

111TH CONGRESS  
1ST SESSION

# S. 2729

To reduce greenhouse gas emissions from uncapped domestic sources, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2009

Ms. STABENOW (for herself, Mr. BAUCUS, Ms. KLOBUCHAR, Mr. BROWN, Mr. BEGICH, Mr. HARKIN, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To reduce greenhouse gas emissions from uncapped domestic  
sources, 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 “Clean Energy Partnerships Act of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—OFFSET CREDIT PROGRAM FOR DOMESTIC EMISSION  
REDUCTIONS

- Sec. 101. Definitions.  
 Sec. 102. Advisory Committee.  
 Sec. 103. Establishment of program to credit emission reductions from uncapped domestic sources and sinks.  
 Sec. 104. Eligible projects.  
 Sec. 105. Requirements for offset projects.  
 Sec. 106. Approval.  
 Sec. 107. Verification of offset projects.  
 Sec. 108. Issuance of offset credits.  
 Sec. 109. Audits and reviews.  
 Sec. 110. Early offset supply.  
 Sec. 111. Program review and revision.  
 Sec. 112. Additional regulatory standards for emission reductions.  
 Sec. 113. Use of credits for compliance purposes.

#### TITLE II—CARBON CONSERVATION PROGRAM

- Sec. 201. Definitions.  
 Sec. 202. Carbon conservation program.  
 Sec. 203. Carbon Conservation Fund.

#### TITLE III—RURAL CLEAN ENERGY RESOURCES

- Sec. 301. Findings.  
 Sec. 302. Biorefinery assistance.  
 Sec. 303. Repowering assistance.  
 Sec. 304. Rural Energy for America Program.  
 Sec. 305. Rural Clean Energy Resources Fund.

#### TITLE IV—AGRICULTURE AND FORESTRY RESEARCH FOR GREENHOUSE GAS MITIGATION

- Sec. 401. Findings.  
 Sec. 402. Research and demonstration program.

# 1 **TITLE I—OFFSET CREDIT PRO-** 2 **GRAM FOR DOMESTIC EMIS-** 3 **SION REDUCTIONS**

## 4 **SEC. 101. DEFINITIONS.**

5 In this title:

6 (1) **ACADEMY.**—The term “Academy” means  
 7 the National Academy of Sciences.

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

1           (3) **ADVISORY COMMITTEE.**—The term “Advi-  
2       sory Committee” means the Greenhouse Gas Emis-  
3       sion Reduction and Sequestration Advisory Com-  
4       mittee established under section 102(a)(1).

5           (4) **APPROPRIATE OFFICIAL.**—The term “ap-  
6       propriate official” means—

7           (A) the Secretary, with respect to any do-  
8       mestic agriculture or forestry offset project; and

9           (B) the Administrator, with respect to all  
10       other offset projects.

11          (5) **EMISSION REDUCTION.**—The term “emis-  
12       sion reduction” means the reduction, avoidance, de-  
13       struction, or sequestration of greenhouse gas emis-  
14       sions.

15          (6) **OFFSET PROJECT.**—The term “offset  
16       project” means a project or activity that achieves  
17       emission reductions, and for which offset credits are  
18       issued under this title.

19          (7) **SECRETARY.**—The term “Secretary” means  
20       the Secretary of Agriculture.

21 **SEC. 102. ADVISORY COMMITTEE.**

22       (a) **ESTABLISHMENT.**—

23           (1) **ADVISORY COMMITTEE.**—The Secretary and  
24       the Administrator shall jointly establish an advisory  
25       committee, to be known as the “Greenhouse Gas

1 Emission Reduction and Sequestration Advisory  
2 Committee”, to provide scientific and technical ad-  
3 vice on the establishment and implementation of an  
4 offset project program with respect to offset projects  
5 under the jurisdiction of the Secretary and the Ad-  
6 ministrator.

7 (2) AUTHORITY.—In addition to the authority  
8 of this section, the Administrator and the Secretary  
9 shall use existing authority under, as appropriate—

10 (A) the Clean Air Act (42 U.S.C. 7401 et  
11 seq.);

12 (B) the Federal Advisory Committee Act  
13 (5 U.S.C. App.); and

14 (C) section 1245 of the Food Security Act  
15 of 1985 (16 U.S.C. 3845).

16 (b) MEMBERSHIP.—

17 (1) IN GENERAL.—The Advisory Committee  
18 shall be composed of not less than 9 and not more  
19 than 15 individuals with relevant education, train-  
20 ing, and experience, selected jointly by the Secretary  
21 and the Administrator, who shall be—

22 (A) identified by the Academy;

23 (B) representative of land grant univer-  
24 sities, academia, business, nongovernmental or-

1           ganizations, and Federal, State, and local gov-  
2           ernment; or

3           (C) experts with background and experi-  
4           ence in agriculture or forestry.

5           (2) REQUIREMENT.—Not more than  $\frac{1}{3}$  of the  
6           members of the Advisory Committee may be officers  
7           or employees (including contractors) of any Federal  
8           agency.

9           (3) TERM.—A member—

10           (A) shall be appointed to the Advisory  
11           Committee for a term of 3 years (except for ini-  
12           tial terms for which members may be appointed  
13           for a term of 4 or 5 years to allow staggering);  
14           and

15           (B) may be reappointed for 1 additional 3-  
16           year term (which may directly follow a first  
17           term), at the discretion of the Secretary and  
18           the Administrator.

19           (4) VACANCIES.—A vacancy on the Advisory  
20           Committee—

21           (A) shall not affect the powers of the Advi-  
22           sory Committee; and

23           (B) shall be filled in the same manner as  
24           the original appointment was made.

1           (5) INITIAL MEETING.—Not later than 30 days  
2 after the date on which all members of the Advisory  
3 Committee have been appointed, the Advisory Com-  
4 mittee shall hold the initial meeting of the Advisory  
5 Committee.

6           (6) MEETINGS.—The Advisory Committee shall  
7 meet at the call of the Chairperson, with the ap-  
8 proval of the designated Federal officer.

9           (7) QUORUM.—A majority of the members of  
10 the Advisory Committee shall constitute a quorum,  
11 but a lesser number of members may hold hearings.

12           (8) CHAIRPERSON.—The Secretary and the Ad-  
13 ministrator shall jointly select a Chairperson of the  
14 Advisory Committee from among the members of the  
15 Advisory Committee.

16           (c) EXPERTISE.—On approval of the Secretary and  
17 the Administrator, the Advisory Committee may seek out-  
18 side expertise, as necessary, and form subcommittees or  
19 workgroups for any purpose consistent with this section.

20           (d) DUTIES.—

21           (1) REPORTS ON OFFSET PROJECT CAT-  
22 EGORIES.—

23           (A) IN GENERAL.—Not later than 180  
24 days after the date on which all initial members  
25 of the Advisory Committee have been appointed,

1 the Advisory Committee shall submit to the  
2 Secretary and the Administrator and make  
3 available to the public a report containing rec-  
4 ommendations regarding the types of offset  
5 project categories pursuant to section 104, and  
6 relevant scientific data regarding practices for  
7 those categories, that should be considered to  
8 be eligible to generate offset credits under this  
9 title.

10 (B) FACTORS.—In developing the rec-  
11 ommendations described in subparagraph (A),  
12 the Advisory Committee shall take into ac-  
13 count—

14 (i) the extent to which, as of the date  
15 of submission of the report, the project or  
16 activity types within each category—

17 (I) are required by law; or

18 (II) represent business-as-usual  
19 practices for an industry sector or fa-  
20 cility type;

21 (ii) the potential for accurate quan-  
22 tification of net emission reductions;

23 (iii) any corresponding environmental  
24 benefits or disadvantages; and

1 (iv) the potential supply of emission  
2 reductions available from the category.

3 (C) CATEGORIES FOR CONSIDERATION.—

4 In determining which categories of activities to  
5 recommend under subparagraph (A), the Advi-  
6 sory Committee shall consider, at a minimum,  
7 with respect to each category and the jurisdic-  
8 tion of the Secretary and Administrator, as ap-  
9 propriate, project types that are listed under  
10 section 104.

11 (D) METHODOLOGIES.—For each rec-  
12 ommended offset project category, the Advisory  
13 Committee may recommend 1 or more meth-  
14 odologies for use with any project type.

