

110TH CONGRESS
1ST SESSION

S. 2191

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 18, 2007

Mr. LIEBERMAN (for himself, Mr. WARNER, Mr. HARKIN, Mr. COLEMAN, Mrs. DOLE, Ms. COLLINS, Mr. CARDIN, Ms. KLOBUCHAR, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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 “America’s Climate Security Act of 2007”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—CAPPING GREENHOUSE GAS EMISSIONS

Subtitle A—Tracking Emissions

- Sec. 1101. Purpose.
- Sec. 1102. Definitions.
- Sec. 1103. Reporting requirements.
- Sec. 1104. Data quality and verification.
- Sec. 1105. Federal greenhouse gas registry.
- Sec. 1106. Enforcement.

Subtitle B—Reducing Emissions

- Sec. 1201. Emission allowance account.
- Sec. 1202. Compliance obligation.
- Sec. 1203. Penalty for noncompliance.

TITLE II—MANAGING AND CONTAINING COSTS EFFICIENTLY

Subtitle A—Trading

- Sec. 2101. Sale, exchange, and retirement of emission allowances.
- Sec. 2102. No restriction on transactions.
- Sec. 2103. Allowance transfer system.
- Sec. 2104. Allowance tracking system.

Subtitle B—Banking

- Sec. 2201. Indication of calendar year.
- Sec. 2202. Effect of time.

Subtitle C—Borrowing

- Sec. 2301. Regulations.
- Sec. 2302. Term.
- Sec. 2303. Repayment with interest.

Subtitle D—Offsets

- Sec. 2401. Outreach initiative on revenue enhancement for agricultural producers.
- Sec. 2402. Establishment of domestic offset program.
- Sec. 2403. Eligible agricultural and forestry offset project types.
- Sec. 2404. Project initiation and approval.
- Sec. 2405. Offset verification and issuance of allowances for agricultural and forestry projects.
- Sec. 2406. Tracking of reversals for sequestration projects.
- Sec. 2407. Examinations.
- Sec. 2408. Timing and the provision of offset allowances.
- Sec. 2409. Offset registry.
- Sec. 2410. Environmental considerations.
- Sec. 2411. Program review.

Subtitle E—International Credits

- Sec. 2501. Use of international allowances or credits.

- Sec. 2502. Regulations.
- Sec. 2503. Facility certification.

Subtitle F—Carbon Market Efficiency Board

- Sec. 2601. Purposes.
- Sec. 2602. Establishment of Carbon Market Efficiency Board.
- Sec. 2603. Duties.
- Sec. 2604. Powers.
- Sec. 2605. Estimate of costs to economy of limiting greenhouse gas emissions.

TITLE III—ALLOCATING AND DISTRIBUTING ALLOWANCES

Subtitle A—Early Auctions

- Sec. 3101. Allocation for early auctions.

Subtitle B—Annual Auctions

- Sec. 3201. Allocation for annual auctions.

Subtitle C—Early Action

- Sec. 3301. Allocation.
- Sec. 3302. Distribution.

Subtitle D—States

- Sec. 3401. Allocation for energy savings.
- Sec. 3402. Allocation for States with programs that exceed Federal emission reduction targets.
- Sec. 3403. General allocation.

Subtitle E—Electricity Consumers

- Sec. 3501. Allocation.
- Sec. 3502. Distribution.
- Sec. 3503. Use.
- Sec. 3504. Reporting.

Subtitle F—Bonus Allowances for Carbon Capture and Geological Sequestration

- Sec. 3601. Allocation.
- Sec. 3602. Qualifying projects.
- Sec. 3603. Distribution.
- Sec. 3604. 10-Year limit.
- Sec. 3605. Exhaustion of bonus allowance account.

Subtitle G—Domestic Agriculture and Forestry

- Sec. 3701. Allocation.
- Sec. 3702. Agricultural and forestry greenhouse gas management research.
- Sec. 3703. Distribution.

Subtitle H—International Forest Protection

- Sec. 3801. Findings.
- Sec. 3802. Definition of forest carbon activities.
- Sec. 3803. Allocation.

- Sec. 3804. Definition and eligibility requirements.
- Sec. 3805. International forest carbon activities.
- Sec. 3806. Reviews and discount.

Subtitle I—Covered Facilities

- Sec. 3901. Allocation.
- Sec. 3902. Distribution system.
- Sec. 3903. Distributing emission allowances within the electric power sector.
- Sec. 3904. Distributing emission allowances within the industrial sector.

TITLE IV—AUCTIONS AND USES OF AUCTION PROCEEDS

Subtitle A—Funds

- Sec. 4101. Establishment.
- Sec. 4102. Amounts in Funds.
- Sec. 4103. Transfers to Funds.

Subtitle B—Climate Change Credit Corporation

- Sec. 4201. Establishment.
- Sec. 4202. Applicable laws.
- Sec. 4203. Board of directors.

Subtitle C—Auctions

- Sec. 4301. Early auctions.
- Sec. 4302. Annual auctions.

Subtitle D—Energy Technology Deployment

- Sec. 4401. In general.
- Sec. 4402. Zero- or low-carbon energy technologies deployment.
- Sec. 4403. Advanced coal and sequestration technologies program.
- Sec. 4404. Fuel from cellulosic biomass.
- Sec. 4405. Advanced technology vehicles manufacturing incentive program.

Subtitle E—Energy Consumers

- Sec. 4501. Proportions of funding availability.
- Sec. 4502. Rural energy assistance program.

Subtitle F—Climate Change Worker Training Program

- Sec. 4601. Funding.
- Sec. 4602. Purposes.
- Sec. 4603. Establishment.
- Sec. 4604. Grants to States.
- Sec. 4605. Types of assistance.

Subtitle G—Adaptation Program for Natural Resources in United States and Territories

- Sec. 4701. Definitions.
- Sec. 4702. Adaptation fund.

Subtitle H—Climate Change and National Security Program

- Sec. 4801. Interagency Climate Change and National Security Council.

Sec. 4802. Funding.

Subtitle I—Audits

Sec. 4901. Review and audit by Comptroller General of the United States.

TITLE V—ENERGY EFFICIENCY

Subtitle A—Appliance Efficiency

Sec. 5101. Residential boilers.

Sec. 5102. Regional variations in heating or cooling standards.

Subtitle B—Building Efficiency

Sec. 5201. Updating State building energy efficiency codes.

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TITLE VI—GLOBAL EFFORT TO REDUCE GREENHOUSE GAS EMISSIONS

Sec. 6001. Definitions.

Sec. 6002. Purposes.

Sec. 6003. International negotiations.

Sec. 6004. Interagency review.

Sec. 6005. Presidential determinations.

Sec. 6006. International reserve allowance program.

Sec. 6007. Adjustment of international reserve allowance requirements.

TITLE VII—REVIEWS

Sec. 7001. National Academy of Sciences Review.

Sec. 7002. Transportation sector review.

Sec. 7003. Adaptation review.

TITLE VIII—FRAMEWORK FOR GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE

Sec. 8001. National drinking water regulations.

Sec. 8002. Assessment of geological storage capacity for carbon dioxide.

Sec. 8003. Study of the feasibility relating to construction of pipelines and geological carbon dioxide sequestration activities.

Sec. 8004. Liabilities for closed geological storage sites.

TITLE IX—MISCELLANEOUS

Sec. 9001. Paramount interest waiver.

Sec. 9002. Corporate environmental disclosure of climate change risks.

Sec. 9003. Administrative procedure and judicial review.

Sec. 9004. Retention of State authority.

Sec. 9005. Tribal authority.

Sec. 9006. Authorization of appropriations.

1 SEC. 2. FINDINGS.

2 Congress finds that—

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

3 (A) the national security and economy of
4 the United States;

5 (B) public health and welfare in the
6 United States;

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

8 (D) the global environment;

9 (2) under the United Nations Framework Con-
10 vention on Climate Change, done at New York on
11 May 9, 1992, the United States is committed to sta-
12 bilizing greenhouse gas concentrations in the atmos-
13 phere at a level that will prevent dangerous anthro-
14 pogenic interference with the climate system;

15 (3) according to the Fourth Assessment Report
16 of the Intergovernmental Panel on Climate Change,
17 stabilizing greenhouse gas concentrations in the at-
18 mosphere at a level that will prevent dangerous in-
19 terference with the climate system will require a
20 global effort to reduce anthropogenic greenhouse gas
21 emissions worldwide by 50 to 85 percent below 2000
22 levels by 2050;

23 (4) prompt, decisive action is critical, since
24 global warming pollutants can persist in the atmos-
25 phere for more than a century;

1 (5) the ingenuity of the people of the United
2 States will allow the United States to become a lead-
3 er in curbing global warming;

4 (6) it is possible and desirable to cap green-
5 house gas emissions, from sources that together ac-
6 count for the majority of those emissions in the
7 United States, at the current level in 2012, and to
8 lower the cap each year between 2012 and 2050, on
9 the condition that the system includes—

10 (A) cost containment measures;

11 (B) periodic review of requirements;

12 (C) an aggressive program for deploying
13 advanced energy technology;

14 (D) programs to assist low- and middle-in-
15 come energy consumers; and

16 (E) programs to mitigate the impacts of
17 any unavoidable global climate change;

18 (7) Congress may need to update the emissions
19 caps in order to account for continuing scientific
20 data and steps taken, or not taken, by foreign coun-
21 tries;

22 (8) accurate emission data and timely compli-
23 ance with the requirements of the greenhouse gas
24 emission reduction and trading program established
25 under this Act are needed to ensure that reductions

1 are achieved and to provide equity, efficiency, and
2 openness in the market for allowances subject to the
3 program; and

4 (9) additional policies external to a cap-and-
5 trade program may be required, including with re-
6 spect to—

7 (A) the transportation sector, where reduc-
8 ing greenhouse gas emissions requires changes
9 in the vehicle, in the fuels, and in consumer be-
10 havior; and

11 (B) the built environment, where reducing
12 direct and indirect greenhouse gas emissions re-
13 quires changes in buildings, appliances, light-
14 ing, heating, cooling, and consumer behavior.

15 **SEC. 3. PURPOSES.**

16 The purposes of this Act are—

17 (1) to establish the core of a Federal program
18 that will reduce United States greenhouse gas emis-
19 sions substantially enough between 2007 and 2050
20 to avert the catastrophic impacts of global climate
21 change; and

22 (2) to accomplish that purpose while preserving
23 robust growth in the United States economy and
24 avoiding the imposition of hardship on United States
25 citizens.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) **ADDITIONAL AND ADDITIONALITY.**—The
4 terms “additional” and “additionality” mean the ex-
5 tent to which reductions in greenhouse gas emissions
6 or increases in sequestration are incremental to busi-
7 ness-as-usual, measured as the difference between—

8 (A) baseline greenhouse gas fluxes of an
9 offset project; and

10 (B) greenhouse gas fluxes of the offset
11 project.

12 (2) **ADMINISTRATOR.**—The term “Adminis-
13 trator” means the Administrator of the Environ-
14 mental Protection Agency.

15 (3) **BASELINE.**—The term “baseline” means
16 the greenhouse gas flux or carbon stock that would
17 have occurred in the absence of an offset allowance.

18 (4) **BIOLOGICAL SEQUESTRATION; BIO-**
19 **LOGICALLY SEQUESTERED.**—The terms “biological
20 sequestration” and “biologically sequestered”
21 mean—

22 (A) the removal of greenhouse gases from
23 the atmosphere by terrestrial biological means,
24 such as by growing plants; and

25 (B) the storage of those greenhouse gases
26 without reversal in the plants or related soils.

1 (5) CARBON DIOXIDE EQUIVALENT.—The term
2 “carbon dioxide equivalent” means, for each green-
3 house gas, the quantity of the greenhouse gas that
4 the Administrator determines makes the same con-
5 tribution to global warming as 1 metric ton of car-
6 bon dioxide.

7 (6) CORPORATION.—The term “Corporation”
8 means the Climate Change Credit Corporation es-
9 tablished by section 4201(a).

10 (7) COVERED FACILITY.—The term “covered
11 facility” means—

12 (A) any facility within the electric power
13 sector that contains fossil fuel-fired electricity
14 generating units that together emit more than
15 10,000 carbon dioxide equivalents of green-
16 house gas in any year;

17 (B) any facility within the industrial sector
18 that emits more than 10,000 carbon dioxide
19 equivalents of greenhouse gas in any year;

20 (C) any facility that in any year produces,
21 or any entity that in any year imports,
22 petroleum- or coal-based transportation fuel,
23 the use of which will emit more than 10,000
24 carbon dioxide equivalents of greenhouse gas,

1 assuming no capture and permanent sequestra-
2 tion of that gas; or

3 (D) any facility that in any year produces,
4 or any entity that in any year imports, nonfuel
5 chemicals that will emit more than 10,000 car-
6 bon dioxide equivalents of greenhouse gas, as-
7 suming no capture and destruction or perma-
8 nent sequestration of that gas.

9 (8) DESTRUCTION.—The term “destruction”
10 means the conversion of a greenhouse gas by ther-
11 mal, chemical, or other means—

12 (A) to another gas with a low- or zero-
13 global warming potential; and

14 (B) for which credit given reflects the ex-
15 tent of reduction in global warming potential
16 actually achieved.

17 (9) ELECTRIC POWER SECTOR.—The term
18 “electric power sector” means the “Electric Power
19 Industry”, as that term is used in Table ES-7 of
20 the Environmental Protection Agency document en-
21 titled “Inventory of U.S. Greenhouse Gas Emissions
22 and Sinks: 1990–2005”.

23 (10) EMISSION ALLOWANCE.—The term “emis-
24 sion allowance” means an authorization to emit 1
25 carbon dioxide equivalent of greenhouse gas.

1 (11) EMISSION ALLOWANCE ACCOUNT.—The
2 term “Emission Allowance Account” means the ag-
3 gregate of emission allowances that the Adminis-
4 trator establishes for a calendar year.

5 (12) FACILITY.—The term “facility” means—

6 (A) a building, structure, or installation lo-
7 cated on 1 or more contiguous or adjacent
8 properties of an entity in the United States;
9 and

10 (B) at the option of the Administrator, any
11 activity or operation that has a technical con-
12 nection with the activities carried out at a facil-
13 ity, such as use of transportation fleets, pipe-
14 lines, transmission lines, and distribution lines,
15 but that is not conducted or located on the
16 property of the facility.

17 (13) FAIR MARKET VALUE.—The term “fair
18 market value” means the average price, in a par-
19 ticular calendar year, of an emission allowance auc-
20 tioned by the Corporation.

21 (14) GEOLOGICAL SEQUESTRATION; GEOLOGI-
22 CALLY SEQUESTERED.—The terms “geological se-
23 questration” and “geologically sequestered” mean
24 the long-term isolation of greenhouse gases, without
25 reversal, in geological formations, in accordance with

1 section 1421(d) of the Safe Drinking Water Act (42
2 U.S.C. 300h(d)).

3 (15) GREENHOUSE GAS.—The term “green-
4 house gas” means any of—

5 (A) carbon dioxide;

6 (B) methane;

7 (C) nitrous oxide;

8 (D) sulfur hexafluoride;

9 (E) a hydrofluorocarbon; or

10 (F) a perfluorocarbon.

11 (16) INDUSTRIAL SECTOR.—The term “indus-
12 trial sector” means “Industry”, as that term is used
13 in Table ES–7 of the Environmental Protection
14 Agency document entitled “Inventory of U.S. Green-
15 house Gas Emissions and Sinks: 1990–2005”.

16 (17) LEAKAGE.—The term “leakage” means—

17 (A) a potentially unaccounted increase in
18 greenhouse gas emissions by a facility or entity
19 caused by an offset project that produces an ac-
20 counted reduction in greenhouse gas emissions;
21 or

22 (B) a potentially unaccounted decrease in
23 sequestration that is caused by an offset project
24 that results in an accounted increase in seques-
25 tration.

1 (18) LOAD-SERVING ENTITY.—The term “load-
2 serving entity” means an entity, whether public or
3 private—

4 (A) that has a legal, regulatory, or con-
5 tractual obligation to deliver electricity to retail
6 consumers; and

7 (B) whose rates and costs are, except in
8 the case of a registered electric cooperative, reg-
9 ulated by a State agency, regulatory commis-
10 sion, municipality, or public utility district.

11 (19) NEW ENTRANT.—The term “new entrant”
12 means any facility that commences operation on or
13 after January 1, 2008.

14 (20) OFFSET ALLOWANCE.—The term “offset
15 allowance” means a unit of reduction in the quantity
16 of emissions or an increase in sequestration equal to
17 1 carbon dioxide equivalent at a facility that is not
18 a covered facility, where the reduction in emissions
19 or increase in sequestration is eligible to be used as
20 an additional means of compliance for the submis-
21 sion requirements established under section 1202.

22 (21) OFFSET PROJECT.—The term “offset
23 project” means a project, other than a project at a
24 covered facility, that reduces greenhouse gas emis-
25 sions or increases sequestration of carbon dioxide.

1 (22) PROJECT DEVELOPER.—The term “project
2 developer” means an individual or entity imple-
3 menting an offset project.

4 (23) RETAIL RATE FOR DISTRIBUTION SERV-
5 ICE.—

6 (A) IN GENERAL.—The term “retail rate
7 for distribution service” means the rate that a
8 load-serving entity charges for the use of the
9 system of the load-serving entity.

10 (B) EXCLUSION.—The term “retail rate
11 for distribution service” does not include any
12 energy component of the rate.

13 (24) RETIRE AN EMISSION ALLOWANCE.—The
14 term “retire an emission allowance” means to dis-
15 qualify an emission allowance for any subsequent
16 use, regardless of whether the use is a sale, ex-
17 change, or submission of the allowance in satisfying
18 a compliance obligation.

19 (25) REVERSAL.—The term “reversal” means
20 an intentional or unintentional loss of sequestered
21 carbon dioxide to the atmosphere.

22 (26) RURAL ELECTRIC COOPERATIVE.—The
23 term “rural electric cooperative” means a coopera-
24 tively-owned association that is eligible to receive

1 loans under section 4 of the Rural Electrification
2 Act of 1936 (7 U.S.C. 904).

3 (27) SEQUESTERED AND SEQUESTRATION.—
4 The terms “sequestered” and “sequestration” mean
5 the capture, permanent separation, isolation, or re-
6 moval of greenhouse gases from the atmosphere.

7 (28) STATE REGULATORY AUTHORITY.—The
8 term “State regulatory authority” means any State
9 agency that has ratemaking authority with respect
10 to the retail rate for distribution service.

11 (29) TRANSPORTATION SECTOR.—The term
12 “transportation sector” means “Transportation”, as
13 that term is used in Table ES-7 of the Environ-
14 mental Protection Agency document entitled, “In-
15 ventory of U.S. Greenhouse Gas Emissions and
16 Sinks: 1990–2005”.

17 **TITLE I—CAPPING GREENHOUSE** 18 **GAS EMISSIONS**

19 **Subtitle A—Tracking Emissions**

20 **SEC. 1101. PURPOSE.**

21 The purpose of this subtitle is to establish a Federal
22 greenhouse gas registry that—

23 (1) is complete, consistent, transparent, and ac-
24 curate;

1 (2) will collect reliable and accurate data that
2 can be used by public and private entities to design
3 efficient and effective energy security initiatives and
4 greenhouse gas emission reduction strategies; and

5 (3) will provide appropriate high-quality data to
6 be used for implementing greenhouse gas reduction
7 policies.

8 **SEC. 1102. DEFINITIONS.**

9 In this subtitle:

10 (1) **AFFECTED FACILITY.**—

11 (A) **IN GENERAL.**—The term “affected fa-
12 cility” means—

13 (i) a covered facility;

14 (ii) another facility that emits a
15 greenhouse gas, as determined by the Ad-
16 ministrator; and

17 (iii) at the option of the Adminis-
18 trator, a vehicle fleet with emissions of
19 more than 10,000 carbon dioxide equiva-
20 lents per year, assuming no double-count-
21 ing of emissions.

22 (B) **EXCLUSIONS.**—The term “affected fa-
23 cility” does not include any facility that—

24 (i) is not a covered facility;

- 1 (ii) is owned or operated by a small
2 business (as described in part 121 of title
3 13, Code of Federal Regulations (or a suc-
4 cessor regulation)); and
5 (iii) emits fewer than 10,000 carbon
6 dioxide equivalents in any year.

7 (2) CARBON CONTENT.—The term “carbon con-
8 tent” means the quantity of carbon (in carbon diox-
9 ide equivalent) contained in a fuel.

10 (3) CLIMATE REGISTRY.—The term “Climate
11 Registry” means the greenhouse gas emissions reg-
12 istry jointly established and managed by more than
13 40 States and Indian tribes to collect high-quality
14 greenhouse gas emission data from facilities, cor-
15 porations, and other organizations to support var-
16 ious greenhouse gas emission reporting and reduc-
17 tion policies for the member States and Indian
18 tribes.

19 (4) FEEDSTOCK FOSSIL FUEL.—The term
20 “feedstock fossil fuel” means fossil fuel used as raw
21 material in a manufacturing process.

22 (5) GREENHOUSE GAS EMISSIONS.—The term
23 “greenhouse gas emissions” means emissions of a
24 greenhouse gas, including—

1 (A) stationary combustion source emissions
2 emitted as a result of combustion of fuels in
3 stationary equipment, such as boilers, furnaces,
4 burners, turbines, heaters, incinerators, engines,
5 flares, and other similar sources;

6 (B) process emissions consisting of emis-
7 sions from chemical or physical processes other
8 than combustion;

9 (C) fugitive emissions consisting of inten-
10 tional and unintentional emissions from equip-
11 ment leaks, such as joints, seals, packing, and
12 gaskets, or from piles, pits, cooling towers, and
13 other similar sources; and

14 (D) biogenic emissions resulting from bio-
15 logical processes, such as anaerobic decomposi-
16 tion, nitrification, and denitrification.

17 (6) INDIAN TRIBE.—The term “Indian tribe”
18 has the meaning given the term in section 4 of the
19 Indian Self-Determination and Education Assistance
20 Act (25 U.S.C. 450b).

21 (7) REGISTRY.—The term “Registry” means
22 the Federal greenhouse gas registry established
23 under section 1105(a).

24 (8) SOURCE.—The term “source” means any
25 building, structure, installation, unit, point, oper-

1 ation, vehicle, land area, or other item that emits or
2 may emit a greenhouse gas.

3 **SEC. 1103. REPORTING REQUIREMENTS.**

4 (a) IN GENERAL.—Subject to this section, each af-
5 fected facility shall submit to the Administrator, for inclu-
6 sion in the Registry, periodic reports, including annual
7 and quarterly data, that—

8 (1) include the quantity and type of fossil fuels,
9 including feedstock fossil fuels, that are extracted,
10 produced, refined, imported, exported, or consumed
11 at or by the facility;

12 (2) include the quantity of hydrofluorocarbons,
13 perfluorocarbons, sulfur hexafluoride, nitrous oxide,
14 carbon dioxide that has been captured and seques-
15 tered, and other greenhouse gases generated, pro-
16 duced, imported, exported, or consumed at or by the
17 facility;

18 (3) include the quantity of electricity generated,
19 imported, exported, or consumed by or at the facil-
20 ity, and information on the quantity of greenhouse
21 gases emitted when the imported, exported, or con-
22 sumed electricity was generated, as determined by
23 the Administrator;

24 (4) include the aggregate quantity of all green-
25 house gas emissions from sources at the facility, in-

1 including stationary combustion source emissions,
2 process emissions, and fugitive emissions;

3 (5) include greenhouse gas emissions expressed
4 in metric tons of each greenhouse gas emitted and
5 in the quantity of carbon dioxide equivalents of each
6 greenhouse gas emitted;

7 (6) include a list and description of sources of
8 greenhouse gas emissions at the facility;

9 (7) quantify greenhouse gas emissions in ac-
10 cordance with the measurement standards estab-
11 lished under section 1104;

12 (8) include other data necessary for accurate
13 and complete accounting of greenhouse gas emis-
14 sions, as determined by the Administrator;

15 (9) include an appropriate certification regard-
16 ing the accuracy and completeness of reported data,
17 as determined by the Administrator; and

18 (10) are submitted electronically to the Admin-
19 istrator, in such form and to such extent as may be
20 required by the Administrator.

21 (b) DE MINIMIS EXEMPTIONS.—

22 (1) IN GENERAL.—The Administrator may de-
23 termine—

24 (A) whether certain sources at a facility
25 should be considered to be eligible for a de

1 minimis exemption from a requirement for re-
2 porting under subsection (a); and

3 (B) the level of greenhouse gases emitted
4 from a source that would qualify for such an
5 exemption.

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

13 (c) VERIFICATION OF REPORT REQUIRED.—Before
14 including the information from a report required under
15 this section in the Registry, the Administrator shall verify
16 the completeness and accuracy of the report using infor-
17 mation provided under this section, obtained under section
18 9003(e), or obtained under other provisions of law.

19 (d) TIMING.—

20 (1) CALENDAR YEARS 2004 THROUGH 2007.—
21 For a baseline period of calendar years 2004
22 through 2007, each affected facility shall submit re-
23 quired annual data described in this section to the
24 Administrator not later than March 31, 2009.

1 (2) SUBSEQUENT CALENDAR YEARS.—For cal-
2 endar year 2008 and each subsequent calendar year,
3 each affected facility 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.—Noth-
7 ing in this title affects any requirement in effect as of the
8 date of enactment of this Act relating to the reporting
9 of—

10 (1) fossil fuel production, refining, importation,
11 exportation, or consumption data;

12 (2) greenhouse gas emission data; or

13 (3) other relevant data.

14 **SEC. 1104. 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 for
2 fossil fuel production, refining, importation, ex-
3 portation, and consumption;

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

10 (C) a requirement that, if a facility has al-
11 ready been directed to monitor emissions of a
12 greenhouse gas using a continuous emission
13 monitoring system under existing law, that sys-
14 tem be used in complying with this Act with re-
15 spect 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 are not techno-
21 logically feasible, standardized methods for cal-
22 culating greenhouse gas emissions in specific in-
23 dustries using other readily available and reli-
24 able information, such as fuel consumption, ma-
25 terials consumption, production, or other rel-

1 evant activity data, on the condition that those
2 methods do not underreport emissions, as com-
3 pared with the continuous emission monitoring
4 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 facility
10 from avoiding the reporting requirements of
11 this title; and

12 (H) protocols for verification of data sub-
13 mitted by affected facilities.

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

22 (b) VERIFICATION; INFORMATION BY REPORTING
23 ENTITIES.—Each affected facility shall—

24 (1) provide information sufficient for the Ad-
25 ministrators to verify, in accordance with the proto-

1 cols and methods developed under subsection (a),
2 that the fossil fuel data and greenhouse gas emission
3 data of the affected facility have been completely
4 and accurately reported; and

5 (2) ensure the submission or retention, for the
6 5-year period beginning on the date of provision of
7 the information, of—

8 (A) data sources;

9 (B) information on internal control activi-
10 ties;

11 (C) information on assumptions used in re-
12 porting emissions and fuels;

13 (D) uncertainty analyses; and

14 (E) other relevant data and information to
15 facilitate the verification of reports submitted to
16 the Registry.

17 (c) WAIVER OF REPORTING REQUIREMENTS.—The
18 Administrator may waive reporting requirements for spe-
19 cific facilities if the Administrator determines that suffi-
20 cient and equally or more reliable data are available under
21 other provisions of law.

