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S.1733

Clean Energy Jobs and American Power Act (Introduced in Senate)

>

^ PART H--DISPOSITION OF ALLOWANCES

^ SEC. 771. ALLOCATION OF EMISSION ALLOWANCES.

^ (a) Allocation- The Administrator shall allocate emission allowances for the following purposes:

- ^ (1)* The program for electricity consumers pursuant to section 772.
- ^ (2)* The program for natural gas consumers pursuant to section 773.
- ^ (3)* The program for home heating oil and propane consumers pursuant to section 774.
- ^ (4)* The program for domestic fuel production, including petroleum refiners and small business refiners, under section 775.
- ^ (5)* The program to ensure real reductions in industrial emissions under part F.
- ^ (6)* The program for commercial deployment of carbon capture and sequestration technologies under section 780.
- ^ (7)* The program for early action recognition pursuant to section 782.
- ^ (8)* The program for State and local investment in energy efficiency and renewable energy under section 202 of division B of the Clean Energy Jobs and American Power Act.
- ^ (9)* The program for energy efficiency in building codes under section 163 of division A, and section 203 of division B, of the Clean Energy Jobs and American Power Act.
- ^ (10)* The program for retrofit for energy and environmental performance under section 164 of division A, and 204 of division B, of the Clean Energy Jobs and American Power Act.

- ^ (11) The program for Energy Innovation Hubs pursuant to section 205 of division B of the Clean Energy Jobs and American Power Act.
- ^ (12) The program for ARPA-E research pursuant to section 206 of division B of the Clean Energy Jobs and American Power Act.
- ^ (13) The International Clean Energy Deployment Program under section 323 of division A, and section 207 of division B, of the Clean Energy Jobs and American Power Act.
- ^ (14) The international climate change adaptation and global security program under section 324 of division A, and section 208 of division B, of the Clean Energy Jobs and American Power Act.
- ^ (b) Auctions- The Administrator shall auction, pursuant to section 778, emission allowances for the following purposes:
 - ^ (1) The Market Stability Reserve Fund under section 726.
 - ^ (2) The program for climate change consumer refunds and low- and moderate-income consumers pursuant to section 776, including--
 - ^ (A) consumer rebates under section 776(a); and
 - ^ (B) energy refunds under section 776(b).
 - ^ (3) The program for investment in clean vehicle technology under section 201 of division B of the Clean Energy Jobs and American Power Act.
 - ^ (4) The program for State and local investment in energy efficiency and renewable energy under section 202 of division B of the Clean Energy Jobs and American Power Act.
 - ^ (5) The program for energy efficiency and renewable energy worker training under section 209 of division B of the Clean Energy Jobs and American Power Act.
 - ^ (6) The program for worker transition under part 2 of subtitle A of title III of division A, and section 210 of division B, of the Clean Energy Jobs and American Power Act.
 - ^ (7) The State programs for greenhouse gas reduction and climate adaptation pursuant to section 211 of division B of the Clean Energy Jobs and American Power Act.
 - ^ (8) The program for public health and climate change under subpart B of part 1 of subtitle C of title III of division A, and section 212 of division B, of the Clean Energy Jobs and American Power Act.
 - ^ (9) The program for climate change safeguards for natural resources conservation under subpart C of part 1 of subtitle C of title III of division A, and section 213 of division B, of the Clean Energy Jobs and American Power Act.

^ (10) Nuclear worker training under section 132 of division A, and section 214 of division B, of the Clean Energy Jobs and American Power Act.

^ (11) The supplemental agriculture and forestry greenhouse gas reduction and renewable energy program under section 155 of division A, and section 215 of division B, of the Clean Energy Jobs and American Power Act.

^ (c) Deficit Reduction-

^ (1) IN GENERAL- The Administrator shall--

^ (A) auction, pursuant to section 778, emission allowances for deficit reduction in the amounts described in paragraph (2); and

^ (B) deposit those proceeds immediately on receipt in the Deficit Reduction Fund established by section 783.

^ (2) AMOUNTS- For vintage years 2012 through 2050, 25.0 percent of emission allowances established for each year under section 721(a) shall be auctioned and the proceeds deposited pursuant to paragraph (1) to ensure that this title does not contribute to the deficit for that particular calendar year.

^ (d) Supplemental Reductions-

^ (1) IN GENERAL- The Administrator shall allocate allowances for each vintage year to achieve supplemental reductions pursuant to section 753.

^ (2) ADJUSTMENT- The Administrator shall modify the allowances allocated under paragraph (1) as necessary to ensure the achievement of the annual supplemental emissions reduction objective for 2020 set forth in section 704.

^ **SEC. 772. ELECTRICITY CONSUMERS.**

^ (a) Definitions- For purposes of this section:

^ (1) CHP SAVINGS- The term `CHP savings' means--

^ (A) CHP system savings from a combined heat and power system that commences operation after the date of enactment of this section; and

^ (B) the increase in CHP system savings from, at any time after the date of the enactment of this section, upgrading, replacing, expanding, or increasing the utilization of a combined heat and power system that commenced operation on or before the date of enactment of this section.

^ (2) CHP SYSTEM SAVINGS- The term `CHP system savings' means the increment of electric output of a combined heat and power system that is attributable to the higher efficiency of the combined system (as compared to the efficiency of separate production of the electric and thermal outputs).

^ (3) COAL-FUELED UNIT- The term `coal-fueled unit' means a utility unit that derives at least 85 percent of its heat input from coal, petroleum coke, or any combination of those 2 fuels.

^ (4) COST-EFFECTIVE- The term `cost-effective', with respect to an energy efficiency program, means that the program meets the total resource cost test, which requires that the net present value of economic benefits over the life of the program, including avoided supply and delivery costs and deferred or avoided investments, is greater than the net present value of the economic costs over the life of the program, including program costs and incremental costs borne by the energy consumer.

^ (5) ELECTRICITY LOCAL DISTRIBUTION COMPANY- The term `electricity local distribution company' means an electric utility--

^ (A) that has a legal, regulatory, or contractual obligation to deliver electricity directly to retail consumers in the United States, regardless of whether that entity or another entity sells the electricity as a commodity to those retail consumers; and

^ (B) the retail rates of which, except in the case of an electric cooperative, are regulated or set by--

^ (i) a State regulatory authority;

^ (ii) a State or political subdivision thereof (or an agency or instrumentality of, or corporation wholly owned by, either of the foregoing); or

^ (iii) an Indian tribe pursuant to tribal law.

^ (6) ELECTRICITY SAVINGS- The term `electricity savings' means reductions in electricity consumption, relative to business-as-usual projections, achieved through measures implemented after the date of enactment of this section, limited to--

^ (A) customer facility savings of electricity, adjusted to reflect any associated increase in fuel consumption at the facility;

^ (B) reductions in distribution system losses of electricity achieved by a retail electricity distributor, as compared to losses attributable to new or replacement distribution system equipment of average efficiency;

^ (C) CHP savings; and

^ (D) fuel cell savings.

^ (7) FUEL CELL- The term `fuel cell' means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

^ (8) FUEL CELL SAVINGS- The term `fuel cell savings' means the electricity saved by a fuel cell that is installed after the date of enactment of this section, or by upgrading a fuel cell that commenced operation on or before

the date of enactment of this section, as a result of the greater efficiency with which the fuel cell transforms fuel into electricity as compared with sources of electricity delivered through the grid, provided that--

ˆ (A) the fuel cell meets such requirements relating to efficiency and other operating characteristics as the Federal Energy Regulatory Commission may promulgate by regulation; and

ˆ (B) the net sales of electricity from the fuel cell to customers not consuming the thermal output from the fuel cell, if any, do not exceed 50 percent of the total annual electricity generation by the fuel cell.

ˆ (9) INDEPENDENT POWER PRODUCTION FACILITY- The term ˆ independent power production facility' means a facility--

ˆ (A) that is used for the generation of electric energy, at least 80 percent of which is sold at wholesale; and

ˆ (B) the sales of the output of which are not subject to retail rate regulation or setting of retail rates by--

ˆ (i) a State regulatory authority;

ˆ (ii) a State or political subdivision thereof (or an agency or instrumentality of, or corporation wholly owned by, either of the foregoing);

ˆ (iii) an electric cooperative; or

ˆ (iv) an Indian tribe pursuant to tribal law.

ˆ (10) LONG-TERM CONTRACT GENERATOR- The term ˆ long-term contract generator' means a qualifying small power production facility, a qualifying cogeneration facility), an independent power production facility, or a facility for the production of electric energy for sale to others that is owned and operated by an electric cooperative that is--

ˆ (A) a covered entity; and

ˆ (B) as of the date of enactment of this title--

ˆ (i) a facility with 1 or more sales or tolling agreements executed before March 1, 2007, that govern the facility's electricity sales and provide for sales at a price (whether a fixed price or a price formula) for electricity that does not allow for recovery of the costs of compliance with the limitation on greenhouse gas emissions under this title, provided that such agreements are not between entities that are affiliates of one another; or

ˆ (ii) a facility consisting of 1 or more cogeneration units that makes useful thermal energy available to an industrial or commercial process with 1 or more sales agreements executed before March 1, 2007, that govern the facility's useful thermal energy sales and provide for sales at a price (whether a fixed price

or price formula) for useful thermal energy that does not allow for recovery of the costs of compliance with the limitation on greenhouse gas emissions under this title, provided that such agreements are not between entities that are affiliates of one another.

` (11) MERCHANT COAL UNIT- The term ` merchant coal unit' means a coal-fueled unit that--

` (A) is or is part of a covered entity;

` (B) is not owned by a Federal, State, or regional agency or power authority; and

` (C) generates electricity solely for sale to others, provided that all or a portion of such sales are made by a separate legal entity that--

` (i) has a full or partial ownership or leasehold interest in the unit, as certified in accordance with such requirements as the Administrator shall prescribe; and

` (ii) is not subject to retail rate regulation or setting of retail rates by--

` (I) a State regulatory authority;

` (II) a State or political subdivision thereof (or an agency or instrumentality of, or corporation wholly owned by, either of the foregoing);

` (III) an electric cooperative; or

` (IV) an Indian tribe pursuant to tribal law.

` (12) MERCHANT COAL UNIT SALES- The term ` merchant coal unit sales' means sales to others of electricity generated by a merchant coal unit that are made by the owner or leaseholder described in paragraph (11)(C).

` (13) NEW COAL-FUELED UNIT- The term ` new coal-fueled unit' means a coal-fueled unit that commenced operation on or after January 1, 2009 and before January 1, 2013.

` (14) NEW MERCHANT COAL UNIT- The term ` new merchant coal unit' means a merchant coal unit--

` (A) that commenced operation on or after January 1, 2009 and before January 1, 2013; and

` (B) the actual, on-site construction of which commenced prior to January 1, 2009.

` (15) QUALIFIED HYDROPOWER- The term ` qualified hydropower' means--

` (A) energy produced from increased efficiency achieved, or additions of capacity made, on or after January 1, 1988, at a hydroelectric facility

that was placed in service before that date and does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions; or

^ (B) energy produced from generating capacity added to a dam on or after January 1, 1988, provided that the Federal Energy Regulatory Commission certifies that--

^ (i) the dam was placed in service before the date of the enactment of this section and was operated for flood control, navigation, or water supply purposes and was not producing hydroelectric power prior to the addition of such capacity;

^ (ii) the hydroelectric project installed on the dam is licensed (or is exempt from licensing) by the Federal Energy Regulatory Commission and is in compliance with the terms and conditions of the license or exemption, and with other applicable legal requirements for the protection of environmental quality, including applicable fish passage requirements; and

^ (iii) the hydroelectric project installed on the dam is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license or exemption requirements that require changes in water surface elevation for the purpose of improving the environmental quality of the affected waterway.

^ (16) QUALIFYING SMALL POWER PRODUCTION FACILITY; QUALIFYING COGENERATION FACILITY- The terms ^qualifying small power production facility' and ^qualifying cogeneration facility' have the meanings given those terms in section 3(17)(C) and 3(18)(B) of the Federal Power Act (16 U.S.C. 796(17)(C) and 796(18)(B)).

^ (17) RENEWABLE ENERGY RESOURCE- The term ^renewable energy resource' means each of the following:

^ (A) Wind energy.

^ (B) Solar energy.

^ (C) Geothermal energy.

^ (D) Renewable biomass.