15 (2) REPORTS ON EMISSION REDUCTION INTEG-  
16 RITY.—

17 (A) IN GENERAL.—Not later than 180  
18 days before the date of promulgation of any  
19 regulations relating to offsets required under a  
20 Federal law enacted for the purpose of regu-  
21 lating greenhouse gas emissions, and periodi-  
22 cally thereafter, using the best available science,  
23 the Advisory Committee shall jointly provide to  
24 the Secretary and the Administrator, respec-  
25 tively, and submit for publication a report con-

1           taining priority recommendations on how to en-  
2           sure the emission reduction integrity of the off-  
3           set projects under this title, including with re-  
4           gard to—

5                   (i) quantifying credits for net emission  
6                   reductions resulting from offset projects;

7                   (ii) determining additionality, includ-  
8                   ing—

9                           (I) the application of standards  
10                           that are specific to each project type;  
11                           and

12                           (II) the use of methodologies that  
13                           account for business-as-usual prac-  
14                           tices for an industry or facility type;

15                   (iii) accounting for economic and  
16                   emission leakage associated with project  
17                   activities, including the application of sec-  
18                   tor-specific leakage factors in order to re-  
19                   flect net changes in emissions and seques-  
20                   tration resulting from the project;

21                   (iv) accounting for uncertainty and  
22                   application of uncertainty factors;

23                   (v) methods to measure, verify, and  
24                   otherwise ensure project results with suffi-

1           cient scientific integrity to meet the objec-  
2           tives of the program;

3                   (vi) establishing appropriate insurance  
4           requirements, buffer reserves, or other op-  
5           tions to address the risk of reversals by  
6           project type and conditions;

7                   (vii) minimizing administrative costs  
8           and burdens on project representatives;  
9           and

10                   (viii) meeting any other criteria the  
11           Advisory Committee recommends be ap-  
12           plied to ensure that projects assist in meet-  
13           ing the overall objectives of a Federal law  
14           enacted for the purpose of regulating  
15           greenhouse gas emissions.

16           (B) RESPONSE.—Not later than 180 days  
17           after the date of receipt of a report under sub-  
18           paragraph (A), the Secretary and the Adminis-  
19           trator shall jointly make available to the public  
20           a response to the report.

21           (e) POWERS.—

22                   (1) HEARINGS.—The Advisory Committee may,  
23           with the consent of the Secretary and the Adminis-  
24           trator, hold such hearings, meet and act at such  
25           times and places, take such testimony, and receive

1 such evidence as the Advisory Committee considers  
2 advisable to carry out this section.

3 (2) INFORMATION FROM FEDERAL AGENCIES.—

4 (A) IN GENERAL.—The Advisory Com-  
5 mittee may secure directly from a Federal agen-  
6 cy such information as the Advisory Committee  
7 considers necessary to carry out this section.

8 (B) PROVISION OF INFORMATION.—On re-  
9 quest of the Chairperson of the Advisory Com-  
10 mittee, the head of the agency shall provide the  
11 information to the Advisory Committee.

12 (3) POSTAL SERVICES.—The Advisory Com-  
13 mittee may use the United States mails in the same  
14 manner and under the same conditions as other  
15 agencies of the Federal Government.

16 (f) ADVISORY COMMITTEE PERSONNEL MATTERS.—

17 (1) COMPENSATION OF MEMBERS.—

18 (A) NON-FEDERAL EMPLOYEES.—A mem-  
19 ber of the Advisory Committee who is not an  
20 officer or employee of the Federal Government  
21 shall be compensated at a rate equal to the  
22 daily equivalent of the annual rate of basic pay  
23 prescribed for level IV of the Executive Sched-  
24 ule under section 5315 of title 5, United States  
25 Code, for each day (including travel time) dur-

1           ing which the member is engaged in the per-  
2           formance of the duties of the Advisory Com-  
3           mittee.

4                   (B) FEDERAL EMPLOYEES.—A member of  
5           the Advisory Committee who is an officer or  
6           employee of the Federal Government shall serve  
7           without compensation in addition to the com-  
8           pensation received for the services of the mem-  
9           ber as an officer or employee of the Federal  
10          Government.

11                   (2) TRAVEL EXPENSES.—A member of the Ad-  
12          visory Committee shall be allowed travel expenses,  
13          including per diem in lieu of subsistence, at rates  
14          authorized for an employee of an agency under sub-  
15          chapter I of chapter 57 of title 5, United States  
16          Code, while away from the home or regular place of  
17          business of the member in the performance of the  
18          duties of the Advisory Committee.

19   **SEC. 103. ESTABLISHMENT OF PROGRAM TO CREDIT EMIS-**  
20                   **SION REDUCTIONS FROM UNCAPPED DOMES-**  
21                   **TIC SOURCES AND SINKS.**

22           (a) PROGRAM.—

23                   (1) IN GENERAL.—Not later than 1 year after  
24          the date of enactment of this Act, the Administrator  
25          and the Secretary shall, in accordance with this title,

1 establish a program to govern the creation of credits  
2 from emission reductions from uncapped domestic  
3 sources and sinks while ensuring that offset credits  
4 represent additional greenhouse gas emission reduc-  
5 tions in accordance with section 105.

6 (2) EMISSION REDUCTION INTEGRITY; RULE-  
7 MAKING.—In carrying out the program under this  
8 section, the Administrator and the Secretary shall,  
9 to the maximum extent practicable—

10 (A) protect the emission reduction integ-  
11 rity of the program while minimizing burdens  
12 on offset project representatives;

13 (B) prioritize rulemaking for activities that  
14 present the fewest technical challenges and  
15 greatest certainty of net atmospheric benefit,  
16 considering the recommendations of—

17 (i) the Advisory Committee submitted  
18 under section 102;

19 (ii) the Department of the Interior;

20 (iii) the Secretary of Commerce, with  
21 respect to any coastal, ocean or marine off-  
22 set project; and

23 (iv) other Federal agencies;

24 (C) ensure that consistent requirements  
25 and procedures apply in the case of offset

1 project types that fall within the respective pur-  
2 views of the Administrator and the Secretary;  
3 and

4 (D) ensure that the program meets the re-  
5 quirements of section 105.

6 (b) REGISTRY.—Not later than 1 year after the date  
7 of enactment of this Act, the Administrator, in consulta-  
8 tion with the Secretary and the heads of other appropriate  
9 Federal agencies, shall establish a registry (or expand an  
10 established emission allowance registry) for use in record-  
11 ing approved credits issued under this section to reflect  
12 emission reductions from uncapped sources and sinks.

13 (c) DEPARTMENT OF AGRICULTURE ROLE.—In addi-  
14 tion to the duties described in subsection (a) and section  
15 1245 of the Food Security Act of 1985 (16 U.S.C. 3845),  
16 the Secretary shall, with respect to relevant or appropriate  
17 projects relating to emission reductions from uncapped  
18 sources and sinks in agriculture and forestry—

19 (1) gather inventory data on carbon stocks and  
20 fluxes to inform rulemaking with respect to agricul-  
21 tural and forestry sectors;

22 (2) administer as the lead agency the duties  
23 prescribed under sections 104, 105, 106, and 109  
24 for agricultural and forestry offset projects;

1           (3) prepare the Forest Service, the Natural Re-  
2           sources Conservation Service, the Farm Service  
3           Agency, and other applicable entities to make avail-  
4           able to landowners and project representatives car-  
5           bon sequestration data and other information on ag-  
6           ricultural and forest land that are necessary to as-  
7           sist landowners and project representatives in esti-  
8           mating carbon sequestration rates by land area or  
9           appropriate region, forest type, soil type, and other  
10          appropriate factors;

11          (4) make available technical assistance to land-  
12          owners undertaking activities in preparation for the  
13          sale of carbon credits derived from activities on the  
14          land of the landowners, including work and opportu-  
15          nities with aggregators and third-party verifiers pur-  
16          suant to section 107;

17          (5) take into consideration expanding existing  
18          training and accreditation programs of the Natural  
19          Resources Conservation Service for third-party tech-  
20          nical service providers to provide training and ac-  
21          creditation for third-party verifiers pursuant to sec-  
22          tion 107;

23          (6) conduct, as appropriate, outreach, edu-  
24          cation, and training through the extension services  
25          of land-grant colleges and universities; and

1           (7) promulgate such regulations as are nec-  
2           essary to carry out the functions of the Secretary  
3           under this title.

4 **SEC. 104. ELIGIBLE PROJECTS.**

5           (a) LIST OF ELIGIBLE PROJECT TYPES.—Each ap-  
6           propriate official shall establish and maintain a list of  
7           types of offset projects eligible to generate offset credits  
8           under this title.

9           (b) INITIAL LIST OF PROJECT TYPES.—

10           (1) IN GENERAL.—Each appropriate official  
11           shall establish an initial list of eligible project types  
12           under subsection (a).

