, including the hand-  
13 book published under subsection (c), to inter-  
14 ested parties;

15 (B) workshops; and

16 (C) technical assistance; and

17 (3) may include the creation and development  
18 of regional marketing centers or coordination with  
19 existing centers (including centers within the Nat-  
20 ural Resources Conservation Service or the Coopera-  
21 tive State Research, Education, and Extension Serv-  
22 ice or at land-grant colleges and universities).

23 (c) HANDBOOK.—

24 (1) IN GENERAL.—Not later than 2 years after  
25 the date of enactment of this Act, the Secretary, in

1 consultation with the Administrator and after an op-  
2 portunity for public comment, shall publish a hand-  
3 book for use by agricultural producers, agricultural  
4 cooperatives, foresters, other landowners, offset buy-  
5 ers, and other stakeholders that provides easy-to-use  
6 guidance on—

7 (A) earning assistance under this subtitle;

8 and

9 (B) securing issuance of and marketing  
10 offset credits under subtitle E of title VII of the  
11 Clean Air Act (as added by section 101 of this  
12 Act).

13 (2) DISTRIBUTION.—The Secretary shall en-  
14 sure, to the maximum extent practicable, that the  
15 handbook—

16 (A) is made available through the Internet  
17 and in other electronic media;

18 (B) includes, with respect to the electronic  
19 form of the handbook described in subpara-  
20 graph (A), electronic forms and calculation  
21 tools to facilitate the offset credit approval  
22 process under subtitle E of title VII of the  
23 Clean Air Act (as added by section 101 of this  
24 Act); and

1 (C) is distributed widely through land-  
2 grant colleges and universities and other appro-  
3 priate institutions.

4 **Subtitle E—Green Jobs Training**  
5 **and Worker Transition Assistance**

6 **CHAPTER 1—GENERAL PROVISIONS**

7 **SEC. 341. PURPOSES.**

8 The purposes of this subtitle are—

9 (1) to support programs that provide worker  
10 training for high-quality jobs in the growing renew-  
11 able energy and energy efficiency industries; and

12 (2) to provide adjustment assistance, in the  
13 form of income support, training, assistance in pur-  
14 chasing health care insurance, and job placement  
15 and relocation assistance, to any workers laid off as  
16 a result of the United States transition to a low-car-  
17 bon economy.

18 **SEC. 342. DEFINITIONS.**

19 In this subtitle:

20 (1) **ADVERSELY AFFECTED EMPLOYMENT.**—

21 The term “adversely affected employment” means  
22 employment in a firm or appropriate subdivision of  
23 a firm, if workers of such firm or subdivision are eli-  
24 gible to apply for adjustment assistance under this  
25 subtitle.

1           (2) ADVERSELY AFFECTED WORKER.—The  
2 term “adversely affected worker” means an indi-  
3 vidual who, because of lack of work in adversely af-  
4 fected employment—

5           (A) has been totally separated or partially  
6 separated from adversely affected employment,  
7 or

8           (B) has been totally separated from em-  
9 ployment with the firm in a subdivision of  
10 which adversely affected employment exists.

11         (3) AVERAGE WEEKLY WAGE.—

12           (A) IN GENERAL.—The term “average  
13 weekly wage” means one-thirteenth of the total  
14 wages paid to an individual in the high calendar  
15 quarter.

16           (B) OTHER DEFINITIONS.—In this para-  
17 graph:

18           (i) HIGH CALENDAR QUARTER.—The  
19 term “high calendar quarter” means the  
20 calendar quarter in which the individual’s  
21 total wages were highest among the first 4  
22 of the last 5 completed calendar quarters  
23 immediately before the calendar quarter in  
24 which occurs the week with respect to  
25 which the computation is made. Such week

1 shall be the week in which total separation  
2 from adversely affected employment oc-  
3 curred, or, in cases in which partial sepa-  
4 ration from adversely affected employment  
5 is claimed, an appropriate week, as defined  
6 in regulations prescribed by the Secretary.

7 (ii) CALENDAR QUARTER.—The term  
8 “calendar quarter” means any 3-month pe-  
9 riod beginning on January 1, April 1, July  
10 1, or October 1 of a calendar year.

11 (4) CLIMATE CHANGE WORKER TRANSITION  
12 FUND.—The term “Climate Change Worker Transi-  
13 tion Fund” means the Climate Change Worker  
14 Transition Fund established under section 722 of  
15 the Clean Air Act (as added by section 101 of this  
16 Act).

17 (5) PARTIAL SEPARATION; PARTIALLY SEPA-  
18 RATED.—

19 (A) IN GENERAL.—The term “partial sep-  
20 aration” or “partially separated” means, with  
21 respect to an individual who has not been to-  
22 tally separated, that—

23 (i) the individual’s hours of work have  
24 been reduced to 80 percent or less of the



1 individual's average weekly hours in ad-  
2 versely affected employment, and

3 (ii) the individual's wages have been  
4 reduced to 80 percent or less of the indi-  
5 vidual's average weekly wage in adversely  
6 affected employment.

7 (B) AVERAGE WEEKLY HOURS.—In this  
8 paragraph, the term “average weekly hours”  
9 means the average hours worked by the indi-  
10 vidual (excluding overtime) in the employment  
11 from which he has been or claims to have been  
12 separated in the 52 weeks (excluding weeks  
13 during which the individual was sick or on vaca-  
14 tion) preceding the week specified in the last  
15 sentence of paragraph (3)(B)(i) of this section.

16 (6) SECRETARY.—The term “Secretary” means  
17 the Secretary of Labor.

18 (7) STATE; UNITED STATES.—The term  
19 “State” means any of the several States, the Dis-  
20 trict of Columbia, the Commonwealth of Puerto  
21 Rico, American Samoa, the United States Virgin Is-  
22 lands, Guam, or the Commonwealth of the Northern  
23 Mariana Islands. The term “United States”, when  
24 used in the geographical sense, includes each of the  
25 territories identified in the preceding sentence.

1           (8) STATE AGENCY.—The term “State agency”  
2 means the agency of the State which administers the  
3 State law.

4           (9) STATE LAW.—The term “State law” means  
5 the unemployment compensation law of the State,  
6 approved by the Secretary of Labor under section  
7 3304 of the Internal Revenue Code of 1986.

8           (10) TOTAL SEPARATION; TOTALLY SEPA-  
9 RATED.—The term “total separation” or “totally  
10 separated” means, with respect to an individual, the  
11 layoff or severance of the individual from employ-  
12 ment with a firm in which, or in a subdivision of  
13 which, adversely affected employment exists.

14           (11) UNEMPLOYMENT COMPENSATION BENEFIT  
15 PERIOD.—

16           (A) IN GENERAL.—The term “unemploy-  
17 ment compensation benefit period” means, with  
18 respect to an individual—

19                   (i) the benefit year and any ensuing  
20 period, as determined under applicable  
21 State law, during which the individual is  
22 eligible for regular compensation, addi-  
23 tional compensation, or extended com-  
24 pensation, or

1                   (ii) the equivalent to such a benefit  
2                   year or ensuing period provided for under  
3                   the applicable Federal unemployment in-  
4                   surance law.

5                   (B) OTHER DEFINITIONS.—In this para-  
6                   graph, the terms “regular compensation”, “ex-  
7                   tended compensation”, and “additional com-  
8                   pensation” have the meanings given such terms  
9                   in paragraphs (2), (3), and (4) of section 205  
10                  of the Federal-State Extended Unemployment  
11                  Compensation Act of 1970 (26 U.S.C. 3304  
12                  note.).

13                  (12) UNEMPLOYMENT INSURANCE.—The term  
14                  “unemployment insurance” means the unemploy-  
15                  ment compensation payable to an individual under  
16                  any State law or Federal unemployment compensa-  
17                  tion law, including chapter 85 of title 5, United  
18                  States Code, and the Railroad Unemployment Insur-  
19                  ance Act.

20                  (13) WEEK OF UNEMPLOYMENT.—

21                  (A) IN GENERAL.—The term “week of un-  
22                  employment” means a week of total, part-total,  
23                  or partial unemployment, as determined under  
24                  the applicable State law or Federal unemploy-  
25                  ment insurance law.

1                   (B) WEEK.—In this paragraph, the term  
2                   “week” means a week as defined in the applica-  
3                   ble State law.

4 **SEC. 343. FUNDING.**

5           (a) IN GENERAL.—Funds deposited in the Climate  
6 Change Worker Transition Fund shall be available for ex-  
7 penditure by the Secretary, in accordance with this sec-  
8 tion, without further appropriation or fiscal year limita-  
9 tion.

10          (b) ENERGY EFFICIENCY AND RENEWABLE ENERGY  
11 WORKER TRAINING PROGRAM.—In each of fiscal years  
12 2010 through 2050, the Secretary shall use 25 percent  
13 of the funds deposited in the Climate Change Worker  
14 Transition Fund to implement the energy efficiency and  
15 renewable energy worker training program established  
16 under section 171(e) of the Workforce Investment Act of  
17 1998 (29 U.S.C. 2916(e)).

18          (c) ADJUSTMENT ASSISTANCE PROGRAM.—

19               (1) IN GENERAL.—In each of fiscal years 2010  
20 through 2050, 75 percent of the funds deposited in  
21 the Climate Change Worker Transition Fund shall  
22 be available to the Secretary to carry out the worker  
23 transition program established under this subtitle.

24               (2) REMAINING FUNDS.—If, at the end of any  
25 fiscal year, after the requirements for worker transi-

1       tion assistance under chapter 2 of this subtitle have  
2       been fully satisfied, any of the funds described in  
3       paragraph (1) remain unexpended, such funds shall  
4       be used to by the Secretary to implement the energy  
5       efficiency and renewable energy worker training pro-  
6       gram described in subsection (b) of this section.

7       **SEC. 344. ESTABLISHMENT OF WORKER TRANSITION AS-**  
8                                   **SISTANCE PROGRAM.**

9       (a) IN GENERAL.—Not later than 1 year after the  
10      date of the enactment of this Act, the Secretary shall es-  
11      tablish a program to provide adjustment assistance under  
12      this subtitle to workers separated from employment as a  
13      result of the implementation of title VII of the Clean Air  
14      Act (as added by section 101 of this Act).

15      (b) REGULATIONS.—The Secretary shall promulgate  
16      regulations, consistent with the requirements of this sub-  
17      title, to implement the program established under sub-  
18      section (a).

19      **SEC. 345. PETITION AND CERTIFICATION OF ELIGIBILITY.**

20      (a) FILING OF PETITION.—A petition for certifi-  
21      cation of eligibility to apply for adjustment assistance  
22      under this subtitle may be filed with the Secretary by any  
23      of the following:

24                   (1) A group of workers.

1           (2) A certified or recognized union or other  
2           duly authorized representative of such workers.

3           (3) Employers of such workers, one-stop opera-  
4           tors or one-stop partners (as defined in section 101  
5           of the Workforce Investment Act of 1998 (29 U.S.C.  
6           2801)), including State employment security agen-  
7           cies, or the State dislocated worker unit established  
8           under title I of such Act, on behalf of such workers.

9           (b) DETERMINATION BY SECRETARY.—The Sec-  
10          retary, within 30 days after receiving a petition under sub-  
11          section (a), shall determine whether the petition meets the  
12          eligibility requirements described in section 346. Upon a  
13          determination that the petition meets such requirements,  
14          the Secretary shall issue to workers covered by the petition  
15          a certification of eligibility to apply for adjustment assist-  
16          ance under this subtitle.

17          **SEC. 346. GROUP ELIGIBILITY REQUIREMENTS.**

18          (a) IN GENERAL.—A group of workers shall be eligi-  
19          ble to apply for adjustment assistance under this subtitle  
20          pursuant to a petition filed under section 345(a) if the  
21          Secretary determines that—

22                 (1) a significant number or proportion of the  
23                 workers in such workers' firm, or an appropriate  
24                 subdivision of the firm, have become totally sepa-  
25                 rated or partially separated, or are threatened to be-

1       come totally separated or partially separated, from  
2       adversely affected employment;

3           (2) the sales or production, or both, of such  
4       firm or subdivision have decreased absolutely; and

5           (3) compliance with the requirements of title  
6       VII of the Clean Air Act (as added by section 101  
7       of this Act) contributed importantly to such workers'  
8       separation or threat of separation from employment.

9       (b) DEFINITION OF “CONTRIBUTED IMPOR-  
10   TANTLY”.—In subsection (a)(3), the term “contributed  
11   importantly” means a cause which is important but not  
12   necessarily more important than any other cause.

13   **SEC. 347. BENEFIT INFORMATION FOR WORKERS.**

14       (a) IN GENERAL.—The Secretary shall provide full  
15   information to workers about the adjustment assistance  
16   under this subtitle and about the petition and application  
17   procedures, and the appropriate filing dates, for such ad-  
18   justment assistance. The Secretary shall provide whatever  
19   assistance is necessary to enable groups of workers to pre-  
20   pare petitions or applications for adjustment assistance  
21   under this subtitle. In providing such information and as-  
22   sistance to workers under this section, the Secretary shall,  
23   to the extent possible, seek to cooperate with the certified  
24   or recognized union or other duly authorized representa-  
25   tive of such workers.

1 (b) NOTICE OF BENEFITS.—

2 (1) TO WORKERS.—The Secretary shall provide  
3 written notice through the mail of the adjustment  
4 assistance available under this subtitle to each work-  
5 er whom the Secretary has reason to believe is cov-  
6 ered by a certification made under this subtitle—

7 (A) at the time such certification is made,  
8 if the worker was partially separated or totally  
9 separated from adversely affected employment  
10 before such certification; or

11 (B) at the time of total separation or par-  
12 tial separation from adversely affected employ-  
13 ment of the worker, if subparagraph (A) does  
14 not apply.

15 (2) TO REPRESENTATIVES OF WORKERS.—The  
16 Secretary shall provide notice of the adjustment as-  
17 sistance available under this subtitle to the certified  
18 or recognized union or other duly authorized rep-  
19 resentative of workers described in paragraph (1).

20 (3) GENERAL PUBLICATION.—The Secretary  
21 shall publish notice of the adjustment assistance  
22 available under this subtitle to workers covered by  
23 each certification made under this subtitle in news-  
24 papers of general circulation in the areas in which  
25 the workers reside and on the Internet.



1           **CHAPTER 2—PROGRAM BENEFITS**

2   **SEC. 351. INCOME SUPPORT ASSISTANCE.**

3           (a) **IN GENERAL.**—An adversely affected worker who  
4 is covered by a certification issued by the Secretary under  
5 section 345(b) and who applies for adjustment assistance  
6 under this subtitle shall be provided income support assist-  
7 ance in the form of a weekly adjustment allowance in ac-  
8 cordance with the requirements of this section.

9           (b) **ELIGIBILITY REQUIREMENTS.**—An adversely af-  
10 fected worker shall be eligible to receive a weekly adjust-  
11 ment allowance under this section if the following condi-  
12 tions are met:

13           (1) **UNEMPLOYMENT.**—The worker is unem-  
14 ployed for the week for which the adjustment allow-  
15 ance is paid.

16           (2) **DATE OF SEPARATION.**—The worker's total  
17 separation or partial separation from adversely af-  
18 fected employment occurred—

19           (A) on or after the date, as specified in the  
20 certification under which the worker is covered,  
21 on which total separation or partial separation  
22 from adversely affected employment began or  
23 threatened to begin; and

24           (B) before the expiration of the 2-year pe-  
25 riod beginning on the date on which the Sec-

1           retary's determination under section 345(b) was  
2           made.

3           (3) PRIOR EMPLOYMENT.—The worker had, in  
4           the 52-week period ending with the week in which  
5           total separation or partial separation from adversely  
6           affected employment occurred—

7                   (A) at least 26 weeks of employment in ad-  
8                   versely affected employment with a single firm  
9                   or subdivision of a firm; or

10                   (B) if data with respect to weeks of em-  
11                   ployment with a firm are not available, equiva-  
12                   lent amounts of employment computed under  
13                   regulations prescribed by the Secretary.

14           (4) ENROLLMENT IN TRAINING PROGRAM.—  
15           The worker—

16                   (A) is enrolled in a training program ap-  
17                   proved by the Secretary under section  
18                   352(b)(2) and such enrollment began by the  
19                   later of—

20                           (i) the last day of the 26th week of  
21                           the worker's initial unemployment com-  
22                           pensation benefit period;

23                           (ii) the last day of the 26th week after  
24                           the week in which the Secretary issues a  
25                           certification covering the worker;

1           (iii) a date 45 days after the later of  
2           the two dates described in clauses (i) and  
3           (ii), if the Secretary extends the time for  
4           enrollment based on extenuating cir-  
5           cumstances relating to enrollment in a  
6           training program;

7           (iv) the last day of such period that  
8           the Secretary determines appropriate, if  
9           the failure to enroll is due to the failure to  
10          provide the worker with timely information  
11          regarding the date specified in clause (i) or  
12          (ii), as the case may be; or

13          (v) the last day of a period deter-  
14          mined by the Secretary to be approved for  
15          enrollment after the termination of a waiv-  
16          er issued pursuant to subsection (c);

17          (B) has, after the date on which the work-  
18          er became totally separated, or partially sepa-  
19          rated, from adversely affected employment,  
20          completed a training program approved by the  
21          Secretary under section 352(b)(2); or

22          (C) has received a written statement  
23          waiving training enrollment requirements under  
24          subsection (c)(1) of this section.

1 (c) WAIVERS OF TRAINING ENROLLMENT REQUIRE-  
2 MENTS.—

3 (1) IN GENERAL.—The Secretary may issue a  
4 written statement to an adversely affected worker  
5 waiving the requirement to be enrolled in training  
6 described in subsection (b)(4)(A) if the Secretary de-  
7 termines that it is not feasible or appropriate for the  
8 worker, because of one or more of the following rea-  
9 sons:

10 (A) MARKETABLE SKILLS.—The worker  
11 possesses marketable skills for suitable employ-  
12 ment (as determined pursuant to an assessment  
13 of the worker, carried out in accordance with  
14 guidelines issued by the Secretary) and there is  
15 a reasonable expectation of employment at  
16 equivalent wages in the foreseeable future.

17 (B) RETIREMENT.—The worker is within  
18 2 years of meeting all requirements for entitle-  
19 ment to either—

20 (i) old-age insurance benefits under  
21 title II of the Social Security Act (42  
22 U.S.C. 401 et seq.) (except for application  
23 therefor); or

24 (ii) a private pension sponsored by an  
25 employer or labor organization.

1           (C) HEALTH.—The worker is unable to  
2 participate in training due to the health of the  
3 worker, except that a waiver under this sub-  
4 paragraph shall not be construed to exempt a  
5 worker from requirements relating to the avail-  
6 ability for work, active search for work, or re-  
7 fusals to accept work under State or Federal un-  
8 employment compensation laws.

9           (2) DURATION OF WAIVERS.—

10           (A) IN GENERAL.—A waiver issued under  
11 paragraph (1) shall be effective for not more  
12 than 6 months after the date on which the  
13 waiver is issued, unless the Secretary deter-  
14 mines otherwise, except for waivers issued by  
15 reason of proximity of retirement age under  
16 subparagraph (1)(B), in which case the waiver  
17 shall be effective for the duration of the work-  
18 er's enrollment in the program.