22 (d) MISSING DATA.—If information, satisfactory to
23 the Administrator, is not provided for an affected facility,
24 the Administrator shall—

1 (1) prescribe methods to estimate emissions for
2 the facility for each period for which data are miss-
3 ing, reflecting the highest emission levels that may
4 reasonably have occurred during the period for
5 which data are missing; and

6 (2) take appropriate enforcement action pursu-
7 ant to this section and section 9003(b).

8 **SEC. 1105. FEDERAL GREENHOUSE GAS REGISTRY.**

9 (a) ESTABLISHMENT.—The Administrator shall es-
10 tablish a Federal greenhouse gas registry.

11 (b) ADMINISTRATION.—In establishing the Registry,
12 the Administrator shall—

13 (1) design and operate the Registry;

14 (2) establish an advisory body that is broadly
15 representative of private enterprise, agriculture, en-
16 vironmental groups, and State, tribal, and local gov-
17 ernments to guide the development and management
18 of the Registry;

19 (3) provide coordination and technical assist-
20 ance for the development of proposed protocols and
21 methods, taking into account the duties carried out
22 by the Climate Registry, to be published by the Ad-
23 ministrator;

1 (4)(A) develop an electronic format for report-
2 ing under guidelines established under section
3 1104(a)(1); and

4 (B) make the electronic format available to re-
5 porting entities;

6 (5) verify and audit the data submitted by re-
7 porting entities;

8 (6) establish consistent policies for calculating
9 carbon content and greenhouse gas emissions for
10 each type of fossil fuel reported under section 1103;

11 (7) calculate carbon content and greenhouse gas
12 emissions associated with the combustion of fossil
13 fuel data reported by reporting entities;

14 (8) immediately publish on the Internet all in-
15 formation contained in the Registry, except in any
16 case in which publishing the information would re-
17 sult in a disclosure of—

18 (A) information vital to national security,
19 as determined by the President; or

20 (B) confidential business information that
21 cannot be derived from information that is oth-
22 erwise publicly available and that would cause
23 significant calculable competitive harm if pub-
24 lished (except that information relating to

1 greenhouse gas emissions shall not be consid-
 2 ered to be confidential business information).

3 (c) **THIRD-PARTY VERIFICATION.**—The Adminis-
 4 trator may use the services of third parties that have no
 5 conflicts of interest to verify reports required under sec-
 6 tion 1103.

7 (d) **REGULATIONS.**—The Administrator shall—

8 (1) not later than 180 days after the date of
 9 enactment of this Act, propose regulations to carry
 10 out this section; and

11 (2) not later than July 1, 2008, promulgate
 12 final regulations to carry out this section.

13 **SEC. 1106. ENFORCEMENT.**

14 (a) **CIVIL ACTIONS.**—The Administrator may bring
 15 a civil action in United States district court against the
 16 owner or operator of an affected facility that fails to com-
 17 ply with any requirement of this subtitle.

18 (b) **PENALTY.**—Any person that has violated or is
 19 violating this subtitle shall be subject to a civil penalty
 20 of not more than \$25,000 per day of each violation.

21 **Subtitle B—Reducing Emissions**

22 **SEC. 1201. EMISSION ALLOWANCE ACCOUNT.**

23 (a) **IN GENERAL.**—The Administrator shall establish
 24 a separate quantity of emission allowances for each of cal-
 25 endar years 2012 through 2050.

1 (b) IDENTIFICATION NUMBERS.—The Administrator
 2 shall assign to each emission allowance established under
 3 subsection (a) a unique identification number that in-
 4 cludes the calendar year for which that emission allowance
 5 was established.

6 (c) LEGAL STATUS OF EMISSION ALLOWANCES.—

7 (1) IN GENERAL.—An emission allowance shall
 8 not be a property right.

9 (2) TERMINATION OR LIMITATION.—Nothing in
 10 this Act or any other provision of law limits the au-
 11 thority of the United States to terminate or limit an
 12 emission allowance.

13 (3) OTHER PROVISIONS UNAFFECTED.—Noth-
 14 ing in this Act relating to emission allowances shall
 15 affect the application of, or compliance with, any
 16 other provision of law to or by a covered facility.

17 (d) ALLOWANCES FOR EACH CALENDAR YEAR.—The
 18 numbers of emission allowances established by the Admin-
 19 istrator for each of calendar years 2012 through 2050
 20 shall be as follows:

Calendar Year	Number of Emission Allowances (in Millions)
2012	5,200
2013	5,104
2014	5,008
2015	4,912

Calendar Year	Number of Emission Allowances (in Millions)
2016	4,816
2017	4,720
2018	4,624
2019	4,528
2020	4,432
2021	4,336
2022	4,240
2023	4,144
2024	4,048
2025	3,952
2026	3,856
2027	3,760
2028	3,664
2029	3,568
2030	3,472
2031	3,376
2032	3,280
2033	3,184
2034	3,088
2035	2,992
2036	2,896
2037	2,800
2038	2,704
2039	2,608
2040	2,512
2041	2,416
2042	2,320

Calendar Year	Number of Emission Allowances (in Millions)
2043	2,224
2044	2,128
2045	2,032
2046	1,936
2047	1,840
2048	1,744
2049	1,646
2050	1,560

1 **SEC. 1202. COMPLIANCE OBLIGATION.**

2 (a) IN GENERAL.—Not later than 90 days after the
3 end of a calendar year, the owner or operator of a covered
4 facility shall submit to the Administrator an emission al-
5 lowance, an offset allowance awarded pursuant to subtitle
6 D of title II, or an international allowance or credit ob-
7 tained in compliance with regulations promulgated under
8 section 2502, for each carbon dioxide equivalent of green-
9 house gas that—

10 (1) was emitted by that facility during the pre-
11 ceding year;

12 (2) will, assuming no capture and permanent
13 geological sequestration of that gas, be emitted from
14 the use of any petroleum- or coal-based transpor-
15 tation fuel that was produced or imported at that fa-
16 cility during the preceding year; and

1 (3) will, assuming no capture and destruction
2 or permanent geological sequestration of that gas, be
3 emitted from any nonfuel chemical that was pro-
4 duced or imported at that facility during the pre-
5 ceding year.

6 (b) RETIREMENT OF ALLOWANCES.—Immediately
7 upon receipt of an emission allowance under subsection
8 (a), the Administrator shall retire the emission allowance.

9 (c) 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 fa-
12 cilities are in full compliance with subsection (a) for the
13 preceding year.

14 **SEC. 1203. PENALTY FOR NONCOMPLIANCE.**

15 (a) EXCESS EMISSIONS PENALTY.—

16 (1) IN GENERAL.—The owner or operator of
17 any covered facility that fails for any year to submit
18 to the Administrator by the deadline described in
19 section 1202(a) or 2303, 1 or more of the emission
20 allowances due pursuant to either of those sections
21 shall be liable for the payment to the Administrator
22 of an excess emissions penalty.

23 (2) AMOUNT.—The amount of an excess emis-
24 sions penalty required to be paid under paragraph
25 (1) shall be, as determined by the Administrator, an

1 amount equal to the product obtained by multi-
2 plying—

3 (A) the number of excess emission allow-
4 ances that the owner or operator failed to sub-
5 mit; and

6 (B) the greater of—

7 (i) \$200; or

8 (ii) a dollar figure representing 3
9 times the mean market value of an emis-
10 sion allowance during the calendar year for
11 which the emission allowances were due.

12 (3) TIMING.—An excess emissions penalty re-
13 quired under this subsection shall be immediately
14 due and payable to the Administrator, without de-
15 mand, in accordance with such regulations as shall
16 be promulgated by the Administrator by the date
17 that is 1 year after the date of enactment of this
18 Act.

19 (4) DEPOSIT.—The Administrator shall deposit
20 each excess emissions penalty paid under this sub-
21 section in the Treasury of the United States.

22 (5) NO EFFECT ON LIABILITY.—An excess
23 emissions penalty due and payable by the owner or
24 operator of a covered facility under this subsection
25 shall not diminish the liability of the owner or oper-

1 ator for any fine, penalty, or assessment against the
2 owner or operator for the same violation under any
3 other provision of this Act or any other law.

4 (b) EXCESS EMISSION ALLOWANCE.—

5 (1) IN GENERAL.—The owner or operator of a
6 covered facility that fails for any year to submit to
7 the Administrator by the deadline described in sec-
8 tion 1202(a) or 2303 1 or more of the emission al-
9 lowances due pursuant to either of those sections
10 shall be liable to offset the excess emissions by an
11 equal quantity, in tons, during—

12 (A) the following calendar year; or

13 (B) such longer period as the Adminis-
14 trator may prescribe.

15 (2) PLAN.—

16 (A) IN GENERAL.—Not later than 60 days
17 after the end of the calendar year during which
18 a covered facility emits excess emissions, the
19 owner or operator of the covered facility shall
20 submit to the Administrator, and to the State
21 in which the covered facility is located, a pro-
22 posed plan to achieve the required offsets for
23 the excess emissions.

24 (B) CONDITION OF OPERATION.—Upon
25 approval of a proposed plan described in sub-

1 paragraph (A) by the Administrator, the plan,
2 as submitted, modified, or conditioned, shall be
3 considered to be a condition of the operating
4 permit for the covered facility, without further
5 review or revision of the permit.

6 (C) DEDUCTION OF ALLOWANCES.—For
7 each covered facility that, in any calendar year,
8 emits excess emissions, the Administrator shall
9 deduct, from emission allowances allocated to
10 the covered facility for the calendar year, or for
11 succeeding years during which offsets are re-
12 quired, emission allowances equal to the excess
13 quantity, in tons, of the excess emissions.

14 (c) PROHIBITION.—It shall be unlawful for the owner
15 or operator of any facility liable for a penalty and offset
16 under this section to fail—

17 (1) to pay the penalty in accordance with this
18 section;

19 (2) to provide, and thereafter comply with, a
20 proposed plan for compliance as required by sub-
21 section (b)(2); and

22 (3) to offset excess emissions as required by
23 subsection (b)(1).

1 (d) NO EFFECT ON OTHER SECTION.—Nothing in
2 this subtitle limits or otherwise affects the application of
3 section 9003(b).

4 **TITLE II—MANAGING AND CON-**
5 **TAINING COSTS EFFICIENTLY**
6 **Subtitle A—Trading**

7 **SEC. 2101. SALE, EXCHANGE, AND RETIREMENT OF EMIS-**
8 **SION ALLOWANCES.**

9 Except as otherwise provided in this Act, the lawful
10 holder of an emission allowance may sell, exchange, trans-
11 fer, submit for compliance in accordance with section
12 1202, or retire the emission allowance.

13 **SEC. 2102. NO RESTRICTION ON TRANSACTIONS.**

14 The privilege of purchasing, holding, selling, exchang-
15 ing, and retiring emission allowances shall not be re-
16 stricted to the owners and operators of covered facilities.

17 **SEC. 2103. ALLOWANCE TRANSFER SYSTEM.**

18 (a) IN GENERAL.—Not later than 18 months after
19 the date of enactment of this Act, the Administrator shall
20 promulgate regulations to carry out the provisions of this
21 Act relating to emission allowances, including regulations
22 providing that the transfer of emission allowances shall
23 not be effective until such date as a written certification
24 of the transfer, signed by a responsible official of each

1 party to the transfer, is received and recorded by the Ad-
 2 ministrator in accordance with those regulations.

3 (b) TRANSFERS.—

4 (1) IN GENERAL.—The regulations promulgated
 5 under subsection (a) shall permit the transfer of al-
 6 lowances prior to the issuance of the allowances.

7 (2) DEDUCTION AND ADDITION OF TRANS-
 8 FERS.—A recorded pre-allocation transfer of allow-
 9 ances shall be—

10 (A) deducted by the Administrator from
 11 the number of allowances that would otherwise
 12 be distributed to the transferor; and

13 (B) added to those allowances distributed
 14 to the transferee.

15 **SEC. 2104. ALLOWANCE TRACKING SYSTEM.**

16 The regulations promulgated under section 2103(a)
 17 shall include a system for issuing, recording, and tracking
 18 emission allowances that shall specify all necessary proce-
 19 dures and requirements for an orderly and competitive
 20 functioning of the emission allowance system.

21 **Subtitle B—Banking**

22 **SEC. 2201. INDICATION OF CALENDAR YEAR.**

23 An emission allowance submitted to the Adminis-
 24 trator by the owner or operator of a covered facility in
 25 accordance with section 1202(a) shall not be required to

1 indicate in the identification number of the emission allow-
2 ance the calendar year for which the emission allowance
3 is submitted.

4 **SEC. 2202. EFFECT OF TIME.**

5 The passage of time shall not, by itself, cause an
6 emission allowance to be retired or otherwise diminish the
7 compliance value of the emission allowance.

8 **Subtitle C—Borrowing**

9 **SEC. 2301. REGULATIONS.**

10 (a) IN GENERAL.—Not later than 3 years after the
11 date of enactment of this Act, the Administrator shall pro-
12 mulgate regulations under which, subject to subsection
13 (b), the owner or operator of a covered facility may—

14 (1) borrow emission allowances from the Ad-
15 ministrator; and

16 (2) for a calendar year, submit borrowed emis-
17 sion allowances to the Administrator in satisfaction
18 of up to 15 percent of the compliance obligation
19 under section 1202(a).

20 (b) LIMITATION.—An emission allowance borrowed
21 under subsection (a) shall be an emission allowance estab-
22 lished by the Administrator for a specific future calendar
23 year under subsection 1201(a).

1 **SEC. 2302. TERM.**

2 The owner or operator of a covered facility shall not
 3 submit, and the Administrator shall not accept, a bor-
 4 rowed emission allowance in partial satisfaction of the
 5 compliance obligation under section 1202(a) for any cal-
 6 endar year that is more than 5 years earlier than the cal-
 7 endar year included in the identification number of the
 8 borrowed emission allowance.

9 **SEC. 2303. REPAYMENT WITH INTEREST.**

10 For each borrowed emission allowance submitted in
 11 partial satisfaction of the compliance obligation under sub-
 12 section 1202(a) for a particular calendar year (referred
 13 to in this section as the “use year”), the number of emis-
 14 sion allowances that the owner or operator is required to
 15 submit under section 1202(a) for the year from which the
 16 borrowed emission allowance was taken (referred to in this
 17 section as the “source year”) shall be increased by an
 18 amount equal to the product obtained by multiplying—

19 (1) 1.1; and

20 (2) the number of years beginning after the use
 21 year and before the source year.

22 **Subtitle D—Offsets**

23 **SEC. 2401. OUTREACH INITIATIVE ON REVENUE ENHANCE-**
 24 **MENT FOR AGRICULTURAL PRODUCERS.**

25 (a) ESTABLISHMENT.—The Secretary of Agriculture,
 26 acting through the Chief of the Natural Resources Con-

1 servation Service, the Chief of the Forest Service, the Ad-
2 ministrator of the Cooperative State Research, Education,
3 and Extension Service, and land-grant colleges and univer-
4 sities, in consultation with the Administrator and the
5 heads of other appropriate departments and agencies,
6 shall establish an outreach initiative to provide informa-
7 tion to agricultural producers, agricultural organizations,
8 foresters, and other landowners about opportunities under
9 this subtitle to earn new revenue.

10 (b) COMPONENTS.—The initiative under this sec-
11 tion—

12 (1) shall be designed to ensure that, to the
13 maximum extent practicable, agricultural organiza-
14 tions and individual agricultural producers, for-
15 esters, and other landowners receive detailed prac-
16 tical information about—

17 (A) opportunities to earn new revenue
18 under this subtitle;

19 (B) measurement protocols, monitoring,
20 verifying, inventorying, registering, insuring,
21 and marketing offsets under this title;

22 (C) emerging domestic and international
23 markets for energy crops, allowances, and off-
24 sets; and

1 (D) local, regional, and national databases
2 and aggregation networks to facilitate achieve-
3 ment, measurement, registration, and sales of
4 offsets;

5 (2) shall provide—

6 (A) outreach materials, including the hand-
7 book published under subsection (c), to inter-
8 ested parties;

9 (B) workshops; and

10 (C) technical assistance; and

11 (3) may include the creation and development
12 of regional marketing centers or coordination with
13 existing centers (including centers within the Nat-
14 ural Resources Conservation Service or the Coopera-
15 tive State Research, Education, and Extension Serv-
16 ice or at land-grant colleges and universities).

17 (c) HANDBOOK.—

18 (1) IN GENERAL.—Not later than 2 years after
19 the date of enactment of this Act, the Secretary of
20 Agriculture, in consultation with the Administrator
21 and after an opportunity for public comment, shall
22 publish a handbook for use by agricultural pro-
23 ducers, agricultural cooperatives, foresters, other
24 landowners, offset buyers, and other stakeholders

1 that provides easy-to-use guidance on achieving, re-
2 porting, registering, and marketing offsets.

3 (2) DISTRIBUTION.—The Secretary of Agri-
4 culture shall ensure, to the maximum extent prac-
5 ticable, that the handbook—

6 (A) is made available through the Internet
7 and in other electronic media;

8 (B) includes, with respect to the electronic
9 form of the handbook described in subpara-
10 graph (A), electronic forms and calculation
11 tools to facilitate the petition process described
12 in section 2404; and

13 (C) is distributed widely through land-
14 grant colleges and universities and other appro-
15 priate institutions.

16 **SEC. 2402. ESTABLISHMENT OF DOMESTIC OFFSET PRO-**
17 **GRAM.**

18 (a) ALTERNATIVE MEANS OF COMPLIANCE.—Begin-
19 ning with calendar year 2012, the owner or operator of
20 a covered entity may satisfy 15 percent of the total allow-
21 ance submission requirement of the covered entity under
22 section 1202(a) by submitting offset allowances generated
23 in accordance with this subtitle.

24 (b) REGULATIONS REQUIRED.—Not later than 18
25 months after the date of enactment of this Act, the Ad-

1 administrator, in consultation with the Secretary of Agri-
2 culture, shall promulgate regulations authorizing the
3 issuance and certification of offset allowances from certain
4 agricultural, forestry, and other land use-related projects
5 undertaken within the United States, and certain other
6 projects identified by the Administrator under section
7 2403(b)(4), including provisions that—

8 (1) ensure that those offsets represent real,
9 verifiable, additional, permanent, and enforceable re-
10 ductions in greenhouse gas emissions or increases in
11 biological sequestration;

12 (2) specify the types of offset projects eligible
13 to generate offset allowances, in accordance with
14 section 2403;

15 (3) establish procedures for project initiation
16 and approval, in accordance with section 2404;

17 (4) establish procedures to monitor, quantify,
18 and discount reductions in greenhouse gas emissions
19 or increases in biological sequestration, in accord-
20 ance with subsections (d) through (g) of section
21 2404;

22 (5) establish procedures for verification, reg-
23 istration, and issuance of offset allowances, in ac-
24 cordance with section 2405; and

1 (6) ensure permanence of offsets by mitigating
2 and compensating for reversals, in accordance with
3 section 2406.

4 (c) OFFSET ALLOWANCES AWARDED.—The Adminis-
5 trator shall issue offset allowances for qualifying emission
6 reductions and biological sequestrations from offset
7 projects that satisfy the applicable requirements of this
8 subtitle.

9 (d) OWNERSHIP.—Initial ownership of an offset al-
10 lowance shall lie with a project developer, unless otherwise
11 specified in a legally-binding contract or agreement.

12 (e) TRANSFERABILITY.—An offset allowance gen-
13 erated pursuant to this subtitle may be sold, traded, or
14 transferred, on the conditions that—

15 (1) the offset allowance has not expired or been
16 retired or canceled; and

17 (2) liability and responsibility for mitigating
18 and compensating for reversals of registered offset
19 allowances is specified in accordance with section
20 2406(b).

21 **SEC. 2403. ELIGIBLE AGRICULTURAL AND FORESTRY OFF-**
22 **SET PROJECT TYPES.**

23 (a) IN GENERAL.—Offset allowances from agricul-
24 tural, forestry, and other land use-related projects shall
25 be limited to those allowances achieving an offset of 1 or

1 more greenhouse gases by a method other than a reduc-
2 tion of combustion of greenhouse gas-emitting fuel.

3 (b) CATEGORIES OF ELIGIBLE AGRICULTURAL, FOR-
4 ESTRY, AND OTHER LAND USE-RELATED PROJECTS.—

5 Subject to the requirements promulgated pursuant to sec-
6 tion 2402(b), the types of operations eligible to generate
7 offset allowances under this subtitle include—

8 (1) agricultural and rangeland sequestration
9 and management practices, including—

10 (A) altered tillage practices;

11 (B) winter cover cropping, continuous
12 cropping, and other means to increase biomass
13 returned to soil in lieu of planting followed by
14 fallowing;

15 (C) conversion of cropland to rangeland or
16 grassland, on the condition that the land has
17 been in nonforest use for at least 10 years be-
18 fore the date of initiation of the project;

19 (D) reduction of nitrogen fertilizer use or
20 increase in nitrogen use efficiency;

21 (E) reduction in the frequency and dura-
22 tion of flooding of rice paddies; and

23 (F) reduction in carbon emissions from or-
24 ganic soils;

1 (2) changes in carbon stocks attributed to land
2 use change and forestry activities limited to—

3 (A) afforestation or reforestation of acre-
4 age not forested as of the date of enactment of
5 this Act; and

6 (B) forest management resulting in an in-
7 crease in forest stand volume;

8 (3) manure management and disposal, includ-
9 ing—

10 (A) waste aeration; and

11 (B) methane capture and combustion;

12 (4) subject to the requirements of this subtitle,
13 any other terrestrial offset practices identified by the
14 Administrator, including—

15 (A) the capture or reduction of noncovered
16 fugitive emissions;

17 (B) methane capture and combustion at
18 nonagricultural facilities; and

19 (C) other actions that result in the avoid-
20 ance or reduction of greenhouse gas emissions
21 in accordance with section 2402; and

22 (5) combinations of any of the offset practices
23 described in paragraphs (1) through (4).

24 (c) EXCLUSION.—A project participating in a Fed-
25 eral, State, or local cost-sharing, competitive grant, or

1 technical assistance program shall not be eligible to gen-
 2 erate offset allowances under this subtitle.

3 (d) EARNED ALLOWANCES.—

4 (1) IN GENERAL.—Any project approved by the
 5 Administrator shall earn offset allowances in propor-
 6 tion to the private investment in the project, as de-
 7 scribed in paragraph (2).

8 (2) PRIVATE INVESTMENT.—

9 (A) IN GENERAL.—Except as provided in
 10 subparagraph (B), the private share of invest-
 11 ment in the project shall be assumed to be 50
 12 percent.

13 (B) DEMONSTRATION OF INVESTMENT.—
 14 Subparagraph (A) shall not apply in any case
 15 in which a project elects to demonstrate the pri-
 16 vate share of investment in the project in ac-
 17 cordance with rules established by the Adminis-
 18 trator.

19 **SEC. 2404. PROJECT INITIATION AND APPROVAL.**

20 (a) PROJECT APPROVAL.—A project developer—

21 (1) may submit a petition for offset project ap-
 22 proval at any time following the effective date of
 23 regulations promulgated under section 2402(b); but

24 (2) may not register or issue offset allowances
 25 until such approval is received and until after the

1 emission reductions or sequestrations supporting the
2 offset allowances have actually occurred.

3 (b) PETITION PROCESS.—Prior to offset registration
4 and issuance of offset allowances, a project developer shall
5 submit a petition to the Administrator, consisting of—

6 (1) a copy of the monitoring and quantification
7 plan prepared for the offset project, as described
8 under subsection (d);

9 (2) a greenhouse gas initiation certification, as
10 described under subsection (e); and

11 (3) subject to the requirements of this subtitle,
12 any other information identified by the Adminis-
13 trator as necessary to meet the objectives of this
14 subtitle.

15 (c) APPROVAL AND NOTIFICATION.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date on which the Administrator receives a
18 complete petition under subsection (b), the Adminis-
19 trator shall—

20 (A) determine whether the monitoring and
21 quantification plan satisfies the applicable re-
22 quirements of this subtitle;

23 (B) determine whether the greenhouse gas
24 initiation certification indicates a significant de-
25 viation in accordance with subsection (e)(3);

1 (C) notify the project developer of the de-
2 terminations under subparagraphs (A) and (B);
3 and

4 (D) issue offset allowances for approved
5 projects.

6 (2) APPEAL.—The Administrator shall establish
7 mechanisms for appeal and review of determinations
8 made under this subsection.

9 (d) MONITORING AND QUANTIFICATION.—

10 (1) IN GENERAL.—A project developer shall
11 make use of the standardized tools and methods de-
12 scribed in this section to monitor, quantify, and dis-
13 count reductions in greenhouse gas emissions or in-
14 creases in sequestration.

15 (2) MONITORING AND QUANTIFICATION
16 PLAN.—A monitoring and quantification plan shall
17 be used to monitor, quantify, and discount reduc-
18 tions in greenhouse gas emissions or increases in se-
19 questration as described by this subsection.

20 (3) PLAN COMPLETION AND RETENTION.—A
21 monitoring and quantification plan shall be—

22 (A) completed for all offset projects prior
23 to offset project initiation; and

24 (B) retained by the project developer for
25 the duration of the offset project.

1 (4) PLAN REQUIREMENTS.—Subject to section
2 2402, the Administrator shall specify the required
3 components of a monitoring and quantification plan,
4 including—

5 (A) a description of the offset project, in-
6 cluding project type;

7 (B) a determination of accounting periods;

8 (C) an assignment of reporting responsi-
9 bility;

10 (D) the contents and timing of public re-
11 ports, including summaries of the original data,
12 as well as the results of any analyses;

13 (E) a delineation of project boundaries,
14 based on methods and formats determined to be
15 acceptable to the Administrator;

16 (F) a description of which of the moni-
17 toring and quantification tools developed under
18 subsection (f) are to be used to monitor and
19 quantify changes in greenhouse gas fluxes or
20 carbon stocks associated with a project;

21 (G) a description of which of the standard-
22 ized methods developed under subsection (g) to
23 be used to determine additionality, estimate the
24 baseline carbon, and discount for leakage;

1 (H) based on the standardized methods
2 chosen in subparagraphs (F) and (G), a deter-
3 mination of uncertainty in accordance with sub-
4 section (h);

5 (I) what site-specific data, if any, will be
6 used in monitoring, quantification, and the de-
7 termination of discounts;

8 (J) a description of procedures for use in
9 managing and storing data, including quality-
10 control standards and methods, such as redun-
11 dancy in case records are lost; and

12 (K) subject to the requirements of this
13 subtitle, any other information identified by the
14 Administrator as being necessary to meet the
15 objectives of this subtitle.

16 (e) GREENHOUSE GAS INITIATION CERTIFI-
17 CATION.—

18 (1) IN GENERAL.—In reviewing a petition sub-
19 mitted under subsection (b), the Administrator shall
20 seek to exclude each activity that undermines the in-
21 tegrity of the offset program established under this
22 subtitle, such as the conversion or clearing of land,
23 or marked change in management regime, in antici-
24 pation of offset project initiation.

1 (2) GREENHOUSE GAS INITIATION CERTIFI-
2 CATION REQUIREMENTS.—A greenhouse gas initi-
3 ation certification developed under this subsection
4 shall include—

5 (A) the estimated greenhouse gas flux or
6 carbon stock for the offset project for each of
7 the 4 complete calendar years preceding the ef-
8 fective date of the regulations promulgated
9 under section 2402(b); and

10 (B) the estimated greenhouse gas flux or
11 carbon stock for the offset project, averaged
12 across each of the 4 calendar years preceding
13 the effective date of the regulations promul-
14 gated under section 2402(b).

