

111TH CONGRESS  
2D SESSION

# S. 3589

To provide financial incentives and a regulatory framework to facilitate the development and early deployment of carbon capture and sequestration technologies, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 14, 2010

Mr. ROCKEFELLER (for himself and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide financial incentives and a regulatory framework to facilitate the development and early deployment of carbon capture and sequestration technologies, 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.**

4       This Act may be cited as the “Carbon Capture and  
5       Sequestration Deployment Act of 2010”.

6       **SEC. 2. TABLE OF CONTENTS.**

7       The table of contents for this Act is as follows:

TITLE I—CARBON CAPTURE AND SEQUESTRATION INNOVATION  
PROGRAM

- Sec. 101. Partnerships for carbon capture and sequestration.  
Sec. 102. Annual Department of Energy assessment.

TITLE II—CARBON CAPTURE AND SEQUESTRATION PROJECTS

- Sec. 201. Short title.  
Sec. 202. Definitions.  
Sec. 203. Special funding program for development and deployment of carbon capture, sequestration, and conversion technologies.  
Sec. 204. Carbon capture and sequestration program partnership council.  
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Sec. 206. Assessments and funding.  
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Sec. 208. Determination of fossil fuel-based electricity deliveries.  
Sec. 209. Compliance with assessments.  
Sec. 210. Midcourse review.  
Sec. 211. Recovery of costs.

TITLE III—CCS TECHNOLOGY STANDARD FOR POWERPLANTS

- Sec. 301. CCS standards for coal-fueled power plants.  
Sec. 302. Consolidated review of Federal authorizations.

TITLE IV—CARBON STORAGE STEWARDSHIP

- Sec. 401. Short title.  
Sec. 402. Purpose.  
Sec. 403. Definitions.  
Sec. 404. Stewardship responsibility.  
Sec. 405. Responsibility for payment of claims.  
Sec. 406. Carbon Storage Stewardship Trust Fund.  
Sec. 407. Payments from the Trust Fund.  
Sec. 408. Carbon Storage Stewardship Board.  
Sec. 409. Adjudication of public claims.  
Sec. 410. First mover projects.  
Sec. 411. Relationship to other law.

1 **TITLE I—CARBON CAPTURE AND**  
2 **SEQUESTRATION INNOVA-**  
3 **TION PROGRAM**

4 **SEC. 101. PARTNERSHIPS FOR CARBON CAPTURE AND SE-**  
5 **QUESTRATION.**

6 (a) ESTABLISHMENT OF PROGRAM.—

7 (1) IN GENERAL.—Within 12 months after the  
8 date of enactment of this Act, the Secretary of En-

1       energy shall establish a cooperative industry-govern-  
2       ment research and development program, in addition  
3       to and in cooperation with the Office of Fossil Ener-  
4       gy's carbon capture and sequestration research and  
5       development program, to demonstrate novel and in-  
6       novative technologies—

7               (A) to capture or prevent carbon dioxide  
8       emissions from carbon-based fuels;

9               (B) to enable the beneficial use of carbon  
10      dioxide; or

11              (C) to enable the long-term storage of car-  
12      bon dioxide.

13              (2) PARTICIPATION OF NATIONAL LABORA-  
14      TORIES AND UNIVERSITIES.—The program shall in-  
15      clude the participation of the National Energy Tech-  
16      nology Laboratory and may include the participation  
17      of other National Laboratories, universities, and  
18      other appropriate entities.

19              (b) COST SHARING.—For purposes of developing and  
20      demonstrating the technologies or approaches referred to  
21      in subsection (a), the Secretary shall provide at least 80  
22      percent of the cost of the development projects and the  
23      industry participant shall provide not more than 20 per-  
24      cent of such cost.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to the Secretary to carry  
3 out this section—

4 (1) \$100,000,000 for each of the fiscal years  
5 2011 through 2015;

6 (2) \$50,000,000 for each of the fiscal years  
7 2016 through 2020; and

8 (3) \$20,000,000 for each of the fiscal years  
9 2021 through 2025.

10 **SEC. 102. ANNUAL DEPARTMENT OF ENERGY ASSESSMENT.**

11 (a) IN GENERAL.—

12 (1) DEPARTMENT OF ENERGY REPORT.—With-  
13 in 1 year after the date of enactment of this Act and  
14 annually thereafter until the Secretary of Energy de-  
15 termines that technology preventing the emission of,  
16 capturing, transporting, permanently storing or se-  
17 questrating, or putting to beneficial use carbon diox-  
18 ide is available to the commercial marketplace, the  
19 Department of Energy shall conduct an assessment  
20 in accordance with subsection (b) of this section of  
21 the existing Federal programs supporting such tech-  
22 nology and report to the Secretary and the appro-  
23 priate authorizing and appropriating committees of  
24 the Congress on the results of the assessment.

1           (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-  
2       VIEW.—Within 1 year after the first report is pro-  
3       vided to the Secretary and to the appropriate au-  
4       thorizing and appropriating committees of the Con-  
5       gress under paragraph (1) and subsequently as  
6       needed until technology preventing the emission of,  
7       capturing, transporting, permanently storing or se-  
8       questering, and putting to beneficial use carbon di-  
9       oxide is available to the commercial marketplace, the  
10      Comptroller General shall conduct a review of the  
11      report described in paragraph (1) in accordance with  
12      subsection (c) of this section.

13      (b) DEPARTMENT OF ENERGY REPORT REQUIRE-  
14      MENTS.—The Department of Energy shall include in the  
15      report—

16           (1) a detailed description of the existing pro-  
17      grams, including each major program area, that con-  
18      ducts or supports research, development, demonstra-  
19      tion, and deployment of technology—

20           (A) to prevent the emission of carbon diox-  
21      ide or capture of carbon dioxide from sources,  
22      including fossil fuel-based power plants;

23           (B) to transport carbon dioxide;

24           (C) to store or sequester captured carbon  
25      dioxide permanently; or

1 (D) to put captured carbon dioxide to ben-  
2 eficial use;

3 (2) an assessment, based upon government lab-  
4 oratory research experience, available industry re-  
5 search experience, and such other data and informa-  
6 tion as the Department of Energy deems useful and  
7 appropriate, to determine whether each major pro-  
8 gram area and principal projects within these areas  
9 are designed to, and will, advance fundamental  
10 knowledge or achieve significant technical advance-  
11 ment and materially improve the technology base to  
12 effectively address the prevention of carbon dioxide  
13 emissions or capture of carbon dioxide or the trans-  
14 port, permanent storage, or beneficial use of cap-  
15 tured carbon dioxide; and

16 (3) an assessment of the Department of Ener-  
17 gy's estimated time frame and costs necessary to  
18 reasonably conclude that technology will be available  
19 to the commercial marketplace.

20 (c) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW  
21 REQUIREMENTS.—The Government Accountability Office  
22 shall include in its review—

23 (1) an analysis of the Department of Energy's  
24 estimated time frames and costs as reported pursu-  
25 ant to subsection (b)(3) of this section;

1           (2) any recommendations that the Comptroller  
 2       General deems appropriate and useful to improve  
 3       the likelihood of achieving technological advance-  
 4       ments to mitigate carbon dioxide emissions or to ex-  
 5       pedite the availability of carbon capture and seques-  
 6       tration technology for the commercial marketplace;

7           (3) an assessment of any legal or regulatory im-  
 8       pediment by any Federal agency or department that  
 9       has arisen in relation to the deployment of carbon  
 10      capture and storage technology, including any delays  
 11      in the permitting of such technology or the construc-  
 12      tion or operation of any such facility; and

13          (4) any other analyses the Government Ac-  
 14      countability Office deems necessary or appropriate.

15      (d) BUDGET REQUEST REPORT.—Beginning with the  
 16      budget request for fiscal year 2012 and for each suc-  
 17      ceeding fiscal year through 2026, the President shall in-  
 18      clude in his budget request for the Department of Ener-  
 19      gy’s Fossil Energy Program a report that—

20          (1) assesses the Department’s progress in im-  
 21      plementing the recommendations of the Government  
 22      Accountability Office and compares the estimated  
 23      costs of completing implementation of these rec-  
 24      ommendations to the requested budget levels; and

1           (2) an assessment of the progress made in the  
 2           preceding fiscal year toward achieving the goals of  
 3           the program for which funding is requested.

4 **TITLE     II—CARBON     CAPTURE**  
 5 **AND                   SEQUESTRATION**  
 6 **PROJECTS**

7 **SECTION 201. SHORT TITLE.**

8           (a) SHORT TITLE.—This subtitle may be cited as the  
 9           “Carbon Capture and Sequestration Early and Effective  
 10          Deployment Fund Act of 2010” or the “CC SEED FUND  
 11          ACT”.

12 **SEC. 202. DEFINITIONS.**

13          (a) IN GENERAL.—In this subtitle:

14               (1) CARBON CAPTURE.—The term “carbon cap-  
 15               ture” has the meaning given the term in section  
 16               963(a) of the Energy Policy Act of 2005 (42 U.S.C.  
 17               16293(a)).

18               (2) CARBON SEQUESTRATION.—The term “car-  
 19               bon sequestration” has the meaning given the term  
 20               in section 963(a) of the Energy Policy Act of 2005  
 21               (42 U.S.C. 16293(a)).

22               (3) COUNCIL.—The term “Council” means the  
 23               Carbon Capture and Sequestration Program Part-  
 24               nership Council established under section 204(a).



1           (4) ELECTRIC CONSUMER.—The term “electric  
2           consumer” has the meaning given that term in sec-  
3           tion 3 of the Public Utility Regulatory Policies Act  
4           of 1978 (16 U.S.C. 2602).

5           (5) ELECTRIC UTILITY.—The term “electric  
6           utility” has the meaning given the term in section  
7           3 of the Federal Power Act (16 U.S.C. 796).

8           (6) FOSSIL FUEL-BASED ELECTRICITY.—The  
9           term “fossil fuel-based electricity” means electricity  
10          that is produced, in whole or in part, from a fossil  
11          fuel.

12          (7) FOSSIL FUEL.—The term “fossil fuel”  
13          means coal, petroleum, or natural gas, or any deriv-  
14          ative of coal, petroleum, or natural gas.

15          (8) INSTITUTION OF HIGHER EDUCATION.—The  
16          term “institution of higher education” has the  
17          meaning given the term in section 101(a) of the  
18          Higher Education Act of 1965 (20 U.S.C. 1001(a)).

19          (9) NATIONAL LABORATORY.—The term “Na-  
20          tional Laboratory” has the meaning given the term  
21          in section 2 of the Energy Policy Act of 2005 (42  
22          U.S.C. 15801).

23          (10) PROGRAM DIRECTOR.—The term “Pro-  
24          gram Director” means the Program Director of the

1 special funding program appointed under section  
2 204(g).

3 (11) SECRETARY.—The term “Secretary”  
4 means the Secretary of Energy.

5 (12) SPECIAL FUNDING PROGRAM.—The term  
6 “special funding program” means the special fund-  
7 ing program for development and deployment of car-  
8 bon capture, sequestration, and conversion tech-  
9 nologies established in accordance with section 203.

10 (13) STATE REGULATORY AUTHORITY.—The  
11 term “State regulatory authority” has the meaning  
12 given the term in section 3 of the Public Utility Reg-  
13 ulatory Policies Act of 1978 (16 U.S.C. 2602).

14 (14) UNITED STATES.—The term “United  
15 States” means the States of the United States, the  
16 District of Columbia, and the territories and posses-  
17 sions of the United States, including the territorial  
18 waters of the United States and the exclusive eco-  
19 nomic zone.

20 (b) MODIFICATION OF DEFINITIONS INCORPORATED  
21 BY REFERENCE.—Section 963 of the Energy Policy Act  
22 of 2005 (42 U.S.C. 16293) is amended—

23 (1) by redesignating subsections (a) through (d)  
24 as subsections (b) through (e), respectively; and

1 (2) by inserting before subsection (b) (as so re-  
2 designated) the following:

3 “(a) DEFINITIONS.—In this section:

4 “(1) CARBON CAPTURE.—The term ‘carbon  
5 capture’ means the process of capturing anthropo-  
6 genic carbon dioxide from a stationary source or car-  
7 bon dioxide in the ambient air.

8 “(2) CARBON SEQUESTRATION.—The term ‘car-  
9 bon sequestration’ means the act of storing carbon  
10 dioxide through physical, chemical, or biological  
11 processes that can prevent the carbon dioxide from  
12 reaching the atmosphere.”;

13 (3) in subsection (b) (as so redesignated), by  
14 striking “In General” and inserting “Program”; and

15 (4) in subsection (c) (as so redesignated), by  
16 striking “subsection (a)” and inserting “subsection  
17 (b)”.

18 **SEC. 203. SPECIAL FUNDING PROGRAM FOR DEVELOPMENT**  
19 **AND DEPLOYMENT OF CARBON CAPTURE, SE-**  
20 **QUESTRATION, AND CONVERSION TECH-**  
21 **NOLOGIES.**

22 (a) VIEWS OF STATE REGULATORY AUTHORITIES.—

23 (1) IN GENERAL.—Not later than 180 days  
24 after the date of enactment of this Act, a State reg-  
25 ulatory authority shall notify the Secretary in writ-

1       ing of the views of the State regulatory authority on  
2       the creation of the special funding program.