19           (B) REVOCATION.—The Secretary shall re-  
20 voke a waiver issued under paragraph (1) if the  
21 Secretary determines that the basis of a waiver  
22 is no longer applicable to the worker and shall  
23 notify the worker in writing of the revocation.

24           (d) AMOUNT OF WEEKLY ADJUSTMENT ALLOW-  
25 ANCE.—

1           (1) FORMULA.—The weekly adjustment allow-  
2           ance payable to an adversely affected worker for a  
3           week of total unemployment shall be an amount  
4           equal to 70 percent of the adversely affected work-  
5           er’s average weekly wage prior to separation from  
6           adversely affected employment, reduced (but not  
7           below zero) by—

8                   (A) any unemployment insurance which  
9                   the worker receives, or would receive if the  
10                  worker applied for such insurance, which re-  
11                  spect to such week, except that such reduction  
12                  will not apply if the appropriate State agency or  
13                  Federal agency finally determines that the  
14                  worker was not entitled to unemployment insur-  
15                  ance for that week; and

16                  (B) income that is deductible from unem-  
17                  ployment insurance under the disqualifying in-  
18                  come provisions of the applicable State law or  
19                  Federal unemployment insurance law.

20           (2) ADVERSELY AFFECTED WORKERS WHO ARE  
21           UNDERGOING TRAINING.—A weekly adjustment al-  
22           lowance payable to an adversely affected worker  
23           under this section shall be paid in lieu of any train-  
24           ing allowance to which a worker would otherwise be

1 entitled under any other Federal law for the training  
2 of workers.

3 (e) LIMITATION ON WEEKLY ADJUSTMENT ALLOW-  
4 ANCE.—

5 (1) MAXIMUM AMOUNT.—Except as provided in  
6 paragraph (2), the maximum amount of weekly ad-  
7 justment allowances payable to an adversely affected  
8 worker with respect to the period covered by a cer-  
9 tification issued by the Secretary under section  
10 345(b) shall be the amount which is the product of  
11 52 multiplied by the amount of the adjustment al-  
12 lowance payable to the worker for a week of total  
13 unemployment as determined under subsection (d).

14 (2) FURTHER AMOUNTS.—

15 (A) IN GENERAL.—Notwithstanding para-  
16 graph (1), in order to assist an adversely af-  
17 fected worker to complete training approved for  
18 the worker under section 352, and in accord-  
19 ance with regulations prescribed by the Sec-  
20 retary, payments may be made as weekly ad-  
21 justment allowances for up to 52 additional  
22 weeks in the 52-week period that—

23 (i) follows the last week of entitlement  
24 to weekly adjustment allowances otherwise  
25 payable under this subtitle; or

1 (ii) begins with the first week of such  
2 training, if such training begins after the  
3 last week described in clause (i).

4 (B) LIMITATION.—Payments for such ad-  
5 ditional weeks may be made only for weeks in  
6 such 52-week period during which the indi-  
7 vidual is participating in such training.

8 (3) DURATION.—An adjustment allowance shall  
9 not be paid for any week occurring after the close  
10 of the 130-week period that begins with the first  
11 week following the week in which the adversely af-  
12 fected worker was most recently totally separated  
13 from adversely affected employment with respect to  
14 which the worker meets the eligibility requirements  
15 of subsection (b).

16 **SEC. 352. TRAINING AND OTHER ADJUSTMENT ASSIST-**  
17 **ANCE.**

18 (a) IN GENERAL.—An adversely affected worker who  
19 is covered by a certification issued by the Secretary under  
20 section 345(b) and who applies for adjustment assistance  
21 under this subtitle shall be provided, in the same manner  
22 and to the same extent as a worker covered by a certifi-  
23 cation under section 223 of the Trade Act of 1974 (19  
24 U.S.C. 2273), the training and other adjustment assist-  
25 ance described in subsection (b).



1 (b) TRAINING AND OTHER ADJUSTMENT ASSIST-  
2 ANCE DESCRIBED.—The training and other adjustment  
3 assistance referred to in subsection (a) are the following:

4 (1) Employment counseling, testing, and place-  
5 ment services, and supportive and other services, as  
6 described in section 235 of the Trade Act of 1974  
7 (22 U.S.C. 2295).

8 (2) Training described in section 236 of the  
9 Trade Act of 1974 (19 U.S.C. 2296), except that  
10 the limitation on total payments described in sub-  
11 section (a)(2)(A) of such section shall not apply with  
12 respect to such training provided under the author-  
13 ity of this paragraph.

14 (3) Job search allowances described in section  
15 237 of the Trade Act of 1974 (19 U.S.C. 2297).

16 (4) Relocation allowances described in section  
17 238 of the Trade Act of 1974 (19 U.S.C. 2298).

18 (c) ENERGY EFFICIENCY AND RENEWABLE ENERGY  
19 WORKER TRAINING PROGRAM.—To the maximum extent  
20 practicable, an adversely affected worker who is eligible  
21 to receive training and other adjustment assistance under  
22 this section shall be eligible to receive assistance under the  
23 energy efficiency and renewable energy worker training  
24 program established under section 171(e) of the Work-  
25 force Investment Act of 1998 (29 U.S.C. 2916(e)).

1 **SEC. 353. REEMPLOYMENT ADJUSTMENT ASSISTANCE PRO-**  
2 **GRAM.**

3 (a) **ESTABLISHMENT.**—Not later than 1 year after  
4 the date of the enactment of this Act, the Secretary shall  
5 establish a reemployment trade adjustment assistance pro-  
6 gram for older workers that provides the benefits de-  
7 scribed in subsection (b).

8 (b) **BENEFITS.**—The Secretary shall, for the eligi-  
9 bility period described in subsection (c)(3), provide a  
10 worker described in subsection (c)(2) with a weekly adjust-  
11 ment allowance equal to 50 percent of the difference be-  
12 tween—

13 (1) the wages received by the worker from re-  
14 employment; and

15 (2) the wages received by the worker at the  
16 time of separation.

17 (c) **ELIGIBILITY.**—

18 (1) **IN GENERAL.**—A group of workers certified  
19 as eligible for adjustment assistance under this sub-  
20 title is eligible for benefits described in subsection  
21 (b) under the program established under subsection  
22 (a).

23 (2) **INDIVIDUAL ELIGIBILITY.**—A worker in a  
24 group of workers described in paragraph (1) may  
25 elect to receive benefits described in subsection (b)

1 under the program established under subsection (a)  
2 if the worker—

3 (A) is at least 50 years of age;

4 (B) earns not more than \$60,000 each  
5 year in wages from reemployment;

6 (C)(i) is employed on a full-time basis as  
7 defined by State law in the State in which the  
8 worker is employed; or

9 (ii) is employed at least 20 hours per week  
10 and is enrolled in training approved under sec-  
11 tion 352(b)(2); and

12 (D) is not employed at the firm from  
13 which the worker was separated.

14 In the case of a worker described in subparagraph  
15 (C)(ii), the percentage referred to in subsection (b)  
16 shall be deemed to be a percentage equal to  $\frac{1}{2}$  of  
17 the ratio of weekly hours of employment referred to  
18 in subparagraph (C)(ii) to weekly hours of employ-  
19 ment of that worker at the time of separation (but  
20 not more than 50 percent).

21 (3) ELIGIBILITY PERIOD FOR PAYMENTS.—A  
22 worker in a group of workers described in paragraph  
23 (1) may receive payments described in subsection (b)  
24 under the program established under subsection (a)  
25 for a period not to exceed 2 years from the date on

1       which the worker exhausts all rights to unemploy-  
2       ment insurance based on the separation of the work-  
3       er from adversely affected employment or the date  
4       on which the worker obtains reemployment, which-  
5       ever is earlier.

6               (4) TRAINING AND OTHER SERVICES.—A work-  
7       er described in paragraph (2) shall be eligible to re-  
8       ceive training approved under section 352(b)(2) and  
9       services under section 352(b)(1).

10       (d) TOTAL AMOUNT OF PAYMENTS.—The payments  
11       described in subsection (b) made to a worker may not ex-  
12       ceed \$12,000 per worker during the eligibility period  
13       under subsection (c)(3).

14       (e) LIMITATION ON OTHER BENEFITS.—A worker  
15       described in subsection (c) may not receive a weekly ad-  
16       justment allowance under section 351 during any week for  
17       which the worker receives a payment described in sub-  
18       section (b).

19       **SEC. 354. HEALTH COVERAGE TAX CREDITS.**

20       (a) ELIGIBILITY FOR CREDIT.—Paragraph (1) of  
21       section 35(c) of the Internal Revenue Code of 1986 (defin-  
22       ing eligible individual) is amended by striking “and” at  
23       the end of subparagraph (B), by striking the period at  
24       the end of subparagraph (C) and inserting “, and”, and

1 by inserting after subparagraph (C) the following new sub-  
2 paragraph:

3                   “(D) an eligible adjustment assistance re-  
4                   cipient.”.

5           (b) **ELIGIBLE ADJUSTMENT ASSISTANCE RECIPIENT**  
6 **DEFINED.**—Subsection (c) of section 35 of such Code (de-  
7 fining eligible individual) is amended by adding at the end  
8 the following new paragraph:

9                   “(5) **ELIGIBLE ADJUSTMENT ASSISTANCE RE-**  
10 **CIPIENT.**—The term ‘eligible adjustment assistance  
11 recipient’ means, with respect to any month, any in-  
12 dividual who is receiving for any day of such month  
13 a weekly adjustment allowance under section 351 or  
14 353 of the Investing in Climate Action and Protec-  
15 tion Act. An individual shall continue to be treated  
16 as an eligible adjustment assistance recipient during  
17 the first month that such individual would otherwise  
18 cease to be an eligible adjustment assistance recipi-  
19 ent by reason of the preceding sentence.”.

20           (c) **EFFECTIVE DATE.**—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2009.

23 **SEC. 355. ADMINISTRATION.**

24           (a) **AGREEMENTS WITH STATES.**—

1           (1) IN GENERAL.—The Secretary is authorized  
2 on behalf of the United States to enter into an  
3 agreement with any State, or with any State agency.  
4 Under such an agreement, the State agency—

5           (A) as agent of the United States, shall re-  
6 ceive applications for, and shall provide, pay-  
7 ments on the basis provided in this subtitle;

8           (B) where appropriate, but in accordance  
9 with paragraph (6), shall afford adversely af-  
10 fected workers testing, counseling, referral to  
11 training and job search programs, and place-  
12 ment services;

13           (C) shall make any certifications required  
14 under section 351(c); and

15           (D) shall otherwise cooperate with the Sec-  
16 retary and with other State and Federal agen-  
17 cies in providing payments and services under  
18 this subtitle.

19           (2) TERMS AND CONDITIONS.—Each agreement  
20 under this subsection shall provide the terms and  
21 conditions upon which the agreement may be amend-  
22 ed, suspended, or terminated.

23           (3) UNEMPLOYMENT INSURANCE.—Each agree-  
24 ment under this subsection shall provide that unem-  
25 ployment insurance otherwise payable to any ad-

1       versely affected worker shall not be denied or re-  
2       duced for any week by reason of any right to pay-  
3       ments under this subtitle.

4               (4) ENTITLEMENT TO PROGRAM BENEFITS.—A  
5       determination by a State agency with respect to en-  
6       titlement to program benefits under an agreement is  
7       subject to review in the same manner and to the  
8       same extent as determinations under the applicable  
9       State law and only in that manner and to that ex-  
10      tent.

11              (5) COORDINATION OF TRAINING AND ASSIST-  
12      ANCE.—Any agreement entered into under this sub-  
13      section shall provide for the coordination of the ad-  
14      ministration of the provisions for employment serv-  
15      ices, training, and supplemental assistance under  
16      section 352 and under title I of the Workforce In-  
17      vestment Act of 1998 (29 U.S.C. 2801 et seq.) upon  
18      such terms and conditions as are established by the  
19      Secretary in consultation with the States and set  
20      forth in such agreement. Any agency of the State  
21      jointly administering such provisions under such  
22      agreement shall be considered to be a State agency  
23      for purposes of this subtitle.

24              (6) TECHNICAL ASSISTANCE.—Each State  
25      agency shall, in carrying out paragraph (1)(B)—

1           (A) advise each worker who applies for un-  
2           employment insurance of the benefits under this  
3           subtitle and the procedures and deadlines for  
4           applying for such benefits;

5           (B) facilitate the early filing of petitions  
6           under section 345 for any workers that the  
7           agency considers are likely to be eligible for  
8           benefits under this subtitle;

9           (C) advise each adversely affected worker  
10          to apply for training under section 352 before,  
11          or at the same time, the worker applies for  
12          weekly adjustment allowances under section  
13          351; and

14          (D) as soon as practicable, interview the  
15          adversely affected worker regarding suitable  
16          training opportunities available to the worker  
17          under section 352 and review such opportuni-  
18          ties with the worker.

19          (7) COORDINATION OF WORKFORCE INVEST-  
20          MENT ACTIVITIES.—In order to promote the coordi-  
21          nation of workforce investment activities in each  
22          State with activities carried out under this subtitle,  
23          any agreement entered into under this subsection  
24          shall provide that the State shall submit to the Sec-  
25          retary, in such form as the Secretary may require,



1 the description and information described in para-  
2 graphs (8) and (14) of section 112(b) of the Work-  
3 force Investment Act of 1998 (29 U.S.C. 2822(b)(8)  
4 and (14)).

5 (b) ADMINISTRATION ABSENT STATE AGREE-  
6 MENT.—

7 (1) IN GENERAL.—In any State where there is  
8 no agreement in force between a State or its agency  
9 under subsection (a), the Secretary shall arrange  
10 under regulations prescribed by the Secretary for  
11 performance of all necessary functions under sec-  
12 tions 351 through 353, including provision for a fair  
13 hearing for any worker whose application for pay-  
14 ments is denied.

15 (2) REVIEW OF FINAL DETERMINATIONS.—A  
16 final determination under paragraph (1) with re-  
17 spect to entitlement to program benefits under this  
18 chapter is subject to review by the courts in the  
19 same manner and to the same extent as is provided  
20 by section 205(g) of the Social Security Act (42  
21 U.S.C. 405(g)).

## 22 **Subtitle F—National Climate** 23 **Change Adaptation Program**

### 24 **SEC. 361. FINDINGS AND PURPOSE.**

25 (a) FINDINGS.—Congress finds the following:

1           (1) According to the Intergovernmental Panel  
2           on Climate Change’s Fourth Assessment Report, the  
3           United States is already experiencing a range of ad-  
4           verse impacts of climate change and is predicted to  
5           experience more intense impacts over the course of  
6           this century. These predicted future impacts in-  
7           clude—

8                   (A) significant reductions in snowpack in  
9                   western mountains by the middle of this cen-  
10                  tury, increasing stress on over-allocated water  
11                  systems in the western United States;

12                  (B) decreased water levels in the Great  
13                  Lakes, leading to a range of adverse ecological  
14                  and economic effects;

15                  (C) decreased recharge of heavily utilized  
16                  groundwater systems in the southwestern  
17                  United States, resulting in increased water  
18                  stress;

19                  (D) increased surface water temperatures  
20                  making achievement of water quality standards  
21                  more difficult;

22                  (E) more frequent and more intense  
23                  wildfires in the western United States;

24                  (F) acceleration of sea-level rise and  
25                  changes in storm surge patterns, leading to

1 more frequent and more severe coastal flooding,  
2 increased coastal erosion, increased rates of  
3 coastal wetland loss, and increased vulnerability  
4 of coastal infrastructure;

5 (G) potentially more intense storms, lead-  
6 ing to greater coastal instability;

7 (H) increased magnitude and duration of  
8 severe heatwaves and increased concentration of  
9 surface ozone pollution, leading to adverse im-  
10 pacts on public health;

11 (I) potential negative impacts on public  
12 health due to changes in infectious disease  
13 transmission patterns; and

14 (J) increased coastal erosion and perma-  
15 frost thaw in Alaska, jeopardizing public and  
16 private infrastructure and imposing substantial  
17 costs.

18 (2) Although prompt and aggressive efforts to  
19 mitigate global greenhouse gas emissions can reduce  
20 the magnitude and likelihood of adverse impacts of  
21 climate change on the United States, such impacts  
22 are likely to intensify for the foreseeable future even  
23 under a best-case scenario for emissions reductions.

24 (3) Absent effective action to manage risks and  
25 reduce vulnerability to adverse climate change im-

1       pacts, such impacts are likely to impose significant  
2       social and economic costs on the United States.

3           (4) State, local, and tribal governments are  
4       likely to bear much of the burden of responding to  
5       the impacts of climate change. Although both im-  
6       pacts and appropriate adaptive responses will vary  
7       by region, State, and locality, the Federal Govern-  
8       ment can bolster State, local, and tribal adaptive ca-  
9       pacity by providing policy-relevant information and  
10      technical and financial assistance.

11          (5) An effective national climate change adapta-  
12      tion program will require improvements in coordina-  
13      tion among Federal agencies, and among the Fed-  
14      eral Government, State, local, and tribal govern-  
15      ments, and nongovernmental stakeholders.

16          (6) To improve the United States capacity to  
17      adapt to adverse climate change impacts, Federal  
18      agencies must incorporate potential short-term, me-  
19      dium-term, and long-term impacts of climate change  
20      into the implementation of their respective man-  
21      dates.

22          (b) PURPOSE.—The purpose of this subtitle is to es-  
23      tablish an integrated Federal program to enhance the ca-  
24      pacity of Federal, State, local, and tribal governments to

1 reduce vulnerability to the adverse impacts of climate  
2 change on the United States and its territories.

3 **SEC. 362. DEFINITIONS.**

4 As used in this subtitle—

5 (1) COUNCIL.—The term “Council” means the  
6 National Climate Change Adaptation Council estab-  
7 lished under section 364.

8 (2) NATIONAL ASSESSMENT.—The term “Na-  
9 tional Assessment” refers to a National Climate  
10 Change Vulnerability Assessment prepared pursuant  
11 to section 366.

12 (3) NATIONAL CLIMATE CHANGE ADAPTATION  
13 FUND.—The term “National Climate Change Adap-  
14 tation Fund” means the National Climate Change  
15 Adaptation Fund established under section 722 of  
16 the Clean Air Act (as added by section 101 of this  
17 Act).

18 (4) NOAA.—The term “NOAA” means the Na-  
19 tional Oceanic and Atmospheric Administration.

20 (5) PROGRAM.—The term “Program” means  
21 the National Climate Change Adaptation Program  
22 established under section 365.

23 (6) STATE.—The term “State” means any of  
24 the several States, the District of Columbia, the  
25 Commonwealth of Puerto Rico, American Samoa,

1 the United States Virgin Islands, Guam, or the  
2 Commonwealth of the Northern Mariana Islands.

3 (7) TRIBAL GOVERNMENT.—The term “tribal  
4 government” means the official government of a fed-  
5 erally recognized Indian tribe.

6 **SEC. 363. FUNDING.**

7 (a) IN GENERAL.—Funds deposited in the National  
8 Climate Change Adaptation Fund shall be available for  
9 expenditure, without further need of appropriation or fis-  
10 cal year limitation, to carry out this subtitle in accordance  
11 with the requirements of this section.