15 (3) DETERMINATION OF SIGNIFICANT DEVI-
16 ATION.—Based on standards developed by the Ad-
17 ministrator—

18 (A) each greenhouse gas initiation certifi-
19 cation submitted pursuant to this section shall
20 be reviewed; and

21 (B) a determination shall be made as to
22 whether, as a result of activities or behavior in-
23 consistent with the purposes of this title, a sig-
24 nificant deviation exists between the average
25 annual greenhouse gas flux or carbon stock and

1 the greenhouse gas flux or carbon stock for a
2 given year.

3 (f) DEVELOPMENT OF MONITORING AND QUAN-
4 TIFICATION TOOLS FOR AGRICULTURAL AND FORESTRY
5 PROJECTS.—

6 (1) IN GENERAL.—Subject to section 2402(b),
7 the Administrator, in consultation with the Sec-
8 retary of Agriculture, shall develop standardized
9 tools for use in the monitoring and quantification of
10 changes in greenhouse gas fluxes or carbon stocks
11 for each offset project type listed under section
12 2403(b).

13 (2) TOOL DEVELOPMENT.—The tools used to
14 monitor and quantify changes in greenhouse gas
15 fluxes or carbon stocks shall, for each project type,
16 include applicable—

17 (A) statistically-sound field and remote
18 sensing sampling methods, procedures, tech-
19 niques, protocols, or programs;

20 (B) models, factors, equations, or look-up
21 tables; and

22 (C) any other process or tool considered to
23 be acceptable by the Administrator, in consulta-
24 tion with the Secretary of Agriculture.

1 (g) DEVELOPMENT OF ACCOUNTING AND DIS-
2 COUNTING METHODS.—

3 (1) IN GENERAL.—The Administrator, in con-
4 sultation with the Secretary of Agriculture, shall—

5 (A) develop standardized methods for use
6 in accounting for additionality and uncertainty,
7 estimating the baseline, and discounting for
8 leakage for each offset project type listed under
9 section 2403(b); and

10 (B) require that leakage be subtracted
11 from reductions in greenhouse gas emissions or
12 increases in sequestration attributable to a
13 project.

14 (2) ADDITIONALITY DETERMINATION AND
15 BASELINE ESTIMATION.—The standardized methods
16 used to determine additionality and establish base-
17 lines shall, for each project type, at a minimum—

18 (A) in the case of a sequestration project,
19 determine the greenhouse gas flux and carbon
20 stock on comparable land identified on the basis
21 of—

22 (i) similarity in current management
23 practices;

24 (ii) similarity of regional, State, or
25 local policies or programs; and

1 (iii) similarity in geographical and bio-
2 physical characteristics;

3 (B) in the case of an emission reduction
4 project, use as a basis emissions from pre-
5 existing or comparable facilities; and

6 (C) in the case of a sequestration project
7 or emission reduction project, specify a selected
8 time period.

9 (3) LEAKAGE.—The standardized methods used
10 to determine and discount for leakage shall, at a
11 minimum, take into consideration—

12 (A) the scope of the offset system in terms
13 of activities and geography covered;

14 (B) the markets relevant to the offset
15 project;

16 (C) emission intensity per unit of produc-
17 tion, both inside and outside of the offset
18 project; and

19 (D) a time period sufficient in length to
20 yield a stable leakage rate.

21 (h) UNCERTAINTY FOR AGRICULTURAL AND FOR-
22 ESTRY PROJECTS.—

23 (1) IN GENERAL.—The Administrator, in con-
24 sultation with the Secretary of Agriculture, shall de-
25 velop standardized methods for use in determining

1 and discounting for uncertainty for each offset
2 project type listed under section 2403(b).

3 (2) BASIS.—The standardized methods used to
4 determine and discount for uncertainty shall be
5 based on—

6 (A) the robustness and rigor of the meth-
7 ods used by a project developer to monitor and
8 quantify changes in greenhouse gas fluxes or
9 carbon stocks;

10 (B) the robustness and rigor of methods
11 used by a project developer to determine
12 additionality and leakage; and

13 (C) an exaggerated proportional discount
14 that increases relative to uncertainty, as deter-
15 mined by the Administrator, to encourage bet-
16 ter measurement and accounting.

17 (i) ACQUISITION OF NEW DATA AND REVIEW OF
18 METHODS FOR AGRICULTURAL AND FORESTRY
19 PROJECTS.—The Administrator, in consultation with the
20 Secretary of Agriculture, shall—

21 (1) establish a comprehensive field sampling
22 program to improve the scientific bases on which the
23 standardized tools and methods developed under this
24 section are based; and

1 (2) review and revise the standardized tools and
2 methods developed under this section, based on—

3 (A) validation of existing methods, proto-
4 cols, procedures, techniques, factors, equations,
5 or models;

6 (B) development of new methods, proto-
7 cols, procedures, techniques, factors, equations,
8 or models;

9 (C) increased availability of field data or
10 other datasets; and

11 (D) any other information identified by the
12 Administrator, in consultation with the Sec-
13 retary of Agriculture, that is necessary to meet
14 the objectives of this subtitle.

15 (j) EXCLUSION.—No activity for which any emission
16 allowances are received under subtitle G of title III shall
17 generate offset allowances under this subtitle.

18 **SEC. 2405. OFFSET VERIFICATION AND ISSUANCE OF AL-**
19 **LOWANCES FOR AGRICULTURAL AND FOR-**
20 **ESTRY PROJECTS.**

21 (a) IN GENERAL.—Offset allowances may be claimed
22 for net emission reductions or increases in sequestration
23 annually, after accounting for any necessary discounts in
24 accordance with section 2404, by submitting a verification
25 report for an offset project to the Administrator.

1 (b) OFFSET VERIFICATION.—

2 (1) SCOPE OF VERIFICATION.—A verification
3 report for an offset project shall—

4 (A) be completed by a verifier accredited in
5 accordance with paragraph (3); and

6 (B) shall be developed taking into consider-
7 ation—

8 (i) the information and methodology
9 contained within a monitoring and quan-
10 tification plan;

11 (ii) data and subsequent analysis of
12 the offset project, including—

13 (I) quantification of net emission
14 reductions or increases in sequestra-
15 tion;

16 (II) determination of
17 additionality;

18 (III) calculation of leakage;

19 (IV) assessment of permanence;

20 (V) discounting for uncertainty;

21 and

22 (VI) the adjustment of net emis-
23 sion reductions or increases in seques-
24 tration by the discounts determined
25 under clauses (II) through (V); and

1 (iii) subject to the requirements of
2 this subtitle, any other information identi-
3 fied by the Administrator as being nec-
4 essary to achieve the purposes of this sub-
5 title.

6 (2) VERIFICATION REPORT REQUIREMENTS.—

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

9 (A) the quantity of offsets generated;

10 (B) the amount of discounts applied;

11 (C) an assessment of methods (and the ap-
12 propriateness of those methods);

13 (D) an assessment of quantitative errors or
14 omissions (and the effect of the errors or omis-
15 sions on offsets);

16 (E) any potential conflicts of interest be-
17 tween a verifier and project developer; and

18 (F) any other provision that the Adminis-
19 trator considers to be necessary to achieve the
20 purposes of this subtitle.

21 (3) VERIFIER ACCREDITATION.—

22 (A) IN GENERAL.—Not later than 18
23 months after the date of enactment of this Act,
24 the Administrator shall promulgate regulations
25 establishing a process and requirements for ac-

1 creditation by a third-party verifier that has no
2 conflicts of interest.

3 (B) PUBLIC ACCESSIBILITY.—Each verifier
4 meeting the requirements for accreditation in
5 accordance with this paragraph shall be listed
6 in a publicly-accessible database, which shall be
7 maintained and updated by the Administrator.

8 (c) REGISTRATION AND AWARDING OF OFFSETS.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date on which the Administrator receives a com-
11 plete petition required under section 2404(b), the
12 Administrator shall—

13 (A) determine whether the offsets satisfy
14 the applicable requirements of this subtitle; and

15 (B) notify the project developer of that de-
16 termination.

17 (2) AFFIRMATIVE DETERMINATION.—In the
18 case of an affirmative determination under para-
19 graph (1), the Administrator shall—

20 (A) register the offset allowances in ac-
21 cordance with this subtitle; and

22 (B) issue the offset allowances.

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

1 **SEC. 2406. TRACKING OF REVERSALS FOR SEQUESTRATION**
2 **PROJECTS.**

3 (a) REVERSAL CERTIFICATION.—

4 (1) IN GENERAL.—Subject to section 2402, the
5 Administrator shall promulgate regulations requiring
6 the submission of a reversal certification for each
7 offset project on an annual basis following the reg-
8 istration of offset allowances.

9 (2) REQUIREMENTS.—A reversal certification
10 submitted in accordance with this subsection shall
11 state—

12 (A) whether any unmitigated reversal re-
13 lating to the offset project has occurred in the
14 year preceding the year in which the certifi-
15 cation is submitted; and

16 (B) the quantity of each unmitigated re-
17 versal.

18 (b) EFFECT ON OFFSET ALLOWANCES.—

19 (1) INVALIDITY.—The Administrator shall de-
20 clare invalid all offset allowances issued for any off-
21 set project that has undergone a complete reversal.

22 (2) PARTIAL REVERSAL.—In the case of an off-
23 set project that has undergone a partial reversal, the
24 Administrator shall render invalid offset allowances
25 issued for the offset project in direct proportion to
26 the degree of reversal.

1 (c) ACCOUNTABILITY FOR REVERSALS.—Liability
2 and responsibility for compensation of a reversal of a reg-
3 istered offset allowance under subsection (a) shall lie with
4 the person that submitted the offset allowance to the Ad-
5 ministrator for the purpose of compliance with section
6 1202(a), unless otherwise specified in a legally-binding
7 contract or agreement.

8 (d) COMPENSATION FOR REVERSALS.—The unmiti-
9 gated reversal of 1 or more registered offset allowances
10 shall require the submission of—

- 11 (1) an equal number of offset allowances; or
12 (2) a combination of offset allowances and
13 emission allowances equal to the unmitigated rever-
14 sal.

15 (e) ADJUSTMENT OF BASELINE.—

16 (1) IN GENERAL.—If the Administrator deter-
17 mines that, as a result of activities or behavior that
18 is inconsistent with the purposes of this subtitle, a
19 significant deviation exists between the average an-
20 nual greenhouse gas flux or carbon stock for a given
21 year pursuant to the certification submitted under
22 subsection (a), the baseline for that project shall be
23 adjusted by a quantity equal to the difference be-
24 tween—

1 (A) the estimated greenhouse gas flux or
2 carbon stock at the end of the year prior to the
3 year in which the significant deviation occurred;
4 and

5 (B) the estimated greenhouse gas flux or
6 carbon stock at the end of the year in which the
7 significant deviation occurred.

8 (2) PROJECT TERMINATION.—A project devel-
9 oper may cease participation in the domestic offset
10 program established under this subtitle at any time,
11 on the condition that any registered allowances
12 awarded for increases in sequestration have been
13 compensated for by the project developer through
14 the submission of an equal number of offset allow-
15 ances.

16 **SEC. 2407. EXAMINATIONS.**

17 (a) REGULATIONS.—Not later than 2 years after the
18 date of enactment of this Act, the Administrator shall pro-
19 mulgate regulations governing the examination and audit-
20 ing of offset allowances.

21 (b) REQUIREMENTS.—The regulations promulgated
22 under this section shall specifically consider—

23 (1) principles for initiating and conducting ex-
24 aminations;

1 (2) the type or scope of examinations, includ-
2 ing—

3 (A) reporting and recordkeeping; and

4 (B) site review or visitation;

5 (3) the rights and privileges of an examined
6 party; and

7 (4) the establishment of an appeal process.

8 **SEC. 2408. TIMING AND THE PROVISION OF OFFSET ALLOW-**
9 **ANCES.**

10 (a) INITIATION OF OFFSET PROJECTS.—An offset
11 project that commences operation on or after the effective
12 date of regulations promulgated under section 2407(a)
13 shall be eligible to generate offset allowances under this
14 subtitle if the offset project meets the other applicable re-
15 quirements of this subtitle.

16 (b) PRE-EXISTING PROJECTS.—

17 (1) IN GENERAL.—The Administrator may
18 allow for the transition into the Registry of offset
19 projects and banked offset allowances operating
20 under other Federal, State, or private reporting pro-
21 grams or registries as of the effective date of regula-
22 tions promulgated under section 2407(a) if the Ad-
23 ministrator determines that the offset projects and
24 banked offset allowances satisfy the applicable re-
25 quirements of this subtitle.

1 (2) EXCEPTION.—An offset allowance that is
2 expired, retired, or canceled under any other offset
3 program, registry, or market as of the effective date
4 of regulations promulgated under section 2407(a)
5 shall be ineligible for transition into the Registry.

6 **SEC. 2409. OFFSET REGISTRY.**

7 In addition to the requirements established by section
8 2404, an offset allowance registered under this subtitle
9 shall be accompanied in the Registry by—

10 (1) a verification report submitted pursuant to
11 section 2405(a);

12 (2) a reversal certification submitted pursuant
13 to section 2406(b); and

14 (3) subject to the requirements of this subtitle,
15 any other information identified by the Adminis-
16 trator as being necessary to achieve the purposes of
17 this subtitle.

18 **SEC. 2410. ENVIRONMENTAL CONSIDERATIONS.**

19 (a) COORDINATION TO MINIMIZE NEGATIVE EF-
20 FECTS.—In promulgating regulations under this subtitle,
21 the Administrator, in consultation with the Secretary of
22 Agriculture, shall act (including by rejecting projects, if
23 necessary) to avoid or minimize, to the maximum extent
24 practicable, adverse effects on human health or the envi-

1 ronment resulting from the implementation of offset
2 projects under this subtitle.

3 (b) REPORT ON POSITIVE EFFECTS.—Not later than
4 2 years after the date of enactment of this Act, the Admin-
5 istrator, in consultation with the Secretary of Agriculture,
6 shall submit to Congress a report detailing—

7 (1) the incentives, programs, or policies capable
8 of fostering improvements to human health or the
9 environment in conjunction with the implementation
10 of offset projects under this subtitle; and

11 (2) the cost of those incentives, programs, or
12 policies.

13 (c) USE OF NATIVE PLANT SPECIES IN OFFSET
14 PROJECTS.—Not later than 18 months after the date of
15 enactment of this Act, the Administrator, in consultation
16 with the Secretary of Agriculture, shall promulgate regula-
17 tions for the selection, use, and storage of native and non-
18 native plant materials—

19 (1) to ensure native plant materials are given
20 primary consideration, in accordance with applicable
21 Department of Agriculture guidance for use of na-
22 tive plant materials;

23 (2) to prohibit the use of Federal- or State-des-
24 igned noxious weeds; and

1 (3) to prohibit the use of a species listed by a
2 regional or State invasive plant council within the
3 applicable region or State.

4 **SEC. 2411. PROGRAM REVIEW.**

5 Not later than 5 years after the date of enactment
6 of this Act, and periodically thereafter, the Administrator
7 shall review and revise, as necessary, the regulations pro-
8 mulgated under this subtitle.

9 **Subtitle E—International Credits**

10 **SEC. 2501. USE OF INTERNATIONAL ALLOWANCES OR**
11 **CREDITS.**

12 The owner or operator of a covered facility may sat-
13 isfy up to 15 percent of the allowance submission require-
14 ment of the covered facility under section 1202(a) by sub-
15 mitting allowances or credits obtained on a foreign green-
16 house gas emissions trading market, on the condition that
17 the Administrator has certified the market in accordance
18 with the regulations promulgated pursuant to section
19 2502(a).

20 **SEC. 2502. REGULATIONS.**

21 (a) IN GENERAL.—Not later than 2 years after the
22 date of enactment of this Act, the Administrator shall pro-
23 mulgate regulations, taking into consideration protocols
24 adopted in accordance with the United Nations Frame-

1 work Convention on Climate Change, done at New York
2 on May 9, 1992—

3 (1) approving the use under this subtitle of
4 credits from such foreign greenhouse gas emissions
5 trading markets as the regulations may establish;
6 and

7 (2) permitting the use of international credits
8 from the foreign country that issued the credits.

9 (b) REQUIREMENTS.—The regulations promulgated
10 under subsection (a) shall require that, in order to be ap-
11 proved for use under this subtitle—

12 (1) a credit shall have been issued by a foreign
13 country pursuant to a governmental program that
14 imposes mandatory absolute tonnage limits on
15 greenhouse gas emissions from the foreign country,
16 or 1 or more industry sectors in that country, pursu-
17 ant to protocols described in subsection (a); and

18 (2) the governmental program be of comparable
19 stringency to the program established by this Act,
20 including comparable monitoring, compliance, and
21 enforcement.

22 **SEC. 2503. FACILITY CERTIFICATION.**

23 The owner or operator of a covered facility who sub-
24 mits an international allowance or credit under this sub-
25 title shall certify that the allowance or credit has not been

1 retired from use in the registry of the applicable foreign
2 country.

3 **Subtitle F—Carbon Market**
4 **Efficiency Board**

5 **SEC. 2601. PURPOSES.**

6 The purposes of this subtitle are—

7 (1) to ensure that the imposition of limits on
8 greenhouse gas emissions will not significantly harm
9 the economy of the United States; and

10 (2) to establish a Carbon Market Efficiency
11 Board to ensure the implementation and mainte-
12 nance of a stable, functioning, and efficient market
13 in emission allowances.

14 **SEC. 2602. ESTABLISHMENT OF CARBON MARKET EFFI-**
15 **CIENCY BOARD.**

16 (a) **ESTABLISHMENT.**—There is established a board,
17 to be known as the “Carbon Market Efficiency Board”
18 (referred to in this subtitle as the “Board”).

19 (b) **PURPOSES.**—The purposes of the Board are—

20 (1) to promote the achievement of the purposes
21 of this Act;

22 (2) to observe the national greenhouse gas
23 emission market and evaluate periods during which
24 the cost of emission allowances provided under Fed-

1 eral law might pose significant harm to the economy;
2 and

3 (3) to submit to the President and Congress
4 quarterly reports—

5 (A) describing—

6 (i) the status of the emission allow-
7 ance market established under this Act;

8 (ii) the economic effects of the mar-
9 ket, regional, industrial, and consumer re-
10 sponses to the market;

11 (iii) where practicable, energy invest-
12 ment responses to the market;

13 (iv) any corrective measures that
14 should be carried out to relieve excessive
15 costs of the market; and

16 (v) plans to compensate for those
17 measures to ensure that the long-term
18 emission-reduction goals of this Act are
19 achieved;

20 (B) that are timely and succinct to ensure
21 regular monitoring of market trends; and

22 (C) that are prepared independently by the
23 Board.

24 (c) MEMBERSHIP.—

1 (1) COMPOSITION.—The Board shall be com-
2 posed of 7 members who are citizens of the United
3 States, to be appointed by the President, by and
4 with the advice and consent of the Senate.

5 (2) REQUIREMENTS.—In appointing members
6 of the Board under paragraph (1), the President
7 shall—

8 (A) ensure fair representation of the finan-
9 cial, agricultural, industrial, and commercial
10 sectors, and the geographical regions, of the
11 United States, and include a representative of
12 consumer interests; and

13 (B) appoint not more than 1 member from
14 each such geographical region.

15 (3) COMPENSATION.—

16 (A) IN GENERAL.—A member of the Board
17 shall be compensated at a rate equal to the
18 daily equivalent of the annual rate of basic pay
19 prescribed for level II of the Executive Schedule
20 under section 5313 of title 5, United States
21 Code, for each day (including travel time) dur-
22 ing which the member is engaged in the per-
23 formance of the duties of the Board.

24 (B) CHAIRPERSON.—The Chairperson of
25 the Board shall be compensated at a rate equal

1 to the daily equivalent of the annual rate of
2 basic pay prescribed for level I of the Executive
3 Schedule under section 5312 of title 5, United
4 States Code, for each day (including travel
5 time) during which the member is engaged in
6 the performance of the duties of the Board.

7 (4) PROHIBITIONS.—

8 (A) CONFLICTS OF INTEREST.—An indi-
9 vidual employed by, or holding any official rela-
10 tionship (including any shareholder) with, any
11 entity engaged in the generation, transmission,
12 distribution, or sale of energy, an individual
13 who has any pecuniary interest in the genera-
14 tion, transmission, distribution, or sale of en-
15 ergy, or an individual who has a pecuniary in-
16 terest in the implementation of this Act, shall
17 not be appointed to the Board under this sub-
18 section.

19 (B) NO OTHER EMPLOYMENT.—A member
20 of the Board shall not hold any other employ-
21 ment during the term of service of the member.

22 (d) TERM; VACANCIES.—

23 (1) TERM.—

24 (A) IN GENERAL.—The term of a member
25 of the Board shall be 14 years, except that the

1 members first appointed to the Board shall be
2 appointed for terms in a manner that ensures
3 that—

4 (i) the term of not more than 1 mem-
5 ber shall expire during any 2-year period;
6 and

7 (ii) no member serves a term of more
8 than 14 years.

9 (B) OATH OF OFFICE.—A member shall
10 take the oath of office of the Board by not later
11 than 15 days after the date on which the mem-
12 ber is appointed under subsection (c)(1).

13 (C) REMOVAL.—

14 (i) IN GENERAL.—A member may be
15 removed from the Board on determination
16 of the President for cause.

17 (ii) NOTIFICATION.—The President
18 shall submit to Congress a notification of
19 any determination by the President to re-
20 move a member of the Board for cause
21 under clause (i).

22 (2) VACANCIES.—

23 (A) IN GENERAL.—A vacancy on the
24 Board—

1 (i) shall not affect the powers of the
2 Board; and

3 (ii) shall be filled in the same manner
4 as the original appointment was made.

5 (B) SERVICE UNTIL NEW APPOINTMENT.—

6 A member of the Board the term of whom has
7 expired or otherwise been terminated shall con-
8 tinue to serve until the date on which a replace-
9 ment is appointed under subparagraph (A)(ii),
10 if the President determines that service to be
11 appropriate.

12 (e) CHAIRPERSON AND VICE-CHAIRPERSON.—Of
13 members of the Board, the President shall appoint—

14 (1) 1 member to serve as Chairperson of the
15 Board for a term of 4 years; and

16 (2) 1 member to serve as Vice-Chairperson of
17 the Board for a term of 4 years.

18 (f) MEETINGS.—

19 (1) INITIAL MEETING.—The Board shall hold
20 the initial meeting of the Board as soon as prac-
21 ticable after the date on which all members have
22 been appointed to the Board under subsection
23 (e)(1).

24 (2) PRESIDING OFFICER.—A meeting of the
25 Board shall be presided over by—

1 (A) the Chairperson;

2 (B) in any case in which the Chairperson
3 is absent, the Vice-Chairperson; or

4 (C) in any case in which the Chairperson
5 and Vice-Chairperson are absent, a chairperson
6 pro tempore, to be elected by the members of
7 the Board.

8 (3) QUORUM.—Four members of the Board
9 shall constitute a quorum for a meeting of the
10 Board.

11 (4) OPEN MEETINGS.—The Board shall be sub-
12 ject to section 552b of title 5, United States Code
13 (commonly known as the “Government in the Sun-
14 shine Act”).

15 **SEC. 2603. DUTIES.**

16 (a) INFORMATION GATHERING.—

17 (1) AUTHORITY.—The Board shall collect and
18 analyze relevant market information to promote a
19 full understanding of the dynamics of the emission
20 allowance market established under this Act.

21 (2) INFORMATION.—The Board shall gather
22 such information as the Board determines to be ap-
23 propriate regarding the status of the market, includ-
24 ing information relating to—

1 (A) emission allowance allocation and
2 availability;

3 (B) the price of emission allowances;

4 (C) macro- and micro-economic effects of
5 unexpected significant increases in emission al-
6 lowance prices, or shifts in the emission allow-
7 ance market, should those increases or shifts
8 occur;

9 (D) economic effect thresholds that could
10 warrant implementation of cost relief measures
11 described in section 2604(a) after the initial 2-
12 year period described in section 2603(d)(2);

13 (E) in the event any cost relief measures
14 described in section 2604(a) are taken, the ef-
15 fects of those measures on the market;

16 (F) maximum levels of cost relief measures
17 that are necessary to achieve avoidance of eco-
18 nomic harm and preserve achievement of the
19 purposes of this Act; and

20 (G) the success of the market in promoting
21 achievement of the purposes of this Act.

22 (b) TREATMENT AS PRIMARY ACTIVITY.—

23 (1) IN GENERAL.—During the initial 2-year pe-
24 riod of operation of the Board, information gath-

1 ering under subsection (a) shall be the primary ac-
2 tivity of the Board.

3 (2) SUBSEQUENT AUTHORITY.—After the 2-
4 year period described in paragraph (1), the Board
5 shall assume authority to implement the cost-relief
6 measures described in section 2604(a).

7 (c) STUDY.—

8 (1) IN GENERAL.—During the 2-year period be-
9 ginning on the date on which the emission allowance
10 market established under this Act begins operation,
11 the Board shall conduct a study of other markets for
12 tradeable permits to emit covered greenhouse gases.

13 (2) REPORT.—Not later than 180 days after
14 the beginning of the period described in paragraph
15 (1), the Board shall submit to Congress a report de-
16 scribing the status of the market, specifically with
17 respect to volatility within the market and the aver-
18 age price of emission allowances during that 180-day
19 period.

20 (d) EMPLOYMENT OF COST RELIEF MEASURES.—

21 (1) IN GENERAL.—If the Board determines
22 that the emission allowance market established
23 under this Act poses a significant harm to the econ-
24 omy of the United States, the Board shall carry out
25 such cost relief measures relating to that market as

1 the Board determines to be appropriate under sec-
2 tion 2604(a).

3 (2) INITIAL PERIOD.—During the 2-year period
4 beginning on the date on which the emission allow-
5 ance market established under this Act begins oper-
6 ation, if the Board determines that the average daily
7 closing price of emission allowances during a 180-
8 day period exceeds the upper range of the estimate
9 provided under section 2605, the Board shall—

10 (A) increase the quantity of emission al-
11 lowances that covered facilities may borrow
12 from the prescribed allocations of the covered
13 facilities for future years; and

14 (B) take subsequent action as described in
15 section 2604(a)(2).

16 (3) REQUIREMENTS.—Any action carried out
17 pursuant to this subsection shall be subject to the
18 requirements of section 2604(a)(3)(B).

19 (e) REPORTS.—The Board shall submit to the Presi-
20 dent and Congress quarterly reports—

21 (1) describing the status of the emission allow-
22 ance market established under this Act, the eco-
23 nomic effects of the market, regional, industrial, and
24 consumer responses to the market, energy invest-
25 ment responses to the market, any corrective meas-

1 ures that should be carried out to relieve excessive
2 costs of the market, and plans to compensate for
3 those measures; and

4 (2) that are prepared independently by the
5 Board, and not in partnership with Federal agen-
6 cies.

7 **SEC. 2604. POWERS.**

8 (a) COST RELIEF MEASURES.—

9 (1) IN GENERAL.—Beginning on the day after
10 the date of expiration of the 2-year period described
11 in section 2603(b), the Board may carry out 1 or
12 more of the following cost relief measures to ensure
13 functioning, stable, and efficient markets for emis-
14 sion allowances:

15 (A) Increase the quantity of emission al-
16 lowances that covered facilities may borrow
17 from the prescribed allocations of the covered
18 facilities for future years.

19 (B) Expand the period during which a cov-
20 ered facility may repay the Administrator for
21 an emission allowance as described in subpara-
22 graph (A).