13           (2) EMISSION REDUCTION ACTIVITIES.—The  
14           appropriate official shall include on the list required  
15           under this subsection, at a minimum, activities that  
16           provide emission reductions and meet the require-  
17           ment of section 105, including—

18                   (A) methane collection at mines, landfills,  
19                   and natural gas systems;

20                   (B) fugitive emissions from the oil and gas  
21                   sector that reduce greenhouse gas emissions  
22                   that would otherwise have been flared or vent-  
23                   ed;

24                   (C) nonlandfill projects that involve collec-  
25                   tion, combustion, or avoidance of emissions

1 from organic waste streams that would have  
2 otherwise emitted methane into the atmosphere,  
3 including manure management, composting, or  
4 anaerobic digestion projects;

5 (D) projects involving afforestation or re-  
6 forestation of acreage not forested as of Janu-  
7 ary 1, 2009;

8 (E) forest management resulting in an in-  
9 crease in forest carbon stores, including har-  
10 vested wood products;

11 (F) projects that capture and geologically  
12 sequester uncapped greenhouse gas emissions  
13 with or without enhanced oil or methane recov-  
14 ery in active or depleted oil, carbon dioxide,  
15 natural gas reservoirs or other geological forma-  
16 tions;

17 (G) recycling and waste minimization  
18 projects;

19 (H) projects to abate the production of ni-  
20 trous oxide at nitric acid production facilities  
21 and other stationary sources;

22 (I) projects for biochar production and use;

23 (J) projects that destroy ozone-depleting  
24 substances that have been phased out of pro-  
25 duction;

1 (K) projects in communities reliant on  
2 small, isolated electricity grids involving conver-  
3 sion from diesel to renewable sources of energy,  
4 including electricity generation facilities with  
5 emissions below required levels for compliance  
6 with any limitation on district or home heating  
7 in those communities;

8 (L) projects relating to agricultural, grass-  
9 land, and rangeland sequestration and manage-  
10 ment practices, including—

11 (i) altered tillage practices, including  
12 the avoided abandonment of conservation  
13 practices;

14 (ii) winter cover cropping, continuous  
15 cropping, and other means to increase bio-  
16 mass returned to soil in lieu of planting  
17 followed by fallowing;

18 (iii) the use of technology or practices  
19 to improve the management of nitrogen  
20 fertilizer use, including slow and con-  
21 trolled-release fertilizers (including ab-  
22 sorbed, coated, occluded, or reacted fer-  
23 tilizers) and stabilized nitrogen fertilizers  
24 (including urease, nitrification inhibitors,

1 and nitrogen stabilizers) that are recog-  
2 nized by State regulators of fertilizers;

3 (iv) reduction in methane emissions  
4 from rice cultivation;

5 (v) reduction in carbon emissions  
6 from organically managed soils and farm-  
7 ing practices used on certified organic  
8 farms;

9 (vi) reduction in greenhouse gas emis-  
10 sions due to changes in animal manage-  
11 ment practices, including dietary modifica-  
12 tions and pasture-based livestock systems;

13 (vii) resource-conserving crop rota-  
14 tions of at least 3 years; and

15 (viii) practices that will increase the  
16 sequestration of carbon in soils on crop-  
17 land, hayfields, native and planted grazing  
18 land, grassland, or rangeland;

19 (M) projects for changes in carbon stocks  
20 attributed to land management change, includ-  
21 ing—

22 (i) improved management or restora-  
23 tion of cropland, grassland, rangeland (in-  
24 cluding grazing practices), and forest land;

- 1 (ii) avoided conversion that would oth-  
2 erwise release carbon stocks;
- 3 (iii) reduced deforestation;
- 4 (iv) management and restoration of  
5 peatland or wetland;
- 6 (v) urban tree-planting, landscaping,  
7 greenway construction, and maintenance;
- 8 (vi) sequestration of greenhouse gases  
9 through management of tree crops;
- 10 (vii) adaptation of plant traits or new  
11 technologies that increase sequestration by  
12 forests; and
- 13 (viii) projects to restore or prevent the  
14 conversion, loss, or degradation of vege-  
15 tated marine coastal habitats;
- 16 (N) projects that reduce emission reduc-  
17 tions from manure and effluent, including—
- 18 (i) waste aeration;
- 19 (ii) biogas capture and combustion;
- 20 and
- 21 (iii) improved management or applica-  
22 tion to agricultural land; and
- 23 (O) projects that reduce the intensity of  
24 greenhouse gas per unit of agricultural produc-  
25 tion.

1 (c) MODIFICATIONS TO THE LISTS OF ELIGIBLE  
2 TYPES OF OFFSET PROJECT.—

3 (1) MODIFICATIONS.—

4 (A) IN GENERAL.—At any time, after tak-  
5 ing into consideration any relevant rec-  
6 ommendations of the Advisory Committee, the  
7 appropriate official may by regulation deter-  
8 mine whether to add additional types of  
9 projects, pursuant to subsection (a), to the list  
10 of eligible projects of the appropriate official  
11 under subsection (a).

12 (B) CRITERION FOR ADDITION.—The ap-  
13 propriate official shall add a type of project to  
14 an eligible list in accordance with subparagraph  
15 (A) only if the type of project to be added is ca-  
16 pable of generating emission reductions that  
17 meet the requirements under this title.

18 (C) PETITION FOR ADDITION.—

19 (i) IN GENERAL.—Any person may  
20 petition the appropriate official at any time  
21 to add a type of project to a list described  
22 in subsection (a).

23 (ii) RESPONSE.—Not later than 180  
24 days after the date of receipt of the peti-

1                   tion, the appropriate official shall respond  
2                   to the petition.

3                   (2) REMOVALS FROM THE LIST.—

4                   (A) IN GENERAL.—Not later than January  
5                   1, 2015, and every 3 years thereafter, the ap-  
6                   propriate official shall determine whether to re-  
7                   move types of projects, pursuant to subsection  
8                   (b), from the eligible list of the appropriate offi-  
9                   cial.

10                  (B) REQUIREMENTS.—The appropriate of-  
11                  ficial may remove a type of project from the eli-  
12                  gible list of the appropriate official only—

13                         (i) by regulation; and

14                         (ii) if—

15                                 (I) the type of project has be-  
16                                 come required by law (including a reg-  
17                                 ulation);

18                                 (II) the agency with responsi-  
19                                 bility for administering the project de-  
20                                 termines that the environmental harm  
21                                 resulting from the type of project ex-  
22                                 ceeds the greenhouse gas emission  
23                                 abatement benefits of the project;

24                                 (III) the project activity has be-  
25                                 come predominant, and would remain

1 predominant even without the avail-  
2 ability of offset credits; and

3 (IV) the project type does not  
4 meet the requirements of this title.

5 **SEC. 105. REQUIREMENTS FOR OFFSET PROJECTS.**

6 (a) **METHODOLOGIES.**—Not later than 1 year after  
7 the date of inclusion of a project type on an eligible list  
8 under section 104(a), the appropriate official shall by reg-  
9 ulation establish for that project type 1 or more standard-  
10 ized methodologies (giving priority to projects with well-  
11 established methodologies) or performance standards that  
12 can be developed so that the project type can meet the  
13 requirements of this section—

14 (1) for use in determining the additionality of  
15 greenhouse gas emission reductions achieved by an  
16 offset project of that type, that ensures, at a min-  
17 imum, that any greenhouse gas emission reduction is  
18 considered additional only to the extent that the  
19 emission reduction results from activities that—

20 (A) are not required by or undertaken to  
21 comply with any law (including any regulation  
22 or consent order, but excluding any contract);

23 (B) were not commenced prior to January  
24 1, 2009, except for offset project activities de-  
25 scribed in section 110 that commenced after

1           January 1, 2001, and were registered as of the  
2           date of enactment of this Act under an offset  
3           program with respect to which the Adminis-  
4           trator and the Secretary have made an affirma-  
5           tive determination under paragraph (2) or (3)  
6           of section 110(a) or section 110(e); and

7                   (C) exceed the activity baseline established  
8           under subparagraph (B);

9           (2) for use in establishing activity baselines for  
10          offset projects of that type, which activity baselines  
11          shall be established by the appropriate official to re-  
12          flect a conservative estimate of business-as-usual  
13          performance or practices for the relevant type of ac-  
14          tivity such that the baseline provides a science-based  
15          margin of safety to ensure the emission integrity of  
16          offsets calculated in reference to the baseline, includ-  
17          ing (in the case of an agricultural or forestry offset  
18          project) the establishment by the Secretary of a tem-  
19          porary baseline for offset projects of that type to es-  
20          tablish a date after which offset credits may be cal-  
21          culated with respect to the baseline that may reflect  
22          a continuation of practices in place prior to the  
23          adoption of the offset project;

24                  (3) for use in determining the extent to which  
25          greenhouse gas emission reductions achieved by an

1 offset project of that type exceed a relevant activity  
2 baseline, including protocols for use in monitoring  
3 and accounting for uncertainty; and

4 (4) for use in accounting for and mitigating po-  
5 tential leakage, if any, from an offset project of that  
6 type, taking uncertainty into account.