12 (b) ALLOCATION.—

13 (1) NATIONAL CLIMATE CHANGE ADAPTATION  
14 PROGRAM.—For each of fiscal years 2010 through  
15 2050, the Secretary of Commerce shall utilize not  
16 more than 15 percent of the funds deposited in the  
17 National Climate Change Adaptation Fund to carry  
18 out the National Climate Change Adaptation Pro-  
19 gram established under section 365.

20 (2) FEDERAL FUNDING FOR STATE, LOCAL,  
21 AND TRIBAL ADAPTATION PROJECTS.—The Federal  
22 agency or agencies charged with implementing the  
23 program established under section 369 shall utilize  
24 the remaining funds deposited in the National Cli-  
25 mate Change Adaptation Program to provide finan-



1 (13) the Centers for Disease Control;

2 (14) the Federal Emergency Management  
3 Agency;

4 (15) the National Aeronautics and Space Ad-  
5 ministration;

6 (16) the United States Geological Survey; and

7 (17) such other Federal agencies or depart-  
8 ments as the President considers appropriate.

9 (b) CHAIRPERSON.—The representative described in  
10 subsection (a)(1) shall be the chairperson of the Council.

11 (c) FUNCTIONS.—The Council shall serve as a forum  
12 for interagency consultation on, and coordination of, Fed-  
13 eral policies relating to assessment of, and adaptation to,  
14 the impacts of climate change on the United States and  
15 its Territories.

16 **SEC. 365. NATIONAL CLIMATE CHANGE ADAPTATION PRO-**  
17 **GRAM.**

18 The Secretary of Commerce, acting through the Ad-  
19 ministrator of NOAA, shall establish within NOAA a Na-  
20 tional Climate Change Adaptation Program for the pur-  
21 pose of increasing the overall effectiveness of Federal cli-  
22 mate change adaptation efforts. Under the Program, the  
23 Administrator of NOAA shall, in consultation as appro-  
24 priate with the Council—



1           (1) develop and publish periodic National As-  
2           sessments under section 366;

3           (2) provide to Federal agencies, local, State,  
4           and tribal governments, and nongovernmental stake-  
5           holders policy-relevant scientific information, re-  
6           search products, decision tools, and technical sup-  
7           port related to climate change impacts and adapta-  
8           tion to such impacts, as provided in section 367; and

9           (3) advise Federal agencies on issues related to  
10          climate change impacts and adaptation to such im-  
11          pacts, including through the provision of technical  
12          support to Federal agencies in the development of  
13          agency climate change adaptation plans as required  
14          under section 368.

15 **SEC. 366. NATIONAL CLIMATE CHANGE VULNERABILITY AS-**  
16 **SESSMENTS.**

17          (a) IN GENERAL.—Not later than January 1, 2012,  
18          and every 4 years thereafter, the Administrator of NOAA  
19          shall publish and deliver to the President a National Cli-  
20          mate Change Vulnerability Assessment evaluating regional  
21          and national vulnerability to impacts of climate change,  
22          strategies to adapt to such impacts, and priorities for fur-  
23          ther research related to climate change impacts and adapt-  
24          ive capacity.

25          (b) CONTENTS.—

1           (1) REGIONAL ASSESSMENTS.—Each National  
2 Assessment shall include regional assessments for a  
3 sufficient number of geographic regions within the  
4 United States and its Territories to effectively ad-  
5 dress specific climate change impacts at the regional  
6 and State or territorial levels. Each regional assess-  
7 ment shall—

8           (A) assess, at an appropriate geographic  
9 scale, the nature and probability of predicted  
10 short-term, medium-term, and long-term im-  
11 pacts of climate change on human health and a  
12 broad range of natural systems, resources, in-  
13 frastructure, and social and economic sectors;

14           (B) provide a regionally prioritized list of  
15 vulnerable systems and areas and an estimate  
16 of the range of anticipated costs of climate  
17 change impacts within the region;

18           (C) describe current efforts within the re-  
19 gion to adapt to climate change impacts, in  
20 areas such as public health, emergency re-  
21 sponse, infrastructure and development, water  
22 resource management, agriculture, forest man-  
23 agement, and coastal management;

24           (D) identify gaps in current adaptation ef-  
25 forts within the region, strategies to address

1 such gaps, and estimates of the costs of imple-  
2 menting such strategies;

3 (E) describe current research, observation,  
4 and monitoring activities focused on under-  
5 standing regional climate change impacts and  
6 adaptation to such impacts, as well as research  
7 and data needs and priorities in these areas;

8 (F) assess the adequacy of existing mecha-  
9 nisms for communication and coordination  
10 within the region between Federal agencies and  
11 regional, State, local, and tribal stakeholders  
12 and recommend measures to enhance such com-  
13 munication and coordination; and

14 (G) include any other information relevant  
15 to understanding regional climate change im-  
16 pacts and adaptation.

17 (2) NATIONAL SYNTHESIS.—Each National As-  
18 sessment shall include a synthesis of the regional as-  
19 sessments, including—

20 (A) a description of relevant research on  
21 national-scale, international-scale, or global-  
22 scale climate change impacts, vulnerabilities,  
23 and adaptive strategies not addressed in the re-  
24 gional assessments;

1           (B) based on the regional assessments, a  
2 nationally prioritized list of vulnerable systems  
3 and regions in the United States and a national  
4 estimate of the range of costs of short-term,  
5 medium-term, and long-term costs of predicted  
6 climate change impacts;

7           (C) a nationally prioritized list of strate-  
8 gies and actions to address climate change im-  
9 pacts, including estimates of the costs of imple-  
10 menting such strategies and actions and the ap-  
11 propriate roles of relevant Federal Government  
12 agencies;

13           (D) a description of priorities for devel-  
14 oping Federal research, observation, and moni-  
15 toring, and policy tools to meet the needs of  
16 State and local decisionmakers identified in the  
17 regional assessments;

18           (E) an assessment of the adequacy of ex-  
19 isting mechanisms for communication and co-  
20 ordination between Federal agencies and re-  
21 gional, State, local, and tribal stakeholders and  
22 recommendations for measures to enhance such  
23 communication and coordination;

24           (F) a description of the progress made to-  
25 wards achieving the objectives identified in the

1 prior National Assessment, except that such re-  
2 quirement shall not apply to the first National  
3 Assessment; and

4 (G) any other relevant results from the re-  
5 gional assessments that have implications for  
6 Federal climate change research, mitigation, or  
7 adaptation efforts.

8 (c) METHODOLOGICAL AND PROCEDURAL REQUIRE-  
9 MENTS.—

10 (1) CONSULTATION WITH COUNCIL.—In devel-  
11 oping the National Assessments, the Administrator  
12 of NOAA shall consult with the Council and shall  
13 seek input and assistance from the Federal agencies  
14 represented on the Council within their respective  
15 areas of expertise.

16 (2) CONSULTATION WITH LOCAL, STATE, AND  
17 REGIONAL STAKEHOLDERS.—In developing the Na-  
18 tional Assessments, the Administrator of NOAA and  
19 participating Federal agencies shall consult with  
20 State, local, and tribal governments and nongovern-  
21 mental stakeholders at the local, State, and regional  
22 levels, to facilitate coordination of efforts and to  
23 maximize the utility to local, State, regional, and  
24 tribal decision makers of the information provided  
25 by the National Assessment.

1           (3) BEST AVAILABLE SCIENCE.—The National  
2 Assessments shall be based on the best scientific and  
3 commercial data available.

4           (4) TREATMENT OF UNCERTAINTY.—To ensure  
5 that scientific uncertainties are addressed through a  
6 consistent methodology, all components of the Na-  
7 tional Assessments shall follow either—

8                   (A) the guidance on treatment of uncer-  
9 tainty set forth in the Intergovernmental Panel  
10 on Climate Change’s Guidance Notes for Lead  
11 Authors of the IPCC Fourth Assessment Re-  
12 port on Addressing Uncertainty; or

13                   (B) such similar uniform guidelines on the  
14 treatment of uncertainty as the Administrator  
15 of NOAA may establish.

16           (5) UTILIZATION OF PRIOR RESEARCH AND AS-  
17 SESSMENTS.—In developing the National Assess-  
18 ments, the Administrator of NOAA shall, to the ex-  
19 tent practicable, take into consideration research  
20 and information contained in—

21                   (A) the reports of the Intergovernmental  
22 Panel on Climate Change;

23                   (B) reports or research published by the  
24 Global Change Research Program and the Cli-  
25 mate Change Science Program; and

1 (C) any existing climate change adaptation  
2 strategy, report, or assessment prepared by or  
3 for a Federal, State, local, or tribal government  
4 entity.

5 **SEC. 367. CLIMATE CHANGE ADAPTATION SERVICES.**

6 (a) NATIONAL CLIMATE SERVICE.—The Secretary of  
7 Commerce, acting through the Administrator of NOAA,  
8 shall establish within NOAA a National Climate Service  
9 to serve as a clearinghouse to provide State, local, and  
10 tribal government decisionmakers with access to regionally  
11 and nationally relevant information, data, forecasts, and  
12 services relating to climate change impacts and adaptation  
13 to such impacts. The National Climate Service shall—

14 (1) develop and provide access to policy-relevant  
15 climate information products, databases, decision  
16 tools, and services for Federal, State, local, and trib-  
17 al government decisionmakers and policymakers;

18 (2) provide technical assistance to Federal,  
19 State, local, and tribal government efforts to assess  
20 vulnerability to climate change impacts and develop  
21 appropriate strategies and plans to reduce such vul-  
22 nerability;

23 (3) facilitate communication and coordination  
24 among Federal, State, local, and tribal stakeholders

1 with regard to climate change information and adap-  
2 tation strategies; and

3 (4) undertake education and outreach initiatives  
4 related to climate change impacts, vulnerabilities,  
5 and the application of climate information in deci-  
6 sionmaking.

7 (b) REGIONAL AND NATIONAL WORKSHOPS.—To fa-  
8 cilitate information exchange, outreach, and coordination  
9 of efforts on assessment of and adaptation to climate  
10 change impacts, the Administrator of NOAA shall, during  
11 each 4-year cycle during which a National Assessment is  
12 being prepared (or, in the case of the first National As-  
13 sessment, the period between the date of enactment of this  
14 Act and January 1, 2012), convene—

15 (1) at least one stakeholder workshop in each  
16 region identified by the National Assessment, to  
17 which appropriate governmental and nongovern-  
18 mental stakeholders from the region are invited; and

19 (2) at a date after all of the regional workshops  
20 described in paragraph (1) have been completed, at  
21 least one national-level workshop to which appro-  
22 priate governmental and nongovernmental stake-  
23 holders from all of the regions identified by the Na-  
24 tional Assessments are invited.



1 (c) OBSERVATION AND MONITORING.—The Adminis-  
2 trator of NOAA is authorized to deploy such observation  
3 and monitoring systems, including remote sensing sys-  
4 tems, as may be necessary to support the National Climate  
5 Change Adaptation Program established under this sub-  
6 title.

7 **SEC. 368. FEDERAL AGENCY CLIMATE CHANGE ADAPTA-**  
8 **TION PLANS.**

9 (a) PUBLICATION AND REVIEW.—

10 (1) PRESIDENTIAL REVIEW.—Within 1 year  
11 after the date of publication of each National As-  
12 sessment, each Federal agency with representation  
13 on the Council shall—

14 (A) complete an agency climate change ad-  
15 aptation plan detailing the agency's current and  
16 projected efforts to address the potential im-  
17 pacts of climate change on matters within the  
18 agency's jurisdiction; and

19 (B) submit such agency climate change ad-  
20 aptation plan to the President for review.

21 (2) SUBMISSION TO CONGRESS.—Within 18  
22 months after the date of publication of each Na-  
23 tional Assessment, each Federal agency with rep-  
24 resentation on the Council shall submit the agency  
25 climate change adaptation plan described in para-

1 graph (1), as finalized following Presidential review,  
2 to the House Committee on Energy and Commerce,  
3 the Senate Committee on Environment and Public  
4 Works, and the committees in the House of Rep-  
5 resentatives and the Senate with principal jurisdic-  
6 tion over the relevant agency.

7 (b) REQUIREMENTS.—Each agency climate change  
8 adaptation plan shall include—

9 (1) a review of the current impacts of climate  
10 change on matters within the agency’s jurisdiction;

11 (2) a review of anticipated future (short-term,  
12 medium-term, and long-term) impacts of climate  
13 change on matters within the agency’s jurisdiction,  
14 including an assessment of the probability of such  
15 impacts that follows the guidelines on treatment of  
16 uncertainty established for the National Assess-  
17 ments;

18 (3) a description of priorities, within the scope  
19 of the agency’s jurisdiction, for building the adaptive  
20 capacity of the United States and its territories;

21 (4) a review of the agency’s current efforts to  
22 address climate change impacts on matters within  
23 its jurisdiction, including a description of how cur-  
24 rent and future impacts are being integrated into  
25 agency decisionmaking and a description of budg-

1 etary and human resources dedicated to adaptation  
2 to climate change;

3 (5) a description of initiatives that will be un-  
4 dertaken to address climate change impacts on mat-  
5 ters within the jurisdiction of the agency, includ-  
6 ing—

7 (A) the strategic objectives of such initia-  
8 tives;

9 (B) the resources that will be dedicated to  
10 such initiatives;

11 (C) timelines for implementation; and

12 (D) benchmarks and methods for assessing  
13 effectiveness;

14 (6) a description of current and proposed mech-  
15 anisms to enhance cooperation on climate change ad-  
16 aptation efforts with other Federal agencies and  
17 with State, local, and tribal governments and non-  
18 governmental stakeholders;

19 (7) an assessment of the agency's success in  
20 meeting the objectives outlined in its most recent  
21 agency climate change adaptation plan, except that  
22 this paragraph shall not apply to the first agency cli-  
23 mate change adaptation plan; and

1           (8) an estimate of the budgetary and human re-  
2           sources needed to address climate change impacts on  
3           matters within the jurisdiction of the agency.

4 **SEC. 369. FEDERAL FUNDING FOR STATE, LOCAL, AND**  
5 **TRIBAL ADAPTATION PROJECTS.**

6           (a) ESTABLISHMENT OF PROGRAM.—Not later than  
7 January 1, 2013, the President shall—

8           (1) directly, or through such Federal agency or  
9           agencies as the President may designate, promulgate  
10          regulations establishing an integrated program to  
11          use funds in the National Climate Change Adapta-  
12          tion Fund to provide financial assistance to State,  
13          local, and tribal governments, individually or jointly,  
14          for implementation of projects to reduce vulner-  
15          ability to climate change impacts; and

16          (2) submit such regulations to the House Com-  
17          mittee on Energy and Commerce, the Senate Com-  
18          mittee on Environment and Public Works, and other  
19          committees of relevant jurisdiction in the House of  
20          Representatives and the Senate.

21          (b) CONSULTATION.—In promulgating the regula-  
22          tions under subsection (a), the President, or such Federal  
23          agency or agencies as the President may designate, shall—

24                 (1) consult with the Administrator of NOAA  
25                 and the Council; and

1           (2) take into consideration the findings and rec-  
2           ommendations of the most recent National Assess-  
3           ment and any relevant agency climate change adap-  
4           tation plans developed pursuant to section 368.

5           (c) REQUIREMENTS.—The regulations promulgated  
6 under subsection (a) shall—

7           (1) identify the Federal agency or agencies to  
8           be charged with administering each element of the  
9           program, and any relevant information relating to  
10          organization, governance, and respective responsibil-  
11          ities under the program;

12          (2) identify priorities and objectives for building  
13          State, local, and tribal governments' capacity to  
14          adapt to climate change impacts through financial  
15          support for State, local, and tribal projects;

16          (3) identify mechanisms, including grants or  
17          loans, through which funds within the National Cli-  
18          mate Change Adaptation Fund will be used to pro-  
19          vide financial support for projects implemented by  
20          State, local, or tribal governments;

21          (4) identify categories of projects eligible for  
22          funding under the program, consistent with the re-  
23          gional and national adaptation priorities identified in  
24          the National Assessment;

1           (5) describe procedures for submission, evalua-  
2           tion, and approval of project proposals;

3           (6) establish selection criteria for evaluating cli-  
4           mate change adaptation project proposals submitted,  
5           individually or jointly, by State, local, and tribal gov-  
6           ernments, including consideration of environmental  
7           impacts and cost-effectiveness in reducing vulner-  
8           ability to climate change impacts;

9           (7) establish criteria for allocating funding  
10          among different regions, States, localities, and In-  
11          dian tribes, and among different project categories;

12          (8) establish criteria and mechanisms for re-  
13          viewing project performance and for enforcing any  
14          restrictions imposed as a condition of supporting an  
15          approved project; and

16          (9) provide such other information regarding  
17          implementation of the proposed program as the  
18          President or the promulgating agency or agencies  
19          consider appropriate.

20          (d) PROGRAM IMPLEMENTATION.—If, after the 1-  
21          year period beginning on the date of submission of the  
22          regulations under subsection (a), Congress has not en-  
23          acted a statute codifying the program established by the  
24          regulations or an alternative to such program, the agency

1 or agencies identified in the regulations pursuant to sub-  
2 section (c)(1) shall implement the regulations.

3 (e) PERIODIC REVISIONS.—

4 (1) SUBMISSION OF REVISED REGULATIONS.—

5 If a program has been implemented pursuant to sub-  
6 section (d), the President shall, not later than Janu-  
7 ary 1 of the calendar year following the publication  
8 of each subsequent National Assessment, promulgate  
9 and submit to Congress revised regulations that—

10 (A) meet the requirements of subsection  
11 (c); and

12 (B) reflect any relevant information or rec-  
13 ommendations included in the most recent Na-  
14 tional Assessment and relevant agency climate  
15 change adaptation plans.

16 (2) IMPLEMENTATION OF REVISED REGULA-  
17 TIONS.—If, after the 1-year period beginning on the  
18 date of submission of any revised regulations under  
19 paragraph (1), Congress has not enacted a statute  
20 codifying the program established by revised regula-  
21 tions or an alternative to such program, the agency  
22 or agencies identified in the revised regulations  
23 under subsection (c)(1) shall implement the revised  
24 regulations.

1           **Subtitle G—Natural Resource**  
2                           **Conservation Fund**

3 **SEC. 371. PURPOSES.**

4           The purposes of this subtitle are—

5                   (1) to provide financial support for programs to  
6           protect natural resources, wildlife, and fisheries in  
7           the United States from the adverse impacts of cli-  
8           mate change; and

9                   (2) to invest in policies and measures that will  
10          reduce the economic, social, and environmental costs  
11          of climate change to the United States economy as  
12          a result of loss of ecosystem services.

13 **SEC. 372. DEFINITIONS.**

14          In this subtitle:

15                   (1) **ADAPTATION ACTIVITIES.**—The term “ad-  
16          aptation activities” means activities (including re-  
17          search and education activities) that assist fish and  
18          wildlife, fish and wildlife habitat, plants, and associ-  
19          ated ecological processes in adapting to and sur-  
20          viving the impacts of climate change and ocean  
21          acidification.

22                   (2) **ECOLOGICAL PROCESS.**—

23                           (A) **IN GENERAL.**—The term “ecological  
24          process” means a biological, chemical, or phys-



1           ical interaction between the biotic and abiotic  
2           components of an ecosystem.