^ (E) Biogas derived exclusively from renewable biomass.

^ (F) Biofuels derived exclusively from renewable biomass.

^ (G) Qualified hydropower.

^ (H) Marine and hydrokinetic renewable energy, as that term is defined in section 632 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17211).

^ (18) SMALL LDC- The term 'small LDC' means, for any given year, an electricity local distribution company that delivered less than 4,000,000 megawatt hours of electric energy directly to retail consumers in the preceding year.

^ (19) STATE REGULATORY AUTHORITY- The term 'State regulatory authority' has the meaning given that term in section 3(17) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(17)).

^ (20) USEFUL THERMAL ENERGY- The term 'useful thermal energy' has the meaning given that term in section 371(7) of the Energy Policy and Conservation Act (42 U.S.C. 6341(7)).

^ (b) Electricity Local Distribution Companies-

^ (1) DISTRIBUTION OF ALLOWANCES- The Administrator shall distribute to electricity local distribution companies for the benefit of retail ratepayers the quantity of emission allowances allocated for the following vintage year pursuant to section 771(a)(1). Notwithstanding the preceding sentence, the Administrator shall withhold from distribution under this subsection a quantity of emission allowances equal to the lesser of 14.3 percent of the quantity of emission allowances allocated under section 771(a)(1) for the relevant vintage year, or 105 percent of the emission allowances for the relevant vintage year that the Administrator anticipates will be distributed to merchant coal units and to long-term contract generators, respectively, under subsections (c) and (d). If not required by subsections (c) and (d) to distribute all of these reserved allowances, the Administrator shall distribute any remaining emission allowances to electricity local distribution companies in accordance with this subsection.

^ (2) DISTRIBUTION BASED ON EMISSIONS-

^ (A) IN GENERAL- For each vintage year, 50 percent of the emission allowances available for distribution under paragraph (1), after reserving allowances for distribution under subsections (c) and (d), shall be distributed by the Administrator among individual electricity local distribution companies ratably based on the annual average carbon dioxide emissions attributable to generation of electricity delivered at retail by each such company during the base period determined under subparagraph (B).

^ (B) BASE PERIOD-

^ (i) VINTAGE YEARS 2012 AND 2013- For vintage years 2012 and 2013, an electricity local distribution company's base period shall be--

^ (I) calendar years 2006 through 2008; or

^ (II) any 3 consecutive calendar years between 1999 and 2008, inclusive, that such company selects, provided that the company timely informs the Administrator of such selection.

^ (ii) VINTAGE YEARS 2014 AND THEREAFTER- For vintage years 2014 and thereafter, the base period shall be--

^ (I) the base period selected under clause (i); or

^ (II) calendar year 2012, in the case of an electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by a new coal-fueled unit, provided that such company timely informs the Administrator of its election to use 2012 as its base period.

^ (C) DETERMINATION OF EMISSIONS-

^ (i) DETERMINATION FOR 1999-2008- As part of the regulations promulgated pursuant to subsection (g), the Administrator, after consultation with the Energy Information Administration, shall determine the average amount of carbon dioxide emissions attributable to generation of electricity delivered at retail by each electricity local distribution company for each of the years 1999 through 2008, taking into account entities' electricity generation, electricity purchases, and electricity sales. In the case of any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by, a coal-fueled unit that commenced operation after January 1, 2006, and before December 31, 2008, the Administrator shall adjust the emissions attributable to such company's retail deliveries in calendar years 2006 through 2008 to reflect the emissions that would have occurred if the relevant unit were in operation during the entirety of such 3-year period.

^ (ii) ADJUSTMENTS FOR NEW COAL-FUELED UNITS-

^ (I) VINTAGE YEARS 2012 AND 2013- For purposes of emission allowance distributions for vintage years 2012 and 2013, in the case of any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by, a new coal-fueled unit, the Administrator shall adjust the emissions attributable to such company's retail deliveries in the applicable base period to reflect the emissions that would have occurred if the new coal-fueled unit were in operation during such period.

^ (II) VINTAGE YEAR 2014 AND THEREAFTER- Not later than necessary for use in making emission allowance distributions

under this subsection for vintage year 2014, the Administrator shall, for any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by a new coal-fueled unit and has selected calendar year 2012 as its base period pursuant to subparagraph (B)(ii)(II), determine the amount of carbon dioxide emissions attributable to generation of electricity delivered at retail by such company in calendar year 2012. If the relevant new coal-fueled unit was not yet operational by January 1, 2012, the Administrator shall adjust such determination to reflect the emissions that would have occurred if such unit were in operation for all of calendar year 2012.

^ (iii) REQUIREMENTS- Determinations under this paragraph shall be as precise as practicable, taking into account the nature of data currently available and the nature of markets and regulation in effect in various regions of the country. The following requirements shall apply to such determinations:

^ (I) The Administrator shall determine the amount of fossil fuel-based electricity delivered at retail by each electricity local distribution company, and shall use appropriate emission factors to calculate carbon dioxide emissions associated with the generation of such electricity.

^ (II) Where it is not practical to determine the precise fuel mix for the electricity delivered at retail by an individual electricity local distribution company, the Administrator may use the best available data, including average data on a regional basis with reference to Regional Transmission Organizations or regional entities (as that term is defined in section 215(a)(7) of the Federal Power Act (16 U.S.C. 824o (a)(7)), to estimate fuel mix and emissions. Different methodologies may be applied in different regions if appropriate to obtain the most accurate estimate.

^ (3) DISTRIBUTION BASED ON DELIVERIES-

^ (A) INITIAL FORMULA- Except as provided in subparagraph (B), for each vintage year, the Administrator shall distribute 50 percent of the emission allowances available for distribution under paragraph (1), after reserving allowances for distribution under subsections (c) and (d), among individual electricity local distribution companies ratably based on each electricity local distribution company's annual average retail electricity deliveries for calendar years 2006 through 2008, unless the owner or operator of the company selects 3 other consecutive years between 1999 and 2008, inclusive, and timely notifies the Administrator of its selection.

^ (B) UPDATING- Prior to distributing 2015 vintage year emission allowances under this paragraph and at 3-year intervals thereafter, the Administrator shall update the distribution formula under this paragraph to reflect changes in each electricity local distribution company's service territory since the most recent formula was established. For each successive 3-year period, the Administrator shall distribute allowances ratably among individual electricity local distribution companies based on the product of--

^ (i) each electricity local distribution company's average annual deliveries per customer during calendar years 2006 through 2008, or during the 3 alternative consecutive years selected by such company under subparagraph (A); and

^ (ii) the number of customers of such electricity local distribution company in the most recent year in which the formula is updated under this subparagraph.

^ (4) PROHIBITION AGAINST EXCESS DISTRIBUTIONS- The regulations promulgated under subsection (g) shall ensure that, notwithstanding paragraphs (2) and (3), no electricity local distribution company shall receive a greater quantity of allowances under this subsection than is necessary to offset any increased electricity costs to such company's retail ratepayers, including increased costs attributable to purchased power costs, due to enactment of this title. Any emission allowances withheld from distribution to an electricity local distribution company pursuant to this paragraph shall be distributed among all remaining electricity local distribution companies ratably based on emissions pursuant to paragraph (2).

^ (5) USE OF ALLOWANCES-

^ (A) RATEPAYER BENEFIT- Emission allowances distributed to an electricity local distribution company under this subsection shall be used exclusively for the benefit of retail ratepayers of such electricity local distribution company and may not be used to support electricity sales or deliveries to entities or persons other than such ratepayers.

^ (B) RATEPAYER CLASSES- In using emission allowances distributed under this subsection for the benefit of ratepayers, an electricity local distribution company shall ensure that ratepayer benefits are distributed --

^ (i) among ratepayer classes ratably based on electricity deliveries to each class; and

^ (ii) equitably among individual ratepayers within each ratepayer class, including entities that receive emission allowances pursuant to part F.

^ (C) LIMITATION- In general, an electricity local distribution company shall not use the value of emission allowances distributed under this subsection to provide to any ratepayer a rebate that is based solely on the quantity of electricity delivered to such ratepayer. To the extent an

electricity local distribution company uses the value of emission allowances distributed under this subsection to provide rebates, it shall, to the maximum extent practicable, provide such rebates with regard to the fixed portion of ratepayers' bills or as a fixed credit or rebate on electricity bills.

ˆ (D) RESIDENTIAL AND INDUSTRIAL RATEPAYERS- Notwithstanding subparagraph (C), if compliance with the requirements of this title results (or would otherwise result) in an increase in electricity costs for residential or industrial retail ratepayers of any given electricity local distribution company (including entities that receive emission allowances pursuant to part F), such electricity local distribution company--

ˆ (i) shall pass through to residential retail ratepayers as a class their ratable share (based on deliveries to each ratepayer class) of the value of the emission allowances that reduce electricity cost impacts on such ratepayers; and

ˆ (ii) shall pass through to industrial ratepayers as a class their ratable share (based on deliveries to each ratepayer class) of the value of the emission allowances that reduce electricity cost impacts on such ratepayers. The electricity local distribution company may do so based on the quantity of electricity delivered to individual industrial retail ratepayers.

ˆ (E) GUIDELINES- As part of the regulations promulgated under subsection (g), the Administrator shall, after consultation with State regulatory authorities, prescribe guidelines for the implementation of the requirements of this paragraph. Such guidelines shall include--

ˆ (i) requirements to ensure that residential and industrial retail ratepayers (including entities that receive emission allowances under part F) receive their ratable share of the value of the allowances distributed to each electricity local distribution company pursuant to this subsection; and

ˆ (ii) requirements for measurement, verification, reporting, and approval of methods used to assure the use of allowance values to benefit retail ratepayers.

ˆ (6) REGULATORY PROCEEDINGS-

ˆ (A) REQUIREMENT- No electricity local distribution company shall be eligible to receive emission allowances under this subsection or subsection (e) unless the State regulatory authority with authority over such company's retail rates, or the entity with authority to regulate or set retail electricity rates of an electricity local distribution company not regulated by a State regulatory authority, has--

ˆ (i) after public notice and an opportunity for comment, promulgated a regulation or completed a rate proceeding (or the equivalent, in the case of a ratemaking entity other than a State regulatory authority) that provides for the full implementation of

the requirements of paragraph (5) of this subsection and the requirements of subsection (e); and

^ (ii) made available to the Administrator and the public a report describing, in adequate detail, the manner in which the requirements of paragraph (5) and the requirements of subsection (e) will be implemented.

^ (B) UPDATING- The Administrator shall require, as a condition of continued receipt of emission allowances under this subsection by an electricity local distribution company, that a new regulation be promulgated or rate proceeding be completed, after public notice and an opportunity for comment, and a new report be made available to the Administrator and the public, pursuant to subparagraph (A), not less frequently than every 5 years.

^ (7) PLANS AND REPORTING-

^ (A) REGULATIONS- As part of the regulations promulgated under subsection (g), the Administrator shall prescribe requirements governing plans and reports to be submitted in accordance with this paragraph.

^ (B) PLANS- Not later than April 30 of 2011 and every 5 years thereafter through 2026, each electricity local distribution company shall submit to the Administrator a plan, approved by the State regulatory authority or other entity charged with regulating or setting the retail rates of such company, describing such company's plans for the disposition of the value of emission allowances to be received pursuant to this subsection and subsection (e), in accordance with the requirements of this subsection and subsection (e). Such plan shall include a description of the manner in which the company will provide to industrial retail ratepayers (including entities that receive emission allowances under part F) their ratable share of the value of such allowances.

^ (C) REPORTS- Not later than June 30, 2013, and each calendar year thereafter through 2031, each electricity local distribution company shall submit a report to the Administrator, and to the relevant State regulatory authority or other entity charged with regulating or setting the retail electricity rates of such company, describing the disposition of the value of any emission allowances received by such company in the prior calendar year pursuant to this subsection and subsection (e), including--

^ (i) a description of sales, transfer, exchange, or use by the company for compliance with obligations under this title, of any such emission allowances;

^ (ii) the monetary value received by the company, whether in money or in some other form, from the sale, transfer, or exchange of any such emission allowances;

ˆ (iii) the manner in which the company's disposition of any such emission allowances complies with the requirements of this subsection and of subsection (e), including each of the requirements of paragraph (5) of this subsection, including the requirement that industrial retail ratepayers (including entities that receive emission allowances under part F) receive their ratable share of the value of such allowances; and

ˆ (iv) such other information as the Administrator may require pursuant to subparagraph (A).