3           (2) NOTICE OF TIMELINE.—As soon as prac-  
4       ticable, but no later than 30 days after the date of  
5       enactment of this Act, the Secretary shall notify  
6       each State regulatory authority of the need to sub-  
7       mit its views to the Secretary under paragraph (1)  
8       within 180 days after the date of enactment of this  
9       Act.

10       (b) ESTABLISHMENT.—The Secretary shall establish  
11      the special funding program within one year after the date  
12      of enactment of this Act unless the State regulatory au-  
13      thorities of at least 22 States (treating the District of Co-  
14      lumbia and Puerto Rico as States for such purpose) sub-  
15      mit written notices of disapproval by the deadline estab-  
16      lished under subsection (a).

17       (c) TERMINATION.—

18           (1) ASSESSMENTS.—The authority of the Sec-  
19       retary to collect assessments shall expire on the date  
20       that is 10 years after the date of the establishment  
21       of the special funding program.

22           (2) AWARDS.—The authority of the Secretary  
23       to make funding awards under this subtitle shall ex-  
24       pire on the date that is 15 years after the date of  
25       the establishment of the special funding program.

1 (d) ANNUAL REPORT.—Not later than February 1 of  
 2 each year, the Secretary shall publish and submit to Con-  
 3 gress and each State regulatory authority a report that—

4 (1) includes an identification and description of  
 5 all programs and projects undertaken under the spe-  
 6 cial funding program during the previous fiscal year;  
 7 and

8 (2) describes the allocation or planned alloca-  
 9 tion of resources of the special funding program for  
 10 each program and project in the current and subse-  
 11 quent fiscal year.

12 **SEC. 204. CARBON CAPTURE AND SEQUESTRATION PRO-**  
 13 **GRAM PARTNERSHIP COUNCIL.**

14 (a) ESTABLISHMENT.—The Secretary shall establish,  
 15 and appoint the members of, a Carbon Capture and Se-  
 16 questration Program Partnership Council to carry out du-  
 17 ties described in subsection (f).

18 (b) VOTING MEMBERSHIP.—

19 (1) TOTAL VOTING MEMBERSHIP; QUORUM.—  
 20 The Council shall be composed of not more than 15  
 21 voting members. A majority of the voting members  
 22 shall constitute a quorum for official action of the  
 23 Council.

1           (2) MINIMUM REPRESENTATION.—The voting  
2 membership of the Council shall include at least 1  
3 representative of each of the following:

4                   (A) Investor-owned utilities.

5                   (B) Utilities owned by a State or unit of  
6 local government.

7                   (C) Rural electric cooperatives.

8                   (D) Fossil fuel producers.

9                   (E) Nonprofit organizations.

10                  (F) Independent generators or wholesale  
11 power providers.

12                  (G) Consumer groups.

13                  (H) Employee organizations (as defined in  
14 section 3(4) of the Employee Retirement In-  
15 come Security Act of 1974 (29 U.S.C.  
16 1002(4))).

17           (3) REPRESENTATION OF ELECTRIC UTILI-  
18 TIES.—A majority of the voting membership of the  
19 Council shall be representatives of electric utilities  
20 selling fossil fuel-based electricity to electric con-  
21 sumers subject to assessment under section 206.

22           (4) NOMINATIONS.—The Secretary shall ap-  
23 point the Council members representing entities de-  
24 scribed in subparagraphs (A), (B), (C), and (F) of  
25 paragraph (2) from slates of nominees, containing at

1       least 2 candidates for each vacancy to be filled, sub-  
2       mitted by—

3               (A) the Edison Electric Institute, on behalf  
4       of investor-owned utilities;

5               (B) the American Public Power Associa-  
6       tion, on behalf of utilities owned by a State  
7       agency or unit of local government;

8               (C) the National Rural Electric Coopera-  
9       tive Association, on behalf of rural electric co-  
10      operatives; and

11              (D) the Electric Power Supply Association,  
12      on behalf of independent generators or whole-  
13      sale power providers.

14              (5) RECUSAL.—A voting member of the Council  
15      may not participate in the review or approval of an  
16      application from an entity with which the voting  
17      member is affiliated.

18              (c) NONVOTING MEMBERSHIP.—The Secretary shall  
19      appoint to the Council as nonvoting members—

20              (1) the Under Secretary for Science;

21              (2) the Assistant Secretary with responsibility  
22      for research and development of fossil fuels;

23              (3) 3 representatives of State regulatory au-  
24      thorities, chosen to represent each different trans-  
25      mission interconnection, submitted by the National

1 Association of Regulatory Utility Commissioners;  
2 and

3 (4) such additional officers and employees of  
4 the Federal Government as the Secretary determines  
5 are necessary for the Council to carry out the func-  
6 tions of the Council effectively.

7 (d) TERMS.—

8 (1) IN GENERAL.—Except as otherwise pro-  
9 vided in this paragraph, a voting member of the  
10 Council—

11 (A) shall serve a term of 4 years; and

12 (B) may serve not more than 2 full con-  
13 secutive terms.

14 (2) UNEXPIRED TERMS.—A member who fills  
15 the unexpired term of a voting member may serve  
16 not more than a total of 8 consecutive years.

17 (3) REAPPOINTMENT OF FORMER VOTING MEM-  
18 BERS.—A former voting member of the Council may  
19 be reappointed if the member has not been a mem-  
20 ber of the Council for a period of at least 2 years.

21 (4) INITIAL APPOINTMENT.—The Secretary  
22 shall make initial appointments of voting members  
23 of the Council for terms of 1, 2, 3, and 4 years,  
24 staggered to provide for the selection of 3 members  
25 each year, as determined by the Secretary.



1 (5) VACANCIES.—A vacancy on the Council—

2 (A) shall not affect the powers of the  
3 Council; and

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

6 (e) PERSONNEL MATTERS.—

7 (1) COMPENSATION.—

8 (A) NON-FEDERAL EMPLOYEES.—A mem-  
9 ber of the Council who is not an officer or em-  
10 ployee of the Federal Government may be com-  
11 pensated at a rate equal to the daily equivalent  
12 of the annual rate of basic pay prescribed for  
13 level IV of the Executive Schedule under section  
14 5315 of title 5, United States Code, for each  
15 day (including travel time) during which the  
16 member is engaged in the performance of the  
17 duties of the Council.

18 (B) FEDERAL EMPLOYEES.—A member of  
19 the Council who is an officer or employee of the  
20 Federal Government shall serve without com-  
21 pensation in addition to the compensation re-  
22 ceived for the services of the member as an offi-  
23 cer or employee of the Federal Government.

24 (2) TRAVEL EXPENSES.—A member of the  
25 Council shall be allowed travel expenses, including

1 per diem in lieu of subsistence, at rates authorized  
 2 for an employee of an agency under subchapter I of  
 3 chapter 57 of title 5, United States Code, while  
 4 away from the home or regular place of business of  
 5 the member in the performance of the duties of the  
 6 Council.

7 (3) CHAIR.—The Secretary shall appoint a vot-  
 8 ing member of the Council to serve as the Chair of  
 9 the Council.

10 (4) EXECUTIVE SECRETARY.—The Secretary  
 11 shall appoint an Executive Secretary in the Depart-  
 12 ment of Energy to assist the Council in the conduct  
 13 of the duties of the Council.

14 (f) COUNCIL DUTIES.—The Council shall—

15 (1) advise, assist, consult with, and make rec-  
 16 ommendations to the Secretary and the Program Di-  
 17 rector on matters related to the activities carried out  
 18 by and through the special funding program;

19 (2)(A) review applications for grants, contracts,  
 20 cooperative agreements, and other transactions for  
 21 which the approval of the Council is required under  
 22 section 5(b); and

23 (B) vote on whether to recommend for approval  
 24 the applications;

1           (3) review and make recommendations on any  
2       intellectual property policies required to advance the  
3       purposes of the special funding program and to en-  
4       courage individual ingenuity and innovation, and en-  
5       sure that inventors, whose contributions to the devel-  
6       opment of clean coal technology are not subject to  
7       the protections afforded by section 14 of the Steven-  
8       son-Wydler Technology Innovation Act of 1980 (15  
9       U.S.C. 3710c), are provided protection of their intel-  
10      lectual property rights that is not less than that af-  
11      forded to inventors provided protection under section  
12      14 of that Act;

13           (4) collect information on projects being carried  
14      out by other programs to advance the development  
15      and deployment of technologies for carbon capture,  
16      sequestration, and conversion;

17           (5)(A) approve an annual overall plan for the  
18      special funding program and projects to be carried  
19      out under the special funding program; and

20           (B) submit to Congress, the Secretary, and  
21      each State regulatory authority a copy of the plan;  
22      and

23           (6) meet at least 3 times each year, at the call  
24      of the Chair or on the request of the Program Direc-

1       tor, at a location subject to the approval of the Pro-  
2       gram Director.

3       (g) PROGRAM DIRECTOR AND SENIOR PROGRAM  
4 MANAGERS.—

5           (1) APPOINTMENT.—The Secretary, in con-  
6       sultation with the Council, shall appoint a Program  
7       Director for the special funding program, who  
8       shall—

9           (A) have a background and qualifications  
10       especially appropriate to managing the special  
11       funding program; and

12          (B) report directly to the Secretary.

13          (2) COMPENSATION.—The rate of pay for the  
14       Program Director shall not exceed the rate payable  
15       for level V of the Executive Schedule under section  
16       5316 of title 5, United States Code.

17          (3) SENIOR PROGRAM MANAGERS.—

18           (A) IN GENERAL.—Notwithstanding sec-  
19       tions 3304 and 3309 through 3318 of title 5,  
20       United States Code, the Program Director may  
21       recruit and directly appoint up to 5 highly  
22       qualified scientists, engineers, or critical tech-  
23       nical personnel into the competitive service, to  
24       help manage the special funding program.

1 (B) EXCEPTION.—The authority granted  
2 by subparagraph (A) shall not apply to posi-  
3 tions in the excepted service or the Senior Exec-  
4 utive Service.

5 (C) REQUIREMENTS.—In exercising the  
6 authority granted by subparagraph (A), the  
7 Secretary shall ensure that any action taken by  
8 the Secretary—

9 (i) is consistent with the merit prin-  
10 ciples of section 2301 of title 5, United  
11 States Code; and

12 (ii) complies with the public notice re-  
13 quirements of section 3327 of title 5,  
14 United States Code.

15 (h) TECHNICAL ADVISORY COMMITTEE.—

16 (1) IN GENERAL.—The Secretary, acting  
17 through the Program Director, and in consultation  
18 with the Council, shall appoint a technical advisory  
19 committee to provide independent scientific review of  
20 applications for grants, contracts, cooperative agree-  
21 ments, and other transactions to be funded under  
22 the special funding program.

23 (2) MEMBERSHIP.—The technical advisory  
24 committee shall be composed of not less than 7  
25 members appointed from among—

1 (A) institutions of higher education;  
 2 (B) National Laboratories;  
 3 (C) independent research institutions;  
 4 (D) the National Energy Technology Lab-  
 5 oratory; and

6 (E) other qualified institutions;

7 (3) CONFLICTS OF INTEREST.—Members of the  
 8 technical advisory committee may not be affiliated  
 9 with, or employed by, any organization represented  
 10 by voting members of the Council.

11 (4) DUTIES.—

12 (A) PEER REVIEW.—The technical advi-  
 13 sory committee shall provide independent as-  
 14 sessments and technical evaluations, and make  
 15 recommendations to the Council, on all applica-  
 16 tions for funding under the special funding pro-  
 17 gram.

18 (B) PROGRAMMATIC ASSESSMENTS.—

19 (i) IN GENERAL.—The technical advi-  
 20 sory committee may provide an inde-  
 21 pendent review of other technical matters  
 22 relating to the special funding program, in-  
 23 cluding—

24 (I) approaches to prioritizing  
 25 technologies;

- 1 (II) appropriateness of engineer-  
2 ing techniques;  
3 (III) monitoring and verification  
4 technologies for sequestration;  
5 (IV) geological site selection; and  
6 (V) cost control measures for  
7 projects.

8 (ii) RECOMMENDATIONS.—The tech-  
9 nical advisory committee may make rec-  
10 ommendations to the Secretary concerning  
11 the types of investments, scientific re-  
12 search, or engineering practices that would  
13 best further the purposes of this subtitle.

14 (C) PUBLIC AVAILABILITY.—Except for in-  
15 formation exempt from disclosure under para-  
16 graphs (4) and (6) of section 552(b) of title 5,  
17 United States Code, all reports and evaluations  
18 made by the technical advisory committee shall  
19 be made available to the public when the re-  
20 ports and evaluations are received by the Coun-  
21 cil.