3           (B) INCLUSIONS.—The term “ecological  
4           process” includes—

5                   (i) nutrient cycling;

6                   (ii) pollination;

7                   (iii) predator-prey relationships;

8                   (iv) soil formation;

9                   (v) gene flow;

10                  (vi) larval dispersal and settlement;

11                  (vii) hydrological cycling;

12                  (viii) decomposition; and

13                  (ix) disturbance regimes, such as fire  
14                  and flooding.

15           (3) FISH AND WILDLIFE.—The term “fish and  
16           wildlife” means—

17                   (A) any species of wild fauna, including  
18                   fish and other aquatic species; and

19                   (B) any fauna in a captive breeding pro-  
20                   gram the object of which is to reintroduce indi-  
21                   viduals of a species that is indigenous to the  
22                   United States and the populations of which are  
23                   depleted, into previously occupied range in the  
24                   United States.

1           (4) HABITAT.—The term “habitat” means the  
2           physical, chemical, and biological properties (includ-  
3           ing aquatic and terrestrial plant communities) that  
4           are used by wildlife for growth, reproduction, and  
5           survival, food, water, cover, and space in an area or  
6           region.

7           (5) IMPERILED SPECIES.—The term “imperiled  
8           species” means—

9                   (A) a species listed as an endangered spe-  
10                  cies or threatened species under the Endan-  
11                  gered Species Act of 1973 (16 U.S.C. 1531 et  
12                  seq.);

13                  (B) a species proposed for listing under  
14                  that Act;

15                  (C) a candidate species under that Act;

16                  (D) a species listed as an endangered spe-  
17                  cies under any State law; and

18                  (E) a species, the population of which is  
19                  declining at a significant rate.

20           (6) INDIAN TRIBE.—The term “Indian tribe”  
21           has the meaning given the term in section 4 of the  
22           Indian Self-Determination and Education Assistance  
23           Act (25 U.S.C. 450b).

24           (7) PLANT.—The term “plant” means any spe-  
25           cies of wild flora.

1           (8) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3           (9) STATE.—The term “State” means—

4                   (A) a State;

5                   (B) the District of Columbia;

6                   (C) the Commonwealth of Puerto Rico;

7                   and

8                   (D) any other territory or possession of the  
9           United States.

10 **SEC. 373. USE OF AMOUNTS IN NATURAL RESOURCE CON-**  
11 **SERVATION FUND.**

12           (a) AVAILABILITY OF AMOUNTS.—All amounts de-  
13           posited in the Natural Resource Conservation Fund estab-  
14           lished by section 722 of the Clean Air Act (as added by  
15           section 101 of this Act) shall be available upon such de-  
16           posit, without further appropriation or fiscal year limita-  
17           tion, to carry out adaptation activities in accordance with  
18           this section.

19           (b) DEPARTMENT OF THE INTERIOR.—Of the  
20           amounts made available each fiscal year to carry out this  
21           section—

22                   (1) 35 percent shall be deposited in the Wildlife  
23           Conservation and Restoration Account established  
24           under section 3(a)(2) of the Pittman-Robertson  
25           Wildlife Restoration Act (16 U.S.C. 669b(a)(2)), for

1 grants to States to carry out adaptation activities in  
2 accordance with comprehensive State adaptation  
3 strategies approved under subsection (j);

4 (2) 19 percent shall be allocated to the Sec-  
5 retary for use in funding adaptation activities car-  
6 ried out—

7 (A) under endangered species, migratory  
8 bird, and other fish and wildlife programs ad-  
9 ministered by the United States Fish and Wild-  
10 life Service;

11 (B) on wildlife refuges and other public  
12 land under the jurisdiction of the United States  
13 Fish and Wildlife Service, the Bureau of Land  
14 Management, or the National Park Service; or

15 (C) within Federal water managed by the  
16 Bureau of Reclamation; and

17 (3) 5 percent shall be allocated to the Secretary  
18 for adaptation activities carried out under coopera-  
19 tive grant programs, including—

20 (A) the cooperative endangered species  
21 conservation fund authorized under section 6(i)  
22 of the Endangered Species Act of 1973 (16  
23 U.S.C. 1535(i));

1 (B) programs under the North American  
2 Wetlands Conservation Act (16 U.S.C. 4401 et  
3 seq.);

4 (C) the multinational species conservation  
5 fund established under the heading “MULTI-  
6 NATIONAL SPECIES CONSERVATION  
7 FUND” of title I of the Department of the In-  
8 terior and Related Agencies Appropriations Act,  
9 1999 (16 U.S.C. 4246);

10 (D) the Neotropical Migratory Bird Con-  
11 servation Fund established by section 9(a) of  
12 the Neotropical Migratory Bird Conservation  
13 Act (16 U.S.C. 6108(a));

14 (E) the Coastal Program of the United  
15 States Fish and Wildlife Service;

16 (F) the National Fish Habitat Action  
17 Plan;

18 (G) the Partners for Fish and Wildlife  
19 Program;

20 (H) the Landowner Incentive Program;

21 (I) the Wildlife Without Borders Program  
22 of the United States Fish and Wildlife Service;  
23 and

24 (J) the Park Flight Migratory Bird Pro-  
25 gram of the National Park Service; and

1           (4) 1 percent shall be allocated to the Secretary  
2           to provide financial assistance to Indian tribes to  
3           carry out adaptation activities through the Tribal  
4           Wildlife Grants Program of the United States Fish  
5           and Wildlife Service.

6           (c) LAND AND WATER CONSERVATION FUND.—

7           (1) DEPOSITS.—

8           (A) IN GENERAL.—Of the amounts made  
9           available for each fiscal year to carry out this  
10          section, 10 percent shall be deposited into the  
11          Land and Water Conservation Fund established  
12          under section 2 of the Land and Water Con-  
13          servation Fund Act of 1965 (16 U.S.C. 460l-  
14          5).

15          (B) USE OF DEPOSITS.—Deposits into the  
16          Land and Water Conservation Fund under this  
17          subsection shall—

18                 (i) be supplemental to authorizations  
19                 provided under section 3 of the Land and  
20                 Water Conservation Fund Act of 1965 (16  
21                 U.S.C. 460l-6) which shall remain avail-  
22                 able for nonadaptation needs; and

23                 (ii) be available for expenditure to  
24                 carry out this section without further ap-  
25                 propriation or fiscal year limitation.

1           (2) ALLOCATIONS.—Of the amounts deposited  
2 under this subsection into the Land and Water Con-  
3 servation Fund—

4           (A)  $\frac{1}{6}$  shall be allocated to the Secretary  
5 and made available on a competitive basis to  
6 carry out adaptation activities through the ac-  
7 quisition of land and interests in land under  
8 section 6 of the Land and Water Conservation  
9 Fund Act of 1965 (16 U.S.C. 4601–8)—

10           (i) to States in accordance with com-  
11 prehensive wildlife conservation strategies,  
12 and to Indian tribes;

13           (ii) notwithstanding section 5 of that  
14 Act (16 U.S.C. 4601–7); and

15           (iii) in addition to any funds provided  
16 pursuant to—

17           (I) annual appropriations Acts;

18           (II) the Energy Policy Act of  
19 2005 (42 U.S.C. 15801 et seq.); or

20           (III) any other authorization for  
21 nonadaptation needs;

22           (B)  $\frac{1}{3}$  shall be allocated to the Secretary  
23 to carry out adaptation activities through the  
24 acquisition of lands and interests in land under

1 section 7 of the Land and Water Conservation  
2 Fund Act of 1965 (16 U.S.C. 4601–9);

3 (C)  $\frac{1}{6}$  shall be allocated to the Secretary  
4 of Agriculture and made available to the States  
5 to carry out adaptation activities through the  
6 acquisition of land and interests in land under  
7 section 7 of the Forest Legacy Program under  
8 the Cooperative Forestry Assistance Act of  
9 1978 (16 U.S.C. 2103c); and

10 (D)  $\frac{1}{3}$  shall be allocated to the Secretary  
11 of Agriculture to carry out adaptation activities  
12 through the acquisition of land and interests in  
13 land under section 7 of the Land and Water  
14 Conservation Fund Act of 1965 (16 U.S.C.  
15 4601–9).

16 (3) EXPENDITURE OF FUNDS.—In allocating  
17 funds under paragraph (2), the Secretary and the  
18 Secretary of Agriculture shall take into consideration  
19 factors including—

20 (A) the availability of non-Federal con-  
21 tributions from State, local, or private sources;

22 (B) opportunities to protect wildlife cor-  
23 ridors or otherwise to link or consolidate frag-  
24 mented habitats;



1           (C) opportunities to reduce the risk of cat-  
2           astrophic wildfires, extreme flooding, or other  
3           climate-related events that are harmful to fish  
4           and wildlife and people;

5           (D) the potential for conservation of spe-  
6           cies or habitat types at serious risk due to cli-  
7           mate change, ocean acidification, and other  
8           stressors; and

9           (E) the potential to provide enhanced ac-  
10          cess to land and water for fishing, hunting, and  
11          other public recreational uses.

12         (d) FOREST SERVICE.—Of the amounts made avail-  
13         able each fiscal year to carry out this section, 5 percent  
14         shall be allocated to the Secretary of Agriculture for use  
15         in funding adaptation activities carried out on national  
16         forests and national grasslands under the jurisdiction of  
17         the Forest Service, or pursuant to the cooperative Wings  
18         Across the Americas Program.

19         (e) ENVIRONMENTAL PROTECTION AGENCY.—Of the  
20         amounts made available each fiscal year to carry out this  
21         section, 5 percent shall be allocated to the Administrator  
22         for use in adaptation activities restoring and protecting—

23                 (1) large-scale freshwater aquatic ecosystems,  
24                 such as the Everglades, the Great Lakes, Flathead  
25                 Lake, the Missouri River, the Mississippi River, the

1 Colorado River, the Sacramento-San Joaquin Rivers,  
2 the Ohio River, the Columbia-Snake River System,  
3 the Apalachicola, Chattahoochee, and Flint River  
4 System, the Connecticut River, and the Yellowstone  
5 River;

6 (2) large-scale estuarine ecosystems, such as  
7 Chesapeake Bay, Long Island Sound, Puget Sound,  
8 the Mississippi River Delta, the San Francisco Bay  
9 Delta, Narragansett Bay, and Albemarle-Pamlico  
10 Sound; and

11 (3) freshwater and estuarine ecosystems, water-  
12 sheds, and basins identified as priorities by the Ad-  
13 ministrator, working in cooperation with other Fed-  
14 eral agencies, States, local governments, scientists,  
15 and other conservation partners.

16 (f) CORPS OF ENGINEERS.—Of the amounts made  
17 available annually to carry out this section, 10 percent  
18 shall be available to the Secretary of the Army for use  
19 by the Corps of Engineers to carry out adaptation activi-  
20 ties restoring—

21 (1) large-scale freshwater aquatic ecosystems,  
22 such as the ecosystems described in subsection  
23 (e)(1);

24 (2) large-scale estuarine ecosystems, such as  
25 the ecosystems described in subsection (e)(2);

1           (3) freshwater and estuarine ecosystems, water-  
2           sheds, and basins identified as priorities by the  
3           Corps of Engineers, working in cooperation with  
4           other Federal agencies, States, local governments,  
5           scientists, and other conservation partners; and

6           (4) habitats and ecosystems through the imple-  
7           mentation of estuary habitat restoration projects au-  
8           thorized by the Estuary Restoration Act of 2000 (33  
9           U.S.C. 2901 et seq.), project modifications for im-  
10          provement of the environment, aquatic restoration  
11          and protection projects authorized by section 206 of  
12          the Water Resources Development Act of 1996 (33  
13          U.S.C. 2330), and other appropriate programs and  
14          activities.

15          (g) DEPARTMENT OF COMMERCE.—Of the amounts  
16          made available each fiscal year to carry out this section,  
17          10 percent shall be allocated to the Secretary of Commerce  
18          for use in funding adaptation activities to protect, main-  
19          tain, and restore coastal, estuarine, and marine resources,  
20          habitats, and ecosystems, including such activities carried  
21          out under—

22                (1) the coastal and estuarine land conservation  
23                program;

24                (2) the community-based restoration program;

1           (3) the Coastal Zone Management Act of 1972  
2           (16 U.S.C. 1451 et seq.), that State coastal agencies  
3           shall incorporate in accordance with coastal zone  
4           management plan elements that are—

5                   (A) developed by a coastal state and ap-  
6                   proved by the Secretary of Commerce in accord-  
7                   ance with section 306 of the Coastal Zone Man-  
8                   agement Act of 1972 (16 U.S.C. 1455);

9                   (B) consistent with the national adaptation  
10                  strategy established by the President under  
11                  subsection (i); and

12                  (C) specifically designed to strengthen the  
13                  ability of coastal, estuarine, and marine re-  
14                  sources, habitats, and ecosystems to adapt to  
15                  and withstand the impacts of—

16                           (i) global warming; and

17                           (ii) where practicable, ocean acidifica-  
18                           tion;

19           (4) the Open Rivers Initiative;

20           (5) the Magnuson-Stevens Fishery Conservation  
21           and Management Act (16 U.S.C. 1801 et seq.);

22           (6) the Marine Mammal Protection Act of 1972  
23           (16 U.S.C. 1361 et seq.);

24           (7) the Endangered Species Act of 1973 (16  
25           U.S.C. 1531 et seq.);

1           (8) the Marine Protection, Research, and Sanc-  
2           tuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

3           (9) the Coral Reef Conservation Act of 2000  
4           (16 U.S.C. 6401 et seq.).

5           (h) COST SHARING.—Notwithstanding any other pro-  
6           vision of law, a State or Indian tribe that receives a grant  
7           under paragraph (1) or (4) of subsection (b) shall use  
8           funds from non-Federal sources to pay 10 percent of the  
9           costs of each activity carried out using amounts under the  
10          grant.

11          (i) NATIONAL ADAPTATION STRATEGY.—

12           (1) IN GENERAL.—Funds made available under  
13           paragraphs (2), (3), and (4) of subsection (b) and  
14           subsections (c) through (g) shall be used only for ad-  
15           aptation activities that are consistent with the na-  
16           tional adaptation strategy developed by the Presi-  
17           dent under this subsection.

18           (2) NATIONAL ADAPTATION STRATEGY.—

19           (A) IN GENERAL.—Not later than 3 years  
20           after the date of enactment of this Act, the  
21           President shall develop and implement a na-  
22           tional adaptation strategy for assisting fish and  
23           wildlife, fish and wildlife habitat, plants, and  
24           associated ecological processes in becoming

1 more resilient and adapting to the impacts of  
2 climate change and ocean acidification.

3 (B) ADMINISTRATION.—In establishing  
4 and revising the national adaptation strategy,  
5 the President shall—

6 (i) base the strategy on the best avail-  
7 able science, as identified by the Science  
8 Advisory Board established under subpara-  
9 graph (D);

10 (ii) develop the strategy in coordina-  
11 tion with the National Climate Change Ad-  
12 aptation Program established under sub-  
13 title F of this title;

14 (iii) develop the strategy in coopera-  
15 tion with State fish and wildlife agencies,  
16 State coastal agencies, United States terri-  
17 tories, and Indian tribes;

18 (iv) coordinate with the Secretary of  
19 the Interior, the Secretary of Commerce,  
20 the Secretary of Agriculture, the Secretary  
21 of Defense, the Administrator of the Envi-  
22 ronmental Protection Agency, and other  
23 agencies as appropriate;

1 (v) consult with local governments,  
2 conservation organizations, scientists, and  
3 other interested stakeholders; and

4 (vi) provide public notice and oppor-  
5 tunity for comment.

6 (C) CONTENTS.—The President shall in-  
7 clude in the national adaptation strategy, at a  
8 minimum, prioritized goals and measures and a  
9 schedule for implementation—

10 (i) to identify and monitor fish and  
11 wildlife, fish and wildlife habitat, plants,  
12 and associated ecological processes that are  
13 particularly likely to be adversely affected  
14 by climate change and ocean acidification  
15 and have the greatest need for conserva-  
16 tion;

17 (ii) to identify and monitor coastal,  
18 estuarine, marine, terrestrial, and fresh-  
19 water habitats that are at the greatest risk  
20 of being damaged by climate change and  
21 ocean acidification;

22 (iii) to assist species in adapting to  
23 the impacts of climate change and ocean  
24 acidification;

1 (iv) to protect, acquire, maintain, and  
2 restore fish and wildlife habitat to build re-  
3 silience to climate change and ocean acidi-  
4 fication;

5 (v) to provide habitat linkages and  
6 corridors to facilitate fish, wildlife, and  
7 plant movement in response to climate  
8 change and ocean acidification;

9 (vi) to restore and protect ecological  
10 processes that sustain fish, wildlife, and  
11 plant populations that are vulnerable to cli-  
12 mate change and ocean acidification;

13 (vii) to protect, maintain, and restore  
14 coastal, marine, and aquatic ecosystems so  
15 that the ecosystems are more resilient and  
16 better able to withstand the further  
17 stresses associated with climate change, in-  
18 cluding relative sea level rise and ocean  
19 acidification;

20 (viii) to protect ocean and coastal spe-  
21 cies from the impact of climate change and  
22 ocean acidification;

23 (ix) to incorporate adaptation strate-  
24 gies and activities to address relative sea  
25 level rise in coastal zone planning;



1 (x) to protect, maintain, and restore  
2 ocean and coastal habitats to build healthy  
3 and resilient ecosystems, including the pur-  
4 chase of coastal and island land; and

5 (xi) to incorporate consideration of cli-  
6 mate change and ocean acidification, and  
7 to integrate adaptation strategies and ac-  
8 tivities for fish and wildlife, fish and wild-  
9 life habitat, plants, and associated ecologi-  
10 cal processes, in the planning and manage-  
11 ment of Federal land and water adminis-  
12 tered by the Federal agencies that receive  
13 funding under this section.

14 (D) SCIENCE ADVISORY BOARD.—

15 (i) ESTABLISHMENT.—Not later than  
16 180 days after the date of enactment of  
17 this Act, the Secretary shall establish and  
18 appoint the members of a Science Advisory  
19 Board, to be comprised of not fewer than  
20 10 and not more than 20 members—

21 (I) at least  $\frac{3}{4}$  of whom are rec-  
22 ommended by the President of the  
23 National Academy of Sciences;

24 (II) who have expertise in fish,  
25 wildlife, plant, aquatic, and coastal

1 and marine biology, ecology, climate  
2 change, ocean acidification, and other  
3 relevant scientific disciplines; and

4 (III) who represent a balanced  
5 membership among Federal, State,  
6 and local representatives, universities,  
7 and conservation organizations.

8 (ii) DUTIES.—The Science Advisory  
9 Board shall—

10 (I) advise the President and rel-  
11 evant Federal agencies and depart-  
12 ments on—

13 (aa) the best available  
14 science regarding the impacts of  
15 climate change and ocean acidifi-  
16 cation on fish and wildlife, habi-  
17 tat, plants, and associated eco-  
18 logical processes; and

19 (bb) scientific strategies and  
20 mechanisms for adaptation; and

21 (II) identify and recommend pri-  
22 orities for ongoing research needs on  
23 those issues.

24 (iii) COLLABORATION.—The Science  
25 Advisory Board shall collaborate with other

1 climate change and ecosystem research en-  
2 tities in other Federal agencies and depart-  
3 ments.

4 (iv) AVAILABILITY TO PUBLIC.—The  
5 advice and recommendations of the Science  
6 Advisory Board shall be made available to  
7 the public.