ˆ (D) PUBLICATION- The Administrator shall make available to the public all plans and reports submitted under this subsection, including by publishing such plans and reports on the Internet.

ˆ (8) ADMINISTRATOR AUDIT REPORTS-

ˆ (A) IN GENERAL- Each year, the Administrator shall audit a representative sample of electricity local distribution companies to ensure that emission allowances distributed under this subsection have been used exclusively for the benefit of retail ratepayers and that such companies are complying with the requirements of this subsection and of subsection (e), including the requirement that residential and industrial retail ratepayers (including entities that receive emission allowances under part F) receive their ratable share of the value of such allowances. The Administrator shall assess the degree to which electric local distribution companies have maintained a marginal electric price signal while protecting consumers on total cost using the value of emissions allowances. In selecting companies for audit, the Administrator shall take into account any credible evidence of noncompliance with such requirements. The Administrator shall make available to the public a report describing the results of each such audit, including by publishing such report on the Internet.

ˆ (B) GAO AUDIT REPORT- Not later than April 30, 2015, and every 3 years thereafter through 2026, the Comptroller General of the United States, incorporating results from the Administrators' audit report and other relevant information including distribution company reports, shall conduct an in-depth evaluation and make available to the public a report on the investments made pursuant to paragraph (5). Said report shall be made available to the State regulatory authority, or the entity with authority to regulate or set retail electricity rates in the case of an electricity distribution company that is not regulated by a State regulatory authority, and shall include a description of how the distribution companies in the audit meet or fail to meet the requirement of paragraph (5), including for investments made in cost-effective end-use energy efficiency programs, the lifetime and annual energy saving benefits, and capacity benefits of said programs.

ˆ (C) ADMINISTRATOR COST CONTAINMENT REPORT- Not later than April 30, 2015 and every 3 years thereafter through 2026, the Administrator shall transmit a report to Congress containing an evaluation of the disposition of the value of emission allowances

received pursuant to this subsection and subsection (e) and recommendations of ways to more effectively direct the value of allowances to reduce costs for consumers, contain the overall costs of the greenhouse gas emissions reduction program, and meet the pollution reduction targets of the Act. The Administrator shall make available to the public such report, including by publishing such report on the Internet.

^ (9) ENFORCEMENT- A violation of any requirement of this subsection or of subsection (e), irrespective of approval by a State regulatory authority, shall be a violation of this Act. Each emission allowance the value of which is used in violation of the requirements of this subsection or of subsection (e) shall be a separate violation.

^ (c) Merchant Coal Units-

^ (1) QUALIFYING EMISSIONS- The qualifying emissions for a merchant coal unit for a given calendar year shall be the product of the number of megawatt hours of merchant coal unit sales generated by such unit in such calendar year and the average carbon dioxide emissions per megawatt hour generated by such unit during the base period under paragraph (2), provided that the number of megawatt hours in a given calendar year for purposes of such calculation shall be reduced in proportion to the portion of such unit's carbon dioxide emissions that are either--

^ (A) captured and sequestered in such calendar year; or

^ (B) attributable to the combustion or gasification of biomass, to the extent that the owner or operator of the unit is not required to hold emission allowances for such emissions.

^ (2) BASE PERIOD- For purposes of this subsection, the base period for a merchant coal unit shall be--

^ (A) calendar years 2006 through 2008; or

^ (B) in the case of a new merchant coal unit--

^ (i) the first full calendar year of operation of such unit, if such unit commences operation before January 1, 2012;

^ (ii) calendar year 2012, if such unit commences operation on or after January 1, 2012, and before October 1, 2012; or

^ (iii) calendar year 2013, if such unit commences operation on or after October 1, 2012, and before January 1, 2013.

^ (3) Phase-DOWN SCHEDULE- The Administrator shall identify an annual phase-down factor, applicable to distributions to merchant coal units for each of vintage years 2012 through 2029, that corresponds to the overall decline in the amount of emission allowances allocated to the electricity sector in such years pursuant to section 771(a)(1). Such factor shall--

^ (A) for vintage year 2012, be equal to 1.0;

^ (B) for each of vintage years 2013 through 2029, correspond to the quotient of--

^ (i) the quantity of emission allowances allocated under section 771(a)(1) for such vintage year; divided by

^ (ii) the quantity of emission allowances allocated under section 771(a)(1) for vintage year 2012.

^ (4) DISTRIBUTION OF EMISSION ALLOWANCES- Not later than March 1 of 2013 and each calendar year through 2030, the Administrator shall distribute emission allowances of the preceding vintage year to the owner or operator of each merchant coal unit described in subsection (a)(11)(C) in an amount equal to the product of--

^ (A) 0.5;

^ (B) the qualifying emissions for such merchant coal unit for the preceding year, as determined under paragraph (1); and

^ (C) the phase-down factor for the preceding calendar year, as identified under paragraph (3).

^ (5) ADJUSTMENT-

^ (A) STUDY- Not later than July 1, 2014, the Administrator, in consultation with the Federal Energy Regulatory Commission, shall complete a study to determine whether the allocation formula under paragraph (3) is resulting in, or is likely to result in, windfall profits to merchant coal generators or substantially disparate treatment of merchant coal generators operating in different markets or regions.

^ (B) REGULATION- If the Administrator, in consultation with the Federal Energy Regulatory Commission, makes an affirmative finding of windfall profits or disparate treatment under subparagraph (A), the Administrator shall, not later than 18 months after the completion of the study described in subparagraph (A), promulgate regulations providing for the adjustment of the allocation formula under paragraph (3) to mitigate, to the extent practicable, such windfall profits, if any, and such disparate treatment, if any.

^ (6) LIMITATION ON ALLOWANCES- Notwithstanding paragraph (4) or (5), for each vintage year the Administrator shall distribute under this subsection no more than 10 percent of the total quantity of emission allowances available for such vintage year for distribution to the electricity sector under section 771(a)(1). If the quantity of emission allowances that would otherwise be distributed pursuant to paragraph (4) or (5) for any vintage year would exceed such limit, the Administrator shall distribute 10 percent of the total emission allowances available for distribution under section 771(a)(1) for such vintage year ratably among merchant coal generators based on the applicable formula under paragraph (4) or (5).

^ (7) ELIGIBILITY- The owner or operator of a merchant coal unit shall not be eligible to receive emission allowances under this subsection for any vintage

year for which such owner or operator has elected to receive emission allowances for the same unit under subsection (d).

˘ (d) Long-Term Contract Generators-

˘ (1) DISTRIBUTION- Not later than March 1, 2013, and each calendar year through 2030, the Administrator shall distribute to the owner or operator of each long-term contract generator a quantity of emission allowances of the preceding vintage year that is equal to the sum of--

˘ (A) the number of tons of carbon dioxide emitted as a result of a qualifying electricity sales agreement referred to in subsection (a)(10)(B)(i); and

˘ (B) the incremental number of tons of carbon dioxide emitted solely as a result of a qualifying thermal sales agreement referred to in subsection (a)(10)(B)(ii), provided that in no event shall the Administrator distribute more than 1 emission allowance for the same ton of emissions.

˘ (2) LIMITATION ON ALLOWANCES- Notwithstanding paragraph (1), for each vintage year the Administrator shall distribute under this subsection no more than 4.3 percent of the total quantity of emission allowances available for such vintage year for distribution to the electricity sector under section 771(a)(1). If the quantity of emission allowances that would otherwise be distributed pursuant to paragraph (1) for any vintage year would exceed such limit, the Administrator shall distribute 4.3 percent of the total emission allowances available for distribution under section 771(a)(1) for such vintage year ratably among long-term contract generators based on paragraph (1).

˘ (3) ELIGIBILITY-

˘ (A) FACILITY ELIGIBILITY- The owner or operator of a facility shall cease to be eligible to receive emission allowances under this subsection upon the earliest date on which the facility no longer meets each and every element of the definition of a long-term contract generator under subsection (a)(10).

˘ (B) CONTRACT ELIGIBILITY- The owner or operator of a facility shall cease to be eligible to receive emission allowances under this subsection based on an electricity or thermal sales agreement referred to in subsection (a)(10)(B) upon the earliest date that such agreement--

˘ (i) expires;

˘ (ii) is terminated; or

˘ (iii) is amended in any way that changes the location of the facility, the price (whether a fixed price or price formula) for electricity or thermal energy sold under such agreement, the quantity of electricity or thermal energy sold under the agreement, or the expiration or termination date of the agreement.

^ (4) DEMONSTRATION OF ELIGIBILITY- To be eligible to receive allowance distributions under this subsection, the owner or operator of a long-term contract generator shall submit each of the following in writing to the Administrator within 180 days after the date of enactment of this title, and not later than September 30 of each vintage year for which such generator wishes to receive emission allowances:

^ (A) A certificate of representation described in section 700(15).

^ (B) An identification of each owner and each operator of the facility.

^ (C) An identification of the units at the facility and the location of the facility.

^ (D) A written certification by the designated representative that the facility meets all the requirements of the definition of a long-term contract generator.

^ (E) The expiration date of each qualifying electricity or thermal sales agreement referred to in subsection (a)(10)(B).

^ (F) A copy of each qualifying electricity or thermal sales agreement referred to in subsection (a)(10)(B).

^ (5) NOTIFICATION- Not later than 30 days after, in accordance with paragraph (3), a facility or an agreement ceases to meet the eligibility requirements for distribution of emission allowances pursuant to this subsection, the designated representative of such facility shall notify the Administrator in writing when, and on what basis, such facility or agreement ceased to meet such requirements.

^ (e) Small LDCs-

^ (1) DISTRIBUTION- The Administrator shall, in accordance with this subsection, distribute emission allowances allocated pursuant to section 771 (a)(1) for the following vintage year. Such allowances shall be distributed ratably among small LDCs based on historic emissions in accordance with the same measure of such emissions applied to each such small LDC for the relevant vintage year under subsection (b)(2) of this section.

^ (2) USES- A small LDC receiving allowances under this section shall use such allowances exclusively for the following purposes:

^ (A) Cost-effective programs to achieve electricity savings, provided that such savings shall not be transferred or used for compliance with any renewable electricity standard established under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

^ (B) Deployment of technologies to generate electricity from renewable energy resources, provided that any Federal renewable electricity credits issued based on generation supported under this section shall be submitted to the Federal Energy Regulatory Commission for voluntary retirement and shall not be used for compliance with the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

^ (C) Assistance programs to reduce electricity costs for low-income residential ratepayers of such small LDC, provided that such assistance is made available equitably to all residential ratepayers below a certain income level, which shall not be higher than 200 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

^ (3) REQUIREMENTS- As part of the regulations promulgated under subsection (g), the Administrator shall prescribe--

^ (A) after consultation with the Federal Energy Regulatory Commission, requirements to ensure that programs and projects under paragraph (2) (A) and (B) are consistent with the standards established by, and effectively supplement electricity savings and generation of electricity from renewable energy resources achieved by, the Combined Efficiency and Renewable Electricity Standard established by law;

^ (B) eligibility criteria and guidelines for consumer assistance programs for low-income residential ratepayers under paragraph (2)(C); and

^ (C) such other requirements as the Administrator determines appropriate to ensure compliance with the requirements of this subsection.

^ (4) REPORTING- Reports submitted under subsection (b)(7) shall include, in accordance with such requirements as the Administrator may prescribe--

^ (A) a description of any facilities deployed under paragraph (2)(A), the quantity of resulting electricity generation from renewable energy resources;

^ (B) an assessment demonstrating the cost-effectiveness of, and electricity savings achieved by, programs supported under paragraph (2)(B); and

^ (C) a description of assistance provided to low-income retail ratepayers under paragraph (2)(C).

^ (f) Certain Cogeneration Facilities-

^ (1) ELIGIBLE COGENERATION FACILITIES- For purposes of this subsection, an `eligible cogeneration facility' is a facility that--

^ (A) is a qualifying co-generation facility (as that term is defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B));

^ (B) derives 80 percent or more of its heat input from coal, petroleum coke, or any combination of these 2 fuels;

^ (C) has a nameplate capacity of 100 megawatts or greater;

^ (D) was in operation as of January 1, 2009, and remains in operation as of the date of any distribution of emission allowances under this subsection;

^ (E) in calendar years 2006 through 2008 sold, and as of the date of any distribution of emission allowances under this section sells, steam or electricity directly and solely to multiple, separately owned industrial or commercial facilities co-located at the same site with the cogeneration facility; and

^ (F) is not eligible to receive allowances under any other subsection of this section or under part F of this title.