22 (5) TRAVEL EXPENSES.—A member of the  
23 technical advisory committee shall be allowed travel  
24 expenses, including per diem in lieu of subsistence,  
25 at rates authorized for an employee of an agency

1 under subchapter I of chapter 57 of title 5, United  
 2 States Code, while away from the home or regular  
 3 place of business of the member in the performance  
 4 of the duties of the committee.

5 **SEC. 205. FUNCTIONS AND ADMINISTRATION OF THE SPE-**  
 6 **CIAL FUNDING PROGRAM.**

7 (a) IN GENERAL.—The special funding program shall  
 8 support projects to accelerate the commercial availability  
 9 of carbon capture and sequestration technologies and  
 10 methods, including technologies that capture and seques-  
 11 ter, or capture and convert, carbon dioxide. In making  
 12 awards under the program, the Program Director shall  
 13 give priority to projects that include cost sharing, although  
 14 cost sharing is not mandatory.

15 (b) PROJECT APPROVAL.—The Program Director  
 16 shall make awards for grants, contracts, cooperative  
 17 agreements, and other transactions under this subtitle  
 18 only if the award is—

19 (1) recommended to the Council by the tech-  
 20 nical advisory committee established under section  
 21 204(h), after scientific and technical peer review;

22 (2) approved by the voting members of the  
 23 Council;

24 (3) for a project to be carried out in the United  
 25 States; and



1           (4) prioritized in regions of the country with a  
2           high probability of carbon capture and sequestration  
3           development and deployment potential.

4           (c) SPECIFIC PURPOSES.—In making awards, the  
5 Program Director shall ensure, to the maximum extent  
6 practicable, that grants, contracts, cooperative agree-  
7 ments, and other transactions funded under the special  
8 funding program support demonstrations of carbon cap-  
9 ture and sequestration technology projects that—

10           (1) are capable of advancing the technologies to  
11           commercial readiness;

12           (2) encompass each of the different coal types  
13           and other fossil fuel varieties;

14           (3) are geographically diverse;

15           (4) involve diverse sequestration media;

16           (5) employ capture and sequestration, or cap-  
17           ture and conversion, technologies potentially suitable  
18           for new or retrofit applications; and

19           (6) result in a capture of emissions from the  
20           generation of at least 10 gigawatts.

21           (d) ELIGIBLE ENTITIES.—Entities eligible for fund-  
22 ing under this subtitle include—

23           (1) electric utilities selling fossil fuel-based elec-  
24           tricity;

25           (2) institutions of higher education;

- 1           (3) National Laboratories;
- 2           (4) Federal research agencies;
- 3           (5) State research agencies;
- 4           (6) nonprofit organizations; and
- 5           (7) consortiums of 2 or more entities described
- 6           in paragraphs (1) through (6).

7           (e) PURCHASE OF CARBON DIOXIDE.—A grant, con-  
 8 tract, cooperative agreement, or other transaction under  
 9 this subtitle may be used—

10           (1) in the case of established projects that are  
 11 sequestering carbon dioxide emissions, to purchase  
 12 carbon dioxide if necessary to conduct tests of car-  
 13 bon sequestration sites; or

14           (2) for other purposes consistent with this sub-  
 15 title.

16           (f) ORGANIZATION OF FUNDING INTO TRANCHES.—

17           (1) IN GENERAL.—The Program Director, with  
 18 the approval of the Council and the Secretary, may  
 19 divide available funds into a series of tranches, each  
 20 supporting the deployment of a specified quantity of  
 21 electric generating capacity using carbon capture, se-  
 22 questration, or conversion technologies.

23           (2) FORM OF FUNDING.—If the Program Direc-  
 24 tor, the Council, and the Secretary agree to dis-  
 25 tribute funds by tranche under this subsection, the

1       Program Director shall distribute funds to eligible  
2       projects through grants, contracts, cooperative  
3       agreements, and other transactions under this sub-  
4       title in a manner that—

5               (A) provides higher funding for projects  
6               that are designed to achieve higher levels of  
7               capture and sequestration or capture and con-  
8               version;

9               (B) takes into account the projected cost  
10              of electricity to capture carbon dioxide emis-  
11              sions from the project;

12              (C) decreases the funding available for  
13              projects in successive tranches; and

14              (D) defrays the reasonable incremental  
15              capital and operating costs associated with im-  
16              plementation of the carbon capture and seques-  
17              tration or carbon capture and conversion tech-  
18              nologies.

19       (g) WAGE RATE ASSURANCES.—

20              (1) IN GENERAL.—The Program Director shall  
21              require recipients of awards under this subtitle to  
22              provide assurances that all laborers and mechanics  
23              employed by contractors and subcontractors in the  
24              construction, repair, or alteration of new or existing  
25              facilities performed in order to carry out a develop-

1        ment or deployment activity authorized under this  
 2        subtitle shall be paid wages at rates not less than  
 3        those prevailing on similar construction in the local-  
 4        ity, as determined by the Secretary of Labor in ac-  
 5        cordance with subchapter IV of chapter 31 of title  
 6        40, United States Code.

7            (2) AUTHORITY AND FUNCTIONS.—With re-  
 8        spect to the labor standards in this subsection, the  
 9        Secretary of Labor shall have the authority and  
 10       functions set forth in Reorganization Plan Num-  
 11       bered 14 of 1950 (15 Fed. Reg. 3176; 5 U.S.C. Ap-  
 12       pendix) and section 3145 of title 40, United States  
 13       Code.

14        (h) RELATION TO EXISTING AUTHORITIES.—  
 15       Projects funded under this subtitle to inject carbon dioxide  
 16       into geological formations shall be carried out in accord-  
 17       ance with this subtitle and section 963 of the Energy Pol-  
 18       icy Act of 2005 (42 U.S.C. 16293) and related provisions  
 19       of that Act.

20        (i) RESTRICTIONS ON FUNDING.—

21            (1) NO SMALL-SCALE PROJECTS.—A pilot-scale  
 22       project, or similar small-scale project, under 100  
 23       megawatts, shall not be eligible for support under  
 24       the special funding program.

1           (2) DEDICATION OF FUNDS.—Except as pro-  
 2       vided in subsection (j), the special funding program  
 3       shall use all funds derived from assessments under  
 4       section 6 to fund grants, contracts, cooperative  
 5       agreements, and other transactions under this sub-  
 6       title.

7           (j) ADMINISTRATIVE EXPENSES.—Not more than 5  
 8       percent of the funds collected for any fiscal year under  
 9       section 6 may be used for the administrative expenses of  
 10      carrying out the special funding program.

11   **SEC. 206. ASSESSMENTS AND FUNDING.**

12       (a) AMOUNT.—

13           (1) IN GENERAL.—For each fiscal year fol-  
 14      lowing the establishment of the special funding pro-  
 15      gram, the Secretary shall collect an assessment on  
 16      electric utilities for all fossil fuel-based electricity  
 17      sold to electric consumers, as determined under sec-  
 18      tion 208.

19           (2) FUEL TYPE RATE.—The assessments de-  
 20      scribed in paragraph (1) shall—

21               (A) reflect the relative carbon dioxide emis-  
 22               sion rates of different fossil fuel-based elec-  
 23               tricity; and

24               (B) initially shall be not less than the fol-  
 25               lowing amounts for coal, natural gas, and oil:

## Fuel type rate of assessment per kilowatt hour

Coal .....	\$0.00091
Natural Gas .....	\$0.00046
Oil .....	\$0.00068.

1           (3) ADJUSTMENTS.—The Secretary may adjust  
2           the amount of assessments on fossil fuel-based elec-  
3           tricity to reflect changes in the expected quantities  
4           of the electricity from different fuel types so that the  
5           assessments generate not less than \$2,000,000,000  
6           and not more than \$2,100,000,000 for each fiscal  
7           year.

8           (b) TREATMENT OF ASSESSMENTS.—

9           (1) GENERAL RULE.—Notwithstanding section  
10          3302 of title 31, United States Code, all amounts  
11          collected by the Secretary under this section shall—

12                (A) be credited as offsetting collections to  
13                carry out activities authorized under section  
14                205;

15                (B) be available for expenditure only to  
16                pay the costs of carrying out the activities au-  
17                thorized under section 205;

18                (C) be available only to the extent provided  
19                for in advance in an appropriations Act; and

20                (D) remain available until expended.

21          (2) EXCEPTION.—Notwithstanding paragraph  
22          (1), the Secretary shall determine by April 1 of each  
23          fiscal year whether an appropriations Act has appro-

1        priated the total amount of actual fees collected in  
2        advance of that fiscal year by the Secretary under  
3        this section. If the amounts specified under this  
4        paragraph for that fiscal year have not been appro-  
5        priated by such date for expenditure to carry out ac-  
6        tivities under section 205, then such amounts shall  
7        be immediately available for such expenditure by the  
8        Board without fiscal year limitations and without  
9        further appropriations.

10       (c) FEE TITLE.—The Secretary may vest fee title or  
11       other property interests acquired under projects conducted  
12       under this subtitle in any entity, including the United  
13       States.

14       (d) DATA PROTECTION.—For a period not exceeding  
15       5 years after completion of the operations phase of a  
16       grant, contract, cooperative agreement, or other trans-  
17       action under this subtitle the Secretary may provide ap-  
18       propriate protections (including exemptions from sub-  
19       chapter II of chapter 5 of title 5, United States Code)  
20       against the dissemination of information that—

21                (1) results from demonstration activities carried  
22       out under this subtitle; and

23                (2) would be a trade secret or commercial or fi-  
24       nancial information that is privileged or confidential  
25       if the information had been obtained from and first

1       produced by a non-Federal party participating in the  
2       project.

3       (e) REVERSION OF UNUSED FUNDS.—Effective be-  
4       ginning on the date that is 7 years after the establishment  
5       of the special funding program, if the Secretary, acting  
6       through the Program Director, does not obligate at least  
7       75 percent of the available proceeds of the assessed fees  
8       for any fiscal year due to an absence of qualified projects  
9       or similar circumstances, the Secretary, without further  
10      appropriation, shall reimburse the remaining unobligated  
11      balance of the fees, less administrative and other expenses  
12      authorized by this subtitle, to the electric utilities on which  
13      the fees were assessed, in proportion to the collected as-  
14      sessments of the electric utilities.

15   **SEC. 207. ERCOT.**

16      (a) DEFINITIONS.—In this section:

17          (1) ERCOT.—The term “ERCOT” means the  
18          Electric Reliability Council of Texas.

19          (2) LOAD-SERVING ENTITY.—The term “load-  
20          serving entity” has the meaning given the term in  
21          ERCOT Protocols in effect on the date of enactment  
22          of this Act.

23          (3) QUALIFIED SCHEDULING ENTITY.—The  
24          term “qualified scheduling entity” has the meaning



1       given the term in ERCOT Protocols in effect on the  
2       date of enactment of this Act.

3               (4) RENEWABLE ENERGY CREDIT.—The term  
4       “renewable energy credit” has the meaning given the  
5       term by the Public Utility Commission of Texas pur-  
6       suant to section 39.904(b) of the State of Texas’s  
7       Public Utility Regulatory Act of 1999 as in effect on  
8       the date of enactment of this Act.

9       (b) ASSESSMENT, COLLECTION, AND REMIT-  
10   TANCE.—

11               (1) IN GENERAL.—Notwithstanding any other  
12       provision of this subtitle, within ERCOT, the assess-  
13       ment required under section 206 shall be—

14                       (A) levied directly on qualified scheduling  
15       entities, or successor entities of the qualified  
16       scheduling entities;

17                       (B) charged in an amount that is con-  
18       sistent with other charges imposed on qualified  
19       scheduling entities as a fee on energy used by  
20       the load-serving entities; and

21                       (C) collected and remitted by ERCOT to  
22       the Secretary in the amounts and in the same  
23       manner as described in section 205.

24               (2) REQUIREMENTS.—The assessment amounts  
25       referred to in paragraph (1) shall—

1 (A) be determined by the quantity and  
 2 types of fossil fuel-based electricity delivered di-  
 3 rectly to all electric consumers in the prior cal-  
 4 endar year beginning with the year ending im-  
 5 mediately prior to the beginning of the period  
 6 described in section 203(c); and

7 (B) take into account the number of re-  
 8 newable energy credits retired by the load-serv-  
 9 ing entities represented by a qualified sched-  
 10 uling entity within the prior calendar year.

11 (c) ADMINISTRATION EXPENSES.—Not more than 1  
 12 percent of the funds collected for any fiscal year by  
 13 ERCOT under this section may be used for the adminis-  
 14 trative expenses incurred in the determination, collection,  
 15 and remittance of the assessments to the Secretary.

16 (d) AUDIT.—ERCOT shall submit to the Secretary  
 17 a copy of the annual audit of ERCOT relating to the ad-  
 18 ministration of this section.