8 (v) NONAPPLICABILITY OF FACA.—  
9 The Federal Advisory Committee Act (5  
10 U.S.C. App.) shall not apply to the Science  
11 Advisory Board.

12 (E) COORDINATION WITH OTHER PLANS.—  
13 In developing and revising the national adapta-  
14 tion strategy, the President shall, to the max-  
15 imum extent practicable—

16 (i) take into consideration research  
17 and information contained in—

18 (I) National Climate Change Vul-  
19 nerability Assessments developed  
20 under section 366 of this Act;

21 (II) State comprehensive wildlife  
22 conservation plans;

23 (III) the North American water-  
24 fowl management plan;

1 (IV) the national fish habitat ac-  
2 tion plan;

3 (V) coastal zone management  
4 plans;

5 (VI) the reports of the Pew  
6 Oceans Commission and the United  
7 States Commission on Ocean Policy;  
8 and

9 (VII) other relevant plans; and

10 (ii) coordinate and integrate the goals  
11 and measures identified in the national  
12 strategy with the goals and measures iden-  
13 tified in those plans.

14 (F) REVISIONS.—Not later than 4 years  
15 after the date on which the national adaptation  
16 strategy is developed, and not less frequently  
17 than every 4 years thereafter, the President  
18 shall review and update the strategy using the  
19 procedures described in this paragraph.

20 (j) STATE COMPREHENSIVE ADAPTATION STRATE-  
21 GIES.—

22 (1) IN GENERAL.—Except as provided in para-  
23 graph (2), funds made available to States under this  
24 subtitle shall be used only for activities that are con-

1       sistent with a State strategy that has been approved  
2       by—

3               (A) the Secretary of the Interior; and

4               (B) for any State with a coastal zone (as  
5       that term is used in the Coastal Zone Manage-  
6       ment Act of 1972 (16 U.S.C. 1451 et seq.)),  
7       the Secretary of Commerce, with respect to por-  
8       tions of the strategy relating to activities affect-  
9       ing the coastal zone.

10       (2) INITIAL PERIOD.—

11               (A) IN GENERAL.—Until the earlier of the  
12       date that is 3 years after the date of enactment  
13       of this Act or the date on which a State re-  
14       ceives approval for a State strategy from the  
15       Secretary of the Interior and the Secretary of  
16       Commerce in accordance with paragraph (1), a  
17       State shall be eligible to receive funding under  
18       subsection (b)(1) for adaptation activities that  
19       are—

20               (i) consistent with the Comprehensive  
21       Wildlife Conservation Strategy of the State  
22       as approved by the Director of the United  
23       States Fish and Wildlife Service and,  
24       where appropriate, other fish, wildlife and  
25       conservation strategies; and

1 (ii) in accordance with a workplan de-  
2 veloped by the State in coordination with—

3 (I) the Secretary of the Interior;  
4 and

5 (II) for any State with a coastal  
6 zone (as that term is used in the  
7 Coastal Zone Management Act of  
8 1972 (16 U.S.C. 1451 et seq.)), the  
9 Secretary of Commerce with respect  
10 to portions of the strategy relating to  
11 activities affecting the coastal zone.

12 (B) PENDING APPROVAL.—During the pe-  
13 riod for which approval by the applicable Sec-  
14 retary of a State strategy described in para-  
15 graph (3) is pending, the State may continue  
16 receiving funds under subsection (b)(1) pursu-  
17 ant to the workplan described subparagraph  
18 (A)(ii).

19 (3) REQUIREMENTS.—To be eligible for ap-  
20 proval by the Secretary of the Interior and the Sec-  
21 retary of Commerce under this section, a State  
22 strategy must—

23 (A) describe the impacts of climate change  
24 and ocean acidification on the diversity and  
25 health of the fish, wildlife and plant popu-

1 lations, habitats, and associated ecological proc-  
2 esses;

3 (B) describe and prioritize proposed con-  
4 servation actions to assist fish, wildlife, and  
5 plant populations in adapting to those impacts;

6 (C) establish programs for monitoring the  
7 impacts of climate change on fish, wildlife, and  
8 plant populations, habitats, and associated eco-  
9 logical processes;

10 (D) include strategies, specific conservation  
11 actions, and a timeframe for implementing con-  
12 servation actions for fish, wildlife, and plant  
13 populations, habitats, and associated ecological  
14 processes;

15 (E) establish methods for assessing the ef-  
16 fectiveness of conservation actions taken to as-  
17 sist fish, wildlife, and plant populations, habi-  
18 tats, and associated ecological processes in  
19 adapting to those impacts and for updating  
20 those actions to respond appropriately to new  
21 information or changing conditions;

22 (F) be developed—

23 (i) with the participation of the State  
24 fish and wildlife agency, the State agency  
25 responsible for administration of Land and

1 Water Conservation Fund grants, the  
2 State Forest Legacy program coordinator,  
3 and the State coastal agency; and

4 (ii) in coordination with the Secretary  
5 of the Interior and, where applicable, the  
6 Secretary of Commerce;

7 (G) provide for solicitation and consider-  
8 ation of public and independent scientific input;

9 (H) take into consideration research and  
10 information contained in, and coordinate with  
11 and integrate the goals and measures identified  
12 in, as appropriate, other fish, wildlife, and habi-  
13 tat conservation strategies, including—

14 (i) the national fish habitat action  
15 plan;

16 (ii) plans under the North American  
17 Wetlands Conservation Act (16 U.S.C.  
18 4401 et seq.);

19 (iii) the Federal, State, and local part-  
20 nership known as “Partners in Flight”;

21 (iv) federally approved coastal zone  
22 management plans under the Coastal Zone  
23 Management Act of 1972 (16 U.S.C. 1451  
24 et seq.);



1 (v) regional fishery management plans  
2 and habitat conservation activities under  
3 the Magnuson-Stevens Fishery Conserva-  
4 tion and Management Act (16 U.S.C. 1801  
5 et seq.);

6 (vi) the National Action Plan to Con-  
7 serve Coral Reefs developed by the United  
8 States Coral Reef Task Force;

9 (vii) recovery plans for threatened  
10 species and endangered species under sec-  
11 tion 4(f) of the Endangered Species Act of  
12 1973 (16 U.S.C. 1533(f));

13 (viii) habitat conservation plans under  
14 section 10 of that Act (16 U.S.C. 1539);

15 (ix) other Federal and State plans for  
16 imperiled species;

17 (x) the United States shorebird con-  
18 servation plan;

19 (xi) the North American waterbird  
20 conservation plan; and

21 (xii) other State-based strategies that  
22 comprehensively implement adaptation ac-  
23 tivities to remediate the effects of climate  
24 change and ocean acidification on fish,  
25 wildlife, and habitats; and

1 (I) be incorporated into a revision of the  
2 Comprehensive Wildlife Conservation Strategy  
3 of a State—

4 (i) that has been submitted to the  
5 United States Fish and Wildlife Service;  
6 and

7 (ii)(I) that has been approved by the  
8 Service; or

9 (II) on which a decision on approval is  
10 pending.

11 (4) UPDATING.—Each State strategy approved  
12 by the Secretary of the Interior and the Secretary  
13 of Commerce must be updated at least every 5  
14 years.

15 **Subtitle H—Climate Change Edu-**  
16 **cation and Centers for Excel-**  
17 **lence**

18 **SEC. 381. PURPOSES.**

19 The purposes of this subtitle are—

20 (1) to promote citizen awareness of climate  
21 change, including the causes and impacts of climate  
22 change and greenhouse gas reduction strategies, by  
23 supporting the development and implementation of  
24 informal and formal public education initiatives in  
25 this area; and

1           (2) to establish national centers for excellence  
2           to encourage collaborative research, information-  
3           sharing, and public education and outreach in a va-  
4           riety of issue areas relating to climate change.

5 **SEC. 382. FUNDING.**

6           For purposes of this subtitle, the term “Climate  
7 Change Education and Outreach Fund” means the Cli-  
8 mate Change Education and Outreach Fund established  
9 under section 722 of the Clean Air Act (as added by sec-  
10 tion 101 of this Act). Funds deposited in the Climate  
11 Change Education and Outreach Fund shall be available,  
12 without further appropriation or fiscal year limitation, to  
13 carry out this subtitle.

14 **SEC. 383. NATIONAL SCIENCE FOUNDATION CLIMATE**  
15 **CHANGE EDUCATION PROGRAMS.**

16           (a) ALLOCATION.—In each of fiscal years 2010  
17 through 2050, the Director of the National Science Foun-  
18 dation shall use 30 percent of the funds deposited in the  
19 Climate Change Education and Outreach Fund to carry  
20 out this section. Funding provided under this section shall  
21 be in addition to any funding that is otherwise authorized  
22 or appropriated.

23           (b) PROGRAM.—

1           (1) ESTABLISHMENT.—The Director of the Na-  
2           tional Science Foundation shall establish a Climate  
3           Change Education Program to—

4                   (A) broaden public understanding of cli-  
5                   mate change, possible long-term and short-term  
6                   consequences, and potential solutions;

7                   (B) apply the latest scientific and techno-  
8                   logical discoveries to provide formal and infor-  
9                   mal learning opportunities to people of all ages,  
10                  including those of diverse cultural and linguistic  
11                  backgrounds; and

12                  (C) emphasize actionable information to  
13                  help people understand and to promote imple-  
14                  mentation of new technologies, programs, and  
15                  incentives related to energy conservation, re-  
16                  newable energy, and greenhouse gas reduction.

17           (2) PROGRAM ELEMENTS.—The Climate  
18           Change Education Program shall include—

19                   (A) a national information campaign to  
20                   disseminate information on and promote imple-  
21                   mentation of the new technologies, programs,  
22                   and incentives described in paragraph (1)(C);  
23                   and

24                   (B) a competitive grant program to provide  
25                   grants to State and local governments, edu-

1           cational institutions, and other organizations  
2           to—

3                   (i) create informal education mate-  
4                   rials, exhibits, and multimedia presen-  
5                   tations relevant to climate change and cli-  
6                   mate science;

7                   (ii) develop climate science kinder-  
8                   garten through grade 12 curriculum and  
9                   supplementary educational materials; or

10                   (iii) publish climate change and cli-  
11                   mate science information in print, elec-  
12                   tronic, and audio-visual forms.

13 **SEC. 384. ENVIRONMENTAL PROTECTION AGENCY CLIMATE**  
14 **CHANGE EDUCATION PROGRAM.**

15           In each of fiscal years 2010 through 2050, the Ad-  
16 ministrator shall use 10 percent of the funds deposited  
17 in the Climate Change Education and Outreach Fund to  
18 develop educational materials related to climate change,  
19 climate science, and greenhouse gas reduction strategies  
20 for use by educators, kindergarten through grade 12 stu-  
21 dents, businesses, communities, and the general public.

22 **SEC. 385. CLIMATE CHANGE CENTERS FOR EXCELLENCE.**

23           (a) IN GENERAL.—In each of fiscal years 2010  
24 through 2050, the President, through such Federal agency  
25 or agencies as the President may designate, shall use 60

1 percent of the funds deposited during the fiscal year in  
2 the Climate Change Education and Outreach Fund to pro-  
3 vide cost-sharing grants to support the establishment and  
4 maintenance of centers for excellence in accordance with  
5 this section.

6 (b) TYPES OF CENTERS.—Grants shall be provided  
7 to eligible entities to establish and maintain one or more  
8 centers for excellence focusing on each of the following  
9 areas:

10 (1) Climate change science, including scientific  
11 assessment of the effectiveness of public policies re-  
12 lated to climate change.

13 (2) Renewable energy technologies and policies.

14 (3) Energy efficiency technologies and policies.

15 (4) Policies to reduce vehicle miles traveled.

16 (5) Greenhouse gas management in the agri-  
17 culture and forestry sectors.

18 (6) Adaptation to adverse impacts of climate  
19 change, including impacts on public health, public  
20 infrastructure, agriculture, and conservation of nat-  
21 ural resources.

22 (c) FUNCTIONS.—Each center for excellence receiving  
23 assistance under this section shall, with respect to such  
24 center's designated focus—

1           (1) serve as a national clearinghouse for infor-  
2           mation and best-practices;

3           (2) develop and implement public education and  
4           outreach initiatives, including training and technical  
5           assistance where appropriate; and

6           (3) provide a forum for communication and col-  
7           laboration among governmental and nongovern-  
8           mental stakeholders and researchers.

9           (d) ELIGIBLE ENTITIES.—Entities eligible to receive  
10          grants to establish centers for excellence under this section  
11          shall be limited to—

12           (1) colleges and universities located in the  
13          United States; and

14           (2) not-for-profit nongovernmental organiza-  
15          tions headquartered in the United States.

16          (e) REGULATIONS; SELECTION CRITERIA.—The  
17          agency or agencies to which the President delegates au-  
18          thority to provide grants under this section shall, not later  
19          than January 1, 2010, promulgate regulations providing  
20          for the implementation of this section. Such regulations  
21          shall include objective criteria for the competitive selection  
22          of grant recipients under this section.

1           **TITLE IV—ENCOURAGING**  
2                   **GLOBAL ACTION**  
3       **Subtitle A—International Forest**  
4                   **Protection Fund**

5   **SEC. 401. FINDINGS AND PURPOSES.**

6       (a) FINDINGS.—Congress finds that—

7           (1) land-use change and forest sector emissions  
8       account for approximately 20 percent of global  
9       greenhouse gas emissions;

10          (2) land conversion and deforestation are 2 of  
11       the largest sources of greenhouse gas emissions in  
12       the developing world, amounting to roughly 40 per-  
13       cent of the total greenhouse gas emissions of the de-  
14       veloping world;

15          (3) with sufficient data, deforestation rates and  
16       forest carbon stocks can be measured with an ac-  
17       ceptable level of uncertainty; and

18          (4) land conversion and deforestation in the de-  
19       veloping world have significant adverse environ-  
20       mental and social impacts not related to climate, in-  
21       cluding loss of ecosystem services, biodiversity, and  
22       forest-related livelihoods.

23       (b) PURPOSES.—The purposes of this subtitle are—

24           (1) to provide financial incentives to developing  
25       countries to encourage—



1 (A) reductions in deforestation and forest  
2 degradation; and

3 (B) increases in sequestration of carbon  
4 through afforestation, restoration of forests and  
5 degraded land that had not been forested prior  
6 to restoration, and improved forest manage-  
7 ment; and

8 (2) to provide such incentives in a manner that  
9 will—

10 (A) achieve substantial and cost-effective  
11 reductions in global greenhouse gas emissions;

12 (B) encourage participation by developing  
13 countries in greenhouse gas limitation regimes;  
14 and

15 (C) secure nonclimate environmental and  
16 social benefits, including conservation of forest  
17 ecosystems and biodiversity and protection of  
18 the livelihoods and cultural resources of indige-  
19 nous and other forest-dependent people in de-  
20 veloping countries.

21 **SEC. 402. DEFINITIONS.**

22 In this subtitle:

23 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
24 TEES.—The term “appropriate congressional com-  
25 mittees” means—

1 (A) the Committees on Energy and Com-  
2 merce and Foreign Affairs of the House of Rep-  
3 resentatives; and

4 (B) the Committees on Environment and  
5 Public Works, Energy and Natural Resources,  
6 and Foreign Relations of the Senate.

7 (2) FOREST CARBON ACTIVITIES.—The term  
8 “forest carbon activities” means activities in devel-  
9 oping countries that are directed at—

10 (A) reducing greenhouse gas emissions  
11 from deforestation and forest degradation; and

12 (B) increasing sequestration of carbon  
13 through afforestation, restoration of forests and  
14 degraded land that had not been forested prior  
15 to restoration, and improved forest manage-  
16 ment.

17 **SEC. 403. FUNDING.**

18 (a) IN GENERAL.—The Administrator, in consulta-  
19 tion with the Secretary of State, is authorized to provide  
20 assistance from the International Forest Protection Fund,  
21 established under section 722 of the Clean Air Act (as  
22 added by section 101 of this Act), in accordance with this  
23 subtitle. Amounts deposited in the International Forest  
24 Protection Fund shall be available for expenditure, with-

1 out further appropriation or fiscal year limitation, to carry  
2 out this subtitle.

3 (b) DISTRIBUTION OF ASSISTANCE.—

4 (1) IN GENERAL.—The Administrator shall dis-  
5 tribute assistance from the International Forest Pro-  
6 tection Fund—

7 (A) directly;

8 (B) through agreements with the Inter-  
9 national Bank for Reconstruction and Develop-  
10 ment (commonly known as the World Bank) or  
11 another international development institution;

12 (C) through an international fund created  
13 pursuant to the United Nations Framework  
14 Convention on Climate Change, done at New  
15 York on May 9, 1992, or an agreement nego-  
16 tiated under such convention; or

17 (D) through some combination of the  
18 mechanisms identified in subparagraphs (A)  
19 through (C).

20 (2) DISTRIBUTION THROUGH INTERNATIONAL  
21 INSTITUTION OR FUND.—If assistance is distributed  
22 through an international institution or fund, as au-  
23 thorized in paragraph (1), the Administrator shall  
24 ensure the establishment and implementation of ade-  
25 quate mechanisms to apply and enforce the eligi-

1 bility requirements in section 404 and other require-  
2 ments of this subtitle.

3 **SEC. 404. ELIGIBILITY REQUIREMENTS AND STANDARDS**  
4 **FOR FOREST CARBON ACTIVITIES.**

5 Not later than January 1, 2010, the Administrator,  
6 in consultation with the Secretary of State and the Sec-  
7 retary of Agriculture, shall promulgate eligibility require-  
8 ments and accounting, measurement, monitoring, and  
9 verification standards for forest carbon activities, includ-  
10 ing requirements—

11 (1) for the establishment and periodic updating  
12 of national-level greenhouse gas emissions and bio-  
13 logical sequestration reference scenarios for the for-  
14 est sector;

15 (2) ensuring that forest carbon activities  
16 achieve reductions in greenhouse gas emissions or  
17 increases in sequestration of carbon that are real,  
18 permanent, additional, verifiable, and enforceable;

19 (3) ensuring reliable measurement, monitoring,  
20 and verification of emission reductions or increases  
21 in biological sequestration;

22 (4) ensuring appropriate accounting for any  
23 significant increases in greenhouse gas emissions or  
24 decreases in biological sequestration directly or indi-  
25 rectly caused by forest carbon activities;

1           (5) providing for discounting of emission reduc-  
2           tions or increases in biological sequestration based  
3           on uncertainty;

4           (6) that forest carbon activities be carried out  
5           and managed—

6                   (A) in accordance with widely accepted en-  
7                   vironmentally sustainable forestry practices;  
8                   and

9                   (B) with appropriate regard for the rights  
10                  and interests of indigenous peoples and commu-  
11                  nities that reside in, or depend on, forests; and

12          (7) that forest carbon activities be designed—

13                   (A) to promote native species and restora-  
14                   tion of native forests, where practicable; and

15                   (B) to avoid the introduction of invasive  
16                  nonnative species.