^ (2) DISTRIBUTION- The Administrator shall distribute the emission allowances allocated pursuant to section 771(a)(1) to owners or operators of eligible cogeneration facilities ratably based on the carbon dioxide emissions of each such facility in calendar years 2006 through 2008. The Administrator-

^ (A) shall not, in any year, distribute emission allowances under this subsection to the owner or operator of any eligible cogeneration facility in excess of the amount necessary to offset such facility's cost of compliance with the requirements of this title in that year; and

^ (B) may distribute such allowances over a period of years if annual distributions under this subsection would otherwise exceed the limitation in subparagraph (A), provided that in no event shall distributions be made under this subsection after calendar year 2025.

^ (3) REQUIREMENTS- The Administrator shall, by regulation, establish requirements to ensure that the value of any emission allowances distributed pursuant to this subsection are passed through, on an equitable basis, to the facilities to which the relevant cogeneration facility provides electricity or steam deliveries, including any facility owned or operated by the owner or operator of the cogeneration facility.

^ (g) Regulations- Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with the Federal Energy Regulatory Commission, shall promulgate regulations to implement the requirements of this section.

^ SEC. 773. NATURAL GAS CONSUMERS.

^ (a) Definition- For purposes of this section, the term 'cost-effective', with respect to an energy efficiency program, means that the program meets the Total Resource Cost Test, which requires that the net present value of economic benefits over the life of the program, including avoided supply and delivery costs and deferred or avoided investments, is greater than the net present value of the economic costs over the life of the program, including program costs and incremental costs borne by the energy consumer.

^ (b) Allocation- Not later than June 30, 2015, and each calendar year thereafter through 2028, the Administrator shall distribute to natural gas local distribution companies for the benefit of retail ratepayers the quantity of emission allowances allocated for the following vintage year pursuant to section 771(a)(2). Such allowances shall be distributed among local natural gas distribution companies based on the following formula:

^ (1) INITIAL FORMULA- Except as provided in paragraph (2), for each vintage year, the Administrator shall distribute emission allowances among natural gas local distribution companies on a pro rata basis based on each such company's annual average retail natural gas deliveries for 2006 through 2008, unless the owner or operator of the company selects 3 other consecutive years between 1999 and 2008, inclusive, and timely notifies the Administrator of its selection.

^ (2) UPDATING- Prior to distributing 2019 vintage emission allowances and at 3-year intervals thereafter, the Administrator shall update the distribution formula under this subsection to reflect changes in each natural gas local distribution company's service territory since the most recent formula was established. For each successive 3-year period, the Administrator shall distribute allowances on a pro rata basis among natural gas local distribution companies based on the product of--

^ (A) each natural gas local distribution company's average annual natural gas deliveries per customer during calendar years 2006 through 2008, or during the 3 alternative consecutive years selected by such company under paragraph (1); and

^ (B) the number of customers of such natural gas local distribution company in the most recent year in which the formula is updated under this paragraph.

^ (c) Use of Allowances-

^ (1) RATEPAYER BENEFIT- Emission allowances distributed to a natural gas local distribution company under this section shall be used exclusively for the benefit of retail ratepayers of such natural gas local distribution company and may not be used to support natural gas sales or deliveries to entities or persons other than such ratepayers.

^ (2) RATEPAYER CLASSES- In using emission allowances distributed under this section for the benefit of ratepayers, a natural gas local distribution company shall ensure that ratepayer benefits are distributed--

^ (A) among ratepayer classes on a pro rata basis based on natural gas deliveries to each class; and

^ (B) equitably among individual ratepayers within each ratepayer class.

^ (3) LIMITATION- A natural gas local distribution company shall not use the value of emission allowances distributed under this section to provide to any ratepayer a rebate that is based solely on the quantity of natural gas delivered to such ratepayer. To the extent a natural gas local distribution company uses the value of emission allowances distributed under this section to provide rebates, it shall, to the maximum extent practicable, provide such rebates with regard to the fixed portion of ratepayers' bills or as a fixed creditor rebate on natural gas bills.

^ (4) ENERGY EFFICIENCY PROGRAMS- The value of no less than one-third of the emission allowances distributed to natural gas local distribution

companies pursuant to this section in any calendar year shall be used for cost-effective energy efficiency programs for natural gas consumers. Such programs must be authorized and overseen by the State regulatory authority, or by the entity with regulatory authority over retail natural gas rates in the case of a natural gas local distribution company that is not regulated by a State regulatory authority.

^ (5) GUIDELINES- As part of the regulations promulgated under subsection (h), the Administrator shall prescribe specific guidelines for the implementation of the requirements of this subsection.

^ (d) Regulatory Proceedings-

^ (1) REQUIREMENT- No natural gas local distribution company shall be eligible to receive emission allowances under this section unless the State regulatory authority with authority over such company, or the entity with authority to regulate retail rates of a natural gas local distribution company not regulated by a State regulatory authority, has--

^ (A) promulgated a regulation or completed a rate proceeding (or the equivalent, in the case of a ratemaking entity other than a State regulatory authority) that provides for the full implementation of the requirements of subsection (c); and

^ (B) made available to the Administrator and the public a report describing, in adequate detail, the manner in which the requirements of subsection (c) will be implemented.

^ (2) UPDATING- The Administrator shall require, as a condition of continued receipt of emission allowances under this section, that a new regulation be promulgated or rate proceeding be completed, and a new report be made available to the Administrator and the public, pursuant to paragraph (1), not less frequently than every 5 years.

^ (e) Plans and Reporting-

^ (1) REGULATIONS- As part of the regulations promulgated under subsection (h), the Administrator shall prescribe requirements governing plans and reports to be submitted in accordance with this subsection.

^ (2) PLANS- Not later than April 30, 2015, and every 5 years thereafter through 2025, each natural gas local distribution company shall submit to the Administrator a plan, approved by the State regulatory authority or other entity charged with regulating the retail rates of such company, describing such company's plans for the disposition of the value of emission allowances to be received pursuant to this section, in accordance with the requirements of this section.

^ (3) REPORTS- Not later than June 30, 2017, and each calendar year thereafter through 2031, each natural gas local distribution company shall submit a report to the Administrator, approved by the relevant State regulatory authority or other entity charged with regulating the retail natural gas rates of such company, describing the disposition of the value of any

emission allowances received by such company in the prior calendar year pursuant to this subsection, including--

` (A) a description of sales, transfer, exchange, or use by the company for compliance with obligations under this title, of any such emission allowances;

` (B) the monetary value received by the company, whether in money or in some other form, from the sale, transfer, or exchange of emission allowances received by the company under this section;

` (C) the manner in which the company's disposition of emission allowances received under this subsection complies with the requirements of this section, including each of the requirements of subsection (c);

` (D) the cost-effectiveness of, and energy savings achieved by, energy efficiency programs supported through such emission allowances; and

` (E) such other information as the Administrator may require pursuant to paragraph (1).

` (4) PUBLICATION- The Administrator shall make available to the public all plans and reports submitted by natural gas local distribution companies under this subsection, including by publishing such plans and reports on the Internet.

` (f) Auditing-

` (1) ADMINISTRATOR AUDIT REPORT- Each year, the Administrator shall audit a significant representative sample of natural gas local distribution companies to ensure that emission allowances distributed under this section have been used exclusively for the benefit of retail ratepayers and that such companies are complying with the requirements of this section. In selecting companies for audit, the Administrator shall take into account any credible evidence of noncompliance with such requirements. The Administrator shall make available to the public a report describing the results of each such audit, including by publishing such report on the Internet.

` (2) GAO AUDIT REPORT- Not later April 30, 2015 and every 3 years thereafter through April 30, 2026, the Comptroller General of the United States, incorporating results from the Administrators' audit report and other relevant information including distribution company reports, shall conduct an in-depth evaluation and make available to the public a report on the investments made pursuant to subsection (c). Said report shall be made available to the State regulatory authority, or the entity with authority to regulate or set retail natural gas rates in the case of a natural gas distribution company that is not regulated by a State regulatory authority, and shall include a description how the distribution companies in the audit meet or fail to meet the requirement of subsection (c), including for investments made in cost-effective end-use energy efficiency programs, the lifetime and annual energy saving benefits, and capacity benefits of said programs.

^ (3) ADMINISTRATOR COST CONTAINMENT REPORT- Not later April 30, 2015, and every 3 years thereafter through April 30, 2026, the Administrator shall transmit a report to Congress containing an evaluation of the disposition of the value of emission allowances received pursuant to this subsection and recommendations of ways to more effectively direct the value of allowances to reduce costs for consumers, contain the overall costs of the greenhouse gas emissions reduction program, and meet the pollution reduction targets of the Act. The Administrator shall make available to the public such report, including by publishing such report on the Internet.

^ (g) Enforcement- A violation of any requirement of this section, irrespective of approval by a State regulatory authority, shall be a violation of this Act. Each emission allowance the value of which is used in violation of the requirements of this section shall be a separate violation.

^ (h) Regulations- Not later than January 1, 2014, the Administrator, in consultation with the Federal Energy Regulatory Commission, shall promulgate regulations to implement the requirements of this section.

^ **SEC. 774. HOME HEATING OIL AND PROPANE CONSUMERS.**

^ (a) Definitions- For purposes of this section:

^ (1) CARBON CONTENT- The term 'carbon content' means the amount of carbon dioxide that would be emitted as a result of the combustion of a fuel.

^ (2) COST-EFFECTIVE- The term 'cost-effective' has the meaning given that term in section 773(a).

^ (b) Allocation- The Administrator shall distribute among the States, in accordance with this section, the quantity of emission allowances allocated pursuant to section 771(a)(3). The Administrator shall distribute a percentage of such allowances determined by the Administrator, after consultation with the Secretary of the Interior, pursuant to subsection (f).

^ (c) Distribution Among States- The Administrator shall distribute emission allowances among the States under this section each year on a pro rata basis based on the ratio of--

^ (1) the carbon content of home heating oil and propane sold to consumers within each State in the preceding year for residential or commercial uses; to

^ (2) the carbon content of home heating oil and propane sold to consumers within the United States in the preceding year for residential or commercial uses.

^ (d) Use of Allowances-

^ (1) IN GENERAL- States shall use emission allowances distributed under this section exclusively for the benefit of consumers of home heating oil or propane for residential or commercial purposes. Such proceeds shall be used exclusively for--

^ (A) cost-effective energy efficiency programs for consumers that use home heating oil or propane for residential or commercial purposes; or

^ (B) rebates or other direct financial assistance programs for consumers of home heating oil or propane used for residential or commercial purposes.

^ (2) ADMINISTRATION AND DELIVERY MECHANISMS- In administering programs supported by this section, States shall--

^ (A) use no less than 50 percent of the value of emission allowances received under this section for cost-effective energy efficiency programs to reduce consumers' overall fuel costs;

^ (B) to the extent practicable, deliver consumer support under this section through existing energy efficiency and consumer energy assistance programs or delivery mechanisms, including, where appropriate, programs or mechanisms administered by parties other than the State; and

^ (C) seek to coordinate the administration and delivery of energy efficiency and consumer energy assistance programs supported under this section, with one another and with existing programs for various fuel types, so as to deliver comprehensive, fuel-blind, coordinated programs to consumers.

^ (e) Reporting- Each State receiving emission allowances under this section shall submit to the Administrator, within 12 months of each receipt of such allowances, a report, in accordance with such requirements as the Administrator may prescribe, that--

^ (1) describes the State's use of emission allowances distributed under this section, including a description of the energy efficiency and consumer assistance programs supported with such allowances;

^ (2) demonstrates the cost-effectiveness of, and the energy savings achieved by, energy efficiency programs supported under this section; and

^ (3) includes a report prepared by an independent third party, in accordance with such regulations as the Administrator may promulgate, evaluating the performance of the energy efficiency and consumer assistance programs supported under this section.

^ (f) Enforcement- If the Administrator determines that a State is not in compliance with this section, the Administrator may withhold a portion of the emission allowances, the quantity of which is equal to up to twice the quantity of the allowances that the State failed to use in accordance with the requirements of this section, that such State would otherwise be eligible to receive under this section in later years. Allowances withheld pursuant to this subsection shall be distributed among the remaining States on a pro rata basis in accordance with the formula in subsection (c).