19 **SEC. 208. DETERMINATION OF FOSSIL FUEL-BASED ELEC-**  
 20 **TRICITY DELIVERIES.**

21 (a) FINDINGS.—Congress finds that—

22 (1) the assessments under section 206 are to be  
 23 collected based on the quantity of fossil fuel-based  
 24 electricity sold by each electric utility to electric con-  
 25 sumers;

1           (2) because many electric utilities purchase all  
2           or part of the electricity needed by the electric con-  
3           sumers of the utilities from other entities, it may not  
4           be practicable to determine the precise fuel mix for  
5           the power sold by each individual electric utility; and

6           (3) it may be necessary to use average data,  
7           often on a regional basis with reference to Regional  
8           Transmission Organization or North American Elec-  
9           tric Reliability Corporation regions, to make the de-  
10          terminations necessary for making the assessments.

11         (b) PROPOSED REGULATION.—

12           (1) IN GENERAL.—The Secretary, in consulta-  
13          tion with the Energy Information Administration,  
14          shall issue for notice and comment a proposed regu-  
15          lation to determine the level and type of fossil fuel-  
16          based electricity delivered to electric consumers by  
17          each electric utility in the United States during the  
18          most recent calendar year or other period deter-  
19          mined by the Secretary to be most appropriate.

20           (2) BALANCING.—The proposed regulation shall  
21          balance the need to be efficient, reasonably precise  
22          and timely, taking into account the nature and cost  
23          of data currently available and the nature of mar-  
24          kets and regulations in effect in various regions of  
25          the United States.

1           (3) VARYING METHODOLOGIES.—The Secretary  
2       may apply different methodologies in different re-  
3       gions of the United States if appropriate to obtain  
4       the best balance of factors described in paragraph  
5       (2).

6       (c) FINAL REGULATION.—

7           (1) IN GENERAL.—Not later than 180 days  
8       after the date of enactment of this Act, and after  
9       opportunity for comment, the Secretary shall pro-  
10      mulgate a final regulation under this section for de-  
11      termining the level and type of fossil fuel-based elec-  
12      tricity delivered to electric consumers by each elec-  
13      tric utility in the United States during the appro-  
14      priate period, as determined by the Secretary.

15          (2) NEW DATA SOURCES.—In promulgating the  
16      final regulation, the Secretary may—

17              (A) consider opportunities and costs to de-  
18      velop new data sources in the future; and

19              (B) issue recommendations for the Energy  
20      Information Administration or other agencies to  
21      collect the data.

22          (3) UPDATES.—After notice and opportunity  
23      for comment, the Secretary may, by regulation, up-  
24      date and modify the methodology for making deter-  
25      minations under this section.

1 (d) ANNUAL DETERMINATIONS.—

2 (1) IN GENERAL.—In accordance with the final  
3 regulation promulgated under subsection (c), the  
4 Secretary shall—

5 (A) make annual determinations of the  
6 quantities and types for each electric utility;  
7 and

8 (B) publish the determinations in the Fed-  
9 eral Register.

10 (2) USE.—Determinations described in para-  
11 graph (1) shall be used—

12 (A) to conduct the referendum under sec-  
13 tion 203(a); and

14 (B) by the Secretary in applying any as-  
15 sessment under this subtitle.

16 (e) REHEARING AND JUDICIAL REVIEW.—

17 (1) IN GENERAL.—The owner or operator of  
18 any electric utility that believes that the Secretary  
19 has misapplied the methodology in the final regula-  
20 tion in determining the quantity and types of fossil  
21 fuel-based electricity delivered by the electric utility  
22 may seek a rehearing of the determination not later  
23 than 30 days after publication of the determination  
24 in the Federal Register.

1           (2) DEADLINE.—Not later than 30 days after  
 2           a rehearing petition is formally requested, the Sec-  
 3           retary shall rule on the rehearing petition.

4           (3) JUDICIAL REVIEW.—A determination of the  
 5           Secretary under paragraph (2) shall be final and  
 6           subject to judicial review in the United States Court  
 7           of Appeals for the District of Columbia Circuit.

8   **SEC. 209. COMPLIANCE WITH ASSESSMENTS.**

9           (a) IN GENERAL.—The Secretary may bring an ac-  
 10          tion in the appropriate court of the United States to com-  
 11          pel compliance with an assessment levied by the Secretary  
 12          under this subtitle.

13          (b) PAYMENT.—A successful action for compliance  
 14          under this section may require payment by the defendant  
 15          of the costs incurred by the Secretary in bringing the ac-  
 16          tion.

17   **SEC. 210. MIDCOURSE REVIEW.**

18          Not later than 5 years after the establishment of the  
 19          special funding program, the Comptroller General of the  
 20          United States shall submit to Congress a report that—

21                (1) evaluates the activities of the special fund-  
 22          ing program, including—

23                        (A) project selection and methods of dis-  
 24          bursement of assessed fees;

1 (B) impacts on the prospects for commer-  
2 cialization of carbon capture and sequestration  
3 technologies; and

4 (C) the extent to which assessed fees sup-  
5 port the qualified projects received by the Sec-  
6 retary; and

7 (2) makes such recommendations as the Comp-  
8 troller General of the United States considers to be  
9 appropriate in each of those areas.

10 **SEC. 211. RECOVERY OF COSTS.**

11 (a) IN GENERAL.—An electric utility, the trans-  
12 mission, delivery, or sales of electric energy of which are  
13 subject to any form of rate regulation, may not be denied  
14 an opportunity to recover the full amount of the prudently  
15 incurred costs associated with complying with this subtitle,  
16 consistent with applicable State or Federal law.

17 (b) RATEPAYER REBATES.—Regulatory authorities  
18 that approve cost recovery pursuant to subsection (a) may  
19 order rebates to ratepayers to the extent that electric utili-  
20 ties selling fossil fuel-based electricity to electric con-  
21 sumers are reimbursed undedicated or unassigned bal-  
22 ances in accordance with section 206(c).

1     **TITLE III—CCS TECHNOLOGY**  
 2     **STANDARD FOR POWERPLANTS**

3     **SEC. 301. CCS STANDARDS FOR COAL-FUELED POWER**  
 4             **PLANTS.**

5             (a) IN GENERAL.—Title I of the Clean Air Act (42  
 6     U.S.C. 7401 et seq.) is amended by inserting after section  
 7     111 the following:

8     **“SEC. 111A. CCS STANDARDS FOR NEW COAL-FIRED POWER**  
 9             **PLANTS.**

10            “(a) DEFINITIONS.—In this section:

11                    “(1) COVERED UNITS.—The term ‘covered unit’  
 12            means an electric utility generating unit that derives  
 13            50 percent of its annual heat input from coal, petro-  
 14            leum coke, or any combination of these fuels.

15                    “(2) INITIALLY PERMITTED.—The term ‘ini-  
 16            tially permitted’ means, with respect to an electric  
 17            utility generating unit, that the owner or operator of  
 18            a unit has received a preconstruction approval or  
 19            permit under this Act, for the covered unit as a new  
 20            (not a modified) source, but administrative review or  
 21            appeal of such approval or permit has not been ex-  
 22            hausted. A subsequent modification of any such ap-  
 23            proval or permit, ongoing administrative or court re-  
 24            view, appeals, or challenges, or the existence or toll-  
 25            ing of any time to pursue further review, appeals, or



1 challenges shall not affect the date on which a unit  
2 is considered to be initially permitted.

3 “(3) TREATED GENERATING CAPACITY.—The  
4 term ‘treated generating capacity’ means the portion  
5 of the total generating capacity of an electric gener-  
6 ating unit (or, in the case of an industrial unit, an  
7 equivalent capacity) for which the flue gas or fuel  
8 gas is treated by carbon capture and sequestration  
9 technology.”.

10 “(b) STANDARDS.—

11 “(1) EMISSION LIMIT.—A covered unit that is  
12 initially permitted on or after the date of the enact-  
13 ment of the Carbon Capture and Sequestration De-  
14 ployment Act of 2010 and before January 1, 2020,  
15 shall achieve, by the compliance date set forth in  
16 paragraph (2), an emission limit for carbon dioxide  
17 that reflects 50 percent reduction from the carbon  
18 content of the fuel used by the unit, as measured on  
19 an annual basis.

20 “(2) COMPLIANCE.—Compliance with the re-  
21 quirement set forth in paragraph (1) shall be re-  
22 quired by the earlier of the following:

23 “(A) Four years after the date the Admin-  
24 istrator has published a report that there are in  
25 commercial operation in the United States elec-

1           tric generating units or other stationary sources  
2           equipped with carbon capture and sequestration  
3           technology that, in the aggregate—

4                   “(i) have a total of at least 10  
5                   gigawatts of treated generating capacity;  
6                   and

7                   “(ii) include electric generating units  
8                   with at least 4 gigawatts of treated gener-  
9                   ating capacity which units are capturing  
10                  and sequestering in deep geologic saline  
11                  formations the aggregate at least 24 mil-  
12                  lion tons of carbon dioxide per year, cal-  
13                  culated on an aggregate annualized basis;  
14                  or

15                  “(B) the later of—

16                   “(i) January 1, 2030; or

17                   “(ii) the date by which the assessment  
18                  under section 102(b) determines that it is  
19                  reasonable to conclude that technology is  
20                  available to the commercial marketplace.

21           “(c) REGULATIONS.—Not later than 2 years after the  
22           date of enactment of the Carbon Capture and Sequestra-  
23           tion Deployment Act of 2010, the Administrator shall pro-  
24           mulgate regulations to carry out the requirements of this  
25           section.

1       “(d) COMPLIANCE WITH STANDARDS.—Not with-  
 2 standing other provisions of law, no unit subject to stand-  
 3 ards under subsection (b) shall be deemed subject to sec-  
 4 tion 111 of this Act for emissions of carbon dioxide. Any  
 5 unit subject to standards under subsection (b) shall be  
 6 deemed to have met the requirements of section 169(3)  
 7 for carbon dioxide.”.

8       (b) COMPLIANCE AND JUDICIAL REVIEW.—Sections  
 9 114 and 307 of such Act are each amended by striking  
 10 “section 111” in each place it appears and inserting “sec-  
 11 tion 111 or section 111A”.

12 **SEC. 302. CONSOLIDATED REVIEW OF FEDERAL AUTHOR-**  
 13 **IZATIONS.**

14       (a) DESIGNATION OF LEAD AGENCY.—

15           (1) IN GENERAL.—The Department of Energy  
 16 shall act as the lead agency for the purposes of co-  
 17 ordinating all applicable Federal authorizations and  
 18 related environmental reviews with respect to an eli-  
 19 gible project, including any requirements of—

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

22           (B) the Endangered Species Act of 1973  
 23 (16 U.S.C. 1531 et seq.);

24           (C) the Federal Water Pollution Control  
 25 Act (33 U.S.C. 1251 et seq.);

1 (D) the National Environmental Policy Act  
 2 of 1969 (42 U.S.C. 4321 et seq.); or

3 (E) the Safe Drinking Water Act (42  
 4 U.S.C. 300f et seq.).

5 (2) OTHER AGENCIES.—Each Federal and  
 6 State agency required to provide a Federal author-  
 7 ization for an eligible project shall cooperate with  
 8 the Secretary and comply with the deadlines estab-  
 9 lished by the Secretary under subsection (b).

10 (b) COORDINATION AND CONSOLIDATED REVIEW.—

11 (1) SCHEDULE.—As the head of the lead agen-  
 12 cy, and in consultation with other agencies, the Sec-  
 13 retary shall establish a schedule for all Federal au-  
 14 thorizations with respect to each eligible project. In  
 15 establishing the schedule, the Secretary shall—

16 (A) set binding intermediate milestones  
 17 and deadlines to ensure expeditious completion  
 18 of all proceedings and final action on all Fed-  
 19 eral authorizations relating to the eligible  
 20 project;

21 (B) require that all permit decisions and  
 22 related environmental reviews under applicable  
 23 Federal laws shall be completed—

1 (i) within 1 year after the submission  
2 of a complete application for each permit  
3 decision or environmental review; or

4 (ii) if an express requirement of an-  
5 other provision of Federal law does not  
6 permit compliance with the 1-year deadline  
7 in clause (i), as soon thereafter as is prac-  
8 ticable; and

9 (C) coordinate, to the maximum extent  
10 practicable, any permitting and environmental  
11 reviews that apply to the eligible project only  
12 under State law.

13 (2) MEMORANDUM OF UNDERSTANDING.—Not  
14 later than 1 year after the date of enactment of this  
15 Act, the Secretary and the heads of all Federal  
16 agencies with authority to issue Federal authoriza-  
17 tions shall execute a memorandum of understanding  
18 to ensure the coordinated and streamlined review  
19 and prompt issuance of Federal authorizations for  
20 eligible projects.

21 (3) PRE-APPLICATION REVIEW.—The Secretary  
22 shall establish and facilitate a pre-application review  
23 process to expedite the review of all Federal author-  
24 izations, including permit decisions and related envi-  
25 ronmental reviews, for any eligible project under ap-

1 plicable Federal laws. The pre-application review  
2 process shall require each agency involved in the re-  
3 view process to confer with prospective applicants  
4 and identify those issues of major concern to the  
5 agency and the general public regarding the eligible  
6 project. The pre-application review process shall re-  
7 quire such agencies to provide a written response to  
8 an inquiry from a prospective applicant not later  
9 than 60 days after the completion of the pre-applica-  
10 tion review process.