7 (b) ACCOUNTING FOR REVERSALS.—

8 (1) ACCOUNTING.—

9 (A) IN GENERAL.—For each type of se-  
10 questration project listed under section 104, the  
11 appropriate official shall prescribe such mecha-  
12 nisms to ensure that any sequestration with re-  
13 spect to which an offset credit is issued under  
14 this title results in a net increase in sequestra-  
15 tion, and that a full and transparent account is  
16 taken of any actual or potential reversal of the  
17 sequestration, with an adequate margin of safe-  
18 ty for the complete term of an offset project  
19 agreement approved under section 106.

20 (B) MINIMUM MECHANISMS.—The appro-  
21 priate official shall prescribe at least 1 of the  
22 following mechanisms to meet the requirements  
23 of this paragraph:

24 (i) An offsets reserve, pursuant to  
25 paragraph (2).

1           (ii) Insurance that provides for pur-  
2           chase and provision to the appropriate offi-  
3           cial for retirement of a quantity of offset  
4           credits or emission allowances equal in  
5           number to the tons of carbon dioxide  
6           equivalents of greenhouse gas emissions re-  
7           leased due to reversal.

8           (iii) Another mechanism that the ap-  
9           propriate official determines satisfies the  
10          requirements of this title.

11          (2) OFFSETS RESERVE.—

12           (A) IN GENERAL.—An offsets reserve re-  
13           ferred to in paragraph (1)(B)(i) is a program  
14           under which, before issuance of offset credits  
15           under this title, the appropriate official shall—

16           (i) subtract and reserve from the  
17           quantity to be issued a quantity of offset  
18           credits based on the risk of reversal; and

19           (ii)(I) hold those reserved offset cred-  
20           its in the offsets reserve; and

21           (II) register the holding of the re-  
22           served offset credits in the registry estab-  
23           lished under section 103(b).

24           (B) PROJECT REVERSAL.—

1 (i) IN GENERAL.—If a reversal has  
2 occurred with respect to an offset project  
3 for which offset credits are reserved under  
4 this paragraph, the appropriate official  
5 shall remove offset credits from the offsets  
6 reserve and cancel the credits to fully ac-  
7 count for the tons of carbon dioxide equiv-  
8 alent that are no longer sequestered.

9 (ii) INTENTIONAL REVERSALS.—If the  
10 appropriate official determines that a re-  
11 versal was intentional, the offset project  
12 representative for the relevant offset  
13 project shall place into the offsets reserve  
14 a quantity of offset credits, or combination  
15 of offset credits and emission allowances,  
16 equal in number to 150 percent of the  
17 number of reserve offset credits that were  
18 canceled due to the reversal pursuant to  
19 clause (i).

20 (C) USE OF RESERVED OFFSET CRED-  
21 ITS.—Offset credits placed into the offsets re-  
22 serve under this paragraph may not be used to  
23 comply with other obligations under a Federal  
24 law enacted for the purpose of regulating green-  
25 house gas emissions.

1           (3) CARBON AGREEMENTS AND LAND USE  
2 FLEXIBILITY.—

3           (A) APPLICABILITY.—

4           (i) IN GENERAL.—With respect to an  
5 agricultural, forestry, or any other seques-  
6 tration practice listed under section 104  
7 that sequesters greenhouse gases, the Sec-  
8 retary may develop mechanisms in addition  
9 to paragraphs (1) and (2) in order to en-  
10 sure that less-than-perpetual sequestration  
11 agreements under this subsection meet the  
12 requirements of this section and maintain  
13 the integrity of the overall emission reduc-  
14 tion targets of a Federal law enacted for  
15 the purpose of regulating greenhouse gas  
16 emissions.

17           (ii) MECHANISMS.—The mechanisms  
18 shall include—

19           (I) a specific duration of the in-  
20 tended sequestration activity;

21           (II) clear liability for carbon ac-  
22 counting;

23           (III) sequential activities;

1 (IV) adequate monitoring and ac-  
2 counting systems to maintain the  
3 emission reduction targets;

4 (V) carbon easements; or

5 (VI) any other option that meets  
6 the requirements of this section, as  
7 determined by the Secretary.

8 (B) RESPONSIBILITY FOR ACCOUNTING.—

9 To account for the termination of any offset  
10 agreement approved under section 106 or the  
11 termination of the sequestration activity, the  
12 Secretary may allow the agreement to assign li-  
13 ability to any part of the agreement for the  
14 purposes of carbon accounting.

15 (c) CREDITING PERIODS.—

16 (1) IN GENERAL.—For each offset project type,  
17 the appropriate official shall specify a crediting pe-  
18 riod, and establish provisions for petitions for new  
19 crediting periods, in accordance with this subsection.

20 (2) DURATION.—

21 (A) IN GENERAL.—Except as provided in  
22 subparagraph (B), the crediting period shall be  
23 not less than 5 nor greater than 10 years.

1 (B) FORESTRY PROJECTS.—The crediting  
2 period for a forestry offset project shall not ex-  
3 ceed 30 years.

4 (3) ELIGIBILITY.—

5 (A) IN GENERAL.—An offset project shall  
6 be eligible to generate offset credits under this  
7 title only during the crediting period of the off-  
8 set project.

9 (B) REMAINING ELIGIBILITY.—Except as  
10 provided in paragraph (4), during a crediting  
11 period described in subparagraph (A), an offset  
12 project shall remain eligible to generate offset  
13 credits, subject to the methodologies and  
14 project type eligibility list that applied as of the  
15 date of project approval under section 106.

16 (4) PETITION FOR NEW CREDITING PERIOD.—

17 (A) IN GENERAL.—An offset project rep-  
18 resentative may petition for a new crediting pe-  
19 riod to commence after termination of a cred-  
20 iting period, subject to the methodologies and  
21 project type eligibility list in effect at the time  
22 at which the petition is submitted.

23 (B) TIMING OF SUBMISSION.—A petition  
24 may not be submitted under this paragraph

1 more than 1 year before the end of the pending  
2 crediting period.

3 (C) RESPONSE.—The appropriate official  
4 shall make a determination on the petition in  
5 accordance with section 106.

6 (d) EMISSION REDUCTION INTEGRITY.—In estab-  
7 lishing the requirements under this section, the appro-  
8 priate official shall apply conservative assumptions or  
9 methods to maximize the probability that the emission re-  
10 duction integrity of Federal benchmarks or mandates are  
11 not compromised.

12 (e) PREEXISTING METHODOLOGIES.—In promul-  
13 gating requirements under this section, the appropriate of-  
14 ficial shall give due consideration to methodologies for off-  
15 set projects existing as of the date of enactment of this  
16 Act.

17 (f) ADDITIONAL BENEFITS.—Nothing in this section  
18 precludes an offset project from meeting the requirements  
19 of this section, or from approval under section 106, only  
20 because the relevant activity under section 104 receives  
21 an additional payment from another source for an ecologi-  
22 cal service other than emission reductions, including con-  
23 servation program payments.

24 (g) DATA COLLECTION.—The appropriate official  
25 shall collect such data as are necessary to assess a range

1 of factors relative to the performance and effects of any  
2 offset project type.

3 **SEC. 106. APPROVAL.**

4 (a) PROJECT PETITION.—

5 (1) IN GENERAL.—Not later than the date of  
6 submission of the first verification report for an off-  
7 set project under section 107, the offset project rep-  
8 resentative shall submit to the appropriate official a  
9 petition for approval of the offset project.

10 (2) PETITION REQUIREMENTS.—As part of the  
11 regulations promulgated under this title, the appro-  
12 priate official shall include provisions for, and shall  
13 specify, the required components of an offset project  
14 approval petition submitted under this subsection,  
15 including—

16 (A) designation of an offset project rep-  
17 resentative; and

18 (B) any other information that the appro-  
19 priate official considers to be necessary—

20 (i) to determine whether the offset  
21 project meets the established criteria under  
22 this section; and

23 (ii) to meet the purposes and require-  
24 ments of this title.

25 (b) APPROVAL AND NOTIFICATION.—

1           (1) IN GENERAL.—Not later than 30 days after  
2 receiving a complete approval petition under sub-  
3 section (a), the appropriate official shall—

4           (A)(i) make determinations on whether to  
5 approve an offset plan and on the quantity of  
6 greenhouse gas emissions that have been re-  
7 duced or avoided, or greenhouse gases that have  
8 been sequestered, by the offset practice in an  
9 approved and verified offset project plan; and

10           (ii) notify the offset project developer in  
11 writing of the determination; and

12           (B) based on the determination under sub-  
13 paragraph (A)—

14           (i) approve or deny the petition in  
15 writing;

16           (ii) notify the offset project represent-  
17 ative in writing of the determination; and

18           (iii) if the petition is denied, provide  
19 the reasons for denial.