SEC. 775. DOMESTIC FUEL PRODUCTION.

(a) Purpose- The purpose of this section is to provide emission allowance rebates to petroleum refineries in the United States in a manner that promotes energy efficiency and a reduction in greenhouse gas emissions at such facilities.

(b) Definitions- In this section:

(1) EMISSIONS- The term 'emissions' includes direct emissions from fuel combustion, process emissions, and indirect emissions from the generation of electricity, steam, and hydrogen used to produce the output of a petroleum refinery or the petroleum refinery sector.

(2) PETROLEUM REFINERY- The term 'petroleum refinery' means a facility classified under code 324110 of the North American Industrial Classification System of 2002.

(3) SMALL BUSINESS REFINER- The term 'small business refiner' means a refiner that meets the applicable Federal refinery capacity and employee limitations criteria described in section 45H(c)(1) of the Internal Revenue Code of 1986 (as in effect on the date of enactment of this section and without regard to section 45H(d)). Eligibility of a small business refiner under this paragraph shall not be recalculated or disallowed on account of (i) its merger with another small business refiner or refiners after December 31, 2002, or (ii) its acquisition of another small business refiner (or refinery of such refiner) after December 31, 2002.

(c) In General- The Administrator shall distribute allowances pursuant to this section to owners and operators of petroleum refineries, including small business refiners, in the United States.

(d) Distribution Schedule- The Administrator shall distribute emission allowances pursuant to the regulations issued under subsection (e) for each vintage year no later than October 31 of the preceding calendar year.

(e) Regulations- Not later than 3 years after the date of enactment of this title, the Administrator, in consultation with the Administrator of the Energy Information Administration, shall promulgate regulations that establish a formula for distributing emission allowances consistent with the purpose of this section. In establishing such formula, the Administrator shall consider the relative complexity of refinery processes and appropriate mechanisms to take energy efficiency and greenhouse gas reductions into account. If a petroleum refinery's electricity provider received a free allocation of emission allowances pursuant to section 771(a)(1), the Administrator shall take this free allocation into account when establishing such formula to avoid rebates to a petroleum refinery for costs that the Administrator determines were not incurred by the petroleum refinery because the allowances were freely allocated to the petroleum refinery's electricity provider and used for the benefit of the petroleum refinery. This formula shall apply separately to the distribution of allowances allocated pursuant to section 771(a)(4), including for petroleum refiners and small business refiners.

SEC. 776. CONSUMER PROTECTION.

^ (a) Consumer Rebates-

^ (1) ESTABLISHMENT OF FUND- There is established in the Treasury a separate account, to be known as the `Consumer Rebate Fund').

^ (2) AVAILABILITY OF AMOUNTS- All amounts deposited in the Consumer Rebate Fund shall be available without further appropriation or fiscal year limitation.

^ (3) DISTRIBUTION OF AMOUNTS- Beginning in 2026, for each year after deposits are made in the Consumer Rebate Fund pursuant to section 771(b)(2)(A), the President shall use the funds in accordance with Federal statutory authority to provide relief to consumers and others affected by the enactment of the Clean Energy Jobs and American Power Act (and amendments made by that Act).

^ (b) Energy Refund Program-

^ (1) ESTABLISHMENT OF FUND- There is established in the Treasury a separate account, to be known as the `Energy Refund Account').

^ (2) AVAILABILITY OF AMOUNTS- All amounts deposited in the Energy Refund Account shall be available without further appropriation or fiscal year limitation.

^ (3) DISTRIBUTION OF AMOUNTS- For each year after deposits are made to the Energy Refund Account pursuant to section 771(b)(2)(B), the President shall use the funds in accordance with Federal statutory authority to offset energy cost impacts on low- and moderate-income households.

^ SEC. 777. EXCHANGE FOR STATE-ISSUED ALLOWANCES.

^ (a) In General- Not later than 1 year after the date of enactment of this title, the Administrator shall issue regulations allowing any person in the United States to exchange greenhouse gas emission allowances issued before the later of December 31, 2011, or the date that is 9 months after the first auction under section 778, by the State of California or for the Regional Greenhouse Gas Initiative, or the Western Climate Initiative (in this section referred to as `State allowances') for emission allowances established by the Administrator under section 721(a).

^ (b) Regulations- Regulations issued under subsection (a) shall--

^ (1) provide that a person exchanging State allowances under this section receive emission allowances established under section 721(a) in the amount that is sufficient to compensate for the cost of obtaining and holding such State allowances;

^ (2) establish a deadline by which persons must exchange the State allowances;

^ (3) provide that the Federal emission allowances disbursed pursuant to this section shall be deducted from the allowances to be auctioned pursuant to section 771(b); and

^ (4) require that, once exchanged, the credit or other instrument be retired for purposes of use under the program by or for which it was originally issued.

^ (c) Cost of Obtaining State Allowance- For purposes of this section, the cost of obtaining a State allowance shall be the average auction price, for emission allowances issued in the year in which the State allowance was issued, under the program under which the State allowance was issued.

^ **SEC. 778. AUCTION PROCEDURES.**

^ (a) In General- To the extent that auctions of emission allowances by the Administrator are authorized by this part, such auctions shall be carried out pursuant to this section and the regulations established hereunder.

^ (b) Initial Regulations- Not later than 12 months after the date of enactment of this title, the Administrator, in consultation with other agencies, as appropriate, shall promulgate regulations governing the auction of allowances under this section. Such regulations shall include the following requirements:

^ (1) FREQUENCY; FIRST AUCTION- Auctions shall be held four times per year at regular intervals, with the first auction to be held no later than March 31, 2011.

^ (2) AUCTION SCHEDULE; CURRENT AND FUTURE VINTAGES- The Administrator shall, at each quarterly auction under this section, offer for sale both a portion of the allowances with the same vintage year as the year in which the auction is being conducted and a portion of the allowances with vintage years from future years. The preceding sentence shall not apply to auctions held before 2012, during which period, by necessity, the Administrator shall auction only allowances with a vintage year that is later than the year in which the auction is held. Beginning with the first auction and at each quarterly auction held thereafter, the Administrator may offer for sale allowances with vintage years of up to 4 years after the year in which the auction is being conducted.

^ (3) AUCTION FORMAT- Auctions shall follow a single-round, sealed-bid, uniform price format.

^ (4) PARTICIPATION; FINANCIAL ASSURANCE- Auctions shall be open to any person, except that the Administrator may establish financial assurance requirements to ensure that auction participants can and will perform on their bids.

^ (5) DISCLOSURE OF BENEFICIAL OWNERSHIP- Each bidder in the auction shall be required to disclose the person or entity sponsoring or benefitting from the bidder's participation in the auction if such person or entity is, in whole or in part, other than the bidder.

^ (6) PURCHASE LIMITS- No person may, directly or in concert with another participant, purchase more than 5 percent of the allowances offered for sale at any quarterly auction.

^ (7) PUBLICATION OF INFORMATION- After the auction, the Administrator shall, in a timely fashion, publish the identities of winning bidders, the quantity of allowances obtained by each winning bidder, and the auction clearing price.

^ (8) OTHER REQUIREMENTS- The Administrator may include in the regulations such other requirements or provisions as the Administrator, in consultation with other agencies, as appropriate, considers appropriate to promote effective, efficient, transparent, and fair administration of auctions under this section.

^ (c) Revision of Regulations- The Administrator may, in consultation with other agencies, as appropriate, at any time, revise the initial regulations promulgated under subsection (b) by promulgating new regulations. Such revised regulations need not meet the requirements identified in subsection (b) if the Administrator determines that an alternative auction design would be more effective, taking into account factors including costs of administration, transparency, fairness, and risks of collusion or manipulation. In determining whether and how to revise the initial regulations under this subsection, the Administrator shall not consider maximization of revenues to the Federal Government.

^ (d) Reserve Auction Price- The minimum reserve auction price shall be \$10 (in constant 2005 dollars) for auctions occurring in 2012. The minimum reserve price for auctions occurring in years after 2012 shall be the minimum reserve auction price for the previous year increased by 5 percent plus the rate of inflation (as measured by the Consumer Price Index for all urban consumers).

^ (e) Delegation or Contract- Pursuant to regulations under this section, the Administrator may by delegation or contract provide for the conduct of auctions under the Administrator's supervision by other departments or agencies of the Federal Government or by nongovernmental agencies, groups, or organizations.

^ (f) Small Business Refiner Reserve- The Administrator shall, in accordance with this subsection, issue regulations setting aside a specified number of allowances, as determined by the Administrator, that small business refiners may purchase at the average auction price and may use to demonstrate compliance pursuant to section 722. These regulations shall provide the following:

^ (1) ALLOWED PURCHASES- From January 1 of the calendar year that matches the vintage year for which allowances have been placed in the reserve, through January 14 of the following year, small business refiners (as defined in section 775(b)) may purchase allowances from this reserve at the price determined pursuant to paragraph (2).

^ (2) PRICE- The price for allowances purchased from this reserve shall be the average auction price for allowances of the same vintage year purchased at auctions conducted pursuant to this section during the 12 months preceding the purchase of the allowances.

^ (3) USE OF ALLOWANCES- Allowances purchased from this reserve shall only be used by the purchaser to demonstrate compliance pursuant to section 722 for attributable greenhouse gas emissions in the calendar year that

matches the vintage year of the purchased allowance. Allowances purchased from this reserve may not be banked, traded or borrowed.

^ (4) LIMITATIONS ON PURCHASE AMOUNT- The Administrator, by regulation adopted after public notice and an opportunity for comment, shall establish procedures to distribute the ability to purchase allowances from the reserve fairly among all small business refiners interested in purchasing allowances from this reserve so as to address the potential that requests to purchase allowances exceed the number of allowances available in the reserve. This regulation may place limits on the number of allowances a small business refiner may purchase from the reserve.

^ (5) UNSOLD ALLOWANCES- Vintage year allowances not sold from the reserve on or before January 15 of the calendar year following the vintage year shall be sold at an auction conducted pursuant to this section no later than March 31 of the calendar year following the vintage year. If significantly more allowances are being placed in the reserve than are being purchased from the reserve several years in a row, the Administrator may adjust either the percent of allowances placed in the reserve or the date by which allowances may be purchased from the reserve.

^ SEC. 779. AUCTIONING ALLOWANCES FOR OTHER ENTITIES.

^ (a) Consignment- Any entity holding emission allowances or compensatory allowances may request that the Administrator auction, pursuant to section 778, the allowances on consignment.

^ (b) Pricing- When the Administrator acts under this section as the agent of an entity in possession of emission allowances, the Administrator is not obligated to obtain the highest price possible for the emission allowances, and instead shall auction consignment allowances in the same manner and pursuant to the same rules as auctions of other allowances under section 778. The Administrator may permit the entity offering the allowance for sale to condition the sale of its allowances pursuant to this section on a minimum reserve price that is different than the reserve auction price set pursuant to section 778(d).

^ (c) Proceeds- For emission allowances and compensatory allowances auctioned pursuant to this section, notwithstanding section 3302 of title 31, United States Code, or any other provision of law, within 90 days of receipt, the United States shall transfer the proceeds from the auction to the entity which held the allowances auctioned. No funds transferred from a purchaser to a seller of emission allowances or compensatory allowances under this subsection shall be held by any officer or employee of the United States or treated for any purpose as public monies.

^ (d) Regulations- The Administrator shall issue regulations within 24 months after the date of enactment of this title to implement this section.

^ SEC. 780. COMMERCIAL DEPLOYMENT OF CARBON CAPTURE AND SEQUESTRATION TECHNOLOGIES.

^ (a) Definitions- In this section:

^ (1) CARBON CAPTURE AND STORAGE- The term `carbon capture and sequestration' shall--

^ (A) have such term as Administrator shall determine by regulation; and

^ (B) include--

^ (i) geological sequestration; and

^ (ii) conversion of captured carbon dioxide to a stable form that will safely and permanently sequester the carbon dioxide.

^ (2) QUALIFYING ELECTRIC GENERATING UNIT- The term `qualifying electric generating unit' means an electric utility unit that--

^ (A) derives at least 50 percent of the annual fuel input of the unit from --

^ (i) coal or waste coal;

^ (ii) petroleum coke; or

^ (iii) any combination of those 2 fuels; and

^ (B)(i) has a nameplate capacity of 200 megawatts or more; or

^ (ii) in the case of retrofit applications, the carbon capture and sequestration technology is applied to the flue gas or fuel gas stream from at least 200 megawatts of the total nameplate generating capacity of the unit.