17 **SEC. 405. ASSISTANCE FOR FOREST CARBON ACTIVITIES.**

18          (a) **ELIGIBLE COUNTRIES.**—The Administrator, in  
19          consultation with the Secretary of State, shall identify and  
20          periodically update a list of developing countries that  
21          have—

22                  (1) demonstrated capacity to participate in for-  
23                  est carbon activities, including—

24                          (A) sufficient historical data on changes in  
25                          national forest carbon stocks;

1           (B) technical capacity to monitor and  
2           measure forest carbon fluxes with an acceptable  
3           level of uncertainty; and

4           (C) institutional capacity to reduce emis-  
5           sions from deforestation and degradation;

6           (2) established a national greenhouse gas emis-  
7           sion reference scenario based on historical data; and

8           (3) commenced a greenhouse gas emission re-  
9           duction program for the forest sector.

10       (b) REQUIREMENTS FOR ASSISTANCE.—Countries on  
11 the list established under subsection (a) shall be eligible  
12 for assistance under this section for the achievement,  
13 through forest carbon activities implemented in accord-  
14 ance with the requirements established under section 404,  
15 of—

16           (1) national-level net reductions in greenhouse  
17           gas emissions from reduced deforestation and forest  
18           degradation, as demonstrated using remote sensing  
19           technology that meets international standards; and

20           (2) national-level net increases in sequestration  
21           of carbon through afforestation, restoration of for-  
22           ests and degraded land that had not been forested  
23           prior to restoration, and improved forest manage-  
24           ment.

1 (c) VERIFICATION OF ACHIEVEMENTS.—The Admin-  
2 istrator, in consultation with the Secretary of State, shall  
3 periodically review relevant data and make determinations  
4 regarding achievements under subsection (b).

5 (d) LEVEL OF ASSISTANCE.—The Administrator  
6 shall establish a formula governing the distribution of as-  
7 sistance under this section, which shall be designed to—

8 (1) maximize the reductions in greenhouse gas  
9 emissions or increases in biological sequestration per  
10 dollar of assistance provided; and

11 (2) take into account past actions in each eligi-  
12 ble country to reduce greenhouse gas emissions or  
13 increase biological sequestration, so as not to penal-  
14 ize countries that have taken early action.

15 **SEC. 406. CAPACITY-BUILDING GRANTS.**

16 (a) IN GENERAL.—For fiscal years 2010 through  
17 2020, the Administrator may use up to 40 percent of  
18 funds deposited in the International Forest Protection  
19 Fund to provide cost-sharing grants to build the capacity  
20 of developing countries not included in the list established  
21 under section 405(a) to carry out forest carbon activities  
22 otherwise eligible for assistance under section 405.

23 (b) NATURE OF ASSISTANCE.—Cost-sharing grants  
24 provided under this section may be used to assist recipient  
25 countries to—

1           (1) develop and demonstrate capacity to carry  
2 out eligible forest carbon activities, including  
3 through—

4           (A) development of sufficient historical  
5 data on changes in national forest carbon  
6 stocks;

7           (B) development of technical capacity to  
8 measure and monitor forest carbon fluxes with  
9 an acceptable level of uncertainty; and

10           (C) development of institutional capacity to  
11 reduce emissions from deforestation and forest  
12 degradation;

13           (2) establish a national greenhouse gas emission  
14 reference scenario based on historical data; and

15           (3) commence an emission reduction program  
16 for the forest sector.

17 **SEC. 407. ANNUAL REPORTS.**

18           Not later than March 1, 2012, and annually there-  
19 after, the President shall submit to the appropriate con-  
20 gressional committees a report on the assistance provided  
21 under this subtitle during the prior fiscal year. The report  
22 shall include—

23           (1) a description of the amount of obligations  
24 and expenditures for assistance provided to each eli-  
25 gible country during the prior fiscal year;



1           (2) a description of the forest carbon activities  
2           and capacity-building activities funded through as-  
3           sistance provided under this subtitle, including the  
4           amount of obligations and expenditures for assist-  
5           ance provided to such activities, during the prior fis-  
6           cal year; and

7           (3) an estimate of the greenhouse gas emission  
8           reductions or biological sequestration achieved by as-  
9           sistance provided under this subtitle during the prior  
10          fiscal year.

## 11           **Subtitle B—International Clean** 12           **Technology Fund**

### 13   **SEC. 411. PURPOSES.**

14          The purposes of this subtitle are—

15           (1) to provide United States assistance to en-  
16           courage widespread deployment, in developing coun-  
17           tries, of technologies that reduce greenhouse gas  
18           emissions; and

19           (2) to provide such assistance in a manner that  
20           encourages such countries to adopt policies and  
21           measures that substantially reduce emissions of  
22           greenhouse gases.

### 23   **SEC. 412. DEFINITIONS.**

24          In this subtitle:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate congressional com-  
3           mittees” means—

4                   (A) the Committees on Energy and Com-  
5                   merce and Foreign Affairs of the House of Rep-  
6                   resentatives; and

7                   (B) the Committees on Environment and  
8                   Public Works, Energy and Natural Resources,  
9                   and Foreign Relations of the Senate.

10           (2) COMPARABLE ACTION.—The term “com-  
11           parable action” has the meaning given such term in  
12           section 761(1) of the Clean Air Act (as added by  
13           section 101 of this Act).

14           (3) ELIGIBLE COUNTRY.—The term “eligible  
15           country” means a foreign country that is determined  
16           by the President, under section 414, to be eligible to  
17           receive assistance from the International Clean  
18           Technology Fund.

19           (4) INTERAGENCY GROUP.—The term “inter-  
20           agency group” means the group established by the  
21           President under section 413(a) to administer the  
22           International Clean Technology Fund.

23           (5) INTERNATIONAL CLEAN TECHNOLOGY  
24           FUND.—The term “International Clean Technology  
25           Fund” means the International Clean Technology

1 Fund established under section 722 of the Clean Air  
2 Act (as added by section 101 of this Act).

3 **SEC. 413. INTERAGENCY GROUP.**

4 (a) INTERAGENCY GROUP.—The President shall es-  
5 tablish an interagency group to administer the Inter-  
6 national Clean Technology Fund. The interagency group  
7 shall include—

8 (1) the Secretary of State;

9 (2) the Administrator;

10 (3) the Secretary of Energy;

11 (4) the Secretary of the Treasury; and

12 (5) any other head of a Federal department or  
13 agency the President determines to be appropriate.

14 (b) CHAIRPERSON.—The Secretary of State shall  
15 serve as the chairperson of the interagency group.

16 **SEC. 414. DETERMINATION OF ELIGIBLE COUNTRIES.**

17 (a) PUBLICATION AND REVISION OF LIST.—Not later  
18 than January 1, 2011, and annually thereafter through  
19 2050, the President shall determine and publish in the  
20 Federal Register a list of countries eligible for assistance  
21 under this subtitle.

22 (b) CRITERIA FOR ELIGIBILITY.—The criteria for  
23 designation as an eligible country shall include the fol-  
24 lowing:

25 (1) The country is a developing country.

1           (2) The country is responsible for at least 1  
2           percent of annual global greenhouse gas emissions,  
3           excluding emissions from land-use, land-use change,  
4           and forestry.

5           (3) The President has determined, pursuant to  
6           section 764(b) of the Clean Air Act (as added by  
7           section 101 of this Act), that the country has taken  
8           comparable action.

9           (4) Such other criteria as the President deter-  
10          mines will serve the purposes of this Act or other  
11          United States foreign policy and national security  
12          objectives.

13 **SEC. 415. FUNDING.**

14          (a) **IN GENERAL.**—The Secretary of State is author-  
15          ized to provide assistance from the International Clean  
16          Technology Fund for projects (which may include sector-  
17          based policies and measures) in eligible countries that are  
18          approved by the interagency group under this section.  
19          Amounts in the International Clean Technology Fund  
20          shall be available for expenditure, without further appro-  
21          priation or fiscal year limitation to carry out this subtitle.

22          (b) **FORMS OF ASSISTANCE.**—Assistance under this  
23          subtitle may be provided in the form of grants, loans, or  
24          a combination thereof.

25          (c) **DISTRIBUTION OF ASSISTANCE.**—

1           (1) IN GENERAL.—The Secretary of State, in  
2           coordination with the interagency group, shall dis-  
3           tribute assistance from the International Clean  
4           Technology Fund—

5                   (A) directly;

6                   (B) through agreements with the Inter-  
7           national Bank for Reconstruction and Develop-  
8           ment (commonly known as the World Bank) or  
9           another international development institution;

10                  (C) through an international fund created  
11           pursuant to the United Nations Framework  
12           Convention on Climate Change, done at New  
13           York on May 9, 1992, or an agreement nego-  
14           tiated under such convention; or

15                  (D) through some combination of the  
16           mechanisms identified in subparagraphs (A)  
17           through (C).

18           (2) DISTRIBUTION THROUGH INTERNATIONAL  
19           INSTITUTION OR FUND.—If assistance is distributed  
20           through an international institution or fund, as au-  
21           thorized in paragraph (1), the Secretary of State  
22           and the interagency group shall ensure the establish-  
23           ment and implementation of adequate mechanisms  
24           to apply and enforce the project selection criteria  
25           and other requirements of this subtitle.

1 (d) PROCEDURES FOR REVIEW OF PROPOSALS.—The  
2 Secretary of State, in conjunction with the interagency  
3 group, shall develop procedures for requesting, reviewing,  
4 and approving project proposals from eligible countries.

5 (e) ELIGIBLE PROJECT CATEGORIES.—Assistance  
6 under this subtitle shall be limited to projects in the fol-  
7 lowing categories:

8 (1) Capture and geological sequestration of car-  
9 bon dioxide emissions from electric generating units  
10 or large industrial sources.

11 (2) Renewable electricity generation from wind,  
12 solar, biomass, geothermal, marine, or hydrokinetic  
13 sources.

14 (3) Production of renewable fuels that have  
15 lifecycle greenhouse gas emissions that are substan-  
16 tially lower than those attributable to fossil fuel-  
17 based alternatives.

18 (4) Increased efficiency in transmission, dis-  
19 tribution, or consumption of electricity.

20 (f) CRITERIA FOR PROJECT SELECTION.—Not later  
21 than January 1, 2011, the interagency group shall develop  
22 a set of criteria to be used in determining whether to pro-  
23 vide assistance to proposals for projects in eligible coun-  
24 tries. These criteria shall provide that—

1           (1) the project falls within an eligible project  
2 category identified in subsection (e);

3           (2) the project will result in measurable and  
4 substantial reductions in greenhouse gas emissions  
5 relative to business-as-usual emissions;

6           (3) the project will not result in significant in-  
7 creases in greenhouse gas emissions outside the  
8 boundaries of the project relative to business-as-  
9 usual emissions;

10          (4) the project will not have significant adverse  
11 effects on human health, safety, or welfare, the envi-  
12 ronment, or natural resources within or outside the  
13 boundaries of the project;

14          (5) the project owner or operator must dem-  
15 onstrate capacity to implement and maintain any  
16 technologies purchased or installed with assistance  
17 from the Fund;

18          (6) the project is not likely to cause a signifi-  
19 cant loss of United States jobs or a significant dis-  
20 placement of United States production; and

21          (7) the project meets such other requirements  
22 as the interagency group determines appropriate to  
23 further the purposes of this subtitle.

24          (g) SELECTION OF ELIGIBLE PROJECTS.—In deter-  
25 mining which eligible projects will receive assistance under

1 this subtitle, the interagency group shall apply the criteria  
2 established under this section and shall seek to maximize  
3 greenhouse gas emission reductions achieved per dollar of  
4 assistance provided. Preference shall be given to projects  
5 that are co-financed by international development banks,  
6 private-sector institutions, or host-country governments.

7 (h) MONITORING, EVALUATION, AND ENFORCE-  
8 MENT.—The Secretary of State, in coordination with the  
9 interagency group, shall establish and implement a system  
10 to monitor and evaluate the performance of projects re-  
11 ceiving assistance under this subtitle. The Secretary of  
12 State shall have the authority to suspend or terminate as-  
13 sistance in whole or in part for a project if it is determined  
14 that the project is not operating in compliance with the  
15 approved proposal.

16 **SEC. 416. ANNUAL REPORTS.**

17 Not later than March 1, 2012, and annually there-  
18 after, the President shall submit to the appropriate con-  
19 gressional committees a report on the assistance provided  
20 under this subtitle during the prior fiscal year. The report  
21 shall include—

22 (1) a description of the amount of obligations  
23 and expenditures for assistance provided to each eli-  
24 gible country during the prior fiscal year;



1           (2) a description of each project that received  
2 assistance, including the amount of obligations and  
3 expenditures for assistance provided to such project,  
4 during the prior fiscal year; and

5           (3) an estimate of the greenhouse gas emission  
6 reductions achieved by assistance provided under  
7 this subtitle during the prior fiscal year.

8       **Subtitle C—International Climate**  
9       **Change Adaptation Program**

10 **SEC. 421. FINDINGS AND PURPOSES.**

11       (a) FINDINGS.—Congress finds that—

12           (1) global climate change is a potentially sig-  
13 nificant threat multiplier for instability around the  
14 world and is likely to exacerbate competition and  
15 conflict over agricultural, vegetative, marine, and  
16 water resources and displace people, thus increasing  
17 hunger and poverty and causing increased pressure  
18 on developing countries;

19           (2) the strategic, social, political, economic, cul-  
20 tural, and environmental consequences of global cli-  
21 mate change are likely to have disproportionate im-  
22 pacts on developing countries, which have less eco-  
23 nomic and financial capacity to respond;

24           (3) the countries most vulnerable to climate  
25 change, due both to exposure to harmful impacts

1 and to their lower capacity to adapt, are developing  
2 countries with very low industrial emissions that  
3 have contributed less to climate change than more  
4 affluent countries;

5 (4) developing countries rely to a much greater  
6 degree on the natural and environmental systems  
7 likely to be affected by climate change for suste-  
8 nance and livelihoods, as well as economic growth  
9 and stability;

10 (5) the consequences of global climate change,  
11 including increases in poverty and destabilization of  
12 economies and societies, are likely to pose a long-  
13 term threat to the national security, foreign policy,  
14 and economic interests of the United States; and

15 (6) it is in the national security, foreign policy,  
16 and economic interests of the United States to rec-  
17 ognize, plan for, and mitigate the international stra-  
18 tegic, social, political, cultural, environmental and  
19 economic effects of a changing climate and to assist  
20 developing countries to increase their resilience to  
21 those effects.

22 (b) PURPOSES.—The purposes of this subtitle are—

23 (1) to provide United States assistance to the  
24 most vulnerable developing countries in order to sup-  
25 port the development and implementation of climate

1 change adaptation programs and projects that re-  
2 duce the vulnerability and increase the resilience of  
3 communities to climate change impacts; and

4 (2) to provide such assistance in a manner that  
5 promotes and protects the national security, foreign  
6 policy, and economic interests of the United States  
7 where such interests can be advanced by minimizing,  
8 averting, or increasing resilience to climate change  
9 impacts.

10 **SEC. 422. DEFINITIONS.**

11 In this subtitle:

12 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
13 **TEES.**—The term “appropriate congressional com-  
14 mittees” means—

15 (A) the Committee on Energy and Com-  
16 merce, the Committee on Foreign Affairs, and  
17 any other relevant committees on national secu-  
18 rity, the environment, and foreign policy of the  
19 House of Representatives; and

20 (B) the Committees on Environment and  
21 Public Works, Foreign Relations, and any other  
22 relevant committees on national security, the  
23 environment, and foreign policy of the Senate.

24 (2) **MOST VULNERABLE DEVELOPING COUN-**  
25 **TRIES.**—The term “most vulnerable developing

1 countries” means, as determined by the Adminis-  
2 trator of USAID, developing countries that are most  
3 vulnerable to climate change impacts, including  
4 countries identified by the United Nations as least  
5 developed countries and low-lying and other small is-  
6 land developing countries, and other developing  
7 countries that are at risk of substantial adverse im-  
8 pacts of climate change and have limited capacity to  
9 respond to such impacts.

10 (3) PROGRAM.—The term “Program” means  
11 the International Climate Change Adaptation Pro-  
12 gram established under section 423.

13 (4) USAID.—The term “USAID” means the  
14 United States Agency for International Develop-  
15 ment.

16 **SEC. 423. ESTABLISHMENT.**

17 The Secretary of State, working with the Adminis-  
18 trator of USAID and the Administrator, shall establish  
19 an International Climate Change Adaptation Program  
20 within USAID.

21 **SEC. 424. FUNCTIONS OF PROGRAM.**

22 (a) ACTIVITIES AND FOREIGN AID.—

23 (1) IN GENERAL.—In order to achieve the pur-  
24 poses set forth in section 421, the Program may  
25 carry out activities and projects and make grants to

1 any private or public group (including public inter-  
2 national organizations), association, or other entity  
3 engaged in peaceful activities, to—

4 (A) provide assistance to the most vulner-  
5 able developing countries for the development of  
6 national or regional climate change adaptation  
7 plans, associated national policies, and in the  
8 planning, financing, and execution of adapta-  
9 tion projects;

10 (B) support investments, capacity-building  
11 activities and other assistance, to reduce vulner-  
12 ability and promote community-level resilience  
13 related to climate change and its impacts in the  
14 most vulnerable developing countries, including  
15 impacts on water availability, agricultural pro-  
16 ductivity, flood risk, coastal resources, timing of  
17 seasons, biodiversity, economic livelihoods,  
18 human migration, or other social, economic, po-  
19 litical, cultural, or environmental matters;

20 (C) support climate change adaptation re-  
21 search in or for the most vulnerable developing  
22 countries;

23 (D) encourage the protection and rehabili-  
24 tation of natural systems, the enhancement and  
25 diversification of agricultural, fishery, and other

1           livelihoods, and the reduction of disaster risk, in  
2           order to reduce vulnerability and provide in-  
3           creased resilience to climate change for local  
4           communities and livelihoods in the most vulner-  
5           able developing countries;

6           (E) support the deployment of technologies  
7           that would help the most vulnerable developing  
8           countries respond to destabilizing impacts of  
9           climate change and encourage the identification  
10          and adoption of appropriate renewable and effi-  
11          cient energy technologies that are beneficial in  
12          increasing community-level resilience to the im-  
13          pacts of global climate change in those coun-  
14          tries; and

15          (F) encourage the engagement of local  
16          communities through full disclosure of informa-  
17          tion, consultation, and with communities' in-  
18          formed participation relating to the develop-  
19          ment of plans, programs and projects to in-  
20          crease community-level resilience to climate  
21          change impacts.

22          (2) LIMITATION.—Not more than 10 percent of  
23          amounts made available to carry out this subtitle  
24          shall be spent in any single country in any year.

1           (3) PRIORITIZING ASSISTANCE.—In providing  
2           assistance under this subtitle, the Administrator of  
3           USAID shall give priority to countries that are most  
4           vulnerable to the adverse impacts of climate change,  
5           determined as a function of the likelihood and sever-  
6           ity of such impacts and the country’s capacity to  
7           adapt to such impacts.

8           (b) COMMUNITY ENGAGEMENT.—(1) The Adminis-  
9           trator of USAID shall ensure that local communities in  
10          areas where any projects or activities are planned under  
11          the Program are engaged through full disclosure of infor-  
12          mation and public participation, and that any projects or  
13          activities are undertaken with the communities’ informed  
14          consent.

15          (2) For each country receiving assistance under the  
16          Program, the Administrator of USAID shall establish a  
17          process for consultation with and disclosure of information  
18          to local, national and international stakeholders regarding  
19          any projects and activities planned under the Program.