23 (C) Lower the interest rate at which an
24 emission allowance may be borrowed as de-
25 scribed in subparagraph (A).

1 (D) Increase the quantity of allowances or
2 credits obtained on a foreign greenhouse gas
3 emissions trading market that the owner or op-
4 erator of any covered facility may use to satisfy
5 the allowance submission requirement of the
6 covered facility under section 1202(a), on the
7 condition that the Administrator has certified
8 the market in accordance with the regulations
9 promulgated pursuant to section 2502(a).

10 (E) Increase the quantity of offset allow-
11 ances generated in accordance with subtitle D
12 that the owner or operator of any covered facil-
13 ity may use to satisfy the total allowance sub-
14 mission requirement of the covered facility
15 under section 1202(a).

16 (F) Expand the total quantity of emission
17 allowances made available to all covered facili-
18 ties at any given time by borrowing against the
19 total allowable quantity of emission allowances
20 to be provided for future years.

21 (2) SUBSEQUENT ACTIONS.—On determination
22 by the Board to carry out a cost relief measure pur-
23 suant to paragraph (1), the Board shall—

24 (A) allow the cost relief measure to be
25 used only during the applicable allocation year;

1 (B) exercise the cost relief measure incre-
2 mentally, and only as needed to avoid signifi-
3 cant economic harm during the applicable allo-
4 cation year;

5 (C) specify the terms of the relief to be
6 achieved using the cost relief measure, includ-
7 ing requirements for entity-level or national
8 market-level compensation to be achieved by a
9 specific date or within a specific time period;

10 (D) in accordance with section 2603(e),
11 submit to the President and Congress a report
12 describing the actions carried out by the Board
13 and recommendations for the terms under
14 which the cost relief measure should be author-
15 ized by Congress and carried out by Federal en-
16 tities; and

17 (E) evaluate, at the end of the applicable
18 allocation year, actions that need to be carried
19 out during subsequent years to compensate for
20 any cost relief measure carried out during the
21 applicable allocation year.

22 (3) ACTION ON EXPANSION OF BORROWING.—

23 (A) IN GENERAL.—If the Board carries
24 out a cost relief measure pursuant to paragraph
25 (1) that results in the expansion of borrowing

1 of emission allowances under this Act, and if
2 the average daily closing price of emission al-
3 lowances for the 180-day period beginning on
4 the date on which borrowing is so expanded ex-
5 ceeds the upper range of the estimate provided
6 under section 2605, the Board shall increase
7 the quantity of emission allowances available for
8 the applicable allocation year in accordance
9 with this paragraph.

10 (B) REQUIREMENTS.—An increase in the
11 quantity of emission allowances under subpara-
12 graph (A) shall—

13 (i) apply to all covered facilities;

14 (ii) be allocated in accordance with
15 the applicable formulas and procedures es-
16 tablished under this Act;

17 (iii) be equal to not more than 5 per-
18 cent of the total quantity of emission al-
19 lowances otherwise available for the appli-
20 cable allocation year under this Act;

21 (iv) remain in effect only for the ap-
22 plicable allocation year;

23 (v) specify the date by which the in-
24 crease shall be repaid by covered facilities
25 through a proportionate reduction of emis-

1 sion allowances available for subsequent al-
2 location years; and

3 (vi) require the repayment under
4 clause (v) to be made by not later than the
5 date that is 15 years after the date on
6 which the increase is provided.

7 (b) ASSESSMENTS.—Not more frequently than semi-
8 annually, the Board may levy on owners and operators of
9 covered facilities, in proportion to the capital stock and
10 surplus of the participants, an assessment sufficient to
11 pay the estimated expenses of the Board and the salaries
12 of members of and employees of the Board during the
13 180-day period beginning on the date on which the assess-
14 ment is levied, taking into account any deficit carried for-
15 ward from the preceding 180-day period.

16 (c) LIMITATIONS.—Nothing in this section gives the
17 Board the authority—

18 (1) to consider or prescribe entity-level petitions
19 for relief from the costs of an emission allowance al-
20 location or trading program established under Fed-
21 eral law;

22 (2) to carry out any investigative or punitive
23 process under the jurisdiction of any Federal or
24 State court;

1 (3) to interfere with, modify, or adjust any
2 emission allowance allocation scheme established
3 under Federal law; or

4 (4) to modify the total quantity of allowances
5 issued under this Act for the period of calendar
6 years 2012 through 2050.

7 **SEC. 2605. ESTIMATE OF COSTS TO ECONOMY OF LIMITING**
8 **GREENHOUSE GAS EMISSIONS.**

9 Not later than July 1, 2014, the Director of the Con-
10 gressional Budget Office, using economic and scientific
11 analyses, shall submit to Congress a report that de-
12 scribes—

13 (1) the projected price range at which emission
14 allowances are expected to trade during the 2-year
15 period of the initial greenhouse gas emission market
16 established under Federal law; and

17 (2) the projected impact of that market on the
18 economy of the United States.

19 **TITLE III—ALLOCATING AND**
20 **DISTRIBUTING ALLOWANCES**
21 **Subtitle A—Early Auctions**

22 **SEC. 3101. ALLOCATION FOR EARLY AUCTIONS.**

23 Not later than 180 days after the date of enactment
24 of this Act, the Administrator shall allocate 6 percent of
25 the emission allowances established for calendar year

1 2012, 4 percent of the emission allowances established for
 2 calendar year 2013, and 2 percent of the emissions estab-
 3 lished for calendar 2014, to the Corporation for early auc-
 4 tioning in accordance with section 4301.

5 **Subtitle B—Annual Auctions**

6 **SEC. 3201. ALLOCATION FOR ANNUAL AUCTIONS.**

7 Not later than January 1, 2012, and annually there-
 8 after through January 1, 2050, the Administrator shall
 9 allocate to the Corporation a percentage of emission allow-
 10 ances for that calendar year, for annual auctioning, as fol-
 11 lows:

Calendar Year	Percentage of Emission Allowance Account Allocated to the Corporation
2012	18
2013	21
2014	24
2015	27
2016	28
2017	31
2018	33
2019	35
2020	37
2021	39
2022	41
2023	43
2024	45
2025	47

Calendar Year	Percentage of Emission Allowance Account Allocated to the Corporation
2026	49
2027	51
2028	53
2029	55
2030	57
2031	59
2032	61
2033	63
2034	65
2035	67
2036	73
2037	73
2038	73
2039	73
2040	73
2041	73
2042	73
2043	73
2044	73
2045	73
2046	73
2047	73
2048	73
2049	73
2050	73

1 **Subtitle C—Early Action**

2 **SEC. 3301. ALLOCATION.**

3 Not later than 2 years after the date of enactment
4 of this Act, the Administrator shall allocate to owners or
5 operators of covered facilities, in recognition of actions of
6 the owners and operators taken since January 1, 1994,
7 that resulted in verified and credible reductions of green-
8 house gas emissions—

9 (1) 5 percent of the emission allowances estab-
10 lished for calendar year 2012;

11 (2) 4 percent of the emission allowances estab-
12 lished for calendar year 2013;

13 (3) 3 percent of the emission allowances estab-
14 lished for calendar year 2014;

15 (4) 2 percent of the emission allowances estab-
16 lished for calendar year 2015; and

17 (5) 1 percent of the emission allowances estab-
18 lished for calendar year 2016.

19 **SEC. 3302. DISTRIBUTION.**

20 (a) **IN GENERAL.**—Not later than 1 year after the
21 date of enactment of this Act, the Administrator shall es-
22 tablish, by regulation, procedures and standards for use
23 in distributing, to owners and operators of covered facili-
24 ties, emission allowances allocated under section 3301.

1 (b) CONSIDERATION.—The procedures and standards
2 established under subsection (a) shall provide for consider-
3 ation of verified and credible emission reductions reg-
4 istered before the date of enactment of this Act under—

5 (1) the Climate Leaders Program, or any other
6 voluntary greenhouse gas reduction program of the
7 United States Environmental Protection Agency and
8 United States Department of Energy;

9 (2) the Voluntary Reporting of Greenhouse
10 Gases Program of the Energy Information Adminis-
11 tration;

12 (3) State or regional greenhouse gas emission
13 reduction programs that include systems for track-
14 ing and verifying the greenhouse gas emission reduc-
15 tions; and

16 (4) voluntary entity programs that resulted in
17 entity-wide reductions in greenhouse gas emissions.

18 (c) DISTRIBUTION.—Not later than 4 years after the
19 date of enactment of this Act, the Administrator shall dis-
20 tribute all emission allowances allocated under section
21 3301.

22 **Subtitle D—States**

23 **SEC. 3401. ALLOCATION FOR ENERGY SAVINGS.**

24 (a) ALLOCATION.—Not later than January 1, 2012,
25 and annually thereafter through January 1, 2050, the Ad-

1 administrator shall allocate 1 percent of the Emission Allow-
2 ance Account among States that—

3 (1) have adopted regulations by not later than
4 the date on which the allowance allocations are
5 made, that subject regulated natural gas and electric
6 utilities that deliver gas or electricity in the State to
7 regulations that—

8 (A) automatically adjust the rates charged
9 by natural gas and electric utilities to fully re-
10 cover fixed costs of service without regard to
11 whether their actual sales are higher or lower
12 than the forecast of sales on which the tariffed
13 rates were based; and

14 (B) make cost-effective energy-efficiency
15 investments by investor-owned natural gas or
16 electric utilities at least as rewarding to their
17 shareholders, on a risk-adjusted basis for the
18 equity capital invested, as power or energy pur-
19 chases, or investments in new energy supplies
20 or infrastructure; and

21 (2) have adopted, or whose political subdivisions
22 have adopted, regulations by not later than the date
23 on which allocations are made, that are as stringent
24 as, or more stringent than, the most recent energy
25 performance requirements of ASHRAE 90.1 and the

1 International Energy Conservation Code for new
2 buildings.

3 (b) ALLOCATION FOR BUILDING EFFICIENCY.—Not
4 later than January 1, 2012, and annually thereafter
5 through January 1, 2050, the Administrator shall allocate
6 1 percent of the Emission Allowance Account among
7 States that are in compliance with section 304(e)(3) of
8 the Energy Conservation and Production Act (as amended
9 by section 5201).

10 (c) DISTRIBUTION.—Not later than 2 years after the
11 date of enactment of this Act, the Administrator shall es-
12 tablish procedures and standards for the distribution of
13 emission allowances to States in accordance with sub-
14 sections (a) and (b).

15 (d) USE.—Any State receiving emission allowances
16 under this section for a calendar year shall retire or use,
17 in 1 or more of the ways described in section 3403(c)(1),
18 not less than 90 percent of the emission allowances allo-
19 cated to the State (or proceeds of the sale of those allow-
20 ances) under this section for the calendar year.

21 **SEC. 3402. ALLOCATION FOR STATES WITH PROGRAMS**
22 **THAT EXCEED FEDERAL EMISSION REDUC-**
23 **TION TARGETS.**

24 (a) ALLOCATION.—Not later than January 1, 2012,
25 and annually thereafter through January 1, 2050, the Ad-

1 administrator shall allocate 2 percent of the Emission Allow-
2 ance Account for the year among States that have—

3 (1) before the date of enactment of this Act, en-
4 acted statewide greenhouse gas emission reduction
5 targets that are more stringent than the nationwide
6 targets established under title II; and

7 (2) by the time of an allocation under this sub-
8 section, imposed on covered facilities within the
9 States aggregate greenhouse gas emission limitations
10 more stringent than those imposed on covered facili-
11 ties under title II.

12 (b) DISTRIBUTION.—Not later than 2 years after the
13 date of enactment of this Act, the Administrator shall es-
14 tablish procedures and standards for use in distributing
15 emission allowances among States in accordance with sub-
16 section (a).

17 (c) USE.—Any State receiving emission allowances
18 under this section for a calendar year shall retire or use,
19 in 1 or more of the ways described in section 3403(c)(1),
20 not less than 90 percent of the emission allowances allo-
21 cated to the State (or proceeds of the sale of those allow-
22 ances) under this section for the calendar year.

23 **SEC. 3403. GENERAL ALLOCATION.**

24 (a) ALLOCATION.—Subject to subsection (d)(3), not
25 later than January 1, 2012, and annually thereafter

1 through January 1, 2050, the Administrator shall allocate
2 5 percent of the Emission Allowance Account for the year
3 among States.

4 (b) DISTRIBUTION.—The allowances available for al-
5 location to States under subsection (a) for a calendar year
6 shall be distributed as follows:

7 (1) For each calendar year, $\frac{1}{3}$ of the quantity
8 of allowances available for allocation to States under
9 subsection (a) shall be allocated among individual
10 States based on the proportion that—

11 (A) the expenditures of a State for the
12 low-income home energy assistance program es-
13 tablished under the Low-Income Home Energy
14 Assistance Act of 1981 (42 U.S.C. 8621 et
15 seq.) for the preceding calendar year; bears to

16 (B) the expenditures of all States for that
17 program for the preceding calendar year.

18 (2) For each calendar year, $\frac{1}{3}$ of the quantity
19 of allowances available for allocation to States under
20 subsection (a) shall be allocated among the States
21 based on the proportion that—

22 (A) the population of a State, as deter-
23 mined by the most recent decennial census pre-
24 ceding the calendar year for which the alloca-

1 tion regulations are for the allocation year;
2 bears to

3 (B) the population of all States, as deter-
4 mined by that census.

5 (3) For each calendar year, $\frac{1}{3}$ of the quantity
6 of allowances available for allocation to States under
7 subsection (a) shall be allocated among the States
8 based on the proportion that—

9 (A) the quantity of carbon dioxide that
10 would be emitted assuming that all of the coal
11 that is mined, natural gas that is processed,
12 and petroleum that is refined within the bound-
13 aries of a State during the preceding year is
14 completely combusted and that none of the car-
15 bon dioxide emissions are captured, as deter-
16 mined by the Secretary of Energy; bears to

17 (B) the aggregate quantity of carbon diox-
18 ide that would be emitted assuming that all of
19 the coal that is mined, natural gas that is proc-
20 essed, and petroleum that is refined in all
21 States for the preceding year is completely com-
22 busted and that none of the carbon dioxide
23 emissions are captured, as determined by the
24 Secretary of Energy.

25 (c) USE.—

1 (1) IN GENERAL.—During any calendar year, a
2 State shall retire or use in 1 or more of the fol-
3 lowing ways not less than 90 percent of the allow-
4 ances allocated to the State (or proceeds of sale of
5 those emission allowances) under this section for
6 that calendar year:

7 (A) To mitigate impacts on low-income en-
8 ergy consumers.

9 (B) To promote energy efficiency (includ-
10 ing support of electricity and natural gas de-
11 mand reduction, waste minimization, and recy-
12 cling programs).

13 (C) To promote investment in nonemitting
14 electricity generation technology.

15 (D) To improve public transportation and
16 passenger rail service and otherwise promote re-
17 ductions in vehicle miles traveled.

18 (E) To encourage advances in energy tech-
19 nology that reduce or sequester greenhouse gas
20 emissions.

21 (F) To address local or regional impacts of
22 climate change, including the relocation of com-
23 munities displaced by the impacts of climate
24 change.

1 (G) To mitigate obstacles to investment by
2 new entrants in electricity generation markets
3 and energy-intensive manufacturing sectors.

4 (H) To address local or regional impacts of
5 climate change policy, including providing as-
6 sistance to displaced workers.

7 (I) To mitigate impacts on energy-intensive
8 industries in internationally competitive mar-
9 kets.

10 (J) To reduce hazardous fuels, and to pre-
11 vent and suppress wildland fire.

12 (K) To fund rural, municipal, and agricul-
13 tural water projects that are consistent with the
14 sustainable use of water resources.

15 (2) DEADLINE.—A State shall distribute or sell
16 allowances for use in accordance with paragraph (1)
17 by not later than 1 year before the beginning of each
18 allowance allocation year.

19 (3) RETURN OF ALLOWANCES.—Not later than
20 330 days before the beginning of each allowance al-
21 location year, a State shall return to the Adminis-
22 trator any allowances not distributed by the deadline
23 under paragraph (2).

24 (d) PROGRAM FOR TRIBAL COMMUNITIES.—

1 (1) ESTABLISHMENT.—Not later than 3 years
2 after the date of enactment of this Act, the Adminis-
3 trator, in consultation with the Secretary of the In-
4 terior, shall by regulation establish a program for
5 tribal communities—

6 (A) that is designed to deliver assistance to
7 tribal communities within the United States
8 that face disruption or dislocation as a result of
9 global climate change; and

10 (B) under which the Administrator shall
11 distribute 0.5 percent of the Emission Allow-
12 ance Account for each calendar among tribal
13 governments of the tribal communities de-
14 scribed in subparagraph (A).

15 (2) ALLOCATION.—Beginning in the first cal-
16 endar year that begins after promulgation of the
17 regulations referred to in paragraph (1), and annu-
18 ally thereafter until calendar year 2050, the Admin-
19 istrator shall allocate 0.5 percent of the Emission
20 Allowance Account for each calendar year to the
21 program established under paragraph (1).

22 (3) ALLOCATIONS TO STATES.—For each cal-
23 endar year for which the Administrator allocates 0.5
24 percent of the Emission Allowance Account to the
25 program established under paragraph (1), the gen-

1 eral allocation for States under subsection (a) shall
2 be 4.5 percent of the Emission Allowance Account.

3 **Subtitle E—Electricity Consumers**

4 **SEC. 3501. ALLOCATION.**

5 Not later than April 1, 2012, and annually thereafter
6 through January 1, 2050, the Administrator shall allocate
7 among load-serving entities 10 percent of the Emission Al-
8 lowance Account for the year.

9 **SEC. 3502. DISTRIBUTION.**

10 (a) IN GENERAL.—For each calendar year, the emis-
11 sion allowances allocated under section 3501 shall be dis-
12 tributed by the Administrator to each load-serving entity
13 based on the proportion that—

14 (1) the quantity of electricity delivered by the
15 load-serving entity during the 3 calendar years pre-
16 ceding the calendar year for which the emission al-
17 lowances are distributed, adjusted upward for elec-
18 tricity not delivered as a result of consumer energy-
19 efficiency programs implemented by the load-serving
20 entity and verified by the regulatory agency of the
21 load-serving entity; bears to

22 (2) the total quantity of electricity delivered by
23 all load-serving entities during those 3 calendar
24 years.

1 (b) BASIS.—The Administrator shall base the deter-
2 mination of the quantity of electricity delivered by a load-
3 serving entity for the purpose of subsection (a) on the
4 most recent data available in annual reports filed with the
5 Energy Information Administration of the Department of
6 Energy

7 **SEC. 3503. USE.**

8 (a) IN GENERAL.—Any load-serving entity that ac-
9 cepts emission allowances distributed under section 3502
10 shall—

11 (1) sell each emission allowance distributed to
12 the load-serving entity by not later than 1 year after
13 receiving the emission allowance; and

14 (2) pursue fair market value for each emission
15 allowance sold in accordance with paragraph (1).

16 (b) PROCEEDS.—All proceeds from the sale of emis-
17 sion allowances under subsection (a) shall be used solely—

18 (1) to mitigate economic impacts on low- and
19 middle-income energy consumers, including by re-
20 ducing transmission charges or issuing rebates; and

21 (2) to promote energy efficiency on the part of
22 energy consumers.

23 (c) INCLUSION IN RETAIL RATES.—To facilitate the
24 prompt pass-through of the benefits from the sale of emis-
25 sion allowances to retail customers—

1 (1) any credit from the sale of allowances shall
2 be reflected in the retail rates of a load-serving enti-
3 ty not later than 90 days after the sale of the allow-
4 ances;

5 (2) the load-serving entity shall not be required
6 to file a retail rate case in order to pass through the
7 credit; and

8 (3) the amount of the credit shall not be subject
9 to review by any State regulatory authority.

10 (d) PROHIBITION ON REBATES.—No load-serving en-
11 tity may use any proceeds from the sale of emission allow-
12 ances under subsection (a) to provide to any consumer a
13 rebate that is based on the quantity of electricity used by
14 the consumer.

15 **SEC. 3504. REPORTING.**

16 (a) IN GENERAL.—Each load-serving entity that ac-
17 cepts emission allowances distributed under section 3502
18 shall, for each calendar year for which the load-serving
19 entity accepts emission allowances, submit to the Adminis-
20 trator a report describing—

21 (1) the date of each sale of each emission allow-
22 ance during the preceding year;

23 (2) the amount of revenue generated from the
24 sale of emission allowances during the preceding
25 year; and

1 (3) how, and to what extent, the load-serving
2 entity used the proceeds of the sale of the emission
3 allowances during the preceding year.

4 (b) AVAILABILITY OF REPORTS.—The Administrator
5 shall make available to the public all reports submitted
6 by any load-serving entity under subsection (b), including
7 by publishing those reports on the Internet.

8 **Subtitle F—Bonus Allowances for**
9 **Carbon Capture and Geological**
10 **Sequestration**

11 **SEC. 3601. ALLOCATION.**

12 (a) IN GENERAL.—Not later than 3 years after the
13 date of enactment of this Act, the Administrator shall—

14 (1) establish a Bonus Allowance Account; and

15 (2) allocate 4 percent of the emission allow-
16 ances established for calendar years 2012 through
17 2035 to the Bonus Allowance Account.

18 (b) INITIAL NUMBER OF ALLOWANCES.—As of Janu-
19 ary 1, 2012, there shall be 3,932,160,000 emission allow-
20 ances in the Bonus Allowance Account.

21 **SEC. 3602. QUALIFYING PROJECTS.**

22 To be eligible to receive emission allowances under
23 this subtitle, a carbon capture and sequestration project
24 shall—

1 (1) comply with such criteria and procedures as
 2 the Administrator may establish, including a re-
 3 quirement for a minimum of an 85-percent capture
 4 rate for carbon dioxide emissions on an annual basis
 5 from any unit for which allowances are allocated;

6 (2) sequester in a geological formation per-
 7 mitted by the Administrator for that purpose in ac-
 8 cordance with regulations promulgated under section
 9 1421(d) of the Safe Drinking Water Act (42 U.S.C.
 10 300h(d)) carbon dioxide resulting from electric
 11 power generation; and

12 (3) have begun operation during the period be-
 13 ginning on January 1, 2008, and ending on Decem-
 14 ber 31, 2035.

15 **SEC. 3603. DISTRIBUTION.**

16 Subject to section 3604, for each of calendar years
 17 2012 through 2039, the Administrator shall distribute
 18 emission allowances from the Bonus Allowance Account
 19 to each qualifying project under this subtitle in a quantity
 20 equal to the product obtained by multiplying the number
 21 of metric tons of carbon dioxide geologically sequestered
 22 by the project and the bonus allowance rate for that cal-
 23 endar year, as provided in the following table:

Year	Bonus Allowance Rate
2012	4.5
2013	4.5

Year	Bonus Allowance Rate
2014	4.5
2015	4.5
2016	4.5
2017	4.5
2018	4.2
2019	3.9
2020	3.6
2021	3.3
2022	3.0
2023	2.7
2024	2.4
2025	2.1
2026	1.8
2027	1.5
2028	1.3
2029	1.1
2030	0.9
2031	0.7
2032	0.5
2033	0.5
2034	0.5
2035	0.5
2036	0.5
2037	0.5
2038	0.5
2039	0.5

1 SEC. 3604. 10-YEAR LIMIT.

2 A qualifying project may receive annual emission al-
3 lowances under this subsection only for—

4 (1) the first 10 years of operation; or

5 (2) if the unit covered by the qualifying project
6 began operating before January 1, 2012, the period
7 of calendar years 2012 through 2021.

8 SEC. 3605. EXHAUSTION OF BONUS ALLOWANCE ACCOUNT.

9 If, at the beginning of a calendar year, the Adminis-
10 trator determines that the number of emission allowances
11 remaining in the Bonus Allowance Account will be insuffi-
12 cient to allow the distribution, in that calendar year, of

1 the number of allowances that otherwise would be distrib-
2 uted under section 3603 for the calendar year, the Admin-
3 istrator shall, for the calendar year—

4 (1) distribute the remaining bonus allowances
5 only to qualifying projects that were already quali-
6 fying projects during the preceding calendar year;

7 (2) distribute the remaining bonus allowances
8 to those qualifying projects on a pro rata basis; and

9 (3) discontinue the program established under
10 this subtitle as of the date on which the Bonus Al-
11 lowance Account is projected to be fully used based
12 on projects already in operation.

13 **Subtitle G—Domestic Agriculture** 14 **and Forestry**

15 **SEC. 3701. ALLOCATION.**

16 Not later than January 1, 2012, and annually there-
17 after through January 1, 2050, the Administrator shall
18 allocate to the Secretary of Agriculture 5 percent of the
19 Emission Allowance Account for the calendar year for use
20 in—

21 (1) reducing greenhouse gas emissions from the
22 agriculture and forestry sectors of the United States
23 economy; and

24 (2) increasing greenhouse gas sequestration
25 from those sectors.

1 **SEC. 3702. AGRICULTURAL AND FORESTRY GREENHOUSE**
2 **GAS MANAGEMENT RESEARCH.**

3 (a) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Secretary of Agriculture, in
5 consultation with scientific and agricultural and forestry
6 experts, shall prepare and submit to Congress a report
7 that describes the status of research on agricultural and
8 forestry greenhouse gas management, including a descrip-
9 tion of—

10 (1) research on soil carbon sequestration and
11 other agricultural and forestry greenhouse gas man-
12 agement that has been carried out;

13 (2) any additional research that is necessary;

14 (3) the proposed priority for additional re-
15 search;

16 (4) the most appropriate approaches for con-
17 ducting the additional research; and

18 (5) the manner in which carbon credits that are
19 specific to agricultural and forestry operations
20 should be valued and allotted.

21 (b) STANDARDIZED SYSTEM OF SOIL CARBON MEAS-
22 UREMENT AND CERTIFICATION FOR THE AGRICULTURAL
23 AND FORESTRY SECTORS.—

24 (1) IN GENERAL.—As soon as practicable after
25 the date of enactment of this Act, the Secretary of
26 Agriculture shall establish a standardized system of

1 carbon measurement and certification for the agri-
2 cultural and forestry sectors.

3 (2) ADMINISTRATION.—In establishing the sys-
4 tem, the Secretary of Agriculture shall—

5 (A) create a standardized system of meas-
6 urements for agricultural and forestry green-
7 house gases; and

8 (B) delineate the most appropriate system
9 of certification of credit by public or private en-
10 tities.

11 (c) RESEARCH.—After the date of submission of the
12 report described in paragraph (1), the President and the
13 Secretary of Agriculture (in collaboration with the member
14 institutions of higher education of the Consortium for Ag-
15 ricultural Soil Mitigation of Greenhouse Gases, institu-
16 tions of higher education, and research entities) shall ini-
17 tiate a program to conduct any additional research that
18 is necessary.

19 **SEC. 3703. DISTRIBUTION.**

20 Taking into account the report prepared under sub-
21 section 3702(a), the Secretary of Agriculture shall estab-
22 lish, by regulation, a program under which agricultural
23 and forestry sequestration allowances may be distributed
24 to entities that carry out sequestration projects on agricul-

1 tural and forest land that achieve long-term greenhouse
2 gas emission mitigation benefits.