11 (4) CONSOLIDATION OF ENVIRONMENTAL RE-  
12 VIEWS.—The Secretary, in consultation with affected  
13 agencies, shall prepare a single environmental review  
14 document for assessing all major Federal actions re-  
15 lated to any eligible project under section 102 of the  
16 National Environmental Policy Act of 1969 (42  
17 U.S.C. 4332). Agencies subject to such environ-  
18 mental review requirements shall use the document  
19 as the basis for all decisions related to the eligible  
20 project.

21 (5) FAILURE TO MEET SCHEDULE.—If a Fed-  
22 eral or State agency does not complete a proceeding  
23 for an approval that is required for a Federal au-  
24 thorization in accordance with the schedule estab-

1 lished by the Secretary under this subsection, the  
2 applicant may pursue remedies under subsection (d).

3 (c) CONSOLIDATED RECORD.—The Secretary shall,  
4 with the cooperation of Federal and State agencies, main-  
5 tain a complete consolidated record of all decisions made  
6 or actions taken by the Secretary or by a Federal agency  
7 (or State agency acting under delegated Federal author-  
8 ity) with respect to any Federal authorization. Such record  
9 shall be the record for judicial review under subsection (d)  
10 of decisions made or actions taken of Federal and State  
11 agencies, except that, if the Court determines that the  
12 record does not contain sufficient information, the Court  
13 may remand the proceeding to the Secretary for further  
14 development of the consolidated record.

15 (d) JUDICIAL REVIEW.—

16 (1) IN GENERAL.—The United States Court of  
17 Appeals for the circuit in which the eligible project  
18 is proposed to be constructed shall have original and  
19 exclusive jurisdiction over any civil action for the re-  
20 view of—

21 (A) an order or action related to a Federal  
22 authorization, by a Federal agency (other than  
23 the Secretary) or State agency acting pursuant  
24 to Federal law to issue, including any order or

1           action to condition or deny any Federal author-  
2           ization; and

3                   (B) an alleged failure to act by a Federal  
4           or State agency with respect to a Federal au-  
5           thorization.

6           The failure of an agency to take action on a Federal  
7           authorization in accordance with the schedule estab-  
8           lished by the Secretary under subsection (b)(1) shall  
9           be considered to be inconsistent with Federal law for  
10          the purposes of paragraph (2) of this subsection.

11           (2) COURT ACTION.—

12                   (A) IN GENERAL.—The Court shall re-  
13          mand the proceeding for a particular eligible  
14          project to the appropriate agency if the Court  
15          finds that—

16                           (i) there has occurred either—

17                                   (I) an order or action described  
18                                   in paragraph (1)(A) that is incon-  
19                                   sistent with the Federal law governing  
20                                   the Federal authorization for the eligi-  
21                                   ble project; or

22                                   (II) a failure to act as described  
23                                   in paragraph 1(B) with respect to the  
24                                   eligible project; and



1 (ii) the order, action, or failure to act  
 2 would prevent the siting, construction, or  
 3 operation of the eligible project.

4 (B) REMAND.—If the Court remands the  
 5 order or action to the appropriate Federal or  
 6 State agency under subparagraph (A), the  
 7 Court shall provide specific direction to remedy  
 8 any inconsistency with Federal law and set a  
 9 reasonable schedule and appropriate deadlines  
 10 for the agency to act on remand.

11 (4) FILING CONSOLIDATED RECORD.—For any  
 12 civil action described in this subsection, the Sec-  
 13 retary shall promptly file with the Court the consoli-  
 14 dated record of the order or action to which the ap-  
 15 peal hereunder relates, as compiled by the Secretary  
 16 pursuant to subsection (c).

17 (5) EXPEDITED REVIEW.—The Court shall set  
 18 any action brought under this subsection for expe-  
 19 dited consideration.

20 (e) DEFINITIONS.—In this section:

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

24 (2) ELIGIBLE PROJECT.—The term “eligible  
 25 project” means any project that is eligible to receive

1 a financial incentive under title II or III this Act or  
2 the amendments made by this Act.

3 (3) FEDERAL AUTHORIZATION.—The term  
4 “Federal authorization”—

5 (A) means any authorization required  
6 under Federal law, whether administered by a  
7 Federal or State agency, with respect to the  
8 siting, construction, or operation of an eligible  
9 project; and

10 (B) includes any permit, license, special  
11 use authorizations, certifications, opinions, con-  
12 currence, or other approvals that may be re-  
13 quired under Federal law with respect to the  
14 siting, construction, or operation of an eligible  
15 project.

16 (4) SECRETARY.—The term “Secretary” means  
17 the Secretary of Energy.

18 (f) REGULATIONS.—Not later than 18 months after  
19 the date of enactment of this Act, the Secretary shall es-  
20 tablish by rule, after notice and public opportunity to com-  
21 ment, regulations that are necessary to implement this  
22 section.

23 (g) RELATIONSHIP TO OTHER LAWS.—Except as  
24 specifically provided, nothing in this section affects any

1 requirement of any Federal or State law, including the  
2 Federal laws described in subsection (a)(1).

3       **TITLE IV—CARBON STORAGE**  
4                   **STEWARDSHIP**

5       **SEC. 401. SHORT TITLE.**

6           This title may be cited as the “Carbon Storage Stew-  
7 ardsHIP Act”.

8       **SEC. 402. PURPOSE.**

9           The purpose of this title is to facilitate carbon cap-  
10 ture and storage in suitable underground formations by—

11               (1) providing for long-term stewardship of  
12               closed carbon dioxide storage sites to ensure con-  
13               tinuing protection of health, safety, and the environ-  
14               ment during the stewardship period;

15               (2) providing a system for compensation to any  
16               person that may suffer personal injury or property  
17               damage from stored carbon dioxide at such a site;

18               (3) establishing financial responsibility and a  
19               dedicated funding mechanism for such stewardship  
20               and compensation; and

21               (4) establishing a transitional program that  
22               provides limited indemnification for owners and op-  
23               erators of qualifying first mover projects to dem-  
24               onstrate the capture and geological storage of car-  
25               bon dioxide.

1 **SEC. 403. DEFINITIONS.**

2 In this title:

3 (1) BOARD.—The term “Board” means the  
4 Carbon Storage Stewardship Board that is estab-  
5 lished under section 408.

6 (2) CARBON DIOXIDE.—The term “carbon diox-  
7 ide” means carbon dioxide that is segregated for  
8 purposes of geologic storage, including small quan-  
9 tities of other compounds to the extent authorized by  
10 the terms of the injection permits issued for the  
11 storage facility.

12 (3) CERTIFICATE OF COMPLETION.—The term  
13 “certificate of completion” means a determination  
14 issued with respect to a storage facility by the regu-  
15 latory authority that certifies that the project oper-  
16 ator has completed injection operations, well closure,  
17 and any required monitoring and remediation at a  
18 storage facility, so that there is a reasonable basis  
19 to believe that carbon dioxide is and will continue to  
20 be safely stored at the site and will not present an  
21 unreasonable risk to health, safety, or the environ-  
22 ment (including drinking water supplies) during the  
23 stewardship period.

24 (4) CERTIFIED POST-CLOSURE STORAGE FACIL-  
25 ITY.—The term “certified post closure storage facil-  
26 ity” means a storage facility for which the regu-

1       latory authority has issued a certificate of comple-  
2       tion.

3           (5) CIVIL CLAIM.—The term “civil claim”  
4       means any claim for civil relief with respect to a fa-  
5       cility that arises from migration of carbon dioxide  
6       from such facility or is otherwise related to the in-  
7       jection of carbon dioxide at such facility, excluding—

8           (A) any claim arising from breach of an  
9       express contract; and

10          (B) in the case of a project operator, any  
11       claim arising from—

12           (i) willful violation of applicable rules  
13       of the regulatory authority; or

14           (ii) any false statement or misrepre-  
15       sentation in an application for a certificate  
16       of completion; and

17           (iii) conduct that constitutes reckless  
18       or intentional misconduct by the project  
19       operator.

20          (6) FEDERAL OR STATE ENVIRONMENTAL RE-  
21       QUIREMENT.—The term “Federal or State environ-  
22       mental requirement” means a requirement of a Fed-  
23       eral or State agency that—

24           (A) relates to health, safety, or the envi-  
25       ronment that results from the injection of car-

1           bon dioxide at a certified post-closure storage  
2           facility;

3           (B) is authorized under Federal or State  
4           law; and

5           (C) imposes an obligation relating to such  
6           injection of carbon dioxide during the steward-  
7           ship period to—

8                   (i) monitor the migration of carbon  
9                   dioxide within and from a certified post-  
10                  closure storage facility;

11                  (ii) perform remediation at such facil-  
12                  ity;

13                  (iii) desist from any action that poses  
14                  a health, safety, or environment risk; or

15                  (iv) take other such action that may  
16                  be necessary to ensure the protection of  
17                  health, safety or the environment.

18           (7) FIRST MOVER PROJECT.—The term “first  
19           mover project” is a project involving the large-scale  
20           capture and geological sequestration of carbon diox-  
21           ide that the Secretary selects for indemnification  
22           under section 408.

23           (8) NON-FEDERAL MEMBER.—The term “non-  
24           Federal member” means any member of the Board

1 who is not otherwise employed by the Federal gov-  
 2 ernment.

3 (9) PROGRAM.—The term “Program” means  
 4 the National Carbon Storage Stewardship Program  
 5 established under section 407.

6 (10) PROJECT OPERATOR.—The term “project  
 7 operator” means the entity responsible for injection  
 8 operations at a storage facility.

9 (11) PUBLIC CLAIM.—The term “public  
 10 claim”—

11 (A) means a civil claim that is asserted by  
 12 a third party for—

13 (i) personal injury;

14 (ii) property damage;

15 (iii) trespass; or

16 (iv) nuisance; but

17 (B) does not include claims for punitive  
 18 damages or non-economic losses.

19 (12) REGULATORY AUTHORITY.—The term  
 20 “regulatory authority” for a storage facility means  
 21 the State or Federal agency that issues an injection  
 22 permit for such storage facility. If more than one  
 23 agency has such authority with respect to a facility,  
 24 the Board shall designate one of the permitting

1 agencies as the regulatory authority for such facility  
2 for purposes of carrying out this title.

3 (13) REMEDIATION.—The term “remediation”  
4 means action to remedy, mitigate, or correct any  
5 danger to health, safety, or the environment (includ-  
6 ing any damage to underground drinking water sup-  
7 plies) that occurs as a result of prior injection of  
8 carbon dioxide at a certified post-closure storage fa-  
9 cility.

10 (14) SECRETARY.—The term “Secretary”  
11 means the Secretary of Energy.

12 (15) STEWARDSHIP AGENCY.—The term “stew-  
13 ards-ship agency” means the agency that has assumed  
14 stewardship responsibility under section 404.

15 (16) STEWARDSHIP PERIOD.—The term “stew-  
16 ards-ship period” for a storage facility means the pe-  
17 riod of time that begins upon the date that the regu-  
18 latory authority issues the certificate of completion  
19 for the storage facility.

20 (17) STEWARDSHIP RESPONSIBILITY.—The  
21 term “stewardship responsibility” means responsi-  
22 bility for monitoring and remediation of certified  
23 post-closure storage facilities in a State during the  
24 stewardship period, as provided in section 404.



1           (18) STORAGE FACILITY.—The term “storage  
2           facility” means a facility for long-term geologic stor-  
3           age and sequestration of carbon dioxide, including a  
4           facility for enhanced oil or gas recovery, as provided  
5           by section 406(b)(1)(B).

6           (19) TRUST FUND.—The term “Trust Fund”  
7           means the Carbon Storage Stewardship Trust Fund  
8           that is established under section 406.

9   **SEC. 404. STEWARDSHIP RESPONSIBILITY.**

10       (a) AGENCY RESPONSIBLE FOR STEWARDSHIP.—A  
11       State may accept stewardship responsibility for certified  
12       post-closure storage facilities in that State in accordance  
13       with regulations of the Secretary. If a State declines to  
14       accept stewardship responsibility, then the Secretary shall  
15       have stewardship responsibility for certified post-closure  
16       storage facilities in that State. In accordance with such  
17       rules as the Secretary may prescribe, if a State that has  
18       accepted stewardship responsibility fails to carry out such  
19       responsibility, the Secretary shall, after notice and oppor-  
20       tunity for comment, assume such responsibility.

21       (b) ADMINISTRATION, MONITORING AND REMEDI-  
22       ATION.—

23           (1) RESPONSIBILITIES.—Upon issuance of the  
24       certificate of completion for a storage facility, the  
25       stewardship agency shall be responsible for providing

1 all monitoring and remediation of the carbon dioxide  
2 injected at that storage facility. The monitoring and  
3 remediation shall be conducted in accordance with  
4 standards prescribed by the Board under section  
5 407(c)(1).