^ (3) QUALIFYING INDUSTRIAL SOURCE- The term `qualifying industrial source' means a source that--

^ (A) is not a qualifying electric generating unit;

^ (B) absent carbon capture and sequestration, would emit greater than 50,000 tons per year of carbon dioxide; and

^ (C) does not produce a liquid transportation fuel from a solid fossil-based feedstock.

^ (4) TREATED GENERATING CAPACITY-

^ (A) IN GENERAL- The term `treated generating capacity' means the portion of the total generating capacity of an electric generating unit (or industrial source, measured by such method as the Administrator may designate to be equivalent to the calculation under subparagraph (B)) for which the flue gas or fuel gas is treated by the carbon capture and sequestration technology.

^ (B) CALCULATION- In determining the treated portion of flue gas or fuel gas of an electric generating unit under subparagraph (A), the

Administrator shall multiply the nameplate capacity of the unit by the ratio that--

^ (i) the mass of flue gas or fuel gas that is treated by the carbon capture and sequestration technology; bears to

^ (ii) the total mass of the flue gas or fuel gas that is produced when the unit is operating at maximum capacity.

^ (b) Regulations- Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations providing for the distribution of emission allowances allocated under section 771(a)(6), pursuant to the requirements of this section, to support the commercial deployment of carbon capture and sequestration technologies in electric power generation and industrial operations.

^ (c) Eligibility Criteria and Method of Distribution-

^ (1) ELIGIBILITY- For an owner or operator of a project to be eligible to receive emission allowances under this section, the project shall--

^ (A) implement carbon capture and sequestration technology--

^ (i) at a qualifying electric generating unit that, upon implementation of the carbon capture and sequestration technology, will achieve an emission limitation that is at least a 50-percent reduction in emissions of the carbon dioxide produced by--

^ (I) the unit, measured on an annual basis, as determined by the Administrator; or

^ (II) in the case of retrofit applications described in subsection (a)(2)(B)(ii), the treated portion of flue gas from the unit, measured on an annual basis, as determined by the Administrator; or

^ (ii) at a qualifying industrial source that, upon implementation, will achieve an emission limitation that is at least a 50-percent reduction in emissions of the carbon dioxide produced by the emission point, measured on an annual basis, as determined by the Administrator;

^ (B)(i) geologically sequester carbon dioxide at a site that meets all applicable permitting and certification requirements for geological sequestration; or

^ (ii) pursuant to such requirements as the Administrator may prescribe by regulation, convert captured carbon dioxide to a stable form that will safely and permanently sequester the carbon dioxide;

^ (C) meet all other applicable State, tribal, and Federal permitting requirements; and

^ (D) be located in the United States.

^ (2) METHOD OF DISTRIBUTION-

^ (A) PERIOD- The Administrator shall distribute emission allowances allocated under section 771(a)(6) to eligible projects for each of the first 10 calendar years for which each eligible project is in commercial operation.

^ (B) BONUS ALLOWANCE FORMULA FOR ELECTRIC GENERATING UNITS

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^ (i) PHASE I DISTRIBUTION- For each project that is certified under subsection (h), the quantity of emission allowances that the Administrator shall distribute for a calendar year to the owner or operator of the eligible project shall be equal to the quotient obtained by dividing--

^ (I) the product obtained by multiplying--

^ (aa) the number of metric tons of carbon dioxide emissions avoided through capture and sequestration of emissions by the project for a particular year, as determined pursuant to such methodology as the Administrator shall prescribe by regulation; and

^ (bb) a bonus allowance value that is assigned to the project under subsection (d)(2); by

^ (II) the average fair market value of an emission allowance during the calendar year preceding the year during which the project captured and sequestered the carbon dioxide emissions.

^ (ii) PHASE II DISTRIBUTION- For each project that qualifies under subsection (e), the quantity of emission allowances that the Administrator shall distribute for a calendar year to the owner or operator of the eligible project shall be determined through--

^ (I) reverse auction, as prescribed by regulation under subsection (e)(3); or

^ (II) if the Administrator decides not to distribute allowances through a reverse auction, an alternate distribution method established by regulation under subsection (e)(4).

^ (C) FORMULA FOR INDUSTRIAL SOURCES- For each project that qualifies under subsection (g), the quantity of emission allowances that the Administrator shall distribute for a calendar year to the owner or operator of the eligible project shall be determined in accordance with subsection (g)(2).

^ (D) CONSISTENCY- The Administrator shall develop a method of distribution for each category of eligible projects under this paragraph in a manner that is consistent with the certification and distribution requirements under subsection (h).

^ (d) Phase I Distribution to Electric Generating Units-

˘ (1) APPLICABILITY-

˘ (A) IN GENERAL- Subject to subparagraph (B), this subsection shall apply to projects that are undertaken at qualifying electric generating units that the Administrator determines to be eligible to receive emission allowances under this section.

˘ (B) CAPACITY- The total cumulative generating capacity of the projects described in subparagraph (A) shall be equal to approximately 20 gigawatts of the treated generating capacity.

˘ (2) BONUS ALLOWANCE VALUES-

˘ (A) FIRST TRANCHE-

˘ (i) IN GENERAL- The first tranche shall include the first 10 gigawatts of treated generating capacity undertaken at qualifying electric generating units that receive emission allowances under this section.

˘ (ii) CERTAIN UNITS- For an eligible project achieving capture and sequestration of 90 percent or more of the carbon dioxide that otherwise would be emitted by the unit, the bonus allowance value shall be \$96 per ton of carbon dioxide emissions avoided through the use of capture and sequestration.

˘ (iii) BONUS ALLOWANCE VALUE- The Administrator shall establish, by regulation, a bonus allowance value for each rate of capture and sequestration achieved by an eligible project--

˘ (I) beginning at a minimum of \$50 per ton for a 50-percent rate; and

˘ (II) varying in direct proportion with increasing rates of capture and sequestration up to \$96 per ton for an 90-percent rate.

˘ (B) SECOND TRANCHE-

˘ (i) IN GENERAL- The second tranche shall include the second 10 gigawatts of treated generating capacity undertaken at qualifying electric generating units that receive emission allowances under this section.

˘ (ii) CERTAIN UNITS- For an eligible project achieving the capture and sequestration of 90 percent or more of the carbon dioxide that otherwise would be emitted by the eligible project, the bonus allowance value shall be \$85 per ton of carbon dioxide emissions avoided through the use of capture and sequestration.

˘ (iii) BONUS ALLOWANCE VALUE- The Administrator shall establish, by regulation, a bonus allowance value for each rate of capture and sequestration achieved by an eligible project--

ˆ (I) beginning at a minimum of \$50 per ton for a 50-percent rate; and

ˆ (II) varying in direct proportion with increasing rates of capture and sequestration up to \$85 per ton for a 90-percent rate.

ˆ (C) INCREASE IN BONUS ALLOWANCE VALUE- For an eligible project that commences commercial operation by not later than January 1, 2017, and that meets the eligibility criteria under subsection (c), the otherwise-applicable bonus allowance value under this paragraph shall be increased by \$10, if the owner or operator of the eligible project submits to the Administrator by not later than January 1, 2012, a notification of the intent to implement carbon capture and sequestration technology at a qualifying electric generating unit in accordance with subsection (c).

ˆ (D) REDUCTION-

ˆ (i) IN GENERAL- For a carbon capture and sequestration project sequestering in a geological formation for purposes of enhanced hydrocarbon recovery, the Administrator, by regulation, shall reduce the applicable bonus allowance value under this paragraph to reflect the lower net cost of the project, as compared to sequestration into geological formations solely for purposes of sequestration.

ˆ (ii) ASSESSMENT OF NET COST- For the purpose of this subparagraph, an assessment of net cost of a project shall account for the cost of the injection of carbon dioxide, or other method of enhanced hydrocarbon recovery, that would have otherwise been undertaken in the absence of the carbon capture and sequestration project under consideration.

ˆ (E) ADJUSTMENTS- The Administrator shall annually adjust for monetary inflation the bonus allowance values established under this paragraph.

ˆ (F) MEASUREMENT- The Administrator shall measure the tranches and capture levels for assigning the bonus allowance values under this subsection based on the treated generating capacity of the qualifying electric generating units and qualifying industrial sources that receive emission allowances under this subsection.

ˆ (G) AVERAGE FAIR MARKET VALUE-

ˆ (i) IN GENERAL- The Administrator and the Secretary of Energy may jointly determine that the average fair market value for emission allowances or the bonus allowances have been too low or too high to achieve efficient and cost-effective commercial deployment of carbon capture and sequestration technology in a given calendar year.

^ (ii) ACTION ON DETERMINATION- On making a determination under clause (i), the Administrator may--

^ (I) promulgate regulations to adjust the bonus allowance value under this paragraph; or

^ (II) distribute an appropriate quantity of emission allowances allocated under section 771(a)(6) from any future vintage year.

^ (e) Phase II Distribution to Electric Generating Units-

^ (1) APPLICATION- This subsection shall apply only to the distribution of emission allowances for carbon capture and sequestration projects undertaken at qualifying electric generating units and qualifying industrial sources after the treated generating capacity threshold identified under subsection (d)(1) is reached.

^ (2) REGULATIONS- Not later than 2 years before the date on which the capacity threshold identified in subsection (d)(1) is projected to be reached, the Administrator shall promulgate regulations to govern the distribution of emission allowances to the owners or operators of eligible projects under this subsection.

^ (3) REVERSE AUCTIONS-

^ (A) IN GENERAL- Except as provided in paragraph (4), the regulations promulgated pursuant to paragraph (2) shall provide for the distribution of emission allowances to the owners or operators of eligible projects under this subsection through at least 2 reverse auctions, each of which shall be held not less frequently than once each calendar year.

^ (B) REQUIREMENTS-

^ (i) PROJECTS AT INDUSTRIAL SOURCES- The Administrator shall annually establish a reverse auction for projects at industrial sources, which may not participate in other auctions.

^ (ii) OTHER AUCTIONS- The Administrator may establish a separate auction for each of not more than 5 different project categories, as defined based on--

^ (I) coal type;

^ (II) capture technology;

^ (III) geological formation type;

^ (IV) new unit versus retrofit application;

^ (V) such other factors as the Administrator may prescribe;
or

^ (VI) any combination of the factors described in subclauses (I) through (V).

^ (iii) EFFICIENT DISTRIBUTION- The Administrator shall establish procedures for the auction of emission allowances under this subparagraph to ensure that the establishment of separate auctions for different project categories will not unduly impede the efficient and expeditious distribution of emission allowances to eligible projects under this subsection.

^ (iv) MINIMUM RATES- The Administrator may establish appropriate minimum rates of capture and sequestration for the treated generating capacity of a project in implementing this subparagraph.

^ (C) AUCTION PROCESS- At each reverse auction under this paragraph-

^ (i) the Administrator shall solicit bids from eligible projects;

^ (ii) owners or operators of eligible projects participating in the auction shall submit a bid, including the desired level of carbon dioxide sequestration incentive per ton and the estimated quantity of carbon dioxide that the project will permanently sequester during a 10-year period; and

^ (iii) the Administrator shall select bids within each auction for the sequestration quantity submitted, beginning with the eligible project for which the bid is submitted for the lowest level of sequestration incentive on a per-ton basis and meeting such other requirements as the Administrator may specify, until the amounts available for the reverse auction are committed.

^ (D) FORM OF DISTRIBUTION- The Administrator shall distribute emission allowances to the owners or operators of eligible projects selected through a reverse auction under this paragraph pursuant to a formula equivalent to the formula contained in subsection (c)(2)(B), except that the bonus allowance value that is bid by the applicable entity shall be substituted for the bonus allowance values described in subsection (c)(2).

^ (4) ALTERNATIVE DISTRIBUTION METHOD-

^ (A) IN GENERAL- If the Administrator determines that a reverse auction will not result in efficient and cost-effective commercial deployment of carbon capture and sequestration technologies, the Administrator, pursuant to regulations under paragraph (2) or (5), shall prescribe a schedule for the provision of bonus allowances to the owners or operators of eligible projects under this subsection, in accordance with the requirements of this paragraph.