20          (3) The Administrator of USAID shall, to the extent  
21          practicable, ensure that projects or activities under the  
22          Program are aligned with broader development, poverty  
23          alleviation, or natural resource management objectives and  
24          initiatives in the recipient country.

25          (c) REPORTING.—

1           (1) INITIAL REPORT.—Not later than 180 days  
2 after the date of enactment of this Act, the Program  
3 shall submit to the President and appropriate con-  
4 gressional committees an initial report that—

5           (A) based on the most recent information  
6 available from reliable public sources, identifies  
7 the developing countries that are most vulner-  
8 able to climate change impacts and in which as-  
9 sistance can have the greatest and most sus-  
10 tainable benefit to reducing vulnerability to cli-  
11 mate change; and

12           (B) describes the process and methodology  
13 for selecting the recipients of assistance or  
14 grants under subsection (a)(1).

15           (2) ANNUAL REPORTS.—Not later than 12  
16 months after the date on which the initial report is  
17 submitted, and annually thereafter, the Program  
18 shall submit reports to the President and appro-  
19 priate congressional committees that—

20           (A) describe the extent to which global cli-  
21 mate change, through its potential negative im-  
22 pacts on sensitive populations and natural re-  
23 sources in the most vulnerable developed coun-  
24 tries, may threaten, cause, or exacerbate polit-  
25 ical, economic, environmental, cultural or social



1 instability or international conflict in those re-  
2 gions;

3 (B) describe the ramifications of any po-  
4 tentially destabilizing impacts climate change  
5 may have on the national security, foreign pol-  
6 icy, and economic interests of the United  
7 States, including—

8 (i) the creation of refugees and inter-  
9 nally displaced peoples;

10 (ii) international or internal armed  
11 conflicts over water, food, land, or other  
12 resources;

13 (iii) loss of agricultural and other live-  
14 lihoods, cultural stability, and other causes  
15 of increased poverty and economic desta-  
16 bilization;

17 (iv) decline in availability of resources  
18 needed for survival, including water;

19 (v) increased impact of natural disas-  
20 ters, including severe weather events,  
21 droughts and flooding;

22 (vi) increased prevalence or virulence  
23 of climate-related diseases; and

24 (vii) intensified urban migration;

1           (C) describe how funds made available  
2 under section 425 were spent to enhance the  
3 national security, foreign policy, and economic  
4 interests of the United States and assist in  
5 avoiding the economically, politically, environ-  
6 mentally, culturally, and socially destabilizing  
7 impacts of climate change in most vulnerable  
8 developing countries;

9           (D) identify and recommend the developing  
10 countries that are most vulnerable to climate  
11 change impacts and in which assistance can  
12 have the greatest and most sustainable benefit  
13 to reducing vulnerability to climate change, in-  
14 cluding in the form of deploying technologies,  
15 investments, capacity-building activities, and  
16 other types of assistance for adaptation to cli-  
17 mate change impacts and approaches to reduce  
18 greenhouse gases in ways that can also provide  
19 community-level resilience to climate change im-  
20 pacts; and

21           (E) describe cooperation undertaken with  
22 other nations and international organizations to  
23 carry out this subtitle.

1 **SEC. 425. FUNDING.**

2 (a) CARRYING OUT RECOMMENDATIONS.—All funds  
3 deposited into the International Climate Change Adapta-  
4 tion Fund established under section 722 of the Clean Air  
5 Act (as added by section 101 of this Act) shall be made  
6 available, without further appropriation or fiscal year limi-  
7 tation, to carry out the Program established under this  
8 subtitle.

9 (b) DISTRIBUTION OF FUNDS.—The Administrator  
10 of USAID shall distribute to the Program the funds for  
11 the purposes of this subtitle.

12 (c) OVERSIGHT.—The Administrator of USAID shall  
13 oversee the expenditures by the Program.

14 (d) CONDITIONAL DISTRIBUTION TO INTERNATIONAL  
15 ADAPTATION FUNDS.—The Administrator of USAID is  
16 authorized to distribute up to 50 percent of the funds  
17 available to the Program to an international fund that  
18 meets the requirements of subsection (e), and shall annu-  
19 ally certify in a report to Congress that any such inter-  
20 national fund meets the requirements of subsection (e).  
21 The Administrator of USAID shall notify the appropriate  
22 congressional committees not less than 15 days prior to  
23 an allocation or transfer of funds pursuant to this sub-  
24 section.

25 (e) INTERNATIONAL FUND ELIGIBILITY.—An inter-  
26 national fund is eligible for funding under the Program

1 provided that it is created pursuant to the United Nations  
2 Framework Convention on Climate Change, done at New  
3 York on May 9, 1992, or an agreement negotiated under  
4 the Convention and that the agreement—

5           (1) specifies the terms and conditions under  
6           which the United States is to provide monies to the  
7           fund, and under which the international fund is to  
8           disburse monies to recipient countries;

9           (2) ensures that United States assistance to the  
10          fund and the principal and income of the fund are  
11          disbursed only for purposes that are consistent with  
12          those described in section 421;

13          (3) requires a regular meeting of a governing  
14          body of the international fund that includes rep-  
15          resentation from most vulnerable developing coun-  
16          tries and provides full public access;

17          (4) requires that not more than 10 percent of  
18          the amounts available to the fund be spent in any  
19          single country in any year; and

20          (5) requires the international fund to prepare  
21          and make public an annual report that—

22                 (A) identifies and recommends the devel-  
23                 oping countries that are most vulnerable to cli-  
24                 mate change impacts and in which assistance

1 can have the greatest and most sustainable ben-  
2 efit to reducing vulnerability to climate change;

3 (B) describes the process and methodology  
4 for selecting the recipients of assistance or  
5 grants from the fund;

6 (C) describes specific programs and  
7 projects funded by the international fund and  
8 the extent to which the assistance is addressing  
9 the adaptation needs of the most vulnerable de-  
10 veloping countries;

11 (D) describes the performance goals for as-  
12 sistance authorized under the fund and ex-  
13 presses such goals in an objective and quantifi-  
14 able form, to the extent practicable;

15 (E) describes the performance indicators to  
16 be used in measuring or assessing the achieve-  
17 ment of the performance goals described in sub-  
18 paragraph (D);

19 (F) provides a basis for recommendations  
20 for adjustments to assistance authorized under  
21 this subtitle to enhance the impact of such as-  
22 sistance; and

23 (G) describes the participation of other na-  
24 tions and international organizations in funding  
25 and governing the international fund.

1 **SEC. 426. MONITORING AND EVALUATION OF PROGRAM.**

2 (a) IN GENERAL.—The Administrator of USAID  
3 shall establish and implement a system to monitor and  
4 evaluate the effectiveness and efficiency of assistance pro-  
5 vided under this subtitle in order to maximize the long-  
6 term sustainable development impact of such assistance,  
7 including the extent to which the assistance is meeting the  
8 purposes of this subtitle and addressing the adaptation  
9 needs of developing countries.

10 (b) GOALS.—In carrying out subsection (a), the Ad-  
11 ministrator of USAID shall—

12 (1) in consultation with national governments  
13 in recipient countries, establish performance goals  
14 for assistance authorized under this subtitle and ex-  
15 presses such goals in an objective and quantifiable  
16 form, to the extent practicable;

17 (2) establish performance indicators to be used  
18 in measuring or assessing the achievement of the  
19 performance goals described in paragraph (1), in-  
20 cluding an evaluation of the extent to which the Pro-  
21 gram provides for full disclosure of information and  
22 consultation and informed participation by local  
23 communities and an evaluation of the extent to  
24 which local communities participated in the projects  
25 and programs implemented under this subtitle and

1 the impacts of local community participation on the  
2 goals and objectives of the projects and programs;

3 (3) provide a basis for recommendations for ad-  
4 justments to assistance authorized under this sub-  
5 title to enhance the impact of such assistance; and

6 (4) include in the report to Congress and other  
7 relevant agencies required under section 424(c), the  
8 monitoring and evaluation of programs subject to  
9 this section in its findings.

10 **TITLE V—LEGAL FRAMEWORK**  
11 **FOR GEOLOGICAL SEQUES-**  
12 **TRATION OF CARBON DIOX-**  
13 **IDE**

14 **SEC. 501. NATIONAL REGULATIONS.**

15 (a) IN GENERAL.—Section 1421 of the Safe Drink-  
16 ing Water Act (42 U.S.C. 300h) is amended—

17 (1) in subsection (b)(1), by striking “subsection  
18 (d)(2)” and inserting “subsection (e)(2)”;

19 (2) by redesignating subsection (d) as sub-  
20 section (e); and

21 (3) by inserting after subsection (c) the fol-  
22 lowing:

23 “(d) GEOLOGICAL SEQUESTRATION OF CARBON DI-  
24 OXIDE.—

1           “(1) REGULATIONS.—Not later than 1 year  
2 after the date of enactment of the Investing in Cli-  
3 mate Action and Protection Act, the Administrator  
4 shall promulgate regulations for State underground  
5 injection control programs establishing standards for  
6 permitting commercial-scale underground injection  
7 of carbon dioxide for purposes of geological seques-  
8 tration to address climate change.

9           “(2) ENVIRONMENTAL REQUIREMENTS.—  
10 Standards established under paragraph (1) shall—

11                 “(A) satisfy the requirements set forth in  
12 subsection (b); and

13                 “(B) include requirements for monitoring  
14 and controlling the long-term storage of carbon  
15 dioxide and avoiding, to the maximum extent  
16 that is technically feasible, any release of car-  
17 bon dioxide into the atmosphere, and for ensur-  
18 ing protection of underground sources of drink-  
19 ing water, human health, and the environment.

20           “(3) FINANCIAL RESPONSIBILITY.—

21                 “(A) IN GENERAL.—Standards established  
22 under paragraph (1) shall also include require-  
23 ments for maintaining evidence of pre-closure  
24 financial responsibility for—

25                         “(i) taking corrective action;



1           “(ii) acquiring and submitting to the  
2 Administrator for retirement emission al-  
3 lowances established under section 711 of  
4 the Clean Air Act equal to any release of  
5 carbon dioxide into the atmosphere from a  
6 geological sequestration site; and

7           “(iii) compensating third parties for  
8 bodily injury, property damage, or environ-  
9 mental damages.

10           “(B) REQUIREMENTS.—The requirements  
11 referenced in subparagraph (A) shall include  
12 the following:

13           “(i) Financial responsibility may be  
14 established in accordance with regulations  
15 promulgated by the Administrator by any  
16 one, or any combination, of the following:  
17 insurance, guarantee, surety bond, letter of  
18 credit, qualification as a self-insurer or any  
19 other method satisfactory to the Adminis-  
20 trator. The Administrator is authorized to  
21 specify policy or other contractual terms,  
22 conditions, or defenses which are necessary  
23 or are unacceptable in establishing such  
24 evidence of financial responsibility in order

1 to effectuate the purposes of this sub-  
2 section.

3 “(ii) In any case where the owner or  
4 operator of the geological sequestration site  
5 is in bankruptcy, reorganization, or ar-  
6 rangement pursuant to the Federal Bank-  
7 ruptcy Code or where with reasonable dili-  
8 gence jurisdiction in any State court of the  
9 Federal Courts cannot be obtained over an  
10 owner or operator likely to be solvent at  
11 the time of judgment, any claim arising  
12 from conduct for which evidence of finan-  
13 cial responsibility must be provided under  
14 this subsection may be asserted directly  
15 against the guarantor providing such evi-  
16 dence of financial responsibility. In the  
17 case of any action pursuant to this para-  
18 graph such guarantor shall be entitled to  
19 invoke all rights and defenses which would  
20 have been available to the owner or oper-  
21 ator if any action had been brought  
22 against the owner or operator by the  
23 claimant and which would have been avail-  
24 able to the guarantor if an action had been

1 brought against the guarantor by the  
2 owner or operator.

3 “(iii) The total liability of any guar-  
4 antor shall be limited to the aggregate  
5 amount which the guarantor has provided  
6 as evidence of financial responsibility to  
7 the owner or operator under this section.  
8 Nothing in this subsection shall be con-  
9 strued to limit any other State or Federal  
10 statutory, contractual, or common law li-  
11 ability of a guarantor to its owner or oper-  
12 ator including the liability of such guar-  
13 antor for bad faith either in negotiating or  
14 in failing to negotiate the settlement of any  
15 claim. Nothing in this subsection shall be  
16 construed to diminish the liability of any  
17 person under any other applicable law.

18 “(iv) The requirements shall ensure  
19 that adequate resources are available to  
20 close the geological sequestration site in  
21 the event the owner or operator files for  
22 bankruptcy or ceases operations.

23 “(4) SUBSEQUENT REPORTS.—Not later than 5  
24 years after the date on which regulations are pro-  
25 mulgated pursuant to paragraph (1), and not less

1 frequently than once every 5 years thereafter, the  
2 Administrator shall submit to Congress a report that  
3 contains an evaluation of the effectiveness of the  
4 regulations, based on current knowledge and experi-  
5 ence, with particular emphasis on any new informa-  
6 tion on potential impacts of commercial-scale geo-  
7 logical sequestration on drinking water, human  
8 health, and the environment.

9 “(5) REVISION.—If the Administrator deter-  
10 mines, based on a report under paragraph (4), that  
11 regulations promulgated pursuant to paragraph (1)  
12 require revision, the Administrator shall promulgate  
13 revised regulations not later than 1 year after the  
14 date on which the applicable report is submitted to  
15 Congress under paragraph (4).”.

16 (b) CONFORMING AMENDMENT.—Section 1447(a)(4)  
17 of the Safe Drinking Water Act (42 U.S.C. 300j–6(a)(4))  
18 is amended by striking “section 1421(d)(2)” and inserting  
19 “section 1421(e)(2)”.

20 **SEC. 502. LIABILITIES FOR CLOSED GEOLOGICAL SEQUES-**  
21 **TRATION SITES.**

22 (a) ESTABLISHMENT OF TASK FORCE.—As soon as  
23 practicable, but not later than 6 months after the date  
24 of enactment of this Act, the Administrator shall establish  
25 a task force, to be composed of an equal number of subject

1 matter experts, nongovernmental organizations with ex-  
2 pertise in environmental policy, and members of the pri-  
3 vate sector, to conduct a study of the statutory framework,  
4 environmental and safety considerations, and financial im-  
5 plications of potential models for Federal, State, or private  
6 sector assumption of liabilities and financial responsibil-  
7 ities with respect to closed geological sequestration sites.

8 (b) CONSIDERATIONS.—The task force shall consider  
9 financial responsibility for any environmental damages, in-  
10 cluding the submission of emission allowances to account  
11 for any releases of carbon dioxide into the atmosphere  
12 from closed geological sequestration sites.

13 (c) REPORT.—Not later than 18 months after the  
14 date of enactment of this Act, the task force established  
15 under subsection (a) shall submit to Congress a report de-  
16 scribing the results of the study conducted under sub-  
17 section (a), including recommendations of the task force  
18 with respect to the framework described in that sub-  
19 section.

## 20 **TITLE VI—BUILDING**

## 21 **EFFICIENCY STANDARDS**

### 22 **SEC. 601. UPDATING STATE BUILDING ENERGY EFFICIENCY**

### 23 **CODES.**

24 Section 304 of the Energy Conservation and Produc-  
25 tion Act (42 U.S.C. 6833) is amended to read as follows:

1 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-**  
2 **CIENCY CODES.**

3 “(a) UPDATES.—

4 “(1) IN GENERAL.—The Secretary shall sup-  
5 port updating the national model building energy  
6 codes and standards not later than 3 years after the  
7 date of enactment of the Investing in Climate Action  
8 and Protection Act, and not less frequently than  
9 every 3 years thereafter, to achieve overall energy  
10 savings, as compared to the IECC (2006) for resi-  
11 dential buildings and ASHRAE Standard 90.1  
12 (2004) for commercial buildings, of at least—

13 “(A) 30 percent, with respect to each edi-  
14 tion of a model code or standard published dur-  
15 ing the period beginning on January 1, 2010,  
16 and ending on December 31, 2019;

17 “(B) 50 percent, with respect to each edi-  
18 tion of a model code or standard published on  
19 or after January 1, 2020; and

20 “(C) targets for intermediate and subse-  
21 quent years, to be established by the Secretary  
22 not less than 3 years before the beginning on  
23 each target year, in coordination with IECC  
24 and ASHRAE Standard 90.1 cycles, at the  
25 maximum level of energy efficiency that is tech-  
26 nologically feasible and lifecycle cost-effective.

1 “(2) REVISIONS TO IECC AND ASHRAE.—

2 “(A) IN GENERAL.—If the IECC or  
3 ASHRAE Standard 90.1 regarding building en-  
4 ergy use is revised, not later than 1 year after  
5 the date of the revision, the Secretary shall de-  
6 termine whether the revision will—

7 “(i) improve energy efficiency in  
8 buildings; and

9 “(ii) meet the energy savings goals de-  
10 scribed in paragraph (1).

11 “(B) MODIFICATIONS.—

12 “(i) IN GENERAL.—If the Secretary  
13 makes a determination under subpara-  
14 graph (A)(ii) that a code or standard does  
15 not meet the energy savings goals estab-  
16 lished under paragraph (1) or if a national  
17 model code or standard is not updated for  
18 more than 3 years, not later than 1 year  
19 after the determination or the expiration of  
20 the 3-year period, the Secretary shall es-  
21 tablish a modified code or standard that  
22 meets the energy savings goals.

23 “(ii) REQUIREMENTS.—

1           “(I) ENERGY SAVINGS.—A modi-  
2           fication to a code or standard under  
3           clause (i) shall—

4                   “(aa) achieve the maximum  
5                   level of energy savings that is  
6                   technically feasible and lifecycle  
7                   cost-effective;

8                   “(bb) be achieved through  
9                   an amendment or supplement to  
10                  the most recent revision of the  
11                  IECC or ASHRAE Standard  
12                  90.1 and taking into consider-  
13                  ation other appropriate model  
14                  codes and standards; and

15                  “(cc) incorporate available  
16                  appliances, technologies, and con-  
17                  struction practices.

18           “(II) TREATMENT AS BASE-  
19           LINE.—A modification to a code or  
20           standard under clause (i) shall serve  
21           as the baseline for the next applicable  
22           determination of the Secretary under  
23           subparagraph (A)(i).

24           “(C) PUBLIC PARTICIPATION.—The Sec-  
25           retary shall—



1 “(i) publish in the Federal Register a  
2 notice relating to each goal, determination,  
3 and modification under this paragraph;  
4 and

5 “(ii) provide an opportunity for public  
6 comment regarding the goals, determina-  
7 tions, and modifications.

8 “(b) STATE CERTIFICATION OF BUILDING ENERGY  
9 CODE UPDATES.—

10 “(1) GENERAL CERTIFICATION.—

11 “(A) IN GENERAL.—Not later than 2 years  
12 after the date of enactment of the Investing in  
13 Climate Action and Protection Act, each State  
14 shall certify to the Secretary that the State has  
15 reviewed and updated the provisions of the resi-  
16 dential and commercial building codes of the  
17 State regarding energy efficiency.

18 “(B) ENERGY SAVINGS.—A certification  
19 under subparagraph (A) shall include a dem-  
20 onstration that the applicable provisions of the  
21 State code meet or exceed, as applicable—

22 “(i)(I) the IECC (2006) for residen-  
23 tial buildings; or

24 “(II) the ASHRAE Standard 90.1  
25 (2004) for commercial buildings; or

1           “(ii) the quantity of energy savings  
2           represented by the provisions referred to in  
3           clause (i).