20           (2) RESUBMISSION.—After an offset project is  
21 approved, the offset project representative shall not  
22 be required to resubmit an approval petition during  
23 the crediting period of the offset project.

1 (c) APPEAL.—The appropriate official shall establish  
2 mechanisms for appeal and review of determinations made  
3 under this section.

4 (d) THIRD-PARTY REVIEW.—The appropriate official  
5 may provide for accreditation of independent third parties  
6 to provide recommendations to the appropriate official on  
7 approvals under this section.

8 (e) VOLUNTARY PREAPPROVAL REVIEW.—

9 (1) IN GENERAL.—The appropriate official may  
10 establish a voluntary preapproval review procedure  
11 to allow an offset project representative to request  
12 the appropriate official to conduct a preliminary eli-  
13 gibility review for an offset project.

14 (2) FINDINGS.—Any findings of a review de-  
15 scribed in paragraph (1) shall not be binding upon  
16 the appropriate official.

17 (3) REQUIREMENTS.—The voluntary  
18 preapproval review procedure shall require—

19 (A) the offset project representative to  
20 submit such basic project information as the  
21 appropriate official requires to provide a mean-  
22 ingful review; and

23 (B) a response from the appropriate offi-  
24 cial not later than 30 days after the date of re-

1            ceipt by the appropriate official of a request for  
2            review under this subsection.

3 **SEC. 107. VERIFICATION OF OFFSET PROJECTS.**

4            (a) IN GENERAL.—As part of the regulations promul-  
5 gated under this title, the Secretary and the Administrator  
6 shall jointly establish requirements, including protocols,  
7 for verification of the quantity of greenhouse gas emission  
8 reductions that have resulted from an offset project.

9            (b) VERIFICATION REPORTS.—

10            (1) IN GENERAL.—The regulations described in  
11 subsection (a) shall require an offset project rep-  
12 resentative to submit a report, prepared by a third-  
13 party verifier accredited under subsection (d), pro-  
14 viding such information as the appropriate official  
15 requires to determine the quantity of greenhouse gas  
16 emission reductions resulting from the offset project.

17            (2) SCHEDULES.—The appropriate officials  
18 shall jointly prescribe schedules for the submission  
19 of verification reports under paragraph (1).

20            (3) REQUIREMENTS.—The appropriate official  
21 shall specify the required components of a  
22 verification report required under subsection (a), in-  
23 cluding—

1 (A) the name and contact information for  
2 the offset project representative for the offset  
3 project;

4 (B) the quantity of greenhouse gas emis-  
5 sion reductions;

6 (C) the methodologies applicable to the  
7 project pursuant to section 105;

8 (D) a certification that the project meets  
9 the applicable requirements;

10 (E) a certification establishing that the  
11 conflict of interest requirements in the regula-  
12 tions promulgated under this title have been  
13 complied with; and

14 (F) any other information that the appro-  
15 priate official considers to be necessary to  
16 achieve the purposes of this title.

17 (c) APPEALS.—The appropriate official shall estab-  
18 lish procedures for appeal and review of determinations  
19 made under this section.

20 (d) VERIFIER ACCREDITATION.—

21 (1) IN GENERAL.—As part of the regulations  
22 promulgated under this title, the appropriate offi-  
23 cials shall jointly establish a process and require-  
24 ments for periodic accreditation of third-party

1 verifiers to ensure that those verifiers are profes-  
2 sionally qualified and have no conflicts of interest.

3 (2) STANDARDS.—

4 (A) AMERICAN NATIONAL STANDARDS IN-  
5 STITUTE ACCREDITATION.—

6 (i) IN GENERAL.—The appropriate of-  
7 ficials may jointly accredit, or accept for  
8 purposes of accreditation under this sub-  
9 section, verifiers accredited under the  
10 American National Standards Institute ac-  
11 creditation program in accordance with  
12 standard 14065 of the International Orga-  
13 nization of Standards.

14 (ii) REQUIREMENT.—The appropriate  
15 officials shall accredit, or accept for ac-  
16 creditation, verifiers under this subpara-  
17 graph only if the appropriate official finds  
18 that the American National Standards In-  
19 stitute accreditation program provides suf-  
20 ficient assurance that the requirements of  
21 this title will be met.

22 (B) USDA AND EPA ACCREDITATION.—As  
23 part of the regulations promulgated under this  
24 title, the appropriate officials may jointly estab-  
25 lish accreditation standards for verifiers under

1           this subsection, including related training and  
2           testing programs and requirements.

3           (3) PUBLIC ACCESSIBILITY.—Each verifier  
4           meeting the requirements for accreditation in ac-  
5           cordance with this subsection shall be listed in a  
6           publicly accessible database, which shall be main-  
7           tained and updated jointly by the appropriate offi-  
8           cials.

9           (e) ADDITIONAL TECHNOLOGY.—The Administrator  
10          and the Secretary may coordinate and use available re-  
11          sources of any Federal agency, State agency, or other ap-  
12          propriate source that coordinates or collects data from any  
13          appropriate technology (including data imaging, remote  
14          sensing, light detection and ranging, or other satellite  
15          technologies) to verify emission reductions generated  
16          under this title.

17 **SEC. 108. ISSUANCE OF OFFSET CREDITS.**

18          (a) ISSUANCE OF OFFSET CREDITS.—The Adminis-  
19          trator, in consultation with the Secretary with regards to  
20          domestic agricultural and forestry projects, shall issue 1  
21          offset credit to an offset project representative for each  
22          ton of carbon dioxide equivalent in emission reductions  
23          from an offset project that the appropriate official has  
24          verified pursuant to section 107.

1 (b) TIMING.—Offset credits meeting the criteria de-  
2 scribed in subsection (a) shall be issued by the Adminis-  
3 trator not later than 14 days after the date on which the  
4 Administrator receives notice of the determination under  
5 section 106, including approval and verification informa-  
6 tion.

7 (c) REGISTRATION.—In the case of domestic agricul-  
8 tural and forestry projects the Administrator, in consulta-  
9 tion with the Secretary, shall assign a unique serial num-  
10 ber to and register each offset project to be issued under  
11 this title pursuant to section 103(b).

12 **SEC. 109. AUDITS AND REVIEWS.**

13 (a) IN GENERAL.—The appropriate officials shall, on  
14 an ongoing basis, conduct random audits and reviews of  
15 offset projects.

16 (b) MINIMUM AUDITS AND REVIEWS.—For each fis-  
17 cal year, the appropriate officials shall conduct audits and  
18 reviews, at minimum, for a representative sample of  
19 project types, geographical areas, verification standards  
20 and certified verifiers, and specific administrative proc-  
21 esses of that offset program.

22 (c) PUBLIC AVAILABILITY OF INFORMATION.—The  
23 appropriate officials shall make the results of all audits,  
24 in the aggregate, and reviews conducted under this section  
25 available to the public.

1 (d) DELEGATION.—

2 (1) IN GENERAL.—The appropriate official may  
3 delegate to a State or tribal government the respon-  
4 sibility for conducting audits under this section if  
5 the appropriate official finds that—

6 (A) the program proposed by the State or  
7 tribal government provides assurances equiva-  
8 lent to the assurances provided by the auditing  
9 program of the appropriate official; and

10 (B) the integrity of the offset program  
11 under this title will be maintained.

12 (2) AUDITS BY APPROPRIATE OFFICIAL.—Noth-  
13 ing in this subsection prevents an appropriate offi-  
14 cial from conducting any audit the appropriate offi-  
15 cial considers appropriate.

16 **SEC. 110. EARLY OFFSET SUPPLY.**

17 (a) DEFINITION OF QUALIFIED EARLY OFFSET PRO-  
18 GRAM.—In this section, the term “qualified early offset  
19 program” means any regulatory or voluntary greenhouse  
20 gas emission offset program approved under subsection  
21 (b).

22 (b) PROGRAM APPROVAL.—

23 (1) IN GENERAL.—The administrator of a regu-  
24 latory or voluntary greenhouse gas emission offset  
25 program may apply to the Administrator and the

1 Secretary for approval as a qualified early offset  
2 program under this subsection.

3 (2) DETERMINATIONS.—The Administrator, in  
4 conjunction with the Secretary, shall—

5 (A) not later than 30 days after the date  
6 of enactment of this Act, establish a process to  
7 receive applications received under this sub-  
8 section; and

9 (B) not later than 180 days after the date  
10 of receipt of any application received under this  
11 subsection, make a determination on the appli-  
12 cation.