3 **Subtitle H—International Forest**
4 **Protection**

5 **SEC. 3801. FINDINGS.**

6 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) encouraging reduced deforestation and
19 other forest carbon activities in other countries
20 can—

21 (A) provide critical leverage to encourage
22 voluntary developing country participation in
23 emission limitation regimes;

1 (B) facilitate greater overall reductions in
2 greenhouse gas emissions than would otherwise
3 be practicable; and

4 (C) substantially benefit biodiversity, con-
5 servation, and indigenous and other forest-de-
6 pendent people in developing countries.

7 **SEC. 3802. DEFINITION OF FOREST CARBON ACTIVITIES.**

8 In this subtitle, the term “forest carbon activities”
9 means—

10 (1) activities directed at reducing greenhouse
11 gas emissions from deforestation and forest degrada-
12 tion in countries other than the United States; and

13 (2) activities directed at increasing sequestra-
14 tion of carbon through restoration of forests, and de-
15 graded land in countries other than the United
16 States that has not been forested prior to restora-
17 tion, afforestation, and improved forest manage-
18 ment, that meet the eligibility requirements promul-
19 gated under section 3804(a).

20 **SEC. 3803. ALLOCATION.**

21 Not later than January 1, 2012, and annually there-
22 after through January 1, 2050, the Administrator shall
23 allocate and distribute 3 percent of the Emission Allow-
24 ance Account for the calendar year for use in carrying out

1 forest carbon activities in countries other than the United
2 States.

3 **SEC. 3804. DEFINITION AND ELIGIBILITY REQUIREMENTS.**

4 (a) **ELIGIBILITY REQUIREMENTS FOR FOREST CAR-**
5 **BON ACTIVITIES.**—Not later than 2 years after the date
6 of enactment of this Act, the Administrator, in consulta-
7 tion with the Secretary of the Interior, the Secretary of
8 State, and the Secretary of Agriculture, shall promulgate
9 eligibility requirements for forest carbon activities directed
10 at sequestration of carbon through restoration of forests
11 and degraded land, afforestation, and improved forest
12 management in countries other than the United States,
13 including requirements that those activities be—

14 (1) carried out and managed in accordance with
15 widely-accepted environmentally sustainable forestry
16 practices; and

17 (2) designed—

18 (A) to promote native species and restora-
19 tion of native forests, where practicable; and

20 (B) to avoid the introduction of invasive
21 nonnative species.

22 (b) **QUALITY CRITERIA FOR FOREST CARBON ALLO-**
23 **CATIONS.**—Not later than 2 years after the date of enact-
24 ment of this Act, the Administrator, in consultation with
25 the Secretary of the Interior, the Secretary of State, and

1 the Secretary of Agriculture, shall promulgate regulations
2 establishing the requirements for eligibility to receive al-
3 lowances under this section, including requirements that
4 ensure that the emission reductions or sequestrations are
5 real, permanent, additional, and verifiable, with reliable
6 measuring and monitoring and appropriate accounting for
7 leakage.

8 **SEC. 3805. INTERNATIONAL FOREST CARBON ACTIVITIES.**

9 (a) IN GENERAL.—The Administrator, in consulta-
10 tion with the Secretary of State, shall identify and periodi-
11 cally update a list of countries that have—

12 (1) demonstrated capacity to participate in
13 international forest carbon activities, including—

14 (A) sufficient historical data on changes in
15 national forest carbon stocks;

16 (B) technical capacity to monitor and
17 measure forest carbon fluxes with an acceptable
18 level of uncertainty; and

19 (C) institutional capacity to reduce emis-
20 sions from deforestation and degradation;

21 (2) capped greenhouse gas emissions or other-
22 wise established a national emission reference sce-
23 nario based on historical data; and

24 (3) commenced an emission reduction program
25 for the forest sector.

1 (b) CREDITING AND ADDITIONALITY.—

2 (1) REDUCTION IN DEFORESTATION AND FOR-
3 EST DEGRADATION.—A verified reduction in green-
4 house gas emissions from deforestation and forest
5 degradation under a cap or from a nationwide emis-
6 sions reference scenario described in subsection (a)
7 shall be—

8 (A) eligible for crediting; and

9 (B) considered to satisfy the additionality
10 criterion.

11 (2) PERIODIC REVIEW OF NATIONAL LEVEL RE-
12 Ductions IN DEFORESTATION AND DEGRADA-
13 TION.—The Administrator, in consultation with the
14 Secretary of State, shall identify and periodically up-
15 date a list of countries described in subsection (a)
16 that have—

17 (A) achieved national-level reductions of
18 deforestation and degradation below a historical
19 reference scenario, taking into consideration the
20 average annual deforestation and degradation
21 rates of the country and of all countries during
22 a period of at least 5 years; and

23 (B) demonstrated those reductions using
24 remote sensing technology that meets inter-
25 national standards.

1 (3) OTHER FOREST CARBON ACTIVITIES.—A
2 forest carbon activity, other than a reduction in de-
3 forestation or forest degradation, shall be eligible for
4 crediting, subject to the quality criteria for forest
5 carbon credits identified in this Act or in regulations
6 promulgated under this Act.

7 (c) RECOGNITION OF CREDITS.—With respect to
8 countries other than countries described in subsection (a),
9 the Administrator—

10 (1) shall recognize credits from forest carbon
11 activities, subject to the quality criteria for forest
12 carbon credits identified in this Act and regulations
13 promulgated under this Act; and

14 (2) is encouraged to identify other incentives,
15 including economic and market-based incentives, to
16 encourage developing countries with largely-intact
17 native forests to protect those forests.

18 **SEC. 3806. REVIEWS AND DISCOUNT.**

19 (a) REVIEWS.—Not later than 3 years after the date
20 of enactment of this Act, and 5 years thereafter, the Ad-
21 ministrator shall conduct a review of the credit program
22 under this subtitle.

23 (b) DISCOUNT.—If, after the date that is 10 years
24 after the date of enactment of this Act, the Administrator
25 determines that foreign countries that, in the aggregate,

1 generate greenhouse gas emissions accounting for more
 2 than 0.5 percent of global greenhouse gas emissions have
 3 not capped those emissions, established emissions ref-
 4 erence scenarios based on historical data, or otherwise re-
 5 duced total forest emissions, the Administrator may apply
 6 a discount to forest carbon credits imported into the
 7 United States from those countries.

8 **Subtitle I—Covered Facilities**

9 **SEC. 3901. ALLOCATION.**

10 Not later than April 1, 2012, and annually thereafter
 11 through January 1, 2035, the Administrator shall allocate
 12 percentages of the Emission Allowance Account for the
 13 calendar year to owners or operators of covered facilities
 14 within the electric power sector and the industrial sector,
 15 as follows:

Calendar	Percentage of Emission Allowance Account Allocated to the Electric Power Sector	Percentage of Emission Allowance Account Allocated to the Industrial Sector
2012	20	20
2013	20	20
2014	20	20
2015	20	20
2016	20	20
2017	19	19
2018	18	18
2019	17	17
2020	16	16
2021	15	15

Calendar	Percentage of Emission Allowance Account Allocated to the Electric Power Sector	Percentage of Emission Allowance Account Allocated to the Industrial Sector
2022	14	14
2023	13	13
2024	12	12
2025	11	11
2026	10	10
2027	9	9
2028	8	8
2029	7	7
2030	6	6
2031	5	5
2032	4	4
2033	3	3
2034	2	2
2035	1	1

1 **SEC. 3902. DISTRIBUTION SYSTEM.**

2 Not later than 1 year after the date of enactment
3 of this Act, the Administrator shall establish a system for
4 distributing to covered facilities within the electric power
5 and industrial sectors the emission allowances allocated
6 under section 3901.

7 **SEC. 3903. DISTRIBUTING EMISSION ALLOWANCES WITHIN**
8 **THE ELECTRIC POWER SECTOR.**

9 (a) NEW ENTRANTS.—

10 (1) IN GENERAL.—As part of the system estab-
11 lished under section 3902, the Administrator shall,
12 for each calendar year, set aside, from the quantity
13 of emission allowances represented by the percent-

1 ages described in the table contained in section 3901
2 for the electric power sector, a quantity of emission
3 allowances for distribution to new entrant covered
4 electric power sector facilities.

5 (2) CALCULATION OF ALLOWANCES.—The
6 quantity of emission allowances distributed by the
7 Administrator for a calendar year to a new covered
8 electric power sector facility under paragraph (1)
9 shall be equal to the product obtained by multi-
10 plying—

11 (A) the average greenhouse gas emission
12 rate of all covered electric power sector facilities
13 that commenced operations during the 5 years
14 preceding the date of enactment of this Act;
15 and

16 (B) the electricity generated by the facility
17 during the calendar year, adjusted downward
18 on a pro rata basis for each new facility in the
19 event that insufficient allowances are available
20 under section 3901 for a calendar year.

21 (b) FACILITIES OWNED BY A RURAL ELECTRIC CO-
22 OPERATIVE.—

23 (1) IN GENERAL.—As part of the system estab-
24 lished under section 3902, the Administrator shall,
25 for each calendar year, set aside, from the quantity

1 of emission allowances represented by the percent-
2 ages described in the table contained in section 3901
3 for the electric power sector, a quantity of emission
4 allowances for distribution to covered electric power
5 sector facilities that are owned or operated by a
6 rural electric cooperative.

7 (2) CALCULATION OF ALLOWANCES.—The
8 quantity of emission allowances distributed by the
9 Administrator in a calendar year under paragraph
10 (1) to a covered electric power sector facility that is
11 owned or operated by a rural electric cooperative
12 shall be equal to the quantity of carbon dioxide
13 equivalents that the covered electric power sector fa-
14 cility emitted during calendar year 2006.

15 (c) INCUMBENTS.—

16 (1) IN GENERAL.—As part of the system estab-
17 lished under section 3902, the Administrator shall,
18 for each calendar year, distribute to covered electric
19 power sector facilities (other than facilities owned or
20 operated by a rural electric cooperative) that were
21 operating during the calendar year preceding the
22 year in which this Act was enacted the emission al-
23 lowances represented by the percentages described in
24 the table contained in section 3901 for the electric

1 power sector that remain after the distribution of
2 emission allowances under subsections (a) and (b).

3 (2) CALCULATION OF ALLOWANCES.—The
4 quantity of emission allowances distributed to a cov-
5 ered electric power sector facility under paragraph
6 (1) shall be equal to the product obtained by multi-
7 plying—

8 (A) the quantity of emission allowances
9 available for distribution under paragraph (1);
10 and

11 (B) the quotient obtained by dividing—

12 (i) the annual average quantity of car-
13 bon dioxide equivalents emitted by the cov-
14 ered electric power sector facility during
15 the 3 calendar years preceding the date of
16 enactment of this Act; by

17 (ii) the annual average of the aggre-
18 gate quantity of carbon dioxide equivalents
19 emitted by all covered electric power sector
20 facilities during those 3 calendar years.

21 **SEC. 3904. DISTRIBUTING EMISSION ALLOWANCES WITHIN**
22 **THE INDUSTRIAL SECTOR.**

23 (a) NEW ENTRANTS.—

24 (1) IN GENERAL.—As part of the system estab-
25 lished under section 3902, the Administrator shall,

1 for each calendar year, set aside, from the quantity
2 of emission allowances represented by the percent-
3 ages described in the table contained in section 3901
4 for the industrial sector, a quantity of emission al-
5 lowances for distribution to new entrant covered in-
6 dustrial sector facilities.

7 (2) CALCULATION OF ALLOWANCES.—The
8 quantity of emission allowances distributed by the
9 Administrator in a calendar year to a new covered
10 industrial sector facility under paragraph (1) shall
11 be calculated pursuant to such formula as shall be
12 established under the system established under sec-
13 tion 3902.

14 (b) INCUMBENTS.—

15 (1) IN GENERAL.—As part of the system estab-
16 lished under section 3902, the Administrator shall,
17 for each calendar year, distribute to covered indus-
18 trial sector facilities that were operating during the
19 calendar year preceding the year in which this Act
20 was enacted the emission allowances represented by
21 the percentages described in the table contained in
22 section 3901 for the industrial sector that remain
23 after the distribution of emission allowances under
24 subsection (a).

1 (2) CALCULATION OF ALLOWANCES.—The
2 quantity of emission allowances distributed to a cov-
3 ered industrial sector facility under paragraph (1)
4 shall be equal to the product obtained by multi-
5 plying—

6 (A) the quantity of emission allowances
7 available for distribution under paragraph (1);
8 and

9 (B) the quotient obtained by dividing—

10 (i) the annual average quantity of car-
11 bon dioxide equivalents emitted by the cov-
12 ered industrial sector facility during the 3
13 calendar years preceding the date of enact-
14 ment of this Act; by

15 (ii) the annual average of the aggre-
16 gate quantity of carbon dioxide equivalents
17 emitted by all covered industrial sector fa-
18 cilities during those 3 calendar years.

19 (c) REVOCATION OF DISTRIBUTION UPON FACILITY
20 SHUTDOWN.—If a covered facility within the industrial
21 sector receives a distribution of emission allowances under
22 this section for a calendar year and is subsequently perma-
23 nently shut down during that calendar year, the owner or
24 operator of the facility shall promptly return to the Ad-

1 administrator a number of emission allowances equal to the
2 difference between—

3 (1) the number of carbon dioxide equivalents
4 emitted by the facility in that calendar year prior to
5 the shutdown; and

6 (2) the number of emission allowances distrib-
7 uted to the facility by the Administrator for that cal-
8 endar year.

9 **TITLE IV—AUCTIONS AND USES**
10 **OF AUCTION PROCEEDS**
11 **Subtitle A—Funds**

12 **SEC. 4101. ESTABLISHMENT.**

13 There are established in the Treasury of the United
14 States the following funds:

15 (1) The Energy Assistance Fund.

16 (2) The Climate Change Worker Training
17 Fund.

18 (3) The Adaptation Fund.

19 (4) The Climate Change and National Security
20 Fund.

21 **SEC. 4102. AMOUNTS IN FUNDS.**

22 Each Fund established by section 4101 shall consist
23 of such amounts as are appropriated to the respective
24 Fund under section 4103.

1 **SEC. 4103. TRANSFERS TO FUNDS.**

2 There are appropriated to each Fund established by
3 section 4101, out of funds of the Treasury not otherwise
4 appropriated, amounts equivalent to amounts deposited in
5 each respective Fund under section 4302(b)(2).

6 **Subtitle B—Climate Change Credit**
7 **Corporation**

8 **SEC. 4201. ESTABLISHMENT.**

9 (a) IN GENERAL.—There is established, as a non-
10 profit corporation without stock, a corporation to be
11 known as the “Climate Change Credit Corporation”.

12 (b) TREATMENT.—The Corporation shall not be con-
13 sidered to be an agency or establishment of the Federal
14 Government.

15 **SEC. 4202. APPLICABLE LAWS.**

16 The Corporation shall be subject to this title and, to
17 the extent consistent with this title, the District of Colum-
18 bia Business Corporation Act (D.C. Code section 29-301
19 et seq.).

20 **SEC. 4203. BOARD OF DIRECTORS.**

21 (a) IN GENERAL.—The Corporation shall have a
22 board of directors composed of 5 individuals who are citi-
23 zens of the United States, of whom 1 shall be elected an-
24 nually by the board to serve as Chairperson.

1 (b) POLITICAL AFFILIATION.—Not more than 3
2 members of the board serving at any time may be affili-
3 ated with the same political party.

4 (c) APPOINTMENT AND TERM.—A member of the
5 board shall be appointed by the President, by and with
6 the advice and consent of the Senate, for a term of 5
7 years.

8 (d) QUORUM.—Three members of the board shall
9 constitute a quorum for a meeting of the board of direc-
10 tors.

11 **Subtitle C—Auctions**

12 **SEC. 4301. EARLY AUCTIONS.**

13 (a) INITIATION OF AUCTIONING.—Not later than 1
14 year after the date of enactment of this Act, the Corpora-
15 tion shall begin auctioning the emission allowances allo-
16 cated to the Corporation under section 3101.

17 (b) COMPLETION OF AUCTIONING.—Not later than
18 December 31, 2011, the Corporation shall complete auc-
19 tioning of all allowances allocated to the Corporation
20 under section 3101.

21 (c) PROCEEDS FROM EARLY AUCTIONING.—The
22 Corporation shall use to carry out programs established
23 under subtitle D all proceeds of early auctioning conducted
24 by the Corporation under this section.

1 **SEC. 4302. ANNUAL AUCTIONS.**

2 (a) IN GENERAL.—Not later than 30 days after the
3 beginning of a calendar year identified in the table con-
4 tained in section 3201, and annually thereafter through
5 calendar year 2050, the Corporation shall auction all of
6 the allowances allocated to the Corporation for that year
7 by the Administrator under section 3201.

8 (b) PROCEEDS FROM ANNUAL AUCTIONING.—

9 (1) IN GENERAL.—For each of calendar years
10 2012 through 2050, the Corporation shall use to
11 carry out the programs established under subtitle D
12 55 percent of the proceeds from annual auctions
13 that the Corporation conducts for the calendar year
14 under this section.

15 (2) DEPOSIT OF FUNDS.—For each of calendar
16 years 2012 through 2050, the Corporation shall,
17 subject to subtitle H, deposit into the following
18 Funds established by section 4101 the following per-
19 centages of the proceeds from auctions that the Cor-
20 poration conducts for the calendar year under this
21 section:

Energy Assistance Fund	20
Climate Change Worker Training Fund	5
Adaptation Fund	20

1 **Subtitle D—Energy Technology**
2 **Deployment**

3 **SEC. 4401. IN GENERAL.**

4 For each calendar year, the Corporation shall use the
5 amounts described in section 4301(c) and 4302(b) to
6 carry out the programs established under this subtitle, as
7 follows:

8 (1) Not more than 45 percent of the funds shall
9 be used to carry out the zero- or low-carbon energy
10 technologies program under section 4402.

11 (2) Not more than 35 percent of the funds shall
12 be used as follows:

13 (A) Not more than 28 percent shall be
14 used to carry out the advanced coal and seques-
15 tration technologies program under section
16 4403.

17 (B) Not more than 7 percent shall be used
18 to carry out the cellulosic biomass ethanol tech-
19 nology deployment programs under section
20 4404.

21 (3) Not more than 20 percent shall be used to
22 carry out the advanced technology vehicles manufac-
23 turing incentive program under section 4405.

1 **SEC. 4402. ZERO- OR LOW-CARBON ENERGY TECHNOLOGIES**

2 **DEPLOYMENT.**

3 (a) DEFINITIONS.—In this section:

4 (1) ENERGY SAVINGS.—The term “energy sav-
5 ings” means megawatt-hours of electricity or million
6 British thermal units of natural gas saved by a
7 product, in comparison to projected energy consump-
8 tion under an energy-efficiency standard applicable
9 to the product.

10 (2) HIGH-EFFICIENCY CONSUMER PRODUCT.—
11 The term “high-efficiency consumer product” means
12 a covered product to which an energy conservation
13 standard applies under section 325 of the Energy
14 Policy and Conservation Act (42 U.S.C. 6295), if
15 the energy efficiency of the product exceeds the en-
16 ergy efficiency required under the standard.

17 (3) ZERO- OR LOW-CARBON GENERATION.—The
18 term “zero- or low-carbon generation” means gen-
19 eration of electricity by an electric generation unit
20 that—

21 (A) emits no carbon dioxide into the at-
22 mosphere, or is fossil-fuel fired and emits into
23 the atmosphere not more than 250 pounds of
24 carbon dioxide per megawatt-hour (after adjust-
25 ment for any carbon dioxide from the unit that
26 is geologically sequestered); and

1 (B) was placed into commercial service
2 after the date of enactment of this Act.

3 (b) FINANCIAL INCENTIVES PROGRAM.—During each
4 fiscal year beginning on or after October 1, 2008, the Cor-
5 poration shall competitively award financial incentives
6 under this subsection in the technology categories of—

7 (1) the production of electricity from new zero-
8 or low-carbon generation; and

9 (2) the manufacture of high-efficiency consumer
10 products.

11 (c) REQUIREMENTS.—

12 (1) IN GENERAL.—The Corporation shall make
13 awards under this section to producers of new zero-
14 or low-carbon generation and to manufacturers of
15 high-efficiency consumer products—

16 (A) in the case of producers of new zero-
17 or low-carbon generation, based on the bid of
18 each producer in terms of dollars per megawatt-
19 hour of electricity generated; and

20 (B) in the case of manufacturers of high-
21 efficiency consumer products, based on the bid
22 of each manufacturer in terms of dollars per
23 megawatt-hour or million British thermal units
24 saved.

25 (2) ACCEPTANCE OF BIDS.—

1 (A) IN GENERAL.—In making awards
2 under this subsection, the Corporation shall—

3 (i) solicit bids for reverse auction from
4 appropriate producers and manufacturers,
5 as determined by the Corporation; and

6 (ii) award financial incentives to the
7 producers and manufacturers that submit
8 the lowest bids that meet the requirements
9 established by the Corporation.

10 (B) FACTORS FOR CONVERSION.—

11 (i) IN GENERAL.—For the purpose of
12 assessing bids under subparagraph (A), the
13 Corporation shall specify a factor for con-
14 verting megawatt-hours of electricity and
15 million British thermal units of natural
16 gas to common units.

17 (ii) REQUIREMENT.—The conversion
18 factor shall be based on the relative green-
19 house gas emission benefits of electricity
20 and natural gas conservation.

21 (d) FORMS OF AWARDS.—

22 (1) ZERO- AND LOW-CARBON GENERATORS.—
23 An award for zero- or low-carbon generation under
24 this subsection shall be in the form of a contract to
25 provide a production payment for each year during

1 the first 10 years of commercial service of the gen-
 2 eration unit in an amount equal to the product ob-
 3 tained by multiplying—

4 (A) the amount bid by the producer of the
 5 zero- or low-carbon generation; and

6 (B) the megawatt-hours estimated to be
 7 generated by the zero- or low-carbon generation
 8 unit each year.

9 (2) HIGH-EFFICIENCY CONSUMER PRODUCTS.—

10 An award for a high-efficiency consumer product
 11 under this subsection shall be in the form of a lump
 12 sum payment in an amount equal to the product ob-
 13 tained by multiplying—

14 (A) the amount bid by the manufacturer of
 15 the high-efficiency consumer product; and

16 (B) the energy savings during the pro-
 17 jected useful life of the high-efficiency consumer
 18 product, not to exceed 10 years, as determined
 19 by the Corporation.

20 **SEC. 4403. ADVANCED COAL AND SEQUESTRATION TECH-**
 21 **NOLOGIES PROGRAM.**

22 (a) ADVANCED COAL TECHNOLOGIES.—

23 (1) DEFINITION OF ADVANCED COAL GENERA-
 24 TION TECHNOLOGY.—In this subsection, the term

1 “advanced coal generation technology” means ad-
2 vanced a coal-fueled power plant technology that—

3 (A) achieves a minimum efficiency of 30
4 percent with respect to higher heating value of
5 the feedstock, after all parasitic requirements
6 for carbon dioxide capture and compression to
7 2,000 pounds per square inch absolute have
8 been subtracted;

9 (B) provides for the capture and geological
10 sequestration of at least 85 percent of carbon
11 dioxide produced at the facility, as determined
12 by the Corporation; and

13 (C) has an emission rate of not more than
14 250 pounds of carbon dioxide per megawatt-
15 hour of net electricity generation, after sub-
16 tracting the carbon dioxide that is captured and
17 sequestered.

18 (2) DEMONSTRATION PROJECTS.—The Cor-
19 poration shall use not less than $\frac{1}{4}$ of the amounts
20 made available to carry out this section for each fis-
21 cal year to support demonstration projects using ad-
22 vanced coal generation technology, including retrofit
23 technology that could be deployed on existing coal
24 generation facilities.

25 (3) DEPLOYMENT INCENTIVES.—

1 (A) IN GENERAL.—The Corporation shall
2 use not less than $\frac{1}{4}$ of the amounts made avail-
3 able to carry out this subsection for each fiscal
4 year to provide Federal financial incentives to
5 facilitate the deployment of not more than 20
6 gigawatts of advanced coal generation tech-
7 nologies.

8 (B) ADMINISTRATION.—In providing in-
9 centives under this paragraph, the Corporation
10 shall—

11 (i) provide appropriate incentives for
12 regulated investor-owned utilities, munic-
13 ipal utilities, electric cooperatives, and
14 independent power producers, as deter-
15 mined by the Secretary of Energy; and

16 (ii) ensure that a range of the domes-
17 tic coal types is employed in the facilities
18 that receive incentives under this para-
19 graph.

20 (C) FUNDING REQUIREMENTS.—

21 (i) SEQUESTRATION ACTIVITIES.—The
22 Corporation shall provide incentives only to
23 projects that will capture and sequester at
24 least 85 percent of the carbon dioxide pro-
25 duced by the project facilities.

1 (ii) STORAGE AGREEMENT RE-
2 QUIRED.—The Corporation shall require a
3 binding storage agreement for the carbon
4 dioxide captured in a project under this
5 subsection, in a geological storage project
6 permitted by the Administrator under reg-
7 ulations promulgated pursuant to section
8 1421(d) of the Safe Drinking Water Act
9 (42 U.S.C. 300h(d)).

10 (iii) PROJECTS USING CERTAIN
11 COALS.—In providing incentives under this
12 paragraph, the Corporation shall set aside
13 not less than 25 percent of any amounts
14 made available to carry out this subsection
15 for projects using lower-rank coals, such as
16 subbituminous coal and lignite.

17 (4) DISTRIBUTION OF FUNDS.—A project that
18 receives an award under this subsection may elect 1
19 of the following Federal financial incentives:

20 (A) A loan guarantee.

21 (B) A cost-sharing grant to cover the in-
22 cremental cost of installing and operating car-
23 bon capture and storage equipment (for which
24 utilization costs may be covered for the first 10
25 years of operation).

1 (C) Production payments of not more than
2 1.5 cents per kilowatt-hour of electric output
3 during the first 10 years of commercial service
4 of the project.

5 (5) LIMITATION.—A project may not receive an
6 award under this subsection if the project receives
7 an award under section 4402.

8 (b) SEQUESTRATION.—

9 (1) IN GENERAL.—The Corporation shall use
10 not less than $\frac{1}{2}$ of the amounts made available to
11 carry out this subsection for each fiscal year for
12 large-scale geological carbon storage demonstration
13 projects that store carbon dioxide captured from fa-
14 cilities for the generation of electricity using coal
15 gasification or other advanced coal combustion proc-
16 esses, including facilities that receive assistance
17 under subsection (a).

18 (2) PROJECT CAPITAL AND OPERATING
19 COSTS.—The Corporation shall provide assistance
20 under this paragraph to reimburse the project owner
21 for a percentage of the incremental project capital
22 and operating costs of the project that are attrib-
23 utable to carbon capture and sequestration, as the
24 Secretary determines to be appropriate.

1 **SEC. 4404. FUEL FROM CELLULOSIC BIOMASS.**

2 (a) IN GENERAL.—The Corporation shall provide de-
3 ployment incentives under this section to encourage a vari-
4 ety of projects to produce transportation fuels from cel-
5 lulosic biomass, relying on different feedstocks in different
6 regions of the United States.

7 (b) PROJECT ELIGIBILITY.—Incentives under this
8 section shall be provided on a competitive basis to projects
9 that produce fuels that—

10 (1) meet United States fuel and emission speci-
11 fications;

12 (2) help diversify domestic transportation en-
13 ergy supplies; and

14 (3) improve or maintain air, water, soil, and
15 habitat quality, and protect scarce water supplies.

16 (c) INCENTIVES.—Incentives under this section may
17 consist of—

18 (1) loan guarantees for the construction of pro-
19 duction facilities and supporting infrastructure; or

20 (2) production payments through a reverse auc-
21 tion in accordance with subsection (d).