^ (B) MULTIPLE TRANCHES- The Administrator shall divide emission allowances available for distribution to the owners or operators of eligible projects into a series of tranches, each of which--

^ (i) shall support the deployment of a specified quantity of cumulative electric generating capacity using carbon capture and sequestration technology; and

^ (ii) shall not be greater than 10 gigawatts of treated generating capacity.

^ (C) METHOD OF DISTRIBUTION- The Administrator shall distribute emission allowances within each tranche, on a first-come, first-served basis--

^ (i) based on the date of full-scale operation of capture and sequestration technology; and

^ (ii) pursuant to a formula that--

^ (I) is similar to the formula contained in subsection (c)(2) (C), except that the Administrator may prescribe bonus allowance values different than those described in subsection (c)(2) based on the criteria established under subparagraph (E); and

^ (II) establishes the number of emission allowances to be distributed per ton of carbon dioxide sequestered by the project.

^ (D) REQUIREMENTS- For each tranche established pursuant to subparagraph (B), the Administrator shall establish a schedule for distributing emission allowances that--

^ (i) is based on a sliding scale that provides higher bonus allowance values for projects achieving higher rates of capture and sequestration for the treated generation capacity at the unit;

^ (ii) for each capture and sequestration rate, establishes a bonus allowance value that is lower than that established for the applicable rate for the previous tranche (or, in the case of the first tranche, than that established for the applicable rate under subsection (d)(2)); and

^ (iii) may establish different bonus allowance levels for not more than 5 different project categories, as defined based on--

^ (I) coal type;

^ (II) capture and transportation technology;

^ (III) geological formation type;

^ (IV) new unit versus retrofit application;

^ (V) such other factors as the Administrator may prescribe;
or

^ (VI) any combination of the factors described in subclauses
(I) through (V).

^ (E) CRITERIA FOR ESTABLISHING BONUS ALLOWANCE VALUES- In
establishing bonus allowance values under this paragraph, the
Administrator shall seek to cover not more than the reasonable
incremental capital and operating costs of a project that are attributable
to implementation of carbon capture, transportation, and sequestration
technologies, taking into account--

^ (i) the reduced cost of compliance with section 722;

^ (ii) the reduced cost associated with sequestering in a geological
formation for purposes of enhanced hydrocarbon recovery, as
compared to sequestration into geological formations solely for
purposes of sequestration;

^ (iii) the relevant factors defining the project category; and

^ (iv) such other factors as the Administrator determines to be
appropriate.

^ (5) REVISION OF REGULATIONS- The Administrator shall review and, as
appropriate, revise the applicable regulations under this subsection not less
frequently than once every 8 years.

^ (f) Limits for Certain Electric Generating Units-

^ (1) DEFINITIONS- In this subsection, the terms 'covered EGU' and 'initially
permitted' have the meanings given those terms in section 812.

^ (2) COVERED EGUS INITIALLY PERMITTED FROM 2009 THROUGH 2014- For
a covered EGU that is initially permitted during the period beginning on
January 1, 2009, and ending on December 31, 2014, the Administrator shall
reduce the quantity of emission allowances that the owner or operator of the
covered EGU would otherwise be eligible to receive under this section as
follows:

^ (A) In the case of a covered EGU commencing operation on or before
January 1, 2019, if the date in clause (ii)(I) is earlier than the date in
clause (ii)(II), by the product obtained by multiplying--

^ (i) 20 percent; and

^ (ii) the number of years, if any, that have elapsed between--

^ (I) the earlier of--

^ (aa) January 1, 2020; and

- ^ (bb) the date that is 5 years after the commencement of operation of the covered EGU; and
 - ^ (II) the first year that the covered EGU achieves (and thereafter maintains) an emission limitation that is at least a 50-percent reduction in emissions of carbon dioxide produced by the unit, measured on an annual basis, as determined in accordance with section 812(b)(2).
- ^ (B) In the case of a covered EGU commencing operation after January 1, 2019, by the product obtained by multiplying--
 - ^ (i) 20 percent; and
 - ^ (ii) the number of years, if any, that have elapsed between--
 - ^ (I) the commencement of operation of the covered EGU; and
 - ^ (II) the first year that the covered EGU achieves (and thereafter maintains) an emission limitation that is at least a 50-percent reduction in emissions of carbon dioxide produced by the unit, measured on an annual basis, as determined in accordance with section 812(b)(2).
- ^ (3) COVERED EGUS INITIALLY PERMITTED FROM 2015 THROUGH 2019- The owner or operator of a covered EGU that is initially permitted during the period beginning on January 1, 2015, and ending on December 31, 2019, shall be ineligible to receive emission allowances under this section if the covered EGU, on commencement of operations (and thereafter), does not achieve and maintain an emission limitation that is at least a 50-percent reduction in emissions of carbon dioxide produced by the covered EGU, measured on an annual basis, as determined in accordance with section 812(b)(2).
- ^ (g) Industrial Sources--
 - ^ (1) EMISSION ALLOWANCES- The Administrator--
 - ^ (A) may distribute not more than 15 percent of the emission allowances allocated under section 771(a)(6) for any vintage year to the owners or operators of eligible industrial sources to support the commercial-scale deployment of carbon capture and sequestration technologies at those sources; and
 - ^ (B) notwithstanding any other provision of law--
 - ^ (i) may distribute to eligible industrial sources not more than 15 percent of the emission allowances allocated under section 771(a)(6) for any vintage year in the second tranche of phase I; but
 - ^ (ii) may not distribute those allowances for any vintage year in the first tranche of phase I.

˘ (2) DISTRIBUTION-

˘ (A) IN GENERAL- The Administrator shall prescribe, by regulation, requirements for the distribution of emission allowances to the owners or operators of industrial sources under this subsection, based on a bonus allowance formula that awards emission allowances to qualifying projects on the basis of tons of carbon dioxide captured and permanently sequestered.

˘ (B) METHOD- The Administrator may provide for the distribution of emission allowances pursuant to--

˘ (i) a reverse auction method similar to the method described in subsection (e)(3), including the use of separate auctions for different project categories; or

˘ (ii) an incentive schedule similar to the schedule described in subsection (e)(4), which shall ensure that incentives are established so as to satisfy the requirement described in subsection (e)(4)(E).

˘ (3) REVISION OF REGULATIONS- The Administrator shall review and, as appropriate, revise the regulations under this subsection not less frequently than once every 8 years.

˘ (h) Certification and Distribution-

˘ (1) CERTIFICATION-

˘ (A) REQUEST-

˘ (i) PHASE I; ALTERNATIVE DISTRIBUTION METHOD- In the case of a qualifying project that is eligible to receive allowances under phase I or under subsection (e)(4), the owner or operator of the planned project may request from the Administrator a certification that the project is eligible to receive emission allowances under this section.

˘ (ii) REVERSE AUCTIONS- In the case of a qualifying project that wins a reverse auction under subsection (e) or (g), within a reasonably brief period following completion of the auction (as specified by the Administrator), the owner or operator of the qualifying project shall request from the Administrator a certification that the project is eligible to receive emission allowances under this section.

˘ (iii) ELIGIBLE PROJECTS- Eligible projects in phase I and phase II may receive certification under this paragraph.

˘ (iv) ISSUANCE- The Administrator shall issue a certification described in this subparagraph if the owner or operator demonstrates a commitment to construct and operate a project that satisfies--

- ˘ (I) the eligibility criteria of subsection (c); and

- ˘ (II) the requirements of this subsection.

- ˘ (B) DOCUMENTATION- The Administrator shall prescribe, by regulation, the documentation necessary for making a determination of project eligibility for the certification under subparagraph (A), including-

- ˘ (i) technical information regarding the capture and sequestration technology, coal type, geological formation type (if applicable), and other relevant design features of the project;

- ˘ (ii) the annual reductions in carbon dioxide emissions that the capture and sequestration technology is projected to achieve during each of the first 10 years of the project's commercial operation; and

- ˘ (iii) a demonstration that the owner or operator is committed to both constructing and operating the planned project on a timeline marked by reasonable capture and sequestration milestones, through the completion of 1 of the actions specified in subparagraph (C)(iii).

- ˘ (C) COMMITMENT-

- ˘ (i) IN GENERAL- Subject to clause (ii), the completion of any 1 of the qualifying actions specified under clause (iii) shall constitute a commitment to construct and operate a planned carbon capture and sequestration project.

- ˘ (ii) CONDITION- In the case of a qualifying action specified in subclause (I) or (II) of clause (iii), the completion of such an action may be subject to a condition that the Administrator will issue a certification under this paragraph for the distribution of emission allowances to the project.

- ˘ (iii) QUALIFYING ACTIONS- Qualifying actions under this subparagraph shall include--

- ˘ (I) the execution of--

- ˘ (aa) a commitment by lenders or other appropriate entities to finance the project, which may be subject to customary closing conditions that are associated with the execution of the commitment; and

- ˘ (bb) a commitment by the owner or operator of the project to execute a surety bond in sufficient amounts by not later than 2 years after the date on which the Administrator issues the certification for the project; or

- ˘ (II) an authorization by a State regulatory authority to allow recovery, from the retail customers of such electric utility, of the costs of the project by a State-regulated electric utility that plans to construct the project.

˘ (D) FAILURE TO REQUEST CERTIFICATION-

˘ (i) IN GENERAL- An owner or operator may elect not to request a certification on the eligibility of a planned project under subparagraph (A) prior to the commercial operation of the project.

˘ (ii) DETERMINATION BY ADMINISTRATOR- If an owner or operator elects not to request a certification under clause (i), the Administrator shall make a determination regarding whether the project satisfies the eligibility requirements of subsection (c) at the time that the Administrator makes a determination regarding the annual distribution of emission allowances under paragraph (3)(A).

˘ (2) RESERVATION OF EMISSION ALLOWANCES-

˘ (A) AMOUNT-

˘ (i) IN GENERAL- For each project that receives a certification of eligibility under paragraph (1), the Administrator shall reserve on a first-come, first-served basis a portion of the emission allowances that are allocated for the deployment of carbon capture and sequestration technology under section 771(a)(6).

˘ (ii) DETERMINATION- The reservation of emission allowances for a particular eligible project under this paragraph shall be equal to the number of emission allowances that the project is entitled to receive under the applicable distribution method under this section upon commercial operation of the carbon capture and sequestration technology, as determined by the Administrator based on--

˘ (I) the applicable bonus allowance value;

˘ (II) the number of tons of carbon dioxide emissions projected to be captured and sequestered each calendar year under paragraph (1)(B)(i)(II); and

˘ (III) a discount rate to account for the monetary inflation that may be expected to occur during each of the relevant 10 calendar years, as determined by the Administrator.

˘ (B) TERMINATION OF RESERVATION-

˘ (i) IN GENERAL- A reservation of emission allowances for a particular project under subparagraph (A) shall terminate if the owner or operator fails to achieve reasonable milestones for commencing construction or commercial operation of the project, as specified under paragraph (1)(B)(i)(III).

˘ (ii) REDUCED QUANTITY OF CARBON DIOXIDE CAPTURED AND SEQUESTERED- If the quantity of carbon dioxide captured and sequestered by a project on average over 3 consecutive vintage years is less than the quantity estimated for those vintage years under subparagraph (A), the reservation of emission allowances

for the project under subparagraph (A) shall be reduced in future years by the difference between--

^ (I) the quantity of carbon dioxide captured and sequestered on average over the applicable 3 consecutive years; and

^ (II) the quantity estimated under subparagraph (A) for the applicable years.

^ (iii) AVAILABILITY- The Administrator shall immediately make available to other eligible projects emission allowances for which the Administrator has terminated an emission allowance reservation for a particular project under this subparagraph.

^ (3) DISTRIBUTION PROCESS-

^ (A) ANNUAL DISTRIBUTION- The Administrator shall distribute the emission allowances to eligible projects on an annual basis.

^ (B) BASIS- The annual distribution of emission allowances shall be based on the total tons of carbon dioxide that the project annually captures and sequesters during each of the first 10 years of commercial operation, in accordance with subsection (c)(2).

^ (C) TOTAL DISTRIBUTION AMOUNT- The total amount of emission allowances distributed to an eligible project for each of the first 10 years of commercial operation may be greater than, or less than, the quantity of emissions allowances that the Administrator has reserved for the eligible project under paragraph (2).