4           “(2) REVISION OF CODES AND STANDARDS.—

5           “(A) IN GENERAL.—If the Secretary  
6           makes an affirmative determination under sub-  
7           section (a)(2)(A)(i) or establishes a modified  
8           code or standard under subsection (a)(2)(B),  
9           not later than 2 years after the determination  
10          or proposal, each State shall certify that the  
11          State has reviewed and updated the provisions  
12          of the residential and commercial building codes  
13          of the State regarding energy efficiency.

14          “(B) ENERGY SAVINGS.—A certification  
15          under subparagraph (A) shall include a dem-  
16          onstration that the applicable provisions of the  
17          State code meet or exceed—

18                 “(i) the modified code or standard; or

19                 “(ii) the quantity of energy savings  
20                 represented by the modified code or stand-  
21                 ard.

22          “(C) FAILURE TO DETERMINE.—If the  
23          Secretary fails to make a determination under  
24          subsection (a)(2)(A)(i) by the date specified in  
25          subsection (a)(2), or if the Secretary makes a

1 negative determination, not later than 2 years  
2 after the specified date or the date of the deter-  
3 mination, each State shall certify that the State  
4 has—

5 “(i) reviewed the revised code or  
6 standard; and

7 “(ii) updated the provisions of the res-  
8 idential and commercial building codes of  
9 the State as necessary to meet or exceed,  
10 as applicable—

11 “(I) any provisions of a national  
12 code or standard determined to im-  
13 prove energy efficiency in buildings; or

14 “(II) energy savings achieved by  
15 those provisions through other means.

16 “(c) ACHIEVEMENT OF COMPLIANCE BY STATES.—

17 “(1) IN GENERAL.—Not later than 3 years  
18 after the date on which a State makes a certification  
19 under subsection (b), the State shall certify to the  
20 Secretary that the State has achieved compliance  
21 with the building energy code that is the subject of  
22 the certification.

23 “(2) RATE OF COMPLIANCE.—The certification  
24 shall include documentation of the rate of compli-  
25 ance based on independent inspections of a random

1 sample of the new and renovated buildings covered  
2 by the State code during the preceding calendar  
3 year.

4 “(3) COMPLIANCE.—A State shall be considered  
5 to achieve compliance for purposes of paragraph (1)  
6 if—

7 “(A) at least 90 percent of new and ren-  
8 ovated buildings covered by the State code dur-  
9 ing the preceding calendar year substantially  
10 meet all the requirements of the code; or

11 “(B) the estimated excess energy use of  
12 new and renovated buildings that did not meet  
13 the requirements of the State code during the  
14 preceding calendar year, as compared to a base-  
15 line of comparable buildings that meet the re-  
16 quirements of the code, is not more than 10  
17 percent of the estimated energy use of all new  
18 and renovated buildings covered by the State  
19 code during the preceding calendar year.

20 “(d) FAILURE TO CERTIFY.—

21 “(1) EXTENSION OF DEADLINES.—The Sec-  
22 retary shall extend a deadline for certification by a  
23 State under subsection (b) or (c) for not more than  
24 1 additional year, if the State demonstrates to the

1 satisfaction of the Secretary that the State has  
2 made—

3 “(A) a good faith effort to comply with the  
4 certification requirement; and

5 “(B) significant progress with respect to  
6 the compliance.

7 “(2) NONCOMPLIANCE BY STATE.—

8 “(A) IN GENERAL.—A State that fails to  
9 submit a certification required under subsection  
10 (b) or (c), and to which an extension is not pro-  
11 vided under paragraph (1), shall be considered  
12 to be out of compliance with this section.

13 “(B) EFFECT ON LOCAL GOVERNMENTS.—  
14 A local government of a State that is out of  
15 compliance with this section may be considered  
16 to be in compliance with this section if the local  
17 government meets each applicable certification  
18 requirement of this section.

19 “(e) TECHNICAL ASSISTANCE.—

20 “(1) IN GENERAL.—The Secretary shall provide  
21 technical assistance (including building energy anal-  
22 ysis and design tools, building demonstrations, and  
23 design assistance and training) to ensure that na-  
24 tional model building energy codes and standards  
25 meet the goals described in subsection (a)(1).

1           “(2) ASSISTANCE TO STATES.—The Secretary  
2 shall provide technical assistance to States—

3           “(A) to implement this section, including  
4 procedures for States to demonstrate that the  
5 codes of the States achieve equivalent or great-  
6 er energy savings than the national model codes  
7 and standards;

8           “(B) to improve and implement State resi-  
9 dential and commercial building energy effi-  
10 ciency codes; and

11           “(C) to otherwise promote the design and  
12 construction of energy-efficient buildings.

13           “(f) INCENTIVE FUNDING.—

14           “(1) IN GENERAL.—The Secretary shall provide  
15 incentive funding to States—

16           “(A) to implement this section; and

17           “(B) to improve and implement State resi-  
18 dential and commercial building energy effi-  
19 ciency codes, including increasing and verifying  
20 compliance with the codes.

21           “(2) AMOUNT.—In determining whether, and in  
22 what amount, to provide incentive funding under  
23 this subsection, the Secretary shall take into consid-  
24 eration actions proposed by the State—

25           “(A) to implement this section;

1           “(B) to implement and improve residential  
2           and commercial building energy efficiency  
3           codes; and

4           “(C) to promote building energy efficiency  
5           through use of the codes.

6           “(3) ADDITIONAL FUNDING.—The Secretary  
7           shall provide additional funding under this sub-  
8           section for implementation of a plan to demonstrate  
9           a rate of compliance with applicable residential and  
10          commercial building energy efficiency codes at a rate  
11          of not less than 90 percent, based on energy per-  
12          formance—

13          “(A) to a State that has adopted and is  
14          implementing, on a statewide basis—

15                  “(i) a residential building energy effi-  
16                  ciency code that meets or exceeds the re-  
17                  quirements of the IECC (2006) (or a suc-  
18                  cessor code that is the subject of an af-  
19                  firmative determination by the Secretary  
20                  under subsection (a)(2)(A)(i)); and

21                  “(ii) a commercial building energy ef-  
22                  ficiency code that meets or exceeds the re-  
23                  quirements of the ASHRAE Standard 90.1  
24                  (2004) (or a successor standard that is the  
25                  subject of an affirmative determination by

1           the Secretary under subsection  
2           (a)(2)(A)(i); or

3           “(B) in the case of a State in which no  
4           statewide energy code exists for residential  
5           buildings or commercial buildings, or in which  
6           the State code fails to comply with subpara-  
7           graph (A), to a local government that has  
8           adopted and is implementing residential and  
9           commercial building energy efficiency codes, as  
10          described in subparagraph (A).

11          “(4) TRAINING.—Of the amounts made avail-  
12          able to carry out this subsection, the Secretary may  
13          use not more than \$500,000 for each State to train  
14          State and local officials to implement State or local  
15          energy codes in accordance with a plan described in  
16          paragraph (3).”.

17 **SEC. 602. CONFORMING AMENDMENT.**

18          Section 303 of the Energy Conservation and Produc-  
19          tion Act (42 U.S.C. 6832) is amended by adding at the  
20          end the following new paragraph:

21                 “(17) IECC.—The term ‘IECC’ means the  
22                 International Energy Conservation Code.”.



1           **TITLE VII—REVIEWS AND**  
2           **RECOMMENDATIONS**

3   **SEC. 701. NATIONAL ACADEMY OF SCIENCES REVIEW AND**  
4           **RECOMMENDATIONS.**

5           (a) IN GENERAL.—Not later than 1 year after the  
6 date of enactment of this Act, the Administrator shall  
7 offer to enter into a contract with the National Academy  
8 of Sciences under which the Academy shall, not later than  
9 January 1, 2012, and every 5 years thereafter, submit to  
10 Congress and the Administrator a report that includes—

11           (1) an analysis of the latest scientific informa-  
12 tion and data relevant to global climate change;

13           (2) an analysis of the performance of this Act  
14 and other public policies in reducing greenhouse gas  
15 emissions;

16           (3) an analysis of the performance of this Act  
17 and other public policies in reducing vulnerability to  
18 the impacts of climate change; and

19           (4) recommendations regarding potential  
20 changes to this Act and other public policies in re-  
21 ducing greenhouse gas emissions, preventing dan-  
22 gerous atmospheric concentrations of greenhouse  
23 gases or a dangerous increase in global average tem-  
24 perature, and reducing vulnerability to the impacts  
25 of climate change.

1 (b) EXCEPTION.—Subsection (a)(2), (3), and (4)  
2 shall not apply to the first report delivered under sub-  
3 section (a).

4 (c) LATEST SCIENTIFIC INFORMATION.—The anal-  
5 ysis required under subsection (a)(1) shall—

6 (1) address existing reports, including the most  
7 recent assessment report of the Intergovernmental  
8 Panel on Climate Change; and

9 (2) include a description of trends in and pro-  
10 jections for—

11 (A) total United States greenhouse gas  
12 emissions;

13 (B) total worldwide greenhouse gas emis-  
14 sions;

15 (C) greenhouse gas emissions in each coun-  
16 try that is a major trading partner of the  
17 United States;

18 (D) atmospheric concentrations of green-  
19 house gases;

20 (E) global average temperature, including  
21 an analysis of whether an increase of global av-  
22 erage temperature in excess of 3.6 degrees  
23 Fahrenheit (2 degrees Celsius) above the  
24 preindustrial average has occurred or is more  
25 likely than not to occur in the foreseeable fu-

1           ture as a result of anthropogenic climate  
2           change;

3           (F) adverse impacts of global climate  
4           change on human populations, wildlife, and nat-  
5           ural resources; and

6           (G) the health of the oceans and ocean  
7           ecosystems, including predicted changes in  
8           ocean acidity, temperatures, the extent of coral  
9           reefs, and other indicators of ocean ecosystem  
10          health, resulting from anthropogenic carbon di-  
11          oxide and climate change.

12          (d) PERFORMANCE OF THIS ACT AND OTHER POLI-  
13          CIES.—The analysis required under subsection (a)(2) shall  
14          include a description of—

15               (1) the extent to which this Act, in concert with  
16               other public policies, will prevent dangerous atmos-  
17               pheric concentrations of greenhouse gases;

18               (2) the extent to which this Act, in concert with  
19               other public policies, will prevent a dangerous in-  
20               crease in global average temperature;

21               (3) the current and future projected deployment  
22               of technologies and practices in the United States  
23               that reduce or limit greenhouse gas emissions, in-  
24               cluding—

1 (A) technologies for capture and disposal  
2 of greenhouse gases;

3 (B) efficiency improvement technologies;

4 (C) zero-greenhouse gas emitting energy  
5 technologies, including wind, solar, geothermal,  
6 hydrokinetic, and nuclear technologies;

7 (D) low-carbon renewable fuels and bio-  
8 energy; and

9 (E) above-ground and below-ground bio-  
10 logical sequestration technologies.

11 (4) the extent to which this Act and other pub-  
12 lic policies are accelerating the development and  
13 commercial deployment of technologies and practices  
14 that reduce and limit greenhouse gas emissions;

15 (5) the extent to which this Act and other pub-  
16 lic policies are reducing greenhouse gas emissions  
17 and increasing biological sequestration from agri-  
18 culture and forestry in the United States and inter-  
19 nationally;

20 (6) the extent to which offset credits available  
21 on international markets represent real, verifiable,  
22 additional, permanent, and enforceable reductions in  
23 greenhouse gas emissions or increases in sequestra-  
24 tion;

1           (7) the extent to which this Act and other pub-  
2       lic policies are addressing climate change adaptation  
3       needs in the United States and the most vulnerable  
4       developing countries (as defined in section 422(2) of  
5       this Act);

6           (8) the extent to which the distributions of auc-  
7       tion proceeds under title VII of the Clean Air Act,  
8       as added by section 101 of this Act, are advancing  
9       the purposes of this Act; and

10          (9) the cost-effectiveness of programs estab-  
11       lished under titles III and IV of this Act in achiev-  
12       ing their stated purposes, and the comparative envi-  
13       ronmental and economic benefits of such programs.

14       (e) RECOMMENDATIONS REGARDING THIS ACT AND  
15       OTHER POLICIES.—The recommendations required under  
16       subsection (a)(3) shall include—

17           (1) recommendations regarding distribution of  
18       funds from the Low-Carbon Technology Fund,  
19       under subtitle B of title III of this Act, in order to  
20       accelerate reductions in greenhouse gas emissions  
21       and lower the cost of achieving such reductions  
22       through research, development, demonstration, and  
23       deployment of technologies;

24           (2) recommendations regarding improvements  
25       to programs implemented pursuant to this Act re-

1       lated to the agriculture and forestry sectors in order  
2       to accelerate reductions in greenhouse gas emissions  
3       from agriculture and increases in biological seques-  
4       tration from agriculture and forestry;

5               (3) recommendations as to how to amend title  
6       VII of the Clean Air Act, this Act, or other Federal  
7       policies in order to avoid dangerous atmospheric  
8       concentrations of greenhouse gases or a dangerous  
9       increase in global average temperature, including  
10      consideration of the feasibility and effectiveness of—

11               (A) expanding the definition of the term  
12              covered entity under title VII of the Clean Air  
13              Act;

14               (B) expanding the scope of the compliance  
15              obligation established under section 712 of the  
16              Clean Air Act;

17               (C) reducing the number of emission allow-  
18              ances comprising the Emission Allowance Ac-  
19              count for 1 or more calendar years under sec-  
20              tion 711 of the Clean Air Act;

21               (D) establishing policies for reducing  
22              greenhouse gas emissions over and above the  
23              policies established by title VII of the Clean Air  
24              Act; and

1 (E) other approaches, as determined by  
2 the National Academy of Sciences;

3 (4) recommendations regarding improvements  
4 to climate change adaptation programs implemented  
5 pursuant to this Act or alternative approaches to re-  
6 ducing vulnerability to climate change impacts; and

7 (5) recommendations regarding distribution of  
8 auction proceeds among programs, taking into ac-  
9 count trends in the relative environmental and eco-  
10 nomic benefits delivered by, and cost-effectiveness of,  
11 each program.

12 **SEC. 702. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**  
13 **AND RECOMMENDATIONS.**

14 (a) IN GENERAL.—Not later than January 1, 2013,  
15 and every 3 years thereafter, the Comptroller General of  
16 the United States shall carry out a review of the programs  
17 described in title III and title IV of this Act. Each such  
18 report shall include—

19 (1) a comprehensive evaluation of the effective-  
20 ness of each program, including—

21 (A) the efficiency, transparency, and  
22 soundness of the administration of each pro-  
23 gram;

1 (B) the performance of projects or activi-  
2 ties receiving assistance under each program;  
3 and

4 (C) trends in the cost-effectiveness of each  
5 program in achieving the stated purposes of the  
6 program;

7 (2) recommendations, if any, for regulatory or  
8 administrative changes to each program to improve  
9 its effectiveness; and

10 (3) identification of programs from which funds  
11 should be redirected because of diminishing cost-ef-  
12 fectiveness in achieving the stated purpose of the  
13 program.

14 **SEC. 703. PRESIDENTIAL RECOMMENDATIONS.**

15 (a) ESTABLISHMENT OF THE INTERAGENCY CLI-  
16 MATE CHANGE TASK FORCE.—Not later than January 1,  
17 2012, the President shall establish an Interagency Climate  
18 Change Task Force (in this section referred to as the  
19 “Task Force”).

20 (b) COMPOSITION.—The members of the Task Force  
21 shall be—

22 (1) the Administrator;

23 (2) the Secretary of Energy;

24 (3) the Secretary of Agriculture;

25 (4) the Secretary of State;



1 (5) the Secretary of Commerce; and

2 (6) such other Cabinet Secretaries as the Presi-  
3 dent may name to the membership of the Task  
4 Force.

5 (c) CHAIRMAN.—The Administrator shall serve as  
6 Chairman of the Task Force.

7 (d) REPORT TO PRESIDENT.—

8 (1) IN GENERAL.—Not later than July 1, 2013,  
9 and every 5 years thereafter, the Task Force shall  
10 submit to the President a report making rec-  
11 ommendations, including specific legislation for the  
12 President to recommend to Congress, in response to  
13 the most recent report submitted by the National  
14 Academy of Sciences under section 701 and the  
15 most recent report of the Comptroller General under  
16 section 702.

17 (2) INCLUSIONS.—The Task Force shall include  
18 with the report an explanation of any inconsistencies  
19 between the Task Force’s recommendations and—

20 (A) the report and recommendations sub-  
21 mitted by the National Academy of Sciences  
22 under section 701; or

23 (B) any recommendations submitted by the  
24 Comptroller General under section 702.

1 (e) PRESIDENTIAL RECOMMENDATION TO CON-  
2 GRESS.—Not later than January 1, 2014, and every 5  
3 years thereafter, the President shall submit to Congress  
4 a report making recommendations, including the text of  
5 any legislation proposed, based on the report submitted  
6 to the President under subsection (d).

7 (f) SAVINGS CLAUSE.—Nothing in this title limits,  
8 procedurally affects, or otherwise restricts the authority  
9 of the Administrator, a State, or any person to use au-  
10 thorities under this Act or any other law to adopt or en-  
11 force any rule.

12 **SEC. 704. EXPEDITED CONGRESSIONAL ACTION ON CER-**  
13 **TAIN PRESIDENTIAL RECOMMENDATIONS.**

14 (a) CONSIDERATION.—In any calendar year during  
15 which a report is submitted under section 703(e), the Sen-  
16 ate and the House of Representatives may consider a joint  
17 resolution, in accordance with subsection (b), that amends  
18 section 711 of the Clean Air Act to decrease the number  
19 of allowances to be issued, if and to the extent specifically  
20 recommended by the President pursuant to section 703(e).

21 (b) REQUIREMENTS.—A joint resolution considered  
22 under subsection (a)—

23 (1) shall be introduced during the 60-day pe-  
24 riod beginning on the date on which a report is sub-  
25 mitted under section 703(e);

1           (2) after the resolving clause and “That”, shall  
2           contain           only:           “effective           beginning  
3           \_\_\_\_\_, the table in section 711 of the  
4           Clean Air Act is amended \_\_\_\_\_.”, the  
5           blanks being filled in with the effective date and re-  
6           ductions in the quantity of emission allowances to be  
7           issued, respectively; and

8           (3) shall be referred to the Committee on En-  
9           ergy and Commerce of the House of Representatives  
10          and the Committee on Environment and Public  
11          Works of the Senate.

12          (c) APPLICABLE LAW.—Subsections (c) through (g)  
13          of section 802 of title 5, United States Code, shall apply  
14          to any joint resolution described in this section, except  
15          that in applying such subsections—

16               (1) references therein to “subsection (a)” shall  
17               refer to subsection (a) of this section;

18               (2) references therein to the “submission or  
19               publication date” or “submission or publication date  
20               defined under subsection (b)(2)” shall mean the date  
21               on which Congress receives the report submitted  
22               under section 703(e) of this Act;

23               (3) in subsection (e), the words “respecting a  
24               rule” shall be ignored; and

1           (4) subsection (e)(2) of such section 802 shall  
2           not apply to a resolution described in this section.

○