6 (2) REIMBURSEMENT OF AGENCY COSTS.—The  
7 Board shall reimburse the stewardship agency for all  
8 reasonable and verified costs that the stewardship  
9 agency has incurred for program administration and  
10 the performance of its stewardship responsibility, as  
11 described in paragraph (1). The Board shall pay  
12 such costs from the Trust Fund through the Pro-  
13 gram and in accordance with a reimbursement con-  
14 tract entered into under subsection (c).

15 (c) REIMBURSEMENT CONTRACTS.—

16 (1) IN GENERAL.—The Board shall offer each  
17 agency that accepts stewardship responsibility for  
18 certified post-closure storage facilities within a State  
19 a contract under which the Board provides reim-  
20 bursement for costs of administration, monitoring,  
21 and remediation of such facilities during the stew-  
22 ardship period as determined under paragraph (2).  
23 Section 1341 of title 31, United States Code shall  
24 not apply to any such contract. The contract shall

1 be backed by the full faith and credit of the United  
2 States.

3 (2) RULES.—The Board shall prescribe rules  
4 for reimbursement of all reasonable costs of adminis-  
5 tration, monitoring, and remediation incurred by  
6 agencies that have stewardship responsibility for cer-  
7 tified post-closure storage facilities.

8 **SEC. 405. RESPONSIBILITY FOR PAYMENT OF CLAIMS.**

9 (a) CLAIMS AGAINST THE TRUST FUND.—

10 (1) PUBLIC CLAIMS.—Upon issuance of the cer-  
11 tificate of completion for a storage facility, all public  
12 claims related to the carbon dioxide injected at that  
13 certified post closure storage facility shall be filed  
14 with the Board and paid from Trust Fund.

15 (2) ORPHAN STORAGE FACILITIES.—A steward-  
16 ship agency having jurisdiction over a particular  
17 storage facility may petition the Board for reim-  
18 bursement from the Trust Fund of the monitoring  
19 and remediation costs that may be incurred by such  
20 stewardship agency consistent with the standards es-  
21 tablished under section 407(c) if—

22 (A) the particular storage facility—

23 (i) has completed injection operations  
24 at the storage facility;

1           (ii) has obtained all applicable permits  
2           for the injection of carbon dioxide into the  
3           storage facility and substantially complied  
4           with the requirements of those permits  
5           during the injection operations;

6           (iii) has paid annual assessments into  
7           the Trust Fund, as required under section  
8           406(b), for a substantial majority of the  
9           carbon dioxide injected into the storage fa-  
10          cility; and

11          (iv) is unable to obtain a certificate of  
12          completion from the regulatory authority;  
13          and

14          (B) a United States bankruptcy court has  
15          issued—

16               (i) a bankruptcy discharge that re-  
17               leases the owners, operators, and any other  
18               potentially responsible parties from the fi-  
19               nancial liabilities related to the particular  
20               storage facility; or

21               (ii) other determination that the own-  
22               ers, operators, and any other potentially  
23               responsible parties of the particular stor-  
24               age are financially unable to fulfill condi-  
25               tions and requirements necessary to obtain

1 a certificate of completion for the par-  
2 ticular storage facility; and

3 (C) the Board determines that using the  
4 Trust Fund to fund monitoring and remedi-  
5 ation activities at the particular storage facility  
6 is in the public interest.

7 (3) EXCLUSIVE BOARD JURISDICTION.—The  
8 Board shall have exclusive jurisdiction to adjudicate  
9 all public claims and petitions filed with Board  
10 under paragraphs (1) and (2), as provided by section  
11 409.

12 (b) CLAIMS AGAINST STEWARDSHIP AGENCIES.—

13 (1) CIVIL CLAIMS.—Subject to paragraph (2),  
14 an agency that has stewardship responsibility for a  
15 certified post-closure storage facility is not subject to  
16 any civil claim as a result of assuming or carrying  
17 out its stewardship responsibility under this title.

18 (2) FEDERAL AND STATE REQUIREMENTS.—An  
19 agency that has stewardship responsibility for a cer-  
20 tified post-closure storage facility shall be subject  
21 to—

22 (A) all applicable Federal and State envi-  
23 ronmental requirements that relate to the injec-  
24 tion of carbon dioxide at that storage facility  
25 during the stewardship period; and

1 (B) civil claims for injunctive relief for the  
2 performance of—

3 (i) all applicable Federal and State  
4 environmental requirements that relate  
5 to—

6 (I) the ongoing monitoring,  
7 measurement, and verification of car-  
8 bon dioxide injected at that storage  
9 facility; and

10 (II) maintaining the integrity of  
11 the storage facility during the stew-  
12 ardship period; and

13 (ii) any requirement to provide reme-  
14 diation at the storage facility during the  
15 stewardship period that is—

16 (I) consistent with any applicable  
17 Federal or State environmental re-  
18 quirements; and

19 (II) necessary to remedy any  
20 breach in the integrity of the storage  
21 facility that is caused by the injection  
22 of carbon dioxide into such facility.

23 (3) VENUE.—Civil claims brought for injunctive  
24 relief under paragraph (2)(B) shall be filed in the

1 District Court of the United States in which the  
2 stewardship agency is located.

3 (4) CONFLICTING REQUIREMENTS.—If a stand-  
4 ard or requirement established by the Board differs  
5 from any Federal or State environmental require-  
6 ment, compliance with the Board standard or re-  
7 quirement shall be deemed to satisfy the obligation  
8 of a stewardship agency to comply with the cor-  
9 responding State or Federal environmental require-  
10 ment.

11 (c) CLAIMS AGAINST OPERATORS, PROPERTY OWN-  
12 ERS, TRANSPORTERS, AND GENERATORS.—Upon issuance  
13 of the certificate of completion for a storage facility, civil  
14 claims related to the carbon dioxide injected at that cer-  
15 tified post-closure storage facility may not be brought  
16 against—

17 (1) the project operator of the facility, except if  
18 the Board determines that there are insufficient  
19 funds in the Trust Fund to pay such claims, as pro-  
20 vided in subsection (b)(5)(E) of section 406;

21 (2) the owner of the facility;

22 (3) a holder of a real property interest in the  
23 facility;

24 (4) any transmission pipeline that transported  
25 carbon dioxide to the facility; or

1           (5) the generator of the carbon dioxide being  
2           handled by either the pipeline or storage facility.

3 **SEC. 406. CARBON STORAGE STEWARDSHIP TRUST FUND.**

4           (a) ESTABLISHMENT OF TRUST FUND.—The Carbon  
5 Storage Stewardship Trust Fund is hereby established in  
6 the Treasury. The Trust Fund shall be administered by  
7 the Board. Notwithstanding section 3302 of title 31,  
8 United States Code, all assessments paid under subsection  
9 (b) shall be deposited in the Trust Fund and shall be avail-  
10 able without fiscal year limitation and without further ap-  
11 propriation solely for the purpose of—

12           (1) covering the administrative costs of the  
13 Board under this title; and

14           (2) making payments authorized by section  
15 407.

16           (b) ASSESSMENTS.—

17           (1) PAYMENT BY OPERATOR.—

18           (A) IN GENERAL.—Except as provided in  
19 subparagraph (B), each project operator of a  
20 storage facility shall pay an annual assessment  
21 into the Trust Fund for the carbon dioxide in-  
22 jected into a storage facility during a given cal-  
23 endar year after the date of enactment of this  
24 Act. The annual assessment shall be equal to  
25 the product of—



1 (i) the number of tons of carbon diox-  
2 ide that are injected into the storage facil-  
3 ity for a particular year during the oper-  
4 ational phase of the facility; and

5 (ii) the assessment amount, expressed  
6 on a dollar-per-ton of carbon dioxide in-  
7 jected, that the Board has established for  
8 the storage facility under paragraph (2).

9 (B) ENHANCED OIL OR GAS RECOVERY.—

10 In the case of the injection of carbon dioxide for  
11 the purpose of enhanced oil or gas recovery, the  
12 requirement to pay an annual assessment into  
13 the Trust Fund under subparagraph (A) shall  
14 apply—

15 (i) solely to the net quantity of carbon  
16 dioxide injected into a storage facility for  
17 the purpose of the long-term geological  
18 storage of the carbon dioxide in order to  
19 meet a greenhouse gas reduction compli-  
20 ance obligation under a Federal or State  
21 regulatory program; and

22 (ii) only to the extent that the project  
23 operator has relied upon geological storage  
24 of the carbon dioxide for meeting a green-  
25 house gas reduction compliance obligation

1 under a Federal or State regulatory pro-  
2 gram.

3 (C) SPECIAL RULE.—

4 (i) EXTENDED PAYMENT SCHED-  
5 ULE.—Except as provided by clause (ii),  
6 the Board may impose an assessment  
7 under subparagraph (A) upon any storage  
8 facility existing on the date of enactment  
9 of this Act for amounts of carbon dioxide  
10 injected prior to the establishment of the  
11 Trust Fund. The Board shall establish a  
12 reasonable schedule for the payment of the  
13 assessment authorized under the previous  
14 sentence, which shall not exceed 10 years.

15 (ii) DEMONSTRATION PROJECTS.—  
16 The Board shall not impose an assessment  
17 under subparagraph (A) in the case of a  
18 demonstration project that—

19 (I) injects carbon dioxide in  
20 amounts that are less than 1,000,000  
21 tons per year;

22 (II) has an injection period of 5  
23 years or less; and

1 (III) poses a de minimis risk to  
2 health, safety, or the environment  
3 during the stewardship period.

4 (iii) TRUST FUND COVERAGE.—In the  
5 case of a project that is exempted from the  
6 assessment under clause (ii) of this sub-  
7 paragraph, the stewardship agency shall—

8 (I) perform any monitoring and  
9 remediation that may be necessary  
10 after the proper closure of the storage  
11 facility;

12 (II) receive reimbursement for  
13 the reasonable costs for performing  
14 such monitoring and remediation ac-  
15 tivities from the Trust Fund by the  
16 Board; and

17 (III) be subject to civil claims for  
18 injunctive relief to perform appro-  
19 priate monitoring and remediation, as  
20 provided under section 405(b)(2)(B).

21 (2) ASSESSMENT AMOUNT.—After providing op-  
22 portunity for public notice and comment and after  
23 taking into account the information, recommenda-  
24 tions and guidance that the technical advisory com-  
25 mittee may provide under section 408(g), the Board

1 shall determine by rule the assessment amount that  
2 applies to each ton of carbon dioxide injected into a  
3 storage facility in accordance with method prescribed  
4 in paragraph (3).

5 (3) METHOD FOR CALCULATING ASSESSMENT  
6 AMOUNT.—The Board shall establish by rule a  
7 method for calculating the assessment amount  
8 that—

9 (A) establishes a specific dollar-per-ton as-  
10 sessment for the injection of carbon dioxide into  
11 each type or class of storage facilities that the  
12 Board has identified under paragraph (4)(A);

13 (B) reflects the degree of risk that sub-  
14 stantial remediation costs and public claims  
15 might be incurred for each type or class of stor-  
16 age facilities for which the Board has developed  
17 a risk profile under paragraph (4)(B);

18 (C) accounts for the cumulative quantities  
19 of carbon dioxide that project operators are ex-  
20 pected to inject into storage facilities at appro-  
21 priate milestones over the life of the Program;

22 (D) calculates the net present value of cu-  
23 mulative payments that the Board expects to  
24 make under section 407 at appropriate mile-  
25 stones over the life of the Program for—

1 (i) reasonable future administrative  
2 costs that the Board expects to incur  
3 under the Act;

4 (ii) reimbursement to stewardship  
5 agencies for the reasonable future costs  
6 that such agencies are likely to incur for  
7 program administration, monitoring, reme-  
8 diation and the performance of other stew-  
9 ardship responsibilities under section 404;  
10 and

11 (iii) satisfaction of public claims on  
12 which the Board expects to make payment  
13 based on the reasonably anticipated risks  
14 of ultimate recovery against the Program  
15 for such costs under section 405;

16 (E) calculates the net present value of pay-  
17 ments that the Board expects to be deposited  
18 into the Trust Fund under this subsection at  
19 appropriate milestones over the life of the Pro-  
20 gram; and

21 (F) reflects the best available engineering,  
22 geological, and scientific information, including  
23 the information, recommendations and guidance  
24 that the technical advisory committee may pro-  
25 vide to the Board under section 408(g).

1           (4) TYPES AND CLASSES OF STORAGE FACILI-  
2 TIES.—

3           (A) IDENTIFICATION AND CATEGORIZA-  
4 TION.—The Board shall identify those geologi-  
5 cal formations that may potentially be used as  
6 a storage facility and categorize each identified  
7 formation into an appropriate type or class  
8 based on—

9           (i) the type of formation, including  
10 depleted oil and gas formations, deep  
11 unmineable coal seams, and deep saline  
12 aquifers;

13           (ii) depth of injection of carbon diox-  
14 ide into the formation;

15           (iii) proximity of the formation to  
16 drinking water sources, human settle-  
17 ments, or ecologically sensitive areas;

18           (iv) proximity of the formation to seis-  
19 mically active geological faults; and

20           (v) other factors that may affect the  
21 probability that the Board may incur sub-  
22 stantial costs for remediation and public  
23 claims under section 408(g).