22 (d) REVERSE AUCTION.—

23 (1) IN GENERAL.—In providing incentives
24 under this section, the Corporation shall—

1 (A) prescribe rules under which producers
2 of fuel from cellulosic biomass may bid for pro-
3 duction payments under subsection (c)(2); and

4 (B) solicit bids from producers of different
5 classes of transportation fuel, as the Corpora-
6 tion determines to be appropriate.

7 (2) REQUIREMENT.—The rules under section
8 4402 shall require that incentives shall be provided
9 to the producers that submit the lowest bid (in
10 terms of cents per gallon gasoline equivalent) for
11 each class of transportation fuel from which the Cor-
12 poration solicits a bid.

13 **SEC. 4405. ADVANCED TECHNOLOGY VEHICLES MANUFAC-**
14 **TURING INCENTIVE PROGRAM.**

15 (a) DEFINITIONS.—In this section:

16 (1) ADVANCED TECHNOLOGY VEHICLE.—The
17 term “advanced technology vehicle” means a hybrid
18 or advanced diesel light duty motor vehicle that
19 meets—

20 (A) the Tier II Bin 5 emission standard
21 established in rules prescribed by the Adminis-
22 trator under section 202(i) of the Clean Air Act
23 (42 U.S.C. 7521(i)), or a lower-numbered Bin
24 emission standard;

1 (B) any new emission standard for fine
2 particulate matter prescribed by the Adminis-
3 trator under that Act; and

4 (C) at least 125 percent of the average
5 base year combined fuel economy, calculated on
6 an energy-equivalent basis, for vehicles of a
7 substantially similar footprint.

8 (2) COMBINED FUEL ECONOMY.—The term
9 “combined fuel economy” means—

10 (A) the combined city-highway miles per
11 gallon values, as reported in accordance with
12 section 32908 of title 49, United States Code;
13 and

14 (B) in the case of an electric drive vehicle
15 with the ability to recharge from an off-board
16 source, the reported mileage, as determined in
17 a manner consistent with the Society of Auto-
18 motive Engineers recommended practice for
19 that configuration, or a similar practice rec-
20 ommended by the Secretary of Energy, using a
21 petroleum equivalence factor for the off-board
22 electricity (as defined by the Secretary of En-
23 ergy).

1 (3) ENGINEERING INTEGRATION COSTS.—The
2 term “engineering integration costs” includes the
3 cost of engineering tasks relating to—

4 (A) incorporating qualifying components
5 into the design of advanced technology vehicles;
6 and

7 (B) designing new tooling and equipment
8 for production facilities that produce qualifying
9 components or advanced technology vehicles.

10 (4) QUALIFYING COMPONENT.—The term
11 “qualifying component” means a component that the
12 Secretary of Energy determines to be—

13 (A) specially designed for advanced tech-
14 nology vehicles; and

15 (B) installed for the purpose of meeting
16 the performance requirements of advanced tech-
17 nology vehicles as specified in subparagraphs
18 (A), (B), and (C) of paragraph (1).

19 (b) MANUFACTURER FACILITY CONVERSION
20 AWARDS.—The Corporation shall provide facility conver-
21 sion funding awards under this subsection to automobile
22 manufacturers and component suppliers to pay up to 30
23 percent of the cost of—

24 (1) reequipping or expanding an existing manu-
25 facturing facility to produce—

1 (A) qualifying advanced technology vehi-
2 cles; or

3 (B) qualifying components; and

4 (2) engineering integration of qualifying vehi-
5 cles and qualifying components.

6 (c) PERIOD OF AVAILABILITY.—An award under sub-
7 section (b) shall apply to—

8 (1) facilities and equipment placed in service
9 after the date of enactment of this Act and before
10 January 1, 2016; and

11 (2) engineering integration costs incurred after
12 the date of enactment of this Act.

13 **Subtitle E—Energy Consumers**

14 **SEC. 4501. PROPORTIONS OF FUNDING AVAILABILITY.**

15 All funds deposited into the Energy Assistance Fund
16 established by section 4101 shall be made available, with-
17 out further appropriation or fiscal year limitation, to the
18 following programs in the following proportions:

19 (1) 50 percent of the funds to the low-income
20 home energy assistance program established under
21 the Low Income Home Energy Assistance Act of
22 1981 (42 U.S.C. 8621 et seq.).

23 (2) 25 percent of the funds to the Weatheriza-
24 tion Assistance Program for Low-Income Persons
25 established under part A of title IV of the Energy

1 Conservation and Production Act (42 U.S.C. 6861
2 et seq.).

3 (3) 25 percent of the funds to the rural energy
4 assistance program described in section 4502.

5 **SEC. 4502. RURAL ENERGY ASSISTANCE PROGRAM.**

6 The Secretary of Energy shall carry out a program
7 to use the funds made available under section 4501(3) to
8 provide financial assistance to promote the availability of
9 reasonably-priced electricity in off-grid rural regions in
10 which electricity prices exceed 150 percent of the national
11 average, as determined by the Secretary of Energy.

12 **Subtitle F—Climate Change**
13 **Worker Training Program**

14 **SEC. 4601. FUNDING.**

15 All funds deposited into the Climate Change Worker
16 Training Fund established by section 4101 shall be made
17 available, without further appropriation or fiscal year limi-
18 tation, to carry out the programs established under this
19 subtitle.

20 **SEC. 4602. PURPOSES.**

21 The purposes of this subtitle are—

22 (1) to provide quality job training to any work-
23 ers displaced by this Act;

1 (2) to provide assistance in the form of tem-
2 porary wages and health care benefits to workers in
3 training;

4 (3) to transition workers into jobs created as a
5 result of this Act;

6 (4) to provide skilled workers to enterprises de-
7 veloping and marketing advanced technologies and
8 practices that reduce greenhouse gas emissions of
9 the United States; and

10 (5) to provide funding for State worker training
11 programs.

12 **SEC. 4603. ESTABLISHMENT.**

13 Not later than 180 days after the date of enactment
14 of this Act, the Secretary of Labor, in consultation with
15 the Administrator and the Secretary of Energy, shall es-
16 tablish a climate change worker training program that
17 achieves the purposes of this subtitle.

18 **SEC. 4604. GRANTS TO STATES.**

19 Not later than 1 year after the date of enactment
20 of this Act, the Secretary of Labor shall establish a pro-
21 gram to award grants to States, for use in funding State
22 worker training programs, based on the impact of this Act
23 on the workforce of each State, as determined by the Sec-
24 retary of Labor.

1 **SEC. 4605. TYPES OF ASSISTANCE.**

2 The types of assistance that workers may receive
3 under the climate change worker training program shall
4 include, as determined by the Secretary of Labor—

5 (1) income replacement;

6 (2) health care credits;

7 (3) travel costs incidental to participation in a
8 training program under this subtitle; and

9 (4) a portion of the cost of relocating to a new
10 job.

11 **Subtitle G—Adaptation Program**
12 **for Natural Resources in United**
13 **States and Territories**

14 **SEC. 4701. DEFINITIONS.**

15 In this subtitle:

16 (1) **ECOLOGICAL PROCESS.**—

17 (A) **IN GENERAL.**—The term “ecological
18 process” means a biological, chemical, or phys-
19 ical interaction between the biotic and abiotic
20 components of an ecosystem.

21 (B) **INCLUSIONS.**—The term “ecological
22 process” includes—

23 (i) nutrient cycling;

24 (ii) pollination;

25 (iii) predator-prey relationships;

26 (iv) soil formation;

- 1 (v) gene flow;
2 (vi) larval dispersal and settlement;
3 (vii) hydrological cycling;
4 (viii) decomposition; and
5 (ix) disturbance regimes, such as fire
6 and flooding.

7 (2) FISH AND WILDLIFE.—The term “fish and
8 wildlife” means—

9 (A) any species of wild fauna, including
10 fish and other aquatic species; and

11 (B) any fauna in a captive breeding pro-
12 gram the object of which is to reintroduce indi-
13 viduals of a depleted indigenous species into
14 previously occupied range.

15 (3) HABITAT.—The term “habitat” means the
16 physical, chemical, and biological properties that are
17 used by wildlife (including aquatic and terrestrial
18 plant communities) for growth, reproduction, and
19 survival, food, water, cover, and space, on a tract of
20 land, in a body of water, or in an area or region.

21 (4) INDIAN TRIBE.—The term “Indian tribe”
22 has the meaning given the term in section 4 of the
23 Indian Self-Determination and Education Assistance
24 Act (25 U.S.C. 450b).

1 (5) PLANT.—The term “plant” means any spe-
2 cies of wild flora.

3 (6) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (7) STATE.—The term “State” means—

6 (A) a State;

7 (B) the District of Columbia;

8 (C) the Commonwealth of Puerto Rico;

9 and

10 (D) any other territory or possession of the
11 United States.

12 **SEC. 4702. ADAPTATION FUND.**

13 (a) IN GENERAL.—All amounts deposited in the Ad-
14 aptation Fund established by section 4101 shall be made
15 available, without further appropriation or fiscal year limi-
16 tation, to carry out activities (including research and edu-
17 cation activities) that assist fish and wildlife, fish and
18 wildlife habitat, plants, and associated ecological processes
19 in adapting to and surviving the impacts of climate change
20 (referred to in this subtitle as “adaptation activities”) pur-
21 suant to this subtitle.

22 (b) DEPARTMENT OF THE INTERIOR.—Of the
23 amounts made available to carry out this subtitle—

24 (1) 40 percent shall be allocated to the Sec-
25 retary, and subsequently made available to States

1 through the Wildlife Conservation and Restoration
2 Account established under section 3(a)(2) of the
3 Pittman-Robertson Wildlife Restoration Act (16
4 U.S.C. 669b(a)(2)), to carry out adaptation activi-
5 ties in accordance with comprehensive wildlife con-
6 servation strategies and, where appropriate, other
7 fish and wildlife conservation strategies, including—

8 (A) plans under the National Fish Habitat
9 Initiative of the National Fish and Wildlife
10 Foundation;

11 (B) North American Wetlands Conserva-
12 tion Act (16 U.S.C. 4401 et seq.);

13 (C) the Federal, State, and local partner-
14 ship known as “Partners in Flight”;

15 (D) coastal zone management plans;

16 (E) regional fishery management plans;

17 and

18 (F) recovery plans for threatened and en-
19 dangered species under section 6 of the Endan-
20 gered Species Act of 1973 (16 U.S.C. 1535);

21 (2) 20 percent shall be allocated to the Sec-
22 retary for use in funding adaptation activities car-
23 ried out—

24 (A) under endangered species, migratory
25 bird, and other fish and wildlife programs ad-

1 ministered by the United States Fish and Wild-
2 life Service;

3 (B) on wildlife refuges and other public
4 land under the jurisdiction of the United States
5 Fish and Wildlife Service, Bureau of Land
6 Management, or National Park Service; or

7 (C) within Federal water managed by the
8 Bureau of Reclamation; and

9 (3) 5 percent shall be allocated to the Secretary
10 for adaptation activities carried out under coopera-
11 tive grant programs, including—

12 (A) the Tribal Wildlife Grants program of
13 the United States Fish and Wildlife Service;

14 (B) the cooperative endangered species
15 conservation fund authorized under section 6(i)
16 of the Endangered Species Act of 1973 (16
17 U.S.C. 1535(i));

18 (C) programs under the North American
19 Wetlands Conservation Act (16 U.S.C. 4401 et
20 seq.);

21 (D) the Land and Water Conservation
22 Fund established under section 2 of the Land
23 and Water Conservation Fund Act of 1965 (16
24 U.S.C. 4601–5);

1 (E) the multinational species conservation
2 fund established under the heading “MULTI-
3 NATIONAL SPECIES CONSERVATION FUND” of
4 title I of the Department of the Interior and
5 Related Agencies Appropriations Act, 1999 (16
6 U.S.C. 4246);

7 (F) the Neotropical Migratory Bird Con-
8 servation Fund established by section 9(a) of
9 the Neotropical Migratory Bird Conservation
10 Act (16 U.S.C. 6108(a));

11 (G) the Coastal Program of the United
12 States Fish and Wildlife Service; and

13 (H) the National Fish Habitat Action
14 Plan.

15 (c) FOREST SERVICE.—Of the amounts made avail-
16 able each fiscal year to carry out this subtitle, 5 percent
17 shall be allocated to the Secretary of Agriculture for use
18 in funding adaptation activities carried out on National
19 Forests and National Grasslands under the jurisdiction of
20 the Forest Service.

21 (d) ENVIRONMENTAL PROTECTION AGENCY.—Of the
22 amounts made available to carry out this subtitle, 12.5
23 percent shall be allocated to the Administrator for use in
24 restoring and protecting—

1 (1) large-scale freshwater aquatic ecosystems,
2 such as the Everglades, the Great Lakes, Flathead
3 Lake, the Missouri River, and the Yellowstone River;
4 and

5 (2) large-scale estuarine ecosystems, such as
6 Chesapeake Bay and Long Island Sound.

7 (e) CORPS OF ENGINEERS.—Of the amounts made
8 available to carry out this subtitle, 12.5 percent shall be
9 allocated to the Corps of Engineers for use in restoring—

10 (1) large-scale freshwater aquatic ecosystems,
11 such as the ecosystems described in subsection
12 (d)(1); and

13 (2) large-scale estuarine ecosystems, such as
14 Chesapeake Bay, California Bay Delta, Coastal Lou-
15 isiana, Long Island Sound, and Puget Sound.

16 (f) DEPARTMENT OF COMMERCE.—Of the amounts
17 made available to carry out this subtitle, 5 percent shall
18 be allocated to the Secretary of Commerce for use in fund-
19 ing adaptation activities carried out in protecting and re-
20 storing coastal, estuarine, coral, and marine species and
21 habitats, including adaptation activities in cooperative
22 grant programs such as—

23 (1) the Coastal and Estuarine Land Conserva-
24 tion Program and the Community-Based Restoration

1 Program of the National Oceanic and Atmospheric
2 Administration; and

3 (2) programs under the Coastal Zone Manage-
4 ment Act of 1972 (16 U.S.C. 1451 et seq.).

5 (g) COST SHARING.—Notwithstanding any other pro-
6 vision of law, a State or Indian tribe that receives a grant
7 under this section shall be required to provide 10 percent
8 of the costs of each activity carried out using funds from
9 the grant.

10 (h) COMPREHENSIVE ADAPTATION STRATEGY.—

11 (1) IN GENERAL.—Effective beginning on the
12 date that is 18 months after the date of enactment
13 of this Act, funds made available to the Federal
14 agencies under this subtitle shall be used only for
15 activities that are consistent with a comprehensive
16 adaptation strategy that—

17 (A) is jointly approved by the head of each
18 of the Federal agencies, after—

19 (i) consultation with States and In-
20 dian tribes; and

21 (ii) solicitation of public and inde-
22 pendent scientific input; and

23 (B) describes the manner in which the
24 Federal Government will assist fish and wildlife,
25 fish and wildlife habitat, plants, and associated

1 ecological processes in adapting to and sur-
2 viving the impacts of climate change.

3 (2) UPDATING.—Each adaptation strategy de-
4 scribed in paragraph (1) shall be updated at least
5 every 5 years.

6 **Subtitle H—Climate Change and** 7 **National Security Program**

8 **SEC. 4801. INTERAGENCY CLIMATE CHANGE AND NA-** 9 **TIONAL SECURITY COUNCIL.**

10 (a) ESTABLISHMENT.—There is established a Cli-
11 mate Change and National Security Council (referred to
12 in this subtitle as the “Council”).

13 (b) MEMBERSHIP.—The Council shall include—

14 (1) the Secretary of State, who shall serve as
15 Chairperson of the Council;

16 (2) the Administrator;

17 (3) the Secretary of Defense; and

18 (4) the Director of National Intelligence.

19 (c) DUTIES.—The Council shall—

20 (1) submit annual reports to the President, the
21 Committees on Environment and Public Works and
22 Foreign Relations of the Senate, and the Commit-
23 tees on Energy and Commerce and Foreign Rela-
24 tions of the House of Representatives that de-
25 scribe—

1 (A) the extent to which other countries are
2 committing to reducing greenhouse gas emis-
3 sions through mandatory programs;

4 (B) the extent to which global climate
5 change, through the potential negative impacts
6 of climate change on sensitive populations and
7 natural resources in different regions of the
8 world, may threaten, cause, or exacerbate polit-
9 ical instability or international conflict in those
10 regions; and

11 (C) the ramifications of any potentially de-
12 stabilizing impacts climate change may have on
13 the national security of the United States, in-
14 cluding—

15 (i) the creation of refugees; and

16 (ii) international or intranational con-
17 flicts over water, food, land, or other re-
18 sources; and

19 (2) include in each annual report submitted
20 under paragraph (1) recommendations on whether it
21 is necessary to enhance the national security of the
22 United States by funding programs with amounts
23 made available under section 4802 that the Council
24 determines would assist in avoiding the politically

1 destabilizing impacts of climate change in volatile re-
2 gions of the world.

3 **SEC. 4802. FUNDING.**

4 Upon a determination for any calendar year by the
5 President, based on any report and recommendations sub-
6 mitted by the Council under section 4801, that funds
7 should be made available to carry out the recommenda-
8 tions—

9 (1) notwithstanding section 4302(b)(2), the
10 Corporation shall deposit 5 percent of the proceeds
11 from auctions that the Corporation conducts for that
12 calendar year under section 4302(a) into the Cli-
13 mate Change and National Security Fund estab-
14 lished by section 4101; and

15 (2) the President shall use those funds to im-
16 plement the recommendations.

17 **Subtitle I—Audits**

18 **SEC. 4901. REVIEW AND AUDIT BY COMPTROLLER GEN-**

19 **ERAL OF THE UNITED STATES.**

20 Not later than January 1, 2014, and at least every
21 3 years thereafter, the Comptroller General of the United
22 States shall review and audit the expenditures under this
23 title to determine the efficacy of the programs, expendi-
24 tures, and projects funded under this title.

1 **TITLE V—ENERGY EFFICIENCY**
2 **Subtitle A—Appliance Efficiency**

3 **SEC. 5101. RESIDENTIAL BOILERS.**

4 Section 325(f) of the Energy Policy and Conservation
5 Act (42 U.S.C. 6925(f)) is amended—

6 (1) in the subsection heading, by inserting
7 “AND BOILERS” after “FURNACES”;

8 (2) in paragraph (1), by striking “except that”
9 and all that follows through subparagraph (A) and
10 inserting “except that”;

11 (3) in subparagraph (B)—

12 (A) by striking “(B) the Secretary” and
13 inserting “the Secretary”; and

14 (B) by redesignating clauses (i) through
15 (iii) as subparagraphs (A) through (C), respec-
16 tively, and indenting appropriately;

17 (4) by redesignating paragraph (3) as para-
18 graph (4); and

19 (5) by inserting after paragraph (2) the fol-
20 lowing:

21 “(3) BOILERS.—

22 “(A) IN GENERAL.—Subject to subpara-
23 graphs (B) and (C), boilers manufactured on or
24 after September 1, 2012, shall meet the fol-
25 lowing requirements:

Boiler Type Requirements	Minimum Annual Fuel Utilization Efficiency	Design
Gas hot water	82 percent	No constant burning pilot, automatic means for adjusting water temperature
Gas steam	80 percent	No constant burning pilot
Oil hot water	84 percent	Automatic means for adjusting temperature
Oil steam	82 percent	None
Electric hot water	None	Automatic means for adjusting temperature
Electric steam	None	None

1 “(B) AUTOMATIC MEANS FOR ADJUSTING
 2 WATER TEMPERATURE.—

3 “(i) IN GENERAL.—The manufacturer
 4 shall equip each gas, oil, and electric hot
 5 water boiler (other than a boiler equipped
 6 with tankless domestic water heating coils)
 7 with an automatic means for adjusting the
 8 temperature of the water supplied by the
 9 boiler to ensure that an incremental
 10 change in inferred heat load produces a
 11 corresponding incremental change in the
 12 temperature of water supplied.

13 “(ii) CERTAIN BOILERS.—For a boiler
 14 that fires at 1 input rate, the requirements
 15 of this subparagraph may be satisfied by
 16 providing an automatic means that allows
 17 the burner or heating element to fire only
 18 when the means has determined that the

1 inferred heat load cannot be met by the re-
2 sidual heat of the water in the system.

3 “(iii) NO INFERRED HEAT LOAD.—
4 When there is no inferred heat load with
5 respect to a hot water boiler, the automatic
6 means described in clauses (i) and (ii)
7 shall limit the temperature of the water in
8 the boiler to not more than 140 degrees
9 Fahrenheit.

10 “(iv) OPERATION.—A boiler described
11 in clause (i) or (ii) shall be operable only
12 when the automatic means described in
13 clauses (i), (ii), and (iii) is installed.

14 “(C) EXCEPTION.—A boiler that is manu-
15 factured to operate without any need for elec-
16 tricity, any electric connection, any electric
17 gauges, electric pumps, electric wires, or electric
18 devices of any sort, shall not be required to
19 meet the requirements of this subsection.”.

20 **SEC. 5102. REGIONAL VARIATIONS IN HEATING OR COOL-**
21 **ING STANDARDS.**

22 (a) IN GENERAL.—Section 327 of the Energy Policy
23 and Conservation Act (42 U.S.C. 6297) is amended—

24 (1) by redesignating subsections (e), (f), and
25 (g) as subsections (f), (g), and (h), respectively; and

1 (2) by inserting after subsection (d) the fol-
2 lowing:

3 “(e) REGIONAL STANDARDS FOR SPACE HEATING
4 AND AIR CONDITIONING PRODUCTS.—

5 “(1) STANDARDS.—

6 “(A) IN GENERAL.—The Secretary may es-
7 tablish regional standards for space heating and
8 air conditioning products, other than window-
9 unit air-conditioners and portable space heaters.

10 “(B) NATIONAL MINIMUM AND REGIONAL
11 STANDARDS.—For each space heating and air
12 conditioning product, the Secretary may estab-
13 lish—

14 “(i) a national minimum standard;
15 and

16 “(ii) 2 more stringent regional stand-
17 ards for regions determined to have signifi-
18 cantly differing climatic conditions.

19 “(C) MAXIMUM SAVINGS.—Any standards
20 established for a region under subparagraph
21 (B)(ii) shall achieve the maximum level of en-
22 ergy savings that are technically feasible and
23 economically justified within that region.

24 “(D) ECONOMIC JUSTIFIABILITY STUDY.—

1 “(i) IN GENERAL.—As a preliminary
2 step in determining the economic justifi-
3 ability of establishing a regional standard
4 under subparagraph (B)(ii), the Secretary
5 shall conduct a study involving stake-
6 holders, including—

7 “(I) a representative from the
8 National Institute of Standards and
9 Technology;

10 “(II) representatives of non-
11 governmental advocacy organizations;

12 “(III) representatives of product
13 manufacturers, distributors, and in-
14 stallers;

15 “(IV) representatives of the gas
16 and electric utility industries; and

17 “(V) such other individuals as
18 the Secretary may designate.

19 “(ii) REQUIREMENTS.—The study
20 under this subparagraph—

21 “(I) shall determine the potential
22 benefits and consequences of pre-
23 scribing regional standards for heat-
24 ing and cooling products; and

1 “(II) may, if favorable to the
2 standards, constitute the evidence of
3 economic justifiability required under
4 this Act.

5 “(E) REGIONAL BOUNDARIES.—Regional
6 boundaries used in establishing regional stand-
7 ards under subparagraph (B)(ii) shall—

8 “(i) conform to State borders; and

9 “(ii) include only contiguous States
10 (other than Alaska and Hawaii), except
11 that on the request of a State, the Sec-
12 retary may divide the State to include a
13 part of the State in each of 2 regions.

14 “(2) NONCOMPLYING PRODUCTS.—If the Sec-
15 retary establishes standards for a region, it shall be
16 unlawful under section 332 to offer for sale at retail,
17 sell at retail, or install within the region products
18 that do not comply with the applicable standards.

19 “(3) DISTRIBUTION IN COMMERCE.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), no product manufactured in
22 a manner that complies with a regional stand-
23 ard established under paragraph (1) shall be
24 distributed in commerce without a prominent
25 label affixed to the product that includes—

1 “(i) at the top of the label, in print of
2 not less than 14-point type, the following
3 statement: ‘It is a violation of Federal law
4 for this product to be installed in any
5 State outside the region shaded on the
6 map printed on this label.’;

7 “(ii) below the notice described in
8 clause (i), an image of a map of the United
9 States with clearly defined State bound-
10 aries and names, and with all States in
11 which the product meets or exceeds the
12 standard established pursuant to para-
13 graph (1) shaded in a color or a manner
14 as to be easily visible without obscuring the
15 State boundaries and names; and

16 “(iii) below the image of the map re-
17 quired under clause (ii), the following
18 statement: ‘It is a violation of Federal law
19 for this label to be removed, except by the
20 owner and legal resident of any single-fam-
21 ily home in which this product is in-
22 stalled.’.

23 “(B) ENERGY-EFFICIENCY RATING.—A
24 product manufactured that meets or exceeds all
25 regional standards established under this para-

1 graph shall bear a prominent label affixed to
2 the product that includes at the top of the label,
3 in print of not less than 14-point type, the fol-
4 lowing statement: ‘This product has achieved an
5 energy-efficiency rating under Federal law al-
6 lowing its installation in any State.’.

7 “(4) RECORDKEEPING.—A manufacturer of
8 space heating or air conditioning equipment subject
9 to regional standards established under this sub-
10 section shall—

11 “(A) obtain and retain records on the in-
12 tended installation locations of the equipment
13 sold; and

14 “(B) make such records available to the
15 Secretary on request.”.

16 (b) CONFORMING AMENDMENTS.—Section 327 of the
17 Energy Policy and Conservation Act (42 U.S.C. 6297) is
18 amended—

19 (1) in subsection (b)—

20 (A) in paragraph (2), by striking “sub-
21 section (e)” and inserting “subsection (f)”; and

22 (B) in paragraph (3)—

23 (i) by striking “subsection (f)(1)” and
24 inserting “subsection (g)(1)”; and

1 (ii) by striking “subsection (f)(2)”
 2 and inserting “subsection (g)(2)”; and
 3 (2) in subsection (e)(3), by striking “subsection
 4 (f)(3)” and inserting “subsection (g)(3)”.

5 **Subtitle B—Building Efficiency**

6 **SEC. 5201. UPDATING STATE BUILDING ENERGY EFFI-** 7 **CIENCY CODES.**

8 Section 304 of the Energy Conservation and Produc-
 9 tion Act (42 U.S.C. 6833) is amended to read as follows:

10 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-** 11 **CIENCY CODES.**

12 “(a) UPDATES.—

13 “(1) IN GENERAL.—The Secretary shall sup-
 14 port updating the national model building energy
 15 codes and standards not later than 3 years after the
 16 date of enactment of the America’s Climate Security
 17 Act of 2007, and not less frequently every 3 years
 18 thereafter, to achieve overall energy savings, as com-
 19 pared to the IECC (2006) for residential buildings
 20 and ASHRAE Standard 90.1 (2004) for commercial
 21 buildings, of at least—

22 “(A) 30 percent by 2010;

23 “(B) 50 percent by 2020; and

24 “(C) goals to be established by the Sec-
 25 retary in intermediate and subsequent years, at

1 the maximum level of energy efficiency that is
2 technologically feasible and lifecycle cost effec-
3 tive.