13 (3) CRITERIA FOR APPROVAL.—The Adminis-  
14 trator, in conjunction with the Secretary, shall ap-  
15 prove as a qualified early offset program under this  
16 subsection any regulatory or voluntary greenhouse  
17 gas emission offset program that—

18 (A) was established before January 1,  
19 2009;

20 (B) has developed or approved offset  
21 project-type standards, methodologies, and pro-  
22 tocols through a public consultation process or  
23 a public peer review process;

1 (C) has made available to the public the  
2 standards, methodologies, and protocols of the  
3 program for emission reduction projects;

4 (D) requires that all emission reductions  
5 be verified by a State regulatory agency or an  
6 accredited third-party independent verification  
7 entity;

8 (E) requires that all issued credits be reg-  
9 istered in a publicly accessible registry, with in-  
10 dividual serial numbers assigned for each ton of  
11 carbon dioxide equivalent emission reductions;  
12 and

13 (F) ensures that no credits are issued for  
14 activities for which the administrator of the  
15 program has funded, solicited, or served as a  
16 fund administrator for the development of the  
17 project or activity that caused the emission re-  
18 duction.

19 (4) REVOCATION OR DISAPPROVAL.—The Ad-  
20 ministrator, in conjunction with the Secretary,  
21 may—

22 (A) revoke the approval of a qualified early  
23 offset program under this subsection if the pro-  
24 gram does not meet the criteria described in  
25 paragraph (3); or

1           (B) determine that a regulatory or vol-  
2           untary greenhouse gas emission offset program  
3           shall not be considered a qualified early offset  
4           program with respect to a particular project  
5           type if, as determined by the Administrator, in  
6           conjunction with the Secretary, the standard,  
7           methodology, or protocol of the program for  
8           that project type fails to ensure that credits  
9           only will be provided for emission reductions  
10          that are measurable, additional, verifiable, and  
11          enforceable.

12          (c) OFFSET CREDITS.—Subject to subsections (d),  
13          (e), and (f), the Administrator, in conjunction with the  
14          Secretary, shall issue 1 offset credit for each ton of carbon  
15          dioxide equivalent in emission reductions achieved—

16               (1) under an offset project that commenced  
17               after January 1, 2001; and

18               (2) for which a credit was issued under a quali-  
19               fied early offset program.

20          (d) INELIGIBLE CREDITS.—Subsection (b) shall not  
21          apply to offset credits that have expired or have been re-  
22          tired, canceled, or used for compliance under a program  
23          established under State or tribal law (including a regula-  
24          tion).

1 (e) LIMITATION.—Notwithstanding subsection (c)(1),  
2 offset credits shall be issued under this section only for  
3 a crediting period pursuant to section 105(c) that—

4 (1) commences—

5 (A) not earlier than January 1, 2001; and

6 (B) not later than the date on which the  
7 regulations for methodologies promulgated  
8 under this title take effect; and

9 (2) does not exceed the shorter of—

10 (A) 10 years; or

11 (B) the established crediting period for the  
12 project (in accordance with the rules of the  
13 qualified early offset program).

14 (f) PRECLUSION OF DOUBLE PAYMENT.—Emission  
15 reductions shall not receive credits under this section if  
16 the emission reductions—

17 (1) occurred prior to January 1, 2009; and

18 (2) were awarded payments pursuant to the au-  
19 thority of the Secretary under the carbon conserva-  
20 tion program established under title II.

21 (g) RETIREMENT OF CREDITS.—The Administrator  
22 shall ensure, to the maximum extent practicable, that off-  
23 set credits described in subsection (c) are retired for pur-  
24 poses of use under a program described in subsection (d).

1 (h) INTERNATIONAL REDUCED DEFORESTATION  
2 PROJECTS.—

3 (1) IN GENERAL.—Subject to paragraphs (2)  
4 and (3), the Administrator shall issue under this  
5 subsection 1 offset credit for each ton of carbon di-  
6 oxide equivalent emissions reduced by an offset  
7 project that—

8 (A) is an international reduced deforest-  
9 ation project;

10 (B) started after January 1, 2001;

11 (C) not later than 2 years after the date  
12 of enactment of this Act, is registered with a  
13 regulatory or voluntary greenhouse gas emission  
14 offset program that the Administrator deter-  
15 mines—

16 (i) meets all of the requirements of  
17 subsection (b); and

18 (ii) was established under State law  
19 (including regulations) or designated by a  
20 State as an offset registry prior to Janu-  
21 ary 1, 2009; and

22 (D) is issued offset credits for the emission  
23 reductions achieved by the project under an off-  
24 set program for which the Administrator has

1           made an affirmative determination under sub-  
2           paragraph (C).

3           (2) INCONSISTENCY WITH CERTAIN PUR-  
4           POSES.—Paragraph (1) shall not apply if the Ad-  
5           ministrators makes a determination, not later than  
6           90 days after the date on which public notice is pro-  
7           vided of a project petition, that a project is incon-  
8           sistent with the policies established under any Fed-  
9           eral law enacted for the purpose of regulating green-  
10          house gas emissions to protect the rights and inter-  
11          ests of local communities and to protect forest eco-  
12          systems.

13          (3) LIMITATION.—Notwithstanding subsection  
14          (e), offset credits shall be issued under this sub-  
15          section only for greenhouse gas emission reductions  
16          that occur under an eligible international reduced  
17          deforestation project during the period beginning on  
18          January 1, 2009, and ending on—

19                (A) in the case of a project located in a  
20                country that accounts for less than 1 percent of  
21                the global greenhouse gas emissions and less  
22                than 3 percent of global forest-sector and land  
23                use change greenhouse gas emissions, December  
24                31 of the first full calendar year following the

1 effective date of regulations promulgated to  
2 carry out this title; or

3 (B) in the case of a project located in a  
4 country that does not meet the criteria de-  
5 scribed in subparagraph (A), the date that is 2  
6 years after the date of enactment of this Act.

7 **SEC. 111. PROGRAM REVIEW AND REVISION.**

8 At least once every 5 years, the Administrator, in  
9 consultation with the Secretary, shall review, based on new  
10 or updated information and taking into consideration the  
11 recommendations of the Advisory Committee—

12 (1) the list of eligible project types established  
13 under section 104;

14 (2) the methodologies established, including  
15 specific activity baselines, under section 105;

16 (3) the reversal requirements and mechanisms  
17 established or prescribed under section 105;

18 (4) measures to improve the accountability of  
19 the offsets program; and

20 (5) any other requirements established under  
21 this title to ensure the environmental integrity and  
22 effective operation of this title.

1 **SEC. 112. ADDITIONAL REGULATORY STANDARDS FOR**  
2 **EMISSION REDUCTIONS.**

3 (a) IN GENERAL.—Nothing in this title authorizes  
4 the Administrator to promulgate any additional regulatory  
5 standards for emission reductions from any project or ac-  
6 tivity (including emission reductions from any non-fossil  
7 fuel agricultural source) carried out under this title.

8 (b) ALLOWANCE OR CREDIT OBLIGATIONS.—No per-  
9 son shall be required to hold allowances or credits for  
10 emissions resulting from the use of gas as an energy  
11 source if the gas is derived from a domestic methane offset  
12 project approved under this title.

13 (c) RELATIONSHIP TO OTHER LAWS.—Notwith-  
14 standing any other provision of law, emissions that are  
15 limited under this title shall not be subject to any other  
16 limitation that is established under a Federal law enacted  
17 or applied for the purpose of regulating greenhouse gas  
18 emissions.

19 **SEC. 113. USE OF CREDITS FOR COMPLIANCE PURPOSES.**

20 The Administrator shall promulgate regulations to  
21 require that, for each calendar year beginning with the  
22 first fiscal year in which the limitation on the emission  
23 of greenhouse gases under a Federal law enacted for the  
24 purpose of regulating greenhouse gas emissions takes ef-  
25 fect, owners and operators of facilities that are subject to  
26 regulation under that law may satisfy the allowance sub-

1 mission requirements of the owners and operators under  
2 that law by submitting credits generated pursuant to this  
3 title.

## 4 **TITLE II—CARBON** 5 **CONSERVATION PROGRAM**

### 6 **SEC. 201. DEFINITIONS.**

7 In this title:

8 (1) **FUND.**—The term “Fund” means the Car-  
9 bon Conservation Fund established under section  
10 203.

11 (2) **PROGRAM.**—The term “program” means  
12 the carbon conservation program established under  
13 section 202.

14 (3) **SECRETARIES.**—The term “Secretaries”  
15 means the Secretary of Agriculture and Secretary of  
16 the Interior, as appropriate.

### 17 **SEC. 202. CARBON CONSERVATION PROGRAM.**

18 (a) **IN GENERAL.**—The Secretary of Agriculture shall  
19 establish, and jointly administer with the Secretary of the  
20 Interior, a carbon conservation program for the purpose  
21 of promoting greenhouse gas emissions reduction or car-  
22 bon sequestration.