24           (B) RISK PROFILES.—For each type or  
25 class of geological formation identified under

1           subparagraph (A), the Board shall prepare a  
2           profile of the reasonably foreseeable risks that  
3           could result by the injection of carbon dioxide  
4           into such a formation. In developing such risk  
5           profiles, the Board shall rely on the best avail-  
6           able scientific information, including the infor-  
7           mation, recommendations and guidance that the  
8           technical advisory committee may provide to the  
9           Board under section 408(g).

10       (5) ADJUSTMENT OF ASSESSMENT AMOUNT.—

11           (A) IN GENERAL.—The Board shall pre-  
12           scribe rules for adjusting the assessment  
13           amount established under paragraph (2) if the  
14           Board determines that the Trust Fund is un-  
15           derfunded or overfunded to cover the payments  
16           expected under section 407. The Board shall  
17           make its determination on the sufficiency of  
18           such funds in the Trust Fund based on actu-  
19           arial studies to be conducted at least every 5  
20           years, beginning 10 years after the date of en-  
21           actment of this Act, and any change in the as-  
22           sessment amount shall be made in accordance  
23           with the applicable provisions of this subsection  
24           and after opportunity for public notice and  
25           comment.

1 (B) LIMITS ON SIZE OF TRUST FUND.—

2 (i) IN GENERAL.—The Board shall es-  
3 tablish by rule a minimum and maximum  
4 balance for the Trust Fund and adjust the  
5 amount of the assessment amount to en-  
6 sure that the amounts in Trust Fund re-  
7 main within the minimum and maximum  
8 fund levels established under this subpara-  
9 graph. In setting the minimum and max-  
10 imum fund levels, the Board shall—

11 (I) apply the criteria prescribed  
12 in paragraph (3) for calculating the  
13 assessment amount; and

14 (II) take into account the infor-  
15 mation, recommendations and guid-  
16 ance that the technical advisory com-  
17 mittee may provide under section  
18 408(g).

19 (ii) REVIEW AND REVISION.—The  
20 Board shall review from time to time and  
21 revise as necessary and appropriate the  
22 minimum and maximum levels established  
23 for the Trust Fund under clause (i) of this  
24 subparagraph. The Board may make any  
25 revision to the minimum and maximum



1 levels only in accordance with applicable  
 2 provisions of this subsection, including the  
 3 requirements of clause (i) of this subpara-  
 4 graph.

5 (C) REBATES IF TRUST FUND IS OVER-  
 6 FUNDED.—The Board may provide rebates to  
 7 project operators that have made payments into  
 8 the Trust Fund under subsection (b) if the  
 9 Board determines by rule that—

10 (i) the Trust Fund is overfunded  
 11 under subparagraph (A);

12 (ii) a substantial reduction in future  
 13 payments into the Trust Fund would be  
 14 necessary to ensure that the amounts in  
 15 the Trust Fund do not exceed maximum  
 16 balance levels established under subpara-  
 17 graph (B); and

18 (iii) a rebate of past payments, com-  
 19 bined with a downward adjustment of fu-  
 20 ture payments, into the Trust Fund is ap-  
 21 propriate to ensure a fair and equitable as-  
 22 sessment on all project operators contrib-  
 23 uting to the Trust Fund.

24 (D) INCREASES IN ASSESSMENT  
 25 AMOUNT.—The Board may increase the level of

1 the assessment amount for carbon dioxide in-  
2 jected into a storage facility if the Board deter-  
3 mines by rule that the Trust Fund is under-  
4 funded under subparagraph (A). Any such in-  
5 crease in the assessment amount shall only  
6 apply prospectively to annual assessments for  
7 carbon dioxide injected during the operation of  
8 a storage facility under paragraph (2).

9 (E) CLAIMS IN EXCESS OF TRUST FUND.—

10 The project operator shall be responsible to pay  
11 claims under section 405 that are related to, or  
12 arising from, the injection and sequestration of  
13 carbon dioxide at its certified post-closure stor-  
14 age facility if the Board determines that insuffi-  
15 cient funds are available to pay such claims  
16 even after the application of a prospective in-  
17 crease of the assessment amount, as authorized  
18 by subparagraph (D).

19 (c) INVESTMENT.—At the request of the Board, the  
20 Secretary of the Treasury may invest any part of the  
21 amounts in the Trust Fund in interest-bearing securities  
22 of the United States Government. The interest on, and  
23 the proceeds from the sale or redemption of, the securities  
24 shall be deposited in the Trust Fund.

1       (d) REPAYABLE ADVANCES.—If amounts in the  
 2 Trust Fund are insufficient to cover current obligations  
 3 of the Board under this Act, there are authorized to be  
 4 appropriated to the Trust Fund as interest-bearing repay-  
 5 able advances, such sums as may be necessary to carry  
 6 out the purposes of such Trust Fund. The terms and con-  
 7 ditions of such advances shall be as specified in appropria-  
 8 tion Acts.

9 **SEC. 407. PAYMENTS FROM THE TRUST FUND.**

10       (a) ESTABLISHMENT.—The Board shall establish and  
 11 administer the National Carbon Storage Stewardship Pro-  
 12 gram to—

13           (1) reimburse agencies (or the Secretary as pro-  
 14 vided under section 404) for the costs incurred for  
 15 program administration and in performing their  
 16 stewardship responsibilities with respect to certified  
 17 post-closure storage facilities, as provided in con-  
 18 tracts executed under section 404(c); and

19           (2) make payments to satisfy—

20               (A) public claims made with respect to cer-  
 21 tified post-closure storage facilities, as author-  
 22 ized by section 405(a)(1); and

23               (B) petitions to cover monitoring and re-  
 24 mediation costs incurred at storage facilities, as  
 25 authorized by section 405(a)(2).

1       The payment of these expenditures by the Board  
2       shall be funded from the Trust Fund in accordance  
3       with provisions of this title.

4       (b) PAYMENT SCHEDULES FOR PUBLIC CLAIMS.—

5       The Board shall by rule prescribe payment schedules for  
6       determining the nature and amount of compensation that  
7       the Board will pay from the Trust Fund for public claims  
8       under section 405(a)(1). The payment schedules shall re-  
9       flect the best available engineering, geological, and sci-  
10      entific information, including the information, rec-  
11      ommendations and guidance that the technical advisory  
12      committee may provide to the Board under section 408(g).

13      (c) MONITORING AND REMEDIATION.—

14           (1) STANDARDS.—The Board shall prescribe  
15      standards for determining whether and to what ex-  
16      tent monitoring and remediation will be required for  
17      carbon dioxide injected at a certified post-closure  
18      storage facility. The standards shall—

19           (A) be based on the applicable Federal and  
20      State environmental requirements for the moni-  
21      toring and remediation of carbon dioxide in-  
22      jected at a certified post closure storage facility;  
23      and

24           (B) reflect any other monitoring or remedi-  
25      ation requirements that the Board determines

1 are necessary to protect the health, safety, and  
2 the environment during the stewardship period.

3 (2) REIMBURSEMENT.—

4 (A) IN GENERAL.—The Board shall reim-  
5 burse the stewardship agency from the Trust  
6 Fund for the costs that it has incurred for the  
7 monitoring and remediation in accordance with  
8 the standards established under paragraph (1)  
9 and contracts entered into under section 404.

10 (B) CONTRACTUAL DISPUTES.—The stew-  
11 ardship agency or the Board may bring an ac-  
12 tion in the United States District Court to ob-  
13 tain relief on disputes relating to provisions of  
14 reimbursement contracts executed under section  
15 404(c).

16 (d) LIMITATION ON PAYMENT OF CLAIMS.—The  
17 Board shall not pay claims otherwise authorized under  
18 this section if the claim for reimbursement or compensa-  
19 tion arose from conduct of the project operator that con-  
20 stitutes reckless or intentional misconduct.

21 (e) PRIVATE INSURERS.—The Board may contract  
22 with private insurers to provide claim adjustment services  
23 for public claims. In addition, to the extent the Board de-  
24 termines that insurance from private sources to cover rea-  
25 sonably anticipated costs of public claims and remediation

1 is available for certified post-closure storage facilities at  
 2 reasonable cost and on reasonable terms, the Board may  
 3 purchase such insurance from private sources.

4 **SEC. 408. CARBON STORAGE STEWARDSHIP BOARD.**

5 (a) ESTABLISHMENT.—There is hereby established  
 6 within the Department of Energy an independent agency  
 7 to be know as the Carbon Storage Stewardship Board.

8 (b) PURPOSE.—The purpose of the Board is to ad-  
 9 vance, in the most efficient and effective manner, the wide-  
 10 spread deployment of carbon capture and storage tech-  
 11 nologies by providing for the long-term stewardship of  
 12 closed storage sites in a manner that achieves the objec-  
 13 tives and requirements of this title.

14 (c) ORGANIZATION.—

15 (1) MEMBERSHIP.—The Board shall consist of  
 16 7 members, of which—

17 (A) 4 shall be appointed by the President  
 18 by and with the advice and consent of the Sen-  
 19 ate; and

20 (B) 3 shall be full-time Federal employees  
 21 designated by the President in accordance with  
 22 paragraph (6).

23 (2) QUALIFICATIONS FOR MEMBERSHIP.—Each  
 24 member of the Board shall—

25 (A) be a citizen of the United States;

(B) have demonstrated knowledge and expertise in the fields relating to—

- (i) carbon capture technologies;
- (ii) geological storage of carbon dioxide in underground formations;
- (iii) electric power generation; or
- (iv) qualitative and quantitative evaluation of the risk posed to health, safety, or the environment (including drinking water supplies) by the injection of carbon dioxide into underground formations; and

(C) in the case of members that are full-time Federal employees designated under subparagraph (c)(1)(B), be serving in a technical capacity for the Federal agency on one or more of the areas enumerated in subparagraph (B).

(3) APPOINTMENT AND DESIGNATION.—Not later than 180 days after the date of enactment of this Act, the President shall appoint or designate (as the case may be) the members to the Board in accordance with the requirements of this subsection.

(4) TERM OF SERVICE.—

(A) IN GENERAL.—Except as provided under subparagraph (B), each non-Federal member of the Board shall serve for a term of

1 12 years and may be removed by the President  
2 only for neglect of duty, malfeasance, or other  
3 just cause for dismissal. Members of the Board  
4 who are full-time Federal employees shall serve  
5 at the pleasure of the President.

6 (B) FIRST APPOINTMENTS.—In the case of  
7 the non-Federal members that the President  
8 first appoints to the Board—

9 (i) the Chairperson shall serve a term  
10 of 6 years; and

11 (ii) the 3 remaining non-Federal  
12 members to the Board (other than the  
13 Chairperson) shall serve for terms of 8, 10,  
14 and 12 years, as designated by the Presi-  
15 dent at the time of appointment.

16 (C) SERVICE UNTIL NEW APPOINTMENT.—  
17 The term of a non-Federal Board member shall  
18 continue after the expiration of the term of the  
19 member until the date on which a replacement  
20 is appointed by the President and confirmed by  
21 the Senate.

22 (D) VACANCY.—Any non-Federal Board  
23 member appointed to fill a vacancy in an unex-  
24 pired term shall serve only for the remainder of  
25 that term.



1           (E) REAPPOINTMENT.—An individual who  
2           has served as a Board member for a term of  
3           more than 8 years shall not be eligible for re-  
4           appointment.

5           (5) CHAIRPERSON.—

6           (A) DESIGNATION.—The President shall  
7           designate a Chairperson from the non-Federal  
8           Board members that are representatives from  
9           industry under paragraph (6)(E).

10          (B) TERM OF SERVICE.—The Chairperson  
11          of the Board shall serve for a term of 6 years  
12          and may be reappointed for a second-year term.

13          (6) COMPOSITION OF BOARD.—The Board shall  
14          consist of—

15               (A) 1 employee from the Department of  
16               Energy;

17               (B) 1 employee from Environmental Pro-  
18               tection Agency;

19               (C) 1 employee from the Department of  
20               Interior;

21               (D) 1 representative from a public utility  
22               commission or other state governmental agency;  
23               and

1           (E) 3 representatives from industry, in-  
2           cluding 2 individuals who have substantial expe-  
3           rience in the electric power sector.

4           (7) LEVEL OF SERVICE.—

5           (A) FULL-TIME SERVICE.—The Chair-  
6           person of the Board shall serve on a full-time  
7           basis and may not engage in any other busi-  
8           ness, vocation, or employment while serving in  
9           the capacity of Chairperson.

10          (B) PART-TIME SERVICE.—Members of the  
11          Board who are not serving as the Chair-  
12          person—

13               (i) shall serve on part-time basis, as  
14               needed to perform the functions and re-  
15               sponsibilities of the Board;

16               (ii) may engage in other business, vo-  
17               cation, or employment so long as there is  
18               no direct conflict of interest with their offi-  
19               cial work responsibilities of Board; and

20               (iii) in the case of each individual who  
21               is employee of a Federal agency, may be  
22               assigned to serve on the Board without re-  
23               imbursement to the Federal agency.