4 “(2) REVISIONS TO IECC AND ASHRAE.—

5 “(A) IN GENERAL.—If the IECC or
6 ASHRAE Standard 90.1 regarding building en-
7 ergy use is revised, not later than 180 days
8 after the date of the revision, the Secretary
9 shall determine whether the revision will—

10 “(i) improve energy efficiency in
11 buildings; and

12 “(ii) meet the energy savings goals de-
13 scribed in paragraph (1).

14 “(B) MODIFICATIONS.—

15 “(i) IN GENERAL.—If the Secretary
16 makes a determination under subpara-
17 graph (A)(ii) that a code or standard does
18 not meet the energy savings goals estab-
19 lished under paragraph (1) or if a national
20 model code or standard is not updated for
21 more than 3 years, not later than 1 year
22 after the determination or the expiration of
23 the 3-year period, the Secretary shall pro-
24 pose a modified code or standard that
25 meets the energy savings goals.

1 “(ii) REQUIREMENTS.—

2 “(I) ENERGY SAVINGS.—A modi-
3 fication to a code or standard under
4 clause (i) shall—

5 “(aa) achieve the maximum
6 level of energy savings that is
7 technically feasible and economi-
8 cally justified; and

9 “(bb) incorporate available
10 appliances, technologies, and con-
11 struction practices.

12 “(II) TREATMENT AS BASE-
13 LINE.—A modification to a code or
14 standard under clause (i) shall serve
15 as the baseline for the next applicable
16 determination of the Secretary under
17 subparagraph (A)(i).

18 “(C) PUBLIC PARTICIPATION.—The Sec-
19 retary shall—

20 “(i) publish in the Federal Register a
21 notice relating to each goal, determination,
22 and modification under this paragraph;
23 and

1 “(ii) provide an opportunity for public
2 comment regarding the goals, determina-
3 tions, and modifications.

4 “(b) STATE CERTIFICATION OF BUILDING ENERGY
5 CODE UPDATES.—

6 “(1) GENERAL CERTIFICATION.—

7 “(A) IN GENERAL.—Not later than 2 years
8 after the date of enactment of the America’s
9 Climate Security Act of 2007, each State shall
10 certify to the Secretary that the State has re-
11 viewed and updated the provisions of the resi-
12 dential and commercial building codes of the
13 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, as applicable—

18 “(i)(I) the IECC (2006) for residen-
19 tial buildings; or

20 “(II) the ASHRAE Standard 90.1
21 (2004) for commercial buildings; or

22 “(ii) the quantity of energy savings
23 represented by the provisions referred to in
24 clause (i).

25 “(2) REVISION OF CODES AND STANDARDS.—

1 “(A) IN GENERAL.—If the Secretary
2 makes an affirmative determination under sub-
3 section (a)(2)(A)(i) or proposes a modified code
4 or standard under subsection (a)(2)(B), not
5 later than 2 years after the determination or
6 proposal, each State shall certify that the State
7 has reviewed and updated the provisions of the
8 residential and commercial building codes of the
9 State regarding energy efficiency.

10 “(B) ENERGY SAVINGS.—A certification
11 under subparagraph (A) shall include a dem-
12 onstration that the applicable provisions of the
13 State code meet or exceed—

14 “(i) the modified code or standard; or

15 “(ii) the quantity of energy savings
16 represented by the modified code or stand-
17 ard.

18 “(C) FAILURE TO DETERMINE.—If the
19 Secretary fails to make a determination under
20 subsection (a)(2)(A)(i) by the date specified in
21 subsection (a)(2), or if the Secretary makes a
22 negative determination, not later than 2 years
23 after the specified date or the date of the deter-
24 mination, each State shall certify that the State
25 has—

1 “(i) reviewed the revised code or
2 standard; and

3 “(ii) updated the provisions of the res-
4 idential and commercial building codes of
5 the State as necessary to meet or exceed,
6 as applicable—

7 “(I) any provisions of a national
8 code or standard determined to im-
9 prove energy efficiency in buildings; or

10 “(II) energy savings achieved by
11 those provisions through other means.

12 “(c) ACHIEVEMENT OF COMPLIANCE BY STATES.—

13 “(1) IN GENERAL.—Not later than 3 years
14 after the date on which a State makes a certification
15 under subsection (b), the State shall certify to the
16 Secretary that the State has achieved compliance
17 with the national building energy code that is the
18 subject of the certification.

19 “(2) RATE OF COMPLIANCE.—The certification
20 shall include documentation of the rate of compli-
21 ance based on independent inspections of a random
22 sample of the new and renovated buildings covered
23 by the State code during the preceding calendar
24 year.

1 “(3) COMPLIANCE.—A State shall be considered
2 to achieve compliance for purposes of paragraph (1)
3 if—

4 “(A) at least 90 percent of new and ren-
5 ovated buildings covered by the State code dur-
6 ing the preceding calendar year substantially
7 meet all the requirements of the code; or

8 “(B) the estimated excess energy use of
9 new and renovated buildings that did not meet
10 the requirements of the State code during the
11 preceding calendar year, as compared to a base-
12 line of comparable buildings that meet the re-
13 quirements of the code, is not more than 10
14 percent of the estimated energy use of all new
15 and renovated buildings covered by the State
16 code during the preceding calendar year.

17 “(d) FAILURE TO CERTIFY.—

18 “(1) EXTENSION OF DEADLINES.—The Sec-
19 retary shall extend a deadline for certification by a
20 State under subsection (b) or (c) for not more than
21 1 additional year, if the State demonstrates to the
22 satisfaction of the Secretary that the State has
23 made—

24 “(A) a good faith effort to comply with the
25 certification requirement; and

1 “(B) significant progress with respect to
2 the compliance.

3 “(2) NONCOMPLIANCE BY STATE.—

4 “(A) IN GENERAL.—A State that fails to
5 submit a certification required under subsection
6 (b) or (c), and to which an extension is not pro-
7 vided under paragraph (1), shall be considered
8 to be out of compliance with this section.

9 “(B) EFFECT ON LOCAL GOVERNMENTS.—

10 A local government of a State that is out of
11 compliance with this section may be considered
12 to be in compliance with this section if the local
13 government meets each applicable certification
14 requirement of this section.

15 “(e) TECHNICAL ASSISTANCE.—

16 “(1) IN GENERAL.—The Secretary shall provide
17 technical assistance (including building energy anal-
18 ysis and design tools, building demonstrations, and
19 design assistance and training) to ensure that na-
20 tional model building energy codes and standards
21 meet the goals described in subsection (a)(1).

22 “(2) ASSISTANCE TO STATES.—The Secretary
23 shall provide technical assistance to States—

24 “(A) to implement this section, including
25 procedures for States to demonstrate that the

1 codes of the States achieve equivalent or great-
2 er energy savings than the national model codes
3 and standards;

4 “(B) to improve and implement State resi-
5 dential and commercial building energy effi-
6 ciency codes; and

7 “(C) to otherwise promote the design and
8 construction of energy-efficient buildings.

9 “(f) INCENTIVE FUNDING.—

10 “(1) IN GENERAL.—The Secretary shall provide
11 incentive funding to States—

12 “(A) to implement this section; and

13 “(B) to improve and implement State resi-
14 dential and commercial building energy effi-
15 ciency codes, including increasing and verifying
16 compliance with the codes.

17 “(2) AMOUNT.—In determining whether, and in
18 what amount, to provide incentive funding under
19 this subsection, the Secretary shall take into consid-
20 eration actions proposed by the State—

21 “(A) to implement this section;

22 “(B) to implement and improve residential
23 and commercial building energy efficiency
24 codes; and

1 “(C) to promote building energy efficiency
2 through use of the codes.

3 “(3) ADDITIONAL FUNDING.—The Secretary
4 shall provide additional funding under this sub-
5 section for implementation of a plan to demonstrate
6 a rate of compliance with applicable residential and
7 commercial building energy efficiency codes at a rate
8 of not less than 90 percent, based on energy per-
9 formance—

10 “(A) to a State that has adopted and is
11 implementing, on a statewide basis—

12 “(i) a residential building energy effi-
13 ciency code that meets or exceeds the re-
14 quirements of the IECC (2006) (or a suc-
15 cessor code that is the subject of an af-
16 firmative determination by the Secretary
17 under subsection (a)(2)(A)(i)); and

18 “(ii) a commercial building energy ef-
19 ficiency code that meets or exceeds the re-
20 quirements of the ASHRAE Standard 90.1
21 (2004) (or a successor standard that is the
22 subject of an affirmative determination by
23 the Secretary under subsection
24 (a)(2)(A)(i)); or

1 “(B) in the case of a State in which no
 2 statewide energy code exists for residential
 3 buildings or commercial buildings, or in which
 4 the State code fails to comply with subpara-
 5 graph (A), to a local government that has
 6 adopted and is implementing residential and
 7 commercial building energy efficiency codes, as
 8 described in subparagraph (A).

9 “(4) TRAINING.—Of the amounts made avail-
 10 able to carry out this subsection, the Secretary may
 11 use not more than \$500,000 for each State to train
 12 State and local officials to implement State or local
 13 energy codes in accordance with a plan described in
 14 paragraph (3).”.

15 **SEC. 5202. CONFORMING AMENDMENT.**

16 Section 303 of the Energy Conservation and Produc-
 17 tion Act (42 U.S.C. 6832) is amended by adding at the
 18 end the following new paragraph:

19 “(17) IECC.—The term ‘IECC’ means the
 20 International Energy Conservation Code.”.

21 **TITLE VI—GLOBAL EFFORT TO**
 22 **REDUCE GREENHOUSE GAS**
 23 **EMISSIONS**

24 **SEC. 6001. DEFINITIONS.**

25 In this title:

1 (1) **BASELINE EMISSION LEVEL.**—The term
2 “baseline emission level” means, as determined by
3 the Administrator, the total average annual green-
4 house gas emissions attributed to a category of cov-
5 ered goods of a foreign country during the period be-
6 ginning on January 1, 2012, and ending on Decem-
7 ber 31, 2014, based on—

8 (A) relevant data available for that period;

9 and

10 (B) to the extent necessary with respect to
11 a specific category of covered goods, economic
12 and engineering models and best available infor-
13 mation on technology performance levels for the
14 manufacture of that category of covered goods.

15 (2) **COMPARABLE ACTION.**—The term “com-
16 parable action” means any greenhouse gas regu-
17 latory programs, requirements, and other measures
18 adopted by a foreign country that, in combination,
19 are comparable in effect to actions carried out by
20 the United States to limit greenhouse gas emissions
21 pursuant to this Act, as determined by the Presi-
22 dent, taking into consideration the level of economic
23 development of the foreign country.

24 (3) **COMPLIANCE YEAR.**—The term “compliance
25 year” means each calendar year for which the re-

1 requirements of this title apply to a category of cov-
2 ered goods of a covered foreign country that is im-
3 ported into the United States.

4 (4) COVERED FOREIGN COUNTRY.—The term
5 “covered foreign country” means a foreign country
6 that is included on the covered list prepared under
7 section 6006(b)(3).

8 (5) COVERED GOOD.—The term “covered good”
9 means a good that (as identified by the Adminis-
10 trator by rule)—

11 (A) is a primary product;

12 (B) generates, in the course of the manu-
13 facture of the good, a substantial quantity of
14 direct greenhouse gas emissions and indirect
15 greenhouse gas emissions; and

16 (C) is closely related to a good the cost of
17 production of which in the United States is af-
18 fected by a requirement of this Act.

19 (6) FOREIGN COUNTRY.—The term “foreign
20 country” means a member of, or observer govern-
21 ment to, the World Trade Organization (WTO),
22 other than the United States.

23 (7) INDIRECT GREENHOUSE GAS EMISSIONS.—
24 The term “indirect greenhouse gas emissions”
25 means any emissions of a greenhouse gas resulting

1 from the generation of electricity that is consumed
2 during the manufacture of a good.

3 (8) INTERNATIONAL AGREEMENT.—The term
4 “international agreement” means any international
5 agreement to which the United States is a party, in-
6 cluding the Marrakesh agreement establishing the
7 World Trade Organization, done at Marrakesh on
8 April 15, 1994.

9 (9) INTERNATIONAL RESERVE ALLOWANCE.—
10 The term “international reserve allowance” means
11 an allowance (denominated in units of metric tons of
12 carbon dioxide equivalent) that is—

13 (A) purchased from a special reserve of al-
14 lowances pursuant to section 6006(a)(2); and

15 (B) used for purposes of meeting the re-
16 quirements of section 6006.

17 (10) PRIMARY PRODUCT.—The term “primary
18 product” means—

19 (A) iron, steel, aluminum, cement, bulk
20 glass, or paper; or

21 (B) any other manufactured product
22 that—

23 (i) is sold in bulk for purposes of fur-
24 ther manufacture; and

1 (ii) generates, in the course of the
2 manufacture of the product, direct green-
3 house gas emissions and indirect green-
4 house gas emissions that are comparable
5 (on an emissions-per-dollar basis) to emis-
6 sions generated in the manufacture of
7 products by covered facilities in the indus-
8 trial sector.

9 **SEC. 6002. PURPOSES.**

10 The purposes of this title are—

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

13 (2) to ensure, to the maximum extent prac-
14 ticable, that greenhouse gas emissions occurring out-
15 side the United States do not undermine the objec-
16 tives of the United States in addressing global cli-
17 mate change; and

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

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

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

1 **SEC. 6003. INTERNATIONAL NEGOTIATIONS.**

2 (a) FINDING.—Congress finds that the purposes de-
3 scribed in section 6002 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 of
8 the United States to work proactively under the
9 United Nations Framework Convention on Climate
10 Change and, in other appropriate forums, to estab-
11 lish binding agreements committing all major green-
12 house gas-emitting nations to contribute equitably to
13 the 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 6002.

23 **SEC. 6004. INTERAGENCY REVIEW.**

24 (a) INTERAGENCY GROUP.—

1 (1) ESTABLISHMENT.—The President shall es-
2 tablish an interagency group to carry out this sec-
3 tion.

4 (2) CHAIRPERSON.—The chairperson of the
5 interagency group established under paragraph (1)
6 shall be the Secretary of State.

7 (3) REQUIREMENT.—The Administrator shall
8 be a member of the interagency group.

9 (b) DETERMINATIONS.—

10 (1) IN GENERAL.—Subject to paragraph (2),
11 the interagency group established under subsection
12 (a)(1) shall determine whether, and the extent to
13 which, each foreign country has taken comparable
14 action to limit the greenhouse gas emissions of the
15 foreign country.

16 (2) EXEMPTION.—The interagency group may
17 exempt from a determination under paragraph (1)
18 any foreign country on the excluded list under sec-
19 tion 6006(b)(2).

20 (c) REPORT TO PRESIDENT.—Not later than Janu-
21 ary 1, 2018, and annually thereafter, the interagency
22 group shall submit to the President a report describing
23 the determinations of the interagency group under sub-
24 section (b).

1 **SEC. 6005. PRESIDENTIAL DETERMINATIONS.**

2 (a) IN GENERAL.—Not later than January 1, 2019,
3 and annually thereafter, the President shall determine
4 whether each foreign country that is subject to interagency
5 review under section 6004(b) has taken comparable action
6 to limit the greenhouse gas emissions of the foreign coun-
7 try, taking into consideration—

8 (1) the baseline emission levels of the foreign
9 country; and

10 (2) applicable reports submitted under section
11 6004(c).

12 (b) REPORTS.—The President shall—

13 (1) submit to Congress an annual report de-
14 scribing the determinations of the President under
15 subsection (a) for the most recent calendar year; and

16 (2) publish the determinations in the Federal
17 Register.

18 **SEC. 6006. INTERNATIONAL RESERVE ALLOWANCE PRO-**
19 **GRAM.**

20 (a) ESTABLISHMENT.—

21 (1) IN GENERAL.—The Administrator shall es-
22 tablish a program under which the Administrator,
23 during the 1-year period beginning on January 1,
24 2019, and annually thereafter, shall offer for sale to
25 United States importers international reserve allow-
26 ances in accordance with this subsection.

1 (2) SOURCE.—International reserve allowances
2 under paragraph (1) shall be issued from a special
3 reserve of allowances that is separate from, and es-
4 tablished in addition to, the quantity of allowances
5 established under section 1201.

6 (3) PRICE.—

7 (A) IN GENERAL.—Subject to subpara-
8 graph (B), the Administrator shall establish, by
9 rule, a methodology for determining the price of
10 international reserve allowances for each com-
11 pliance year at a level that does not exceed the
12 market price of allowances established under
13 section 1201 for the compliance year.

14 (B) MAXIMUM PRICE.—The price for an
15 international reserve allowance under subpara-
16 graph (A) shall not exceed the clearing price for
17 current compliance year allowances established
18 at the most recent auction of allowances by the
19 Corporation.

20 (4) SERIAL NUMBER.—The Administrator shall
21 assign a unique serial number to each international
22 reserve allowance issued under this subsection.

23 (5) TRADING SYSTEM.—The Administrator may
24 establish, by rule, a system for the sale, exchange,

1 purchase, transfer, and banking of international re-
2 serve allowances.

3 (6) REGULATED ENTITIES.—International re-
4 serve allowances may not be submitted by regulated
5 entities to comply with the allowance submission re-
6 quirements of section 1202.

7 (7) PROCEEDS.—All proceeds from the sale of
8 international reserve allowances under this sub-
9 section shall be allocated to a program that the Ad-
10 ministrator, in coordination with the Secretary of
11 State, shall establish to mitigate the negative im-
12 pacts of global climate change on disadvantaged
13 communities in other countries.

14 (b) FOREIGN COUNTRY LISTS.—

15 (1) IN GENERAL.—Not later than January 1,
16 2020, and annually thereafter, the President shall
17 develop and publish in the Federal Register 2 lists
18 of foreign countries, in accordance with this sub-
19 section.

20 (2) EXCLUDED LIST.—

21 (A) IN GENERAL.—The President shall
22 identify and publish in a list, to be known as
23 the “excluded list”, each foreign country the
24 share of total global greenhouse gas emissions

1 of which is below the de minimis percentage de-
2 scribed in subparagraph (B).

3 (B) DE MINIMIS PERCENTAGE.—The de
4 minimis percentage referred to in subparagraph
5 (A) is a percentage of total global greenhouse
6 gas emissions of not more than 0.5, as deter-
7 mined by the President, for the most recent cal-
8 endar year for which emissions and other rel-
9 evant data is available, taking into consider-
10 ation, as necessary, the annual average defor-
11 estation rate during a representative period for
12 a foreign country that is a developing country.

13 (3) COVERED LIST.—

14 (A) IN GENERAL.—The President shall
15 identify and publish in a list, to be known as
16 the “covered list”, each foreign country the cov-
17 ered goods of which are subject to the require-
18 ments of this section.

19 (B) REQUIREMENT.—The covered list shall
20 include each foreign country that is not in-
21 cluded on the excluded list under paragraph
22 (2).

23 (c) WRITTEN DECLARATIONS.—

24 (1) IN GENERAL.—Effective beginning January
25 1, 2020, a United States importer of any covered

1 good shall, as a condition of importation or with-
2 drawal for consumption from a warehouse of the
3 covered good, submit to the Administrator and the
4 appropriate office of the U.S. Customs and Border
5 Protection a written declaration with respect to each
6 such importation or withdrawal.

7 (2) CONTENTS.—A written declaration under
8 paragraph (1) shall contain a statement that—

9 (A) the applicable covered good is accom-
10 panied by a sufficient number of international
11 reserve allowances, as determined under sub-
12 section (d); or

13 (B) the covered good is from a foreign
14 country on the excluded list under subsection
15 (b)(2).

16 (3) INCLUSION.—A written declaration de-
17 scribed in paragraph (2)(A) shall include the unique
18 serial number of each emission allowance associated
19 with the importation of the applicable covered good.

20 (4) FAILURE TO DECLARE.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), an imported covered good
23 that is not accompanied by a written declara-
24 tion under this subsection shall not be per-

1 mitted to enter the customs territory of the
2 United States.

3 (B) EXCEPTION FOR CERTAIN IMPORTS.—
4 Subparagraph (A) shall not apply to a covered
5 good of a foreign country if the President deter-
6 mines that—

7 (i) the foreign country has taken com-
8 parable action to limit the greenhouse gas
9 emissions of the foreign country, in accord-
10 ance with section 6005;

11 (ii) the United Nations has identified
12 the foreign country as among the least-de-
13 veloped of developing countries; or

14 (iii) the foreign country is on the ex-
15 cluded list under subsection (b)(2).

16 (5) CORRECTED DECLARATION.—

17 (A) IN GENERAL.—If, after making a dec-
18 laration required under this subsection, an im-
19 porter has reason to believe that the declaration
20 contains information that is not correct, the im-
21 porter shall provide a corrected declaration by
22 not later than 30 days after the date of dis-
23 covery of the error, in accordance with subpara-
24 graph (B).

1 (B) METHOD.—A corrected declaration
2 under subparagraph (A) shall be in the form of
3 a letter or other written statement to the Ad-
4 ministrator and the office of the U.S. Customs
5 and Border Protection to which the original
6 declaration was submitted.

7 (d) QUANTITY OF ALLOWANCES REQUIRED.—

8 (1) METHODOLOGY.—

9 (A) IN GENERAL.—The Administrator
10 shall establish, by rule, a method for calculating
11 the required number of international reserve al-
12 lowances that a United States importer must
13 submit, together with a written declaration
14 under subsection (c), for each category of cov-
15 ered goods of each covered foreign country.

16 (B) FORMULA.—The Administrator shall
17 develop a general formula for calculating the
18 international reserve allowance requirement
19 that applies, on a per unit basis, to each cov-
20 ered good of a covered foreign country that is
21 imported during each compliance year.

22 (2) INITIAL COMPLIANCE YEAR.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (B), the methodology under paragraph
25 (1) shall establish an international reserve al-

1 allowance requirement (per unit imported into the
2 United States) for the initial compliance year
3 for each category of covered goods of each cov-
4 ered foreign country that is equal to the
5 quotient obtained by dividing—

6 (i) the excess, if any, of the total
7 emissions from the covered foreign country
8 that are attributable to the category of
9 covered goods produced during the most
10 recent year for which data are available,
11 over the baseline emission level of the cov-
12 ered foreign country for that category; and

13 (ii) the total quantity of the covered
14 good produced in the covered foreign coun-
15 try during the most recent calendar year.

16 (B) ADJUSTMENTS.—The Administrator
17 shall adjust the requirement under subpara-
18 graph (A)—

19 (i) in accordance with the ratio that—

20 (I) the quantity of allowances
21 that were allocated at no cost to enti-
22 ties within the industry sector manu-
23 facturing the covered goods for the
24 compliance year during which the cov-

1 ered goods were imported into the
2 United States; bears to

3 (II) the greenhouse gas emissions
4 of that industry sector; and

5 (ii) to take into account the level of
6 economic development of the covered for-
7 eign country in which the covered goods
8 were produced.

9 (3) SUBSEQUENT COMPLIANCE YEARS.—For
10 each subsequent compliance year, the Administrator
11 shall revise, as appropriate, the international reserve
12 allowance requirement applicable to each category of
13 imported covered goods of each covered foreign
14 country to reflect changes in the factors described in
15 paragraph (2)(B).

16 (4) PUBLICATION.—Not later than 90 days be-
17 fore the beginning of each compliance year, the Ad-
18 ministrator shall publish in the Federal Register a
19 schedule describing the required number of inter-
20 national reserve allowances for each category of im-
21 ported covered goods of each covered foreign coun-
22 try, as calculated under this subsection.

23 (e) FOREIGN ALLOWANCES AND CREDITS.—

24 (1) FOREIGN ALLOWANCES.—

1 (A) IN GENERAL.—A United States im-
2 porter may submit, in lieu of an international
3 reserve allowance issued under this section, a
4 foreign allowance or similar compliance instru-
5 ment distributed by a foreign country pursuant
6 to a cap and trade program that represents a
7 comparable action.

8 (B) COMMENSURATE CAP AND TRADE PRO-
9 GRAM.—For purposes of subparagraph (A), a
10 cap and trade program that represents a com-
11 parable action shall include any greenhouse gas
12 regulatory program adopted by a covered for-
13 eign country to limit the greenhouse gas emis-
14 sions of the covered foreign country, if the
15 President certifies that the program—

16 (i)(I) places a quantitative limitation
17 on the total quantity of greenhouse gas
18 emissions of the covered foreign country
19 (expressed in terms of tons emitted per
20 calendar year); and

21 (II) achieves that limitation through
22 an allowance trading system;

23 (ii) satisfies such criteria as the Presi-
24 dent may establish for requirements relat-
25 ing to the enforceability of the cap and

1 trade program, including requirements for
2 monitoring, reporting, verification proce-
3 dures, and allowance tracking; and

4 (iii) is a comparable action.

5 (2) FOREIGN CREDITS.—

6 (A) IN GENERAL.—A United States im-
7 porter may submit, in lieu of an international
8 reserve allowance issued under this section, a
9 foreign credit or a credit for an international
10 offset project that the Administrator has au-
11 thorized for use under subtitle E of title II.

12 (B) APPLICATION.—The limitation on the
13 use of international reserve allowances by regu-
14 lated entities under subsection (a)(6) shall not
15 apply to a United States importer for purposes
16 of this paragraph.

17 (f) RETIREMENT OF ALLOWANCES.—The Adminis-
18 trator shall retire each international reserve allowance,
19 foreign allowance, and foreign credit submitted to achieve
20 compliance with this section.

21 (g) CONSISTENCY WITH INTERNATIONAL AGREE-
22 MENTS.—The Administrator, in consultation with the Sec-
23 retary of State, shall adjust the international reserve al-
24 lowance requirements established under this section (in-
25 cluding the quantity of international reserve allowances re-

1 quired for each category of covered goods of a covered for-
2 eign country) as the Administrator determines to be nec-
3 essary to ensure that the United States complies with all
4 applicable international agreements.

5 (h) TERMINATION.—The international reserve allow-
6 ance requirements of this section shall not apply to a cov-
7 ered good of a covered foreign country in any case in
8 which the President makes a determination described in
9 subsection (b)(2) with respect to the covered goods of that
10 covered foreign country.

11 (i) FINAL REGULATIONS.—Not later than January 1,
12 2019, the Administrator shall promulgate such regulations
13 as the Administrator determines to be necessary to carry
14 out this section.

15 **SEC. 6007. ADJUSTMENT OF INTERNATIONAL RESERVE AL-**
16 **LOWANCE REQUIREMENTS.**

17 (a) IN GENERAL.—Not later than January 1, 2023,
18 and annually thereafter, the President shall prepare and
19 submit to Congress a report that assesses the effectiveness
20 of the applicable international reserve allowance require-
21 ments under section 6006 with respect to the covered
22 goods of each covered foreign country.

23 (b) INADEQUATE REQUIREMENTS.—If the President
24 determines that an applicable international reserve allow-
25 ance requirement is not adequate to achieve the purposes

1 of this title, the President, simultaneously with the sub-
2 mission of the report under subsection (a), shall—

3 (1) adjust the requirement; or

4 (2) take such other action as the President de-
5 termines to be necessary to improve the effectiveness
6 of the requirement, in accordance with all applicable
7 international agreements.

8 (c) EFFECTIVE DATE.—An adjustment under sub-
9 section (b)(1) shall take effect beginning on January 1
10 of the compliance year immediately following the date on
11 which the adjustment is made.