23 (b) **FORESTRY ACTIVITIES.**—The Secretary of Agri-  
24 culture shall designate the Chief of the Forest Service to  
25 carry out all forestry-related components of the program.

1 (c) PURPOSES.—

2 (1) IN GENERAL.—In carrying out the program,  
3 the Secretaries shall provide incentives to land-  
4 owners or grazing contractor holders to carry out  
5 projects or activities that reduce greenhouse gas  
6 emissions or sequester or permanently store carbon.

7 (2) ADMINISTRATION.—In administering the  
8 program, the Secretaries shall ensure that projects  
9 or activities conducted under this title—

10 (A) do not receive offset credits for the  
11 same activity under title I;

12 (B) reward the continuation of practices by  
13 early adopters of conservation practices (includ-  
14 ing no-till agricultural practices) that provide  
15 carbon sequestration benefits;

16 (C) support the development of new meth-  
17 odologies for landowners to participate in offset  
18 projects under title I;

19 (D) ensure that individuals and entities  
20 that took action prior to the implementation of  
21 the offset program under title I, and do not  
22 qualify for early offset credits under section  
23 110, are not placed at a competitive disadvan-  
24 tage;

1           (E) improve management of privately  
2 owned agricultural land, grassland, and forest  
3 land that results in an increase in carbon se-  
4 questration;

5           (F) avoid conversion of land (including na-  
6 tive grassland, native prairie, rangeland, crop-  
7 land, or forest land) that would result in an in-  
8 crease of greenhouse gas emissions or a loss of  
9 carbon sequestration; and

10           (G) encourage improvements and manage-  
11 ment practices that include sequestration bene-  
12 fits on Federal land and private land.

13 (d) METHODS.—

14           (1) IN GENERAL.—In carrying out the program,  
15 the Secretaries shall provide incentives for projects  
16 or activities that reduce greenhouse gas emissions or  
17 sequester carbon through—

18           (A) conservation easements;

19           (B) sequestration contracts;

20           (C) timber harvest or grazing contracts  
21 with the Department of Agriculture or the De-  
22 partment of the Interior, as appropriate; or

23           (D) any combination of the methods de-  
24 scribed in this paragraph.

1           (2) INELIGIBILITY FOR OFFSET CREDITS.—  
2       Projects or activities undertaken as part of the pro-  
3       gram shall not be eligible for offset credits under  
4       title I for the duration of the projects or activities.

5       (e) CONSERVATION EASEMENTS.—

6           (1) IN GENERAL.—The Secretary of Agriculture  
7       shall enroll acreage into the program through the  
8       use of permanent easements.

9           (2) REQUIREMENTS.—To be eligible for enroll-  
10      ment under this title, conservation easements estab-  
11      lished under this subsection shall—

12           (A) provide a measurable carbon seques-  
13      tration benefit; and

14           (B) meet the requirements of part VI of  
15      subchapter B of chapter 1 of subtitle A of the  
16      Internal Revenue Code of 1986 and section  
17      170(h)(4) of that Code.

18           (3) PRIORITY.—In selecting projects for con-  
19      servation easements, the Secretary of Agriculture  
20      shall provide a priority for conservation easements  
21      that sequester carbon and protect forested land or  
22      working forest land, or protect native prairie or na-  
23      tive grassland, within the boundary of a working  
24      farm or ranch.

25       (f) CARBON SEQUESTRATION CONTRACTS.—

1           (1) IN GENERAL.—The Secretary of Agriculture  
2           may offer carbon sequestration contracts under the  
3           program for a period of 10 years to farmers, ranch-  
4           ers, and forest owners who perform projects or ac-  
5           tivities to reduce greenhouse gas emissions or se-  
6           quester carbon.

7           (2) WITHDRAWAL.—A nonforestry contract  
8           holder may withdraw from a contract under this  
9           subsection without penalty after 5 years.

10          (3) COMPENSATION.—The amount of com-  
11          pensation provided under a contract under this sub-  
12          section shall be commensurate with the emissions re-  
13          ductions obtained or avoided and the duration of the  
14          reductions.

15          (4) PRIORITY.—In selecting projects under this  
16          subsection during each of fiscal years 2012 through  
17          2015, the Secretary of Agriculture shall provide a  
18          priority for—

19                 (A) contracts entered into with early  
20                 adopters of conservation practices (such as no-  
21                 till agricultural practices), improved forest man-  
22                 agement, or other greenhouse gas emissions re-  
23                 duction projects; and

24                 (B) contracts that sequester the most car-  
25                 bon on a per acre basis.

1           (5) CONTRACT.—A contract under this sub-  
2 section shall specify—

3           (A) the eligible practices that will be un-  
4 dertaken;

5           (B) the acreage of eligible land on which  
6 the practices will be undertaken;

7           (C) the agreed rate of compensation per  
8 acre; and

9           (D) a schedule to verify that the terms of  
10 the contract have been fulfilled.

11          (6) FUTURE REDUCTIONS.—If the term of a  
12 contract for a sequestration project under this sub-  
13 section has expired, future reductions under the  
14 project may be eligible to receive carbon offset cred-  
15 its if the project and associated reductions meet all  
16 applicable offsets criteria under title I.

17          (7) REVERSALS.—In developing regulations for  
18 carbon sequestration contracts under this subsection,  
19 the Secretary of Agriculture shall specify require-  
20 ments to address intentional or unintentional rever-  
21 sal of carbon sequestration during the contract pe-  
22 riod.

23          (g) INCENTIVES IN TIMBER HARVEST CONTRACTS.—

24           (1) IN GENERAL.—The Secretaries shall offer  
25 financial incentives under the program through tim-

1 ber harvest contracts entered into by the Forest  
2 Service or the Bureau of Land Management (as ap-  
3 propriate) for projects or management activities that  
4 sequester carbon or reduce greenhouse gas emis-  
5 sions.

6 (2) COMPENSATION.—The amount of com-  
7 pensation provided under this subsection shall be  
8 commensurate with—

9 (A) the emissions reductions obtained or  
10 avoided; and

11 (B) the estimate of the cost of the project  
12 or activities undertaken.

13 (h) INCENTIVES IN GRAZING CONTRACTS.—

14 (1) IN GENERAL.—The Secretaries shall offer  
15 incentives to leaseholders through grazing contracts  
16 entered into by the Forest Service or the Bureau of  
17 Land Management (as appropriate) for projects or  
18 activities that sequester carbon or reduce greenhouse  
19 gas emissions.

20 (2) COMPENSATION.—The amount of com-  
21 pensation provided under this subsection shall be  
22 commensurate with—

23 (A) the emissions reductions obtained or  
24 avoided; and

1                   (B) the estimate of the cost of the project  
2                   or activities undertaken.

3           (i) DISTRIBUTION OF AMOUNTS.—Of the amounts  
4 provided to carry out the program for a fiscal year, at  
5 least 30 percent of the amount shall be used for conserva-  
6 tion easements described in subsection (e).

7           (j) PROGRAM MEASUREMENT, MONITORING, AND  
8 REPORTING REQUIREMENTS.—

9           (1) IN GENERAL.—The Secretaries shall submit  
10 to the Administrator of the Environmental Protec-  
11 tion Agency annual reports that describe—

12                   (A) the total number of tons of carbon di-  
13                   oxide sequestered or the total number of tons of  
14                   emissions avoided under the program through  
15                   conservation easements, sequestration contracts,  
16                   or other methods on an annual and cumulative  
17                   basis;

18                   (B) any reversals of sequestration; and

19                   (C) the total number of acres enrolled in  
20 the program by method and a State-by-State  
21 summary of the data.

22           (2) PUBLIC AVAILABILITY.—The Administrator  
23 of the Environmental Protection Agency shall make  
24 each report required under this subsection available

1 to the public through the website of the Environ-  
2 mental Protection Agency.

3 (k) COORDINATION.—

4 (1) SECRETARY OF AGRICULTURE.—The Sec-  
5 retary of Agriculture shall coordinate activities  
6 under the program with the activities of the Sec-  
7 retary of Agriculture in carrying out—

8 (A) the conservation reserve program es-  
9 tablished under subchapter B of chapter 1 of  
10 subtitle D of title XII of the Food Security Act  
11 of 1985 (16 U.S.C. 3831 et seq.);

12 (B) the wetlands reserve program estab-  
13 lished under subchapter C of chapter 1 of sub-  
14 title D of title XII of that Act (16 U.S.C. 3837  
15 et seq.);

16 (C) the farmland protection program es-  
17 tablished under subchapter C of chapter 2 of  
18 subtitle D of title XII of that Act (16 U.S.C.  
19 3838h et seq.) (commonly known as the “Farm  
20 and Ranch Lands Protection Program”);

21 (D) the grassland reserve program estab-  
22 lished under subchapter D of chapter 2 of sub-  
23 title D of title XII of that Act (16 U.S.C.  
24 3838n et seq.);

1 (E) the State and private forestry pro-  
2 grams of the Forest Service;

3 (F) the healthy forests reserve program es-  
4 tablished under section 501 of the Healthy For-  
5 ests Restoration Act of 2003 (16 U.S.C. 6571);  
6 and

7 (G) other applicable programs.