1           (8) COMPENSATION.—Non-Federal members of  
2       the Board shall be compensated at the rate pre-  
3       scribed for Level IV of the Executive Schedule.

4           (d) DUTIES AND RESPONSIBILITIES OF THE CHAIR-  
5       PERSON.—The Chairperson shall be responsible on behalf  
6       of the Board for the executive and administrative oper-  
7       ation of the Board.

8           (e) FUNCTIONS.—The Board shall—

9           (1) prescribe the form of cost reimbursement  
10       agreements under section 404(c), offer such agree-  
11       ments to agencies that have stewardship responsi-  
12       bility, and execute such agreements on behalf of the  
13       United States;

14          (2) evaluate the adequacy of the Trust Fund  
15       and adjust the level of the assessment as authorized  
16       under section 406(b);

17          (3) prescribe payment schedules for public  
18       claims under section 407(b) and monitoring and re-  
19       mediation standards under section 407(c)(1);

20          (4) determine, as provided in section 409, the  
21       extent to which—

22               (A) public claims filed with the Board are  
23               payable under section 405(a)(1) in accordance  
24               with applicable payment schedules; and

1 (B) petitions to cover monitoring and re-  
2 mediation costs incurred at storage facilities are  
3 payable under section 405(a)(2).

4 (5) determine whether monitoring and remedi-  
5 ation is required at a certified post-closure storage  
6 facility prescribed under section 407(c);

7 (6) make payments under cost reimbursement  
8 agreements (including payments for monitoring and  
9 remediation costs) under section 404(c); and

10 (7) exercise such other authorities as may be  
11 necessary or appropriate to carry out its functions  
12 under the preceding paragraphs of this subsection or  
13 other provisions of this title, including assignment of  
14 employees from other Federal agencies, employment  
15 of personnel, and entering into contracts.

16 (f) POWERS.—The Board has the authority to—

17 (1) prescribe, by rule or order, such require-  
18 ments for monitoring certified post-closure storage  
19 facilities and for making such inspections and re-  
20 ports as may be necessary or appropriate to carry  
21 out this title;

22 (2) enter onto the premises or property of any  
23 storage facility to carry out this title;

1           (3) issue an order requiring a person to comply  
2       with order, rule or requirement that the Board has  
3       established under the Act;

4           (4) commence a civil action in the United  
5       States District Court to recover from any project op-  
6       erator any fees or assessments not paid when due,  
7       after notice and an opportunity to cure any defi-  
8       ciency within 30 days of such notice;

9           (5) bring an action against any person in the  
10      United States District Court to enforce the provi-  
11      sions of this title or rules or orders thereunder, and  
12      to obtain appropriate injunctive or other relief; and

13          (6) seek civil or criminal penalties for violations  
14      of provisions of this title, as provided under sub-  
15      section (h).

16      (g) TECHNICAL ADVISORY COMMITTEE.—

17          (1) ESTABLISHMENT.—The Board shall estab-  
18      lish an independent technical advisory committee  
19      composed of 7 members, each of whom has dem-  
20      onstrated knowledge and expertise with respect to  
21      engineering, geological, or environmental matters re-  
22      lated to the storage of carbon dioxide in suitable un-  
23      derground formations.

24          (2) FUNCTION.—The committee established  
25      under paragraph (1) shall provide information, rec-

ommendations and guidance to the Board on technical matters related to—

(A) the amount and duration of the assessment that a project operator of a storage facility should pay under section 406(b) to cover future anticipated payments from the Trust Fund for the purposes described under section 407;

(B) the profile of reasonably foreseeable risks that the Board must develop for each type or class of geological formation under section 406(b)(4)(B);

(C) payment schedules for determining the nature and amount of compensation that the Board will pay from the Trust Fund for public claims, as provided under section 407(b);

(D) standards for determining whether and to the extent that monitoring and remediation will be required for carbon dioxide injected at a certified post-closure storage facility, as provided under section 407(c); and

(E) other determinations or actions that the Board must perform to carry out its responsibilities and duties under this title.

(3) ADDITIONAL RESEARCH.—The committee established under paragraph (1) shall advise the

1 Board as to additional research and technical stud-  
2 ies that may be necessary to perform the functions  
3 described under paragraph (2).

4 (h) PENALTIES.—

5 (1) CIVIL PENALTIES.—Any person that know-  
6 ingly violates any provision of this title or any rule  
7 or order thereunder shall be subject to a civil pen-  
8 alty of \$10,000 per violation.

9 (2) CRIMINAL PENALTIES.—Any person that  
10 knowingly and willfully violates any provision of this  
11 title or any rule or order thereunder shall be subject  
12 to a fine of \$50,000 or imprisonment for a term of  
13 2 years, or both.

14 (i) PUBLIC COMMENT AND JUDICIAL REVIEW.—In  
15 prescribing rules of general applicability under this title,  
16 the Secretary and the Board shall provide an opportunity  
17 for public notice and comment. Those rules shall be sub-  
18 ject to review by the United States Courts of Appeal in  
19 accordance with chapter 158 of title 28, United States  
20 Code. All other agency actions under this title shall be re-  
21 viewed in accordance with chapter 7 of title 5, United  
22 States Code.

23 **SEC. 409. ADJUDICATION OF PUBLIC CLAIMS.**

24 (a) PUBLIC CLAIMS OFFICE.—

1           (1) ESTABLISHMENT.—There is established  
 2       within the Department of Energy an Office of Public  
 3       Claims, which shall be composed of administrative  
 4       law judges who are responsible for adjudicating pub-  
 5       lic claims filed with the Board under section 405(a).

6           (2) APPOINTMENT.—After the first storage fa-  
 7       cility receives a certificate of completion from the  
 8       appropriate regulatory authority, the Chairperson of  
 9       the Board shall begin to appoint as many adminis-  
 10      trative law judges as are necessary to adjudicate  
 11      public claims pending before the Board and may se-  
 12      lect for appointment qualified administrative law  
 13      judges who are contracted from the Department of  
 14      Energy or other Federal agencies.

15          (3) INDEPENDENCE FROM BOARD.—The ad-  
 16      ministrative law judges within the Office of Public  
 17      Claims shall establish and implement procedures to  
 18      ensure the separation and independence of the Office  
 19      of Public Claims from the Board.

20          (b) ADJUDICATORY PROCEDURES.—In adjudicating  
 21      each public claim or petition filed with the Board under  
 22      section 405(a), the administrative law judge shall—

23              (1) in the case of public claims made with re-  
 24              spect to certified post-closure storage facilities under  
 25              section 405(a)(1), apply the appropriate payment



1 schedules for compensation that the Board has es-  
2 tablished under section 407(b);

3 (2) in the case of petitions for the reimburse-  
4 ment of monitoring and remediation costs incurred  
5 at storage facilities under section 405(a)(2), deter-  
6 mine the reasonable costs for performing the appro-  
7 priate standards established for monitoring and re-  
8 mediation under section 407(c); and

9 (3) issue a decision that is determined on the  
10 record after opportunity for an agency hearing in ac-  
11 cordance with sections 554, 555, and 556 of title 5,  
12 United States Code.

13 (c) APPEALS.—An aggrieved person or the Board  
14 may file an appeal of a decision issued under subsection  
15 (b) to the United States Court of Federal Claims. The  
16 appeal of such a decision shall be—

17 (1) filed within 60 days after the date that the  
18 decision was issued by the administrative law judge;  
19 and

20 (2) reviewed in accordance with chapter 7 of  
21 title 5, United States Code.

22 (d) FINAL ORDERS.—

23 (1) IN GENERAL.—A decision issued under sub-  
24 section (b) shall become a final order of the Board  
25 60 days after the issuance of the decision unless

1       within such 60-day period an aggrieved person or  
 2       the Board files an appeal of the decision under sub-  
 3       section (c).

4           (2) JUDICIAL REVIEW.—A decision for which  
 5       an appeal is not filed within the 60-day period pro-  
 6       vided under subsection (c) becomes a final order  
 7       that is not subject to judicial review by any court or  
 8       tribunal.

9       (e) BOARD ACTION.—The Board shall, as expedi-  
 10      tiously as practicable, make payment to each claimant and  
 11      perform other actions that may be required by a final  
 12      order issued under subsection (d).

13   **SEC. 410. FIRST MOVER PROJECTS.**

14      (a) PROJECT SELECTION.—

15           (1) IN GENERAL.—The Secretary shall competi-  
 16      tively select 10 carbon capture and geological se-  
 17      questration projects as first mover projects in ac-  
 18      cordance with the criteria prescribed in paragraph  
 19      (2). Each first mover project selected under this  
 20      paragraph shall be indemnified from liabilities aris-  
 21      ing from the injection of carbon dioxide into the  
 22      storage facility in accordance with an agreement exe-  
 23      cuted under subsection (b).

24           (2) ELIGIBILITY CRITERIA.—A carbon capture  
 25      and geological sequestration project shall be eligible

1 for selection as a first mover project under para-  
2 graph (1) if the project—

3 (A) demonstrates the commercial applica-  
4 tion of an integrated system for the capture, in-  
5 jection, monitoring, and long term geological  
6 storage of carbon dioxide;

7 (B) injects at least 1,000,000 tons of car-  
8 bon dioxide each year into a proposed geological  
9 storage site that is capable of long-term storage  
10 of the injected carbon dioxide, as provided  
11 under paragraph (3);

12 (C) possesses the land or interests in land  
13 necessary for the injection and storage of the  
14 carbon dioxide at the geological storage site;

15 (D) obtains all necessary permits for the  
16 injection of carbon dioxide into a suitable un-  
17 derground formation and complies with the con-  
18 ditions of any necessary permits that protect  
19 health, environment and safety; and

20 (E) commits to maintain the financial pro-  
21 tection for remediation and civil claims, as de-  
22 scribed in subsection (b)(2).

23 (3) PHASED DEVELOPMENT OF PROJECT.—A  
24 project may satisfy the annual carbon dioxide injec-

tion requirement of paragraph (2)(B) through a phased development, so long as—

(A) the Secretary establishes a legally binding schedule for the phase-in of the project; and

(B) such schedule requires the project to achieve an annual injection level of 1,000,000 tons by no later than January 1, 2020.

(b) INDEMNIFICATION AGREEMENTS.—

(1) IN GENERAL.—Notwithstanding section 1341 of title 31, United States Code, but subject to limitations in appropriation Acts, the Secretary shall execute indemnification agreements for the 10 first mover projects that the Secretary has selected under subsection (a). Each agreement executed under this paragraph shall indemnify owners and operators of the first mover project for all or part of the costs incurred to satisfy remediation and civil claims (whenever made) that arise from injection of carbon dioxide into a storage facility, as determined by the Secretary in accordance with the requirements of this section.

(2) SCOPE OF INDEMNIFICATION.—The owners and operators of a first mover project shall maintain financial protection in a form and in an amount ac-

1       ceptable to the Secretary. The indemnification au-  
2       thorized under paragraph (1) shall apply to the costs  
3       incurred for remediation and civil claims that are in  
4       excess of the amount of liability covered by financial  
5       protection maintained for the project under para-  
6       graph (1).

7           (3) CONDITIONS AND REQUIREMENTS.—The  
8       Secretary may impose such conditions on indem-  
9       nification agreements executed under paragraph (1)  
10      as may be necessary or appropriate to protect the fi-  
11      nancial interest of the United States, including a re-  
12      quirement to limit the indemnification provided to  
13      each first mover project under this section during  
14      the stewardship period to the extent that the Sec-  
15      retary determines that potential long-term liabilities  
16      can be adequately addressed through the coverage  
17      provided by the Trust Fund under other provisions  
18      of this title.

19      (c) CONSOLIDATION OF ENVIRONMENTAL RE-  
20      VIEWS.—In performing environmental reviews that may  
21      apply to an indemnification agreement for a particular  
22      first mover project under subsection (b), the Secretary  
23      shall rely on prior environmental reviews that were per-  
24      formed to assess other major Federal actions relating to  
25      the development or operation of that first mover project

1 under 102 of the National Environmental Policy Act of  
2 1969 (42 U.S.C. 4332).

3 **SEC. 411. RELATIONSHIP TO OTHER LAW.**

4 (a) PRIOR TO STEWARDSHIP PERIOD.—This title  
5 does not affect the application of any Federal or State  
6 law to any storage facility for which a regulatory authority  
7 has not issued certificate of completion.

8 (b) DURING THE STEWARDSHIP PERIOD.—This title  
9 does not affect the application to the Trust Fund, the  
10 Board or any stewardship agency of any Federal or State  
11 environmental law with respect to the injection of carbon  
12 dioxide at any certified post-closure facility.

13 (c) STATE STEWARDSHIP LAWS.—This title does not  
14 affect the application of any State law related to geologic  
15 sequestration trust funds that may apply to a storage fa-  
16 cility during the operational or post-injection phase prior  
17 to the stewardship period.

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