12 **TITLE VII—REVIEWS**

13 **SEC. 7001. NATIONAL ACADEMY OF SCIENCES REVIEW.**

14 (a) REPORT.—

15 (1) IN GENERAL.—Not later than January 1,
16 2012, and every 3 years thereafter, the Adminis-
17 trator shall offer to enter into a contract with the
18 National Academy of Sciences under which the
19 Academy shall submit to Congress and the Adminis-
20 trator reports evaluating the implementation of this
21 Act.

22 (2) CONTENTS OF REPORT.—Each report sub-
23 mitted to Congress under paragraph (1) shall in-
24 clude an analysis of—

1 (A) the extent to which the emission reduc-
2 tions required under this Act are being
3 achieved;

4 (B) the extent to which the emission re-
5 ductions achieved under this Act, taken to-
6 gether with actual steps taken by other coun-
7 tries to reduce greenhouse gas emissions, is pre-
8 dicted to stabilize atmospheric greenhouse gas
9 concentrations at a level adequate to forestall
10 dangerous anthropogenic interference with the
11 climate system;

12 (C) whether an increase of global average
13 temperature in excess of 3.6 degrees Fahrenheit
14 (2 degrees Celsius) above the preindustrial av-
15 erage has occurred or is more likely than not to
16 occur in the foreseeable future as a result of
17 anthropogenic climate change;

18 (D)(i) predicted changes in ocean acidity,
19 the extent of coral reefs, and other indicators of
20 ocean ecosystem health due to anthropogenic
21 carbon dioxide; and

22 (ii) any additional actions that should be
23 taken by the United States or other countries
24 to protect the health of the oceans;

1 (E) the status of the best available science
2 and the status of technologies to reduce, se-
3 quester, or avoid greenhouse gas emissions;

4 (F) whether the percentage of allowances
5 for any calendar year that are auctioned, allo-
6 cated, or devoted to other purposes under this
7 Act should be modified;

8 (G) the effectiveness of auction revenues in
9 meeting the stated purposes of this Act; and

10 (H) whether additional measures, including
11 an increase in the earned income tax credit, a
12 reduction in payroll taxes, or the implementa-
13 tion of electronic benefit transfers by State
14 health and human services agencies to reach
15 low-income individuals who are not required to
16 file Federal income tax returns, are needed to
17 help low- and moderate-income individuals re-
18 spond to changes in the cost of energy-related
19 goods and services.

20 (b) TECHNOLOGY REPORTS.—

21 (1) DEFINITION.—In this subsection, the term
22 “technologically infeasible,” with respect to a tech-
23 nology, means that the technology—

24 (A) will not be demonstrated beyond lab-
25 oratory-scale conditions;

1 (B) would be unsafe;

2 (C) would not reliably reduce greenhouse
3 gas emissions; or

4 (D) would prevent the activity to which the
5 technology applies from meeting or performing
6 the primary purpose of the activity (such as
7 generating electricity or transporting goods or
8 individuals).

9 (2) REPORTS.—Not later than 180 days after
10 the date of enactment of this Act, the Administrator
11 shall offer to enter into a contract with the National
12 Academy of Sciences under which the Academy, not
13 later than 2 years after the date of enactment of
14 this Act and every 3 years thereafter, shall submit
15 to Congress and the Administrator a report that de-
16 scribes or analyzes—

17 (A) the status of current greenhouse gas
18 emission reduction technologies, including—

19 (i) technologies for capture and dis-
20 posal of greenhouse gases;

21 (ii) efficiency improvement tech-
22 nologies;

23 (iii) zero-greenhouse gas emitting en-
24 ergy technologies; and

1 (iv) above- and below-ground biological
2 sequestration technologies;

3 (B) whether the requirements of this Act
4 (including regulations promulgated under this
5 Act)—

6 (i) promote the development and de-
7 ployment of greenhouse gas emission re-
8 duction technologies; or

9 (ii) mandate a level of emission con-
10 trol or reduction that, based on available
11 or expected technology, will be techno-
12 logically infeasible at the time at which the
13 requirements become effective;

14 (C) the projected date on which any tech-
15 nology determined to be technologically infeasible
16 will become technologically feasible;

17 (D) whether any technology determined to
18 be technologically infeasible cannot reasonably
19 be expected to become technologically feasible
20 prior to calendar year 2050; and

21 (E) the costs of available alternative green-
22 house gas emission reduction strategies that
23 could be used or pursued in lieu of any tech-
24 nologies that are determined to be techno-
25 logically infeasible.

1 **SEC. 7002. TRANSPORTATION SECTOR REVIEW.**

2 (a) REVIEW.—Not later than January 1, 2010, the
3 Administrator shall conduct a comprehensive review and
4 analysis to determine whether any of the following have
5 occurred:

6 (1)(A) The motor vehicle fuel and motor vehicle
7 and nonroad regulations within the scope of Execu-
8 tive Order 13432 (72 Fed. Reg. 27717; relating to
9 cooperation among agencies in protecting the envi-
10 ronment with respect to greenhouse gas emissions
11 from motor vehicles, nonroad vehicles, and nonroad
12 engines) have been finalized and implemented by
13 Federal agencies and departments.

14 (B) Any other transportation-related programs,
15 including corporate average fuel economy standard
16 reform, greenhouse gas vehicle emissions standards,
17 renewable fuel volume mandates, low carbon fuel
18 standards, and activities to reduce vehicle miles trav-
19 eled have been finalized and implemented by a Fed-
20 eral agency or department.

21 (2) Any regulation or program described in
22 paragraph (1) is expected to achieve at least 1 of the
23 following, as compared to the baseline greenhouse
24 gas emissions consistent with the reference case con-
25 tained in the report of the Energy Information Ad-

1 ministration entitled “Annual Energy Outlook
2 2006”:

3 (A) At least a 6.2-percent reduction in cu-
4 mulative greenhouse gas emissions from the
5 light-duty motor vehicle sector, including light-
6 duty vehicles and light-duty trucks, during the
7 period beginning on January 1, 2010, and end-
8 ing on December 31, 2020.

9 (B) A cumulative reduction of approxi-
10 mately 1,140,000 metric tons of carbon dioxide
11 equivalent, measured on a full fuel cycle basis.

12 (b) REPORT.—If the Administrator determines that
13 a reduction described in subsection (a)(2)(A) will not be
14 achieved, the Administrator shall submit to Congress, not
15 later than January 1, 2010, a report describing—

16 (1) any additional action of the Administrator
17 that will be necessary to reduce greenhouse gas
18 emissions from the light-duty motor vehicle sector;
19 and

20 (2) recommendations of the Administrator with
21 respect to actions that could be established by Con-
22 gress to ensure that the United States transpor-
23 tation sector will achieve—

24 (A) the reductions described in subsection
25 (a)(2)(B); and

1 (B) any additional reductions necessary for
2 that sector to assume an equitable share of re-
3 sponsibility for reducing greenhouse gas emis-
4 sions.

5 **SEC. 7003. ADAPTATION REVIEW.**

6 (a) REGIONAL ESTIMATES.—

7 (1) ESTIMATES.—

8 (A) IN GENERAL.—The Administrator, in
9 consultation with the officials described in para-
10 graph (2) and relevant State agencies, shall
11 conduct 6 regional infrastructure cost assess-
12 ments in various regions of the United States,
13 and a national cost assessment, to provide esti-
14 mates of the range of costs that should be an-
15 ticipated for adaptation to the impacts of cli-
16 mate change.

17 (B) VARIOUS PROBABILITIES.—The Ad-
18 ministrator shall develop the estimates under
19 subparagraph (A) for low, medium, and high
20 probabilities of climate change and the potential
21 impacts of climate change.

22 (2) DESCRIPTION OF OFFICIALS.—The officials
23 referred to in paragraph (1) are—

24 (A) the Secretary of Agriculture;

25 (B) the Secretary of Commerce;

1 (C) the Secretary of Defense;

2 (D) the Secretary of Energy;

3 (E) the Secretary of Health and Human
4 Services;

5 (F) the Secretary of Homeland Security;

6 (G) the Secretary of Housing and Urban
7 Development;

8 (H) the Secretary of the Interior;

9 (I) the Secretary of Transportation;

10 (J) the Director of United States Geologi-
11 cal Survey; and

12 (K) the heads of such other Federal agen-
13 cies and departments as the Administrator de-
14 termines to be necessary.

15 (3) SUBMISSION TO CONGRESS.—Not later than
16 1 year after the date of enactment of this Act, the
17 Administrator shall submit to Congress a report de-
18 scribing the results of the assessments conducted
19 under this subsection.

20 (b) ADAPTATION PLAN.—

21 (1) IN GENERAL.—Not later than 180 days
22 after the date of enactment of this Act, the Adminis-
23 trator shall submit to Congress a climate change ad-
24 aptation plan for the United States, based on—

1 (A) assessments performed by the United
2 Nations Intergovernmental Panel on Climate
3 Change in accordance with the Global Change
4 Research Act of 1990 (15 U.S.C. 2921 et seq.);
5 and

6 (B) any other scientific, peer-reviewed re-
7 gional assessments.

8 (2) INCLUSIONS.—The adaptation plan under
9 paragraph (1) shall include—

10 (A) a prioritized list of vulnerable systems
11 and regions in the United States;

12 (B) requirements for coordination between
13 Federal, State, and local governments to ensure
14 that key public infrastructure, safety, health,
15 and land use planning and control issues are
16 addressed;

17 (C) requirements for coordination among
18 the Federal Government, industry, and commu-
19 nities;

20 (D) an assessment of climate change
21 science research needs, including probabilistic
22 assessments as an aid to planning;

23 (E) an assessment of climate change tech-
24 nology needs; and

1 (F) regional and national cost assessments
2 for the range of costs that should be anticipated
3 for adapting to the impacts of climate change.

4 (c) IMPACTS OF CLIMATE CHANGE ON LOW-INCOME
5 POPULATIONS.—

6 (1) IN GENERAL.—The Administrator shall con-
7 duct research on the impact of climate change on
8 low-income populations in all countries, including—

9 (A) an assessment of the adverse impact of
10 climate change on—

11 (i) low-income populations in the
12 United States; and

13 (ii) developing countries;

14 (B)(i) an identification of appropriate cli-
15 mate change adaptation measures and pro-
16 grams for developing countries and low-income
17 populations;

18 (ii) an assessment of the impact of the
19 measures and programs on low-income popu-
20 lations; and

21 (C) an estimate of the costs of developing
22 and implementing those climate change adapta-
23 tion and mitigation programs.

24 (2) REPORT.—Not later than 1 year after the
25 date of enactment of this Act, the Administrator

1 shall submit to Congress a report describing the re-
2 sults of the research conducted under paragraph (1).

3 **TITLE VIII—FRAMEWORK FOR**
4 **GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE**

6 **SEC. 8001. NATIONAL DRINKING WATER REGULATIONS.**

7 (a) IN GENERAL.—Section 1421 of the Safe Drink-
8 ing Water Act (42 U.S.C. 300h) is amended—

9 (1) in subsection (b)(1), by striking “subsection
10 (d)(2)” and inserting “subsection (e)(2)”;

11 (2) by redesignating subsection (d) as sub-
12 section (e); and

13 (3) by inserting after subsection (c) the fol-
14 lowing:

15 “(d) CARBON DIOXIDE.—

16 “(1) REGULATIONS.—Not later than 1 year
17 after the date of enactment of the America’s Climate
18 Security Act of 2007, the Administrator shall pro-
19 mulgate regulations for permitting commercial-scale
20 underground injection of carbon dioxide for purposes
21 of geological sequestration to address climate
22 change, including provisions—

23 “(A) for monitoring and controlling the
24 long-term storage of carbon dioxide and avoid-
25 ing, to the maximum extent practicable, any re-

1 lease of carbon dioxide into the atmosphere,
2 and for ensuring protection of underground
3 sources of drinking water, human health, and
4 the environment; and

5 “(B) relating to long-term liability associ-
6 ated with commercial-scale geological sequestra-
7 tion.

8 “(2) SUBSEQUENT REPORTS.—Not later than 5
9 years after the date on which regulations are pro-
10 mulgated pursuant to paragraph (1), and not less
11 frequently than once every 5 years thereafter, the
12 Administrator shall submit to Congress a report that
13 contains an evaluation of the effectiveness of the
14 regulations, based on current knowledge and experi-
15 ence, with particular emphasis on any new informa-
16 tion on potential impacts of commercial-scale geo-
17 logical sequestration on drinking water, human
18 health, and the environment.

19 “(3) REVISION.—If the Administrator deter-
20 mines, based on a report under paragraph (2), that
21 regulations promulgated pursuant to paragraph (1)
22 require revision, the Administrator shall promulgate
23 revised regulations not later than 1 year after the
24 date on which the applicable report is submitted to
25 Congress under paragraph (2).”.

1 (b) CONFORMING AMENDMENT.—Section 1447(a)(4)
2 of the Safe Drinking Water Act (42 U.S.C. 300j–6(a)(4))
3 is amended by striking “section 1421(d)(2)” and inserting
4 “section 1421(e)(2)”.

5 **SEC. 8002. ASSESSMENT OF GEOLOGICAL STORAGE CAPAC-**
6 **ITY FOR CARBON DIOXIDE.**

7 (a) DEFINITIONS.—In this section:

8 (1) ASSESSMENT.—The term “assessment”
9 means the national assessment of capacity for car-
10 bon dioxide completed under subsection (f).

11 (2) CAPACITY.—The term “capacity” means the
12 portion of a storage formation that can retain car-
13 bon dioxide in accordance with the requirements (in-
14 cluding physical, geological, and economic require-
15 ments) established under the methodology developed
16 under subsection (b).

17 (3) ENGINEERED HAZARD.—The term “engi-
18 neered hazard” includes the location and completion
19 history of any well that could affect a storage forma-
20 tion or capacity.

21 (4) RISK.—The term “risk” includes any risk
22 posed by a geomechanical, geochemical, hydrogeo-
23 logical, structural, or engineered hazard.

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, acting through the Di-
3 rector of the United States Geological Survey.

4 (6) STORAGE FORMATION.—The term “storage
5 formation” means a deep saline formation,
6 unmineable coal seam, or oil or gas reservoir that is
7 capable of accommodating a volume of industrial
8 carbon dioxide.

9 (b) METHODOLOGY.—Not later than 1 year after the
10 date of enactment of this Act, the Secretary shall develop
11 a methodology for conducting an assessment under sub-
12 section (f), taking into consideration—

13 (1) the geographical extent of all potential stor-
14 age formations in all States;

15 (2) the capacity of the potential storage forma-
16 tions;

17 (3) the injectivity of the potential storage for-
18 mations;

19 (4) an estimate of potential volumes of oil and
20 gas recoverable by injection and storage of industrial
21 carbon dioxide in potential storage formations;

22 (5) the risk associated with the potential stor-
23 age formations; and

24 (6) the work performed to develop the Carbon
25 Sequestration Atlas of the United States and Can-

1 ada completed by the Department of Energy in April
2 2006.

3 (c) COORDINATION.—

4 (1) FEDERAL COORDINATION.—

5 (A) CONSULTATION.—The Secretary shall
6 consult with the Secretary of Energy and the
7 Administrator regarding data sharing and the
8 format, development of methodology, and con-
9 tent of the assessment to ensure the maximum
10 usefulness and success of the assessment.

11 (B) COOPERATION.—The Secretary of En-
12 ergy and the Administrator shall cooperate with
13 the Secretary to ensure, to the maximum extent
14 practicable, the usefulness and success of the
15 assessment.

16 (2) STATE COORDINATION.—The Secretary
17 shall consult with State geological surveys and other
18 relevant entities to ensure, to the maximum extent
19 practicable, the usefulness and success of the assess-
20 ment.

21 (d) EXTERNAL REVIEW AND PUBLICATION.—On
22 completion of the methodology under subsection (b), the
23 Secretary shall—

1 (1) publish the methodology and solicit com-
2 ments from the public and the heads of affected
3 Federal and State agencies;

4 (2) establish a panel of individuals with exper-
5 tise in the matters described in paragraphs (1)
6 through (5) of subsection (b) composed, as appro-
7 priate, of representatives of Federal agencies, insti-
8 tutions of higher education, nongovernmental organi-
9 zations, State organizations, industry, and inter-
10 national geosciences organizations to review the
11 methodology and comments received under para-
12 graph (1); and

13 (3) on completion of the review under para-
14 graph (2), publish in the Federal Register the re-
15 vised final methodology.

16 (e) PERIODIC UPDATES.—The methodology devel-
17 oped under this section shall be updated periodically (in-
18 cluding not less frequently than once every 5 years) to in-
19 corporate new data as the data becomes available.

20 (f) NATIONAL ASSESSMENT.—

21 (1) IN GENERAL.—Not later than 2 years after
22 the date of publication of the methodology under
23 subsection (d)(3), the Secretary, in consultation with
24 the Secretary of Energy and State geological sur-
25 veys, shall complete a national assessment of the ca-

1 capacity for carbon dioxide storage in accordance with
2 the methodology.

3 (2) GEOLOGICAL VERIFICATION.—As part of
4 the assessment, the Secretary shall carry out a drill-
5 ing program to supplement the geological data rel-
6 evant to determining storage capacity in carbon di-
7 oxide in geological storage formations, including—

8 (A) well log data;

9 (B) core data; and

10 (C) fluid sample data.

11 (3) PARTNERSHIP WITH OTHER DRILLING PRO-
12 GRAMS.—As part of the drilling program under
13 paragraph (2), the Secretary shall enter into part-
14 nerships, as appropriate, with other entities to col-
15 lect and integrate data from other drilling programs
16 relevant to the storage of carbon dioxide in geologic
17 formations.

18 (4) INCORPORATION INTO NATCARB.—

19 (A) IN GENERAL.—On completion of the
20 assessment, the Secretary shall incorporate the
21 results of the assessment using, to the max-
22 imum extent practicable—

23 (i) the NatCarb database; or

1 (ii) a new database developed by the
2 Secretary, as the Secretary determines to
3 be necessary.

4 (B) RANKING.—The database shall include
5 the data necessary to rank potential storage
6 sites—

- 7 (i) for capacity and risk;
8 (ii) across the United States;
9 (iii) within each State;
10 (iv) by formation; and
11 (v) within each basin.

12 (5) REPORT.—Not later than 180 days after
13 the date on which the assessment is completed, the
14 Secretary shall submit to the Committee on Energy
15 and Natural Resources of the Senate and the Com-
16 mittee on Science and Technology of the House of
17 Representatives a report describing the results of the
18 assessment.

19 (6) PERIODIC UPDATES.—The assessment shall
20 be updated periodically (including not less frequently
21 than once every 5 years) as necessary to support
22 public and private sector decisionmaking, as deter-
23 mined by the Secretary.

1 **SEC. 8003. STUDY OF THE FEASIBILITY RELATING TO CON-**
2 **STRUCTION OF PIPELINES AND GEOLOGICAL**
3 **CARBON DIOXIDE SEQUESTRATION ACTIVI-**
4 **TIES.**

5 (a) IN GENERAL.—The Secretary of Energy, in co-
6 ordination with the Administrator, the Federal Energy
7 Regulatory Commission, the Secretary of Transportation,
8 and the Secretary of the Interior, shall conduct a study
9 to assess the feasibility of the construction of—

10 (1) pipelines to be used for the transportation
11 of carbon dioxide for the purpose of sequestration or
12 enhanced oil recovery; and

13 (2) geological carbon dioxide sequestration fa-
14 cilities.

15 (b) SCOPE.—The study shall consider—

16 (1) any barrier or potential barrier in existence
17 as of the date of enactment of this Act, including
18 any technical, siting, financing, or regulatory bar-
19 rier, relating to—

20 (A) the construction of pipelines to be used
21 for the transportation of carbon dioxide for the
22 purpose of sequestration or enhanced oil recov-
23 ery; or

24 (B) the geological sequestration of carbon
25 dioxide;

1 (2) any market risk (including throughput risk)
2 relating to—

3 (A) the construction of pipelines to be used
4 for the transportation of carbon dioxide for the
5 purpose of sequestration or enhanced oil recov-
6 ery; or

7 (B) the geological sequestration of carbon
8 dioxide;

9 (3) any regulatory, financing, or siting option
10 that, as determined by the Secretary of Energy,
11 would—

12 (A) mitigate any market risk described in
13 paragraph (2); or

14 (B) help ensure the construction of pipe-
15 lines dedicated to the transportation of carbon
16 dioxide for the purpose of sequestration or en-
17 hanced oil recovery;

18 (4) the means by which to ensure the safe han-
19 dling and transportation of carbon dioxide;

20 (5) any preventive measure to ensure the inte-
21 gration of pipelines to be used for the transportation
22 of carbon dioxide for the purpose of sequestration or
23 enhanced oil recovery; and

24 (6) any other appropriate use, as determined by
25 the Secretary of Energy, in coordination with the

1 Administrator, the Federal Energy Regulatory Com-
2 mission, the Secretary of Transportation, and the
3 Secretary of the Interior.

4 (c) REPORT.—Not later than 180 days after the date
5 of enactment of this Act, the Secretary of Energy shall
6 submit to the Congress a report describing the results of
7 the study.

8 **SEC. 8004. LIABILITIES FOR CLOSED GEOLOGICAL STOR-**
9 **AGE SITES.**

10 (a) ESTABLISHMENT OF TASK FORCE.—As soon as
11 practicable after the date of enactment of this Act, the
12 Administrator shall establish a task force, to be composed
13 of an equal number of stakeholders, the public, subject
14 matter experts, and members of the private sector, to con-
15 duct a study of the legal framework, environmental and
16 safety considerations, and cost implications of potential
17 Federal assumption of liability with respect to closed geo-
18 logical storage sites.

19 (b) REPORT.—Not later than 18 months after the
20 date of enactment of this Act, the task force established
21 under subsection (a) shall submit to Congress a report de-
22 scribing the results of the study conducted under sub-
23 section (a), including recommendations of the task force,
24 if any, with respect to the framework described in that
25 subsection.

1 **TITLE IX—MISCELLANEOUS**

2 **SEC. 9001. PARAMOUNT INTEREST WAIVER.**

3 (a) **IN GENERAL.**—If the President determines that
4 a national security emergency exists and, in light of infor-
5 mation that was not available as of the date of enactment
6 of this Act, it is in the paramount interest of the United
7 States to modify any requirement under this Act to mini-
8 mize the effects of the emergency, the President may,
9 after opportunity for public notice and comment, tempo-
10 rarily adjust, suspend, or waive any regulations promul-
11 gated pursuant to this Act to achieve that minimization.

12 (b) **CONSULTATION.**—In making an emergency deter-
13 mination under subsection (a), the President shall, to the
14 maximum extent practicable, consult with and take into
15 account any advice received from—

16 (1) the National Academy of Sciences;

17 (2) the Secretary of Energy; and

18 (3) the Administrator.

19 (c) **JUDICIAL REVIEW.**—An emergency determination
20 under subsection (a) shall be subject to judicial review in
21 accordance with section 307 of the Clean Air Act (42
22 U.S.C. 7607).

1 **SEC. 9002. CORPORATE ENVIRONMENTAL DISCLOSURE OF**
2 **CLIMATE CHANGE RISKS.**

3 (a) REGULATIONS.—Not later than 2 years after the
4 date of enactment of this Act, the Securities and Ex-
5 change Commission (referred to in this section as the
6 “Commission”) shall promulgate regulations in accord-
7 ance with section 13 of the Securities Exchange Act of
8 1934 (15 U.S.C. 78m) directing each issuer of securities
9 under that Act, to inform, based on the current expecta-
10 tions and projections and knowledge of facts of the issuer,
11 securities investors of material risks relating to—

12 (1) the financial exposure of the issuer because
13 of the net global warming pollution emissions of the
14 issuer; and

15 (2) the potential economic impacts of global
16 warming on the interests of the issuer.

17 (b) UNIFORM FORMAT FOR DISCLOSURE.—In car-
18 rying out subsection (a), the Commission shall enter into
19 an agreement with the Financial Accounting Standards
20 Board, or another appropriate organization that estab-
21 lishes voluntary standards, to develop a uniform format
22 for disclosing to securities investors information on the
23 risks described in subsection (a).

24 (c) INTERIM INTERPRETIVE RELEASE.—

25 (1) IN GENERAL.—Not later than 1 year after
26 the date of enactment of this Act, the Commission

1 shall issue an interpretive release clarifying that
2 under items 101 and 303 of Regulation S–K of the
3 Commission under part 229 of title 17, Code of Fed-
4 eral Regulations (as in effect on the date of enact-
5 ment of this Act)—

6 (A) the commitments of the United States
7 to reduce emissions of global warming pollution
8 under the United Nations Framework Conven-
9 tion on Climate Change, done at New York on
10 May 9, 1992, are considered to be a material
11 effect; and

12 (B) global warming constitutes a known
13 trend.

14 (2) PERIOD OF EFFECTIVENESS.—The inter-
15 pretive release issued under paragraph (1) shall re-
16 main in effect until the effective date of the final
17 regulations promulgated under subsection (a).

18 **SEC. 9003. ADMINISTRATIVE PROCEDURE AND JUDICIAL**
19 **REVIEW.**

20 (a) RULEMAKING PROCEDURES.—Any rule, require-
21 ment, regulation, method, standard, program, determina-
22 tion, or final action made or promulgated pursuant to any
23 title of this Act, with the exception of sections 3101, 3201,
24 3301, and 3901, shall be subject to the rulemaking proce-

1 dures described in sections 551 through 557 of title 5,
2 United States Code.

3 (b) ENFORCEMENT.—Each provision of this Act (in-
4 cluding provisions relating to mandatory duties of the Ad-
5 ministrator) shall be fully enforceable pursuant to sections
6 113, 303, and 304 of the Clean Air Act (42 U.S.C. 7413,
7 7603, 7604).

8 (c) RECORDKEEPING, INSPECTIONS, MONITORING,
9 ENTRY, AND SUBPOENAS.—The Administrator shall have
10 the same powers and authority provided under sections
11 114 and 307(a) of the Clean Air Act (42 U.S.C. 7414,
12 7607(a)) in carrying out, administering, and enforcing
13 this Act.

14 (d) JUDICIAL REVIEW.—A petition for judicial review
15 of any regulation promulgated, or final action carried out,
16 by the Administrator pursuant to this Act may be filed
17 only—

18 (1) in the United States Court of Appeals for
19 the District of Columbia; and

20 (2) in accordance with section 307(b) of the
21 Clean Air Act (42 U.S.C. 7607(b)).

22 **SEC. 9004. RETENTION OF STATE AUTHORITY.**

23 (a) IN GENERAL.—Except as provided in subsection
24 (b), in accordance with section 116 of the Clean Air Act
25 (42 U.S.C. 7416) and section 510 of the Federal Water

1 Pollution Control Act (33 U.S.C. 1370), nothing in this
2 Act precludes or abrogates the right of any State to adopt
3 or enforce—

4 (1) any standard, cap, limitation, or prohibition
5 relating to emissions of greenhouse gas; or

6 (2) any requirement relating to control, abate-
7 ment, or avoidance of emissions of greenhouse gas.

8 (b) EXCEPTION.—Notwithstanding subsection (a), no
9 State may adopt a standard, cap, limitation, prohibition,
10 or requirement that is less stringent than the applicable
11 standard, cap, limitation, prohibition, or requirement
12 under this Act.

13 **SEC. 9005. TRIBAL AUTHORITY.**

14 For purposes of this Act, the Administrator may
15 treat any federally recognized Indian tribe as a State, in
16 accordance with section 301(d) of the Clean Air Act (42
17 U.S.C. 7601(d)).

18 **SEC. 9006. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated such sums
20 as are necessary to carry out this Act.

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