8 (2) SECRETARY OF THE INTERIOR.—The Sec-  
9 retary of the Interior shall coordinate activities  
10 under the program with the activities of the Sec-  
11 retary of the Interior in carrying out—

12 (A) programs funded through the Land  
13 and Water Conservation Fund Act of 1965 (16  
14 U.S.C. 460l–4 et seq.);

15 (B) any applicable climate adaptation pro-  
16 grams; and

17 (C) other applicable programs.

18 (l) REVIEWS.—

19 (1) IN GENERAL.—Not later than 5 years after  
20 the date of enactment of this Act and every 5 years  
21 thereafter, the Secretaries shall—

22 (A) conduct a review of the activities car-  
23 ried out under this title; and

1 (B) make any appropriate changes in the  
2 program, in a manner consistent with this sec-  
3 tion, based on the findings of the review.

4 (2) REVIEW.—Each review shall include a re-  
5 view of—

6 (A) total emissions reductions and seques-  
7 tration achieved by activity type;

8 (B) the net effect on average farm income  
9 by activity type;

10 (C) the potential for future emissions re-  
11 ductions and sequestration by activity type; and

12 (D) recommended changes to the program  
13 based on the review.

14 **SEC. 203. CARBON CONSERVATION FUND.**

15 (a) ESTABLISHMENT.—There is established in the  
16 Treasury a separate account, to be known as the “Carbon  
17 Conservation Fund”, to carry out this title.

18 (b) AVAILABILITY.—All amounts deposited into the  
19 Fund shall be available without further appropriation or  
20 fiscal year limitation.

21 (c) USE.—The Secretary shall use amounts in the  
22 Fund to carry out this title.

1           **TITLE III—RURAL CLEAN**  
2           **ENERGY RESOURCES**

3 **SEC. 301. FINDINGS.**

4           Congress finds that—

5                   (1) lifecycle greenhouse gas emissions associ-  
6           ated with the production and use of biofuels, bio-  
7           products, and bioenergy may be significantly lower  
8           than the emissions associated with the production  
9           and use of fossil fuels;

10                   (2) the United States has the potential to sig-  
11           nificantly increase the production and use of biofuels  
12           and bioenergy;

13                   (3) expanding the production and use of  
14           biofuels and bioenergy offers a significant oppor-  
15           tunity for rural economic development and enhance-  
16           ing national energy security; and

17                   (4) several programs authorized or funded  
18           under the Food, Conservation, and Energy Act of  
19           2008 (7 U.S.C. 8701 et seq.) are designed to accel-  
20           erate the development and deployment of tech-  
21           nologies for expeditiously expanding domestic  
22           biofuels and bioenergy production.

1 **SEC. 302. BIOREFINERY ASSISTANCE.**

2 Of the amounts in the Rural Clean Energy Resources  
3 Fund established under section 305, the Secretary shall  
4 use—

5 (1) not less than 20 percent to provide grants  
6 under section 9003 of the Farm Security and Rural  
7 Investment Act of 2002 (7 U.S.C. 8103); and

8 (2) not less than 60 percent to provide loan  
9 guarantees under that section.

10 **SEC. 303. REPOWERING ASSISTANCE.**

11 Section 9004 of the Farm Security and Rural Invest-  
12 ment Act of 2002 (7 U.S.C. 8104) is amended—

13 (1) by redesignating subsections (a) through (d)  
14 as subsections (b) through (e), respectively;

15 (2) by inserting after the section heading the  
16 following:

17 “(a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-  
18 tion:

19 “(1) IN GENERAL.—The term ‘eligible entity’  
20 means—

21 “(A) a biorefinery; or

22 “(B) a power plant or manufacturing facil-  
23 ity that—

24 “(i) has a combined thermal and elec-  
25 trical energy conversion capacity of not  
26 greater than 75 megawatts; and

1                   “(ii) is located in a rural area (as de-  
2                   fined in section 343(a) of the Consolidated  
3                   Farm and Rural Development Act (7  
4                   U.S.C. 1991(a))).

5                   “(2) EXCLUSION.—The term ‘eligible entity’  
6                   does not include an energy-intensive trade-exposed  
7                   facility.”;

8                   (3) in subsection (b) (as redesignated by para-  
9                   graph (1))—

10                   (A) by striking “IN GENERAL” and insert-  
11                   ing “PROGRAM”; and

12                   (B) by striking “biorefineries” each place  
13                   it appears and inserting “eligible entities”; and

14                   (4) in subsections (c) and (d) (as so redesign-  
15                   ated)—

16                   (A) by striking “a biorefinery” each place  
17                   it appears and inserting “an eligible entity”;  
18                   and

19                   (B) by striking “biorefinery” each place it  
20                   appears and inserting “eligible entity”.

21 **SEC. 304. RURAL ENERGY FOR AMERICA PROGRAM.**

22                   (a) IN GENERAL.—Of the amounts in the Rural  
23 Clean Energy Resources Fund established under section  
24 305, the Secretary shall use such funds as are appropriate  
25 to carry out the Rural Energy for America Program under

1 section 9007 of the Farm Security and Rural Investment  
2 Act of 2002 (7 U.S.C. 8107).

3 (b) LIMITATION ON GRANTS.—Section 9007(c)(4)(A)  
4 of the Farm Security and Rural Investment Act of 2002  
5 (7 U.S.C. 8107(c)(4)(A)) is amended by striking “25 per-  
6 cent” and inserting “50 percent”.

7 **SEC. 305. RURAL CLEAN ENERGY RESOURCES FUND.**

8 (a) ESTABLISHMENT.—There is established in the  
9 Treasury a separate account, to be known as the “Rural  
10 Clean Energy Resources Fund”, to carry out this title and  
11 title IV.

12 (b) AVAILABILITY.—All amounts deposited into the  
13 Fund shall be available without further appropriation or  
14 fiscal year limitation.

15 (c) USE.—The Secretary shall use amounts in the  
16 Fund to carry out this title and title IV.

17 **TITLE IV—AGRICULTURE AND**  
18 **FORESTRY RESEARCH FOR**  
19 **GREENHOUSE GAS MITIGA-**  
20 **TION**

21 **SEC. 401. FINDINGS.**

22 Congress finds that—

23 (1) as of the date of enactment of this Act, the  
24 agricultural and forestry sectors of the United  
25 States extract the equivalent of about 12 percent of

1 the annual greenhouse gas emissions of the United  
2 States through carbon dioxide absorption from the  
3 atmosphere;

4 (2) that percentage can be significantly in-  
5 creased through a number of activities that increase  
6 carbon sequestration in soils or forests;

7 (3) agriculture and forestry are experiencing  
8 the effects of global warming, which are expected to  
9 increase; and

10 (4) adaptation practices to mitigate the effects  
11 of global warming are needed to sustain agricultural  
12 and forest productivity and health.

13 **SEC. 402. RESEARCH AND DEMONSTRATION PROGRAM.**

14 (a) IN GENERAL.—The Secretary shall carry out re-  
15 search and demonstration activities regarding—

16 (1) approaches to sequestering carbon through  
17 agricultural, grazing, and forestry practices, includ-  
18 ing quantification of sequestration effects;

19 (2) approaches to reducing methane emissions  
20 associated with agricultural production (including  
21 livestock and crop production), including quantifica-  
22 tion of those reductions;

23 (3) approaches to reducing nitrous oxide emis-  
24 sions associated with agricultural production (includ-

1 ing crop and livestock production), including quan-  
2 tification of those reductions;

3 (4) approaches to adaptation of agriculture and  
4 forestry practices to the effects of global warming in  
5 order to maintain productivity and natural re-  
6 sources;

7 (5) new approaches to soil carbon sequestration,  
8 such as the production of biochar and the use of  
9 biochar as a soil conditioner;

10 (6) approaches to help specialty crop producers  
11 to reduce net greenhouse gas emissions or sequester  
12 carbon; and

13 (7) methods to reduce uncertainties in esti-  
14 mating greenhouse gas emission reductions and car-  
15 bon sequestration through agricultural and forestry  
16 activities.

17 (b) FUND.—Of the amounts in the Rural Clean En-  
18 ergy Resources Fund established under section 305, the  
19 Secretary shall use such funds as are appropriate to carry  
20 out this section.

○