^ (D) REPORTS-

^ (i) IN GENERAL- Except as provided in subparagraph (B), the Administrator shall make each annual distribution of emission allowances by not later than 90 days after the date on which the owner or operator of a project submits to the Administrator a report regarding the carbon dioxide emissions captured and sequestered for a particular year by the project.

^ (ii) REQUIREMENT- A report under subclause (I) shall be verified in accordance with regulations to be promulgated by the Administrator.

^ (i) Limitations-

^ (1) IN GENERAL- Emission allowances shall be distributed under this section only for tons of carbon dioxide emissions that have already been captured and sequestered.

^ (2) PERIOD- A qualifying project may receive annual emission allowances under this section only for the first 10 years of operation.

^ (3) CAPACITY-

˘ (A) IN GENERAL- Approximately 72 gigawatts of total cumulative treated generating capacity may receive emission allowances under this section.

˘ (B) ALLOWANCE SURPLUS- On reaching the cumulative capacity described in subparagraph (A), any emission allowances that are allocated for carbon capture and sequestration deployment under section 771(a)(6) and are not yet obligated under this section shall be treated as emission allowances not designated for distribution for purposes of section 771(b)(2).

˘ (j) Exhaustion of Account and Annual Roll-over of Surplus Emission Allowances-

˘ (1) IN GENERAL- In distributing emission allowances under this section, the Administrator shall ensure that eligible projects receive distributions of emission allowances for the first 10 years of commercial operation.

˘ (2) DIFFERENT VINTAGE YEARS-

˘ (A) DETERMINATION- If the Administrator determines that the emission allowances allocated under section 771(a)(6) with a vintage year that matches the year of distribution will be exhausted once the estimated full 10-year distributions will be provided to current eligible participants, the Administrator shall provide to new eligible projects emission allowances from vintage years after the year of the distribution.

˘ (B) DIVERSITY FACTORS- If the Administrator provides allowances to new eligible projects under subparagraph (A), the Administrator shall promulgate regulations to prioritize new eligible projects that are distinguished from prior recipients of allowances by 1 or more of the following diversity factors (without regard to order):

˘ (i) Location in a coal-producing region that provides a majority of coal to the project.

˘ (ii) Coal type, including waste coal.

˘ (iii) Capture and transportation technologies.

˘ (iv) Geological formations.

˘ (v) New units and retrofit applications.

˘ (k) Allocation of Allowances for Deployment of Carbon Capture and Sequestration Technology-

˘ (1) ANNUAL ALLOCATION- The Administrator shall allocate emission allowances for the deployment of carbon capture and sequestration technology in accordance with this section in the following quantities:

˘ (A) For each of vintage years 2014 through 2017, 1.75 percent of the emission allowances established for each year under section 721(a).

^ (B) For each of vintage years 2018 and 2019, 4.75 percent of the emission allowances established for each year under section 721(a).

^ (C) For each of vintage years 2020 through 2050, 5 percent of the emission allowances established for each year under section 721(a).

^ (2) CARRYOVER- If the Administrator has not distributed all of the allowances allocated pursuant to this subsection for a given vintage year by the end of that year, the Administrator shall--

^ (A) auction those emission allowances in accordance with section 778 by not later than March 31 of the year following that vintage year; and

^ (B) increase the allocation under this subsection for the vintage year after the vintage year for which emission allowances were undisbursed by the quantity of undisbursed emission allowances, but only to the extent that allowances for that later year are to be auctioned.

^ (I) Davis-Bacon Compliance-

^ (1) IN GENERAL- All laborers and mechanics employed on projects funded directly by or assisted in whole or in part by this section through the use of emission allowances shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

^ (2) AUTHORITY- With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

^ SEC. 781. OVERSIGHT OF ALLOCATIONS.

^ (a) In General- Not later than January 1, 2014, and every 2 years thereafter, the Comptroller General of the United States shall carry out a review of programs administered by the Federal Government that distribute emission allowances or funds from any Federal auction of allowances.

^ (b) Contents- Each such report shall include a comprehensive evaluation of the administration and effectiveness of each program, including--

^ (1) the efficiency, transparency, and soundness of the administration of each program;

^ (2) the performance of activities receiving assistance under each program;

^ (3) the cost-effectiveness of each program in achieving the stated purposes of the program; and

^ (4) recommendations, if any, for regulatory or administrative changes to each program to improve its effectiveness.

^ (c) Focus- In evaluating program performance, each review under this section shall address the effectiveness of such programs in--

- ^ (1) creating and preserving jobs;
- ^ (2) ensuring a manageable transition for working families and workers;
- ^ (3) reducing the emissions, or enhancing sequestration, of greenhouse gases;
- ^ (4) developing clean technologies; and
- ^ (5) building resilience to the impacts of climate change.

^ **SEC. 782. EARLY ACTION RECOGNITION.**

^ (a) In General- Emission allowances allocated pursuant to section 771(a)(7) shall be distributed by the Administrator in accordance with this section. Not later than 1 year after the date of enactment of this title, the Administrator shall issue regulations allowing--

^ (1) any person in the United States to exchange instruments in the nature of offset credits issued before January 1, 2009, by a State, local, or voluntary offset program with respect to which the Administrator has made an affirmative determination under section 740(a)(2), for emission allowances established by the Administrator under section 721(a); and

^ (2) the Administrator to provide compensation in the form of emission allowances to entities, including units of local government, that do not meet the criteria of paragraph (1) and meet the criteria of this paragraph for documented early reductions or avoidance of greenhouse gas emissions or greenhouse gases sequestered before January 1, 2009, from projects or process improvements begun before January 1, 2009, where--

^ (A) the entity publicly stated greenhouse gas reduction goals and publicly reported against those goals;

^ (B) the entity demonstrated entity-wide net greenhouse gas reductions; and

^ (C) the entity demonstrates the actual projects or process improvements undertaken to make reductions and documents the reductions (such as through documentation of engineering projects).

^ (b) Regulations- Regulations issued under subsection (a) shall--

^ (1) provide that a person exchanging credits under subsection (a)(1) receive emission allowances established under section 721(a) in an amount for which the monetary value is equivalent to the average monetary value of the credits during the period from January 1, 2006, to January 1, 2009, as adjusted for inflation to reflect current dollar values at the time of the exchange;

^ (2) provide that a person receiving compensation for documented early action under subsection (a)(2) shall receive emission allowances established

under section 721(a) in an amount that is approximately equivalent in value to the carbon dioxide equivalent per ton value received by entities in exchange for credits under paragraph (1) (as adjusted for inflation to reflect current dollar values at the time of the exchange), as determined by the Administrator;

^ (3) provide that only reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, achieved by activities in the United States between January 1, 2001, and January 1, 2009, may be compensated under this section, and only credits issued for such activities may be exchanged under this section;

^ (4) provide that only credits that have not been retired or otherwise used to meet a voluntary or mandatory commitment, and have not expired, may be exchanged under subsection (a)(1);

^ (5) require that, once exchanged, the credit be retired for purposes of use under the program by or for which it was originally issued; and

^ (6) establish a deadline by which persons must exchange the credits or request compensation for early action under this section.

^ (c) Participation- Participation in an exchange of credits for allowances or compensation for early action authorized by this section shall not preclude any person from participation in an offset credit program established under part D.

^ (d) Distribution- Of the emission allowances distributed under this section, a quantity equal to 0.75 percent of vintage year 2012 emission allowances established under section 721(a) shall be distributed pursuant to subsection (a)(1), and a quantity equal to 0.25 percent of vintage year 2012 emission allowances established under section 721(a) shall be distributed pursuant to subsection (a)(2).

^ **SEC. 783. ESTABLISHMENT OF DEFICIT REDUCTION FUND.**

^ (a) Deficit Reduction Fund- There is established in the Treasury of the United States a fund, to be known as the 'Deficit Reduction Fund'.

^ (b) Disbursements- No disbursement shall be made from the Deficit Reduction Fund except pursuant to an appropriation Act.'

Subtitle C--Additional Greenhouse Gas Standards

SEC. 121. GREENHOUSE GAS STANDARDS.

The Clean Air Act (42 U.S.C. 7401 et seq.), as amended by subtitles A and B of this title, is further amended by adding the following new title after title VII:

^ TITLE VIII--ADDITIONAL GREENHOUSE GAS STANDARDS

^ SEC. 801. DEFINITIONS.

^ For purposes of this title, terms that are defined in title VII, except for the term
^ 'stationary source', shall have the meanings given those terms in title VII.

^ PART A--STATIONARY SOURCE STANDARDS

^ SEC. 811. STANDARDS OF PERFORMANCE.

^ (a) Definition of Uncapped Greenhouse Gas Emissions- In this section, the term
^ 'uncapped greenhouse gas emissions' means those greenhouse gas emissions to
which section 722 does not apply.

^ (b) Standards- Before January 1, 2020, the Administrator shall not promulgate
new source performance standards for greenhouse gases under section 111 that
are applicable to any stationary source that--

^ (1) emits uncapped greenhouse gas emissions; and

^ (2) qualifies as an eligible offset project pursuant to section 733 that is
eligible to receive an offset credit pursuant to section 737.'.

SEC. 122. HFC REGULATION.

(a) In General- Title VI of the Clean Air Act (42 U.S.C. 7671 et seq.) (relating to
stratospheric ozone protection) is amended by adding at the end the following:

^ SEC. 619. HYDROFLUOROCARBONS (HFCS).

^ (a) Treatment as Class II, Group II Substances- Except as otherwise provided in
this section, hydrofluorocarbons shall be treated as class II substances for purposes
of applying the provisions of this title. The Administrator shall establish two groups
of class II substances. Class II, group I substances shall include all
hydrochlorofluorocarbons (HCFCs) listed pursuant to section 602(b). Class II, group
II substances shall include each of the following:

^ (1) Hydrofluorocarbon-23 (HFC-23).

^ (2) Hydrofluorocarbon-32 (HFC-32).

^ (3) Hydrofluorocarbon-41 (HFC-41).

^ (4) Hydrofluorocarbon-125 (HFC-125).

^ (5) Hydrofluorocarbon-134 (HFC-134).

^ (6) Hydrofluorocarbon-134a (HFC-134a).

^ (7) Hydrofluorocarbon-143 (HFC-143).

^ (8) Hydrofluorocarbon-143a (HFC-143a).

^ (9) Hydrofluorocarbon-152 (HFC-152).

^ (10) Hydrofluorocarbon-152a (HFC-152a).

- ˘ (11) Hydrofluorocarbon-227ea (HFC-227ea).
- ˘ (12) Hydrofluorocarbon-236cb (HFC-236cb).
- ˘ (13) Hydrofluorocarbon-236ea (HFC-236ea).
- ˘ (14) Hydrofluorocarbon-236fa (HFC-236fa).
- ˘ (15) Hydrofluorocarbon-245ca (HFC-245ca).
- ˘ (16) Hydrofluorocarbon-245fa (HFC-245fa).
- ˘ (17) Hydrofluorocarbon-365mfc (HFC-365mfc).
- ˘ (18) Hydrofluorocarbon-43-10mee (HFC-43-10mee).
- ˘ (19) Hydrofluoroolefin-1234yf (HFO-1234yf).
- ˘ (20) Hydrofluoroolefin-1234ze (HFO-1234ze).

Not later than 6 months after the date of enactment of this title, the Administrator shall publish an initial list of class II, group II substances, which shall include the substances listed in this subsection. The Administrator may add to the list of class II, group II substances any other substance used as a substitute for a class I or II substance if the Administrator determines that 1 metric ton of the substance makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide. Within 24 months after the date of enactment of this section, the Administrator shall amend the regulations under this title (including the regulations referred to in sections 603, 608, 609, 610, 611, 612, and 613) to apply to class II, group II substances.

˘ (b) Consumption and Production of Class II, Group II Substances-

˘ (1) IN GENERAL-

˘ (A) CONSUMPTION PHASE DOWN- In the case of class II, group II substances, in lieu of applying section 605 and the regulations thereunder, the Administrator shall promulgate regulations phasing down the consumption of class II, group II substances in the United States, and the importation of products containing any class II, group II substance, in accordance with this subsection within 18 months after the date of enactment of this section. Effective January 1, 2012, it shall be unlawful for any person to produce any class II, group II substance, import any class II, group II substance, or import any product containing any class II, group II substance without holding one consumption allowance or one destruction offset credit for each carbon dioxide equivalent ton of the class II, group II substance. Any person who exports a class II, group II substance for which